

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB-COMMITTEE	Date 7 July 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	27 - 35 Mortimer Street, London, W1T 3BL		
Proposal	Erection of a roof extension to provide additional office (B1) floorspace at fifth floor level and associated external alterations including the creation of a roof terrace at fifth floor level and reconfiguration and relocation of plant within a new purposely designed acoustic enclosure at part rear fifth floor and part sixth floor/roof level.		
Agent	CBRE Ltd		
On behalf of	Orchard Street Investment Management		
Registered Number	20/02379/FULL	Date amended/ completed	7 April 2020
Date Application Received	7 April 2020		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

Grant conditional permission.

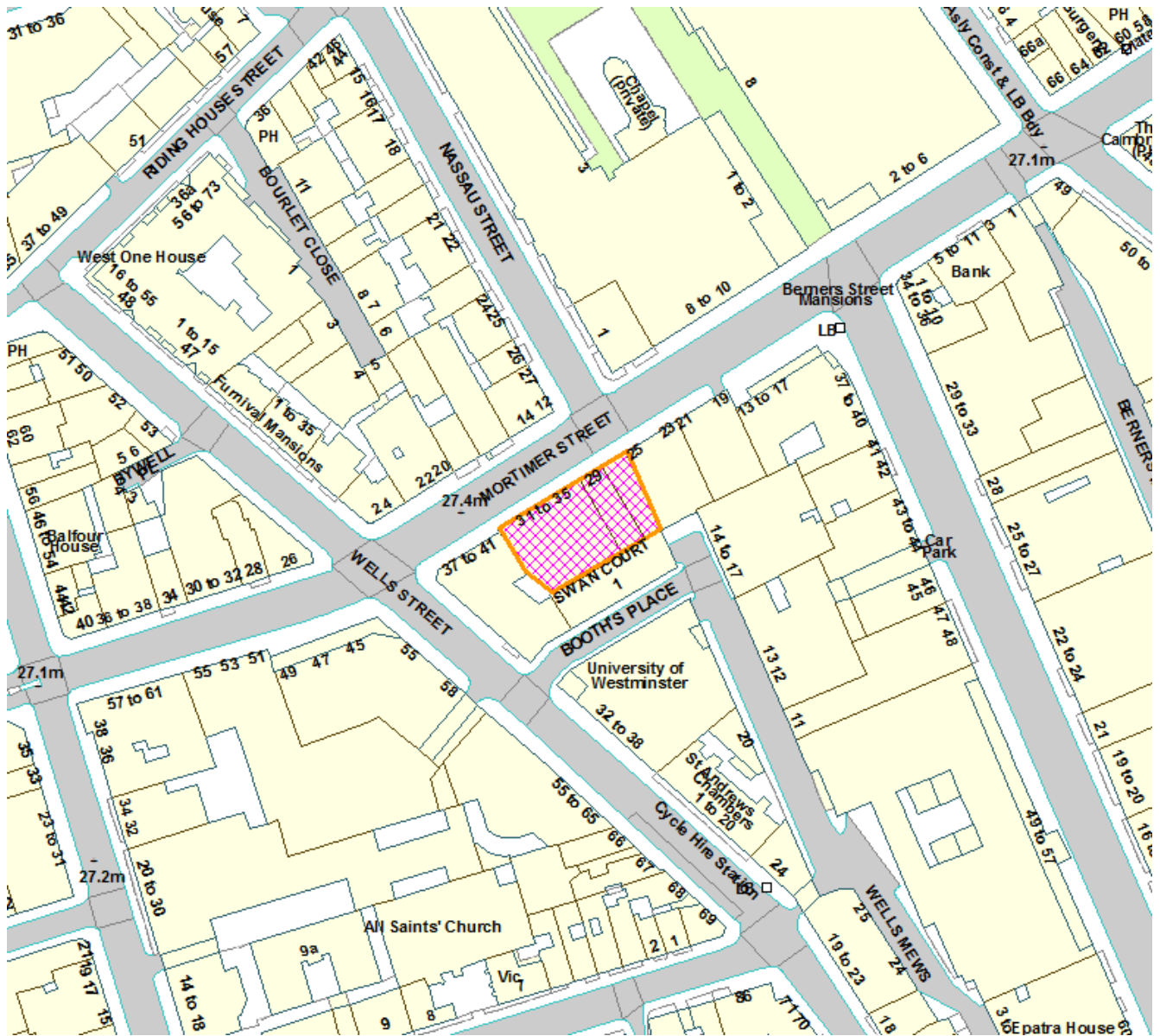
2. SUMMARY

The application relates to an unlisted building of merit in the East Marylebone Conservation Area, occupied as a supermarket on the ground floor and offices above. Permission is sought for a roof extension that will provide a modest increase in offices of 149 sqm. The extension would replace the existing roof plant, which would be raised by one floor and extended towards the rear. The key issues are considered to be:

- The design of the extension and its impact on the appearance of the building, the Conservation Area and nearby listed buildings, and
- The impact on the amenity of neighbouring residential properties.

Notwithstanding the objections that have been received on design and amenity grounds, for the reasons set out in the main report, the proposals are considered to comply with relevant Council policies and as such are considered to be acceptable.

3. LOCATION PLAN



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4. PHOTOGRAPHS

View from Mortimer Street



View from Nassau Street



5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

FITZROVIA WEST NEIGHBOURHOOD FORUM

Objection:

- Overdevelopment, adverse impact on the East Marylebone Conservation Area and the setting on listed buildings at 20 and 23 Nassau Street (with suggested revisions as to what might make the scheme acceptable);
- Proposed roof terrace may create noise and nuisance for residents in Booth's Place – any external space should possibly be provided at the front of a set-back extension.

ENVIRONMENTAL SCIENCES

Initial objection on grounds of insufficient information. Objection subsequently withdrawn following the submission of additional information and the proposed plant was confirmed as acceptable subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 70; Total No. of replies: 2

Objections raised by two of the owner/occupiers of two flats in Swan Court on the following grounds:

- Incorrect site outline [subsequently corrected];
- Insufficient/inadequate reference to Swan Court on the drawings or in the accompanying report or other documents;
- Loss of daylight and visible sky component to rear windows in Swan Court;
- "mass";
- noise from proposed plant;
- increased noise and loss of privacy from overlooking from the roof terrace;
- right of light.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The site is located on the south side of Mortimer Street near the junction with Wells Street and partly opposite the junction with Nassau Street (which provides long views of part of the building). To the south of the site is Booth's Place. The building was originally constructed in 1899 but was redeveloped behind the retained principal façade on Mortimer Street after planning permission and conservation area consent were granted in 1996. Although the building is not listed it is identified as an unlisted building of merit in the East Marylebone Conservation Area Audit, and it is within the East Marylebone

Conservation Area.

The primary use of the building is offices (Class B1), with office accommodation at ground (reception) and at first to fourth floor levels, with an area of roof plant at fifth floor level. The ground floor is used as retail (A1) floorspace, currently occupied by Sainsbury's, and the basement is a mix of these uses. The retail space will not be affected by these planning application proposals.

The site is located within the Core Central Activities Zone (CAZ). The surrounding area consists of a mix of commercial and residential uses. To the rear of the site on Booths Place is a residential building known as Swan Court, which contains four flats. The neighbouring building to the east at 23-25 Mortimer Street also comprises 10 residential flats. Mortimer House, 37-41 Mortimer Street, the building immediately to the west of the site, comprises a restaurant at basement and ground floor levels and office accommodation above.

6.2 Recent Relevant History

April 2014 – permission granted for alterations to existing terraces at rear first, second and third floor levels to include new railings, new planters, replacement paving and lights. New doors at second and third floor to replace windows.

It is also noted that there is a relevant permission on the adjoining property to the east, at 23-25 Mortimer Street, for the erection of a single storey extension at the front of the property at sixth floor level with an associated terrace for use as a new residential flat (Class C3). This was approved on 5th April 2017 and technically the permission would have expired in April 2020. However, as a result of recent government measures in response to the coronavirus pandemic, the consent is due to be extended until 1st April 2021, as the original expiry date fell within the COVID 19 lockdown period. This permission is considered to be relevant as the additional floor helps set the context for the proposed extension.

7. THE PROPOSAL

These proposals are for a traditionally designed roof extension to the existing building at 5th floor level to provide additional office (B1) floorspace (a net uplift of 149 sqm). The existing plant at fifth floor level will be reconfigured in connection with these proposals. Some plant will be retained at rear 5th floor level and some plant will be relocated to 6th floor level, set back above the proposed new roof extension. The main stair core will also be brought up to access the 6th floor for maintenance purposes but it is not proposed to extend the existing lift beyond fourth floor level, thus avoiding the need to extend the lift overrun and minimising any visual impact from street level.

The façade of the proposed extension will continue across the full width of the building frontage of the Mortimer Street elevation. However, there are two dummy windows at the western end of extended façade, behind which is a roof terrace at fifth floor level. This proposed arrangement will also serve to remove any adverse impacts in terms of privacy/ overlooking across Mortimer Street, where there is some residential accommodation in No. 18. Screening is proposed at the rear of the proposed terrace to prevent overlooking into the flats at Swan Court, Booth's Place.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The existing building has a total floorspace of 3,965.5 sqm, of which 2,464 sqm is office floorspace. The net uplift in office floorspace is 149 sqm, or 3.8% of the total existing floorspace. The site is located within the Core Central Activities Zone and under the terms of policy S1 and S20 of the City Plan an increase in office floorspace is acceptable in principle.

Policy S1 also states:

“For development within Core CAZ, the Named Streets, and Opportunity Areas, which includes net additional B1 office floorspace:

A) Where the net additional floorspace (of all uses) is

- i. less than 30% of the existing building floorspace, or
- ii. less than 400 sqm; (whichever is the greater),

or where the net additional B1 office floorspace is less than 30% of the existing building floorspace (of all uses), no residential floorspace will be required.”

In this case the net additional floorspace (of all uses) is 3.8% of the total floorspace of the existing site, and well below the 400 sqm threshold, therefore the proposal does not trigger a requirement for residential floorspace.

8.2 Townscape and Design

The key legislative requirements in respect to designated heritage assets are Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Section 66 of the same 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.”*

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

The existing building is an attractive Victorian commercial building which makes a positive contribution to the character and appearance of the East Marylebone Conservation Area. It is identified as an unlisted building of merit in the East Marylebone Conservation Area Audit, though the building was redeveloped behind retained front façade in 1996.

The appearance of the building is marred by its large plant room which sits above the mansard roof. This is visible in some street level views, especially from the north, along Nassau Street. There are grade 2 listed buildings at 20, 23 and 26 Nassau Street (west side) and at 10 Mortimer Street on the eastern corner with Nassau Street.

The proposals seek to replace the existing plant room with a more appropriate roof form. The existing mansard roof is retained and a shallower secondary pitch is added above this, to reduce its visual impact, and to accord with the traditional of double pitched mansard roofs. The new roof storey is set at 40 degrees, which is slightly steeper than the traditional 30 degrees, and has recessed dormers within it. It is considered that this is a significant improvement on the existing roofscape and would improve the appearance of the building.

The proposals also include a large, zinc clad roof plant enclosure on top of the proposed roof storey. This is set back from façade by approx. 9.5 metres and the top is pitched to reduce its visual impact and give it a more roof like appearance. This will be visible from Nassau Street and will detract from the appearance of the roofscape of the building to a degree. The views of the extensions from the south (Wells Mews) are limited and the additional bulk is considered acceptable in the context of the surrounding buildings. Taken as a whole it is still considered that the proposals are an improvement on the existing arrangement and are acceptable in urban design and conservation terms. The harm caused to the conservation area and the settings of adjacent listed buildings (primarily by the roof top plant room) is outweighed by the benefits of the proposals overall.

One of the residents in Swan Court has objected to the proposal's 'mass' and the Fitzrovia Neighbourhood Association has also objected to the proposals, stating that they consider it over-development and will have a damaging effect on the East Marylebone Conservation Area and the setting of listed buildings in Nassau Street (Nos. 20 and 23). They are concerned about the visual impact of the roof and plant room from Nassau Street and the impact on the 'proportions of the elevation of what is a very attractive unlisted building of merit (also listed as such in our draft Neighbourhood Plan)'.

They suggest that if an extension is to be permitted it should be set back much further (e.g. 1.5m) from the front elevation, be the equivalent of one floor to incorporate all plant required for the building, and use alternative materials such as glass, to minimise its visual impact from Nassau Street. However, while their comments on the impact of the plant room are understood, it is considered that the suggested alternative of a glazed roof extension would not relate well to the existing building and would not be less harmful than the current proposal.

It is considered that, on balance, this scheme will preserve and enhance the character and appearance of the East Marylebone Conservation Area and will not harm the settings of adjacent listed buildings. The less than substantial harm caused to these

heritage assets by the proposed roof level plant is outweighed by the public benefits of the scheme, including the removal of the existing roof level plant. The scheme complies with the City Council's urban design and conservation policies, including S25 and S28 of the City Plan and policies DES1, DES6 and DES9 of the Unitary Development Plan, and with the requirements of the NPPF.

8.3 Residential Amenity

The City Council places high priority on protecting residential amenity, with UDP Policy ENV 13 stating that the City Council will normally resist proposals which result in a material loss of daylight or sunlight to neighbouring properties. Similarly, City Plan Policy S29 seeks to ensure that development proposals safeguard the amenities of neighbouring residents in terms of privacy, outlook and noise. Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, '*Site layout planning for daylight and sunlight: a guide to good practice*' (the BRE Guide). The second edition of this guidance was published in September 2011.

Daylight

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

Where the layout of affected room is known, the daylight distribution test can plot the 'no sky-line' (NSL) which is a point on a working plane in a room between where the sky can and cannot be seen. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky-line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

The layout of the residential properties is not known and therefore, for the purposes of the daylight distribution test, reasonable assumptions have been used.

Sunlight

With regard to sunlighting, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

Assessment

The applicant has submitted a Daylight and Sunlight Report in accordance with the BRE

guidelines. This assesses the impact on the proposed development on the amount of daylight and sunlight received by the most sensitive windows. The nearest residential properties most likely to be affected by the proposal are to the immediate east of the site at 23-25 Mortimer Street (which has residential windows on its rear façade facing Booth's Place/Wells Mews, and Swan Court, Booth's Place, immediately to the rear. There is also residential accommodation opposite the site at 18 Mortimer Street and 10 Mortimer Street/1 Nassau Street, on the corner of Mortimer Street and Nassau Street. The University of Westminster, 32-38 Wells Street is also at the rear (on the opposite side of Booth's Place), and as an educational establishment has been included in the assessment in accordance with the BRE guidelines.

All but three neighbouring windows meet BRE guidelines in respect of VSC (at least 0.8 times their former values or obtaining over 27% VSC in the proposed condition). The three windows that experience a VSC reduction beyond BRE guidelines are located at the rear of 23-25 Mortimer Street. All are glazed doors serving living spaces in apartments at second, third and fourth floors, located on a return elevation directly facing the development site approximately 6m to the east. The glazed doors at second and third floor level are also constrained by the balconies directly above them, limiting the sky visibility. These glazed doors provide some light for living rooms, but the rooms are mainly lit by a large south-facing window immediately adjoining the glazed door, effectively forming a corner window. The VSC figures are as follows:

	Return/side window – existing VSC	Return/side window – proposed VSC (& loss)	Main/south-facing window – existing VSC	Main/south-facing window – proposed VSC (& loss)
2 nd floor	0.66	0.50 (-25%)	13.68	13.34 (-2%)
3 rd floor	1.44	0.94 (-34%)	16.93	16.24 (-4%)
4 th floor	7.89	4.30 (-45%)	22.53	21.09 (-6%)

Were the south facing windows to all three dwellings and east facing window to the 4th floor apartment also to be considered, the VSC reduction associated within each room as a whole is below a 20% reduction. In BRE terms, this is a negligible impact. The daylight distribution analysis shows that all rooms adhere to the BRE guidelines.

Objections have been received from two of the owner/occupiers in Swan Court, immediately at the rear of the site, on amenity grounds, including loss of daylight and visible sky component to the rear windows in Swan Court. There are four windows (one for each of the four flats, all of which are believed to serve kitchens. However, the daylight report shows that the losses to daylight are small and well within the recommended guidelines:

	Existing VSC	Proposed VSC & loss
1 st floor	1.32	1.32 (0)
2 nd floor	2.73	2.60 (-5%)
3 rd floor	4.61	4.32 (-6%)
4 th floor	8.32	7.93 (-5%)

Accordingly these objections are not considered to be sustainable. (One of the objectors queries how the impact on daylight has been measured without the applicants visiting

his building, but the BRE Guidelines enable this to be done, based on external surveys.)

With regard to sunlight, all but one neighbouring windows meet BRE criteria for the APSH Annual and Winter method. A BRE transgression will have occurred if a development reduces an existing APSH by 20% or more and the remaining APSH is less than 25% and 5% for the winter months. The window experiencing an APSH reduction beyond BRE guidelines is the fourth floor west facing glazed door to 23-25 Mortimer Street (that also falls short for the VSC assessment), with a 41% reduction of sunlight (from 17 to 10 of APSH). However, if the return south facing element of this corner window is included into an average calculation, the results meet BRE criteria for both the APSH annual and winter method.

One objector has referred to right of light but this is a legal matter, not a planning consideration.

Sense of Enclosure, Privacy and Noise from the Proposed Terrace

The outlook from the windows of the flats within Swan Court is already enclosed and it is not considered to materially increase as a result of the proposed development. One of the objectors has provided an annotated photograph showing how the extension will be visible from his kitchen window, but such a view will be very restricted.

With regard to the roof terrace, it is noted that there is already access to the main roof of the building from the main staircase, but the proposal does involve the creation of a purpose built terrace directly accessible from the new office accommodation at fifth floor level, and so it is likely to be used more regularly. One of the residents in Swan Court and the Fitzrovia West Neighbourhood Forum refer to potential amenity problems from the terrace. The latter has also suggested that there should only be a terrace along the front of the fifth floor, as part of a re-designed roof extension. Given the existing access to the roof there are not considered to be reasonable grounds for resisting the proposed terrace. However, in order to protect residential amenity, it is considered appropriate to conditions the hours of its use (08.00 – 20.00 hours, Monday to Friday) and ensure adequate screening. The application indicates screening comprising a built-in clad planter with a planted screen. However, there can be problems with this type of arrangement as the type of planting may not prevent overlooking nor provide a sound barrier, and if not properly maintained might disappear altogether. Therefore a condition requires details to be submitted of a proper screen to be submitted: this should probably be made of translucent glass and no higher than 2m, to ensure there is no further loss of light to the rear of Swan Court.

8.4 Transportation/Parking

There are not considered to be any traffic implications arising from this relatively modest extension. Class B1 office accommodation requires 1 space per 75m² under the draft London Plan, which in this case triggers a requirement for 2 extra cycle spaces. Currently there are 9 cycle parking spaces, and the applicant has confirmed that two further spaces will be provided for the additional 5th floor area in accordance with policy. Additionally, 1 short stay cycle space will be provided to meet London Plan cycle parking requirements.

To access the existing cycle parking facilities, the tenant needs to access the building on Wells Mews via the rear access door. There are existing shower facilities currently located on the ground floor which include 1no. DDA WC and shower room and 1no. shower/changing room. Level threshold access to them is provided either by 27 Mortimer Street main entrance or via the cyclist entrance at Wells Mews at the rear of the building.

8.5 Economic Considerations

The general economic benefits of increasing office floorspace within the Core Central Activities Zone are noted.

8.6 Access

The existing building access and circulation strategy will be continued. Access to reception is via a level threshold, which is retained. Lifts from reception will transport people up on to 4th floor, which maintain a level access.

The 4th floor and 5th floor offices are connected via an internal stair. The lifts are not extended to the 5th floor level because of fire and massing issues. Future provision for a stairlift within the main stair core has been considered and detail design will make allowance for one to be retrofitted by the landlord should the 4th and 5th floor tenant have that requirement. The applicant advises that this approach has been agreed with Building Control.

8.7 Other UDP/Westminster Policy Considerations

Mechanical Plant

The proposal includes a reconfiguration of the existing mechanical plant that serves the building. The application was accompanied by a noise report but the Council's Environmental Services officer raised objection on a number of technical points. One of the residents in Swan Court has also objected on the grounds of noise from the plant. A revised report was subsequently submitted addressing those points and Environmental Services has now confirmed that the proposed plant is acceptable, subject to standard conditions. The noise report has been assessed on the basis of the plant operating between 06.00 – 23.00 hours, and so it will be conditioned to be operated during these hours only. Accordingly it is considered that the objections to noise from the plant have been overcome.

Sustainability

Policy S28 (Design) of the City Plan requires development to incorporate exemplary standards of sustainable and inclusive urban design and architecture, to reduce energy use and emissions and ensure the reduction, reuse or recycling of resources and materials, including water, waste and aggregates. Whilst these application proposals fall within the definition of 'minor' development and entail a relatively modest extension at roof level, the applicant has sought to incorporate sustainable and energy efficient measures within the various elements of the scheme. These are as follows:

- Air handling unit with the inclusion of a high efficiency thermal wheel to maximise heat recovery between supply and extract air to and from the building.
- Variable volume chilled water and low temperature hot water distribution system which will control to the buildings heating and cooling demand reducing energy usage.
- New perimeter heating and cooling fan coil units to refurbished and extended floors with variable air volume fan speed control to reduce energy consumption.
- Plant areas to contain low energy functional luminaires for lighting.
- High efficiency LED lighting within the refurbished and extended office floors.
- Office space lighting within refurbished and extended floors to be provided with daylight dimming based on external conditions.
- Leak detection system for the incoming water supply to monitor the buildings water consumption and feedback any potential leaks or excess usage of water.

Quality of application submission

One of the objectors believes that the drawings are poor in showing the relationship of the proposals with the residential building Swan Court, and that the accompanying documents do not adequately address the proposal's impact on that building. There was also an issue with the site location plan being incorrect. Whilst the drawings could be a little clearer and better annotated, they are considered to be adequate. The key document with regard to neighbouring buildings is the daylight and sunlight report, and this does fully assess the impact on Swan Court and other buildings. The site location plan has now been corrected. This objection is therefore not sustainable.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

The site is located within the area designated for the Fitzrovia West Neighbourhood Plan. However, the Plan has only reached its formal submission stage and therefore has very limited weight. The proposals are broadly considered to comply insofar as the draft Plan states that

“the redevelopment or extension of existing buildings in the Plan area will be supported where applications meet the highest quality design standards, achieve the highest levels of environmental sustainability, and makes a positive contribution to the public realm in the light of local conditions and circumstances”.

Whilst it is noted that the Fitzrovia West Neighbourhood Forum, responsible for the

drafting of the Plan, has raised objection to the proposal on design grounds, for the reason outlined in section 8.2 above, this objection is not considered to be sustainable.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

In this case there are no pre-commencement conditions.

8.12 Planning Obligations

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

The estimated CIL payments are:

MCIL 2: £60,305.56

WCC: £80,407.41

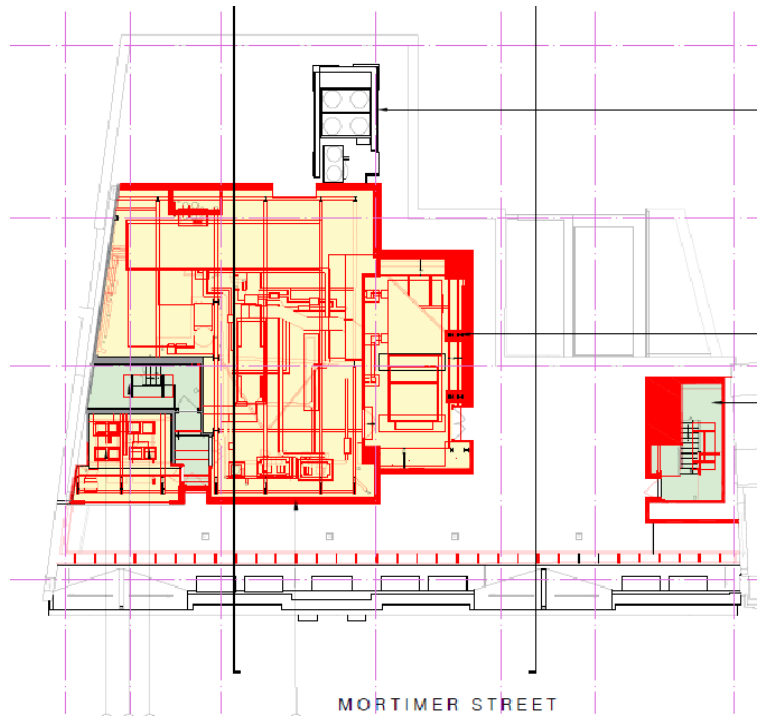
TOTAL: £140,712.97

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

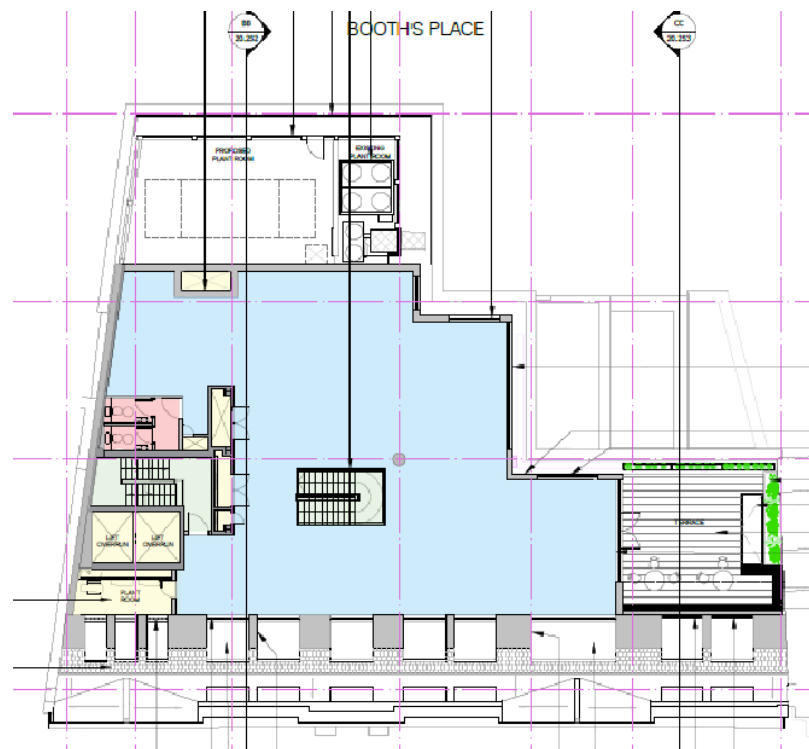
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

9. KEY DRAWINGS

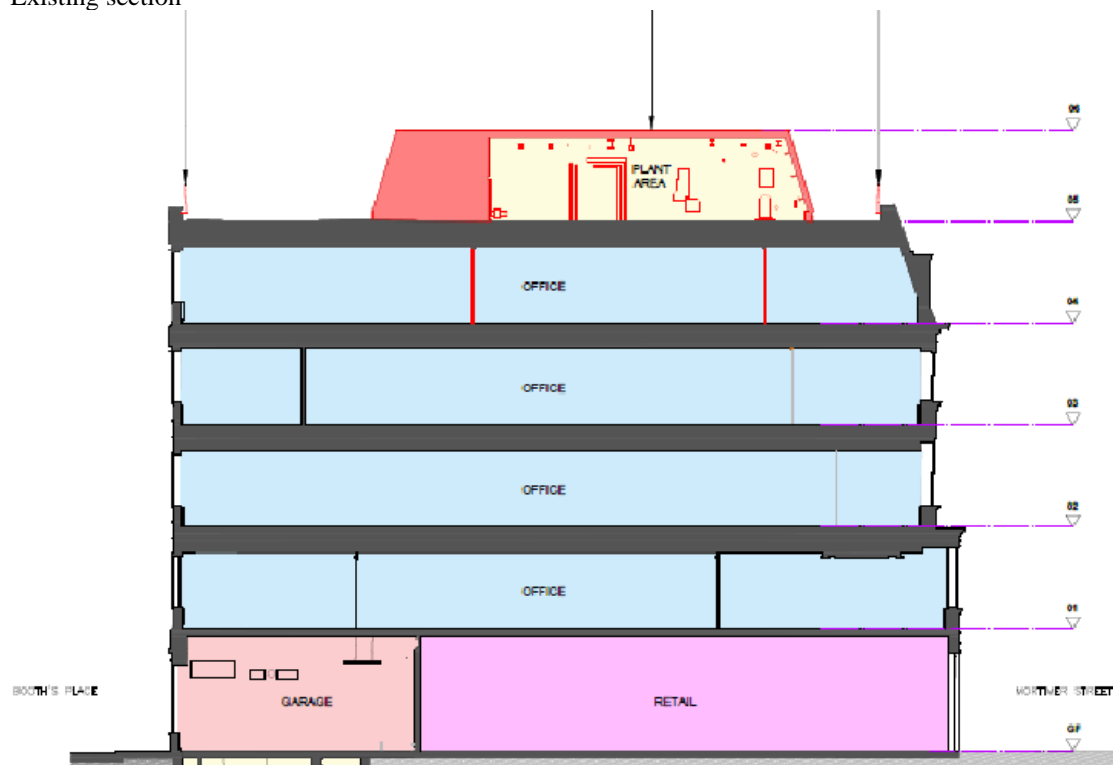
Existing 5th floor



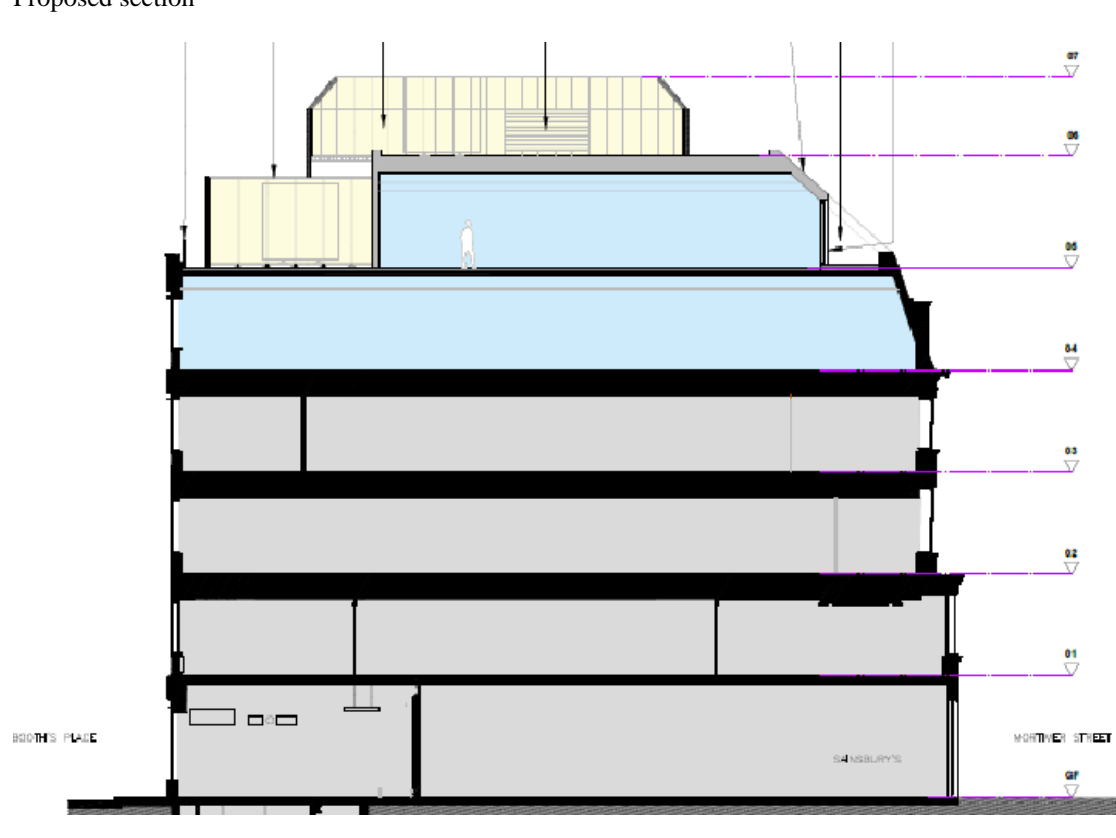
Proposed 5th floor



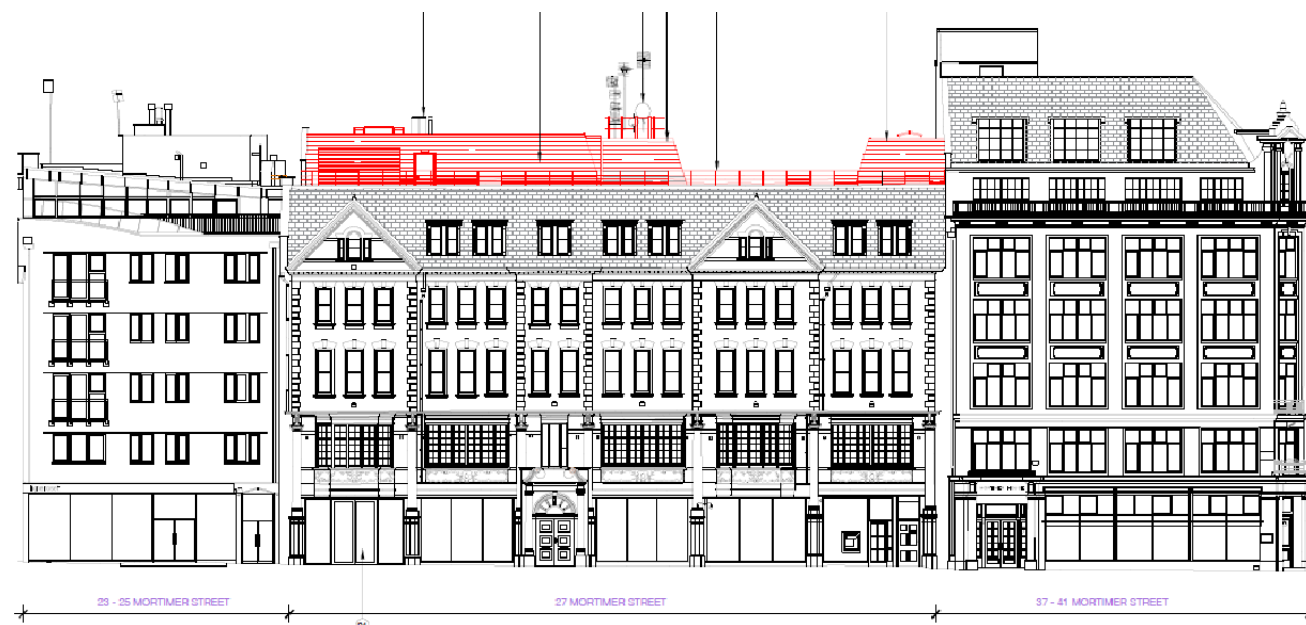
Existing section



Proposed section



Existing front elevation



Proposed front elevation



DRAFT DECISION LETTER

Address: 27 - 35 Mortimer Street, London, W1T 3BL,

Proposal: Erection of a roof extension to provide additional office (B1) floorspace at fifth floor level and associated external alterations including the creation of a roof terrace at fifth floor level and reconfiguration and relocation of plant within a new purposely designed acoustic enclosure at part rear fifth floor and part sixth floor/roof level.

Reference: 20/02379/FULL

Plan Nos: 1863-BG-ZZ-00-DR-A-00.101 Rev P2 (Location Plan), , 1863-BG-ZZ-00-DR-A-20.202 Rev P1, 1863-BG-ZZ-05-DR-A-20.207 Rev P1, 1863-BG-ZZ-06-DR-A-20.208 Rev P1, 1863-BG-ZZ-00-DR-A-20.252 Rev P1, 1863-BG-ZZ-00-DR-A-20.253 Rev P1, 1863-BG-ZZ-00-DR-A-20.271 Rev P1, and 1863-BG-ZZ-00-DR-A-20.272 Rev P1.

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 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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 East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 3 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 4 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 East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 6 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved 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 ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), 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. (R46AB)

- 7 The plant/machinery hereby permitted shall not be operated except between 06.00 hours and 23.00 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties 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 S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R46CB)

- 8 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:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 9 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 6 of this permission. You must not operate the plant at rear fifth floor or sixth floor/roof level (other than for testing purposes in order to discharge this condition) until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. (R51AB)

- 10 You must put up the plant screen shown on the approved drawings and fully implement the acoustic mitigation measures outlined in the Sandy Brown 'Planning noise assessment report' dated 27 May 2020 (ref. 19339-R01-D) before you use the machinery. You must then maintain plant screen in the form shown and the mitigation measures for as long as the machinery remains in place. (C13DA)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 11 The roof terrace at fifth floor level shall only be used by occupiers of the office accommodation between 08.00 and 20.00 hours Mondays to Fridays and not at all at other times (except for maintenance or in an emergency).

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as

set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 12 You must apply to us for approval of detailed drawings (and photographs or manufacturers details of any translucent glass screening that may be used) of the following parts of the development - the screening at the rear of the roof terrace at fifth floor level (facing Swan Court, Booth's Place).

You must not occupy the new office accommodation approved at fifth floor level until we have approved what you have sent us. You must then carry out the work according to these drawings/details. (C26DB)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 13 You must provide the two extra cycle parking spaces shown on the approved drawings prior to occupation. Thereafter these cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

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 Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, 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 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.**

- 3 Condition 6 controls 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)
- 4 With regard to condition 12, you are advised to consider translucent screening, no higher than 2m above the level of the floor of the terrace, to help minimise the potential loss of light to Swan Court.

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.