

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 17 September 2019	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bryanston And Dorset Square	
Subject of Report	Marble Arch Apartments, 11 Harrowby Street, London, W1H 5PQ		
Proposal	Erection of a single storey roof extension to provide eight additional residential units (Class C3) (2 x 1-bed, 3 x 2-bed and 3 x 3-bed units). Relocation of existing water tanks to new roof level.		
Agent	Stephen Davy Peter Smith Architects		
On behalf of	Jewelside Ltd.		
Registered Number	19/00261/FULL	Date amended/ completed	04 April 2019
Date Application Received	14 January 2019		
Historic Building Grade	Unlisted		
Conservation Area	N/A		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

Marble Arch Apartments is residential development comprising a group of four buildings, now linked, on lower ground, ground and four upper floors, with an attic above. Permission is sought for the erection of a single storey roof extension, forming a double mansard to the front and with a sheer profile to the rear, to create eight new flats (731 sqm). The existing roof level water tanks would be relocated to the roof of the proposed extension.

The key issues are:

- * The amenity impact of the proposed extension on surrounding sensitive properties;
- * The impact of the proposed alterations on the character and appearance of the area;
- * The impacts on-street parking demand.

Numerous objections have been received on land use, amenity, design and highways grounds. However, following design alterations, the application is considered to comply with relevant Unitary Development Plan and City Plan policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

MARYLEBONE ASSOCIATION

Any response to be reported verbally

HIGHWAYS PLANNING

Objection - lack of off-street parking, inadequate cycle parking

PROJECT OFFICER (WASTE)

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 262

Total No. of replies: 118

No. of objections: 116 (including Marble Arch Residents' Association)

No. of Neutral: 2

No. in support: 0

Objection/concerns on the following grounds:

Land use:

- Potential use for short term lets
- Absence of affordable housing
- No open space/private amenity space for new flats

Design:

- Unacceptable bulk/height/massing
- Loss of existing hip roof; replacement of double mansard roof in appropriate in the context of the building and the area
- Impact on architectural integrity of the building and its proportions
- Impact on setting of neighbouring listed buildings
- Impact on streetscape and neighbouring conservation areas
- Impact on private views
- Unacceptable design details (windows /facing materials)
- Drawings do not take account of necessary structural and insulation requirements and extension will be taller than shown

Amenity:

- Loss of privacy
- Loss of daylight and sunlight to neighbouring properties, no daylight/sunlight assessment with application documents
- Overshadowing of open spaces and adjacent streets
- Noise disturbance to occupants of existing top floor flats from use of proposed units
- Detrimental to local environment (air quality/noise pollution)

Highways

- Increased traffic generations (and associated pollution)

- Increased on-street parking demand
- Impact on loading
- Transport analysis does not take account of local changes to Harrowby Street

Construction impact

- General disturbance, noise, health/safety risks, impact on air quality/pollution. Many residents work from home.
- Security of existing flats
- Highway congestion from construction traffic and reduced parking availability
- Impacts of scaffolding for prolonged period (light, enclosure of windows, appearance of building)
- Reduced lift access/impact on communal areas
- Inconvenience from relocation of water tanks
- Families will be forced to relocate
- Potential removal of trees to accommodate scaffolding

Human rights

- Impact on rights to protect peaceful enjoyment of possessions (Article 1)
- Impact on rights of respect for private and family life (article 8)

Access

- No step free access to proposed flats

Biodiversity

- Street trees will suffer due to reduced light
- Impact on plants outside neighbouring public house

Consultation

- Lack of consultation by the Council and applicant

Other

- Sets precedent for similar developments
- Impact on property values/property
- Ability of managing agents to cope with requirements of additional residents
- Building at capacity
- Loss of 'community feel' within the mansion block due to the additional apartments
- Exacerbation of existing building servicing/maintenance issues
- Application is in breach of lease
- Concerns regarding the ability of the existing building to carry additional load
- Impact on local broadcasting signals
- Increased pressure of local services (health services, schools, transport, policing)
- Incorrect labelling of application documents
- Rights to Light
- No Environmental Impact Statement
- Energy and sustainability statement vague

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises a group of four separate buildings (Marble Arch Apartments), now internally linked, located on the south side of Harrowby Street, between its junctions with Forsett Street and Brown Street, to the east of the Edgware Road. Although the buildings occupy the plots at 11, 12 and 13 Harrowby Street and 1 Brown Street, the site address is 11 Harrowby Street.

The building, which has frontages on Harrowby Street, Brown Street and Castlereagh Street (to the rear), comprises lower ground, ground and four upper floors, with an attic above, and is occupied as 125 flats. There are several water tanks on the roof of the building.

Whilst the site is not within a conservation area both the Molyneux Street and Portman Estate conservations areas are within close proximity. The site is also located outside the Core Central Activities Zone (Core CAZ).

The area is predominantly residential in character although there are some retail type units (Class A1, A2 and A4) located on the opposite side of Harrowby Street and commercial premises to the rear.

6.2 Recent Relevant History

7 August 2007: Permission granted for the demolition of existing building (to the rear of the application site) and erection of single storey dwelling house (one bed) at the rear of 11 Harrowby Street.

28 August 2003 Permission granted for the erection of three, three storey extensions to the rear of existing building to provide 2 x 1 bedroom maisonettes, and bin stores, and an extension to two existing residential units.

18 February 2002 Permission refused for erection of three, three-storey extensions to rear of existing building to provide 3x1 bedroom maisonettes and bin stores - external staircase would lead to an unacceptable loss of privacy, sunlight and outlook for people in neighbouring properties.

18 February 2002 Permission granted for conversion of ancillary ground floor residential floorspace for use as 1x1 bedroom and 2x studio flats.

A number of flats within Marble Arch Apartments were the subject of enforcement notices (1995) relating to unauthorised use as temporary sleeping accommodation.

7. THE PROPOSAL

Permission is sought for the erection of a new single storey roof extension to create eight new residential flats (3 x 3-bed, 3 x 2-bed and 2 x 1-bed flat), totalling 731 sqm of new residential floorspace.

To the front, the slope of the existing mansard would be extended to form a double mansard with traditional dormer windows. To the rear the extension would be sheer, to match the existing profile, with double glazed windows to match those below. The extension would be clad in slate.

The existing water tanks at main roof level will be relocated to new main roof level. The four lift/stair cores would be extended to serve the new flats.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Residential use

The provision of new residential floorspace is considered acceptable in principle and accords with Policy H3 of the UDP and policy S14 of the City Plan which seek to encourage the provision of new housing.

The proposed units, which are all double aspect, are considered to be acceptable in terms of their size and layout and the standard of accommodation offered to future residents. All of the flats exceed the space requirements set out in the London Plan but are not excessively large (ranging from 52 sqm GIA to 108 sqm GIA) and the development is considered to optimise the residential development potential of the site, in accordance with City Plan Policy S14. A condition is recommended to ensure that the new units would achieve acceptable internal noise levels in relation to external noise sources.

Policy H5 of the UDP states that the City Council will ensure that an appropriate mix of unit sizes is achieved in all housing developments and that the City Council will normally require 33% of housing units in housing developments to be family sized. City Plan policy S15 states that residential developments should provide an appropriate mix of units in terms of size, type and affordable housing provision in order to meet Westminster's housing needs and to create mixed communities. Three of the new units (38%) would be family sized.

Policy H10 of the UDP states that as part of housing developments, the City Council will normally expect the provision of amenity space. Outside the CAZ, this will normally include the provision of open space. Objections have been received due to the absence of any private amenity space for the new flats in an area of open space deficiency. Although the absence of external amenity space is regrettable, as with many residential developments, it is considered that the provision of balconies/terraces, with associated balustrades, on this prominent building has the potential to create amenity issues and is unlikely to be considered acceptable in design/townscape terms. In these circumstances, the lack of amenity space could not justify a recommendation for refusal on the grounds that the units would not provide an acceptable standard of amenity for future occupants.

Objections have been received on the basis that the scheme does not include any affordable housing. Given the number of units proposed, and as the increase in

residential floorspace is less than 1000 sqm, the development does not trigger the Council's affordable housing policies.

Concerns have also been raised regard the potential use of the flats as short-term letting with an associated impact on the amenity of existing permanent residents. A condition has been imposed to ensure that the flats are used as permanent accommodation. Any reported unauthorised use of the flats would be the subject of enforcement investigations and objectors' concerns about the potential unauthorised use could not justify the refusal of planning permission.

Objectors have also stated that empty offices should be converted to residential properties to avoid disruption to existing residents. However, the City Council is required to assess the current application, as submitted.

8.2 Townscape and Design

Marble Arch Apartments is an unlisted mansion block building. The building is located outside of a conservation area although the boundary of the Molyneux Street Conservation Area is located immediately north of the proposal site, running down the centre of Harrowby Street. The boundary to the Portman Estate Conservation Area runs to the south, and east, of the site. There are several grade II listed buildings in close proximity including those at 46- 53 and 41- 43 Harrowby Street and at 6-9, 16-23, 25- 38 and 41- 49 Molyneux Street. The building is prominent in long views from within the Molyneux Street Conservation Area and there is a direct visual relationship between the nearby listed buildings and the application building, which makes an important contribution to the setting of the adjacent conservation areas and listed buildings.

The existing building is six storeys in height, including a basement and double pitched roof storey, including an attic. There are pedimented dormers to the front and a sheer elevation to the rear. Three, tall, projecting rear wings back onto Castlereagh Street.

The proposals involve the addition of a fifth floor extension involving a continuation of the existing roof pitch to the front and the sheer profile to the rear. Proposed dormers to the front roofslope would match the positioning of the existing windows below. Following negotiations with the applicant, the scale of the proposed dormers has been reduced, to ensure they appear hierarchically subordinate to the windows below. In terms of detailed design, the proposed extension is to be clad in slate, in place of the zinc cladding originally proposed to the rear. Slate samples would be secured by condition. The relocated water tanks, which would project above the proposed roof, would be centrally located in several positions.

The scheme is the subject of strong local objections. Objectors consider that the proposed roof extension constitutes an overdevelopment that would result in an unacceptable increase in height and bulk at roof level. They also consider that the extension, resulting in the creation of a double mansard to the front, would be overbearing and uncharacteristic of the area, detracting from the appearance of the existing building and the character of the area and harming the setting of neighbouring conservation areas and listed buildings. Objections have also been received on the

grounds that the proposed roofing materials (slate) and the new dormer windows are inappropriate in design terms.

Impact on views and designated heritage assets

The overall increase in roof height above the existing attic (a maximum of 0.94m to the eastern end of the site and 0.66m across the rest of the site) is modest. However, the proposed additional storey will represent an increase in high level bulk and several of the objections refer to the overbearing impact of the proposal on local views and the setting of nearby listed buildings. The roof extension will be highly visible in local views from within the adjacent conservation area to the north (Molyneux Street) and will form part of the backdrop and setting of the listed townhouses on Molyneux Street. However, the design and detailing of the extension will relate sensitively to the existing building and the palette of the surrounding roofscape, echoing the pitch, composition and materials of the existing roof form. Further, the application building is already of a considerably greater scale than the rows of listed terraces to the north, terminating local views down Molyneux Street. Given the already large scale of this mansion block, it is considered that one, appropriately detailed, additional storey can be accommodated without appearing top heavy or disproportionate. It is also considered that the additional high level bulk will blend sensitively with the existing streetscape and will not appear unduly prominent in the backdrop of the Molyneux Street listed buildings and conservation area when compared to the existing situation.

The roofscape on the south side of Harrowby Street is also varied in its form, reflecting the piecemeal development of the buildings on this side. Given the larger scale of these buildings and the already significant difference in height between the application building and the grade II listed buildings opposite, it is considered that an appropriately designed increase in height and bulk on the application site will not have a detrimental impact on local views from Harrowby Street and would also relate sensitively to the larger scale of buildings outside of the conservation area on the south side of the street.

From the south of the site the presence of the existing rear wings would reduce the visual impact of the proposed roof extension in local views from Brown Street and Castlereagh Street and from the Portman Estate conservation area. The proposed treatment at the rear consists of a sheer storey clad in slate. Following negotiations, the design of the rear fenestration has been amended to relate more successfully to the existing windows on the main building.

The side of the proposed extension will be more prominent from Brown Street. However, as a continuation of the existing roof pitch, the additional height and bulk in this position will relate sensitively to the existing building. Whilst the proposed development will result in an increase in high level bulk on this corner, it is not considered to have a detrimental impact from public or private vantage points from within the Portman Estate Conservation Area and will not harm any views of significance.

Whilst the proposed additional bulk will, to a degree, impact on local views, as well as the setting of the adjacent conservation area and its listed buildings, the additional height and bulk proposed can be accommodated without detriment to the setting of nearby designated heritage assets and local views from within the conservation area. It is therefore considered that, given the reasons set out above, the objections concerning

the impact of the development on local views and the setting of nearby listed buildings cannot be supported.

Many objectors consider that the proposal for a taller building in this location, incorporating a double mansard roof, would be uncharacteristic of this area. It is accepted that the 19th century terraces on the north side of Harrowby Street, and the streets leading off from it within the conservation area to the north, are modest and domestic in their scale. The roofscapes in these groups of townhouses are typically characterised by shallow pitched roofs and single mansard storeys. However, the scale of buildings on the south side of Harrowby Street, which are not located within a conservation area, is much greater than that of buildings to the north of the site. The buildings on the south side are typically larger, taller, and more varied in their architectural style. For example, the building immediately to the west (Richbourne Court) is taller than the application building, and would remain so following the construction of the proposed extension, providing a visual transition between Marble Arch Apartments and the, significantly, taller buildings fronting Edgware Road.

Whilst double mansard roofs are not a common roof type in the immediate vicinity, the principle of this roof form is not wholly uncharacteristic of the mansion block building type. There are some examples of other early 20th century mansion blocks within Marylebone with double mansard roof forms, e.g. at 11 Crawford Place, although they do not typify buildings of this sort. In the context of the varied pattern of development, roof forms and building heights outside of the conservation area on the south side of Harrowby Street, it is not considered that the introduction of a double mansard would harm the, already varied, roofscape. It is therefore considered that objections to the increase in height, the loss of the existing roof profile, and the proposed roof form cannot be supported.

Materials

Objectors consider that the proposals to clad the extension in slate are inappropriate as this would result in two slate-clad storeys on the building, which they consider would be 'dull'. They are also concerned that the continuation of the mansard roof pitch would only be possible with the introduction of 'ugly' dormer windows.

The roofscape in this area, including the roof on the existing building, is characterised by natural slate of a dark grey/ blue colour. The proposal to clad the roof extension in slate is in keeping with the existing palette of roofing materials. Although there will be a large expanse of new roof across the full width of the building, this would be punctuated by dormer window openings, the arrangement of which is typical of traditional solid to void ratios and reflects the fenestration pattern of the existing building. Consequently, objections to the appearance of the proposed extension, including the proposed materials and new dormers cannot be supported.

Structural/soundproofing requirements

Some objectors are concerned that the application drawings do not make allowance for necessary structural elements and soundproofing and that the extension, if built would be taller (by approximately 800mmm), than shown. The finished floor level to the extension (43.95 m AOD) is 300 mm above the existing roof level identified on the

survey (43.65 m AOD). The applicant has confirmed that this space is sufficient to accommodate all structural and insulation requirements. However, as the proposed drawings provide limited information regarding the structural build-up, a condition is recommended requiring the submission of detailed construction drawings (with AOD annotations) to demonstrate that the height and bulk of the development will be in accordance with the dimensions shown on the application drawings.

For the reasons set out above, it is considered that objections received on design and townscape terms cannot be supported. Subject to conditions, including a condition to require the development to be carried out in its entirety (to prevent a situation where e.g. only one part of this phased development would be constructed) the proposals are considered compliant with DES 6 of the UDP. Whilst the development will have some impact on the setting of the neighbouring conservation area and listed buildings, this impact is not considered harmful and the scheme therefore complies with policies DES 9 and DES 10.

8.3 Residential Amenity

Policy ENV13 seeks to protect and safeguard the amenities of existing residential properties from development proposals including in relation to the levels of daylight and sunlight received and overlooking. Policy S29 of the City Plan also requires new development to safeguard the amenity of neighbouring properties.

Numerous objections have been received from residents of the application site and neighbouring residential and commercial buildings on the grounds of loss of daylight and sunlight, overshadowing of private amenity space (and the street) and loss of privacy from new windows.

Sunlight and Daylight

Notwithstanding objections relating to the absence of a daylight/sunlight analysis, a daylight and sunlight report has been submitted. This assesses the impact of the development on 1 to 27 Richbourne Court, 23 to 27 Castlereagh Street, Nutford House, 23 Brown Street and 40 to 51 Harroway Street and flats within the application building.

Daylight

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to be noticeable, and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to principal habitable rooms including living rooms, larger kitchens and bedrooms. However, the guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. Where a significant proportion of the working plane (which can receive direct skylight) lies beyond the NSL, the distribution of daylight within the room

will seem poor and supplementary electric lighting will be required. The British Standard suggests that a significant area would be more than 20%. However, it is acknowledged that if an existing building contains single aspect rooms, which are particularly deep, then a greater movement of the NSL line may be unavoidable. In all cases, testing need only be undertaken in the case of habitable rooms. If the area of the working plane is reduced by more than 20%, this will be noticeable to the occupants, with more of the room appearing to be poorly lit. Again, habitable room should be assessed, although bedrooms are accepted as being of less importance than living rooms.

With the exception of windows serving habitable rooms within 23 to 25 Castlereagh Street, 44 Harrowby Street, 50 Harrowby Street, and some windows on the lower floors of the application site, the report shows that any reductions in daylight received are below BRE thresholds.

The table below details the breaches of the 20% BRE thresholds to flat windows at 23 to 25 Castlereagh Street, to the south of the application site, and at 44 and 50 Harrowby Street to the north, as follows:

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
23 to 25 Castlereagh Street										
Window 31	Grnd	bedroom	8.7%	7.5%	1.2%	0.86	23%	16%	7%	0.70
Window 32	1 st	bedroom	18.7%	17.1%	1.6%	0.91	43%	33%	10.0%	0.77
Window 33	2 nd	bedroom	22.9%	21%	2.9%	0.92	62%	47%	15%	0.76
Window 38	1 st	bedroom	18.5%	16.9%	1.6%	0.91	74%	57%	17%	0.77
Window 39	2 nd	bedroom	22.5%	20.8%	1.7%	0.92	90%	69%	21%	0.77
Window 45	1 st	bedroom	15.2%	13.9%	1.3%	0.91	56%	43%	13%	0.77
Window 46	1 st	bedroom	21.9%	20.5%	1.4%	0.94	65%	43%	13%	0.77
Window 47	Grnd	bedroom	11.9%	10.9%	1.0%	0.92	39%	31%	8%	0.79
Window 48	4 th	bedroom	5.4%	4.1%	1.3%	0.76	42%	22%	20%	0.52
Window 49	1 st	bedroom	22.1%	20.5%	1.6%	0.93	51%	38%	13%	0.75
44 Harrowby Street										
Window 197	1 st	Unknown	23.4%	20.9%	2.3%	0.9%	51%	40%	11%	0.78
50 Harrowby street										
Window 313	1 st	Bedsit	21%	19.4%	1.6%	0.92	70%	55%	15%	0.79
Window 314	1 st	Bedsit	20.8%	19.3%	1.5%	0.93	70%	55%	15%	0.79
Window 315	2 nd	Bedsit	24.1%	22.5%	1.6%	0.93	66%	51%	15%	0.77
Window 316	2 nd	Bedsit	23.8%	22.4%	1.4%	0.94	66%	51%	15%	0.77
Marble Arch Apartments										
Window 397	L. grnd	Unknown	15.4%	15.4%	0%	1	22%	17%	5%	0.77
Window 607	4 th	Kitchen	26%	16.4%	9.6%	0.63	72%	72%	0	1
Window 622	3 rd	Kitchen	9%	6.5%	2.5%	0.72	76%	62%	14%	0.82
Window 623	3 rd	Kitchen	10.8%	7.3%	3.5%	0.68	76%	62%	14%	0.82
Window 624	4 th	Kitchen	18.5%	9.2%	9.3%	0.5	89%	74%	15%	0.83
Window 625	4 th	Kitchen	23.8%	11%	12.8%	0.46	89%	74%	15%	0.83

All main habitable room windows tested pass the VSC test with the exception of a fourth floor bedroom window (48) at 23 to 25 Castlereagh Street. However, this window is obstructed by an overhanging balcony, which would cut out light from the top part of the sky, meaning that even a modest obstruction resulting from a proposed development may result in a large relative impact on VSC values. In such circumstances, the BRE guidance recommends that a further assessment is undertaken which excludes the

impact of overhanging balconies. If the window meets the BRE target on this basis then this confirms that it is the balcony that prevents the targets from being met. The submitted daylight report includes such an assessment which shows that, if the effect of the balcony is discounted, there would be no material reduction in VSC (9% loss).

While the remaining windows at 23 to 25 Castlereagh Street, all of which serve bedrooms, meet VSC targets, there would be reductions in NSL of 0.7 (30%) and above. However, the given that bedrooms are afforded a lesser degree of protection than other habitable rooms, and as any reductions in VSC are well below 20%, it is not considered that any impact would be so significant as to justify a recommendation for refusal.

44 Harrowby Street, where the use of the room is unknown, would see a reduction in NSL of 22%. However, the reduction in VSC (window 197) would be limited to 10% and the window would continue to receive a VSC exceeding 20%. At 50 Harrowby Street, four bedsits would see reductions in NSL of 21 and 23%, close to the 20% benchmark. Any losses of VSC would be at a maximum of 8%, with retained values of between 19.4 and 22.5%, which are considered reasonable in a built-up central location.

On the lower floors of the application site a skylight (window 397) a rear ground floor room would see a reduction in NSL of 23%. As this room is located within the rear courtyard, beside a lift shaft, and is not connected to an adjoining room on the principal elevation, it is considered likely that this skylight serves an external store which would not be afforded any protection. There would not be any reduction in VSC

Five windows to kitchens at third and fourth floor level would experience VSC reductions of between 28 and 54%.at third and fourth floor level. It is unclear whether these are habitable kitchens. However, the NSL assessment shows that at least 62% of these rooms would receive direct sky light.

As the report confirms that any loss of light to properties in Molyneux Street would be below the 20% threshold, objections relating to the impact of the development of light to these buildings cannot be supported.

An objection has been received from the Duke of York public house at 45 Harrowby Street on the grounds that the proposals would result in a loss of light that would adversely affect the public house and letting rooms on the upper floors. Whilst the BRE guidance does not require daylight to neighbouring commercial buildings to be assessed, the submit report does include an analysis of the public house and other commercial properties within the immediate vicinity of the site. The assessment indicates that the remaining VSC and NSL level would ensure that long term use of these buildings would not be compromised given that any losses meet the BRE targets.

Objections have been received from several residents of Sherwood Court, 109-119 Seymour Place (which also fronts onto Shouldham Street and Harrowby Street) relating to loss of light. These properties have not been assessed in the applicant's submission. However, given the relationship of this building to the application site and the form of the proposed roof on the Brown Street/ Harrowby Street junction, which is closet to Sherwood Court, it is not considered that there will be a material impact on daylight to rooms within this property.

Rights to Light

Objectors have stated that the proposal diminishes their 'Right to Light'. This is a legal right and cannot form the basis of a recommendation for refusal. It is also unclear whether this a reference to the impact on light received to neighbouring flats, addressed above.

Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, and there is a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

General objections have been received on the ground of loss of sunlight to properties in Sherwood Court, Harrowby Street, Shouldham Street, Molyneux Street, Brown Street and Castlereagh Street. Residents of Flat 5, Harrowby Court, 25 Molyneux Street and Flat 228 within the application building have specifically referred to loss of sunlight to their own properties.

The sunlight assessment indicates that predicted losses in annual sunlight and winter sunlight are within acceptable BRE thresholds with the exception of a first floor window (180) at 43 Harrowby Street (use of room unknown); a bedroom window (190) overlooking the basement lightwell at 44 Harrowby Street; a first floor (window (209) to a living room/kitchen at 44a Harrowby Street (which is served by several windows) and windows to third and fourth floor kitchens in the application building (622, 623, 624 and 625). In these cases, the losses are as follows:

Ref.	Loc.	Use	Sunlight to Windows							
			Total Sunlight Hours				Winter Sunlight Hours			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
43 Harrowby Street										
Window 180	1st	unknown	58%	53%	5%	0.84	11%	7%	4%	0.64
44 Harrowby Street										
Window 190	bsmt	bedroom	20%	15%	5%	0.83	0%	0%	0%	1
44A Harrowby Street										
Window 209	first	Liv/Kitchen	48%	42%	6%	0.88	7%	4%	3%	0.57
Marble Arch Apartments										
Window 622	3 rd	Kitchen	19%	10%	9%	0.53	4%	4%	0	1
Window 623	3 rd	Kitchen	18%	10%	8%	0.56	4%	3%	1%	0.75
Window 624	4th	Kitchen	40%	18%	22%	0.45	17%	5%	12%	0.29
Window 625	4th	Kitchen	42%	18%	24%	0.43	18%	5%	13%	0.28

The first floor window at 43 Harrowby Street would see a reduction in winter sunlight of 36% (from 7% to 4%). However, given that the retained annual sunlight level (at 53%) far exceeds the minimum target, this room would continue to receive good sunlight.

The basement bedroom window at 44 Harrowby Street would see a reduction in annual sunlight levels of 25% (from 20 to 15%). However, the retained levels are considered reasonable for a bedroom in this central London location. There would be no impact on winter sun.

Whilst the first floor living room/kitchen window at 44A Harrowby Street would experience winter sunlight values (4%) below the recommended threshold, given the high level of retained annual sunlight (42%) and as other windows to the same room would not be materially affected, it is considered that this room would continue to receive good levels of sunlight.

Losses of annual sunlight to third and fourth floor kitchen windows within Marble Arch Apartments would exceed BRE guidelines (at between 44% and 57%). There would also be a loss of winter sun to three of these windows (of 25, 71 and 72%). However, the worst affected window would continue to meet the winter sunlight threshold and the loss in the case of the third window is less significant. Additionally, the report confirms that these kitchens are small kitchen (measuring less than 13 sqm) and do not therefore constitute habitable rooms for the purpose of the daylight/sunlight assessment.

A sunlight assessment has also been undertaken in relation to neighbouring commercial properties. The report shows that there would be no material loss of annual sunlight; however, there would be a loss of winter sun (33% and 25%) to two windows to the ground floor bar at the Duke of York public house (45 Harrowby Street). However, as no other windows are materially affected, it is considered that the future operation of the public house, including the upper floor letting rooms, would not be compromised. All other losses in sunlight to commercial properties in the immediate area are within BRE thresholds.

Overshadowing to gardens and open spaces

Objections have been received on the grounds that the proposals would result unacceptable overshadowing to communal gardens at Nutford House and Richbourne Court and to surrounding streets.

BRE guidance recommends, with respect to the impact of developments on the overshadowing of private and communal gardens and terraces, that at least 50% of the area of each amenity space should receive at least two hours of sunlight on 21 March. If, as a result of new development, the space does not meet this target, and the area which can receive two hours of sunlight on 21 March is less than 0.8 times its former value, then the loss of light is likely to be noticeable.

The applicant has undertaken an assessment of the open spaces at Nutford House and 28 to 59 Richbourne Court which demonstrates that there would be no reduction in the areas receiving less than two hours of sunlight on the appointed day. Consequently, objections on these grounds cannot be supported.

Objectors have also raised concerns regarding the impact of the proposal on open space to the centre of Harrowby Court. As this concreted area is wholly enclosed by Harrowby Court, with no views of the development site, it is not considered that there will be any impact on this space as a result of the proposal.

Overshadowing to surrounding streets

Objections have been made due to the potential of the development to overshadow adjacent streets. However, given the limited increase in height and bulk, it is not considered that any impact would be significant.

Sense of Enclosure

Given the mansard roof form proposed (to Harrowby Street), the limited increase in height and the relationship of the extension to adjoining properties, it is not considered that the proposals would result in any material increase in the sense of enclosure to neighbouring residential windows.

Privacy

The proposal introduces new windows to the front and rear of the building within the proposed extension. Objections have been received from the occupants of flats at 219 and 330 Marble Arch Apartments, 44 and 78 Harrowby Court, and from addresses at 71-75 Shelton Street (in Covent Garden) and in Kent, on the grounds that this would lead to an unacceptable loss of privacy to their properties. However, these fifth floor windows would be in similar positions to existing windows on the floors below and given the relative building heights it is not considered that their installation would afford any significant increase in the potential for overlooking.

In conclusion, as detailed above, while the proposal would have some effect on the amenity of neighbouring residential properties, it is not considered that the impact would be so significant as to justify a recommendation for refusal.

8.4 Transportation/Parking

The site is centrally located and well served by public transport including principal bus routes and benefits from the highest public transport accessibility (PTAL) rating (6b).

Car Parking

The Highways Planning Manager has objected to the application on the grounds that no additional off-street parking would be provided in association with the proposed flats. A number of residents have also objected to the proposal due to the potential of increased parking stress and increased traffic generation/associated pollution.

Policy TRANS23 details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. The addition of even one additional residential unit can have an adverse impact on parking levels in the area and this could lead to a reduction in road safety and operation.

The evidence of the Council's most recent night time parking survey in 2015 (Buchanan's) indicates that parking occupancy of resident parking bays within a 200 metre radius of the site is 81%. However, TRANS23 includes all legal parking spaces

(e.g. Single Yellow Lines, Metered Bays, pay and display, and Shared Use) as such with the addition of Single Yellow Line availability at night, the stress level decreases to 34%.

The most recent daytime parking survey (2015) indicates that parking occupancy of resident parking bays within a 200 metre radius of the site is 90%. TRANS23 includes all legal parking spaces. During the daytime within the area, the only legal on-street spaces for permit holders are Residential and Shared Use Bays.

Whilst it is acknowledged that the site has a high level of public transport accessibility, 35% of households in the Marylebone High Street Ward own one or more cars (2011 Census figures). Whilst this is lower than the borough average, this indicates that residents in the area do own cars, and that there is a high occupancy of residents' bays. It is therefore considered that the development is not consistent with TRANS23 and will add to existing on-street parking stress.

The applicant is willing to accept a S106 agreement preventing future occupants from apply for on-street parking permits. Whilst this approach is supported by the objectors, the City Council does not currently to restrict access to parking permits in the manner suggested. The Highways Manager considers that, if other planning considerations take priority over parking concerns, lifetime car club membership (minimum 25 years) should be secured in association with the new flats as it is considered the strongest mechanism to reduce car ownership of the future residential occupiers. and associated potential for pollution. This would be secured by condition. In these circumstances and given the limited increase in the number of flats, it is not considered that the scheme would have a significant impact on traffic generation or associated levels of traffic pollution.

Cycle Parking

The London Plan requires one cycle parking space to be provided per residential dwelling and two spaces for each unit of 2 or 3 bedrooms. The scheme includes 12 parking spaces, which would meet the requirements of the six larger flats. However, proposed cycle parking for the smaller flats is in the form of Sheffield stands, which do not appear to be weather proof. All cycle parking should be secure and covered and a condition is therefore recommended requiring the submission of plans showing amended cycle parking arrangements.

Loading/unloading

No off-street servicing facilities are proposed as part of the application. Objections have been received on the basis that the scheme would impact on loading/unloading in the area. Whilst no information has been provided regarding site servicing, there are areas on Harrowby Street, Brown Street and Castlereagh Street, outside of the areas reserved for residents' parking, where loading/unloading could take place. As the development would not have a significant impact on overall servicing demands of the building, it is not considered that there would be any significant impact on the operation of the highway.

Changes to the local highway

Objectors are concerned that the submitted Transport Assessment does not take account of planned changes to the local highway network, including proposals to make

Harrowby Street into a one-way street and to make improvements at junctions for cyclists. However, these changes have been considered by officers and it is not considered that the proposals would have any material impact on these highway alterations, or would be affected by them.

8.5 Economic Considerations

Any economic benefits generated by the proposed developments are welcome.

8.6 Access

Policy 3.8 of the London Plan requires at least 90% of new dwellings to have step free access. Similarly, Policy DES 1 of the UDP requires development proposals to demonstrate how they have taken accessibility and inclusive design into account.

The existing building is accessed via entrance steps and there are four separate stair/lift cores. Lifts in the main building all stop at half landing level and all flats are accessed via a half flight of stairs. Flats within the three rear extension benefit from level lift access but, given the differing levels between the front and rear parts of the building, there is no step free access from the rear wings to flats within the main building.

The existing stair/lift cores would be extended to serve the new flats although, as currently, the lifts will terminate at half landing level. Each of the existing stair/lift cores would serve two of the new flats proposed. Objectors are concerned that there is no step free access to the new flats. Due to site constraints, this could not be practically achieved and, although this is regrettable, given the overall benefits of the scheme in providing new flats, it is not considered that permission could reasonably be withheld on these grounds.

Objections have also been raised regarding the adequacy of the proposal to provide appropriate means of fire escape. Each block of two flats has access to a separate stair core and therefore there is no reason to believe the proposal could not comply with the requirements of the Building Regulations.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

The Council's Waste Project Officer has raised no objection to proposed refuse and recycling storage arrangements, which would be secured by condition.

Internal Transfer Noise

Objections have been received from occupants of the existing top floor flats regarding potential noise transfer between the proposed flats and their properties. Whilst final construction details would be dealt with under the Building Regulations, a condition is recommended requiring the development to achieve acceptable levels of noise and vibration in relation to neighbouring properties. Subject to this condition, it is not considered that these objections could be supported.

Trees

Concerns have been raised regarding the possible requirement to remove existing street trees to accommodate any necessary scaffolding. These trees are located towards the kerb edge and there is no reason to believe that the construction cannot be carried out without interference with these trees. Objectors are also concerned that the proposal would result in the overshadowing of the trees, compromising their potential growth in the longer term. As the extension follows the existing mansard profile, and given the modest increase in height proposed, the Council's Arboricultural Officer has conformed, verbally, that they do not consider these concerns to be justified.

An objection has been received on the grounds that the proposals would affect planting in hanging baskets and window boxes outside of the Duke of York public house. Given that there would be no material loss of light to pub windows as a result of the proposals, it is not considered that light to these planters would be affected in the longer term. Any impact on this planting during construction works would not justify a recommendation for refusal of the scheme.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 London Plan

This application does not raise any strategic issues.

8.10 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition and construction phases of the development and requiring the submission of a construction contract to confirm that the development will be completed in its entirety. The applicant has agreed to the imposition of these conditions.

8.11 Planning Obligations

The estimated Westminster CIL payment is £362,532.84 and the Mayoral CIL is estimated at £55,070.85.

The proposal does not trigger any planning obligations.

8.12 Environmental Impact Assessment

Objections have been received on the basis that no Environmental Impact Statement has been produced. The proposal is of insufficient scale to require an environmental assessment.

8.13 Other Issues

Construction impact

The occupants of both the existing building and neighbouring properties have raised concerns in relation to the potential impact of the construction works including noise disturbance, dust, air pollution, smells, hazardous materials, the impact of construction traffic and associated impacts on the health of residents and pupils of local schools. Additionally, existing residents of the building are concerned about potential inconvenience resulting from the relocation of the water tanks, loss of light as the result of scaffolding/hoardings, the safety/security of the existing flats, restricted access to the common parts and lifts and general disruption. Objectors consider that the proposals, including, the disruption of services, would be in breach of their lease. Occupants of the existing top floors flats are concerned that they will have to relocate during the construction process and are concerned regarding potential damage to their flats.

Although not required for a proposal of this scale, the applicant has volunteered to sign up to the Council's 'Code of Construction Practice' (COCP) to ensure that the construction process is carefully managed, minimising disruption to neighbours and the highway and reducing the effects of noise, dust, traffic movements etc. resulting from the construction. This will be secured by condition. As part of this process, Environmental Health Officers will liaise with both the applicant and neighbouring occupants during the construction process to ensure that residents' concerns are addressed. Regular site visits will be undertaken to monitor construction operations and ensure compliance. A further condition is recommended to control the hours of building works.

The applicant has stated that in order to maintain the water supply during the construction stage a temporary direct connection from the mains supply will be provided. This will be installed and fully operational before the existing water tanks are disconnected. It is intended that the construction works should be phased so each

section is completed before the next one is started. This will minimise the number of flats affected by the works at each time and guarantee the disruption is as short as possible. During the construction phase, the top level will be covered with scaffolding and weather-protected until external construction is finished. This is a typical approach with all rooftop constructions and will ensure existing residents are can remain on site and will limit the potential of damage to existing flats. The issue of noise from building works is dealt with under the COCP. However, the terms of the lease with regard to the enjoyment of property and of building facilities is a private matter.

The applicant intends to retain and extend the existing lifts and has confirmed that this work would be subject to detailed discussion with the lift manufacturer and existing residents (as part of the COCP process) before any work is undertaken. In order to minimise disruption to existing residents, the construction works will be phased so that each development of two flats, around each of the extended cores, would be completed before the next phase commences. This will enable those with reduced mobility to use an alternative lift and will minimise the number of flats affected by the works at any one time, ensuring that any period of disruption is as short as possible.

Existing residents have expressed concern about the security of their flats during building works. An external access will be provided from the rear of the development for construction workers and materials. These details will be discussed with residents through the COCP process.

Developers carrying out work must notify the Health and Safety Executive (HSE) and must ensure that the method of construction and access arrangements during the construction process comply with the Construction (Design and Management) Regulations 2015 (CDM 2015).

An informative has also been added requesting the applicant to investigate the use of an ultra-light shroud to cover the building during construction to minimise loss of light to existing flats.

Subject to these conditions, it is considered that the potential effects of the construction process will be ameliorated as far as possible.

Consultation

A number of residents have expressed concern about the extent of consultation by the City Council and the developer and the lack of notification following amendments to the scheme.

The applicant initially completed the incorrect Certificate of Ownership but subsequently provided the correct certificate and served the requisite notice on everyone with a freehold interest in the property or a leasehold interest with at least seven years left to run, as required by the legislation.

The City Council sent a total of 262 letters to occupants of the application buildings and neighbouring properties. A site notice was posted outside the building and the application was advertised in the local press in accordance with the Council's usual procedures. Following amendments to the proposal, all original consultees and those

who had submitted comments were informed of the revisions. As a number of residents, advised that reconsultation letters had not been received, all parties were reconsulted on two further occasions.

Objectors have also stated that the letters were addressed to the 'Owner/occupier' of neighbouring properties rather than to the named owner/occupant. This is the case with every consultation letter which requests that, if appropriate, the letter is passed on to the property owners.

In these circumstances, it is considered that adequate consultations have been undertaken.

Sustainability

One objection has been received on the grounds that undertakings in the energy and sustainability strategy for the development are too 'vague'.

London Plan Policy 5.2 states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be Lean: use less energy
2. Be Clean: supply energy efficiently
3. Be Green: use renewable energy

As the scheme would provide eight new flats, and does not constitute a major development, the further detailed requirements of the policy 5.2, which sets out requirements for carbon savings, do not apply. Nor does policy S40 of the City Plan which requires sets targets relating to the use of renewable energy sources for major development.

Policy S28 Design of the City Plan requires new development to incorporate exemplary standards of sustainable and inclusive urban design and architecture. In the correct context development will reduce energy use and emissions that contribute to climate change during the life- cycle of the development and ensure the reduction, reuse or recycling of resources and materials, including water, waste and aggregates.

In order to reduce carbon omissions, the scheme incorporates various measures including the use of thermally efficient building fabric, double glazing and energy efficient water, heating and lighting systems. The proposed flat would also be naturally ventilated. This is welcomed and the objections regarding the sustainability of the proposal cannot be supported.

Precedent

Objectors are concerned that the approval of the application would set an unwelcome precedent for similar development in the area. The proposal is considered to be acceptable for this site and in the context of the adopted development plan polices. Any future applications in relation to other sites would be assessed on their individual merits and therefore refusal on the grounds of precedent cannot be justified.

Economic impact on neighbouring properties

Objections have from existing flat owners and the manager of a number of flats within the existing building who are concerned the proposals would reduce the value of their flats, that tenants would not wish to occupy their properties during construction works or that the inability to let the flats would affect their lettings businesses. Whilst these concerns are noted, these are not material planning considerations and could not justify the refusal of planning permission.

Inconsistent/ labelling errors within application submission

Concerns have been raised regarding mislabelling of application documents and photographs showing examples of other double mansards. Any decision notice would only list the application drawings and any labelling errors in background material, of which officers are aware, would have no impact upon the consideration or determination of the application.

Structural Concerns

Objectors are also concerned about the ability of the existing building to cope with the additional load of the proposed extension. The structural integrity of the development is not controlled through the planning system but through other legislation, including Building Regulations. Whilst these concerns are noted they could not justify the withholding of planning approval.

Human Rights

Objections have been received on the grounds that the development would affect the rights of existing residents. The Human Rights Act requires that the City Council, in its role as local planning authority, acts consistently with the European Convention on Human Rights. The occupier of one of the flats within the building has objected to the proposal arguing that it would interfere with his rights under Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Protection of property).

Article 8 rights are not rights without limit and may be interfered with where it is in accordance with the law and is necessary in a democratic society. Article 8 rights should be respected as part of the planning process, but they are not guaranteed, and it is a planning judgement against all the other material considerations, wider public interests and other private interests. Article 8 does not give a right to a home but, where someone has a dwelling, it may interfere with their Article 8 rights to require them to move from that home. As the Town and Country Planning regime is designed to balance the rights of individuals against the interests of the wider community, the City Council must consider the potential interference with human rights and ensure that any reasons for interfering with these rights are proportionate.

Article 1 of the first protocol is the right of property and possessions. The overarching principle is that there should be no interference with the peaceful enjoyment of possessions and property. It is a qualified right in that any interference has to be lawful under domestic law, and a fair balance has to be struck between the general interest of the community and the need to protect the individuals' fundamental rights by applying a

proportionality test. The concept of possessions is not limited to ownership of physical goods. There are circumstances where Article 1 of the first protocol rights can be interfered with where it is proportionate, lawful and in the public interest.

The rights of family, the applicant and the interests of the wider community have to be balanced when assessing this application. The impact of the proposal on neighbouring properties has been discussed within the committee report. The benefits of the proposal due to provision of eight additionally flats including three family sized units outweigh the objections that have been raised. It is not considered that the proposal (including the construction period) would require the objector to move from their home. It is therefore considered that any interference with the family's rights is proportionate.

Broadcasting signal interference

Objectors are concerned that the erection of the proposed roof addition would compromise broadcasting signals in the vicinity of the site. Poor signal does not simply arise from signal cast from broadcasting towers not being able to directly reach a device. Within an urban environment such as this; it is likely that the broadcasting tower(s) will be powerful enough to provide coverage in the vicinity of the site despite the increased height of the proposed building and. given the modest increase in building height, it is not considered likely that there would be any adverse impact.

Building Management and impact on communal facilities

Concerns have been raised about the ability of the managing agents for the building to cope with the additional pressures arising from servicing and maintenance issues associated with the construction of additional flats. The management of a building is a private matter and not a material planning consideration.

Objectors are also concerned that the development would result in overcrowding and increased pressure on communal facilities within the building. As each of the existing stairs and lifts would provide access for an additional two flats, it is not considered that the proposal, within an existing development of 125 flats, would have a noticeable impact on the use of the common areas. Additional waste storage facilities and cycle storage will also be provided as part of the scheme.

Pressure on Local Services

Objections have been received on the grounds that the area is already densely populated and that this development would bring additional pressures on the local services such as schools and healthcare provision, the Police etc. Westminster has a housing target to create 22,222 extra residential units between 2020 to 2040. To achieve this target, it will be necessary to provide more services throughout Westminster but given that only eight new dwellings are proposed as part of this scheme, it is not considered that the capacity of local services will be affected to a significant degree which could justify a recommendation for refusal.

Loss of Community feel

Objectors have referred to a potential loss of the existing 'sense of community' within the existing building during the construction process and through the creation of additional flats. Again, this is not a material planning consideration, but it is not considered likely that there would be a significant impact on the character of the building or the wellbeing of residents in the longer term.

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

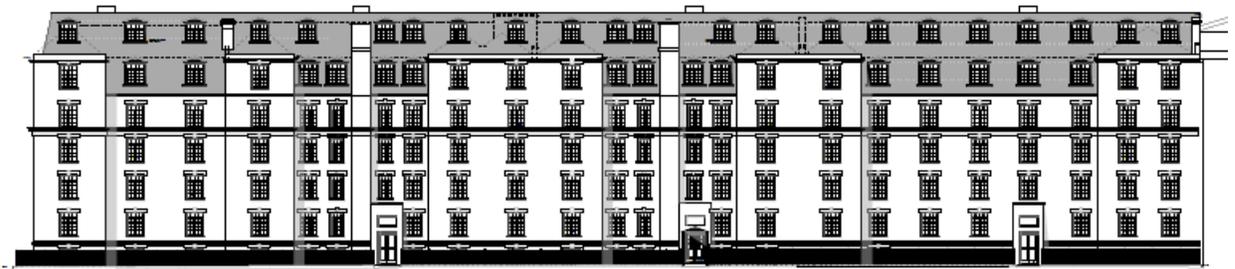
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT SSPURRIER@WESTMINSTER.GOV.UK.

9. KEY DRAWINGS

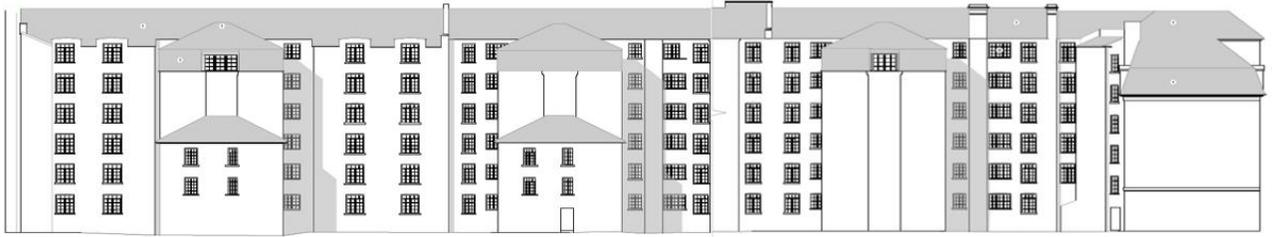
Existing Front Elevation



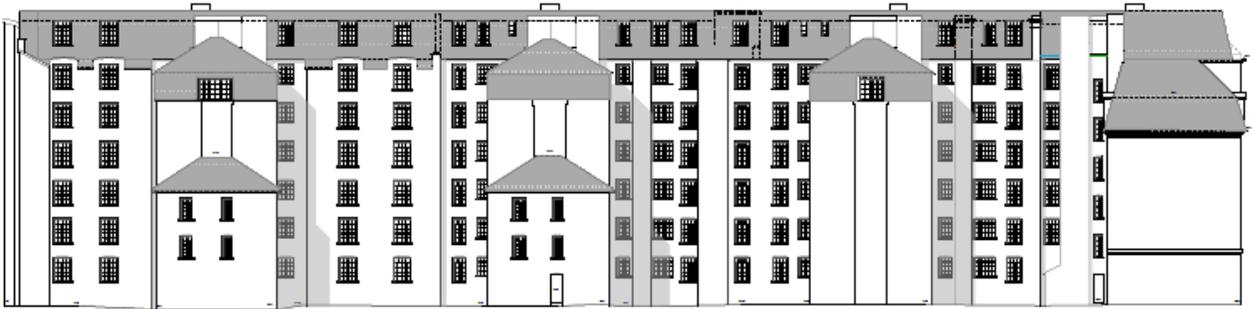
Proposed Front Elevation



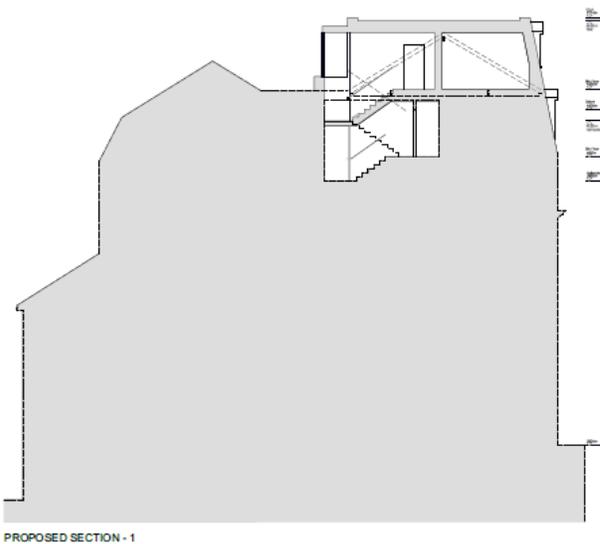
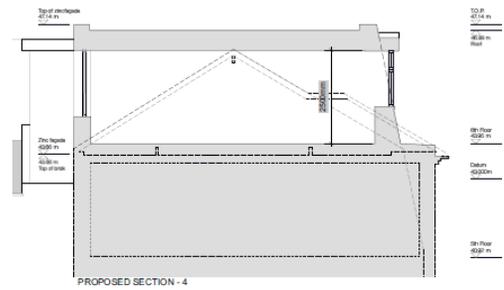
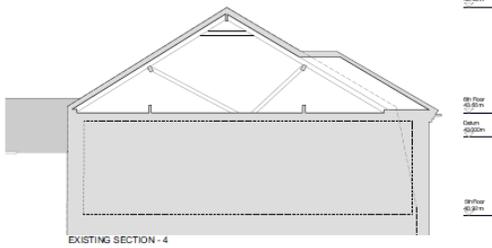
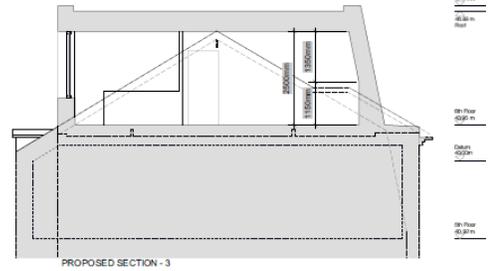
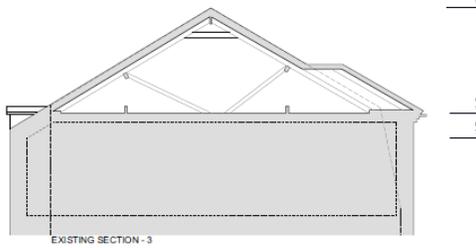
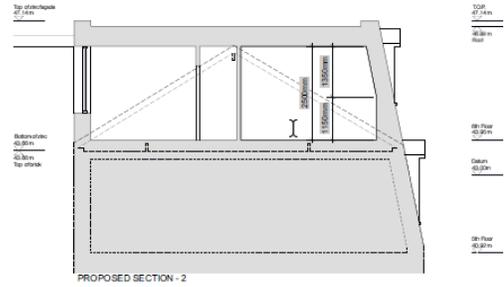
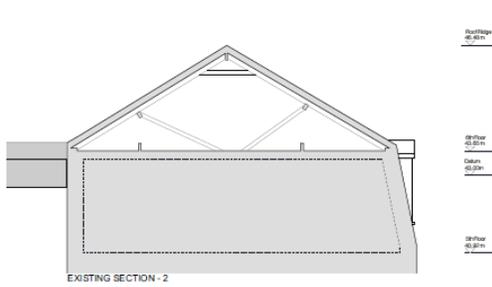
Existing Rear Elevation



Proposed Rear Elevation



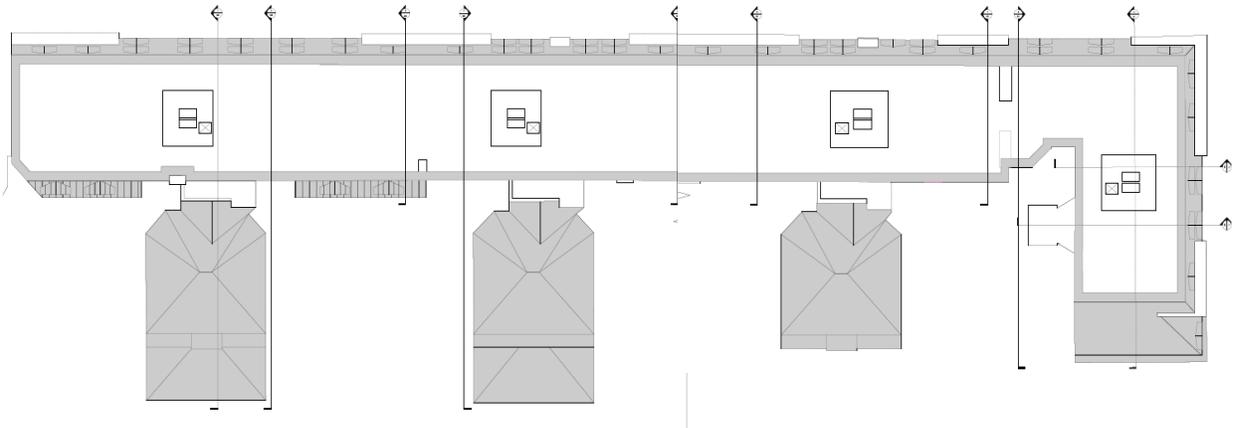
Compared Sections



Proposed Fifth Floor Plan



Proposed Roof Plan



DRAFT DECISION LETTER

Address: Marble Arch Apartments, 11 Harrowby Street, London, W1H 5PQ

Proposal: Erection of a single storey roof extension to provide eight additional residential units (Class C3) (2 x 1-bed, 3 x 2-bed and 3 x 3-bed units). Relocation of existing water cylinders to new roof level.

Plan Nos: MAA-P100-S2-P0, MAA-P103-S2-P0, MAA-P202-S2-P0, MAA-P301-S2-P4, MAA-P101-S2-P1, MAA-P201-S2-P3, MAA-P203-S2-P1, MAA-P300-S2-P2, MAA-P301-S2-P3, MAA-P302-S2-P04, MAA-P303-S2-P1.

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area and to the setting of neighbouring listed buildings and the Molyneux Street and Portman Estate Conservation Areas. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5 or DES 6 (or both), DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area and to the setting of neighbouring listed buildings and the Molyneux Street and Portman Estate Conservation Areas. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5 or DES 6 (or both), DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

1. Detailed construction drawings (including sections) of proposed roof storey (1:5 and 1:20) including AOD heights.
2. New external windows (1:5 and 1:20)
3. Dormers (1:5 and 1:20)

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 details. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area and to the setting of neighbouring listed buildings and the Molyneux Street and Portman Estate Conservation Areas. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5 or DES 6 (or both), DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area and to the setting of neighbouring listed buildings and the Molyneux Street and Portman Estate Conservation Areas. This is as set out in S25 and S28 of

Westminster's City Plan (November 2016) and DES 1, DES 5 or DES 6 (or both), DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 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.

- 8 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. (C07DC)

Reason:

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

- 9 You must provide the waste store shown on drawing P103-S2 Rev P0 before anyone moves into any of the flats hereby approved. You must clearly mark it and make it available at all times to everyone using the residential units. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

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)

10 **Pre-commencement condition**

You must not commence development until we have approved appropriate arrangements to secure the following:

- Arrangements to mitigate the impact of the development on on-street parking demand in the area

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) and in TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

- 11 Notwithstanding the detail shown on the approved drawings, you must apply to us for approval of details of secure cycle storage with coverings for the new residential units. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation of any of the residential units hereby approved. You must not use the cycle storage for any other purpose.

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.

- 12 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising 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. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 13 None of the flats hereby approved shall be used as sleeping accommodation which is occupied by the same person for less than ninety consecutive nights.

Reason:

To ensure that there is no loss of permanent residential accommodation and to ensure that the amenity of nearby residents is preserved through preventing increased noise and disturbance at unsocial hours and increased perception or fear of crime and anti-social behaviour, in accordance with Policy 3.14(C) of the London Plan (2016), Policies ENV 6 and H2 of our Unitary Development Plan that we adopted in January 2007 and Policies S29 and S32 of Westminster's City Plan (adopted November 2016).

- 14 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. (R49BA)

15 {b Pre Commencement Condition}. You must not start any work on site, including any works of demolition, until we have approved in writing either:

- (a) a construction contract with the builder to complete the demolition and redevelopment work for which we have given planning permission, in its entirety or
- (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building and that the development will be completed in its entirety.

You must only carry out the demolition and development according to the approved arrangements. (C29AD)

Reason:

To secure a satisfactory development and to prevent the piecemeal implementation of this scheme, which would be harmful to the character and appearance area and to the setting of the neighbouring listed buildings and the Molyneux Street and Portman Estate Conservation Areas. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5 or DES 6 (or both), DES 9 and DES 10 of our Unitary Development Plan that we adopted in January 2007. (R26AD)

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, neighbourhood plan (where relevant), 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 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 3 The term 'clearly mark' in condition 9 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 4 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well

as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

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

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

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

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

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

- 6 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.

* Window cleaning - where possible, install windows that can be cleaned safely from within the building.

* Internal atria - design these spaces so that glazing can be safely cleaned and maintained.

* Lighting - ensure luminaires can be safely accessed for replacement.

* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at www.hse.gov.uk/falls/index.htm.

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (180CB)

- 7 The design and structure of the development shall be of such a standard that the dwelling is free from the 29 hazards listed under the Housing Health Safety Rating System (HHSRS).

However, any works that affect the external appearance may require a further planning permission. For more information concerning the requirements of HHSRS contact:

Residential Environmental Health Team
4th Floor East, Westminster City Hall
64 Victoria Street
London SW1E 6QP
www.westminster.gov.uk
Email: res@westminster.gov.uk
Tel: 020 7641 3003 Fax: 020 7641 8504.

- 8 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.

- 9 You are requested to investigate the use of an ultra-light shroud to cover the building during construction to minimise loss of light to existing flats.
- 10 With reference to condition 12, please refer to the Council's Code of Construction Practice at (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.
- 11 Under condition 10 we are likely to accept a legal agreement under section 106 of the Town

and County Planning Act to secure lifetime car club membership for future occupiers. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at 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)