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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 29 September 2020 | Classification For General Release | |
| Report of Director of Place Shaping and Town Planning | | Ward(s) involved Knightsbridge And Belgravia | |
| Subject of Report | 7 Montpelier Terrace, London, SW7 1JP | | |
| Proposal | Installation of an air-conditioning unit at rear second floor level within an acoustic enclosure (partially retrospective). | | |
| Agent | Savills | | |
| On behalf of | Mr R Bulchandani & Miss M Bannerjee | | |
| Registered Number | 20/02514/FULL | Date amended/ completed | 17 July 2020 |
| Date Application Received | 15 April 2020 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Knightsbridge | | |

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application site is a three-storey, mid-terrace single family dwelling house located within the Knightsbridge Conservation Area. The building is unlisted but is identified as a building of merit in the Knightsbridge Conservation Area Audit. The adjacent building, 26 Montpelier Square, is Grade II listed.

Planning permission is sought for the retention of an air-conditioning unit at rear second floor level and for the installation of an acoustic enclosure around it.

The key issues are:

*The impact on the character and appearance of the Knightsbridge Conservation Area and the setting of the adjacent listed building at 26 Montpelier Square; and

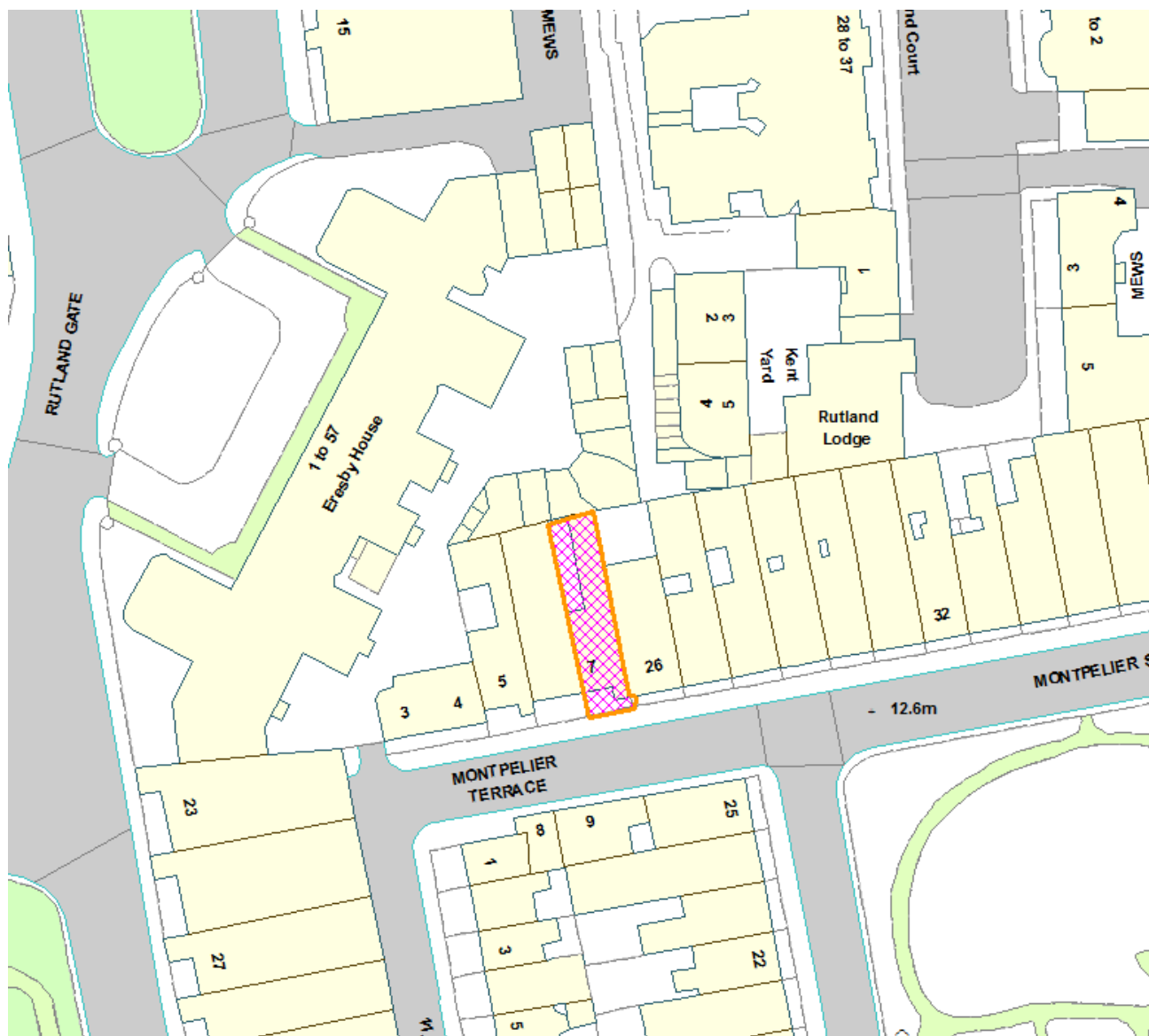
* The impact on the amenity of neighbouring residents.

Objections have been received on noise and visual amenity grounds. Subject to conditions to mitigate potential noise nuisance and requiring details of the appearance and finish of the acoustic enclosure, the proposal is considered to comply with the Council's policies set out in the Unitary Development Plan (UDP) and Westminster City Plan (2016) and the application is accordingly recommended for

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| Item No. |
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approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front of 7 Montpelier Terrace



Rear elevation of 7 Montpelier Terrace

5. CONSULTATIONS

KNIGHTSBRIDGE ASSOCIATION:

Object. Detrimental impact on visual amenity, the character and appearance of the conservation area and the setting of the adjacent listed building.

N.B reference is made to the Planning Inspector's comments regarding the impact on the visual amenity of Eresby House. However, this appeal decision relates to a different air conditioning unit on the rear of the building which is not the subject of the current application.

KNIGHTSBRIDGE NEIGHBOURHOOD FORUM:

Any response received to be reported verbally by officers.

ENVIRONMENTAL HEALTH:

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

ORIGINAL APPLICATION

No. Consulted: 4

Total No. of replies: 2

No. of objections: 2

No. in support: 0

Two objections on some or all the following grounds:

Design

- Detrimental impact on the character and appearance of the conservation area

Amenity

- Noise and vibration nuisance
- Size and bulk of the acoustic enclosure would have a harmful impact on visual amenity
- Loss of view and outlook

Other

- Proposed drawings are inaccurate and;
- Previous unauthorised enclosure (now removed) was over 2m deep and 2m high.

REVISED SUBMISSION – dimensions of enclosure shown on drawings

No. Consulted: 4

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION**6.1 The Application Site**

The application site is a three-storey single family dwelling house located within the Knightsbridge Conservation Area. The building is unlisted but is identified as a building of merit in the Knightsbridge Conservation Area Audit. It is a mid-terrace property and is adjacent to a Grade II listed building at 26 Montpelier Square. To the rear, the site adjoins single storey garages and faces onto Eresby House, a residential block of flats.

6.2 Recent Relevant History

Planning permission for the retention of an air conditioning unit and installation of an acoustic enclosure at the rear of the property was refused on 13th May 2019 (18/10233/FULL) on the grounds of 1) detrimental impact on the appearance of the building, the setting of the Grade II listed building at 26 Montpelier Square and the character and appearance of the Knightsbridge Conservation Area and 2) insufficient information to demonstrate that there would not be a harmful cumulative noise impact on residential amenity from the air-conditioning unit (subject of the application) and another existing air-conditioning unit on the rear of the property.

The City Council's decision was upheld at appeal on 12th November 2019. Due to a lack of information in the noise report about the potential cumulative impact of the two air-conditioning units, the Inspector agreed that there was insufficient evidence to conclude that the living conditions of the occupiers of 6 Montpelier Terrace and 26 Montpelier Square would not be unduly harmed.

A Certificate of Lawfulness for an existing air conditioning unit positioned on the rear wall of the building (the other smaller existing air-conditioning unit) was refused on 25th March 2019 (18/09946/CLEUD) and subsequently dismissed at appeal on 26 February 2020. This air-conditioning unit is therefore unlawful.

An Enforcement Notice was served on 29 June 2020 which requires the removal of both air-conditioning units from the rear of the building. This notice would have taken effect on 4 August 2020 had an appeal not been lodged.

7. THE PROPOSAL

Planning permission is sought for the retention of an air-conditioning unit which is currently mounted on the wall at rear second floor level of the house and for the installation of an acoustic enclosure around it.

The air-conditioning unit is a double cassette unit measuring 940mm wide, 330mm deep and 1210mm high. The unit was previously installed within an enclosure which has now been removed. The proposed new acoustic enclosure will be 2120mm wide, 500mm deep and 1300mm high.

The other existing air-conditioning unit at the rear of the house at this level is unlawful and is to be removed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposal would not change the use of the dwelling and therefore there are no land use implications.

8.2 Townscape and Design

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

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

Policy KBR1 of the Knightsbridge Neighbourhood Plan adopted December 2018 states:

Proposals for new development or the redevelopment of existing buildings should contribute towards the local distinctiveness of Knightsbridge. They should demonstrate high quality, sustainable and inclusive design and architecture that respects the relevant Character Area or Conservation Area, as shown on the Policies Map, or the surrounding area if located outside these designated areas. Proposals should address the following criteria:

(a). The importance of responding creatively to, and enhancing, the setting of the surrounding area, having regard to the character of adjacent buildings and spaces, including scale, orientation, height and massing.

(c) High quality materials should be used that respect the local setting and contribute positively to the particular Character Area or Conservation Area or the general surrounding area if outside of these designations.

7 Montpelier Terrace is considered to contribute positively to the Knightsbridge Conservation Area. It is also located immediately adjacent to 26 Montpelier Square which is listed Grade II incorporating a brick and stucco façade to the street with a first floor iron balcony. Therefore, any external alterations proposed to the building should not affect the setting of the adjoining Grade II listed building and the wider Conservation Area. This is particularly important as No. 7, due to its height and relationship to the other properties, makes it visible from a wide range of surrounding properties.

However, the Planning Inspector (12.11.2019 appeal decision) did not agree with the Council's assessment and concluded that the air-conditioning unit and proposed acoustic enclosure would not result in harm to the visual amenity of the conservation area or the setting of 26 Montpelier Square. Therefore, the Council cannot sustain its objection to the current proposals, which are identical to the works subject to the appeal and which the Inspector found acceptable in design and heritage terms.

Although the applicant has indicated that the enclosure is to be painted white, a condition is recommended requiring full details of the design appearance and finish of the new acoustic enclosure.

As such, the proposal is considered acceptable, mindful of policies DES1, DES5 and DES9 of the UDP and S25 and S28 of the City Plan and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8.3 Residential Amenity

Plant Noise

Policies ENV6 and ENV7 of the UDP seek to control noise from plant and machinery and to protect noise sensitive properties from noise disturbance. Objections, on noise nuisance grounds, have been received from two residential neighbours.

Previously, the Inspector shared the Council's concern that, cumulatively the noise from the two air-conditioning units at the rear of the property, could have a harmful impact on the amenity and living conditions of residential neighbours. However, the other existing unit (subject of the dismissed CLEUD appeal) has been found to be unlawful and is to be removed.

The Council's Environmental Sciences Team are now satisfied with the submitted plant noise assessment report (the unlawful unit was non-operational when the noise assessment was carried out) and with the acoustic specifications of the proposed new acoustic enclosure subject to the City Council's standard conditions controlling noise emission levels.

The proposal therefore complies with policies S29 and S32 of Westminster's City Plan (2016), ENV 6 and ENV 7 of our Unitary Development Plan and KBR40 of the

Knightsbridge Neighbourhood Plan as well as paragraphs 170 and 180 of the NPPF.

Loss of outlook

Objections have been received to the size and scale of the proposed acoustic enclosure and the impact this would have on private views and the loss of outlook from adjoining properties.

The height and depth of the proposed acoustic enclosure is smaller than the previously installed (and subsequently) removed unauthorised acoustic enclosure. Whilst the proposed new enclosure will be visible from the bathroom window of 26 Montpelier Square and in oblique views from the rear of 6 Montpelier Terrace, it is not considered to have a harmful impact on the visual amenity of the occupiers of these buildings.

The proposal is therefore considered to comply with Policy ENV13 of the UDP and Policy S29 of the City Plan.

8.4 Transportation/Parking

None relevant for this application.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

There is no change proposed to the existing access arrangements.

8.7 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.

8.8 Neighbourhood Plans

The Knightsbridge Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 18 October 2018, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Knightsbridge Neighbourhood Area. Where any matters relevant to the application

subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

8.9 London Plan

This application raises no strategic issues.

8.10 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.

8.11 Planning Obligations

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

8.12 Environmental Impact Assessment

Environmental Impact Assessment is not required for a development of this nature.

8.13 Other Issues

Comments have been received questioning the accuracy of the submitted drawings. The drawings have been amended to include annotated dimensions of the proposed acoustic enclosure - 2120mm wide, 500mm deep and 1300mm high. The enclosure has been designed to be large enough to accommodate the air-conditioning unit as well as the acoustic louvres and baffles which are required to attenuate the unit and ensure that it is capable of operating within the Council's specified noise standards.

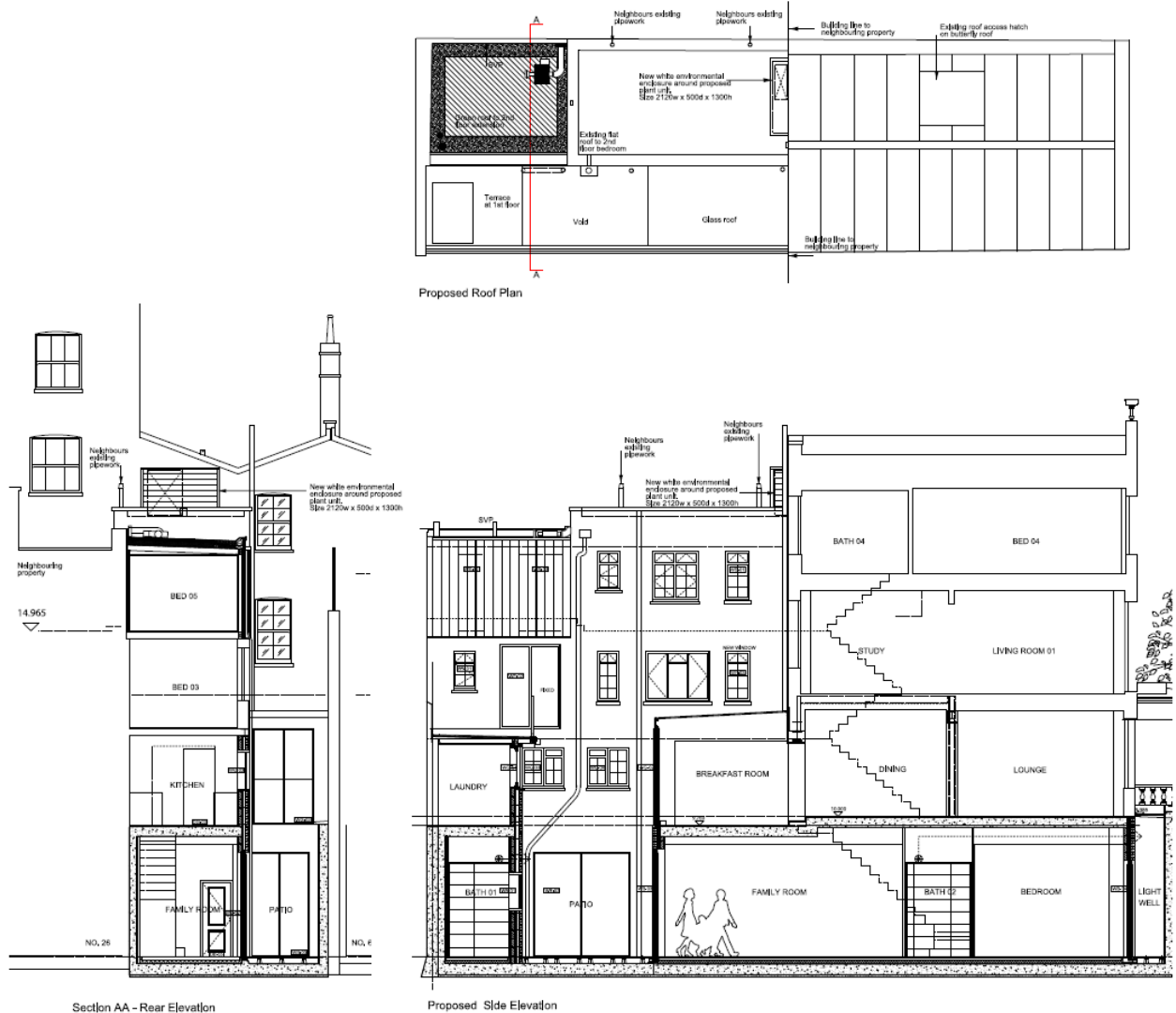
The Knightsbridge Association have sought clarification on the proposed drawings which indicate extensions to the building, none of which are mentioned in the application documents or the description of proposed development. The submitted existing and proposed drawings show a basement and ground floor extension plus alterations to existing fenestration and installation of metal bars to the front lightwell all of which have been approved and implemented under application reference 11/01178/FULL.

(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: AMANDA JACKSON BY EMAIL AT AJACKSON@WESTMINSTER.GOV.UK

9. KEY DRAWINGS





Proposed roof plan, side and rear elevations

DRAFT DECISION LETTER

Address: 7 Montpelier Terrace, London, SW7 1JP

Proposal: Installation of an air-conditioning unit at rear wall second floor level within an acoustic enclosure.

Reference: 20/02514/FULL

Plan Nos: Location Plan: 2987/A/1060 Rev A02, Existing drawing: 2987/A/4020 Rev L06, Proposed drawing: 2987/A/4022 Rev L06, Plant Noise Assessment Report (26204/PNA1) dated 18/03/20 and KP Acoustics supplementary assessment dated 16/07/20 and 20/08/20.

Case Officer: Nosheen Javed

Direct Tel. No. 07866037836

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.
 You must carry out piling, excavation and demolition work only:
 - o between 08.00 and 18.00 Monday to Friday; and
 - o not at all on Saturdays, Sundays, bank holidays and public holidays.
 Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of 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)

- 3 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum. (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved 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 LA90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
 - (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP) and KBR40 of the Knightsbridge Neighbourhood Plan, 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. (R46BB)

- 4 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 and KBR40 of the Knightsbridge Neighbourhood Plan, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 5 Only the air-conditioning unit, acoustic louvres and baffles specified in the supplementary acoustic assessments by KP acoustics dated 16/07/2020 and 20/08/20 shall be placed within the acoustic enclosure. No other plant equipment shall be placed within the acoustic enclosure hereby approved.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), 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 and KBR40 of the Knightsbridge Neighbourhood Plan to ensure that the development is designed to prevent structural transmission of noise and vibration.

- 6 You must apply to us for approval of detailed drawings of the appearance, materials and finish of the acoustic enclosure within 8 weeks of the date of this permission. You must not start any work on this part of the development until we have approved what you have sent us. The acoustic enclosure must be installed in accordance with these approved details before the air-conditioning unit is turned on and thereafter retained for as long as the air-conditioning unit remains in place and operational.

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 Knightsbridge Conservation Area and so that the noise environment of people in noise sensitive properties is protected. This is as set out in S25, S28 and S32 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, ENV6 and ENV7 of

our Unitary Development Plan that we adopted in January 2007 and KBR1 of the Knightsbridge Neighbourhood Plan. (R26BE)

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 Conditions 3, 4, 5 and 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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.