

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 16 th March 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	13 Soho Square, London, W1D 3QF		
Proposal	Demolition of the existing rear extension and erection of replacement new extension with terrace at rear third floor level and creation of a new roof terrace and installation of plant both at main roof level. Use of the building as a residential dwelling (Class C3) with associated internal and external works.		
Agent	Barton Willmore LLP		
On behalf of	Mr Olive		
Registered Number	20/06844/FULL 20/06845/LBC	Date amended/ completed	28 October 2020
Date Application Received	28 October 2020		
Historic Building Grade	II*		
Conservation Area	Soho		

1. RECOMMENDATION

1. Refuse planning permission – unacceptable in design terms.
2. Refuse Listed Building consent – unacceptable in design terms.

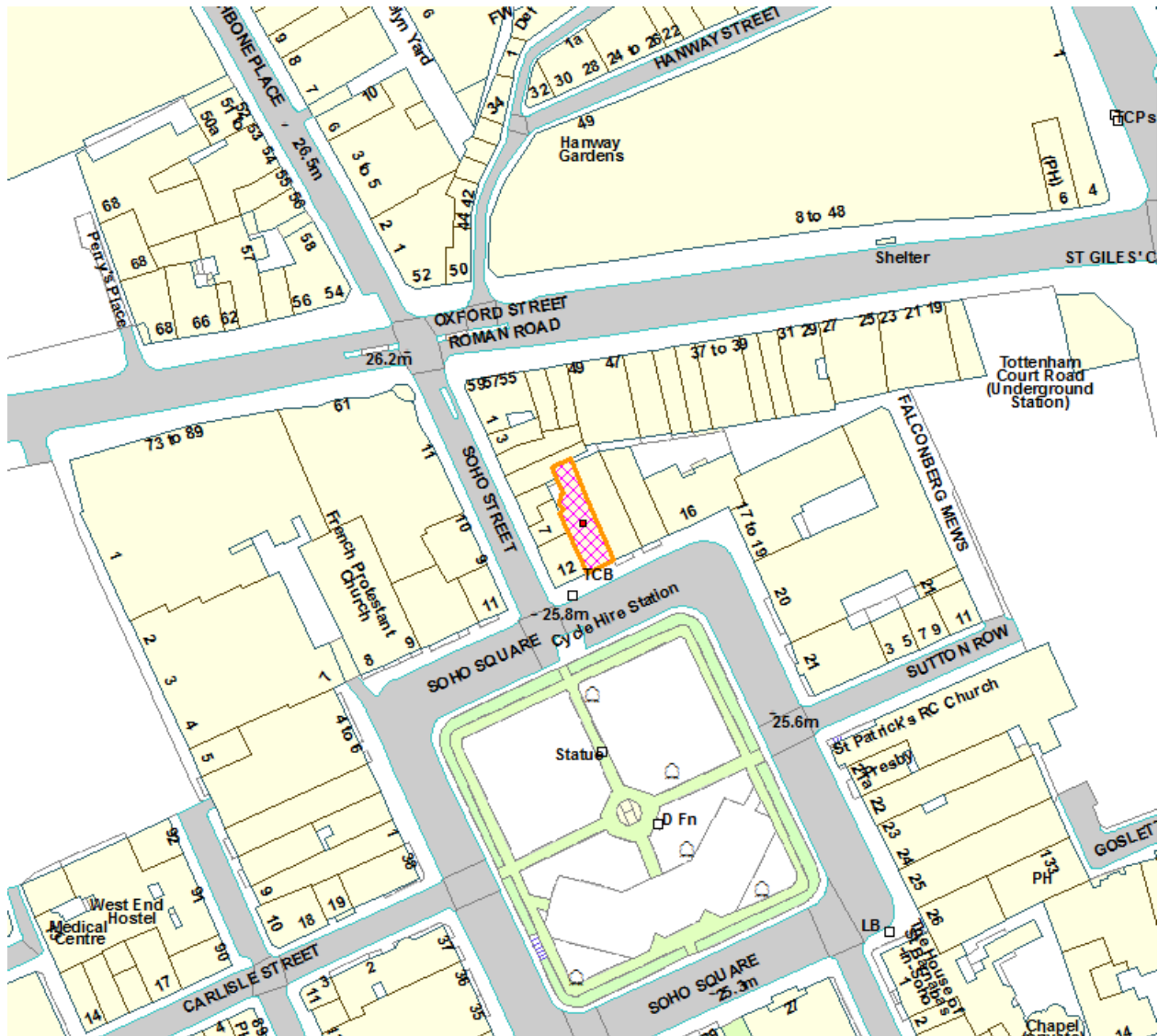
2. SUMMARY

13 Soho Square is a Grade II* listed building located within the Soho Conservation Area and the Core Central Activities Zone. The property comprises of lower ground, ground and first to third floor levels. The building is currently occupied as office accommodation, but works have taken place to implement a 2015 planning permission for residential use and these works may lawfully continue.

Consent is sought for the demolition of the existing rear extension with a replacement new extension and a terrace third floor level. Other works include a glass link and removal of part of the existing roof structure to enable the creation of a further roof terrace and to install plant items and a replacement roof lantern. Internal alterations are proposed throughout the building including to the main staircase and incorporating environmental improvements all in connection with the use of the property as a single family dwelling.

The key issue is the impact of the proposals on the special architectural and historic interest of this Grade II-Star listed building and the character and appearance of the Soho Conservation Area. In their architectural concept the alterations are overtly modern and contrast sharply with the historic character of the building. While some modern interventions may be acceptable, cumulatively the alterations are considered to cause unmitigated harm to the building's special interest, and the benefits set out by the applicant of improved environmental performance, do not outweigh that harm. For the reasons set out in the main report, the current proposals are not considered to be acceptable and are therefore recommended for refusal.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation:



Aerial Photograph:



5. CONSULTATIONS

COUNCILLOR LEWIS

Supports the scheme due to the environmental improvements proposed.

COUNCILLOR GREEN

States that it was for the applicant to discuss the proposal with officers.

SOHO SOCIETY

No response.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

HIGHWAYS PLANNING

No objection subject to conditions.

WASTE PROJECT OFFICER

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

13 Soho Square is a Grade II* listed building located in the Soho Conservation Area and the Core Central Activities Zone, the building comprises lower ground, ground and first to third floor levels. Whilst the building is currently used as office accommodation planning permission has been previously granted for the change of use of the building to a single family dwelling and this permission has been implemented due to relevant works being carried out to the property. This has been confirmed through a Certificate of Lawfulness.

6.2 Recent Relevant History

24th February 2015 - Planning permission and listed building consent were granted on the for the following development: *Use of the building as a single family dwelling (Use Class C3), external alterations at all floor levels including the demolition of the existing extension at rear second floor level and creation of a terrace and the installation of plant at main roof level.*

8th September 2017 – Certificate of Lawfulness was granted for the following: *Establish lawfulness of works to enlarge the existing window at rear ground floor and subsequent installation of a new entrance door in connection with the development granted planning permission on 24th February 2015 (RN: 14/12653/FULL) for, 'Use of the building as a single family dwelling (Use Class C3), external alterations at all floor levels including the demolition of the existing extension at rear second floor level and creation of a terrace and the installation of plant at main roof level.*

7. THE PROPOSAL

Consent is sought for the demolition of the existing rear extension at ground to second floor levels and replacement with a new extension of ground to second floor levels with a terrace at third floor level. A glass link is proposed between the original rear wall and the rebuilt rear extension. At main roof level it is proposed to remove part of the existing roof structure to enable the creation of a roof terrace and to install plant items and replacement roof lantern. Internal alterations are proposed throughout the building including to the main staircase and incorporating environmental improvements all in connection with the use of the property as a single-family dwelling.

8. DETAILED CONSIDERATIONS

8.1 Land use

Planning permission and listed building consent were granted on the 24th February 2015 for the *'Use of the building as a single family dwelling (Use Class C3), external alterations at all floor levels including the demolition of the existing extension at rear second floor level and creation of a terrace and the installation of plant at main roof level.'*

A Certificate of Lawfulness was then granted on the 8th September 2017 confirming that the planning permission for works and the change of use of the property to a single family dwelling had been implemented. Therefore, the fallback position is that this implemented planning permission could be completed and the building used for residential purposes.

Whilst the current policy position (City Plan Policy S20) is that the change of use of office accommodation to residential floorspace within the Core Central Activities Zone is unacceptable in principle, given the building could currently be lawfully occupied as a residential unit the proposal is considered acceptable in this regard.

8.2 Townscape and Design

Introductory Text:

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of*

preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 66 of the 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.”*

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.”*

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.

Design Consideration:

13 Soho Square is a Grade II-Star listed building in the Soho Conservation Area to which it makes a positive contribution. The list entry notes its origins date from 1677 and that it was rebuilt 1769-69 with further alterations in the mid-nineteenth century. Of the internal features, the staircase and a decorative plaster ceiling are most notable in the list entry. The plan form is historic with later alterations of interest, the structural fabric is also largely historic, and there are various historic joinery items such as panelled window reveals (possibly sealed shutters), and areas of panelling.

The street façade is rendered (painted green) and has an attractive shopfront with dual entrances; the rear of the building is of stock brick and has a large extension. The site is tightly constrained at the rear from where it is only visible from surrounding properties. Residential flats at 47-49 Oxford Street, to the north of the application site, were approved in 2013, and their amenity has an impact on the acceptability of the currently proposed rear roof terrace in terms of a requirement for visual screening. In principle, the considerations are the same as for the previously approved rear terrace although that was a storey lower than that of the current application.

Permission was granted in 2015 for use of the building as a single family dwelling, at that time the associated application for listed building consent was also approved, the works were described as "Internal and external alterations at all floor levels including the demolition of the existing extension at rear second floor level and creation of a terrace and the installation of plant at main roof level."

The approved listed building consent application was accompanied by a Building Investigation report prepared by Demaus Building Diagnostics Ltd. The report helpfully refers to the Survey of London, Volume XXXIII, (1966), which describes the building in the following terms:

"The stucco facing to the front of this house is mid nineteenth-century work of a similar character to No. 12. Internally, the house differs from No. 12 in being entered from the square and in having a bay window at the rear, but there is again a square stone staircase in the centre and both this and its good wrought iron balustrade have been little altered (Plate 127b). The stair rises only to the second-floor level, which is marked by a decorated band. A small enclosed wooden staircase gives access to the floor above and this has a gallery to the main stair compartment, which is finished with a modillion cornice and plain ceiling, the roof light having a frieze of festoons and roundels. Some altered late seventeenth-century balustrading, with panelled newels and twisted balusters, has been re-used above the staircase to the basement. As in No. 12, a decorated plaster ceiling survives in the first-floor rear room, the ornament awkwardly contained in its rectangular panel (Plate 131a). In this room, in the one below and in the front room on the first floor, there are enriched modillion cornices and in both first-floor rooms some wide and narrow wooden panelling survives. Due to extensive alterations and partitioning, no room in the house now gives any clear idea of its eighteenth-century appearance."

The purpose of the report was primarily to establish what lay behind modern internal linings. At roof level, the report identified in paras. 10.4 - 10.6 of the pyramidal roof on the rear bay that:

"The pyramidal or sloping ceilings above the later flat ceiling consist of foilbacked plasterboard fixed direct to the underside of historic, possibly original softwood structural elements. No earlier or original lath and plaster finishes could be identified.... By internal and external inspection of the roof structure, fabric and details over Audio 2, it seems likely that there was a comprehensive overhaul of the roof areas which involved the removal of all earlier elements and materials except for the roof timbers and some ceiling timbers, and the insertion of new machine made tiles, and new plasterboard internal finishes, and incorporating some fibreglass insulation."

As regards the front room (Audio 3) the report notes at para. 11.1 and 11.5 that:

"Audio 3 is generally within the roof space and with generally no very original or early fabric remaining.... The roof structure is probably mostly modern (i.e. post-war) but may incorporate some earlier much altered elements. The plasterboard appears to be fixed directly to the underside of the rafters"

In conclusion the report notes:

"Apart from the primary structural elements, very little historic fabric survives at third floor level and in the roof spaces, all of which appear to have been comprehensively rebuilt in the modern period, most probably in the 1970s."

and that as regards the Survey of London where it comments "Due to extensive alterations and partitioning, no room in the house now gives any clear idea of its eighteenth-century appearance" it is concluded that:

" Whilst this may be largely true, significant elements of earlier, if not original, fabric do survive, and generally, these have not been significantly compromised or damaged by

the more recent additions."

Regarding the alterations, the proposal envisaged comprehensive refurbishment of the building including substantial alterations to the rear extension which was to be reduced by one storey to allow creation of a rear roof terrace at second floor level. Mechanical plant was to be reduced and relocated to an area of flat roof on the main part of the building. The height reduction of the rear extension was a particularly welcome improvement in heritage asset terms.

The current application differs from the approved scheme in several key respects. The main roof is to be altered to form a terrace, the rebuilt rear extension is to remain at its current height with the addition of a terrace, the main staircase is to be altered, and the environmental performance of the building is to be upgraded.

Regrettably, in several aspects the proposal is unacceptable in heritage asset terms and the benefits of improved environmental performance do not outweigh the harm.

In their architectural concept the alterations are overtly modern and contrast sharply with the historic character of the building. This is problematic given that this is a Grade II-Star listed building, which is a category of 'particularly important buildings of more than special interest'. While some modern interventions may be acceptable, cumulatively the alterations would cause unmitigated harm to the building's special interest.

Rear extension

While demolition of this part of the building may allow a better architectural reading of the older canted-bay window, the glass link is an overtly modern addition which on its own may be acceptable. However, the proposed rear roof terrace requires visual screening and now that this no longer on lowered extension, the benefit of the approved scheme is lost and the impact of the terrace on the special interest of the building is worsened because of the screening required and the clutter this creates at roof level. This is not mitigated by the proposed glass link which is in principle the same as previously approved but without the compensating benefit of a reduced height extension.

Main roof terrace

While the previous and current assessments of the roof broadly concur about the age of the roof fabric, it cannot be argued that its form (and some of the fabric) is not historic. Moreover, the main roof area of a building of this type was never intended for use as terrace. Therefore, the alteration as proposed would result in the loss of part of the roof's historic form (the extent of historic fabric lost is unclear) and would introduce a use fundamentally out of character with the building's special historic interest. Furthermore, the access arrangements (including a lift) would be detrimental to the building's historic hierarchy by providing rather grandiose access to an area historically, and normally, out of bounds. The incongruity of the terrace would be exacerbated by the 'tiled floor finish' and structural rooflight over the main staircase.

Main staircase

The existing main staircase is of particular interest and has a delightful balustrade. The modification at ground floor level where it currently runs against the western party wall is a historic alteration of interest in its own right and reflects the changes to the building over time. Through the pre-application process, it has been established that the

relocated part of the staircase seems to be a mixture of different parts and, in any case, its relocation would be technically challenging (if not impossible) and it would be undesirable in heritage asset terms to remove this quirk because it contributes positively to the building's history.

In the context of use as a single family dwelling, it is accepted that the staircase is inconvenient. Nevertheless, it is a material consideration that approval for the use, and associated works, was previously granted without alteration to the staircase. Noting the quality of the main staircase, and its timber counterpart from ground to basement level, the proposed alteration is contentious in heritage asset terms. While, on its own, the proposed staircase alteration may be acceptable given it is wholly additional to the building (i.e. there is no loss of fabric) and its form is likely to resemble the original design, this is another overtly modern intervention in the building.

Environmental performance

There is no objection to sensitive improvements to the building's environmental performance and the support offered by Councillor Lewis is acknowledged. However, none of the upgrading work proposed is reliant on any of the other alterations. Furthermore, there are concerns about internal wall insulation in terms of moisture retention and the consequent impact of timbers bedded into the walls. Be that as it may, the principle of improvements to the building's environmental performance can be a public benefit in terms of the climate change emergency, but none of the upgrading work proposed is reliant on any of the other alterations. Therefore, the improvements cannot outweigh the harm identified elsewhere in the scheme.

Had the scheme been acceptable in all other respects, the internal layout would still have required modification to omit, for example, the proposed double-doors at first floor level where they are simply too large and create a quasi-open-plan effect.

Alterations proposed to the lift shaft would improve the plan-form of the house by removing the intrusion in the front rooms which breaks the continuity of the partition wall, but this benefit is more than outweighed by the harm of the other alterations and the reinstatement of missing features such as chimneypieces is a benefit that is not reliant on any of the other alterations and would/could be delivered by the previously approved scheme.

Conclusion

As such the proposals fail to accord with City Plan policies S25 and S28 and UDP policies DES 1, DES 5, DES 6, DES 9 and DES 10, and the public benefits proposed, comprising improvements to the building's environmental performance, are not dependant on the harmful alterations and this would not outweigh the less than substantial harm that would be caused to the designated heritage asset. Therefore, the recommendation to refuse planning permission and listed building consent is 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**

The re-built extension is similar in bulk and massing to the existing and the main amenity

issue arises from the introduction of a terrace at rear third floor level on the roof of the rebuilt rear extension. The previously approved, and implemented, consent for the conversion to a single-family dwelling allowed for the creation of a terrace at rear second floor level. Concern at the time was expressed about the potential for overlooking from this terrace of residential windows to the north of the application site at 47-49 Oxford Street and suitable planting was included on the terrace to protect the privacy of these existing residential windows. A condition was included to ensure the planting was maintained to a height of 1.8m. Planting has again been shown on the current application on the edge of the terrace to prevent overlooking of the neighbouring residential windows. Had the application been recommended for approval a condition would have been recommended to ensure the installation and maintenance of this planting.

8.4 **Transportation/Parking**

The Highways Planning Manager has confirmed they have no objection to the application. Four cycle parking spaces have been shown on the proposed drawings within the rear alleyway at the back of the property. This level of cycle parking accords with the London Plan requirements and would have been secured by condition if the application had been recommended for approval.

Whilst a suitable bin store has been shown on the drawings for the property, the Waste Projects Officer has requested that further details in relation to the separation of waste and size of the bins is provided. If recommended for approval a suitable condition would have been included requiring the submission of this information.

8.5 **Economic Considerations**

No economic considerations are applicable for a development of this size.

8.6 **Access**

No changes are proposed to the access arrangements.

8.7 **Other UDP/Westminster Policy Considerations**

Noise

The proposal includes the installation of plant items on the main roof of the property. Policies ENV6 and ENV7 of the UDP and S32 of the City Plan seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation. An acoustic report accompanies the application to consider the noise levels from the operation of the proposed plant

The plant is proposed to operate at any time over a 24 hour period given the 24 hour nature of the residential use. Background noise measurements have been recorded for the proposed plant location over a 24 hour period with the lowest background noise measurements recorded of 44dB. Measurements were made to windows at 14 Soho Square at a distance of 6m. Taking into account the 24 hour use of the plant the noise levels from the plant at the nearest sensitive property should be no more than 34 dB.

Expected noise levels at the nearest sensitive property resulting from the plant operation are 32dB.

Environmental Health have assessed the documentation and confirmed that the plant operation will be compliant with the City Council criteria. No acoustic mitigation is required. Had the application been recommended for approval conditions would have been included to control noise and vibration levels from the plant.

Sustainability

Improvements are proposed to the environmental performance of the building to achieve BREEAM Outstanding sustainability rating. These improvements are welcomed and accord with the relevant policies of the City Plan and UDP seeking to improve the sustainability of buildings within Westminster. It is also recognised that the improvements will go beyond emerging City Plan Policy 39 which seeks these proposals to achieve BREEAM Excellent.

Westminster Council has also declared a 'climate emergency' and has made a commitment to becoming a carbon neutral council by 2030 and a carbon neutral city by 2040 and these improvements will contribute towards those goals.

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 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council consulted on the main modifications recommended by the Inspectors between 30 November 2020 and 18 January 2021. However, having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will continue to attract limited weight at this present time prior to the publication of the Inspector's final report.

8.9 Neighbourhood Plans

Not relevant to the determination of this application.

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.

8.12 **Planning Obligations**

Not relevant.

8.13 **Environmental Impact Assessment**

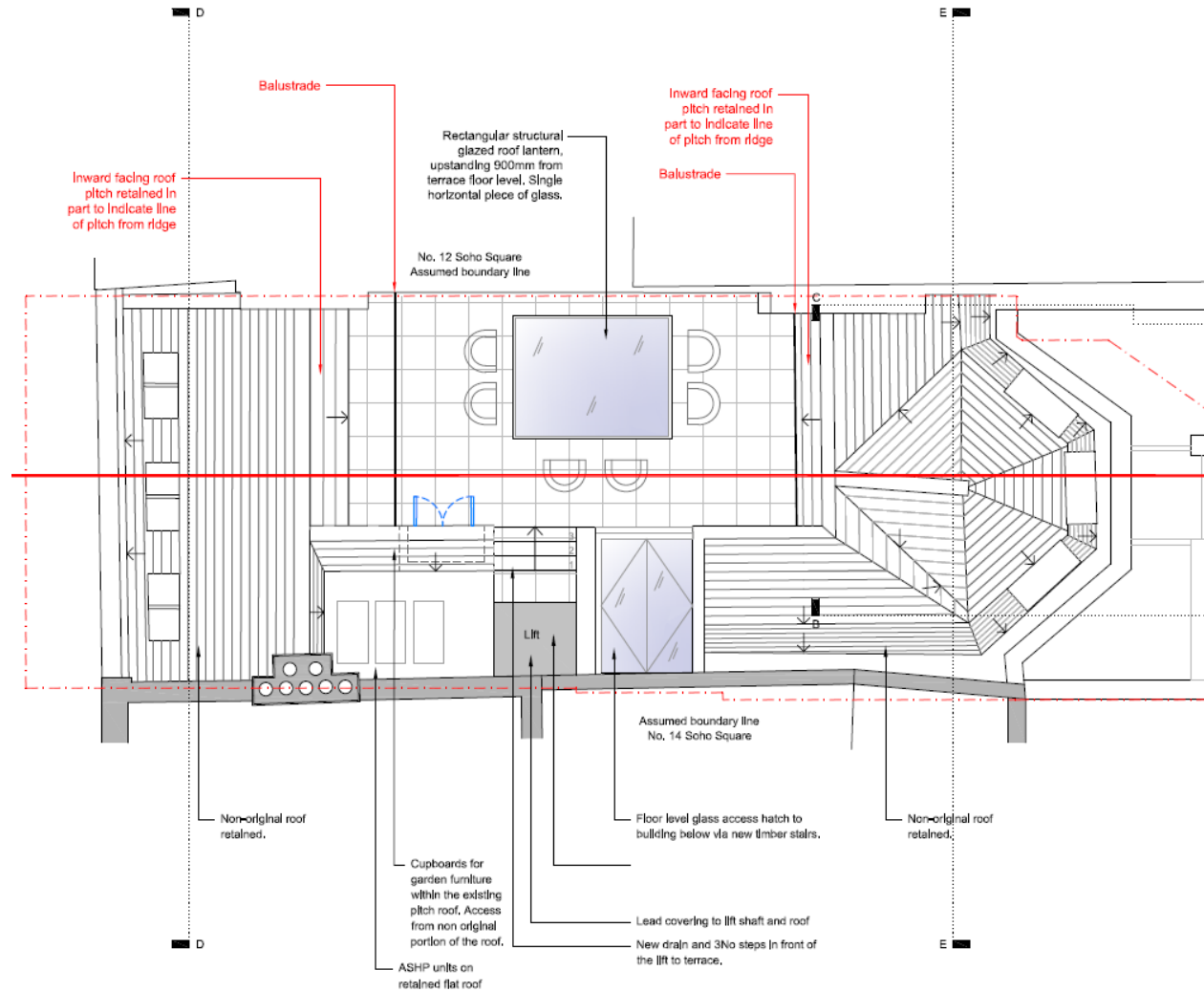
Environmental issues have been covered earlier in the report.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

9. KEY DRAWINGS

Proposed Roof Plan:



01

PROPOSED ROOF PLAN

Scale 1:50 @ A1, 1:100 @ A3

Proposed Section:



20/06844/FULL

DRAFT DECISION LETTER**Address:** 13 Soho Square, London, W1D 3QF,**Proposal:** Demolition of the existing rear extension and erection of replacement new extension with terrace at rear third floor level and creation of a new roof terrace and installation of plant both at main roof level. Use of the building as a residential dwelling (Class C3) with associated internal and external works. (Linked to 20/06845/LBC)**Plan Nos:** Sustainability Statement dated 23rd July 2020, Acoustic Report 16213-NIA-01, Drawings: EX.001, EX.002, EX.003, EX.004, EX.005, EX.006, EX.02.100, EX.02.200, EX.02.300, EX.02.400, EX.02.500, PL.001, PL.002, PL.003, PL.004, PL.005 RevA, PL.006 RevA, PL.02.100, PL.02.200 RevA, PL.02.600, PL.02.300 RevB, PL.02.400 RevA, PL.02.500, PL.03.001.**Case Officer:** Matthew Giles**Direct Tel. No.** 07866040155**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:****Reason:**

- 1 Because of their form and location the alterations to the roof and rear extension would harm the appearance and special architectural interest of this grade II-Star listed building. They would also fail to maintain or improve (preserve or enhance) the character and appearance of the Soho Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5, DES 6, DES 9, DES 10 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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Case Officer: Matthew Giles **Direct Tel. No.** 07866040155

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

- 1 Because of their form and location the alterations to the roof and rear extension would harm the appearance and special architectural interest of this grade II-Star listed building. They would also fail to maintain or improve (preserve or enhance) the character and appearance of the Soho Conservation Area; and because of their cumulative impact and detailed design the internal alterations would harm the special architectural interest of this grade II-Star listed building. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5, DES 6, DES 9, DES 10 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

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