

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 15 November 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	Development site at 91-93 Baker Street, 7 Durweston Mews and 2 - 5 Crawford Street, London		
Proposal	Demolition of existing building, excavation to provide new sub-basement and erection of replacement building over sub-basement, basement, ground and between five and seven upper storeys to provide dual alternative Class A1 (Shops) and / or Class A2 (Financial and Professional Services) at part basement and part ground floor level; artist workspace (sui generis) at part basement level; Class A1 (Shops) at part basement and part ground floor level; Class B1 (Office) at part sub-basement, part ground, part first to part fifth and sixth floor levels; 4 x flats (Class C3) at part ground to part fifth floor level; and associated car parking (3 x spaces), cycle parking (41 x spaces) and plant.		
Agent	DP9 Ltd		
On behalf of	MMG Properties Ltd		
Registered Number	16/05226/FULL	Date amended/ completed	3 June 2016
Date Application Received	3 June 2016		
Historic Building Grade	Unlisted		
Conservation Area	Portman Estate		

1. RECOMMENDATION

1. Grant conditional permission, subject to a legal agreement to secure the following:

- (a) The submission of a Car Lift Maintenance and Management Plan for the City Council's approval and adherence to this Plan for the life of the development.
- (b) The artist workspace at basement level to be provided at a peppercorn rent for a minimum period of 25 years.
- (c) Unallocated car parking.
- (d) The costs of monitoring the S106 legal agreement.

2. If the S106 legal agreement has not been completed within three months of the date of this resolution then:

- a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if

not;

b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

The application site comprises an unlisted building located within the Portman Estate Conservation Area. The lawful use of the building is as basement car parking, a bank (Class A2), a ground floor shop (Class A1), 2 x flats (Class C3) and office floorspace (Class B1).

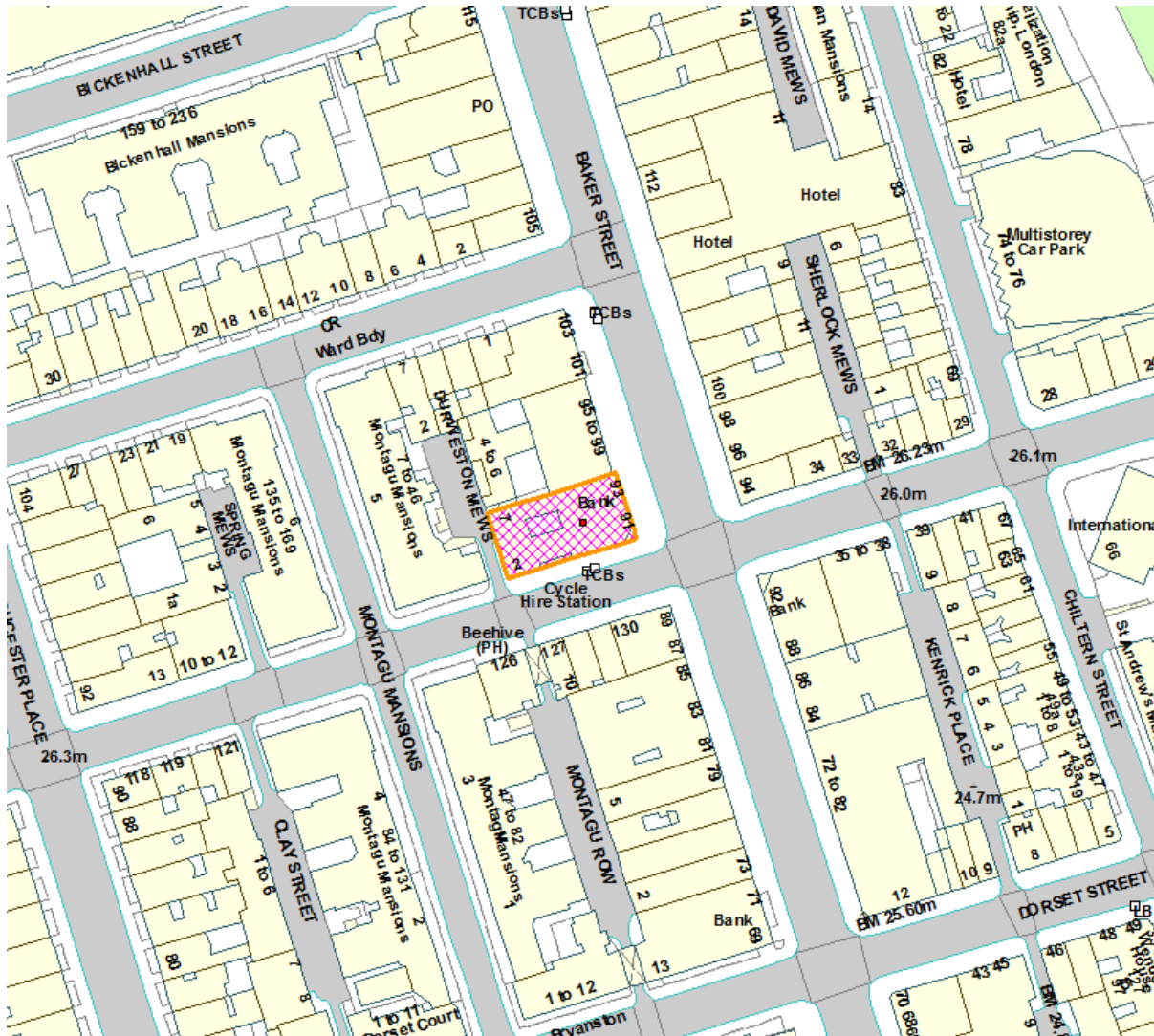
The proposal is for the redevelop the site to provide a new building of sub-basement, basement, ground and part five and part sixth floor levels, with rooftop plant. The replacement building will contain a similar mix of uses but also includes an artist studio (Sui Generis) at basement level with associated gallery (Class A1) at basement and ground floor levels.

The key issues for consideration are:

- * Whether the replacement building preserves the character and appearance of the Portman Estate Conservation Area and does not harm the setting of the neighbouring listed buildings;
- * Whether the proposed replacement building will result in a material loss of amenity for the occupants of the numerous residential properties that surround the site in respect to daylight, sunlight, sense of enclosure, overlooking and noise;
- * Whether the loss of the off-street serving bay is acceptable in transportation terms; and
- * Whether the reduction in the number of car parking spaces on site from eight to three is acceptable in transportation terms.

The proposal is considered acceptable in land use and amenity terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan). Furthermore, the proposal is considered to enhance the character and appearance of the Portman Estate Conservation Area and not harm the setting of the adjacent listed buildings. For these reasons it is recommended that conditional planning permission be granted subject to a legal agreement securing the items listed within Section 8.10 of this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Photograph looking north-west showing from junction of Baker Street and Crawford Street.



Photograph looking north-west from the south side of Crawford Street.

5. CONSULTATIONS

Marylebone Association:

- The proposed replacement building seems ok from a bulk and mass perspective. However, from an aesthetic and architectural expression point of view, it is one of the worst building designs that the Association has seen for quite from time. There is such a muddled collection of building materials, different vocabularies and fussy details, that it is an assault on the senses. Moreover, the Association really cannot see how it relates to character of the surrounding buildings on Baker Street, the wider conservation area or even London at all.

Highways Planning Manager:

Refuse on the following transportation grounds:

- Increase in on-street car parking stress which is already at 93% during the day. There is no physical impediment for one parking spaces being provided for each flat (i.e. four spaces).
- Despite the proposal being complete demolition and rebuilding of a site which has an existing off-street servicing facility, the proposal relies solely on on-street servicing. On-street servicing will have a detrimental impact on the safety and operation of the highway and degrade the pedestrian environment.
- The lack of a waste storage facility within the proposed gallery and the lack of a link between the proposed waste store for the retail and / or financial and professional services floorspace unit and the service area raises significant concern that waste will be left on the highway and create an obstruction to users of the highway.
- The replacement of the chamfered treatment at the corner of Baker Street and Crawford Place with a right angle and the associated loss of public highway will have a significantly detrimental impact on pedestrian movement, as it does not maintain or improvement the pedestrian environment.

Cleansing Manager:

- The swept path analysis for refuse collection vehicles accessing Durweston Mews is acceptable and also the waste storage capacity provided for the whole development is acceptable.
- Concern that the retail unit A1 on the ground floor (fronting Crawford Street) does not have a direct access to the commercial waste store located in the basement and may therefore result to waste from this unit being left on the public highway. Requests that the applicant submits a revised ground plan either showing a direct access between the unit and the commercial waste store in the basement or provide another separate waste storage facility for this unit.

Building Control:

- No objection in principle.

Arboricultural Section:

- No objection subject to conditions.

Environmental Health:

- Holding objection to the lack of assessment of the noise and / or vibration from the proposed car stacker and the potential impact upon the quality of the proposed flat at first floor level.

- No concerns in respect to the quality of the proposed residential units.
- Recommends that a supplementary acoustic report is secured by condition to ensure that the proposed plant (once specified) meets the adopted noise and vibration polices.

Environmental Sciences:

- Advises that, to be able to comply with the Code of Construction Practice, the submission for the City Council's approval of a full Site Environmental Management Plan should be secured by legal agreement and the applicant should make a contribution of £60,000 for the funding for the Environmental Inspectorate to cover the demolition and construction phase (including the advice for the SEMP submission).

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 157

Total No. of replies: 8

No. of objections: 8

Objections received on the following grounds:

Land Use:

- The proposal will greatly increase the density of occupation on the site.

Amenity:

- Loss of sunlight and daylight.
- Loss of privacy.
- Noise and disruption as a result of greater numbers of people using Durweston Mews and additional refuse collection and delivery vehicles.
- Noise from the proposed plant.

Other:

- Disruption during the course of construction.
- The public exhibition that took place prior to the submission of the application was held during limited hours during the workday and therefore only one or two residents were able to attend.
- Impact upon property values of neighbouring flats.
- Issues with the neighbour notification process to the flats within Block 5, Montagu Mansions.
- Effects of additional power consumption on the local power infrastructure.
- Potential adverse effect on television reception within neighbouring properties.
- Durweston Mews will become more enclosed as a result of the proposed development and this may a security risk.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The existing building stands on the west side of Baker Street at its junction with Crawford Street and it has a rear façade to Durweston Mews. It is an unlisted late-twentieth century building and it detracts from the Portman Estate Conservation Area in which it stands because its detailed design and materials of construction are entirely alien to the street and surrounding area.

The building is in two main parts. A metal clad six storey element at the junction of Crawford Street and Baker Street (91-93 Baker Street) and a three storey element at the corner of Crawford Street and Durweston Mews (7 Durweston Mews and 2-5 Crawford Place). Between these two elements is a six storey access core.

Neighbouring buildings to the north are unlisted but those on the opposite side of Baker Street are Grade II listed as is 'The Beehive' public house on the south side of Crawford Street. Montagu Mansions is a group of finely detailed mansion blocks standing to the west and south-west of the site and the rear of Grade II listed buildings in York Street close the end of Durweston Mews.

There are numerous street-level views of the site principally from Baker Street and Crawford Street, and it is visible from the upper floors of many surrounding properties.

The lawful uses of the building appear to be

- A bank (Class A2) over part basement and part ground floors at the corner of Baker Street and Crawford Place.
- Basement parking accessed from a car lift and servicing area open to Durweston Mews.
- A ground floor shop (Class A1) at the corner of Crawford Place and Durweston Mews.
- 2 x two-bedroom flats at first and second floor level in the part of the building at the corner of Crawford Place and Durweston Mews.
- Office floorspace (Class B1) over first to fifth floors of 91-93 Baker Street accessed via an entrance lobby on Crawford Street.

The second to fifth floors of office floorspace are currently vacant. The bank and first floor office floorspace are unlawfully occupied by a meanwhile composite use comprising art exhibition space, coffee shop, work space for rent and book store. The occupant is the Koppel Project. The ground floor shop is occupied by Sue Ryder charity shop and the two flats are also occupied.

The site is located outside of the Core CAZ but is located within the wider CAZ. The site is located on a 'Named Street' within Marylebone and Fitzrovia (i.e. Baker Street). Baker Street is also a CAZ Frontage.

The site is surrounded by residential properties, the closest of which are:

- Flats within Block 5, Montagu Mansions to the west.

- Three maisonettes at first and second floor levels at 4, 5 and 6 Durweston Mews immediately to the north.
- Flats on the upper floors of 126 – 129 Crawford Street (consecutive) to the south.
- Flats on the upper floors of 95-99 Baker Street (odd) immediately to the north.

6.2 Recent Relevant History

An appeal was allowed 20 September 1988 against the failure of the City Council to determine within the prescribed period an application to change the use of the ground floor from a shop (Class A1) occupied as a Sue Ryder charity shop to a bank (Class A2). The City Council had refused a duplicate application on 26 February 1988 on the ground that the proposal would have resulted in a loss of retail floorspace within a main shopping frontage.

Permission was granted on 8 April 1976 for the use of part basement, part ground and all of the first floor of 91-93 Baker Street as offices, limited to use for banking only.

Permission was granted for the current building on site on 26 April 1972 to provide a building for use as shops, showroom, offices and residential accommodation.

7. THE PROPOSAL

Permission is sought to demolish the entire building on site, excavate a new sub-basement and erect a replacement building over sub-basement, basement, ground and part five and part sixth floor levels, with rooftop plant.

The taller part of building will face Baker Street and Crawford Street and have its top two floors progressively set back. The lower part of the building will face Durweston Mews and have its top floor set back. The detailed design of these two parts of the building is different and intended to reflect their context and function.

The proposed replacement building is also a mixed use building comprising the following uses which are similar to existing:

- The existing basement and ground floor bank (Class A2) at the corner of Baker Street and Crawford Place is proposed to be reinstated, albeit the applicant has requested additional flexibility to occupy this unit within Class A1 (Shops).
- The existing office (Class B1) floorspace is proposed to be re-provided, albeit with an additional sixth floor. As per the existing arrangement, access will be from a reception on Crawford Street. Ancillary cycle parking (30 x spaces), changing rooms, refuse store and storage is proposed at sub-basement level.
- Four flats (Class C3) are proposed over first to fifth floor levels in the part of the building at the corner of Durweston Mews and Crawford Street, with a ground floor lobby on Crawford Street. A refuse store and storage is proposed at basement level, whilst storage for eight cycle spaces and three car parking space (two in a stacker and one disabled bay) is proposed at ground floor level (all accessed from Durweston Mews).
- An artist workshop (sui generis) is proposed at part lower ground floor level (beneath the office entrance).

- Finally, a replacement shop (Class A1) unit for use as an art gallery is proposed over basement and ground floor levels facing Crawford Street and is likely to be both functionally and physically linked to the artist workshop.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Table 1 summarises the existing and proposed uses on site.

	Office (Class B1)	Shops (Class A1)	Bank (Class A2)	Artist studio (Sui Generis)	Residential	Total
Existing floorspace (sqm GIA)	1,391	51	423	0	243 (2 x flats)	2,108
Proposed Floorspace (sqm GIA)	2,223	113	319 ¹	81	759 (4 x flats)	3,495
Net change floorspace (sqm GIA)	+832	+62 (+ 381) ²	-104 (-423) ³	+81	+516	+1,387

Table 1: Summary of land use changes.

Increase in office floorspace

The proposed increase in office floorspace (832sqm) is acceptable in principle given the site's location on a Named Street, in accordance with City Plan Policies S8 and S20 and forms a public benefit of the scheme through assisting in meeting the floorspace and jobs targets set out within this policy.

Mixed use policy

Policy 2.11(A)(a) of the London Plan requires that where there are increases in office floorspace in the CAZ they should provide for a mix of uses including residential. City Plan Policy S1 requires residential provision to be provided where development sites include net additional office floorspace and achieve an increase in floorspace (of all uses) above 30% of the existing floorspace (and more than 400 sqm). This is to ensure that the CAZ maintains the unique and varied mixed use character that is fundamental to ensuring the vitality, attraction and continued economic success of Central London.

As set out with Table 1 above, the net additional floorspace (of all uses) is 1,387 sqm (GIA). This equates to 65.8% of the existing floorspace and is more than 400 sqm. As such, City Plan Policy S1(3)(C) applies. This requires residential provision to be provided

¹ Dual / alternative Class A1 (Shops) and /or Financial and Professional Services (Class A2) use is sought.

² If the larger of the two commercial units is used within Class A1 (Shops) rather than Class A2 (Financial and Professional Services).

³ If the larger of the two commercial units is used within Class A1 (Shops) rather than Class A2 (Financial and Professional Services).

equivalent to the net additional B1 office floorspace, less 30% of the existing building floorspace. This equates to a residential floorspace liability of 200 sqm (GIA).

A cascade of options is set out, starting with on-site residential provision or provision in the immediate vicinity of the site, following by provision further away from the site and finally by a payment towards the Affordable Housing Fund in lieu of residential provision.

The replacement building would increase the residential floorspace on site by 516 sqm (GIA); well in excess of the 200 sq.m (GIA) required by City Plan Policy S1(3)(C). In order to ensure that at least the required residential floorspace is provided, it is recommended that a condition be imposed requiring that at least two of the proposed flats be completed and ready for occupation prior to the occupation of the approved office floorspace.

Replacement retail unit and proposed mixed use gallery / artist studio

As set out above, Baker Street is a CAZ Frontage. The existing retail on site, however, is located outside any identified shopping centre.

As set out within Table 1 above, if the larger of the two commercial units is used within Class A2 (Financial and Professional Services), there will be a net gain in retail (Class A1) floorspace on site of 62 sqm. If both units are used within Class A1, there would be a net gain overall in retail provision on site of 423 sqm.

The proposed development includes artist workspace which will be provided as a single space of 81 sqm that could be used by one or more artists. The applicant is responding to a study commissioned by the Mayor of London (Artists' Work Space Study – September 2014) where it was found that affordable artists' workspace is a valuable, yet vulnerable asset in London and that this sector is largely reliant on providers operating on a not-for-profit or charitable basis in order to keep rents within reach. Without intervention, the market has the potential to jeopardising this key component of London's cultural and social vibrancy.

The applicant has agreed to provide the artist workshop at peppercorn rent for a minimum period of 25 years. This is welcome and responds to concerns about the loss of affordable artist workspace in London. Furthermore, the applicant has agreed that the smaller commercial unit will be used as a gallery and not for any other use within Class A1. This has obvious synergies with the artist workshop, allowing work to be displayed and sold and will also increase the chances of the artist workspace being a success. The provision of an affordable artist workspace which responds to an identified need and will create a cultural hub that would be beneficial to the vibrancy of the area are significant public benefits of the scheme.

Residential use

Four residential units are proposed. Three identical two-bedroom flats are proposed at first to third floor levels (each 124 sqm GIA), whilst a larger three-bedroom maisonette is proposed over fourth and fifth floor levels (219 sqm). The result is a net increase of one

additional two-bedroom and one additional three-bedroom flat. This increase in the number of flats is welcome and will contribute to the City Council achieving its borough housing target of 1,068 dwellings per annum, in accordance with City Plan Policies S14 and UDP Policy H3.

Whilst the proportion of family-sized accommodation (25%) falls slightly below the 33% normal expectation within UDP Policy H5, this is acceptable given that one family-sized flat is being proposed where there are currently none, the constraints of the site and the requirement to optimise the potential of the site, as required by City Plan Policy S14. All of the proposed flats exceed the minimum size standards set out within London Plan Policy 3.5 and the mix of unit sizes on site is considered to meet the housing need of the City, in accordance with City Plan Policy S15.

All of the flats have at least two aspects, all will benefit from good internal light levels due to their elevated location and all enjoy outdoor amenity space in the form of winter gardens (the rear of which is openable). The maisonette over fourth and fifth floors also benefits from a terrace. As such, the proposed residential units are considered to provide the occupants with a well-designed, high quality living environment with outdoor amenity space, in accordance with City Plan Policy S29 and UDP Policy H10.

The bedroom sizes for the proposed flats are between 12.3 sqm and 20.7 sqm. They are all double bedrooms and all exceed the minimum size requirement of 11.5 sqm.

The provision of two additional good quality flats, one of which is family sized, is a public benefit of the scheme.

Affordable housing

The proposal does not trigger any affordable housing requirement as the net increase in residential floorspace falls below the 1,000 sqm (GEA) threshold set out within City Plan Policy S16.

8.2 Townscape and Design

The existing building, by virtue of its detailed design and materials of construction, are entirely alien to the street and surrounding area. It detracts from the character and appearance of the Portman Estate Conservation Area and there is no objection to its demolition subject to a suitable replacement building.

As set out above, the taller part of the proposed building will face Baker Street and Crawford Street and have its top two floors progressively set back. The lower part of the building will face Durweston Mews and have its top floor set back. The detailed design of these two parts of the building is different and intended to reflect their context and function.

The main façade to Baker Street and Crawford Street is of buff-coloured sandstone with faceted metalwork details around the windows at first to fourth floor levels. The fifth and six floors are more simply detailed metal clad facades with small roof terraces. The façade to Durweston Mews and its short return to Crawford Street is to be of buff-coloured stock brickwork with metal frames around the windows. The stair core is

expressed as a tall window on the south façade next to the residential accommodation winter gardens. In urban design and heritage asset terms, the height and massing of the proposed development is considered acceptable.

The chosen palette of materials reflects the colour and type of facing materials that can be found in the locality and which contribute positively to the conservation area. The use of buff brick is appropriate and it particularly suits the appearance of the mews to the rear and harmonises with the stock brickwork characteristic of many listed buildings in the area. The extensive use of metalwork around the windows is unusual but acceptable in this case noting the cladding materials of neighbouring buildings to the north in Baker Street and the visual interest that it creates on the facades when seen in longer street-level views. Therefore, subject to minor modifications to omit glass balustrades in favour of metal railings for the roof terraces, and the shopfronts to include stall-risers, the detailed design and materials of construction the proposed development would enhance the site's visual contribution to the character and appearance of the conservation area and maintain the setting of nearby listed buildings. The proposed is thus considered acceptable and in accordance with City Plan Policies S25 and S28, as well as UDP Policies DES 1, DES 4, DES 9 and DES 10.

The Marylebone Association considers the bulk and massing of the building to be acceptable but find its detailed design objectionable because of its "...muddled collection of building materials, different vocabularies and fussy details..." It is considered, for the reasons set out above, that the building has carefully articulated facades which are designed to respond sensitively to their immediate context as well as suiting longer views where it will be seen on the context of numerous listed buildings. The objection to the detailed design of the building is therefore not considered sustainable to justify a reason for refusal on these grounds.

8.3 Residential Amenity

The City Council places high priority on protecting residential amenity, with UDP Policy ENV 13 stating that the City Council will normally resist proposals which result in a material loss of daylight or sunlight to neighbouring properties. Similarly, City Plan Policy S29 seeks to ensure that development proposals safeguard the amenities of neighbouring residents in terms of privacy, outlook and noise. Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, '*Site layout planning for daylight and sunlight: a guide to good practice*' (the BRE Guide). The second edition of this guidance was published in September 2011.

Objections have been received on daylight / sunlight, overlooking and noise grounds.

Daylight / Sunlight

The applicant has submitted a Daylight and Sunlight Report assessing the impact on the proposed development on the amount of daylight and sunlight received by neighbouring residential properties.

Daylight

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 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. Where layouts are known, the 'no sky line' (NSL) can be calculated. The NSL is the point on the working plane within the affected room between where can and where cannot see the sky.

The BRE guidelines seek mainly to protect daylighting to living rooms, dining rooms and kitchens (where they are sufficiently large to be used as habitable rooms). Bedrooms and kitchens (not kitchen / diners) should be analysed but are protected to a lesser extent.

The applicant has submitted an assessment of all of the neighbouring residential properties within the vicinity of the site that could be materially affected by the proposed development in respect to daylight. Of these, some habitable windows within the following properties are materially affected:

- Seven flats within Block 5, Montagu Mansions (Flats 9, 11, 16, 18, 25, 32 and 39).
- Nos. 4, 5 and 6 Durweston Mews.
- The flats at first and second floor levels within Nos. 127, 128 and 129 Crawford Street.
- Nine flats within 95-99 Baker Street.

The impact upon the habitable rooms within each of these building is discussed in turn below.

Block 5, Montagu Mansions

This building is located on the west side of Durweston Mews to the west of the application site. Five objections have been received by occupants of this building, plus an objection from the freehold owner of the building. Of the five objectors, three occupy flats that will see VSC losses in excess of 20% (Flats 9, 18 and 23). Flats 7 and 19 will not be materially affected in respect to daylight or sunlight.

	Window	Use	VSC				NSL			
			As existing (%)	As proposed	Percentage loss	Absolute loss (%)	Room	As existing	As proposed	Percentage loss
Lower ground	W11/9	Kitchen	6.4	4.0	-37.5	-2.4	R6/9	32.6	23.5	-27.8
	W14/9	Bedroom	12.7	9.9	-22.0	-2.8	R9/9	44.4	40.8	-8.08
	W15/9	Bedroom	10.1	7.3	-27.7	-2.8	R10/9	41.4	30.9	-25.6
Ground	W11/10	Kitchen	9.7	5.3	-45.4	-4.4	R6/10	70.8	31.6	-55.3
	W13/10	Unknown	15.0	11.7	-22.0	-3.3	R8/10	78.3	54.4	-30.5
	W14/10		15.4	12.2	-20.8	-3.2	R9/10	69.8	64.1	-8.08
	W15/10	Unknown	15.3	12.3	-20.9	-3.2	R10/10	73.5	57.9	-21.2
	W16/10		12.2	9.1	-25.4	-3.1				
First	W10/11	Kitchen	12.3	6.7	-45.5	-5.6	R6/11	87.1	37.3	-57.1
Second	W10/12	Kitchen	14.6	8.8	-39.7	-5.8	R6/12	88.9	41.3	-53.6
Third	W10/13	Kitchen	17.5	12.2	-30.3	-5.3	R6/13	94.7	75.7	-20.0

Table 2: Impact of development upon VSC and NSL values within Block 5, Montagu Mansions.

The affected windows within Flat 9 (Windows W14/9 and W15/9) serve bedrooms which are afforded less protected by the BRE Guide (2011). Furthermore, the losses in VSC are modest (-22.0% and -27.7%) in this urban context. Combined, this means that the loss of daylight arising as a result of the proposed development is not considered to be sufficiently harmful to the amenity of the occupier of this flat to warrant refusal of this application.

The occupier of Flat 16 (directly above) has not objected and therefore it has not been possible to visit to ascertain what rooms are affected. However, the losses in VSC to Windows W13/10, W14/10, W15/10 and W16/10 are also modest in this urban context, being between 20.8% and 25.4% and therefore not sufficiently harmful to the amenity of the occupier of this flat to warrant refusal of this application.

There are some more significant losses to the kitchen windows of Flats 11, 18, 25, 32 and 39. These windows directly face the application site and will see significant losses in VSC (between 30.3% and 45.5%) through the replacement of the three storey western element of the building with a six storey element. However, all of these windows serve kitchens (not diners) that are afforded less weight by the BRE Guide (2011). Furthermore, the layout of these flats are such that the bedrooms and main living / dining spaces face south on Crawford Street. These rooms will be unaffected by the proposed development. Whilst the kitchens will see significant losses of daylight, it is considered that, when taken as a whole, the quality of the living accommodation of the flats is not diminished to such an extent to warrant refusing permission.

Nos. 4, 5 and 6 Durweston Mews

	Window	Use	VSC				NSL			
			As existing (%)	As proposed	Percentage loss	Absolute loss (%)	Room	As existing	As proposed	Percentage loss
First	W1/81	LKD ⁴	2.5	0.8	-68.0	-1.7	R1/81	5.2%	5.0%	3.6
	W3/81	LKD	3.2	1.4	-56.3	-1.8				
	W5/81	LKD	2.9	1.7	-41.4	-1.2	R2/81	5.8%	5.6%	3.7
	W7/81	LKD	3.6	2.5	-30.6	-1.1				
	W9/81	Bedroom	3.1	2.4	-22.6	-0.7				
Second	W1/82	Bedroom	3.8	1.1	-71.1	-2.7	R1/82	14.0%	13.2%	5.8
	W3/82	Bedroom	4.9	1.9	-61.2	-3.0	R2/82	9.5%	8.9%	6.6
	W5/82	Bedroom	4.9	2.5	-49.0	-2.4	R3/82	13.6%	12.7%	6.3
	W7/82	Bedroom	5.5	3.4	-38.2	-2.1	R4/82	89.7%	89.7%	0.0
	W9/82	LKD	9.5	6.5	-31.6	-3.0	R5/82	35.7%	31.1%	12.7

Table 3: Impact of development upon VSC and NSL values within Nos. 4, 5 and 6 Durweston Mews

Nos. 4, 5 and 6 Durweston Mews are located immediately to the north of the application site and comprise maisonettes over first and second floor level. None of the occupants have objected to the proposed development and, despite numerous attempts to arrange access through the leasehold owner (Octavia Housing), access has not been possible.

As Table 3 shows, as a result of the proposed development infilling the lightwell to the north of the staircore, the windows to the rear of these properties will be severely affected in terms of daylight.

⁴ Living / kitchen / dining

However, the three living/kitchen/diners affected are dual aspect, also having large windows facing Durweston Mews. These windows will not be affected by the proposed development. The dual aspect nature of the development means that the quality of the main living accommodation of the flats is not diminished to such an extent to warrant refusing permission.

Three of the four bedrooms are predicted to see large percentage losses in VSC (up to 71.1%). The very low existing VSC levels, however, mean that the losses are less significant when looking at the absolute loss (between -2.1% and -3.0%). This, combined with the lower protection afforded to bedrooms and the rooms also having north facing parts of the window that are unaffected by the proposed development, means that the impact will not be as significant as the percentage VSC losses first indicate. Furthermore, the modest reduction in NSL provides some comfort that the light penetration within the rooms will not be materially reduced.

Nos. 95-99 Baker Street.

	Window	Use	VSC				NSL			
			As existing (%)	As proposed	Percentage loss	Absolute loss (%)	Room	As existing	As proposed	Percentage loss
First	W5/101	Bedroom	23.4	18.7	-20.1	-4.7	R5/101	68.1	66.8	-1.9
	W6/101	Bedroom	22.9	17.1	-25.3	-5.8	R6/101	61.8	61.6	-0.4
Second	W5/102	Bedroom	26.6	20.0	-24.8	-6.6	R5/102	79.1	68.9	-12.9
	W6/102	LKD	25.5	16.7	-34.5	-8.8	R6/102	81.4	73.1	-10.1
Third	W5/103	Bedroom	29.9	23.0	-23.1	-6.9	R5/103	97.4	88.0	-9.7
	W6/103	LKD	28.7	18.9	-34.1	-9.8	R6/103	99.0	91.7	-7.4
Fourth	W5/104	Bedroom	33.1	26.3	-20.5	-6.8	R5/104	98.2	92.1	-6.3
	W6/104	LKD	32.0	21.2	-33.8	-10.8	R6/104	99.3	94.2	-5.1
Fifth	W6/105	LKD	25.3	23.8	-32.6	-11.5	R6/105	99.5	96.4	-3.2

Table 4: Impact of development upon VSC and NSL values within affected flats within Nos. 95-99 Baker Street.

This building is located immediately to the north of the application site and has residential windows on the rear elevation facing west. Whilst it is predicted that there will be four windows that see VSC losses in excess of 30% (the maximum predicted VSC loss is 34.5%), the VSC levels within each of the rooms is still reasonable high even with the development in place. This is a product of the elevated position of the affected windows and their reasonably open outlook to the west and north. The lowest VSC level is 16.7% which is reasonable for this dense urban environment. This is reflected in the very small predicted reductions in NSL. It is concluded that the daylight environment within these rooms will remain adequate even with the development in situ.

First and second floor flats within Nos. 127, 128 and 129 Crawford Street.

These buildings are located on the south side of Crawford Place, directly to the south of the application site. Whilst there are 11 x VSC losses to windows in excess of 20%, the maximum loss is 23.6% which is only marginally above the threshold above which it will be noticeable by the occupants. In the context of a dense urban environment, these losses are considered to be acceptable

Sunlight

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. Again, all main living areas should be assessed but kitchens (not kitchen/diners) and bedrooms are of less importance.

Almost all of the windows within Block 5, Montagu Mansions face north-east and the windows within Nos. 127, 128 and 129 Crawford Street all face north. As such, the affected properties in respect to sunlight are at Nos. 4, 5 and 6 Durweston Mews and the Nos. 95-99 Baker Street.

Nos. 4, 5 and 6 Durweston Mews

Floor	Window	Use	APSH			Winter		
			Existing	Proposed	Loss	Winter	Proposed	Loss
First	W7/81	LKD	7	1	85.7%	0	0	0%
Second	W3/82	Bedroom	10	0	100%	3	0	100%
	W5/82	Bedroom	11	1	90.1%	2	1	50%
	W7/82	Bedroom	13	4	69.2%	3	0	100%
	W9/82	LKD	16	10	37.5%	3	0	100%

Table 5: Impact of development upon APSH and winter sunlight at Nos. 4, 5 and 6 Durweston Mews.

The table above clearly shows very large losses in APSH and an almost complete elimination of sunlight between 21 September and 21 March each year.

As set out above, the two affected LKDs both benefit from large windows facing south-west which will ensure that these rooms retain a reasonable number of sunlit hours. The bedrooms however, are single aspect and will become noticeable less bright and cheerful. However, these windows all serve bedrooms that are afforded less protection from losses of sunlight. This, combined with the overall public benefits of the scheme which include the additional office floorspace, two additional residential units, an affordable artist studio and the enhanced contribution to the character and appearance of the conservation area, means that the harm to a limited number of bedrooms is not considered to be sufficient to warrant refusing permission.

Nos. 95-99 Baker Street

Floor	Window	Use	APSH			Winter		
			Existing	Proposed	Loss	Winter	Proposed	Loss
First	W1/101	Bedroom	37	31	16.2	7	2	71.4
	W2/101	LKD	39	29	25.6	8	2	25.6
	W3/101		37	24	35.1	8	1	87.5
	W4/101	LKD	36	22	38.9	7	1	85.7
	W5/101	Bedroom	30	13	56.7	4	0	100
	W6/101	Bedroom	28	10	64.3	3	0	100
Second	W2/102	LKD	42	33	21.4	10	4	60.0
	W3/102	Bedroom	42	29	30.9	9	2	77.8
	W4/102	Bedroom	39	25	35.9	9	2	77.8
	W5/102	Bedroom	36	15	58.3	6	0	100
	W6/102	LKD	30	8	73.3	4	0	100
Third	W3/103	LKD	46	34	26.1	12	4	66.7
	W4/103	Bedroom	42	29	31.0	9	2	77.8
	W5/103	Bedroom	40	19	52.5	7	0	100
	W6/103	LKD	36	12	66.7	5	0	100
Fourth	W5/104	Bedroom	46	24	47.8	10	1	90.0
	W6/104	LKD	41	15	63.4	6	1	83.3
Fifth	W6/105	LKD	48	18	62.5	11	1	90.1
Sixth	W6/106	LKD	58	20	65.5	20	2	90.0

Table 6: Impact of development upon APSH and winter sunlight at Nos. 95-99 Baker Street.

Whilst there are 19 windows that will technically fail the tests within the BRE Guide (2011), seven fail due to the winter sunlight hours reducing below 5% and by more than 20% despite the APSH remaining above the 25% level. These windows will retain good levels of daylight through the year as a whole. Of the remaining 12, only seven will see large losses annually and will see APSH levels post-development below 15%. These are:

- Window W5/101 – Bedroom (13% APSH post-development).
- Window W6/101 – Bedroom (10% APSH post-development).
- Window W5/102 – Bedroom (15% APSH post-development).
- Window W6/102 – LKD (8% APSH post-development).
- Window W6/103 – LKD (12% APSH post-development).
- Window W6/104 – LKD (15% APSH post-development).

The three bedrooms affected are considered to be acceptable in light of the lower protection afforded to such rooms within the BRE Guide (2011) and that the rooms will still receive between 10% and 15% APSH.

Due to the proximity of the windows to the proposed development, there will be some significant reduction in APSH to the LKDs at second, third and fourth floor level. However, only one LKD (at second floor level) is predicted to see a reduction to below 10% APSH. Furthermore, as set out above, these three LKDs will all retain good levels of daylight (VSC levels between 16.7% and 21.2%). As such, whilst the rooms will receive significantly less sunlight, they will still retain good levels of daylight. The harm

to the amenity of the occupants of these flats is therefore limited to the reduction (but not elimination) of sunlight. Weighed against the above public benefits of the proposal, it is considered that the scheme as a whole is acceptable.

Sense of Enclosure

Whilst there will be some increase in sense of enclosure for a number of occupants of flats, none are considered to be sufficiently harmful to warrant refusing permission.

The most affected room within Block 5, Montagu Mansions will be the second floor kitchen (Flat 30). The reasonable distance between this window and the proposed development and the open outlook to the south from the remainder of the flat leads to the conclusion that the overall quality of this residential accommodation will not be materially harmed.

The flats within the upper floor of 95-99 Baker Street all have a reasonable open aspect to the north and west and therefore the additional mass and bulk to the south is not considered to be sufficiently harmful to warrant refusing permission.

Whilst there will be some increase in the sense of enclosure for Nos. 4, 5 and 6 Durweston Mews, the first floor rooms are dual aspect and therefore will retain an open aspect to the west. The first floor bedrooms will be more affected as they are all single aspect. However, the projecting triangular shaped windows all also have windows facing north that will not be affected by the proposed development. The retained outlook from these windows and the fact that the affected rooms are bedrooms that have a lower expectation in terms of sense of enclosure means that the impact is considered to be acceptable.

The modest increase in bulk and height for the occupants of the upper floors of the properties on the south side of Crawford Street is not considered to be materially harmful in respect to sense of enclosure.

Privacy

No windows are proposed in the part of the building that infills the rear lightwell and, as such, there will be no impact upon the privacy of the occupants of the flats within Nos. 95-99 Baker Street and within Nos. 4, 5 and 6 Montagu Mansions.

There will be additional windows, winter gardens and a fifth floor balcony facing the flats within Block 5, Montagu Mansions. However, there are already residential windows facing this direction. This, combined with the reasonable distance to the affected windows, means that it is not considered that the additional windows, winter gardens and a fifth floor balcony will materially degrade the privacy of the neighbouring flats.

8.4 Transportation/Parking

Car Parking and Servicing

The proposal will see the loss of the basement car park that accommodates eight spaces, although none are currently used. The ground floor loading bay accessed from Durweston Mews will be replaced by three car parking spaces for use in association with the four proposed flats. Two are proposed in a car stacker and one is designed for wheelchair users.

The Highways Planning Manager argues that the proposed situation represents a retrograde step from a transportation perspective, with the proposed scheme both failing to provide one car parking space per flat and failing to re-provide the on-site loading bay.

The reality, however, is that Durweston Mews is very constrained in terms of its width, with even modest delivery vehicles having to cross the pavement at points in order to access the loading bay. These safety concerns, combined with the requirement for additional cores to allow DDA access, the physical difficulties of providing the required mix of uses on a small floorplate and the fairly low service requirements of the proposed uses on site, precludes the provision of a basement car park and an off-street loading bay. It is considered that the physical constraints of Durweston Mews means that off-street car parking provision is preferable to off-street servicing.

Whilst the on-street car parking stress which is already at 93% during the day, car ownership levels in this ward is only 35% which means that the provision of three unallocated car parking spaces will be sufficient to cater for likely car ownership generated by the four flats.

A Service Management Plan is recommended to be secured by condition.

Cycle Parking

The proposed 42 cycle parking space is acceptable in respect to its location and quantum and will be secured by condition

Chamfered Corner

The existing chamfered corner at the junction of Crawford Street and Baker Street will be replaced with a right angle. This is not considered to be detrimental to pedestrian movement given how wide the pavement is in this location and the limited number of pedestrians walking from Crawford Street and Baker Street (and vice versa).

An informative is recommended advising that this triangle of land, whilst in private ownership, is likely to be public highway and will need to be stopped up under the Highways Act (1980) for the development to proceed.

8.5 Economic Considerations

The economic benefits of the additional office floorspace and the contribution that the proposal will make the City Council's adopted the floorspace and jobs targets is welcome.

8.6 Access

Step free access is provided to all parts of the building which is a significant improvement on the existing building.

8.7 Other UDP/Westminster Policy Considerations

Plant

Environmental Health has no objection to the proposed basement and roof level plant subject to the submission of a supplementary acoustic report showing that the plant (once specified) will comply with the requirements of UDP Policy ENV 7.

Environmental Health has raised some concern was raised about the failure of the applicant to assess the noise and vibration from the proposed car stacker, particularly as it is located immediately below a first floor bedroom. The applicant has now agreed with Environmental Health that the correct maximum noise level (25 (dB LAmax,F) can be achieved within this bedroom flat by relocating the position of the hydraulic unit to basement level 1. A condition will secure the submission of a supplementary acoustic report that demonstrates that the car lift will meet this standard, once specified.

Refuse /Recycling

The office and residential components of the proposed building have dedicated refuse stores at rear basement and sub-basement levels. The gallery and flexible A1 / A2 uses each have waste stores within their demises with access to the loading circulation route to Durweston Mews, from where the refuse will be collected.

The submission of revised drawings showing a waste store with the gallery and internal access to Durweston Mews addresses the concerns of the Cleansing Manager.

Trees

There is an existing street tree on Baker Street close to the application site. The Arboricultural Manager agrees that it should be possible, with care, to carry out the proposed work without harm to the street tree. This is subject to the imposition of conditions securing tree protection measures.

Biodiversity

The proposed building includes the provision of green roofs which will maximise the biodiversity potential of this site.

Sustainability

Policy 5.2 and 5.7 of the London Plan and City Plan Policy S40 require developments to achieve a 35% improvement on 2013 Building Regulations (equivalent to 40% improvement over 2010 Building Regulations), following the energy hierarchy (be lean, be clean, be green) and there is a presumption that all major development proposals will seek to reduce carbon dioxide emissions by at least 20% through on-site renewable energy generation wherever feasible.

To maximise the energy efficiency of the development and thus reduce the energy demands, the following design principles have been incorporated into the proposal:

- Building fabric specification improved beyond minimum requirements under Building Regulations including high specification glazing to minimise heat loss and solar gains;
- Specification of efficient mechanical services and control systems with heat recovery; and
- Energy efficient lighting and controls through the development.

The scheme involves the installation of c.11 kWp (in total) of photovoltaic panels. This equate to a reduction in 4.2% of carbon dioxide emission which is considered to be the maximum that this small site can achieve.

It has been identified, through the modelling undertaken, that a 36.2% reduction in carbon dioxide emissions over Part L 2013 could be achieved over the baseline emissions via the implementation of these energy efficient design aspects discussed above. This exceeds the 35% improvement on 2013 Building Regulations target and is therefore acceptable.

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

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which makes 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, 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; and
- c) fairly and reasonably related in scale and kind to the development.

The draft 'Heads' of agreement are proposed to cover the following issues:

- (a) The submission of a Car Lift Maintenance and Management Plan for the City Council's approval and adherence to this Plan for the life of the development.
- (b) The artist workspace at basement level 1 to be provided at a peppercorn rent for a minimum period of 25 years.
- (c) Unallocated car parking.
- (d) The costs of monitoring the S106 legal agreement.

The estimated CIL payment is:

- £65,134 (index linked) towards the Mayoral CIL.
- £224,008 (index linked) towards the Westminster CIL.

8.11 Environmental Impact Assessment

The proposal is of insufficient scale to require the submission of an Environmental Statement.

8.12 Other Issues

Notification of application to neighbouring residents

The freehold owner of Montagu Mansions (Montagu Mansions Freehold Limited) has raised concerns in respect to the City Council's neighbour notification process, stating that not all flats to the rear of the building received neighbour notification letter and that they suspect that no assessment of the individual flats or their location was obtained.

This is not correct. All of the 47 flats within 5 Montagu Mansions were notified of the application by letter.

Basement

The site's location on a Named Street and adjoining residential properties where there is potential for an impact on those adjoining properties means that the basement excavation should be assessed under Part B of City Plan Policy CM28.1. This means that there is no restriction on the depth or extent of the basement excavation provides it adheres to a number of criteria relating to landscaping, sustainable urban drainage, trees, ecology, energy efficiency, design and heritage considerations. The basement will not be visible. Furthermore, the proposed building includes living roofs in order to reduce the urban heat island effect, attenuate surface water run-off and contribute towards the biodiversity of the area. Finally, as set out above, the building is expected to meet the required 35% improvement over Building Regulations Part L 2013 in respect to carbon

dioxide emission. For these reasons the proposed basement is considered to accord with City Plan Policy CM28.1

The City Council's District Surveyor has no objection in principle to the proposed development, subject to informatives advising the applicant to gain technical approval from the City Council's highways engineers and from Thames Water given the presence of a sewer that runs north-south along Baker Street.

Construction impact

A number of objections have been received on the ground that the construction works will be disruptive.

The Code of Construction Practice was published in July 2016 and is designed to monitor, control and manage construction impacts on sites throughout Westminster. It applies to all major developments from September 2016.

The publication of the Code represents a fundamental shift in the way the City Council deals with the construction impacts of developments. Before September 2016, developments of this scale used legal agreements to fund the Environmental Inspectorate (EI) and required Site Environmental Management Plans to be submitted to and approved by the City Council.

In recognition that there is a range of regulatory measures available to deal with construction impacts and that planning is the least effective and most cumbersome of these, the new approach is for a condition to be imposed requiring the applicant to provide evidence that any implementation of the scheme (by the applicant or any other party) will be bound by the Code. Such a condition is recommended.

9. BACKGROUND PAPERS

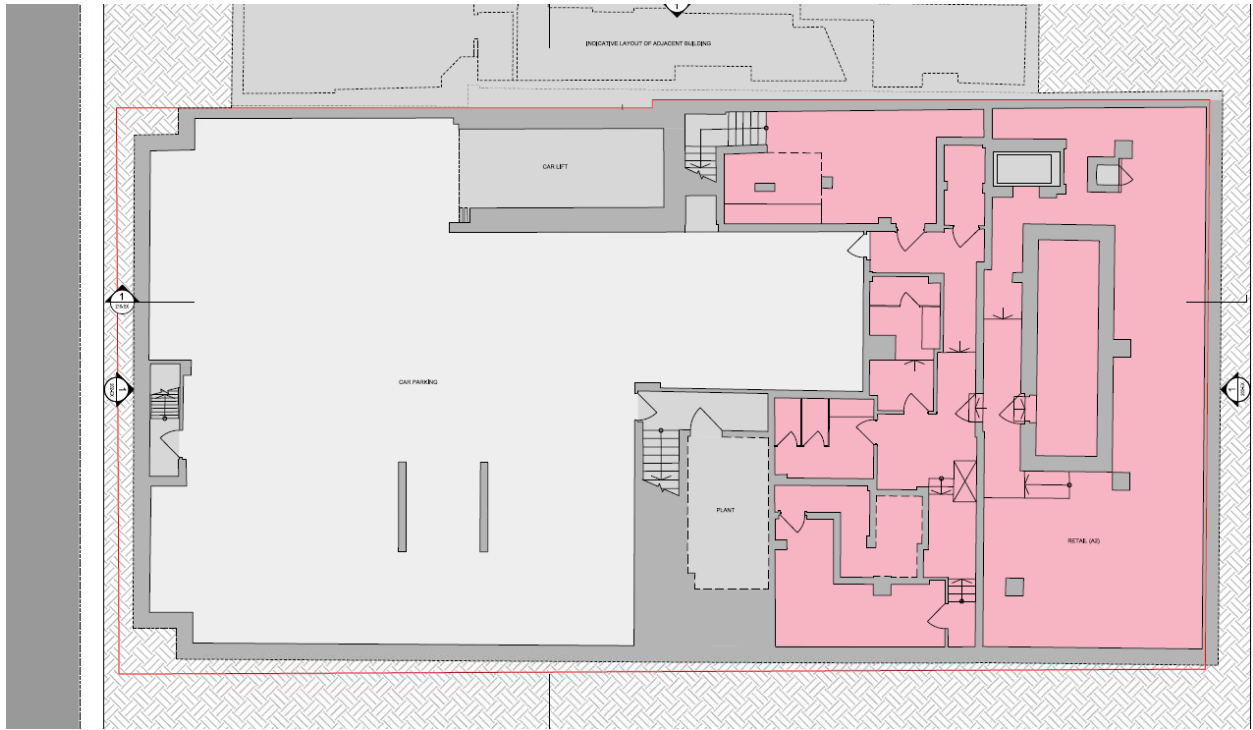
1. Application form
2. Response from the Marylebone Association, dated 27 July 2016.
3. Response from Building Control - Development Planning, dated 31 October 2016.
4. Response from Highways Planning, dated 31 October 2016.
5. Responses from Environmental Sciences, dated 11 July 2016 and 14 July 2016.
6. Response from the Cleansing Manager, dated 15 August 2016.
7. Responses from the Arboricultural Manager, dated 1 November 2016.
8. Letters from owner of First Floor Flat B, 5 York Street (37 Oakfield Lane, Keston), dated 24 September 2016 and 29 September 2016.
9. Letter from occupier of Flat 18 Montagu Mansions, London, dated 23 September 2016.
10. Letter from the owner of Flat 23 Montagu Mansions, dated 24 September 2016.
11. Letter from the owner of Flat 23 Montagu Mansions, dated 29 September 2016.
12. Letter on behalf of Montagu Mansions Freehold Limited, dated 27 September 2016.
13. Letter from occupier of 9 Montagu Mansions, London, dated 28 September 2016.
14. Letter from occupier of 7 Montagu Mansions, London, dated 29 September 2016.
15. Letter from occupier of 5e York Street, London, dated 29 September 2016.
16. Letter from occupier of 19 Montagu Mansions, London, dated 4 October 2016.

Selected relevant drawings

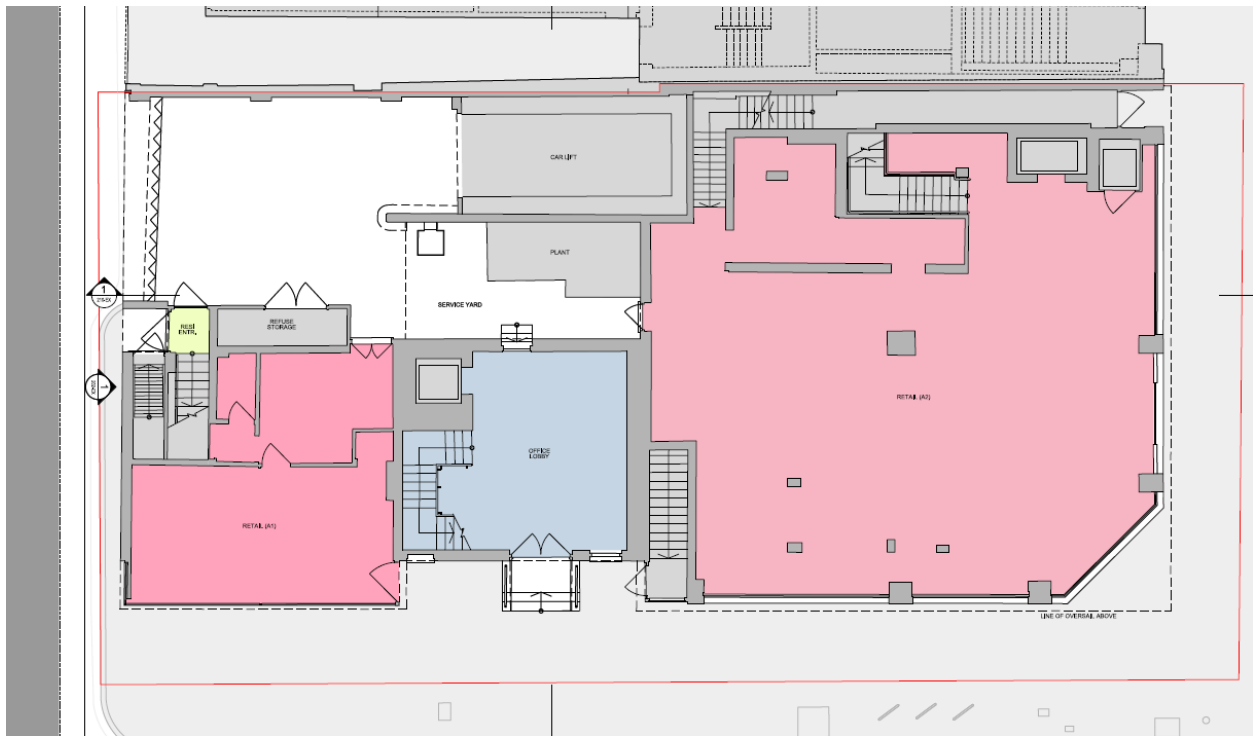
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk.

10. KEY DRAWINGS



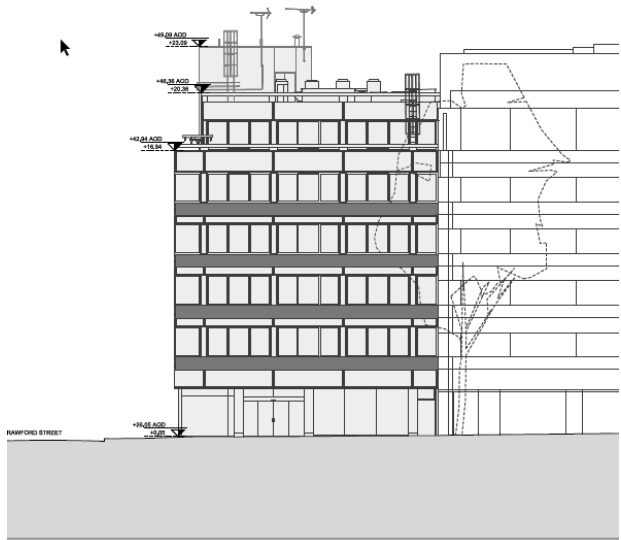
Existing basement plan.



Existing ground floor plan



Existing first floor plan



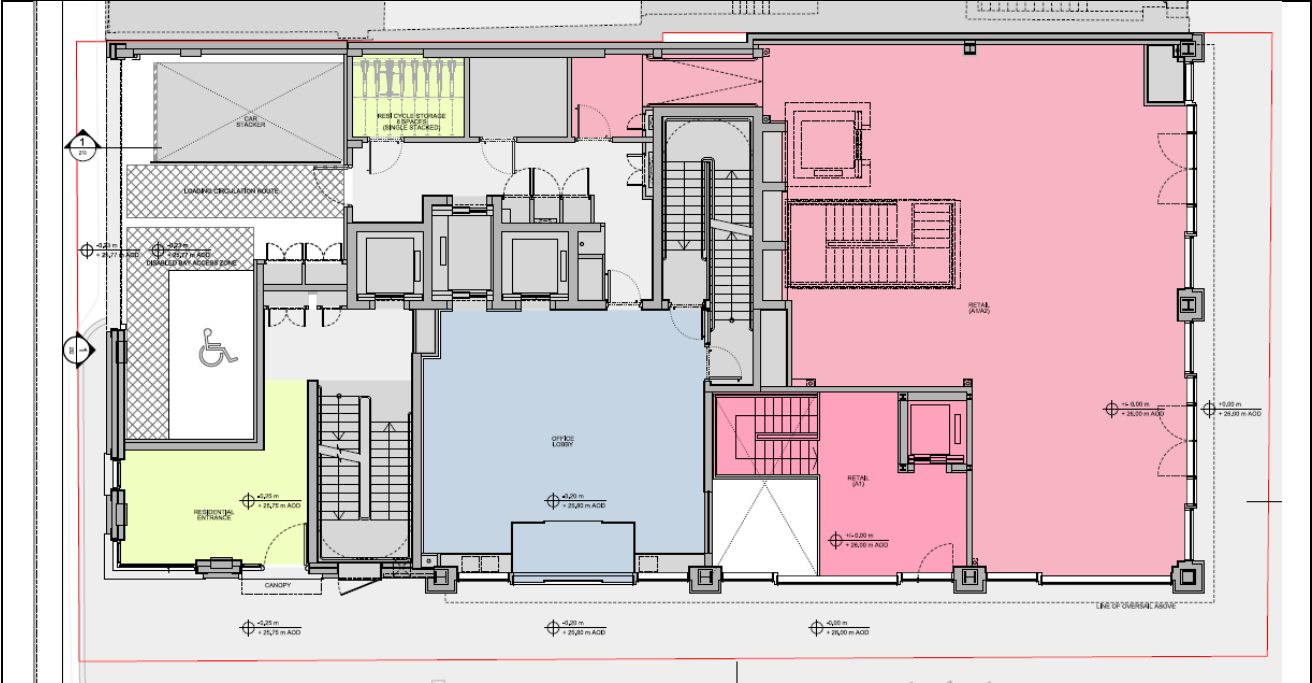
Existing Baker Street elevation.



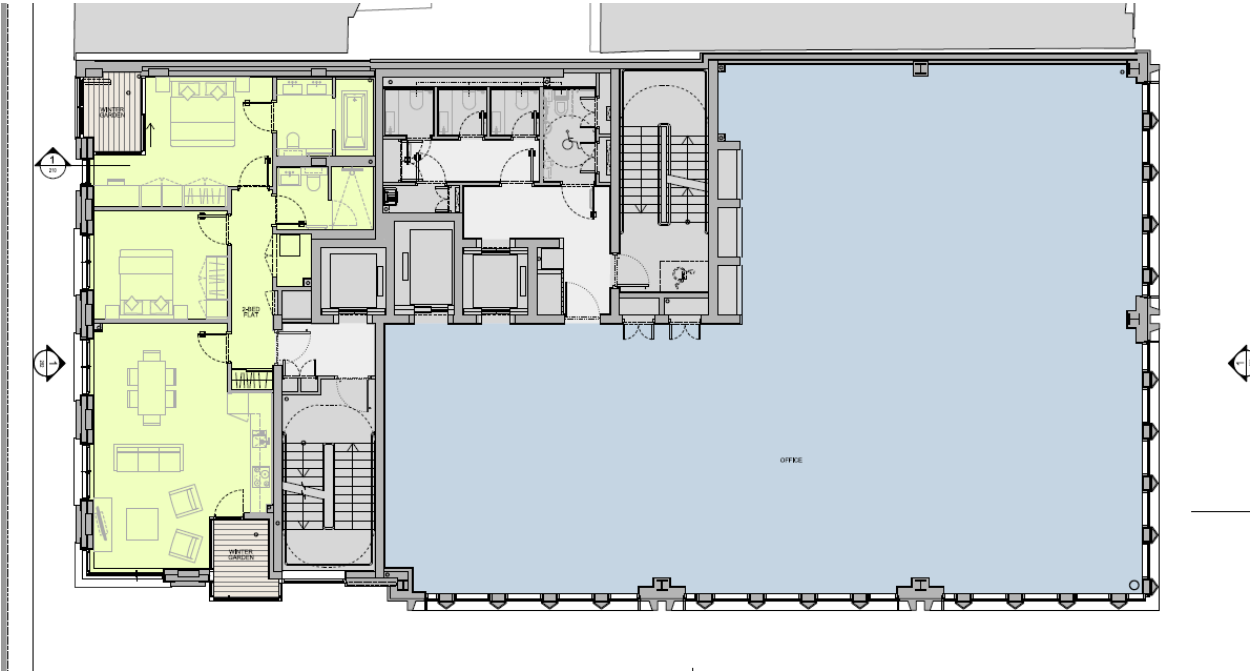
Existing Crawford Street elevation.



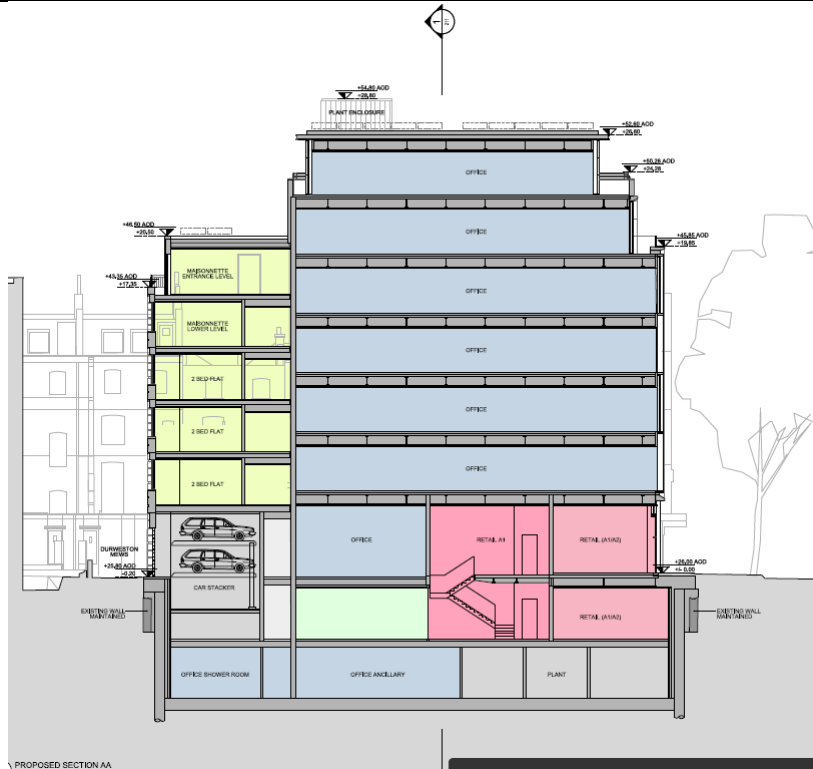
Existing section A-A



Proposed ground floor plan



Proposed first floor plan



Proposed section A-A



Proposed visual from Crawford Street (looking east)



Proposed visual from Crawford Street (looking west).

DRAFT DECISION LETTER

Address: 91-93 Baker Street, London, W1U 6RL,

Proposal: Demolition of existing building, excavation to provide new sub-basement and erection of replacement building over sub-basement, basement, ground and between five and seven upper storeys to provide dual alternative Class A1 (Shops) and / or Class A2 (Financial and Professional Services) at part basement and part ground floor level; artist workspace (sui generis) at part basement level; Class A1 (Shop) at part basement and part ground floor level; Class B1 (Office) at part sub-basement, part ground, part first to part fifth and sixth floor levels; 4 x flats (Class C3) at part ground to part fifth floor level; and associated car parking (3 x spaces), cycle parking (39 x spaces) and plant.

Reference: 16/05226/FULL

Plan Nos: 1361-A-020 Rev. 02, 1361-A-098 Rev. 01, 1361-A-099 Rev. 01, 1361-A-100 Rev. 02, 1361-A-101 Rev. 02, 1361-A-102 Rev. 02, 1361-A-103 Rev. 02, 1361-A-104 Rev. 02, 1361-A-105 Rev. 02, 1361-A-106 Rev. 02, 1361-A-110 Rev. 02, 1361-A-200 Rev. 02, 1361-A-201 Rev. 03, 1361-A-202 Rev. 03, 1361-A-203 Rev. 02, 1361-A-210 Rev. 02, 1361-A-211 Rev. 02 and 1361-A-301 Rev. 01.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

Recommended Condition(s) and Reason(s):

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

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

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

- between 08.00 and 18.00 Monday to Friday; and

- not at all on Saturdays, Sundays, bank holidays and public holidays.

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 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 any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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 (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

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 (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 You must apply to us for approval of detailed drawings showing the following alterations to the scheme:
- (i) Omission of all glass balustrades in favour of metal railings.
 - (ii) All new shopfronts to have stall-risers of a uniform height not less than 250mm.

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 (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 You must 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 (July 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

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

Reason:

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

- 9 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)

- 10 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 (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 11 Before occupation of any part of the building, you must provide the separate stores for waste and materials for recycling shown on drawing number 1361-A-098 Rev. 01 and 1361-A-099 Rev. 01. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 12 Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 13 Prior to the occupation of any of the commercial elements of the building you shall submit for

the City Council's approval a Servicing Management Plan identifying the servicing process, internal storage locations, scheduling of deliveries and staffing. You must comply with the approved Servicing Management Plan thereafter.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 14 No waste is to be left on the highway.

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 15 Prior to occupation of any of the residential flats hereby approved each of the approved car parking spaces shall be fitted with electric vehicle charging points and these shall thereafter be maintained in working order.

Reason:

In order to encourage the update of electric vehicles, as required by Policy 6.13 of the London Plan (2016).

- 16 (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 (July 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 17 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.

- 18 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 16 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 (July 2016), by contributing to reducing excessive ambient noise levels.

- 19 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.

- 20 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the car lift hereby approved will not result in maximum noise levels exceed 25dB LAmax,F within any part of the approved flat at first floor level.

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.

- 21 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.

- 22 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises., (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power., (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (July 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 23 Pre Commencement Condition. You must apply to us for approval of the ways in which you will protect the neighbouring street tree on Baker Street. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2005. You must then carry out the work according to the approved details. (C31AC)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (July 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 24 At least two of the flats hereby approved shall be completed and ready for occupation prior to the occupation of the approved office floorspace

Reason:

In order to provide a mix of uses within the Central Activities Zone, as required by Policy 2.11 of the London Plan (2016) and Policy S1 of the City Plan (2016).

- 25 The three bedroom residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

Reason:

To protect family accommodation as set out in S15 of Westminster's City Plan (July 2016) and H 5 of our Unitary Development Plan that we adopted in January 2007. (R07DC)

- 26 You must only use the approved shop at basement and ground floor levels (annotated as Retail (A1) on approved drawings 1361-A-099 Rev. 01 and 1361-A-100 Rev. 02) as a gallery. You must not use it for any other purposes, including any other use within Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it). (C05BB)

Reason:

To promote the cultural offer of the development and to ensure the long-term success of the artist workshop, in accordance with Policy S22 of the City Plan that we adopted in July 2016.

- 27 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application:

- The living roofs

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

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 28 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.

- at least 11 kWp (in total) of 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 (July 2016). (R44AC)

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 (July 2016), 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
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: , <http://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
You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

- 4
Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning

permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation., , 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). (I38AB)

- 5 Your proposals include demolition works. If the estimated cost of the whole project exceeds £300,000 (excluding VAT), the Site Waste Management Plan (SWMP) Regulations 2008 require you to prepare an SWMP before works begin, to keep the Plan at the site for inspection, and to retain the Plan for two years afterwards. One of the duties set out in the Regulations is that the developer or principal contractor "must ensure, so far as is reasonably practicable, that waste produced during construction is re-used, recycled or recovered" (para 4 of the Schedule to the Regulations). Failure to comply with this duty is an offence. Even if the estimated cost of the project is less than £300,000, the City Council strongly encourages you to re-use, recycle or recover as much as possible of the construction waste, to minimise the environmental damage caused by the works. The Regulations can be viewed at www.opsi.gov.uk.
- 6 With reference to condition 12 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.
- 7 The term 'clearly mark' in condition 11 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 8 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk. , , If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk , , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 9 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 10 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 11 Conditions 16, 18 and 20 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)
- 12 In order to remove the chamfered corner at the junction of Baker Street and Crawford Street, this triangle of public highway will need to 'stopped up'. The applicant will need to pay the City Council's reasonable costs of making and consulting on an Order pursuant to Section 247 of the Town and Country Planning Act (1990) (as amended) to 'stop-up' this area of public highway.
- 13 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- (a) The submission of a Car Lift Maintenance and Management Plan for the City Council's approval and adherence to this Plan for the life of the development.
 - (b) The artist workspace at basement level 1 to be provided at a peppercorn rent for a minimum period of 25 years.
 - (c) Unallocated car parking.
 - (d) The costs of monitoring the S106 legal agreement. (I55AA)
- 14 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the commercial unit over basement and ground floor levels at the corner of Baker Street and Crawford Street can change between Class A1 (Shops) and Class A2 (Financial and Professional Services) 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 due to the Article 4 Direction in place that restricts such a change of use. (I62A)

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.