

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 December 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	Basement And Ground Floor, 38 Curzon Street, London, W1J 7TU		
Proposal	Amalgamation of the existing cinema and restaurant, retaining the 2 existing cinema screens, to create a cinema-led, mixed-use premises; replacement plant equipment; and other associated external works.		
Agent	hgh Consulting		
On behalf of	38 Curzon Lease Ltd		
Registered Number	23/06072/FULL 23/06073/LBC	Date amended/ completed	1 September 2023
Date Application Received	1 September 2023		
Historic Building Grade	Grade II		
Conservation Area	Mayfair		
Neighbourhood Plan	Mayfair Neighbourhood Plan		

1. RECOMMENDATION

1. Grant conditional permission.
2. Grant Conditional Listed Building Consent.
3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.

2. SUMMARY & KEY CONSIDERATIONS

The application proposes the amalgamation of the existing cinema and restaurant uses at the site to create a mixed-use cinema/restaurant (sui generis). This would be achieved by creating internal links between the two separate units. Refurbishment of the cinema is also proposed along with the provision of accessibility benefits. The refurbishment will result in an overall reduction in seating for the cinema. External alterations are limited to the installation of new mechanical plant within an enclosure at main roof level and the installation of a new shopfront on Curzon Street that includes some openable elements.

The key considerations in this case are:

- The acceptability of the proposed use.
- The acceptability of the proposed alterations to the building in design terms.
- The impact of the proposed works on the listed building and on the character and appearance of the Mayfair Conservation Area.
- The impact on the amenity of neighbouring residential properties.

The proposals represent a technical change of use and neither of the existing uses at the site are technically being lost. Both cinema and restaurant uses will still be at the site. While many objections have been received in relation to the loss of the cinema, these mostly focus on the loss of the existing operator which cannot be protected under planning legislation. The proposed use will largely be similar to the existing operation of both units, albeit with a reduced seating capacity in the cinema screen to allow for better and modern seating, so is unlikely to have a significantly different impact in terms of amenity and highways impacts. Objectors have raised concern that the proposed operation will not be viable however no evidence to support this has been submitted and the proposed operator appears to have suitable experience and to have taken suitable business advice. Subject to conditions securing the operation of the cinema in line with the operational management plan submitted with the application, the proposed use is considered acceptable.

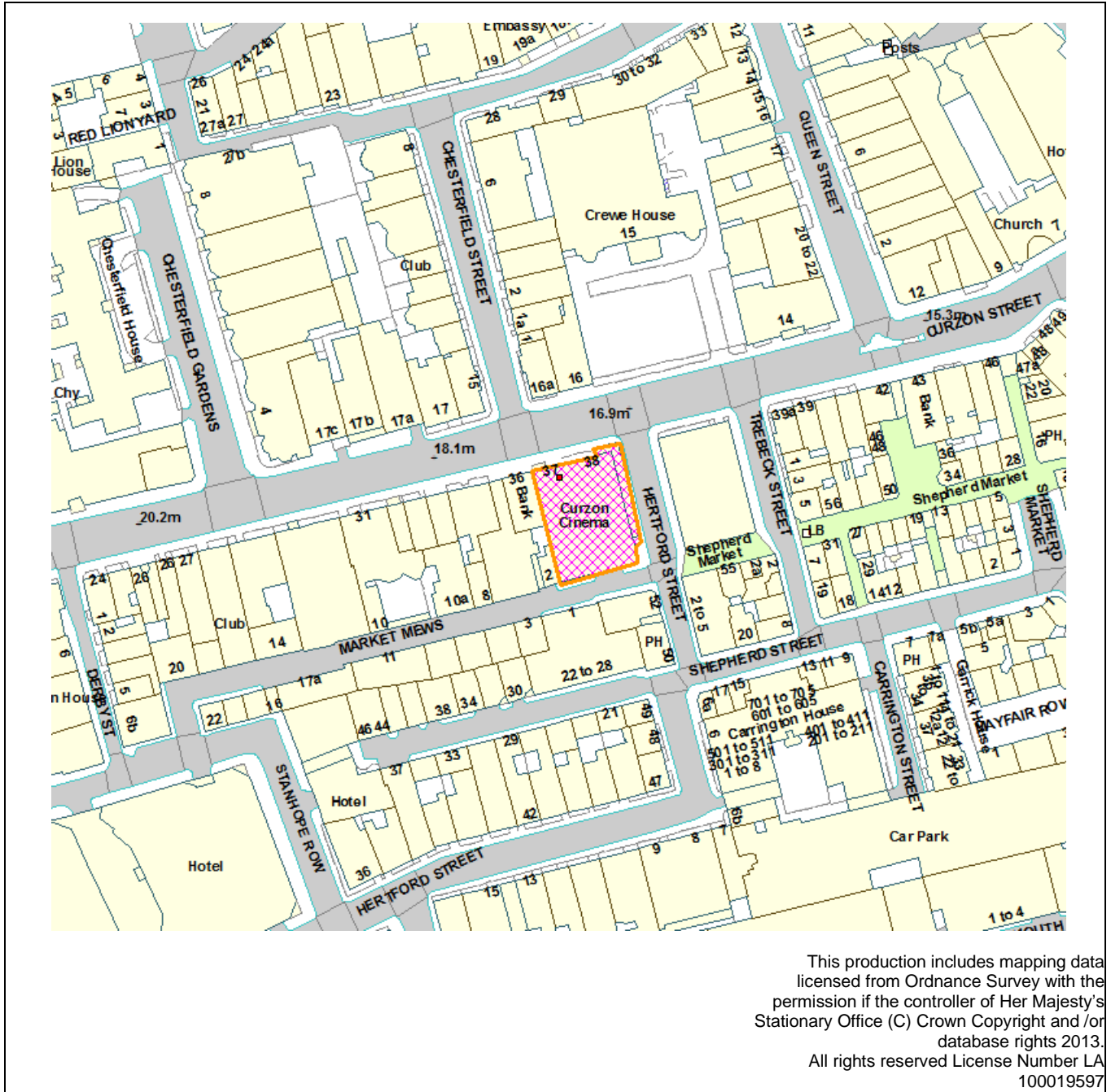
While the cinema is identified as an Asset of Community Value and many objections have been received in relation to its loss, the cinema use is being retained at the site and based on the information provided about the future operation, there is no reason to consider the use of the cinema is at risk. Conditions shall be applied to ensure the restaurant use does not encroach into the cinema aspect.

The physical works proposed are limited both externally and internally. The installation of new plant equipment within an acoustic enclosure at roof level is considered acceptable in design and amenity terms subject to conditions requiring supplementary acoustic reports and the submission of details of the screening. The new openable shopfront is acceptable in design terms and also in amenity terms subject to conditions restricting the hours this can be opened and ensuring music cannot be heard outside the premises when they are open.

Internally, the proposals provide an accessible elevator for the premises, new doorways linking the restaurant and cinema foyer, and refurbishment of the cinema screen. The heritage harm has been kept to the minimum necessary to deliver the proposed development and the public benefits that flow from it. The harm is slight, localised in its impact on the building's form and fabric, and has little impact on the ability to appreciate the special interest of the cinema. The proposals cause less than substantial harm to the special historic and architectural interest of the listed building. The level of harm caused would be at the lower end of less than substantial.

Accordingly, the applications are recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

MAYFAIR RESIDENT'S GROUP

Any response to be reported verbally.

RESIDENT'S SOCIETY OF MAYFAIR AND ST JAMES'S

Any response to be reported verbally.

MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally.

THEATRES TRUST (consulted on 23/06073/LBC)

Wish to make no comment on these plans.

HISTOIRC ENGLAND (consulted on 23/06073/LBC)

Authorisation to determine the application as seen fit.

NATIONAL AMENITY SOCIETY (consulted on 23/06073/LBC)

Any response to be reported verbally.

HIGHWAYS PLANNING

Location of cycle storage is undesirable.

ENVIRONMENTAL SCIENCES

No objection subject to conditions.

HEALTH AND SAFETY EXECUTIVE (FIRE)

Content with the fire safety design, in relation to the relevant building part of the scheme, to the extent that it affects land use planning.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

For both 23/06072/FULL and 23/06073/LBC:

No. Consulted: 63; Total No. of replies: 164

No. of objections: 162

No. of support: 2* (*Although technically registered online as 'Support', these were in fact objections and have been considered as objections).

164 objections have been received raising some or all of the following concerns:

Land Use:

- Objection to loss of a cinema at the site,
- The building is not designed for mixed-use,
- Area does not need another mixed-use development,
- Proposals do not give justification for reduction in seats, and do not comply with policy.

Amenity:

- Noise disturbance from openable shopfront

- Existing restaurant at ground floor creates disturbance until 2am,
- Alternative options for location of plant not explored,
- Noise impact from plant,
- Odour impact,
- Impact on air quality.

Design and Conservation:

- Impact of the works on the listed building,
- Visual impact of works,
- The building needs to be listed Grade I or II,
- Applicant states proposals lead to 'Less than Substantial Harm' but objectors state that the harm is on the higher spectrum of 'Less than Substantial Harm',
- Proposals justifications are neither clear nor persuasive,
- Public benefits of the scheme don't outweigh harm,
- Any change of use would interfere with the heritage status,
- The Listed Building was specially designed to Curzon's specification as a cinema, not a mixed-use premises.
- The proposals undermine the future of the Listed building being used as cinema, the purpose for which it was designed.
- The use for which the Listed building was designed is the best use to secure its long-term future.
- The proposals are not required to safeguard the future of the Listed building,
- Future of the Listed Building at risk as proposed business not viable,
- Curzon Cinema (occupier) is attributable to the architectural and historic interest of the building,
- The building should be left as it is/retained in its original form,
- To interfere with the buildings original design would be "cultural vandalism",
- Association of Curzon Cinemas on Curzon Street should not be allowed to be broken,
- Objection to demolition of the building,
- Objection to destruction of the cinema,
- Impact on 'CURZON' sign
- Replacement building would be bland and at odds with the surrounding area,

Highways:

- Proposals do not comply with cycle parking standards,

Other:

(relating to the current occupier of the cinema)

- Current operator of the cinema should not be lost,
- Cinema already has good accessibility,
- Changes should not be allowed to an ACV,
- Loss of current operator will undermine ACV status,
- The applicant has failed to engage with Curzon Cinemas in respect of these proposals.
- No alternative established cinema operator is associated with these proposals,
- Proposed operation is not viable,
- Reduction in seating capacity will limit access to the venue by the community and will undermine the use for which the Listed building was original designed.

(proposed operation)

- New cinema will be out of financial reach of current clients, request that it be proven that there will be no increase in cost to attend for the public,
- Proposals not viable as applicant has no cinema experience so will not be able to operate the cinema themselves, and due to reduction in seating,
- No evidence provided there is adequate demand for dining while watching films,
- Food smells from dining will negatively impact those seeking to watch the film,
- Viability report does not adequately discuss implications of serving food and if this will be viable,
- Proposed nature of cinema will attract clients away from main west end cinemas and negatively impact viability of those venues,
- Provision of dining in the cinema is strange given that there is no shortage of dining venues nearby, but there is only one cinema.
- Any proposed cinema in new building will fall into disuse,
- Loss of a screen will reduce revenue, impacting viability of the cinema,
- Objection to a multiplex cinema,

(Further topics)

- Statement of Community Involvement document was produced for a previous application (now withdrawn),
- Adequate consultation about the previous applications being withdrawn and new ones being submitted has not taken place and no decision should be made until such time as it has,
- Information being withheld due to errors in documents,
- Development will sterilise traditional space,
- Everything in London is overdeveloped,
- Insufficient information submitted to allow determination,
- Structural/Safety concerns,
- Intrusion to flats due to internal works and necessary maintenance,
- Fire risk,

PRESS NOTICE/ SITE NOTICE:

Yes

It should be noted that there has been a long running online petition, pre-dating the submission of this and a previous (withdrawn) planning application, seeking to "Save Curzon Mayfair" however, this is not related to this application as it is expressly 'to the landlord' to secure a renewal of the lease for Curzon Mayfair, who are the current occupiers of the cinema unit.

Of further note is that a campaign has been run by the current occupier of the cinema (Curzon Mayfair) on their website encouraging objection to this planning application. This has provided a direct link to the planning application and a suggestion of comments to be submitted by objectors.

A letter of support for these proposals has also been submitted by the Applicant from the Chair of Elstree Film Studios.

5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application in accordance with the principles set out in the Early Community Engagement guidance. It should be noted that this application does not meet the criteria that requires engagement to be carried out, but it has been undertaken by the applicant regardless.

The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement) are summarised in the table below:

Engagement Method/Event/Activity	Date	Attendance	Summary of Discussions
Site Meeting	17 January 2022 And 27 February 2023	Cinema Theatre Association.	Concerns raised relating to cinema operator (not a planning consideration) and internal alterations to the foyer. Desire that primary use of the building remains as a cinema due to the history of the site.
Site Meeting	17 January 2022	Twentieth Century Society.	Positive about the proposals, supporting expansion of uses within the building and the front of house provision. Acknowledged that these changes are important to secure the long-term viable use for the cinema. Internal alterations supported in heritage terms.
Site Meeting	17 January 2022	Theatre Trust.	Positive about the proposals, supporting expansion of uses within the building and the front of house provision. Acknowledged that these changes are important to secure the long-term viable use for the cinema.
Meeting	28 April 2022, 10 May 2022 and 20 March 2023	Mayfair Neighbourhood Forum.	<i>[No information provided in statement]</i>

Presentation	28 April 2022 And 09 May 2023	Mayfair Neighbourhood Forum Steering Group Committee.	<i>[No information provided in statement]</i>
Cabinet Member Briefing	09 March 2023	Councillor Geoff Barraclough, Cabinet Member for Planning and Economic Development.	<i>[No information provided in statement]</i> Officer minutes of meeting provided in background papers.
Presentation	22 June 2023	South East Bayswater Residents Association	<i>[No information provided in statement]</i>
Public Consultation Events	21 st April 2023 and 22 nd April 2023	30 people attended in total. (Letter delivered to local area advising of events in advance with information regarding the proposals).	7 questionnaires were filled in at the consultation events, with response shown to be largely supportive of the restoration and changes proposed to the operation of the cinema.
Delivery of further engagement proposals booklet	15 and 16 June 2023	Further information booklets, with a response form, delivered to local area.	<i>[No information provided in statement]</i>
Deputy Cabinet Member Briefing	14 July 2023	Councillor James Small-Edwards, Deputy Cabinet Member for Planning and Economic Development.	<i>[No information provided in statement]</i>
Online website outlining proposals	13 April 2023 - present	Unknown.	<i>[No information provided in statement]</i>

The applicant's Statement of Community Involvement and other application documents identify that the scheme has been revised in the following ways in response to views and representations expressed during pre-application community engagement:

Initial amendments in May 2023:

- Foyer bar is proposed to be maintained as the main entrance and box office to the cinema, with a rear bar,
- Link is still proposed between the foyer and restaurant, but this has been redesigned to be a discreet, ancillary link that would simply enable customers visiting both spaces to travel through the interior of the building.
- The building is proposed to be retained in its original use as a cinema, with ancillary performance uses on the stage for events such as film premiers, lectures or seminars. It is not proposed to accommodate full-scale productions. Lighting and sound equipment has been carefully considered as part of the works.
- Step-free access remains a fundamental part of the proposals and a new DDA compliant access will service all floors of the building.

- The changes are proposed with the aim of improving the offer of the cinema, so it can compete in the current market, and ultimately secure and improve the building's long-term viability in its original use.

Following further technical work, consideration of feedback from stakeholders and conversations with cinema industry experts, the applicant made further amendments to the proposals. These are outlined below.

Further amendments in July 2023:

- Retention of the second cinema screen.

These current applications reflects the July 2023 changes.

Objectors have stated that the landlord has failed to engage with the current tenant of the cinema (Curzon Cinemas). While this is noted, it is no reason to withhold planning permission. The scale of this application does not require the applicant to undertake any community engagement, nor is there a requirement under planning law to do so. As they have undertaken community engagement at their discretion, it has been for them to decide who to engage with. It would therefore be unreasonable to withhold planning permission on these grounds and this aspect of the objections cannot be upheld.

Concern is also raised that the statement of community involvement submitted is for a now withdrawn application and there's demand that a new public consultation is undertaken. While this is noted, the submitted statement does detail the changes that have taken place since the previous application was withdrawn and, given that the changes between the previously withdrawn scheme and the current one are relatively small (now retaining two screens), it is not considered that a new consultation would differ from that already undertaken. This objection is therefore not upheld.

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) (September 2023) 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 Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential

amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with 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 (September 2023) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

38 Curzon Street contains the cinema (Sui Generis) accessed from Hertford Street (which occupies the ground (foyer, main screen etc.), first floor (smaller second screen) and second floor (boxes and projection room)), a restaurant at part ground and basement fronting onto Curzon Street, and residential flats on the upper floors. The area subject to this application is the cinema and restaurant, and part of the associated basement level communal facilities space. An area of the main roof of the frontmost part of the building is also included due to the proposed installation of new/changed mechanical equipment.

The site is located within the Central Activities Zone (CAZ), the Shepherd Market Local Centre, the Mayfair Conservation Area, and within the 'Mayfair Shepherd Market' area of the MNP (Hertford Street frontage only).

The cinema is designated as an Asset of Community Value (ACV) and was listed as an ACV on 04 August 2022. ACV listings expire after 5 years after which time the asset is no longer listed as such. This ACV designation expires on 04 August 2027.

7.2 Recent Relevant History

While there have been numerous small scale internal works and refurbishment undertaken within the cinema along with other small interventions externally on the building, along with a change of use of one of the floors in part of the building that is not included within the application site, there are no significant planning permissions or listed building consents in the site history of direct relation to the current applications.

8. THE PROPOSAL

Planning permission and listed building consent are sought to allow the amalgamation of

the existing cinema and restaurant. This will be done by creating two doorways between the existing units at ground floor level (between the back of the restaurant and the cinema lobby) and creating a link from the existing restaurant area to the cinema level above which will allow the installation of an accessible lift (providing access to both screens 1 and 2 and allowing travel between the different internal floor levels across the site). This scheme will retain both of the existing screens within the cinema.

This represents only a technical change of use given that both the cinema and restaurant exist on site and planning law sets out that when two different uses of different use classes are joined, they are a new use (even though the existing cinema is a sui-generis use).

This amalgamation will create a cinema-led, mixed-use cinema/restaurant (sui generis) which seeks to maintain the existing primary use of the building as a cinema while enhancing and improving the offer. The improvements to the cinema offer that the applicant sets out will include introducing a food and beverage offering, improving the technology of the cinema, creating a more inclusive and accessible venue, updating the design of the cinema considering any heritage requirements, and introducing better programming throughout the day.

The food and beverage offer in the screens will allow the patrons of cinema 2 to have a "unique experience of being able to dine while watching a movie.". The applicant notes that food will be available within both screens however, this won't be full meals, rather small dishes (such as tapas or charcuterie) to accompany their drinks. They also note that no food would be served during any film as it would have to be ordered before the start.

In seeking to improve the comfort and seating in the cinema, there will be a reduction in the number of seats in the venue from the current number.

The applicant envisages that the site will still offer the existing premiers for smaller independent films along with Q&As, lectures, or seminars. There is no intention to accommodate full scale productions.

Within the site, internal alterations are sought to allow changes to the seating arrangement, the provision of step free access (set out above), restoration of a number of original features within the cinema, reinstating the original interior in the cinema lobby, installation of best-in-class audio/visual technology and, replacement of existing building services. The key design features of the interior, such as the decorative ceilings and walls, will be retained.

The proposals also include the replacement of the existing shopfront on the Curzon Street elevation (which currently serves the restaurant) with one which includes openable elements.

Replacement plant equipment at main roof level is also proposed.

It should be made clear that the proposals are not, and have not been, to demolish and redevelop the building as is suggested by some objections that have been received. The applicant has confirmed this in their planning statement setting out clearly that the

proposals do not seek to demolish the building (with the exception of limited internal demolition, such as to create the link doors between the cinema and restaurant) and that the proposals do not seek to introduce residential uses, hotel rooms or office space. Objections on these grounds and in relation to a supposed replacement building are not relevant to the proposals and not upheld.

Table: Existing and proposed land uses.

Land Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Cinema (Sui Generis)	950.4	0	-950.4
Restaurant (Class E)	383.7	0	-383.7
Cinema/Restaurant (Sui Generis)	0	1399	+1399
Total	1334.1	1399	+64.9

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Overview

London Plan Policy HC6 part B requires that planning decisions should protect and support evening and night-time cultural venues such as cinemas.

The site is located within the CAZ and the Shepherd Market Local Centre. City Plan City Plan policy 1 supports town centres and high streets to evolve as multifunctional commercial areas to shop, work and socialise. Policy 14 (Town centres, high streets and the CAZ) supports developments in existing centres that enhance and diversify their offer as places to shop, work and spend leisure time, as well as providing active frontages and uses that serve visiting members of the public at ground floor. Part C of the policy requires that development within the town centre hierarchy will be of a scale, type and format that reflects and enhances the role and function of the centre within which it is proposed, with local centre development being identified as needing to provide a mix of commercial and community uses to meet residents' day to day shopping needs, provide local employment opportunities, and support opportunities for community interaction.

City Plan Policy 15 part A seeks to maintain and enhance the attractiveness of Westminster as a visitor destination. Part B sets out that:

“All existing arts and cultural uses and uses of cultural significance will be protected and proposals for enhancement will be supported in principle.”

Part D of policy 15 sets out

“In the exceptional circumstances where it is necessary to redevelop a theatre or cinema, a replacement of equivalent size and standard will be required. Proposals to improve theatres and cinemas will be encouraged and should have particular regard to their heritage designation.”

Policy 16 of the City Plan requires that proposals for food and drink and entertainment uses will be of a type and size appropriate to their location.

MNP Policy MRU3.1 sets out that new entertainment uses will be encouraged where they complement both nearby residential communities and also the character which those nearby communities foster.

The MNP identifies the Curzon Cinema as a Community Use (map on page 55). Policy MSC1 relates to community uses and states that:

“Development resulting in a change of use or loss of Social and Community Facilities floorspace will be approved where suitable re-provision on similar terms is at the same time secured within Mayfair.”

MNP Policy MSM relates to the Shepherd Market area (which the Hertford Street frontage is on) and parts a and b set out that new entertainment uses will only be permitted in Shepherd Market where they are small-scale, low-impact and will not result in an increased concentration of late-night activity within the area, or an increase in harm to residential amenity as well as demonstrating that they are appropriate in terms of the relationship to the existing concentration of entertainment uses in Shepherd Market, and that they do not adversely impact on local environmental quality and the character and function of the area.

Land Use Considerations

Loss of existing uses.

As is noted above, the proposals represent a technical change of use due to the changes in planning land use classes that occur as a result of the works. While there is technically a loss of both the existing cinema and restaurant in land use terms, they are, in reality, retained at the site however due to their amalgamation, but under a new planning land use class (sui generis).

There are no planning policies to protect the loss of the existing individual restaurant unit at the site. This loss alone would therefore not be resisted by the Council.

Objections have been received against the loss of the existing cinema use at the site. As set out above, there are a range of policies in the London Plan, City Plan and MNP which would seek to protect the loss of the cinema however, given that the cinema use is to be retained at the site, still with the same number of screens, it is not considered that the technical change in use classes of the cinema (from one form of sui generis use to another form of sui generis) would be contrary to any of these. The objections on these grounds therefore cannot be upheld.

Objection has also been raised stating that the existing restaurant at ground floor creates disturbance until 2am. While this is noted, this operator will not be at the site should the proposals be granted permission. These issues will fall away with the premises under new management and subject to a new management plan (detailed below). This objection is not upheld.

Proposed use.

The amalgamation of the existing cinema and restaurant that are at the site will create a new planning use, which is a new sui generis use. The works proposed include a range of internal works to facilitate this amalgamation along with the intended refurbishment and modernisation of the cinema.

The retention and refurbishment of the existing cinema and restaurant is supported in principle by the policies set out above in particular London Plan Policy HC6 part B and City Plan Policy 15 part A which seeks to support and enhance existing arts and cultural facilities. The changes proposed will serve to further support the Shepherd Market Local Centre as required in policy.

The existing uses have been identified as being popular with the community through the comments received on these proposals and would be seen to compliment both the nearby residential communities and also the character which those nearby communities foster. The amalgamation of these two uses are considered in line with policy MRU3.1 of the MNP as it is considered that it will likely still compliment the character of the area and the nearby communities.

The applicant sets out that the current restaurant licence permits opening hours of 10:00 to 01:30 from Monday to Saturday, and 12:00 to 00:00 on Sundays. The existing license for the restaurant also allows a capacity of up to 135 in the basement and up to 60 on the ground floor, with an overall maximum capacity set at 180 across both floors. The current cinema licence allows opening hours of 09:00 to 02:30 from Monday to Saturday, and 10:00 to 02:30 on Sundays. They note that it is not proposed to alter the existing hours of operation. The property’s combined total capacity is forecast to be no more than 600, which is also in line with the current licences.

Given there is no significant overall changes in the type and size of the entertainment uses at the site, the proposals are compliant with City Plan policy 16.

Given that the new use will be of the same scale and impact as the current uses, nor will it result in an increase in late-night activity, the proposals are not considered to be contrary to MNP Policy MSM.

With regards to Policy 15 part D, the cinema is not being redeveloped in the sense that the existing cinema at the site is being lost, given that the cinema will be retained. The works are being undertaken to improve the cinema, in a manner which has regard for the heritage designation, and are therefore considered to be in compliance with Policy 14 part D.

Concerns have been raised regarding the change in the seating capacity of the venue. The existing and proposed seating capacity is set out in the table below.

Screen	Existing Seats	Proposed Seats	+/-
Screen 1	300	242	-58
Screen 2 (incl. Balcony)	100	38	-62
Royal Boxes	8	10	+2
Total	408	290	-118

Objectors state that they consider the proposals fail to comply with the City Plan (but do not explicitly identify which part) due to the absence of providing sufficient evidence that a reduction of seats is necessary for other improvements relating to its operation. They also state that they consider the current proposals demonstrate that, through the retention of the existing two-screens, the reduction in seating is not required to improve accessibility or visibility.

The policies relating to cinemas and these proposals do not require the submission of evidence to justify changes in seating capacity as the cinema is not being lost and re-provided elsewhere. However, it appears that this point of objection relates to the supporting text for policy 5 of the City Plan. Supporting text para 15.6 sets out:

“Given their valuable economic and reputational contribution to Westminster as a cultural centre, replacement theatres and cinemas may be required to be provided within a stated period to ensure the continuity of the use. Any replacement theatre or cinema should seat at least the same number of people as the original and be fully equipped to cater for live theatrical productions. A reduction in seating capacity may be allowed as part of cinema or theatre refurbishments, if this is necessary to improve accessibility or visibility, or other improvements relating to the operation of the theatre.”

The context of the above supporting text is in relation to when a cinema (or theatre) is being replaced elsewhere as a result of redevelopment. The reduction in seating capacity comments raised by the objectors therefore do not relate to planning policy which is relevant to this application. The objectors’ point regarding the proposals not meeting the requirements of the City Plan are therefore not upheld.

Objectors have also raised related concerns about the reduced seating capacity in terms of this increasing seat pricing, the loss of a venue for film premiers to be held which are stated to require large seating capacities and impact the Curzon Mayfair as it is claimed that it is a major commercial anchor in the CAZ based on the existing model of operation. While these concerns are noted, it should be noted that changes to the seating capacity of the cinema could be applied for without the other works proposed here (i.e. without the technical change of use), or as part of other works such a refurbishment of the cinema by the existing or any future operator. The pricing structure of a cinema or other uses or ability of a venue to host movie premiers are not subject to planning regulations. The existing operator being considered as a commercial anchor in the CAZ is not a designation assigned by the Council, nor is it a planning reason for withholding permission as planning cannot protect a user. The objections on these grounds therefore cannot be upheld.

The applicant has submitted an Operational Management Plan (OMP) in support of the proposals which sets out proposed operational measures (such as opening hours and capacity, already discussed above) measures that will be employed to ensure that the Cinema is fully inclusive and sits at the heart of the local community, through pricing, programming, and wider community benefits such as training and apprenticeships.

The OMP identifies that the cinema plans to provide affordable ticket prices and dining options, screenings that champion independent and local filmmakers, and a program of events that enrich and educate the local community. The OMP also states that a

Community Liaison Group will be set up to work with the community to discuss and review operational matters. These measures are welcomed and will be strongly encouraged however, as noted above, they are not a planning consideration.

The measures set out within the submitted OMP along with the conditions set out above are considered sufficient to ensure the impact of the proposed combined uses has no greater impact on the area than the two existing separate uses. The operation of the use within the lines of this OMP shall be secured by condition.

The Highways Planning Manager accepts that the majority of trips (excluding servicing activity) associated with the proposed use of the site as a combined cinema and restaurant will be similar to the existing arrangement. They recognise that the majority of these trips will be via public transport or other more sustainable modes (e.g. walking, cycling). Given the nature and quantum of the proposal it is not considered that the proposal will generate a significant increase in trips and the highway in the surrounding area is unlikely to be adversely affected when compared to the existing uses at the site. The proposal does not require the submission of a Travel Plan.

Objectors have stated that the building is not designed for a mixed use, and that another mixed use is not needed in the area. The building was designed, built and is currently a mixed-use building (containing three different uses). The location, by virtue of being within the CAZ, is considered acceptable for mixed use development in principle, subject to detailed considerations. These points of objections are therefore not upheld.

Objection has been received on the grounds of the loss of one of the screens at the cinema however, it is not proposed to reduce the number of screens in these proposals. Objectors also object to a multiplex cinema. While it may be the case that the cinema is already a multiplex (a cinema with more than one screen), the proposals are changing the number of screens. Those objections are therefore not upheld.

Objectors have stated that they believe that the proposed use is unviable and will fall into disuse for a range of reasons including that they consider the applicant does not have experience or the necessary industry knowledge to run the use, that serving of food will deter customers and that no evidence has been submitted to demonstrate this will attract customers, and that increased ticket price will reduce access for people. Objectors also have concern that food smells from the food served will deter customers and ruin the experience for other viewers. While these concerns are noted, they are not considerations for the planning process in that the consideration is restricted to the use, not how the user will operate. The objections are therefore not upheld.

Other objectors question the need for another restaurant here when there are so many in the vicinity and worry the new cinema will attract existing clients away from cinemas located in Leicester Square and other locations. As has already been noted, neither of the proposed aspects of the use (restaurant and cinema) are new at this site. While these concerns are noted, it would not be reasonable to withhold permission on these grounds. These objections are not upheld.

Asset of Community Value (ACV)

The Community Right to Bid allows communities and parish councils to nominate buildings or land for listing by the Council as an asset of community value (ACV). An asset can be listed if its principal use furthers (or has recently furthered) the community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.

The cinema at this site was listed as an ACV on 04 August 2022. The ACV will be kept on the Council's list of ACVs for 5 years. If, during that time, a listed asset is put up for sale the owner must notify the Council. A moratorium on the sale (of up to six months) can be invoked by the local community to give them the chance to raise finance, develop a business case and to make a bid to buy the asset on the open market. Inclusion on the list of ACVs does not require a landowner to sell their property to a community group. The purpose of listing is to allow the community to develop a bid for the property.

Being an ACV also does not stop the landowner from changing how the property is used. For example, if an asset of community value is leased to a business, such as a restaurant (or cinema operator as is the case here), the landowner is not obliged to continue that lease. However, listing as an ACV can be a material planning consideration.

The degree to which the ACV is relevant as an issue in the consideration of this planning application depends on the extent to which the cinema is retained in the proposed scheme, including whether what would be retained could viably continue to operate as a cinema.

Objections have been received noting that the current cinema has been designated as an ACV, and setting out that they consider the proposal's change of use proposals will undermine the continued community access to a fully publicly accessible conventional cinema as well as undermining the basis on which the ACV was put forward, which objectors consider was to safeguard the community's use of the public cinema. They also set out their concerns about increased ticket pricing and reduced seating capacity leading to an unviable cinema and that if the cinema is no longer economically viable, this would create a substantial risk of it ceasing operation in the future, also to the detriment of the local community.

As is set out above, the cinema is to be retained at the site, albeit in a different arrangement of seating that offers flexibility for various types of screenings. It is therefore not the case that a cinema will be lost. While some concerns may be related to the ability of the community to access the cinema due to changes in pricing, or a change in the nature of films shown, these aspects are not planning considerations, nor could they be controlled under the designation of the cinema as an ACV. Any new, or existing, operator could change their charging points for tickets or the nature of films they show at the site without the need for consulting the Council or considering the ACV status. Seating capacity and arrangements could be altered with only the need for listed building consent in this instance, and without changing the use or being a consideration on the impact on the ACV. Equally, the operator/tenant of the cinema could change without the need for planning permission under a range of scenarios and as noted above, such

circumstances would not impact the ACV status. As a result, the objections on the grounds of loss of access to the cinema cannot be upheld.

The applicant and their advisors appear to be experienced in operating in the cinema market. The planning agent advises that the applicant has put the proposals together on the basis of their industry knowledge as well as with additional input of other experts from the industry. Indeed, the agent has set out that the landlord (applicant) will be operating the cinema and will have an experienced team of staff and consultants with cinema expertise to support them. They have advised that this includes Damian Drabble who has been appointed by the Landlord as the Chief Operating Officer and has over 30 years of experience within the cinema exhibition industry, advising companies from small independents to some of the largest operators around the world. They advise that he launched and managed AMC Theatres in the UK, before setting up and opening the first ten locations for Light Cinemas as their Operations Director. The applicant and their team have also been involved in the recent revitalisations of The Ned London and Koko Camden. A letter of support for these proposals has also been submitted by the Applicant from the Chair of Elstree Film Studios. Officers therefore have no reason to believe at this time that the operation of the cinema in this location would be at risk (and thus the status of the ACV) given the experience of the applicant and associated industry professionals involved that has been listed.

While objections have been received on the basis that the proposed cinema operation would be unviable for a range of reasons (reduced seating capacity, people won't want to eat while viewing, etc.), no evidence has been put forward by these objectors to support their position. While the existing operator of the Cinema in the site has objected on this basis and would be considered to have industry knowledge of the part of the market they operate within, they equally do not provide evidence to support the claim and make the statements in the context of their own business model. While it may be the case that both the existing and proposed style of cinema operations are viable, or possibly one 'more' viable than the other, such a consideration is not part of the planning process and not for the Council to consider. These objections are therefore not upheld.

Objectors state that the proposals are likely to be detrimental to the building's future as a cinema for the community and its designation as an AVC. However there has been no evidence provided to support this claim.

Objectors also note that they consider that no alterations should be permitted to an ACV. It would be both impractical and unreasonable to prohibit any alterations to a building once it becomes an ACV, so this objection cannot be upheld.

On the basis of the above, Officers have given due consideration to the cinema being designated as an ACV. In the context of these proposals and the information provided, it is not considered that the ACV is at significant risk however, to prevent the possible loss of the community asset over time as a result of the mixed use proposed, it is recommended a condition be applied to secure that the restaurant area of the use is not greater than the area shown on the proposed drawings. This will serve to protect the cinema part of the mixed use to the extent that is possible in this instance under planning legislation. The objections regarding the impact of the proposals on the ACV are therefore not upheld.

Loss of Current Operator

A large number of objections have been received objecting to the loss of the current cinema operator (Curzon Cinema) from the site. While these passionate objections covering a range of reasons are noted, planning legislation does not allow the protection of a particular operator and a decision made on this basis would be unlikely to be successfully defended against any challenge brought against it.

The operator of the site could change at any time without the need for planning permission from the Council, provided the use as a cinema was maintained.

As is set out above, in land use planning terms there are no policy issues with the existing and proposed uses at the site as they both contain a cinema.

It would therefore be unreasonable to withhold permission on the basis of the possible loss of the current operator at the site and these objections cannot be upheld.

9.2 Environment & Sustainability

Policy 38D of Westminster's City Plan (Design principles) covers sustainable design, while policy 36 covers Energy Performance.

The proposals include the installation of Air Source heat Pumps (ASHPs) at roof level which are welcomed. The scheme accords with Policies 36 and 38 of the City Plan and the Environmental SPD.

9.3 Biodiversity & Greening

There is no provision of additional biodiversity or greening as a result of the proposals however, given the limited external interventions and works proposed, it is not seen there is scope to secure such provision.

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.”

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 Curzon Cinema is a Grade II listed building in the Mayfair Conservation Area. It stands on the south side of the street at its junction with Hertford Street (where the cinema entrance is found) and it has a rear façade to Market Mews. The commercial uses at basement to second floor levels include the cinema and a separate restaurant.

The building is a mixed-use development dating from the 1960s, which replaced the previous cinema at this location, and contains many features contributing to its special architectural and historic interest such as the cinema auditorium’s dramatic, coffered, ‘waffle plate’ ceiling, and artistic works by William Mitchell (a sliding screen in the foyer and wall murals in the main auditorium). The statutory list entry notes that, “...*The universal adoption of safety film from the mid-1950s made it possible for the first time for large cinemas to be built within blocks of offices, etc., but nowhere else was the quality of cinema design and commercial architecture combined to such a high standard, with such an elegant and confidently expressed plan as here. The finest surviving cinema building of the post-war period, it is also the least altered.*”

The cinema in its current form retains most of its original form and fabric, but some alterations such as creation of a second screen have changed the form of main auditorium. Other spaces in the cinema such as in the entrance foyer have been altered, and the restaurant accessed from Curzon Street has been thoroughly modernised and substantially altered in the past. The basement contains functional, back-of-house, spaces and has limited significance in heritage asset terms compared to the rest of the building. The upper floors were formerly offices but have been converted to residential use and they are not of special interest. Objectors state that the building should be left unaltered from its original design and that to change it would be ‘cultural vandalism’ however, the building has already been altered from its original form and it would be unreasonable and impractical to prohibit any alterations at all. These objections cannot be upheld.

As Curzon notes in their objection to the application, “*Curzon was founded in 1934, establishing the Curzon Cinema, Mayfair on Curzon Street, from which it takes its name... It is of significant historical and cultural importance both for Westminster and the UK as an institution which is internationally synonymous with quality, independent cinema and film.*” Consequently, and unusually, in this case, the user, use, and building are intertwined and their combination forms its significance as a designated heritage asset. Objectors have stated that this link should not be broken. However, the user is not subject to control under the terms of the Planning (Listed Buildings and Conservation Areas) Act. The objections on these grounds are therefore not sustainable.

The proposed alterations at ground floor level in the foyer space of the cinema will reinstate some original openings, surface finishes, and lighting. All existing features of significance in heritage asset terms will be retained. The bar area will be altered and refitted, and a sensitively located new doorway in the western wall of the foyer will provide access to a wheelchair-accessible WC and a lift serving the restaurant and all cinema auditorium levels. New stairs will also be formed in the same area. The existing restaurant will be entirely refitted, have a new openable frontage to Curzon Street and improved connections to the main cinema auditorium and to the second, small, auditorium. The second floor works will see the two royal boxes of the main auditorium retained and refurbished, along with the creation of a small private dining area. The second screen auditorium is also to be refurbished.

In heritage asset terms, many of the objections received relate to how the proposed, combined, cinema and dining use will change the way in which the cinema operates and is experienced. This is not a particularly novel combination of uses and can be found at, for example, Olympic Studios (SW13), and at The Electric Cinema (W11). Nevertheless, the combination of the uses, as proposed, will alter the way in which the cinema can be appreciated and the current segregation of the two uses is part of the building's significance as a designated heritage asset. The consequence of the alterations may be that the cinema-dining experience will appeal to a different audience, but it is the works which are the subject of control in heritage asset terms; not the operator, the films, or the audience.

The list entry notes, amongst other things about the main auditorium, which is at first floor level, that, "*The carpets, seating and other fittings have been carefully maintained true to their original finishes and colours.*" This part of the cinema is to be refurbished including 91 seats of a 'luxury' type, roughly twice the width of the remaining standard seats and set on a slightly altered rake. These larger seats are at the rear and in the centre of the auditorium. As such, they will have some visual impact but the standard seating will predominate. The works to combine the uses cause some harm, at the low-end of less than substantial, to the significance of the building because of the slightly incongruous furnishings necessary to provide dining facilities in the main auditorium, and due to the construction of a lift. The detailed design of the seats and carpeting may be dealt with by condition to ensure they remain true to the original design intent of the space.

A further significant, but subtle, alteration will be made in the main auditorium. The projection screen is to be moved back, the front edge of the platform altered to form a larger stage area in front of the screen, and a lighting rig is to be fitted at high-level immediately behind the proscenium arch. These alterations to the screen and stage are to facilitate 'supplementary' events and have a neutral impact in heritage asset terms because, although the screen is a key feature, its function and appearance will not be harmed, the changes to the stage are very slight, and the lighting rig is largely concealed from view.

There is particular concern expressed by many objectors about the impact of the alterations on the cinema's viability. However, it does not automatically follow that there is harm caused by combining the restaurant and cinema uses, nor that this would detrimentally affect the cinema's viability. As far as the building's historic fabric is

concerned there is no harm caused by the concept of a physical link. Furthermore, as proposed, accessibility for less mobile patrons of the cinema will be greatly improved as part of the works to interlink the uses. Therefore, while the alterations to form the lift create some less-than-substantial harm in heritage asset terms, due to the impact of the lift and associated doorways on the historic plan form and fabric of the building, this harm is at the low end of the scale and the public benefit of improved accessibility (a social objective of sustainable development (NPPF Para. 8)) greatly outweighs this harm.

In heritage asset terms, the viability concerns raised about the proposed cinema-restaurant use made by many objectors are noted. However, there is a lack of thorough, verifiable, evidence to support the claims. Nevertheless, the objection made by Curzon Group, which has around 90 years' experience of cinema operation, noting amongst other things that, "...*there is a very real risk that the future of the cinema will be jeopardised if its stewardship is placed into the hands of an inexperienced operator...*", carries some weight.

Although the future of Curzon's current operation is a matter of dispute it appears that the cinema in its current form, with its current operator, is viable as evidenced by the fact that it remains open for business and that Curzon is strongly resisting the loss of its lease. This carries some weight in assessing the heritage impact of the proposals because it does not seem to be the case that the cinema would be unviable if Curzon remains as operator and if the building remains unaltered. Furthermore, Curzon also states that should they be successful in extending their lease that will allow them to, "...*invest in the upgrade and renovation of the existing Cinema, safeguarding the cultural, environmental and operational sustainability of the building for the future.*"

Also amongst the many objections is reference to the 'CURZON' sign on the Curzon Street façade, which is noted in the list entry. The application does not propose any changes to this sign. However, should this be necessary, a replacement sign with the new name of the same detailed design is likely to be acceptable. While the Curzon lettering is clearly of significance in heritage asset terms, names do change. For example, Simpsons department store on Piccadilly was once adorned with its name but that has now changed and the old sign is displayed inside the building. It may be possible to adopt the same approach in this case, should the scenario arise.

At street level a new glazed frontage, largely openable, will replace the existing glazing and doors facing Curzon Street, and some new louvred doors in Hertford Street are to be provided for a plant room. At roof level, new mechanical plant is to be provided within a screened enclosure. Objectors raise concerns about the structural capacity of the building to support the proposed plant and its visual impact. However, the location is acceptable in principle in design and heritage asset terms and any necessary structural works can be dealt with by condition. If alterations are necessary inside the building, below the plant, these are unlikely to affect the building's special interest noting the list entry states, "...*The interiors of the restaurant flats and offices not of special interest.*" The external alterations to the building will have no adverse impact in street level views, and the rooftop plant is sited to minimize its visual impact and contained within a screened enclosure which is in keeping with the architecture of the building. Therefore, the external alterations will maintain the significance of the building as a designated

heritage asset and will preserve the character and appearance of the surrounding conservation area.

As set out within Section 9.4 of this report, the proposal is considered to cause less than substantial harm to the special historic and architectural interest of the listed building. The level of harm caused would be at the lower end of less than substantial.

The harm would be caused primarily by the alterations to the seating and installation of a lift.

Some of the objections received regard the harm to be on the “higher spectrum” of less than substantial. However, the extent of the harm does not reach that degree. The features of the building, and of the cinema in particular, which contribute to its significance as a designated heritage asset are to a very great extent preserved. The harm is slight, localised in its impact on the building’s form and fabric, and has little impact on the ability to appreciate the special interest of the cinema. Putting the harm at the higher end of less than substantial would mean it was edging towards entirely vitiating the building’s significance, i.e. causing substantial harm, and that, plainly, is not the case. Therefore, the degree of harm claimed by objectors is not justified. Nevertheless, the less than substantial harm caused by the proposals is to be given great weight in determining the application.

Paragraph 202 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the ‘public benefits’ of the proposal, including optimising its optimum viable use. ‘Public benefits’ could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public to be genuine public benefits.

When undertaking this weighing exercise, the Sub-Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 9.4 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

As identified above, the public benefits are the installation of the lift, and of restoration works in the foyer area. Consequently, it is considered to be sufficient to outweigh the less than substantial heritage harm, in compliance with paragraph 202 in the NPPF. Furthermore, the heritage harm has been kept to the minimum necessary to deliver the proposed development and the public benefits that flow from it. For these reasons, clear and convincing justification has been demonstrated for the harm caused to the designated heritage assets, in compliance with paragraph 200 of the NPPF.

Objectors state that the building needs to be listed, however it already is.

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, and preventing unacceptable impacts such as loss of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking, as well as protecting local environmental quality.

Policy 22 (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.

MNP Policy MRU1 requires that new commercial or entertainment uses must demonstrate how they protect the amenity of nearby residential units and create no additional adverse effects.

Council records indicate that the closest residential premises to the site are located on the upper floors of the building itself, from third floor upwards. There are also a number of other residential properties around the site such as opposite, at 16 Curzon Street, next door at no.36, and to the rear at 51 Hertford Street and Shepherd Street (Mayfayre House, which backs onto Market Mews at the rear of the site)

Noise & Vibration

The proposals include the replacement of the existing roof level extract system for the restaurant, and the installation of new Air Source Heat Pumps within an acoustic enclosure at main roof level. An acoustic report has been submitted in support of this part of the development assessing the noise impact on surrounding noise sensitive receptors. The initial report did not have sufficient details, but a revised document was submitted. This revised report has been assessed by Environmental Sciences Officers who have advised that the proposed plant has not been chosen and no background noise survey has taken place at this time. However, they recognise that selected plant is likely to be able to comply with the standard noise conditions subject to the necessary screening being installed (the acoustic screen that shall be secured by condition) and request a supplementary acoustic report to be submitted once the machinery is chosen, so as to demonstrate compliance. This supplementary report shall be secured by condition. Environmental Sciences Officers have also requested a post commissioning noise survey to be submitted to ensure the installation meets the criteria once it is installed, which shall be secured by condition. The standard noise and vibration criteria conditions shall also be applied to this permission so ensure noise and vibration levels are not above the minimum levels set by the Council. Subject to these conditions, the proposed installation of new plant is deemed acceptable in amenity terms.

Objection has been received raising concern over the impact of the proposed impact of noise and vibration from the proposed machinery at roof level. While this is noted, the conditions set out that have been requested by Environmental Sciences Officers are considered suitable to address these issues and ensure that the machinery chosen will be in compliance with Council levels. Conditions shall also be applied to ensure that the installation of the machinery is to a suitable design so as to prevent structure borne vibration through the roof structure.

Objectors note that the building has an existing large plant enclosure at the rear flat roof at fifth floor level and ask why the applicant has not explored placing the required new plant within this. A site visit has revealed this plant enclosure to be full however objectors state that some of this would become redundant following the installation of the new equipment, so could be removed and thus new equipment housed within. The applicant notes that the new equipment proposed include air source heat pumps which require open access to air and given the existing enclosure is fully enclosed (including with a roof), the machinery proposed would not function correctly hence these will be located at roof level within an enclosure that is not covered on top. Regarding the existing plant room, they advise that the items within there (chillers and back-up generator) will be replaced and therefore the space for that equipment will still be in use, contrary to the claims of the objectors. It would therefore not be possible to locate additional plant within that existing enclosure. It would not be considered reasonable to withhold permission on the basis of the objections raised, particularly given that the new location is considered acceptable in amenity and design terms.

Kitchen Extract

Environmental Science Officers have advised that they have no objections on the grounds of odour nuisance from the details submitted in relation to the new flue termination at roof level.

Objection has been raised on the grounds that the new duct will create odour issues both externally from the discharge and internally in the flats in the building as the duct will travel up through the building. There is already an existing kitchen duct travelling through the building which serves the existing restaurant, which the applicant advises is not being altered and will continue to be used by the new restaurant operation. As noted above, the proposed new discharge meets Environmental Sciences requirements. It would therefore be unreasonable to withhold permission on these grounds.

Objectors have also stated their refusal to allow either an enlargement of the internal extract duct (which would then encroach into their flats), and to not allow access to the flats to facilitate servicing to the internal ducts. However, as is already noted there will be no change to the existing internal kitchen duct with the only changes being at roof level. It would therefore be the case that any existing servicing arrangements for maintenance of the duct would stay the same however ultimately, access for servicing is a private matter that falls outside of the planning system. This objection is therefore not upheld.

Openable Shopfront

The proposals include the replacement of the existing shopfront on the Curzon Street façade. The replacement shopfront will include a pair of openable glazed bi-folding doors either side of the central door leaves.

The applicant has advised that they are happy to accept restrictions on the hours when these doors could be opened, and have suggested that the openable elements of the shopfront be fixed closed between the hours of 23:00 – 07:00 daily. They also note that, as set out in their OMP, that the restaurant part of the site will be carefully managed and controlled to ensure that noise emissions from live or amplified music cannot be heard

outside the site when the doors are opened. These hours are considered suitable and shall be secured by condition as well as the addition of a condition ensuring that no live or amplified music is heard outside the premises when the doors are open.

Objection has been received raising concern that noise from the openable front will cause disruption to nearby residents. While the objectors note the suggested conditions, they consider them to be inadequate on their own and request that noise should be prohibited from passing outside the building boundary. While this is noted, it is not considered that such a condition would be reasonable given that it may require significant works to the structure to create a soundproof boundary. The conditions as proposed are considered sufficient to protect the amenity of the area and the objection is not upheld.

9.6 Transportation, Accessibility & Servicing

The Highways Planning Manager has assessed the application on commented on the following topics.

Servicing and Waste & Recycling Storage

Policy 29 requires off-street servicing and freight consolidation. Deliveries and goods left on the highway create an obstruction to pedestrians and have an adverse impact on the improvements to the public realm. Delivery vehicles stopping on the highway can also result in localised congestion to other motorists.

No off-street servicing is provided for the proposal, however the car parking access at the rear of the site works as a holding area for goods being delivered and waste awaiting collection. Also, alterations are occurring internally to enable both the cinema and associated restaurant to utilise the rear holding area on the Market Mews frontage for servicing purposes. The ground floor holding area would enable deliveries to be moved off-street immediately and waste would not need to be left on-street awaiting collection, which would benefit pedestrians and other users as well as the public realm appearance.

The Highways Planning Manager notes that while the service arrangements are not ideal, given the existing nature of the site and the quantum of what is proposed, combined with the proposed internal alterations associated with servicing, it is considered that the proposal will not significantly increase the servicing requirement associated with the application site (over its current level) or result in a significant adverse impact on the highway surrounding the site.

Without a dedicated store it is likely waste will be left on the public highway creating an obstruction. Waste storage is included on the submitted plans. The provision and retention of this shall be secured by condition.

Cycling & Cycle Storage

The proposed alterations include the provision of 5 wall mounted cycle parking spaces at the rear of the site. Cycle parking provision would be for staff use and encourage them away from other less sustainable travel modes. The Highways Planning Manager considers the number of spaces proposed is considered acceptable and London Plan

compliant, however, the location is not desirable. They note it would be better to provide these spaces at basement level in a secure location and that the provision within the rear service area would be unlikely to encourage staff to use these spaces. While this is noted, given that use proposed is an amalgamation of the existing uses and that the building is listed and that there are relatively few other works taking place internally, the location proposed is considered acceptable in this instance. The provision of these cycle parking spaces shall be secured by condition.

The Highways Planning Manager sets out that under the London Plan, the short-stay requirement for cinemas would be 10 (1 space per 30 seats) and restaurant would be 10 (1 space per 40m²). They consider that, given the existing onsite car parking, it would be better to provide additional cycle parking within the basement and think a valet service could be implemented to enable use of the lower level if a more accessible location on-site is not achievable. An objection has also been received raising the absence of short-stay cycle parking.

The applicant states that given the constraints of the site, and given the relatively limited interventions that are taking place internally, there is no scope to provide the required short-stay cycle parking. Given that these proposals represent a technical change of use and that the cinema is already on the site, along with the constrained nature of the listed building and shared nature of the basement area that is suggested by the Highways Planning Manager, it is not considered reasonable to request the short-stay cycle parking spaces in this instance. The objection and request are therefore not upheld.

Parking

Policy 27 of the City Plan supports development without car parking provision. According to the Transport Statement 8 car parking spaces exist on site and are accessed via a car lift. These spaces are to be retained and are not associated with the cinema or restaurant use. No alteration to the access arrangements of the spaces is occurring.

Given the quantum and nature of the site it is considered that in terms of people arriving and departing the site, the levels would be similar to the existing use (excluding servicing). The site is also within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls. Resident bays are restricted to permit holders only 24hrs a day 7 days a week, with single yellow and other bays restricted from 0830 till 1830 Monday to Saturday. Given the parking controls and access to public transport in the area the impact of the change of use on parking levels is expected to be minimal.

Accessibility

Objectors state that screen 1 is already wheelchair accessible, and that no other art house cinemas are accessible to this extent. While this is noted, the proposed works will provide accessible access to both screen 1 and 2, the foyer, and the restaurant, which is a considerable improvement beyond the existing arrangements (only providing access to the foyer and screen 1) and is welcomed by the Council and in accordance with policy 38 in the City Plan. This objection therefore cannot be upheld and the works to provide better accessibility are supported.

9.7 Economy including Employment & Skills

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

9.8 Other Considerations

Other Points of Objection.

Many objections have been received against these applications which raise issues which fall outside of the above topics or outside of the planning process. These are addressed below.

Structural Concerns

Objectors have raised concern that the existing roof structure is not structurally capable of supporting the necessary load to accommodate the proposed mechanical plant and acoustic enclosure. While this concern is understood, it is a consideration building control and building regulations, not the planning process. As is noted above in section 9.4 (Townscape, Design & Heritage Impact), if alterations are necessary inside the building, below the plant, these are unlikely to affect the building's special interest noting the list entry states, "...*The interiors of the restaurant flats and offices not of special interest.*" Should it be the case that additional works are required internally to improve the structure, they would be subject to a new listed building consent application. This objection therefore cannot be upheld.

Fire Risk

Objectors raise concern about fire risk, in particular from the extract duct and, given an intended refusal of occupier to allow access to the duct for servicing, that this would represent a fire risk. As noted above the issue of access are not a planning matter. In terms of fire safety, this largely falls outside of the planning system except in instances where works are proposed to a relevant building (which this is) and then the Health and Safety Executive (HSE) must be consulted on the applicant. The HSE have provided comments on the application and note that they are satisfied with the scheme and raised no concerns. It would therefore be unreasonable to withhold permission on the grounds of this objection.

Insufficient Information Submitted

Objectors state that insufficient information has been submitted to allow the assessment of the application considering the submitted information inadequate, and/or citing the absence of documents such as an Air Quality Assessment (AQA), and objecting on the impact on air quality. They also note that they consider information is being withheld due to errors in the submitted documents (such as referring to paragraphs in reports that do not exist).

An AQA is not required for a development such as this (with the validation criteria being

clear on this, despite one being unnecessarily provided on a previous withdrawn application by the applicant) and it would therefore be unreasonable to request one. As is set out above, the assessment of the planning application has been possible with the information provided and the relevant consulted specialists have been satisfied with that provided or required any additional information to be submitted by condition where this is suitable (e.g., a supplementary acoustic report). The use of planning conditions in this way is appropriate. Officers have no reasons to believe that necessary information is being withheld at this time and note that their requests for further information or clarification have all be proactively responded too. This objection therefore cannot be upheld.

Inadequate Consultation Process

Objectors state that they consider the consultations undertaken on this application, and regarding the now withdrawn applications, are inadequate and state that no decision should be made until suitable consultation has taken place. Officers do not agree with this view given that all of the necessary statutory consultations have been completed for the minimum periods by the Council and significant additional time has passed since. Also, these applications have received significant media coverage and have been the subject to campaigns from various parties as set out above. Overall, these applications have received more than the minimum consultation period required and it would be unreasonable to delay or withhold permission or listed building consent on the grounds of these objections.

Overdevelopment

Objectors state that they consider the proposals to be overdevelopment and that the proposals will sterilise a traditional space. As has been set out above, very little will change in planning terms. For the layman, the changes at the site will be limited to the operator of the site and the associated differences in how they undertake their business and refurbishment of the venue. The development itself in this instance is restricted to a technical change of use and relatively modest physical alterations externally and internally. It is therefore not considered the scheme represents over development and the objection is not upheld.

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.

9.11 Assessment of Planning Balance

As set out within Section 9.4 of this report, the proposal is considered to cause less than substantial harm to the listed building. The harm would be caused by the alterations to the seating and installation of a lift. The level of harm caused would be at the lower end of less than substantial.

Paragraph 202 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the 'public benefits' of the proposal, including optimising its optimum viable use. 'Public benefits' could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public to be genuine public benefits.

When undertaking this weighing exercise, the Sub-Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 9.4 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

Although a development of this scale generates a number of public benefits, the following are considered to be the most significant:

- Provision of accessible lift, and
- Restoration works to foyer area.

The public benefits identified in Section 9.4 and summarised above are considered to be sufficient to outweigh the less than substantial heritage harm, in compliance with paragraph 202 in the NPPF. Furthermore, the heritage harm has been kept to the minimum necessary to deliver the proposed development and the public benefits that flow from it. For these reasons, clear and convincing justification has been demonstrated for the harm caused to the designated heritage assets, in compliance with paragraph 200 of the NPPF.

10. Conclusion

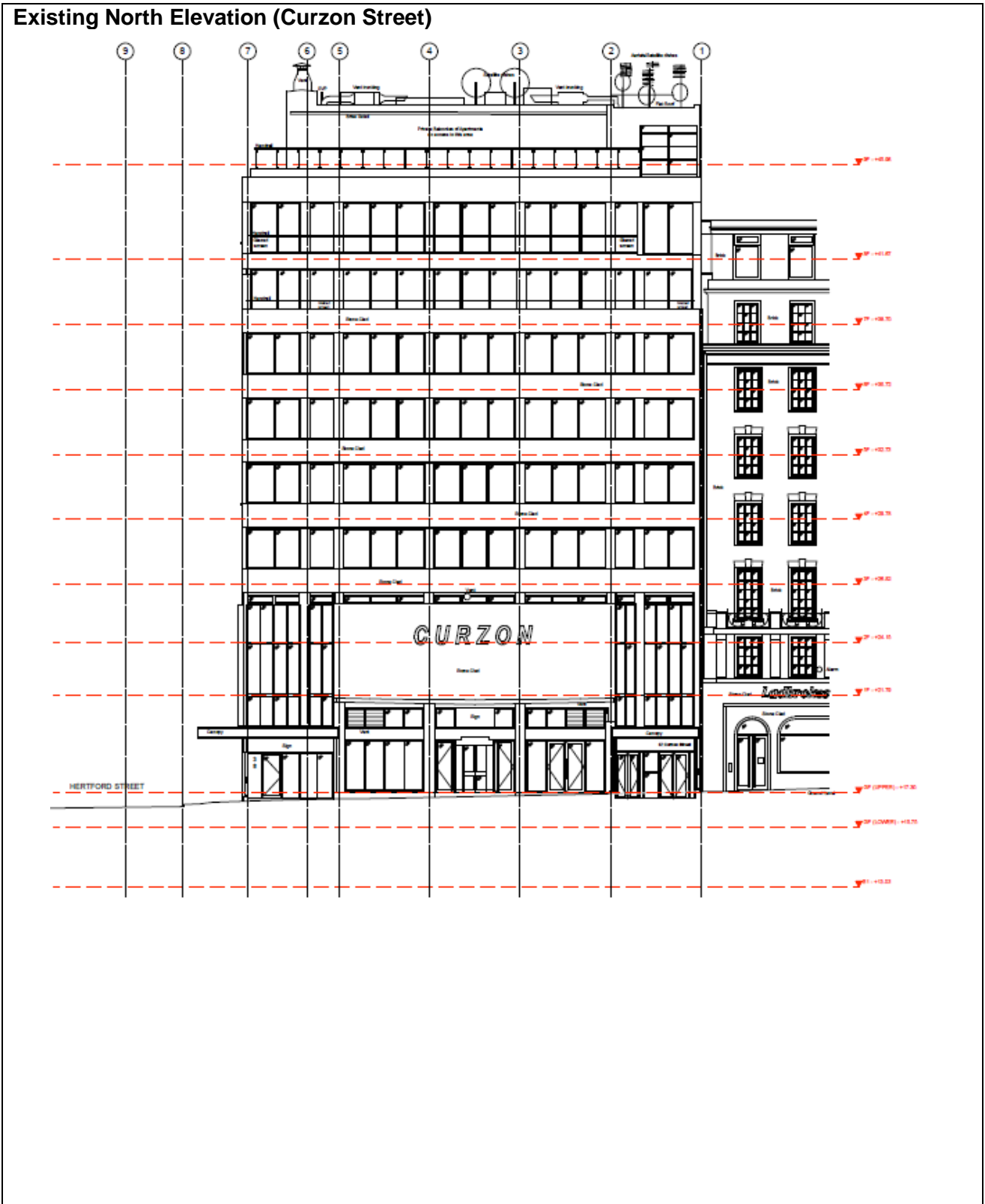
This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, and has also considered the weight to be attributed to the public benefits and harm that would arise from the scheme. Having regard to this assessment, it has found that the proposed development is acceptable.

Accordingly, the proposed development would be consistent with the relevant policies in the City Plan 2019-2040, the London Plan 2021, the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is recommended that planning permission and listed building consent are granted, subject the conditions listed at the end of this report, which are necessary to make the development acceptable.

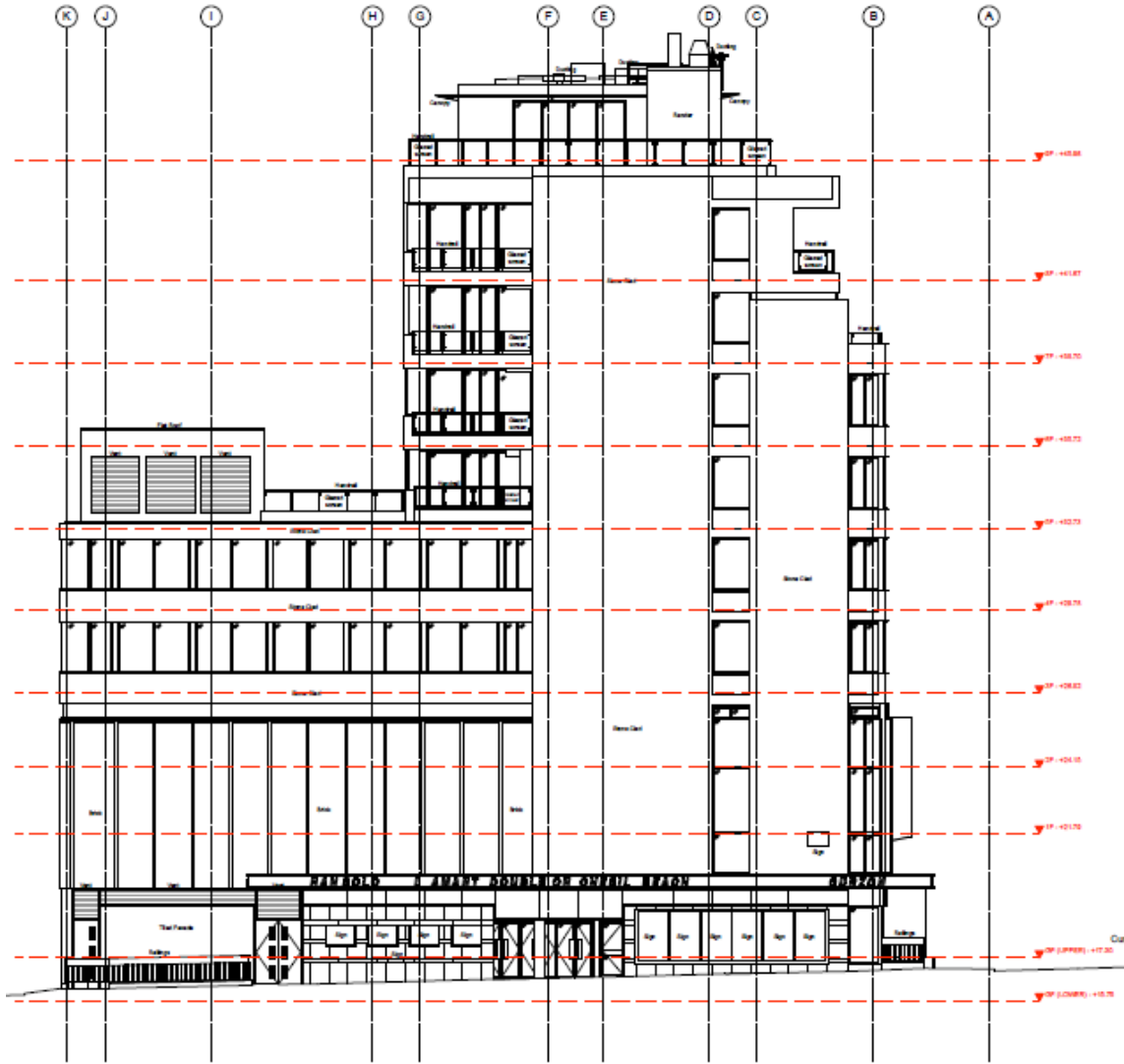
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

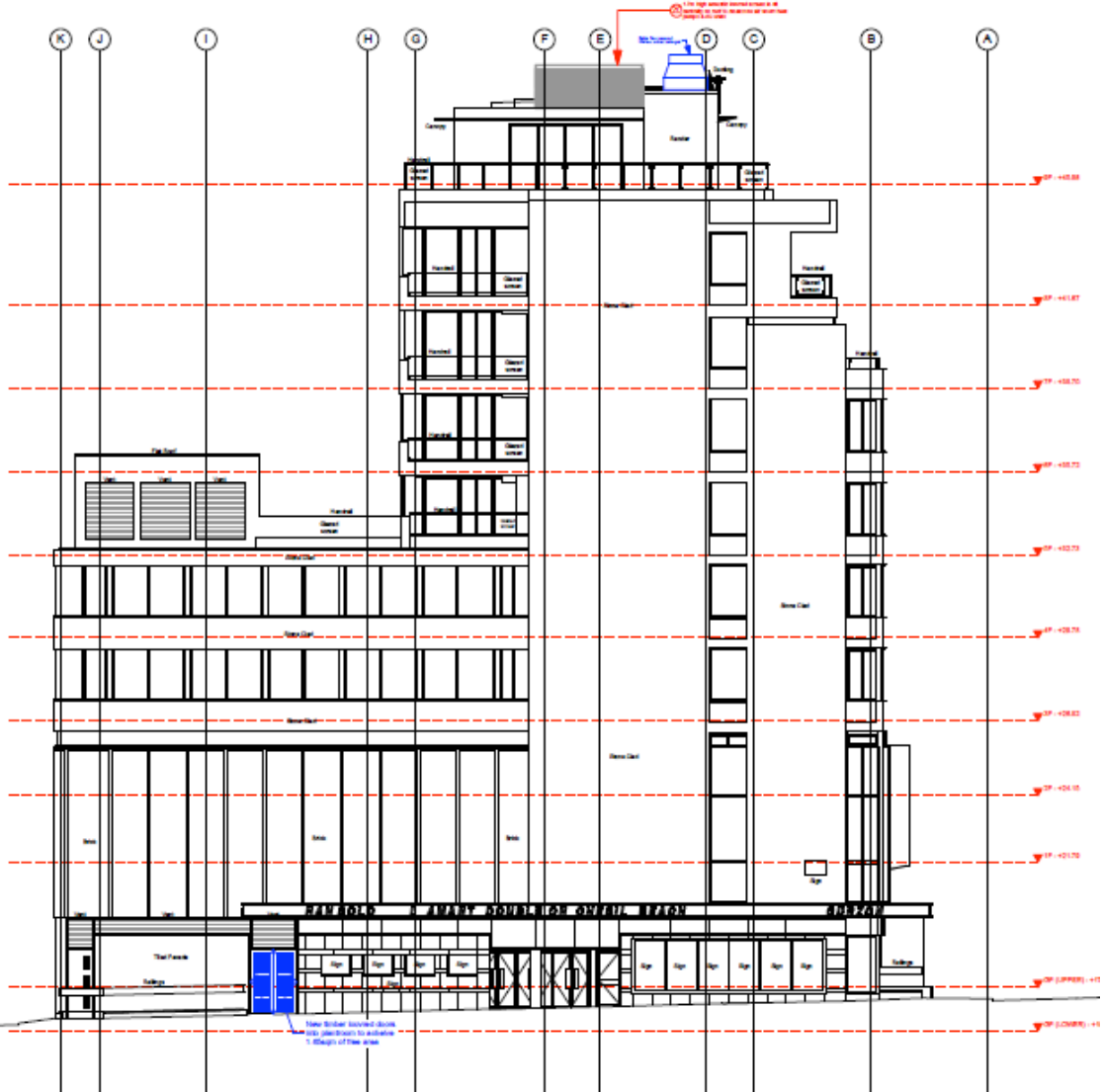
11. KEY DRAWINGS



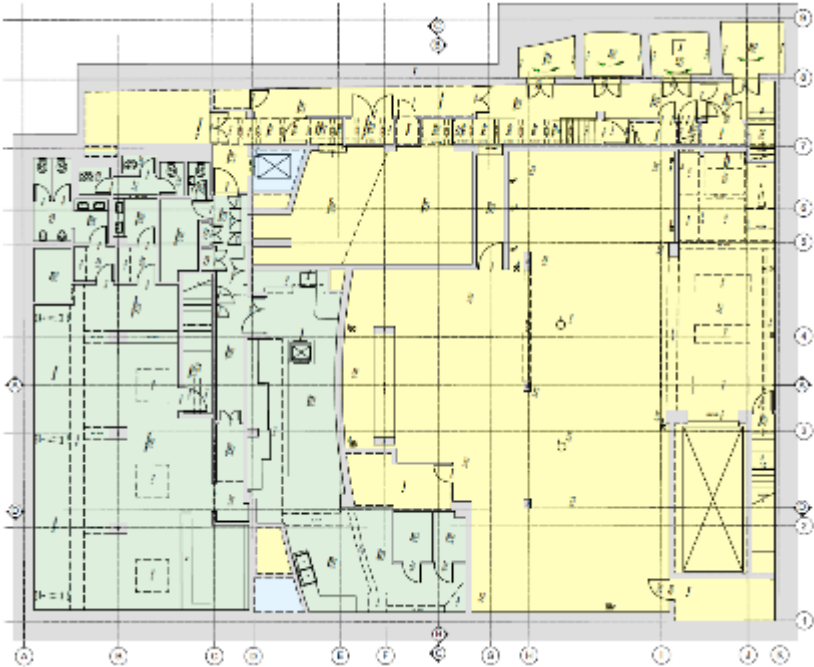
Existing East Elevation (Hertford Street)



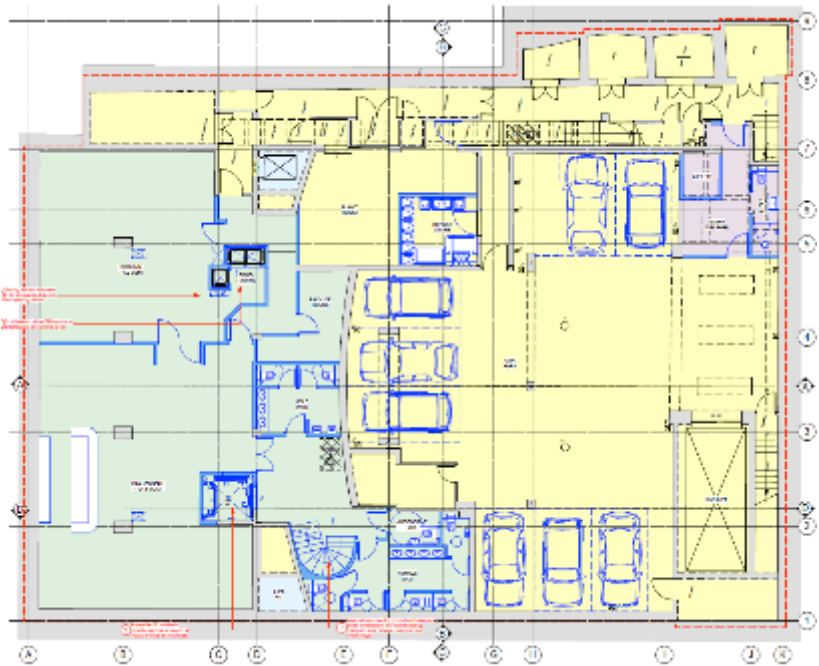
Proposed East Elevation (Hertford Street)



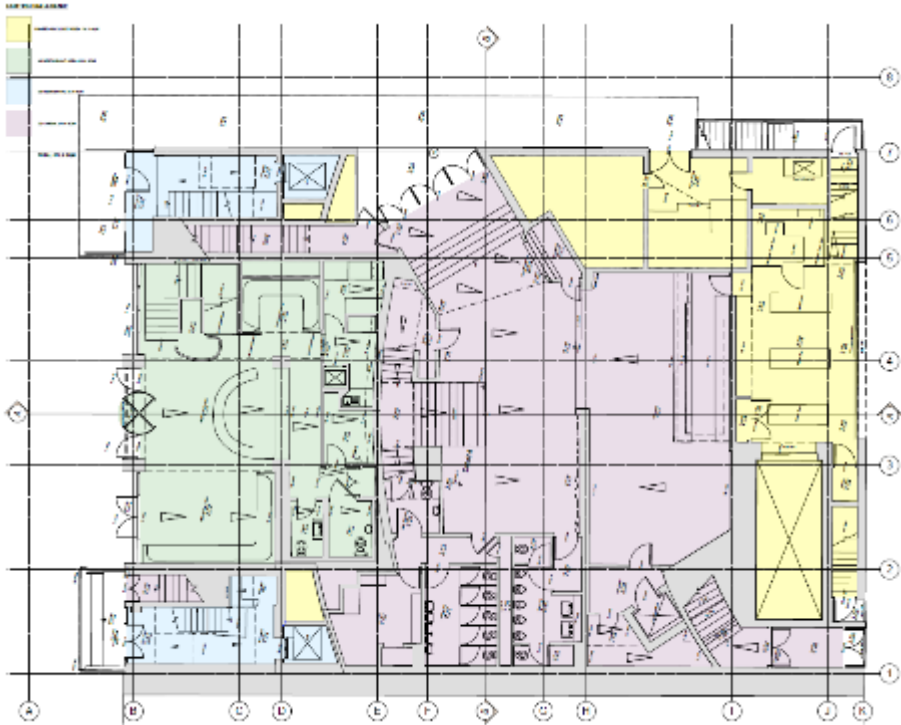
Existing Basement



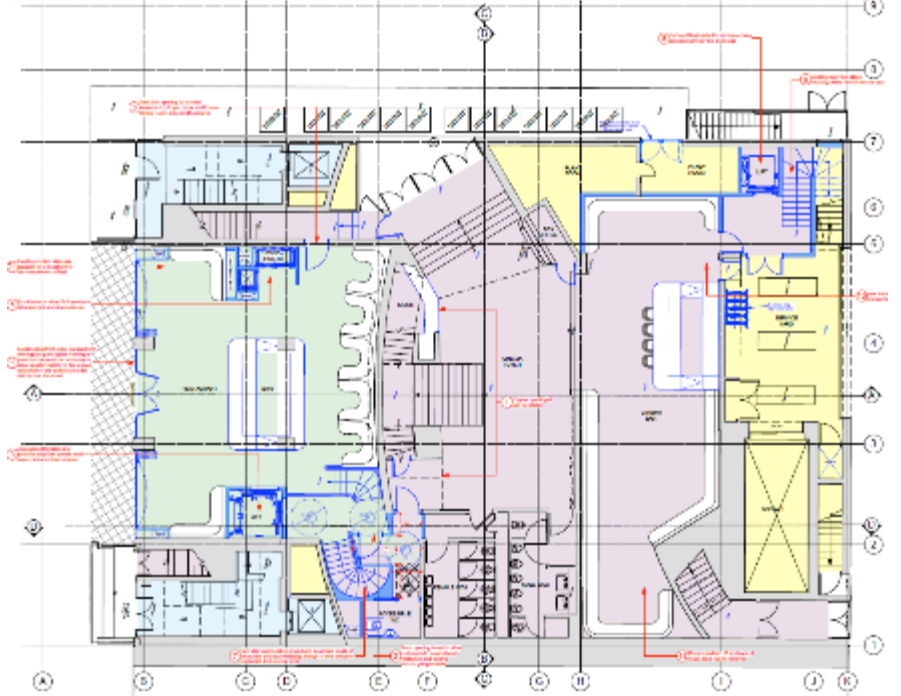
Proposed Basement



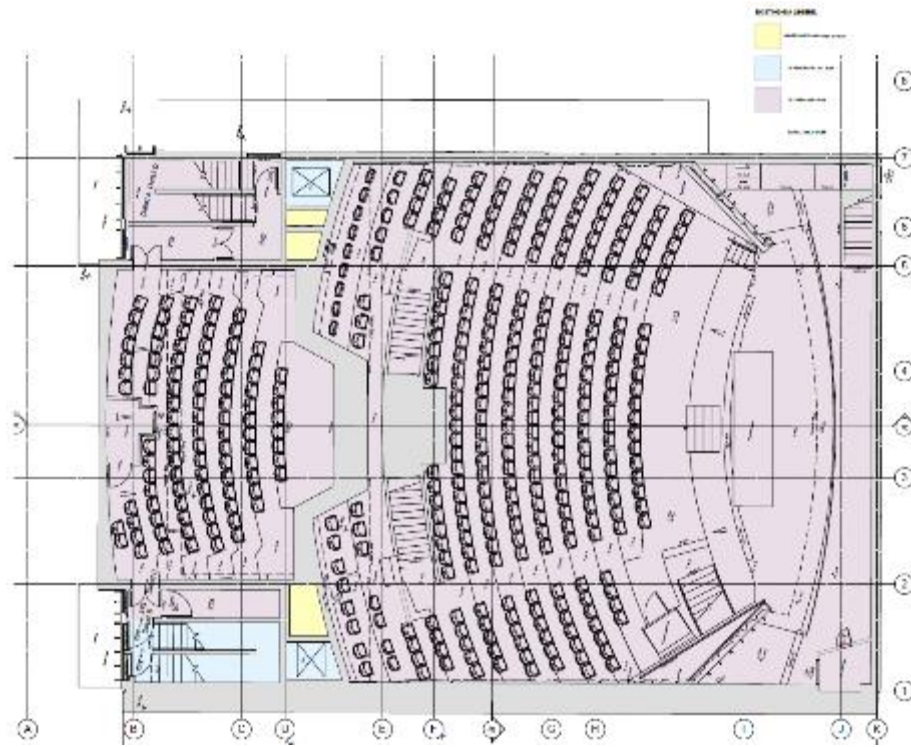
Existing Ground Floor



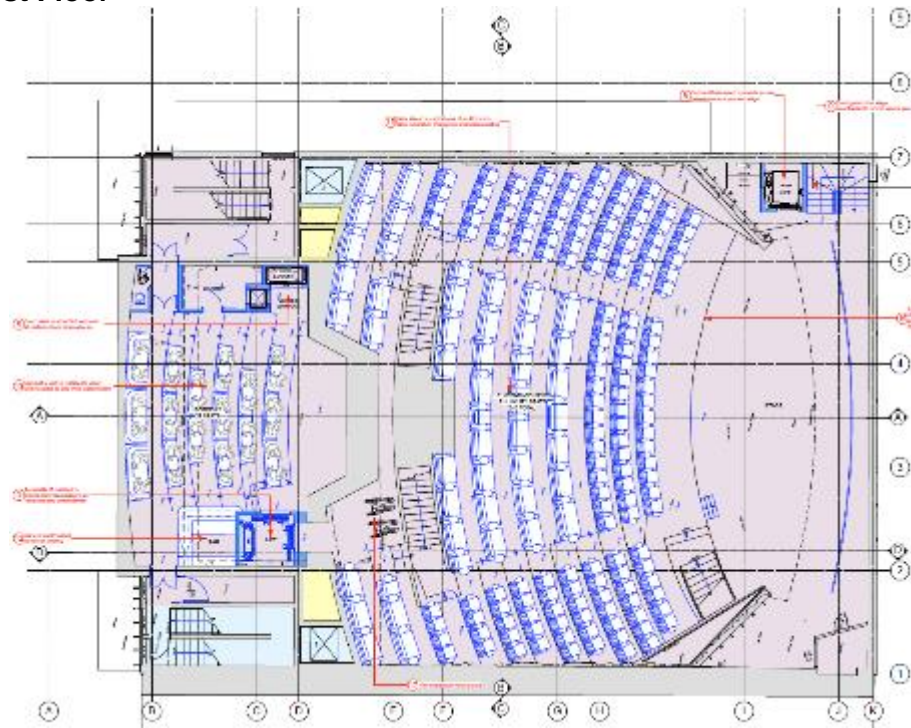
Proposed Ground Floor



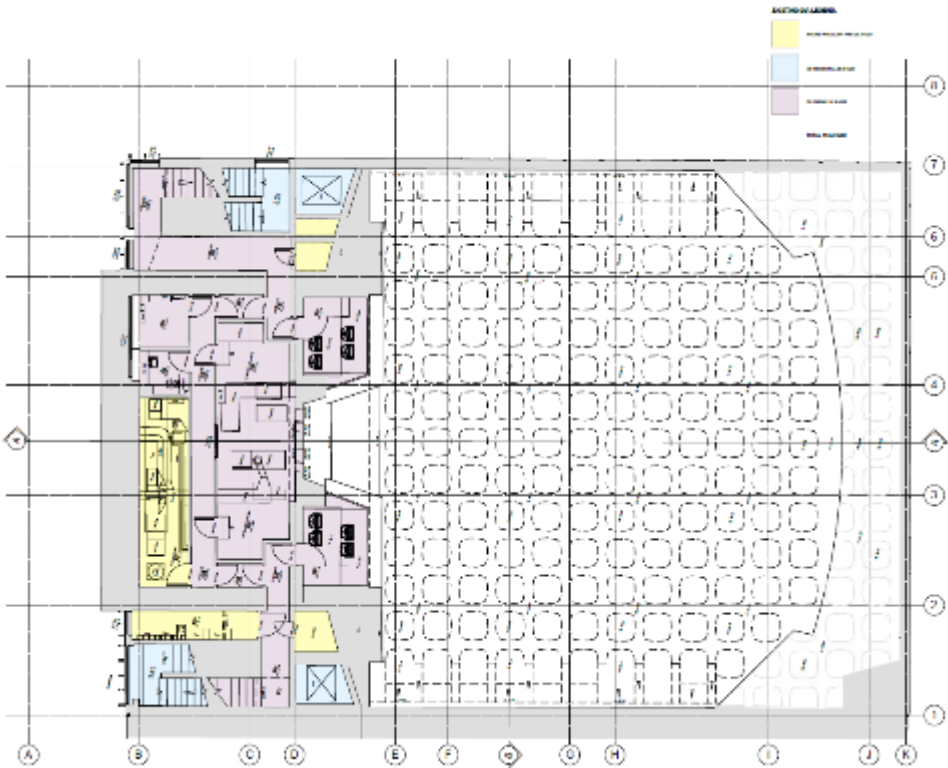
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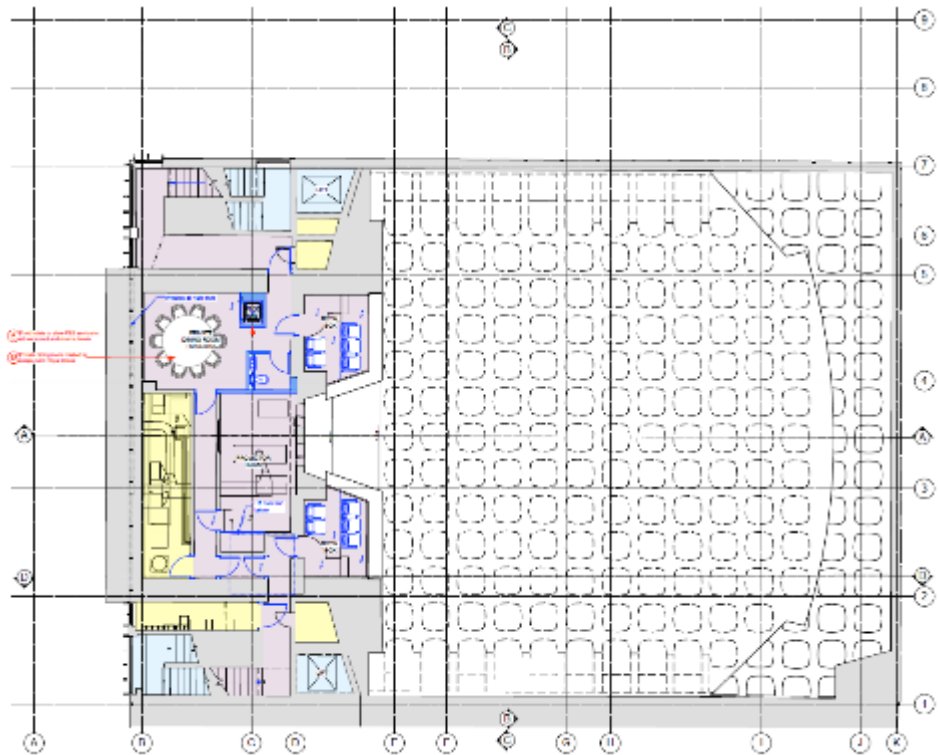
Proposed First Floor



Existing Second Floor



Proposed Second Floor



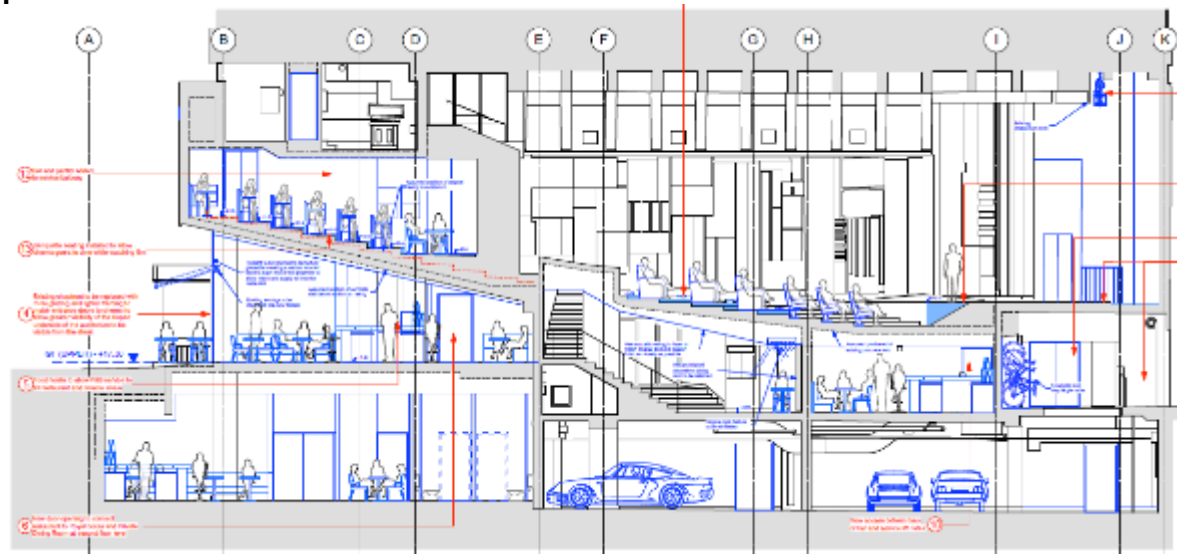
Existing Section A



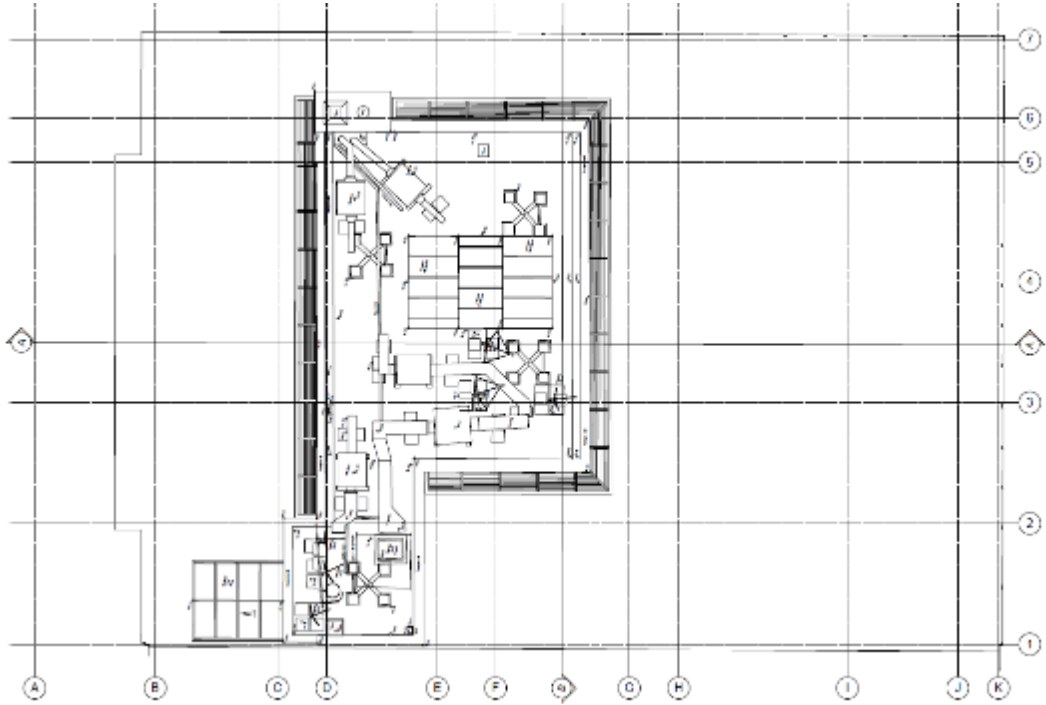
Datum 10.00m

Section A

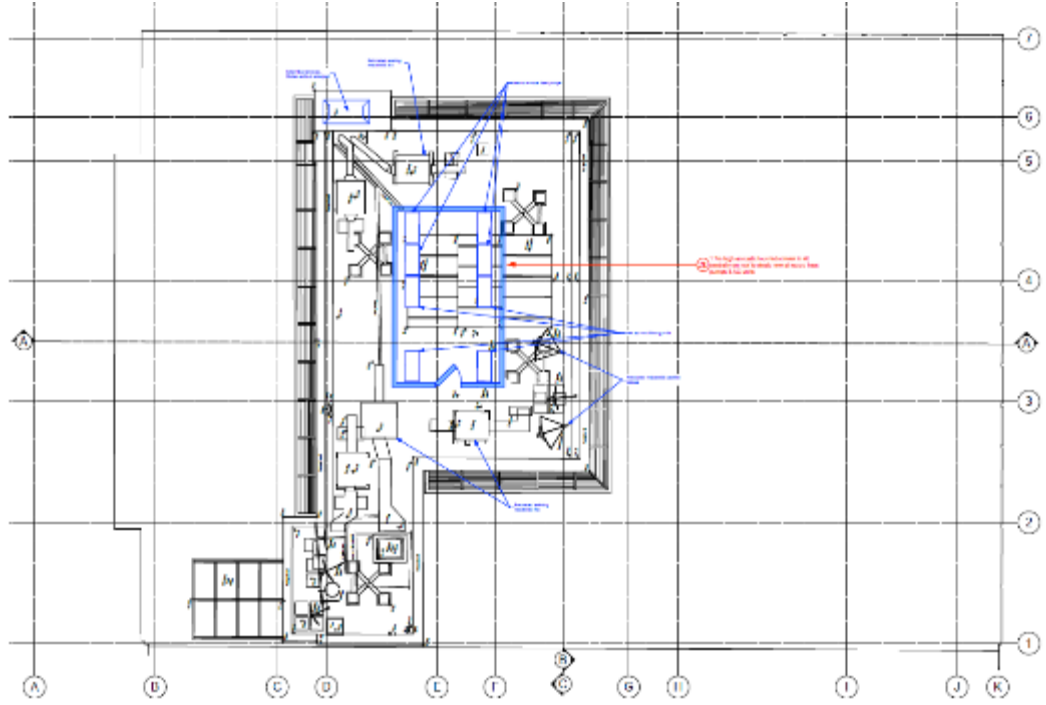
Proposed Section A



Existing Roof Plan



Proposed Roof Plan



23/06072/FULL - DRAFT DECISION LETTER

- Address:** Basement And Ground Floor, 38 Curzon Street, London, W1J 7TU
- Proposal:** Amalgamation of the existing cinema and restaurant, retaining the 2 existing cinema screens, to create a cinema-led, mixed-use premises; replacement plant equipment; and other associated external works. (Linked with 23/06073/LBC)
- Plan Nos:** Proposed Drawings:
 AHA-CCM-GA-099_REV I ; AHA-CCM-GA-100_REV I ; AHA-CCM-GA-101_REV G
 ; AHA-CCM-GA-102_REV E ; AHA-CCM-GA-110 ; AHA-CCM-GA-200_REV
 A ; AHA-CCM-GA-201_REV A ; AHA-CCM-GA-202 ; AHA-CCM-GA-203 ;
 AHA-CCM-GA-300_REV F ; AHA-CCM-GA-302_REV C ; AHA-CCM-GA-
 303_REV A.
- Other Documents:
 Document titled "DRAFT OPERATIONAL MANAGEMENT PLAN" for The Mayfair
 Cinema 38 Curzon Street and 37A Curzon Street, dated August 2023.

Case Officer: Adam Jones **Direct Tel. No.** 07779431391

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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). (R11AD)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 You must apply to us for approval of detailed drawings at 1:10 with full size sections of key details, of the following parts of the development:
- (1) The new windows and doors to the Curzon Street façade of the restaurant,
 - (2) The new doors to Herford Street.

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.

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

- 5 You must apply to us for approval of detailed drawings at 1:10 with full size sections of key details, of the following parts of the development:
- (1) The rooftop plant supporting structure and screening.

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 and install the acoustic attenuation measures shown on the approved drawings and details before you use the machinery. You must then maintain the attenuation measures in the form shown 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 Mayfair Conservation Area and to protect neighbouring residents from noise and vibration nuisance as set out in Policies 7, 33, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

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

background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
 - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
 - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
 - (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

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

- 7 No vibration shall be transmitted to adjoining or other premises and structures through the

building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

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

- 8 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 6 and 7 of this permission. You must not start work on this part of the development until we have approved in writing what you have sent us. (C51AB)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and 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. (R51AC)

- 9 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) 6 and 7 of this permission.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and 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. (R51AC)

- 10 The restaurant aspect of the hereby approved use shall only operate within the area labelled as 'restaurant'/coloured green on the approved drawings AHA/CCM/GA/099 Rev I and AHA/CCM/GA/100 Rev I.

Reason:

To protect the designated Asset of Community Value, to prevent harm to the character and function of the Shepherd Market Local Centre and harm the amenity of neighbouring occupiers. This would not meet Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 11 You must carry out the measures included in the approved operational management plan at all times that the mixed use cinema/restaurant (sui generis) is in use.

Item No.
1

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 12 The hereby approved openable shopfront windows on Curzon Street must be fixed shut between 23:00 and 07:00 the following morning.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 13 No music or amplified sound played in the premises shall be audible outside the premises at any time that the shopfront windows are open or closed.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number AHA/CC/GA/099 Rev. I prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the mixed use cinema/restaurant (sui-generis). (C14FC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 15 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

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 5, 6, 7, 8 and 9 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)
- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 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.
- 5 One or more of the uses we have approved are referred to as being 'sui generis'. This means that the use or uses are not in any particular class. Any future plans to materially (significantly) change the use that we have approved will need planning permission. (I78AA)

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.

23/06073/LBC - DRAFT DECISION LETTER

- Address:** Basement And Ground Floor, 38 Curzon Street, London, W1J 7TU
- Proposal:** Amalgamation of the existing cinema and restaurant, retaining the 2 existing cinema screens, to create a cinema-led, mixed-use premises; replacement plant equipment; and other associated external works. (Linked to 23/06072/FULL)
- Plan Nos:** Demolition Drawings:
 AHA-CCM-DM-099-1 ; AHA-CCM-DM-099_REV F ; AHA-CCM-DM-100-1_REV A ;
 AHA-CCM-DM-100_REV E ; AHA-CCM-DM-101-1_REV A ; AHA-CCM-DM-101_REV C ; AHA-CCM-DM-102-1 ; AHA-CCM-DM-102_REV D.
- Proposed Drawings:
 AHA-CCM-GA-099_REV I ; AHA-CCM-GA-100_REV I ; AHA-CCM-GA-101_REV G
 ; AHA-CCM-GA-102_REV E ; AHA-CCM-GA-110 ; AHA-CCM-GA-200_REV A ; AHA-CCM-GA-201_REV A ; AHA-CCM-GA-202 ; AHA-CCM-GA-203 ;
 AHA-CCM-GA-300_REV F ; AHA-CCM-GA-302_REV C ; AHA-CCM-GA-303_REV A.

Case Officer: Adam Jones

Direct Tel. No. 07779431391

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 2 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

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 Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 3 You must apply to us for approval of detailed drawings at 1:10 with full size sections of key details, of the following parts of the development:
 - (1) The new windows and doors to the Curzon Street façade of the restaurant,
 - (2) The new doors to Herford Street.

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.

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 Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 4 You must apply to us for approval of detailed drawings at 1:10 with full size sections of key details, of the following parts of the development:
- (1) All new internal doors at ground, first and second floor levels,
 - (2) The reinstated feature lighting in the foyer,
 - (3) The new cinema bar,
 - (4) The new staircase between the cinema foyer and restaurant.

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.

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)

- 5 You must apply to us for approval of detailed drawings at 1:10 with full size sections of key details, of the following parts of the development:
- (1) The rooftop plant supporting structure and screening.

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.

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 Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 6 You must apply to us for approval of the following parts of the development:
- (1) One of the new luxury seats in the main and second auditoria drawn at a scale of 1:5,
 - (2) A sample of the fabric covering for the new seating in the main auditorium,
 - (3) A sample of the carpet for the main auditorium.

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.

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)

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.

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.