

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 22 August 2023	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Pimlico North	
<b>Subject of Report</b>	58 - 60 Lupus Street, London, SW1V 3EE		
<b>Proposal</b>	<b>Application 1:</b> Installation of two air conditioning units and associated acoustic enclosures to rear at lower ground floor level. <b>Application 2:</b> Installation of extract fan with associated acoustic enclosure to rear at lower ground floor level.		
<b>Agent</b>	Hugo Ribeiro		
<b>On behalf of</b>	Mr Jose Cruz		
<b>Registered Number</b>	<b>Application 1:</b> 20/07619/FULL <b>Application 2:</b> 21/05098/FULL	<b>Date amended/ completed</b>	15 June 2021 (Application 1) 26 July 2021 (Application 2)
<b>Date Application Received</b>	27 November 2020 (Application 1) 26 July 2021 (Application 2)		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Pimlico		
<b>Neighbourhood Plan</b>	Pimlico Neighbourhood Plan		

**1. RECOMMENDATION**

Application 1 Grant conditional permission.  Application 2 Grant conditional permission.
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**2. SUMMARY & KEY CONSIDERATIONS**

Applications 1 and 2 relate to 58 - 60 Lupus Street which is a ground and basement level commercial unit used as a delicatessen and café (Class E), trading as 'Delicias Pimlico'. Located on the north side of Lupus Street, the unit is within a building known as Neate House which occupies the land between Cambridge Street and St George's Drive and comprises commercial units on the ground and basement levels, with three upper floors comprising residential units. The site is part of the Lupus Street Local Centre and is within the Central Activities Zone (CAZ). The building is unlisted but is located within the Pimlico Conservation Area.

Application 1 proposes the retention of two existing air conditioning units at lower ground floor to the rear of the building and the installation of an acoustic enclosure around them.

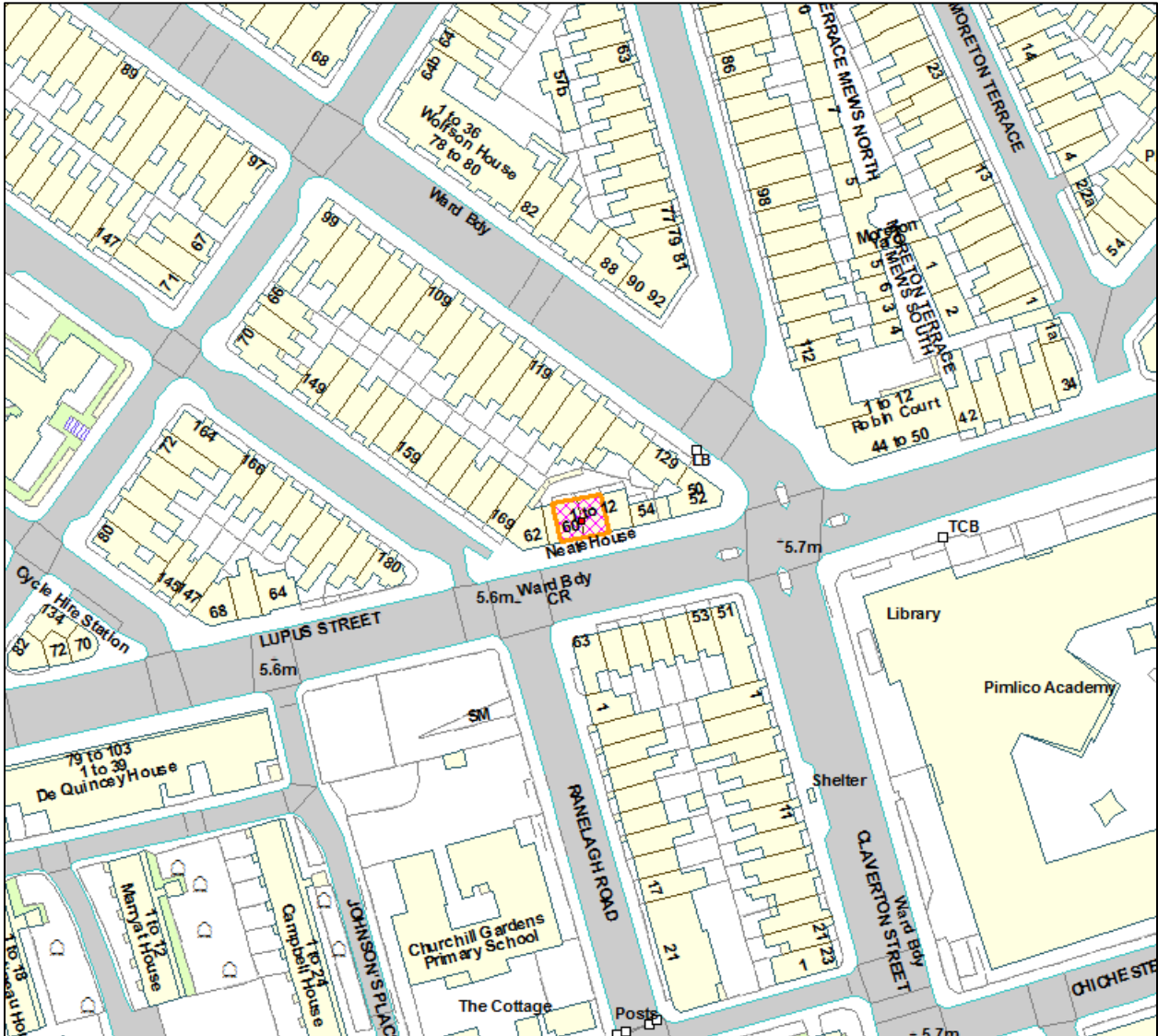
Application 2 proposes the retention of the extract fan in a window at lower ground floor to the rear of the building and the installation of an acoustic enclosure on its outside face.

The key considerations in this case are:

- The impact of the proposal on the amenities of the nearby residential occupiers in terms of noise and odours.
- The acceptability of the proposed plant in design terms along with its impact on the character and appearance of the Pimlico Conservation Area.

As set out in this report, the developments in Applications 1 and 2 accord with the relevant policies in the Pimlico Neighbourhood Plan, the Westminster's City Plan 2019 – 2040 (the City Plan) and the London Plan. The applications are therefore considered acceptable in design, heritage and amenity terms, and are recommended for approval subject to the conditions set out in the draft decision letters.

**3. LOCATION PLAN**



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4. PHOTOGRAPHS



Rear view of application site showing two air conditioning units and extract fan in window.



Front view of application site

**5. CONSULTATIONS**

**5.1 Application Consultations**

**Application 1 – Air conditioning units**

**PIMLICO FREDA**

Objection. Failure of submitted details to consider cumulative impacts of noise and vibration on residential amenity. Harm to residential amenity due to noise and vibration. Applicant has continued to demonstrate disregard for planning policies, perpetually ignores conditions imposed by the City Council and shows reluctance to take necessary mitigation actions.

**WESTMINSTER SOCIETY**

Any response to be reported verbally.

**PIMLICO NEIGHBOURHOOD FORUM**

Any response to be reported verbally.

**ENVIRONMENTAL HEALTH - PLANT AND EQUIPMENT**

No objection, subject to conditions.

**ADJOINING OWNERS/OCCUPIERS:**

No. Consulted: 15

PRESS NOTICE/ SITE NOTICE: Yes

**PUBLIC REPRESENTATIONS RECEIVED:**

Total No. of replies: 7

No. of objections: 7

No. in support: 0

In summary, seven neighbouring residents object on the following grounds:

**Residential amenity:**

- Noise and vibration from the equipment will harmfully impact on neighbouring residential occupiers.
- The acoustic report is inaccurate/ irregular. In particular, the data may not have been measured on site and there is a failure to consider the cumulative noise impacts of the development alongside other nearby or concurrent developments.

**Other:**

- There is a history of planning enforcement issues, as well as licencing and noise control histories of the site and a concern about the character of the applicant with respect to complying with regulations.

**Re-consultation 24 March 2022 to advise on receipt of updated acoustic report and drawings of acoustic enclosure.**

**PIMLICO FREDA**

Objection. Inaccurate plans (showing unlawful and now removed condenser units as “existing”). Vibration from internal plant. Inadequate acoustic report, for same reasons as previously. If the City Council is mindful to allow the proposal, a strict timetable should be imposed on completing the development and complying with conditions.

**WESTMINSTER SOCIETY**

Any response to be reported verbally.

**PIMLICO NEIGHBOURHOOD FORUM**

Any response to be reported verbally.

**ENVIRONMENTAL HEALTH - PLANT AND EQUIPMENT**

Failings of submitted acoustic report can be overcome with conditions. (No objection to odour subject to installation of filtration system and limiting hours of operations.)

**ADJOINING OWNERS/OCCUPIERS:**

No. Consulted: 44

**PUBLIC REPRESENTATIONS RECEIVED:**

Total No. of replies: 8

No. of objections: 8

No. in support: 0

In summary, eight objections were received on the following grounds:

**Residential amenity:**

- Noise and vibrations from the equipment will harmfully impact on neighbouring residential occupiers.
- The acoustic report is inaccurate/ irregular. In particular, the data may not have been measured on site and there is a failure to consider the cumulative noise impacts of the development alongside other nearby or concurrent developments.

**Other:**

- There is a history of planning enforcement issues, as well as licencing and noise control histories of the site.
- Odours from kitchen harmfully impacting neighbouring residential occupiers.

**Application 2 – kitchen extract fan**

**PIMLICO FREDA**

Objection. Noise report considers aircon units and not extract ventilation proposed under this application. Cumulative noise and vibration must be considered. Low level discharge of kitchen exhaust would have unacceptable odour impacts on nearby residents. The applicant has disregarded both planning and licensing policies and ignored any conditions imposed by the City Council.

WESTMINSTER SOCIETY

Any response to be reported verbally.

PIMLICO NEIGHBOURHOOD FORUM

Any response to be reported verbally.

ENVIRONMENTAL HEALTH - PLANT AND EQUIPMENT

Objection. Applicant has not submitted acoustic report in support of the installed kitchen extraction plant.

ADJOINING OWNERS/OCCUPIERS:

No. Consulted: 21

PRESS NOTICE/ SITE NOTICE: Yes

PUBLIC REPRESENTATIONS RECEIVED:

Total No. of replies: 12

No. of objections: 12

No. in support: 0

In summary, twelve objections were made on the following grounds:

Residential amenity:

- Odours from kitchen harming amenities of neighbouring residential occupiers.
- Noise and vibrations from equipment harming amenities of neighbouring residential occupiers.
- No acoustic report has been submitted that considered cumulative impacts of extract fan and air conditioning units.

Other:

- There is a history of planning enforcement issues, as well as licencing and noise control histories of the site and a concern about the character of the applicant with respect to complying with regulations.

**Re-consultation 25 March 2022 to advise on receipt of acoustic report and amended description.**

PIMLICO FREDA

Objection. Vibrations from internal plant. Inadequate acoustic report. Concerns about low level extractor dispersing into courtyard. If the City Council is mindful to allow the proposal, a strict timetable should be imposed on completing the development and complying with conditions.

WESTMINSTER SOCIETY

Any response to be reported verbally.

PIMLICO NEIGHBOURHOOD FORUM

Any response to be reported verbally.

ENVIRONMENTAL HEALTH - PLANT AND EQUIPMENT



Failings of submitted acoustic report can be overcome with conditions. No objection to odour subject to installation of filtration system and limiting hours of operations.

**ADJOINING OWNERS/OCCUPIERS:**

No. Consulted: 61

**PUBLIC REPRESENTATIONS RECEIVED:**

Total No. of replies: 7

No. of objections: 7

No. in support: 0

In summary, seven neighbouring residents object on the following grounds:

**Residential amenity:**

- Noise and vibrations from equipment harming amenities of neighbouring residential occupiers.
- Odours from kitchen harming amenities of neighbouring residential occupiers.
- The submitted acoustic report does not take in to account vibration, cooking odours or take measurements from nearby properties.

**Other:**

- There is a history of licencing and noise control histories of the site and a concern about the character of the applicant with respect to complying with regulations.

## **5.2 Applicant's Pre-Application Community Engagement**

The applicant did not engage with neighbouring residential occupiers or other members of the community that might be affected by the proposals before making these applications. The Council's Early Community Engagement Guidance encourages developers to engage with local stakeholders and communities where their proposals will have significant impacts. It is, therefore, disappointing that the applicant did not carry out early community engagement, however not doing so was not contrary to the guidance for development of this scale. The planning applications must be considered on their merits.

## **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 Pimlico Neighbourhood Plan includes policies on a range of matters including commercial uses, design and heritage, housing and hotels, open spaces, pedestrian and transport facilities and protecting the environment.

It has been through independent examination and was supported by local residents in a referendum held on 22 September 2022. It was adopted on 7 December 2022. It therefore forms part of the development plan for Westminster for development within the Pimlico Neighbourhood Area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

## **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**

58 - 60 Lupus Street is a ground and basement level commercial unit used as a delicatessen and café (Class E), trading as 'Delicias Pimlico'. Located on the north side of Lupus Street, the unit is within a building known as Neate House which occupies the land between Cambridge Street and St George's Drive and comprises commercial units on the ground and basement levels, with three upper floors comprising residential units. The site is part of the Lupus Street Local Centre and is within the Central Activities Zone (CAZ). The building is unlisted but is located within the Pimlico Conservation Area.

### **7.2 Recent Relevant History**

The existing air conditioning units and extract fan the subject of this report are subject to an open planning enforcement investigation (RN 21/74545/K).

Use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs, two parasols and associated barriers in connection with the subject premises. (RN: 21/03747/TCH)

Application pending

### **54-56 Lupus Street**

The Planning Applications Sub Committee approved an application for the installation of two air-conditioning units to the rear in a ground level enclosure on 11 July 2023. (RN 22/06175/FULL dated 14 July 2023).

## **8. THE PROPOSAL**

Application 1 seeks to retain two existing air conditioning units attached to the rear wall and proposes to enclose them externally within an acoustic enclosure.

Application 2 seeks to retain the existing extract fan and proposes to enclose it externally within an acoustic enclosure.

The effects of the development seeking approval under these two separate applications will be cumulative and so they have been assessed together.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

Neither of these two applications seek planning permission for any change of use of the premises. The use of the application site as a shop and delicatessen would appear to be the lawful use of the premises within Class E. The proposals do not give rise to any land use implications.

### **9.2 Environment & Sustainability**

Policy 38(D) of the City Plan 2019-2040 (April 2021) sets out that development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design. The policy envisages achieving this in a way which means the need for plant and machinery is reduced. As such, natural ventilation of buildings should be the starting point to avoid the use of mechanical systems.

Policy PIM 22 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) sets out that development proposals should minimise on-site energy demand, maximise energy efficiency and the use of low carbon sources.

In this case because the application relates to a relatively small commercial unit in an existing building, there are limited options to improve the internal temperatures to provide a comfortable environment for workers and customers. Therefore, the air conditioning units are not opposed on sustainability grounds.

### **9.3 Biodiversity & Greening**

Policy 34 of the City Plan 2019-2040 (April 2021) expects developments, wherever possible, to contribute to the greening of Westminster by incorporating trees, green

walls, green roofs, rain gardens and other green features and spaces into the design of the scheme and sets out that developments should achieve biodiversity net gain wherever feasible and appropriate.

The scale and nature of the proposals, namely the installation of plant and equipment to the exterior of an existing building, means that it is not possible or appropriate for the proposal to contribute to the greening of Westminster or to achieve biodiversity net gain.

## **9.4 Townscape, Design & Heritage Impact**

### **Legislative & Policy Context**

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

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

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.

Policy 38 of the City Plan requires that development positively contributes to Westminster’s townscape. Policy 39 of the City Plan requires that development preserve or enhances the character and appearance of Westminster’s conservation areas. Policy 40 of the City Plan requires development to be sensitively designed having regard to the surrounding townscape and that extensions and alterations respect the character of the existing and adjoining buildings.

Policy PIM 4 of the Pimlico Neighbourhood Plan requires development in the Pimlico Conservation Area to demonstrate well-detailed, high quality, sustainable and inclusive design and architecture which preserves and enhances the historic character of the conservation area.

### **Consideration**

The size and location of the air conditioning units and extract fan at the rear of the building would not adversely affect the character and appearance of the conservation area or the application property itself. The proposed size of the enclosures to surround the existing equipment is considered acceptable given the location of the equipment. The detailed design of the acoustic enclosures have not yet been submitted and it is recommended that this is secured by a condition. Subject to this condition, the proposals are considered acceptable in conservation and design terms and would comply with Policies 38, 39 and 40 of the City Plan and PIM 4 of the Pimlico Neighbourhood Plan.

**9.5 Residential Amenity**

**Policy Context**

Policy 7 of the City Plan 2019-2040 (April 2021) requires development to be neighbourly by protecting amenity and local environmental quality.

Policy 33 of the City Plan requires that development prevents adverse effects of noise and vibration, including by minimising noise from plant machinery.

Policy PIM 1 of the Pimlico Neighbourhood Plan requires proposals in the Lupus Street Local Centre to protect residential amenity.

**Noise & Vibration**

Objections have been received from Pimlico FREDA and other neighbouring residents regarding noise from the plant equipment. The applicant has submitted acoustic reports (dated 8 March 2022) to support the applications for the plant equipment that has been installed.

For the air conditioning units, the acoustic report sets out that the units must be enclosed within an acoustic enclosure capable of providing an insertion loss of at least 13 dB in order to not exceed the Council’s Noise Thresholds at the nearest noise sensitive receptors. This acoustic enclosure has not yet been installed nor have details of it been submitted. However, achieving this noise attenuation is realistic and achievable and so, subject to conditions securing the maximum noise level generated by the plant is within the Council’s Noise Thresholds and that the acoustic enclosure is installed and a post-commissioning survey completed, submitted to and approved by the Council, it is considered that the air conditioning units would not have any detrimental effect on neighbouring amenities in terms of noise.

For the extract fan the acoustic report identifies that a silencer and acoustic louvre are necessary to achieve the sound reduction of 30 dB that is required for the fan to comply with the Council’s Noise Thresholds. This noise attenuation is realistic and achievable and so, subject to conditions securing the maximum noise level generated by the plant is within the Council’s Noise Thresholds and a post-commissioning survey is completed, submitted to and approved by the Council, it is considered that the extract fan would not have any detrimental effect on neighbouring amenities in terms of noise. Furthermore, the applicant has confirmed in the acoustic report that the extract fan will only operate from 09:00 hrs to 11:00 hrs, the times of day when there is primary cooking of food sold on the premises through the delicatessen. A condition is recommended to restrict primary cooking and the use of the extract fan to between 09:00 hrs – 11:00 hrs.

The acoustic report considers the cumulative noise impact from both the air conditioning units and the kitchen extract and this cumulative assessment has informed the above conclusion.

Environmental Sciences has raised no objection to the plant equipment proposed subject to the imposition of our standard noise conditions and the conditions discussed above. The impact of possible vibration from the air conditioning units and extract fan

can be secured by a condition setting the maximum vibration that may permitted to be transmitted to any part of a residential or other noise sensitive property.

### **Odour**

Application 2 raises implications in terms of odour for nearby residential occupiers. To secure against possible odour nuisance resulting from the extract fan, the applicant has agreed to install a commercial kitchen odour filtration system inside the premises. Environmental Sciences do not object to the kitchen extract on odour grounds advising that the proposed odour filtration system should control and the restrict the impact of cooking odours. A condition is recommended to require the odour filtration system to be installed within 1 month of any permission being granted. The filtration system, along with the limited permitted hours of use set out above, will ensure that the odour impacts of the proposed extract fan are limited and would be acceptable in accordance with Policies 7 and 33 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

To ensure that the effects of restricting the hours of the extract fan and use of the kitchen odour filtration system are not undermined by the applicant opening windows or doors, it is necessary and reasonable to restrict all preparation of fresh food on the premises to the hours that the kitchen extract will be permitted to operate.

### **Conclusion on amenity**

Subject to the above-mentioned necessary conditions, the proposals are considered acceptable in terms of their impacts on residential amenity and would comply with Policies 7 and 33 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

## **9.6 Transportation, Accessibility & Servicing**

The proposals would not alter how the subject premises are accessed or serviced, nor would they result in any material alteration to the number or manner of trips that might be made to or from the premises. Hence, the proposals do not require any consideration against transport accessibility or servicing policies.

## **9.7 Economy including Employment & Skills**

The proposals do not give rise to any economy, employment or skills considerations.

## **9.8 Other Considerations**

The Pimlico FREDA have expressed that they consider these applications invalid on the basis that not all landowners have been notified of the proposals and yet the applicant has signed ownership Certificate B on both application, which requires that they have notified all parties with an ownership interest in the land. The local planning authority must not entertain any applications without the correct ownership certificate signed on the applications form. When alerted to this issue by the Council, the applicant has served the appropriate Article 13 notice for these applications on all persons with an ownership interest in Neate House and resigned Certificate B accordingly. Officers now consider these applications to be valid.

## 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

Applications 1 and 2, for air conditioning units and an extract fan respectively, have been assessed together due to their overlapping nature. Although both have been installed without planning permission, the above assessment has concluded that they would both be acceptable subject to conditions. The numerous objections to both applications have been factored into this assessment and, in order to overcome the objectors' concerns, it is considered necessary to grant planning permission for both so that the conditions that would be attached to the planning permissions can be enforced where necessary. Hence it is recommended that both applications are granted conditional planning permission.

(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: MATTHEW MASON BY EMAIL AT [mmason@westminster.gov.uk](mailto:mmason@westminster.gov.uk)

11. KEY DRAWINGS







Notes:  
 Air conditioning Units refers to Planning Application No 20/07619/FULL  
 Extractor Fan refers to Planning Application No 21/05098/FULL

Air Conditioning units (Acoustic enclosure to be provided to achieve Acoustic Report requirements)  
 Extractor Fan incorporated into the existing window. (acoustic louvres and silencer to be provided to achieve Acoustic Report requirements)

Strip Section

Rear Elevation - Existing

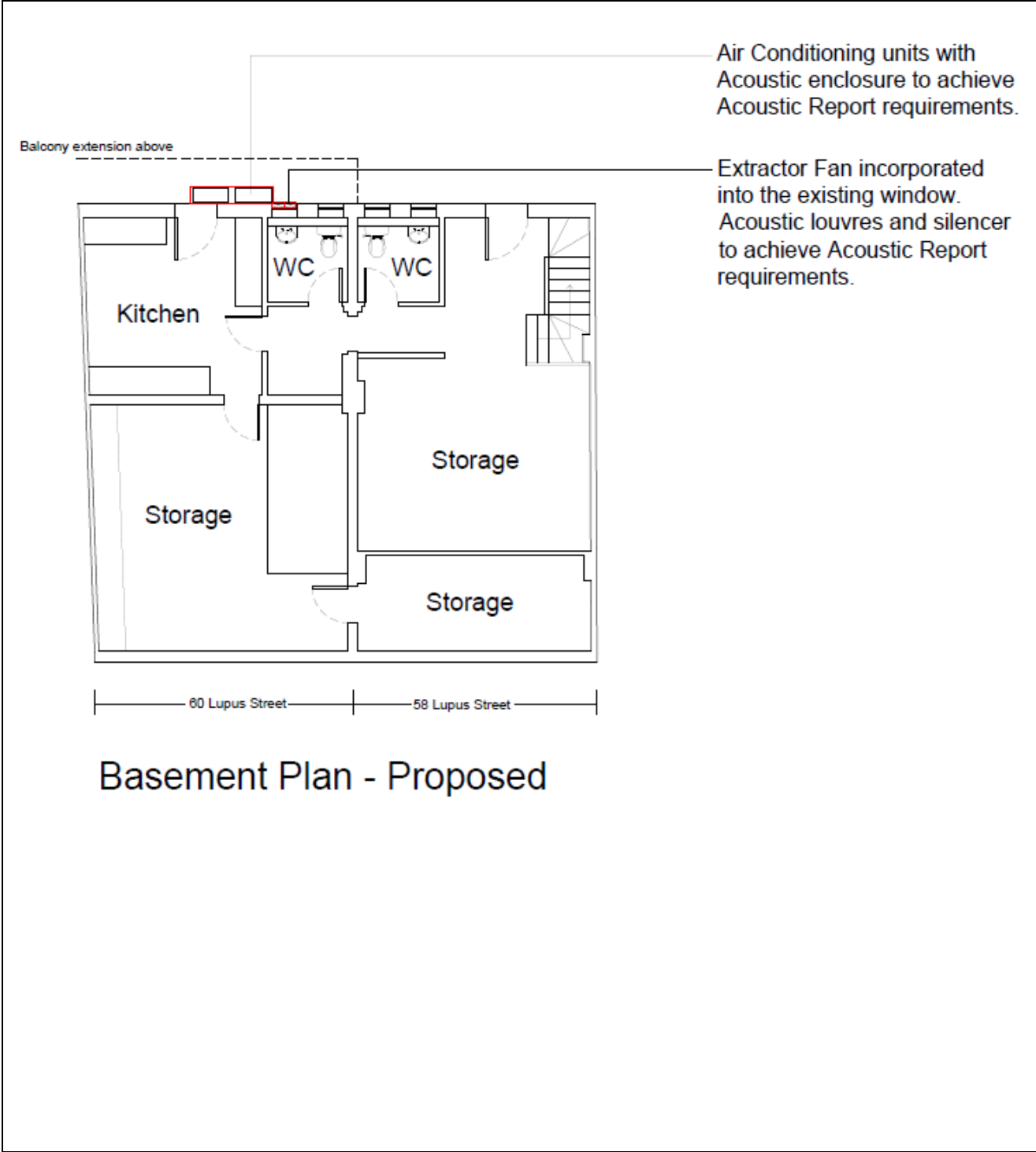


Notes:  
 Air conditioning Units refers to Planning Application No 20/07619/FULL  
 Extractor Fan refers to Planning Application No 21/05098/FULL

Air Conditioning units with Acoustic enclosure to achieve Acoustic Report requirements.  
 Extractor Fan incorporated into the existing window. Acoustic louvres and silencer to achieve Acoustic Report requirements.

Strip Section

Rear Elevation - Proposed



Item No.
<b>5</b>

**DRAFT DECISION LETTER – APPLICATION 1**

**Address:** 58 - 60 Lupus Street, London, SW1V 3EE

**Proposal:** Installation of two air conditioning units and associated acoustic enclosures to rear at lower ground floor level.

**Reference:** 20/07619/FULL

**Plan Nos:** 2305 - 200 P1; 2305 - 210 P1.

**Case Officer:** Max Leonardo **Direct Tel. No.** 07817095744

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

You must carry out piling, excavation and demolition work only:
 

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:  
To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R11AD)

- 3 You must not operate the plant/machinery we have allowed until (firstly) you have applied to us for approval of detailed drawings of the proposed acoustic enclosure,

(secondly) we have approved the detailed drawings you applied to us for approval of and (thirdly) you have installed the acoustic enclosure in accordance with the detailed drawings we approved.

You must then maintain the enclosure in the form shown on the detailed drawings we approved for as long as the machinery remains in place.

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 Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R26BF)

- 4 The enclosure shall be finished and maintained grey.

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 Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R26BF)

- 5 (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 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:
  - (a) A schedule of all plant and equipment that formed part of this application;

- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90 (15 minutes) 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.  
(C46BC)

Reason:

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) 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 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. (R46BC)

- 6 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 7 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) 5 of this permission.

**Reason:**

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) 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. (R51BC)

**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.

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Item No.
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**DRAFT DECISION LETTER – APPLICATION 2**

**Address:** 58 - 60 Lupus Street, London, SW1V 3EE

**Proposal:** Installation of extract fan with associated acoustic enclosure to rear at lower ground floor level.

**Reference:** 21/05098/FULL

**Plan Nos:** 2305 - 200 P1; 2305 - 210 P1.

**Case Officer:** Max Leonardo **Direct Tel. No.** 07817095744

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

You must carry out piling, excavation and demolition work only:
 

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:  
To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R11AD)

- 3 You must not operate the plant/machinery we have allowed until (firstly) you have applied to us for approval of detailed drawings of the proposed acoustic enclosure,

(secondly) we have approved the detailed drawings you applied to us for approval of and (thirdly) you have installed the acoustic enclosure in accordance with the detailed drawings we approved.

You must then maintain the enclosure in the form shown on the detailed drawings we approved for as long as the machinery remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) . (R13AD)

- 4 The plant/machinery hereby permitted shall not be operated and there shall be no primary cooking on site (such that you must not cook raw or fresh food on the premises) except between 0900 hours and 1100 hours daily.

Reason:

To protect neighbouring residents from noise, vibration and odour nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022).

- 5 (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 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:



- (a) A schedule of all plant and equipment that formed part of this application;
  - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
  - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
  - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
  - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
  - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
  - (g) The lowest existing LA90 (15 minutes) 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.
- (C46BC)

Reason:

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) 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 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. (R46BC)

- 6 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 7 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) 5 of this permission.

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**Reason:**

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) 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. (R51BC)

- 8 You shall install the ON 100 Odour Neutraliser, as set out in the submitted Technical & Operation Manual we received on 10 May 2022, within one month of the date of this permission. You shall thereafter retain the odour neutraliser and maintain it in accordance with the submitted Technical & Operation Manual for as long as primary cooking takes place on the application premises.

**Reason:**

To protect neighbouring residents from odour nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022).

**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.

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