



City of Westminster

Committee Agenda

Title: **Planning Applications Sub-Committee (1)**

Meeting Date: **Tuesday 20th December, 2022**

Time: **6.30 pm**

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

Members: **Councillors:**

Jason Williams (Chair)
Md Shamsed Chowdhury
Sara Hassan
Ed Pitt Ford



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

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. 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: gwills@westminster.gov.uk
Corporate Website: 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 any 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 virtual Committee please see the following link

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

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

(Pages 5 - 12)

- | | | |
|----|--|----------------------|
| 1. | FITZHARDINGE HOUSE PORTMAN SQUARE
LONDON W1H 6LH | (Pages 15 - 46) |
| 2. | 72 BROADWICK STREET LONDON W1F 9QZ | (Pages 47 - 96) |
| 3. | 15 CRAWFORD PLACE LONDON W1H 4LG | (Pages 97 -
124) |
| 4. | SAXON HALL PALACE COURT LONDON W2 4JA | (Pages 125 -
160) |
| 5. | ST JOHN'S WOOD CAR PARK KINGSMILL TERRACE
LONDON NW8 6AA | (Pages 161 -
190) |
| 6. | DEVELOPMENT SITE AT 150 AND 152 HAMILTON
TERRACE LONDON NW8 9UX | (Pages 191 -
226) |
| 7. | TREE PRESERVATION ORDER NO. 689 – 63
WARWICK
AVENUE LONDON W9 2PR | (Pages 227 -
234) |

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

Item	Grounds	Para. of Part 1 of 8.Schedule 12a of the Act.
8	The Reports involve the likely disclosure of exempt information relating to financial or business affairs.	Para. 3

8. **63 WARWICK AVENUE LONDON W9 2PR**

(Pages 235 -
254)

**Stuart Love
Chief Executive
12 December 2022**

Order of Business

At Planning Applications 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 (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 29th November, 2022**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Jason Williams (Chair), Md Shamsed Chowdhury, Jim Glen and Sara Hassan

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Jason Williams 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 Williams also declared that in respect of Item 1, he had attended a site visit with Planning Sub-Committee Members and Officers. He advised that he had not held any discussions or made comments during the visit.

2.3 Councillors Jim Glen and Sara Hassan also made the same declaration.

2.4 Councillor MD Shamshad Chowdhury declared that in respect of Item 1, he had previously visited the National Gallery. The same declarations were made by the Sub-Committee.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 18 October 2022 be signed by the Chair as a correct record of proceedings.

4 PLANNING APPLICATIONS

The Chair agreed to hear the applications in the following order Items 1,2,5,3,4 & 6.

1 THE NATIONAL GALLERY, TRAFALGAR SQUARE, LONDON, WC2N 5DN

Remodelling of external gates, replacement glazing and adaption and enclosure of the loggia of the Sainsbury Wing. External alterations to the Wilkins Building, including alterations and part removal of railings, lawn and wall, with new entrance on Trafalgar Square to the Research Centre and Members Room. Excavation of a new basement link between Sainsbury Wing and Wilkins Building under Jubilee Walk, including excavation. Public realm works to the north of Trafalgar Square and Jubilee Walk, including new paving, benches and bollards. New window and external alterations to Pigott Education Centre on Orange Street. Internal alterations to Sainsbury Wing, Wilkins Building and Pigott Education Centre.

Additional Representations were received from supporter (21.11.22), National Gallery (21.11.22) & (19.11.22), resident (19.11.22) and supporter (19.11.22).

Late Representations were received from Denise Scott Brown (29.11.22), National Gallery (29.11.22), Spitalsquare (27.11.22) and London Transport Museum (24.11.23)

The Planning officer tabled the following clarification to the Report:

Item1: National Gallery

Report Clarification.

Pages 60 to 61, heading 'Signage'

This section includes reference to new totem signs which will display images outside the entrance of the Sainsbury Wing. These are proposed to replace the existing flagpoles. While shown in the submission, these new totem signs do not require planning permission because they are advertisements, nor would they require listed building consent because the totem signs are not attached to the building –they are freestanding (the other signs to the building require listed building consent because they alter the building itself). This section should not have therefore referred to the imposition of a condition referring to restricting the content of the screens. Such a condition can only be attached to an advertisement consent, and the applicant has only applied for planning permission and listed building consent for the works. Separate advertisement consent will need to be obtained for the new totem signs, as well as the other external signs, as advised to the applicant in informative 7 on page 93.

Gabriele Finaldi addressed the committee in support of the application.

Annabelle Selldorf addressed the committee in support of the application.

Richard Pain addressed the committee in objection of the application.

RESOLVED UNANIMOUSLY:

1. That conditional permission be granted subject to a S106 legal agreement to secure the following:

i. Provision of highway works and works to the public realm necessary to facilitate the development;

ii. Provision of and adherence to a Walkways Agreement relating to Jubilee Walk; and

iii. The cost of monitoring the agreement.

If the S106 legal agreement has not been completed within 3 months from the date of the

Committee's resolution, then:

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

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

2. That conditional listed building consent be granted.

3. That the reasons for granting conditional listed building consent as set out in informative on the draft listed building consent decision letter be agreed.

2 BURLINGTON HOUSE, PICCADILLY, LONDON, W1J 0BD

Internal and external alterations associated with the repair, refurbishment and alteration of the schools accommodation, at lower ground, ground and roof levels; namely internal layout alterations, refurbishment and repair works; external alterations, including the provision of improved services, plant at roof level and new ventilation ductwork including a full height kitchen extract duct to the west elevation, restoration, replacement of existing glazing, roofing at the north elevation, provision of associated roof access equipment, reinstatement of original west entrance, replacement of East Yard tent with permanent extension building, alterations to East Yard ramp, and associated works. (Linked 21/08367/LBC)

An additional representation was received from Town Legal LLP (17.08.22), (06.09.22) & (25.11.22).

Axel Ruger addressed the Sub-Committee in support of the application.

Eliza Bonham-Carter addressed the Sub-Committee in support of the application.

Professor Louise Harpman addressed the Sub-Committee to object to the application.

RESOLVED UNAMIOUSLY:

1. That conditional permission be granted
2. That conditional listed building consent be granted
3. That the reasons for granting conditional listed building consent as set out in Informative 1 attached to the draft decision letter be agreed.
4. That an additional condition be imposed on the planning permission and listed building consent to secure the submission of samples of materials in respect of the East Yard extension

3 9-11 LANGLEY COURT, LONDON, WC2E 9JY

Erection of additional second floor level extension, installation of kitchen extract duct from basement to roof level, and associated works in connection with use of the building as a restaurant (Class E).

The Presentation Officer tabled the following amendment to the Condition

Item 3: 9-11 Langley Court, London, WC2E 9JY

Change to condition 6

No live or recorded music shall be played in the restaurant use that is audible externally or in the adjacent properties.

Clive Spencer addressed the Sub-Committee in support of the application.

RESOLVED UNAMIOUSLY:

1. That conditional permission, as amended, be granted.
2. That Condition 12 be amended so that the SMP includes hours of deliveries and there be minor changes to the wording of other Conditions

4 18 GREEK STREET, LONDON, W1D 4DS

Variation of Conditions 1, 2 and 6 of planning permission dated 27 May 2021 (RN: 20/06174/FULL) for the: Use of the rear terrace areas at first and second floor level in association with the existing restaurant/bar use at 18 Greek Street and installation of new balustrades, artificial green wall areas, extended second floor terrace balcony and staircase and between the terraces NAMELY, to allow the use of the terraces at rear first and second floor levels for a further one year period; to provide living green walls and to vary Condition 6 to prevent vertical drinking but to allow customers to walk to or from tables at upper 2nd floor terrace level.

Gregory Jones KC addressed the Sub-Committee in support of the application.

RESOLVED UNANIMOUSLY:

1. That conditional permission including a condition to limit the use of the terraces for a temporary period of one year be granted.
2. That Conditions 9, 10 and 11 be deleted from the decision notice.
3. That an Informative be included which advised that whilst green walls were not required at this stage but in any future application for permanent use, the artificial green walls must be replaced with natural and 'living' green walls.

5 6A LANGFORD PLACE, LONDON, NW8 0LL

Demolition of the existing 3-storey dwelling house, erection of a replacement dwelling house with hipped roof over four storeys (plus basement), with front and rear lightwells, alterations to front boundary including installation of vehicular and pedestrian gates, new hard and soft landscaping and all associated works including air source heat pumps

An additional representation was received from a resident (18.11.22) & (23.11.22)

The presenting officer tabled the following additional conditions:

Item 5: 6A Langford Place, London, NW8 0LL

It is proposed that the following condition is added to the decision notice:

Condition 21:

You must provide the Be lean / Be Clean features in the submitted Energy & Sustainability Statement (dated 11 February 2022) in the design of the new house. Following completion of development, you must submit details of the carbon dioxide savings for the Council's approval.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

It is also proposed that Condition 3 is amended as follows:

Condition 3:

You must apply to us for approval of further information about the following parts of the development:

- (a). Windows, doors, dormers and rooflights (detailed elevations and sections at 1:10, plus product specifications where applicable);
- (b). New front boundary gates (detailed elevations and sections at 1:10);
- (c). The appearance of the ~~heat pump~~ **air condenser** unit acoustic enclosure (detailed elevations and sections at 1:20).

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

Reason:

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

Joseph Daniels addressed the Sub-Committee in support of the application.

Marek Wojciechowski addressed the Sub-Committee in support of the application.

Metin Kamal addressed the Sub-Committee in objection to the application.

Judith Morgan addressed the Sub-Committee in objection to the application.

**RESOLVED: (FOR Councillors Jason Williams, Sara Hassan and Jim Glen
AGAINST: Councillor Md Shamsed Chowdhury)**

That conditional permission be granted subject to the inclusion of the additional Conditions as listed above and the extra amending Condition to include PVs on roof.

6 GARDEN HOUSE, 1A ORDNANCE HILL, LONDON, NW8 6PR

Excavation of a basement beneath building and part of rear garden, incorporating lightwells to front and rear plus associated landscaping to rear (part-retrospective)

An additional representation was received from Town Planning and Building Control (Unknown)

RESOLVED UNANIMOUSLY:

1. That conditional condition be granted subject to Condition 3 CoCP wording being amended.

2. That an Informative be included which informs that the Planning Applications Sub-Committee (2) were disappointed that works had started on the basement without consent and instructs that the Applicant must adhere to planning conditions and submit all the approval of details applications If there are any further changes to the consented scheme the Applicant needs to apply for planning permission.

The Meeting ended at 10.40 pm

CHAIRMAN: _____

DATE _____

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Agenda Annex

CITY OF WESTMINSTER
PLANNING APPLICATIONS SUB COMMITTEE – 20th December 2022
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 21/08177/FULL Marylebone	Fitzhardinge House Portman Square London W1H 6LH	Erection of a single storey roof extension to provide three new residential units (Class C3); extension at rear seventh floor level.	Nehoc
	Recommendation Grant conditional permission.			
2.	RN(s): 21/03136/FULL West End	72 Broadwick Street London W1F 9QZ	Flexible alternative use of basement and part ground floor for retail (Class Ea) or restaurant/cafe (Class Eb) purposes or as a live music venue (Sui Generis).	Shaftesbury Carnaby PLC
	Recommendation Grant conditional permission			
3.	RN(s): 22/03190/FULL Marylebone	15 Crawford Place London W1H 4LG	Erection of a single storey extension at roof level and extension to rear at first to fourth floors to create an additional five flats (Class C3). Refurbishment of the front and rear elevations. Provision of a green roof.	DCG ARCHITECTURE (LONDON) LTD
	Recommendation Grant conditional permission.			
4.	RN(s): 21/05530/FULL Bayswater	Saxon Hall Palace Court London W2 4JA	Demolition of existing lift overrun at roof level and construction of a single-storey roof extension to provide three additional residential units, alterations to ground floor comprising new disabled access ramp and accessibility alterations to existing main entrance and cycle parking and bin storage in the rear yard, installation of air source heat pumps at roof level.	Abbey Property Management Ltd
	Recommendation Grant conditional permission.			
5.	RN(s): 22/03546/FULL Regent's Park	St John's Wood Car Park Kingsmill Terrace London NW8 6AA	Use of levels 5 and 6 of car park as Self Storage (B8)	NW8 Self-Storage Limited
	Recommendation Grant conditional permission.			

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 20th December 2022
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): 22/02259/FULL Abbey Road	Development Site At 150 And 152 Hamilton Terrace London NW8 9UX	Demolition of rear of building and roof and erection of rear extension, roof extension, landscaping; alterations to entrance gates; new windows to front and side elevations; and associated works.	Shrikant and Aditya Padmanabhan and Singhal
	Recommendation Grant conditional permission.			

Confirmation of TPO (Public Item)

Item No	References	Site Address	Proposal	Applicant
7.	RN(s): N/A Little Venice	63 Warwick Avenue London W9 2PR	To confirm or not confirm Tree Preservation Order No.689.	N/A
	Recommendation N/A			

Tree Works Application – Report from the Director of Law (Confidential Item)

Item No	References	Site Address	Proposal	Applicant
8.	RN(s): 22/06272/TPO Little Venice	63 Warwick Avenue London W9 2PR	2 x lime (T3 and T4): fell and remove stump.	Haven Unit Property Management Co.
	Recommendation Grant conditional consent.			

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Marylebone	
Subject of Report	Fitzhardinge House, Portman Square, London, W1H 6LH		
Proposal	Erection of a single storey roof extension to provide three new residential units (Class C3); extension at rear seventh floor level.		
Agent	Turley		
On behalf of	Nehoc		
Registered Number	21/08177/FULL	Date amended/ completed	9 December 2021
Date Application Received	30 November 2021		
Historic Building Grade	Unlisted		
Conservation Area	Portman Estate		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

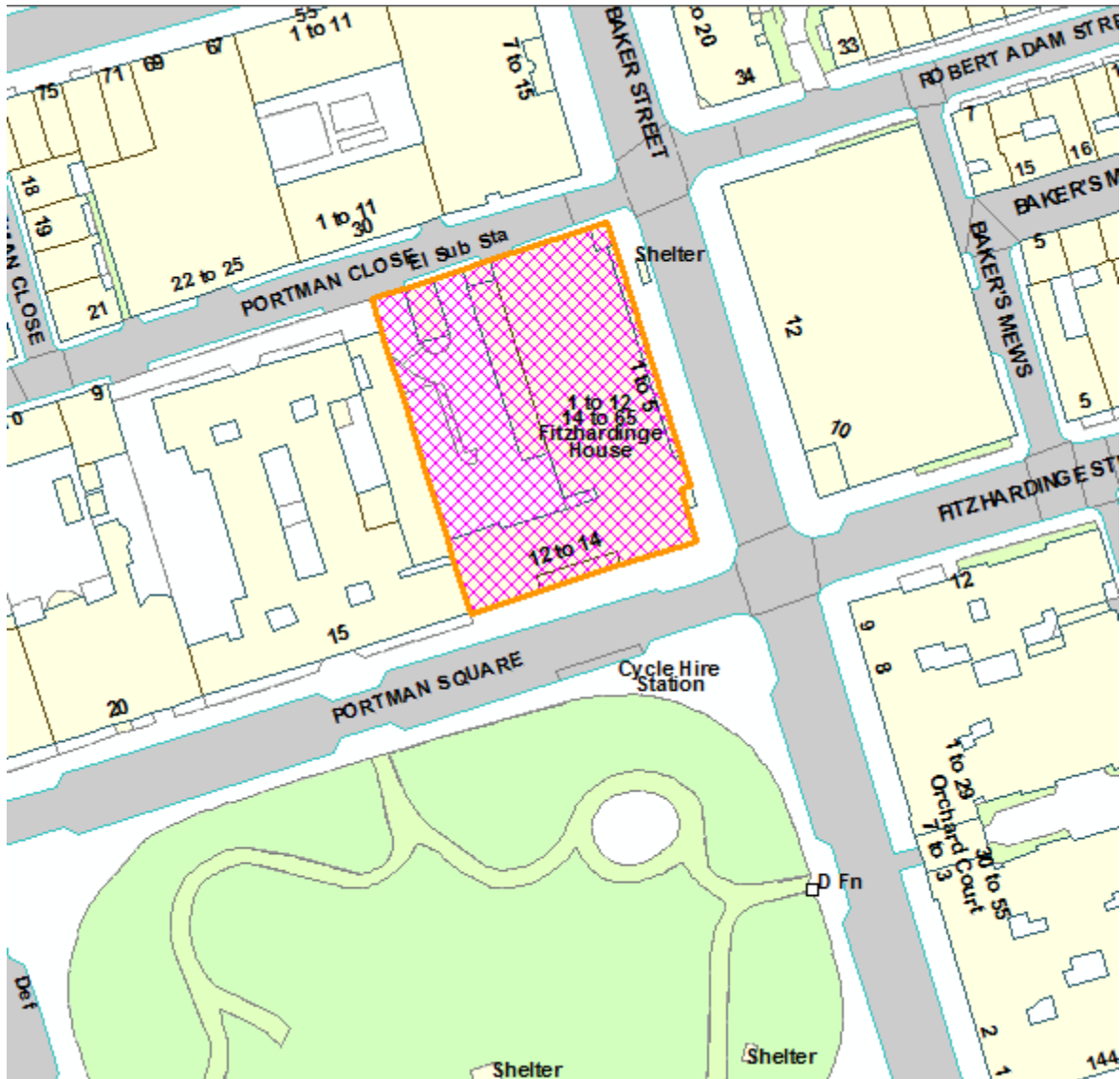
The application proposes the erection of a single storey roof extension to Fitzhardinge House, an unlisted building located within the Portman Estate Conservation Area. The roof extension will accommodate three flats.

The key considerations in this case are:

- Whether the proposal has optimised the development potential of this site.
- The impact of the proposed extension on the character and appearance of the Portman Estate Conservation Area.
- The impact on the amenity of neighbouring residential properties.

It is concluded that the proposed extension will preserve the character and appearance of the Portman Estate Conservation, not harm the amenity of neighbouring residents, and will optimise the development potential of the site. For these reasons, it is recommended that conditional permission be granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

Initial notification period (December 2021)

MARYLEBONE ASSOCIATION:

Objection on the following grounds:

- The proposed roof extension would be widely seen, is of poor design quality and would have a detrimental impact upon the host building, the setting of the adjacent listed building [the adjacent building is not listed] and the Portman Estate Conservation Area.
- Any roof extension should be visually recessive from the front elevation and the proposal is not.
- The architectural language of the railings, material and brise Soleil are all inappropriate and represent an unsympathetic addition to the existing building, which already has a 'top' defined by the existing brise Soleil.

WASTE PROJECT OFFICER:

Objection to the proposed waste storage requirements which are not in line with the City Council's guidance.

HIGHWAYS PLANNING TEAM:

No objection subject to the imposition of a condition securing the provision of storage for three bicycles.

HEALTH AND SAFETY EXECUTIVE:

Following further information being provided by the applicant, no objection raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 384

Total No. of replies: 7

No. of objections: 5

No. in support: 0

Objecting on the following grounds:

Design and Conservation

- A roof extension in this location is contrary to the guidance within the Portman Estate Conservation Area Audit SPG.
- The proposed roof extension would be harmful to the character and appearance of the Portman Estate Conservation Area due to being visible in long public views.
- The proposed increase in height of Fitzhardinge House will harm the roofline of the group of buildings on the north side of Portman Square by altering its symmetry, harming the setting of the listed buildings at Nos. 19, 20 and 21 Portman Square (located on the opposite side of this northern quarter of Portman Square).
- The proposed patterned design of the new balustrade at new eighth floor level is

- neither sympathetic nor subordinate to the host building.
- The requirement to incorporate a sprinkler tank room will result in additional bulk which would be harmful to the character and appearance of the Portman Estate Conservation Area.

Amenity

- Objection to the blocking up of skylights to Flats 63 and 64 in terms of loss of daylight, sunlight and ventilation.
- Loss of privacy.
- Increased sense of enclosure.
- Loss of daylight.
- Noise and disturbance from the terraces serving the proposed new flats.
- Noise transfer from the proposed new flats and existing flats within the building.
- Increase wind turbulence as a result of 'boxing in' around the retained lantern light serving Flat 64.
- Query about whether relocating the 'control box' that currently allows the lantern light above Flat 64 to the side is possible and therefore whether it will be possible for this lantern light to retract as much as is shown on the drawings.
- Lack of clarity in terms of whether the replaced skylights (albeit an additional storey higher as a result of passing through a void in the proposed new eighth floor roof extension) will remain openable.

Other:

- Loss of advantage of being the existing penthouse flats.
- Damage to existing flats.
- Inaccuracies between the submitted drawings.
- Disruption during the course of construction.
- Failure of the applicant to notify the owners of other flats within the building by e-mail, using letters instead.
- Lack of proper pre-application engagement with residents within the building or within neighbouring buildings.
- Reducing the roof space available for the lantern light above Flat 64 will result in it not being able to retract fully, therefore making the maintenance of the entire rim to this void impossible.
- The relocation of the existing condensing units serving other flats within the building further from the flats that they serve will require extended service pipes, reducing their effectiveness.
- The proposed 'green roofs' will encourage pigeons and seagulls, which are already a nuisance.
- The relocation of the hot and cold-water storage tanks will have a detrimental impact upon water pressure and any pumped alternative would be more unreliable and costly to run and maintain.
- Impact on television reception.
- Impact upon communal amenities within the building.
- Building over the soil pipes that serve the building would make obtaining access to deal with blockages and for maintenance either impossible or more costly.
- Structural concerns arising from the additional loads created by the proposed roof extension.

SITE NOTICE / PRESS ADVERTISEMENT – Yes

Re-consultation following submission of corrected drawings and corrected daylight / sunlight reports (October 2022)

MARYLEBONE ASSOCIATION:

- Despite the updated and corrected information submitted, original concerns about the design quality of the application remain.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 384
Total No. of replies: 1
No. of objections: 1
No. in support: 0

One objecting to the proposal on the following grounds:

- Noise during the course of construction.
- Increase sense of enclosure.
- Overlooking.
- Loss of views and associated detrimental impact on value of property.
- Negative impact on Portman Square.

5.2 Applicant's Pre-Application Community Engagement

The application was submitted in November 2021. This pre-dates the adoption of the Early Community Engagement in Westminster guidance (February 2022). The applicant has not submitted a Statement of Community Involvement setting out what, if any, pre-application engagement was undertaken with residents of the building or residents of neighbouring buildings.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

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

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site comprises an unlisted building known as Fitzhardinge House located at the corner of Portman Square and Baker Street. The site is located within the Central Activities Zone and within the Portman Estate Conservation Area. The site is not within a protected vista. Portman Square itself is a Grade II listed registered park and garden. The site is not located within an Air Quality Focus Area.

The nearest listed buildings are Nos. 19, 20 and 21 Portman Square which are located on the opposite side of this northern quarter of Portman Square. No 19 is Grade II listed, whilst Nos. 20 and 21 Portman Square are Grade I listed. Given the reasonable distance between the application site and these Grade I listed buildings, the scale of the extension proposed and the presence of the taller No. 15 Portman Square between the application site and these Grade I listed buildings, it is not considered that the development proposal would affect the setting of these buildings. As such, Historic England was not required to be notified of the application.

The building is occupied by flats from second floors and above. The second to sixth floors are occupied by single aspect flats accessed via a central corridor, whilst the existing top floor (i.e. the seventh floor) is occupied by four larger flats. The two flats within the northern wing of the seventh floor (i.e. Flats 64 and 65) are single aspect due to the requirement for a corridor to run along the rear to provide access to these flats and a means of escape via the northern stairwell. Flat 62 is located at the corner of Baker Street and Portman Square and therefore is dual aspect. There is no need for the access corridor to run the entire length of the western wing and therefore Flat 63 is also partly dual aspect.

In addition to smaller rooflights serving all four seventh floor flats and items of plant, both Flats 64 and 65 have large retractable rooflights that cover what were entirely open courtyards. A review of the planning history file for this site reveals that, following outline permission being granted for the redevelopment of the site to form Fitzhardinge House on 14 November 1962, detailed drawings were submitted on 7 July 1964, with the accompanying covering letter from the architects to the City Council stating:

'The penthouse flats on the Baker Street frontage have each been provided with an open courtyard in order that privacy may be maintained and in order that sunlight should be admitted to the living rooms for a greater period of time than would otherwise have been the case'.

A letter dated 15 May 1990 to the City Council with accompanying plans contained within the historic file reveal that, at some point between the building being completed and that date, the existing large rooflights covering these two courtyards had been installed.

The agent has confirmed in writing that that the leasehold interested of Flat 65 is owned by the applicant. The leasehold interest of the remaining three flats on the seventh floor are understood to be separately owned.

7.2 Recent Relevant History

17/11282/FULL

Erection of single storey roof extension to provide two new residential units (Class C3). Refused on 25 November 2020 on the following grounds:

1. The number of residential units on site has not been optimised, contrary to Policy S14 of Westminster's City Plan (adopted November 2016). Furthermore, the size of both proposed residential units exceed the 200 sq.m (GIA) maximum limit set out within Policy 8 of the draft City Plan (Regulation 19 Publication Draft). There are not considered to be any reasons why a greater number of good quality residential units could not have been provided.
2. Because of their size, height, location and detailed design the windows within the proposed roof extension would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the Portman Estate Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 6, DES 9, DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.
3. The proposed roof extension would have resulted in a material loss of sunlight to the courtyard of Flat 64, harming the amenity of the occupants of this flat. This is contrary to Policy S29 of the Westminster City Plan (adopted November 2016) and Policy ENV 13 of the Unitary Development Plan (adopted January 2007).
4. The submitted Daylight and Sunlight Report (Ref: 10740 and dated 7 October 2016) contains no existing and proposed figures showing the impact of the proposed development on daylight received by neighbouring residential windows (i.e. Vertical Sky Component). As such, the City Council has been unable to undertake a proper assessment of the impact of the proposed development upon the amenity of neighbouring residents in satisfy Policy S29 of the Westminster City Plan (adopted November 2016) and Policy ENV 13 of the Unitary Development Plan (adopted January 2007).

8. THE PROPOSAL

The application proposes the erection of a single storey roof extension to Fitzhardinge House to create a new eighth floor to be used as three flats. Flat A (218 sq.m GIA) is proposed to cover the majority of the northern wing of the building. Flat B (133 sq.m GIA) and Flat C (126 sq.m GIA) are proposed to occupy the corner and western part of the building, respectively. Also proposed is the widening of the existing corridor within the western wing of the building at seventh floor level by extending the building line to the line of the rear façade for the remainder of the building.

Each flat would have access to a terrace on the Portman Square or Baker Street frontages. The roof would not be accessible as amenity space and would comprise partly a living roof and partly to accommodate photovoltaic panels. The existing plant is also proposed to be re-provided.

The current application differs from that refused on 25 November 2020 in the following ways:

- Three rather than two residential units are now proposed.
- The proposed roof extension is set further back from the retractable lantern light serving Flat 64 and the access corridor serving the proposed Flat A is now located to the east of this lantern light rather than immediately to the west, as originally proposed.
- Smaller and less dominant windows opening are now proposed than better align with the fenestration pattern of the existing seventh floor.
- A decorative metal balustrade is proposed to enclose the roof terraces on the southern and eastern frontages rather than the glass balustrade originally proposed.
- Light coloured render is proposed to face the roof extension so that it matches the existing seventh floor and a brise soleil is proposed on the Baker Street and Portman Square frontage in order to reduce overheating.
- Photovoltaic panels are now proposed on the roof of the western wing of the proposed roof extension.

In response to an objection from the Health and Safety Executive (HSE) from a fire safety perspective, the applicant revised the scheme in the following ways:

- A further flight of stairs has been added to the northern stairwell in order to link to the new eighth floor level and aid escape during a fire.
- A sprinkler tank room has been included in the proposal in what was previously proposed as an undesignated plant area within the northernmost part of the proposed new eighth floor extension.
- The layout of Unit A was amended to shorten the internal corridor and to allow access to the new fire escape in the northern stairwell.

The application was subsequently amended in the following ways:

- Amended existing and proposed 7th floor plans and proposed roof plan were submitted showing the correct layout of Flat 63 and the correct location of the smaller of the two rooflights serving the kitchen of Flat 64.
- An updated Daylight and Sunlight Report was submitted that: (i) Assesses the impact of the current development proposal rather than that refused by the City Council on 25 November 2020 (Ref: 17/11282/FULL); and (ii) Assesses the development proposal against the known layout of the affected flats within No. 15 Portman Square.
- An updated Daylight Impacts Assessment Report was submitted that: (i) Assesses the impact of the current development proposal rather than that refused by the City Council on 25 November 2020 (Ref: 17/11282/FULL); (ii) Shows the correct layout of Flat 63, the correct number and location of rooflights serving Flat 64, and excludes from its analysis the two rooflights within Flat 63 that are boarded over; and (iii) Uses one of the updated methodologies for assessing daylight levels within the existing

flats at seventh floor level as set out within the third edition of 'Site layout planning for daylight and sunlight: a guide to good practice' published in June 2022.

As set out within Section 5.1 of this report, the Marylebone Association and the owners / occupiers of neighbouring properties were notified of these amendments.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The provision of three additional, good quality dual aspect flats is welcome and will contribute to the housing target set out within City Plan Policy 8(A).

There are three access cores within the building, two of which contain lifts to the ground floor lobby (i.e. the western core and the central core). The northern core contains no lift and is for fire escape only. Whilst Unit A is slightly above the 200 sq.m GIA limit set out within City Plan 8(B), given that access to this flat has to be from the central core, it is accepted that it would not be possible to provide two flats in this wing of the building and for these flats to both be dual aspect. As such, there are particular restrictions that make delivering a greater number of additional residential units undesirable. It is therefore concluded that the site's potential has been optimised and a departure from City Plan Policy 8(B) is justified in this instance.

The proposal does not generate a requirement for affordable housing provision under City Plan Policy 9(B).

All of the proposed flats will be family sized, exceeding the 25% requirement within City Plan Policy 10(B).

9.2 Environment & Sustainability

The glazing ratio has been optimised to maximise access to natural daylight throughout the building while controlling excessive solar gains. High performance glazing will be installed, incorporating low emissivity coatings to limit overheating without compromising light transmittance.

Full length brise soleil is provided over the eastern and southern elevations to provide shading and mitigate summertime overheating.

All of the proposed flats are dual aspect, allowing cross-ventilation so that the units can be passively cooled.

A 190 sq.m extensive living roof is proposed that will reduce overheating during summer, provide insulation during winter and add to biodiversity.

42 x photovoltaic panels are proposed at a 30-degree angle and facing south. It is expected that the peak power of this system will be 13.5kW.

9.3 Townscape, Design & Heritage Impact

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

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

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

Furthermore Chapters 12 and 16 of the 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.

Bulk, Height, Scale, Impact on Heritage Assets & Detailed Design

Fitzhardinge House is identified with the Portman Estate Conservation Area Audit as being a building where a roof extension is unlikely to be acceptable. Despite this identification, the principle of a roof extension on this modern building is considered to be acceptable in design and conservation terms given that surrounding buildings are taller.

The proposed solid-to-void ratio, size and arrangement of windows within the proposed roof extension reflect the existing seventh floor of the host building. Setting the proposed new eighth floor extension back means that it would not dominate the host building. The proposed materials (render) will match that used on the existing seventh floor and the panels on the lower parts of the building. This is considered to be acceptable. The decorative balustrade is considered to be an attractive feature.

For these reasons, the proposal is considered to preserve the character and appearance of the Portman Estate Conservation Area and not harm the setting of the listed buildings on the north-western corner of Portman Square.

Fire Safety

Following revisions to the scheme, the Health and Safety Executive raise no objection to the proposed development and the development is therefore acceptable from a fire safety perspective.

9.4 Residential Amenity

Daylight & Sunlight

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from the outside face of a window. Using this method, if an affected window is already relatively poorly lit (i.e. has a VSC below 27%) and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

Where the layout of affected room is known, the daylight distribution test can plot the 'no sky line' (NSL) which is a point on a working plane in a room between where the sky can and cannot be seen. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

With regard to sunlighting, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

In terms of gardens and open space, the BRE Guidelines recommends that, for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21 March is less than 0.80 times its former value, then the loss of sunlight is likely to be noticeable.

Impact upon neighbouring properties outside of the application site.

The applicant has submitted an assessment of the impacts upon the daylight / sunlight received by neighbouring properties as a result of the proposed roof extension. The initially submitted assessment use assumed layouts for the flats within No. 15 Portman Square, located immediately to the west of the application site, in its assessment of the impact upon the daylight distribution within these flats.

A representation written on behalf of the owner of this building and on behalf of the 115 leaseholders residing within this building objected to the application on, amongst other grounds, that this assessment did not reflect the actual layout of the flats. The layout of No. 15 Portman Square was provided to the applicant and the daylight distribution assessment re-run.

The assessment finds that the proposed development will result in no material losses in daylight, sunlight or material changes to the distribution of this daylight to any neighbouring properties. As such, the amenity of the occupants of neighbouring properties will not be harmed by the proposed development in this respect.

Impact upon neighbouring properties within the application site.

As set out above, there are a number of rooflights that provide daylight, sunlight and ventilation to the four existing flats at seventh floor level. These rooflights are particularly important to the occupants of Flats 64 and 65 as these flats are large yet single aspect. The result is that, were it not for these rooflights, light penetration to the rear of the units would be poor. In addition, in the summer months, these flats currently benefit from natural ventilation from these rooflights in a way that does not disrupt the occupants' sleep from traffic noise through having to open up windows on the Baker Street frontage. Strong objections have been received from the occupants of Flat 64. The applicant is the leasehold owner of Flat 65.

In order to mitigate the impact upon the amenity of the occupants within Flat 64, the application proposes to build around rather than over the large retractable rooflight, two rooflights serving the kitchen and a rooflight serving a bathroom to Flat 64.

One of the two rooflights serving an ensuite bathroom within Flat 64 is proposed to be lost. The remaining rooflight and the rooflight to a bedroom are proposed to be retained, albeit through voids in the proposed new eighth floor. These rooflight will therefore be re-provided but will be a floor higher than existing.

In respect to Flat 63, the large rooflight above one of the bedrooms will be lost as result of the proposed roof extension, as will a rooflight within the kitchen, a rooflight within the living room, a rooflight within another bedroom and rooflights within two of the bathrooms. Sun pipes are proposed to be re-provided in respect to one of the bedrooms and to the kitchen.

Flat 62 only contains one rooflight above a bathroom. This is proposed to be lost as a result of the proposed extension.

The large rooflight to Flat 65 is proposed to be re-provided, albeit through a void in the proposed eighth floor so that it is one floor above its current location. The rooflight within one of the bedrooms and two bathrooms would be lost, albeit sun pipes are proposed to be provided within the bedroom and one of the bathrooms.

In order to assess the impact of these proposed changes, the applicant has commissioned a report assessing the existing and proposed daylight within each of the rooms using the Illuminance Method set out within the BRE Guide (2022). This assessment does not take into account the contribution of sun pipes and therefore represent a worst-case scenario.

Minimum illuminance recommendations for daylight provision within UK dwellings as follows:

- Bedrooms: 100 lux
- Living rooms: 150 lux
- Kitchens: 200 lux

The above recommendations are based upon the median illuminances that should be

achieved over at least 50% of the assessment grid for at least 50% of the daylight hours over the course of the calendar year.

The proposed additional floor does not affect the access to daylight of the existing windows and the alterations in daylight levels are only due to changes or removal of skylights.

Such a methodology for assessing the impact of development proposals on daylight received by neighbouring properties is not the usual methodology recommended by the BRE Guide (2022). Its application is limited to assessing whether new residential units meet the minimum daylight values set out within the guidance. However, in this instance, such an approach is accepted, albeit with caveats. This is because: (i) The room layouts, glazing specifications of the existing rooflights, and reflectivity of the interior finishes are known (i.e. the measure is accurate); and (ii) Such an approach is helpful in assessing how much light within particular rooms arrives through rooflights that are going to be lost or will reduce as a result of them being altered.

What is not accepted is that the daylight levels in each room can be reduced to the minimum values for new build residential units before the impact is material. This is because this is not the approach taken with VSC where, once the value is below a threshold, it is the relative loss that determines whether or not the loss of daylight would be noticeable to the occupants of the property.

The approach taken in the assessment of this application is one that assesses the percentage loss in daylight, the eventual resulting daylight value, the use of the room affected and the proportion of the flat that is affected.

The impact on each flat is assessed in turn below.

Flat 62:

No habitable rooms will be affected and therefore the impact upon the quality of daylight within this flat will not be affected by the proposed development. As such, there is no objection to the proposal in terms of the impact upon the amenity of the occupiers of this flat from a daylight perspective.

Flat 63:

Analysis reveals that the removal of the rooflights from two of the bedrooms and from the rear of the living rooms will not reduce the light levels below the minimum illuminance recommendations for daylight provision. 98.7% of Bedroom 2 will retain at least 100 lux (compared to 100% as existing) and all of Bedroom 3 will retain at least 100 lux. In terms of the main living room, 86.0% will retain at least 150 lux, compared to 100% as existing. All of the retained values are well in excess of the minimum 50% of the room area. This is because all three of these rooms benefit from an open aspect to the south that will continue to allow them to be well lit even without the rooflights in situ.

The loss of the rooflight serving the kitchen will result in the complete loss of daylight to this room. At present, no area within this rooms receives the recommended 200 lux, although 52.5% receives at least 100 lux. This kitchen, however, is small and is

therefore not also used as a dining room. It is not unusual for such small kitchens to not receive any daylight. In addition, this room will be provided with a sun pipe which, as explained above, is not taken into account within the assessments will still allow the receipt of natural light, especially on sunny days. For these reasons, it is not considered that the loss of this skylight will materially harm the amenity of the occupants of this flat that is generally very well-lit due to its location at seventh floor level with an open aspect looking south over Portman Square

Flat 64:

The impact of the proposed new eighth floor extension to the levels of light received to the kitchen through the two retained rooflight that serve this room is modest and acceptable, with the whole room still retaining at least the recommended 200 lux.

The same is true of the living room, where the area that will receives at least 150 lux will reduce slightly from 100% to 99.4%. This is well in excess of the minimum 50% of the room area.

The impact of relocating the rooflight to the master bedroom so that it is a storey higher is also minimal, with the area that receives at least 100 lux reduced from 100% to 88.4%. This bedroom benefits from a window on the Baker Street frontage.

For these reasons, it is concluded that the impact upon the daylight levels within this flat will be very modest and will not harm the amenity of its occupants.

Flat 65:

The impact upon the light level within the living rooms will be modest. However, this rooflight will no longer be capable of retracting.

The development would also result in a significant loss of light to the rear bedroom as a result of the loss of its rooflight. Although a sun pipe will be provided, its only other source of light will be borrowed lighted from a window into the fire escape corridor.

As set out above, however, this flat is owned by the applicant and therefore any loss of amenity for the occupants of this flats are considered to be acceptable as the applicant is willing to suffer them to benefit from the value generated the development proposal.

Impact upon neighbouring amenity space

An assessment has been undertaken of the impact of the proposed roof extension on the amount of sunlight enjoyed by the neighbouring amenity space at No. 15 Portman Square (immediately to the west of the application site). The assessment finds that 71.6% of this terrace will received more than two hours of direct sunlight on 21 March. The applicant's assessment finds that there will be no loss of this area. Therefore, the quality of this amenity space will not be degraded as a result of the proposed roof extension.

The former courtyard to Flat 64 acts as an outdoor amenity space for its occupants when the weather allows the rooflight to be retracted. It is clear that this unusual feature

contributes significantly to the amenity of the occupants of this flat, allowing trees and climbers to grow in this space and for the occupants to enjoy sunlight. The ground floor of this courtyard is clearly much more enclosed than the amenity space at No. 15 Portman Square, with 22.7% of the area receiving at least two hours of direct sunlight on 21 March. Through setting the proposed eighth floor extension back from this rooflight to the south and by relocating the access corridor from immediately to the west to further away to the east, the revised proposed is expected to reduce this area to 21.7%. This represents a 4.5% reduction, well below the 20% reduction recommended in the BRE Guide (2022). The quality of this amenity space will therefore not be materially affected by the proposed development.

Sense of Enclosure

The reasonable distance between the proposed roof extension and the flats within the rear east-facing wing of No. 15 Portman Square means that this single store roof extension will not result in a material increase in the sense of enclosure by the occupants of these flats.

Privacy

A 1.7m tall privacy screen will ensure that there is no overlooking from the proposed new roof terrace to the neighbouring amenity space at No. 15 Portman Square (immediately to the west of the application site).

Ventilation

Through relocating the motor to the side of the retractable lantern light serving Flat 64, it will still be possible to fully retract it even with the new corridor providing access to Unit A. This lantern light will therefore still be able to ventilate this flat. Conditions are recommended to be imposed requiring: (i) This relocated motor to be installed prior to occupation of the new dwellings; and (ii) The two re-provided skylights above the bathroom and bedroom of Flat 64 to be remotely openable by the occupants of Flat 64.

A number of rooflights to other bathrooms within existing seventh floor flats are either proposed to be removed or replaced with sun pipes. The applicant has confirmed that replacement air extract arrangements will be installed to ensure that these bathrooms are still ventilated. Details are recommended to be secured by condition.

9.5 Transportation, Accessibility & Servicing

Subject to the imposition of a condition securing cycle parking provision for the occupants of the proposed flats at ground floor level, there is no objection to the proposal from a transportation perspective.

All of the units will be accessible by lift.

Each new flat will have waste and recycling separation storage within their kitchen. General refuse is brought down to the ground floor rear parking area by residents in bags. It is then placed in wheeled bins located in the car parking area by the management company cleaners and removed twice weekly by the City Council. Mixed

recyclables are bought down in a similar way, placed in 'blue bags' provided by the City Council, placed in separate wheeled bins in the same area and collected on a weekly basis.

9.6 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

9.7 Other Considerations

None.

9.8 Environmental Impact Assessment

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

9.9 Planning Obligations & Pre-Commencement Conditions

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

The estimated CIL payment is: £312,818.

10. Conclusion

For the reasons set out above, the proposed roof extension is acceptable in design and conservation terms, optimises the development potential of the site and will not harm the amenity of neighbouring residents

As such, the proposal is considered acceptable, 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.

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

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

11. KEY DRAWINGS

Existing and proposed view from Portman Square (east side):



PHOTO 1 - EXISTING



PHOTO 1 - PROPOSED

Existing and proposed view from Fitzhardinge Street, looking west:



PHOTO 2 - EXISTING



PHOTO 2 - PROPOSED

Existing and proposed view from Baker Street, looking south:

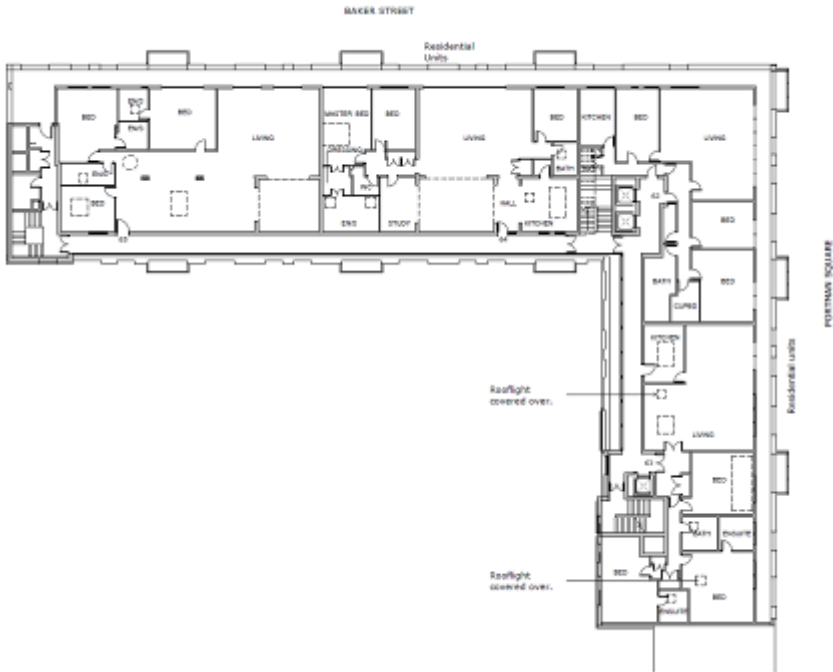


PHOTO 3 - EXISTING

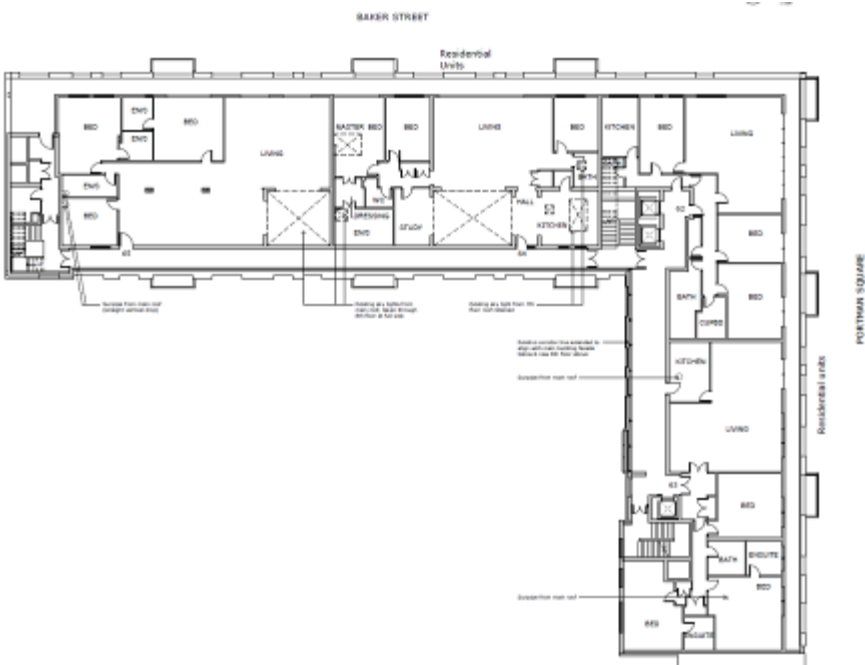


PHOTO 3 - PROPOSED

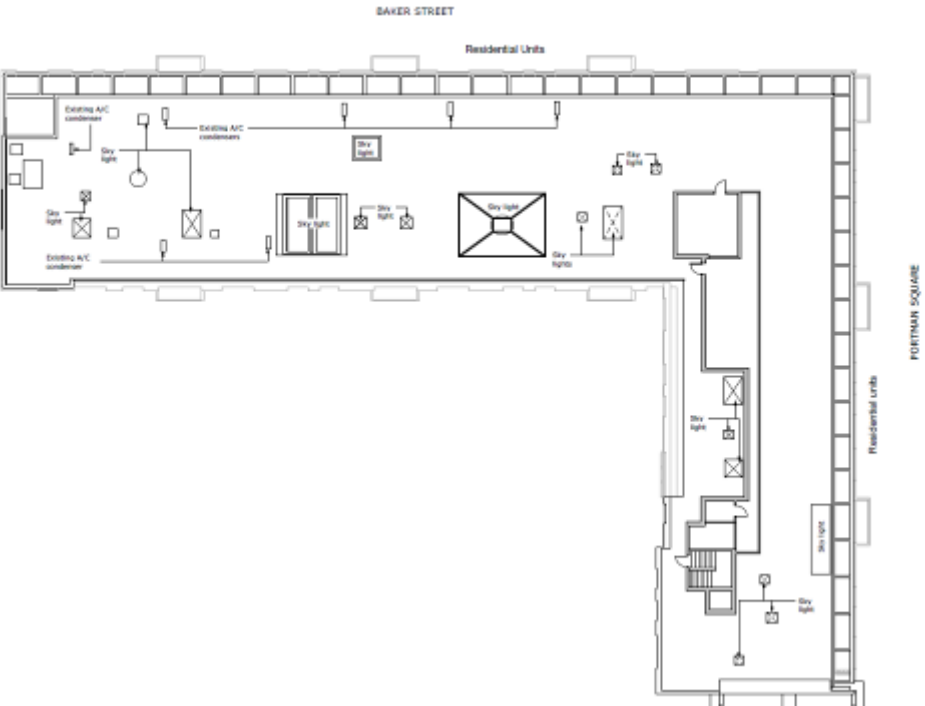
Existing seventh floor:



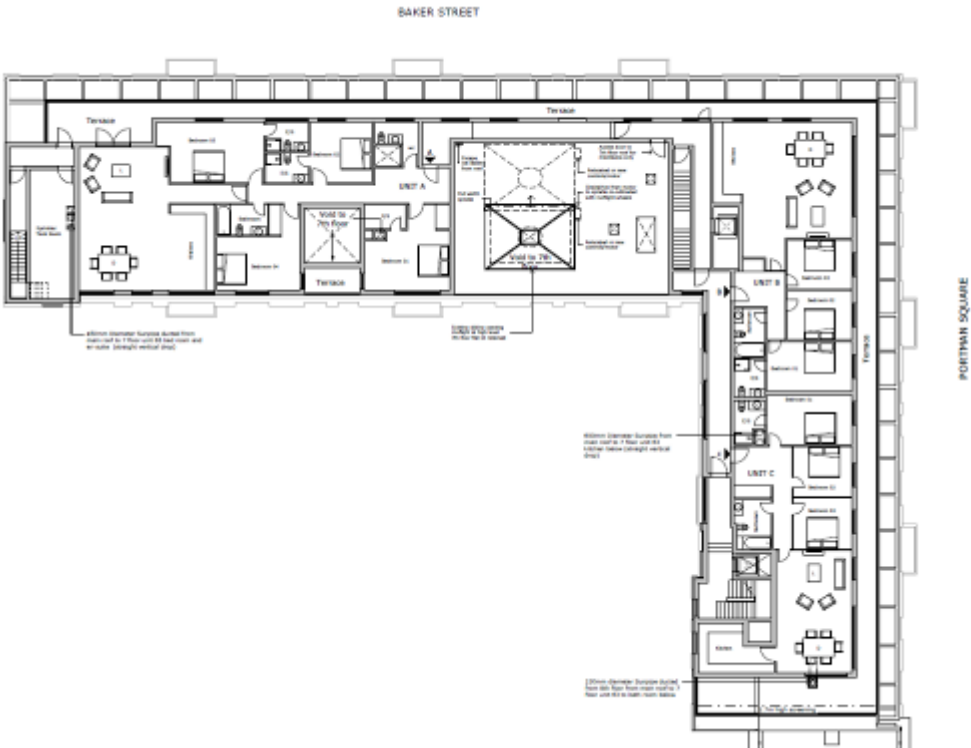
Proposed seventh floor:



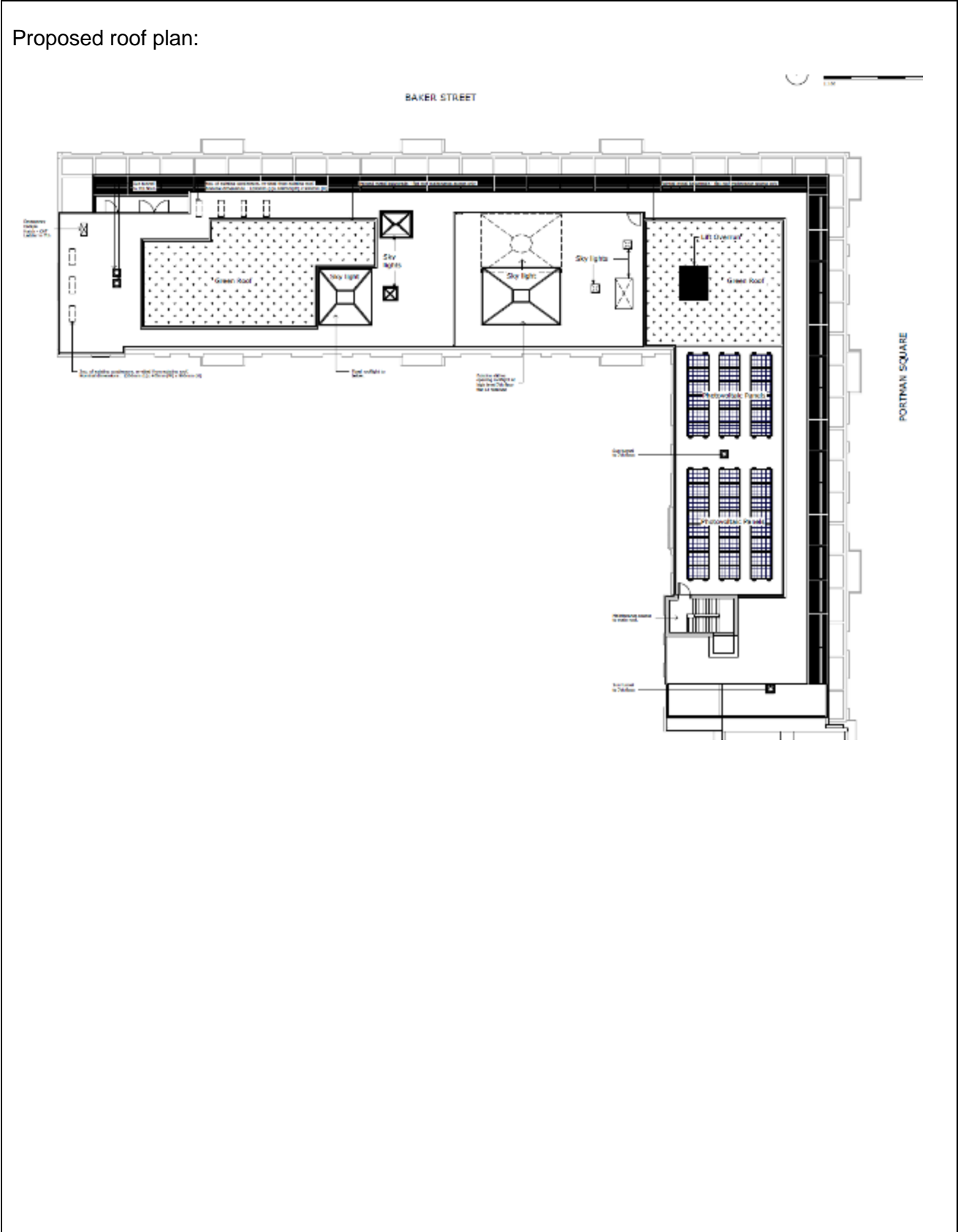
Existing roof plan:



Proposed eighth floor:



Proposed roof plan:



Existing south elevation:



Proposed south elevation:



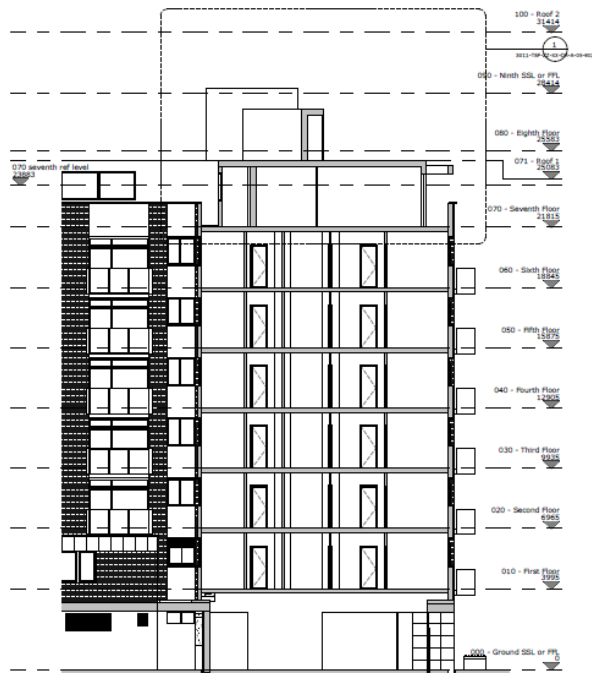
Existing east elevation:



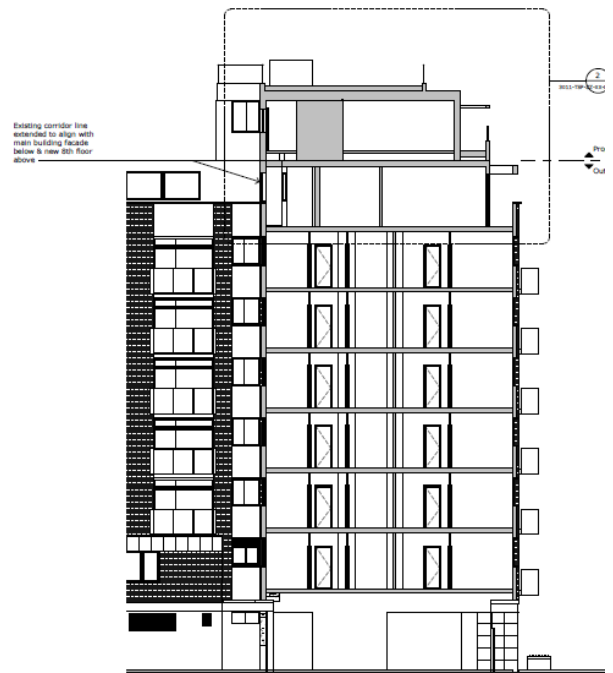
Proposed east elevation:



Existing and proposed section:



EXISTING Section A-A
1 : 100



PROPOSED Section A-A
1 : 100

Axiometric:



DRAFT DECISION LETTER

Address: Fitzhardinge House, Portman Square, London, W1H 6LH

Proposal: Erection of a single storey roof extension to provide three new residential units (Class C3); extension at rear seventh floor level.

Plan Nos: 3011-TSP-ZZ-07-DR-A-05-071 Rev. I, 3011-TSP-ZZ-08-DR-A-05-081 Rev. O, 3011-TSP-ZZ-09-DR-A-05-091 Rev. K, 3011-TSP-ZZ-XX-DR-A-05-702 Rev. G, 3011-TSP-ZZ-XX-DR-A-05-703 Rev. G, 3011-TSP-ZZ-XX-DR-A-05-704 Rev. E, 3011-TSP-ZZ-XX-DR-A-05-705 Rev. D, 3011-TSP-ZZ-XX-DR-A-05-801 Rev. B and 3011-TSP-ZZ-XX-DR-A-05-802 Rev. C.

Case Officer: Mark Hollington

Direct Tel. No. 07866040156

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.

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 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 Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start 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 this part of the Portman Estate 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 detailed drawings of the following parts of the development:

- (i) All new windows and doors.
- (ii) The new eighth floor balustrade.

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 detailed drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 6 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

Reason:

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

- 7 You must apply to us for approval of details of secure cycle storage for the occupants of the three flats hereby approved. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the three flats. You must not use the cycle storage for any other purpose. (C22HA)

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)

- 8 You must apply to us for approval of drawings and manufacturer's specification of the following parts of the development:
- (i) The sun pipes shown on the submitted drawings.
 - (ii) How the existing bathrooms at seventh floor levels that will have a rooflight removed and not re-provided will be mechanically ventilated.
 - (ii) How the rooflights to the master bedroom and associated en-suite of Flat 64 will be controlled by the occupants of this flat.
 - (iv) How the motor controlling the retractable rooflight serving Flat 64 will be relocated to the side of the rooflight and the rooflight remain able to slide back and forth controlled by the occupants of Flat 64.

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 drawings and manufacturer's specification in full prior to the occupation of any of the flats hereby approved. These features, along with the voids shown on the approved eighth floor plan, shall be retained for the life of the development.

Reason:

To protect the quality of the residential accommodation at seventh floor level, as set out Policy 12 of the City Plan 2019 - 2040 (April 2021).

- 9 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49AB)

- 10 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs at roof level to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 11 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application.

- The roof top photovoltaics

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

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

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 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

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

Forms can be submitted to 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.

- 3 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

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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Item No.
2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	72 Broadwick Street, London, W1F 9QZ,		
Proposal	Flexible alternative use of basement and part ground floor for retail (Class Ea) or restaurant/cafe (Class Eb) purposes or as a live music venue (Sui Generis).		
Agent	Rolfe Judd Planning		
On behalf of	Shaftesbury Plc		
Registered Number	21/03136/FULL	Date amended/ completed	28 November 2022
Date Application Received	13 May 2021		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Soho Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY & KEY CONSIDERATIONS

The application relates to basement premises, with a ground floor entrance on Broadwick Street, which have planning permission for use as either a retail shop or restaurant under a 2019 consent for the development of the wider site. This approved development is nearing completion and an Operational Management Plan (OMP) for the restaurant use been approved. The current application proposes the flexible use of the premises for either the approved retail or restaurant uses or as a live music venue. The premises would utilise plant approved, and installed, in association with the approved restaurant use. The scheme has been amended to reduce premises capacity and opening hours and the draft OMP has been updated to provide further details of proposed measures to ameliorate the potential impact of the use.

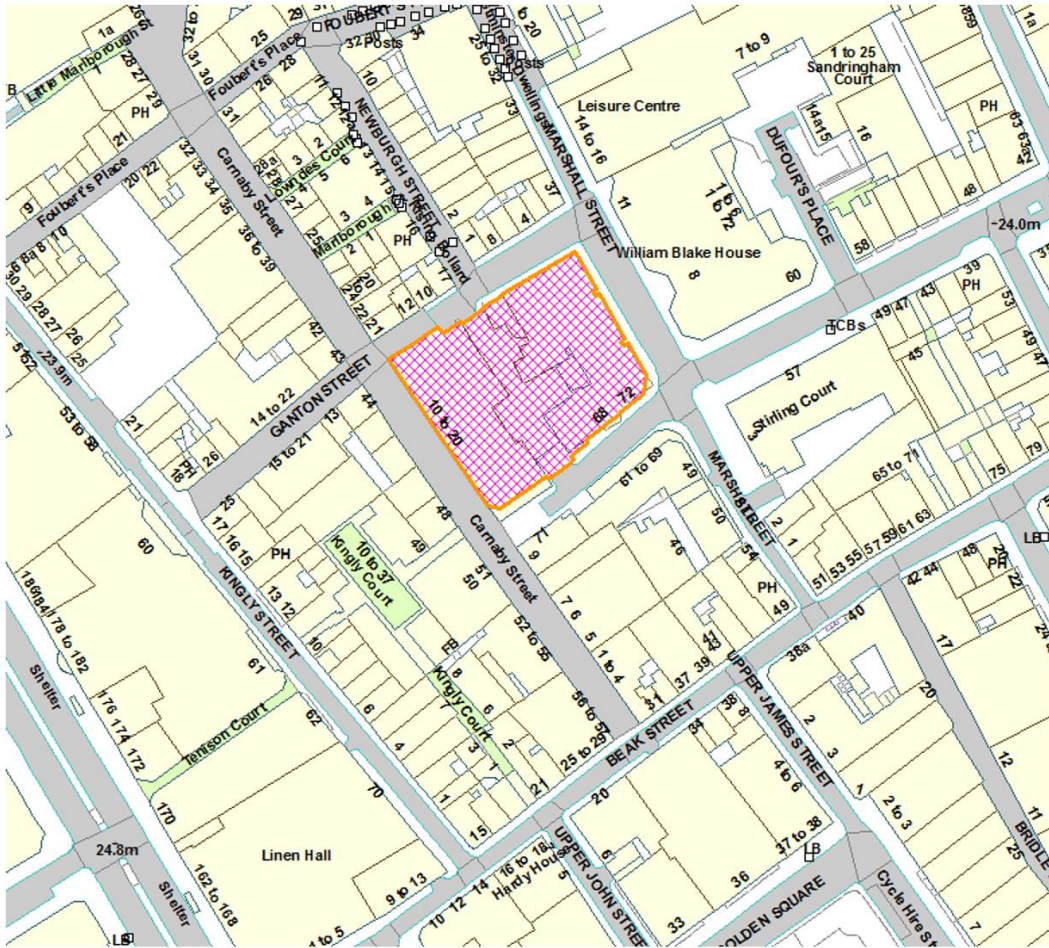
The key issues in this case are:

- *The acceptability of the proposal in land use terms
- *The impact of the proposed uses upon the amenity of neighbouring occupiers
- *The acceptability of the proposals in terms of their impact upon the operation of the highway
- *The impact of the use on the character of the conservation area

Letters of support have been received, welcoming the proposals for a new live music venue Soho. Objections have been received from Ward Councillors (current and ex Members), the local amenity society and local residents, principally on the grounds that the live music venue would adversely affect the amenity of residential properties in the area as a result of increased noise and disturbance, particularly late at night; potential noise transference and vibration through the building structure to neighbouring flat and the safe operation of the highway.

The proposed retail and restaurant uses are considered acceptable in land use and amenity terms, subject to the same restaurant operational controls as previously approved. The proposed music venue is also welcomed in principle in land use terms and, subject to appropriate conditions restricting the capacity and hours of use and a condition requiring the submission of an finalised OMP, it is not considered that this use would have a material impact upon the amenity of neighbouring occupiers. Accordingly the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Broadwick Street entrance



Ganton Street entrance and entrance slope



5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL SUBMISSION AND REVISIONS

COUNCILLOR FISHER

Objection: music venue would adversely affect the amenity of large numbers of neighbouring flats; contrary to local plan policies and the 'agent of change' principle. Unclear how the applicant has met the requirement to demonstrate that the use would be 'low impact' in terms of noise and the arrival/dispersal of customers or can be mitigated. Noise report cannot consider noise from customers entering/exiting venue; use of Ganton Street entrance to protect Broadwick Street residents does not address impact in other streets. Query adequacy of venue staffing levels to manage customers. Applicants need to do more to address policies designed to safeguard residents' amenity .

COUNCILLOR LILLEY

Objection: no need for more clubs or live music venues; use inappropriate next to high residential concentrations; contrary to 'agent of change principle'; increased disturbance/cumulative impact of noise from customers/smokers entering/exiting; potential anti-social behaviour in locations hidden from venue staff; unlikely queuing/waiting will be managed inside the building; customers refused entry likely to loiter outside; reduction in latest opening hours will have little effect, premises should close at 23.00 hours as later open will encourage later drinking. Query track record of the operator.

COUNCILLOR TOALE

Support objections to proposed sui generis uses (now restricted to the music venue) given proximity to large numbers of flats and cumulative impact of entertainment uses; no similar late night uses in the area; use would encroach into a residential area.

EX COUNCILLOR BARNES

Objection: wrong location for use proposed due to restricted nature of east-west roads and proximity of large residential blocks; effective management of access/egress difficult given existing issues with management of the Carnaby Street area.

METROPOLITAN POLICE (DESIGNING OUT CRIME)

Any response to be reported verbally

SOHO SOCIETY

Objection to proposed use as a live music venue (and other uses not now proposed) given proximity to flats, including within the application building. Extension of entertainment uses into this more residential part of Soho should be resisted; similar venues/examples cited are to the west of site; No objection to continuation of Class E uses (2 responses)

ENVIRONMENTAL SERVICES

Holding objection: Uses/operational details in acoustic report do not correlate with those in other documents. Application does not demonstrate that proposed hours of use and music venue capacity would not give rise to public nuisance or adversely affect residents' amenity.

Operational management practices may be sufficient to mitigate the effects of noise from customer dispersal and queuing patrons and to protect the environment of neighbouring occupiers. Updated OMP required to address noise concerns and to include measures regarding complaints handling.

Previous conditions recommended in relation to the approved/proposed restaurant use.

WASTE

Objection: further details required of proposed arrangements for the storage of waste and recyclable materials in accordance with Council requirements

HIGHWAYS

Objection: use of public highway for formalised queuing unacceptable in principle; updated Servicing Management Plan required.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 241 Total No. of replies: 84 (from 53 respondents); No. of objections: 55 (from 24 respondents); Letters of support: 29

Land Use

- Live music venue would enhance the character and function of Soho as a destination for high quality entertainment and live music and accords with local and London Plan policies and would help address the loss of such venues.
- Will revitalise the area's nightlife; provide employment; nurture a new generation of musical talent and help revive a sector disproportionately affected by the pandemic.;
- Area historically characterised by a juxtaposition of late-night entertainment/music uses and other uses
- The pandemic highlighted the social and cultural benefits of live music
- No demand for another venue of this type, particularly in light of the pandemic
- Applicants should be required to implement the approved uses.
- Adverse cumulative impact of entertainment uses; extension of late night uses from Ganton/Street Carnaby to more residential Broadwick Street/Marshall Street area
- Adverse impact on the character of the conservation area; threat to residential/commercial balance of the area
- Many buildings already empty with relevant permissions
- Premature to approve new venue in pandemic when existing venues still closed ;most similar venues in Soho have closed.
- Reduced capacity and hours would make the use unviable.

Amenity

- Amenity of area and neighbouring properties would be adequately safeguarded through imposition of appropriate planning controls

- Unacceptable impact of live music venue (up to 500 customers, opening until 03.00) on health and wellbeing of occupants of neighbouring residential properties; such uses are a deterrent to people living in the city
- Broadwick Street narrow and noise funnels upwards; noise disturbance evident through double-glazed windows; patrons unaware of proximity of neighbouring bedrooms.
- Adverse cumulative impact would exacerbate existing noise problems in the area due to increased number of people in the area; noise from external queues/smokers; noise/disturbance from additional taxis and pedicabs in Broadwick Street/Marshall Street.
- Queuing/entry arrangements inadequate given potential numbers arriving for timed events, unlikely that customer arrivals/queues can be accommodated inside the venue, if outside queuing unsuitable this is the wrong location.
- Potential customer turnover/impact much greater than approved restaurant.
- Increased potential for anti-social behaviour and consequent impact on emergency services and Council resources
- No smoking areas provided
- Noise from music within venue through opening doors/vents; noise from opening/closing doors; no double doors/entrance lobby
- Noise disturbance site servicing: servicing hours should be restricted.
- Opening hours should be limited to 23.00; later opening encourages drinking.
- Staff unable to control street noise, people naturally louder when drinking/leaving venues
- OMP is 'wish list', proposed operational controls could not ameliorate potential nuisance as staff unable to control customers/routes once they have left the premises
- No guarantee applicants will abide by conditions imposed on any planning permission; applicants do not ensure other buildings/premises owned by them are managed in accordance with planning controls.
- Onus should not be on neighbours to monitor activities of customers; 'responsibility lies with applicants under 'agent of change' principle.
- Submissions based on use as a jazz club/mature audience but no guarantee that the nature of the music/target audience will not change.
- OMP describes 'primarily' live performance ,does not rule out the playing of recorded music/DJs
- Reductions in opening hours and premises capacity do not address overcome fundamental concerns about the impact of the use
- Adverse potential impact of approved restaurants
- No objection to restaurant use subject to appropriate controls

Highways

- Late night opening would increase number of cars and taxis; local road restrictions force vehicles to manoeuvre outside flats in Broadwick and Marshall Street; potential obstruction of emergency vehicles
- Increased parking demand
- Parking regulations not enforced in the area to the detriment of pedestrian and highway safety.
- Not possible to service the premises from Broadwick/Carnaby Streets.

Waste

- Use will exacerbate existing waste management problems in the area;

Noise/vibration impact on adjoining buildings

- Original plans inaccurate/proximity of the basement venue to Marshall House unclear;
- Noise and vibration to Marshall House flats through the building structure; insufficient soundproofing information
- Noise/construction impact on foundations of Marshall House/construction noise

Air Quality/Plant noise

- Increased smell nuisance
- Increased pollution from additional traffic/taxis and delivery vehicles
- Hours of plant use should be restricted

Fire safety

- Proposed queuing arrangements would block fire escape routes

Other

- Impact on property values
- Lack of consultation by applicants and the City Council.
- Query whether applicants would pay for the installation of double glazing to neighbouring flats.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

FINAL SUBMISSION**METROPOLITAN POLICE (DESIGNING OUT CRIME OFFICER)**

Objection: use of Ganton Street entrance would provide access to other parts of the building/basement cycle stores; separation should be maintained from existing uses to reduce opportunities for crime; all access/egress should be from Broadwick Street.

SOHO SOCIETY

Objection: final draft OMP does not address concerns about the noise impact of a music venue in an area already affected by late night disturbance. Number of objections shows level of concern; applicant demonstrates a lack of awareness of residents' experience. Until residents notice a sustained improvement in the management of the existing venues/the area, the proposals should be considered to contribute to the existing adverse impact. Comments about the nature of the use envisaged are noted but there is no means of guaranteeing that a different sort of live music operator could not take over the premises.

If the Council is minded to grant permission, the opening should be restricted to the core hours.

LONDON FIRE SERVICE

Any response to be reported verbally

BUILDING CONTROL

Comments regarding means of escape provision. Note that the Fire Strategy is based on a capacity of 256.

LICENSING

Measures can be put in place to achieve the proposed capacity. Evacuation measures for disabled customers would be agreed as part of the premises licence.

HIGHWAYS

No objection subject to conditions including a requirement for an updated Servicing Management Plan.

ENVIRONMENTAL HEALTH

No objection subject to conditions

WASTE PROJECT OFFICER

Details of storage for waste and recyclable materials to be reserved by condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. consulted: 416; No of replies: 34 No support: 31 No objections: 7 (1 objection subsequently withdrawn); 3 letters of support

- Reiterate previous objections
- OMP full of ambiguous wording; proposed measures in the latest OMP do not address fundamental objections
- Permission should not be granted until existing issues with other venues /buildings owned by the applicant have been resolved
- Geofencing system does not work, the area is still subject to late night disturbance from taxis and pedicabs
- Supporters re-iterate previous comments regarding the contribution of the proposed music venue to the character and vitality of the area;
- Based upon the revised OMP, target clientele and robust planning controls, the use would not adversely affect residents' amenity
- Existing venue run by the prospective tenant is well managed,
- Applicants have taken residents' concerns seriously in amending the scheme and have also worked hard to address residents' concerns about the operation of the neighbouring venue by actively managing customer departures from that site.

5.2 Applicant's Pre-Application Community Engagement

This application was submitted prior to the adoption of the Early Community Engagement guidance no consultation was carried out by the applicants prior to the submission of the application.

However, the scheme has been revised in response to views and representations received during the course of the application through a reduction in premises capacity and proposed opening hours and the submission of more comprehensive details relating to the proposed use.

The applicants have recently advised that, between 5 and 12 July 2022, they sent letters to 300 residents of Broadwick, Marshall and Carnaby Streets, local Councillors and the local amenity society, informing them that the submitted OMPs had been updated and inviting them to attend drop-in sessions in the proposed venue on 12 and 14 July. These were attended by a total of 13 residents. Residents' reported concerns about the impact of the use reflect those set out in the report.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

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

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

6.2 Neighbourhood Planning

The Soho Neighbourhood Plan includes policies on a range of matters including housing, residential amenity, air quality and climate change, traffic and servicing, green infrastructure, pedestrians and cycling and waste and recycling.

It has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Soho Neighbourhood Area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. 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 later in this report.

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

The application relates to part of the basement and ground floor entrances/exits on Broadwick Street and Ganton Street, within a larger development which occupies the street block bounded by Broadwick Street, Carnaby Street, Ganton Street and Marshall Street. This site lies within the Central Activities Zone, (CAZ), the Soho Conservation Area, the Soho Special Policy Area and the West End Retail and Leisure Special Policy Area (WERLSPA) as defined within the City Plan 2021. The site is also located within the Soho Neighbourhood Area as designated in the Soho Neighbourhood Plan (SNP September 2021).

The building, which is unlisted, is in commercial and residential use. An approved development (13 August 2019) for commercial uses on the lower floors and fifteen reconfigured and new flats on the fifth and sixth floors, is nearing completion. This scheme, which was submitted under the address 72 Broadwick Street, included a restaurant or retail use in those parts of the building which are the subject of the current application.

The current application was originally made under the address 74 Broadwick Street, as the part of the site which is the subject of the current application will now be given a separate postal address. However, the application was revised, resubmitted and readvertised under the address 72 Broadwick Street to enable consultees to compare the current proposals with the approved development.

The area is characterised by ground floor commercial uses. There is a mixture of residential (market and social housing) and commercial uses on the upper floors. In addition to the 15 flats on the upper floors of the application building, records indicate that there are 24 flats in Marshall House, which has a frontage on Broadwick Street; 34 Flats in Stirling Court, 3 Marshall Street; 6 flats at 14 Marshall Street; 34 flats at 16 Marshall Street; 72 flats in William Blake House (1-6 Dufour's Place); 15 flats at 7-9 Dufour's Place; 24 flats at Sandringham Court, Dufour's Place and flats at 16-18 and 20 Marshall Street and on the upper floors of 4A Ganton Street, 2 Marlborough Court, 33 and 35 Marshall Street and 24 and 40 Carnaby Street. As well as at 17 Newburgh Street.

The west end of Broadwick Street, adjacent to the Broadwick Street premises entrance, is pedestrianised, with no vehicular access to Carnaby Street. However, this part of Broadwick Street is open to two-way traffic from Marshall Street. There is no vehicular access northwards from Marshall Street to Regent and Great Marlborough Streets.

7.2 Recent Relevant History

13 August 2019: Permission granted for the demolition and rebuilding of fifth and sixth floors and erection of two storey extension above the UKPN substation fronting Marshall Street, in connection with the use of the part basement and ground for restaurant purposes (Class A3), flexible/alternative use of part first floor as either offices (Class B1), or for up to two restaurants (Class A3), continued use of the part basement, part ground, second, third and fourth floors as offices (Class B1) with flexible/alternative use of part ground, part first, second and third floors as gym (Class D2) and the provision of 15 residential flats with external terraces at fifth floor level. External alterations to the whole

building, including new roof profile, facade alterations, shopfront alterations, painting of existing brickwork, creation of office roof terrace at 6th floor level. Installation of a biodiverse roof, along with new plant and photovoltaic panels (RN: 18/10341/FULL).

The approved plant for the development, including the kitchen extract system, is the subject of conditions, governing noise and vibration, but the hours of plant operation are not restricted as the plant would satisfy noise requirements when operating on a 24-hour basis. Other operational conditions imposed including a requirement for self-closing doors to be fitted to the street entrances on Broadwick Street (serving the basement and ground floor restaurant) and Ganton Street (serving the approved first floor restaurants).

26 January 2021 The Council determined that the relocation of the internal wall between the retail and restaurant unit at basement level to increase the basement restaurant floorspace by 55 sqm; the repositioning of the escape corridor and door at basement level; the re arrangement of the residential stair at ground and first floor level; the repositioning of the restaurant stair opening at first floor level and the variation of Condition 9 to increase the permitted restaurant covers by 15 (to 140) constituted a non-material alteration to the permission dated 13 August 2019.

Several applications have been approved to discharge conditions on the original permission:

26 March 2020: Details of the design, construction and insulation of the ventilation system and associated equipment (20/00576/ADFULL)

15 September 2020: Details of a management plan to show how potential antisocial behaviour beneath the Broadwick Street undercroft would be ameliorated (20/024446/ADFULL)

Measures within this management plan include the installation of cameras which cover the entire of the Broadwick Street undercroft; the installation lighting to discourage antisocial behaviour and monitoring of the site by the Carnaby Estate's 24/7 Security Team, based in a Control Room in Kingly Court. The Management Plan confirms that the Security Team undertakes regular patrols across the Estate. In the event of incidents being noted, officers are deployed, and a Police presence is requested, where necessary.

28 April 2022 Approval of a Servicing Management Plan (SMP) for the development (21/07254/FULL). This confirms that servicing the basement and ground floor restaurant would be serviced from Ganton Street. A Traffic Management Order permits access to Ganton Street between 07.00 and 11.00 on Monday to Saturday only and this is enforced using demountable bollards. The SMP confirms that site servicing would take place between 09.00 and 11.00 to minimise servicing congestion and, on occasion, from the general servicing bay on Marshall Street.

For the approved retail use, the SMP states that servicing would generally be from Carnaby Street or Ganton Street between 07.00 and 11.00 or from double yellow lines on Broadwick Street outside these times. These retail servicing arrangements accord with servicing arrangements for the original retail uses on the site.

The SMP confirms that waste collections would take place on Ganton Street between 07.1100, or outside these hours, where operatives have bollard keys. When necessary, the approved SMP confirms that waste may be transferred in covered wheelie bins to the refuse depot in Dufour's Place in time for the 15.30 collection.

The approved drawings for the original development show a glass crusher within the waste storage area.

16 June 2022: An Operational Management Plan for the basement/ground floor restaurant was approved (22/02497/ADFULL).

It is noted that there is a pending application (by Shaftesbury Estate) for the installation of a CCTV camera at 72 Broadwick Street and on another site, replacing an existing camera on the listed building at 46 Broadwick (which is subject to a temporary permission) in order to provide improved security monitoring in the area.

8. THE PROPOSAL

Permission is sought for the flexible/alternative use of the basement and ground floor unit as either a retail shop or restaurant (Class E), as previously approved, or as a live music venue (Sui Generis). The unit measures 393 m2 including a ground floor entrance lobby on Broadwick Street (24 m2). The premises is also served by an entrance corridor/escape onto Ganton Street as well as communal waste and servicing facilities for the wider development, accessed from Ganton Street.

This is a speculative application by Shaftesbury Plc. However, the revised Operational Management Plan (OMP) has been submitted with input from a prospective tenant, Soho Live Studio One, who operate 'The Piano Bar, Soho' in Carlisle Street, and has run the Soho Jazz Festival since 2015.

Information supplied within the latest draft OMP (for the music venue) confirms that, during daytime hours, the venue would be used as a soundproof stage for use in association with professional film and television production and for other music- related activities,

As detailed above, the 2019 permission, which has been implemented, approved a restaurant or retail use in this space. The premises have not been occupied for either purpose, although the approved works to alter and extend the property have been carried out. The applicants have re-applied for the permitted retail/restaurant use so that, in the event that an alternative use is approved and implemented, they could revert back to the approved retail/restaurant uses without the need to seek further permission. Under a flexible use permission, the applicant could switch between the retail/restaurant and music venue use during the ten-year period following the granting of planning permission. Whatever use was in existence on the expiry of this ten-year period would then become the lawful use of the premises.

The current application has been revised to omit other potential uses falling within Class E (offices, day nurse etc) and other alternative entertainment uses including a bar, competitive socialising venue and a comedy club (all Sui Generis uses). The OMP for the proposed music venue has been revised several times to reduce the premises

capacity and opening hours; to omit (subsequent) proposals for formalised queuing on Broadwick Street and within the rear access/means of escape on Ganton Street and to provide more information regarding proposed measures to reduce the potential impact of the proposed music venue. The approved OMP for the restaurant use has been re-submitted in support of the restaurant proposals.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Overview

The site lies within the CAZ, the Soho Special Policy Area and the WERLSPA (the West End location providing a range of commercial activity including internationally renowned shopping destinations and retail and leisure destinations, including Soho, and numerous tourist attractions). City Plan Policy S1.A sets out Westminster's spatial strategy which seeks to ensure that Westminster will continue to 'grow, thrive and inspire at the heart of London as a world city'. Policy 1 acknowledges the need to balance the competing functions of the CAZ, including those as a retail and leisure destination and home to residential neighbourhoods. The evolution of town centres, including the WERLSPA, is supported to create multifunctional commercial areas to shop, work and socialise. Growth will be delivered by various means, including through commercial-led and mixed-use development to provide significant growth, including in leisure floorspace, alongside new homes.

City Plan policy 2 relates to the intensification of the WERLSPA to deliver an improved retail and leisure experience, a diverse evening and night-time economy and an enhanced cultural offer, while protecting the unique character of central London's distinct and iconic places and heritage assets, including protecting the character and function of areas with clusters of specific uses that have been identified as Special Policy Areas (SPAs), and the wider quality of the built environment.

The supporting text (paragraphs 2.7, 2.9 and 2.10) anticipates that the WERLSPA will absorb much of Westminster's future commercial growth, including the development of retail, food and drink uses and entertainment uses and will protect and support the arts, culture and entertainment offer for, all users, and diversify the food and beverage offer whilst, at the same time, minimising negative impacts on residential neighbourhoods. The West End is recognised as home to the largest evening and night-time economy in the UK, supporting a wealth of cultural, entertainment and leisure uses. To ensure that the area is welcoming and attractive to all communities, the appropriate management and diversification of the evening and night-time economy will be supported by enhancements to its cultural offer e.g., art installations and late-night shopping to help ensure the evening and night-time economy is not dominated by the consumption of alcohol, which can deter others from visiting central London outside of daytime hours. Enhancing the cultural offer will include support for new venues.

City Plan policy 20A requires development within the Soho Special Policy Area to reflect the unique character and function of the area and to demonstrate how it respects, protects and enhances the existing scale and grain of the built environment and the unique mixture of uses present there. Policy 20B includes a list of uses which will be supported, including new live music venues and food, drink and entertainment uses, subject to the consideration of the cumulative impact of new drinking establishments upon the character of Soho's streets and mix

of uses .

Commercial Uses

Under City Plan policy 13, a range of commercial, business and service uses falling within Class E of the Use Classes Order 2020, including shops and restaurants, are supported, in principle, in those parts of the CAZ with a commercial or mixed-use character, including the WERLSPA. Policy 14 supports the intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses, in principle, subject to their impact on townscape and heritage. Proposals are required to enhance and diversify their offer in existing town centres as places to shop, work and spend leisure time, with uses that serve visiting members of the public required at ground floor level. This development is required to be of a scale, type and format that reflects and enhances the role and function of the centre where it is proposed.

The supporting text, paragraph 14.5, 14.6 and 14.7) acknowledges that, to ensure their long-term sustainability, town centres will need to provide a mix of commercial uses to create an environment which increases customer dwell time, whilst also supporting their role as major employment hubs and visitor destinations. It is acknowledged that “.town centre uses such as pubs and drinking establishments, exhibition spaces, cultural and leisure uses, can all help support the future success of these key clusters of commercial activity...”.

The Plan recognises that the WERLSPA, away from the main shopping streets, provides highly diverse land uses, including shops and a variety of entertainment venues. These combine to provide a wealth of attractions that draw in visitors and make a major contribution to London’s world city status. Alongside retail growth, a balanced mix of complementary leisure, entertainment, food and drink and cultural and employment uses is welcomed to help the West End to grow, not only as a global shopping destination, but also as an enhanced leisure and employment destination.

Policy 15 (Visitor Economy) states that the Council will maintain and enhance the attractiveness of Westminster as a visitor destination, balancing the needs of visitors, businesses and local communities, and will support proposals for new arts and cultural uses in designated areas including within the town centre hierarchy and within commercial areas in the CAZ. The City Plan defines ‘predominantly commercial neighbourhoods’ as ‘those areas of the CAZ where the majority of ground floor uses comprise of a range of commercial activity’, as is the case in this part of Soho.

Policy 16 (Food and Drink) also requires proposals for food and drink and entertainment uses to be of a type and size appropriate to their location. The over-concentration of such uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate. The definition of entertainment uses within the City Plan glossary includes uses predominantly, or partly used for entertainment purposes including live music venues.

Policy 11B of the Soho Neighbourhood Plan supports the provision of new live music venues, ‘especially if they host live music and provided that they do not have an unacceptable impact on residential amenity.’ The supporting text acknowledges the declining number of live music venues in the area, attributing this to various factors including commercial priorities, safety and

planning restrictions and increasing rent and rates. It accepts that while there are locations where music performance can, and does, take place there is currently a very limited number of dedicated music venues (such as 'Ronnie Scott's' in Frith Street 'Pizza Express Jazz Room' in Dean Street and 'Ain't Nothing but the Blues' in Carnaby Street) remaining in Soho. The Plan recognises live music as part of Soho's history and heritage, and its links with the creative industries, and aims to help reverse the decline in the number of venues offering live musical events where viable commercial proposals for such uses come forward.

The policy summary set out in Section 2 of the SNP in relation to entertainment uses and the night-time economy states:

"Existing music venues and other cultural uses will be protected. The development of new live music venues will be supported provided they are low impact in terms of noise and how the arrival and dispersal of customers is managed. New Class E and some sui generis uses above, below or adjacent to existing residential use must apply the 'agent of change' principle and demonstrate that they will not have adverse impacts on residential amenity, which cannot be mitigated..."

The SNP also acknowledges that the impacts of large numbers of people arriving and leaving such venues could be very disruptive. While the Plan is supportive of carefully considered growth in entertainment and live music, it states that such uses should be promoted as being "primarily viable as an evening activity rather than a late-night activity" on the basis that the late-night economy in general adds a degree of pressure to local services and can have adverse impacts on residential amenity. Consequently, the SNP considers it vital that venues are well regulated and managed, including through an OMP which includes measures for the quiet dispersal of customers. It acknowledges that there may be locations "on the edge of Soho close to major roads or underground/Crossrail stations" where larger units could effectively handle arrivals/departures and/or later hours. While wishing to support the provision of live entertainment as an important part of Soho culture and identity, the SNP aims to prevent, as far as possible, their harmful impacts through appropriate conditions on hours and capacity and other controls. Where food and drink are proposed, it also promotes the use of conditions to restrict deliver/servicing hours, particularly in relation to the movement of uncrushed bottles during the night, in order to protect residential amenity.

Similarly, policy 12 (Food and Drink) of the SNP requires proposals for new food uses, including music venues, which are "contiguous" to residential uses, to comply with the 'agent of change' principle' and to demonstrate that they will not have unacceptable amenity impacts in relation to noise, vibration and odours.

The Mayor's adopted Culture and Night-time Economy SPG (2017), has been cited by the applicants in supported of their proposals, while this document has been superseded by the London Plan 2021, it provides some useful context and acknowledges the pressures on night-time uses over recent years. It confirms that 'London has lost 103 nightclubs and live music venues since 2007, a decline of almost a third... [and ONS] figures show that 1,220 pubs and bars shut between 2001 and 2016 – an average of 76 a year'. It also states that between 2007 and 2015, London lost 35 per cent of its grassroots music venues.... from 136 spaces to just 88 today. Iconic names like the Marquee Club, the 12 Bar Club and Madame JoJo's ' have closed down. In order to address this decline, the Mayor's SPG states that boroughs should encourage provision for night-time activities in order to expand the cultural offer, recognising the importance and contribution of live music venues.

Policy HC5 of the London Plan protects existing cultural uses and venues and supports the development of new cultural venues in town centres and places with good public transport connectivity. To support this, boroughs are encouraged to develop an understanding of the existing cultural offer in their areas, evaluate what is unique or important to residents, workers and visitors and develop policies to protect those cultural assets and community space.

Policy HC6 of the London Plan requires boroughs to develop a vision for the night-time economy, supporting its growth and diversification and requires local development plans to promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, (which includes the West End) and town centres where public transport such as the Night Tube and Night Buses are available in order to build on the Mayor's vision for London as a 24-hour City. The policy encourages the diversification of the range of night-time activities, including extending the opening hours of existing daytime facilities and seeks the protection and support of evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues. However, the policy also requires the boroughs to take account of the cumulative impact of high concentrations of licensed premises on anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses and to seek ways to diversify and manage these areas.

Related policies

To ensure that any detrimental impacts on existing users of an area are avoided, City Plan policy 7 requires new development to be neighbourly by protecting, and where appropriate enhancing local environmental quality and protecting and positively responding to local character and the historic environment. In considering development proposals, the Council will take a balanced approach that considers the specific site location and context as well as the merits of the proposals including the consideration of the wider benefits of a scheme against impacts on the surrounding area.

The Plan recognises that factors such as polluted air, excessive smells, poor waste management, noise and strong vibrations are examples of environmental impacts that have an adverse impact on quality of life and health and well-being. Development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours. It confirms that the Council will place the burden on the applicant to ensure mitigation measures are included to safeguard future local amenity and to ensure that development does not cause existing nearby uses from having to curtail their activities.

The Plan (paragraph 7.5) recognises that there are several areas known for particular functions and uses, attracting visitors and businesses e.g., within the Soho SPA, where relevant policies are designed to protect the uses and character of these areas.

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents. Developments must prevent the adverse effects of noise and vibration, with particular attention to minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses, minimising noise from plant and internal activities and from servicing and deliveries. In assessing the impact of development proposals, the Council will apply the 'Agent of change' principle which places the burden on the applicant to mitigate negative environmental impacts and ensures development does not cause existing nearby uses from having to curtail their

activities.

Proposed uses and impact on amenity

In support of their proposals, the applicants have cited the aforementioned development plan policies which promote commercial growth within the CAZ and the WERLSPA and acknowledge the role of food, drink and entertainment uses in supporting Westminster as a place to shop, work and spend leisure time, in enhancing the visitor and night-time economies.

The application was originally supported by a generic OMP for all of the uses proposed, with opening hours from 08.00 until 02.00 the following morning on Monday to Wednesday; until 03.00 the following morning on Thursday to Saturday and until midnight on Sunday, although it was stated that the restaurant use 'would be likely to close earlier'. This document has now been superseded by separate OMPs for the proposed restaurant and music venue.

Restaurant use

The applicant acknowledges that any future restaurant operator will need to carefully consider the management of customers. Respondents, including the Soho Society have raised no objection to the proposed restaurant use subject to appropriate controls although one local resident has expressed concern about the potential impact of the restaurant uses approved as part of wider concerns about various aspects of the approved development on the wider site.

The applicants have now submitted the approved OMP for the approved restaurant use in support of the current restaurant proposals. As previously approved, the proposed restaurant opening hours would be 08.00 - midnight (Mon-Thurs); 08.00 - 00.30 (Fridays and Saturdays) and 08.00 - 23.00 (Sundays and Bank Holidays), with last access to the restaurant one hour before closing time. The restaurant capacity would be for a maximum of 140 customers.

Staff and customer entrance/exit would be on Broadwick Street. The entrance doors will be fitted with a self-closing mechanism and the doors will be managed by a member of staff to ensure they are not fixed/held open and remain closed other than for customer access/egress.

The restaurant will operate a reservations system but will keep some tables free for 'walk in' customers. The ground floor entrance lobby (capacity 20 people) will be used for customers awaiting a table. No external queuing will be permitted.

Other obligations include the presence of front of house staff, and door supervision; staff training in management procedures, security, including the installation of CCTV systems (and links with the Shaftesbury Estate's wider security operation for the area); the operation of a staff and customer smoking policy, the management of customers outside the premises, measures to encourage customers to use public transport or taxis and to order taxis from Regent Street or Great Marlborough Street; the operation and management of a complaints procedure and the provision of a dedicated complaints hotline during opening hours.

Servicing and deliveries will generally take place from Ganton Street between 0700 and 1100 hours. The operator will endeavour to use delivery companies which operate electric vehicles and use delivery trollies with rubber wheels. Restrictions are imposed on the movement of waste or glass within the premises between 23.00 hours and 07.00 hours the following day. Waste management for the original development includes a bottle crusher. A dedicated staff member will oversee servicing and deliveries and liaise with all service providers and suppliers.

The restaurant will utilise the approved restaurant extract and ventilation plant under the original permission.

Subject to previous conditions relating to the approved/proposed restaurant use and a requirement that the proposed restaurant is operated in accordance with the submitted restaurant OMP, the proposed retail and restaurant uses are considered acceptable in land use terms and in terms of their impact upon the environmental quality of the area and the amenity of neighbouring occupiers.

A condition is recommended to restrict the approved (Class E) uses to the retail and restaurant uses applied for to prevent the introduction of alternative Class E uses e.g., offices, a day nursery etc which could introduce a ground floor use which do not serve visiting members of the public or could have additional adverse amenity or highways implications.

Live music venue

The application also involves the flexible/alternative use of the application premises as a live music venue (Sui generis) .

As stated above, the original application was supported by a generic OMP for all of the entertainment uses proposed, with a maximum capacity of 512 customers and opening hours from 08.00 until 02:00 on Monday to Wednesday: until 03:00 on Thursday to Saturday and until midnight on Sundays and Bank Holidays

A separate OMP has been submitted for this use, which has been amended and updated. The finalised draft OMP has been the subject of further consultation. Additional clarifications have since also been provided regarding the nature of the proposed use.

The OMP is based on the premise that the venue would operate as a jazz club with three shows on most days. During daytime hours, the venue would provide a soundproof stage for use in association with professional film and television production (capacity 40) and the building (apart from the ground floor box office) would generally be closed during the day. The daytime use could also include other music related educational/community activities and audiences for productions when, by invitation only, a limited number of members of the public could attend (capacity 80). The example given is use by the National Jazz School.

The applicants have advised that it would not be possible to make any further changes to the OMP without significantly impacting on the viability of the proposed use. Although this is a speculative proposal, the finalised OMP has been drafted in conjunction with a prospective tenant. – who operates premises in Carlisle Street and organises the Soho Jazz Festival. It is important to note that this is not the applicant and permission could not be made personal to them. However, obligations within any approved OMP regarding management issues, hours of use, capacity etc. would apply equally to any prospective tenant. Should any future operator wish to change any material operational details, a further application would be required to amend the OMP and any relevant conditions, as appropriate.

Hours of use and capacity

The premises capacity has been reduced to a maximum of 295 customers. (The submitted fire reports acknowledge that , based on the submitted plans, the maximum capacity would be for 256 customers and that further internal works would be required for the proposed capacity of 295

customers to be achieved in fire safety terms. This is acknowledged by the applicants).

The proposed opening hours are from 9.00 until midnight on Monday and Tuesday; until 01:00 the following morning on Wednesday and Thursday; until 02:00 the following morning on Friday and Saturday (and Sundays before Bank Holidays) and until 23:00 on Sundays and Bank Holidays. Last entry to the music venue would be one hour before closing time.

A maximum capacity 295 customers at any time (including ticket holders and members, by invitation). The venue will operate tracking of tickets/capacity on the doors so capacity can be calculated throughout the duration of the show. A member is not guaranteed entry if the venue is full.

The premises would primarily operate as a sit-down venue for live concerts in a cabaret setting. The late show performance would be a more casual/cabaret type performance than the earlier shows, and it is anticipated that the audience will disperse throughout the show as there is no finale/encore.

The OMP sets out the following performance schedule, details of which have been further clarified by the applicants, who now confirm that there will be no late show on Mondays, Tuesdays or Sundays.

Day	First show	Second show	Third show
Monday	16.45-19.30	20.00-23.00	n/a
Tuesday	16.45-19.30	20.00-23.00	n/a
Wednesday	16.45-19.15	19.45-22.15	22.45-00.30
Thursday	16.45-19.15	19.45-22.25	22.45-00.30
Friday	16.45-19.15	19.45-22.30	23.00 – 01.30
Saturday	16.45-19.15	19.45-22.30	23.00 – 01.30
Sunday	14.00-16.45	17.00-20.30	n/a

The applicants have advised that:

“The above sets out the times that people would be expected to arrive for the first and second shows. The third (later) show would expect people to arrive FROM the start time indicated, as this is more of a ‘come and go’ cabaret style show and doesn’t have a fixed performance time.”

They consider that the 30 minutes between the end of one performance and the start of the next (except for the Sunday daytime shows) would provide sufficient time for patrons to leave and enter the premises without causing any dispersal issues. They have also advised that the actual performance times would also be slightly shorter than the allocated show slots, which would give ‘further flexibility’

These revised arrangements should be incorporated within an updated OMP, which would be secured by condition.

Venue access/exit:

Daytime access/egress and entry to the early shows and main shows will be via Broadwick Street. Egress from these shows is via both Broadwick Street and Ganton Street. All access to the venue will be via Ganton Street after 23.00 hours. No egress will be permitted via Broadwick Street after midnight and signage will be displayed to reinforce this. (These terminal hours for

the use of the Broadwick Street entrance are the same as or earlier than the terminal hours for the approved restaurant use, which would use Broadwick Street as the sole entrance/exit, except on Sundays when the restaurant would close at 23.00). The proposed use of the Broadwick Street entrance until midnight on Sundays is considered reasonable given the proposed management arrangements, although it is noted that no final Sunday show is now proposed. The hours of use of these entrances/exit would also be secured by condition. .

There will be no formal external queuing. Due to the ticketed nature of events and the interval between performances, it is anticipated that there will be limited dwell time at the entrances. The internal ground floor lobby (Broadwick Street) can accommodate up to 20 customers. The basement lobby area can also act as a holding area (capacity 80)

Tickets will be scanned to ensure a speedy entry process. Customers will be notified via email/SMS upon purchasing their tickets of the access procedures etc .

Noise

The OMP confirms that no amplified music from within the premises will be audible outside the premises or through the building structure and this would be the subject of conditions. Signage, and noise monitors will be placed at exit points to remind customers that there are residents in the vicinity. The venue operator will provide an annual report of these monitor readings to any party on request.

Performers' Equipment Delivery and Removal

The majority of the equipment required for performances will be supplied and already installed within the premises. However, it is anticipated that, for some performances, specialist equipment may be required to be delivered and removed from the venue. This equipment will be delivered via Ganton Street in accordance with the general servicing arrangements and vehicles will depart as soon as practicable. The removal of equipment after an evening performance will be completed the following day in accordance with the servicing hours. Drivers will be requested to switch off engines and complete the tasks as quietly as possible to reduce disturbance to residents.

Other proposed measures within the OMP relating to security/monitoring of the site area, to discourage loitering; door supervision, the installation of self-closing doors to the Broadwick Street entrance; the presence of staff to greet customers and to monitor building entrances; the provision of adequate staff training in all management procedures; the operation of a smoking policy; measures regarding travel to and departure from the premises, including directions to taxis on Regent Street and Great Marlborough Street (the premises will not order customer taxis); servicing hours, deliveries and the movement of waste and bottles within the building; the installation of CCTV and links with the applicant's wider security systems for the area and the implementation of complaints procedures. These measures reflect those in the approved restaurant OMP.

It is noted that the music venue OMP also includes an obligation that any external areas used for queuing will be cleaned daily. However, no external queuing is now proposed and this needs to be amended in the updated OMP.

Letters of Support

The Council has received numerous letters of support for the proposed music venue. (Objectors have noted that many of the scheme's supporters appear to reside outside of Soho/London.

Concern has also been expressed that many letters of support were submitted on the same day, although this is not unusual and could, for example, be as a consequence of people being made aware of the application when attending another live music performance). Supporters include musicians, local business and property owners and the Soho Business Alliance. Many support the introduction of a new jazz music venue and consider that customers attending jazz performances would be likely to be 'more mature' patrons who would be more likely to be respectful to neighbouring residents and unlikely to be involved in any form of anti-social behaviour. Others welcome the introduction of a new venue run by an established operator (the team behind the "Piano Bar, Soho",) as this venue is well run and contributes to the musical/cultural life of the area. They consider the proposed use to be markedly different in character from many other mainstream bars and other venues, where the focus is on alcohol consumption.

Supporters consider this to be a well thought out application and that the use would enhance the historic character and function of Soho as a destination for high quality entertainment, particularly music, and will revitalise the area's nightlife, provide employment for professional musicians and venue staff, nurture a new generation of musical talent and help revive a sector disproportionately affected by the pandemic. They refer to policies within local development plans and the London Plan which support the provision of live music venues. They consider that the use would encourage a diversification of uses in the area (more recently characterised by new bars, gyms and restaurant chains) and would help reverse the decline in the number of dedicated live music venues. Others make the point that the area has historically been characterised by a juxtaposition of late-night entertainment and other uses and consider that the amenity of the area and neighbouring properties, including flats in the vicinity of the site, would be adequately safeguarded through imposition of appropriate planning conditions, licensing regulations and the robust management controls proposed.

More recently, letters of support have been received on similar grounds from current and former local residents (one of whom has withdrawn their previous objection). One local resident considers that the applicants have taken residents' initial concerns seriously e.g., by significantly reducing the proposed capacity and that they have worked hard to address concerns about getting customers of the neighbouring venue (cited by objectors) into their taxis and way from the area.

Letters of objection

A similar number of objections has been received from local residents, (primarily from Marshall House, Stirling Court and Dufour's Place), with multiple letters from several objectors. Objections have also been received from the Ward Councillors (former and current), and from the Soho Society on the grounds that the proposals would have a material adverse impact upon the environmental quality of the area and the amenity of neighbouring residential properties contrary to local plan policies relating to the introduction of new entertainment and food and drink uses and policies design to safeguard the amenity of neighbouring residential properties.

Some objectors consider that the developer should be required to implement the approved restaurant or retail use and consider that the current proposals to introduce a different use to be 'underhand'. It is not unusual for a developer to secure permission for one use and to subsequently seek permission for alternative uses in order to introduce more flexibility and increase the 'marketability'. The applicants are at liberty to apply for a number of different uses, the acceptability of which will be considered on their merits. The City Council cannot require an applicant to implement an approved use

The original application was submitted during the pandemic and some respondents considered that it would be premature to approve a new venue when existing venues were still closed. Others believe that, following the pandemic, the Council should not be granting permission for large-capacity uses. Although most venues have re-opened, the potential effects of Covid19, or similar, would not be a reason for withholding planning permission. Any future operator would be required by any relevant Government restrictions in place at the time.

Lack of demand and viability of proposed use

A number of objectors contend that there is no need for a new venue in this location, that there is plenty of choice in the area for late night entertainment and that the area has reached saturation point for nightlife/entertainment uses. One objector has referred to the existence of 'many empty buildings with the relevant permission in place' It is unclear to which premises the objector is referring to, as none are identified, but it is acknowledged that any such alternative sites might not meet the operational requirements of the applicant or prospective tenant(s). Others contend that there is unlikely to be demand for a jazz club, similar venues have folded for economic reasons, and that the use would be unviable or that future operators are unlikely to abide by proposed controls e.g., restrictions on capacity.

Evidence submitted in support of the application and, local development plans, including the SNP, and the London Plan all acknowledge that there are few live music venues in the area, and support their introduction in land use terms. The likely level of demand for particular use, and commercial viability, are matters of judgement for the applicant and are not reasons to withhold planning permission. While this is a speculative application, which is not unusual, the latest OMP has been drafted in conjunction with a potential operator. The applicants have confirmed that the revised hours/capacity represent the 'minimum' which would make the venue commercially/operationally but that no further changes could be accommodated without affecting the venue's ability to operate.

Any proposed planning conditions, and the measures detailed within any approved OMP, would have to be complied with by any future operator and any material changes proposed would require further planning approval. There is no reason to believe that any future operator would not abide by conditions imposed, and permission could not be withheld on these grounds. Any reported breaches of the permission would be investigated by the Planning Enforcement Team.

Nature of the proposed use

One objector has referred to the use of the premises as a 'nightclub with live music'. Others, including the Soho Society, make the point that there is no guarantee that the venue would operate as a jazz club, targeting older audiences, and that the premises could change to a venue for different type of music/younger audiences at any time, including as a 'raucous nightclub club' with increased noise levels. However, a live music venue is a separate sui generis use, and permission would be required for the use of the premises as a nightclub or any materially different form of entertainment use.

One objector notes that the OMP refers to 'primarily' live performances, on the basis that this would not rule out performances by DJs or recorded music. The inclusion of the phrase 'primarily' is considered likely to be a reference to the proposed daytime use of the premises for music production and other uses. Providing that the premises were adequately soundproofed, and internal noise levels controlled, it is not considered that occasional 'non live' performance would have a material impact on neighbours' amenity. However, the primary proposed use is as

a 'live music venue' and the submitted OMP includes proposals for three live music performances on most days. Any permission would be subject to a condition requiring the OMP to be complied with and any proposed material change to the OMP would require further planning approval as would the principal use of the premises as anything other than a 'live music venue'.

Several objectors have referred to proposals to extend the premises and increase the site capacity or to the potential future expansion of the premises within the basement of adjacent retail units. The current application does not include amendments to increase the size of the premises or capacity beyond what was originally proposed.

One respondent has expressed concern that the OMP includes some ambiguous wording e.g., 'likely', 'unlikely', 'predominantly'. Some similar wording has previously been omitted from the draft and replaced by more robust phrasing. An OMP is intended to be a day-to-day management framework which will give both the operator and third parties certainty over what has been permitted. However, it is also acknowledged that applicants will include such wording to cover 'one off' or very occasional events/operational emergencies so that they are not in immediate breach of the terms of any approved OMP in these emergency situations. The wording of the draft OMP is considered to cover such eventualities but any finalised OMP should be drafted to remove potential ambiguities as far as possible.

Impact on the character of the area

A number of objectors contend that there is no need for a new venue in this location, as there is plenty of choice in the area for late night entertainment and the area has reached saturation point for nightlife/entertainment uses. Objectors consider that the development would upset the residential and commercial balance in the area. Other objections refer to the impact of the proposed use upon the character of the conservation area.

As set out above, Soho has, historically, been associated with the arts and live music uses, and the reintroduction of such uses, and the diversification of the night-time economy, is encouraged by the London Plan and local plan policies. The proposal is for a specific type of entertainment use, which is encouraged in principle. This part of the site was previously in retail use and has extant permission for a restaurant use – a different form of entertainment use. Consequently, the balance of commercial and residential uses would be unaffected by the introduction of an alternative commercial use on the site. In these circumstances, it is not considered that the use would have an adverse impact upon the character or balance of residential and commercial uses in the area and these objections cannot be supported.

Impact of the use/amenity

The site is located in an area which includes several high-density residential developments including Marshall House, Stirling Court, William Blake House, Dufour's Place, including two blocks of social housing which contain many young families, and the fifteen new/reconfigured flats on the fifth/sixth floors of the application premises. In addition, there are residential uses at 16-18 and 20 Marshall Street and on the upper floors in Ganton Street. Objectors consider that the proposed introduction of a late-night live music venue is unacceptable in this context or, whilst supporting the principle of the use, consider this to be the wrong location. One respondent has commented that the proposed customer turnover/capacity would be markedly different in character and impact from the approved restaurant. Others consider that opening should be limited to 23.00 as an evening, rather than a late night, venue would discourage drinkers. However, as detailed above, the applicants have advised that the opening hours could

not be further reduced.

Objectors note that the venues cited by the applicants as examples of similar uses in the area, are located in a busier location to the west of the site and that the proposals would encroach onto the more 'residential Broadwick Street/Marshall Street axis'. Others refer to the impact of other late-night uses in the area and consider that the scheme would have an adverse cumulative impact on the amenity of neighbouring residential properties contrary to development plan policies. Objectors also refer to the impact of a further licensed premises in high stress zone, although there is extant permission for up to three restaurants on the wider site, one of which would potentially be replaced by the proposed music venue.

The Soho Society has recently reiterated its earlier objections and considers that the revised OMP does not address its concerns about the potential for additional noise nuisance in this 'strongly residential' location, which is already affected by late night activity. The Society disagrees with the view of some supporters of the scheme that late night noise is part of the areas character and heritage and believe that there has been a marked increase in noise nuisance in more recent years. They consider that the applicants have shown a lack of awareness of residents' experience, demonstrated by the number and strength of objections received. Until residents themselves can acknowledge that there has been a sustained improvement in their amenity and the environmental quality of the area, the Society considers that the proposals would only 'make a bad situation worse'.

The Society also refers to the SNPs policies regarding new live music venues which, while supportive of new venues, states that this type of use is 'primarily viable as an evening activity rather than a late-night activity'. Notwithstanding their fundamental objection, they believe that any permission should restrict premises opening to Core Licensing Hours as later opening would be unacceptable in this location. The Council's Statement of Licensing Policy (effective from October 2021) designates entertainment stress areas (including the application site) and sets out the Core Hours Policy (HRS1) for various uses including 'music and dance venues' (10.00 to 23.30 on Monday-Thursday. 10.00 to midnight on Friday and Saturday and noon to 22.30 on Sundays and noon to midnight on Sundays immediately prior to a bank holiday). Applications for uses outside these hours will be considered on their merits, subject to other relevant licensing policies, which include policies relating to combined uses and venues where the primary function is for performances in front of a live audience, including concert halls. However, it is important to note that these policies relate exclusively to Licensing decisions. Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations. While the November 2016 City Plan included a specific policy relating to stress areas, and the previously saved UDP policies referenced core hours, the current Westminster City Plan 2019-2040 does not include such policies or references.

One respondent has referred to the potential adverse impact on the open entrance to the Samaritans office, which is set within a rear courtyard with gated access next to the Marshall Street entrance to Marshall House. This facility operates between 09.00 and 21.00 hours and it is not considered that this use would be materially affected by the proposals, particularly late-night activities.

Premises access/use and management of entrances and external areas

Objectors have expressed concern that the late-night use of the Ganton Street entrance/exit is not mandatory. The use of the site entrances has been clarified within the updated OMP which confirms that all access to the venue will be via Ganton Street after 23.00 hours and that no

egress will be permitted via Broadwick Street after midnight. (As detailed above, the proposed hours of use of the Broadwick Street exit are the same as that for the restaurant use, except for Sundays when the exit would be in use until midnight instead of 23.00 hours). An objection has been received on the grounds that directing late night activity to Ganton Street, to safeguard the amenity of flats in Broadwick Street, does not take account of amenity impact on properties to the north of the site, although it is noted that few comments have been received from occupants in this location.

Objectors have expressed concern regarding noise disturbance from large number of customers queuing outside the premises, particularly beneath the Broadwick Street undercroft, and have queried whether waiting customers can be accommodated inside the building considering that, if the location is not suitable for external queuing, this is not the 'right' premises. There are also concerns that the 'fragmented' entrance arrangements detailed in the OMP are likely to confuse customers, (it is assumed that this objection is concerned with the potential formation of queues) and that the proposed ticketing arrangements are 'not reassuring'. Others have expressed concern about the adequacy of management of the access/exit and believe that the proposed access arrangements are inadequate given the potential numbers arriving for timed events. Objections have been received relating to potential noise outbreak from the venue via opening doors and noise from opening/closing doors, and the absence of an entrance lobby.

Formalised queuing beneath the Broadwick Street undercroft (and within the rear access slope) is no longer proposed due to officers' concerns regarding highway obstruction. The finalised draft OMP confirms that no queuing will be permitted outside the premises. and that customers will be ushered quickly into the venue and will wait either in the ground floor lobby area, or in the basement bar/holding area. The approved 2019 permission reserved details of an OMP for the management of the Broadwick Street undercroft, and this has been approved in relation to the wider development. There are also pending proposals to introduce CCTV cameras on the building to improve the monitoring of the area.

The Broadwick Street entrance would be fitted with self-closing doors, and this would be secured by condition. The entrance would be supervised to ensure that they are not held open. The Ganton Street entrance comprises the street entrance and a long ramp leading the rear access to the venue, which is located towards the centre of the street block. Both entrances would be managed by security staff who would be responsible for ensuring that noise levels are kept to a minimum. The OMP confirms that adequate staff numbers would be employed to manage the premises and the precise numbers of door staff are often a condition of the Premises Licence. While the comment regarding the absence of double doors/entrance lobbies is noted, self-closing doors are proposed and given the aforementioned proposals for the management of this entrance, it is not considered that the absence of an entrance lobby would have a material impact neighbours' amenity. It is likely that the creation of a lobby within the Broadwick Street entrance would reduce the available holding space inside the entrance.

The proposed ticketing arrangements have been formulated in conjunction with an existing venue operator and it is therefore assumed that the arrangements would be 'workable'. The access arrangements for each show will be confirmed when tickets are sold. Given the period of time allocated between shows, it is considered that there will be ample time for customers to enter/leave the premises without queues forming.

Objectors have also raised concerns about noise disturbance from smokers outside the premises and note that no dedicated smoking area is proposed and no policy, beyond asking

customers not to smoke near the entrance doors (which are the same measures detailed in the approved restaurant OMP). There is no private external area which could serve as a customer smoking area, and it would not be acceptable to dedicate a private smoking area on the public highway. . In this busy central location, it is not considered that occasional smokers from this venue are likely to have any greater impact on the amenity of the area than smokers outside other commercial premises in the area. The approved management OMP for the undercroft details the applicant's proposals for enhanced CCTV monitoring and security patrols around the site, which would identify issues with smokers outside the premises. One respondent has queried how customers who have been 'barred' from the venue would be prevented from re-entering the premises with returning smokers and considers that the proposals have not been 'properly thought out'. It is considered that any such situation could be effectively managed by experienced door staff and does not need to form part of the OMP.

Traffic noise and disturbance

Marshall House residents state that noise disturbance in Broadwick Street, caused by customers leaving various late-night venues and by taxis and pedicabs, is exacerbated by the fact that the street is relatively narrow and that noise, funnelled upwards between the buildings, is evident even when the double-glazed windows to bedrooms and living rooms are closed. One objector has queried whether the applicant would be willing to pay for the installation of double glazing for other potentially affected residential properties, but this is not proposed and could not reasonably be required.

Many objectors consider that local road restrictions contribute to noise levels. The western end of Broadwick Street (where there is no vehicular access onto pedestrianised Carnaby Street) is open to two-way traffic. Additionally, there is no vehicular access northwards from Marshall Street, towards the more commercial Great Marlborough and Regent Streets so that all traffic is channelled southwards from Marshall Street. Consequently, vehicles manoeuvre at the 'closed' ends of Broadwick Street and Marshall Street, immediately outside of objectors' flats, reportedly frequently double-parking with engines running, lights and loud music playing. As there is more limited access to public transport available after midnight, objectors consider that the proposed use is likely to attract more private vehicles/taxis to the area. Some respondents consider that all premises access/egress should be via Ganton Street, to prevent a log jam of taxis at the closed end of Broadwick Street. Others consider that late-night use of the Ganton Street entrance/exit would do little to alleviate noise issues as taxis are still likely to pick up from Broadwick Street as staff can do little to control customer routes once they have left the venue.

While the submitted OMP states that customers will be directed towards Regent Street and Great Marlborough Street to hail cabs or order taxis ordered on a mobile 'apps', objectors believe that they would be extremely unlikely to walk the longer distances to these more wider commercial streets, which are open to two way traffic, but will expect to be picked up from the nearest roadside points on Marshall Street or Broadwick Street., adding to the numbers of manoeuvring vehicles.

Objectors have referred to similar assurances to those made in the OMP regarding taxi 'pick up' points made by the operators of a nightclub at 15-21 Ganton Street – a building which is owned by the applicants. This use operates until 03.00. One objector has referred to a use being approved in in 2008 subject to a requirement that departing customers would be directed to Regent Street. However, available planning records do not show a planning permission for a basement nightclub use, although this use would appear to be longstanding. The current premises licence (2018) does not include any such requirements (but does include conditions

requiring the taxi order point to be fully manned, door supervisors to undertake patrols outside of the premises, and for staff to require patrons to leave the premises quietly and for any car company used by the premises to require vehicles to park legally and not obstruct the highway).

Objectors advise that customers from this venue pick up taxis at the north end of Marshall Street. One resident has provided a log of reported disturbances associated with the operation of the same (named) venue and footage of taxis in Marshall Street to demonstrate that, in practice, venue staff do not have any real control over customer behaviour once they have left a venue or do not operate venue protocols. On this basis, objectors have 'no faith that the applicant will abide by any conditions imposed or proposed by them in relation to current scheme'. They consider the OMP to be little more than a 'wish list and consider that it should not fall to local residents to monitor the behaviour of the future customers and that permission should not be granted until existing issues with other venues on the Estate are resolved.

Although objectors' concerns about the OMP being a 'wish list' are noted, the SNP confirms that applicants would be expected to submit such a document in support of an application for a new entertainment use. There is no other means by which they can demonstrate their intentions in advance of the premises opening or demonstrate that the venue would be 'low impact'. In these circumstances, it would not be reasonable to withhold permission on the basis that applicants/tenants would not abide by the measures set out within any approved OMP.

In response to specific concerns about the impact of taxis in the area, the applicants have also been in discussion with the main taxi 'app' operators. The applicants have confirmed that a 'geofencing' system was introduced in the summer which prevents people from ordering taxis from the street on Marshall Street and the adjacent sections of Broadwick and Lexington Streets. In addition to this, Carnaby Security now patrol the area at least twice per hour throughout the night, tackling any issues which they encounter. Alongside this, the applicants have confirmed that Shaftesbury's late-night venues take their dispersal responsibilities seriously and will encourage people to leave existing premises via alternative routes as well as providing marshals to ensure that customers leaving premises in residential areas do so quietly.

Two local residents have reported a recent improvement (one verbally and one in withdrawing their previous objection). However, other local residents contend that the geofencing system 'does not work' and that the area is still subject to late night/early morning noise disturbance from taxis and pedicabs. It is noted that measures undertaken by third parties such as the taxis companies are ultimately beyond the applicant's control, and they cannot guarantee that the cab companies would agree to retain 'geofencing' in the longer term (although pick-ups from Great Marlborough and Regent Street would certainly be less problematic in terms of the amount of manoeuvring involved). Notwithstanding this, the applicant's attempts to resolve, premises management issues raised by the objectors are acknowledged and, subject to the proposed management controls, it is not considered that the introduction of an alternative entertainment use on this busy central location would have a material impact on residents' amenities or local environmental quality when compared with the approved scheme and existing levels of night-time activity in the area.

Impact of deliveries/servicing

Objections have been received regarding potential noise disturbance and pollution from servicing of the premises, including noise from servicing trollies and vehicle engines and from the movement of glass bottles, particularly in the early hours of the morning. Respondents consider that servicing hours should be restricted to avoid this time.

In accordance with the approved OMP for the restaurant use, site servicing will take place from Ganton Street, which provides access to the communal servicing and waste areas on the wider site, between 0700 and 11.00 hours each day, in accordance with local restrictions, Occasional/emergency loading may also take place from an on-street loading bay in Marshall Street, the use of which is unrestricted. The submitted draft OMP also includes obligations to prevent the movement of waste/bottles, which would be audible outside the premises, between 23.00 and 07.00 hours. The approved development includes a glass crusher within the waste storage area. The OMP also confirms that the operator will engage with suppliers who use electric vehicles and that goods will be transferred using trollies with rubber wheels to reduce the potential noise impact. In these circumstances, it is not considered that site servicing would have a material impact upon the amenity of neighbouring occupiers when compared with the approved restaurant use.

The Council's Environmental Services Officer made a holding objection to the original application on the grounds that that the original submission proposing a mixture of entertainment uses, with a maximum capacity of 512 customers, with a latest terminal hours of 03.00 hours, did not address how the use would be managed to prevent unacceptable disturbance to occupants of neighbouring properties, particularly residential buildings in the vicinity of the site. Subsequent comments were made regarding incremental changes to the scheme.

The ESO has reviewed the revised application and has raised no objection to the proposals subject to conditions, considering that the proposed measures set out within the latest OMP strike a reasonable balance between the operational needs of the business and the need to safeguard the amenity of neighbouring occupiers, particularly residents. (It is noted that part of their response erroneously refers to the bar, competitive socialising and comedy club uses which have been withdrawn from the application) .

With regards to the submitted OMP, the ESO has recommended that after a period of following the first occupation of the premises as a music venue, the applicants should be required to submit a monitoring report to the Council (following appropriate consultation with local residents and other occupiers in the vicinity of the premises) to demonstrate the effectiveness of the OMP and setting out details of any remedial measures proposed to address any issues identified. The Council would not ordinarily impose such a condition on a planning permission, having assessed the likely effectiveness of an OMP before making any decision to grant permission for a use. The proposed condition has the effect of a granting a temporary planning permission, and requiring the agreement of third parties, it is unlikely that any operator would commit to investing in the property on this basis. It is considered that any issues identified after the commencement of the use, could be satisfactorily resolved under the complaints procedure detailed in the OMP.

Anti-social behaviour

Objections have also been received on the grounds that the proposed music venue use would exacerbate existing problems with anti-social and criminal behaviour (street fouling, vandalism, drug dealing etc.) in the area. Whilst these concerns are noted, it is not considered that the proposed use has any more or less potential to be associated with this type of behaviour than any other entertainment use, and it would be difficult to attribute any such behaviour to customers of the proposed music venue. Consequently, objections received on these grounds could not be supported. Again, it is noted that the Metropolitan Police Designing Out Crime

Officer has not expressed any concerns regarding the principle of the proposed use.

9.2 Environment & Sustainability

This application is for a change of use only and is not considered to raise any additional energy/sustainability issues when compared with the approved scheme, which is near completion.

9.3 Townscape, Design & Heritage Impact

No external alterations are proposed.

9.4 Residential Amenity

The general impact of the proposed use in relation to noise generated outside the premises is discussed in section 8 above.

Noise & Vibration and Air Quality

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents and to prevent the adverse effects of noise and vibration, including from plant operation and internal activities and from odours.

Objections have been received on the grounds that the proposals would result in increased smell nuisance, although the source of this potential nuisance is not specified, and potential noise outbreak through building vents. It is not considered that the development, which will utilise the approved ventilation/extract system for the restaurant would have a material impact on levels of smell nuisance or increase the potential for noise outbreak though the ventilation system when compared with the approved use/scheme. It would be in the applicant's best interest to ensure that the amenity of occupants of flats on the upper floors of the building would be protected in this regard. However, a condition is recommended to prevent noise from within the premises being audible outside the premises.

One objector has requested that plant associated with the use should not be permitted to operate after 01.00. However, the development would utilise the plant that has been installed in association with the approved use. Information submitted in supports of the original application demonstrated that the plant would operate in accordance with standard plant noise conditions during both daytime and night-time hours (between 23.00 hours and 07.00 the following morning) and it was not therefore necessary to restrict the hours of plant operation. Consequently, the operation of the plant during the later opening hours proposed would have an adverse impact upon the amenity of neighbouring properties, including the flats with the original development.

A further objection had been received on the grounds that the proposals would have an adverse impact on local air quality as a result of increased traffic including taxis and servicing vehicles. Again, it is not considered that the proposal is likely to have any more significant impact on local air quality than the approved uses as it is likely that any taxis serving the venue will already be operating in the area. As detailed above, the OMP confirms that the operator will seek to engage with delivery companies which use electric vehicles .

Noise transference/vibration impact on neighbouring flats

Several occupants of Marshall House flats have objected to the application on the basis of the potential impact on their properties due to operational noise and vibration through the building structure. One objector originally expressed concern that the submitted plans were inaccurate and/or that the proximity of Marshall House to the proposed venue was unclear, although these concerns appear to have been satisfied following clarification by the applicants.

The basement of the proposed venue is located partly beneath the application building and partly beneath the Broadwick Street carriageway. Its southern perimeter wall sits, approximately at the centre point of the pavement lights (which are filled in) on the southern Broadwick Street pavement. The plant room for the wider 72 Broadwick Street development lies to the south of ground floor of Marshall House is in commercial use at this point, with the flats located at first floor and above.

The application is accompanied by an Acoustic Report and supplementary statements which assess potential noise breakout from the restaurant or live music venue uses in relation to the residential units located on the fifth floor of the application site and in Marshall House. The report includes a proposed form of words to be included in a tenant's handbook relation to the control of noise and vibration from the premises, including from internal activities and the use of mechanical services to the Marshall House flats. It requires that there is no disturbance created, that noise levels do not exceed the criteria agreed between the landlord and tenants and sets out maximum noise level, with separate levels for mechanical services and internal activities in relation to neighbouring uses. It also includes requirements in relation to vibrations from mechanical services in relation to 'internal occupied areas' but does not include any reference to vibration from internal activities.

The report confirms that there is potential for noise/vibration transference from the venue to the upper floors of the application building and to Marshall House and anticipates that there would be a similar noise path to flats on the first floor of Marshall House as to the upper floors of the application site, but with 'slightly greater sound insulation than within the same building'.

The report states that the dominant noise path from a basement music venue to these residential premises is 'more likely to be a flanking path from the slab separating the basement and ground and through the core/façade structures' which it understands to be 'generally concrete based'. The report confirms that a 'box-in box ceiling with independent wall lining, attached by acoustic hangers on structural elements, would be required as a minimum to minimise transmission through this flanking path'.

With the aim of demonstrating that the premises are suitable for the proposed use, the report includes an outline calculation of noise transmission through the ceiling of the proposed music venue through the concrete structures on the upper floors of the building and to Marshall House and includes details of an example ceiling construction for a 'box in box' construction. The report includes details of typical sound reduction achieved by the proposed mitigation measures including the 'box in box construction' (formed in sound resistant plasterboard with a higher density core which is designed for use where greater levels of sound insulation area required), and the installation of independent wall linings, with recommendations for the number of insulating layers. Based upon this construction, and resulting noise mitigation, the report details proposed noise limiting levels, based on the potential impact on the fifth-floor flats within the application building, but this is based on the assumption that the venue would be occupied as a lower volume live music venue e.g., 'acoustic music/jazz DJ'.

In the event that the venue is occupied as a 'more onerous' music venue, the report concludes that acceptable internal noise levels in neighbouring properties 'may be achievable' with further mitigation measures such as 'improvements to the mass barrier ceiling and independent wall linings or even a full masonry box-in box construction'. No details of potential noise levels or of these potential additional measures, or noise mitigation properties, are provided.

The report recommends that once the tenants have fitted out the venue, sound insulation testing should be undertaken to determine noise limiting levels so that the requirements of the tenant's handbook and planning requirements are adhered to.' The applicants contend that subject to appropriate noise attenuation measures, the proposal will not have any adverse impact on any noise-sensitive receptors and would comply with policy 33.

The application assumes that a decibel limit would be set for the proposed music venue. Such controls, including the use of sound limiters, would generally be considered as part of an application for a premises licence.

Objectors have acknowledged this design proposal but state that the concrete frame structure of Marshall House is already particularly prone to vibration noise transfer, with any drilling or vibration that occurs anywhere in that building being felt throughout. They are concerned that the submission does not confirm how basement columns, which are to be attenuated, are to be isolated from the ground floor slab or provide construction details of the wall between the venue and the adjacent plant room beneath Marshall House, or details of specific soundproofing measures to this wall.

The Council's Environmental Services Officer has considered the submitted reports and supplementary information regarding potential noise transference/vibration through the building structure. They have raised no objection to the proposal, subject to conditions requiring the submission of details of digital sound limiting devices. However, the condition recommends that these measures are assessed in consultation with 'local residents and other occupiers in premises in the vicinity'. The City Council would normally rely upon the advice of its own Environmental Services Officers, with expertise in acoustic issues, to assess this technical information.

Standard conditions are proposed relating to noise and vibration from the proposed venue to neighbouring properties, The ESO has also recommended further conditions requiring the submission of the design specification for the separating walls between the proposed venue and residential habitable spaces and a condition requiring the approval of sound insulation measures and a Noise Assessment Report which demonstrates that the proposed mitigation measures will ensure that the noise climate of residents in adjoining buildings is acceptable.

It is noted that the application and noise assessment are based upon a 'lesser' requirement for sound insulation, which the applicants state would be required if the venue was to be used as a jazz venue. However, the City Council would not be able to control the type of music played in a venue. However, any of the details reserved by condition will be required to demonstrate requirements relating to the noise and vibration impact on neighbouring properties can be complied with. An additional condition is recommended requiring the submission of a post commissioning report to demonstrate that the conditions can be complied with, prior to the commencement of the use. Should the nature of the operation change from that detailed in these reports (e.g., the type of music/sound level) to an extent that the noise and vibration

conditions would not be complied with, a further application to discharge the reserved details would be required, supplying updated details of enhanced sound attenuation etc. to demonstrate that there would be no breach of these conditions.

Subject to the conditions proposed, and the approval of the reserved matters prior to the commencement of the use, it is not considered that objections on the grounds of potential noise vibration to neighbouring building through the building structure could be supported.

One objector has requested that any plant associated with the use should not be permitted to operate after 01.00 (which is earlier than the proposed music venue opening hours). The proposed uses would utilise the restaurant plant approved as part of the original development, which has been installed. The noise report submitted in support of the original development conformed that this plant would operate in accordance with standard noise conditions during both daytime and night-time hours (23.00 to 07.00) and, consequently, it was not necessary to impose an hours of use condition. In these circumstances, the operation of the plant during the later opening hours now proposed would not have an adverse impact upon neighbours' amenities and a restriction on the hours of plant operation could not justifiably be imposed,

Other objectors have referred to the extension of the basement and the impact of basement building work on the neighbouring building. However, the current application does not involve a basement extension and works would solely be related to the fitting out and soundproofing of the premises and would not be the subject of a condition relating to the hours of building work.

9.5 Transportation, Accessibility & Servicing

Objectors consider that, given public transport availability is reduced after midnight, that the use is likely to attract additional private vehicles/taxis to the area, resulting in increased congestion , potential obstruction of emergency vehicles and increased parking demand. They also state that parking regulations are not enforced in the area and that the illegal occupation of Respark bays and cars parked illegally makes road crossing difficult to the detriment of pedestrian and highway safety.

Respondents are also concerned that the narrow width of local roads/dead ends, with no turning spaces, makes site servicing difficult.

Highway impact/Parking

The Highways Officer has considered the final draft Operational Management Plan and considers that the omission of proposals for formalised queuing on Broadwick Street and the proposals to create significant intervals between proposed show times is likely to reduce the numbers of people arriving/departing at the venue at the same time, ameliorating the potential for localised congestion, including on the footway. The revised proposals are therefore acceptable in terms of City Plan policy 28 which seeks to ensure developments does not adversely impact on available space for the free flow of pedestrian traffic.

It is accepted that the proposed music venue use is likely to generate an increase in the number of taxis/private hire vehicles in the area but, given the times between the end of one show and the start of the next, it is considered that this impact will be minimised. In these circumstances, and subject to a cap on the maximum capacity (currently 295 customers) the Highways Officer considers that although there may be higher levels of activity around the site at different times, this will not have a detrimental impact on the operation or safety of the highway, which would

include access for emergency vehicles. .

Additionally, with arrangements for 'geoblocking' in place, and measures in the OMP to direct departing customers to Regent Street and Great Marlborough Street, it is not considered that there would be any significant increase in the potential for localised congestion when compared with the likely impact of the approved restaurant use and traffic associated with other uses in the area.

The site is within a Controlled Parking Zone and anyone driving to the site will be subject to parking controls. It is considered that the impact of the proposed use on local parking demand will be minimal, and, in this regard, the proposals is considered to comply with City Plan 27 and objections relating to increased parking demand cannot be supported. Any private vehicles arriving in the vicinity of the site would be subject to local parking restrictions. The enforcement of local parking restrictions is beyond the applicant's control and could not justifiably form the basis of a recommendation for refusal.

Cycling and cycle storage

Policy 25 of the City Plan requires development to provide adequate storage in accordance with cycle parking standards set out in the London Plan.

Basement cycle stores for the residential and commercial uses within the development have already been provided as part of the approved scheme and would be used in association with the approved/proposed restaurant use and the music venue.

Servicing and Waste & Recycling Storage

City Plan policy 29 requires new developments to provide on-site servicing, where practical, as deliveries and goods left on the highway can result obstruct pedestrian movement and delivery vehicles stopping on the highway, leading to localised congestion.

Objections have been received relating to the potential impact on servicing of the development from Broadwick or Marshall Street, given the narrow width and roads ways and the impact of local road obstructions/bollards which stop through traffic.

The principle of on-street servicing in relation to the wider development has already been accepted and remains acceptable in relation to the current proposals. Site servicing for the proposed restaurant and music venue uses will take place from Ganton Street, as part of communally managed facilities for the development. Any 'emergency' servicing outside of these hours would utilise the general servicing bay on Marshall Street. The hours of use of this bay are unrestricted.

The application is accompanied by an updated Servicing Management Plan (SMP) which includes servicing arrangement for the proposed music venue. However, the Highways Officer has noted that details within this latest SMP are not wholly consistent with those in the approved SMP for the original development (21/07254/ADFULL), a document that was approved before the latest SMP was submitted. In these circumstances, the Highway Officer has requested a condition requiring the submission of a revised SMP which ensures consistency between the approved SMP for the original development and new documents. This would be secured by condition.

Servicing for the proposed retail use would take placed form Ganton Street or Carnaby Street at

these same times or from double yellow lines in Broadwick Street in accordance with the servicing of the original retail use on this part of the site. These arrangements accord with those in the approved SMP

City Plan policy 37 requires developments to provide adequate facilities for the storage of waste and recyclable materials. One respondent has commented that commercial occupiers in the area deposit rubbish on the street and that waste management protocols are not enforced by the applicants. They are concerned that the proposals would exacerbate existing waste management problems and would result in waste being placed on the highway, and that waste would be trundled along the streets to the local waste depot.

The occasional transfer of waste to Dufour's Place (in time for a 15.30 collection) is approved as part of the SMP for the original development. The waste would be transferred in covered wheelie bins. It is not considered that this activity, would have any additional adverse impact on local amenity in relation to the proposed use, and would further ensure that no waste is removed from the site as quickly as possible.

The application confirms that refuse and waste will be stored within the ground floor communal commercial store, and collection will accord with the approved arrangements set out in the Waste Management Plan of the original development.

The submitted plans do not include the necessary information regarding proposals for the storage of waste and recyclable materials for the proposed uses in accordance with Council requirements, (showing bin capacities and bins marked for general waste, food waste, waste oil, recycling etc). The Project Officer (Waste) has agreed to a condition to reserve these details, as requested by the applicants. As the wider development includes communal waste storage facilities, and it is considered that there is adequate space to provide these facilities, this is considered acceptable. A condition is recommended stating that waste shall not be stored on the highway.

One objection has been received on the grounds of increased litter generation. The nature of this litter is not specified but given the uses proposed, it is not considered that the scheme would have a material impact on litter generation in the area.

9.5 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the fit-out phase through the generation of increased opportunities for local employment and procurement and will lead to increased spending in existing nearby shops and services and other town centre uses.

9.6 Other Considerations

Fire safety/and access

The premises would be served by the Broadwick Street entrance, which would provide stair access to the basement, (there is currently a temporary scaffold stair in this location) and the Ganton Street entrance/exit, where a slope leads from the basement up to the ground level entrance gate. The slope provides also provides a means of escape from the venue and access to basement level cycle stores within the development.

The 2019 application was supported by a Fire Strategy for the original development. In support of the current application, the applicants have submitted updated reports to include the proposed use. One involved the use of the rear entrance slop for formalised queuing. While one respondent expressed concern regarding the use of the rear slope for formalised queuing and for general access/egress, this is no longer proposed although the report concluded that this queuing system would not compromise the safety of building occupants.

The scheme has subsequently been further amended now proposes that the rear entrance would be used for general daytime and late-night access to the building. The applicants consider that the use of this entrance would be acceptable in fire safety terms. It would be supervised by venue staff at all times that the entrance is in use and any customers within the entrance when an alarm sounded would be able to exit the building before any customers inside the venue made their way onto the exit slope. The Broadwick Street entrance could also be used as a means of escape in case of emergency.

However, due to officers' concerns about access and means of escape issues, particularly given the proposed capacity of 295 customers, the applicants have revisited fire safety/and access issues. The application has been further revised to include a platform lift within the front entrance lobby, which will provide level access to the basement during normal use. As requested by the applicants, details of this lift would be reserved by a condition which would require the lift to be installed prior to the commencement of the proposed uses.

The Addendum Fire Report, relating the use of the basement as a music venue, has been assessed by the Council's Building Control and Licensing Officers. They note that the Addendum Fire Strategy limits the premises capacity to 256 people and that, although a platform lift is now proposed within the front entrance, the alternative means of escape is via Ganton Street, a route which contains steps, which might be problematic for wheelchair users. In this case, a robust disabled customer evacuation plan (evac chairs) would be required to ensure that there are appropriate evacuation arrangements for disabled customers. This would normally be required as part of the premises licence where there are stairs or ramps exceeding the maximum gradient requirement for normal use.

The Licensing Officer has also confirmed that although the inward opening nature of the exit doors would limit the premises capacity, potential solutions, including linking the doors to the operation of a fire alarm, to ensure that they would be open before customers reached them, would then permit the venue to accommodate slightly more than the proposed capacity.

In response to these comments, the applicants have confirmed that the exit doors to Broadwick Street would open outwards in the event of a fire alarm activation. To Ganton Street, the outer gate would be open when the venue is in operation. The inner gate opens in direction of travel. While they acknowledge that the Fire Strategy is based on a design which provides for the escape of 256 people, they have referred to the Fire Strategy Addendum which confirms that this could be improved by the incoming tenant e.g., through the addition of a circulation stair between the basement and ground floors (which would replace the existing temporary scaffold stair) and appropriate fire separation between the accommodation and the stair. As the existing stairs are temporary, they cannot be considered as a 'permanent' stair within the Fire Strategy, which therefore refers to the installation of a 'potential' stair. When the layout designs are finalised by the future occupier, they will install a permanent stair. Its design – size, orientation etc- will determine whether the stair can also be recognised as an escape route or not. On this

basis, the applicants consider that the proposed maximum capacity can be achieved subject to the approval of the tenant's final layouts by the enforcing authorities (Building Control and the Fire Authority).

The applicants have also confirmed that any incoming tenant will provide a disabled egress method statement / management plan for dealing with the internal steps. This would be required when the tenant submits a Building Regulations application for the fit out works and, as advised by the Licensing Officer would be part of the consideration of the licensing application.

As, based on the current layouts, the Fire Report limits the capacity to 256, an Informative is recommended to advise the applicant that the premises cannot achieve the proposed customer capacity of 295 customers (live music venue) unless and until the appropriate permission have been obtained from the relevant authorities.

Whilst concerns about the potential conflict arising from the use of this entrance and access to the basement cycle stores are noted, the applicants consider that the use of the entrance is unlikely to compromise the use of the space by commercial occupiers (as it would generally be in use after office hours) and would not have a material adverse impact upon the amenity of future occupants of new flats on the upper floors of the building as access to the cycle stores would be effectively managed by venue staff supervising the rear entrance. While it is considered that there is occasional potential for some conflict, it is noted that these flats are currently vacant and that any future residents would be aware of the situation and the application could not reasonably be recommended for refusal on these grounds.

Consultation

One objector has expressed concern that residents were not notified of scheme amendments and were reliant upon neighbours to alert them to proposed changes. Various documents, which were received incrementally, were uploaded onto the Council's website but further consultations were not carried out until other outstanding information received or documents further amended. It appeared that some local residents monitored the website and viewed some of these initial documents, some submitting additional comments at that time, and may have notified their neighbours of the proposed changes at that time. However, a full re-consultation was undertaken in relation to final draft OMPs.

Crime and security

The Metropolitan Police Designing Out Crime Officer (DOCO) has objected to the application (based on the latest draft OMP). While they have no objection to the proposed use, in principle, they have expressed concern regarding the use of the Ganton Street fire exit for late night access and egress. While they accept that the appointed Fire Consultant considers the use of this route to be acceptable (based on previous proposed use of the fire exit slope for queuing within the premises, they consider that the use of this access route, which also provides access to the residential and cycle stores within the development, would leave residents vulnerable to theft. They consider that all access/egress to the venue should be via the Broadwick Street entrance to avoid any potential conflict between the residential and commercial uses.

Whilst noting the DOCOs concerns, the applicants contend that cycle store will not be accessible to anybody other than those who live or work in the building. When in use in association with the proposed music venue, the rear entrance/exit will be fully manned, and customers will be directed straight up the ramp to Ganton Street. In the 'unlikely' event that a customer did slip past security staff, they would need to navigate a set of fob-accessed security

doors before they could enter any other part of the building, and two sets of fob-accessed doors before they could enter the cycle store. The building also benefits from CCTV and alarm systems which further mitigate this risk. The applicants have suggested that the DOCOs security concerns should be incorporated into an informative on any decision, and that the applicant could look to increase the security of the internal doors accordingly, outside of the planning process. Given that the rear entrance will be fully supervised when in use, and the existing site layout and security arrangements, and as it is in the applicant's interest to ensure that their building is fully secure, this approach is considered reasonable.

One objector has expressed concern about the potential impact of the proposed use upon the safety of female residents of area returning home late at night. While these concerns are noted, it is not considered that any incidents relating to general safety of local residents are likely to be attributable to the current proposals or that permission could be withheld on such grounds.

Adverse impact on property values

Objections have been received on the grounds that the development would have an adverse impact on local property values. This is not a material planning consideration and permission could not be withheld on this basis.

9.7 Environmental Impact Assessment

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

9.8 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

As set out in the main body of this report, the proposed retail and restaurant uses have been previously approved and are considered acceptable in land use and amenity terms, subject to previous conditions.

The applicants, and supporters of the scheme, consider that the basement unit lends itself well to the proposed music venue use and that the use would support the West End's, nationally important, night-time economy which has seen an economic downturn as a result of the pandemic. They contend that the proposals would add to a greater diversification of uses within Soho, would attract a wider range of visitors and add vibrancy to the area which already is characterised by a mixture of commercial and residential uses. They support a proposed use which is not focused upon alcohol consumption and, with 'sensible' operational management practices in place, contend that the operator will be able to mitigate against any potential amenity impacts. They believe that measures within the OMP e.g. the provision of ample time for customers to enter/exit between performances and to finish refreshments at a leisurely pace, would avoid a situation where the venue empties out en-masse, and would ameliorate any potential impact upon the surrounding area.

Strong objections have also been received on the grounds that the proposed music venue would have a significant adverse impact, and an adverse cumulative impact in association with similar uses in the area, upon the amenity of neighbouring residential properties. Objectors are concerned that, notwithstanding the management obligations set down in the OMP, in practice,

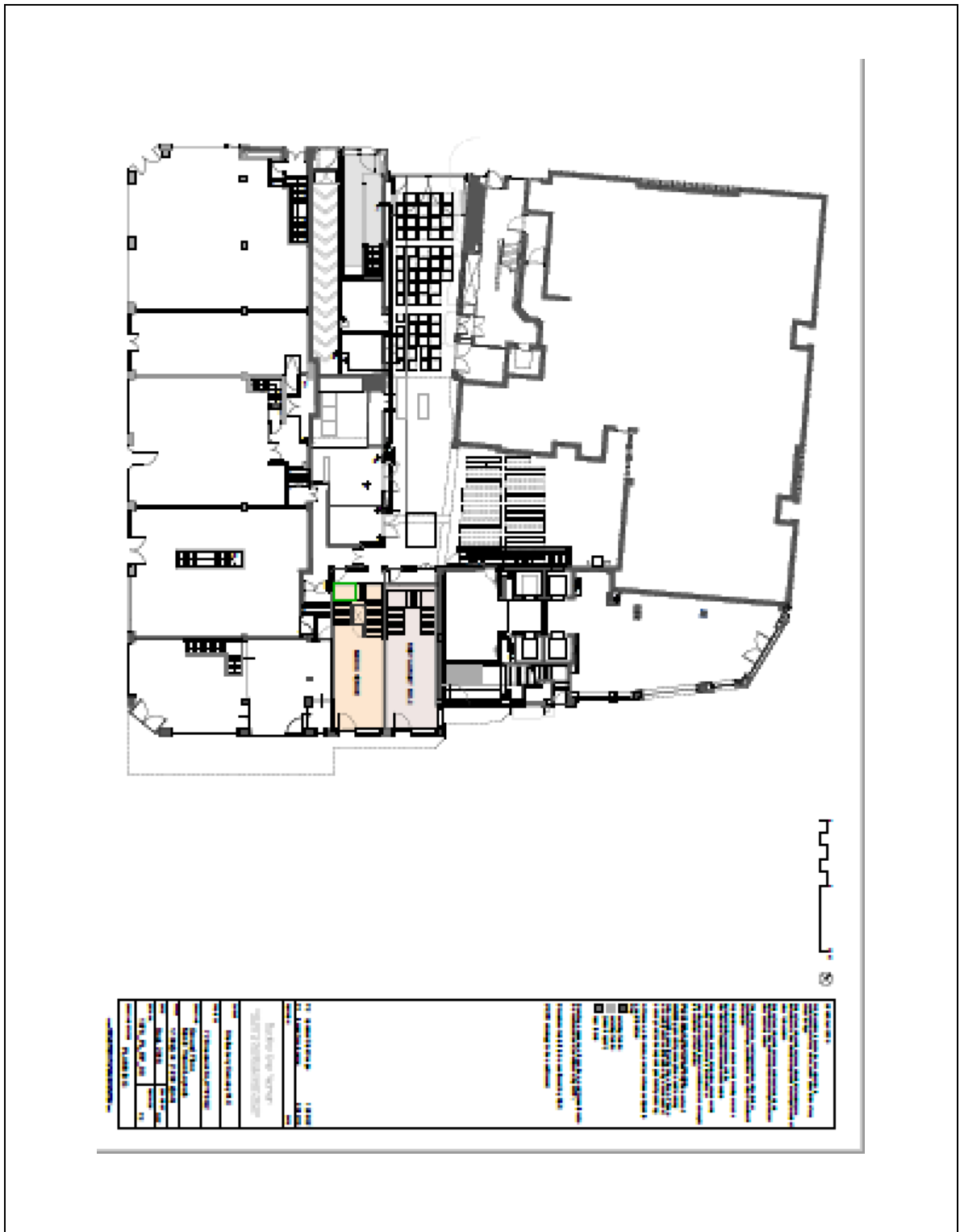
the venue operator will have little control over the actions of its customers once they have left the premises. They firmly believe that it should not fall upon local residents to monitor the actions of future customers and consider that the applicant does not ensure that similar venues on their other sites are properly managed. The Soho Society considers that until local residents can see a marked improvement in the management of entertainment uses in the area, that the proposed use as a music venue must be considered unacceptable.

Development plan policies require applicants to demonstrate that a proposed use will not adversely impact upon the amenity of existing uses and the proposed uses are supported in land use terms subject to this caveat. Policies require proposals for entertainment uses demonstrate that the use will be 'low impact' and the only way that this can be done is through the submission of an OMP. Notwithstanding objectors' concerns, it must be assumed that an operator will adhere to proposed measures within the OMP and would comply with conditions imposed on any planning permission, which must be reasonable, enforceable and related to the development. It is unclear what other substantive, operational controls the applicants could be required to put within an OMP in order to provide any additional assurances about the impact of the proposed use. The proposed operational measures are considered to strike an acceptable balance between the need to safeguard residents' amenity and the operator's requirements. In these circumstances, on balance, it is not considered that the use would have a material impact upon the amenity of neighbouring residents, the operation of the highways or the character of the conservation area and the application is therefore recommended for approval.

(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: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk.

Proposed ground floor plan



DRAFT DECISION LETTER

Address: 72 Broadwick Street, London, W1F 9QZ,

Proposal: Flexible alternative use of basement and part ground floor for retail (Class Ea) or restaurant/cafe (Class Eb) purposes or as a live music venue (Sui Generis). (Revision: finalised Operational Management Plans for the music venue and restaurant)

Reference: 21/03136/FULL

Plan Nos: 1076_PL_RP_/00 REV P2, B1 REV P2; Restaurant Operational Management Plan received 16 July 2022.

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641
07866039795

Recommended Condition(s) and Reason(s)

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

Reason:

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

2 In the event that a restaurant use is implemented, you must not operate a delivery service or permit a delivery service to be operated or operate a food or drink takeaway service, even as part of an ancillary 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)

3 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

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)

4 In the event that the restaurant use is implemented, customers shall not be permitted on the premises:

before 0800 or after midnight on Monday to Thursday
before 0800 or after 00.30 the following morning on Fridays and Saturdays and
before 08.00 or after 23.00 on Sundays and Bank Holidays

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)

5 You must not allow more than 140 customers in the restaurant at any one time.

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)

6 The use of the premises as a restaurant or live music venue must not commence until self-closing doors have been fitted to the Broadwick Street entrance and the doors must not be fixed or held open except in an emergency or for maintenance purposes and shall be maintained at all times that the premises are in use as a restaurant or live music venue.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

7 In the event that the restaurant use is implemented, it should not be amalgamated with any other restaurant use on the site to create a large restaurant 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)

8 In the event that the restaurant use is implemented, you must carry out the measures included in your management plan received 16 June 2022 at all times that the restaurant is in use (C05KA)

Reason:

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

9 You must hang all doors or gates so that they do not open over or across the road or pavement except in case of emergency.

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)

10 In the event that the live music use hereby approved (sui generis) is not implemented, you can only use the property for retail or restaurant purposes 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:

In accordance with the submitted application and because we cannot grant planning permission for unrestricted use within Class E because it would harm the character and function of the Central Activities Zone, the amenity of neighbouring occupiers and an adverse impact on the local highway network and contrary to Policy 4, 14, 33 and 29 of the City Plan 2019 – 2040 (April 2021).

11 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 start work on this part of the development until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development as

- i) a retail unit
- ii) a restaurant or
- iii) a live music venue use

until we have approved details of the refuse/recycling storage arrangement for these uses and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone occupying the premises. No waste shall be stored on the highway.

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)

12 Prior to the occupation of the premises you must apply to us for approval of a Servicing Management Plan Management Plan for the retail, restaurant and music venue uses hereby approved.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

13 In the event that the music venue use is implemented, you must not allow more than 295 customers into the premises at any one time.

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)

14 In the event that the music use is implemented, customers shall not be permitted on the premise except between:

9.00-00:00 (midnight) Monday and Tuesday
9.00-01:00 the following morning on Wednesday and Thursday
9.00-02:00 the following morning on Friday and Saturday (and Sundays before Bank Holidays)
9.00-23:00 on Sundays and Bank Holidays.

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)

15 In the event that the music venue use is implemented, all access to the premises will be via the Ganton Street entrance after 23.00 hours and no egress will be permitted via the Broadwick Street entrance after 00.00 (midnight) other than in the case of emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

16 You must apply to us for approval of detailed drawings and full particulars of the platform lift within the Broadwick Street entrance.

You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these approved detailed drawings and particulars prior to the commencement of the use and permanently maintain the platform lift in working order at all times that the premises are in use.

Reason:

In accordance with the submitted application and to ensure that there is reasonable access for people with disabilities as set out in Policy 38 of the City Plan 2019 - 2040 (April 2021).

17 No live or recorded music shall be played within the premises that is audible outside of the premises.

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)

18 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the uses 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the

internal activity within the uses 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity. (C47AC)

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 Environmental Supplementary Planning Document (February 2022), 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.(R47AC)

19 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB LAm_{ax} is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

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 the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

20 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition(s) 19 of this permission. You must not start work on this part of the development until we have approved in writing what you have sent us. You must then carry out the work according to the details approved prior to the commencement of the use of the premises as a live music venue and thereafter retain and maintain them at all times that the premises are in this use.

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 the development, as set out Policies 7 and 33 of the City Plan 2019 – 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

21 In the event that the premises are occupied as a live music venue, where any live music or music played through a Public Address system, or similar system, this must incorporate a digital sound limiting device and the operational panel of the noise limiter shall be secured by key or password/passcode, or access similarly restricted, so that only persons with management responsibility for the venue have access to it.

You must apply to us for approval of details of these devices and sound levels, provided by a suitably qualified acoustic engineer, to demonstrate that the use would comply with the requirements of Condition 19. You must not start work on this part of the development until we have approved in writing what you have sent us. You must then carry out the work according to the approved details before the use as a live music venue commences and the sound limiters must be maintained in accordance with the details approved at all times that the premises are in use as a live music venue.

No additional sound generating equipment shall be used on the premises which is not routed through the approved sound limiter device.

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 the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

22 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 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 Environmental Supplementary Planning Document

(February 2022) (R49BB)

23 In the event that the use as a live music venue is implemented, the design of the separating walls to the premises shall be such that the received values in residential habitable spaces, from all activities within the premise (including noise from music and all other activities) shall be 10 dB below levels without the music or venue activities operating, at the quietest times of the day and night measured over a period of 5 minutes and in the indices of Leq and LFM_{ax} in the octave bands of 63 Hz and 125 Hz.

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 the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

24 You must not commence the use as a live music venue (other than to carry out the surveys required by this condition) until you have carried out and sent us a post-commissioning noise/vibration survey and we have approved the details of the survey in writing. The post-commissioning noise/vibration survey must demonstrate that the use complies with the criteria set out in condition(s) 17, 18, 19, 20, 21 and 22 of this permission.

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 Environmental Supplementary Planning Document (February 2022). (R49BB)

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 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the premises can change between the retail and restaurant (Class E) or live music venue uses (Sui generis) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

3 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

4 You are advised to contact the Metropolitan Police Designing Out Crime Officer with regard the provision of increased security to internal doors within the building basement of the building with particular reference to the doors to the basement cycle store.

5. It is noted that your submitted Fire Assessment is currently based upon a maximum capacity of 256 customers unless further modifications are made to the internal layout. You must secure all relevant permissions from the Fire Authority and District Surveyor to prior to opening the premises to the customer capacity proposed (295 customers) in the live music venue.

6. You may need separate licensing approval for the restaurant and live music venue. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission.
(161AB)

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

Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Marylebone	
Subject of Report	15 Crawford Place, London, W1H 4LG		
Proposal	Erection of a single storey extension at roof level and extension to rear at first to fourth floors and reconfiguration of existing accommodation to provide 13 residential units (additional five units Class C3). Refurbishment of the front and rear elevations. Provision of a green roof.		
Agent	DCG Architecture (London) Ltd		
On behalf of	Winchester Property Ltd		
Registered Number	22/03190/FULL	Date amended/ completed	25 May 2022
Date Application Received	12 May 2022		
Historic Building Grade	Unlisted		
Conservation Area	Molyneux Street		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY & KEY CONSIDERATIONS

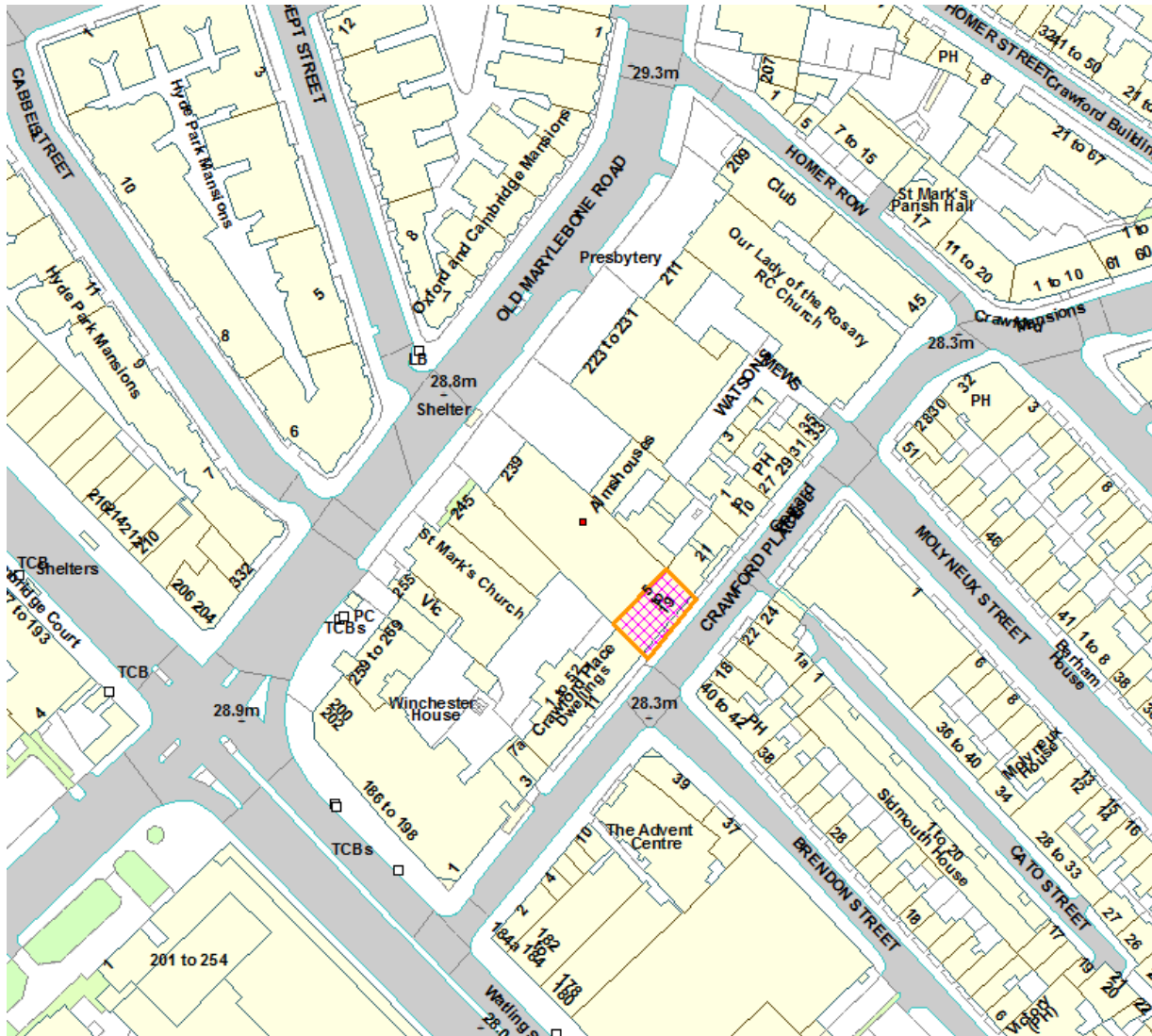
The application proposes the reconfiguration of 8 flats and erection a single storey extension at roof level and extension to rear at first to fourth floors to create an additional 5 flats (Class C3) and reconfigure as well as alteration to the front and rear façade including refurbishment of spandrel panels and installation of replacement windows. A green roof is also proposed.

The key considerations in this case are:

- The impact of the proposed buildings on the character and appearance of the Molyneux Street Conservation Area.
- The impact on the amenity of neighbouring residential properties.

For the reasons set out in the main report, it is considered that the proposal, with conditions, is acceptable in land use, design, sustainability, amenity and highways terms and neighbouring residential occupiers would not be unduly harmed. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation



Rear Elevation



5. CONSULTATIONS

5.1 Application Consultations

MARYLEBONE ASSOCIATION

Any response to be reported verbally.

HARROWBY & DISTRICT RESIDENTS ASSOCIATION

Object on the following grounds:

- Additional bulk viewed from the east along Crawford Place.
- Loss of light
- Lack of information with regards to works to front and rear elevation
- Desire to ensure all units are permanent accommodation

HIGHWAY PLANNING

No objection subject to conditions.

PROJECT OFFICER FOR WASTE

Further detail required

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 81

Total No. of replies: 16 letters from 12 neighbouring occupants on the following grounds:

- Extension will dwarf other buildings on Crawford Place
- Impact on conservation and setting of listed buildings
- Impact on daylight, sunlight and outlook
- Overshadowing of private amenity space
- Principle of additional short term letting accommodation unacceptable particularly with respect to noise generation and litter
- Construction impacts
- Sound of toilets flushing from new accommodation

No. in support: 0

SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application. However, the Early Community Engagement guidance only expects such engagement to take place where proposals of this nature may have a significant impact on residential amenity or other noise sensitive receptors.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

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

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

15 Crawford place is a five-storey unlisted building and is within the Molyneux Street Conservation Area. The building is arranged over basement ground and four upper floors with a large plant enclosure at main roof level.

The ground floor is being used as office accommodation in connection with 239 Old Marylebone Road which is located to the rear of the site. A vehicle access and a loading bay are also provided on the Crawford Place frontage at street level. The vehicle access provides access to the basement car park. There is a residential entrance in the middle of the site which provides access to the residential flats on the upper floors.

The upper floors comprise 8 residential flats. Council records indicate that 6 flats (No's 1 – 6) are temporary sleeping accommodation with 2 flats (No's 7 and 8) in use as permanent residential use (Class C3).

7.2 Recent Relevant History

17/08186/FULL

Installation of 8no. air condenser units within an enclosure at roof level. (Partially retrospective application).

Application Permitted 7 November 2017

21/08155/FULL

Alterations to canopy at fascia level to extend the full width of the property; installation of replacement and new roller shutter along the full frontage of the building at ground floor level (Retrospective application).

Application Permitted 21 March 2022

8. THE PROPOSAL

Permission is sought for the erection of a single storey roof extension and a rear extension from first to fourth floor level inset from both the southwestern and north-eastern boundaries of the site to provide additional residential accommodation.

The application involves the reconfiguration of the existing 8 x 2 bed residential units (6 short term let and 2 permanent units) and the provision of 5 new units comprising a mix of 1 x 1-bed unit, 2x 2-bed units, 1x 3-bed unit and 1x 4-bed units. The proposal will result in the provision of 13 flats in total (5 new units).

It is understood nine car parking spaces including one disabled bay and a cycle storage area are allocated to the residential accommodation at basement level. No new additional car parking is proposed. Refuse storage is proposed to be located alongside the existing loading bay at ground floor level.

A green roof is proposed at fifth floor level

9. DETAILED CONSIDERATIONS

9.1 Land Use

The scheme seeks to reconfigure the existing residential accommodation on the site and provide an additional 5 new dwellings. This will result in the provision of 13 flats in total. The 5 new additional flats include 2 x family sized units (3 bed or more).

Objections have been received that additional short- term letting accommodation would add to noise nuisance and litter. Six of the eight existing units are lawfully short term let accommodation. There have been a number of noise complaints received due to activity associated with the existing use. In light of this and neighbouring objections, the applicant has revised the proposal during the course of the application to ensure that all of the units are permanent residential units. The applicant will be advised by an informative on the decision notice which advises the limits with regards to short term letting in line with the Greater London Council (General Powers) Deregulation Act (2015).

Loss of short term letting accommodation

Within Greater London, the letting of a residential property for periods of less than 90 days (provided the cumulative period of this short term letting within a calendar year exceeds 90 days) requires planning permission. The same is not the case of the reverse. As .

As such, there is no objection to the permanent residential proposed.

Proposed residential accommodation

Policy 8 of the City Plan 2019-2040 (April 2021) states that Westminster seeks to optimise housing delivery by optimising site densities, delivering a higher number of homes on small sites, permitting appropriate upwards extensions, and planning positively for tall buildings in certain locations. As such the additional residential units in this location is acceptable in principle subject to impacts of the additional bulk as discussed in the design and amenity sections below.

Furthermore, the policy goes on to state that no new homes in Westminster will exceed 200sqm Gross Internal Area. None of the units proposed exceed this threshold and is therefore considered to meet this policy requirement.

Policy 10 of the City Plan 2019-2040 (April 2021) states that residential developments will provide a mix of units in terms of size, type and tenure to secure mixed and inclusive communities and contribute towards meeting Westminster's housing needs; however, the policy does go on further to state that 25% of all new homes across Westminster will be family sized.

Two family sized are proposed which represents 40% of the additional units and therefore is considered acceptable.

Policy 12 of City Plan 2019-2040 (April 2021) requires that all new homes and residential extensions will provide a well-designed, energy efficient and high-quality living environment and all new homes will meet or exceed the Nationally Described Space Standards. Policy D6 of the London Plan (2021) concerns housing quality and standards and Part C states that housing development should maximise the provision of dual aspect dwellings.

All the proposed units will meet the requirements of the Nationally Described Space Standards. It is noted that the majority of units are proposed to be dual aspect, with the exception of two units within the rear extension which have adequate windows all serving habitable rooms, and this is appreciated given the site constraints. The overall layout is considered to result in a standard of accommodation that is likely to be acceptable and will provide good quality residential accommodation.

Policy 12 goes on to say that all new-build homes will provide at least 5 m² of private external amenity space for each dwelling. Where it is sufficiently demonstrated that it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement is required. The proposal does not provide any outdoor amenity space. There are however obvious site constraints which prevent the provision of external space with the exception of the fifth floor flats; however, a balance has to be taken against the requirement for urban greening. In line with policy, all of the proposed flats are in excess of 5 m² larger than the minimum space standards and therefore, the lack of external amenity space is considered acceptable in this instance.

Policy 9 of the City Plan 2019 – 2040 (April 2021) states that at least 35% of all new homes will be affordable across Westminster where 10 new units are being provided or the increase in residential floorspace totals 1,000 sqm GIA. The proposal seeks to provide an additional five flats and the overall increase in residential area totals 407.2 sqm GIA. As such, the current proposal does not trigger the requirements to provide affordable housing.

9.2 Environment & Sustainability

Policy 38 (D.2) states that Residential conversions and extensions of 500 sq m (GIA) of residential floorspace or above, or five or more dwellings will aim to achieve “Excellent” in BREEAM domestic refurbishment or equivalent standard.

In support of the application, a BREEAM pre assessment submitted in support of the application, the scheme achieves an anticipated score of 71.51% which equates to a rating of ‘Excellent’. Sustainability measures which are being employed include:

- Negating the need for mechanical ventilation, therefore, all habitable rooms can be ventilated either through vertical window openings.
- Improvement to both wall and roof insulation reducing u-values and cold bridging.
- Double glazing windows are to be used.
- The layouts of the flats have been designed to minimise the need for artificial lighting as far as practicable.
- Installation water efficiency and management features including maximum water efficiency ratings for all white good requiring water; dual and low flush toilets, low pressure showers and aerated taps, low volume baths, and restrictors on water supply pipes to sinks and basins; and a pulsed water meter will be installed to each new dwelling to make occupants aware of consumption.
- Additional flats will also have electric combination boilers for hot water and heating services.

A condition has been recommended requiring Design Stage Interim BREEAM rating and certificate of assessment showing that the development is expected to achieve an ‘excellent’ rating and a further post construction stage report to be submitted within 6 months of occupation ensuring that this target has been achieved.

9.3 Biodiversity & Greening

The proposal has been amended during the course of the application to include a green roof to the rear of the fifth floor accommodation. This addition is welcome and ensures that the proposal results in a biodiversity gain.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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 ('the LBCA Act') 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 LBCA 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(K) 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.

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

Assessment

15 Crawford Place is an unlisted building of the mid twentieth century. It is in the Molyneux Street Conservation Area. The building is identified in the Molyneux Street Conservation Area Audit SPG as:

- A building which makes a neutral contribution to the character or appearance of the area.
- A building which is unsuitable for a roof extension.

The existing building has five storeys above ground, plus a very tall rooftop plant enclosure.

The proposal seeks the addition of a single storey roof extension; sheer at the sides and rear and mansard shaped at the front. A rear extension, set back at either flank would rise to fourth floor level. A previously proposed scheme, which was subsequently withdrawn, sought a two-storey roof extension, as well as a rear extension rising the full height of the building, including the two new roof storeys. The current proposal therefore represents a reduced scheme in terms of mass and bulk, and on impact on the appearance of the building and the conservation area.

The proposed roof extension appears acceptable in terms of its height and relationship with the tall mansion block to the southwest. The roof extension would be lower than the

ridge height of the mansion block, and the large chimney stack forms a visual break between the two buildings. The scheme also results in the removal of the existing very large rooftop plant structure.

The proposed metal cladding to the mansard is acceptable, subject to a condition requiring samples of materials. A further condition should require the roof to be patinated to a dark grey colour.

A modest setback of the roof extension from the (north-east) side elevation has been provided to reduce the visual impact on the adjacent Alms houses. While it is considered that the setback would improve the relationship of the roof extension to Alms House compared to the previous scheme, it does result in a slightly unconventional front elevation. However, since axial views of the mansard will only be available from the upper storey of the facing building, this arrangement is considered to be acceptable.

The refurbishment of the spandrel panels on the front elevation would be a welcome improvement, subject to the submission of details. The sustainability benefits of providing double glazed windows are also welcome, though the exact mechanism of upgrading the windows is not clear. The elevations are annotated "Refurbished existing window system with double glazing", suggesting that new double glazed units are to be inserted into existing metal window frames. While this would be welcome in principle, in practice it could be hard to achieve. A condition requiring details of the new window system would reassure that this is feasible, as the existing slim sectioned metal windows are one of the best aspects of the existing building. A much wider glazing bar system may not be acceptable.

The principle of the rear extension is also considered to be acceptable in design terms. The proposed rear extension is set back from the sides of the existing building and terminates at the penultimate storey. The extension, at an additional 5m, represents a significant increase in the overall depth of the building. The degree of projection of the rear extension has not changed since the preapplication stage. Given the lack of reference points which could be used to guide the size of the rear extension, and the size of the gap between 15 Crawford Place and 239 Old Marylebone Road, the large extension is considered to be acceptable in this instance.

Objection has been received on the grounds that:

- Additional bulk will be visible from the east along Crawford Place.
- There is a lack of information with regards to works to front and rear elevation.
- The extension will dwarf other buildings on Crawford Place.
- The impact on conservation and setting of listed buildings.

While it is agreed that the roof extension will be visible in views along Crawford Street from the east, a combination of the setback from the flank wall and the change in materials at roof level mean that this will not be overbearing in relation to the small scale alms house buildings.

It is not agreed that the extension will dwarf other buildings on Crawford Place; the adjacent building (Crawford Place Dwellings) is taller. The extended building will be much taller than the four storey buildings opposite, but the disparity in scale between the

existing building and the townhouses is such that an appropriately designed roof extension is not considered to make the relationship worse.

With regards to the work proposed to the facade, the drawings are clearly annotated and identify the proposed works. Whilst it is agreed that no details have submitted with the applicant, conditions have been recommended requiring full details of cladding material and windows which will provide the level of information required.

The nearest listed buildings are St Marks Church and the former St Marks School on Old Marylebone Road. These buildings are not viewed in relation to 15 Crawford Place except from within the application site itself. For the reasons, it is not considered to be an adverse impact on the setting of listed buildings, nor is it considered that the proposal would impact on the character and appearance of the Molyneux Street Conservation Area as detailed above.

Conclusion

It is not considered that the proposals would cause substantial harm, nor even less than substantial harm, to the heritage asset and therefore, a recommendation to grant conditional permission would be compliant with the relevant policies of the City Plan 2019-2040 and the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposed works are considered to preserve the character or appearance of the Molyneux Street Conservation Area and are therefore considered to be acceptable in design terms.

9.5 Residential Amenity

Policy 7 of the City Plan 2019-2040 seeks to protect and, where appropriate, enhance amenity by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

Policy S33 of the City Plan 2019 – 2040 states that; ‘development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council’s Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses’

Objections have been received from occupants of Crawford Place Dwelling (11 Crawford Street), Gerrard House (23 Crawford Place) and the Harrowby and District Residents Association on the grounds of the proposal will result in the loss of daylight and sunlight, overshadow private amenity space, loss of outlook and may cause issues as a result of noise transfer.

Daylight and Sunlight

A daylight and sunlight assessment has been submitted. This assesses the impact of the development on the light receivable by the neighbouring properties at 245 Old Marylebone Road, 18, 20, 21, 22 and 24 Crawford Pace, Gerrard House, Crawford Place Dwellings and the Wargrave Arms.

Daylight

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window

will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to be noticeable, and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to principal habitable rooms including living rooms, larger kitchens and bedrooms. However, the guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. The applicant has submitted an NSL assessment where room layouts are known.

With the exception of isolated windows serving residential accommodation at Crawford Place Dwellings, the report shows that any reductions in daylight received are below BRE thresholds. These breaches are shown in the table below:

Floor	Use	Vertical Sky Component				No Skyline			
		Before	After	Loss	% loss	Before	After	Loss	% loss
Basement	Unknown	10.57%	7.52%	3.07%	29%	57.73%	57.72%	0.01	0
Ground	Unknown	13.24%	9.31%	3.93%	30%	57.36%	57.36%	0	0
First	Unknown	15.42%	11.39%	4.03%	26%	67.55%	67.54%	0.01	0

Windows at basement, ground and first floor to Crawford Place Dwellings experiences losses of 29%, 30% and 26% respectively. It is not clear what rooms these windows serve; however, all of the impacted windows serve rooms which benefit from a rear facing window which is not materially impacted by the proposal. As such, the internal daylight level will not be materially impacted by the proposed development as evident by the NSL levels which demonstrate that there would be no material reduction of daylight distribution within the impacted rooms. In light of this, it is not considered that the objections on the loss of daylight can be supported.

Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, or there is more than a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows tested pass both the total annual sunlight hours test and the winter sunlight hours test.

Overshadowing

Objections have been received on the grounds that the proposals would result in unacceptable overshadowing to communal garden to the rear of Crawford Place

Dwellings.

BRE guidance recommends, with respect to the impact of developments on the overshadowing of private and communal gardens and terraces, that at least 50% of the area of each amenity space should receive at least two hours of sunlight on 21 March. If, as a result of new development, the space does not meet this target, and the area which can receive two hours of sunlight on 21 March is less than 0.8 times its former value, then the loss of light is likely to be noticeable.

The applicant has assessed the area in question which demonstrates that the proposal does not receive any sunlight in the existing or proposed situation and therefore objection on this basis cannot be supported.

Sense of Enclosure

The bulk and mass of the proposed extensions is set back from the boundary of the property at the front, rear, and sides of the property. It not considered the additional bulk is so great that it would result in a material increased sense of enclosure to any of the surrounding properties. As such, objections relating to loss of outlook cannot be supported.

Privacy

The proposal introduces new windows to the front and rear of the proposed extensions. Given the presence of windows at the lower levels and the separation distance between the application site and properties on both the other side of Crawford Place and to residential windows to the rear, it is not considered that the proposal will result in a material reduction of privacy.

Noise transfer

Objections have been raised on the grounds that the proposal could lead to noise transfer between the application site and neighbouring occupants. A condition has been imposed to ensure that the design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration arising from the development in its built form.

9.6 Transportation, Accessibility & Servicing

The site is centrally located and well served by public transport including principal bus routes and benefits from the highest public transport accessibility (PTAL) rating (6b).

Car Parking

Policy 27 of the City Plan requires no greater than the maximum parking provision identified within the London Plan. In this location no car parking should be provided. Given that there is no change to the existing car park arrangement, some of which is allocated to the office accommodation within 239 Old Marylebone Road, it is not considered reasonable to insist on its removal in this instance.

The scheme will result in the addition of residential units which could increase the demand for on street car parking. The highway officer has recommended that car club membership is provided for future occupants. A condition has been imposed to ensure that this is secured for the five additional units.

Cycle Parking

The London Plan requires 1.5 spaces per 1-bedroom unit and 2 spaces for 2+ bedroom units. Whilst an area within an existing basement has been identified, the proposal does not show any increased cycle parking provision. As such, a condition is recommended requiring further details to ensure cycle parking is provided in line with the London Plan requirements.

Waste Storage

Whilst waste storage has been indicated, the waste detail on the submitted drawings are not in line with the council waste storage requirements. As such, a condition is recommended to secure revised details of waste storage.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

9.8 Other Considerations

Construction Impacts

Objections have been received regarding the impact of construction works on residents' amenity. Objectors have stated that, the applicant, has historically not adhered to the Council's standard working hours. A condition is recommended to control the hours of building works, non-compliance could result in potential enforcement action.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

The estimated Westminster CIL payment is £162,880 and the Mayoral CIL is estimated at £32,576.

The proposal does not trigger any planning obligations.

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of pre-commencement conditions to secure:

- BREEAM pre-assessment
- Car parking mitigation

The applicant has agreed to the imposition of these conditions.

10. Conclusion

On all the other matters the proposals are in line with the development plan subject to conditions detailed in the report, specifically 7, 8, 10, 12, 25, 27, 33, 34, 36, 37, 38, 39, 40 and 43 of the City Plan 2019 - 2040 (April 2021) and policies GG2, SD4, D6, H1, H10, T5 and T6 of the London Plan.

In terms of heritage impact, the proposal is considered acceptable, mindful of policies 38, 39 and 40 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.

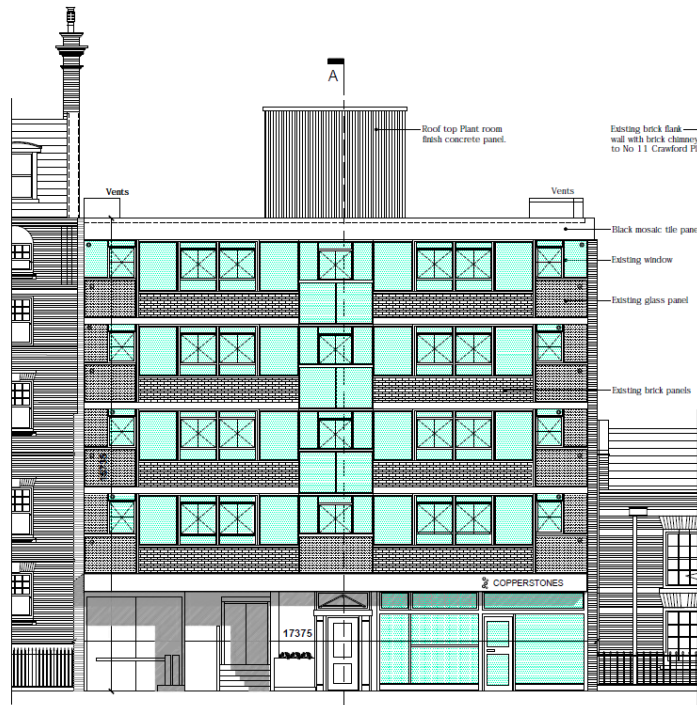
The application is therefore recommended for conditional approval.

(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: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

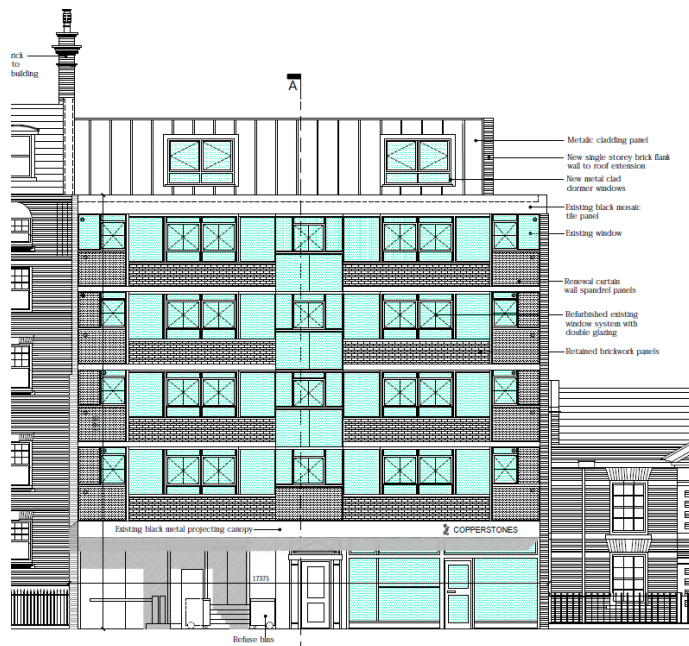
11. KEY DRAWINGS

Existing Front Elevation



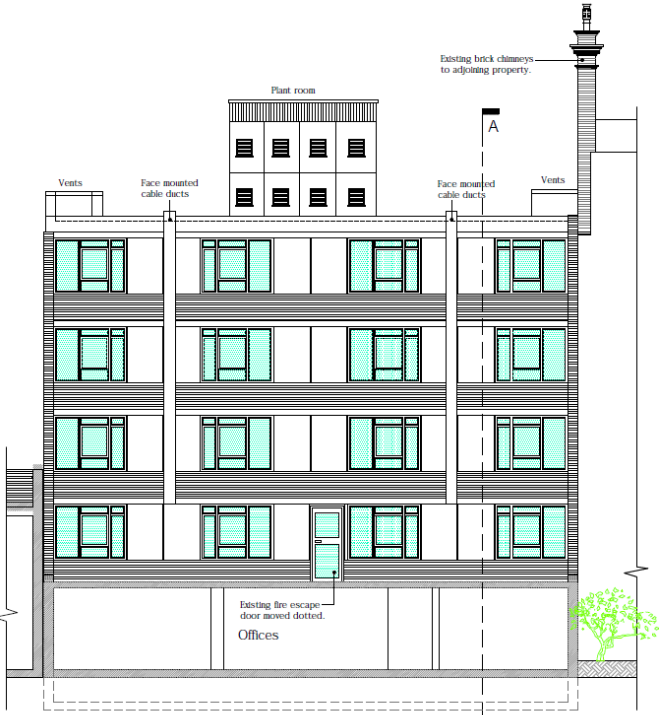
EXISTING FRONT ELEVATION - CRAWFORD PLACE. 1:50 @ A1.

Proposed Front Elevation



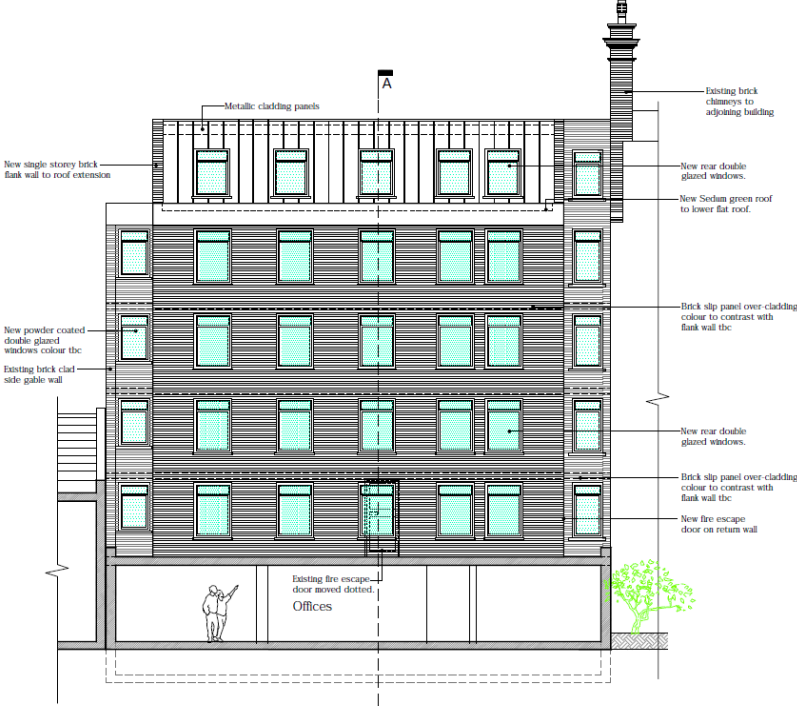
PROPOSED FRONT ELEVATION - CRAWFORD PLACE. 1:50 @ A1.

Existing Rear Elevation



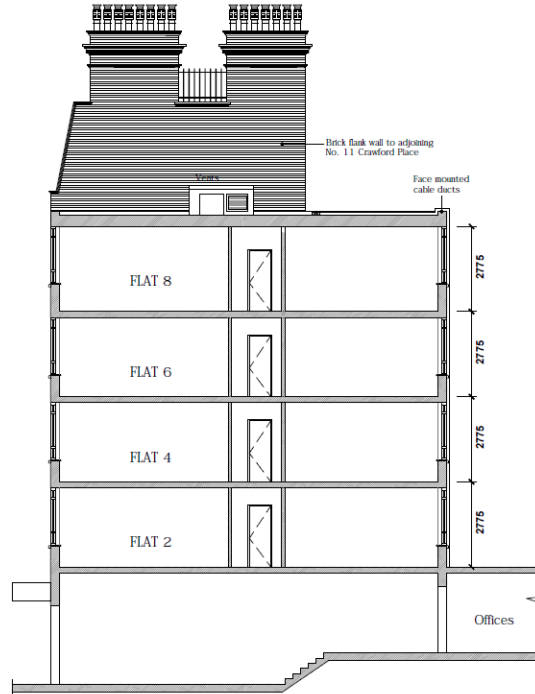
EXISTING REAR ELEVATION 1:50 @ A1

Proposed Rear Elevation



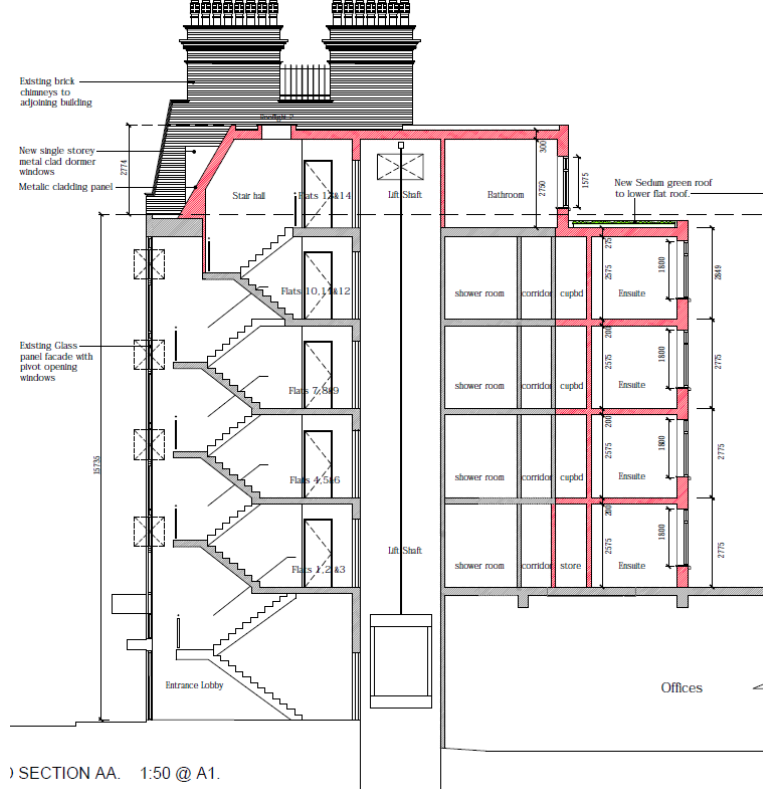
PROPOSED REAR ELEVATION 1:50 @ A1

Existing Section



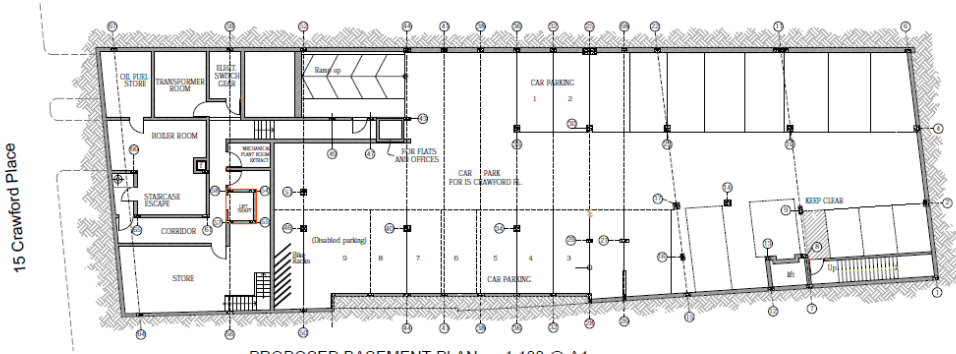
EXISTING SECTION AA. 1:50 @ A1.

Proposed Section

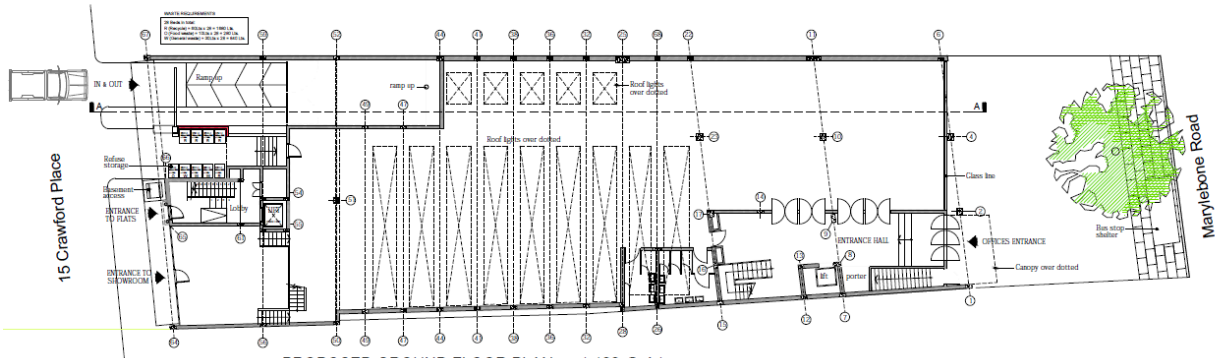


SECTION AA. 1:50 @ A1.

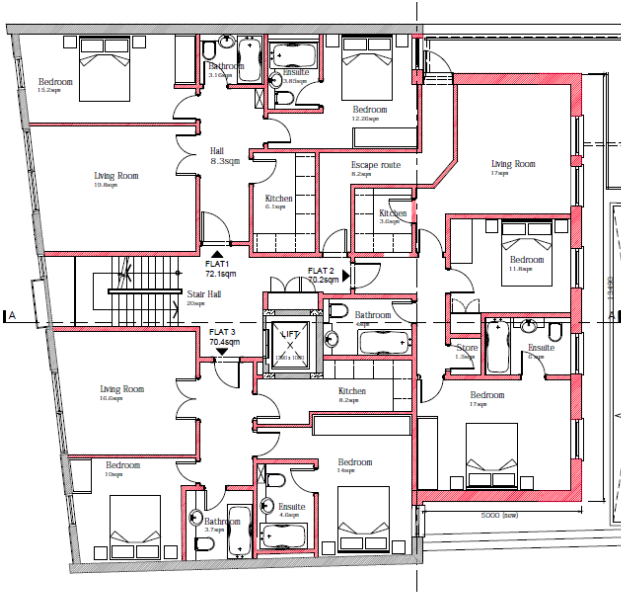
Proposed Plans



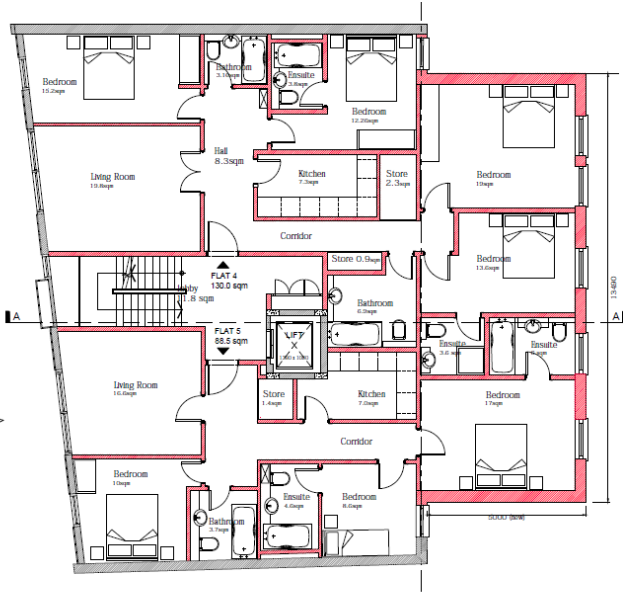
PROPOSED BASEMENT PLAN. 1:100 @ A1.



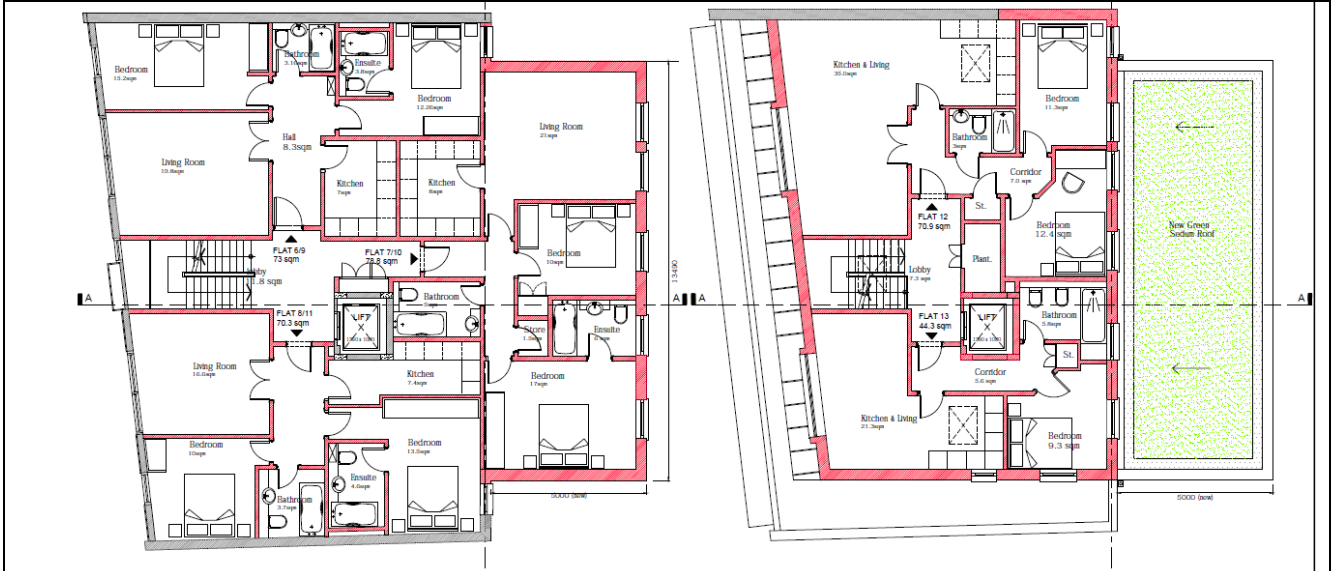
PROPOSED GROUND FLOOR PLAN. 1:100 @ A1.



PROPOSED FIRST FLOOR PLAN. 1:50 @ A1.



PROPOSED SECOND FLOOR PLAN. 1:50 @ A1.



PROPOSED THIRD & FOURTH FLOOR PLAN. 1:50 @ A1.

PROPOSED FIFTH FLOOR PLAN. 1:50 @ A1.

DRAFT DECISION LETTER

Address: 15 Crawford Place, London, W1H 4LG,

Proposal: Erection of a single storey extension at roof level and extension to rear at first to fourth floors and reconfiguration of existing accommodation to provide 13 residential units (additional five flats Class C3). Refurbishment of the front and rear elevations. Provision of a green roof.

Plan Nos: P30 001, P31 001, P32 001, P33 001, P34 001, P35 001, P36 001, P37 001, P38 000.

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

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 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

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 Environmental Supplementary Planning Document (February 2022). (R49BB)

- 4 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49AB)

- 5 Notwithstanding the detail shown on the approved drawings, you must apply to us for approval of details of secure cycle storage with coverings for the new residential units. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation of any of the residential units hereby approved. You must not use the cycle storage for any other purpose.

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)

- 6 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 start work on the relevant part of the development until we have approved in writing 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 the stores and make them available at all times to everyone using the residential accommodation at fourth floor level. (C14ED)

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)

- 7 The family sized residential units (units containing three bedrooms or more) shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides a minimum of three separate rooms capable of being occupied as bedrooms.

Reason:

To protect family accommodation as set out in Policy 8 of the City Plan 2019 - 2040 (April 2021). (R07DD)

- 8 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 Molyneux Street Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

9 **Pre Commencement Condition.**

Prior to the commencement of any demolition or construction on site the applicant shall submit details to secure the following:

1. Mitigation of the potential increased demand for on street resident's car parking.

You must include in the arrangements details of when you will provide the benefits and how you will guarantee this timing. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its written approval of such an application.

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in Policy 27 of the City Plan 2019 - 2040 (April 2021). (R19AD)

10 **Pre Commencement Condition.**

a) You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM), you must provide a Design Stage Interim BREEAM rating and certificate of assessment showing that the development is expected to achieve an 'excellent' rating under BREEAM Domestic Refurbishment 2014. If you use another method, you must achieve an equally high standard.

b) You must apply to us for approval of details of a post construction stage report which demonstrates that the development meets an "Excellent" rating under BREEAM Domestic Refurbishment 2014. This report shall be submitted to us within 6 months of the occupation of any part of the building. If you use another method, you must achieve an equally high standard.

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)

- 11 You must provide, maintain and retain the following bio-diversity features before you start to use any part of the development, as set out in your application.

- green/sedum roof

You must not remove any of these features. (C43FA)

Reason:

To reduce the effect the development has on the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43AC)

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

- dormer windows
- insertion of windows

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 . (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 Molyneux Street Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 13 You must apply to us for approval of samples of all cladding materials you will use and drawings 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 this part of the Molyneux Street Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 14 The roof structure must be coloured dark grey and maintained that colour permanently.

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 Molyneux Street 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 Under Condition 9 we are likely to accept a legal undertaking under Section 106 of the Town and County Planning Act (1990) (as amended) to secure 20 year membership provision for each of the new residential dwellings to a Car Plus accredited car club.

Please look at the template wordings for planning obligations (listed under 'Supplementary Planning Guidance') on our website at www.westminster.gov.uk. Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition.

- 3 With regards to condition 6, please note that food waste can only be stored in a 140L bin. You will need to submit revised waste drawing and replace the 360L bin for food waste (O) with 2 x 140L bins.
- 4 With regards to condition 5, we expect details to identify 25 cycle parking spaces which are dedicated to the approved residential accommodation.
- 5 Building works must be carried out in accordance with condition 2 of this permission. Non-compliance with this condition will result in enforcement action.
- 6 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: environmentalsciences2@westminster.gov.uk) to make sure that you meet all the requirements before you draw up contracts for demolition and building work.

When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974).

British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work.

An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 8 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 9 Please note that the Greater London Council (General Powers) Deregulation Act (2015) restricts the short term letting of residential premises to a maximum of 90 days in a calendar year, so that properties cannot be used for short-term letting on a permanent basis throughout the year. All 13 of the residential units hereby approved are subject to the above limitations.

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

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Agenda Item 4

Item No.

4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Lancaster Gate	
Subject of Report	Saxon Hall, Palace Court, London, W2 4JA		
Proposal	Demolition of existing lift overrun at roof level and construction of a single-storey roof extension to provide three additional residential units, alterations to ground floor comprising new disabled access ramp and accessibility alterations to existing main entrance and cycle parking and bin storage in the rear yard, installation of air source heat pumps at roof level.		
Agent	Keystone Planning Limited		
On behalf of	Abbey Property Management Ltd		
Registered Number	21/05530/FULL	Date amended/ completed	11 August 2021/November 2021
Date Application Received	11 August 2021		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

Saxon Hall is a residential block of flats located on the east side of Palace Court, and comprises lower ground, ground floor and 5 upper storeys and a recessed plant room/lift overrun. The building is not listed but lies within the Bayswater Conservation Area.

Permission is sought for the works to facilitate a roof extension to provide three new flats and associated alterations. Amendments have been made during the course of the application to refine the design of the extension and window positioning, to enlarge the green roof and to take into consideration comments from the Health and Safety Executive.

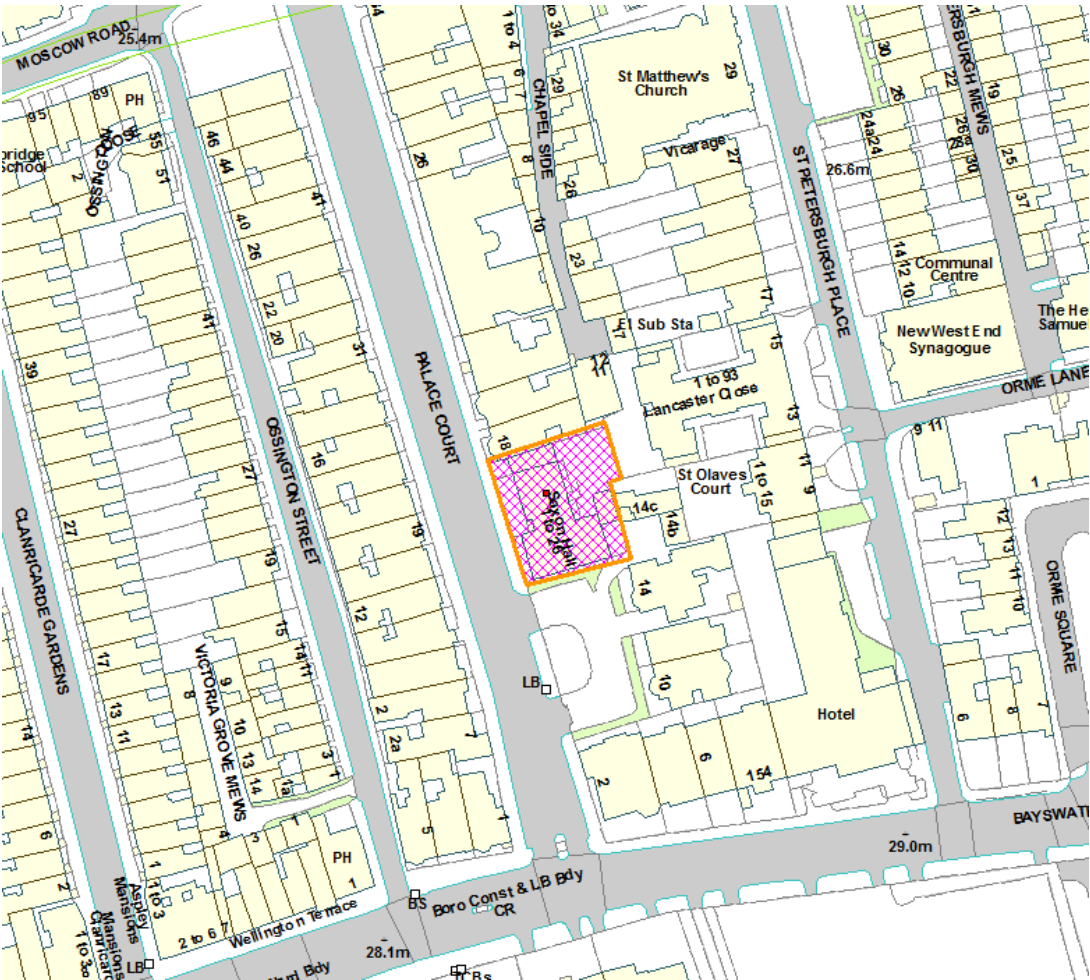
Representations of objection have been received to the proposals from the South East Bayswater Residents Association and local residents on land use, design, amenity and highways grounds as well as some representations of support on the same grounds.

The key issues in the determination of this application are:

- The impact of the proposed extension and alterations upon the character and appearance of the Bayswater Conservation Area; and the setting of other nearby designated heritage assets, such as the listed buildings adjoining the site;
- The impact of the proposals upon the amenity of neighbouring residential properties; and
- The acceptability of the proposed residential accommodation in terms of its, size, mix and accessibility.

The application is considered to accord with the development plan and the application is therefore recommended for approval, subject to the conditions set out in the draft decision letter appended to the report.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Saxon Hall, photo from south of Palace Court



Aerial View of Saxon Hall to show context with neighbouring buildings.

5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION (August 2021):

HISTORIC ENGLAND:

No comment.

ROYAL PARKS:

Any response to be reported verbally

ROYAL BOROUGH OF KENSINGTON AND CHELSEA:

No objection.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Objection. Agree with neighbours objections, proposals do not preserve or enhance the Bayswater Conservation Area.

NB: Councillor Burbridge, who was a ward councillor at the time of submission wrote to support the comments made by the South East Bayswater Residents Association (although Bayswater Residents Association was reference in the councillors comments) and the neighbour objections.

GARDEN TRUST:

No comment.

ENVIRONMENTAL HEALTH:

No objection.

WASTE PROJECT OFFICER:

No objection. Further details were requested, this has now been received and no objections are raised.

HIGHWAYS PLANNING MANAGER:

No objection subject to a condition securing 6 cycle parking spaces.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 188

No. of objections: 22 received (2 letters which are on behalf of one property; one letter representing 20 owners within Saxon Hall and one letter on behalf of 205 properties in Saxon Hall, Lancaster Close, St Olaves Court and Palace Court – see representation dated 10 September 2021)

No. in support: 5

Objections

In summary, the objectors raise the following issues:

Land Use:

- Increase in density is not suitable for this area

Design:

- Impact on appearance of property and Palace Court
- Impact on setting of Bayswater Conservation Area
- The increase in height would be out of keeping with local neighbourhood
- Roof extensions to the building have been refused in 1995 and 1996 – query what's different?
- The proposals do not preserve and enhance the character and appearance of the conservation area
- The building will appear top heavy
- The heritage assessment is as submitted for the earlier withdrawn applications and should be revised
- If the privacy screen between flats 2 and 3 was increased to overcome amenity concerns, this adds bulk to the building

Amenity:

- Loss of sunlight/daylight to occupiers of St Olaves Court
- Loss of privacy to occupiers of St Olaves Court
- Noise and disturbance from increased residential properties
- Light pollution to neighbouring properties
- The application is silent on how noise protection to existing Saxon Hall residents would be provided
- The screen proposed between new flats 2 and 3 is not high enough to protect future occupants

Highways:

- Increase in parking in surrounding streets
- Minimum cycle parking proposed and that this does not meet the provisions needed for the flats proposed

Other:

- Why should the applicant be allowed to keep resubmitting applications at this site resulting in wasted officer time and Council money
- Residents in Olaves Court and surrounding buildings not being notified by Westminster Council of application
- Only given one week to comment
- Applicant/ freeholder is aggressive and unpleasant
- The developer is not listening to the local community
- The green roof is not meaningful and merely a nod to environmental policies
- Disruption to existing residents lifts whilst works take place
- Noise and disruption during works and concerns as to health needs of existing residents in Saxon Hall
- Documents from previously withdrawn scheme have been submitted
- Structural integrity of existing building

Support

Five letters of support have been received on the following grounds:

Land Use:

- Provision of more housing is welcomed
- Housing with amenity spaces is welcomed

Design:

- The design of the roof extension is acceptable

Amenity:

- The light impact of the roof extension appears acceptable

Highways:

- A car free scheme is good

Other:

- A roof extension will reduce maintenance costs for all
- A roof extension will reduce service charges for all

RE-CONSULTATION ON AMENDMENTS OF 9 NOVEMBER 2021 (refinement to design and window positioning; enlargement of green roof and inclusion in description of development of an air source heat pump (always shown on plans but not included in description)).

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 180

No. of objections: 37 received (on behalf of 18 properties)

No. in support: 0

In summary, the objectors raise no new issues over what those raised under the original consultation.

A couple of residents were incorrectly notified that the application was being presented at committee in February 2022 and wrote to ask why further to the planning history, unsuccessful applications in the past and further to their objections (listed in detail above), the application was being recommended for approval and why they hadn't been notified of the committee date.

Other:

- Retrofitting of scheme with an ASHP is unlikely to be environmentally friendly

FURTHER CONSULTATION OF 26 SEPTEMBER 2022 (application was revised internally to provide a fire safety scheme).

HEALTH AND SAFETY EXECUTIVE

Comment. Formal response with some concern to materials and that the firefighting staircase opens onto the firefighting lift, but that this can be dealt with at a later date because it is subject to a later regulatory consideration.

5.2 Applicant's Pre-Application Community Engagement

The application was submitted prior to the publication of the Council's Early Community Engagement guidance. Whilst it is known that engagement with residents from within Saxon Hall has taken place, from the applicant's submission it does not appear as if engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application. A point raised by objectors.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

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

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

Saxon Hall is an unlisted block of flats located on the east side of Palace Court, within the Bayswater Conservation Area. The block was built in the 1960s and comprises lower ground, ground and five upper floors with a recessed plant room at roof level. The application site is located approximately 250 metres from Hyde Park and the Royal Parks Conservation Area. To the south of the application site is a small private square, the properties around which are all listed at either Grade II or Grade II*.

7.2 Recent Relevant History

There is a number of relevant applications for a roof extension, as detailed below. There has also been extensive history for other areas of the building and these too are listed to give an overview of the site.

Roof extension history

20/06317/FULL

Demolition of existing lift overrun at roof level and construction of a two-storey mansard roof extension to contain seven residential units, alterations to ground floor comprising new disabled access ramp and accessibility alterations to existing main entrance and cycle parking and bin storage in the rear yard and associated works.

Application Withdrawn 21 December 2020

20/01124/FULL

Demolition of existing lift overrun at roof level and erection of a three-storey roof extension to deliver eight additional residential units with associated terraces, alterations to ground floor existing main entrance comprising disabled access ramp and accessibility alterations cycle parking and bin storage in the rear yard and associated works.

Application Withdrawn 1 May 2020

96/01863/FULL

Erection of additional storey to provide one additional flat and modified plant room

Application Refused 20 June 1996

This application was refused on design grounds and that the extension would adversely affect the character and appearance of the Bayswater Conservation Area. An appeal was lodged and dismissed by The Planning Inspectorate on 29 January 1997. This appeal decision is discussed in further detail in the design and heritage section of this report and attached in the background papers.

Other related history

22/05532/FULL

Erection of single storey extension at ground floor level to House (known at flat 27).

Pending

22/03473/CLOPUD

Erection of single storey rear extension.

Lawful development certificate refused. 20 July 2022

19/04621/FULL

Rationalisation and reduction of the existing parking in the rear yard to provide three vehicle spaces.

Application Permitted 21 January 2020

17/01729/FULL

Erection of a single storey roof extension and external alterations to create a second

floor level.

Application Permitted 19 July 2017

16/10856/FULL

Infilling of lightwell to the rear of site at ground floor level to create an extension to an existing flat (Flat 27) and creation of a roof terrace.

Application Permitted 19 January 2017

14/00018/FULL

Conversion of part lower ground floor to create two-bedroom flat and associated external alterations including new windows and doors, and rear terrace with trellis screening.

Application Permitted 3 February 2015

13/07714/FULL

Conversion of 1x3 bed flat in rear south east corner of site to 1x1 bed and 1x2 bed flats and associated external alterations including installation of rooflight, fenestration changes and subdivision of existing terrace.

Application Permitted 3 February 2015

11/03552/FULL

Erection of part 2 storey and part 1 storey one bedroom mews property with roof terrace and glass balustrade and lightwell to the rear of Saxon Hall.

Application Refused 24 June 2011

11/02842/FULL

Erection of 2x 2bedroom storey mews houses with basements and the provision of associated first floor balconies and balustrading.

Application Refused 20 June 2011

11/01453/FULL

Conversion of part lower ground floor to create one-bedroom flat and associated external alterations involving the introduction of new windows and doors.

Application Permitted 21 July 2011

10/08269/FULL

Alterations and excavation at lower ground floor level to create a three bedroom flat with new double height rear extension (to south east corner of application site), lightwells, windows, doors and green roof and walls.

Application Permitted 14 April 2011

10/05880/FULL

Alterations to existing storage area at lower ground floor to create a one bedroom flat (Class C3) with associated external alterations to rear lightwell.

Application Permitted 10 February 2011

09/03053/FULL

Alterations and excavation at lower ground floor level to create three bedroom flat with new lightwells, windows and doors.

Application Permitted 27 August 2009

09/00024/FULL

Excavation at lower ground floor level to create a self contained 2 bedroom flat with associated extensions and alterations to front and side elevations including excavation of lightwells and new windows and doors.

Application Permitted 19 March 2009

8. THE PROPOSAL

Permission is sought for a roof extension measuring approximately 250 sqm. It would contain three residential units (1 x 1 bed at 68m²; 1 x 2 bed at 84m² and 1 x 3 bed at 102m²). All three flats have terraces measuring between 10 and 16m². The lift core is to be extended upwards and 3 air source heat pumps are adjacent. Two areas of green roofs are proposed.

Amendments to the proposals have been made during the course of the application refining the design and siting of the windows and for the provision of a larger extent of green roof. In addition, minor amendments have been made internally to address fire safety concerns from the Health and Safety Executive and this is why there is a delay in presenting to the application to the planning committee from its original submission.

9. DETAILED CONSIDERATIONS

9.1 Land Use

In land use terms, the provision of additional residential units is in accordance with Policy 8 (Housing Provision) of the City Plan and is therefore welcomed. The proposal also includes a family sized unit (i.e.three bedroom), and therefore meets the unit mix requirements of policy 10 of the City Plan.

Policy 12 of the adopted City Plan seek to ensure new homes and residential extensions provide a well -designed, energy efficient and high quality living environment; that 90% of all new build housing is accessible and adaptable and that all new homes will meet or exceed the National Described Space Standard.

All the units slightly exceed the minimum requirements outlined in the Nationally Described Space Standards, but these are not exceptionally large units and therefore supported. The proposed flats will be dual aspect and therefore well lit and ventilated. The flats are to be served by a lift and therefore accessible.

Policy 12 D also requires that all new homes will provide at least 5 sqm of external amenity space. The proposals exceed this with terraces measuring 10m², 15m² and 16m².

The proposals are acceptable in land use terms and comply with City Council policies.

9.2 Environment & Sustainability

9.2.1 Sustainable Design

The proposed extension has been technically designed to address Part L 1 A v 2016

(April 2016) of Building Regulations requirements and perform at a high level of sustainability in the long term.

All windows/ doors have floor to ceiling glazed elevations increasing natural light, in addition to the proposed rooflights. All proposed fenestration and rooflights are double glazed assembled in a high quality system of frames. Cross ventilation is also provided through the proposed windows and the openable rooflights.

Water consumption has been calculated and is below the target of the 110L per person per days and is met through water efficient fixtures and fitting. Light fittings are all proposed to be energy saving.

Air source heat pumps are proposed at roof level to provide efficient heating and cooling and large areas of green roof are proposed.

The proposals are considered suitable for the scale of the development and to comply with the aims of policy 38 of the City Plan and the guidance as set out in the Environmental Supplementary Planning Document (ESPD).

9.2.2 Flood Risk & Sustainable Drainage

The site does not lie within a flood zone or within a surface water hotspot

9.2.3 Environment & Sustainability Summary

The proposals for a roof extension are considered to comply with the Council environmental and sustainability policies.

9.3 Biodiversity & Greening

As noted above, a green roof is proposed and during the course of the application its coverage of the roof has been greatly increased. This is in response to objectors who stated that the original offer was a 'token provision', and officer's concerns given the targets of City Plan Policy 34 and the guidance as set out within the ESPD. Its provision is to be conditioned.

9.4 Townscape, Design & Heritage Impact

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

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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 of the Westminster City Plan 2019-2040 (April 2021) requires development to conserve features that contribute positively to the settings of conservation areas and take opportunities taken to enhance their settings, wherever possible.

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

Objections have been received to the proposals on the grounds that the roof extension would be harmful to the host property, to that of the Bayswater Conservation Area and surrounding listed buildings. Concern has been raised that a similar scheme was refused in 1997 on the grounds that the impact on the conservation area was harmful and the City Council’s refusal was upheld at appeal and why then should this scheme be treated any differently. Objectors also raise concern that the heritage assessments submitted with the earlier schemes for a roof extension have been resubmitted, therefore showing that the applicant has not reassessed the heritage implications of this proposal. Design and heritage objections are addressed below. On the point of ‘resubmitted documents’, the heritage assessment originally submitted with this application was from an earlier scheme and has been amended to refer to a scheme of a single storey roof extension.

Saxon Court is an unlisted block dating to 1960 terminating the eastern side of the Palace Court terraces, a handsome ensemble of late 19th century red brick terraces and individual dwellings. Substantial in size and often elaborately detailed, the terraces and houses form an attractive composition of eclectic character, evidenced by their turrets, gables, mullioned bays and grand porticos. The buildings are variously described as being in the Queen Anne / Flemish Renaissance styles, with some in the Arts and Craft idiom.

Saxon Court replaced Saxon House, a smaller handsomely detailed, late 19th century house with a distinct Chateau style roof. Saxon Court’s design is openly modern and utilitarian, but its red brick and white painted concrete detailing reflects the red brick and white Portland stone details of its historic neighbours. Terminating well below the steep gables of the adjoining terrace at no. 18, while modern, it’s a well-established part of the townscape of this part of the Bayswater Conservation Area.

Whilst at the time of its construction, Saxon Court was a ‘completed composition’, extensions can often be incorporated without harming their architectural cohesion, often with flat roof designs. Extensions can even provide a sense of ‘completion’ to a building. In this case, given the size of the building and its rather severe flat roof, it’s considered an additional storey would not be a harmful addition. This is on the basis of setbacks, high quality detailed design and the public benefits arising, including housing

provision and any sustainability improvements. A visually recessed single storey extension, could be a subordinate and sympathetic addition, affording the building this sense of completion.

Apart from the architectural relationship to the host building, which is acceptable, there is of course the impact on the surroundings, i.e. the settings of adjacent listed buildings and the wider conservation area.

Immediately abutting Saxon Court is 18 Palace Court, the last house in a grade II listed group. Saxon Court then turns a corner to face a gated courtyard formed in part by the rear elevations of 2 and 4 Palace Court, which are grade II buildings, fronting onto Bayswater Road. The other side (and prime focus) of this courtyard is occupied by no's 10 and 12 Palace Court, a semi-detached II star listed paired villa and no. 14 (grade II), of 5 and 3 storeys respectively.

Situated on the other side of Bayswater Road, the Royal Parks Conservation Area and the Kensington Palace Conservation Area, (the latter within Royal Borough of Kensington and Chelsea (RBKC)) are also within the environs of the development.

The setting of the adjacent buildings, conservation areas and the Bayswater Conservation Area are all material considerations to be afforded weight in the planning balance. With regard to the impact on those heritage assets, an appeal decision of 1997 is referenced in several objections. In that scheme, a single story glazed roof extension was dismissed by an Inspector citing the impact on setting of the adjacent listed buildings and the character and appearance of the Bayswater Conservation Area.

The policy context, both local, regional and national has changed a number of times in the intervening period, most notably with the adoption of the London Plan and the NPPF replacing the heritage advice of PPS5, itself replacing PPG 15. Nevertheless, the appeal decision, based on the 1990 act, is a material consideration and has been referred to in a number of consultation responses.

In paragraph 7 of that appeal, the Inspector opined that 'in my view, the proposed design would provide a simple and elegant architectural solution to your client's requirements for the appeal building considered in isolation from its surroundings. On the other hand, the additional storey, however minimalistic in design terms would undoubtedly make the existing building more conspicuous in the street scene. Saxon Hall already contrasts with and detracts from the character and appearance of Palace Court and the additional roof story would increase its bulk and prominence'.

In terms of the current proposal, the Inspector commented on the suitability of the building for extension *per se*. The current extension proposal, while differing in its materials palette, is horizontal in character, recessed from the 1960 footprint and therefore subordinate to the building form. In itself it would 'provide a simple and elegant architectural solution' to extend the building and indeed, is more suitable than a glazed solution, as sought in the 1996 scheme. In terms of policy 40 of the City Plan, which covers roof extensions, it is acknowledged that the works have some adverse impact, but also that the terrace is characterised by roof storeys, so this work would affirm that character and that the detailed design is appropriate for the building age.

With reference to the first point, it's accepted that through an extension, the block will be afforded additional prominence, causing a measure of harm to the appreciation of adjacent listed buildings, notably no. 18, and the courtyard views of no's 10-12, 14 and rears of no's 2 and 4, in views with Saxon Court. However, visibility does not always equate to harm and buildings can be extended without harm, either to the immediate conservation area or the settings of listed buildings.

In practice, as no physical damage occurs, it's nearly impossible to cause 'substantial' harm through setting impact alone. The NPPF states, "*In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.*" In this instance, it is considered that there will be a measure of harm to building setting through increased prominence of Saxon Court, but the effect will be modest. The significance of the adjacent listed buildings will not be significantly diminished through minor incursions of built form into their settings and the scale of harm measured against NPPF criteria, will be 'less than substantial'. Notwithstanding this, the NPPF affords conservation of heritage assets 'great weight', so harm must also be afforded 'great weight', irrespective of its position on the scale, but taking into account the relative significance of the affected asset and the severity of the harm caused.

The key feature of no's 18, 10-12, 14 and 2/4 setting, is not their relationship to Saxon Court, moreover it is their group contribution to each other in the composition of Palace Court as a characterful historic development. So, while Saxon Court is undoubtedly an integral element, it does not actively contribute to the group charm and character which informs the significance of the listed building settings – this of course, remains unchanged.

In so far as the impact on the building setting's is considered 'less than substantial', so is the impact on the Bayswater Conservation Area. The impact on the adjacent conservation areas is considered negligible. The applicant's Heritage Statement notes that visibility of the extension from those assets is very limited and given the size of the conservation area, incidental. As such, no harm to the setting of either the Royal Parks or Kensington Palace Conservation Areas results. These considerations accord with policy 39.

In terms of paragraph 202 and the mitigation of harm by public benefits, consideration should take into account the relative significance of the affected asset and the severity of the harm caused. The assets are clearly important, a large conservation area with numerous designated and undesignated assets within, the setting of two others and the setting of several listed buildings. However, as illustrated, the severity of harm caused is modest/low to negligible and therefore 'less than substantial'.

Within that context, the provision of three additional housing units, compared to one in the dismissed appeal scheme of 1997, is beneficial. The detailed design is compliant with policy 38 and 40, using a 'roof like' grey zinc, with a significant number of the

openings aligning with those below to create a coherent relationship of roof storey to the main building. The glass balustrade to the terraces on the southern and western elevation are appropriate given there is glass balustrading to lower levels. There is a green roof which has been extended in its cover since the application's original submission. This is welcomed and to be conditioned to be provided. In addition, the integration of air source heat pumps, which are more sustainable in terms of the energy used compared to the standard gas powered boilers, also weighs in its favour.

Combined with the modest/low impact on heritage assets, which essentially preserves their significance and that of the character of the Bayswater Conservation Area, these aspects of the proposal weigh in favour of approval in the overall planning balance. 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.

9.4.2 Fire Safety

The Health and Safety Executive (HSE) have been consulted on the proposals given new residential accommodation is proposed on a relevant building.

Despite initial concerns, the HSE now have no objections to the proposals and consider that the fire safety measures proposed, fire service access points, means of escape and existing materials are all, in general, acceptable. Comment is made that there is insufficient performance specification of the wall material choice for the extension but that this is a regulatory requirement for Building Regulations and should any changes be required, this may require the applicant to address this at a later date in planning terms. Comment is also made that a firefighting staircase should not open onto a firefighting lift and this will need to be resolved at Building Regulations stage. As this is an internal change, and does not affect the planning proposals, the HSE are content at this stage.

9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers as is Policy 38 C, which seeks people centred design to reduce impacts of developments.

The objections received raise concern of loss of sunlight and daylight and overshadowing to neighbouring properties; loss of privacy from the new windows and terraces. Concern is also raised on the grounds of noise and disturbance from increased number of residential properties; light pollution to neighbouring properties and what noise protection to existing Saxon Hall residents is to be provided.

9.5.1 Sunlight and Daylight

The City Council generally has regard to the standards for daylight and sunlight as set

out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2022). The applicant's consultant has carried out the necessary tests using the methodology set out in the BRE guidelines on residential properties surrounding the site.

The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution available to windows in these properties. Where room layouts are not known the daylight distribution test has not been undertaken by plotting the No Sky Line (NSL). VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE guidelines state that the window will have the potential to provide good levels of daylight. The BRE guidelines state that reductions of over 20% of existing daylight levels are likely to be noticeable.

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90% of due south and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidelines recommend that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight; if the overall annual loss is greater than 4% of APSH, the room may appear colder and less cheerful and pleasant.

The properties tested for daylight and sunlight levels comprise:

- 2 Palace Court (south of the site);
- 14, 14b-c Palace Court (east/south east of the site);
- 15, 17, 19, 21 Palace Court (west of the site)
- 18 Palace Court (north of the site)
- 11-12 Chapel side (north east of the site)
- Lancaster Close (west facing residential units), St Petersburg Place (east of site)

Where there are losses, they are very minor and all windows assessed passed the Vertical Sky Component tests and all rooms (where known from estate agents particulars, planning history records etc.) pass the daylight distribution test. In terms of sunlight, all windows that face within 90 degrees of due south have been tested for direct sunlight and all windows with a requirement for sunlight pass both the total annual sunlight hours test and the winter sunlight hours test.

The proposals are therefore acceptable in terms of daylight and sunlight.

9.5.2 Privacy

Windows are proposed to the east, south and west facing elevations. These, in general replicate the window positioning of the lower level residential units and are therefore not considered to give rise to any additional overlooking to neighbouring properties over what currently exists.

Terraces are proposed to each of the flats to the southern and western elevation, and glass balustrades are shown. The potential overlooking from these has raised objection. The terraces are 10m², 15m² and 16m² and therefore not considered excessive in size. There are existing terraces to the lower level flats in the building on the south and west elevation and therefore any additional overlooking from the proposed terraces is unlikely to be harmful to neighbouring properties given existing mutual overlooking.

An objection has been received on the grounds that the screen proposed between the proposed flats 2 and 3 is not high enough to protect overlooking between these properties (and if this were to be raised, would result in more loss of daylight). Whilst the height of the screen would not prohibit overlooking between the two flats, the situation is considered acceptable, and it would replicate the open nature of the terraces at lower levels.

The proposals are therefore acceptable in terms of privacy and overlooking.

9.5.3 Sense of Enclosure

The proposed roof extension is replacing the existing very large lift motor room. Whilst upper levels of neighbouring properties will see the proposed extension, it is considered that a single storey roof extension of 2.8m (and lift overrun of a further 1m), set back from the parapet edges and given the distances to neighbouring properties, would not result in an unacceptable sense of enclosure.

The proposals are therefore acceptable in terms of outlook and sense of enclosure.

9.5.4 Light Pollution

Objections have been received on the grounds that the roof extension will omit unacceptable levels of light at night time. The extension is solid with window and door apertures, no different to the lower levels of this building and it is therefore not considered that this would result in unacceptable levels of light spill.

9.5.5 Noise

Air Source Heat Pumps are proposed at roof level. Environmental Health have no objections to this plant equipment on noise grounds subject to the Council's standard noise conditions. The proposals are therefore acceptable in amenity terms.

9.6 Transportation, Accessibility & Servicing

9.6.1 Parking

Objection has been received on the grounds that three flats will create extra demand for on-street carparking should permission be granted. The Highways Planning Manager raises no objection to the scheme with no parking, as this is policy compliant. It is not considered that three additional flats will result in a significant increased demand of on-street car parking and that any requirements for additional car parking can be absorbed in the existing highway network. The proposals are in accordance with policy 27 of the City Plan and London Plan policies.

9.6.2 Cycle Parking

Five cycle parking spaces at ground floor level to the rear are shown, in accordance with the London Plan requirement of 1 space per residential unit of 1 bedroom or fewer and 2 spaces per unit of 2 bedrooms or more. The Highways Manager has incorrectly referred to the need for 6 cycle spaces. The 5 spaces are acceptable and their provision is to be secured by condition.

9.6.3 Waste & Recycling Storage

Waste storage areas for the 3 flats are shown on the plans and these are to be sited next to existing refuse storage (according to the applicant). The Waste Project Officer had requested further details and queried a discrepancy in the existing and proposed plans in that the existing ground floor drawing shows more than the number of bins on the proposed ground floor drawing. The discrepancy has now been resolved. The principle of waste storage in this location is acceptable and at the waste project officer has no objection to the proposals.

9.6.4 Access

The residential building is accessed via 4 steps from pavement level. This is not altered as a result of the proposals. An internal lift is proposed to access the new roof level accommodation.

9.7 Economy including Employment & Skills

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

9.8 Other Considerations

9.8.1 Structural Stability

One area of concern for residents is the structural stability of Saxon Hall with the addition of an additional rooftop extension. Para 40.13 of the City Plan states “the creation of larger extensions to existing buildings may also lead to additional challenges and the capacity to support additional loading will be an important factor in determining the feasibility of delivering such rooftop development”.

The applicant has submitted a letter from a structural engineer and this confirms the proposed weighting of the extension and that this is likely to have no significant structural effect on the building. Whilst this has not been reviewed by the Council’s Building Control Manager, should planning permission be granted the proposals would be subject to Building Regulations.

9.8.2 Construction Impact

Multiple objections have been received on the grounds of noise and disruption during the

course of works if permission was to be granted. An objection has also been received on the grounds that a construction management plan (which addresses the disruption caused by building works) has not been received.

Whilst the objection of noise and disruption during works is noted, it is not itself a reason to withhold permission. A condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highway's authority or by the local authority under the Control of Pollution Act 1974. An informative is also recommended to advise the applicant to join the considerate constructors scheme. Through the use of the above conditions and informative, it is considered that the impact of the development on surrounding occupiers is being suitably controlled and mitigated as far as practicable under planning legislation.

Given the nature of the proposed works, a construction management plan or the applicant's agreement to adhere to the City Council's Code of Construction Practice is not required.

9.8.3 Impact to Existing Lifts

Whilst it is acknowledged that there may be disruption to the existing lifts whilst works are taking place to extend these to the new top floor this is not a reason in itself to withhold permission and is a private matter.

9.8.4 Behaviour of Applicant

Objections have been received on the grounds that the developer is not listening to the local community and that the applicant/ freeholder is aggressive and unpleasant. Whilst this is regrettable and whilst officers understand the frustration caused when applicants have a poor relationship with neighbours and the local community, this is not considered a material planning consideration and permission cannot be withheld on this basis.

9.8.5 Resubmission of applications

Many objections have been received from neighbours and surrounding residents on the grounds that the applicant is always submitting applications to the City Council, many of which are reiterations of previously refused/ withdrawn schemes or those that have been tested at appeal previously. This application is considered to be materially different to previous schemes and for the reasons set out in the report, different to the appeal decision of 1997 and therefore the City Council cannot decline to determine this proposal. Officers appreciate the time spent by neighbours and the local community in reviewing the application's submitted and the comments made.

9.8.6 Lack of Consultation

Objections have been received from residents within St Olaves Court stating that they have not been consulted by the City Council on the proposals. When the application was submitted it is correct that St Olaves Court, in an administrative error were not

consulted. This was rectified and residents were later consulted.

9.8 Environmental Impact Assessment

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

9.9 Planning Obligations & Pre-Commencement Conditions

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

The total amount of CIL payable (based on the applicant's CIL liability form) is £143,376 (comprising Mayoral CIL of £18,907 and Westminster CIL of £124,468). This will be further assessed in due course and subject to any exemptions or relief that may be available to the applicant.

There are no pre-commencement conditions proposed.

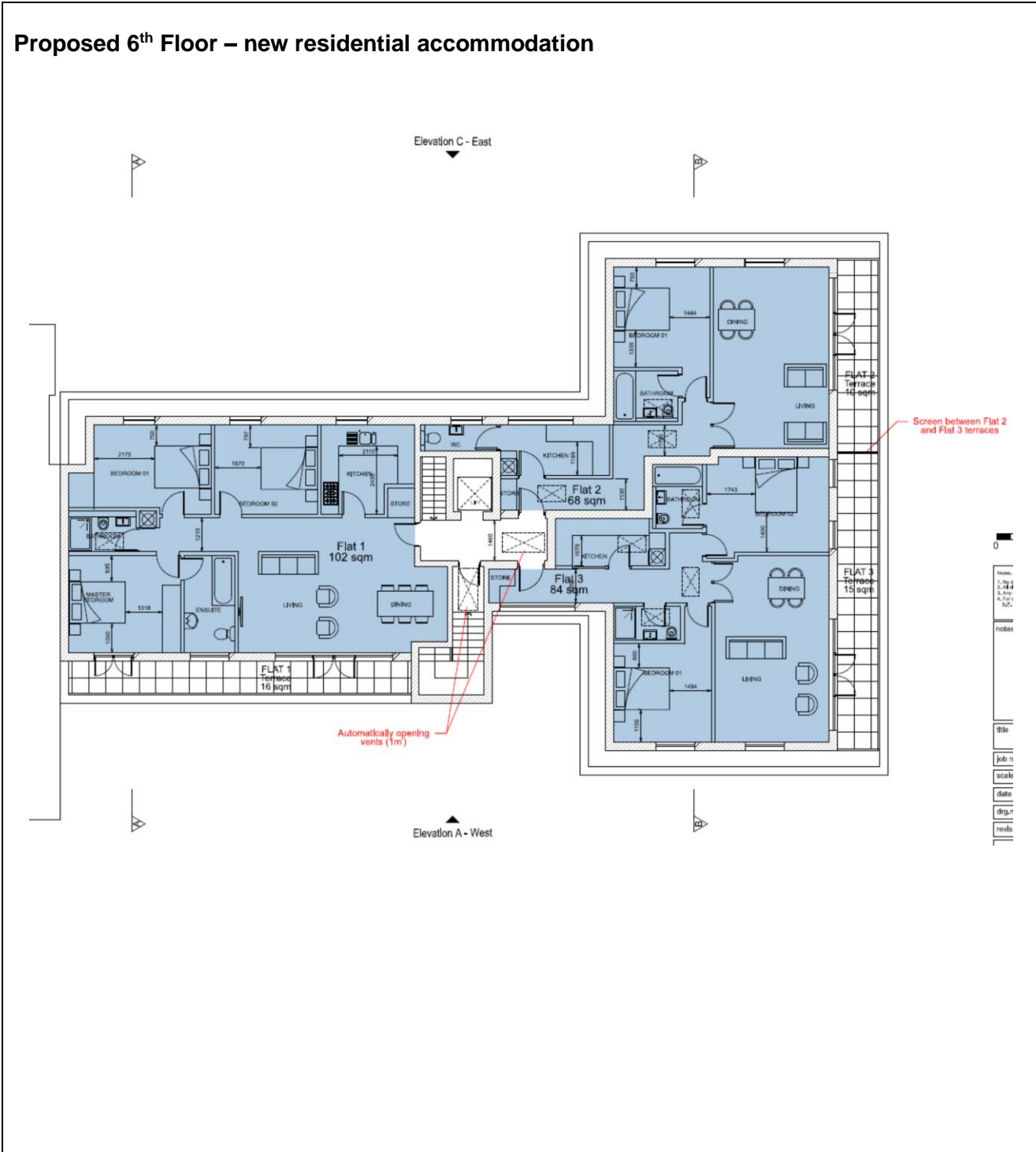
10 Conclusion

The proposals for additional residential accommodation in the form of three flats are acceptable and the works to facilitate this are acceptable in heritage, conservation and design terms and are not considered to harm surrounding residential amenity. As such, whilst being mindful of policies 7, 8, 25, 33, 34, 38, 38, 39, and 40 of the City Plan 2019-2040, given the public benefits that would be delivered, which comprise the provision of additional homes, the proposal is considered acceptable in terms of its impact on the designated heritage asset(s). 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.”

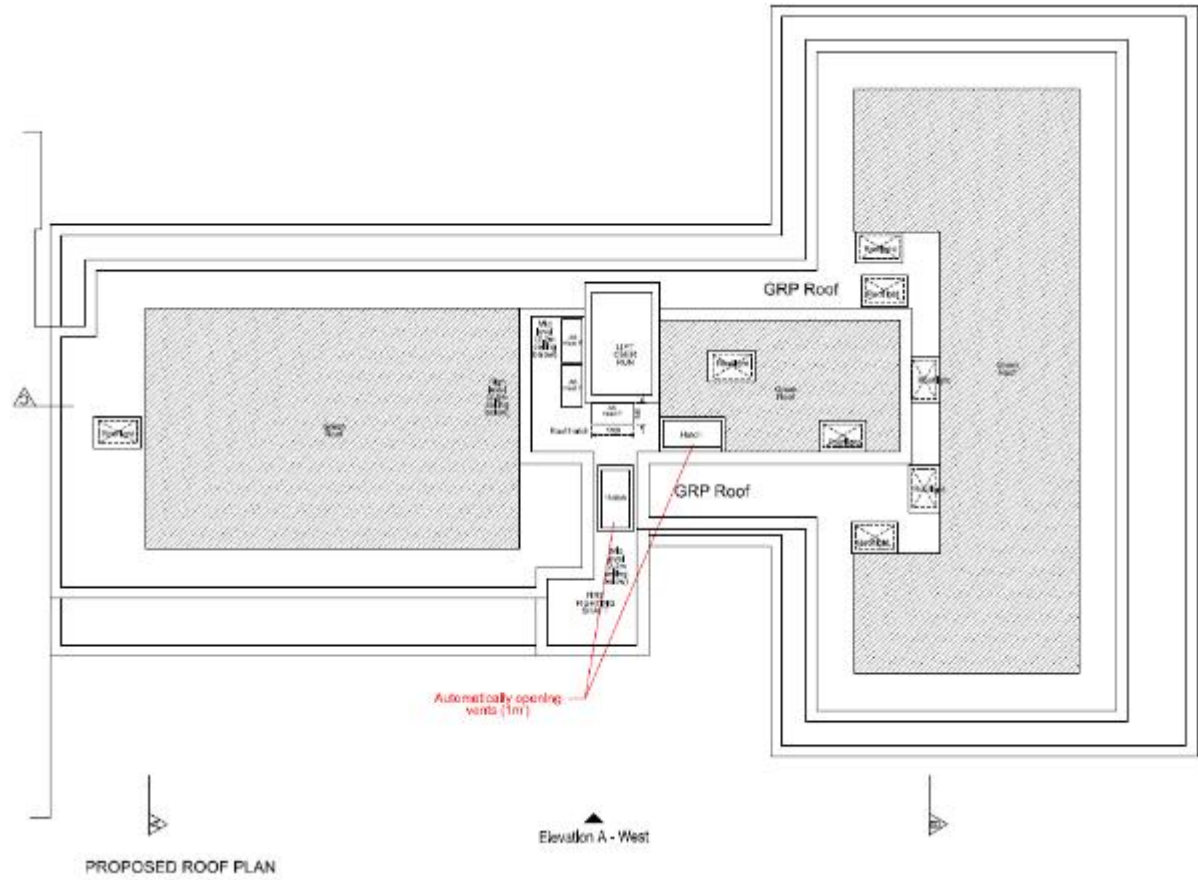
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

11 KEY DRAWINGS



Proposed Roof Plan



Existing (top) and Proposed (bottom) West Elevation



EXISTING ELEVATION A - WEST



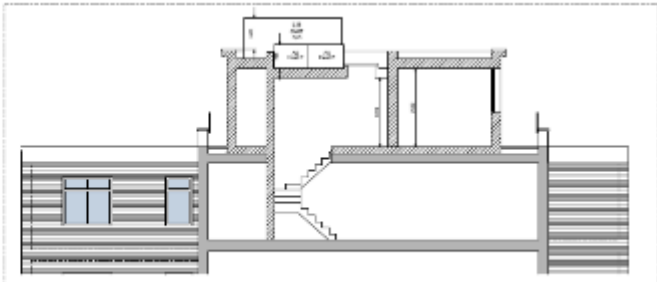
Existing (top) and Proposed (bottom) South Elevation



Existing (top) and Proposed (bottom) East Elevation



Existing (top) and Proposed (bottom) Section

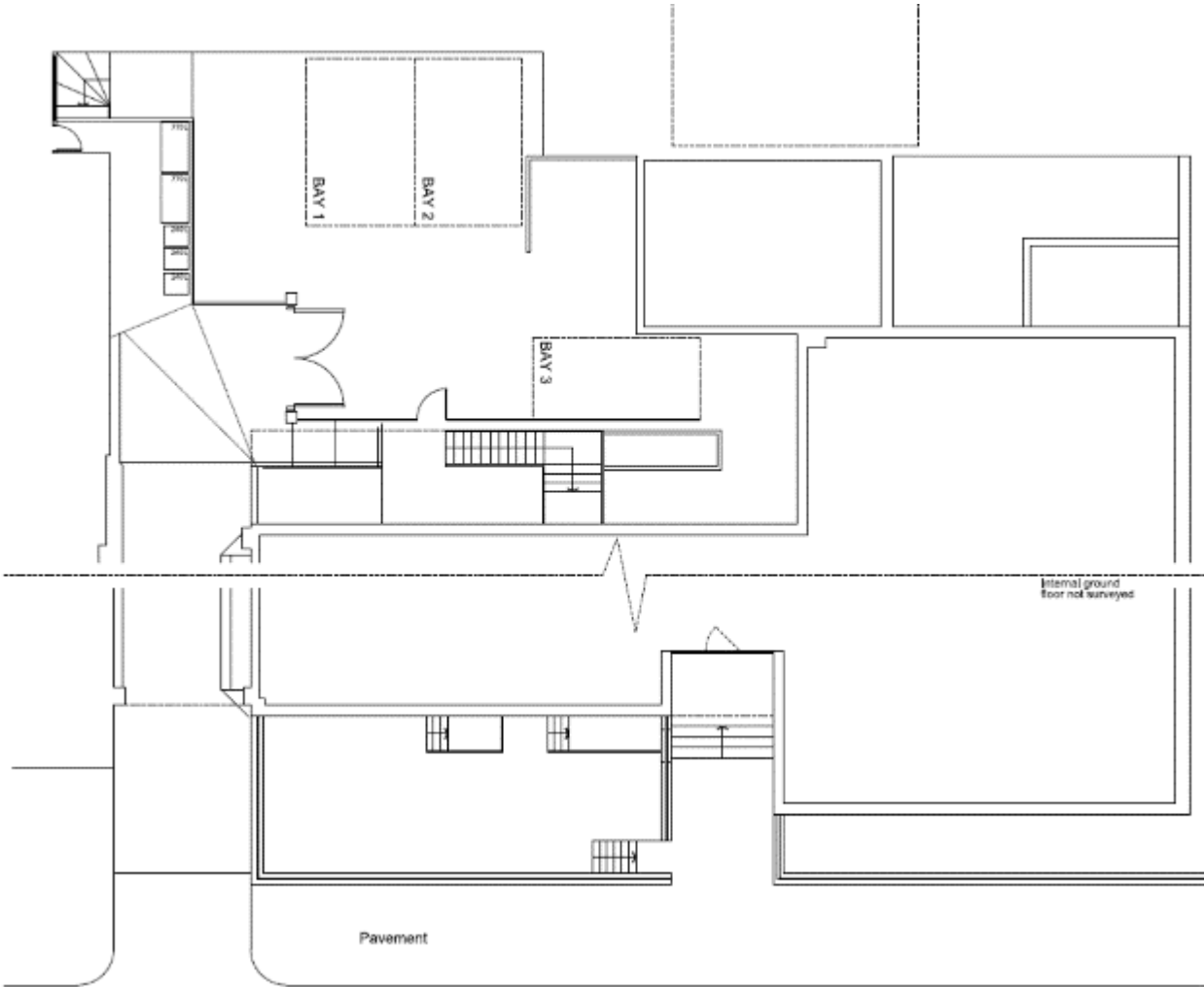


PROPOSED SECTION CC - 1:100 @ A3



<p>Notes:</p> <ol style="list-style-type: none"> 1. All dimensions are to the center line of the member. 2. All dimensions are to the finished floor level unless otherwise specified. 3. All dimensions are to the finished floor level unless otherwise specified. 4. All dimensions are to the finished floor level unless otherwise specified. 5. All dimensions are to the finished floor level unless otherwise specified.
<p>Drawn: W2 4JA</p>

Existing Ground Floor Plan



DRAFT DECISION LETTER

Address: Saxon Hall , Palace Court, London, W2 4JA

Proposal: Demolition of existing lift overrun at roof level and construction of a single-storey roof extension to provide three additional residential units, alterations to ground floor comprising new disabled access ramp and accessibility alterations to existing main entrance and cycle parking and bin storage in the rear yard, installation of air source heat pumps at roof level.

Reference: 21/05530/FULL

Plan Nos: 2222:SK-01; SK-101 A; GA-100; GA-101 A; GA-111 A; GA-112 A; GA-113 A; GA-121; GA-112; GA-200 E; GA-201 ZD; GA-204 L; GA-211 S; GA -212 V; GA-213 T; GA-223 B; GA-224; Design and Access Statement; Planning Statement; Heritage Statement; Letter from John Less Associated dated 30 September 2021; Daylight and Sunlight Assessment dated October 2021; Noise Assessment dated 20 October 2021; Sustainability and Energy Statement dated 15 July 2021, Fire Statement.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641
07866036948

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing and brick work. You must not start work until we have approved what you have sent us. You must then carry out the work using the approved materials.

Reason:

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

- 5 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

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

- 6 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)

- 7 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 2222-GA-200 Rev E. Prior to occupation 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 flats. (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)

- 8 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

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

- 10 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/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)

- 11 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

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., , 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 or visit 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
- 3 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 4 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: environmentalsciences2@westminster.gov.uk) to make sure that you meet all the requirements before you draw up contracts for demolition and building work. , , When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974)., , British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.
- 6 The construction manager should keep residents and others informed about unavoidable

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4

disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.

- 7 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice on 020 7641 6500 or email districtsurveyors@westminster.gov.uk.

- 8 Conditions control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- 9 In relation to the green roof condition, you should review the guidance provided by the Greater London Authority on their website prior to finalising the structural design of the development, as additional strengthening is likely to be required to support this feature: www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening.

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

Agenda Item 5

Item No.

5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 th December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Regent's Park	
Subject of Report	St John's Wood Car Park, Kingsmill Terrace, London, NW8 6AA		
Proposal	Use of levels 5 and 6 of car park as Self-Storage (B8)		
Agent	Harris Lamb Ltd		
On behalf of	NW8 Self-Storage Limited		
Registered Number	22/03546/FULL	Date amended/ completed	22 August 2022/20 October 2022
Date Application Received	27 May 2022		
Historic Building Grade	Unlisted		
Conservation Area	Outside of St John's Wood Conservation Area		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional planning permission.
--

2. SUMMARY & KEY CONSIDERATIONS

Planning permission is sought to use the sub-basement levels (5&6) of the public car park for self-storage purposes. Representations of objection have been received from the St John's Wood Society on grounds of the loss of public car parking spaces, which are needed to support the High Street regeneration and visitors to St John and Elizabeth hospitals and Lords Cricket Ground. Residents of Birley Lodge (located above the car park) have also objected on various grounds including:- loss of car parking spaces, nature of proposed use, safety and security and impact on residential amenity.

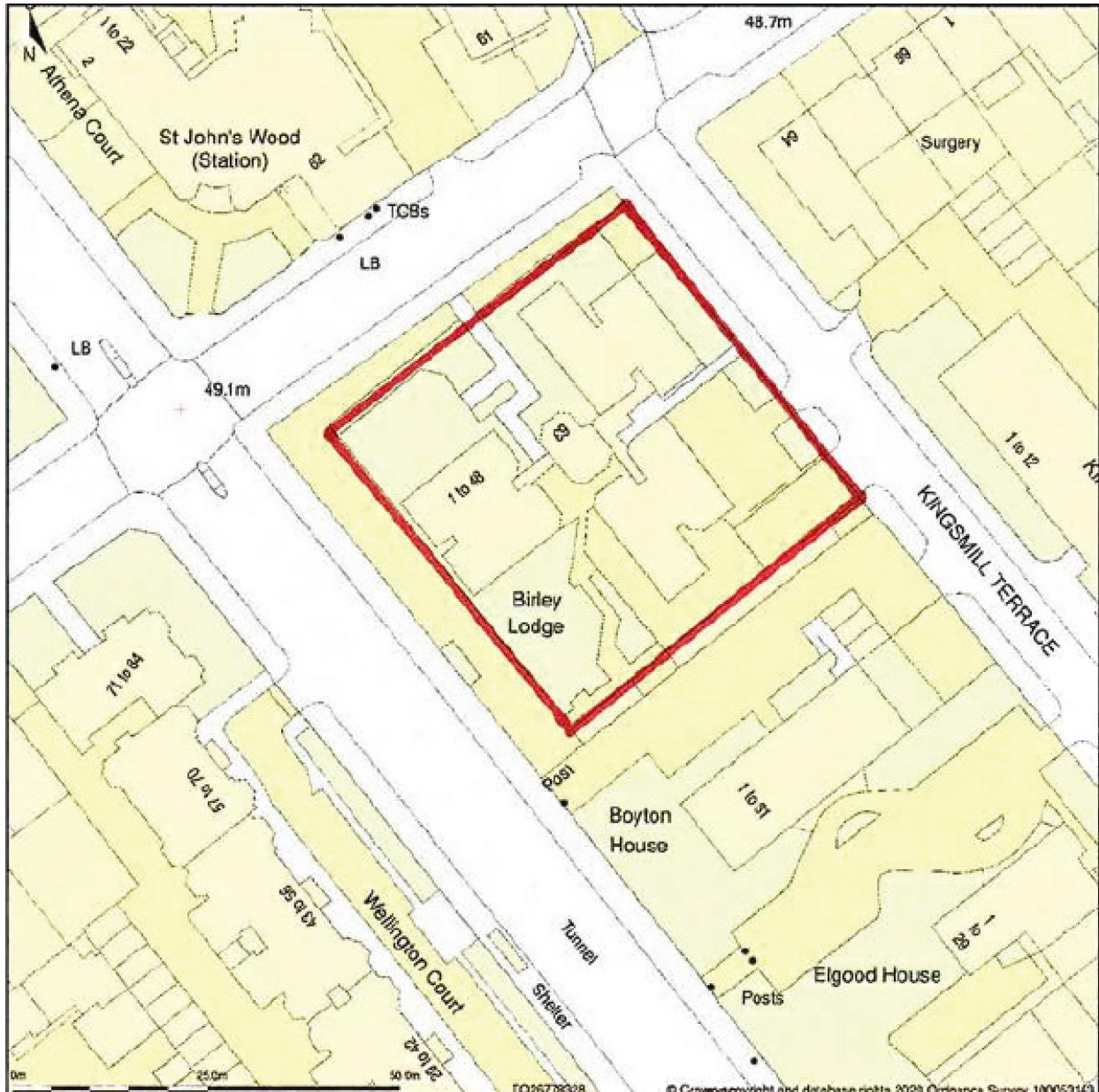
The key considerations in this case are:

- The loss of public car parking spaces.
- The principle of the self-storage use in this location.
- Impact of the use on the amenities of residents, including on safety and security.

The concerns raised by the St John's Wood Society and residents are well understood.

However, the car park has been shown to be under-utilised and would continue to provide 122 car parking spaces for use by the public. The use of under-utilised public car parks, including this one, for self-storage use is not uncommon and the proposal has been designed in liaison with the designing out crime officer, to address matters of crime and safety. As such, the proposal accords with the relevant City plan policies and a favourable recommendation is made.

3. LOCATION PLAN



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PHOTOGRAPHS



Kingsmill Terrace – Vehicular & Pedestrian Access to Public Car Park and other commercial activities, sited below Birley Lodge, which is a residential development comprising three linked towers.



Kingsmill Terrace – Vehicular & Pedestrian Access to Public Car Park and other commercial activities, sited below Birley Lodge, which is a residential development comprising three linked towers.

4. CONSULTATIONS

4.1 Application Consultations

HEALTH AND SAFETY EXECUTIVE (HSE)

Comment. Not a relevant building.

HIGHWAYS PLANNING

No objection subject to conditions including requiring a Servicing/Operational Management Plan.

WASTE PROJECT MANAGER

No Objection. Details are in line with the council waste storage requirements. Recommend perpetuity condition to secure provision in accordance with drawing 004/B.

DESIGNING OUT CRIME OFFICER

No objection. Recommend Secure By Design Accreditation.

ENVIRONMENTAL HEALTH

Any response to be reported verbally. (Note, they did not raise objection to earlier proposal- 20/07482/FULL)

BUILDING CONTROL

Comment. Will require full plans Building Regulations.

ECONOMY TEAM

Any response to be reported verbally.

WARD COUNCILLORS FOR REGENTS PARK

Any response to be reported verbally.

ST JOHNS WOOD SOCIETY

Objection.

We strongly object to the change of use which will result in the loss of local off-street parking places. This is particularly unwelcome at a time when WCC's £2m NCIL High Street regeneration project is under discussion. If the improvement works go ahead, a substantial number of parking places will be lost on the High Street. Parking space in the garage will become even more important for visitors. The new Compton and Edrich stands at Lords are welcoming over 2000 additional visitors to Lords, not only for cricket but also for large year round functions. Visitors to St John and Elizabeth hospitals also need to access easily available off street car parking. There is no other parking garage available locally and local on street car parking is notoriously in very short supply. Please refer to the Highways team for the project. We would like to see evidence that the applicant has done sufficient marketing of their parking space to warrant a change of use at levels 5 and 6. There are a number of self-storage facilities already available locally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. consulted: 132 Total No. of Replies:21

No of. Objections: 21 from 20 addresses including from Birley Lodge Managing Agent (appointed by freehold company). Birley Lodge Limited, freeholder of Birley Lodge and the Car Park which sits in the basement floors of Birley Lodge and manage Birley Lodge which contains 48 flats.

Including responses from nine addresses (25,26,27,36,42,44,46,47 &48) from the same named person.

No.in support:-0

LAND USE

- This is a residential property and as such, commercial use should not be permitted inappropriate commercial use is already rife and causing significant harm to the residents.
- There should be no commercial use of the property permitted at all. I would suggest that the only proper use of the lower floors should be as private parking spaces for the residents - as I believe was the original intention for these floors.
- Birley lodge is a residential building and Kingsmill Terrace is a very small side street. To allow the commercial activity of self-storage is not what the building was intended for.
- The proposal states that the carpark is working at a 35% occupancy rate for many years. We would propose from what we have already seen that even at this current level of activity it is a huge nuisance and greatly impacts the quality of our lives at Birley Lodge.

TRANSPORTATION/ LOSS OF CAR PARKING

- Lack of parking spaces in Kingsmill Terrace where the Birley Lodge residents can usually park on a temporary basis.
- Increase in incoming and outgoing traffic.
- Problems residents are already facing illegally parked vehicles on Kingsmill Terrace and the lack of visible parking enforcement. Indeed, many of these problems, as per my complaint, were as a result of unconventional businesses already operating out of the NCP car park beneath Birley Lodge (self-storage, car hire, car sales, etc). No doubt, the problem with illegally parked vehicles on Kingsmill Terrace and surrounding streets will be further exacerbated by the removal of yet more parking spaces. Where are the supposed clients of this new self-storage facility supposed to park?
- They say that only 10 cars use the parking per day, but then equally say as a 24/7 car park there shouldn't be any restriction on the commercial use. However, we can see that the current level of activity is low and the level of disruption caused by commercial enterprises is significantly greater than that of a car park. The argument cannot be made both ways i.e. the car park is hardly used, but the new enterprises won't increase the disruption.
- This is a residential area with limited car parking facilities as it is for both residents and visitors to Lords Cricket Ground and numerous hospitals in the area.
- We are already facing many challenges in regard to illegally parked vehicles on Kingsmill Terrace and the lack of visible parking enforcement. Many of these problems are as a result of unconventional businesses already operating out of

- the NCP car park beneath Birley Lodge (self-storage, car hire, car sales, etc).
- In the proposal it states that they expect no more than 10 people to use the storage facility per day, each spending 45-60 minutes per day. How can they foresee this and what measures are there in place to monitor this? In the proposal they state that they expect vehicle usage for the storage units to be no more than 2 cars and 1 van. Again we believe that this is an unrealistic and far too under-estimated for the proposed 200 storage units!

AMENITY

- Will adversely impact the well-being of the residents as well as their security and peace of mind.
- The existing storage use already has a vast array of different people visiting, storing large items, shouting, swearing, being generally abusive on our premises.
- The building, despite being residential in its nature, is already used as a hub for webuyanycar sales people to sell second-hand cars, seven days a week. Every day, webuyanycar sales people loudly flog second-hand cars, rev engines and generally block up Kingsmill Terrace. They also conduct their business in the private car parking space for Birley Lodge - taking loud phone calls and generally treating even the private space as their personal office. This is a huge nuisance, especially when residents are increasingly working from home.
- Disturbances from self-storage clientele after-hours and on weekends, for the residents at Birley Lodge and other immediately surrounding residential blocks of flats.
- As it is the number of businesses operating from NCP car park has detrimentally affected our day to day life at Birley Lodge . A self-storage business is not suited to a residential area such as this and is more appropriate for an industrial park .
- A proposal of 200 storage units to be available for use 7 days a week and for 14 hours a day! This in itself will convert what is supposed to be residential area into an industrial site and further increase the traffic of cars and people. This in turn is a significant concern in the security of our building, the wellbeing and privacy of the residents and the reassurance that they need whereby they are living over a 'safe' base.
- Creates extreme nuisance to the residents, as follows:
- the alarm system is broken - the alarm frequently rings for hours on end and despite many residents having complained about this many times over the past years, the problem always recurs;
- the entrance to the carpark is not secure - this results in people breaking in frequently, especially during the night - not only does this also cause the alarm to sound, it is also a risk to the security of residents in Birley Lodge;
- the carpark is usually unmanned so these issues cause chaos to the residents and often take HOURS to resolve;
- A good example of the sheer chaos QPark's lack of management causes, QPark does not operate the carpark within its capacity - last week QPark overbooked it and caused about 6 hours of blaring horns on Kingsmill Terrace and chock-a-block traffic as people who had booked parking spaces could not even go into the car park (and as a result missed the cricket) - another reason not to allow QPark to operate there - they don't have a handle on their operations at all.

SAFETY/SECURITY

- Higher risk of fire hazard due to uncontrolled stocking of inflammable and illicit materials that could be stored in the facilities.
- A safety risk to the building due to more frequent unknown users of the storage.
- Concerned that dangerous chemicals and explosive devices could be stored that put our lives at risk.
- It is unacceptable for a storage space to be run in a residential building. The residents should not be subject to the risks of whatever is stored in the facility, by whomever.
- Adversely impact the well-being of the residents as well as their security and peace of mind.
- Hazardous/flammable items being stored beneath a residential block of flats;
- How have the security concerns regarding increased potential crime and disorder been addressed? Will the commercial organisation make undertakings to guarantee this won't happen and what recourse is there if this undertaken is not taken seriously and the crime/disorder becomes worse?
- will increase the risk of crime , disorder , personal safety and fire hazards .
- fire risk and storage of hazardous / illegal substances . How can or will the Council ensure such materials are not stored?
- unacceptable risk of illicit activity, as well as a fire hazard. As residents living above the car park, we will have no idea who will be storing what right under our feet, for what purpose and what risks that would pose and how we may mitigate it.
- The access to the car park and the proposed storage units are the same ones used by residents. As it is, we are finding the public and those using the car park hanging around and loitering on this private property. This creates extra work for the building porters and residents who are constantly having to check on the aforementioned people and ask them to move on. Not only is there extra work but this is a clear invasion of privacy and is not at all conducive to promoting the feeling of safety amongst the residents. Furthermore, the proposal states that the storage will only be manned 'at certain times' with staff located in existing reception areas in level. In our opinion and from what we have already seen in the loitering this is highly inadequate and even concerning in spite of CCTV.

OTHER/ PRIVATE MATTERS

- The added risks will increase the insurance premiums for residents and impact the general property evaluation in the area.
- Looks like the applicants are trying their luck by re-submitting this application, already knowing that the residents had previously objected to these plans. The fact that we need to object to this proposal again and again only shows us how the Applicants are lacking moral and ethical standards and how Westminster's rules for filing such applications leave much to be desired.
- Insurance implications for the residents of Birley Lodge and rises to premiums as a result of this commercial activity.
- This is a major application due to the change of use relating to over 1,000m2 of floorspace. On that basis this application should not have been accepted on the basis of the current City Plan and new validations requirements.
- Almost an identical planning application was made and rejected a couple of years ago for good reason. So, I am surprised to see this application being sneakily made again.

SITE NOTICE : Yes
ADVERTISEMENT: Yes

4.2 Applicant's Pre-Application Community Engagement

The applicant has not provided any details of an engagement with the local community and key stakeholders in the area prior to the submission of the planning application in accordance with the principles set out in the Early Community Engagement guidance. However, the applicant in liaison with Q Park has undergone discussions with the Designing out Crime Officer (DOCO) post the earlier refused planning application and during the course of this application, resulting in two site visits.

5. WESTMINSTER'S DEVELOPMENT PLAN

5.1 City Plan 2019-2040 & London Plan

Since the consideration of the earlier refused planning application in March 2021, the City Council has adopted its new City Plan 2019-2040 on 21 April 2021. This has now replaced the UDP and 2016 City Plan policies. Therefore, this current application has been assessed in the light of these new development plan policies.

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

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

5.2 Neighbourhood Planning

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

5.3 National Policy & Guidance

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

6. BACKGROUND INFORMATION

6.1 The Application Site

St John's Wood Car Park is a public car park operated by Q Park, comprising of levels 1, 1A, 2, 3, 4, 5, and 6, providing 183 car parking spaces. Its entry and exit is to Kingsmill Terrace with a 2m height restriction and leading down to the six level subterranean car park. Level 1A (annexe to level 1) is already in use as a self-storage facility by the applicant following a 2014 permission, Enterprise Vehicular Hire also operate from part of the site. It is understood that Q Parks are the parking management company and long term leaseholders of the car park.

The Car Park is located beneath Birley Lodge, which is a residential development comprising three linked towers. The site falls outside of the St John's Wood Conservation Area and is not located in any designated special policy areas (e.g. Central Activities Zone (CAZ) or North Westminster Economic Development Area (NWEDA)).

The site is located in close proximity to St John's Wood London Underground Station and the bus routes on Wellington Road, which is part of the Strategic Road Network managed by Transport for London. The area is home to a number of residential properties, private hospitals, Abbey Road Studios and Lords Cricket ground and St John's Wood Shopping Centre is located in close proximity.

6.2 Recent Relevant History

Conditional planning permission was granted on 29.01.2014 for the Use of level 1A of St Johns Wood Car Park for self-storage (Class B8) with reception and loading area. (13/10250/FULL). Condition 2 restricts the hours of operation to between 08.00-20.00 daily.

Conditional planning permission was granted on 12.01.2015 for Change of use of parts of site to vehicle hire. This was to convert an existing structure within the car park into a bookings office and to dedicate a total of 16 car parking spaces to a car hire company (14/11382/FULL).

Approval of details granted on 29.01.2015 for Details of a management plan, to include details of how cars shall be transported to and from the site, hours of delivery of vehicles and hours of operation of the proposed use and details of a plan showing the location of the 16 parking spaces pursuant to Conditions 3 and 5 of planning permission dated 12 January 2015 (RN: 14/11382/FULL).(15/00336/ADFULL)

Permission was refused on 05.03.2021 for the use of levels 5 and 6 of Car park as self-storage (Class B8) (20/07482/FULL). The Reason for refusal was :-

The proposed self-storage use would, by reason of its nature, operation and location, exacerbate the potential for crime and disorder and associated anti-social behaviour, adversely affecting residential amenity and local environmental quality, to the detriment of the health, safety and well-being of the local community. This would be contrary to policy S29 of Westminster's City Plan, adopted November 2016. The proposal is also contrary to the National Planning Policy Framework (NPPF) February 2019, the London

Plan 2021 and Section 17 of the Crime and Disorder Act 1988.

7. THE PROPOSAL

Planning permission is sought by NW8 Self-Storage Limited for the change of use of 1600m², or 61 car parking spaces at levels 5 and 6 of St Johns Wood Car Park, from Public Car Parking (Sui Generis) to Self-Storage (B8). The self-storage facility would provide around 200 self-storage units of various sizes ranging from 2m² to 10m², operating 08.00-22.00 Monday to Sundays including Bank Holidays.

The applicant has stated that the maximum number of customers expected in any one day is 10, with the maximum vehicle number being 2 cars and a van at any one time, and that the average time spent at the facility is 45-60 minutes. Consequently, three car parking bays are to be provided for customer parking /offloading/loading.

The self-storage facility is proposed to be operated in conjunction with the facility at level 1A of the car park. The two existing full time staff that operate level 1a facility from the reception area, will with an additional member of staff, also manage the proposed new facility at levels 5 and 6. It is proposed that the facility at level 5 and 6 will be subject to 24 hour CCTV coverage and that access to the area by customers will be via coded security door system which has direct contact with security personal.

In order to rent a storage space with Space Station, copies of ID and bank details are provided and kept on file. In addition, once a storage unit has been rented a passcode is provided which they would need to use to get through the entrance into the self-storage facility. Once this user ID and passcode is entered into the door, providing that it is correct, it will deactivate the alarm with the storage unit that their user account is associated with. When the user ID and passcode are correctly inputted, CCTV records the person(s) entering the self-storage facility along with their User ID and passcode data and is stored remotely in case Police or emergency services require these details at a later date.

This current application seeks to address an earlier refusal of planning permission on 05.03.2021 which was refused on security grounds. Since the earlier refusal of planning permission, the applicant has, in liaison with the designing out crime officer (DOCO) and following a site visit, undertaken to implement a number of security measures to the existing car park. During the course of this application, the case officer and DOCO made a further site visit to the car park to view all levels as well as the fire escape points.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of the existing public car parking spaces

St John's Wood Car Park currently provides 183 car parking spaces. Areas of the car park are already used for alternative uses, including for self-storage by the same applicant within level 1A of the car park, granted under a 2014 permission. The proposal would utilise 61 of these car parking spaces at levels 5/6 to provide lettable storage facilities; the car park would continue to provide 122 car parking spaces.

Policy 27 (Parking) of our City Plan supports proposals for the use of existing car parks for alternative uses and as such the loss of public car parking spaces is acceptable in principle in land use terms.

The St John's Wood Society, together with a number of local residents has raised objection to the loss of the public car parking spaces, citing them as valuable car parking spaces which are vital to the local high street, local hospitals, and for Lords Cricket Ground on match days.

The applicant has provided data collected between 2019-2022 pertaining to the use of the car park. The figures indicate an average occupancy of the car park in 2022 as between 16-27% and at its highest in 2019 between 19-38% This is backed up by a letter from Q Park submitted by the applicant which states that *"car parking numbers have been declining for several years... and that the proposed storage use will have no impact on its current usage"*.

For these reasons the loss of the 61 spaces is not considered to have an adverse effect on local on-street parking. The Highway's Planning Manager has accepted these figures and raises no objection to the proposed change of use, as the car park would generally still have additional capacity above its average usage levels. Furthermore, any spikes in demand on different days (which may be caused by occasional one-off events such as those highlighted by the St John's Wood Society and local residents) are expected to be relatively few and would not justify withholding permission on this ground. As such the Highway's Planning Manager has not raised concerns to the loss of car parking spaces and the objections raised on this ground are not supported by officers.

Proposed self-storage centre

The proposed self-storage centre use falls within Class B8 (Storage and distribution) of the Use Classes Order 1987 (as amended). There are no specific land use policies within the City Plan that are relevant to the determination of this application for a self-storage centre (Class B8) in this location. As such, the principle of the proposal in land use terms is acceptable, subject to meeting other relevant policies of the City Plan with respect to transport, amenity etc. However, in order to prevent another type of storage and distribution use under Class B8 taking place at the site without planning permission, which may have very different characteristics for activity and traffic generation, a condition (6) is recommended to restrict the use to self-storage use only.

8.2 Environment & Sustainability

Sustainable Design/Floodrisk & sustainable drainage

This application, whilst a major application, due to the change in floorspace of over 1,000m², is for a change of use only and no external alterations to the outside of the car park are proposed. As such, it would not increase the size of any impermeable surfaces and no alterations are proposed to the existing drainage systems. For these reasons, a Sustainable Drainage (Suds) Design Strategy was not required and Policy 35 and policy 38(D) is not triggered.

Energy Performance

The application is for a change of use only and internal storage units do not in themselves require planning permission (once a change of use has been granted).

However, the applicant has advised that the storage units are to be constructed of Aluzinc, a 100% recyclable product. The internal lighting will be made to be compliant with building regulations. As such, given the nature of the proposal, it is considered to maximise low carbon energy sources. For these reasons no further assessment (including GLA energy assessment) was considered relevant, appropriate or necessary, given that the development relates to the internal use of an existing car park structure with no external alterations. As such condition 36 has been adequately addressed.

Air Quality

The proposal is for a change of use only, with anticipated vehicle trips of 10 incoming and 10 outgoing trips per day, compared to the potential vehicle movement associated with 61 car parking spaces within a 24/7 car park. The City Council's Highways Planning Manager has advised that the proposal would not have a significantly detrimental impact on the safety or operation of the highway network, as there should be a substantial decrease in vehicle trip numbers to and from the site in regard to the change of use.

For these reasons, given the reduction in vehicle movements, it is considered that the proposal would not detrimentally impact on air quality and reflects Westminster's air quality objectives of the City Plan and policy 32. An air quality assessment was for these reasons, not required.

Other

No external alterations are proposed and therefore the objections raised with respect to design and potential for light pollution are not justified. Vehicle headlights would be no different to vehicles using the 24/7 car park.

Objections have raised concern over the potential environmental impact of the use with respect to vehicle congestion and air pollution. However, given the existing use of the site as a 24 hour car park, it is not considered that the proposal would result in any significantly worse impact than the current use.

8.3 Biodiversity & Greening

This application is for a material change of use only, at subterranean levels 5 & 6 within an existing car park structure, with no external alterations. As such there is no scope to incorporate greening measures or provide a net gain in biodiversity under Policy 34.

8.4 Townscape, Design & Heritage Impact

The proposal involves internal alterations to an unlisted building, located outside of a conservation area. As such it does not raise townscape, design or heritage impact issues.

8.5 Residential Amenity

As the proposal is for a material change of use within an existing building, The key considerations with respect to the proposed use and its potential impact on the amenity of surrounding residential occupiers, particularly those within Birley Lodge are:

1. Noise and disturbance associated with the external impact of vehicular and pedestrian activity to and from the site.
2. Noise and disturbance associated with the internal use.
3. Crime and Disorder associated with the proposed use.

Noise and disturbance associated with the external impact of vehicular and pedestrian activity to and from the site.

Given that the existing use of the site is as a 24 hour public car park, restriction on large vehicles accessing the site due to the restricted head height, and that all activity would be required to take place internally and within the hours of 08.00-22.00, it is not considered that the external vehicular and pedestrian activity associated with the proposed use (arrivals and departures) would result in any significant increase in noise and disturbance over and above the existing use as a 24 hour public car park. A condition would be appropriate to prevent loading or unloading from the highway, to control the nature of the use and number of units as well as hours of use and the overall operation of the premises. Subject to these recommended restrictions, the objections raised by local residents with respect to potential impact of traffic noise, general noise nuisance are not supported by officers.

Noise and disturbance associated with the internal use

With respect to the internal activities, this would involve unloading items for storage from within the car park at levels 5 and 6 (below ground), wheeling or carrying them to a storage unit and then leaving the building. Due to the nature of storage centres, the storage items are then left in situ until required or further items stored/change in storage user etc, in which case the same activity would take place when vacating storage items from the storage unit. Given, the nature of the internal activities and their internal location within the enclosed car park levels 5-6 below ground level, it is not considered that the internal activities would result in any significant noise escape to cause noise and disturbance to residents, including those within Birley Lodge and would not result in noise and disturbance that would cause material harm.

The City Council's environmental health officer has not commented on this current application, but did not raise concern with the earlier proposal on environmental noise or nuisance grounds and had advised that the existing self-storage use within the site has not been subject of complaint to the department from adverse impacts. As such, he considered the proposal to be acceptable, subject to controlling the hours of use to those sought and on the basis that the existing head height of the car park access, limits the type of vehicles that can access the site. Consequently, the internal activities associated with the proposed development is not considered to result in any noise and disturbance to surrounding residents and policy 33 is satisfied.

Crime and Disorder associated with the proposed self-storage use

The potential for Crime and Disorder associated with the proposed use has been considered in detail in liaison with the DOCO. Following the refusal of the earlier application on crime and security grounds, on-site and virtual (Teams) meetings have taken place, the most recent on-site meeting took place during the course of this application with the case officer, applicant and agent and DOCO on 28.09.2022. A tour of the internal area of the entire car park and existing self-storage centre was undertaken, together with a tour of the external area and in particular to look at the locations of the fire escape stair core access points. It was noted that the security of the existing car park had been significantly upgraded to address concerns previously raised by the DOCO, as part of the earlier refusal of planning permission.

These include:-

- o Fitted all doors to the car park with magnetic locks and alarms
- o Additional directional signage around the car park to ensure customers have a greater degree of clarity whilst navigating throughout the application site.
- o Servicing and repair works has been undertaken on all self-closures on fire doors to ensure they all work correctly.

A number of local residents of Birley Lodge have raised objection to the proposal on grounds that it would exacerbate the security risk for these residents that live above the car park.

The applicant is proposing a number of security measures, including:-

- o Levels 5 and 6 will be accessible through a security operated set of double doors next to the parking/offloading area from level 4.
- o Ten CCTV cameras are proposed throughout levels 5 and 6 and at the parking/offloading area which is accessible through level 4.
- o 3 CCTV cameras are provided on levels 3 & 4 and 11 CCTV cameras on level 1 & 2.
- o Alarmed help points are positioned at every fire escape door at all levels.
- o CCTV data is linked to 'Synology' data and image storage facility.
- o All alarmed emergency help points are on the Skidata system which is linked to Q-Parks central office and monitored 24 hours a day.

The DOCO has advised in their formal consultation response that they are now satisfied that their previous concerns have been addressed and as such, do not raise objection to the proposed self-storage use under this current planning application. They do however recommend that in the pursuit of reducing crime and the fear of crime, that the implementation of proven crime prevention products and designing out principles are secured through Secured by Design (SBD) Accreditation. As such a condition is recommended to secure evidence of SBD Accreditation prior to the operation of the proposed use. For the reasons set out, the proposal, by reason of its nature and operation and location would not exacerbate the potential for crime and disorder and associated anti-social behaviour, and would protect residential amenity and local environmental quality, in accordance with policy 38 (Design principles), policy 44(Security measures in the public realm, the National Planning Policy Framework (NPPF) February 2019, the London Plan 2021 and Section 17 of the Crime and Disorder Act 1988.

The applicant has advised that the proposed use of levels 5 & 6 is likely to take place in two phases with level 6 being fit out first and taking around 4 months. As such in order to ensure that the security measures are in place prior to the use of the different levels, a condition (8) is recommended.

Nature of Goods Stored in self storage units

The adequacy of controls over the safety of materials that could be stored has been raised by residents of Birley Lodge. Such a use is usually bound as a condition of insurance to take adequate measures to prevent the storage of hazardous substances.

A list of banned substances would be made clear to customers, verified identification/photograph of use, card payments only and other necessary measures would be secured through an operational management plan, and these are considered

to be reasonable and practical measures to minimise the risk of storage of unsafe and inappropriate items, including items that could attract vermin.

A copy of the Terms of Conditions of the self-storage Licence agreement has been provided. A condition of this is:- " *The Customer must not store (or allow any other person to store) any of the following in the Room: (a) food or perishable goods unless securely packed so they are protected from and do not attract vermin; (b) any living creatures; (c) combustible or flammable substances such as gas, paint, petrol, oil, cleaning solvents or compressed gases; (d) firearms, explosives, weapons or ammunition; (e) chemicals, radioactive materials, biological agents; toxic waste, asbestos or other potentially hazardous substances; (f) any item that emits fumes, or odours; (g) any illegal item or substances or goods illegally obtained such as illicit (counterfeit/smuggled) tobacco or alcohol and unlicensed or unsafe goods (such as toys, electrical goods, medicines, aerosols, cosmetics, fireworks); (h) goods which are environmentally harmful or that are a risk to the property of any person; This is not an exhaustive list*".

It is considered that sufficient measures are in place to address this matter as far as possible in planning terms.

Fire escape

The existing car park has a main vehicular and pedestrian entrance from Kingsmill Terrace and three staircase cores which extend from level 6 up through all levels of the car park to street level. A Fire statement has been submitted. The Health & Safety Executive has advised that the car park is not a relevant building for the purpose of planning gateway one and have therefore not offered any comments. The City Council's Building Control Officer has advised that a full plans application will need to be submitted to Building Control where structural load and fire safety will be considered further.

8.6 Transportation, Accessibility & Servicing

Loss of public car parking spaces

The loss of public car parking spaces has been assessed within the land use section of this report. The City Council's Highways Planning Officer has advised that the loss of 61 off -street public car parking spaces would not cause a problem for on-street demand and is consequently considered acceptable. The objections raised on grounds that the proposal will increase demand for on-street car parking is not supported by officers.

Proposed self-storage use

St John's Wood Car Park is accessed from Kingsmill Terrace and the car park is located beneath Birley Lodge. Access to the proposed self-storage use would be from this existing vehicular access arrangement. The site is easily accessible via the local road network for customers and servicing purposes and the application site is considered suitable for a storage use because of its relatively isolated and self-contained nature.

Parking

The applicant has stated that the maximum number of customers expected in any one day is 10, with the maximum vehicle number being 2 cars and a van at any one time, and that the average time spent at the facility is 45-60 minutes. Three internal car

parking bays are to be provided for customer parking /offloading/loading within the car park and this is considered appropriate for its operational requirements and is to be secured by condition in accordance with Policy 27.

Highway Impact

The City Council's Highway Planning Manager has advised that the use is likely to generate less vehicular movement than it would if it were regularly used for public car parking and as such that the proposal will not have a significantly detrimental impact on the safety or operation of the highway network, as there should be a substantial decrease in vehicle trip numbers to and from the site in accordance with Policy 28.

Experience of self-storage uses indicate that they do not generate as many vehicular movements as people expect and that once people have stored their belongings they subsequently do not visit often. As the proposal is not considered to give rise to significant transport implications, a Transport Assessment was not deemed necessary.

As the car park entrance has an existing headroom restriction of 2m, vehicles of higher than 2m are to be prevented from attending this site to prevent goods being loaded/unloaded from the highway or from the entrance ramp to the car park. Measures are to be included in a servicing/operational management plan to inform potential customers/visitors of the restriction and explain how the site will operate on a day to day basis and include measures that will be taken to limit any potential impact of the development on the public highway.

Servicing and Waste & Recycling Storage

The Highway's Planning Manager has requested that a condition be imposed to require submission of a servicing/operational management plan to detail predicted vehicle types, movements, size and height restrictions, measures to deal with busy times and how customers will load unload goods from vehicles and storage areas. This is recommended as condition 5.

Waste storage bin location is indicated on drawings supplied and is in line with the City Council's waste storage requirements as confirmed by the City Council's Waste Project Officer. This is welcomed and is to be secured by condition, in accordance with Policy 25.

Cycling & Cycle Storage

The proposal indicates 4 cycle parking spaces which satisfy the requirements of the London Plan. This is welcomed and is to be secured by condition, in accordance with Policy 25.

For the reasons set out above, the proposal is considered acceptable in transport and highways terms and the objections raised on these grounds are not supported.

Disabled Access

The applicant has advised that the self-storage units would be fully compliant with Building Regulations, with step free facilities, wide corridors and a wheelchair accessible WC at level 1 next to the car park reception/pay point. The loading/unloading vehicular bays would also be accessible.

8.7 Economy including Employment & Skills

The development is of insufficient scale to require an employment and skills plan, it will continue to contribute positively to the local economy. An additional 1 full-time equivalent job will be provided alongside the two existing full time employees that manage the level 1A self-storage, which will continue to help to promote opportunities for local employment and will lead to increased spending in existing nearby shops and services and other town centre uses.

8.8 Environmental Impact Assessment

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

8.9 Planning Obligations & Pre-Commencement Conditions

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

9. Conclusion

Given the existing use of the site as a 24 hour public car park, with existing lawful storage and car hire elements, its location in close proximity to the Shopping Centre, public transport and Wellington Road, together with the nature of the use and location and nature of associated activities, it is considered that the principle of the self-storage use is acceptable in this case. Furthermore, it is not an uncommon use of public car parks within Westminster, where the car park is not used to full capacity.

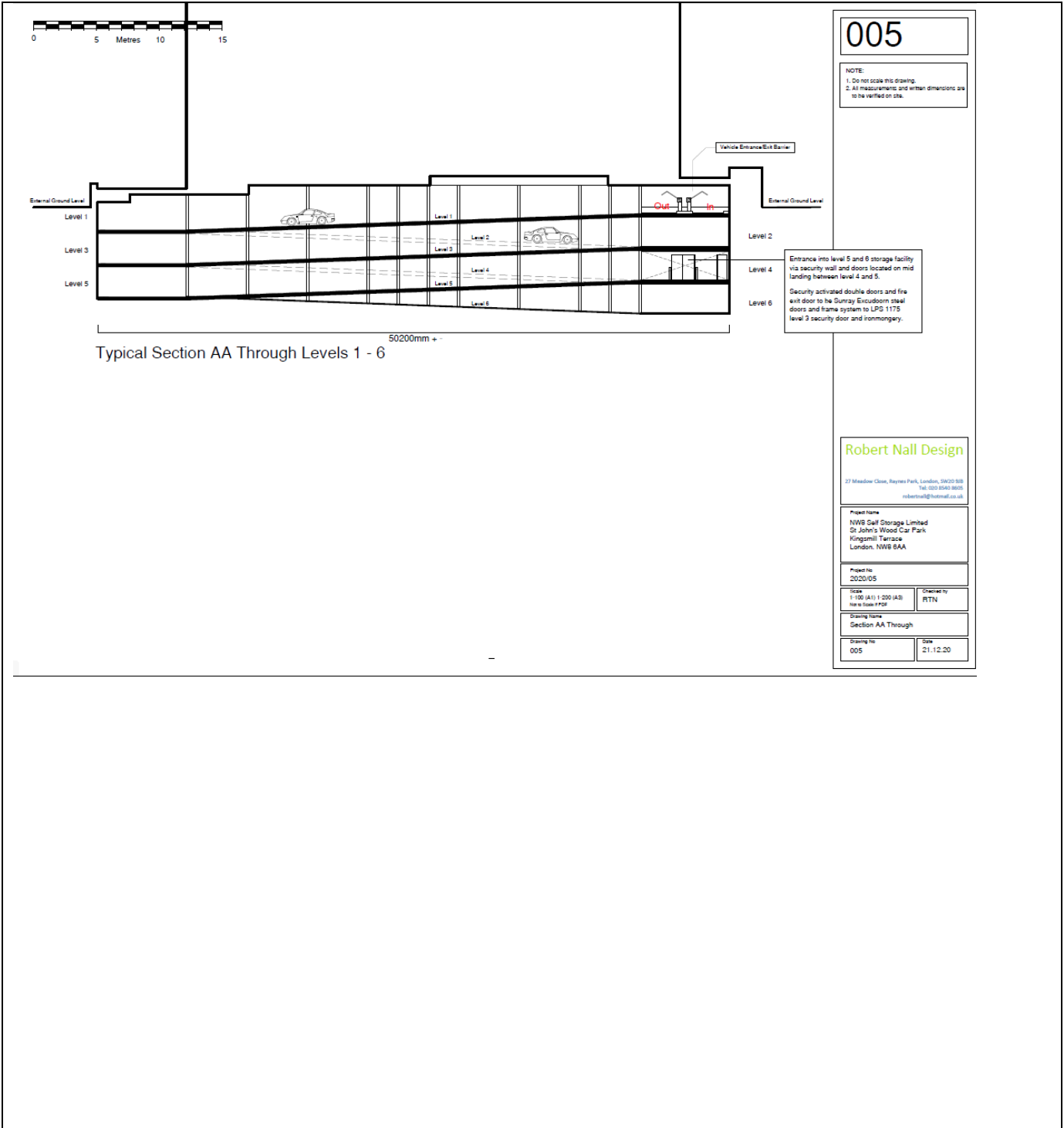
In order that the premises are not used for a more disruptive form of warehousing or storage it would be appropriate to restrict the use to self-storage use only and to prevent the intensification of the use by restricting the number of self-storage units to that proposed (200 units). Whilst local residents have raised objection to the principle of the use, suggesting it introduces an industrial use into a residential area, for the reasons set out above, officers do not support these objections and consider that with controls over the nature and intensity of use, that the proposal is acceptable in land use terms.

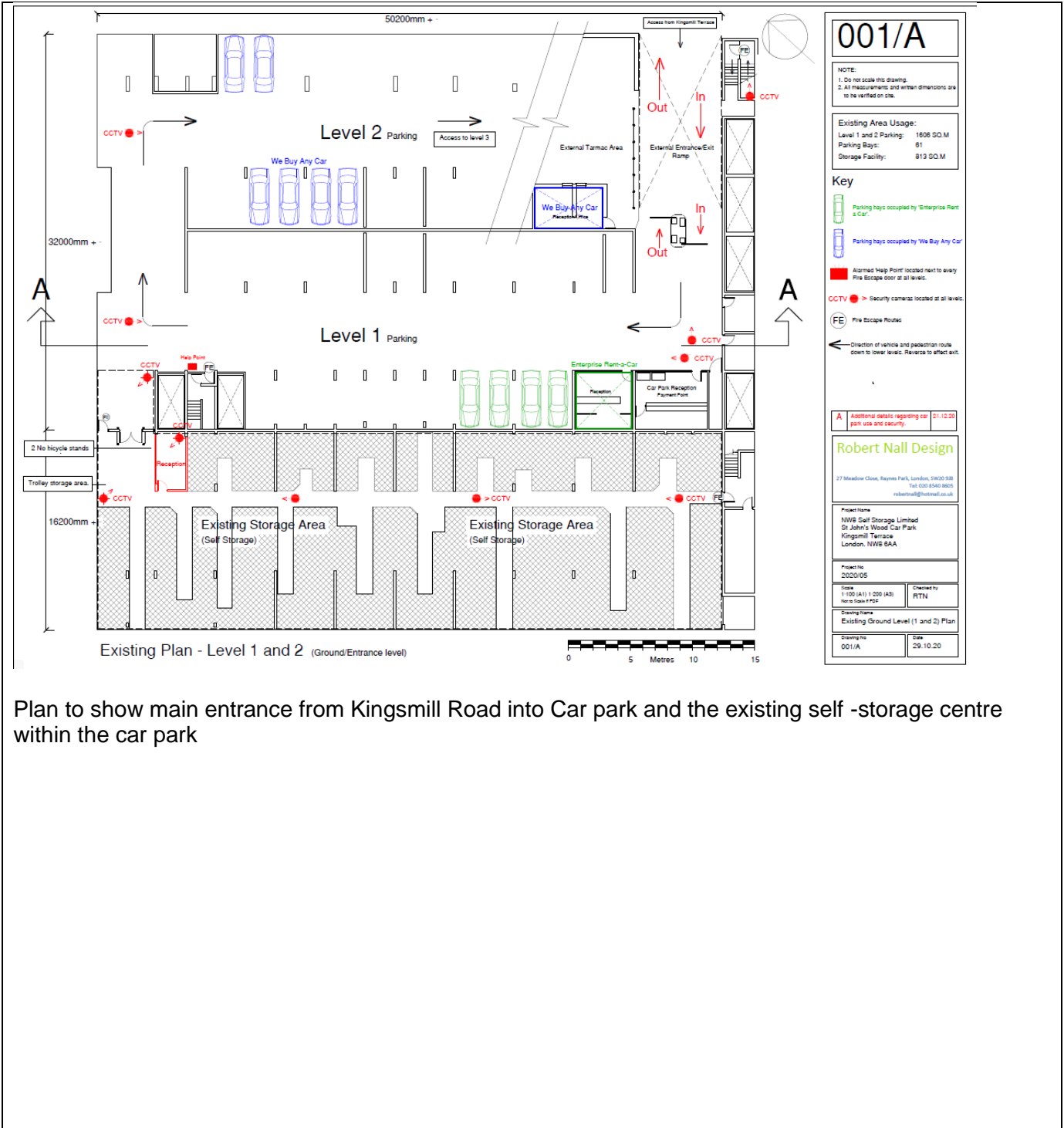
For the reasons set out within this report, it is considered that the proposed use is acceptable, subject to a number of conditions to ensure that the day to day operations are carried out satisfactorily with regard to transport, amenity and crime prevention

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk
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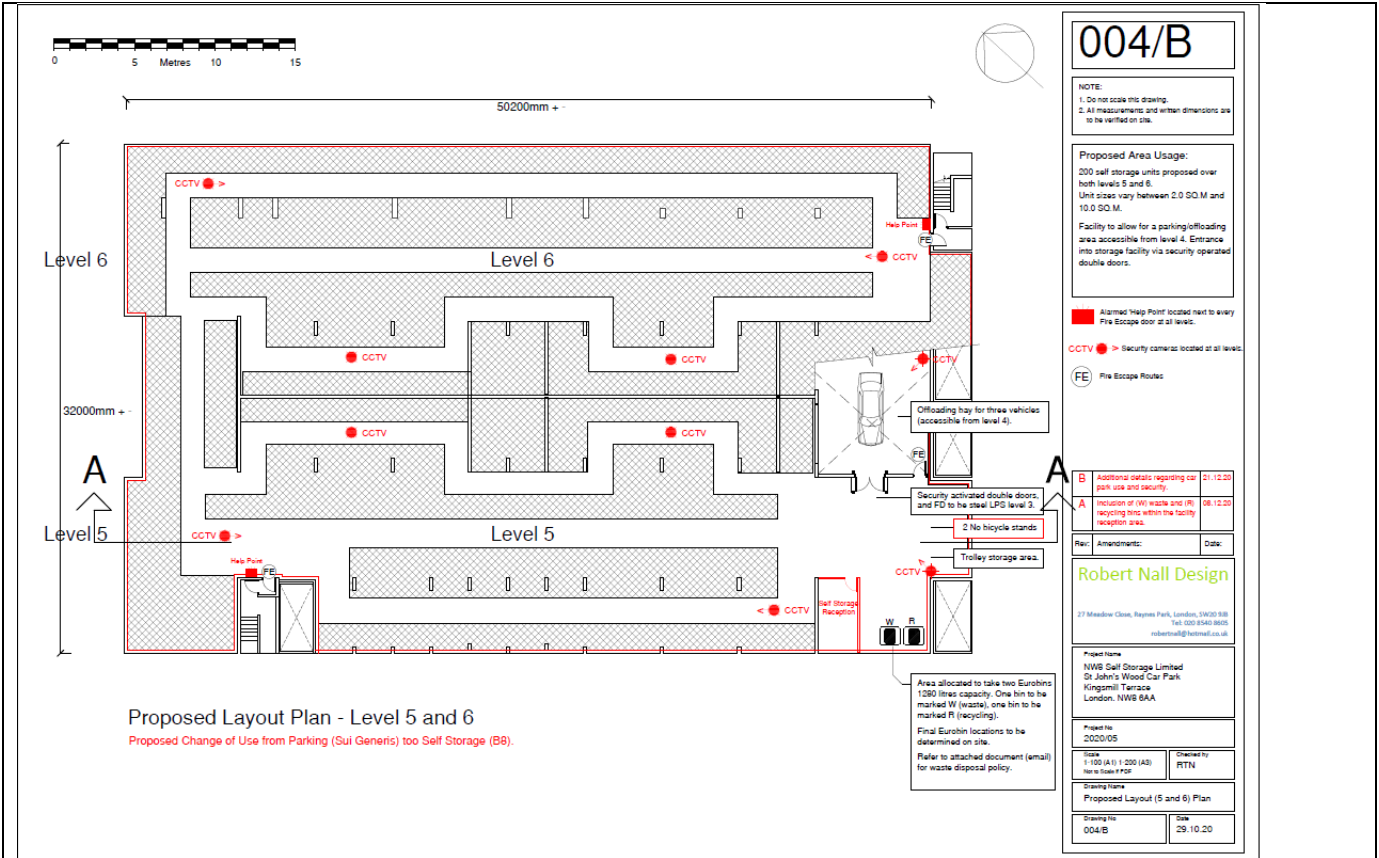
10. KEY DRAWINGS





001/A	
NOTE: 1. Do not scale this drawing. 2. All measurements and written dimensions are to be verified on site.	
Existing Area Usage: Level 1 and 2 Parking: 1806 SQ.M Parking Bays: 61 Storage Facility: 613 SQ.M	
Key	
	Parking bays occupied by 'Emergise Rent-A-Car'
	Parking bays occupied by 'We Buy Any Car'
	Alarmed Help Point located next to every Fire Escape door at all levels.
	CCTV - security cameras located at all levels.
	Fire Escape Routes
	Direction of vehicle and pedestrian route down to lower levels. Reverse to effect exit.
A	Additional details regarding car park use and security.
Robert Nail Design	
27 Meadow Close, Raynes Park, London, SW20 8BB Tel: 020 8461 8000 robertnail@hotmail.co.uk	
Project Name: NWS Self Storage Limited St John's Wood Car Park Kingsmill Terrace London, NW8 6AA	
Project No: 2020/05	
Scale: 1:100 (A1) 1:200 (A3) None (over 1:50)	Drawn by: RTN
Drawing Name: Existing Ground Level (1 and 2) Plan	
Sheet No: 001/A	Date: 29.10.20

Plan to show main entrance from Kingsmill Road into Car park and the existing self-storage centre within the car park



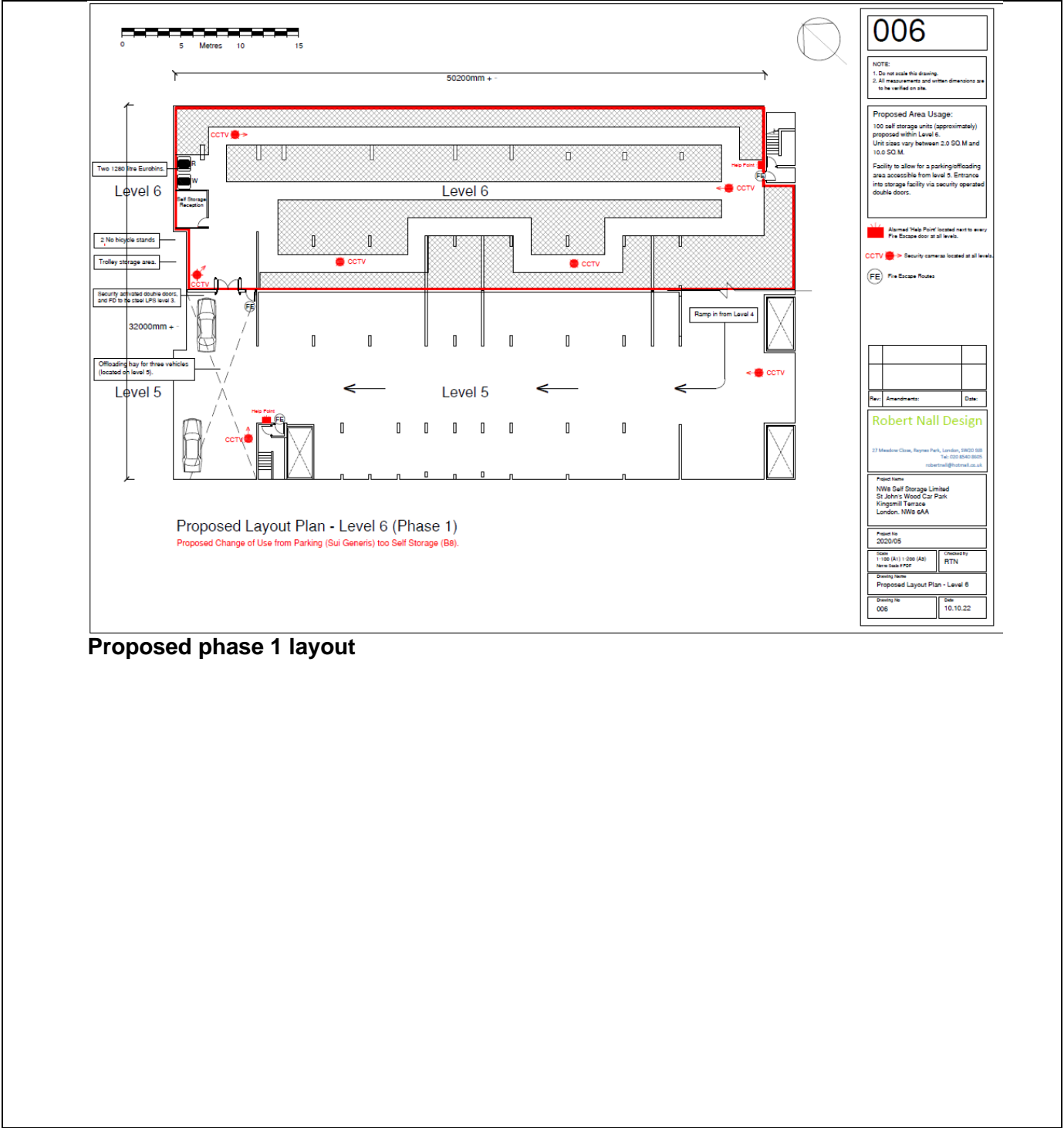
Proposed levels 5/6 use as self-storage



Existing self-service unit entrance and loading area at level 1 within the car park



Existing self-service units at level 1 within the car park



006

NOTE:
 1. Do not scale this drawing.
 2. All measurements and written dimensions are to be verified on site.

Proposed Area Usage:
 100 self storage units (approximately) proposed within Level 6.
 Unit sizes vary between 2.0 QD M and 10.0 QD M.
 Facility to allow for a parking/offloading area accessible from level 5. Entrance into storage facility via security operated double doors.

Alarmed 'Help Point' located next to every Fire Escape door at all levels.

CCTV - Security cameras located at all levels.

FE - Fire Escape Routes

Rev	Amendment	Date

Robert Nall Design
 27 Meadow Close, Baynes Park, London, N6 6JL
 Tel: 020 8540 8005
 robertnall@hotmail.co.uk

Project Name:
 NWE Self Storage Limited
 St Johns Wood Car Park
 Kingsmill Terrace
 London, NW6 6AA

Project No:
 2020/05

Drawn by: 1:100 (A1) - JDB (AT) NWE Issue PDF	Checked by: RTN
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Drawing Name: Proposed Layout Plan - Level 6	Date: 10.10.22
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Proposed phase 1 layout

DRAFT DECISION LETTER

Address: St John's Wood Car Park, Kingsmill Terrace, London, NW8 6AA

Proposal: Use of levels 5 and 6 of car park as Self-Storage (B8)

Reference: 22/03546/FULL

Plan Nos: Site Location Plan (No reference), Existing Levels 1 & 2 Layout Plan (Reference: 001A), Existing Levels 3 & 4 Layout Plan (Reference: 002A), Existing Levels 5 & 6 Layout Plan (Reference: 003A), Proposed Level 5 & 6 Layout Plan (Reference: 004B), Section AA Through levels 1 to 6 (Reference: 005), Car park usage data provided by Q Park 17.11.2020, Planning Statement May 2022, Self-Storage Terms and Conditions Details (No reference) , Fire Statement 07.08.2022, Letter from Robert Nall Design (27th December 2020) clarifying security measures., Agent Email 24.08.2022, Proposed layout plan- Level 6 -006 10.10.2022, Harris lamb letter 13.10.2022, Car Park Data for 2019, 2020,2021,2022, Q Park Lease 06.05.2022, Agent email 08.12.2022,

Case Officer: Sarah Whitnall

Direct Tel. No. 020 7641
07866036375

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

Reason:

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

- 3 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 parking spaces for people using the development as set out in Policy 27 of the City Plan 2019 - 2040 (April 2021). (R22AC)

- 4 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 004/B prior to occupation 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 Self-Storage use. (C14FC)

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). (R14AD)

- 5 Prior to the use commencing, you must submit to us for approval A Servicing and Operational Management Plan in relation to the use of the site for Self-Storage use (Class B8). It shall include but not be limited to:-
- A. All loading and unloading to take place internally within the car park from the three designated vehicular bays and no loading or unloading on-street or from the entrance ramp area.
 - B. No vehicles in excess of 2m in height are permitted to attend the site.
 - C. Maximum of 200 self-storage units,
 - D. All access and egress for pedestrians to take place via the main entrance to the car park from Kingsmill Terrace, except in the case of emergency.,
 - E. The vehicular and loading areas shall only be used for the parking or waiting of vehicles of customers visiting the premises for the purpose of using the self-storage units.,
 - F. Hours of operation between 08.00-22.00 daily,
 - G. Details of how an influx of customers at any given time i.e., public holidays would be dealt with so as not to have queuing on the ramps or at the entrance to the site on public highway.,
 - H. Details of vehicle types (height and size restrictions) and movements/site navigation.,
 - I. Measures to prevent storage of hazardous goods, , The use must be operated in accordance with the details in the approved servicing management plan at all times.

Reason:

To protect the environment of residents and the area generally and to safeguard highway safety as set out in Policies 7, 25, 27, 28 and 33 of the City Plan 2019 - 2040 (April 2021).

- 6 You must only use the self-storage use for this use. You must not use it for any other

purpose, including for any other use within Class B8, Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any equivalent class in any order that may replace it).

Reason:

To protect neighbouring residents from noise nuisance, avoid blocking surrounding streets, to ensure that sustainable transport modes are used, to prevent sensitive air quality receptors from occupying the site or uses that would have a significant adverse effect on air quality, policies 7, 25,28, 29, 32, 33, 38,39,40 of the City Plan 2019 - 2040 (April 2021).

- 7 Prior to occupation of the proposed development, you must provide evidence of Secure by Design Accreditation.

Reason:

To ensure that the development has been built with suitable security measures in place to minimise the risk of crime and anti-social behaviour in accordance with Policies 38 and 43 of the City Plan 2019 - 2040 (April 2021).

- 8 A. Following fit-out of Level 6 (Phase 1), Level 6 (Phase 1) shall not be occupied until the security measures as shown on drawing (006) have been implemented and are fully operational.

B. Prior to the occupation of Level 5 (Phase 2) as shown on drawing 004/B, Level 5 (Phase 2) shall not be occupied until all security measures as shown on the approved plans are implemented and fully operational.

Reason:

To ensure that the development has been built with suitable security measures in place to minimise the risk of crime and anti-social behaviour in accordance with Policies 38 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.

Item No.
5

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 site.

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Item No.
6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Abbey Road	
Subject of Report	150 And 152, Hamilton Terrace, London, NW8 9UX		
Proposal	Demolition of rear of building and roof and erection of rear extension, roof extension, landscaping; alterations to entrance gates; new windows to front and side elevations; and associated works.		
Agent	hgh Consulting		
On behalf of	Shrikant and Aditya Padmanabhan and Singhal		
Registered Number	22/02259/FULL	Date amended/ completed	27 September 2022
Date Application Received	4 April 2022		
Historic Building Grade	Unlisted Building of Merit		
Conservation Area	St John's Wood		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant Conditional Permission.

2. SUMMARY & KEY CONSIDERATIONS

This application relates to a pair of semi-detached houses. It is proposed to demolish the rear elevation and roof of the houses and erection rear and roof extensions together with other external alterations new windows to the front and side elevations.

Objections have been received from 9 neighbours (from 6 properties) on grounds including design, amenity, sustainability and overdevelopment.

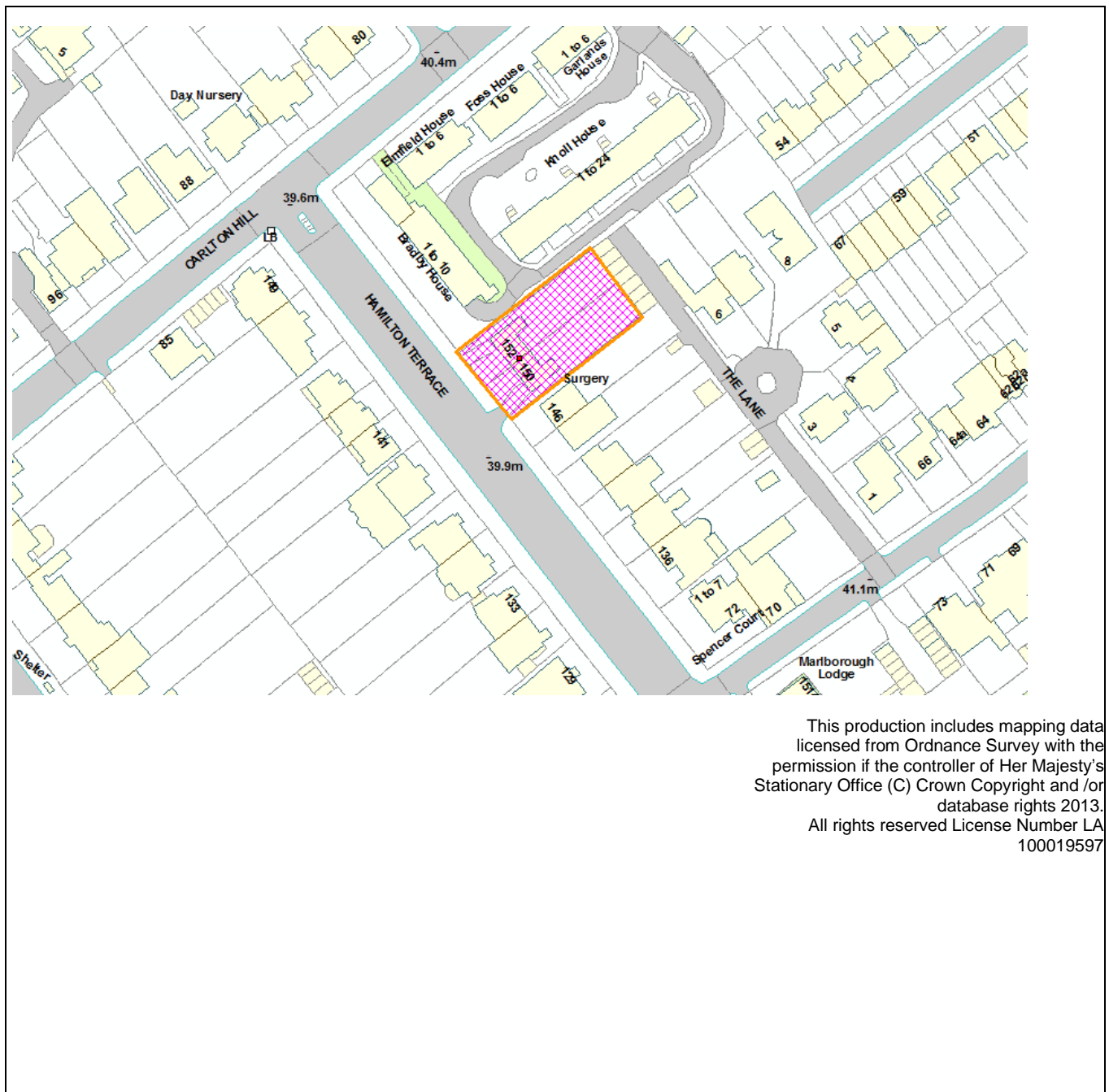
The key considerations in this case are:

- The impact of the proposal on these unlisted buildings of merit and on the character and appearance of the St Jon's Wood Conservation Area.

- The impact on the amenity of neighbouring residential properties.

The proposals are not considered harmful to the character and appearance of the houses or detrimental to the character and appearance of St John's Wood Conservation Area. The proposals are considered to be acceptable in amenity terms. The application is being recommended for conditional approval requiring that the development is carried out in one continual programme of works and completed in entirety.

3. LOCATION PLAN



4. PHOTOGRAPHS

Front elevation



Rear Elevation



5. CONSULTATIONS

5.1 Application Consultations

ST JOHN'S WOOD SOCIETY

Any response to be reported verbally.

ARBORICULTURAL MANAGER

No objection subject to conditions

HIGHWAYS PLANNING –

No objection subject to conditions. Requests clarification on the method of opening of front gates and waste storage provision.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 44

Total No. of replies: 9 from a total of 6 properties

No. of objections: 9 from a total of 6 properties

No. in support: 0

9 objections from 6 properties in Knoll and Bradby House, on one or all of the following grounds:-

Land Use

- Overdevelopment of the site and overly large units.

Design

- Impact on leafy character of conservation area as result of extension and terrace
- Extensions not subordinate
- Building line of Bradby House should be used as natural limit for 150/152.
- Object to multi storey extension
- Size and Scale of the development
- Townscape visual impact submission incorrect because of use of shrubbery to block images of terrace and misrepresentation of the size of development.

Amenity

- loss of daylight/sunlight to Bradby House and Knoll House at 77 Carlton Hill.
- Loss of privacy because of rear extension being closer to 77 Carlton Hill
- Sunlight and daylight Report insufficient and impact on sunlight would be beyond disclosed VSC scores.
- Loss of privacy to Knoll House from rear terraces

Sustainability

- Co2 report insufficient in not considering construction burden
- Excessive carbon footprint of extension

Trees

- Previous unauthorised removal of trees.

Other Issues

- Disruption including noise and dust caused by works
- Encroachment of building on garden/open space

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was carried out with regards to this proposal however the applicant did engage with officers through its pre-application advice service.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

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

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site includes 150 and 152 Hamilton Terrace, both semi-detached dwellinghouses which make up this mid20th Century four storey building. The site is located on the Northeast side of Hamilton Terrace and is located within the St John's Wood Conservation Area. Bradby House is a block of flats fronting Hamilton Terrace to the Northwest of the site, Knoll House is located to the North of the site behind Bradby House and 148 Hamilton Terrace is to the South East of the site also fronting Hamilton Terrace. There is a row of private garages directly to the rear of the site. There is a mature lime tree located within the front garden of 146 Hamilton Terrace adjacent to the site and a mature London Plan street tree located in front of No 150 Hamilton Terrace.

7.2 Recent Relevant History

No recent planning history.

8. THE PROPOSAL

The application proposes the following:

- Demolition of the rear elevation of both houses, including rear outriggers at lower ground and ground floor level and the demolition of their roofs
- Four storey rear extensions (lower ground to second floor level
- Rear ground floor terraces,
- Roof extensions with rear dormer windows, living roof, solar panels and rooflights.
- Replacement of windows throughout and the addition of new windows to the front and side elevations
- The conversion of the existing garages into habitable accommodation
- Creation of a patio/terrace area to the rear, landscaping and alterations to the front entrance gates.

The proposal has, on officers advice, been amended during the course of the application to omit the proposed levelling the front driveways which currently slope down towards the houses from street level.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The existing semi- detached single family dwelling houses are 276.5sqm and 261sqm and the proposed houses would be 507sqm (150 Hamilton Terrace) and 261sqm (152 Hamilton Terrace). Although these houses are in excess of the 200sqm floorspace limit for new houses in Policy 8 of the City Plan, the supporting text of that policy states that the limit will not apply to the replacement of a single dwelling and or extensions. As such, whilst it is acknowledged that these are large family houses, this is common in this location and the size of the proposed houses would not be contrary to policy 8 and acceptable in land use terms.

It is not considered that this proposal represents an over development of the site, as this is a large plot. Therefore, the objection raised on these grounds cannot be supported in this instance.

Affordable Housing

The site area is less than 0.5 hectares and less than 10 units are proposed. As the site does not result in an uplift of 1000sqm or more of residential floorspace, is under 0.5 hectares and less than 10 units are proposed, affordable housing is not required in this instance.

9.2 Environment & Sustainability

Sustainable Design

Policy 38D of the City Plan 2019-2040 states that “development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design, including: 1. Use of high-quality durable materials and detail; 2. Providing flexible, high quality floorspace; 3. Optimising resource and water efficiency; 4. Enabling the incorporation of, or connection to, future services or facilities; and 5. Minimising the need for plant and machinery”.

Policy 38E states that applicants will demonstrate how sustainable design principles and measures have been incorporated into designs, utilising environmental performance standards.

A Sustainability Assessment has been included with the application. This makes reference to the proposed incorporation of internal insulation, new double glazed windows, photovoltaic panels, and other measures incorporated into the proposals. This report concludes that, notwithstanding the increase in floorspace proposed in the scheme, the proposals would give rise to a reduction of 44% carbon emissions below building regulation baseline. This report was written in light of the initial proposals to incorporate air source heat pumps. Although the air source heat pump does not part of this application the proposed location is annotated on the drawings and for the size of unit and location proposed it would benefit from permitted development rights.

The comments of the objector are noted in stating that they consider the development to give rise to an unnecessary excess carbon footprint resulting from the works of demolition. Concern was also raised regarding a considered lesser benefit in their assessment of the sustainability report which accompanied the application. Though recognising these concerns, the application remains one proposing roof and rear extensions, and in light of the measures proposed the application is considered in line with City Plan policies 36 and 38 and a refusal on grounds of the concerns raised are not considered sustainable.

In addition, conditions will secure that the new hard landscaped areas to front garden and rear patio will incorporate permeable paving allowing for sustainable urban drainage, which is welcomed and in line with policy 35 in the City Plan.

Energy Performance

Policy 36 of the City Plan states that the council will promote zero carbon development and expects “all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change”.

The applicant has included a number of energy efficiency measures, including improved thermal insulation, the use of an air source heat pump and the installation of photovoltaic panels. The submitted sustainability statement states that such measures enable a reduction of 44.32% over Part L2013 building regulations baseline.

Flood Risk & Sustainable Drainage

The site falls within a flooding hotspot, as identified in the City Plan. A flood risk assessment has been submitted with the application. The proposed flood mitigation and management measures include introducing nominal falls locally to prevent surface water ponding. The assessment concludes that these overland flow routes are suitable to take surface water away. Where hard landscaping is proposed this will be York stone permeable paving.

9.3 Biodiversity & Greening

Policy 34B of the City Plan requires that “developments will, wherever possible, contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme.

An intensive green roof has been proposed on the main roof of the building and it is recommended that this is secured by condition.

9.4 Townscape, Design & Heritage Impact

Planning Policy and Guidance and Existing Buildings:

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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 consider the relative significance of the affected asset and the severity of the harm caused.

The St John's Wood Conservation Area within which these buildings are located highlights that they are unlisted buildings of merit. In addition, they are highlighted in the Audit as properties where a roof extension would not normally be considered acceptable.

Though relatively modern, they are brick faced and with sash windows and reflect the general traditional character of the surroundings, and as such can be considered as a non-designated heritage asset.

It is recognised that City Plan Policy 39 (L) states that there will be a presumption that unlisted buildings that make a positive contribution to a conservation area will be conserved, and that Policy 39I also seeks the conservation of non-designated heritage assets.

These two buildings were conceived as semi-detached houses grouped together in a unified architectural design to appear essentially as a single villa style building, a building form common to the 19th century properties on Hamilton Terrace. Stylistically, the character of the buildings more closely follow the mid-20th century residential estate to the immediate north side, however the neo-Georgian detailing, exposed brick facing, regular fenestration pattern of timber sliding sash windows and overall height and form sits comfortably in the Victorian townscape of Hamilton Terrace.

Demolition

The applications include the removal of the rear elevations, rear projections and flat roofs to the existing buildings in association with the extensions proposed, though the buildings are otherwise being largely retained, and the proposals are not considered to represent a substantial or total demolition of the building mindful of the considerations set out in City Plan policy 39 (L & R) set out above and other design and conservation policies. The works nonetheless have an impact on the building and conservation area, and those works are assessed in line with relevant policy and guidance, as set out below.

Extension to Roof Level:

Stylistically these two buildings are very similar to the mid-20th century residential estate to the immediate north side of the application site. The buildings to that adjoining estate all incorporate clay tile clad pitched roof structures which are hipped at 45 degrees, and the submitted drawings show the extensions proposed at nos. 150 and 152 with matching height above parapet and angle of hip and matching red tiles will be secured through condition. The small rooflights and rear dormers proposed will not unduly clutter its visual impression. The overall bulk and massing of the extensions is considered to sit comfortably in context with the building and townscape.

Whilst recognising the notation in the St John's Wood Conservation Area Audit that the buildings are ones where a roof extension would not normally be considered acceptable, from a consideration of the townscape they sit within which includes the clay tile pitched roofs to the immediate north, officers consider that as designed in this application the extensions are nonetheless considered acceptable. The completion of extensions across the pair is considered in line with City Plan policy 40 (E) which states that roof extensions will be supported in principle where they do not impact adversely on heritage assets and that where roof extensions do not currently exist then they are constructed as a coordinated approach across the terrace. This is also in line with paragraph 120 (E) in the NPPF which states that planning decisions should support opportunities for upward extensions where consistent with the prevailing height and form of neighbouring properties and the overall street scene.

Mindful of the policies and guidance above, and to ensure the retention of the strong architectural unity of the pair of buildings, a condition is recommended requiring the construction of both the roof and rear extensions as a single construction contract. This will help ensure that the building remains a single architectural composition, and avoid the unbalanced appearance of extensions only being undertaken on one of the two properties.

Extensions to Rear:

To the rear, the buildings are proposed to be extended out by approximately 5m and these extensions will be both full height and almost full width to the existing buildings, with smaller additions at lower ground floor level projecting an approximately 1.7m. Such large scale extensions, including those full height and full width, would not typically be considered acceptable to buildings in conservation areas. In the particular circumstances of this case however they are considered appropriate. The submitted drawings confirm that the new main rear elevation line will match that of the villa building to the south side, and will thus integrate closely with the form and massing of the run of villa buildings in this part of Hamilton Terrace. On the north side, the main rear elevation will project slightly beyond the line of the side elevation to the adjoining building, though would be generally comparable. At lower ground floor level, the further 1.7m projections are similar in form to the conservatory extensions beyond rear elevation lines which can be found on villa buildings in the terrace.

The rear elevation follows the form and detailing of the existing rear elevation closely thus maintaining the overall neo-Georgian styling, though with the removal of the highly prominent existing conservatory structures which is welcomed in itself. The side elevations are stepped in, and with windows and blind window panels to add visual interest to these largely blank elevations.

Overall, the proposed extensions to the rear are considered acceptable. As set out above, a condition is recommended requiring the rear extensions to be constructed together to maintain the uniformity of the building.

Works to Front:

The replacement of the existing sash windows with new sashes of appropriate design and with double glazing is considered acceptable, and the incorporation of windows into the existing blind panels to the ends of the front elevation will not harm the overall character of the building.

The new front gates are simply detailed, appropriate for the building, and will provide a more continuous boundary treatment which is welcomed in townscape terms. The new entrance porches do not appear assured in design, and a condition is recommended to secure improvements.

Design related comments Received During Consultation Process:

From the public consultation process a concern was raised regarding a perceived overdevelopment of the site.

Reference is made in this regard to the square footage of the property, however though recognising that the considerable impression of the extent of development comes from an impression of the size and massing of the building including when considered in association with the surrounding townscape. Though recognising that this is also a concern expressed, for the reasons set out above, the extensions are considered acceptable in those terms and not to harm the existing buildings or significance of the St John's Wood Conservation Area or any surrounding heritage assets.

The concern raised regarding how the development corresponds to building lines of adjoining properties (with both no. 146 Hamilton Terrace and Bradby House being referenced) is noted, and such issues have been considered as part of the overall assessment of the application. It is recognised that the extended application buildings will have a massing at higher levels which extends beyond that found on Bradby House, however for the reasons set out above the proposals are considered acceptable.

The comments made on the assessment and accuracy of the townscape visual impact part of the submission are noted. It is recognised that these reflect visual imagery of the proposed development, and officers do not consider that they necessarily reflect a fully verified impression of the scheme. They do however reflect an impression of the applicants intended approach, and are assessed on that basis. The plan, elevation and section drawings submitted to accompany the application submission are considered the accurate reflection of the application proposals.

9.5 Residential Amenity

Policy 7 of the City Plan seeks to protect surrounding residences from unacceptable loss of daylight/ sunlight, sense of enclosure, loss of privacy and noise. Policy 38C of the City Plan requires that all development, introduces measures that reduce the opportunity for crime and anti-social behaviour, promoting health, well-being and active lifestyles through design and ensuring a good standard of amenity for new and existing occupiers.

A number of objections have been received on the grounds of amenity including on the grounds of loss of daylight/sunlight to Bradby House and Knoll House at 77 Carlton Hill, loss of privacy because of rear extension being closer to 77 Carlton Hill and from the rear terraces. Comments have also been made that the Sunlight and daylight Report is insufficient and the impact on light would be beyond that set out in the report.

Daylight & Sunlight

A sunlight and daylight report has been submitted by the applicant. The assessment considered the nearest residential windows in the neighbouring properties of 146 Hamilton Terrace, Bradby House and Knoll House. All applicable neighbouring windows assessed met the BRE guidelines for daylight and sunlight. The Sunlight and Daylight Assessment testing has been carried out in accordance with the BRE guidelines and therefore the objection that it is insufficient and the impact on sunlight would be beyond that disclosed is not sustainable. Although the assessment was carried out prior to the latest BRE Document: Site layout planning for daylight and sunlight: a good practice (BR 209 2022 edition) the assessment in relation to the impact on neighbouring properties remains the same and has no material impact on the results.

Sense of Enclosure

The additional bulk of the proposal compared to the existing building would be adjacent to the largely blank flank wall (with the exception of a window to a store) of Bradby House and the side wall of 146 Hamilton Terrace which contains windows which the applicant has identified as non-habitable rooms. The extension does not project beyond the rear building line of No. 146. Therefore, there would be no significant sense of enclosure on those properties. Knoll House would be over 16 metres from the nearest part of the extended building and its windows would not face directly onto the extension.

Privacy

Although the proposed rear fenestrated wall would project further than the existing situation at its nearest point this would be over 16 metres from the nearest residential windows of Knoll House and would not face directly onto it, therefore the objection on these grounds is not sustainable.

The proposed ground floor terrace is located some distance from Knoll House and would be at the same height and further away than the existing conservatory to the rear of No. 152. Therefore, the objection on loss of privacy grounds from this element of the proposal is not sustainable.

It is proposed to incorporate two new windows into the side elevations of no.150 & 152 Hamilton Terrace. These would be at ground floor level and will be obscure glazed and non-openable and would not result in any overlooking.

A condition preventing the use of the roof of the houses as a terrace is recommended as such use is likely to result in an increase in overlooking to Knoll House and the rear garden of 146 Hamilton Terrace.

Noise & Vibration

Air source heat pumps are shown on the proposed drawings at rear lower ground floor level. These do not form part of the application and so are not assessed however in the location and the size they are proposed they would be permitted development not requiring planning permission.

The proposed rear terrace is not considered likely to result in any significant increase in noise disturbance as compared with the existing garden.

9.6 Transportation, Accessibility & Servicing

Highway Impact

Although the front gates to the property are changed as part of the proposal, the front boundary wall and therefore the position of the vehicular access is not changed. The gates do not open over the highway and are therefore considered acceptable in highways terms.

Waste & Recycling Storage

It is considered reasonable to secure waste storage details by condition in consultation with the City Council's Waste Project Officer.

Cycling & Cycle Storage

The proposal includes sufficient cycle parking provision for each house in line with London Plan policy. It is recommended that this provision is secured by condition.

Parking

A total number of 4 off street car parking spaces are proposed with the loss of 2 garage spaces. The overall loss of 2 off street car parking spaces accords with the City Plan 2019-2040: Policy 27 which encourages car free living and the use of more sustainable modes of transport which is necessary to reduce congestion and improve air quality and road safety.

9.7 Economy including Employment & Skills

It is recognised that the proposal will create jobs during the construction period.

9.8 Other Considerations

Trees

The proposals have been amended to retain the existing driveway at the front of the property which has dealt with the Arboricultural Officers concerns for the mature lime tree and the street tree London plane tree. The proposals are now considered acceptable in relation to trees subject to tree protection and landscaping conditions.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure tree protection details. The applicant has agreed to the imposition of the condition.

10. Conclusion

Given the above, the proposals are considered acceptable, and do not give rise to harm to the building, conservation area or the setting of surrounding properties or the residential amenity of neighbouring properties. Notwithstanding the objections received, the proposals are considered acceptable in amenity, design, conservation and sustainability terms, and in line with relevant policy and guidance. The recommendation is considered in line with the statutory duties set out in s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

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

11. KEY DRAWINGS



Fig 2. Aerial view of site from south.



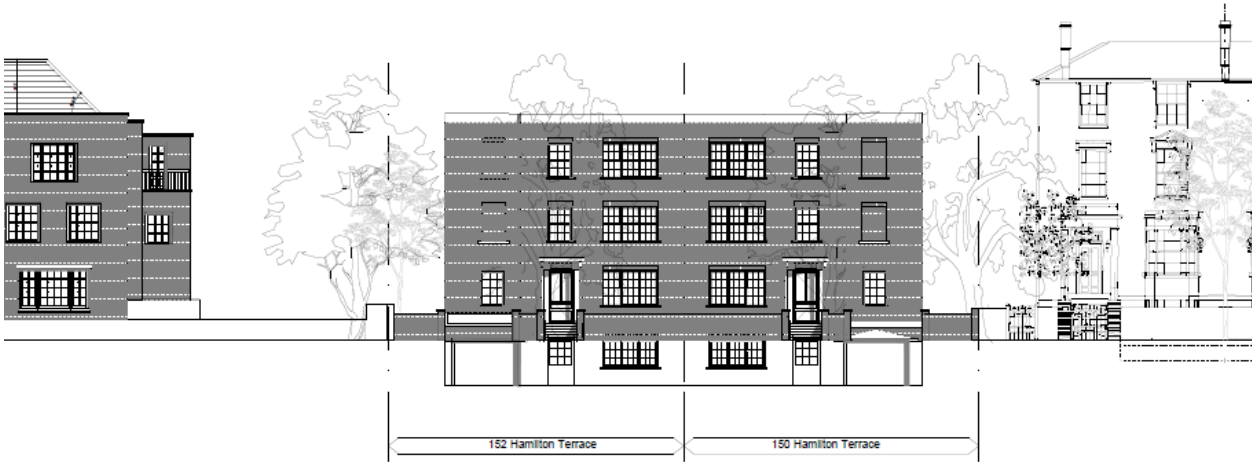
Fig 3. Aerial view of site from north.



Visualisation from Hamilton Terrace



Visualisation from rear (behind Bradby House)



Existing Street Elevation



Proposed Street Elevation

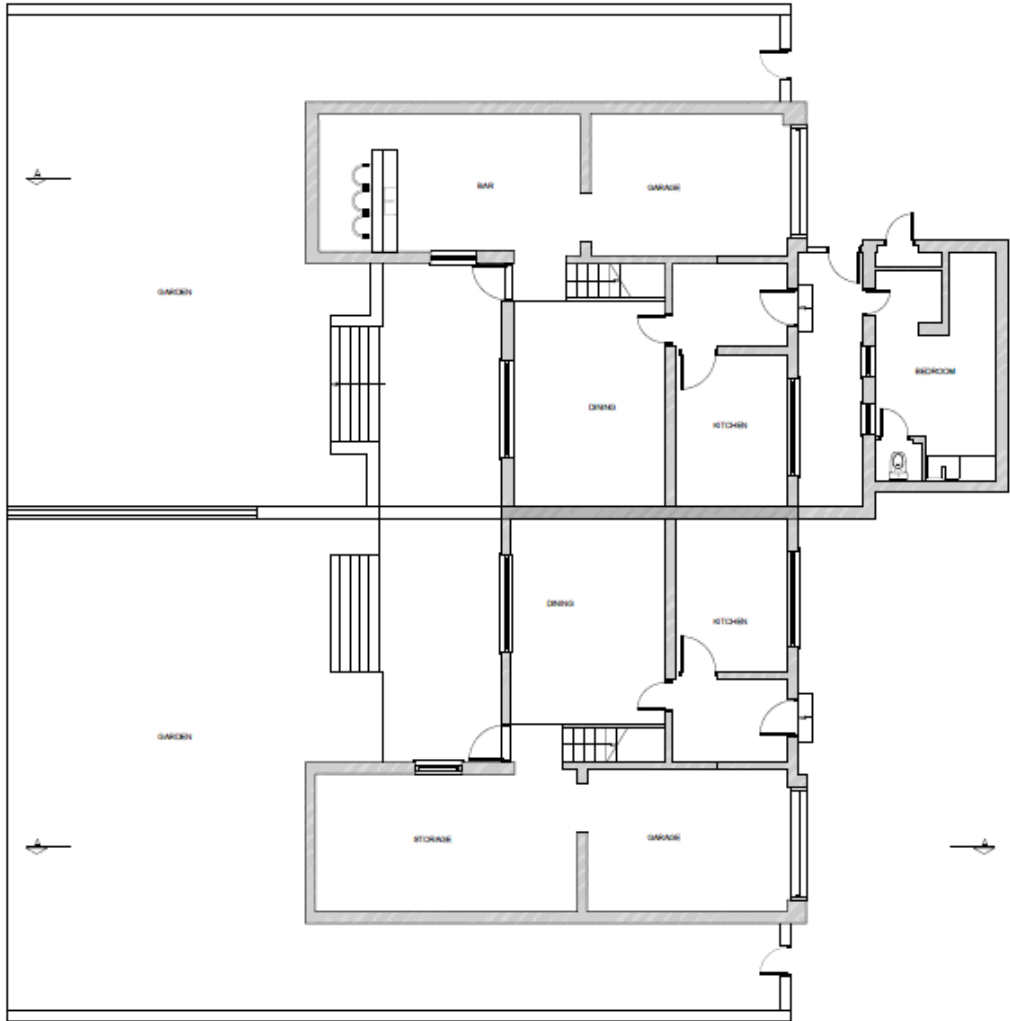


Existing rear elevation



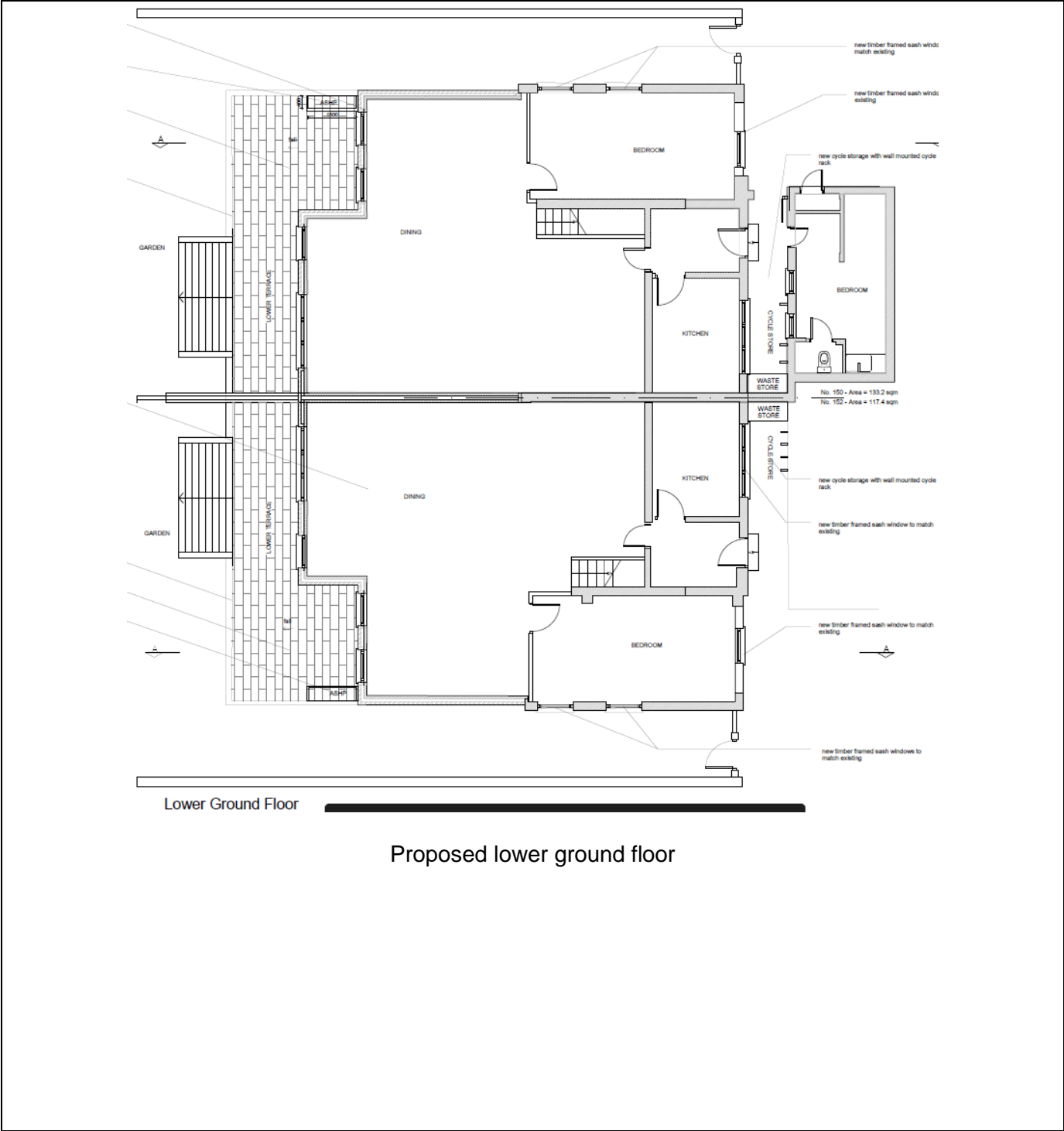
Rear Elevation

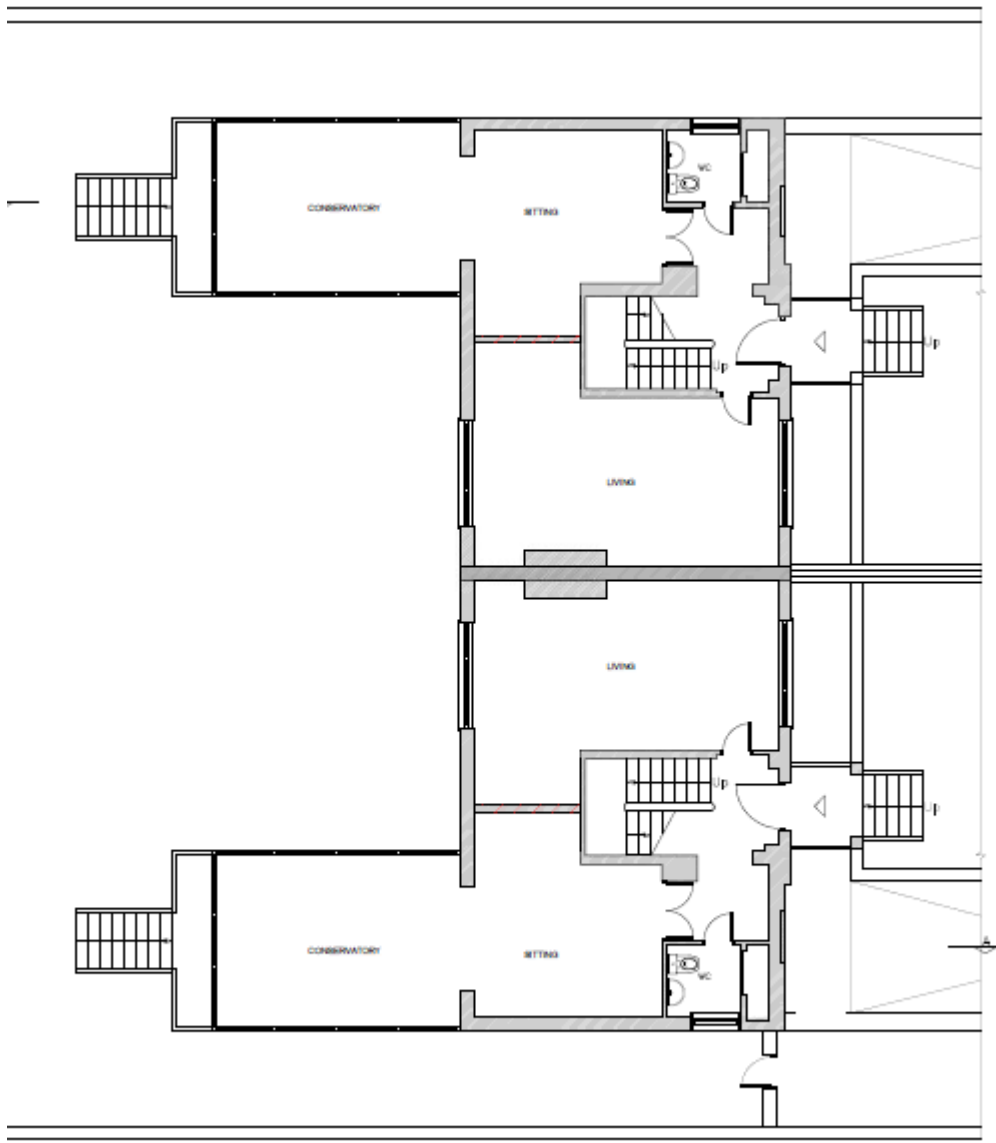
Proposed rear elevation



Lower Ground Floor

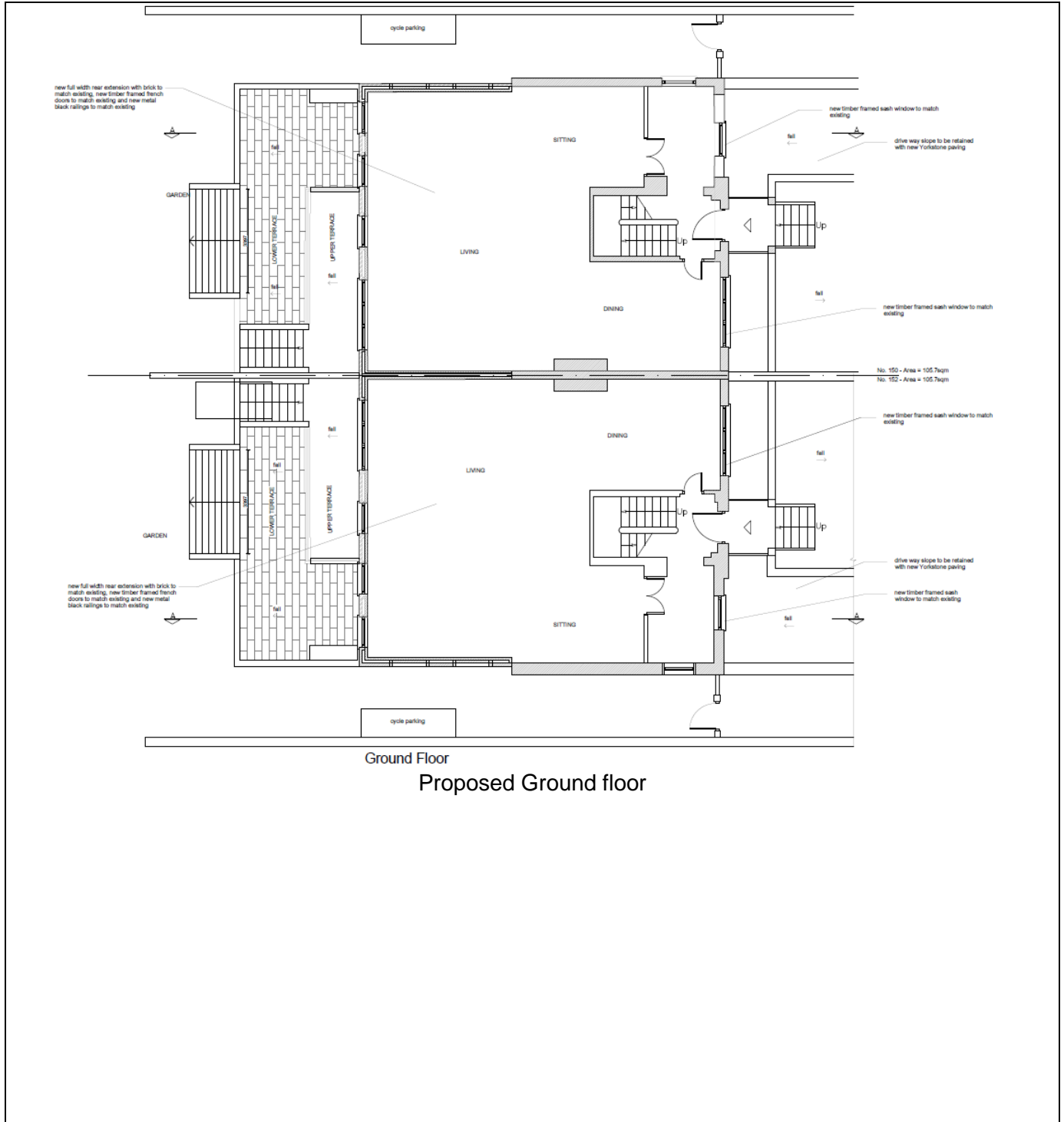
Existing lower ground floor

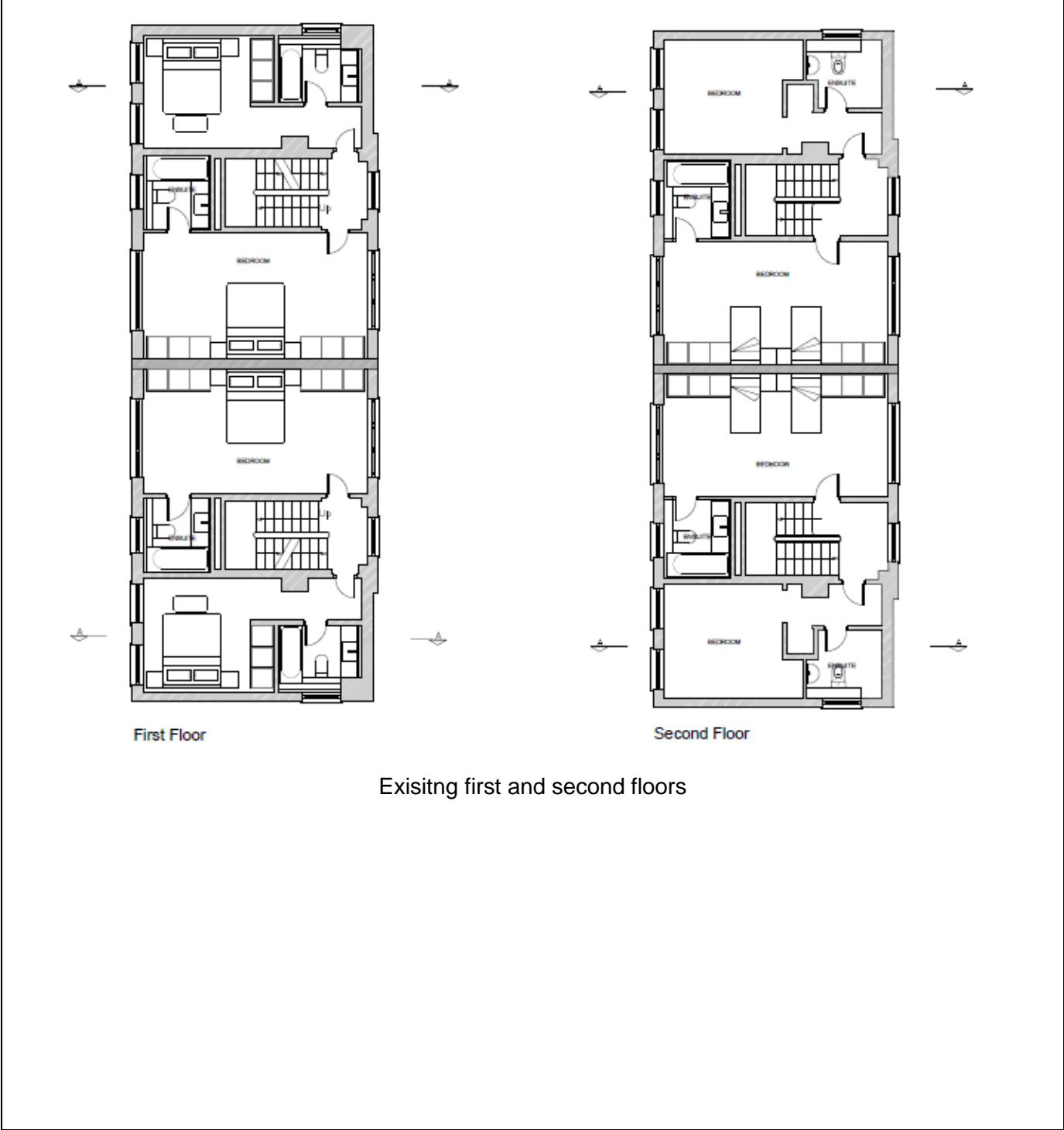




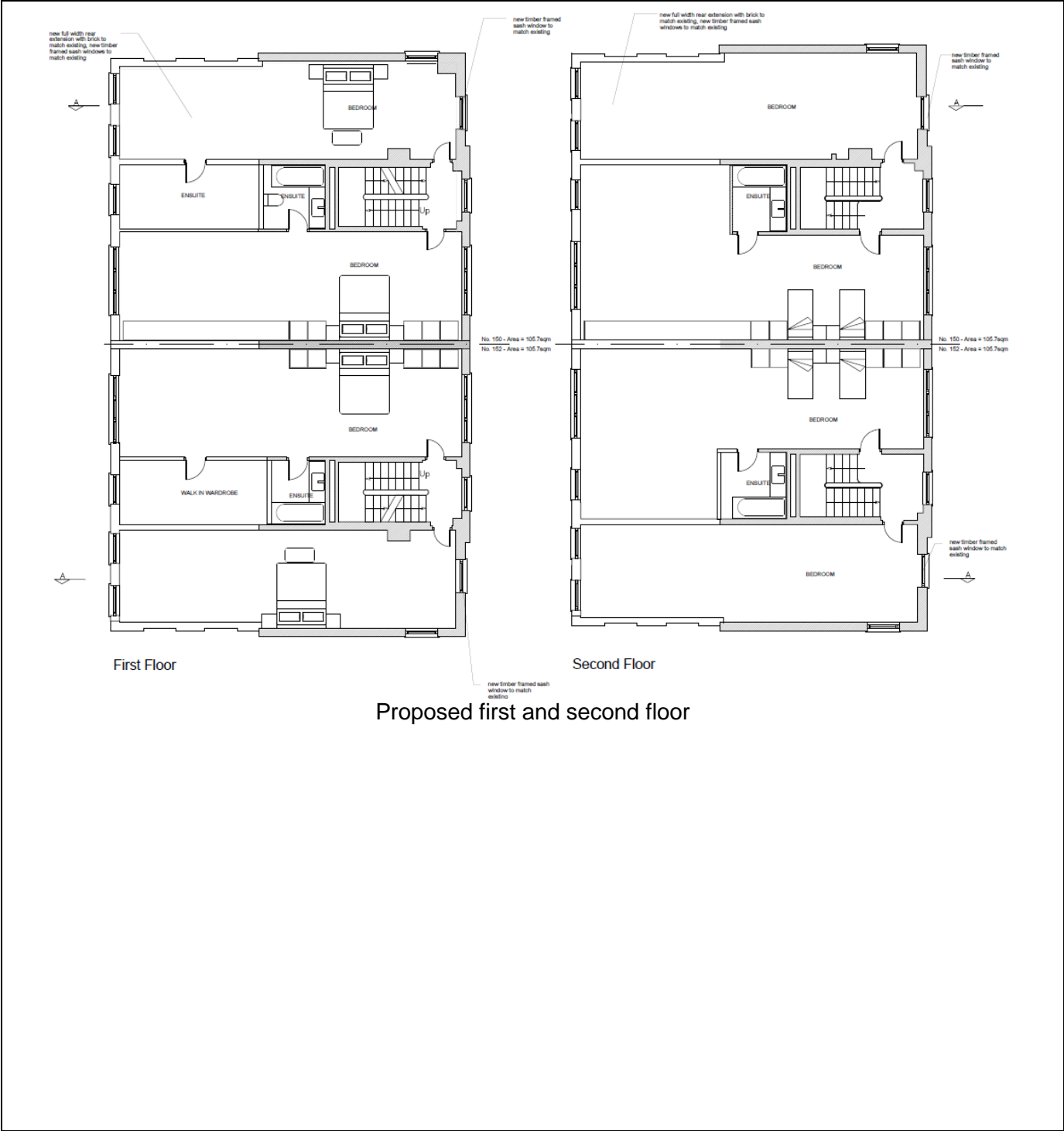
Ground Floor

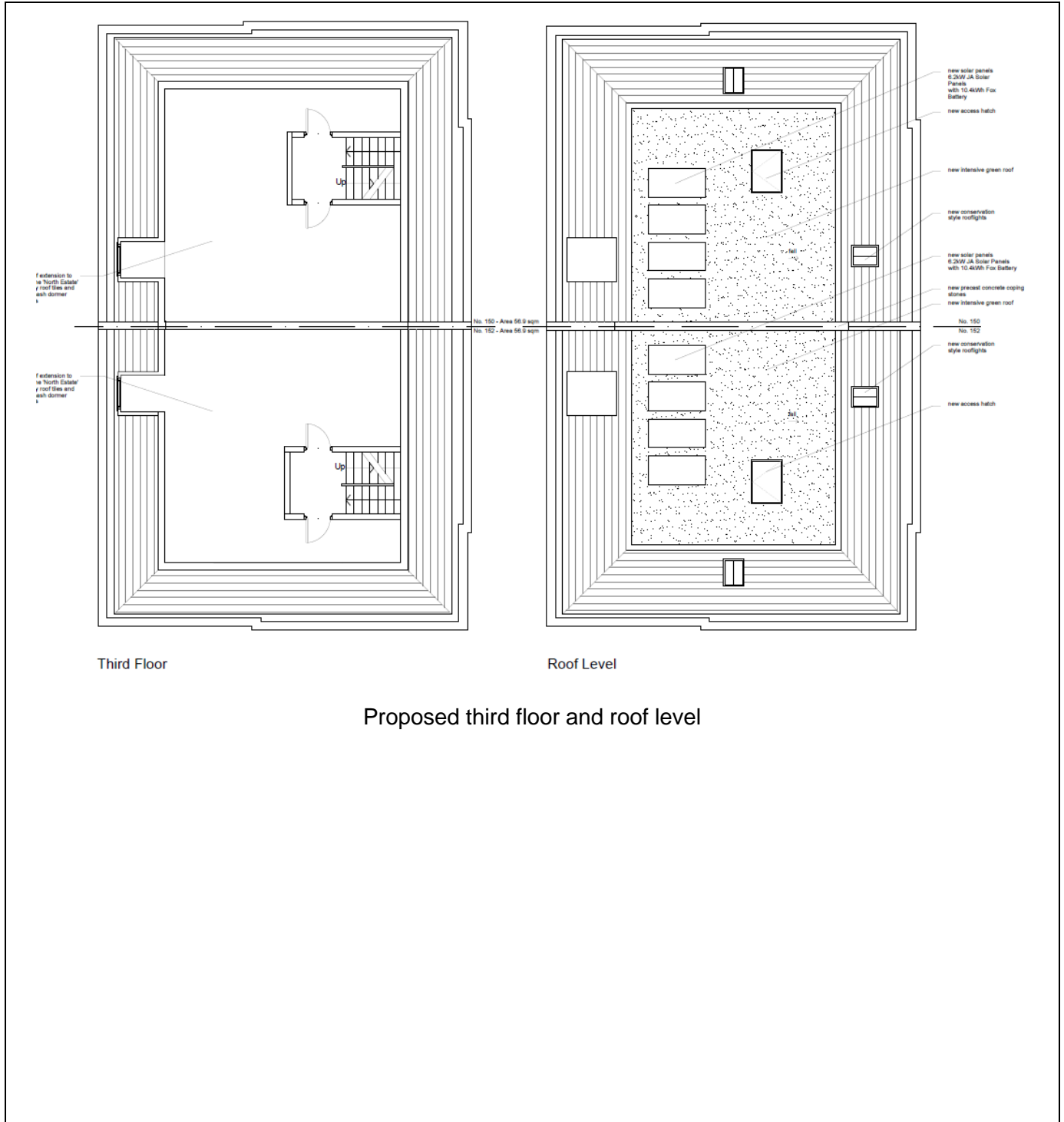
Existing Ground floor



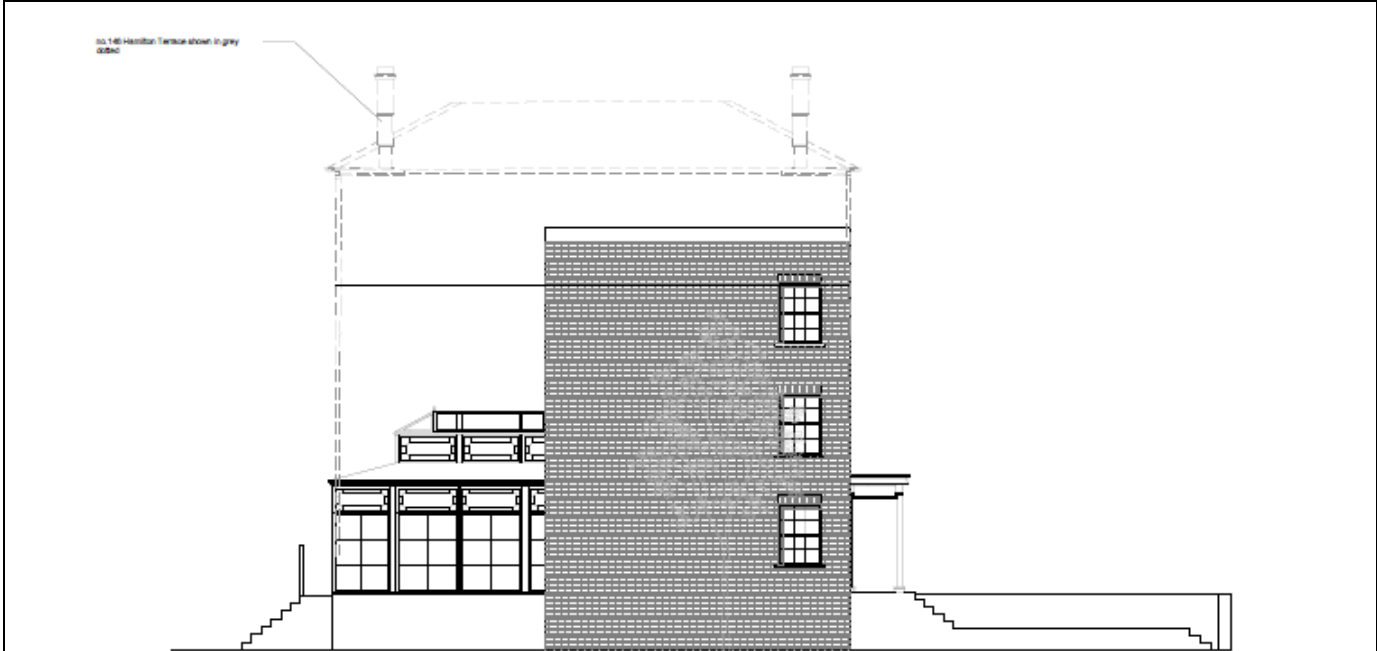


Existing first and second floors

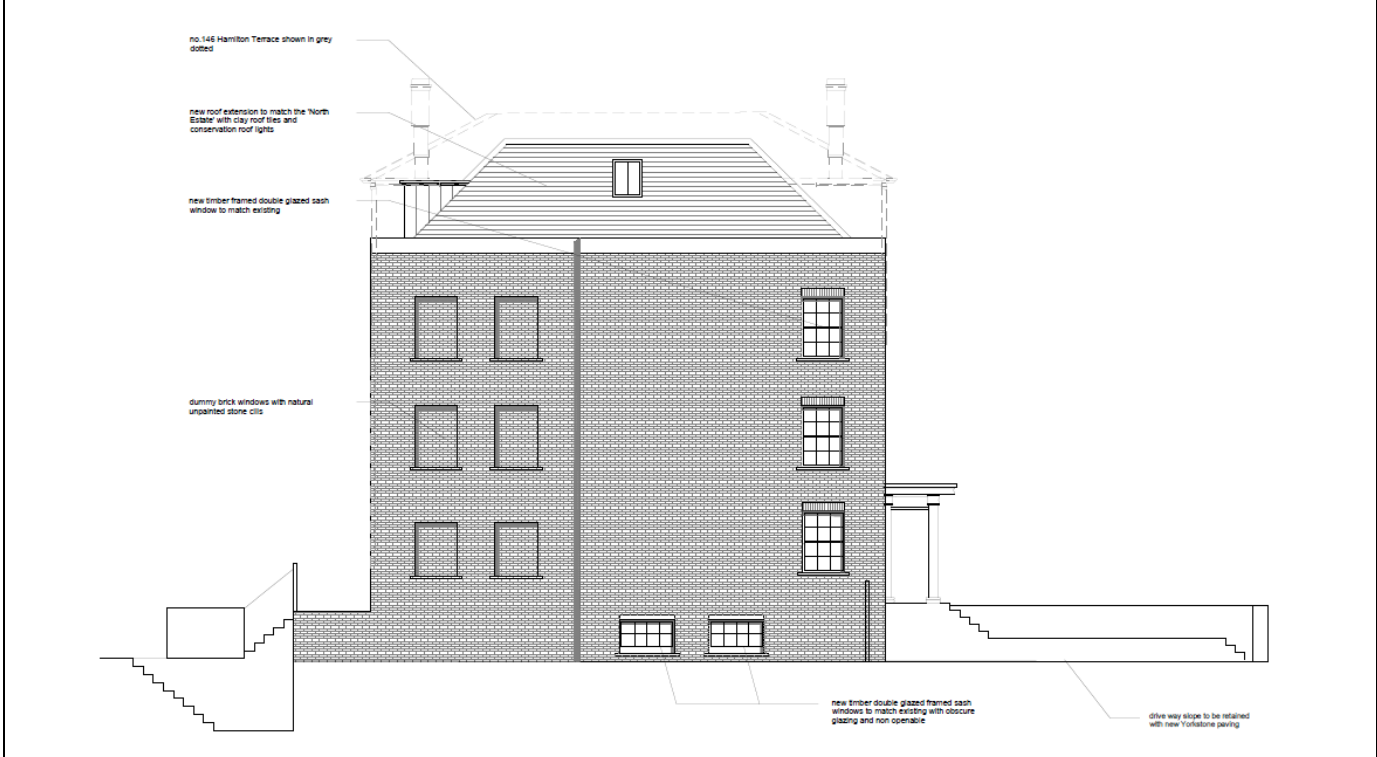




Proposed third floor and roof level



Existing North elevation 152 Hamilton Terrace



Proposed North elevation 152 Hamilton Terrace

DRAFT DECISION LETTER

Address: Development Site At 150 And 152, Hamilton Terrace, London, NW8 9UX

Proposal: Demolition of rear of building and roof and erection of rear extension, roof extension, landscaping; alterations to entrance gates; new windows to front and side elevations; and associated works.

Plan Nos: 1056L01E; 1056L02E; 1056PL01E; 1056PL02E; 1056D01G; 1056D02G; 1056D02G; 1056D03G; 1056D04G; 1056D05G; 1056D06G; 1056D07G; 1056D08G; 1056D09G; 1056D10G; 1056E11G; 1056P01G; 1056P02G; 1056P03G; 1056P04G; 1056P05G; 1056P06G; 1056P07G; 1056P08G; 1056P09G; 1056P10G; 1056P11G; Design and Access Statement; Arboricultural Impact Assessment; Heritage Statement; Sustainability Statement; Flood Risk Assessment Daylight and Sunlight Assessment

Case Officer: Richard Langston

Direct Tel. No. 07866036470

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 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)

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

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 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application.

Solar panels to main roof level

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

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 6 You must provide, maintain and retain the following bio-diversity features before you start to use any part of the development, as set out in your application.

Bio-diverse green roof

You must not remove any of these features. (C43FA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 7 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof to include construction method, layout, species and maintenance regime, and the relationship of the planting to the pv panels to roof level

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 8 The new windows shall be formed in glazing and white painted timber/putty (as appropriate) framing, and shall operate only in a vertically sliding manner

Reason:

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

- 9 The new external metalwork shall be black in colour

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)

- 10 You must apply to us for approval of further information (as set out below) about the following parts of the development:-

Fully detailed elevations and vertical and horizontal sections of the new windows, including glazing bars, beading / putty, and DGU specification, and how they would be set within their reveals, at a scale of 1:5 (including appropriate break-lines if required).

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. The windows shall operate only in a vertical sliding manner. (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)

- 11 You must apply to us for approval of a photograph of a sample of paving to be used to the front garden and rear patio areas, and a plan marked up to show its area of installation. 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 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)

- 12 The new paving to the front garden and rear patio shall be permeable paving allowing for sustainable urban drainage. You must not remove any of these features, without the prior

written consent of the Local Planning Authority.

Reason:

To ensure sustainable urban drainage measures are incorporated within the scheme in accordance with Policies 34 and 45 of the City Plan 2019 - 2040 (April 2021). (R30DB)

- 13 You must apply to us for approval of detailed drawings and manufacturers specifications for the new electric vehicle charging point. You must not start any work on these parts of the development until we have approved what you have sent us. You must provide the electric vehicle charging point as an integral part of the works to create the extensions, and once installed it shall be retained and maintained thereafter

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area, and to make sure that the development provides the environmental sustainability features included in your application. This is as set out in Policies 36, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 14 You must apply to us for approval of a photograph of a sample of the clay tiles you will use to face the pitched roofs of the new extension at roof level. 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 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)

- 15 The new rooflights shall be framed in dark grey or black aluminium, and shall be designed as conservation rooflights so as to be flush with the tile facing to the pitched roofs

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)

- 16 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 start work on the relevant part of the development until we have approved in writing 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.

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)

- 17 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)
- Reason:
In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)
- 18 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. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)
- 19 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)
- Reason:
To protect the trees and the character and appearance of this part of the St Johns Wood Conservation Area. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R31DD)
- 20 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved 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 a similar size and species. (C30CC)
- Reason:
To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the St Johns Wood Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)
- 21 The roof and rear extensions of 150 Hamilton Terrace and 152 Hamilton Terrace must be completed as a single construction contract and the works carried out in their entirety.
- Reason:
To ensure that the building remains a single architectural composition and avoid the

unbalanced appearance of extensions only being undertaken on one of the two properties, as set out in policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 22 You must apply to us for approval of elevation drawings (and including annotations of cladding materials and finished colours) for the new external cycle parking structures to the side of each building at ground floor level. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

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

- 23 Notwithstanding the submitted drawings, you must apply to us for approval of plan/elevation/section (as appropriate) drawings showing any replacement entrance porch(es) to the buildings. 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 With regards to condition 4, you are advised that the strong expectation is that the existing brickwork from the areas being demolished as part of this approval will be re-used to the new extensions where practicable.

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City of Westminster

Executive Summary and Recommendations

Title of Report:

**Tree Preservation Order No. 689 – 63 Warwick
Avenue London W9 2PR**

Date:

20 December 2022



Summary of this Report

On 25 August 2022 the City Council made a provisional Tree Preservation Order (TPO) to protect one Lime tree (labelled T1 on the TPO plan) located at 63 Warwick Avenue London W9 2PR (the Property). The TPO is provisionally effective for a period of six months from the date it was made (25 August 2022) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 25 February 2023. The TPO was made as the tree makes a significant contribution to local amenity and the residential outlook of the surrounding property and makes a positive contribution to the Maida Vale Conservation Area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Lime tree (T1) from the from the side garden of 63 Warwick Avenue. The tree is protected by virtue of its location within the Maida Vale conservation area. The reason given for the proposed removal of the tree is that it is causing subsidence damage to 63 Warwick Avenue. A second lime tree is also alleged to be causing subsidence damage. This tree is protected by Tree Preservation Order Paddington no. 2, which was made in 1956

In general terms the confirmation of a provisional TPO does not preclude the appropriate management or removal of the protected trees in the future, subject to the merits of a TPO application.

Objections to the TPO were received from:

- MWA Arboriculture Limited (Agent on behalf of the Owner of the Property).

Recommendations

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 689 (2022) with or without modification with permanent effect; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 689 (2022).



City of Westminster

Committee Report

Item No:

Date:

20 December 2022

Classification:

General Release

Title of Report:

Tree Preservation Order No. 689 (2022) – 63
Warwick Avenue London W9 2PR

Report of:

63 Warwick Avenue London W9 2PR

Wards involved:

Little Venice

Policy context:

No requirement to have regard to Development Plan policies when confirming a TPO but special attention must be paid to desirability of preserving enhancing the character and appearance of the conservation area
Notwithstanding the above – the following planning policies are of relevance: 32, 34, 39 of the City Plan 2019 - 2040 April 2021

Financial summary:

No financial issues are raised in this report.

Report Author:

Isaac Carter and Georgia Heudebourck

Contact details

icarter@westminster.gov.uk
Georgia.heudebourck@rbkc.gov.uk

1 Background

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 689 (2022) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 25th August 2022.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they must be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the City Council the power to control any such works or require replacement tree planting if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 689 (2022) was made following the receipt by the City Council of six weeks’ notice of intention to remove one Lime tree (T1) from the side garden of 63 Warwick Avenue (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is defence to the offence of removing a tree in a conservation area if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the City Council in a position where it must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.
- 1.4 The Lime T1 is in the side garden of 63 Warwick Avenue. It is a prominent tree, clearly visible along a considerable length of Formosa Street and from Warwick Avenue. The lime tree is about 18m tall with a naturally oval canopy. It is considered to have a good form. The tree is a mature specimen and appears to be in good condition. It has a long-life expectancy.
- 1.5 The tree has been subject to previous crown reductions at different heights. There is an older reduction point at about 10m but more recently it has been reduced to points at about 16m height. It would be appropriate to manage it

by periodic crown reductions to the higher points in the future. Such management would not detract from its amenity value.

- 1.6 Lime trees are common in Westminster. This tree is not known to have a specific cultural or historic value, but trees are a key component of the conservation area, and so T1 contributes to this general cultural value.
- 1.7 The scale and form of the lime tree are such that they are in proportion with 63 Warwick Avenue and adjacent properties. Due to its location and history of pruning it has a comfortable relationship with the building. It is considered to make a positive contribution to the townscape and to be suitable in its location.
- 1.8 There is a second lime tree in the side garden of 63 Warwick Avenue, situated slightly further from the property than T1. The trees have a comfortable relationship and together form a prominent landscape feature. The loss of T1 would cause harm to the character and appearance of this part of the conservation area.
- 1.9 The tree is considered by the Council's Tree Section to have high amenity value and makes a positive contribution to the Maida Vale Conservation Area. The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.
- 1.10 The initial reason given by the applicant for the proposed removal of the tree (T1) was:
 - The tree is causing subsidence damage to the Property
- 1.11 The evidence submitted with the s211 notice in support of the proposed removal of the Lime Tree (T1) consisted of:
 - Crack monitoring from 4/4/19 to 02/11/21
 - SP Szarek Designs Ltd Tech Report dated April 2020
 - Site Investigations report dated December 2021
 - Level monitoring from 14/12/21 to 10/05/22
 - Arboricultural Appraisal report dated 17/02/22

The evidence submitted did not include adequate level monitoring or an engineering appraisal report or estimated costs of repairs if the tree is removed or retained. In view of the limitations of the submitted evidence it was considered to be expedient in the interests of public amenity to make the TPO.

Subsequent to making the TPO the City Council received one objection

2 Objection from Agent on behalf of 63 Warwick Avenue

2.1 The Council's Legal Service received a letter dated 23 September 2022, from the Agent acting on behalf of the Owner of the Property objecting to the TPO on the grounds that:

- The lime tree T1 is directly implicated in root induced clay shrinkage subsidence damage to 63 Warwick Avenue, W9 2PR. The evidence confirms that the subject lime is a material cause of the subsidence damage.
- The lime T1 is too close to the affected building for pruning to offer a viable long-term solution in abating its influence. If the tree is retained, even with pruning, further damage is inevitable at some point in the future.
- The alternative to tree removal is underpinning, the costs of which will be recovered from the Council if it decides to prevent the removal of T1.

The letter included the following evidence in addition to that previously submitted with the s211 notice:

- Gryphon Crack and Level Monitoring dated 14.12.21 - 11.07.22
- Photos of reappearing cracks dated 30.08.22
- Pyle Letter (Tech Report) dated 11.01.22
- Pyle Letter (Addendum Tech Report) dated 31.08.22
- Pyle Consulting Repair Costs dated 14.09.22

3 Objection Response

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 23 September 2022. The Officer considered the submitted evidence and stated the following conclusions: -

- There is current damage to the Property which consists of internal and external cracking to the front elevation and right-hand side.
- Test pit 1 (TP1) was excavated at the rear of the right-hand side extension. The test pit exposed the foundations, which were observed to be 1m below ground level at the point of the excavation and 2m below the ground level of the bed where T1 and the second lime (T4) are growing. No soil analysis or root identifications were carried out in relation to TP1.
- Boreholes 1-3 (BH1-3) were excavated in the planting bed where T1 and T4 are growing to depths of 3m, which is 1m below the foundation depth. The soil in the boreholes was found to be shrinkable clay and there is some evidence

of desiccation below the foundations. Roots identified as Tilia sp, which is lime, were found to depths of 3m.

- Level monitoring shows pronounced seasonal movement of the right-hand side of the property, which is indicative that the movement is caused by abstraction of water from clay soil by vegetation.
- The submitted evidence implicates T1 (in addition to T4) in the damage to 63 Warwick Avenue.

- The Officer noted that the agent has made a TPO application to remove T1 and has submitted the same evidence with that application.

4 Ward Member Consultation

4.1 The Ward Members have been consulted in relation to this matter. No responses have been received at the time of finalising this report. Any responses received between the time of finalising this report and the date of the sub-committee will be presented at the sub-committee.

5 Conclusion

5.1 In light of the representations received from the objectors it is for the Planning Applications Sub-Committee to decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 689 (2022) with or without modification with permanent effect.; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 689 (2022).

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT ISAAC CARTER, LEGAL SERVICES (Email lcarter@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES ON 07790979410 (Email Georgia.heudebourck@rbkc.gov.uk)

Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 689 (2022)
2. Photographs of T1
3. Objection letter from MWA Arboriculture dated 23rd September 2022 and attached technical evidence
4. Response letter from the City Council's Arboricultural Officer to objector dated 21 November 2022
5. Report of Council's Arboricultural Officer dated 18 August 2022 recommending making of the Provisional Order

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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