



City of Westminster

# Committee Agenda

Title:

**Planning Applications Sub-Committee (3)**

Meeting Date:

**Tuesday 12th July, 2022**

Time:

**6.30 pm**

Venue:

**Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members:

**Councillors:**

Jason Williams (Chair)  
Ruth Bush  
Paul Fisher  
Amanda Langford



**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda.**

**Committee members will attend the meeting in person at Westminster City Hall. The Committee will be a hybrid Meeting and will be live broadcast via Microsoft Teams. Admission to the public gallery is by a pass, issued from the ground floor reception from 6.00pm.**

**If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**

**If you require any further information, please contact the Committee Officer, Georgina Wills, Committee and Governance Officer.**

**Tel: 07870 548348; Email: [gwills@westminster.gov.uk](mailto:gwills@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. APPOINTMENT OF CHAIR**

To appoint a Chair

#### **2. MEMBERSHIP**

To note that Councillor Jason Williams had replaced Councillor Nafiska Butler-Thalassis, that Councillor Paul Fisher had replaced Councillor Ryan Jude and Councillor Ruth Bush had replaced Councillor Cara Sanquest.

To note any further changes to the membership.

#### **3. DECLARATIONS OF INTEREST**

To receive declarations by members and officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

#### **4. MINUTES**

To sign the minutes of the last meeting as a correct record of proceedings.

#### **5. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

Members of the public are welcome to speak on the specific applications at the virtual planning committee meeting.

To register to speak and for guidance please visit:

<https://www.westminster.gov.uk/planning-committee>

Please note that you must register by 12 Noon on the Friday before the Committee meeting

**(Pages 5 - 10)**

In the event that you are successful in obtaining a speaking slot at the hybrid meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

<https://www.westminster.gov.uk/stream-council-meetings>

To access the recording after the meeting please revisit the Media link

- |  |                          |
|--|--------------------------|
| <b>1. DEVELOPMENT SITE AT 268-282 VAUXHALL BRIDGE ROAD, LONDON</b> | <b>(Pages 15 - 66)</b>   |
| <b>2. 50 DEAN STREET AND 20 ROMILLY STREET, LONDON, W1D 5BQ</b>    | <b>(Pages 67 - 86)</b>   |
| <b>3. 50 EASTBOURNE TERRACE, LONDON, W2 6LG</b>                    | <b>(Pages 87 - 112)</b>  |
| <b>4. 129-137 MARYLEBONE ROAD, LONDON, NW1 5QD</b>                 | <b>(Pages 113 - 154)</b> |
| <b>5. 31 GROVE END ROAD, LONDON, NW8 9LY</b>                       | <b>(Pages 155 - 188)</b> |
| <b>6. 19 UPBROOK MEWS, LONDON, W2 3HG</b>                          | <b>(Pages 189 - 218)</b> |

**Stuart Love**  
**Chief Executive**  
**1 July 2022**

## Order of Business

At Planning Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

<b>Order of Business</b>
i) Planning Officer presentation of the case
ii) Applicant and any other supporter(s)
iii) Objectors
iv) Amenity Society (Recognised or Semi-Recognised)
v) Neighbourhood Forum
vi) Ward Councillor(s) and/or MP(s)
vii) Council Officers response to verbal representations
viii) Member discussion (including questions to officers for clarification)
ix) Member vote

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.



CITY OF WESTMINSTER

# MINUTES

## Planning Applications Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (3)** held on **Tuesday 19th April, 2022**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Jim Glen (Chairman), Eoghain Murphy, Guthrie McKie and Selina Short

#### 1 MEMBERSHIP

1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

2.1 Councillor Glen explained that a week before the meeting, all four Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.

2.2 Councillor Murphy declared that in respect of Item 1, the application site was situated within the West End Ward where he would be standing as a candidate at the next local election. In his role as Councillor, he had spoken to one of the objectors previously but not about the application and he had held no discussions regarding it with any parties.

2.3 Councillor McKie declared that in respect of Item 4 he lived within the Bayswater Ward, but he had held no discussions regarding the application with any parties.

- 2.4 The Sub-Committee placed on record its thanks to Councillor Guthrie McKie, who was attending his last meeting, for all the valuable contributions he had made to the work of the Sub-Committee.

### **3 MINUTES**

#### **3.1 RESOLVED:**

That the minutes of the meeting held on 22 February 2022 be signed by the Chair as a correct record of proceedings.

### **4 PLANNING APPLICATIONS**

#### **1 CAVENDISH SQUARE, LONDON, W1G 9DB**

1. Erection of a Spiegeltent touring structure (with an internal capacity of up to 600), a box office, two bar areas, seven catering units, toilets, storage, outdoor seating areas and fencing with lighting and associated plant in conjunction with use of Cavendish Square for the Underbelly Festival at Cavendish Square 2022 (Sui Generis), with a maximum of 2,000 visitors at any one time, for a temporary period from 28 April 2022 to 31 July 2022. Installation and deinstallation will take place over the periods between 13 April 2022 and 8 August 2022.
2. Temporary display of signages at Cavendish Square in association with the Underbelly Festival at Cavendish Square 2022 over the periods between 28 April 2022 to 31 July 2022, with installation and deinstallation taking place over the periods between 13 April 2022 and 8 August 2022.

An additional representation was received from Westminster City Council's Environmental Health Consultation Team (08.04.22).

A late representation was received from Historic England (24.02.22).

Ed Bartlam addressed the Sub-Committee in support of the application.

Jace Tyrell addressed the Sub-Committee in support of the application.

#### **RESOLVED (For – Councillors Glen, McKie and Short, Abstain – Councillor Murphy):**

- 1) That conditional permission be granted subject to the following additional conditions:
  - a) Members of the public to be permitted access to the square for the duration of the event (except for the Spiegeltent) with this access to be appropriately signposted; and

- b) All apparatus to be deinstalled by 8 August 2022.
- 2) That conditional advertisement consent be granted.

## **2 167 OXFORD STREET, LONDON, W1D 2JP**

Use of basement as an events space (sui generis).

### **RESOLVED UNANIMOUSLY:**

That conditional permission be granted subject to:

- a) An additional condition restricting the use of the event space to between the hours of 08:00 and 22:30; and
- b) An additional informative requesting the façade lighting on the Poland Street side of the building to be turned off by 21:00 hours.

## **3 AUDLEY SQUARE, LONDON**

Erection of a plinth and public art sculpture, and associated works within Audley Square.

An additional representation was received from Kanda (13.04.22).

Amanda James addressed the Sub-Committee in support of the application.

Philip Jackson addressed the Sub-Committee in support of the application.

### **RESOLVED UNANIMOUSLY:**

- 1. (i) That the additional information submitted, and the results of the public consultation exercise addressed the concerns previously expressed.
- (ii) That conditional permission be granted subject to completion of a S106 unilateral undertaking to secure the following:
  - a) Lighting of the public art,
  - b) the proposed structural support for the public art,
  - c) a maintenance programme for the public art,
  - d) public liability insurance for the public art,
  - e) the proviso that the Council can require the removal or remove the public art itself, and that the applicant is required to fund all associated costs, including reinstatement of the highway to the Highway Authority's satisfaction,
  - f) the cost of monitoring the agreement,
  - g) costs of the stopping-up process; and

- h) a commuted sum of £50,000 for maintenance of the public art
- 2. If the S106 unilateral undertaking had not been completed within six weeks then:
  - a) The Director of Place Shaping and Town Planning should consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning was authorised to determine and issue such a decision under Delegated Powers; however, if not;
  - b) The Director of Place Shaping and Town Planning should consider whether permission should be refused on the grounds that the proposals were unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Shaping and Town Planning was authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

#### **4 98 WESTBOURNE GROVE, LONDON, W2 5RN**

Variation of conditions 2 and 3 of planning permission dated 27 October 2015 (RN: 15/04113/FULL) which itself varied condition 13 (tables and chairs) of planning permission dated 07 February 2003 (RN:02/03540) for Part demolition / redevelopment to provide new buildings, part alterations/extensions (including listed building) to provide 36 flats, 2 live-work units, retail, restaurant facilities and 34 parking spaces in basement with associated works; namely to remove restrictions outside of No. 98 Westbourne Grove (previously Cote restaurant) only. NAMELY, to allow takeaway and delivery sales from the premises, with delivery drivers utilising the motorcycle bay on Hereford Road outside of 20-22 Hereford Road and allow a small ancillary bar area within the restaurant to serve diners at the restaurant and to provide bar-style seating areas.

Mark Shearman addressed the Sub-Committee in support of the application.

#### **RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

#### **5 90D CLIFTON HILL, LONDON, NW8 OJT**

Installation of timber decking with provision for drainage and retention of black painted railings to terrace (Linked with 21/08062/LBC).

An additional representation was received from Ninety Clifton Hill Management Ltd (13.04.22).



The presenting officer had circulated amendments to the report (08.04.22).

A late representation was received from the applicant (13.04.22).

Zein Khan addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY:**

- 1) That conditional permission be granted.
- 2) That conditional listed building consent be granted.
- 3) That the reasons for granting conditional listed building consent as set out in Informative 1 attached to the draft decision letter be agreed.

**6 48 & 49 BLOMFIELD ROAD, LONDON, W9 2PD**

Application 1

48 Blomfield Road: 1 x Tree of Heaven (T4): fell

Application 2

49 Blomfield Road: 2 x limes (T5 and T6): fell

**RESOLVED UNANIMOUSLY:**

Application 1

That consent be refused on the grounds of its high amenity value and that its loss would be detrimental to the character and appearance of the Maida Vale Conservation Area.

Application 2

That consent be refused on the grounds of its high amenity value and that its loss would be detrimental to the character and appearance of the Maida Vale Conservation Area.

The Meeting ended at 8.40 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

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# Agenda Annex

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 12th July 2022  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<b>RN(s):</b> 22/01305/FULL  Vincent Square	Development Site At 268-282 Vauxhall Bridge Road London	Variation of condition 1 of planning permission dated 3 May 2022 (RN: 21/05606/FULL) which itself varied an earlier permission dated 17 November 2020 (RN: 19/05099/FULL) for the Demolition of existing buildings and erection of a new building comprising basement, ground and 7 upper levels plus rooftop plant to provide a hotel with associated ancillary facilities including restaurant/bar and gym (Class C1), 1 x 2 and 1 x 3 bedroom apartments (Class C3), plant, cycle parking and other associated works. NAMELY, to allow reduction in the number of guestrooms from 137 to 114; amendments to internal layout arrangements; redesigned facades; modification of the massing of the 7th & 8th floors; alterations to the roof level plant and servicing equipment and enclosures; and other associated alterations.	City ID UK VBR Ltd
<p><b>Recommendation</b></p> <p>1. Grant conditional permission, subject to a deed of variation to the original S.106 legal agreement dated 17 November 2020 to secure the following additional obligations:</p> <p>a) Ensure the agreement relates to the proposed development;</p> <p>b) To increase the financial contribution towards the City Council's Carbon Off Set fund to £371,355 (index linked) (payable prior to the commencement of the development);</p> <p>c) To include the 'be seen' requirements of monitoring and reporting on the actual operational energy performance of the building, including as-built and in-use stage data; and</p> <p>d) Provision of highway works to accommodate two cycle stands on Vauxhall Bridge Road.</p> <p>2. If the deed of variation has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>a) The Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				
Item No	References	Site Address	Proposal	Applicant
2.	<b>RN(s):</b> 22/01046/FULL  West End	50 Dean Street and 20 Romilly Street London W1D 5BQ	Use of basement and ground floor as a drinking establishment with expanded food provision (Sui Generis).	Inception Ventures Group Limited

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 12th July 2022  
 PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant
3.	<p><b>RN(s):</b> Application 1 22/00672/FULL Application 2 22/00674/NMA</p> <p>Lancaster Gate</p>	<p>50 Eastbourne Terrace London W2 6LG</p>	<p><b>Application 1:-</b> Variation of conditions 1 (approved plans) and 5 (no- take-away) of planning permission dated 08 June 2021 (RN: 21/00264/FULL) for the: Change of use of Retails Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. NAMELY, Reconfiguration of the approved floor plans, and to allow for an ancillary quantity of takeaway from the restaurant unit.</p> <p><b>Application 2:-</b> Amendments to planning permission dated 05 February 2020 (RN:19/07378 ) for the: Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the addition of a door on the Craven Road elevation to the approved restaurant unit along Craven Road</p>	<p>CSHV IUK ET Propoco Limited</p>
<p><b>Recommendation</b>                      1. Application 1 - Grant conditional permission                      2. Application 2 - Agree Non-Material Amendment</p>				
Item No	References	Site Address	Proposal	Applicant
4.	<p><b>RN(s):</b> 21/06044/FULL</p> <p>Marylebone</p>	<p>129 - 137 Marylebone Road London NW1 5QD</p>	<p>Variation of conditions 1 (approved plans), 14 (Operational management plan for terraces),28 (plant screen design) and 30 (Mews design details) pursuant to planning permission dated 13 July 2021 (RN. 20/06929/FULL) for Demolition and redevelopment of the mews building, partial demolition of the 1960s building and roof extension, facade alterations to the 1930s building all in connection with continued Class E use, associated cycle parking, landscaping, servicing area, external terraces, rooftop plant enclosure and associated external works. NAMELY external alterations including changes to the rooftop plant enclosure, mansard roof pitches, access to the mews building</p>	<p>AG Beltane Marylebone B.V</p>

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 12th July 2022  
 PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

			and other external changes.	
<p><b>Recommendation</b></p> <p>1. Grant Conditional permission, subject to a deed of variation to the original S.106 legal agreement dated 13 July 2021.</p> <p>2. If the legal agreement has not been completed within 6 weeks from the date of the Committee's resolution then:</p> <p>a) the Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning authorise to determine and issue such a decision under Delegated Powers; however, if not:-</p> <p>b) the Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of benefits that would have been secured; if so the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
5.	<p><b>RN(s):</b> 21/05628/FULL</p> <p>Abbey Road</p>	31 Grove End Road London NW8 9LY	Excavation of basement under the footprint of the house, part front and rear gardens, landscaping to front and rear gardens. Refurbishment of existing house, demolition of the north side wing and its rebuilding as a 3 storey addition, raising of the height of the flat to the side south wing, rear extension at lower ground floor, rear and side dormers and other external alterations	Mr Simon Firth
<p><b>Recommendation</b> Grant conditional permission</p>				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
6.	<p><b>RN(s):</b> 21/00155/FULL</p> <p>Lancaster Gate</p>	19 Upbrook Mews London W2 3HG	Excavation of single storey basement beneath footprint of original dwelling, conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall to 18 Upbrook Mews.	Mr Sammy Li
<p><b>Recommendation</b> Grant conditional permission.</p>				

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# Agenda Item 1

Item No.

1

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 12 July 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Vincent Square	
<b>Subject of Report</b>	<b>Development Site At 268-282, Vauxhall Bridge Road, London, ,</b>		
<b>Proposal</b>	Variation of condition 1 of planning permission dated 3 May 2022 (RN: 21/05606/FULL) which itself varied an earlier permission dated 17 November 2020 (RN: 19/05099/FULL) for the Demolition of existing buildings and erection of a new building comprising basement, ground and 7 upper levels plus rooftop plant to provide a hotel with associated ancillary facilities including restaurant/bar and gym (Class C1), 1 x 2 and 1 x 3 bedroom apartments (Class C3), plant, cycle parking and other associated works. NAMELY, to allow reduction in the number of guestrooms from 137 to 114; amendments to internal layout arrangements; redesigned facades; modification of the massing of the 7th & 8th floors; alterations to the roof level plant and servicing equipment and enclosures; and other associated alterations.		
<b>Agent</b>	ROK Planning Ltd		
<b>On behalf of</b>	City ID UK VBR Ltd		
<b>Registered Number</b>	22/01305/FULL	<b>Date amended/ completed</b>	27 June 2022
<b>Date Application Received</b>	25 February 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of a Conservation Area, adjacent to Westminster Cathedral Conservation Area		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

1. Grant conditional permission, subject to a deed of variation to the original S.106 legal agreement dated 17 November 2020 to secure the following additional obligations:
  - a) Ensure the agreement relates to the proposed development;
  - b) To increase the financial contribution towards the City Council's Carbon Off Set fund to £371,355 (index linked) (payable prior to the commencement of the development);
  - c) To include the 'be seen' requirements of monitoring and reporting on the actual operational energy performance of the building, including as-built and in-use stage

- data; and
- d) Provision of highway works to accommodate two cycle stands on Vauxhall Bridge Road.
2. If the deed of variation has not been completed within six weeks of the date of the Committee resolution, then:
- a) The Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not
- b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY & KEY CONSIDERATIONS

The application proposes amendments to an approved development for a new building comprising a hotel and two residential units. The amendments reduce the number of guestrooms from 137 to 114, alter internal layout arrangements, redesign the facades, modify the massing of the 7th & 8th floors, alter the plant equipment and enclosures and propose other associated changes.

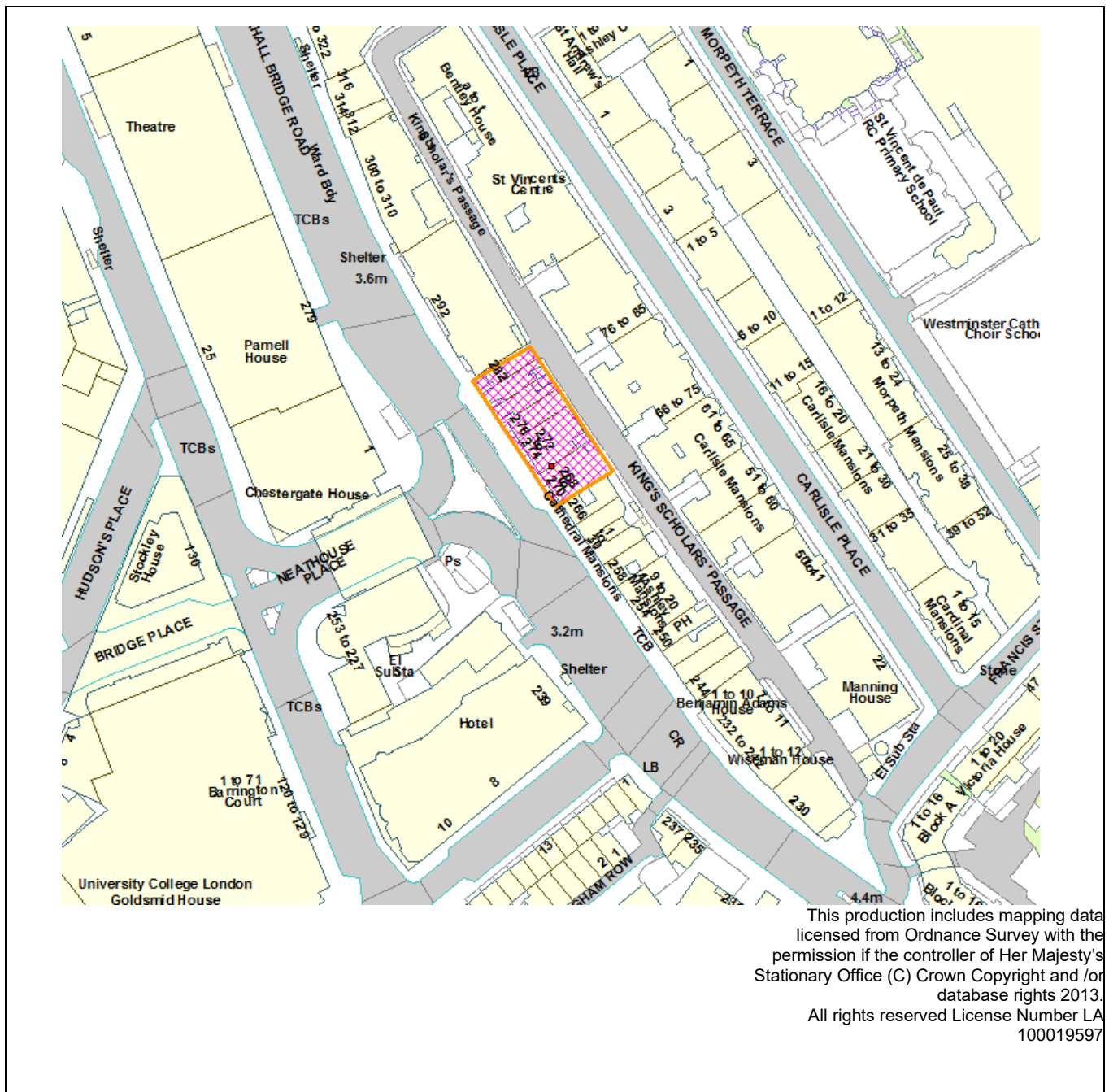
The key considerations in this case are:

- The acceptability of the development in land use terms;
- The acceptability of the altered building's energy performance and sustainability;
- The acceptability of the altered building in design terms;
- The impact of the proposed building on the setting of the Westminster Cathedral Conservation Area; and
- The impact on the amenity of neighbouring residential properties.

The proposed development is considered against the policies in the adopted City Plan 2019-2040 (April 2021) and London Plan (March 2021). Considering the extant permissions which have already allowed the loss of the office use on site, officers do not oppose the current application in land use terms. The applicant has demonstrated their amendments would improve the building's energy performance and the applicant agrees to an increased carbon offsetting contribution compared to the extant permissions. While the Westminster Society raises concern regarding the redesigned façade to the front, officers consider the amendments to constitute an improvement. While an objector considers the altered rear façade fenestration would worsen overlooking, the amendments in fact restrict overlooking further than the permitted development. Given these circumstances, officers recommended the application be approved subject to the conditions set out in the draft decision letter and the completion of a deed of variation to the S.106 legal agreement.



### 3. LOCATION PLAN



4. PHOTOGRAPHS



Facing North Vauxhall Bridge Road



Facing South Vauxhall Bridge Road



King's Scholars' Passage facing north and south

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### WESTMINSTER SOCIETY:

The Society has not been consulted about the proposed changes, which we consider an oversight by the applicant. We had no objections to the previously Consented 2019 hotel scheme. However, we did comment at the time that we thought that any new applications in the area should take into consideration the cumulative impacts of all the new hotel applications including Neathouse Place and the Citizen M hotel to better understand privacy and Daylight & Sunlight issues in the area.

Having said this, we have appraised the revised documents and have the following comments:

1. We have no objection to the revised massing and bedroom sizes.
2. No objection to revised alignment of privacy windows along Kings Scholar Passage.
3. We do have concern about the design of the Vauxhall Bridge Road elevation, which we feel needs further work.

#### Revised Vauxhall Bridge elevation

Changing the previous predominantly glass elevation to a brick hole-in-the wall elevation is in principle acceptable, but the new elevation does not display the proportion and elegance required for such a highly visible location. There is an awkward relationship between the 2-storey arched brick base and the rest of the elevation which results in visually squashed second floor windows.

We feel further work is required to resolve this issue and bring unity and proportion to the elevation. We also need to better understand the quality of brick detailing and the depth of relief. We are open to discussing this issue with the applicants team at short notice should the applicant and design officers agree.

#### VICTORIA NEIGHBOURHOOD FORUM:

Any response to be reported verbally.

#### VICTORIA BID:

Any response to be reported verbally.

#### TRANSPORT for LONDON:

TfL has no concerns with the proposal. All changes are within the site boundary and will make no changes to the proposed cycle parking numbers/typology and associated facilities to be provided.

#### ENVIRONMENTAL HEALTH:

No objections subject to conditions ensure that any land contamination is suitably mitigated, air quality measures installed, noise from plant equipment is not harmful to neighbours and that the internal environment of the flats is appropriate.

**WASTE PROJECT OFFICER:**

The waste and recycling storage arrangements are acceptable.

**HIGHWAY PLANNING MANAGER:**

Any response to be reported verbally.

**WESTMINSTER ECONOMY TEAM:**

The proposal should contribute toward opportunities for local employment and training.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 313

Total No. of replies: 2 (objections)

Two neighbouring residents object to the proposal. In summary they object on the following grounds:

**Residential Amenity/ Local Environmental Impact:**

- The proposal would increase overlooking to Carlisle Mansions because there would be a reduction in the 'centralised cladding area' to the rear and because of the new design of the windows;
- Concern regarding the Back of House Kitchen at street level and there are questions regarding ventilation including in terms of location of plant; noise and emissions; and operational times;
- Concern regarding the residential entrance and the level of traffic it would see, and whether there would be disable access.

**PRESS NOTICE/ SITE NOTICE:**

Yes

**5.2 Applicant's Pre-Application Community Engagement**

The Early Community Engagement in Westminster Guidance Note does not indicate whether applicants/ developers should engage neighbours regarding applications proposing amendments to extant permissions under Section 73 of the Town and Country Planning Act 1990. However, given the purpose of early community engagement is to allow the community to have a meaningful role in shaping their places, it is welcomed that the applicant reports they sought to engage the community about the changes prior to submission. This involved mailing neighbouring residents and local ward Councillors a newsletter outlining the proposed changes. The applicant reports a meeting was offered to local residents in Carlisle Mansions, to introduce the applicant and talk through the plans. The applicant reports the residents have not taken up the offer of a meeting. During the application, the applicant engaged with the Westminster Society who have raised concern regarding the development. The met with the Society to discuss the design of the front façade. The applicant reports this did not result in agreement between the parties, however.

**6. WESTMINSTER'S DEVELOPMENT PLAN**

## 6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 (City Plan) was adopted at Full Council on 21 April 2021. The policies in the City Plan 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 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

The site comprises six buildings located towards the northwest end of Vauxhall Bridge Road, within the Central Activities Zone (CAZ). The rear of the site backs onto King's Scholars' Passage. The site is not located within a conservation area, but the boundary of the Westminster Cathedral Conservation Area runs down the centre of King's Scholars' Passage. Vauxhall Bridge Road is part of the Transport for London Road Network (TLRN). The site is outside of the Victoria Opportunity Area, but its boundary opposes the site, on Vauxhall Bridge Road.

### 7.2 Recent Relevant History

In November 2020, the City Council granted permission for the demolition of the existing buildings and the erection of a new building comprising basement, ground and 7 upper levels plus rooftop plant to provide a hotel with associated ancillary facilities including restaurant/bar and gym (Class C1), 1 x 2 and 1 x 3 bedroom apartments (Class C3), plant, cycle parking and other associated works. (RN: 19/05099/FULL)

In February 2022, the City Council granted permission to for the variation of Conditions 6 and 16 of the November 2020 permission, to amend the wording of Condition 6 to allow the provision of separate logistic plans for the demolition and construction phases; and

the wording of Condition 16 to allow the provision of a BREEAM pre-assessment before commencement of construction, rather than demolition, and ensure a final post construction stage assessment and certification is provided within three months of occupation. (RN: 21/05606/FULL)

Work on the development has not yet lawfully begun.

## 8. THE PROPOSAL

The current application proposes the variation of condition 1 of the February 2022 permission to allow the reduction in the number of guestrooms from 137 to 114; amendments to internal layout arrangements; redesigned facades; modification of the massing of the seventh and eighth floors due to proposed changes to the internal core, services and fire strategy; alterations to the roof level plant and servicing equipment; and other associated minor changes.

The applicant, City ID, is a hotel group. They are a different applicant to that for the original application and have their own model for how they wish to operate the site. The applicant describes the hotel element they propose as an 'aparthotel', which is a type of hotel whose rooms include some self-catering facilities as well as ordinary hotel facilities.

The internal alterations to the building relate to reconfigurations to the layouts, and the external alterations relate to changes at roof level and to the façades. The façade alterations would alter the appearance of the building over the approved arrangement, particularly to the front where a greater use of brick/ reduction in glazing and the introduction of arches would be apparent.

**Table: Existing, approved and proposed land uses.**

Land Use	Existing GIA (sqm)	Approved GIA (sqm)	Proposed GIA (sqm)	+/- (Existing v Proposed)
Office Use (Class E)	2,073	0	0	-2,073
Hotel Use (Class C1)	435	5,302	5,213	4,778
Residential (Class C3)	195	174	206	11
<b>Total</b>	<b>2,703</b>	<b>5,476</b>	<b>5,419</b>	<b>2,716</b>

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

The existing buildings on site comprise office, hotel and residential uses. The approved redevelopment of the site allowed a new building of 5,476 sqm GIA for hotel and residential uses. The amendments result in a building of a similar size, with a similar composition of uses. There would be 5,213 sqm GIA of hotel floorspace and 206 sqm GIA of residential floorspace

## **Loss of Office Use**

Under the November 2020 permission, the proposal resulted in the loss of the existing office floorspace. The then adopted City Plan did not seek to prevent the loss of offices to other commercial uses, including hotel uses. Accordingly, there was no land use conflict with the then adopted City Plan in that respect.

Since the grant of the November 2020 planning permission, the Council adopted the current City Plan (April 2021). Policy 13 of the current City Plan, states the loss of offices to hotel use will only be permitted where there is no interest in its continued use for office (or any other Class E, education or community uses), as demonstrated by vacancy and appropriate marketing for a period of at least 12 months. The applicant has not provided evidence to indicate that continued use of part of the site for offices (or appropriate alternative uses) has no interest and therefore the current application fails to adhere to the policy.

However, the existing permissions have allowed the loss of the office floorspace and the applicant can implement them on or before 17 November 2023. Further, the current application primarily relates to external design changes and internal layout alterations to the approved development. In these circumstances, the extant permissions represent a realistic fallback position which must be a material consideration under this application. Indeed, it is a consideration of significant weight such that it would militate against refusal of permission because of the conflict with Policy 13 – subject to a condition to continue to ensure the development is implemented on or before 17 November 2023. Therefore, the loss of offices continues to be acceptable.

## **Hotel Use**

Like the previous City Plan, the current City Plan (Policy 15) directs hotels to commercial areas, including commercial areas of the CAZ. Similarly, London Plan Policy E10 directs hotel accommodation to the CAZ (except residential / predominately residential parts of it).

This part of Vauxhall Bridge Road is predominately commercial, so the principle of a hotel on the site remains accordant with the development plan. The amendments relate to the applicant using the site as an ‘aparthotel’. While this type of hotel accommodation would allow some self-catering facilities within the hotel rooms which differs to what was previously approved, the operations and overall use remain similar to the approved use – it would still be within class C1 (which is for hotels, boarding or guest houses).

The internal layout changes keep the general layout as previously approved, including a reception, café/ bar, kitchen and other back of house areas at ground floor, gym and back of house areas at basement and hotel rooms above. The changes would reduce the number of hotel rooms by 23, to 114, allowing for more generously sized rooms. The approved number of rooms did not constitute an overly large hotel on this site, and with the reduction in rooms this would of course continue to be the case. The impacts that the hotel would create on neighbours and the local environment would be managed through the imposition of conditions as attached to the previous permission. Because of the fewer rooms, any associated impacts would be correspondingly lessened as compared to the approved development.



## Residential Use

The existing residential floorspace comprises four units. The current proposals involve the loss of two of the units, but the replacement units would be over a more generous floor area. The loss of units is contrary to the previous and current City Plan (Policy 8 is the relevant policy under the current City Plan). Under the previous permission, this was allowed on the basis three of the existing units on the site are of sub-standard quality in terms of size (not meeting the 'Technical housing standards – nationally described space standard') and because the proposals would provide family housing. This justification remains relevant under the current City Plan, and the new units would continue to be of an acceptable size and design. They would exceed the requirements of the space standard.

Policy 12 of the City Plan requires the provision of private external amenity space for new residential units, or where this is not practical to provide external communal space / public space, or where that is not practical to provide increased internal space for each flat. In this case, the applicant has provided increased internal space per flat (which differs to the approved permission). It is accepted that on this site the other options are not practical. There is no existing outside space associated with the building, it is on a very busy road and close to adjacent residential properties on Carlisle Place which combine to make it impractical to provide external amenity space.

The development does not meet the threshold for requiring the provision of affordable housing, as set out in Policy 9 of the City Plan. Overall therefore, the proposed replacement provision of residential floorspace remains acceptable.

## 9.2 Environment & Sustainability

### Energy Performance

The amendments change the approved building fabric and alter the plant equipment. These, and the other amendments, would alter the building's energy performance as compared to the approved building.

City Plan Policy 36 and London Plan Policy SI 2 require major development to be net zero-carbon in terms of regulated carbon emissions from operations, and follow the energy hierarchy, as set out in the current London Plan. This is like the requirement under the previous London Plan. The energy hierarchy includes:

1. be lean: use less energy and manage demand during operation
2. be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly
3. be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site
4. be seen: monitor, verify and report on energy performance.

The London Plan requires a minimum on-site reduction of at least 35 per cent beyond Building Regulations for major development. Applicants must reduce carbon emissions by at least 10% for domestic development and 15% for non-domestic development

through using energy efficiency measures. Where an applicant clearly demonstrates the zero-carbon targets cannot be fully achieved on-site, any shortfall can be provided for by a payment in lieu contribution to Westminster's carbon offset fund or off-site.

The table below summaries the key figures found in the applicant's Energy Statement.

**Table: Regulated carbon dioxide savings from each stage of the energy hierarchy.**

	Domestic Regulated Carbon Dioxide Savings		Non-Domestic Regulated Carbon Dioxide Savings	
	Tonnes CO2 per Annum	%	Tonnes CO2 per Annum	%
<b>Be Lean:</b> Savings from energy demand reduction	0.3	11.1	2.6	1
<b>Be Clean:</b> Savings from heat network	0	0	0	0
<b>Be Green:</b> Savings from renewable energy	1.2	45.9	124.1	48.5
Cumulative on-site savings	1.5	57.1	126.7	49.5
Carbon shortfall	-1.1	-	-129.2	-
	Tonnes CO2		Tonnes CO2	
Cumulative savings for offset payment	33		3,876	
Cash-in-lieu contribution	£3,135		£368,220	
<b>Total Cash-in-lieu contribution</b>	<b>£371,355</b>			

#### *Be Lean*

In relation to 'be lean', the applicant's Energy Statement explains energy use and demand would be minimised through the choice of new elements (i.e. roofs, walls, windows) with suitable thermal properties; use of energy efficient heating, cooling and ventilation systems (including Air Source Heat Pumps); use of efficient lighting; amongst other measures. City Plan Policy 38 also requires applicants follow sustainable design principles and requires non-domestic developments achieve at least a BREEAM "Excellent" or equivalent standard. A condition is recommended to ensure the applicant provides evidence that this is achieved.

The above measures mean the domestic element exceeds the 10% target for reduction in emissions due to energy efficiency measures. However, the non-domestic element unfortunately does not achieve the 15% reduction target. The applicant reports that this is because a hotel use has high water loads under Building Regulations (ADLA2 2013), and this limits the impact of the energy efficiency measures they have proposed. If not for the calculation methodology used under Building Regulations (ADLA2 2013), the applicant states the savings would have been more than the target.

While unfortunate that the development misses the target in this case, the situation of

high hot-water use related to hotels is acknowledged – hotels will have a significantly higher demand for water than many other non-domestic uses. Nonetheless, as the table sets out above, the overall non-domestic carbon savings would be more than the 35% target. Considering these circumstances, this missed target is not detrimental to the acceptability of the scheme.

#### *Be Clean*

In relation to the ‘be clean’ element of the hierarchy, the applicant has explored the feasibility of connecting to an existing district heating system. The Pimlico District Heating Undertaking (PDHU) is just over 0.4km away from the site, but the Council may extend this district heating network in future. There is also a smaller network in Victoria. However, it is not possible to connect to either of these district heating networks in the immediate future due to the distance to the pipes associated with them. Nonetheless, because these district heating systems could be extended in future, the applicant plans to allow for future connection as this is welcomed.

#### *Be Green*

In relation to the ‘be green’ element of the hierarchy, the applicant proposes the use of Air Source Heat Pumps to provide heating and cooling and proposes to install photovoltaic panels at seventh floor level. These technologies are the most suitable for this type of building and location. While the photovoltaic panels would occupy a relatively small part of the roof, there must be a balance struck between this and other plant equipment (including the heat pumps) and a biodiverse roof to meet other priorities. The photovoltaic panels are likely the most that the applicant can reasonably provide without impacting on these other priorities. Conditions are recommended to ensure that these features are provided.

#### *Net Zero*

The applicant explains the proposed development would achieve an overall reduction of regulated carbon emissions of 57.1% for the residential element and 49.5% for the hotel element. This is more than the minimum 35% requirement set out in the London Plan. In relation to net zero carbon however, there would be a shortfall which the applicant calculates as 130.3 tonnes of carbon annually. The applicant’s amendments have reduced this compared to the approved proposals (which would have emitted 154 tonnes of carbon annually).

London Policy SI 2 and the Greater London Authority’s Energy Assessment Guidance require shortfalls to be met off site or through a payment in lieu contribution of £95 per tonne (for a 30-year period) to the Council’s Carbon Offsetting fund. The shortfall in this case is to be met through a payment in lieu contribution amounting to £371,355 which is recommended to be secured via a deed of variation to the legal agreement. This is significant increase over the carbon offsetting contribution required under the existing legal agreement, which is necessary to meet the requirements of the current policy. The provision of varied legal agreement to secure the £371,355 amount is recommended which will allow for these carbon emissions to be offset.

#### *Be Seen*

In relation to the ‘be seen’ element of the hierarchy, the deed of variation to the legal agreement is recommended to include an additional obligation to ensure the operational energy performance of the building is monitored in accordance with the London Plan.

## Whole Life Carbon

Differently to the previous London Plan, current London Plan Policy SI 2 requires developers to calculate and reduce Whole Life-Cycle Carbon (WLC) emissions. Developments should calculate WLC emissions through a nationally recognised WLC Assessment and demonstrate actions taken to reduce life-cycle carbon emissions. The justification for City Plan Policy 38 explains the possibility of sensitively refurbishing or retrofitting buildings should also be considered prior to demolition and proposals for substantial demolition and reconstruction should be fully justified based on WLC impact. This is also echoed in the Environment SPD.

WLC emissions are the carbon emissions resulting from the materials, construction and the use of a building over its entire life, including its demolition and disposal. A WLC assessment provides a true picture of a building's carbon impact on the environment.

The applicant has submitted a WLC assessment. The assessment is split into 'life-cycle modules' dealing with various stages over the life of the development. The assessment calculates emissions under two scenarios. The 'SAP10' assessment calculates WLC based on the current status of the electricity grid and the 'Future Energy Scenarios 2020' assessment calculates WLC based on a steady progress of decarbonisation of the electricity grid.

**Table: Estimated whole life carbon emissions**

	Sourcing and construction kg CO <sub>2</sub> e/m <sup>2</sup>	Use stage		End of life stage kg CO <sub>2</sub> e/m <sup>2</sup>	Total (excluding B6 – B7) kg CO <sub>2</sub> e/m <sup>2</sup>
		B1 – B5 kg CO <sub>2</sub> e/m <sup>2</sup>	B6 – B7 kg CO <sub>2</sub> e/m <sup>2</sup>		
SAP10 carbon factor	462	501	1130	33	<b>996</b>
Future Energy Scenarios 2020 carbon factor	462	473	611	33	<b>968</b>

The Mayor of London's Whole Life-Cycle Carbon Assessments Guidance (March 2022) includes benchmarks for WLC. These benchmarks exclude some of the carbon emissions (B6 – B7 in the above table) because these carbon emissions are subject to the zero-carbon target and so the Council would offset these emissions using the applicant's financial contribution, as set out in the previous section. The benchmarks for hotels are as follows:

- Baseline Benchmark: of less than 1,250 kg CO<sub>2</sub>e/m<sup>2</sup>; and
- Aspiration Benchmark: of less than 740 kg CO<sub>2</sub>e/m<sup>2</sup>.

The guidance advises developments with WLC emissions higher than the benchmark to examine how they can reduce WLC emissions, but in this case, the WLC emissions comfortably better the baseline benchmark in both scenarios assessed – being in-between the baseline and aspiration benchmark, which indicates tolerable levels of

carbon emissions over the lifetime of the development. In any case, in relation to demolition of the buildings, the principle of this has been established under the previous permission which the applicant could implement.

### **Air Quality**

City Plan Policy 32 and the Environment SPD commits the City Council to improving air quality in the city, it expects development to reduce exposure to poor air quality, it expects development to improve local air quality and it expects this to be explained within an Air Quality Assessment.

As part of the previous application, the applicant submitted an Air Quality Assessment which demonstrated the proposal would be Air Quality Neutral and also suitable for its intended use from an air quality perspective.

The applicant has provided a further Technical Note under the current application and the City Council's Environmental Health officer confirms the proposals will remain Air Quality Neutral and has no objection from an air quality perspective providing the applicant implements the mitigation measures listed in section 6 of the Air Quality Assessment. A condition is recommended to ensure this.

### **Flood Risk & Sustainable Drainage**

The site is inside of flood risk zone 3 and is within a Surface Water Flooding Hotspot. Flood risk zone 3 indicates a risk of tidal flooding from the Thames but this part of London is protected to a very high standard by the Thames tidal flood defences such that there is up to a 1 in 1000 (0.1%) chance in any year flood event. The proposal includes a safe means of access and/or egress in the event of flooding and all sleeping accommodation is at first floor or above.

New developments can lead to increased risks of flooding in the city through water run-off, however. Therefore, City Plan Policy 35 requires new development to incorporate Sustainable Drainage Systems (SuDS) to help alleviate the risk of flooding and reduce water run-off, and the applicant has submitted a SuDS strategy. It sets out that water attenuation would be achieved through rainwater harvesting and green roofs, which will include permeable surfaces. The applicant reports that their measures would provide a 50% betterment on the existing surface discharge rate.

### **Ventilation/ Odour**

To ensure a good standard, the residential units require mechanical ventilation to preventing over-heating. Therefore, Environmental Health have advised the imposition of a condition is required to ensure the applicant provides details of mechanical ventilation to prevent overheating within the residential properties.

The hotel element includes a kitchen, during the course of the application the applicant provided details of the high-level termination point of the flue to get rid of cooking smells – which has been raised by an objector. Because the termination point is at high level, it would not impact upon nearby residential properties and Environmental Health raised no objections. A condition is recommended to ensure that full details of this ventilation

system is provided to and approved by the Council. This would meet the requirements of Policy 33 of the City Plan and the Environment SPD.

### **Land Contamination**

The Environmental Health Team have noted the applicant's structural report indicated that an intrusive geotechnical site investigation would be required at the proposed site, and this investigation will outline the current ground conditions, groundwater levels, site contamination and any other ground risks which may affect the proposed development. As such, Environmental Health have recommended that a suitable condition is attached to ensure the applicant investigates and mitigates this risk land contamination risk appropriately. This would accord with City Plan Policy 33.

### **Environment & Sustainability Summary**

The applicant's submission demonstrates that the amendments would improve the new building's environmental impact because the building's carbon emissions through its operations would be reduced as compared to the approved development. The submission has also assessed WLC which was not previously a requirement when the demolition of the existing were established. It shows the WLC would be below the baseline benchmark over its lifetime. The development would continue to be acceptable from an air quality, flood risk and land contamination perspective.

### **9.3 Biodiversity & Greening**

City Plan Policy 34 states that, wherever possible, developments will contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme. Developments should also achieve a biodiversity net gain, wherever feasible and appropriate. London Plan Policy G5 also requires development to contribute to the greening of London.

The existing site contains no planting. The proposals include the introduction of new planters and a biodiverse roof to part of the building. Considering the existing site is built over and the proposed building would cover the entire site, all planting must be within planters / on the roof. As such, what is proposed is likely to be the most that is practically possible (particularly given the other priorities for roof space) and so is considered acceptable. A condition is recommended to ensure that it is provided.

### **9.4 Townscape, Design & Heritage Impact**

#### **Legislative & Policy Context**

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in 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.

In terms of the City Plan, the most relevant policies in terms of design, townscape and heritage are 38, 39, 40 and 43. These seek to ensure high quality, sustainable and inclusive urban design that responds to Westminster's context by positively contributing to Westminster's townscape and streetscape. These seek to protect or improve heritage assets, including their setting. And these seek to ensure new buildings are sensitively designed, having regard to the prevailing scale, heights, character, building lines and plot widths, materials, architectural quality, and degree of uniformity in the surrounding townscape.

### **Amendments**

Following an objection from the Westminster Society on design grounds and advice from officers, the applicant engaged the Westminster Society regarding the design of the front façade of the building. While the Westminster Society and applicant were unable to agree on amendments to the design, the applicant has revised the front façade, seeking to address the Society's comments. The amendments are:

- Alteration to second floor windows to match the proportions of the above windows;
- Removal of horizontal banding from the middle of the building;
- Additional banding around the windows in the middle of the building;
- Alteration to the lower floor arches to feature more extruded brickwork;
- Alteration to corner entrance to make it rectilinear; and
- Use of two types of bricks colours instead of three.

### **Detailed Design**

Compared to the approved development, the most significant change the applicant proposes are to the Vauxhall Bridge Road facade to which the Westminster Society objects. The principal facade to Vauxhall Bridge Road is to be faced predominately in brick, with metal framed windows, with a traditional hole in wall construction, as opposed to the framed glass construction previously approved.

The base of the building will be expressed by a run of double height arches, the main body of the building will be articulated by modest arrangement of windows, accentuated by lighter brick framing. The principal entrance is emphasised by a sculptured metal frame. The introduction of more solidity and texture adds a richness which is welcome, and the pallet of materials is considered complimentary to the wider context of the site.

More subtle changes are proposed to the King Scholars Passage façade. The windows will be set further apart which in turn will reduce the area of bare façade. Overall, the elevation would appear more articulated without increasing the extent of glazing. Whilst the approved was considered appropriate given the architectural variety presented on Vauxhall Bridge Road, these design changes would result in an improved

building exhibiting a greater aesthetic quality.

The Westminster Society raise concerns over the proportions of the arched base of the building and the articulation of the upper floors. The scale of the base is comparable to the double height base previously approved. The brick arches and the introduction of more solidity at the base make for a more grounded building. The articulation of the upper floors is to some extent determined by the internal arrangement of rooms, nonetheless the applicant has revised the scheme to improve the proportions of the windows at second floor which the Westminster Society raised concern. The brick base also includes more extruding brick elements which would improve its appearance. Overall, neither the base of the building, the uniformity and proportions of the windows or the overall façade design are considered to be objectionable. The Society also raised concerns with regards to the brick detailing. A condition has been imposed to secure bay studies to ensure the quality of the brick work and meaningful reveals to the windows.

### **Bulk, Height & Scale**

Compared to the extant permission, the current proposals intend to modify the proportions of the core making it slenderer, a knock-on effect being that where it terminates at roof level it would be slightly set back further and would be slightly wider. The perception of the core from street level would however become reduced, which is an improvement in terms of its impact on the townscape.

The height of the plant enclosure at roof level is also to increase by maximum of 0.65m, which will have some limited impact on the overall height and bulk of the building, but at street level and from surrounding properties this would result in a negligible visual impact. Overall, the alterations sought at roof level will result in a negligible change to the height and bulk of the scheme.

### **Impact on Heritage Assets**

The Westminster Cathedral Conservation Area is located to the rear, with the boundary running down King Scholars Passage. There are no listed buildings or other conservation areas in proximity. The changes to the rear and the modest modification to the height and bulk of the building would have no significant impact on the setting of the Westminster Cathedral Conservation Area over the approved arrangement and therefore continue to be acceptable.

## **9.5 Residential Amenity**

As under the previous City Plan, the current City Plan Policies 7 and 33 seek to protect residential amenity, including in terms of light, privacy and sense of enclosure and encourage development which enhances the residential environment, quality of life and health and wellbeing, including in terms of noise and disturbance and light spill. The closest residential properties are located within Carlisle Mansions on Carlisle Place, and in neighbouring buildings on Vauxhall Bridge Road.

The currently proposed building's highest point raises from 26.45 metres under the previous permission to 27.1 metres now (0.65 metre increase). This allows for an enlarged plant enclosure, which is modestly higher. However, the seventh floor footprint



is also pushed back from the rear setting this part of the building further from Carlisle Mansions opposite. The fenestration arrangement to the rear would also be altered.

Objectors consider the amendments would harm their amenity in terms of increased overlooking and in relation to changes to ventilation, equipment and access arrangements.

### **Daylight and Sunlight**

The applicant has carried out an updated assessment of the neighbouring properties to assess the impact of the amendments on the daylight and sunlight conditions to surrounding properties. These are based on the various numerical tests laid down in the Building Research Establishment (BRE) guide "Site Layout Planning for Daylight and Sunlight: a guide to good practice". The BRE guide stresses the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances since natural lighting is only one of many factors in site layout design. For example, in a dense urban environment, more obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings. The BRE guide principally seeks to protect light to principal habitable rooms (i.e. living rooms), and it accepts that bedrooms are of less importance.

#### **Daylight**

The BRE methodologies for the assessment of daylight values is the 'vertical sky component' (VSC) and 'no sky line' (NSL).

VSC measures the amount of light reaching the outside face of a window. Under this method, a window achieving a VSC value of 27% is well lit. If, because of the development, light received to an affected window is below 27%, and would be reduced by 20% or more, the loss could be noticeable.

NSL measures the proportion of a room that will receive light. If, because of the development, the proportion of the room that receives light reduces by 20% or more, the loss could be noticeable.

The approved development would have resulted in 45 breaches of the VSC measure and 49 breaches of the NSL measure. While the BRE guide suggests breaches indicate noticeable light losses, because of the circumstances of the case Planning Sub-Committee previously agreed the losses were not so harmful as to warrant refusal on that basis. The previous officer report explained that in most instances the absolute daylight losses were relatively small – the higher percentage losses occurred because the existing levels of light to many of the affected windows/ rooms was low.

The applicant has undertaken a new assessment, which includes comparison to the approved development. Most windows/ rooms would experience no difference between the approved development and the proposed. The lighting to some windows/ rooms would worsen under the proposals but would remain below the 20% thresholds set out in the BRE guide. The tables below summaries the instances where there would be a worsening in the light loss compared to the approved development and there would be a BRE breach.

**Table: VSC changes (where there is both a % loss compared to approved scheme and a BRE breach)**

Building	Window/ Floor	Existing VSC	Approved VSC	Proposed VSC	% Loss (v existing)	% Loss (v approved)
258-266 VBR	W6/F04	7.4	4.6	4.5	39.2	2.2
258-266 VBR	W8/F04	7.1	4.9	4.8	32.4	2.0
66-75 CM	W1/F01	6.8	4.5	4.4	35.3	2.2
66-75 CM	W1/F02	8.5	6.6	6.3	25.9	4.5
76-85 CM	W5/F03	13.7	11.2	10.9	20.4	0.9
76-85 CM	W6/F03	16.8	12.8	12.7	24.4	0.8

\* VBR = Vauxhall Bridge Road  
CM = Carlisle Mansions

**Table: NSL changes (where there is both a reduction compared to approved scheme and a BRE breach)**

Building	Room/ Floor	Existing NSL	Approved NSL	Proposed NSL	% Loss (v existing)	% Loss (v approved)
258-266 VBR	R4/F04	43.3	19.9	19.4	55.2	2.3
66-75 CM	R1/F01	56.9	29.1	28.2	50.4	3.1
66-75 CM	R2/F01	42.8	24.5	23.8	44.4	2.8
66-75 CM	R1/F02	71.9	45.6	41.4	42.2	9.3
66-75 CM	R2/F02	50.3	38	34.5	31.4	9.1
66-75 CM	R5/F03	69.8	52.6	51.6	26.1	2.0
66-75 CM	R6/F03	70.5	53.3	53.7	23.8	1.2
76-85 CM	R10/F01	50.2	27.6	26.7	46.8	3.2
76-85 CM	R10/F02	59.1	40.6	37.2	37	8.4
76-85 CM	R5/F03	53.9	38.6	38.1	29.3	1.3
76-85 CM	R6/F03	62	40.8	40	35.5	1.9

\* VBR = Vauxhall Bridge Road  
CM = Carlisle Mansions

In relation to VSC, there would be one additional window breaching the BRE guidelines for VSC over the approved development (the others already breached the guidelines) and that is to a third floor kitchen window at 76-85 Carlisle Mansions, it would worsen to be 0.4% over the 20% threshold. Given this is only slightly over the threshold the light loss, it is on the cusp between what the BRE guide suggests would be noticeable and unnoticeable. Compared to the approved scheme, the absolute additional loss is very low, and the percentage difference between the approved and proposed development is also low. This would suggest that it is unlikely be noticeable over the approved development. Indeed, for all the result seen in the above VSC table the absolute light losses worsen only very marginally. These differences would very unlikely be perceptible. Therefore, this suggests there would not be a material difference.

In relation to NSL, there would be no additional room breaching the BRE guidelines under the proposed development as compared to the approved. There would be a worsening in terms of the severity of some breaches, however. And this outlined in the above table. Like with the VSC measure, most of these would be marginal increases and therefore would unlikely be perceptible. Three of the breaches would be higher, ranging from 8.4 to 9.3% over the approved development. These are to rooms on the second floor of 66-75 Carlisle Mansions and a second floor room to 76-85 Carlisle Mansions, and they serve a kitchens and a home office. While these percentage losses are higher than the other losses, in absolute terms the loss of NSL is more modest and it is unlikely that the additional losses will result in detrimentally worse light conditions as compared to the approved development. Overall, they are unlikely to be determinantal to the occupiers of the affected flats because of the small absolute loss and the fact the affected rooms are not the principle habitable rooms of those flats.

### **Sunlight**

The BRE methodology for the assessment of sunlight is Annual Probable Sunlight Hours (APSH). It is a measure of sunlight that a given window may expect over a year period. The BRE guidance recognises that sunlight is less important than daylight in the amenity of a room. Sunlight is influenced by orientation (north facing windows will rarely receive sunlight) and so only windows with an orientation within 90 degrees of south are assessed. BRE guidance recommends that the APSH received at a given window in the proposed case should be at least 25% of the total available, including at least 5% in winter. Where the proposed values fall short of these, and the loss is greater than 4%, then the proposed values should not be reduced by 20% or more of their previous value in each period.

The approved development would have resulted in 23 breaches of the ASPH measure to residential neighbouring windows. However, for similar reasons as for the VSC and NSL measures, Sub-Committee previously agreed with officers that these levels of sunlight losses would not be so severe as to warrant refusal on that basis.

The proposed development results in some reductions and some improvements in the ASPH. None of the reductions over the approved scheme result in a breach of the BRE guidelines for ASPH however. Therefore, there would unlikely be a material difference between the approved and proposed developments in terms of sunlight.

### **Sense of Enclosure**

The approved development would have resulted in an increased mass and bulk on the site. Given the distance (nearest would be 9m) to the neighbouring flats within Carlisle Mansions (the flats most likely to impacted in terms of enclosure) and that the new building would be similar in height to Carlisle Mansions, officers previously recommended, and Sub-Committee agreed, that the approved development would not result in an undue increase in a sense of enclosure.

The current proposals increase the height of the main plant enclosure at the top of the building (0.65 metre increase) but the seventh floor. However, the building's stair core at seventh and eight floor level would be altered so that it is pushed back from the rear and the core less prominent.

Overall, the amendments would not have a significant affect in terms of enclosure when compared to the approved scheme and therefore continue to be acceptable in this respect.

### **Privacy**

In terms of privacy, a neighbouring resident objects to the proposed altered rear fenestration arrangement, contending it would increase overlooking.

The approved development allowed new windows to be located to the rear which are closer (and more numerous) to the windows to Carlisle Mansion flats than the existing. Some of the windows incorporated privacy screens to the windows at an angle to obscure/ deflect views. Sub-Committee agreed with officers that this was sufficient to prevent detrimental levels of overlooking.

The proposed development alters the fenestration so that a windowless proportion of the rear elevation would be reduced. However, the overall number of windows would not be increased. Indeed, at ground floor level, the alterations reduce the number of openings. At first floor and above, there would be the same number of windows overall, but these would be spaced differently to reduce an area of blank façade. Unlike the approved development, the applicant now proposes all the rear windows (first floor and above) to have the privacy screening applied. This has the affect of mitigating against direct views into the neighbouring flats. Given more of the windows will have this applied compared to the approved development, overlooking would in fact be reduced.

### **Noise & Vibration**

The application includes plant to be located in in parts of the basement and at roof level. Environmental Health raises no objection to the proposal but notes that the acoustic report submitted to support the application does not provided information on the specific plant that would be installed, and therefore a supplementary acoustic report is required which is recommended to be secured by condition, in addition to standard noise conditions.

## **9.6 Transportation, Accessibility & Servicing**

Vauxhall Bridge Road forms part of the London's strategic road network and therefore Transport for London (TfL) is the Highway Authority. The Council is the Highway Authority for King's Scholar's Passage. The site is well located for public transport. Given the nature of the amendments, the highway impacts are broadly the same as under the approved development.

### **Coaches and Taxis**

Like the previous City Plan, the current City Plan seeks to ensure development maximise sustainable modes of transport and ensure better connectivity. Given the nature and location of the building, most guests would likely arrive to the site by public transport. The previous officer report explained there is ample opportunity on Vauxhall Bridge Road for coaches and taxis to serve a hotel in this location should guests arrive/

depart by these means – and this remains the case. TfL requested that a Taxi, Private Hire Vehicle and Coach Management Strategy be submitted, to ensure there is no conflict with the operation of bus services. This will continue to be ensured by condition.

### **Servicing**

Like the previous City Plan, current City Plan Policy 29 and London Plan Policy T7 expect off-street servicing to be provided in new developments. Like the approved development, the proposed development would not have an off-street servicing area. This was previously justified on the basis that the existing site does not include one, there are constraints to the site which make providing one impractical and because there are on-street servicing bays close by on Vauxhall Bridge Road – TfL and the Highway Planning Manager did not object, subject to a condition to secure a servicing management plan. These justifications continue to apply and therefore the development remains acceptable in this respect.

### **Car Parking**

Unlike the previous City Plan, the current City Plan and London Plan Policy T6 require developments including residential units to provide no car parking for the flats. For hotels in the CAZ, car parking must be limited to operation needs, disable persons parking and for taxis, servicing etc. Neither the approved nor proposed development provided any off-street car parking and this remains acceptable under the current City Plan.

### **Cycle Parking**

Like the previous City Plan, the current City Plan and London Plan Policy T5 require developments to provide cycling parking. Applying the standards to the proposed development, four spaces are required for the flats and six spaces for long stays and two spaces for short stays are required for the hotel element.

Like the approved development, the applicant proposes four secure cycle parking spaces for the residential units at first floor level. In terms of the hotel, the applicant proposes ten long stay cycle spaces at basement level and a further two short-stay spaces on-street adjacent to existing bicycle stands on Vauxhall Bridge Road. The previous officer report suggested the on-street cycle parking spaces could be secured by a condition, however because it is on the highway it must be secured by legal agreement. The deed of variation is therefore recommended to include provision for this. The on-site cycle parking is to be secured by condition.

### **Accessibility**

Level access is provided for the hotel entrance and lifts provide vertical circulation throughout. The development is designed to comply with the Building Regulations and to enable the hotel operator to comply with their DDA responsibilities. The residential element includes staircase to the first floor, although the designs allow the installation of platform lift in future.

### **Waste & Recycling Storage**

There will be provision for the storage of waste and recyclable materials for the hotel use at ground level and at first floor level for the residential units. The storage provision is considered to be in line with the requirements of the City Council and a condition is

recommended to ensure that it is made permanently available and used for no other purpose.

## **9.7 Economy including Employment & Skills**

The core commercial areas of Westminster have been particularly hard hit by the pandemic and there is a need for businesses within the CAZ to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the City in accordance with Policies 1 and 13 in the City Plan by providing employment for hotel staff, providing visitor infrastructure in the city and the associated indirect economic benefits those workers and visitors provide to the city. There would also be construction jobs associated with the development when it is built.

Like the previous City Plan, current City Plan Policy 18 states major developments will contribute to improved employment prospects for local residents, and this will include through financial contributions toward employment, education and skills initiatives. A contribution, in line with the Council's Inclusive Economy and Employment guidance, was previously secured by legal agreement. The agreement is recommended to be updated to ensure that it applies to the proposed development.

## **9.8 Other Considerations**

### **Basement**

Like the previous City Plan, the current City Plan contains a policy relating to basements – the purpose of which is to limit the negative impacts they can create, particularly for local residents. Like the previous City Plan, the current policy limits the extent and depth of new basements (where it is likely to impact on residential neighbours) to a single storey. The approved and proposed development provide a single storey basement. Some of the existing buildings on the site already contain a basement level, meaning the proposed basement would require less excavation than might otherwise be the case. In this respect, the development continues to be acceptable.

Like the previous policy, the policy also requires applications involving basements to provide supporting documentation relating to construction methodology, flood risk and structural stability. These were previously found to be acceptable and continue to be.

### **Archaeology**

The site lies in an area of archaeological interest and as previously requested by Historic England, a written scheme of investigation for a program of archaeological work has previously been approved and a condition ensuring adherence to it is recommended.

### **Construction Impacts**

A condition is recommended requiring evidence to be submitted of compliance with the Code of Construction Practice. This must be agreed with the Environmental Inspectorate before work starts on site, subject to which the proposals are considered acceptable. This condition is consistent with environmental protection legislation and will help to alleviate disturbance to neighbours. In addition to this TfL has requested that a Demolition and Construction Logistics Plan be submitted to the Council, in consultation

with TfL, to ensure the development does not adversely affect safety on the transport network and to ensure efficiency and sustainability measures are to be undertaken during construction.

### **Fire Safety**

In relation to Planning Gateway One, while the application would create a relevant building, the legislation exempts applications made under a Section 73 of the Town and Country Planning Act from requiring to adhere to the requirements of Planning Gateway One. Nonetheless, London Plan Policy D12 requires developments minimise fire risk and major applications must submit a Fire Statement. The applicant has provided a Fire Statement, which has been produced by a suitably qualified third party assessor. It details how the development is to be built, how adequate means of escape is managed and what features and equipment will reduce fire risk/ mitigate fire.

### **Crime**

Like the previous City Plan, current City Plan Policy 38 requires development reduces the opportunity for crime and anti-social behaviour. The previous application outlined the proposals would increase natural surveillance on King's Scholars Passage and it proposed other security measures, such as CCTV. This would continue to be the case, and a condition is recommended to ensure the applicant installs the security measures.

## **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**

3. The draft 'Heads' of agreement are proposed to cover in the deed of variation to the original S.106 legal agreement dated 17 November 2020 are the following:
  - e) Ensure the agreement relates to proposed development;
  - f) To increase the financial contribution towards the City Council's Carbon Off Set fund to £371,355 (index linked) (payable prior to the commencement of the development); and
  - g) To include the 'be seen' requirements of monitoring and reporting on the actual operational energy performance of the building, including as-built and in-use stage data.

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.

During the course of this application a notice was served relating to the proposed

imposition of a pre-commencement condition to secure:

- the applicant's adherence to the City Council's Code of Construction Practice;
- the submission and approval of a Construction Logistics Plan; and
- investigation and mitigation of land contamination risks.

The applicant has agreed to the imposition of the conditions.

## 10. Conclusion

As set out in this report, the proposed development is considered against the policies in the adopted City Plan 2019-2040 (April 2021) and London Plan (March 2021). Considering the extant permissions which have already allowed the loss of the office use on site, the proposal is acceptable in land use terms despite the loss of office floorspace. The applicant has demonstrated their amendments would improve the building's energy performance and the applicant agrees to an increased carbon offsetting contribution compared to the extant permissions. While the Westminster Society raises concern regarding the redesigned façade to the front, the applicant has amended the detailed design and officers consider the new façade would be an improvement over the previous façade. While an objector considers the altered rear façade fenestration would worsen overlooking, the amendments would not in fact worsen it.

As such, the proposal is considered acceptable, mindful of policies 38, 39, 40 and 43 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.

(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: JOSHUA HOWITT BY EMAIL AT [jhowitt@westminster.gov.uk](mailto:jhowitt@westminster.gov.uk)



11. KEY DRAWINGS



Image of Front Elevation of Approved Building from Vauxhall Bridge Road



Images of Front Elevation of Proposed Building from Vauxhall Bridge Road



Images of Proposed Front Elevation Close Up



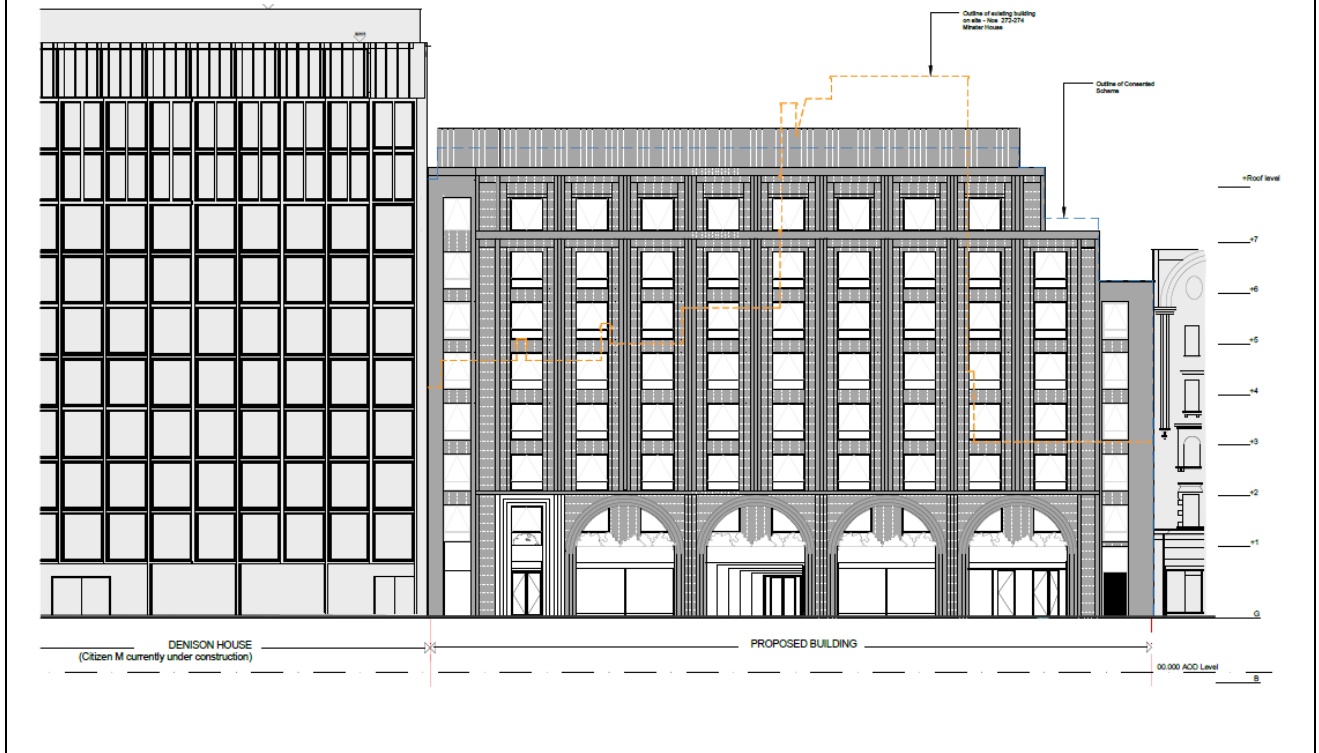


Image of Approved (above) and Proposed (below) Building from King's Scholar Passage



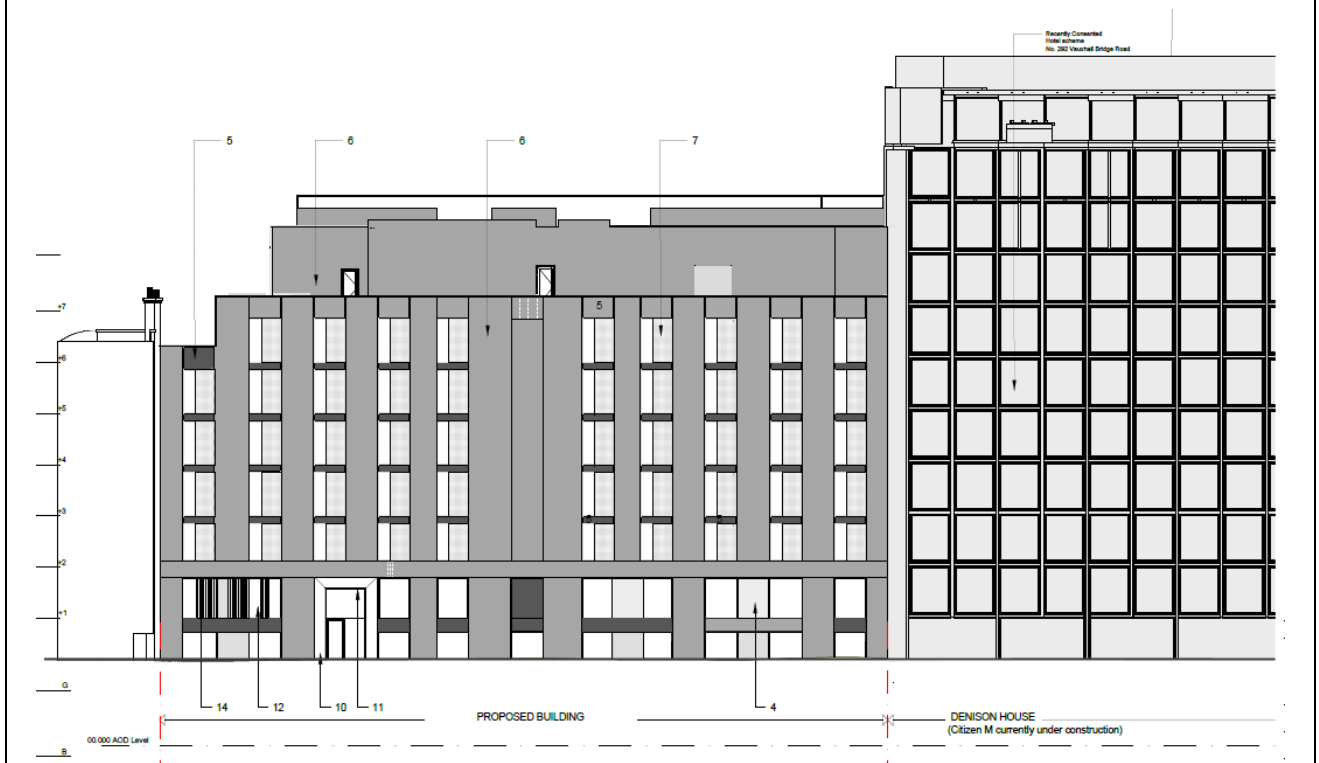


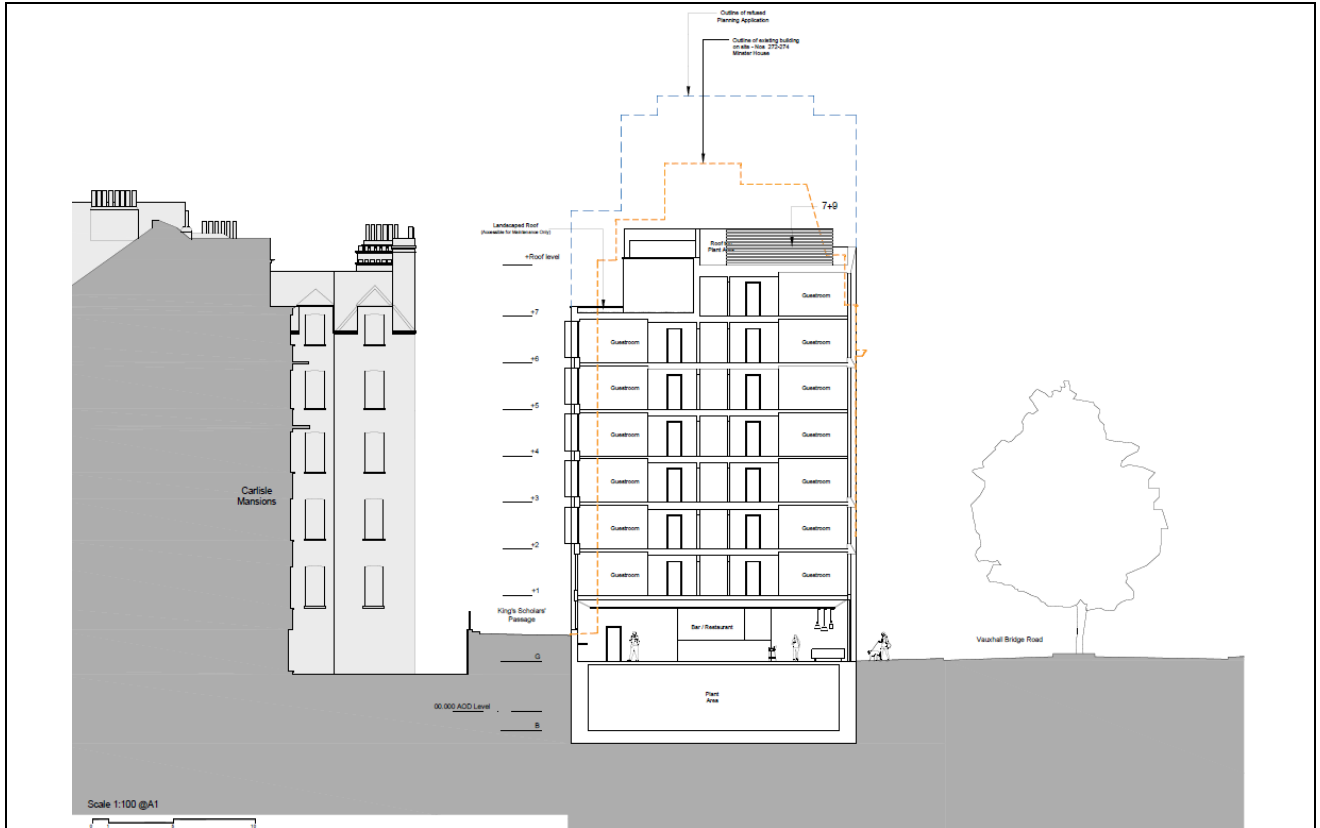
Front Elevation Approved (Above) and Proposed (Below)



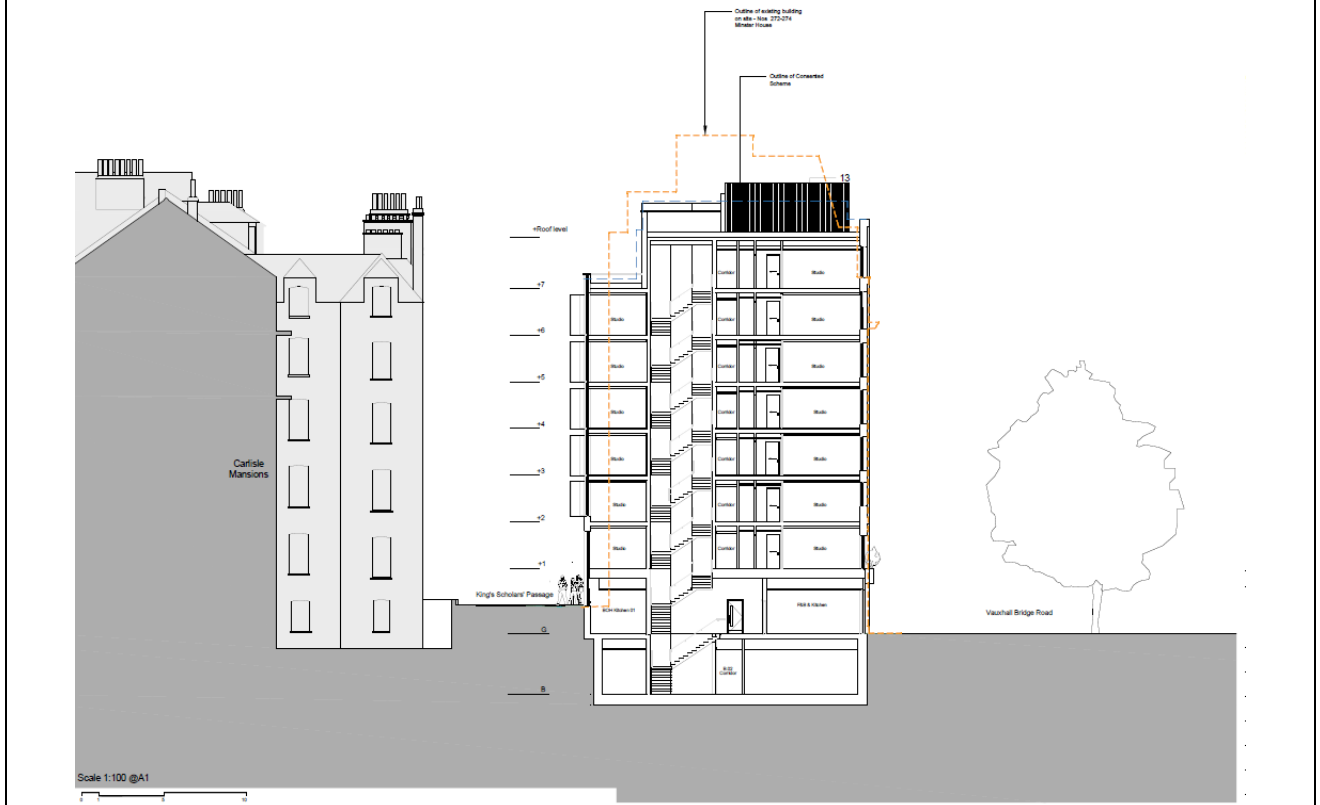


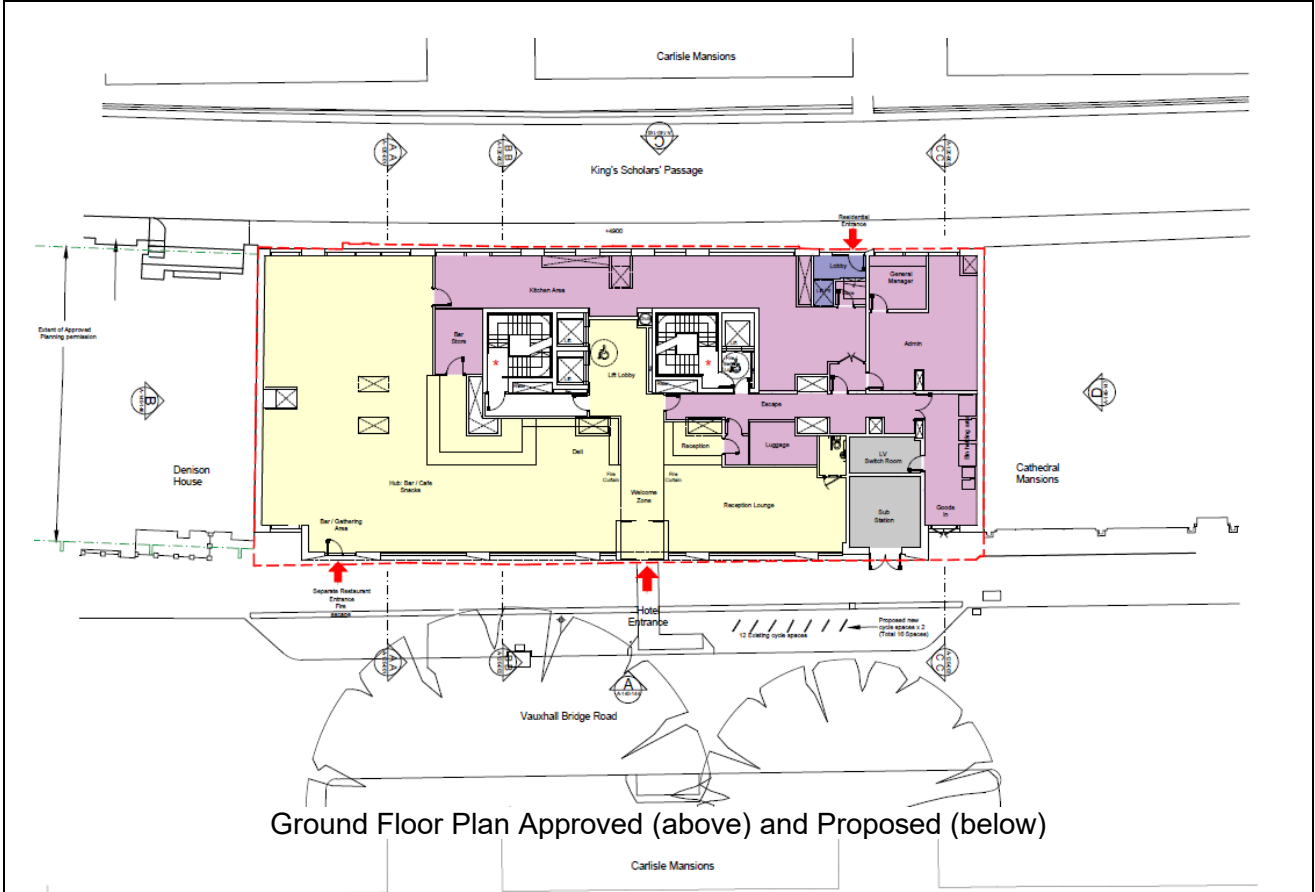
Rear Elevation Approved (above) and Proposed (below)





Section Approved (above) and Proposed (below)





Ground Floor Plan Approved (above) and Proposed (below)



**DRAFT DECISION LETTER**

- Address:** Development Site At 268-282, Vauxhall Bridge Road, London, ,
- Proposal:** Variation of condition 1 of planning permission dated 3 May 2022 (RN: 21/05606/FULL) which itself varied an earlier permission dated 17 November 2020 (RN: 19/05099/FULL) for the Demolition of existing buildings and erection of a new building comprising basement, ground and 7 upper levels plus rooftop plant to provide a hotel with associated ancillary facilities including restaurant/bar and gym (Class C1), 1 x 2 and 1 x 3 bedroom apartments (Class C3), plant, cycle parking and other associated works. NAMELY, to allow reduction in the number of guestrooms from 137 to 114; amendments to internal layout arrangements; redesigned facades; modification of the massing of the 7th & 8th floors; alterations to the roof level plant and servicing equipment and enclosures; and other associated alterations.
- Reference:** 22/01305/FULL
- Plan Nos:** AS APPROVED UNDER 19/05099/FULL :  
A 000 000; A-100-099 Rev.P1; A-100-100 Rev. P0; A-100-101 Rev. P1; A-100-102 Rev. P0; A-100-104 Rev. P1; A-100-106 Rev. P0; A-100-107 Rev. P1; A-100-108 Rev. P2; A-110-001 Rev. P2; A-110-002 Rev. P2; A-110-003 Rev. P1; A-110-004 Rev.P2; A-110-101 Rev. P2; A-120-001 Rev.P1; A-120-002 Rev.P1; A-120-003 Rev. P2; Kings Scholars Passage Crime Reduction document dated 26 June 2019; Sustainability and Energy Statement dated 14 June 2019; Air Quality Assessment dated February 2020.
- For information:  
Addendum to Design and Access Statement dated February 2020; Cover Letter dated 14 February 2020; Internal Noise Level Assessment dated 12 February 2020; Plant Noise Assessment dated 12 February 2020; Servicing Management Plan dated February 2020; Statement of Engagement dated 14 February 2020; Surface Water Drainage Strategy V2 dated June 2019; Daylight and Sunlight Report dated 10 February 2020; Transport Statement dated February 2020; Heritage and Townscape Statement dated 14 February 2020; Addendum to Daylight and Sunlight Report dated 13 March 2020; 2015-2615-DWG-203 Rev. A; Addendum to D&A Statement dated October 2019; Letter from Sabinus Building Services Limited dated 11 March 2020; Planning Statement dated 28 June 2019; Flood Risk Assessment (FRA) dated November 2017; Structural Report dated 14 February 2020; Design and Access Statement dated June 2019.
- AS APPROVED UNDER 21/05606/FULL:  
Cover Letter from ROK Planning dated 13 August 2021.
- AS APPROVED UNDER 21/05768/ADFULL:  
Archaeological desk-based assessment JAC27429 version 2 dated November 2021 prepared by RPS.
- AS VARIED BY CURRENT S73 APPLICATION (22/01305/FULL):  
Site Location Plan; A-100-099 rev P4; A-100-100 rev P5; A-100-101 rev P6; A-100-

102 rev P6; A-100-104 rev P5; A-100-106 rev P5; A-100-107 rev P5; A-100-108 rev P5; A-110-001 rev P4; A-110-002 rev P3; A-110-003 rev P2; A-110-004 rev P4; A-110-101 rev P4; A-120-001 rev P3; A-120-002 rev P3; A-120-003 rev P4.

Fire Safety Statement dated 23 Feb 2022; External Plant Noise Assessment dated Feb 2022; Internal Noise Assessment dated 22 February 2022; Air Quality Technical Note dated 24 Feb 22; Air Quality Assessment dated Feb 2020; Planning Security Statement rev C; Crime Reduction Report dated 26 June 2019.

For Information:

Cover Letter dated 25 Feb 2022; Planning Statement dated 25 Feb 2022; Design and Access Statement dated Feb 2022; Facade Alteration Document dated June 2022; Heritage Statement dated Energy Strategy dated 24 Feb 2022; Structural Report dated 14 Feb 2020; Letter regarding Structural Report dated 13 December 2021; Statement of Community Involvement dated Feb 2022; Whole Life Carbon Assessment dated 8 Feb 2022 and Assessment Template; BREEAM Pre-Assessment dated 12 Oct 2021; Daylight and Sunlight Assessment dated 18 Dec 2021; Daylight and Sunlight Assessment dated 10 Feb 2020 and Addendum dated 13 Mar 2020; Flood Risk Assessment dated Nov 2017; Letter regarding Flood Risk Assessment dated 17 Feb 2022; Surface Water Drainage Strategy dated June 2019; Letter regarding SUDs dated 13 Dec 2021; Transport Statement dated Feb 2020; Transport Note dated Dec 2021.

**Case Officer:** Joshua Howitt

**Direct Tel. No.** 07866038007

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a

Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 You must submit a schedule of the proposed materials, including photographs that are cross referenced to the elevations. You must not start on this part of the development until we have approved what you have sent us. You must then carry out the works according to the approved details.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 4 You must submit detailed drawings at a scale of 1:10 and sections at 1:5 of the following parts of the development:

- i) Windows,
- ii) Doors,
- iii) Individual Bay Detail,
- iv) Plant Enclosure,
- v) Glazed Balustrades,
- vi) Angled Privacy Screens,
- vii) CCTV cameras.

You must not start on these parts of the development until we have approved what you have sent us. You must then carry out the works according to the approved details.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 5 **Pre Commencement Condition.** Prior to the commencement of any:

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction

Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

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)

- 6 (A) Prior to the commencement of any demolition on site the applicant shall submit a Demolition Logistics Plan to the City Council in consultation with Transport for London. Commencement of any demolition cannot take place until we have approved what you have sent us. You must then carry out the works according to the approved details.

(B) Prior to the commencement of any construction on site the applicant shall submit a Construction Logistics Plan to the City Council in consultation with Transport for London. Commencement of any construction cannot take place until we have approved what you have sent us. You must then carry out the works according to the approved details.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 7 Prior to occupation of the hotel use hereby approved, you must submit a Delivery and Servicing Plan (including coach management) to the City Council in consultation with Transport for London. The use cannot take place until we have approved what you have sent us. You must then operate the use according to the approved details,

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 8 (a) You must carry out the development in accordance with the written scheme of investigation for a programme of archaeological work approved on 29 November 2021 (RN: 21/05768/ADFULL) or in accordance with further details submitted to and approved by the Local Planning Authority. You must not start work until we have approved in writing what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, and to the Greater London Sites and Monuments Record, Greater London

Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.

(c) You must not use any part of the new building until we have confirmed in writing that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

To avoid damage to any archaeological remains on site as set out Policy 39 of the City Plan 2019 - 2040 (April 2021). (R32AD)

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

Reason:

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

- 10 You must provide the waste stores shown on drawing Nos. A-100-100 rev P5 and A-100-101 rev P4 before building is occupied. You must clearly mark them and make them available at all times to everyone using the building. You must store waste inside the building and only put it outside just before it is going to be collected. You must not use the waste stores for any other purpose. (C14DC)

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)

- 11 You must hang all doors or gates (except for the UKPN substation) so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 12 The environmental security measures, including the CCTV cameras specified in the Kings Scholars Passage Crime Reduction document dated 26 June 2019, must be implemented before the building is occupied, and must thereafter be retained for the life of the development.

Reason:

To reduce crime in accordance with Policies 38 and 43 of the City Plan 2019 - 2040 (April 2021). (R25GC)

- 13 You must not occupy the hotel until the privacy screens to the rear (King's Scholars Passage) elevation, as shown on the approved drawings, are installed. The privacy screens must be retained and maintained in good order for the life of the development.

The glass that you put in the privacy screens and the windows/doors within the lightwell adjoining Cathedral Mansions must not be clear. You must apply to us for approval of a sample of the glass. You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 14 You must not use the areas of roof for sitting out or for any other purpose. You can however use the roof to escape in an emergency and for essential maintenance. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 15 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs including 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.

Reason:

To protect and increase the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43CC)

- 16 (A) Prior to construction, you must apply to us for our written approval of an independent pre-assessment of the energy efficiency measures to be provided within the non-residential parts of the development before you start any construction on the development. In the case of an assessment using Building Research Establishment methods ("BREEAM"), this assessment must show that the non-residential parts of the development can achieve at the minimum a "Very Good" rating. If you use another method, you must demonstrate that an equally high standard can be achieved.

(B) A copy of a Building Research Establishment (or equivalent independent assessment) issued Final Post Construction Stage Assessment and Certification, confirming that the non-residential parts of the development have achieved a BREEAM "Very Good" rating or higher shall be submitted to and approved by us within three months of occupation of the

non-residential parts of the development. Thereafter you must not remove any of the energy efficiency features.

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). (R44BD)

- 17 The air quality mitigation measures, including the mechanical ventilation system as specified in the Air Quality Technical Note dated 24 February 2022, must be implemented before the development is occupied, and must thereafter be retained for the life of the development.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 18 You must apply to us for approval of detailed drawings of the termination of the flue for the heating system. You must not occupy the development until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 19 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the hotel use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 20 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery

(including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 21 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:



To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 22 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 draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 23 The design and structure of the development 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.

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 draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 24 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 25 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 20, 21 and 24 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 26 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 22 and 23 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

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 draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 27 The hotel use allowed by this permission must not begin until the residential part of the development is made ready for occupation.

Reason:

To make sure that the development is completed and used as agreed and to make sure that it meets Policy 8 of Westminster's City Plan 2019 - 2040 (April 2021).

- 28 The ancillary restaurant/bar/cafe and gym facilities must not be open to non-hotel guests except between the hours of 07.00 hours and 22.30 hours daily.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 29 You must not paint or apply vinyl films or obscure the window glass to the ground floor of the hotel or block it in any other way. The windows must be clear glazed and maintained as such.

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 30 You must implement the measures set out in the Sustainability and Energy Strategy dated 24 February 2022 prior to occupation of the hotel use.

**Reason:**

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 31 The hotel windows and doors within the lightwell adjoining Cathedral Mansions and on the rear elevation facing King's Scholars' Passage must be fixed shut. You can however open them to escape in an emergency or to undertake essential maintenance.

**Reason:**

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 32 You must apply to us for approval of an Operational Management Plan for the approved hotel use. You must not start the hotel use until we have approved what you have sent us. You must then carry out the measures included in the approved Operational Management Plan at all times that the hotel is in use. (C05JB)

**Reason:**

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 33 You must provide a minimum of 10% of the hotel bedrooms as wheelchair accessible.

**Reason:**

As required by Policy E10 of the London Plan 2021.

- 34 The new development must be designed to mitigate the impact on the occupiers in the two residential flats above the new substation in relation to low frequency noise and electromagnetic fields. Details shall be submitted to and approved by the local planning authority before works start on this relevant part of the development. The development shall be carried out in accordance with the approved details.

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 35 This permission must be commenced no later than 17 November 2023.

Reason:

This permission authorises amendments to the original planning permission granted on 17 November 2020(RN: 19/05099/FULL which must be commenced no later than the above date. (R03HA)

- 36 Prior to any below ground demolition or construction, you must carry out a detailed site investigation to find out if the land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed but before it is occupied.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.  
(C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in Policy 33(E) of the City Plan 2019 - 2040 (April 2021). (R18AB)

- 37 A scheme of mechanical ventilation to prevent overheating when the windows are closed shall be provided to the residential properties. Details of the mechanical ventilation system must be submitted to and approved by the Local Planning Authority prior to the occupation of the residential units. The approved scheme shall be installed and permanently maintained. The mechanical ventilation system installed shall ensure that the internal noise levels of the residential units do not exceed the noise levels specified in condition 22. The scheme must demonstrate compliance with the current Technical Memorandum produced by CIBSE.

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 draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 38 You must apply to us for approval of details of the following parts of the development:

Typical bay studies to show the brick work detailing, and meaningful reveals to the windows.

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 details. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

#### **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 **HIGHWAYS LICENSING:**  
Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

#### **CONSIDERATE CONSTRUCTORS:**

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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk)

#### BUILDING REGULATIONS:

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 3 With reference to condition 5 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate ([cocp@westminster.gov.uk](mailto:cocp@westminster.gov.uk)) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Inspectorate team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.

- 4 In relation to condition 7, you must include the following information in the Servicing Management Plan:
- hours of servicing
  - the full delivery process
  - internal storage locations
  - scheduling of deliveries
  - staffing arrangements for deliveries.
  - updated daytime and evening survey of the use of the existing loading bay and the predicted uplift generated by the development and neighbouring hotel site.

- 5 In relation to condition 32, the Operational Management Plan should include details of the automated blind control system proposed.
- 6 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to carbon offsetting, a financial contribution to support the Westminster Inclusive Economy and Employment Service and monitoring costs.
- 7 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects
- 8 You must register your food business with the Council, please use the following link: [www.westminster.gov.uk/registration-food-business](http://www.westminster.gov.uk/registration-food-business). Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at [ehconsultationteam@westminster.gov.uk](mailto:ehconsultationteam@westminster.gov.uk) for advice on meeting our standards on ventilation and other equipment. Under environmental health legislation we may ask you to carry out other work if your business causes noise, smells or other types of nuisance.
- 9 Please contact Environmental Sciences by email to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk) if you have any queries about your obligations under the Control of Pollution Act 1974 or the Environmental Protection Act 1990.
- 10 We recommend you speak to the Head of Building Control about the stability and condition of the walls to be preserved. He may ask you to carry out other works to secure the walls. Please phone 020 7641 6500 or email [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk).
- 11 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
- 12 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please email Jeff Perkins at [jperkins@westminster.gov.uk](mailto:jperkins@westminster.gov.uk)

- 13 We recommend all hoteliers to join the Westminster Considerate Hoteliers scheme and to support the Considerate Hoteliers Environmental Charter. This aims to promote good environmental practice in developing and managing hotels. For more information, please contact:  
John Firrell MHCIMA  
Secretary - Considerate Hoteliers Association  
C/o Wheelwright's Cottage  
Litton Cheney  
Dorset DT2 9AR
- E-mail: [info@consideratehoteliers.com](mailto:info@consideratehoteliers.com)  
Phone: 01308 482313
- 14 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice and to apply online please visit [www.westminster.gov.uk/suspensions-dispensations-and-skips](http://www.westminster.gov.uk/suspensions-dispensations-and-skips).
- 15 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.
- 16 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) to make sure that you meet all the requirements before you draw up contracts for demolition and building work.

When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974).

British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work.

An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.



- 17 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at:

[www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

[www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 18 Your drawings indicate bollards are proposed on the highway outside the back of house entrance, but these are outside of the application site. If you wish to install bollards, you should progress this proposal separately with the Highway Authority.

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.

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Item No.
<b>2</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 12 July 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>50 Dean Street and 20 Romilly Street, London, W1D 5BQ</b>		
<b>Proposal</b>	Use of basement and ground floor as a drinking establishment with expanded food provision (Sui Generis).		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Inception Ventures Group Limited		
<b>Registered Number</b>	22/01046/FULL	<b>Date amended/ completed</b>	17 February 2022
<b>Date Application Received</b>	17 February 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		
<b>Neighbourhood Plan</b>	Soho Neighbourhood Plan		

**1. RECOMMENDATION**

Grant conditional permission.

**2. SUMMARY & KEY CONSIDERATIONS**

The application site comprises the whole of the basement and the majority of the ground floors of 50 Dean Street and 20 Romilly Street and totals 382 m2 (GIA). Although currently vacant, the unit was last in use as a restaurant (Class E).

Permission is sought for use of the site as a drinking establishment with expanded food provision (Sui Generis). No physical alterations are proposed.

The key issue for consideration in this case is:

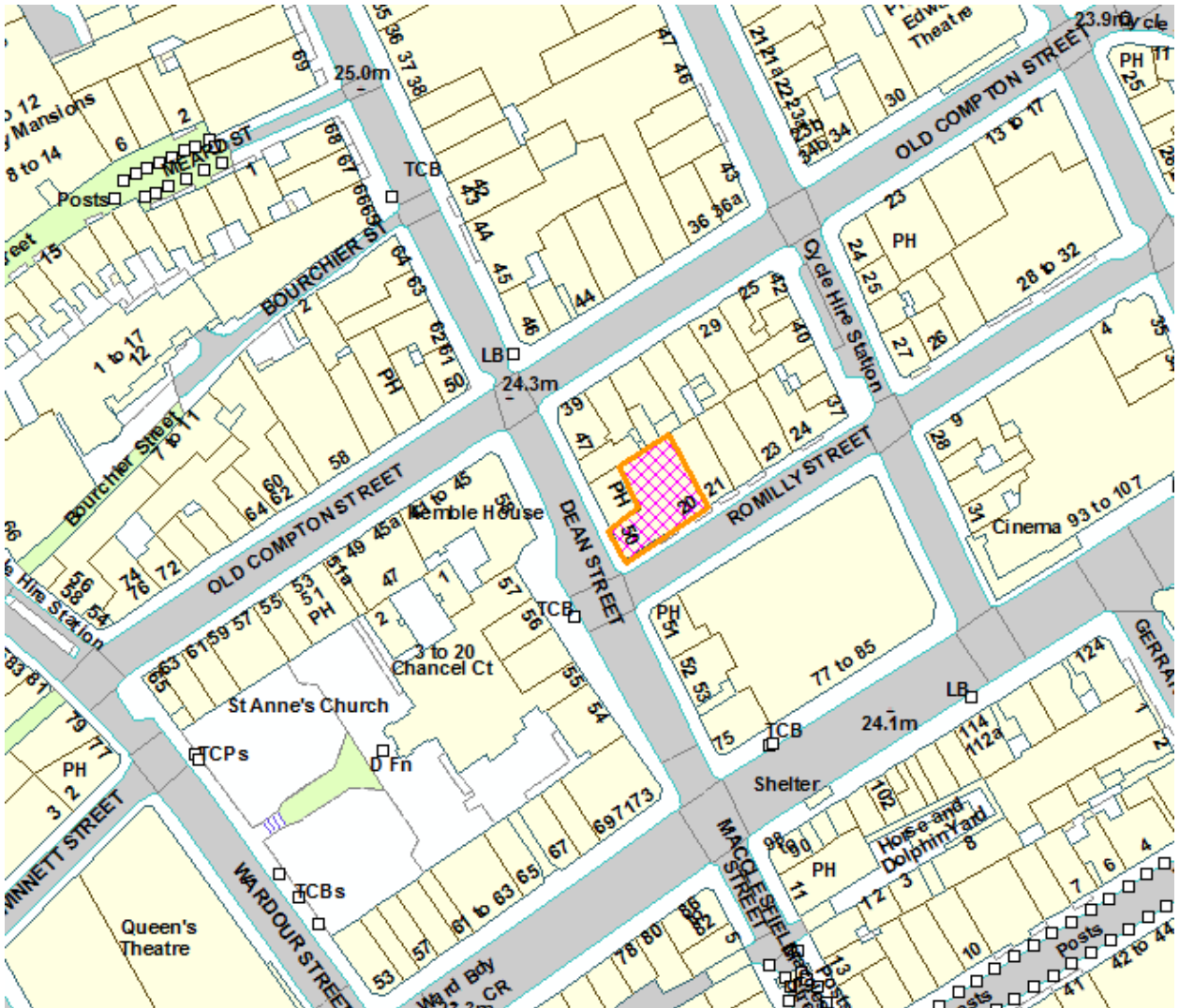
- The impact of the use on the character and function of the Soho Special Policy Area, the amenity of local residents, and upon local environmental quality.

Subject to the imposition of similar conditions to the former restaurant use including:

- (i) No increase in capacity;
- (ii) No vertical drinking;
- (iii) No outdoor drinking;
- (iv) The same operating hours;
- (v) The same servicing hours; and
- (vi) Ensuring that there is no unacceptable transfer of noise from internal activities to neighbouring residents;

It is considered that there would be no significant change in the impact of the proposed use in comparison with the previous use as a restaurant. Subject to appropriate conditions the application is considered acceptable in accordance with City Plan policies and is accordingly recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### SOHO SOCIETY:

Objects on the following grounds:

- There are residential premises immediately above, adjacent to and opposite the site.
- The change back to restaurant use in 2012 was regarded as a considerable planning gain, bringing a significant and much-needed improvement to residential amenity. Any shift in the opposite direction would be a retrograde step as further intensification of licensed uses in Soho will result in additional crime, anti-social behaviour, public nuisance and disorder that is associated with alcohol consumption.
- The Operational Management Statement which accompanies the application is entirely superficial and does not adequately address the 'agent of change' principle referred to in the Soho Neighbourhood Plan. There is no physical investment suggested to mitigate the noise impact on residential properties, especially those directly above, which would be seriously impacted given the hours applied for. The change of use from a well-run restaurant to a bar (albeit seated) is a significant change which is contrary to the spirit of the neighbourly policies set out in Policy 7 of the City Plan, and in particular Paras. 7.3 and 7.4.
- If the committee is minded to grant permission despite this and other strong objections, then the opening hours should be restricted to the hours of operation of the current restaurant permission, namely between 09.00 and 00.30 (Mondays – Saturdays) and between 10.00 and 23.00 (Sundays and bank holidays).

#### WASTE PROJECT OFFICER:

Objection on the ground that the provision for the storage of waste and recyclable materials are not in line with the City Council's requirements.

#### ENVIRONMENTAL SCIENCES:

No objection on the grounds that there are no records of public nuisance or public safety complaints from this site and that the proposed capacity and hours<sup>1</sup> are in keeping with the conditions imposed on the planning permission for the lawful restaurant.

#### HIGHWAYS PLANNING:

No objection on the grounds that: (i) The proposed use is not expected to result in any material change in trip generation; and (ii) The proposed cycle parking is policy compliant.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 221

Total No. of replies: 8

No. of objections: 6

No. in support: 2

Objections on the following grounds:

- Noise from additional customers and associated pedicabs and taxis to this part of Dean Street.

- Objection to the proposed extension of the terminal hour to 02.00 (Monday to Saturday) in terms of additional late-night noise. This is evidenced from the noise that was generated by the customers of the bar that occupied the site prior to the restaurant that opened until 03.00.
- Increased crime and anti-social behaviour.
- Saturation of bars in this part of Soho (none of which opens past midnight). The cumulative impact of adding another drinking establishment to this part of Soho make the development unacceptable.
- The submitted Operational Management Plan is implausible.
- Soho has already reached saturation point with the number of venues with late licences – hence Soho forming part of the West End Cumulative Impact Area, as designated by the City Council in its role as Licensing Authority.

Support provided on the following grounds:

- Based on experience of other establishments operated by the applicant, considers the proposed operator to be considerate, experienced, respectful and responsible.
- The loss of the original late-night bar on the site and its replacement with a restaurant was a great shame.
- The proposed operation will be a very positive addition to the area.
- Based on experience elsewhere, the proposed operation attracts well-mannered customers and is well run. Having a well-run operation open until 02.00 will act as a deterrent for any potential illicit or unsavoury behaviour that might otherwise happen in this part of Dean Street.

SITE NOTICE:

Yes

## **5.2 Applicant's Pre-Application Community Engagement**

The applicant has not provided a statement setting out whether any engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the application.

## **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 the Soho Neighbourhood Plan (adopted October 2021).

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 Soho Neighbourhood Plan includes policies on a range of matters including housing, residential amenity, air quality and climate change, traffic and servicing, green infrastructure, pedestrians and cycling and waste and recycling.

It has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Soho neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

### **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**

The application site comprises the whole of the basement and the majority of the ground floors of 50 Dean Street and 20 Romilly Street and totals 382 m<sup>2</sup> (GIA). Although currently vacant, the unit was last in use as a restaurant (Class E). Part of the ground floor of 20 Romilly Street provide an entrance to the five flats on the upper floors of the application site.

Neither building is listed, although 21 Romilly Street which is to the immediate east of the site is Grade II listed.

The site is located within the CAZ, the Mayfair Conservation Area, the WERLSPA, the Soho Special Policy Area, and the West End Strategic Cultural Area.

The French House public house is located immediately to the north at 49 Dean Street. It is understood that the licensed opening hours are between 10.00 and 00.30 (Monday to Saturday) and between 12.00 and 00.00 (Sunday).

Another public house at 51 Dean Street (The Golden Lion) is located to the south at the junction of Romilly Street and Dean Street. It is understood that the licensed opening hours are as follows:

- Monday to Saturday: 07:00 to 00:30 (First Floor)
- Sunday: 07:00 to 00:00 (First Floor)
- Monday to Thursday: 07:00 to 23:30 (Ground Floor)
- Friday to Saturday: 07:00 to 00:00 (Ground Floor)
- Sunday: 07:00 to 23:00 (Ground Floor)

The site has a number of residential properties in close proximity, including 5 x flats on the upper floors of the application site, 35 x flats at the corner of Old Compton Street and Dean Street (Kemble House), 39 x flats at Chancel Court, 57 Dean Street, and 9 x flats at 52-53 Dean Street.

The operation of the restaurant use is controlled by a number of conditions on the 2012 planning permission (and subsequently carried forward by variations to conditions of this permission) that seek to mitigate the amenity impact of its operation. The following are of most relevance:

- The design and structure of the development is required to be of a standard that it will prevent an unacceptable transfer of internal noise within the building to the flats above and to neighbouring buildings (Condition 13).
- The hours of operation are between 0900 and 00.30 (the following morning) (Mondays to Saturdays) and between 10.00 and 23.00 (Sundays and bank holidays) (Condition 14).
- The capacity is limited to 130 (Condition 16) (as amended by planning permission dated 19 January 2016 (Ref: 15/07377/FULL)).
- No take-away food or drink is permissible (Condition 17).
- All servicing must take place between 08.00 and 18.00 (Mondays to Saturdays) and between 09.00 and 18.00 (Sundays) (Condition 18).
- No live or recorded music may be played that is audible outside the property or within the adjoining residential units (Condition 19).
- The doors on the Romilly Street frontage must remain closed at all times and the windows must be closed from 21.00 each day (Condition 20).

## 7.2 Recent Relevant History

15/07377/FULL

Variation of Condition 16 of planning permission dated 6 August 2014 (RN: 14/01312) (which in itself varied an earlier condition to allow design amendments to a previous scheme); namely to allow an increase in the number of customers permitted within the basement and ground floor restaurant from 100 customers to 130 customers at any one time.

Permitted - 19.01.2016

14/01313/FULL

Installation of replacement full-height extract duct contained within an enclosure on rear elevation and removal of condensing units from rear elevation.

Permitted - 15.04.2014

14/01312/FULL

Variation of Condition 1 of planning permission dated 09 October 2012 (RN: 12/05857) for alterations, use of the basement and ground floors as a restaurant (Class A3) and use of the upper floors as 2x1, 2x2, 1x3 bedroom residential units; installation of associated plant [Site includes 20 Romilly Street]; namely, alterations to the plant layout at roof level; installation of plant at rear first floor level; alterations to the fenestration at second floor level on the Romilly Street elevation of the property; internal changes to the layouts of the flats, and internal changes to the layout of the restaurant at basement and ground floor levels.

Permitted - 06.08.2014

12/05857/FULL

Alterations, use of the basement and ground floors as a restaurant (Class A3) and use of the upper floors as 2x1, 2x2, 1x3 bedroom residential units; installation of associated plant. (Site includes 20 Romilly Street)

Permitted - 09.10.2012

## 8. THE PROPOSAL

The application proposes changing the use of the basement and ground floor unit to a 'drinking establishment with expanded food provision' (*sui generis*). It is intended that the unit will be occupied as a mixed-use bar and restaurant, offering both sit down drinks and food. Such a use falls between a traditional public house (also a *sui generis* use) and a restaurant (Class E), offering elements of both of these uses.

The indicative layout plans provided by the applicant shows the ground floor containing a bar and customer seating, alongside a kitchen. The basement is proposed to offer customer WCs, as well as a back-of-house store, office, staff cycle parking and preparation kitchen.

The building already has a full-height kitchen extract and this would be utilised to ensure the dispersal of cooking odours. No physical works are proposed as part of this application.

The applicant has submitted an Operational Management Plan to show how the proposed use will operate. Many of the restrictions imposed by the planning permission for a restaurant use on site are replicated within the submitted Operational Management Plan. These include that: (i) The entrance / exit will be from Dean Street and that the doors on the Romilly Street frontage will be kept shut at all times (except during an emergency or for maintenance); (ii) No take-away food or drink would be permissible; (iii) The maximum capacity will remain at 130 patrons; (iv) Servicing of the premises will only take place between 08.00 and 18.00 Monday to Saturday and 09.00 and 18.00 on Sundays; (v) No live or recorded music will be played which is audible outside of the property or within the adjoining residential units; and (vi) All windows will be closed from 21.00 daily.

In addition, the applicant proposes that all of the covers will be accommodated at tables so that no vertical drinking takes place on site. The entrances will be staffed by Security Industry Authority (SIA) accredited personnel. Drinks will not be allowed to be taken outside. As such, no vertical drinking will take place outside the premises.

The main difference between the proposed drinking establishment with expanded food provision use and the lawful restaurant use is the proposed hours. The applicant has proposed the following opening hours:

- 10.00 – 02.00 (the following morning) (Mondays to Saturdays).
- 10.00 – 00.00 (midnight) (Sundays).

This is 90 minutes later than permitted for a restaurant use on Mondays to Saturdays

and 60 minutes later than permitted on Sundays.

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use and Amenity

London Plan Policy SD4(E) provides general support for the proposed use in the CAZ, stating, *'The unique concentration and diversity of cultural, arts, entertainment, night-time economy and tourism functions should be promoted and enhanced'*. Support for the evening and night-time economy within the WERLSPA can be found within City Plan Policy 2(C) that set out as one of the priorities for the intensification of the WERLSPA is to deliver, *'A diverse evening and night-time economy and enhanced cultural offer'*, as well as within City Plan Policy 14(C)(ii) that states, *'The WERLSPA will provide a wide mix of commercial uses that support the West End's role as a retail, employment and cultural hub, and as a centre for the visitor, evening and night-time economy'*.

London Plan Policy HC6(B) states that planning decisions should, *'Promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available'*, whilst at the same time, *'Address[ing] the cumulative impact of high concentrations of licensed premises on anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses, and seek ways to diversify and manage these areas'*.

This balance of competing interests within the CAZ is underlined by City Plan Policy 1(A)(4) that states that Westminster will continue to grow, thrive and inspire at the heart of London as a World City by, *'Balancing the competing functions of the Central Activities Zone (CAZ) as a retail and leisure destination, visitor attraction, global office centre, and home to residential neighbourhoods'*. City Pan Policy 7 seeks to protect and where appropriate enhance local environmental quality, whilst City Plan Policy 33(A) outlines how, *'The council will make sure that quality of life and health and wellbeing of existing and future occupiers, and the natural environment are not adversely affected by harmful pollutants and other negative impacts on the local environment'*.

City Plan Policy 16(A) states, *'Proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre'*.

In respect to the impact of the proposal upon the Soho Special Policy Area, City Plan Policy 20 requires development to reflect Soho's unique character and function and supports food, drink and entertainment uses subject to proposals for new drinking establishments being considered with regard to their cumulative impact on the character of Soho's streets and mix of uses. The supporting text outlines how noise and amenity impact from new drinking establishments will be carefully considered, especially where there are residential uses up upper floors in the immediate vicinity of the site, as there is in this instance (Para. 20.6).

Soho Neighbourhood Plan Policy 12 states, '*Proposals for new food uses (Class E), public houses, drinking establishments, take-aways and music venues (Sui Generis) uses which require planning permission and are contiguous to residential use must comply with the 'agent of change' principle and demonstrate that they will not have unacceptable amenity impacts (including in relation to noise, vibration and odours)*'. The 'agent of change' principle is set out within London Plan Policy D13 and places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. In this instance, the responsibility is to ensure that the proposed new drinking establishment with expanded food provision use adequately mitigates its impact upon existing residents on the upper floors of the building and those within the vicinity of the site on Dean Street and Romilly Street.

Whilst the nature of the proposed use will be more focussed upon the consumption of alcohol than the existing restaurant use, it is considered that the impact upon the character and function of the area, the amenity of local residents and upon local environmental quality will be very similar. This is subject to: (i) The imposition of very similar conditions as those imposed upon the lawful restaurant use controlling the proposed use, as set out in the applicant's Operational Management Plan; (ii) The imposition of conditions preventing vertical drinking within the premises and preventing patrons from taking drinks outside; and (iii) The imposition of a condition restricting the hours of operation as the lawful restaurant (i.e. between 0900 and 00.30 (Monday to Saturday) and between 10.00 and 23.00 (Sundays and bank holidays).

Given the number and close proximity of residents to the site, as well as the presence of other drinking establishments very close by, it is not considered that extending the opening hours to 02.00 (the following morning) (Mondays to Saturdays) and 00.00 (midnight) (Sundays) is acceptable in terms of its impact upon the amenity of local residents, upon local environmental quality or upon the character of this part of Soho.

## **9.2 Environment & Sustainability**

No physical changes are proposed to the building that would improve its sustainability.

The existing high-level extract duct will ensure that cooking odours are adequately dispersed.

## **9.3 Biodiversity & Greening**

No external alterations are proposed.

## **9.4 Townscape, Design & Heritage Impact**

No external changes are proposed to be the building and therefore there will be no impact upon the setting of the nearby listed buildings and no impact upon the character and appearance of the Soho Conservation Area.

## **9.5 Residential Amenity (Daylight & Sunlight / Sense of Enclosure / Privacy).**

No external alterations are proposed that would impact upon residential amenity. The

impact of the proposed use upon residential amenity is discussed within Section 9.1 of this report.

**9.6 Transportation, Accessibility & Servicing**

The impact upon the local highway network of the proposed drinking establishment with expanded food provision use compared to the existing restaurant use are not considered to be materially different.

The provision of 3 x cycle parking spaces for staff is policy compliant and are recommended to be secured by condition.

There is sufficient space within the basement for the storage of waste and recyclable materials. The details may be secure by condition.

**9.7 Economy including Employment & Skills**

The employment generating potential of the proposed development is unlikely to be materially different from the site's existing use as a restaurant.

**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.

No additional floorspace is proposed and therefore the development does not generate any CIL payment.

**10. Conclusion**

The impact upon residential amenity, the character of Soho and upon local environmental quality of the drinking establishment with expanded food provision use is considered to be very similar to the existing use of the site as a restaurant. Subject to the imposition of very similar conditions as the existing restaurant use, as well as conditions preventing vertical drinking both within and outside of the site and limiting the hours of operation to the same as the lawful restaurant (i.e. between 0900 and 00.30 (Monday to Saturday) and between 10.00 and 23.00 (Sundays and bank holidays)), the propose change of use is considered to be compliant with the policies within the adopted development plan.

(Please note: All the application drawings and other relevant documents and Background

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<b>2</b>

Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT <a href="mailto:mwalton@westminster.gov.uk">mwalton@westminster.gov.uk</a>
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11. KEY DRAWINGS

Existing ground floor plan



Existing basement floorplan





Proposed ground floor plan (indicative layout)



Proposed basement floor plan (indicative layout)



**DRAFT DECISION LETTER**

**Address:** 50 Dean Street, London, W1D 5BQ,

**Proposal:** Use of basement and part ground floor as a drinking establishment with expanded food provision (Sui Generis). [SITE INCLUDES 20 ROMILLY STREET].

**Plan Nos:** Proposed ground floor (Rev. A), proposed basement floor (Rev. A) and Operational Management Plan (dated 17 February 2022).

**Case Officer:** Mark Hollington

**Direct Tel. No.** 07866040156

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

- 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 Customers shall not be permitted within the drinking establishment with expanded food provision premises before 09.00 or after 00.30 (the following morning) on Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 23.00 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 2021).

- 3 You must not allow more than 130 customers into the basement and ground floor drinking establishment with expanded food provision use hereby approved at any one time.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 2021).

- 4 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary drinking establishment with expanded food provision use. (C05CC)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 5 All servicing must take place between 08.00 and 18.00 (Monday to Saturday) and between 09.00 and 18.00 (Sundays). Servicing includes loading and unloading goods from vehicles and the collection of waste and recyclable materials.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 2021).

- 6 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the IN; use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the IN; use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity. (C47AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in

Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R47AC)

- 7 The noise levels from the drinking establishment with expanded food provision use hereby approved shall be such that residents within the same building or in adjoining buildings 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.

Reason:

To ensure that unacceptable levels of noise and vibration are not transferred from the drinking establishment with expanded food provision use to residents of the same or adjoining buildings, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021).

- 8 The ground floor doors on the Romilly Street frontage shall be closed at all times (except during an emergency). All the ground floor windows shall be closed from 21.00 each day.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 2021).

- 9 No vertical drinking shall take within the premises. No drinks may be taken outside of the premises at any time.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 2021).

- 10 The measures set out within the Operational Management Plan (dated 17 February 2022) shall be adhered to at all times.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 2021).

- 11 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 occupy the drinking

establishment with expanded food provision use hereby approved until we have approved 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 them and make them available at all times to everyone using the drinking establishment with expanded food provision. You must not use the waste and recycling store for any other purpose. (C14GB)

**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)

- 12 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

**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)

- 13 You must provide the entrance lobby shown on the approved ground floor plan prior to the commencement of the drinking establishment with expanded food provision use hereby approved. The doors fitted to this lobby shall be self-closing doors and you must not leave these doors open except in an emergency or to carry out maintenance. This lobby shall be retained in situ for the life of the development.

**Reason:**

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy 12 of the Soho Neighbourhood Plan (adopted October 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.

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.

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# Agenda Item 3

Item No.

3

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 12 July 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Currently within Lancaster Gate Pre May 2022- Within Hyde Park, now adjoining.	
<b>Subject of Report</b>	<b>50 Eastbourne Terrace, London, W2 6LG.</b>		
<b>Proposal</b>	<p><b>Application 1:-</b> Variation of conditions 1 (approved plans) and 5 (no-take-away) of planning permission dated 08 June 2021 (RN: 21/00264/FULL) for the: Change of use of Retails Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. NAMELY, Reconfiguration of the approved floor plans, and to allow for an ancillary quantity of takeaway from the restaurant unit.</p> <p><b>Application 2:-</b> Amendments to planning permission dated 05 February 2020 (RN:19/07378 ) for the: Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the addition of a door on the Craven Road elevation to the approved restaurant unit along Craven Road.</p>		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	CSHV IUK ET Propco Limited		
<b>Registered Number</b>	Application 1 22/00672/FULL Application 2 22/00674/NMA	<b>Date amended/ completed</b>	2 February 2022
<b>Date Application Received</b>	2 February 2022		
<b>Historic Building Grade</b>	Unlisted, but a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along		

	Westbourne Terrace (Grade II).
<b>Conservation Area</b>	Outside of, but borders the Bayswater Conservation Area
<b>Neighbourhood Plan</b>	Not applicable

## 1. RECOMMENDATION

1. Application 1 – Grant conditional permission.
2. Application 2- Agree Non-Material Amendment.

## 2. SUMMARY & KEY CONSIDERATIONS

This report covers two applications relating to two ground floor shop units fronting Craven Road. Collectively the applications seek to increase the retail/restaurant floorspace by 39m<sup>2</sup>, by reducing the size of the Gym by the same amount and to allow the retail/restaurant unit to operate a take-away and delivery service. It is also proposed to install an additional door within the shopfront to the retail/restaurant unit so that there are two doors to the unit.

Representations of objection have been received from previous Ward Councillors, the South East Bayswater Residents Association and residents from three properties within Chilworth Mews and concerns have been raised by our Highways Planning Manager. The Paddington Business Improvement District support the proposal. During the course of the application the applicant has agreed to operate the delivery service using non-motorised transport and to put measures in place within an operational management plan to minimise the potential impact on the public highway and resident's amenity.

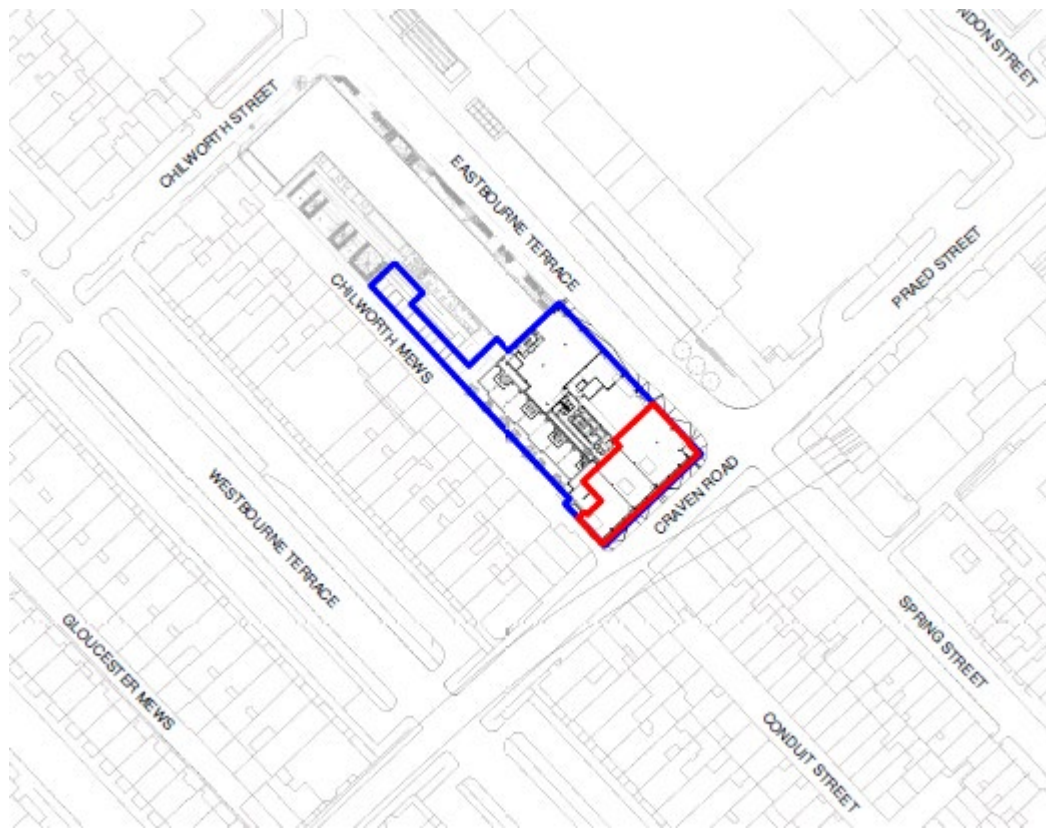
The key considerations in these two cases are:

- The impact of the proposed take-away and delivery restaurant service in highways terms.
- The impact of the proposed take-away and delivery restaurant service on residential amenity.
- Whether the installation of an additional door in the shopfront can be considered as a non-material amendment.

Given that the delivery service is now proposed to be operated by way of sustainable transportation (non-motorised transport) together with the operational management plan measures to minimise potential impact on the public highway and residential amenity, it is considered to be an acceptable proposal in light of the relevant City Plan policies. As such a favourable recommendation is made.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS

50 Eastbourne Terrace, corner of Eastbourne Terrace and Craven Road



**50 Eastbourne Terrace – elevation to Craven Road with entrance to Chilworth Mews to left of photograph- ground floor shopfront with approved 2 doors, one to the Gym, one to the Retail/Restaurant unit.**



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### APPLICATION 1

##### HIGHWAYS PLANNING TEAM

Objection. The function and process would rely on highway space and reduce space available to pedestrian, cyclists and other highway users. Recommend refusal on grounds that it has not been demonstrated that a delivery service at this location would not cause obstruction to highway (footway) and localised congestion (pedestrian and vehicular traffic flow).

##### WASTE PROJECT OFFICER

Objection. The waste detail submitted are not in line with Council waste storage requirements.

EX COUNCILLOR COX and EX COUNCILLOR ACTON (Councillors for Hyde Park Pre May 2022) Objection. Will make congestion worse (NB, neither are current Ward Councillors following May 2022 elections and the site is now within Lancaster Gate Ward).

##### SOUTH EAST BAYSWATER RESIDENT'S ASSOCIATION

Objection. The reason for imposing the condition remains even more relevant with the overall increase in deliveries. Detrimental impact on residential amenity, disturbance, cycle and scooters will park in Chilworth Mews during long opening hours of the restaurant into the late evening. Should the City Council be minded to grant permission, conditions should be imposed to ensure take-away element remains ancillary, restriction in hours to 1 hour before close of restaurant, no scooters to stop in the mews, no use of rear emergency door.

##### PADDINGTON RESIDENT'S ACTIVE CONCERN ON TRANSPORT (PRACT)

Any response to be reported verbally.

##### PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Support. Consumer habits have changed and hospitality operators have had to adapt to remain competitive. Securing a restaurant letting in this location is key to the areas ongoing regeneration.

##### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 31

Total No. of replies: from 3 addresses in Chilworth Mews

No. of objections: 3

No. in support: 0

- Location not suitable for take-away because Craven Road is narrow and heavily congested and an ambulance blue light route, there is no layby or stopping outside of the restaurant, pavement is narrow for amount of footfall, pavement

already houses cycle stands adding to congestion on pavement, adjoins narrow narrow residential Chilworth Mews

- Further deterioration of local amenity is unreasonable, already used for servicing of 40 and 50 Eastbourne Terrace.
- Difficult to know how can be controlled by condition is reality.
- Residents keen to avoid the situations in Baker Street and Queensway and Newton Road where motorbikes and other delivery vehicles mount the pavement to collect food and loiter between deliveries, often with vehicles running.
- No shortage of take-aways in local area.
- Westminster consistently fails to police and enforce the double yellow lines on Craven Road and Praed Street in respect of illegal taxi rank, often backing up in Craven Road and beyond both entrances to the Mews.
- If this restaurant is destined to be one of the hubs that serve foods across a number of regions the plethora of delivery scooters, cars and push bikes that will try and rank up on the road and pavement will render more serious congestion issues against a current and persistent lack of enforcement.

PRESS NOTICE- No

SITE NOTICE: Yes

### **APPLICATION 2**

No consultation required due to type of application (Non-Material Amendment).

1 objection received:-

The application for an additional door for take-away food and drink cannot be reasonable as the building's planning permission prohibits the sale of take away food and drink.

## **5.2 Applicant's Pre-Application Community Engagement**

Our Early Community Engagement guidance sets out expectations for developers with respect to Planning Applications ranging from householder to major applications. Officers are not aware of any specific community engagement on this particular application. Although it is noted that the developer of 50 Eastbourne Terrace continues to engage with the residents of Chilworth Mews relating to a number of matters connected to 50 Eastbourne Terrace which has recently been completed.

## **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**

The site is a recently completed 6-storey building which occupies a prominent corner plot at the junction of Eastbourne Terrace and Craven Street, opposite Paddington Station and benefits from three street frontages to Eastbourne Terrace, Craven Road and Chilworth Mews, all with differing characters.

To the north of the site is an office building, 40 Eastbourne Terrace, which has also received planning permission for development. To the rear of the site is Chilworth Mews, a primarily residential mews.

The site is located outside of a conservation area. However, the site borders the Bayswater Conservation Area, and a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along Westbourne Terrace (Grade II).

The site is located within the designated Paddington Opportunity Area (POA), Central Activities Zone and the Praed Street District Shopping Centre.

### **7.2 Recent Relevant History**

#### **Original Application**

Demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop) / A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. (16/07359/FULL).

Application Permitted 15 November 2016. This permission is governed by a S106 legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:-

- i) Provision of car parking on an unallocated basis.
- ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
- iii) Employment and Training Strategy for the construction and operational phases of the development.
- iv) Crossrail planning obligation

### **First Variation Application**

Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to provide an additional floor of Class B1 office accommodation beyond the approved; minor alterations to the proposed massing, terraces, green roof, solar panels and external facades; minor internal reconfiguration of the proposed retail (Classes A1/A2/A3) and office (Class B1) floorplates including ancillary spaces. (18/09733/FULL). Application Permitted 10 July 2019.

This permission is governed by a Deed of Variation of the original S106 legal agreement dated 2 January 2019 between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:

- a) Obligations set out in the original legal agreement:
  - i) Provision of car parking on an unallocated basis.
  - ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
  - iii) Employment and Training Strategy for the construction and operational phases of the development.
  - iv) Crossrail planning obligation
- b) Additional obligations:
  - i) A financial contribution of £200,437 to the Affordable Housing Fund to offset shortfall in residential floor space on the site.
  - ii) A financial contribution of £22,515 to the Carbon Off-Set Fund to offset the shortfall in on-site carbon reduction.

To be paid on commencement of development (definition within S106 legal agreement excludes demolition)

### **Non-Material Amendment Application**

Amendment to planning permission dated 10 July 2019 (RN: 18/09733) for: Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible

A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper storeys. Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews, to provide an additional floor of Class B1 office accommodation beyond the approved; minor alterations to the proposed massing, terraces, green roof, solar panels and external facades; minor internal reconfiguration of the proposed retail (Classes A1/A2/A3) office (Class B1) floorplates including ancillary spaces. NAMELY, to split Condition 3 (Part B) (Code of construction Practice) into two parts to reflect the two separate construction phases. (19/05689/NMA) Application permitted 26 July 2019.

### **Second Variation Application**

Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary retail cafe unit (Class A1) (19/07378/FULL) Application Permitted 5 February 2020.

This permission is governed by a Deed of Variation an earlier Deed of Variation dated 10.07.2019 which varied the original S106 legal agreement dated 2016 between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:

- a) Obligations set out in the original legal agreement 2016:
  - i) Provision of car parking on an unallocated basis.
  - ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
  - iii) Employment and Training Strategy for the construction and operational phases of the development.
  - iv) Crossrail planning obligation
- b) Additional obligations: in the Deed of Variation dated 10.07.2019
  - i) A financial contribution of £200,437 to the Affordable Housing Fund to offset shortfall in residential floor space on the site.
  - ii) A financial contribution of £22,515 to the Carbon Off-Set Fund to offset the shortfall in on-site carbon reduction.

To be paid on commencement of development (definition within S106 legal agreement excludes demolition)



### **Non Material Amendment Application**

Amendments to planning permission dated 5 February 2020 (109/07378/FULL which allowed a : Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. For the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary cafe unit. NAMELY to amend the car parking layout for the seven car parking spaces associated with the residential mews houses. (20/02091/NMA) Application permitted on 08.04.2020.

### **S106 Modification**

Deed of Modification of Schedule One Clause 4.1 and 4.4 to the Section 106 Agreement dated 5th February 2020 associated with planning permission reference 19/07378FULL, To:-

1) Change the plans showing car parking spaces so that it aligns with non-material amendment under reference 20/02091/NMA

And

2) To vary the basis on which the car parking spaces are to be managed, specifically for them to be managed on an allocated basis (one space per one residential unit). (20/02323/MOD106) Application agreed on 08.07.2020.

### **Change of Use application**

Conditional Planning permission granted on 08.06.2021 for Change of use of Retail Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. (21/00264/FULL).

A number of conditions were imposed including:-

Condition 4 – Operational Management plans for Retail/Restaurant & Gym.

Condition 5 – No take-away.

Condition 6 – Operate in accordance with Servicing Management Plan.

Condition 7 – Hours of use.

Condition 9 – All servicing from approved loading bay 07.00-20.00 Monday to Saturday and 10.00-16.00 on Sundays and Bank Holidays.

Condition 16- Back of house door to Chilworth Mews for emergency purposes only.

## **8. THE PROPOSAL**

**Application 1:-** Permission is sought to vary the permission relating to the use of the ground and basement for Retail/Restaurant & Gym (Class E). It is proposed to reconfigure the approved floorspace for the two units, in order to give more floorspace over to the restaurant (+39m<sup>2</sup>) and less to the Gym (-39m<sup>2</sup>). It also seeks to remove a

restrictive condition which prevents any take-away service from the restaurant in order to allow delivery and click and collect take-away services to be operated from the restaurant unit.

**Table 1: Existing and proposed floorspace and facilities for along Craven Road.**

Land Use	Existing floorspace/facilities	Proposed floorspace/facilities	Approved Hours of use
Retail/Restaurant	407m2 No take-away	446m2 Delivery and click and collect.	07.00-00.00 Monday to Saturday 08.00-22.30 Sundays and Bank Holidays
Gym	142m2	103m2	06.30-20.30 Monday to Friday. 08.00-20.30 Saturdays, Sundays and Bank Holidays

**Application 2:-** Agreement is sought, that the installation of an additional door to the restaurant shopfront on Craven Road is a Non-Material Amendment.

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

#### Application 1

The proposal would result in a smaller gym of 103m<sup>2</sup> and a larger restaurant of 446m<sup>2</sup>. The applicant has indicated that Vapiano, a pasta/pizza restaurant chain, with 4 premises in London (Centre Point, Tower Bridge, Great Portland Street and Bankside), are looking to occupy the restaurant unit as a sit down restaurant, but that the business also operates a proportion of take-away/click and collect orders as an ancillary service. At the time that the original planning permission was granted for the restaurant use, the final operator and their specific requirements were un-known and take-way and or delivery was not proposed. As such a restrictive condition was imposed to enable the City Council to retain control over any such proposed future use of the premises.

In tandem with this application is another application which is seeking agreement that the installation of another door within the restaurant shopfront to Craven Road is non-material.

#### Floorspace changes to Gym./Restaurant

Given that the proposed Gym and Retail/Restaurant uses within the Craven Road shop units, all now fall within Class E of the Town and Country Planning (Use Classes) Order 1995 (as amended), the minor reconfiguration to amend the size of the units is not considered to raise land use issues and this element of the proposal satisfies Policy 15 of the City Plan.

### Restaurant and Delivery/Takeaway

Restaurants fall within Class E, but Hot Food take-aways are considered as a Sui Generis Use and therefore a change of use from one to the other requires planning permission. However, unrestricted restaurants are able to operate with an element of ancillary take-away/delivery use, without a change of use occurring. In this case, condition 5 of the planning permission relating to the development, restricts any take-away or delivery activities taking place from the restaurant premises without first obtaining planning permission. In dealing with the original planning application for the redevelopment of the site, insufficient details relating to any ancillary delivery service had been provided and as such officers sought to restrict such a use in the absence of being able to make a full assessment as to its potential impact.

The potential operator of the restaurant "Vapiano" is seeking to operate a Click and Collect service, which would operate by a customer physically picking up their order from the restaurant premises once it was ready. It is also seeking to operate a delivery service to be undertaken by an external delivery service provider, which is currently exclusively Deliveroo for their other London based restaurants. Both Click & Collect, and Delivery services would require collections from the restaurant via its shop front and door/s on Craven Road (note application for additional door).

It is acknowledged that many restaurants have the ability to operate a delivery service and that this is common throughout Westminster, particularly as consumer habits have changed over the last few years. However, it is vital that each site is assessed independently, taking in the specific site circumstances and location and potential impacts of the proposal.

The principle of restaurant providing Click and Collect and Delivery facilities of a type and size appropriate to this location, is acceptable in principle in land use terms in this location under policy 16 which supports food, drink and entertainment uses in this location within the POA, CAZ and District Centre. However, this is subject to having no significant adverse effects in traffic and transportation terms, on the living conditions of neighbouring residential properties and on local environmental quality.

The proposal has been amended during the course of the application on officer's advice to omit motorised vehicles for delivery purposes and to propose only non-motorised transport to attend the site. Officers also advised that the proposal should be considered for a temporary 1 year period in order to allowing monitoring of the impact of the delivery service. The applicant has agreed to the use of non-motorised transport for all deliveries, but require a permanent permission rather than a temporary permission for commercial/contractual reasons as they will be undertaking a full fit out and to provide certainty for customers and the business more generally. However, they suggest that the monitoring of the impact of the delivery service could be addressed within the Operational Management Plan (OMP) (required to be approved prior to occupation-Condition 4B ) by requiring a specific strategy for the delivery service which could be required to be resubmitted after 12 months with any refinements/revisions to address any issues that may have occurred over the preceding 12 months. As such, both conditions 4B and 5 ( for delivery and takeaway to remain ancillary) have been amended to reflect this proposal.

## 9.2 Environment & Sustainability

The agreement to only allow non-motorised transport to be used for delivery purposes is positive and alleviates concerns with respect to motorised scooters and mopeds and their environmental impact in terms of noise and air quality. The use of non-motorised vehicles is a sustainable mode of transport and delivery and supports our greater emphasis on sustainability and the environment.

## 9.3 Biodiversity & Greening

Not relevant

## 9.4 Townscape, Design & Heritage Impact

Not relevant to Application 1, and the assessment of Application 2 is based on whether it is material or not. Notwithstanding this, the proposed additional door in the ground floor commercial unit is of the same design, material and appearance as others in this elevation and is considered to be appropriate in design terms.

## 9.5 Residential Amenity

The take-away and delivery facility sought would be operated within the approved operational hours for the restaurant, that is 07.00-Midnight Monday to Saturday and 08.00-22.30 on Sundays and Bank Holidays.

The permission for the development restricts by way of conditions, the loading bay to be used for servicing purposes only (condition 9) and the back of house doors to Chilworth Mews to be used for emergency purposes only (condition 16). An Operational Management Plan (OMP) is also required to be submitted for approval prior to the restaurant use commencing (Condition 4B). These would remain in place.

### Proposed Click & Collect take-away operation

The activity of individuals undertaking click and collect and collecting take-aways from the restaurant during its operational hours, is not considered to raise any amenity issues. It is similar to purchasing items from a shop. They would be subject to on-street parking restrictions depending on their mode of transport, which would be similar to that of the use of the gym and other shops and restaurants nearby with the POA, CAZ and District Centre and may also choose to arrive by foot. As such, it is not considered that this element of the proposal would result in any significant impact on residential amenity.

### Proposed Delivery operation

The site is located within a commercial environment (albeit it with residential in the vicinity) with high levels of existing activity within the immediate locality, which include a number of take-away delivery services and a predominant noise environment of vehicular traffic. The site itself is an office building with the restaurant/gym at ground floor. As such the introduction of a delivery service, subject to the suggested OMP measures set out in this report, is not considered to result in any significant impact on the amenity of nearby residents including those within Chilworth Mews. Consequently, the proposal is considered to accord with Policies 16 & 33 of our City Plan.

## 9.6 Transportation, Accessibility & Servicing

### Proposed Click & Collect take-away operation

Takeaways by individual members of the public (including residents and workers) are already a common feature of the area and is similar to people purchasing items for a retail shop. The applicant anticipates that the Click & Collect Service would result in between 9 and 40 click and collects per day. As such this part of the proposal does not raise concerns in highway and transport terms.

### Proposed Delivery operation

The proposed delivery would mean that the restaurant would no longer serve only visiting members of the public, but would be available to a wider proportion of the local area, expanding the catchment area and number of non-eat in diners, increasing the number of trips to and from the site and increasing demand for on-street parking for the associated delivery operatives.

The applicant anticipates that the proposed delivery service based on approximate delivery radius of 2.6 miles, would result in average daily delivery orders of around 60, based on the approved hours of operation.

With respect to the proposed delivery service, the applicant has indicated that it is expected that delivery operatives would arrive at the restaurant by non-motorised vehicles and that the drivers will be provided with details of certain locations to park to give certainty by driver notes via the rider application which would also be enforced by the restaurant during operating hours. This approach would be monitored by a dedicated employee at the restaurant who would be responsible for monitoring the collection area in the restaurant, as well as informing any riders of where to park.

The applicant has indicated that delivery operatives will be advised to park using the closest existing bike racks along Craven Road adjacent to the restaurant unit and those within Spring Street.

The agreement to only use non-motorised transport for delivery purposes is positive and alleviates concerns with respect to motorised scooters and mopeds and their impact in highways terms in Paddington which is a vehicular traffic sensitive location. However, non-motorised transport, which is likely to be bikes still require use of on-street parking, which increases demand for already heavily used on-street bike parking. However, most other delivery operations utilise on-street parking and it is not an uncommon occurrence within Westminster.

It is recognised that the area is one of high footfall, with residents, workers and visitors including a high number of tourists with luggage and those visiting the nearby St Mary's hospital. It is also acknowledged that the site is close to the busy traffic light junction of Craven Road/Eastbourne Terrace/Praed Street/Spring Street. Given this, it is considered paramount to put measures in place to ensure that public highway is not impeded by the operational impact of the delivery service. As such, and in order to ensure that the delivery operation is carried out, with the least potential impact, it is considered appropriate and necessary to require an OMP to specify how the delivery

service will be managed on a daily basis. The OMP is expected to include, but not be limited to the following measures:-

- Delivery & Click and Collect to remain ancillary to the sit down restaurant
- Delivery drivers must only attend the site by way of non-motorised transport
- Delivery drivers must park lawfully
- No obstruction of the pedestrian or vehicular highway within the vicinity of the site.
- No use of Chilworth Mews at any time
- Litter patrols
- Dedicated restaurant employee to monitor delivery driver compliance with OMP
- Policy to exclude drivers who fail to comply with OMP
- Contact for complaints
- Log of complaints/issues over 12 months from date of first occupation of the restaurant.
- Resubmission of OMP with any necessary refinements/ revisions

Highways Planning has raised objection to the proposal, given the limited cycle parking within the proximity of the site and the fear that delivery operatives may not comply with highway rules and would park illegally, which would be detrimental to other road uses and pedestrians. However, it is considered that the measures set out and required within OMP would minimise the potential of this occurring.

### **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 operation through the generation of increased opportunities for local employment, procurement and spending.

## **9.7 Other Considerations**

### **Licensing**

An application has been made by Uk Vap Paddington Limited for a new Premises Licence under the Licensing Act 2003, for the provision of late night refreshment and supply of alcohol. The hours in which premises are open to the public are stated as:- 09.00-23.30 Sunday to Thursday & 09.00-Midnight Fridays & Saturdays.  
(22/03010/LIPN)-Vapiano, 50 Eastbourne Terrace, London, W2 6LG)

The submitted drawing to the licence indicates/annotates an area of the floorspace (front left) for take-away and deliveries. A memo has been provided from the Planning department to licensing advising that that whilst permission has been granted for a restaurant use, a pending application seeks permission for take-away and delivery. Details of the planning conditions, including hours of use restriction have also been provided. A hearing is proposed to be held to determine the license application on 07.07.2022 and any update on the outcome of this meeting will be reported verbally.

## 9.8 Environmental Impact Assessment

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

## 9.9 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.

During this application, a notice was served relating to the proposed imposition of a pre-occupation condition to secure the applicant's adherence to the OMP. The applicant has agreed to the imposition of the condition.

## 10. Conclusion

The approved restaurant is located within a strategic transport and commercial location within Paddington (POA, CAZ and District Shopping Centre) and it is acknowledged that many restaurants have the ability to operate a delivery service and that this is common throughout Westminster, particularly as consumer habits have changed over the last few years. Given the use of non-motorised transport and the measures to be secured through the OMP (Condition 4B as proposed to be amended) to minimise any impact in environmental, highways and amenity terms, and condition 5 to be amended to ensure that the take away/delivery remains ancillary, it is considered that the proposal can be supported and strikes a balance between the commercial requirements of operators within the POA, CAZ and District Centre and the protection of the area.

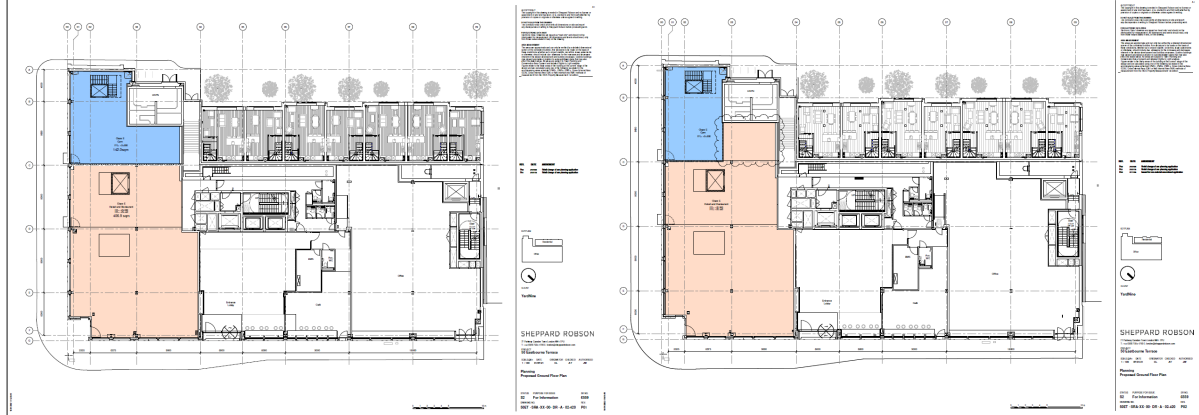
The proposed secondary door to the restaurant unit is of the same design and appearance as other doors within the shopfront. Accordingly, the door is considered to be a non-material amendment. It would also provide the ability to separate the delivery/takeaway services from the restaurant customers if permission is granted for the delivery use.

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

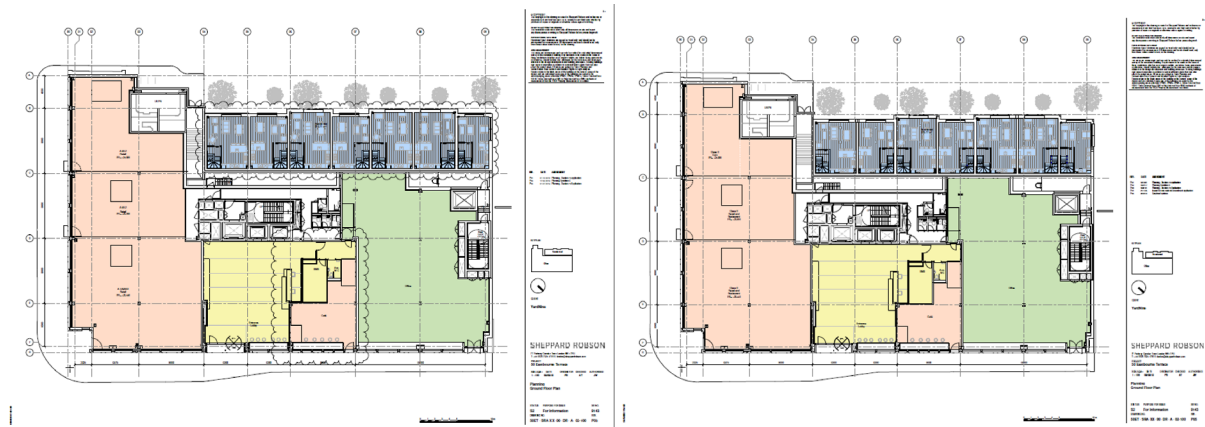
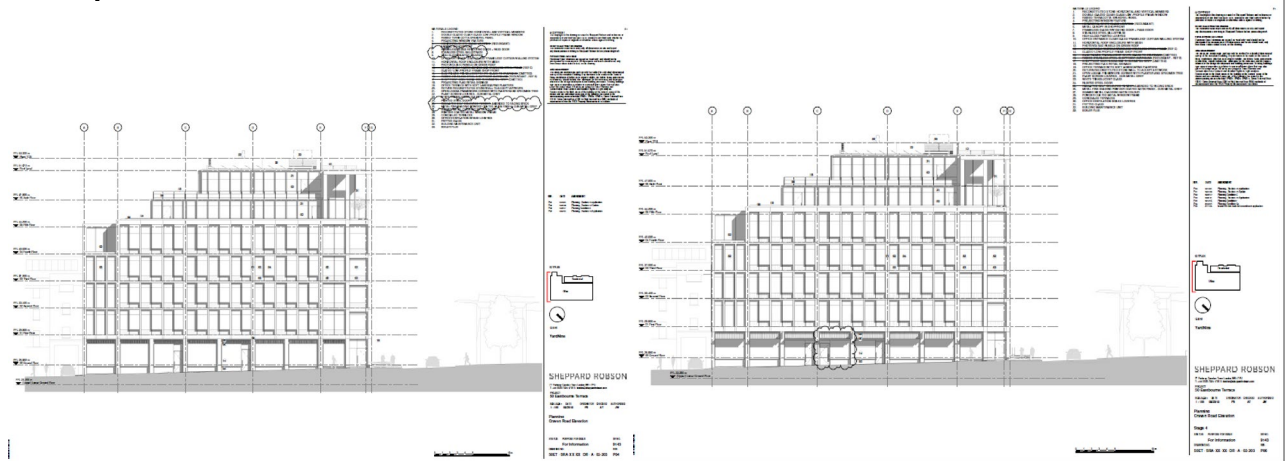
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk)

11. KEY DRAWINGS

**APPLICATION 1 :-Approved and proposed ground floor plans- Gym blue, retail/restaurant peach (this plan only).**



**APPLICATION 2: Approved and proposed shopfront/doors (Gym is not highlighted blue in these plans as this relates to the additional door only)**





**DRAFT DECISION LETTER****DRAFT DECISION LETTER**

**Address:** 50 Eastbourne Terrace, London, W2 6LG,

**Proposal:** Variation of conditions 1 (approved plans) and 5 (no- take-away) of planning permission dated 08 June 2021 (RN: 21/00264/FULL) for the: Change of use of Retails Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. NAMELY, Reconfiguration of the approved floor plans, and to allow for an ancillary quantity of takeaway from the restaurant unit.

**Reference:** 22/00672/FULL

**Plan Nos:** Gerald Eve Letter 01.02.2022, Site location plan 50ET SRA XX XX DR A 02-401 Rev P01, 50-ET-SRA-XX-00-DR-A-02-420 Rev P02, Vapiano document (for information only), All as part superseded by Agent email 24.06.2022.,

**Case Officer:** Sarah Whitnall

**Direct Tel. No.** 020 7641  
07866036375

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

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

Reason:

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

- 2 You must only use the premises or part of the premises annotated for gym use, retail use and restaurant use (as annotated on the drawings) for those uses. You must not use them for any other purpose, including for any other use within Class E, Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any equivalent class in any order that may replace it), unless otherwise agreed in writing by us.

Reason:

To protect neighbouring residents from noise nuisance, avoid blocking surrounding streets, to ensure that sustainable transport modes are used, to prevent sensitive air quality receptors from occupying the site or uses that would have a significant adverse effect on air quality, policies 7, 25,28, 29, 32, 33, 38,39,40 of the City Plan 2019 - 2040 (April 2021).

- 3 The restaurant unit on the corner of Craven Road and Eastbourne Terrace shall not include a bar and or bar seating, which takes up more than 15% of the floor area of the unit, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 4 A. Prior to the use of the gym, you must apply to us for approval of an operational management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the gym use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the gym is in use. , ,

B. Prior to the use of the retail/restaurant and ancillary take-away and delivery service, you must apply to us for approval of an operational management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings and to minimise any impact in environmental, highways and amenity terms.

The Operational Management Plan must include:-

- Details of staff and capacity, arrival and departure processes, hours of operation.
- Delivery & Click and Collect to remain ancillary to the sit down restaurant
- Delivery drivers must only attend the site by way of non-motorised transport,
- Delivery drivers must park lawfully,
- No obstruction of the pedestrian or vehicular highway within the vicinity of the site.
- No use of Chilworth Mews at any time,
- Litter patrols,
- Dedicated restaurant employee to monitor delivery driver compliance with OMP,
- Policy to exclude drivers who fail to comply with OMP,
- Contact for complaints,
- Log of complaints/issues over 12 months from date of first occupation of the restaurant.,
- Resubmission of OMP with any necessary refinements/ revisions,

You must not start the retail/restaurant and ancillary take away or delivery use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the restaurant is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 5 You must only take-away food or drink on the premises and provide a delivery service, as

an ancillary part of the primary restaurant/ café use. The delivery and take away use must not be operated unless fully in accordance with the management measures set out in the Operational Management Plan agreed under Condition 4B of this permission.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 6 A. You must operate the Gym in accordance with the detailed Servicing Management Plan approved for the site which provides details of the servicing process including using the approved off-street servicing area within the curtilage of 50 Eastbourne Terrace and the route between the loading bay and the unit, all as agreed on 05.10.2020 under reference 20/02855/ADFULL,

B. You must operate the Retail/ Restaurant in accordance with the detailed Servicing Management Plan approved for the site which provides details of the servicing process including using the approved off-street servicing area within the curtilage of 50 Eastbourne Terrace and the route between the loading bay and the unit, all as agreed on 05.10.2020 under reference 20/02855/ADFULL

You must then continue to operate the uses in accordance with the approved Servicing Management Plan at all times unless otherwise agreed by us in writing.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 7 A. Customers shall not be permitted within the Gym before 06.30 or after 20.30 Monday to Friday and before 08.00 and after 20.30 Saturdays, Sundays and Bank Holidays. , , ,  
B. Customers shall not be permitted within the Retail/Restaurant before 07.00 or after 00.00 Monday to Saturday and before 08.00 and after 22.30 Sundays and Bank Holidays.,

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 8 You must not use the Gym until a detailed scheme for the shop windows of the unit has been submitted to and approved in writing by the local planning authority. The scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows. The development shall thereafter be carried out in accordance with the approved scheme and no further modifications shall be made.

Reason:

To protect the appearance and character of the shopping frontage as set out in Policy 14 of the City Plan 2019 - 2040 (April 2021). (R26IA)

- 9 All servicing must take place from the loading bay within the curtilage of 50 Eastbourne Terrace (whether enclosed in a structure or not) and this area shall only be used for this purpose and servicing must only take place between 07.00-20.00 on Monday to Saturday and 10.00-16.00 on Sunday and Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 10 A. Prior to the use of the Restaurant on the corner of Craven Road and Eastbourne Terrace for hot food, you must submit for approval a scheme for the prevention of odour nuisance from the kitchen extract ventilation and subsequently install it maintain it.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 11 If amplified music is played above background levels in the gym and/or restaurant units then an electronic sound limiter must be fitted to the musical amplification system set at a level to comply with Condition 13 and also to prevent nuisance from low frequency noise.,

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the use does not cause a noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the draft Noise Technical Guidance Note (November 2019).

- 12 If the gym use involves installation of equipment, such as free weights, that results in impact sound transmission then floor areas with such equipment must be of a type that prevents the transmission of vibration or structure borne sound to other users of the building block.

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the use does not cause a noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the draft Noise Technical Guidance Note (November 2019).

- 13 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 development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 14 A. Prior to the use of the gym , 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 use the Gym until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to the use commencing 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 Gym.

B. Prior to the use of the Restaurant , 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 use the Restaurant until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to the use commencing 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 Restaurant.

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)

- 15 You must apply to us for approval of details of secure short stay cycle storage for the Gym 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 Gym. 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)

- 16 The back of house access door along Chilworth Mews, shown on approved drawing 50ET-SRA-XX-LG-DR-A-02-419 P01, shall only be used for emergency purposes only, unless otherwise approved in writing by the local planning authority.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

**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 Kitchen extract ventilation informative: , , o In order to permit any food type, intensity of use and/or method of cooking without requiring it to be altered should the food operation change in the future the best option is to provide a system that discharges the kitchen fumes at 'full height'. , , If the scheme discharges below full height then the odour prevention scheme must be to at least 'best practicable means' standards and bespoke designed for the intended food operation. Details of the intended food operation will need to be submitted with the proposed scheme when submitting information for approval of this condition - however it should be noted that any final approval of a low level discharging scheme is likely only to be able to be made after it has been installed and operating under its maximum intensity of use. Should the installed scheme not prevent nuisance then additional mitigation will be required. , , o The general ventilation within the kitchen must be designed to achieve an upper ambient temperature of about 25 centigrade and provide sufficient air changes within the workspace as recommended in the Building & Engineering Services Association (BESA) guidance DW172 -2018 or as in equivalent guidance , , o The kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance, at approximately 2-3 metre intervals or in compliance with the BESA document TR19 for cleaning and maintenance , , o Any cladding to the ducts must be made of non-flammable materials (approved by Building Control and/or Fire Brigade) and still allow access to any cleaning and maintenance doors/hatches. , , o Prior to an application to discharge this condition the Council's Environmental Health Consultation Team or the Environmental Sciences Team can be contacted for further advice and information. , , Smoke Control Area Informative , , The whole of the City of Westminster is a Smoke Control Area under the Clean Air Act 1993. Thus, premises cannot emit smoke unless burning an 'authorized fuel' or using 'exempt appliances'. Further information on the requirements can be found at the following government website: <https://www.gov.uk/smoke-control-area-rules>
  
- 3 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide ([www.cae.org.uk](http://www.cae.org.uk)). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk). , , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one

of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering). (I54AB)
- 5 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
- 6 You must make sure that any other activities taking place in the class E (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class E to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)

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.

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# Agenda Item 4

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 12 <sup>th</sup> July 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>129 - 137 Marylebone Road, London, NW1 5QD</b>		
<b>Proposal</b>	Variation of conditions 1 (approved plans), 14 (Operational management plan for terraces), 28 (plant screen design) and 30 (Mews design details) pursuant to planning permission dated 13 July 2021 (RN. 20/06929/FULL) for Demolition and redevelopment of the mews building, partial demolition of the 1960s building and roof extension, facade alterations to the 1930s building all in connection with continued Class E use, associated cycle parking, landscaping, servicing area, external terraces, rooftop plant enclosure and associated external works. NAMELY external alterations including changes to the rooftop plant enclosure, mansard roof pitches, access to the mews building and other external changes.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	AG Beltane Marylebone B.V.		
<b>Registered Number</b>	21/06044/FULL	<b>Date amended/ completed</b>	03.03.2022
<b>Date Application Received</b>	2 September 2021		
<b>Historic Building Grade</b>	<b>Unlisted.</b> Listed buildings are located in proximity of the site on Wyndham Street and Knox Street and on the opposite side of Marylebone Road.		
<b>Conservation Area</b>	<b>Outside of Conservation Area.</b> The Portman Estate Conservation Area wraps around the site to the south, east and west, the Dorset Square Conservation Area lies to the north of the site on the opposite side of Marylebone Road and the Lisson Grove Conservation Area lies further north west.		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

1. Grant Conditional permission, subject to a deed of variation to the original S.106 legal agreement dated 13 July 2021.
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2. If the legal agreement has not been completed within 6 weeks from the date of the Committee's resolution, then:

a) the Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning authorise to determine and issue such a decision under Delegated Powers; however, if not:-

b) the Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of benefits that would have been secured; if so the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY & KEY CONSIDERATIONS

Planning permission was granted last year for a proposal involving partial redevelopment and extensions and alterations to the buildings on site in connection with continued office use of the site (Class E). The permission has been implemented and works are well underway. The proposal was the subject of considerable local objection and in granting planning permission, very detailed conditions were imposed to seek to mitigate against potential impacts and address concerns raised with respect to residential amenity.

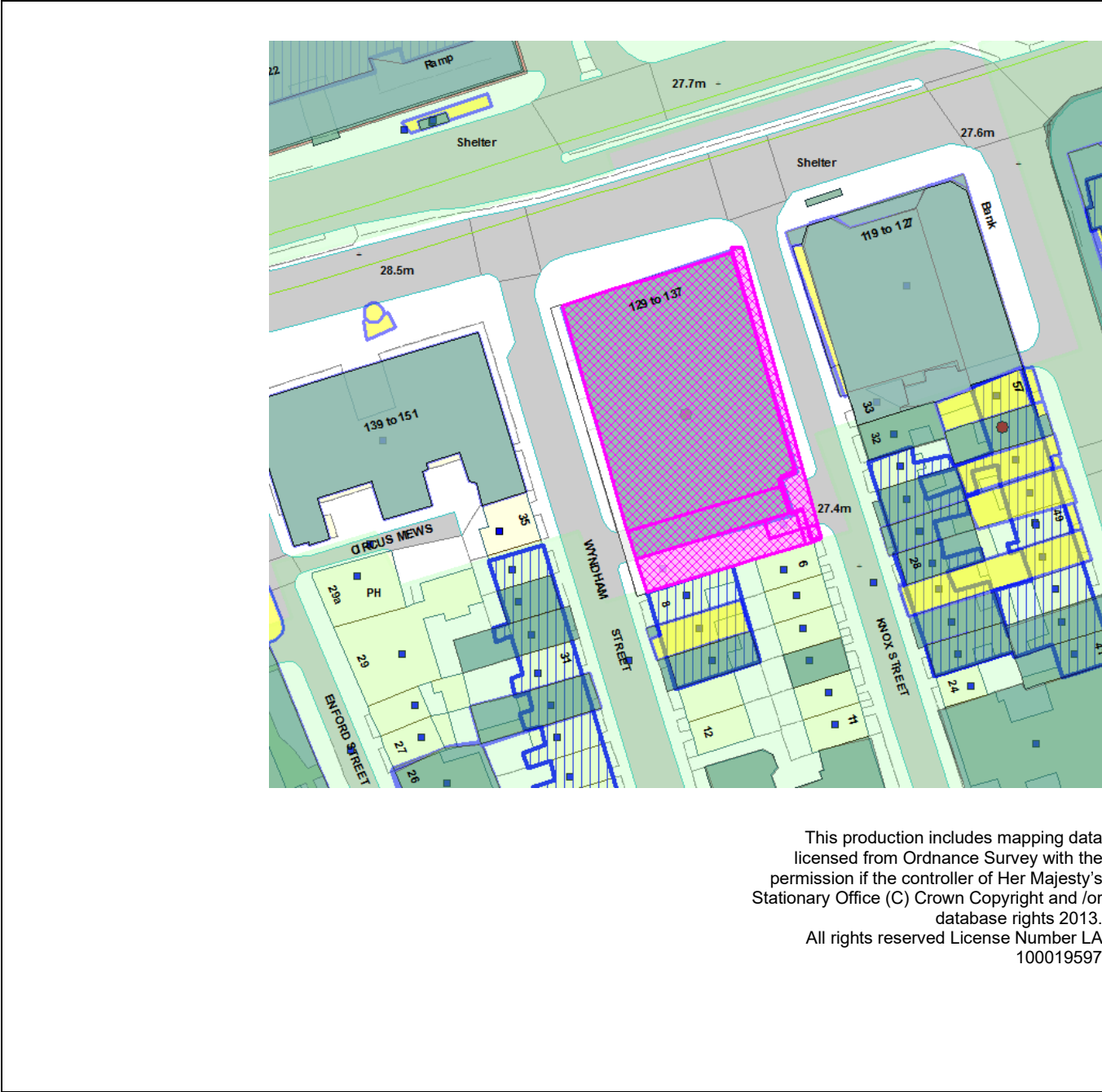
This minor material amendment application proposes to vary the original permission with respect to various matters including plant, enclosure and associated screen design and "mews" rear office building design details including doors, windows and lightwell. A number of representations of objection have been received from residents of Knox Street to the rear, on a number of grounds including noise, amenity and commercial creep.

The key considerations in this case are:

- The acceptability of the proposed amendments in design terms.
- The impact of the proposed amendments on the amenity of neighbouring residential properties.

Notwithstanding the objections and concerns raised, the proposed minor material amendment is considered to be appropriate development in this location within the CAZ frontage and a sensitive transition from the commercial building of Marylebone Road to the domestic residential properties to its rear. Overall, the proposal is considered to be acceptable subject to the recommended conditions and a Deed of Variation to the original S106 legal agreement and meets the relevant City Plan 2019-2040 policies and as such is recommended favourably.

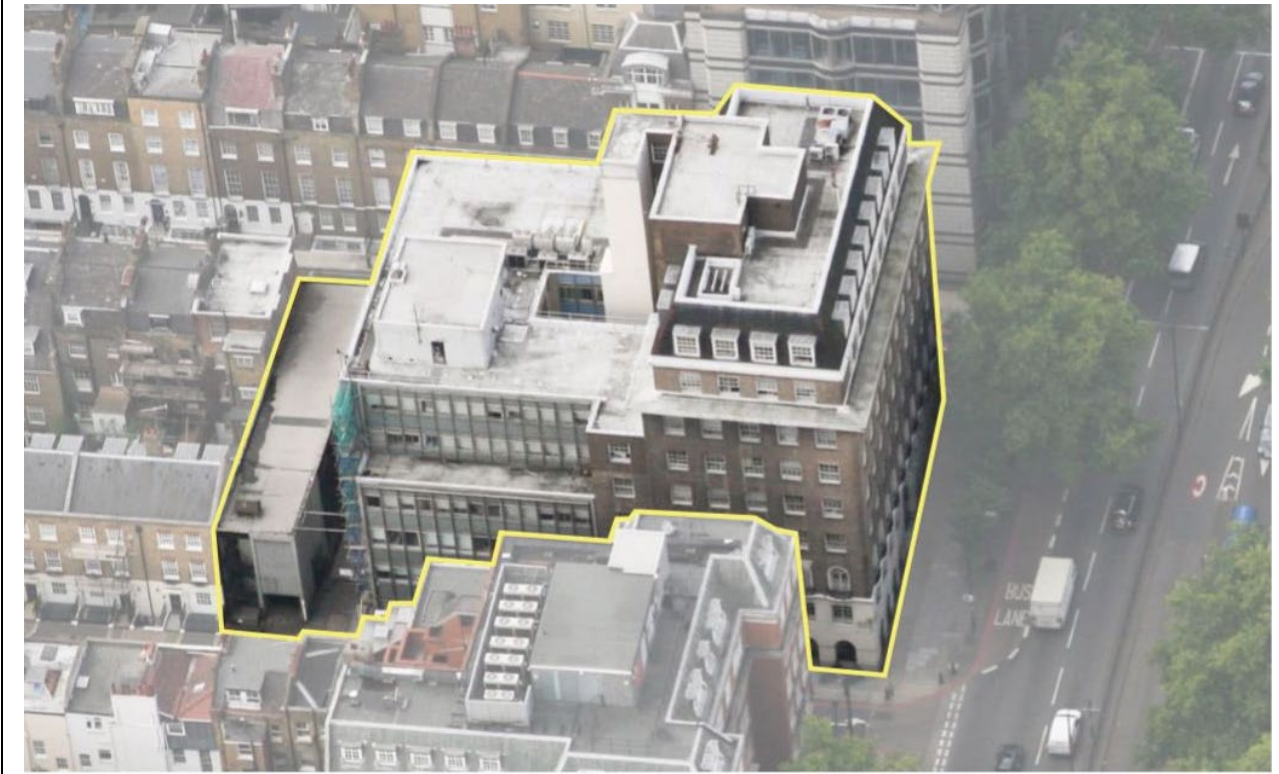
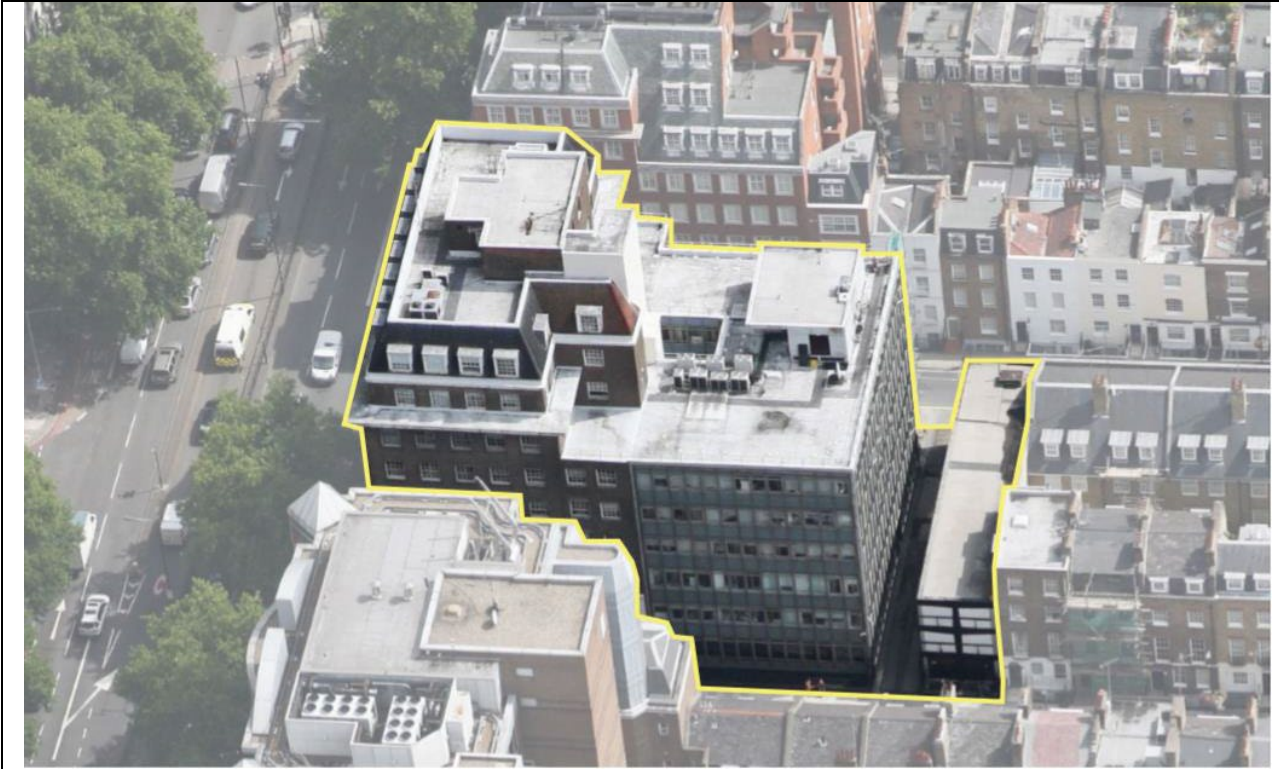
3. LOCATION PLAN



4. PHOTOGRAPHS

PHOTOGRAPHS PRIOR TO COMMENCEMENT OF DEVELOPMENT.





## 5. CONSULTATIONS

### 5.1 Application Consultations

ORIGINAL CONSULTATION & RECONSULTATION ON REVISIONS including i) Reduction in quantum of roof top plant ii) The height of the screen and the plant reduced from 2.8m to 2.2m high; iii) The screen now incorporates a 25 degree pitch (to match the pitch of the mansard roof) with as much greenery as possible added around the screen; iv) Re-instatement of front lightwell to Wyndham Street.

#### HISTORIC ENGLAND (ARCHAEOLOGY)

Comment. Not necessary to have been consulted.

#### TRANSPORT FOR LONDON (Infrastructure Protection for LUL)

No objection.

#### TRANSPORT FOR LONDON (Spatial Planning)

No objection.

#### ENVIRONMENT AGENCY

Any response to be reported verbally.

#### THAMES WATER

Any response to be reported verbally.

#### HIGHWAYS PLANNING

No objection.

#### WASTE PROJECT OFFICER

No objection. The proposal is not changing any components of the waste storage and management.

#### BUILDING CONTROL

Comment. No new basement, so outside of scope of comment.

#### ARBORICULTURAL SECTION

No objection. Same conditions and informatives apply. Note tree protection condition has been discharged 21/05026/ADFULL

#### WESTMINSTER EMPLOYMENT SERVICE

Comment. A response was already provided for this a year ago. Based on the total net uplift floorspace and on the Inclusive Local Economy Policy (2019), this scheme needs to provide: A Financial Contribution of £45,211.95.

#### ENVIRONMENTAL SCIENCES

No objection.

**DESIGNING OUT CRIME**

Any response to be reported verbally.

**WARD COUNCILLORS FOR BRYANSTON AND DORSET SQUARE**

Any response to be reported verbally.

**MARYLEBONE ASSOCIATION**

Any response to be reported verbally.

**THE ST MARYLEBONE SOCIETY**

Comment. Defer to Planning Officer.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 563

No. of objections: From 9 addresses in Knox Street on Amenity grounds.

No. in support: 0

**Plant**

- Extra plant, large fans at high duty
- Noise from additional 9<sup>th</sup> floor plant
- Noise from mews well plant
- Acoustic report states external office terrace hours of 08.00-19.00 which should be 09.00-19.00.
- Noise recording of ambient levels of noise were carried out during pandemic and adjusted up- which is inappropriate. Readings should be taken from gardens of 6-11 Knox Street.
- Incomplete and unreliable acoustic data
- Maximum noise insulation required.
- New noise source from plant well for plant equipment
- Reduced level of acoustic barrier to 2.2m
- Will the plant operate through the night?

**Commercial Creep**

- Commercial development creep from use of mews for independent commercial use and impact on residential amenity, must be contrary to policy to protect local character and residential amenity in a 100% residential area.
- Marylebone House, has always had 129-137 Marylebone Road NW1 as its address, why it is being marketed as Wyndham Street W1?
- Contrary to City Plan - pages 25,28,32,74.
- Mews building being separated from the main building operationally with independent access.
- The mews building was the offices at the back of Marylebone House
- Would support the side wall to the Mews building being a plain brick wall or a living wall.

**Windows and Doors**

- Noise, overlooking and light pollution from windows
- Dummy architectural features replaced with glass

- Windows in the Mews office building (facing the streets and yard) will result in over-looking and light pollution to neighbours. There should not be any windows facing or visible from Knox Street.
- The Windows to replace the utility garage doors all windows in the Mews office building will result in an invasion of privacy.
- Installing real glass windows instead of mock windows will result in unacceptable invasion of privacy to adjacent basement front garden and houses opposite.
- Does less than 21m away contravene planning regulations.
- Bright light pollution from office windows
- The 3 floors of protruding windows to the mews office building will affect privacy
- Fire exit doors in the Mews office building should be omitted as two other usable exits.
- An increased number of exits and larger doors onto Knox Street at ground and lower ground floor (6).
- Use of doors to Knox Street, other than for fire exit will mean that Knox Street is no longer wholly residential which has huge implications for the area.
- Introduction of unnecessary doors
- Fire exit n Knox Street will be used by staff for coffee/cigarette breaks and staff congregating outside
- Annotation 13 and page 5 of planning design note mentions front gardens of which there are none.
- At no point was the main Mews building entrance on Knox Street or Wyndham Street, it was always from the service yard.
- Artist's impression on marketing material- shows the completed building with a tall entrance from Knox Street which is not the approved or proposed scheme. The use of the doors to Knox Street for fire exit only should be secured.
- Are the doors show for entry and exit or fire escape only. The marketing details and the submission do not match.
- Why is the developer so confident in being granted permission that it has shown the details in marketing brochure? Makes a mockery of the planning consultation
- Suggest side of mews to Knox Street is made into a green wall.
- Welcome relocation of door from Knox Street to Wyndham Street
- Do fire regulations require all these doors?
- Residents will have to police the activity on a daily basis if conditions are imposed
- Smoke ventilation break out panels to within the front garden of the mews building to Knox Street
- Increased footfall from all the new doors.

PRESS NOTICE/ SITE NOTICE:

Yes

## 5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with the local community and key stakeholders in the area on 24.08.2021 prior to the submission of the planning application in accordance with the principles set out in the Early Community Engagement guidance. Ongoing newsletters are also provided to local residents.



## **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**

Marylebone House occupies a street block on the south side of Marylebone Road between Wyndham Street and Knox Street. It was last occupied by Arcadia Group as offices, but is currently vacant, undergoing works associated with planning permission granted in 2021.

It is an unlisted 1930's building with 1960's rear extensions and a three storey car park/storage structure to the rear. It comprises of a 9-storey building plus basement and roof top plant and is located outside of a conservation area. The Portman Estate Conservation Area wraps around the site to the south, east and west and the Dorset Square Conservation Area lies to the north of the site on the opposite side of Marylebone Road. The Lisson Grove Conservation Area lies further north west.

There are a number of Grade II listed buildings in the vicinity of the site including the Marylebone Town Hall/ London Business School to the east the Landmark Hotel, 222 Marylebone Road, which lies north-west of the site, as well as residential properties directly south 8-10 and 26-34 Wyndham Street and 25,26-28 and 29-31 Knox Street. St Mary's Church lies south west of the site on Wyndham Place, York Street.

The site also has the following land use designations:

- o Central Activities Zone (CAZ Frontage)
- o Named Street in Marylebone and Fitzrovia
- o Marylebone Road is part of the Strategic Road Network (TFL)
- o Within an Area of Public Open Space Deficiency
- o Within an Area deficient in publicly accessible play space

The two side streets to the east and west of the site are Knox Street and Wyndham Street which comprise of three/four storey residential properties with gardens. These streets run between Marylebone Road to the north and York Street to the South. Bryanston Mansions lie south of the site on York Street. Further east and parallel with Knox Street is Upper Montague Street and further west parallel with Wyndham Street is Enford Street.

Knox Street, Wyndham Street and York Street form part of Westminster City Council's road network. Marylebone Road forms part of the Transport for London Road Network (TLRN) and is a designated red route. The trees on the footway outside the front of the site on Marylebone Road also fall within the remit of Transport for London.

## 7.2 Recent Relevant History

Permission was granted on 12th July 1963 for 'The erection of an extension, of basement, ground and five floors to an existing office building (Marylebone House) on the site of 1 - 5 Knox Street and 3 - 7 Wyndham Street, St Marylebone, together with a three-decked car park'. (Ref:-TP20737).

A Certificate of Lawful Development was issued on 20.06.2012 for Use of first and second floors of rear extension granted permission 12th July 1963 (TP/20373) as ancillary storage in connection with the main office building (Class B1). (10/06118/CLEUD).

Withdrawn Application for Partial demolition and redevelopment to provide a building ranging from ground plus 3 storeys to ground plus 9 storeys comprising office floorspace (Class B1), You should be aware that the above planning application had been the subject of significant objection from local residents on various aspects of the proposal including, design and townscape, amenity, and transportation grounds. (18/09637/FULL)

Conditional planning permission was granted on 13<sup>th</sup> July 2021 for the Demolition and redevelopment of the mews building, partial demolition of the 1960s building and roof extension, facade alterations to the 1930s building all in connection with continued Class E use, associated cycle parking, landscaping, servicing area, external terraces, rooftop plant enclosure and associated external works. (20/06929/FULL)

### Approval of Details Applications:-

Approval of Details granted on 23.09.2021 for Details of Construction Logistics Plan and Trees method statement pursuant to Conditions 21 (part A) and 22 of planning permission dated 13 July 2021 (RN: 20/06929/FULL). (21/05026/ADFULL)

Approval of Details granted on 27.09.2021 for Details of a completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team pursuant to condition 3 of planning permission dated 13th July 2021 (RN:20/06929). (21/06238/ADFULL).

Pending Approval of Details for Samples /specification of the facing materials pursuant to Condition 31 (part) of planning permission dated 13 July 2021 (RN: 20/06929).(21/07632/ADFULL).

Pending Approval of Details of a typical bay showing construction and detailed design of the component parts, including masonry, windows, window reveals, pursuant to Condition 29 of planning permission dated 13th July 2021 (RN:20/06929/FULL)(22/04179/ADFULL)

Pending Approval of Details of new windows on original buildings showing relationship to brickwork reveal, joinery and opening profiles, front entrance screen, including signage, new lightwells; railings; glass balustrades, design, material and finish of decorative metal work to window openings, any external rain/waste water goods, pursuant to Condition 32 of planning permission dated 13th July 2021 (RN:20/06929/FULL) (22/04180/ADFULL)

Advertisement Consent granted on 17.12.2021 for Display of non-illuminated hoarding signs measuring 2.44m X 16.08m, 2.44m X 14m and 16.08m X 20.5m. (21/07610/ADV).

## 8. THE PROPOSAL

### What type of application is this?

Section 73 of the Town and Country Planning Act 1990 allows applications to be made to amend proposals that have planning permission. Central Government Guidance on this matter was issued in March 2014- Flexible options for planning permissions. The guidance advises that:-

*“There is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved”.*

The guidance also advises that the application should be considered against the :

*“Development plan and material considerations under section 38(6) of the 204 Act, and conditions attached to the existing permission. Local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of planning permission”.*

### The Proposal

This current application is a S73 application which seeks permission for Minor Material Amendments to the July 2021 permission.

The applicant has stated that the application relates to amendments that have emerged during design development to enable the deliverability of the permitted scheme and to ensure that it meets all technical standards. Since original submission, the proposal was further amended following officer advice to reinstate a traditional open lightwell to the Mews building on Wyndham Street as required by condition 30) and to reduce the height of the proposed rooftop plant screen from 2.8m to 2.2 with a revised pitch to match the mansard roof and the maximisation of greening. Condition 15 (plant noise) is no longer proposed to be amended.

A summary of the key proposed amendments is set out below:-

#### Lower Ground Floor

Lower ground floor general arrangement amended to revise cycle, shower, and locker provision.

Doors to existing lightwells to Knox Street and Wyndham Street frontages amended to single leaf to meet building regulations.

#### Ground Floor

Mews main entrance door and internal core position moved from Knox Street to Wyndham Street end of Mews building.

Window to replace utility garage door to Mews building facing Knox Street

Natural smoke ventilation breakout panels added to floor of curtilage to Mews Building frontage to Knox Street to meet Building Regulations

Existing and new transformer access hatches to UKPN substation on entrance and exit to road through site.

Birds mouth detail incorporated to the southern corners main building from ground to fifth floor level to improve vehicular access and egress to / from the through route.

Existing lightwell to main building on Wyndham Street retained.

#### Sixth, Seventh Floor

Window position at level 7 amended to avoid clash with acoustic screen.

Window sizes at levels 6 and 7 amended to facilitate better plant growth to green wall.

#### Eighth Floor

Existing window previously shown in elevation indicated on plan drawing

#### Ninth Floor (affects all elevations)

Enlarged plant enclosure and reduction in the size of the external terrace (requires tweaking of condition 15 to reduce capacity of terrace from 40 to 30).

Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.

Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.

#### Roof Plan

Automatic opening smoke vent to stairwell.

Grey anodised aluminium finish to stair overrun to match roof slate colour.

#### Marylebone Road elevation

Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25° and Slate screen with planting concealing mechanical ventilation ductwork, setback

from building profile. (required by condition 28)  
Dry riser to ground floor front

#### Wyndham Street elevation

New architectural metalwork railings to 2<sup>nd</sup> floor front to match existing 1930s Juliette balconies.

Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.  
Birds mouth detail incorporated to façade corners from L00-L05 to alleviate vehicular impact concerns.

Single leaf doors to lightwell

#### Wyndham Street “Mews” elevation

New open lightwell reinstated (Requirement of condition 30)

#### Knox Street elevation

Birds mouth detail incorporated to façade corners from ground to 5<sup>th</sup> floor to alleviate vehicular impact concerns.

Ground floor Fire exit door fan-light omitted to achieve door height above 2.5m.

New architectural metalwork railings to 2<sup>nd</sup> floor front to match existing 1930s Juliette balconies.

#### Rear elevation

Ground floor Service yard door heights increased.

Window position Level 07 amended to avoid clash with acoustic screen.

#### Knox Street “Mews” elevation

Rainwater downpipe added to mews building.

Window to replace utility garage door

#### “Mews Building”

Mews main entrance door and core position moved from Knox Street to towards Wyndham Street.

Ground floor dry riser

Mechanical plant well incorporated within the consented mews building elevation profile.

Access hatch and stair indicated on mews building roof for access and maintenance.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

No amendments are proposed to the consented use of the building for office purposes within Class E. Condition 24 of the original permission prevents any other use of the building within Class E, without permission and it is proposed to impose this condition again.

### **9.2 Environment & Sustainability**

No amendments are proposed to the environmental and sustainability credentials of the proposed development which is a partial redevelopment and extension development.

An energy statement was submitted with the original application and addressed these

matters. The priority of the development has been to retain as much fabric of the buildings as possible, providing benefits in terms of embodied energy (as well as other benefits in terms of reducing build time and disruption that full demolition can bring). Whilst there would be an overall improvement in terms of energy savings, it was not able to meet the requirement for net zero carbon under policy 36. As such a carbon off-set payment of £197,505 was secured under the original permission and is also to be secured again.

### 9.3 Biodiversity & Greening

The original permission secure significant greening to the building in the form of the following:-

Soft landscaping and planting within planting beds at 6<sup>th</sup>, 7<sup>th</sup> 8<sup>th</sup> and 9<sup>th</sup> floor terrace levels.

Vertical greening (climbing planting on wire trellis system) to part 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> floor extensions and to the lift overrun at 9<sup>th</sup> floor

Biodiverse roof (including wildflowers) to the “Mews building” and lift overrun

Soft landscaping and planting to existing lower ground floor lightwells.

The amendments proposed would result in a minor loss of part of the bio diverse roof to the “Mews building” to accommodate a plant well. Whilst regrettable, overall proposed still significantly increase the greening and biodiversity on site and remains acceptable.

### 9.4 Townscape, Design & Heritage Impact

#### 9.5

#### 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.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in 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.

In granting the original permission, the scale, height, bulk and detailed design of the proposed building/s was considered acceptable in design and townscape terms. With respect to the proposed amendments, these are relatively minor and will not substantially change the character or appearance of the building, which remains a high quality contextually relevant design, which pays respect to the adjacent heritage assets. The most evident impact of these works are the alterations at roof level to the main building, which will be visible in longer views and from the upper storeys of surrounding buildings.

### **Mews' Building.**

The new lightwell to the mews on its Wyndham Street elevation is a requirement of a condition 29 and is a beneficial change. A lightwell will reflect that of the adjacent property no. 8, providing a continuity of townscape with the grade II listed terrace and conservation area. The visibility of the lightwell needs to be full, with a more convincing window detail (a replica window), with a bridge to the front door and airspace to either side, so a condition (30) is amended to achieve this.

Also at lower ground level, the doors to the Knox Street and Wyndham Street lightwells on the main building, are amended to single leaf to meet building regulations and internal changes are made to accommodate the new external lightwell to the Wyndham Street, which are acceptable.

At ground floor level, changing the position of the mews main entrance door and internal core from Knox Street to Wyndham Street side are acceptable. While the elevations of the mews buildings are subject to conditions in the original permission, the change from a garage door to a window to Knox Street is an acceptable change, as is the addition of a metal rainwater pipe. The fire smoke escape hatch to the forecourt of Knox Street to comply with Building Regulations is also acceptable. Hatches to the access road through the site, to transformers under the road will also be acceptable.

The introduction of mechanical plant, within a recessed well to the mews building's roof, results in a reduction in an area of the approved green roof, creating a more functional roofscape. While regrettable, this is on balance acceptable. Maintenance of the green roof and the plant, necessitates an access hatch, which is also acceptable.

### **Main elevations**

The 'birds mouth' brick detail to the rebuilt southern corners of the man building at ground to fifth floor level, mitigate the buildings sharp corner, providing a more interesting detail and improving vehicular flows via the access route.

Retaining the existing lightwell to main building on Wyndham Street is also an acceptable change.

Window position amendments at 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> floors are minor and acceptable, as are omission of ground floor fire exit door fan-lights.

The dry riser outlet at ground floor front is a functional addition to aid firefighting. As it a small feature, required by the fire brigade to be in an easily accessible location and replaces an existing example, it is acceptable.

New railings to 2<sup>nd</sup> floor windows to match existing 1930s Juliette balconies to Knox Street are welcome and acceptable.

### **Roof level changes.**

The change of the mansard form is a requirement of condition 28 of the approved scheme and while not the 30 degree pitch sought, the 25 degree angle to the mansard's shoulder to each elevation (except the rear) finesses the building's termination, while allowing the functional operation of the plant within. It will be appropriately clad in natural slate.

The enlarged plant enclosure at ninth floor level is regrettable, as it projects beyond the mansard screen, but results from fire engineering requirements. The additional plant reduces the size of the top floor terrace and will be screened, with a pitched slate screen with planting in front. The planted screen should be a durable material to take account of the seasonal nature of planting. However, in the event of failure, the slated pitch sits behind to afford the area a roof like appearance.

The grey anodised aluminium finish to stair overrun, matching slate colour and automatic opening smoke vent to stairwell, (which will not be visible from most vantage points) are acceptable.

### **Summary**

Given the scale of the development, these works are relatively minor and will not substantially change the character or appearance of the development. The scheme would remain high quality and contextually relevant, paying due respect to the adjacent heritage assets. In essence, the majority of the works are neutral in impact, while the lightwell change is positive.

The most evident impact of these works are the alterations at roof level to the main building, which will be visible in longer views and from the upper storeys of surrounding buildings. Here, the additional bulk of the plant screen and deviation from the approved situation, will represent a measure of minor visual harm.

While regard to the setting of listed buildings in development proposals is a statutory requirement, setting of conservation areas is not. Nether the less, given the 129-137 Marylebone Road is an unlisted building outside a conservation area, the impact of the works on adjoining heritage assets is also modest. In NPPF terms, it is the low end of 'less than substantial' harm.

Weighed against the public benefits outlined in the original submission and of compliance with



various regulatory requirements, including fire protection, the scheme is considered to deliver those public benefits mitigating this minor diminution of visual amenity.

Subject to the conditions to further details of materials and detailing being applied for via conditions, the works comply with polices 38, 39 and 40 enhancing the settings of adjacent listed buildings and the Portman Estate and Lisson Grove Conservation Areas, from where the works will be visible.

## 9.6 Residential Amenity

In granting the original permission, the development was assessed in detail in relation to its potential impact on the amenities of surrounding residential properties with respect to both the physical and operational impact of the proposed development. Overall, the proposed development was considered to be acceptable in amenity terms. However, a number of detailed conditions were imposed to minimise impact and provide further protection to resident's amenities.

The proposed physical amendments to the original permission, including the changes at roof level to the mansard roof, stairwell, plant and plant screen are due to their scale, size and nature and distance to neighbours not considered to result in any new significant impact on surrounding residents when considering daylight and sunlight and sense of enclosure. It also results in a reduction in the capacity of the 9<sup>th</sup> floor roof terrace from 40 to 30 and condition 14 is consequently proposed to be amended accordingly.

The proposed amendments to the main roof top plant and introduction of a plant well within the "Mews building" have been designed to satisfy our standard noise conditions and our Environmental Health team have confirmed that the proposed plant is indeed expected to meet with our conditions, which are designed to protect residents from noise nuisance. The original conditions imposed to require compliance with our noise level conditions are to be reimposed. For these reasons, the proposal is considered to be acceptable at satisfies policy 33 of our City Plan. Whilst representations of objection have been received with respect to the adequacy of the noise report and potential for additional noise from the plant, given the advice from our technical noise team, the objections are not supported.

Whilst the ground floor elevation to the Knox Street elevation of the Mews Building is now proposed to contain a glass window, notwithstanding the office use inside, it is not considered that this would result in any significant noise, overlooking or light pollution to warrant withholding permission.

The amendments to a small number of windows at 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> floors, either to reflect a discrepancy that it was previously shown in elevation but not plan, to amend its position or reduce its size, do not raise any significant issues with respect to overlooking.

The amendments to the detail of doors within the lightwells are minor in nature and given their location, are not considered to raise amenity issues. The doors to the service yard are proposed to be increased in height, but this is considered to be minor.

Whilst the Mews main entrance door and internal core position are moved from Knox Street to Wyndham Street end of Mews building, the use of doors within the development are controlled under condition 35 (which is to be re imposed):-

*You must apply to us for approval of a final Operational Management Plan for the use of the*

*building. It should include, but not be limited to:-*

*o Hours of use of the building*

*o Pedestrian Access and Egress Arrangements via Marylebone Road and Wyndham Street only (including the office mews building)*

*o Use of doors to Knox Street and Office Mews Building to Knox Street and Wyndham Street for fire escape purposes only /fire evacuation details and meeting point/s/Fire strategy*

*o Smoking area limited to Marylebone Road*

*o Control of dropping off/picking up/courier deliveries - All directed to Marylebone Road*

*o Security control for cyclists*

*o Contact details for complaints*

*The use of the building/s must not commence operation until we have approved what you have sent us. You must then operate the use of the building in accordance with the approved Plan at all times.*

Details required for fire safety and maintenance access purposes, such as the access hatch and stair indicated on mews building roof for access and maintenance, the ground level natural smoke ventilation breakout panels, transformer access hatches to UKPN substation are a requirement and are not considered to raise any new significant amenity issues. In addition, the Birds mouth detail (a cut out) incorporated to the southern corners of the main building to improve vehicular access manoeuvres into the access road is considered a minor alteration to the building.

Whilst objections have been raised by residents of Knox Street with respect to the changes to the windows and the impact they will have on the amenity of residents in terms of noise, overlooking, light pollution and with respect to the principle of windows facing Knox Street, for the reasons set out above, those objections are not considered to be sustainable.

With respect to the amendments to doors and access arrangements, whilst these have also received objections on grounds of privacy, noise and disturbance and commercial creep into Knox Street, for the aforementioned reasons, including condition 35 and the requirements of the OMP, the objections are not considered to be sustainable.

Residents have made officers aware of inaccurate marketing material and this has been raised with the applicant's agent. If any part of the development is not built in accordance with the approved drawings, then the matter will be investigated by the City Council's Planning Enforcement Team.

In summary, notwithstanding the objections raised, the proposed minor material amendments are considered to be acceptable in amenity terms in accordance with policy 7 of our City Plan. The detailed conditions imposed on the original planning permission are transferred to this application to ensure that measures in place to protect

residents' amenities are also secured under this application, should permission be granted.

#### **9.7 Transportation, Accessibility & Servicing**

No amendments are proposed to the approved transport and servicing aspects of the original development.

#### **9.8 Economy including Employment & Skills**

In granting the original permission it is expected that the office building as proposed to be extended would provide around 700 full time jobs once the development has been completed and is occupied. This is in addition to its positive contribution to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending. The original permission secured an Employment and Skills contribution of £45,211.95 and this is also to be secured under this amendment.

#### **9.9 Other Considerations**

None.

#### **9.10 Environmental Impact Assessment**

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

#### **9.11 Planning Obligations & Pre-Commencement Conditions**

The planning obligations secured under the original permission as set out below are also to be secured under this amendment application, through a Deed of Variation to the original S106 legal agreement.

- a) Employment and skills contribution of £45,211.95 index linked and payable on commencement of development.,
- b) Highways works associated with and required to facilitate the development including but not limited to amendments to vehicular access and relocation of on-street car parking bays.
- c) Carbon Off-set payment of £197,505 index linked and payable on commencement of development.
- d) Monitoring costs

There is no change to the estimated CIL payment is:

Mayoral:-£230,175.00

Westminster:- £258,075.00

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.

The pre-commencement conditions relating to the original permission have been discharged and the development has lawfully commenced on site. As such those conditions are amended to compliance conditions to reflect this current situation. Other conditions are also proposed to be updated to reflect any discharge of conditions since the original permission was granted, so that the draft decision letter is up to date.

## 10. Conclusion

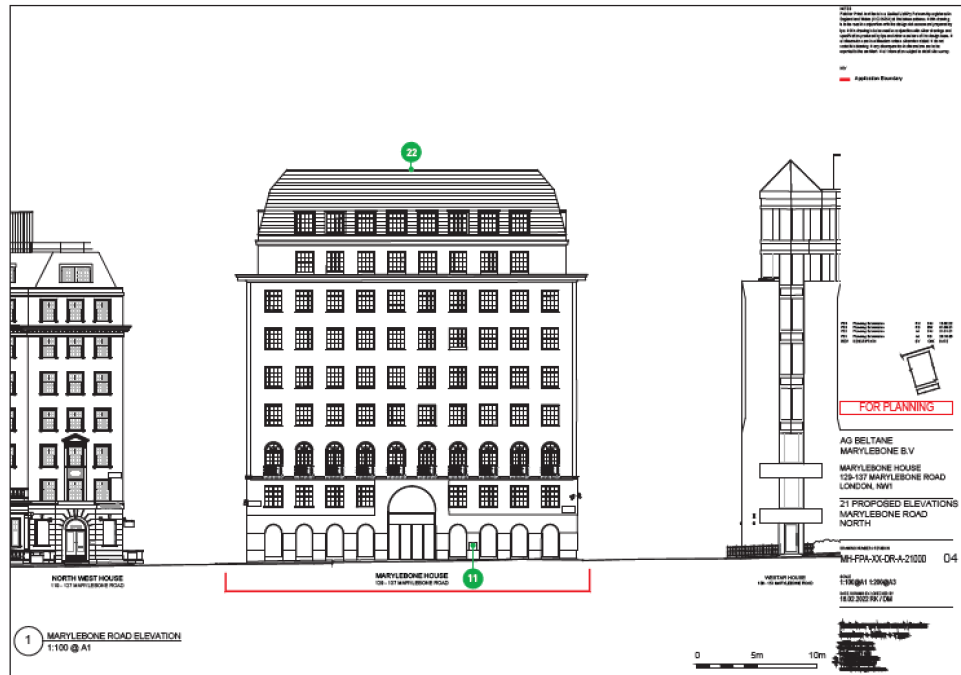
For the reasons set out within this report, the proposal is considered acceptable and a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. The original conditions which are reimposed have been revised accordingly to reflect up to date legislation and the reasons for the conditions now reflect our current City Plan. Conditions (3,21A and 22) which have already been discharged have also been updated to compliance conditions. Other conditions are updated or amended to reflect this proposal, these are conditions 12 (waste- drawing number), 14 (Terrace capacity), 28 (Design-roof top screen), 30 (Design of lightwell)

(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)

11. KEY DRAWINGS

North Elevation: Marylebone Road (Proposed)



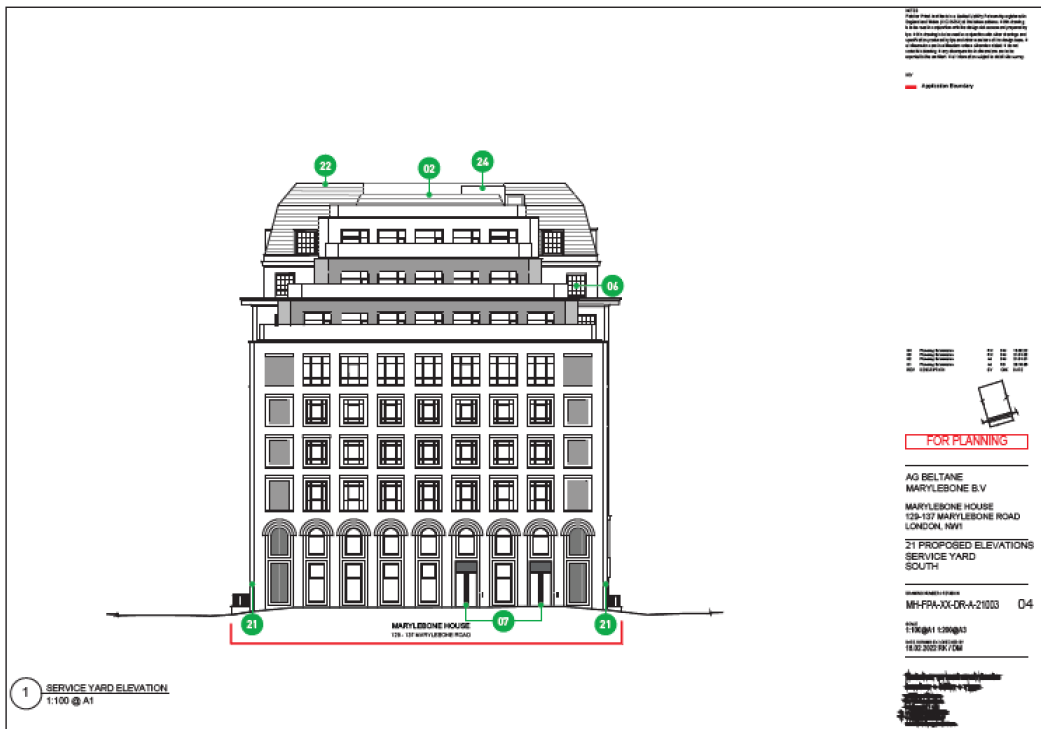
Substitute Drawing: MH-FPA-XX-DR-A-21000 REV 03

DESIGN AMENDMENTS

KEY N

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. Window position Level 07 amended to avoid clash with acoustic screen.
7. Service yard door heights increased.
8. Doors to lightwells amended to single leaf to meet building regulations (DDA compliance).
9. Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. **Dry riser position indicated following consultation with London Fire Brigade.**
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations [Fire - Part B].
14. Existing and new transformer access hatches to UKPN substation indicated.
15. UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.
16. Mechanical plant well incorporated within the consented Mews Building elevation profile.
17. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing.
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.
22. **Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.**
23. New open railed lightwell instated.
24. Grey anodised aluminium finish to stair overrun to match roof slate colour.

South Elevation: Service Yard (Proposed)



Substitute Drawing: MH-FPA-6F-XX-A-21003 REV 03

DESIGN AMENDMENTS

KEY **N**

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. **Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.**
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. **Window position Level 07 amended to avoid clash with acoustic screen.**
7. **Service yard door heights increased.**
8. Doors to lightwells amended to single leaf to meet building regulations (DDA compliance).
9. Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. Dry riser position indicated following consultation with London Fire Brigade.
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations (Fire - Part B).
14. Existing and new transformer access hatches to UKPN substation indicated.
15. UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.
16. Mechanical plant well incorporated within the consented Mews Building elevation profile.
17. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. **Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.**
22. **Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.**
23. New open railed lightwell instated.
24. **Grey anodised aluminium finish to stair overrun to match roof slate colour.**

East Elevation: Knox Street (Proposed)



Substitute Drawing: MH-FPA-XX-DR-A-21002 REV 03

DESIGN AMENDMENTS

KEY **N**

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. Window position Level 07 amended to avoid clash with acoustic screen.
7. Service yard door heights increased.
8. Doors to lightwells amended to single leaf to meet building regulations [DDA compliance].
9. Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. Dry riser position indicated following consultation with London Fire Brigade.
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations [Fire - Part B].
14. Existing and new transformer access hatches to UKPN substation indicated.
15. UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.
16. Mechanical plant well incorporated within the consented Mews Building elevation profile.
17. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.
22. Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.
23. New open railed lightwell instated.
24. Grey anodised aluminium finish to stair overrun to match roof slate colour.

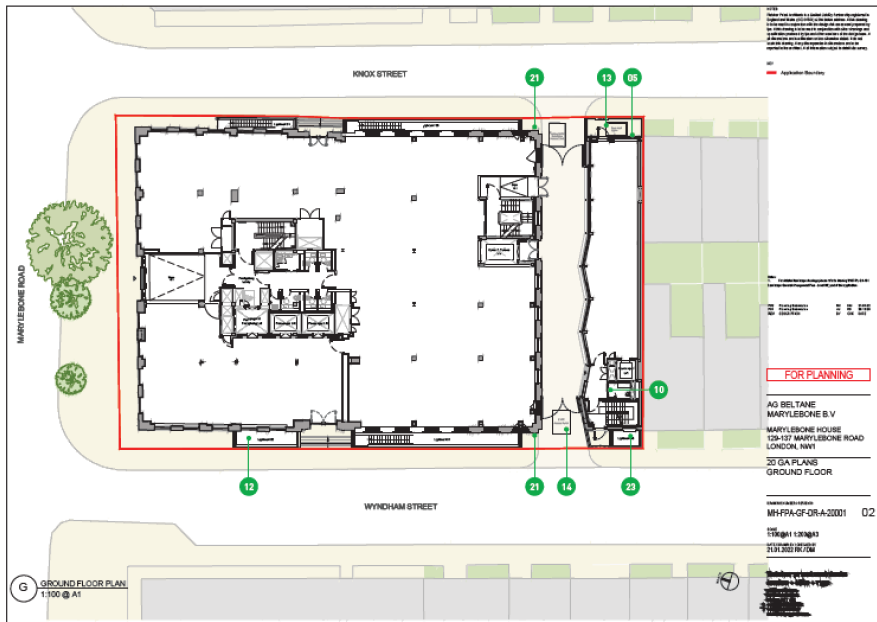
West Elevation: Wyndham Street (Proposed)



DESIGN AMENDMENTS KEY

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. Window position Level 07 amended to avoid clash with acoustic screen.
7. Service yard door heights increased.
8. Doors to lightwells amended to single leaf to meet building regulations (DDA compliance).
9. Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. Dry riser position indicated following consultation with London Fire Brigade.
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations (Fire - Part B).
14. Existing and new transformer access hatches to UKPN substation indicated.
15. UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.
16. Mechanical plant well incorporated within the consented Mews Building elevation profile.
17. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing.
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.
22. Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.
23. New open railed lightwell instated.
24. Grey anodised aluminium finish to stair overrun to match roof slate colour.

Ground Floor Plan (Proposed)

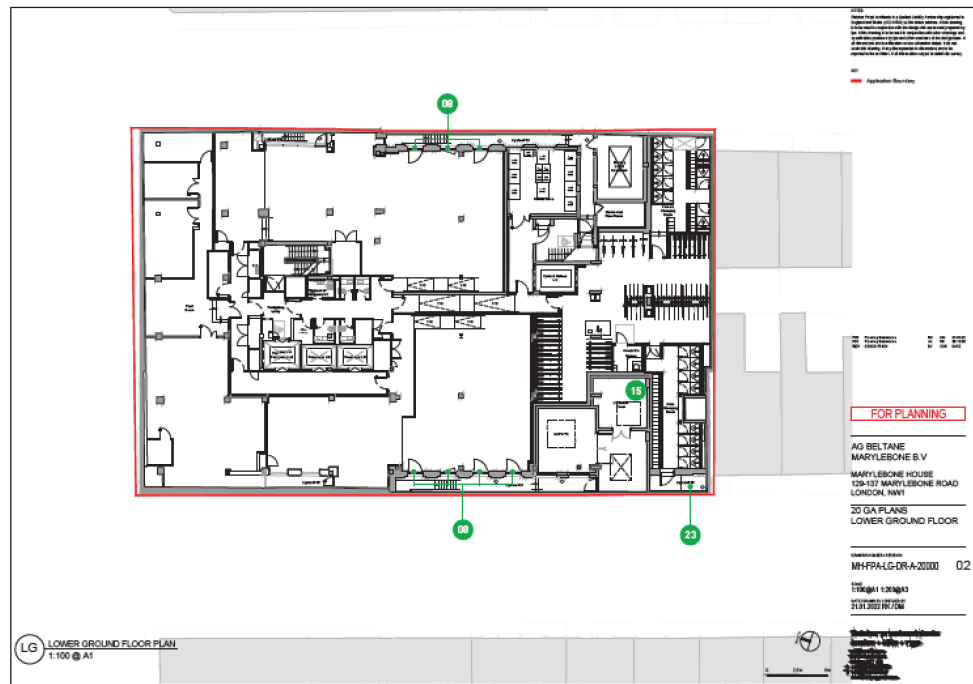


DESIGN AMENDMENTS KEY

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. Window position Level 07 amended to avoid clash with acoustic screen.
7. Service yard door heights increased.
8. Doors to lightwells amended to single leaf to meet building regulations (DDA compliance).
9. Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. Dry riser position indicated following consultation with London Fire Brigade.
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations (Fire - Part B).
14. Existing and new transformer access hatches to UKPN substation indicated.
15. UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.
16. Mechanical plant well incorporated within the consented Mews Building elevation profile.
17. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing.
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.
22. Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.
23. New open railed lightwell instated.
24. Grey anodised aluminium finish to stair overrun to match roof slate colour.



## Lower Ground Floor Plan (Proposed)

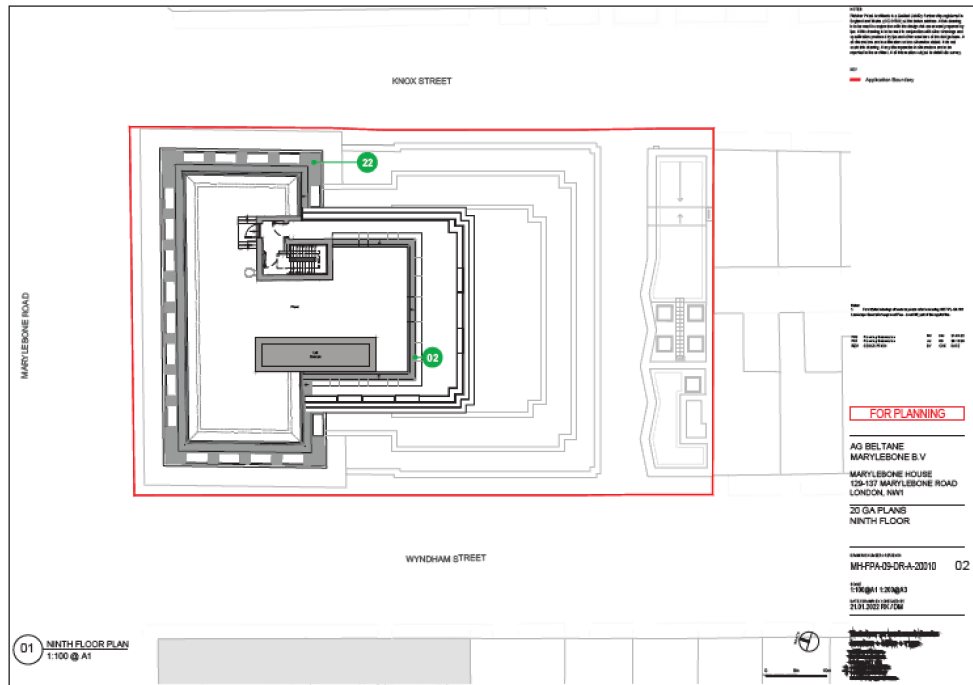


Substitute Drawing: MH-FPA-LG-DR-A-20000 REV 02

DESIGN AMENDMENTS  
KEY

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. Window position Level 07 amended to avoid clash with acoustic screen.
7. Service yard door heights increased.
8. **Doors to lightwells amended to single leaf to meet building regulations (DDA compliance).**
9. Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. Dry riser position indicated following consultation with London Fire Brigade.
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations (Fire - Part B).
14. Existing and new transformer access hatches to UKPN substation indicated.
15. **UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.**
16. Mechanical plant well incorporated within the consented Mews Building elevation profile.
17. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.
22. Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.
23. **New open railed lightwell instated.**
24. Grey anodised aluminium finish to stair overrun to match roof slate colour.

Ninth Floor Plan (Proposed)



Substitute Drawing: MH-FPA-RF-DR-A-21011 REV 03

DESIGN AMENDMENTS

KEY

1. New architectural metalwork railings to match existing 1930s Juliette balconies.
2. **Slate screen with planting concealing mechanical ventilation ductwork, setback from building profile.**
3. Fire exit door fan-light omitted to achieve door height above 2.5m.
4. Rainwater downpipe added to mews building.
5. Window to replace utility garage door - Detail design to be agreed via Condition 30.
6. Window position Level 07 amended to avoid clash with acoustic screen.
7. Service yard door heights increased.
8. Doors to lightwells amended to single leaf to meet building regulations (DDA compliance). Lightwell and door height levels adjusted to survey information.
10. Mews main entrance door and core position moved from Knox Street to Wyndham Street.
11. Dry riser position indicated following consultation with London Fire Brigade.
12. Existing lightwell to remain.
13. Natural smoke ventilation breakout panels added to Mews Building front gardens to meet Building Regulations (Fire - Part B).
14. Existing and new transformer access hatches to UKPN substation indicated.
15. UKPN Substation detail design incorporated. Lower ground floor general arrangement amended to maintain cycle, shower and locker provisions.
16. Mechanical plant well incorporated within the consented Mews Building elevation profile. Access hatch and stair indicated on Mews Building roof for access and maintenance.
18. Existing window previously shown in elevation indicated on plan drawing
19. Window size on Level 06 and 07 amended to facilitate better plant growth to green wall.
20. Automatic opening smoke vent to stairwell.
21. Birdsmouth detail incorporated to facade corners from L00-L05 to alleviate vehicular impact concerns.
22. **Mansard pitch design amended to incorporate a shoulder with a change in pitch of 25°.**
23. New open railed lightwell instated.
24. Grey anodised aluminium finish to stair overrun to match roof of slate colour.

**DRAFT DECISION LETTER**

- Address:** 129 - 137 Marylebone Road, London, NW1 5QD,
- Proposal:** Variation of conditions 1 (approved plans), 14 (Operational management plan for terraces), 28 (plant screen design) and 30 (Mews design details) pursuant to planning permission dated 13 July 2021 (RN. 20/06929/FULL) for Demolition and redevelopment of the mews building, partial demolition of the 1960s building and roof extension, facade alterations to the 1930s building all in connection with continued Class E use, associated cycle parking, landscaping, servicing area, external terraces, rooftop plant enclosure and associated external works. NAMELY external alterations including changes to the rooftop plant enclosure, mansard roof pitches, access to the mews building and other external changes.  
RECONSULTATION ON REVISIONS including i) Reduction in quantum of roof top plant ii) The height of the screen and the plant reduced from 2.8m to 2.2m high; iii) The screen now incorporates a 25 degree pitch (to match the pitch of the mansard roof) with as much greenery as possible added around the screen; iv) Re-instatement of front lightwell to Wyndham Street.
- Reference:** 21/06044/FULL
- Plan Nos:** ORIGINAL PLANS AND DOCUMENTS (20/06929/FULL), MH-FPA-SW-DR-A-01000 01., MH-FPA-LG-DR-A-10000 01; 10001 01; 10002 01; 10003 01; 10004 01; 10005 01; 10006 01; 10007 01; 10008 01; 10009 01; 10010 01; 10011 01., MH-FPA-XX-DR-A-11000 01; 11001 01; 11002 01; 11003 01; 11004 01; 11011 01; 11012 01., MH-FPA-LG-DR-A-13000 01; MH-FPA-GF-DR-A-13001 01; MH-FPA-01-DR-A-13002 01. , MH-FPA-02-DR-A-13003 01; 13004 01; 13005 01; 13006 01; 13007 01; 13008 01; 13009 01; 13010 01.  
MH-FPA-LG-DR-A-20000 02 (Nov2020); 20001 01; 20002 01; 20003 01; 20004 01; 20005 01; 20006 01; 20007 01; 20008 01; 20009 01; 20010 02; 20011 02., , MH-FPA-XX-DR-A-21000 02 (Jan 2021) 21001 02 (Jan 2021); 21002 02 (Jan 2021); 21003 02 (Jan 2021) ; 21004 01; 21011 02 (Jan 2021); 21012 02 (Jan 2021); 22000 02 (Jan 2021).,  
Daylight and Sunlight Assessment Point 2 October 2020, Air Quality Assessment Ramboll 19 October 2020 - Rev 1, Applicants Covering Letter GE 28 October 2020, Archaeological Report MOLA 22 October 2020 - Rev 2, Code of Construction Practice Appx A BAM 14 October 2020, Design and Access Statement FPA October 2020, Energy and Sustainability Assessment MZA 23 October 2020 - Rev 2, FRA and SUDS HTS October 2020 - Rev 1, Heritage and Townscape Report DIA October 2020, Acoustic Planning Report MZA October 2020 - Rev 1, Operational Management Statement BMA October 2020, Planning Statement GE 28 October 2020, Statement of Community Involvement Kanda October 2020, Structural Statement HTS October 2020, Transport Statement PF 28 October 2020 - Rev F1, Travel Plan PF 28 October 2020 - Rev F1, Ventilation and Extraction Statement MZA 19 October 2020 - Rev 2, Acoustic Technical Note MZA 16 December 2020, Air Quality Technical Note Ramboll 12 January 2021, Noise - response to EHO MZA 15 January 2021, Air quality - response to EHO Ramboll 18 January 2021., Ramboll Tech Note 3 dated 17.02.2021  
AS PART SUPERSEDED BY (21/06044/FULL), Design Report and Drawings prepared by Fletcher Priest Architects February 2022., Acoustic Report, prepared by

MZA 16.08.2011., Daylight and sunlight report, prepared by Point 2 0408.2021., Agent email 03.02.2022 on amendments, MH-FPA-LG-DR-A-20000\_03, MH-FPA-GF-DR-A-20001\_03, MH-FPA-01-DR-A-20002\_03, MH-FPA-02-DR-A-20003\_03, MH-FPA-03-DR-A-20004\_03, MH-FPA-04-DR-A-20005\_03, MH-FPA-05-DR-A-20006\_03, MH-FPA-06-DR-A-20007\_03, MH-FPA-07-DR-A-20008\_03, MH-FPA-08-DR-A-20009\_03, MH-FPA-09-DR-A-20010\_04, MH-FPA-LG-DR-A-20000\_02, MH-FPA-RF-DR-A-20011\_04, MH-FPA-XX-DR-A-21000\_04, MH-FPA-XX-DR-A-21001\_04, MH-FPA-XX-DR-A-21002\_04, MH-FPA-XX-DR-A-21003\_04, MH-FPA-XX-DR-A-21004\_03, MH-FPA-XX-DR-A-21011\_04, MH-FPA-XX-DR-A-21012\_04, MH-FPA-XX-DR-A-22000\_03

**Case Officer:** Sarah Whitnall

**Direct Tel. No.** 020 7641  
07866036375

### Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , onot 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 **Pre Commencement Condition.** Prior to the commencement of any: , (a) demolition, and/or, (b) earthworks/piling and/or, (c) construction , , on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an

agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement.

This is unless you carry out the development in accordance with the details approved on 27.09.2021 under reference : 21/06238/ADFULL

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)

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

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 25 of our City Plan 2019-2040: Adopted April 2021 and the London Plan 2021.

- 5 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 6 With the exception of collecting rubbish, no goods (including fuel) that are delivered or collected by vehicles arriving at or leaving the building must be accepted or sent out if they are unloaded or loaded on the public road. You may accept or send out such goods only if they are unloaded or loaded within the boundary of the site. (C23CB)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 7 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 8 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway.

You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 9 You must only use the vehicle access in line with the direction of movement shown on the approved drawings (Access from Wyndham Street, Egress to Knox Street). (C24CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 10 Notwithstanding the draft delivery, servicing and waste plan submitted, you must apply to us for approval of a final detailed Delivery, Servicing and waste Management Plan in relation to the use of the entire site. It should include, but not be limited to:-
- o All servicing to take place off-street within the servicing yard.,
  - o Vehicle Flow arrangement- from Wyndham Street to Knox Street.,
  - o Preferred servicing route - where possible service vehicles access from and depart to Marylebone Road.,
  - o Servicing hours of between 08.00-18.00 hours Monday to Friday, 10.00-16.00 on Saturdays and not at all on Sundays,
  - o Goods in manager to operate in accordance with the final version of this plan., o Booking of deliveries and scheduling of delivery slots and coordinating with suppliers with "Goods in" manager,
  - o Servicing arrangement allows in the event of additional servicing vehicles arriving at the same time to wait within the servicing yard and not on-street.

The use of the building/s must not commence operation until we have approved what you have sent us. You must then operate the use of the building in accordance with the approved Plan at all times.

Reason:

To protect the environment of residents and the area generally and to safeguard highway safety as set out in Policies 7, 25, 27, 28 and 33 of the City Plan 2019 - 2040 (April 2021). (R22CD)

- 11 All servicing must take place between 08.00-18.00 hours Monday to Friday, 10.00-16.00 on Saturdays and not at all on Sundays. Servicing includes loading and unloading goods from vehicles and waste collection. (C23DA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 12 You must provide the waste store shown on drawing MH-FPA-LG-DR-A-20000\_03 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building/s and No Waste should be left on the Public Highway., You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

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)

- 13 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises. (CO5DB)

Reason:

We do not have enough information to decide whether it would be possible to provide extractor equipment that would deal properly with cooking smells and look suitable. This is as set out in Policies 7, 33, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R05DD)

- 14 Prior to the use of any of the external terraces at 6th, 7th, 8th and 9th floors, you must apply to us for approval of an operational management plan to show how you will maintain the terraces and minimise noise from their use causing nuisance for people in the area, including people who live in nearby buildings.

The operational management plan shall include, but not be limited to, the following measures:-

- a. Hours of use 09.00-19.00 Monday to Friday and not at all on Saturdays and Sundays (including cleaning, tidying and maintenance) unless used for emergency/escape access purposes.,
- b. Maintenance of the hard and soft landscaping (including planters, green wall/ climbers and green roofs) on the terraces,
- c. Installation of the acoustic/privacy barriers prior to use of terraces and their maintenance in perpetuity,
- d. Installation of planters and soft landscaping prior to use of terraces and their maintenance in perpetuity to a height of 1.8m in so far as possible.,
- e. No live, amplified or recorded music.,
- f. No external lighting outside of approved operational hours of the terrace,
- g. Capacity limits (6th floor terrace 20 people, 7th floor terrace 22 people, 8th floor terrace 28 people, 9th floor terrace 30 people),

You must not use the external terraces until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the terrace is in use.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 15 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum. , , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:; (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)



- 16 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the IN; use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest., (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the IN; use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest., (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include: (a) The location of most affected noise sensitive receptor location and the most affected window of it; (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (d) The lowest existing LA90, 15 mins measurement recorded under (c) above; (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition; (f) The proposed maximum noise level to be emitted by the activity. (C47AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R47AC)

- 17 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

(C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 18 The emergency plant and generators hereby approved shall only be used for the purpose of public safety and life critical systems and shall not be used for backup equipment for commercial uses such as Short Term Operating Reserve (STOR). The emergency plant and generators shall be operated at all times in accordance with the following criteria: , (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the LA90, 15 mins over the testing period) by more than 10 dB one metre outside any premises., , (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required in an emergency situation., , (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays. (C50AC)

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 19 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 15,16,17,18 and 19 of this permission. This report should include an assessment of the potential for low frequency noise from the substation and appropriate mitigation recommended where necessary. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AC)

- 20 Prior to the installation of any generator (including a generator for emergency use) or any combustion generating equipment (e.g., boilers) a revised air quality assessment and air quality neutral assessment must be submitted for approval.

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 21 No development shall take place, including any works of demolition, until the following plan has been submitted to and approved in writing by the City Council as local planning authority in liaison with Transport for London:-, a) Construction Logistics Plan., , This is unless you carry out the development in accordance with the details approved on 23.09.2021 under reference 21/05026/ADFULL, , No use shall take place until the following plan has been submitted to and approved in writing, by the City Council as local planning authority in liaison with Transport for London:-, b) Delivery and Service Plan, c) Travel Plan, these documents should detail the traffic impact resulting from construction vehicles and ongoing delivery and servicing vehicles on Marylebone Road (part of the Strategic Road Network) as well as details of a travel plan to encourage sustainable modes of transport. You must then carry out the development in accordance with the approved details.

Reason:

In order to appropriately manage any potential adverse effects on the strategic road network as requested by Transport for London.

- 22 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. , , This is unless you carry out the development in accordance with the details approved on 23.09.2021 under reference 21/05026/ADFULL.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 23 You must apply to us for approval of detailed drawings/details of:-, , a. a hard and soft landscaping scheme which includes the number, size, species and position of trees, shrubs, climbers and herbaceous plants. , , b. the soil or other planting medium, including composition, depth, volume and drainage in each of the different areas of soft landscaping. , , c. the green roofs to include construction method, layout, species and maintenance regime. , , d. irrigation and maintenance strategy, , You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 1 year of completing the development (or within any other time limit we agree to in writing). , , If you remove any

plants or find that they are dying, severely damaged or diseased you must replace them with plants of a similar size and species. You must retain and maintain the planting scheme in perpetuity in accordance with the approved irrigation and maintenance strategy.

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R30BD)

- 24 You must only use the premises or part of the premises for office use. You must not use them for any other purpose, including for any other use within Class E, Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any equivalent class in any order that may replace it).

Reason:

To protect neighbouring residents from noise nuisance, avoid blocking surrounding streets, to ensure that sustainable transport modes are used, to prevent sensitive air quality receptors from occupying the site or uses that would have a significant adverse effect on air quality, policies 7, 25,28, 29, 32, 33, 38,39,40 of the City Plan 2019 - 2040 (April 2021).

- 25 You must put a copy of this planning permission and all its conditions at street level outside the building for as long as the work continues on site., , You must highlight on the copy of the planning permission any condition that restricts the hours of building work. (C21KA)

Reason:

To make sure other people in the building are fully aware of the conditions and to protect their rights and safety. (R21FA),

- 26 You must apply to us for approval of a scheme of public art as described in design and access statement., , You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details., , You must maintain the approved public art and keep it on this site. You must not move or remove it. (C37AB)

Reason:

To make sure the art is provided for the public and to make sure that the appearance of the building is suitable. This is as set out Policy 43(E) of the City Plan 2019 - 2040 (April 2021). (R37AC)

- 27 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

## Reason:

To maintain the character of the setting of the Conservation Area as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021) and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AD)

- 28 The slated plant screen to the mansard, must be carried out in accordance with the details indicated on the drawings approved as part of this development. (C26UB)

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 29 Notwithstanding the approved drawings, you must apply to us for approval of detailed drawings of the following parts of the development: , 1) Elevational sections through a typical bay showing construction and detailed design of the component parts, including masonry, windows, window reveals; , 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 30 Notwithstanding the approved drawings, you must apply to us for approval of detailed drawings of the following parts of the development: ,  
 1) Full details, including elevations and sections of the mews buildings and both street facades, including masonry, windows, window reveals;  
 2) Full details, including sections of the green roof to show soil building up and any necessary mechanical equipment and any works to boundary wall to integrate the green roof or parapet; ,  
 3) Square off the lightwell adjacent to the new entrance gates and include an open section to left hand side of the entrance path (so that the path over the lightwell is open to either side);  
 4) New window to be resized and have a window with obscured glazing, if necessary, ,  
 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 details. (C26DB),

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 31 You must apply to us for approval of samples /specification of the facing materials you will use, including glazing, with elevations and roof plans annotated to show where the

materials are to be located. The samples must include brickwork panels showing brick type, bond and pointing (colour, texture, finish) for the rear extension. , , You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials.  
(C26BD)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 32 Notwithstanding the approved drawings, you must apply to us for approval of detailed drawings of the following parts of the development: ,
- 1) Sections through new windows on original buildings showing relationship to brickwork reveal, joinery and opening profiles; ,
  - 2) Front entrance screen, including signage;
  - 3) Rear gates to vehicular entrance (design; materials; colour);
  - 4) New lightwells; railings; glass balustrades;
  - 5) Design, material and finish of decorative metal work to window openings;
  - 6) Any external rain/waste water goods;
  - 7) Vents; grilles; flues; alarms and external plant.

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 details.  
(C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 33 The biodiverse roofs on the "Mews" building and main building shall not be accessible for general use and shall only be used when carrying out maintenance work and for escape purposes.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 34 The surface to the service yard shall not be cobbles or noise generating material, but shall be constructed of a smooth material.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

- 35 You must apply to us for approval of a final Operational Management Plan for the use of

- the building. It should include, but not be limited to:- ,
- o Hours of use of the building ,
  - o Pedestrian Access and Egress Arrangements via Marylebone Road and Wyndham Street only (including the office mews building),
  - o Use of doors to Knox Street and Office Mews Building to Knox Street and Wyndham Street for fire escape purposes only /fire evacuation details and meeting point/s/Fire strategy,
  - o Smoking area limited to Marylebone Road,
  - o Control of dropping off/picking up/courier deliveries - All directed to Marylebone Road,
  - o Security control for cyclists ,
  - o Contact details for complaints,

The use of the building/s must not commence operation until we have approved what you have sent us. You must then operate the use of the building in accordance with the approved Plan at all times.

Reason:

In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)

#### **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 This permission is governed by a Deed of Variation of the original legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:-, 1. Grant conditional permission, subject to a S106 legal agreement to secure the following obligations:-, , a) Employment and skills contribution of £45,211.95 index linked and payable on commencement of development., , b) Highways works associated with and required to facilitate the development including but not limited to amendments to vehicular access and relocation of on-street car parking bays., , c) Carbon Off-set payment of £197,505 index linked and payable on commencement of development., , d) Monitoring costs
- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and

there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering). (I54AB)

- 4 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
  
- 5 The term 'clearly mark' in condition 12 means marked by a permanent wall notice or floor markings, or both. (I88AA)
  
- 6 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme, please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).
  
- 7 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) to make sure that you meet all the requirements before you draw up contracts for demolition and building work. , , When a contractor is appointed, they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974)., , British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.
  
- 8 Under the Construction (Design and Management) Regulations 2015, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following: , , \* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible; , , \* This not only relates to



the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant., , Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm). , , It is now possible for local authorities to prosecute any of the relevant parties with respect to non-compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.

- 9 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained., Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following: , \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings; , \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase; , \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained, \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary, \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.
- 10 Working at height remains one of the biggest causes of fatalities and major injuries. You should carefully consider the following. , \* Window cleaning - where possible, install windows that can be cleaned safely from within the building. , \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained. , \* Lighting - ensure luminaires can be safely accessed for replacement. , \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission). , More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/toolbox/height.htm](http://www.hse.gov.uk/toolbox/height.htm), , Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)
- 11 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

- 12 You must ensure that the environment within a workplace meets the minimum standard set out in the Workplace (Health, Safety and Welfare) Regulations 1992 with respect to lighting, heating and ventilation. Detailed information about these regulations can be found at [www.hse.gov.uk/pubns/indg244.pdf](http://www.hse.gov.uk/pubns/indg244.pdf). (I80DB)
- 13 It is a legal requirement to ensure that every enclosed workplace is ventilated by a sufficient quantity of fresh or purified air. Where this ventilation is provided by mechanical means the regulations require those mechanical ventilation systems to be maintained (including appropriate cleaning) in efficient working order. , B&ES Guide to Good Practice - TR19 Internal Cleanliness of Ventilation systems is a guidance document which can be used for new build, upgrade and maintenance of ventilation systems. Particular attention should be given to ; , Section 2 - New ductwork system cleanliness , Section 3 - Design and access to the internal surfaces of the ventilation system , Section 7 - Specific considerations for kitchen extract systems. (This section deals specifically with access to the internal surfaces to the kitchen extract system, cleaning methods and frequency of cleaning). , Where access hatches or panels are required in order to meet the above requirements, these must be incorporated into the design of the ducting and any associated screening or cladding.
- 14 You must ensure that the planters provide sufficient soil for the proposed number and size of plants and that the plant species selection is designed to increase drought tolerance and reduce reliance on automated irrigation.
- 15 The developer is requested to encourage occupiers of the building to use their best endeavours to encourage the use of electric servicing vehicles.
- 16 The developer is requested to discourage the operator from allowing office workers from receiving personal deliveries on site.
- 17 The Developer is encouraged to undertake positive community liaison through the Code of Construction Practice process.

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.

# Agenda Item 5

Item No.

5

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 12 July 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>31 Grove End Road, London, NW8 9LY</b>		
<b>Proposal</b>	Excavation of basement and new landscaping to front and rear gardens. Refurbishment of existing house, demolition of the north side wing and its rebuilding as a 3 storey addition, raising of the height of the flat roof to the side south wing, rear extension at lower ground floor, rear and side dormers and other external alterations.		
<b>Agent</b>	Brooks Murray Architects		
<b>On behalf of</b>	Mr Simon Firth		
<b>Registered Number</b>	21/05628/FULL	<b>Date amended</b>	18.5.2022
<b>Date Application Received</b>	13 August 2021		
<b>Historic Building Grade</b>	Unlisted building of merit but No 31a Grove End Road is Grade II listed and 44 Grove End Road on the opposite side of the road.		
<b>Conservation Area</b>	St John's Wood		
<b>Neighbourhood Plan</b>	N/A		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

The application proposes the excavation of a basement under the main house, part of front garden and rear gardens , rebuilding the existing two storey side extension (north wing) with a three storey addition , a single storey rear ground floor extension , rear and side dormers and other external alterations including raising the height of the south wing. This is an unlisted building of merit within the St John's Wood Conservation Area . A car lift is also proposed off the existing private access road to the side of the house in the rear garden which will serve the basement garage for 2 cars , the new basement also contains additional accommodation including a swimming pool, cinema, gym and plant room.

Objections have been received from the St John's Wood Society on overdevelopment grounds and the proposed basement and side extensions are not policy compliant . Objections have been received from adjoining residents including one objection on behalf of six leaseholders in the adjoining block, Neville Court .The objections relate to the proposed works not being policy compliant and that they will will have an adverse impact of the proposal on this unlisted building of merit, the loss of residential amenity , loss of trees, structural concerns and the impact of construction.

The key considerations in this case are:

- The acceptability of the proposed extensions and basement in terms of the Council's adopted policies 38,39,40 and 45.
- The impact of the proposed extensions and alterations on the host building , the character and appearance of the St John's Wood Conservation Area and the setting of other nearby designated heritage assets, including the grade II listed studio building at the rear .
- The impact on the amenity of neighbouring residential properties in terms of loss of light, enclosure, privacy and noise from plant .
- The acceptability of the quantum of car parking proposed.
- Impact of the proposed works on existing trees, the removal of two trees and whether the proposed new landscaping to the front and rear gardens is acceptable

The revised application to demolish the two storey side wing and replace it with a three storey wider extension is considered acceptable in design and conservation terms. The new extension will sit below the eaves height and whilst there will be some loss of the townscape gap, it is not considered to be so harmful to warrant refusal. The proposed single storey rear addition is a modest addition, and the other external alterations including the rear and side dormers and marginally increasing the height of the south side wing are considered acceptable .The proposed works will not harm the setting of the listed studio building at the rear and will preserve the character and appearance of this part of the St John's Wood Conservation Area. It is not considered that the proposed extensions will result in a material loss of amenity to adjoining flat owners in Neville Court , Grove End Gardens or to the studio building at the rear.

It is recognised that the proposed basement is large, but this house sits on a good sized plot and the basement does not cover more than 50% of the garden area . It is single storey , albeit part is deeper in the part of the front garden which is to house a swimming pool. There is a margin of undeveloped land and soil depth above it , and the front and rear gardens will be landscaped including four new trees to replace the two mature trees being removed.

The removal of the front garden parking is welcomed, and the re-landscaping of this garden is an improvement . A car lift is proposed to serve the two off street parking spaces and the reduction in parking is welcomed by the Highways Planning Manager . Air Source Heat Pump is proposed, and the works will improve the thermal efficiency of this house and measures such as rainwater harvesting tanks and permeable paving to address the sustainability and flood risk policies . It is not considered that the proposal represents an overdevelopment of the site .The application is being recommended for conditional approval .

3. LOCATION PLAN



4. PHOTOGRAPHS

Front elevation



Rear elevation and garden cabin fir tree to be removed



## CONSULTATIONS

### 4.1 Application Consultations

WARD COUNCILLORS FOR ABBEY ROAD: Any response to be reported verbally.

ST JOHN'S WOOD SOCIETY : Objection. Welcome the improvements made compared to the previous withdrawn scheme .However the amended scheme represents an overdevelopment of the site. Basement and side extensions not in compliance with Council policies. Request that Arboricultural Officer reviews the proposal .

HIGHWAYS PLANNING TEAM ; No objections to the reduction in car parking, request cycle parking, and proposed changes will result in existing crossovers being redundant.

BUILDING CONTROL :No objection.The submitted Structural Method Statement, Structural Drawings and Calculations are compliant and accepted. The Site Investigation shows a London Clay foundation soil. Ground water was encountered. Flood risk is minimal.

- The new basement construction will comprise typical RC retaining walls underpinning, contiguous piled retaining walls, RC lining walls and RC ground bearing slabs. Waterproofing and heave shall be considered in the design. The works are done in sequence. Temporary supports are used during excavations.
- The structural impact and movements on the adjacent building are expected to be within acceptable limits. The scheme is justified structurally, and the proposal is viable. From the preliminary structural information provided at this stage, the consulting engineer is of sufficient experience to give us confidence that all such alterations will address our usual concerns, sufficient detailed structural analysis and design information to be submitted at later stages.

ARBORICULTURAL SECTION – No objection subject to conditions.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 378

Total No. of replies: 3 (one letter on behalf of six long leaseholders of Neville Court and submitted Heritage Report)

No. of objections: 3

No. in support: 0

- Design
- The proposals to add a spurious and ahistorical symmetry on No 31 would diminish its architectural character and harmfully alter its appearance in the Conservation Area. The Audit notes the characteristic value of wide gaps between the properties, by extending the side extension hard up to the edge of the driveway and raising its height under the eaves would harmfully encroach upon the important and characteristic gap in the urban grain .Diminish the sense of relief in the historic townscape and reduce the view towards the back land plots, mature trees and greenery.
- The rear extension , the creation of car lift , lightwells and rear rooflights would be visible from a limited area of the public realm and compound the erosion of the historic character of the plot and harm its appearance in the street .



- The proposal would substantially affect the main significant view of the house and its historic contribution to the conservation area.
- The proposal will substantially enlarge the mass and visual dominance of No 31 in the street scene and particularly adjacent to the boundary with No 31a Grade II listed.
- Proposal does not meet many of the criteria for the good design of alterations and extensions contrary to the council's adopted policies . Disagree with the applicant's Heritage Assessment , the proposal will cause less than substantial harm to both the non-designated heritage assets and harm to the setting of the listed building . No public benefits are being secured.
- Proposed basement fails to comply with policy as garage, car lift and store will be 3.6m below the original floor height and the swimming pool result in excavations more than 4.4.m

#### Amenity

- Overlooking and loss of privacy to residents in Neville Court
- Loss of light to residents in Neville Court because of the rear extension and increased sense of enclosure.
- Object to further construction work as residents in Grove End Gardens already affected by the works taking place at No 33 .Residents will be subjected to high levels of noise over a long period .Residents working from home and will be adversely affected and request that the permitted times for construction be limited to 10 am to 5p.m weekdays and weekends

#### Trees

- Loss of a 15 m high mature fir tree which makes a significant contribution to the locality and the conservation area and visible from surrounding properties from Grove End Road.
- Tree also provides important amenity protection to the existing bedroom windows in Neville Court
- Strongly resist the loss of this tree and if the Council is minded to approve request that it is replaced with a similar scale and height as existing to protect resident's amenity
- Swimming pool plant located adjacent the boundary wall/dining room and the proposal could give rise to unacceptable noise impacts contrary to national and local policy.

#### Other Matters

- Request that the Council has sufficient information and to thoroughly analysed this information to demonstrate that the proposal will not result in any structural instability to Neville Court, because of the heat differential from heating the swimming pool .
- Swimming pool is likely to result in unacceptable noise impacts

#### SITE NOTICE:

Yes

#### Revised Scheme

HISTORIC ENGLAND ( as the proposal affects the setting of a listed building) ; To be reported verbally

ST JOHN'S WOOD SOCIETY : Any response to be reported verbally.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 10  
Total No. of replies: 0  
No. of objections: 0  
No. in support: 0

Any responses will be reported verbally.

#### **4.2 Applicant's Pre-Application Community Engagement**

There has been no pre-application engagement on this householder application with adjoining residents. This is regrettable ; however, it is not a ground to refuse planning permission for a development of this nature.

### **5. WESTMINSTER'S DEVELOPMENT PLAN**

#### **5.1 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.

#### **5.2 Neighbourhood Planning**

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

#### **5.3 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. THE PROPOSAL

This proposal seeks approval for a number of alterations and extensions to this house . It is proposed to excavate a basement under the footprint of the existing house, part of the front garden and rear garden to provide additional residential accommodation . The proposed basement will accommodate a swimming pool, gym ,games room and cinema room as well as new plant and a garage for two vehicles. The garage will be served by a car lift located in part of the rear garden accessed from the private access road, which is within the red line of the application site .

The existing timber cabin in the rear garden and outbuilding will be removed and the garden landscaped .Four new trees will be planted ,and two trees a 15m high tall Fir tree ( T003) and a 9.5 m high bay tree ( T004) will be removed .The existing front garden which is currently used for off street parking will also be landscaped .

The existing rear extension will be demolished and replaced with a new single storey extension .Juliette balconies are shown at rear raised ground floor level .Rear and side dormers are proposed . In respect of the extensions to the side of the house .It is proposed to raise the height of the existing three storey addition by 15cm .Other external alterations proposed include new windows, and boundary treatment .

The application has been amended on officer advice and has been subject to a second round of consultation . The Lower ground extension has been reduced along with the size of basement rooflights, other changes to the elevations and boundary wall treatment.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

It is accepted that this proposal adds additional floorspace to an existing house increasing the existing area from 426 sq. m to 768 sq. m .However , extensions to this large family house is in accordance with policy 8 in the City Plan . It is not considered that this proposal represents an over development of the site, as this is a fairly good sized plot and the majority of the new space is being created at basement level . Therefore, the objection raised by the St John's Wood Society cannot be supported ion this instance .

### 8.2 Environment & Sustainability

#### Sustainable Design

A sustainability report has been submitted with this householder application.

#### Energy Performance

The proposal includes the provision of an Air Source Heat Pump in the basement which accords with policy 36 and the advice in the Environmental SPD. The proposal also

includes the replacement of the existing roof as the existing roof is uninsulated and in a poor state of repair . New double glazed windows are also proposed which will increase the thermal efficiency of this house.

**Circular Economy**

Not applicable for this householder application

**Flood Risk & Sustainable Drainage**

This site is located with Flood Risk Zone 1 and outside a Surface Water Hotspot .The applicant has submitted a Flood Risk Assessment , and the proposal will comply with Policy 35. Flood risk and the ESPD . The applicant’s initial SuDS review show that the greening and the landscaping strategy will result in improved drainage through a reduction in impermeable surfaces and introduction of rainwater harvesting . These measures together with the use of permeable paving , will be secured by condition and accord with policy.

**8.3 Biodiversity, Greening and Landscaping**

The Arboricultural Officer raises no objections to the removal of the bay tree Objections have been raised by neighbours to the loss of the mature fir tree in the rear garden. It is recognised that this mature tree does provide screening to the residents in Neville Court and the tree is visible from street views and surrounding properties . The applicant’s Arboricultural consultants have undertaken investigations for the rooting environment of the fir tree which needs to be removed to make way for the proposed basement .The Arboricultural Officer advises that whilst it is regrettable to lose this tree , a cork oak is proposed as a replacement in the same location and on balance it would be difficult to sustain an objection .

The Arboricultural Officer recommends a pre-commencement condition for a final method statement regarding the protection of the existing trees , together with landscaping condition . The proposal to re-landscape the front and rear gardens are welcomed, and the proposal therefore accords with policy 34 and will enhance the Conservation Area .

The objectors have requested that any replacement tree for the fir tree must be the same size as the existing . It is not considered reasonable to require this. The landscaping condition will secure the species and size of the replacement trees.

**8.4 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.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in 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 consider the relative significance of the affected asset and the severity of the harm caused.

### **Bulk, Height & Scale of Proposed Extensions**

#### **Side Extensions**

Objections have been raised to the principle of the new 3 storey side extension in terms of the loss of the townscape gap and its adverse impact on the appearance of the host building, this part of the conservation area and the setting of the listed studio . The existing 2 storey side extension is a relatively slender addition projecting 1.75m from the side elevation with railings on its flat roof .The revised proposal is to replace this addition with a larger addition sitting just below the eaves level and a wider projection of 2.3m .There will remain a gap at the side of the house with the access road, and this will be appreciated in street views .

In terms of its height, whilst extensions raising to the top floor level are not normally acceptable, in this circumstance with an existing much wider 3 storey extension to the other side of the house , and the fact that the existing house is set between two much larger mansion blocks ,the proposal is considered acceptable. There is a small loss of the townscape gap, however the proposed extension is set back from the boundary, and it is not considered that this proposed extension would be visually dominant to result in such degree of harm to the designated heritage assets to warrant refusal of permission.

#### **Rear Extension**

Despite the objections received, the proposed lower ground single storey extension is considered acceptable in terms of its footprint, design and use of materials . It will be in keeping with the host building, and it will preserve the character and appearance of this

part of the conservation area.

### **Dormers at roof level and other external alterations**

The proposed side and rear dormers are considered acceptable in design terms, and whilst the flank of the side dormer will be visible from street views, its size and proportions are considered appropriate for the hipped roof form .

The proposed external manifestations (rooflights) associated with the basement are considered to be relatively discrete and will not unduly clutter the building and its garden setting .There are no objections to the removal of the cabin from the rear garden and the landscaping of the rear garden . The car lift structure is a feature of some size , but it will not have structures rising above the adjoining garden level. In use it will sink down to the basement parking area and when not in use it would be retained flush with the garden grounds, and this will be secured by condition .An appropriate finish to the lid of the car lift will help to harmonise it into the garden and will be secured by condition.

The introduction of a car lift in this location is considered acceptable as it is located at the side with access off a private road and allows greater landscaping in the front garden.

The proposal to raise the height of the existing three storey side extension by approximately 150mm is considered acceptable. The other external changes to the windows , front entrance porch and the boundary treatment are acceptable . Therefore, despite the objections received the proposal will comply with policies 38,39 and 40 in the City Plan.

### **Basement**

Objections have been received on the grounds that the basement is not policy compliant under policy 45 .

In respect of Part A of the policy , the application is accompanied by a structural statement which has been reviewed by Building Control who are satisfied with the approach. The proposal is not considered to represent a flood risk with measures to address surface water and sewerage flooding .

The applicant has agreed to the Council's Code of Construction Practice, and this will be a pre-comment condition .

In respect of the protection of heritage assets, it is not considered that the proposed basement will unbalance the original hierarchy of spaces in this house , or adversely affect the setting of the Grade II listed studio building at the rear .The associated external manifestations to serve the proposed basement are considered acceptable in terms of their detailed design and the proposals to landscape the front and rear garden areas.

In respect of the extent and depth of the proposed basement under Part B of policy 45 . It is recognised that the proposal basement occupies a significant proportion of the new floorspace . Policy 45 advises that new basement developments must not extend more than 50% of the garden land . In working out this calculation garden land means the site

area excluding the footprint of the original building ( as existing on 1 July 1948 in this particular case) .The site area which includes the driveway is 737 sq. m and the house occupies 162 sq. m =575 sq. m and so the maximum will be 287 sq. m plus the footprint of the house 162 sq. m .Therefore the total area would be 449 sq. m and the proposal is 391 sq. m which is less than 50% and complies with policy 45 (B) part 1 .

The basement must leave a margin of 0.5-2.m of undeveloped land around all the site boundaries .Adjacent Neville Court is 0.5m and 0,6m at the boundary with No 31 a but elsewhere the margins are more than the policy requirement . An appropriate soil depth is proposal in accordance with policy. 45 B part 2 .

Objections have been raised to the depth of the proposed basement . It is recognised that under part of the rear garden there is greater soil depth above the new basement will houses the underground garage , but the internal floor to ceiling height is considered appropriate . In the front garden , there is greater depth to accommodate a swimming pool , but the proposal remains a single storey basement and accords with part 3 of the policy . There is adequate soil depth above the garden and complies with part 4. Part 5 of the policy which relates to basements under the highway does not apply in this instance .

A condition is proposed to require submission of land contamination reports before works start on the proposed basement to address the risk of Radon exposure.

**Fire Safety**

Not applicable for this householder application.

**Impact on Heritage Assets**

As set out above, the proposed extensions and alterations will not affect the setting of the Grade II listed studio at the rear or affect the setting of other listed buildings in Grove End Road . The proposal complies with polices 39 and 40 in the City Plan.

**Archaeology**

Not applicable

**8.5 Residential Amenity**

**Daylight & Sunlight**

The proposed additional floor to the rebuilt 3 storey side extension will not result in any material loss of light to the windows in the side elevation of Grove End Gardens .The proposed extension will not breach the BRE 25 degree angle of obstruction when measured from neighbouring windows .It was evident from the site visit that the large glazed windows in the side elevation serve a stairway which is not a habitable room The other smaller windows next to the stairwell are understood to serve bathrooms, which are non-habitable rooms .

It is not considered that the proposed extensions will have any impact on daylight and sunlight to the listed studio building at the rear due to the distance which separates the



properties .

In respect of Neville Court , there are several windows in the side of this block which face onto the rear garden . These windows at the lower level are affected by the existing rear extension along the boundary and large fir tree in the rear garden of No 31 .

The proposed rear extension at lower ground floor level is approximately 5.6 m away from these windows , and therefore is not considered to result in any material loss of daylight to these east facing windows .

It is not considered that the proposal to increase the height of the parapet of the existing 3 storey extension by 150mm will affect light to these flats .

The proposal therefore complies with policies 7 and 33 in the City Plan .

### **Sense of Enclosure**

It is recognised that the new 3 storey side extension will result in a small increase in enclosure to Grove End Gardens , but the windows affected serve non habitable spaces. It is not considered to result in any material harm .There will be no sense of enclosure to the studio building , as the rear extension is approximately 14.5 m away .

In respect of Neville Court , the existing buildings in the rear garden will be removed , and this will open the aspect. It is understood that these neighbouring windows at the rear of this block serve bedrooms .The new single storey rear extension is 5.6m away and projects 2.7m into the garden , and therefore is not considered to result in a material increase in enclosure to these residents .It is recognised that the existing evergreen fir tree given its size ( which is to be removed) offers a screening to these flats, and its removal will open up views into the rear garden of No 31 . The removal of this tree is dealt with elsewhere in this report.

### **Privacy**

Objections have been received on behalf of the residents in Neville Court on loss of privacy/overlong from the two rear Juliette balconies on the main rear elevation above the new extension . There are already two existing balconies at the rear one with stairs leading into the garden, albeit the balcony closest to Neville Court does not have a door access and just a window above .As the proposed new balconies will be in the same position and following the site visit , whilst it is recognised that the new balcony closest to Neville Court will permit sitting out , given its size and position , it is not considered to result in a material loss of privacy to neighbours.

There are no objections to the rear dormer from an overlooking point of view.The proposed dormer to the side looks onto the flank elevation of Grove End Gardens and given these windows served non-habitable rooms, it is not considered to result in a loss of privacy to these residents , and the existing small terrace on top of the existing side extension will be removed .The proposal therefore complies with Policy 7(A) and 33

### **Noise & Vibration**

The proposal involves the creation of a car lift and includes plant in the basement and

therefore there is potential for this plant to cause noise and disturbance to neighbours . The ASHP is internal in the new basement and therefore unlikely to result in noise and disturbance to nearby residents .The car lift is hydraulic and again unlikely to cause noise disturbance whilst in operation . However , it is recommended to impose standard noise and vibration conditions to safeguard the amenities of neighbours in accordance with policies 7 and 33 .

## **8.6 Transportation, Accessibility & Servicing**

### **Highway Impact**

The access road to the side of the house is a private road and there are no objections to the formation of a car lift from a highway safety point of view . There is vehicle turntable in the basement garage .

There are two existing crossovers facing onto Grove End Road, one crossover next to Neville Court will now be redundant and the applicant has agreed to pay for the pavement to be reinstated and this will be done under the Highways Act .

### **Waste & Recycling Storage**

New storage is proposed, and this will be controlled by condition in accordance with policy 37(B)

### **Cycling & Cycle Storage**

The proposal includes a boot and bike room located under the external stairs and the porch and can accommodate 4 cycles .This level of secure cycle storage accords with policy 25.

### **Parking**

The proposal which includes 2 off street car parking spaces in the basement car park is a net reduction compared to the existing situation as the front garden has been used for parking up to six cars .The previous owner of the house operated a chiropractor business from the garden studio .

The Highways Planning Manager raises no objections as the proposal as it complies with policy 27.

## **8.7 Economy including Employment & Skills**

It is recognised that the proposal will create jobs during the construction period .

## **8.8 Other Considerations**

None.

## **8.9 Environmental Impact Assessment**

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

### 8.10 Planning Obligations & Pre-Commencement Conditions

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

The estimated CIL payment is:£171,000 although exemptions may apply.

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.

During this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development and tree protection measures and a land contamination condition in respect of the proposed basement in respect of radon . The applicant has agreed to the imposition of these conditions.

## 9. Conclusion

Whilst recognising the concerns raised by the objectors , the proposal in their amended form is considered acceptable in design, conservation, sustainability and amenity terms. The proposed extensions and basement do not adversely affect the appearance of this house ( an unlisted building of merit) , or the designated heritage assets of the conservation area , or the setting of the listed studio at No 31, nor the setting of the surrounding non-designated heritage assets.

The proposed basement is large, but it occupies less than 50 % of the garden land. The application is recommended for approval and the recommendation is in line with the requirements of the NPPF and the statutory duties set out in Sections 16,66 and 72 of the Planning ( Listed Buildings and Conservation Areas ) Act 1990.

(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)

**10. KEY DRAWINGS**  
**Existing Front elevation**



ALL DRAWING DIMENSIONS SHALL BE MET UNLESS OTHERWISE SPECIFIED. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.

REV	AMENDMENT	BY	DATE
A	Drawings issued for main house survey	CM	12/11/2022

Brooks Murray Architects  
 110-115 Middle Road, Northfleet, Kent, ME16 9JG  
 +44 (0)1527 899925 architect@brooks-murray.com

**brooks murray**

CLIENT:  
 Simon Firth  
 31 Grove End Road

**Proposed front elevation**



ALL DRAWING DIMENSIONS SHALL BE MET UNLESS OTHERWISE SPECIFIED. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.

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**brooks murray**

CLIENT:  
 Simon Firth  
 31 Grove End Road

**Existing rear elevation**



Existing Rear Elevation  
1:100 @ A3

**Proposed rear elevation**



ALL RIGHTS RESERVED. THIS DRAWING IS THE PROPERTY OF BROOKS MURRAY ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BROOKS MURRAY ARCHITECTS.

REV	AMENDMENT	BY	DATE
A	Revision created to match label survey. CM 12.01.2022		

Brooks Murray Architects  
The Old Building, Foston Place, Not. SE1  
+44 (0)20 7700 9955 [enquiries@brooks-murray.com](mailto:enquiries@brooks-murray.com)

**brooks murray**

CLIENT:  
Simon Firth  
JOB:  
31 Grove End Road  
NW8 5LY

ALL RIGHTS RESERVED. THIS DRAWING IS THE PROPERTY OF BROOKS MURRAY ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BROOKS MURRAY ARCHITECTS.

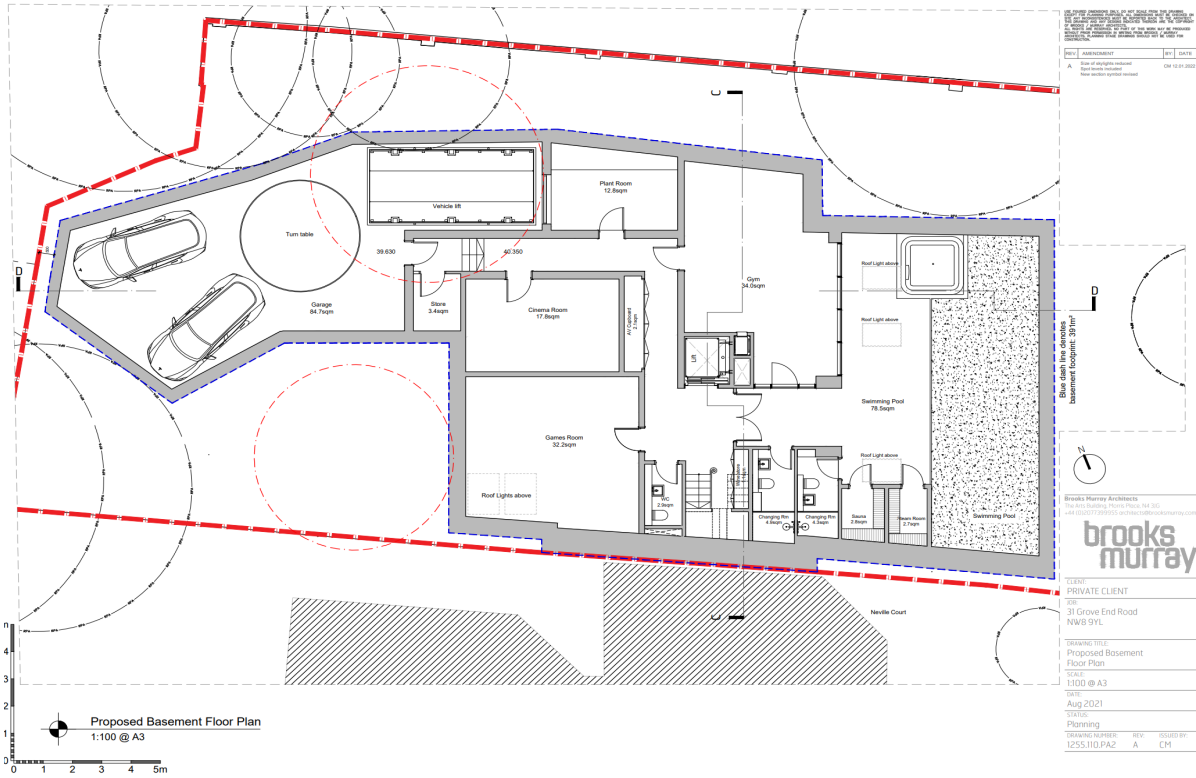
REV	AMENDMENT	BY	DATE
A	Revision created to match label survey. CM 12.01.2022		

Brooks Murray Architects  
The Old Building, Foston Place, Not. SE1  
+44 (0)20 7700 9955 [enquiries@brooks-murray.com](mailto:enquiries@brooks-murray.com)

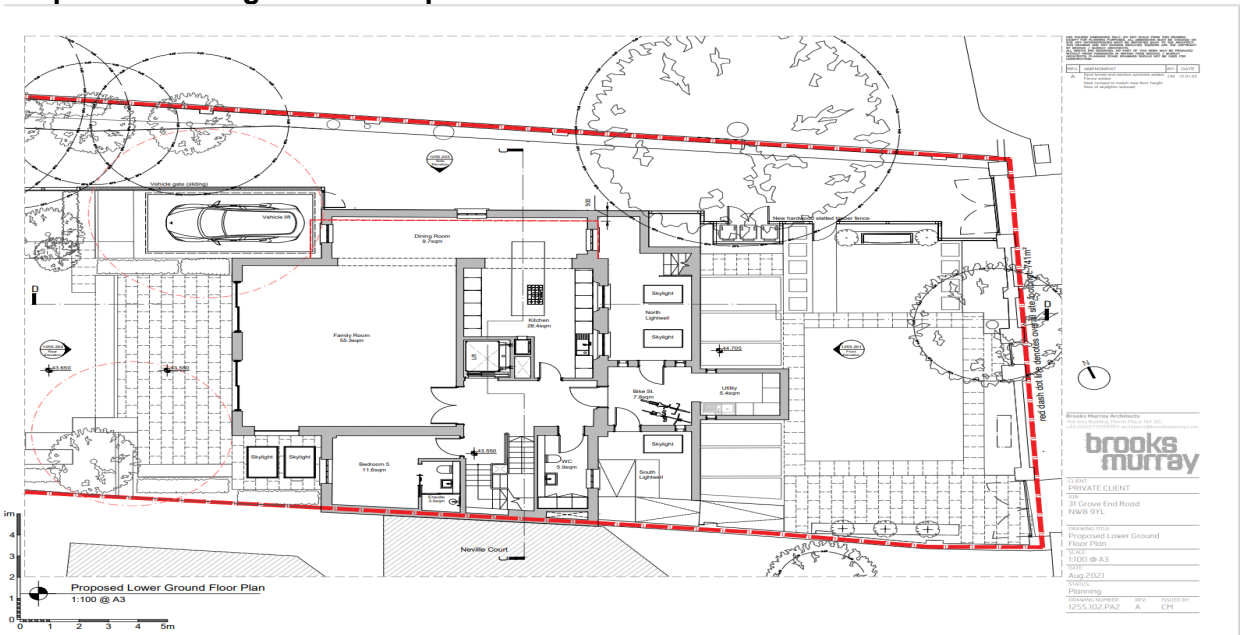
**brooks murray**

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NW8 5LY

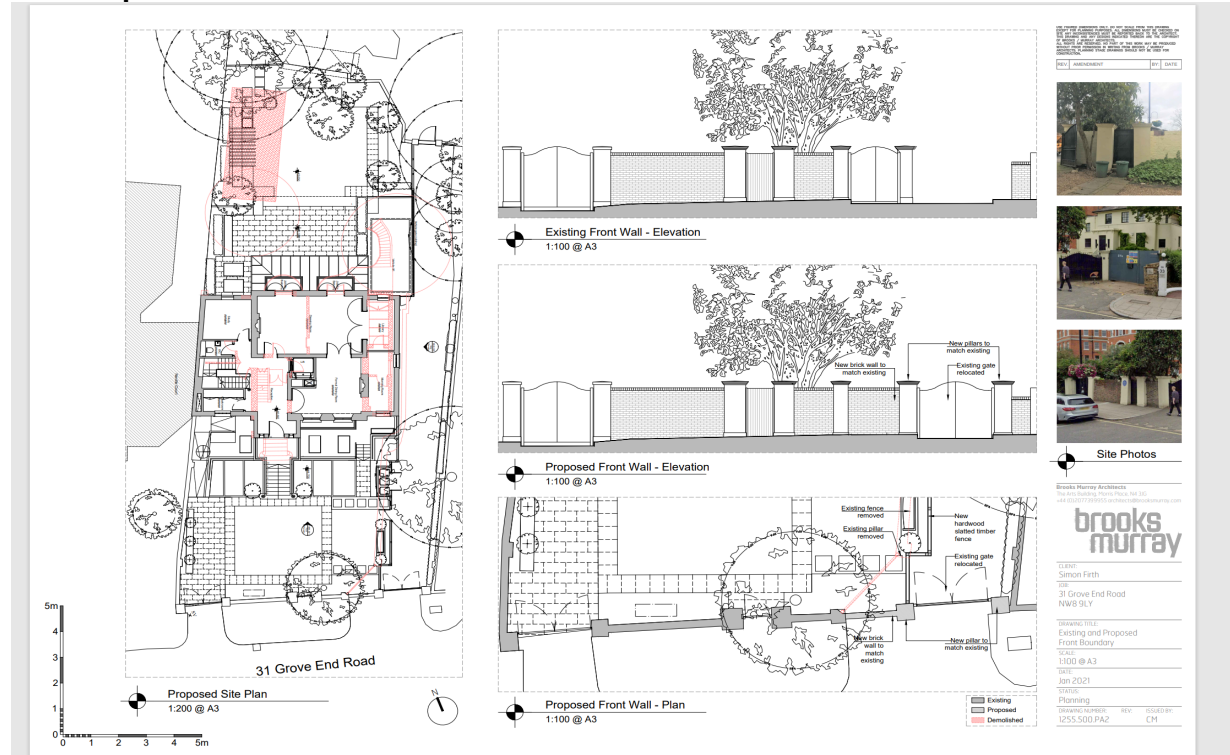
### Proposed basement plan



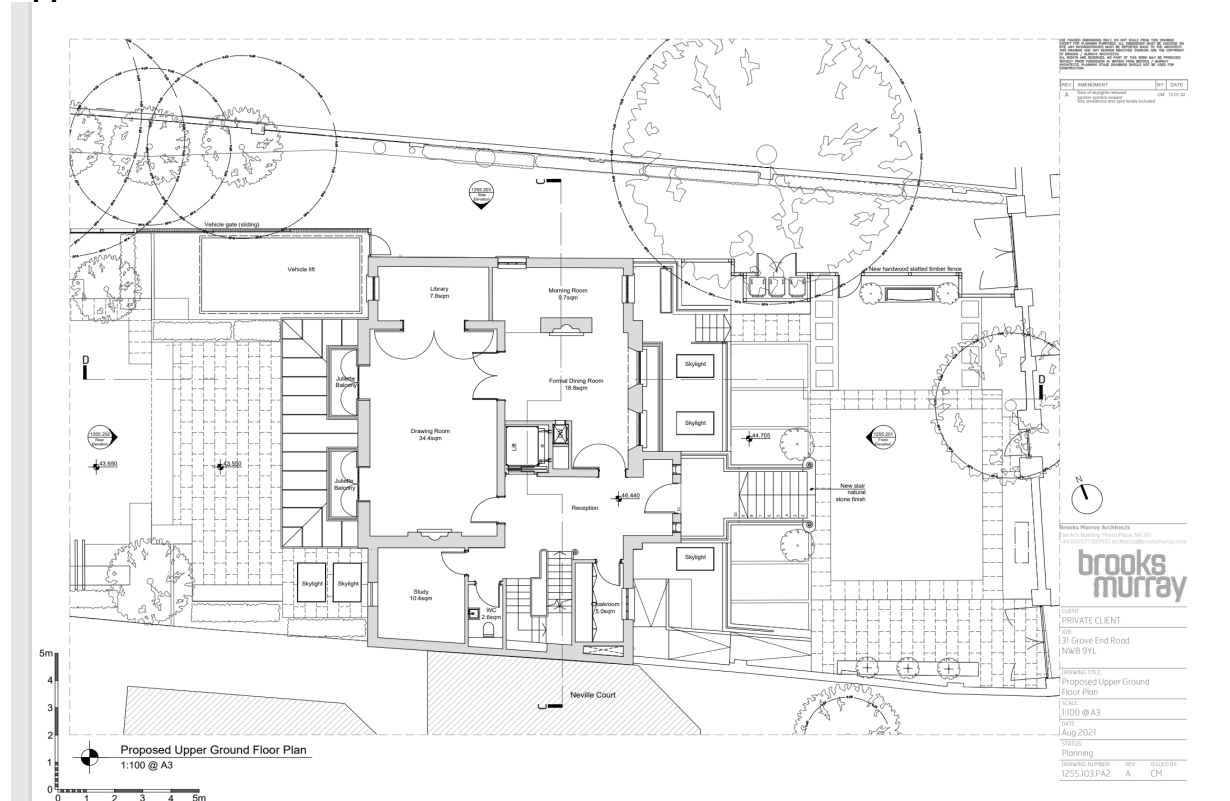
### Proposed Lower ground floor plan



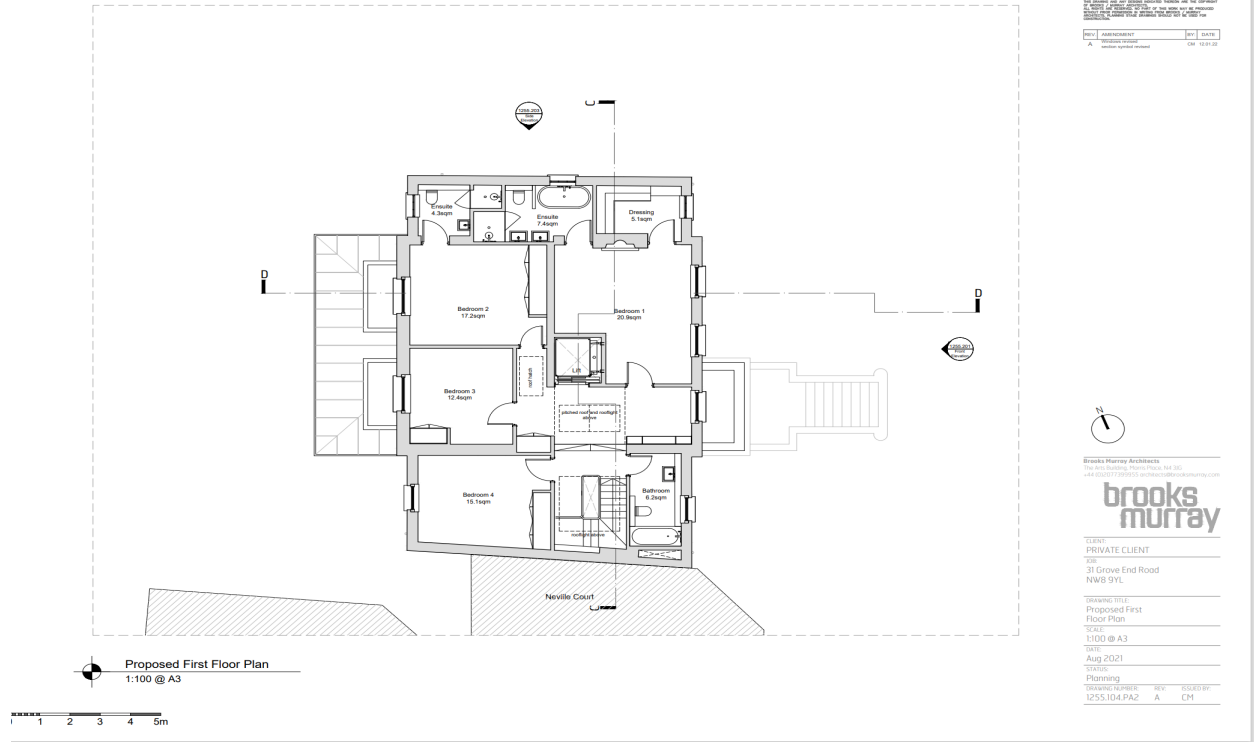
Garden plan



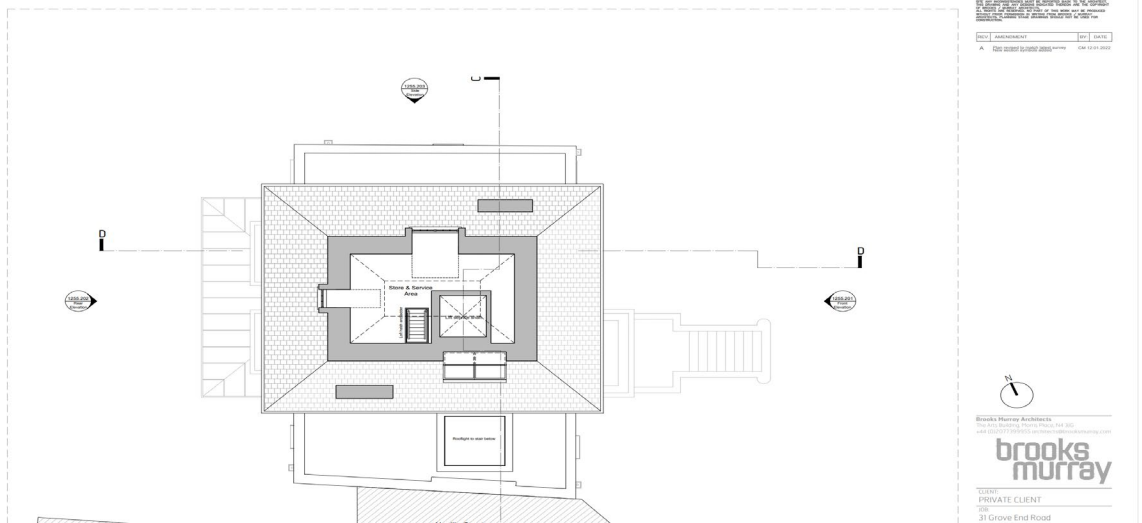
Upper Ground Floor Plan



### Proposed First Floor Plan

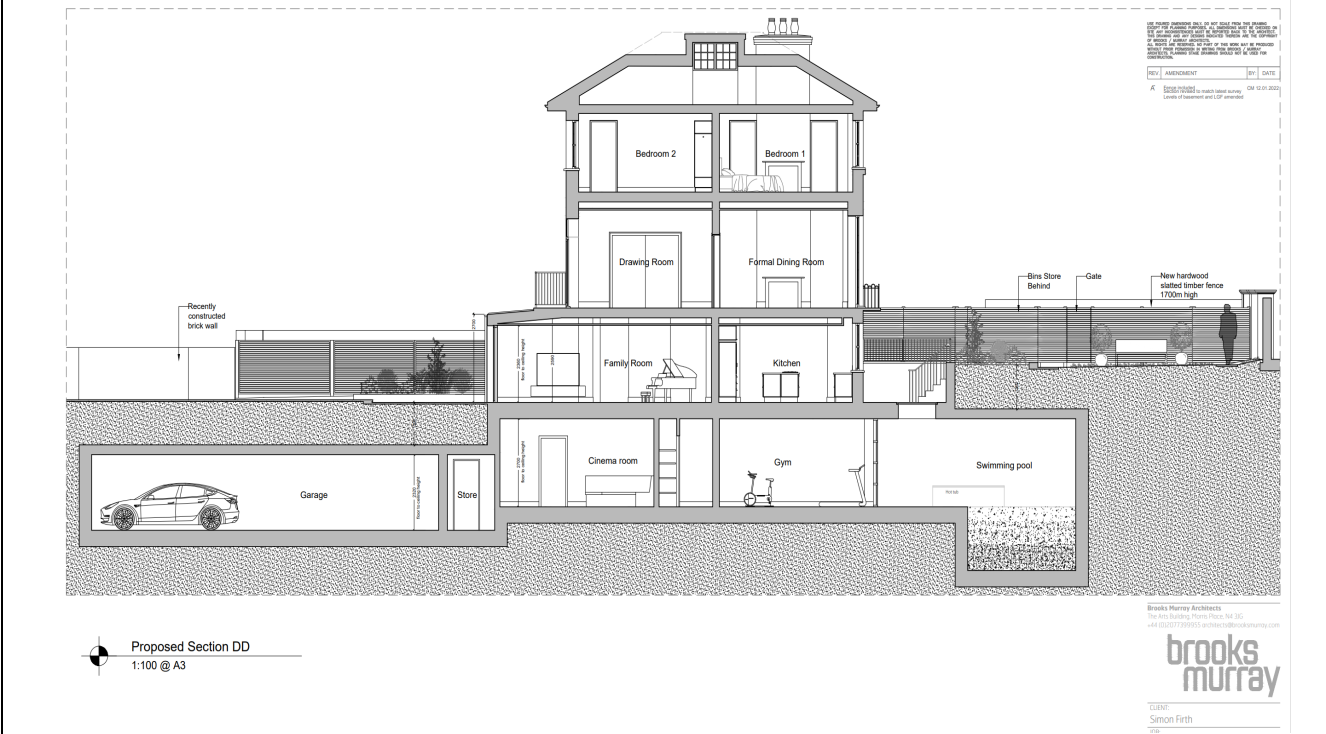


### Proposed Loft Plan

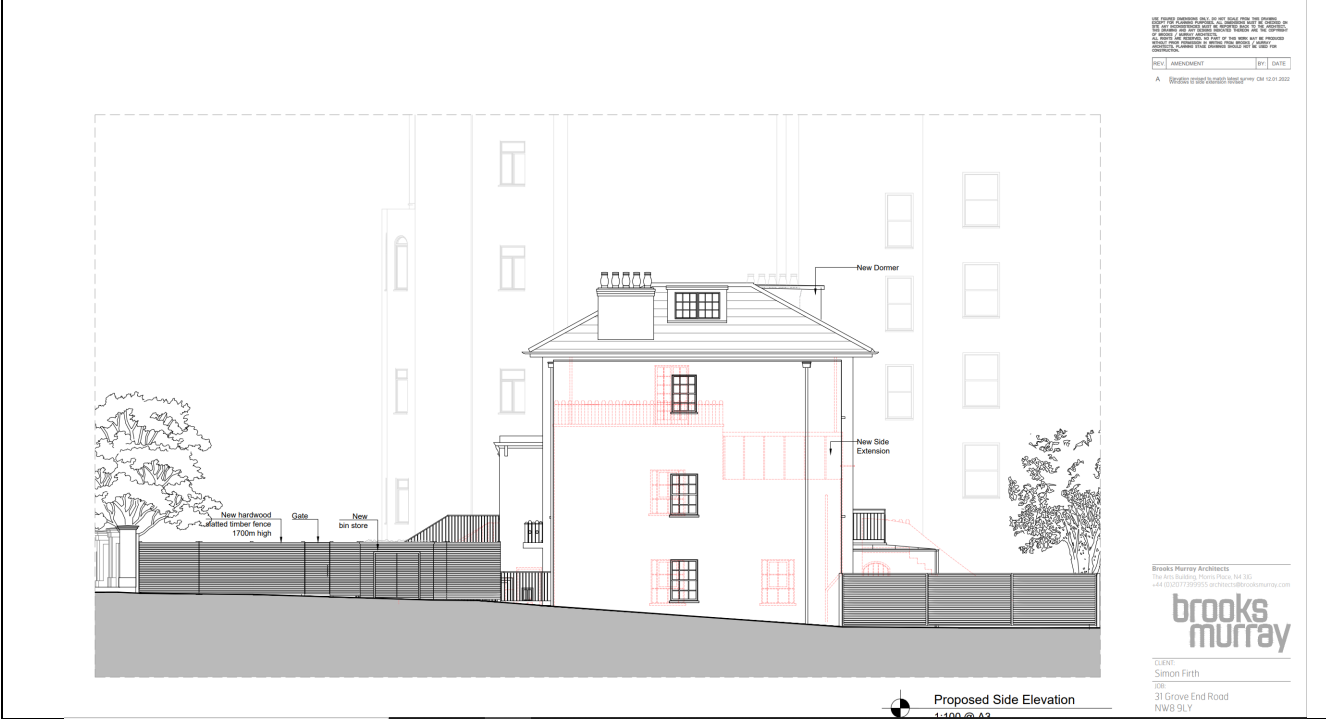




**Proposed section through basement**



**Proposed Side elevation**



**DRAFT DECISION LETTER**

**Address:** 31 Grove End Road, London, NW8 9LY

**Proposal:** Excavation of basement and new landscaping to front and rear gardens. Refurbishment of existing house, demolition of the north side wing and its rebuilding as a 3 storey addition, raising of the height of the flat to the side south wing, rear extension at lower ground floor, rear and side dormers and other external alterations

**Reference:** 21/05628/FULL

**Plan Nos:** 1255.001, 1255.010, 1255.011 A, 1255.012A, 1255.013A, 1255.014A, 1255.015A, 1255.021A, 1255.022 A, 1255.023A, 1255.031, 1255.032, 1255.033, 1255.034, 1255.050, 1255.051 B, 1255.052 B, 1255.05 B,

1255.101.PA2, 1255.102.PA2 A, 1255.103.PA2 A, 1255.104.PA2 A, 1255.105.PA2 A, 1255.106.PA2 A, 1255.110.PA2 A, 1255.201A, 1255.202.PA/PA2 A, 1255.203.PA A, 1255.301.PA2 A, 1255.303.PA2 A, 1255.500.PA2, 1255.DAS.PA2 J1486-2D-BIND-Z(001) p01, Design and Access Statement, Grove End Road Strategy for a Sustainable Development, Method Statement for the Proposed Single Storey Basement Version 2, Tree Survey, Arboricultural Assessment Revision E, Drainage Report J1486 Rev p05, Appendix A Checklist for the CoCP.

**Case Officer:** Amanda Coulson

**Direct Tel. No.** 020 7641  
07866037509

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , not at all on Sundays, bank holidays and public holidays. , You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and ,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 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 When the car lift is not being actively used to provide ingress or egress for a vehicle it should be in its closed position, and it shall be designed so as not to be capable of raising above the garden level adjoining

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 You must apply to us for approval of a plan drawing and photographs of samples of materials to show the proposed finish to the roof of the car lift structure to the rear garden. 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 and materials. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 6 The timber fence flanking the entrance road to 31a Grove End Road (as shown to drawings 1255.203.PA2A and 1255.103.PA2A) shall be erected in its entirety as an integral part of the application works and completed prior to the occupation of the building and retained in position thereafter according to the details shown to the application drawing. The fence shall comprise of painted or stained timber.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

(R26BF)

- 7 The solid rendered elements of the new extensions and alterations to the building shall be faced in smooth render which shall be painted and permanently maintained in a colour to match the existing render to the existing building

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 8 Notwithstanding the submitted drawings, you must apply to us for approval of detailed plan and section drawings showing the design for the new windows and external doors. The drawings shall be at scale 1:5 and 1:10 (as appropriate, and including break lines in the drawings if required) and the drawings for the windows must show the relationship of the framing to the window opening, the detailing of the glazing bars and the detailing of the meeting rails, and must confirm that the external window framing will incorporate putty detailing to match the size and profile of the existing putty detailing to the existing original windows to the building, and not timber beading, and shall also show the glazing bars as integral features of the framing of the windows and projecting seamlessly through the panes of glazing. 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 9 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within three years of planting them, you must replace them with trees of a similar size and species. (C30CC)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the St John's Wood Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 10 The new sash windows shall operate in a vertically sliding manner only. The timber framing (and putty detailing as appropriate) to the new windows and external doors shall be painted and maintained in a white colour

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 11 The new external downpipes and external railings shall be formed in black painted metal

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

Pre Commencement Condition.} Prior to the commencement of any:

12

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason: To protect the environment of neighbouring occupiers. This is as set out in Policies 7,33 and 45 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 13 Pre Commencement Condition. You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

To protect the trees and the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R31DD)

- 14 The dormers shall be clad in lead to sides, cheeks and roofs

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 15 The new chimney pots shall be formed in clay in a red/brown colour

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 16 The new railings to the main front entrance steps shall be individually set into the treads of the steps

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 17 You must apply to us for approval of a photograph of a sample of the facing material to be used for the new entrance steps from front garden to ground floor level. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 18 The new areas of facing brickwork to the front boundary wall must match the existing original brickwork to the existing boundary wall in terms of colour, texture, face bond and pointing.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 19 Any new slates required to the pitched roof slopes at main roof level shall be natural slates which match the size, colour and texture of the existing slates to the existing pitched roof slopes at main roof level

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 20 Notwithstanding the submitted drawings, the rooflight to the south-western side facing roof slope must be no larger than 1m x 1m in footprint. The rooflight must be formed in glazing and black coloured metal framing and shall be flush in profile with the adjoining roof cladding.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the St John's Wood Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 21 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

(C46AC)

#### Reason

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 22 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

#### Reason

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 23 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1255.052 Rev A prior to



occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the house. (C14FC)

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)

- 24 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

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)

- 25 You must provide a minimum of 1m soil depth (plus minimum 200mm drainage layer) and adequate overall soil volume above the top cover of the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved. (C30GA)

Reason

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policies 34 and 45 of the City Plan 2019 - 2040 (April 2021). (R30DB)

- 26 Before any works are carried in respect of the basement hereby approved .You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment before any works take place on the proposed basement excavation . This site investigation must meet the water, ecology and general requirements outlined in ‘Contaminated Land Guidance for Developers submitting planning applications’ – produced by Westminster City Council in January 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed but before it is occupied.

Phase 1: Desktop study – full site history and environmental information from the public records.

Phase 2: Site investigation – to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy – details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report – summarises the action you have taken during the development and what action you will take in the future, if appropriate. (C18AA)

## Reason

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in Policy 33(E) of the City Plan 2019 - 2040 (April 2021). (R18AB)

- 27 You must install the rainwater harvesting tank and use permeable paving as set out in the Drainage report to mitigate the impact of surface water flooding, and install the ASHP in the basement.

## Reason

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 28 You must not occupy the basement until you have carried out the works to remove the existing crossover next to Neville Court and reinstate the footway .

## Reason

To secure the reinstatement of the pavement .

**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 You are strongly advised to consider the approach proposed for condition 5 (design and materials to the lid of the car lift) in direct association with the condition requiring a hard and soft landscaping scheme for the site. The lid to the car lift should be seamlessly integrated into the overall design of the rear garden landscaping to ensure it harmonises appropriately with the site
- 3 When you apply to us for approval of the details of your hard and soft landscaping scheme you should ensure that: , a).The hard landscaping is permeable to allow natural drainage. b)The scheme maximises soft landscaping includes structural planting such as appropriate standard trees and other green landscaping,
- 4 With regards to condition 20, the strong preference is for the re-use of as many of the existing roof slates when re-slating the main roof level

- 5 In terms of the sustainability credentials of the existing building, you are strongly advised to consider the City Council's adopted Environmental Supplementary Planning Document, which can be viewed on our website and which gives considerable advice and information on measures to retrofit and upgrade the sustainability of buildings in Westminster
- 6 **HIGHWAYS LICENSING:**  
Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

#### CONSIDERATE CONSTRUCTORS:

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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

#### BUILDING REGULATIONS:

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

- 7 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an [Assumption of Liability Form](#) immediately. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a [Commencement Form](#)

CIL forms are available from the planning on the planning portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 8 With reference to condition 12 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate ([cocp@westminster.gov.uk](mailto:cocp@westminster.gov.uk)) at least 40 days prior to commencement of works (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Inspectorate team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.

You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).

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.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 12 July 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Lancaster Gate	
<b>Subject of Report</b>	<b>19 UPBROOK MEWS, LONDON, W2 3HG</b>		
<b>Proposal</b>	Excavation of single storey basement beneath footprint of original dwelling, conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall with 18 Upbrook Mews.		
<b>Agent</b>	Nuspace		
<b>On behalf of</b>	Mr Sammy Li		
<b>Registered Number</b>	21/00155/FULL	<b>Date amended/ completed</b>	May 2022
<b>Date Application Received</b>	11 January 2021		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Bayswater		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY & KEY CONSIDERATIONS

The application site forms part of an unlisted mews terrace located within the Bayswater Conservation Area. The site backs onto Grade II listed properties in Chilworth Street and Gloucester Terrace.

Permission is sought to construct a basement under the footprint of the existing house, a flat topped hipped mansard roof level, and conversion the garage to living accommodation with associated elevation changes. The application has been revised a number of times since its original submission. The scheme originally proposed a double pitched gable ended mansard roof which required the build of the party wall with 21-23 Chilworth Street. Re-consultation took place as a

result of the changes to the mansard roof.

This application was due to be presented to the Planning Sub-Committee of 28 June 2022, but was withdrawn from the agenda due to a technical issue with notification of the appropriate agent/ neighbour notification emails/ letters advising of the committee..

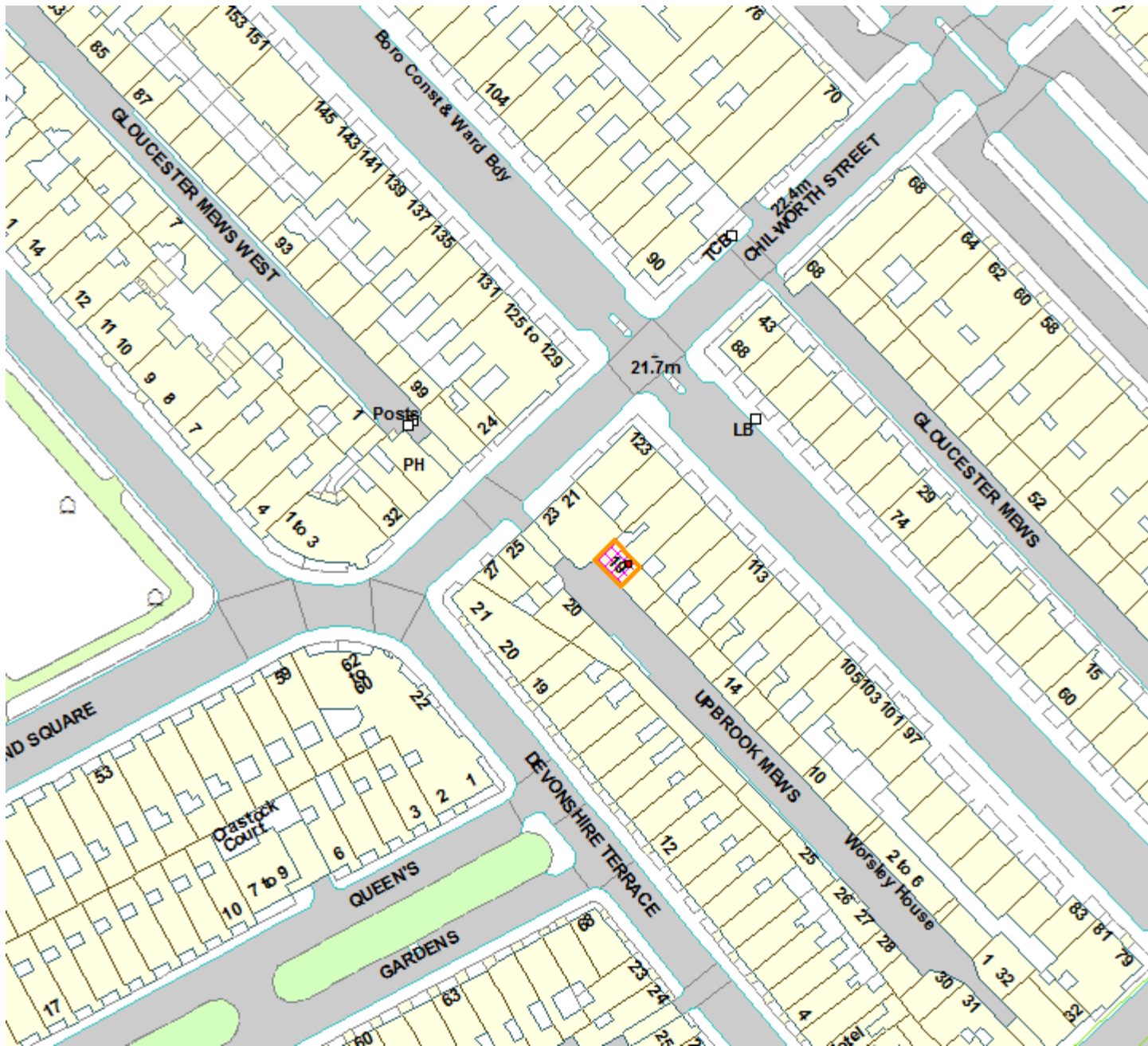
Objections have been received from the South East Bayswater Resident's Association and neighbouring properties on the grounds of design; loss of garage; impact on amenity and impact of construction.

The key issues in the determination of this application are:

- The impact of the works on the character and appearance of the Bayswater Conservation Area;
- The impact of the mansard roof on the amenity of neighbouring properties;
- The impact of the works in highways terms;
- The impact of the basement excavation.

For the reasons as discussed in the report, the proposals are considered in accordance with City Council policies as set out in the City Plan 2019-2040 with respect to land use, design and basement excavation and is recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS

Front elevation





## 5. CONSULTATIONS

### 5.1 Application Consultations

#### ORIGINAL CONSULTATION

##### WARD COUNCILLORS FOR LANCASTER GATE:

Any response to be reported verbally.

##### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Objection raised on the grounds that the drawings show the proposed mansard roof higher than the adjacent houses; the windows on the front elevation of the roof are too large; the mansard roof and raising of the height of the party wall may result in loss of light to neighbouring properties; flooding, loss of garage and that the basement appears to have no ventilation.

Conditions are suggested to if the party wall on the north is raised, this should be finished white; basement should not be occupied separately; no and Saturday workings. An informative is required regarding flooding.

##### ENVIRONMENTAL HEALTH:

No objection.

##### BUILDING CONTROL - DEVELOPMENT PLANNING:

No objection.

##### HIGHWAYS PLANNING MANAGER:

Objection raised to the loss of the garage if protected via condition.

##### LOCAL FLOOD AUTHORITY:

No response Received.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 16

No. of objections: 16, received on behalf of 11 properties.

Sixteen objections received on some or all of the following grounds:

##### Design & Heritage:

- The proposals is inappropriate for the character of the mews and the conservation area.
- Increase in volume is out of character with mews.

##### Amenity:

- Loss of light;
- No plant/ ventilation should be allowed as this will be noisy and disrupt sleep.
- Overlooking.

##### Highways:

- Loss of parking is unacceptable.

## Other:

- No reference made to the Upbrook water course;
- No details of monitoring of neighbouring properties during works;
- The owners of 19 Upbrook Mews should indemnify neighbouring properties in case of damage;
- Noise and disruption from proposed excavation of basement and construction of mansard to residential neighbours and adjacent office workers;
- No works should be allowed on Saturdays, Sundays or Bank Holidays;
- A construction management plan should be submitted upfront;
- Permission cannot be given without significant preparatory works and party wall surveyors being instructed;
- Not all neighbours affected by the proposals were notified of the application;
- Loss of rental income whilst works are taking place;

## PRESS ADVERTISEMENT / SITE NOTICE:

Yes

RE-CONSULTATION: Amendments made to the mansard roof design

## SOUTH EAST BAYSWATER RESIDENT'S ASSOCIATION:

Continued objections made on the grounds of amenity, flooding, loss of garage, basement ventilation given lack of garden. Comment raised that the design of the mansard is now acceptable. A construction management plan is requested. Conditions suggested, similar to those received in initial response, however it was also noted that an attractive hoarding should be installed if works were to go ahead.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 4

No. of objections: 4

Four objections received from those that have already made objections, reiterating their original objections. New ground of objection include:

- How was the daylight and sunlight assessment carried out when no one visited neighbouring properties;
- Inaccuracy within the sunlight and daylight report with a kitchen being called a bathroom in one of the neighbouring properties.
- The flood risk assessment still doesn't identify how the basement excavation will affect neighbouring properties and doesn't take into consideration the floods of July 2021

Additional responses received after publication of the report for committee on 28 June 2022.

## COUNCILLOR JUDE

Objection on the following grounds:

- Given the residential nature of the road, we would request that all works are restricted on Saturday. We note that currently all piling and excavation works are prevented on Saturdays, but other work on-site will still be permitted during these hours as it stands. Preventing all works will allow the residents some respite during these hours.
- The lack of natural ventilation in the basement has been brought to our attention by local residents. Given this, we request a condition be included that restricts using the basement as bedroom, due to potential health and safety issues.

#### COUNCILLOR ORMSBY

Objection. Agree with Councillor Jude's comments set out above.

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Comment. Condition 2 as proposed is not sufficient enough given the quiet nature of the mews. It is requested that no Saturday working is allowed.

It is requested that there be a condition restricting the use of the basement because of the lack of natural ventilation.

It is requested that a hoarding be installed during construction.

### 5.2 Applicant's Pre-Application Community Engagement

The Early Community Engagement Guidance encourages householders carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. However, householders are not required to submit details of the engagement they have undertaken with their application. Therefore, whilst details of any pre-application engagement with neighbours that may have taken place has not been submitted, this is not contrary to the expectations of the guidance for development of this minor scale.

## 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**

This application site is a two storey mews building that lies in the Bayswater Conservation Area. The property is not listed. The properties in Chilworth Street and Gloucester Terrace that are adjacent to the application are Grade II listed.

### **7.2 Recent Relevant History**

98/08398/FULL:  
Erection of a 2<sup>nd</sup> Storey Mansard Roof Extension.  
Approved 27 April 1999.

20/05641/FULL:  
Excavation of a single storey basement beneath the footprint of the original dwelling, conversion of the garage into habitable space; mansard roof conversion including a roof terrace, modernisation of the fenestration and internal arrangement.  
Application Withdrawn November 2020

20/05642/FULL:  
Excavation of a single storey basement beneath the footprint of the original dwelling, conversion of the garage into habitable space; mansard roof conversion, alterations to fenestration and internal arrangement.  
Application Withdrawn November 2020

## **8. THE PROPOSAL**

Permission is sought for the excavation of a basement under the footprint of the existing dwelling; conversion of the garage to living accommodation with associated elevational alterations and the construction of a mansard roof.

The original proposals sought permission for a mansard roof which had a slight second pitch and a large gable end abutting the rear boundary wall of 21-23 Chilworth Street. This has been amended during the course of the application to a flat roofed hipped mansard extension.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

The proposals to extend this single family dwellinghouse are considered acceptable. The construction of a basement to this property is not considered to be an overdevelopment of the site and as addressed below, the basement is in accordance with the City Council's basement policies.

A comment has been made requesting a condition/ informative that the basement should not be used as a separate property. A condition is not required as the use of the basement as a separate flat would in itself require planning permission. The amenity society has also requested that an informative be attached to ensure that the basement is not to be used as a bedroom given the lack of ventilation. As the room is to be used in connection with the main house, the proposed basement accommodation is considered acceptable in terms of natural light and ventilation on grounds of proportionality and would comply with the Housing Health and Safety Rating System - Housing Act 2004. It would not comply if it were a separate unit of accommodation.

## **9.2 Environment & Sustainability**

### **9.2.1 Sustainable Design & Energy Performance**

The proposals are providing high quality additional residential floorspace to the existing property. The mansard roof will have good insulation and the windows will have sound thermal energy performance. The proposals are therefore considered to comply with Policy 36 (Energy Performance) and 38D (Design Principles) of the City Plan and the guidance as set out in the 'Energy' and 'Retrofitting and Sustainable Design' sections of the ESPD.

### **9.2.2 Circular Economy**

As the proposals are for basement excavation, and the applicant is required to adhere to the Council's Code of Construction Practice (CoCP); recycling, re-use, and responsible disposal of Construction, Demolition and Excavation waste will be sought. The proposals will therefore comply with Policy 37(C). Waste management and the guidance as set out in the 'Construction Impacts' section of the ESPD.

### **9.2.3 Flood Risk & Sustainable Drainage**

Objections were originally received to the proposals on the grounds that the flood risk assessment did not refer to the Upbrook river. Concern was also raised as to the measures as set out in the assessment.

The site is within flood zone 1 (Environment Agency), but is within the Bayswater surface water flooding hotspot and above the lost River Westbourne - now known as the Ranelagh Sewer which is piped water cause. The flood risk assessment was updated to refer to this. The flood risk assessment concludes that the proposals to extend this dwelling in the basement and the risk of flooding and surface water flooding is very low. The development will include a sump pump and storage tank. Drainage channels are also proposed to the front.

Comment is also made that the flood risk assessment states no flooding has occurred to properties in Upbrook Mews, but omits the fact that the properties on Gloucester Terrace

were flooded in the flash floods in July 2021 and some are still not yet liveable. Whilst it is acknowledged that there was flooding to Gloucester Terrace properties in the flash floods of July 2021, this was due to an extreme amount of rain water received in a short period of time, rather than the displacement of ground matter from basement excavations.

#### **9.2.4 Light Pollution**

There is unlikely to be any detrimental light pollution arising from the windows within the mansard roof. These replicate the window positionings of other mansards in the mews.

#### **9.2.5 Environment & Sustainability Summary**

The proposals for a basement and mansard roof are considered to comply with the Council environmental and sustainability policies.

#### **9.3 Biodiversity & Greening**

There is no green roof proposed to the mansard. Any upstand to support a green roof would increase the height of the mansard roof.

#### **9.4 Townscape, Design & Heritage Impact**

##### **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.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39 of the City Plan 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 principle of a basement beneath the host building does not raise any design concerns. An objection on the volume created by basements and how this affect the character of the mews has been received. There is no external manifestation of the basement as such the character and appearance of the existing building and the mews is not considered to harm the character and appearance of the Conservation Area. As a point to note there are a number of basements in the mews that have been excavated in recent years.

The alterations to the garage door on the front elevations also raise no design concerns. There is a variety of treatments at ground floor level within the mews, from garage doors, garage doors with windows above (serving rooms behind); windows across the whole elevation and car ports. The detailed design of the garage door within glazing above is acceptable and does not detract from the character and appearance of the mews.

The mansard roof, as amended is a flat topped hipped mansard roof. Three traditional dormer windows are proposed to the front elevation and two windows are proposed in the rear roof slope. Objections to the volume created by the roof alterations and the impact that this has on the character of the mews and on the detailed design of the mansard have been received. The mansard has been designed to match the height and pitch of the neighbouring mansard at No. 18 Upbrook Mews as the front parapet wall to these two properties is set lower than the rest of the eastern side of the mews.

The applicant notes that the most recent mansard roof approved as a new mansard was at No. 16 Upbrook Mews, and that was approved in 2013. It should also be noted that changes to an existing roof extension to a traditional mansard roof was approved at No. 29 Upbrook Mews in 2018.

Mansard roofs are commonplace within this mews with almost half the properties on the eastern side and almost all of the properties on the western side having one. It is therefore considered that the principle of a mansard roof extension would be difficult to resist and that an appropriately designed mansard would help unify the character of the mews.

The proposed mansard is appropriately designed, including 75 degree primary pitches, three lead clad dormers, traditionally detailed timber windows and slate tiles and relates well to the terrace as a whole, noting the variety of mansard and roof extensions. The mansard roof is now hipped, so as not to raise the party wall with 21-23 Chilworth Street (and to improve the amenity to neighbours addressed below). Whilst No. 20 Upbrook Mews (opposite) has a tall gable ended mansard with the listed neighbours on Chilworth Street, it is not considered that a hipped mansard roof would look out of place within long views in the mews.

Given the above, it is not considered that the objections received from neighbouring

occupiers on the grounds of the impact on the character of the mews and surrounding conservation area can be sustained.

The proposals are considered to accord with the aims of the identified policies and will preserve the character and appearance of the Bayswater Conservation Area.

As such, the proposal is considered acceptable, mindful of policies 38, 39, 40 and 45 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.

## 9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers.

### **Mansard Roof Sunlight and Daylight**

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight'. The applicant's consultant, has carried out the necessary tests using the methodology set out in the BRE guidelines on residential properties surrounding the site. As a point to note the assessment has not been revised, since the mansard was revised to a hipped mansard. As the hipped mansard reduces the bulk and volume, the results provided would be of the worst case scenario.

A number of objections have been received firstly questioning how the assessment was done and that some of the rooms listed within the assessment are factually incorrect. A sunlight and daylight assessment is generally carried out using computer modelled software, plotting the bulk and massing of neighbouring properties and the findings are extremely accurate. In one property, Flat 2 119-121 a kitchen is labelled inaccurately as a bathroom, which therefore has been effectively discounted from the applicants assessment. Officers shall consider this window as a kitchen as per the neighbours comments.

The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution available to windows in these properties. Where room layouts are not known the daylight distribution test has not been undertaken by plotting the No Sky Line (NSL). VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE guidelines state that the window will have the potential to provide good levels of daylight. The BRE guidelines state that reductions of over 20% of existing daylight levels are likely to be noticeable.

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90% of due south



and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidelines recommend that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight; if the overall annual loss is greater than 4% of APSH, the room may appear colder and less cheerful and pleasant.

The properties tested for daylight and sunlight levels comprise:

- 20 Upbrook Mews – opposite the application site
- 21 Upbrook Mews – opposite the application site
- 119 Gloucester Terrace – to the rear of the application site
- 121 Gloucester Terrace – to the rear of the application site
- 21-23 Chilworth Street – located to the north of the application site.

There are no losses in terms of VSC and daylight distribution to properties 20 and 21 Upbrook Mews.

Where there are losses to windows in properties 119 and 121 Gloucester Terrace and 21-23 Chilworth Street, they are very minor and all windows assessed passed the Vertical Sky Component tests and all rooms (where known from estate agents particulars, planning history records etc), except one pass the daylight distribution test. The window that fails the daylight distribution test is a ground floor kitchen window to 121 Gloucester Terrace and this fails only marginally over and above the BRE guidance. Whilst regrettable that there is a loss over the BRE tolerances, it is not considered that a refusal could be upheld in this instance.

In terms of sunlight, all windows that face within 90 degrees of due south have been tested for direct sunlight and all windows with a requirement for sunlight pass both the total annual sunlight hours test and the winter sunlight hours test, except for one. Again, the window that fails the sunlight test is a ground floor kitchen window to 121 Gloucester Terrace and again this fails only marginally over and above the BRE guidance.

### **Sense of Enclosure**

The proposed mansard roof is some 6m away from the main rear elevation of 119-121 Gloucester Terrace. To the rear of the 119 building there is a half width extension at lower ground and ground floor which abuts the rear elevation of the application site, beside this is an open courtyard. This contains side elevation windows at lower ground floor level serving a living area (to flat 2, 119 Gloucester Terrace) and at ground floor, windows serving a bedroom (to flat 5, 119 Gloucester Terrace). The outlook from the living room of Flat 2 is onto the enclosed courtyard at lower ground floor level with the two storey rear wall of the application as the main outlook. If looking only upwards from the living room window and courtyard, the construction of a mansard will be highly noticeable and replace 'the sky' however given the already enclosed nature of the existing courtyard it is not considered that a reason for refusal could be sustained on this basis. At ground level, the bedroom window of Flat 5 has a view over the courtyard below to the side elevation of an extension to the rear of 119 & 121 Gloucester Terrace and to the rear of the application site. Again, whilst the proposed mansard, built onto the rear boundary would be visible from this bedroom window, the outlook from this window

is so heavily compromised that the mansard would not, in officers opinion result in an unacceptable creation of sense of enclosure such a significant increase in enclosure as to warrant a reason for refusal.

Straddling 119-121 Gloucester Street is an additional extension over lower ground, ground and first floor level and this has a chamfered corner on the side return to within that property. This is some 3m away from the proposed mansard roof. This extension has high level, narrow windows at ground floor level serving a living room and first floor level serving a bedroom. Both these windows are secondary windows with the main windows to these room, in the north elevation of that extension facing the courtyard of 121 Gloucester Terrace and over to 123 Gloucester Terrace. It is not considered that these flats, given the window arrangement would experience any harmful sense of enclosure.

Given the distance of the proposed mansard from the original rear elevation windows of 119-121 Gloucester Terrace it is not considered that a mansard roof would result in an unacceptable levels of enclosure to the rooms in this location and is very much reflective of the relationship of mansard roofs within the rest of Upbrook Mews to the properties behind on Gloucester Terrace.

The mansard roof will be between approximately 4.2m & 5.4m away from the rear elevation of 21-23 Chilworth Street, given its hipped design. This property is in commercial use at lower ground and ground floor with 4 flats at upper levels. Given the lower street level of Upbrook Mews to Chilworth Street, the mansard roof will be at the same level as Flat 1, 21-23 Chilworth Street at first floor level. This property has three windows overlooking the roof of the commercial premises below and then over to the current roof of the application site. Directly to the north of the mansard roof is a window serving a bathroom. The kitchen window to this property partly straddles the front mews elevation and has an outlook down the mews cobbles. The bedroom window also straddles the rear elevation of the application site with the courtyard of 119 & 121 Chilworth Street. The main effect of the proposed mansard will therefore be experienced from the bathroom window with the bedroom and kitchen window experiencing an oblique impact. It is for this reason that whilst this occupier of this first floor flat will feel some increased sense of enclosure, given the tight knit urban nature of these properties, that the main impact is to a bathroom window, that the proposals are on balance acceptable and would not result in such a harmful sense of enclosure so as to warrant refusal.

The proposed mansard does not create a sense of enclosure to the properties opposite the site in the mews and would be representative of the built form of the mews.

### **Privacy**

The windows to the front elevation of the mansard roof are not considered to give rise to any significant overlooking to mews properties opposite over what already exists from ground and first floor levels.

The windows to the rear of the mansard are sloped rooflights. Given their height and proximity to neighbouring windows within Chilworth Street it is recommended that these are non-openable and obscure glazed so as to prevent any harmful overlooking.

**Basement**

The excavation of a basement, with no external manifestations is not considered to harm the amenity of neighbouring properties.

The proposals are therefore considered acceptable in amenity terms.

**9.6 Transportation, Accessibility & Servicing**

An objection has been received from the Highways Planning Manager who has objected to the loss of the garage and parking space on the grounds that this would add to parking street in the area, if controlled via condition. Objections have also been received from the local amenity society and a neighbour to the loss of off-street parking.

There is no evidence, from an historic search on this property of a condition restricting the garage to the parking of a car. Whilst it is acknowledged that the loss of the garage may result in a marginal increase in local parking demand, the loss of the existing garage is in accordance with policy 27 of the City Plan 2019 - 2040. As the proposal is supported in policy terms the minor increase in parking demand is not sufficient grounds to refuse permission.

**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.

**9.8 Other Considerations****9.8.1 Basement Development**

An objector contends that the proposed development does not meet the City Council's policy on basement development, nor does it have any ventilation given there is no external manifestation or garden for it to vent towards. Objections to construction impacts related to the basement, such as noise, vibration, dust and obstruction of highways and its impact on residential amenity and local businesses have also been received. Concerns regarding the impact of the development on the structural stability of neighbouring properties have also been raised. The amenity society have raised a number of comments regarding the basement: the request for a construction management plan; that there should be no working on Saturday's; that there should be a hoarding around the site and specific excavation methods should be employed in order to protect the amenity of neighbours.

Policy 45 of the City Plan contains the City Council's considerations when it comes to basement development. The proposed development is considered against the relevant sections of this policy below.

**Part A. 1-4**

These parts of the policy relate to structural stability; surface water and sewerage flooding; minimising the impact at construction and occupation stages; protecting

heritage assets and conserving the appearance of the existing building, garden setting and the surrounding area.

The applicant has provided a Structural Methodology Statement prepared by an appropriately qualified structural engineer. This document has been reviewed by Building Control who advise that the structural methodology proposed is appropriate for the ground conditions that are likely to be on this site and the likelihood of local flooding or adverse effects on the water table has been found negligible. As noted above the proposals are acceptable in terms of flooding. The proposals to safeguard adjacent properties during construction are also considered to be acceptable. Accordingly, it is considered that as far is reasonable and practicable at this stage, the applicant has satisfactorily investigated the site and surmised the likely existing ground conditions and provided a suitable structural methodology report in light of it.

The purpose of the structural methodology report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. Therefore, we are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. This report will be attached for information purposes to the draft decision letter.

With regards to minimising the construction impact of the development, permission cannot be refused on the basis of construction impact given its temporary nature and ability to control it by condition. The amenity society has asked for a construction management plan. The applicant has agreed to comply with the City Council's Code of Construction Practice (CoCP). The CoCP expressly moves away from enforcement via the planning system. It recognises that there is a range of regulatory measures available to deal with construction impacts, and that planning is the least effective and most cumbersome of these. The Environmental Inspectorate, who would monitor compliance with the CoCP, have been resourced in both numbers and expertise to take complete control over the monitoring of construction impacts.

A condition is recommended requiring evidence to be submitted of compliance with the CoCP. This must be submitted before work starts on site, subject to which the proposals are considered acceptable. This condition is consistent with environmental protection legislation and will help to alleviate disturbance to neighbours. A condition is also recommended that limits noisy construction to the City Council's standard construction hours. It is not considered reasonable to restrict all Saturday working. An informative is also recommended to encourage the applicant to join the considerate constructors scheme. If the Environmental Inspectorate deem it necessary, a hoarding may be requested of the developers, however it is not something that can be imposed via the planning regime.

As noted above, the proposed basement would not be visible given its location below the

existing building and proposed extension and would have no impact on the character and appearance of the Bayswater Conservation Area or the adjacent buildings. The application site does not contain a listed building and is not located within an Archaeological Priority Area.

### Part B 1-5

These parts of the policy relate to the extent and depth of basements.

The proposed basement would not extend beyond the mews boundaries. The proposed basement would also be single storey, with a floor to ceiling height of 2.7 m and therefore complies with part B(3) of the policy.

The proposed basement does not project beyond undeveloped garden land of highway. Accordingly, Parts B(2), (3) and (4) of the policy are not relevant.

Overall, the proposed basement is considered to comply with City Plan Policy 45.

#### **9.8.2 Plant**

Objections have been received on the grounds that basements generally require plant for ventilation and that none is shown, and if it were proposed would be noisy for neighbours. The basement has no ventilation in terms of windows, however the Council's Environmental Health officers has raised no objection to this given that it is to serve a TV room/ gym.

#### **9.8.3 Non-planning related objections**

One objection states not all neighbours affected by the proposals were notified of the application. It is unclear as to who may not have been consulted. City Council records show that all neighbouring properties who may be affected by the proposals were notified. This same area of consultation was carried out when the amendments were made to the mansard roof.

One objector has asked what the procedure for party wall agreement is and can they use their own surveyors. Party wall agreements are a private matter, that are generally dealt with after the granting of a planning permission.

Matters of indemnifying neighbouring properties in case of damage is also a private matter which the City Council cannot become involved in.

Finally, objections have been received on the loss of rental income whilst works are taking place. Again, this is not considered a material consideration in the determination of the application and a refusal could not be sustained on this basis.

#### **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.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development. The applicant has agreed to the imposition of the condition.

## **10. Conclusion**

The proposals for additional residential accommodation are acceptable and the works to facilitate this are acceptable in conservation and design terms and are not considered to harm surrounding residential amenity. As such, the proposal is considered acceptable, mindful of policies 7, 8, 33, 34, 38, 39, 40, and 45 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.

(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)

11. KEY DRAWINGS

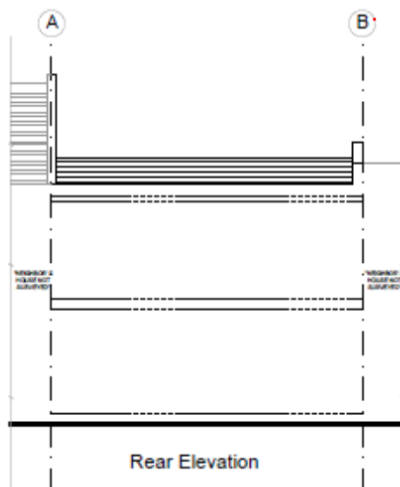
Existing Front Elevation



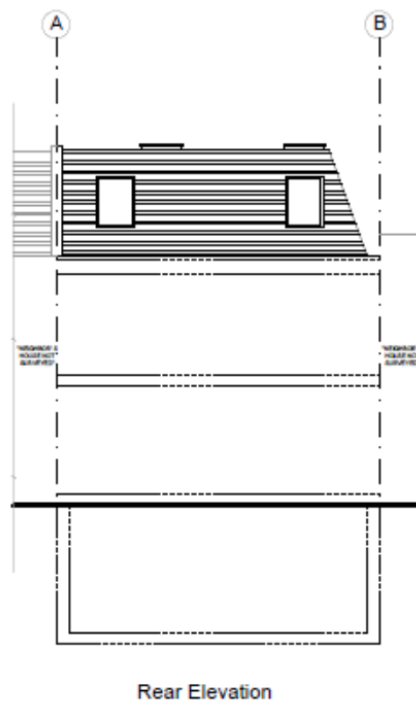
Proposed Front Elevation



**Existing Rear Elevation**

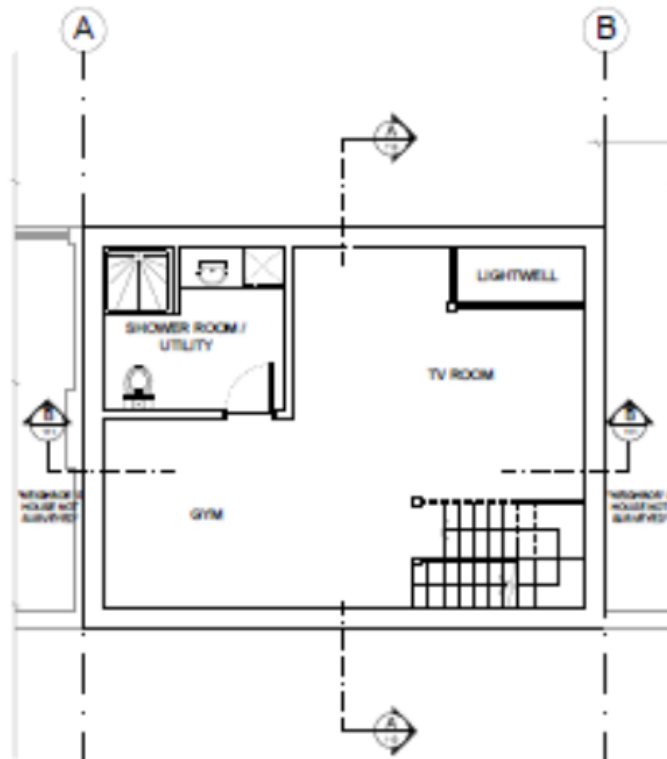


**Proposed Rear Elevation**



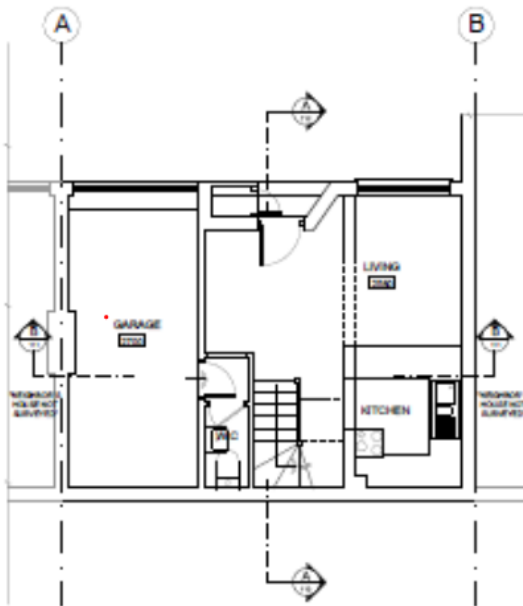


Proposed Basement Plan



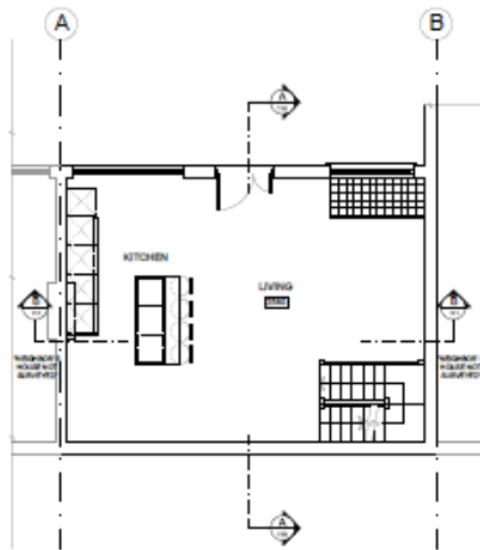
BASEMENT PLAN

**Existing Ground Floor Plan**



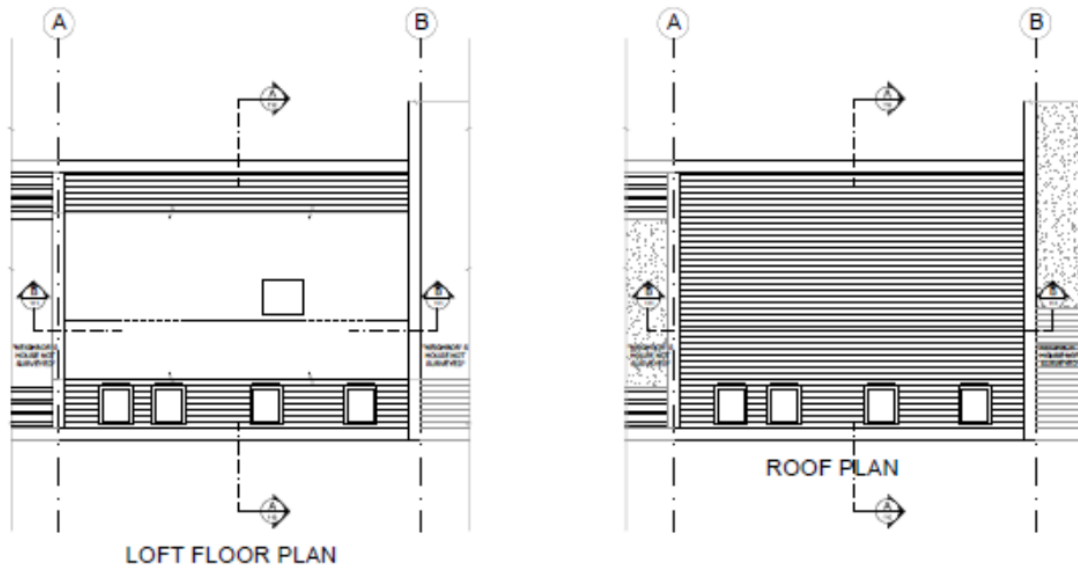
GROUND FLOOR PLAN

**Proposed Ground Floor Plan**

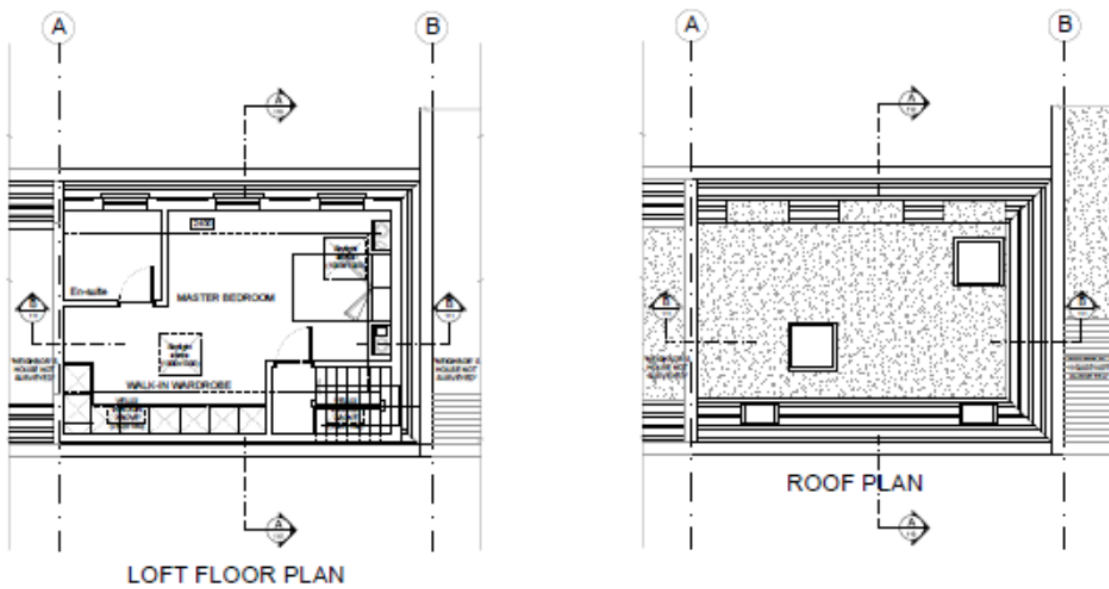


GROUND FLOOR PLAN

Existing Roof Plan



Proposed Mansard & Roof Level Plan

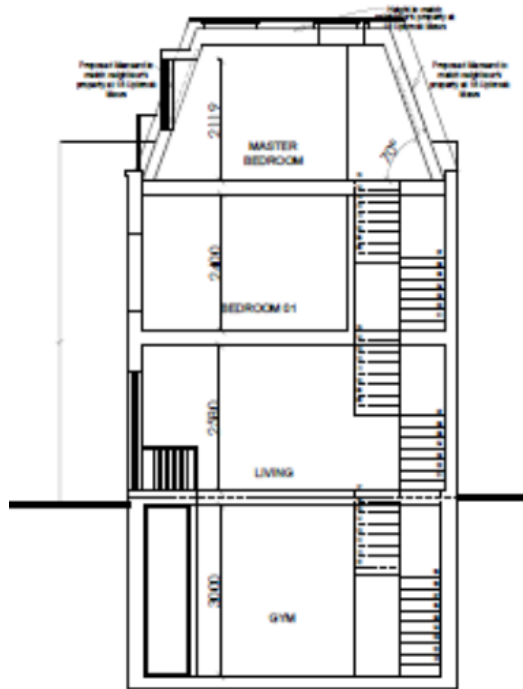


**Existing Section A-A**



Existing Section A-A

**Proposed Section A-A**



Proposed Section A-A

Existing Section B-B



Proposed Section B-B



**DRAFT DECISION LETTER**

**Address:** 19 Upbrook Mews, London, W2 3HG

**Proposal:** Excavation of single storey basement beneath footprint of original dwelling, conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall with 18 Upbrook Mews.

**Reference:** 21/00155/FULL

**Plan Nos:** 101P B; 102P B; 103P B; 104P B; 105P B; 106P L; 107P L; 108P L; 109P L; 110P L; 111P L; 112P L Flood Risk Assessment dated 4 September 2020, received 22 February 2022. For Information only: Daylight and Sunlight Assessment; Engineer's Report and Construction Method Statement

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 020 7641  
07866036948

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , onot 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 **Pre Commencement Condition.** Prior to the commencement of any: , (a) demolition, and/or, (b) earthworks/piling and/or, (c) construction , , on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme

hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

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)

- 4 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 All new windows to the mansard roof and the new 'garage door' shall be constructed in timber and painted to match the existing and be retained in that condition thereafter.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 6 You must install the flood protection measures as detailed in the Flood Risk Assessment dated 4 September 2020, received 22 February 2022 and these must be retained thereafter.

Reason:

To ensure that the development complies with policy 35 of the City Plan 2019-2040, adopted April 2021.

- 7 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 8 The glass that you put in the windows in the rear elevation of the mansard roof must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have given our written approval for the sample. You must then install the type of glass we have approved and must not change it without our permission. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 9 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

**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 HIGHWAYS LICENSING:, Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures)., , CONSIDERATE CONSTRUCTORS:, 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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk)., , BUILDING REGULATIONS:, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)



- 3 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
  
- 5 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.

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.

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