

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 14 October 2014	Classification For General Release	
Report of Operational Director Development Planning		Wards involved West End	
Subject of Report	25-33 Berners Street, London, W1T 3LR		
Proposal	Demolition of existing buildings and erection of replacement building comprising retail (Class A1) and / or cafe/restaurant (Class A3) at part ground and part basement floor levels; offices (Class B1) at part basement, part ground, and first to seventh floor levels (including roof terraces at front seventh floor level and at rear fourth floor level); and plant at roof level.		
Agent	Gerald Eve		
On behalf of	Derwent Valley Central Limited		
Registered Number	14/04766/FULL	TP / PP No	TP/2615/2048
Date of Application	16.05.2014	Date amended/ completed	29.08.2014
Category of Application	Major		
Historic Building Grade	Unlisted		
Conservation Area	Outside Conservation Area		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

For Committee's consideration:

1. Does the Committee consider that:

i) Instead of on-site or off-site residential provision to match the increase in commercial floorspace at the site a financial contribution towards the City Council's affordable housing fund is acceptable?

2. Subject to 1. above, grant conditional permission subject to a S106 legal agreement to secure:

- Provision of £2,050,000 towards the City Council's affordable housing fund (index linked and payable upon commencement);
- Provision of £221,624 towards Mayoral CIL/Crossrail SPG (index linked and payable upon commencement);

- Provision of £167,882 towards public realm in the vicinity of the site (index linked and payable upon commencement);
- Payment to Environmental Sciences and the Environmental Inspectorate during construction works for construction monitoring purposes;
- The costs of monitoring the S106 agreement.

3. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:

- a) The Operational Director shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Operational Director is authorised to determine and issue such a decision under Delegated Powers; however, if not;
- b) The Operational Director shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Operational Director is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

4. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of that area of highway required to enable the development to take place.

5. That the City Commissioner for Transportation be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order.





25-33 BERNERS STREET, W1

2. SUMMARY

The application site is located on Berners Street and comprises three office buildings comprising ground, basement and six upper floors. The site is not within a conservation area and the buildings are not listed. The conservation areas in close proximity to the site are Charlotte Street West to the east and East Marylebone to the north. The nearest listed building, the Grade II* Sanderson Hotel, is located on the opposite side of Berners Street.

The site is located within the Core Central Activities Zone (CAZ).

Permission is sought to completely demolish all three existing buildings and construct a new commercial building of eight storeys plus basement and rooftop plantroom. The new building would be entirely commercial in use providing offices and flexible space for either retail and/or restaurant use.

The key issues in this case are:

- The mix of land uses proposed in relation to the Council's mixed use policy.
- The acceptability of the applicant's offer of a financial contribution towards the affordable housing fund
- The loss of the existing buildings and the impact of the height, bulk and massing of the proposed building in design terms.
- The principle of a new restaurant in this location.
- The impact on neighbours in terms of daylight, overlooking and sense of enclosure;

Objections have been received on land use (specifically the principle of a restaurant use in this location and the lack of on-site residential), design and amenity grounds.

The provision of enhanced and extended B1 office and new retail floorspace is welcome in policy terms in the Core CAZ. To address the Council's mixed use policy, it is proposed to offset the increase in commercial floorspace with a contribution towards the affordable housing fund. Although officers consider that it has yet to be satisfactorily demonstrated that it is neither appropriate nor practical to provide the required residential floorspace on site, it is accepted that the existence of the head lease currently prohibits the provision of on-site residential. Committee's views on this issue are sought. The applicant has offered £2,050,000 towards the affordable housing fund which the City Council's valuers conclude is a reasonable offer.

The existing buildings are not listed and lie outside a conservation area and their demolition cannot be resisted. The proposals involve an increase in height and bulk which in the context of the redevelopment of the Middlesex Hospital site to the north, where similarly tall buildings are being built, and given that the upper floors are not readily visible from Berners Street, and that the mews is of relatively low townscape value, the height and bulk are considered acceptable.

The proposals are acceptable in all other respects and are considered to accord with the relevant policies within the City Plan and Unitary Development Plan (UDP).

3. CONSULTATIONS

COUNCILLOR ROBERTS

Requests that the application is determined by Committee.

GREATER LONDON AUTHORITY

The application fails to comply with the London Plan and the following changes are required to remedy deficiencies: further information on the energy strategy and carbon emissions for the

retail element of the proposals should be provided; the short fall in carbon dioxide reductions should be met by a financial contribution; cycle parking, a construction logistics plan, a delivery and servicing plan and measures to secure inclusive design should all be secured by condition.

TRANSPORT FOR LONDON

Development is in general conformity with the London Plan provided cycle parking is secured by condition; cycle parking signage and visitor cycle parking are provided; final versions of the construction logistics plan and delivery and servicing plan are provided; and the Travel Plan and contributions towards Legible London and Crossrail are secured by S106.

ENGLISH HERITAGE

Do not wish to offer comments.

ENGLISH HERITAGE ARCHAEOLOGY

No objections.

TWENTIETH CENTURY SOCIETY

Strongly objects on the grounds that the applicant has failed to adequately consider the heritage significance of the existing building. Consider that there is ample scope for the sympathetic refurbishment of the existing building and believe that its loss will not provide any demonstrable benefit. Consider that the proposed replacement building is overbearing for the location and changes the definition of the streetscape adversely affecting the setting of the Sanderson Hotel, a Grade II* listed building. Propose that Copyright House is added to the statutory list as one of Seifert's best earlier works.

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Object to the size of the restaurant units as they are in excess of 500m² and contrary to policy. Consider that each A1/A3 unit should be sub-divided into two or three units. Object to the appearance of the building next to the Charlotte Street West Conservation Area and East Marylebone Conservation Area. Consider that the replacement building is an overbearing block and clashes with the neighbouring Berners Mansions and the Grade II* listed Sanderson Hotel. The Berners Mews elevation is considered an overdevelopment and monolithic block in an otherwise small-scale environment. Disappointed to see the demolition of Copyright House and support the application for its listing. Consider that all these buildings should be retained and refurbished. Demolition will cause negative environmental consequences.

CLEANSING MANAGER

No objections.

HIGHWAYS PLANNING MANAGER

No objections raised subject to securing the provision of cycle spaces, submission of a servicing management plan.

ENVIRONMENTAL HEALTH

No objections.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 132; Total No. of Replies: 16 (from 12 respondents).

Sixteen letters of objection raising the following concerns:

Land Use

- There is no need to re-activate Berners Street as there are already a number of retail and restaurants within the area.
- Large scale retail and late night entertainment uses will destroy the character of the street.

- The quantum of A1/A3 floorspace would be contrary to adopted City Council policy.
- The proposal does not include any residential provision.

Design

- The proposed design is dull, uniform, bland, anonymous, corporate and of little architectural merit.
- Proposed building is too tall and will dwarf the adjacent building.
- Demolition of the existing buildings would be a loss to the street and to the neighbourhood contrary to NPPF and development plan policy.
- The proposed building will adversely affect buildings and street views in the adjacent conservation area including Berners Mansions and Berners Mews.

Highways

- Increased traffic, deliveries and rubbish collection.
- Impact of traffic and access in Berners Mews.
- Highway and pedestrian safety risks.

Amenity

- Loss of daylight and sunlight.
- Daylight report is unsatisfactory and based on outdated and incomplete plans.
- Overlooking and loss of privacy.
- Increase in sense of enclosure.
- Noise nuisance in the rear lightwell from proposed plant or use of the rear terrace.
- Noise transmitted through the party wall.
- Noise nuisance from proposed shops.
- Noise late in the evening from traffic, private hire drivers and customers leaving the proposed restaurants.
- Increased commercial activity.
- Increased pollution.

Other

- Loss of fire escape.
- Inadequate public consultation.
- Windows on party walls raise fire spread concerns and will prejudice the future rebuilding or extension of the neighbouring building.
- Noise and vibration during demolition and noise during construction
- Loss of view.
- Loss of rental values during construction works.
- Visual impact of works during construction.
- Lack of public landscaping within the scheme.

ADVERTISEMENT/SITE NOTICE: Yes.

4. BACKGROUND INFORMATION

4.1 The Application Site

The application site is located on Berners Street and comprises three separate buildings all within office use. Nos. 25-27 was designed by Robert Angell and Curtis and built in 1936. It has a neo-Georgian façade on Berners Street and is seven storeys in height. No. 28 is a post-war infill building constructed following bomb damage and is six storeys in height with a recessed plant room. Nos. 29-33 was designed by Richard Seifert and Partners. It is seven storeys in height and the top floor is set back behind the main elevation and topped with a wavy concrete canopy.

The main entrance to the buildings is from Berners Street with a secondary entrance via Berners Mews. Service access is provided from Berners Mews at the rear.

The site is located outside of a conservation area and the buildings are not listed. The conservation areas in close proximity to the site are Charlotte Street West to the east and East Marylebone to the north. The nearest listed building, the Grade II* Sanderson Hotel, is located on the opposite side of Berners Street.

The site is located within the Core Central Activities Zone.

The surrounding area is mixed in use, but there are a number of residential properties, the closest of which are the 10 flats within the adjoining building at 34-36 Berners Street.

4.2 Relevant History

25-27 Berners Street

A certificate of lawfulness for the use of the basement (part) and first to sixth floors was granted for office use in January 1997. A personal condition for the use of the remainder of the basement and ground floor for the Performing Rights Society (PRS) was varied in January 1998 to allow the Music Copyright Operational Services (MCOS) Limited to occupy the accommodation.

In July 2013 permission was granted to remove the personal conditions to the 1988 permission.

28 Berners Street

A certificate of lawfulness for the use of the basement to fifth floors for office use was granted in March 1998.

29-33 Berners Street

Planning permission was granted in May 1957 for the erection of an eight storey building, plus basement, for showroom, workrooms, shops, storerooms and ancillary offices with a basement car park.

In February 1960, planning permission was granted for the use of the building as the headquarters of the PRS. This permission was personal to PRS. A condition was also imposed requiring the building to revert to the uses specified in the 1957 permission on cessation of PRS.

In January 1988, planning permission was granted to vary the personal condition to enable the occupation of the building by MCOS.

In July 2013 permission was granted to remove the personal condition to the 1988 permission.

5. THE PROPOSAL

It is proposed to completely demolish all three existing buildings and construct a new commercial building of eight storeys plus basement and rooftop plantroom. From ground to fifth floors the building would be sheer, with the higher floors successively setback. The new building would be entirely commercial in use providing offices and flexible space for either retail and/or restaurant use. The flexible restaurant/retail space would be at both ground floor and basement level and would extend through the building from the Berners Street frontage to Berners Mews. The remainder of the building would be designated for office use with an entrance on Berners Street. Plant would be accommodated within the basement and on the roof and cycle parking/showering facilities would be provided in the basement.

6. DETAILED CONSIDERATIONS

6.1 Land Use

The table below sets out the existing and proposed uses and their respective floor areas based on gross external floorspace (GEA).

Land Use	Existing GEA (m ²)	Proposed GEA (m ²)	Net Change GEA (m ²)
Office (B1)	11,347	11,458	+111
Retail/Restaurant (A1/A3)	0	2,257	+2,257
Total	11,347	13,715	+2,368

6.1.1 Office use

The site is located within the Core Central Activities Zone – the area to where new offices are directed by City Plan Policy S20 and UDP Policy COM1, and there is therefore no objection in principle to an increase in office floorspace as part of these proposals.

6.1.2 Retail and Restaurant Uses

City Plan Policy S6 encourages the provision of new retail floorspace throughout the CAZ whilst UDP Policy SS4 (A) states that within CAZ locations that would benefit from more shops or services, new developments must include an appropriate number of shop-type premises.

In the application, two shop units are proposed on the Berners Street frontage measuring approximately 1,100m² and 800m² (NIA). The units would be dual aspect at ground floor level creating active frontages onto Berners Street. The applicant initially requested that one of the units should be available for either A1 or A3 purposes but officers do not consider appropriate to allow more than 500m² to be used for restaurant purposes as this would provide one excessively large entertainment facility which would be contrary to the UDP TACE policies, and in particular TACE 10 which only allows large, 500m²+ restaurants in exceptional circumstances. Neighbouring residents and the Fitzrovia Neighbourhood Association also object to large restaurant units in this location. The applicant has since agreed to a restriction on the size of the proposed A3 unit. Restricting the amount of restaurant floorspace to a maximum of 499m², would ensure that the majority of the retail floorspace (78%) would be for Class A1 retail shopping purposes which would be acceptable.

A proposed restaurant, restricted to a maximum size of 499m², would be considered under UDP Policy TACE8, and would only be acceptable if there would be no adverse effects on residential amenity or on the environment generally. Objections have been received on the grounds of noise from activity from the proposed A3 use and noise from servicing. However, it is considered that appropriate conditions can be attached to ensure that the restaurant use does not cause an unacceptable impact. In principle, a new restaurant located within the development would be likely to have a limited impact on existing residents subject to restrictions on matters such as capacity and hours of opening. The applicant has yet to propose these operational details, but given the proximity of existing residents to the new restaurant, it is considered that a terminal hour of no later than midnight would be appropriate. The applicant has also agreed to the submission of a detailed operational management plan, which would be submitted once the operator is identified and would set out how an A3 unit could operate successfully in this location. This would also be secured by condition further condition would limit any ancillary bar area to 15% of the restaurant floorspace and permitted

only for use by diners.

6.1.3 Mixed use policy

The scheme generates a total commercial uplift of 2,368m². Policy S1 of Westminster's City Plan: Strategic Policies states that "where proposals increase the amount of commercial floorspace by more than 200m² or more, or in the case of A1 retail by 400m² or more, the provision of an equivalent amount of residential floorspace will be required on site where the Council considers this to be appropriate and practical". Given that there is an uplift of 2,368m² of commercial floorspace, there is therefore a requirement to provide 1,184m² of residential floorspace.

The supporting text states that where on site provision of residential floorspace is not considered acceptable or practical, a cascade of other options, including the use of land use swaps or residential credits will be considered as detailed in the City Management Plan.

As the City Management Plan is yet to be adopted, UDP Policy CENT 3 is a material consideration. This policy seeks to promote mixed use development incorporating housing where appropriate and practical and sets out the following hierarchy for securing mixed use commercial schemes in Central Westminster:

Under Part (A) of CENT 3 the provision of self-contained residential accommodation equivalent to the increase in commercial floorspace is required, where appropriate and practical.

Part (B) of the policy states that where it is clearly not practical to provide the residential accommodation on site, the City Council will seek the provision of residential accommodation off-site.

Part (C) states that where it is not practical to provide residential accommodation on or off the site in accordance with Parts (A) or (B), then other uses that contribute to the character and function of that part of the CAZ should be provided as part of the same development.

Where housing has not been achieved under Parts (A) or (B), or an appropriate alternative use provided under Part (C), an appropriate financial contribution, known as a commuted sum, will be sought to the City Council's affordable housing fund under Part (D).

The applicant's case on mixed use.

The applicant considers that on site residential is not appropriate or practical for the following reasons:

1. The proposals seek to replace the existing office floorspace with new office accommodation in one modern building. The increase in office accommodation is limited (111m²) and the main increase in overall commercial floorspace is created by new retail use (2,257m²). Therefore, if the mixed use policies were met through the provision of on-site residential accommodation, there would be a subsequent reduction in office floorspace (some 1,073m²) compared to that currently on-site. (ie. a 10% reduction below existing floorspace).
2. The proposals are fully in accordance with Policy S1 of the City Plan which seeks not only to support, but also to enhance the vitality, function and character of the CAZ. The introduction of residential (at the expense of retail uses) would lose the opportunity to improve the character and sense of place of this part of the City and as a result would result in poorer outcomes for the economic vibrancy of the City.

3. The freeholders of the site, Berners Allsop Estate, will not accept on-site residential as this is prohibited through the head lease. Thus such a notional development will simply not proceed.
4. It is therefore reasonable to conclude that it is not appropriate or practical to provide on-site residential accommodation.

The applicant advises that as they do not own any alternative available sites in the vicinity, they are unable to provide the requisite residential accommodation off-site under Part (B) of CENT 3.

The applicant argues that the introduction of 2,257m² of high quality retail accommodation would activate the street scene along Berners Street and significantly improve the public realm in the local area. They propose to offset the required residential floorspace through the payment of a commuted payment. They argue that the maximum reasonable payment in lieu of £2,050,000, towards affordable housing, is proposed. This is discussed in further detail below.

Assessment of the applicant's case.

The case made by the applicant that it is neither appropriate nor practical to provide the required residential floorspace on site is not accepted. This is a large building with two street frontages. Although the building has been designed for commercial use it is considered that the building could readily be redesigned to provide a separate street entrance and core for residential use.

Parts (B) and (C) of the mixed use policy only apply where it has been satisfactorily demonstrated that it is neither appropriate nor practical to provide the required residential floorspace on site.

Although officers consider that it has yet to be satisfactorily demonstrated that it is neither appropriate nor practical to provide the required residential floorspace on site, it is accepted that the existence of the lease currently prohibits the provision of on-site residential. Given that the applicant advises that they do not own any alternative available sites in the vicinity and are unable to provide the requisite residential accommodation off-site under Part (B) of CENT 3, the Committee's views are therefore sought as to whether a financial contribution towards the affordable housing fund satisfies the Council's mixed use policy in this particular case.

The financial payment equivalent for this contribution would be £3,407,710. The applicant contends that the maximum reasonable payment in lieu (PIL) would be £2,050,000 and have submitted a viability report in support of their case.

6.1.4 Assessment of Viability Arguments

The Council has employed GVA as an independent consultant to review the applicant's financial viability case for offering a contribution to the affordable housing fund. The applicant offered a contribution of £850,000 when the Council's Consultant rejected as too low. Following negotiations the applicant has raised this offer to £2,050,000, which the Council's consultant believes to be reasonable.

Committee's views are therefore sought as to whether the financial contribution towards the Council's affordable housing fund is acceptable.

6.2 Townscape and Design

a. Existing buildings

The existing buildings are seven storeys high with some roof level plant areas. Their street parapet heights are at about 20 metres and their total height is approximately 23-24 metres, with the plant areas rising to 26 metres in total. The buildings are not listed and lie outside a conservation area and their demolition cannot be resisted. They are however, immediately south of the Charlotte Street West Conservation Area. To the south, on the west side of Berners Street lies the Sanderson Hotel which is listed Grade II*.

b. Proposed building

The proposed replacement building is eight storeys plus roof level plant storey above street level. Its principal parapet level is at 22 metres, and the total height is 31 metres. In Berners Mews the lowest parapet level is three storeys above street level, and then the building sets back slightly at third floor level. The bulk of the upper part of the building is set back approximately 6 metres from the mews. This all amounts to a substantial increase in height and bulk. However, due to the setting back, the increase in bulk is not visible from street level in Berners Street. It is more apparent in long views from the southern end of Berners Mews.

This increase in height and bulk is considered contentious, but are considered acceptable taking into account:

- the redevelopment of the Middlesex Hospital site to the north, where similarly tall buildings are being built,
- that the upper floors do not have a very significant visual impact in views from Berners Street or from Mortimer Street to the north, and
- that the mews is of relatively low townscape value,

Although the proposed building would be significantly taller than the buildings to the north, which are in the Charlotte Street West Conservation Area, it is not considered that the new building would harm the setting of the adjacent conservation area, because of the limited impact on street level views.

The design of the new building is modern. The front façade has a stone clad framework, within which the glazing and bronze coloured metal panels are recessed. The repetitive nature of the facade is broken by a large glazed section set back above the entrance. In the mews brick is used instead of stone. Both facades have depth, modelling and richness appropriate to the location. The two upper floors are of simpler design, clad in frameless glazing, with a louvred plant screen above.

The proposed building is to the north of the Sanderson House and on the opposite side of the street. It is not considered that it would harm the setting of this Grade II* listed building.

Objections to design related matters have been received. The Twentieth Century Society has objected strongly to the demolition of the Seifert building at No. 29-33. These comments are noted, but as this building is not listed and is not in a conservation area, its demolition cannot be resisted. English Heritage has confirmed in writing that they do not consider it worthy of listing.

There are also objections from local residents to the height and bulk and design of the new building in relation to the adjacent conservation areas and the Grade II* listed building on the west side of the street, the Sanderson Hotel. These matters are dealt with above.

Other objections refer to 'errors and omissions' in the applicant's historic environment assessment. Whilst some of these criticisms may be valid, they do not affect the

consideration of the proposals in a significant way. The impact of the proposals can be judged from the submitted information.

It is considered that this is a high quality modern building which accords with Core Strategy and Unitary Development Plan policies, including S28 and DES 1, DES 4.

6.3 Amenity

6.3.1 Daylight and Sunlight

Policy ENV13 of the UDP seeks to protect existing premises, particularly residential, from a material loss of daylight and sunlight as a result of new development. The scheme introduces additional bulk across the entire site and the key issues in amenity terms are the impact on neighbouring residential properties in terms of daylight, sunlight and increased sense of enclosure.

The applicant has undertaken a daylight and sunlight assessment in accordance with the BRE guidelines. The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable.

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that any reduction in sunlight below this level should be kept to a minimum. If the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, or more than 4% of APSH, then the occupants of the existing building are likely to notice the loss of sunlight.

The residential properties included in the assessment are Berners Mansions at 34-36 Berners Street immediately north of the application site, and 50-57 Newman Street (an office building to the east of the site which has recently received planning permission for residential use and which is the subject of a current planning application for hotel use which is reported elsewhere on this (Committee agenda).

For daylight, the assessment shows that there will be no material loss of daylight to any of the adjacent residential windows within 34-36 Berners Street. The report outlines that most of the windows do not currently achieve the benchmark of 27% for daylight, however, the VSC reductions are all below the 20% tolerance with a maximum loss of 6% to a first floor kitchen window. The NSL reductions show a maximum loss of 1% to two rooms at fifth floor level. Overall the impact on daylight is considered slight and a refusal on amenity grounds would not be justified.

Residents within Berners Street raise concerns on the grounds that the daylight report is unsatisfactory and based on outdated and incomplete plans and the fact that no on-site assessment has been undertaken. The plans submitted with the daylight report only show the layout for habitable windows at the rear of the site which residents state are based on outdated plans. However, the NSL results show a maximum loss of only 1% and it is considered that the layouts would have to be dramatically different to those assumed for there to be any greater impact. For VSC, the test is reliant on the amount of sky visible from the window face and is not dependent on the relationship of the room layout behind the window. In addition,

the Building Research Establishment (BRE) guidelines state that an on-site assessment is only required for analysing Average Daylight Factor (ADF) calculations (which are not being taken into account in the assessment of loss of light).

One of the residents within 34-36 Berners Street also raises objections on the grounds of loss of sunlight and daylight to hallway and bathroom windows, out as these are non-habitable windows as defined in the BRE guidance and it is not considered that the application could reasonably be refused on these grounds.

With regard to sunlight, there are no windows serving habitable accommodation within 34-36 Berners Street which face within 90 degrees of due south and therefore no sunlight assessment for this building is required.

50-57 Newman Street is an office building located due east of Berners Mews, directly opposite the application building. Permission has recently been granted to convert this building to provide 23 flats. The submitted daylight report does address the impact of the proposals upon the approved flats and shows that whilst there would be no material impact in terms of daylighting, a number of the windows would experience substantial losses of sunlight (between 23% of 46% of APSH). However, given that the permitted residential scheme may not be implemented (as there is an alternative proposal to this building as an hotel it is considered that the application could not reasonably be refused on the grounds of loss of sunlight. It is not considered that the sunlight losses identified would adversely affect the use of the existing building as officers.

6.3.2 Overlooking

The scheme proposes to introduce roof terraces at Levels 4 and 7 to be used by the future office occupiers of the building. One of the occupiers of 34-36 Berners Street is concerned about overlooking and noise from the proposed rear terrace at fourth floor level. In order to ensure that opportunities for overlooking and noise are minimised conditions are proposed requiring a privacy screen on the northern boundary and limiting the hours that the terrace can be used to office hours only.

Objections have also been raised on the grounds of overlooking from the proposed north facing office windows. However, these are set back from the boundary of the site by some 6m and are some 19m from the south facing (non-habitable windows) of 34-36 Berners Street. It is not considered that the application could be refused on the grounds of overlooking.

6.3.3 Sense of Enclosure

Part (F) of Policy ENV13 also states that developments should not involve an increased sense of enclosure.

The proposed new building introduces additional bulk and height on both Berners Street and at the rear on Berners Mews, and objections have been received on the grounds that this would result in increased sense of enclosure. However, given that the parapet height onto Berners Street, where it adjoins the flats at 34-36 Berners Street, remains the same as existing, and the bulk at the rear onto Berners Mews is set back from the adjoining flats, it is not considered that these elements of the proposal would result in such harmful impacts on increased sense of enclosure to neighbouring properties that permission could reasonably be withheld.

6.3.4 Plant and internal noise

The proposed new plant for air conditioning and ventilation would be located internally at basement levels and a zone for plant is proposed at roof level. To ventilate the proposed

restaurant at basement/ground floor level a full height duct is proposed rising internally through the building. The detailed design of the precise plant required and details of the duct have yet to be finalised. An acoustic report has been submitted as part of the application which includes background noise surveys around the site and, from this are set targets for the operation of the new plant which must be below existing background noise levels.

Environmental Health do not object to the proposal subject to standard noise conditions being imposed. One of the occupiers of 34-36 Berners Street has raised concerns regarding noise from plant within the rear lightwell, however, none is shown within this location, and with the standard noise conditions in place, this will ensure that the aims of Policies ENV6 and ENV 7 are met.

An objection has also been received to the application from a neighbouring residential occupier on the grounds that the new development will cause noise transmission through the party walls. Conditions are proposed in relation to the acoustic standards of the construction with regard to internal noise transmission through the building structure. With this in place, this should ensure there is minimal noise transmission to neighbouring buildings. It is not therefore considered that the application could be refused on this basis.

6.3.5 Construction Noise

Objectors are also concerned by the potential disruption, noise and vibration any redevelopment of the site may cause. Whilst these concerns are acknowledged, they do not form a basis for the refusal of planning permission. However, the City Council will seek to reduce the impact of building works through mitigation measures. These can, however, only limit disruption and inconvenience and not eliminate it entirely. Conditions/S106 obligations are proposed to control the hours of building works, including excavation, and for an annual contribution towards the Council's Code of Construction Practice.

6.4 Transportation/Servicing

The site is currently serviced from Berners Mews but currently has no off-street servicing arrangements. This arrangement would continue. The Highways Planning Manager does not consider this to be a significant issue provided that a Servicing Management Plan is secured to demonstrate how deliveries will be managed and how time the delivered items spend on the highway will be minimised. The Highways Planning Manager is also concerned that the proposed shopping floorspace could be used as a foodstore or supermarket since such uses have particular servicing requirements dependent on deliveries by very large articulated vehicles which would be difficult to accommodate on street. These uses have been precluded by planning condition. The applicant has no objections to such a condition.

There is no requirement for off-street parking provision for the commercial uses proposed, but cycle parking is required under UDP Policy TRANS10. The scheme makes provision for 91 spaces for the proposed office use which is in line with TRANS 10 and 7 offices for the proposed shops.

A new lightwell is proposed at the front onto Berners Street and as this encroaches onto the public highway, a stopping-up order will be required. As part of the proposals an existing ramp (which currently falls on the highway) is to be removed and as a result there is no net loss of public highway. The Highways Planning Manager therefore raises no objections to this part of the highway being 'stopped' but this will be subject to a separate legal process with its own public consultation.

Other Highway Issues

Objections have also been received on the grounds that access from Berners Mews onto Mortimer Street is narrow, that the archway restricts head height, and that additional traffic

using this will cause potential conflicts comprising highway safety. The Highways Planning Manager comments that the site is already serviced from Berners Mews, as are a number of other properties, and whilst there is a likely increase in servicing activity, this is able to be accommodated within the mews. There are no known issues with the junction with Mortimer Street and it is considered that any additional movement could be accommodated within the highway network without causing highway safety concerns.

6.5 Economic Considerations

The economic benefits generated by the proposal are welcome.

6.6 Access

The building will be fully accessible to people with mobility difficulties.

6.7 Other UDP/Westminster Policy Considerations

Waste and recycling storage areas are located at ground floor level. These arrangements are considered to be acceptable in principle under UDP Policy ENV11.

6.8 London Plan

The proposal to redevelop this site is referable to the Mayor because the building is more than 30m high. The Mayor considers that the application does not comply with the London Plan and raises the following points:

- further information on the energy strategy and carbon emissions for the retail element of the proposals should be provided;
- the short fall in carbon dioxide reductions should be met by a financial contribution;
- cycle parking, a construction logistics plan, a delivery and servicing plan and measures to secure inclusive design should all be secured by condition.

The applicant is aware of the comments raised by the Mayor and it is understood that they will be having separate discussions with the Mayor to address these issues. However, at this stage the scheme is considered to comply with relevant City Council policy and for that reason, is recommended for approval.

6.9 Planning Obligations

The City Council's approach to and priorities for planning obligations are set out in our Supplementary Planning Guidance (SPG) on Planning Obligations adopted January 2008. Planning obligations can serve to mitigate the land use impacts arising from a development either on the development site, in the wider locality, or where the development will increase local demands for facilities and services or where it is important to integrate the new development into the new community and environment so that it is more sustainable.

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the three following tests set out in Regulation 122(2):

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

Policy S33 of Westminster's City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure.

The City Council's Planning Obligations Supplementary Planning Guidance (SPG) sets out in detail the scope and nature of obligations to which certain types of development will be referred to comply.

A planning obligation is required to cover a contribution towards the affordable housing fund and contributions to public realm, Crossrail, the Council's Environmental Inspectorate and Environmental Sciences team.

Officers consider that the above 'heads' satisfactorily addressed City Council policies, the Supplementary Planning Guidance and the CIL Regulations

The following range of obligations will need to be secured by legal agreement:

- An affordable housing payment of £2,050,000 (Index linked and payable on commencement of development).
- Crossrail payment of £221,624 (Index linked and payable on commencement of development).
- Public realm payment of up to £167,869 (Index linked and payable on commencement of development) for environmental improvement works within the vicinity of the site.
- Compliance with the Council's Code of Construction Practice and a payment towards monitoring by the Environment Inspectorate during construction works (Index linked).
- Payment to Environmental Sciences during construction works for construction monitoring works (Index linked).
- To limit occupation of the development to the extended construction period (34 months).

Transport for London has also requested funding towards two Legible London signs within the vicinity of the site, and to refresh existing signs. However, the proposed development is an infill development on an existing, well-established street and will not lead to any change in the hierarchy of spaces and street in the immediate area or to the legibility of pedestrian routes. In this regard, it is not considered that such a payment would meet the above tests required to secure this funding.

6.10 Environmental Assessment including Sustainability and Biodiversity Issues

Policy 5.4 of the London Plan relates to retrofitting and states that the environmental impact of existing urban areas should be reduced through policies and programmes that bring existing buildings up to the Mayor's standards on sustainable design and construction. These standards are set out in Policy 5.3 of the London Plan and include minimising carbon dioxide emissions, avoiding internal overheating, efficient use of natural resources, minimising pollution and promoting and protecting biodiversity and green infrastructure.

Policy S39 of Westminster's City Plan: Strategic Policies states that major development should be designed to link to and extend existing heat and energy networks in the vicinity, except where the City Council considers that it is not practical or viable to do so.

Policy S40 of Westminster's City Plan: Strategic Policies requires all major development to maximise on-site renewable energy generation to achieve at least a 20% reduction in carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers it not appropriate or practical due to site specific considerations.

The applicant has submitted an Energy and Sustainability Strategy, a Sustainability Statement and a BREEAM Pre-Assessment report which sets out the following:

The energy strategy for this application makes carbon reductions from the 2010 baseline figure of 27.11% through 'lean' and 'green' aspects of the energy hierarchy. Whilst no renewable energy sources were originally proposed, the applicant has revised their scheme to incorporate 60m² of PV panels. The London Plan Policy 5.2 sets out applicable carbon reduction targets which apply to major developments, and therefore would apply to this scheme. The scheme should be targeting a 40% reduction in carbon dioxide emissions. The London Plan policy states that the carbon dioxide reduction targets should be met on-site. Where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere.

The Go Green Manager has confirmed that the City Council has now established a carbon off-setting fund into which developers have contributed monies to off-set their carbon reduction requirements in line with London Plan Policy 5.2 and this has been used to fund projects within the City of Westminster with the aim of reducing the carbon footprint of the City. The Go Green Manager and the GLA have requested a financial contribution of £67,500 to this fund to mitigate for the shortfall in the proposed carbon reduction as part of the development. The applicant has confirmed that they are willing to make this payment however they argue that this should be deducted from any payment towards the affordable housing fund. Given the policy priority for affordable housing, Committee is asked to consider whether this money should be put towards affordable housing.

The scheme is targeting a BREEAM Offices 2008 rating of 'Excellent' with a predicted outcome of 76.6%. This can be secured by condition.

Biodiversity

The scheme proposes a number of roof terraces that will provide outdoor space for office workers and an area at roof level for a biodiversity roof. It is considered that full details of the design and maintenance of this biodiversity strip can be secured by condition.

6.11 Other issues

Objections have been received on the grounds that the proposal results in the loss of a means of escape which currently exits from roof level of the neighbouring building at 34-36 Berners Street across the roof of 29-33 Berners Street. The applicant claims that this arrangement is not a designated means of escape within the Fire Risk Assessment for 34-36 Berners Street. This is a private matter between the two parties and little weight can be given to this within the determination of the application. Nevertheless these concerns are a matter for Building Control. An Informative has been proposed to inform the applicant of this issue.

An objection has also been received from the occupier of the neighbouring office building at 22-24 Berners Street on the grounds that windows in the boundary will overlook their property, cause problems with fire spread and prejudice the future rebuilding or extension of their property. Whilst windows are shown directly on the southern boundary with the adjoining office building the City Council's policy for protecting amenity is primarily aimed at protecting the living standards of residents rather than office occupiers and it is not considered that the application could reasonably be refused on the grounds of overlooking. In order to satisfy the Building Regulations these windows will need to have fire resistant glass and be fixed shut. An informative is also included on the decision letter which clearly indicates that if an application is made to extend the adjoining property then these windows will not be protected in terms of loss of sunlight, daylight etc.

An objection has been received on the ground that the scheme lacks the provision of public landscaping, however, as the application seeks to replace existing buildings within their existing footprint, it is not considered that public landscaping could reasonably be secured as part of this scheme.

Objections have also been received on the grounds of loss of view, loss of rental values during works and the visual impact of works during construction. These are not planning matters that could be taken into account and therefore carry little weight in the determination of the application.

6.12 Conclusion

The provision of new retail floorspace and enhanced B1 office floorspace is welcome in policy terms in the Core CAZ. Officers consider that it has yet to be satisfactorily demonstrated that it is neither appropriate nor practical to provide the required residential floorspace on site, and Committee's views are sought on the appropriateness of a financial contribution to the affordable housing fund in this instance. In all other respects the scheme is considered acceptable subject to a planning legal agreement and necessary conditions.

BACKGROUND PAPERS

1. Application form and letters and enclosures from applicant dated 26 and 29 September.
2. Email from Councillor Roberts dated 29 September 2014
3. Letter from Greater London Authority dated 16 July 2014
4. Letter from Transport for London dated 26 June 2014
5. Letter from English Heritage dated 28 July 2014
6. Letter from English Heritage Archaeology dated 9 September 2014
7. Letter from Twentieth Century Society dated 30 June 2014
8. Letter from Fitzrovia Neighbourhood Association dated 25 June 2014
9. Memo from Highways Planning Manager dated 29 September 2014
10. Memo from Environmental Health dated 13 June 2014
11. Memo from Cleansing dated 15 July 2014
12. Letter on behalf of the occupier of 22-24 Berners Street dated 18 June 2014
13. Letter from the occupier of 66-67 Newman Street dated 1 July 2014
14. Letters from the occupier of Flat 5, Berners Mansions, 34-36 Berners Street dated 9 July, 15 August, 26 August and 29 September 2014
15. Letters from the occupier of Flat 2, Berners Mansions, 34-36 Berners Street dated 1 July and 28 July 2014
16. Letter from the occupier of Flat 4, Berners Mansions, 34-36 Berners Street dated 1 July 2014
17. Letter on behalf of the leaseholders of Berners Mansions, 34-36 Berners Street dated 23 September 2014
18. Letter from the occupier of Flat 4, Berners Mansions, 34-36 Berners Street dated 30 September 2014
19. Letter from the occupier of Flat 6, Berners Mansions, 34-36 Berners Street dated 1 October 2014
20. Letter from the occupier of Flat 1, Berners Mansions, 34-36 Berners Street dated 1 October 2014
21. Letter from the occupier of Flat 3, Berners Mansions, 34-36 Berners Street dated 2 October 2014
22. Letter from the occupier of Flat 10, Berners Mansions, 34-36 Berners Street dated 2 October 2014
23. Letter from the occupier of Flat 8, Berners Mansions, 34-36 Berners Street dated 2 October 2014

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT STEVE BRANDON ON 020 7641 9541 OR BY E-MAIL – StevenB@westminster.gov.uk

DRAFT DECISION LETTER

Address: 25-33 Berners Street, London, W1T 3LR

Proposal: Demolition of existing buildings and erection of replacement building comprising retail (Class A1) and / or cafe/restaurant (Class A3) at part ground and part basement floor levels; offices (Class B1) at part basement, part ground, and first to seventh floor levels (including roof terraces at front seventh floor level and at rear fourth floor level); and plant at roof level.

Plan Nos: L00 0 010, L-1 P00 099 C, L00 P00 100 B, L01 P00 101, L02 P00 102, L03 P00 103, L04 P00 104, L05 P00 105, L06 P00 106, L07 P00 107, L08 P00 108 B, LXX P04 100, LXX P04 101, LXX P04 102, LXX P04 103, LXX P05100A, LXX P05 101A, LXX P05 102A, LXX P05 103A; L-1 01 099, L00 01 100, L01 01 101, L02 01 102, L03 01 103, L04 01 104, L05 01 105, L06 01 106, L07 01 107, LXX 01 100, LXX 01 101, LXX 01 102, LXX 01 103; Planning Statement dated May 2010; Sunlight and Daylight Report dated May 2014; Transport Statement dated May 2014; Environmental Noise Survey Report dated May 2014; Sustainability Statement dated 15 August 2014

Case Officer: Josephine Palmer

Direct Tel. No. 020 7641 2723

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

You must carry out basement excavation work only:

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

Noisy work must not take place outside these hours. (C11BA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must put a copy of this planning permission and all its conditions at street level outside the building for as long as the work continues on site.

You must highlight on the copy of the planning permission any condition that restricts the hours

of building work. (C21KA)

Reason:

To make sure people in neighbouring properties are fully aware of the conditions and to protect their rights and safety. (R21GA)

- 4 You must not use more than 499sqm of the area identified as 'A1/A3' on the approved drawings for purposes within Class A3 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it). (C05AB)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet S21 and S24 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE10 of our Unitary Development Plan that we adopted in January 2007.

- 5 If you provide an A3 use or uses, no more than 15% of the floor area of each of the uses shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 8, TACE9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the following times:
between 08.00 and 23.30 on Monday to Saturday (not Bank holidays) and between 10.00 and 23.00 on Sundays and Bank Holidays. (C12DC)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 8, TACE9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 7 You must apply to us for approval of details of the ventilation system to get rid of cooking smells from the restaurant(s), including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 8 In the event that you use the A1/A3 floorspace for restaurant use, you must apply to us first for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us.

You must then carry out the measures included in the management plan at all times that the restaurant is in use. (C05JB)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 9 You must provide the waste store shown on drawing 100 rev B before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 11 You must provide the environmental sustainability features (environmentally friendly features) as stated in your submitted Energy and Sustainability Strategy before you start to use any part of the development. You must not remove any of these features, unless we have given you our permission in writing. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

- 12 You must provide the environmental biodiversity features (sedum roof) as stated in your submitted Sustainability Statement in accordance with details to be approved by the City Council as local planning authority before you start to use any part of the development: You must not remove any of these features, unless we have given you our permission in writing.

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 14 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 15 (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: Strategic Policies adopted November 2013, 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.

- 16 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.

- 17 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within any of the uses 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, 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 including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;

- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

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 (UDP), 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: Strategic Policies adopted November 2013, 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.

- 18 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order 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.

- 19 You must apply to us for approval of shop front and advertisement design guidelines for the development. The Class A1 and A3 uses must not be occupied until we have approved what you have sent us. Notwithstanding the deemed consent provisions in the Town and Country Planning (Control of Advertisements) Regulations 2006 no advertisements are to be displayed on the premises that do not comply with the approved guidelines unless we have agreed otherwise in writing.

Reason:

To make sure that the appearance of the shopfronts and advertisements are suitable and form part of coherent design strategy that contributes to the character and appearance of the area. This is as set out in DES 1, and DES 5 and DES 8 of our Unitary Development Plan that we adopted in January 2007.

- 20 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 21 You must apply to us for approval of detailed drawings (at scales 1:20 and 1:5) of the following parts of the development:

Typical façade details at all levels, including roof level.

You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 22 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 23 **Pre Commencement Condition.** No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan must include the following details (where appropriate):

- (i) a construction programme including a 24 hour emergency contact number;
- (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;
- (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);
- (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and
- (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works.

You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 24 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balconies and terraces.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 25 You must not use the fourth floor terraces except between the hours of 09.00 and 20.00 Monday to Saturday; and not at all on Sundays, bank holidays and public holidays, unless otherwise agreed in writing.

Outside of these hours you can only use the terraces to escape in an emergency

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 26 You must apply to us for approval of detailed drawings (at scale 1:50) showing the following alteration to the scheme:

1. Details of boundary treatment for the fourth floor roof terrace area showing the areas for sitting out.

You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawing. Thereafter the remaining part of the flat roof outside of the terrace boundary shall be used for emergency access and maintenance purposes only.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

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: Strategic Policies adopted November 2013, Unitary Development Plan, 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 The proposed south facing windows at third to sixth floors are located on or immediately

adjacent to the boundary of the site and rely on the adjoining site for daylight, sunlight, outlook and natural ventilation. These windows would prejudice the potential for reasonable development on the adjoining site and for this reason daylight, sunlight, outlook and natural ventilation to them will not be protected if development proposals for the adjoining site comes forward in the future.

- 3 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.
If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>. **You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**

- 4 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)

- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 6 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

- 7 We recommend you speak to the Head of the District Surveyors' Services about the stability and condition of the walls to be preserved. He may ask you to carry out other works to secure the walls. Please phone 020 7641 7240 or 020 7641 7230. (I22AA)

- 8 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance (under section 102 of the Clean Neighbourhoods

and Environment Act 2005). (I39AA)

- 9 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team
Environmental Health Service
Westminster City Hall
64 Victoria Street
London
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 10 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.
- 11 You may need separate licensing approval for the premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 12 You must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 13 Conditions 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. (I82AA)
- 14 You are advised to address the impact of your proposal on the means of escape in relation to

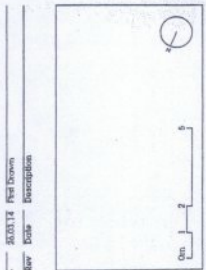
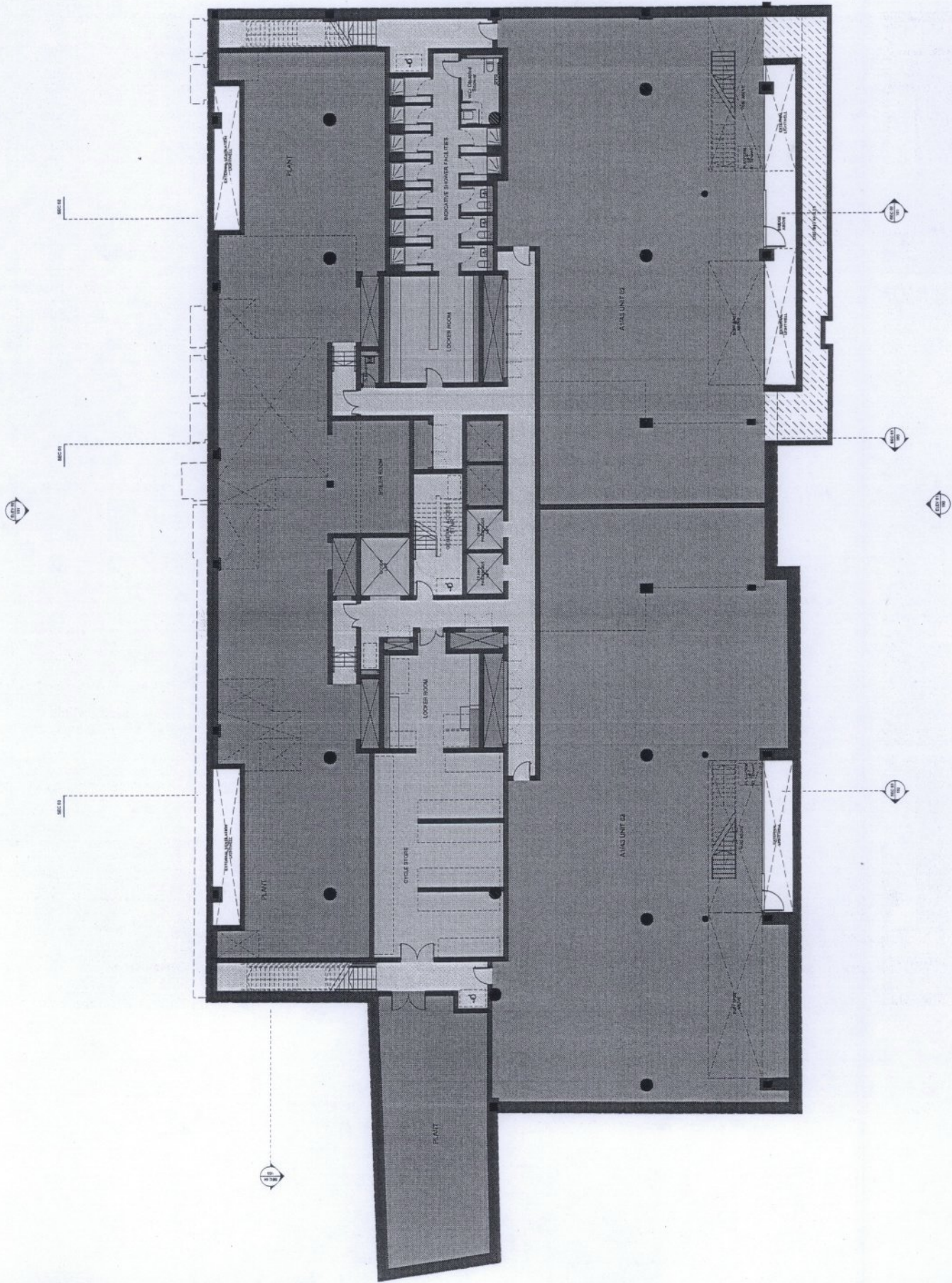
the residents of 34-36 Bruton Street. You are advised of the need to maintain any established means of fire escape from adjacent buildings. Please contact our Head of District Surveyors' Services and/or The London Fire Authority regarding this aspect of your proposal.

- 15 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to financial contributions towards affordable housing, public realm and Crossrail.

Notes
Indicative layout only.
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All dimensions and levels to be checked on site by the contractor before commencement of any works and to be reported to the architect immediately in the event of any discrepancy.

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- Chimney
- Life Circulation
- Ramp
- Roof Terrace
- Roof
- Office Reception
- Office
- AI/A1 With
- ICH
- Plant



Rev	Date	Description
1	03/14	First Drawn

Sheet: 25.33 Basements Sheet
Project: Deyval Land
Scale: 1:100 or A1
Date: 26.03.14
Drawn: J.P.
Checked: S.P.
Approved: S.P.

Basement Level
General Arrangement Plan

Project	Discipline	Level	Series	Dwg No	Rev
13438	AR	L1	P00	009	-

Knowledge Status
For Planning

133 Alington Road
London W6 1 7JP
Established
4th Floor
41-4205-118 9111
www.piercyandcompany.com

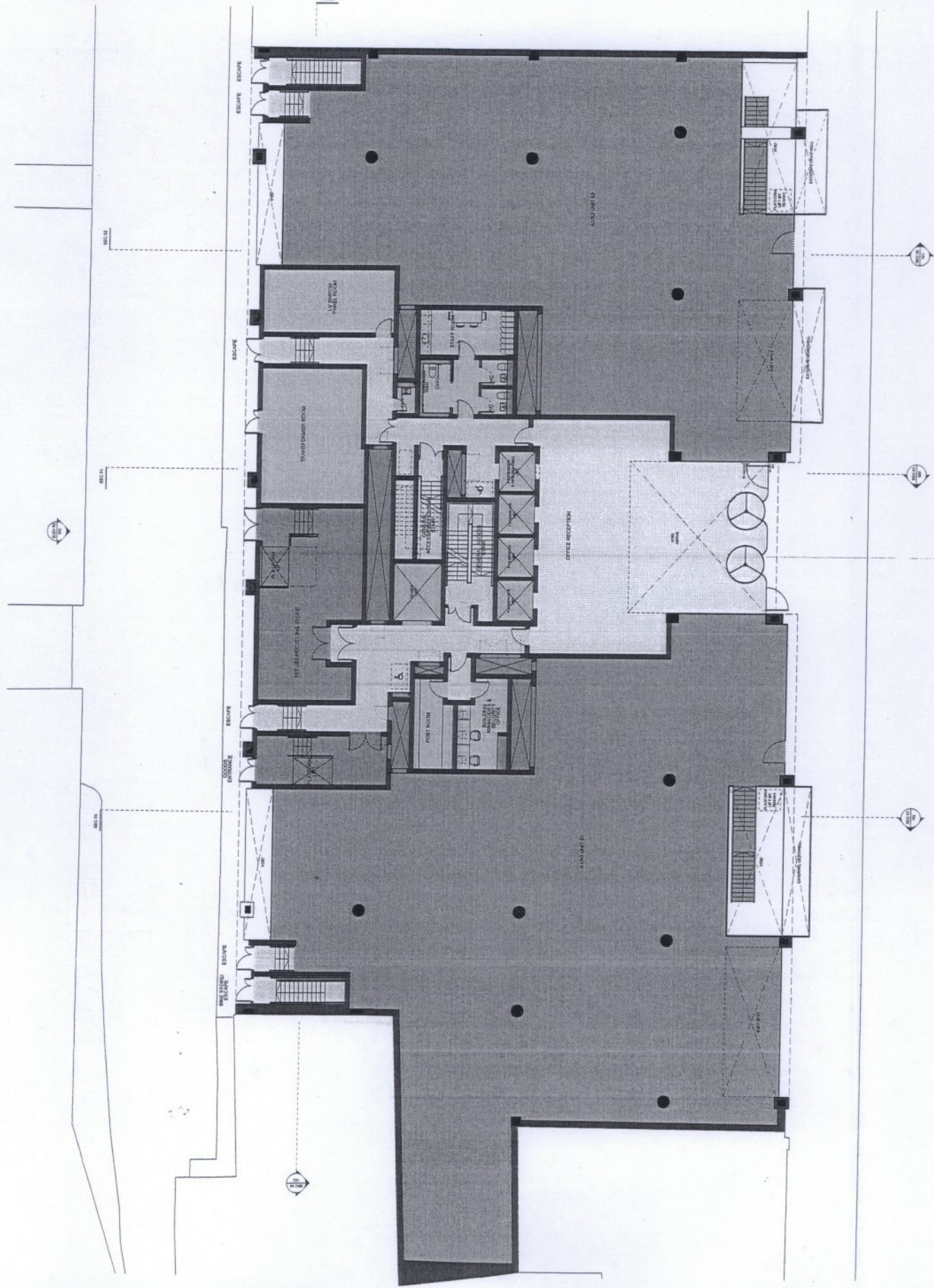
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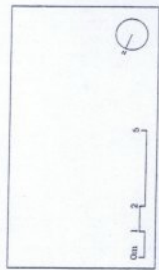
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Legend

- Client
- Office Reception
- A1/A2 Units
- Other
- Part



SECTION
 REF: Description



Project
 25-33 Berrins Street
 Client
 Directed London
 Date
 2023.14
 Scale
 1:200 of A1

**Ground Floor
 General Arrangement Plan**

Drawn
 P
Checked
 MH
Approved
 DM

Project
 13438 AR P00 100

THE ARCHITECTS
 London W8Y 1PP
 Telephone
 +44(0)2073141111

Piercy & Company

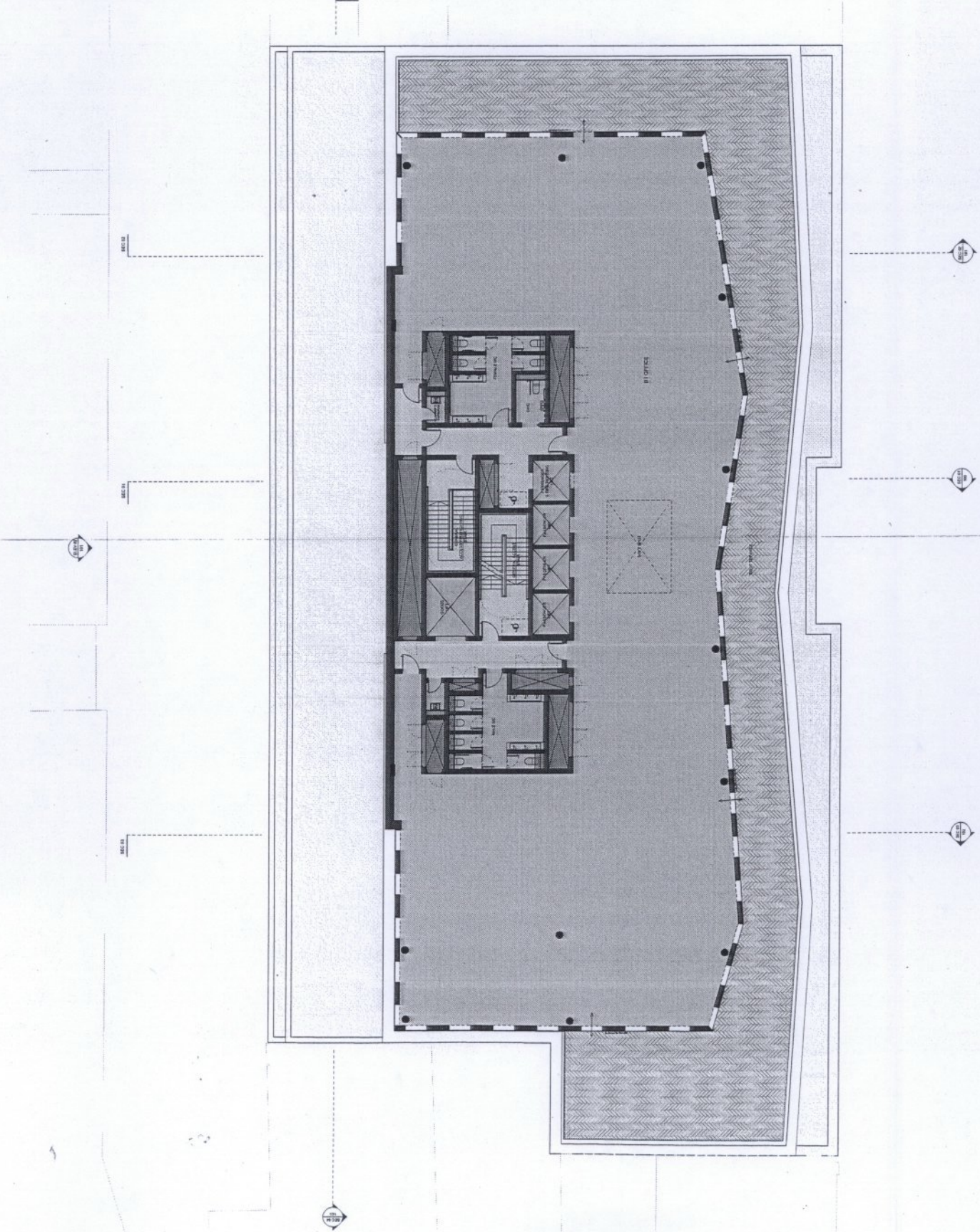
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Symbol	Material
[Diagonal lines \]	Concrete
[Diagonal lines /]	Lift Circulation
[Stippled]	Roof Terrace
[Dotted]	BI Corbe
[Horizontal lines]	Other Masonry
[Vertical lines]	A1/A3 Glass
[Cross-hatched]	B/H
[Solid black]	Panel



20.03.14 Revit Drawn
 K/P' Escal' Description

Scale: 1:100
 Scale: 1:200 of A3

Project: Seventh Floor
 General Arrangement Plan

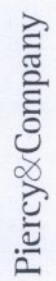
Drawn: [Name]
 Checked: [Name]
 Approved: [Name]

Drawing Status: For Planning

Project No: 13438 AR
 Level: L07
 Series: P00
 Draw No: 107

Project: 20-30 Berners Street
 Client: [Name]
 Drawn: [Name]

135 Aldersgate Road
 London EC1A 3DF
 Telephone: 44(0)20 7461 6611
 Email: info@piercy.com
 Website: www.piercy.com

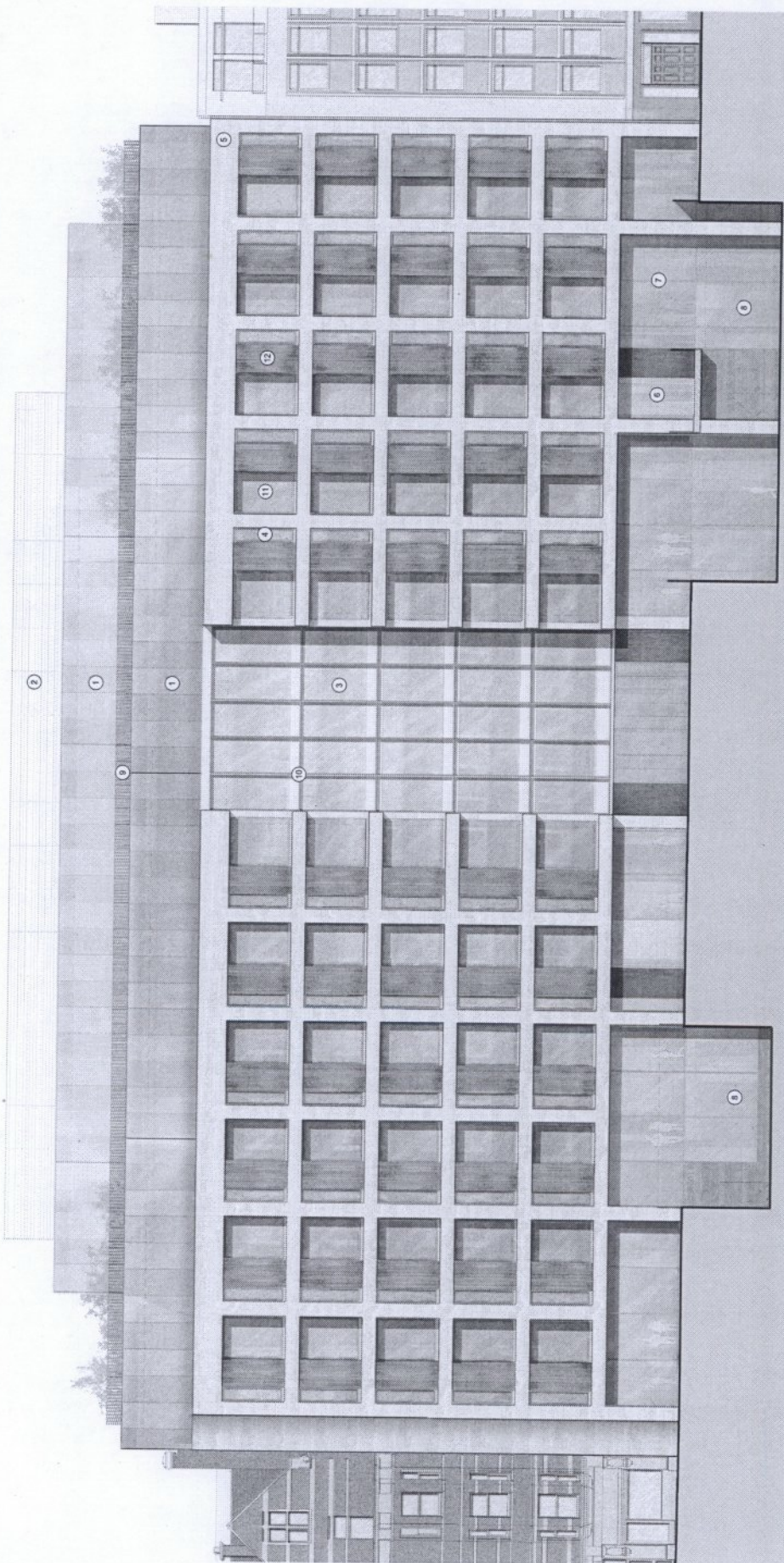


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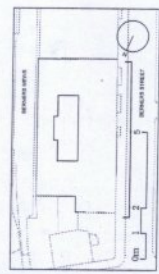
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Material Key

- 1 Ironstone Clad Curved Walling
- 2 Ironstone Paint Screen
- 3 Reformed Clad Panel
- 4 Full Height Glazed Ventilation Panel
- 5 Stone Facade
- 6 Profiled Timber Door
- 7 Timber Panel Windows
- 8 Reformed Lightwell
- 9 Ironstone Clad Panel
- 10 Reformed Curved Panels for Shading
- 11 High Performance Double Glazing
- 12 Ironstone Clad Panel



SCALE Plot Down
 Key Size Description



Project
 215-33 Berners Street
 Elevation London

Scale
 1:100 or A1
 1:200 or A3

Drawn
 AIT

Checked
 JHP

Approved
 JHP

Drawing Status
 For Planning

Project 13438
Discipline AR
Level P04
Draw No 100
Rev -

215, 217, 219 Berners Street
 London W6J 7HP

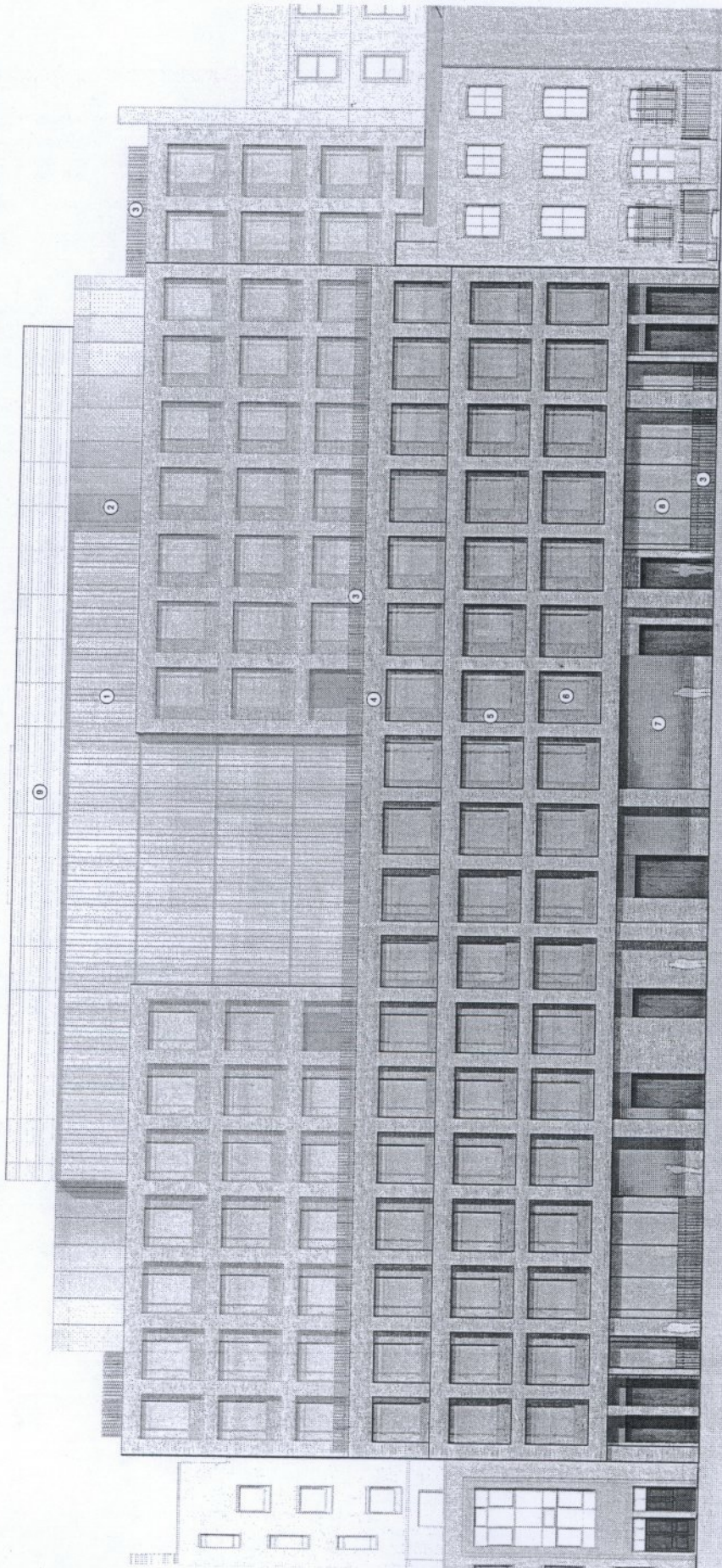
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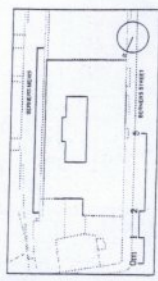
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- Material Key**
- 1 Pruned Grates
 - 2 Curved Walling
 - 3 Reveal Coated Metal Balustrades
 - 4 Textured Aluminum Panels
 - 5 Reveal Aluminum Spandrel Panels
 - 6 Glass Style Window with Opening Void
 - 7 Reveal Coated Metal Liner
 - 8 Thinset Panels Whiskers to AIAI Dials
 - 9 Coarsened Panel Screen



Scale: 1/8" = 1'-0" or A1



Project: 25-33 Barnes Street
Client: General Arrangement Elevation
Date: 05/14
Scale: 1/8" = 1'-0" or A1

Author: [Name]
Checked: [Name]
Approved: [Name]

Project No.: 13438
Sheet No.: AR
Scale: 1/8" = 1'-0" or A1

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 New York, NY 10017
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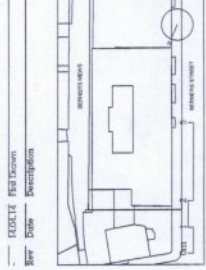
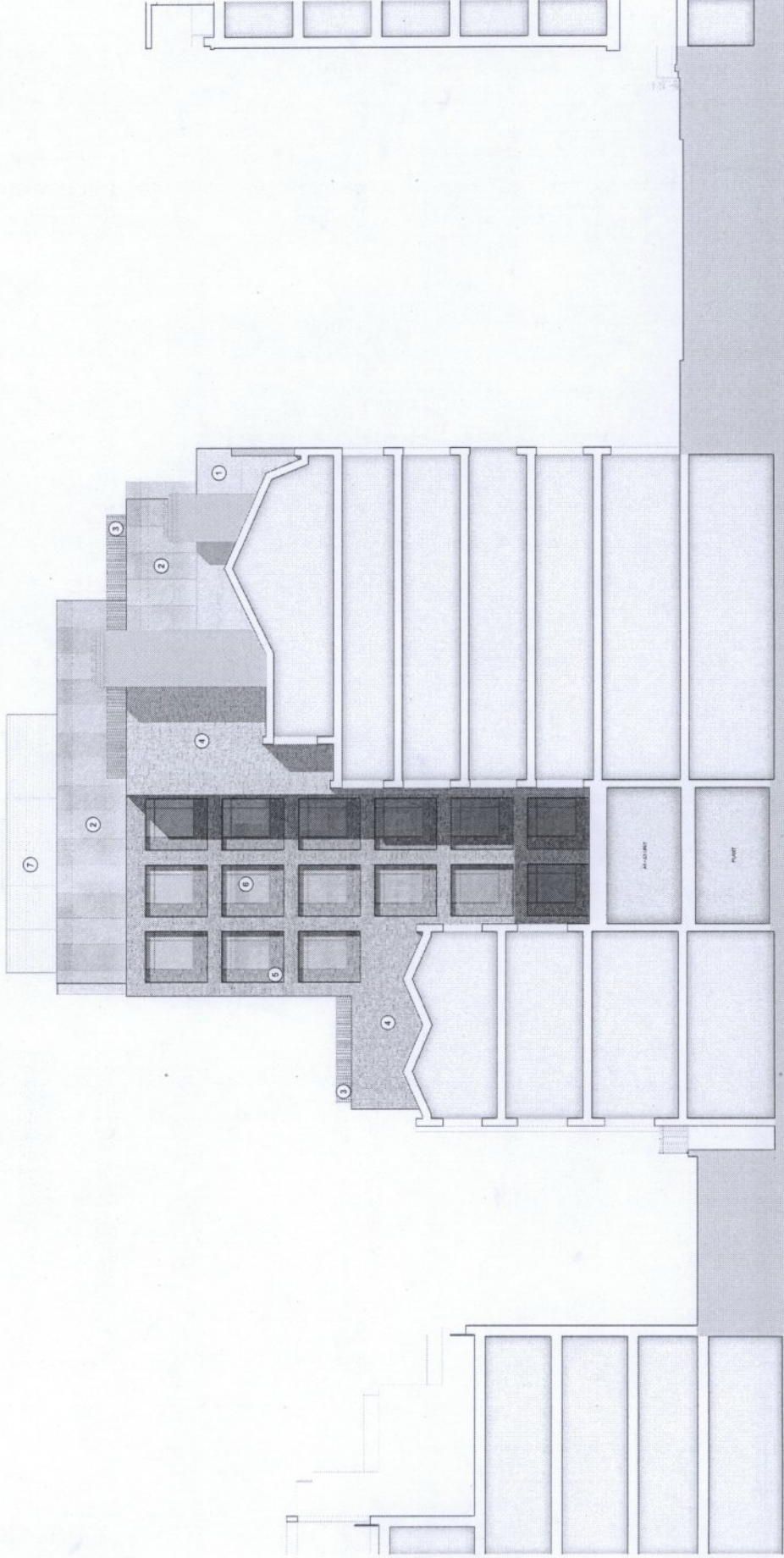
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Material Key

- 1 Stone Facade
- 2 Perimeter Glazed Curtain Walling
- 3 Insulated Coloured Metal Balustrade
- 4 Insulated Masonry Facade
- 5 Recessed Masonry Spandrel Panel
- 6 Colored Style Window with Opening Vent
- 7 Unrained Front Screen



Project
 25-33 Bernome Street
 Client
 Denton London
 Date
 10.01.14
 Scale
 1:200 (or A1)

**North Facing Plank Wall
 General Arrangement Elevation**

Drawn: [Name] Checked: [Name] Approved: [Name]

Project No: [Number] Rev: [Number]

13438 AR PX4 103

123 Adlington Road
 London NW1 7HP
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 Fax: 020 7499 1401
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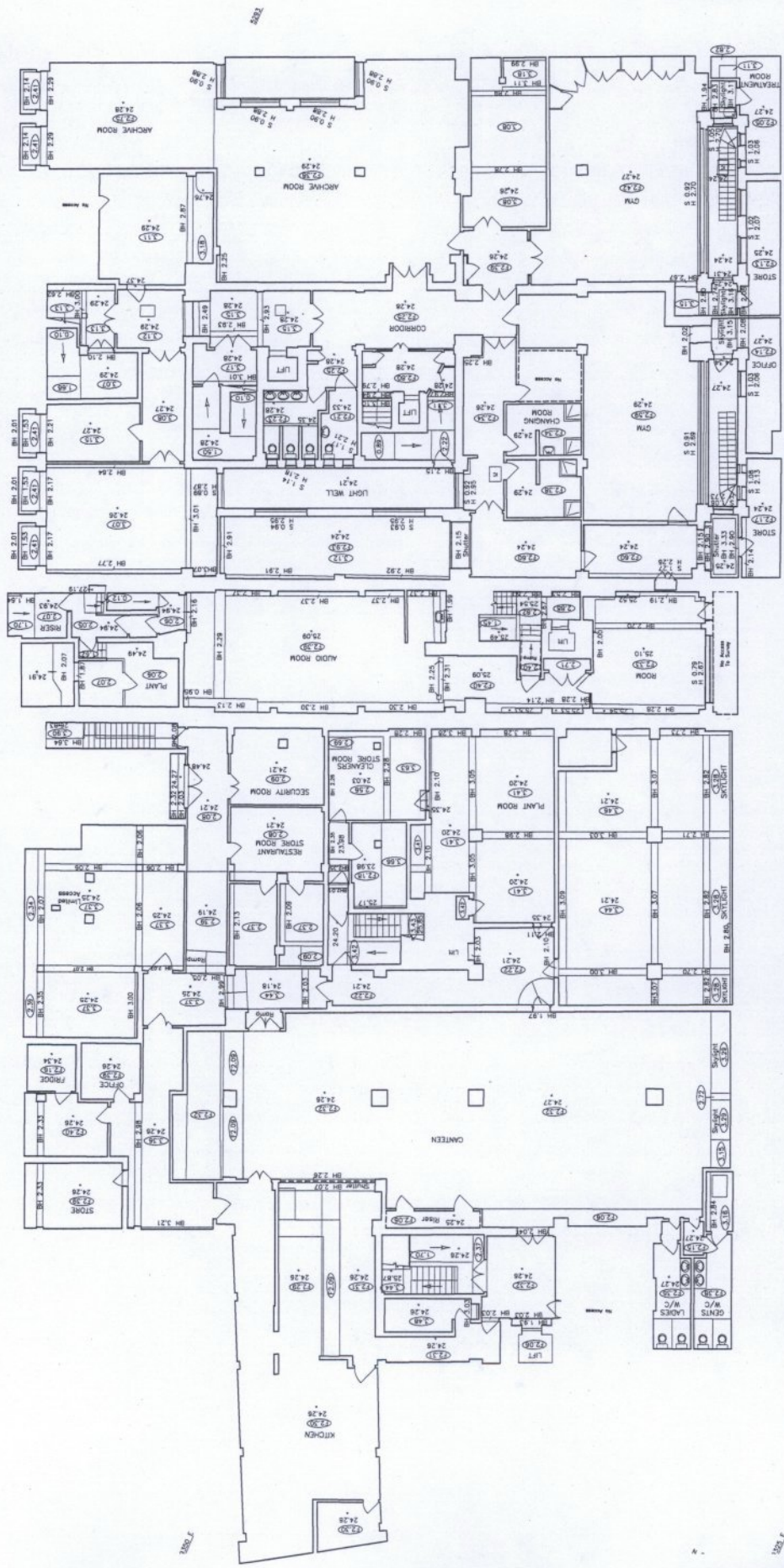
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Project	25-33 Bormans Street
Client	Develco London
Date	08/14
Scale	Scale 1:1000 or A1
Drawn	MM
Checked	MM
Approved	MM
Project No	13438 AR
Level	L-1
Scale	000
Sheet No	000

**Basement Level
General Arrangement Plan**

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3502

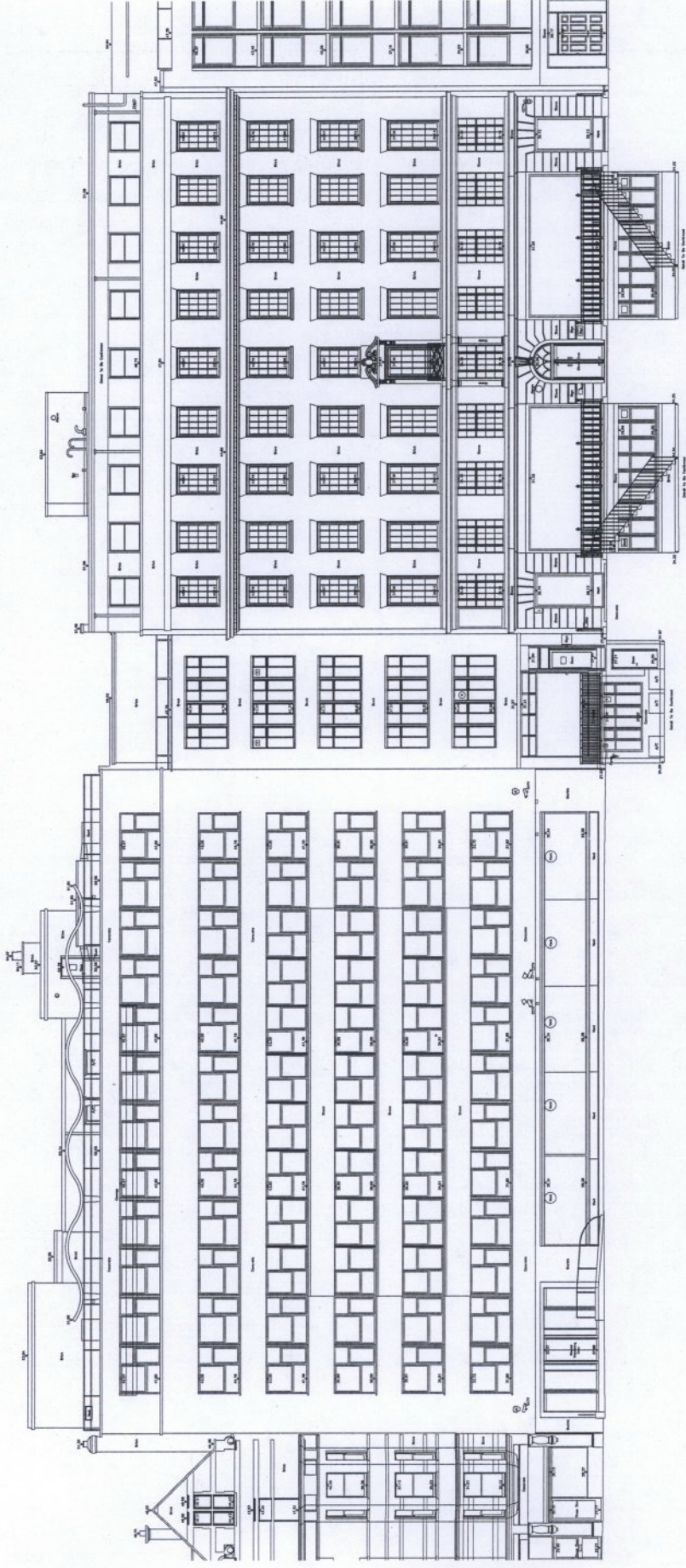
1A1000

1A1000

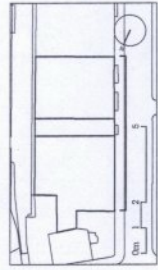
3502

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REV	Date	Description
1	04/10/14	Issue for A1
2	04/10/14	Issue for A2



Project: 25-33 Berners Street
Client: Berners Centre
Date: 10.04.14
Scale: 1:100 or A1

Berners Street General Arrangement Elevation

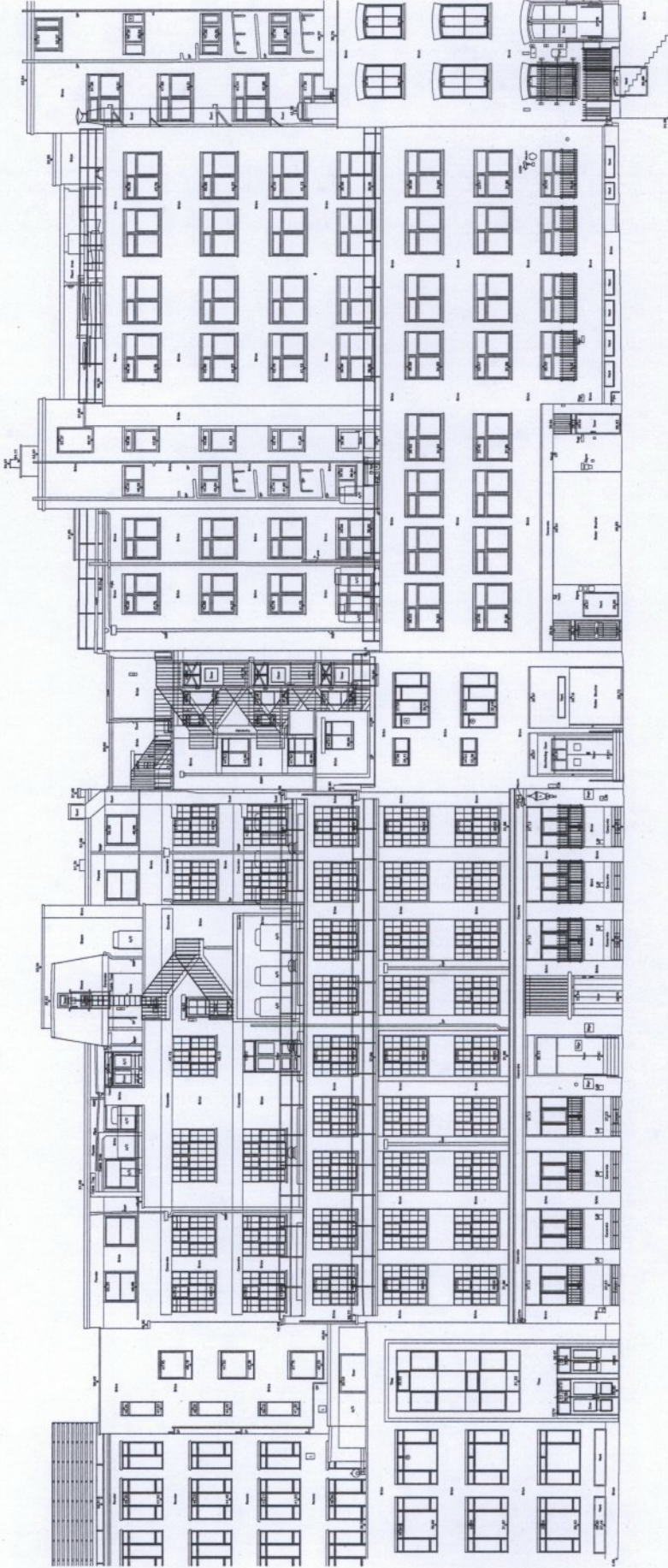
Drawn: [Name]
Checked: [Name]
Approved: [Name]
Project No.: 13438
Issue No.: 01

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Project: 25-33 Berners Street
 Client: General London
 Date: 2014-14
 Scale: 1:200 or A3

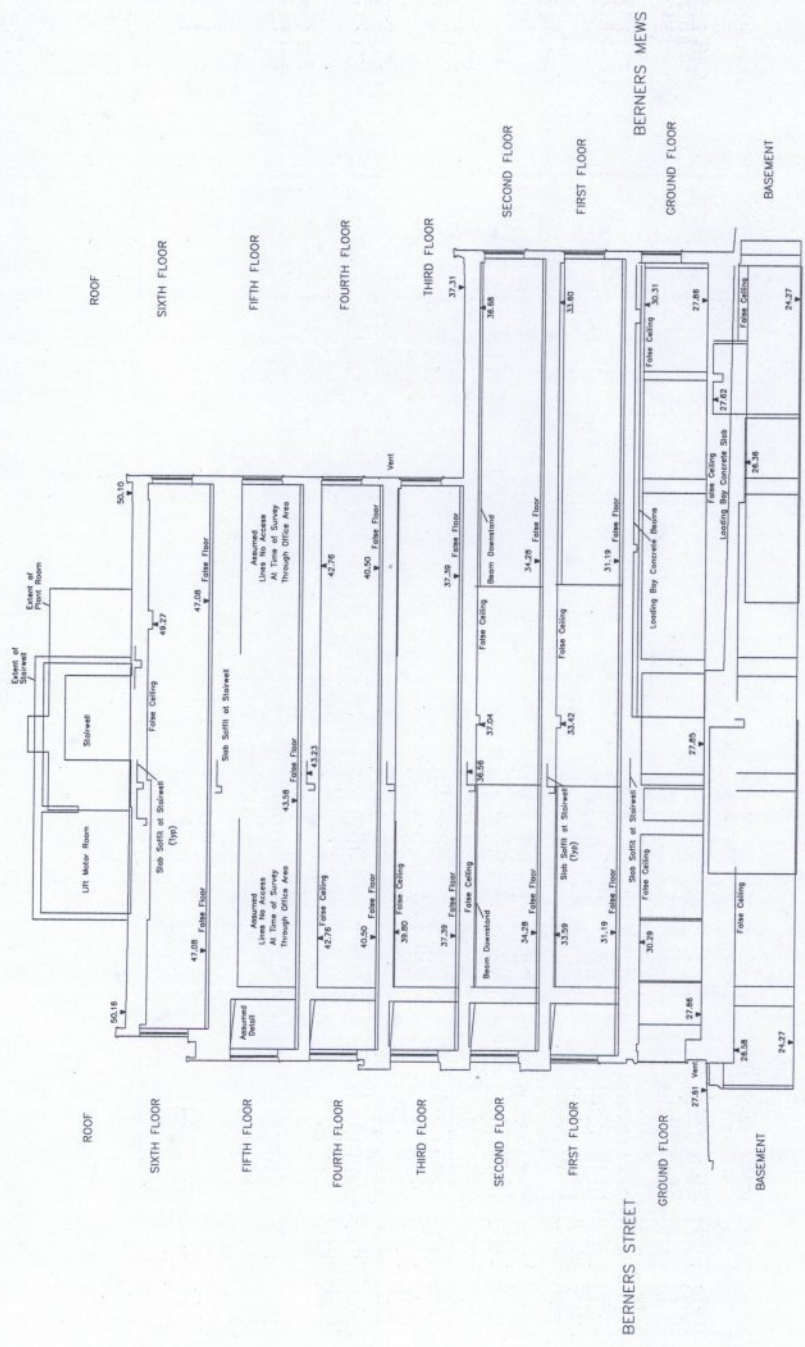
Benners Mews General Arrangement Elevation
 Drawn: [blank] Checked: [blank] Approved: [blank]
 Project No: 13438 AR
 Issue No: LXX 01
 Sheet No: 101

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SECTION 01
(No.33)

20.00m Above OS Datum

Rev	Date	Description
1		ISSUE FOR TENDER

Project	25-33 Berners Street
Client	Developt London
Date	16.04.14
Scale	1:100 of A1 1:200 of A4
Section	Section 01
Drawn	JP
Checked	DB
Approved	DB
Drawing Status	For Tendering
Discipline	Arch
Level	100
Draw No	102
Rev	

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