

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 09 January 2024	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Marylebone	
Subject of Report	Luxborough Towers, Luxborough Street, London, W1U 5BW		
Proposal	Variation of Conditions 1, 7, 8, 14, 15, 17 and 30 of planning permission dated 19 November 2020 (Ref: 19/06451/COFUL) for: 'Redevelopment of existing play space to provide a new building comprising a flexible Class D1 (non-residential institutions) use at ground floor level, 14 x affordable house units (7 x 1-bed and 7 x 2-bed) on first to fifth floors with associated terraces/balconies (Class C3); associated access and other works including a subterranean rainwater harvesting tank; new plant, cycle parking, refuse storage and landscaping. Removal of existing boundary railings and brick wall base adjoining Paddington Street Gardens North and construction of new boundary wall. (Council's Own Development)'; NAMELY, to allow the installation of 1.1m guard railings to all flat roofs; repairs to existing dwarf wall with metal railing and inclusion of a screen; introduction of metal artwork panels (public art) on the rear boundary wall; relocation of emergency exit from Paddington Street Gardens boundary wall to Luxborough Tower gardens wall; replacement of gas boilers with 16 x ASHPs at main roof level; installation of privacy screens to rear balconies at 3rd 4th and 5th floor levels; reconfiguration of residential entrance door including a glazed panel to enable further daylight into the communal entrance hallway; relocation of ground floor vents; relocation of the community space kitchen extract duct at top roof level; reduction in height of the lift overrun and increase in height of smoke vent by 500mm; and tenure - social rent introduced. (Application under Section 73 of the Act).		
Agent	Rapleys LLP		
On behalf of	Westminster City Council		
Registered Number	23/04362/COFUL	Date amended/ completed	28 June 2023
Date Application Received	28 June 2023		
Historic Building Grade	Unlisted		
Conservation Area	None		
Neighbourhood Plan	None		

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992, and subject to a S106 legal agreement to secure the following:

- a) the provision of 7 intermediate affordable housing units and 7 social rented housing units.
- b) The provision of Lifetime car membership (minimum 25 years) in association with each of the proposed prior to first occupation.
- c) A carbon offset contribution of £5,472 to address the shortfall in carbon savings.
- d). Cost associated with the replacement of two street trees outside the site on Luxborough Street (5,000 per tree).
- e) Highway works.
- f) S106 monitoring costs.

If the S106 legal agreement has not been completed within 3 MONTHS from the date of the Committee's resolution then:

- (a) The Director of Town Planning & 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 & Building Control is authorised to determine and issue such a decision under Delegated Powers; however, if not
- (b) The Director of Town Planning & Building Control shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an 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 & Building Control is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY & KEY CONSIDERATIONS

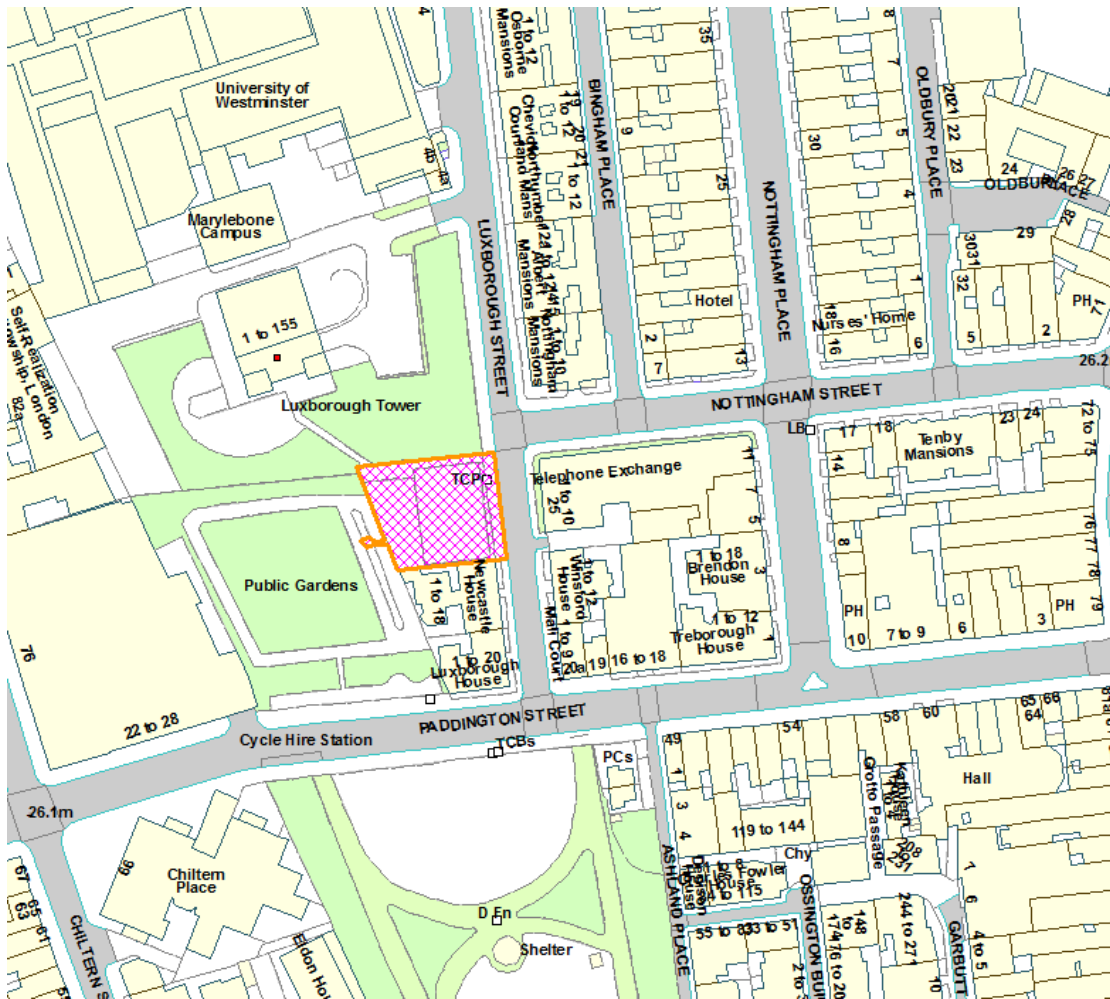
The application proposes alterations to a scheme that was approved 19 November 2020 for the development on an open area of play space to provide a new building of ground and 5 upper floors for use as a creche on the ground floor and 14 affordable housing units on the upper floors. The changes proposed relate to the change in tenure mix of the affordable housing, the removal of gas boilers from the development and provision of ASHPs at roof level, a number of minor design changes and the relocation of a fire exit route.

The key considerations in this case are:

- The acceptability of the proposed change to the tenure of the on-site affordable housing.
- The acceptability of the changes to the energy performance of the building.
- The acceptability of the proposed alterations to the approved building in design terms.
- The impact on the amenity of neighbouring residential properties.

For the reasons set out in the main body of the report, the proposal is considered acceptable in accordance with development plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

MARYLEBONE WARD COUNCILLORS

Cllr Scarborough commenting on behalf of the Ward Councillors agreeing with the comments made by the St Marylebone Society.

THE ST MARYLEBONE SOCIETY

Objection for the following reasons:

- The cocoa matting as screening is not appropriate,
- Boundary design should consider view from Paddington Garden North Side, and original wall/railings should be reinstated.
- The 'art' does not contribute to the conservation area character.
- Noise from additional roof plant should not impact residents,
- Concern the reduction in the area of green roof,
- Proposed balustrades will make building look bigger and may encourage residents to use flat roofs for amenity area,
- Tree work needs checking as some trees look to be cut back extensively and are now asymmetric.

MARYLEBONE ASSOCIATION

Comment that their previous concerns that the proposals should provide greater community benefit remain.

HISTORIC ENGLAND (ARCHAEOLOGY)

No further assessment of conditions is required given previous condition being fulfilled.

HIGHWAYS PLANNING

No objection subject to conditions.

ENVIRONMENTAL SCIENCES

No objection subject to conditions.

ARBORICULTURAL SECTION

No objection subject to condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 1167

Total No. of replies: 7

No. of objections: 7

7 objections have been received, including a letter from the Chairman of the Residents' Association of Newcastle House on some or all of the following grounds:

Amenity:

- Noise impact from ASHPs,
- ASHPs should be located as far as possible away from Newcastle House,
- Ensure all necessary attenuation measures for ASHPs are installed,
- Query the accuracy of the submitted noise report

Design and Conservation:

- New guard rails and other works at roof level will exceed agreed height of the building and be unsightly, and increase visual impact,
- Support replacement of railings if they align with historic railings,
- Cocoa matting out of keeping with area.

Other:

- Query the costs associated with running ASHPs, for the occupants of affordable housing units.
- Support relocation of fire escape.
- Impact on trees.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

An extensive programme of community engagement was carried out by the applicant prior to submission of the the original application for development of the site, which was permitted in November 2020.

Given that this application is submitted under S73 of the Act and seeks to vary conditions and details of the already approved development the same pre-application community engagement was not required. Extensive consultations have however been undertaken on the application with 1167 neighbour notification letters sent. The results of this consultation exercise are summarised in section 5 of this above.

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 and the London Plan, which was adopted by the Mayor of London in March 2021.

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (September 2023) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

This application relates to a play space in the grounds of Luxborough Tower, which is a 1960s, 23 storey residential development (155 flats) on Luxborough Street, set within extensive grounds.

On 19th November 2020 permission was granted for the erection of a building on the hard surface play space of ground and 5 upper floors (RN 19/06451/COFUL). Works have commenced on site, implementing this permission (see history below). Prior to this the playing surface had been in a state of disrepair for a number of years.

The wider area is characterised by a mixture of residential and commercial uses although there are significant residential concentrations in the immediate vicinity. Luxborough Tower is bounded by the University of Westminster to the north, and two residential blocks (Newcastle House and Luxborough House), to the south. The opposite side of Luxborough Street comprises residential mansion blocks (Nottingham Mansions and Winsford House) and a telephone exchange with flats above (25 Luxborough Street).

Luxborough Tower is located outside of, but adjacent to, the Portman Estate Conservation Area which boundary is at the rear of the play space and includes PSGN, and opposite the Harley Street Conservation Area. The site lies within the wider Marylebone and Fitzrovia CAZ and within the Marylebone Village Archaeological Priority Area and a Surface Water Flood Risk Hotspot.

7.2 Recent Relevant History

As already stated permission was granted on 19 November 2020 (RN: 19/06451/COFUL) for the following development:

Redevelopment of existing play space to provide a new building comprising a flexible Class D1 (non-residential institutions) use at ground floor level, 14 x affordable house units (7 x 1-bed and 7 x 2-bed) on first to fifth floors with associated terraces/balconies (Class C3); associated access and other works including a subterranean rainwater harvesting tank; new plant, cycle parking, refuse storage and landscaping. Removal of existing boundary railings and brick wall base adjoining Paddington Street Gardens North and construction of new boundary wall. (Council's Owen Development).

This permission was granted subject to a s106 planning obligation to secure the following:

a) the provision of 14 intermediate affordable housing units.

- b) The provision of Lifetime car membership (minimum 25 years) in association with each of the proposed prior to first occupation.
- c) A carbon offset contribution £24,824 of to address the shortfall in carbon savings.
- d). Cost associated with the replacement of two street trees outside the site on Luxborough Street (5,000 per tree).
- e) Highway works.
- f) S106 monitoring costs.

On 10th January 2023 a lawful development certificate was issued confirming that works undertaken constitute the implementation of the above planning permission (RN: 22/08250/CLEUD).

8. THE PROPOSAL

The applicant seeks to vary the following conditions of the 2020 planning permission

- 1 (compliance with approved drawings),
- 7 (amending condition regarding boundary wall),
- 8 (securing details of public art),
- 14 (tree protection method statement),
- 15 (tree root protection areas),
- 17 (provide biodiverse features) and
- 30 (fire escape through rear boundary wall).

Varying these conditions will allow the following alterations to the scheme:

- Installation of 1.1m guard railings to all flat roofs to enable safety at work for maintenance staff;
- Relocation of rear boundary wall and its replacement with a dwarf wall with metal railing and a cocoa matting screen;
- Introduction of metal artwork panels (public art) on the rear boundary wall;
- Relocation of emergency exit from Paddington Street Gardens boundary wall to Luxborough Tower gardens wall;
- Replacement of gas boilers with 16 x ASHPs at main roof level;
- Installation of privacy screens to rear balconies at 3rd, 4th and 5th floor levels;
- Reconfiguration of residential entrance door including a glazed panel to enable further daylight into the communal entrance hallway;
- Relocation of ground floor vents;
- Relocation of the community space kitchen extract duct at top roof level;
- At roof level, reduction in height of the lift overrun and increase in height of smoke vent by 500mm; and
- Affordable Housing tenure – the provision of 50% of the units to be social rented accommodation.

No changes are proposed to the approved floorspace which is being implemented.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Affordable Housing

London Plan Policy H4 advises that the strategic target is for 50% of all new homes delivered across London to be genuinely affordable and requires public sector land to deliver at least 50% affordable housing on each site. The approved scheme (2020 permission) provides 100% affordable housing and therefore exceeds the levels of affordable housing required. This application proposes no amendments to the number of affordable housing units but seeks to change the tenure of that affordable housing.

London Plan Policy H6 requires residential development to provide the following:

- A minimum of 30% low-cost rented homes as either London Affordable Rent or Social Rent.
- A minimum of 30% intermediate products, including London Living Rent and London Shared Ownership.
- The remaining 40% to be determined by the borough as either low-cost rented homes or intermediate projects (as defined above).

Westminster City Plan 9 requires 60% of the affordable units to be intermediate affordable housing for rent or sale and 40% to be social rent or London Affordable Rent.

In October 2022 the City Council approved a change to its affordable housing provision strategy, to provide mainly social rented affordable housing (70%). This application seeks to amend the tenure mix from all 14 units being intermediate rent, to 7 x intermediate rent and 7 x social rent units. The change in tenure would bring this development more in line with the approved strategy, which is welcomed.

9.2 Environment & Sustainability

The proposals will result in the replacement of the approved gas boilers with 16 x ASHPs which will be located at main roof level. The changes at roof level will result in the loss of some solar panels. The roof space lost to solar panels has been allocated to heat rejection units for the ASHPs. Replacing the approved gas boilers is welcomed and will improve the sustainability credentials of the scheme.

Improvements in the energy performance and the subsequent reduction in carbon emissions has resulted in a reduction in the carbon shortfall with a lower carbon offset payment now required. The previous carbon offset payment of £24,824 is reduced to £5,472. This will be secured as part of revised legal agreement.

9.3 Biodiversity & Greening

The enlarged plant area at roof level to accommodate the ASHPs will result in a reduction in the area of green living roof. Objections have been raised to this aspect of the application. Whilst these concerns are noted, the reduction in the size of the green roof is attributed removing gas boilers and sustainability improvements. The scheme will still provide a reasonably sized green roof. In the circumstances this is considered acceptable and it is recommended that condition 17 is amended to reflect this change.

Arboricultural Considerations

The applicant is also seeking to vary conditions 14 (tree protection method statement) and 15 (tree root protection areas) to refer to the most up to date document relating to arboricultural works at the site.

Comments have been received in response to consultations that tree pruning should be carefully assessed as works completed look excessive and trees have an asymmetric appearance. The Arboricultural Officer has confirmed that the works undertaken are in line with approvals. It is recommended that the conditions are revised as proposed.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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.

The site is on the west side of the street towards its southern end and, although not in a conservation area, the opposite side of the street is in the Harley Street Conservation Area and to the rear is the Portman Estate Conservation Area. The site is in the Marylebone Area of Special Archaeological Priority. Paddington Street Gardens are to the west of the site and the grounds of Luxborough Tower adjoin the site to the north.

Across Paddington Street Gardens are the rear facades of properties in Chiltern Street, a portion of which is a recent redevelopment of a car park. The rear of No.78 Chiltern Street is also visible, and this is a grade II listed building. The site is located within a Tier II Archaeological Priority Area and stands within the former site of the eighteenth century St Marylebone workhouse with its chapel, infirmary and burial ground. As regards the archaeological potential of the site, an archaeological recording condition (Condition 10) was attached to the original planning permission and has since been fulfilled (in February 2021 (RN: 21/00622/COGADF) and September 2021 (21/04327/COGADF)). Historic England have therefore advised that no further assessment or conditions are necessary.

Until recently, the site was an open area of playscape and had been in that form since the early 1970s. Previously, it was a terrace of houses. The remaining historic buildings in the street are predominantly to be found on the east side and are a mix of designs making attractive use of brick, stone, and painted metalwork. The adjoining building to the south of the site is similarly designed. In contrast, the University of Westminster buildings and Luxborough Tower are white-finished, overtly modern, and of an entirely different, greater, scale.

Objections have been received on several design and heritage grounds including to the height of the building, to the addition of guard rails, and to the appearance of the boundary treatment.

The ASHPs are proposed for installation at main roof level where they will have a minimal, and acceptable, visual impact. They are sited alongside the photovoltaic panel installation and below the level of the proposed perimeter railings. The top storey of the building is set-back from the street façade and is metal-clad to differentiate it from the rest of the building. The rooftop railings are also slightly set back and will be seen as an addition that is not unduly prominent or excessively tall. The top floor of the building, including the mechanical plant, flues, and railings are appropriate in design and heritage asset terms and the building will sit comfortably in its surroundings. Therefore, the objections to the ASHP installation and height of the building and railings cannot be supported in design or heritage asset terms.

Privacy screens are proposed to the rear balconies at third, fourth, and fifth floor, levels to address previous concerns about potential overlooking. These screens are acceptable in design and heritage asset terms.

The reconfiguration of the residential entrance door which will include a glazed panel to enable further daylight into the communal entrance hallway and the relocation of ground floor vents to the rear elevation are acceptable in design and heritage asset terms.

The open aspect of the site is important and allows views to and from the adjoining Paddington Street Gardens which is in the Portman Estate Conservation Area. The conservation area audit identifies local views including some in Paddington Street Gardens (paragraph 3.53 and figure 5), as well as the importance of boundary walls (paragraph 3.55). These two factors are important when considering the objections to the proposed boundary wall treatment.

The original boundary railings are to be reinstated, and set behind them is to be a cocoa-mat fence incorporating metal artwork panels that are proposed to illustrate aspects of the local area including Paddington Street Gardens; Marylebone High Street Scene; Marylebone Arts & Education; and The Home of Cricket. While the principle of these alterations are considered to be acceptable, objections have been received to cocoa matting and the detailed design of the artwork. Therefore, given the importance of these items in design and heritage asset terms to the local community, it is recommended that amending conditions are imposed which require a revised design of the Paddington Street Gardens boundary wall including the omission of the cocoa matting, and a revised scheme of Public Art to be approved.

Subject to these conditions the revised proposals accord with City Plan policies 38, 39 and 40. They are acceptable in design and heritage asset terms and cause no harm to any designated heritage assets for the reasons set out above.

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.

Council records indicate that there are a number of residential properties surrounding the site. Immediately next door to the site is a residential block, Newcastle House, with residential flats within. The building opposite the site (The Telephone Exchange building at 25 Luxborough Street) also has residential flats within it. Luxborough Towers is located to the northwest of the site and is a 22 floor residential tower block. 1-10 Nottingham Mansions is located to the north east of the site, on the corner of Nottingham Street and Luxborough Street.

Daylight & Sunlight

The applicant has submitted a daylight and sunlight assessment which has been carried out with reference to the recommended Building Research Establishment (BRE) guidelines (2022). This report takes into account the changes to the scheme proposed in this submission, i.e., the additional plant and enclosures at rooftop level, which add a very modest amount of massing to the scheme.

The BRE guidelines states that bathrooms, toilets, storerooms, and circulation space need not be analysed as these rooms are non-habitable rooms and do not have a requirement for daylight. The guidelines state that the tests may also be applied to non-domestic buildings where there is a reasonable expectation of daylight. The BRE guide explains that this would normally include schools, hospitals, hotels and hostels, small workshops and some offices. The BRE guide is not explicit in terms of which types of offices it regards as having a requirement for daylight.

The daylight and sunlight report assesses the impact of the development on windows at the closest properties to the site namely; Luxborough Tower, 1 - 10 Nottingham Mansions, Telephone Exchange (25 Luxborough Street), 1 - 12 Winsford House and Newcastle House.

The report demonstrates that the impacts of the proposed development as put forward here are not materially worse than those resulting from the consented scheme which is currently being implemented. While there are some minor differences in the impacts on daylight and sunlight to a small number of windows, these are considered to be acceptable.

Privacy

The amendments include the addition of privacy screens to the rear balconies at 3rd, 4th and 5th floor levels. These will be positioned on the ends of the balconies closest to Newcastle house and will be 1.8m high above the finished floor level. The applicant advises that these have been included to address some neighbours' previous concerns about potential overlooking from rear balconies and the screens have been introduced at the request of Newcastle House residents. The addition of these screens is welcomed

as it will serve to further reduce the previously assessed impact on amenity.

An objection has been received stating that the proposed balustrades may encourage residents to use flat roofs for amenity area. While this is noted, the previous consent included a condition (29) which prohibited the use of the flat roofs for sitting out or for any other purpose other than maintenance and escape. This condition will remain on this permission and as such this objection cannot be upheld.

Noise & Vibration

An acoustic report has been submitted in support of the proposed installation of the 16 ASHPs at roof level.

Objections have been received in relation to the plant on the following grounds;

- Assurances are sought that additional plant wouldn't result in noise nuisance,
- That a post installation condition should be imposed to ensure compliance with noise criteria;
- Commenting that the noise report does not take into account other approved plant, or future changes in noise levels to possible future reductions in background noise as the use of electric vehicles increases, and that the report does not account for the proposed units becoming noisier as they age.

The noise report has been assessed by Environmental Sciences who raise no objections advising that the plant is likely to comply with the Council's noise and vibration criteria. The normal noise conditions are recommended which are compliance conditions with an ongoing requirement for all the plant meet the noise criteria for the lifetime of the plant. Subject to these conditions (No's 31 and 32), the proposed plant is considered to be acceptable.

9.6 Transportation, Accessibility & Servicing

The conditions which the application seeks to vary raise no highways issues.

9.7 Economy including Employment & Skills

Not applicable to application.

9.8 Other Considerations

Relocation of Fire Exit

The applicant proposes to relocate the fire exit from the currently approved position which exits out into Paddington Street Gardens North (to the west of the site), to a position that exits out directly to Luxborough Tower Gardens (to the north of the site). This is considered acceptable and accordingly it is recommended that condition 30 is amended to facilitate this.

Community Benefit

The Marylebone Association have commented that their previous concerns that greater

community benefits should be provided remain.

This application does not require the principle of the development to be re-assessed. The scope of a section 73 application requires a Local Planning Authority (LPA) to consider the conditions subject to which permission should be granted. The conditions application must be assessed in accordance with the development plan and other material considerations. The previous permission has been lawfully implemented, the extent of community benefits provided is not a relevant consideration in this application.

9.9 Environmental Impact Assessment

Not Applicable.

9.10 Planning Obligations & Pre-Commencement Conditions

The NPPF identifies that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The Planning permission granted for the redevelopment of this site on 19 November 2020 (RN: 19/06451/COFUL) was granted subject to a s106 planning obligation to secure the following:

- a) the provision of 14 intermediate affordable housing units
- b) The provision of Lifetime car membership (minimum 25 years) in association with each of the proposed prior to first occupation .
- c) A carbon offset contribution of £24,824 to address the shortfall in carbon savings.
- d). Cost associated with the replacement of two street trees outside the site on Luxborough Street (5,000 per tree)
- e) Highway works
- f) S106 monitoring costs

Having regard to the tests set out above, the above planning obligations are still considered to be necessary to make the proposed development acceptable in planning terms and are to be secured via a variation to the previously agreed S106 legal agreement.

The terms of this variation will change slightly (to the wording of (a) and (c)), as set out in the officer recommendation in Section 1, and will secure:

- a) the provision of 7 intermediate affordable housing units and 7 social rented housing units.
- b) The provision of Lifetime car membership (minimum 25 years) in association with each of the proposed prior to first occupation .

- c) A carbon offset contribution of £5,472 to address the shortfall in carbon savings.
- d). Cost associated with the replacement of two street trees outside the site on Luxborough Street (5,000 per tree)
- e) Highway works
- f) S106 monitoring costs

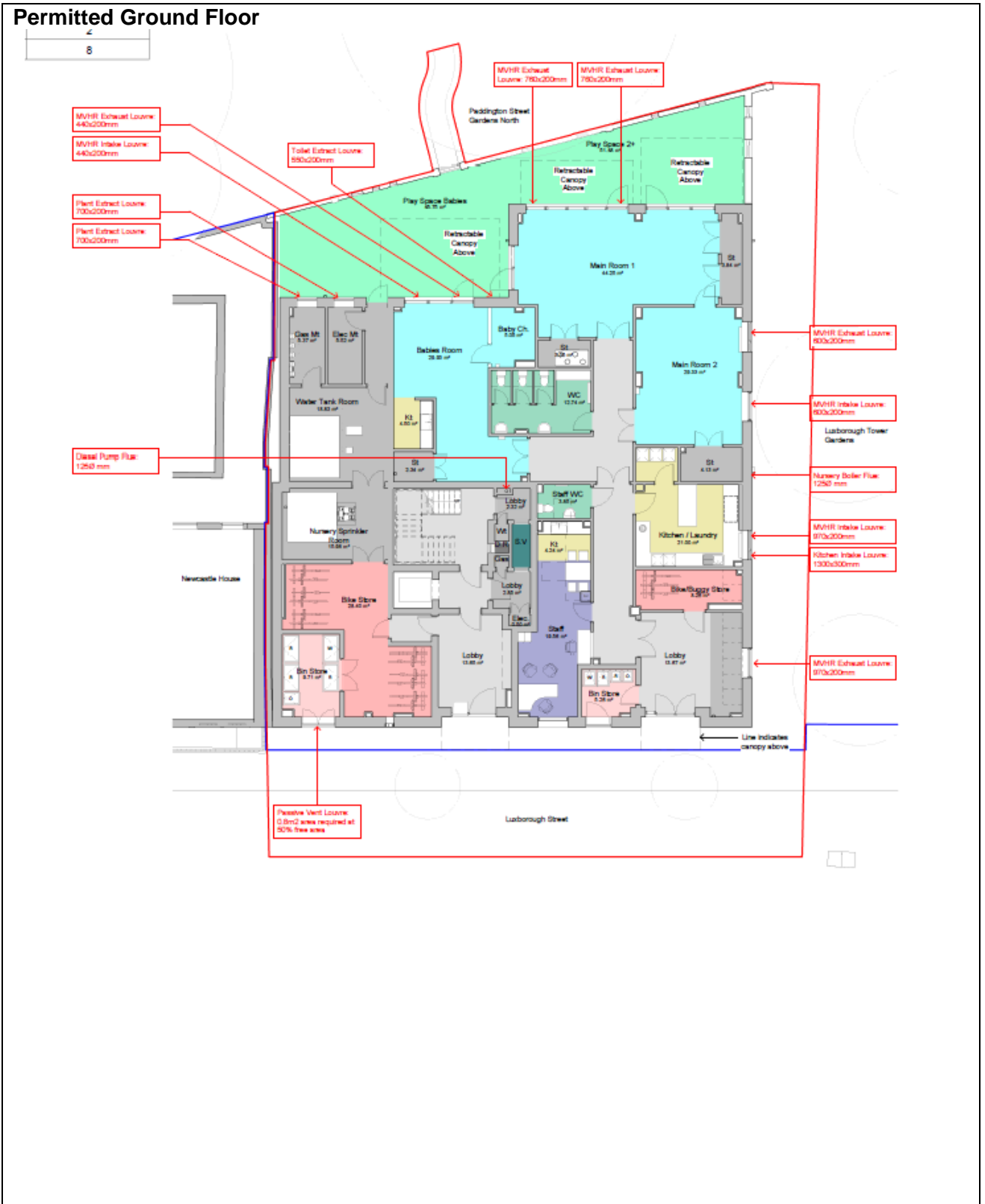
10. Conclusion

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 as set out in the draft decision notice.

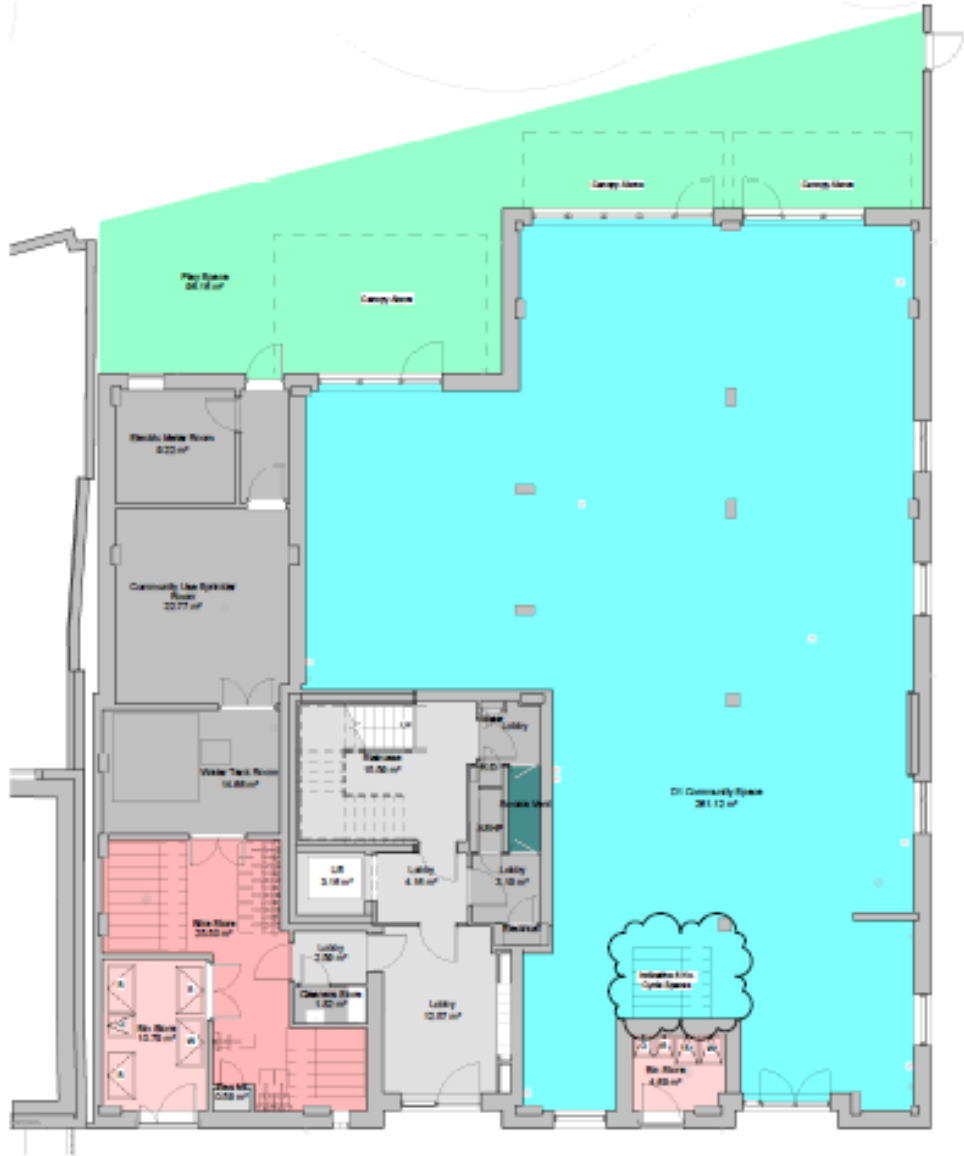
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

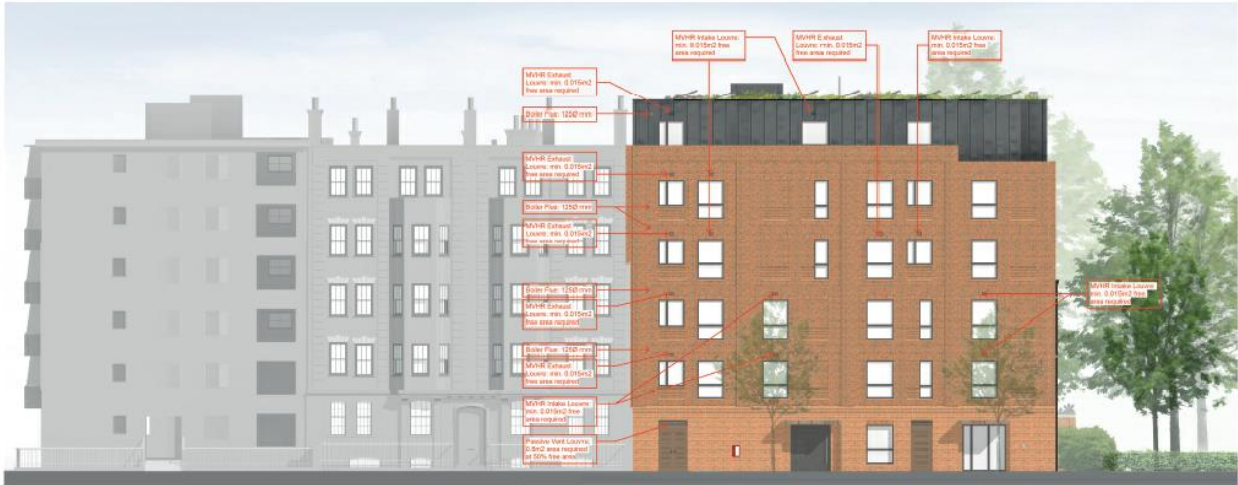
11. KEY DRAWINGS



Proposed Ground Floor



Permitted East (Front) Elevation



Front Elevation
1:100

Proposed East (Front) Elevation



1 Planning - East Elevation
1:100

Permitted Side (North) Elevation



Proposed Side (North) Elevation



Permitted Rear (West) Elevation



Proposed Rear (West) Elevation



Planning - West Elevation
1 : 100

Permitted South Section



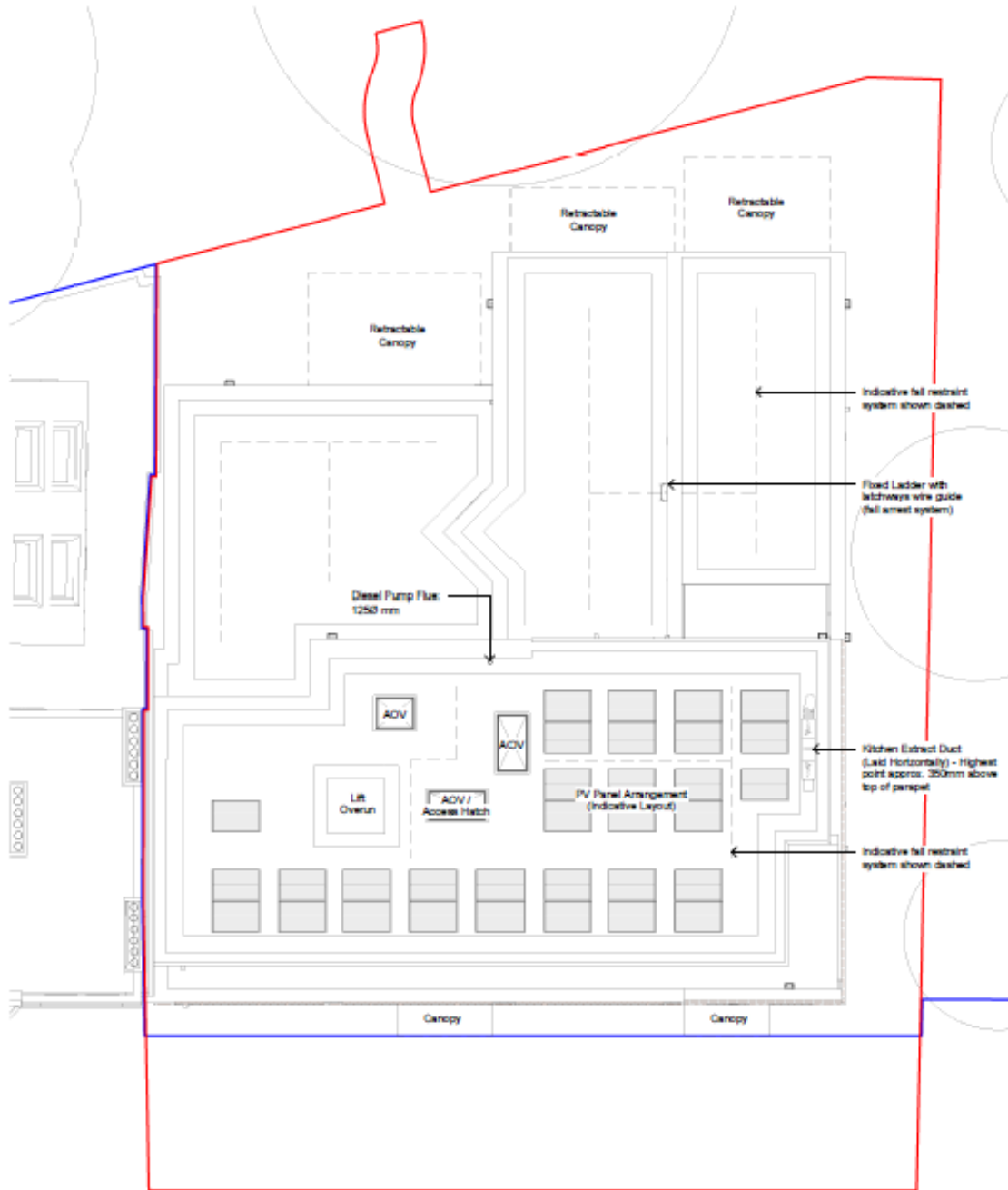
South Section 1

Proposed South Section

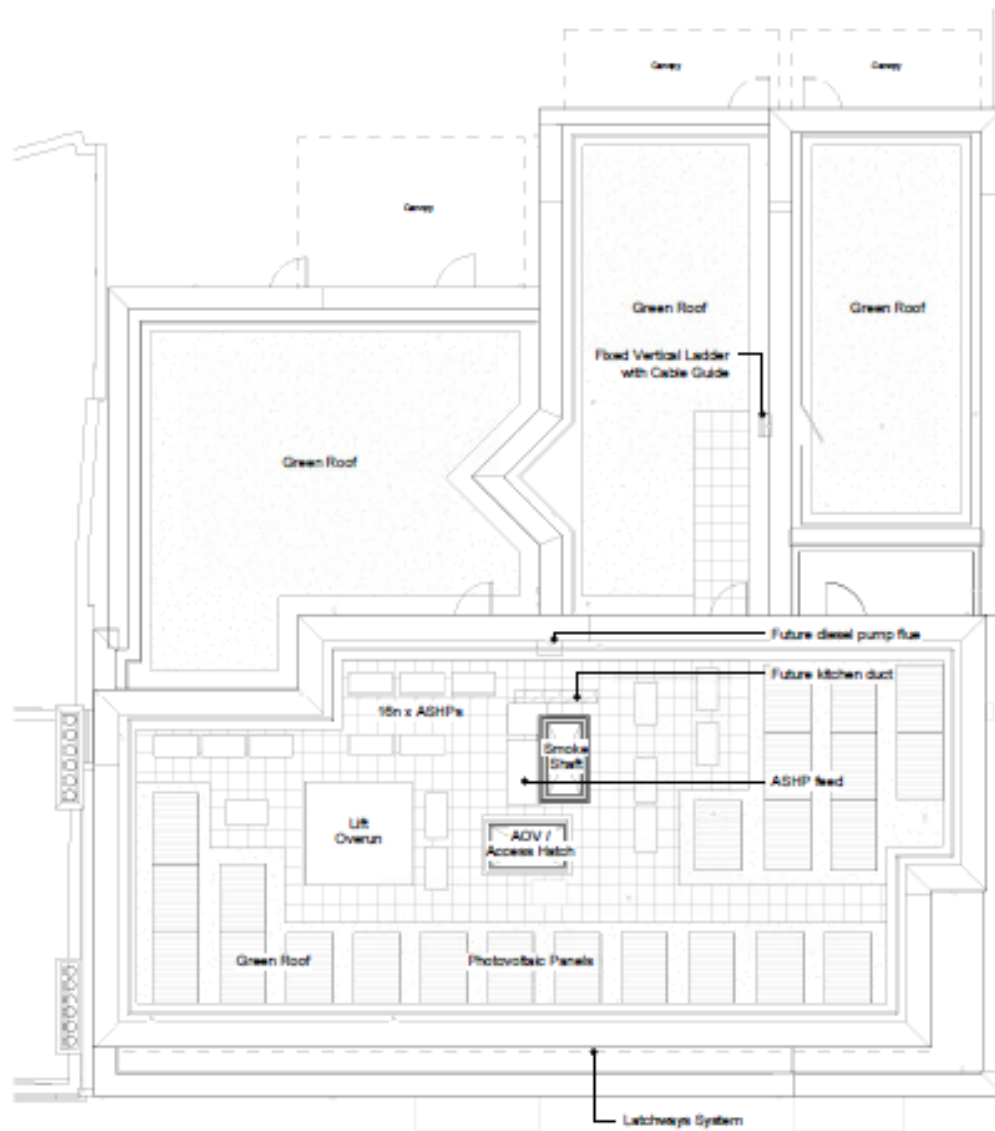


Planning - South Section 1

Permitted Roof Plan



Proposed Roof Plan



Permitted Landscaping Plan



Proposed Landscaping Plan



Permitted Boundary Wall



Proposed Boundary Wall



DRAFT DECISION LETTER

Address: Luxborough Towers, Luxborough Street, London, W1U 5BW

Proposal: Variation of Conditions 1, 7, 8, 14, 15, 17 and 30 of planning permission dated 19 November 2020 (Ref: 19/06451/COFUL) for: 'Redevelopment of existing play space to provide a new building comprising a flexible Class D1 (non-residential institutions) use at ground floor level, 14 x affordable house units (7 x 1-bed and 7 x 2-bed) on first to fifth floors with associated terraces/balconies (Class C3); associated access and other works including a subterranean rainwater harvesting tank; new plant, cycle parking, refuse storage and landscaping. Removal of existing boundary railings and brick wall base adjoining Paddington Street Gardens North and construction of new boundary wall. (COUNCIL'S OWN DEVELOPMENT)'; NAMELY, to allow the installation of 1.1m guard railings to all flat roofs; repairs to existing dwarf wall with metal railing and inclusion of a screen; introduction of metal artwork panels (public art) on the rear boundary wall; relocation of emergency exit from Paddington Street Gardens boundary wall to Luxborough Tower gardens wall; replacement of gas boilers with 16 x ASHPs at main roof level; installation of privacy screens to rear balconies at 3rd 4th and 5th floor levels; reconfiguration of residential entrance door including a glazed panel to enable further daylight into the communal entrance hallway; relocation of ground floor vents; relocation of the community space kitchen extract duct at top roof level; reduction in height of the lift overrun and increase in height of smoke vent by 500mm; and tenure - social rent introduced. (Application under Section 73 of the Act).

Reference: 23/04362/COFUL

Plan Nos: 05010 Rev. PL2 ; 05502 Rev. PL2 ; 05504 Rev. PL2 ; 05506 Rev. PL3 ; , 05300 Rev. PL2 ; 05301 Rev. PL2 ; 05500 Rev. PL3 ; 05200 Rev. PL2 ; , 4148/P11 Rev. H ; 4148/P12 Rev. E ; 4148/P16 Rev. C ; Arboricultural Method Statement (TWG/LXB/AMS/01c) dated 19th December 2022 ; Concise Arboricultural Impact Assessment Report (WTS/LXB-ANC/AIA/02b) dated 03 August 2023.

As permitted under application 23/05001/NMA:
Document reference WTS/LXB-ANC/AIA/02b by Landmark Trees titled "Concise Arboricultural Impact Assessment Report for Land at Luxborough Tower." dated 03 August 2023 ; Cover Letter from Rappleys dates 19 July 2023.

As permitted under application 22/08250/CLEUD:
Statement dated 3 November (Ref: 5.6.11_L01) from Jim Collett (Wates) including pile location drawings and dated photographs (August to October 2022).

As permitted under application 22/06526/COFUL:
Addendum Arboricultural Impact Assessment Report WTS/LXB-ANC/AIA/01 dated 27.09.2022 (Landmark Trees); Arboricultural Method Statement dated 19 December 2022 (Landmark Trees) TWG/LXB/AMS01C.

As permitted under application 22/03826/NMA;,
0407-ECD-00_XX-DR-A-1605_PL10.

As permitted under application 22/01568/COGADF:
Plant Noise Assessment 10645.RP03.PNA.3, Dated 28 February 2022 ; External Building Fabric Assessment, Dated 28 February 2022, 10645.RP01.EBF.1.

As permitted under application 22/00092/COGADF:
Drawings: EAST ELEVATION Rev P02, NORTH ELEVATION Rev P02, SOUTH ELEVATION Rev P02, WEST ELEVATION Rev P02, LUXBOROUGH EXTERNAL MATERIAL SCHEDULE.

As permitted under application 21/07993/NMA:
0407-ECD-00-XX-DR-A-/1605 PL9, 1606/PL9.

As permitted under application 21/06757/COGADF:
Code of Construction Practice - Appendix A - completed 18/11/2021.

As permitted under application 21/04327/COGADF:
Report on an archaeological evaluation, dated June 2021, by Museum of London Archaeology for "LUXBOROUGH TOWER, Luxborough Street " London W1U 5BU."
Document references Site Code LXB21, NGR 528152 181856, OASIS reference molas1-419717.

As permitted under application 21/03094/COGADF:
Programme for public engagement (MOLA) dated May 2021 v1.

As permitted under application 21/01877/COGADF:
Documents:
o Ground Investigation Final Report from Harrison Group Environmental Limited reference GL16990 GI dated 27th March 2013,
o Site investigation report from Harrison Group Environmental Limited reference GL22687_SI dated August 2019,
o Desk Study and Ground Investigation Report from TEC reference: 2008010.001.01 dated March 2021,
o Remediation Strategy and Verification Plan from TEC reference 2008010.002.01 dated March 2021.

As permitted under application 21/01450/COGADF (as amended by 22/06526/COFUL):
ARBORICULTURAL METHOD STATEMENT for Luxborough Tower Gardens by Landmark Trees, report ref TWG/LXB-NBS/AMS/01b, dated 26.08.2021 ;
Construction Method Statement & Risk Assessment for Luxborough Tower by Halsted Rain Ltd, dated 03.03.2021.

As permitted under application 21/00622/COGADF:
Written Scheme of Investigation for an Archaeological Investigation dated 02/02/2021.

As permitted under application 19/06451/COFUL:,
0407-ECD-00-00-DR-A-1051-PL1 (demolition site plan);, 0407-ECD-00-00-DR-A-1100 PL4, 0407-ECD-00-00-DR-A-1200-PL10, 0407-ECD-00-01-DR-A-1201-PL10, 0407-ECD-00-ZZ-DR-A-1202-PL6, 0407-ECD-00-ZZ-DR-A-1204-PL6, 0407-ECD-

00-06-DR-A-1206-PL7, 0407-ECD-00 -XX-DR-A-1605-PL7, 0407-ECD-00 -XX-DR-A-1606-PL8 £, 0407-ECD-XX-XX-DR-A-1705-PL3; 4148/ P11F, 12D, 14D; 4148/D01A; 0407/LON-V1-00-DR-C-8000 Rev P03, 0407/LON-V1-XX-DR-C-8200 Rev P02 (proposed).

Case Officer: Adam Jones

Direct Tel. No. 020 7641
07779431391

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 You must carry out the development in accordance with the samples approved by the City Council as Local Planning Authority on 14.01.2022 under reference 22/00092/COGADF, or in accordance with other samples as submitted to approved by the City Council.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 3 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 the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 4 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 the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 5 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terraces or balconies

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 6 You must carry out the development in accordance with the sample panel of brickwork approved by the City Council as Local Planning Authority on 14.01.2022 under reference 22/00092/COGADF, or in accordance with another sample panel of brickwork as submitted to approved by the City Council.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 7 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- i) A revised design for the Paddington Street Gardens North boundary wall which includes omission of the cocoa matting, designed in consultation with the local community and amenity society and you must provide written evidence of this consultation.

You must not start on this wall until we have approved what you have sent us. You must then carry out the work according to the approved drawings. You must then carry out the work according to the approved drawings.

Reason:

To ensure that the appearance of the wall is suitable and that it will maintain the setting of the neighbouring Portman Estate Conservation Area. This is as set out in Policies 38, 39, and 40 of the City Plan 2019 - 2040 (April 2021).

- 8 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- i) A revised scheme of public art for the Paddington Street Gardens North boundary wall, designed in consultation with local community and amenity society and you must provide written evidence of this consultation.

You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these approved drawings and fully implement the approved scheme of public art before anyone moves in to the development. You must thereafter maintain the approved scheme of public art and keep it on this site. You must not move or remove it.

Reason:

To secure the offer of public art and to make sure that the appearance of the building is suitable. This is as set out in Policy 43(E) of the City Plan 2019 - 2040 (April 2021).

- 9 All vents in the external walls must be finished to match the colour of the surrounding brickwork and be maintained that colour.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 10 You must carry out the development in accordance with the stage 1 written scheme of investigation (WSI) approved by the City Council as Local Planning Authority on 24.02.2021 under reference 21/00622/COGADF, or in accordance with a new written scheme of investigation (WSI) as submitted to approved by the City Council.

You must carry out the development in accordance with the details set out in the report on an archaeological evaluation approved by the City Council as Local Planning Authority on 24.09.2021 under reference 21/04327/COGADF, or in accordance with a new report on an archaeological evaluation as submitted to approved by the City Council.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021). (R32BD)

- 11 You must carry out the development in accordance with the programme of public engagement approved by the City Council as Local Planning Authority on 19 November 2020 under reference 21/03094/COGADF, or in accordance with another programme of public engagement as submitted to approved by the City Council. The approved programme must be implemented in accordance with a timetable set out in the programme.

Reason:

To secure public interpretation and presentation of the site's archaeology in line with London Plan Policy HC1(D) and Policy 39P of the City Plan 2019 - 2040 (April 2021).

- 12 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)

- 13 You must carry out the development in accordance with the Code of Construction Practice approved by the City Council as Local Planning Authority on 24.11.2021 under reference 21/06757/COGADF, or in accordance with another Code of Construction Practice as submitted to approved by the City Council.

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)

- 14 You must protect the trees according to the details, proposals, recommendations and supervision schedule set out in your Arboricultural Method Statement (TWG/LXB/AMS/01c) dated 19th December 2022 and your Concise Arboricultural Impact Assessment Report (WTS/LXB-ANC/AIA/02b) dated 03 August 2023. You must undertake the arboricultural supervision as set out within the method statement and you must send us a written report (to the Council's Arboricultural Officer) within 5 days of each visit by the arboricultural consultant. If you need to revise any of these tree protection provisions, you must apply to us for approval of revised details, and you must not carry out work on the relevant part of the development until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 15 You must protect the trees according to the details, proposals, recommendations and supervision schedule set out in your Arboricultural Method Statement (TWG/LXB/AMS/01c) dated 19th December 2022 and your Concise Arboricultural Impact Assessment Report (WTS/LXB-ANC/AIA/02b) dated 03 August 2023. You must undertake the arboricultural supervision as set out within the method statement and you must send us a written report (to the Council's Arboricultural Officer) within 5 days of each visit by the arboricultural consultant. If you need to revise any of these tree protection provisions, you must apply to us for approval of revised details, and you must not carry out work on the relevant part of the development until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To protect the trees and the character and appearance of the site and the Portman Estate conservation area, by ensuring that the trees are not harmed by landscaping works or a lack of natural drainage, as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021).

- 16 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the living roofs to include construction method, layout, species and maintenance

regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To protect and increase the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43CC)

- 17 You must provide, maintain and retain the following bio-diversity features shown on drawing 4148/P11 Rev H, before you start to use any part of the development:

living roofs, rope coils, log pile, ladybird barn

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

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

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

- i) photovoltaic panels
- ii) living roofs
- iii) rainwater harvesting tank

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)

- 19 You must carry out the development in accordance with the Construction Methodology Statement for the underground rainwater harvesting tank approved by the City Council as Local Planning Authority on 13.09.2021 under reference 21/01450/COGADF, or in accordance with Construction Methodology Statement for the underground rainwater harvesting tank as submitted to approved by the City Council.

Reason:

As requested by the applicants and to protect the party walls and structural integrity of the neighbouring building

- 20 Before anyone moves into the property, you must provide the separate stores for waste and

materials for recycling shown on drawing number 0407-ECD-00-00-DR-A-1200-PL-10. You must clearly mark them and make them available at all times to everyone using the flats and the ground floor use. No waste shall be stored on the public highway. (C14FB)

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)

- 21 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)

- 22 You must provide a minimum of 24 cycle storage spaces for the residential use and a minimum of 6 spaces for the ground floor use, as 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.

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)

- 23 In the event that the ground floor unit is occupied as a nursery or creche, prior to the commencement of the use you must apply to us for approval of a Travel Plan. The Travel Plan must include details of:
- (a) A comprehensive survey of all users of the nursery/creche;
 - (b) Details of local resident involvement in the adoption and implementation of the Travel Plan;
 - (c) Targets set in the Plan to reduce car journeys to the nursery/creche;
 - (d) Details of how the Travel Plan will be regularly monitored and amended, if necessary, if targets identified in the Plan are not being met over a period of 5 years from the date the date of the nursery/creche being occupied.

At the end of the first and third years of the life of any of the approved Travel Plans, where the same user remains in occupation, you must apply to us for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

Reason:

In the interests of public safety, to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R45AC)

- 24 Any structure over the highway must maintain a minimum 2.6m vertical clearance from the footway surface at all times and shall not extended closer than 1 metre from the kerb edge; when within 1 metre of the kerb edge and over the carriageway, a minimum 5.3m vertical

clearance must be maintained by any structure including building overhangs, canopies and awnings, signage, flags and public art.

Reason:

In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)

- 25 You must only use the ground floor unit as a children's nursery, creche, exhibition hall or public hall. You must not use it for any other purpose, including any uses within Class E or Class F1 of the Town and Country Planning Use Classes Order 1987 as amended September 2020 or any equivalent class in any order that may replace it.

Reason:

To prevent use of the property for any unsuitable purpose, to safeguard the amenity of neighbouring residential properties and to ensure highway safety and safeguard the operation of the highway network as set out in Policies 7, 17, 24 and 25 of the City Plan 2019 - 2040 (April 2021).

- 26 Prior to the occupation of the ground floor use you must apply to us for approval of a management plan including full details of the proposed use, including hours of use, premises capacity and servicing hours, and details of the use of the rear courtyard (hours of use and customer capacity and use and management of the courtyard canopies, including the use of the courtyard in the event of failure of the courtyard canopies) to show how you will prevent customers/visitors using the premises from causing nuisance for people in the area, including people who live in nearby buildings. You must not start ground floor use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the premises are in use.

Reason:

Because this is a residential neighbourhood, we need to prevent use of the property for any unsuitable purposes and to protect neighbouring residents from noise disturbance. This is as set out in Policies 7 and 17 of the City Plan 2019 - 2040 (April 2021).

- 27 Visitors shall not be permitted within the nursery premises before 07.00 or after 19.00 hours on Monday to Friday only and the rear courtyard shall not be used in association with the nursery use before 08.00 or after 19.00 hours on these days.

Reason:

To protect neighbouring residents from noise nuisance, Policies 7 and 17 of the City Plan 2019 - 2040 (April 2021).

- 28 All servicing for the ground floor use hereby approved must take place between 0800 and 1900 hours on Monday to Friday only. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

To protect neighbouring residents from noise nuisance, Policies 7 and 17 of the City Plan 2019

- 2040 (April 2021).

- 29 You must not use the ground, first or second floor roofs of the building for sitting out or for any other purpose other than for maintenance purposes or as a means of escape in case of emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 30 You may use the door in the northern boundary wall (leading to Luxborough Tower Gardens), shown on the drawings hereby approved, only in an emergency or for maintenance purposes.

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). (R13ED)

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

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

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

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;

- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in 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)

- 32 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

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

- 33 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)

- 34 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the

development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

- 35 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) 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 by an emergency loss of power.
- (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.

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)

- 36 You must apply to us for approval of detailed drawings and full specifications of the courtyard canopies before the ground floor use is occupied. The canopies must be constructed from materials with a minimum sound reduction value (Rw) of 16 dB. You must then carry out the work according to these approved details and specifications and the canopies must be installed prior to the commencement of the ground floor use(s) hereby approved and the courtyard must not be used in association with the ground floor use unless the courtyard canopy/canopies are fully deployed.

Reason:

Because this is a residential neighbourhood, we need to prevent use of the property for any unsuitable purposes. This is as set out in Policies 7 and 17 of the City Plan 2019 - 2040 (April 2021). (R10AD)

- 37 You must carry out the development in accordance with the supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 31 and 35 of this permission, approved by the City Council as Local Planning Authority on 06.04.2022 under reference 22/01568/COGADF, or in accordance with a new supplementary acoustic report as submitted to approved by the City Council.

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)

- 38 You must carry out the development in accordance with the desktop study, site investigation and remediation strategy approved by the City Council as Local Planning Authority on 06.05.2021 under reference 21/01877/COGADF, or in accordance with another desktop study, site investigation and remediation strategy as submitted to approved by the City Council.

When the development has been completed but before it is occupied, you must apply to us for approval of details of a Validation Report, which summarises the action you have taken during the development and what action you will take in the future, if appropriate.

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)

- 39 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 40 The plant/machinery hereby permitted in association with the ground floor use (excluding the emergency generator) shall not be operated except between 0700 and 23.00 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

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 Unilateral Undertaking from the applicant under Section 106 of the Town and Country Planning Act 1990. The Undertaking relates to the provision of affordable house; Lifetime car club membership; the replacement of trees on Luxborough Street; a carbon offset payment and s106 monitoring costs.
- 3 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
 1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

- 4 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice and to apply online please visit www.westminster.gov.uk/suspensions-dispensations-and-skips.
- 5 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

- 6 The submitted Unexploded Ordnance Report confirms the possibility of unexploded ordnance on this site. You are reminded of the need to take appropriate safety measures with regard to construction works in this regard.
- 7 Works affecting Paddington Street Garden North will require the approval of the Church Faculty/Diocese of London. You are reminded of the need to obtain the appropriate approvals before undertaking any works requiring this authority.
- 8 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.
- 9 You must get planning permission for any tanks, equipment, lift motor rooms, railings or other additions to the property. (I21AA)
- 10 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please email Jeff Perkins at jperkins@westminster.gov.uk.
- 11 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) 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.

- 12 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.

- 13 With reference to condition 13 please refer to the Council's Code of Construction Practice at (www.westminster.gov.uk/code-construction-practice). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate (cocp@westminster.gov.uk) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Inspectorate team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.

- 14 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 15 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: www.westminster.gov.uk/cil

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

Forms can be submitted to CIL@Westminster.gov.uk

Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

- 16 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.
- 17 Conditions 31, 32, 35, 37 and 40 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

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