

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 10 May 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>94-96 Wigmore Street, London, W1U 3RF</b>		
<b>Proposal</b>	Substantial demolition of 7-9 Duke's Mews, rebuilding to provide a new three storey mews building and erection of extensions from third to sixth floor levels to the rear of 94-96 Wigmore Street with acoustic enclosure, photovoltaics, terrace and green roof at roof level. Works are in association with the use of the part ground and all upper floors for up to 10 residential units (Class C3) and the basement and ground floor for retail purposes (Class A1).		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Aviva Life and Pensions UK Ltd		
<b>Registered Number</b>	15/08288/FULL	<b>Date amended/ completed</b>	24 August 2015
<b>Date Application Received</b>	24 August 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site is an unlisted building situated within the Harley Street Conservation Area. The building comprises basement, ground and six upper floors on Wigmore Street, the building is linked to the mews building behind (on 7-9 Duke's Mews) which comprises basement, ground and two upper floors. The building is predominantly used for office purposes, however there is a retail unit at ground floor level and a residential unit at rear second floor level. Permission is sought for the substantial demolition of the rear mews building and rebuilding to provide a new three-storey mews building a half width rear third floor extension and infill extensions to the rear of the main building from third to sixth floor level. The works are in connection with the use of part ground and the upper floors for up to 10 residential units and the basement and ground floor for retail purposes.

The key issues for consideration are:

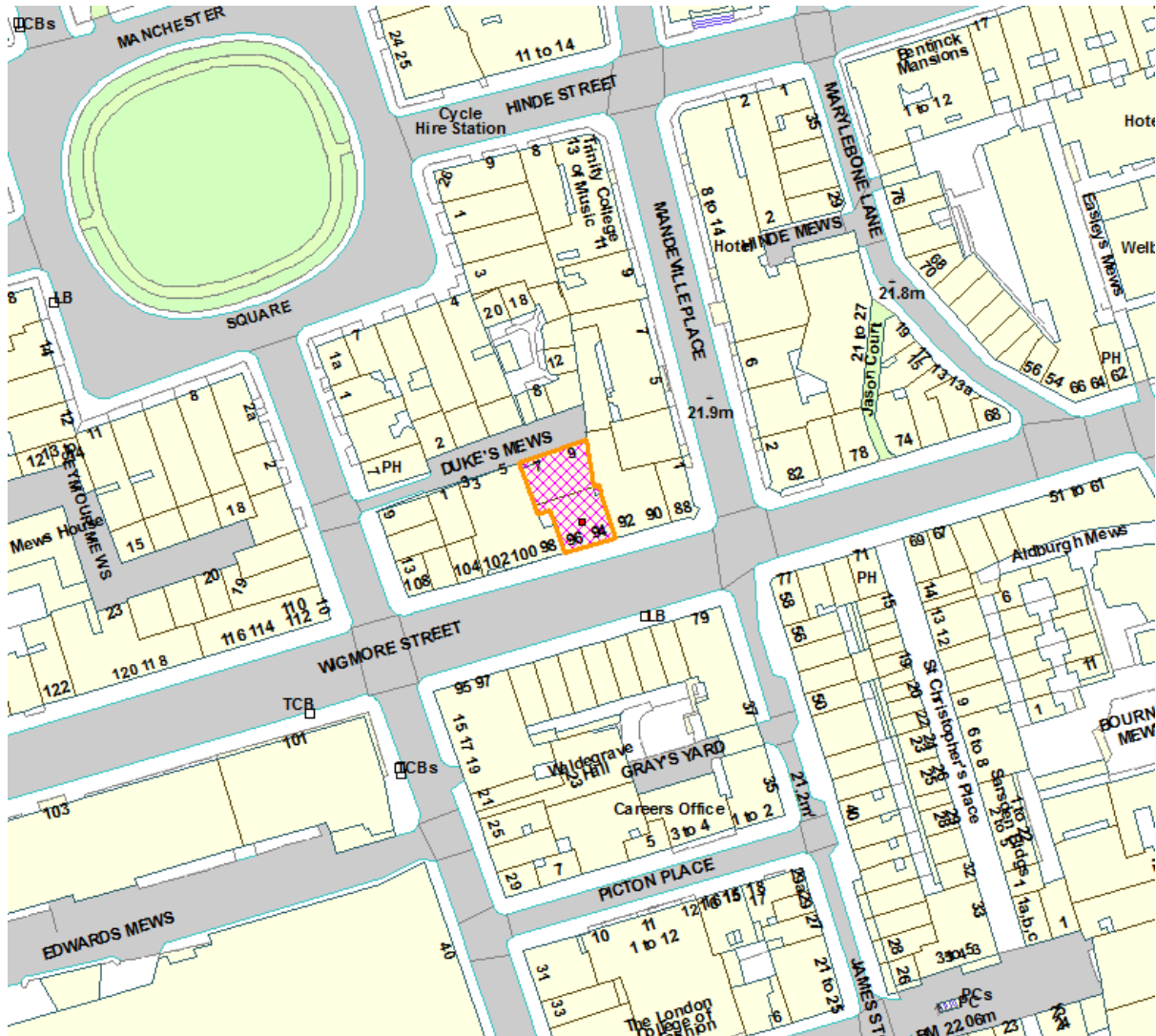
- The impact of the extensions on the Portman Estate Conservation Area; and

- The impact of the proposals on residential amenity.

It is accepted there are physical constraints that make the provision of on-site affordable housing difficult to achieve, and on that basis the applicant's offer to pay the full policy compliant financial contribution is considered to be acceptable.

It is considered that the proposals are acceptable in all respects and comply with the policies set out in Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Front elevation on Wigmore Street



Rear elevation on Duke's Mews



## 5. CONSULTATIONS

### Original Application

HISTORIC ENGLAND

Not necessary to be consulted on this application

HISTORIC ENGLAND (ARCHAEOLOGY)

No objection

THE MARYLEBONE ASSOCIATION

Any response to be reported verbally

HIGHWAYS PLANNING

No objection

BUILDING CONTROL

No basement excavation

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 57

Total No. of replies: 4

Four objections raising all or some of the following:

Land use

- Loss of office floorspace.

Amenity

- Increase sense of enclosure on 100 Wigmore Street.
- Loss of daylight and sunlight.
- Loss of privacy.
- Impact on future residential occupiers.
- Impact of the proposed servicing arrangements on neighbouring building.

Design

- Proposed building is ugly.

Other

- Impact of construction.
- Consultation carried out by the applicants.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Revised Application

THE MARYLEBONE ASSOCIATION  
Any response to reported verbally

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

No. Consulted: 57  
Total No. of replies: 1

One letter of objection on behalf of the freeholders of 100 Wigmore Street raising the following:

##### Amenity

- Increase sense of enclosure to neighbouring building.
- Loss of daylight and sunlight.
- Impact to future residential occupiers.
- Impact of servicing arrangements on neighbouring building.

##### Other

- No consultation carried out by applicants.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an unlisted building situated within the Harley Street Conservation Area. The building comprises basement, ground and six upper floors on Wigmore Street, the building is linked to the mews building behind (on 7-9 Duke's Mews) which comprises basement, ground and two upper floors. The building is predominantly used for office purposes, however there is a retail unit at ground floor level and a residential unit at rear second floor level.

The nearest residential properties are located adjacent to the site at 90-92 Wigmore Street, 3-5 Duke's Mews and to the north within 8-12 Duke's Mews. There is a large office building with frontages on Wigmore Street and Duke's Mews adjacent to the site to the west.

#### Recent Relevant History

Permission was granted in May 1988 for the reconstruction and extension at roof level of 94-96 Wigmore Street and redevelopment of 7-9 Duke's Mews to provide offices and one residential unit.

## 7. THE PROPOSAL

Permission is sought for the substantial demolition of 7-9 Duke's Mews and the rear elevation of the main building and rebuilding to provide a new mews building comprising ground to second floor levels. A half width extension is proposed at third floor level, infill

extensions are proposed at fourth to sixth floor levels, which will bring the line of the rear elevation in line with the existing projecting stair enclosure. These works are in connection with the use of part basement and ground floors for retail purposes (Class A1) and the part basement and ground floor and six upper floors for up to ten residential units (Class C3). The units will comprise three mews houses accessed via Duke's Mews. A roof terrace is proposed at main roof level. One off-street car parking space is proposed to the rear in Duke's Mews

The application has been amended since its original submission following officers concerns that the height and bulk to the rear of the building would have a detrimental impact on the residential windows to the rear of 90 Wigmore Street. The main differences between the two proposals are:

- Reduction in bulk of the rear third floor extension to set it away from 90 Wigmore Street;
- Reduction in bulk of the rear extensions at fourth to sixth floor level. The extensions will now bring the main building line to the same level as the existing rear stair enclosure.

The proposed third floor extension will be in line with the existing mews building at 7-9 Duke's Mews

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Loss of office use**

The proposal results in the loss of 1379m<sup>2</sup> of office floorspace. An objection has been received to the loss of offices and the impact this will have on employment needs across the City. However, the application was submitted prior to the 1<sup>st</sup> September 2015, therefore the loss of the office floorspace cannot be resisted in this instance.

The objection also states that the proposal does not comply with emerging draft policies, these policies do not currently have any weight in determining planning applications and therefore the proposal cannot be reasonably refused on these grounds.

#### **Retail use**

There is an existing retail unit at ground floor level (142m<sup>2</sup>) and as a result of the proposals the floorspace will be increased by 184m<sup>2</sup>. The increase in floorspace is welcomed and is supported by Policy S21 of the City Plan.

#### **Residential use (unit mix and standard of residential floorspace)**

There is an existing residential unit at rear second floor level comprising 128m<sup>2</sup>, and the proposals result in an increase of residential floorspace of 1,289m<sup>2</sup> (1,417m<sup>2</sup> in total). This is considered acceptable and complies with policies H3 of the UDP and S14 of the City Plan.

The proposed mix would provide 1 x 1 bed, 8 x 2 beds, 1 x 3 beds and therefore 10% would be provided as family-sized accommodation. This falls short of the UDP Policy H5 target. Prior to the scheme being revised all the mews houses contained three bedrooms and as a result of the revision the amount of floorspace for the mews houses has been

reduced. In these circumstances, to ensure that the use of the residential floorspace is optimised, the mix of unit sizes is considered acceptable.

All the flats would comply with the minimum dwelling space standards as set out in the London Plan.

The objection received to the original proposals stating that the number of three bedroom units should be reduced to comply with draft policies is no longer applicable to the revised scheme.

Environmental Health has confirmed that the new residential will comply with the City Council's standard noise conditions. However, in order to comply with the conditions, residents would have to keep the windows closed. As comfort cooling is proposed, Environmental Health has no objection. An informative is recommended to ensure that the new windows are not sealed shut to allow residents to open their windows.

### **Affordable housing**

The proposal results in an increase of 1289m<sup>2</sup> of residential floorspace, and this triggers a requirement to provide on-site affordable housing under policies H4 and S16. Policy S16 would require a proportion of the new floorspace to be provided as affordable housing. Under the terms of the Council's Interim Affordable Housing Guidance there is a requirement to provide 160m<sup>2</sup>/2 flats of affordable housing. Where it is accepted that it would not be appropriate or practical to provide the affordable housing requirement on-site, the provision of the housing on an alternative site in the vicinity should be explored. Where neither on nor off-site provision is acknowledged as being impractical or inappropriate, the City Council may consider a financial contribution to the City Council's affordable housing fund in accordance with adopted formula. Given the increase in floorspace, a policy compliant contribution would be £693,000

The applicant has stated that the introduction of affordable housing would not be practical due to the requirement for a separate core (entrance/stair and lift). The site does have two frontages and the mews houses can be accessed from the Duke's Mews, but they can also be accessed via Wigmore Street. It is considered that this is a constrained site and for these reasons it is considered that it would not be practical to provide affordable housing on site. The applicant does not own any other properties in the area which could be used for affordable housing. Therefore the applicant has confirmed that they will make a policy compliant payment to the affordable housing contribution fund (£693,000). This will be secured by a Grampian condition.

## **8.2 Townscape and Design**

94-96 Wigmore Street is an existing office development in the Portman Estate Conservation Area. Minor alterations are proposed to the principle elevation, with the greater amount of works to the rear. As outlined about the scheme has been amended to reduce its impact on residential amenity, but also amendments were received to improve the detailed design. The reduction in bulk to the rear is considered acceptable in design terms and whilst officers still have reservations as to the quality of detailed design it is considered to be acceptable, given its immediate context. Therefore, subject to conditions the proposal is considered acceptable in design terms.



### 8.3 Residential Amenity

There are a number of residential properties surrounding the application site, in particular adjacent to the site to the west at 3-5 Duke's Mews, opposite the site to the north at 8-10 Duke's Mews and to the east at 90-92 Wigmore Street. The properties within 90-92 Wigmore Street have rear windows that overlook the mews roof of the application site.

#### **Daylight and Sunlight overview**

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used and it is a requirement of the City Council that most major planning applications are accompanied by a sunlight and daylight report using accepted BRE methodology.

For daylighting matters, the most commonly used BRE method for calculating values is the 'vertical sky component; (VSC) method which measures the amount of light reaching the outside face of a window. This method is most widely used as it does not need to rely in internal calculations, which means that it is not necessary to gain access to all affected properties to assess and compare, potential light loss across all properties. However, it is still important to know what an affected window is used for, since the BRE guidelines principally seek to protect living rooms, dining rooms and kitchens and, to a lesser extent bedrooms. Under this method, if an affected window is already not well lit (considered to be below a nominal value of 27%) and the daylight received at the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable. The numerical values used in this assessment are not intended to be prescriptive in every case and are to be interpreted flexibly depending on the given circumstances.

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited, and would be reduced by more than 20% as a result of the development, the window is likely to be adversely affected. Only windows facing within 90 degrees of due south of the proposed development need to be tested, and living rooms and conservatories are considered to be the most important rooms to be protected in terms of sunlighting – with kitchens and bedrooms less so.

The daylight and sunlight report has been updated to take into account the revised proposals, this is analysed below.

#### 90-92 Wigmore Street

This property is located to the east of the application site and shares a party wall. The building comprises commercial uses at ground floor level, with five residential flats over the five upper floors. Two objections have been received from this property to the original proposal on the grounds of loss of daylight and sunlight.

The flats are all dual aspect with windows overlooking Wigmore Street and Duke's Mews. The windows to the rear serve bedrooms, kitchens and bathrooms. There are small losses

to the rear windows ranging between 0.60% and 7%. As the losses are below 20% it is not considered that the occupants will notice the loss of VSC.

In terms of sunlight, only one window will lose annual sunlight over 20%. This window serves a flat at first floor level and this room is dual aspect bedroom. The loss is considered acceptable in this instance.

#### 8-10 Dukes Mews

This property is located to the north of the application site, opposite the mews building. There are a number of residential units within this building. There are small losses to the windows in this property (ranging from 1% to 4.32%) and they will retain good levels of daylight for this central London location. Four of the windows tested lose winter sunlight of over 20% (20%, 28.7%, 33% and 50%), however, these windows serve bathrooms and bedrooms and on this basis it is considered that the loss is acceptable.

An objection has been received on behalf of the freeholders of the adjacent office building on the grounds that the submitted daylight and sunlight report does not take into account the offices. Policy ENV13 (E) seeks to resist proposals will result in a material loss of daylight/sunlight to residential dwelling and educational buildings. Office floorspace is not given the same level of protection. Furthermore, following the revisions to the scheme the bulk to the rear has been significantly reduced. The proposed extension at third floor level will be on the boundary with the objector's property and this will match the height of the adjacent mews properties. There is an existing lightwell which is shared by the application site and the objector's property and there are office windows in this lightwell which overlook the application site. As a result of the proposals the windows at third floor level will be affected. However, there are other windows overlooking Wigmore Street that are not affected by the proposals therefore the proposal is considered acceptable.

#### **Sense of Enclosure**

Objections were received to the original scheme on the grounds that the proposal would create an unacceptable increase sense of enclosure to the residential windows within 90-92 Wigmore Street. These objections were considered sustainable. The scheme has now been revised to substantially reduce the extent of the extensions and this is considered acceptable.

Objections have been received from the adjacent offices on the grounds that the proposal will have an increased sense of enclosure on the office windows. As set out above the proposals will affect the office windows that look into the shared lightwell, as there are other windows which serve this office floorspace the proposals are considered acceptable.

#### **Privacy**

As a result of the proposals, new residential windows are proposed which will overlook the shared lightwell at first to third floor levels. Objections have been received from the adjacent offices on the grounds that the new residential units would be overlooked by the office windows in this lightwell. It is noted that there will be direct overlooking between the office and residential accommodation. The windows that overlook the lightwell serve bedrooms and it is highly likely that blinds or curtains will be installed. Although not ideal, the overlooking is not considered to be so great to warrant a reason for refusal.

A roof terrace is proposed on the main building, this will be set back from the front and rear elevations. It is not considered that the use of the roof as a terrace will cause an increase in overlooking and is therefore acceptable.

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

One off street car parking is proposed for the new flats. UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'. The UDP parking standards would normally require one parking space per residential flat which, in this case, would amount to nine spaces. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays exceeds 80%.

Within a 200m radius of the site, parking occupancy at night-time is 24%. During the day, the uptake is 74%. The Highways Planning Manager has no objection to the scheme as the parking pressures in the area remain below 'stress levels'. The introduction of increased levels of residential in this area without off-street parking is likely to increase 'stress levels'. However, on the basis of the Council's data and car ownership levels, the any additional on-street parking generated can be absorbed into the surrounding street network. Therefore the development is consistent with TRANS23.

The applicants have agreed to fund lifetime car club membership (25 years) for all of the 10 flats. The Highways Planning Manager has confirmed that lifetime car club membership is the strongest mechanism that it likely to reduce car ownership of the future residential occupiers. It is considered on this basis, and subject to a condition requiring car club membership the proposal is acceptable in highways grounds.

Off-street cycle parking of the residential flats is proposed at basement level and this will be secured by condition.

No off-street cycle parking is provided for the retail unit. Two spaces are required and a condition is recommended to ensure that these are provided.

#### **Servicing**

The existing retail unit is serviced from Wigmore Street, where there are single yellow lines which allow for on-street servicing. This is not proposed to change with the enlarged retail unit. The residential units will be serviced via Duke's Mews, similar to the other residential units in the mews. An objection has been received from the office occupier stating that the retail unit will be serviced from the mews and this will cause an increase in noise and disturbance. The applicants have confirmed that the retail unit will be serviced from Wigmore Street and therefore this objection is not considered sustainable.

#### **8.5 Economic Considerations**

Any economic benefits generated by the proposal are welcomed

## 8.6 Access

There is existing level access to Wigmore Street and this is not proposed to be changed as a result of the new proposal. All the residential units can be accessed via Wigmore Street where there is lift access to all the residential units.

## 8.7 Other UDP/Westminster Policy Considerations

New plant is proposed at roof level, however, the full specifications are not known at this stage. Environmental Health has no objection to the proposals subject to a condition requiring a supplementary acoustic report once the plant is selected.

Green roofs are proposed to the rear and these are considered acceptable. Conditions are recommended to ensure that these areas are not used as roof terraces and to ensure that they are living roofs.

Photovoltaic panels are proposed at main roof level and a condition is recommended to secure the panels.

## 8.8 London Plan

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

## 8.9 National Policy/Guidance Considerations

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

## 8.10 Planning Obligations

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

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of

a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in 2015. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

A Grampian condition will secure the following:

- £693,000 towards the affordable housing contribution fund
- Lifetime Membership (25 years) to a Car Club, for all the flats.

## **8.11 Environmental Impact Assessment**

Environmental Impact Assessment is not required with this scale of application.

### **Other Issues**

#### **Construction impact**

Objections have been received from residential and office occupiers on the grounds of the impact the construction will have in terms of noise/dust and general disruption. The adjacent office occupiers have requested that the works to the party wall should only be carried out at the weekend (between 09.00 and 13.00). Permission cannot be reasonably withheld on these grounds. The City Council's standard building works condition is recommended.

#### **Consultation**

An objection has been received stating that the applicants have not carried out sufficient consultation with neighbouring occupiers. The City Council encourages applicants to discuss development proposals with neighbours, but cannot refuse to deal with an application if the consultation has not been done.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Historic England (Listed Builds/Con Areas), dated 22 September 2015
3. Response from Historic England (Archaeology), dated 7 October 2015

4. Response from Building Control, dated 20 October 2015
5. Response from Highways Planning Manager, dated 5 November 2015
6. Response from Environmental Health, dated 14 March 2016
7. Letter from occupier of 3 Vantage Place , London , dated 15 September 2015
8. Letter from occupier of Flat 3, 90 Wigmore Street, London, dated 27 September 2015
9. Letter from occupier of c/o 90 Wigmore Street, London, dated 7 October 2015
10. Letter on behalf of Hale Investments Ltd freehold owner of 100 Wigmore Street and 3-5 Duke's Mews dated 7 October 2015, 19 April 2016

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT HELEN MACKENZIE BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk)

# 10. KEY DRAWINGS

KEY PLAN

--- OUTLINE OF 5 DUKES MEWS DOCKSIDE

**AS EXISTING**

00 FIRST BRIDGE FOR PLANNING 14/09/15 MB  
 For: Date: Checked:

FOR PLANNING

AVIVA INVESTORS

94-96 WIGMORE STREET

EXISTING SECTION A-A

Scale	Date	Drawn	Checked
1:1000@A1	MB	14/09/15	SS
1:4500	PL(04)013		00

**tatehindle**

Tatehindle Limited  
 11 Duncannon Street, London EC3A 3DF  
 T: 020 7322 4800  
 F: 020 7322 4801  
 www.tatehindle.com

Existing and Proposed Section

KEY PLAN

--- OUTLINE OF 87-94 WIGMORE STREET TO THE WEST

**AS PROPOSED**

01 Single Decked to 1st floor 14/09/15 MB  
 02 Single Decked to 2nd floor 14/09/15 MB  
 00 FIRST BRIDGE FOR PLANNING 14/09/15 MB  
 For: Date: Checked:

FOR PLANNING

AVIVA INVESTORS

94-96 WIGMORE STREET

PROPOSED SECTION A-A

Scale	Date	Drawn	Checked
1:1000@A1	MB	14/09/15	SS
1:4500	PL(04)013		01

**tatehindle**

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 11 Duncannon Street, London EC3A 3DF  
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 www.tatehindle.com

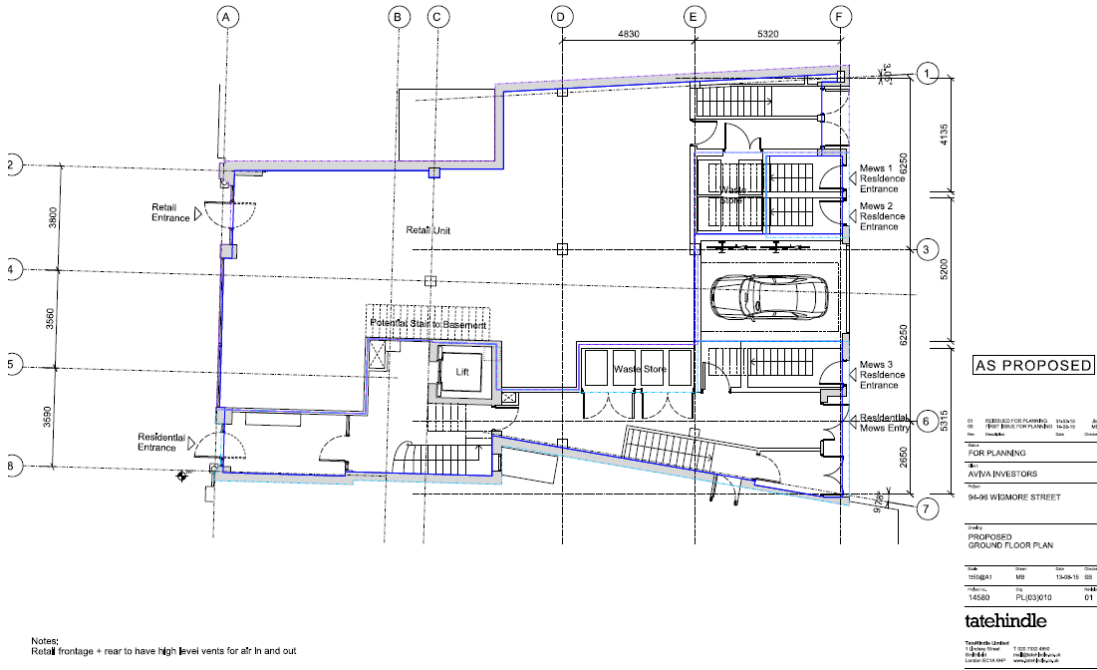


Existing and Proposed Rear Elevation





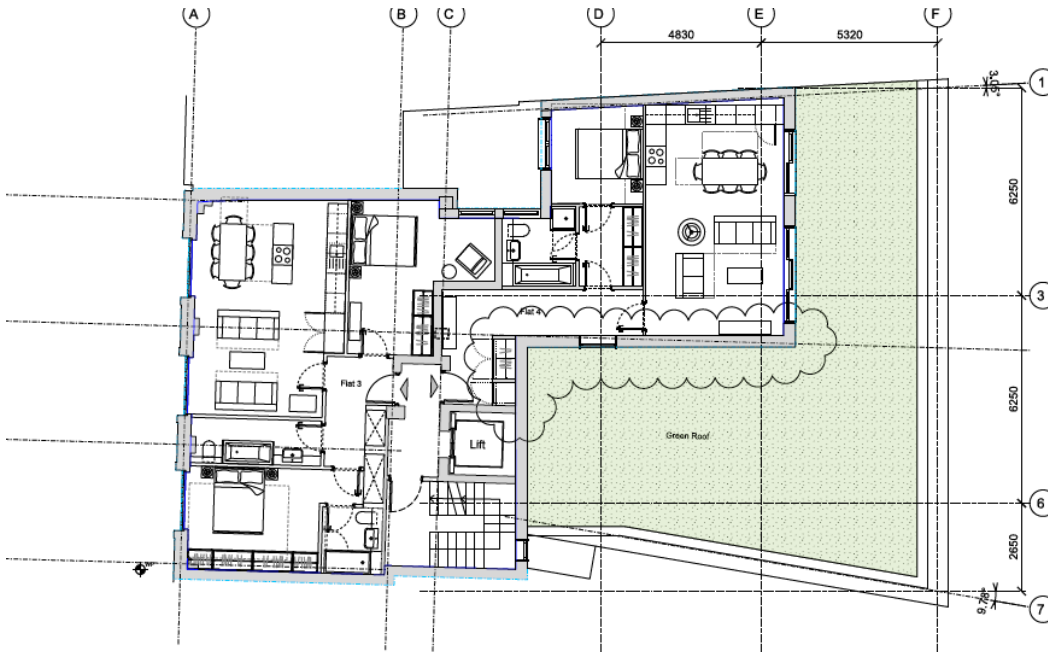
### Proposed Ground Floor Plan



### Proposed Second Floor Plan



### Proposed Third Floor Plan



02	Site Preparation	31-03-15	JAM
01	Structural steelwork	28-11-15	JAM
00	Final Issue (for Planning)	14-09-15	MB
	Prepared		
	Checked		

FOR PLANNING

AVIVA INVESTORS

94-96 WIGMORE STREET

Scale

PROPOSED  
THIRD FLOOR PLAN

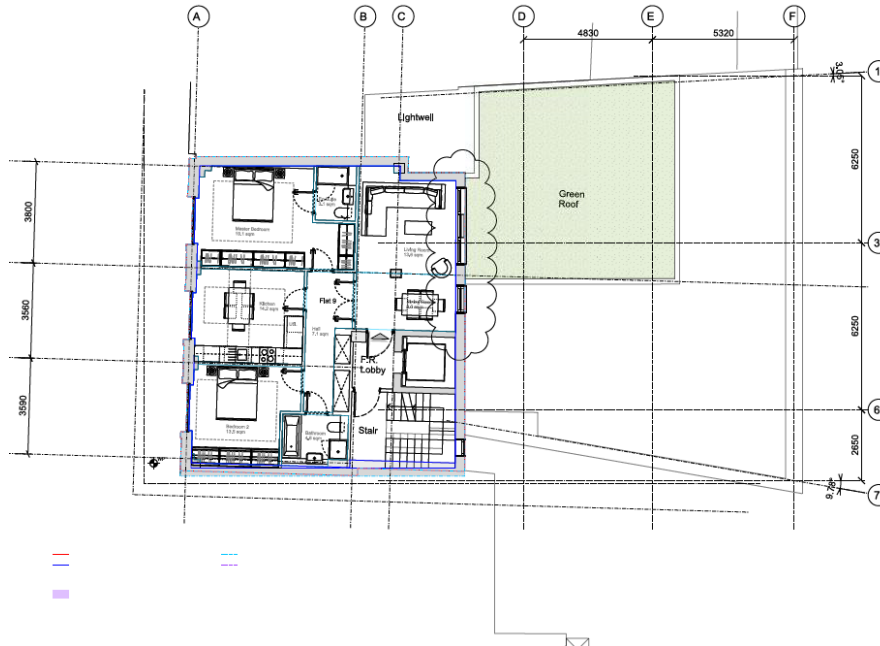
Scale	Drawn	Date	Checked
1:1000	MB	13-09-15	JAM
1:4500	PL	03/01/13	02

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London EC2A 4BP  
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www.tatehindle.co.uk

### Proposed Fifth Floor Plan

[AS PROPOSED]



02	Site Preparation	31-03-15	JAM
01	Structural steelwork	28-11-15	JAM
00	Final Issue (for Planning)	14-09-15	MB
	Prepared		
	Checked		

FOR PLANNING

AVIVA INVESTORS

94-96 WIGMORE STREET

Scale

PROPOSED  
FIFTH FLOOR PLAN

Scale	Drawn	Date	Checked
1:1000	MB	13-09-15	JAM
1:4500	PL	03/01/13	02

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www.tatehindle.co.uk

**DRAFT DECISION LETTER**

**Address:** 94-96 Wigmore Street, London, W1U 3RF,

**Proposal:** Extensive demolition of 7-9 Duke's Mews and erection of extension from third-sixth floor levels to the rear 94-96 Wigmore Street with acoustic enclosure, photovoltaics, terrace and green roof at roof level, and rear balconies at third, fourth and sixth floor levels. Works are in association with the use of the part ground floor and all upper floors for up to ten residential units (Class C3) and the basement and ground floor for retail purposes (Class A1).

**Reference:** 15/08288/FULL

**Plan Nos:** PL-DEM(03)009, PL-DEM(03)010, PL-DEM(03)011, PL-DEM(03)012, PL-DEM(03)013, PL-DEM(03)014, PL-DEM(03)015, PL-DEM(03)016, PL-DEM(03)017, PL-DEM(05)001, PL(03)001, PL(03)009 01, PL(03)010 01, PL(03)011 02, PL(03)012 03, PL(03)013 02, PL(03)014 02, PL(03)015 02, PL(03)016 02, PL(03)017 01, PL(04)013 01, PL(04)014 01, PL(04)015 02, PL(04)016, PL(05)001, PL(05)100 04, A(05)100 02, PL(05)101 03, A(05)101 02, PL(05)102 02, A(05)102 01

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

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

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

Reason:

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

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

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

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

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 4 You must only use the garage for people living in this property to park their private motor vehicles. (C22EB)

Reason:

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

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

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 6 You must apply to us for approval of detailed drawings of the following parts of the development - off-street cycle parking spaces for the retail part of the development (2 No.). You must not occupy the retail part of the development until we have approved what you have sent us and the work has been carried out in accordance with these details.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 7 No demolition or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and
- a) the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
  - b) the programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be

discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 8 No demolition shall take place until a written scheme of historic building investigation (WSI) has been submitted to and approved by the local planning authority in writing. For buildings that are included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and
- a) the programme and methodology of historic building investigation and recording the nomination of a competent person(s) or organisation to undertake the agreed works
  - b) the programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting materials. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

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

for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

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

Reason:

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

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

Reason:

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

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

Reason:

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

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

Reason:

To maintain the character of the Portman Estate Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 15 You must not use the roofs of the extensions at third, fourth and fifth floor level for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 16 **Pre Commencement Condition.** You must apply to us for approval of details of a biodiversity management plan in relation to green/living roofs. You must not start any work until we have approved what you have sent us. You must carry out the measures in the biodiversity management plan according to the approved details before you start to use the building. (C43CA)

Reason:

To protect and increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43CB)

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

photovoltaic panels

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

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

- 18 No residential unit forming part of the development shall be occupied until a car club scheme containing the following provisions has been submitted to and approved in writing by the local planning authority and thereafter for the period of 25 years from first occupation of each residential unit of the development ("the car club period") the scheme shall be carried out in accordance with those details. Such a scheme shall contain the following:
- a) Confirmation of approval of the particular car club which is to be a Carplus accredited club;
  - b) Confirmation that on first occupation of each of the residential units forming part of the development and thereafter during the car club period a new resident shall be notified in writing of:
    - (i) the existence of the car club
    - (ii) explaining that during the car club period, a single resident from time to time of each residential unit is entitled to join the car club without being liable for payment of the membership fee; and



- (iii) details of how to become a member of the car club; and
- (iv) in the event that a resident indicates that they wish to become a car club member then this shall be arranged on behalf of that resident
- b) Confirmation that the car club membership is capable of being transferred from outgoing residents to incoming residents or if not transferrable, that the incoming resident is able to become a car club member in place of the outgoing resident.
- c) Confirmation that the applicant will provide on written request by the local planning authority evidence of the car club membership (if such membership exists) for each residential unit within the development.
- d) Confirmation that during the car club period any advert or marketing in relation to the sale of any of the residential units at the development shall include reference to the provision of the car club membership and details of how to become a member of the car club.
- e) Confirmation that during the car club period marketing materials for the development will publicise annually details of the availability of car club membership and provide details of how to join the car club.
- (f) Confirmation that during the car club period the applicant will provide on reasonable written request by the local planning authority evidence of the provision of marketing.

Reason:

To mitigate the demand for on street car parking in accordance with S41 of our the City Plan that we adopted in November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 19 **Pre Commencement Condition.** You must not start work on the site until we have approved appropriate arrangements to secure the following.

- mitigation for not providing affordable housing on-site.

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19AB)

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan: Strategic Policies adopted November 2013.

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

i) the dormers to be redesigned to be narrower than the width of the windows below and to have a flat top;

b) all windows to the rear to be set within the wall reveal and not projecting beyond.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 21 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 S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 22 You must apply to us for approval of detailed drawings (1:20 and 1:5) of the following parts of the development - i) new windows; ii) new doors; iii) new dormers. You must not start any work on these parts of the development until we have approved what you have sent us.

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 23 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 S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and

DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

### Informative(s)

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.  
If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>  
Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.  
**You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**
- 3 With regards to Condition 7, the written scheme of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under Schedule 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015
- 4 With regards to Condition 8, the written scheme of investigation will need to be prepared and implemented by a suitably professionally accredited heritage practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London.
- 5 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental

Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

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

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

Phone: 020 7641 2000

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

- 6 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

\* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

\* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 7 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must

also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.

Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:

- \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
- \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
- \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
- \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 8 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.
- \* Window cleaning - where possible, install windows that can be cleaned safely from within the building.
  - \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained.
  - \* Lighting - ensure luminaires can be safely accessed for replacement.
  - \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).
- More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm).

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

- 9 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM<sub>z</sub>s). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACM<sub>z</sub>s, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations.htm](http://www.hse.gov.uk/asbestos/regulations.htm) (I80AB)
- 10 With regards to Condition 12, approval for this residential use has been given on the basis of façade sound insulation and ventilation mitigation measures being incorporated into the development to prevent ingress of external noise. Occupiers are therefore advised, that once the premises are occupied, any request under the Licensing Act 2003, Environmental Protection Act 1990, Control of Pollution Act 1974 or planning legislation for local authority officers to make an assessment for noise nuisance arising from external sources is likely to be undertaken only if the

noise and ventilation mitigation measures installed are in operation i.e. windows kept closed and ventilation scheme utilised

- 11 In relation to Condition 18, Carplus was established in 2000 to support the development of car clubs and 2+ car sharing schemes in the UK, in response to growing environmental concerns around private car use. Carplus provide technical support, best practice guidance and practical advice to car club operators, community groups, local authorities and transport authorities to assist in setting up and developing car clubs. [www.carplus.org.uk](http://www.carplus.org.uk)
  
- 12 Under condition 19 we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure £693,000 as confirmed in writing by Stephenie Thourgood of Gerald Eve dated 25 April 2016. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)

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.