

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING (MAJOR APPLICATIONS) SUB-COMMITTEE</b>	<b>Date</b> 26 May 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>46 Berkeley Square and 46 Hay's Mews, London, W1J 5AT,</b>		
<b>Proposal</b>	Installation of plant enclosure, mechanical plant and plant screen at roof level, internal alterations at third floor level; and external alterations to 46 Hay's Mews, including retention of roof terrace within the mansard roof (part retrospective).		
<b>Agent</b>	Jon Dingle		
<b>On behalf of</b>	Caprice Holdings Ltd		
<b>Registered Number</b>	19/06034/FULL, 19/06035/LBC	<b>Date amended/ completed</b>	31 July 2019
<b>Date Application Received</b>	31 July 2019		
<b>Historic Building Grade</b>	Grade I		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Refuse permission and listed building consent - design and listed building grounds.

## 2. SUMMARY

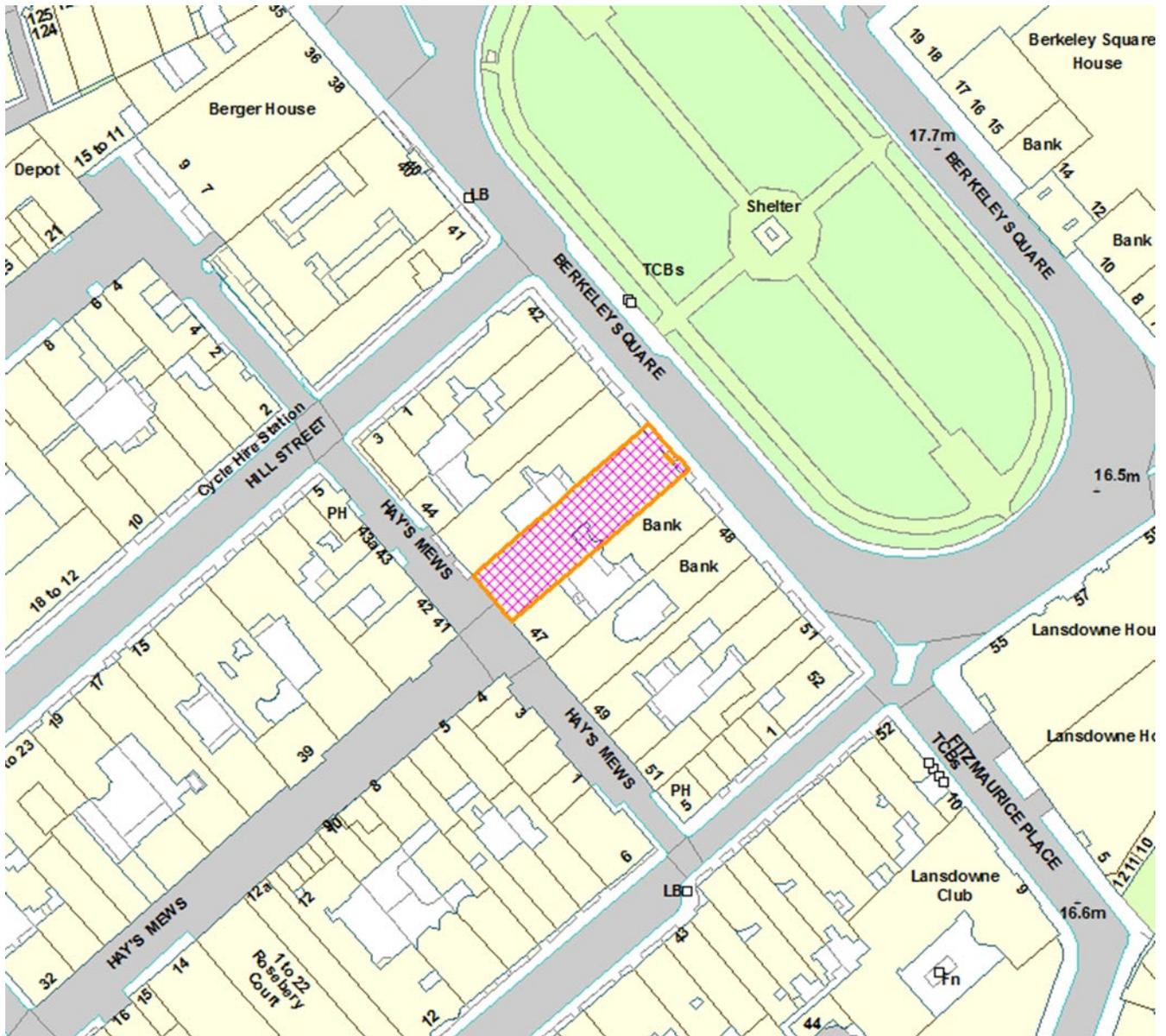
These buildings, which are linked and operate as one, are occupied by Annabel's private members' club. There is a long planning history to them, including protracted discussions at pre-application and application stages about the installation of mechanical plant on the roof of 46 Berkeley Square, which is an important Grade I listed building. Despite approval having been previously granted for some plant to be installed on the roof of the main building and some within the rebuilt mansard roof of the mews building, the applicant installed much of the plant on the former and converted the latter into a smoking terrace. The current applications seek to partially remedy the situation by moving some of the mechanical units from the rear of the main roof to the front of it, and seek to retain the smoking terrace.

The key issue is the impact of the plant on the special architectural and historic interest of this Grade I listed building and the character and appearance of the Mayfair Conservation Area, and the setting of adjacent listed buildings.

The applicant has submitted arguments claiming that it is not possible to move all of the plant from

the main roof to the mews. However, officers are not seeking this, only that the applicant complies with the terms of the previous approval and uses the roof of the mews building to house some of the equipment. For the reasons set out in the main report, the current proposals are not considered to be acceptable and are therefore recommended for refusal.

### 3. LOCATION PLAN



4. PHOTOGRAPHS

46 Berkeley Square, W1



46 Hay's Mews, W1 (rear of 46 Berkeley Square)



## 5. CONSULTATIONS

### COUNCILLOR TIMOTHY BARNES

Request that the application be determined by the Planning Application Sub-Committee.

### HISTORIC ENGLAND

Issued authorisation for the Council to determine the listed building application.

### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No response to date

### MAYFAIR RESIDENTS GROUP

No response to date

### ENVIRONMENTAL SCIENCES

Have no objections to the application on environmental or nuisance grounds subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 144; Total No. of replies: 9 [two of which have been submitted in duplicate by online submission and letter/email]

No. of objections: one representation on behalf of two residents (one of whom subsequently withdrew his objection) concerned about noise nuisance from a kitchen extract fan on the roof of 46 Hay's Mews, and referring to other problems about rubbish, deliveries and staff numbers in Hay's Mews.

One submission registered as neither objecting to nor supporting the planning application actually states that "The existing plant at roof level creates intolerable noise through the night for local residents sleeping. It must be quietened as a condition of this Application", and refers to problems with waste storage due to plant rooms at ground floor level causing a build-up of waste within the mews, and that storage of waste must be required as a condition of this application.

No. in support: 6, confirming they have not been disturbed by the plant

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The site is located on the west side of Berkeley Square and is bound by Hay's Mews at the rear. 46 Berkeley Square comprises a 4 storey building plus a basement. It is a Grade I listed building that dates from the mid-eighteenth century. It is linked at basement level to 46 Hay's Mews, and there is a shared courtyard between the buildings. 46 Hay's Mews comprises a 4 storey building plus a basement. The site is within the Mayfair Conservation Area and the Core Central Activities Zone but it is not in a Stress Area.

Since the spring of 2018 the site has been occupied by Annabel's, a private members club (sui generis): this includes the well-known Annabel's nightclub that previously occupied the basement of 44 Berkeley Square, with much of the building used as a 'day club', comprising numerous drinking and dining facilities. The mews is largely occupied as back of house accommodation and some mechanical plant. There is a large retractable glass roof that can enclose the al fresco dining area on the open terrace between the two buildings.

The area is characterised by a variety of uses, including residential, commercial and entertainment-type activities. Although Berkeley Square itself is predominantly (though not exclusively) commercial in nature, Hay's Mews has a greater concentration of residential accommodation. The buildings on either side of the application site are in commercial use. The nearest residential accommodation is located within 48 Berkeley Square and 48 Hay's Mews

## 6.2 Recent Relevant History

4<sup>th</sup> October 2016 – planning permission and listed building consent granted [following the completion of a legal agreement] for the use of 46 Berkeley Square as a private members' club (sui generis), with internal and external alterations, including erection of Annabel's canopy to front, together with the demolition of existing mews 46 Hay's Mews and erection of a replacement four storey building including a two storey basement for the provision of a health club use (sui generis) and associated mechanical plant and landscaping.

28<sup>th</sup> April 2017 – planning permission and listed building consent were granted [following the completion of a legal agreement for a variation to the earlier scheme, namely use of 46 Berkeley Square as a private members club (sui generis) use), with internal and external alterations including mechanical plant, and erection of Annabel's canopy to front; use of 46 Hay's Mews as a private members club, and a health and wellbeing club (sui generis) and alterations to the mews building including the erection of a pitched roof extension with mechanical plant; and erection of a full length retractable glazed canopy from the mews building to the main building enclosing the external dining terrace/courtyard; associated mechanical plant and landscaping (site includes 46 Hay's Mews).

The main difference from the earlier scheme was the inclusion of the retractable canopy over the central courtyard. This was also subject to a legal agreement, similar to the October 2016 permission, that secured the following:

- a) The premises to be made available for local charitable openings on at least two occasions each year;
- b) A minimum of 4 days per year (1 per quarter) for members of the public to look round the building between 09.00 and 16.00 (including one of the Open House London weekend days);
- c) 10% discounted membership for local residents of Berkeley Square and Hays Mews (subject to them meeting the membership criteria in the same way any other member would be required to do);
- d) Scholars able to make appointments to view the building and obtain copies of the heritage report electronically free of charge;
- e) The applicant to apply for listed building consent for the removal of the existing canopy

to the basement of Annabel's at 44 Berkeley Square and, subject to consent being granted, removal of that canopy before the erection of the approved canopy to the front of 46 Berkeley Square;

f) Cycle storage (for 35 bikes) to serve the development to be made permanently available at 3A Hay's Mews;

g) planning permission 15/11330/FULL and listed building 15/11331/LBC consents dated 4th October 2016 not to be implemented if the development proceeds under the current planning permission and listed building consent;

h) Monitoring costs of the S106 legal agreement.

30<sup>th</sup> January 2018 – permission granted for variation of Conditions 1 and 8 of planning permission dated 28 April 2017, namely to vary Condition 1 to enable alterations to the Hays Mews elevation, chimney to 46 Hays Mews to be raised in height, provision of a rear facing balcony and associated internal alterations and variation of Condition 8 to change the maximum capacities allowed in the two areas of the club from 550 to 750 people.

In August 2017, applications were submitted for the installation of a plant enclosure, mechanical plant and plant screen at roof level of the main building. After being advised that the proposals were unacceptable on listed building, design and conservation grounds, the applications were withdrawn in October 2017, and the applicant did not pursue the matter with Council officers until March 2018 (when a new planning agent had been appointed). There were ongoing discussions between then and early 2019, by which time the unauthorised plant had been installed on the main roof. Following initial enforcement investigations, the current applications were submitted.

## 7. THE PROPOSAL

Planning permission and listed building consent are sought to relocate some of the unauthorised roof plant on the roof of 46 Berkeley Square, from the rear of that roof towards the front of the roof, and to retain the roof/smoking terrace within the mansard roof of 46 Hay's Mews.

The applicant has confirmed that 15 Daikin air handling units are located on the roof of 46 Berkeley Square in an area that measures 41m<sup>2</sup> and is 2.6m high. These units provide the heating and cooling capacity for the entirety of the Berkeley Square building and basement. Apparently there is a set requirement for these to be one metre apart to allow sufficient air to flow around the units and for them to function properly. The units run continuously at maximum and the applicant advises that there is no spare capacity.

There is additional mechanical plant located around the perimeter of the roof lantern of 46 Berkeley Square, primarily serving refrigeration and cold rooms. These units are smaller in size than the Daikin air handling units. A water tank and heating vessels are located within the remodelled/enlarged roof top water tank room and lift overrun.

Plant is also located within the eaves of the roof of No. 46 Hay's Mews. This plant primarily serves the kitchens that are located at basement, ground and first floors of 46 Hays Mews. The plant includes kitchen extract fans and attenuation, UV filtration, domestic extract fans to staff and customer WCs and external units for the fridges located in these kitchens.

The applicant argues that their mechanical consultants have designed the plant as efficiently as possible in terms of noise, functionality, and space. It is stated that the arrangement of plant on the roof of 46 Berkeley Square represents the most efficient use of space using the most appropriately sized units. During design development, the use of a larger number of smaller units was investigated. However, the arrangement of the various roofs of 46 Berkeley Square and the limited space provided on Hay's Mews pushed this plant onto the flat roof section of 46 Berkeley Square.

The applicant states that the plant required for the operation of Annabel's would not be able to fit within the roof space of Hay's Mews. Furthermore, it is argued that using the existing equipment would protrude 680mm above the ridgeline of the Hay's Mews roof and it would need significantly more acoustic attenuation than it does on 46 Berkeley Square, to protect the residential properties nearby, but it would not provide the level of ventilation that would be required to keep the plant operational anyway. Reference is also made to the structural limitations of the mews building, with emphasis on the fact that it was largely refurbished rather than demolished and rebuilt with a stronger framework necessary to support a greater amount of plant.

The applicant's justification for the roof terrace in the roof of the mews building is that it provides an area within the Club's demise for smokers: when the glass roof over the courtyard terrace is shut, the ground floor courtyard is an enclosed space and cannot therefore be used for smoking.

The applicant claims that throughout the planning process, the plant and noise strategies were presented as indicative. Whilst acknowledging that planning permission and listed building consent "should have been in place", it is claimed that the existing plant arrangement causes no harm to either the historic building or residents and is the only practical arrangement for the equipment which is essential for the successful operation of Annabel's within these two buildings.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal does not raise any land use issues and the building remains in its permitted use as a private members' club. The retention of an additional terrace within the roof of the approved mansard roof on the mews building is dealt with below as an amenity consideration.

### **8.2 Townscape and Design**

#### Background to roof level works

In October 2016 the City Council granted planning permission and listed building consent for the conversion of the grade 1 listed building to a private members club. The approved scheme, which had been subject to considerable negotiation with officers, removed the existing (historic) large unsightly plant room from the middle of the roof of the main building, and proposed a new plant room on the top of the mews building, within a traditional mansard roof, specifically approved as part of the scheme to house the plant.

In April 2017 a revised scheme was approved. This included a small lift over run in the middle of the roof of the main building but no other plant on the roof. The profile of the mansard on the mews building was lowered but the plant area remained. In January 2018 another revised scheme was permitted, involving the addition of a large sliding roof over the rear courtyard. The roof level plant remained unchanged from the 2017 scheme.

The works carried out on site were not in accordance with the planning permissions and listed building consents that had been granted. A large plant installation was added to the roof of the rear wing of the main building and another large plant room was added to the middle of the roof. Applications to retain these works were withdrawn in 2017 following advice from officers that the impact of these works was considered harmful and that the applications were likely to be recommended for refusal. The upper part of newly built mansard roof of the mews building, which was supposed to contain a significant amount of the plant, had in fact been used to provide an enclosed roof terrace as part of the members club.

Pre-application discussions were then held, seeking to find a scheme for plant which might be acceptable in heritage asset terms. Officers advised that it was necessary to reduce the amount of plant on the roof of the main building, by relocating some of it to the mews building, in accordance with the original planning permission. Officers considered that the proposals to relocate some of the plant from the rear of the main building to the front of the main building were not acceptable because of their visual impact from Berkeley Square. However, such proposals form the basis of the current applications.

#### The listed building and relevant legislation and policy

The building was listed in 1958. It was built as a town house circa 1744-50, along with 45, and is attributed to Henry Flitcroft. The list description states:

*“Both houses have fine interiors with contemporary plasterwork and chimneypieces. Very good ironwork to stone staircase of No 46. Part of best surviving terrace sequence in square and with exceptional interest.”*

The grade 1 listed building makes a positive contribution to the character and appearance this part of the Mayfair Conservation Area. It is also adjacent to a number of highly significant listed buildings: 44 and 45 Berkeley Square are both listed grade 1 and 47 Berkeley Square is listed grade 2 star. This is a historic environment of the highest sensitivity and proposals are required to respond to and respect that.

The key legislative requirements in respect to designated heritage assets such as listed buildings are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning*

*authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Chapters 12 and 16 of the National Planning Policy Framework (NPPF) require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

### The current proposals

The existing unauthorised plant on the rear roof of the main building is considered unacceptable in terms of its impact on the special architectural and historic interest of the grade 1 listed building and on the character and appearance of the Mayfair Conservation Area. The plant at the rear of the roof is screened with a highly intrusive modern enclosure, inappropriate to the roofscape of a grade 1 listed building, and it is highly visible from Hays Mews to the west. The lift over-run / plant room in the middle of the roof is visible from the east side of Berkeley Square. This is also an inappropriate and harmful addition to the roofscape of the listed building.

When planning permission and listed building consent were granted for the original scheme to create the members club, the committee report identified harmful aspects of the proposals which would need to be outweighed by benefits in order for planning permission and listed building consent to be granted. For example, one harmful aspect was the proposal for the second floor rooms. The committee report stated:

*“At second floor level the smaller front room (south) appears to be largely original, lined with mid eighteenth century panelling, and other joinery. This was originally a bedroom. The other front room appears to have been altered. It may have been square too, but then extended towards the rear of the building. The removal of the wall between the two rooms is highly contentious because it involves a loss of original historic fabric (the panelled wall) and a loss of original plan form. Panelled bedrooms from the 1750’s are scarce survivors. Whilst they may not be of the greatest architectural interest (compared with the principal floors below), they are certainly of historic interest. This proposal might be considered harmful in a grade 2 listed building, but in a grade 1 listed building, this causes significant harm.”*

One of the key public benefits which could outweigh the harm was the proposal to remove roof level structures from the main building, including the lift over-run. The committee report stated:

*“The rear and roof of the building have been altered, including an extension on the north side of the closet wing and a lift over-run at roof level. (The latter will be demolished, which*

*is beneficial to the special interest of the listed building)."*

The current proposals involve changes to the existing unauthorised roof level plant. On the roof of the rear wing the amount of plant will be reduced, set back from the parapet and screened with a slate clad enclosure. This will reduce the height and bulk of the plant and give it a more traditional roof like appearance. It is considered that this aspect of the scheme is acceptable in listed building and conservation area terms.

However, the lift over-run / plant in the middle of the main roof will be retained, and plant from the rear of the main roof would be relocated to the front roof of the main building. The lift over-run is visible from the east side of Berkeley Square. The relocated plant would be higher than the existing ridge and so would also be visible to a degree from the east.

It is considered that the proposals for the roof of the grade 1 building are not acceptable. They would harm the appearance of the roof, and harm views of the building from the east. They would harm the settings of adjacent listed buildings and fail to preserve or enhance the character and appearance of the conservation area. The beneficial changes to the roofscape which were part of the original scheme, and which were used to outweigh the harm caused by aspects of the original scheme, would be lost. Reconsidering the balance between harm and benefits results in the conclusion that the benefits no longer outweigh the harm. Therefore, the current proposals cannot be supported.

#### The mews building

The third floor of the mews building, within the mansard roof, was originally approved as back-of-house space. However, the rear part of this (east side of the mews building) has been used for some plant. Although unauthorised, this is considered acceptable in urban design and conservation terms. The top of the roof of the mews building has been used to create an unauthorised roof/smoking terrace, enclosed within the slopes of the mansard roof but with a partially openable roof (using a retractable awning), instead of the external plant area as shown on the approved drawings. The current applications seek permission to retain this roof terrace.

The current proposals include retention of a lead clad lift over-run at the southern end of the roof and extract exhausts at the northern end. These are not highly visible from street level and are considered acceptable on balance.

The applicant has sought to argue that there is not sufficient space in the roof of the mews building for relocating the plant which is currently on the main building. Whilst it is probably true that not all of the plant from the main building could fit easily in the mews building, it is not considered necessary to relocate all of the plant from the main building. It is considered that the proposals for the plant on the rear of the main roof are acceptable. The retention of the lift over-run / plant room in the middle of the roof and the plant proposed to be relocated to the front of the main building are the aspects of the proposals which are considered harmful and unacceptable.

It is considered that a significant amount of plant could be removed from the roof of the main building. It seems clear that, at the very least, the plant that is proposed to be relocated to the front roof of the main building could be relocated in the mews building.

There should also be scope for reducing the height and bulk of the plant room in the middle of the main roof.

### Conclusion on urban design and conservation issues

In considering the proposal the City Council has a duty to take into account the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 16 and 66 require the City Council to have special regard to the preservation of listed buildings including their settings. The Courts have held that harm to listed buildings should be given great weight and importance in planning decisions. This is supported by national policy in the NPPF that requires that 'great weight' be given to the preservation of listed buildings, including their setting. Where harm is found to be caused by a development proposal affecting a listed building or its setting, planning permission / listed building consent should be refused unless that development's public benefits would significantly and demonstrably outweigh that harm.

Section 72 of the Act requires that for development proposals within conservation areas, special attention be paid to the preservation or enhancement of the character or appearance of that conservation area. As the proposed development is within a conservation area, this statutory provision is engaged. This requirement does not extend to development outside of a conservation area, although as with listed buildings, the legislation and NPPF requires that 'great weight' be given to the preservation of conservation areas, including their setting."

It is considered that the proposals for the plant on the main building are harmful to the significance and special interest of this grade 1 listed building and harmful to the character and appearance of the Mayfair Conservation Area. The applicant should be encouraged to investigate alternative proposals which remove plant from the roof of the main building and relocate it to the mews building, in accordance with the original planning permission and listed building consent.

As such, because of its height, bulk, design and architectural relationship to the listed building, the proposed plant on the roof of the main building would harm the special architectural and historic interest of this grade 1 listed building. It would harm the settings of adjacent listed buildings and it would also fail to maintain or improve (preserve or enhance) the character and appearance of the Mayfair Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

There are no public benefits that would outweigh the substantial harm that would be caused to this designated heritage asset. Therefore the recommendation to refuse permission and listed building consent is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

The application is supported by an assessment of noise emissions from the mechanical plant and the roof/smoking terrace in a report by the applicant's acoustic/noise consultant. The Council's Environmental Sciences officer has also spoken to the applicant's consultant

and the technical considerations are set out in detail in his memorandum dated 20<sup>th</sup> February 2020 in the Background Papers. However, the conclusion is that there are no objections to the proposals on environmental noise or nuisance grounds subject to conditions (had the proposals been considered acceptable on design and listed building grounds).

Hays Mews has a number of residential properties and two of the representations that have been received. Of the representations that have been received, two refer to noise nuisance, believed to be caused by a kitchen extract fan on the roof of the mews building. This matter has been investigated at length by the applicant's consultant and whilst it has been difficult to verify the source of the noise, it appears that the situation had improved before the current Covid-19 lockdown forced the closure of the club.

One of the representations refers to the existence of plant rooms at street level resulting in condition about waste storage from an earlier application not being satisfied, with a building up of waste in Hay's Mews, and that storage of waste must be required as a condition of the current application. However, there are designated waste storage areas in the building and these have nothing to do with the plant. It is noted that one of the other residents has also referred to problems with waste being left in the mews, as well as problems with deliveries and the number of staff moving between 46 Hay's Mews and their ancillary storage accommodation in the basement of 4 Hay's Mews. These matters are largely subject to conditions attached to earlier permissions but there have been on-going enforcement investigations about breaches of these conditions.

The smoking terrace is contained within the mansard roof of 46 Hay's Mews. It is proposed that it is used as a quiet lounge bar with only background music to allow conversation. The intention is to limit the music noise level to 75 dB(A), which the Environmental Sciences officer considers to be acceptable but should be conditioned (if permission were granted). The hours that music is played should also be conditioned, as well as a requirement for the installation of a sound limiter condition like that installed for the main courtyard dining area.

The terrace is only partially open within the roof and there is not considered to be any noise nuisance caused by it (and there have been no objections on these grounds). Similarly there is no scope for overlooking into adjoining properties. Whilst this area should be used for containing some of the mechanical plant (for which it was approved), there is no objection to the terrace itself.

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

There are no transport-related matters arising from these proposals.

#### **8.5 Economic Considerations**

It is acknowledged that if the plant had to be reconfigured in accordance with the original approvals, the club would probably have to temporarily close for the unauthorised works to be rectified.

#### **8.6 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal

consultation on Westminster's City Plan 2019-2040 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 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

### **8.7 Neighbourhood Plans**

The Mayfair Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

### **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.

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. However, this is not applicable in this case.

### **8.10 Planning Obligations**

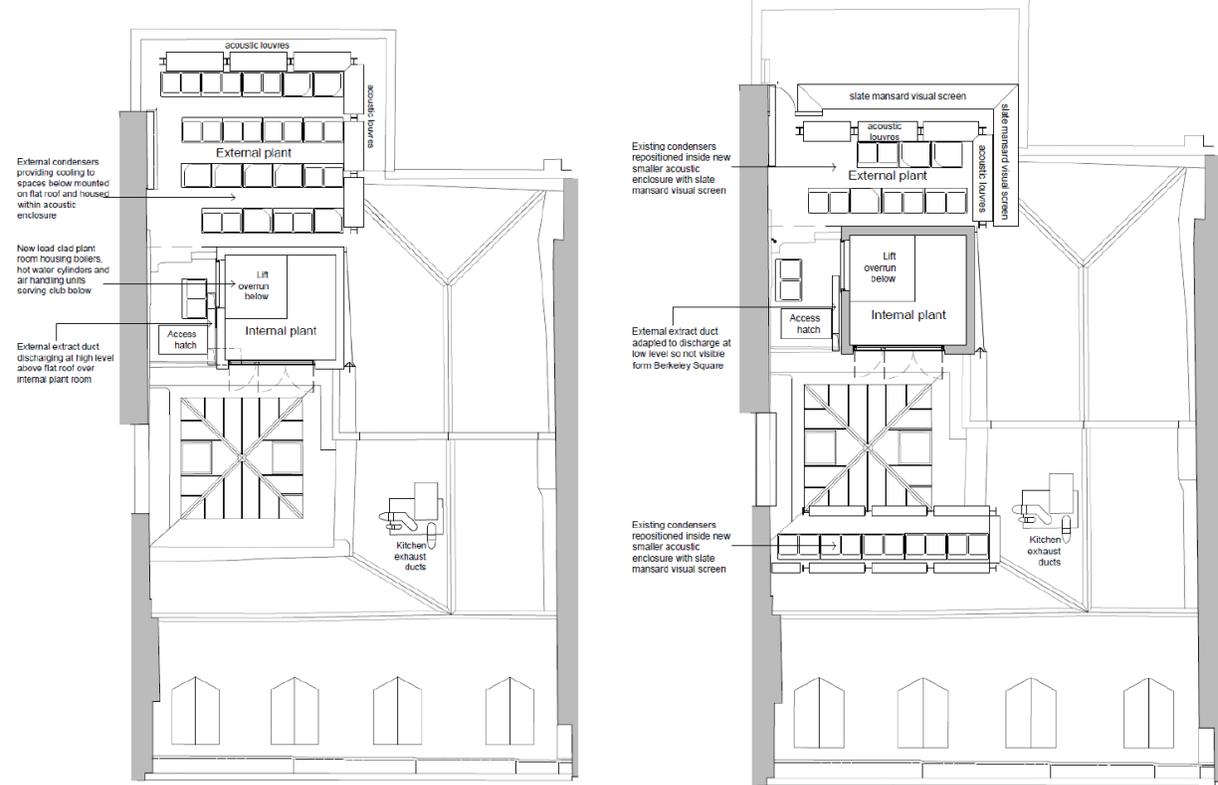
Planning obligations are not relevant in the determination of this application, nor is there any CIL payment requirement.

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

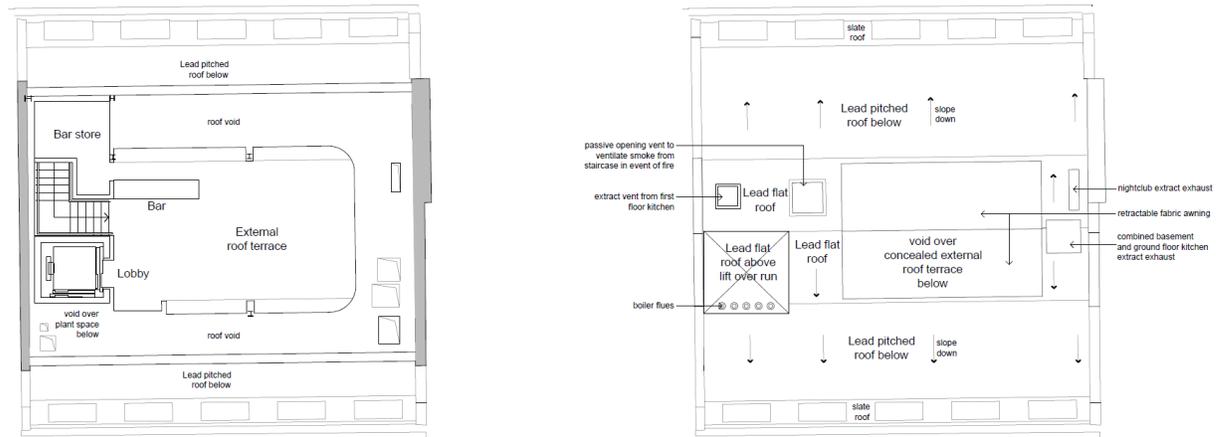
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

9. KEY DRAWINGS

Roof of 46 Berkeley Square – as existing and as proposed

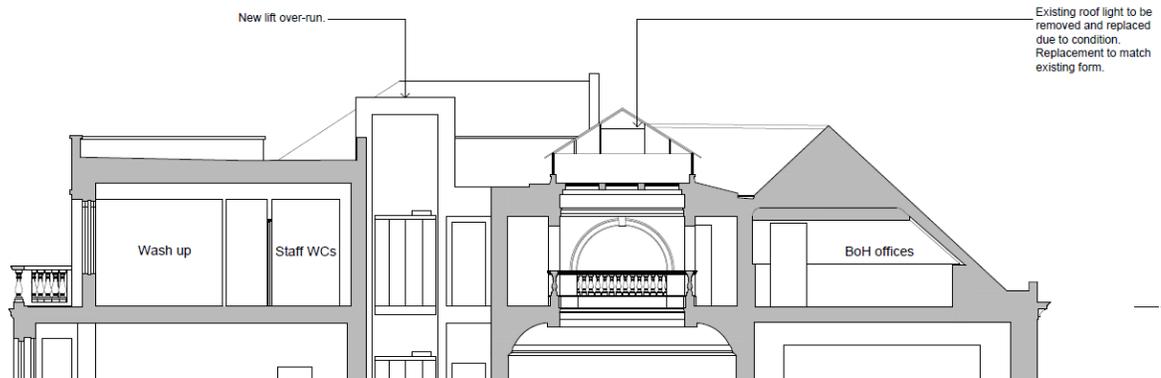


Roof of 46 Hay's Mews as existing [to be retained]

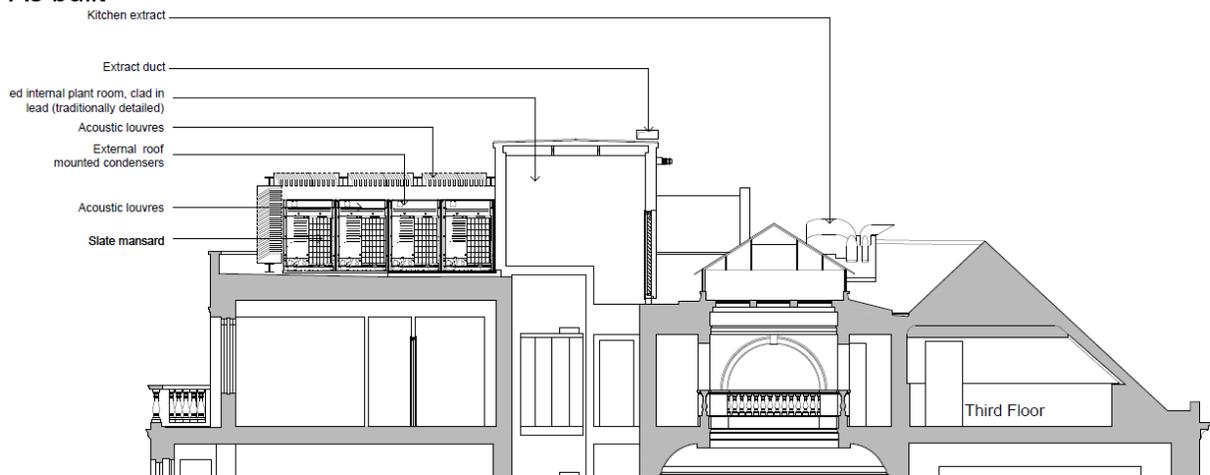


Sections through roof of 46 Berkeley Square –

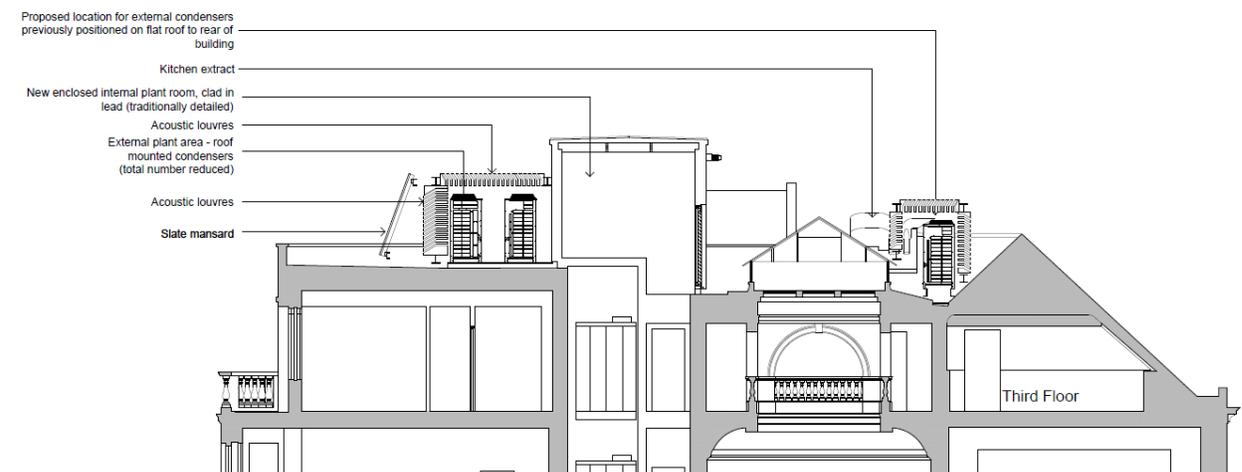
As permitted



As built



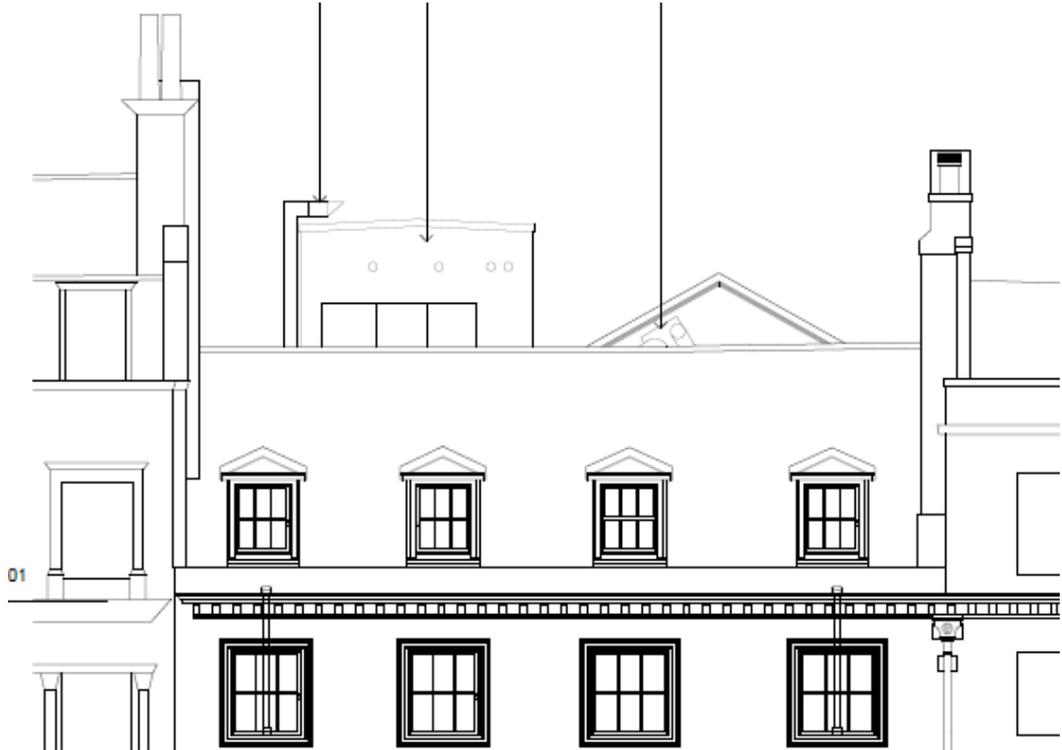
As proposed



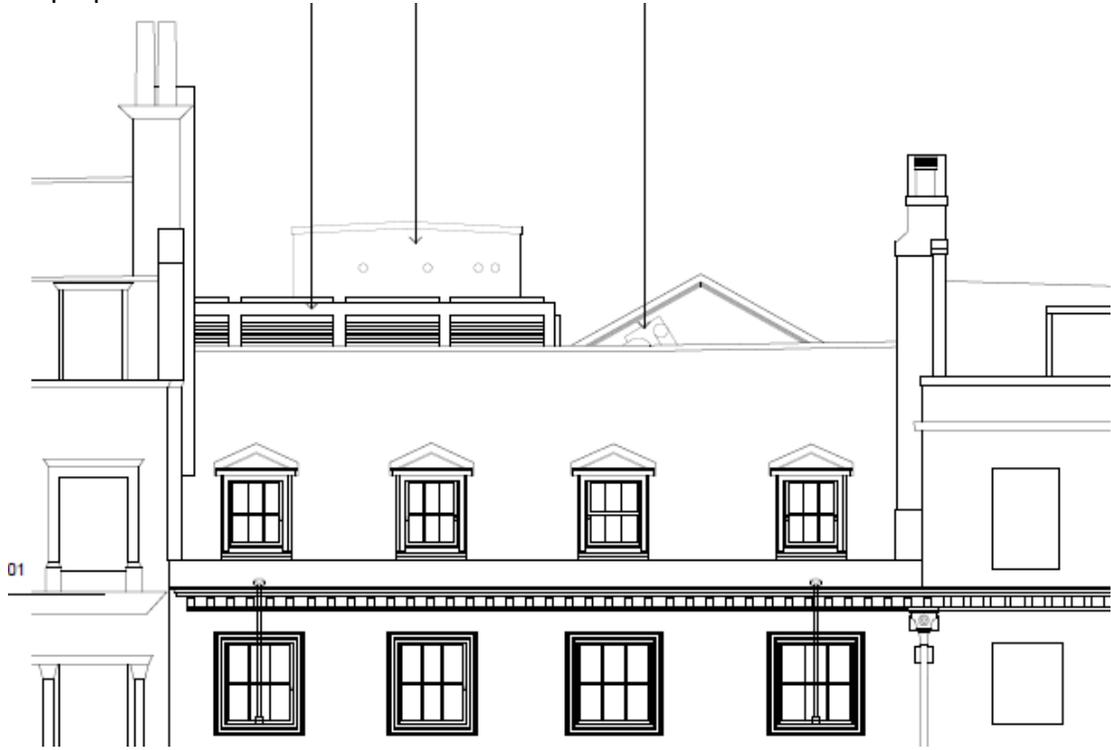
Front elevation 46 Berkeley Square –  
As permitted



As built



As proposed



**DRAFT PLANNING DECISION LETTER**

**Address:** 46 Berkeley Square, London, W1J 5AT

**Proposal:** SITE INCLUDES 46 Berkeley Square And 46 Hay's Mews. Installation of plant enclosure, mechanical plant and plant screen at roof level, internal alterations at third floor level; and external alterations to 46 Hay's Mews, including retention of roof terrace within the mansard roof (part retrospective).

**Reference:** 19/06034/FULL

**Plan Nos:** Location Plan; 46BS-A-P-017 A02, 46BS-A-P-023 A01, 46BS-A-P-028 A01 and 46BS-A-P-033 A01; 'Assessment of Noise Emissions from Roof Plant & Smoking Terrace' report dated 30 October 2019 (Ref: M3088-HMRP19).

**Case Officer:** Paul Quayle

**Direct Tel. No.** 07866039895

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

- 1 Reason:  
Because of its height, bulk, design and architectural relationship to the listed building, the plant on the roof of the main building, would harm the special architectural and historic interest of this grade 1 listed building. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the Mayfair Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (X17AD)
- 2 Because of its height, bulk and design, the roof level plant would harm the setting of the neighbouring grade 1 listed buildings at 44 and 45 Berkeley Square and grade 2 star listed building at 47 Berkeley Square. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 10 (D) of our Unitary Development Plan that we adopted in January 2007. (X20AC)

**Informative**

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 so far as practicable. 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 the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

In addition further guidance was offered to the applicant at the pre-application stage and by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial

and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Ministry of Housing, Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments:

1. Relocate plant from the roof of the main building (46 Berkeley Square) to the roof of the mews building.
2. Reduce the height and bulk of the plant / lift over-run in the middle of the roof of the main building.

The proposals for the plant on the roof of the rear wing of the main building are considered acceptable.

### DRAFT LISTED BUILDING DECISION LETTER

**Address:** 46 Berkeley Square, London, W1J 5AT,

**Proposal:** SITE INCLUDES 46 Berkeley Square And 46 Hay's Mews. Installation of plant enclosure, mechanical plant and plant screen at roof level, internal alterations at third floor level; and external alterations to 46 Hay's Mews, including retention of roof terrace within the mansard roof (part retrospective).

**Reference:** 19/06035/LBC

**Plan Nos:** Location Plan; 46BS-A-P-017 A02, 46BS-A-P-023 A01, 46BS-A-P-028 A01 and 46BS-A-P-033 A01.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 07866039895

#### Recommended Condition(s) and Reason(s)

- 1 Reason:  
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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.