

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 31 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>41 Portland Place, London, W1B 1QG</b>		
<b>Proposal</b>	Installation of 1no. condensing unit to the lightwell at third floor level and the internal installation of 5no. fan coil units at first floor level.		
<b>Agent</b>	Purcell		
<b>On behalf of</b>	Mr Andrew Dorward		
<b>Registered Number</b>	16/01514/FULL + 16/01515/LBC	<b>Date amended/ completed</b>	10 March 2016
<b>Date Application Received</b>	19 February 2016		
<b>Historic Building Grade</b>	Grade II*		
<b>Conservation Area</b>	Harley Street		

## 1. RECOMMENDATION

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

## 2. SUMMARY

No. 41 Portland Place is a grade II\* listed townhouse located in the Harley Street Conservation Area, and is used for office purposes. Permission is sought for the installation of one air condensing unit in the lightwell at third floor level in order to replace an existing air condensing unit in this location. Listed building consent is also sought for the internal installation of five fan coil units at first floor level.

The key issues for consideration are:

- The impact of the proposed external air condensing unit upon the amenity of neighbouring residents; and
- The impact of the proposed works on the character and appearance of this part of the Harley Street Conservation Area and upon the special interest of this listed building.

Subject to appropriate conditions, the proposals are considered acceptable in design and amenity terms. The application is therefore recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan) policies.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





## 5. CONSULTATIONS

HISTORIC ENGLAND:  
Authorisation granted.

MARYLEBONE ASSOCIATION:  
Any response to be reported verbally.

ENVIRONMENTAL HEALTH:  
No objection subject to standard conditions.

ADJOINING OWNERS / OCCUPIERS AND OTHER REPRESENTATIONS:  
No. Consulted: 59  
No. Responses: 14  
14 objections were received on some or all of the following grounds:

Amenity:

- Noise and dust nuisance from operation of external air condensing unit.
- Location of air condensing units opposite bedrooms in Weymouth Mews and 39 Portland Place

Other Issues:

- Noise nuisance from social events held at the property
- Anti-social behaviour associated with events held at the property
- Odour nuisance from social events held at the property
- Health impacts of the external air condensing unit
- Difficulty of removing external conditioning unit once installed

SITE & PRESS NOTICE:  
Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

No. 41 Portland Place is a grade II\* listed townhouse located on the west side of Portland Place and comprises basement, ground and four upper floors. The building is located within the Harley Street Conservation Area. The building is used by the Academy of Medical Sciences and its lawful use is unclear but it is likely to be an institutional use. The building appears to be also used as a conference facility, weddings and events.

The nearest residential properties are located within 39 Portland Place, which is adjacent to 41 Portland Place; 37 Portland Place, which is located two properties south of 41 Portland Place; and Weymouth Mews which is located to the rear of 41 Portland Place.

### 6.2 Recent Relevant History

Planning permission and listed building consent were granted in October 2009 for installation of plant at rear first, third and fourth floor level and new lift overrun at roof level.

New windows to rear internal lightwell at basement and ground floor level. Internal alterations on all floors including relocation of lift. This permission was implemented.

## **7. THE PROPOSAL**

Permission is sought for the installation of one air condensing unit in the lightwell at third floor level in order to replace an existing air condensing unit in this location. Listed building consent is also sought for the internal installation of five fan coil units at first floor level.

The proposed condenser is larger in size than the existing condenser. However, the proposed condenser will not be overlooked by sensitive receptors aside from those within the application site. The lightwell at third floor level where this condenser is proposed is in an enclosed space which shares a boundary wall with 43 Portland Place.

The proposal also includes the internal installation of five fan coil units at first floor level. This consists of the removal of four cooling units and two radiators and their replacement with five new fan cool units. The proposed units will be located in the same locations as the existing units and will utilise existing service holes and notches in the fabric and the service riser and adjacent stairwell. The proposed internal units are smaller in size than the existing cooling units.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal raises no land use issues.

### **8.2 Townscape and Design**

The main design interest in the scheme is the effect of new internal fan coil units and radiator housings and a new external air condensing unit. The new radiator enclosures will enclose proposed units and have been well designed and in keeping with the room.

The impact of the external air condensing unit is minimal and is considered acceptable in terms of the sitting, size and appearance. The equipment is not considered to be harmful to the character and appearance of the Harley Street Conservation Area and is not considered harmful to the special interest or character of the listed building.

The application is in accordance with design policies DES 1, DES 9, and DES 10 of Westminster's Unitary Development Plan and S 25 and S 28 of Westminster's City Plan.

### **8.3 Residential Amenity**

The application has been considered in the context of policies ENV6 and ENV7 of the Unitary Development Plan 2007 and S29 and S32 of the adopted City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

A number of objections have been received from surrounding residential properties with regard to the potential for noise and vibration disturbance resulting from the proposed external air condensing unit.

Objectors raise concerns with regard to noise nuisance experienced from existing plant located in other locations within the site including the courtyard and the terrace. There is concern that the proposed air condensing unit at third floor level would exacerbate this disturbance.

The proposed condensing unit would be located in an enclosed lightwell on the boundary wall with 43 Portland Place. There are no views from residential properties into this lightwell and the nearest residential is to the rear in Weymouth Mews. The proposed plant replaces an existing unit, and no noise complaints have been received to this existing unit.

Environmental Health Officers have assessed the acoustic report that was submitted with the application. An Environmental Health Officer has also carried out a site visit to the property. The Environmental Health Officer has stated that the windows that face into the lightwell are part of the application site and therefore are "outside the scope of the planning remit and are not considered a sensitive receptor". It is considered that the proposed plant and hours of operation would be acceptable and therefore comply with the City Council's noise policy ENV 7 of the UDP and the City Council's standard noise conditions. It is considered that the proposals would therefore not harm the amenity of neighbouring properties.

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

The proposal does not raise any transportation or parking issues.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

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

Objections have been raised on separate grounds of noise nuisance from social events held at 41 Portland Place and associated food smells and anti-social behaviour.

Objections are raised to this proposal because of the potential impact of noise and dust from the proposed condenser exacerbating existing noise issues experienced by local residents.

There have been a number of noise complaints made to the noise team in relation to the events that take place at 41 Portland Place. The noise complaints are on the grounds of loud music and people shouting at social events held at the property, but also on the roof terrace. Although this corroborates objectors' concerns about noise nuisance associated with 41 Portland Place, this is a separate issue and planning permission for this proposal could not reasonably be withheld on these grounds. As such, the objections cannot be supported in relation to this proposal. It is not clear from the planning history whether this

is a longstanding use, but the planning enforcement team have been made aware of the issues with the use of this property.

Objectors raise concerns about air pollution and related health problems associated with the proposed external air condensing unit. The proposed unit is replacing an existing unit so it is therefore considered that the new unit will not have any greater impact on air pollution levels than already exists. It is considered that due to its location in an enclosed lightwell, the proposed air condensing unit is unlikely to have a direct impact upon the health of nearby residents.

One objection is raised on the grounds that once installed, it would be difficult to remove the air conditioning unit. If, however, it is found that that the air conditioning unit is in breach of any of the conditions of the planning permission, this would be investigated by the City Council's enforcement team. Noise complaints would also be investigated by the City Council's Noise team.

### **8.8 London Plan**

This application raises no strategic issues.

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

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

### **8.10 Planning Obligations**

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

### **8.11 Environmental Impact Assessment**

An Environmental Impact Assessment is not required for a scheme of this size.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Historic England, dated 23 March 2016
3. Response from Environmental Health, dated 30 March 2016
4. Letter from occupier of flat 6, 39 Portland Place, dated 19 March 2016
5. Letter from occupier of 14 Winsley Court, 37 Portland Place, dated 22 March 2016
6. Letter from occupier of 11 Winsley Court, 37 Portland Place, dated 17 April 2016
7. Letter from occupier of 39 Portland Place, Flat 2, London, dated 31 March 2016
8. Letter from occupier of Flat 2, 39 Portland Place, dated 21 March 2016
9. Letter from occupier of Flat 9, 7 Weymouth Mews, dated 22 March 2016
10. Letter from occupier of flat 2, 37 Portland Place, w1b 1qg, dated 21 March 2016
11. Letter from occupier of 16 Winsley Court, 37 Portland Place, dated 23 March 2016
12. Letter from occupier of flat 18, 37 Portland Place, dated 1 April 2016
13. Letter from occupier of Flat 9, 37 Portland Place, dated 21 March 2016
14. Letter from occupier of Flat 4, 6 Weymouth Mews, dated 19 March 2016



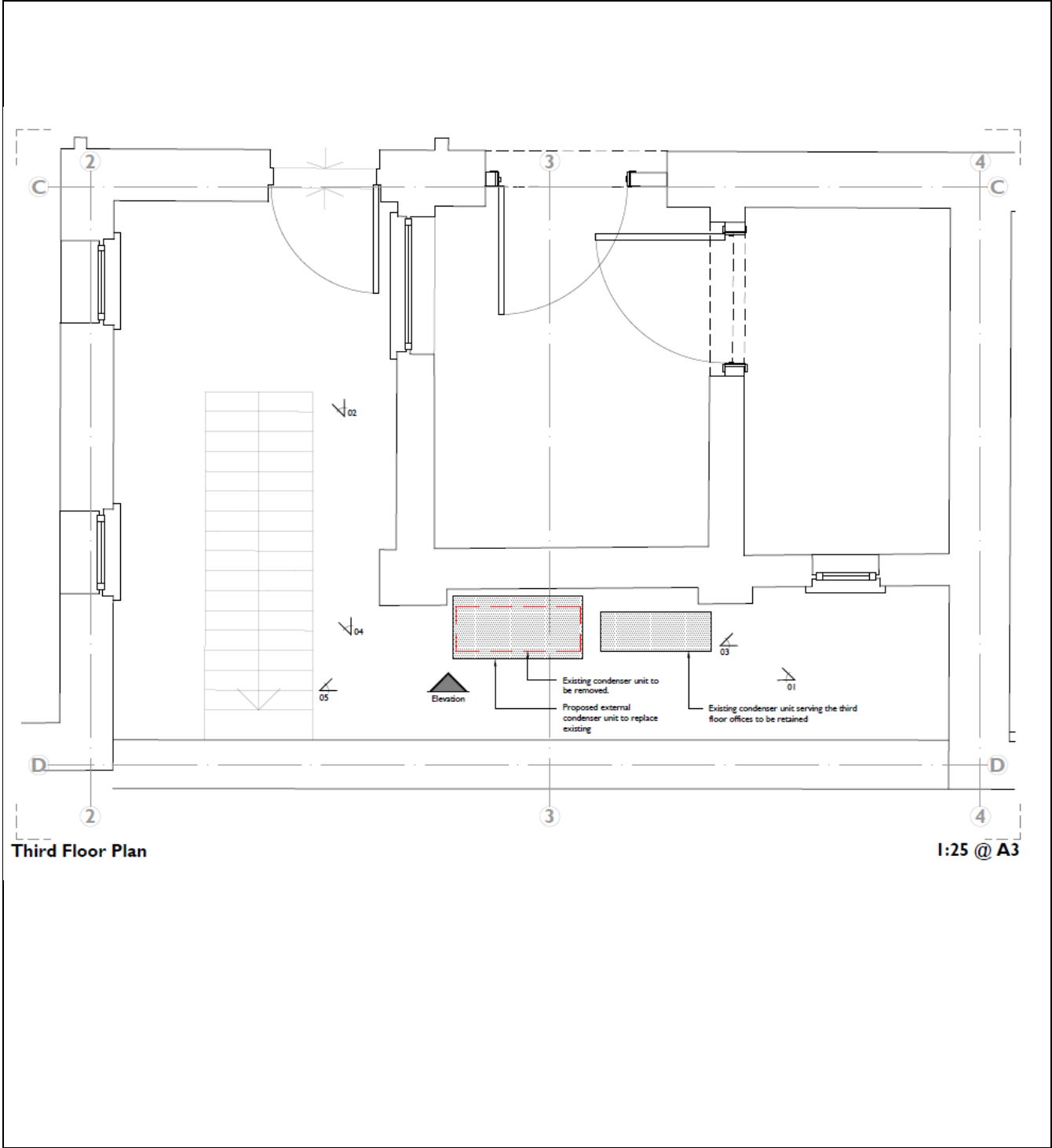
15. Letter from occupier of Kingston House North, Princes Gate, dated 21 March 2016
16. Letter from occupier of Flat 12, 37 Portland Place, dated 23 March 2016
17. Letter from occupier of 7 Weymouth Mews, Flat 10, dated 22 March 2016

(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 ALICE DUNN ON 020 7641 7957 OR BY EMAIL AT [centralplanningteam@westminster.gov.uk](mailto:centralplanningteam@westminster.gov.uk)

10. KEY DRAWINGS





Third Floor Plan

1:25 @ A3

**DRAFT DECISION LETTER**

**Address:** 41 Portland Place, London, W1B 1QG,

**Proposal:** Installation of 1no. condensing unit to the lightwell at third floor level.

**Reference:** 16/01514/FULL

**Plan Nos:** Site location plan; Drawings: 200, 301, Third Floor Lightwell Elevation,, LD8493-M-55-01-101 Rev T1, LD8493-M-55-03-102 Rev T1, LD8493-M-55-03-102 Rev T1, LD8493-E-61-01-101 Rev T1, LD8493-E-61-03-102 Rev T1, LD8493-M-55-01-101 Rev T1, LD8493-M-55-03-102 Rev T1; Environmental Noise Assessment Report 09/02/2016 Ref: 3635\_ENA\_A.

**Case Officer:** Alice Dunn

**Direct Tel. No.** 020 7641 7957

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

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

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

Reason:

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

City Plan: 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.

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

**Reason:**

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

**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 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 3 Conditions 4 and 5 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)

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

**DRAFT DECISION LETTER**

**Address:** 41 Portland Place, London, W1B 1QG,

**Proposal:** Installation of 1no. condensing unit to the lightwell at third floor level and the internal installation of 5no. fan coil units at first floor level.

**Reference:** 16/01515/LBC

**Plan Nos:** Site location plan; Drawings: 200, 301, Third Floor Lightwell Elevation,, LD8493-M-55-01-101 Rev T1, LD8493-M-55-03-102 Rev T1, LD8493-M-55-03-102 Rev T1, LD8493-E-61-01-101 Rev T1, LD8493-E-61-03-102 Rev T1, LD8493-M-55-01-101 Rev T1, LD8493-M-55-03-102 Rev T1; Environmental Noise Assessment Report 09/02/2016 Ref: 3635\_ENA\_A.

**Case Officer:** Alice Dunn

**Direct Tel. No.** 020 7641 7957

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

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

Reason:

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

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

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present

position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street 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 paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan: Strategic Policies adopted November 2013, and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest., , In reaching this decision the following were of particular relevance:, S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:, , \* any extra work which is necessary after further assessments of the building's condition;, \* stripping out or structural investigations; and, \* any work needed to meet the building regulations or other forms of statutory control., , Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents., , It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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