



City of Westminster

# Committee Agenda

Title: **Planning Applications Sub-Committee (3)**

Meeting Date: **Tuesday 30th March, 2021**

Time: **6.30 pm**

Venue: **Please note that this will be a virtual meeting**

Members: **Councillors:**

Jim Glen (Chairman)  
Eoghain Murphy  
Guthrie McKie  
Selina Short

**This will be a virtual meeting and members of the public and press are welcome to follow the meeting and listen to discussion to Part 1 of the Agenda**

**This meeting will be live streamed and recorded. To access the recording after the meeting please revisit the link.**

**If you require any further information, please contact the Committee Officer, Georgina Wills, Committee and Governance Officer.**

**Tel: 07870 548348; Email: [gwills@westminster.gov.uk](mailto:gwills@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**

Members of the public are welcome to speak on the specific applications at the virtual planning committee meeting.

To register to speak and for guidance please visit:

<https://www.westminster.gov.uk/planning-committee>

Please note that you must register by 12 Noon on the Friday before the Committee meeting

In the event that you are successful in obtaining a speaking slot at the virtual meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

<https://www.westminster.gov.uk/stream-council-meetings>

**(Pages 5 - 8)**

To access the recording after the meeting please revisit the Media link

- |  |                          |
|--|--------------------------|
| <b>1. MARBLE ARCH LONDON W1H 7DX</b>                                 | <b>(Pages 11 - 32)</b>   |
| <b>2. THE NATIONAL GALLERY TRAFALGAR SQUARE LONDON WC2N 5DN</b>      | <b>(Pages 33 - 50)</b>   |
| <b>3. DEVELOPMENT SITE AT 8 CHESTERFIELD HILL LONDON W1J 5BW</b>     | <b>(Pages 51 - 74)</b>   |
| <b>4. 25 IVOR PLACE LONDON NW1 6HR</b>                               | <b>(Pages 75 - 110)</b>  |
| <b>5. GROUND FLOOR 31 MOSCOW ROAD LONDON W2 4AH</b>                  | <b>(Pages 111 - 128)</b> |
| <b>6. LILLINGTON GARDENS ESTATE TACHBROOK STREET LONDON SW1V 2QE</b> | <b>(Pages 129 - 142)</b> |

**Stuart Love**  
**Chief Executive**  
**19 March 2021**

## Order of Business

At Planning Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

<b>Order of Business</b>
i) Planning Officer presentation of the case
ii) Applicant and any other supporter(s)
iii) Objectors
iv) Amenity Society (Recognised or Semi-Recognised)
v) Neighbourhood Forum
vi) Ward Councillor(s) and/or MP(s)
vii) Council Officers response to verbal representations
viii) Member discussion (including questions to officers for clarification)
ix) Member vote

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.



CITY OF WESTMINSTER

## MINUTES

### Planning Applications Sub-Committee (3)

#### MINUTES OF PROCEEDINGS

Minutes of a virtual meeting of the **Planning Applications Sub-Committee (3)** Committee held on **Tuesday 2nd February, 2021**,

**Members Present:** Councillors Jim Glen (Chairman), Guthrie McKie , Eoghain Murphy and Selina Short

#### **1 MEMBERSHIP**

1.1 There were no changes to the membership.

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

2.1 Councillor Jim Glen explained that a week before the meeting, all four Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and e-mails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.

2.2 Councillor Glen declared that in respect of Items 2 and 3 he was a Trustee of the Westminster Tree Trust but he had not entered into any discussions regarding either application.

#### **3 MINUTES**

##### **3.1 RESOLVED:**

That the minutes of the meeting held on 15 December 2020 be signed by the Chairman as a correct record of proceedings.

#### 4 PLANNING APPLICATIONS

##### 1 RUSSELL HOUSE, EAMONT STREET AND 51-53 ALLITSEN ROAD, LONDON, NW8 7DD

Erection of mansard roof extensions to facilitate the provision of 2no. self-contained dwelling units and associated internal alterations (Site includes Russell House and 51-53 Allitsen Road).

An additional representation was received from a local resident (25.01.21).

A late representation was received from Councillor Robert Rigby (01.02.21).

The presenting officer tabled the following condition which had been omitted from the Draft Decision Notice:

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

**REASON:**

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

Brett Moore addressed the Sub-Committee in support of the application.

Ian Kendell addressed the Sub-Committee in objection to the application.

**RESOLVED (Councillors Jim Glen, Eoghain Murphy and Selina Short in support, Councillor Guthrie McKie against):**

That condition permission, as amended, be granted subject to:

- (a) An additional condition requiring the applicant to carry out the external refurbishment of the building prior to its occupation;
- (b) Modifications to conditions 6 and 7 requiring further details of the proposed cycle and bin storage areas to ensure their relationship to neighbouring windows was appropriate; and
- (c) An additional informative requesting the applicant consider boundary treatment along the Eamont Street frontage to prevent any potential anti-social behaviour from arising.

## 2 63 CLIFTON HILL, LONDON, NW8 0JN

Excavation of a single storey basement and erection of a rear extension at lower ground floor to enlarge existing single dwellinghouse (Class C3), removal of five trees including a TPO Bay tree and planting of replacement trees, landscaping to front and rear gardens and installation of mechanical plant.

The presenting officer tabled the following additional condition which was recommended to ensure that the shed was of an appropriate design.

16 *“You must apply to us for approval of detailed drawings of the following parts of the development*

*- shed in rear garden*

*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.*

**REASON:**

*To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St Johns Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (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”*

**RESOLVED UNANIMOUSLY:**

That conditional permission, as amended, be granted.

## **PART 2 (CONFIDENTIAL)**

The Chair moved and it was

**RESOLVED:** That under Section 100 (a) (4) and Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), the public and press be excluded from the meeting for the following Item of Business because it involves the likely disclosure of exempt information relating to the financial or business affairs of any particular person (including the Authority holding that information) and it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**3 26 CHEPSTOW ROAD, LONDON, W2 5BE**

1 x Lime (T1, front): Fell

**RESOLVED UNAMIOUSLY:**

That consent to remove the tree be refused due to the detrimental impact it would have on local amenity and the adverse effect its loss would have on the character and appearance of the Conservation Area.

The Meeting ended at 8.17 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

# Agenda Annex

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 30th March 2021  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<b>RN(s):</b> 21/01005/COFUL  Knightsbridge And Belgravia	Marble Arch London W1H 7DX	Temporary installation of a viewing platform, landscaping, walkway and staircase, and other associated works, at Marble Arch for a temporary period of six months.	Westminster City Council
<b>Recommendation</b> Grant conditional permission for a temporary period of six months under Regulation 3 of the Town and Country Planning General Regulations 1992.				
Item No	References	Site Address	Proposal	Applicant
2.	<b>RN(s):</b> <u>Application 1</u> 20/06529/COFUL  <u>Application 2</u> 20/06530/COLBC  St James's	The National Gallery Trafalgar Square London WC2N 5DN	<u>Application 1</u> Installation of hostile vehicle mitigation security bollards and raising of the height of the perimeter wall of the National Gallery.  <u>Application 2</u> Raising height of perimeter wall to the National Gallery as part of hostile vehicle mitigation security measures.	Westminster City Council
<b>Recommendation</b> <u>Application 1</u> 1. Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.  <u>Application 2</u> 1. Grant conditional listed building consent. 2. Agree reasons for granting conditional listed building consent as set out in Informative 1.				
Item No	References	Site Address	Proposal	Applicant
3.	<b>RN(s):</b> 20/07501/FULL  West End	Developme nt Site At 8 Chesterfield Hill London W1J 5BW	Variation of conditions 1, 2, 3, and 15 of planning permission dated 10 August 2016 (RN: 16/00807/FULL) for which itself varied condition 1 of planning permission dated 14 January 2014 (RN: 13/10660) for 'Demolition of building and erection of replacement four storey building (plus lower ground floor level) containing 5x3 bedroom flats (Class C3) and installation of plant and terrace at roof level. NAMELY, to allow the reconfiguration of internal layout to alter mix of residential units, alteration to fenestration and roof, and associated works (Section 73 application).	Wellingtons Developments Limited
<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant

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 PLANNING APPLICATIONS SUB COMMITTEE – 30th March 2021  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

4.	<b>RN(s):</b> 19/06766/FULL  Bryanston And Dorset Square	25 Ivor Place London NW1 6HR	Use as a single dwelling house (Class C3), demolition of the east facing external wall to create a lightwell from basement to roof level, excavation of basement below rear of the existing building to be used as part of single family dwelling and associated alterations, increased height and location of the west facing boundary wall with alterations to the pitch of the roof and creation of a lightwell at the west facing elevation.	Mr Edmund Grower
<b>Recommendation</b> Grant conditional permission.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
5.	<b>RN(s):</b> 20/07733/FULL  Lancaster Gate	Ground Floor 31 Moscow Road London W2 4AH	Installation of new full height extract duct to rear elevation.	Mr Nikos Ferikidis
<b>Recommendation</b> Grant conditional permission.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
6.	<b>RN(s):</b> 20/00359/COFUL & 20/00360/COLBC  Tachbrook	Lillington Gardens Estate Tachbrook Street London SW1V 2QE	Installation of new door entry systems, fob-access pedestrian security access gates, overhaul of telecoms cabling, and asbestos R&D survey related to Thorndike House and Longleat House.	Westminster City Council
<b>Recommendation</b> 1. Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992. 2. Grant conditional listed building consent. 3. Agree reasons for granting conditional listed building consent as set out in Informative 1.				

# Agenda Item 1

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 March 2021	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Knightsbridge And Belgravia	
<b>Subject of Report</b>	<b>Marble Arch, London, W1H 7DX</b>		
<b>Proposal</b>	Temporary installation of a viewing platform, landscaping, walkway and staircase, and other associated works, at Marble Arch for a temporary period of six months.		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Westminster City Council		
<b>Registered Number</b>	21/01005/COFUL	<b>Date amended/ completed</b>	19 February 2021
<b>Date Application Received</b>	19 February 2021		
<b>Historic Building Grade</b>	Marble Arch Grade 1 listed		
<b>Conservation Area</b>	Royal Parks		

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of 6 months under Regulation 3 of the Town and Country Planning General Regulations 1992.
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## 2. SUMMARY

Permission is sought for a Council's own development for the erection of a visitor attraction on the Marble Arch traffic island for a temporary period of 6 months from June 2021. The proposal involves the construction of a landscaped hill with a viewing platform in an open area to the west of the Grade 1 listed Marble Arch. The proposed sculpted elevated walkway would provide visitors with new views of Oxford Street, Marble Arch, Edgware Road and across Hyde Park.

The key issues for consideration are:

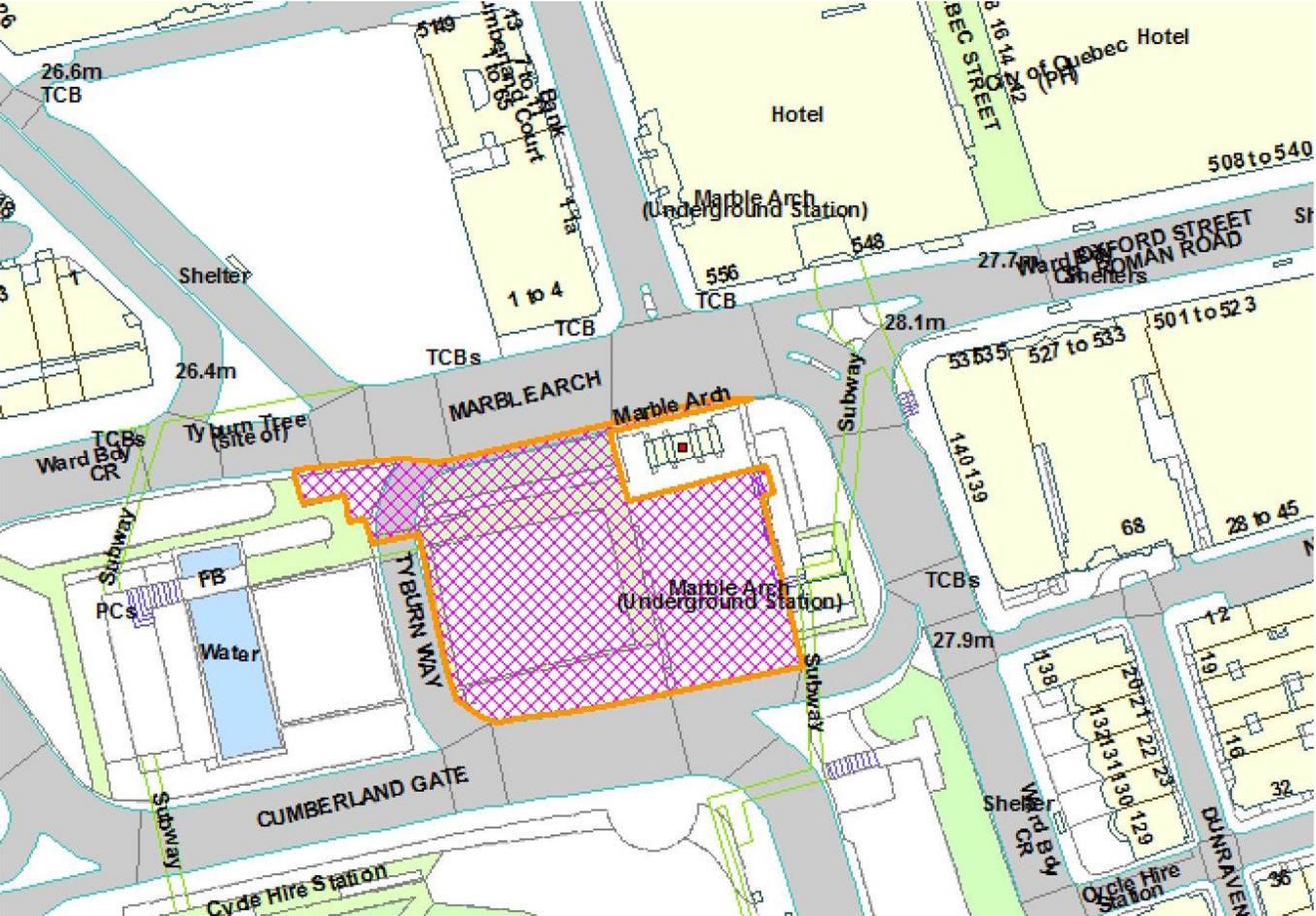
- The acceptability of the proposal in land use terms
- The impact that the proposed structure would have on the townscape, the character and appearance of the Royal Parks Conservation Area, the setting of the Grade 1 registered Hyde Park, the setting of the Grade 1 listed Marble Arch and the settings of adjacent conservation areas.

The location of the structure is sensitive due to its setting adjacent to the Grade 1 Listed Marble Area and location on Metropolitan Open Land (MOL). However, the provision of a temporary visitor

attraction is aimed at attracting visitors back to the Oxford Street District by increasing footfall, and supporting economic recovery following the Covid -19 pandemic. This is a clear planning benefit which is considered to outweigh the less than substantial harm that would be caused to the designated heritage assets.

Subject to appropriate conditions, including requiring the attraction to be operated in accordance with the submitted Operational Management Plan (OMP) and securing site restoration once the temporary period has expired, the proposal is considered acceptable.

**3. LOCATION PLAN**



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**4. PHOTOGRAPHS**



**5. CONSULTATIONS**

GREATER LONDON AUTHORITY - Any response to be reported verbally

TRANSPORT FOR LONDON - Any response to be reported verbally

**METROPOLITAN POLICE**

No objection, recommend that 'the mountain is enclosed by a 2.4m permeable boundary line security rated fencing with security rated accessed controlled gates alongside dedicated on site 24/7 security staff

THE ROYAL PARKS - Any response to be reported verbally

MARYLEBONE ASSOCIATION - Any response to be reported verbally

**RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S**

Any response to be reported verbally

HYDE PARK ASSOCIATION - Any response to be reported verbally

SOUTH EAST BAYSWATER ASSOCIATION - Any response to be reported verbally

BAYSWATER ASSOCIATION - Any response to be reported verbally

KNIGHTSBRIDGE ASSOCIATION - Any response to be reported verbally

THE St MARYLEBONE SOCIETY - Any response to be reported verbally

MAYFAIR RESIDENTS GROUP - Any response to be reported verbally

**HISTORIC ENGLAND**

Welcome the proposal to construct the temporary 'Marble Mountain' installation adjacent to, rather than above, the Grade I listed Marble Arch. Nevertheless, the large installation in the backdrop of the historic arch would have an impact on the appreciation of the arch's significance and thus would cause a degree of harm. In accordance with the NPPF, great weight should be given to the conservation of all designated heritage assets, with particular weight given assets of the highest significance such as the Grade I listed Marble Arch. Planning permission should only be granted if Westminster City Council is persuaded that the proposals are clearly and convincingly justified and the public benefits outweigh the harm.

**HIGHWAYS PLANNING MANAGER**

No objection, request that a servicing management plan and cycle parking are secured by condition

**WASTE PROJECT OFFICER**

Request refuse details are secured by condition

**HIGHWAYS PLANNING MANAGER**

No objection, request that a servicing management plan and cycle parking is secured by

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condition

#### THE GARDENS TRUST

Objection, on the grounds that better use could be made of the substantial construction/maintenance/demolition costs, perhaps providing funds for the greening, improvement and conservation of existing open spaces within the borough.

#### ARBORICULTURAL SECTION

Tree pruning is regrettable, reuse of the planting is unlikely to practical

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

No. Consulted: 3389

Total No. of replies: 58

No. in support: 6 including from the Portman Estate and New West End Company Business Improvement District (representing 600 businesses and 150,000 employees across the West End) and Baker Street Quarter Partnership (Baker Street Q), support the scheme for the following reasons;

- The proposed installation is an excellent example of new dynamic ways to draw visitors back into the district and give a much needed boost to West End businesses which have suffered through the pandemic, helping recovery;
- The intention to help reinvigorate the West End's economy is welcomed;
- The comprehensive Operational Management Plan (OMP) is welcomed;
- The attraction will help tourism and bring visitors back to central London;
- The viewing platform will offer unique views of Hyde Park, Oxford Street, Mayfair, Marylebone, Park Lane and Edgware Road.

1 Neutral comment neither objecting or supporting the application that queries the cost of the project and whether there are other plans for permanent improvements in the area,

No. of objections: 51 on some or all of the following grounds

#### Land Use/ Principle:

- The cost of a temporary structure is a waste of public money;
- A full cost benefit analysis should be provided;
- Other projects are more worthy of funding;
- Concern that the structure will become permanent;
- Question whether 'the hill' will achieve its aim to encourage the economic recovery;
- A more permanent and creative solution should be found to attract people to Oxford Street.

#### Design:

- The structure would be an eyesore and would be harmful to the historic Grade 1 listed Marble Arch

Highways:

- The development would result in vehicular and pedestrian congestion;

Other Issues:

- Damage to the Environment;
- Increased Pollution;
- Increased potential for crime.
- Disruption during installation and removal.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The Marble Arch was designed by John Nash in 1828, originally as the ceremonial gateway to the forecourt of Buckingham Palace. When the Palace was remodelled and extended in 1851, the arch was relocated to its current position as the north east entrance gateway to Hyde Park. In 1908, the arch was severed from the royal park by the introduction of a new road, designed to accommodate improved traffic movement through to Park Lane. This resulted in the arch becoming separated from the park on a traffic island. In 1961-2 the traffic island was enlarged and split into two halves to allow for a gyratory (Tyburn Way) to link Cumberland Gate with the western extension of Oxford Street to the north of the traffic island, as evident in its current form. The Marble Arch was first listed as grade I in February 1970.

Marble Arch is located on the north eastern side of the island and is a key landmark at the western end of Oxford Street. The site comprises a hard landscaped area of tarmac and grassed area located to the south west of the Arch part of the East Island.

The surrounding area is diverse in terms of the scale, height, form and design of buildings. The site is within the Royal Parks Conservation Area and is designated as Metropolitan Open Land (MOL). Hyde Park is listed at Grade 1 on the Register of Parks and Gardens. The Bayswater Conservation Area is situated to the north west, the Portman Estate Conservation Area to the north and Mayfair Conservation Area to the east. The site lies within the Central Activities Zone.

### **6.2 Recent Relevant History**

The eastern traffic island has been the subject of a number of temporary uses including art installations, Olympic sports installations during the games in 2012, and use as an ice rink between November and January 2002-2008.

In 2011 permission was refused for a much larger development straddling Tyburn Way to provide a temporary event facility to promote the 2014 Sochi Winter Olympics. The application was refused due to concerns over scale, design, traffic generation, security and loss of trees.

The most recent temporary permission was for a theatre event space in 2017 which was initially granted for a 6 month period from April to December (RN 16/11546/FULL). A subsequent consent permitted the theatre from 29 July 2017 to 06 April 2018 (RN 17/04354/FULL).

## **7. THE PROPOSAL**

Permission is sought for the erection of visitor attraction which will comprise of an elevated walkway with a viewing platform providing views along Oxford Street, Edgware Road, Hyde Park and over Marble Arch. The structure would be landscaped with grass (both real and artificial), trees and planting to resemble a grass- covered hill on its southern, western, and eastern sides.

The structure is to be located on the western side of the traffic island rising from east to west, from the hard landscaped tarmacked area to the grassed area in the west of the island. To facilitate the structure a large modern bronze sculpture of a horse's head will need to be temporarily removed from the grassed area on the west of the island.

The structure would be created from scaffolding broadly rectangular in footprint. The scaffolding will create a hill profile. A walkway would be provided up the hill which will connect to a top viewing platform. The top of the viewing platform is 22.5 m in height. The hill is served by a lift. The top of the lift overrun is 25.5m in height. The viewing platform would be 66 m<sup>2</sup> enclosed by a 2.4m barrier and would offer 360 degree views. The planting on the top, east, south and west elevations would use trays with plants and an irrigation system. The north elevation would be open scaffolding.

### Operational Details

An operational management plan (OMP) has been submitted as part of the application. The OMP covers the following: opening hours, ticketing policy, operational overview, visitor throughput, queue management, management and staffing, security, maintenance and noise. The OMP is considered to be comprehensive, the key elements are discussed further in this report.

Access onto the hill will be ticket only booked on- line, with no sales of tickets on site. Every visitor will have a specific fifteen minute arrival slot to ensure that visitor arrival pattern and numbers passing onto the island are managed. The applicant estimates that the capacity is likely to be 130-220 visitors per hour with social distancing measures in place. The proposed opening hours are 10am to 10pm daily. A 10-hour operating day could therefore accommodate an average of 1,200 visitors per day with social distancing. The applicant has not yet finalised the terms on which the tickets will be available, whether it will be free or subject to a charge for partial cost recovery.

Pedestrians and cyclists would be able to enter the site from the existing access routes from the north and south of the island and the existing Marble Arch Underground Station. Visitors would be able to walk up the one-way, elevated path to the viewing platform at the top where they would be able to experience new views along Oxford Street, Edgware Road and Hyde Park. The walkway would have balustrades on both sides of the path for safety and to provide stability for visitors and the pathway would be anti-slip. A lift would also be provided, which would provide access to the top of the structure for wheelchair users and those with impaired mobility. The lift would be accessed from a hard standing area, adjacent to the north elevation of the structure. Public toilet facilities are to be incorporated into the scaffolding on the northern side of the structure.

When leaving the viewing platform, visitors would walk down the internal staircase to ground level, where they would either walk through a void underneath the scaffolding or out of the

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scaffolding to the east. The void would be a flexible space of approximately 495 sqm, which could be used for a range of uses such as art displays, exhibitions or an event space. After visiting the attraction, visitors would be encouraged to continue their journey along Oxford Street to support the economic recovery of the West End.

All points of pedestrian access will be manned by security personnel. The entry gate staff would be responsible for ensuring that only genuine visitors with tickets are allowed access inside the secure perimeter.

Operational security will ensure that the site perimeter is controlled at all times including out of operational hours when the attraction is closed to visitors. Fully trained security staff will patrol and control access to the site and be on duty 24 hours a day.

There are number of measures built into the design to actively assist in discouraging crime and anti-social behaviour. Fences (2.4m high) would also be erected around the perimeter and base of the structure to prevent people climbing up the scaffolding. Crash barriers will be provided on the carriage way to the south and west of the island, for hostile vehicle prevention, and would be concealed within the structure. Security lighting, intruder alarms and CCTV surveillance will be installed, and there will be no hidden areas or benches that could encourage rough sleeping.

The proposals would be for a temporary period of 6 months. Initially it was anticipated that the structure would be in use between July 2021 - January 2022. It is envisaged that the attraction would be operational from 21<sup>st</sup> June to align with the Governments relaxation of the Covid-19 lockdown regulations. Once the temporary permission has expired and the attraction is closed, the site will be cleared of any structures and returned to its original condition.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The site is designated as Metropolitan Open Land (MOL) as part of the Hyde Park Metropolitan Open Land designation, a Royal Park. London Plan policy G3 states that MOL should be afforded the same protection as Green Belt, which is protected at a national level, with development only permitted in very special circumstances.

City Plan Policy S11 states that 'The Royal Parks, their settings, views and tranquillity will be protected from inappropriate development and activity. Developments will only be allowed where they are essential and ancillary to maintaining or enhancing the value of the park as open space and that do not harm the park's

- a) Open landscape character;
- b) Heritage value;
- c) Nature conservation value;
- d) Tranquillity; or
- e) Value as a public open space.

Policy S35 Open Space protects and enhances Westminster's open space network. UDP policy ENV 14 V (A) states that proposals should protect and enhance MOL. UDP policy ENV15 states that development on public open space is prohibited unless essential and ancillary to maintaining or enhancing that land as valuable open space.

The fact that the site is located on an island separated from the main Hyde Park, that there is extensive history of temporary uses over the past 20 years and that the scheme would result in the provision of a visitor attraction for a temporary period which it is hoped will help the recovery of Oxford Street following the Covid-19 pandemic are considered to be extenuating circumstances to justify an exception to the strong policy presumption not to develop on MOL.

On the basis that permission is subject to a condition which requires the site to be restored to its present position there would be no permanent impact on the openness of the MOL in accordance with London Plan, Westminster City Plan and UDP policies.

**8.2 Townscape and Design**

The key legislative requirements in respect to designated heritage assets are as follows:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not normally be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

As already stated Marble Arch is a grade 1 listed building in the Royal Parks Conservation Area. The flat open landscape of the island landscape allows views of Marble Arch from many directions. This open character contributes positively to the significance of this part of the Royal Parks Conservation Area. The key feature of the traffic island is Marble Arch which is highly prominent and dominates the landscape.

The proposed structure will be sited to the west of the arch. It will be approximately 25 metres high, which is about twice the height of Marble Arch. The structure will have sloping sides with vegetation, except for the north side and part of the east side, which will be vertical and clad in a white fabric made from flame retardant, UV stabilized high-density polyethylene (HDPE).

The arch will be hidden by the structure in some street level views, mainly those from the south west. Views from the west are already partially obscured by trees. The view from the south along Park Lane will be partly obscured by the lower slopes of the structure, on the left hand side of the view. The proposed structure will appear in the backdrop of Marble Arch in views from the east, from Oxford Street.

Overall the structure will have a harmful impact on the setting of, and views of, the grade 1 building which will lose some of its prominence in the landscape. It also has a harmful impact on the character and appearance of this part of the Royal Parks Conservation Area, and on the settings of the Grade 1 registered Hyde Park and the adjacent conservation areas, because it will replace the flat landscape and obscure important views, especially views of Marble Arch.

If it were a long-term or permanent structure it would result in substantial harm to the heritage assets referred to above, in particular the setting of Marble Arch and the character and appearance of the Royal Parks Conservation Area. However, on the basis that it is only intended to be in place for a period of six months, it is considered that the impact on the heritage assets could be said to be less than substantial harm, because of its temporary nature. In considering this application the harm caused to heritage assets needs to be weighed up against any public benefits. This is a view shared by Historic England.

### **8.3 Residential Amenity (Daylight/Sunlight and Privacy)**

The proposed structure would not result in a material loss of amenity to the occupants of any of properties surrounding the island block.

### **8.4 Transportation/Parking**

#### Traffic Impact

The proposed scheme is anticipated to have a negligible impact on traffic operation. It is not anticipated that the scheme will generate any meaningful demand for increased traffic movements because it is well served by public transport and is easily accessed on foot or by bike.

As the structure will be built across the existing pedestrian east west route which links the two islands, an extension of the footway on the north side of the island will be required to maintain the east-west pedestrian connection. The extension of the footway on the north side of the island will require the loss of approximately one lane of carriageway space. A transport statement submitted in support of the application refers to the lane in question having a very low level of utilisation and does not provide any meaningful traffic capacity as it is required to merge immediately on exit of the circulating stop line. The Highways Planning Manager raises no objection to this aspect of the application but does advise that the surrounding roads are part of the Transport for London Road Network (TLRN) for which TfL are the highway authority. At the time of writing this report TfL have not commented on the application. Any response received will be verbally reported to Committee.

#### Servicing

City Plan policy S42 and UDP policy TRANS20 require new developments to be provided for on-site servicing. Delivery vehicles stopping on the highway can result in localised congestion to other motorists. The proposal includes off-street vehicle servicing areas.

There are three proposed points of vehicular access for the site:

- Directly from the southern arm of the gyratory;
- Off Tyburn Way, and
- A proposed on-street loading bay on Tyburn Way

Deliveries and servicing movements are anticipated to be extremely low throughout normal operation of the site. The Transport Statement indicates that servicing would be limited to a couple of vehicles on a daily basis with a few more vehicles accessing the site on a weekly basis. All servicing would occur between 0700 and 1000 – outside of the opening hours of the structure. The site operators will manage the movement of delivery and servicing movements to minimise conflicts with traffic and bus operation and ensure that they are carried out safely. The access from the southern arm of the gyratory will operate as a Marshalled Gateway point. All vehicles entering and exiting at this point will do so in forward gear.

The Highways Planning Manager raises no objection to the application but requests that a Servicing Management Plan is secured by condition prior to commencement of development. However given anticipated low levels of servicing, this is not considered necessary and this aspect of the application is acceptable. With regard to his request for cycle parking, this is not considered to be necessary for a temporary structure, and given the likely reliance on public transport.

With regard to the request for the provision of waste storage, this is not considered necessary as it is not anticipated that the proposal will generate any significant amount of waste.

## **8.5 Economic Considerations**

Oxford Street is an international shopping destination with a multitude of flagship stores. However, despite being a global retail destination, it is well documented that Oxford Street is facing a number of challenges as online shopping and increased commercial rates have created a difficult trading environment. These challenges have been intensified by the Covid-19 pandemic. The applicant's submission refers to a 60% decline in retail transactions between January and July 2020 in London.

The aim of the proposed visitor attraction is to encourage visitors back to the West End, increasing footfall aiding the economic recovery of Oxford Street and helping to maintain Oxford Street as a global retail destination. The intention is to create a new point of interest which would act as a catalyst to draw visitors to the western end of Oxford Street by providing an additional attraction promoting linked trips and associated spend with businesses in the district.

## **8.6 Access**

City Plan policy S14 prioritises pedestrian movement. The structure will result in the closure of the existing pedestrian route east-west connecting the two Marble Arch islands. The proposed layout will provide a temporary footway surface to the north of the main eastern island that will safely facilitate this pedestrian connection and therefore retain the ability for pedestrians to move safely between the two islands.

The greatest through movement of pedestrians takes place between Oxford Street and Hyde Park and this is unaffected by the scheme. The Marble Arch Hill scheme will require some of current piazza space to be utilised for visitor queuing but a clear width equivalent to the current

pedestrian crossing dimension on the south part of the piazza will be retained meaning that there will be no loss of pedestrian comfort for people walking between Hyde Park and Oxford Circus. This wide pedestrian route on the east side of the piazza will also provide a clear and comfortable connection to the London Underground station entrance located on the island.

The proposal will generate an increase in trips to the site. However, given the accessibility to public transport facilities in the area it is considered that the increase is unlikely to have any significant adverse impact on the public highway. The proposed on-line ticketing system should prevent crowds forming or extensive queuing to access the site.

Access onto the Marble Arch Hill structure itself will be via a controlled and ticketed access point. The structure is designed to present a sheer surface at its base that will prevent casual access and this will be combined with perimeter fencing to provide a secure boundary to the site.

### Cycling

The main exiting north-south cycling route across the east island linking Hyde Park and Oxford Street will remain unchanged. The connection for cyclists between the two islands will be rerouted to the north and use a shared footway similar to existing. The transport statement indicates that there is a low demand for cycling and walking along this route.

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

### Noise

The attraction is unlikely to be a major source of noise as no mechanical plant is proposed. There is mains power and back-up generators would only be used on a temporary basis in emergency situations to supply power to the lift and to ensure sufficient lighting to aid safe passage off the hill should an evacuation be necessary. The attraction operating hours means the latest time visitors would be admitted would be 9:30pm for a closure at 10pm. Given the sites location, the number of anticipated visitors, the opening hours and existing background traffic noise levels it is considered that the development would not result in a substantial noise impact.

### Trees

On the northern border of the island there are seven trees which include species of False Acacia, Maple, Norway Maple and London Plane. These trees are protected by virtue of being within the Royal Parks Conservation Area, and are owned and managed by the City Council. The footprint of the structure and the top of the viewing platform has been designed to minimise the impact on the trees. None of the trees will be removed.

The southern part of the canopies of trees T5 and T7 (two large London planes) are proposed to be pruned in order to allow the construction and use of the structure. The Head of Arboricultural Services comments that it is regrettable that the structure has been positioned in such a way that it requires tree pruning to accommodate it. Furthermore, that the reduction of the southern part of the canopy of T7 by 3.5m to accommodate a temporary structure is undesirable as it would be harmful to the appearance of the tree.

Whilst these comments are noted, the footprint of the structure and the top of the viewing platform has been designed to minimise the impact on the trees. None of the trees will be

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required to be removed. In the circumstances given the economic benefits that will be derived from the scheme it is considered that permission could not reasonably be withheld due to the impact on the trees.

Sustainability

Relocation of trees, grass, wood and soil.

The proposal is that elements used in the construction of the structure, namely wood, soil, grass, and trees will all find new uses in nearby gardens and parks. The submission refers to ‘a co-ordinated dismantling programme to enable the transplanting of the numerous plants and trees used in landscaping of the hill to other projects in and beyond the Oxford Street District for the benefit of its communities’.

The focus will be on greening school environments, community spaces, and housing amenity areas. The planting used on this project will meet the City Council’s priorities for health and well-being. It is envisaged that the project as a whole can then contribute to the development and illustration of the Council’s Green Infrastructure Strategy.

The Head of Arboricultural Services advises that there are limitations on suitable space available for such material and attempting to transplant living plant material is likely to result in a high mortality rate. Therefore, this is unlikely to be a practical proposition. In the circumstances whilst the intention to re-use as much of the structure as possible is welcomed and encouraged. Given potential practical difficulties highlighted it is not recommended that this is secured by condition.

**8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster’s City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council consulted on the main modifications recommended by the Inspectors between 30 November 2020 and 18 January 2021. However, having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector’s final report.

**8.9 Neighbourhood Plans**

Not applicable

**8.10 London Plan**

An application is referable to the Mayor if it meets the criteria set out in the Mayor of London Order (2008). Category 3 refers to developments which may affect strategic policies. Category 3D refers to land allocated as Green Belt or Metropolitan Land involving the construction of a building with floorspace of more than 1000m<sup>2</sup>. In this case the site is Metropolitan Land but the floorspace is circa 700 m<sup>2</sup> GIA (that is, the offices, WCs, void space beneath the hill, and ticket office). The scheme does not meet this criteria and is not therefore referable to the Greater

London Authority. Although formal direction from the Mayor’s office is not required to determine the application, given that the proposal is for a visitor attraction in a strategic location the GLA have been consulted on the application. Any response will be reported verbally to Committee.

Policy G3 of the London Plan relates to Metropolitan Open Land (MOL) and states that Metropolitan Open Land is afforded the same status and level of protection as Green Belt:

“1) MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt.” Assessment against this policy is discussed in the land use section 8.1 of this report.

Policy E10 of the London Plan relates to Visitor Infrastructure and states London’s visitor economy and associated employment should be strengthened by extending its attractions. The proposal is considered to accord with this policy objective.

**8.11 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.

**8.12 Planning Obligations**

Not applicable.

**8.13 Environmental Impact Assessment**

The proposal is not of sufficient scale to require an Environmental Impact Assessment.

**8.14 Other Issues**

Representations

The consultation responses are summarised in section 5 of this report. A significant number of objections have been received, primarily on two grounds:

- that the concept is ill conceived and there is no evidence or guarantee that it would be a benefit to the economy, and
- that the temporary project would be expensive and that funds should be directed elsewhere to alternative projects.

Whilst these comments are noted, there have also been letters of support for the scheme, including support from the Portman Estate, New West End Company and Baker Street Quarter Partnership (Baker Street Q). These welcome the provision of the attraction, applauding the proactive stance of the Council to help reinvigorate the West End’s economy.

Ultimately, in this forum, the proposal has to be considered on its planning merits. Notwithstanding the objections, it is not considered that permission could reasonably be refused for either of the main reasons for objection. The application needs to be determined in accordance with the development plan, as outlined above. The proposals are also envisaged within the City Council’s Oxford Street District Framework and overall are considered to accord with planning policy.

### Crime prevention

In response to consultation the Metropolitan Police comment that it is imperative to consider the impact the proposal may have within the existing environs. With increased crowding and people queuing it will attract nuisance begging, busking, street performances, and unlicensed street selling into the area. Also this increased footfall and concentration of pedestrians may create pinch points along these routes which criminals could take advantage of by way of pick pocketing and distraction thefts. Marble Arch is often used as a meeting point for protests and processions going down Park Lane and Oxford Street towards Whitehall and Trafalgar Square. The structure of the mountain would be ideal for activists to utilise various demonstration tactics.

Therefore the structure and its associated environs must be enclosed within a 2.4m (minimum) visually permeable boundary line security rated (LPS 1175 SR1 certified as a minimum) alongside corresponding security rated accessed controlled gates alongside dedicated on site 24/7 security staff. The application initially included a 2m high security fence. Further to discussions with the Police the form of the perimeter fencing has been amended and the height increased to 2.4m to comply with the request of the Police. A condition is recommended that the fencing as now proposed is provided and maintained whilst the attraction is in situ.

A number of measures are built into the design to actively assist in discouraging crime and anti-social behaviour, including:

- vehicle protection measures against unauthorised or malicious entry;
- security fencing to protect against entry under the hill or to the back of house areas;
- lighting to assist security monitoring and on-site CCTV surveillance;
- fencing at the base of the hill to prevent access directly onto the slope;
- a 2.4 m high retaining wall integrated around the perimeter at street sides (connection to grade to be detailed) to prevent access directly onto the slope; and
- no hidden areas or benches that could encourage rough sleeping.

Full details of the security measures and personnel are included in OMP. The arrangements are considered to be comprehensive. A condition is recommended that the use is carried out in accordance with the OMP which will ensure that the measures are implemented at all times that the attraction is in operation.

### Counter Terrorism

The applicant advises that they have worked with the Police and have developed a counter terrorism plan. They advise that the Operator will continue to work closely with the Counter Terrorism Policing Team.

### Harm v Public Benefits

Whilst being mindful of policies DES 1, DES 9, DES 10, DES12, DES14 of the Unitary Development Plan and S11, S25 and S26 of the City Plan, given the public benefits that would be delivered, which comprise:

- attracting workers, visitors and residents back to the Oxford Street District to increase footfall following Covid-19 pandemic and acting as a catalyst to support the economic recovery of Oxford Street and the wider West End;

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- new temporary viewpoints of Oxford Street, Edgware Road, Hyde Park and the Grade 1 listed Arch;
- additional greening in the City,

it is considered that the public benefits outweigh the harm identified. Therefore, the recommendation to grant conditional permission is compliant with the requirements of the NPPF.

(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: PAUL QUAYLE BY EMAIL AT <a href="mailto:PQUAYLE@WESTMINSTER.GOV.UK">PQUAYLE@WESTMINSTER.GOV.UK</a>
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Item No.
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## DRAFT DECISION LETTER

**Address:** Marble Arch, London, W1H 7DX

**Proposal:** Temporary installation of a viewing platform, landscaping, walkway and staircase, and other associated works, at Marble Arch for a temporary period of six months.

**Reference:** 21/01005/COFUL

**Plan Nos:** TP1081-N-100, TP1081-N-100a, TP1081-N-100b, TP1081-N-100c, TP1081-N-100d, TP1081-N-101, TP1081-N-101a, TP1081-N-102, TP1081-N-102a, TP1081-N-102b, TP1081-N-200, TP1081-N-201, TP1081-N-301, TP1081-N-302, TP1081-N-303, TP1081-N-401.

**Case Officer:** Mike Walton **Direct Tel. No.** 020 7641  
07866039922

### Recommended Condition(s) and Reason(s)

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

Reason:

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

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

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 You must write to us to advise the first date that the structure will be open to the public. The use can continue for a temporary period of 6 months from this date. After that the use must end and you must remove the structure and return the land to its previous condition and use.

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Reason:

The building shall not remain for a longer period because it would be contrary to policy S22 of Westminster's City Plan (November 2016) and ENV14 and ENV15 of our Unitary Development Plan that we adopted in January 2007.

- 4 The structure shall be open to the public between the hours of 10am and 10pm daily.

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 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 5 The use as a visitor attraction shall be carried out in accordance with the Operational Management Plan submitted by Britton McGrath Associates dated 15 February 2021.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Royal Parks Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must provide the lift access as shown on TP1081-N-100 whilst the structure is open to the public.

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)

- 7 You must not start using the proposed development until security fencing, at least 2.4m high, and to at least the LPS 1175 SR1 standard, has been installed around the perimeter of the site and as shown on drawing TP1081-N-100 dated 16.3.21, or in accordance with any other drawings subsequently submitted to, and approved by, us pursuant to this condition. The fencing must be retained as long as the visitor attraction remains in situ.

Reason:

To prevent unauthorised access to the site and in the interests of preventing crime and anti-social behaviour, in accordance with advice from the Metropolitan Police.,

Informatives

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

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(November 2016), Unitary Development Plan, neighbourhood plan (where relevant), 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 that Trees on Marble Arch are owned and managed by the City Council. The tree surgery set out in your Arboricultural Impact Assessment and Method Statement must be carried out by the City Council's tree contractor. You will have to pay for work to the trees.
- 3 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 email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). 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).
- 5 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide ([www.cae.org.uk](http://www.cae.org.uk)). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk), , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

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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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 March 2021	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>The National Gallery, Trafalgar Square, London, WC2N 5DN</b>		
<b>Proposal</b>	Installation of hostile vehicle mitigation security bollards and raising of the height of the perimeter wall at the National Gallery.		
<b>Agent</b>	Mr C Woods		
<b>On behalf of</b>	-		
<b>Registered Number</b>	20/06529/COFUL and 20/06530/COLBC	<b>Date amended/ completed</b>	15 October 2020
<b>Date Application Received</b>	15 October 2020		
<b>Historic Building Grade</b>	II		
<b>Conservation Area</b>	Trafalgar Square		

**1. RECOMMENDATION**

<ol style="list-style-type: none"> <li>1. Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.</li> <li>2. Grant conditional listed building consent.</li> <li>3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letters.</li> </ol>
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**2. SUMMARY**

<p>The application proposals relate to the upper terrace to North of Trafalgar Square. The site is within the Trafalgar Square Conservation Area and adjoins The National Gallery, a nationally prestigious grade I listed building which lies to the north of Trafalgar Square. The square is a grade I registered Park and Garden which contains grade I listed Nelson's Column as well as grade II listed statues, fountains and walls. The area is of high significance and sensitivity.</p> <p>Permission and consent are sought to install hostile vehicle mitigation security bollards within the setting of the National Gallery at the north east and north west edged of Trafalgar Square, as well as reinforcing the south western corner and reinforcing and raising of the height of the south eastern corner of the perimeter boundary wall at the National Gallery. Following revisions to the scheme all the proposed bollards are to be located within the public highway.</p> <p>The bollards and changes to the boundary walls are required to enhance public safety on the upper</p>
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terrace of the square. In the context of the risk of terrorist attacks, appropriate measures to protect crowded public spaces are inevitable.

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

One letter of objection has been received from the National Gallery based on the position of the bollards, their use, the materials of the east boundary wall and its impact on sprinklers and local fire hydrant mains, the future projects for the public realm, the impact of the works during events and exhibitions and lack of consultation.

#### Bollards

The position of the bollards in front of Jubilee Walk entrance is objected on the grounds that they cut off the Jubilee Walk entrance giving an impression of barrier which may impact the visitor experience, they leave a significant area unprotected within the Pall Mall curb and hostile vehicles could access Jubilee Walk from the other side and they may impact on the operation of the National Gallery.

During the course of consideration of the application revised drawings have been submitted showing minor changes to the alignment of the bollards on the west terrace side, minor design changes to the bollards on the east terrace side and the removal of all bollards on the Jubilee Walk section. The National Gallery has been advised of the revised drawings and no further comments have been received.

At present temporary safety measures are in place on the upper terrace of the square and include concrete blocks which are visually intrusive and undesirable. Whilst the number of bollards proposed is significant, they are a typical feature in the streetscape, and visually more appropriate than the current measures. The moderate level of harm caused by the bollards is felt to be mitigated by the

substantial benefits of improving public safety. The majority of the bollards proposed will be aluminium canonette style bollards, in keeping with others within the square. A small number which are moveable to allow access, are proposed to be simple cylindrical bollards painted black.

The bollards are considered a suitable defensive urban design solution without compromising pedestrian access. The distance between each bollards allow for safe and convenient access for all pedestrian users to access the northern terrace.

The letter of objection raises concerns about negative experience like detritus left on the bollards, the operation of the bollards by third parties and requires access to the terrace.

The supporting document indicates that Westminster City Council will be responsible for the manual operation of the bollards and their cleaning. This is considered acceptable. The comment from the National Gallery about access through the bollards by vehicles is noted. Any special access arrangements required by the gallery would need to be arranged privately with the City Council.

#### Wall Alterations

The works also include alterations to the south western and south eastern sections of the retaining walls to the lawns of the National Gallery. These include taking down the sections and rebuilding within reinforcements and then re-clad with stone to match the existing. It is understood that these walls were rebuilt after the second world war and do not contain historic fabric but do define an original arrangement. The north eastern section will marginally increase in height and incorporate a stepped arrangement.

The comments from the National Gallery request that the stone face cladding of the east boundary wall be sympathetic to the existing stone wall and that the works take into consideration the existing sprinkler systems and the existence of the local fire hydrant mains. It is intended that the appearance of both sections of wall will closely match the existing, though the eastern section will be marginally more prominent due to its increased height. The alterations will cause a modest level of visual harm, which will be less than substantial harm to the significance and setting of the building, however this is sufficiently outweighed by the benefits of improved public safety.

The position of sprinklers and fire hydrant mains are subject to separate regime controls however an informative is recommended to advise the applicant to consult with the National Gallery over the issue.

#### Other Matters

The Greater London Archaeology Service has been consulted and it recommends a pre-commencement condition. The agent has agreed to the imposition of this condition.

The letter of objection states that the proposed scheme should not compromise future public realm projects. It is considered that any future public realm projects for the North Terrace should take into consideration the necessity to ensure public safety as hostile vehicle measures are now a common feature of key places in Central London.

With regards to the timing of building works in relation to the gallery's events and exhibitions an informative is recommended to request that the applicant liaise with the National Gallery to ensure they are kept informed.

The letter of objection raises the issue about a lack of consultation on the planning application. It was recognised by officers that the original consultation was not sufficient and additional consultation was carried out in January 2021.

As a result of this revision all proposed bollards are now located within the public highway. Whilst the proposed bollards could be carried out under Local Authority Permitted Development, the applicant has chosen to submit a planning application. This is acceptable.

As such, given the public benefits that would be delivered, the proposal is considered acceptable in terms of its impact on the designated heritage assets and would comply with the City Plan and Unitary Development Plan Policies. Therefore, the recommendation to grant conditional permission and consent is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.



4. PHOTOGRAPHS



**Eastern side of the North terrace**



**Western side of the North terrace**

## 5. CONSULTATIONS

### HISTORIC ENGLAND:

No comment.

### HISTORIC ENGLAND ARCHAEOLOGY:

Recommends pre-commencement condition.

### METROPOLITAN POLICE:

Any response to be reported verbally.

### WESTMINSTER SOCIETY:

Any response to be reported verbally.

### HIGHWAYS:

No comments on elements that are on highway.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 10

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One letter of objection has been received from the National Gallery on the following grounds:

- position of the bollards in front of the Jubilee Walk entrance creating an impression of barrier, leaving an unprotected area and impacting operation
- preference for the alignment of the bollards
- negative experience due to bollards frequently immovable and clogged with refuse and other detritus
- third party using the key to lower the bollards
- sprinkler system and local fire hydrant mains not to be affected
- stone face cladding must be sympathetic
- project to reimagine public realm space should not be compromised
- works must be planned around the exhibitions and events
- lack of consultation

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. RELEVANT PLANNING HISTORY

In 2003 listed building consent was granted for the dismantling, strengthening and reconstruction of existing granite balustrade on the retaining wall between plinths adjacent to north terrace (RN: 02/06838/LBC).

In 2016 planning permission was granted for the creation of 6 no. pitches on the

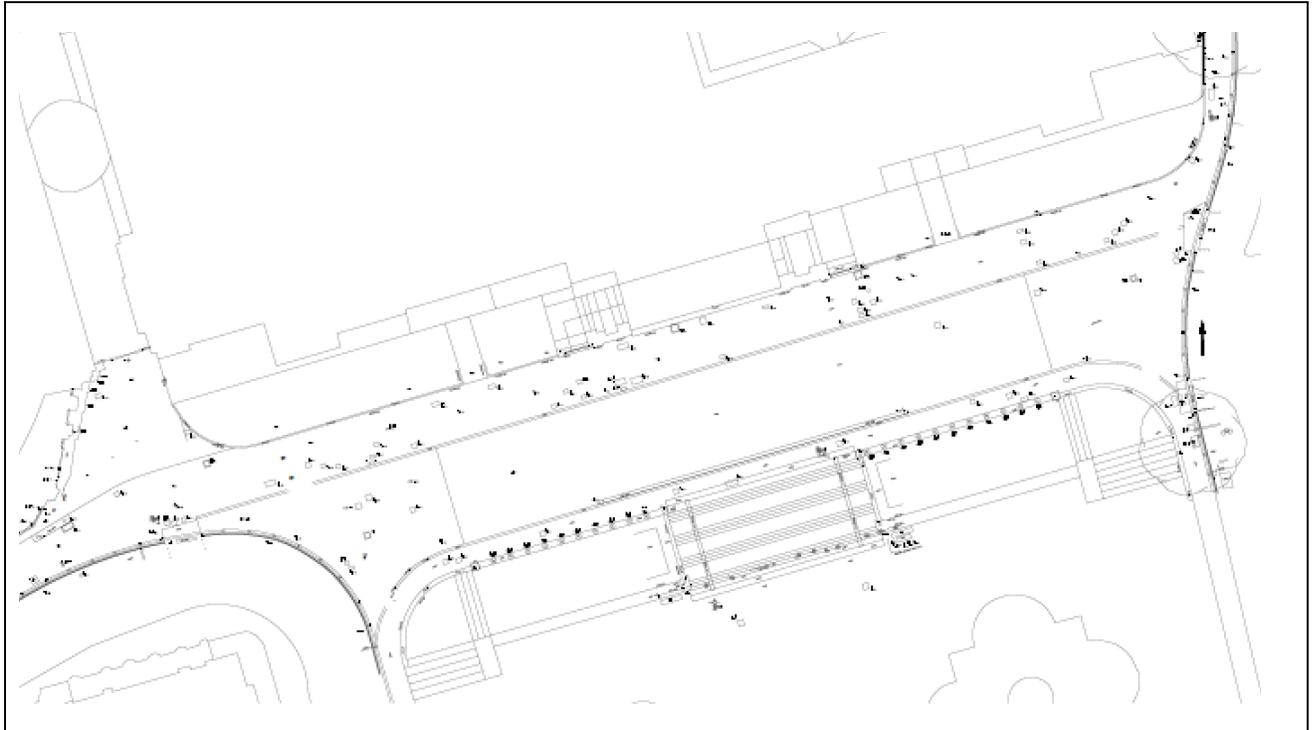
north terrace of Trafalgar Square (RN: 16/06329/COFUL).

Many temporary permissions for the use of the north terrace for art and information pod displays.

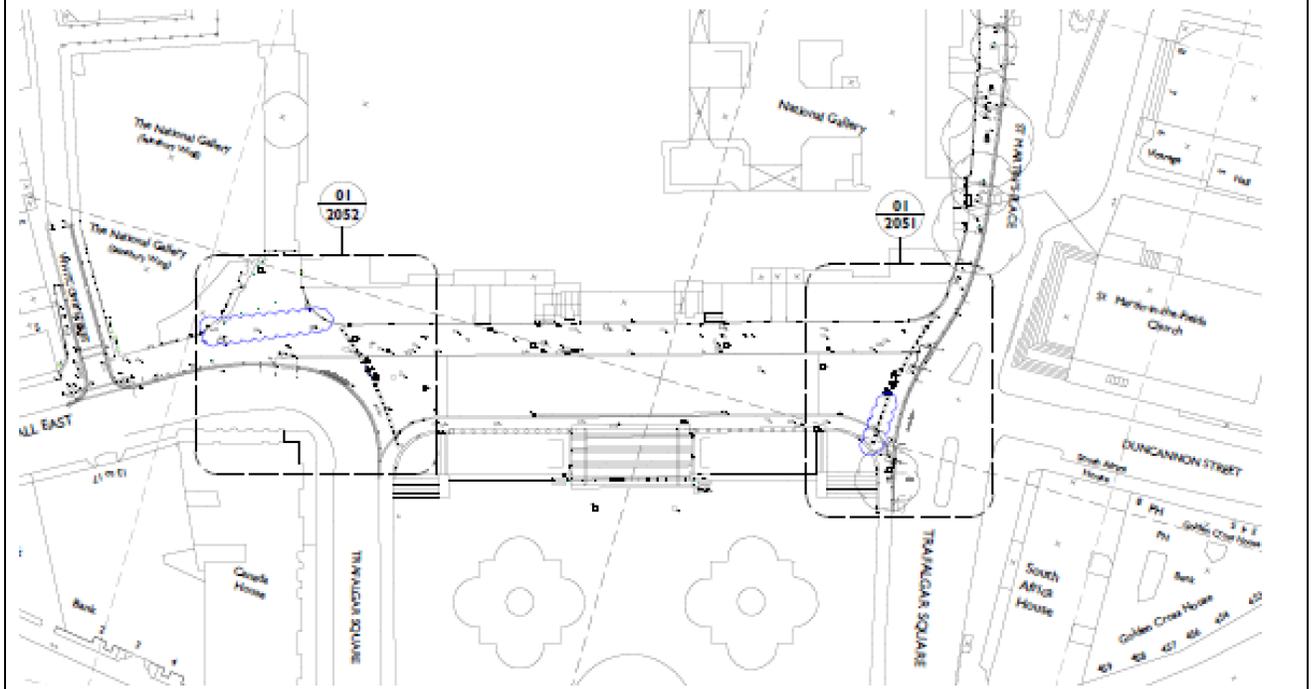
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

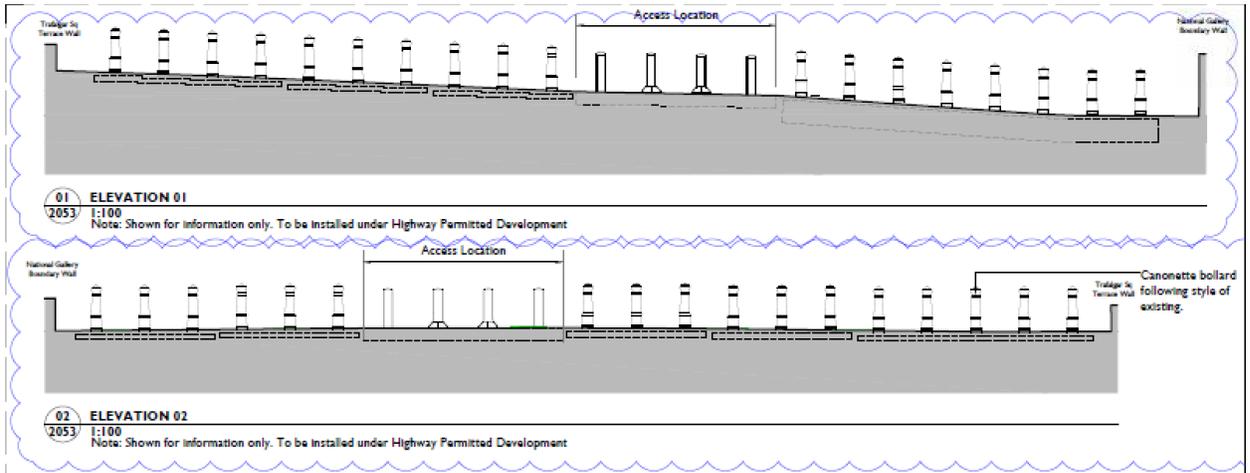
7. KEY DRAWINGS



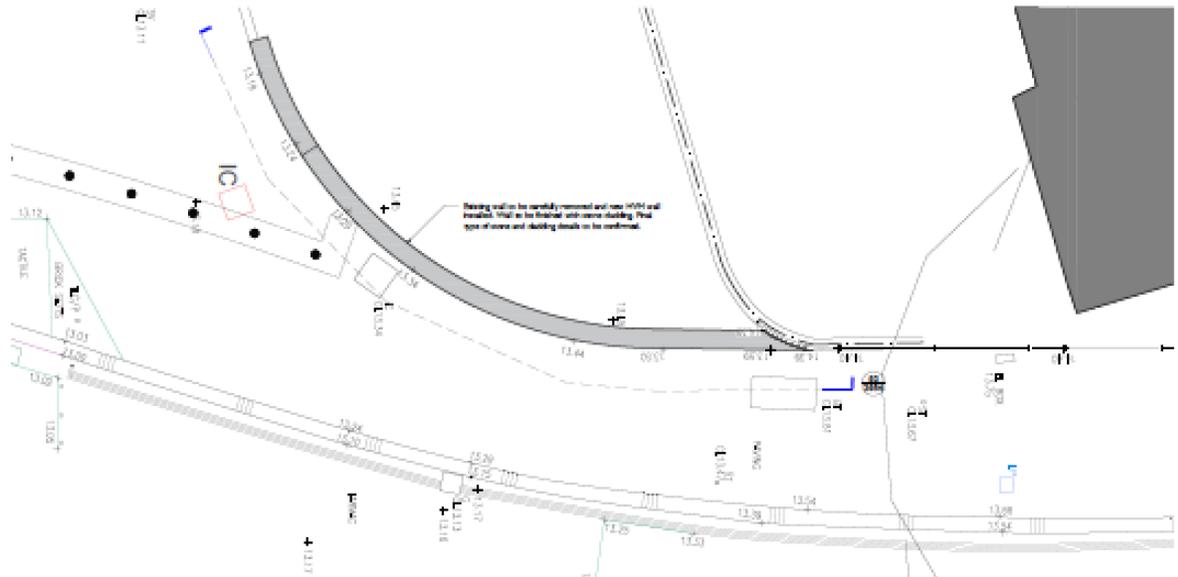
Existing plan



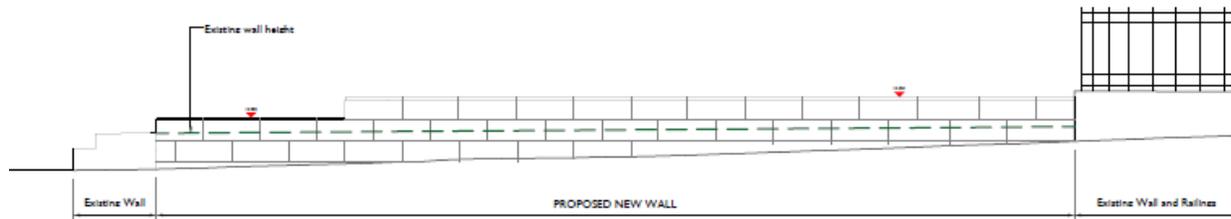
Proposed plan



**Proposed bollards elevation**



**Proposed detailed plan of the wall to be heightened**



**Proposed wall elevation**



**Photomontage - eastern side of the North terrace**



**Photomontage – western side of the North terrace**

**DRAFT DECISION LETTER**

- Address:** The National Gallery, Trafalgar Square, London, WC2N 5DN
- Proposal:** Installation of hostile vehicle mitigation security bollards and raising of the height of the perimeter wall at the National Gallery.
- Reference:** 20/06529/COFUL
- Plan Nos:** 1000 Rev. P02; 1001 rev.P02; 240488-PUR-00-XX-DR-A-1002 rev. P02; 240488-PUR-00-XX-DR-A-2050 rev. P03; 240488-PUR-00-XX-DR-A-2051 rev. P03; 240488-PUR-00-XX-DR-A-2052 rev. P03; 240488-PUR-00-XX-DR-A-2053 rev. P03; 240488-PUR-00-XX-DR-A-2054 rev. P03; Historic environment desk-based study and impact assessment dated June 2020 prepared by Pre-Construct Archaeology.
- For information only: 240488-PUR-00-XX-DR-A-2055 rev. P02; 2 photomontages; Design and access statement dated October 2020; Heritage statement dated October 2020.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 07866038763

**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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Trafalgar Square 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 details of the following parts of the development: photographs of stone sample taken on site. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these details. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Trafalgar Square 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 **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 in writing 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, and to the Greater London Sites and Monuments Record, Greater London Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.

(c) You must not use any part of the new building until we have confirmed in writing 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)

**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, neighbourhood plan (where relevant), 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 consult with the National Gallery for the carrying out of the works to minimise the disruption on their Exhibitions and Events program and to take into consideration the existing sprinklers system and fire hydrant mains.
- 3 **HIGHWAYS LICENSING:**  
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 visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

**CONSIDERATE CONSTRUCTORS:**

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).

**BUILDING REGULATIONS:**

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

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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.

**DRAFT DECISION LETTER**

**Address:** The National Gallery, Trafalgar Square, London, WC2N 5DN

**Proposal:** Installation of hostile vehicle mitigation security bollards and raising of the height of the perimeter wall at the National Gallery.

**Reference:** 20/06530/COLBC

**Plan Nos:** 1000 Rev. P02; 1001 rev.P02; 240488-PUR-00-XX-DR-A-1002 rev. P02; 240488-PUR-00-XX-DR-A-2050 rev. P03; 240488-PUR-00-XX-DR-A-2051 rev. P03; 240488-PUR-00-XX-DR-A-2052 rev. P03; 240488-PUR-00-XX-DR-A-2053 rev. P03; 240488-PUR-00-XX-DR-A-2054 rev. P03.

For information only: 240488-PUR-00-XX-DR-A-2055 rev. P02; 2 photomontages; Design and access statement dated October 2020; Heritage statement dated October 2020.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 07866038763

**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 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 Trafalgar Square 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)

- 3 You must apply to us for approval of details of the following parts of the development:

photographs of stone sample taken on site. You must not start any work on these parts of the development until we have approved what you have sent us.  
You must then carry out the work according to these details. (C26DB)

**Reason:**

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Trafalgar Square 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 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, the London Plan 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 will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
  - \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and
  - \* any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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

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meeting is in progress, and on the Council's website.

# Agenda Item 3

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 March 2021	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>Development Site At 8, Chesterfield Hill, London, W1J 5BE</b>		
<b>Proposal</b>	Variation of conditions 1, 2, 3, and 15 of planning permission dated 10 August 2016 (RN: 16/00807/FULL), which itself varied condition 1 of planning permission dated 14 January 2014 (RN: 13/10660), for 'Demolition of building and erection of replacement four storey building (plus lower ground floor level) containing 5x3 bedroom flats (Class C3) and installation of plant and terrace at roof level - NAMELY, to allow the reconfiguration of internal layout to alter the mix of residential units, alterations to the fenestration and roof, and associated works (S73 application).		
<b>Agent</b>	Phillips Planning Services Limited		
<b>On behalf of</b>	Wellingtons Developments Limited		
<b>Registered Number</b>	20/07501/FULL	<b>Date amended/ completed</b>	25 February 2021
<b>Date Application Received</b>	24 November 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional permission
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## 2. SUMMARY

Permission was granted on 10 August 2016, as an amendment to a previous permission of 14 January 2014, for the redevelopment of this site to provide for a new building on lower ground, ground and first to third floors, to provide 5 flats with associated roof plant and a roof level terrace. Works are nearing completion. An application has been submitted, partly in response to complaints about non-compliance with the approved drawings, to regularise works which have been undertaken on site and to change the approved residential mix. Objections have been received in relation to the application principally relating to plant noise, impact on air quality, the impact of the use of the roof terrace upon neighbours' amenity and the effect of the changes upon the appearance of the building and the character of the area.

The key issues for consideration are:

- The impact of the proposals upon the amenity of neighbouring residential properties;
- The acceptability of the development upon the character and appearance of this part of the Mayfair conservation area;
- The acceptability of the proposals in land use terms.

Subject to conditions, the proposals are considered acceptable in amenity and townscape terms. The change of the residential mix is also acceptable. The scheme is considered to comply with relevant UDP, City Plan and Mayfair Neighbourhood Plan policies and the application is therefore recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





Rear lightwell facade

## 5. CONSULTATIONS

Residents' Society of Mayfair & St. James's  
Works should have been included in original application; roof plant will create noise disturbance and would be visible from other properties and possibly from the street

Mayfair Residents' Group - Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 74

Total No. of replies: 6 No. of objections: 6 No. in support: 0

Objections received on the following grounds:

Land use

- Change of use of the building

Amenity

- Unspecified noise disturbance
- Noise disturbance resulting from the proposed installation of roof plant and the creation of a roof terrace
- Plant will blow hot air over neighbouring properties

Design

- Adverse impact on the appearance of the conservation area
- Adverse impact on the architectural and historic interest of the building

Other

- Retrospective nature of the application unacceptable
- Proposal contrary to objectives of making London 'green'
- Area subject to constant noise disturbance from building works

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application relates to a corner property situated on the east side of Chesterfield Hill at its junction with Farm Street, within the Mayfair Conservation Area, the Core Central Activities Zone and West Mayfair as defined in the Mayfair Neighbourhood Plan (2019).

The site is located within a mixed commercial and residential area. The closest residential properties are immediately adjacent at 24 Farm Street and 7 Chesterfield Hill. The site is in close proximity to several listed buildings including the public house opposite (41 Farm Street) and properties to the south east of the site (20, 22 and 26 Hill Street).

The site is currently being redeveloped as flats pursuant to a permission dated 10

August 2016 (a variation to the original permission of 14 January 2014) for the redevelopment of the site to provide a new building on lower ground, ground and first to third floors, with plant and a terrace at main roof level, to provide 1 x 1, 1 x 2 and 3 x 3 bed flats. Works are nearing completion.

## 6.2 Recent Relevant History

14 January 2014: Permission granted for the demolition of building and erection of replacement four storey building (plus lower ground floor level) containing 5x3 bedroom flats (Class C3). Installation of plant and terrace at roof level. 13/10660/FULL

24 February 2016; Approval of Construction Management Plan pursuant to Condition 11 of planning permission dated 14 January 2014 (15/11591/ADFULL)

22 April 2016: Approval of detail of Construction Management Plan pursuant to Condition 11 of planning permission dated 14 January 2014 (16/02425/ADFULL)

6 July 2016: Approval of Unilateral Undertaking ensuring that redevelopment is continuous post demolition pursuant to Condition 4 (part B) of planning permission dated 14 January 2014 (15/11589/ADFULL)

10 August 2016: Permission granted for variation of condition 1 of planning permission dated 14 January 2014 (RN: 13/10660) to allow changes to the approved scheme including extension to rear lightwell on basement to third floors, alterations to windows north east elevation, alterations to Farm Street elevation, alterations to plant at roof level; omission of roof level stair enclosure and refuse lift within lightwell; alterations to internal layout including changes to the mix of residential units and lowering the height of the floor slab at lower ground floor level by approximately 1 metre (16/00807/FULL). Permission implemented.

10 April 2018 Approval of details of materials pursuant to condition 2 of planning permission dated 10 August 2016 (18/01193/ADFULL)

23 November 2018 Approval of detailed drawings, including details of materials, of the external doors, windows and railings, pursuant to condition 3 (partial discharge, specifically Front Entrance Details, Bicycle Store Entrance, First and Second Floor Bronze Window Details) of planning permission dated 10 August 2016 18/09597/ADFULL

22 January 2019: Approval of details of dormer windows; railings; and string courses, moulded / rubbed brickwork pursuant to Condition 3 (part ii, iii, and iv) of planning permission dated 10 August 2016 (18/10563/ADFULL)

28 January 2019: Approval of details of bio-diversity management plan pursuant to Condition 15 of planning permission dated 10 August 2016 (19/00403/ADFULL)

## 7. THE PROPOSAL

Permission is now sought, retrospectively, to vary the permission of 10 August 2016 including the variation of Condition 1 (drawings) which shows alterations to windows on

the north east and south east (lightwell) facades, the retention of a parapet safety railing to the south-east façade and alterations at roof level including an increase in the size (footprint) of the plant room (extending it towards the Chesterfield Hill frontage), modifications to the roof level balustrade and the erection of a sliding box rooflight, in place of a mechanical roof opening, to provide access to the roof terrace.

- . The scheme involves a change to the proposed residential mix to provide 3 x 2 bed and 3 x 3 bed units (from the mix of 1 x 1, 1 x 2 and 3 x 3 bed flats approved in August 2016, and 5 x 3 bedroom flats in January 2014).

The application also seeks to vary conditions 2 (materials); condition 3 (various design details) and condition 15 (biodiversity management plan) to refer to those reserved details which have previously been approved through discharge of the conditions.

This application has been submitted (in part) in response to an enforcement complaint, received in August 2020, relating to the installation of a third floor AOV (automatic opening vent), which appears as a glazed window, in the north-eastern façade. A window is shown in this position in the approved drawings but the window, as installed, is of slightly different proportions. The drawings confirm that this vent/window, which serves the lobby to the rear escape stair, would be fitted with obscured glass.

A further enforcement complaint has been received (January 2021) on the basis that the roof top plant enclosure may not be as shown on the approved drawings.

The drawings have been revised to confirm the retention of a railing to the third floor parapet (south-eastern façade) and to correct the proportions of the north-eastern window vent to that now installed.

The original permission was subject to a condition requiring the door to the refuse store on the Farm Street frontage to be formed in timber. A further condition required the submission of details of this entrance. While the entrance details were approved, these drawings appear to suggest that the door would be formed in metal, although this is not entirely clear. The applicants have confirmed that the entrance door has not been installed and, as they have not applied to remove the condition requiring this door to be formed in timber, have confirmed that it will be a timber door.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

As previously, the use of the site for residential purposes is considered acceptable and complies with UDP policy H3 and S14 of the City Plan. The original scheme provided 5 x 3 bed units. The residential mix was changed under the August 2016 permission to provide 1 x 1, 1 x 2 and 3 x 3 bed. The current proposal seeks to reconfigure the accommodation to provide 3 x 2 bed and 2 x 3 bed flats

The reconfigured units would provide an acceptable standard of accommodation for future residents in terms of unit size and layout and the level of light received. The 2 bed units measure between 121.8 and 143.4 sqm and the three bed flats measure 176 and 179.5 sqm. City Plan policy S15 requires new development to optimise the number of

units provided and the scheme provides the same number of units as the approved developments. Conditions are recommended to ensure that the new units would achieve satisfactory internal noise levels.

UDP policy H5 normally requires 33% of new units to provide family sized accommodation (3 or more bedrooms) and City Plan policy S15 requires developments to provide a range of unit sizes. The current scheme does not provide any one bed units, replacing the approved one bed flat and one of the 3 bed flats with 2 bed units. While the loss of the smaller flat is regrettable, given that the 2014 permission provided 5 X 3 bed units and as two of the flats (40%) would provide family sized accommodation, it is not considered that the change to the residential mix could reasonably be resisted.

The changes to the scheme do not trigger the Council's affordable housing policy.

One objection has been received on the basis that the current proposal seeks to change the use of the building. However, the proposed use is as five flats, as previously approved; the scheme is considered acceptable in land use terms and this objection is not sustainable.

## 8.2 Townscape and Design

The key legislative requirements in respect to designated heritage assets are as follows:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 72 of the same Act requires that *"In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

Furthermore Chapters 12 and 16 of the National Planning Policy Framework (NPPF) require great weight to be placed on design quality and the preservation of designated heritage assets, including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Objections have been received on the grounds that the proposals would have an adverse impact on the architectural and historic interest of the existing building and upon the character and appearance of the Mayfair Conservation Area. One objector has made specific reference to the visibility of the roof plant from neighbouring properties and from street level.

The existing building is a new development which is nearing completion. It stands at the corner of Chesterfield Hill and Farm Street, opposite a Grade II listed public house,

within the Mayfair Conservation Area.

Amendments to the approved design are proposed, including changes to windows and to the plant enclosure, terrace access and balustrade at roof level. In design and heritage asset terms there have been objections to these alterations including a report of unauthorised development which is being separately investigated.

Altering the design of some of the windows has a neutral impact on the appearance of the building, there is no objection to the window/vent in the north-eastern facade, and clarification has been provided about the materials of construction for the refuse store door. At roof level, the size and location of the plant enclosure has been altered as has the access enclosure. These alterations are also neutral in design and heritage asset terms. There are numerous examples of rooftop plant in the Mayfair Conservation Area and, in this case, the plant will be suitably screened (as before) to minimise its visual impact. Similarly, the lift overrun and access enclosure will be inconspicuous and the overall appearance of the building will be acceptable in its context. The objections on these grounds are therefore not considered to be sustainable.

### 8.3 Residential Amenity

#### Sunlight and Daylight and sense of enclosure.

The scheme includes a slight increase in height and bulk at roof level through the addition of a new roof level access enclosure towards the centre of the roof. In addition, the footprint of the rooftop plant enclosure has been increased, bringing this structure closer to the roof edge on Chesterfield Hill, although its relationship with properties to the rear is unchanged. Given the location and form of the new terrace access and the relationship of this structure and the enlarged plant room with neighbouring properties, it is not considered that these alterations to the scheme would have a material impact upon levels of daylight and sunlight to neighbouring properties nor would result in any material increase in the sense of enclosure to neighbouring windows.

#### Overlooking

The scheme involves changes to windows to the rear lightwell. On the south east elevation, windows on the lower ground, ground and third floors are smaller than those approved in August 2016. The size of the first and second floor windows is unchanged.

Under the 2016 permission the third floor dormer on the south east elevation contained full height windows to a bedroom. Neighbours recently expressed concern about the use of the small area of flat roof outside of this window as a terrace. The use of this roof area (little more than a gutter) was not the subject of a condition to prevent its use for sitting out. Under the current scheme, this third floor bedroom window now serves a bathroom and the full height glazing has now been replaced by a dormer window to accommodate a bath beneath. There is no access to the roof outside the window, other than by climbing over the bath and through the window. The applicants have confirmed that the railing which has been erected on this parapet would be retained for maintenance safety purposes. However, given neighbours' previous concerns (current objections do not relate to the use of this roof) and the potential for future changes to the flat layout, it is considered reasonable to impose a new condition to prevent access to this roof other than for maintenance purposes.

To the north east elevation, the third floor window/smoke vent to the escape lobby, which is the only window on this façade, has been modified, replacing it with a two-paned 'window' of slightly different proportions. The drawings have been revised to show the window proportions and vent locations 'as built' and are annotated to indicate that this window would be fitted with obscured glass. This change is not considered to be significant in terms of the impact on the amenity of neighbouring residential properties, especially given the several windows that were originally proposed in the first permission. The installation of obscure glazing is welcomed in amenity terms: notwithstanding that the glazing served an (automatic opening vent) AOV to an escape corridor, rather than a window to a principal living space, it is considered that it would be reasonable to impose a condition requiring this glass to be obscured.

#### Privacy/noise from the proposed roof terrace

Objections have been received on the grounds of potential noise disturbance from the use of the roof terrace. Although objectors have referred to this terrace as 'new', a roof terrace was approved under both the 2014 and 2016 permissions and covers the same area as the terrace approved in August 2016. In these circumstances, it is not considered that objections relating to noise disturbance from the roof of this domestic terrace can be supported.

#### **Transportation/Parking**

##### Cycle parking

The scheme now includes 3 x 2 and 2 x 3 bed flats. The approved scheme provides 11 cycle parking spaces and the original permission is subject to a condition requiring these spaces to be provided. The London Plan now requires 2 spaces to be provided for each of the flats plus 2 visitor spaces. Although the scheme does not provide both visitor spaces it is not considered that this shortfall could justify a refusal of the current application given that there is no change to the number of flats and the scheme is nearing completion. Cycle parking would, again, be secured by condition.

The scheme does not raise any other additional highways issues.

#### **8.4 Economic Considerations**

Any economic benefits generated by the proposals are welcomed.

#### **8.5 Access**

Access to the development is unchanged other than for access to the roof which terrace which would now be via a sliding glass enclosure rather than a mechanical opening.

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

##### Plant/plant noise

Objections have been received to noise disturbance from the 'new roof' plant and to plant blowing 'hot air' over neighbouring properties. However, the roof plant was approved in both 2014 and in 2016. The plant enclosure is shown in the same location as that approved in 2016, insofar as it relates to the neighbouring property to the east (24 Farm Street), although it does now extend slightly closer to the Chesterfield Hill

frontage. The previous permission is subject to conditions relating to plant noise and vibration, and a requirement for the submission of a supplementary noise report demonstrating compliance with the noise conditions. Subject to these conditions, which would form part of any new permission, the proposals are considered to comply with UDP policy ENV6 and ENV7 and S32 of the City Plan. In these circumstances, it is not considered that objections relating to plant noise can be supported. Similarly, given the relationship of the roof plant to neighbouring properties, it is not considered likely that neighbouring occupiers would experience any loss of amenity as a result of 'hot air'.

#### Sustainability

Objections have been received on the grounds that the provision of roof level plant is contrary to objectives to make London 'green'. The aforementioned schemes both include residential plant and, as works are nearing completion, it is not considered that the application could reasonably be refused on sustainability grounds. As before, the current proposal does provide a small green roof.

### **8.7 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council consulted on the main modifications recommended by the Inspectors between 30 November 2020 and 18 January 2021. However, having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's final report.

### **8.8 Neighbourhood Plans**

The Mayfair Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

### **8.9 London Plan**

The application does not raise any 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.

All previous pre -commencement conditions have been discharged

### 8.11 Planning Obligations

The scheme does not trigger any planning obligations

### 8.12 Environmental Impact Assessment

An Environmental Impact Assessment is not necessary given the nature and scale of the development

### 8.13 Other Issues

#### Retrospective Application

Several objections have been received on the grounds that the application is retrospective and that the proposed changes should have been considered as part of the original design and applications. These objections specifically refer to roof level alterations and the installation of roof plant and the creation of a roof terrace. These works were previously approved and are not the subject of changes to the scheme now proposed. Although regrettable, permission cannot justifiably be withheld for retrospective applications on the basis that the other works have already been carried out. Any decision to approve or refuse a retrospective application must solely be based upon the acceptability of the proposals, which in this case are considered to be acceptable.

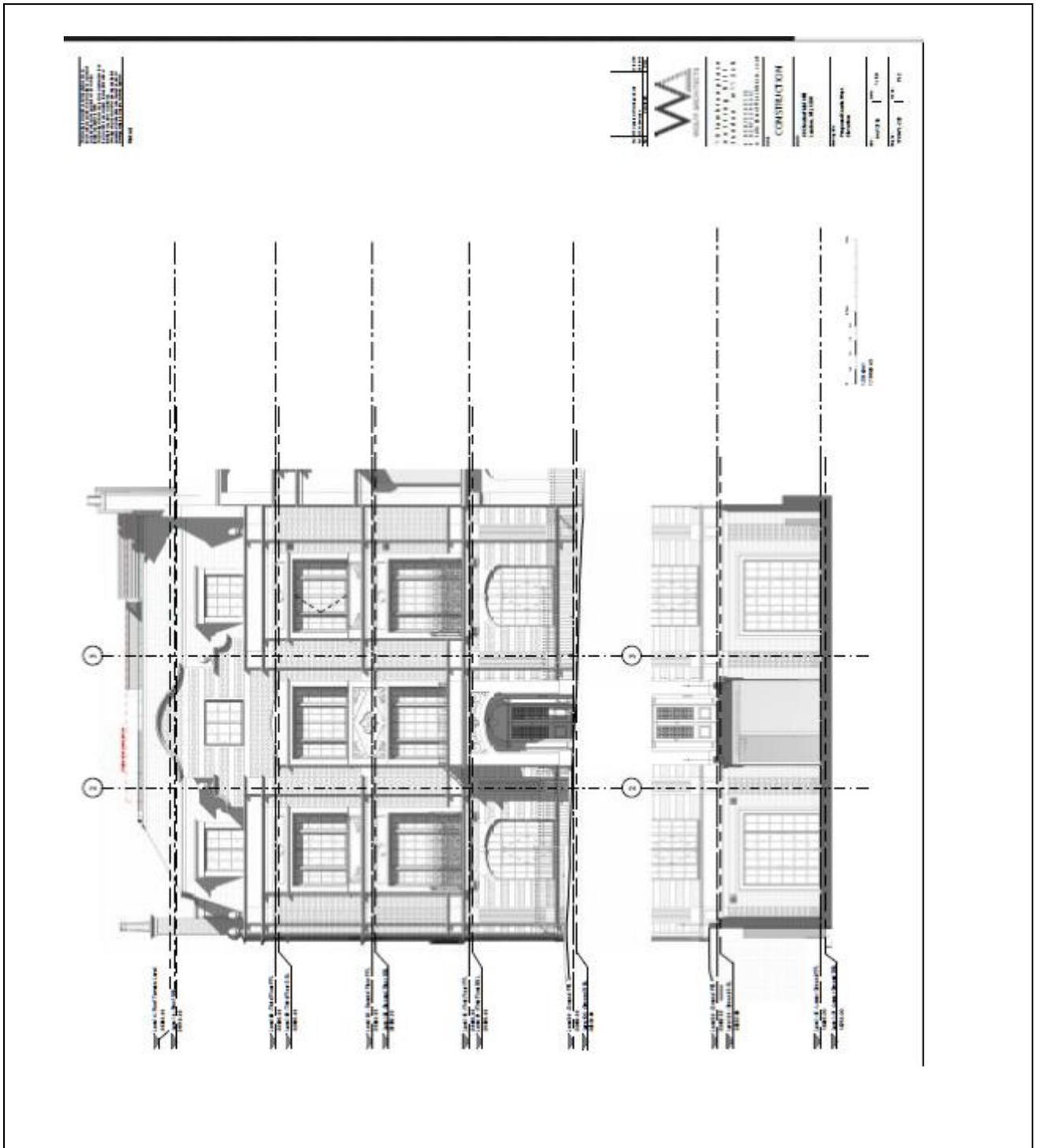
#### Construction impact

One objection has referred to disturbance in the area from building works on several neighbouring sites. Whilst concerns regarding noise disturbance are noted, the impact of this development was mitigated as far as possible by the imposition of conditions relating to the hours of building works and requiring the submission of a Construction Management Plan. It is not considered that the current proposals, particularly when the works have already been undertaken, would have a significant impact on levels of noise disturbance arising from construction works on this site.

(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: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk).

9. KEY DRAWINGS



DATE: 01/11/2017  
TIME: 10:00 AM  
PROJECT: [illegible]  
DRAWING: [illegible]  
SHEET: [illegible]

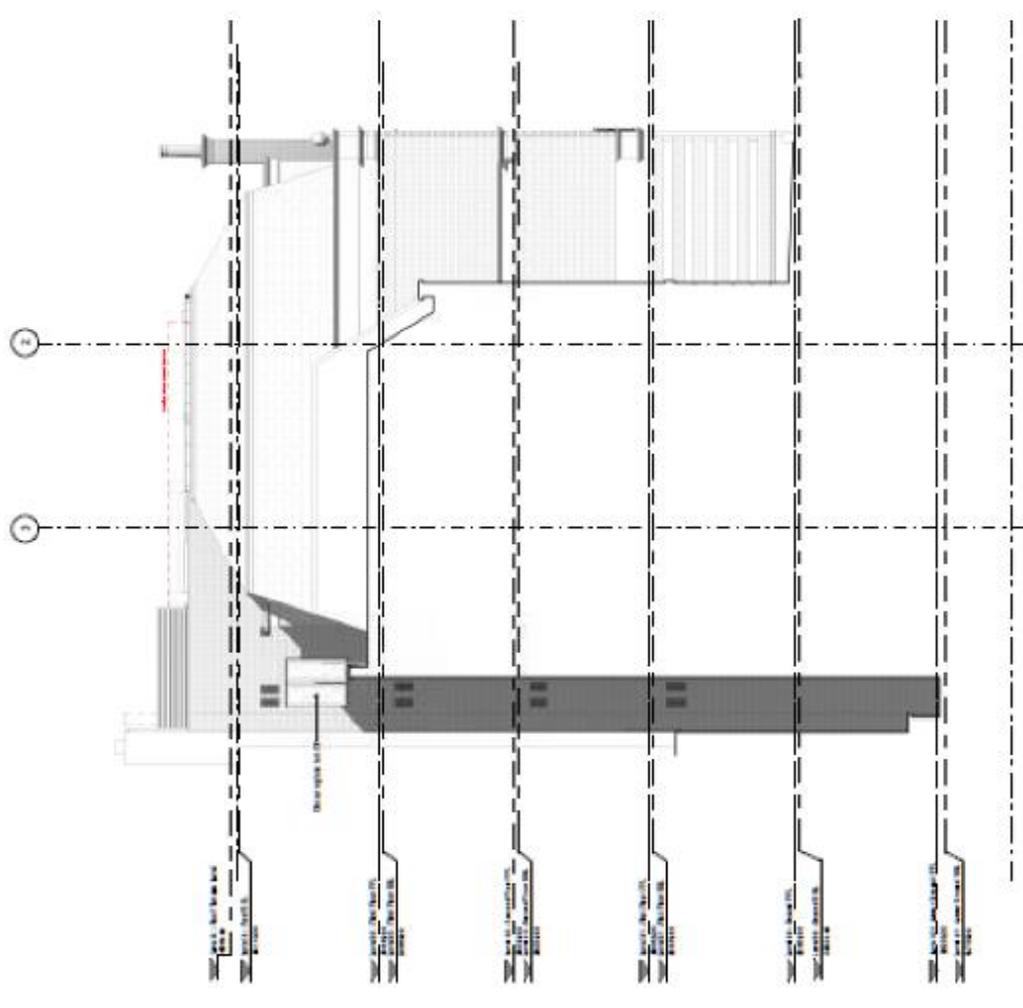
**W**  
WORLDWIDE ARCHITECTURE

ARCHITECTS  
1000 N. 10TH ST.  
SUITE 100  
DENVER, CO 80202  
TEL: 303.733.1111  
WWW.WWA-ARCHITECTS.COM

**PLANNING**

PROJECT NO. [illegible]  
DATE: 01/11/2017

SCALE: 1/8" = 1'-0"  
DATE: 01/11/2017





**DRAFT DECISION LETTER**

- Address:** Development Site At 8, Chesterfield Hill, London,
- Proposal:** Variation of conditions 1, 2, 3, and 15 of planning permission dated 10 August 2016 (RN: 16/00807/FULL) for which itself varied condition 1 of planning permission dated 14 January 2014 (RN: 13/10660) for 'Demolition of building and erection of replacement four storey building (plus lower ground floor level) containing 5x3 bedroom flats (Class C3) and installation of plant and terrace at roof level. NAMELY, to allow the reconfiguration of internal layout to alter the mix of residential units, alterations to the fenestration and roof, and associated works (S73 application).
- Reference:** 20/07501/FULL
- Plan Nos:** 13/10660/FULL  
 0531-EX-190; 0531-EX-191; 0531-EX-192; 0531-EX-193; 0531-EX-194; 0531-EX-195; 0531-EX-196; 0531-EX-197; 0531-PL-300; 0531-PL-302/A; 0531-PL-303; 0531-PL-304; 0531-PL-305; 0531-PL-306; 0531-PL-307; 0531-PL-311/A; 0531-PL-312/A; 0531-PL-313/B; 0531-PL-314/A; Daylight and Sunlight Report; Background Noise Survey and Plant Assessment and Structural Engineering Report for Planning: Issue 2.
- 15/11589/ADFULL  
 UNILATERAL UNDERTAKING PURSUANT TO S.106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 relating to land at 8 Chesterfield Hill, London W1J 5BW created by Forsters Dated 2016 received by the Council on 12.04.2016 and 08-09154 (site plan) received 12.04.16
- 15/11591/ADFULL  
 Construction Management Plan (21965/v2)
- 16/02245/ADFULL  
 Document Number KB/CMP/ 8 CHESTERFIELD HILL/ March Rev 00
- As amended by 16/00807/FULL  
 15027 C645\_P\_/LG\_001A, 00\_001, 01\_001, 02\_001, 03\_001, RF\_001A; 15027 C645\_E\_/SW-001B, NW\_001, SE\_001A, NE\_001A; 15027 C645\_S\_DD\_001A
- 18/01193/ADFULL  
 311 Rev 0, 312 Rev 0, 313 Rev 0, 307 Rev A
- Materials: TLB fully washed red rubber - cut face texture; Reclaimed Cambridge buff Portland 'Jordan's basebed; Natural slate tiling; White render; Metal windows Black painted metal balustrades; Portland stone; Porcelain tiles on paving pads; Sedum roof
- 18/09597/ADFULL

1709-CN-834 rev no PL1, 1709-CN-835 rev no PL1, 8  
CHESTERFIELD/19958/002 (C), 8 CHESTERFIELD/19958/003 (B)

18/10563/ADFULL  
646/101 REV A, 646/100 REV A, 1709-CN-832 REV - , 1709-CN-822 REV - , 1709-  
CN-836 REV - , 1709-CN-837 REV - , 8 CHESTERFIELD/19958/001 DATED  
11/12/18, COVERING EMAIL TO PHOTOGRAPHS DATED 11/12/18

19/00403/ADFULL  
Document entitled "Biodiversity Management Plan , 8 Chesterfield Hill" by Eight  
Associates dated 30/04/2018, reference "2938 - 8 Chesterfield Hill Management  
Plan - 1804-30rc.docx"

As amended by 20/07501/FULL  
1709/200-PL1, 201-PL1, 202-PL1, 203-PL1, 204-PL2, 205-PL1, 221-PL3, 222-PL3,  
233-PL3; email from Philips Planning dated 8 February 2021 (timber door to cycle  
store)

**Case Officer:** Sara Spurrier

**Direct Tel. No.** 020 7641  
07866039795

### **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 The development must be carried out using the details of facing materials approved by the City Council on 10 April 2018 under reference 18/01193/ADFULL or in accordance with alternative samples of facing materials, including glazing, and elevations and roof plans annotated to show where the materials are to be located submitted to and approved by the City Council as local planning authority.

You must not start any work on these parts of the development until we have approved any alternative samples of facing materials that you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

3 You must carry out the development in accordance with details of:

- i) External doors
- ii) windows and railings (part)

approved by the City Council on 23 November 2018 under reference 18/09597/ADFULL, as amended by email dated 8 February 2021 from Philips Planning (confirming that the door to the cycle/refuse store will be formed in timber)

- ii) dormer windows and railings (part)
- iii) railings
- iv) string courses, moulded/rubbed brickwork and carved stone

approved by the City Council on 22 January 2019 under reference 18/10563/ADFULL or in accordance with alternative details of

- i) external doors
- ii) windows and dormers
- iii) railings
- iv) string courses, moulded/rubbed stonework and carved stone submitted to and approved by the City Council as local planning authority

You must not start any work on these parts of the development until we have approved any alternative details that 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)

4 The development (demolition and construction) shall be undertaken in accordance with the details (Unilateral Undertaking that redevelopment is carried out as a continuous process post-demolition) approved by the City Council on 6 July 2016 under reference 15/11589/ADFULL or in accordance with either

- (a) an alternative construction contract with the builder to complete the redevelopment work for which we have given planning permission, or
- (b) another alternative means of ensuring we are satisfied that demolition and redevelopment will only occur as part of a continuous process.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary

Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

5 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

6 You must carry out any building work which can be heard at the boundary of the site only:

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

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

7 You must provide the waste store shown on drawing 15027 C645\_P\_00\_001 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the flats. 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)

8 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

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

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

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R46AB)

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

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

11 You must carry out the development accordance with the Construction Management Plan approved on 24 February 2016 under reference 15/11591/ADFULL or the Construction Management Plan approved on 22 April 2016 under reference 16/02425/ADFULL or in accordance with a new a Construction Management Plan for the proposed development which has been submitted to and approved in writing by the City Council as local planning authority prior to the commencement of works, including any works of demolition. The plan must include the following details (where appropriate):

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
- (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R21HB)

12 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(s) 9 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. (R51AB)

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

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise. (R49AA)

14 The door and screen to the refuse store (Farm Street frontage) shall be formed in solid timber

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007 and as set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

15 The development must be carried out in accordance with the details, including a biodiversity management plan, approved by the City Council on 28 January 2019 under reference 19/00403/ADFULL or in accordance with alternative detailed drawings and a bio-diversity management plan in relation to the green/living 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 approved any alternative details that you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain the green/living roof 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)

16 The area of flat roof outside the third floor bathroom, as shown on drawing 204-PL2, shall not be used for sitting out and shall only be accessed for maintenance purposes or as a means of escape.

**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)

17. The glass that you put in the automatic opening vent (AOV) at third floor level in the east elevation must not be clear glass, and you must fix it permanently shut (except in an emergency). You must apply to us for approval of details, either a sample of the glass (at least 300mm square) or photographs demonstrating how obscure the glass is. You must not occupy any of the flats until we have approved the details. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

**Reason**

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

**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, neighbourhood plan (where relevant), 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.

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# Agenda Item 4

Item No.
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4
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date: 30 March 2021</b>	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>25 and 26 Ivor Place, London, NW1 6HR</b>		
<b>Proposal</b>	Use as a single dwelling house (Class C3), demolition of the east facing external wall to create a lightwell from basement to roof level, excavation of basement below rear of the existing building to be used as part of single family dwelling and associated alterations, increased height and location of the west facing boundary wall with alterations to the pitch of the roof and creation of a lightwell at the west facing elevation.		
<b>Agent</b>	Mr Simon Miller		
<b>On behalf of</b>	Mr Edmund Grower		
<b>Registered Number</b>	19/06766/FULL	<b>Date amended/ completed</b>	3 September 2019
<b>Date Application Received</b>	28 August 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Dorset Square		

## 1. RECOMMENDATION

Grant conditional permission
------------------------------

## 2. SUMMARY

25-26 Ivor Place is an unlisted building located within the Dorset Square Conservation Area. The building is an unlisted building of merit within the Dorset Square Conservation Area. The property is currently divided into a self-contained residential flat at basement level with office use on the ground, first and second floors.

Permission is sought for the use of the building as a single dwelling house (amalgamating the upper floors with the existing basement level flat). The basement level is to be extended rearward beneath the whole building. To the rear it is proposed to create two new lightwells, which includes the demolition of a side wall facing Linhope Street and part of an existing glazed pitched roof on the west facing elevation. The property would comprise of six bedrooms and be 521sqm over four floors.

58 letters of objection have been received from neighbours across four rounds of consultation as well as objections from the St Marylebone Society.

The Key issues are:

- The impact of the increased height on the west boundary on the neighbouring residential properties
- The impact of the basement development on neighbouring buildings in terms of noise and disturbance
- The size of the proposed dwelling and weather it represents over development
- The impact of the development on the Dorset Square Conservation Area
- The impact of the development on parking and the highways network in the surrounding streets

For the reasons set out in this report, the proposals are considered acceptable in land use, design, conservation, amenity and highways grounds and the application is recommended for conditional approval.

3. LOCATION PLAN



4. PHOTOGRAPHS

Front elevation of the site taken from Ivor Place



Side elevation taken from Linhope Street (east elevation of the application site)



Photos provided by the applicant from the roof of the application site of the west boundary and showing relationship between the application site and properties on Balcombe Street



Photo of application site from terrace of No. 45 Balcombe Street



## 5. CONSULTATIONS

### First Consultation

THE ST MARYLEBONE SOCIETY:

Objection on the grounds of overdevelopment of the site, air conditioning, future potential for a roof terrace, parking.

WASTE PROJECT OFFICER:

No response.

HIGHWAYS PLANNING MANAGER:

The surrounding area has the capacity to absorb additional residential parking and the cycle parking provided is acceptable. No objection subject to a condition to secure the cycle parking.

BUILDING CONTROL:

The details provided are acceptable. No objection

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 22

Total No. of replies: 18

No. of objections: 18 letters of objection received on one or more of the below grounds.

#### Land use

- Overdevelopment and increased volume of the site
- Not an appropriate site for a basement
- Loss of commercial floorspace

#### Design

- Harm to adjoining listed buildings
- Removal of wall facing Linhope Street harms streetscape and Dorset Conservation Area

#### Amenity

- Noise disturbance for neighbours from within the building
- Noise from retained plant
- Light pollution from glazed stair and new windows
- Potential for future roof terrace
- Overlooking
- Loss of privacy
- Loss of light
- Standard of accommodation at basement level

#### Other

- Structural damage to neighbouring property and listed buildings
- Lack of detail in the drawings

- Flooding of neighbouring buildings from basement excavation (based on previous basement excavation in Balcombe Street)
- Noise and disturbance during construction works (specifically for elderly neighbours)
- Non-compliance with basement policy
- Basement is not below less than 50% of garden land
- Lack of consideration for neighbours
- Sqm of property not given
- Noise from proposed air conditioning
- Impact on parking and traffic
- 

**PRESS ADVERTISEMENT / SITE NOTICE:**

Yes

**Second consultation carried out following the amendment of the description of development to include demolition (21<sup>st</sup> November 2019)**

**THE ST MARYLEBONE SOCIETY:**

Objection on the grounds of overdevelopment of the site, air conditioning, future potential for a roof terrace, parking pressure

**WASTE PROJECT OFFICER:**

The waste and recycling storage provided is unacceptable. This matter could be addressed by appropriate conditions.

**HIGHWAYS PLANNING MANAGER:**

The surrounding area has the capacity to absorb additional residential parking and the cycle parking provided is acceptable. No objection subject to a condition to secure the cycle parking.

**BUILDING CONTROL:**

The details provided including the addendum relating to hydrology are acceptable. No objection

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

No. Consulted: 22

No. of objections: 11

The objections received did not raise any issues which were not raised in the initial consultation

**Third consultation carried out following the amendment of the description of development to include 'increased height and location of the west facing boundary wall with alterations to the pitch of the roof and creation of a lightwell at the west facing elevation' (19<sup>th</sup> October 2020).**

**THE ST MARYLEBONE SOCIETY:**

Objection primarily on the grounds of noise and disturbance on the neighbours.  
Concerns also raised with regards to ventilation needed to the basement.

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

No. Consulted: 43

No. of objections: 15

Below are the objections raised which have not been raised in previous responses  
(summarised above)

**Other**

- Comment that the revisions aren't easily to read and the amendments should be 'bubbled up'
- Lack of updated drawings from 2019 to support application

**Fourth consultation carried out following the receipt of revised drawings to correct an inconsistency in the building and boundary height on the west elevation (3<sup>rd</sup> February 2021)****THE ST MARYLEBONE SOCIETY:**

Reiterations of objections previously made on the grounds of overdevelopment of the site, the building could be used as flats, air conditioning, future potential for a roof terrace, parking pressure

**WASTE PROJECT OFFICER:**

The details provided are inadequate as the bin store is too small and bins are not labelled correctly.

**HIGHWAYS PLANNING MANAGER:**

No response to date

**BUILDING CONTROL:**

The alterations do not impact the previous assessment of the application.

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

No. Consulted: 58

No. of objections: 11

Issues not raised in previous comments:

- It is highly unlikely that the roof will be retained
- Loss of light to basement flat of 45 Balcombe Street

**6. BACKGROUND INFORMATION****6.1 The Application Site**

25-26 Ivor Place is mid terraced four storey unlisted building located within the Dorset

Square Conservation Area. The building is designated in the Dorset Square Conservation Area as an unlisted building of merit. The property is currently divided into a self-contained residential flat at lower ground floor level with office use on the ground, first and second floors. This existing office use was granted planning permission on 7th June 1990.

The site does not have any outside space and the building abuts the boundary walls of the properties and rear gardens of Linhope Street and Balcombe Street. As existing there are windows to a staircase in the centre of the building and in the existing sloped roof facing west and the front elevation, in the east facing elevation in Linhope Street and to the front elevation on Ivor Place.

## 6.2 Recent Relevant History

14/00181/FULL

Excavation of basement level and additional sub basement level to be used as cellar, with formation of full height lightwells and use of entire building as single family dwelling. Construction of roof terrace with rooflights and associated alterations at roof level and elevations.

Application Refused                      3 September 2014

14/00182/FULL

Excavation of extended basement level and full sub-basement, formation of full height lightwells and use of entire building as single family dwelling. Construction of roof terrace with rooflights and associated alterations at roof level and elevations.

Application Refused                      3 September 2014

14/01877/FULL

Change of use from office on upper floors and studio flat at basement level to single family dwelling, excavation of extension to existing basement and addition of sub basement level, mansard roof extension, balustrading and air conditioning units at existing roof level, formation of two lightwells and extension of stairwell enclosure.

Application Refused                      16 September 2014

15/01725/CLEUD

Installation of five air conditioning units.

Application Permitted                      23 April 2015

15/10364/FULL

Use from office (Class B1) to residential (Class C3), demolition and rebuilding of building behind retained facade, excavation of sub basement level across whole of site, extension of existing basement level plus creation of lightwells, and relocation of rooftop air conditioning units and other associated alterations.

Application Refused                      6 November 2015

Appeal Ref: APP/X5990/W/15/3138041

Dismissed

15/04131/FULL

Change of use from office (Class B1) to residential (Class C3), demolition and rebuilding of building behind retained facade, excavation of sub basement level across whole of

site extension of existing basement level plus creation of lightwells, creation of roof terrace and relocation of rooftop airconditioning units and other associated alterations.  
 Non-det - Refusal recommended 21 December 2015  
 Appeal Ref: APP/X5990/W/16/3146500  
 Dismissed

17/00971/P3JPA

Change of use from office (Class B1) to single family dwelling house (Class C3).  
 Application for prior approval under Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)  
 Prior Approval Approved 28 March 2017

17/11113/FULL

Use from office (Class B1) to residential (Class C3), demolition and rebuilding of building behind retained facade, further excavation of existing basement level plus creation of lightwells, and other associated alterations.  
 Application Withdrawn 12 June 2018

## 7. THE PROPOSAL

Permission is sought to convert the existing building from ground to second floor into residential floor space, amalgamate it with the existing basement level flat and extend the existing basement level out below the whole of the existing building to all be used as residential floor space. The site would provide a single 6 bedroom single family dwelling measuring 552 sqm.

The existing front façade, majority of the roof and party walls would be retained. Part of the east facing exterior wall fronting Linhope Street would be demolished as well as the west facing pitched glazed roof in association with the creation of two new lightwells and new glazed pitched roof. An extension to the existing lower ground floor is proposed, so that this extends under the footprint of the whole site.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Use (resi/office/etc)	26	552	+ 526
Use (resi/office/etc)	425	0	- 425
Total	451	552	+ 101

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### *Loss of office accommodation:*

The proposal would result in the loss of B1 office space, outside of any special policy area. As such there is no policy protection for the office use and its loss is considered to be acceptable. As such the objections raised to the loss of the mixed-use character of the area and the commercial floorspace are therefore not able to be sustained.

#### *Existing and Proposed residential accommodation:*

The existing residential accommodation at lower ground floor level is of single aspect

which looks out onto a lower ground floor lightwell and significantly smaller than the minimum size for a one bedroom flat required in the London plan and nationally described Housing Standards. Accordingly, the existing flat is considered to be of poor quality.

The proposed use of the building would be as a single-family dwelling-house which would result in a significant increase in residential floorspace on site from 26m<sup>2</sup> (existing basement flat), to 552m<sup>2</sup> as a single family dwelling house. Policy S14 of the City Plan and H3 of the UDP state that residential uses are the priority across the borough. However, S14 of the City Plan also states that sites should be optimised.

The proposed single family dwellinghouse would comprise of six bedrooms over 552m<sup>2</sup>, over basement, ground, first and second floors. It would provide good quality internal living environment for future occupiers with satisfactory floorspace, natural light and ventilation.

The proposed scheme would deliver a large family dwelling which is significantly larger than the minimum standards of the Nationally Described Housing Standards and the London Plan, however these documents also have no maximum unit sizes. The area surrounding the site is characterised by large 3 and 4 storey buildings which were built as large single family dwellings with relatively small courtyard gardens. While some have been subdivided into flats there are others which remain as very large single family dwellings. As such the proposed use would not be out of context with the surrounding area.

The proposed lower ground floor/basement accommodation has limited outlook and access to natural light. However, in the context of the proposed house as a whole and residents access to the upper floors which are considered of a higher quality, the basement level is considered acceptable as habitable accommodation.

Between 2014 and 2015 six variations of the current application were submitted for the use of the building as a residential dwellings of significant size. All the applications were refused, however, none on the grounds of optimisation of the site. Additionally, in the 2015 delegated reports officers stated the change of use was in accordance with S14. The 2015 applications were appealed and the inspector stated the 'principle of the change of use is acceptable'. Policy S14 of the City Plan was not updated in the 2016 revised City Plan and therefore the policy context between then and now is the same.

An objection has been received on the grounds that the size of the proposed dwellings would be contrary to the emerging City Plan. It is recognised the draft City Plan 2019-2040 includes size limits for large dwellings, which indicates the council's direction of travel in relation to this point, however, the plan has not been adopted and the City Council are attributing minimum weight to the emerging policies. It is also of note that permission for such a change of use was allowed under the prior approval process in 2017 (see history section of this report). While objections have been received on these ground, given the above, it is considered that the large size of the dwelling is acceptable on land use grounds in this particular instance.

## 8.2 Townscape and Design

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The building is proposed to be largely demolished behind a retained front, part side facades and roof. Though a Victorian building of some grandeur to Ivor Place, the interior and rear of the building appears to have undergone some significant rebuilding and extension over the years, with a large full height rear wing, and the side (east facing) lightwell elevation looking out towards Linhope Street apparently faced in brickwork which from its appearance could imply a rebuilding of this elevation (which if so would likely have been carried out at the time of the large scale extension of the building). The west elevation has also had some more modern alterations.

It is disappointing that the applicants have not sought to give a detailed account, based on the National Planning Policy Framework, of a justification for the large scale demolition proposed, however on the basis of what information is available regarding the existing building, this proposal is considered acceptable in principle in this case. The principle of the demolition and rebuilding behind a retained front façade were not referred to as concerns of the Inspector in conservation terms in his comments set out on the previous appeal decision of 21 July 2016.

The voids cut into the new floor structure between ground and first floors just inside the line of the retained front elevation are unwelcome in terms of the appearance of the interior through the retained front elevation windows, however the impact is not considered so significant as to warrant an inclusion as part of a reason for refusal on the rebuilding of the building behind the front facade.

A large new lightwell is being carved out into the existing footprint of the building on its eastern side which faces onto the existing lightwell fronting onto Linhope Street. The elements of the main east facing elevation onto this lightwell will incorporate two sash windows. There are fewer clear details of the windows on the north and south sides of the lightwell, however a condition is also attached requiring details of these and an informative advising of an approach towards smaller window openings incorporating sash windows which would be considered appropriate. The lightwell will be faced in exposed brickwork to match existing, which is considered appropriate.

The small bin store structure in the front lightwell is not shown on section drawing, however the principle of a small structure to this lightwell underneath the bridge to the main front entrance at ground floor level could be considered acceptable and further details will be secured by condition to ensure that this structure remained well below pavement level in height to minimise its visual impact.

The excavation of the existing basement floor would have its clearest external visual impact in the form of the courtyard to the east side of the building extending down to lower ground floor level, and this in itself would not harm the character and appearance of the building or conservation area. The basement is otherwise considered separately in this report.

The front lightwell is being deepened by approximately 0.3m from its existing depth, however this work in itself is considered acceptable. The new windows and doors within the front lightwell closely resemble the existing and as such are considered uncontentious.

To roof level, though the various rooflights are not in a neat arrangement lined up with each other, nonetheless these by virtue of their very low profile will not be readily visible from surrounding buildings and are features commonly found to roof levels. The new section of west elevation will replace the existing quite modernised elevation currently in place which already in place, and as such this work which involves the inclusion of a relatively large rooflight over the staircase and lightwell is considered acceptable. Objections have been made to the plant at roof level in design terms, and comment is made that the City Council, in an earlier application considered that new plant equipment was unacceptable. This is correct, but that assessment was for new and additional plant. The applicant has confirmed that the existing plant, which is lawful (see history) is not to be altered.

The works are not considered to adversely affect the setting of the listed buildings located to the immediate west of the application property.

Objections have been received to the change of the use on the basis that it would result in the loss of the mixed-use character of local conservation area and that the loss of the part of the wall facing Linhope Street would Harm the Conservation Area. As detailed above, the works are considered acceptable on design and conservation grounds, and the objections cannot be sustained.

Objections have been received on the grounds the proposed works would result in overdevelopment of the site and would harm the appearance of the Dorset Square

Conservation Area. The density of the site would be similar to the neighbouring buildings and given there are limited alterations to the front elevation. The objections on over development therefore cannot be sustained.

As such, and given the particular circumstances of this case, the proposals are considered in line with policies DES 1, DES 5, DES 6, DES 9 and DES 10 in the UDP and S25 and S28 in the City Plan and is recommended for approval in design terms.

The recommendation is considered in line with the statutory duties in Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act of 1990.

### **8.3 Residential Amenity**

ENV 13 of the UDP and S29 of the City Plan seek to protect residential amenity and environmental quality. ENV 13 specifically seeks to protect residential amenity from an increased sense of enclosure, loss of privacy and a loss of daylight/sunlight.

The majority of the proposed works above ground floor level are within the envelope of the existing building. To the east elevation, facing Linhope street a section of the building is proposed to be demolished to create a lightwell from basement to roof level. New windows are proposed in the three elevations surrounding the courtyard/lightwell at all levels. To the west elevation the existing pitched glazed roof above the staircase will be demolished, to be replaced by a lightwell and smaller pitched roof with glazing above a staircase. There is an increase in the boundary wall height to the northern most part of the west facing elevation, directly opposite the terrace to the rear of 45 Balcombe Street, supporting the new glazed roof enclosure. The increased height of the wall is 1.32 metres. The new wall and pitched roof remain below the existing height of the host building.

Rear windows in the lower ground, ground and first floor levels of 45 Balcombe street already look directly onto the sheer west facing wall of the application site, with the existing pitched roof of the rear infill extension beyond the sheer wall. Due to the location of the additional section of sheer wall which sits above the existing first floor terrace of No. 45 Balcombe Street, it is not considered that this increase would result in a harmful sense of enclosure or loss of light for the properties on Balcombe Street to justify a refusal of the application.

Due to the location of the works and the relationship with the existing surrounding buildings there will be no increased sense of enclosure or loss of light for the other neighbouring buildings. An objection has been raised on the grounds that the lightwell and glazed roof to the west of the building will increase light pollution. A significant part of the existing roof is glazed and while it is recognised that the office may be less likely to have light on at night, it is not considered the glazed roof which is reduced in size would increase the level of light pollution in the area to a level which would sustain a refusal of the application.

Objections have been received on the grounds of overlooking from the new windows facing the lightwells and the glazing to the stairs.

Lightwell on east side of the building.

There are windows to the upperfloors of 43 Linhope Street facing north and windows in the rear of No 27 Ivor Place facing south as well as existing windows on the east elevation of the application site. As such there is already a level of mutual overlooking between the buildings.

The proposals create a new lightwell carved out of the east past of the building with windows facing onto it at ground, first and second floors. Due to the section of the building being removed the proposed windows will be further away from the existing windows of the adjoining buildings. Accordingly, it is not considered that there would be a greater level of overlooking than there is as existing. Objections received on the grounds of loss of privacy therefore cannot be sustained.

Further objection has been received on the grounds that the glazed roof to the rear and lightwell windows will result in light pollution. This is not considered to worsen as a result of the application.

Objections have been received on the grounds that the roof could be used as a roof terrace despite roof lights shown, and that the applicant has argued for a roof terrace under previous application. A roof terrace is not proposed and a condition prohibiting this use is recommended.

Objections have been received on the grounds that the works, specifically the basement excavation, would result in significant harm to neighbouring residents. Conditions are recommended to limit the hours of construction and the applicant has agreed to the CoCP condition. The aforementioned conditions allow the City Council to monitor works and limit the times works can be carried out. Objections received on the grounds of the impact of construction cannot be sustained.

Objections have been received on the grounds that the air conditioning units being retained on the roof of the building would harm the amenity of neighbouring residential properties due to noise and disturbance. The applicant has stated that the systems that are currently in place are going to be retained and not replaced. On the grounds the air conditioning units are existing it is not considered an acoustic report is required for there use.

The proposed works are in accordance with ENV13 of the UDP and S29 of the City Plan and therefore acceptable on amenity grounds.

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

A single family dwelling house is proposed without any off street carparking. However, the existing use of the site as a basement flat and B1 offices does not benefit from any off street carparking. Furthermore, the City Council's Highways Planning Manager has advised that that there is capacity within the surrounding street network to absorb any increase in parking generated by the single family dwelling based on the evidence of the Council's most recent daytime and night time parking surveys in 2018 (Buchanan's) indicates that parking occupancy of ResPark bays within a 200 metre radius of the site is 76% and 78% respectively which is below the threshold of 80%.

The introduction of increased levels of residential in this area without off-street parking or

on-street parking restraint is likely to increase the stress levels. However, on the basis of the Council's data and car ownership levels any additional on-street parking generated by the proposed residential units can be absorbed into the surrounding street network. Therefore the development is considered consistent with TRANS23.

A condition has been added to the decision notice to secure the cycle storage offered for the life time of the development. As such policy TRANS 23 is satisfied.

Cycle parking is proposed in accordance with the London Plan, a condition has been added to the decision notice to secure the cycle parking.

### **8.5 Economic Considerations**

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

### **8.6 Access**

The site will retain the existing access from Ivor Street.

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

#### Basement

Objections have been received on the grounds of the proposed basement works; its impact on flooding; structural stability; noise and disruption during any works and the level of information that has been submitted with the application regarding the excavation and investigations.

There is an existing flat at lower ground floor level at the front part of the building. The proposal includes excavation below the rear of the building which would create a lower ground level the whole depth of the existing building.

The 'Basement Development' policy, CM28.1 in the City Plan, is relevant to the assessment of this aspect of the scheme. The Policy is broken down into Parts A to D. In this case, only Parts A to C are relevant as the proposed basement would not extend below the public highway. Assessment of proposed development against Parts A to C of Basement Development policy is set out in the following paragraphs.

#### Part A

In respect of Part A of the Basement Development policy, the applicant has provided a structural engineer's report prepared by a qualified engineer explaining the likely methodology of excavation and the expected impact on neighbouring properties. Objections have been raised by neighbouring residents in respect of potential harm from the proposed structural works.

The submitted structural method statement has been assessed by Building Control who have raised no objection to the structural works, which they consider to be appropriate for the ground conditions at the application site. It is important to note that at planning application stage the purpose of the structural method statement is to demonstrate that a subterranean development can be constructed on the site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering

techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. In this context, and given that Building Control do not object to the proposal, it is not considered that the objections raised on structural grounds can be reasonably sustained a ground on which to withhold permission.

The applicant has submitted the 'Pro-forma Appendix A' document and this provides an undertaking that they will carry out the construction of the proposed basement in accordance with the City Council's Code of Construction Practice (CoCP). The applicant has agreed to a pre-commencement condition to ensure the basement is carried out in accordance with the CoCP and to ensure the applicant bears the cost of the Environmental Inspectorate monitoring the site during construction. A condition is also recommended to control the hours of construction works, including additional controls to prevent any works of noisy basement excavation on Saturdays and Sundays.

The site is not within a Surface Water Flooding Hotspot, as identified in the 'Basement Development in Westminster' SPG and is in Flood Zone 1. Consequently, the proposed basement would not exacerbate existing flood risk on the site or in the vicinity. The site is not within an Archaeological Priority Area, as designated by Historic England, and therefore the proposed basement would not have a significant impact on archaeological deposits.

In light of the considerations set out in the preceding paragraphs, it is considered that the proposed development would be compliant with Part A of the Basement Development Policy.

Objections have been received on the grounds the works would result in flooding for neighbouring residential properties and that the details submitted in the hydrology report were incorrect. The application has provided an addendum to the hydrology report which has been assessed by the building control officer who has raised no objection to the details. The objections cannot therefore be sustained.

#### Part B

The basement is below the existing building only and does not extend beneath any garden land as the building does not have a garden. As such, there is no requirement for landscaping. The building does not have a garden and neither do the buildings directly to the east or south, there are no trees in the rear gardens of the properties on Balcombe Street which would be impacted by the development.

Given the construction of the proposed basement would meet current building regulations requirements, it will be more energy efficient than the existing building to which it would be attached. The provision of a new lightwell to the east of the building along with the existing front lightwell would enable the proposed basement to be naturally ventilated, a concern raised by the St Marylebone Society.

For the reasons set out in Section 8.2, the proposed basement and its external manifestations would not harm the character and appearance of the building or its garden setting. Similarly, it would not adversely affect the wider appearance of this part of the City.

In this case sustainable urban drainage systems (SUDS) are not necessary as the proposed basement would be wholly below the existing building. The applicant has confirmed that a pumped device and non-return valve will be installed to ensure the proposed basement is resilient in the event of future storm events and to prevent sewer flooding.

Given the above considerations, it is considered that the proposed development accords with the seven criteria set out in Part B of the Basement Policy.

### Part C

In terms of Part C of the Basement Policy, it requires basements to not extend below more than 50% of the original garden land. In this case the proposed basement would be compliant with this requirement as it is below the existing building. Due to the nature of the site there is no requirement for a margin of undeveloped land or 1.2 meters of soil clearance. The basement is single storey only.

Accordingly, the proposed basement would be consistent with the objectives of Part C of the Basement Development policy.

### Waste Storage

Whilst provision is made for waste and recycling, this requires further refinement to satisfy the City Council's Waste Project Manager. A condition was recommended to secure further details, however this is considered unreasonable given the property is a single family dwelling with sufficient space in the front lightwell and internally.

## **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council consulted on the main modifications recommended by the Inspectors between 30 November 2020 and 18 January 2021. However, having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's final report.

## **8.9 Neighbourhood Plans**

There are no neighbourhood plans for this area.

## **8.10 London Plan**

This application raises no strategic issues.

## **8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the Council's Code of Construction Practice condition. The applicant has agreed to the imposition of the condition.

#### **8.12 Planning Obligations**

The estimated CIL payment is: £210,400

#### **8.13 Environmental Impact Assessment**

Not required.

#### **8.14 Other Issues**

##### **Construction impact**

As noted above, objections have been received on the grounds that the proposed basement would cause flooding in the basements of neighbouring buildings, specifically to those on Balcombe Street and would harm the structure of adjoining residential listed buildings.

The objections disputed the original details included in the basement impact assessment relating to bore holes and the geology report. Following the objections comments, revised details have been received and the Building Control officer has been consulted.

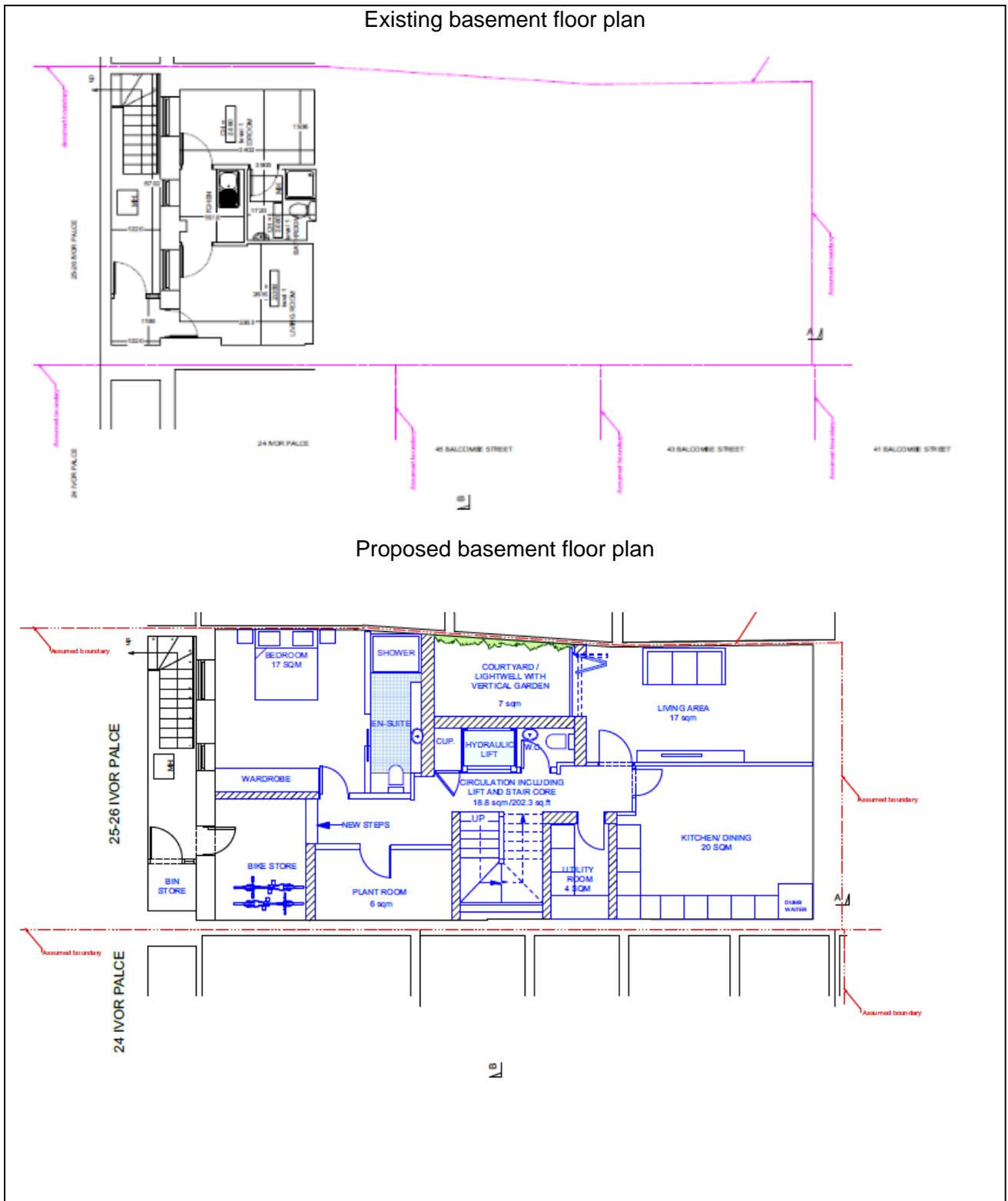
The Building Control Officer has stated that the details provided are adequate for a planning application of this nature. No objection is raised and the objections received on structural, geology and harm to adjoining buildings from construction cannot be sustained.

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

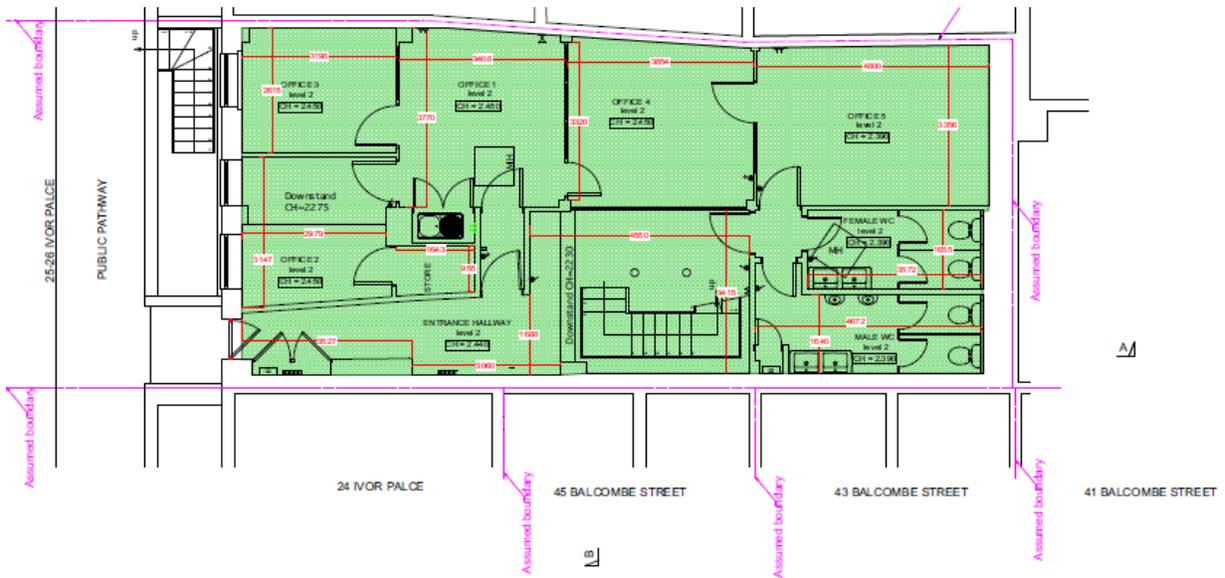
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk).

Item No.
<b>4</b>

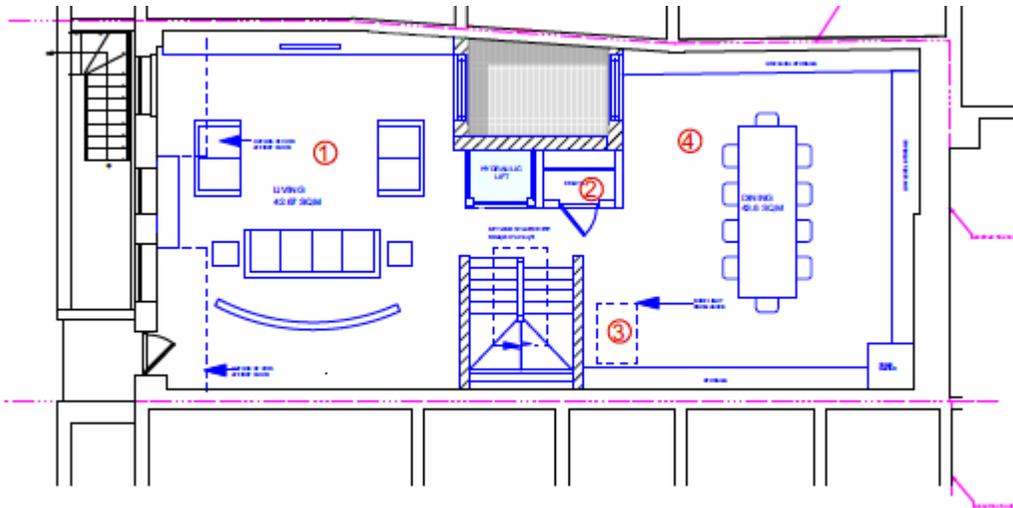
9. KEY DRAWINGS

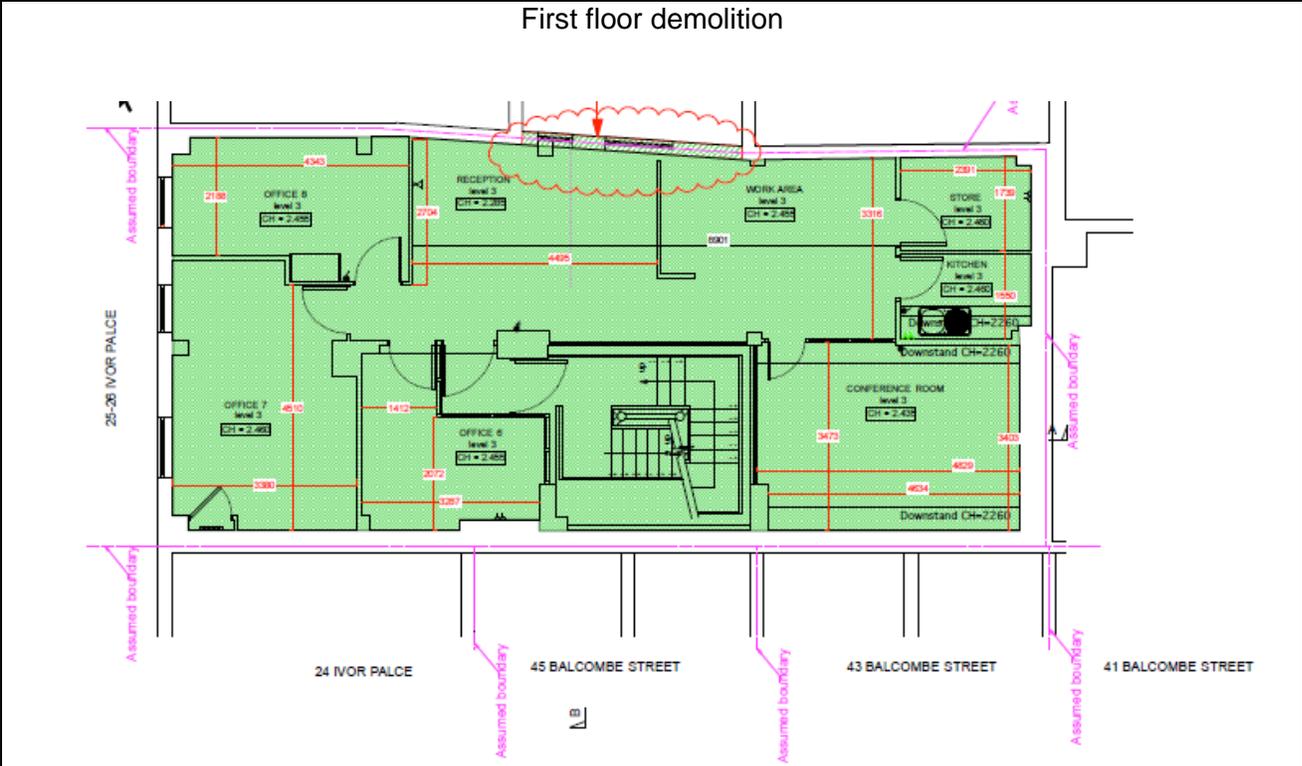


### Ground floor demolition

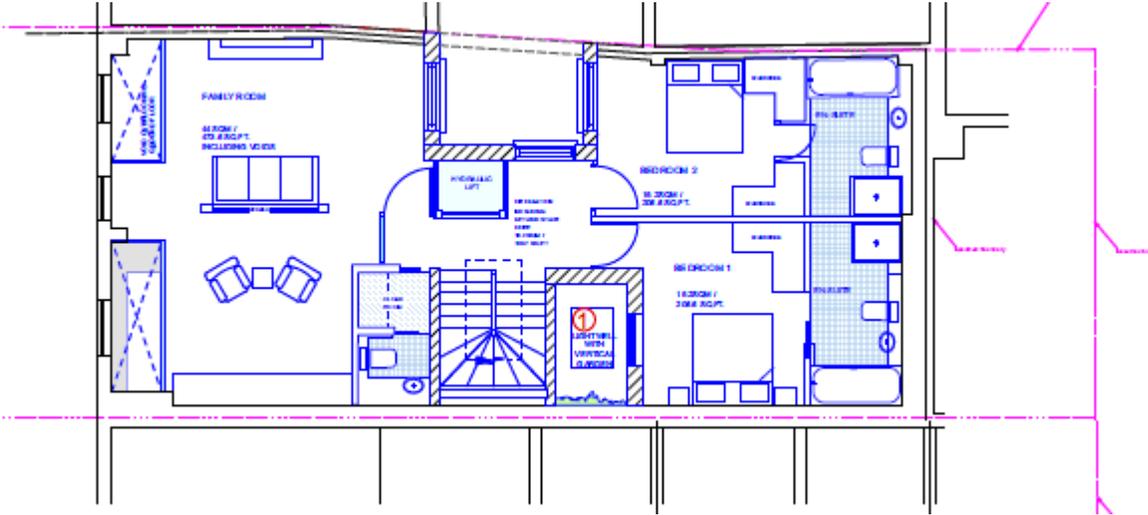


### Ground floor proposed

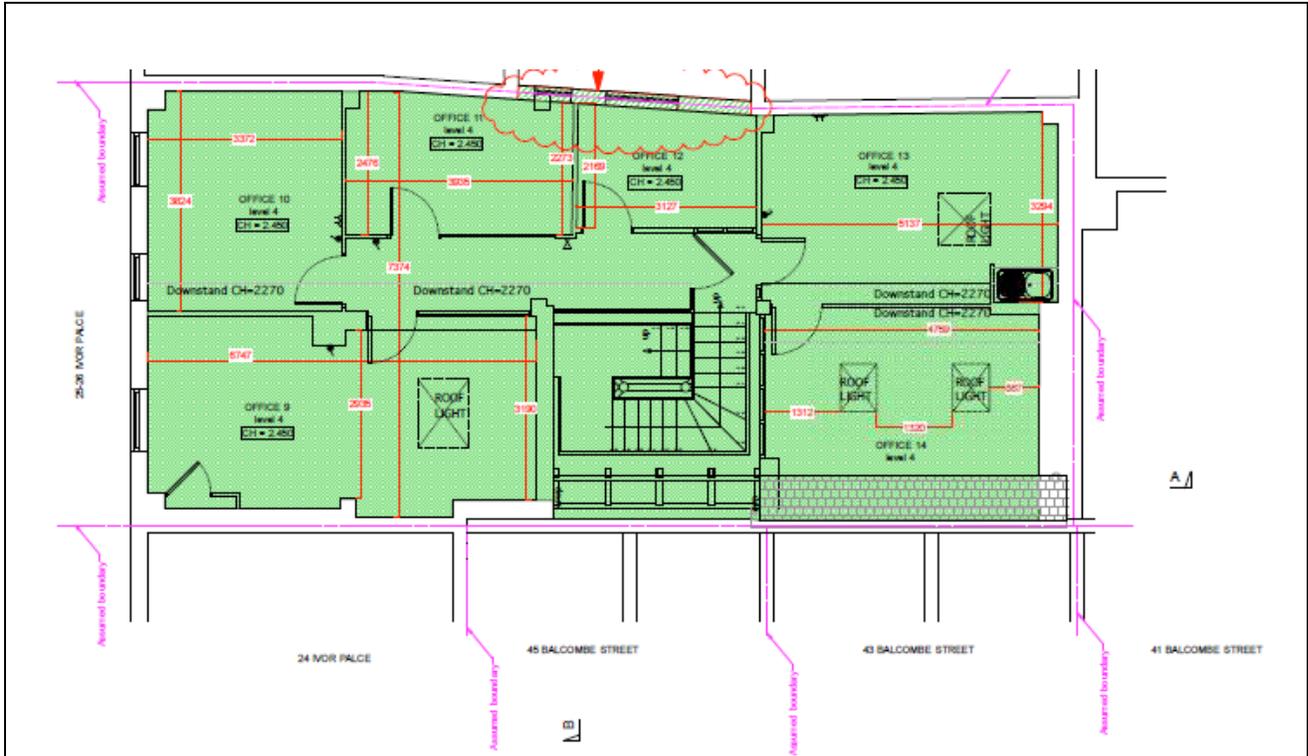




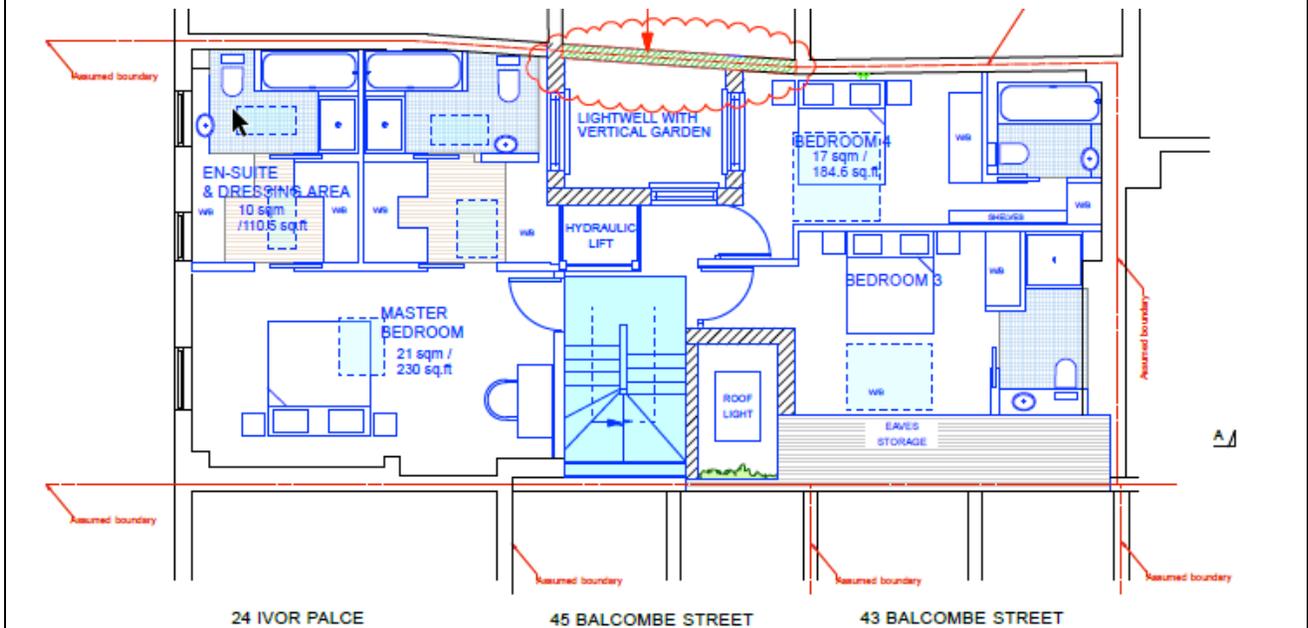
Proposed first floor plan



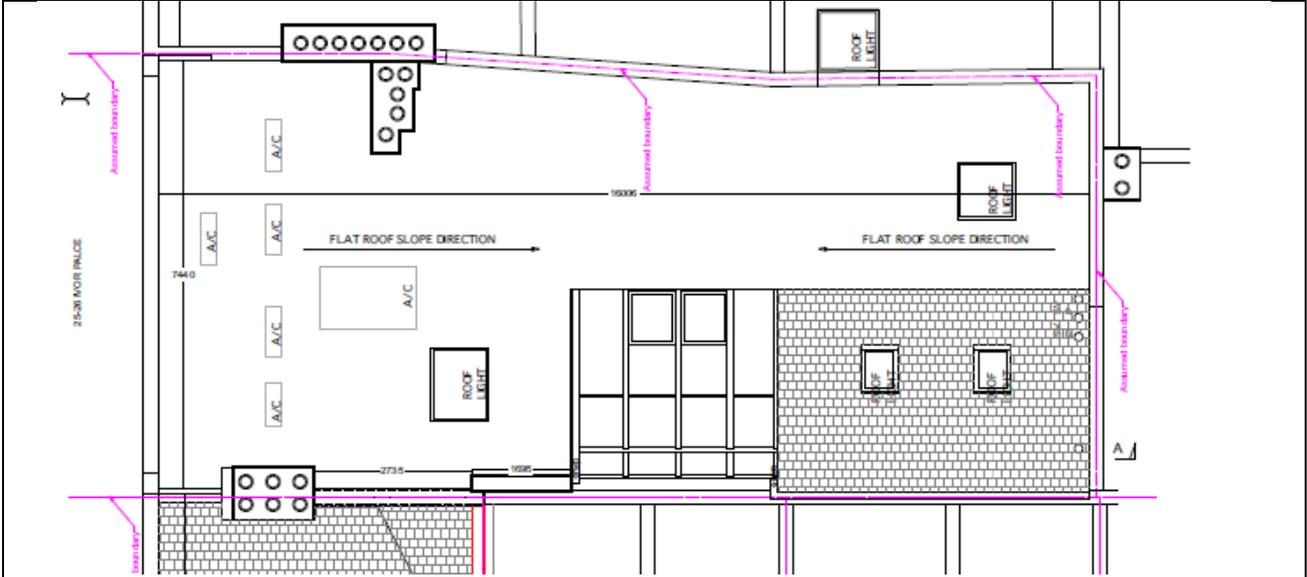
Second floor demolition plan



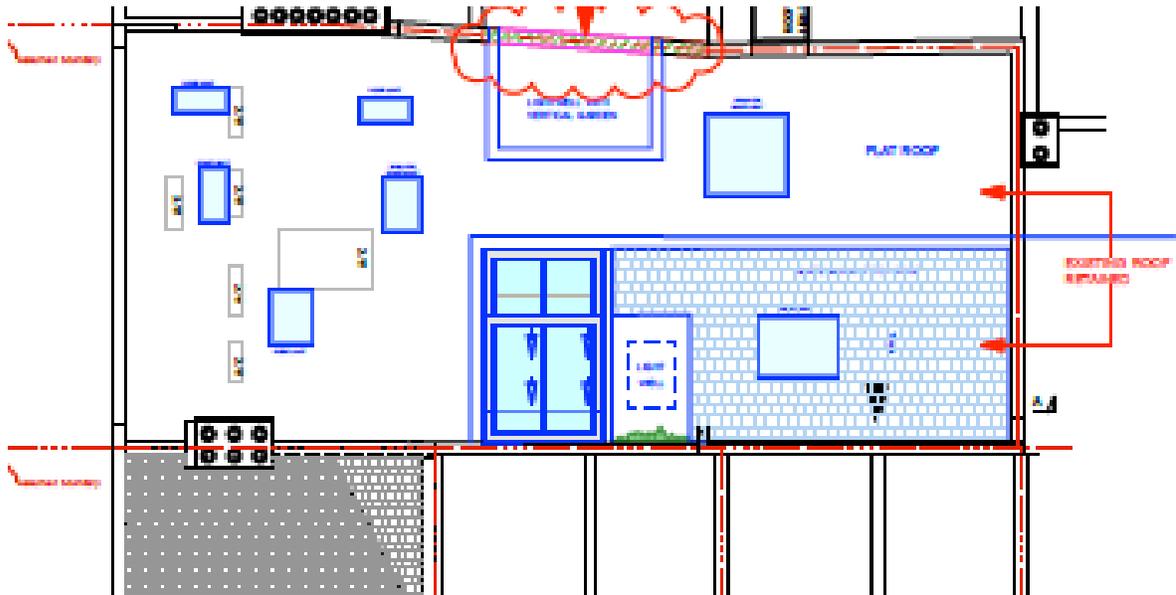
Proposed second floor plan



Existing roof plan



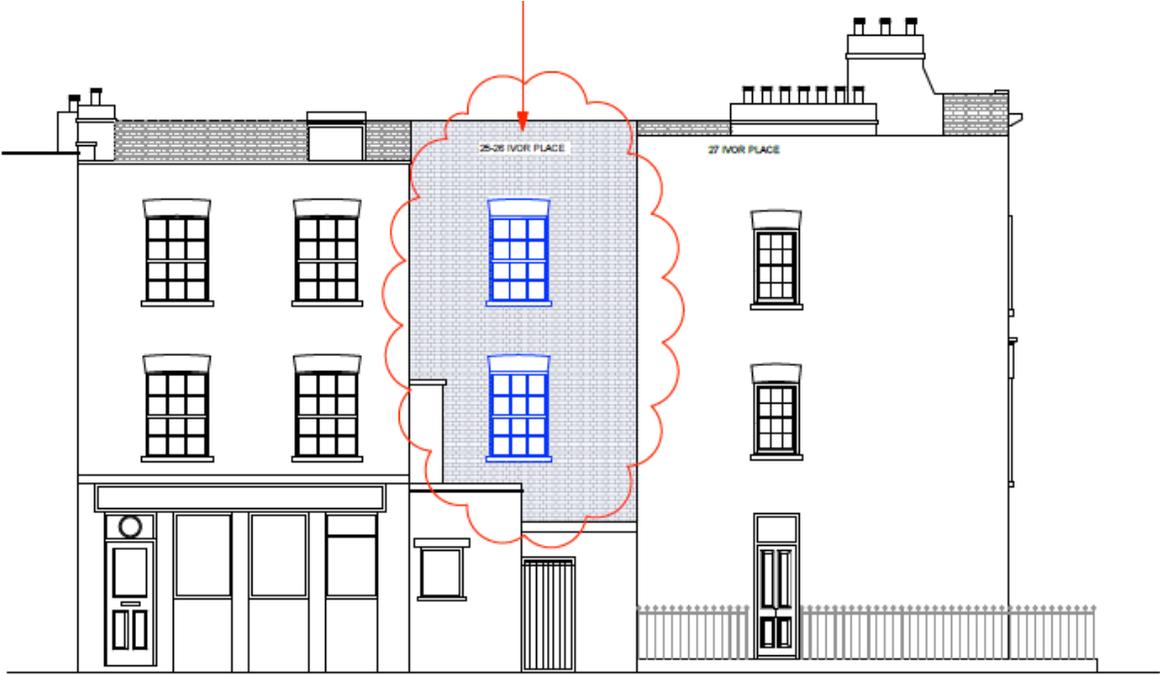
Proposed roof plan



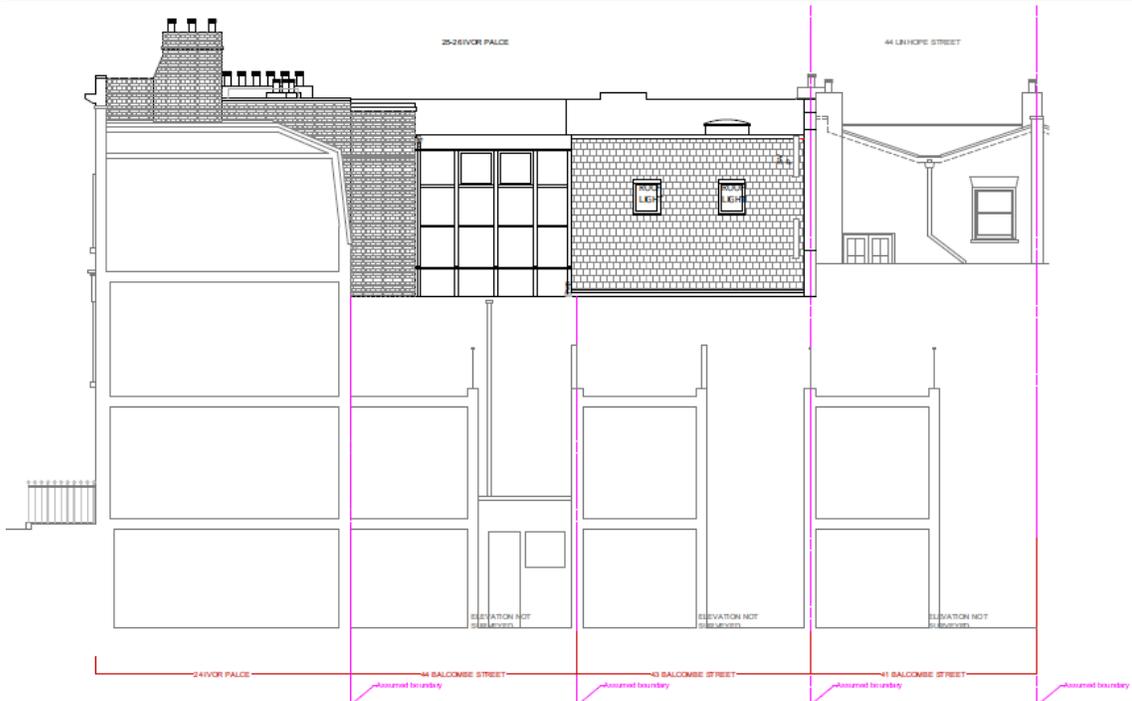
Existing west elevation



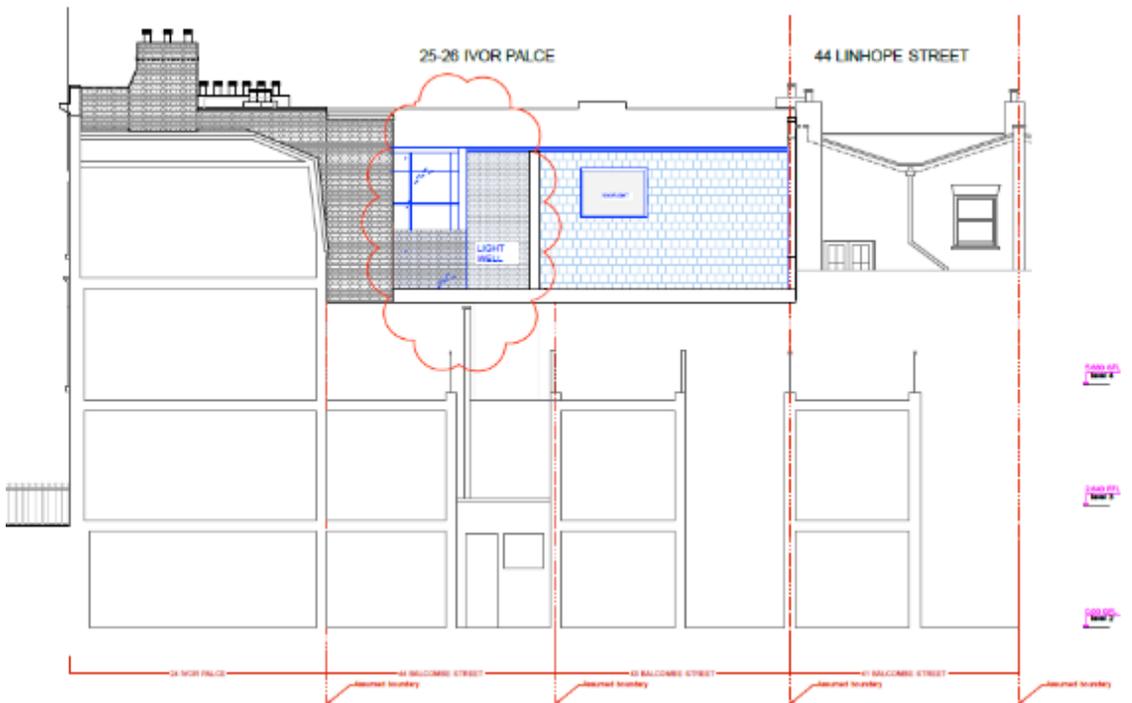
Proposed west elevation



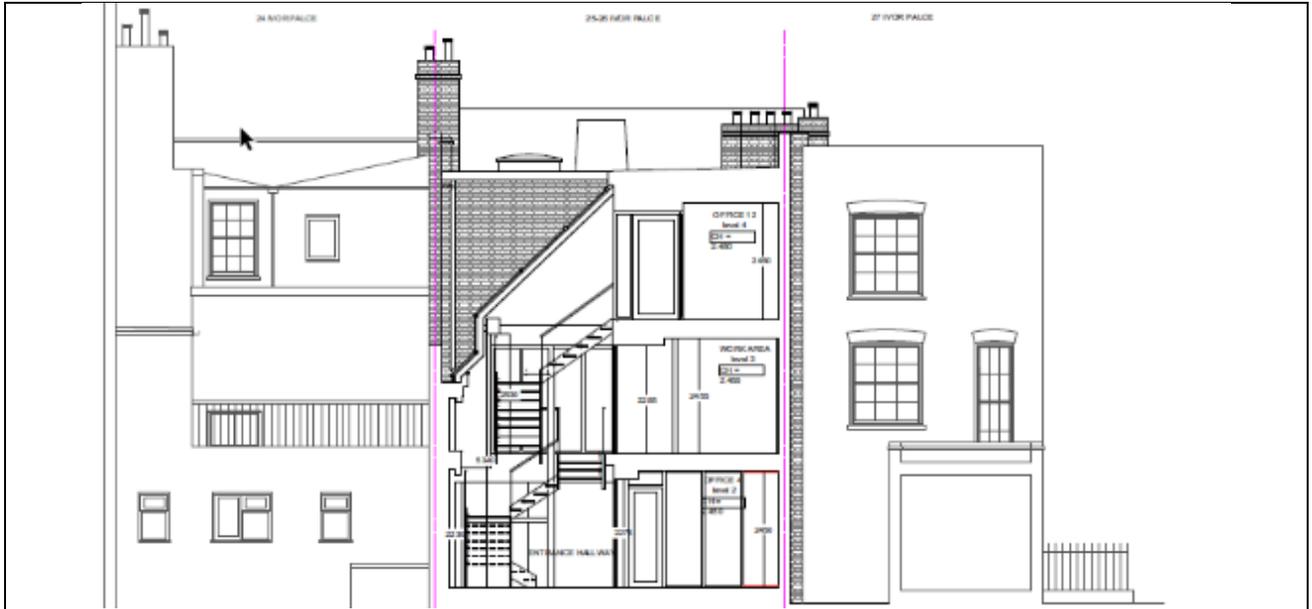
Existing east elevation



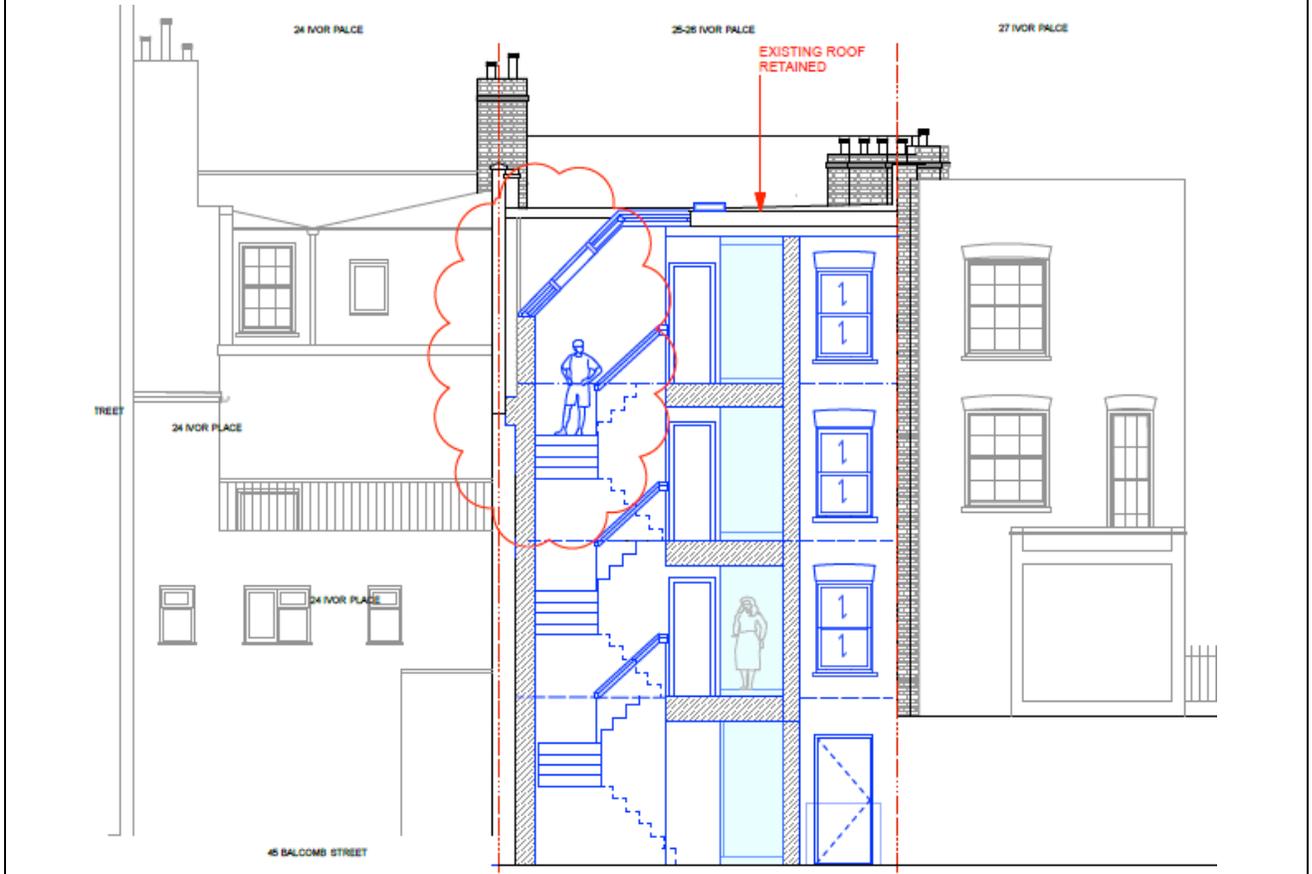
Proposed West elevation



Existing section BB



Proposed section BB



**DRAFT DECISION LETTER**

**Address:** 25 Ivor Place, London, NW1 6HR

**Proposal:** Use as a single dwelling house (Class C3), demolition of the east facing external wall to create a lightwell from basement to roof level, excavation of basement below rear of the existing building to be used as part of single family dwelling and associated alterations, increased height and location of the west facing boundary wall with alterations to the pitch of the roof and creation of a lightwell at the west facing elevation.

**Reference:** 19/06766/FULL

**Plan Nos:** Site location plan, 337/3DM01, 337/3DM02, 337 3CL 01, 337 3CL 02, 337 3CL 03, 337 3CL 04, 337 3DL 02, 337 3PL 01, 337 3PL 02, 337 3PL 06, 337 3PL 07, 337 3PL 11, 337 EX01, 337 EX 02, 337 EX03, 337 EX04, 337 EX05, 337 EX06, 337 EX07, 337 EX08, 337 EX09, 337 EX10, 337 EX11, 337 3PL 05, 337/3DM04, 337/3DM05 Rev A, 337 3PL 03 Rev A, 337 3PL 04 Rev A, 337 3PL 10 Rev A, 337/3DM03 Rev A, 337 3PL 09 Rev B, 337 3CL 05 Rev A, 337 3PL 09 Rev B

**Case Officer:** Max Jones

**Direct Tel. No.** 07866036849

**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 , onot 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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 The new door within the front lightwell at lower ground floor level shall be formed in painted timber and maintained as such thereafter.

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 Dorset Square 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 facing brickwork must match the existing exposed original brickwork to the east facing side elevation in terms of colour, texture, face bond and pointing and it shall be formed of complete bricks and not brick slips, and it shall be exposed brickwork which shall not be painted, rendered or otherwise overlaid.

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 Dorset Square 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 Notwithstanding the details shown on drawing 337 3PL 09, you must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:- , The new window openings to the east facing side elevation shall match the width and height of the existing east facing front elevation windows (ie. facing onto Linhope Street) on the building adjoining the site on the south side of the application site (as shown on drawing 337 3PL 09), including the size of the brick window arches above each window. These new windows shall be shown as six over six sash windows. Section drawings shall also be submitted showing that the box frames to each window are recessed fully into the rebates surrounding the window openings. , 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 Dorset Square 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 Notwithstanding the change in annotation between the submitted existing and proposed drawings, the railings to ground floor level flanking the front lightwell and also the plinth these railings rise from shall be retained in-situ

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 Dorset Square 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 apply to us for approval of detailed drawings annotated to show materials of the following parts of the development - Bin store to front lightwell at lower ground floor level. You must not start any work on these parts of the development until we have approved what you have sent us., , You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square 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 apply to us for approval of a sample of the material for any repaving of the front lightwell. 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.

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 Dorset Square 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 details shown on the submitted drawings, you must apply to us for approval of elevations of both the north side and south side of the lightwell on the east side of the building. You must not start any work on these parts of the development until we have approved what you have sent us., , You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square 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 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square 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)

- 11 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 Dorset Square 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)

- 12 The new windows shall be formed in glazing and white painted timber framing, and shall operate only in a vertically sliding manner

## 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 Dorset Square 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)

- 13 **Pre Commencement Condition.** Prior to the commencement of any: (a) Demolition, and/or, (b) Earthworks/piling and/or, (c) Construction, On site you must apply to us for our written approval of evidence to demonstrate 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 the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

## Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 14 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

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

- 15 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

**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, neighbourhood plan (where relevant), 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 With regards to the condition regarding the bin store, you are strongly advised that the bin store structure should be faced in render, and should be a small scale structure of neutral appearance
- 3 With regards to the condition related to the lightwell paving, you are strongly advised that the expectation is for a natural stone finish to the front lightwell,
- 4 With regards to the north and south facing windows within the eastern lightwell, you are strongly advised that these windows should be considerably smaller than the windows to the main east facing elevation of this lightwell (as amended by the other conditions of this approval)
- 5 HIGHWAYS LICENSING:, 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 visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures), , **CONSIDERATE CONSTRUCTORS:**, 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), , **BUILDING REGULATIONS:**, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 6 With reference to condition 13 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. , , Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B must be submitted to the City Council's Environmental Sciences team ([environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) and the checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition. The full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements) must be submitted at least 40 days prior to commencement of works (which may include some pre-commencement works and demolition)., , You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement., , Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Sciences team must be paid on submission of the details relating to the relevant phase., 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. , ,

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 5

Item No.

5

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 March 2021	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Lancaster Gate	
<b>Subject of Report</b>	<b>Ground Floor , 31 Moscow Road, London, W2 4AH</b>		
<b>Proposal</b>	Installation of full height extract duct to rear elevation.		
<b>Agent</b>	Mr Nicholas Papalexandrakos		
<b>On behalf of</b>	Mr Nikos Ferikidis		
<b>Registered Number</b>	20/07733/FULL	<b>Date amended/ completed</b>	3 December 2020
<b>Date Application Received</b>	3 December 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Bayswater		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

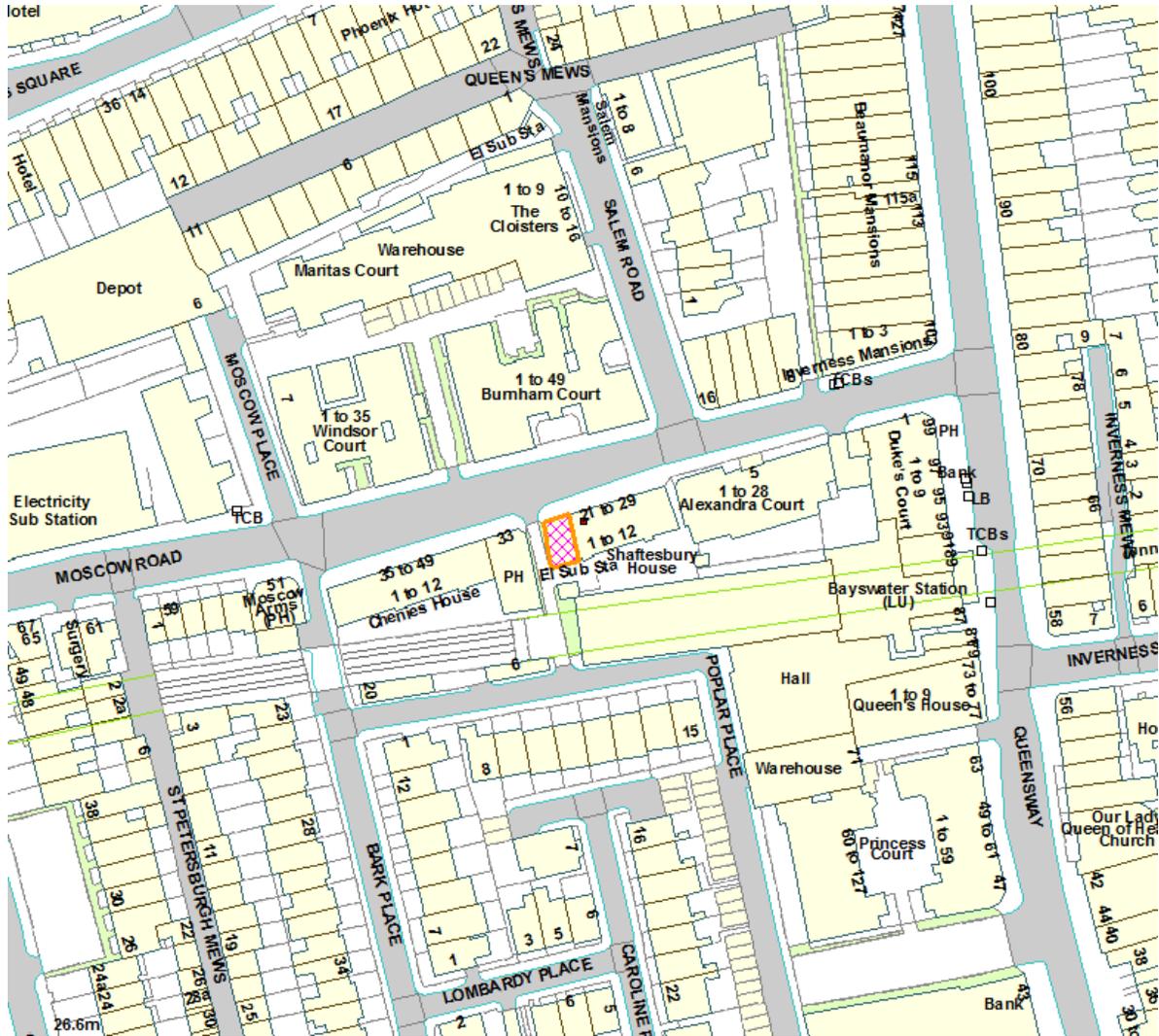
The application relates to a commercial unit on the ground floor of No.31 Moscow Road known as 'Byzantium Café', which is a within a four storey block of commercial units on the ground floor and residential flats above called 'Shaftsbury House'. The proposal is for the installation for an extract duct on the rear elevation that rises from ground floor level to above the roof of the building. The application site is unlisted and located within the Bayswater Conservation Area.

The key issues in this case are:

- the impact of the duct on the amenity of the occupiers of the neighbouring residential properties; and
- the impact of the duct on the character and appearance of the Bayswater Conservation Area.

For the reasons as set out in the report, the duct is considered to accord with the design and amenity policies in the City Plan adopted in November 2016 (the City Plan) and the Unitary Development Plan adopted in January 2007 (the UDP). The application is therefore 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



Front Elevation of No. 31 Moscow Road



Rear Elevation of No. 31 Moscow Road



**Rear Elevation of No. 31 Moscow Road**



**Rear Elevation of Nos. 45 and 47 Moscow Road**

## 5. CONSULTATIONS

### BAYSWATER RESIDENTS ASSOCIATION:

Any response received to be reported verbally.

### ENVIRONMENTAL HEALTH OFFICER:

No objection. Noise levels, vibration levels, and the hours of use of the plant should be controlled through conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 21

Total No. of replies: 5

No. of objections: 5

No. in support: 0

In summary, the objectors raised the following issues:

#### Design:

- The design of the proposed extract duct is inappropriate to the character and appearance of the building on the application site and the conservation area.

#### Amenity:

- The extract duct would cause the occupiers of Shaftsbury House to suffer a material loss of amenity as result of noise and cooking odour.
- The proposal would facilitate an expansion of the activities of the café on the application site which would harm the amenity of the occupiers of Shaftsbury House due to an increase in the number of people using it. The increased activity would cause a rise in anti-social behaviour.

#### Other:

- The applicant has not received permission from either the freeholder or the Right to Manage (RTM) company to install the proposed ducting.
- There is an existing extraction system on the application site with a vent but no ducting. The applicant should upgrade the existing extraction system rather than installing a new one with ducting.
- The proposal would decrease the value of the flats within Shaftsbury House.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application relates to a commercial unit on the ground floor of No.31 Moscow Road known as 'Byzantium Café', which is a within 'Shaftsbury House'. The site lies on the south side of Moscow Place and is bounded by Bark Place to the west. The application

site is unlisted and located within the Bayswater Conservation Area. It is within the core frontage of the Moscow Road Local centre.

## 6.2 Recent Relevant History

05/02899/CLEUD

Lawful Development Certificate Issued for the Continued use of ground floor as a café (A3 Use Class).

Issued 22 June 2005.

45 Moscow Road

12/06824/FULL

Permission granted for the Installation of an extract duct at the rear to serve existing cafe.

Application permitted: 12.11.2012

## 7. THE PROPOSAL

Permission is sought for the installation of a new extract duct to rear of the property that rises from ground level to above roof level. The duct rises 1.7 metres in height above the parapet of the main body of the building on the application site. The duct is constructed from steel and the applicant has not specified whether it will be painted.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

An objector has said that the proposal would facilitate an expansion of the activities of the café on the application site

The commercial unit on the ground floor of No.31 Moscow Road is in use as a café and this is not to alter as a result of the proposal. The property will continue to operate under Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (came into effect on the 1st September 2020).

There is no evidence to suggest that the proposal would significantly increase the number of customers who would use the café. The installation of extraction equipment would not cause a material change of use of the application site. For these reasons there is no objection to the proposal in land use terms.

### 8.2 Townscape and Design

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that *"In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance,

including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The relevant policies for consideration of this case are DES 1, DES 5 and DES 9 of the UDP (2007) and S25 and S28 of the City Plan (2016).

Shaftsbury House is a late-twentieth century brick building. Chenies House is a building located to the west of Shaftsbury House that has a very similar design and is likely to have been built at around the same time. There are extract ducts at the rear of Chenies House that rise from ground floor level to above roof level. No. 45 Moscow Road and No. 47 Moscow Road are ground floor commercial units at Chenies House and the extract ducts are associated with these properties. An extract duct was approved at No. 45 Moscow Road on 12.11.2012 under application RN: 12/06824/FULL. Photos available to the City Council suggest that the extract duct at No. 47 Moscow Road is lawful due to the passage of time.

The extract duct proposed which is to be constructed in steel, rises the full length of the building on the rear elevation similar to the ducts on the adjacent buildings. A number of objectors have raised concerns with the duct stating that rather than enhancing the appearance of the building, instead it will cause harm. Whilst not ideal, it is considered difficult to resist a duct in this location given the existence of similar ducts nearby and also because the building is not of any particular design merit. Although the duct would be visible in long views from Poplar Place, it does back on immediately to LUL train lines and therefore not be visually prominent in private views. It is recommended a condition is attached requiring the duct must be painted a similar colour to the wall it is attached in order to reduce its visual prominence. For these reasons the proposal is considered to preserve the character of the Bayswater Conservation Area.

As such, the proposal is considered acceptable, mindful of policies DES 1, DES 5 and DES 9 of the UDP and S25 and S28 of the City Plan and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

Policies ENV5, ENV6, ENV7, and ENV 13 of the UDP and S29 and S32 of the City Plan seek to protect residential amenity and environmental quality.

The existing cafe serves Greek food that is prepared on the premises, the majority of which is cooked in an oven. It also serves coffees, sandwiches and salads. The applicant would like to expand the menu to include grilled food, which is why the

proposed extract duct is required.

The plant that is being proposed is an extractor fan with a duct that vents above roof level. The hours of use proposed for the plant is 07:00 – 23:00 daily.

Objections have been received stating that the proposal would cause the occupiers of neighbouring and adjoining properties to suffer a material loss of amenity as a result of noise, disturbance and odour.

Policy ENV 6 requires design features and operational measures to minimise and contain noise from developments, in order to protect noise sensitive properties. Policy ENV7 requires that the applicant demonstrates that any proposed plant and machinery will be designed and operated so that any noise emitted will achieve the necessary standards in relation to the existing external noise level at the nearest noise sensitive properties. The application site has been assessed as being in an area in which existing ambient noise levels are below WHO Guideline Levels. As the area exceeds these levels, the design noise level criteria for the plant must be 5 dB below the background noise reading in order to comply with ENV 7.

The Environmental Health Officer has assessed the proposal. The applicant has submitted an acoustic report by KP Acoustics Ltd (ref: 21026.PCR.01 dated 17th July 2020) which demonstrates that the proposed plant would meet the requirements of the City Council's design noise level criteria. The Environmental Health Officer has no objection to the proposal on environmental noise or nuisance grounds, provided that the noise levels, vibration levels, and hours of use of the plant machinery are controlled by conditions. In addition, it shall be enforced though condition that the noise control measures specified in the report are carried out on the application site before the plant is first used.

The installation of the plant would not result in the number of customers using the application site increasing to such an extent that it would cause the occupiers of neighbouring and adjoining properties to suffer material loss of amenity as result of noise and disturbance.

The proposed plant vents above the roof level of the application site. The Environmental Health Officer has assessed the proposed system and considers that it would meet the City Council's Guidelines for ventilation and odour control.

Due to its size, height, and position, the proposed ducting would not cause the occupiers of neighbouring and adjoining properties to suffer a material loss of amenity as a result of a loss of outlook or daylight/sunlight, and nor would it have an overbearing impact on these properties.

For the reasons stated above the proposal is considered to be in accordance with policies ENV5, ENV6, ENV7, and ENV 13 of the UDP and S29 and S32 of the City Plan

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

Not relevant.

## **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

## **8.6 Access**

Not relevant.

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

None.

## **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council consulted on the main modifications recommended by the Inspectors between 30 November 2020 and 18 January 2021. However, having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's final report.

## **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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

No pre-commencement conditions have been recommended.

## **8.11 Planning Obligations**

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

### 8.12 Environmental Impact Assessment

An Environmental Impact Assessment is not required for a proposal of this scale.

### 8.13 Other Issues

Under Article 14 of the Town & Country Planning (Development Management) Procedure Order 2015 the applicant is required to serve notice on everyone who has a freehold interest or a leasehold interest (with at least 7 years left to run) on the land or building to which the application relates. Owners of Shaftsbury House have objected to the proposal on the grounds that the applicant has not asked their permission to install the plant. The agent has clarified that while the applicant has not asked permission from the owners, notice has been served on them. The agent has submitted a copy of Ownership Certificate B which lists the owners who had notice served on them. The agent has said that if the planning application is approved, it is the applicant's intention to approach the owners for permission. While it is essential that the applicant serves the relevant notices before applying for permission, it is not necessary for the applicant to have been granted permission from the owners before the application is determined. The fact that the application does not have permission from the owners to carry out the works is not a reason for the City Council to refrain from determining the application.

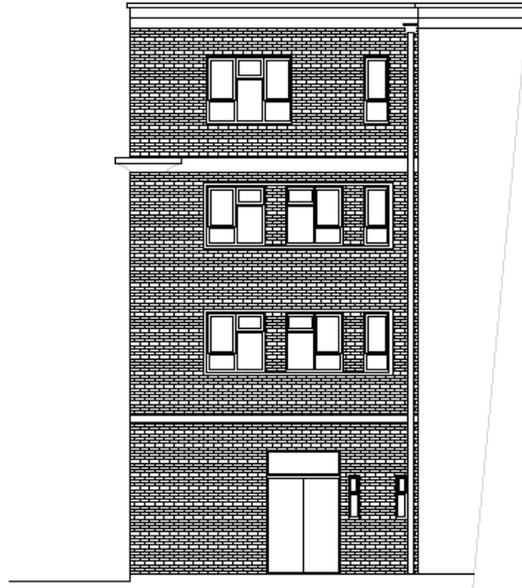
An objector has stated rather than installing a new extraction system with ducting the applicant should instead upgrade the existing extraction system that has no ducting. However, it is not to the City Council's role to judge what the best method of extraction is to use on the application site, rather the role is to assess whether the current proposal is acceptable.

An objector has stated that the proposal would decrease the value of the flats within Shaftsbury House, however this is not a material planning consideration.

(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: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)

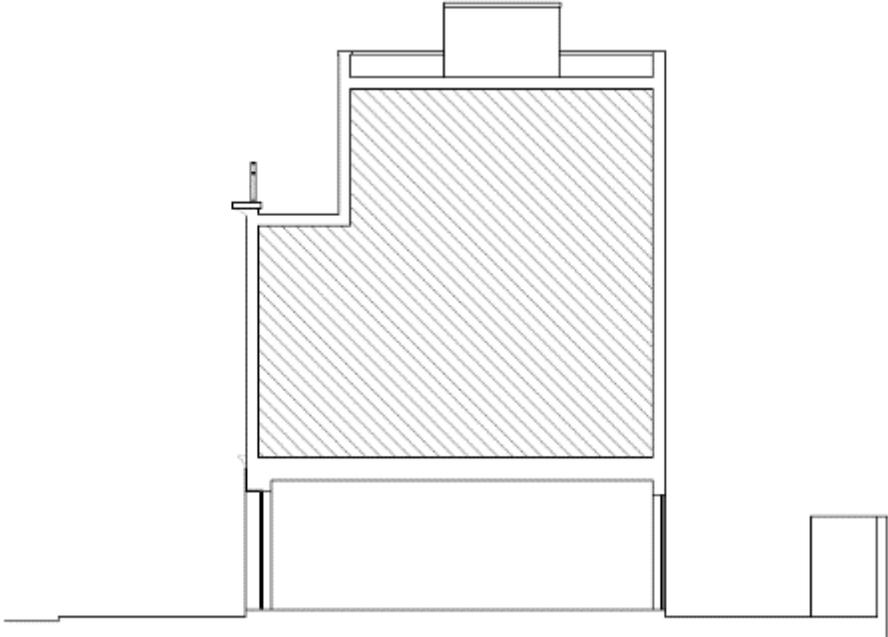
9. KEY DRAWINGS



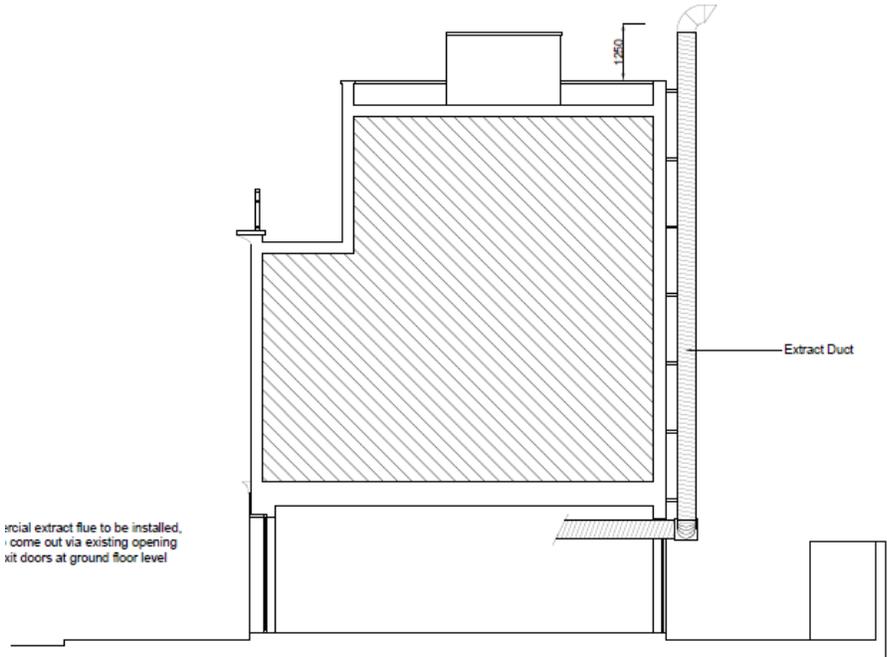
Existing Rear Elevation



Proposed Rear Elevation



**Existing Section**



**Proposed Section**

**DRAFT DECISION LETTER**

**Address:** Ground Floor , 31 Moscow Road, London, W2 4AH

**Proposal:** Installation of a new extract duct to rear of property.

**Reference:** 20/07733/FULL

**Plan Nos:** 247\_01, 247\_02 rev. A, 247\_03, 247\_04 rev. A, 247\_05, Planning Compliance Report for 31 Moscow Road London by KP Acoustics Ltd ref: 21026.PCR.01 dated 17th July 2020, Design Statement 31 Moscow Road London W2 4AH by PPLX Architects Proposal: Planning application for the installation of a new extract duct to rear of property dated: June 2020, Details of Carbon Impregnated Bag Filters by Airclean

**Case Officer:** William Philips

**Direct Tel. No.** 020 7641  
07866036165

**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:

- 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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6

of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater 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 Notwithstanding the details shown on the approved drawings, you must paint the duct to match the colour of the wall it is attached to and it must be maintained and retained as such thereafter.

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 Bayswater 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 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

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

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

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

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46BB)

- 6 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. (R48AA)

- 7 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 23:00 hours daily.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46BB)

- 8 Before the plant hereby approved is first used, you must carry out the noise control measures specified in section 6.0 and Appendix C of Planning Compliance Report for 31 Moscow Road London by KP Acoustics Ltd ref: 21026.PCR.01 dated 17th July 2020. The plant shall be maintained and retained as such throughout the lifetime of the development.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46BB)

#### **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, neighbourhood plan (where relevant), 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 **HIGHWAYS LICENSING:**  
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 visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures)

**CONSIDERATE CONSTRUCTORS:**

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).

**BUILDING REGULATIONS:**

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference 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 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> 30 March 2021	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Tachbrook	
<b>Subject of Report</b>	<b>Lillington Gardens Estate, Tachbrook Street, London, SW1V 2QE</b>		
<b>Proposal</b>	Installation of new door entry systems, fob-access pedestrian security access gates, overhaul of telecoms cabling, and asbestos R&D survey related to Thorndike House and Longleat House.		
<b>Agent</b>	GD Surveyors Ltd		
<b>On behalf of</b>	Morgan Sindall Property Services Ltd		
<b>Registered Number</b>	20/00359/COFUL 20/00360/COLBC	<b>Date amended/ completed</b>	12 February 2020
<b>Date Application Received</b>	21 January 2020		
<b>Historic Building Grade</b>	II		
<b>Conservation Area</b>	Lillington and Longmoore Gardens		

## 1. RECOMMENDATION

1. Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
2. Grant conditional listed building consent.
3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letters.

## 2. SUMMARY

Thorndike House and Longleat House are Grade II listed buildings located in the Lillington and Longmoore Gardens Conservation Area. Designed by Darbourne and Darke for the City of Westminster the Lillington Gardens Estate is exceptionally significant to the development of British social housing between the 1960s and 1970s and most buildings within it are listed at Grade II or II\*.

Planning permission and listed building consent is primarily sought for the installation of security access gates and associated railings at seven locations around the buildings and other minor works.

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that "*In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting*

*or any features of special architectural or historic interest which it possesses.”*

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Objections have been received on the grounds that the proposals would harm the architectural character and permeability of the estate and that crime and anti-social behaviour would only be displaced to other areas as a result. Architectural and pedestrian permeability are key elements of the estate’s townscape design and to its social success in integrating with the surrounding traditional communities of Pimlico and Vincent Square.

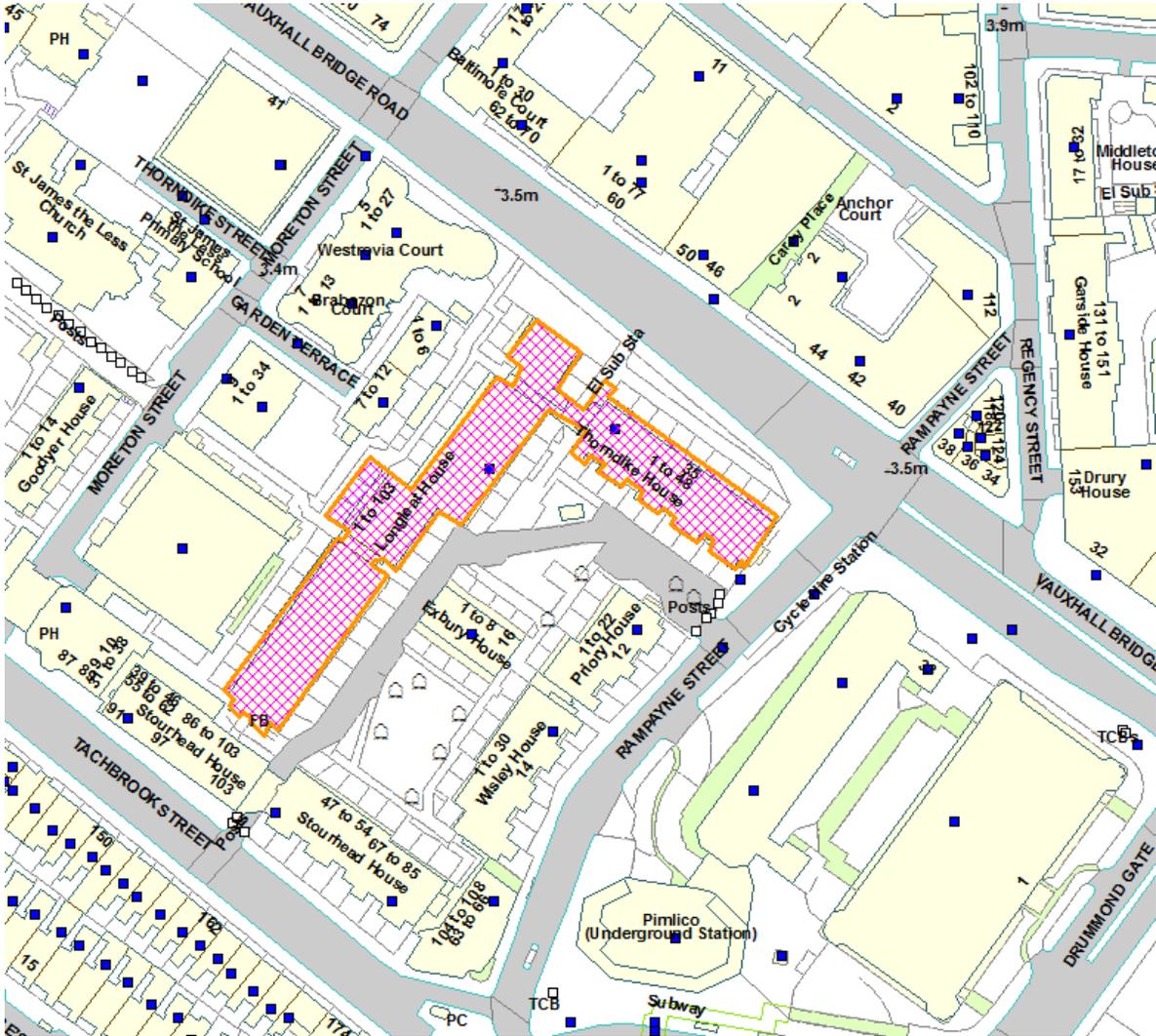
The proposals would in part remove that permeability, causing harm to the appearance of the buildings and their relationship in the wider estate. This concern mainly relates to the placing of gates and railings where this extinguishes existing pedestrian through-access or where such interventions would be visible from main roads. The majority of the gates and railings proposed to the buildings seek to reduce access to stairways and vulnerable areas beneath walkways and are of lesser concern given the reduced visibility of these areas and as access across the estate is not affected.

The consultation responses from residents expressing support for the proposals detail real-life experiences of drug-dealing and associated anti-social behaviour which have made life on the estate unbearable for some residents and concur with the Metropolitan Police’s response setting out proposals for wider works to reduce criminal activity on the estate. In this context, the less than substantial harm caused to the buildings and estate by the proposed gates and railings in the locations proposed are considered to be balanced by the public benefits of increasing estate security.

Conditions are recommended to requiring the gates and associated railings to be painted black and maintained as such and for them to be manufactured and installed in a way which avoids any direct impact on the original signage inset into the brickwork. In relation to the other aspects, details of the cabling works and asbestos survey are recommended to be secured by condition.

As such, whilst being mindful of policies S25, S28 of the City Plan and DES 1, DES 5, DES 9 and DES 10 of the UDP, given the public benefits that would be delivered, which comprise securing the buildings against crime and anti-social behaviour, the proposal is considered acceptable in terms of its impact on the designated heritage asset(s). Therefore, the recommendation to grant conditional permission and consent is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**LOCATION PLAN**



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**4. CONSULTATIONS**

HISTORIC ENGLAND:  
Not necessary to notify.

WESTMINSTER SOCIETY:  
Any response to be reported verbally.

PIMLICO FREDA:  
Any response to be reported verbally.

PIMLICO NEIGHBOURHOOD FORUM:  
Any response to be reported verbally.

METROPOLITAN POLICE:  
Supports the installation of gates as part of a strategy of security enhancement.

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

No. consulted: 198	No. of replies: 21
No. of objections: 4	No. in support: 15

Four letters of objection on grounds of aesthetic harm to architectural character and permeability of the estate, proposals do not ensure safety or security in the long-term, inadequate prior consultation, anti-social behaviour will only be displaced to other areas, restricting access will mean fewer people around and more crime as a result, money should be spent on youth services instead.

15 letters in support of the proposals on the grounds that the gates are long overdue and urgently required owing to the ongoing and increasing amount of anti-social behaviour on the estate, including drug-taking, dealing and concomitant issues, with some residents fearing for their safety, feeling vulnerable and unable to leave their flats.

Two comments relating to the operation of the lifts during the works and the display of documents on the website.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

**5. RELEVANT PLANNING HISTORY**

None relevant.

(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: AUREORE MANCEAU BY EMAIL AT <a href="mailto:amanceau@westminster.gov.uk">amanceau@westminster.gov.uk</a>
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KEY DRAWINGS

Proposed visuals of gate installations



Proposed Gate No.1



Proposed Gate No.1



Proposed Gate No.2



Proposed Gate No.3



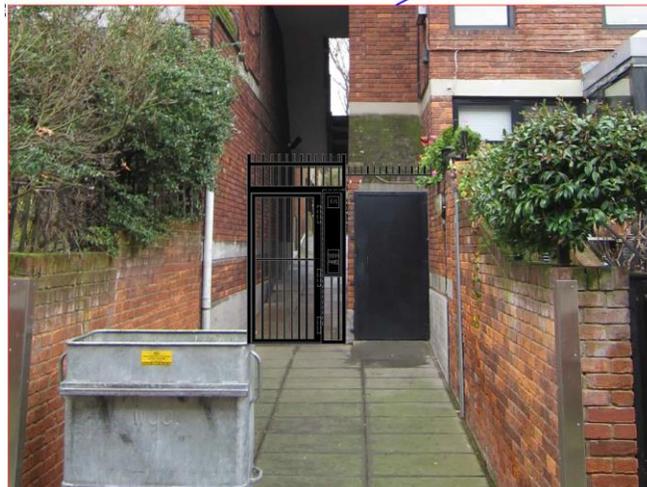
Proposed Gate No.4



Proposed Gate No.5



Proposed Gate No.6



Proposed Gate No.7

**DRAFT DECISION LETTER**

**Address:** Lillington Gardens Estate, Tachbrook Street, London, SW1V 2QE

**Proposal:** Installation of new door entry systems, fob-access pedestrian security access gates, overhaul of telecoms cabling to Thorndike House and Longleat House. Linked to 20/00360/LBC

**Reference:** 20/00359/COFUL

**Plan Nos:** 1630-001; 1630-002; 1630-003; 1630-004; 1630-005; 1630-010 Rev. A; 1630-011 Rev. A; 1630-012 Rev. A; 1630-013 Rev. A; 1630-014; 1630-020; 01 (Area 1); 02 (Area 2); 03 (Area 3); 04 (Area 4); 05 (Area 5); 06 (Area 6); 07 (Area 7); 02; 04; 05.

**Case Officer:** Sebastian Knox **Direct Tel. No.** 07866037754

**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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Lillington and Longmoore Gardens 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 The security gates and railings hereby approved must be painted black and maintained as such.

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 Lillington and Longmoore Gardens 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)

- 5 The security gates and railings hereby approved must be manufactured and installed so as to avoid crossing, obscuring or otherwise impinging on any original signage.

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 Lillington and Longmoore Gardens 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)

- 6 Where surface-mounting of cabling, conduit and other electrical work (such as junction boxes and transformers) is essential, this must be painted to match the colour(s) of the underlying substrate(s) onto which it is to be attached and then maintained as such in perpetuity until it is removed.

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 Lillington and Longmoore Gardens 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, neighbourhood plan (where relevant), 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 take into consideration the following advice from the Metropolitan Police:
  - the fob entry system needs to be audio and visual, with data logging;
  - all gates need to be on self-closing actuators;
  - all gates will require emergency access switches for fire brigade and these will require fire switch protection boxes either in the form of Access Control Boxes (operating on a key available to the LFB) or Drop Key Protection Boxes, to prevent misuse.

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.



Longmoore Gardens 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 The security gates and railings hereby approved must be manufactured and installed so as to avoid crossing, obscuring or otherwise impinging on any original signage.

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 Lillington and Longmoore Gardens 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)

- 5 Where surface-mounting of cabling, conduit and other electrical work (such as junction boxes and transformers) is essential, this must be painted to match the colour(s) of the underlying substrate(s) onto which it is to be attached and then maintained as such in perpetuity until it is removed.

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 Lillington and Longmoore Gardens 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)

- 6 You must apply to us for approval of a method statement for the removal of asbestos in the buildings, including fully annotated plans, elevations, section drawings and photographs detailing the intrusive works to be undertaken. You must not start any 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 these drawings and/or information.

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 Lillington and Longmoore Gardens 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 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, the London Plan 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 will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
- \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and
  - \* any work needed to meet the building regulations or other forms of statutory control.,

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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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