CITY OF WESTMINSTER				
PLANNING	Date	Classification For General Release		
APPLICATIONS SUB COMMITTEE	16 May 2023			
Report of		Ward(s) involved		
Director of Town Planning &	Building Control	Abbey Road		
Subject of Report	71 Carlton Hill, London, NW8 0EN			
Proposal	Installation of air conditioning units and enclosure in the rear garden.			
Agent	Ms Ursula Dickson			
On behalf of	Mr & Mrs Lakhani			
Registered Number	22/07159/FULL	Date amended/ completed	7 November 2022	
Date Application Received	24 October 2022			
Historic Building Grade	Unlisted			
Conservation Area	St John's Wood			
Neighbourhood Plan	Not applicable			

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

Permission is sought for the installation of external air conditioning units and the erection of an acoustic enclosure on ground floor level at the rear of the application site.

Two objections have been received from neighbouring residents on a number of grounds including the impact of the air conditioning units on amenity and environmental grounds. Councillor Barraclough has forwarded on an email sent by one of the objectors to Karen Buck MP and to Councillor Hug, as leader of the Council and requested the application to be presented to committee members.

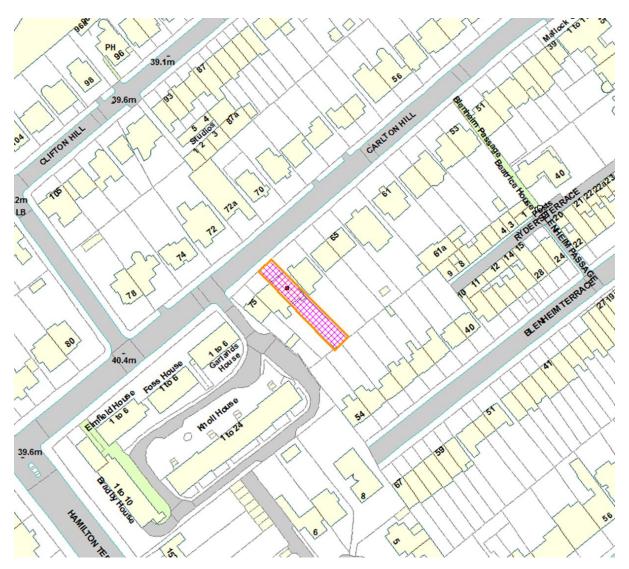
The key considerations in this case are:

- The impact of the proposed buildings on the character and appearance of the St John's Wood Conservation Area.
- The impact on the amenity of neighbouring residential properties.

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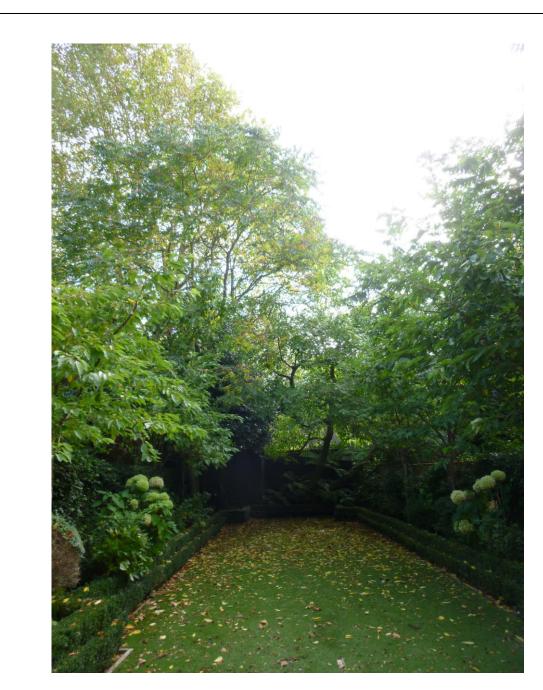
Subject to appropriate conditions as set out in the draft decision letters appended to this report, the proposed development is considered to comply with the relevant design, conservation and amenity policies in the City Plan 2019 – 2040 adopted in April 2021. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View of Rear Garden

5. CONSULTATIONS

5.1 Application Consultations

COUNCILLOR BARRACLOUGH:

Forwarded on an email by one of the objectors to Karen Buck MP and to Councillor Hug, as leader of the Council and requested the application to be presented to committee members.

ST JOHN'S WOOD SOCIETY:

Requests that the arboricultural officer and environmental health officer make a site visit to ensure that the proposal will not harm neighbouring trees or result in a loss of amenity for neighbours.

ENVIRONMENTAL HEALTH OFFICER:

No objection subject to conditions.

ARBORICULTURAL OFFICER:

Following an updated Tree Report, no objection subject to recommended landscaping, tree protection and foundation details conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 4 Total No. of replies: 2 No. of objections: 2 No. in support: 0

In summary, the following issues were raised:

Amenity:

- Increase in noise and heat pollution

Other:

- Removal of walnut tree and the proposal are not in accordance with Westminster Council's Climate Emergency Action Plan
- Lack of information submitted regarding how the adjoining tree roots will be preserved, how the plant will be installed to assess which direction heat and noise will be projected
- No objection raised if the walnut tree was to be retained and trees that have been removed were replace and heat and noise is directed away from neighbours
- Note some dimensions seem to deviate from the approved original planning permission.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

No engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

71 Carlton Hill is an unlisted five storey semi-detached property, located on the south side of Carlton Hill, within the St John's Wood Conservation Area. The building is in use as a single family dwellinghouse.

7.2 Recent Relevant History

22/01107/TCA

Walnut (T1) - Remove tree; grind stump to 250mm below ground level No objections 30 May 2022

22/01996/NMA

Amendments to planning permission dated 08 June 2021 (21/02350/FULL) (which itself was a variation of condition 1 of planning permission dated 28 March 2020 (RN:20/01191/FULL)) for demolition of the existing building behind a retained front facade. Excavation of a basement with front and rear light wells, erection of a rear extension at lower ground floor, a single storey closet wing extension at first floor level and the alterations to the roof to the rear. Associated alterations to the front stairs to facilitate the basement excavation. Replacement windows to front façade and changes

to rear windows. Namely, changes to the rear garden terrace adjusted to suit the landscaping scheme; front steps to be rebuilt straight; existing front gates to be removed be replaced with a new pedestrian gate and bi-fold driveway gate; rear closet wing to increase in height by approximately 120mm, railings to the rear to have straight mild steel spindles (painted black); wall beneath entrance stair to be removed to allow for the excavation of the basement; and existing party wall to No.73 Carlton Hill to be retained. Application Permitted

19 April 2022

21/02350/FULL

Variation of condition 1 of planning permission dated 28 March 2020 (RN:20/01191/FULL) for demolition of the existing building behind a retained front facade. Excavation of a basement with front and rear light wells, erection of a rear extension at lower ground floor, a single storey closet wing extension at first floor level and the alterations to the roof to the rear. Associated alterations to the front stairs to facilitate the basement excavation. NAMELY, Replacement of all existing windows on the retained front façade with new to match existing, alterations to the location and size of the windows on the rear closet wing, resizing of the rear 1st floor window and the lower ground floor window opening out to the front light well, consented walk on grille to be removed with the last step of the stairs extending to maintain access at lower ground floor level and the number of roof lights to be reduced.

Application Permitted

8 June 2021

20/01191/FULL

Demolition of the existing building behind a retained front facade. Excavation of a basement with front and rear light wells, erection of a rear extension at lower ground floor, a single storey closet wing extension at first floor level and the alterations to the roof to the rear. Associated alterations to the front stairs to facilitate the basement excavation.

Application Permitted

28 April 2020

8. THE PROPOSAL

Permission is sought for the installation of two external air conditioning units and the erection of an acoustic enclosure at ground floor level within the rear garden. The proposed enclosure for the air conditioning units will be 2.7m in length and 2m deep. It will be 2 metres in height with a living green flat roof.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The proposed air conditioning and enclosure will be ancillary to the existing dwellinghouse, which is considered acceptable in principle in land use terms in accordance with policy 8 of the City Plan 2019-2040.

9.2 Environment & Sustainability

Sustainable Design

Given the minor development proposed as part of the application, it does not trigger any policy requirements in terms of sustainability.

Flood Risk & Sustainable Drainage

The application site is within a Surface Water Flood Risk Hotspot and therefore a site specific Flood Risk Assessment has been submitted as required by Policy 35 of the City Plan 2019 – 2040. The flood risk assessment concludes that the proposals to erect the enclosure and the risk of flooding and surface water flooding is very low.

9.3 Biodiversity & Greening

The proposal includes a living green roof to the flat roof of the enclosure which is welcomed and accords with Policy 34 of the City Plan 2019 – 2040 and will be secured via condition.

Objections have been raised over the loss of the walnut tree and the installation of the air conditioning units not being in accordance with Westminster Council's Climate Emergency Action Plan furthermore, concerns are raised with the lack of information on how the existing tree roots will be preserved.

The removal of the walnut tree was granted in May 2022 (under application 22/01107/TCA) and therefore, a reason for refusal cannot be justified on these grounds. Furthermore, the applicant did agree to plant a replacement tree in a similar location within this application. As recommended by the Arboricultural Officer, should permission be granted for the air conditioning unit and enclosure, a landscaping condition is recommended in order to secure both a new tree of an appropriate species and additional structural planting for screening.

In terms of the comments raised on environmental grounds, the Westminster Council's Climate Emergency Action Plan is a framework for action of climate change to achieve net zero emissions across the borough by 2040. It is recognised that the removal of the tree is not protecting the green space and it is regrettable that air conditioning plant is being proposed and not a cleaner energy supply however this is a framework and not policy and therefore whilst it is regrettable, a reason for refusal cannot be sustained in this instance.

9.4 Townscape, Design & Heritage Impact

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

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that development will preserve or enhance the character and appearance of Westminster's conservation area. It goes on to say that features that contribute positively to the significance of conservation areas area and their settings will be conserved and opportunities taken to enhance conservation areas and their settings, wherever possible.

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 turn, Policies 38, 39 and 40 of the City Plan are of particular relevance when considering the proposed works.

The proposed acoustic enclosure structure is single storey with a flat roof and located to the very end of the rear garden of the property. It is considered to be appropriate in terms of its footprint, scale and height, and also in the context of the neighbouring properties and gardens. The detailed design of the building and the use of stained timber surround is considered to result in an appropriately designed garden building which preserves the character and appearance of this part of the St John's Wood Conservation Area.

As such, the proposal is considered acceptable, mindful of policies 38, 39, and 40 of the City Plan 2019-2040 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.

9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers is protected.

The proposed enclosure is located to the rear of the garden adjacent to the rear boundary and is 2m in height.

Given the depth of the gardens of the application site and the adjacent neighbours, 69 and 71 Carlton Hill (both of which are residential properties), given the siting of the plant and enclosure and its proposed height, the plant and enclosure raises no amenity concerns, in terms of loss out outlook, enclosure or loss of daylight.

The proposal is adjacent to the rear boundaries of 50 and 52 Blenheim Terrace; objections have been received from the owners of both of these properties raising amenity concerns. Given the location of the enclosure at the end of the rear garden, its size, height and relationship with properties to the rear and their gardens (50 and 52 Blenheim Terrace) it is not considered to result in any significant impact on amenity through sense of enclosure, daylight and sunlight or privacy.

In noise terms and relevant to all surrounding neighbouring properties, Environmental Health Officers have assessed the acoustic report that was submitted with the

application and consider that the proposed plant is likely to comply with the City Council's policy 33 of the City Plan 2019 – 2040, subject to the units being installed within the proposed acoustic enclosure. Subject to standard Westminster noise conditions and a condition to ensure that the acoustic enclosure is installed before use it is not considered that the proposals will harm the amenity of neighbouring properties.

Given the above, and subject to conditions, the proposal would be consistent with policy 7 and 33 of the City Plan 2019-2040.

9.6 Transportation, Accessibility & Servicing

Not applicable.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to tree protection measures. The applicant has agreed to the imposition of the condition.

10. Conclusion

The proposals for air conditioning units are acceptable and the works to facilitate this are acceptable in conservation and design terms and are not considered to harm surrounding residential amenity. As such, notwithstanding the objections raised, the

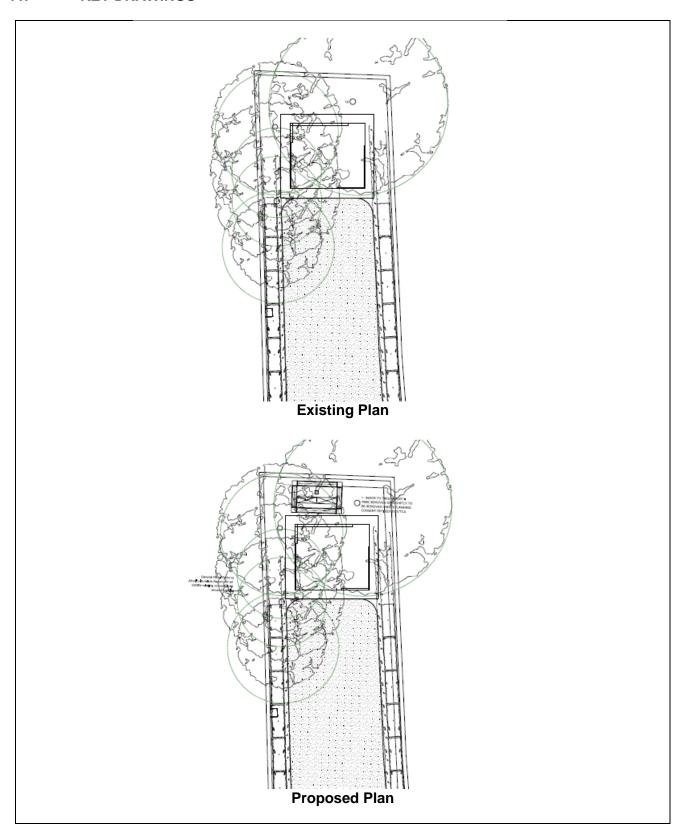
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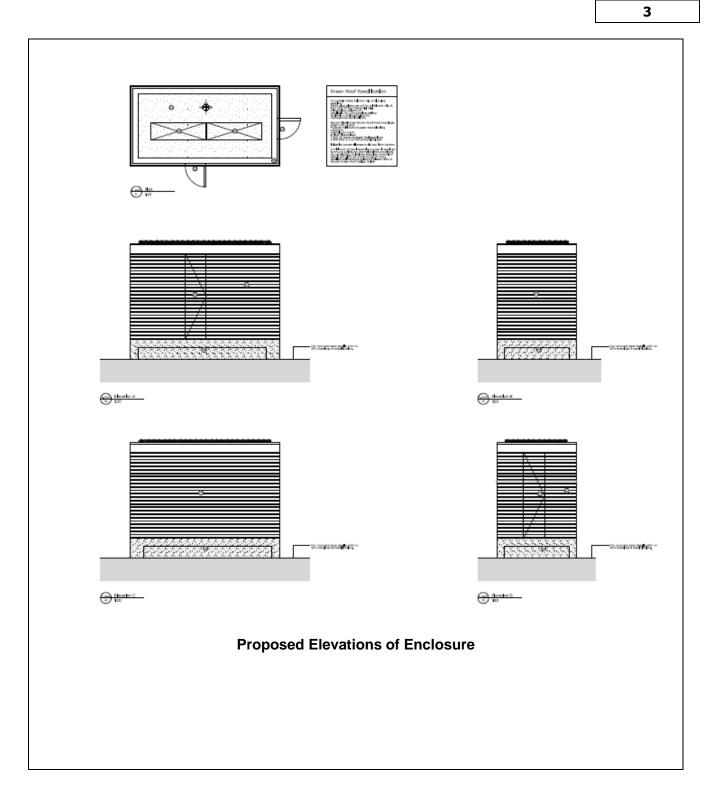
proposal is considered acceptable, mindful of policies 7, 8, 33, 34, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(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: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

11. KEY DRAWINGS





DRAFT DECISION LETTER

Address: 71 Carlton Hill, London, NW8 0EN

Proposal: Installation of AC units and enclosure in the rear garden.

Reference: 22/07159/FULL

Plan Nos: Site Location Plan, P2000 Rev 02, P0600 Rev 01, P 0800, P 2200, Condenser

Unit Support in Rear Garden Rev B, Typical Section Through Condenser Unit Support Rev B, P_3500, Flood Risk Assessment, Tree Report S102-J7-IA-2 and

Noise Impact Assessment dated 09 June 2020.

Case Officer: Frederica Cooney Direct Tel. No. 020 7641

07866037206

Recommended Condition(s) and Reason(s)

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 neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

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 St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 (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 in writing 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 in writing 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 written 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 LA90, 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. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

You must install the acoustic louvred enclosure prior to the air conditioning units being used, and you must maintain and retain this so long as the plant is in use.

Reason:

In order to ensure that the plant complies with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of neighbouring residents is protected.

Notwithstanding the submitted details you must apply to us for approval of detailed drawings of the AC unit enclosure foundations. Apart from the piles, the foundations must be constructed above the existing ground level with a 100mm void beneath the underside of the foundation slab and the soil below. The foundation design must allow for natural ventilation and drainage to the soil beneath the void. The foundation design must inform the proposals in the arboricultural method statement. 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 works in accordance with the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

Pre Commencement Condition. Notwithstanding the submitted details, you must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

To protect trees and the character and appearance of the site as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31CD)

You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within 1 year of completing the development (or within any other time limit we agree to in writing).

If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within 3 years of planting them, you must replace them with trees of a similar size and species. (C30CC)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the St John's Wood Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

Informative(s):

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

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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.

2 HIGHWAYS LICENSING:

Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at www.westminster.gov.uk/guide-temporary-structures.

CONSIDERATE CONSTRUCTORS:

You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

BUILDING REGULATIONS:

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

When you apply to us for approval of details of the hard and soft landscaping condition 9, you must include one standard tree with a minimum trunk girth of 14-16cm, and structural shrub planting.

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.