

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 26 <sup>th</sup> October 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Lancaster Gate	
Subject of Report	2 Cleveland Gardens, London, W2 6HA		
Proposal	Use of storage areas at lower ground and ground floor levels as a one bedroom flat and associated internal and external alterations including the installation of two rooflights to the rear and door to courtyard.		
Agent	True Associates		
On behalf of	H. Khan		
Registered Number	20/03593/FULL & 20/03594/LBC	Date amended/ completed	9 June 2020
Date Application Received	9 June 2020		
Historic Building Grade	Grade II		
Conservation Area	Bayswater		

## 1. RECOMMENDATION

1. Refuse planning permission.
2. Grant conditional listed building consent.
3. Agree the reasons for granting conditional listed building consent.

## 2. SUMMARY

Planning permission and listed building consent are sought for internal and external alterations to create a one bedroom flat over lower ground and ground floor, in place of existing storage areas.

Objections have been received from the South East Bayswater Residents Association and existing neighbouring residents within the building and adjoining buildings on a number of grounds including the design and the impact of the proposal on their amenity.

The key issues in the determination of this application are:

\* The impact of the proposal on the Grade II listed building and the character and appearance of the Bayswater Conservation Area.

\* The impact of the proposal on the amenity of neighbouring residents.

Whilst the physical works requiring listed building consent are considered acceptable and recommended favourably. The quality of accommodation proposed is considered to be unacceptable given the lack of natural light and ventilation to the proposed residential unit. In addition, and notwithstanding the lack of contextual information submitted, the proposal is considered to be unneighbourly and detrimental to the amenities of surrounding residents, by way of loss privacy, noise, and disturbance. As such the planning application is recommended for refusal.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



Front Elevation





Existing Windows to side elevation



Existing door to lower ground floor

## 5. CONSULTATIONS

### SOUTH EAST BAYSWATER RESIDENT'S ASSOCIATION:

Objection on amenity grounds due to loss of privacy and overlooking.

- Cannot comment on right of access to the courtyard this appears to be a freehold/leasehold matter.
- Drawings do not show the whole courtyard and so unclear if the window will overlook a bedroom within the rear of No 1 – could be addressed by the lower panes of the window being obscured.
- The two rooflights could result in light pollution, depends on the light intensity.
- Queries whether the living room would have adequate daylight
- Requests a condition should be attached requiring the new door to be kept locked shut and only available for the use in the case of fire.
- Note objections raised by Grove End House residents and request that the case officer makes a site visit so as to fully establish the impact the proposals will have on the amenity of ground floor residents.

### HIGHWAYS OFFICER:

No objection. Acceptable subject to conditions.

### WASTE PROJECT OFFICER:

No objection, subject to condition. Drawings submitted are not in line with the Council's requirements could be addressed by condition.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 16 Total No. of replies: 7 (2 from one household; one letter submitted on the listed building application)

Seven objections have been received raising some or all of the following grounds:

#### Amenity:

- The door at lower ground floor level to the courtyard results in loss of privacy requests the door has a non-opening window with obscure glazing.
- The side windows at ground floor level will result in loss of privacy and requests both windows fixed shut and obscure glazed.
- Does not comply with ENV13 of the UDP and S29 of Westminster's City Plan.
- Material loss of daylight/sunlight to existing dwellings.
- Significant increase in the sense of enclosure and unacceptable overshadowing
- Noise disturbance.

#### Design:

- Would alter the special architectural and historic structure of the building and cause harm to the building therefore not complying with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act.

#### Other:

- Inaccuracies with the submission namely leasehold/freehold matters.
- Asbestos has been found within the storerooms therefore resulting in significant health and safety issues.

- Previous prior approval application was unlikely to be viewed favourably due to 'the small size of this bedsit flat'.
- Breaches Human Rights Act due to the proposed development would have a dominating impact on me and my right to the quiet enjoyment of my property.
- Very poor quality of residential space.
- Will set a precedent.
- Ownership/access rights to the courtyard which belongs to No 1 Cleveland Gardens

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

2 Cleveland Gardens is a Grade II listed building which forms part of a terrace on the east side of Cleveland Gardens. It comprises of five storeys plus a lower ground floor level and is located within the Bayswater Conservation Area.

This application relates to the existing storage area to the rear of the building at ground and lower ground floor level.

### **6.2 Recent Relevant History**

17/00378/APA; Refused due to Grade II listed building being excluded from this type of application.

Notification for prior approval for a change of use of from storage (Class B8) to one self-contained flat (Class C3) under Schedule 2, Part 3, Class P of the Town, and Country Planning (General Permitted Development) (England) Order 2015.

## **7. THE PROPOSAL**

Permission and listed building consent are sought for internal and external alterations, including two rooflights and a door to the rear courtyard, to facilitate the conversion of the existing storage facilities into a one bedroom duplex self-contained residential dwelling.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Loss of storage space**

The storage rooms are located at lower ground floor and ground floor level below the existing residential flats within the building, however they are currently vacant and



unused. There is a separate communal storage area at lower ground floor for bike storage. There is little planning history in relation to the accessibility of the storage rooms and if they were ever used as communal facilities and there is no specific protection of ancillary storage facilities. As such, their loss is acceptable.

### **New residential unit**

The provision of a new residential unit is welcomed in accordance with policies 8 and 10 of the City Plan 2019 – 2040. The proposed flat would be 50m<sup>2</sup> in size, which meets the Technical Housing Standards for internal living accommodation, however no additional floorspace is proposed to mitigate the lack of external amenity space.

The flat would be accessed from the main entrance, via the existing communal hallway. The ground floor would accommodate a kitchen/dining area, served by two windows and two proposed roof lights (one to the staircase and the other on entry). A new internal staircase leads down to the larger lower ground level and accommodates a living room with door to the courtyard and a bedroom with the existing door replaced with a frosted glass door, also leading to a courtyard, together with an internal bathroom and WC.

The ground floor is considered to receive adequate natural light. However, the proposal for residential use which is much more intensive than a storage area, raises concern over the proposed fully openable and clear glazed windows and the potential impact that this is likely to have on existing residential windows in close proximity. (See amenity section of this report). The lower ground floor lacks any outlook or meaningful natural light and ventilation. The living room and bedroom at lower ground floor level would not contain any windows, but a door to each. These rooms would consequently have no outlook, and receive very limited daylight and natural ventilation would require the doors to be opened. Additionally, it is unclear if the opening of the doors would lead to encroachment onto another party's land.

For the reasons set out above, the proposal does not provide a high-quality living environment for future occupiers, contrary Policy 12 of our City Plan.

## **8.2 Townscape and Design**

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."*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39 of the City Plan 2019 - 2040 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.

The two storey wings to the rear are likely an original feature of the buildings, however a lift has been created rising through it at some point in the past, and site photographs submitted by the applicants show that this part of the building has been notably altered in the past and does not appear to retain any original decorative features, with its anticipated original floor plan also considerably compromised by later partitioning and the creation of the lift. In this context, the internal alterations will not unacceptably compromise the fabric and significance of the building. Whilst the new staircase rises through the floor structure between lower ground and ground, this floor structure has already been compromised by the creation of the lift. An area of party wall between the two rear extensions at lower ground floor level is proposed to be removed, however with the main body of the original building and mindful of the considerable alterations to this area in the past and the existing opening in this wall this work is not considered unacceptable in this case. Overall, the internal works are considered acceptable in this context.

Externally, the two small rooflights will not unduly clutter the appearance of the building, and a condition is attached to secure appropriate detailing and colour of finish for these features. The new external door to the courtyard is not considered of assured design for this 19th century building, and an amending condition is therefore attached to secure an appropriate four panelled door in traditional style to integrate appropriately. Subject to the conditions, the external works are considered acceptable.

It is noted that objections have been received on design grounds and the proposal resulting in harm to the listed building and therefore not according with Section 72 of the Planning Act, it is considered that this objection cannot be supported in this instance for the reasons given above.

Given the above, the proposals are considered acceptable, mindful of policies 38, 39 and 40 of the City Plan 2019 - 2040 and therefore, a recommendation to grant conditional permission and consent would be compliant with the requirements of the NPPF and in line with the statutory duties set out in section 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### 8.3 Residential Amenity

The proposal does not seek to extend or enlarge the building. As such no physical extensions are proposed and the proposal does not therefore result in any changes to daylight and sunlight (or changes to overshadowing) received by neighbouring properties and the objections on these grounds are not justified.

The proposal has been submitted with little or no context drawings in which to understand the relationship of the building for residential use with the adjacent courtyards and neighbouring properties, their windows, doors and use of the courtyard space. Insufficient information has also been received with respect to the ownership of the courtyard areas and rights of access or rights to open the doors of the application property onto this land. Whilst it is acknowledged that land ownership is a private matter, it is relevant to the amenity considerations in this case.

The two ground floor windows (which are proposed to serve the kitchen) of the proposed flat appear to face the two windows of the neighbouring flat within 1 Cleveland Gardens at a distance of around 4m and also provide views down to the external amenity space within the courtyard and potentially other neighbouring windows. Given the proposed residential use and the proximity of neighbouring residential windows and neighbours external amenity space, the proposal would result in significant and unacceptable overlooking to neighbouring residents and the potential for noise and disturbance. The proposed doors at lower ground floor level which are the sole means of natural ventilation to the proposed living room and bedroom would also be unneighbourly and likely result in a loss of privacy and noise and disturbance to neighbouring properties and the use of their external courtyard. This is unneighbourly and an unacceptable relationship and would be detrimental to the amenities currently enjoyed by neighbouring residential occupiers, contrary to policy 7 of our City Plan. The objections raised by surrounding neighbours on these grounds are therefore supported by officers.

The two proposed rooflights are considered to be in a location and size so as not to result in an increase in light pollution to the flats within the upper floors, however had the application been considered acceptable a condition would have been recommended to restrict the extent of their opening and for them to be obscure glazed.

### 8.4 Transportation/Parking

The Highways Planning Manager raises no objection to the proposals.

#### **Car Parking**

No car parking is provided however given the excellent PTAL score of 6b for public transport links and given the scheme is for one residential unit, this would be a marginal breach (if the future occupier owned a car), it is not considered that a refusal on this ground could be sustained.

#### **Cycle Parking**

No cycle parking provision is shown on the submitted plans. The London Plan requires 1 space per residential unit of 1 bedroom or fewer and 2 spaces per unit of 2 bedrooms or more. Provision will encourage sustainable transport use. Details could be required by

condition.

## **8.5 Economic Considerations**

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

## **8.6 Access**

Access to the new residential dwelling is through the existing communal front door and along the shared hallway, similar to the other residential flats within the building.

## **8.7 Westminster City Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **8.8 Neighbourhood Plans**

None relevant.

## **8.9 London Plan**

This application raises no strategic issues.

## **8.10 National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2021 unless stated otherwise.

## **8.11 Planning Obligations**

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

## **8.12 Environmental Impact Assessment**

The proposed development is of insufficient scale to require the provision of an Environmental Impact Assessment.

## **8.13 Other Issues**

### **Refuse/Recycling**

The drawing submitted are not in line with the Council's requirements and therefore if the



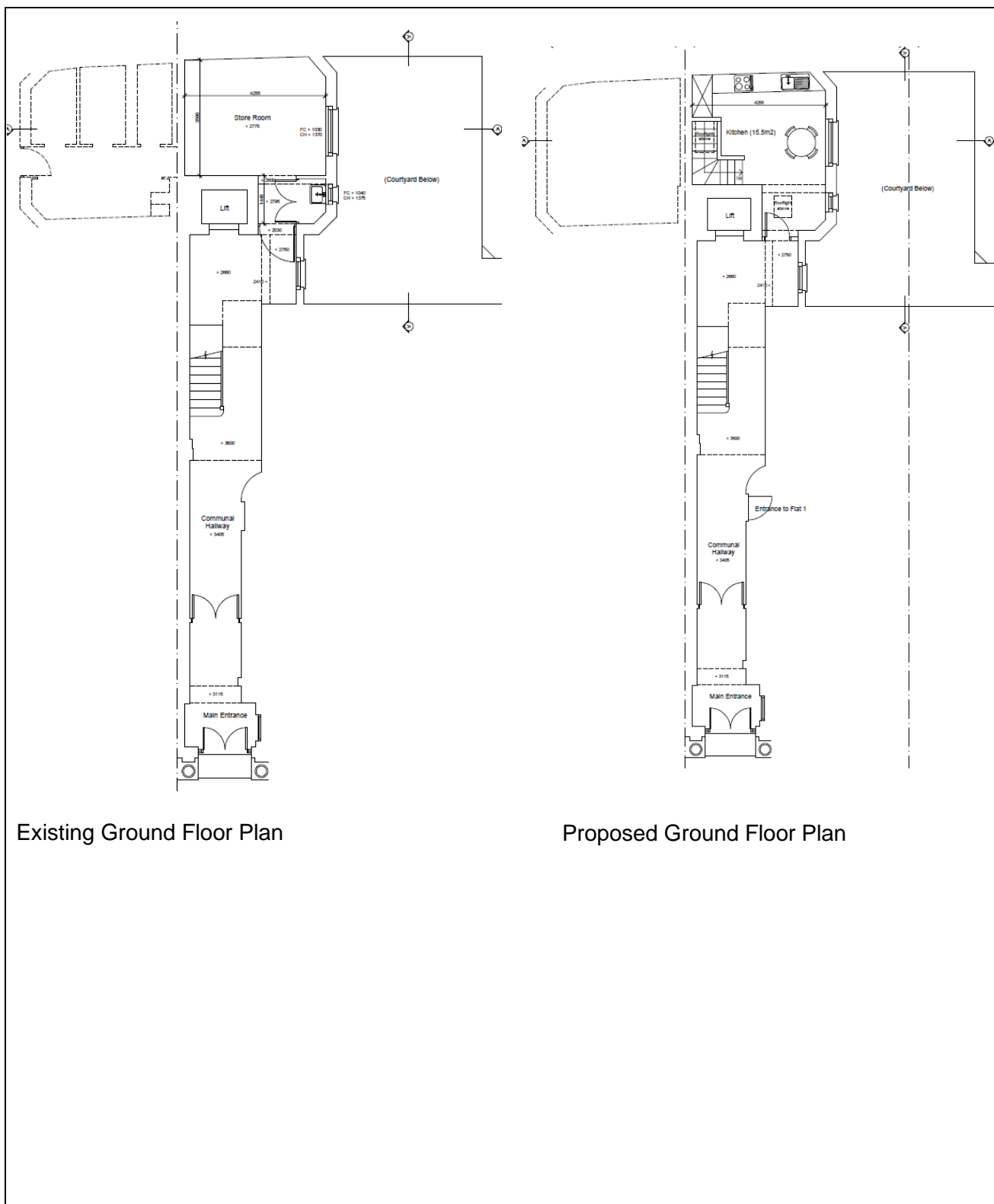
application was being recommended favourably a condition would have been attached to secure this facility.

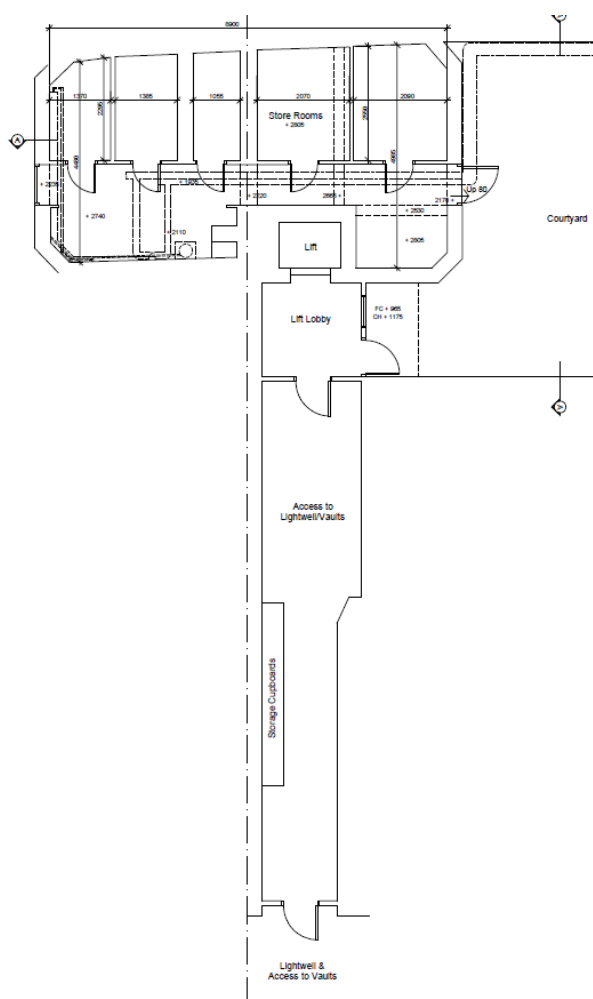
Concerns have been raised with inaccuracies within the submission mainly in relation to leasehold and freehold matters in relation to the courtyard and the existing door. Whilst usually such private matters are not relevant to the consideration of planning applications, in this case, it is relevant to understand the use of the courtyard. Objections have been received on the grounds that asbestos has been found within the storerooms resulting in health and safety issues which is a non-planning related matter and therefore a refusal on these grounds could not be sustained however if the application was being recommended favourably an informative would have been included to advise the applicant.

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

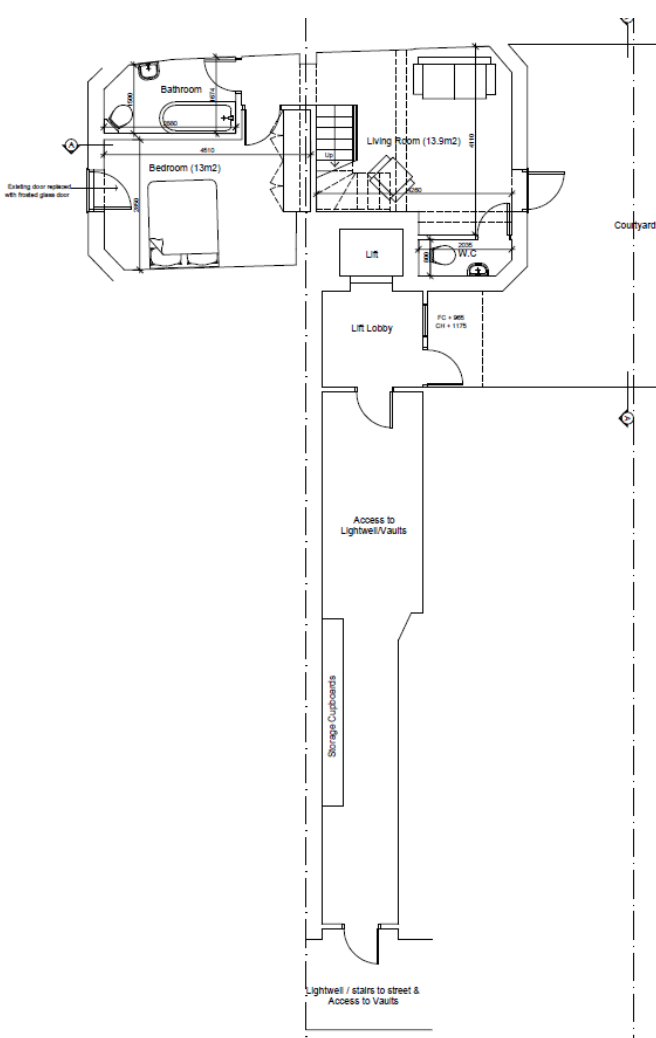
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk)

## 9. KEY DRAWINGS





Existing Lower Ground Floor Plan



Proposed Lower Ground Floor Plan

**DRAFT DECISION LETTER**

**Address:** 2 Cleveland Gardens, London, W2 6HA

**Proposal:** Change of use to residential (Class C3) to form a new 1 bedroom flat and associated external alterations including the installation of two rooflights to the rear. (Linked to 20/03594/LBC)

**Reference:** 20/03593/FULL

**Plan Nos:** Site Location Plan, H14854-PA-015, H14854-PA-010, H14854-PA-011, H14854-PA-012, H14854-PA-013, H14854-PA-110 Rev A, H14854-PA-111 Rev A, H14854-PA-112, H14854-PA-113 and Design/Access and Heritage Statement.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 020 7641  
07866037206

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

The proposed flat, due to lack of outlook, natural light, and natural ventilation, would provide a poor quality living environment for future occupiers, contrary Policy 12 of our City Plan 2019 - 2040 (April 2021)

**Reason:**

Notwithstanding lack of context drawings in which to understand fully the relationship of the building for residential use with the adjacent courtyards and neighbouring properties, their windows, doors and use of the courtyard space. Due to the proposed use and the proximity of its windows and doors to neighbouring residential properties windows and external amenity space, the proposal would be unneighbourly and would result in significant and unacceptable overlooking to neighbouring residents and potential for noise and disturbance. This is an unacceptable relationship and would be detrimental to the amenities currently enjoyed by neighbouring residential occupiers, contrary to Policy 7 of our City Plan 2019 - 2040 (April 2021).

**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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), 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.

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.

### DRAFT DECISION LETTER

**Address:** 2 Cleveland Gardens, London, W2 6HA,

**Proposal:** Change of use to residential (Class C3) to form a new 1 bedroom flat and associated external alterations including the installation of two rooflights to the rear. (Linked to 20/03593/FULL)

**Plan Nos:** Site Location Plan, H14854-PA-015, H14854-PA-010, H14854-PA-011, H14854-PA-012, H14854-PA-013, H14854-PA-110 Rev A, H14854-PA-111 Rev A, H14854-PA-112, H14854-PA-113 and Design/Access and Heritage Statement.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 07866037206

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

- 1 All new work and improvements inside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27BA)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 2 You must apply to us for approval of a detailed section drawing showing the new rooflights including their upstand and confirming materials including colour of finish. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to the drawing and clarification. (C26DB)

**Reason:**

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

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

scheme:-

New external door to lower ground floor level to be designed with a panelled timber base and two vertical glazed panels to the upper section, and the solid elements formed in painted timber

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

**Informative(s):**

- 1 With regards to condition 3, the upstands to the rooflight must be finished in a grey colour, and metal framing to the glazing in grey aluminium
- 2 The new door required by condition 4 must be a traditionally designed door with four panelled arrangements, and with the lower two panels in solid timber and the upper two with two vertically proportioned glazed panels set into the timber framework.