

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 9 <sup>th</sup> June 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>48 Devonshire Close, London, W1G 7BG</b>		
<b>Proposal</b>	Internal demolition and rebuilding works behind a retained façade, the erection of a mansard roof extension, and associated external works to alter and extend the dwellinghouse (Class C3).		
<b>Agent</b>	Ian Wylie Architects		
<b>On behalf of</b>	Mr Ian Kitson		
<b>Registered Number</b>	19/07715/FULL	<b>Date amended/ completed</b>	4 October 2019
<b>Date Application Received</b>	4 October 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Harley Street		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site involves a mews dwellinghouse comprising of a ground and first floor. The property is unlisted and located in the Harley Street Conservation Area. Planning permission is sought for internal demolition and rebuilding works behind a retained façade, the erection of a mansard roof extension and associated external works to alter and extend the dwellinghouse.

One objection has been received regarding the proposals on the grounds that the proposals will result in loss of daylight and sunlight and an increased sense of enclosure/loss of sight of the sky.

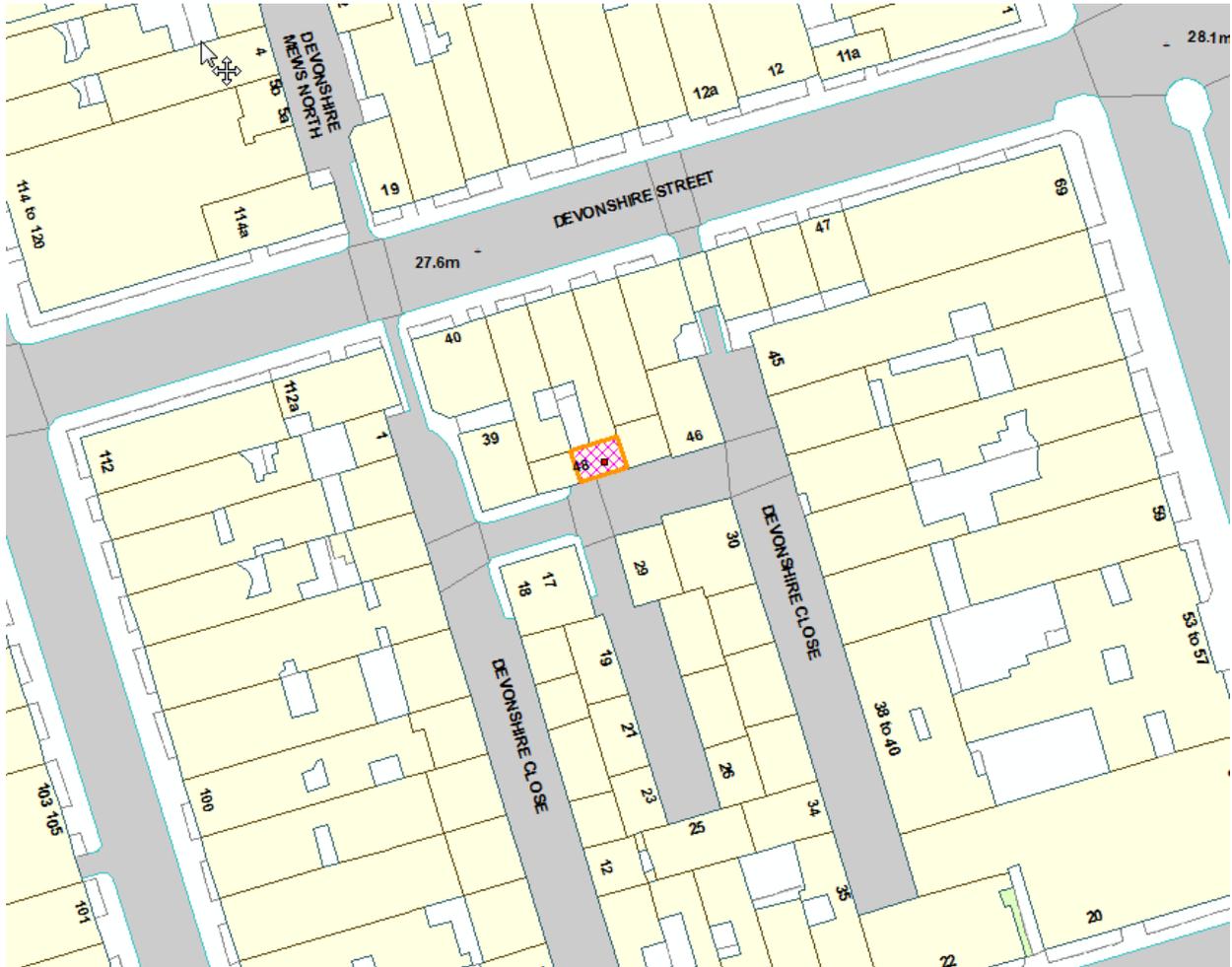
The key issues for consideration are:

- The impact the proposed works would have on the residential amenity for those living in properties in the vicinity of the application site.
- The impact of the alterations on the character and appearance of the Harley Street Conservation Area.

For the reasons set out in the main report, the proposal is considered to be acceptable in amenity terms. Furthermore, the proposed alterations will preserve the character and appearance of the

Harley Street Conservation Area and the application is recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION:

No objection, on the assumption that the daylight and sunlight study adheres to planning regulations.

### HIGHWAYS PLANNING MANAGER:

No objection, subject to the garage not being protected by historic condition.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. consulted: 29; Total no. of replies: 1

One objection received on the following grounds:

- The objector states that they would lose full sight of the sky and sunlight into their living and dining areas, and considerably less sunlight onto their terrace.
- They state that they would also suffer appreciably less light to their master bedroom, study, and lightwells at lower ground floor level.
- The objector states that both terraces (their own, and a communal terrace at first floor level) would suffer a reduction in natural light and therefore the proposals would be detrimental to all residents in the building.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is 48 Devonshire Close, which is a two storey mews building located at the northern end of the close. It is identified as an unlisted building of merit in the Harley Street Conservation Area Audit, which was adopted by the City Council in 2008. The ground floor is comprised of a garage and living space, whilst the first storey is comprised solely of living space. The building is identified within the Conservation Area Audit as one being unsuitable for a roof extension.

The property is bounded at the rear by properties on Devonshire Street; to the south by residential properties on the other side of the close; and to the east and west by adjoining residential properties. There are several listed buildings located in the immediate vicinity of the application site: 37-43 Devonshire Street forms a Grade II listed terrace, and 40 Devonshire Street is also Grade II listed.

### 6.2 Recent Relevant History

14<sup>th</sup> December 1999: Planning permission was refused for an application to erect a mansard roof extension in order to provide additional residential accommodation, and for alterations to the frontage.

The planning application was refused for the following reasons:

- The proposed roof extension was considered to be unacceptable in design and in terms of its architectural relationship to the existing building, and adjoining buildings. The proposals were therefore considered harmful to the Harley Street Conservation Area;
- The proposed mansard roof would have resulted in a material loss of light to the rear ground floor dining room window, and to the windows located in the two lightwells at basement level by reason of its proximity to windows serving habitable rooms;
- The proposed mansard roof extension would result in an unacceptable increased sense of enclosure to the windows located in the two lightwells at basement level by reason of its bulk, height and proximity of the mansard roof extension to habitable rooms.

The first two reasons were upheld at a subsequent appeal, but the third reason was dismissed as the proposals were considered to have a negligible impact on those rooms at basement level.

## **7. THE PROPOSAL**

Planning permission is sought for internal demolition and rebuilding works behind a retained façade, with a mansard roof extension, and associated works in order to alter and extend the dwellinghouse (Class C3). The proposals will lead to the loss of off-street parking [one residential garage] and an increase of some 30sqm in residential floorspace.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposals would lead to an increase of some 30sqm in residential floorspace. The increase in residential floorspace accords with policy and is welcomed in this instance.

### **8.2 Design**

48 Devonshire Close is an unlisted building located within the Harley Street Conservation Area. It is a two-storey building located at the northern end of the close and is identified as an unlisted building of merit in the Harley Street Conservation Area Audit, which was adopted by the City Council in 2008. The building is also identified as a structure unsuitable for a roof extension. 43-37 Devonshire Street forms a Grade II listed terrace and 40 Devonshire Street is also Grade II listed.

This application seeks planning permission for the retention of facades and internal reconstruction, with a mansard roof extension. Planning permission was refused in 1999 for a roof extension on design and amenity grounds. This decision was subsequently upheld at appeal on the grounds that the proposal would be harmful to the character and appearance of the Harley Street Conservation Area. The Inspector's report, however, stated, 'in reaching this view I do not rule out the possibility of designing an attic or roof extension which successfully preserved the character of the property...'. Since the Appeal Decision the extension at 47 Devonshire Close has been completed and a number of mansards erected, including 6 Devonshire Close (00/07636/FULL), 43

Devonshire Close (99/10399/FULL), 47 Devonshire Close (RN. 99/10399/FULL & 99/10400/LBC), 10 Devonshire Close (04/06361/FULL), 5 Devonshire Close (09/00591/FULL) and Devonshire Close (00/04634/FULL).

While the Conservation Area Appraisal identifies it to be a building where a roof extension would not normally be appropriate, mansard roofs now form a common feature in the roofscape of the mews and have resulted in a generous gap in the roofline above 48. Given the Inspector's conclusion that a roof addition could be appropriate and surrounding examples, the principle of a roof extension is considered acceptable in this case.

The proposals have been negotiated to ensure accordance with Policy DES 6 of the UDP and the City Council's 'Roofs: A Guide to Alterations and Extensions on Domestic Buildings' SPG. It forms a traditional style mansard, set behind a newly formed parapet. The two dormer windows to the front façade conform to those below in terms of their materiality, style and siting. The height will increase by approximately 0.45m on the existing ridge height and sit approximately 0.6m lower than the height of the mansard roof at 47 Devonshire Close.

The party wall to the neighbouring single storey building, will be increased to accommodate the mansard in a similar manner to that at 47. This will be readily visible from surrounding private and public street level views. A condition is therefore recommended for a sample of brickwork to ensure the closest match possible, regarding the alterations to the party walls and parapet build-up.

Mansard roofs form common features in the local roofscape. The proposed roof extension will, therefore, sit appropriately among existing examples. The massing has been reduced as far as possible and the proposed form and materials are sympathetic to the building's architectural character and the terrace of properties within which it sits, reflecting the guidance set out within the City Council's 'Roofs: A Guide to Alterations and Extensions on Domestic Buildings' SPG and the 'Mews - A Guide to Alterations' SPG.

The submitted demolition drawings indicate the original coach doors are to be retained, however, the notes on the proposed elevations indicate the doors are to be replaced. These doors and original iron hinges contribute to the character and appearance of the Harley Street Conservation Area and their removal is inappropriate. As such, a condition is recommended to require their retention.

Subject to the conditions outlined above the proposed roof extension forms a sympathetic addition to the roofscape and will have preserve the character and appearance of the streetscape and conservation area, in accordance with saved policies DES 1, DES 6 and DES 9 of the UDP and guidance set out within the City Council's 'Roofs: A Guide to Alterations and Extensions on Domestic Buildings' the 'Mews - A Guide to Alterations' SPGs.

### **8.3 Residential Amenity**

The site lies within a residential area with residential properties adjoining the application site at no.47 and no.49 Devonshire Close. The application site backs onto 42

Devonshire Street, which is subdivided into a maisonette on the basement and ground floors, flats on the first and second floors and a maisonette on the third and fourth floors. All have windows facing across to the rear of No. 48. A daylight and sunlight report has been submitted which examines the impact on daylight and sunlight conditions to the adjacent residential properties. One letter of objection has been received from the occupier of the ground and basement floor maisonette at 42 Devonshire Street (Flat A) on the grounds of loss of daylight and sunlight and increased sense of enclosure/loss of sky.

### **Sunlight and Daylight**

UDP Policy ENV 13 aims to protect and improve the amenity of the residential environment, which includes ensuring that sunlighting and daylighting levels to existing properties are not unreasonably compromised. In implementing this policy, the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used. The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable.

#### **i. Daylight**

The sunlight/daylight assessment submitted with the application shows that windows to all of the surrounding residential properties will comfortably meet the BRE Guidelines in relation to BRE (VSC and NSL) tests. With regard to the impact of the proposals on Flat A, 42 Devonshire Street, the ground floor dining room window receives a VSC value of 22.79% at present and, as a result of the proposals, this would fall to 21.66%. This represents a reduction of 5%, well within the BRE tolerances. Two other windows at ground floor level currently receive levels of light of 14.49% and 12.70%. These values would fall to 14.24% and 12.55%, a reduction of 2% and 1% respectively. These losses are minor and it is not considered that these losses would be noticeable by residents, and therefore cannot be considered contrary to ENV 13 of the UDP.

These losses are also significantly less than those associated with the application refused in 1999, which involved a roof some 600mm taller than that now proposed, and where losses to the dining room window were between 13% (the appellants figures) and 18% (the City Councils figures).

The objector states that they will receive appreciably less light to their master bedroom and study at basement level. In the first instance no figures were submitted in relation to levels of daylight and sunlight to the basement lightwell windows. As such, an updated daylight and sunlight assessment was submitted, which demonstrated that VSC figures will fall from 8.88% to 8.68% (a reduction of 2%) in the study, but there will be no loss of light to the other windows serving the master bedroom at basement level.

It is also relevant to note that the inspectors decision associated with the 1999 application refers to the basement windows as being "only dimly lit by the lightwells, and in my view, taking account of the parties' figures, the roof extension would have no

noticeable effect on the light or outlook from them".

## **ii. Sunlight**

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window receives less than 25% annual probable sunlight hours (APSH) and would be reduced by more than 20% as a result of a development, and has a 4% loss in total annual sunlight hours, the window is likely to be adversely affected.

The report demonstrates that only minor losses of sunlight would be experienced and all would be well within the parameters set out above. With regard to Flat A, 42 Devonshire Street, the dining room window would retain 53% APSH, and 10% winter sunlight hours, and whilst the lower ground floor study would experience a 5% loss in APSH this room would still retain 21% of APSH and as such would still retain very good levels of sunlight for this central London location.

As outlined above, it is considered that the proposals, whilst having a small impact on daylight and sunlight received to the maisonette at 42 Devonshire Street, are not so harmful as to be contrary to ENV 13 of the UDP.

## **Overshadowing**

The objector states that the proposals will cause a considerable loss of light to their private terrace at ground floor level, and to the communal terrace at first floor level. The BRE Guidelines suggest that at least half of a garden or amenity area should receive at least 2 hours of sunlight during the Spring Equinox (21<sup>st</sup> March), or the area which received 2 hours of direct sunlight should not be reduced by more than 20%. The submitted daylight and sunlight report shows that on 21<sup>st</sup> March the upper terrace would still receive 2 hours of direct sunlight to over 50% of its area and would be compliant with BRE criteria. However, the ground floor terrace currently receives only 2 hours of direct sunlight to 4% of its area on the 21<sup>st</sup> March and this would be reduced to 0%. This loss is technically contrary to BRE guidelines, however given the very small area lit at present, it is not considered that this would cause such substantial harm to warrant refusal.

The applicant has also provided figures for the June solstice (21<sup>st</sup> June) which shows that the ground floor patio receives direct sunlight to 85% of its area; the proposals would cause this to fall to 81%, a reduction of 5%, comfortably meeting BRE guidelines. With regards to the first floor communal terrace, the lit area of the first floor terrace is currently 99% and this would remain at 99% if the proposals are implemented. Therefore, whilst it is noted that both terraces would suffer minor losses of light, it is not considered that this would be so noticeable so as to be contrary to ENV 13 of the UDP and it is not considered that the application could be refused on this basis.

The objector makes reference to the documents submitted stating that they did not provide photos of their property despite their view that it is the most affected by the proposals. Whilst the Design and Access Statement only provides photographs of the application site itself and photos of the upper communal terrace, the submitted sunlight and daylight report clearly shows the location of all surrounding residential properties, and the relevant windows tested, including those of the objector's property. These have been verified following a site visit by the case officer.

### **Sense of Enclosure**

Policy ENV13(F) states that where developments result in an unacceptable increase in the sense of enclosure, planning permission will be refused. Policy S29 states that the Council will resist proposals that result in an unacceptable loss of residential amenity. One objection has been received on the grounds that the proposals would result in a loss of sky, and following the case officer's site visit, it was noted that the window most affected by the application proposals would be the rear ground floor level dining room window at 42 Devonshire Street. The room benefits from views to the sky at present; these views would be slightly reduced as a result of the proposed extension. The inspector in his decision in 1999 also referred to the fact that "the greater height of the building would be more prominent in the outlook from the (dining room) window, with reduced views of the sky from many points within the room.... In my opinion the roof extension would make this room less pleasant to live in." The proposed roof extension would sit approximately 450mm higher than at present, which is lower than that proposed in the application refused in 1999. Drawings of the refused 1999 permission show the proposed mansard roof to sit at the same level as that at 47 Devonshire Close. In this instance, the proposed mansard extension sits approximately 600mm lower than that at no.47. It is not considered that the increased height of the roof would cause an increased sense of enclosure to a degree that it would be harmful to amenity and environmental quality, and therefore be contrary to either ENV 13 or Policy S29.

### **Overlooking**

The proposals will introduce two new windows at roof level, which face out onto Devonshire Close. Given that these are a streets width apart from properties opposite, and with the existing high levels of mutual overlooking on the Close, it is not considered that the introduction of two new windows would be harmful to residential amenity.

There are no windows proposed to the rear of the property, and therefore there are no privacy issues with those properties at 42 Devonshire Street.

## **8.4 Highways**

The existing building includes a ground floor garage which is to be converted to habitable accommodation as part of the proposals. UDP policy TRANS 23 sets out the standards for parking associated with residential development. The policy states that the loss of any existing off-street residential car parking space will not be permitted other than in exceptional circumstances. The Highways Planning Manager states that the proposal would be contrary to Policy TRANS 23 but acknowledges that, if the lawful use is as a single family dwellinghouse, the garage could be converted to provide additional living accommodation under permitted development rights.

In this instance, Council records indicate that the garage is not protected by any historical condition relating to the provision of off-street parking and the Inspectors decision refers to the fact that "there is no dispute that the change of use of the garage to residential does not require planning permission". In these circumstances, and given the close proximity of this site to excellent public transport facilities, it is not considered that planning permission could be reasonably refused for the loss of the existing garage. The Highways Planning Manager does not object to the proposals, subject to the inclusion of a condition which stipulates that no doors must open onto the public highway. Given that the residential unit is existing, it would not be considered reasonable

to add a condition which requires the provision of cycle parking spaces. The proposals are therefore acceptable in highways terms.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **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**

None relevant

#### **8.8 London Plan**

This application raises no strategic issues.

#### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

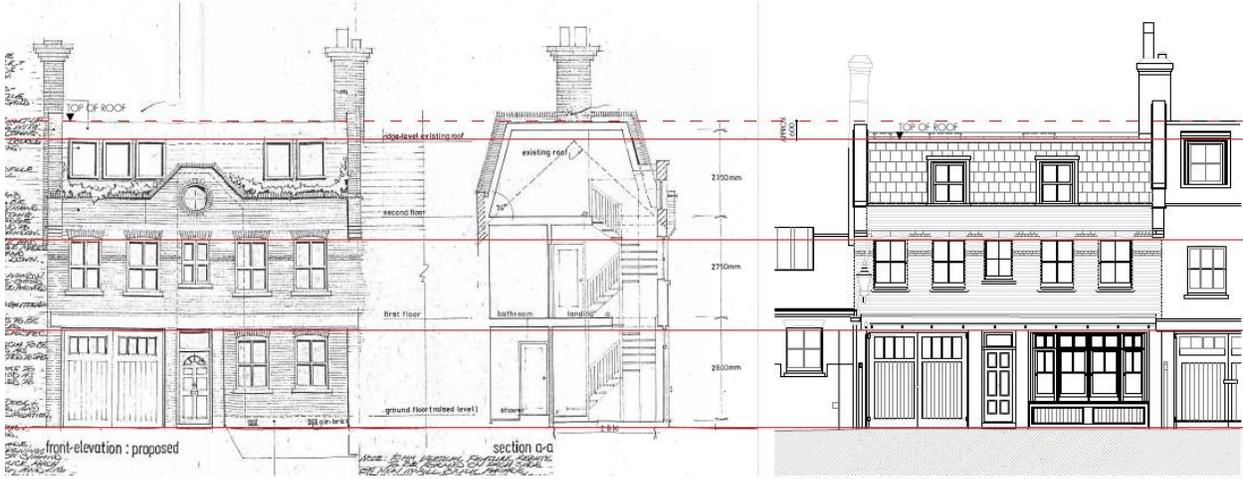
#### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT: [JPALME@WESTMINSTER.GOV.UK](mailto:JPALME@WESTMINSTER.GOV.UK)



**HEIGHT COMPARISON STUDY BETWEEN CURRENT PROPOSAL AND PREVIOUS APPLICATION**



PROPOSED SCHEME 1982 (RECEIVED 1996)

PROPOSED SCHEME 2019  
(REVISED MARCH 2020)

IAN WYLIE AI  
17 NOTTINGHAM STREET  
LONDON W1U 1BN

**DRAFT DECISION LETTER**

**Address:** 48 Devonshire Close, London, W1G 7BG

**Proposal:** Internal demolition and rebuilding works behind a retained façade, the erection of a mansard roof extension, and associated external works to alter and extend the dwellinghouse (Class C3).

**Reference:** 19/07715/FULL

**Plan Nos:** 375-IWA-S-AA REV A , 375-IWA-E-N REV A , 375-IWA-S-BB , 375-IWA-P-RF , 375-IWA-P-02 , 375-IWA-P-01 , 375-IWA-P-00 .

**Case Officer:** Matthew Hollins **Direct Tel. No.** 020 7641 07866040044

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

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

**Reason:**

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

- 2 All new work 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 this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 3 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to

the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of an image of a sample panel of brickwork which shows the colour, texture, face bond and pointing, shown to match existing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample.

Reason:

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

- 5 Notwithstanding the details shown on the submitted drawings, the coach doors shall be retained in situ.

Reason:

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

- 6 The pitched roofs of the new mansard shall be faced in natural slate, and the dormers shall be clad in lead to sides, cheeks and roofs.

Reason:

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

- 7 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),

- 8 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

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

#### **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.

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.