

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Knightsbridge & Belgravia	
Subject of Report	15 Cliveden Place, London, SW1W 8LA		
Proposal	<u>Application 1</u> Variation of condition 1 of planning permission dated 7 July 2020 (RN: 20/01382/FULL) for: Retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to rear elevation at lower ground floor level. Namely, to change the acoustic enclosure to a louvred system (retrospective). <u>Application 2</u> Installation of louvred acoustic housing under stairs in rear garden (retrospective).		
Agent			
On behalf of	Marc Walters		
Registered Number	<u>Application 1</u> RN:22/04454/FULL <u>Application 2</u> RN:22/04832/LBC	Date amended/ completed	5 July 2022
Date Application Received	5 July 2022		
Historic Building Grade	II		
Conservation Area	Belgravia		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Application 1:

1. Grant conditional permission.

Application 2:

1. Grant conditional listed building consent.
2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

2. SUMMARY & KEY CONSIDERATIONS

The application site is a Grade II listed terraced house within the Belgravia Conservation Area. Permission and consent are sought for the retention of an acoustic enclosure to an existing air conditioning unit that was approved in July 2020 which is located beneath external stairs in the rear garden.

The key considerations in this case are:

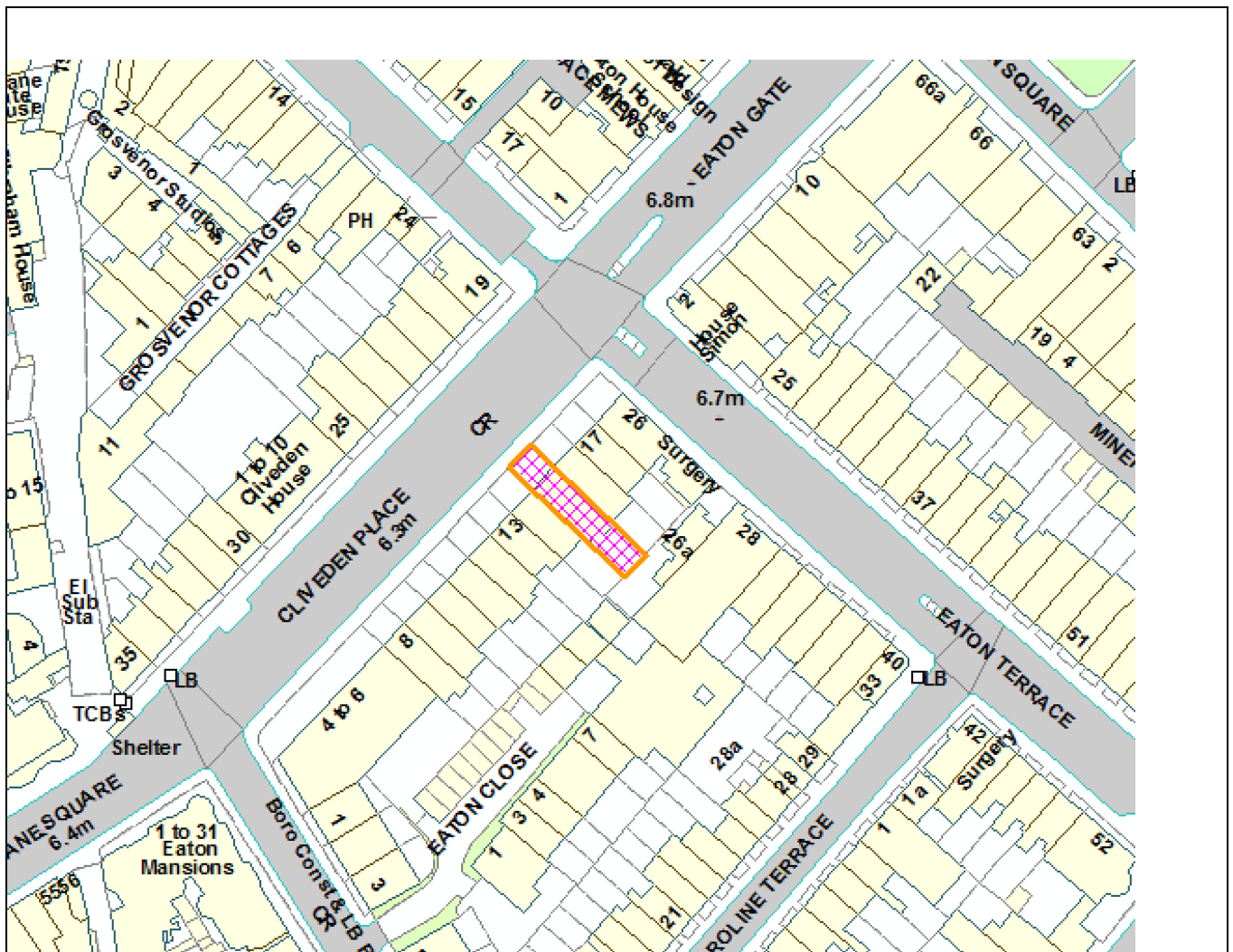
- The impact of the proposed works on the listed building and on the character and appearance of the Belgravia Conservation Area.
- The impact on the amenity of neighbouring residential properties.

A neighbouring resident has raised an objection on the grounds that the air conditioning unit with the new louvred enclosure installed generates noise disturbance which harms their quality of life.

An acoustic report has been submitted in support of the application to demonstrate that the installed air conditioning unit housed within the new louvred enclosure complies with the Council's standard noise conditions. The Council's Environmental Health officer has also visited the site and taken measurements from the neighbouring property with the unit operating at full load which showed that there is no measurable difference in the noise levels when the unit is switched off or running at full load, and as such the plant complies with the standard noise condition.

Accordingly, the proposal is considered acceptable in heritage, design and amenity terms and the applications are recommended for approval subject to the conditions as set out in the draft decision letter.

3. LOCATION PLAN

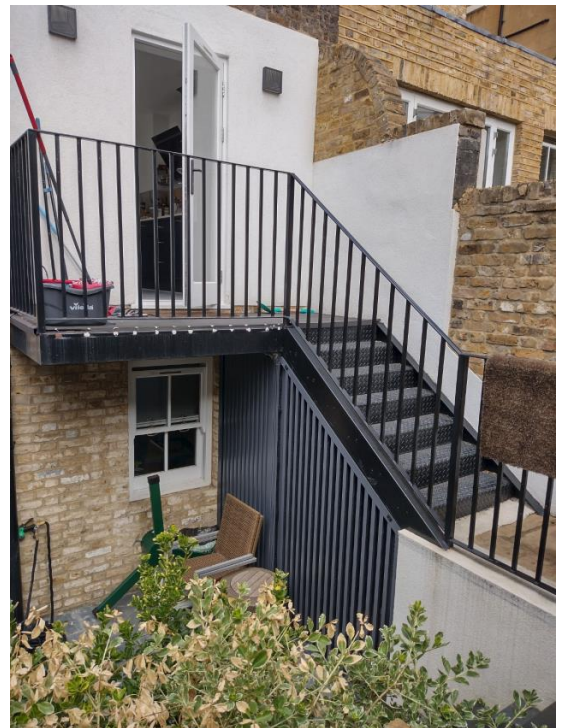


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4. PHOTOGRAPHS



Front elevation



Louvred enclosure beneath external staircase to rear

5. CONSULTATIONS

5.1 Application Consultations

BELGRAVIA RESIDENTS' ASSOCIATION:

Any response to be reported verbally.

THE BELGRAVIA SOCIETY:

Any response to be reported verbally.

BELGRAVIA NEIGHBOURHOOD FORUM:

Any response to be reported verbally.

ENVIRONMENT HEALTH:

No objection. The applicant submitted an acoustic report which demonstrates that the mechanical plant housed within the louvred enclosure is likely to comply with the standard noise conditions. Despite this there has been further adverse comment from the neighbour suggesting that they continue to be disturbed by noise from the unit.

A site visit was conducted on Monday 12 June 2023 between 1630hrs and 1800hrs involving the applicant and his acoustic consultant (KP Acoustics) and the neighbouring resident. The measurements show that there is no noticeable difference between when the outdoor condensing unit plant is running (at full load) and not running. Subjectively, when there is no extraneous sound and you listen hard for the sound of the unit, it is possible to detect some faint plant noise. However, there is no measurable difference in the noise levels and as such the plant is likely to be compliant with the standard planning condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 16

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One letter of objection received from neighbouring resident on the following grounds:

Amenity

- The equipment and new louvred enclosure are already installed and they have experienced its operation which generates noise disturbance harmful to their quality of life.
- Permission allowing the external air conditioning unit should not have been granted.
- Whilst the removal of the wood barrier is welcome, the new acoustic report does not reduce the noise enough for it to comply with the requirement to be 10dB below the ambient noise level as the unit is still audible.
- The acoustic report omits reference of the wind and ambient temperatures when the readings were taken, the nature of the garden, the impact of location of the unit and queries the day and timing when the readings were taken. The report

does not demonstrate that the unit operates at no more than 24dB and queries the efficiency of the acoustic enclosure.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was carried out with regards to this proposal.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

15 Clivedon Place is a Grade II listed building located on the South side of Clivedon Place which is within the Belgravia Conservation Area. The property comprises lower ground, ground and three upper floors and is in use as a single family dwelling house.

7.2 Recent Relevant History

In June 2017, planning permission and listed building consent were granted for the use of the property as a single-dwelling house, the erection of replacement extensions at lower ground and ground floor levels with roof terrace above at first floor level, landscaping works to the garden and internal alterations (RN: 17/00697/FULL & 17/00698/LBC).

In July 2020, planning permission and listed building consent were granted for the retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to the rear elevation at lower ground floor level (RN: 20/01382/FULL & 20/01383/LBC).

8. THE PROPOSAL

Planning permission and listed building consent were granted for the retention of an air conditioning beneath the external staircase in the rear garden in July 2020. Following complaints from a neighbouring resident about noise, the timber enclosure approved was replaced with metal acoustic louvres. Permission and consent are now sought for the retention of the new louvred enclosure.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Not applicable.

9.2 Environment & Sustainability

Not applicable given the scale of the proposal.

9.3 Biodiversity and Greening

Not applicable.

9.4 Townscape, Design & Heritage Impact

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that *"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 66 of the LBCA Act requires that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The louvred enclosure has been installed beneath metal steps to the rear of the property, which is attached to a later extension. Given their position, and finish and colour, the louvres do not look incongruous and are not considered to harm the significance of the host listed building, or the character or appearance on the conservation area.

9.5 Residential Amenity

City Plan 2019-2040 Policy 7 (Managing Development for Westminster's People) seeks to ensure proposals are neighbourly by protecting and enhancing amenity, preventing unacceptable impacts such as in terms of loss of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking as well as protecting local environmental quality.

Policy 33 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

The approved air conditioning unit and new louvred enclosure is located under an existing external staircase and will not therefore impact on the light, privacy or cause a sense of enclosure to neighbouring properties.

A neighbouring resident has raised an objection on the grounds that the air conditioning unit with the new louvred enclosure installed generates noise disturbance which harms their quality of life.

As shown in the planning history section of this report, planning permission was granted in July 2020 for the installation of an external air conditioning unit with screening. The acoustic report originally submitted in support of that application had shortcomings (errors in how the information was presented and lack of testing of sound levels from the plant). Following two holding objections from the Council's Environmental Health officer, a revised acoustic report was submitted and a letter from their acoustic consultant providing information on testing of sound levels from the plant. The information provided was considered acceptable by the Council's Environmental Health officer as the most noise-sensitive window was correctly identified and the design noise level criteria was likely to meet the Council's standard noise and vibration conditions, which were attached to the permission.

This application follows an enforcement investigation due to a potential breach of compliance with the noise condition attached to the July 2020 planning permission. To overcome noise concerns the applicant has removed the timber enclosure approved in July 2020 and replaced this with a new metal louvred enclosure which is the subject of this application.

An acoustic report has been submitted in support of the application showing that the installed mechanical plant housed within the louvred enclosure is likely to comply with the Council's standard noise condition.

However, given the nature of the objection on noise nuisance grounds due to the operation of the unit, a site visit was conducted on Monday 12 June 2023 between 1630hrs and 1800hrs involving the Council (Environmental Health and Planning Officers), the applicant and his acoustic consultant (KP Acoustics) and the neighbouring resident. The Environmental Health officer suggested a late night visit given that ambient noise levels may be lower, but the objector felt that late afternoon was the best time to carry out the test.

The objector was informed by the Environmental Health officer prior to the site visit that wind speed and direction only really become more of an issue at greater distances. Given the proximity of the most noise-sensitive window to the noise source it is unlikely to impact upon the measured noise levels (but wind speeds >5m/s (12mph) or with gusts >10m/s (22mph) or heavy rain would not be suitable conditions for noise monitoring).

With regards to the design level of 24 dB(A), the objector was advised that it will not actually be possible to measure 24 dB(A). The acoustic report submitted with the July

2020 permission, shows that the ambient noise levels do not fall below 40 dB even including the night-time period. Whilst it is conceivable that the ambient noise levels could be a little lower since the report does refer to heavy rain overnight during the measurement, it is certainly unlikely that they would fall much lower than those measured. In accordance with planning policy the design level is derived from a level of 10 dB below the lowest measured background noise level of 34 dB LA₉₀ (15 min).

The purpose of the test carried out was to show compliance or not with the planning condition. The planning condition (identified as No.3 on the July 2020 permission) states that the plant is required to operate at least 10 dB below the background noise level at one metre away from any noise sensitive window (receiver point). The method for testing was to measure the background noise (over a 15 minute period) with the plant off and then for the plant to be switched on and for further measurements to be taken over a similar period. To demonstrate compliance the unit should not noticeably impact upon the background noise level.

The internal air conditioning units in each room of 15 Cliveden Place were set to operate at maximum cooling. Noise measurements were taken by the Environmental Health officer outside the patio doors to the neighbouring property with the outdoor unit both on and off. The measurements taken, set out below, show that there was no noticeable difference between the outdoor condensing unit when it was running (at full load) and not running.

	LAeq, 3min (Ambient)	LA90, 3 min (Background)
Plant ON	43.5 dB	41.2 dB
Plant OFF	44.4 dB	41.3 dB

Subjectively, the Environmental Health Officer has also confirmed that when there is no extraneous sound and you listen hard for the sound of the unit, it is possible to detect some faint plant noise; however, there is no measurable difference in the noise levels and as such the plant is likely to be compliant with the standard planning condition. Environmental Health therefore raise no objection to the retention of the louvred acoustic screen.

An informative is attached to the application clarifying that it is the applicant's responsibility to ensure that the plant is maintained to ensure that it continues to comply with the noise conditions.

9.6 Transportation, Accessibility & Servicing

Not relevant in the determination of the application.

9.7 Economy including Employment & Skills

Not relevant in the determination of the application.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

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

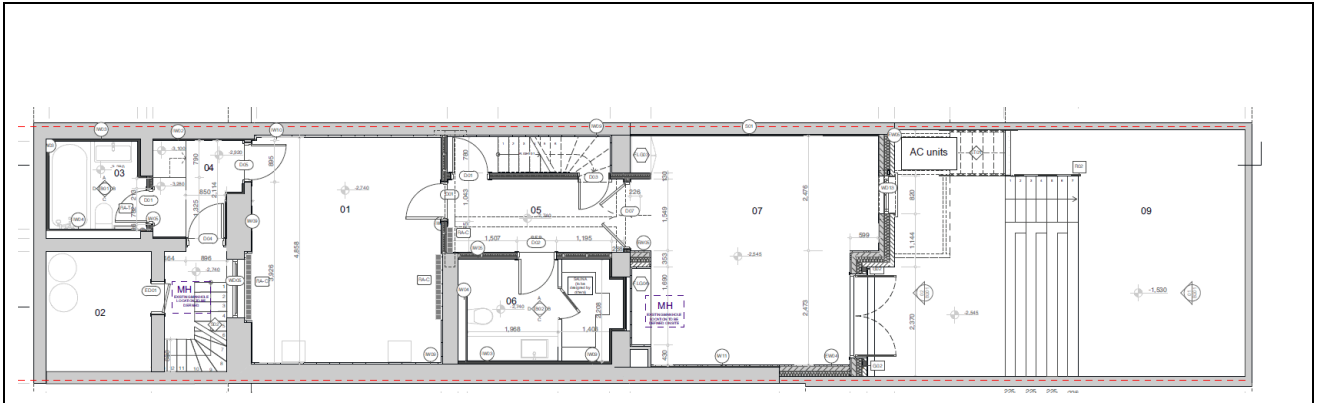
10. Conclusion

The proposal is in accordance with policies 7, 33, 38 and 39 of Westminster's City Plan 2019-2040 and therefore, a recommendation to grant conditional permission and listed building consent would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

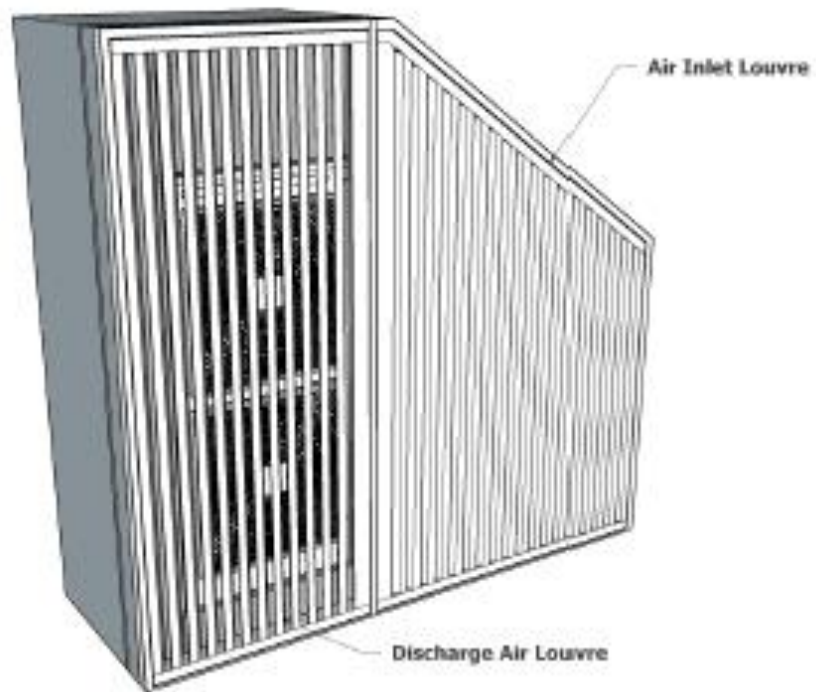
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT jasghar@westminster.gov.uk.

11. KEY DRAWINGS



Lower ground floor level showing location of air conditioning units



Proposed louvred enclosure



Approved plant screen July 2020.



Proposed louvred enclosure



Acoustic enclosure

DRAFT DECISION LETTER

Address: 15 Cliveden Place, London, SW1W 8LA

Proposal: Variation of condition 1 of planning permission dated 07 July 2020 (RN: 20/01382/FULL) for: Retention of an air conditioning unit in an acoustic enclosure within the rear garden and rear double-doors to rear elevation at lower ground floor level. Namely, to change the acoustic enclosure to a louvred system (retrospective).

Reference: 22/04454/FULL

Plan Nos: A100; 20093.220524.L3 dated 24 May 2023; 20093.230629.L4 dated 29 June 2023; photographs of housing; 5 un-numbered drawings showing air inlet louvres by Environ Group Ltd; acoustic enclosure manufacturer's specifications.

Case Officer: Aurore Manceau

Direct Tel. No. 07779567368

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

- 3 (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 LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 4 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:

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

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Conditions 3 and 4 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)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

DRAFT DECISION LETTER

Address: 15 Cliveden Place, London, SW1W 8LA

Proposal: Installation of louvred acoustic housing under stairs in rear garden (retrospective).

Reference: 22/04832/LBC

Plan Nos: A100; photographs of housing; 5 un-numbered drawings showing air inlet louvres by Environ Group Ltd; acoustic enclosure manufacturer's specifications.

For information only:, Design and access statement dated January 2017; Heritage statement Ref: 2015/5135 (b) dated January 2017.

Case Officer: Aurore Manceau

Direct Tel. No. 07779567368

Recommended Condition(s) and Reason(s)

- 1 The works 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:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 2 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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Belgravia Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -
In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF.

In reaching this decision the following were of particular relevance:

Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:

- * any extra work which is necessary after further assessments of the building's condition;
- * stripping out or structural investigations; and
- * any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

BACKGROUND PAPERS - 15 Cliveden Place, London, SW1W 8LA, 22/04454/FULL

1. Application form
2. Response from Plant And Equipment, dated 4 August 2022
3. Letter from occupier of 16 Cliveden Place, London, dated 24 July 2022