



City of Westminster

# Committee Agenda

Title:

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

Meeting Date:

**Tuesday 8th February, 2022**

Time:

**6.30 pm**

Venue:

**Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members:

**Councillors:**

Louise Hyams (Chairman)  
Tony Devenish  
Antonia Cox  
David Boothroyd

**\*Committee members will attend the meeting in person at Westminster City Hall. The Committee will be a hybrid Meeting and will be live broadcast via Microsoft Teams.**

**Members of the public and press are encouraged to view the meeting virtually using the link to the live meeting.**

**For those who wish to attend in person admission to the public gallery is by a pass, issued from the ground floor reception from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**

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

**Tel: 07870 548348; email: [gwillis@westminster.gov.uk](mailto:gwillis@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 Director of Law in advance of the meeting please.

## **AGENDA**

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

#### **1. MEMBERSHIP**

To note that Councillor David Boothroyd had replaced Councillor Nafsika Butler-Thalassis

To note any further changes to the membership.

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

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest 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 hybrid 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

**(Pages 5 - 12)**

virtual Committee please see the following link

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

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

- |  |                          |
|--|--------------------------|
| <b>1. 48 CHAPEL STREET LONDON NW1 5DH</b>              | <b>(Pages 17 - 38)</b>   |
| <b>2. 4 THE LANE LONDON NW8 0PN</b>                    | <b>(Pages 39 - 60)</b>   |
| <b>3. 21 THE MARKET COVENT &lt;GARDEN LONDON</b>       | <b>(Pages 61 - 80)</b>   |
| <b>4. 27B THE MARKET COVENT GARDEN LONDON WC2E 8RD</b> | <b>(Pages 81 - 104)</b>  |
| <b>5. 38 BRUTON PLACE LONDON W1J 6NX</b>               | <b>(Pages 105 - 124)</b> |

## **PART 2 (IN PRIVATE)**

**RECOMMENDED:** That under Section 100 (a) (3) 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

**(Pages 125 - 150)**

| Items | Grounds  | Para. of Part 1 of Schedule 12a of the Act |
|-------|--|--|
| 6     | The Reports involve the likely disclosure of exempt information relating to financial or business affairs. | Para. 3                                    |

- 6. 32 CLIFTON HILL LONDON NW8 0QG 30 CLIFTON HILL LONDON NW8 0QG**

**Stuart Love**  
**Chief Executive**  
**28 January 2022**

## Order of Business

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

| Order of Business   |
|---|
| 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 (2)

#### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (2)** held on **Tuesday 7th December, 2021**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Louise Hyams (Chairman), Devenish, Antonia Cox and Nafsika Butler-Thalassis

**Also Present:** Councillor Elizabeth Hitchcock addressed the Sub-Committee on Item 1 in her capacity as Ward Councillor.

#### 1 MEMBERSHIP

- 1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

- 2.1 Councillor Hyams 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 emails 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 would have read about the issue and comments made by correspondents in the papers read prior to the meeting.
- 2.2 Councillor Hyams declared that in respect of Item 2 the site was located within her ward, and she had previously received a briefing on the proposals, but she had offered no opinion on the application and held no discussions regarding it with any parties.
- 2.3 Councillor Butler-Thalassis declared that in respect of Item 4 the site was located within her ward, but she had held no discussions regarding it with any parties.

- 2.4 Councillor Cox declared that in respect of Item 6 the site was located within her ward, but she had held no discussions regarding it with any parties.
- 2.5 Councillor Devenish declared that in respect of Item 1 he had submitted an email regarding the application and would therefore step down from the Sub-Committee and leave the room during consideration of this item.

### 3 MINUTES

#### 3.1 RESOLVED:

That the minutes of the meeting held on 26 October 2021 be signed by the Chair as a correct record of proceedings.

### 4 PLANNING APPLICATIONS

#### 1 SITE 38 BELGRAVE SQUARE AND 28A CHAPEL STREET BELGRAVE SQUARE LONDON SW1X 8NT

**Application 1 (Planning):** Alterations and extensions to the buildings, including installation of an external lift to an existing lightwell of the main building and plant enclosures, in connection with their use as a members wellness club (sui generis).

**Application 2 (Listed building):** Internal and external alterations, including installation of an external lift to an existing lightwell of the main building, installation of plant enclosures, and associated works.

Councillor Devenish declared that he had a prejudicial interest in the application and therefore left the room during the consideration of this item.

A late representation was received from THIS Planning (07.12.21).

The planning officer tabled the following addition to the report:

- 1) ADDITION to section 8.1 'Land use' on page 22 of the agenda, to include the following after second to last paragraph on that page:

*The applicant has also offered to pay a financial contribution of £2 million towards Westminster's Affordable Housing Fund in lieu of retaining the single family dwellinghouse. The applicant suggests Westminster City Council secures this through a legal agreement. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms, but they may only constitute a reason for granting planning permission if they meet the relevant tests. They must be:*

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*

- *fairly and reasonably related in scale and kind to the development.*

*These tests are set out as statutory tests in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. In this case, the applicant's suggested planning obligation would not accord with these tests. The financial contribution is not necessary to make the development acceptable in planning terms. The development plan does not require affordable housing contributions where there is an increase in commercial floorspace or where there would be a loss of existing residential floorspace (it is only required in circumstances as described in City Plan Policy 9). Indeed, the proposal would still be unacceptable in planning terms with the financial contribution. This is because City Plan Policy 8 does not allow the loss of existing residential units where an applicant contributes toward the Affordable Housing Fund. Because there is no policy basis for a such a contribution, it also cannot be considered to be directly related to the development nor is there a mechanism to calculate what a fair and reasonable contribution would be for this scale/ type of development. Therefore, Westminster City Council cannot entertain this offer.*

Reason for addition

This addition is necessary to address the offer of an affordable housing contribution this applicant has made. The agent's email's setting out this offer is appended to this memo.

James McAllister addressed the Sub-Committee in support of the application.

Mary Regnier-Leigh, representing the Belgravia Society, addressed the Sub-Committee in objection to the application.

Councillor Elizabeth Hitchcock addressed the Sub-Committee in her capacity as Ward Councillor in objection to the application.

#### **RESOLVED UNANIMOUSLY:**

- 1) **Application 1** - That permission be refused on the grounds that the development would lead to a loss of a single-family dwelling house and the harmful impact the proposed entertainment use would have on the character and function of the area, local environmental quality, and residential amenity.
- 2) **Application 2** - That conditional listed building consent be granted.
- 3) **Application 2** - That the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter be agreed.

## **2 CHIMES APARTMENTS 99 - 105 HORSEFERRY ROAD LONDON SW1P 2DX**

Variation of condition 1 of planning permission dated 28 July 2021 (RN 20/05512/FULL) (which varied permissions dated 1 May 2019 RN:18/09619/FULL, 1 February 2019 RN:18/00506/FULL and 29 April 2016 RN:15/11404/FULL) as amended by RN:21/03194/NMA for 'Demolition and redevelopment of the site to provide a residential complex comprising 39 units of apartments integrated with facilities including communal kitchen cafe, storage areas, wellness centre/spa, staff accommodation, staff offices, in two linked buildings of six storeys each, internal courtyard, roof terrace, excavation to create basement storage and 26 car parking spaces with access from Horseferry Road.' Namely, removal of the age restriction and alterations to the fifth-floor layout to make four 3-bedroom apartments.

### **RESOLVED (For: Councillors Hyams, Cox and Devenish, Against: Councillor Butler Thalassis):**

- 1) That conditional permission be granted, subject to the completion of a Deed of Variation to the S106 legal agreement dated 26 October 2015 (14/09089/FULL) and subsequent deed of variations dated 29 April 2016 (15/11404/FULL), 1 February 2019 (18/00506/FULL), 1 May 2019 (RN: 18/09619/FULL) and 28 July 2021 (RN 20/05512/FULL) to secure the following in addition to the previously secured planning obligations:
  - i) £1.8 million towards the Council's affordable housing fund payable on first occupation of the development
  - ii) Removal of age restriction on occupants of the development.
- 2) That if the deed of variation had not been completed within eight weeks of the committee resolution, then:
  - a) The Director of Place Shaping and Town Planning should consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this was possible and appropriate, the Director of Place Shaping and Town Planning was authorised to determine and issue such a decision under Delegated Powers; however, if not;
  - b) The Director of Place Shaping and Town Planning should consider whether permission should be refused on the grounds that it had not proved possible to complete an undertaking within the appropriate timescale, and that the proposals were unacceptable in the absence of the benefits that would have been secured; if so, the Director of Place Shaping and Town Planning was authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.



### **3 28 HARLEY PLACE LONDON W1G 8LZ**

Use of the building as a dentist (Class E) for a temporary period of ten years.

An additional representation was received from Councillor Iain Bott (29.11.21).

A late representation was received from Councillor Karen Scarborough (06.12.21).

Harry Shiers addressed the Sub-Committee in support of the application.

Lorenzo Pandolfi addressed the Sub-Committee in support of the application.

#### **RESOLVED UNANIMOUSLY:**

- 1) That contrary to the officers' recommendation the Sub-Committee granted the application on the grounds that the continued use of a valuable medical use for a temporary period of 10 years would be justified due to the community service it provided, so long as the building returned to residential use after that time.
- 2) That the Decision Notice be approved by officers under delegated powers in consultation with the Chair of Planning Committee (2).

### **4 BASEMENT FLAT 172 RANDOLPH AVENUE LONDON W9 1PE**

Erection of a single storey rear extension with green roof and a glass side enclosure spanning the alleyway on the boundary with Elgin Mews North in connection with enlarging existing lower ground floor flat.

Fabian Blaicher addressed the Sub-Committee in support of the application.

The Committee Clerk read out Christina Anderson's representation to the Sub-Committee in objection to the application.

#### **RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

### **5 GROVE END HOUSE GROVE END ROAD LONDON NW8 9HP**

Conversion and extension of existing porters lodge and storage facilities into a one-bedroom self-contained residential dwelling. Conversion of the remaining storage shed block into a new staff facility with kitchenette and WC, and associated works.

Peter Costello addressed the Sub-Committee in objection to the application.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

**6 9 ALBION CLOSE LONDON W2 2AT**

Erection of a mansard roof extension and enclosed terrace.

An additional representation was received from HGH Consulting (17.08.21).

A late representation was received from one local resident (05.12.21).

**RESOLVED UNANIMOUSLY:**

That conditional permission 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.

**7 134 WESTBOURNE GROVE LONDON W11 2RR**

Consent was sought to remove two London plane trees (T2 and T3) from the rear garden of 134 Westbourne Grove on the grounds of alleged subsidence damage to 23 Artesian Road.

**RESOLVED (Grant: Councillors Hyams, Butler-Thalassis and Devenish, Refuse: Councillor Cox):**

- 1) That contrary to the officers' recommendation the Sub-Committee granted consent to remove the trees on the grounds of subsidence damage to 23 Artesian Road.
- 2) That the Decision Notice be approved by officers under delegated powers in consultation with the Chair of Planning Committee (2).

The Meeting ended at 8.38 pm

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

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

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CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 8th February 2022  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

| Item No  | References   | Site Address                          | Proposal  | Applicant                |
|--|--|---------------------------------------|---|--------------------------|
| 1  | <b>RN(s):</b><br>20/06148/FULL<br>20/06108/LBC<br><br>St James's | 48 Chapel Street<br>London<br>NW1 5DH | <b>Application 1</b><br>Demolition of the existing building and erection of a part 3 storey and part 7 storey (plus basement) hotel (Use Class C2), public house (Sui Generis Use) and retail premise (Class E); including excavation of basement, bin and bike storage, rooftop plant, new tree.<br><br><b>Application 2</b><br>Relocation of two phone boxes from the corner of Old Marylebone Road and Chapel Street to Chapel Street. | Felberco Investments Ltd |
| <b>Recommendation</b><br><br>Do members agree that the changes to the bulk and mass of the building have sufficiently addressed concerns in relation to loss of light to Wallace Court. If members do agree:<br><br><b>Application 1</b><br>1. Grant conditional permission subject to completion of a Section 106 Legal Agreement to secure the following: <ol style="list-style-type: none"> <li>Planting of a replacement tree at the junction of Chapel Street and Old Marylebone Road prior to occupation and provision of a management plan to ensure its retention and ongoing future maintenance.</li> <li>Provision of a financial contribution of £12,476.86 (index linked) Westminster's employment, training and skills development fund prior to the commencement of development. (This figure has been updated to accord with the updated guidance Inclusive Local Economy &amp; Employment guidance dated October 2021)</li> <li>Highways works necessary to facilitate the proposed development.</li> <li>Provision of a financial contribution of £66,405 to the Carbon Offset Fund (index linked) payable prior to the commencement of development; and</li> <li>The costs of monitoring the S106 legal agreement.</li> </ol> 2. If the S106 legal agreement has not been completed within six weeks of the date of the Sub-Committee's resolution, then: <ol style="list-style-type: none"> <li>The Director of Place Shaping and Town Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</li> <li>The Director of Place Shaping and Town Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ol> |  |                                       |   |                          |

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 8th February 2022  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

| <b>Application 2</b><br>1. Grant conditional listed building consent.<br>2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter. |  |   |  |                                     |
|--|--|---|--|-------------------------------------|
| Item No  | References   | Site Address  | Proposal   | Applicant                           |
| 2  | <b>RN(s):</b><br>21/02808/FULL<br><br>Abbey Road       | 4 The Lane<br>London<br>NW8 0PN                       | Excavation of new basement below footprint of existing dwelling extension, partially below the garden to the rear, and driveway to the front together with new lightwells on the front, side and rear elevations.  | Mr & Mrs Jacob Lyons                |
|  | <b>Recommendation</b><br>Grant conditional permission. |   |  |                                     |
| Item No  | References   | Site Address  | Proposal   | Applicant                           |
| 3.   | <b>RN(s):</b><br>21/06621/FULL<br><br>St James's       | 21 The Market<br>Covent Garden<br>London              | Addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant.   | FIMA Architecture and Planning Ltd. |
|  | <b>Recommendation</b><br>Grant conditional permission. |   |  |                                     |
| Item No  | References   | Site Address  | Proposal   | Applicant                           |
| 4.   | <b>RN(s):</b><br>21/03975/FULL<br><br>St James's       | 27B The Market<br>Covent Garden<br>London<br>WC2E 8RD | Use of 3 areas of public highway measuring 7.1m x 7.1m, 7.3m x 8.9m and 6.3m x 8.8m for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases and new services below existing cobbles, installation of external service station, placement of waiter stations, external alterations to existing window in south elevation, and associated works | Nana CG Limited                     |
|  | <b>Recommendation</b><br>Refuse permission             |   |  |                                     |
| 5  | <b>RN(s):</b><br>21/06509/FULL<br>21/06510/LBC         | 38 Bruton Place<br>London<br>W1J 6NX                  | Use of the ground floor as a retail unit (Class E) and associated alterations.   | Tila London Ltd                     |
|  |  |   |  |                                     |

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 8th February 2022  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

|  |   |  |  |  |
|--|---|--|--|--|
|  | West End  |  |  |  |
|  | <b>Recommendation</b><br>1. Grant conditional planning permission and conditional listed building consent.<br>2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter. |  |  |  |

**CONFIDENTIAL ITEMS**

The following item is due to be published on the “confidential” part of the agenda as the reports involve the likely disclosure of exempt information relating to financial or business affairs.

| Item No | References  | Site Address   | Proposal  | Applicant |
|---------|---|--|---|-----------|
| 6       | <b>RN(s) :</b><br>Application one:<br>21/06314/TPO<br>Application two:<br>21/06313/TPO<br><br>Abbey Road                                      | 32 Clifton Hill<br>London<br>NW8 0QG<br>30 Clifton Hill<br>London<br>NW8 0QG | Application 1 30 Clifton Hill: 1 x London plane (T1, rear): fell<br>Application 2 32 Clifton Hill: 1 x lime (T4, front): fell | PRI       |
|         | <b>Recommendation</b><br>1. Application 1: 21/06313/TPO Grant conditional consent<br>2. Application 2: 21/06314/TPO Grant conditional consent |  |   |           |

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|  |   |   |                 |
|--|---|---|-----------------|
| CITY OF WESTMINSTER                                      |   |   |                 |
| PLANNING APPLICATIONS SUB COMMITTEE                      | Date<br>8 February 2022   | Classification<br>For General Release           |                 |
| Report of<br>Director of Place Shaping and Town Planning |   | Ward(s) involved<br>Bryanston And Dorset Square |                 |
| Subject of Report  | 48 Chapel Street, London, NW1 5DH   |   |                 |
| Proposal   | Application 1<br>Demolition of the existing building and erection of a part 3 storey and part 7 storey (plus basement) hotel (Use Class C2), public house (Sui Generis Use) and retail premise (Class E); including excavation of basement, bin and bike storage, rooftop plant, new tree.<br><br>Application 2<br>Relocation of two phone boxes from the corner of Old Marylebone Road and Chapel Street to Chapel Street. |   |                 |
| Agent  | Aimee Squires   |   |                 |
| On behalf of   | N/A   |   |                 |
| Registered Number  | Application 1: 20/06148/FULL<br>Application 2: 20/06108/LBC   | Date amended/<br>completed                      | 14 October 2020 |
| Date Application Received                                | 1 October 2020  |   |                 |
| Historic Building Grade                                  | Unlisted building but the site includes two grade 2 listed K2 phone boxes   |   |                 |
| Conservation Area  | Outside Conservation Area, but the Portman Estate Conservation Area is located within the vicinity to the east  |   |                 |

## 1. RECOMMENDATION

Do members agree that the changes to the bulk and mass of the building have sufficiently addressed concerns in relation to loss of light to Wallace Court. If members do agree:

Application 1

1. Grant conditional permission subject to completion of a Section 106 Legal Agreement to secure the following:

- Planting of a replacement tree at the junction of Chapel Street and Old Marylebone Road prior to occupation and provision of a management plan to ensure its retention and ongoing future maintenance.
- Provision of a financial contribution of £12,476.86 (index linked) Westminster's employment, training and skills development fund prior to the commencement of development. (This figure has

been updated to accord with the updated guidance Inclusive Local Economy & Employment guidance dated October 2021)

- iii. Highways works necessary to facilitate the proposed development.
- iv. Provision of a financial contribution of £66,405 to the Carbon Offset Fund (index linked) payable prior to the commencement of development; and
- v. The costs of monitoring the S106 legal agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of the Sub-Committee's resolution, then:

- a) The Director of Place Shaping and Town Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
- b) The Director of Place Shaping and Town Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

#### Application 2

- 1. Grant conditional listed building consent.
- 2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.

## 2. SUMMARY

This application was presented to planning sub-committee on 31 August 2021 with a recommendation for approval. It was resolved to defer both applications (planning and listed building consent) on the grounds that although the Sub-Committee was mindful of the overall benefits of the proposals, it was considered that the applicant should consider further changes to the bulk and height of the new building in order to further mitigate the loss of light to those residents living in Wallace Court.

Following the committee resolution, the applicant has amended the scheme as follows:

- Pulled the west/rear elevation of the main seven storey element back to better align with the rear elevation of Wallace Court;
- Lowering the floor to ceiling height at ground floor level, reducing the height of both the three storey and seven storey elements by around 1m.

The amendments have reduced the floorspace, resulting in the loss of 4 hotel bedrooms.

Revised floorspace figure table:

|              | Existing GIA (sqm) | Proposed GIA (sqm)                             | +/-    |
|--------------|--------------------|--|--------|
| Public house | 619                | 289  | -330   |
| Retail       | 14                 | 32 (including 19sqm of basement storage space) | +18    |
| Hotel        | 0                  | 1,330  | +1330  |
| Total        | 633                | 1659   | +1,018 |

9 objections have been received to the revised proposals raising similar issues as previously including land use, design, amenity and highways concerns.

As the application was deferred on the basis of daylight and sunlight concerns, this report will focus on this issue. The objections and all other aspects remain as covered within the officer's original report.

### **Amenity:**

Daylight and sunlight:

An addendum to GIA's daylight and sunlight report has been provided by the applicant. The report notes that the revisions to the scheme have resulted in the number of windows which adhere to the BRE guidance has increased from 31 out of 57 (54.4%), for the previously submitted scheme up to 50 of the 57 windows (87.7%). Of the seven windows, none will now see a 40% loss (previously 3), 1 window will lose between 30-40% (previously 5), and 6 windows will lose between 20-30% (previously 18).

The table below indicates the improvements to each of the windows in Wallace Court noted within the previous committee report and how they now compare with the revised scheme (right hand three columns).

Table 1: Previously submitted vs Revised scheme VSC and NSL results with losses in excess of 20% in bold

| Window        | Existing | Previous scheme | VSC% Loss   | NSL % Loss  | Revised scheme | VSC% Loss   | Revised NSL % Loss |
|---------------|----------|-----------------|-------------|-------------|----------------|-------------|--------------------|
| W5/F02 First  | 10.6     | 6.9             | <b>34.9</b> | <b>65.3</b> | 8.8            | 17          | <b>55</b>          |
| W6/F02        | 14       | 8.2             | <b>41.4</b> | <b>64.4</b> | 10.4           | <b>25.7</b> | <b>55.4</b>        |
| W7/F02        | 15.4     | 9               | <b>41.6</b> | <b>45</b>   | 11.4           | <b>26</b>   | <b>27.3</b>        |
| W8/F02        | 20.6     | 12.6            | <b>38.8</b> | 11.6        | 15.8           | <b>23.3</b> | -3.2               |
| W9/F02        | 17.6     | 9.3             | <b>47.2</b> | <b>60.9</b> | 11.5           | <b>34.7</b> | <b>49.5</b>        |
| W5/F03 Second | 14.9     | 10.7            | <b>28.2</b> | <b>48.8</b> | 13.5           | 9.4         | <b>23.7</b>        |
| W6/F03        | 19.6     | 13.4            | <b>31.6</b> | <b>25.3</b> | 16.8           | 14.3        | -10.6              |
| W7/F03        | 22.1     | 15.5            | <b>29.9</b> | 1.6         | 19.2           | 13.1        | -55.8              |
| W8/F03        | 27.5     | 21.1            | <b>23.3</b> | 10.7        | 23.2           | 15.6        | 7.3                |
| W9/F03        | 25.4     | 17              | <b>33.1</b> | <b>30.8</b> | 21             | 17.3        | -1.3               |
| W1/F04 third  | 22.3     | 16.9            | <b>24.2</b> | 6           | 23.7           | -6.3        | 1.1                |
| W5/F04        | 19.4     | 13.8            | <b>28.9</b> | <b>41.5</b> | 15.6           | 19.6        | <b>28.7</b>        |
| W6/F04        | 25.6     | 18              | <b>29.7</b> | 0           | 19.7           | <b>23</b>   | 0                  |
| W7/F04        | 28.6     | 21.3            | <b>25.5</b> | 7.9         | 22.7           | <b>20.6</b> | 5                  |
| W8/F04        | 31.2     | 24.5            | <b>21.5</b> | 9.5         | 25.9           | 17          | 5.4                |
| W1/F05 fourth | 27.3     | 19.1            | <b>30</b>   | 5.8         | 26.2           | 4           | 1.1                |
| W5/F05        | 20.9     | 15.1            | <b>27.8</b> | <b>39.2</b> | 16.9           | 19.1        | <b>27.9</b>        |
| W6/F05        | 27.6     | 19.9            | <b>27.9</b> | 0           | 21.8           | <b>21</b>   | 0                  |
| W7/F05        | 31       | 23.6            | <b>23.9</b> | 7.8         | 25.2           | 18.7        | 4.2                |
| W1/F06 fifth  | 30.3     | 21.7            | <b>28.4</b> | 5.6         | 29             | 4.3         | 1.1                |
| W5/F06        | 22.5     | 16.6            | <b>26.2</b> | <b>38.3</b> | 18.8           | 16.4        | <b>26.8</b>        |
| W6/F06        | 29.9     | 22.3            | <b>25.4</b> | 0           | 24.5           | 18.1        | 0                  |
| W7/F06        | 33.3     | 26.2            | <b>21.3</b> | 6.9         | 28.2           | 15.3        | 2                  |
| W1/F07 sixth  | 33.9     | 25.2            | <b>25.7</b> | 5.5         | 32.4           | 4.4         | 1                  |

|                |      |      |             |             |      |      |             |
|----------------|------|------|-------------|-------------|------|------|-------------|
| W5/F07         | 25.3 | 19.8 | <b>21.7</b> | <b>35.8</b> | 22.3 | 11.9 | <b>23.5</b> |
| W6/F07         | 32.8 | 25.7 | <b>21.6</b> | 0           | 28.3 | 13.7 | 0           |
| W1/F08 seventh | 36.2 | 28   | <b>22.7</b> | 5.1         | 35   | 3.3  | 1           |

It is apparent that the number of windows which now pass in terms of VSC and NSL has significantly improved from previously, with the amount of windows which fail reduced to seven in terms of VSC of which only three fail both in terms of VSC and NSL. The most affected are those at rear first floor level of Wallace Court, however these windows have relatively low levels of light as existing. All but one window from second floor and above retain a VSC of in excess of 15 which is generally accepted as an acceptable level of light within an urban context, which this is considered, given the close relationship of the site to these affected windows. It is also apparent that the revision would appear to improve the daylight distribution (NSL) results for some rooms at second floor levels, as indicated by the negative percentage loss figures (meaning an improvement). The high percentage losses are generally due to existing low levels of light, whereby any loss or gains would indicate as a high percentage change.

The amendments to the scheme are welcomed by officers, and while there are still windows/ rooms which will suffer losses, these are on balance considered acceptable given the other considerations of the scheme discussed in the original officers report.

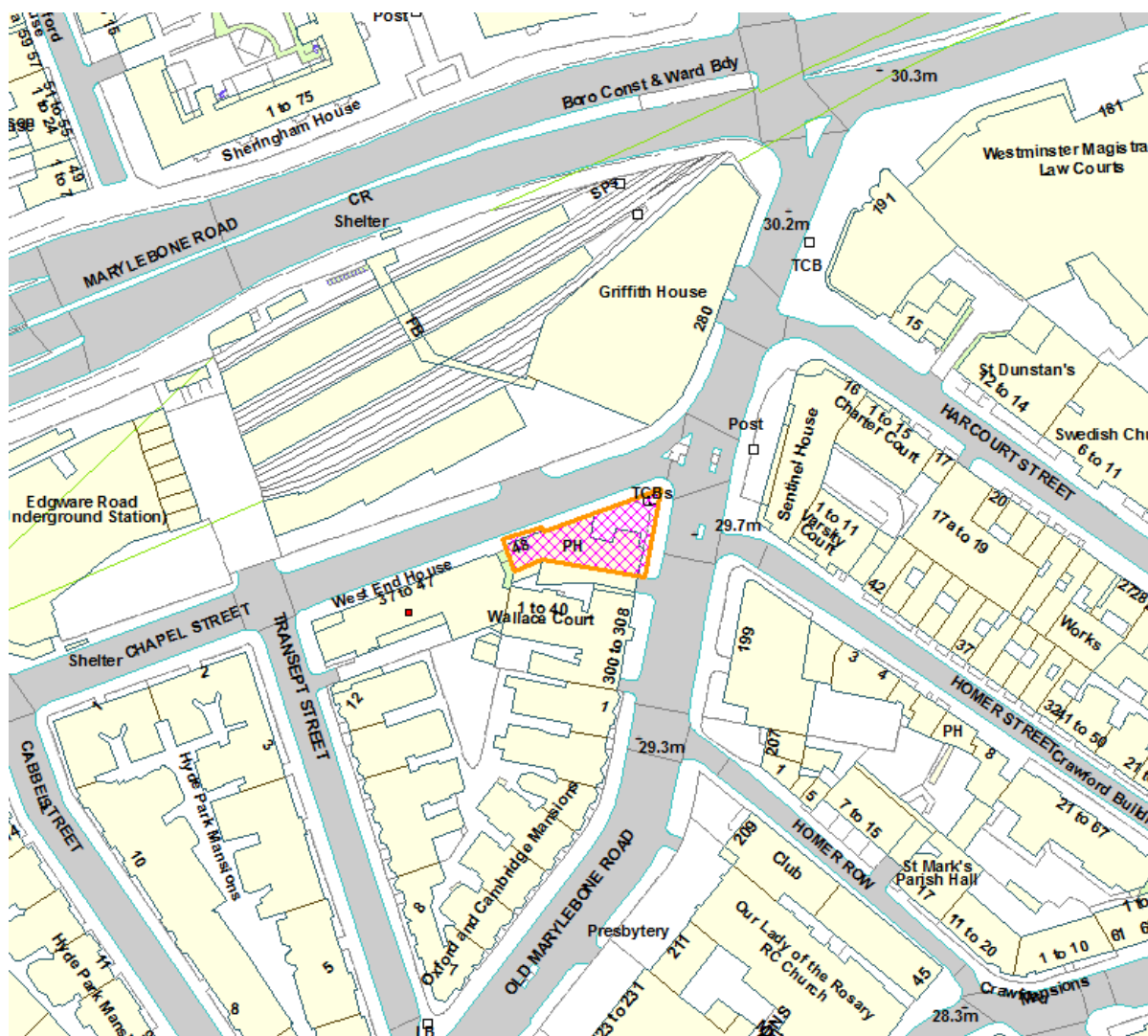
#### **Design:**

In design terms the proposed amendments to reduce the overall heights of both elements of the building and to pull the rear façade of the main tower back to better align with Wallace Court are welcomed.

#### **Conclusion:**

Subject to the conditions and obligations secured through S106 as set out within the officers committee report, the revised proposals are considered acceptable against policies in the City Plan 2019-2040 (adopted April 2021).

## 3. LOCATION PLAN



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#### 4. CONSULTATIONS

Please refer to the original committee report for a summary of the consultation responses to the original application. The following responses were not summarised within the original report:

Consultation responses received following the publishing of the committee report dated 31 August 2021 provided to members prior to committee (blues).

HYDE PARK WARD LABOUR ACTION TEAM:

- Query if it would be possible to have a different design approach that would not have had such negative impacts on local residents.
- Query if any demand analysis has been undertaken for a further hotel in this location as surely there is a greater need for more affordable homes.
- Disappointing that the opportunity to preserve the “last remnant of early 1800’s development in the area was not considered by the architects.

Consultation responses received following the publishing of the committee report dated 31 August 2021, but provided to members on the day of committee/verbally (reds)

ADJOINING OWNERS / OCCUPIERS:

1 additional response stating the following:

- Surprising that the report considers an application which will have a detrimental impact on adjacent occupiers in Wallace Court.
- Dubious demand for a hotel at a time homes are desperately needed.
- Overdevelopment of the site.
- Increased traffic, noise and pollution
- Substandard design, with the loss of existing building at the detriment to the character of the local area.

Consultation responses to the scheme revised in December 2021:

ADJOINING OWNER & OCCUPIERS:

No consulted: 138

No responses: 9 additional objections have been received raising the following points:

Land Use:

- Increased noise and activity from hotel occupiers
- Loss of Georgian pub
- Proposed use not required for the area
- Loss of shop and pub with garden

Design:

- Loss of good quality building, part of the heritage
- Building is too large and will dwarf adjacent
- Set unacceptable precedent

Amenity:

- Revisions do little to address issues of loss of light
- Increased sense of enclosure

- Loss of privacy
- Noise and smells from air conditioning

Highways:

- Increased traffic
- Loss of parking

Other

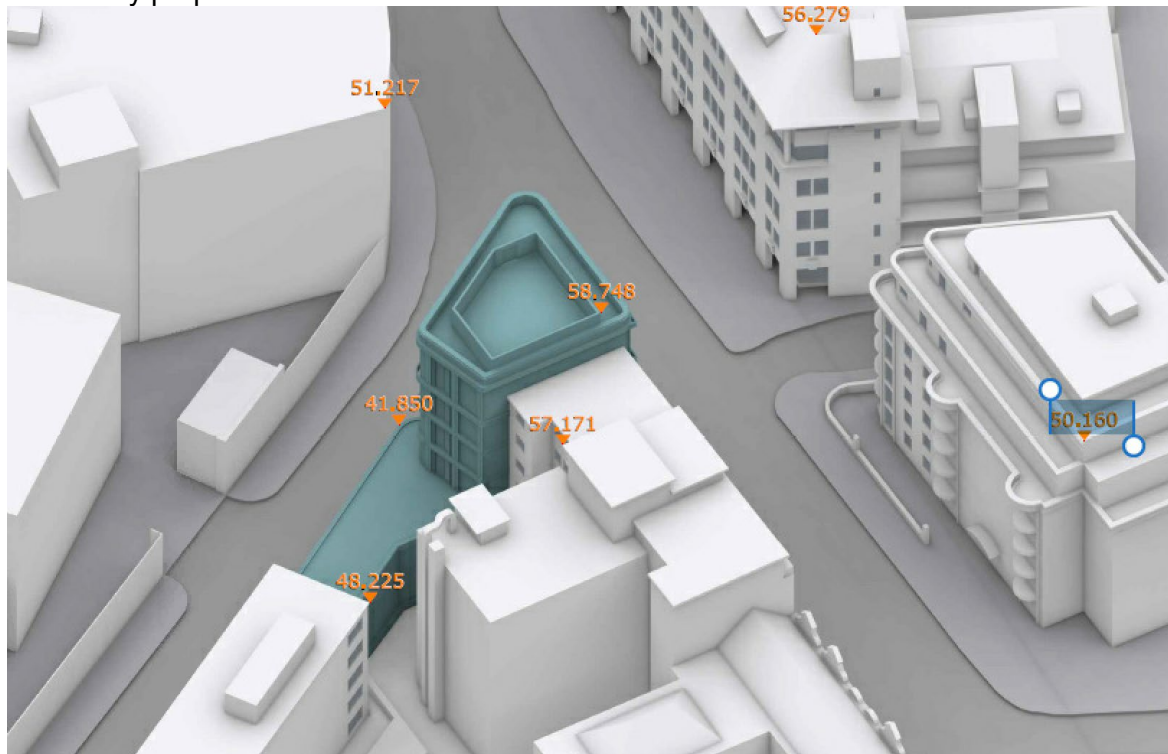
- Same objections as within original response
- Noise and disturbance from building work
- Loss of views
- Negative impact on mental health
- Negative impact on security

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

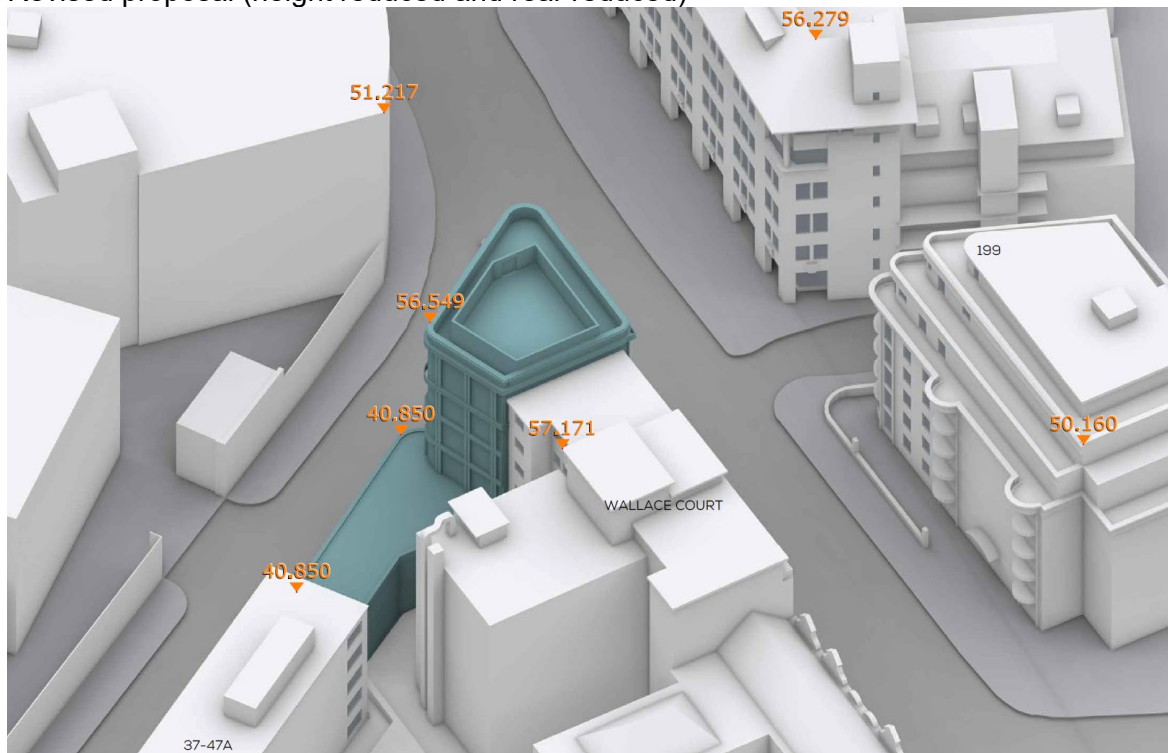
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **RUPERT HANDLEY** BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk).

## 5. KEY DRAWINGS

Previously proposed



Revised proposal (height reduced and rear reduced)





**DRAFT DECISION LETTER - 20/06148/FULL**

**Address:** 48 Chapel Street, London, NW1 5DH,

**Proposal:** Demolition of the existing building and erection of a part 3 storey and part 7 storey (plus basement) hotel, public house and retail premise; including excavation of basement, bin and bike storage, rooftop plant, new tree and relocation of two phone boxes (linked to 20/06108/LBC).

**Plan Nos:** 17050-SQP-ZZ-ZZ-DR-A-PL00001 A; 17050-SQP-ZZ-B1-DR-A-PL00002 A; 17050-SQP-ZZ-00-DR-A-PL00003 A; 17050-SQP-ZZ-01-DR-A-PL00004 A; 17050-SQP-ZZ-02-DR-A-PL00005 A; 17050-SQP-ZZ-ZZ-DR-A-PL00006 A; 17050-SQP-ZZ-ZZ-DR-A-PL00301 A; 17050-SQP-ZZ-ZZ-DR-A-PL00302 A; 17050-SQP-ZZ-ZZ-DR-A-PL00303 A; 17050-SQP-ZZ-ZZ-DR-A-PL00304 A; 17050-SQP-ZZ-B1-DR-A-PL01001 A; 17050-SQP-ZZ-00-DR-A-PL01002 B; 17050-SQP-ZZ-01-DR-A-PL01003 A; 17050-SQP-ZZ-02-DR-A-PL01004 A; 17050-SQP-ZZ-ZZ-DR-A-PL01005 A; 17050-SQP-ZZ-ZZ-DR-A-PL01006 A; 17050-SQP-ZZ-00-DR-A-PL02001 B; 17050-SQP-ZZ-B1-DR-A-PL02002 D; 17050-SQP-ZZ-00-DR-A-PL02003 D; 17050-SQP-ZZ-01-DR-A-PL02004 D; 17050-SQP-ZZ-02-DR-A-PL02005 D; 17050-SQP-ZZ-03-DR-A-PL02006 D; 17050-SQP-ZZ-04-DR-A-PL02007 D; 17050-SQP-ZZ-05-DR-A-PL02008 D; 17050-SQP-ZZ-06-DR-A-PL02009 D; 17050-SQP-ZZ-07-DR-A-PL02010 D; 17050-SQP-ZZ-ZZ-DR-A-PL20300 B; 17050-SQP-ZZ-ZZ-DR-A-PL20301 B; 17050-SQP-ZZ-ZZ-DR-A-PL20302 B; 17050-SQP-ZZ-ZZ-DR-A-PL20303 B; 17050-SQP-ZZ-ZZ-DR-A-PL20304; Ventilation strategy by DSA engineering dated 28 May 2020; Environmental noise impact assessment by Hann Tucker Associates dated 11 September 2020.

For info only:

Tree replacement proposal by cool gardens dated may 2021; Energy statement by DSA engineering dated Aug 2020; addendum to energy statement by Savills dated 16 August 2021; Planning statement by Savills dated September 2020; addendum to planning statement by Savills dated 22 July 2021; Daylight and sunlight report by gia dated 27 August 2020; structural method statement by dated August 2020; Design and access statement by Squire and partners dated September 2020; air quality assessment by Aether dated August 2020; Archaeological desk based assessment by savills dated September 2020; Heritage assessment by km heritage dated September 2020; Delivery and Service plan by ttp consulting dated September 2020; Transport statement by TTP consulting dated September 2020; Draft operational management plan by Savills; Outline fire strategy report by Trigon dated 11 September 2020; outline drainage strategy by wsp dated September 2020; Statement of community involvement by concilio.

**Case Officer:** Rupert Handley

**Direct Tel. No.** 07866036401

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and

other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

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

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 **Pre Commencement Condition.** Prior to the commencement of any:

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site, and in consultation with **Transport for London**, 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 neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 4 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 Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 5 **Pre Commencement.** The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground), have been submitted to and approved in writing by the local planning authority which:

- provide details on the use of tall plant and scaffolding

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan (March 2021) policy T3 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012

- 6 **Prior to the occupation of the hotel** the public house shall be fitted out to category A standard (or equivalent).

Reason:

To make sure that the use is reprovided and suitable for occupation. In order to comply with policy 16 of Westminster's city plan 2019 - 2040 (April 2021).

- 7 The full height kitchen extract/ ventilation system through the building shall be installed and operational prior to any primary cooking (the cooking of raw or fresh food) taking place on site or alternative ventilation details as approved in writing by the local planning authority.

Reason:

To protect adjacent occupiers and the local environment from smells. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R05ED)

- 8 **Prior to occupation.** You must provide an Operational Management Plan for the hotel and public house to the local planning authority in writing. The plan must include, but not be limited to, the following:

- I. Customer opening hours (no greater than those stated in condition 9);
- II. Capacity (pub only);
- III. How the uses will be serviced;
- IV. How the uses will be operated;
- V. Visitor management, such as: queuing, crowd control etc.;
- VI. Security arrangements;
- VII. Access and egress arrangements;

The uses must then operate in accordance with the approved management plan unless otherwise agreed first by the local planning authority.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 9 Customers shall not be permitted within the public house premises before 07:00 or after 23:00 on Monday to Saturday (not including bank holidays and public holidays) and before 08:00 or after 10:30 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 10 Live or recorded music shall not be played that can be heard outside of the site

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 11 The plant screen at main roof level as shown on the approved drawings, shall be implemented before the machinery is operated. No equipment shall raise above the height of the screen. The screen shall remain in place thereafter.

Reason:

To protect neighbouring residents from noise nuisance and to make sure that the appearance of the screen is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 and Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 12 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing 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 in writing 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 written approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 13 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 14 The design and structure of the development shall be of such a standard that it will protect residents in adjoining buildings and hotel occupiers within the building from noise, vibration and electromagnetic fields from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens.

Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 15 Any emergency plant and generators shall only be used for the purpose of public safety and life critical systems and shall not be used for backup equipment for commercial uses such as Short Term Operating Reserve (STOR). The emergency plant and generators shall be operated at all times in accordance with the following criteria:

(1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the LA90, 15 mins over the testing period) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required in an emergency situation.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays. (C50AC)

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 16 **Prior to construction works above ground floor level**, and in consultation with Transport for London, you must apply to us for approval of detailed drawings of the size, species, crown height, grill, tree pit, support mechanism and maintenance of the street tree. You must then plant the tree in accordance with these details prior to occupation of the building (or within any other time limit we agree to in writing).

If you find that the tree is dying, severely damaged or diseased within 5 years of planting it, you must replace it with trees of a similar size and species, unless otherwise agreed first by the local planning authority in writing. (C30CC)

**Reason:**

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021) and to accord with the terms of S213 of the Town and Country Planning Act.

- 17 **Prior to occupation.** You must apply to us for approval of details of the green roofs including a management plan. You must not start work on this part of the development until we have approved in writing what you have sent us. You must carry out the development according to the approved details before you start to use the building. (C43CA)

**Reason:**

To protect and increase the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43CC)

- 18 **Prior to occupation.** you must provide the separate stores for waste and materials for recycling shown on drawing number 17050-SQP-ZZ-00-DR-A-PL02003 Revision C, and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the building. (C14FC)

**Reason:**

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

- 19 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

**Reason:**

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 20 A minimum of 10% of the hotel rooms shall be wheelchair accessible.

**Reason:**

In accordance with Policy E10 of the London Plan (2021).

- 21 **Prior to occupation** the rear elevation wall of the building shall be painted white and maintained that colour thereafter.

**Reason:**

To help mitigate the impacts of the development on the environment of adjacent occupiers. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021).

- 22 **Prior to the occupation of the development**, a suitably qualified independent review of the energy efficiency measures to be provided within the development shall be provided to the Local Planning Authority. This shall confirm that the building has been designed to BREEAM excellent. If another method is used, it must be demonstrated to achieve an equally high standard, unless it is suitably justified why this target is no longer achievable. All the energy efficiency measures referred to in the review shall be installed and function before first occupation of the building. The features shall be maintained and retained for the lifetime of the development.
- Reason:  
To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44BD)
- 23 You must apply to us for approval of samples / details of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)
- Reason:  
To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)
- 24 You must apply to us for approval of detailed drawings of the following parts of the development:
- i) architectural features 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 details. (C26DB)
- Reason:  
To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)
- 25 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)
- Reason:  
To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)
- 26 **Prior to the occupation of the development** details of public art shall be submitted to and approved in writing by the local planning authority. The art shall be retained and maintained



thereafter.

Reason:

To make sure that the art is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38, 40 and 43 of the City Plan 2019 - 2040 (April 2021).

### Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 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)
- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering) (I54AB)
- 4 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
- 5 The term 'clearly mark' in condition means marked by a permanent wall notice or floor markings, or both. (I88AA)

- 6 Please refer to Thames Water consultation response in relation to Waste and water infrastucture comments and advice.
- 7 In relation to the green roof condition, you are advised to refer to the Greater London Authority guidance: <https://www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening>
- 8 **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)

- 9 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:  
[www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 10 With reference to condition 3 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council 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, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate ([cocp@westminster.gov.uk](mailto:cocp@westminster.gov.uk)) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

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 Inspectorate team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.

- 11 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk).

- 12 We recommend all hoteliers to join the Westminster Considerate Hoteliers scheme and to support the Considerate Hoteliers Environmental Charter. This aims to promote good environmental practice in developing and managing hotels. For more information, please contact:

Considerate Group  
2 Eastbourne Terrace,

London  
W2 6LG  
E-mail: jk@considerategroup.com  
Phone: 020 3865 2052

- 13 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
  - i. Planting of a replacement tree at the junction of Chapel Street and Old Marylebone Road prior to occupation and provision of a management plan to ensure its retention and ongoing future maintenance.
  - ii. Provision of a financial contribution of £34,484.24 (index linked) to the Westminster Employment Service prior to the commencement of development.
  - iii. Highways works necessary to facilitate the proposed development.
  - iv. Provision of a financial contribution of £66,405 to the Carbon Offset Fund (index linked) payable prior to the commencement of development; and
  - v. The costs of monitoring the S106 legal agreement.
  
- 14 In relation to Condition 6, the definition of fitted to category A standards means the main structural elements of the [Public House] provided with base-build mechanical and electrical services together with but not limited to:
  - o floors;
  - o wall finishes;
  - o soffit finishes;
  - o lighting;
  - o ventilation;
  - o heating and power
  
- 15 You are advised that the replacement tree to the corner of Chapel Street and Old Marylebone Road will be subject to a Tree Preservation Order.

**DRAFT DECISION LETTER - 20/06108/LBC**

**Address:** 48 Chapel Street, Bryanston, London, NW1 5DH

**Proposal:** Repositioning of two phone boxes within the site in conjunction with the redevelopment of 48 Chapel Street (linked to 20/06148/FULL).

**Plan Nos:** 17050-SQP-ZZ-ZZ-DR-A-PL00001 A; 17050-SQP-ZZ-B1-DR-A-PL00002 A; 17050-SQP-ZZ-00-DR-A-PL00003 A; 17050-SQP-ZZ-01-DR-A-PL00004 A; 17050-SQP-ZZ-02-DR-A-PL00005 A; 17050-SQP-ZZ-ZZ-DR-A-PL00006 A; 17050-SQP-ZZ-ZZ-DR-A-PL00301 A; 17050-SQP-ZZ-ZZ-DR-A-PL00302 A; 17050-SQP-ZZ-ZZ-DR-A-PL00303 A; 17050-SQP-ZZ-ZZ-DR-A-PL00304 A; 17050-SQP-ZZ-B1-DR-A-PL01001 A; 17050-SQP-ZZ-00-DR-A-PL01002 B; 17050-SQP-ZZ-01-DR-A-PL01003 A; 17050-SQP-ZZ-02-DR-A-PL01004 A; 17050-SQP-ZZ-ZZ-DR-A-PL01005 A; 17050-SQP-ZZ-ZZ-DR-A-PL01006 A; 17050-SQP-ZZ-00-DR-A-PL02001 B; 17050-SQP-ZZ-B1-DR-A-PL02002 D; 17050-SQP-ZZ-00-DR-A-PL02003 D; 17050-SQP-ZZ-01-DR-A-PL02004 D; 17050-SQP-ZZ-02-DR-A-PL02005 D; 17050-SQP-ZZ-03-DR-A-PL02006 D; 17050-SQP-ZZ-04-DR-A-PL02007 D; 17050-SQP-ZZ-05-DR-A-PL02008 D; 17050-SQP-ZZ-06-DR-A-PL02009 D; 17050-SQP-ZZ-07-DR-A-PL02010 D; 17050-SQP-ZZ-ZZ-DR-A-PL20300 B; 17050-SQP-ZZ-ZZ-DR-A-PL20301 B; 17050-SQP-ZZ-ZZ-DR-A-PL20302 B; 17050-SQP-ZZ-ZZ-DR-A-PL20303 B; 17050-SQP-ZZ-ZZ-DR-A-PL20304; Ventilation strategy by DSA engineering dated 28 May 2020; Environmental noise impact assessment by Hann Tucker Associates dated 11 September 2020.

**Case Officer:** Rupert Handley

**Direct Tel. No.** 07866036401

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

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

Reason:

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

- 2 **Prior to the commencement of development**, you must provide details of where the two K2 phone boxes will be stored and how they will be protected during the course of the development. The phone boxes shall then be stored in accordance with these details.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 3 **Prior to the occupation of development** the phone boxes shall be installed in the location as

shown on the approved drawings and retained in that position thereafter.

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

**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 (March 2021), the City Plan (April 2021), 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:

Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 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)

|  |   |                                       |            |
|--|---|---------------------------------------|------------|
| CITY OF WESTMINSTER                                      |   |                                       |            |
| PLANNING APPLICATIONS SUB COMMITTEE                      | Date<br>8 February 2022   | Classification<br>For General Release |            |
| Report of<br>Director of Place Shaping and Town Planning |   | Ward(s) involved<br>Abbey Road        |            |
| Subject of Report  | 4 The Lane, London, NW8 0PN   |                                       |            |
| Proposal   | Excavation of new basement below footprint of existing dwelling extension, partially below the garden to the rear, and driveway to the front together with new lightwells on the front, side and rear elevations. |                                       |            |
| Agent  | Mr Michael Wiseman  |                                       |            |
| On behalf of   | Mr & Mrs Jacob Lyons  |                                       |            |
| Registered Number  | 21/02808/FULL   | Date amended/<br>completed            | 7 May 2021 |
| Date Application Received                                | 29 April 2021   |                                       |            |
| Historic Building Grade                                  | Unlisted  |                                       |            |
| Conservation Area  | St John's Wood  |                                       |            |

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

This application relates to an unlisted two storey single family dwelling house located in the St John's Wood Conservation Area.

Permission is sought for the excavation of a basement level below footprint of the existing building and part of the rear garden and front driveway. This includes the introduction of lightwells to the front, side and rear elevations.

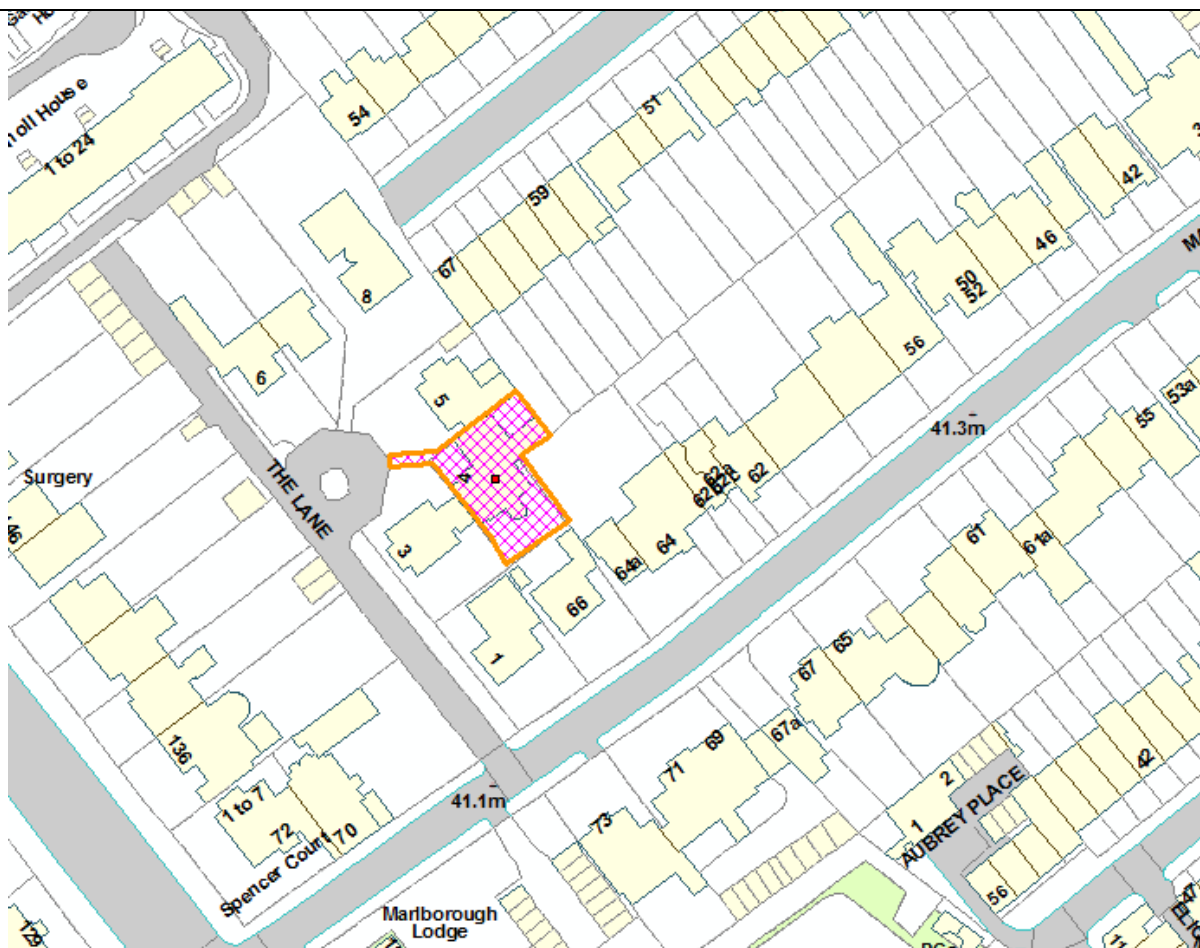
Objections have been received from neighbouring residents on a number of grounds including the design, and the impact of excavation works and amenity on neighbouring properties and residents.

The key issues in the determination of this application are:

- The impact of the proposal on the appearance of the host building and the character and appearance of the St John's Wood Conservation Area; and
- The impact of the proposal on the amenity of neighbouring residents.

Subject to appropriate conditions as set out in the draft decision letter appended to this report, the proposed development is considered to comply with the relevant design, conservation and amenity policies in the City Plan 2019 – 2040 adopted in April 2021. As such, the application is recommended for approval.





#### 4. PHOTOGRAPHS



**Front Elevation**

## 5. CONSULTATIONS

### ST JOHN'S WOOD SOCIETY:

- Query whether the proposal comply with basement policy as the basement appears to extend under more than 50% of the garden.
- It is not clear where plant will be located or vented and whether it will have an impact on the amenity of neighbours.
- We request that the arboricultural manager makes a site visit to ensure that no trees of amenity value are lost or harmed.
- Access to the site will be difficult on this narrow private road and we request that the case officer carefully considers the construction management plan as this will be essential to protect the amenity of neighbours.

### ENVIRONMENTAL HEALTH OFFICER:

No objections subject to conditions.

### WASTE PROJECT OFFICER:

Objection - can be addressed by condition.

### HIGHWAYS OFFICER:

Acceptable subject to conditions.

### ARBORICULTURAL OFFICER:

Following further information, no objection subject to conditions.

### BUILDING CONTROL OFFICER:

No objection.

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

No. Consulted: 14

Total No. of replies: 3 (1 letter on behalf of three households)

In summary, three objections have been received raising some or all of the following grounds:

#### Design:

- Does not comply with SPD in relation to lightwell positioning

#### Other:

- Increase in construction noise, dust and vibration
- Inaccuracies and queries with the submitted Construction Management Plan
- Does not comply with the SPD section 6.3.6 in relation to surface water flood risk hotspots and requests a Sustainable Drainage Strategy be submitted in order to guarantee that the development will mitigate against climate change
- No cumulative assessment with the neighbouring development at 66 Marlborough Place
- Due to other basement proposals in the area requests the council considers imposing a condition for no Saturday working to protect amenity

**PRESS ADVERTISEMENT / SITE NOTICE:**

Yes

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

The application site comprises a two storey single family dwelling of neo-Georgian design located in the St John's Wood Conservation Area. The building forms one of five dwellings located within a private cul-de-sac named The Lane and accessed from Marlborough Place. The properties on The Lane are identified as unlisted buildings of merit in the St John's Wood Conservation Area Audit SPD (adopted 2008).

**6.2 Recent Relevant History**

Planning permission and conservation area consent were refused on 25 September 2012 for demolition of the existing dwellinghouse and erection of a three-storey dwellinghouse above ground, with excavation of basement level beneath house and part of garden, and associated works, ventilation louvres serving internal plant, and landscaping. These applications were refused on the grounds of a failure to preserve or enhance the character and appearance of this part of the St John's Wood Conservation Area. An appeal to the Planning Inspectorate was dismissed on 15 May 2013.

Planning permission was subsequently granted on 7 November 2014 for the complete demolition of the existing dwellinghouse and the erection of new two storey plus mansard dwellinghouse with excavation of basement level beneath house and part of garden and associated works.

Furthermore, planning permission was granted by members on 12 May 2016 for the erection of a two storey rear extension, single storey side extension plus mansard roof extension together with associated works including an air condenser within single storey side extension.

Various alterations have been made to other properties within the cul-de-sac which includes excavations of basements.

**7. THE PROPOSAL**

Permission is sought for the excavation of a basement level below footprint of the existing building and part of the rear garden and driveway. This includes the introduction of lightwells to the front, side and rear elevations.

**8. DETAILED CONSIDERATIONS****8.1 Land Use**

There are no objections in land use terms to the enlargement of the existing dwellinghouse and this would comply with policy 8 of the City Plan 2019-2040.

## 8.2 Townscape and Design

### Introductory Text

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 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 39 in the City Plan 2019 – 2040 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.

In considering the basement extension in terms of design, Part 4 of Policy 45 of the City Plan 2019 - 2040 is of particular relevance. The policy states basement development should conserve the character and appearance of the existing building and garden setting, ensuring lightwells, plant, vents, skylights and means of escape are sensitively designed and discreetly located.

The principle of excavating a basement is not contentious in design terms, subject to the external manifestations being appropriate. Aside from the four lightwells proposed adjacent to the rear, side and front elevations of the main building, the proposed basement has no other external manifestations to indicate its presence.

Objections have been received on the proposed lightwell positioning not being in accordance with the Basement Supplementary Planning Document. The lightwells re located adjacent to the building as required by the guidance and would not be prominently sited and their sizes would be proportionate to the overall size of the extended property. The SPD is a guidance document, and as noted, the size and location of the lightwells is considered acceptable in this instance.

As such, the proposal is considered acceptable in design and conservation area terms, mindful of policies 38, 39, 40 and 45 of the City Plan 2019-2040; 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

The relevant policies for consideration of the proposal are 7 'Managing developments for Westminster's people', 33 'Local environmental impacts' of the City Plan 2019 – 2040 and 38 C 'People Centred Design'

Objectors have raised concerns that the construction works will result in noise and disturbance. The standard Westminster construction working hours condition will be recommended in order to ensure construction noise is limited to daytime hours. Construction work will also be mitigated through the council's code of construction practice (see section 8.14 below). While all development is likely to cause some disturbance, subject to these conditions it is considered that the development will be suitably controlled to mitigate and refusal on these grounds could not be sustained.

Given its subterranean location and limited external manifestations, the proposed basement would not have any material impact on the amenity of neighbouring residents. The only external elements are the lightwells, which given their size and location will have very minimal impact in terms of neighbouring amenity. Given the above, and subject to conditions, the proposal would be consistent with policy 7 and 33 of the City Plan 2019-2040.

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

The proposal raises no transportation or parking issues. Construction vehicular activity will be managed through the CoCP.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

Not applicable.

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

##### **Refuse /Recycling**

The Waste Project Officer has noted that the details submitted are not in line with the council waste storage requirements. As this application relates to an existing large single family dwelling, it is not considered that a condition to secure these details is required.

##### **Trees**

Following further information requested in the form of a tree survey schedule which gave more detail on the sizes of the trees and includes a specification for the pruning of the cherry T1 along with the amended basement plan incorporating a margin of undeveloped land, no objections have been raised subject to conditions.

#### **8.8 Westminster City Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National

Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **8.9 Neighbourhood Plans**

Not applicable in this location.

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 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 following:

- The City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development.
- A tree protection condition is also recommended.
- A contaminated land condition

The applicant has agreed to the imposition of these conditions.

### **8.12 Planning Obligations**

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

### **8.13 Environmental Impact Assessment**

The proposed development is of insufficient scale to require the provision of an Environmental Impact Assessment.

### **8.14 Other Issues**

**Basement**

The excavation of basements must be considered against policy 45 City Plan 2019 – 2040.

**Part A of policy 45**

Part A 1 and 2 of policy 45 requires basement development to safeguard structural stability and be design and constructed to minimise construction impacts on the surrounding area as well as minimise surface water and sewerage flooding risks. Objections have been received on the grounds of flooding due to the site being located within a surface water hot spot area. Part A 3 and 4 seek that basement development protects heritage assets and conserves the character and appearance of the host building, its setting and the surrounding area.

The City Council's Building Control Officers have reviewed the applicant's Structural Methodology, Flood Risk Assessment and advise that they have no adverse comments with regard to the ground condition and stability of existing structures during the works. The City Council wish to make it clear the applicant's reports are not directly being approved, but instead is used to show that there is no impediment foreseeable at this stage that would prevent the creation of a basement in principle. As the relevant reports have been produced by a professional, they carry a duty of care which should be sufficient to demonstrate that assessment made is accurate.

The objector is concerned with the accuracy and has noted some queries of the submitted Construction Management Plan. This document is not being approved and is for information only. The applicant has also submitted a signed pro-forma indicating that they will comply with the City Council's Code of Construction Practice, as required by policy 45 of the City Plan 2019-2040. A condition is attached to secure this. Whilst these objections are noted, the Building Control Officer has raised no objection to the submitted documents and will be further dealt with by the Environmental Inspectorate as part of the CoCP process.

Objections from neighbours raised concern about the impact of the noise, dust and vibration that would be generated by the construction works. Though impacts generated by construction works are not typically regarded as material planning matters, the applicant has agreed to the City Council's Code of Construction Practice (CoCP). This requires that measures are put in place to mitigate the construction impacts on neighbours.

It was raised in a comment that access to the site will be difficult due to the narrow private road and a request made that the case officer carefully considers the construction management plan in order to protect the amenity of neighbours. Such matters will be considered by Environmental Sciences and Highways team as part of their agreement to Code of Construction Practice.

**Flooding:**

The applicant has provided a flood risk assessment due to the site being located within a surface water flood risk hotspot as required by policy 45 City Plan 2019 – 2040, which state that certain mitigation measures have been incorporated within the design which include the introduction of a cavity drainage membrane system along with a Sustainable



Urban Drainage System (SuDS) Statement which states that permeable soil and drainage layers will be incorporated within the external basement areas. The basement has been set in from the site boundary where it is not located underneath the building and a layer of soil provided over the proposed basement. Both of these features, required by Policy 45, aid in terms of drainage and will help reduce the surface water runoff, by reducing the speed the water flows. For this reason, these mitigation measures will be secured by condition.

As discussed within the Design section part 8.2, the proposal can be considered acceptable in regard to its impact on heritage assets.

The basement level is to contain a guest bedroom, tv room, games room, pool, gym, and storage rooms. A noise report has been provided with the application in relation to proposed plant equipment within the basement. Environmental Sciences have assessed this and raise no objections subject to Westminster's standard noise and vibration conditions. A post commissioning report has also been requested to ensure that any associated noise meets their requirements to protect the amenity of neighbouring residents. A condition is also recommended for details of any vents to be provided so that their location and appearance can be considered. An informative is also recommended to advise the applicant that if any external plant is required, then planning permission will likely be required.

#### Part B of policy 45

The requirements of part B 1 and 2 of policy 45 ensure that basement development do not extend more than 50% of the garden land and leave a margin of undeveloped garden land around the entire site boundary. The local amenity society has queried if the development meets these requirements.

The proposal is to extend the lower ground floor beneath the existing dwelling house and partially under the driveway to the front and to the rear garden with the introduction of lightwells. The garden area is approximately 204m<sup>2</sup> and the proposed basement is measured to be 99m<sup>2</sup>, so 48% and therefore it does not extend under more than 50% of this garden land and is therefore compliant in this regard. During the course of the application, the plans have been amended so that a margin of undeveloped garden land has been retained around the basement under the garden and driveway, in accordance with the policy.

Part B 3 states that basement developments should not comprise of more than one storey beneath the lowest original floor level. In this case, there is no lower ground floor and therefore the proposal to excavate underneath the ground floor and the garden is considered acceptable and in accordance with this part of the policy.

Part B 4 requires a minimum of one metre of soil depth plus 200mm drainage layer to be provided and adequate soil volume over the top cover of the basement, this has been provided where appropriate.

The requirements of part B 5 of policy 45 are not relevant to the application upon these relating to basements beneath garden land and highways.

In summary of the above, the proposed basement is considered to be fully in

accordance with the relevant policy of 45 of the City Plan 2019 – 2040.

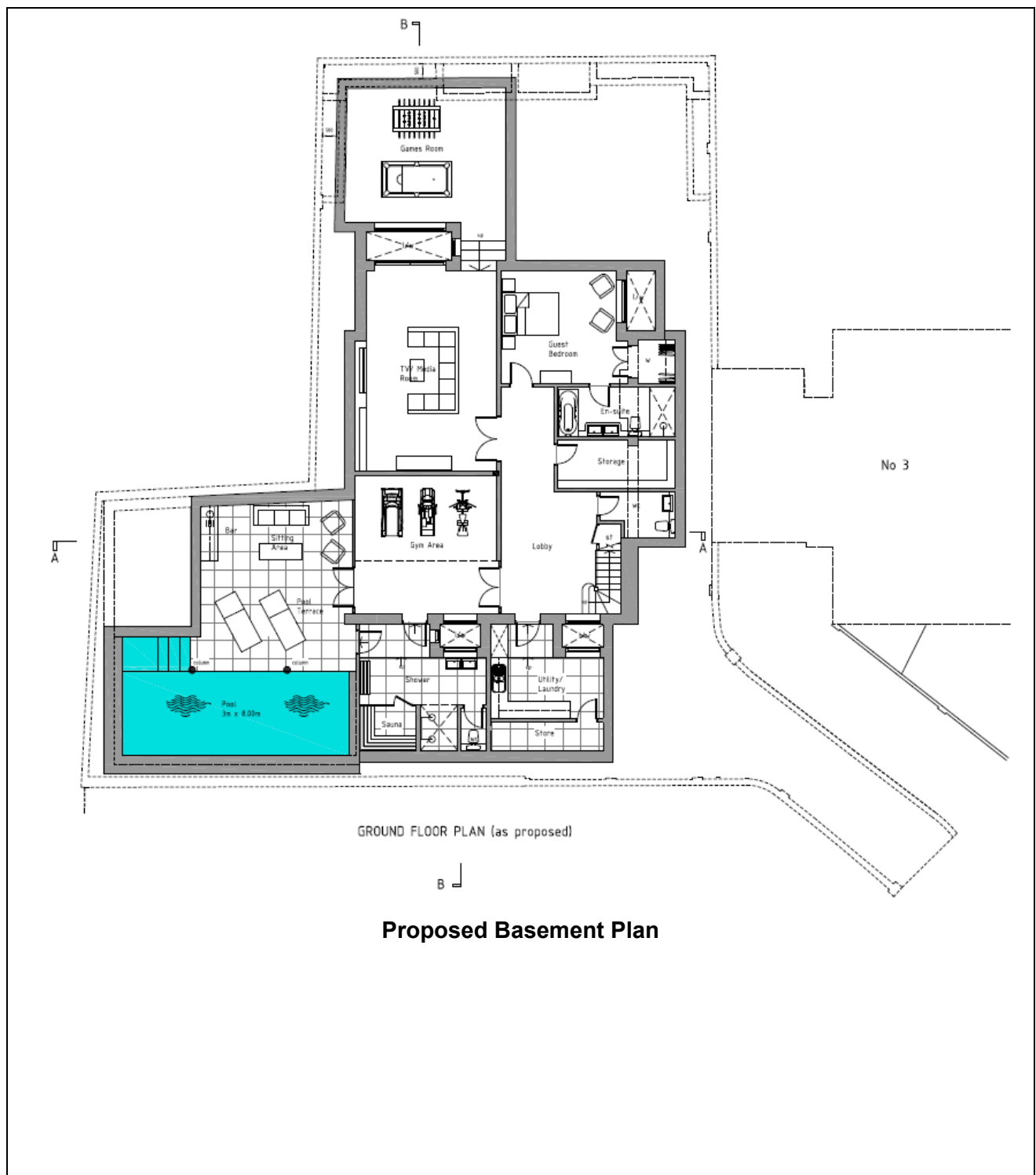
**Contaminated Land:**

The Environmental Science Officer has requested that the councils contaminated land condition is attached to any permission and states that as the proposal includes a basement, as per Public Health England document titled: 'UK National Radon Action Plan' published in 2018 it states: 'Radon measurements should be made in regularly occupied basements of properties irrespective of their geographical location (HPA, 2010)'. On this basis they would expect an assessment for the potential of radon, therefore the Contaminated Land condition is recommended.

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

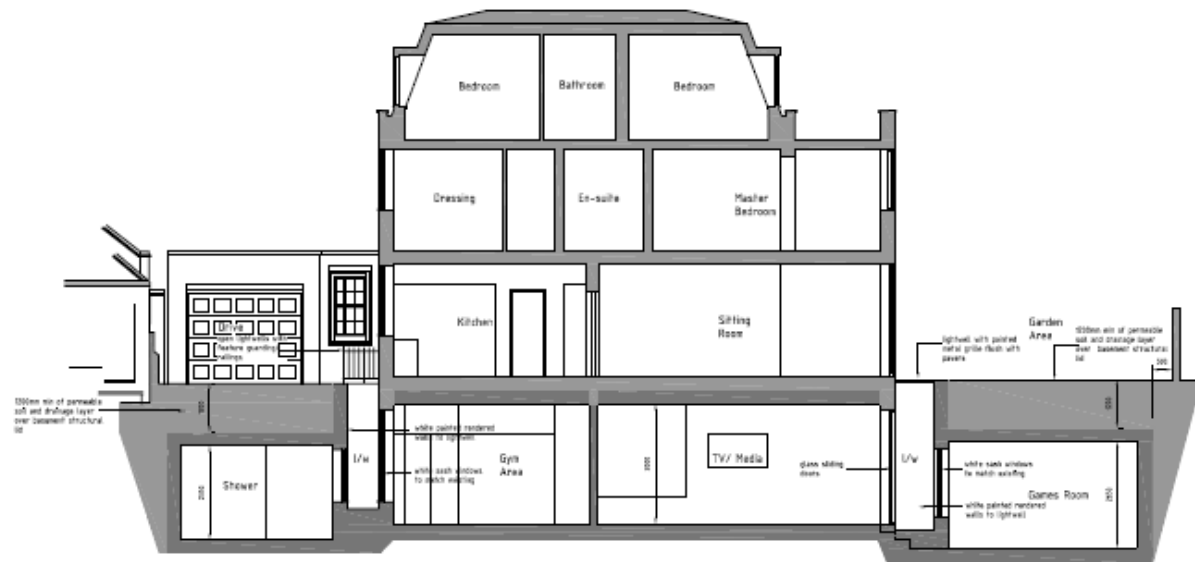
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT [rhandley@westmisnter.gov.uk](mailto:rhandley@westmisnter.gov.uk)

## 9. KEY DRAWINGS





SECTION (as existing)

**Existing Section BB**

SECTION B - B (as proposed)

**Proposed Section BB**

**DRAFT DECISION LETTER**

**Address:** 4 The Lane, London, NW8 0PN,

**Proposal:** Excavation of new basement storey below footprint of existing dwelling extension partially below the garden to the rear and driveway to the front together with new lightwells on the front, side and rear elevations.

**Plan Nos:** Site Location Plan, Ground Floor Plans as Existing, First Floor Plan as Existing, Second Floor Plan as Existing, Section as Existing, Front and Rear Elevation as Existing, Side Elevation as Existing, Basement Floor Plan as Proposed (21-003-02B), Ground Floor Plans as Proposed, Section AA as Proposed, Section BB as Proposed, Front and Rear Sectional Elevations as Proposed, Side Sectional Elevations as Proposed and Design and Access Statement dated April 2021; Flood Risk Assessment dated April 2021

For info only: Construction Management Plan dated April 2021, Noise Survey Report dated 27 April 2021, SuDS Statement dated April 2021, Report on Trees, Structural Methodology dated 12 April 2021 and Noise, Dust and Vibration Mitigation Policy dated 31 March 2021.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 07866037206

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

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

3 **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 neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 **Pre Commencement Condition.** You must apply to us for our approval of details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include:

- i) identification of individual responsibilities and key personnel.
- ii) induction and personnel awareness of arboricultural matters.
- iii) supervision schedule, indicating frequency and methods of site visiting and record keeping
- iii) procedures for dealing with variations and incidents.

You must include a specification to send a written report to the tree officer within 5 days of each visit by the arboricultural consultant.

You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then adhere to the approved supervision schedule.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R30AD)

- 6 You must apply to us for details of the specification and profile of the soil which you propose above basements, including details of the drainage layer and other components. You must also include a methodology for installing the soil and drainage layer without causing contamination or compaction. You must not start any work on this part of the development until we have approved what you have sent to us. You must then carry out the work according to the approved details.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policies 34 and 45 of the City Plan 2019 - 2040 (April 2021). (R30DB)

- 7 You must provide 1m soil depth plus 200mm drainage layer over the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policies 34 and 45 of the City Plan 2019 - 2040 (April 2021). (R30DB)

- 8 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must include at least one standard tree in the rear garden. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within 1 year; of completing the development, (or within any other time limit we agree to in writing).

If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within 5 years of planting them, you must replace them with trees of the same size and species, (or alternative sizes and species which we agree to in writing).

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R30BD)

- 9 You must implement the mitigation measures outlined in the Flood Risk Assessment by the basement design studio prior to occupation of the basement. The measures must be retained and maintained for the lifetime of the development.

Reason:

To reduce the risk of flooding as set out in Policy 45 of the City Plan 2019 - 2040 (April 2021).

- 10 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

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

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

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

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

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

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in Policy 33(E) of the City Plan 2019 - 2040 (April 2021). (R18AB)

- 11 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 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 in writing 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 in writing 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 written approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90 (15 minutes) 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. (C46BC)

Reason:

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46BC)

- 12 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 13 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) 11 and 12 of this permission.

**Reason:**

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46BC)

- 14 You must apply to us for approval of drawings of the following parts of the development - the location and appearance of any external vents. 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 St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 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 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You can apply online at the following link: [www.westminster.gov.uk/trees-and-high-hedges](http://www.westminster.gov.uk/trees-and-high-hedges). You may want to discuss this first with our Tree Officers by emailing [privatelyownedtrees@westminster.gov.uk](mailto:privatelyownedtrees@westminster.gov.uk).
- 4 When you apply to us for approval under condition 8 you should maximise the areas of soft landscaping and ensure that hard landscaping is permeable and you should avoid the use of artificial grass.
- 5 You are advised that the installation of mechanical heating/cooling/ventilation equipment outside of the envelope of the building or basement would likely require a separate application for planning permission.
- 6 With reference to condition 3 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council 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, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate ([cocp@westminster.gov.uk](mailto:cocp@westminster.gov.uk)) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

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 Inspectorate team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.

- 7 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:

Thames Water Utilities Ltd  
 Development Planning  
 Maple Lodge STW  
 Denham Way  
 Rickmansworth  
 Hertfordshire  
 WD3 9SQ  
 Tel: 01923 898072  
 Email: Devcon.Team@thameswater.co.uk

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

|  |  |                                       |                      |
|--|--|---------------------------------------|----------------------|
| CITY OF WESTMINSTER                                      |  |                                       |                      |
| PLANNING APPLICATIONS SUB COMMITTEE                      | Date<br>8 February 2022  | Classification<br>For General Release |                      |
| Report of<br>Director of Place Shaping and Town Planning |  | Ward(s) involved<br>St James's        |                      |
| Subject of Report  | 21 The Market, Covent Garden, London,  |                                       |                      |
| Proposal   | Addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant. |                                       |                      |
| Agent  | FIMA Architecture and Planning Ltd   |                                       |                      |
| On behalf of   | FIMA Architecture and Planning Ltd   |                                       |                      |
| Registered Number  | 21/06621/FULL  | Date amended/<br>completed            | 27 September<br>2021 |
| Date Application Received                                | 27 September 2021  |                                       |                      |
| Historic Building Grade                                  | II*  |                                       |                      |
| Conservation Area  | Covent Garden  |                                       |                      |

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application relates to an external area located outside the Covent Garden Market Building, which is a Grade II\* listed building located within the Covent Garden Conservation Area.

Planning permission is sought for the installation of a new external bar and a pizza oven within the existing area for outdoor seating in connection with the existing restaurant at 21 The Market.

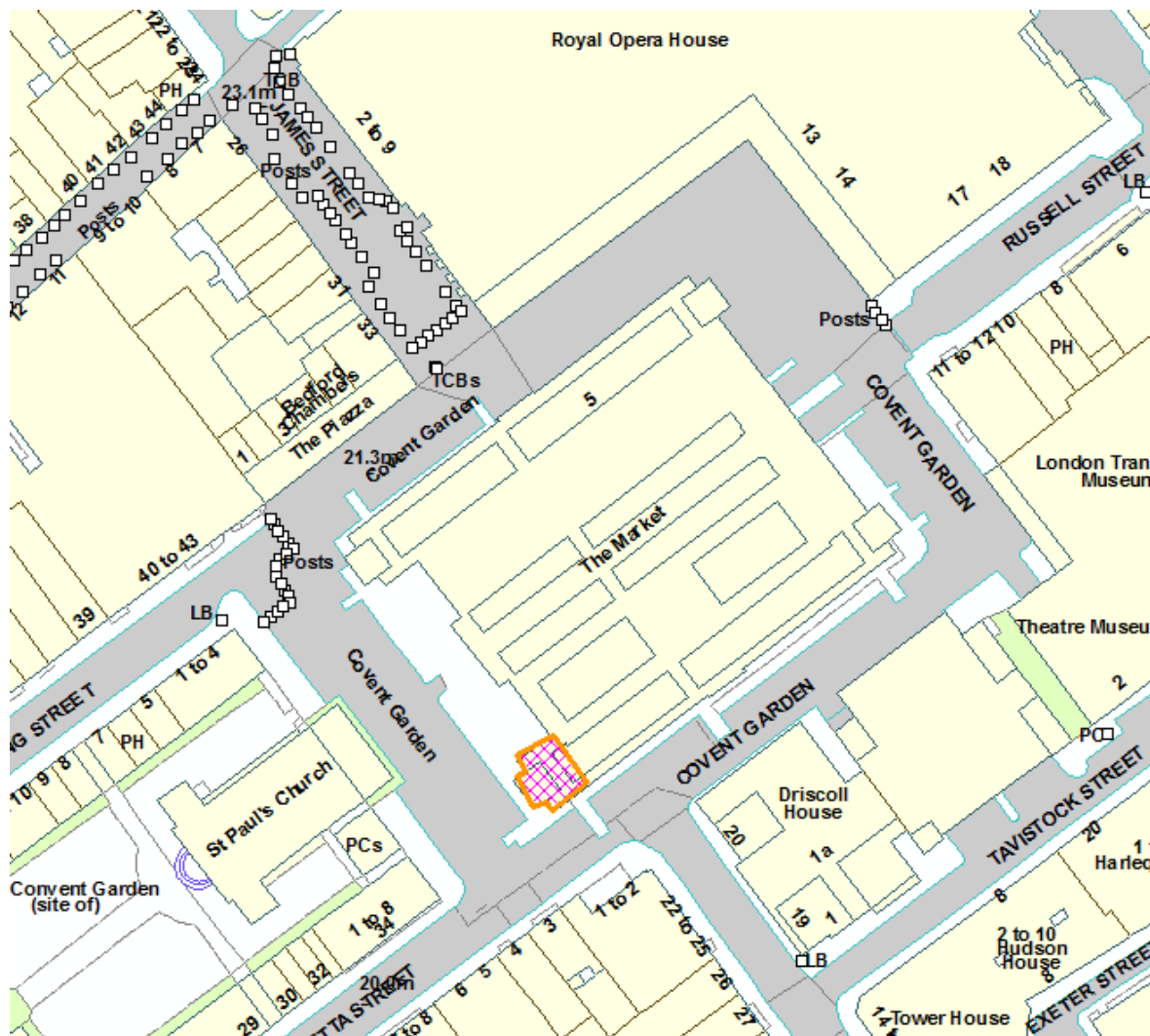
The Covent Garden Area Trust and the Covent Garden Community Association raise strong objection on design grounds, including the impact of the proposals on the setting of the Market building and on the appearance and function of the Piazza.

The key issues in this case are:

- The impact on the setting of the Grade II\* listed Market Building, the impact on the quality and heritage value of the open space of the Covent Garden Piazza and on the townscape generally; and
- The impact on the function of the highway.

While the placement of such items would not normally be considered acceptable in such a sensitive location, given the economic challenges created by the COVID-19 pandemic, the proposals are recommended for approval for a temporary one year period.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



**Existing outdoor seating area**





**Western side of the Market**

## 5. CONSULTATIONS

### COVENT GARDEN AREA TRUST:

28 October 2021

Objection due to concern about the increase in applications of this type in particular as COVID-19 restrictions have been lifted. Concerns about the cumulative impact on the setting of the Grade II\* Market building and appearance and function of the Piazza.

The Trust refers to a committee report for application 20/03048/FULL which clearly states that as long-term installation the placement of such items would not normally be considered acceptable in such a sensitive location.

The Trust also refers to the forthcoming Covent Garden Public Realm Framework document which states that whilst bars or serveries may have been justifiable in the context of the COVID-19 restrictions on internal hospitality operations, these facilities are no longer seen to be acceptable or necessary.

The Trust has no objection to the principle of al-fresco dining served from existing indoor units but is opposed to the creation of large outdoor kitchens. The scale of the proposal is disproportionate to the size and operation of the unit and the external dining area can be served from inside without external service area or oven.

The Trust considers that the application fails to assess the visual impact of such installation on the setting of the Market Building, the Piazza and the surrounding listed buildings and there are concerns that the items will cause harm. There is concern that was introduced it will be difficult to remove these installations and there be a continued erosion of the character of the Piazza and the damage to the setting of the Market Building. The proposals are contrary to Policy 39 of the City Plan (2019-2040), Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraph 192 of the NPPF.

14 January 2022

Reiterate their objections due to fear that this would lead to a host of similar applications even after restrictions had been lifted have been proven. It would seem unreasonable and inappropriate to be offering even a temporary permission for such a highly impactful proposal. Furthermore, no business case has been provided in support of this application. These external kitchens are large and visually intrusive; they remain in-situ 24/7 and are not cleared away at the end of a working day. It is the Trust's assertion that the piazza must not be seen as an extension of a unit's internal commercial space, and if a business cannot operate within the unit it has taken on, it is clearly occupying the wrong premises.

A temporary permission for such a highly impactful proposal when there are no restrictions on indoor hospitality would inevitably set a dangerous precedent and lead to other units seeking to renew the temporary permissions they gained during restrictions or to make new applications.

These outdoor serveries and kitchens are entirely inappropriate within the setting of the piazza and have had a dramatically detrimental effect on the character and appearance of Covent Garden which needs to be carefully controlled.

#### COVENT GARDEN COMMUNITY ASSOCIATION

Objects due to the proliferation of outside utilised within the market area creating visual clutter and detracting from the historic market buildings themselves.

The Covid emergency situation is now easing as can be seen from the numbers of people who have returned to Piazza and there is not such a great need for outdoor seating as there was. The unit benefits from consideration inside area and the substantial kitchen can provide Pizza. The Association does not consider that a Pizza oven will necessarily promote the area as there is evidence that tourism is returning and it will not enhance the special architectural and historic interest of the listed building. There is a likelihood of unpleasant smells and may attract take-away causing rubbish issues. The Association also points out that the unit plays DJ-style music on outside speakers which causes a nuisance.

#### HIGHWAYS PLANNING

It is on an area of land, at least partially, that is public highway, albeit not public highway that is maintained by the Council. The tables and chairs that are currently there have been there for many years and were the subject of a CLEUD application in 2017 (17/05216/CLEUD) and there are no conditions that therefore requiring the furniture to be put away at night, so in effect the land cannot be used by pedestrians. The idea of a permanent structure is not liked given that it could be considered to be highway, but given the above it is difficult to justify a refusal on highway grounds.

#### ENVIRONMENTAL HEALTH:

An electric pizza oven will produce much less fumes and it may be possible to place it with the table and chairs without it causing nuisance. However whether it causes nuisance may depend on if the site is completely surrounded, if openable windows are immediately above, how often it will be operating etc

I understand in this case the pizza oven is to be placed in the Covent Garden Market Square and the immediate above premises will be the restaurant operating the oven.

I believe therefore it is unlikely to cause nuisance to other parties and can be permitted. An informative should be attached advising that it may still be subject to enforcement action by Environmental Health if odour nuisance results from how it is being operated.

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

No. Consulted: 92

Total No. of replies: 0

No. of objections: 0

No. in support: 0

#### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

21 The Market is located on the south west corner of the Covent Garden Market Building, which is a Grade II\* listed building in the Covent Garden Conservation Area. It fronts the Covent Garden Piazza to the west and Henrietta Street to the south. The site is within the Covent Garden Conservation Area and the West End Stress Area.

The unit occupies the basement to first floors, with the basement and first floors being considerably larger than the ground floor. Entrances are at ground floor level, onto the Piazza, and at basement level into the south well of The Market building. The unit is a restaurant and bar. In 2017, Westminster City Council issued a certificate of lawful development (existing) confirming the use of two areas of the Piazza directly of the north and west of 21 The Market for the placing of external seating, in connection with the existing restaurant/bar use of the unit, is lawful because of the length of time it had been there.

The umbrellas and servery benefit from planning permission in 2012. The screen with planters have been introduced more recently and were not part of the certificate application and do not benefit from planning permission.

### **6.2 Recent Relevant History**

In August 2017, the City Council granted a certificate of lawfulness for the use of two areas of The Piazza adjacent to 21 The Market for the placing of external seating in connection with Class A3/ A4 use of the unit (RN: 17/05216/CLEUD).

In September 2012, the City Council granted planning permission and listed building consent for the erection of external servery and umbrellas and minor internal works. (RNs: 12/03733/FULL and 12/03734/LBC).

In July 2011, the City Council granted planning permission and listed building consent for the installation of four fixed umbrellas to south western terrace with associated works (RNs: 11/02944/FULL and 11/02945/LBC).

In May 2003, the City Council refused listed building consent for alterations to pavement flagstones to facilitate service connections, in connection with the siting of an external servery barrow for a period of nine months in any one year (RN: 02/03874/LBC) on the grounds of effect of the service connections in facilitating the permanent siting of the servery at this location, the alterations to the flagstones would harm the setting and special architectural and historical interest of this Grade II\* listed building and the setting of adjacent listed buildings. The subsequent appeal was dismissed.

## **7. THE PROPOSAL**

This application relates to an area of The Piazza directly to the west of 21 The Market. Permission is sought for the addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant.

The existing external seating in this area will be decreased from 46 to 34 to accommodate the pizza oven and pizza preparation bar. The supporting documents explain that the objective of the scheme is to support the use of the outdoor seating area as the restaurant has been economically affected by the Covid-19 pandemic.

Upon officers' concerns, the agent has confirmed the proposed items would be installed for one year only and then permanently removed.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

City Plan Policy 43 deals with commerce in the public realm. The policy supports outdoor seating that can help sustain businesses by adding to their offer.

The proposed pizza bar preparation area and a pizza oven would be temporary (one year) and they are proposed in a context of post-pandemic recovery. The restaurant and retail industry in central London has been greatly affected by a fall in visitor numbers. The existing occupier of the unit seeks to animate its outdoor seating for a temporary period to help it attract customers during the post-pandemic recovery.

Central government messaging and recent temporary changes to planning legislation have sought to encourage an approach which stimulates the economy, to help mitigate the economic impact of the Covid-19 pandemic. Notably, this has involved promoting measures which enable town and city centres to 're-open' and attract visitors. The City Council has also worked hard to be flexible and help businesses coming out of the Covid pandemic, granting more generous permissions for alfresco provision until the latter part of 2022 – including notably in the Covent Garden area.

The Covent Garden Area Trust and the Covent Garden Area Trust contend Covid-19 restrictions are easing and tourists are returning to the Piazza so there is no justification for the installation of such items on economic grounds.

The installation of external cooking equipment and food preparation areas for long periods within the public realm would conflict with City Plan Policy 43 which seeks to resist permanent or semi-permanent structures being placed within the public realm. However, in this instance the installation is proposed as a temporary measure to help support the existing business. While restrictions have eased as the amenity societies note, the effects of the pandemic emergency are still being felt by businesses – helping their economic recovery post-Covid remains important therefore. Further, given the proposed cooking equipment would be located within an existing permanent outdoor seating area, it is considered that a flexible approach in this instance is appropriate. Permitting the proposals for one year would allow for the permission to end at the same time as the other al-fresco permissions allowed within Westminster and the Covent Garden Area.

The Covent Garden Community Association is also concerned that the new installation will be used for take-away purposes. It is understood that the bar/preparation area and pizza oven will be for users of the outdoor seating area only. And a condition is recommended to ensure this is the case and that takeaway provision is not allowed.

## 8.2 Townscape and Design

The Market Building is a Grade II\* listed building and within in the Covent Garden Conservation Area. In addition to the placing of a pizza oven and pizza bar counter associated works are proposed involving the installation of a new manhole with services running below the existing cobbles and pavement covers under the Piazza itself. The application also proposals to retain the existing parasols, screens and planters within the area.

The main design consideration is the impact of the retention of the parasols and enclosing screens with planters and the proposed placement of the bar/preparation area and pizza oven on the setting of the Grade II\* listed Covent Garden Market Building and on the character and appearance of this part of the Covent Garden Conservation Area. The bar, pizza oven and planters with screens would remain in place at night. Following discussions with officers, the applicant has confirmed that the items would be installed for one year only and would then be permanently removed from the outdoor seating area and confirm their agreement to any permission granted being conditioned to expire at a similar time to other temporary allowances approved nearby.

Visually, the impact upon the setting of the Market Building principally arises from views approaching from Henrietta Street and from vantage points at the western end of the Piazza. There are parasols covering tables and chairs which already impact on the appreciation of the elevation of the south-west pavilion lodge and its inner facing balconied colonnade. The existing parasols and planters with attached glazed screens which cover and enclose the existing approved seating area benefit from permission and were not covered by the 2017 Lawful Development Certificate. These elements have therefore been included in this application.

### Legislation

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.

### **Considerations**

The Covent Garden Area Trust and the Covent Garden Community Association have strongly objected on a number of grounds relating to design, including the impact of the proposals on the setting of the Market Building and on the appearance and function of the Piazza. The Trust has expressed concern about the cumulative impact of similar proposals and fear that it will not be possible to remove the installations when the temporary allowances end. The Trust encourages a comprehensive approach to be taken to such applications, given the harmful impact arising and potential for proliferation.

Officers fully appreciate that there must be a balance between preserving the open public space of the Piazza, space for street performance and al fresco dining, whilst avoiding blocking views to the listed Central Market buildings with ad hoc structures. The screens with planters included here are not a traditional element of outdoor seating provision and are harmful to the listed building. However being of a modest height comprising glazed panels set within planters, it represents an approach which has recently been approved for a temporary period at Sushi Samba at 35 The Market (RN: 20/03408/FULL) on the east side of the Market Building, and are would be acceptable for a one year period. The proposed bar/preparation structure and pizza oven are clearly not traditional elements of outdoor seating provision and if allowed permanently would significantly affect the setting of the heritage assets and represent a marked departure from the al fresco offer which the City Council has been consulting upon. Although having no physical impact on historic fabric, the siting of an external bar and pizza oven upon the Piazza in such close proximity to the Market Building is considered to lead to less than substantial harm to the relevant designated heritage assets, however the proposal's temporary one year duration is considered to be an important mitigating factor.

Central government messaging and recent temporary changes to planning legislation had sought to encourage an approach which stimulates the economy, as a consequence of the impact of the Covid-19 pandemic, notably promoting measures which enable town and city centres to 're-open' and attract visitors. As such the City Council has worked hard to be flexible and help businesses coming out of the Covid pandemic, granting more generous permissions for alfresco provision until the latter part of 2022. Allowing the proposals for a longer or on a permanent basis would not fall within the scope of the economic recovery, representing harm to the setting of the Grade II\* listed Market building and to the Covent Garden Conservation Area in the form of incongruous and continued visual clutter which would not be necessary to allow the business to continue trading. The proposals are not considered to be acceptable as a long-term presence within such a sensitive location.

Whilst their external presence would be permanent for the duration of any permission granted, the items are themselves demountable and removable and so their impact on the Piazza, setting of the Grade II\* listed Market Building and upon the character and appearance of the conservation area is reversible and would be restricted to the one

year duration sought. While the placement of such items would not be acceptable as a long term presence within such a sensitive location, for a temporary period of one year their impact would be more minimal. Overall, the proposal would cause 'less than substantial harm' to these heritage assets, but because it would be temporary, it would be at the low end of the 'less than substantial' spectrum.

### **Conclusions**

In allowing the proposals for a temporary one year period, the harm caused to the setting of the Grade II\* listed Market building and the Covent Garden Conservation Area in the form of these incongruous items of visual clutter would remain a temporary impact and would be offset by the public benefits of supporting the post-pandemic economic recovery of this existing business in the wake of these unprecedented times. The concerns from the Trust about the potential difficulty in removing such installations when introduced are noted, but it is accepted that the proposed items are clearly intended as temporary measures to stimulate the economic recovery of the existing restaurant and permission can be conditioned so as to restrict the duration of their presence accordingly.

As such, whilst being mindful of policies 38, 39, 40 and 43 of the City Plan, given the public benefits that would be delivered, which comprise supporting an existing business in post-Covid-19 economic recovery, the proposal is considered acceptable in terms of its impact on the designated heritage asset(s) for a temporary one year period. Therefore, the recommendation to grant conditional permission is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It should be noted that as a long-term installation in the Piazza, the proposals would cause a higher degree of 'less than substantial' harm and it is likely it would be considered to be unjustifiable when considered against the benefits. Such a proposal would have an unacceptable impact on the setting of this important building, the townscape qualities of the Piazza and the Covent Garden Conservation Area.

### **8.3 Residential Amenity**

The City Council places high priority on protecting residential amenity with Policies 7, 33 and 38. Those policies require that developments are neighbourly by protecting the local environmental quality from negative impacts. The nearest residential properties in this case are located in Henrietta Street (approximately 20m).

The site is located in a busy central London location, and the new items will only be used in connection with the existing outdoor seating area. It would not likely generate additional noise nuisance over the existing arrangement. A condition is recommended to prevent the use the installations when the outdoor seating is not in use and another requires details of how the items will be secured outside the operating hours.

With regards to impacts on local environmental quality, as raised by the Covent Garden Community Association, an electric pizza oven is proposed which would produce minimal fumes (particularly as compared to a gas or wood oven). Given the electric pizza oven will be placed in the Covent Garden Market Square and the premise immediately above it will be the restaurant operating the oven, it is not considered that it will cause a



nuisance in terms of odour but an informative is recommended to advise that enforcement action by Environmental Health were a nuisance to arise.

It is noted that the Covent Garden Community Association points out disturbance from music played through speakers. While no complaints to the Council's Environmental Health team can be found, a condition is recommended to ensure that music is not played externally within the installation of items.

For the reasons set out above the proposal is considered acceptable in amenity terms and to comply with policies 7, 33 and 38 of the City Plan.

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

The Highways Planning Manager has been consulted and whilst the installation of permanent items on the highways is regrettable, given they are within an outdoor seating area which is lawful and there is no planning control requiring the existing furniture to be removed outside the operating hours it is not considered reasonable to resist the proposals on highways grounds in this instance because the new items are temporary.

#### **8.5 Economic Considerations**

The impact of the COVID-19 pandemic is a material consideration and, as set out earlier in the report, the proposal would allow the business to continue trading which is an economic benefit.

#### **8.6 Access**

The access to the unit and external seating area is not affected by the proposal.

#### **8.7 Westminster City Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

#### **8.8 Neighbourhood Plans**

Not applicable.

#### **8.9 London Plan**

This application raises no strategic issues.

**8.10 National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 unless stated otherwise.

**8.11 Planning Obligations**

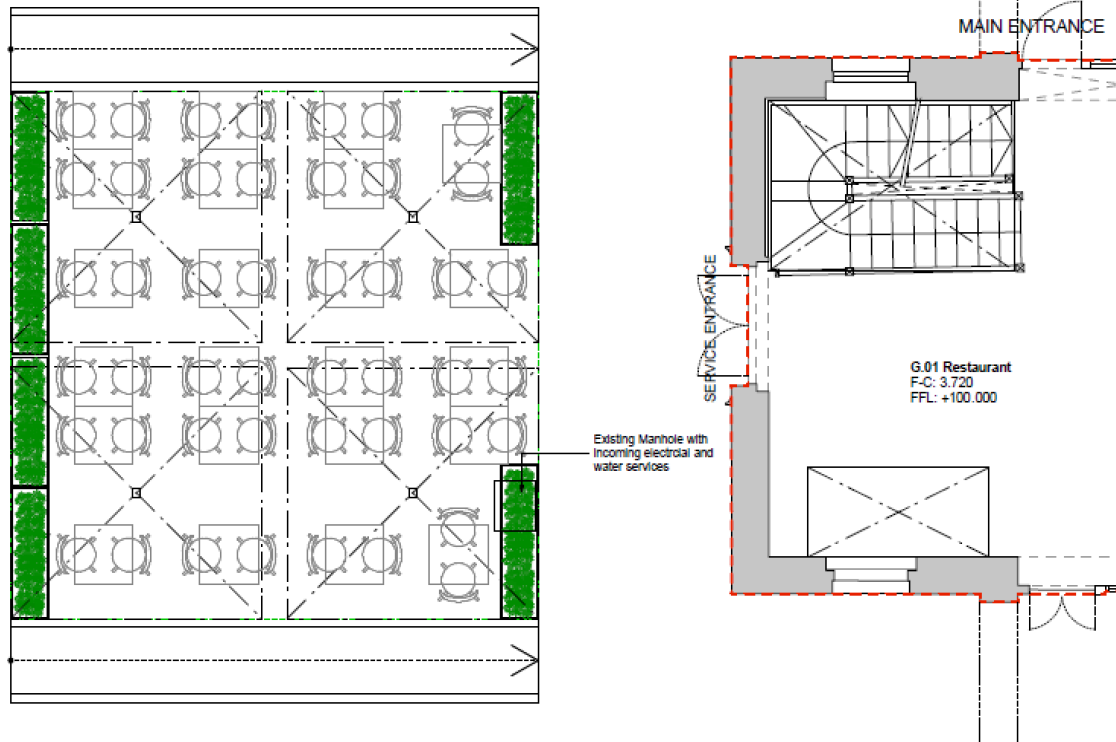
Planning obligations are not relevant in the determination of this application.

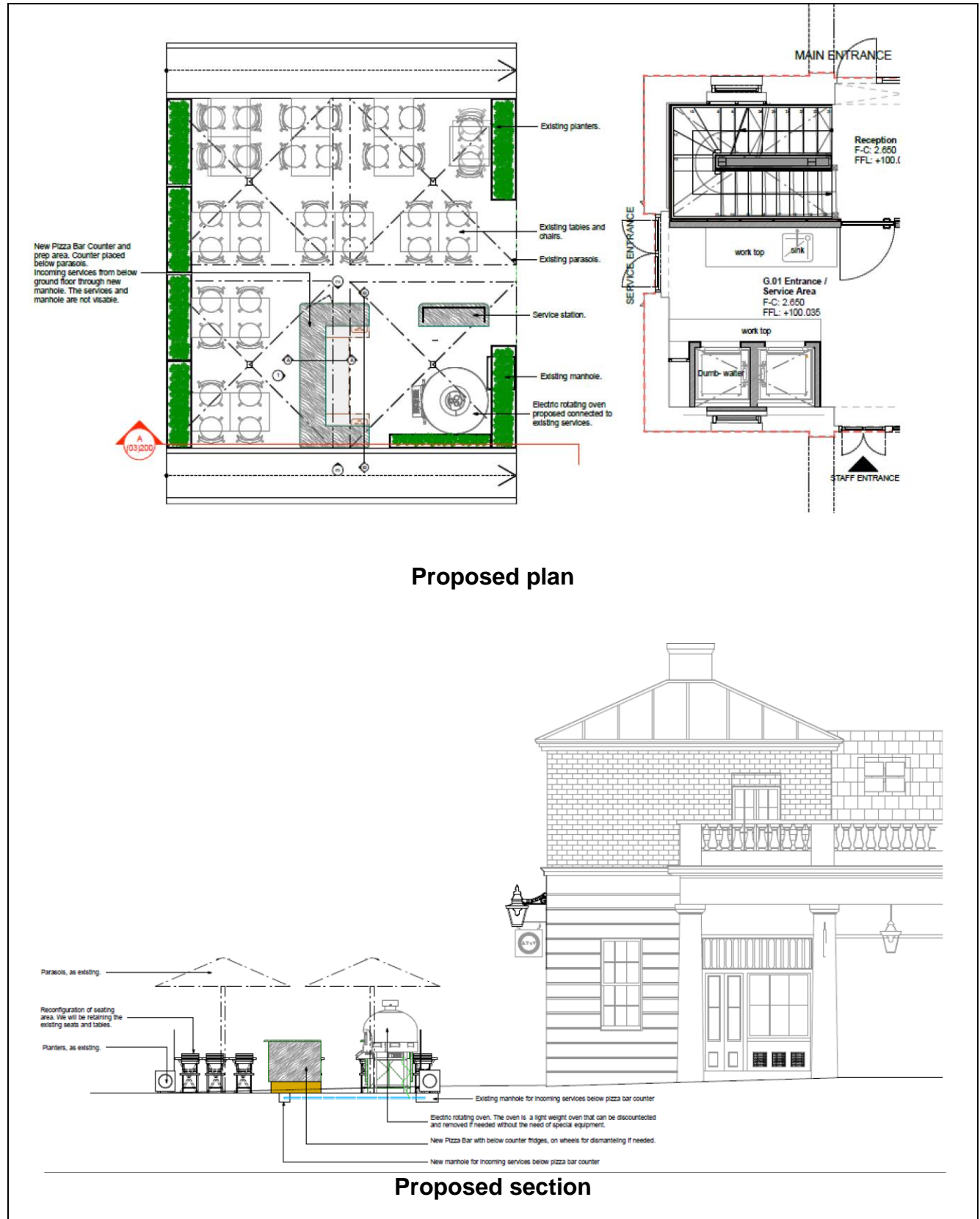
**8.12 Environmental Impact Assessment**

Not required for a development of this scale.

(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: JOSHUA HOWITT BY EMAIL AT [jhowitt@westminster.gov.uk](mailto:jhowitt@westminster.gov.uk)

**9. KEY DRAWINGS****Existing plan**



**DRAFT DECISION LETTER**

**Address:** 21 The Market, Covent Garden, London,

**Proposal:** Addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant.

**Reference:** 21/06621/FULL

**Plan Nos:** 2101(00)001; 2101(01)001 rev. A; 2101(02)001 rev. A; 2101(02)200 rev. A; 2101(02)700 rev. A; 2101(50)001; one un-numbered photograph of the site; email from agent dated 18 November 2021.

**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 The bar/pizza preparation station and the pizza oven must only be used when the outdoor seating is in use.

Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021). (R25BE)

- 3 The bar/pizza preparation station, the pizza oven and the planters with screens can only be installed for a period of 1 year from the date of this decision. You must then remove those items from the highway.

Reason:

Allowing the proposals on a permanent basis would cause harm to the setting of the Grade II\* Covent Garden Market Building, compromise the quality and heritage value of the open space of the Covent Garden Piazza and cause harm to the appearance of the townscape generally and would fail to maintain or improve (preserve or enhance) the Covent Garden Conservation Area, which would not meet Policies 34, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 4 You must make good the works to the Piazza and reinstate the cobbles in their existing

arrangement after 1 year from the date of this decision on the removal of the bar/pizza preparation station, bar, and planters with screens hereby approved.

**Reason:**

To make sure that the appearance of the area is suitable and that it contributes to the character and appearance of this part of the Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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

- Out of hours bar and pizza covering and method to make secure.

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 area is suitable and that it contributes to the character and appearance of this part of the Covent Garden Conservation Area, to protect neighbouring residents from noise and disturbance and in the interests of public safety. This is as set out in Policies 7, 25, 33, 38, 39, 40 and 43 of the City Plan 2019 - 2040 (April 2021).

- 6 You must not sell any take-away food or drink from the bar/preparation pizza station hereby approved even as an ancillary part of the primary restaurant/bar use.

**Reason:**

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 7 You must not play live or recorded music within the altered external seating area.

**Reason:**

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the

London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please note that the electric pizza oven may still be subject to enforcement action by Environmental Health if odour nuisance results from how it is being operated.

- 3 The proposed drawing shows the installation of an internal dumb waiter, you must get listed building consent for any work inside the building.

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.

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

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|  |   |                                       |              |
|--|---|---------------------------------------|--------------|
| CITY OF WESTMINSTER                                      |   |                                       |              |
| PLANNING APPLICATIONS SUB COMMITTEE                      | Date<br>8 February 2022   | Classification<br>For General Release |              |
| Report of<br>Director of Place Shaping and Town Planning |   | Ward(s) involved<br>St James's        |              |
| Subject of Report  | 27B The Market, Covent Garden, London, WC2E 8RD   |                                       |              |
| Proposal   | Use of 3 areas of public highway measuring 7.1m x 7.1m, 7.3m x 8.9m and 6.3m x 8.8m for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases and new services below existing cobbles, installation of external service station, placement of waiter stations, external alterations to existing window in south elevation, and associated works. |                                       |              |
| Agent  | Gerald Eve  |                                       |              |
| On behalf of   | Nana CG limited   |                                       |              |
| Registered Number  | 21/03975/FULL   | Date amended/<br>completed            | 15 June 2021 |
| Date Application Received                                | 15 June 2021  |                                       |              |
| Historic Building Grade                                  | II*   |                                       |              |
| Conservation Area  | Covent Garden   |                                       |              |

## 1. RECOMMENDATION

Refuse permission.

## 2. SUMMARY

The application relates to external areas to the south-east corner of the Covent Garden Market Building, which is a Grade II\* listed building located within the Covent Garden Conservation Area.

Planning permission is sought for the use of three areas of the Piazza in front of the south-east corner lodge pavilion of the Market Building for the placing of tables, chairs, parasols, an external bar area, service stations, screens and planters, as well as new services below the existing cobbles and pavement covers under the Piazza itself. The service/waiter station and tables and chairs will be stored within the external bar outside of opening hours (fully covered and locked), with the planters and any excess tables and chairs stored internally at ground floor level.

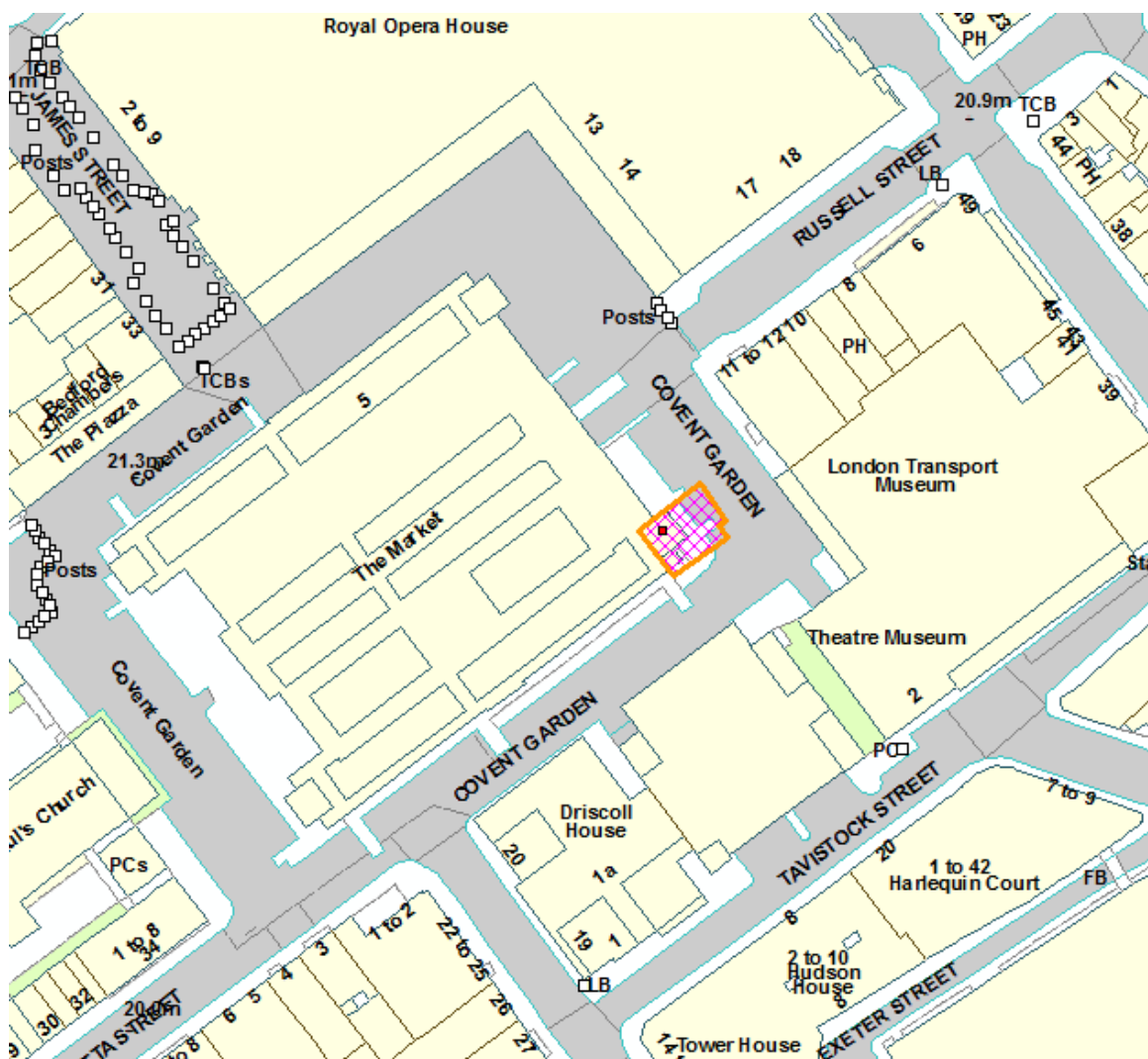
The Covent Garden Area Trust and the Covent Garden Community Association raise strong objections on design grounds, including the impact of the proposals on the setting of the Market building and the erosion of its character and the appearance and function of the Piazza.

The key issues in this case are:

- The impact on the setting of the Grade II\* listed Market Building, the impact on the quality and heritage value of the open space of the Covent Garden Piazza and on the townscape generally; and
- The impact on the function of the highway.

The placement of such items on a permanent basis is not considered acceptable in such a sensitive location, the proposals are recommended for refusal on design, heritage and highways grounds.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



**Southern side of the unit 27B**



**Eastern side of the Market**





Southern side of the Unit 27B



**South east Piazza out of hours layout**



**Proposed visual**

## 5. CONSULTATIONS

### COVENT GARDEN AREA TRUST :

The Trust objects on the grounds of the cumulative impacts of such proposals on the setting of the Market Buildings and the appearance and function of the Piazza. It is not considered that sufficient justification has been submitted for the scale of works proposed.

The Trust considers that the current proposals would represent a further intensification and completely dominate this corner of the east Piazza and block views of the south eastern corner pavilion of the listed market building and the Heritage statement fails to assess the visual impact of the proposals. The Trust refers to the established practice, the Piazza should be capable of being cleared of all furniture and other equipment. The Trust is concerned by the proliferation of proposals of this nature to extend commercial activities from within the Market building into the open Piazza and does not believe the imposition of a temporary consent will serve to mitigate the cumulative adverse impacts of the proposals on the setting of the Market and the openness of the Piazza. The concern is that once introduced, it will be difficult to remove these installations and the impacts on the setting of the Market will be irreversible. The Trust believes that these proposals are therefore contrary to Policy 39 of the City Plan, Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Paragraph 192 of the NPPF which states that applications should sustain or enhance the significance of heritage assets.

The Trust requests amendments to the scheme including the removal of the external service station and states that unless a comprehensive approach is taken to the treatment of external seating areas within the piazza more generally there will be a continued erosion of its character and damage to the setting of the Market Building.

### COVENT GARDEN COMMUNITY ASSOCIATION:

The organisation objects to the establishment of facilities to service the customers on the outside space, they consider that the unit should be sufficient to service the customers and the proposal should be downscaled as the purpose must suit the unit. This impacts pedestrian movement and the views of the Listed Building. The association also points out that the current occupier plays loud music in the evening causing disturbance.

### HIGHWAYS PLANNING MANAGER:

The application is unacceptable in highway terms. Because of the permanent nature of the furniture, the proposal would have the effect of extinguishing the public's right to use and enjoy this part of the public highway – these rights should be protected.

### WASTE PROJECT OFFICER:

Objects the drawings are not in line with the Council's requirements.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED



No. Consulted: 87  
 Total No. of replies: 1  
 No. of objections: 0  
 No. in support: 1

One letter of support from the freeholder of the Market Building received highlighting the following points:

- the application is not located on public highway so the operation of the highway is not affected;
- the constraints of the unit due to its limited size that does not provide internal seating and the impact of the weather on the external seating has caused operational difficulty had caused successive business failures;
- without outside seating the unit will be vacant, it has already been vacant for four of the past five years;
- the proposed layout reflects the longstanding areas of seating associated with the unit, the ramp and pathways through are not hindered;
- the proposed furniture is in line with their strategy;
- the service station will not negatively impact on the listed building and is comparable to similar installation around the Market Building;
- the pandemic economic impact; and
- suggestion of a 5 years permission.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

27B The Market is located on the south eastern side of the Covent Garden Market Building, which is a Grade II\* listed building in the Covent Garden Conservation Area, the Central Activities Zone and the West End Stress Area.

The ground floor unit is currently occupied by the restaurant 'NaNa'. The unit is approximately 30 sqm and it is only accessible by the staff as it is fully occupied by the kitchen and service equipment. The operation of the restaurant relies entirely on the outdoor seating. Permission was granted in 2000 for the installation of additional tables and chairs outside the unit so a total of 60 covers has been approved between the hours of 0800 to 2300. Outside of these times, a condition ensured the tables and chairs were removed from the highway outside of these times.

### **6.2 Recent Relevant History**

On 14 December 2000, the City Council granted planning permission for the placing of additional tables and chairs outside Unit 27b (RN: 99/11351/FULL). The permission was subject to a condition, identified as No.7, preventing the installation of umbrellas, gas burners, planters, serveries, kiosks or other structures; and a condition, identified as No.8, requiring that design of the tables and chairs hereby permitted shall be in accordance with the Covent Garden Area Trusts Environmental Study.

On 21 December 2007, the City Council refused listed building consent for the replacement of an existing window with openable sliding sash window.

On 14 December 2021, the City Council granted listed building consent for external alterations to existing window in south elevation, new signage, internal alterations associated with the installation of new kitchen and associated works.

## **7. THE PROPOSAL**

The application relates to areas outside of 27B The Market. Planning permission is sought for the use of three areas of the Piazza in front of the south-east corner of the Market Building for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases, an external bar and waiter stations with the installation of new services below the existing cobbles and alteration to the existing window.

The waiter stations, tables, chairs, planters and windscreens will be stored away outside the operating hours but the serving station/bar and umbrellas will remain on the highway at all times.

The supporting documents note the external seating provide the only seating for the unit. The proposed scheme aims to protect the customers from the weather conditions so the outdoor seating can be used all year round.

The umbrellas, bar and tables and chairs have already been installed on the highway, without the benefit of planning permission.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

This application seeks permission for outdoor furniture in connection with 27B The Market. Planning history shows that the unit is in a restaurant use and therefore falls within the Use Class E.

The existing drawings submitted in support of this application show that the number and type of outdoor furniture is not in line with the 2000 permission. However, given the long history it is recognised that the principle of using the adjoining areas to the south east corner of the Market for al-fresco dining is acceptable and has extant permission (the 2000 permission allows the use indefinitely, subject to a number of conditions).

The proposed scheme will increase the customer capacity by 48 covers (from 60 to 108) over the 2000 permitted arrangement. It will also introduce an external bar on the Piazza. The scheme will intensify the existing restaurant use. By providing all year-round protection against the weather, installing a permanent furniture on the highway and introducing a bar. It appears that it is proposed to create a simulacrum of an internal dining experience on the Piazza rather than respond to the seasonal demands for al-fresco dining.

It is recognised that the use of the highway for tables and chairs in connection with eating and drinking establishments can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. In line with City Plan Policy 43 part D, the Council permits tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity. These issues are set out in further detail further below.

The main justification for the scheme is the fact that the operation of the unit relies entirely on the outdoor seating. However, this operation is due to the size of the unit (30 sqm approximately) which was known by the operator, therefore this cannot be considered to be a reason to overweight the harm detailed in sections 8.2 and 8.4 of this report.

The letter of support states that without outside seating the unit will be vacant, however the unit already benefits from planning permission for outdoor seating – so they may continue under that extant permission. In addition, the letter mentions that the unit has already been vacant for four of the past five years. However, Google images from August 2017 and September 2018 indicates that the unit was in use and no evidence has been submitted to show a lack of interest for the unit. The support letter also points out the pandemic economic impact; whilst it is understood that the retail and entertainment industry in central London has been significantly impacted by the pandemic, it is clear that the proposal is not a short-term measure to support recovery but a long-term strategy.

## **8.2 Townscape and Design**

Visually, the impact upon the setting of the Market Building principally arises from views approaching from Russell Street and from vantage points at the east and south east ends of the Piazza. Currently, five large parasols covering tables and chairs and an external bar detract from the appreciation of the building. Neither the parasols nor bar have planning permission. It is proposed to retain the parasols, the bar and an even greater number of tables and chairs and also to introduce planters, screens and waiter stations to this part of the Piazza. The impact is therefore from both the retention of the existing parasols, tables and chairs, the placement of the bar, the waiter station and the enclosing screens and planters upon the Piazza and the effect of the intensification of furniture.

The service station/bar and the parasols would not be removed at night, but rather would be consolidated externally which would involve the waiter stations and some tables and chairs being stored inside the bar, with the remainder of the tables and chairs, screens planters to be stored elsewhere by the freeholder. The applicant has provided a proposed drawing showing the out of hours appearance confirming the outdoor furniture's permanent external presence.

The main design considerations are the impact of the proposals on the setting of the Grade II\* listed Covent Garden Market Building, the quality and heritage value of the open space of the Covent Garden Piazza and its townscape qualities, and on the character and appearance of this part of the Covent Garden Conservation Area.

**Legislation**

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.

**Considerations**

The Covent Garden Area Trust and the Covent Garden Community Association have raised strong objections on design grounds, including the impact of the proposals on the erosion of the character and damage to the setting of the Market building and to the openness of the Piazza. The scale of the proposed furniture is considered disproportionate of the size and operation of this small unit and they consider that the external area could be served from the inside, without the additional external structure. The Trust refers to the established practice which requires the Piazza to be capable of being cleared of all furniture and other equipment at the end of trading. The Trust further comments that the amenity societies are concerned with the proliferation of such proposals that even a temporary permission would not resolve and the erosion of the character of the Piazza.

The Trust considers that the current proposals would represent a further intensification of the use of the Piazza, completely dominating this corner of the east Piazza and blocking views of the south eastern corner pavilion of the listed market building. The Heritage statement fails to assess the visual impact of the proposals. The Trust is concerned by the proliferation of proposals of this nature which extend commercial activities from within the Market building into the open Piazza and does not believe the imposition of a temporary consent will serve to mitigate the cumulative adverse impacts arising on the setting of the Market and the openness of the Piazza. The concern is that once introduced, it will be difficult to remove these installations and the impacts on the setting of the Market will be irreversible. The Trust considers the proposals to be contrary to Policy 39 of the City Plan, Sections 16, 66 and 72 of the Planning (Listed

Buildings and Conservation Areas) Act 1990, and Paragraph 192 of the NPPF which requiring applications to sustain or enhance the significance of heritage assets.

Officers fully appreciate that there must be a balance between preserving the open public space of the Piazza, space for street performance and al fresco dining, whilst avoiding blocking views to the listed Central Market buildings with ad hoc structures. Indeed, access and clear space around Market Building as public space, and views into and through and into the depth of the market should be protected. The appreciation of the south eastern pavilion and adjacent colonnades of the Market Building would be significantly impaired permanently by virtue of the use of this area of the Piazza for the placing of the tables, seating, bar, parasols and planters and screens enclosing this part of the Piazza. Although having no physical impact on historic fabric, the siting of such a significant setup upon the Piazza in such close proximity to the Market Building significantly affects its setting. The eastern and southern (and western) sides of the Piazza have historically been used to accommodate outdoor seating but the permissions always required for all outdoor furniture to be removed outside the operating hours and did not impinge upon pedestrian flow by impinge of the Piazza at its south eastern pinch point.

The Piazza is much more important than just a strategic retail destination, being one of the most iconic, historic and visited open spaces in London. Policy 34 of the City Plan seeks to protect the city's open spaces, and considers at para 34.5 that, 'development on open space must be essential and clearly ancillary to maintaining or enhancing the values of the open space.' The proposals are neither essential nor clearly ancillary to the maintenance or enhancement of this space, and indeed would undoubtedly serve to detract from these values by effectively permanently privatising this public space.

Moreover, the proposed bar structure is not a traditional element of outdoor seating provision and would permanently anchor this alfresco offer. The screens due to their size and solid appearance are similarly not considered appropriate outdoor furniture and are not a traditional element of outdoor seating provision. They would appear, along with the umbrellas, to form a weather-proof enclosure to the outdoor area which would serve to recreate more of an internal experience than genuine alfresco one.

The letter of support from the freeholder mentions that the serving station is comparable to similar installation around the Market building. It is noted at Unit 35 on the north-east corner of the building a permission has been granted for the use of an area of public highway measuring 6.5m x 10.5m for the placing of 26 tables, 52 chairs, 10 stools, 13 planters, 2 parasols, external bar area, service station and associated works including installation of new services below existing cobbles and pavement cover in connection with Sushi Samba at 35 The Market (RN: 20/03408/FULL). However, the permission was only for 2 years and only justified by need to stimulate the economy during the immediate post COVID-19 recovery period and the report clearly stated that the placement of such items would not normally be considered acceptable in such a sensitive location. It is therefore not considered that this temporary permission is a justification to allow a similar but permanent arrangement outside this unit.

Central government messaging and recent temporary changes to planning legislation had sought to encourage an approach which stimulates the economy, as a consequence of the impact of the Covid-19 pandemic, notably promoting measures which enable town

and city centres to 're-open' and attract visitors. As such the City Council has worked hard to be flexible and help businesses coming out of the Covid pandemic, granting more generous permissions for alfresco provision until the latter part of 2022. Allowing the proposals as detailed in the land section of this report would not fall within the scope of the economic recovery as the supporting document clearly shows that is a long term strategy which would result in harm to the setting of the Grade II\* listed Market building and to the Covent Garden Conservation Area in the form of severe and constant visual clutter which would not be necessary to allow the business to continue trading on the external space for dining. The proposals are not considered to be acceptable as a long-term presence within such a sensitive location.

### **Conclusions**

The harm to the setting of the grade II\* listed Market Building and to the Covent Garden Conservation Area that would result from the proposals is 'less than substantial'. Because it would be a permanent presence and because of the importance and sensitivity of this location as set out above, the harm is considered to be within the middle range of the 'less than substantial' harm spectrum. Paragraph 196 of the National Planning Policy Framework (NPPF) states that where a proposal would lead to less than substantial harm to the significance of a heritage asset(s), this harm should be weighed against the public benefits of the proposal. In this instance, the potential economic benefits cited by the applicant in terms of allowing an all-year-round alfresco dining offer for this small unit would not offset the multiple harms arising from the appearance and permanency of the outdoor furniture on this corner of the Piazza. This is particularly the case given permission is sought for the structures to be in place permanently, and therefore long after the pandemic emergency and recovery is over (which has been to justification to allow similar arrangements elsewhere). In addition, alfresco dining without the harmful elements proposed in this application is able to continue and therefore the vibrancy of the area, and other benefits to the local economy, that this use can give rise to would not be eliminated by a decision to refuse consent for this application.

The application is therefore contrary to relevant local and national policies, in particular Policies 34, 38, 39 and 40 of the City Plan 2019-2040, and paragraph 196 of the NPPF. Permission should therefore be refused. In making this recommendation consideration has been had to the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, notably Section 72 and the requirements set out in Chapters 12 and 16 of the NPPF.

### **8.3 Residential Amenity**

The City Council places high priority on protecting residential amenity with Policies 7 and 33. Those policies require that developments are neighbourly by protecting the local environmental quality from negative impacts.

The Council's GIS system shows that the nearest residential properties are located in Russell Street (approximately 50m) and to the south of the Market (Driscoll House). The 2000 permission allows for the tables and chairs from 0800 to 2300 every day. The proposed hours of operation are to be from 0800 to 2300 Monday to Saturday and 1000 and 2200 on Sundays. As the site is located in a busy central London location these

hours are not unreasonable, and had the proposals been otherwise acceptable a condition could secure the hours of operation.

It is noted that the Covent Garden Community Association points out that the current occupier plays loud music in the evening causing disturbance and that 2 complaints for noise disturbance were registered with the Council in July and August 2020 for music being played. However, had the application been otherwise acceptable a condition could have been attached to prevent this.

The proposal involves a greater number of seating and the introduction of an external bar. However, had the application been otherwise acceptable, a condition could have secured a detailed operational management plan to manage this intensification appropriately.

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

The Highways Planning Manager recommends the application be refused as it would not be appropriate to allow a permanent scheme. The officer confirms that there is no objection in principle to tables and chairs as temporary furniture that can be removed from the highway outside of operational hours on the areas shown (as has already been approved); but because of the installation of permanent physical structure on what is considered highway, by virtue of having been open and passable for many years, is contrary to the Council policies.

City Plan Policy 25 B states that development must prioritise and improve the pedestrian environment and Policy 28 A states the Council will resist the loss of highway land.

The Piazza is owned and maintained by Capital and Counties and the applicant states that it has been used for tables and chairs for approximately 25 years and does not form part of the public highway. However, the Highways Planning Manager notes that the highway is often in the ownership of adjoining landowners but that if pedestrians have passed over an area for a long period without restriction, then that land is considered part of the public highway under the Highways Act 1980.

While tables and chairs have been placed on this highway for a significant period, they were granted subject to a condition that they are removed at night and it is understood that the tables, chairs and other items were not (until relatively recently) left outside in breach of that condition. As such, the area in question was open and passable land to the public (albeit not necessarily on a 24-hour basis) and so rights to use it have accrued and it is highway. Highway areas can be expressly granted (dedicated) to the public by the landowner; obtained by compulsory purchase; or obtained by long use – and it is the long use which the Highway Planning Managers considers having occurred here.

The primary function of the highway is the free and unobstructed movement of the highway users. This includes pedestrians, motorists and cyclists. Secondary functions can be considered those that relate to the primary function (e.g. parking of vehicles, provision of cycle parking, and bus stop facilities). Tertiary functions of the highway are those that need not occur on the highway and include table and chairs and queuing space for premises. Therefore, the priority is given to pedestrian movements.

The Highways Planning Manager notes that tables and chairs permissions are normally granted on the basis that the relevant items are taken in at night and are normally only granted for a temporary period, which means that the highway could be retrieved at a later date should the Council decide it was no longer appropriate to allow it to be used for commercial purposes. While in this case there is an extant permission which allow tables and chairs to be placed on the highway during the day, this application proposes to keep items outside on the Piazza permanently. Such an arrangement would not protect the highway for highway users – it would also require a ‘stopping up’ order or highway licence to install.

Accordingly, it is considered that the installation of permanent items on the highway do not comply with Policies 25 B or 28 A of the City Plan or with the Westminster Way and the “Guidelines for the placing of Tables and Chairs on the highway” Supplementary Planning Guidance.

### **Waste**

While the Waste Project Officer objects as the waste and recycling storage have not been adequately identified on the submitted drawings, had the application been otherwise acceptable a condition could have ensured acceptable arrangements be made.

## **8.5 Economic Considerations**

The impact of the COVID-19 pandemic is a material consideration, the proposed scheme is part of a long-term strategy for the current occupier it is not a temporary measure to support economic recovery. The refusal of the permission would not prevent the occupier to use the public highway for outdoor seating as there is already a permission.

## **8.6 Access**

The unit will only be accessed by the staff and the access to the outdoor seating will remain as existing. The existing ramp is unobstructed.

## **8.7 Westminster City Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **8.8 Neighbourhood Plans**



Not applicable to this site.

#### **8.9 London Plan**

This application raises no strategic issues.

#### **8.10 National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 unless stated otherwise.

#### **8.11 Planning Obligations**

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

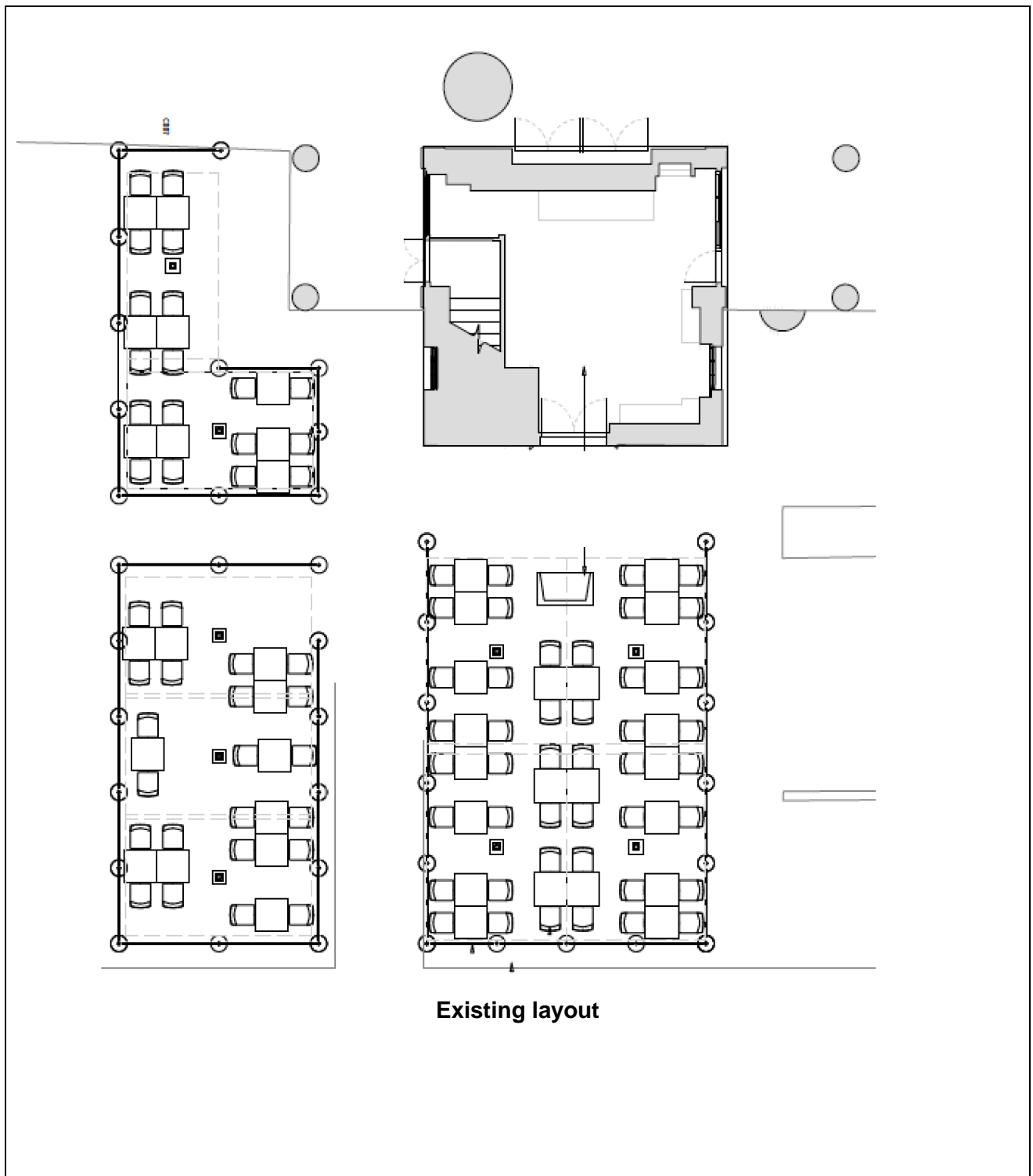
#### **8.12 Environmental Impact Assessment**

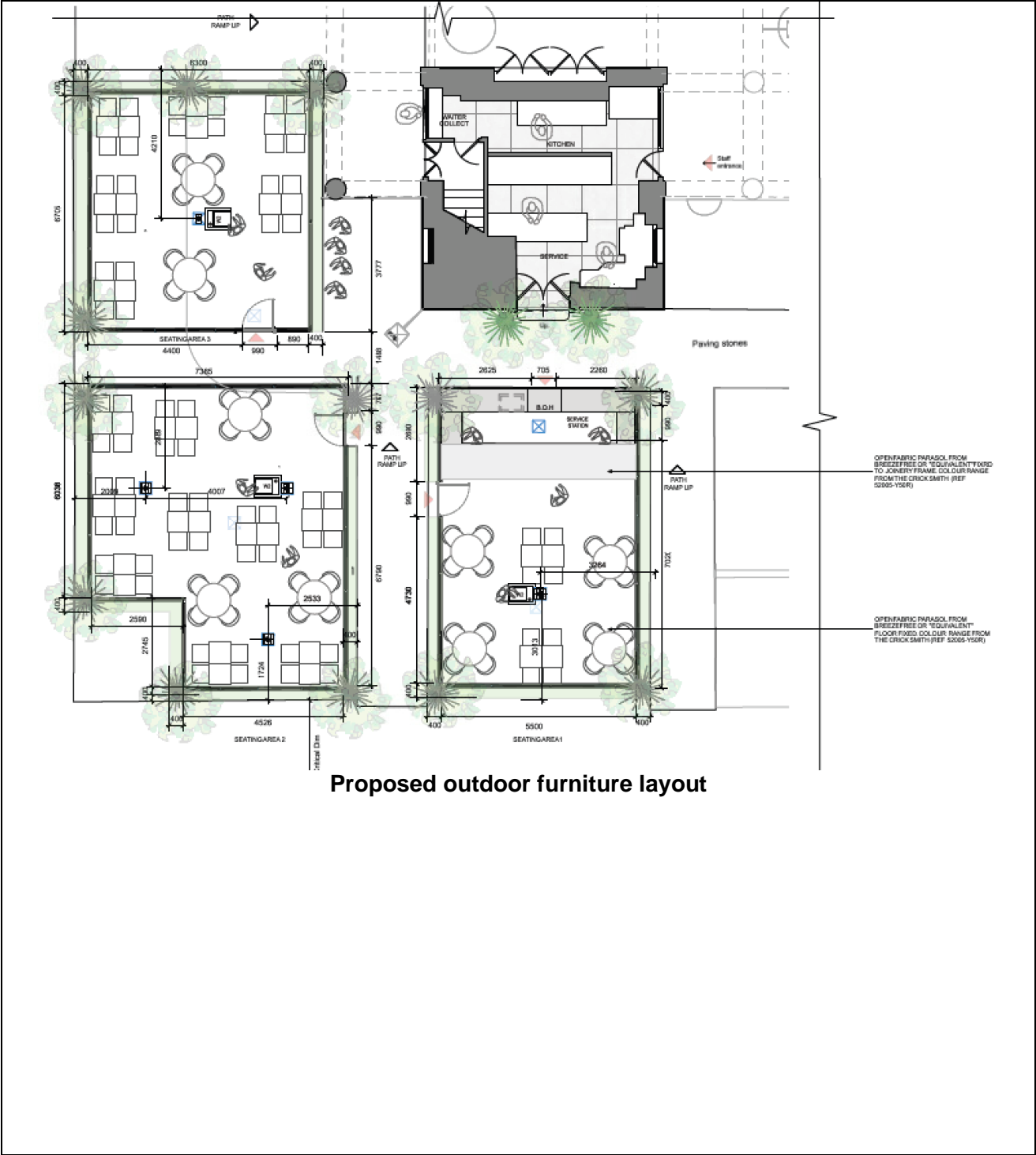
Not required for a development of this scale.

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

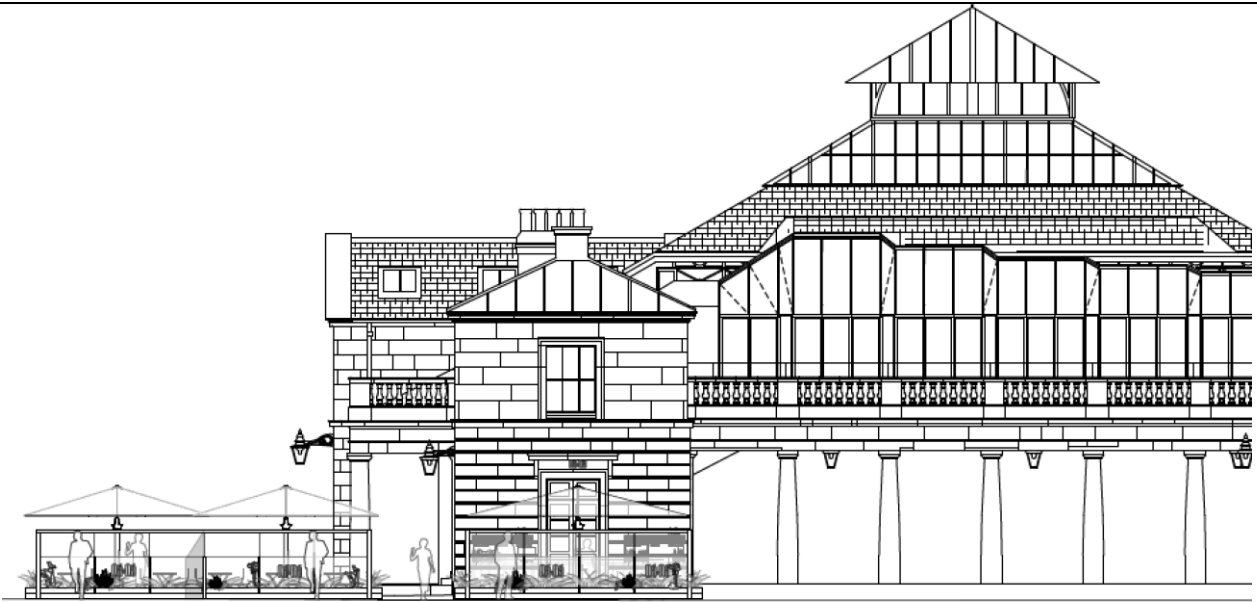
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JOSHUA HOWITT BY EMAIL AT [jhowitt@westminster.gov.uk](mailto:jhowitt@westminster.gov.uk)

## 9. KEY DRAWINGS









**Proposed East elevation**



**Proposed South elevation**

**DRAFT DECISION LETTER**

**Address:** 27B The Market, Covent Garden, London, WC2E 8RD

**Proposal:** Use of 3 areas of public highway measuring 8.6m x 5.65m, 7.3m x 8.7m and 6.8m x 6.4m for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases and new services below existing cobbles, installation of external service station, placement of waiter stations, external alterations to existing window in south elevation, and associated works.

**Reference:** 21/03975/FULL

**Plan Nos:** 191202-700 P1; 191202-701 P1; 191202-702 P1; 191202-703 P1; 191202-704 P1; 191202-705 P1; 191202-706 P1; 191202-710 P1; 191202-711 P1; 191202-712 P1; 191202-713 P2; 191213-720 P1; 191202-721 P1; 191202-722 P1; 191202-726 P1; 191202-727 P1; 191202-728 P1; 191202-729 P1; 191202-780 P1; 191202-781 P1,

For information only: Design and access statement; Heritage statement.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 07866038763

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

Because of the cumulative size, location, nature and permanency of the furniture, the proposals would harm the setting of the Grade II\* listed Covent Garden Market Building, compromise the quality and heritage value of the open space of the Covent Garden Piazza and cause harm to the appearance of the townscape generally. The proposals would also fail to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area. This would not meet Policies 34, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

**Reason:**

Because of the permanent nature of the furniture, the proposal would have the effect of extinguishing the public's right to use and enjoy this part of the public highway. The area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". This would not meet Policies 25 (B) and 28 (A) of the City Plan 2019 - 2040 (April 2021).

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as

practicable. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, further guidance was offered to the applicant by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Ministry of Housing, Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable. , , Required amendments:, -remove all permanent items from the scheme; and , -remove glazed screens from the scheme,

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

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|  |  |                                       |                   |
|--|--|---------------------------------------|-------------------|
| CITY OF WESTMINSTER                                      |  |                                       |                   |
| PLANNING APPLICATIONS SUB COMMITTEE                      | Date<br>8 February 2022  | Classification<br>For General Release |                   |
| Report of<br>Director of Place Shaping and Town Planning |  | Ward(s) involved<br>West End          |                   |
| Subject of Report  | 38 Bruton Place, London, W1J 6NX   |                                       |                   |
| Proposal   | Use of the ground floor as a retail unit (Class E) and associated alterations. |                                       |                   |
| Agent  | Gerald Eve   |                                       |                   |
| On behalf of   | Tila London Ltd.   |                                       |                   |
| Registered Number  | 21/06509/FULL and 21/0610/LBC  | Date amended/ completed               | 22 September 2021 |
| Date Application Received                                | 22 September 2021  |                                       |                   |
| Historic Building Grade                                  | II   |                                       |                   |
| Conservation Area  | Mayfair  |                                       |                   |

## 1. RECOMMENDATION

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

## 2. SUMMARY

38 Bruton Place is a Grade II listed former stable building of the late nineteenth century in the Mayfair Conservation Area. Built in a Queen Anne Style it represents the last generation of mews buildings created for horses and horse drawn vehicles rather than motor vehicles. The ground floor of the unit is commercial garaging whilst the first and second floors are in use as a single residential unit. Bruton Place is a mixed use mews style street with commercial activities in the form of retail / restaurants and office uses with some residential properties along the street.

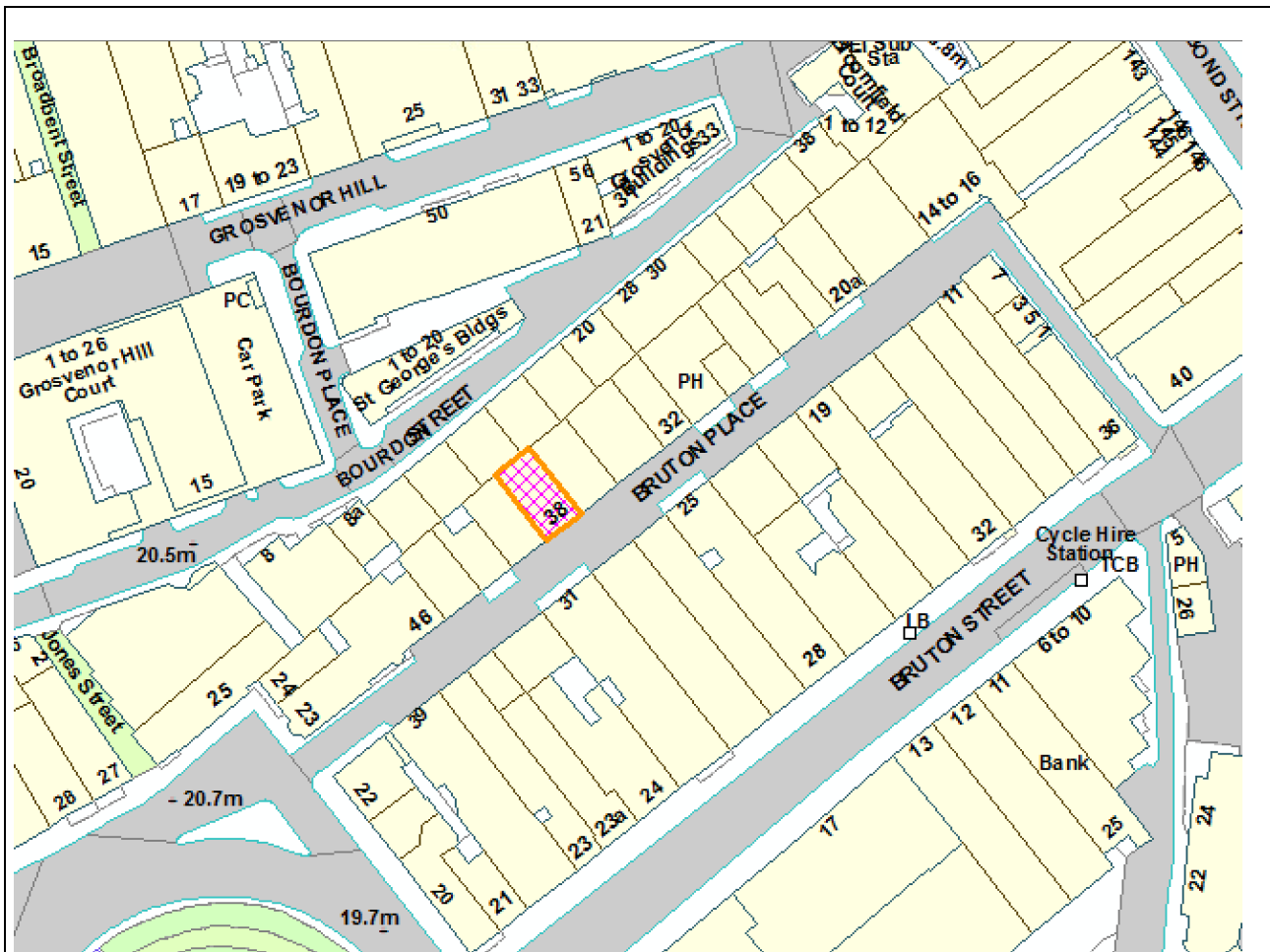
Planning permission is sought for the change of use of the commercial garaging at ground floor level to a retail unit. Internal alterations are proposed but the application does not propose any external alterations, with the existing garage doors being repaired and glass doors provided internally.

The key issue is:

- The impact on residential amenity in terms of potential noise nuisance arising from the customers and deliveries.

Subject to appropriate conditions including restricting the use of the premises to retail use in Class E, no primary cooking within the premises and no delivery service being provided, the proposal is considered acceptable. The application complies with relevant adopted City Plan 2019-2040 policies and is therefore recommended for approval.

### 3. LOCATION PLAN



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## 4. PHOTOGRAPHS

Front elevation:





Interior of the ground floor:



View along Bruton Place:



## 5. CONSULTATIONS

### MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

### RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Any response to be reported verbally.

### HIGHWAYS PLANNING TEAM – CITY HIGHWAYS

No objection.

### WASTE PROJECTS OFFICER

Objection – further information required.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 32

Total No. of replies: 4

No. of objections: 3

No. in support: 0

Neutral: 1

Objections on some or all of the following grounds:

#### Amenity:

- Commercialised street is impacting on residential amenity.
- Having the stable doors open to the retail unit will impact upon access to the adjoining door accessing another property.
- Potential for odour nuisance resulting from the use due to a lack of extraction.
- Potential noise implications due to the entrance doors being open.

#### Highways:

- Noise disturbance from vehicle movements associated with the use – both deliveries and servicing.
- Delivery drivers could be 'unnerving for young teenagers coming home'.

#### Other:

- Adverse impact of commercial use on the special interest of the building and may set a precedent.
- No advertising has been included on the application.
- Freeholder - leaseholder issues in relation to freeholder obligations in the lease.
- Concern in relation to the location of the waste / recycling storage areas.
- An unrestricted Class E use could change to other uses with more detrimental implications.
- Implications on the 'Mayfair Green Route'

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

38 Bruton Place is on the north side of Bruton Place. The building comprises garaging at ground floor level (two separate garages) and a residential property at first and second floor levels, which is the same arrangement as the adjoining properties. The garages are not subject to any planning controls and the applicant advises that the garage subject to this application has been used by a local office user. The second garage is used by the resident living in the upper part of the building.

Bruton Place is mixed use in character with a number of retail and restaurant units at ground floor level including a public house on the north side of the street at 30 Bruton Place. A number of buildings accommodate garaging at ground floor level and the upper floors are either office or residential accommodation.

The property is Grade II listed, located in the Mayfair Conservation Area and the Central Activities Zone. The property is also located within the West End Retail and Leisure Special Policy Area.

### 6.2 Recent Relevant History

None

## 7. THE PROPOSAL

Planning permission is sought for the change of use of one of the commercial garages at ground floor level to a retail unit measuring 73sqm. Internal alterations are proposed that require listed building consent but the application does not propose any external alterations. The second garage will be retained for use by the resident living in the upper part of the application site. The intention is that the unit will be used as a delicatessen: there is a specific user, Tila London, the same operator as the restaurant under construction at 27 Bruton Place. There will be no on-site cooking: all food will be cooked off-site and brought in. The preparation area shown at the back of the unit will be used for warming soup / paninis, and boxing up salad. There will be no seating at all on site, something explicitly stated by the applicant as the site is small and there is not the capacity. Glazed doors are set within the unit, creating a lobby in the front area with some limited storage. The applicant is keen to minimise interventions to the building and the downstand beam naturally divides the unit, even if that creates a slightly larger lobby than might otherwise be expected.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of commercial garaging / servicing

The applicant states the garage has been used for car parking on a commercial basis and was most recently used for storage by a nearby business occupier. The loss of off-

street car parking resulting from the proposal accords with Policy 27 of the City Plan 2019 – 2040, which encourages car free living to encourage use of more sustainable modes of transport. The City Council has no policies seeking the retention of commercial storage floorspace. No objections have been received to the application on the grounds of retaining the existing use.

### **Creation of a retail unit**

Policy 2 of the City Plan (Spatial Development Priorities: West End Retail and Leisure Special Policy Area and Tottenham Court Road Opportunity Area) states that; "the intensification of the West End Retail and Leisure Special Policy Area (WERLSPA) over the Plan period will deliver the following priorities: ....

B. An improved retail and leisure experience that responds to innovation and change in the sector, including the transformation of the Oxford Street District."

Policy 14 'Town centres, high streets and the CAZ' states the following:

"Part A: The intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses is supported in principle, subject to impact on townscape and heritage. Proposals in existing town centres and high streets will enhance and diversify their offer as places to shop, work and spend leisure time.

Part G: Town centre uses will also be supported in principle throughout the parts of the CAZ with a commercial or mixed-use character, having regard to the existing mix of land uses and neighbourhood plan policies. In the parts of the CAZ that are commercial or mixed-use in character, the loss of town centre uses from the ground floor will be resisted."

Bruton Place is mixed use in nature with ground floor uses primarily comprising garaging, restaurant and retail uses and the upper floors offices and residential. Permission was granted as recently as October 2021 for the conversion of the ground floor garage at 46 Bruton Place to a restaurant (with a restriction on primary cooking), with a new shopfront. Accordingly the objection that Bruton Place is an increasingly commercialised street that is impacting on residential amenity is not considered to be sustainable objection, especially with a small, low-key use like a delicatessen.

Retail accommodation now falls within Use Class E, being 'Commercial, Business and Service', which includes a range of uses including retail, restaurant, financial and professional services, medical, offices, indoor sports and "any other services which it is appropriate to provide in a commercial, business or service locality". The applicant has sought consent for retail use (being a delicatessen) and provided information based on this with an assessment on that basis. Proposed other uses such as restaurant, indoor sports and creche could have un-intended consequences in amenity and highways terms which have not been considered. This issue has also been raised by objectors who have commented on the potential for the unit to change to other uses in Class E with more detrimental impacts. A condition is therefore included to restrict the use of the premises as retail within Class E and this is considered to address the objectors' concern about this issue.

Objectors have raised concerns as to the potential for cooking to take place on the premises, which could result in an odour nuisance to neighbouring residential occupiers given that no extraction is shown on the proposed drawings. Whilst the use of the premises as a restaurant has been conditioned out, and the current applicant has confirmed that there is no intention to do any cooking, the situation might change in the future and there is still the potential for some form of cooking to take place within the retail use at a future date with a different occupier. Part D of Policy 33 of the City Plan 'Local Environmental Impacts' states that 'development will effectively address the adverse impact of odour through the incorporation of appropriate mitigation measures using a precautionary approach.' Given the applicant has provided no information on a potential odour extract system and any future primary cooking might result in an amenity impact on neighbouring occupiers, a condition is included stating that no primary cooking can occur within the premises.

Objectors are concerned that leaving the garage doors open (as is shown on the drawings) could result in noise disturbance to local occupiers. The garage doors need to be retained for design and historic building reasons but the floorplan shows that just past the internal lobby a glazed screen with door would be installed. The applicant has confirmed that the premises would only be open between 08:00 and 21:00 daily. Given the proposed use as retail shop, it is not considered the use would result in unacceptable noise from customers or staff such that it would impact on other occupiers within the street, especially given it will only be open during the day. A condition is attached to restrict the shop opening times to those specified. Given this the objections on these grounds are not considered sustainable.

## 9 Townscape and Design

### 9.1 Legislation and Policy

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."*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 38 in the City Plan 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.

## 9.2 Assessment

38 Bruton Place is a grade II listed former stable in the Mayfair Conservation Area, constructed in the late nineteenth century. It is one of a group of three former stables. As the list description notes, this group of stables represents the final chapter in the story of town stables; these were the last generation of mews buildings purpose-built for horses and horse drawn vehicles rather than motor vehicles (though they have been subsequently adapted to automobile garage use).

Externally the building retains all the characteristic elements of a Mayfair livery mews; pairs of double doors with long strap hinges and multi-pane glazing to the upper parts, an entrance to the accommodation above and at first floor a winch-door. Internally no 38 features remarkably good survival of the stable fittings; glazed brick in green, brown and cream, the original floor covering, simple panelling and cast iron stable fittings. These internal elements contribute greatly to the historic interest of the building.

There will be no external changes to the external appearance the building, subject to any subsequent future applications for shop signs. Internally, the proposals are for the installation of freestanding furniture and shop equipment, a glazed screen with steel frame. These elements will not involve the removal of any historic fabric, and will not detract from an appreciation of the original function of the stable.

Nor will the proposals harm the plan form of the building. Glazed screens will divide the front from the rear of the unit. It will be a lightweight and largely transparent addition, which leaves the entirety of the interior visible. It is reversible, providing that the fixings into the walls, floor and ceiling are carefully considered. A condition should require submission of details of the screen. An existing door will be fixed shut; again, this is reversible in the future.

The change of use from storage to retail will not have a harmful impact on the special interest of the building or the character of the area, particularly given that Bruton Place is home to a variety of commercial uses already.

The applicants argue that there is a public benefit in opening up a private unit to a public use. It is considered that this is indeed a minor public benefit.

If new shop signs are required for the new unit, further listed building consent will be required, even if they have deemed advertisement consent.

Of the three objections received, one touches upon heritage issues. The objection is that the use of the building as a commercial premises would be harmful to the special interest of the building, and may set a precedent for similar properties in Bourdon Street, Mount Row and Adam's Row.

As discussed above, Bruton Place is already home to a number of commercial units. The change of use would not alter the appearance of the building outside trading hours, and the open doors and visible shop fittings during trading hours would not be harmful to the appearance of the building, or indeed to the character and appearance of the conservation area. In terms of concerns about this setting a precedent, each case must be assessed on its own merits. A very similar scheme including significant stable interiors has previously been permitted in Bourdon Street (15/10035/FULL).

One of the objectors has noted that the application does not include any external alterations but they consider at some stage external advertising would be required. This is likely to be the case but has not been included on the application, and is often the case. An informative advises the applicant that should they wish to install signage at a future date they will require Listed Building Consent and possibly Advertisement Consent (depending on the nature of the sign, including whether or not it is illuminated).

As such, the proposal is considered acceptable, mindful of policies 38 and 39 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.

#### 10.0 **Transportation/Parking**

The loss of off-street car parking resulting from the proposal accords with the City Plan 2019-2040 Policy 27, which encourages car free living to encourage use of more sustainable modes of transport.

The Highways Planning Manager has reviewed the proposal and considers that given the small size of the unit, the change of use to retail is unlikely to result in a significant increase in the pedestrian or vehicular traffic movements within the mews. The site is also within a Controlled Parking Zone so anyone driving to visit the unit or servicing the premises will be subject to the on-street parking / loading restrictions. Given the unit is so small, no further information is required with regard the servicing of the premises. The Highways Planning Manager has expressed concern that should the unit operate a delivery service, vehicles and drivers associated with the deliveries could result in noise nuisance or congestion and no Delivery Management Plan has been provided to show how this could be mitigated. Objections have been received to the application with regard to potential highways and amenity issues resulting from delivery drivers and their vehicles frequenting the property. A condition is therefore included stating that no delivery service can operate from the premises. This also addresses the objection that delivery drivers could be 'unnerving for young teenagers coming home'.

The application has been negotiated since it was originally submitted so that the garage doors, which currently open outwards, will open inwards so as not to cause an obstruction to pedestrians, vehicles or to impede access to the neighbouring properties. Objections were received on these grounds, but given the amendments to the

application so the doors open inwards the proposal is now acceptable in this regard and the objection overcome.

#### 11.0 **Economic Considerations**

There will be a slight economic benefit resulting from the creation of the retail unit as opposed to the existing use as garaging, which is welcomed.

#### 12.0 **Access**

There is existing level access to the unit which will be retained.

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

Refuse /Recycling

The Waste Projects Officer has requested further information with regard the provision of storage capacities for waste and recycling. Objections have also been received with regard the storage of waste and recycling at the premises and a condition is therefore included requiring the submission of amended drawings to show suitable waste / recycling capacity and storage provision before the premises can operate.

#### 14.0 **Westminster City Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

#### 15.0 **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. Policy MSG1 encourages sustainable growth within Mayfair, including efficient use of existing floorspace and "activity (by providing restaurants, cafés, galleries, shops, and other uses which animate the street scene for the public). Paragraph 4.1.13 also states the following: "The requirements of the local population also need to be maintained, managed and enhanced.<sup>52</sup> As well as

providing for the day-to-day needs of people in the area, local shops encourage people to walk and provide opportunities for social interaction. People who are old or less mobile are particularly dependent on local shops and services.”

#### 16.0 **London Plan**

This application raises no strategic issues.

#### 17.0 **National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 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.

There are no proposed pre-commencement conditions.

#### 18.0 **Planning Obligations**

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

#### 19.0 **Environmental Impact Assessment**

Not relevant.

#### 20.0 **Other Issues**

An objector has raised the issue about stipulations in their lease which provide for their ‘quiet enjoyment’ of their home. Issues within leases are private matters between the freeholder / leaseholder and not necessarily material planning considerations. The impact of the proposal on the amenity of neighbouring residents has been given consideration above and is considered to be low-key.

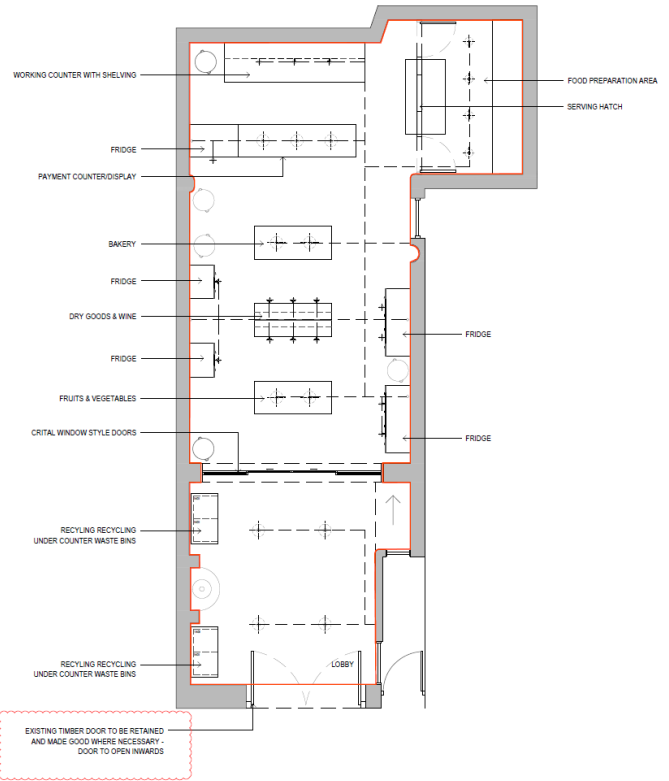
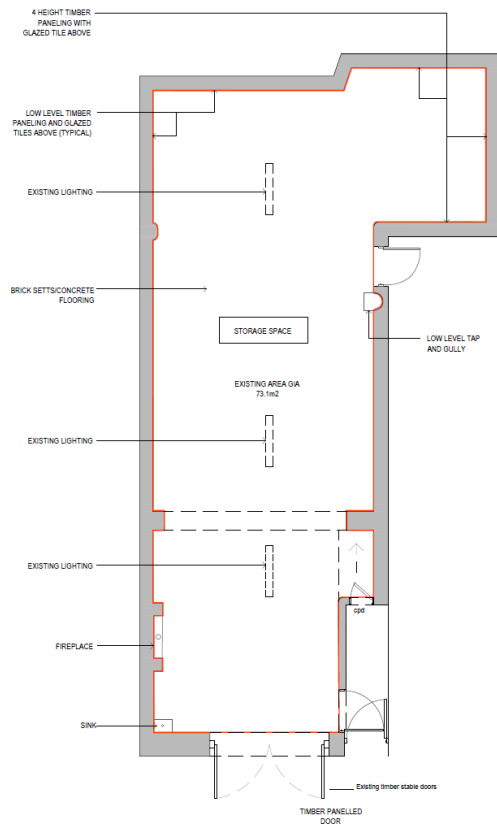
Comments have been received with regard the potential impact of the development on a Mayfair Neighbourhood Forum initiative, that being the Mayfair Green Route. This envisages a series of projects along various streets in Mayfair, including Bruton Place. For Bruton Place the scheme focuses on planters and green roofs and the proposal would have no impact on this initiative and vice versa.

(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)

## KEY DRAWINGS

## Existing and Proposed Floor Plans:



## Proposed Front Elevation :



**DRAFT DECISION LETTER**

**Address:** 38 Bruton Place, London, W1J 6NX

**Proposal:** Use of the ground floor as a retail unit (Class E).

**Reference:** 21/06509/FULL

**Plan Nos:** Drawings: AP-200 Rev PI-2, AE200 Rev PI-2.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 07866 040155

**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 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not occupy the retail use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark them and make them available at all times to everyone using the retail unit. You must not use the waste and recycling store for any other purpose. (C14GB)

Reason:

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

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 4 You must not operate a food delivery service, even as an ancillary part of the primary retail use (Class E)

**Reason:**

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 5 You must not cook raw or fresh food on the premises.

**Reason:**

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021).

- 6 You must use the property only for retail. You must not use it for any other purpose, including any within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it).

**Reason:**

To ensure that the development is carried out in accordance with the use sought and assessed, to ensure that the parts of the building are not used for other uses within Class E that may have different or unacceptable waste storage, servicing, air quality, amenity or transportation requirements and / or impacts in accordance with Policies 16, 17, 18, 24, 26, 28, 29, 25, 32, 33, 34, 37 and 38, of the City Plan 2019 - 2040 (April 2021).

- 7 Customers shall not be permitted within the retail premises hereby permitted outside of the following hours: 08:00 and 21:00 daily.

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and



there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering) (I54AB)

- 3 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.
- 4 If you want to install external advertising you will likely require Listed Building Consent and possibly Advertisement Consent.

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:** 38 Bruton Place, London, W1J 6NX

**Proposal:** Internal alterations at ground floor level.

**Reference:** 21/06510/LBC

**Plan Nos:** Drawings: AP-200 Rev PI-2, AE200 Rev PI-2.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641  
07866040155

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

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

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

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

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 3 You must not disturb existing historic features relating to the stable use including fireplace, tiling, setts, panelling, doors and ironmongery. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development - internal glass screen including fixings. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details. (C26DB)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

**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 (March 2021), the City Plan (April 2021), 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: Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 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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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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