

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 21 February 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Marylebone	
Subject of Report	27 Upper Berkeley Street, London, W1H 7QN		
Proposal	Use of part basement, part ground and first to fourth floor as four residential flats (Class C3) . External alterations including the creation of a roof terrace enclosed with railings with a perimeter living roof, installation of replacement windows, installation of stair to front lightwell and internal alterations at all levels.		
Agent	Anthro Architecture Ltd		
On behalf of	Obbard Ltd		
Registered Number	22/07524/FULL and 22/07525/LBC	Date amended/ completed	17 November 2022
Date Application Received	7 November 2022		
Historic Building Grade	Grade II		
Conservation Area	Portman Estate		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

1. Grant conditional permission;
2. Grant conditional listed building consent; and
3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

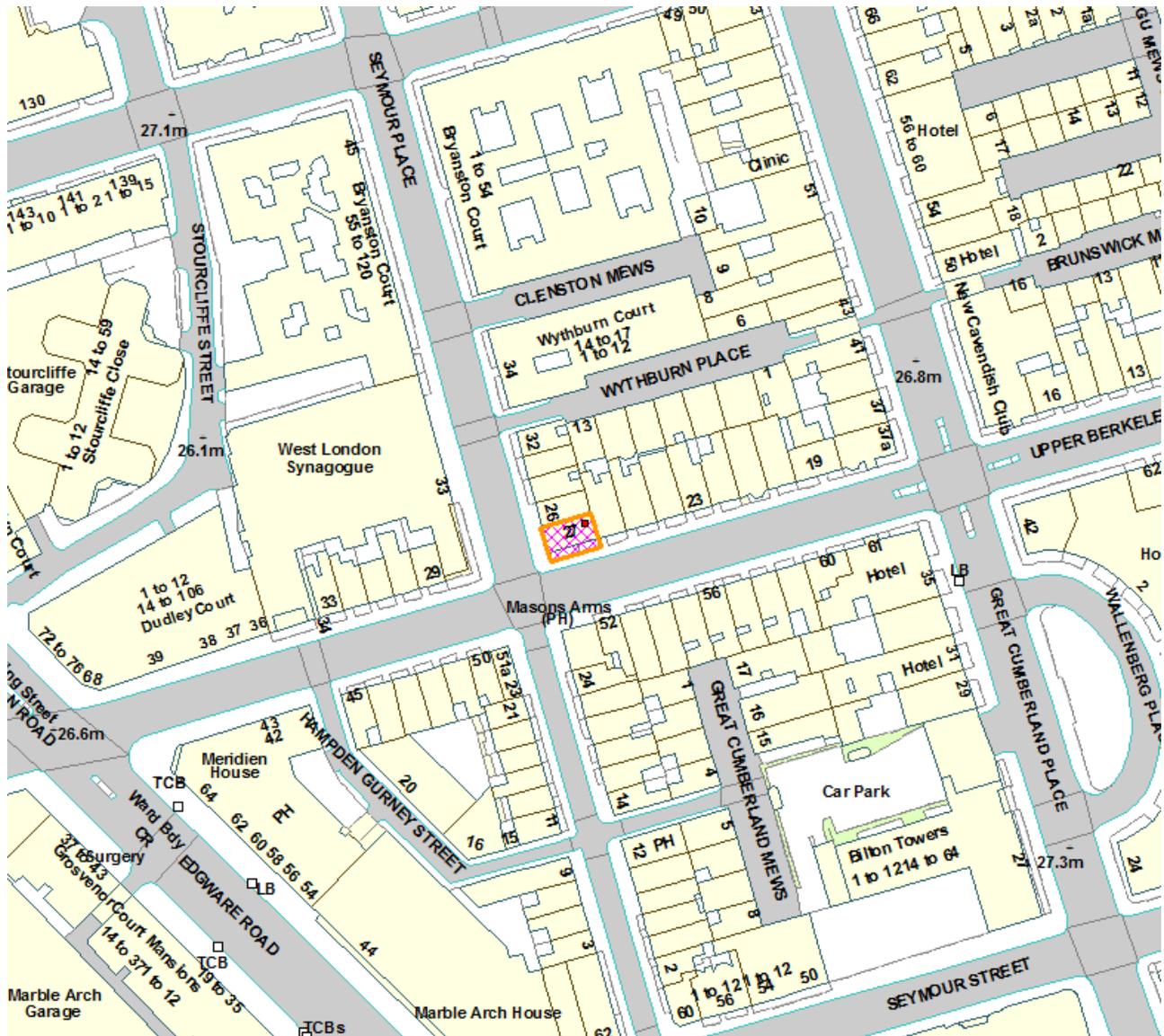
2. SUMMARY & KEY CONSIDERATIONS

Permission is sought for the use of the property (excluding the retail unit (Class E) at part ground and part basement level) as four residential units and associated internal alterations, the creation of a roof terrace/green roof and external alterations including the installation of replacement windows.

The key consideration in this case is the acceptability of the loss of a form of specialist housing.

For the reasons set out in the main report, it is considered that the proposal, with conditions, is acceptable in land use, design and amenity a terms and neighbouring residential occupiers would not be unduly harmed. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

AMENITY SOCIETY (Marylebone Association):
Any response to be reported verbally.

HISTORIC ENGLAND
Raised concern regarding the impact of the roof alterations on the town house and terrace.

20th CENTURY SOCIETY
Any response to be reported verbally.

The VICTORIAN SOCIETY
Any response to be reported verbally.

ANCIENT MONUMENTS SOCIETY
Any response to be reported verbally.

COUNCIL FOR BRITISH ARCHAEOLOGY
Any response to be reported verbally.

SOCIETY FOR THE PROTECTION OF ANCIENT BUILDING
Any response to be reported verbally.

THE GEORGIAN GROUP
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 6

No. of replies: 4 letters of support on the following grounds:

- Anti-social behaviour emanating from the property, when last in use, has been detrimental to local businesses and the neighbourhood generally

PRESS NOTICE/ SITE NOTICE:
Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application. However, the Early Community Engagement guidance only expects such engagement to take place where proposals of this nature may have a significant impact on residential amenity or other noise sensitive receptors.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

27 Upper Berkeley Street forms part of a terrace of nine houses of c.1800. It is grade II listed and is in the Portman Estate Conservation Area and the Central Activities Zone (CAZ).

The building comprises of five storey's plus a basement and on a corner plot, with a shop unit on the Seymour Place elevation, and the residential entrance to Upper Berkeley Street elevation.

As confirmed by the Planning Inspectorate in the appeal decision dated 22 January 2019 (see Relevant History below) , with the exception of the commercial unit at part basement and part ground floor, the building was last in use as a house of multiple occupation (HMO) containing 12 rooms.

The building is currently in a state of neglect and is in urgent need of structural repair, along with a full refurbishment both internally and externally. The property has not had a roof for at least two years as a result of unauthorised works undertaken by the previous

tenant (a long term tenant accommodation provider, recently evicted). Water ingress has now caused damage to the building structure, leading to movement and cracking on the main facades. The landowner has carried out temporary structural works to support the building and ensure further dilapidation is avoided.

7.2 Recent Relevant History

On 12 October 2017 (RN: 17/05548) an application for listed building consent was granted for 'external alterations including the laying of limestone pavers within the forecourt and entrance steps infill of windows to rear, removal of stair on rear elevation, installation of replacement windows throughout, installation of domed roof light at main roof level, removal of soil pipes on the Seymour Place and Upper Berkeley Street elevations, installation of replacement doors at basement level and Internal alterations throughout'

On 12 October 2017 (RN: 17/05547), an application for the 'use of the part basement and part ground floor and the upper floors as ten HMO units. External alterations including the laying of limestone pavers within the forecourt and entrance steps infill of windows to rear, removal of stair on rear elevation, installation of replacement windows throughout, installation of domed roof light at main roof level, removal of soil pipes on the Seymour Place and Upper Berkeley Street elevations and installation of replacement doors at basement level' was refused on the basis that the proposal would result in the loss of a HMO, would provide substandard accommodation and would provide an inappropriate mix of housing. This was subsequently allowed at appeal on 22 January 2019 (Ref: APP/X5990/W/18/3200129).

Whilst it is clear that some works took place on-site, it is not clear whether those works related to the permitted development and therefore whether or not the aforementioned consents were technically implemented and are therefore extant or not.

There is an ongoing enforcement investigation relating to this property and, as a consequence, three formal listed building enforcement notices were served with effect from 04 November 2020 in relation to the following unauthorised works:

- unauthorised removal of the roof,
- internal alterations at fourth floor level, including the removal of ceilings and partition walls, and
- the removal, and/or damage of existing balustrading, newel posts and spindles from the stairway on and between ground floor and fourth floor levels.

These works should have been complete within three months of the enforcement notice was effective from.

An Emergency Prohibition Order was served in February 2020 which prevented the occupation of the property, due to the condition of the property and associated safety concerns.

8. THE PROPOSAL

Planning permission and listed building consent are now sought for the use of the property (excluding the retail unit (Class E) at part ground and part basement level) as

four residential units (three 1-bed unit and one 3-bed unit, totalling 246.5 sqm GIA) and associated internal alterations, alterations to the front and side elevations including replacement windows and creation of roof terrace with permitter green roof and associated works.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Loss of Specialist housing

'Specialist housing' is defined within the City Plan as 'Affordable housing, hostels, Houses in Multiple Occupation, housing for those with special needs including elderly people, students, people with learning or physical disabilities, or mental health problems, or other supported accommodation'. With respect to the loss of the existing HMO use, City Plan Policy 10 (D) applies: This states that 'all existing specialist and supported housing floorspace will be protected from changing to non-specialist or supported residential use except where it is demonstrated that:

1. The accommodation is of poor quality, does not meet contemporary requirements and is not capable of being upgraded; or
2. The use has a demonstrable and significant adverse effect on residential amenity; or
3. It is surplus to requirements as any form of specialist or supported housing; or
4. The accommodation is being adapted or altered to better meet specialist need or to enable residents to remain in their existing property.

It is not considered that points 3 or 4 are relevant to the proposed development.

With respect to point 1, during the course of the previous planning application for the site the Council's Environmental Health considered that the HMO accommodation did not meet current standards. Given that an Emergency Prohibition Order was served in February 2020 and the poor condition of the property as seen during site visit (the most recent of which was in September 2022), it is clear that the existing accommodation is of poor quality and does not meet contemporary requirements. However, it cannot be said that the existing accommodation is not capable of being upgraded to provide specialist housing, given that permission has been granted for upgrading the quality of the residential accommodation, whilst retaining it as specialist housing. Even if this permission has lapsed, on the face of it, it appears likely that such a scheme remains acceptable. Further, it is likely that the property could house other forms of 'specialist housing'. However, the applicant has provided a current estimated cost analysis to carry out a basic restoration of the building, which would be over £3.6 million; this is largely due to the structural repair/safety, and works required for the building to become water tight, which the applicant claims would render the use as any form of specialist housing unviable.

With respect to point 2, during a site visit carried out during the course of the 2017 planning application, Council officers consider that it is likely that illicit activity was taking place on site. Additionally, as part of the enforcement investigation, Council Officers attended a Housing Taskforce meeting in March 2020. The meeting minutes allude to the fact that when the site was last occupied as a HMO and that there was antisocial behaviour taking place on site. The Applicant has stated that the building was previously

being used as a brothel, with evidence of illegal drug dealing also apparent. Letters of support have been submitted on behalf of Halcyon London International (secondary school) and neighbouring businesses who considered that the anti-social behaviour emanating from the property has been detrimental to local businesses and the neighbourhood generally. Whilst the impacts of the harmful amenity impact are duly noted, it is not clear whether they are fundamentally linked to the nature of the lawful use rather than merely how it was managed.

The aforementioned exceptions of relevance to this case are extremely difficult to clearly demonstrate. However, given that the existing accommodation is of poor quality, does not meet contemporary requirements, the significant costs associated with a basic restoration, the significant adverse effect on the local neighbourhood when last occupied and the benefits of the proposal as listed below, when considering the development plan as a whole, the proposal is considered to be acceptable.

Benefits of proposal

- Ensuring the longevity/structural soundness of the listed building.
- Existing non-original sashes to the elevations will be replaced with more locally appropriate “6 over 6” and “9 over 9” style sashes.
- The metal stairs to the main lightwell will be reinstated to match those of the adjacent properties.
- Redundant pipework will be removed, and the brickwork restored.
- Removal of non-original partitions and reinstatement of a more historically appropriate plan form.
- Reinstatement of original elements, including skirting, cornices, architraves and doors.
- Reinstatement of historically appropriate chimneypieces and grates in first floor, second floor and third floor reception rooms.
- Re-occupation of a vacant building.
- Provision of cycle parking.
- Provision of external amenity space.
- Provision of urban greening.
- Improved thermal performance of the building.

Proposed Residential Accommodation

Policy 8 of the City Plan 2019-2040 (April 2021) states that Westminster seeks to optimise housing delivery by optimising site densities, delivering a higher number of homes on small sites, permitting appropriate upwards extensions, and planning positively for tall buildings in certain locations. As such the principle of additional residential units in this location is acceptable in principle.

Furthermore, the policy goes on to state that no new homes in Westminster will exceed 200 m² Gross Internal Area. The proposed flats range from 45.4 m² to 105 m² and therefore would not exceed the maximum space standard.

Policy 10 of the City Plan states that residential developments will provide a mix of units in terms of size, type and tenure to secure mixed and inclusive communities and contribute towards meeting Westminster’s housing needs; however, the policy does go on further to state that 25% of all new homes across Westminster will be family sized (3 bed or more). The proposed development would provide three 1-bed units (45.4 sqm,

45.8 sqm and 51.5 sqm) and one 3-bed/family sized unit (105 sqm), so the proposal includes 25% of family-sized accommodation and is therefore policy compliant.

Policy 12 of City Plan requires that all new homes and residential extensions will provide a well-designed, energy efficient and high-quality living environment and all new homes will meet or exceed the Nationally Described Space Standards. The policy goes on to say that all new-build homes will provide at least 5 m² of private external amenity space for each dwelling. Where it is sufficiently demonstrated that it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement is required.

The proposal includes the creation of a roof terrace for use in connection with the third and fourth floor duplex unit. The remaining flats do not provide the outdoor amenity space required by policy. There are however obvious site constraints which prevent the provision of external space. All of the units are at least a few square metres greater than the minimum unit size prescribed with the Nationally Described Space Standards. All of the units are dual aspect and would provide a good standard of accommodation.

Policy 9 of the City Plan 2019 – 2040 (April 2021) requires that at least 35% of all new homes will be affordable across Westminster where 10 units are being provided or the increase in residential floorspace totals 1,000 m² GIA. The scheme does not trigger the requirements to provide affordable housing.

9.2 Environment & Sustainability

This proposal is an electric only development with electric boilers located in each of the apartments. Additionally, the proposal includes the installation of double glazed windows which will improve the thermal performance of the building.

9.3 Biodiversity & Greening

The proposal includes the provision of a permeable living roof at main roof level. This is welcome and will ensure that the proposal results in a biodiversity net gain.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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 ('the LBCA Act') 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 LBCA 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 LBCA 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.

Assessment

The most significant changes proposed, in terms of their impact on the special interest of the listed building are:

- Removal of inserted partitions at all levels.
- Alterations to the existing historic stair at ground floor to create an internal access to the basement from the ground floor flat.
- Creation of an internal lobby within the ground floor room
- Altering the basement level sash windows to form French windows.
- Reordering the existing WCs at half landing levels so they relate instead to the principal floor levels.
- Alterations to existing bathrooms.
- Creation of a roof terrace

Except in the ground floor room, the changes result in an improvement to plan form. Subdivisions are removed at each level from within the Upper Berkeley Street facing rooms. Later bathroom insertions are removed from Seymour Place facing rooms and relocated to the Upper Berkeley Street rooms.

The proposed soundproofing of the floors is considered to be acceptable; a detailed drawing has been supplied showing the proposed methodology. The existing ceilings, which may be historic lath and plaster ceilings, are retained, and there is no build-up of existing floor levels.

The works which cause some degree of harm to the special interest of the listed building are the reordering of the half-landing WCs, the changes to the plan form of the ground floor room, and the alteration to the staircase at ground / lower ground floor.

At present each half landing has a door to a WC. The proposals seek to remove the floors / ceilings of each of the half-landing WCs and incorporate them into the principal floor levels, so that they can serve as part of the layout of the individual flats at main floor levels. This will involve the loss of some historic fabric.

The most intrusive part of the proposals, in terms of the impact on surviving features of interest, is the alteration to the ground floor room. A short (three step) set of stairs between ground and basement level are demolished and reinstated within the footprint

of the new ground floor flat. The staircase, though in a very poor state of repair, is one of the few remaining historic features within the building. The closing up of the stair in the entrance lobby would partially obscure the staircase within the lobby. The creation of a new corridor within the footprint of the existing front room would affect its historic proportions.

Opportunities for heritage benefits

The proposed works do involve a certain degree of harm to the special interest of the building. While the return of the building to a good condition is a public benefit it may not be considered sufficient to outweigh the harms identified above. Therefore, some additional benefits are required to make the scheme acceptable as detailed below:

Front lightwell staircase

The loss of the traditional cast iron external basement stair point offers an opportunity to reinstate this characteristic feature. Other historic examples on the street should offer a pattern for a new stair. The proposed plans show the reinstatement of a stair; an approval of details condition will be required to ensure that detailed design of the new stair is of an appropriate detailed design.

Windows

The building has lost its historic windows – the current windows are 1-over-1 sashes, apparently Victorian at the oldest. The proposed replacement windows of a Georgian pattern would offer the opportunity to improve both the appearance and thermal performance of the windows. The window schedule looks broadly acceptable, but it will still be necessary to secure detailed drawings of the new windows to ensure that individual slimline double-glazed units are puttied into integral timber glazing bars.

The proposals retain and refurbish the existing window frames and sash boxes; only the later sashes are replaced. Where they survive timber window shutters and aprons should be protected.

Fireplaces

All historic fireplaces have been lost from the interior. The reinstatement of historically accurate fireplaces and fireplace surrounds could be a heritage benefit. Off-the-shelf fireplaces are unlikely to be sufficient to deliver a genuine benefit. The fireplace surrounds and grates should be scholarly replicas of those found locally in buildings of comparable ages and details have been conditioned.

Decorative detail

There is little remaining historic decorative detail in the building, except in the common parts. The application proposed to introduce cornices, skirtings and architraves to each of the rooms.

Roof terrace

The creation of a roof terrace would not always be acceptable on a listed building. In this instance however there is no loss of historic fabric, due to the total loss of the existing roof to water damage. Nor is there the loss of a traditional roof form, as the previously existing roof was flat. A new staircase is required to access the roof – details will be secured by condition. The terrace is set back from the parapet by 1.5m which, given the height of the building, will minimise the visibility of the balustrade in views from

the street. As the building is on a corner plot however there are some very long views, and it would not be possible to conceal the balustrade entirely. The balustrade is a slim section black painted metal, which is considered to be the most appropriate for this type of building.

Historic England, while authorising the local authority to determine the application as they see fit, have raised concerns regarding the roof terrace; specifically, that as the balustrade would be visible in long views, the loss of a traditional roof to the building, which is not currently apparent from street level views, would be evident. The balustrade would indeed be visible in longer views. However, it is of a very slim section, and would not read as a bulky addition to the roof. It is set back from the parapet by 1.5m on each side, which would further reduce its prominence in these views. While Historic England's point that the terrace would be discernible from the street is correct, it is considered that this impact would be limited. Further, the balustrade is a slim section black painted metal, which is considered to be the most appropriate for this type of building. It is also the case that the loss of a traditional roof form, while regrettable, is likely to have occurred before the building was listed, and powers to seek a pitched roof here would be very limited. The existing flat roof represents an opportunity to achieve some amenity space for the family sized unit, which in itself is welcomed.

Design Conclusion

When considering the design and heritage implications of the proposal as a whole, it is not considered that the proposals would cause substantial harm, nor even less than substantial harm, to the heritage asset and therefore, a recommendation to grant conditional permission and listed building consent would be compliant with the relevant policies of the City Plan 2019-2040 and the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposed works are considered to preserve the character or appearance of the Portman Estate Conservation Area, the special interest of the listed building and the setting of neighbouring listed buildings, and are therefore considered to be acceptable in design terms. The concerns of Historic England about the roof terrace are noted but are not considered to be sustainable in this case.

9.5 Residential Amenity

Policy 7 of the City Plan 2019-2040 seeks to protect and, where appropriate, enhance amenity by preventing unacceptable impacts including impacts in terms of privacy and overlooking.

The proposal includes the provision of a roof terrace surrounding by railings set back approximately 1.5 from the Seymour Place and the Upper Berkley Street parapet. Whilst there is residential premises within the upper floor of both 26 Seymour Place and 26 Upper Berkley Street, there would be no visibility to residential windows from the proposed terrace. There are however, five residential units with 52 Upper Berkley Street located on opposite side of Upper Berkley Street which would be visible from the proposed terrace. Given the set back of the proposed balustrade along the southern elevation, and the height of the terrace in relation to the adjacent properties and the separating distance, it is not considered that the terraces would not result in any material overlooking or loss of privacy to neighbouring residents.

9.6 Transportation, Accessibility & Servicing

The site is centrally located and well served by public transport including principal bus routes and benefits from the highest public transport accessibility (PTAL) rating (6b).

Car Parking

No car parking is proposed, and Policy 27 supports residential development without car parking provision.

Cycle Parking

The London Plan requires 1.5 spaces per 1-bedroom unit and 2 spaces for 2+ bedroom units. The proposal includes 6 cycle parking spaces located within the pavement vaults. A condition is recommended to ensure these spaces are retained.

Waste Storage

Whilst waste storage has been indicated, the drawing and the waste detail submitted are not in line with the council waste storage requirements. As such, a condition is recommended to secure revised details of waste storage.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10-day period following notification by the Council of the proposed condition, the reason and justification for the condition.

No pre-commencement conditions are recommended.

10. Conclusion

Subject to appropriate conditions the proposal accords with development plan policies, specifically policies 7, 8, 10, 12, 25, 27, 33, 34, 36, 37, 38, 39, 40 and 43 of the City Plan 2019 - 2040 (April 2021) and policies GG2, SD4, D6, H1, H10, T5 and T6 of the London Plan.

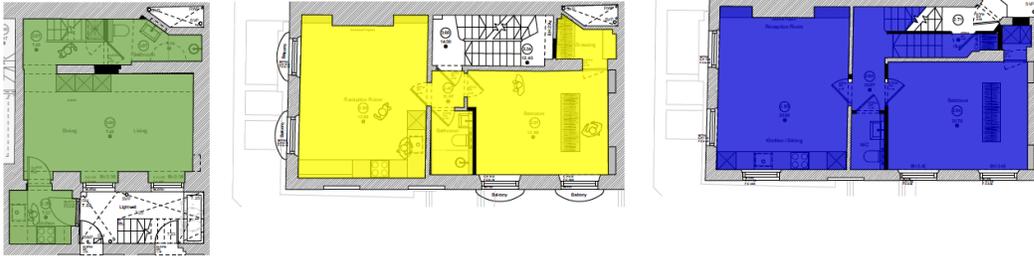
In terms of heritage impact, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The application is therefore recommended for conditional approval.

(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.

Proposed Floor Plans



■ Flat 01 - Lower Ground/ Ground Floor Duplex one Bedroom Apartment
 Area: 51.5 sq.m

■ Flat 02 & 03 - First Floor and Second Floor One Bedroom Apartment
 First Floor Flat 02 Area: 45.4 sq.m
 Second Floor Flat 03 Area: 45.8 sq.m

■ Flat 04 - Third Floor and Fourth Floor Three Bedroom Duplex Apartment
 Flat 04 Area: 105 sq.m

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Proposed Roof Plan



DRAFT DECISION LETTER - PLANNING

Address: 27 Upper Berkeley Street, London, W1H 7QN

Proposal: Use of part basement, part ground and first to fourth floor as four residential flats (Class C3). External alterations including the creation of a roof terrace enclosed with railings with a perimeter living roof, installation of replacement windows and installation of stair to front lightwell.

Reference: 22/07524/FULL

Plan Nos: 2210 L(--) 051, 2210 L(--) 052, 2210 L(--) 053, 2210 L(--) 054, 2210 L(--) 055, 2210 L(--) 056, 2210 L(--) 057, 2210 L(--) 058, 2210 L(--) 058, 2210 L(--) 059, 2210 L(--) 060, 2210 L(--) 061, 2210 L(--) 062, 2210 L(--) 100, 2210 L(--) 101, 2210 L(--) 102, 2210 L(--) 103, 2210 L(--) 104, 2210 L(--) 105, 2210 L(--) 106, 2210 L(--) 107, 2210 L(--) 108, 2210 L(--) 109, 2210 L(--) 110, 2210 L(--) 111, 2210 L(--) 112, 2210 L(--) 113, 2210 L(--) 114, 2210 L(--) 115, 2210 L(--) 115, 2210 L(--) 300, 2210 L(--) 400, 2210 L(--) 401, 2210 L(--) 501.

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

Recommended Condition(s) and Reason(s) or 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 neighbouring occupiers. This is as set out in Policies 7 and 33 of

the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

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

- 4 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49AB)

- 5 You must apply to us for approval of details of secure cycle storage for the residential use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the approved residential units. You must not use the cycle storage for any other purpose. (C22HA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 6 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. 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 provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the residential accommodation. (C14ED)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 7 You must provide, maintain and retain the following bio-diversity features before you start to use any part of the development, as set out in your application.

living roof

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

Reason:

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

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

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

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

- 9 The three bedroom residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

Reason:

To ensure there is a sufficient number of family sized units to contribute towards meeting Westminster's housing needs.

- 10 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 protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 11 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 12 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 13 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development:

- a) roof access hatch
- b) all new windows
- c) all new external doors
- d) new lightwell stair

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 these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 14 The energy source for both hot-water and central-heating to the approved residential units must be electric.

Reason:

To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the 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. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In

addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Building works must be carried out in accordance with condition 2 of this permission. Non-compliance with this condition will result in enforcement action.
- 3 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 4 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 5 There is an ongoing enforcement investigation relating to this property and, as a consequence, three formal listed building enforcement notices were served with effect from 04 November 2020 in relation to the following unauthorised works:
 - unauthorised removal of the roof,
 - internal alterations at fourth floor level, including the removal of ceilings and partition walls, and
 - the removal, and/or damage of existing balustrading, newel posts and spindles from the stairway on and between ground floor and fourth floor levels.

You are advised to comply with the terms of the enforcement notices/implement the proposed works which partially supersede those elements as soon as practicably possible as our Enforcement Team are likely to prosecute imminently.

DRAFT DECISION LETTER – LISTED BUILDING CONSENT

Address: 27 Upper Berkeley Street, London, W1H 7QN

Proposal: Internal alterations at all levels. External alterations including the creation of a roof terrace enclosed with railings with a perimeter living roof, installation of replacement windows and installation of stair to front lightwell.

Reference: 22/07525/LBC

Plan Nos: 2210 L(--) 051, 2210 L(--) 052, 2210 L(--) 053, 2210 L(--) 054, 2210 L(--) 055, 2210 L(--) 056, 2210 L(--) 057, 2210 L(--) 058, 2210 L(--) 058, 2210 L(--) 059, 2210 L(--) 060, 2210 L(--) 061, 2210 L(--) 062, 2210 L(--) 100, 2210 L(--) 101, 2210 L(--) 102, 2210 L(--) 103, 2210 L(--) 104, 2210 L(--) 105, 2210 L(--) 106, 2210 L(--) 107, 2210 L(--) 108, 2210 L(--) 109, 2210 L(--) 110, 2210 L(--) 111, 2210 L(--) 112, 2210 L(--) 113, 2210 L(--) 114, 2210 L(--) 115, 2210 L(--) 115, 2210 L(--) 300, 2210 L(--) 400, 2210 L(--) 401, 2210 L(--) 501.

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

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

- 1 The works 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:
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 All new work and improvements inside and outside 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. (C27AA)

Reason:
To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)
- 3 You must not disturb existing ornamental features including the staircase and staircase balustrade. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

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)
- 4 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development:
 - a) roof access hatch

- b) all new windows
- c) all new doors
- d) new lightwell stair
- e) secondary glazing
- f) new fireplace surrounds and grates
- g) all new decorative detail including cornices, skirtings and dados
- h) details of the repair of the principal stair

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 these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 5 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF.

In reaching this decision the following were of particular relevance:
Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 There is an ongoing enforcement investigation relating to this property and, as a consequence, three formal listed building enforcement notices were served with effect from 04 November 2020 in relation to the following unauthorised works:
- o unauthorised removal of the roof,
 - o internal alterations at fourth floor level, including the removal of ceilings and partition

walls, and

- the removal, and/or damage of existing balustrading, newel posts and spindles from the stairway on and between ground floor and fourth floor levels.

You are advised to comply with the terms of the enforcement notices/implement the proposed works which partially supersede those elements as soon as practicably possible as our Enforcement Team are likely to prosecute imminently.