



City of Westminster

# Committee Agenda

Title:

**Planning Applications Sub-Committee (2)**

Meeting Date:

**Tuesday 16th January, 2018**

Time:

**6.30 pm**

Venue:

**Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR**

Members:

**Councillors:**

Melvyn Caplan (Chairman)  
Ruth Bush  
Paul Church  
Gotz Mohindra



**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda**

**Admission to the public gallery is by ticket, issued from the ground floor reception from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Committee and Governance Officer.**

**Tel: 020 7641 2341; email: [tfieldsend@westminster.gov.uk](mailto:tfieldsend@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**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. 70-88 OXFORD STREET, LONDON, W1D 1BS</b>                 | <b>(Pages 5 - 36)</b>    |
| <b>2. 309 - 311 HARROW ROAD, LONDON, W9 3RG</b>                | <b>(Pages 37 - 66)</b>   |
| <b>3. FRANKLIN HOUSE, 151 STRAND, LONDON, WC2R 1HL</b>         | <b>(Pages 67 - 94)</b>   |
| <b>4. 2 - 4 NOEL STREET, LONDON, W1F 8GB</b>                   | <b>(Pages 95 - 112)</b>  |
| <b>5. GROUND FLOOR, 100 ST MARTIN'S LANE, LONDON, WC2N 4AZ</b> | <b>(Pages 113 - 132)</b> |
| <b>6. 23 MEARD STREET, LONDON, W1F 0EL</b>                     | <b>(Pages 133 - 148)</b> |
| <b>7. 19 BERWICK STREET, LONDON, W1F 0PX</b>                   | <b>(Pages 149 - 172)</b> |
| <b>8. 117 EDGWARE ROAD, LONDON, W2 2HX</b>                     | <b>(Pages 173 -</b>      |

		186)
9.	FLAT 6, 15 HYDE PARK GARDENS, LONDON, W2 2LU	(Pages 187 - 202)
10.	FLAT 5, 28 HATHERLEY GROVE, LONDON, W2 5RB	(Pages 203 - 214)
11.	KEITH HOUSE, 47 CARLTON VALE, LONDON, NW6 5EX	(Pages 215 - 250)
12.	HELMSDALE HOUSE, 43 CARLTON VALE, LONDON, NW6 5EN	(Pages 251 - 290)
13.	35 - 50 RATHBONE PLACE, LONDON, W1T 1AA	(Pages 291 - 298)

**Stuart Love**  
**Interim Chief Executive**  
**8 January 2018**

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CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 16th January 2018  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	<b>RN(s) :</b> 17/09219/FULL  West End	70-88 Oxford Street London W1D 1BS	Demolition of 70-88 Oxford Street (Oxford House) and the erection of a new building comprising sub-basement, basement, ground plus seven upper floors and plant level, for the purpose of cycle parking and plant accommodation at sub-basement level, Class A1 (retail) accommodation at basement to first floor levels, a flexible Class A1 (retail) and / or Class B1 (office) use on the second floor and Class B1 (office) accommodation at third to seventh floors; the creation of a rooftop terrace area at plant level; the creation of a service yard to the rear of building and other associated works.	
<p><b>Recommendation</b></p> <p>1. Subject to the views of the Mayor of London, grant conditional permission subject to a legal agreement to secure the following:</p> <p>(a) A carbon off-set payment of £150,000 (index linked and payable prior to commencement of development).</p> <p>(b) A Crossrail payment of either £550,000 (if the second floor is used for retail) or £627,890 (of the second floor is used for office, minus the mandatory Mayor CIL as permitted by the Crossrail SPG (March 2016)).</p> <p>(c) The costs of monitoring the S106 legal agreement.</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 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;</p> <p>b) The Director of Planning shall consider whether the 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
2.	<b>RN(s) :</b> 16/09974/FULL  Westbourne	309 - 311 Harrow Road London W9 3RG	Retention of the existing public house use at part basement and part ground floor levels. Use of first and second floors and new roof extension to provide Student Accommodation (34 bed spaces) with an associated four storey, plus basement extension to the rear, as well as external alterations including new windows to the front elevation at ground floor level.	
<p><b>Recommendation</b></p> <p>Refuse permission - land use, design and amenity grounds.</p>				

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 16th January 2018  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
3.	RN(s) : 16/12166/FULL  St James's	Franklin House 151 Strand London WC2R 1HL	Demolition of existing building and redevelopment to provide a building of basement, lower ground, ground and part five/part six upper floors with roof terrace and mechanical plant at roof level; for use as an apart-hotel (Class C1) including ancillary bar at lower ground floor level.	
	<b>Recommendation</b> Grant conditional permission.			
4.	RN(s) : 17/07923/FULL  West End	2 - 4 Noel Street London W1F 8GB	Use of part basement and part ground floors as shop (Class A1) and / or a restaurant (Class A3) and installation of full-height extract duct to rear elevation.	
	<b>Recommendation</b> Grant conditional permission.			
5.	RN(s) : 17/08138/FULL  St James's	Ground Floor 100 St Martin's Lane London WC2N 4AZ	Dual use of part of the ground floor as either offices (Class B1) and/or showroom (Sui Generis) for display of clothing and accessories range.	
	<b>Recommendation</b> Grant conditional permission			
6.	RN(s) : 17/09630/FULL  West End	23 Meard Street London W1F 0EL	Variation of Condition 9 of planning permission dated 03 October 2017 (RN 17/06840/FULL) for, 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street'; NAMELY, to vary the opening hours to 07:00 to 00:00 daily for the retail unit at ground and basement floors at No. 74 and from 09.00 to 22.30 daily for the additional retail space at ground and basement floors of No. 23 Meard Street.	
	<b>Recommendation</b> For Sub-Committee's consideration:  1. Do Members agree that the proposed opening hours are appropriate in this location?  2. Subject to 1 above, grant conditional permission.			

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 16th January 2018  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
7.	RN(s) : 17/09736/FULL  West End	19 Berwick Street London W1F 0PX	Use the first floor as offices (Class B1). Erection of roof extension and rear extension at first and second to provide additional office floorspace (Class B1), and repositioning and extension of extract duct on rear elevation.	
	<b>Recommendation</b> Grant conditional permission.			
8.	RN(s) : 17/08100/FULL  Hyde Park	117 Edgware Road London W2 2HX	Use of the ground floor for mixed use retail/restaurant (Class A1/A3); use of basement as restaurant (Class A3) installation of a retractable canopy and electrical heaters above entrance door.	
	<b>Recommendation</b> Refuse permission - Loss of retail			
9.	RN(s) : 17/09788/FULL 17/09789/LBC  Hyde Park	Flat 6 15 Hyde Park Gardens London W2 2LU	Installation of 2 air conditioning units with an acoustic enclosure to a roof area at second floor level. (Linked with 17/09789/LBC)	
	<b>Recommendation</b> 1. Grant conditional permission and conditional listed building consent. 2. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.			
10.	RN(s) : 17/06615/FULL  Bayswater	Flat 5 28 Hatherley Grove London W2 5RB	Erection of a mansard roof extension.	
	<b>Recommendation</b> Grant conditional permission.			
11.	RN(s) : 17/06180/COFUL  Maida Vale	Keith House 47 Carlton Vale London NW6 5EX	Demolition of single storey garages and erection of two buildings ranging between one and three storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.  (Addendum report)	
	<b>Recommendation</b> Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992, including a condition to secure the removal and replacement of trees adjacent to the site in Paddington Recreation Ground.			

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 PLANNING APPLICATIONS SUB COMMITTEE – 16th January 2018  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
12.	RN(s) : 17/06181/COFUL  Maida Vale	Helmsdale House 43 Carlton Vale London NW6 5EN	Demolition of single storey garages and erection of buildings ranging between two and four storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.  (Addendum report)	
	<b>Recommendation</b> Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.			
Item No	References	Site Address	Proposal	Resolution
13.	RN(s) : 17/06273/FULL  West End	35 - 50 Rathbone Place London W1T 1AA	Variation of Condition 8 and 10 of planning permission dated 11 July 2016 (RN: 15/10824) for the variation of Condition 1 of planning permission dated 17 February 2014 (RN 13/04844) for Substantial demolition of existing buildings and redevelopment of the site to provide a mixed use scheme accommodated in two L-shaped buildings rising to nine storeys plus basements and rooftop plant with frontages to Rathbone Place and Newman Street set around a central open space; use of new buildings for up to 162 residential dwellings (Class C3) with communal garden, offices (Class B1), shops Class A1), flexible space for use as shops (Class A1) and/or restaurant (Class A3) and/or bar (Class A4); provision within basement of plant rooms and car/cycle parking with vehicular access via lifts from Newman Street; ground floor loading bay with access rom Newman Street; new pedestrian routes through the site from Newman Street and Rathbone Place; and associated works"; NAMELY, to enable 30% of the floor area of Unit 13 to be used for vertical drinking (Condition 8) and to allow use of the terrace or dining only until 22:00 (Condition 10).  (Addendum report)	
	<b>Recommendation</b> Grant conditional permission subject to a deed of variation to the original legal agreement to continue to ensure this permission is subject to the requirements of the S106 agreement dated 11 February 2014 and amended by deed of variation dated 11 July 2016 including revised wording to Clause 10.1.			

# Agenda Item 1

Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>70-88 oxford street, london, w1d 1bs</b>		
<b>Proposal</b>	Demolition of 70-88 Oxford Street (Oxford House) and the erection of a new building comprising sub-basement, basement, ground plus seven upper floors and plant level, for the purpose of cycle parking and plant accommodation at sub-basement level, Class A1 (retail) accommodation at basement to first floor levels, a flexible Class A1 (retail) and / or Class B1 (office) use on the second floor and Class B1 (office) accommodation at third to seventh floors; the creation of a rooftop terrace area at plant level; the creation of a service yard to the rear of building and other associated works.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	Pontsarn Investments Ltd (part of the Great Portland Estates Group)		
<b>Registered Number</b>	17/09219/FULL	<b>Date amended/ completed</b>	20 October 2017
<b>Date Application Received</b>	17 October 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

**1. RECOMMENDATION**

<p>1. Subject to the views of the Mayor of London, grant conditional permission subject to a legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>a) A carbon off-set payment of £150,000 (index linked and payable prior to commencement of development).</li> <li>b) A Crossrail payment of either £541,780 (if the second floor is used as retail) floorspace or £619,330 (if the second floor is used as office floorspace), minus the mandatory Mayor CIL as permitted by the Crossrail SPG (March 2016).</li> <li>c) The cost of highways works, including relocating a parking bay on Newman Street and associated traffic order making (traffic orders to have been confirmed prior to commencement of development).</li> <li>d) The costs of monitoring the S106 legal agreement.</li> </ul> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:</p> <ul style="list-style-type: none"> <li>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</li> </ul>
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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 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 site comprises an unlisted retail and office building known as Oxford House located outside of a conservation area but with three conservation areas abutting the site to the west, south and east. Oxford House is nine storeys above ground with two basement levels and a rooftop plant room. It is mainly in office use except for the majority of the ground floor and basement levels which are in retail use.

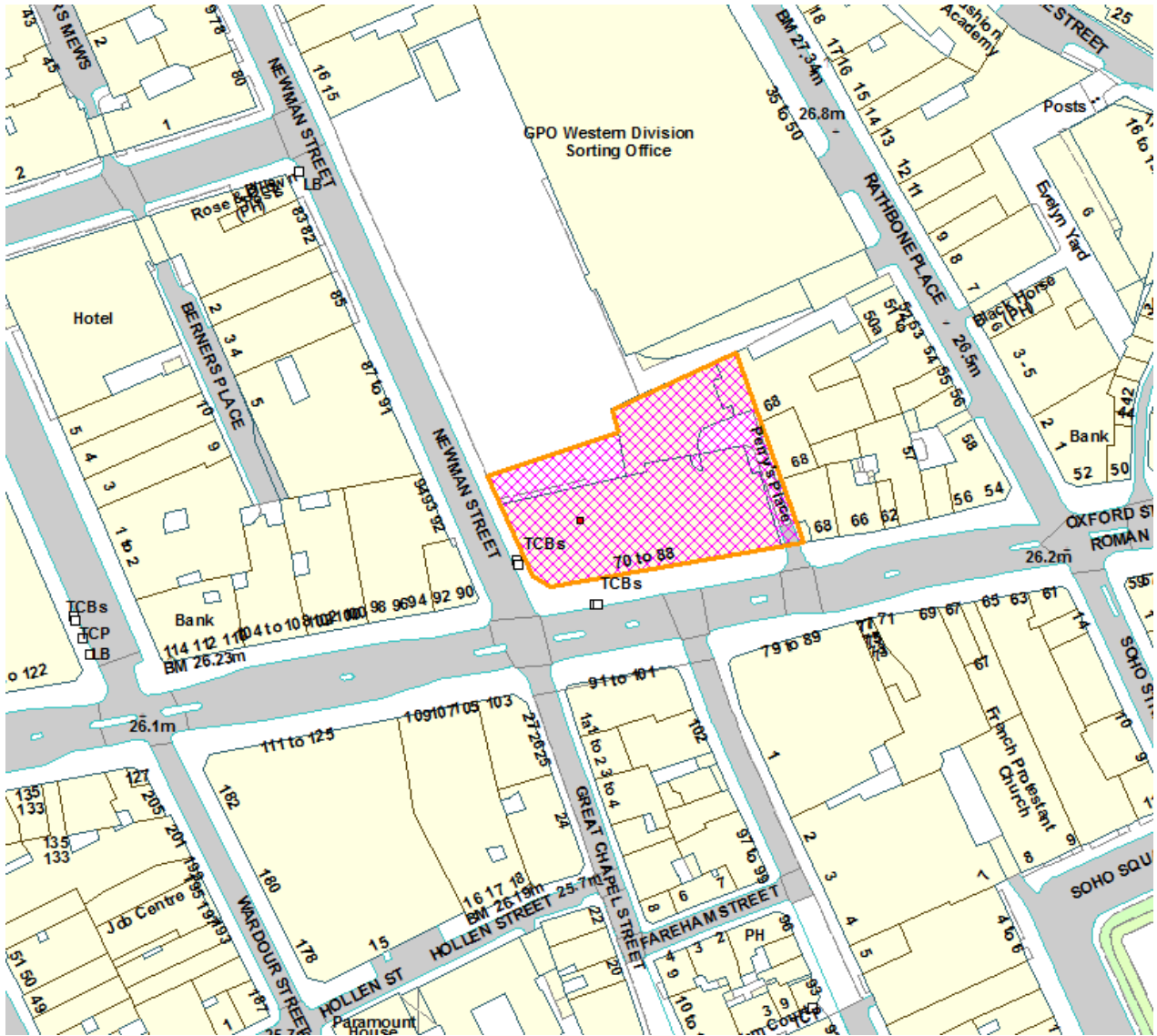
It is proposed to demolish Oxford House in its entirety, including the raised car parking deck to the rear. The existing sub-basement and basement levels are proposed to be enlarged and a replacement building comprising seven storeys above ground is proposed which is of very similar height and bulk to the building it proposes to replace, albeit the replacement building extends deeper into the site. The basement, ground and first floors are proposed to be used as retail (Class A1) floorspace providing an uninterrupted retail frontage on Oxford Street. The third to seventh floors are proposed to be used as office (Class B1) floorspace accessed by a new entrance on Newman Street (the existing entrance is on Oxford Street). Flexibility is sought in respect to the second floor, with both retail and office uses sought.

The key issues for consideration are:

- Whether the replacement building's height, bulk, scale and detailed design is acceptable in design terms, would not harm the settings of the neighbouring three conservation areas and would not harm two of the protected vistas between Parliament Hill and the Palace of Westminster.
- Whether the loading bay to the rear is capable of servicing the shared requirements of the proposed building and the site immediately to the east (Holden House).

The proposal is considered acceptable in land use, amenity and transportation terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan). For these reasons it is recommended that conditional planning permission be granted subject to the views of the Mayor of London and the completion of a legal agreement securing the items listed within Section 8.10 of this report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY:

Broadly supports the application in strategic planning terms but considers that the scheme does not comply with the London Plan and draft London Plan for the following reasons:

- a) The applicant should consider the scope to provide a proportion of flexible workspace suitable for micro, small and medium-sized enterprises, in accordance with draft London Plan Policy E2(C);
- b) The proposal falls short of the London Plan and draft London Plan carbon emissions targets and the applicant must explore additional measures to achieve further on-site carbon reductions before a carbon off-set contribution is secured; and
- c) The failure to provide on-site short-stay car parking be mitigated by a financial contribution towards Cycle Hire enhancement.

### LONDON BOROUGH OF CAMDEN:

Any response to be reported verbally.

### LONDON BOROUGH OF LAMBETH:

No objection.

### CITY OF LONDON:

Any response to be reported verbally.

### HISTORIC ENGLAND:

Recommends that the application be determined in accordance with national and local policy guidance, and on the basis of the City Council's specialist conservation advice.

### HISTORIC ENGLAND (ARCHAEOLOGY):

No objection subject to conditions.

### LONDON UNDERGROUND LIMITED:

No objection subject to conditions protecting London Underground infrastructure.

### CROSS LONDON RAIL LINKS LTD:

No objections subject to the imposition of conditions protecting Crossrail infrastructure.

### CROSS LONDON RAIL 2 LINKS LTD:

No objections subject to the imposition of conditions protecting future Crossrail 2 infrastructure.

### THAMES WATER:

No objection from a water or sewerage infrastructure capacity perspective.

### FITZROVIA NEIGHBOURHOOD ASSOCIATION:

Any response to be reported verbally.

### METROPOLITAN POLICE:

No objection. Advice given on detailed design of development.

HIGHWAYS PLANNING:  
No objection, subject to conditions.

CLEANSING:  
No objection.

BUILDING CONTROL:  
No objection.

ENVIRONMENTAL HEALTH:  
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 527  
Total No. of replies: 0  
No. of objections: 0  
No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site is situated on the northern side of Oxford Street at its corner with Newman Street and it is located within the:

- Core Central Activities Zone (Core CAZ);
- West End Special Retail Policy Area;
- Primary Frontage of the West End International Shopping Frontage;
- West End Stress Area;
- Tottenham Court Road Opportunity Area; and
- Two Strategic Viewing Corridors (Parliament Hill to Palace of Westminster).

The site is not located within a conservation area, although the East Marylebone, Soho and Hanway Street are immediately to the west, south and east, respectively. There are also two Grade II listed buildings in the surrounding area; Nos. 105-109 (including 16-18 Hollen Street) Oxford Street to the south-west and No. 54-62 Oxford Street (Evelyn House), to the east of the site.

The site comprises a 1960s building known as Oxford House that faces Oxford Street, behind which there is a raised parking/loading deck. The site backs onto the former Royal Mail distribution centre which has recently been redeveloped to provide a mixed use development comprises offices, flats and ground floor shops / restaurant / bars and is now known as Rathbone Square. The office element of Rathbone Square backs onto the application site.

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<b>1</b>

Oxford House is nine storeys above ground with two basement levels and a rooftop plant room. It is mainly in office use except for the majority of the ground floor and basement levels which are in retail use. The sub-basement level accommodates plant. To the rear is a car parking (partly underground and partly on a raised deck) which has 52 commercial car parking spaces.

Access to the parking/loading area is from Newman Street. There is also a narrow access into the site from Oxford Street, suitable only for cars and not large vehicles. This access route is known as Perry's Place and terminates at the site with no-through access. Perry's Place is one-way with no entry from Oxford Street but, given the difficulty of exiting onto Oxford Street, it is generally gated shut and seldom used except for pedestrian access.

The surrounding buildings are mainly in commercial use. The site opposite on the south side of Oxford Street is being redeveloped as part of the Crossrail project and will accommodate a mixed use scheme with residential flats fronting Oxford Street.

A London Underground tunnel (the Central Line) lies beneath the southern part of the site. This part of the site is also within the Crossrail Safeguarding Area. The entirety of the site is located within Cross Rail 2 Safeguarding Area.

## **6.2 Recent Relevant History**

### 16/01073/FULL

Demolition of rear first floor car parking deck and associated car lift, stair and ventilation shaft. Erection of replacement two storey structure for use, together with part existing basement, as new restaurant (Class A3). Excavation beneath part of north-west of site to enlarge existing basement level to provide cycle parking and associated facilities to serve the retained office (Class B1) floorspace over second to ninth floor level. Use of part ground as a new retail (Class A1) unit and use of first floor as retail (Class A1) floorspace to extend existing retail units at basement and ground floor levels. Removal and replacement of the existing cladding and associated facade alterations including alterations to shopfronts to create two storey retail frontage to Oxford Street. Alterations to rear courtyard and other associated works.

Permitted – 22 June 2016.

Various 'minor material amendments' to this permission mainly comprising a number of design alterations were approved by the City Council on 18 December 2017 (Ref: 17/05240/FULL).

### 13/01594/FULL

Extensions and alterations to the building including demolition and replacement of the top three levels with remodelled and extended three floors plus new rooftop plant floor and additional basement excavation, to provide retail (Class A1) floorspace at basement, ground and first floor levels with 89 residential flats (Class C3) on the floors above; car/cycle parking facilities, servicing area, storage, plant and landscaping; associated external alterations.

Permitted – 16 September 2016

Permission was granted on 3 January 1958 for the redevelopment of the site including the erection of a twelve storey building comprising ground, basement, sub-basement and nine upper floors for use as office purposes over part first, second to ninth floors and retail use at ground and basement levels. The remainder of the basement, ground and

first floors were permitted for use as car parking for the commercial occupants of the building.

Proposed Development Site at 54-62, 66 And 68 Oxford Street and 51-58 Rathbone Place (immediately to the east of the application site)

The City Council resolved on 12 December 2017 (Ref: 17/05283/FULL) to grant permission for the demolition of Nos. 66 & 68 Oxford Street and redevelopment behind retained facades of Nos. 54-62 Oxford Street and Nos. 51-58 Rathbone Place to provide a new building comprising four basement levels, ground and seven upper floor levels to provide either entirely retail (Class A1) or a mixture of retail and office (Class B1) floorspace. This resolution to grant permission is subject to the view of the Mayor of London and the completion of a satisfactory legal agreement.

**7. THE PROPOSAL**

It is proposed to demolish Oxford House in its entirety, including the raised car parking deck to the rear. It is proposed to excavate to substantially enlarge the existing sub-basement to provide separate retail and office cycle centres (195 spaces in total) and associated changing / shower facilities (including lockers), refuse, plant and other ancillary functions. Further excavation is proposed in the north-west section of the site to enlarge the existing basement level. Above these two basement levels, a replacement building comprising seven storeys above ground is proposed which is of very similar height and bulk to the building it proposes to replace. The reduction in the number of floors is a result of more generous floor-to-ceiling heights. The increase in floorspace is achieved through the enlarged basement floors and the proposed building extending deeper into the site.

The basement, ground and first are proposed to be used as retail (Class A1) floorspace providing an uninterrupted retail frontage on Oxford Street. The third to seventh floors are proposed to be used as office (Class B1) floorspace accessed by a new entrance on Newman Street (the existing entrance is on Oxford Street). Flexibility is sought in respect to the second floor, with both retail and office uses sought. Office terraces are proposed at seventh and at roof level. The remainder of the roof comprises a 'green roof', a 'blue roof' (i.e. to collect and store rainwater) and screened plant (above parts of the 'blue roof').

The land use summary of both these options is set out within Tables 1 and 2 below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office (Class B1)	8,387	10,821.4	2,434.4
Retail (Class A1)	2,175	5,269.6	3,094.6
<b>Total</b>	<b>10,562</b>	<b>16,091</b>	<b>5,529</b>

Table 1: Existing and proposed land use summary (GIA) if the second floor is used as office floorspace.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office (Class B1)	8,387	9,270.4	883.4
Retail (Class A1)	2,175	6,820.6	4,645.6
<b>Total</b>	<b>10,562</b>	<b>16,091</b>	<b>5,529</b>

Table 2: Existing and proposed land use summary (GIA) if the second floor is used as retail floorspace.

In terms of servicing, the service yard to the rear is proposed to be reduced in size, albeit a turntable is added to enhance vehicle manoeuvrability. The reconfigured service yard is proposed to provide a shared off-street facility for deliveries and servicing activities associated with both the rebuilt Oxford House and the scheme that the City Council has resolved to grant permission at Holden House, immediately to the east of the application site. This arrangement is proposed as a result of the owners of this adjacent site having access rights to the service yard.

The application is referable to the Mayor of London as: (i) The proposed building is more than 30m high; and (ii) The proposed development is within two protected vistas from Parliament Hill to the Palace of Westminster.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Increase in office floorspace

The proposal will see an increase in office floorspace of between 883.4 sq.m (GIA) and 2,434.4 sq.m (GIA) which will assist in meeting the target of 774,000 sq.m of additional B1 office floors between 2016/17 and 2036/37 set out within City Plan Policy S20. The site's location within the Core CAZ and within a location that is deeply commercial in character means that this increase in office floorspace is welcome, in accordance with City Plan Policies S6, S18 and S20.

Even if the second floor was used as office floorspace, the net additional B1 office floorspace is 23% of the existing building (i.e. less than the 30% threshold set out within City Plan Policy S1(3)(A) to trigger the 'mixed use' policy). There is therefore no requirement to make any residential provision or payment in lieu of such provision.

#### Increase in retail floorspace

The relocation of the office entrance to Newman Street (i.e. off the Primary Retail Frontage) will result in an unbroken run of retail units on this part of Oxford Street. This, combined with the additional retail floorspace proposed at basement, ground, first (and possibly second) floors levels, will mean that the development will deliver between an additional 3,094.6 sq.m (GIA) and 4,645.6 sq.m (GIA) of retail floorspace on site. This additional retail floorspace is welcome and will enhance the unique status and offer of the West End Special Retail Policy Area, improve the contribution that this site makes to the character and function of the West End International Shopping Frontage and contribute towards one of the priorities within the Tottenham Court Road Opportunity

Area (i.e. to provide retail use at basement to first floor levels on Oxford Street). The development is therefore in accordance with City Plan Policies S5, S6, S7, S21 and UDP Policies SS3 and SS4.

### **Type of office floorspace**

The Mayor of London has recently published the draft London Plan, Policy E2(C) of which states, '*Development proposals for new B1 business floorspace greater than 2,500 sqm (gross external area) should consider the scope to provide a proportion of flexible workspace suitable for micro, small and medium-sized enterprises [MSMEs]*'. The Mayor requests that the applicant consider provision of flexible workspace for MSMEs. Although this policy is only draft and can therefore not be afforded full development plan weight, the applicant outlines how the proposed office accommodation has been designed to allow for the possibility of occupation by a range of tenant / tenancies and would be capable of subdivision in order to meet a variety of size requirements. It is considered that the proposed office floorspace provides greater flexibility to accommodate MSMEs than the existing office accommodation on site. The proposal is therefore considered to be compliant with draft London Plan Policy E2.

## **8.2 Townscape and Design**

The existing building was built circa 1960 and is one of the tallest at the eastern end of Oxford Street. It is not of architectural merit and it does not contribute positively to the character and appearance of this end of Oxford Street. It is outside but adjacent to, and affects the setting of and views of, the East Marylebone Conservation Area, the Hanway Street Conservation Area and the Soho Conservation Area.

### **a. Height and bulk**

The massing of the proposed building is similar to that of the existing. The visual impact of this on street views will be similar to the existing. The London View Management Framework view from Parliament Hill (Protected vista 2A.2) is already infringed by the top of the existing building. The proposed building has a very similar impact on the view and is acceptable.

The proposed building is bulkier than existing at the rear but this is an enclosed area, south of the new Rathbone Square development and the impact of this extra bulk is uncontentious in urban design terms.

### **b. Design**

The proposed building will comprise a fully glazed two storey base (housing the retail units). The upper floors (second to fifth floors) are framed by precast (glass reinforced concrete) columns and beams. Within the framework are windows flaked by curved, perforated, bronze coloured, metal panels. These act as solar shading to the windows behind. At sixth floor level the recast frame is replaced by a metal framework.

The roof storey is set back behind a glass balustrade and is treated in a simpler fashion, with flush clear glazing and opaque, back-painted fritted glass. (The fritted glass has a pattern of ceramic dots baked onto the glass). The plant areas are set back from the top of the roof storey.

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The rear facade is treated in a straightforward, robust manner with flush panels of perforated metal, clear glass and ventilation louvres above base of precast panels. This is a utilitarian approach but acceptable because it is largely unseen because of its proximity to the return (south) facade of Rathbone Square buildings.

The large office entrance on the west facade provides an opportunity for public art. Details will be controlled by condition.

This proposal is considered to be of high design quality and will contribute positively to the regeneration of the eastern end of Oxford Street. It complies with urban design and conservation policies in the City Plan and Unitary Development Plan, policies S28, DES 1, DES 4, DES 14 and DES 15 in particular.

### **8.3 Residential Amenity**

The application site has very few residential properties nearby, with the residential units within the new Rathbone Square development being located to the north of this site. Offices abut the rear of the application site. The considerable distance between the application site and the nearest residential units, together with the reasonable distance between the proposed terraces and the residential properties proposed above the new Crossrail station opposite, means that the proposed new terraces associated with the offices do not raise any amenity concerns in respect to noise disturbance or overlooking. Given their location on a busy commercial road in the heart of the City, it is not considered necessary to control the hours of use of these terraces to safeguard residential amenity.

The modest increase in mass and the relationship between the proposed building and the nearest residential properties means that there will be no material loss of daylight or sunlight as a result of the proposed development.

### **8.4 Transportation/Parking**

#### **Parking**

The site is particularly well-served by public transport and will be even more so when the Elizabeth Line opens. There is no policy objection to the loss of the 52 commercial car parking space and it is welcome that the development is car free.

With the application seeking dual office and retail uses at second floor level, the proposals include for provision of more than a worst-case scenario in terms of the number of cycle spaces needed. 195 spaces are proposed at sub-basement level where the two options proposed would require 156 and 140 spaces, 25 of which should be for short-stay visitors. Ideally these spaces would be more accessible to allow some to be used for short-stay spaces. However, this would break up the retail frontage onto Oxford Street which would not be acceptable in land use terms. Given the over provision of long-stay cycle parking and the lack of opportunity to provide short-stay on-site, no objection is made to the lack of on-site cycle parking. There is also no space in the immediate vicinity of the site to accommodate short-term spaces, unless this part of Oxford Street is pedestrianised which is far from certain. The Mayor of London has requested contributions towards Cycle Hire enhancement to mitigate for this failure.

However, no identified new or enlarged docking station is known in the vicinity of the site and therefore such a contribution is not considered appropriate.

### **Oversailing**

The curved corner of the proposed building at the junction of Newman Street and Oxford Street very slightly oversails the public highway. This public highway is also not in the applicant's ownership (although the correct notice has been served upon this owner). This slight oversailing raises no concerns from a highway safety perspective due to the adequate height above the public highway and distance from the carriageway. The applicant will have to seek a licence to oversail the public highway under Section 177 of the Highways Act (1980) which will be assessed separately, as well as secure the agreement of the neighbouring land owner (this is not a planning matter).

### **Servicing**

As set out above, the owners of the site immediately to the east (Nos. 54-62, 66 And 68 Oxford Street and 51-58 Rathbone Place) have access rights to the existing service yard to the rear of Oxford House. This arrangement will continue in the proposed reconfigured service yard even if the site to the east is also redeveloped (the City Council resolved to grant a redevelopment scheme on 12 December 2017 subject to a condition that all servicing undertaken in this service yard will take place between 07.00 and 23.00 daily). This is in order to protect the amenity of neighbouring residents (Newman Street is a one-way street so vehicles will have to travel north upon exiting the site and therefore pass residential properties). The same approach would be sensible in respect to the redeveloped Oxford House.

The main issue is therefore whether the servicing bay is adequate to allow the servicing of both site during these hours without queuing on the public highway being required. The Highways Planning Manager is confident that the servicing bay will be large enough to accommodate both developments, albeit servicing will need to be controlled by a combined Servicing Management Plan for both developments which includes for the consolidation of deliveries for the two sites (amongst other things). This is also subject to highway works to relocate one disabled parking bay from the west to the east side of Newman Street to accommodate the refuse vehicle accessing and egressing the site. The costs of these works and the associated traffic orders is proposed to be secured by legal agreement and the Highways Planning Manager has no objection to the reconfiguration of the on-street parking arrangements.

## **8.5 Economic Considerations**

The economic benefits of the proposed additional office and retail floorspace are welcome.

## **8.6 Access**

The proposed development seeks to incorporate the principles for inclusive design wherever possible through the:

- a. Provision of step free access and level thresholds to the building;



- b. The provision of a step free smooth service yard;
- c. At least one wheelchair accessible shower with each of the male and female changing areas;
- d. DDA compliance access points to the building from the office reception; and
- e. The inclusion of corridors which will allow wheelchairs to easily fit and turn.

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

### **Noise**

External plant will largely be installed on the roof of the proposed development. Plant is also proposed within the building at sub-basement and within the plant gantry at rear first to fourth floor levels. Due to the early stage of the project, outline plant selections only have been made. As such, plant noise limits have been developed to be achieved at the most exposed noise sensitive receptor location. Adherence to these limits will be secured through the imposition of conditions, including the requirement for the submission of a supplementary acoustic report for the City Council's approval that demonstrates compliance with the relevant criterion within UDP Policy ENV 7.

### **Biodiversity and Flooding**

The application proposes that the majority of the new flat roof will be either 'living' or 'blue' roofs which will both to add to local biodiversity and to reduce water run-off. The application estimates that the system collectively has the capacity to store 101 cubic metres of rainwater on site, which marginally exceeds the storage requirement when considering a 1 in 100-year rainfall event and a climate change factor of 40%. Thames Water raises no objection to the proposed development. It is therefore concluded that the proposal is in accordance with by City Plan Policies S30 and S38 and UDP Policies ENV 4 and ENV 17.

### **Air Quality**

The site is located with the designated Westminster Air Quality Management Area. The applicant has submitted an Air Quality Assessment that finds that the development will be air quality neutral during its operational phase and no mitigation or additional off-setting is required. Compliance with the City Council's Code of Construction Practice (see Section 8.12 below) will ensure that the impact of the construction phase on air quality is minimised.

### **Refuse /Recycling**

Following discussions with the Cleansing Manager and slight amendments to the scheme including increasing some corridor widths to allow waste movements around the building, there is no objection to the proposed storage arrangement for waste and recyclable material. This is subject to conditions securing the provision and retention of this facility and that waste servicing and collection can only take place within the rear service yard.

## Sustainability

An Energy Assessment has been submitted and the three-step energy hierarchy has been implemented. The estimated regulated carbon dioxide saving on site are 11.55% against Part L 2013 through the use of passive design measures, efficient building services, roof level photovoltaic panels and heat pumps. It is expected that the on-site renewable technology will reduce carbon dioxide emissions from the building by 1.99%. The development will also be future proofed to enable future connection to any district heating scheme.

The predicted carbon dioxide savings fall well short of the 35% improvement against Part L 2013 set out in London Plan Policy 5.2 and the reduction by on-site renewable technology also falls short of the 20% reduction required by City Plan Policy S40. The predicted carbon dioxide shortfall equates to 83.34 tonnes per annum of regulated carbon dioxide, equivalent to 2,500.12 tonnes over 30 years, to be offset offsite. The Mayor of London has request that the applicant explore additional measures to achieve further on-site carbon reductions before a carbon off-set contribution is secured.

The applicant argues that, whilst combined heat and power and combined cooling, heat and power were considered, they were deemed unviable due to the low and intermittent heat demand of the proposed building uses. Furthermore, the roof area available for on-site renewables is limited giving the competing demands of the 'living roof', plant, office terrace and building maintenance requirements. The applicant notes that the office element of the proposed development achieves carbon dioxide savings of 26% against Part L 2013. However, the way that the 'shell only' retail parts of the development are assessed under the Building Regulations, means that the improvements of the building as a whole are significantly reduced.

It is considered that the shortfall in carbon savings are not a result of a lack of consideration of on-site savings but are a result of the constraints of the site and the relatively large proportion of the building that will be provided as 'shell only' retail floorspace and the particular way in which this is assessed under the Building Regulations. As such, despite the concerns of the Mayor of London, the development is considered to be acceptable in sustainability concerns subject to the cumulative carbon shortfall set out above being mitigated by a cash-in-lieu contribution of £150,000, secured by legal agreement. Such a payment has been calculated in accordance with the Mayor of London 'Sustainable Design and Construction SPG (April 2014).

### 8.8 London Plan

As set out above, the application is referable to the Mayor of London who has raised land use, sustainability and cycle parking concerns (as summarised within Section 5 of this report). These issues are discussed within Sections 8.1, 8.4 and 8.7 respectively of this report.

Should the City Council resolve to grant permission, the application will have to be referred back to the Mayor of London for his final decision. The Mayor has 14 days to make a decision to allow the local planning authority decision to stand, to direct refusal, or to take over the application, thus becoming the local planning authority.

## **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 agreement are proposed to cover the following issues:

- A carbon off-set payment of £150,000 (index linked and payable prior to commencement of development).
- A Crossrail payment of either £541,780 (if the second floor is used for retail) or £619,330 (if the second floor is used for office), minus the mandatory Mayor CIL as permitted by the Crossrail SPG (March 2016).
- The cost of highways works, including relocating a parking bay on Newman Street and associated traffic order making (traffic orders to have been confirmed prior to commencement of development).
- The costs of monitoring the S106 legal agreement.

The estimated CIL payment is:

- Mayor's CIL - £347,112 (index linked).
- Westminster CIL - £1,142,524 (index linked).
- Total - £1,489,636 (index linked).

Neither the Mayor's nor the City Council's Charging Schedule differentiates between different commercial uses and therefore the above CIL payment will be same regardless of the use of the second floor of the proposed development.

## **8.11 Environmental Impact Assessment**

The proposal is of insufficient scale to require and Environmental Impact Assessment.

## **8.12 Other Issues**

### **Basement**

The applicant has submitted detailed information demonstrating that the basement development has taken into account the site-specific ground conditions, drainage and water environment in the area of the development. Furthermore, the application is accompanied by a detailed structural methodology statement prepared by a suitably qualified engineer that demonstrates that the structural stability of nearby buildings will be maintained during the works. Furthermore, a signed profoma agreeing to comply with the relevant parts of the City Council's Code of Construction Practice has been submitted.

The proposed development is therefore in full compliant with City Plan Policy SM28.1.

### **Construction impact**

The development will be subject to a condition requiring adherence to the Code of Construction Practice that will ensure that the disruption during the course of construction is minimised. The applicant has confirmed that it will comply with the Code of Construction Practice.

### **Crime and security**

Detailed comments have been received from the Metropolitan Police in respect to a number of matters that the applicant will be encouraged via an informative to accommodate this advice within the detailed design of the proposed building.

### **Impact upon transportation infrastructure**

London Underground, Crossrail and Crossrail 2 were all notified of the application due to the site's location above strategic transportation infrastructure and within safeguarding areas. None raises any objection subject to the imposition of conditions protecting existing infrastructure and the future potential for infrastructure beneath the site.

### **Archaeology**

The site lies in an area of archaeological interest. Historic England, however, raises no objection from an archaeological perspective subject to the imposition of a condition requiring a two-stage process of archaeological investigation comprising: first, evaluation to clarify the nature and extent of surviving remains, following, if necessary, by a full investigation.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from the Mayor of London, dated 12 December 2017
3. Response from Cross London Rail Links Ltd, dated 24 October 2017
4. Response from Cross London Rail 2 Links Ltd, dated 27 October 2017
5. Response from Historic England, dated 2 November 2017
6. Response from Thames Water, dated 7 November 2017
7. Response from London Underground Limited, dated 8 November 2017
8. Response from Historic England (Archaeology), dated 8 November 2017
9. Response from the Metropolitan Police, dated 17 November 2017
10. Response from London Borough of Lambeth, dated 20 November 2017
11. Response from Building Control, dated 9 November 2017
12. Response from Cleansing, dated 6 December 2017
13. Response from Highways Planning Manager, dated 3 January 2018

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [MHOLLINGTON2@WESTMINSTER.GOV.UK](mailto:MHOLLINGTON2@WESTMINSTER.GOV.UK)

**10. KEY DRAWINGS**

Existing view from Oxford Street (looking east):



Proposed view from Oxford Street (looking east):



Existing view from Oxford Street (looking north):

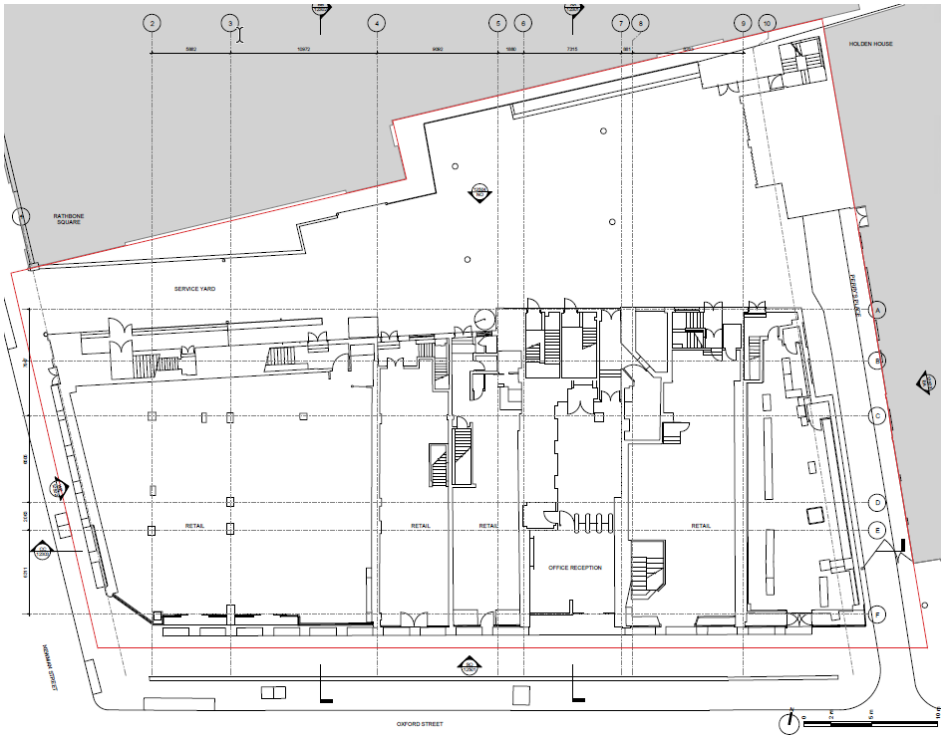


Existing view from Oxford Street (looking north):

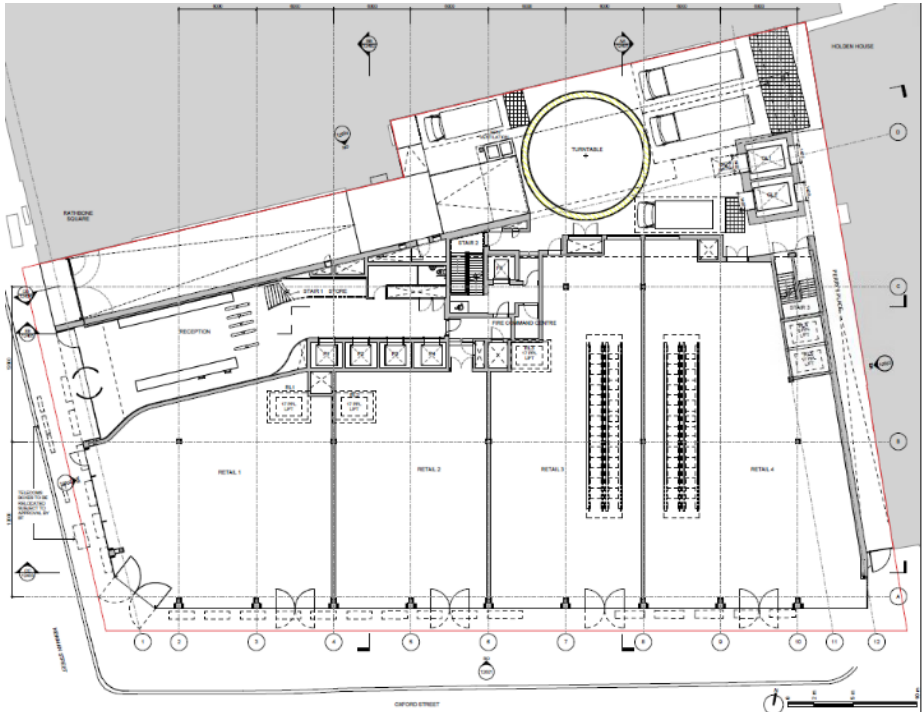




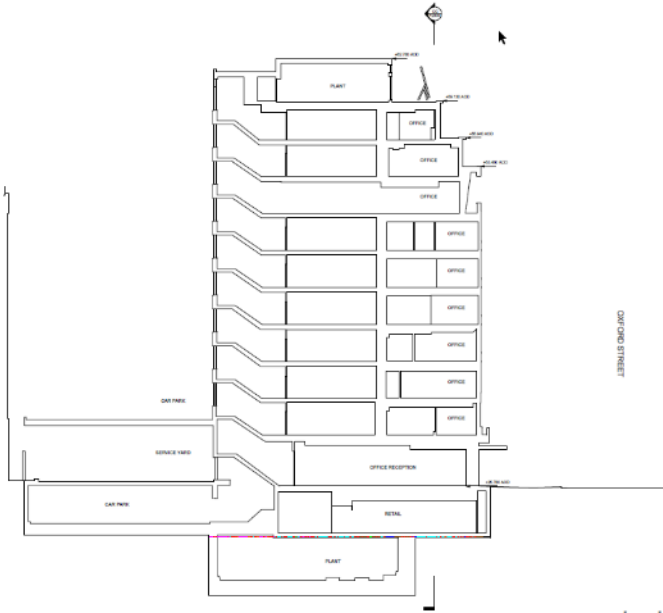
Existing ground floor plan:



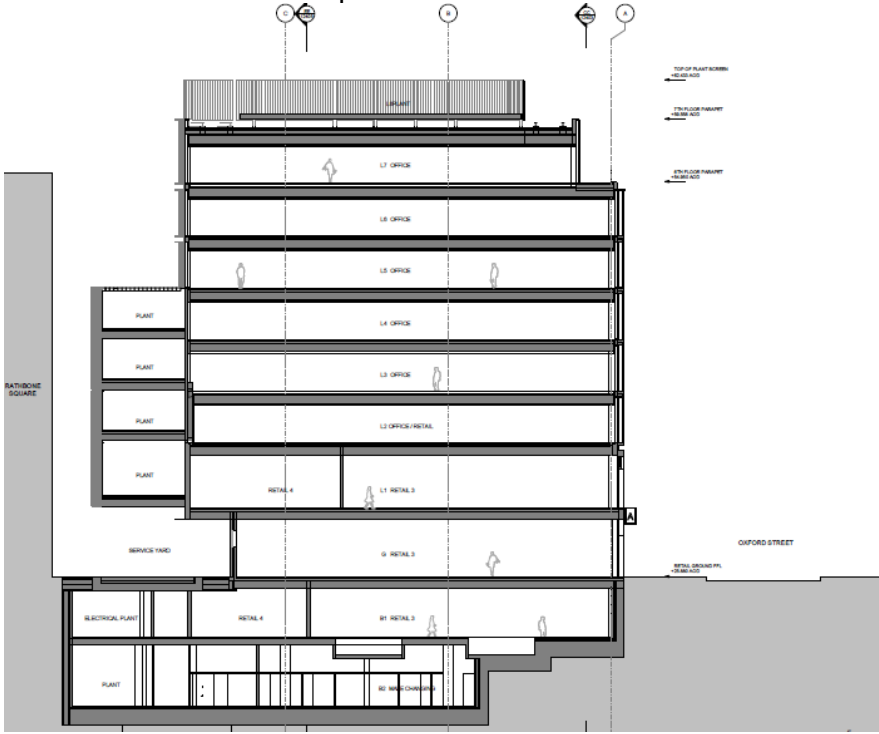
Proposed ground floor plan:



Existing Section A-A:



Proposed Section A-A:





**DRAFT DECISION LETTER**

**Address:** 70-88 Oxford Street, London, W1D 1BS,

**Proposal:** Demolition of 70-88 Oxford Street (Oxford House) and the erection of a new building comprising sub-basement, basement, ground plus seven upper floors and plant level, for the purpose of cycle parking and plant accommodation at sub-basement level, Class A1 (retail) accommodation at basement to first floor levels, a flexible Class A1 (retail) and / or Class B1 (office) use on the second floor and Class B1 (office) accommodation at third to seventh floors; the creation of a rooftop terrace area at plant level; the creation of a service yard to the rear of building and other associated works.

**Reference:** 17/09219/FULL

**Plan Nos:** 12002 Rev. P04, 12248 Rev. P11, 12249 Rev. P11, 12200 Rev. P12, 12201 Rev. P10, 12202 Rev. P09, 12203 Rev. P10, 12204 Rev. P07, 12205 Rev. P06, 12206 Rev. P10, 12207 Rev. P09, 12208 Rev. P09, 12209 Rev. P10, 12401 Rev. P07, 12402 Rev. P05, 12403 Rev. P06, 12404 Rev. P08, 12405 Rev. P05, 12601 Rev. P05, 12602 Rev. P05, 12603 Rev. P05, 12604 Rev. P09, 12610 Rev. P05 and 12611 Rev. P03.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

**Recommendation(s) and Reason(s)**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents submitted with 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 the following drawings of the following parts of the development - Typical details of facade at all levels. You must not start any work on these parts of the development until we have approved what you submit to us.

You must then carry out the work according to the approved 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 the City Plan

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

- 3 You must apply to us for approval of a scheme of public art. You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the approved development 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)

- 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 (November 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 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 (November 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 guidelines of the following parts of the development - Guidelines for the display of shop advertisements. 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 guidelines. (C26DB)

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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 (November 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 None of the development hereby permitted shall be commenced until detailed design and construction method statements for all of the grounds floor structures, foundations and basements and for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved by the Local Planning Authority which:-

(i) Accommodate the proposed location of the Crossrail structures including tunnels, shafts and temporary works.

The development shall be carried out in all respects in accordance with the approved design and method statements. All structures comprised within the development hereby permitted which are required by paragraph (i) of this conditions shall be completed, in its entirety, before any part of the building[s] hereby permitted is/are occupied.

Reason:

To meet the requirements of a direction made in connection with the CrossRail Project by the Secretary of State for Transport under Articles 10 (3), 14 (1) and 27 of the Town and Country Planning (General Development Procedure) Order 1995 and as set out in S41 and S43 of Westminster's City Plan (November 2016) and TRANS 5 (E) and para 4.68 of our Unitary Development Plan that we adopted in January 2007. (R33AC)

- 8 None of the development hereby permitted shall be commenced until a method statement has been submitted to, and approved in writing, by the Local Planning Authority to include arrangements to secure that, during any period when concurrent construction is taking place of both the permitted development and of the Crossrail structures and tunnels in or adjacent to the site of the approved development, the construction of the Crossrail structures and tunnels is not impeded.

Reason:

To meet the requirements of a direction made in connection with the CrossRail Project by the Secretary of State for Transport under Articles 10 (3), 14 (1) and 27 of the Town and Country Planning (General Development Procedure) Order 1995 and as set out in S41 and S43 of Westminster's City Plan (November 2016) and TRANS 5 (E) and para 4.68 of our Unitary Development Plan that we adopted in January 2007. (R33AC)

9 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 (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

10 The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for demolition, foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent) for each stage of the development, 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 London Underground transport infrastructure, in accordance with London Plan and 'Land for Industry and Transport' Supplementary Planning Guidance 2012

- 11 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 (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 12 You must provide each of the 195 cycle parking spaces and the changing and showering facilities (including lockers) shown on the approved drawings prior to occupation. Thereafter these cycle spaces and associated facilities 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 2015.

- 13 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 14 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. Waste servicing and collection for the development must only take place within the service yard of the development. (C23BA)

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 15 All servicing must take place between 07.00 and 23.00. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

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

- 16 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising 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. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

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

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

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

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

Reason:

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

Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 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 (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 (November 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.

- 20 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 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:

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

- 21 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the development that accommodates the servicing requirement of the adjacent site at Nos. 54-62, 66 and 68 Oxford Street and 51-58 Rathbone Place. All servicing shall be undertaken in accordance with the approved strategy.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)



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- 22 You must provide the waste store shown on drawing 12248 Rev. P11 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 (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 23 Notwithstanding the provisions of Class A1 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) the Class A1 retail accommodation hereby approved shall not be used as a food retail supermarket outlet or similar.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 24 You must provide the following bio-diversity and sustainability features as shown on the approved drawings before occupation of any part of the development:

- Green roof.
- Blue roof.
- Rainfall attenuation tank.
- Photovoltaic panels.

You must not remove any of these features

Reason:

To increase the biodiversity of the environment and to reduce surface water run-off, as set out in S30 and S38 of the Westminster City Plan (2016), ENV 4, ENV 17 of our Unitary Development Plan that we adopted in January 2007 and Policies 5.10, 5.13, 7.19 of the London Plan (2016).

- 25 You must apply to us for approval of detailed drawings and a biodiversity management plan in relation to the Green roof to include construction method, layout, species and maintenance regime. You must not commence works on the relevant part of the development until we have

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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 (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43CB)

- 26 You must apply for us for approval of detailed drawings in relation to the Blue Roof to include construction method, maintenance regime and storage and usage of water. 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 reduce surface water run-off, as set out in S30 of the Westminster City Plan (2016).

- 27 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - between 08.00 and 18.00 Monday to Friday;
  - between 08.00 and 13.00 on Saturday; and
  - not at all on Sundays, bank holidays and public holidays.

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

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

**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

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made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statements, in particular with regard to: demolition; excavation and construction methods.
- 3 In the detailed design of the development you are advised to follow the advice from the Metropolitan Police of 17 November 2017.
- 4 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)
- 5 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)
- 6 Conditions 17, 19 and 20 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 With reference to condition 16 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). These documents must be sent to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk). , , Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition. , , You are urged to give this your early attention
- 8 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)
- 9 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:

- A carbon off-set payment of £150,000 (index linked and payable prior to commencement of development).
  - A Crossrail payment of either £541,780 (if the second floor is used for retail) or £619,330 (if the second floor is used for office, minus the mandatory Mayor CIL as permitted by the Crossrail SPG (March 2016).
  - The cost of highways works, including relocating a parking bay on Newman Street and associated traffic order making (traffic orders to have been confirmed prior to commencement of development).
  - The costs of monitoring the S106 legal agreement.
- 10 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.**
- 11 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the second floor can change between the Class A1 and Class B1 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)
- 12 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

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.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Westbourne	
<b>Subject of Report</b>	<b>309 - 311 harrow road, london, w9 3rg,</b>		
<b>Proposal</b>	Retention of the existing public house use at part basement and part ground floor levels. Use of first and second floors and new roof extension to provide Student Accommodation (34 bed spaces) with an associated four storey, plus basement extension to the rear, as well as external alterations including new windows to the front elevation at ground floor level.		
<b>Agent</b>	Nexus Planning		
<b>On behalf of</b>	YPP Lettings Ltd		
<b>Registered Number</b>	16/09974/FULL	<b>Date amended/ completed</b>	12 June 2017
<b>Date Application Received</b>	14 October 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Not applicable		

## 1. RECOMMENDATION

Refuse – provision of student accommodation, design of rear extension and roof, sense of enclosure and noise disturbance, plant noise and noise transmission between public house and student accommodation.

## 2. SUMMARY

The application site is located on the southern side of Harrow Road, at its intersection with Windsor Gardens and Chippenham Road. It contains a three storey (plus basement) vacant public house (Use Class A4). The public house has been vacant since early 2010.

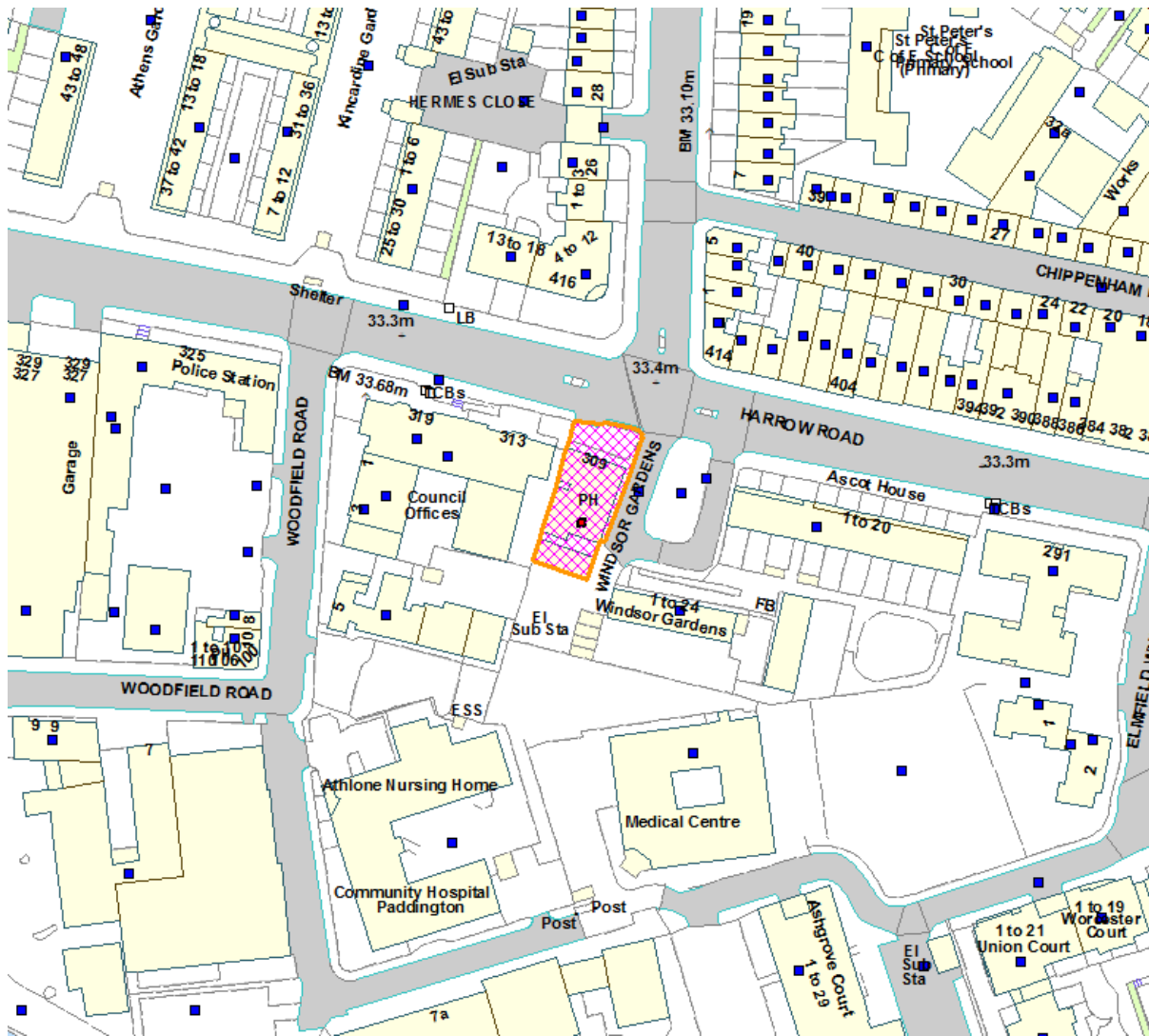
The applicant proposes retaining the existing Public House use at part basement and part ground floor levels and extending the existing building to provide 34 bed spaces of student accommodation (Use Class Sui Generis). A traditionally detailed mansard roof extension would be added at main roof level. To the rear, the existing two storey extension would be demolished and replaced with a four storey plus basement contemporary extension. Several external alterations to the retained part of the building, including new windows to the front and flank elevations are also proposed.

The key considerations are:

- The provision of student accommodation and reduction in the size of the public house;
- Impact on the character and appearance of the existing building and the area;
- Impact on the residential amenity of occupiers of neighbouring sites;
- Impact on on-street parking and traffic; and
- Living conditions of the proposed student accommodation.

The student accommodation would not meet an identified local housing need and would occupy scarce land that could be used for conventional homes, including affordable homes. The detailed design of the mansard roof and rear extensions is unacceptable. The height and bulk of the rear and roof extensions would significantly increase sense of enclosure whilst the third floor terrace would result in unacceptable noise levels for the occupants of 313-319 Harrow Road. The applicant has also failed to demonstrate that the student accommodation would be adequately insulated from noise from the public house and mechanical plant proposed. Accordingly, this application is recommended for refusal.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Frontage of application site as seen from Harrow Road and Chippenham Road intersection.



## 5. CONSULTATIONS

### COUNCILLOR HUG

The proposed development would be preferable to this site lying empty for yet more years, a situation which has blighted this ward since before his election to the Council. Whilst more social and genuinely affordable housing is desired in the area, more market housing is not desired as a goal in and of itself and should not be a factor in determining the suitability this development vs other potential uses as there would not be a social benefit to standalone market housing vs well managed student accommodation.

### COUNCILLOR BOOTHROYD

Generally supportive of the scheme which will ensure the building, which is something of a local landmark and has a long and interesting history, is maintained and contributes to the local community.

The heritage statement looks strong and he does not think the additional storey harms the building given the overall benefits of improving the front and bringing it back into use.

Retaining the public house usage is appropriate given the building's history but given the difficulties leading to the closure of the pub in 2009, it may be difficult to find a tenant. There doesn't seem to be any sound insulation proposed between the pub and the upper floors and the council should check the effects on residential amenity for student occupiers in the event of noise from the public house use.

The City Council should impose a condition on any planning permission requiring a management plan for the proposed student accommodation.

### NORTH PADDINGTON SOCIETY

Support proposal. Proposal has merit in its intention to preserve and restore many of the original Victorian features of this building. Consider managed student accommodation acceptable and support retention of public house element.

### HIGHWAYS PLANNING MANAGER

Object. No on-site parking provided and insufficient on-street parking capacity exists within the locality of the site. If the development is considered acceptable, conditions should be imposed requiring the submission of cycle parking and waste storage details and preventing doors opening onto the highway.

### WASTE PROJECT OFFICER

Insufficient information has been provided to determine whether the waste storage facilities are appropriate. Applicant should refer to the City Council Recycling and Waste Storage Requirements on the City Council's website.

### ENVIRONMENTAL HEALTH OFFICER

Object. There is no information in the application to demonstrate that plant noise will comply with the City Council's criteria and will not lead to creeping background noise level in the area. No information has been provided on acoustic insulation within the development or to its building envelope to protect residents from internal noise and

external noise respectively. If the development is considered acceptable, conditions should be imposed to limit plant noise, limit internal noise and to submit a supplementary acoustic report.

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

No. Consulted: 81

Total No. of replies: 13

No. of objections: 0

No. in support: 13

In summary, the representations in support raises the following issues:

- Preserving the exterior of the building as proposed is to the developers credit;
- Look forward to seeing this neglected part of the Harrow Road thriving again once the project is completed;
- This building has been empty for too long;
- Retaining the ground floor as a public house is supported;
- The proposal would sensitively restore this local building;
- Student accommodation may introduce vitality into the area whilst putting less pressure on local services;
- Proposal must ensure satisfactory insulation between public house and student accommodation;
- Support use of the ground floor for a public/community use

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located on the southern side of Harrow Road, at its intersection with Windsor Gardens and Chippenham Road. It contains a three storey (plus basement) vacant public house (Use Class A4). The public house has been vacant since early 2010.

Built from the local stock brick, it features a prominent arcaded projecting pub front, with a railed terrace and ornately detailed tall sash windows with decorative pediment mouldings to the *piano nobile* and simpler squarer windows to the second floor. It is not listed, located within a conservation area or within a designated shopping area. This property is located within the North Westminster Economic Development Area (NWEDA).

### 6.2 Recent Relevant History

#### 10/01737/FULL

Demolition of existing public house and erection of five storey and basement 59-bedroom aparthotel building together with associated external alterations.

Permission was refused for the following reasons:

1. The proposal would result in the loss of a public house which is considered to contribute to the character and function of this part of North Westminster and its replacement with an aparthotel of insufficient design quality is not considered to be beneficial to the area to outweigh this loss. In addition, the arrangement of the ground floor accommodation with bedrooms facing onto the Harrow Road frontage would result in no active shop front being provided to contribute to the surroundings and to attract visiting members of the public. This would not meet CS 20 of our Core Strategy that we adopted in January 2011 and NWW1 of our Unitary Development Plan that we adopted in January 2007.
2. Based upon the submitted Report on Daylight and Sunlight dated January 2011, it is evident that the redevelopment proposal to provide a new aparthotel building would lead to loss of day and sun light for the people living in the residential flats at 313 Harrow Road. This is because of the proposed height, bulk and close proximity to the residential windows of these neighbouring properties. Insufficient information has been submitted to demonstrate whether there would be any material loss of light in breach of the BRE guidance in respect of neighbouring properties located in Windsor Gardens and in Woodfield Road. For these reasons, the proposal would not meet CS 28 of our Core Strategy that we adopted in January 2011 and TACE 2 (B) ENV 13 of our Unitary Development Plan that we adopted in January 2007.
3. The proposed redevelopment to provide a hotel building would make the people living in the flats at 313 Harrow Road feel too shut in. This is because of its bulk, height and close proximity to the windows of these residential properties. This would not meet CS 18 and CS 28 of our Core Strategy that we adopted in January 2011 and TACE 2 (B) ENV 13 of our Unitary Development Plan that we adopted in January 2007.
4. Because of the loss of the existing mid-19th century public house building and the scale, height massing and materials of the new building, the proposal would harm the significance of this site and the appearance and townscape of this part of the City. This would not meet CS 24 and CS27 of our Core Strategy that we adopted in January 2011 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (X16BB)

The proposal is also contrary to guidance in PPS 1 (Delivering Sustainable Development) and policy HE 7 and 8 of Planning Policy Statement 5 (Planning for the Historic Environment 2010).

## 7. THE PROPOSAL

The applicant proposes retaining the existing Public House use at part basement and part ground floor levels and extending the existing building to provide 34 bed spaces of student accommodation (Use Class Sui Generis). A traditionally detailed mansard roof extension would be added at main roof level. To the rear, the existing two storey extension would be demolished and replaced with a three storey plus basement contemporary extension. Several external alterations to the retained part of the building, including new windows to the front and flank elevations are also proposed.

The floor area of the proposed development would be comprised as follows:

	<b>Existing GIA (sqm)</b>	<b>Proposed GIA (sqm)</b>	<b>+/-</b>
<b>Public House (Use Class A4)</b>	729	250	-479
<b>Student Accommodation (Use Class Sui Generis)</b>	0	922	+922
<b>TOTAL</b>	729	1172	

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### 8.1.1 Loss of Public House Floorspace

Paragraph 69 of the National Planning Policy Framework ("NPPF") advises that planning decisions should aim to achieve places which promote opportunities for meetings between members of the community who might not otherwise come into contact with each other. Paragraph 70 of the NPPF also advises that planning decisions should "guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs". The NPPF expressly refers to public houses as community facilities.

Policy 4.8 of The London Plan (March 2016) ("the London Plan") states, inter alia, that policies should be developed "to prevent the loss of retail and related facilities that provide essential convenience and specialist shopping or valued local community assets, including public houses". This is based on the Mayor of London's "recognition of the important role that London's public houses can play in the social fabric of communities and recent research highlights the rapid rate of closures over the past decade and the factors behind these. To address these concerns, where there is sufficient evidence of need, community asset value and viability in pub use, boroughs are encouraged to bring forward policies to retain, manage and enhance public houses" (paragraph 4.48A).

Policy HC7 of the first draft of the new London Plan (consultation closes March 2018) ("the Draft London Plan") also guards against the loss of public houses and ancillary spaces. However, the draft London Plan has only recently been released and has not been subject to a complete consultation exercise at the time of writing. Accordingly, and having regard to paragraph 216 of the NPPF, the Draft London Plan is given little weight at this particular stage.

The Mayor of London's "Town Centres: Supplementary Planning Guidance" (adopted July 2014) advises that policies to protect public houses should include consideration of the viability of the public house, history of vacancy, the prospect for achieving reuse at prevailing market values and whether it has been marketed effectively for re-use.

Policy SS 8 of the Unitary Development Plan (adopted 2007) ("the UDP") seeks to protect services in locations such as this because of the convenience and service they provide to local residents and also to visitors and local businesses. Paragraph 7.98 of the supporting text to policy SS 8 recognises that traditional public houses are generally considered to add to the character and function of a locality and their loss will only be acceptable if they have been vacant and marketed for at least 18 months without success.

Policy S13 of the City Plan (adopted 2016) ("the City Plan") states that areas such as this (outside of special policy areas) will be primarily for residential use with supporting social and community provision. In its supporting text it makes clear that the provision of social infrastructure is vital to support the residential community in these parts of Westminster.

The proposal would retain a public house on-site. However, it would lose ancillary residential accommodation, a function space and kitchen located within the floorspace to be redeveloped. Loss of these ancillary spaces has the potential to affect the long term viability of this public house by depriving it of revenue generating spaces, preventing publicans from living on-site and having to pay market rent elsewhere, and by restrictions placed on the premises licence resulting from amenity complaints from residents in the student accommodation created. The potential impact on the long term viability of public houses through conversion of these spaces has also been recognised by Inspectors at appeal.

However, this public house has been vacant for 8 years and it is clear that it is unlikely to reopen without the support of a redevelopment scheme. The proposal would also bring activity back to the site, despite the loss of this floorspace. Accordingly, the loss of this floorspace is considered acceptable in this particular instance.

#### 8.1.2 Provision of Student Accommodation

Policy 3.8(h) of The London seeks to ensure that strategic and local requirements for student housing meeting a demonstrable need are addressed by working closely with stakeholders in higher and further education and without compromising capacity for conventional homes. Para. 3.53A of the supporting text encourages, inter alia, a more dispersed distribution of future provision of student accommodation away from central London. Paragraph 3.53 also notes that the provision of student accommodation should not compromise capacity to meet the need for conventional dwellings, especially affordable family homes, or undermine policy to secure mixed and balanced communities. Paragraph's 3.53B and 3.53C go on to note that student accommodation should be robustly secured for students by planning agreement or condition relating to specific education institutions. Where there is no undertaking from a specific education institution, an element of affordable student accommodation should be provided, subject to viability.

Policy H17 of the Draft London Plan similarly seeks student accommodation that meets local and strategic need, provided that it contributes to a mixed and inclusive neighbourhood; it is secured for students; it is secured for occupation by members of specified higher education institution/s; at least 35% is secured as affordable student accommodation; and it provides adequate functional living space and layout. Policy

H17 also encourages student accommodation in areas well connected to local services and public transport but away from existing concentrations in central London. Paragraph 4.17.3 of the supporting text to policy H17 states that, to demonstrate local need for new student accommodation, it must be operated directly by a higher education institution or have an undertaking in place from initial occupation to provide housing for students at one or more higher education institutions. It should be noted that little weight can be attributed to the Draft London Plans policies at this stage.

As set out in paragraph 2.26 of the City Plan, Westminster does not have a surplus of low value land for development into higher value uses, unlike other parts of London. For this reason, policy S14 of the City Plan states that residential use is the priority across Westminster. Under the City Plan, student accommodation is a form of specialist housing. Policy S15 specifies that specialist housing will be allowed where it would contribute to local need. Policy S16 of the City Plan states that, inter alia, the City Council will aim to provide 30% of new homes as affordable homes and will work with partners to facilitate and optimise the delivery of new affordable homes. The supporting text to policy S16 notes that there is an acute shortage of affordable housing and difficulty in developing it within Westminster. The supporting text also notes that specialist housing can be classified as affordable housing, provided it is provided at charges substantially below market levels.

In the UDP, student accommodation is considered a form of hostel accommodation. Policy H6 of the UDP states that hostels will be allowed where they meet the needs of institutions within Westminster and require a Westminster location. Paragraph 3.87 of the supporting text notes that these institutions should make every effort to ensure they provide enough accommodation.

Policy SOC 3 of the UDP encourages the provision of student accommodation, although paragraph 6.28 of the supporting text indicates that this is intended to be provided by higher education institutions. This same paragraph also indicates that policy SOC 3 was written in the context of the now superseded policy 3A.22 of the 2004 London Plan. Policy 3A.22 contained unqualified support for student accommodation, rather than the requirement that it meets local need contained within the later London Plan policies identified above. Accordingly, policy SOC 3 has less weight than the policies set out above.

To inform the current City Plan review, the City Council prepared and completed consultation on several booklets in 2014. With regards to student accommodation, Booklet No. 1 (“Housing: Need, Delivery and Quality”) contained draft policy CM15.3. This policy states, inter alia, that student accommodation must be for students studying at a higher education campus in Westminster. This is due to the limited capacity for the development of new student accommodation within Westminster and that it represents an opportunity lost for conventional housing for which there is greatest demand within Westminster. Draft policy CM15.3 also states that student accommodation will be expected to contribute to the supply of affordable housing within Westminster. It is recognised that this booklet does not form part of the development plan and has no weight but it does indicate the future policy direction that is likely to emerge in the forthcoming City Plan review.

With regards to the local need for the student accommodation proposed, the applicant is not a higher education institution. The applicant also does not have an undertaking in place to indicate that the accommodation will be used by a higher education institution. The applicant has also not provided any other evidence to indicate that they are working with or on behalf of any higher education institution. Accordingly, the applicant has not demonstrated that any higher education institution within Westminster needs the student accommodation proposed, let alone an institution in Greater London.

The City Council has also undertaken two studies into the local need for student accommodation - the 2014 Westminster Housing Market Study by Ecorys ("the Ecorys Study") and the 2014 Westminster Housing Market Analysis by Wessex Economics ("the Wessex Study"). The Wessex Study notes that the relatively low student population in Westminster is consistent with conventional commuting patterns (i.e. most workers cannot afford to live within Westminster despite working there). Like many working adults, students have limited incomes, so are unlikely to be able to pay for market accommodation in Westminster. Importantly, the Wessex Study concludes that there is no convincing evidence that the relationship between where students live and where they study is having an adverse effect on higher education institutions in Westminster. Given high land values in Westminster, the Wessex Study notes that it is more cost-effective for higher education institutions to build student accommodation outside of Westminster. This reflects the emerging pattern of student accommodation provision in outer London borough's as encouraged by policy 3.8 (h) of the London Plan (see paragraph 7.3 of the Mayor of London's 2017 Strategic Housing Land Availability Assessment ("the SHLAA").

The Ecorys Study concludes that there are affordability issues around purpose built student accommodation within Westminster, particularly that provided by the private sector. Like the Wessex Study, the Ecorys Study also notes that there are other factors within Westminster limiting the development of student accommodation, including the high cost of development, land scarcity and good transport links into central London. Greater provision for developing affordable student housing should be made, although not at the expense of conventional affordable housing. Accordingly, both studies indicate a potential local need for affordable student accommodation, rather than conventional student accommodation.

The applicant does not propose any affordable student accommodation and has provided an appraisal that demonstrates that it would not be viable to provide any. This has been reviewed on behalf of the City Council, by Bilfinger GVA, who concur with its findings. The applicant has subsequently offered to provide three affordable bedspaces (i.e. approximately 9%), although it is questionable whether this can actually be provided as the development would be operating at a loss according to the applicant's viability appraisal. In the event that the applicant was able to provide these three affordable spaces, the majority of the development does not provide the affordable student accommodation that may be needed within Westminster and would occupy land that could be used to provide conventional homes, including affordable homes.

The applicant has submitted a Market Demand Report by Cushman and Wakefield ("the MDR Report") to justify the proposed student accommodation. Like the Wessex Study, the MDR Report concludes that the supply of student bedspaces is lower than the number of students attending higher education institutions within Westminster. On this

basis, the MDR study concludes that students may be placing pressure on the private rented market. It also notes that the number of students living in the private rented sector is proportionately higher than national averages, thereby putting pressure on the private rented sector that could be relieved through the provision of purpose built student accommodation.

However, there are two significant shortcomings with the MDR Report. It has been prepared without any involvement from higher education institutions within Westminster. It is common for people to work in inner London and live in outer London and this is generally not considered harmful. Accordingly, it does not demonstrate that the disparity between student bedspaces and student numbers within Westminster – which mirrors wider commuting patterns within London - is harming these higher education institutions. As the MDR Report notes, these institutions continue to grow.

Comparisons between London and national averages are also not appropriate given the unique circumstances found within Westminster and London. As the MDR Report notes, London is the largest student destination in the UK, with Westminster containing more higher education institutions than any other local authority within London. Accordingly, it is reasonable to expect that it would have higher levels of students living in private rented accommodation than the national average.

It is appreciated that the large number of higher education institutions may put additional pressure on the private rented sector within Westminster. However, development of this site for student accommodation in the absence of any demonstrable local need would prevent this site from being used for the provision of market and/or affordable housing. There is a much greater need for the latter within Westminster. As set out in the reasoned justification to policy S16 of the City Plan, there is a need for 5600 additional affordable homes per year in Westminster and this continues to go unmet. Under the current London Plan, the City Council must also provide at least 1068 residential units per year.

Market housing can accommodate a greater variety of people, including students, and can be adapted to changing market conditions without further permission from the City Council, unlike the proposed use. Rather than relieving pressure on local housing, the specialised nature of this housing prevents it from addressing local housing need. As such, and in the absence of demonstrable local need for student housing, the proposal would not utilise scarce land effectively by preventing it from housing many other groups of people.

The applicant has also suggested that redevelopment of this site is unviable without providing student accommodation. However, no evidence of this has been provided.

Overall, the applicant has not demonstrated that the proposed student accommodation is needed by any specific higher education institution in Westminster. The bedspaces proposed would also not provide the affordable student accommodation identified as needed within Westminster whilst also using scarce land that could accommodate a greater range of people within market and/or affordable housing. Whilst the disparity between student numbers and student bedspaces within Westminster is noted, this is not a sign of local need given typical commuting patterns in London and particularly in the absence of any support for the development from Westminster based higher



education institutions. The applicant has also not demonstrated that the provision of student accommodation is absolutely necessary to allow regeneration of this site.

Given the above, the student accommodation proposed would be contrary to policy 3.8 of the London Plan, policy H17 of the Draft London Plan, policies S14, S15 and S16 of the City Plan and policy H6 of the UDP.

Notwithstanding the in principle objection to student accommodation, the Environmental Health Officer has objected to this application, noting that no information has been provided to demonstrate that the proposed student accommodation is capable of being adequately noise insulated from the public house below. In the absence of this information, the applicant has failed to demonstrate that the proposed flats would not be affected by excessive noise from the public house below and would be contrary to policies S29 and S32 of the City Plan and policy ENV 6 of the UDP.

## 8.2 Townscape and Design

The application site contains an unlisted building outside a conservation area. The building is a mid 19<sup>th</sup> century public house of five bays and three storeys. The existing building is a positive element in the townscape, being one of the few historic properties on this side of the road in the locality. This is particularly the case as The Windsor Castle, known for its parapet castellation forms part of characterful group with the adjacent former council offices and the neighbouring Edwardian Police Station. As such, the building is an undesignated heritage asset.

The proposal results in the loss of the rear of the building and the attractive rear stable, which has a sturdy timber framed roof internally. While the stable has historic and social interest and could provide an attractive office or home, its loss would be difficult to resist given the rear location and the lack of public visibility.

The building is a completed composition with a flat roof behind a castellated parapet and policy DES 6 of the UDP would normally resist a roof extension. However, given the location outside of any conservation area and the need to find a viable use for this undesignated heritage asset, a mansard roof could be acceptable, subject to its detailed design.

Previously, the applicants have been advised against the use of a modern idiom for the mansard style, as a traditional mansard roof with dormers and sashes would relate sympathetically to the storeys below, in accordance with policy DES 6 of the UDP and in order to preserve the significance of the asset.

The mansard proposed needs to relate well to the lower storeys and the present design tries to reflect the window alignment below, resulting in a cluttered and asymmetric design. A more appropriate design would be three or four traditionally detailed dormers, located equidistantly on the front mansard pitch with timber framed sash windows to match below. The height of the mansard also needs to be reduced as it appears top heavy at present.

In terms of the extension, whilst the glazed bay to the side elevation does give a welcome separation between old and new, at roof level the junction between the two is

abrupt and awkward. Other elements of the design, such as the variety of windows / shapes and layering of the built elements on the south and west elevations, would create a somewhat *ad hoc* character to the composition.

The works to the ground floor shop front, which have been altered over the years, require further refinement and, were the rest of the scheme acceptable, appropriate details could have been secured via condition.

While the reuse of the building and retention of the public house use is welcome, the design of the mansard and rear extensions require some refinement. Accordingly, the proposed design would not comply with policies DES 1, DES 5 and DES 6 of the UDP and policies S 25 and S 28 of the City Plan.

### **8.3 Residential Amenity**

#### **8.3.1 Loss of Light**

Policy ENV13 of the UDP seeks to protect existing premises, particularly residential from a loss of daylight and sunlight as a result of new development. Permission would not normally be granted where developments result in a material loss of daylight or sunlight. Policy DES 3 (c) (4) of the UDP also specifies, amongst other things, that high buildings should minimise the effects of overshadowing, especially within predominantly residential areas.

The supporting text to policy ENV 13 specifies that regard should be had to the BRE publication "Site Layout Planning for Daylight and Sunlight: A guide to good practice" (2011) ("the BRE Guide"). The BRE stress that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances since natural lighting is only one of many factors in site layout design. For example, in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

The applicant has submitted a Daylight and Sunlight Report by Point 2 Surveyors Limited ("the Light Study") as part of the application to demonstrate compliance with the BRE Guide. The Light Study considers the following adjacent or nearby residential properties that are eligible for testing in the BRE Guide:

- 313-319 Harrow Road;
- 1-24 Windsor Gardens; and
- 5 Woodfield Road.

Residential properties beyond these are considered too distant from the subject property to result in potentially unacceptable light loss.

#### Daylight

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 Study concludes that 1-24 Windsor Gardens and 5 Woodfield Road would have VSC and NSL losses that do not exceed BRE Guidelines. Accordingly, the proposed development would not result in material loss of daylight to those properties.

With regards to 313-319 Harrow Road, the Light Study notes that 20 of the 34 windows eligible for testing would have light losses exceeding BRE Guidelines. All of these windows would result in VSC levels falling below 27%, with seven of these falling from levels above 27%. Nineteen of the 20 affected windows would have daylight losses up to 30%, with daylight loss to the remaining window being 32%.

These losses are only marginally over what the BRE Guide deems noticeable and are therefore not necessarily harmful. The BRE Guide itself also states that it is intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London 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. Many sites within Westminster have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation. In this context, the level of light loss is considered acceptable and does not warrant refusal of the development.

### Sunlight

The BRE Guide states that only windows with an orientation within 90 degrees of south are eligible for testing. It also states that rooms will appear reasonably sunlit provided that they receive 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.

In this instance, only the east facing windows within 313-319 Harrow Road are eligible for testing. The Light Study concludes that all 12 of the 34 windows eligible for testing would have sunlight losses exceeding BRE Guidelines. However, all of the affected windows serve bedrooms. As per paragraph 3.2.3, sunlight to bedrooms is less important than sunlight to main living areas. Accordingly, an objection to the development on this basis would not be sustainable.

### **8.3.2 Sense of Enclosure**

The extension to the rear would significantly increase the height, bulk and rearward projection of buildings on-site in comparison to the existing situation and as seen from 313-319 Harrow Road. This would be particularly apparent from the west facing windows of the ground floor flats within 313-319 Harrow Road, which would be located approximately 10 m from the upper floors of the proposed extension. At present, these windows have largely unobstructed views of the sky to the south of the site. This would be almost completely obscured by the proposed extension. Accordingly, the proposed development would significantly increase sense of enclosure for the occupants of these flats and would therefore be contrary to policy S29 of the City Plan and policy ENV 13 of the UDP.

All other residential properties surrounding the site are considered too far from the proposed extensions to experience a material increase in sense of enclosure.

### **8.3.3 Privacy**

The proposed development includes several windows in its western elevation that would face and be located approximately 10 metres from bedroom windows within 313-319 Harrow Road. However, the proposed windows serve circulation spaces, rather than living areas. Were the development otherwise acceptable, a condition could be imposed that would require that these windows are obscure glazed and fixed shut. Subject to this condition, the proposed windows would not result in a material loss of privacy for the occupants of 313-319 Harrow Road.

The proposal includes a large terrace area at third floor level on the boundary with 313-319 Harrow Road. This terrace would be located approximately five metres from several bedroom windows at the same level at 313-319 Harrow Road. It would therefore have unobstructed views at close proximity into these flats, although this could be addressed through a condition requiring screening. However, people using this terrace would also be a potential source of excessive noise for the occupants of those flats, given its close proximity. This could not be mitigated by a condition preventing its use during antisocial hours given the unenforceability of such a condition. Accordingly, the proposed terrace would result in unacceptable loss of privacy for the occupants of 313-319 Harrow Road, and would therefore be contrary to policies S29 and S32 of the City Plan and policy ENV 6 of the UDP.

All other residential properties surrounding the site are considered too far from the proposed extensions to experience a material loss of privacy.

### **8.3.4 Plant Noise**

It is proposed to install building services plant within the basement of the proposed development. The Environmental Health Officer has reviewed the proposal and objected to it, noting that no information has been provided to demonstrate that the proposed plant would be capable of complying with the City Council's noise standards and would not contribute to background noise creep in this area. In the absence of this information, the applicant has failed to demonstrate that the proposed plant would not result in excessive noise for occupiers of the student accommodation and would be

contrary to policies S29 and S32 of the City Plan and policies ENV 6 and ENV 7 of the UDP

## 8.4 Transportation/Parking

### 8.4.1 Car Parking

The proposed development has been reviewed by the Highways Planning Manager who notes that the proposed units would be occupied for more than 90 days at a time and are therefore eligible for resident's car parking permits. Accordingly, policy TRANS23 of the UDP applies to the proposal. Policy TRANS 23 would require the provision of six off-street parking spaces unless sufficient capacity exists on-street to accommodate these spaces.

No off-street parking is proposed which will increase the demand for on-street car parking in the area. The impacts of high parking demand are well known and include:

1. drivers being forced to circulate around an area seeking empty spaces which causes unnecessary congestion, environmental pollution and noise disturbance;
2. drivers being tempted to park in dangerous or inconvenient locations, such as close to junctions or on pedestrian crossing points;
3. drivers having no choice but to park some distance from their homes causing inconvenience and more serious problems for elderly or disabled residents.

Policy TRANS23 details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. The addition of even one additional residential unit is likely to have a significantly adverse impact on parking levels in the area and this may lead to a reduction in road safety and operation.

The City Council's most recent parking surveys indicate that on-street parking occupancy in this area already exceeds 80% during daytime hours. Accordingly, insufficient on-street parking capacity exists to accommodate the potential parking demand of the proposed student accommodation.

It is acknowledged that the site has a high level of public transport accessibility. However, 33% of households within this ward have one or more cars (see 2011 Census figures). Whilst this is lower than the borough average, it does indicate that residents in the area do own cars and the development will add to existing on-street parking stress. On this basis, the Highways Planning Manager objects to the proposed development.

However, paragraph 32 of the NPPF states that "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*". In this instance, the proposed development would potentially increase on-street parking demand by just two spaces given car ownership levels within this ward. This site is also well serviced by public transport. Accordingly, the proposed development is unlikely to result in a severe impact on on-street parking levels and an objection to the development on this basis would not be sustainable.

### 8.4.2 Cycle Parking

Policy 6.9 of the London Plan requires the provision of 25 cycle spaces for the proposed development, whereas only six are proposed. Were the development otherwise acceptable, a condition could be imposed that would secure appropriate cycle parking. Subject to this condition, the proposed development would be consistent with policy 6.9 of the London Plan.

#### **8.4.3 Waste**

The Waste Project Officer has reviewed the proposed development and raises several concerns with the waste storage proposed. In particular, the following concerns are noted:

- One waste storage area is shown. However, separate waste stores for the public house and student accommodation need to be provided;
- The drawings must show or indicate the bins that will be used to store residual waste and recyclable materials and their capacities; and
- Details of how the waste will be serviced or collected from the development must also be provided.

Were the development otherwise acceptable, a condition could be imposed to secure appropriate details. Subject to this condition, the proposed development would be consistent with policies ENV 12 and TRANS 20 of the UDP.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The proposed development does not include level access to the proposed student accommodation. Were the development otherwise acceptable, an amending condition would be imposed requiring alterations to the internal layout to improve its accessibility.

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

##### **8.7.1 Basement Development**

The applicant has submitted a Structural Methodology Statement which demonstrates that the basement extension proposed can be safely built whilst taking into account the specific ground conditions of the application site. Were the development otherwise acceptable, a condition would be attached requiring compliance with the City Council's Code of Construction Practice. Subject to this condition, the proposal complies with part A. 2 of policy CM 28.1 of the City Plan.

The basement extension itself would be single storey and confined to the area beneath the proposed extension. Accordingly, the proposed basement meets the size, location and depth limitations within policy CM28.1 of the City 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**

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

Subject to any exemptions or relief available to the applicant, the proposed development has a total CIL liability of £230,500 (£184,400.00 Westminster CIL and £46,100.00 Mayoral CIL)

### **8.11 Environmental Impact Assessment**

The proposed development is too small to require an Environmental Impact Assessment.

### **8.12 Other Issues**

None

## **9. BACKGROUND PAPERS**

1. Application from
2. Representation from Councillor Hug, dated 3 December 2017
3. Representation from Councillor Boothroyd, dated 13 December 2016
4. Response from Highways Planning manager, dated 22 November 2016
5. Response from Waste Project Officer, dated 22 November 2016
6. Response from Environmental Health Officer, dated 24 May 2017
7. Response from North Paddington Society, dated 30 November 2017
8. Letter from occupier of 58 Goldney Road, London, dated 5 December 2016
9. Letter from occupier of 11 Marylands Road, London, dated 28 November 2017
10. Letter from occupier of Flat 1, 5 Woodfield Road, London, dated 28 November 2017
11. Letter from occupier of 69 Goldney Road, London, dated 28 November 2017
12. Letter from occupier of 58 Goldney Road, London, dated 28 November 2017
13. Letter from occupier of Flat 3, 5 Woodfield Road, dated 28 November 2017
14. Letter from occupier of 1c Chippenham Mews, London, dated 29 November 2017
15. Letter from occupier of 1c Chippenham Mews, London, dated 29 November 2017
16. Letter from occupier of 35 Hormead Road, London, dated 3 December 2017
17. Letter from occupier of Flat 20, Beech Court, Elmfield Way, dated 4 December 2017
18. Letter from occupier of 2c Chippenham Mews, London, dated 4 December 2017
19. Letter from occupier of 14 Chippenham Mews, London, dated 31 December 2017

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

Item No.
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<b>2</b>
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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT <a href="mailto:swhitnall@westminster.gov.uk">swhitnall@westminster.gov.uk</a>
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### 10. KEY DRAWINGS



Existing North Elevation  
Scale 1:100

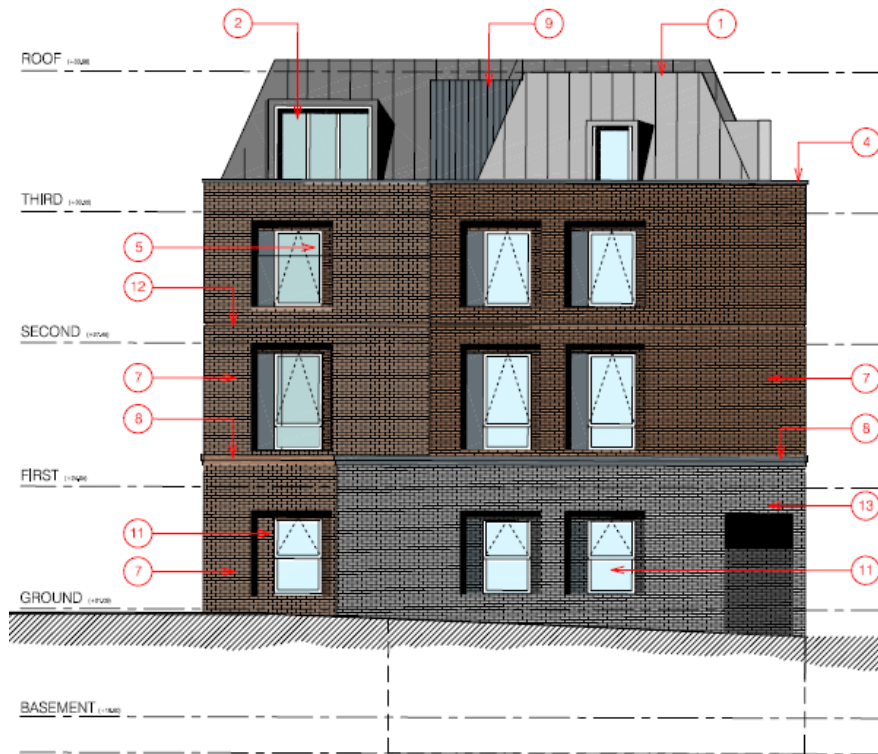


Proposed North Elevation  
Scale 1:100

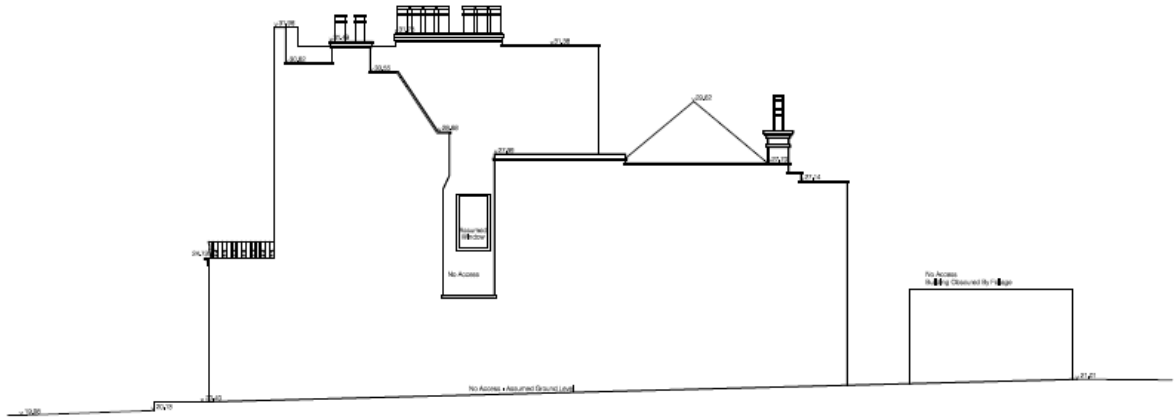




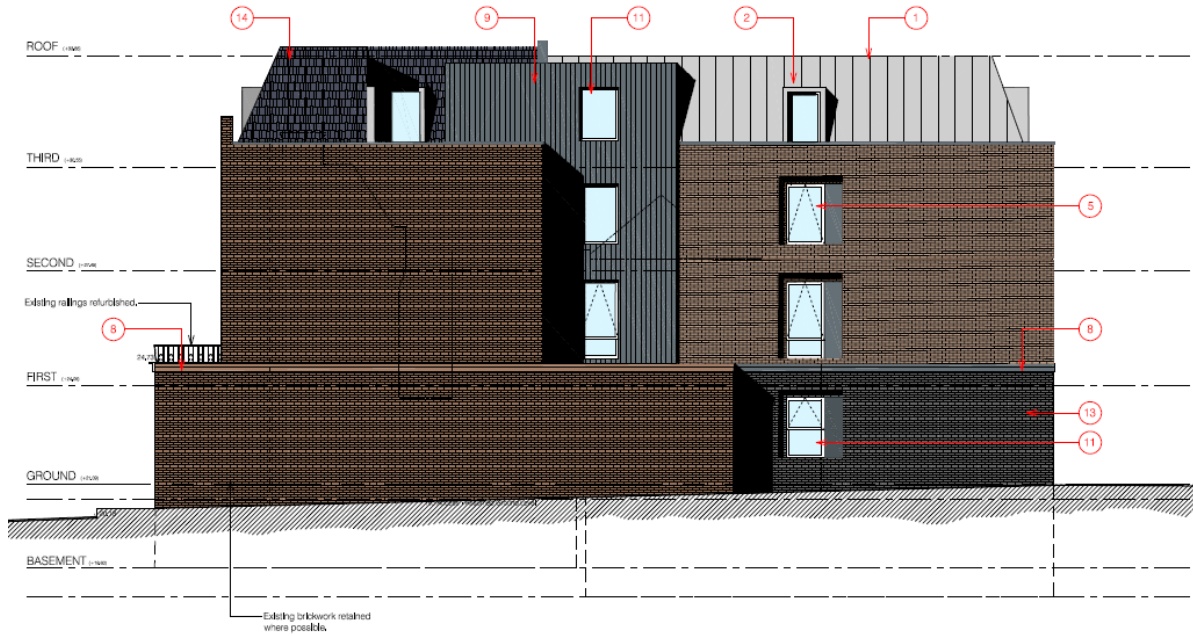
Existing South Elevation  
Scale 1:100



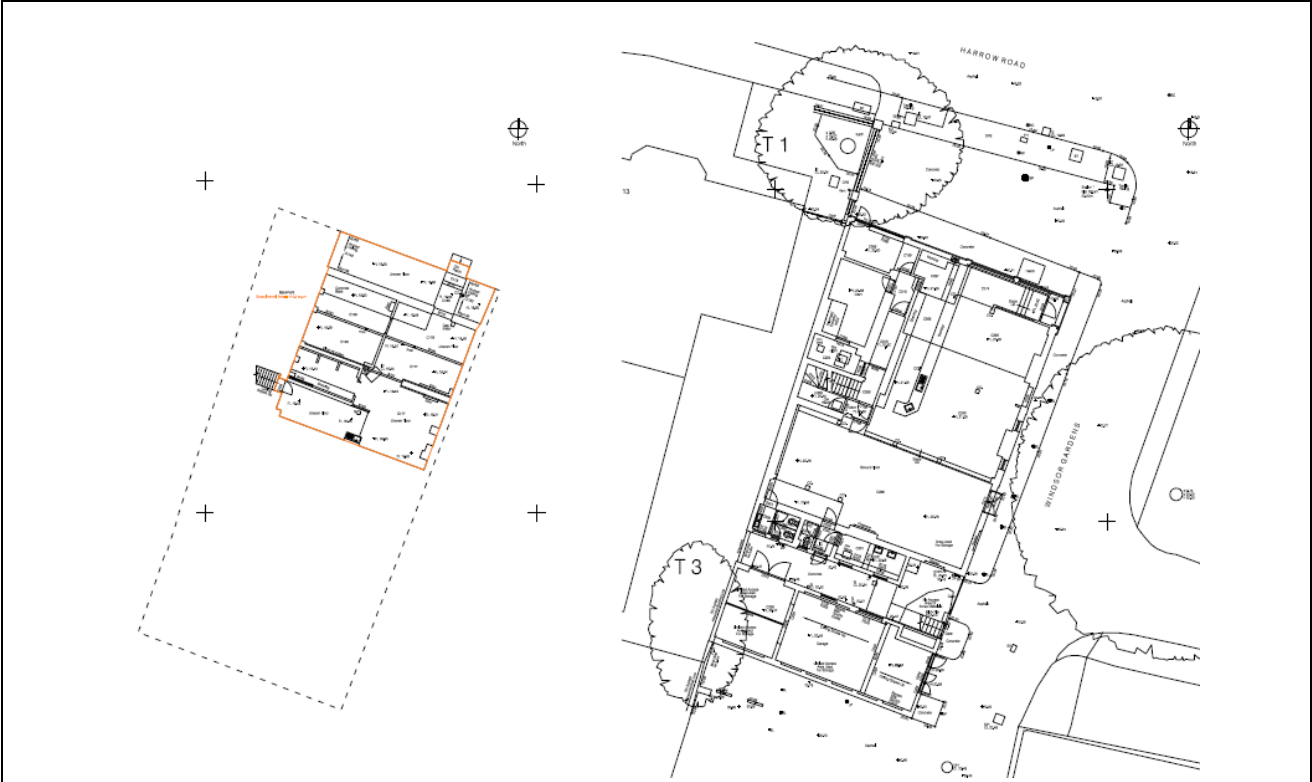
Proposed South Elevation  
Scale 1:100



Existing West Elevation  
Scale 1:100



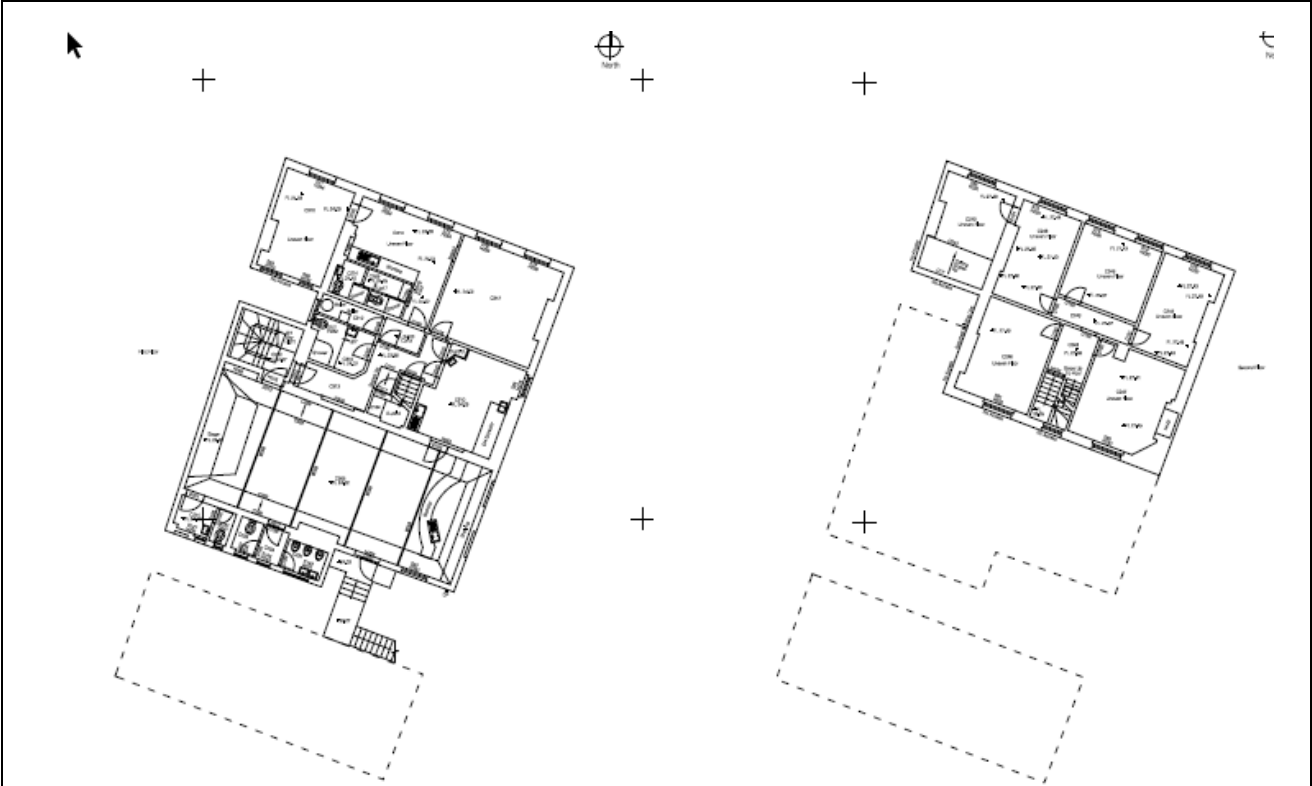
Proposed West Elevation  
Scale 1:100



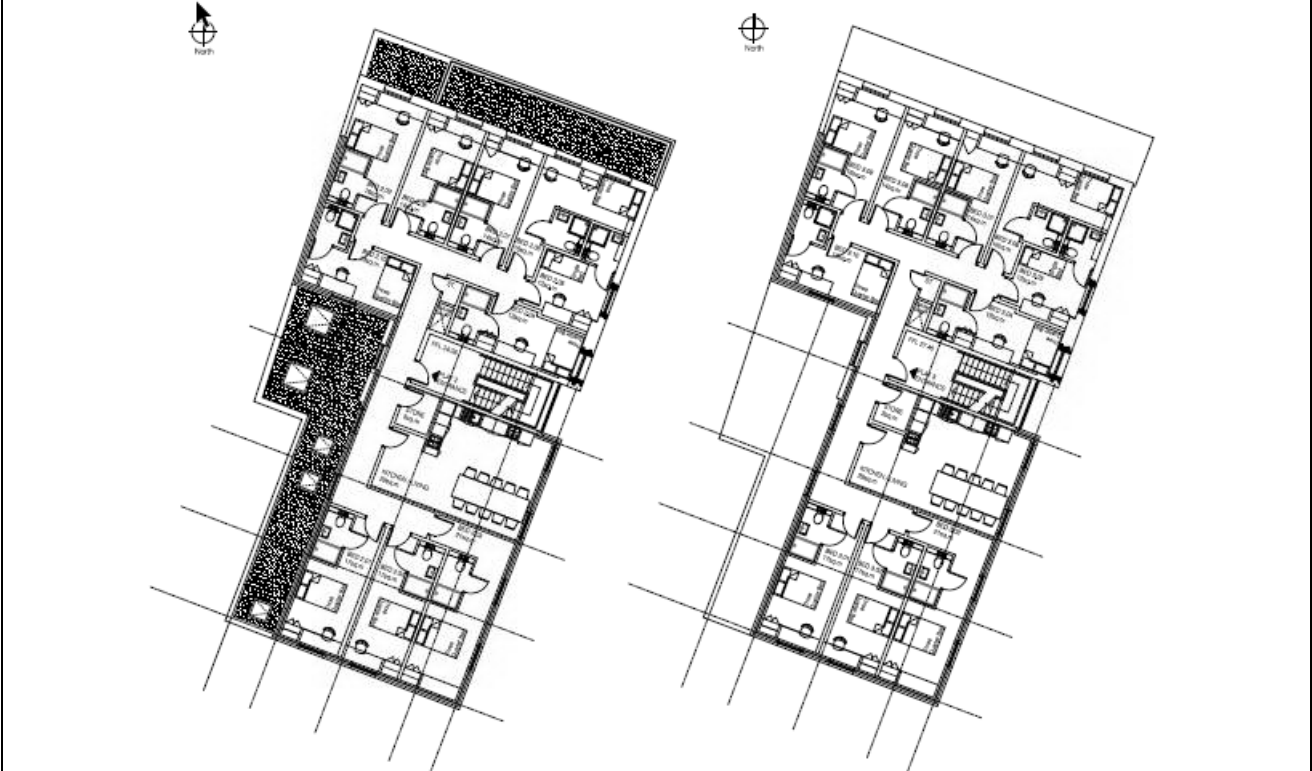
**Existing Basement (left) and Ground Floor (Right) Floor Plans**



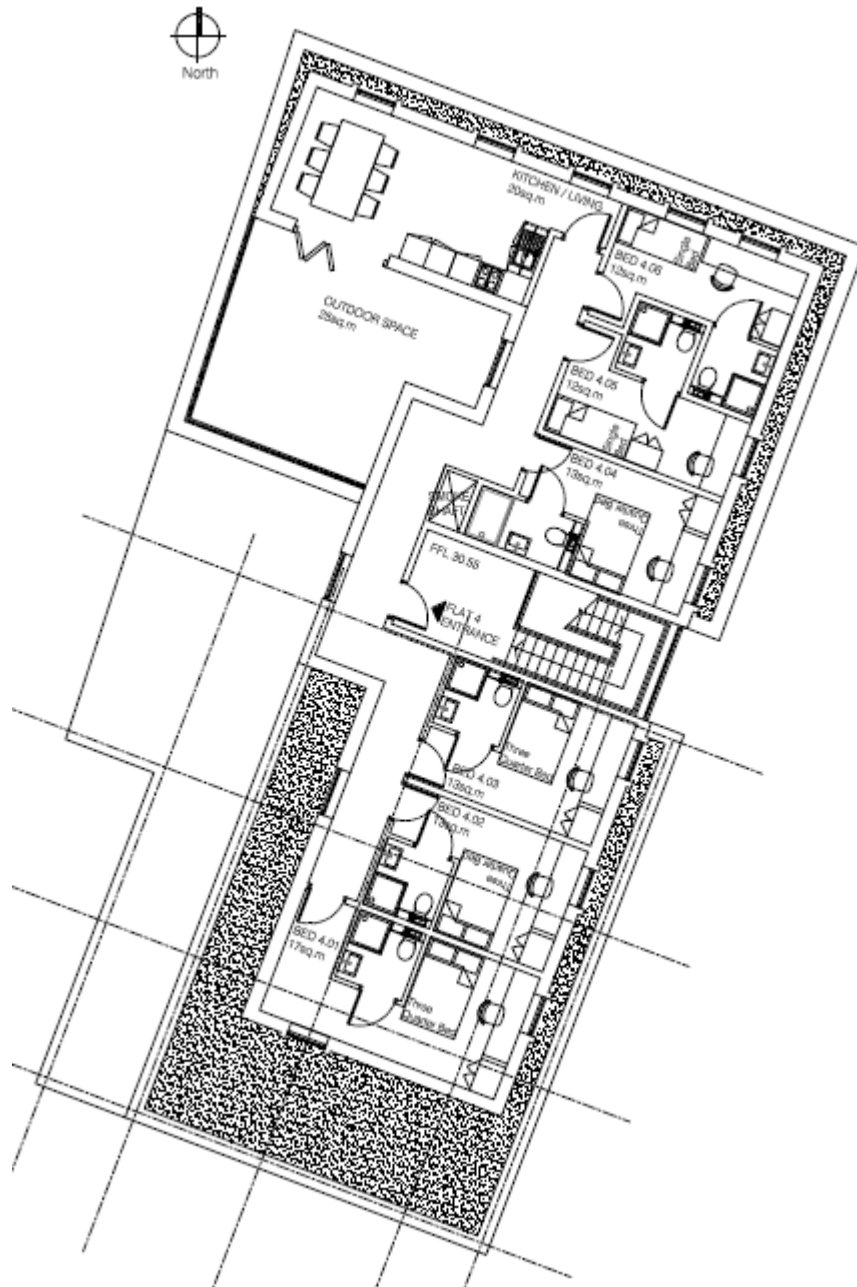
**Proposed Basement (left) and Ground Floor (Right) Plans**



**Existing First (Left) and Second Floor (Right) Floor Plans**



**Proposed First (Left) and Second Floor (Right) Floor Plans**



Proposed Third Floor Plan



Item No.
<b>2</b>



**DRAFT DECISION LETTER**

- Address:** 309 - 311 Harrow Road, London, W9 3RG,
- Proposal:** Retention of the existing public house use at part basement and part ground floor levels. Use of first and second floors and new roof extension to provide Student Accommodation (34 bed spaces) with an associated three-storey extension to the rear, as well as external alterations including new windows to the front elevation at ground floor level.
- Reference:** 16/09974/FULL
- Plan Nos:** Drawing numbers (03) 01, (03) 03 Rev A, (03) 04, (03) 05 Rev A, (03) 06, (03) 07 Rev B, (03) 08 Rev C, (03) 9 Rev B, (03) 10 Rev E, (03) 11

FOR INFORMATION ONLY: Planning Statement by Nexus Planning (October 2016), Heritage Statement by Geoff Noble (September 2016), Design and Access Statement by Box Architects (September 2016 – Rev A), Structural Methodology Statement by WYG (October 2016), Transport Statement by Vectos (September 2016), Market Demand Report by Cushman Wakefield (June 2017)

**Case Officer:** Nathan Barrett

**Direct Tel. No.** 020 7641 5943

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

- Reason:
- 1 The student accommodation does not meet an identified local housing need and would occupy scarce land that could accommodate market and/or affordable housing. The student accommodation would be contrary to policy 3.8 of The London Plan (March 2016), policy H17 of the Draft London Plan (December 2017), policies S14, S15 and S16 of the Westminster City Plan (November 2016) and policy H6 of the Unitary Development Plan (January 2007).
- Reason:
- 2 Because of the detailed design of the mansard roof and rear extensions, the proposed development would harm the appearance of this building and this part of the City. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and policies DES 1, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007.
- Reason:
- 3 The rear and roof extensions would make the people living 313-319 Harrow Road feel too shut in. This is because of its bulk and height and how close it is to windows in that property. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.
- Reason:
- 4 The third floor terrace would lead to unacceptable noise levels for people in neighbouring properties. This would not meet S29 of Westminster's City Plan (November 2016) and ENV6 of our Unitary Development Plan that we adopted in January 2007.

Reason:

- 5 The applicant has not provided any information to demonstrate that the proposed student accommodation would not be subject to excessive noise from the public house and/or from mechanical plant on-site. In the absence of this information, the applicant has failed to demonstrate that an appropriate standard of accommodation would be provided, contrary to policies S29 and S32 of the City Plan (November 2016), and policies ENV 6 and ENV 7 of our Unitary Development Plan, adopted 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 (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. 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.

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.

# Agenda Item 3

Item No.

3

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Franklin House , 151 Strand, London, Wc2r 1hl</b>		
<b>Proposal</b>	Demolition of existing building and redevelopment to provide a building of basement, lower ground, ground and part five/part six upper floors with roof terrace and mechanical plant at roof level; for use as an apart-hotel (Class C1) with private members' bar (sui generis) at lower ground floor level.		
<b>Agent</b>	Turleys		
<b>On behalf of</b>	J & S Franklin Limited		
<b>Registered Number</b>	16/12166/FULL	<b>Date amended/ completed</b>	5 January 2017
<b>Date Application Received</b>	21 December 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Strand		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

Franklin House was constructed in the 1950's by the Franklin Family for office use. It is their intention to retain the building and carry out the redevelopment proposals for the replacement of the existing building, with a building of basement, lower ground, ground and part five/part six upper floors for use as an apart-hotel (Class C1) providing 5 apartments and a private members bar (sui generis) at lower ground floor level.

The key issue for consideration are:

- The impact of the proposals on the character and appearance of the Strand Conservation Area and on the setting of the adjacent Grade I listed Somerset House.
- The land use implications of the proposal;
- The impact of the proposals on the amenity of surrounding residents; and
- The impact of the proposal on the surrounding highway network.

With the imposition of conditions the proposals are considered acceptable in listed building,

conservation, design, land use, amenity and highway terms.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### HISTORIC ENGLAND

Any response to be reported verbally.

### HISTORIC ENGLAND (ARCHAEOLOGY)

Archaeology conditions recommended.

### WESTMINSTER SOCIETY

No objection.

### HIGHWAYS PLANNING MANAGER

The site is well served by public transport. No car parking is provided which is acceptable. There are existing facilities on-street for servicing which will remain unchanged. No cycle parking is provided, however, the development is under the threshold for which cycle parking is required. The doors should not open out over the public highway.

### CLEANSING

No objection.

### ENVIRONMENTAL HEALTH

No objection. Conditions recommended.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 259

Total No. of replies: 11

No. of objections: 13 (from 10 individuals/organisations)

No. in support: 0

Letters of objection have been received from Somerset House Trust; The Courtauld Institute; The Gibraltar Embassy (150 Strand) and 6 neighbouring residents Within 148 and 149 Strand.

#### Design

- Any planting on the roof terrace should not penetrate the party wall as it could cause significant damage and water penetration to the historic fabric of Somerset House.
- The relationship between the new roof and the cornicing that wraps around the corner of the Grade I listed Somerset House needs to be carefully scrutinised to ensure a satisfactory relationship.

#### Land use

- The proposed bar for 55 guests until midnight/ and 2am three nights a week is incompatible with the quiet enjoyment of local residents.

#### Amenity

- The proposed development will impact on nine residential flats on the upper floors of 147, 148 and 149 Strand. No outdoor space for bar patrons should be allowed.
- Noise nuisance and overlooking from the fourth floor roof terrace and balcony from hotel guests.
- Any windows looking towards 147, 148 and 149 Strand should have obscure glass.
- Loss of light and privacy to terrace and windows of the Gibraltar Embassy.

#### Other

- Noise and vibration through the structure of the Grade I listed Somerset House during building works; and structural implications from the proposed basement construction.
- Impact of construction and sustained vibrations on artwork in the Courtauld Gallery and visitor experience.
- Noise and disturbance to residents during construction work on this tight urban site.
- Demolition/building works should be carried out during normal building hours to protect residential amenity, and not extended to minimise impact on the Courtauld Gallery during the day.
- Somerset House is a licenced entertainment venue and the design and sound insulation of the proposed building will need to mitigate from noise generated at events in Somerset House.
- Security implications during building works.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

Franklin House is a 1950's office building comprising basement, ground and four upper floors with a rooftop stair/plant enclosure.

The building is located on the south side of the Strand and forms part of a terrace of buildings flanking the Grade I listed Somerset House, which lies immediately to the east. The Site is located in the Strand Conservation Area and is identified in the Conservation Area Audit (2003) as part of a terrace that makes a positive contribution to the area and collectively forms an unlisted 'building of merit'. The site lies within the Core Central Activities Zone (CAZ) and the Lundenwic and Thorney Island Area of Special Archaeological Priority.

The building was built by The Franklin family, who still own the building (J & S Franklin Limited), and it is their intention to carry out the redevelopment proposals and retain and operate the proposed development.

## 6.2 Recent Relevant History

There is no relevant planning history.

## 7. THE PROPOSAL

Planning permission is sought for the demolition of the existing building and its replacement with a building of basement, lower ground, ground and part five/part six upper floors with a roof terrace, lift core and plant incorporated into the top storey.

The proposed building will be in use as an apart-hotel (Class C1) providing 5 apartments at ground to sixth floor level with a private members bar (sui generis) at lower ground floor level and plant and storage in the basement. The bar will be under the same management as the hotel, operated as a members' bar for hotel guests and fee paying members.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The existing and proposed land uses can be summarised as follows.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office (class B1)	538	0	-538
Hotel (class C1)	0	658	+658
Private Members Bar (sui generis)	0	78	+78
Total	538	736	+198

(applicant's calculations)

#### Loss of office use

The proposal will result in the loss of 538qm of office floorspace. Policy S20 of Westminster's City Plan (November 2016) relates to offices and seeks to restrict the loss of office space to housing, however, the loss of offices to other commercial uses are acceptable. The proposal is therefore in accordance with this policy.

#### Hotel use

Policy S23 of the City Plan and TACE 2 of the UDP relate to new hotels, which are directed to the Core CAZ. Policy TACE 2 states that within the CAZ, in streets that do not have a predominantly residential character, planning permission will be granted for new hotels where no environmental and traffic effects would be generated and adequate on-site facilities are incorporated within developments proposing significant amounts of new visitor accommodation, including spaces for the setting down and picking up of visitors by coaches and taxis serving the hotel.



The proposal is for a low intensity 5-bed boutique apart-hotel providing three 1-bed apartments and two 2-bed apartments, each with their own open plan living/ kitchen area. The hotel reception will be located at ground floor level with storage for refuse, laundry and consumables at basement level. No hotel restaurant is proposed, however, hotel guests will get automatic membership to the private members' bar proposed at basement level. Management and concierge staff will be available 24 hours a day.

The proposed hotel is considered an appropriate use in this central area of Westminster, close to many of London's top tourist attractions and with good access to public transport. It is considered that the small scale nature of the hotel proposed would not have a significant effect on residential amenity or local environmental quality and it is acceptable in land use terms.

### **Bar Use**

Policy S24 of the City Plan and TACE 8-10 of the UDP relate to entertainment uses. TACE 9 specifically relates to bar uses within the core CAZ with a gross floorspace up to 500m<sup>2</sup>. This policy aims to ensure that bar uses have no 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 no adverse effect on the character and function of the area.

The proposed bar is located at basement level (approximately 78sqm GIA), accessed from the main ground floor entrance shared with the hotel. The applicant has submitted an Operational Management Plan in support of their application.

The bar will be under the same management as the hotel and operated as a members' bar for hotel guests and fee-paying members only, and not for visiting members of the public (*sui generis*). Automatic membership will be granted to hotel residents and to a limited number of their guests, with others granted membership on an invitation only basis for an annual fee. The bar capacity will be 55 guests with opening hours between 7am until Midnight Sunday to Wednesday and 8am until 2am Thursday to Saturday.

The proposed private members bar will form part of the hotel operation and governed by the hotels operational standards. Given the location of hotel bedrooms directly above, it will be in the interests of the hotel to ensure that the bar is properly managed. Given the size and nature of the bar use proposed it is considered acceptable in land use and amenity terms, subject to conditions to ensure that the bar is operated in accordance with the Operational Management Plan; restricting number of guests and opening hours (as outlined above).

## **8.2 Townscape and Design**

The building was built in the 1950s by the current applicant as their offices and has a degree of individual architectural merit, but not such that it would be worthy of listing. The property consists of four above-ground storeys plus a range of awkwardly arranged plant and ancillary accommodation on the roof. The front façade is faced in plainly finished Portland Stone whilst the rear elevations are brick.

The application building immediately adjoins the Grade I listed Somerset House, both to the side and rear, contributing positively to its setting. The site forms part of a terrace of individually developed and aesthetically varied 19<sup>th</sup> and 20<sup>th</sup> century former townhouses with shops to the ground floor, flanking each side of Somerset House's principal north frontage facing onto the Strand. These terraces are characterised in part by their mixed visual character but relatively consistent architectural proportions.

As mentioned above, the existing building is considered to make some positive contribution to the character of the conservation area, and to the setting of Somerset House. It has a limited degree of individual architectural merit, mainly through its high quality façade and proportions similar to the rest of the unlisted terrace which it forms a part of. It cannot however be described as special, and at roof level it presents an untidy arrangement of accretions which detract both from the site's own architectural values but also from the setting of Somerset House. As with the rest of the terrace, its main positive contribution is in its quiet neighbourly relationship with Somerset House; a relatively plainly treated façade, determinably not distracting attention away from the grand frontage of one of the country's most iconic buildings. For these reasons, whilst the building should be retained in principle, its replacement may prove acceptable if the new building were to be of an equal or greater degree of architectural quality, whilst also showing an equal or greater degree of sensitivity to the setting of Somerset House.

The application proposes to replace the existing building with a new boutique apart-hotel and bar. This would be set out over four sheer above-ground storeys plus a further two mansard storeys, plus basement. The front façade would continue the parapet height of the existing terrace with the new mansard rising behind this. The main façade, amended during the course of the application, would be an evidently modern design, but it would sit comfortably with the range of classically proportioned facades which make up the terrace. The treatment of the façade is currently indicated to include a range of decorative brick embellishments which are of concern. The specification of a brick façade is welcomed and would provide a more successful 'book-ending' effect to Somerset House, matching that to the opposing terrace to the east, but this should use a plainer pattern of brickwork, which can be secured through condition. Conversely the currently proposed parapet would appear too plain, but this also can be improved through condition. The applicant has agreed to continued design work in these areas.

At ground floor level the proposal would include a decorative new shopfront, providing access to both the hotel reception and bar. As amended during the course of the application this design is considered to provide a good degree of enrichment at this level, and would also link well with the upper floors above. Its enriched design would not detract from the setting of Somerset House due to its low level.

The new mansard would represent a notable increase in the scale of the existing roof which amounts, but would effectively replicate the forwards form of the roof to Gibraltar House. The roof as designed would therefore fill what is currently a quite awkward gap. Whilst the roof would be somewhat top-heavy for the scale of the sheer storeys below, its design is mitigated by the relationship with Gibraltar House and it would remain significantly subservient to the grand scale of Somerset House. It would also avoid concealing any significant architectural elements of the flank elevation of Somerset House.

To the rear, the new building would include a tall rear wing which would rise an additional two storeys above the height of the existing rear wing. This would however remain well below the height of the rear wall of Somerset House which currently terminates the lightwell gap which runs between the rear of Somerset House and the Strand terrace. Views from within and along this lightwell are however severely restricted, with limited views even from the rear windows of properties facing into it, including Somerset House. What views are afforded are of limited character, and as such the proposed additional scale is considered acceptable for this end of the lightwell.

Whilst the loss of the existing building would represent some loss of architectural significance, this is limited and would more than adequately be outweighed by the architectural benefits which the application proposals would bring. Whilst these bring with them some increases in scale to the roof and to the rear wing, these are well-handled to avoid impact to the principal front elevations, and from relevant angles to the rear. What impacts would remain would be of such restrictive visibility that in effect no harm would be caused to the setting of Somerset House or to the character or appearance of the conservation area.

### **8.3 Residential Amenity**

Policy S29 of the City Plan and ENV 13 of the UDP aim to protect the amenity of residents from the effects of development. Policy ENV13 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.

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2011). Right of Light Consulting, acting on behalf of the applicant have carried out tests using the methodology set out in the BRE guidelines in relation to the nearest, most affected residential properties at 147, 148 and 149 Strand which confirms that the proposed building will comply with BRE guidelines with regards to daylight and sunlight.

Part of the rear section of the building will extend up to the boundary with Gibraltar House, 150 Strand, and extend above the existing boundary wall at first to sixth floor level. Given the enclosed nature to the rear of the terrace which is dominated by the high flank and rear walls of Somerset House, it is not considered that the proposal will cause any significant increased sense of enclosure to Gibraltar House or the residential properties beyond. Windows are proposed in the western elevation serving bathrooms and bedrooms. Given their location on the boundary, they are considered 'bad neighbour windows' and a condition is therefore recommended that the windows be fixed shut and contain obscure glass. An informative is also recommended advising the applicant that should the neighbouring property seek to carry out a similar development in the future these windows could not be protected.

A terrace is proposed at main roof level for hotel guests. This is discretely located to the front and east of the building, behind the access housing, and will not therefore result

in any loss of privacy to residents and the embassy to the west. A small courtyard serving an apartment bedroom of approximately 1.2sqm is proposed at rear ground floor level which will be below the height of the existing boundary wall. A balcony is proposed at rear fourth floor level immediately abutting the rear wall of Somerset House. This will be set back from the boundary with No. 150 and it is not considered that it will result in any loss of privacy.

A proposed winter garden to the bar is located internally within the building at lower ground floor level and behind the ground floor frontage. It will not therefore cause a loss of privacy or noise to neighbouring occupiers.

Plant is proposed at basement and main roof level and the Council's standard noise conditions are recommended.

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

The applicant has submitted a Transport Assessment in support of their application. There are existing on-street loading bays on the Strand that service the existing building and this arrangement will continue.

The site is well-served by public transport and the Highways Planning Manager is satisfied that given the small scale nature of the proposed hotel it is unlikely to attract coach parties.

The development is under the thresholds under which on-site cycle parking is required.

Adequate refuse and recycling storage is proposed and it is recommended that this be secured by condition.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

Level access is proposed into the building with lift access to all floor levels. The lift will open directly into each apartment. One apartment will be wheelchair accessible.

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

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

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

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

### **8.8 London Plan**

This application raises no strategic issues.

### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

### **8.10 Planning Obligations**

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

The development is unlikely to be CIL liable.

### **8.11 Environmental Impact Assessment**

An Environmental Impact Assessment is not required. The applicant has submitted an Energy and Sustainability Assessment in support of their application. The building has been designed with passive design features and energy efficient systems including the provision of Air Source Heat Pumps (ASHP) in a Variable Refrigerant Flow (VRF) system which will achieve an 11.5% improvement in carbon emissions based on the current Building Regulations (2013).

### **8.12 Other Issues**

#### **Construction Impact**

A condition is recommended to ensure that the development complies with the City Council's Code of Construction Practice (COCP) which will require the developer to provide a Site Environmental Management Plan (SEMP) and funding for the Environmental Inspectorate to monitor the demolition and construction phase of the development. The COCP sets out the minimum standards and procedures for managing

and minimising the environmental impacts of construction projects within Westminster and relate to both demolition and construction works.

The key issues to address in the COCP are; liaison with the public; general requirements; SEMP; construction management plans; employment and skills; traffic and highways; noise and vibration; dust and air quality; waste management; waste pollution and flood control and any other issues.

### **Internal Noise**

An acoustic report has been submitted which outlines the proposed façade mitigation measures and ventilation strategy to ensure that the building is designed to protect hotel residents from licenced events in the courtyard of Somerset House. Environmental Health raise no objection to this element of the scheme.

## **9. BACKGROUND PAPERS**

1. Application form
2. Letter from Historic England (Archaeology), dated 26 January 2017.
3. Response from Westminster Society, dated 17 January 2017.
4. Memorandum from Environmental Health dated 11 April 2017 and e-mail dated 21 December 2017.
5. Memorandum from Highways Planning Manager dated 14 March 2017.
6. Memorandum from Cleansing dated 7 July 2017.
7. Letter from occupier of Somerset House Trust, Strand, dated 2 February 2017
8. Letter from occupier of The Courtauld Institute of Art, Somerset House - Strand, dated 3 February 2017
9. Letters from occupier of 150 Strand, London, dated 2 February 2017 and 29 March 2017
10. Letters from occupier of Flat 2, 148 Strand, dated 23 January 2017, 31 January 2017 and 1 February 2017
11. Letter from occupier of 148 Strand, Flat 3, Top Floor, dated 26 January 2017
12. Letter from occupier of Third Floor and Fourth Floor Maisonette, 148 Strand, dated 1 February 2017
13. Letter from occupier of 149 The Strand, Flat 2, dated 2 February 2017
14. Letters from occupier of Flat 3, 149 Strand, London, dated 30 January 2017 and 1 February 2017
15. Letter from occupier of Flat 1, 149 Strand, dated 31 January 2017

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

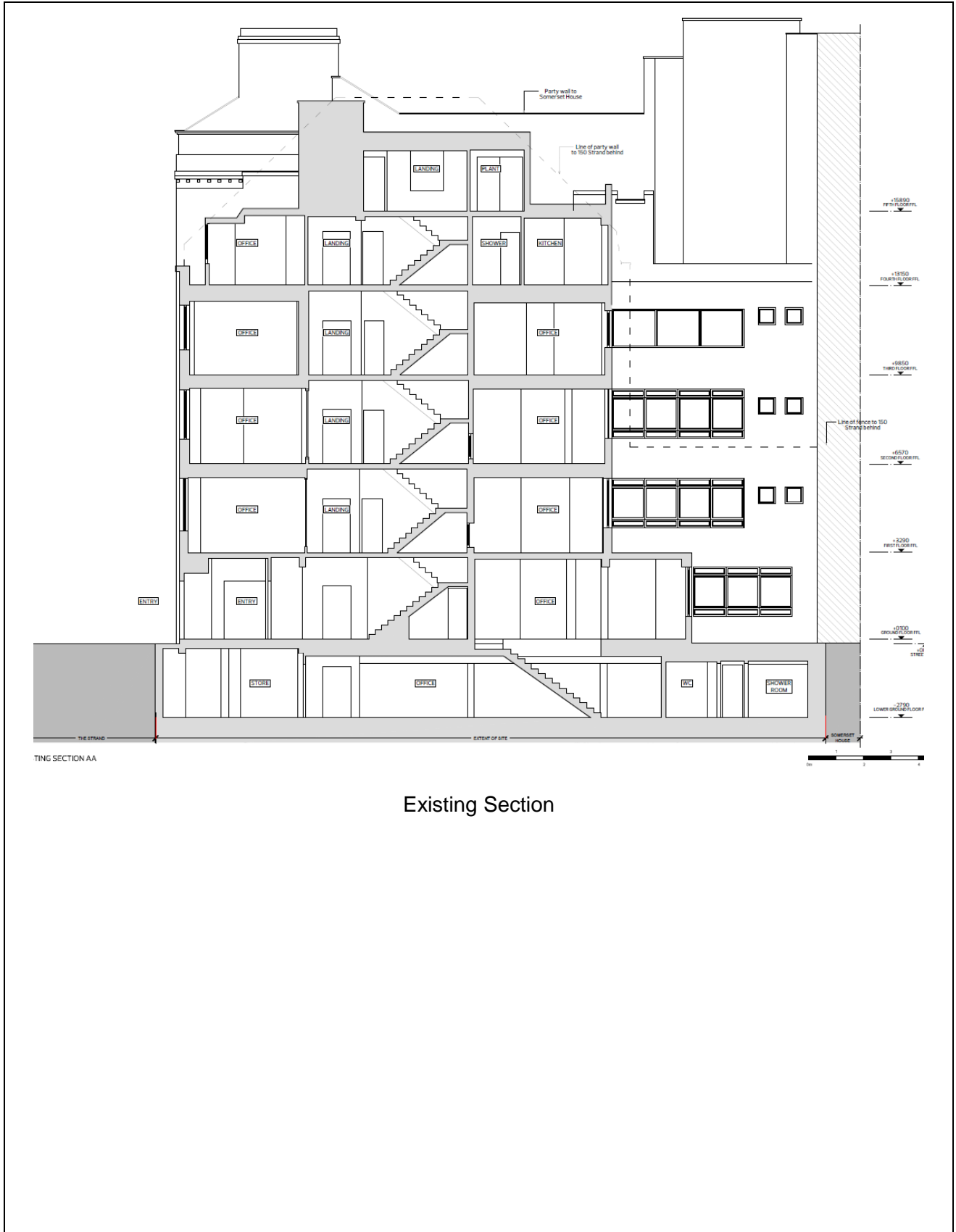
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **DAVID DORWARD** BY EMAIL AT [ddorward@westminster.gov.uk](mailto:ddorward@westminster.gov.uk)

## **10 KEY DRAWINGS**



Existing front and rear elevations





Existing Section

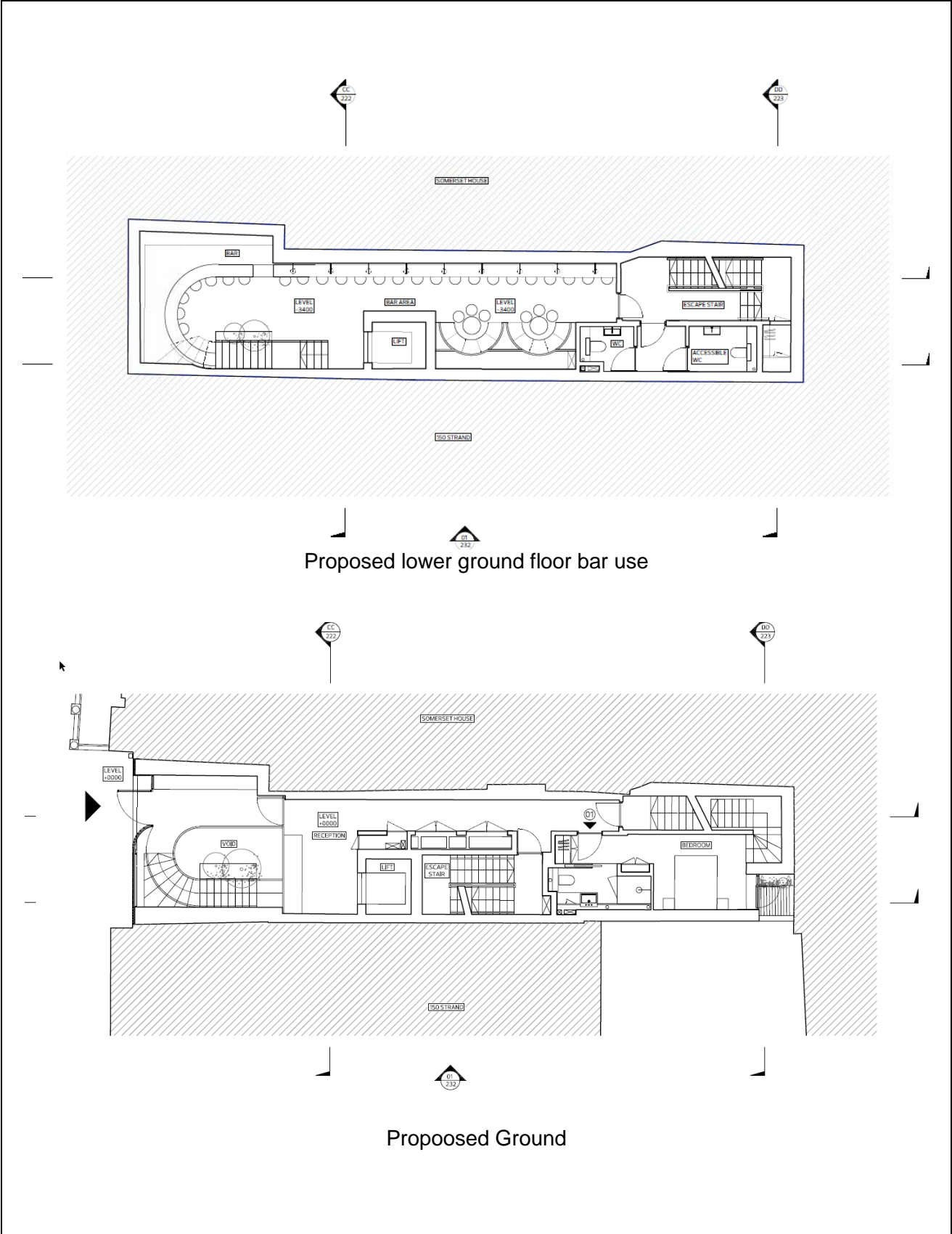


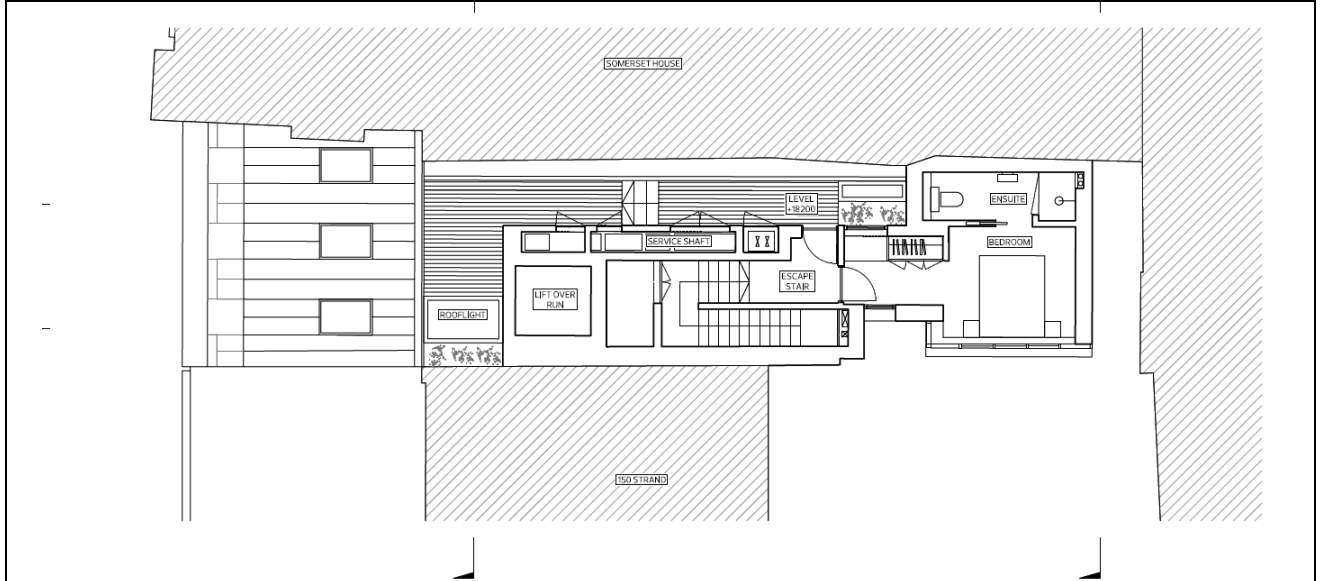


Proposed front elevation



Proposed Section





Proposed Roof



**DRAFT DECISION LETTER**

**Address:** Franklin House , 151 Strand, London, WC2R 1HL

**Proposal:** Demolition of office building (Class B1) and construction of a replacement building comprising basement, lower ground, ground and five upper floors with roof terrace and mechanical plant at roof level; for use as an apart-hotel (Class C1) with bar (class A4) at lower ground floor level.

**Reference:** 16/12166/FULL

**Plan Nos:** 796\_001/P2, 101/P2, 102/P2, 103/P2, 104/P2, 105/P2, 106/P2, 107/P2, 150/P2, 151/P2, 160/P2, 161/P2, 162/P2, 163/P2, 200/P4, 201/P4, 202/P5, 203/P5, 204/P5, 205/P5, 206/P5, 207/P5, 208/P5, 209/P4, 220/P4, 221/P4, 222/P2, 230/P3, 231/P3, 232/P2, 234/P1, 235/P1, 240/P1; Planning Statement dated December 2016; Design response dated November 2017; Heritage Statement dated December 2016; Archaeological Desktop Assessment dated June 2016; Archaeological Watching Brief dated October 2016; Daylight and Sunlight Assessment dated 2 November 2016; Noise Impact Assessment dated 13 July 2017; Noise Assessment dated 30 June 2017; Energy and Sustainability Statement dated 30 November 2016; Transport Statement dated December 2016; Operational Management Strategy dated April 2017; Recycling and waste storage dated 22 March 2017; Structural survey/Structural Methodology Statement (for information only); and Construction Management Plan (for information only).

**Case Officer:** Julia Asghar

**Direct Tel. No.** 020 7641 2518

**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 (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 Notwithstanding the materials specified by the application, you must apply to us for approval of a detailed written and photographic schedule 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 make arrangements for samples of these to be viewed on-site by us. 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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of further information (as set out below) of the following parts of the development: , a) New windows, dormers, rooflights and doors (drawn elevations, plans and sections at 1:5);, b) New shopfront including associated metalwork (drawn elevations, plans and sections at 1:10);, c) Overall profiles through front and rear facades (drawn elevations, plans and sections at 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 approved details. (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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme: , a) Front elevation brickwork to be plain but finely jointed Flemish or English bonding (amended drawn elevations at 1:25)., b) Refinements to the main front elevation parapet to provide more relief and interest (amended drawn elevations and sections at 1:20)., , 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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 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 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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 9 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) no painting of the front facade permitted by Class C of Part 2 of Schedule 2 of the Order shall be carried out on the application site 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 Strand Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 10 The glass that you put in the windows in the western elevation of the building on the boundary with 150 Strand must not be clear glass, and you must fix them 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 (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 11 You must not allow more than 55 customers into the bar area at any one time. The bar area is the part of the property shown on drawing number 201/P4. (C051A)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 12 You must carry out the measures included in your management plan dated April 2017 at all times that the bar is in use. (C05KA)

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 (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 13 Customers shall not be permitted within the bar premises before 07:00 or after 00:00 (midnight) on Sunday to Wednesday and before 08:00 or after 02:00 the following day Thursday to Saturday. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 14 (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:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 15 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.

- 16 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 14 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 (November 2016), by contributing to reducing excessive ambient noise levels.

- 17 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest., (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the \*\*\*\* 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 (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 18 The design and structure of the development shall be of such a standard that it will protect hotel guests 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 hotel guests of the development from the intrusion of external noise.

- 19 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising 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. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

**Reason:**

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

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You 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 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)
- 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 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)
- 7 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)
- 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 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)
- 10 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).

- 11 For the avoidance of doubt the Construction Management Plan required under condition 19 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.
- 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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 13 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.
- 14 With reference to condition 19 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). These documents must be sent to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk). , , Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition. , , You are urged to give this your early attention
- 15 We recommend all hoteliers to join the Westminster Considerate Hoteliers scheme and to support the Considerate Hoteliers Environmental Charter. This aims to promote good environmental practice in developing and managing hotels. For more information, please contact: , , John Firrell MHCIMA, Secretary - Considerate Hoteliers Association, C/o Wheelwright's Cottage, Litton Cheney, Dorset DT2 9AR , , E-mail: [info@consideratehoteliers.com](mailto:info@consideratehoteliers.com), Phone: 01308 482313, , (176AA)
- 16 The windows in the western elevation to the rear, on the boundary with 150 Strand, are considered to be 'bad neighbour windows'. Should the neighbouring property seek to carry out a similar development in the future these windows cannot be protected.

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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# Agenda Item 4

Item No.
<b>4</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	2 - 4 Noel Street, London, W1f 8gb		
<b>Proposal</b>	Use of part basement and part ground floors as shop (Class A1) and / or a restaurant (Class A3) and installation of full-height extract duct to rear elevation.		
<b>Agent</b>	Maddox and Associates Ltd		
<b>On behalf of</b>	Timberyard Ltd		
<b>Registered Number</b>	17/07923/FULL	<b>Date amended/ completed</b>	7 September 2017
<b>Date Application Received</b>	4 September 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

The application site comprises the majority of the basement and ground floors of this unlisted building located within the Soho Conservation Area, the Core Central Activities Zone (Core CAZ), the West End Special Retail Policy Area and the West End Stress Area. The lawful use of this floorspace is within Class B1 (Business).

Permission is sought to use ground and basement floors (with the exception of the circulation core for the offices above) as a shop (Class A1) and / or a restaurant (Class A3). Also proposed is the installation of a full-height duct clad to match the host building (in render) rising up the rear of the building within a rear lightwell.

The key issues for consideration are:

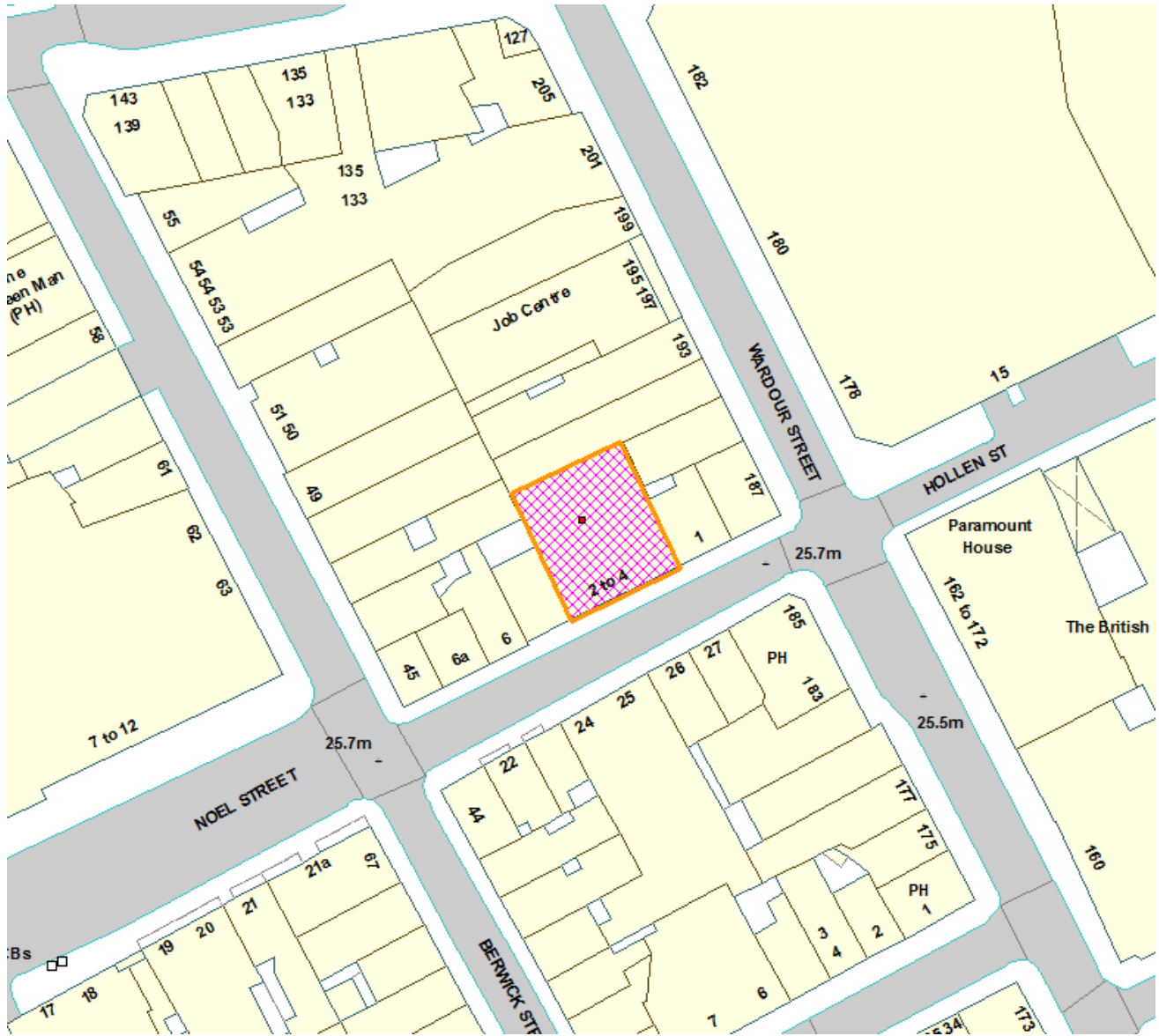
- Whether the proposed new entertainment use will result in an increased concentration of late night-night uses within the West End Stress Area, result in material harm to residential amenity or local environmental quality, or harm the character and function of the area.

- Whether servicing the proposed restaurant will result in an obstruction to the public highway.
- Whether the proposed flue will preserve or enhance the character and appearance of the Soho Conservation Area.

The proposal is considered acceptable in land use, amenity and transportation terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan). For these reasons it is recommended that conditional planning permission be granted.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## CONSULTATIONS

### SOHO SOCIETY:

- Objection on the ground that Soho is already a stress area and is already well provided in terms of restaurants.
- The premises should not be rewarded for using the premises as a restaurant without planning permission.

### CLEANSING:

- No objection subject to conditions.

### HIGHWAYS PLANNING:

- No objection subject to conditions.

### ENVIROMENTAL HEALTH:

- No objection subject to conditions.

### CROSS LONDON RAIL LINKS LTD:

- No comment.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 67

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 5. BACKGROUND INFORMATION

### 5.1 The Application Site

The application site comprises a four storey unlisted building of merit located in the Soho Conservation Area.

The first, second and third floors are in office (Class B1) use, with a ground floor entrance and basement circulation core. The remainder of the ground and basement floors are the subject to this application and are currently vacant but the lawful use of the entire building is within Class B1 (Business) use. The parts of the building that the application relates were last used for a short period as a mixed use coffee shop at ground floor level with workspace for hire at basement level. This use vacated in November 2017. It is considered that this use comprised a mix of uses and therefore comprised an unauthorised *sui generis* use.

Prior to this unauthorised use the basement and ground floors were in use as an office (Class B1) and it is concluded that this remains the lawful use of the entirety of the building, albeit there are extant permissions to use the basement and ground floors as a shop (Class A1) or financial and professional services (Class A2) (see below for details).

The site is located within the Core CAZ, the West End Special Retail Policy Area and the West End Stress Area. Records indicate that the nearest residential properties are located at:

- 191 Wardour Street (3<sup>rd</sup> floor level).
- 23 Noel Street (2<sup>nd</sup> and 3<sup>rd</sup> floor levels).
- 45 Berwick Street (1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floor levels).
- 183-185 Wardour Street (4<sup>th</sup> floor level).

Noel Street is a one-way street, with traffic travelling from east to west.

Immediately to the west of the site is No. 5 Noel Street (Grade II listed) and to the west are Nos. 46, 47 and 48 Noel Street, all Grade II listed.

At ground floor level, Noel Street is entirely commercial, with shops and restaurants dominating the street.

## 5.2 Recent Relevant History

### 14/05716/FULL

Triple/alternative use of basement and ground floors for retail (Class A1), and / or financial and professional services (Class A2) and / or office (Class B1) purposes.

Application Permitted 9 March 2015

### 13/12670/FULL

Alterations and extensions to rear elevation at basement, ground, first, second and third floor to provide additional office floorspace (Class B1), and alterations to front elevation.

Application Permitted 2 April 2014

### 13/12669/FULL

Alterations and extensions to rear elevation at basement, ground, first, second and third floor to provide additional office floorspace (Class B1), and alterations to front elevation.

Application Permitted 2 April 2014

## 6. THE PROPOSAL

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office (Class B1)	327	0	-327
Option 1 - Shop (Class A1)	0	327	+327
Option 2 - Restaurant (Class A3)	0	327	+327
<b>Total</b>	<b>327</b>	<b>327</b>	<b>0</b>

Planning permission is sought to use the majority of the basement and ground floors for retail (Class A1) and / or restaurant (Class A3) and to install a full-height extract duct to the rear elevation. If permitted, the application would be able to change between these two uses for a period of ten years following permission being granted. The actual use at this point would become the lawful use of this part of the building.

If a restaurant were to occupy this part of the building, the following summarises its operation:

Floorspace	337 sq.m (GIA)
No. of covers	120
Hours of operation	07.30 – 00.00 (Monday to Saturday); 10.00 – 21.00 (Sundays and Bank Holidays).
Ventilation arrangements	Full height kitchen extract duct and existing roof level plant
Refuse Storage arrangements	To be stored within separate refuse and recycling storage areas at basement level.

The application has been amended during the course of its consideration to replace an internal recirculation arrangement with a full-height extract duct. The Soho Society and the neighbouring residents were all notified of the amendment to the application.

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use and Residential Amenity

#### Loss of office

There is no objection to the loss of the office floorspace at basement and ground floor levels, with there being no policy basis against the loss of office floorspace where it is being converted to another commercial use.

#### Proposed new shop

The site's location with the Core CAZ and the West End Special Retail Policy Area means that the conversion of the basement and ground floors to a shop would be welcome, in accordance with City Plan Policies S6, S7 and S21.

#### Proposed new restaurant

City Plan Policy S6 states:

*'Within the West End Stress Area, new entertainment uses will only be allowed where the council considers that they are small-scale, low-impact and they will not result in an increased concentration of late-night uses.'*

City Plan Policy S24 states:

*'New entertainment uses will need 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.'*

*New large-scale late-night entertainment uses of over 500 sq.m floorspace will not generally be appropriate within Westminster'.*

UDP Policy TACE 9 identifies the proposed as being one that may be permissible subject to there being no adverse effect (individually or cumulatively) upon residential amenity, local environmental quality or the character or function of its area.

The Soho Society has objected to the proposed restaurant use, arguing that Soho is already a stress area and is already well provided for in terms of restaurant.

This section of Noel Street between Wardour Street and Berwick Street is mixed in character and it is accepted that there are already the following of entertainment uses present:

- Brgr.Co at 187 Wardour Street and 1 Noel Street. Terminal hour 23.00 (Monday to Saturday) and 22.30 (Sundays).
- Chipotle at 181-185 Wardour Street – terminal hour 21.30 (Sunday – Thursday) and 23.00 (Friday and Saturdays).
- Pilau at 22 Noel Street – terminal hour 20.00 (Monday and Tuesday), 21.00 (Wednesday to Saturday) and 16.00 (Sundays).
- Yumchaa at 45 Berwick Street and 6a Noel Street – terminal hour 21.30 (Monday to Saturday) and 20.00 (Sunday).

There are also a number of hot food takeaways aiming more at the daytime market, including:

- The Potato Project at 27 Noel Street (terminal hour 18.00).
- Melt Room at 26 Noel Street (terminal hour 19.00).

Whilst it is accepted that there are a number of restaurants, cafés and takeaways in the area, only two are open late into the evenings (Brgr.Co at 187 Wardour Street and 1 Noel Street and Chipotle at 181-185 Wardour Street), with the latest terminal hour for these two restaurants being 23.00. The remainder close fairly early, particularly in the context of the site's location within the heart of the Core CAZ.

It is not considered that adding a modestly sized restaurant with a terminal hour of midnight (Monday to Saturday) and 21.00 on Sunday would add to an existing overconcentration of late night uses in this part of the West End Stress Area or harm the character and function of the area. This is particularly the case given that there is only one residential unit on Noel Street itself – a maisonette over 2<sup>nd</sup> and 3<sup>rd</sup> floor level of 23 Noel Street – and that no objections to the application have been received from local residents. Indeed, adding a use that enlivens the street through serving visiting members of the public is a significant benefit of both proposed uses.

It is therefore concluded that the principle of the proposed use is acceptable, despite the concerns of the Soho Society, subject to conditions securing:

- The submission of a Service Management Plan (including hours) for the City Council's approval.

- Securing storage within the basement for waste and recyclable material.
- Limiting the opening hours to 07.30 – 00.00 (Monday to Saturday) and 10.00 – 21.00 (Sundays and Bank Holidays).
- Preventing music being played that is audible externally or in adjacent properties.
- Limiting the floorspace that may be devoted to a bar to 15%.
- Preventing the restaurant offering a takeaway service.
- Securing the erection and retention of suitable extract arrangements.

## **7.2 Townscape and Design**

The only external alteration proposed is the full height rear external extract flue. This is proposed to be fully clad in an enclosure finished in render to match the host building. This, combined with the flue's discreet location, means that the proposed works would preserve the character and appearance of the Soho Conservation Area, in accordance with City Plan Policies S25 and S28, and UDP Policies DES 1, DES 5 and DES 9.

## **7.3 Transportation/Parking**

Given the car parking controls in the area and the excellent access to public transport, the impact of the proposed change of use on parking levels is expected to be minimal.

Loading on Noel Street is limited to between 00.00 and 08.30. In order to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible, do not cause an obstruction or a danger to highway users and do not result in noise nuisance for local residents, it is recommended that the submission of a Servicing Management Plan (including hours) for the City Council's approval be secured by condition.

## **7.4 Economic Considerations**

Any economic benefit generated by the proposed shop or restaurant use are welcome.

## **7.5 Access**

Level access to the ground floor from street level is provided.

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

### **Plant**

The building already has roof top plant that provides cooling and ventilation to the basement and ground floors. The proposed extract flue is proposed to operate between:

- 08.00 and 23.00 (Monday to Fridays);
- 10.00 and 21.00 (Sundays, bank holidays and public holidays).

This is not as long at the proposed opening hours but will enable customers to finish their dinners following the closure of the kitchen.

Environmental Health has reviewed the applicant's acoustic report and agrees that the kitchen extract will be compliant with the relevant criterion within UDP Policy ENV 7 and therefore not cause a material loss of amenity for local residents, subject to conditions.

### **Refuse /Recycling**

A condition is recommended to be imposed securing an appropriate storage area within the basement for waste and recyclable material. Cleansing has no objection to these arrangements.

### **7.7 London Plan**

This application raises no strategic issues.

### **7.8 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.

### **7.9 Planning Obligations**

None required.

### **7.10 Environmental Impact Assessment**

The proposal is of insufficient scale to require an environmental impact assessment.

### **7.11 Other Issues**

None.

## **8. BACKGROUND PAPERS**

1. Application form
2. Response from the Soho Society, dated 28 October 2017
3. Response from Highways Planning, dated 14 September 2017
4. Response from Cross London Rail Links Ltd, dated 18 September 2017
5. Response from Cleansing, dated 7 December 2017
6. Response Environmental Health, dated 24 November 2017

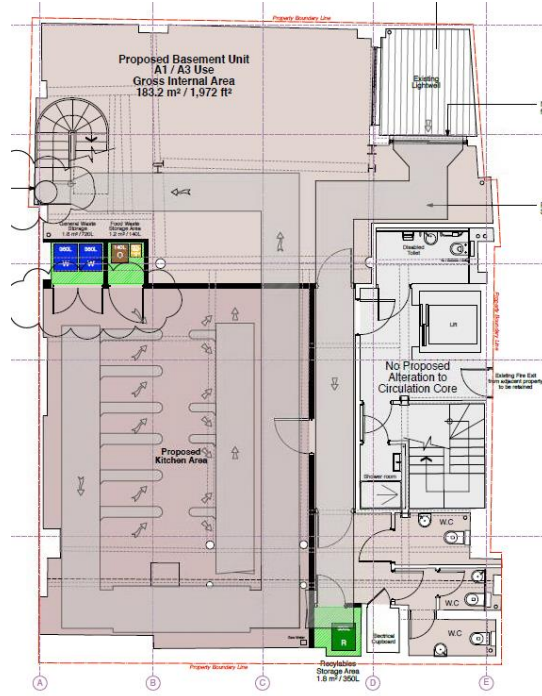
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [MHOLLINGTON2@WESTMINSTER.GOV.UK](mailto:MHOLLINGTON2@WESTMINSTER.GOV.UK)

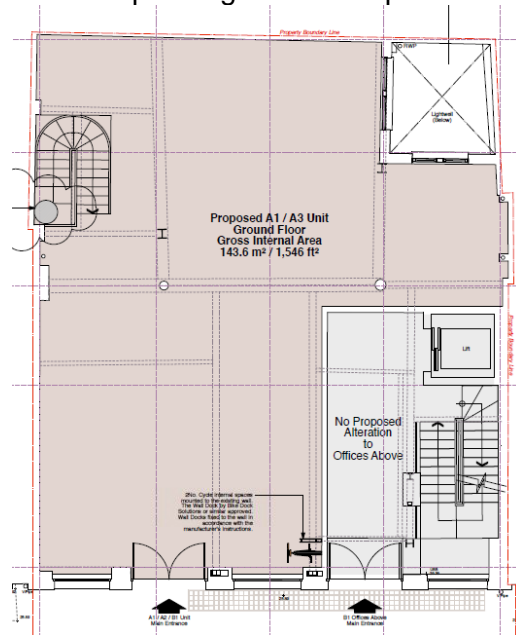


**9. KEY DRAWINGS**

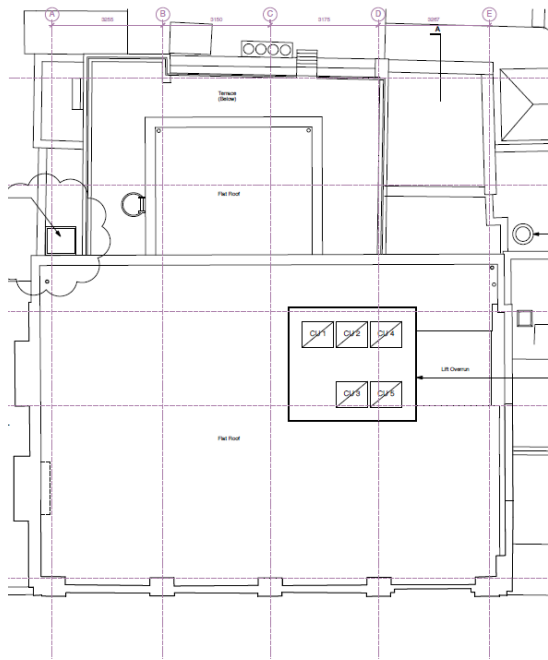
**Proposed basement floorplan:**



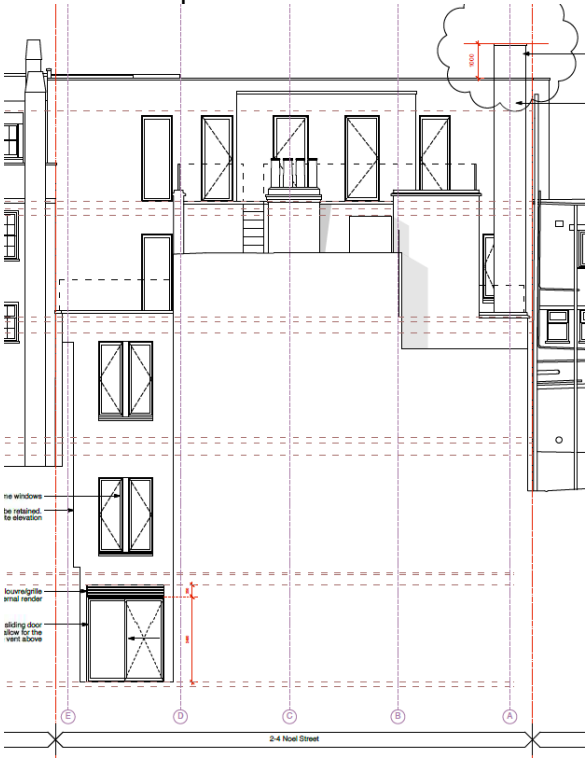
**Proposed ground floor plan:**



Proposed roof plan:



Proposed rear elevation:



**DRAFT DECISION LETTER**

**Address:** 2 - 4 Noel Street, London, W1F 8GB,

**Proposal:** Use of part basement and part ground floors as shop (Class A1) and / or a restaurant (Class A3) and installation of full-height extract duct to rear elevation.

**Reference:** 17/07923/FULL

**Plan Nos:** 409D-PA.08 Rev. D, 409D-PA.09 Rev. A, 409D-PA.18, 409D-PA.19, 409D-PA.20, 409D-PA.13 Rev. C, 409D-PA.11 Rev. G and 409D-PA.10 Rev. G.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents referred to on this decision letter, and any drawings approved subsequently by the City Council's 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 hours Monday to Friday;
  - o between 08.00 and 18.00 hours 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 hours Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside the site 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 for the interests of public safety). (C11AB)

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

- 3 All new work to the outside of the building must match existing external 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
  - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
  - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
  - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
  - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
  - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
  - (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
  - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
  - (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 5 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.

- 6 The restaurant (Class A3) use hereby approved shall not commence until a Servicing Management Plan (including hours) setting out how the restaurant will be serviced and deliveries undertaken has been submitted to and approved by the City Council. For the duration that the restaurant (Class A3) is in operation, the approved Servicing Management Plan shall be adhered to at all time.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 7 You must provide each cycle parking space shown on the approved drawings prior to occupation of the part ground and part basement for either / or a shop (Class A1) or a restaurant (Class A3). 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 2015.

- 8 You must provide the waste and recyclables stores shown on drawing 409D-PA.08 Rev. D prior to the commencement of the use of the part ground and part basement floors as either a shop (Class A1) or a restaurant (Class A3). You must clearly mark it and make it available at all times to everyone using the shop (Class A1) or restaurant (Class A3). 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 (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 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 (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 10 The restaurant (Class A3) use hereby approved shall not commence until the full height extract duct (including enclosure) has been installed in full in accordance with the approved drawings. This duct shall remain in situ for as long as any part of the ground or basement floors are in use as a restaurant (Class A3).

Reason:

To ensure that cooking odours and particulates from the restaurant (Class A3) hereby approved are adequately dispersed and 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 Soho Conservation Area. This is as set out in S24, S25, S28 and S29 of Westminster's City Plan (November 2016) and DES 1, DES 5, ENV 5 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 11 If you choose to implement the restaurant use at part ground floor level you must not allow more than 120 customers into the premises at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 12 If you choose to implement the restaurant (Class A3) use at part ground and part basement floor level you must not sell any take-away food on the premises, even as an ancillary part of the primary Class A3 use.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 13 If you choose to implement the restaurant use at part ground and basement floor levels, any bar and bar seating within the premises must not take up more than 15% of the floor area of the

restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan (November 2016) and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

- 14 Customers shall not be permitted within the restaurant (Class A3) premises before 07.30 or after 00.00 on Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 21.00 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 (November 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 15 If you choose to implement the restaurant use at part ground floor level you must not play live or recorded music within the restaurant that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 16 The plant/machinery hereby permitted shall not be operated except between:

- 08.00 and 23.00 (Monday to Fridays);
- 10.00 and 21.00 (Sundays, bank holidays and public holidays).

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

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

(November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the part basement and part ground floor can change between the approved shop (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)
- 3 Conditions 4 and 16 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 4 You must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 5 The term 'clearly mark' in condition 8 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 6 For the purpose of Condition 6, the SMP should outline how servicing will occur on a day to day basis for the unit, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The SMP should also identify storage locations, staffing arrangements, scheduling of deliveries, and likely delivery vehicle size. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction or a danger to highway users.

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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>5</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Ground Floor, 100 St Martin's Lane, London, Wc2n 4az,</b>		
<b>Proposal</b>	Dual use of part of the ground floor as either offices (Class B1) and/or showroom (Sui Generis) for display of clothing and accessories range.		
<b>Agent</b>	Daniel Watney LLP		
<b>On behalf of</b>	Bishopsgate Long Term Property Fund Nominees No.1 Limited		
<b>Registered Number</b>	17/08138/FULL	<b>Date amended/ completed</b>	15 September 2017
<b>Date Application Received</b>	11 September 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Trafalgar Square		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

100-101 St Martin's Lane, which is an unlisted six storey building located in the Trafalgar Square Conservation Area. The building is in office use and has recently been refurbished. The application relates to part of the ground floor located at the rear of the site. The entrance to the building is from St Martin's Lane.

Planning permission is sought for the dual use of part of the ground floor as offices (Class B1) and/or showroom (sui-generis) for the display of clothing and accessories range. Objections have been received on the ground that the proposed alternative use would have an adverse impact upon the amenities of neighbouring residents.

The key issues in this case are:

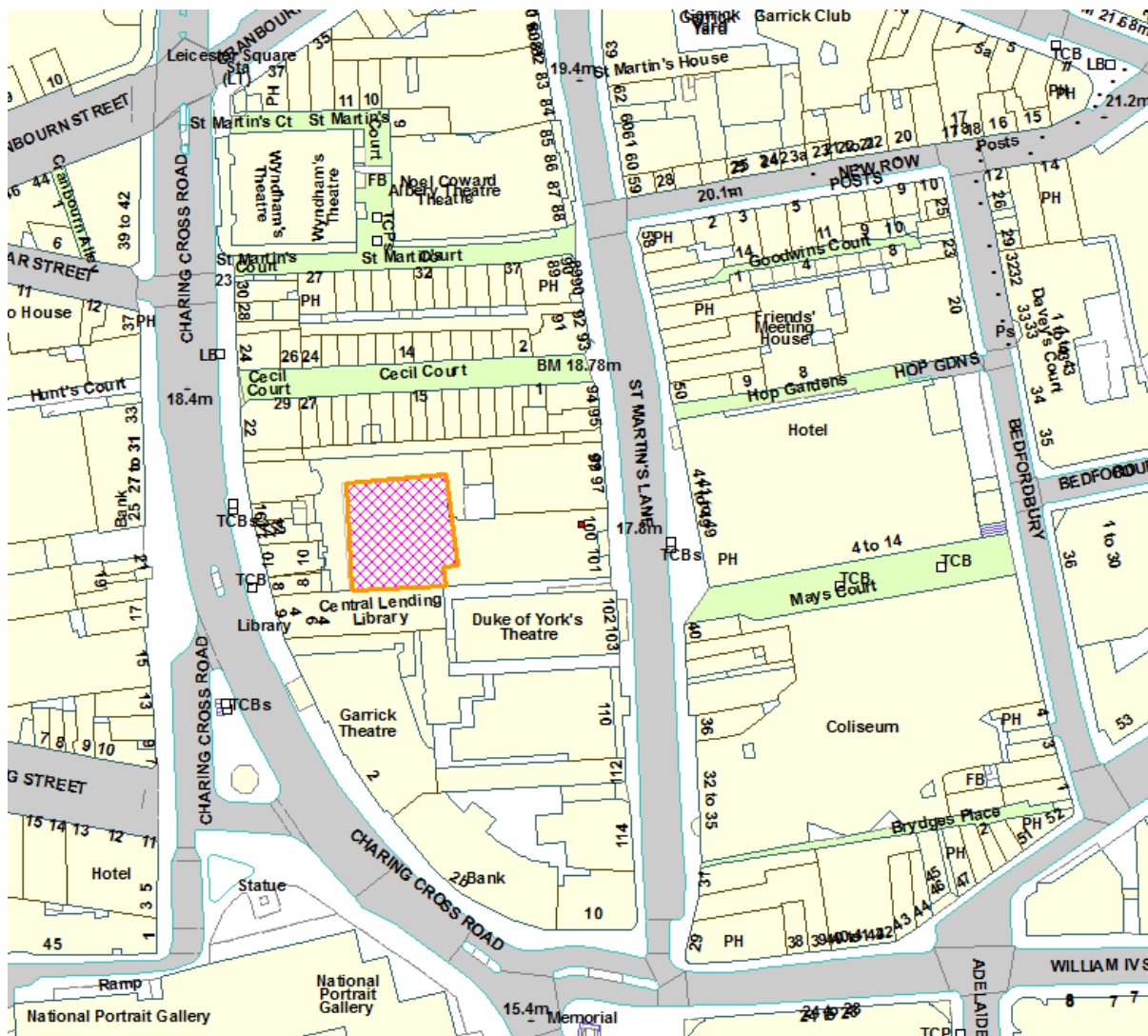
- the acceptability of the proposal in land use terms;
- the impact of the proposed alternative use upon residents' amenities.

An application for dual use is being applied for to allow flexibility in the use of the space by the tenant

for offices and showroom during its occupation, but also to enable the space to revert to offices fully in the event that the space was to be vacated over the course of the next 10 years.

The potential loss of the existing office floorspace is considered acceptable in land use terms, as is the proposed alternative use, which is low-key in nature given it would not be open to the general public, and would not adversely affect neighbours' amenities. The scheme complies with relevant UDP and City Plan policies and is therefore recommended for approval.

### 3. LOCATION PLAN



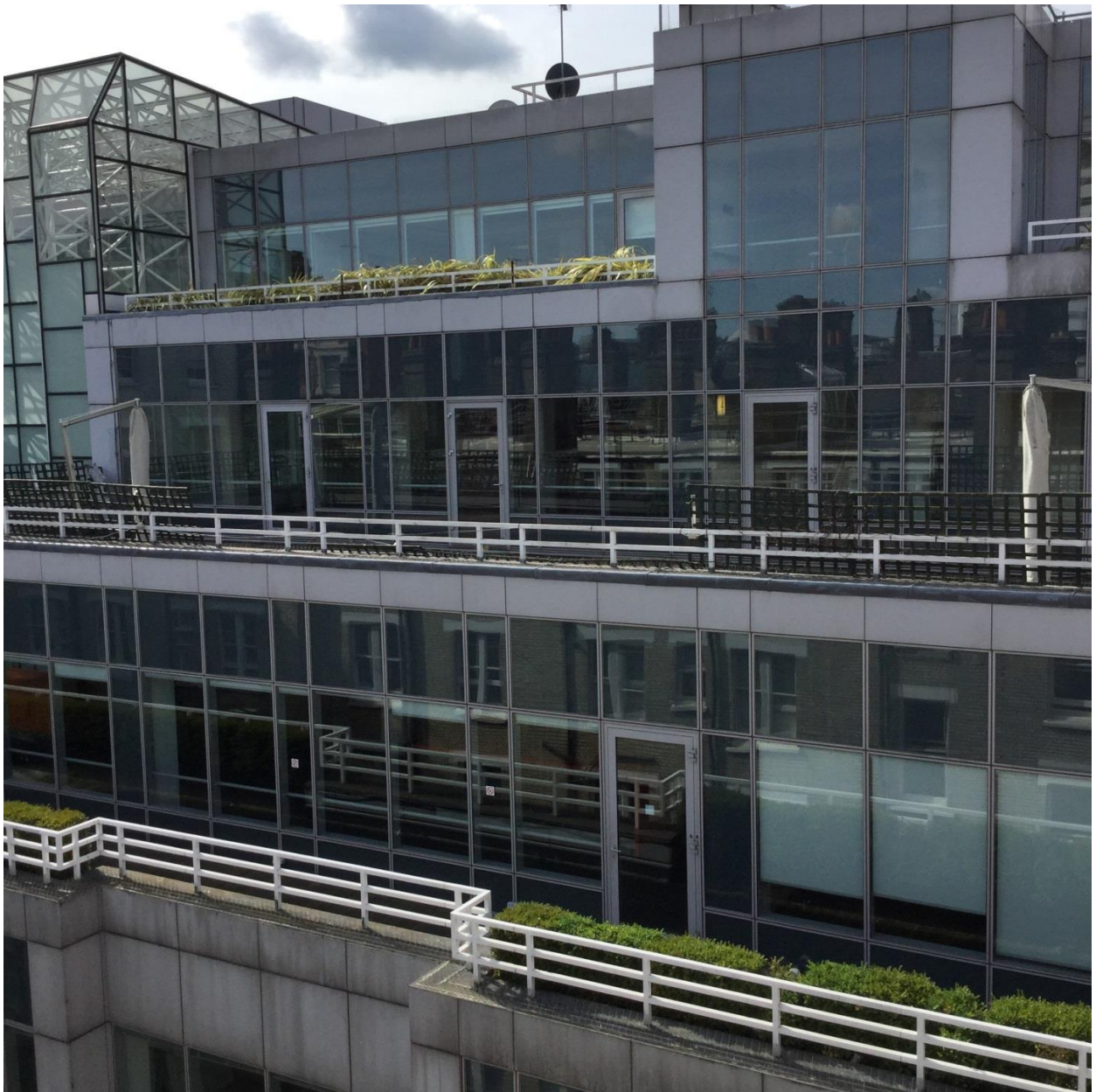
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4. PHOTOGRAPHS



101 St Martin's Lane





View of office building (3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors) from Cecil Court



Courtyard area/ Ground floor level of office building

## 5. CONSULTATIONS

### COVENT GARDEN COMMUNITY ASSOCIATION:

The CGCA objects to permission for dual use. Granting the applicant permission to potentially change the use at some point in the future without the need to apply for planning permission or consult with neighbouring residents at that time effectively removes this premise from planning control. Given the recent history with planning proposals at this sensitive location and the impact those proposals would have had on neighbouring residents, only one consented use should be permitted.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 150

Total No. of replies: 5

No. of objections: 5

No. in support: 0

Objections from the Burleigh Mansions Residents Association and neighbouring residents on the following summarised grounds:

#### Land use

- Dual use could avoid control of any future use of the building;
- Building only works for its original purpose as offices;
- Historically this site has experienced difficulty filling capacity without reverting to robust use of multi-occupancy and it is not characteristic of the building for a single company to inhabit the size space for which this application seeks change of use;
- Dual use sought in this application can be met by existing 'ancillary use' which, were any tenant in-situ, would be in use already. Ancillary use carries no binding conditions, time or costs to implement and fully accommodates the business aims without the restrictions this application would impose on both the landowner and the business tenant and this raises questions;
- It is unlikely that an Small and Medium sized Enterprise garment industry wholesale business would be financially viable operating in such a large space out of a prime class office building of this type;
- Potential increase to unspecified changes in hours of operation and alteration of user demographic associated with a change to A1 use class and;

#### Amenity

- Offices are in close proximity to residents who have suffered in past from bad behaviour of office staff in terms of noise pollution and light pollution (lights left on all night);
- Loss of privacy, noise and light pollution is an ongoing problem;
- Generic nature of proposal would result in further developments that would cause a nuisance for the neighbouring residents;
- An A1 use will increase impacts in terms of loss of privacy, noise and light pollution;
- Restrictive conditions to limit the number of people who might be invited to special events, no music played after 18:00 hours, no lights to be left on after 22:00 hours and respect shown in every way towards resident's basic right to privacy, peace and quietness in their homes if permission is granted

#### Other

- Concerns about the applicants conduct on the integrity of the planning process, for example, the applicant has failed to provide a certificate for this application to the property owner most impacted by the proposal (Peabody) and did so only to Gascoyne Holdings; works have been undertaken without planning permission; applicant's use of divisive local stakeholder engagement; applicant misleading the planning department; unreliable facts in the previous application;
- The building remains vacant despite the applicant repeatedly indicating that the building has tenants and is misleading planning officers and;
- It is unlikely that the tenant's tenancy empowers them with the right to change of use permissions independent of the landlord;
- Gaming of the system;
- The authenticity of details the applicant chooses to supply should be confirmed.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

100-101 St Martin's Lane is an unlisted six storey building located in the Trafalgar Square Conservation Area. The building is located in the Core Central Activities Zone. The building is in office use and has recently been refurbishment.

The relevant part of the application site is bound by 8-16 Charing Cross Road (including Faraday House and Garrick Mansions) to the west, properties along Cecil Court (including Burleigh Mansions) to the north and 97-99 St. Martins Lane (includes Talbot House) to the east. The rear of these buildings look towards the application site. The upper floors of these properties are in residential use.

### 6.2 Recent Relevant History

#### 87/03993/FULL

30 March 1988 permission granted for the redevelopment of the site to provide an office building.

#### 16/10998/FULL

Installation of trellis and "faux buxus" screening, associated refurbishment and restricted use of existing flat roof areas at third, fourth and fifth floor levels and part of the lower ground courtyard as amenity spaces in connection with the existing office use, contrary to the requirements of the planning permission dated 30 March 1988. Installation of new door and external staircase from ground to courtyard level.

Refused on 14 February 2017 and dismissed on appeal

#### Reasons for refusal:

The use of part of the flat roofs and courtyard as outdoor amenity spaces would lead to an unacceptable increase in noise disturbance for people in neighbouring residential properties. This would not meet S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.



## **7. THE PROPOSAL**

Planning permission is sought for the dual use of part of the ground floor as offices (Class B1) and part showroom (sui-generis). The applicant indicates that this is for the display of clothing and accessories range. The Agent has not specified the name or brand of the occupier of the space. No internal or external alterations are proposed.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

An application for dual use is being applied for to allow flexibility in the use of the space by the tenant for offices (Class B1) and showroom (Sui Generis) during its occupation, but also to enable the space to revert to offices fully in the event that the space was to be vacated over the course of the next 10 years

#### **8.1.2 Proposed office use**

The continuation of the lawful office use is acceptable in land use terms.

#### **8.1.3 Potential loss of offices**

Policy S20 of Westminster's City Plan (November 2016) relates to offices and seeks to restrict the loss of office space to housing, however, the loss of offices to other commercial uses are acceptable. The proposal is therefore in accordance with this policy.

#### **8.1.4 Proposed showroom (sui generis)**

The Agent has advised that the ground floor is vacant and a new tenant has been secured who wishes to use the space for offices but also as part showroom (sui-generis) for the display of a range of fashion clothing, footwear, and accessories that it trades 'business to business'.

The showroom aspect would extend to approximately 80% of the floor area (although a precise layout has not yet been finalised and therefore has not been provided). Given that a significant portion of the floor would be dedicated to this showroom, it is expected that the number of employees within the showroom would be below that which would otherwise be expected if the space was to be used solely as offices, which would be in the region of 40 – 50. The showroom would not be open to the public or have any retail element, which would fall within Class A1 use (retail). It is also not intended to have any fashion shows or anything similar. Employees would simply pull clothes from rails and show clients during meetings. It is considered that the proposed showroom use would be low key in nature and comparable to the existing commercial use of the building as offices.

There are no planning conditions attached to the original permission for the use of the building as offices (ref. 87/03993/FULL) that limit the intensity of the occupation of the ground floor as offices. In this regard, it is considered that in the event of planning permission being granted, the dual use could be conditioned which would allow the use

to alternate for a period of 10 years under a 'dual' permission, and whichever subsisted after ten years would become the lawful planning use from that date onwards. Having regard to the use of the rest of the building being offices, it is more than likely that the use of the ground floor would return to an office in the future.

## **8.2 Townscape and Design**

No alterations are proposed.

## **8.3 Residential Amenity**

The relevant part of the application site is bound by 8-16 Charing Cross Road (including Faraday House and Garrick Mansions) to the west, properties along Cecil Court (including Burleigh Mansions) to the north and 97-99 St. Martins Lane (includes Talbot House) to the east. The rear of these buildings look towards the application site. The upper floors of these properties are in residential use.

Objections have been received on the ground that the proposed dual use would have an adverse impact upon the amenities of neighbouring residents in terms of loss of privacy, noise pollution and light pollution. Policies ENV13 of the UDP and S29 of the City Plan seek to protect and improve residential amenity within the City.

In terms of noise and privacy, indeed, there may be a marginal improvement given the smaller number of people that are likely to be on the floor in a normal day, as indicated on the illustrative layout (showing the relatively few work-stations, compared to a typical office). The applicant has confirmed that there would 10 permanent employees and the maximum number of staff present in the building at any one time would be around 20 people (including visitors/ clients). This number would be less than the existing unrestricted office use with capacity for circa 40-50 staff.

The applicant has also confirmed that the showroom is to operate regular office hours and there is no intention to have fashion shows, or any special events or similar which would extend outside of normal office hours. In addition, the showroom would not be open to members of the public and its visitors is likely to be the same as that expected at any regular office.

In terms of light pollution, the lights on the floors are on motion sensors and would go off when nobody is on the floor. The proposed showroom is also located on the ground floor which below the height of the most neighbouring residents' windows which mostly occupy the upper floors of neighbouring properties. The clothing rails are also likely to be positioned next to the windows and would shield light to a certain extent. It is not considered that the level of light pollution from the showroom use would be any different to that from the other office use.

It is considered that the proposed showroom use is unlikely to have any noticeable impact upon residents' amenities in terms of loss of privacy, noise and light pollution. Conditions are proposed to prevent live or recorded music from being played or for any activities associated with the showroom to take place outside of the building.

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

6 cycle racks would be allocated for the ground floor in the basement, which is in excess of the Council's UDP standard for offices which would normally require 4 cycle spaces to be provided for a more intense office use (the total ground floor area is 460sqm). There would be no change to the existing servicing and refuse arrangements.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

No changes would be proposed to the existing access.

#### **8.7 London Plan**

This application raises no strategic issues.

#### **8.8 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.

#### **8.9 Planning Obligations**

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

#### **8.10 Other Issues**

Concerns have been raised in respect of ancillary use. It is considered that if the showroom space were somehow used at a level in a way such that it could reasonably be regarded as being ancillary to the lawful B1 office use, then planning permission would not be required since there would be no material change of use. However, a level beyond ancillary use appears to be proposed in this case, hence the need for the planning application. The dual use provides added flexibility to the freeholder to revert to office use, which is the lawful use of the entire building. Moreover, planning permission would be required if there is a change to a Class A1 (retail) use.

Concern has been raised with the level of information supporting this application. It is considered that an appropriate level of information has been submitted to assess this planning application.

Concerns have been raised with regards to the certificate of land ownership. The applicant has clarified that the Peabody Estate does not have any interest in the application site and the only interests are the applicant, who owns a long leasehold interest, and the freeholder of 101 SML, which is Gascoigne Holdings and accordingly Certificate B has been served on them.

The Covent Garden Community Association have objected on the basis that by granting planning permission for dual use it would effectively remove the premise from planning control. In response, it is considered that the showroom is likely to have a comparable impact as the existing office use. It should also be noted that the application seeks the ability for the space to revert back to the existing lawful use as offices, and, if the new tenant was to vacate within the next 10 years, the introduction of any other use except for office or showroom would require planning permission.

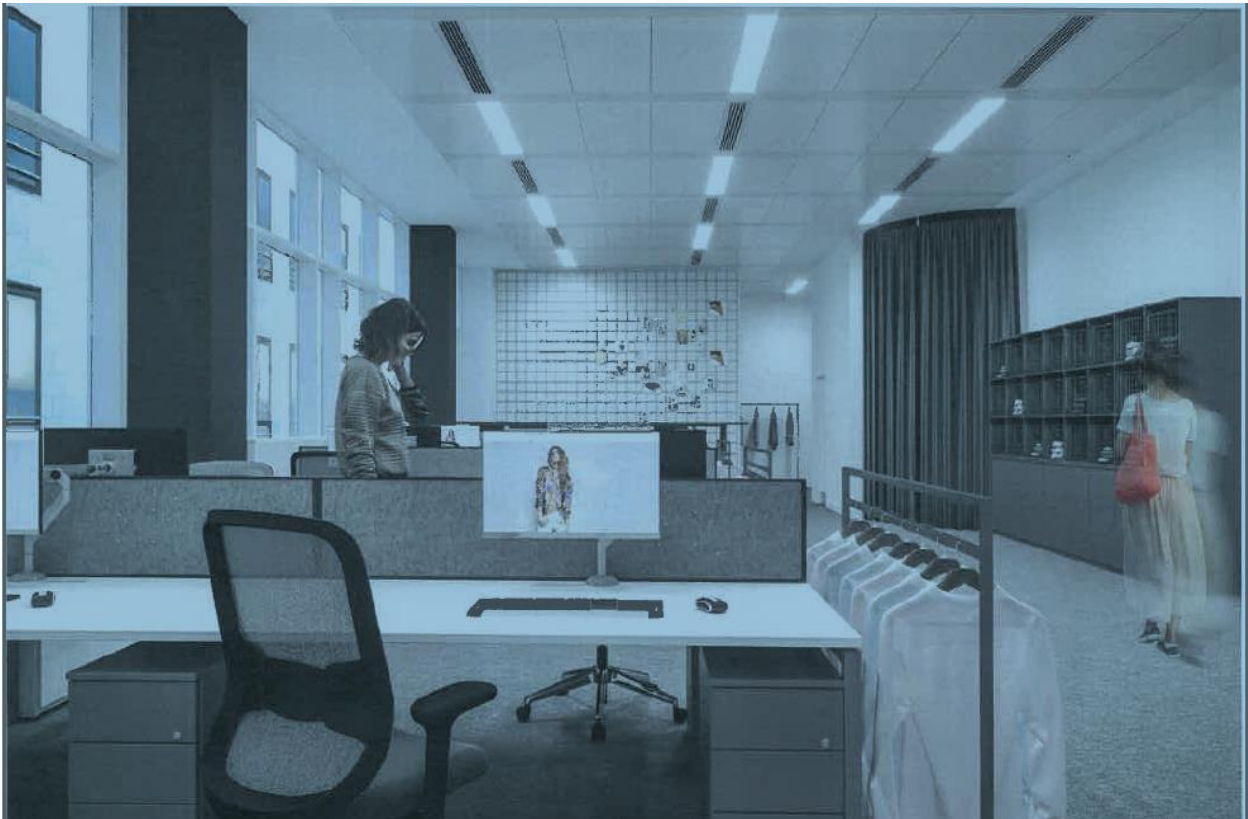
## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Covent Garden Community Association dated 15 October 2017
3. Letter from occupier of Flat 42 Burleigh Mansions, 96 Saint Martin's Lane, dated 30 November 2017
4. Letter from occupier of 45 Westminster Bridge Road dated 27 November 2017
5. Letter from occupier of Flat 5, 20 Charing Cross Road, dated 28 November 2017
6. Letter from occupier of Flat 29, Burleigh Mansions, 20 Charing Cross Road dated 1 December 2017
7. Letter from occupier of 9 Faraday House, 18 Charing Cross Road dated 1 December 2017

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT [ddorward@westminster.gov.uk](mailto:ddorward@westminster.gov.uk)

10. KEY DRAWINGS



Indicative photomontage of typical layout



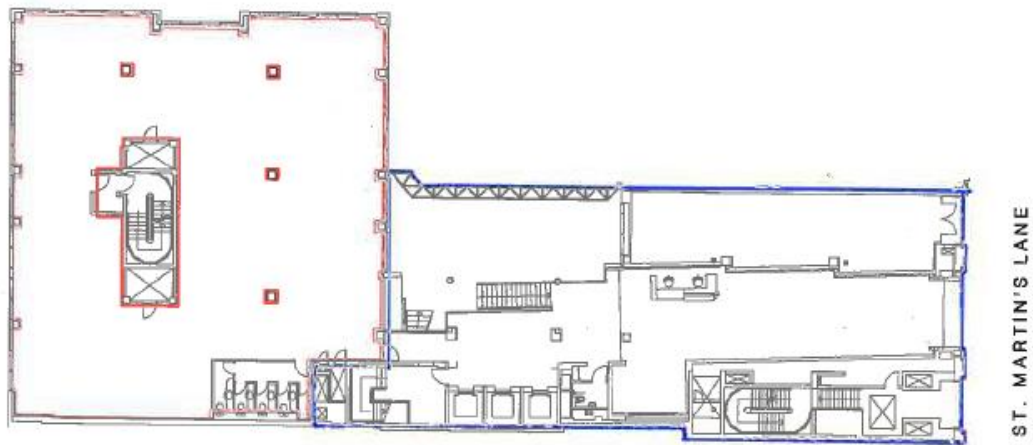
Indicative photomontage of typical layout

1221





**Indicative photomontage of typical layout**



Site plan and location of the ground floor dual use





North elevation of building annotated to show location of ground floor windows of site



West elevation of building annotated to show location of ground floor windows of site



East elevation of building annotated to show location of ground floor windows of site

**DRAFT DECISION LETTER**

**Address:** Ground Floor, 100 St Martin's Lane, London, WC2N 4AZ,

**Proposal:** Dual use of part of the ground floor as either offices (Class B1) and/or showroom (Sui Generis) for display of clothing and accessories range.

**Reference:** 17/08138/FULL

**Plan Nos:** PL-EX(03)010 Rev: 00, PL-EX(03)010 rev: 01, PL-EX (03)010 rev: 01 and indicative plans, covering letter (for information only)

**Case Officer:** Nosheen Javed

**Direct Tel. No.** 020 7641 2858

**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 In the event that the showroom use is implemented, the design and structure of the development shall be of such a standard that it will protect residents 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:  
To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)
  
- 3 In the event that the showroom use is implemented, you must not play live or recorded music that is audible outside the premises.  
  
Reason:  
To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 4 All activities related to the showroom use shall be contained within the building.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 5 The showroom use shall not be implemented until you have submitted an Operational Management Plan relating to the showroom use to us for our approval. Thereafter the showroom use must be carried out in accordance with the approved Operational Management Plan.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 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 B1 office and showroom (Sui Generis) 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.

# Agenda Item 6

Item No.
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6
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 <sup>th</sup> January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	21-23 Meard Street, London, W1f 0el		
<b>Proposal</b>	Variation of Condition 9 of planning permission dated 03 October 2017 (RN 17/06840/FULL) for, 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street'; NAMELY, to vary the opening hours to 07:00 to 00:00 daily for the retail unit at ground and basement floors at No. 74 and from 09.00 to 22.30 daily for the additional retail space at ground and basement floors of No. 23 Meard Street.		
<b>Agent</b>	Lipton Plant Architects		
<b>On behalf of</b>	Consulco		
<b>Registered Number</b>	17/09630/FULL	<b>Date amended/ completed</b>	30 October 2017
<b>Date Application Received</b>	30 October 2017		
<b>Historic Building Grade</b>	N/A		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

For Sub-Committee's consideration:

1. Does the Sub-Committee consider that the proposed opening hours of the retail unit are acceptable in amenity terms?
2. Subject to 1 above grant conditional planning permission.

## 2. SUMMARY

23 Meard Street is an unlisted building in the Soho Conservation Area, within the designated Core Central Activities Area, the West End Stress Area and the West End Special Retail Policy Area. The property comprises of basement, ground and first to third floor levels. The entire property is in use as office accommodation (Class B1), currently vacant. The adjacent property to the west is 74 Wardour Street which is Grade II listed and is currently in use as retail accommodation at basement and ground floor levels with residential flats (Class C3) on the upper floors of the building. The property to

the east at 21 Meard Street was recently granted permission to be converted from office accommodation to a single family dwellinghouse (Class C3).

Planning permission was granted on the 3<sup>rd</sup> October 2017 for the, 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street.'

Condition 9 of the above consent requires that, 'Customers shall not be permitted within the ground and basement retail premises at 23 Meard Street and 74 Wardour Street before 09:00 or after 22:30 each day.' Consent is now sought to vary this condition to allow the retail floorspace to open between 07:00 and 00:00 at 74 Wardour Street and 09:00 and 22:30 at 23 Meard Street.

The key issue is:

- The impact of the proposed opening hours on the amenity of nearby residents.

The existing retail unit at 74 Wardour Street and the office accommodation at 23 Meard Street currently operate with no restrictions on the opening hours of their premises. The proposal variation to Condition 9 would maintain the previously conditioned opening hours of the operation of the retail floorspace in 23 Meard Street but enable extended opening hours of the retail accommodation at 74 Wardour Street. It is unlikely that the proposed amended condition would cause any material harm to local environmental or residential amenity. Given this, Sub-Committee's views are sought as to the acceptability of the proposal.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS







## 5. CONSULTATIONS

SOHO SOCIETY

No Response.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 55; Total No. of replies: 5

No. of objections: 5; No. in support: 0

Objections on the following grounds:

- Potential food waste blocking public sewers.
- Noise from customers of the retail unit impacting on residential amenity.
- Difficult to enforce the different hours of use within the same retail unit.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

23 Meard Street currently has lawful use as office accommodation across basement, ground and first to third floor levels. 74 Wardour Street has lawful use as a retail use at basement and ground floor levels (currently vacant) with residential flats on the upper floors of the property. There are no planning restrictions on the existing retail use, so that it could open 24 hours a day. Whilst 74 Wardour Street is a Grade II listed property, 23 Meard Street is unlisted with both properties located within the Soho Conservation Area, Core Central Activities Zone, West End Special Retail Policy Area and the designated West End Stress Area.

### 6.2 Recent Relevant History

Planning permission granted on the 3<sup>rd</sup> October 2017 (17/06840/FULL) for 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street.'

And listed building consent granted for 'Internal alterations at lower ground and ground floor levels to include the creation of new openings between 74 Wardour Street and 23 Meard Street.' (17/06841/LBC).

## 7. THE PROPOSAL

Planning permission is sought to vary condition 9, which was imposed by the Planning Applications Committee, of the planning permission dated 3<sup>rd</sup> October 2017. This condition requires the following:

'Customers shall not be permitted within the ground and basement retail premises at 23 Meard Street and 74 Wardour Street before 09:00 or after 22:30 each day.'

The reason for this condition is:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

The applicant is seeking to vary the condition so it is worded as follows:

'Customers shall not be permitted within the ground and basement retail floor space at 23 Meard Street before 09:00 or after 22:30 each day and shall not be permitted within the ground and basement retail floor space at 74 Wardour Street before 07:00 or after 00:00 each day. Between the hours of 07:00 and 09:00 and 22:30 and 00:00 daily the internal doors at basement and ground floor levels between 23 Meard Street and 74 Wardour Street shall be closed to prevent customer access to 23 Meard Street'

In effect, the applicant wishes to maintain the longer opening hours at the existing unrestricted retail shop at No. 74, whilst accepting the hours restriction in the new retail accommodation.

The intention is to use the premises as an ice cream parlour.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

Objections have been received to the proposal commenting on the increase in commercial floor space in Meard Street and the change in the balance of commercial and residential within the street. The application is only seeking to vary the condition relating to the opening hours of part of the premises. There have been no material changes to the policy framework since the original consent was granted with regard the change of use of the office accommodation to retail and the previous consent is still extant. The proposed change of use is therefore still considered acceptable in land use terms.

### **8.2 Townscape and Design**

The previous consent from October 2017 allowed for minor changes to the shopfront on 23 Meard Street; there have been no material changes to the policy framework since this consent was granted, the permission is still extant for the works and the alterations are still considered acceptable in design terms, subject to the same conditions as previously.

### **8.3 Residential Amenity**

As set out above, planning permission and listed building consent were previously granted on 3<sup>rd</sup> October 2017 for the change of use of the basement and ground floors of 23 Meard Street for use as retail accommodation in association with a lawful retail unit at 74 Wardour Street. The permission included the installation of a new shopfront and the

additional entrance door to 23 Meard Street was to serve the extended retail use by providing disabled access and an emergency fire escape. The additional floorspace is to be used for seating, a disabled toilet, napkin / cutlery counter and to provide a better layout to manage queueing customers. The main entrance to the extended retail unit was retained through the existing Wardour Street door which already serves the current retail unit and is further away from the residential properties in Meard Street. A condition was imposed on the October 2017 consent to ensure that the new access door to the retail unit from 23 Meard Street only allowed access to the retail unit for disabled patrons and in emergencies in order to ensure the proposal did not result in any increase in noise and disruption within Meard Street.

The opening hours of the existing retail unit at basement and ground floor levels in 74 Wardour Street were not controlled by condition. It was only when the October 2017 permission was granted that a condition was imposed to control the hours of operation of the whole extended retail unit. The condition restricted the hours of opening of the entire retail unit to between 09:00 and 22:30 daily. The applicant now seeks to amend this condition to allow the retail floorspace at 74 Wardour Street to open between 07:00 and 00:00 whilst the extended floorspace at 23 Meard Street would still be restricted to the same hours as previously imposed by Planning Committee.

Policy S29 of the City Plan states that 'the council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment', Policies ENV13 and ENV6 of the UDP also have a similar aim to resist any proposals which would be detrimental to residential amenity or result in an increase in the level of noise for residential occupiers.

The proposal for slightly extended opening hours of the Wardour Street retail unit will still allow for the control of the retail operation (where none currently exist) within acceptable hours and the proposed amended condition will ensure the additional retail accommodation at 23 Meard Street can only be used in accordance with the previously imposed opening hours. Wardour Street is a busy commercial street with the majority of units being utilised for commercial purposes. Nearby licensed premises include:

- Wahaca at 80-82 Wardour Street with licensed opening hours of 10:00 till 00:00 Monday to Saturday and 12:00 till 23:00 on Sundays;
- Banana Tree Restaurant at 103-109 Wardour Street licensed to open between 10:00 and 00:30 Monday to Thursday, 10:00 and 01:30 Friday and Saturday and 12:00 and 00:00 on Sundays;
- MasQMenos at 68-70 Wardour Street is licensed to open 10:00 till 23:30 Monday to Thursday, 10:00 till 00:00 Friday and Saturdays and 12:00 till 22:00 on Sundays.

It is also noted that there are a number of other ice cream / frozen yogurt premises in the vicinity which currently have the following opening hours:

- Snog at 9 Brewer Street with opening hours of 11:00 till 00:00 Sunday to Thursday and 11:00 till 01:00 Friday and Saturdays.
- Gelupo at 7 Archer Street with opening hours of 11:00 till 23:00 Monday to Thursday, 11:00 till 00:00 Friday and Saturday and 12:00 till 23:00 on Sundays.

- Snowflake at 102 Wardour Street with opening hours of 12:00 till 23:30 Monday to Thursday, 12:00 till 00:30 Friday and Saturday and 12:00 till 23:30 on Sundays.

It is therefore considered unlikely that the extended opening hours requested by the applicant would result in additional noise outside of hours when this may already be expected on this busy commercial street. It is also important to note that these licensed premises detailed above are restaurant uses whilst the proposal is for a retail unit (albeit one selling ice cream), which would have a much lesser impact upon residential amenity. Whilst the objections from some residents of Meard Street are noted the proposal only seeks to extend the opening hours of an area of retail floorspace that until the October 2017 consent was uncontrolled.

There has been an objection on the grounds that it will be difficult to enforce the different hours of use within the same retail unit. However, there is a clear single opening at ground and basement level between 74 Wardour Street and 23 Meard Street with a door between the two areas which will be closed when required. There is also nothing within the demise of 23 Meard Street which is intrinsic to the operation of the retail premises and the objection on these grounds is not therefore considered sustainable.

With the main entrance to the property being from Wardour Street with only disabled access from Meard Street it is not considered the current proposal would result in any increase in pedestrian footfall along Meard Street or a detrimental impact to residential amenity and the objections on these grounds are not considered sustainable.

#### **8.4 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.5 Access**

No changes are proposed to the previously approved access arrangements to the property. It is noted that the disabled access to the property is through 23 Meard Street and this will not be possible between the hours of 07:00 and 09:00 and 22:30 and midnight daily when the front part of the shop would be open. However, it is not possible to improve on this situation as alterations to facilitate level access from 74 Wardour Street would be unacceptable in listed building terms. Whilst it is unfortunate level access cannot be provided for the entire time the premises would be open, the proposal is still an improvement on the existing situation.

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

An objector has commented on the potential for food waste from the property to block sewers in the vicinity. The applicant has confirmed that due to the nature of production of the ice creams (which is served direct from the packaging and has a very long shelf life) there is very little waste food product. The sinks will however be fitted with a 'sieve' system to prevent large items from entering the drains and sieves will be emptied directly into the bins. Any out of date or contaminated product is disposed of directly in its container.

### **8.7 London Plan**

This application raises no strategic issues.

### **8.8 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.

### **8.9 Planning Obligations**

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

### **8.10 Other Issues**

An additional condition is included to ensure that the consent is still limited to the three year time limit which was imposed on the planning permission dated 3<sup>rd</sup> October 2017 and that this variation of condition consent does not extend the time limits for implementation of the permission.

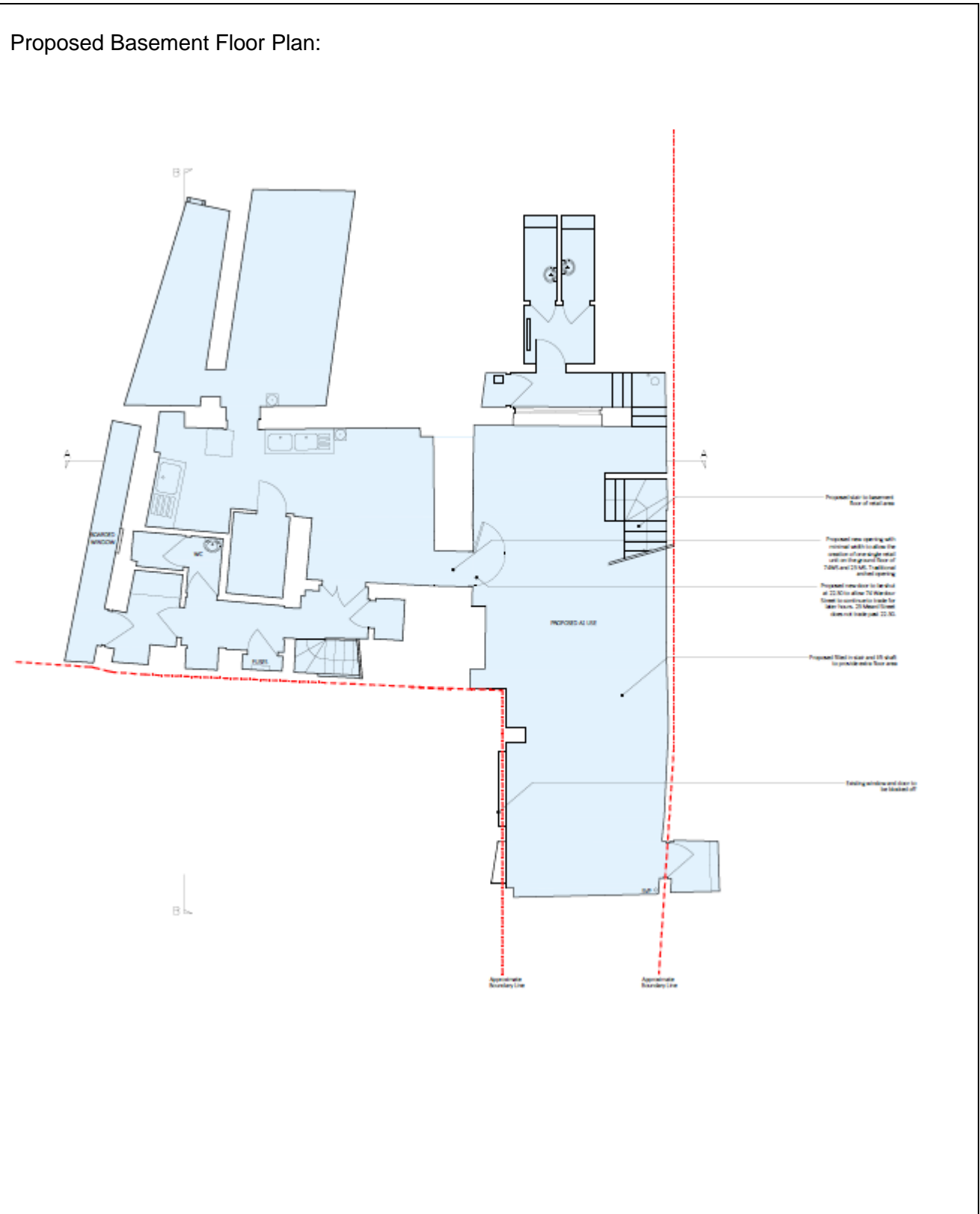
## **9. BACKGROUND PAPERS**

1. Application form
2. Letter from occupier of 4 Meard Street, London, dated 13 November 2017.
3. Letter from occupier of 11 Meard Street, London, dated 23 November 2017.
4. Letter from occupier of second and third floor maisonette, 13 Meard Street, dated 7 November 2017.
5. Letter from occupier of 19 Meard Street, London, dated 7 November 2017.
6. Letter from the agent for the applicant dated 1<sup>st</sup> December 2017.
7. Letter from occupier of 1a Meard Street, London, dated 5 December 2017.

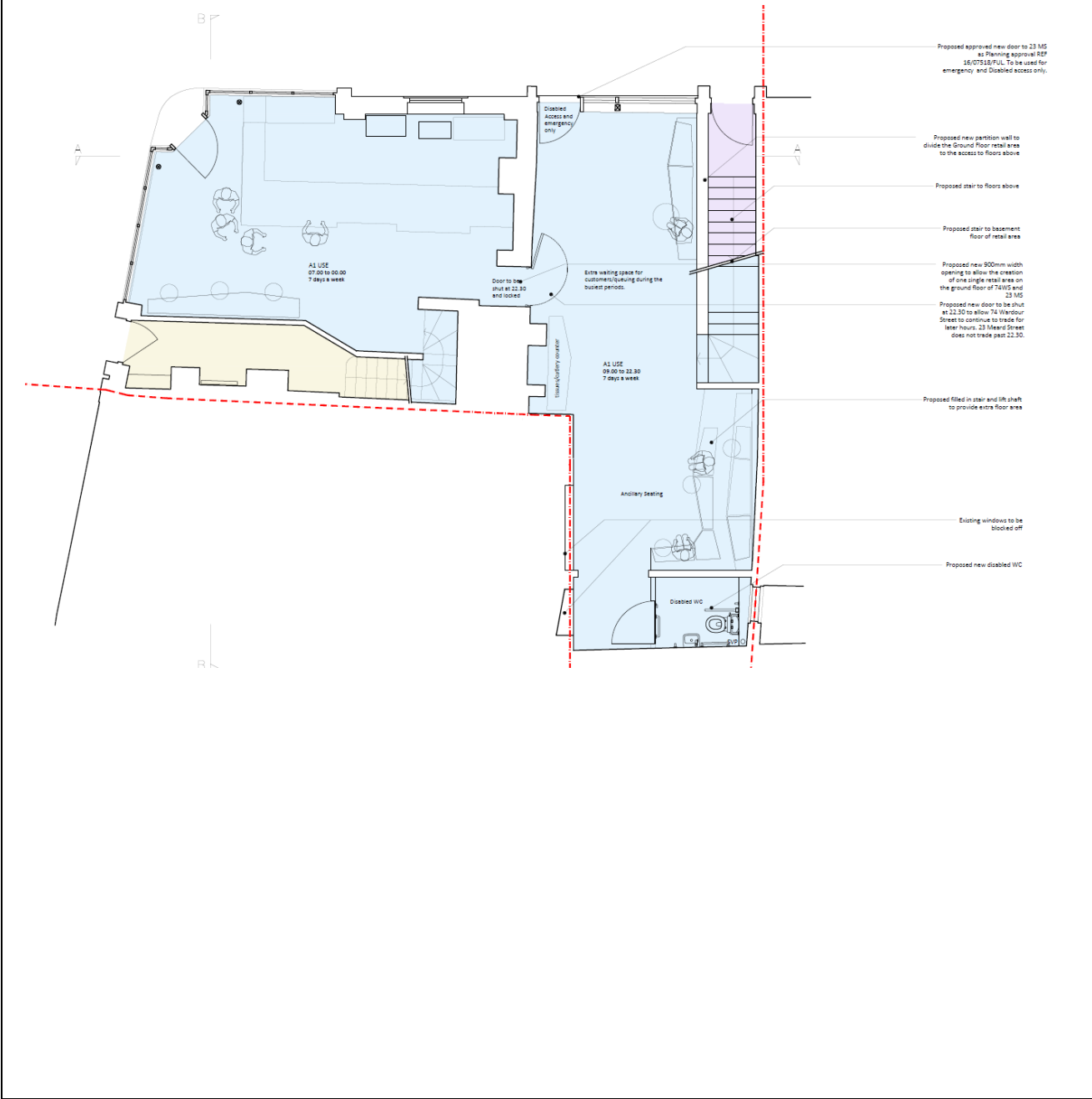
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

10. KEY DRAWINGS



Proposed Ground Floor Plan:





**DRAFT DECISION LETTER**

**Address:** 21-23 Meard Street, London, W1F 0EL,

**Proposal:** Variation of condition 9 of planning permission dated 03 October 2017 (RN 17/06840/FULL) for the use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street NAMELY, to vary the opening hours to 07:00 to 00:00 daily for the retail unit at ground and basement floors at No. 74 and from 09.00 to 22.30 daily for the additional retail space at ground and basement floors of No. 23 Meard Street.

**Reference:** 17/09630/FULL

**Plan Nos:** Drawings: 474.(1).1.001 RevB, 474.(1).1.002 RevB., , 17/06840/FULL - Drawings: 474 1 1.002 RevB, 474 1 1.001 RevB, 474 1 2.001 RevA, 474 1 2.002 RevA, 474 1 3.001 RevA, 474 1 3.002 RevA.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

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

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

**Reason:**  
For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 Saturday, and, not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and, not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 permit consent in special circumstances (for example, to meet police traffic restrictions, in a emergency or in the interests of public safety). (C11AB)

**Reason:**  
To protect the environment of neighbouring residential areas. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and paragraph 6 of the City of Westminster's Development Plan that we adopted in January 2007. (R11AC)

- 3 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, prior to the occupation of the floorspace, clearly mark the stores and make them available at all times to everyone using the retail unit.

Reason:

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

- 4 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 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 (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 7 The single door serving the retail unit on Meard Street is only to be used to provide access for disabled patrons. It is not to be used by other customers except in the case of an emergency and should not be kept open for any other purpose than providing access.

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 8 You must apply to us for approval of detailed drawings showing the following alteration to the scheme: - The installation of ramped access to the ground floor entrance door on Meard Street. The additional retail (Class A1) floorspace shall not be occupied until these detailed drawings have been approved by the City Council and the approved ramp has been installed in full. The approved ramp shall be retained in situ for the life of the development.

**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 (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 9 Customers shall not be permitted within the ground and basement retail floor space at 23 Meard Street before 09:00 or after 22:30 each day and shall not be permitted within the ground and basement retail floor space at 74 Wardour Street before 07:00 or after 00:00 each day. Between the hours of 07:00 and 09:00 and 22:30 and 00:00 the internal doors at basement and ground floor levels between 23 Meard Street and 74 Wardour Street shall be closed to prevent customer access to 23 Meard Street

**Reason:**

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 10 This permission must be commenced no later than 02.10.2020

**Reason:**

As required by s91 of the Town and Country Planning Act 1990 as amended by s51 of the Planning and Compulsory Purchase Act 2004.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

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- 3 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)

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.

# Agenda Item 7

Item No.
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7
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 <sup>th</sup> January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>19 Berwick Street, London, W1f 0px</b>		
<b>Proposal</b>	Use of the first floor as offices (Class B1); erection of roof extension and rear extension at first and second floor levels to provide additional office (Class B1) floorspace, and repositioning and extension of extraction flue on rear elevation.		
<b>Agent</b>	CBRE		
<b>On behalf of</b>	Antipodean Soho Limited		
<b>Registered Number</b>	17/09736/FULL	<b>Date amended/ completed</b>	1 November 2017
<b>Date Application Received</b>	1 November 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Grant conditional permission
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## 2. SUMMARY

The application site is a mid-terrace property and comprises three storeys plus basement. It is an unlisted building located on the east side of Berwick Street, backing on to residential properties located on Duck Row to the rear. Permission is sought for the use of the first floor for office purposes, a rear extension at first and second floor levels, the erection of a mansard roof to provide additional office accommodation (Class B1) and the relocation of an existing full height extract duct to the rear. The basement and ground floor unit does not form part of this application.

The key issues for consideration are:

- The impact of the external alterations on the character and appearance of the Soho Conservation Area; and
- The impact of the additional accommodation and relocated duct on residential amenity.

The proposal is considered acceptable in land use, amenity, design and conservation terms and complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan and is therefore recommended for conditional approval.

LOCATION PLAN



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3. PHOTOGRAPHS

Front Elevation





Satellite view over Duck Lane towards Berwick Street



Satellite view over Berwick Street towards Duck Lane





**Existing vacant first floor retail accommodation**



**View of existing extract to the rear looking towards No.3 Duck Lane**



#### 4. CONSULTATIONS

##### SOHO SOCIETY

Any response to be reported verbally.

##### ENVIRONMENTAL HEALTH

No objection

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

No. Consulted: 26

Total No. of replies:17

No. of objections: 17 letter from 10 objectors [Includes representations to re-consultation with revised description of development]

Objections on the following grounds:

##### Amenity

- Loss of light
- Overlooking
- Sense of enclosure
- Increase in noise and odour from extract duct.

##### Design

- Height/Bulk
- Appearance

No. in support: 0

##### PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

#### 5. BACKGROUND INFORMATION

##### 5.1 The Application Site

The application site is situated on the east side of Beak Street backing on to residential properties along Duck Lane and comprises basement, ground plus two upper storeys.

The basement and ground floor currently operates as a restaurant/café (Use Class A3), and is occupied by 'Med Bar' a Mediterranean style café. The upper floors are currently vacant but it is understood that lawful use of the first floor is a barber (Class A1) and the second floor is lawfully office accommodation (Class B1).

The site is located within the Soho Conservation Area, the West End Stress Area and the core Central Active Zone (CAZ).

## 5.2 Recent Relevant History

Permission was granted for the use of the first floor as a gents' hairdressing salon in November 1960. Council tax records suggests that this permission has been implemented.

## 6. THE PROPOSAL

Permission is sought for the use of the existing first floor (29 sqm GIA) as offices and to erect a mansard roof extension and a rear extension at first and second floor levels, which projects approximately 1.2m from the existing rear façade, all to provide additional office floorspace.

The net additional floor space as a result of the proposed extensions totals 38 sqm GIA, so that the total net additional office (Class B1) accommodation would be 67 sqm GIA.

It is proposed that the existing extract duct which terminates above the height of the new roof will be moved approximately 2m south along the outside face of the existing rear elevation.

The application has been amended during the course of its consideration to:

- Include the change of use of the existing retail accommodation at first floor level as offices;
- Reduce the massing of the roof extension to the rear.
- Include obscured glazing on lower section of the rear windows to the new third floor.

The owners / occupiers of neighbouring properties have been notified of the change to the description of the proposal.

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use

#### Loss of retail

City Plan Policy S21 seeks to protect retail floorspace throughout the City except where the City Council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. Under UDP policy SS5, which applies to sites within the Core CAZ, outside of the primary shopping frontages, the introduction of non-A1 uses must not lead to, or add to, a concentration of three or more consecutive non-A1 uses use at basement, ground and first floor level will only be granted where and permission will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of the shopping frontage or locality.

Whilst not specified in the wording of Policy SS5, the inclusion of first floor within this wording relates to a more typical arrangement of a retail unit spread across first, ground

and basement level rather than the 19 Berwick Street situation of a self-contained A1 unit at first floor level with no street presence.

The existing first floor of the building is vacant with the hairdressing salon ceased operating in October 2016. The unit has been vacant for approximately 14 months. In its current state is extremely run-down and dilapidated and has not had a clear street presence now or historically relying on access through a shared stairwell.

Whilst no marketing assessment has been provided to demonstrate long term vacancy, as the existing small retail unit (29 sqm GIA) is an isolated unit at first floor level and does not have an active frontage or any street presence, it is considered that the loss of retail use would not have a detrimental impact on the character of the area and therefore due to these unique circumstances the loss of Class A1 retail accommodation is considered acceptable.

### **Increase in office accommodation**

Policy S20 of the City Plan sets out that new office development will be directed towards the Core CAZ therefore the proposed increase in office accommodation is acceptable. Policy S1 of the City Plan seeks to promote mixed use developments within the CAZ. As the net additional office (Class B1) accommodation totals only 67 sqm GIA, the development is not 'mixed use liable' under City Plan Policy S1.

## **7.2 Townscape and Design**

No. 19 Berwick Street is part of a group of four similar buildings on the east side of the street, and it makes a positive contribution to the Soho Conservation Area. The roof is modern and not visible from street level. However, it is overlooked by buildings opposite and at the rear in Duck Lane.

Neighbouring residents consider that the height, bulk and massing of the proposed extension are excessive and would be detrimental to the appearance of the conservation area.

In this context, the proposed roof alterations are acceptable in principle and accord with UDP policy DES 6.

The closet wing extension at the rear is subordinate to the height and width of the main building and accords with UDP policy DES 5.

It is considered that the alterations will maintain the character and appearance of the surrounding conservation area, and accord with UDP policy DES 9.

## **7.3 Residential Amenity**

Policy ENV13 seeks to protect and safeguard the amenities of existing residential properties from development proposals including in relation to the levels of daylight and sunlight received, overlooking and increased sense of enclosure.

Objections have been received from a number of neighbouring residential occupants to the rear of the site on the grounds of loss of daylight and sunlight, the increased sense of enclosure and the potential loss of privacy due to the roof top and rear extension with rear facing windows.

### **Sunlight and Daylight**

A daylight and sunlight report has been submitted with the application which assesses the impact of the development with regard to BRE guidelines for daylight and sunlight to existing sensitive properties.

The daylight and sunlight assessment submitted to support the application assessed windows within 1-4 duck Lane, 18, 20 and 21 Berwick Street.

### **Daylight**

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to be noticeable. The BRE guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

The NSL assessment shows that all rooms comply with the BRE guidance. With the exception of a window serving habitable one room within 20 Berwick Street, the predicted reduction in VSC does not exceed the 20% threshold and therefore the occupants of this properties will notice any reduction in daylight. The instances where there are material losses are discussed below.

20 Berwick Street is located directly north of the site and has a shared boundary wall. The one window that exceeds the BRE guidance which serves a small bedroom would experience a 24% VSC reduction, marginally beyond the 20% threshold. It is considered that the degree of light loss is magnified by the existing low level of light received as the absolute VSC reduction is limited to 1.8%.

In this circumstance, given that the most significant impact is on a bedroom window, which are afforded a lesser degree of protection that principal living rooms, as the existing lighting level to this room is already poor, and as its principle living rooms would not be materially impacted by the proposal, it is not considered that, in this built up central location, the losses of light would have a significant impact on the amenity of its residential occupants.

### **Sunlight**

All windows assessed for Annual Probable Sunlight Hours (APSH) achieve BRE compliance for winter and annual sunlight.

### **Sense of Enclosure**

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'.

The proposed half width rear extension projects approximately 1.2m from the existing rear façade on the northern boundary of the site. Whilst the distance between the

proposed extension and the rear of 3 Duck Lane which is in residential use reduced to approximately 2m, given that both facing windows serve bathrooms, it is not considered that it would be reasonable to refuse this application due to sense of enclosure as they are not habitable rooms.

The proposed roof extension has been modified to ensure the rear 70 degree roof slope is set behind the parapet wall. Due to this amendments, the proposed extensions to the building are now not considered that the proposal will materially increase the sense of enclosure felt within neighbouring residential properties.

### **Privacy**

Policies ENV13 of the UDP and S29 of the City Plan seek to protect residential amenity and ensure that new developments do not result in a 'significant increase in overlooking' to neighbouring residential or sensitive buildings.

The proposal includes two south facing windows on the return wall of the proposed rear extension serving two internal toilets. As these windows are obscured and fixed shut, it is not considered that there will be any reduction in privacy due to their presents. This has been secured by condition.

The single storey extension is served by two windows to the front and an additional two windows to the rear.

A condition has been imposed requiring the two rear windows serving the new third floor office accommodation are obscured and fixed shut thus omitting the potential of overlooking to residential properties to the rear.

The new windows to the front of the overlook commercial premises thus will have no impact on residential amenity.

### **7.4 Transportation/Parking**

Given the modest uplift of office accommodation, it is not considered that the proposal would give rise to any transportation/parking issues.

### **7.5 Economic Considerations**

Any economic benefits generated are welcomed.

### **7.6 Access**

The access arrangement remains unaltered.

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

#### **Plant**

Due to the proposed rear extension, it is proposed to relocate the existing extract flue from its current location at the rear of the property. The extract flue is proposed to be attached to the rear wall of the property, to the south. As such, it is being moved approximately three metres to the south of its current position. Objections have received due to the potential of noise and odour from the relocated extract duct.

An acoustic report has been submitted as part of the application. This has been reviewed by Environmental Health Officers who raise no objection to the proposals

subject to standard conditions relating to plant noise and vibration. Given that the duct is extended higher than the existing duct, it is likely to better the existing situation with regards to odour dispersal.

The application is therefore to comply with the City Council's noise policies ENV7 and ENV13 of the UDP. The proposals will not therefore materially harm the amenity of neighbouring properties.

### **Refuse /Recycling**

No specific waste store for waste and recyclable materials is illustrated on the plans. A condition has been imposed requiring details of waste storage prior to the commencement of the use.

## **7.8 London Plan**

This application raises no strategic issues.

## **7.9 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.

## **7.10 Planning Obligations**

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

## **7.11 Environmental Impact Assessment**

The proposal is of insufficient scale as to trigger an environmental assessment.

## **8. BACKGROUND PAPERS**

1. Application form
2. Memorandum from Environmental Health, dated 21 November 2017
3. Letters from occupiers of 3a Duck Lane, Soho, dated 23 November and 2 January 2018 (four letters from two occupants)
4. Letters from occupiers of Flat A, 1 Duck Lane, dated 23 November 2017 (two letters from two occupants)
5. Letters from occupiers of Flat B, 1 Duck Lane, dated 23 November 2017 (two letters from two occupants)
6. Letter from occupier of 3B Duck Lane, London, dated 22 November 2017 and 2 January 2018 (two letters from one occupant)
7. Letters from occupiers of 2A Duck Lane, London, dated 22 November 2017 (two letters from two occupants)
8. Letters from occupier of 3b Duck Lane, London, dated 22 November 2017 and 2 January 2018 (two letters from one occupant)

(Please note: All the application drawings and other relevant documents and Background

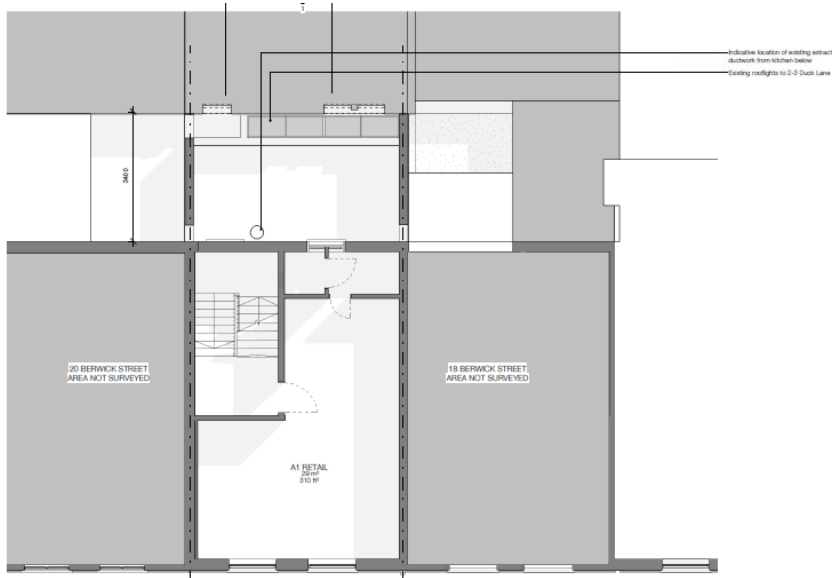
Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT <a href="mailto:MHOLLINGTON2@WESTMINSTER.GOV.UK">MHOLLINGTON2@WESTMINSTER.GOV.UK</a> .
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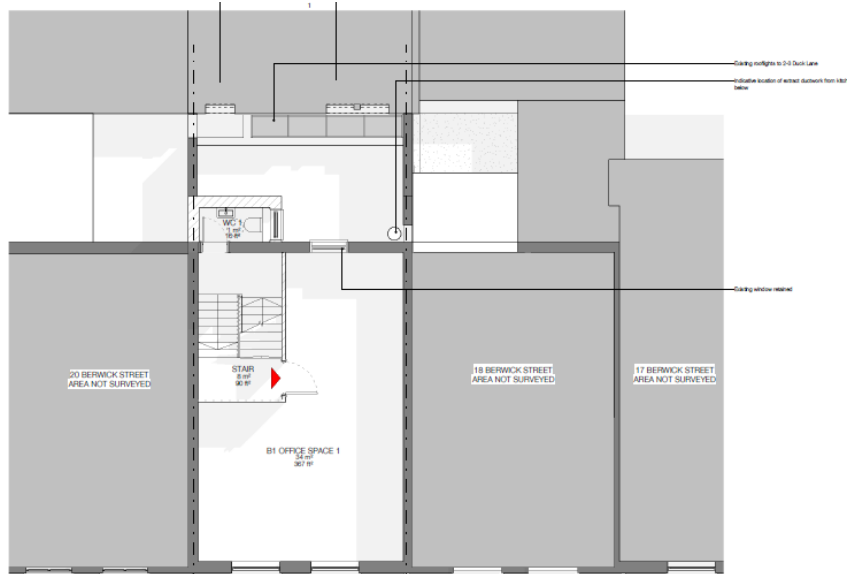


**9. KEY DRAWINGS**

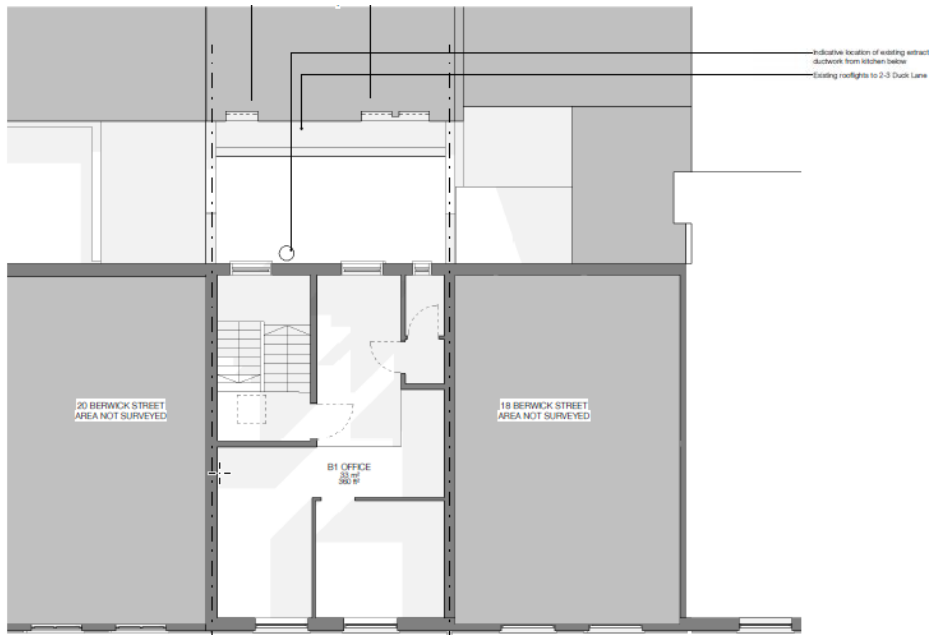
Existing First Floor Plan



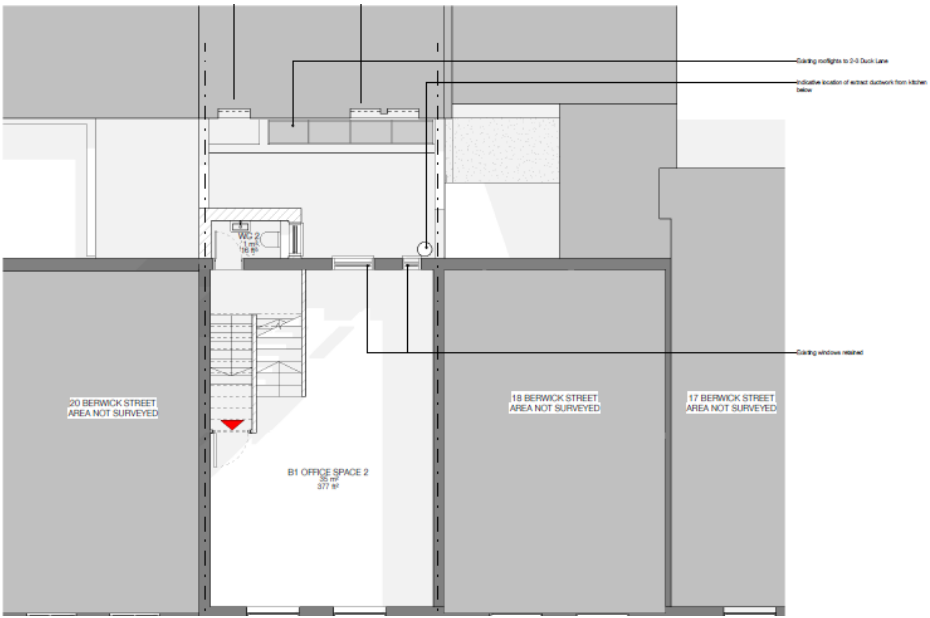
Proposed First Floor Plan



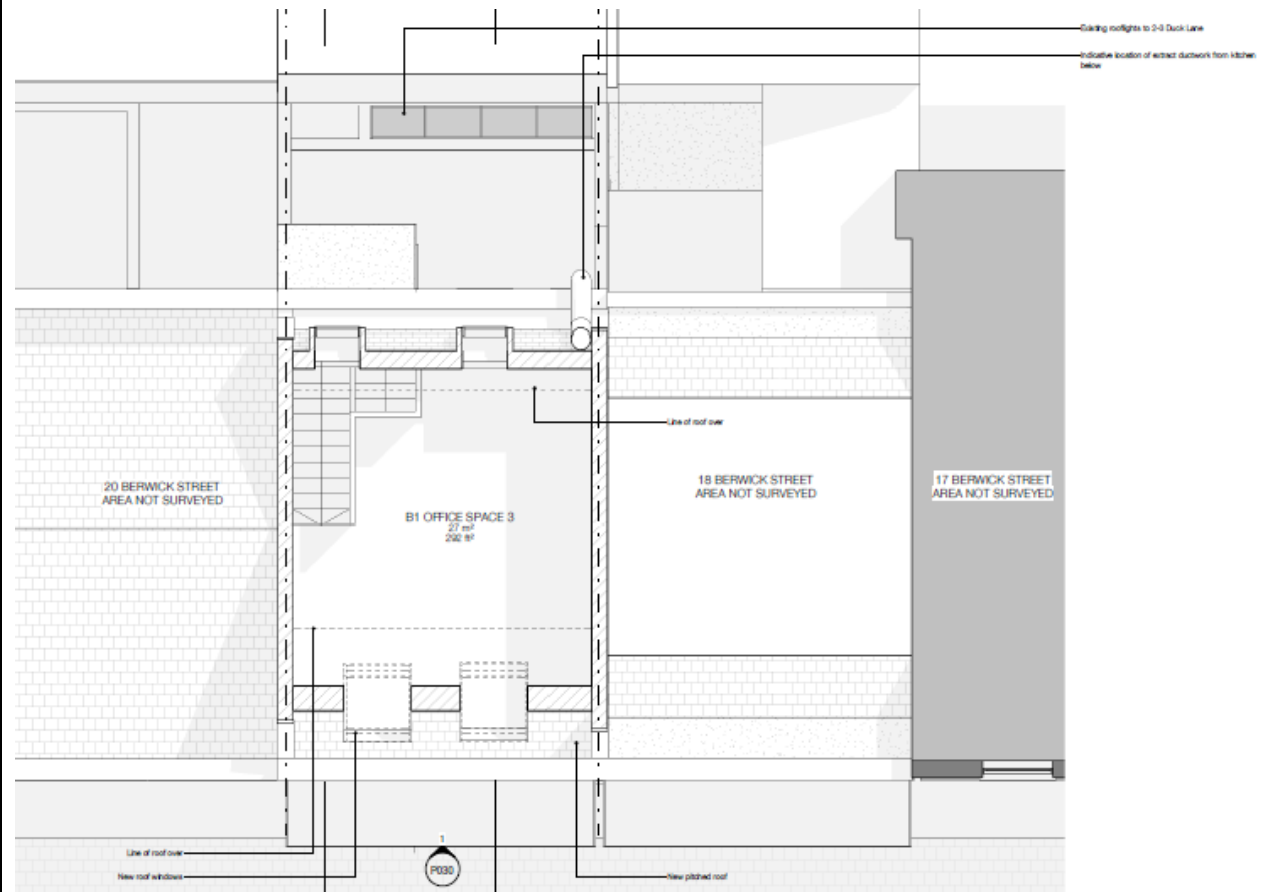
Existing Second Floor Plan



Proposed Second Floor Plan



### Proposed Third Floor Plan



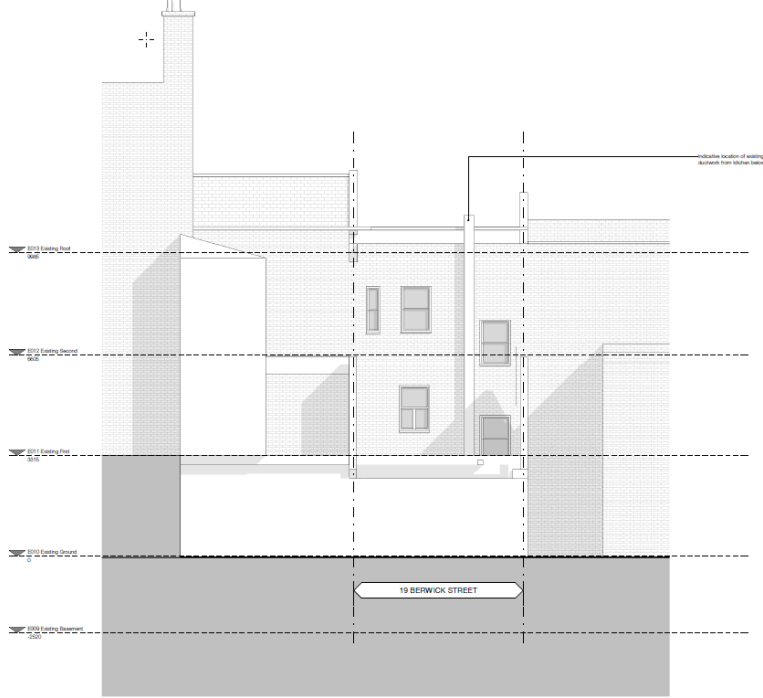
Existing front Elevation



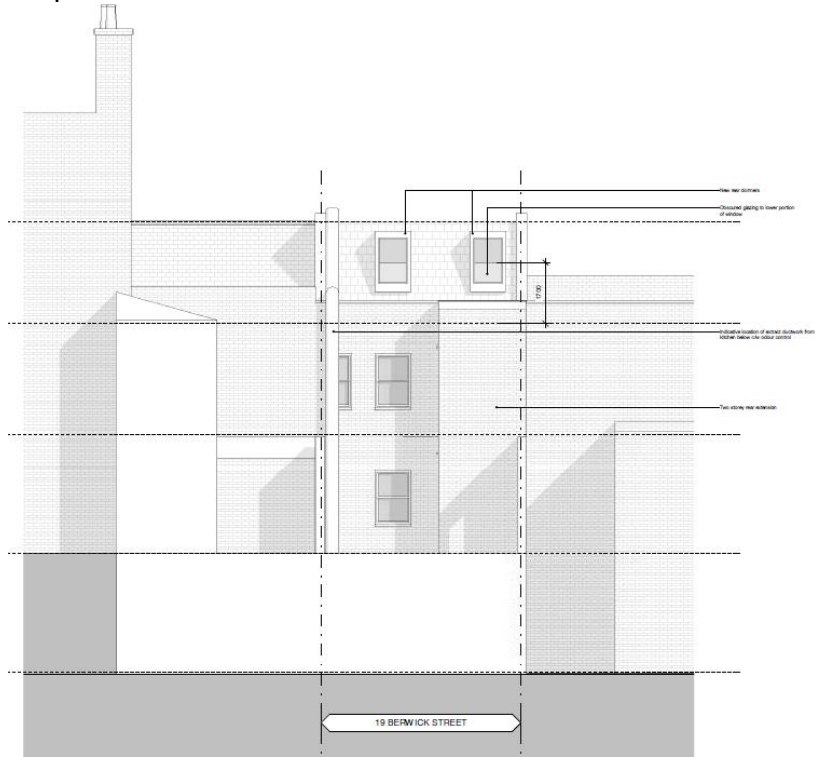
Proposed Front Elevation



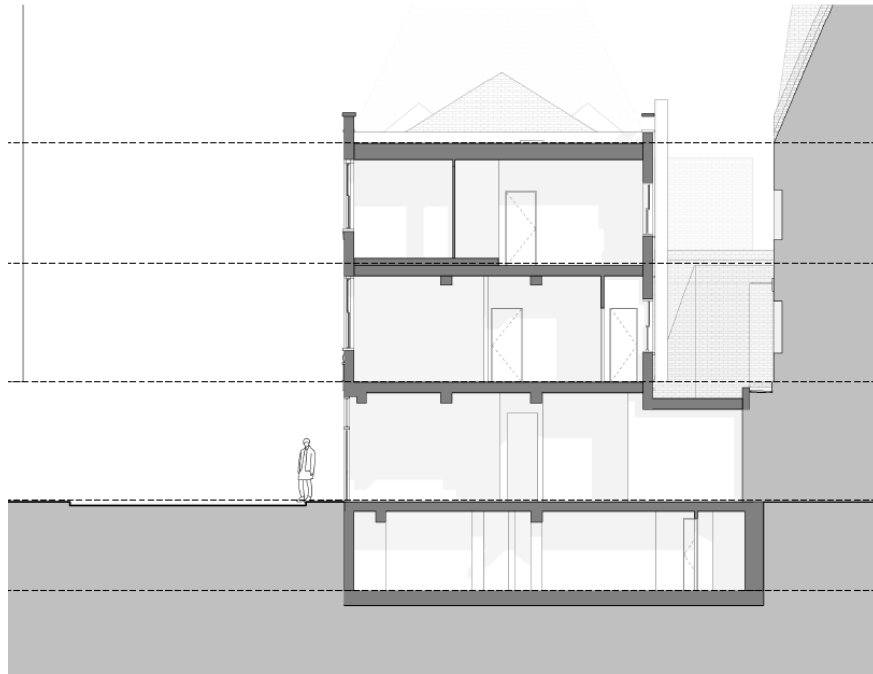
Existing Rear Elevation



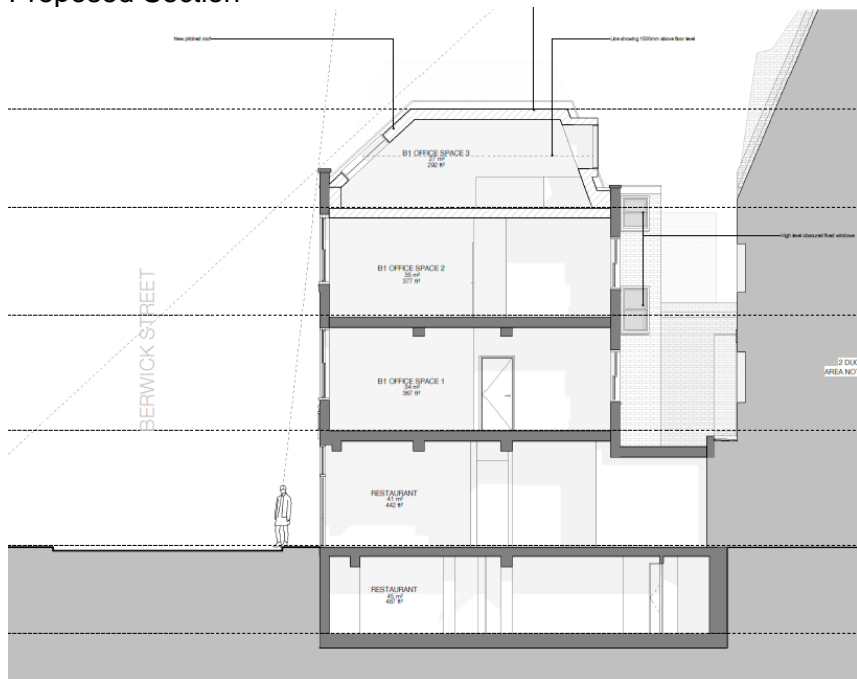
Proposed Rear Elevation



Existing Section



Proposed Section



**DRAFT DECISION LETTER**

**Address:** 19 Berwick Street, London, W1F 0PX

**Proposal:** Use the first floor as offices (Class B1). Erection of roof extension and rear extension at first and second to provide additional office floorspace (Class B1), and repositioning and extension of extraction flue on rear elevation.

**Reference:** 17/09736/FULL

**Plan Nos:** P009 A, P010 B, P011 F, P012 G, P013 G, P014 G, P030 B, P031 G, P040 G, P041 G.

**Case Officer:** Damian Lavelle

**Direct Tel. No.** 020 7641 5974

**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 (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be

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

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

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

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

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

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



Reason:

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

- 5 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 occupy the additional office (Class B1) floorspace 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 office accommodation. (C14EC)

Reason:

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

- 6 The glass that you put in the following windows must not be clear glass and must be fixed shut:
- the two south facing windows on the return wall of the approved rear extension serving two internal toilets; and
  - the two rear windows at third floor.

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 not change the glass within these windows without permission.

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 (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 7 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 9 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 10 The plant/machinery hereby permitted shall not be operated except between 0900 and 2345 Mondays to Saturday and between 0900 and 2230 on Sundays.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 11 Prior to the erection of the rear extension or occupation of the office accommodation at first to third floor level you must erect the replacement duct as shown on the approved drawings

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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

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# Agenda Item 8

Item No.
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<b>8</b>
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date: 16<sup>th</sup> January 2018</b>	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Hyde Park	
<b>Subject of Report</b>	<b>117-119 Edgware Road, London, W2 2hx</b>		
<b>Proposal</b>	Use of the ground floor for mixed retail / restaurant use (Class A1/A3); use of basement as restaurant (Class A3), installation of a retractable canopy, recirculation ventilation system and electrical heaters.		
<b>Agent</b>	Mrs Emma McBurney		
<b>On behalf of</b>	Mr Jihad Issa		
<b>Registered Number</b>	17/08100/FULL	<b>Date amended/ completed</b>	2 <sup>nd</sup> January 2018
<b>Date Application Received</b>	8 September 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

Refuse planning permission- land use.
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## 2. SUMMARY

The application site is a double fronted unit shop unit currently in use (unlawfully) as a The Beruit Café. The site is located within the Central Activities Zone Frontage and is part of the Edgware Road Stress Area.

The site operated as an A3 restaurant lawfully under a temporary flexible use between 5<sup>th</sup> May 2014 and 5<sup>th</sup> May 2016 but has been operating unlawfully since. A subsequent application for a permanent change of use to a restaurant (Class A3) over ground and basement was refused and dismissed at appeal on land use grounds.

This application seeks to address the reason for the dismissed appeal, by proposing two retail display cabinets inside the shopfront windows on the basis that this would create a mixed use ange A1/A3 use at ground floor and an A3 use at basement. Permission is also sought for the installation of a recirculation system as a means of ventilation, and the erection of a canopy and electric heaters to the front of the property. The application originally proposed tables and chairs on the highway outside of the property, however this has been withdrawn from the proposal following objections by Transport for London and our Highways Planning Manager.

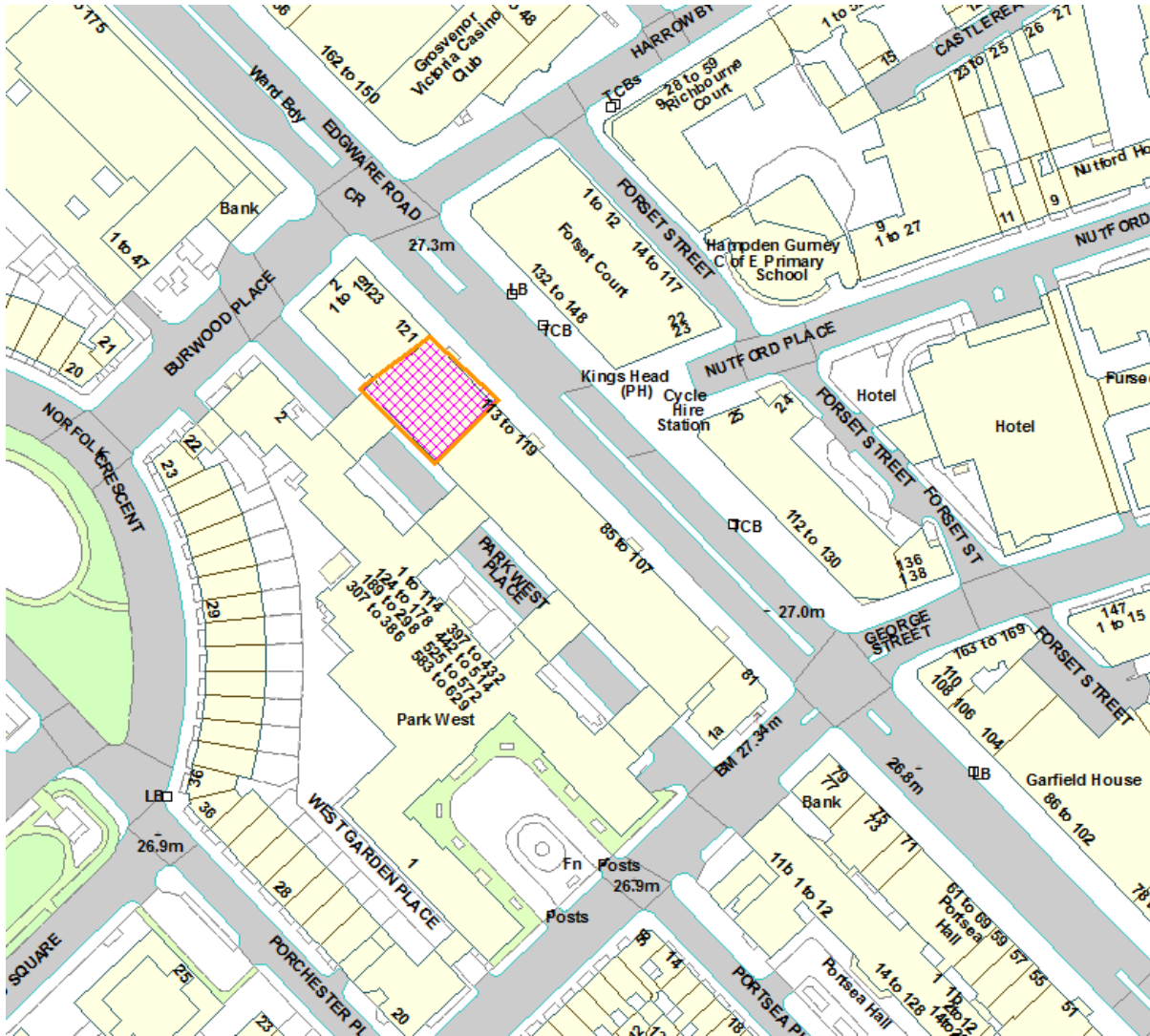
Eight objections have been received from neighbouring residents on land use and amenity grounds. In contrast six letters of support have also been received.

The key issues in this case are:

- The loss of A1 retail within the CAZ and Edgware Road area

The proposal is considered to harm the function and character of the Central Activity Zone and the vitality and viability of the Edgware Road area and is recommended for refusal.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





## 5. CONSULTATIONS

### WARD COUNCILLORS FOR HYDE PARK

Any response to be reported verbally.

### TRANSPORT FOR LONDON

Objection to tables and chairs on the highway and associated permanent change of use of the public highway.

### HYDE PARK ESTATE ASSOCIATION:

Any response to be reported verbally.

### ENVIRONMENTAL HEALTH:

No objection to the application subject to conditions relating to the proposed recirculation system.

### CLEANSING MANAGER

Objection on the grounds that the details provided are not in accordance with waste and recycling requirements.

### HIGHWAYS PLANNING MANAGER

Objection to tables and chairs on the highway and associated permanent change of use of the highway and to the lack of cycle parking proposed.

### CRIME PREVENTION DESIGN ADVISOR:

Any response to be reported verbally.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 709

Total No. of replies: 13

No. of objections: 8

No. in support: 6

8 objections on all or some of following grounds:

#### LAND USE

- Loss of A1 retail
- Too many of the same types of restaurant

#### AMENITY

- Noise
- Shisha Smoke
- Late opening hours
- Air pollution (odour)

6 letters of support on all or some of the following grounds:

- The restaurant provides a family friendly destination on Edgware Road
- No smoke or noise issues
- One of few restaurants that does not offer Shisha
- The unit would become vacant were the restaurant to close
- Loss of A3 restaurants at Regents House to be replaced with A1 only

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is the ground floor and basement of No. 117 – 119 Edgware Road which is not listed or within a conservation area. The site forms part of a frontage to the south east of the Edgware Road between No. 81 – 123, and is a double fronted unit with lawful retail use (Class A1), but which is currently in use (unlawfully) as The Beruit Café. Above the application site are residential units that form part of the Park West apartments.

The site is located within the Central Activities Zone Frontage, is part of the Edgware Road Stress Area and has a long history as a shopping destination. Edgware Road is a Transport for London red route with traffic flows in both directions.

### 6.2 Recent Relevant History

#### 15/12047/FULL

Use of the basement and ground floor as a restaurant (Class A3). Installation of full height extract ducting to rear of application site adjacent to windows of properties of Park West. Use of two areas of public highway each measuring 8.8m<sup>2</sup> for the placing of 8 tables and 16 chairs, erection of electrical heater under canopy.

Application Refused	11 July 2016
Dismissed at appeal	14 August 2017

#### 15/10068/P3JPA

Use of ground floor from Class A1 (retail) to Class A3 (restaurant). Notification for prior approval under Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Application Withdrawn	7 December 2015
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#### 14/09331/FULL

Temporary change of use of the basement level to restaurant (Class A3) until 01 April 2016 in connection with the existing restaurant at ground floor level.

Application Permitted	12 January 2015
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#### 14/01767/TFU

Temporary flexible use of the ground floor as a restaurant (Class A3) pursuant to Class D, Part 4, Schedule 2 of Town and Country Planning (General Permitted Development) (Amendment) Order 2013 for a two-year period from 1 April 2014.

No Further Action	7 March 2014
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## 7. THE PROPOSAL

Planning permission is sought for the use of the basement as a restaurant (Class A3) and ground floor for mixed retail/restaurant (Class A1/A3) together with installation of a re-circulation ventilation system, a canopy and electric heaters to the front elevation.

During the course of the application the applicant has amended the proposal to omit the proposed use of the public highway to the front of the premises for the placing of 4 tables and 8 chairs.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The application site is within the Edgware Road CAZ frontage and the Edgware Road Stress Area, accordingly the relevant policies are SS5, TACE 9 of the UDP and S8, S24 of the City Plan.

The proposal is very similar to that which was recently dismissed at appeal. The only difference in the drawings is the proposed installation of two retail display cabinets behind the shopfront windows. The applicant has, on this basis applied for a mixed use of the ground floor for retail/restaurant use (Class A1/A3). However, it is not considered that the installation of two retail display cabinets would in itself create a mixed use of the premises. It is clearly the case that the ground and basement are used as a restaurant (Class A3) and that any retail offer associated with the display cabinets would be either de-minimus or at best ancillary and would not comprise a true mixed use planning unit.

For the above reason the proposal is considered to result in the loss retail floor space (Class A1) and the proposed restaurant use (Class A3) would detract from the character and function of the CAZ frontage as a shopping destination/area and harm the viability and vitality of the Edgware Road through the reduced retail offer and impact that the restaurant would make to the overconcentration and dominance of such uses in the area.

Policy SS5 seeks an appropriate balance of town centre uses. Part (B) specifically states the introduction of non-A1 uses at basement and ground floor level will only be granted where the proposal would not be detrimental to the character and function of the area or to the vitality or viability of a shopping frontage or locality. Part (C) goes on to state that non-A1 uses must not cause or intensify an existing over concentration of A3 and entertainment uses in a street or area.

Policy S8 of the City of Westminster Westminster's City Plan (WCP) 2016 states that within the Edgware Road Stress Area, new entertainment uses will only be allowed where the Council considers that they are low-impact and would not result in an increased concentration of late-night uses. The reasoned justification for this policy acknowledges that the provision of cafes, restaurants and appropriate entertainment uses can help to support the retail function of the Edgware Road CAZ Frontage. However, creating a concentration of such uses within the area would unacceptably impact on the functioning of the area.

During the previously dismissed appeal it was established that Edgware Road as a whole comprises approximately 57% A1 uses and 20% A3 uses, which includes the existing A3 use operating from the appeal property. The appeal property is one of approximately 22 units within the frontage, which comprise a mix of A1, A2, A3 and sui generis businesses. The inspector stated that “many of these units are small. In marked contrast, two of the A3 units, the appeal property and Al Arez, are larger units with a much greater presence in the frontage. As a result, I find that they dominate the row of properties, with the A1 units being viewed as secondary to the non-A1 units.”

Relating to this application the applicant has stated that the loss of A3 units between No’s 112 and 130 Edgware Road is a material consideration in the assessment of the current application, however the inspector was aware of the loss of these units in dismissing the previous appeal and stated “I note that approved developments along Edgware Road would result in a reduction in A3 units and an increase in A1 units. Nevertheless, overall, I find that there is an overconcentration of A3 uses in the area, which the appeal property contributes towards”. As such the loss of A1 elsewhere along Edgware Road is not considered as a reason to grant planning permission for the current application.

The applicant has also stated that this application seeks a similar use to that at No. 103 Edgware Road (Al Arez). However, 103 has quite a different planning history to No. 117 – 119 Edgware Road in that prior to its current use its lawful use was for Sui Generis mixed use purposes comprising a shisha smoking parlour to the rear and a retail snack bar and bureau de change to the front of the premises. For this reason, the site is not comparable to No’s 117 – 119 Edgware, the lawful use of which is solely for Class A1 (Retail) purposes.

In dismissing the appeal against the decision to refuse the previous application (Ref: 15/1204/FULL) for a change of use at No. 117 - 119 Edgware Road the inspector found that with a recirculation system for ventilation the proposal would not harm neighbouring properties in terms of noise, vibration smell and that with a condition to limit the opening hours to 23:00 there would be no increase in late night activity. The current application includes a recirculation system and closing hours of 23:00, therefore the parts of policy TACE 9 relating to amenity have been addressed.

However, the inspector concluded “I find therefore that by reason of the existing over concentration of A3 uses in the area, the proposed development does have a significantly harmful effect on the retail character and function of the CAZ and the vitality and viability of the Edgware Road area, contrary to Policies SS5 and TACE9 of the UDP and Policies S8 and S24 of the WCP.”

For the reasons set out above, the applicant’s justification is not supported and the proposal remains unacceptable in land use terms. During the course of the application the applicant has suggested they are willing to increase the amount of A1 Retail retained to the front of the property and requested that permission be granted for a temporary A3 use until the end of their lease in 2020. Neither of these are considered to overcome the in principle objection to the proposal in land use terms and the reasons for dismissing the previous appeal. Therefore, the proposal remains contrary to policies SS5 and TACE9 of the UDP and Policies S8 and S24 of the WCP.

## 8.2 Townscape and Design

The proposed works retain the shop front installed during works which were carried out under the temporary flexible use. Additionally, the application seeks permission for the installation of a retractable canopy and electric heaters above the entrance door.

Retractable canopies and heaters are not uncommon on Edgware Road, the submitted drawings show a canopy that appears to be of a scale in keeping with the host building and surrounding area. The drawings submitted with the application however do not provide adequate detail of the heaters. Notwithstanding this the principle of heaters is acceptable and were the application acceptable on land use grounds further details would have been sought by condition.

The canopy and heaters are not dissimilar to those found elsewhere in the frontage and the wider Edgware Road and as such subject to additional details regarding the heaters would therefore be acceptable in design grounds and in accordance with DES5 of the UDP and S28 of the City Plan.

## 8.3 Residential Amenity

ENV13 of the UDP and S29 of the City Plan seek to protect residential amenity and environmental quality from development.

The application site sits within the Edgware Road Stress Area which has been designated as such due to the concentration of A3 establishments. Within Edgware Road there are a number of premises which offer a similar service to that proposed and which have opening hours later than those proposed at the site which are 23:00.

The inspector has previously stated that with closing hours of 23:00 the site would not be considered to contribute towards late night activity in the area and that given the existing busy nature of Edgware Road regarding traffic and comings and goings associated with the existing businesses the change of use to A3 restaurant would not significantly harm neighbouring residential properties regarding noise.

In applications of this nature applicant must demonstrate that they are able to provide adequate ventilation to prevent smells and odours causing harm to neighbouring residential properties. Ordinarily the City Council would require this to be provided internally or in the form of full height external ducting which discharges at one meter above roof height. In exceptional circumstances the City Council may consider a recirculation system.

During the course of the appeal the Inspector determined that subject to appropriately worded conditions a re-circulation system may be appropriate in this location. Further, the environmental health officer has determined that the application site passes the test of an exceptional circumstance on the grounds that cooking will take place using electric only. As such environmental health has not raised objection to the application subject to appropriate conditions.

Objections have been made on the grounds that Edgware Road is already busy and noisy due to restaurants which operate late into the night and which pollute the air with cooking smells and odours and that an approval of the change of use at No. 117 – 119 Edgware Road would further increase harm. Further objections have been raised on the grounds that shisha smoke causes harm to local residents, this application however does not include shisha and the site does not appear to have a history of shisha. In contrast representations of support have also been received.

For the reasons outlined within this amenity section of the report the council does not consider the concerns raised justify a reason for refusal of the application on amenity grounds. The works are considered in accordance with ENV 13 of the UDP and S29 of the City Plan.

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

This initial application included the permanent change of use of the highway for the use of tables and chairs. Transport for London and the highways planning manager raised objection to the permanent change of use of the highway. As such the applicant has subsequently omitted the proposed tables and chairs from the application.

The highways planning manager also stated that the application does not provide adequate cycle parking. Had the application been acceptable on land use grounds revised cycle storage plans would have been sought via condition.

The proposal does not raise any other highways issues.

#### **8.5 Cleansing**

The waste manager has raised objection to the application on the grounds that the details submitted are not in line with the council's waste and recycling storage requirements. Had the application been acceptable on land use grounds revised drawings would have been sought to secure appropriate details.

#### **8.6 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.7 Access**

Access to the site will remain the same as the current situation.

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

None

#### **8.9 London Plan**

This application raises no strategic issues.

#### **8.10 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.

### **8.11 Planning Obligations**

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

### **8.12 Environmental Impact Assessment**

This development does not require an Environmental Impact Assessment

### **8.13 Other Issues**

#### **Planning Enforcement**

Following the dismissed appeal, the Planning Enforcement Team were preparing to take enforcement action at the site however the applicant requested that action be held in abeyance as they feel that this application will address the concerns over the loss of retail. This is not considered to be the case and the matter will be reported back to planning enforcement.

## **9. BACKGROUND PAPERS**

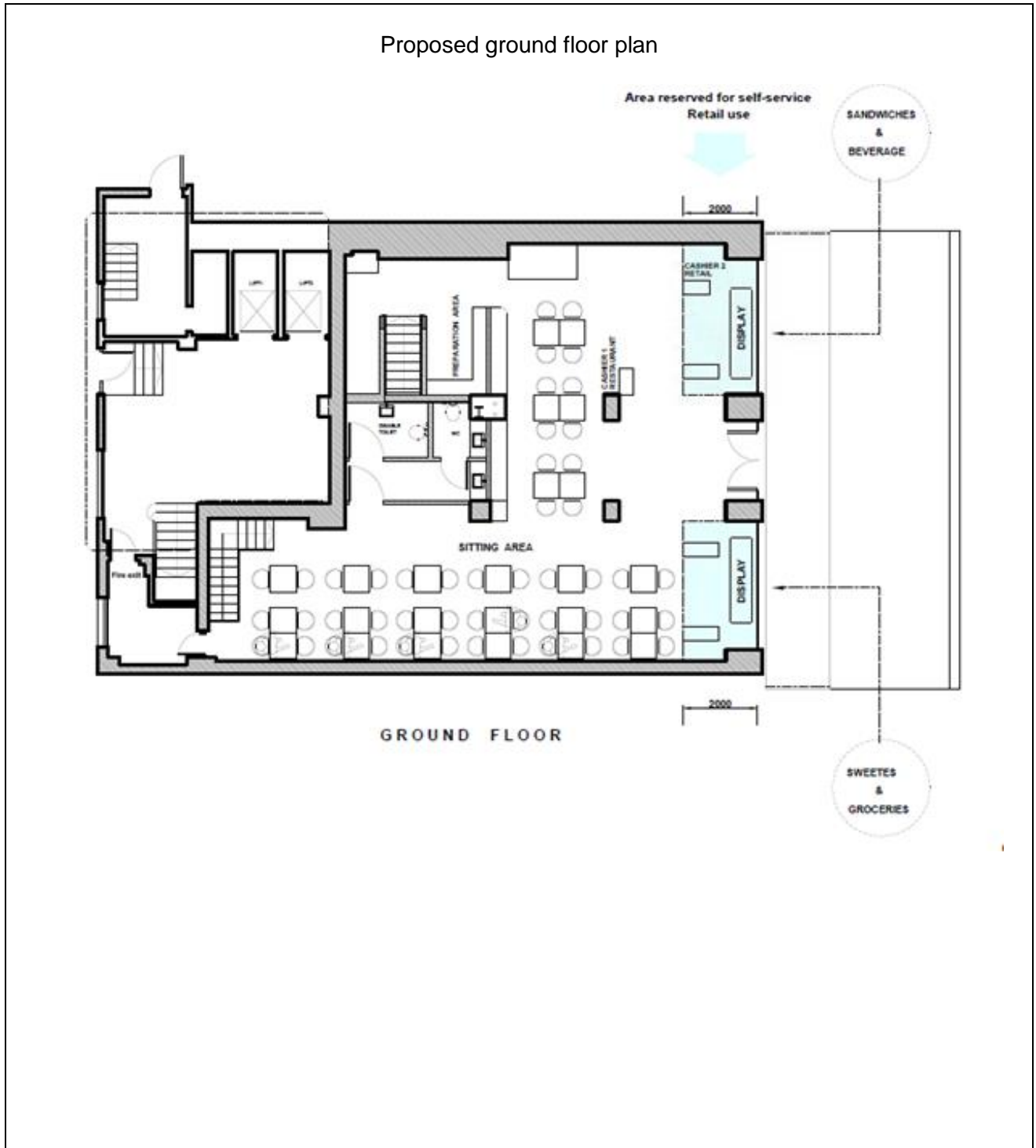
1. Application form
2. Appeal decision dated 14.08.2017 (Ref 15/12047/FULL)
3. Response from Transport for London dated 13 November 2017
4. Memo from Highways Planning Manager dated 02.11.2017
5. Memo from Cleansing Manager dated 01.11.2017
6. Memo from Environmental Health dated 05.12.2017
7. Letters (x2) from occupier of 565 Park West, London, dated 25 October 2017
8. Letter from occupier of 168 Park West, Edgware Road, dated 28 October 2017
9. Letter from occupier of 227,314 Parkwest, London, dated 29 October 2017
10. Letter from occupier of 425 Parkwest, London, dated 29 October 2017
11. Letter from occupier of 140 Edgware Road, London W2 2QG, dated 31 October 2017
12. Letter from occupier of Flat 445 Park West, Edgware road, dated 2 November 2017
13. Letter from occupier of 562 Park west, London, dated 27 November 2017
14. Letter from occupier of flat 90, Foreset court, dated 27 November 2017
15. Letter from occupier of 107, Edgware Road, dated 27 November 2017
16. Letter from occupier of 308 Parkwest, Block 5, dated 28 November 2017
17. Letter from occupier of 626 Parkwest, Block 9, dated 28 November 2017
18. Letter from occupier of Marble Arch BID, 19 Eastbourne Terrace, dated 20 December 2017
19. Letter from occupier of 22 Crawford place, London, dated 29 December 2017
20. Letter from the occupier of 8 Parkwest Place London dated 04.01.2018

(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: SARAH WHITNALL BY EMAIL AT <a href="mailto:swhitnall@westminster.gov.uk">swhitnall@westminster.gov.uk</a> .
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10. KEY DRAWINGS



**DRAFT DECISION LETTER**

**Address:** 117 Edgware Road, London, W2 2HX

**Proposal:** Use of the ground floor as a mixed use retail (Class A1)/ restaurant (Class A3); use of basement as restaurant (Class A3) floorspace; installation of a retractable canopy and installation of electrical heaters above entrance door.

**Reference:** 17/08100/FULL

**Plan Nos:** Site location plan, Ex/PL02, pro/dis PL1, Pr/SIT02, Proposed Specification for Kitchen Ventilation

**Case Officer:** Max Jones

**Direct Tel. No.** 020 7641 1861

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

Your plans would result in the loss of a lawful Class A1 retail unit which contributes to the character and function and vitality and viability of this part of the Central Activities Zone and Edgware Road. This would not meet policy SS 5, and TACE 9 of our Unitary Development Plan that we adopted in January 2007 and policies S 8, S 24 of Westminster's City Plan: Strategic Policies 2016.

**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 (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. 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.

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.

# Agenda Item 9

Item No.
9

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16th January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Hyde Park	
<b>Subject of Report</b>	Flat 6 , 15 Hyde Park Gardens, London, W2 2lu		
<b>Proposal</b>	Installation of 2 air conditioning units with an acoustic enclosure to front roof area at second floor level.		
<b>Agent</b>	Mr Graeme Martinow		
<b>On behalf of</b>	Mr David Elghanayan		
<b>Registered Number</b>	17/09788/FULL and 17/09789/LBC	<b>Date amended/ completed</b>	3 November 2017
<b>Date Application Received</b>	3 November 2017		
<b>Historic Building Grade</b>	II		
<b>Conservation Area</b>	Bayswater		

## 1. RECOMMENDATION

1. Grant conditional permission and conditional listed building consent.
2. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letters.

## 2. SUMMARY

Planning permission and listed building consent are sought for the installation of 2no air condenser units within acoustic enclosures on the flat roof at second floor level on the north elevation.

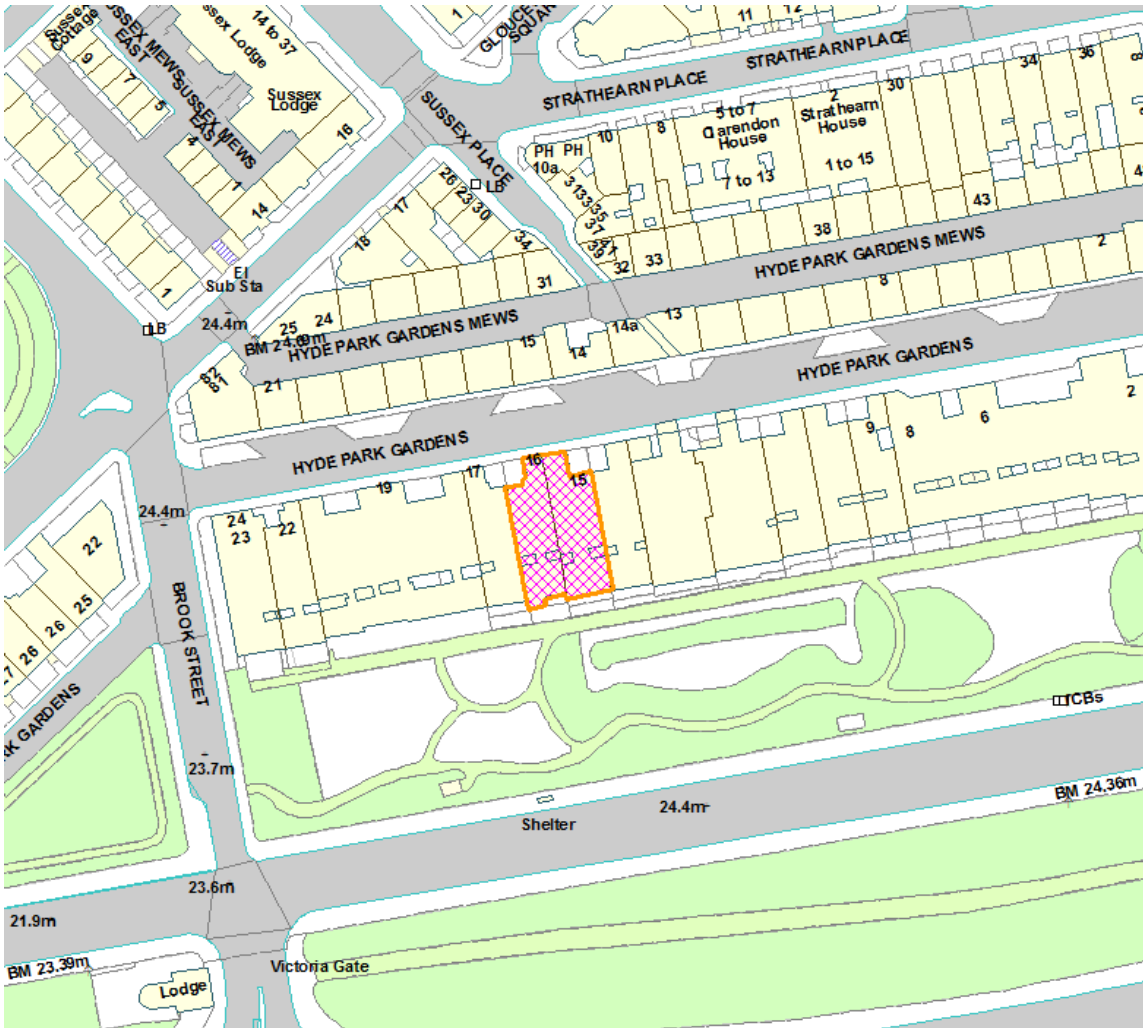
Objections have been from neighbours concerning the noise and vibration of the units, their visual impact and the impact on the designated heritage assets.

The key issues in this case are:

- The impact on the special interest of the Grade II listed building
- The impact of the proposal on the character and appearance of the Bayswater Conservation Area.
- The impact of the proposal on the amenity of neighbouring properties.

The proposed development is considered to comply with relevant policies in the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016 (the City Plan) and is therefore recommended favourably.

**2. LOCATION PLAN**



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3. PHOTOGRAPHS

Front Elevation of 15 Hyde Park Gardens



Existing Flat Roof

**4. CONSULTATIONS**

HYDE PARK ESTATE ASSOCIATION  
Any response to be reported verbally.

ENVIRONMENTAL HEALTH  
Acceptable.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 19

No. Responses: 3 Objections

- o Create noise
- o Out of keeping with a heritage asset
  
- o Units will make disturbing noise
- o Impact on private views
- o There is no need for air conditioning in this location
- o Set a precedent

ADVERTISEMENT/SITE NOTICE: Yes

**5. BACKGROUND INFORMATION**

**5.1 The Application Site**

15 Hyde Park Gardens is a Grade II Listed building located within the Bayswater Conservation Area.

**5.2 Recent Relevant History**

On 11 August 2017 permission and consent (RN:17/05316/FULL and 17/05317/LBC) for the installation of an air conditioning unit on the flat roof to the closet wing was refused on the grounds that its size, design and location, the plant equipment including screening would harm the character and appearance of this Grade II listed building and the Bayswater Conservation Area.

17/05316/FULL

Installation of air conditioning unit within an enclosure on terrace to north elevation.  
Application Refused 11 August 2017

17/05317/LBC

Installation of air conditioning unit within an enclosure on terrace to north elevation.  
Associated internal alterations.  
Application Refused 11 August 2017

## 6. THE PROPOSAL

The application is for the installation of two air conditioning units within enclosures to be sited on the flat roof to the closet wing on the north elevation, which is the front of the building.

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use

The application raises no land use issues.

### 7.2 Townscape and Design

This application seeks to address the reason for refusal from the August 2017 applications. It is now proposed to install air conditioning units in the same location as before, however the units will occupy the entire flat roof and not project above the parapet. They will be covered in lead with the vents located on the sides.

The proposed positioning and scale of the units below parapet level address the concern that the units will be visible from the public realm; appearing inappropriate on this prominent part of the heritage asset. The buildings were originally designed with flat roofs and with parapets and therefore having the units set within the envelop will ensure the architectural integrity of the buildings from the public realm is maintained. A number of comments have expressed concern that the units will be visible in private views. It is recognised that the units and enclosure will be appreciated in views from the surrounding private windows above the flat roof, however as the unit will be covered in lead, the appearance of the flat roof will be comparable to the existing arrangement, which is currently leaded and therefore the visual impact is considered to be limited.

The works are reversible and minimally invasive and as such will have a limited impact on historic fabric. In this context the works are considered to have a limited impact on the special interest of the heritage asset and the character and appearance of the conservation area. The proposal are considered to be in accordance with City Plan policies S25 and S28 as well as UDP policies DES 1, DES 5, DES 9 and DES 10.

No internal works have been proposed in association with the installation of the air condenser units and an informative has be added on the decision notice advising that any internal alterations with regards to the installation of air conditioning would require listed building consent.

### 7.3 Residential Amenity

The relevant policies are ENV 6 and ENV 7 of Westminster's Unitary Development Plan and S29 of Westminster's City Plan.

Objections have been received from neighbouring properties on the grounds of noise disturbance as a result of the installation of the units and that despite the assertions

within the acoustic report, claims that there are nearer residential windows that should have been assessed.

The applicant has submitted an acoustic report which demonstrates that the plant will comply with City Council's noise policies. In this instance, the proposal meets the design noise level criteria, 10dB below the lowest background noise level, and therefore complies with ENV 6 and ENV 7. Further clarification has also been sought with respect to the closest residential properties at 14, 15 (15-16) and 17 Hyde Park Gardens and 15 Hyde Park Garden Mews.

The Council's Environmental Health Officer has reviewed the acoustic consultant's assessment and further clarification and information that was submitted as part of the application and is content that that the plant can operate in accordance with our standard noise conditions.

#### **7.4 Transportation/Parking**

Not relevant

#### **7.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **7.6 Access**

Not relevant

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

None

#### **7.8 London Plan**

This application raises no strategic issues.

#### **7.9 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.

#### **7.10 Planning Obligations**

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

#### **7.11 Environmental Impact Assessment**

Not applicable

#### **7.12 Other Issues**



Not applicable

## 8. BACKGROUND PAPERS

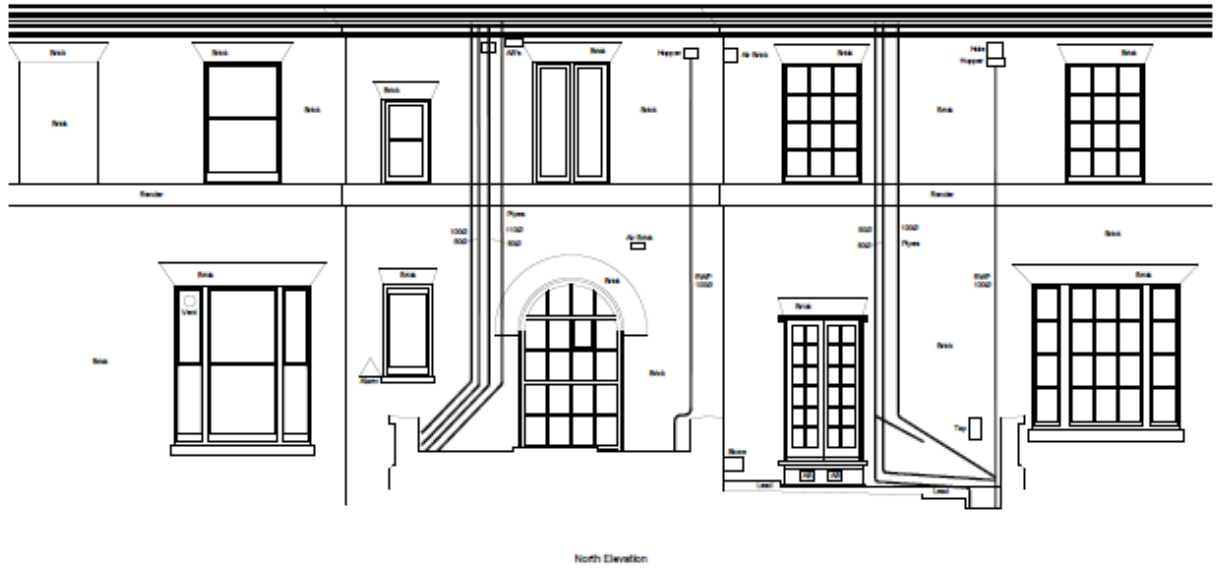
1. Application form
2. Response from Plant And Equipment, dated 6 December 2017
3. Letters (x2) from occupier of Flat 2, 14 Hyde Park Gardens, London, dated 16 November 2017 (received on the listed building consent application)
4. Letter from occupier of 14 Hyde Park Gardens, London, dated 16 November 2017
5. Letter from occupier of 15 Hyde Park Gardens, London, dated 20 November 2017
6. Letter from occupier of 15 Hyde Park Gardens, London, dated 27 November 2017

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

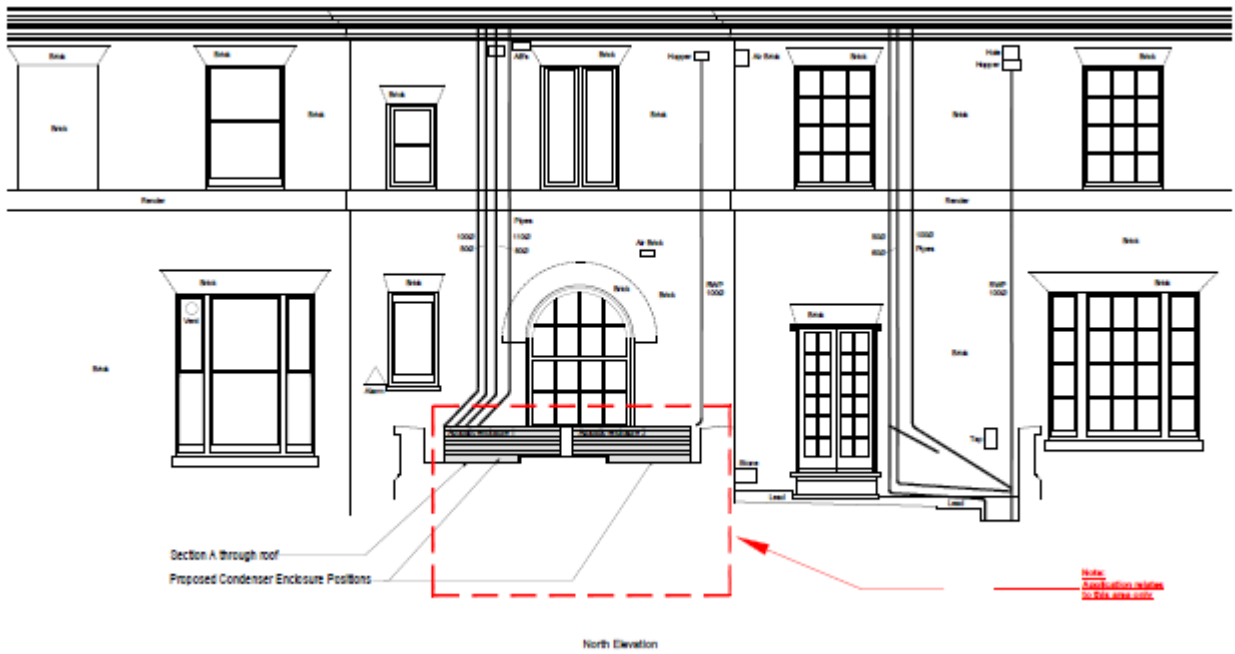
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk)

**9. KEY DRAWINGS**

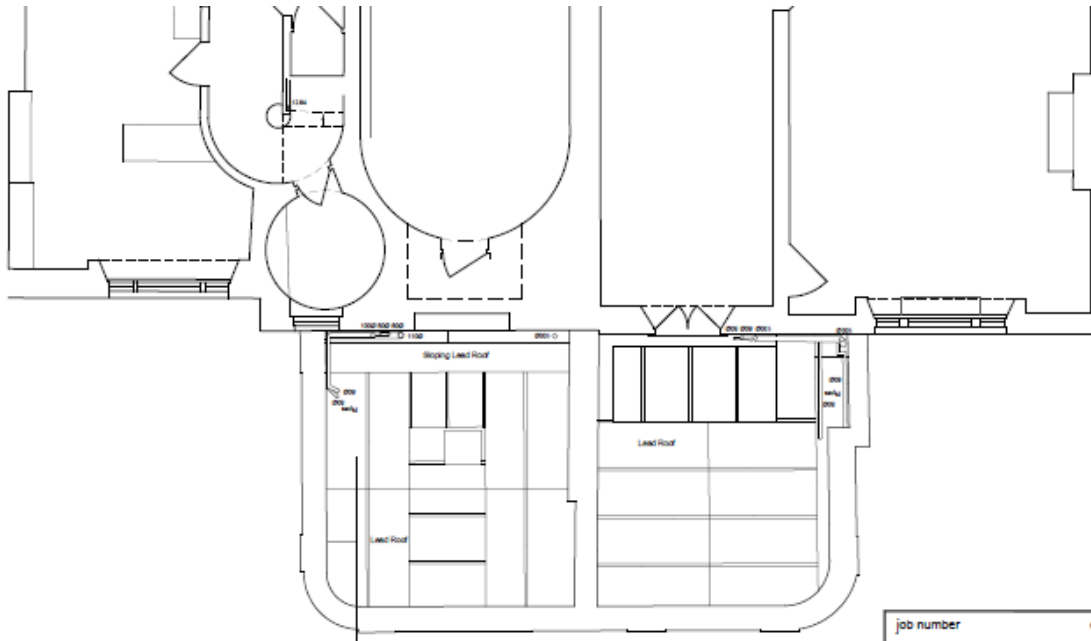
Existing North Elevation



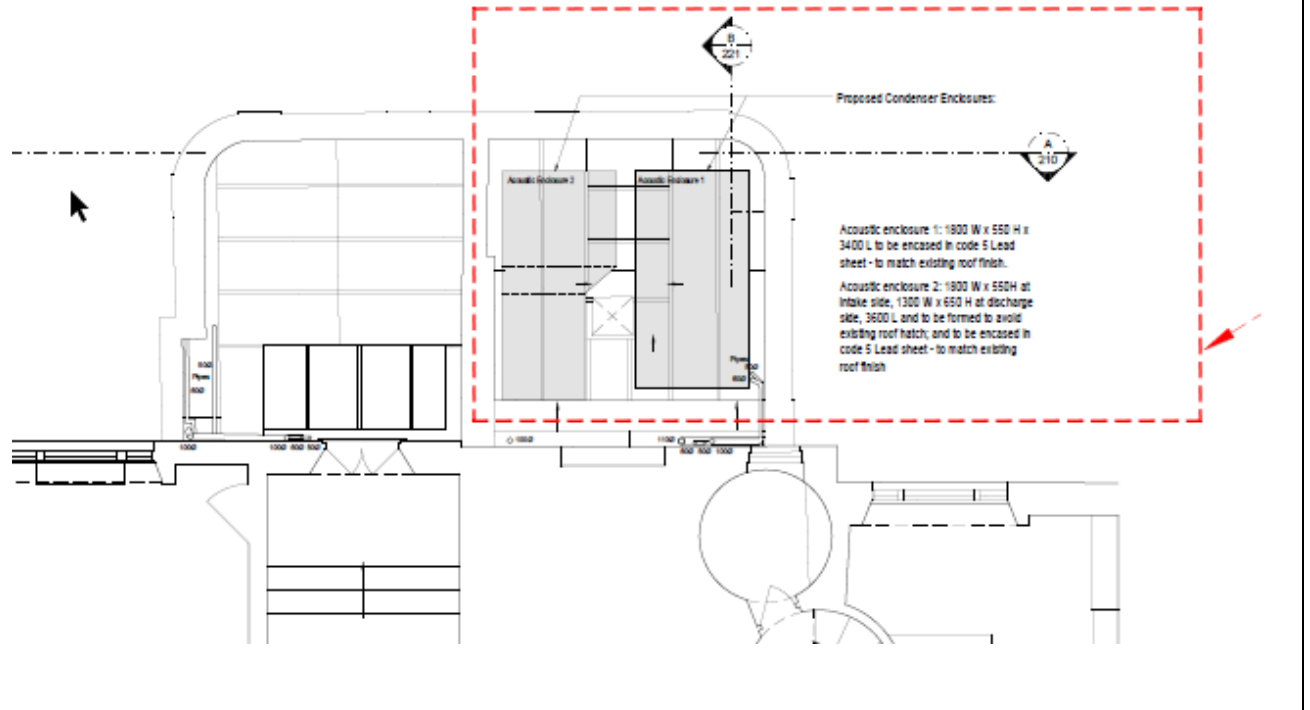
Proposed North Elevation



Existing Second Floor Plan



Proposed Second Floor Plan



**DRAFT DECISION LETTER**

**Address:** Flat 6 , 15 Hyde Park Gardens, London, W2 2LU

**Proposal:** Installation of 2 air conditioning units with an acoustic enclosure to a roof area at second floor level. (Linked with 17/09789/LBC)

**Plan Nos:** 002 P1; 003 P2; 005 P3; 007 P1; 200 P1; 202 P4; 210 P6; 221 P5; Email from Ashley Willis dated 5 January 2018.

**Case Officer:** Rebecca Mason

**Direct Tel. No.** 020 7641 7540

**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 commitments listed on this decision letter, and any drawings approved subsequently by the relevant local planning authority pursuant to any conditions on this decision letter.

Reason:

To avoid any 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 Sunday, 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 Saturday, Sunday, bank holidays and public holidays.

Noisy work must not take place outside the above hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 permit 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 residents. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and NV 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 Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

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

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

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 5 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.

- 6 Notwithstanding details shown on the approved drawings the acoustic lead enclosure shall be installed before the operation of the plant and maintained as such thereafter.

Reason:

To protect the environment of people in neighbouring properties, as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13BC)

- 7 Notwithstanding the details shown on the approved drawings, the top of the acoustic enclosure will be clad in lead and maintained as such thereafter.

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 Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an

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application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You are 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).

**DRAFT DECISION LETTER**

**Address:** Flat 6 , 15 Hyde Park Gardens, London, W2 2LU

**Proposal:** Installation of 2 air conditioning unit with an acoustic enclosure to a rear roof area at second floor level.(Linked with 17/09788/FULL)

**Plan Nos:** 002 P1; 003 P2; 005 P3; 007 P1; 200 P1; 202 P4; 210 P6; 221 P5.

**Case Officer:** Rebecca Mason

**Direct Tel. No.** 020 7641 7540

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

- 3 Notwithstanding the details shown on the approved drawings, the top of the acoustic enclosure will be clad in lead and maintained as such hereafter.

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

**Informative(s):**

1



**SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -**

In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building.

In reaching this decision the following were of particular relevance:  
S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You are advised that any internal alterations associated with the introduction of the air condenser units, such as new pipe work or vents, would require listed building consent.

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Item No.
<b>10</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 <sup>th</sup> January 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bayswater	
<b>Subject of Report</b>	Flat 5, 28 Hatherley Grove, London, W2 5rb,		
<b>Proposal</b>	Erection of a mansard roof extension.		
<b>Agent</b>	Mr Christopher Whitehouse		
<b>On behalf of</b>	Sow and Reap Properties Ltd		
<b>Registered Number</b>	17/06615/FULL	<b>Date amended/ completed</b>	24 November 2017
<b>Date Application Received</b>	25 July 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne		

**1. RECOMMENDATION**

Grant conditional permission.

**2. SUMMARY**

The application site is a four storey plus basement mid terraced property located on the east side of the street within the Westbourne Conservation Area. The application relates to the third floor flat.

Planning permission is sought for the erection of a mansard roof extension to extend the existing third floor flat.

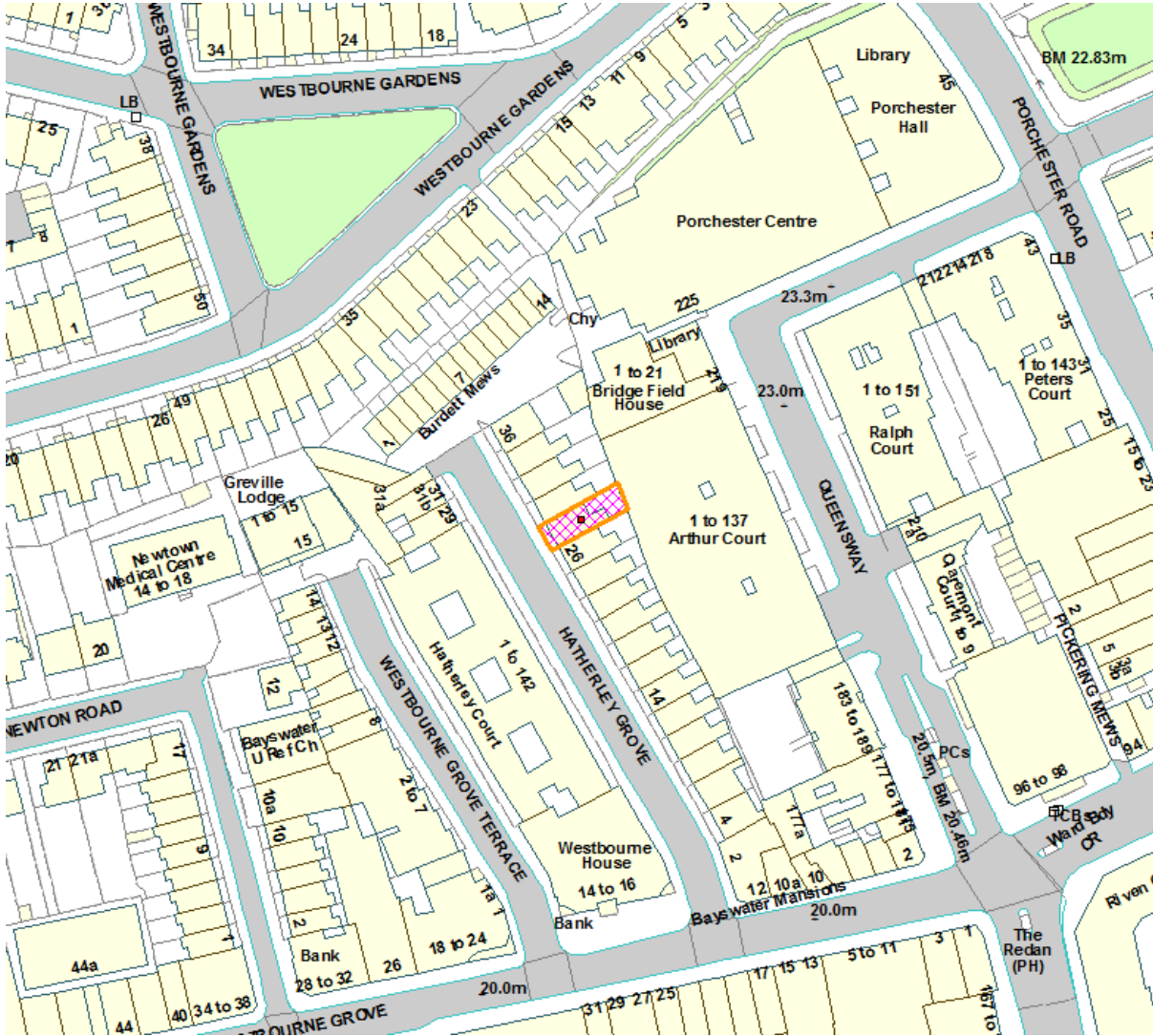
Objections have been received to the proposal from 5 neighbours and the local amenity society on design amenity, transportation, potential subsidence and other grounds.

The key issues in this case are:

- The impact of the proposal on the character and appearance of the Westbourne Conservation Area.
- The impact of the proposal on the amenity of neighbouring residents.

For the reasons set out in this report, the proposed development is considered to accord with relevant policies within the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster’s City Plan: Strategic Policies adopted in November 2016 (the City Plan). As such, it is recommended that planning permission is granted, subject to the conditions set out in the draft decision letter.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Submitted drawings poor and do not show position on adjacent properties. Height greater than on adjacent property.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 267

Total No. of replies: 5

No. of objections: 5

No. in support: 0

5 objections on one or all of the following grounds

#### Design

- Out of character for Conservation Area
- Higher than adjacent extension.
- Roof forms largely undisturbed pattern of "butterfly" roofs in terrace.
- Proposals adversely affect the character and architectural integrity of the building and appearance of the Westbourne Conservation Area.

#### Amenity

- Loss of light to other side of street
- Loss of privacy
- Potential for the roof of the mansard to be used as terrace causing noise disturbance at night.

#### Transport

- potential increase in traffic
- lack of off street parking

#### Other issues

- Subsidence concerns
- Roof area does not belong to Flat 5 but collectively owned by other flats and therefore no rights to build on roof.
- Inaccuracies in application - application states no tree issue but entire building is being impacted by a tree issue

ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

No. 28 Hatherley Grove is a four storey plus basement mid terraced property located on the east side of the street within the Westbourne Conservation Area. The application relates to the third floor flat.

### 6.2 Recent Relevant History

17/04941/FULL

Erection of a mansard roof extension.

Application Withdrawn

21 July 2017

## **7. THE PROPOSAL**

The application is for the erection of a mansard roof extension to extend the existing third floor flat.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

In land use terms the provision of additional residential floor space accords with Policy H3 of the UDP and S14 of the City Plan. This submitted plans show that the new flat will be internally arranged as either a 3 or 4 bed flat. At 99.6sqm of floor space the flat meets the minimum space standards.

### **8.2 Townscape and Design**

The majority of buildings in this terrace already have mansard style extensions, and the Westbourne Conservation Area Audit identifies this building as one where a roof extension would be likely to be considered acceptable in principle. It is recognised that objections have been received stating that the northern end of the terrace represents a group without mansard extensions, however whilst such statements are correct to the extent that this building forms part of a run of five buildings at the north end of the terrace currently without mansard extensions, a mansard has been approved to another one of this group (at no. 32 Hatherley Grove in 2016) which would break the uniformity of the group. In terms of the uniformity of the roofline, given that mansards exist to most buildings in the terrace, and that a mansard has been approved within this run of 5 properties to the northern end) it is considered that the mansard proposed in this application would sit comfortably in the consistent pattern of extensions at roof level in the terrace. The building appears to have a butterfly roof remaining in place, as referred to by several of the objectors, however as with above, given that they have been lost to much of the terrace, and with the approval at no. 32 allowing a mansard to replace its butterfly roof, it is not considered that a refusal could be sustained on this ground.

The mansard will be clad in natural slates to front and rear roof slopes, with lead to the dormers and traditional sash windows, and it will integrate successfully with the character of this Victorian terraced property. The South East Bayswater Residents Association have objected on the grounds that the height of the mansard is greater than that of the neighbouring property. This is partly due to a step down in height of the terrace. Though the elevation drawings show the extension notably above the height of the adjoining mansard to the south, the section drawing submitted demonstrates that it

meets the 2.3m floor to ceiling height considered acceptable in the City Council's design guidance on extensions to roof level.

The plans have been amended during the course of consideration to reduce the mansard roof height by 215mm so that the mansard roof line matches the step of the parapet wall height with the neighbouring property.

Given this, and that the mansard itself conforms to the design guidance set out in the City Council's supplementary planning guidance on roof extensions, the mansard extension in itself is considered acceptable. The objections to the proposal on design grounds are therefore not supported.

### **8.3 Residential Amenity**

Objections have been received on the grounds that the proposal will result in a loss of daylight and privacy to properties on the opposite side of Hatherley Grove. However, given the height of the extension, its set back behind the existing parapet and relationship and distance to neighbouring properties, it is not considered that it would result in any significant impact in amenity terms. The objections on these grounds are therefore not supported.

Concern has also been raised to the potential noise impact, were the flat roof of the roof extension be used as an external terrace. Such a terrace does not part of this proposal and a condition is recommended to prevent such a use.

Overall the proposal is considered to be acceptable in amenity terms and complies with policy ENV13 of our UDP and S28 of our City Plan.

### **8.4 Transportation/Parking**

Objections have also been received on the grounds that the development would result in a potential increase in traffic and to the lack of off street parking being provided. As the proposal is the extension to an existing property rather than the creation of an additional dwelling these objections are not relevant in this case.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

No changes to access are proposed as part of this application.

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

None.

### **8.8 London Plan**

This application raises no strategic issues.



### 8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

### 8.10 Planning Obligations

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

### 8.11 Environmental Impact Assessment

There are no significant Environmental Impact issues raised by this application.

### 8.12 Other Issues

Whilst concern has been raised to potential impact on subsidence and related trees issues, such structural matters are building control matters and are not planning matters relevant to the consideration of this application.

It has also been suggested that consent of all flat owners within the building is required to carry out the development. The applicant has completed certificate B ownership certificate and notified those with freehold and relevant leasehold interest. Any further matters of land ownership and consent are private matters not relevant to the determination of this application.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from South East Bayswater Residents Association, dated 6 August 2017
3. Letter from an owner of a flat within the building from Wembley, dated 3 August 2017
4. Letters (x2) from occupier of 28 Chapelside, London, dated 31 July 2017
5. Letter from occupier of 120 Hatherley Court, Hatherley Grove, dated 29 August 2017
6. Letter from occupier of 90D Bromfelde Road, London, dated 5 August 2017
7. Letter from occupier of 3/28 Hatherley Grove, London, dated 30 July 2017

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **SARAH WHITNALL** BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk)

**10. KEY DRAWINGS**

30'-0" x 34'-0"

34'-0" x 34'-0"

Cross Section 1-1

Third Floor Plan

Second Floor Plan

0 1 2 3 4 5 6

© 2018 BSA Architects

Notes: All dimensions to be checked on site and verified by the architect prior to starting.

PROJECT:

Location: Date:

Architect: BSA Architects

Architect's Registration No. (BSA) 746-F-028

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**BSA**  
BROADWAY STREET ARCHITECTS

100 N. 1st St., Suite 200  
Portland, ME 04101  
Tel: 603.761.1111  
www.bsaarchitects.com



**DRAFT DECISION LETTER**

**Address:** Flat 5, 28 Hatherley Grove, London, W2 5RB,  
**Proposal:** Erection of a mansard roof extension.  
**Reference:** 17/06615/FULL  
**Plan Nos:** Location Plan; BBA 746.F.02B; BBA 746.F.03G; Supporting Statement;  
**Case Officer:** Richard Langston **Direct Tel. No.** 020 7641 7923

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

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

**Reason:**  
 For the avoidance of doubt 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 between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 18.00 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 as is set out in S29 and S32 of Westminster's City Plan (November 2016) and Environmental Unit's 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 to any references 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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 The new windows shall be designed as vertically sliding sash windows, and shall be formed with glazing and white painted timber framing

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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 The principal pitches to the front and rear elevations of the new extension to roof level shall be faced in natural slate, with lead or a grey roofing membrane finish to the flat roof above

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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 The dormers to the new roof extension shall be faced in lead to sides, cheeks and roof

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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 The external elements of the party wall upstand shall be rendered and painted and permanently maintained in a white colour aside from the coping 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 Westbourne Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 You must not use the roof of the extension for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

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 (November 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 (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

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>11</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2018	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> Maida Vale	
<b>Subject of Report</b>	<b>Keith House, 47 Carlton Vale, London, Nw6 5ex</b>		
<b>Proposal</b>	Demolition of single storey garages and erection of two buildings ranging between one and three storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.		
<b>Agent</b>	Metropolitan Workshop		
<b>On behalf of</b>	City West Homes		
<b>Registered Number</b>	17/06180/COFUL	<b>Date amended/ completed</b>	18 July 2017
<b>Date Application Received</b>	12 July 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992, including a Grampian condition to secure the removal and replacement of trees adjacent to the site in Paddington Recreation Ground.

## 2. SUMMARY

The application was reported to the Planning Applications Sub-Committee on 5 December 2017. The Sub-Committee resolved to defer the application for the following reason:

*'That the application be deferred, to enable Members of the Sub-Committee to carry out a site visit; and for the applicant to provide further information on vehicle accessibility of the proposed parking areas within the site and for emergency vehicle access into the site. Applicant advised to make a tree application for the removal and replanting of trees outside of the site in the interim.'*

Since the previous Sub-Committee meeting the Members of the Sub-Committee undertook a Committee site visit on 21 December 2017.

The applicant has provided further information to demonstrate the accessibility of the proposed parking spaces and this demonstrates that the spaces within the development would be accessible to

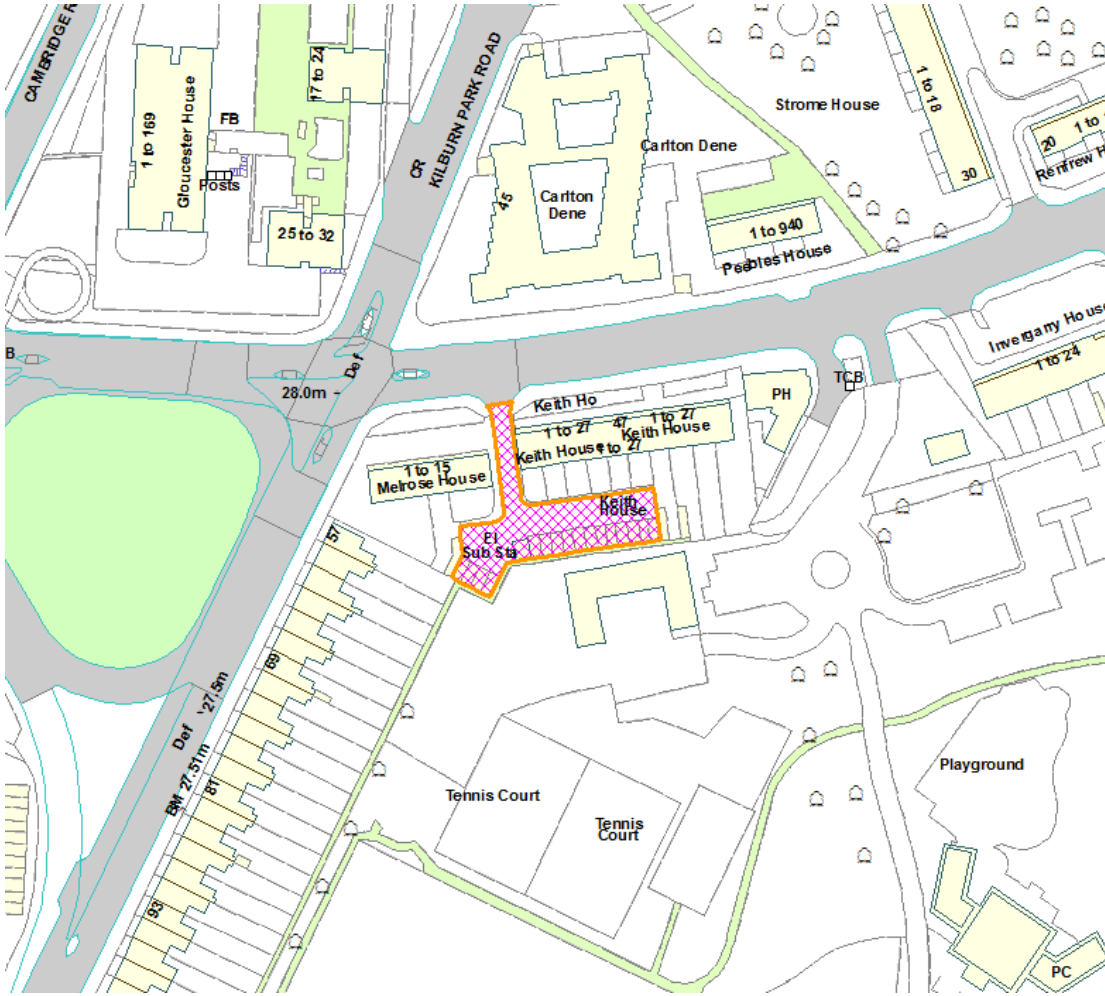
a range of typically sized vehicles, including 4x4s. The tracking drawings submitted have been included in the background papers. An amendment is recommended to Condition 10 to allow the parking layout to be flexible so that 7 standard parking spaces can be provided or, if required, an alternative layout of 5 standard parking spaces and 1 disabled parking space, to serve the proposed wheelchair adaptable unit, can be provided.

Tracking diagrams for emergency vehicles have also been submitted and the London Fire Brigade have confirmed that the level of access and the fire safety strategy proposed are acceptable subject to the detailed design of the fire safety strategy, which includes the provision of dry risers to the rear of Keith House and Melrose House, being carried out in accordance with Building Regulations. Comments on the application from the London Fire Brigade are provided in the background papers.

Since the previous committee meeting the applicant has confirmed that a separate tree works application to remove the trees identified for removal in the application drawings has been made. The scheme of tree removal agreed with the Arboricultural Manager via the recently submitted tree works application and the mitigating landscaping scheme for the north west corner of Paddington Recreation Ground will be submitted pursuant to Condition 14 attached to the draft decision letter appended to this report should the Sub-Committee resolve to grant permission.



**3. LOCATION PLAN**



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4. PHOTOGRAPHS



View of eastern end of site to rear of Keith House (top) and view of western end of site to rear of Melrose House (bottom).

## 5. CONSULTATIONS

### REPRESENTATIONS NOT REPORTED TO THE PLANNING APPLICATIONS SUB-COMMITTEE ON 5 DECEMBER 2017

#### LONDON FIRE BRIGADE

Initial response advising of the need to ensure that the fire strategy for the development complies with relevant part of the Building Regulations (ADb B5 Section 16). Subsequent response stating that access is acceptable following a visit to the site.

## 6. BACKGROUND PAPERS

1. Application form.
2. Representations as reported to the Planning Applications Sub-Committee on 5 December 2017.
3. Applicant's Addendum Note dated 21 December 2017 and Addendum Drawings Document dated January 2018.
4. Emails from the London Fire Brigade dated 27 November 2017 and 21 December 2017.

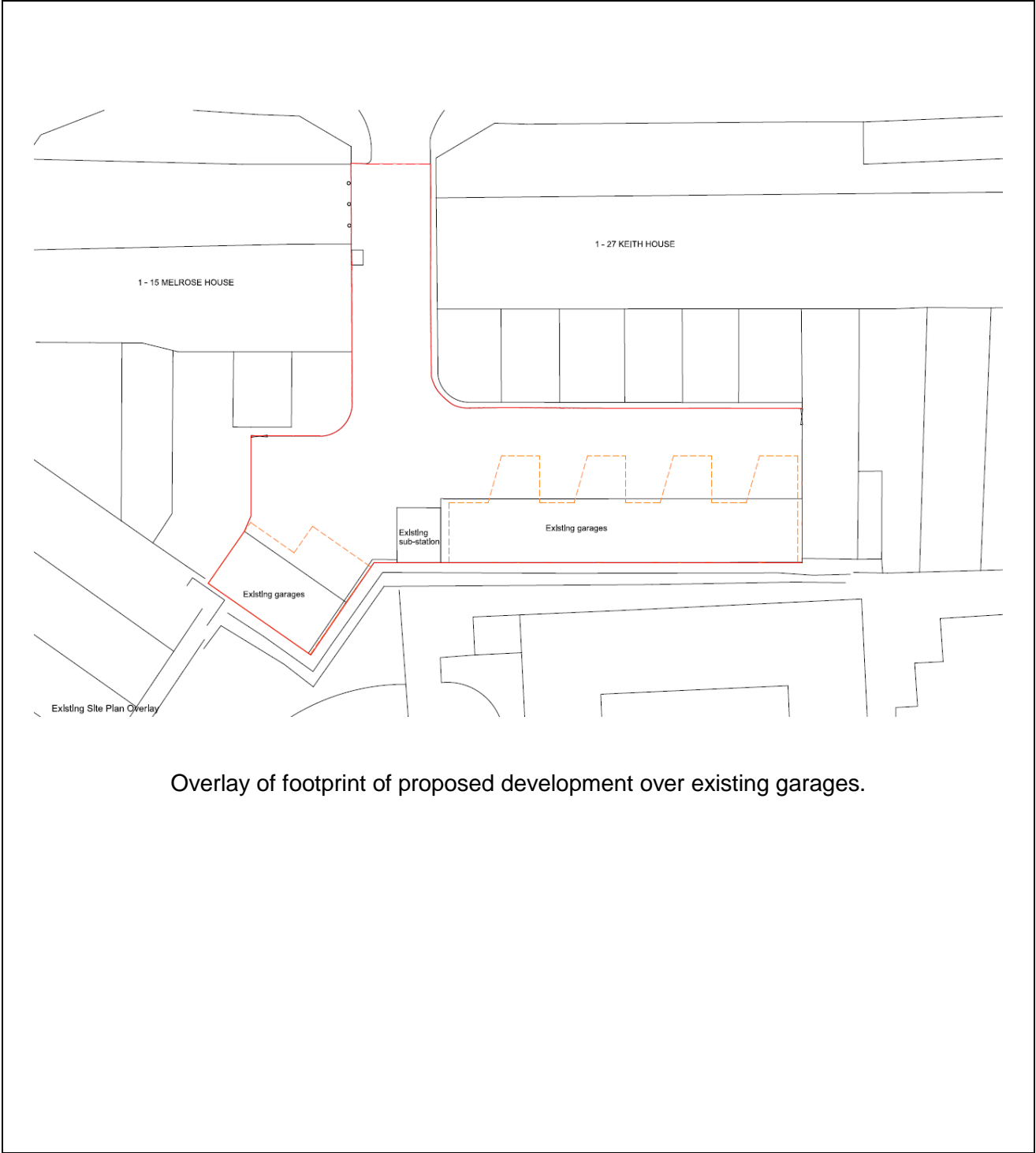
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

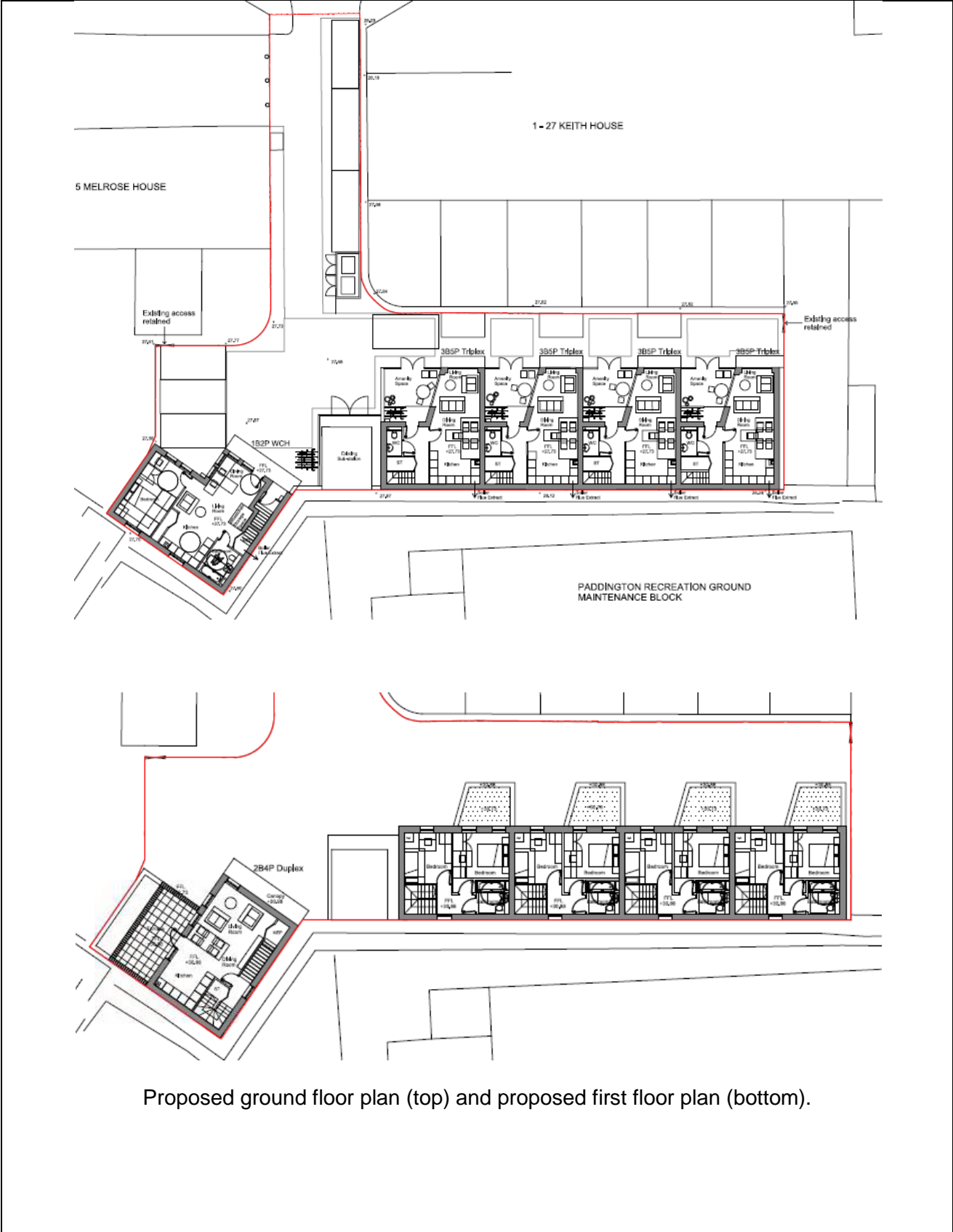
7. KEY DRAWINGS



Perspective view of proposed development (top) and montage of part of proposed development to rear of Keith House (bottom).



Overlay of footprint of proposed development over existing garages.

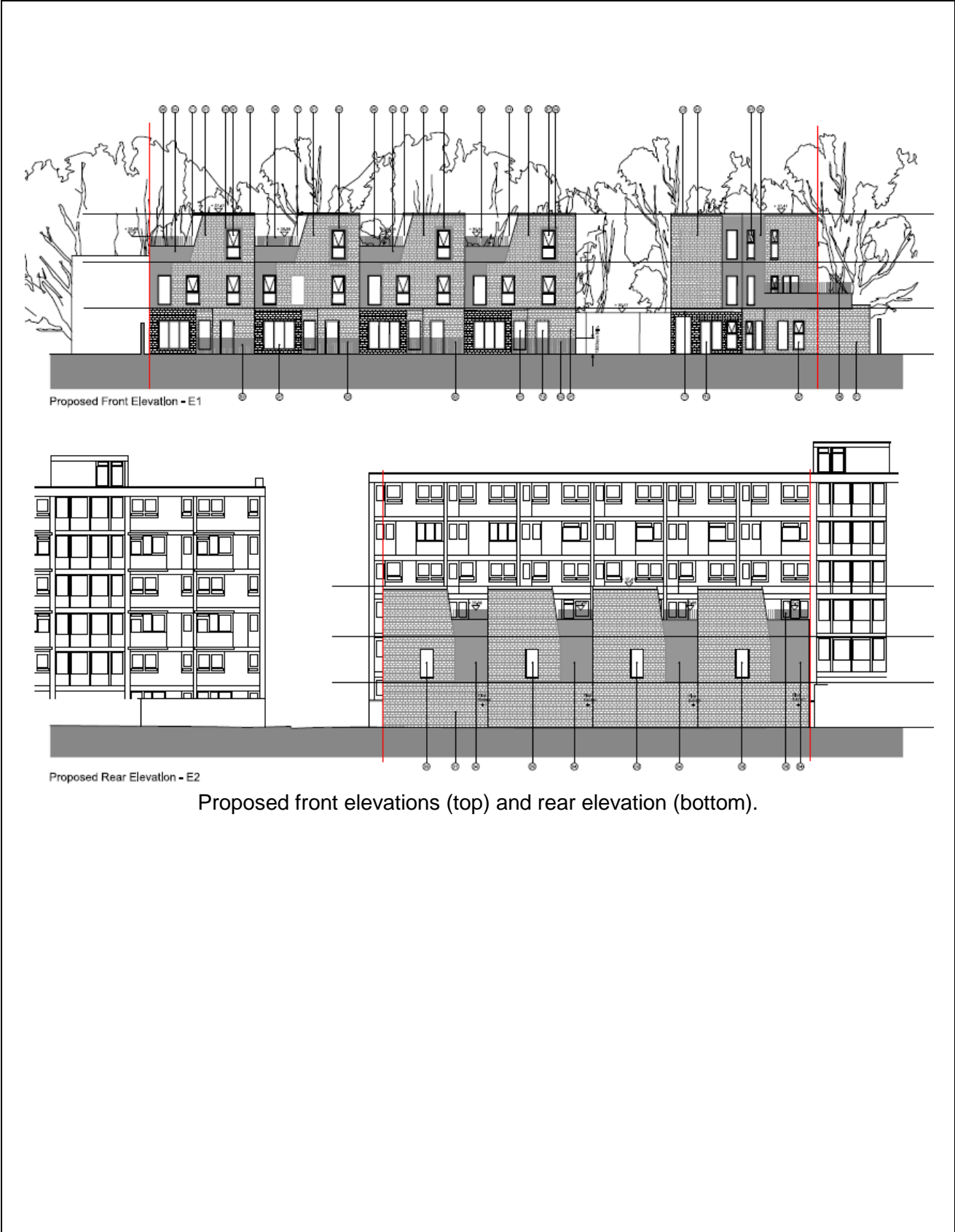


Proposed ground floor plan (top) and proposed first floor plan (bottom).



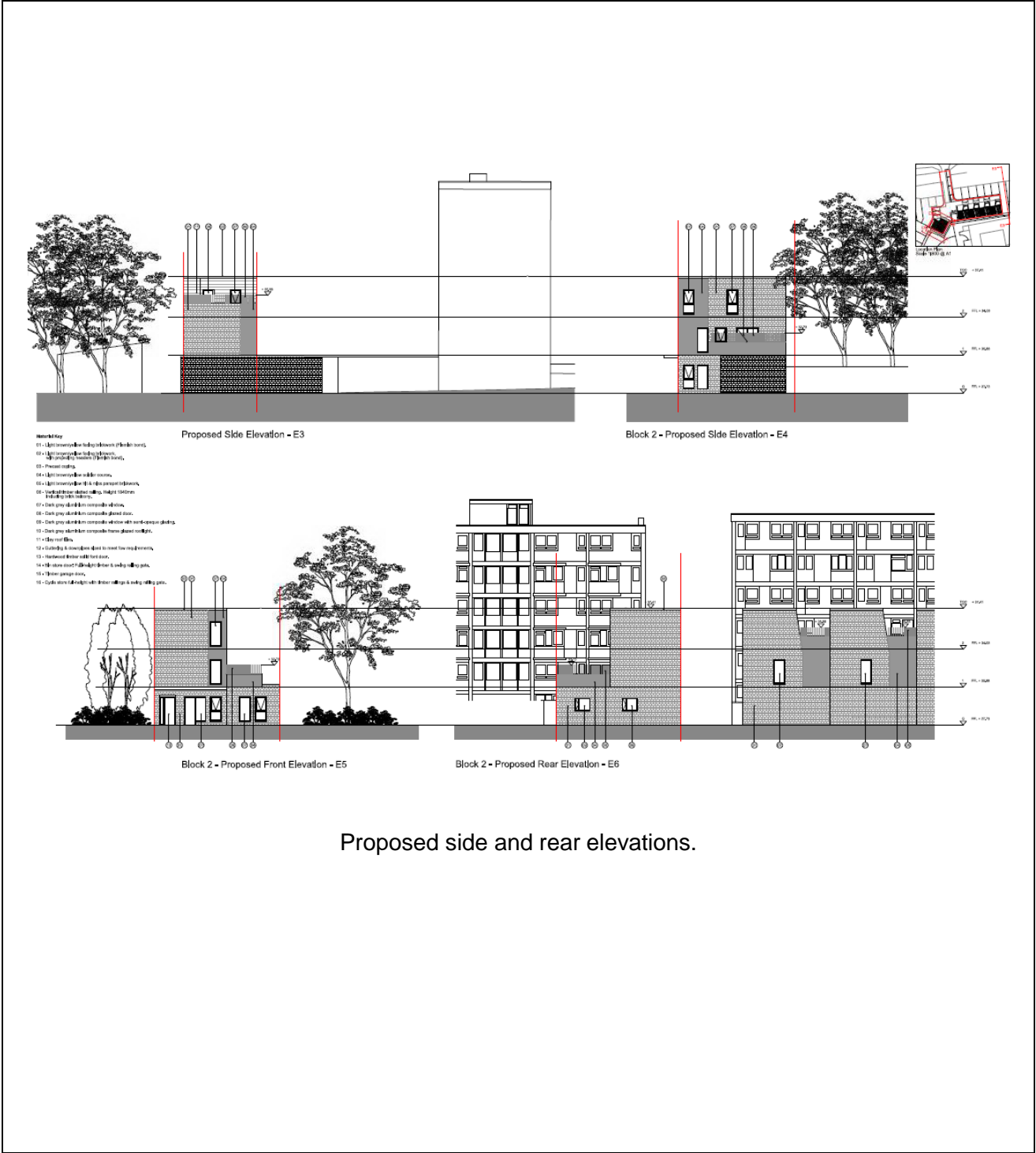
Proposed second floor plan (top) and roof plan (bottom).





Proposed front elevations (top) and rear elevation (bottom).





Proposed side and rear elevations.

## MINUTES OF PROCEEDINGS

### Planning Applications Sub-Committee (2) – 5 December 2017

#### **2 KEITH HOUSE, 47 CARLTON VALE, LONDON, NW6 5EX**

Demolition of single storey garages and erection two buildings ranging between one and three storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.

Councillor Jan Prendergast addressed the Committee in her capacity as a Ward Member, in objection to the application.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 5 December 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Maida Vale	
<b>Subject of Report</b>	<b>Keith House, 47 Carlton Vale, London, NW6 5EX,</b>		
<b>Proposal</b>	Demolition of single storey garages and erection two buildings ranging between one and three storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.		
<b>Agent</b>	Metropolitan Workshop		
<b>On behalf of</b>	City West Homes		
<b>Registered Number</b>	17/06180/COFUL	<b>Date amended/ completed</b>	18 July 2017
<b>Date Application Received</b>	12 July 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

**1. RECOMMENDATION**

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992, including a Grampian condition to secure the removal and replacement of trees adjacent to the site in Paddington Recreation Ground.

**2. SUMMARY**

The application seeks permission for the demolition of 16 garages and erection two buildings ranging between one and three storeys to provide 6 residential units (Class C3), with associated alterations and landscaping. The site does not contain any listed buildings and is not located within a conservation area, but is located at the northern boundary of the Maida Vale Conservation Area where the site adjoins Paddington Recreation Ground.

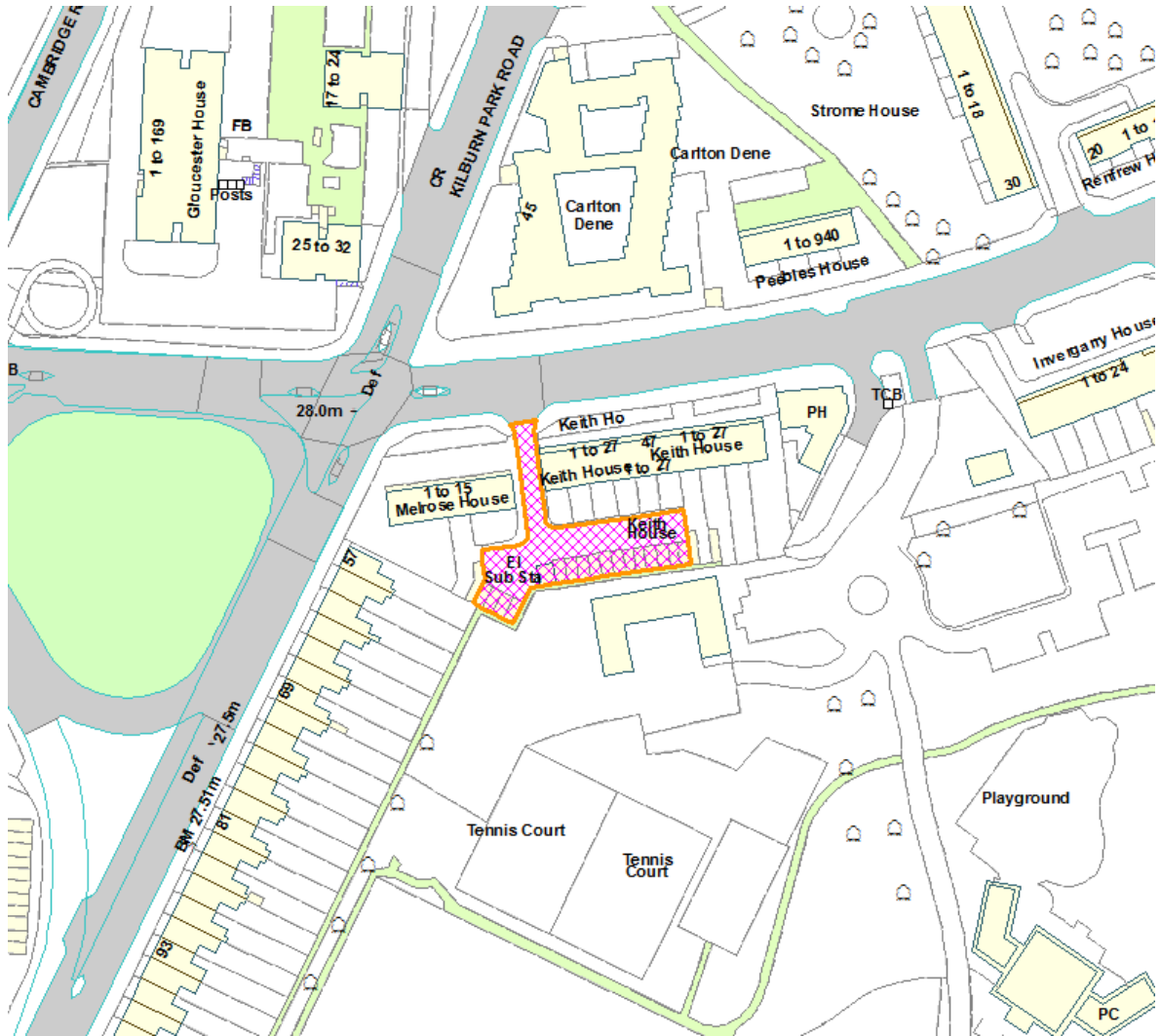
The key issues in this case are:

- The acceptability of the proposed residential units in terms of their size and mix.
- The acceptability of the design of the development and its impact on the setting of the neighbouring Maida Vale Conservation Area.
- The impact on trees neighbouring the application site.
- The impact on the amenity of neighbouring residents.

- The acceptability of loss of existing off-street parking.
- The impact on the availability of on-street residents' parking in the vicinity of the site.

For the detailed reasons set out in this report the proposed development is considered to be acceptable in land use, design, amenity, transportation and environment terms and, given the public benefits of the scheme, would accord with the relevant policies in the Unitary Development Plan adopted in January 2007 (the UDP) and Policy S29 in Westminster's City Plan adopted in November 2016. Therefore the application is recommended for approval subject to the conditions set out in the draft decision letter appended to this report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



View of eastern end of site to rear of Keith House (top) and view of western end of site to rear of Melrose House (bottom).



View of access to garages from Carlton Vale between Keith House (left) and Melrose House (right).

## 5. CONSULTATIONS

### PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Note that there was a consultation event for the scheme but the Society was not notified or invited. Loss of parking is likely to cause an increase in on-street parking demand. Surprised the houses to be accessible for ambulant and non-ambulant residents do not have integral garages. However, note the proposed tenure and overall, subject to the preceding points they support the application. Ask that neighbours views are taken into account.

### ARBORICULTURAL MANAGER

Comments and objection on the following grounds:

- Not clear precisely how many trees are intended to be removed from Paddington Recreation Ground to facilitate the development (supporting documents suggest 15, 16 and 17 trees are to be removed).
- Irrespective of the number proposed to be removed the trees are protected by virtue of being within Maida Vale conservation area. They are largely self-seeded sycamores, and together they create a valuable backdrop to the park and a pleasant outlook for residents of Keith and Melrose Houses. Their loss would have a harmful impact on visual amenity and the character and appearance of the park.
- Question whether the trees could be retained if the trees are not rooting under the existing garages.
- Results of the ecological survey suggest that the trees are also of some wildlife value.
- Merits of the trees as individuals are such that it would not be reasonable to insist on their retention per se. However, the loss of these trees without adequate mitigation would be a justifiable reason for refusal of planning permission.
- Four sycamore trees within the Recreation Ground are proposed to be retained (33, 43 44, 45). Clarification is required in relation to the root barrier that is preventing rooting from these trees under the application site.
- In the absence of clarification of the structures that are currently stated to be acting as a root barrier it is not possible to make an informed judgement as to whether the roots of trees proposed to be retained would be affected by the proposal.
- Tree surgery referred to in the Design and Access Statement is not included in the Arboricultural Statement.
- The proposed tree planting on the site and the three replacement trees in Paddington Recreation Ground are insufficient to mitigate the harm caused by the scale of the proposed tree removal.
- Clarification required regarding the operation of the 'rain garden' as it will impact on the tree species that can be planted on this part of the site.
- Suggest that a biodiverse green roof is provided rather than a sedum roof.

### CLEANSING MANAGER

No objection in principle but a condition is required to ensure the scheme delivers the waste and recycling storage set out in the Transport Statement but not shown on the application drawings.

### DESIGNING OUT CRIME ADVISOR (METROPOLITAN POLICE)

No objection provided the advice provided to the applicant at pre-application stage is followed.



**HEAD OF AFFORDABLE AND PRIVATE SECTOR HOUSING**

Any response to be reported verbally.

**HIGHWAYS PLANNING MANAGER**

Objection to the loss of the existing 16 garages if they are secured by condition to provide residents parking. Loss of garages would be likely to increase pressure on on-street residents parking in the vicinity. Some cycle parking spaces would not be secure and weatherproof. The provision of 6 parking spaces for the 6 new residential units is acceptable. Conditions and informatives recommended.

**LONDON FIRE BRIGADE**

Any response to be reported verbally.

**SPORT AND LEISURE**

Any response to be reported verbally.

**ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS**

No. of Consultations: 52; No. of Responses: 4.

Four emails/ letters received from three respondents raising objection on all or some of the following grounds:

**Land Use**

- Not clear who units are aimed at (i.e. private or social housing or mixed tenure).

**Design**

- Not a good place to build new housing.

**Landscaping**

- Loss of mature trees and shrubs at the fence line will reduce screening of the Forest School site.
- Loss of trees is a disgrace.
- Removal of trees will remove acoustic buffering.
- Loss of trees will have an adverse impact on biodiversity.
- Adverse impact on the heavily used Forest School which is the only access for some children to nature and wildlife.
- Insufficient mitigation of the loss of trees/ biodiversity and the impact on the Forest School.

**Amenity**

- Noise from occupiers of proposed flats, especially if occupied by persons with dogs.

**Highways/ Parking**

- Parking is at a premium and this will make things worse.
- Adverse impact on access for emergency vehicles.

**Other Matters**

- Documents not initially accessible on Council website.

- Adverse impact on the value of neighbouring properties.
- Loss of view of Paddington Recreation Ground.
- Noise and general disturbance during construction.
- Obstruction of access to current storage shed.
- Garages are a valuable amenity.
- Adverse impact on water pressure.
- Not clear who will move bins to collection point.
- One of garages to rear of Keith House is used as a bulky waste store for the estate and does not appear to be replaced.

#### ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site comprises 16 garages originally built to serve the mid 20<sup>th</sup> Century residential flats in Keith House and Melrose House, which front on to Carlton Vale. The planning history records for the Melrose House and Keith House sites do not contain the original planning permissions for these blocks and therefore there is no evidence to establish whether the garages are restricted to use by the occupiers of these blocks by planning condition. The applicant has submitted evidence demonstrating that only 5 of the garages are currently let to occupiers of the adjacent blocks.

The garages are not listed and are not located within a conservation area. However, the site is located adjacent to the northern boundary of the Maida Vale Conservation Area, where it includes Paddington Recreation Ground.

### 6.2 Recent Relevant History

No relevant planning history. The original planning permissions for Keith House and Melrose House are not held within the City Council's records for these sites.

## 7. THE PROPOSAL

The application, made by City West Homes, seeks permission for the demolition of 16 garages and erection two buildings ranging between one and three storeys to provide 6 residential units (Class C3).

The scheme would deliver 1x1 bedroom flat (which would be fully wheelchair accessible), 1x2 duplex flat and 4x3 bedroom houses. The flat and duplex flat would be located in a separate three storey block to the rear of Melrose House, with the wheelchair accessible unit at ground floor level and the duplex flat on the two upper floors with a terrace at first floor level. The three bedroom houses would be located in a three storey terrace to the rear of Keith House and would have small courtyard gardens at ground level and screened terraces at second floor level. Parking for all of the units

(six spaces) would be provided within the public realm to be created between the new residential blocks and Melrose House and Keith House.

To facilitate the development, the applicant has identified that 16 trees in Paddington Recreation Ground would need to be removed along the northern boundary of the recreation ground with the application site due to their proximity to the rear elevations of the proposed buildings. These trees are located outside of the application site boundary and therefore their removal will require separate approval given they are protected trees located within the Maida Vale Conservation Area.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

For the reasons set out in Section 8.4 of this report, it is not considered that the loss of the existing garages can reasonably be resisted in land use terms. In this context, the principle of providing new residential accommodation on this site is acceptable in land use terms and accords with Policies S13 and S14 in the City Plan and Policy H3 in the UDP.

The proposed development would provide a mix of units (1x1 bedroom flat, 1x2 duplex flat and 4x3 bedroom houses) which is consistent with the requirements of Policy H5 in the UDP and Policy S15 in the City Plan. The size and layout of the accommodation would be compliant with the minimum standards set out in the Government's Technical Housing Standards and Policy 3.5 of the London Plan. The provision of a wheelchair accessible flat would accord with Policy H8 in the UDP. As such, the residential accommodation proposed would be of a good standard.

The applicant has identified that the units are intended to be used to provide social rented housing. However, given only six residential units are proposed and the scheme delivers less than 1,000m<sup>2</sup> of new residential floorspace on the site, it does not trigger a requirement to provide affordable housing under Policy H4 in the UDP and Policy S16 in the City Plan. Therefore whilst the provision of the units as a form of affordable housing is welcomed, it is not necessary, nor would it be reasonable to require that the units are provided as affordable housing via a planning condition or legal agreement.

### **8.2 Townscape and Design**

The site is currently functional in appearance reflecting its use as garage accommodation. The garage structures are of simple form and construction and have little, if any, architectural merit. The site is largely screened from Carlton Vale by Keith House and Melrose House and the existing single storey garages on the site cannot be seen from Paddington Recreation Ground given their limited height and the combination of the existing service yard structure within the recreation ground and the 'green screen' of existing trees running along the boundary of the site with the recreation ground.

Given their lack of architectural merit and as they are not located within a conservation area the demolition of the existing garages cannot be resisted and there is no objection to their demolition in design terms in any event.

The bulk and height of the replacement buildings would only be visible in fleeting public views from Carlton Vale, but would be much more readily apparent in views from within Paddington Recreation Ground which forms part of the Maida Vale Conservation Area. In these views the removal of the existing self sown trees at the boundary of the recreation ground (see arboircultural considerations in Section 8.7.1) would mean that the replacement building would be a more stark intervention at the recreation grounds perimeter. However, whilst this impact on the neighbouring conservation area would adversely affect its setting, due to the erosion of its mature landscaped character and appearance, the more prominent of the two proposed buildings would be modulated at second floor level to break down its overall massing and both buildings would be seen against the larger bulk and scale of Keith House and Melrose House, which are immediately beyond the application site to the north. As such, the harm caused to the neighbouring heritage asset (the Maida Vale Conservation Area), would be less than substantial and therefore in accordance with Paragraph 134 of the NPPF the harm must be weighed against the public benefit of the proposal. In this case, the public benefit of providing six residential units on this site is considered to outweigh the harm caused to the setting of the neighbouring conservation area.

In addition to the modelling of the bulk and mass at second floor level, referred to in the preceding paragraph, both blocks would have front wings at ground floor level, with the massing of the buildings further broken down by the use of brickwork in differing brickwork patterns and bonds.

In terms of footprint, the proposed development would have a comfortable relationship to Keith House and Melrose House with the block to the rear of Melrose House 16m from the rear of Melrose House and the block to the rear of Keith House 15m from the rear of Keith House (excluding the bays to the front elevation at ground floor level that would be screened by the existing rear boundary wall of Keith House. At these distances and given the modulated three storey form of the proposed development described earlier in this section of the report, the proposal would not comprise overdevelopment of the site in design terms.

The scheme proposes the use of yellow/ brown brick as the predominant facing material and this is appropriate given the predominant use of brick in the construction of immediate neighbouring buildings. The palette of materials is otherwise relatively restrained with dark grey aluminium windows and timber garage and front doors. The majority of the detailing to the houses would be generated by use of the brick in less traditional forms, such as laid in multiple soldier courses. This is not considered to be objectionable as this reflects that the development is conceived as a contemporary interpretation of a traditional mews house form. As noted above, it also assists in breaking down the bulk and massing of the mews houses. Sample panels of the brickwork and other facing materials and details of the key elevational treatments are to be secured by condition to ensure they are appropriate.

In conclusion in design terms, whilst the development and associated tree removal would cause less than substantial harm to the setting of the neighbouring Maida Vale Conservation Area, the public benefits of the development would outweigh the degree of harm caused. The scheme is otherwise sensitively designed in terms of its scale and architectural detailing and, subject to the recommended conditions, would be acceptable

in design terms and in accordance with the Policies DES1, DES4 and DES9 in the UDP and Policies S25 and S28 in the City Plan.

### 8.3 Residential Amenity

The applicant has submitted a daylight and sunlight assessment of the proposed development, which assesses its impact on properties in Melrose House, Keith House and Nos.57 and 59 Kilburn Park Road.

As a result of the distance between the proposed three storey buildings and the existing blocks (16m from the rear of Melrose House and 15m from the rear of Keith House), the proposed development would not result in a material loss of daylight or sunlight to any windows in Keith House or Melrose House. Similarly no windows in Nos.57 and 59 Kilburn Lane would suffer a material loss of daylight or sunlight. That is not to say there would be no losses to neighbouring windows, rather the losses caused would all be less than the 20% threshold set out in the Building Research Establishment (BRE) Guidelines (2011), below which the BRE considers that the impact would be imperceptible to the occupiers of the affected windows.

In terms of increased enclosure the scheme would introduce two three storey buildings to the rear of Keith House and Melrose House. The block to the rear of Keith House would be well set back from the rear elevation of the existing block and the rear windows of Keith House already look out onto the two storey high rear elevation of the maintenance depot within the recreation ground. In this context, whilst the proposed building would be a storey higher and closer to the rear of Keith House, the increase in enclosure would not be so significant so as to warrant withholding permission.

The block to the rear of Melrose House and at the end of the rear gardens of properties in Kilburn Park Road would be smaller in terms of its bulk and set at a 45 degree angle to the rear of Melrose House, such that it views out of the rear windows of Melrose House and properties in Kilburn Park Road would appreciate views beyond the proposed building in most instances. As such, whilst the proposed building would be readily appreciable from these neighbouring buildings, the impact would not amount to an unacceptably increased sense of enclosure.

The scheme has been carefully considered to limit the number and size of windows where they would face existing windows in adjoining properties, so as to avoid overlooking. As a result, whilst there would be some increase in overlooking from new windows within the proposed development, the effect would not be such that the objections raised on this ground could be supported. The scheme includes a number of roof terraces and all of these external amenity spaces would be adequately screened by timber louvred privacy screens, the detail of which is to be secured by condition. The amenity spaces at ground floor level would be screened by the existing rear boundary walls of gardens to the rear of Keith House and Melrose House and all of the amenity spaces would be sufficiently small so as not to give rise to significant noise concerns as a result of their use.

Conditions are also recommended to control the potential future amenity impact of the development. The recommended conditions comprise a condition to prevent the future addition of new windows or extensions under permitted development rights, which may

increase enclosure or overlooking to neighbours, and to prevent the use of the roofs of the houses as roof terraces, except where terraces are proposed as part of the proposed development.

Subject to the recommended conditions the proposed development is considered to be acceptable in amenity terms and would accord with Policy ENV13 in the UDP and S29 in the City Plan.

#### 8.4 Transportation/Parking

The Highways Planning Manager objects to the loss of the existing garages on basis that their loss is likely to increase the pressure on on-street residents' parking in the vicinity of the site. However, he notes that this objection is on the basis that the existing garages are protected by condition. In this case no evidence can be found to demonstrate that the existing garages are restricted by condition to use by occupiers of adjoining residential blocks (Keith House and Melrose House). In addition, the applicant's evidence indicates that the garages are currently largely underused, with only five of the 16 garages let to occupiers of Keith House (see Table 2 below). The applicant advises that of the occupied garages, only one was used for car parking when visually inspected in April 2017. Parking Services have reviewed on-street residents parking permits on issue to occupiers of Keith House and Melrose House and this shows that 19 vehicles are already parked on street that are registered to occupiers of these blocks. In this context, and having regard to the public benefit of providing additional housing on this site, it is not considered that the loss of the garages would have such a demonstrable impact on on-street parking pressure in the immediate vicinity of the site so as to warrant withholding permission pursuant to Policies STRA25 and TRANS23 in the UDP.

**Table 2 – Location of Existing Garage Leasees and Letting Status of Garages.**

ID	Occupier Address	Status
1	-	Vacant
2	-	Vacant
3	-	Vacant
4	-	Vacant
5	Keith House	Let
6	Keith House	Let
7	Keith House	Let
8	Keith House	Let
9	-	Vacant
10	-	Vacant
11	-	Vacant
12	-	Vacant
13	-	Vacant
14	Keith House	Vacant
15	-	Vacant
16	-	Vacant

The applicant has provided vehicle tracking to demonstrate that the six parking spaces proposed would be accessible to typical sized vehicles and the Highways Planning

Manager does not object to the parking layout proposed. The provision of one parking space for each residential unit within the development, including the wheelchair accessible unit would accord with Policy TRANS23 in the UDP.

The Paddington Waterways and Maida Vale Society state that they would expect parking to be provided in garages within the residential units; however, this would reduce the quantum and quality of the residential accommodation that could be provided on the site and as such, the amenity societies concerns in this regard are not supported. Furthermore, there is no policy requirement for car parking to be provided in the form of garage accommodation.

The scheme includes cycle parking in a communal store for the two flats and within stores in the front gardens of the four dwellinghouses. It is unclear whether these cycle stores would be weather proof and secure and therefore it is recommended that further details of the stores are secured by condition to address the Highways Planning Managers concerns in this regard.

The Cleansing Manager does not object to the general strategy of waste storage, with waste stores provided within each house/ flat, with a communal store at the entrance to the development from which the waste and recycling would be collected. However, he has requested that the detail of the strategy is shown more clearly on the approved drawings and therefore a condition is recommended to ensure the waste and recycling storage is amended to address the detailed issues raised in the Cleansing Manager memo. The applicant has confirmed that a member of City West Homes staff will be responsible for ensuring waste and recycling bins will be presented ready for collection by the Council's refuse contractor and returned to the store following collection. Subject to the recommended condition the proposal would accord with Policy ENV12 in the UDP.

A number of objectors have raised concerns regarding the accessibility of the rear of Helmsdale House for emergency services in the event of a fire. The proposed development is not to be gated and therefore free access to the rear of Helmsdale House would be retained; albeit the available space for the manoeuvring of a fire appliance or similar would be reduced relative to the existing situation. The views of the London Fire Brigade on this aspect of the scheme have been sought and will be reported verbally to the Sub-Committee.

## **8.5 Economic Considerations**

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

## **8.6 Access**

The forecourt of the proposed development would provide level access to the new residential units from the public highway. All four dwellinghouses would have level access to their ground floor level, with the wheelchair accessible flat designed so that the whole unit is fully accessible to wheelchair users. This accords with Policies DES1 and H8 in the UDP and S28 in the City Plan.

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

### 8.7.1 Tree Impact

Since the Arboricultural Manager's initial comments on the application the applicant has confirmed that it is intended to remove 16 trees from the adjoining Paddington Recreation Ground to facilitate the development (14 x Sycamores and 2 x Elders). The applicant has also provided other information seeking to address some of the Arboricultural Managers other initial concerns and any response to these will be reported verbally to the Committee.

The trees to be removed appear to be self sown and are located immediately adjacent to the boundary of the recreation ground with the application site, such that their retention would be difficult to accommodate without substantial and regular pruning of the canopies of the trees. It is accepted that in practice the proximity of the trees to the boundary is likely to mean their retention is not practical in such close proximity to residential accommodation.

As noted in Section 8.2, the loss of these trees, although generally of limited individual quality, will have a material impact on the character and appearance of this part of the Maida Vale Conservation Area, as their group value contributes to the mature planted screen to the majority of the northern edge of the recreation ground. The trees also form part of the setting for the 'Environmental Area'/ Forest School area within the recreation ground, which is used by local school groups for learning about the environment as the current setting provides a comparatively natural and biodiverse setting within the surrounding urban landscape. Accordingly the loss of these trees will also have an adverse impact on this particular function within the recreation ground and this is an issue of particular concern to one objector.

Whilst the provision of 6 new residential units does offer public benefit which is sufficient to outweigh some of this harm that would be caused to the function and appearance of this part of the recreation ground, it is considered that the extent of tree loss likely as a result of the development can only be considered favourably if substantive replacement planting of suitable tree species within the recreation ground, ideally within a similar area to where the trees are intended to be removed, is proposed. At present the applicant proposes three replacement trees within the recreation ground with three further smaller trees within the landscaping scheme for the development itself. The trees within the landscaping for the development will not contribute to the character and appearance of the Maida Vale Conservation Area as they wouldn't be visible from within the recreation ground and therefore cannot be considered to mitigate the trees that are likely to be removed. Therefore only three trees to mitigate the 16 trees likely to be lost are proposed. The Arboricultural Manager considers this number to be insufficient to adequately mitigate the number of trees that are likely to be removed and her view in this regard is supported.

A condition is therefore recommended to firstly deliver appropriate arrangements prior to commencement of development to secure the tree removals necessary to allow the development to be carried out. This is necessary as the trees to be removed are on land outside the red line of the application site, which is not within the applicant's control. Therefore whilst it is necessary as part of the current application to consider the implications of the development on the adjoining trees (namely that the 16 trees are likely to be removed), the planning application cannot expressly grant the necessary



consent for their removal. It is recommended that the condition also requires the provision of appropriate arrangements for replanting of replacement trees within the recreation ground and the expectation is that significantly more than 3 trees will be provided to mitigate the trees to be lost.

Any further comments from the Arboricultural Manager on the proposed tree protection measures during construction works for retained trees will be reported verbally to the Committee.

### **8.7.2 Biodiversity**

The applicant has assessed the impact of the development on wildlife and this includes assessment of the likelihood of bats roosting in the existing garage structures. The assessment concludes that given their condition, the garages are unlikely to provide for bat roosting and therefore their demolition is unlikely to disturb this protected species. An informative is recommended to advise the applicant of the measures to be taken in the unlikely event that roosting bats are discovered. A similar informative is recommended to remind the applicant of the requirements to avoid disturbing nesting birds.

The submitted Ecological Appraisal and Surface Water Drainage Strategy suggest that a green roof will be provided on the flat roofs of the proposed buildings. This is not indicated on the drawings, but the applicant has verbally advised that green roofs are proposed. The provision of green roofs is considered to be necessary on three grounds. Firstly the scheme does not include a substantive area of soft landscaping at ground level and a green roof would mitigate this lack of landscaping and the tree loss necessary to facilitate the development; secondly the roofs of the buildings will be significantly overlooked and the provision of a green roof would substantially enhance the visual appearance of these flat roofs; and thirdly the green roofs are necessary to provide attenuation of water run off as set out in the applicant's drainage strategy. A condition is therefore recommended requiring the submission of revised drawings showing a green roof on the flat roofs at first floor level and at main roof level where they are not to be used as roof terraces. The condition will also require the provision of the green roofs prior to occupation and their retention thereafter.

The Arboricultural Manager comments that a biodiverse green roof should be considered rather than a sedum green roof to enhance the range of species supported by the green roofs. Whilst the desire for such a specification of green roof is understood, it is not considered that it is necessary to deliver the benefits set out in the previous paragraph.

### **8.7.3 Sustainability**

As identified in the application documents, the site is in an area of low flood risk and is therefore an appropriate and sustainable location for residential development.

The energy strategy for the development targets compliance with 2013 Building Regulations, primarily through the energy efficiency of the building fabric. Given that this is a non-major development of limited scale this is acceptable and in accordance with Policy S28 in the City Plan. The submitted Energy Strategy also includes the provision of PV panels, although these are not indicated on the application drawings. A condition is

recommended to secure the provision of the photovoltaic panels so that on-site renewal energy is provided in accordance with Policies S28 and S40 in the City Plan.

### **8.8 London Plan**

The 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**

With the exception of the appropriate arrangement to secure removal of the existing 16 trees within Paddington Recreation Ground and secure replacement tree planting, which are to be obtained via a Grampian condition (see Section 8.7.1), no other planning obligations are relevant in the determination of this application.

The proposed development would be CIL liable; however, if built as social rented affordable housing it is likely to be eligible for CIL relief.

### **8.11 Environmental Impact Assessment**

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

### **8.12 Other Issues**

The impact of development on the value of neighbouring properties and on private views are not valid planning grounds for objection and therefore permission cannot reasonably be withheld on the basis of objections raised on these grounds.

Objection has been raised on grounds that the proposal will cause noise and general disturbance during construction works to neighbouring residents. Permission could not reasonably be withheld on the basis of the impact of construction works; however, the impact of construction works would be mitigated by the recommended condition restricting the hours of building works to between 08.00 to 18.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays, with no works permitted on Sundays and Bank Holidays.

Concerns have been expressed that obstruction would be caused to existing storage sheds located to the rear of Keith House and Melrose House. However, the scheme has been designed to ensure that access to these sheds for existing residents will be maintained.

## **9. BACKGROUND PAPERS**

5. Application form.

6. Email from the Paddington Waterways and Maida Vale Society dated 1 September 2017.
7. Memo from the Cleansing Manager dated 4 August 2017.
8. Email from the Metropolitan Police dated 14 August 2017.
9. Memo from the Highways Planning Manager dated 18 August 2017.
10. Memo from the Arboricultural Manager dated 17 October 2017.
11. Emails from the occupier of 15 Melrose House, 49 Carlton Vale (x2) dated 3 August 2017
12. Email from the occupier of the Main Pavilion, Paddington Recreation Ground dated 7 August 2017.
13. Email from the Carlton Vale RMO, 1 Helmsdale House, 43 Carlton Vale dated 10 August 2017.
14. Letter from the occupier of 1 Melrose House, 49 Carlton Vale dated 14 August 2017.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

**DRAFT DECISION LETTER**

**Address:** Keith House, 47 Carlton Vale, London, NW6 5EX,

**Proposal:** Demolition of single storey garages and erection of two buildings ranging between one and three storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.

**Reference:** 17/06180/COFUL

**Plan Nos:** 1638-3/A/106/003 (Site location plan), 1638-2/A/103/000, 1638-3/A/106/001 Rev.P1, 1638-3/A/106/002 Rev.P1, 1638-2/A/102/000, 1638-2/A/102/001, 1638-3/A/101/001, 1638-3/A/101/002, 1638-3/A/101/003, 1638-3/A/101/004, Design and Access Statement dated July 2017, Daylight and Sunlight Study dated 20 April 2017, Arboricultural Impact Assessment dated 30 October 2017, 1004.2.01, letter from LUC dated 02.11.2017, Acoustic Planning Report dated March 2017, Air Quality Assessment dated April 2017, Statement of Community Involvement dated July 2017, Ground Investigation Report dated May 2017, Transport Statement dated 4 July 2017 (Version 3), Surface Water Drainage Strategy dated July 2017, Design Notes to Accompany Planning Submission dated July 2017, Ecological Assessment dated June 2017, Energy Statement dated 14 June 2017 (Issue 01) and Planning Statement dated June 2017 (Rev.A (for information only)).

**Case Officer:** [Name]

**Direct Tel. No.** 020 7641 2680

**Recommended Conditions 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 good planning.

- 2 Except for piling, excavation and demolition work, you must carry out 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 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 under 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). (C11)

Reason:

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

- 3 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 (November 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 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 (November 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 detailed drawings of the following parts of the development: , (a) All windows in context with the window surrounds and window reveals., (b) All external doors., (c) Timber screens to balconies., (d) Enclosure around existing sub-station., (e) Waste and recycling collection storage structure., (f) Front boundary walls/ fences to the 3 bedroom houses., , 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 (November 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 terraces. (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 (November 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 where the drawings hereby approved are cross hatched and annotated 'Terrace', you must not use the roofs of the building for sitting out or for any other purpose. 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 (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 8 You must not form any windows or other openings (other than those shown on the plans) in the outside walls of the dwellinghouses forming part of this development or erect any extensions without our permission. This is despite the provisions of Classes A, B, C and D of Schedule 2, Part 1 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 and protect the appearance of the development and this part of the City. This is as set out in S28 and S29 of Westminster's City Plan (November 2016) and DES1, DES5, DES6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 9 You must apply to us for approval of detailed drawings showing the following alteration to the scheme: , , - Provision of a living green roofs on all flat roofs at first floor and main roof level that are not to be used as roof terraces., , 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 and the living green roof must be installed prior to the occupation of the development. Thereafter the green roof must be permanently retained in the approved locations. (C26UB)

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 10 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)

- 11 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:  
 , - Revised cycle parking for the residential units that is weather proof and secure., , 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 and install the cycle parking we approve prior to occupation of the residential units. Thereafter the cycle parking must be permanently retained. (C26UB)

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.

- 12 Notwithstanding the bin stores shown some of the drawings and documents hereby approved, 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 (the details must include (i) the location of the communal bin store, (ii) the bins for waste and recycling should be indicated with the letters 'w' and 'r' respectively, and written confirmation should be given of under counter waste and recycling storage compartments in the kitchens of the residential units). , , 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 occupying the dwellinghouses. (C14EC)

Reason:

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

- 13 You must provide the timber privacy screens around the roof terraces in accordance with the drawings hereby approved (and as detailed in the drawings we approve pursuant to Condition 5) prior to occupation of the development. Thereafter the timber privacy screens must be permanently retained in accordance with the approved drawings.

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 (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 14 **Pre Commencement Condition.** You must not start work on the site until we have approved appropriate arrangements to secure the following: , (a) Removal of trees in Paddington Recreation Ground necessary to facilitate the development., (b) Replacement tree planting within Paddington Recreation Ground to adequately mitigate the trees to be removed pursuant to (a) in terms of their contribution to the 'green screen' to the northern edge of the recreation ground and the existing 'Environmental Area'. , In the case of each of the above benefits, you must include in the arrangements details of when you will

Item No.
<b>11</b>

provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19AB)

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 and S38 of Westminster's City Plan (November 2016) and in ENV15, ENV16, ENV17 and DES9 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

- 15 Notwithstanding the landscaping shown in the application drawings and documents, 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 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 5 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 and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)

- 16 You must apply to us for approval of detailed drawings showing the following alteration to the scheme: , - Provision of photovoltaic panels in accordance with the submitted Energy Statement dated June 2017., , 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 development and thereafter you must permanently retain the photovoltaic panels. (C26UB)

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 (November 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 (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.



- 2 The trees within Paddington Recreation Ground are in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. This permission does not permit the removal of the trees within the recreation ground as indicated on drawing LD-SKE-001 Rev.A as they located outside the application site. You will need to make a separate tree works application should you wish to remove the trees. This would form part of the appropriate arrangements required pursuant to Condition 14.
- 3 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)
- 4 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).
- 5 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)
- 6 When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. For more advice, please speak to our Biodiversity Project Manager on 020 7641 1951. (I81DA)
- 7 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.**

- 8 Under condition 14 we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure the removal of trees necessary to facilitate the development and to plant replacement trees within Paddington Recreation Ground to mitigate the loss of the trees that are removed. 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. (I77AA)
- 9 One or more of the conditions above prevent work starting on the development until you have applied for, and we have given, our approval for certain matters. It is important that you are aware that any work you start on the development before we have given our approval will not be authorised by this permission. (I77BA)
- 10 When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. For more advice, please speak to our Biodiversity Project Manager on 020 7641 1951. (I81CA)

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>12</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 January 2018	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> Maida Vale	
<b>Subject of Report</b>	<b>Helmsdale House, 43 Carlton Vale, London, Nw6 5en,</b>		
<b>Proposal</b>	Demolition of single storey garages and erection of buildings ranging between two and four storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.		
<b>Agent</b>	Metropolitan Workshop		
<b>On behalf of</b>	City West Homes		
<b>Registered Number</b>	17/06181/COFUL	<b>Date amended/ completed</b>	18 July 2017
<b>Date Application Received</b>	12 July 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of but opposite Maida Vale		

## 1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## 2. SUMMARY

The application was reported to the Planning Applications Sub-Committee on 5 December 2017. The Sub-Committee resolved to defer the application for the following reason:

*'That the application be deferred, to enable Members of the Sub-Committee to carry out a site visit; and for the applicant to provide further information on vehicular accessibility of the proposed parking areas within the site and for emergency vehicle access into the site.'*

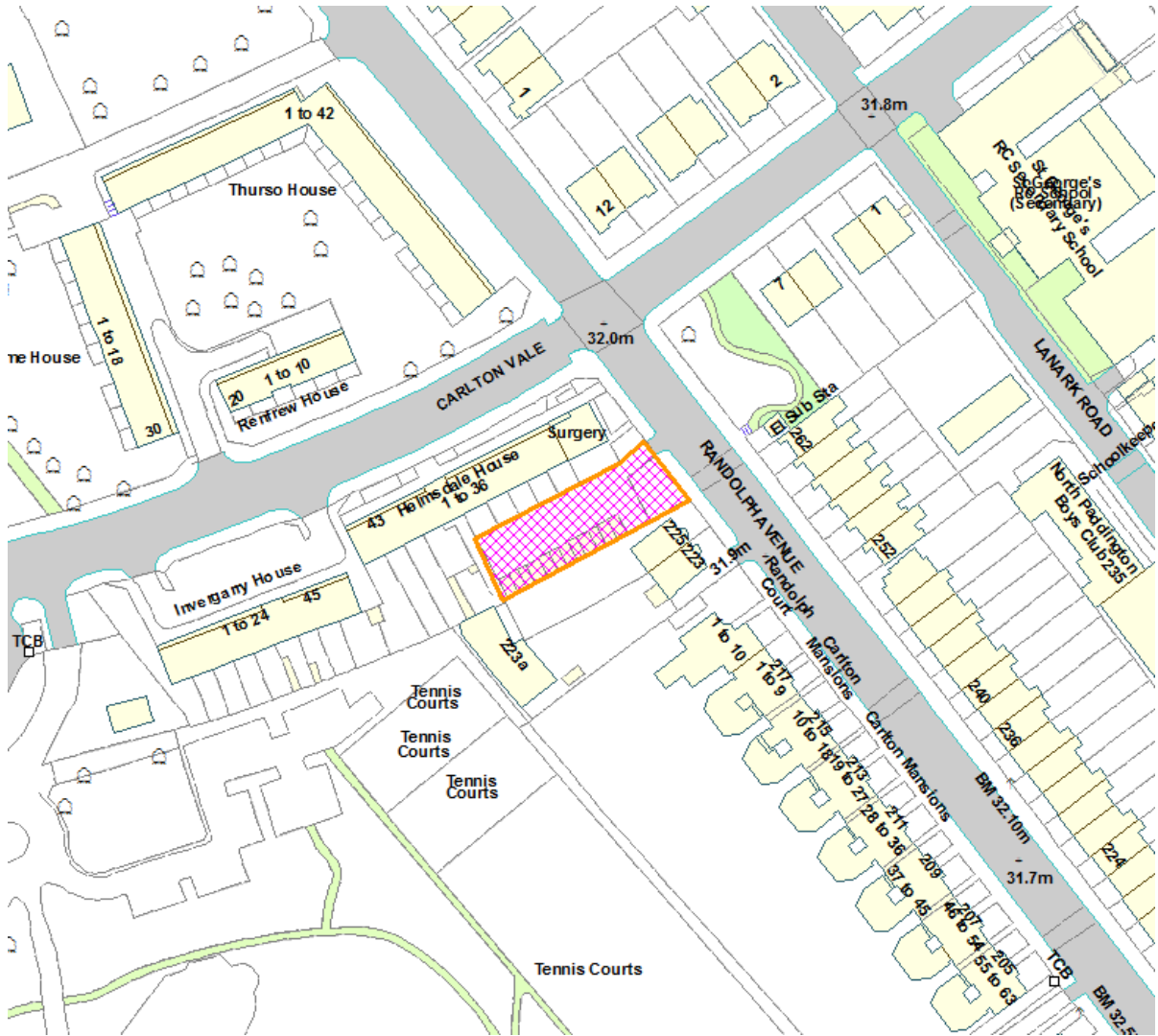
Since the previous Sub-Committee meeting the Members of the Sub-Committee undertook a Committee site visit on 21 December 2017.

The applicant has provided further information to demonstrate the accessibility of the proposed parking spaces. This exercise has resulted in a reduction in the number of parking spaces proposed on this site from 5 to 4 as the additional tracking carried out in response to the Sub-Committee's concerns has highlighted that the end space is required to parallel park into the adjacent space opposite the

proposed development. This reduces the car parking ratio from 0.83 spaces per unit to 0.66 spaces per unit. Whilst this is regrettable, the ratio remains relatively high and as such it is not considered that the reduction in the number of off-street parking spaces to be provided for the new residential units is a ground on which permission could reasonably be withheld. The remaining spaces are demonstrated to be accessible to vehicles up to a 'medium size' (i.e. vehicles measuring 4.2m x 1.7m). The tracking drawings submitted have been included in the background papers.

Tracking diagrams for emergency vehicles have also been submitted. In this case, the access to the site is already too narrow to accommodate a fire appliance and therefore there would be no change to the existing positioning of the fire appliance in the event of a fire at Helmsdale House (i.e. it would be situated on Carlton Vale or in Randolph Avenue. The proposed scheme will include a dry riser to allow fire fighting along the full length of the site and this could be used in an emergency either within the proposed development or Helmsdale House. The London Fire Brigade have confirmed that the level of access and the fire safety strategy proposed are acceptable. Comments on the application from the London Fire Brigade are provided in the background papers.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



View of site from Randolph Avenue (top) and view of garages from within the site (bottom).

## 5. CONSULTATIONS

### ADDITIONAL AND LATE REPRESENTATIONS REPORTED VERBALLY TO THE PLANNING APPLICATIONS SUB-COMMITTEE ON 5 DECEMBER 2017

#### BUILDING CONTROL

The Transport Statement states fire appliances will also not be able to fit into the site, so will service the site from Randolph Avenue. This may be possible but there are limitations. For instance, if they design in accordance with British Standard 9991, the distance between the fire appliance and any point within the house (in houses having no floor more than 4.5 m above ground level) may be up to 90m.

#### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. Of Responses: 3 emails raising objection on all or some of the following grounds:

- Proposal would hinder emergency access.
- Noise and disturbance from construction works.
- Increased overcrowding of the area.
- Increased density and no additional amenity areas.
- Impact on existing low water pressure.
- Adverse impact on local on-street parking.
- Revisions have shifted impact in terms of enclosure and loss of light from one set of residents in Helmsdale House to another.
- Do not consider benefits of the scheme outweigh the harm.
- Scheme fails to deliver improvements to existing flats in Helmsdale House.
- Query what provision has been made for waste and recycling collections.
- Concern that the proposal will encourage further dumping of rubbish in Randolph Avenue.

### REPRESENTATIONS NOT REPORTED TO THE PLANNING APPLICATIONS SUB-COMMITTEE ON 5 DECEMBER 2017

#### LONDON FIRE BRIGADE

Two responses advising they do not object to the arrangements for this site.

## 6. BACKGROUND PAPERS

1. Application form.
2. Representations as reported to the Planning Applications Sub-Committee on 5 December 2017.
3. Applicant's Addendum Note dated 21 December 2017 and Addendum Drawings Document dated January 2018
4. Emails from the London Fire Brigade dated 27 November 2017 and 21 December 2017.
5. Email from the occupier of 25 Helmsdale House, 43 Carlton Vale dated 27 November 2017.
6. Email from the occupier of 31 Helmsdale House, 43 Carlton Vale, dated 27 November.

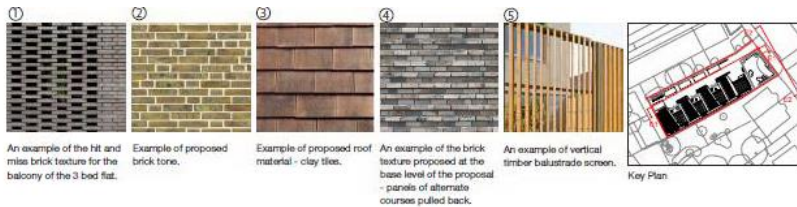
7. 2017.
8. Email from the occupier of 223 Randolph Avenue dated 28 November 2017.
9. Undated email from Building Control.

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

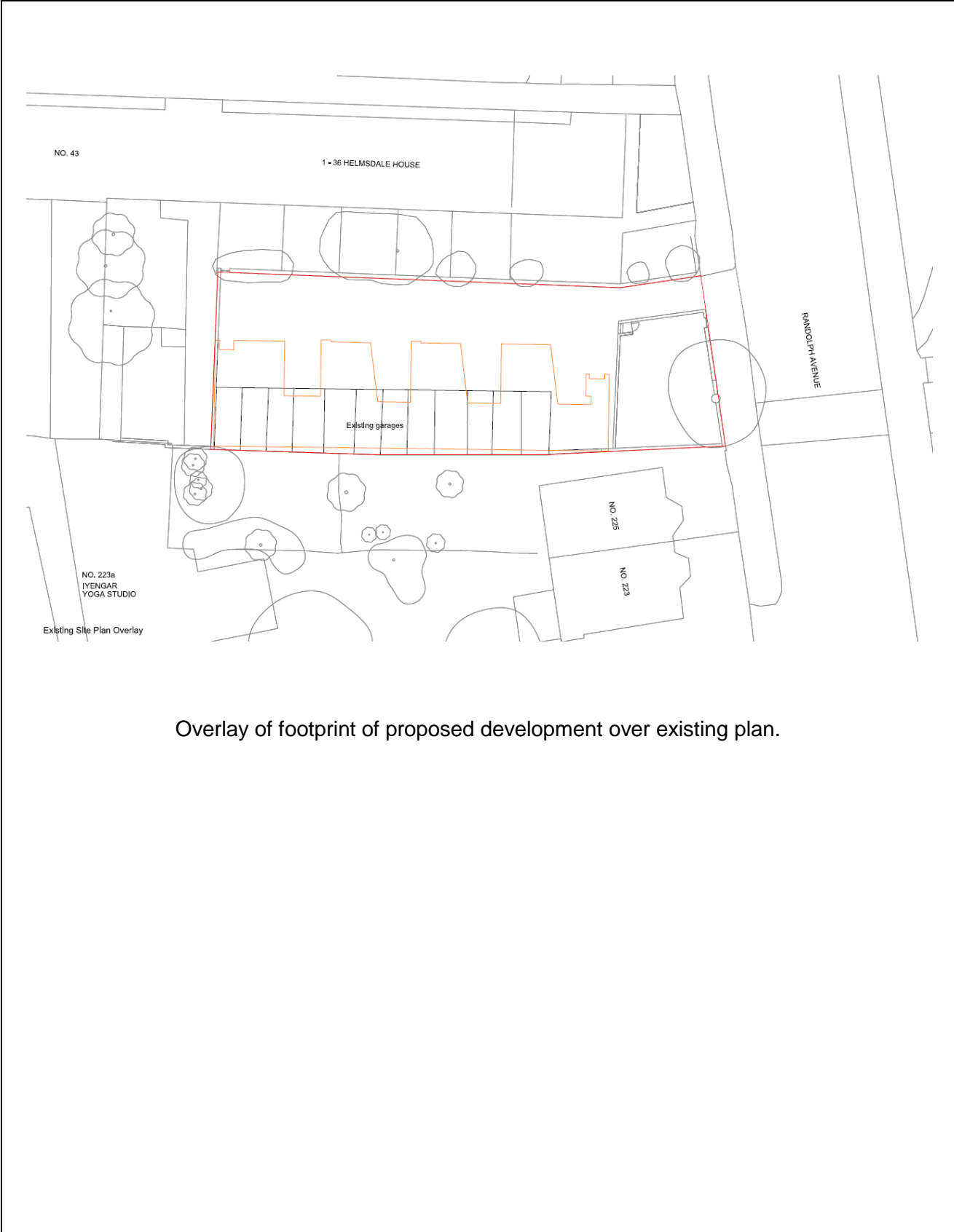
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).



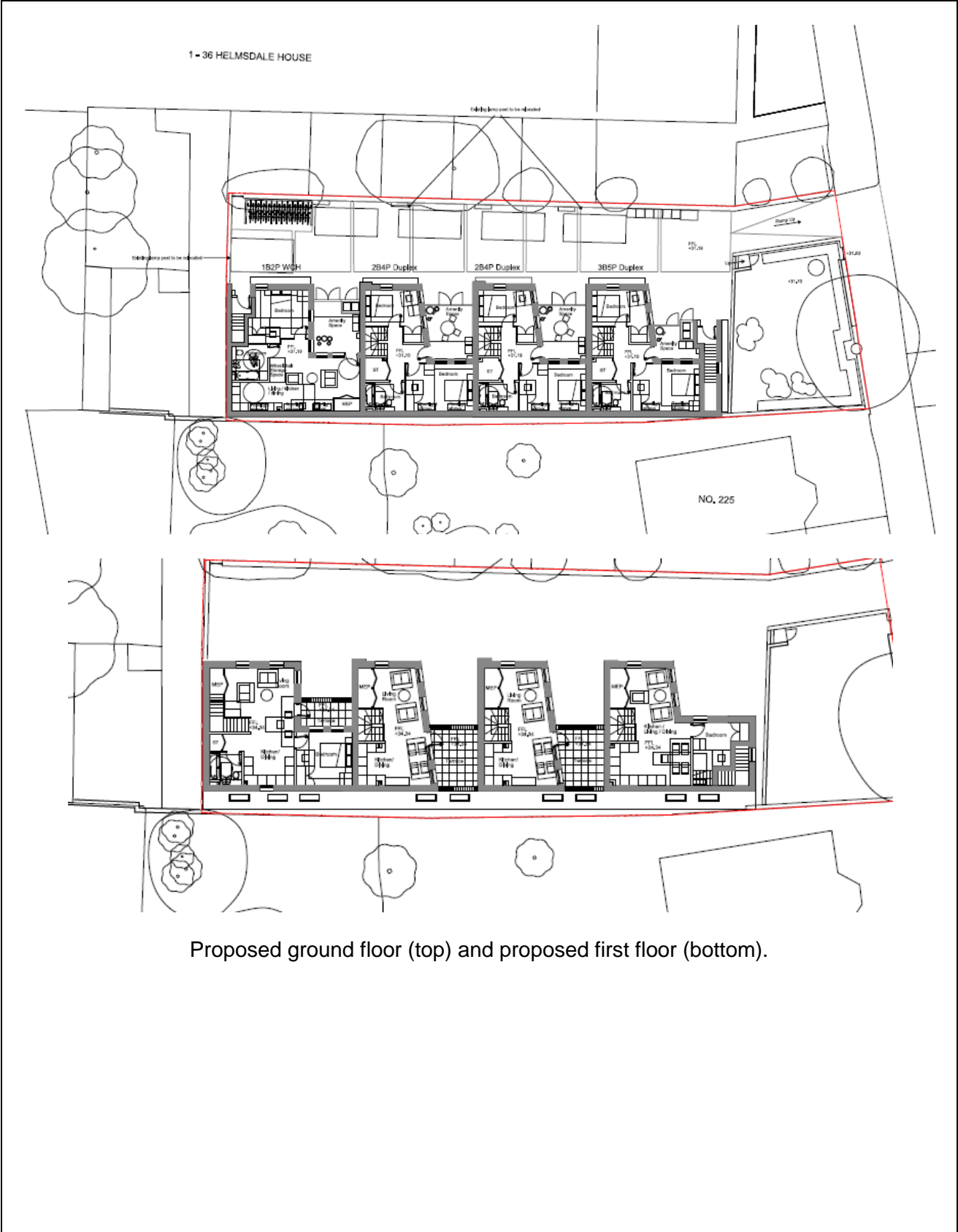
7. KEY DRAWINGS

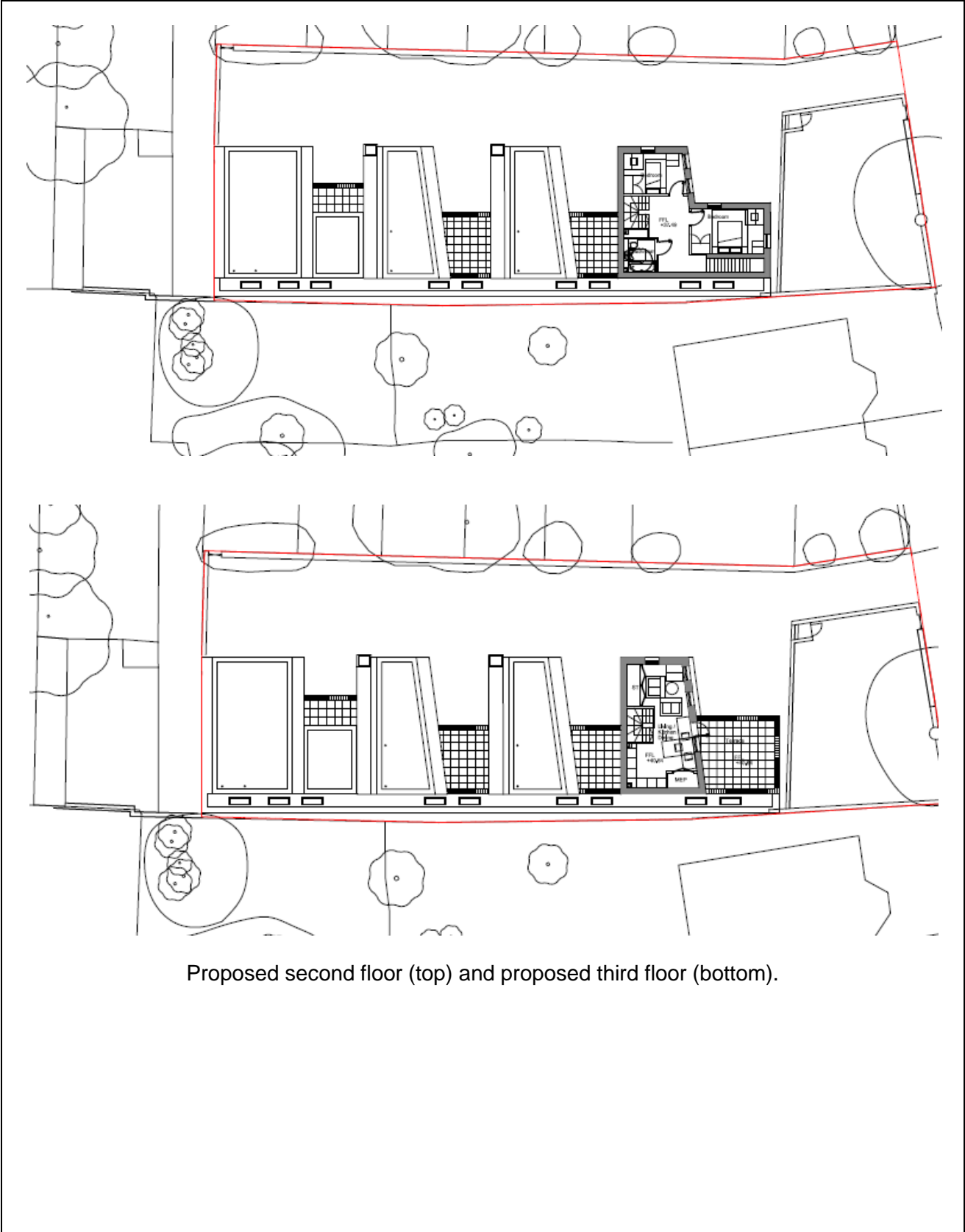


Photomontage of proposed development as seen from Randolph Avenue (top) and colour north elevation facing the rear of Helmsdale House (bottom).



Overlay of footprint of proposed development over existing plan.



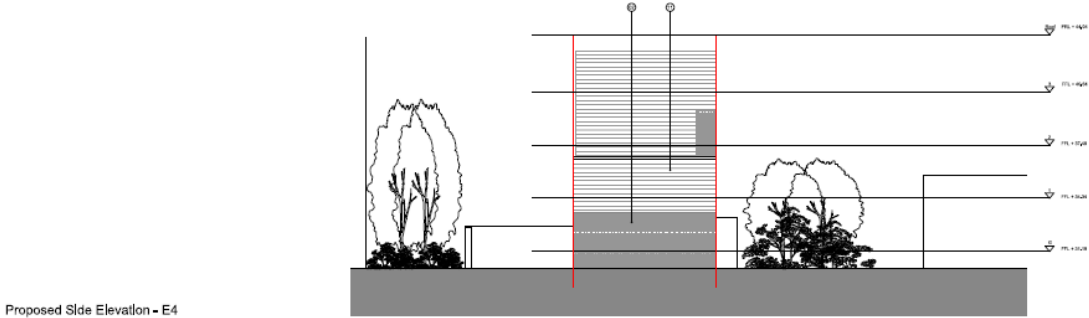


Proposed second floor (top) and proposed third floor (bottom).



Proposed roof plan (top) and proposed side (north – facing Helmsdale House) and proposed front (east – facing Randolph Avenue) elevations (bottom).





Proposed side elevation (south – facing No.225 Randolph Avenue) (top) and proposed west elevation (bottom).

## MINUTES OF PROCEEDINGS

### Planning Applications Sub-Committee (2) – 5 December 2017

#### **3 HELMSDALE HOUSE, 43 CARLTON VALE, LONDON, NW6 5EN**

Demolition of single storey garages and erection of buildings ranging between two and four storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.

Additional representations were received from Mrs Lam Yuk Fong Chow, Mr Colin Morley, and Mr Colin Burns (November 2017).

Councillor Jan Prendergast addressed the Committee in her capacity as a Ward Member, in objection to the application.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 5 December 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Maida Vale	
<b>Subject of Report</b>	<b>Helmsdale House, 43 Carlton Vale, London, NW6 5EN,</b>		
<b>Proposal</b>	Demolition of single storey garages and erection of buildings ranging between two and four storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.		
<b>Agent</b>	Metropolitan Workshop		
<b>On behalf of</b>	City West Homes		
<b>Registered Number</b>	17/06181/COFUL	<b>Date amended/ completed</b>	18 July 2017
<b>Date Application Received</b>	12 July 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of but opposite Maida Vale		

## 1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## 2. SUMMARY

The application seeks permission for the demolition of the existing 12 single storey garages and erection of buildings ranging between two and four storeys to provide 6 residential units (Class C3), with associated alterations and landscaping. The site does not contain any listed buildings and is not located within a conservation area, but is located opposite the boundary of the Maida Vale Conservation Area, both to the front (east) of the site and to the side (south) of the site where the boundary of the conservation area runs to the south of Nos. 223 and 225 Randolph Avenue.

The scheme has been amended during the course of the application to reduce the western end of the development from 3 to 2 storeys and increase the height of the western end (front) of the scheme from 3 to 4 storeys, with associated alterations to the detailed design of the scheme. The amendments have been the subject of further consultation with neighbouring residents and other relevant consultees and the responses received are set out in Section 5 of this report.

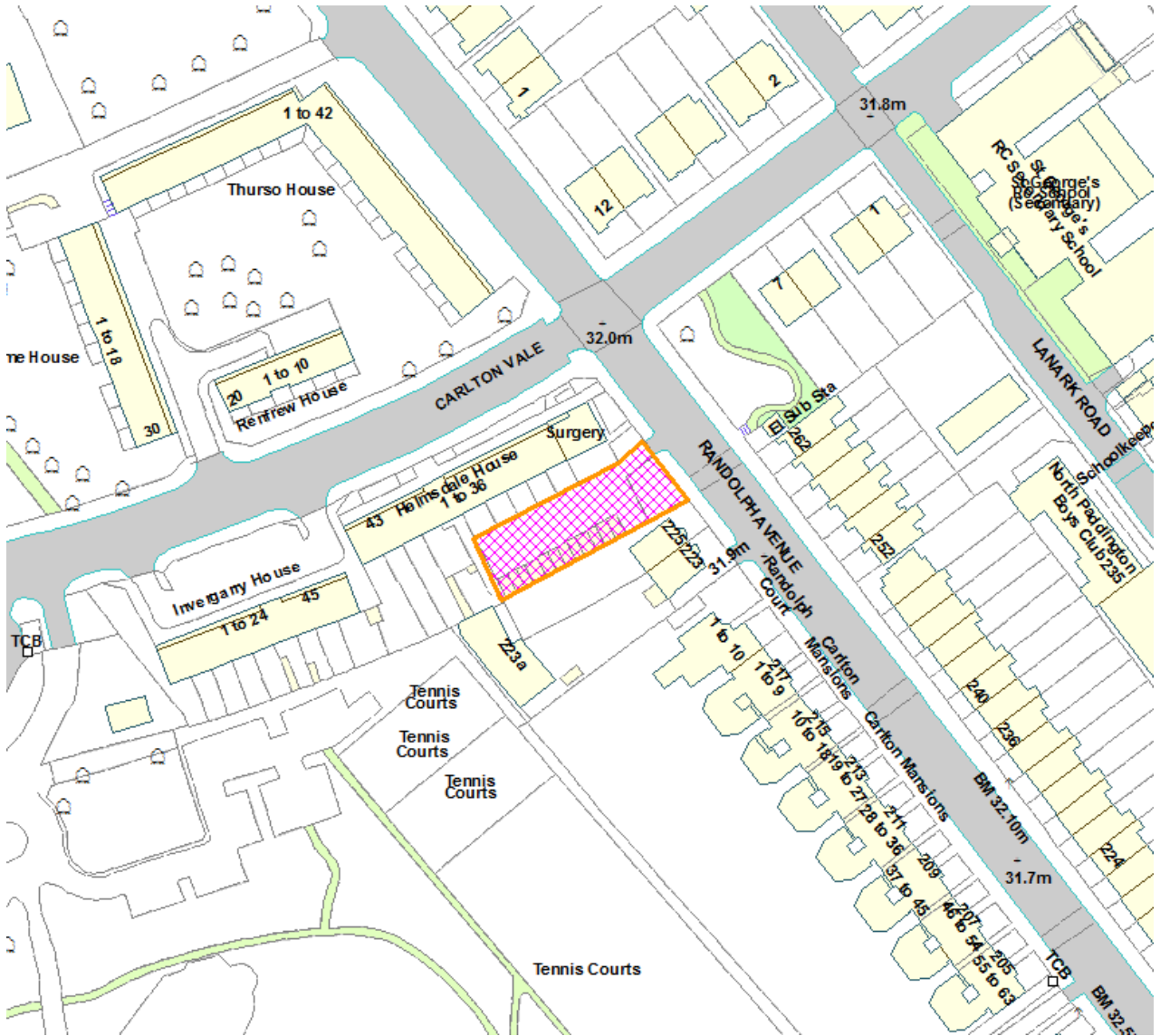


The key issues in this case are:

- The acceptability of the proposed residential units in terms of their size and mix.
- The acceptability of the design of the development and its impact on the setting of the neighbouring Maida Vale Conservation Area.
- The impact on the amenity of neighbouring residents.
- The impact on trees neighbouring the application site.
- The acceptability of loss of existing off-street parking.
- The impact on the availability of on-street residents' parking in the vicinity of the site.

For the detailed reasons set out in this report the proposed development is considered to be acceptable in land use, design, amenity, transportation and environment terms and, given the public benefits of the scheme, would accord with the relevant policies in the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016. Therefore the application is recommended for approval subject to the conditions set out in the draft decision letter appended to this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View of site from Randolph Avenue (top) and view of garages from within the site (bottom).

## 5. CONSULTATIONS

### 5.1 Consultation on Initially Submitted Scheme – July 2017

#### PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Generally supportive of scheme but raise the following points:

- Parking proposed looks difficult to manoeuvre in and out of.
- Proposed parking will hinder access for emergency vehicles.
- Compromise in design of the elevations leads to a poor presentation of the upper sloping tiling. This is architecturally inappropriate and a reduction in the number of units and increase in size would seem a better approach.
- Potential for overlooking to neighbouring gardens.
- Potential for daylight and sunlight losses.
- Ask that neighbours views are taken into account.

#### ARBORICULTURAL MANAGER

Not clear if lime tree to the front of the site, which is worthy of statutory protection but currently isn't protected, is rooting beyond the raised bed at the front of the site. Trial pits are required to establish the extent of rooting. Confirmation should be provided regarding any changes in levels. Sewer connection has the potential to cause root severance. Steps within the existing raised bed are within the root protection area of the lime tree and should be omitted if tree is rooting in this area. An ash tree to the rear of the site (off-site) also has the potential to be affected but consider it could be safely retained as part of the development. Note that space for landscaping is limited and suggests a more bio-diverse green roof specification as sedum roofs provide less wildlife value than more varied green roofs.

#### CLEANSING MANAGER

No objection in principle but a condition is required to ensure the scheme delivers the individual waste stores for each unit and to demonstrate that the stores can accommodate waste and recycling.

#### DESIGNING OUT CRIME ADVISOR (METROPOLITAN POLICE)

Any response to be reported verbally.

#### HEAD OF AFFORDABLE AND PRIVATE SECTOR HOUSING

Any response to be reported verbally.

#### HIGHWAYS PLANNING MANAGER

Objection to the loss of the existing 12 garages if they are secured by condition to provide residents parking. Loss of garages would be likely to increase pressure on on-street residents parking in the vicinity. Notes that on-street parking in the vicinity is at 66% capacity overnight but at 85% capacity during daytime hours. Access arrangements may require vehicles to wait on the highway to access the site, but this is no worse than arrangement for existing garages. The cycle parking spaces would not be secure and weatherproof and this should be addressed by amendments. The provision of 5 parking spaces for the 6 new residential units is acceptable, but on the basis that car club membership is also provided for the new residential units. Conditions and informatives recommended.

**ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS**

No. of Consultations: 68; No. of Responses: 8.

Eight emails/ letters received from three respondents raising objection on all or some of the following grounds:

**Land Use**

- Unreasonable to convert garage spaces into residential accommodation.

**Amenity**

- Development will make Helmsdale House more crowded.
- Loss of daylight and sunlight to windows and gardens of neighbouring properties.
- Increased sense of enclosure.
- Additional noise from new properties relative to existing quiet garages.
- Amenity harm outweighs the benefit of six new residential units.
- The height of the development furthest from Randolph Avenue should be limited to two storeys.
- Development would create a tunnel effect to the rear of Helmsdale House in terms of noise.
- Loss of privacy/ increased overlooking.

**Highways/ Parking**

- Residents of Helmsdale House use the garages and their loss would be a loss of amenity for existing residents.
- Not clear if alternative garages will be provided by the applicant.
- Lack of on-street parking in Carlton Vale and Randolph Avenue.
- It can already take 15 minutes to find a space.
- Adverse impact on access for emergency vehicles. Noted that this has been raised with the applicant without a response being received.
- Any redevelopment should include replacement parking for residents of Helmsdale House.
- Increased pressure on on-street parking in the vicinity.
- Does not appear to be sufficient room for the number of spaces proposed on site.

**Other Matters**

- Timing of consultation in school holidays will mean many miss the chance to comment.
- Elderly residents will not be able to comment via the website.
- Consultation period should be longer.
- Not sufficient information on the proposed development provided.
- Adverse impact on views from flats in Helmsdale House.
- Adverse impact on the value of neighbouring properties.
- Noise and disruption from construction works.
- Dust and dirt from construction works.
- Cumulative impact of construction works with those being carried out in Brent opposite as part of estate regeneration.
- Construction work hours should be limited to 08.00 to 17.30 on weekdays and 09.00 to midday on Saturdays and no work at any other time.

- Not clear why applicant does not consider the residents of existing blocks 'key stakeholders'.
- Unclear who will be responsible for relocating refuse to the collection area and returning the bins to the store.

#### ADVERTISEMENT/ SITE NOTICE

Yes.

### 5.2 Consultation on Revised Scheme – November 2017 (Amendments comprising reduction of height of western end of scheme and increased height to eastern end with associated alterations to the detailed design of the development)

#### PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Any response to be reported verbally.

#### ARBORICULTURAL MANAGER

The results from trial pits indicate the lime tree at the front of the site is rooting in the north west corner of the raised bed/ garden area and therefore the whole of the planting bed should be regarded as the root protection area (RPA). The proposed steps should therefore be relocated to an alternative location. Trial pits indicate that the degree of rooting outside the raised bed/ garden is limited and therefore the initial concerns regarding the layout of the development have been overcome.

#### HIGHWAYS PLANNING MANAGER

Any response to be reported verbally.

#### LONDON FIRE BRIGADE

Any comments to be reported verbally.

#### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 68; No. of Responses: 3.

Three emails received raising objection on all or some of the following grounds:

#### Land Use

- Proposal will lead to further overcrowding.

#### Amenity

- Some amenity issues will be eased by revised plans for some residents due to reduction in bulk to the rear of the site, but the impact on other residents in the eastern end of Helmsdale House will be increased.
- Loss of light.
- Increased sense of enclosure.
- Site is unsuitable for additional residential properties due to proximity to neighbours.
- Noise and disturbance from more vehicles and people in the area.

#### Highways/ Parking

- Removal of garages will exacerbate parking issues in the area.

#### Other Issues

- Noise and disturbance from construction works.
- Restricted access to the rear could obstruct emergency services in the event of a fire or other emergency.
- None of the previously raised concerns have been addressed.
- Adverse impact on services including water pressure.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site comprises 12 garages originally built to serve the mid 20<sup>th</sup> Century residential block of flats facing Carlton Vale known as Helmsdale House. The planning history records for Helmsdale House sites do not contain the original planning permission for the block and therefore there is no evidence to establish whether the garages are restricted to use by the occupiers of the block by planning condition. The applicant has submitted evidence demonstrating that 11 of the garages are currently let to occupiers of Helmsdale House.

The site does not contain any listed buildings and is not located within a conservation area, but it is located opposite the boundary of the Maida Vale Conservation Area, both to the front (east) of the site, and to the side (south) of the site where the boundary of the conservation area runs to the south of Nos. 223 and 225 Randolph Avenue.

### 6.2 Recent Relevant History

No relevant planning history. The original planning permissions for Helmsdale House are not held within the City Council's records for these sites.

## 7. THE PROPOSAL

The application, made by City West Homes, seeks permission for the demolition of 12 garages and erection of a buildings ranging between two and four storeys to provide 6 residential units (Class C3).

The scheme would deliver 2x1 bedroom flats (one of which would be wheelchair accessible), 2x2 bedroom houses, 1x2 bedroom duplex flat and 1x3 bedroom duplex flat. The proposed development would be arranged as a short mews scale terrace, with a taller four storey frontage building facing Randolph Avenue located between No.225 and the end elevation of Helmsdale House.

The two bedroom duplex unit within the four storey block would have access to a roof terrace, with the other units having access to courtyard gardens or terraces to the north elevation of the development. The two dwellinghouses and the upper 1 bedroom unit at the western end of the site would also have screened roof terraces at first floor level. Five parking spaces would be provided to serve the six residential units. These would be provided within the public realm to be created between the new residential blocks and Helmsdale House.

The application has been amended during the course of the application as follows:

- Remove a third storey from the western end of the development to reduce the degree to which this element of the scheme increases enclosure and causes a loss of light to windows in Helmsdale House.
- Raise the height of the part of the building facing Randolph Avenue from three storeys to four storeys and amendment of the detailed design of this part of the scheme. This amendment was made to improve the architectural relationship of the proposed development to the neighbouring buildings on either side when seen in views from within the conservation area in Randolph Avenue.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

For the reasons set out in Section 8.5 of this report, it is not considered that the loss of the existing garages can reasonably be resisted in land use terms. In this context, the principle of providing new residential accommodation on this site is acceptable in land use terms and accords with Policies S13 and S14 in the City Plan and Policy H3 in the UDP.

The proposed development would provide a mix of units (2x1 bedroom units, 3x2 bedroom units and 1x3 bedroom unit) which would fall below the requirements of Policy H5 in the UDP and Policy S15 in the City Plan to provide 33% of new residential units as 3 bedroom family size units. The scheme would provide 17% of the units as family sized accommodation. However, given the relatively limited number of units to be provided and the constraints of the site in terms of the size and form of the building in which the residential accommodation is to be provided (which has been modelled to limit the amenity impact on neighbouring residents), the proposed proportion of family size housing is considered to be acceptable. It is also noted that Policy H5 in the UDP states that the 33% threshold for family sized units will be applied flexibly.

The size and layout of the accommodation would be compliant with the minimum standards set out in the Government's Technical Housing Standards and Policy 3.5 of the London Plan. The provision of a wheelchair accessible flat would accord with Policy H8 in the UDP. As such, the residential accommodation proposed would be of a good standard.

The applicant has identified that the units are intended to be used to provide social rented housing. However, given only six residential units are proposed and the scheme delivers less than 1,000m<sup>2</sup> of new residential floorspace on the site, it does not trigger a requirement to provide affordable housing under Policy H4 in the UDP and Policy S16 in the City Plan. Therefore whilst the provision of the units as a form of affordable housing is welcomed, it is not necessary, nor would it be reasonable to require that the units are provided as affordable housing via a planning condition or legal agreement.

### **8.2 Townscape and Design**

The site is currently functional in appearance reflecting its use as garage accommodation. The garage structures are of simple form and construction and have little, if any, architectural merit. The site is appreciable in public views from Randolph Avenue; albeit



the garages are partially screened by the change in levels between the site and street level and the lime tree within the raise bed/ garden at the front of the site.

Given their lack of architectural merit and as they are not located within a conservation area the demolition of the existing garages cannot be resisted and there is no objection to their demolition in design terms in any event.

The footprint of the proposed development is limited to the southern side of the site in order to distance the development from the neighbouring habitable windows in the rear of Helmsdale House to the north. This results in a linear development being proposed along the southern boundary of the site. The northern elevation facing Helmsdale House would be modulated by the stepping forward and back of the footprint of the building to create sheltered courtyard gardens. In view of the proximity of the building to Helmsdale House, and following amendment, the rear of the development would be limited to two storeys with the upper storey at first floor level articulated as a roof tile clad roof storey. The front quarter of the development, where it faces Randolph Avenue would increase in height to four storeys; albeit the third floor level would be relatively slender. Like the top storeys to the rear of the development, the third floor level would take the form of a tile clad roof storey with pitched front and rear elevations identifying it as the terminating element of the overall composition. Below this floor, the building would have windows with a strong vertical emphasis and a relatively ordered pattern of fenestration to seek to tie the design of the building into the surrounding townscape, much of which is located within the Maida Vale Conservation Area.

In addition to the modelling of the bulk and mass of the proposed development referred to in the preceding paragraph, the massing of the building would be further broken down by the use of brickwork in differing brickwork patterns and bonds, false chimneys and tile clad roof storeys.

The scheme proposes the use of yellow/ brown brick as the predominant facing material and this is appropriate given the predominant use of brick in the construction of immediate neighbouring buildings from the 19<sup>th</sup> and 20<sup>th</sup> Centuries. The palette of materials is otherwise relatively restrained with dark grey aluminium windows and timber garage and front doors, clay tiles and timber privacy screens.

The majority of the detailing to the houses would be generated by use of the brick in less traditional forms, such as laid in multiple soldier courses. This is not considered to be objectionable as this reflects that the development is conceived as a contemporary interpretation of a traditional mews house form. As noted above, it also assists in breaking down the bulk and massing of the mews houses.

Sample panels of the brickwork and other facing materials and details of the key elevational treatments are to be secured by condition to ensure they are appropriate.

Therefore in design terms, subject to the recommended conditions, the scheme is considered to be acceptable and would preserve the character and appearance of the neighbouring Maida Vale Conservation Area. The scheme would be in accordance with the Policies DES1, DES4 and DES9 in the UDP and Policies S25 and S28 in the City Plan.

### **8.3 Residential Amenity**

### 8.3.1 Daylight and Sunlight

The applicant has submitted a daylight and sunlight assessment of the proposed development, which assesses its impact on properties within Helmsdale House and immediate neighbouring properties in Randolph Avenue, closest of which is No.225 Randolph Avenue immediately to the south of the application site.

The proposed development would not result in a material loss of daylight to any neighbouring windows in neighbouring properties other than to 11 windows in Helmsdale House and No.225 Randolph Avenue. All other windows would either not be affected or affected by losses of daylight that would be below the threshold at which the Building Research Establishment (BRE) Guidelines (2011) identify that the loss of daylight would be appreciable. The 11 windows that would suffer material losses of daylight using the VSC method of assessment, which the BRE Guidelines identify as the primary method of assessing daylight losses to existing neighbouring windows as a result of proposed development, are set out in Table 1 below.

**Table 1 – Material Losses of Daylight using Vertical Sky Component (VSC).**

Window Location	Habitable Room	Existing VSC	Proposed VSC	VSC Loss	Ratio	Ratio (excl. Over Sailing Balcony)
Helmsdale House – 1 <sup>st</sup> floor	Likely to be living room window	1.2%	0.9%	0.3%	0.75	0.94
Helmsdale House – 1 <sup>st</sup> floor	Likely to be living room window	5.4%	4.0%	1.4%	0.74	0.94
Helmsdale House – Grd Floor (No.3)	Likely to be living room window	5.0%	3.7%	1.3%	0.74	0.96
Helmsdale House – Grd Floor (No.3)	Likely to be living room window	7.5%	4.6%	2.9%	0.61	0.86
Helmsdale House – Grd Floor (No.4)	Likely to be living room window	5.2%	4.1%	1.1%	0.79	0.97
Helmsdale House – Grd Floor (No.4)	Likely to be living room window	8.2%	5.9%	2.3%	0.72	0.88
Helmsdale House – Grd Floor (No.5)	Likely to be living room window	8.9%	6.4%	2.5%	0.72	0.89
225 Randolph Ave – Basement level side window	Unknown	28.5%	21.2%	7.3%	0.74	N/A
225 Randolph Ave – Basement level side door	No	27.2%	17.4%	9.8%	0.64	N/A
225 Randolph Ave – Basement level side window	Unknown	27.4%	9.4%	18.0%	0.34	N/A

225 Randolph Ave – Grd level side window	Unknown	30.5%	21.6%	8.9%	0.71	N/A
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The material losses that would be caused would be focused towards the eastern end of Helmsdale House adjacent to the taller four storey element of the proposed development. The losses would all occur to windows that are recessed, such that the over sailing element of Helmsdale House above already significantly limits the amount of daylight received by the affected windows. The BRE Guidelines identify that in such circumstances it is reasonable to assess these windows as though they were located in the face of the building and not, so as to identify the extent to which the windows are affected by the existing obstruction rather than the proposed development. The applicant has undertaken such an assessment and as set out in Table 1 above, this demonstrates that if the windows were not recessed they would not suffer a material loss of daylight as a result of the proposed development. In this context, it is not considered that objections raised on grounds of daylight loss to windows in the rear of Helmsdale House can reasonably be supported as a ground on which to withhold permission.

The windows in No.225 Randolph Avenue are at basement and ground floor levels. The windows are in close proximity to the boundary of the site and in such circumstances the BRE Guidelines allow the assessment of the windows against an existing situation with an indicative 'mirror' development on the application site (i.e. a mirror of the built form of No.225 on the application site). Using this test, three of the four windows would no longer fail to accord with the BRE Guidelines with only the penultimate window in Table 1 continuing to fall below the BRE Guidelines. This window is the rearmost side window at basement level. However, the accommodation at basement level in No.225 includes further windows serving habitable rooms to the front and rear and therefore proportionately the impact on this neighbouring property in terms of daylight loss of not considered to be so significant so as to warrant withholding permission.

Only one window in Helmsdale House would suffer a material loss of sunlight as a result of the proposed development and this would be one of the ground floor windows serving No.3 (the window fourth down in Table 1, which also suffers a material loss of daylight). It would suffer a 45% reduction in annual probable sunlight hours and a 40% reduction in winter sunlight hours. Given that the material losses of sunlight would be limited to a single window the impact of the proposed development in sunlight terms is considered to be acceptable.

The applicant has assessed the overshadowing to existing garden spaces to the rear of Helmsdale House. The assessment demonstrates that the proposed development would be compliant with the BRE Guidelines as at least 50% of all the gardens would receive at least two hours of sunlight on 21 March.

### 8.3.2 Sense of Enclosure

In sense of enclosure terms the occupiers of neighbouring properties in Helmsdale House and the Paddington Waterways and Maida Vale Society have raised concerns that the development would increase enclosure to their windows to a significant degree. The windows in the rear of Helmsdale House would be between 11.6 and 12.2m from the proposed development where it steps forward to its northern elevation, with the recessed elements where the balconies are located set back between 15.5m and 15m. However, as

the proposed development would be limited to two storeys at its western end, with the ground floor largely screened by the existing rear boundary of Helmsdale House, this element of the scheme is not considered to give rise to a significant increase in enclosure to properties in Helmsdale House. The four storey element would have a more appreciable impact on views from windows serving properties in the eastern end of Helmsdale House. However, these views are already terminated to some degree by the flank elevation of No.225 Randolph Avenue. Given this and as the bulk and form of the four storey element of the proposed scheme is relatively slender, it is not considered that it would materially increase the sense of enclosure felt by neighbouring occupiers in Helmsdale House to such a degree so as to justify withholding permission given the public benefit of providing new residential accommodation. It is recognised that this element of the proposal would though be readily appreciable in views from windows in the eastern end of Helmsdale House.

To the south of the site, the proposed development would increase the height of the boundary of the rear garden of No.225 Randolph Avenue, albeit the applicant has sought to mitigate this by setting the bulk of the first floor back marginally from the boundary. The proposed development will be readily appreciable in views from the rear windows of No.225 and the rear garden of this property. However, it would only be visible in oblique views from the rear windows and in garden views the garden, which is generous in size, would retain an open aspect to the south and west. The side windows at basement and ground level would be marginally forward of the front building line of the proposed development such that they would not be significantly enclosed. Furthermore, the windows at basement level already face the boundary wall with the application site and so have limited existing outlook.

### **8.3.3 Overlooking**

The scheme has been carefully considered to limit the number and size of windows where they would directly face existing windows in Helmsdale House, so as to limit the potential for overlooking. As a result, whilst there would be some increase in overlooking from new windows within the proposed development, the effect would not be such that the objections raised on this ground could be supported. The scheme includes a number of roof terraces and all of these external amenity spaces would be adequately screened by timber louvred privacy screens, the detail of which is to be secured by condition. The amenity spaces at ground floor level would be screened by the existing rear boundary walls of gardens to the rear of Helmsdale House.

To the south elevation facing No.225 Randolph Avenue, only one window is proposed at first floor level. This is located at the western end of the development and as a result would not cause significant overlooking as it faces the end of the rear garden of the property and is set back from the boundary of the site.

### **8.3.4 Other Amenity Issues**

Conditions are recommended to control the amenity impact of the development. The recommended conditions comprise a condition to prevent the future addition of new windows or extensions which may increase enclosure or overlooking to neighbours and to prevent the use of the roofs of the houses as roof terraces, except where terraces are proposed as part of the proposed development.

Concerns have been expressed regarding the potential for noise from the proposed residential units. However, given the relatively limited number of units proposed, the limited size of the amenity spaces to be provided and the distance from neighbouring flats in Helmsdale House, it is not considered that the proposed development would give rise to such a significant increase in noise so as to warrant withholding permission on this ground.

In conclusion in amenity terms, subject to the recommended conditions, the amenity impacts of the development are acceptable and would accord with Policies ENV 6 and ENV13 in the UDP and S29 and S32 in the City Plan.

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

The Highways Planning Manager objects to the loss of the existing garages on basis that their loss is likely to increase the pressure on on-street residents' parking in the vicinity of the site. However, he notes that this objection is on the basis that the existing garages are protected by condition. In this case no evidence can be found to demonstrate that the existing garages are restricted by condition to use by occupiers of adjoining residential block (Helmsdale House). The applicant's evidence indicates that the garages are largely let, with only one of the 12 garages not let to occupiers of Helmsdale House (see Table 2 below). However, the applicant's survey of the garages in April 2017 indicated that of the 11 garages that are let, only six were being used to park cars at the time of the survey.

Parking Services have reviewed on-street residents parking permits on issue to occupiers of Helmsdale House and this shows that 14 vehicles are already parked on street that are registered to occupiers of these blocks. The Highways Planning Manager has confirmed that on-street parking in the vicinity of the site is at 66% occupancy at night and is at 85% occupancy during the daytime. Therefore it is above the stress level of 80% occupancy referred to in Policy TRANS23 in the UDP during daytime hours, but well below this level overnight.

In this context, whilst it is apparent that the proposal would result in an increase in on-street parking pressure, given the public benefit of providing additional housing on this site, it is not considered that the loss of the garages would have such a significant adverse impact on on-street parking pressure in the immediate vicinity of the site so as to warrant withholding permission pursuant to Policies STRA25 and TRANS23 in the UDP.

#### **Table 2 – Location of Existing Garage Leasees and Letting Status of Garages.**

ID	Occupier Address	Status
1	Helmsdale House	Let
2	Helmsdale House	Let
3	Helmsdale House	Let
4	Helmsdale House	Let
5	Helmsdale House	Let
6	Helmsdale House	Let
7	Helmsdale House	Let
8	Helmsdale House	Let
9	Helmsdale House	Let
10	Helmsdale House	Let
11	Helmsdale House	Let
12	-	Vacant

Objectors and the Paddington Waterways and Maida Vale Society have raised concerns regarding the accessibility of some of the parking spaces within the proposed development. The applicant has provided vehicle tracking to demonstrate that the five parking spaces proposed would be accessible to typical sized vehicles and the Highways Planning Manager does not object to the parking layout proposed. The ratio of 0.83 parking spaces per residential unit is relatively high and therefore, despite the Highways Planning Manager's concerns, the level of parking ratio proposed is considered to be acceptable and the provision of car club membership for the residential units within the development is not considered to be necessary to mitigate the parking demand arising from the proposed residential units.

The scheme includes cycle parking in a communal store at the western end of the development. It is unclear whether these cycle stores would be weather proof and secure and therefore it is recommended that further details of the stores are secured by condition to address the Highways Planning Managers concerns in this regard.

The Cleansing Manager does not object to the general strategy of waste storage, with waste stores provided within each house/ flat, with a communal store at the entrance to the development from which the waste and recycling would be collected. However, he has requested that the detail of the strategy is shown more clearly on the approved drawings and therefore a condition is recommended to ensure the waste and recycling storage is amended to address the detailed issues raised in the Cleansing Manager memo. The applicant has confirmed that a member of City West Homes' staff will be responsible for ensuring waste and recycling bins will be presented ready for collection by the Council's refuse contractor and returned to the store following collection. Subject to the recommended condition the proposal would accord with Policy ENV12 in the UDP.

A number of objectors and the Paddington Waterways and Maida Vale Society have raised concerns regarding the accessibility of the rear of Helmsdale House for emergency services in the event of a fire. The proposed development is not to be gated and therefore free access to the rear of Helmsdale House would be retained; albeit the available space for the manoeuvring of a fire appliance, or similar, would be reduced relative to the existing

situation. The views of the London Fire Brigade on this aspect of the scheme have been sought and will be reported verbally to the Committee.

## **8.5 Economic Considerations**

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

## **8.6 Access**

The forecourt of the proposed development would provide level access to the new residential units from the public highway. Both dwellinghouses would have level access to their ground floor level, with the wheelchair accessible flat designed so that the whole unit is fully accessible to wheelchair users. This accords with Policies DES1 and H8 in the UDP and S28 in the City Plan.

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

### **8.7.1 Tree Impact**

The proposed development would not necessitate the removal of any trees. Trial pits have been dug during the course of the application to demonstrate the extent of rooting of the Lime tree to the front of the site below the site. This has demonstrated that its roots are generally confined to the raised bed/ garden to the front of the site which is to be retained. As such, the Arboricultural Manager does not object to the layout of the development. She does though have concerns regarding the formation of a staircase within the raised bed/ garden area and a condition is recommended to require the location of this stair to be relocated.

A condition is recommended to ensure the provision of the tree protection measures set out in the submitted Arboricultural Statement. Further details of hard and soft landscaping are also be secured by condition. Subject to the recommended conditions the proposal would accord with Policies ENV16 and ENV17 in the UDP and S38 in the City Plan.

### **8.7.2 Biodiversity**

The applicant has assessed the impact of the development on wildlife and this includes assessment of the likelihood of bats roosting in the existing garage structures. The assessment concludes that given their condition, the garages are unlikely to provide for bat roosting and therefore their demolition is unlikely to disturb this protected species. An informative is recommended to advise the applicant of the measures to be taken in the unlikely event that roosting bats are discovered.

The submitted Ecological Appraisal and Surface Water Drainage Strategy suggest that a green roof will be provided on the flat roofs of the proposed buildings. This is not indicated on the drawings, but the applicant has verbally advised that green roofs are proposed. The provision of green roofs is considered to be necessary on three grounds. Firstly the scheme does not include a substantive area of soft landscaping at ground level and a green roof would mitigate this lack of landscaping; secondly the roofs of the buildings will be significantly overlooked and the provision of a green roof would substantially enhance the visual appearance of these flat roofs; and thirdly the green roofs are necessary to

provide attenuation of water run off as set out in the applicant's drainage strategy. A condition is therefore recommended requiring the submission of revised drawings showing a green roof on the flat roofs where they are not to be used as roof terraces. The condition will also require the provision of the green roofs prior to occupation and their retention thereafter.

The Arboricultural Manager comments that a biodiverse green roof should be considered rather than a sedum green roof to enhance the range of species supported by the green roofs. Whilst the desire for such a specification of green roof is understood, it is not considered that it is necessary to deliver the benefits set out in the previous paragraph.

### **8.7.3 Sustainability**

As identified in the application documents, the site is in an area of low flood risk and is therefore an appropriate and sustainable location for residential development.

The energy strategy for the development targets compliance with 2013 Building Regulations, primarily through the energy efficiency of the building fabric. Given that this is a non-major development of limited scale this is acceptable and in accordance with Policy S28 in the City Plan. The submitted Energy Strategy also includes the provision of PV panels, although these are not indicated on the application drawings. A condition is recommended to secure the provision of the photovoltaic panels so that on-site renewal energy is provided in accordance with Policies S28 and S40 in the City Plan.

### **8.8 London Plan**

The 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**

No planning obligations are relevant in the determination of this application.

The proposed development would be CIL liable; however, if built as social rented affordable housing it is likely to be eligible for CIL relief.

### **8.11 Environmental Impact Assessment**

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

### **8.12 Other Issues**

The impact of development on the value of neighbouring properties and on private views are not a valid planning grounds for objection and therefore permission cannot reasonably be withheld on the basis of objections raised on these grounds.



Objection has been raised on grounds that the proposal will cause noise and general disturbance and dust and dirt during construction works to neighbouring residents. Permission could not reasonably be withheld on the basis of the impact of construction works. However, the impact of construction works would be mitigated by the recommended condition restricting the hours of building works to between 08.00 to 18.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays, with no works permitted on Sundays and Bank Holidays. To restrict the hours of construction to a greater degree, as suggested by one objector would be unreasonable and would risk elongating the overall period of construction works.

A number of concerns were initially expressed regarding the timing of consultation and the length of time given for comments. However, the consultation undertaken in both July and November 2017 has accorded with the City Council's Statement for Community Involvement for Planning (2014) and ample time for comment on the application in its originally submitted and revised forms has been provided. As such, permission could not reasonably be withheld on this basis.

Objections have been raised on grounds that the development would have an adverse impact on private views from flats in Helmsdale House and would have an adverse effect the value of neighbouring properties. However, these are not valid planning grounds for objection and therefore permission cannot reasonably be withheld on these grounds.

## 9 BACKGROUND PAPERS

10. Application form.

### **Responses to Consultation on Initially Submitted Scheme (July 2017)**

11. Email from Paddington Waterways and Maida Vale Society dated 1 September 2017.
12. Memo from the Cleansing Manager dated 2 August 2017.
13. Memo from the Highways Planning Manager dated 18 August 2017.
14. Memo from the Arboricultural Manager dated 17 October 2017.
15. Email from the occupier of 27 Helmsdale House, 43 Carlton Vale dated 26 July 2017.
16. Email from the occupier of 10 Helmsdale House, 43 Carlton Vale dated 26 July 2017.
17. Email from the occupier of 25 Helmsdale House, 43 Carlton Vale dated 2 August 2017.
18. Email from the occupier of 8 Melrose House, 49 Carlton Vale dated 2 August 2017.
19. Email from the occupier of 31 Helmsdale House, 43 Carlton Vale dated 5 August 2017.
20. Email from the occupier of 25 Helmsdale House, 43 Carlton Vale dated 9 August 2017.
21. Email from the Carlton Vale RMO, 1 Helmsdale House, 43 Carlton Vale dated 10 August 2017.
22. Email from the occupier of 25 Helmsdale House, 43 Carlton Vale dated 11 August 2017.

### **Responses to Consultation on Revised Scheme (November 2017)**

23. Memo from the Arboricultural Manager dated 20 November 2017.
24. Email from the occupier of 25 Helmsdale House, 43 Carlton Vale dated 19 November 2017.
25. Email from the occupier of Carlton Vale RMO, 1 Helmsdale House, 42 Carlton Vale dated 23 November 2017.

26. Email from the occupier of 25 Helmsdale House, 43 Carlton Vale dated 24 November 2017.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

**DRAFT DECISION LETTER**

- Address:** Helmsdale House, 43 Carlton Vale, London, NW6 5EN
- Proposal:** Demolition of single storey garages and erection of buildings ranging between two and four storeys to provide 6 residential units (Class C3), with associated alterations and landscaping.
- Plan Nos:** 1638-2/A/106/003 (site location plan), 1638-2/A/101/001 Rev.02, 1638-2/A/101/102 Rev.02, 1638-2/A/101/103 Rev.02, 1638-2/A/101/104 Rev.01, 1638-2/A/101/003 Rev.02, 1638-2/A/102/000 Rev.01, 1638-2/A/102/001 Rev.01, 1638-2/A/103/001 Rev.01, Design and Access Statement dated July 2017 (as amended by the Updated Planning Drawings document dated November 2017), Daylight and Sunlight Study dated 19 May 2017, Daylight and Sunlight (Within Development) dated 19 May 2017, Air Quality Report dated April 2017, Statement of Community Involvement dated July 2017, Ground Investigation Report dated May 2017, Acoustic Planning Report dated March 2017, Surface Water Drainage Strategy dated July 2017, Structural Notes to Accompany Planning Submission dated July 2017, Transport Assessment dated July 2017, Ecological Appraisal dated June 2017, Arboricultural Impact Assessment dated 17 May 2017, Energy Statement dated June 2017, 1638-2/A/106/001 Rev.P1, 1638-2/A/106/002 Rev.P1 and LD-SKE-002 Rev.A (tree removals). Planning Addendum Drawings document dated January 2018 and Addendum Note dated 21 December 2017.
- 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 (November 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 (November 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 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 (November 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 detailed drawings of the following parts of the development:
- (a) All windows in context with the window surrounds and window reveals.
  - (b) All external doors.
  - (c) Timber screens to balconies.
  - (d) Hit and miss brickwork to front block roof terrace.
  - (e) Waste and recycling collection storage structures.
  - (f) Front boundary walls/ fences .

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 (November 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 terraces. (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 (November 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 where the drawings hereby approved are cross hatched and annotated 'Terrace', you must not use the roofs of the building for sitting out or for any other purpose. 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 (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 8 You must not form any windows or other openings (other than those shown on the plans) in the outside walls of the dwellinghouses forming part of this development or erect any extensions without our permission. This is despite the provisions of Classes A, B, C and D of Schedule 2, Part 1 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 and protect the appearance of the development and this part of the City. This is as set out in S28 and S29 of Westminster's City Plan (November 2016) and DES1, DES5, DES6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 9 You must apply to us for approval of detailed drawings showing the following alteration to the scheme:

- Provision of a living green roofs on all flat roofs that are not to be used as roof terraces.

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 and the living green roof must be installed prior to the occupation of the development. Thereafter the green roof must be permanently retained in the approved locations. (C26UB)

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 10 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)

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

- Revised cycle parking for the residential units that is weather proof and secure.

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 and install the cycle parking we approve prior to occupation of the residential units. Thereafter the cycle parking must be permanently retained. (C26UB)

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.

- 12 Notwithstanding the bin stores shown some of the drawings and documents hereby approved, 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 (the details must include (i) the provision of a revised ground floor plan showing waste storage within the amenity areas as well as the communal bin store and (ii) the bins for waste and recycling should be indicated with the letters 'w' and 'r' respectively).

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 occupying the dwellinghouses. (C14EC)

Reason:

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

- 13 You must provide the timber privacy screens around the roof terraces in accordance with the drawings hereby approved (and as detailed in the drawings we approve pursuant to Condition 5) prior to occupation of the development. Thereafter the timber privacy screens must be permanently retained in accordance with the approved drawings.

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 (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 14 You must apply to us for approval of detailed drawings showing the following alteration to the scheme:
- Relocation of the steps up to the communal front garden area so they are not located within the root protection area of the tree within the garden area.
- You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)
- Reason:  
To protect trees and the character and appearance of the site as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31CC)
- 15 Notwithstanding the landscaping shown in the application drawings and documents, 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 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 5 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 and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)
- 16 You must apply to us for approval of detailed drawings showing the following alteration to the scheme:
- Provision of photovoltaic panels in accordance with the submitted Energy Statement dated June 2017.
- 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 development and thereafter you must permanently retain the photovoltaic panels. (C26UB)
- 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 (November 2016). (R44AC)
- 17 You must not carry out the development until you have implemented the tree protection measures set out in the Arboricultural Impact Assessment dated 17 May 2017. Thereafter the tree

protection measures must be maintained for the duration of the construction works.

**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 (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 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)
- 3 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).
- 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 When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. For more advice, please speak to our Biodiversity Project Manager on 020 7641 1951. (I81DA)



- 6 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.

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# Agenda Item 13

Item No.
13

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 3 <sup>rd</sup> October 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>35 - 50 Rathbone Place, London, W1t 1aa</b>		
<b>Proposal</b>	<p>Variation of Conditions 8 and 10 of planning permission dated 11 July 2016 (RN: 15/10824/FULL) which was for: "<i>Variation of Condition 1 of planning permission dated 17 February 2014 (RN : 13/04844) for Substantial demolition of existing buildings and redevelopment of the site to provide a mixed use scheme accommodated in two L-shaped buildings rising to nine storeys plus basements and rooftop plant with frontages to Rathbone Place and Newman Street set around a central open space; use of new buildings for up to 162 residential dwellings (Class C3) with communal garden, offices (Class B1), shops (Class A1), flexible space for use as shops (Class A1) and/or restaurant (Class A3) and/or bar (Class A4); provision within basement of plant rooms and car/cycle parking with vehicular access via lifts from Newman Street; ground floor loading bay with access from Newman Street; new pedestrian routes through the site from Newman Street and Rathbone Place and associated works; namely the submission of substitute drawings showing re-distribution of floorspace areas at ground and basement levels having the effect of increasing the amount of offices (Class B1) and decreasing shops (Class A1/A3); associated changes to street elevations including new retail frontage with full height glazing, louvres and signage zones on Rathbone Place; change to rooflight arrangement to a linear pattern along southern side of the central garden; levels changes in central garden; additional louvres along the central garden elevation and south facing retail elevations; changes to parapet details; and alterations to office entrance doors on Newman Street and to vary the wording of condition 24 to allow dual swing escape doors on the Rathbone Place elevation which must be inward opening for everyday access and outward opening for emergency use only and the escape 'only' door in retail unit below office building on western elevation facing the central garden.</i>" NAMELY amendments to the limitations placed on the use of entertainment Unit 13 to enable 30% of the floor area to be used for vertical drinking (Condition 8) and to allow use of the terrace for dining until 22:00 (Condition 10).</p>		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	D & D London Ltd		
<b>Registered Number</b>	17/06273/FULL	<b>Date amended/ completed</b>	14 July 2017
<b>Date Application Received</b>	14 July 2017		

<b>Historic Building Grade</b>	Unlisted
<b>Conservation Area</b>	Charlotte Street West

## 1. RECOMMENDATION

Grant conditional permission subject to a deed of variation to the original legal agreement to ensure this permission is subject to the requirements of the S106 agreement dated 11 February 2014 and amended by deed of variation dated 11 July 2016.

## 2. SUMMARY

The application site formerly accommodated a 1950's-built Royal Mail regional office and mail distribution centre, comprising a six storey building on Rathbone Place and an open parking/servicing area fronting Newman Street. Identified as a Strategic Site in the Tottenham Court Road Opportunity Area, planning permission was granted in 2013 for redevelopment for mixed residential, shopping and office purposes and this is now close to completion.

The design concept of the permitted scheme is of new buildings surrounding a privately managed central open space. New buildings would face east and west onto Newman Street and Rathbone Place, and another (mainly residential) block would form the northern boundary of the site. The open space between the blocks would include a new pedestrian route through the site linking Newman Street and Rathbone Place. Both street elevations and the internal elevations within the site overlooking the open space would, at basement and ground floor level, include frontages containing shops, restaurants and bars. The scheme was amended by a planning permission granted in 2016 which was specifically aimed at adapting the approved accommodation for Facebook as the sole occupier of the office floorspace, which included increasing the office floorspace and reducing the shopping floorspace. As a result of this permission one of the two large permitted entertainment uses fronting Rathbone Place was changed to offices, leaving one remaining entertainment unit on Rathbone Place and the current application concerns this unit.

The entertainment unit fronting Rathbone Place (known as Unit 13) is provided at ground floor and basement levels with an external terrace situated at the rear adjacent to the central public open space. This was originally conceived of speculatively with no end user in mind, but now an operator has been identified which is D&D London - an established operator of other ventures in London including The Bluebird Café, Chelsea and Coq d'Argent in the City. The intention is to open another Bluebird Café, which the applicant describes as a restaurant specialising in fine quality Mediterranean dining transforming into a high-end bar in the evening.

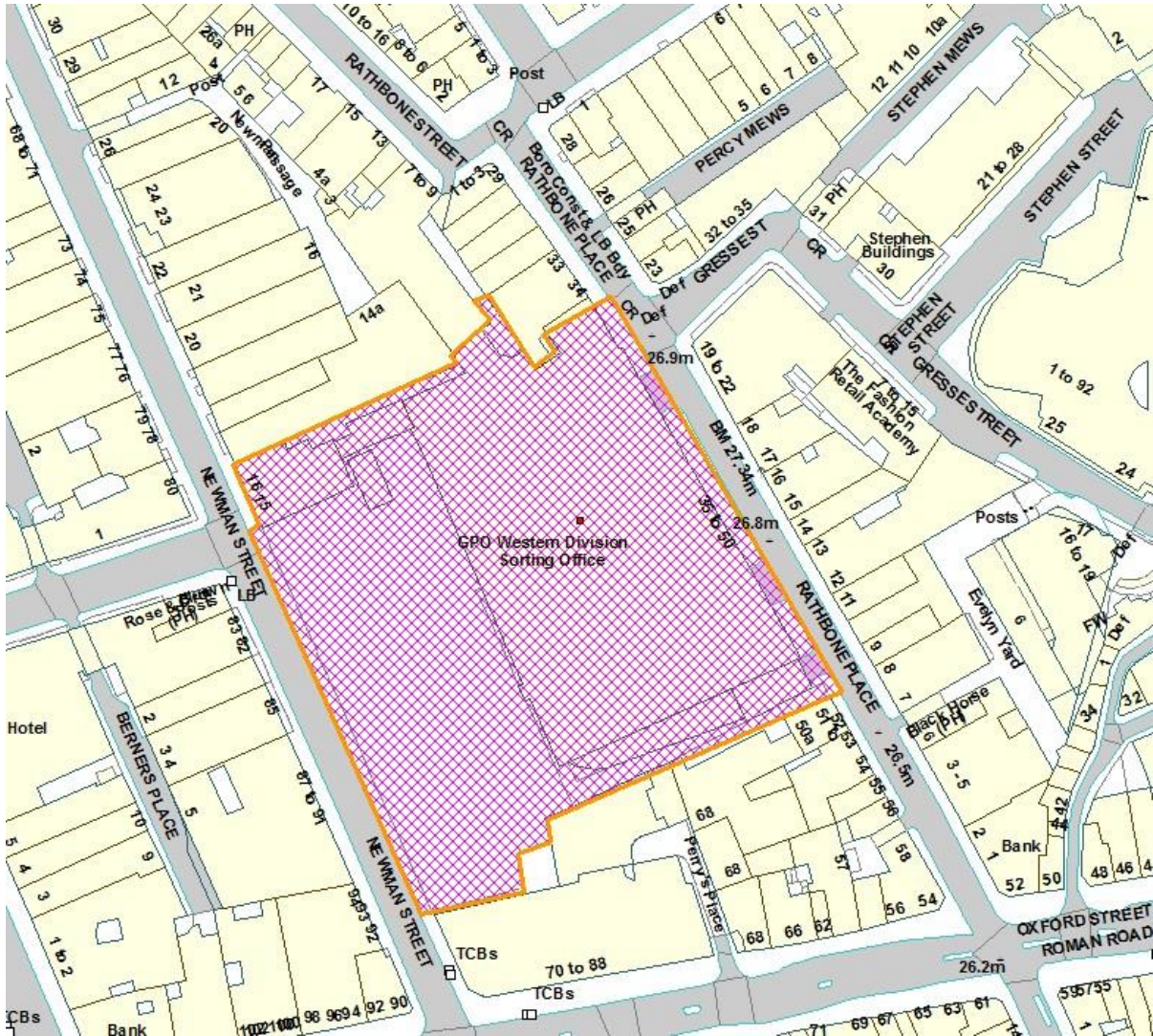
At the time of the original planning permission, since no operator for the entertainment uses had been identified a number of limitations were imposed to contain any potential impact on local amenity. The current application seeks to relax these limitations.

The first extant control is imposed by condition 8 of the extant permission which states that any bar or bar/restaurant should have no more than 15% of the floor area allocated to customers for vertical drinking (i.e. standing to drink alcohol) and the applicant proposes to be allowed to expand such an area to 30%. There have been no objections to this and given that the overall site's location just off Oxford Street and the fact that it is not situated within an identified Stress Area, it is considered that it would be difficult to identify sufficient harm from this proposal to justify refusing permission.

The second extant control relates to the use of the external terrace as limited by condition 10 of the planning permission, which states that there should be no external drinking or dining after 21.00hrs. The applicant wishes to amend this to allow the terrace to be used for dining until 22.00hr and whilst some drinking would also be permitted up to the same time, this would be restricted to those customers who are also dining. Anyone else would not be allowed to consume drink on the terrace after 21.00hrs. The applicant's proposals also offer an additional control which condition 10 does not currently impose, which is to not allow at any time vertical drinking on the terrace. Such a control would ensure that the terrace would be only available to those seated at tables, which would reduce the potential impact of vertical drinking occurring up until 21.00hrs which the extant condition currently allows

Overall the proposed changes are considered acceptable and unlikely to lead to a material additional impact on surrounding residential amenity.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

Fitzrovia Neighbourhood Association  
Any response to be reported verbally.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 47  
Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND PAPERS

1. Application form

### Selected relevant drawings

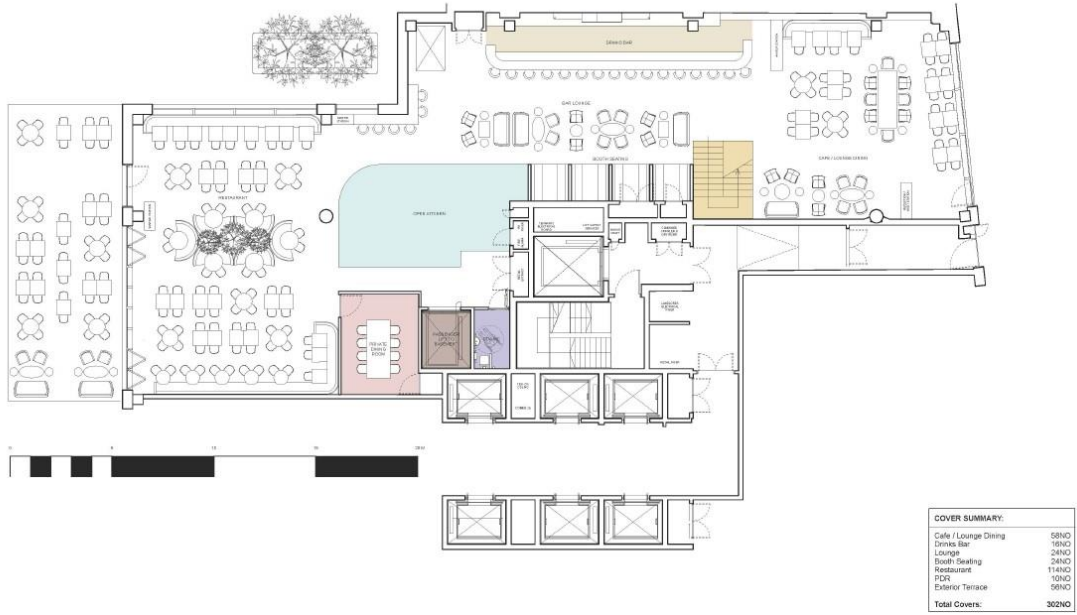
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

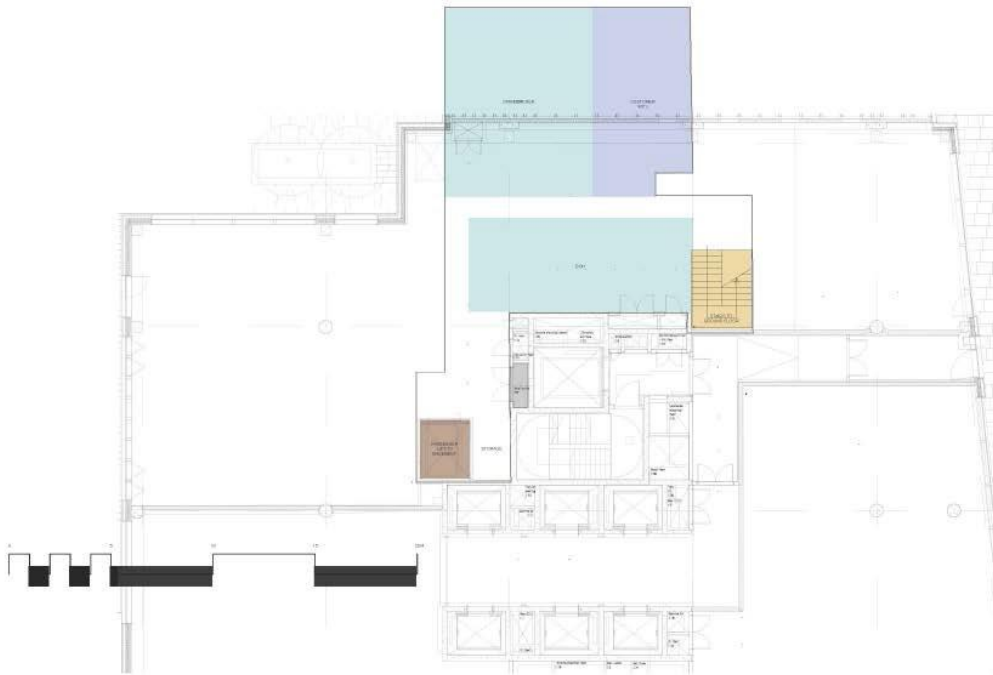


## 7. KEY DRAWINGS

Ground floor



Basement



**Planning Applications Sub-Committee (2) Minutes  
Tuesday 3 October 2017**

**5 35 - 50 RATHBONE PLACE, LONDON, W1T 1AA**

Variation of Condition 8 and 10 of planning permission dated 11 July 2016 (RN: 15/10824) for the variation of Condition 1 of planning permission dated 17 February 2014 (RN 13/04844) for "Substantial demolition of existing buildings and redevelopment of the site to provide a mixed use scheme accommodated in two L-shaped buildings rising to nine storeys plus basements and rooftop plant with frontages to Rathbone Place and Newman Street set around a central open space; use of new buildings for up to 162 residential dwellings (Class C3) with communal garden, offices (Class B1), shops (Class A1), flexible space for use as shops (Class A1) and/or restaurant (Class A3) and/or bar (Class A4); provision within basement of plant rooms and car/cycle parking with vehicular access via lifts from Newman Street; ground floor loading bay with access from Newman Street; new pedestrian routes through the site from Newman Street and Rathbone Place; and associated works"; NAMELY, to enable 30% of the floor area of Unit 13 to be used for vertical drinking (Condition 8) and to allow use of the terrace for dining only until 22:00 (Condition 10).

An additional representation was received from the Planning Department in the form of a draft decision letter (undated).

The presenting officer tabled the following amendments to conditions (changes in bold):

**Amendment to Condition 8:**

If you provide an A4 use or composite A3/A4 use, no more than 15% of the floor area shall be used by customers for vertical drinking, except for Unit 13 where no more than 30% of the floor area (**excluding terrace**) shall be used by customers for vertical drinking.

**Reason remains unchanged.**

**RESOLVED:**

That conditional permission be granted subject to:

1. A prior deed of variation to the original legal agreement to ensure this permission is subject to the requirements of the S106 agreement dated 11 February 2014 and deed dated 11 July 2016.
2. An amendment to condition 8 as tabled and set out above.