

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 22 February 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	47 Great Marlborough Street, London,		
Proposal	Enlargement of 4 th floor residential flat (Class C3), erection of a rooflight over a rear terrace to create a repositioned bathroom for the flat. (Retrospective).		
Agent	Mr Anthony Ferguson		
On behalf of	Satila Studios and Half Moon Investments Limited		
Registered Number	21/07551/FULL	Date amended/ completed	16 November 2021
Date Application Received	3 November 2021		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

Permission was granted on 6 December 2017 for alterations and extensions to this building to provide a retail shop or restaurant on part basement and part ground floors, a residential flat (Class C3) occupying most of the fourth floor front, and offices within the remainder of the building including an individual office (Class E) at the front of the building, linked to the rear offices via a short corridor which also provides access to the flat. The approved development includes a residential terrace on the main roof and a further terraced at rear fourth floor level, separating the rear of the flat from the offices. That development is complete and the building is occupied, with a restaurant on the lower floors.

Following recent site visit in relation to proposals on an adjacent site, it has come to light that the development has not been completed in accordance with the approved plans. The demise of the approved flat has been extended to incorporate the individual office at the front of the building and currently provides a 'home office'. Additionally, the flat has been reconfigured to locate the sole bathroom on the small fourth floor terrace, accessed by glazed doors leading from the bedroom, with a fully openable rooflight creating the bathroom roof. Retrospective permission is sought for these changes.

The key issues in this case are:

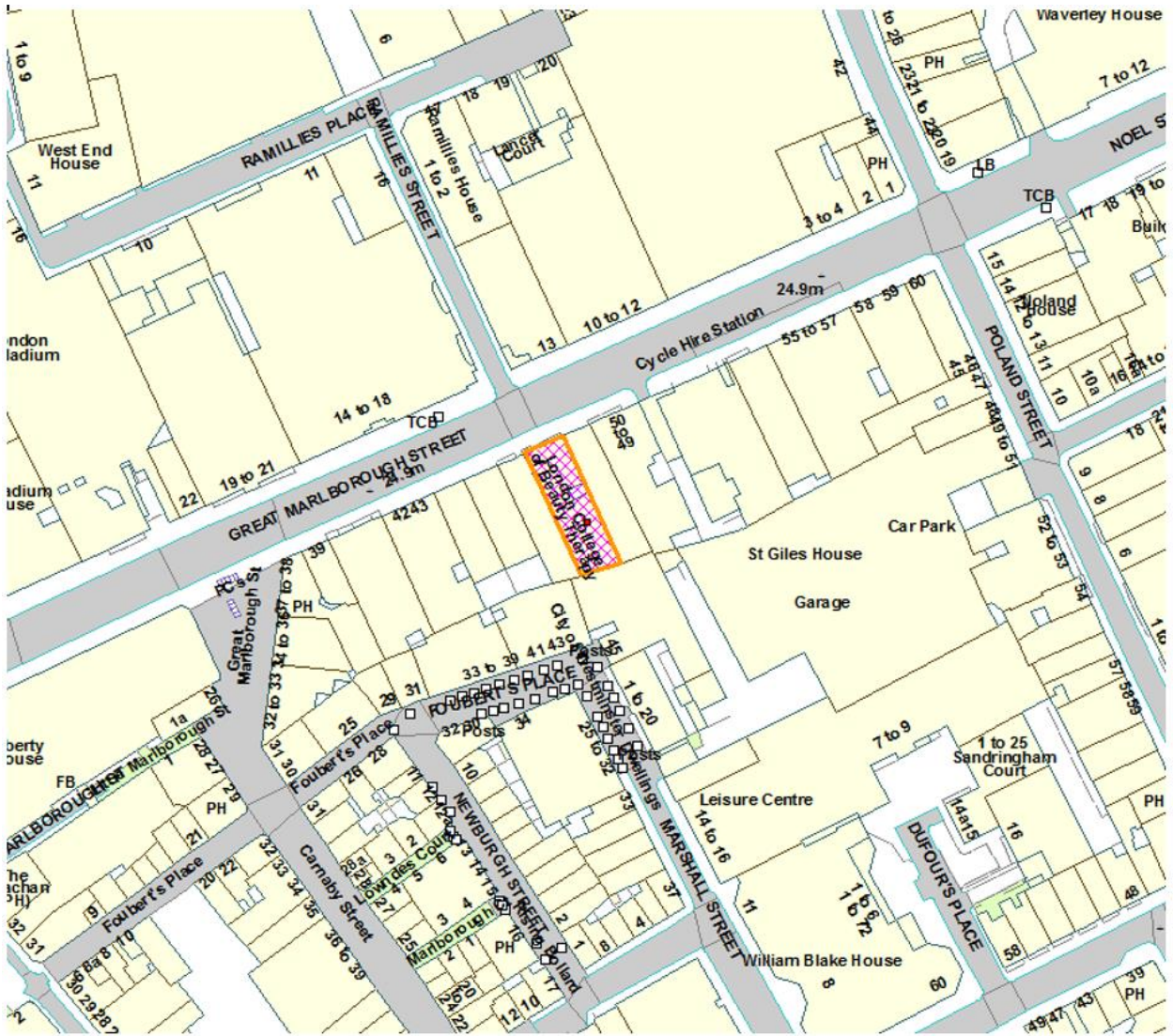
- The acceptability of the loss of offices in land use terms given that City Plan policies prevent the conversion of offices to residential use on sites within the Central Activities Zone
- The standard of accommodation offered by the reconfigured flat, with particular regard to levels of light received and ventilation.

An objection has been received on the grounds that the conversion of the office floorspace (approximately 17 sqm) to residential use is contrary to adopted land use policies. However, the applicant has confirmed that this space was never fitted out as offices (Class E) floorspace and in the particular circumstances of this case, it is considered that the use of this small office area as an extension to the approved flat would be difficult to resist. In this context, the provision of additional residential floorspace is considered acceptable in principle.

An objection has also been received on the grounds that the reconfigured flat provides an unacceptable standard of accommodation due to restricted daylight/sunlight levels and inadequate natural ventilation. The objector is also concerned that the application does not consider the impact of noise and odours on openable windows or the impact of the changes on energy/sustainability.

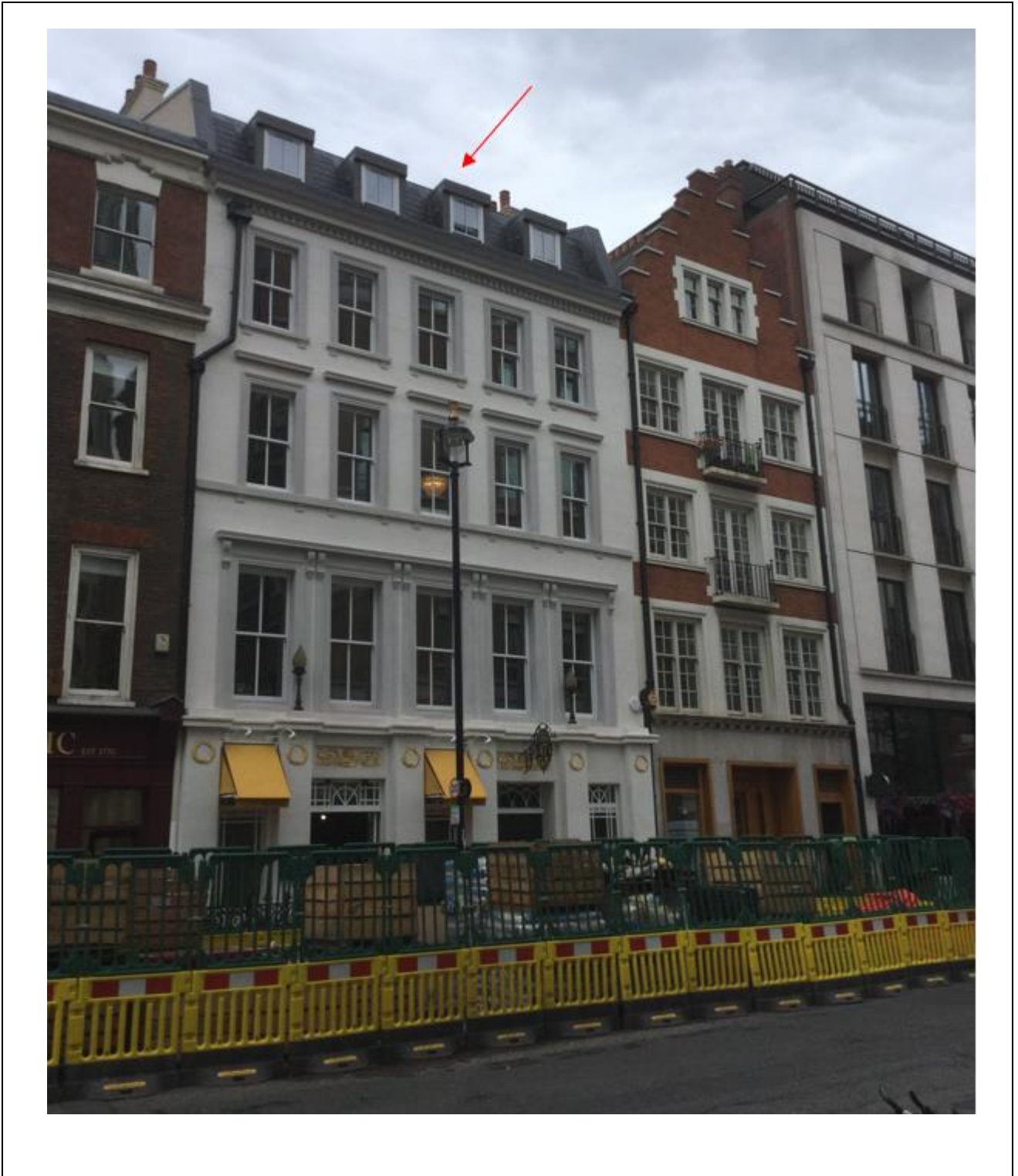
The application has been reviewed by the Council's Environmental Services who has raised no objection to the proposals. The flat is considered to receive adequate daylight/sunlight and natural/mechanical ventilation and provides an unacceptable standard of accommodation. The changes are considered to have negligible impact on site sustainability when compared with the approved development . The application is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

CROSSRAIL 1

Do not wish to comment

SOHO SOCIETY

Any response to be reported verbally

PLANNING ENFORCEMENT

Confirm current enforcement investigation

HIGHWAYS PLANNING MANAGER

Any response to be reported verbally

WASTE PROJECT OFFICER

Objection – request further details of storage of waste and recyclable materials

ENVIRONMENTAL SERVICES

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 32, Total No. of replies: 1, No. of objections: 1, No. in support: 0

Land use

- Loss of offices

Amenity

- Inadequate light and ventilation to residential accommodation; potential loss of amenity to flat from noise and smell nuisance to openable windows

Sustainability

- No assessment of energy/sustainability implications

SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application relates to an unlisted building on the south side of Great Marlborough Street between its junctions with Carnaby Street and Poland Street. The premises has been altered and extended pursuant to a planning permission granted on 6 December 2017 and is occupied as a restaurant and offices with a single flat (Class C3) at fourth floor front, with a terrace at roof level.

The site is within the Soho conservation area, the Central Activities Zone and the West End Retail and Leisure Special Policy Area (WERLSPA). The site is also located within the Soho Neighbourhood Area and the Soho Special Policy Area as designated in the Soho Neighbourhood Plan (2021).

The area is primarily commercial in character although there are residential uses on the upper floors of neighbouring buildings including at 16 Great Marlborough Street, opposite, known as 11 Ramifies Place, on the upper floors of 39-40 Great Marlborough Street, and to the rear of the site, in Foubert's Place.

6.2 Relevant planning history

5 August 2000 Permission granted for the use of the building for Class A1 retail purposes on part basement and ground floors (106 sqm) with Class B1 offices (1120 sqm) above (the continuation of the existing uses) or for Class D1 educational purposes (1226 sqm) (00/04484/FULL). The premises were subsequently occupied by the London College of Beauty Therapy. This permission was renewed on 21 December 2009 (09/06573).

6 December 2017 Permission granted for alterations including the erection of a rear and roof extensions, including partial demolition, to provide Class B1 office floorspace and residential apartment (Class C3), and dual/alternative use of part basement and part ground floor as a retail shop (Class A1) or restaurant (Class A3). (RN: 17/05944/FULL).

Condition 16 of this permission requires the submission and approval of details of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 14 (noise from external sources) and condition 15 (noise from within the development) of the permission.

The details in relation to soundproofing from noise within the development were approved on 1 August 2019 under reference 19/04123/ADFULL. The plans within the approved acoustic report show the current (unauthorised) flat layout.

7. THE PROPOSAL

At a recent site concerning development proposals on a neighbouring site, it became evident that the current flat layout and demise does not accord with that shown on the approved application drawings and the matter has been reported to the Council's Planning Enforcement Team. This application, submitted on behalf of the flat occupier, who is the original site developer, is for retrospective planning permission to regularise these changes which are :

- i) the use of part of the approved commercial office floorspace, (measuring approximately 17 sqm) as an extension to the approved flat (Class C3).
- ii) the reconfiguration of the flat to relocate the bathroom to the site of the approved rear fourth floor residential terracel. The relocated bathroom is accessed from the rear bedroom and the rooms are separated by a glazed screen and door. The bathroom space, which provides an additional 6 sqm of residential floorspace is covered by an

openable rooflight (mechanical) which is operated via a control panel in the bedroom.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of office floorspace

The original development provides a total of 933 sqm of modern office floorspace on the upper floors of the building, including a single office (approximately 17 sqm) located towards the front of the building, accessed via a short corridor which also provides access to the flat at the front of the building. This individual office space includes a staff WC and the footprint also includes an area measuring approximately 3m long x 1m wide.

The approved flat at the front of the building has been extended to include this commercial office space Class E), which is now occupied as a home office, accessed from the living room. The applicant advises that the 'implemented position' has been physically and functionally in place for over a year.

The City Plan supports the provision of new and improved office floorspace within those parts of the CAZ with a commercial or mixed-use character, including the WERLSPA.

Policy 1 (4) seeks to balance the competing functions of the CAZ as a retail and leisure destination, visitor attraction, global office centre and home to residential neighbourhoods. The supporting text, at paragraph 1.7 states:

' to secure the right conditions for continued economic growth, the past trend of losing business space must be halted, and the growth of a range of spaces that meets the needs of modern businesses supported'.

Similarly, Policy 2 states, that the intensification of the WERLSPA over the Plan period will deliver significant job growth through a range commercial-led development including retail, leisure, office and hotel use. To this end, Policy 13 encourages the provision of new and improved office floorspace to provide capacity for at least 63,000 new jobs over the Plan period and only permits the net loss of office floorspace in the CAZ to residential use in those parts of the CAZ that are predominantly residential in character and where the proposal would reinstate an original residential use, neither of which is the case here.

Policy SD5 of the London Plan (offices, other strategic functions and residential development in the CAZ) states that new residential development should not comprise the strategic functions of the CAZ and that offices and strategic CAZ functions are to be given greater weight relative to new residential development in the CAZ in specific locations (outside Westminster) and in wholly residential streets or predominantly residential neighbourhoods.

The Soho Neighbourhood Plan set out various policy objectives including "2: Commercial Activity", which requires commercial or mixed use development proposals to ensure that the availability of smaller commercial premises, including for office use, is

not diminished. To this end Policy 5 (Premises for small businesses) states that proposals for commercial development will be supported where they demonstrate that they incorporate flexible workspaces for suitable SMEs and other small-scale businesses. The supporting text stresses the importance of making smaller commercial premises available and stresses the importance of such accommodation to the character of the area. Additionally, policy 6 requires new office development to be designed to provide a variety of flexibly-sized workspaces.

The applicant has made the following arguments in support of the loss of office floorspace:

- The principle of a mixed-use development, incorporating a residential use, was established by the original permission.
- The approved scheme provides a significant amount of purpose-built, contemporary, office space. The office area, which is the subject of this application, was a 'by-product' of this office development.
- The office measures only 17 sqm and would only have been occupied by one person and a significant part of this space comprises the WC and the corridor link. In the context of London Plan estimates for the demand for office floorspace in the period until 2041, the proposed reduction is de minimis.
- the building configuration and access arrangements enabled the seamless conversion of the approved office to a home office. As working practices have changed significantly as a result of the pandemic, the proposal allows the flat occupier to work in this additional space which is 'fit for purpose'.

An objection has been received to the loss of the existing office floorspace based on City Plan policy and highlighting the GLA's policy regarding the loss of smaller and more affordable office stock. The objector also refers to a study prepared for the GLA (unnamed) which details the shift towards a more diverse London economy with a vibrant profile of small and micro businesses, where low value space, in particular, is vulnerable to changes of use, particularly from residential development and small businesses are 'squeezed out' by rising rents. (London Office Policy Review: Ramidus Consulting 2017)

In this context, the objector considers that the importance of small office space to the economy cannot be underestimated and that such losses will, to varying degrees, cause harm. They also consider that the importance of office floorspace is further substantiated by the presence of an Article 4 direction (which came into force on 1 May 2019), removing permitted development rights for changes from office to residential use. The objector notes that the Article 4 Direction does not include a minimum size threshold.

The objector also acknowledges the small size of the floorspace lost but considers that this accommodation has an important and established strategic function in providing accommodation for micro and smaller enterprises where they might not otherwise exist. Consequently, the objector considers that arguments based upon the size of the accommodation lost set a dangerous precedent which could ultimately impact on the strategic function of the CAZ and believes that the applicant has not provided any

'quantifiable justification' for a departure from adopted City Plan policy. While they acknowledge that the need for office floorspace reduced significantly during the pandemic, they consider that no evidence has been submitted to demonstrate that the need will not return. Furthermore that no evidence has been provided to suggest that the approved office space is not suitable for employment use.

The arguments put forward by the objector are acknowledged. However, it is accepted that this space has never been fitted out or occupied as commercial office space. (The first to fourth floor offices have only been registered for Business Rates since 1 December 2020). Had the original planning application included the commercial office space as part of the flat, this would have been considered acceptable in principle in land use terms. The completed development provides a significant amount of new office floorspace within CAZ but there is no evidence to suggest that, had the individual office been created, that it would have been let independently of the remainder of the office floorspace. The remainder of the office floorspace is currently open plan and it appears more likely that the office was designed as a 'private' office/meeting room as part of the open plan office development. Consequently, while the importance of small office accommodation is acknowledged, and the objector's concerns about 'precedent' are noted, each application must be determined on its individual merits. In this case, the loss of this small amount of floorspace is considered to be acceptable in the context of the original development and the associated increase in the size of the original flat. This designates the entire fourth floor front of the building for a separate residential use. This is sufficient to justify a departure from policies protecting the existing office floorspace and the objection is, therefore, not supported.

Increase in residential floorspace and standard of accommodation

Increase in residential floorspace

Policy 8 of the City Plan encourages the provision of new homes and new residential floorspace. No new homes should exceed 200 sqm GIA other than where larger units are necessary to protect a heritage asset.

Objective 4 of the Soho Neighbourhood Plan requires housing provision to focus on smaller units and policy 16B requires all new housing units to conform to space standards set out in the City Plan.

The approved drawing shows a 1 x bed flat at fourth floor front, with external amenity space at rear fourth floor and roof levels. The flat which has been extended through the incorporation of the approved commercial office space and by the creation of a bathroom on the rear fourth floor terrace, now measures approximately 111 sqm (GIA).

In these circumstances, the extension of the approved fourth floor flat is considered acceptable in principle subject to the acceptability of the loss of office floorspace. As detailed above, had the original permission proposed the use the individual office space as part of the flat, this would have been considered acceptable in land use terms.

Standard of accommodation

City Plan policy 12 requires all new homes and residential extensions to provide a high

quality living environment, both internally and externally. It states further that new homes should be designed to a standard that ensures the safety, health and wellbeing of its occupants. All new homes required to meet or exceed Nationally Described Space Standards. The supporting text (paragraph 12.1) acknowledges that 'high quality (housing) can take many forms and can be achieved through design solutions such as ... external amenity space...access to natural light and a dual aspect to the home for ventilation to reduce overheating and provide suitable internal air quality'.

Additionally, Policy 16 of the Soho Neighbourhood Plan requires all new housing to confirm to space standards set out in the City Plan.

The extended flat exceeds minimum space standards set out in the London Plan (70 sqm for a 2b/4p unit). The unit is also served by a large roof level terrace. The rear room, which is subject of the current application for a change of use, measures approximately 3m x 3m This figure excludes an en-suite WC and a 3m x1m area which now provides the access from the study to the living room.

The applicant has made the following points in support of the application:

- Many attics are successfully converted to apartments and/or bedrooms and it is possible for such an arrangement to provide an adequate amount of light and ventilation.
- The 'open plan' format allows the bedroom to be served by a large rooflight positioned above the bathroom, as well as via the four large windows at the front of the building which allows light to infiltrate through the double-door opening between the living space and bedroom, effectively creating a dual aspect bedroom.
- The proposed home office is served by a large, openable, south-facing window.
- The submitted Daylight and Sunlight Assessment concludes that the levels are considered acceptable by reference to BRE requirements.
- The bathroom rooflight, which is operated by a control panel located in the bedroom, can be tilted up to 90 degrees.
- The door in the glass separation screen between the bedroom and bathroom has a sufficient gap at its base to allow the passive flow of air between the bathroom and bedroom. Alternatively, this door can be left open.
- The bedroom is also mechanically ventilated to replenish fresh air.

The bedroom is accessed by double doors leading from the main living space at the front of the building and there is no additional light source to the bedroom, other than via the bathroom rooflight, if the doors between the living space and bedroom are closed. In these circumstances, the bedroom is considered to be single aspect rather than part of an 'open plan' space.

An objection has been received on the basis that the current layout does not provide

adequate light and ventilation to the reconfigured flat, citing the requirements of City Plan policy 12.

Daylight/sunlight

The application is supported by a daylight/sunlight assessment which considers levels of daylight and sunlight received to the rear bedroom and new home office.

Daylight

The report assesses Average Daylight Factor to the home office and bedroom and assesses the bedroom as a single aspect room, rather than as part of a dual aspect space. The ADF calculation measures the distribution and quality of light within a room served by a window. It takes account of the size of the room, the size and number of windows, surface finishes and reflectance, glazing qualities/transmittances and room use. If a room is served by more than one window, the total ADF for that room will be based on the amount of natural light entering the room through all of the windows. Where supplementary lighting is supplied, the following ADF values should be considered the minimum, 2% for rooms containing a kitchen element, 1.5 for living rooms and 1% for bedrooms.

The submitted analysis confirms that the home office would achieve an ADF value of 2.60% and that the bedroom, which is currently painted a dark blue colour, achieves a value of 1.09%, both exceeding BRE targets.

While the objector acknowledges that the reported daylight values do not take account of any contribution to lighting levels that could be derived from the living rooms windows at the front of the building, they consider that deriving light to the bedroom via the bathroom rooflight is unacceptable, highlighting the 'contrived nature of the residential accommodation'. Whilst the layout of the flat is somewhat unusual permission could not reasonably be withheld on the grounds that the flat is deficient in daylight given that BRE daylight targets are exceeded.

Sunlight

The report also assesses the level of sunlight to the home office and accounts for the potential flexible use of this room, which is south-facing. The BRE guidance recommends that the windows tested should receive 25% of the total annual probable sunlight hours and 5% of annual probable sunlight hours during winter (21st September – 21st March).

The analysis conforms that the home office would have good access to natural sunlight, achieving an APSH level of 34% and 13% winter sun.

The bedroom, due to the fact that the original light well was enclosed by 3m high walls, does not receive any annual or winter sun.

In view of the above, it is not considered that the objection relating to inadequate levels of daylight and sunlight can be supported.

Ventilation

The applicants have confirmed that the bathroom rooflight 'can be tilted up to 90 degrees' to allow for a 'passive flow of air' between the bathroom and bedroom. The rooflight can also be opened by a few degrees in inclement weather, as the rooflight frame is 'designed to drain rain water in this scenario'.

The objector considers it to be 'unrealistic that such an arrangement will be utilised and unreasonable to rely on such an extreme arrangement for ventilation, particularly in inclement weather.' They have also questioned whether the rooflight is openable on the basis of applications to discharge conditions attached to the original permission, in which case they consider that the rooflight would be a receptor for noise and odours, and would require further assessment. The applicants have provided a photograph showing the open rooflight.

The application cited by the objector are:

- i) 19/08566/ADFULL: Various details, including details of the restaurant ventilation system. of the restaurant ventilation system.

The objector has referred to an email (dated 7.4.2020), relating the issue of openable windows and odours from the restaurant kitchen extract where the Environmental Services Officer had requested clarification as to whether any properties within 20m (at a taller height than the termination point of the proposed kitchen extract system) contained any air bricks, intake louvres or other passive openings in either the walls facing the termination point or roof. This clarification was requested on the basis that 'the air from the kitchen extract system could travel into any of these openings in the same way as through an open window and cause issues'. A subsequent email from the applicants confirmed that although the flat at 47 Great Marlborough Street was less than 20m from the duct termination point, the only point of potential odour entry into this flat would be lower than the duct discharge point and therefore not included within ESO's consideration. The submitted drawing shows the original terrace and the bedroom window. The ESO subsequently confirmed that the relationship between the duct termination point, at the top of the plant enclosure, and the nearest residential window, was acceptable and that this, coupled with the odour filtration system proposed, would adequately safeguard the amenity of neighbouring residential properties. Although the proposed bathroom rooflight is marginally closer to the duct termination point than the bedroom window, it remains below the duct termination point and, based on previous advice from the ESO, it appears that this would enable any odours to disperse away from any openable windows/glazing within the flat.

The ESO also confirmed that an updated technical note, based on the final plant selection and location within the approved plant area, showed that the plant operation would comply with the noise conditions attached to the original permission. This Technical Note shows the current layout rather than the approved flat layout.

In these circumstances, notwithstanding the fact that the scheme now includes a new openable rooflight in place of the approved lightwell, it appears that the new arrangement would continue to satisfy Council requirements in terms of potential smell and noise nuisance.

ii) 19/07201/ADFULL – Noise assessment

Condition 16 of the original permission required the submission of details sound insulation measures and a Noise Assessment report to demonstrate that the residential unit within the development would achieve acceptable internal noise levels in relation to noise from existing external noise (levels controlled under Condition 14) and noise from the development (levels controlled under Condition 15) .

A partial discharge of condition 16 in relation to noise from the development (Condition 15) was approved (1 August 2019 under reference 19/014123/ADFULL). The plans within the approved report show the current layouts,

However, the details submitted in relation to noise from existing external sources (Condition 14) were refused (1 August 2019 under reference 19/05981/ADFULL). The submitted report includes an assessment of windows to the front and rear of the flat including the window to the 'study'; the rooflight (unauthorised) to the bathroom/bedroom and the sliding roof light over the access stairs to the roof terrace. The application was refused on the basis that the submitted information was inadequate in relation to the acoustic properties of the proposed glazing.

As referred to by the objector, a subsequent application to discharge Condition 16 to demonstrate compliance with Condition 14 (in relation to existing external noise sources) was submitted under reference 19/07201/ADFULL. The original Noise Report was updated by way of a Technical Note and, again, includes drawings showing the current, rather than the approved, layout. This confirms that the sound reduction performance for the bathroom/bedroom rooflight and for the study would comply with the requirements of Condition 14.

The objector notes that the submitted Technical Note Calculations state that 'flat relies on MVHR' (This is a balanced and controlled forced air ventilation system which is a whole house ventilation system which both supplies fresh and extracts stale air throughout a property and recycles the heat generated within it). The reference to MVHR in the Technical Note Calculation is made in relation to 'Svents- Vents Equivalent Open Area' and confirms that there are none within the development.

The objector is concerned that any additional open/openable elements within the development would have an impact on internal noise levels. However, the approved details were assessed in relation to the acoustic properties of building fabric, including glazing, when windows etc are closed. It is clear that, should occupiers choose to open their windows, noise levels would be increased. However, should the occupier choose to keep their windows closed to reduce the impact of external traffic etc, the mechanical ventilation system would ensure that the flat is adequately ventilated.

The application has been reviewed by the Council's Environmental Services Officer in the light of the objection received. They have raised no objection subject to a condition relating to internal noise levels within the extended flat, as imposed on the original permission. They also consider, based on the applicant's advice, that the opening rooflight is likely to provide adequate ventilation, subject to confirmation by the Building Control Officer. The applicant has provided a copy of a Building Works Completion

Notice dated 18 September 2020 from the Council's Building Control Officer. The plans submitted to Building Control show the current layout and bathroom extension.

In view of the above, it is not considered that the changes to the scheme would have a material impact in relation to nuisance from noise and odours and objections on these grounds could not be supported.

Overlooking

The approved development includes a fourth floor terrace on the west side of the building which provides views towards the main rear façade, including the window to the proposed home office. This relationship was considered acceptable on the basis that the rear room was in commercial office use rather than the residential use now proposed. However, although the terrace provides views towards the rear window, given the minimum distance, (approximately 12.5m) between these two points, there are no direct views into the extended flat and there would not be an unacceptable loss of privacy to existing or future occupants.

Loss of private amenity space

The objector is concerned that the replacement of the fourth floor rear terrace with a bathroom would further erode the standard of accommodation to an unacceptable degree.

City Plan policy 12D requires all new-build homes to provide at least 5sqm of private external amenity space for each dwelling designed for one to two people, with a further 1 sqm, for each additional person the dwelling is design to accommodate. Even if the home office came to be used as a bedroom, a maximum of 7 sqm of external amenity space would be required.

The loss of the 4th fourth floor external terrace is regrettable, it is acknowledges that this small area was fully enclosed by 3m high walls and was of limited value in amenity terms. As the flat also benefits from a larger roof level terrace , with panoramic view, measuring approximately 50 sqm (excluding the lift overrun and stair enclosure), it is not considered that the application could justifiably be recommended for refusal on the basis that the loss of this secondary amenity space would have a significant impact upon the standard of accommodation provided.

In these circumstances it is not considered that the loss of the fourth floor terrace would compromise the quality of the residential accommodation to a degree that would justify a recommendation for refusal.

8.2 Townscape and Design

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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."*

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 design terms, the propose changes involve roofing over the fourth floor terrace with an openable rooflight. Given the height of existing walls to the original terrace, the approved external doors/windows would not be visible from neighbouring windows.

The proposed changes are considered acceptable in terms of their impact upon the appearance of the application building and the character and appearance of this part of the Soho conservation area would not result in any harm to designated heritage assets and would comply with relevant design policies in the City Plan.

8.3 Residential Amenity

City Plan Policy 7 states that development should be neighbourly by protecting and, where appropriate, enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

An objection has been received on amenity grounds which relates to the acceptability of the accommodation provided rather than the impact upon the occupants of neighbouring properties. It is noted that the objection was received in response to a neighbour consultation, stemming from the submission of the planning application, which was a response to an enforcement complaint raised by officers rather than to a complaint from neighbouring occupiers.

Given the nature of the development, it is not considered that the proposal would have an adverse impact on the amenity of occupiers of neighbouring properties.

8.4 Transportation/Parking

City Plan policy 25 bases parking standards for residential development on the standards in the London Plan. As the site is within the Central Activities Zone, there is no parking requirement in association with the subject flat.

8.5 Economic Considerations

Any economic benefits generated by the development are welcomed.

8.6 Access

As previously the flat is accessible via the stair core and lift and this arrangement is unaffected by the proposals.

8.7 Other UDP/Westminster Policy Considerations

Plant

The applicant has confirmed that the mechanical ventilation for the approved shower room, which has not been provided, was 'transferred' to the new bathroom. In these circumstances, the proposals have no additional plant requirements when compared to the approved development.

Refuse /Recycling

The Council's Waste Project Officer has requested the submission of further details setting out the arrangements for the storage of waste and recyclable materials for the development. However, refuse storage for the flat was approved as part of the original development. It is not considered that the extension/reconfiguration of the flat would have a material impact upon the amount of waste generated and, in these circumstances, it would be reasonable to require the submission of further details.

Sustainability

An objection has been received on the grounds that the application does not consider City Plan policy 36 which states that the council will promote zero carbon development and expects all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change.

The application is not supported by an energy statement. However, this issue has been raised with the applicants who consider that the extension of the approved flat does not have any material implications for the development in terms of energy consumption/carbon levels and officers concur with this view.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

The Soho 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 08 October 2021, 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.

8.10 London Plan

Strategic issues relating to the protection of office floorpace within the CAZ are discussed elsewhere in this report.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 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, in this case, no pre-commencement conditions are proposed.

8.12 Planning Obligations

The application does not trigger any planning obligations

8.13 Environmental Impact Assessment

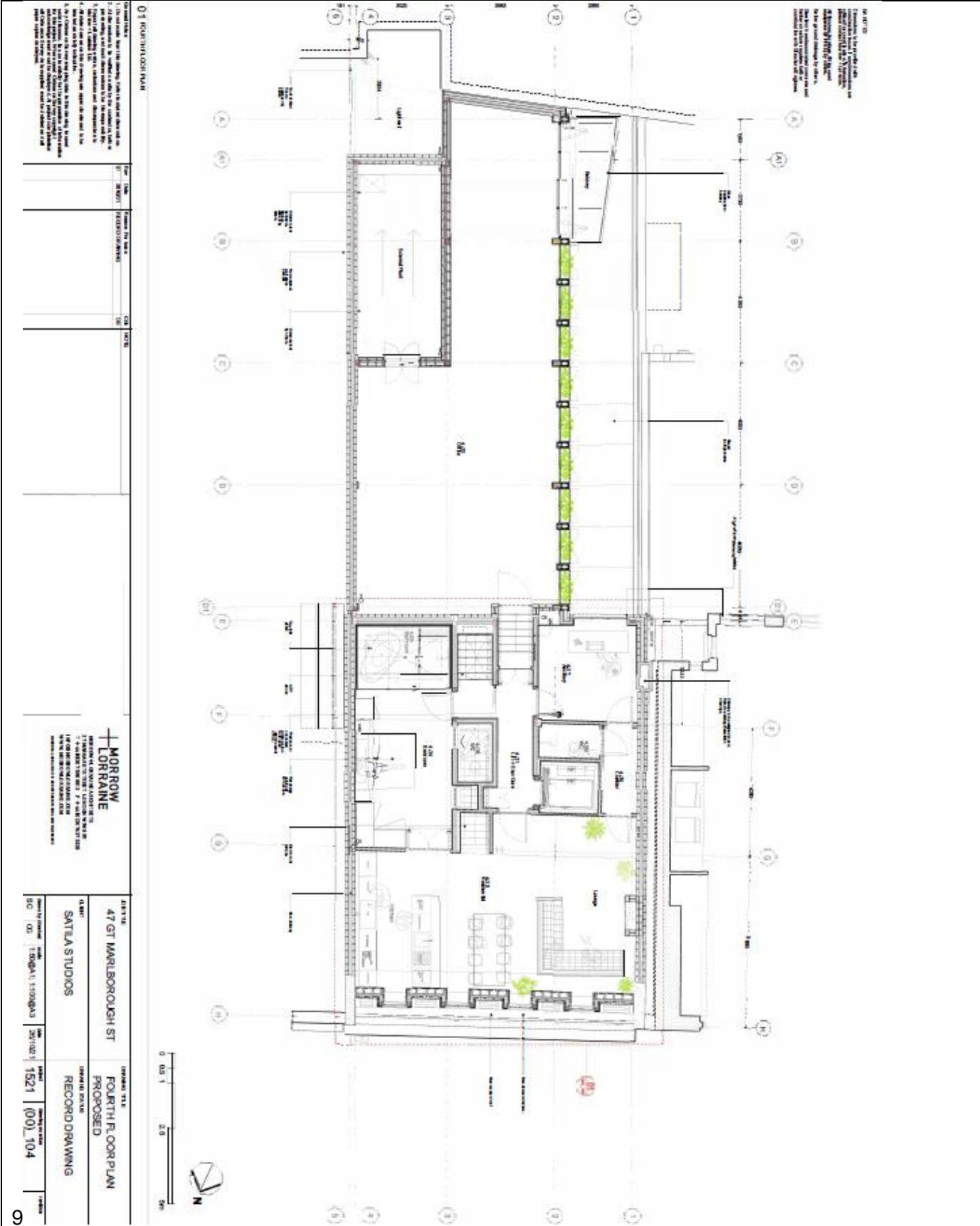
An EIA is not required given the nature of the application.

8.14 Other Issues

The applicant has expressed concern that an objection has been received to the application from an objector who is not directly affected by the proposals. The objection is however made on planning grounds and is a material consideration which has been properly taken into account in consideration of the application.

(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: MIKE WALTON EMAIL AT mwalton@westminster.gov.uk



DRAFT DECISION LETTER

Address: 47 Great Marlborough Street, London,

Proposal: Enlargement of existing 4th floor residential flat including erection of a rooflight over a rear terrace to create a repositioned bathroom (Class C3) (Retrospective)

Reference: 21/07551/FULL

Plan Nos: 1521 (00) 104

Case Officer: Sara Spurrier

Direct Tel. No. 07866039795

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 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.

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