| PLANNING APPLICATIONS   | Date   | Classification                  |                |  |
|---|--|---------------------------------|----------------|--|
| COMMITTEE   | 14 October 2014  | ctober 2014 For General Release |                |  |
| Report of   |  | Wards involve                   | Wards involved |  |
| Operational Director Development Planning   |  | Lancaster Gate                  | 9              |  |
| Subject of Report   | 17 Craven Hill Gardens   | London, W2 3EE                  |                |  |
| Proposal  | Use as a single family dwellinghouse (Class C3), installation of replacement windows, formation of terrace at rear second floor level, infill extension within the rear lightwell, erection of new gates to parking area and installation of mechanical plant at lower ground floor level and associated external alterations. Use of part of Craven Hill Gardens Square adjacent to side elevation as private external amenity space for occupiers of the dwellinghouse and erection of new boundary treatment around private external amenity space. |                                 |                |  |
| Agent   | Savills  |                                 |                |  |
| On behalf of  | 17 Craven Hill Gardens Ltd   |                                 |                |  |
| Registered Number   | 14/08020/FULL  | TP / PP No                      | TP/17988       |  |
| Date of Application   | 13.08.2014   | Date amended/ completed         | 13.08.2014     |  |
| Category of Application   | Other  |                                 |                |  |
| Historic Building Grade   | Unlisted   |                                 |                |  |
| Conservation Area   | Bayswater  |                                 |                |  |
| Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007 | Outside London Plan Central Activities Zone Outside Central Activities Zone  |                                 |                |  |
| Stress Area   | Outside Stress Area  |                                 |                |  |
| Current Licensing Position  | Not Applicable   |                                 |                |  |

# 1. RECOMMENDATION

- 1. For Committee's consideration:
- (a) Does the Committee consider that the loss of an area of open space within Craven Hill Gardens Square to provide a private garden ancillary to the proposed dwellinghouse at No.17 Craven Hill Gardens is acceptable in land use terms?

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- 2. Subject to 1. above, grant conditional permission, subject to completion of a legal agreement to secure the following:
- (a) Provision of access for residents of Craven Hill Gardens in perpetuity to the parts of the Garden Square that do not comprise the private external amenity space ancillary to the new dwellinghouse.
- (b) Removal of the previous rights associated with No.17 Craven Hill Gardens to permit the holding of tented functions and other events within the Garden Square.
- 3. If the S106 planning obligation has not been completed by 14 January 2015 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.







17 CRAVEN HILL GARDENS, W2

# 2. SUMMARY

The application seeks permission for the use of the building, which is currently vacant but previously used as hotel accommodation, as a single family dwellinghouse, with associated external alterations, including the installation of replacement windows, formation of a new terrace at rear second floor level, erection of an infill extension within the rear lightwell and installation of mechanical plant at lower ground floor level. The application also proposes a material change of use of part of Craven Hill Gardens Square, where it currently comprises two terraced areas (one at garden level and one raised) adjacent to No.17, to form a private external amenity space, with the erection of a new boundary treatment around the proposed private garden area.

The key issues in this case are:

- The acceptability of the loss of part of the existing private open space.
- The impact of the use of part of Craven Hill Gardens Square as a private garden on the character and appearance of the Bayswater Conservation Area.
- The acceptability of the alterations and extensions to the building in design and conservation terms.
- The impact of the development on the amenity of neighbouring residents.

Subject to the recommended conditions and completion of a S106 agreement to secure the planning obligations set out in the recommendation, the proposed development is considered to be acceptable and would accord with the relevant land use, design, amenity, environment and transportation policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (the City Plan). Accordingly, the application is recommended for approval.

# 3. CONSULTATIONS

# SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Note that existing raised terrace to be used as part of private garden for the new house and that this probably formed part of the Garden Square. Note that the raised terrace and existing French doors were probably approved in 1992. Note that there are differences of opinion as to whether proposal would comply with the London Squares Preservation Act 1931. Recognise that the current application would provide some 'pros'; namely, getting rid of commercial hotel related events in the square, provides surrounding residents with access to most of the square, restores architectural features of No.17, creates a large dwellinghouse and creates two off-street parking spaces. Also recognise that there are 'cons'; namely, part of the square as communal private open space will be lost forever, building could be used more intensively for residential purposes, introduction of terrace at second floor level and private garden and the square should be divided by hedge and not railings. Suggest that additional entrances to the square should be provided to encourage its use. Suggest that the hours of use of the terrace within the private garden should be controlled by condition to between 07.00 and 23.00 hours.

BAYSWATER RESIDENTS ASSOCIATION Any response to be reported verbally.

ARBORICULTURAL MANAGER
Any response to be reported verbally.

#### **CLEANSING MANAGER**

No objection. Condition recommended to secure waste and recycling storage as shown on submitted plans.

#### **ENVIRONMENTAL HEALTH**

No objection. Conditions recommended.

## HIGHWAYS PLANNING MANAGER

Any response to be reported verbally.

#### TRANSPORT FOR LONDON

No objection, but condition recommended to ensure that development would not have an adverse impact on London Underground tunnels below the site.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 342: Total No. of Replies: 3.

Three letters/emails from two respondents raising objection on all or some of the following grounds:

#### Land Use

- Occupiers of No.37 Craven Hill Gardens have a right of access to the whole square.
- Terrace area remains part of the Garden Square and has never been formally 'detached' from the Garden Square by previous planning permissions. This area of hard landscaping is a result of the Hempel Hotel's redesign of the landscaping.
- The principle of the loss of part of the Garden Square is unacceptable and the reduced amount to be lost in the current application (9% rather than 33%) does not alter this in principle objection.

## **Design and Conservation**

Sub-dividing the Garden Square would ruin its proportions.

### Other Matters

- Question whether local planning authority has the authority to convert part of the Garden Square to private use.
- Proposed change of use of Garden Square to private garden is driven by desire to increase developer profits. Any increase in profit should be provided to surrounding residents, the South East Bayswater Residents Association or the City Council's affordable housing fund.

# ADVERTISEMENT/SITE NOTICE: Yes.

## 4. BACKGROUND INFORMATION

# 4.1 The Application Site

The application property comprises a seven storey end of terrace 19<sup>th</sup> century townhouse arranged over lower ground, ground and five upper floors. The building is not listed, but is located within the Bayswater Conservation Area. The site also comprises the western third of Craven Hill Gardens Square, which is an area of privately owned communal open space.

The application property is currently vacant, but was most recently used as part of the Hempel Hotel, which also formerly occupied Nos.31-35 Craven Hill Gardens. The former Hempel Hotel premises at Nos.31-35 already have planning permission for conversion to 18 residential units (see Relevant History section of this report).

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## 4.2 Relevant History

# 4.2.1 17 Craven Hill Gardens (Application Site)

- 18 August 1989 Permission granted for change of use from private club and premises to nine residential units (88/03771/FULL).
- 16 March 1992 Permission granted for demolition and rebuilding of rear elevation and extensions, new windows to east elevation of existing building, lowering of parapet and addition of basement room (91/03083/FULL and 91/03088/CAC).
- 7 July 1992 Permission granted for demolition and subsequent reinstatement of front area steps (92/03150/FULL and 92/03151/CAC).
- 4 September 1992 Permission granted for formation of three new ground floor window openings, erection of balcony overlooking Garden Square and formation of subterranean chamber for air conditioning plant (92/04259/FULL and 92/04260/CAC).
- 6 May 1999 Permission refused for change of use from residential to hotel use to provide six apartments for guest use (98/09693/FULL and 98/09694/CAC).
- 16 October 2000 Permission granted for use of 17 Craven Hill Gardens for hotel purposes (six serviced apartments, function room, meeting room and kitchens) (99/04494/FULL).

This permission was granted subject to a S106 agreement to limit hotel functions within Craven Hill Gardens Square to ensure that the use of the square was not materially altered and that its use was consistent with the requirements of the London Squares Preservation Act 1931, which limits the use of protected squares to use for '...the purpose of an ornamental garden, pleasure ground or ground for play, rest or recreation...'.

24 July 2014 – Planning application withdrawn that proposed the use of building as a single family dwellinghouse, use of part of Craven Hill Gardens Square as a private garden for the dwellinghouse (approximately one third of the existing Garden Square) and external alterations, including extension of raised terrace to side elevation, formation of terrace at rear second floor level and infill extension to rear lightwell (14/03043/FULL).

# 4.2.2 31-35 Craven Hill Gardens (Former Hempel Hotel Premises)

- 8 June 1990 Permission granted for erection of mansard storey to each of 31-35 Craven Hill Gardens and external refurbishment in connection with continued use for hotel purposes (89/05559/FULL and 89/05560/CAC and 89/05561/FULL and 89/05562/CAC duplicate applications were submitted).
- 8 November 1991 Permission was granted for partial demolition and refurbishment of hotel, new mansard roof, remodelling of rear elevation with two storey conservatory structures and installation of glass rooflights over three front lightwells (91/00243/FULL and 91/00244/CAC).
- 23 June 1994 Permission was granted for alterations during the course of construction of permission dated 8 November 1991; namely, additional demolition to rear elevation and rebuilding as per previous planning approval (94/01530/FULL and 94/01531/CAC).
- 10 November 1999 Certificate of Lawful Existing Use or Development withdrawn for use of Craven Hill Gardens Square as an ornamental garden by the hotel at Nos.31-35 Craven Hill Gardens (98/03355/CLEUD).
- 18 October 2013 Planning permission and conservation area consent were granted for demolition of the existing building behind the front facade and redevelopment to provide 18

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residential units (1 x studio, 7 x 2 bedroom, 7 x 3 bedroom and 3 x 4 bedroom flats), with associated terraces, cycle parking, refuse storage and mechanical plant (13/03434/FULL & 13/03435/CAC).

This most recent permission was granted subject to a S106 agreement to amend the provisions of the earlier S106 agreement dated 16 October 2000, so that hotel functions within the Garden Square can only take place within the third of the Garden Square that is adjacent to No.17 Craven Hill Gardens, which was to remain as a hotel premises at the time of the 2013 application. The applicant also agreed to allow additional communal access for residents of surrounding buildings to the remaining area of the Garden Square, in addition to the separate legal right that it is understood that the occupiers of some frontage buildings still have to access the whole of the Garden Square.

#### 5. THE PROPOSAL

The application seeks permission for the use of the building, which is currently vacant but previously used as hotel accommodation, as a single family dwellinghouse, with associated external alterations, including the installation of replacement windows, formation of a new terrace at rear second floor level, new gates to rear elevation parking area, erection of an infill extension within the rear lightwell and installation of mechanical plant at lower ground floor level.

The application also proposes a material change of use of part of Craven Hill Gardens Square; where it currently comprises two terraced areas (one at garden level and one raised) adjacent to No.17, to form a private external amenity space, with the erection of a new boundary treatment around the proposed private garden area.

The current application seeks to overcome the concerns expressed by officers in relation to the planning application that was withdrawn in July 2014. That application proposed the use of the building as a single dwellinghouse and similar external alterations to the current application, but proposed to use a larger proportion of Craven Hill Gardens Square (approximately one third) as a private garden for the future residential occupiers of the application property.

## 6. DETAILED CONSIDERATIONS

#### 6.1 Land Use

The application building was formally used as an annex providing additional hotel accommodation in connection with the former Hempel Hotel at Nos.31-35 Craven Hill Gardens. The main Hempel Hotel premises are currently undergoing redevelopment to convert them to 18 residential flats pursuant to planning permission granted on 18 October 2013 (see Section 4.2.2 of this report). The building is currently vacant, but has a lawful use as a hotel (Class C1) and could be used in future as a self-contained hotel premises.

The loss of the existing hotel use is considered to be acceptable in land use terms, despite the concerns raised by the South East Bayswater Residents Association that the loss of the hotel use is not justified as it is not currently causing disturbance to neighbouring residents.

Policy TACE1 in the UDP encourages the loss of hotels in Bayswater that are harming the amenity of neighbours. Policy S23 in the City Plan replicates this test and also adds that the loss of hotels in Bayswater will only be acceptable where the hotel in question is not a purpose built hotel.

In this case, whilst there have not been noise complaints in the last 18 months (partly because the premises has been closed for the majority of that time), there have historically been complaints from neighbours stemming from events held within the Garden Square in

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connection with the hotel accommodation at No.17. There is therefore the potential for this type of disturbance to continue if hotel use of No.17 was to continue. Therefore, the current application represents an opportunity to extinguish the potential for recommencement of noise disturbance in this location. Furthermore, the building was originally built as a single dwellinghouse and not as a hotel. In this context, it is considered that the principle of the loss of the hotel premises is acceptable and would accord with TACE1 in the UDP and S23 in the City Plan.

Policy S14 in the City Plan seeks to optimise the use of residential floorspace and states that the number of residential units on development sites will be optimised. Whilst the application premises is clearly capable of being used as a larger number of smaller units than is proposed, given the building was originally built as a large single dwellinghouse, the reversion of the building to its originally intended use is considered to be difficult to resist in land use terms.

The scheme would provide approximately 779m2 of residential floorspace. Whilst this would not trigger a requirement for provision of affordable housing, as it would be below the 1,000m2 or 10 residential unit threshold, it could be argued that the affordable housing liability of the current scheme should be considered in conjunction with the previous scheme to redevelop the main Hempel Hotel site at Nos.31-35 Craven Hill Gardens, which was approved in 2013. However, given that the two sites have a distinctly separate planning history (see Section 4.2 of this report) and as the current application site is capable of independent use as a separate hotel premises, it is not considered that the two sites should be considered together for affordable housing purposes. Accordingly, there is not a requirement for provision of affordable housing with the current scheme.

The current application proposes the use of the existing terraced area adjacent to the side elevation of No.17 as a private external amenity space/ garden for the occupiers of the proposed dwellinghouse. The area proposed is now much reduced from that proposed by the previously withdrawn application, which proposed the use of one third of Craven Hill Gardens Square as a private external amenity space.

The area now proposed comprises an existing raised terrace area against the side elevation of No.17, which provides direct access into the Garden Square and a larger lower terrace (accessed from the upper terrace) that is marginally above the prevailing height of the Garden Square (there are two steps up to the lower terrace from the Garden Square). The area of the lower terrace is approximately 130m2. The lower terrace is currently enclosed by a 0.6m high rendered wall, but is not gated off from the rest of the Garden Square.

The lawful planning use of Craven Hill Gardens Square is currently as private communal open space, the use of which is not directly ancillary to any one particular use/ buildings that faces the Garden Square or has access to it. Therefore, whilst the Garden Square is understood to have been most recently owned by the Hempel Hotel, during which time it is understood that the number of other frontage properties with a private legal right of access has been reduced (it is noted that the occupiers of No.37 state that they retain a right of access to the whole Garden Square), this does not alter its current lawful planning use.

In terms of adopted policy, ENV15 in the UDP and S35 in the City Plan set out the policy presumption in favour of preventing development that leads to a loss of public or private open space. However, it is considered that the revised proposal for the formation of a private garden area, which would be ancillary to the new dwellinghouse and therefore would not remain open space, is capable of being considered favourably given the particular circumstances of this case.

This is because the proposed private garden area comprises a small part of the overall Garden Square area and therefore a sizeable private communal open space would remain.

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Furthermore, the area in question is hard landscaped with a low enclosing wall, which already gives the area the character and appearance of a domestic terrace ancillary to No.17.

In addition, in granting permission previously for the enlargement of the Hempel Hotel into No.17 in October 2000, the use of the square to hold hotel related functions was permitted. The number and frequency of events is controlled by legal agreement. The agreement permits the use of the Garden Square twice a week to hold events for up to 50 people between 10.00 and 17.00 hours and three times per year for events for up to 300 people until 23.00 hours (the legal agreement is provided in full in the background papers).

The current application represents an opportunity to fully extinguish this previously permitted right to use the Garden Square for functions and events, thereby removing this commercial intrusion in to what was originally conceived as a communal residential amenity space. The current application also represents an opportunity to re-establish a wider right of access to the whole of the remaining private communal Garden Square area. A right of access has already been secured to two thirds of the garden area in conjunction with the planning permission for the redevelopment of the Hempel Hotel at Nos. 31-35 Craven Hill Gardens (13/03434/FULL – see legal agreement in the background papers). It is therefore recommended that provision of access to the remaining parts of the Garden Square are secured for existing residents of Craven Hill Gardens in perpetuity.

In this context, the Committee is asked to consider whether the loss of private open space within Craven Hill Gardens Square to create an ancillary private garden for the new dwellinghouse at No.17 is acceptable in land use terms, having regard to the particular circumstances of this case.

Objection has been raised on grounds that the objectors consider that the proposal would be contrary to the London Squares Preservation Act as it includes development within a protected square that is not required in connection with the use or maintenance of the square for its authorised purpose. However, planning permission cannot be withheld on the basis that development is, or is not, in accordance with the London Squares Preservation Act 1931 and therefore an Informative is recommended to advise the applicant of the need to ensure that the development would accord with the London Squares Preservation Act 1931.

# 6.2 Townscape and Design

In design terms the alterations and extensions to the building itself that are proposed are relatively modest and are not considered to be contentious.

The replacement of windows with new timber double glazed sash windows is considered acceptable in principle, subject to full details of the replacement windows being provided by condition.

The introduction of York stone paving to the lightwells and rear forecourt area is considered welcome and would improve the setting of the building in street views. New railings and sliding gates are proposed to the rear elevation and these would replicate similar recently approved alterations to the neighbouring buildings in the same terrace and as such are considered acceptable.

The introduction of a sedum roof and a small terrace to the rear elevation at second floor level would replicate similar alterations to the adjoining properties in this terrace that have been recently approved. As such, these alterations would bring greater consistency to the appearance of this part of the terrace.

The infill extension to the rear lightwell would not extend above the height of the existing lightwell enclosure and as such, it would not be visible in any public or private views.

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Therefore, it would not have an adverse impact on the appearance of the building or the conservation area.

A satellite dish is proposed at roof level. This would be centrally located and set away from the street facades. In this discreet location it would not have an adverse impact in design terms. Other minor external alterations proposed, such as replacement of a window to the rear elevation at second floor level and alteration of the rear closet wing parapet are uncontentious in design terms.

As set out in the Land Use section of this report the part of the Garden Square that the application proposes to use as a private garden for the new dwellinghouse comprises a hard landscaped area adjacent to the side elevation of No.17. This area is already enclosed by a low wall to the perimeter of the terrace. In this context, it is not considered that in design terms the current scheme would cause significant harm to the character or appearance of the Garden Square, as the area to be enclosed would replicate an area that is already enclosed with the Garden Square, albeit to a lesser degree. The overall proportions of the Garden Square would continue to be appreciable as the side elevation of No.17, which forms the western end of the Garden Square, would remain visible beyond the private garden enclosure.

In views from outside the Garden Square from the surrounding highway the existing hedge planting to the perimeter of the Garden Square would obscure views of the proposed private garden, as it currently obscures views of the existing terraced area in the same location.

Whilst the principle of providing a small enclosed area to the western end of the Garden Square is considered acceptable given the character and appearance of the existing terrace in this location, it is considered that the existing low wall should be replaced by full height railings to match the perimeter railings and not short railings set into a replacement wall, as is currently proposed. A condition seeking this amendment is recommended and is included in the draft decision letter.

Subject to the recommended condition regarding the means of enclosure around the private garden area, the current scheme is considered to be acceptable in design and conservation terms, having regard to the particular circumstances of this site. The proposals would accord with DES1, DES5, DES6, DES9 and DES12 in the UDP and S25 and S28 in the City Plan

## 6.3 Amenity

The proposed alterations and extensions are largely uncontentious in amenity terms. The infill extension to the rear would be contained within the existing lightwell and would have no adverse impact on neighbouring amenity. The roof terrace proposed at rear second floor level would be limited in scale and would not offer views into windows in neighbouring buildings in the same terrace, whilst the views to buildings opposite would be sufficiently distant so as not to cause an unacceptable increase in overlooking.

The scheme includes new mechanical plant within a plant room at basement level. Environmental Health have confirmed that they are satisfied that this would not cause noise disturbance to neighbouring residents, provided the recommended noise control conditions are imposed.

The proposed private garden area for the new dwellinghouse would not cause any greater noise disturbance to neighbours than use of the existing Garden Square by the hotel and therefore it would be unreasonable to seek to limit the hours of use of this private garden by condition as suggested by the South East Bayswater Residents Association.

In this context, it is not considered that the proposals would cause a loss of amenity to neighbouring residents and therefore the development would accord with ENV6 and ENV13 in the UDP and S29 and S32 in the City Plan.

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# 6.4 Transportation/Parking

The proposed dwellinghouse would benefit from two parking spaces on the rear forecourt area. This level of parking provision would accord with TRANS23 in the UDP and is acceptable in parking terms.

Cycle storage is proposed within the rear lightwell and this provision is considered acceptable and in accordance with TRANS10 in the UDP.

The Cleansing Manager is satisfied that the refuse storage proposed within one of the front vaults is acceptable and would accord with ENV12 in the UDP.

### 6.5 Access

The property is accessed via steps to both the front and rear elevations and as a result it is not possible to provide step free access to the property, without harming the appearance of the building and the character and appearance of the conservation area. However, given that the property is to be used as a private dwellinghouse the lack of step free access, whilst regrettable, is considered acceptable in access terms.

## 6.6 Economic Considerations

Not applicable.

# 6.7 Other UDP/ Westminster Policy Considerations

None relevant.

### 6.8 London Plan

The proposed development does not raise strategic issues.

# 6.9 National Policy/Guidance Considerations

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

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

## 6.10 Planning Obligations

As set out in Section 6.1 of this report, a S106 agreement is recommended to ensure access to the remaining private communal open space within Craven Hill Gardens Square is provided for use by neighbouring residents in frontage properties, as per Schedule 1, Clause 2 of the

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previous S106 agreement dated 18 October 2013 relating to the redevelopment of the former Hempel Hotel premises at Nos. 31-35 Craven Hill Gardens.

The S106 agreement is also required to extinguish the clauses in the earlier agreement relating to hotel use of the application site at No.17, which permitted hotel functions to be carried out in Craven Hill Gardens Square. The removal of these previous rights to hold tented functions and other smaller events within the square would remove commercial activity from the Garden Square and return the area of the Garden Square to be retained to its originally intended use as private communal residential open space providing external amenity space for residents surrounding the square.

# 6.11 Environmental Assessment including Sustainability and Biodiversity Issues

The provision of a sedum roof to the rear of the building at second floor roof level is considered welcome in biodiversity terms. In terms of sustainability, the proposed development would significantly improve the thermal efficiency of the building relative to its existing state. Other than this, the application provides limited scope for other sustainability and biodiversity improvements given the prominence of all three elevations in public and private views.

The proposals would not extend or after the existing building at ground level and therefore the proposals would not harm adjacent trees within the Garden Square. As such, the scheme is considered acceptable in arboricultural terms and the proposals would accord with ENV16 in the UDP.

#### 6.12 Other Issues

Objections have been raised on grounds that the proposed change of use of the Garden Square to private garden is driven by desire to increase developer profit. However, the applicant's reason for making an application and its impact on the profit a development may make is not a ground on which planning permission can be withheld. The provision of private amenity space for the new dwellinghouse is welcomed in land use and amenity terms and would accord with the Mayor's Supplementary Planning Guidance 'Housing' (2012), which encourages the provision of private amenity space for new residential units.

## 7. CONCLUSION

The Committee is asked to consider whether the loss of private open space within Craven Hill Gardens Square to create an ancillary private garden for the new dwellinghouse at No.17 is acceptable in land use terms, having regard to the particular circumstances of this case.

Subject to the Committee's views on the acceptability of the loss of some of the existing private open space, the proposed development is otherwise considered to be acceptable in land use, design and conservation, amenity, transportation and environment terms and would accord with the relevant policies in the UDP and City Plan.

Should the Committee resolve to grant permission, it is recommended that the conditions set out in the draft decision letter are imposed and that a \$106 agreement is completed to secure the provision of access for residents of Craven Hill Gardens in perpetuity to the remaining areas of private open space within the Garden Square and to remove the previous rights associated with No.17 Craven Hill Gardens that allow the holding of tented functions and other events within the Garden Square.

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#### **BACKGROUND PAPERS**

- 1. Application form.
- 2. Copy of S106 agreement dated 18 October 2013.
- 3. Letter and email from the South East Bayswater Residents Association both dated 23 September 2014
- 4. Email from Environmental Health dated 4 September 2014.
- 5. Memo from the Cleansing Manager dated 5 September 2014.
- 6. Letter from Transport for London dated 18 September 2014.
- 7. Email from the occupier of an unspecified property dated 5 September 2014.
- 8. Letters from the occupier of 21 Craven Hill Gardens dated 8 September 2014 and 18 September 2014.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT OLIVER GIBSON ON 020 7641 2680 OR BY E-MAIL – ogibson@westminster.gov.uk

# **DRAFT DECISION LETTER**

Address:

17 Craven Hill Gardens, London, W2 3EE

Proposal:

Use as a single family dwellinghouse (Class C3), installation of replacement windows, formation of terrace at rear second floor level, infill extension within the rear lightwell, erection of new gates to parking area and installation of mechanical plant at lower ground floor level and associated external alterations. Use of part of Craven Hill Gardens Square adjacent to side elevation as private external amenity space for occupiers of the dwellinghouse and erection of new boundary treatment

around private external amenity space.

Plan Nos:

EX.100/A, EX.101/A, EX.102/A, EX.103/A, EX.104/A, EX.105/A, EX.106/A, EX.107/A, EX.108/A, EX.130/A, EX.131/A, EX.132/A, DM.101/A, DM.102/A, DM.103/A, DM.104/A, DM.105/A, DM.106/A, DM.107/A, DM.108/A, DM.130/A, DM.131/A, DM.132/A, PR.201/A, PR.202, PR.203, PR.204/A, PR.205/A, PR.206/A, PR.207/A, PR.208/A, PR.230/A, PR.231/A, PR.232/A, Planning Statement dated August 2014, Arboricultuiral Impact Assessment Report dated 25 March 2014, Design and Access Statement dated July 2014, Noise Impact Assessment dated 19 March 2014 (ref: 10984.NIA.01 Rev.B), Planning Compliance Report dated 19 March 2014 (ref: 10984.VIA.01), Energy Statement dated 19 March 2014 and

Sustainability Statement dated 26/03/14.

Case Officer:

Oliver Gibson

Direct Tel. No. 020 7641 2680

# Recommended Condition(s) and Reason(s):

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

### Reason:

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

- 2 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.

Noisy work must not take place outside these hours. (C11AA)

#### 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)

All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to

this permission. (C26AA)

#### Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development:
  - (a) Typical elevations and sections of all new windows (elevations at 1:20 and sections at 1:5).
  - (b) Elevations and sections of new railings and gates around private garden area (elevations at 1:20 and sections at 1:10).
  - (c) Typical railing finial elevation at a scale of 1:5 or larger.

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 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 this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

You must apply to us for approval of detailed drawings showing the following alteration to the scheme: omission of low wall around private amenity space and replacement with railings to match the perimeter railings around Craven Hill Gardens Square. The detailed drawings must show the railings individually set in to a ground level plinth. You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

(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.

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

#### 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.

You must not use the roofs of the building for sitting out or for any other purpose, except where a roof terrace is indicated at second floor level on drawing PR.204 Rev.A. You can however use the roofs to escape in an emergency. (C21AA)

#### 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)

9 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application.

The sedum green roof at second floor level.

You must not remove any of these features. (C43FA)

#### 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)

You must not carry out any external alterations, erect any extensions to the building, erect any boundary walls or fences or erect any structures or hard surfaces in the curtilage of the building without our permission. This is despite the provisions of Classes A, B, C, D, E and F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 to the Town and Country Planning General Permitted Development Order 1995 (as amended) (or any order that may replace it). (C21HA)

#### Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 5, DES 9, DES 12 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the dwellinghouse. The parking spaces shall be permanently retained for this purpose. (C22BA)

## Reason:

To provide parking spaces for people using the development as set out in STRA 25 and TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

All new gates and railings hereby approved shall be painted black and permanently maintained in that colour.

#### Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013

and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number PR.201 Rev.A. You must clearly mark them and make them available at all times to everyone occupying the dwellinghouse. (C14FB)

#### 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)

- The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the demolition, foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:
  - (a) provide details on all structures;
  - (b) accommodate the location of the existing London Underground structures and tunnels;
  - (c) accommodate ground movement arising from the construction thereof;
  - (d) and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

#### Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with Policy 6.3 in the London Plan 2011 (as amended) and the Mayor's 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

## Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in 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 You are reminded that by granting planning permission the City Council as Local Planning

Authority is not confirming that the development does, or does not, accord with the requirements of the London Squares Preservation Act 1931. Rather the planning application has been determined in accordance with the adopted planning policies within the Development Plan, which comprises the Unitary Development Plan that we adopted in January 2007 and Westminster's City Plan: Strategic Policies that we adopted in November 2013.

- This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
- 4 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 5 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.
  - Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)
- 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.
- Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- You are advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statements, in particular with regard to: demolition; excavation and construction methods.









































