

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 14 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>79 New Cavendish Street, London, W1G 7LT,</b>		
<b>Proposal</b>	Use of part lower ground, ground, and first to fifth floors to medical (Class D1), and dual/alternative use of part basement and part ground floor as either medical (Class D1) or retail purposes (Class A1).		
<b>Agent</b>	Turley		
<b>On behalf of</b>	Harley Property Holdings		
<b>Registered Number</b>	16/11211/FULL	<b>Date amended/ completed</b>	24 November 2016
<b>Date Application Received</b>	24 November 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Harley Street		

## 1. RECOMMENDATION

Grant conditional permission, including a condition to secure the relocation of resident's car parking bays from the west side of Hallam Street to the east side of Hallam Street.

## 2. SUMMARY

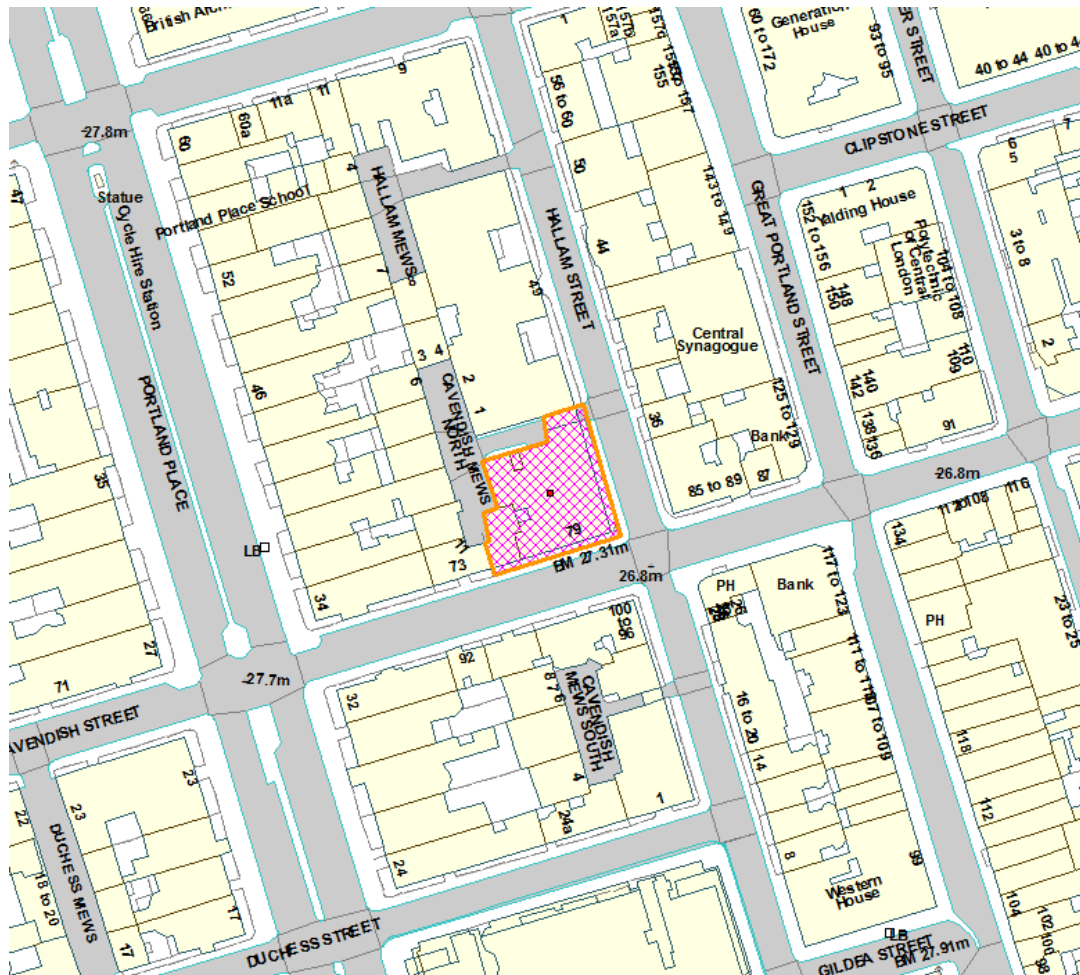
The application site is situated on the corner of New Cavendish Street and Hallam Street. There is a retail unit at part basement and ground floor and the rest of the building is in use as offices. Permission is sought to use the basement and ground floors for either retail or for medical and use the upper floors for medical purposes (Class D1). As part of the proposals the applicant wishes to relocate the existing resident's parking bays from the west side of Hallam Street to the east side to enable servicing vehicles to park closer to the servicing entrance in Cavendish Mews North.

The key issues for consideration are:

- The introduction of a medical use in this part of Marylebone;
- The impact the medical use will have on the character and function of the area;
- The impact the medical use will have on the highway network, traffic movements and servicing;
- The impact on residential amenity.

The proposal is considered to comply with the policies set out in Westminster's City Plan and the Unitary Development Plan (UDP) and is therefore recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### THE MARYLEBONE ASSOCIATION

Any response to be reported verbally.

### HIGHWAYS PLANNING MANAGER

Concern raised over the number of drop-off and pick-ups that may be associated with the medical use. However, considers that this could be accommodated on the yellow lines on Hallam Street or New Cavendish Street

### CLEANSING

No objection

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 235

Total No. of replies: 9

Nine letters of objection have been received raising all or some of the following:

#### Land use

- Loss of office floorspace.
- Use of part of the building for retail purposes.
- Medical use would be out of keeping with the character and function of the area.
- Proposal will lead to residential flats in neighbouring properties being used unlawfully as medical consulting rooms.

#### Amenity

- Concern over the hours of operation for the medical consulting rooms.
- Loss of privacy if the medical use operates after normal office hours.

#### Highways/parking

- Added congestion resulting from pick-ups and drop-offs.
- Impact of ambulances on the highway.
- Proposal does not increase the amount of public car parking space.
- Number of servicing vehicles will be disruptive on the highway.
- The use of Cavendish Mews North for servicing vehicles is not acceptable.

#### Other

- Works on-site have been ongoing for some time and are causing a great deal of noise and disturbance.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This is an unlisted building situated within the Harley Street Conservation Area. The building has frontages on New Cavendish Street, Hallam Street and to the rear on

Cavendish Mews North. Part of the basement and ground floor is in use as a hair salon (Class A1) and the rest of the ground floor and the five upper storeys are in office use. There are four existing commercial car parking spaces in the basement, which is accessed via a car lift on Cavendish Mews North.

## 6.2 Recent Relevant History

Planning permission was granted on 28 February 2012 for the dual/alternative use of part basement and part ground floor for continued office (Class B1) and/or for retail purposes (Class A1). External alterations to New Cavendish Street, Hallam Street and Cavendish Mews North facades, installation of photovoltaics at roof level and new plant.

A planning application for the dual/alternative use of the lower ground floor, ground floor and 1st to 5th floors for medical purposes (Class D1/C2) was withdrawn in August 2016.

A planning application for the use of the building as a private hospital (Class C2) and alterations to all facades, alterations to the pitch of the existing fifth floor mansard roof, erection of a sixth floor secondary pitched roof extension and installation of plant at roof level was also withdrawn in August 2014.

## 7. THE PROPOSAL

Permission is sought for the use of part basement, part ground and first to fifth floors for medical use (Class D1) and the use of the part basement and part ground floors for either medical purposes (Class D1) or retail purposes (Class A1).

The proposals are speculative and an end user of the medical use has not been selected. However, the applicants have identified that there could be approximately 14 consulting rooms per floor resulting in around 70-78 medical consulting rooms. Indicative plans have been provided indicating how this use could be provided within the building.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of office use

The proposal will result in the loss of 3120m<sup>2</sup> of office floorspace. Objections have been received on the grounds that there is a loss of office floorspace in this location. However, as the loss of the offices is to another commercial use, the loss is considered acceptable and the objection is not considered to be justified.

#### Loss of retail

The proposals involve the dual/alternative use of the existing hair salon at part ground and basement levels for either retail or medical use. Despite the objection raised, there is no net increase in retail floorspace, however, in the event that this part of the building is used for medical purposes, the proposals would result in the loss of 174m<sup>2</sup> of retail floorspace. Policy S21 of the City Plan states that existing A1 retail will be protected throughout Westminster, except where the City Council considers that the unit is unviable. The site is located outside the Core CAZ and is an isolated retail unit within this part of New Cavendish Street, and it is not considered that this part of the street has a strong retail

character. Notwithstanding the fact that the unit has not been vacant for 18 months in compliance with Policy S21, it is considered that the loss in this instance is acceptable.

### **Introduction of medical use**

Objections have been received on the grounds that the site is outside the Harley Street Medical Special Policy Area (SPA), however, the provision of new social and community facilities, including private medical facilities, is supported throughout Westminster by Policy S34 of the City Plan. It is recognised that there is conflict with this policy and Policy S8, which states that outside the 'Named Streets' in Marylebone and Fitzrovia, new commercial uses will not generally be appropriate. Whilst the site is outside a 'Named Street', as the building is already in commercial use, it is not considered that a new commercial use is being created. Further, given that all social and community uses are encouraged citywide under Policy S34, it is considered that the proposal would be in accordance with City Plan policies.

An application for the use of the building as a private hospital, as a satellite site to The Portland Hospital was reported to Committee in June 2014 recommended for approval. Whilst it was ultimately withdrawn by the applicant, the principle of a medical use in this location has previously been considered acceptable by Officers.

The impact of the proposed use in traffic and amenity terms is discussed in further detail below.

## **8.2 Townscape and Design**

There are no external alterations proposed therefore the proposal does not raise any design implications.

## **8.3 Residential Amenity**

The application site is located in an area that is characterised by commercial uses, although it also contains residential uses, the closest of which are at the rear within Cavendish Mews North, to the north within 49 Hallam Street and also on the opposite side of New Cavendish Street at 94, and 96-100. Objections have been received on the grounds that the medical use will increase the amount of activity within the building and to the surrounding area through more traffic, increased numbers of servicing; drop offs on New Cavendish Street and from increased activity from staff and patients.

As set out above, the proposed use is speculative. However, the applicant has identified that there could be approximately 70-78 consulting rooms. In terms of staff numbers, the applicant estimates that there will be approximately 45-55 full time members of staff, but anticipates that many doctors will be working across a number of practices and envisages that only 40-50 consulting rooms will be in use at any one time. On this basis, the applicant estimates that between 400 to 600 patients would visit the premises each day. This would equate to 33-60 patients an hour.

A typical shift pattern for clinical staff is anticipated from 08.00 to 22.00 and for non-clinical staff between 06.30 to 22.00.

All access to the medical use would be via New Cavendish Street and spread throughout the day. Given that the access would be on New Cavendish Street the likely numbers of staff and patients and the likely level of late night activity, it is not considered that the impact of the proposed use would differ significantly from that of the lawful office use which is not controlled by planning conditions and could potentially be used late in the evening. A condition is recommended to ensure that the rear entrance within Cavendish Mews North is not used by staff or patients. In these circumstances, the proposals are considered acceptable in amenity terms.

No ambulance arrivals are anticipated as all services offered will be elective procedures. However, in the event that an emergency vehicle is required to access the building it will be able to park on the street. It is not considered that the medical use will have a detrimental impact on the area in environmental terms.

An objector opposite the site is concerned about increased overlooking and loss of privacy. No new windows are proposed, and given the street's width distance from any adjoining residential accommodation, it is not considered that the proposed use as medical use will increase the amount of overlooking to residential properties surrounding the site.

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

##### **Servicing**

Strong objections have been received to the use of Cavendish Mews North for the purposes of servicing. The applicant has stated that the proposed use will have no more vehicle movements than the existing use generates (10 per day). The Highways Planning Manager agrees with this statement, but the submission of a detailed Servicing Management Plan (SMP) is recommended by condition once the occupier of the building is confirmed.

Medical waste will be collected daily in contained units by a contracted company. General waste will be collected as per the current refuse collection for the existing building. A notice on Cavendish Mews North states that waste collection takes place on Tuesday, Thursday and Saturday at 10.00.

A ramp is shown on the highway within Cavendish Mews North on the proposed drawings and this is not acceptable. There is an existing ramp in this location, but it is not considered to be appropriate considering that the plans show level access from the mews to the goods lift. A condition is recommended to remove the ramp from the proposals. A condition is also recommended to ensure that the goods lift doors (or any doors) do not open over the highway.

The applicant is also proposing that the existing residents parking bays on the west side of Hallam Street are moved to the east side of Hallam Street. This would allow any servicing vehicles to park closer to the 'goods in' entrance in Cavendish Mews North. This would also be beneficial as it would negate the need for vehicles to enter Cavendish Mews North which has a narrow entrance and restricted headroom. This would also address some of the objectors concerns over the potential conflicts in the mews. The moving of the parking bays would be subject to a separate Traffic Management Order consultation and will be secured by a Grampian condition. An informative is recommended to ensure that any

servicing management plan that is submitted in connection with this use, will prevent servicing vehicles (except for the refuse collection vehicles) from entering Cavendish Mews North.

On this basis the servicing of the site is considered acceptable.

### **Drop-off and Pick-up**

There have been a number of objections relating to the number and method of drop-off and pick-up for the medical use. The Highways Planning Manager requested additional information as the submitted Transport Statement did not adequately cover this element. The applicant has submitted some estimated figures as the proposed occupier has not been secured. They estimate that there will be approximately 40 patient arrivals an hour and the majority of patients will arrive by walking, cycling, public transport or taxi. Based on site characteristics and other similar medical consulting uses nearby, they expect 45% to arrive by car or taxi, which is less than 20 per hour. The Highways Planning Manager is inclined to agree that this could be accommodated on yellow lines on Hallam Street and New Cavendish Street, but as the medical use is speculative, an Operational Management Plan should be requested by condition once the occupier is secured to ensure that this activity can be accommodated on street.

## **8.5 Economic Considerations**

Any economic benefits generated by the scheme are welcomed.

## **8.6 Access**

Access to the medical use will be via New Cavendish Street and level access is provided. Lift access is provided to the upper floors.

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

Not applicable.

## **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**

From the 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permission granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or



provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works.

The applicant has confirmed that they are willing to fund the relocation of the existing resident's car parking bays from the west side of Hallam Street to the east side and this will be secured via a Grampian condition to allow the applicant to enter into a S106 agreement at a later date, but before the occupation of the building for medical purposes.

This type of development does not trigger the CIL Regulations.

### **8.11 Environmental Impact Assessment**

Not applicable.

### **8.12 Other Issues**

An objection has been received on the grounds that the medical use is likely to result in the use of existing residential accommodation as unlawful consulting rooms. Any subsequent unlawful use of nearby residential properties would be subject to enforcement procedures and the application could not be refused on this basis.

## **9. BACKGROUND PAPERS**

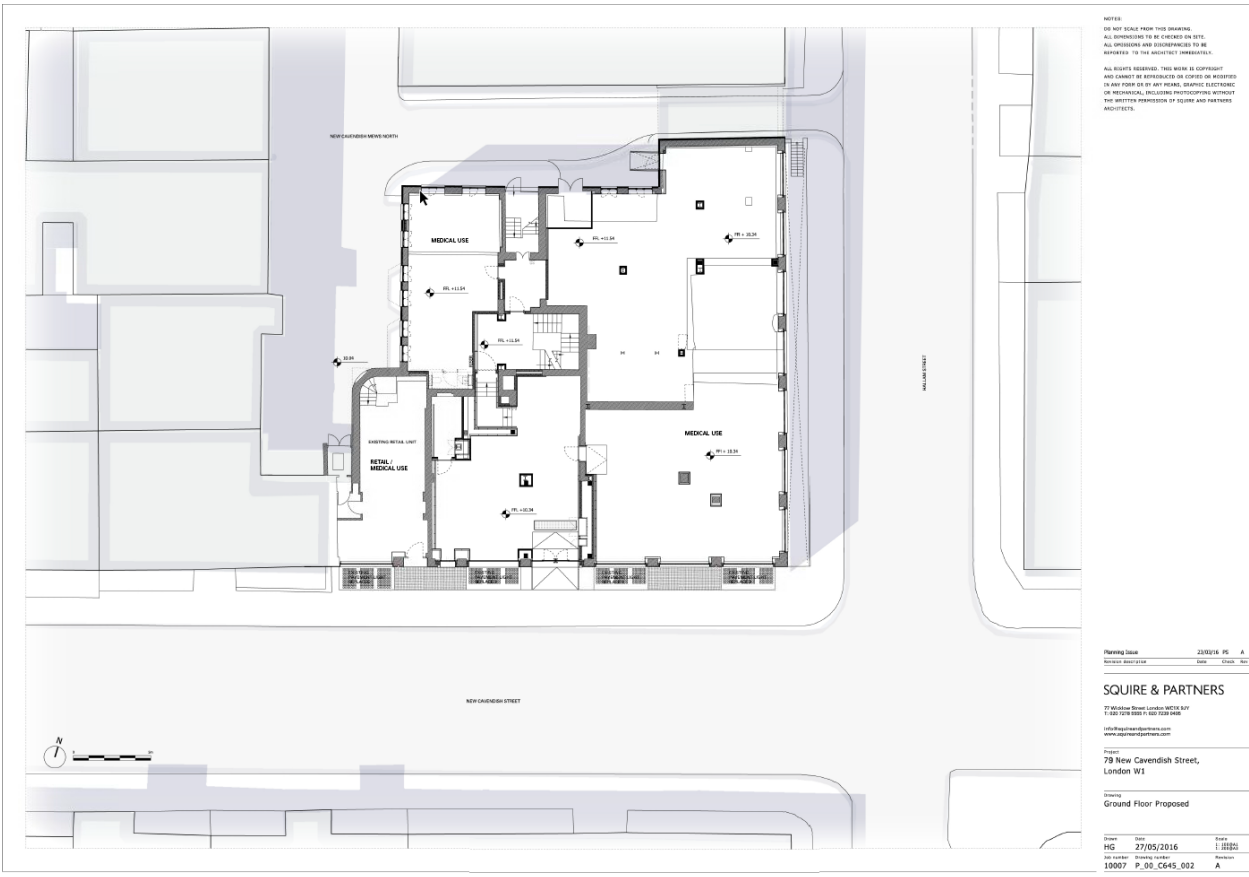
1. Application form
2. Memorandum from Cleansing dated 9 February 2017
3. Memorandum from the Highways Planning Manager dated 17 February 2017
4. Letter from occupier of Suite 2 85 New Cavendish Street dated 7 December 2016
5. Letter from occupier of Flat 5 94 New Cavendish St dated 12 December 2016
6. Letter from occupier of Flat 3 94 New Cavendish Street dated 17 December 2016
7. Letter from occupier of 7 De Walden Court 85 New Cavendish Street dated 20 December 2016
8. Letter from occupier of 5 De Walden Court 85 New Cavendish Street dated 22 December 2016
9. Letter from occupier of Ralwood Securities Ltd, 9 De Walden Court dated 28 December 2016
10. Letter from occupier of Flat 67 49 Hallam Street dated 3 January 2017
11. Letter from occupier of 1 Weymouth Street dated 4 January 2017
12. Letter from occupier of Flat 4 96-100 New Cavendish Street dated 23 January 2017

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

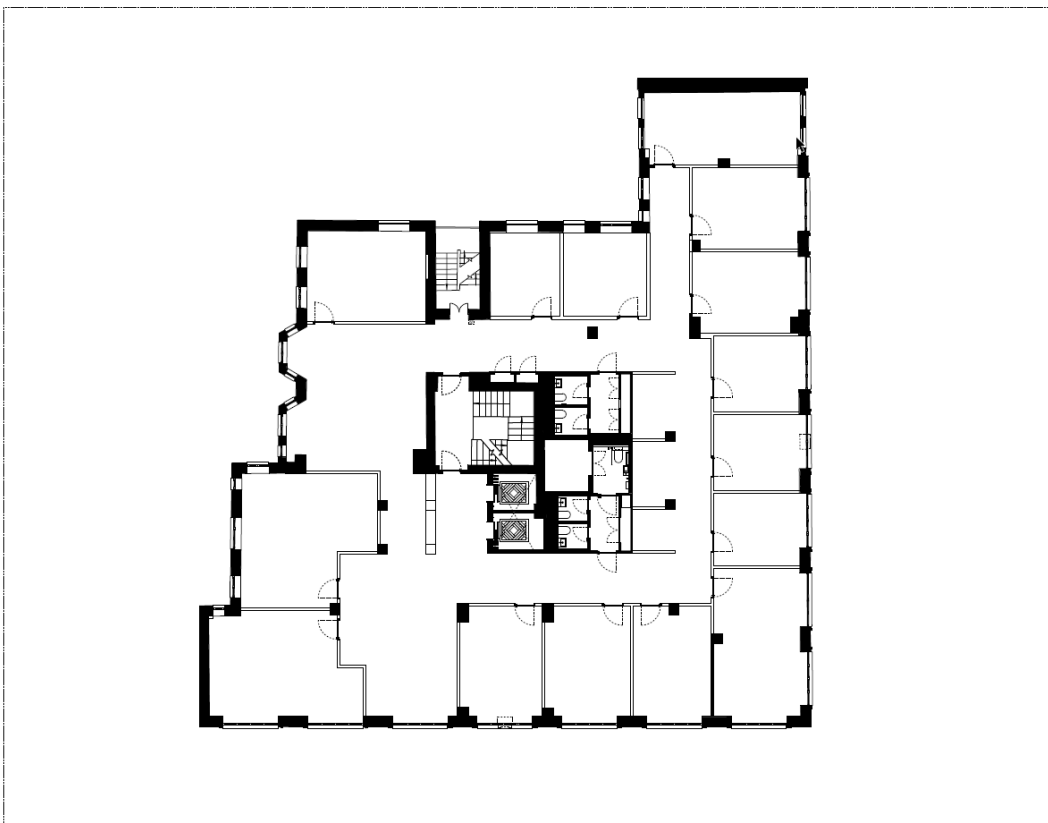
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)

# KEY DRAWINGS

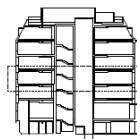
## Proposed ground floor



Typical upper floor plan



NOTICE  
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DATE: 09/12/2016 11:00:00 AM

**SQUIRE & PARTNERS**

17 Old Broad Street, London, EC4A 3DF  
T: 020 7593 3000 F: 020 7593 3000

www.squireandpartners.com  
info@squireandpartners.com

Project:  
77 New Cavendish Street,  
London W1

OFFICE SCHEME 2015

Phase:  
2nd Floor Proposed  
Medical Consulting Rooms

DATE	BY	CHKD
09/12/2016	SPa	QJ
10007_P_02_G200_002		

**DRAFT DECISION LETTER**

**Address:** 79 New Cavendish Street, London, W1G 7LT,

**Proposal:** Use of part lower ground, ground, and first to fifth floors to medical consulting rooms/clinic/health centre (Class D1), and dual/alternative use of part basement and part ground floor as either medical consulting rooms/clinic/health centre (Class D1) or retail purposes (Class A1).

**Reference:** 16/11211/FULL

**Plan Nos:** P\_LG\_N340\_001\_M, P\_00\_C645\_002 A, P\_02\_G200\_002, PLG\_C645\_002, P\_01\_C645\_002, P\_03\_C645\_002, P\_04\_C645\_002, P\_05\_C645\_002, P\_06\_C645\_002

**Case Officer:** Helen MacKenzie

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

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

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

Reason:

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

- 2 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 (November 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 detailed drawings showing the following alteration(s) to the scheme:
- the removal of the ramp within Cavendish Mews North.

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:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 4 Prior to the occupation of the medical use (Class D1) you shall submit and have approved in writing by the local planning authority a detailed servicing management strategy. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 5 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number P\_LG\_N340\_001\_M. 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 (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 6 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.

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

- 8 You must apply to us for approval of an operational management plan identifying the layout of the medical use on each floor, the procedures to be undertaken, number of employees, patient numbers and how patients arriving by car or taxi may be accommodated on-street. You must not start the medical use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the building is used for medical purposes.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 9 You must use the part basement, part ground and first to fifth floors only for medical. You must not use it for any other purpose, including any within Class D1 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). (C05AB)

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Harley Street Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 10 You must not use any part of the development until we have approved appropriate arrangements to secure the following:

- the relocation of the residents car parking bays from the west side of Hallam Street to the east side of Hallam Street.

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19BA)

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (November 2016).

- 11 The 'goods in' entrance in Cavendish Mews North, must not be used as an entrance or exit by staff or patients. The door may be used for emergency purposes only.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 12 Patients shall not be permitted within the medical premises before 08.00 or after 21.00 each day. (C12AD)

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**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 In reference to Condition 4, a robust SMP must identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users, including vehicles and pedestrians., , While the future occupants may not be known of all the proposed units, this should not affect the preparation of a SMP. The SMP should be responding to the physical layout of the site and provide robust procedures for any future occupant to follow, to ensure servicing occurs in an efficient manner, minimising impact on the highway. This will also ensure any future occupant is clearly aware of their responsibilities., , The SMP must include that servicing vehicles are not permitted to enter Cavendish Mews North.
- 3 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the part basement and part ground floor can change between the retail (Class A1) and medical (Class D1) 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. (I62A)
- 4 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)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and

collecting waste. (I08AA)

- 6 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)
  
- 7 Under condition 11, we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure the relocation of the residents car parking bays from the west side of Hallam Street to the east side of Hallam Street, as set out in the letter dated 22.02.2017 from Rachel Hearn at Turley. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)

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