

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 31 January 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bryanston And Dorset Square	
Subject of Report	50 Balcombe Street, London, NW1 6ND		
Proposal	Installation of a glazed roof access hatch in roof of 4th floor mansard storey and replacement of internal staircase to roof level with new staircase/ ladder.		
Agent	Kember Loudon Williams LLP		
On behalf of	B Gibson		
Registered Number	16/08338/FULL & 16/08339/LBC	Date amended/ completed	8 September 2016
Date Application Received	31 August 2016		
Historic Building Grade	II		
Conservation Area	Dorset Square		

1. RECOMMENDATION

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

2. SUMMARY

The application site is a Grade II listed terraced property located on the west side of Balcombe Street within the Dorset Square Conservation Area. This proposal relates to the maisonette on the third and fourth floor levels.

Planning permission and listed building consent are sought for the installation of a glazed roof hatch in the roof of the 4th floor mansard storey to provide access to roof level and replacement of the internal staircase at 4th floor level with a steeper staircase/ ladder.

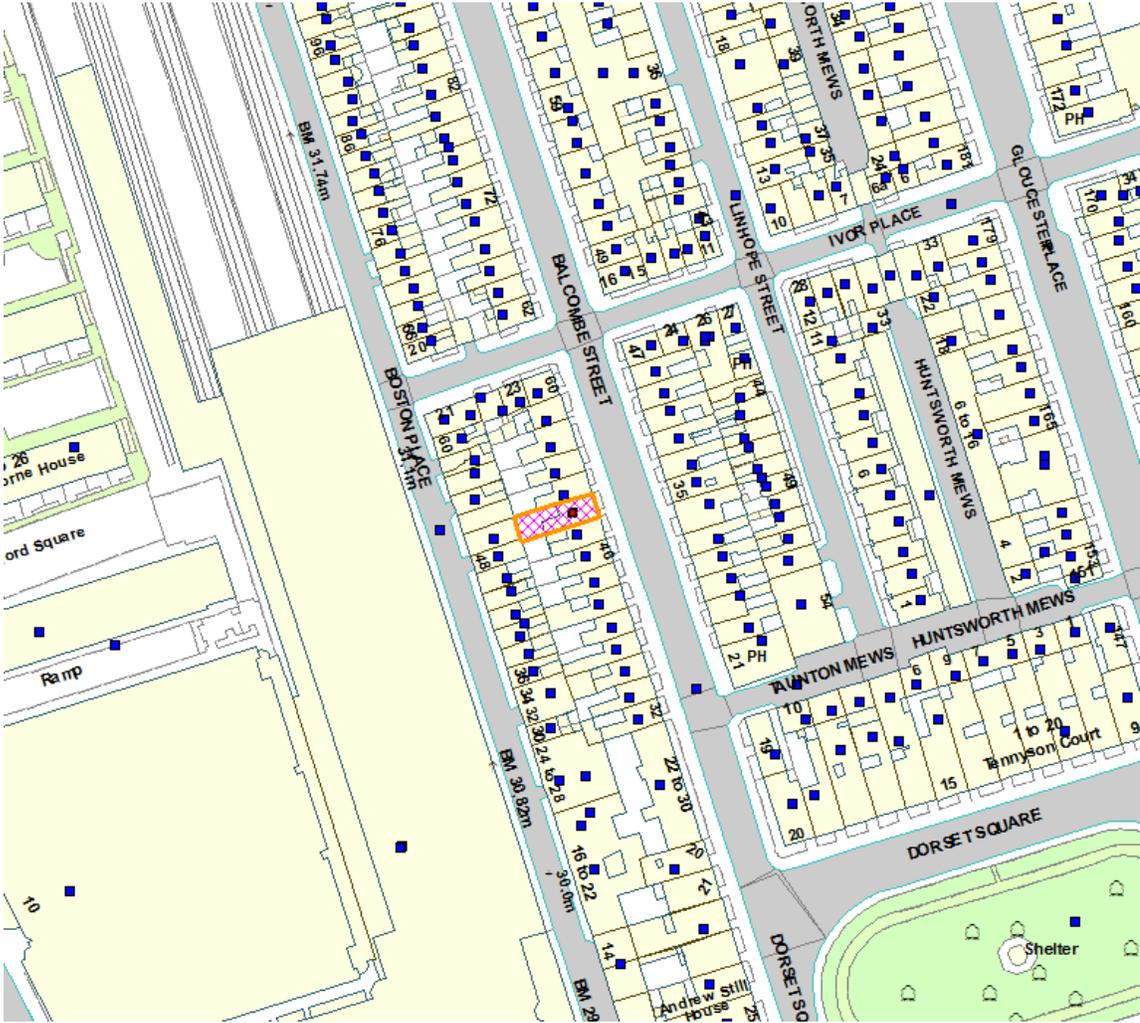
The key issues in this case are:

- The impact on the significance and character and appearance of this listed building and the character and appearance of the Dorset Square Conservation Area;
- The impact of the proposed access hatch on the amenity of neighbouring residents in terms of

noise disturbance and overlooking.

For the reasons set out in the report, subject to the recommended conditions, the proposed roof hatch and associated works accord with the relevant policies in the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016 (the City Plan). As such, the applications are recommended for conditional approval.

3. LOCATION PLAN

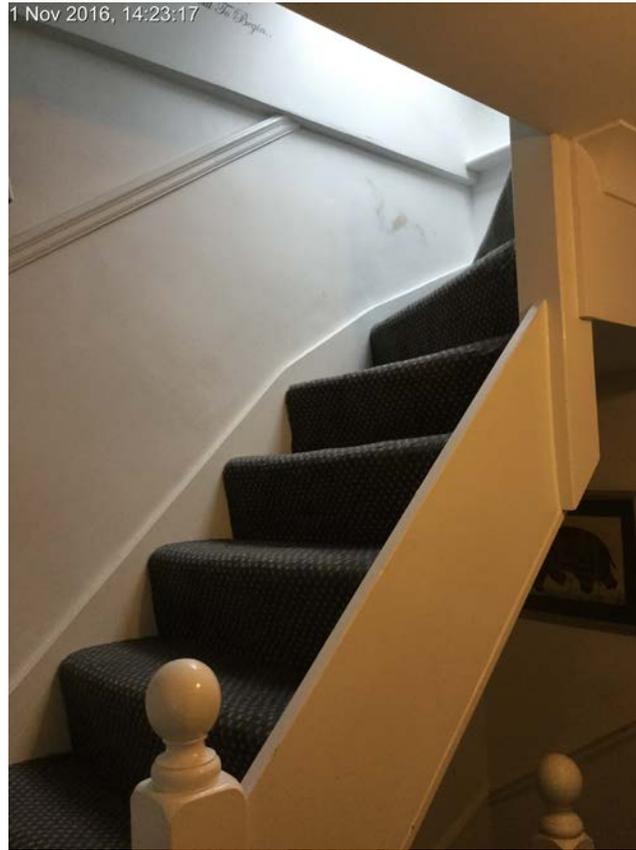


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4. PHOTOGRAPHS



Front elevation (top) and existing access hath at roof level (bottom).



Existing internal staircase at fourth floor level which leads to access hatch.

5. CONSULTATIONS

WARD COUNCILLORS (BRYANSTON AND DORSET SQUARE)

Any response to be reported verbally.

ST MARYLEBONE SOCIETY

Defer to Conservation Officer. It would have been useful to see photos of existing and proposed roof hatches side by side.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 14; Total No. of replies: 1.

One email received raising objection on the following grounds:

- The proposed hatch appears to be larger than the existing;
- The loss of residential amenity to neighbours through noise, disturbance, overlooking and loss of privacy; and
- The installation of a ladder will pose greater safety risks.

ADVERTISEMENT / SITE NOTICE: Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is a Grade II listed mid-terraced property located on the west side of Balcombe Street within the Dorset Square Conservation Area. This proposal relates to the maisonette on the third and fourth floors.

The property has been extended at roof level with a mansard roof extension granted permission in the mid 1980's. There is a staircase inside this flat which leads onto the flat roof of the mansard via an access hatch. This existing hatch, which sits proud of the mansard roof, is unauthorised.

The flat roof area of the mansard is tiled and at the rear of the flat roof facing towards Boston Place, there is a recently built timber seat/enclosure which is fixed to the party walls. At the front, there is a metal railing. The front railing and the timber enclosures are also unauthorised. However, whilst most of the current the structures at roof level are unauthorised (including the means of access to the roof), the use of the flat roof of the mansard as a roof terrace is lawful, as was established by the Certificate of Lawful Existing Use or Development issued on 24 January 2005.

6.2 Recent Relevant History

20 January 2005 – Planning and listed building consent applications for retention and relocation of rooftop railings in connection with use as a roof terrace were withdrawn (04/09524/FULL and 04/09515/LBC).

24 January 2005 – A Certificate of Lawful Existing Use or Development was issued confirming that the use of part of mansard flat roof as a roof terrace was lawful (04/09525/CLEUD).

9 April 2008 – Two listed building enforcement notices were issued, which took effect on 15 May 2008. The requirements of the two enforcement notices are as follows:

- Within 3 months (a) remove the glazed roof extension built on top of the mansard roof of the property; (b) making good any damage caused to by the carrying out of the unauthorised works; and restoration of the property to its original condition prior to carrying out of the unauthorised works.
- Within 3 months (a) remove the railings installed on the roof of the mansard to the front and rear elevations of the property; (b) making good any damage caused to by the carrying out of the unauthorised works; and restoration of the property to its original condition prior to carrying out of the unauthorised works.

19 November 2008 – An appeal against the enforcement notice dated 9 April 2008 requiring the removal of the glazed roof extension built on top of the mansard roof was dismissed; although the period for compliance was extended to 5 months.

The glazed roof extension and railings were subsequently removed and replaced by a new roof access structure and the means of enclosure referred to in enforcement notices dated 9 June 2016 (see below).

27 November 2012 – Planning permission and listed building consent were refused for retention of a low level access hatch on the roof of the mansard and use of part of existing flat roof as a roof terrace (08/11044/FULL and 08/11045/LBC). Application refused on design grounds and on grounds that the proposal will result in more intensive use of the flat roof of the mansard as a terrace, to the detriment of the amenity of neighbouring residents.

16 August 2013 – Planning permission and listed building consent were refused for erection of railings to the rear of the flat roof of the mansard (13/04958/FULL and 13/04959/LBC). Application refused on design grounds and on grounds that the proposal will result in more intensive use of the flat roof of the mansard as a terrace, to the detriment of the amenity of neighbouring residents.

5 March 2014 – An appeal against the City Council's decision of 27 November 2012 was dismissed. In dismissing the appeal the Inspector found that the hatch proposed would unacceptably protrude above the roof and, relative to the overall area of the roof, would be significant in size. The Inspector also noted that the hatch would facilitate further uncharacteristic use of the roof as a terrace. In these regards the proposed hatch would harm the appearance of the listed building and the character and appearance of the conservation area. The Inspector also considered the additional use of extra areas of the roof as a terrace, beyond those areas confirmed to be lawful by the 2004 certificate, to be harmful to the amenity of neighbouring residents due to increased noise and disturbance and overlooking.

25 March 2015 – Planning permission and listed building consent were refused for the installation of a flat sliding rooflight to provide access to roof terrace at main roof level

(14/10040/FULL and 14/10041/LBC). Application refused on design grounds and on grounds that the proposal will result in more intensive use of the flat roof of the mansard as a terrace, to the detriment of the amenity of neighbouring residents.

20 May 2016 – An appeal against the City Council's decision of 25 March 2015 was dismissed. In dismissing the appeal the Inspector again found that the hatch proposed would unacceptably protrude above the roof and, relative to the overall area of the roof, would be significant in size. The Inspector also again noted that the hatch would facilitate further uncharacteristic use of the roof as a terrace. In these regards the proposed hatch would harm the appearance of the listed building and the character and appearance of the conservation area. In terms of residential amenity, like to 2014 appeal decision the Inspector considered the intensification of the use of the roof as a terrace would be harmful to the amenity of neighbouring residents due to increased noise and disturbance and overlooking.

9 June 2016 – Three listed building enforcement notices were issued, which took effect on 15 July 2016. The requirements of the three enforcement notices are as follows:

- Enforcement Notice B, which requires within 6 months (a) the removal from the mansard roof the raised enclosure and access hatch and (b) following completion of (a), restoration of the roof to its previous condition by reinstating paving stones to match those already in situ elsewhere on the roof.
- Enforcement Notice C, which requires within 6 months the removal of the metal railings erected at roof level to the front of the property.
- Enforcement Notice D, which requires within 6 months the removal of the timber structure (providing bench-type seating) installed at roof level.

7. THE PROPOSAL

The applicant seeks planning permission and listed building consent for the installation of a glazed roof hatch in the roof of the 4th floor mansard storey to provide access to roof level. Listed building consent is also sought for internal alterations to the top floor to replace the existing staircase to roof level with a new steeper staircase/ ladder. The applicant states that the proposed access hatch is required for maintenance purposes.

The applicant has confirmed in the submitted Design and Access Statement that it is his intention to remove the unauthorised structures (the access hatch and box, the timber seat structure to the rear of the roof and the front railings) in accordance with the enforcement notices that came into force in July 2016. The applicant's intention is to carry out these works to comply with the enforcement notices along with the works to implement the new access hatch and staircase/ ladder that comprise the current application, if permission and consent are granted.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposed development does not propose a material change of use. The use of the roof for sitting out on as a terrace was confirmed as being lawful by the Certificate of Lawful Existing Use or Development issued on 24 January 2005. However, this does not

mean the means of access and enclosure to the roof that have been erected are lawful. These are unauthorised and, with the exception of the water tank enclosure, the enforcement notices that came into effect on 15 July 2016 require their removal.

8.2 Townscape and Design

As set out in Section 6.2 of this report there is a significant amount of planning history in this case, including two recent appeal decisions in 2014 and 2016 relating to larger and more prominent roof access hatches than is currently proposed. These appeal decisions, which are included in full in the background papers, are material considerations in the determination of the current planning and listed building consent applications. The appeal decisions both establish that any access hatch on the roof of this building would need to project only marginally above the roof of the flat roof of the mansard and that the size of the access structure, including any boxing around it, must be much smaller than the existing unauthorised structure at roof level. The Inspectors both identified that such amendments would be necessary to reduce the impact of any access hatch on the character and appearance of the listed building and the Dorset Square Conservation Area, and to avoid the intensification of the uncharacteristic use of the roof of the listed building for sitting out on/ as a terrace.

It is also of note that there are small low level rooflights/ access hatches, similar in scale to that proposed, to the flat roofs of the mansards of both neighbouring listed buildings at Nos.48 and 52 Balcombe Street.

As noted by the objector, the proposed roof access hatch itself would be larger than the existing unauthorised hatch, which measures approximately 0.45m by 0.65m. However, the proposed access hatch would remain small in size (measuring 1.1m x 0.76m) and would project only 0.13m above the roof level of the mansard roof storey. Conversely the existing unauthorised roof access hatch is mounted on a raised felt clad box/ bulk head, which measures 2.4m by 1.13m and projects 0.5m above the flat roof of the mansard.

The true comparison however, is with the lawful position at roof level, which comprises a relatively uncluttered flat roof with only paving slabs on the flat roof and a water tank to the front of the roof area in front of the location of the proposed roof hatch. The presence of the water tank structure, which is not required to be removed by the enforcement notices that came into effect in July 2016, would screen the low level access hatch in public and private views from Balcombe Street.

To the rear, the proposed access hatch would only be visible in a limited number of views from upper floor windows in the much smaller scale properties in Boston Place. Furthermore, in these limited views the proposed access hatch would be very discreet due to its low profile above the original roof level and its location against the party wall and chimney shared with No.48 Balcombe Street. Additionally, it would appear in front of the existing felt covered water tanks and is to be finished in a dark grey colour, such that its projection above roof level would be even less appreciable in these limited private views from the rear.

Whilst the proposed access hatch would be slightly larger than the unauthorised hatch, it would remain small in size and would be almost flush with the roof level of the mansard, rather than raised 0.5m above roof level, as is the case with the unauthorised roof access

hatch. The consequence of the proposed lowering of the height of the access hatch is that the internal staircase to reach roof level will need to be remodelled to form a steeper staircase/ ladder arrangement, as the existing head room adjacent to the access hatch will be lost as a result of the removal of the unauthorised projecting box/ bulk head structure. The resultant effect of these changes will be to make the roof of the mansard much less accessible than it currently is.

The introduction of a steeper stair/ ladder and the provision of an access hatch of limited dimensions would discourage occupiers from using the roof to some degree and would also preclude larger items of outdoor furniture or other paraphernalia, which would clutter the roof of the building, being taken on to the roof. However, the retention of a staircase/ ladder to roof level; albeit one with a steeper gradient than existing, would continue to provide permanent access. This would therefore continue to provide enticing access to external space for occupiers of the flat given that no other external amenity space is available to them. Therefore to protect the appearance, character and function of the roof of the listed building a condition is recommended to prevent the use of the roof access hatch except to for the carrying out of maintenance works or in an emergency as a means of escape.

A condition is also recommended requiring further details of the new stairs/ ladder as these are not shown in sufficient detail or context on the submitted drawings so as to understand their intended appearance or impact on the plan form and layout of the listed building. The principle of amending the existing staircase is not objectionable given that the mansard roof storey is a 20th Century addition to the original listed building.

For the reasons set out, the proposed access hatch and internal alterations are considered to address the design and listed building concerns expressed by Inspectors in their appeal decisions in 2014 and 20166. As such, the proposal would not harm the special interest of the listed building and would maintain the character and appearance of the listed building and the Dorset Square Conservation Area. The proposals would accord with Policies DES1, DES6, DES9 and DES10 in the UDP and Policies S25 and S28 in the City Plan.

8.3 Residential Amenity

In amenity terms, the Inspectors in their appeal decisions in 2014 and 2016 (see full copies of appeal decision in the background papers) found that the provision of an access hatch that readily facilitates access to the roof of the building would lead to an intensification of the use of the roof for sitting out on/ as a terrace and that this would consequently result in a materially increase in noise disturbance and overlooking for neighbouring and adjacent occupiers.

The objection received raises concern that the access hatch proposed is larger than the existing unauthorised hatch and that this will lead to intensification of the use of the roof for recreational purposes and social gatherings, thus resulting in a loss of residential amenity to neighbours through noise disturbance and overlooking.

As set out in Section 6.2, whilst the proposed access hatch would necessitate the installation of a steeper staircase/ ladder than the existing staircase to roof level, the ability to access the roof as amenity space would nonetheless remain on a permanent basis;

whereas there has never been a lawful roof access structure/ hatch to the roof of this property. Therefore to address the amenity impact resulting from the intensification of the use of the roof for sitting out on/ as a terrace, which will occur from the provision of a permanently accessible roof access hatch, a condition is recommended to prevent the use of the hatch except for maintenance purposes or as a means of escape in an emergency.

Subject to the recommended condition, the proposed roof access hatch would not result in a material increase in noise disturbance or overlooking to neighbouring residential occupiers. The proposal would therefore accord with Policies ENV6 and ENV13 in UDP and Policies S28 and S32 in the City Plan.

8.4 Transportation/Parking

Not applicable.

8.5 Economic Considerations

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

8.6 Access

The application does not affect the existing means of access to this private residential property.

8.7 Other UDP/Westminster Policy Considerations

None relevant.

8.8 London Plan

This application does not raise any 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

This development does not generate a Mayoral or WCC CIL payment.

8.11 Environmental Impact Assessment

The application is of insufficient scale to require the submission of an Environmental Impact Assessment.

8.12 Other Issues

None relevant.

9. BACKGROUND PAPERS

1. Application form.
2. Email from the St Marylebone Society dated 10 October 2016
3. Email from the occupier of 41 Balcombe Street dated 7 October 2016.
4. Appeal decision letter dated 20 May 2016.
5. Planning and listed building consent decision letters dated 25 March 2015 and relevant application drawings.
6. Appeal decision letter dated 5 March 2014.
7. Planning and listed building decision letters dated 27 November 2012 and relevant application drawings.
8. Certificate of Lawful Existing Use or Development decision letter dated 24 January 2005 and relevant application drawing.

(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: OLIVER GIBSON BY EMAIL AT ogibson@westminster.gov.uk.

DRAFT DECISION LETTER

Address: 50 Balcombe Street, London, NW1 6ND

Proposal: Installation of a glazed roof access hatch in roof of 4th floor mansard storey and replacement of internal staircase to roof level with new staircase/ ladder.

Reference: 16/08338/FULL

Plan Nos: Site location plan, Design and Access Statement dated September 2016, 922-01 Rev.J and 922-03 Rev.C.

Case Officer: Agnes Hagan

Direct Tel. No. 020 7641 5651

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) 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 Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must not use the roof access hatch hereby approved except for the carrying out of maintenance inspections and maintenance works at roof level and you must not use it to access the roof of the 4th floor mansard storey for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

Reason:

To prevent the intensification of the use of the roof for sitting out on/ as a terrace so as to protect the noise environment and privacy of neighbouring residents and protect the appearance, character and function of the roof of this listed building and to make sure the development contributes to the character and appearance of the Dorset Square Conservation Area. This is as set out in S25, S28 and S29 of Westminster's City Plan (November 2016) and ENV6, ENV13, DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

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 (November 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 Notwithstanding the development hereby approved, you are reminded of the need to comply with the enforcement notices that came into force July 2016. We may take legal action to have the work removed and the building restored to how it was if you do not comply with the requirements of the enforcement notices.

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: 50 Balcombe Street, London, NW1 6ND

Proposal: Installation of a glazed roof hatch to provide access to roof level.

Reference: 16/08339/LBC

Plan Nos: Site location plan, Design and Access Statement dated September 2016, 922-01 Rev.J and 922-03 Rev.C.

Case Officer: Agnes Hagan

Direct Tel. No. 020 7641 5651

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 listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and Sections 5 and 6 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

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

(a) The new internal staircase/ ladder at fourth floor level to provide access to the roof hatch at a scale of 1:20 or larger.

(b) Plans showing any consequential amendments to the internal layout of the fourth floor as a result of the removal and replacement of the existing unauthorised staircase (at a scale of 1:50).

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

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and Sections 5 and 6 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 4 You must not use the roof access hatch hereby approved except for the carrying out of maintenance inspections and maintenance works at roof level and you must not use it to access the roof of the 4th floor mansard storey for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

Reason:

To prevent the intensification of the use of the roof for sitting out on/ as a terrace so as to protect the appearance, character and function of the roof of this listed building and to make sure the development contributes to the character and appearance of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) 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 March 2016, Westminster's City Plan (July 2016), 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 Sections 5 and 6 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 Notwithstanding the works hereby approved, you are reminded of the need to comply with the enforcement notices that came into force July 2016. We may take legal action to have the work removed and the building restored to how it was if you do not comply with the requirements of the enforcement notices.

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.