

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 23 June 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Warwick	
Subject of Report	Flat 2, 21 Denbigh Street, London, SW1V 2HF		
Proposal	Retention of air conditioning condenser unit at rear ground floor roof level and proposed installation of acoustic enclosure.		
Agent	Avalon Planning & Heritage		
On behalf of	Ms Rebecca George		
Registered Number	19/08202/FULL	Date amended/ completed	31 October 2019
Date Application Received	22 October 2019		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

21 Denbigh Street is an unlisted building located within the Pimlico Conservation Area. The application relates to Flat 2 at ground floor level. The applicant seeks retrospective permission for an air conditioning condenser unit installed on the flat roof of the ground floor rear addition. Permission is also sought to install a new acoustic enclosure around it.

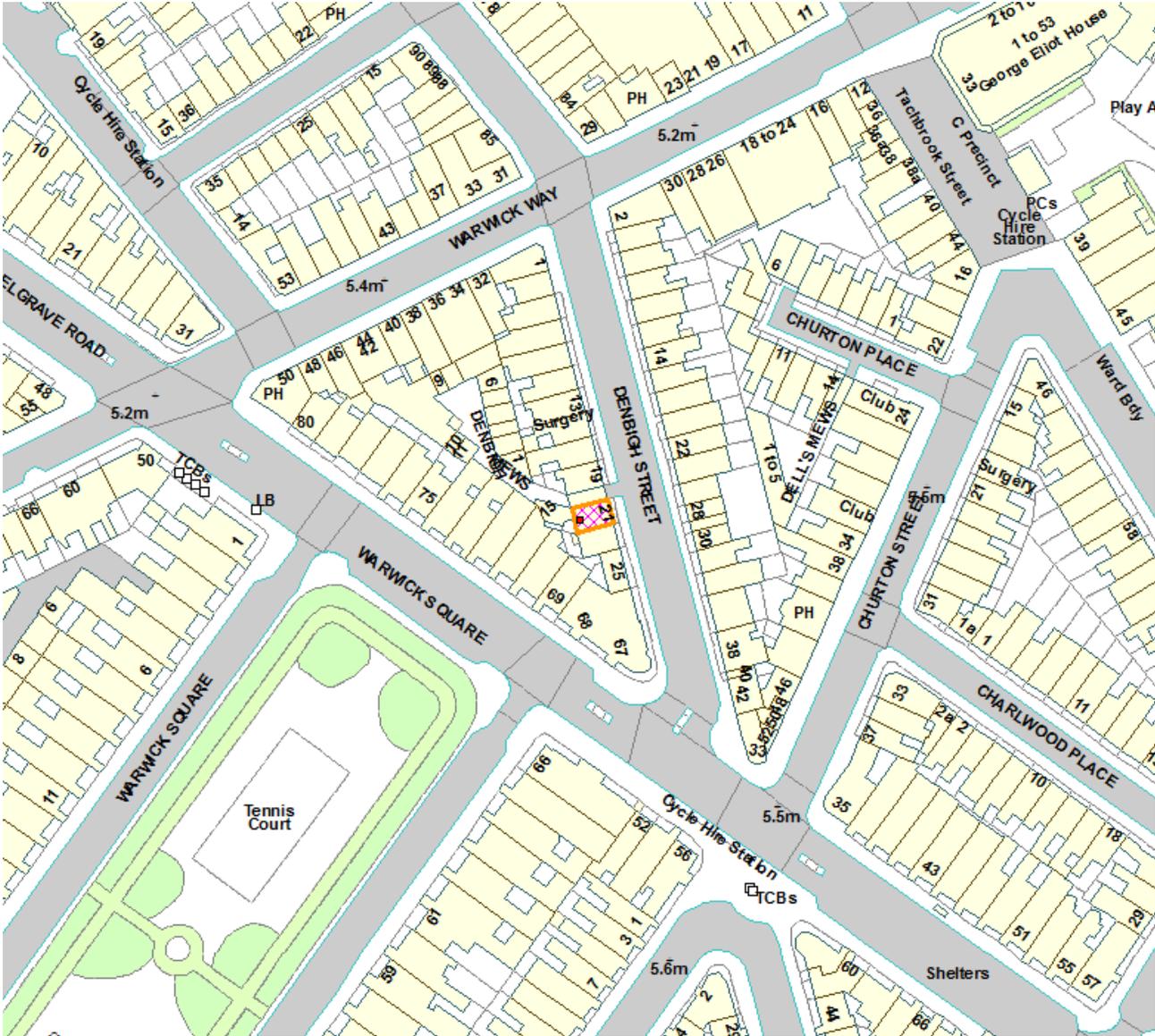
The key issues in this case are:

- the impact of the proposed development on the character and appearance of the building and the Pimlico Conservation Area and the setting of nearby listed buildings; and
- the impact on the amenity of neighbouring residents.

Neighbouring residents object to the proposal primarily on the grounds the air condenser unit generates noise disturbance which harms the quality of their lives.

For the reasons set out in this report, the proposed development is considered to accord with relevant policies within the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016 (the City Plan). As such, it is recommended that planning permission is granted, subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View of Rear Elevation from Denbigh Mews



View of Air Conditioning Unit from Adjoining Property

5. CONSULTATIONS

WESTMINSTER SOCIETY:

Any response to be reported verbally.

PIMLICO FREDA:

Any response to be reported verbally.

PIMLICO NEIGHBOURHOOD FORUM:

Any response to be reported verbally.

ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 20

Total No. of replies: 4 (objections)

In summary, four neighbouring residents object on all / or some of the following grounds:

Residential Amenity:

- Noise disturbance will harm neighbouring residents' quality of life, including a resident who suffers from Post-Traumatic Stress Disorder (PTSD);
- The submitted acoustic report demonstrates the unit would not be in compliance with Westminster City Council's noise requirements;

Design:

- The air condenser unit harms the appearance of the building and area, including harming the setting of adjacent listed buildings on Warwick Square;

Other:

- The air condenser unit was installed in breach of planning control, and has previously operated outside of the hours proposed in the current application and could impact on neighbours' property values.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

21 Denbigh Street is an unlisted building located within the Pimlico Conservation Area. The building is located in close proximity to a group of grade II listed buildings at 67-80 Warwick Square immediately to the west of the proposal site.

21 Denbigh Street contains 5 residential flats, and the application relates to flat 2 at ground floor level..

6.2 Recent Relevant History

None relevant

7. THE PROPOSAL

The applicant seeks permission for the retention of an air condenser unit which is sited on the flat roof of the ground back addition which backs on to Denbigh Mews. The applicant installed the unit without the benefit of planning permission and without an acoustic enclosure. The application includes a proposal to install a new acoustic enclosure around the unit.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposed alteration would raise no land use issues.

8.2 Townscape and Design

Legislation, Material Considerations and the Development Plan

The key legislative requirements in respect to conservation areas is section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which 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." 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

Furthermore Chapters 12 and 16 of the 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.

In terms of the Development Plan, UDP policies DES 1 (urban design / conservation principles), DES 5 (alterations and extensions) and DES 9 (conservation areas) are the most relevant design policies, but given the site is adjacent to the grade II listed buildings at 67-80 Warwick Square, policy DES 10 (listed buildings) is also relevant. Policies S25 and S28 of the City Plan provide the strategic policy basis for the application.

Consideration

The unit is not visible from public vantage points from the mews. It is visible from some private vantage points, particularly from properties fronting on to Warwick Square to the west. The addition of an enclosure would represent a small increase in bulk which would mean that the unit would become more visible particularly from public views in the mews. However this will not have a significant impact on the character and appearance of this part of the conservation area which would be preserved. The imposition of a condition requiring details of the acoustic enclosure in terms of its colour and materials is recommended.

Several objections have been received following the Council's public consultation, one of which considers that the proposed development does not accord with Sections 66 (1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, for the reasons set out above, given the condenser unit's limited visibility from public views, and given that the unit would be screened, the character and appearance of the Pimlico Conservation Area would not be harmed. The minor impact on the outlook from the properties fronting on to Warwick Square would not cause harm to their setting and significance of these listed buildings. As such, special regard has been given to the desirability of preserving the setting and special interest of the nearby listed buildings and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, in compliance with the requirements set out in the Act.

Conclusion

As such, the proposal is considered acceptable, mindful of policies DES 1, DES 5, DES 9 and DES 10 of the UDP and S25 and S28 of the City Plan; and therefore, a recommendation to grant conditional permission would be 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

Policies S29 of the City Plan and ENV13 of the UDP seek to protect residential amenity in terms of light, privacy and a sense of enclosure and encourages development that enhances the residential environment of surrounding properties. Policy ENV7 of the UDP relates to plant machinery and seeks to protect noise sensitive properties from noise disturbance.

In terms of the impact on light, privacy and a sense of enclosure, the air condenser unit and its enclosure would not have a significant impact. This is because of its relatively modest size and its position set in from the edges.

Objectors state the main amenity issue is the noise disturbance the air condenser unit creates. As the unit was installed without the benefit of planning permission, neighbours have already experienced its operation and report that it generates noise disturbance harmful to their quality of life.

The applicant has supported their application to retain the unit with an acoustic report. This report concludes that an attenuation measure is required to reduce the level of noise from the unit to comply with our noise policies. This attenuation would be in the form of an acoustic enclosure, without which neighbours would be disturbed by the operation of the machinery.

Originally, Environmental Health Officers objected to the proposal on the grounds the proposed equipment would not conform with the City Council's requirements on noise levels, this was because while an acoustic enclosure was proposed, its effectiveness could not be demonstrated as the report contained inaccuracies. The applicant has since amended their acoustic report. Environmental Health has now confirmed that this revised proposal and acoustic report demonstrates that the equipment is likely to comply with the City Council's noise policy ENV 7 of the UDP. Conditions are recommended to ensure this would be the case, including a condition to ensure that an acoustic enclosure is installed prior to the equipment being operated again.

8.4 Transportation/Parking

The proposal would not affect the local highway network or availability of on-street parking.

8.5 Economic Considerations

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

8.6 Access

The proposal does not alter access arrangements.

8.7 Other UDP/Westminster Policy Considerations

None relevant.

8.8 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.

8.9 Neighbourhood Plans

None relevant.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

The application is of insufficient scale to trigger the requirement of an EIA.

8.14 Other Issues

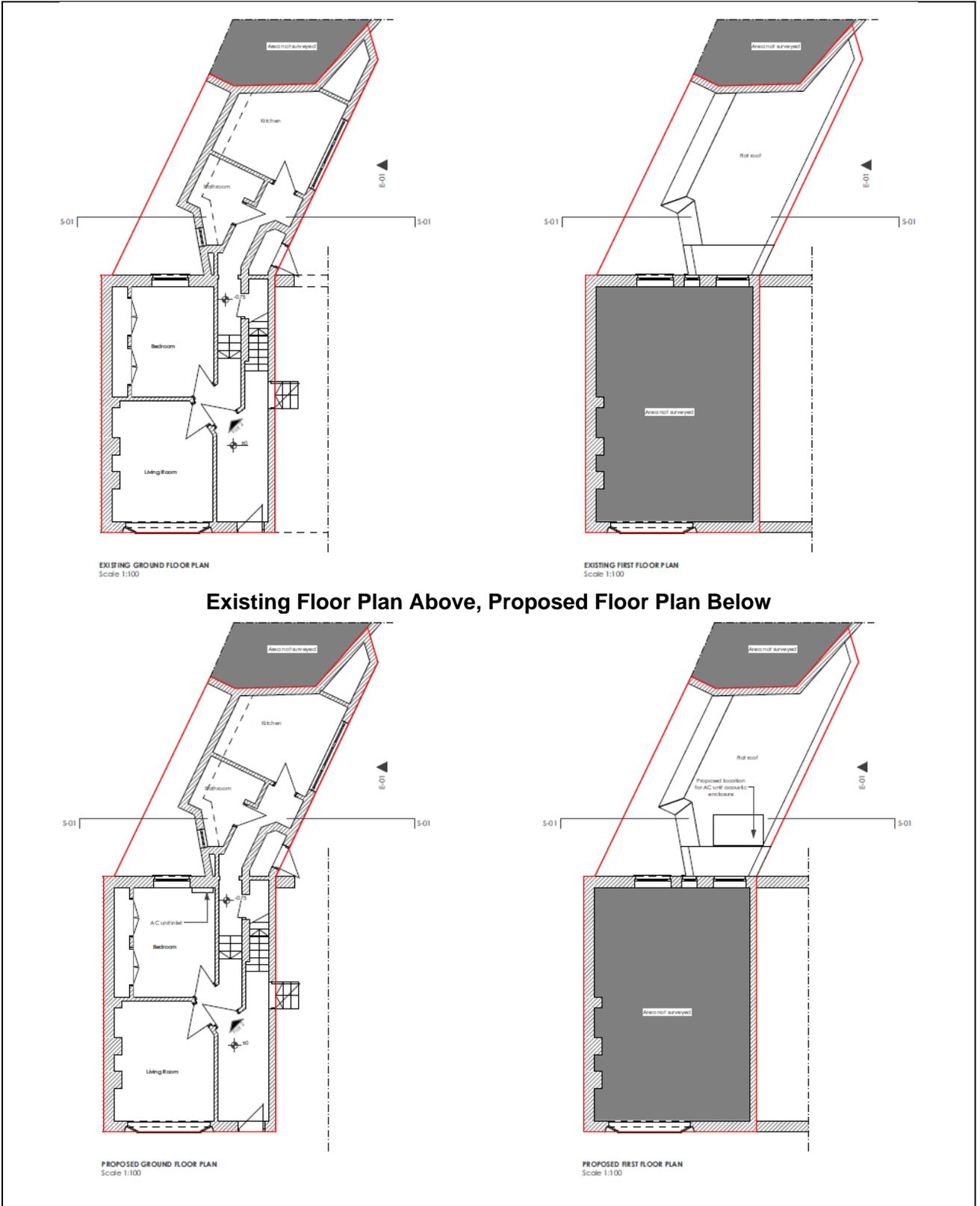
Objectors raise concern that the applicant installed the air condenser unit without the requisite planning permission. This is understandable, evidently the applicant ought to have obtained permission prior to installing the air condenser unit. However, the City Council can only consider the planning merits of the case – this means the City Council must consider retrospective applications in the same manner as any other application.

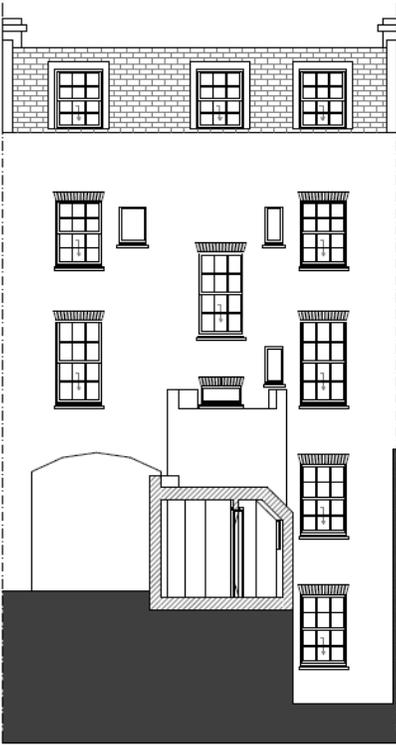
Another objector is concerned that the development reduces their property values. This is not a material planning consideration, although impact on residents and the area is taken into account and addressed elsewhere in this report.

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

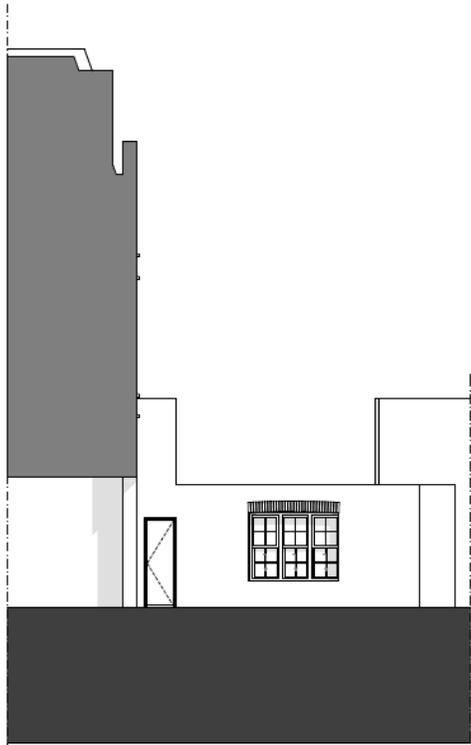
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT mmason@westminster.gov.uk

9. KEY DRAWINGS



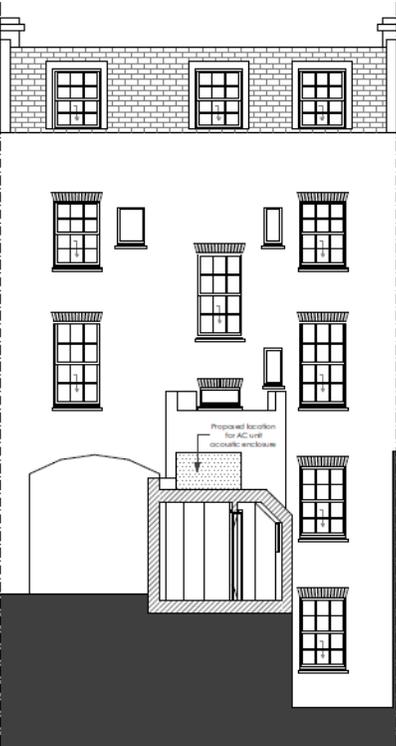


EXISTING SECTION S-01
Scale 1:100

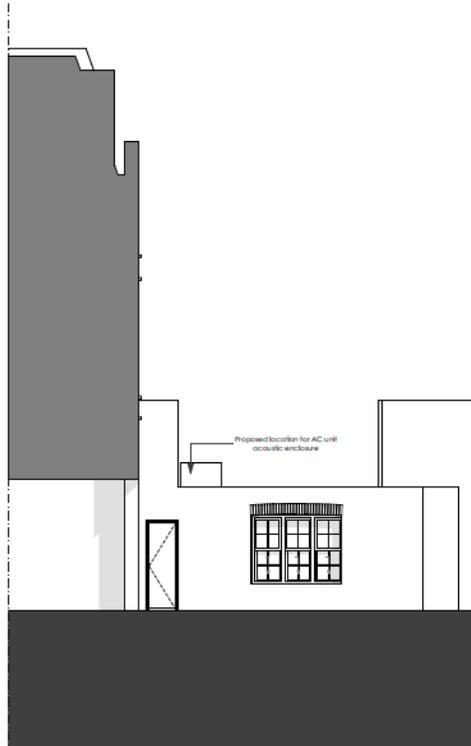


EXISTING ELEVATION E-01
Scale 1:100

Existing Section and Elevation Above, Proposed Section and Elevation Below



PROPOSED SECTION S-01
Scale 1:100



PROPOSED ELEVATION E-01
Scale 1:100

DRAFT DECISION LETTER

Address: Flat 2 , 21 Denbigh Street, London, SW1V 2HF

Proposal: Installation of air conditioning condenser unit, within an acoustic enclosure, at ground floor roof level.

Reference: 19/08202/FULL

Plan Nos: Site and Location Plans; 109-3EX-01; 109-3EX-02; 109-3GA-01A; 109-3GA-02A; Cover Letter including Planning Statement; Acoustic Report rev 05.

Case Officer: Joshua Howitt

Direct Tel. No. 020 7641 2069

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

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

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

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

Reason:

To protect the environment of 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 this part of the Pimlico 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 use for approval of details of the acoustic enclosure. You must not install the enclosure until we have approved what you have sent us. Within 3 months of the date our decision to approve the details you must install the acoustic enclosure. You must not use the air condenser until you have installed the acoustic enclosure in accordance with the details approved. You must then maintain it in the form shown for as long as the machinery remains in place.

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 Pimlico Conservation Area and so that the noise environment of people in noise sensitive properties is protected. This is as set out in S25, S28 and S32 of Westminster's City Plan (November 2016) and ENV 7, DES 1, DES 5 and DES 9 of our Unitary Development Plan that we adopted in January 2007.

- 5 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City

Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 6 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

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 You are reminded that under condition 4, you must not operate the air condenser unit you have installed the enclosure.
- 3 Conditions 5 and 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (182AA)
- 4 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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.