

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 December 2023	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>11 Stanhope Gate, London, W1K 1AN</b>		
<b>Proposal</b>	Excavation of new basement level; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 6 residential units (use class C3), set back roof plant room and shroud to contain life safety kit, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new terrace at ground floor rear with basement ventilation.		
<b>Agent</b>	Savills		
<b>On behalf of</b>	Stanhope Property Ltd		
<b>Registered Number</b>	23/01537/FULL	<b>Date amended/ completed</b>	17 March 2023
<b>Date Application Received</b>	8 March 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair		

## 1. RECOMMENDATION

<p>1. Grant conditional permission subject to completion of a S106 legal agreement to secure the following:</p> <p>i). A late-stage viability review mechanism,</p> <p>ii). Car club membership for the occupiers of all residential units for a period of 25 years, and</p> <p>iii). Payment of S106 monitoring costs.</p> <p>2. If the legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>a) The Director of Town Planning and Building Control shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Town Planning and Building Control is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b) The Director of Town Planning and Building Control shall consider whether permission should be</p>
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refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Town Planning and Building Control is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY & KEY CONSIDERATIONS

This application was considered by the Planning Applications Sub-Committee (1) on 31<sup>st</sup> October 2023 (see attached copy of report and minutes). It was deferred, to be reported back to committee on completion of an addendum report to fully address the lack of affordable housing within the scheme and to provide further detail on the reasons why no payment in lieu was viable.

Copies of the applicant's Financial Viability Assessment Report (FVA, Savills) and the Council's independent consultant's Financial Viability Assessment (Aspinall Verdi) have been provided to members of the Sub-Committee. In summary, the applicant's viability assessment demonstrates that the scheme is not viable because of the high development costs associated with the development in this location, and the property's existing high use/investment value as an income producing asset. This sets a high threshold that precludes any affordable housing contribution. This has been rigorously tested through an independent viability review by the City Council's independent assessors Aspinall Verdi, who also conclude that the scheme is unviable.

As a brief background on the significance of viability in determining planning application, it should be noted that the National Planning Policy Framework (NPPF) includes advice on viability, as a factor to be taken into account to help ensure that development plans and policies are deliverable and that they facilitate development throughout the economic cycle (NPPF paragraph 174). Similar advice is provided in the Planning Practice Guidance on Viability (PPG) from the Department for Levelling Up, Housing & Communities.

Paragraph 173 of the NPPF states that: "sites and scale of development identified in the [local development] plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable".

Within planning viability assessments there are two assessments of land value that are undertaken to determine whether a proposal is viable: the assessment of residual land value (RLV) and benchmark land value (BLV – referred to as the Site Value Benchmark, SVB, in the Savills Financial Viability Assessment Report ). The RLV is determined through deducting development costs from development value to ascertain the underlying land value. This is then compared with the BLV, which can be considered as the value below which a reasonable land owner is unlikely to release a site for redevelopment. The PPG defines the benchmark land value (BLV) for any viability assessment as the existing use value (EUV) of the land, plus a premium for the landowner.

The process for establishing an appropriate benchmark land value for a viability assessment is key because this indicates the threshold for determining whether a scheme is viable or not. A development is typically deemed to be viable if the residual land value is equal to or higher than the

benchmark land value, as this is the level at which it is considered that the landowner has received a 'competitive return' and will release the land for development.

The NPPF's benchmark for viability appraisal is that it should "take account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable"

Key values to be assessed are local office and residential values, and the development costs (including build costs, contingency, professional fees and CIL payments) for implementing the proposed scheme. Taking all these factors into consideration, the applicant's FVA concludes that the RLV generates a deficit against the SVB. Therefore the scheme is not considered commercially viable in planning terms and technically unable to provide an affordable housing contribution other than on an ex gratia basis (which the applicant has not offered in this case). The key issues facing the proposed development are the high development costs associated with development in this location, and the property's standing investment value as an income producing asset. In planning viability terms, this inherently supports a relatively high EUV - and by extension SVB, setting a threshold at which the scheme is technically able to deliver an affordable housing contribution.

The viability assessment has been done on the basis of a 20% profit level, which is generally considered the standard amount, albeit at the upper end. The applicant has argued that this is an appropriate amount in the current market: reference is made to the February 2022 invasion of Ukraine by Russia de-stabilising the global economy, global inflationary pressures and increased interest rates, leading to economic uncertainty that in effect justifies the higher premium to incentivise the development. It is acknowledged that the development will result in additional residential accommodation, which is one of the City Plan priorities.

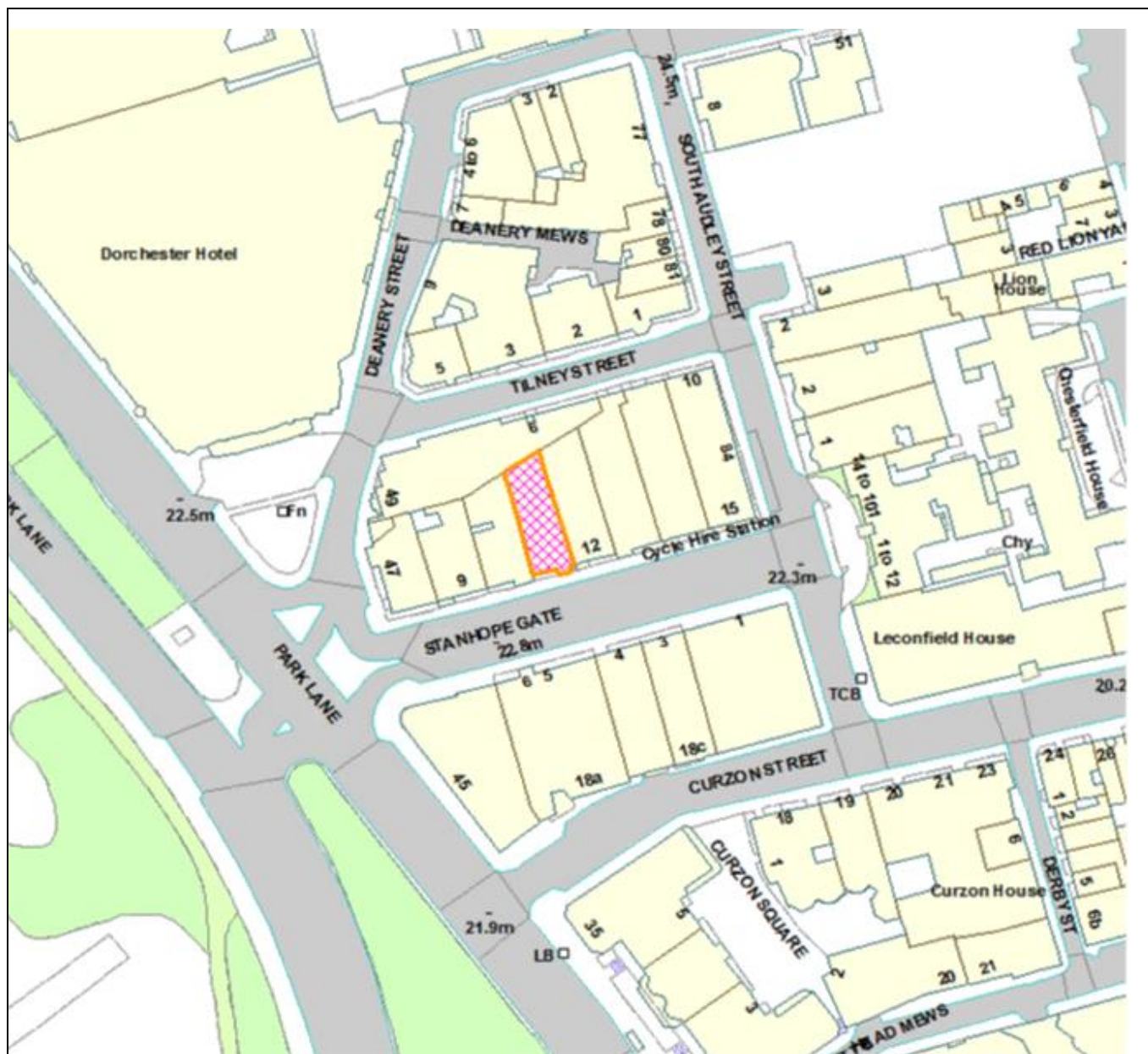
In respect of why the applicant is pursuing the wholly residential scheme (rather than the mixed use residential and office scheme previously approved and now being implemented), even though the viability report demonstrates a deficit, the planning agent has advised that "in this case, the proposed scheme achieves a much better efficiency in what is a relatively small floorplate building. The single use is more logical, more appropriate to manage and in the long term provides an improved residential environment and two more flats than currently consented. There is the on-going difficulty in trying to attract commercial tenants and so a fully residential scheme removes that long term uncertainty even if it means that the return is less at the moment."

"Importantly, the building has been in ownership by the current owner for well over a decade and has not been purchased as a speculative residential development for profit making purposes. The applicant has a vested interest in its longer term stewardship. Upon completion, there is every likelihood that the applicant will hold the asset for the long term and retain the dwellings. Viability is therefore not a prohibitive factor to the applicant's ambition to deliver a high-quality residential scheme which will deliver new housing in the area." (Email from Savills dated 30<sup>th</sup> October 2023.)

Aspinall Verdi, acting for the Council, has undertaken appraisals for the proposed development without any affordable housing contribution, and conclude that there is a significant deficit, not wholly dissimilar to the deficit calculated by the applicant. Aspinall Verdi has also undertaken a sensitivity test in order to determine the increase in revenues necessary for the proposed development to provide both the minimum BLV to the landowner and return the minimum risk-adjusted return of 20% profit on GDV to the developer. This demonstrates that even if the proposed development were to generate increased residential sales revenue by 10%, and there was a reduced rate for construction costs by 10%, there would still be a significant deficit.

Aspinall Verdi do recommend that a review mechanism is secured through the S106 legal agreement to ascertain whether any uplift can be secure a contribution towards affordable housing. The review mechanism will determine if market changes show that the viability of the scheme has improved and could deliver an increased contribution towards the City Council's affordable housing fund. Any viability assessment will be independently assessed again by appointed consultants. The scheme is therefore recommended for approval subject to this review mechanism, as well as securing car club membership for the flats and payment of S106 monitoring costs.

## 3. LOCATION PLAN



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4. PHOTOGRAPHS



## **5. CONSULTATIONS**

### **5.1 Application Consultations**

No further consultations nor responses since the application was considered by the Sub-Committee on

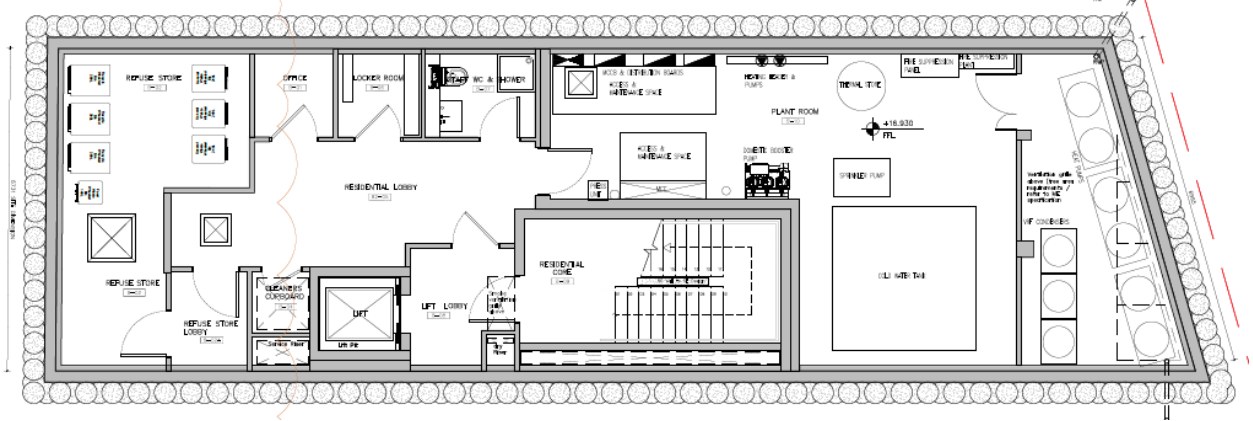
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

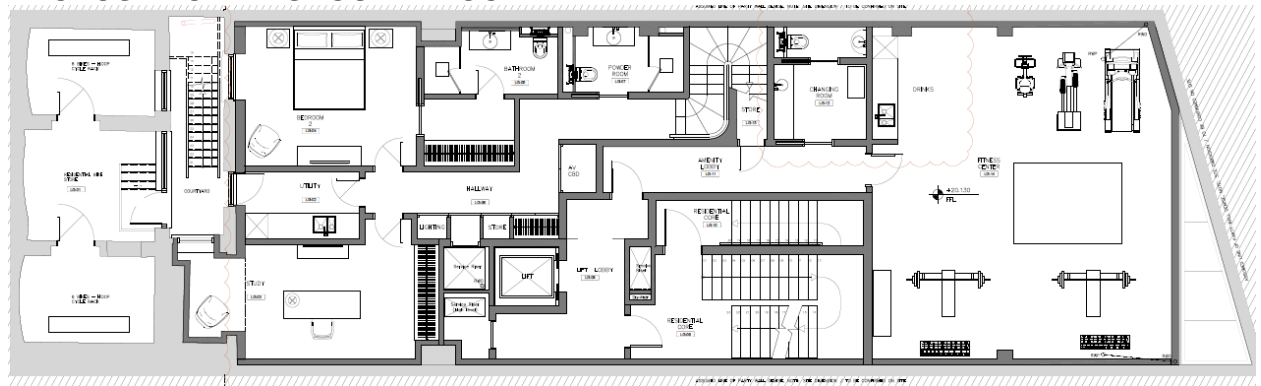


6. KEY DRAWINGS

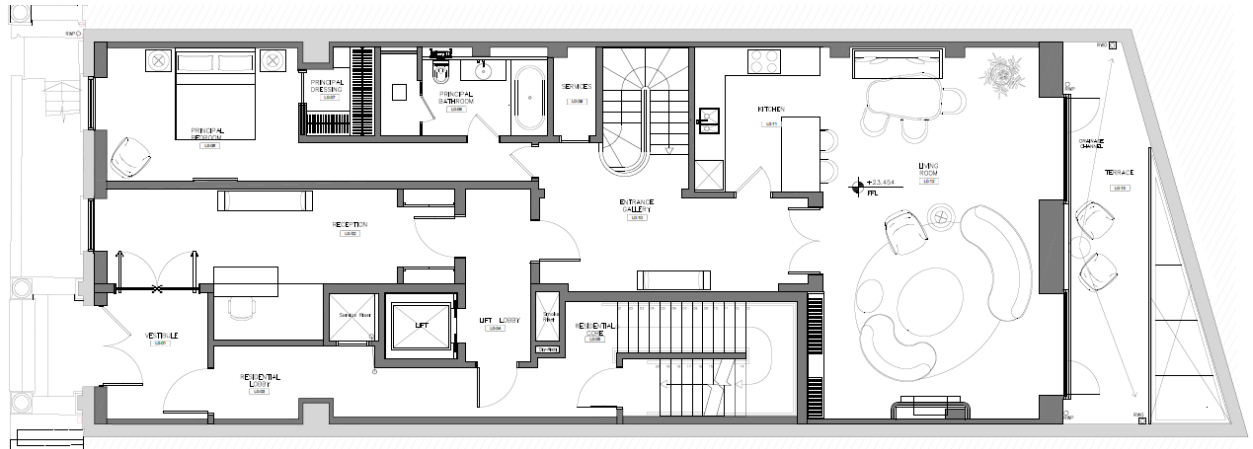
PROPOSED BASEMENT



PROPOSED OVER GROUND FLOOR

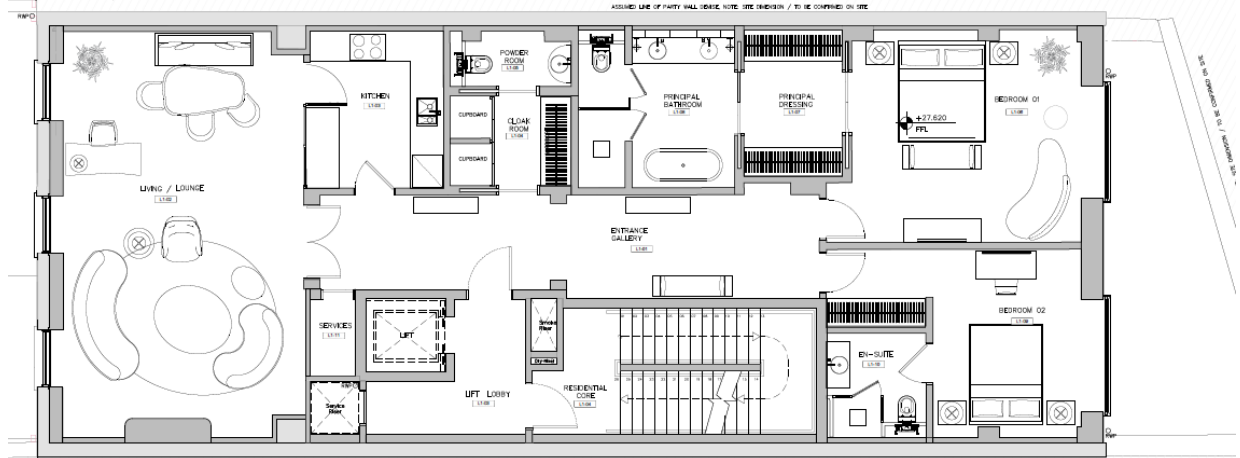


PROPOSED GROUND FLOOR

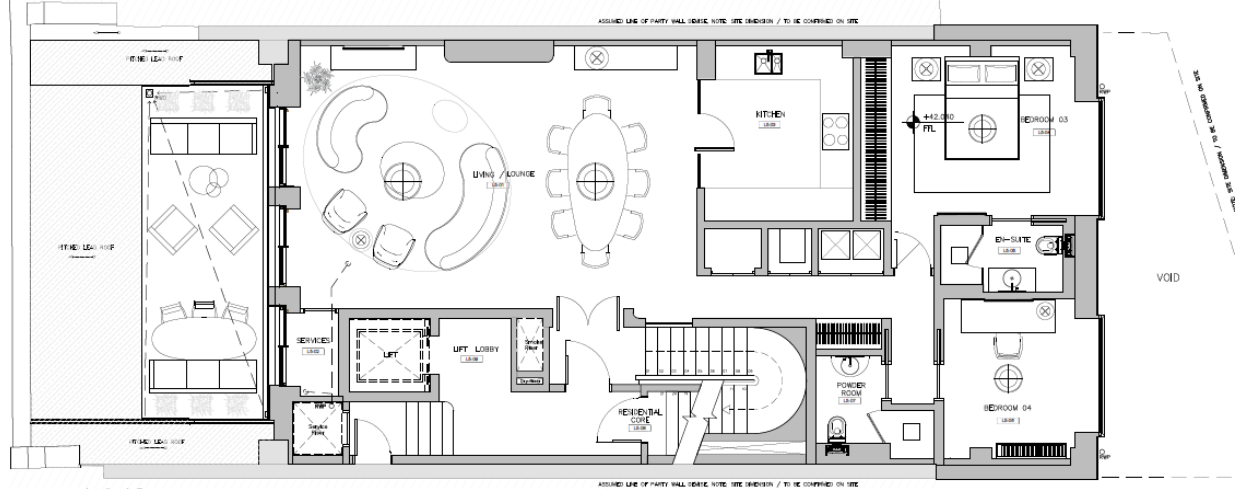




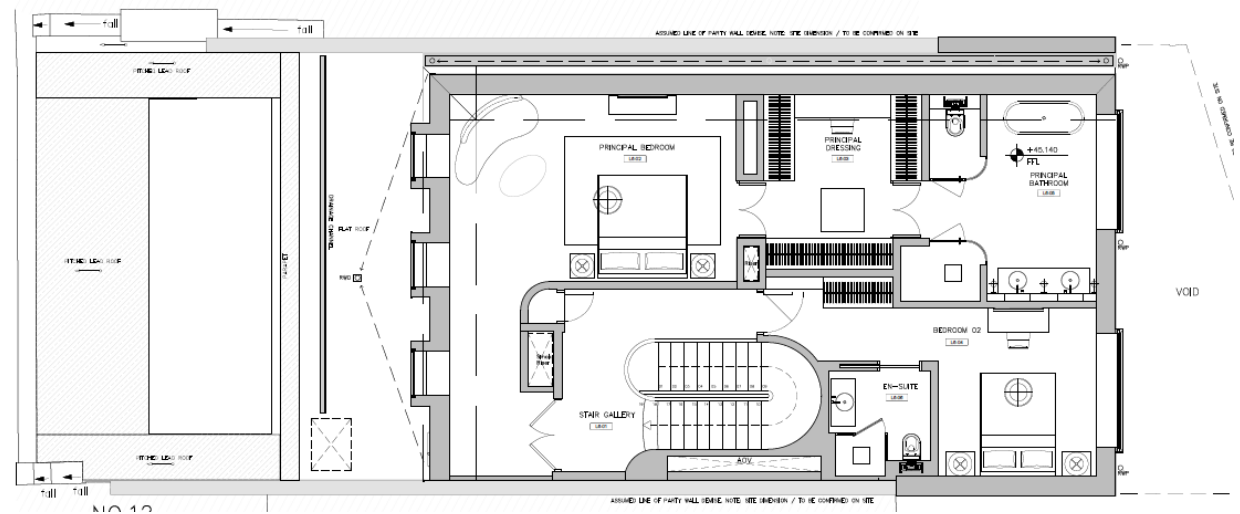
### PROPOSED TYPICAL UPPER FLOOR (1<sup>ST</sup> – 4<sup>TH</sup>)



### NO 12 PROPOSED 5<sup>TH</sup> FLOOR

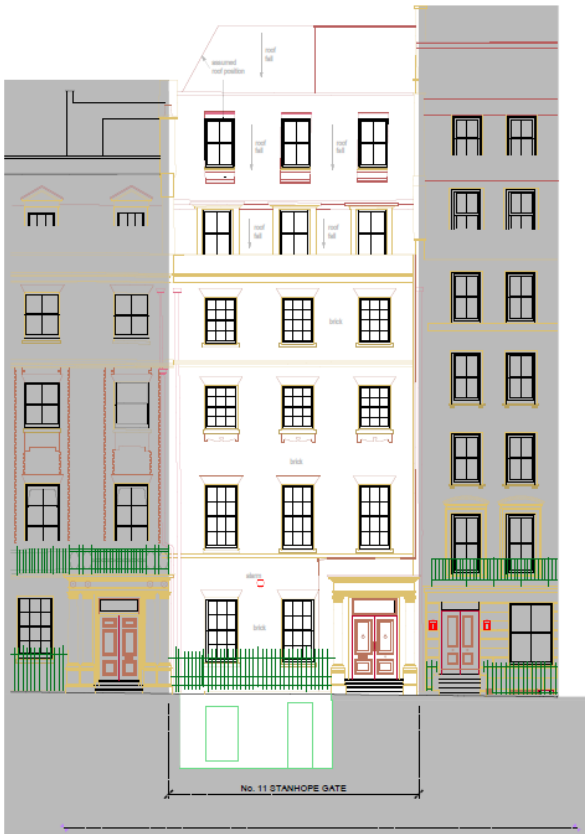


### PROPOSED 6<sup>TH</sup> FLOOR

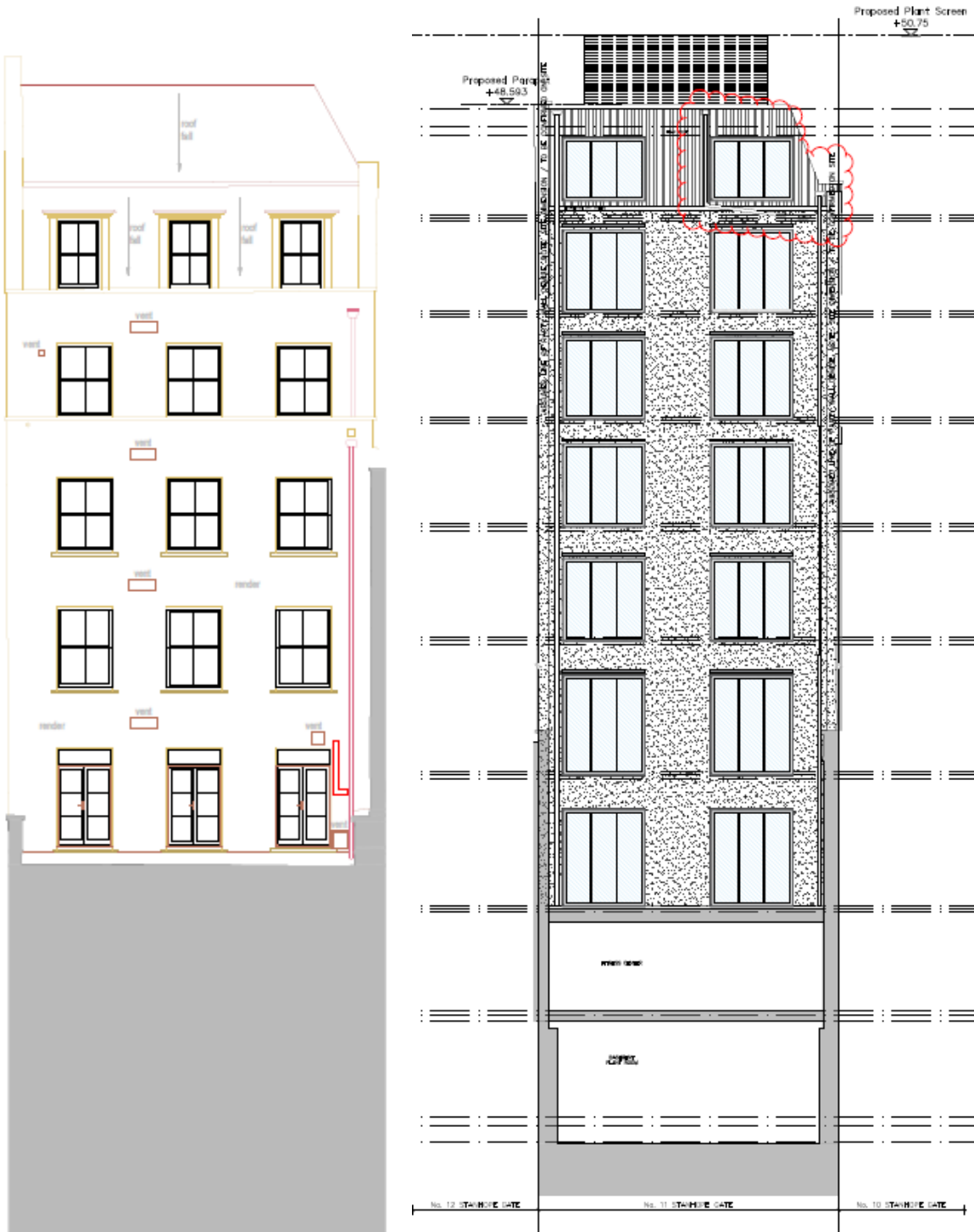


EXISTING

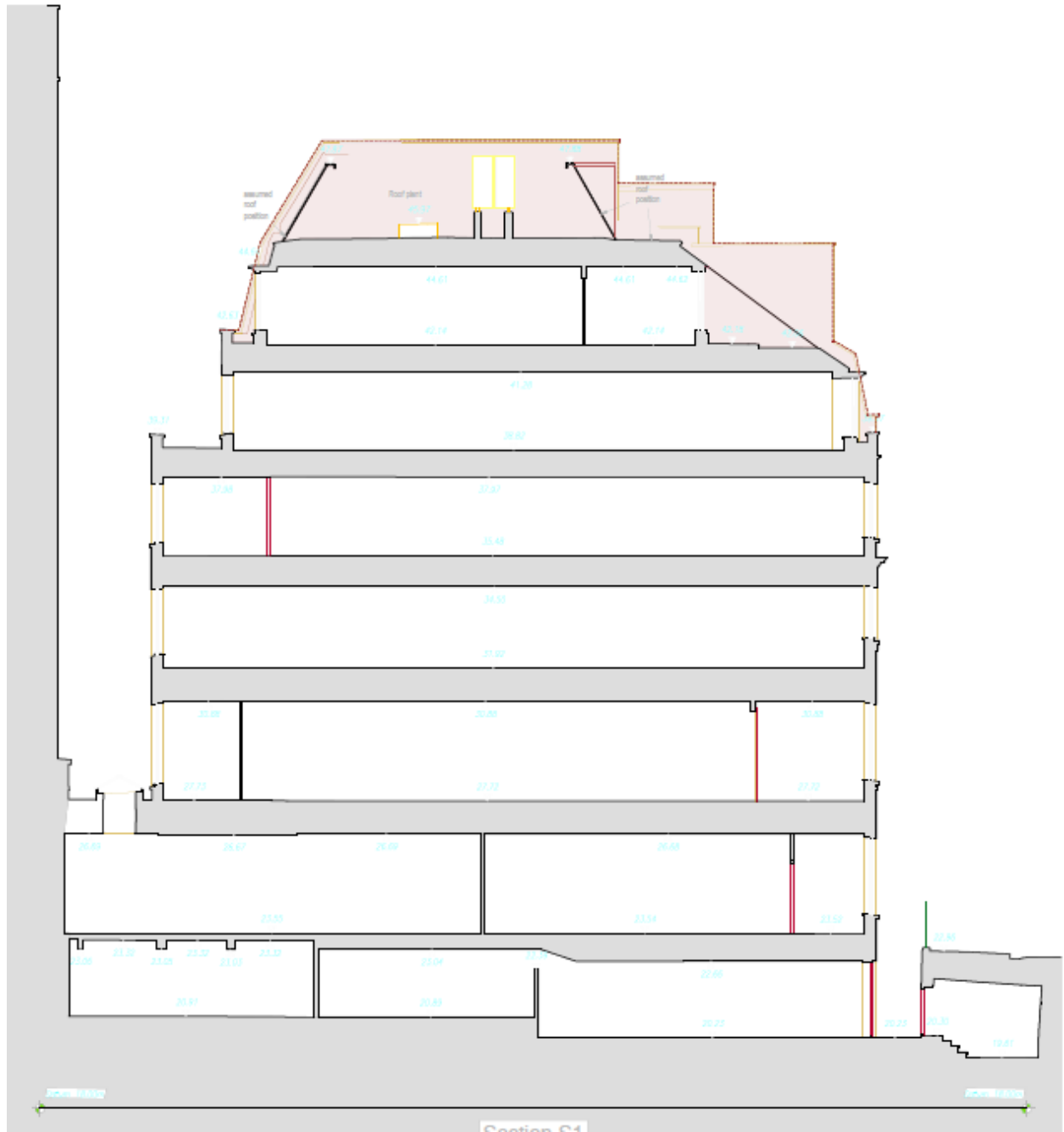
AND PROPOSED FRONT ELEVATION



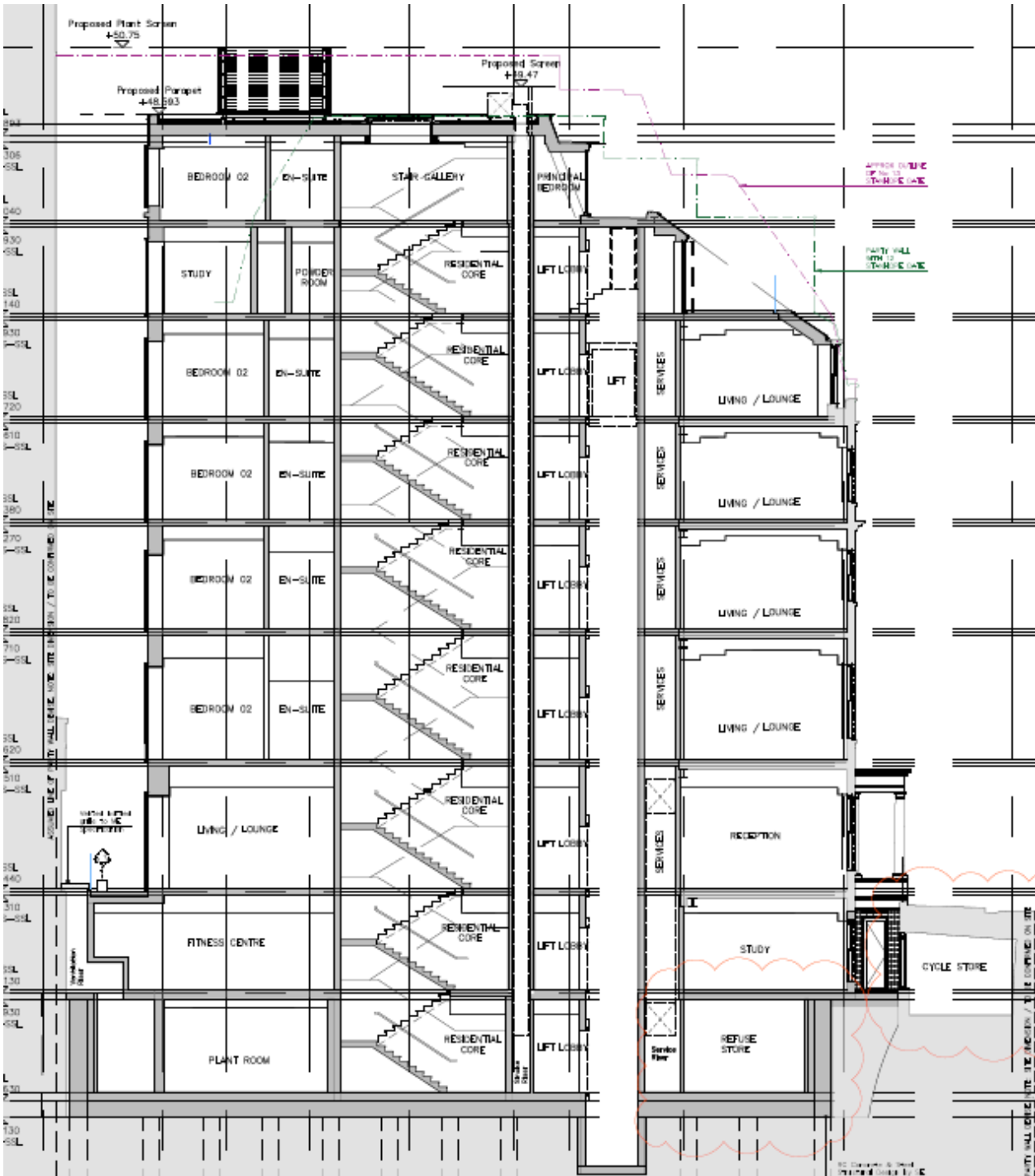
### EXISTING AND PROPOSED REAR ELEVATION



EXISTING SECTION -



**PROPOSED SECTION**



**DRAFT DECISION LETTER**

**Address:** 11 Stanhope Gate, London, W1K 1AN

**Proposal:** Excavation of new basement level; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 6 residential units (use class C3), set back roof plant room and shroud to contain life safety kit, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new terrace at ground floor rear with basement ventilation.

**Reference:** 23/01537/FULL

**Plan Nos:** A-GA-099 REV P03 (PROPOSED BASEMENT FLOOR LEVEL),  
A-GA-099 REV P03 (PROPOSED LOWER GROUND FLOOR LEVEL),  
A-GA-100 REV P01, A-GA-101 REV P01, A-GA-102 REV P01,  
A-GA-103 REV P01, A-GA-104 REV P01, A-GA-105 REV P01,  
A-GA-106 REV P01, A-GA-107 REV P01, A-GA-108 REV P01,  
A-GA-109 REV P01, 942-GA-110 REV P02 and 942-GA-110 REV P03;  
Desk Study & Ground Investigation Report from GEA reference J21347 revision 6 dated 22nd February 2023.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 07866 039895

**Recommended Condition(s) and Reason(s)**

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

Reason:

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

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

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

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special

circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 You must carry out the works hereby approved in compliance with the signed agreement dated 24 January 2023 confirming that the implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice.

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)

- 4 The ancillary fitness centre at lower ground floor level shall only be used by residents of the building and their guests.

Reason:

To protect the living conditions of people who may use the property in future as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13DD)

- 5 The three bedroom residential unit shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

Reason:

To protect family accommodation as set out in Policy 8 of the City Plan 2019 - 2040 (April 2021). (R07DD)

- 6 You must provide the waste store shown on drawing A-GA-099 REV P03 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

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

- 7 You must apply to us for approval of details of secure cycle storage within the front vaults at lower ground floor level shown on drawing A-GA-099 REV P03 for the residential use. You must not start any work on this part of the development until



we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the residential flats. You must not use the cycle storage for any other purpose. (C22HA)

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)

- 8 (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)

- 9 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)

- 10 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 8 of this permission. You must not operate the plant (apart from testing it in order to meet the requirements of this condition) nor occupy the building 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)

- 11 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of

external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49AB)

- 12 The emergency plant and generators hereby approved shall only be used for the purpose of public safety and life critical systems and shall not be used for backup equipment for commercial uses such as Short Term Operating Reserve (STOR). The emergency plant and generators shall be operated at all times in accordance with the following criteria: , (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the LA90, 15 mins over the testing period) by more than 10 dB one metre outside any premises., (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required in an emergency situation., (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays. (C50AC)

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 13 You must carry out the development in accordance with the details in the Desk Study & Ground Investigation Report from GEA reference J21347 revision 6 dated 22nd February 2023. You must apply to us and receive our written approval for phase 3 before any further demolition or excavation work is carried out, and for phase 4 when the development has been completed but before it is occupied.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution. With reference to the discovered asbestos, any future submissions to address phase 3 (remediation) should provide:

- o A risk assessment specific to the project - what is the nature of the asbestos, what are the exposure pathways, and who is potentially at risk?,
- o Is the work classed as licensed work or non-licensed work?,
- o Does the Health & Safety Executive need to be notified of the work?,
- o If not, confirmation of this.,
- o What is the personal protective equipment (PPE) and respiratory protective equipment (RPE) requirements?,
- o What type of training do operatives require?,
- o What control measures need to be considered during earthworks? This may include damping down, material handling, stockpiling, soil sentencing, etc.,
- o Decontamination of operatives and site plant., o What are the waste disposal options?,

o Does the site require reassurance air monitoring? This may take place close to the work activities, or at the site boundary to ensure that neighbours aren't impacted.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate. In particular it must include:

- o Confirmation that the installed basement water proofing is compliant with BRE guidance with regard to Radon;
- o The asbestos contamination on site has been removed and there are no areas of soft landscaping;
- o Details of the watching brief and if contamination was discovered, details of the contamination, testing details and confirmation of the remediation, where required.

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in Policy 33(E) of the City Plan 2019 - 2040 (April 2021). (R18AB)

- 14 The residential unit(s) hereby approved shall be constructed to achieve mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption) using the fittings approach.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 16 No development should occur between the highway (footway) surface and a depth of 900mm.

Reason:

To ensure sufficient space remains for highway infrastructure and utilities and in accordance with Policy 45 of the City Plan 2019 - 2040 (April 2021).

- 17 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)

- 18 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

**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)

- 19 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

**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)

- 20 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balcony. (C26OA)

**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)

- 21 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application., , air source heat pumps, , You must not remove any of these features. (C44AA)

**Reason:**

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

**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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:, i). A late-stage viability review mechanism and, ii). Car club membership for the occupiers of all residential units for a period of 25 years.
- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering). (I54AB)
- 4 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) to make sure that you meet all the requirements before you draw up contracts for demolition and building work. , , When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974)., , British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.
- 5 Under the Construction (Design and Management) Regulations 2015, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following: , , \* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible; , , \* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must

comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant., , Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm). , , It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 6 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.

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.



[Relevant extract]



CITY OF WESTMINSTER

# MINUTES

## Planning Applications Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 31st October, 2023**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Ruth Bush (Chair), Sara Hassan, Ryan Jude and Elizabeth Hitchcock

#### 1 MEMBERSHIP

- 1.1 It was noted that Councillors Bush and Jude had replaced Councillors Williams and Chowdhury on the Sub-Committee.
- 1.2 A Councillor was required to Chair the evening's meeting and the SubCommittee

#### **RESOLVED:**

That Councillor Ruth Bush be elected Chair of Planning Applications SubCommittee (1) for that evening's meeting.

#### 2 DECLARATIONS OF INTEREST

- 2.1 The Chair explained that a week before the meeting, all four Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not

mean that the issue had been ignored. Members would have read about the issue and comments made by correspondents in the papers read prior to the meeting.

- 2.2 Councillor Hitchcock declared that in respect of Item 2 the application site was situated within her ward, but she had held no discussions with any parties regarding the application.

### **3 MINUTES**

- 3.1 **RESOLVED:** That the minutes of the meeting held on 22 August 2023 be signed by the Chair as a correct record of proceedings.

### **4 TREE PRESERVATION ORDER TPO 697 - 92 CLIFTON HILL, LONDON, NW8 0JT**

To confirm or not to confirm Tree Preservation Order No. 697.

Additional representations were received from Councillor Caroline Sargent (23.10.23) and Westminster City Council's Arboricultural Officer (24.10.23).

Late representations were received from Westminster City Council's Town Planning and Building Control Team (15.06.23) and Arboricultural Officer (23.05.23).

Simon Gamlin addressed the Sub-Committee in objection to the order.

#### **RESOLVED UNANIMOUSLY:**

That Tree Preservation Order No. 697 (2023) be confirmed without modification with permanent effect.

### **5 PLANNING APPLICATIONS**

The Sub-Committee heard the planning applications in the following order: 2, 3 and 1.

#### **1 11 STANHOPE GATE, LONDON, W1K 1AN**

Excavation of new basement level; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor

and new roof level, to facilitate the provision of 6 residential units (use class C3), set back roof plant room and shroud to contain life safety kit, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new terrace at ground floor rear with basement ventilation.

The Presenting Officer also tabled a revised recommendation in addition to the following amended conditions:

1. Grant conditional permission subject to completion of a S106 legal agreement to secure the following:
  - i. A late-stage viability review mechanism
  - ii. Car club membership for the occupiers of all residential units for a period of 25 years.
2. If the legal agreement has not been completed within six weeks of the date of the Committee resolution, then:
  - a) The Director of Town Planning and Building Control shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Town Planning and Building Control is authorised to determine and issue such a decision under Delegated Powers; however, if not
  - b) The Director of Town Planning and Building Control shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Town Planning and Building Control is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

**Amended Condition 3:**

You must carry out the works hereby approved in compliance with the signed agreement dated 24 January 2023 confirming that the implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice.

Deletion of Condition 14 and replacement with:

**Amended Condition 14:**

The residential unit(s) hereby approved shall be constructed to achieve mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption) using the fittings approach.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

**Additional Condition 21:**

You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application.

Air source heat pumps;

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

**RESOLVED UNANIMOUSLY:**

That the application be deferred and be reported back to committee on completion of an addendum report to fully address the lack of affordable housing within the scheme and to provide further detail on the reasons why no payment in lieu was viable.

The Meeting ended at 9.38 pm

**CHAIR:**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 31 October 2023	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>11 Stanhope Gate, London, W1K 1AN</b>		
<b>Proposal</b>	Excavation of new basement level; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 6 residential units (use class C3), set back roof plant room and shroud to contain life safety kit, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new terrace at ground floor rear with basement ventilation.		
<b>Agent</b>	Savills		
<b>On behalf of</b>	Stanhope Property Ltd		
<b>Registered Number</b>	23/01537/FULL	<b>Date amended/ completed</b>	17 March 2023
<b>Date Application Received</b>	8 March 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair		

## 7. RECOMMENDATION

Grant conditional permission

## 8. SUMMARY & KEY CONSIDERATIONS

This application is the latest of several for this building for its gradual conversion from offices to residential use, with a new basement and roof extensions and other alterations. The application is an amalgamation of the previous applications, with the main difference now being the use of the lower ground, ground and first floors from what had been retained office/alternative Class E uses to two additional residential flats (in addition to the four flats already approved for the second to new sixth floors. As before, this application includes the new basement, roof extensions and other alterations previously approved.

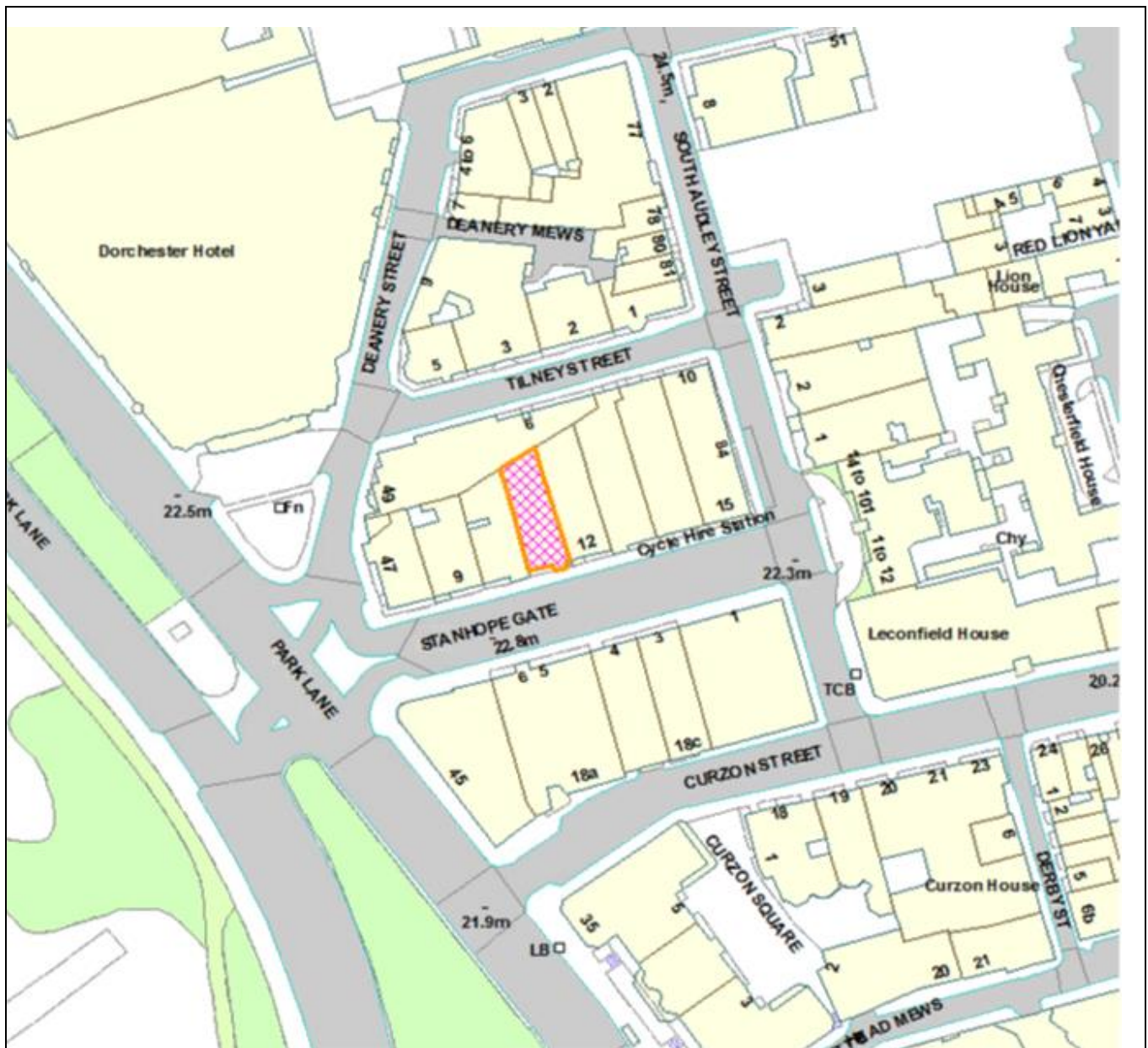
The key considerations in this case are:

- The loss of the office accommodation; and
- The lack of any affordable housing and payment in lieu.

There have been protracted discussions between the applicant and the Health and Safety Executive (HSE) about fire safety arrangements, and following some internal alterations to the layout of the lower floors, the HSE no longer objects to the proposal. There are no other objections.

For the reasons set out in the main report, the loss of office in this location is considered to be acceptable, with Stanhope Gate considered to be primarily in residential use. The application has been subject to a viability assessment by independent consultants on behalf of the Council, who have advised that it is unviable for the proposals to provide any actual affordable housing nor a payment in lieu.

## 9. LOCATION PLAN



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10. PHOTOGRAPHS



## 11. CONSULTATIONS

### 11.1 Application Consultations

#### HISTORIC ENGLAND (ARCHAEOLOGY)

No further assessment or conditions are necessary.

#### MAYFAIR RESIDENTS GROUP

Any response to be reported verbally

#### MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally

#### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally

#### HEALTH AND SAFETY EXECUTIVE

Raised a number of detailed concerns and other comments about the proposed layout; following discussions with the applicant and subsequent revisions, are now content with the proposals.

#### ENVIRONMENTAL SCIENCES

Initial objection on the grounds of air quality, as the application submission was missing an air quality assessment. This has subsequently been provided and Environmental Sciences no longer object, subject to conditions.

#### HIGHWAYS PLANNING

No objection subject to conditions.

#### PROJECTS OFFICER (WASTE)

No objection subject to condition securing the storage for waste and recyclables.

#### BUILDING CONTROL

No objections.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 48; Total No. of replies: 0

PRESS NOTICE/ SITE NOTICE: Yes

### 11.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that 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.

However, the Early Community Engagement guidance only expects such engagement to

take place where the proposal may have a significant impact on residential amenity or other noise sensitive receptors.

## **12. WESTMINSTER'S DEVELOPMENT PLAN**

### **12.1 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.

### **12.2 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 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.

### **12.3 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.

## **13. BACKGROUND INFORMATION**

### **13.1 The Application Site**

The application building comprises lower ground, ground and five upper floors with roof level plant above. Until relatively recently it was used solely for office purposes (Class E), though it was only partially occupied, despite attempts for several years to market the vacant accommodation. Originally it would have been a residential townhouse. It is

located on the north side of Stanhope Gate, between Park Lane and South Audley Street. The building is not listed but it is within the Mayfair Conservation Area, the Great Estates Area of Archaeological Priority and the Central Activities Zone. It is also within West Mayfair as designated in the Mayfair neighbourhood Plan ("as a location which is predominately residential").

### 13.2 Recent Relevant History

1<sup>st</sup> August 2023 (23/00926/FULL) – planning permission granted for “Variation of condition 1 of planning permission dated 20<sup>th</sup> October 2021 (RN:21/06916/FULL) which in itself varies Condition 4 of planning permission dated 20 April 2021 (RN: 20/07835/FULL) for, 'Excavation of new basement level to provide shared ancillary storage for the residential and the Class E (commercial, business and service) space including bin storage, cycle parking, plant and surplus storage lockers etc; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 4 residential units across second to sixth floor level (with the retained use of lower ground to first floor level as Class E (commercial, business and service) space and shared communal spaces); set back roof plant room and lift overrun, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new lightwell at rear'; to vary the wording of Condition 4 to afford greater flexibility in the uses that the lower ground, ground floor, first floor and non-residential parts of the basement can be used for under Class E of the Use Classes Order (to allow use for financial/professional services and for health/medical services, as well as offices). (S73 Application). NAMELY, to allow minor internal and external alterations to the consented scheme resultant of continued design evolution and alterations which have become necessary in order to comply with updated Building Regulations and Fire Regulation requirements. (S73 Application)”

12<sup>th</sup> January 2022 (21/07567/FULL) – permission granted for “Variation of Condition 1 of planning permission dated 21 April 2021 (RN: 20/07835/FULL) for, 'Excavation of new basement level to provide shared ancillary storage for the residential and the Class E (commercial, business and service) space including bin storage, cycle parking, plant and surplus storage lockers etc; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 4 residential units across second to sixth floor level (with the retained use of lower ground to first floor level as Class E (commercial, business and service) space and shared communal spaces); set back roof plant room and lift overrun, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new lightwell at rear'; NAMELY, to allow amendments to the access to the Class E space via lower ground floor level, with disabled access provided via ground floor level; internal reconfiguration allowing for lifts to open directly into residential units; additional roof level sky lights, with a reduction in size of approved sky lights; installation of an external drain pipe to the rear elevation. (Application under Section 73 of the Act).

14<sup>th</sup> December 2021 (21/06916/FULL) – permission granted for “Variation of Condition 4 of planning permission dated 20 April 2021 (RN: 20/07835/FULL) for, 'Excavation of new basement level to provide shared ancillary storage for the residential and the Class E

(commercial, business and service) space including bin storage, cycle parking, plant and surplus storage lockers etc; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 4 residential units across second to sixth floor level (with the retained use of lower ground to first floor level as Class E (commercial, business and service) space and shared communal spaces); set back roof plant room and lift overrun, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new lightwell at rear'; NAMELY, to vary the wording of Condition 4 to afford greater flexibility in the uses that the lower ground, ground floor, first floor and non-residential parts of the basement can be used for under Class E of the Use Classes Order (to allow use for financial/professional services and for health/medical services, as well as offices). (S73 Application).” [This allowed potential use of the lower floors for financial/professional services and the provision of medical/health services, subject to conditions.]

21<sup>st</sup> April 2021 (20/07835/FULL) – permission granted for “Excavation of new basement level to provide shared ancillary storage for the residential and the Class E (commercial, business and service) space including bin storage, cycle parking, plant and surplus storage lockers etc; extension of the existing fourth floor rearwards and to create a mansard roof form; replacement of existing fifth floor with small extension to the rear (to match the fourth floor below); creation of new sixth floor and new roof level, to facilitate the provision of 4 residential units across second to sixth floor level (with the retained use of lower ground to first floor level as Class E (commercial, business and service) space and shared communal spaces); set back roof plant room and lift overrun, alterations and changes to rear fenestration at all levels, residential balcony at front fifth floor level and new lightwell at rear.”

This permission has been implemented and works are well underway on site.

24<sup>th</sup> October 1996 (965426) – permission granted for “External alterations including erection of rear extensions at ground to fifth floor levels for additional Class B1 offices and rebuilding/extension of roof level plant enclosure.”

3<sup>rd</sup> September 1991 (912999) – permission granted for “Installation of new chiller unit and 200 gallon water tank on the roof.”

#### 14. THE PROPOSAL

This application is effectively an amalgamation of several recent permissions (see above), with the main difference being that the applicant now wishes to convert the commercial use on the lower ground, ground and first floors to additional residential accommodation. The main works include the following:

Permission is sought for:

- a new basement to provide ancillary storage, originally for both the commercial and residential accommodation on the upper floors but now solely for the residential accommodation. Following minor revisions at the request of the HSE, the area originally cycle storage is now proposed for refuse storage, along with mechanical

- plant.
- the lower ground floor contains the lower part of a maisonette linked to the ground floor, a small fitness centre for the residents and cycle storage in the front vaults (where the refuse storage was originally proposed). One of the changes requested by the HSE was the removal of a sauna room as part of the fitness centre, which has been done.
  - the ground floor provides the main entrance to the building, with a residential lobby leading to the staircase, a separate reception area (for a concierge) and the upper part of the 2-bedroom maisonette which extends to the lower ground floor.
  - the first, second, third and fourth floors each contain a 2-bedroom flat;
  - the fifth and new sixth floors contain a 4-bedroom maisonette;
  - from second to fifth floor, the proposals are for the change of use of the existing.
  - A minor extension at fourth floor rearwards is also proposed with a replacement fifth floor level with minor rear extension, and a small balcony at front fifth floor level;
  - other minor alterations to the rear fenestration;

The above proposals (apart from the residential use on the lower ground, ground and first floors) were largely part of the permission granted in April 2021. The current scheme also incorporates the following changes that were approved in August 2023

- Provision of an additional rainwater pipe to the rear façade of the building. New rainwater pipework will be provided running within the building which shall connect to the combined drainage system at basement level;
- Alterations to the consented basement excavation to raise the formation level by 350mm (resulting in less excavation);
- Provision of a generator as a secondary source of power as required by building regulations Approved Document 2010 Part B and guidance, to be mounted at roof level and screened from view with an acoustic enclosure behind a screen.
- Provision of a smoke extract fan mounted at roof level, connected to a smoke extract shaft, to be screened from view behind a smoke fan shroud.
- Internal alterations to incorporate a firefighting lift, corridor smoke extract system and sprinklers.

The changes in the office and residential uses in the building are summarised in the table below.

**Table: Existing and proposed land uses.**

Land Use	Existing GIA (sqm)	Approved (GIA) (sqm)	Proposed GIA (sqm)
Offices	1,274	644	0
Residential	0	915	1,563
Total	1,274	1,559	1,563

## 15. DETAILED CONSIDERATIONS

### 15.1 Land Use

#### Loss of offices

When permission was first granted in April 2021 to convert the second to fifth floors from office to residential, the applicant advised at the time that the floors have been let on an individual basis, with only the first, third, fourth and fifth in active use over the last 30 months, totalling 646.2 sqm of "active" office accommodation. The remaining floors, lower ground, ground and second floor levels had been vacant but extensively marketed for a period of 30 months by a local agent since May 2018. The proposals involved the re-provision of the "active" office floorspace at lower ground, ground and first floors whilst changing the use of the "vacant" floorspace to residential at second to fifth floors (and new sixth floor) to provide a mixed-use building.

At the time of that decision, the new City Plan was due to be adopted imminently and carried significant weight as a material consideration but the proposals also needed to be considered against the Saved Unitary Development Plan policies and the City Plan November 2016. The policy presumption at the time was to protect what had been Class B1 offices, although this position had been compromised by the introduction of Class E (putting offices in the same use category as a number of other commercial uses)

The London Plan Policy E1 supports the redevelopment, intensification and change of use of surplus office space to other uses including housing, provided that the scope for the re-use of otherwise surplus large office spaces for smaller office units and/or lower cost and affordable workspace has been explored. Surplus office space includes sites and/or premises where there is no reasonable prospect of these being used for business purposes.

Policy 13. D. 1 of the City Plan 2019-2040 Adopted April 2021 states that the loss of office floorspace to residential development will only be permitted in those parts of the CAZ that are predominantly residential in character and where the proposal would reinstate an original residential use. The Policy is clear that to comply, both objectives must be met. The City Plan does not have a definition of "predominantly residential" but the Glossary defines a predominantly commercial neighbourhood as: "*Areas of the Central Activities Zone where the majority of ground floor uses comprise of a range of commercial activity.*"

Within the Mayfair Neighbourhood Plan, the site is located within the West Mayfair designation, considered to be predominately residential. Policy MC2 states that "the loss of office floorspace to residential in Central and East Mayfair will be resisted..." - i.e., no protection is offered to offices in West Mayfair. Policy MRU2.1 (Residential Use in Mayfair) states that Proposals for development in Mayfair should respond positively to the character and quality of the particular characteristics of the immediate vicinity of the development site, including having regard to whether the site is in West, Central or East Mayfair, and the particular residential communities which exist in all those areas." Policy MRU2.2 states that "Development will be supported which provides for a mix of residential unit size which are in keeping with the scale, character and context of Mayfair." It is therefore considered that there is a lack of explicit policy protection within

the Mayfair Neighbourhood Plan to office floorspace within this part of Mayfair.

The provision of mixed use floorspace is supported in Mayfair, with policy MSG2 stating that mixed-use (which policy MSG states will generally include residential and commercial floorspace) and residential growth will be supported in West Mayfair (where the site is located). The Mayfair Neighbourhood Plan shows that the West and Central areas of Mayfair are now predominantly residential at upper floor levels.

The original use of the building was residential and therefore the proposal complies with this part of the policy. With regard to the residential character of the area, as stated above, the site is located in West Mayfair, which is considered in the Mayfair Neighbourhood Plan to be predominantly residential. Stanhope Gate itself does contain a number of properties with residential accommodation in them, along with other residential properties in Tilney Street to the north and a large block of flats at the eastern end of the street in Chesterfield House. Information based on planning and Council Tax records indicates the following residential accommodation in the vicinity:

- 3 Stanhope Gate - 5 flats on the upper floors, with commercial use on the basement, ground and first floors;
- 4-6 Stanhope Gate - 22 flats, including the ground floor;
- 10 Stanhope Gate - a single dwelling house;
- 12 Stanhope Gate – mixed use, including 2 flats;
- 13 Stanhope Gate – mixed use, including 2 flats and a large, shared office/residential lobby on the ground floor;
- 14-15 Stanhope Gate – mixed use including 4 flats ;
- 1 Tilney Street – a single house
- 2 Tilney Street - 5 flats, including ground floor;
- 5 Tilney Street – mixed use, including one flat;
- 6/7 Tilney Street – 3 flats, including ground floor;
- 8 Tilney Street – mixed office and residential (3 flats)
- 2 South Audley Street - a single dwelling house;
- Chesterfield House, South Audley Street [opposite the east end of Stanhope Gate) - 30 flats, including the ground floor.

This means that in Stanhope Gate, nearly all the properties contain some residential, including parts of the ground floor frontage, especially on the south side of the street, and the single dwelling house next door to the application site.

These considerations were taken into account in originally permitting the change of use for the mixed use proposal in April 2021 and are considered to be equally valid for the current proposals. It should also be noted that the December 2021 permission did allow the approved office accommodation to be used for financial/professional services and for health/medical services, as well as offices. This was partly on the basis that the existing office accommodation, which by then fell within Class E, could be used for any other use within Class E.

#### Residential Accommodation

The proposed accommodation will comprise six flats, of which five will be 2-bedroom



and one will be 3-bedroom. The basement and lower ground floor 2-bedroom maisonette is 191 sqm; the four flats at 1<sup>st</sup> – 4<sup>th</sup> floors (one flat per floor) are all 2-bedroom measuring 152/159 sqm; the 3-bedroom maisonette at 5<sup>th</sup> – 6<sup>th</sup> floor levels is 220 sqm.

The proposed increase in residential floorspace is considered to be compliant with Policy 8 of the City Plan 2019-2040 (April 2021) in principle as this seeks to increase residential floorspace in Westminster, including by optimising site densities and delivering a higher number of homes on small sites. Policy 8.B. states that No new homes in Westminster will exceed 200 sq m Gross Internal Area (GIA), except where it is necessary to protect a heritage asset. The maisonette on the top two floors does exceed this size restriction by 20 sqm, however this was approved prior to the adoption of the current City Plan and it is the only unit that is family-sized, which in itself is welcome.

Policy 10A requires residential development to provide a mix of units in terms of size, type and tenure to secure mixed and inclusive communities and to contribute to towards meeting Westminster's housing needs for different groups. Policy 10B normally requires 25% of all new homes to be family sized. Where two bedroom units are provided, the majority should be large enough to accommodate two double bedrooms. However, the supporting text (paragraph 10.6) states that while individual proposals should seek to achieve the strategic target for the provision of 25% family housing, there may be circumstances where it is not appropriate or practical to provide larger units due to a site's small size or other practical issues. In these circumstances, proposals will be assessed on an individual basis.

As stated above, there is only one family-sized unit (16.7%). However, the configuration of the building means that the floor plates are long and narrow, with no internal lightwells, so that natural light is restricted to the front and rear. It is considered that what is proposed is the maximum achievable, given the physical constraints of the building.

Policy 12 Part A of the City Plan seeks to ensure that all new homes provide a well-designed and high-quality living environment, both internally and externally. The units proposed are all dual aspect. Policy 12 Part C of the City Plan states that "All new homes will meet or exceed the Nationally Described Space Standards..." The proposed units will all exceed the minimum space standards set out in The London Plan/The Nationally Described Space Standards for the unit types (maximum 79 sqm for a 2-bedroom unit).

Policy 12 Part D seeks the provision of external amenity space for all new-build homes, at least five sqm of private external amenity space for each dwelling. Where dwellings accommodate 3 or more people, an additional 1sqm of amenity space is required for each additional person. The lower and upper floor maisonettes both have small external amenity spaces in compliance with this policy. The remaining units do not have any external amenity space. However, Part E of the policy states "Where it is sufficiently demonstrated that it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement set out in clause D will be required." This is achieved by the larger size of the units.

#### Affordable housing

London Plan Policies H4 and H5 of seek to maximise the delivery of affordable housing,

with the Mayor setting a strategic target for 50% of all new homes to be affordable. Policy H5 identifies a minimum threshold of 35% of the gross residential development affordable housing (by habitable room). City Plan Policy 1(A)(2) states that at least 35% of the new homes delivered during the plan period will be affordable. To this end, City Plan Policy 9(B) states that larger residential developments should provide a minimum of 35% of the total residential units as affordable housing, with Para. 9.3 making it clear that this is to be calculated by total gross residential development, measured by gross internal area. The thresholds for affordable housing provision are site areas of 0.5 hectares or more, ten or more residential units, or 1,000 sq m or more residential floorspace (for sale or rent).

The policy goes on to state that In exceptional cases, affordable housing provision can be made off-site (in whole or in part) in the vicinity of the host development. This will only be accepted where it is sufficiently demonstrated that on-site provision is physically or otherwise impracticable or is inappropriate in terms of the quantity or quality of affordable housing to be provided. A payment in lieu to the council's Affordable Housing Fund may be accepted only as a last resort if it is demonstrated to the council's satisfaction that no sites are available for off-site provision.

The mixed use scheme approved in April 2021 did not trigger a requirement for affordable housing, as the amount of residential (915 sqm) fell below the threshold. However, the current proposal for complete use of the building as residential floorspace would increase that figure to 1,563.7 sqm, 35% of which would be 547.3 sqm.

The applicant has argued that given the limited number of dwellings that are proposed and the constraints imposed by repurposing an historic building for residential use again, the provision of affordable housing on site, if viable, is not considered to be a plausible situation or appropriate in this particular case. The applicant does not own any other properties within the vicinity of the site or elsewhere within the City. If affordable housing contribution can be sustained by the scheme, the applicant then considers that a payment-in-lieu would be the most appropriate mechanism of delivery in this particular case. Based on the Council's 'Draft Planning Obligations and Affordable Housing SPD July 2023', a payment in lieu would amount to £8,758,400.

However, the application is supported by a full Financial Viability Assessment which assesses the proposed development against the benchmark. This assessment indicates that the proposals would be at a deficit due to high development costs associated with such development and the property's standing investment value. As a result, the applicant contends that the provision of affordable housing cannot be sustained.

The Financial Viability Assessment has been assessed by an independent consultant acting on behalf of the Council, who agrees that the development could not support any on-site affordable housing. Given this advice, whilst regrettable, it is considered that there are no planning grounds to resist the proposal on this matter.

## 15.2 Environment & Sustainability

The application is supported by a Sustainable Design Statement which outlines how the proposals comply with these sustainable design principles. Due to the nature of development the vast majority of the building structure is retained and wastage is

significantly reduced. Sustainable energy efficiency measures have been incorporated within the design as appropriate, including through double glazed windows and water efficiency measures.

### **Air Quality**

The site is within an Air Quality Focus Area. Although an Air Quality Assessment was originally missing from the application submission, this was subsequently provided and has been assessed by Environmental Sciences. The officer advises that he has no objections to the proposal from an Air Quality perspective based on the fact that:

- the development is car free,
- the existing heating system is proposed to be used, rather than '*new heating combustion sources introduced on to the site*'
- Air Quality matters such as Non-Road Mobile Machinery and best practice during development/construction would be required as the development qualifies for the Councils Code of Construction Practice condition to be imposed.

### **Land Contamination**

As part of the supporting information the applicant has provided Desk Study & Ground Investigation Report. This indicates no significant levels of contamination and outlines measures for basic radon protection. For details of land contamination were required by a condition in the April 2021 permission. That condition was subsequently partially discharged and the current submission takes account of what has already been approved. Environmental Sciences therefore advise that based on the submitted report the contaminated land should be included in the current draft permission, however they would accept that the report is sufficient to address phase 1 (desk study) and phase 2 (site investigation).

### **15.3 Biodiversity & Greening**

The physical constraints of the building, including the limited size of the roof (occupied by mechanical plant, an access hatch and skylights) mean that the provision of biodiversity or greening is considered to be impractical in this case (and has not been secured on the previous approvals for the external works.

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

#### **Legislative & Policy Context**

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.”*

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 be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, 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.

### Considerations

11 Stanhope Gate is an unlisted building in the Mayfair Conservation Area to which it makes a positive contribution. It is part of a row of buildings of mixed origins, some of which are listed. The appearance created is generally one of eighteenth century derivation (the gothic revival bank being an exception). While the street facades are mostly attractive, the roofscape has been subject to many alterations. Consequently, it lacks cohesion and is architecturally rather poor on the eastern half of the street. In this context the proposed roof alterations are neutral in design and heritage asset terms. At the rear, the façade is similarly neutral as proposed, and the proposed basement has no impact on any public views. Subject, to conditions, the proposed alterations area acceptable in design and heritage asset terms.

The application incorporate changes to the roof that were approved in August 2023, namely minor amendments to the approved design such as the addition of rainwater pipes, a smoke extract fan, and an emergency generator at roof level within a screened enclosure. These changes are again considered to be neutral in design and heritage asset terms.

### Basement Excavation

The excavation of a sub-basement was at the time of the original approval in line with the council's basements supplementary planning guidance and was there considered to be acceptable. As that permission has been implemented this is not considered to be an issue for reconsideration.

Building Control has advised that the structural method statement is considered to be acceptable. An investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on water table has been found to be negligible. The basement is to be constructed using Secant piles retaining walls with 200mm thick RC liner wall and 500mm thick RC basement slab which are considered to be appropriate for this site. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

### Fire Safety

The Health and Safety Executive (HSE) became a statutory consultee with regard to fire safety matters at the planning stage for schemes involving a relevant high-rise residential building in August 2021. They were not therefore involved in the permission for residential use on the upper floors of the building that was granted in April 2021. However, they are a statutory consultee for the current application and raised a number of detailed concerns about fire safety that are set out in the background papers.

The applicant has been in detailed discussion with the HSE and their concerns have now been overcome.

### **Archaeology**

The site is in an area of archaeological priority (the Great Estates), but Historic England has confirmed that an archaeological desk top assessment of the site is not required.

## **15.5 Residential Amenity**

Policy 7 of the City Plan requires that development is neighbourly and '*protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.*' Para 7.3 elaborates and states that '*negative effects on amenity should be minimised as they can impact on quality of life. Provision of good indoor daylight and sunlight levels is important for health and well-being and to decrease energy consumption through reduced need for artificial heating and lighting.*' Policy 33 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

### Daylight and Sunlight

A Daylight and Sunlight Assessment has been submitted in support of the application which assesses the impact of the development on a number of nearby residential properties.

This concludes that there is very little or no adverse impacts on the neighbouring properties. The rear of the site backs on to the rear flank elevation of 49 Park Lane/6 Tilney Street, an exceptionally elongated single property that extends along the rear of 9-13 Stanhope Gate and dominates the rear of these north facing facades. The proposed building will largely retain the footprint of the existing building at lower levels, therefore the impact on 10 Stanhope Gate is limited. There is a slight extension to the mansard proposed at fourth floor level, and then the completed replacement of the fifth floor mansard and new set back sixth floor level. The modest extension at fourth floor level, and the upper floors proposed, will mostly sit alongside the existing lift shaft to the rear of No. 10 and therefore there are no windows that would be impacted. There is one window at fifth floor level of 12 Stanhope Gate that does have a reduction in VSC of 58%. However, this is one of four windows serving a bedroom and the high percentage loss is due to the very low existing VSC figure (1.9%, reduced to 0.8%); the other two

main windows to the bedroom have much smaller losses and retain VSCs of 18.1% and 19.4% (the fourth window being another secondary window, on the far side away from the application site). The daylight and sunlight report confirms that all windows with a requirement for daylight pass the Vertical Sky Component test, whilst all rooms with a requirement for daylight pass the daylight distribution test post development. In addition, the proposed development satisfies the BRE direct sunlight to windows requirement.

### Privacy

At fifth floor level there is a small terrace at the front of the property, approximately 19.5m across Stanhope Gate from the properties opposite the site at 4-6 Stanhope Gate (a wholly residential scheme, which also has roof terraces). The proposed terrace at fifth floor level at No. 11 has been set back from the principal elevation and it is not considered that it will result in any meaningful overlooking into the habitable room windows at 4-6 Stanhope Gate. The proposed terrace is also set further back from the existing residential windows located at 12 Stanhope Gate (effectively shielded by the flank wall of No. 12), and slightly above the top storey windows of 10 Stanhope Gate. It is not considered that the proposed terrace will result in any unacceptable overlooking of the adjoining properties. Given the small scale and domestic nature of the 5th floor terrace, it is not considered that it is likely to result in unacceptable disturbance to the neighbouring occupiers nor necessary to condition the hours of use.

There is a small terrace at rear ground floor level for the use of the lower ground and ground floor maisonette, but this is at the bottom of the rear lightwell and will not give rise to any loss of amenity.

### Plant

Mechanical plant is proposed at rear basement level (with a vent) and at roof level. Environmental Health have assessed the proposals and accompanying noise report and raise no objection subject to standard conditions. They also recommended conditions to ensure adequate measures to protect internal sound levels.

## **15.6 Transportation, Accessibility & Servicing**

### Highway Impact

The site is located approximately 0.3 miles north-east of Hyde Park Corner London Underground station, whilst Green Park London Underground station, located 0.4 miles to the south-east. Marble Arch and Bond Street stations are also within walking distance. A number of bus routes operate within the vicinity of the site, accessed most locally from stops on Park Lane. The site is therefore highly accessible by public transport, which is confirmed by the sites Public Transport Access Level (PTAL) classification of 6b, which is the highest level available. The Highways Planning Manager and Waste Project Manager have assessed the application and provided comment on the following aspects.

### Servicing and Waste & Recycling Storage

The largest regular service vehicle expected for this development is the refuse collection

vehicle. Waste stored on the public highway awaiting collection creates an obstruction to pedestrians and other highway users contrary to Policy 25. It also has an adverse impact on the public realm. The Waste Project Manager notes that a waste storage area is shown on the proposed plans, which is acceptable, and has requested that this is secured by condition.

The impact on the highways network for any other servicing requirements associated with a wholly residential scheme are likely to be limited.

### Cycling & Cycle Storage

Long stay cycle parking will support active travel options by residents. Long term cycle parking must be secure, accessible and weatherproof. London Plan Policy T5 requires 2 spaces per 2+ bedroom unit. 12 long stay cycle parking spaces would be required and an area within the front vaults at lower ground floor level are proposed (having been relocated from the basement at the request of HSE as part of a swop with the refuse store). The provision is welcome in principle but details of the actual design/layout are absent and a condition requires more details to be submitted.

### Parking

Policy 27 supports residential development without car parking provision. However, the Highways Planning Manager notes that increased residential units in the area will increase demand for on-street spaces.

The Highways Planning Manager requests that, if permission is granted, that Lifetime Car Club Membership for all residential units should be secured to minimise the impact of the proposed development and reduce car ownership of future occupiers. This was secured as part of the original proposal and a similar condition is attached to the current application.

## **15.7 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 phase through the generation of increased opportunities for local employment, procurement and spending. The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

## **15.8 Environmental Impact Assessment**

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

## 15.9 Planning Obligations & Pre-Commencement Conditions

On the basis that the scheme has been assessed as being unviable in terms of affordable housing provision (discussed above), planning obligations are not relevant in the determination of this application.

The planning agent estimates the CIL payment total to be £233,866.08, based on current day indexation figures and that the existing floorspace can be discounted given that it has been occupied for its lawful use for 6 continuous months out of the past 36 months. This is broken down by a Westminster CIL liability of £208,218.63 and an MCIL liability of £24,647.45.

Note that these figures exclude any discretionary relief or other exemptions that may apply and are estimates based on the floorspace identified in the submitted drawings and documents. The actual CIL liability will be calculated by the Council's CIL & S106 Team post determination of the application using the process set out in the Community Infrastructure Levy Regulations 2010 (as amended).

## 16. Conclusion

Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and London Plan 2021. It is recommended that planning permission is 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: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)