



City of Westminster

Committee Agenda

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

Meeting Date: **Tuesday 4th April, 2023**

Time: **6.30 pm**

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

Members: **Councillors:**
Ruth Bush (Chair)
Ryan Jude
Amanda Langford
Cara Sanquest



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
Corporate Website: 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. MEMBERSHIP

To note that Councillor Ruth Bush had replaced Councillor Nafiska Butler-Thalassis.

To note any further changes to the membership.

2. 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.

3. MINUTES

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

4. 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.

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.

(Pages 5 - 8)

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/about-council/democracy/stream-council-meetings>

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

- | | |
|--|--------------------------|
| 1. 16 CHARLES STREET, LONDON, W1J 5DR | (Pages 11 - 48) |
| 2. 37-38 CLARGES STREET, W1J 7EN | (Pages 49 - 70) |
| 3. 11 SOHO SQUARE, LONDON, W1D 3QE | (Pages 71 - 94) |
| 4. 50 EASTBOURNE TERRACE, LONDON, W2 6LG | (Pages 95 - 126) |
| 5. FLAT 27, SAXON HALL PALACE COURT, LONDON, W2 4JA | (Pages 127 - 150) |
| 6. 4 THE LANE, LONDON, NW8 0PN | (Pages 151 - 178) |
| 7. 26 ALEXANDER STREET, LONDON, W2 5NT | (Pages 179 - 206) |
| 8. 32 MAUNSEL STREET, LONDON, SW1P 2QN | (Pages 207 - 224) |

**Stuart Love
Chief Executive
24 March 2023**

Order of Business

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

Order of Business
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 7th February, 2023**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Nafsika Butler-Thalassis (Chair), Cara Sanquest, Ryan Jude and Amanda Langford

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Butler-Thalassis 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 would have read about the issue and comments made by correspondents in the papers read prior to the meeting.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 6 December 2022 be signed by the Chair as a correct record of proceedings.

4 PLANNING APPLICATIONS

1 8-12 WILLIAM STREET, LONDON, SW1X 9HL

Works of extension and refurbishment to 8-12 William Street, including the erection of a rear extension across ground and lower ground floors to provide additional Class E floorspace, extension of existing closet wing projection to provide a lift for the residential upper floors and new kitchen extract, removal of existing metal fire escape stairs and reconstruction of terraces, and replacement shopfronts to front elevation.

Late representations were received from a local resident (06.02.23) and Daniel Watney LLP (06.02.23).

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 of the draft decision letter be agreed.

2 ST JAMES'S CHURCH, 197 PICCADILLY, LONDON, W1J 9ET

Alterations to Piccadilly Building including erection of 3-storey extension to east and south and addition of new mansard roof at third floor to provide additional church office and meeting room accommodation; new plant rooms at basement level, plant at new third floor level, new service tower within Piccadilly Building and demolition of vestry link building to create new entry to Church yard from Church Place; relocation of rectory accommodation from Piccadilly Building into Jermyn Street Building and erection of new second floor mansard to Jermyn Street Building to support rectory use; relocation of existing cafe accommodation from ground floor of Jermyn Street Building into ground and part basement floor of Piccadilly Building; alterations to St James's church including repair of spire, installation of plant within former bell tower, excavation beneath the south porch of the church; and reinstatement of south entrance door; alteration of Jermyn Street Building to provide new route between Jermyn Street and the churchyard, new railings to Jermyn Street, and re-landscaping of the North and Green Churchyards, and erection of new single storey garden pavilion in Green Churchyard.

An additional representation was received from the St James's Ward Councillors (01.02.23).

Reverend Lucy Winkett addressed the Sub-Committee in support of the application.

RESOLVED UNANIMOUSLY:

That conditional planning permission be granted subject to condition 19 being amended to include a long-term maintenance plan for the landscaping.

3 GROUND FLOOR, 85 GREAT TITCHFIELD STREET, LONDON, W1W 6RJ

Installation of four air conditioning units within screened enclosures at rear first floor level.

A late representation was received from Firstplan (07.02.23).

RESOLVED UNANIMOUSLY:

That conditional permission be granted.

4 CENTURY HOUSE, 100-102 OXFORD STREET, LONDON, W1D 1LL

Use of ground floor as an Adult Gaming Centre (Sui Generis) with external alterations to shopfront including the relocation of access.

A late representation was received from a local resident (undated).

Dennis Pope addressed the Sub-Committee in support of the application.

Shaun Hooper addressed the Sub-Committee in support of the application.

RESOLVED UNANIMOUSLY:

That contrary to the officers' recommendation the application be refused on the grounds that its use would have a detrimental impact on the character and function of the area. The reasons for refusal to be agreed under delegated powers in consultation with the Chair.

5 GROUND FLOOR, 48 MARGARET STREET, LONDON, W1W 8SD

Use of ground floor as drinking establishment with expanded food provision (Sui Generis). Installation of extract duct to the rear elevation terminating above main roof level and installation of an air condenser unit at rear ground floor level.

RESOLVED UNANIMOUSLY:

That conditional permission be granted.

The Meeting ended at 8.03 pm

CHAIRMAN: _____

DATE _____

Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 4th April 2023
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 22/03070/FULL & 22/03071/LBC	16 Charles Street London W1J 5DR	Alterations to front and rear elevations, including alterations to door and windows to front and rear basement lightwells. Replacement of plant (at roof level and in front and rear basement lightwells) and brick clad riser to rear of building. Alterations to rear terrace including removal of existing pergola and pyramid rooflight below and infilling of existing lightwell. Internal alterations at all levels.	16 CS Operations Ltd
	West End	Recommendation 1. Grant conditional permission. 2. Grant conditional listed building consent. 3. Agree reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.		
2.	RN(s): 22/03663/FULL	37 - 38 Clarges Street London W1J 7EN	Installation of plant within the front lightwell at lower ground floor level; installation of air intake louvres on the front elevation at ground and lower ground floor levels; installation of a high level extract duct on the rear elevation and repositioning of an existing air conditioning unit and installation of new screening on the flat roof area at rear first floor level.	Aragawa UK Ltd
	West End	Recommendation Grant conditional permission.		
3.	RN(s): 22/06191/FULL	11 Soho Square London W1D 3QE	Use of the building as a private members club (sui generis) with external alterations including the replacement of windows and doors; installation of plant with screening and a new rooflight at main roof level and plant within a rear lightwell at second floor level.	LCP Global London
	West End	Recommendation Grant conditional permission.		
4.	RN(s): 22/08590/ADFUL L	50 Eastbourne Terrace London W2 6LG	Details of an operational management plan (OMP) pursuant to Condition 4 (B) of planning permission dated 27th July 2022 (RN:22/00672/FULL).	Vapiano Ltd
	Lancaster Gate	Recommendation Approve details.		
Item No	References	Site Address	Proposal	Applicant

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 4th April 2023
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

5.	RN(s): 22/05532/FULL	Flat 27 Saxon Hall Palace Court London W2 4JA	Erection of single storey extension at ground floor level to House (known at flat 27).	Abbey Property Management Ltd.
	Bayswater			
Recommendation Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): 22/04334/FULL	4 The Lane London NW8 0PN	Excavation of new basement storey below footprint of existing dwelling extension partially below the garden to the rear and driveway to the front together with new lightwells on the front and rear elevations, erection of side extension and alterations to the garage.	Mr & Mrs Jacob Lyons
	Abbey Road			
Recommendation Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant
7.	RN(s): 22/05586/FULL	26 Alexander Street London W2 5NT	Alterations to existing residential unit including construction of a new fourth floor mansard with dormer windows to front and rear, plus rooflight. Modifications to third floor front and rear facades and fenestration, including installation of double-glazed timber framed sash windows.	Pembridge Developments Ltd
	Bayswater			
Recommendation Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant
8.	RN(s): 22/08691/FULL	32 Maunsel Street London SW1P 2QN	Erection of single storey rear extension at first floor level.	Rachael Robathan
	Vincent Square			
Recommendation Grant conditional permission.				

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	16 Charles Street, London, W1J 5DR		
Proposal	Alterations to front and rear elevations, including alterations to door and windows to front and rear basement lightwells. Replacement of plant (at roof level and in front and rear basement lightwells) and brick clad riser to rear of building. Alterations to rear terrace including removal of existing pergola and pyramid rooflight below and infilling of existing lightwell. Internal alterations at all levels.		
Agent	CBRE Ltd		
On behalf of	16 CS Operations Ltd		
Registered Number	22/03070/FULL 22/03071/LBC	Date amended/ completed	9 May 2022
Date Application Received	9 May 2022		
Historic Building Grade	Grade II*		
Conservation Area	Mayfair		
Neighbourhood Plan	Mayfair Neighbourhood Plan		

1. RECOMMENDATION

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

2. SUMMARY & KEY CONSIDERATIONS

16 Charles Street is a grade II* listed substantial Georgian townhouse in the Mayfair Conservation Area. It forms part of a terrace of similarly scaled buildings, with a grade II listed townhouse to the west, and a twentieth century apartment block to the east.

The applications propose external and internal works in connection with the conversion of the building from office to restaurant use. A Certificate of lawfulness and the necessary premises licence

have already been granted in respect of the proposed restaurant use. Notwithstanding the substantial objections to the proposed use, both office and restaurant use fall within Class E of the Use Classes Order and planning permission is not required to change the building from one use to another.

The principal proposed external works are a new plant area to the existing flat roof, new landscaping of the rear yard, including demolition of an existing pergola, a new boxed-in duct at the rear to replace an existing one, a new platform lift to the front basement lightwell, a new door within the front basement lightwell and new louvres to basement windows.

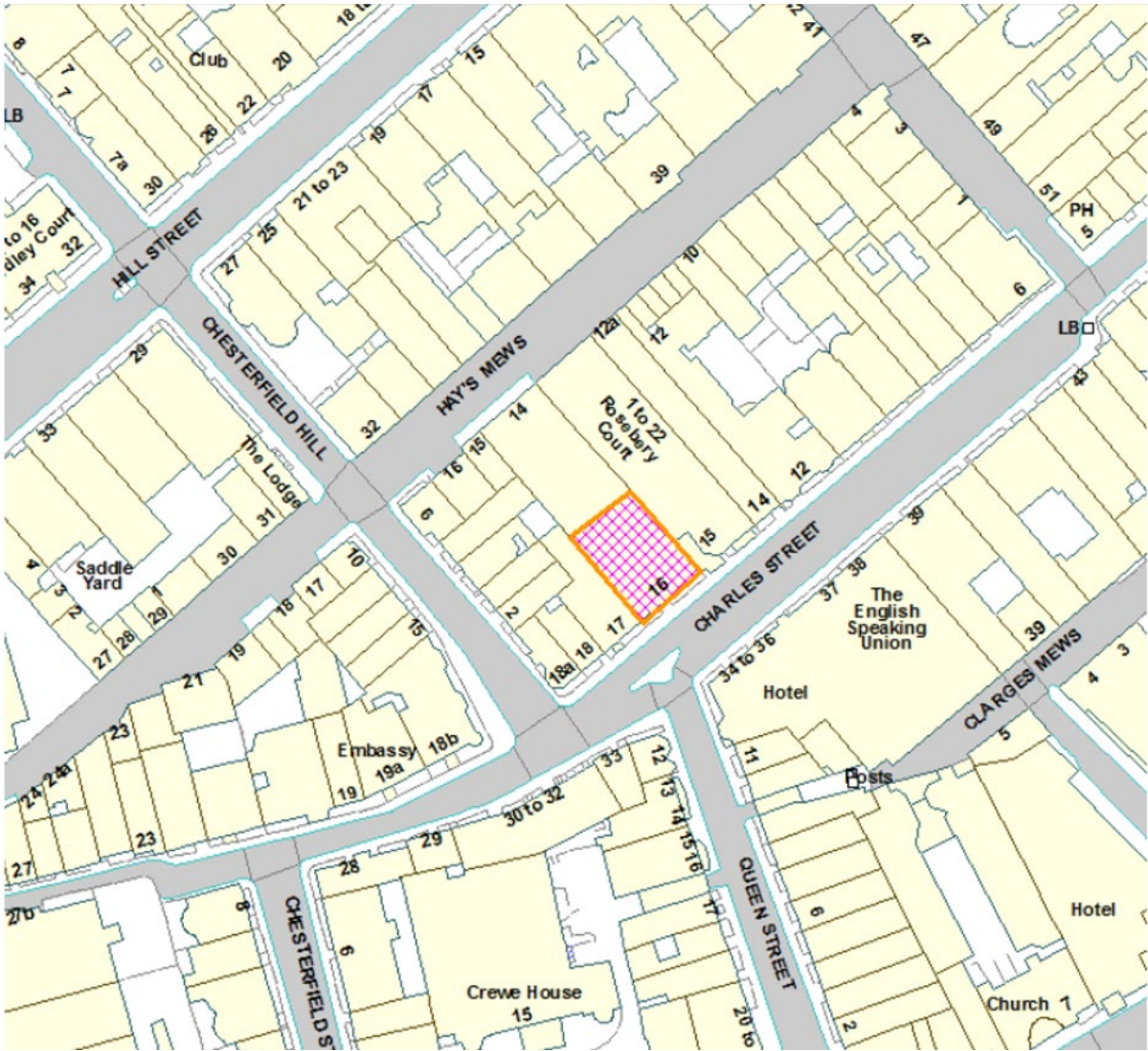
The principal internal works are the rebuilding of a secondary stair between basement and first floor, a new dumbwaiter between basement and 4th floor, demolition of a hallway lobby at ground floor and fire curtains to ground floor doors.

The key considerations in this case are:

- The impact of the proposed works on the special interest of the Grade II* listed building and the character and appearance of the Mayfair Conservation Area
- The impact on the amenity of neighbouring residential properties.

For the reasons set out in detail in the background report, the proposals are considered acceptable in land use, amenity, design and conservation grounds and are in line with the policies set out in the London Plan and Westminster's City Plan, bearing in mind the certificate of lawfulness with regard to the proposed restaurant use.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

COUNCILLOR FISHER:

Objects on the grounds of :

- Principle of a restaurant use in this location with regard the impact of patrons, staff, servicing with resulting noise and disturbance to neighbouring residential occupiers.
- Implications for fire safety.
- Potential noise and vibration impacts resulting from the plant operation.

MAYFAIR RESIDENTS GROUP:

Any response to be reported verbally

MAYFAIR NEIGHBOURHOOD FORUM:

Any response to be reported verbally

THE RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S:

Objection – considers that the scale of the operation is too large for this residential location, that significant noise and smells will be created by the operation, that the impacts of the proposed alterations have not been sufficiently evaluated from a noise and vibration point of view and that the scale of operation causes concern from a fire perspective.

VICTORIAN SOCIETY:

The age of the marble tiles to the ground floor should be established, along with the Queen Anne display cases and the secondary stair, before consent is granted for their alteration.

TWENTIETH CENTURY SOCIETY

Any response to be reported verbally.

GEORGIAN GROUP

Any response to be reported verbally.

COUNCIL FOR BRITISH ARCHAEOLOGY

Any response to be reported verbally.

SOCIETY FOR PROTECTION OF ANCIENT BUILDINGS

Any response to be reported verbally.

ANCIENT MONUMENTS SOCIETY

Any response to be reported verbally.

ENVIRONMENTAL SCIENCES:

No objections subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 41

Total No. of replies: 25 responses from 14 individual respondents, and two responses from consultants acting for neighbours

No. of objections: 14 objections to the planning application and 11 to the listed building consent

No. in support: 2

Neutral: 1

Objections have been received from neighbouring residents on the following grounds:

- Potential for noise disturbance through the building structure from the restaurant operation to the residential units in adjoining buildings.
- The floorplans for the restaurant show differences when compared to the licensing application.
- Lack of Drainage Assessment.
- A Fire Statement should have been provided with the application.
- Acceptability of a restaurant use in this location, the impacts of servicing, noise from patrons, impacts on traffic movements, queueing outside the premises and a number of other concerns related to the principle of a restaurant in this location.
- Potential for odour nuisance to neighbouring residents.
- Concern that the operation of the kitchens might result in noise nuisance to neighbouring residents.
- Concern that the rooflight at rear ground floor would be openable resulting in noise nuisance.
- Concern over use of room at rear lower ground floor level marked as 'Out of ownership'.
- Plant within the front lightwell / pavement vaults has not been properly assessed in the acoustic report.
- Acoustic report does not take account of accommodation within 15 Charles Street or 17 Charles Street with regard the fifth and sixth floor plant.
- Insufficient information and noise measurements undertaken in relation to the new plant installation.
- The acoustic report includes three condenser units in the front lightwell which are not shown on the drawings.

Heritage Objections:

- Introduction of timber louvres to fanlights and extract grilles to some window panes in front lightwell
- M&E plant and equipment to existing 4no. pavement vaults and to the east and west elevations of the lightwell;
- installation of a goods lift.
- Removal of the current York stone slab on the front door bridge may entail harmful loss of historic fabric;
- Enlargement of a former window in the ground floor toilets risks causing harm to the listed building through removal of possible original fabric;
- Replacement of 1980s single glazed sash windows with slimline, double-glazed,

sash windows would cause harm to the listed building and the character and appearance of the Conservation Area.

- Proposed large continuous plant enclosure at roof top.
- Relaying of the largely artificial slate roofs.
- Enlargement of the rooflight to the secondary staircase.
- Basement will be increasingly partitioned, which adversely affects historical room volumes and legibility of floor plan.
- Replacement of the existing vault doors to the retaining wall with louvered models.
- There is a potential heritage impact from this work that has not been assessed.
- Installation of a 'dumb waiter' riser lift through basement to third floors and open well staircase linking the basement to second floors of the Georgian building will result in a high level of harm to the listed building
- Reconfiguration of two stepped entrances at second floor level is not assessed in the application.
- Proposed removal or works to the passenger lift – no information is provided by the applicant to assess the age, character and significance and therefore its impact from its loss or alteration cannot be determined.
- The loss of the glazed from the Queen Anne Extension.
- A fire strategy and the implementation of any future strategy could result in harm to the listed building.
- Overloading of floors - the much-increased usage throughout the building risks causing premature damage not only to the structure and floor loading abilities but through accidental damage and wear and tear to highly significant Georgian and Edwardian joinery, fabric, and decorative finishes.
- The physical and visual impacts of the ventilation equipment have not been assessed.
- Harm to the Significance of Nearby Listed Buildings and to the Mayfair Conservation Area
- External Elevations and Rooftop - a number of external changes, particularly to the front elevation and the rooftop that are both individually harmful but cumulatively even more harmful.

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 prior to the submission of the planning application in accordance with the principles set out in the Early Community Engagement guidance. The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement) are summarised in the table below:

Engagement Method/Event/Activity	Date	Attendance	Summary of Discussions
Email to stakeholders			
Flyers to neighbours	15 March 2022	486 flyers distributed	
Public Exhibition	30 March 2022		Neighbours were keen to gain assurance that their peaceful enjoyment of their homes will not

			be affected
Consultation Website	Since	259 visits	

In summary, across the range of engagement undertaken by the applicant, the principal issues raised were the impact of the development on residential amenity, specifically the neighbours quiet enjoyment of their properties.

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, London plan 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 Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with 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

This application site is located within the Central Activities Zone and the Mayfair Conservation Area. The building is listed grade II*. Although currently vacant, it was last used for office purposes, which is the lawful use (see history below). It comprises basement, ground and four upper storeys and has a rear courtyard.

7.2 Recent Relevant History

16 June 2021 – Certificate of Lawfulness for Proposed Use granted for use of the building as a restaurant.

January 2020 – planning and listed building application for use of the building as a casino (sui generis), including ancillary restaurants and bar areas, installation of a new kitchen extract duct running internally and other alterations withdrawn.

September 2016 - Planning permission and listed building consent granted for installation of six air conditioning units at roof level within acoustic enclosure, and associated internal alterations.

8. THE PROPOSAL

The proposed works are a series of internal and external works required to provide a restaurant use.

Externally a new plant area is proposed to the existing flat roof, new landscaping of the rear yard, including demolition of an existing pergola structure, and a new broader boxed-in kitchen extract duct at the rear to replaces an existing version. To the front of the building a new platform lift is proposed to the front basement lightwell, a new door within the front basement lightwell and new louvres to basement windows.

The principal internal works are the rebuilding of a secondary stair between basement and first floor, a new dumbwaiter between basement and 4th floor, demolition of a hallway lobby at ground floor and fire curtains to ground floor.

9. DETAILED CONSIDERATIONS

9.1 Land Use

A Certificate of Lawfulness for a Proposed Use or Development was granted on the 17th June 2021 for the 'Use of the building as a restaurant (Use Class E)'.

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were introduced by central government on 20 July and took effect on 1 September 2020. This includes office and restaurant uses within a new Class E use 'Commercial, Business and Service', which also includes other uses such as, financial and professional services, medical, , indoor sports and "any other services which it is appropriate to provide in a commercial, business or service locality". The Certificate

confirmed that the lawful use of the building (offices) is within Class E and a restaurant use would also be within Class E and therefore planning permission would not have been required for the change of use.

A number of objectors have commented on the acceptability of a restaurant use in this location, the impacts of servicing, noise from patrons, impacts on traffic movements, queueing outside the premises and a number of other concerns related to the principle of a restaurant in this location. This planning application is solely related to the installation of new plant, it does not include the use of the building as a restaurant which does not require planning permission. Most of the content of the objections about the proposed use would be covered by any licensing requirements but are not relevant to the determination of this planning application. The use of the building as a restaurant has already been considered and deemed lawful.

It is noted that the Council has issued a premises licence (dated 3 December 2021) for the proposed restaurant. This allows opening times of 10.00 – 23.30 Monday to Thursday, 10.00 – 00.00 Friday to Saturday and 10.00 – 22.30 on Sundays. The licence is subject to a number of other operational conditions (see copy of licence in background papers).

Concern has been raised that the operation of the kitchens in the premises might result in noise issues for neighbouring residents. The building can be lawfully used as a restaurant and therefore operate a kitchen without the need for planning permission. The plant (including that for the operation of the kitchen) which forms part of this planning application has been fully assessed through the relevant acoustic report to demonstrate compliance with the City Council criteria.

9.2 Environment & Sustainability

Circular Economy

There is a limited amount of demolition resulting from the scheme. The main instances of demolition are removal of basement partitions, secondary stair, main entrance lobby, ground floor tiles, rear yard paving, demolition to accommodate dumbwaiter, redundant M&E. This is not considered sufficient demolition to require a circular economy statement.

Environment & Sustainability Summary

There are limited opportunities to add sustainability measures to the building due to the highly sensitive nature of the site in listed building terms. Nonetheless, opportunities have been identified for improving the environmental performance of the building.

New slim double glazing is proposed throughout the building, replacing the single glazed 1980s sash windows. In combination with secondary glazing, which is proposed for some windows this represents an improvement to the thermal performance of the building.

Improved insulation is proposed for those parts of the building where it would not compromise the internal decorative scheme.

Further improvements are secured through the upgrading of mechanical and electrical services; lighting, heating, and air conditioning.

Overall the applicants Energy Statement identifies a carbon saving of 38.3% as a result of the measures identified.

9.3 Biodiversity & Greening

Due to the grade II* listed status of the building and the limited nature of the alterations, opportunities for greening in this scheme are few. Planters with shrubs are proposed for the rear yard, which represents a modest improvement on the existing situation. However, there are no proposed changes to the courtyard itself.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that *"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 66 of the LBCA Act requires that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

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

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

The relevant City Plan policies are policy 38, Design Principles, policy 39. Westminster's Heritage and Policy 40(F). Townscape and architecture.

Policy 39 is particularly pertinent, requiring that development 'optimises the positive role of the historic environment in Westminster's townscape, economy and sustainability, and will:

1. ensure heritage assets and their settings are conserved and enhanced, in a manner appropriate to their significance;
2. secure the conservation and continued beneficial use of heritage assets through their retention and sensitive adaptation which will avoid harm to their significance, while allowing them to meet changing needs and mitigate and adapt to climate change;
3. place heritage at the heart of place making and good growth, maintaining the unique character of our heritage assets and delivering high quality new buildings and spaces which enhance their settings.'

The application site is a substantial grade II* listed townhouse of 1753. It is located on the north side of Charles Street in the Mayfair Conservation Area, and is flanked by the grade II listed 17 Charles Street, and the unlisted later 20th century apartment block at 15 Charles Street. The building is landlocked to the rear; the modern 14 Hays Mews has replaced the original mews building which would have served the house.

The building was constructed by John Spencer and William Timbrell, carpenters, and underwent a radical and far reaching redecoration by Mewes and Davies in 1913-14. The building retains elements of its original Georgian decorative scheme, including a very fine staircase, and some elements of the decorated ceilings may well be original.

The present day character of the building derives in large part from the Mewes & Davis phase of development for the Hon. Mrs Greville (1863-1942). During that phase the interior was lavishly decorated, retaining some of the original Palladian decoration but also incorporating new Louis XV-XVI features such as the gold leaf plasterwork in the first floor principal rooms.

A further extensive scheme of works was carried out in the 1980s, when a number of less well considered works were carried out. Further ad hoc changes associated with the office use have been carried out since.

A number of site visits have been made, and amendments to the scheme have been made by the applicants to address heritage concerns, including those raised by Historic England

External works

Externally, the proposed changes at the front of the building are limited; the main works are works within the basement lightwell including alterations to the windows, formation of doors, a platform lift and new doors to the vaults. Also proposed are, a dry riser inlet adjacent to the front entrance, soot washing of the brickwork and an new York stone slab to the main entrance.

A new doorway is proposed within the basement lightwell, which reinstates a previously existing door in its original location, replacing an existing window for access for deliveries. Each of the under-pavement vaults is to receive a new door, to allow for the new uses within. An objection has been received in relation to the use of the vaults for M&E plant, and the insertion of new doors with louvres. The interiors of the vaults are

not of special interest. They are fully rendered, and a suitable location for plant. Similarly, the vault doors are not historic. The use of pavement vaults for plant, and the insertion of louvered doors is a frequently permitted approach in Westminster.

The existing metal stair is to be modified to allow the creation of a platform lift within the lightwell. A hinged section of the stair platform will permit deliveries to be made via the front lightwell. Objections have been received in relation to provision of the lift. The metal stair itself is of no special heritage value, and the lift, which will be kept in a lowered position when not in use, will not affect the appearance of the building, as it will be housed entirely under the stair.

An objection has been received in relation to the provision of the dry riser to the front elevation. The dry riser is located at low level on the ground floor front elevation, and is as small as possible. It will make a significant contribution to the fire safety of the building, at the cost of a small amount of historic fabric.

The works with the greatest impact in the front lightwell are the replacement of some glazed panes from the sash windows with louvres to allow fresh air intake and extract from the basement. Inserting louvres to windows is not an ideal arrangement, and is considered to be an arrangement of last resort; an objection has been received to this aspect of the scheme. Similar works have been allowed elsewhere in Charles Street (to no 39 for example). The proposed approach at no 16 is to replace the glazing only, retaining the existing glazing bars – this represents an improvement of other local examples. The existing glazing is wired safety glass and of no special interest in its own right.

While some of the affected windows will be screened from public view by the lightwell bridge, this element will nonetheless represent a modest harm to the special interest of the building.

A soot wash is proposed to the front elevation, to disguise the somewhat patchy brickwork of this elevation which has resulted from ad hoc repairs over the years. Soot washing is a technique with historical precedent and is not uncommon in this part of Mayfair. and if carefully applied can result in a more uniform appearance, and may offer an improved appearance. Consent for soot washing would be contingent upon the carrying out of a sample panel.

At the entrance to the building a new York stone slab is proposed to replace an existing cracked stone on the lightwell bridge. An objection has been received to this element of the works. In addition to repairing a damaged element of building fabric, the replacement slab offers the opportunity to create a gentle ramp to the entrance, improving public accessibility.

Objections have been received in relation to the railings and obelisks, however no works are proposed to these elements.

At the rear of the building the existing rear lightwell in the courtyard is proposed to be glazed over to unite the basement rooms to be used as kitchens.

The existing pergola and pyramid rooflight, both of which are modern insertions, are to

be removed. The existing modern paving to courtyard is to be removed and replaced. An objection to the use of a decorative paving pattern has been received. The applicant has indicated that the paving design is indicative, and are willing to accept a condition relating to its final design.

These works are all uncontentious, and the removal of the existing pergola and rooflight are heritage benefits. The existing paving is very poor, and the proposed materials (natural stone) of the new paving better relates to the listed building.

The existing brick clad riser is to be replaced by a slightly wider one, necessitating the moving of some historic rainwater goods. An objection has been received that this will require the new opening in the historic fabric at high level where the hopper is relocated. The new opening is considered to be sufficiently modest that it will not harm the special interest of the building.

At main roof level, additional plant equipment is proposed. There is a considerable amount of existing plant at roof level, which is not visible in longer views from the front of the building, though is visible from the upper floors of adjacent buildings.

The proposed replacement plant will not be significantly taller than the existing plant (there is a modest increase). It is well set back from the front of the building, preventing views of the equipment in nearby public views. As there are some very long views at the front of the building it is important that the visibility of roof plant be kept to a minimum. The new plant enclosure will not be visible above the roof ridge, though a glimpse of the louvres enclosure will be visible to the left of the chimney stacks, as per design and access statement, p 35. A design objection to the roof plant has been received identifying rooftop changes as individually harmful but cumulatively more harmful.. The proposed enclosure, while bulkier than the existing plant, does rationalise the ad hoc rooftop installations into a single, neater and more coherent whole. It is well designed to match the roofslope at the rear and is set back from the front. With a condition to control the colour this element is considered to be acceptable.

Further objections to roof level relate to the size of rooflights and to the reuse of artificial slate. While natural slate is the preferred material for new work to a listed building we cannot insist on its use for the making good of an existing roof clad in another material. The rooflights are in a modern flat roof, and while one does increase modestly in size, overall there is a reduction from six to one rooflights.

Internal works

Internally there are numerous works proposed to turn the building to restaurant use.

At basement level the plan form is approximately as per the original Georgian phase of development. A spine corridor opens to larger rooms to the east side of the house and smaller former cupboards and pantries to the west side.

The front basement room features a chimney breast, but no fireplace, while the rear room is subdivided with a partition which divides the chimney breast there.

The proposed works introduce partitions to the front basement room, creating three

storage pantries and a prep kitchen. An objection has been received to the subdivision of the room, on the basis that it harms the historic plan form. While the legibility of the front room will be obscured by the partitions, this is a very plain room with no surviving features. It has lost its spine wall, and the partitions will be lightweight and reversible. The harm that they cause will be very limited.

Beneath the rear garden the modern partitions are stripped away, and the accommodation redivided according to the requirements of the kitchens; a neutral impact in heritage terms. Connecting the historic rooms to the original building and the modern basement to the rear is the rear basement lightwell. This is roofed over with a glazed rooflight, and an opening created to allow passage between the parts of the basement. This does involve an alteration to plan form. However the fabric in the rear of the basement is of modest value, dating from the latest stages of the building development. The historic plan form of the rear basement room and lightwell remain discernible. An objection identifying the rooflight as openable has misconstrued the proposal; this element is fixed. A further objection considers that the gazing over of this lightwell has not been assessed in the application documents. The lightwell does not contain significant fabric, and the loss of views of the basement from the yard is not considered to be harmful to the significance of the building.

The most significant change, in terms of plan form, is the reordering of the secondary service stair from basement to first floor. While a grand historic staircase rises up the front portion between ground and first floors, a more modest stair to the rear of the building links basement to first. Opening up works have revealed this service stair to be a later alteration – there would be no loss of Georgian fabric in its reworking. Historic plan evidence shows that there have been several schemes for the stairs, including one of the mid twentieth century. It is unclear which phase of works the current stairs date from, but it is considered that their value is limited.

The proposed new plan reverses the direction of turn, and widens the stair. The changes are considered to be acceptable, subject to the detailed design of the new stair.

Also linking the basement kitchens with the upper storeys of the building is a new dumbwaiter. This rises up the rear of the building, adjacent to the junction between the later rear wing and the historic house. This portion of the building is very much altered at each level. While there are fragments of historic plaster remaining they will not be affected. The loss of a small amount of ceilings / floor fabric in this position is considered to be acceptable. An objection which has been received to the insertion of dumbwaiters would be sustainable if the demolition involved fabric of historic significance; in this instance however it does not.

An objector identifies the removal of a small amount of fabric to allow passage from the proposed wash up to the dumb waiter lobby as potentially harmful. This part of the building has been substantially altered; it is not therefore considered that any harm arises from this element.

At ground floor the removal of the (harmful) modern entrance lobby from the front hall is a benefit. The Victorian Society response requested that the provenance of this floor be definitively established. The floor covering dates from the 1980s – it is shown on the Harris and Sutherland plan of 1987. A condition will require details of the new floor

covering. An objection to the loss of the flooring notes that it is consistent with the design intent of the Mewes and Davies scheme. However the proposed replacement stone will be consistent with the Georgian phase of the building and is therefore considered acceptable.

The most significant intervention at this level, which has seen development and revision over the course of the application is the introduction of fire curtains to the internal doors of the main ground floor dining room. These works will introduce a drop-down fire curtain above the lintel of the door openings, and will require the alteration of a small amount of historic door lining. The amount of historic fabric affected has been minimised, the visual impact would be modest. The alternative approaches to improving fire safety, such as introducing lobbies, are unacceptable in listed building terms. The curtains are considered to be the least harmful approach to achieving the necessary fire protection.

In the garden room (a Queen Anne style extension of the 1913-14 phase of works) there is a surviving display case which is associated with the Hon. Mrs Greville. Following negotiation with the applicant this element is to be retained, with only its modern shelves and shelf fittings replaced. The final design of the new shelves is to be secured by condition. An objection to the loss of the display case from the Victorian Society is overcome by the revised plans.

The first floor is another very striking interior largely dating from 1913-14, with another massive entertaining room. At this level the proposed alterations will be limited to minor upgrades and repairs. Secondary glazing is proposed to the rear elevation, the details of which will be controlled by condition.

Alterations to the toilets are proposed, and a small kitchen to be inserted into the rear wing neither of which affect the special interest of the building. Modern fan coil units in joinery boxes are to be removed, and replaced with cooling within purpose built furniture.

The first floor is the uppermost level affected by the revised secondary stair.

At second floor level the existing steps from landing level to the main floor level are to be reconstructed. An objection has been received that this element of the works has not been properly assessed. Historic plans demonstrate that the two stepped entrances were constructed in 1980's when the floor in the principal room was raised in order to accommodate below floor services. These steps are not of historic interest in their own right and, subject to a condition requiring details of the replacement steps, this element is acceptable.

At third floor level the principal features of interest are the ceiling in the circulation spaces, and the domed (internal) lantern light above the principal staircase. The lantern is a modern addition, and its loss is uncontentious. Its replacement with an opening at third floor, with a reflecting surface on the ceiling of the third floor are considered to be acceptable.

There is again a change of level between the landing and principal rooms. The steps accommodating this change of level are not of special interest.

The fourth floor (mansard) level is largely without special interest. Works to form office

accommodation in the 1980s have resulted in a sterile interior, with only the upper portion of the secondary stair of interest. The proposed scheme subdivides this area into areas of plant, office and a lounge. While the floorplan of this area would be uncharacteristic, the complete lack of special interest at this level means these works are acceptable.

Additional objections have been received in relation to the following aspect of the scheme.

Windows

An objector considers that replacement of 1980s single glazed sash windows with slimline, double-glazed, sash windows would cause harm to the listed building and the character and appearance of the Conservation Area. The loss of the 1980s windows cannot be considered harm to historic fabric. The proposed windows, though double glazed, will make an equal contribution to the special interest of the building, and will be more thermally efficient. It is not the case that the provision of double glazed units, providing it does not involve the loss of significant fabric and is carefully detailed, is unacceptable in principle in a listed building.

Dumbwaiter and passenger lift

The objector considered that the installation of a 'dumb waiter' through basement to third floors and open well staircase linking the basement to second floors of the Georgian building would result in a high level of harm to the listed building. The location of the dumb waiter had been selected in order to affect historic fabric of minimum value. While there will be a limited amount of loss of floor plate on each floor, there is no decorative fabric in these locations – this part of the building been extensively reconstructed in the later 20th-century, and as such these works are appropriately located and would have little or no impact on significant fabric.

Proposed removal or works to the passenger lift – the passenger lift is not of special interest.

Fire strategy

A fire strategy and the implementation of any future strategy could result in harm to the listed building. The proposed fire safety works (fire curtains and dry riser inlet) are considered acceptable in listed building terms. Any further works would require a new listed building consent application.

Overloading

Overloading of floors – one objector considered that the increased usage throughout the building risks causing premature damage not only to the structure and floor loading abilities but through accidental damage and wear and tear to highly significant Georgian and Edwardian joinery, fabric, and decorative finishes. The floors have been reinforced, some with large steels. The additional loading requirements of a restaurant over those of an office (the previous use) are not considered to be significant.

Impact of the use of the special interest of the building

One objector raised the issue of the impact of the use on the special interest of the building. While the building was constructed, and was used for the majority of its life, as a residential building, it has been in office use for some time. Restaurant is not considered to be more at odds with the residential character of the building than office use. Indeed, given that the Mewes and Davies alterations of the early twentieth century were largely connected to equipping the house for grand formal entertainments, restaurant use is arguably closer, at least in the primary rooms, to its original character.

Harm and public benefits

In their letter of December 2022, Historic England set out that design amendments have mitigated most of the harmful aspects of the scheme. Two areas remain, which cause less than substantial harm to the special interest of the listed building. These are:

The proposed modification of the Mewes & Davis doorways off the main corridors at ground and first floor levels to incorporate fire curtains would cause harm through loss of historic fabric and the permanent alteration of these important architectural features; but it is understood that this is the least impactful way to meet the minimum fire separation standards necessary for the restaurant use.

Basement area louvres would replace the upper lights of the existing sash windows, and though they would express the glazing bars in order to minimise their harmful impact, where perceived from within and from the street they would cause harm to architectural significance.

Both of these aspects are considered to be the least harmful impactful way of addressing the requirement for fire compartmentation and fresh air intake / extract respectively. The fire curtains will require the removal of a small amount of historic fabric, and will leave a visible channel within the doorway reveal of each affected door. The benefit in fire safety, which would pertain whatever the use of the building, is significant, and the creation of lobbies would be considerably more harmful.

The provision of louvres within the basement lightwell windows is an approach which has been pursued elsewhere on Charles Street. The application proposals retain the glazing bars, which would minimise the impact of the louvres on the appearance of the building. Some would be obscured by the lightwell bridge. Nonetheless, this element does cause less than substantial harm.

There are heritage benefits arising from the scheme which are considered to balance this level of harm. The obtrusive 1980s entrance lobby is to be removed from the hallway, the poor quality 1980s paving is to be removed from the rear yard, the harmful pergola is to be removed from the rear yard and the front basement lightwell is to be repaved with York stone flags.

These benefits are considered to outweigh the less than substantial harm caused by the fire curtains and window louvres.

9.5 Residential Amenity

Noise & Vibration

In relation to noise from the proposed plant the application has been considered in the context of Policy S33 of the City Plan 2019-2040. This policy seeks to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

An acoustic report has been submitted in relation to the installation of the plant equipment. Plant is proposed at main roof level (with acoustic screening); internally but with an intake grille in the rear lower ground floor lightwell; and within the front lower ground floor pavement vaults. Numerous background noise surveys have been undertaken at the property including one over a five day period; measurements were taken at main roof level, fourth floor level, in the rear courtyard, and at first floor level at the front of the building.

The kitchen extract fans, kitchen air handling units and kitchen condenser units are required to operate between 08:00 and 00:00. The remainder of the plant is required to operate at any time over a 24 hour period, but six of the condenser units at main roof level are proposed to operate in 'low power mode' between 00:00 and 08:00.

With regard the plant at main roof level, the lowest background noise level was recorded at the rear of the property as being 43dB over the 24 hour period which results in a design criteria for the noise levels from the plant operation of 33dB being 10dB below background at the nearest noise sensitive receptor. At the front of the property the lowest background noise levels were recorded as being 53dB until midnight which results in a design criteria of 43dB. In the rear courtyard the lowest background noise level was recorded as 33dB which results in a design criteria of 28dB being 5dB below background.

Measurements have been taken to assess the noise from the plant operation at a number of nearby sensitive properties, including fifth floor windows at the rear of 17 Charles Street; sixth floor windows at the rear of 15 Charles Street; basement level at the rear of 14 Hays Mews (commercial); second floor level to the rear of 13 Hays Mews; and first floor level to the front of 15 Charles Street. Existing background noise levels are below WHO criteria at the rear fifth floor windows of 17 Charles Street, rear sixth floor windows of 15 Charles Street and the rear second floor windows of 13 Hays Mews, whilst they are above the WHO criteria for the first floor front windows of 15 Charles Street.

A range of acoustic and vibration mitigation measures are proposed which includes the installation of in-duct attenuators, an acoustic louvred barrier at main roof level around the plant, louvred door and internal acoustic absorption to the plant in the front pavement vaults and the installation of anti-vibration mounts to various items of equipment.

The acoustic report concludes that with the acoustic mitigation measures installed and the hours of operation of the plant controlled as detailed above, that the noise levels at the nearest sensitive property will be compliant with the City Council criteria.

Environmental Health have assessed the documentation and confirmed that the plant

operation will be acceptable. Conditions are included to control noise and vibration levels from the plant, hours of operation and the installation of the acoustic mitigation measures. Environmental Health have also requested the addition of a condition to require the submission of a supplementary acoustic report (that will ensure the plant, once installed, operates in accordance with the above conditions).

Objectors have raised concerns about the potential for vibration transmitted through the building structure causing a nuisance to residential occupiers within the building. The potential for vibration from the plant operation causing a nuisance has been assessed by Environmental Health who have recommended the standard condition with regard acceptable vibration levels and do not foresee the proposal causing an issue for residents. On this basis the objection is not considered to be sustainable.

Objectors have commented on discrepancies between the submitted drawings and the acoustic report with regard the plant to be installed within the front lightwell pavement vaults. The original submission annotated the pavement vaults as containing 'plant' which had not then been assessed in the acoustic report. The applicant has advised that the front basement vaults will be used for the water system and will contain two pumps; these require ventilation and the vault door will therefore be louvred. An assessment of the noise of the operation of the pumps in the front vaults has been included in an amended acoustic report. This demonstrates noise levels from the water pump operation to be compliant with the City Council criteria at the nearest noise sensitive property (15 Charles Street). Acoustic mitigation is proposed in the form of absorption material to be installed within the vault and the acoustic performance of the louvred door. A condition is included to ensure these measures are installed to the specification detailed in the acoustic report.

An objector has commented on whether the fifth and sixth floor plant areas have correctly identified the nearest noise sensitive properties. These issues have been passed onto the applicant's acoustic consultants, who have specifically measured noise levels to the neighbouring 15 Charles Street and 17 Charles Street and shown these to be the nearest impacted windows. The original acoustic report included the installation of three condenser units in the front lightwell which were not shown on the drawings and which was queried by objectors. The acoustic report has subsequently amended to remove this reference as these are not proposed.

Additional information on acoustic grounds has been provided during the course of the application to address some omissions. All acoustic information including the critique of the acoustic report provided by the objectors has been provided to Environmental Health who have assessed all the submitted information and determined that the acoustic information provided is sufficient to enable a full assessment of the proposal and determined that with the imposition of safeguarding conditions the operation of the plant will be compliant with the City Council requirements. This is considered to address the objections raised on these grounds.

Odour

The application is supported by an odour nuisance prevention scheme which assesses the acceptability of the high level duct to provide suitable odour dispersal from the restaurant premises. This has been assessed by Environmental Health who have

confirmed the proposed duct will provide a suitable means for odour dispersal. A condition is included to require the installation of the high level extract duct and its retention for as long as the restaurant is in operation. Objectors have commented on potential odour nuisance from the operation of the restaurant. The high level extract duct proposed complies with the relevant City Council criteria and the report has been assessed and deemed acceptable with Environmental Health. The objections on these grounds are not therefore considered sustainable.

9.6 Transportation, Accessibility & Servicing

Notwithstanding the objections on these grounds in relation to the proposed use of the building as a restaurant, these matters are not relevant on the grounds that planning permission is not required for the restaurant use.

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 and support the provision of a new restaurant premises.

9.8 Other Considerations

Fire Safety

Some of the objectors raise concerns about fire safety. One objector has commissioned a 'Fire Safety Review' to be carried out of the proposal and they have identified a number of issues with the current layout. The report is accompanied by an email from the fire engineer noting that current planning policies do not require that the applicant submit a fire statement for a development such as this and the application does not meet the criteria to be designated a Planning Gateway One application which would require a fire statement and consultation with the HSE. The Fire Safety Review commissioned by the objector has been passed on to the applicant for their consideration. The applicant has had their own fire strategy produced which concludes that the proposal can be compliant with the requirements of the regulations. Notwithstanding the disagreement between the two parties, given the scale of the project there is no requirement for a fire safety report to be submitted and the assessment of fire safety would be under building regulations. The objections on these grounds are not therefore considered sustainable.

Goods Lift

Objections have been received with regard to the potential for the goods lift proposed in the front basement lightwell to result in noise disturbance to neighbouring occupiers. It is not considered the lift would result in any noise nuisance and noise levels at the front of the property at street level will generally be higher.

Drainage Assessment

An objector has commented on the lack of a 'Drainage Assessment'. The application is

for plant and internal alterations. There is no requirement for a 'Drainage Assessment'. The restaurant use is lawful and does not require planning permission.

Rear Rooflight

An objector has raised concerns that the new rooflight at rear ground floor level would be openable and might result in noise emanating from the restaurant use and impacting neighbouring residents. The applicant has confirmed that the rooflight is fixed shut and the drawings show this. The objection on these grounds is not therefore considered sustainable.

Other Issues

A neighbouring objector has requested further detail on the use of a room at rear lower ground floor level which is accessed from the rear communal corridor, as this is annotated as 'Out of ownership'. As far as the applicant is aware this room houses a water booster and water tank for 14 Hays Mews.

An objector has commented that the floorplans for the approved license for the premises differ from those currently shown. The Certificate of Lawfulness confirmed planning permission was not required for the use of the building as a restaurant. It is not relevant to this planning application that the layout of the restaurant has changed slightly from the drawings with the approved Certificate.

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.

10. Conclusion

The proposals result in harmful impacts to the special interest of the grade II* listed building. No harmful impact is found to the character and appearance of the Mayfair Conservation Area or to the setting of the adjacent listed buildings.

Considering all aspects of the scheme, the impact in heritage terms would be a moderate degree of less than substantial harm as set out in section 9.4 of this report. Paragraph 202 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Public Benefits

As set out throughout this report, officers agree with the applicants, and supporters of the scheme, that these proposals would result in modest public benefits.

The alterations allow for improved accessibility into the building, creating improvement to the threshold in access terms. The alterations, through the introduction of fire curtains, also improve the fire safety of the building.

The alterations would also improve the energy performance of the buildings, helping the operators to contribute toward a reduction in carbon emissions.

The building, which has been vacant since 2018, would be brought back into beneficial use serving visiting members of the public. The applicants have estimated that this will result in the creation of c.250 new jobs.

The heritage benefits, as outlined above are the relaying of York stone flags to the front lightwell, the introduction of natural stone paving to the rear yard, the removal of a harmful entrance lobby from the hall.

Planning Balance

Special regard must be given to the desirability of preserving listed buildings, but where a development leads to less than substantial harm, the NPPF states this harm should be weighed against the public benefits, including taking into account whether any conflict between the heritage asset's conservation and any aspect of the proposal has been avoided or minimised.

The applicants have made a convincing justification as to why the proposed alterations are required and how these alterations have been designed to make the least impact on historic fabric.

Historic England and officers recognise the alterations to the building are required to achieve the improvements, and that they are no more than is necessary to implement the restaurant use.

As such, whilst being mindful of policies of the development plan, given the public benefits that would be delivered, the proposal is considered acceptable in terms of its impact on the designated heritage asset. Therefore, the recommendation to grant conditional permission and listed building consent is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

11. KEY DRAWINGS

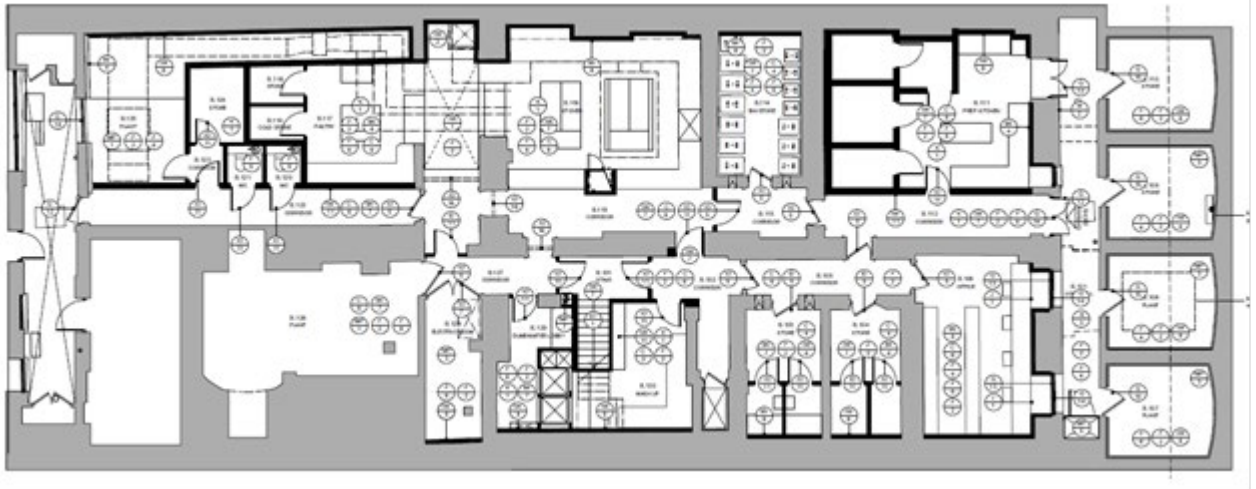


Existing and proposed front elevation showing the degree of visibility of the rooftop plant enclosure

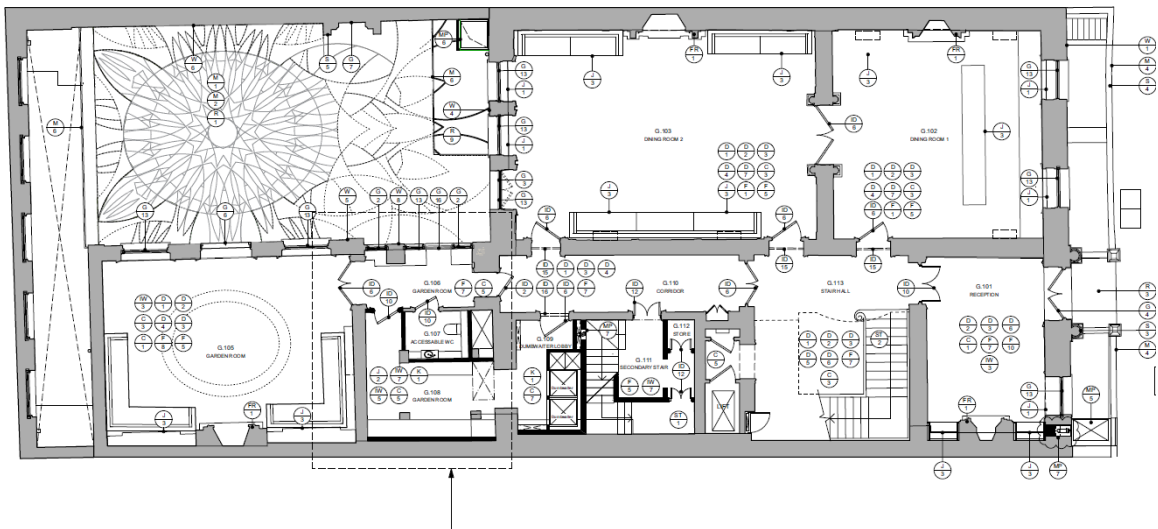
Front Elevation



Basement floor plan

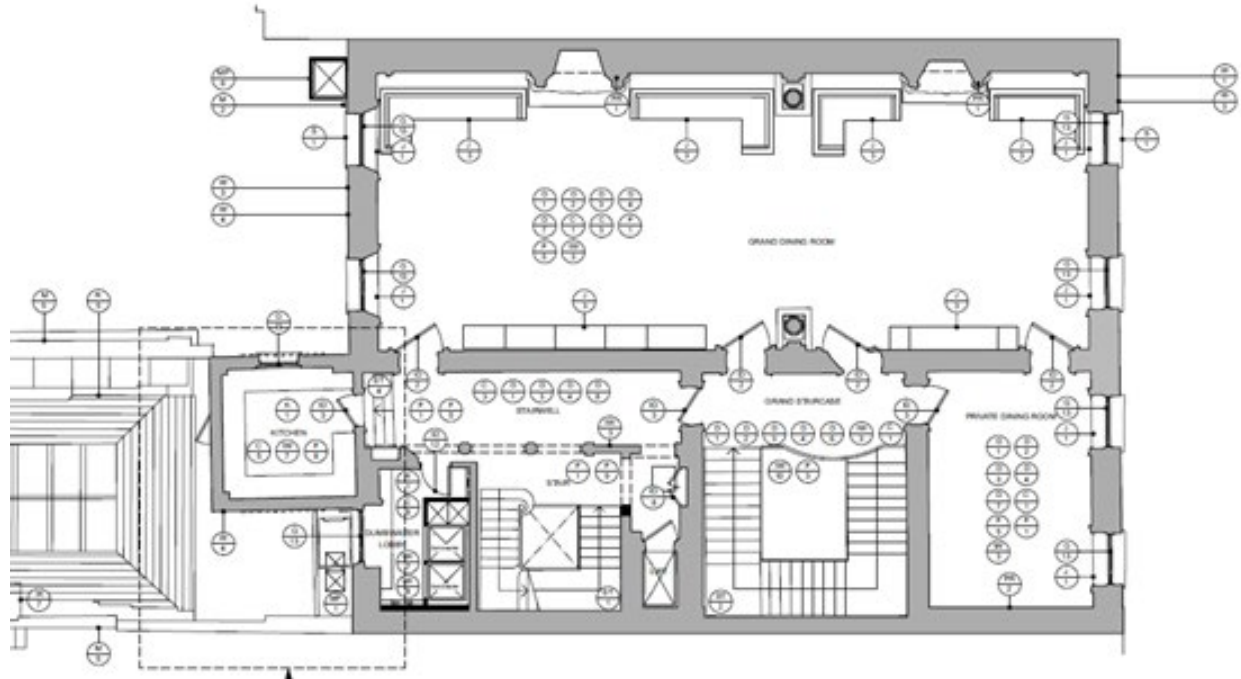


Ground floor plan

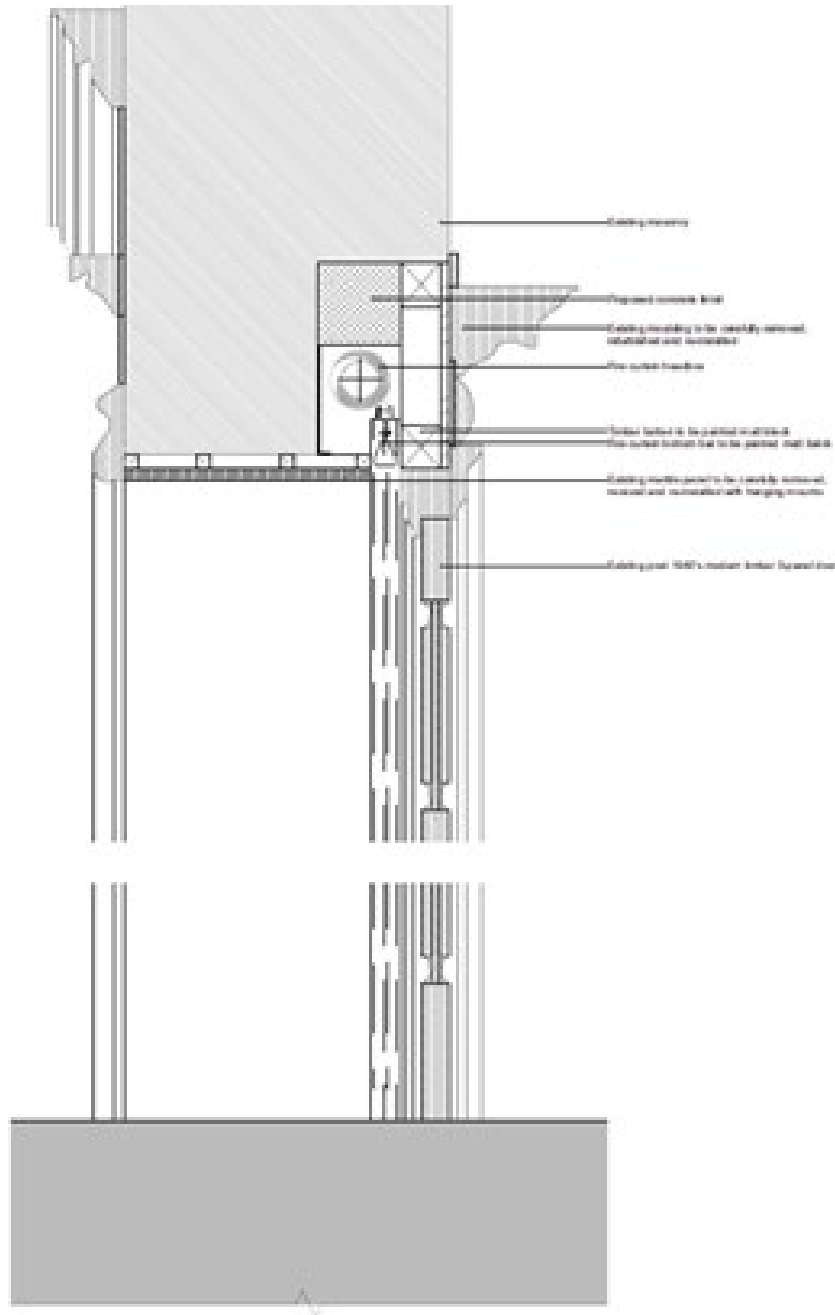


First floor plan

or Mezzanine Plan



Fire curtain detail



DRAFT DECISION LETTER – PLANNING PERMISSION

Address: 16 Charles Street, London, W1J 5DR,

Proposal: Alterations to front and rear elevations, including alterations to door and windows to front and rear basement lightwells. Replacement of plant (at roof level and in front and rear basement lightwells) and brick clad riser to rear of building. Alterations to rear terrace including removal of existing pergola and pyramid rooflight below and infilling of existing lightwell. Internal alterations at all levels.(Linked with 22/03071/LBC)

Reference 22/03070/FULL

Plan Nos: Proposed elevations
2011-A4-150 P4; 2011-A4-140 p2; 2011-A4-130 p4; 2011-A4-120 P4; 2011-A4-110 P8

Proposed sections:
2011-A4-240 P6; 2011-A4-210 P4; 2011-A4-220 P3; 2011-A4-230 P4; 2011-A4-250 P4; 2011-A4-260 P3

Proposed plans:
2011-A4-010 P7; 2011-A4-020 P7; 2011-A4-030 P6; 2011-A4-040 P7; 2011-A4-050 P5; 2011-A4-060 P6; 2011-A4-070 P7

Demolition:
2011-A3-010 P3; 2011-A3-020 P3; 2011-A3-030 P3; 2011-A3-040 P4; 2011-A3-050 P4; 2011-A3-060 P4; 2011-A3-070 P4

Proposed details
2011-A4-002 P1; 2011-A5-011; 2011-A5-010; 2011-C5-610; 2011-C-5-711; 2011-C-5-712; 2011-C-5-713; 2011-C-5-714; 2011-D5-010; 2011-D5-020; 2011-D5-030; 2011-E5-010; 2011-E5-020; 2011-E5-030; 2011-E5-040; 2011-E5-060; 2011-E5-080; 2011-E5-510; 2011-J5-010; 2011-C5-210; 2011-C5-310; 2011-C5-410; 2011-C5-710; 2011-C5-715; 2011-C5-716; 2011-C5-520

Brick cleaning method statement
Renaissance door method statement

Case Officer: Toby Cuthbertson

Direct Tel. No. 07866039110

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 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 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 Environmental Supplementary Planning Document (February 2022). (R48AB)

- 4 The plant/machinery hereby permitted and identified in the acoustic report with the following references (DX/3/01, DX/3/02, DX/B/01, AHU01, AHU02, EF01, EF02, PU01, PU02) can only be operated between the hours of 08:00 and 00:00 daily. The remainder of the plant can operate at any time but the units with the following references (CU01, CU02, CU03, CU04, CU05, CU06) must operate in 'low noise mode' between the hours of 00:00 and 08:00 daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

- 5 With regard noise levels at the front first floor window of 15 Charles Street:

(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:

- (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)

6 With regard noise levels at the rear fifth floor window of 17 Charles Street, rear window of the sixth floor of 15 Charles Street and second floor at the rear of 13 Hays Mews:

- (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved 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 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.
- (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 minutes) 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. (C46BC)

Reason:

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46BC)

- 7 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) 5 and 6 of this permission.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

- 8 You must install all the internal acoustic mitigation measures as detailed in the RBA Acoustics Noise Impact Assessment dated 19 January 2023 (Ref 11015.RP03.NIA.6, Revision Number 6) at the same time as the plant is installed. These measures must thereafter be maintained in this form for as long as the plant remains in operation.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

- 9 You must install and retain the high level extract duct on the rear elevation of the property for as long as the restaurant use is in operation.

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)

- 10 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this

permission. (C26AA)

Reason:

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

- 11 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

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

- 12 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

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

- 13 Notwithstanding the detail shown in drawing A 4020 P7, you must apply to us for approval of detailed drawings showing the following alteration to the scheme rear yard paving detail;. You must not start on these parts of the work until we have approved in writing what you have sent us. You must then carry out the work according to the approved drawings. (C26UC)

Reason:

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

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

- a) rooftop plant enclosure
- b) platform lift
- c) pavement vault doors

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings;. (C26DB)

Reason:

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

- 15 You must apply to us for approval of manufacturers details and photographs of samples of the

following parts of the development:

- a) rear yard paving
- b) front lightwell paving
- c) brick cladding to rear duct

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 samples. (C26DB)

Reason:

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

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 Conditions 5 and 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 The kitchen extract ducts should be designed to discharge at highest roof level and clear of all existing and proposed windows in the vicinity. We accept systems with a flue height level which is higher than any building within 20 metres of the building housing the commercial kitchen.

A scheme of odour reduction may need to be incorporated together with full height discharge if there are surrounding residential premises (and/or commercial buildings with openable windows) between 20 m - 50 m distance and which are also higher than the discharge point of the building housing the commercial kitchen.

- 5 You are advised to ensure the following measures are incorporated into your scheme:
 - The kitchen extract duct should be designed to discharge vertically
 - All cookline equipment must be placed under the extraction canopy
 - The general ventilation within the kitchen must be designed to achieve an upper ambient temperature of 25 centigrade and provide sufficient air changes within the workspace in

compliance with Building & Engineering Services Association (BESA) guidance DW172-2018 or as updated.

- The kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance, at approximately 2-3 metre intervals or follow the BESA document TR19 for cleaning and maintenance.
- Any cladding 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
- Access to the ducting must comply with the Health & Safety safe access standards.

DRAFT DECISION LETTER – LISTED BUILDING CONSENT

Address: 16 Charles Street, London, W1J 5DR,

Proposal: Alterations to front and rear elevations, including alterations to door and windows to front and rear basement lightwells. Replacement of plant (at roof level and in front and rear basement lightwells) and brick clad riser to rear of building. Alterations to rear terrace including removal of existing pergola and pyramid rooflight below and infilling of existing lightwell. Internal alterations at all levels.

Reference 22/03071/LBC

Plan Nos: Proposed elevations: 2011-A4-150 P4; 2011-A4-140 p2; 2011-A4-130 p4; 2011-A4-120 P4; 2011-A4-110 P8; Proposed sections: 2011-A4-240 P6; 2011-A4-210 P4; 2011-A4-220 P3; 2011-A4-230 P4; 2011-A4-250 P4; 2011-A4-260 P3; Proposed plans: 2011-A4-010 P7; 2011-A4-020 P7; 2011-A4-030 P6; 2011-A4-040 P7; 2011-A4-050 P5; 2011-A4-060 P6; 2011-A4-070 P7; Demolition: 2011-A3-010 P3; 2011-A3-020 P3; 2011-A3-030 P3; 2011-A3-040 P4; 2011-A3-050 P4; 2011-A3-060 P4; 2011-A3-070 P4; Proposed details: 2011-A4-002 P1; 2011-A5-011; 2011-A5-010; 2011-C5-610; 2011-C-5-711; 2011-C-5-712; 2011-C-5-713; 2011-C-5-714; 2011-D5-010; 2011-D5-020; 2011-D5-030; 2011-E5-010; 2011-E5-020; 2011-E5-030; 2011-E5-040; 2011-E5-060; 2011-E5-080; 2011-E5-510; 2011-J5-010; 2011-C5-210; 2011-C5-310; 2011-C5-410; 2011-C5-710; 2011-C5-715; 2011-C5-716; 2011-C5-520; Brick cleaning method statement, Renaissance door method statement

Case Officer: Toby Cuthbertson

Direct Tel. No. 07866039110

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

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

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary

Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 2 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)
- Reason:
To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)
- 3 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)
- Reason:
To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)
- 4 The works approved are only those shown on the drawings listed on this decision letter.
- Reason:
To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)
- 5 You must apply to us for approval of detailed drawings 1:5 and 1:20 of the following parts of the development:
- a) rooftop plant enclosure
 - b) platform lift
 - c) pavement vault doors
 - d) built in furniture, including banquettes and fan coil unit cabinets
 - e) balustrade alterations to secondary stair
 - f) paving to rear yard
 - g) glazing units and glazing bar profiles to the new sash 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 drawings. (C26DB)
- Reason:
To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)
- 6 You must scribe all new joinery, including banquette seating, around the existing ornamental plaster mouldings. (C27JA)

Reason:

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

- 7 You must apply to us for approval of manufacturers details and photographs of samples of the following parts of the development:
- a) rear yard paving
 - b) front lightwell paving
 - c) brick cladding to rear duct
 - d) ground floor tiles

. 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 samples;. (C26DB)

Reason:

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

Informative(s):

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

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

In reaching this decision the following were of particular relevance:

Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 The proposed raising of the balustrades to the secondary staircase at the second-floor landing level on plinths should be carefully detailed to minimise incongruity. Contact Toby Cuthbertson to discuss this element of the scheme.

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.

Item No.
2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	37 - 38 Clarges Street, London, W1J 7EN		
Proposal	Installation of plant within the front lightwell at lower ground floor level; installation of air intake louvres on the front elevation at lower ground floor level; installation of a high level extract duct on the rear elevation and repositioning of an existing air conditioning unit and installation of new screening on the flat roof area at rear first floor level.		
Agent	Firstplan		
On behalf of	Aragawa UK Ltd		
Registered Number	22/03663/FULL	Date amended/ completed	21 June 2022
Date Application Received	1 June 2022		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		
Neighbourhood Plan	Mayfair Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

38 Clarges Street is an unlisted building in the Mayfair Conservation Area and the Central Activities Zone. It's neighbours, 36 and 39 Clarges Street are grade II listed buildings. To the rear, 12, 14 and 15 Half Moon Street are also all grade II listed. The building has lawful use as a restaurant at lower ground and ground floor levels and residential flats on the upper floors.

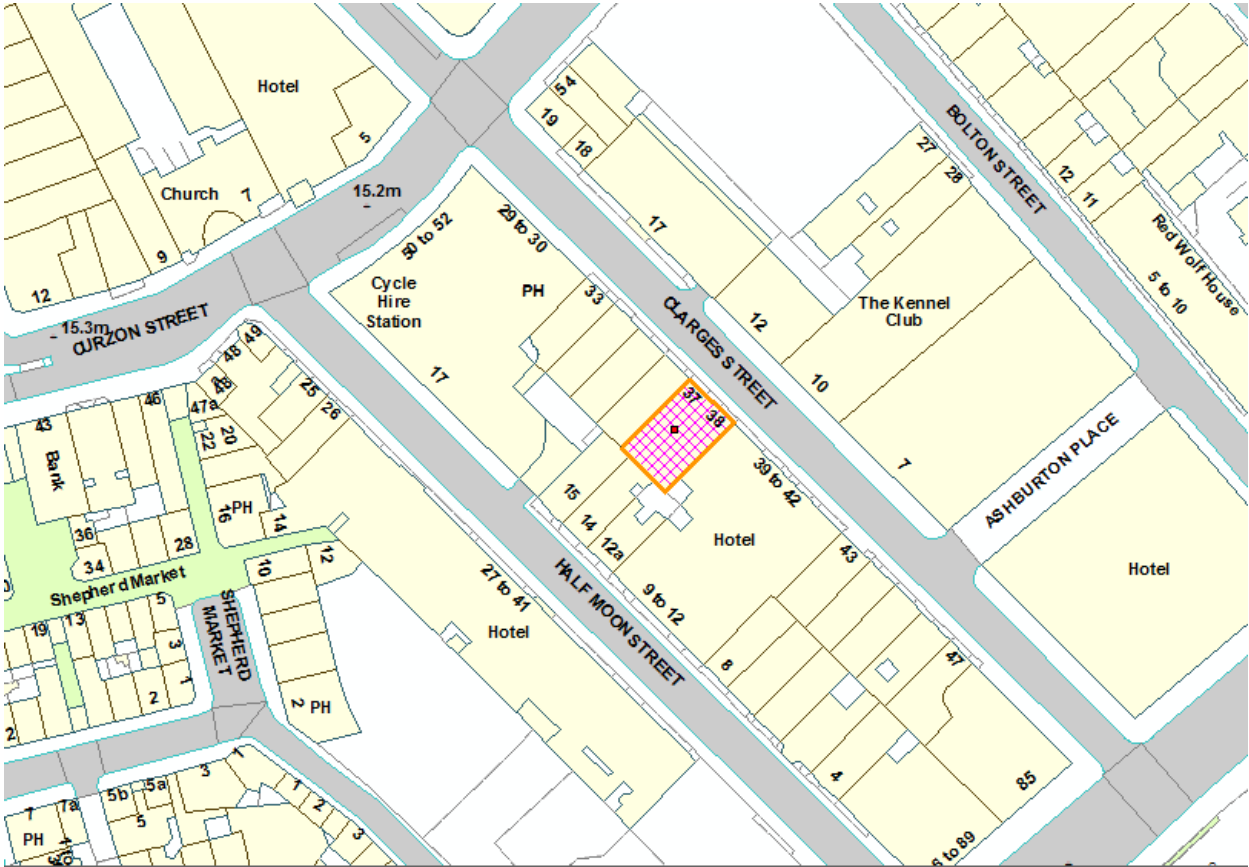
The application proposes the installation of plant within the front lightwell of the building; new louvres on the front elevation at lower ground and ground floor levels; the installation of a high level extract duct on the rear elevation of the building to terminate at main roof level; and the repositioning of an existing air conditioning unit at the rear of the building to the flat roof area at rear first floor level with the installation of a new acoustic screen.

The key considerations in this case are:

- The impact of noise from the plant operation on the amenity of nearby residential occupiers.
- The impact of the proposal on the appearance of the building and the character and appearance of the conservation area.

A detailed objection has been received from a neighbouring resident on multiple grounds including noise disturbance; detrimental impact on the character and appearance of the conservation area and the building itself; potential odour nuisance; vibration and a number of other issues. The proposals are however considered acceptable in terms of their impact on the amenity of neighbouring residential properties and also in design terms, subject to relevant conditions. For these reasons the proposal is considered to comply with the relevant policies in the London Plan, City Plan and the Mayfair Neighbourhood Plan and it is therefore recommended that conditional planning permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation of the Building:



Front Lightwell:



Rear elevation:



5. CONSULTATIONS

5.1 Application Consultations

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Object to the plant in the front lightwell and at the rear on the grounds that it will detrimentally impact the appearance of the building and the wider conservation area and support the detailed objections submitted by the residential occupier.

MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 18

Total No. of replies: 2

No. of objections: 4 (all from the same resident)

No. in support: 1

Objections on the following grounds –

- Potential for noise disturbance.
- Potential fire risk to the building from the operation of the restaurant.
- Use of the area at rear first floor level by the applicant will prevent residential tenants placing their own air conditioning units in the area.
- Concerns over access for cleaning and maintenance of the duct.
- Questions whether an existing internal duct could be utilised.
- Design implications for the building and the wider conservation area.
- Incorrect address has been used for the site.
- Full consideration should be given of the Class E use.
- Technical concerns with the submitted acoustic report and the manufacturers stated noise levels.
- Concern the background noise level is not accurate due to other plant being in operation.
- The building may require a new lift which would allow the duct to be routed internally.
- Discrepancies between the drawings and the acoustic report.
- Concern over structure borne vibrations from the plant operation impacting residential occupiers.
- Potential for odour nuisance to result from the operation of the duct.
- Potential for increased heat in the vicinity resulting from the use of the plant.
- Potential noise disruption resulting from the relocation of the existing air conditioning unit.

- Financial input from residential occupiers which is not offset by the commercial occupiers.

Support on the following grounds –

Amendments to the scheme [including relocation of his air-conditioning unit at rear first floor level and additional acoustic information] have addressed all the previous objections this residential occupier expressed.

PRESS NOTICE / SITE NOTICE: Yes

5.2 Applicant’s Pre-Application Community Engagement

The applicant advises that engagement was carried out with the flat occupiers of the first and second floors of the building [believed to be the only long term tenants of the building] inviting them to two online Zoom discussions. The applicant states that constructive dialogue was had with the occupier of the first floor flat and the application now includes the relocation of their air conditioning unit and a letter of support from this resident. The applicant states that no response was received from the occupier of the second floor flat who has objected to 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, 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 Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with 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

38 Clarges Street is an unlisted building in the Mayfair Conservation Area and the Central Activities Zone. The building comprises lower ground, ground and first to fourth floor levels. The lower ground and ground floor levels have lawful use as a restaurant and the upper floors are in use as residential flats. Council Tax and Electoral Register indicate two flats on each of the first, second and third floors and a penthouse flat at fourth floor level.

7.2 Recent Relevant History

21/08123/FULL - Installation of external plant in association with the restaurant premises including condensers and louvres within basement lightwell, louvre above front door at ground floor level and two high level extract ducts to rear. Application withdrawn on the 16th March 2022 (due to inadequate acoustic information).

21/05953/FULL - Installation of external plant including condensers and louvres within basement lightwell, louvre above front door at ground floor level and two high level extract ducts to rear. Application withdrawn on the 22nd October 2022 (further revisions required).

22/03844/FULL - Installation of one air-conditioning unit on the flat roof at rear first floor level (Flat 12) [in a different location from the current proposals]. Application under consideration.

8. THE PROPOSAL

Permission is sought for the installation of a high level extract duct on the rear elevation of the building. The duct would exit the building through the flat roof at rear first floor level and terminate at main roof level. There is an existing air conditioning unit which is attached to the rear elevation at rear first floor level (belonging to one of the first floor flats) which is proposed to be relocated to another part of the flat roof area with a new acoustic enclosure. At the front of the building new plant is proposed under the metal access stair and the lightwell bridge. Ventilation louvres are proposed in the front elevation of the building at lower ground level.

The application was originally advertised as relating to 38 Clarges Street, however, the commercial part of the building has an address of 38 Clarges Street and the residential

units on the upper floors have an address of 37 Clarges Street. As a result, the application has been readvertised with the amended address of 37 – 38 Clarges Street and an amended description of development to highlight that the external ducting at the rear is attached to 37 Clarges Street. This addresses one of the objections that has been raised.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Although there are no planning decisions relating to the restaurant use at basement and ground floor, there is other information confirming that this is a longstanding use. For example, there is a premises licence dating from 2005 granted to Miyama Japanese Restaurant (which correlates with online Google Map street views dating back to at least 2012). It should be noted that whilst any restaurant would be subject to licensing controls, it would not be subject to any planning controls, such as opening hours or capacity. Such a use would now fall within Use Class E (discussed in detail below).

Unfortunately it is not clear how the previous restaurant kitchen extracted cooking fumes: the kitchen has been removed and there is no indication that there was either an internal or external duct, and it is possible that any extraction was carried out at low level.

9.2 Environment & Sustainability

Odour

The application is supported by a ventilation report which assesses the acceptability of the high level duct to provide suitable odour dispersal from the restaurant premises. This has been assessed by Environmental Health who have confirmed the proposed duct will provide a suitable means for odour dispersal. A condition is included to require the installation of the high level extract duct and its retention for as long as the restaurant is in operation. The objector has commented on potential odour nuisance from the use of the duct and also the operation of the plant in the front lightwell. The operation of the plant in the front lightwell will not result in any odour issues as these are condenser units. The duct at the rear complies with the relevant City Council criteria, which requires high level discharge to ensure adequate dispersal of fumes and the ventilation report has been assessed and deemed acceptable with Environmental Health. The objection on these grounds is not therefore considered sustainable.

For details of noise etc please see 9.5 below.

9.3 Biodiversity & Greening

Not relevant.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the LBCA Act”) requires that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

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

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

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.

Detailed Design

The position for the proposed plant in the front lightwell is acceptable in design terms. Two of the three proposed units are partially beneath the lightwell bridge, and partly covered by the existing metal lightwell stairs. The third unit is entirely beneath the lightwell stair. They will not be visible in views from the public realm and are acceptable in design terms. Similarly, the proposed new ventilation louvres in the front lightwell will be largely concealed beneath the lightwell bridge. The only louvre which will be visible from the pavement is above an existing (non-original) louvered timber door at basement level. As such it will not disrupt any traditional openings.

The applicant has clarified that an existing decorative louvered panel (part of a fresh air intake duct) above the front door at ground floor level will be retained at existing.

These works at the front of the building are therefore sufficiently discreet that they will not negatively affect the appearance of the building, the character or appearance of this part of the Mayfair Conservation Area, or the setting of the adjacent listed buildings.

At the rear the proposed duct is a large and conspicuous addition to the rear of the building, visible in private view from the surrounding buildings. The route of the duct has been the subject of negotiation and refinement over the course of the application, and now represents the least visually disruptive route for such an installation.

Provided that the duct is coloured to match the adjacent fabric, this element is considered to be acceptable in design terms.

Objections

The Residents' Association of Mayfair and St James's and the residential objector have objected on the grounds that the duct to the rear and the plant within the front lightwell will have an unacceptable impact on the Mayfair Conservation Area. As discussed above, the lightwell works will be entirely screened by the existing metal stair and lightwell bridge, with the exception of one louvered panel of modest size. Were these elements to be clearly visible then it is agreed they would have a harmful impact on the character and appearance of the area, but in the proposed locations they are acceptable and therefore the objections are not considered to be sustainable.

At the rear the objection states that there is currently no plant, and suggests that the uncluttered rear elevation should be preserved. The rear of the building is L shaped, with the proposed duct rising close to the angle. As such it is as far as possible from any of the adjacent listed buildings. Providing that the duct is coloured to match the adjacent masonry, the visual impact will be limited. A condition has been included to control the colour of the ducting. A second objection has been received on the grounds that the ducting is very close to the bedroom windows of the flats, 11, 21 and 31 (and presumably that the visual impact on views from these flats is greater). The objector considers that the size and location of the plant means that it is not subservient or sympathetic to the host building and will create an adverse visual impact. It is the case that there is little plant equipment in this area at present (the existing air-conditioning unit for one of the first floor flats), and that the duct will be more prominent in views from some flats than from others. However, the rear of No. 37-38 is undistinguished (and has been rebuilt completely differently for the period appearance of the front of the building), and with suitable treatment it is considered that the duct can be accommodated without harm to the character and appearance of the conservation area. Taking this into account the objection cannot be sustained on these grounds and the application is considered acceptable in design terms subject to relevant conditions.

9.5 Residential Amenity

Noise & Vibration

In relation to noise from the proposed plant the application has been considered in the context of Policy S33 of the City Plan 2019-2040. This policy seeks to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

An acoustic report has been submitted in relation to the installation of the plant equipment. Plant is proposed both within the front lower ground floor lightwell and at the rear of the building (being the high level extract duct and the repositioned existing air conditioning unit around which it is proposed to install a new acoustic enclosure). The nearest noise sensitive windows to both the plant at the rear and the front of the building are the first floor residential windows of the same building.

It is proposed the plant can operate between the hours of 12:00 and 23:30 daily with the exception of the two condenser units in the front lower ground floor lightwell which are required for refrigeration and are proposed to operate at any time over the 24 hour period. The lowest background noise level was recorded at the rear of the property as being 45dB over the period of 12:00 until 23:30 which results in a design criteria for the noise levels from the plant operation of 35dB being 10dB below background at the nearest noise sensitive receptor. At the front of the property the lowest background noise levels were recorded as being 50dB until midnight which results in a design criteria of 40dB for the plant proposed to operate until 23:30. For the two condenser units at the front of the property which it is proposed can operate over 24 hours the Environmental Health Officer has accepted a level of 40dB as the lowest expected noise level overnight resulting in a design criteria of 30dB.

A range of acoustic and vibration mitigation measures are proposed which includes the installation of duct mounted attenuators to the fans, acoustic louvres to the inlet ducts of supply fans, acoustic louvres to the pavement vault housing the catering condensers and the installation of anti-vibration mounts to various items of equipment.

The proposed plant to the rear of the building is predicted to produce a combined maximum sound pressure level of 31dB at rear 1st floor windows. For the plant to the front of the building when all items are running, during restaurant operating hours, it is predicted to produce a combined maximum sound level of 38dB. During the night-time period when the catering condensers are operating alone the predicted level is 28dB.

The acoustic report concludes that with the acoustic mitigation measures installed and the hours of operation of the plant controlled as detailed above that the noise levels at the nearest sensitive property will be compliant with the City Council criteria. Environmental Health have assessed the documentation and confirmed that the plant operation will be acceptable. Conditions are included to control noise and vibration levels from the plant, hours of operation and the installation of the acoustic mitigation measures.

The objector has raised concerns about the potential for vibration transmitted through the building structure causing a nuisance to residential occupiers within the building. The potential for vibration from the plant operation causing a nuisance has been assessed by Environmental Health who have recommended the standard condition with regard acceptable vibration levels and do not foresee the proposal causing an issue for residents.

The objector has raised a number of concerns on technical points relating to the acoustic report and these have all been assessed by Environmental Health who have confirmed the details in the acoustic report with regard the noise levels from the plant and the

measuring of the background noise levels are all accurate and the technical objections from the residential occupier cannot be supported.

The duct has been located so as not to have any impact on any of the windows to the flats.

9.6 Transportation, Accessibility & Servicing

Not relevant.

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

Existing air conditioning unit:

There is an existing air conditioning unit at the rear of the building which serves one of the residential units at first floor level. The previous (withdrawn) planning application proposed the relocation of this unit to a higher point on the rear elevation. This was closer to the windows of other residential units in the building. The air conditioning unit is now proposed to be located on the flat roof area of the rear first floor under the windows of the residential unit which it serves. This has been assessed in the acoustic report and Environmental Health deem the noise levels from the unit will be acceptable with the acoustic enclosure in place. A condition is imposed to require the acoustic mitigation to be provided and retained to the specification detailed in the acoustic report. A post installation survey is also required by condition to ensure that all the plant is complaint with the relevant conditions once installed and operating.

The objector has commented on the potential for increased noise from this unit and that noise levels from the unit may have increased over time. The unit is already located at the rear of the building and the proposal includes an acoustic screen for this unit. With the safeguarding conditions in place as detailed above the operation of this unit will not result in a noise nuisance and the objection on these grounds is not considered sustainable.

Financial input from residential occupiers:

The objector has commented that residential occupiers have made substantial financial contributions to the upkeep of the building in the past which have not been made by the prospective restaurant occupier. This is not a relevant planning matter but a private matter between the tenants and their landlord.

Fire risk from the restaurant operation:

The objector has raised concerns about the potential for the operation of the restaurant and the cooking of food to result in an increased fire risk to the building. The existing lawful use of the commercial premises is as a restaurant and the acceptability of the use is not part of the planning application. Any operator would need to comply with the relevant fire safety criteria and building regulations.

Use of the area will prevent residential tenants placing their own air conditioning units in the area:

The objector has also objected on the grounds that using the first floor area to place the proposed commercial equipment will mean that in future other residential occupiers within this building cannot place possible equipment they want on this part of the roof. There is additional space on the rear flat roof and at main roof level where it may be possible to install additional plant, but this application solely relates to the commercial plant (and the relocated residential air-conditioning unit). The installation of plant in this area would have to be agreed with the freeholder and any relevant leaseholders, the same as any potential future applications for residential plant.

Potential future new lift:

The objector has commented on the potential future installation of a lift in the building which they consider might result in additional space for the duct to be located internally. Whilst this is noted there would not appear to be any proposal for this and the application is limited to the proposed works as detailed.

Heat Generation:

The objector has commented on the potential for the operation of the plant to result in additional heat to the front and rear of the building. Both locations for the proposed plant are relatively open and well ventilated. It is considered any heat generated by the plant operation will be easily dissipated through natural air flow and would not lead to a material increase in temperatures in the immediate vicinity. The objection on these grounds is not therefore considered sustainable.

Class E/restaurant use:

The objector has commented that; *'there is a significant danger that this application (if approved) could set a very bad precedent for the whole of Westminster given the planning changes that are now applicable to Class E, i.e. no requirement to apply for change of use. Applicants should not be allowed to install large scale plant or ducting exterior to or close to residential buildings just because of this change without giving full consideration to the whole range of planning policies.'*

The lawful use of the lower ground and ground floor commercial unit is as a restaurant and it has operated as such previously. A restaurant use would fall within Class E. The current application for additional plant and an extract duct is based on the operational requirements of the proposed restaurant operator and the application has been considered with regard all relevant policies. The application has not been recommended

for approval because of changes to the use class order, which is not relevant in this case.

Access for maintenance and cleaning:

Concern was raised that there may not be suitable access for maintaining and cleaning the ductwork at the rear. The objector is concerned both that people carrying out cleaning / maintenance may not be able to do so without falling and that they will be able to look directly into residential windows. These concerns are noted but any people carrying out work at height will be subject to relevant health and safety legislation to ensure the work is carried out safely. The applicant has also confirmed that occupiers of the upper floors will be notified by email 24 hours before any planned maintenance of the plant so they will be aware of when people may be outside their windows (the same as window cleaners). Again, this is partly a private matter between the tenants of the building and the landlord. The applicant has confirmed that access to the rear of the building for maintenance will be through the retained skylights on the rear flat roof which provide direct external access from the restaurant accommodation.

Address:

The application was originally advertised as relating to 38 Clarges Street: the objector considered the application should have been advertised as 37-38 Clarges Street. The commercial part of the building has an address of 38 Clarges Street and the residential units on the upper floors have an address of 37 Clarges Street. Subsequent to the objector raising this issue the application has been readvertised with the amended address of 37 – 38 Clarges Street and an amended description of development to highlight that the external ducting at the rear is attached to 37 Clarges Street.

Utilising an internal duct:

The objector has suggested that an internal duct is utilised as opposed to installing the external duct. This issue has been investigated by the applicant who have advised that there are two internal risers at the property, one used for plumbing and the other appearing to be a small internal chimney riser. The previous restaurant operator specialised in sushi but also did have a number of items on their menu which would have required primary cooking. The kitchen has been stripped out and the applicant advises they cannot be entirely certain of how the previous occupier extracted cooking fumes but the internal risers are too small for a modern commercial kitchen hence the application for the external high level duct.

Discrepancies between the drawings and the acoustic report:

The objector has noted that the acoustic report refers to units 'CU1, CU2 and CU3', however, the drawings show units OU1 and OU2. The objector queries why there is a difference in the number of units, however, the drawings show and the annotations also state that there are two of the OU2 units, so the drawings are showing the three units which the acoustic report assesses.

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.

10. Conclusion

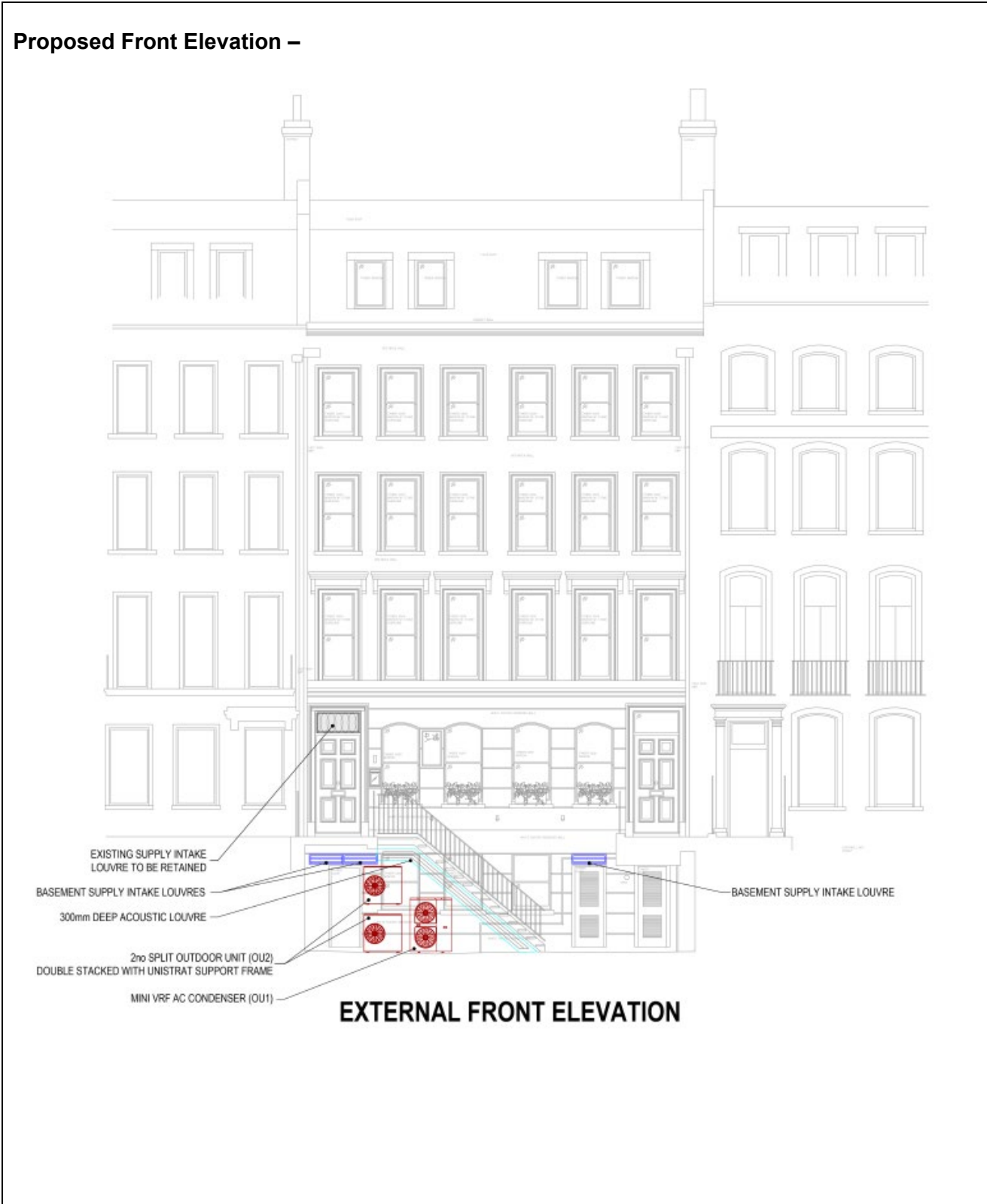
The proposal will facilitate the occupation of the vacant lower ground and ground floor commercial unit by providing modern equipment for the restaurant occupier. The external plant and associated works are acceptable in design and amenity terms subject to conditions to safeguard residential amenity and the appearance of the building and wider conservation area.

As such, the proposal is considered acceptable, mindful of policies 7, 14, 16, 33, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

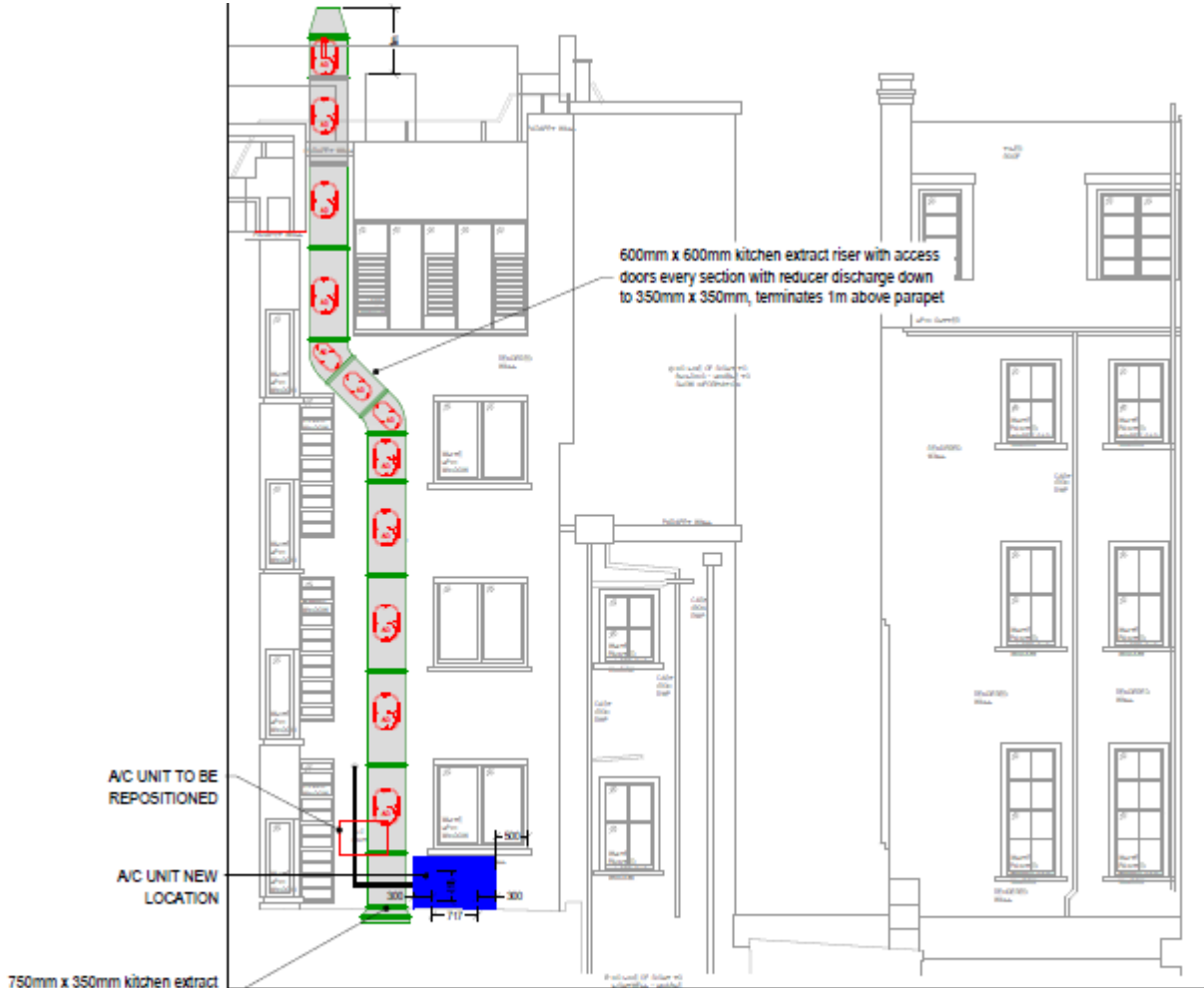
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

11. KEY DRAWINGS



South West Courtyard Elevation -



SOUTHWEST COURTYARD ELEVATION
1-50 A1

DRAFT DECISION LETTER

Address: 37 - 38 Clarges Street, London, W1J 7EN

Proposal: Installation of plant within the front lightwell at lower ground floor level; installation of air intake louvres on the front elevation at lower ground floor level; installation of a high level extract duct on the rear elevation and repositioning of an existing air conditioning unit and installation of new screening on the flat roof area at rear first floor level.

Reference: 22/03663/FULL

Plan Nos: Acoustic Report 210513-R001F, Drawings: 001-834-01 Rev C, 001-834-21 Rev B, 001-834-22 Rev C, 001-834-23 Rev B, 001-834-31 Rev D.

Case Officer: Matthew Giles **Direct Tel. No.** 020 7641
07866040155

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 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 Environmental Supplementary Planning Document (February 2022). (R48AB)

- 4 (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 Environmental Supplementary Planning Document (February 2022), 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)

- 5 The plant/machinery hereby permitted can only be operated between 12:00 hours and 23:30 hours daily, with the exception of the two condenser units identified in the acoustic report as 'chiller condenser' (DUET+ 1-1H STD) and 'freezer condenser' (DUET+ 1-1L STD) which can operate at any time.

Reason:
 To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

- 6 You must install all the internal acoustic mitigation measures as detailed in the acoustic report at the same time as the plant is installed. These measures must thereafter be maintained in this form for as long as the plant remains in operation.

Reason:
 To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

- 7 You must install and retain the high level extract duct on the rear elevation of the property for as long as the restaurant use is in operation.

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)

- 8 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery

complies with the noise criteria set out in condition(s) 4 of this permission.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

- 9 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 Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 10 You must finish / paint the duct in a colour to match the adjoining building fabric. The duct must be maintained in this form for as long as it remains in place.

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 Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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 Conditions 4, 5 and 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 You must register your food business with the Council, please use the following link: www.westminster.gov.uk/registration-food-business. Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at 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.

- 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. (I54AB)
- 5 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 6 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.
- 7 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.
- 8 **SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -**
In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF. In reaching this decision the following were of particular relevance: Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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 3

Item No.
3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	11 Soho Square, London, W1D 3QE		
Proposal	Use of the building as a private members club (sui generis) with external alterations including the replacement of windows and doors, installation of plant with screening and a new rooflight at main roof level and plant within a rear lightwell at second floor level.		
Agent	CBRE Ltd		
On behalf of	LCP Global London		
Registered Number	22/06191/FULL	Date amended/ completed	12 September 2022
Date Application Received	12 September 2022		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Soho Neighbourhood Plan		

1. RECOMMENDATION

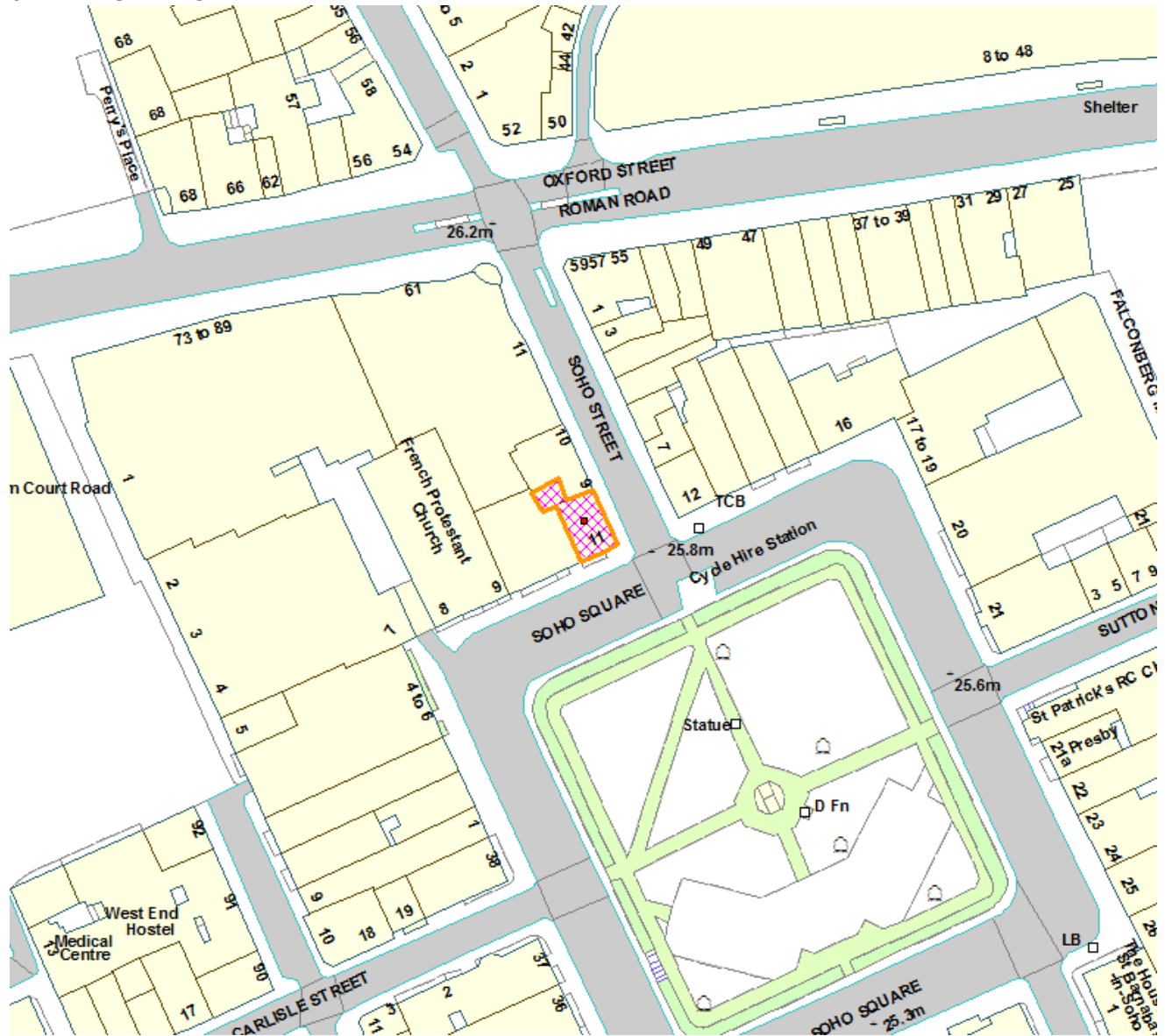
Grant conditional planning permission.
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2. SUMMARY & KEY CONSIDERATIONS

<p>The application proposes the change of use of the building (current lawful use being a drinking establishment) to a private members club (sui generis) with new windows and doors to the building on the Soho Square and Soho Street elevations. A new openable rooflight is proposed at main roof level with plant and associated screening. Replacement plant is also proposed on a flat roof area to the rear second floor level where there is existing plant.</p> <p>The key considerations in this case are:</p> <ul style="list-style-type: none"> • The acceptability of the loss of a use serving visiting members of the public within the Central Activities Zone. <p>Whilst the loss of a use serving visiting members of the public from within the Central Activities Zone</p>
--

is undesirable, the proposed use as a small scale private members club is considered an acceptable alternative use and given the location the proposal is considered acceptable on these grounds. Subject to appropriate conditions, the proposal is complies with relevant adopted City Plan 2019-2040 policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Elevations of the building to Soho Street and Soho Square:



5. CONSULTATIONS

5.1 Application Consultations

SOHO SOCIETY

No objection – “provided the operating hours of the members club are reduced from 4am. We note the support, with qualification, of new private members clubs in the Soho Neighbourhood Plan, Policy 10B, and recommend that the council obtain more detailed information about the membership criteria for the proposed club in order to satisfy this policy.”

CLEANSING

Further information requested [addressed by condition].

HIGHWAYS

No objection subject to conditions.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 49

Total No. of replies: 0

No. of objections: 0

No. in support: 0

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 prior to the submission of the planning application. Flyers detailing the proposal were sent to 65 local commercial and residential occupiers along Soho Street and Soho Square; this included the contact details of the agent for the applicant and invited responses. The flyer was also sent to the relevant West End Councillors, the Soho Society and the Soho Neighbourhood Forum. According to the applicant the responses from the Soho Society and Soho Neighbourhood Forum were as follows:

“The Soho Society response flagged up the status of 11 Soho Square as an unlisted building of merit, the presence of numerous listed buildings in the vicinity and the importance of a sensitive and appropriate scheme in this context. As this application submission demonstrates, the proposed external alterations will preserve and enhance the character and appearance of this part of the Soho Conservation Area. The Soho Neighbourhood Forum confirmed they do not get involved with planning and licencing matters directly but flagged up Soho’s published Neighbourhood Plan. This has been reviewed and assessed accordingly as relevant to these proposals given (as identified above) it forms part of the development plan for this part of Westminster.”

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 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

11 Soho Square is an unlisted property located in the Soho Conservation Area on the northern side of Soho Square. The building comprises of basement, ground and first to fifth floor levels. A Certificate of Lawfulness was granted on the 1st September 2016 for the 'Use of basement to fifth floor as Use Class A4', Use Class A4 being a 'drinking establishment' under the previous use class order. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were introduced by central

government on 20 July 2020 and took effect on 1 September 2020. These changes mean that 'drinking establishments' are now a sui generis use. The building is currently vacant.

7.2 Recent Relevant History

16/07699/CLOPUD - Use of basement to fifth floor as Use Class A4. Application permitted on the 1st September 2016.

8. THE PROPOSAL

Planning permission is sought for the use of the property as a private members club. The proposed refurbished building will consist of a private drinking/ dining area at Ground Floor level, a room that can be converted to host private events on the 1st Floor, a private dining room and multi- purpose space available for hire on the 2nd Floor, a listening lounge on the 3rd Floor, a small venue equipped for musical performances on the 4th Floor and a casual lounge on the 5th floor. The Basement will consist of a full-service kitchen equipped to prepare a small menu and will also host most of the property's mechanical equipment. Physical works include the replacement of windows and doors on the Soho Square and Soho Street elevations, installation of a sliding glass rooflight at main roof level and the installation of plant with associated screening at main roof level and on a flat roof area at rear second floor level.

The planning agent advises that proposed occupier is a group of individuals who already operate a number of music inspired venues in Los Angeles and this would be their first venture in London. The agent states that the occupier 'envisions Soho Square emphasizing the creation and listening enjoyment of music among a curated and limited number of likeminded individuals in a unique and intimate environment.'

DETAILED CONSIDERATIONS

8.1 Land Use

Existing Use

The existing use of the entire building is as a drinking establishment which was previously in Use Class A4 and was confirmed in the granted Certificate of Lawfulness in 2016. Since the amendments to the Use Class Order in 2020, drinking establishments are now considered a sui generis use, which includes 'public houses, wine bars and drinking establishments'.

Policy HC7 of the London Plan and Policy S16 of the City Plan 2019-2040 both seek to protect public houses. There is no definition included in either the London Plan or the City Plan as to what is a 'public house' and in Central London a pub can take several forms and in a place like Westminster and particularly the West End, there are many hybrid forms of establishments that may incorporate some elements of the traditional pubs. The City Council holds a data set on the identified public houses within Westminster which was used in the evidence base for the City Plan, which identified 439 public houses in Westminster. This did not include 11 Soho Square.

However, the premises is listed as a public house on the GLA list of London's Pubs. Policy HC7 of the London Plan states that local authorities should protect public houses where they have a heritage, economic, social or cultural value to local communities, or where they contribute to wider policy objectives for town centres, night-time economy areas (etc.). The City Plan also refers to protecting the social/community role of pubs (see City Plan para 16.5).

Following consultation with the Policy Team the view is taken that while the existing use may be contributing to the function of the West End, it does not seem to have a social or cultural value to the local community and has not been listed as an Asset of Community Value. It is therefore not considered the existing operation is as a public house and is more of a general drinking establishment.

The City Plan contains no specific policies to protect drinking establishments which are not public houses. However, Policy 14 of the City Plan does state that; *'Uses that provide active frontages and serve visiting members of the public will be required at the ground floor throughout the town centre hierarchy.'* The proposal would result in the loss of a use that serves visiting members of the public as by definition a private members club would require you to be member to gain access and therefore would not be open to the general public.

It is also noted that the site is within the Cumulative Impact Zone, an area designated as part of the Council's licensing functions, which indicates that the area is saturated with licensed premises causing a number of problems due to excessive alcohol consumption.

Proposed Use

The adopted Soho Neighbourhood Plan 2019 - 2040 includes Policy 10: Private Members' Clubs. Part B of the policy considers new private members' clubs in Soho and states; *'Proposals for new private members' clubs will only be supported where they can show that they will add vitality to Soho and demonstrate that their potential adverse impacts can be adequately mitigated.'* In the supporting text it states: *'This policy seeks to support the role that many private members' clubs play as networking venues for creative industries and business clusters. Networking is an important function and part of Soho's character and culture.'* The response from the Soho Society notes this support but queries the proposed membership criteria and would like the operating hours of the members club to be reduced from 4am.

Section 8 above describes how the building will be used and that the intended use is related to the music industry. Although details are limited this is considered to adequately address the query raised by the Soho Society and demonstrates that the use is appropriate, given Soho's history of music venues.

There are no conditions on previous planning consents in relation to the existing drinking establishment use. The granting of planning permission allows for the imposition of conditions in relation to the hours of operation of the unit and the capacity. The hours of use sought are the same as the previous license for the premises which are Monday to Thursday 07:00 until 01:00, Friday and Saturday 07:00 until 04:00 and Sundays 07:00 until 01:30. Taking into account the previous drinking establishment had no conditions on hours or capacity, that the hours are no later than the previous license and the private

members club would be more tightly controlled than a drinking premises, these opening hours are considered to be acceptable, especially in this location just off Oxford Street. There are some residential properties in the immediate vicinity (the nearest being next door to the west at 10 Soho Square, who have not raised any objections to the proposals) but there are not considered to be any reasonable grounds for insisting on the Soho Society's request for the 4am closing time to be reduced. A condition is also included to restrict the capacity of the premises to 300 people.

An Operational Management Plan has been submitted with the application detailing how the operation will be managed to ensure the use does not result in any detrimental noise or nuisance for nearby occupiers. It includes details of training for staff and that a manager will be on duty at all times; management of customers leaving the premises; ordering taxis for those needing one; details of membership; security measures such as the presence of door staff and CCTV monitoring. The implementation of these measures will all help to ensure the operation of the unit does not result in an amenity impact upon nearby residents. A condition is included to ensure the use operates in accordance with the stipulations in the OMP at all times.

With regard extraction from the basement kitchen the proposal is to use the existing high level extract duct located at the rear of the premises which terminates above the main roof level. The extract serves the existing kitchen in the basement of the property. This is considered an acceptable method to ensure suitable cooking odour dispersal and a condition is included to ensure this is used and retained for as long as the use is in operation. Environmental Health have confirmed the duct will be suitable for the proposed use.

Use Conclusion

It is noted that the loss of a ground floor use open to visiting members of the public would be contrary to the requirements of Policy 14 but given the private members club will cater primarily to the music industry which is one of the major industries in the area and will provide a valuable site for networking and showcasing new talent and supporting new artists the change of use is considered acceptable. The building also has a long-standing use as a drinking establishment and is located within the Central Activities Zone and the West End Retail and Leisure Special Policy Area where entertainment uses are less likely to result in an amenity impact. It is also noted that the use will still provide an active frontage to members of the public walking past.

8.1 Environment & Sustainability

Sustainable Design

The refurbishment of the building allows for the installation of a variety of sustainable design features including the replacement of the existing roof system with better thermally enhanced roofing, upgrades to the building services, new windows and doors, air source heat pumps for heating and cooling, better insulation and low use water equipment. A BREEAM report has been submitted with the application to identify and quantify the sustainability improvements to the building. This shows the renovated building will achieve an estimated BREEAM score in the region of 63.5%. This is 8.5% above the 55% benchmark for BREEAM 'Very Good'. Given this application is for a

change of use and minor external alterations to an unlisted building of merit, and there is a very small roof area to facilitate the installation of solar panels or a green roof, the improvements to the energy performance of the building are acceptable.

The incorporation of the proposed sustainable design features ensures the proposal complies with Policy 38 of the City Plan which requires; ‘development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design...’

8.2 Biodiversity & Greening

There is limited availability for improvements to biodiversity / greening given the small space of the site and the limited remaining roof space for any green roof area.

8.3 Townscape, Design & Heritage Impact

Legislative & Policy Context

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

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.

11 Soho Square is an unlisted building in the Soho Conservation Area to which it makes a positive contribution. It dates from circa 1930 and has fine facades of Portland stone to Soho Square and Soho Street. Numerous listed buildings are nearby, and the site lies in LVMF Protected Vista 2B.1 Parliament Hill Oak Tree to the Palace of Westminster.

The proposed alterations involve, amongst other things, replacement windows to the upper floors, new entrance doors, and the erection of a large screened enclosure at roof level to contain mechanical plant.

There is no objection to these alterations, in design and heritage asset terms, which will suit the appearance of the building, maintain the character and appearance of the surrounding conservation area, and preserving the setting of nearby listed buildings. The

increased height of the building has no impact on the protected vista and it still will be lower than the recently erected building to the north in Oxford Street. This accords with City Plan policies 38, 39, and 40, and with the Soho Neighbourhood Plan.

8.4 Residential Amenity

Windows / Skylights -

The proposal includes the installation of larger openable rooflights at main roof level and the installation of new openable windows on both elevations of the building. The openable windows and skylight will help to facilitate cooling of the premises and reduce demand for energy. To ensure the windows / skylight are not kept open at times that would result in noise nuisance to nearby residents a condition is included to ensure the windows / skylights are closed between the hours of 23:00 and 08:30.

Plant Noise -

In relation to noise from the proposed plant, the application has been considered in the context of Policy 33 of the City Plan 2019-2040. This policy seeks to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

An acoustic report has been submitted in relation to the installation of the plant equipment. Plant is proposed in three locations, being the main roof level, flat roof area in a rear second floor lightwell and a new fan to the existing kitchen extract duct which will be located at rear second floor level. An assessment has been made to residential windows at 11 Soho Street to the north and 10 Soho Square to the west.

It is proposed the plant can operate between the hours of 07:00 and 04:00 daily. The Environmental Services Officer has assessed the documentation and confirmed that the plant operation will be compliant with the City Council criteria. Conditions are included to control noise, vibration levels and the installation of the acoustic attenuation as detailed in the acoustic report.

With regard the emergency plant there is a different condition as this can operate at higher noise levels as it will only operate for a limited time.

Internal Noise Transmission -

The submitted acoustic report includes assessments of the expected noise resulting from the use, the building fabric and the potential for internal noise transmission through the building to the neighbouring residential building to the west (10 Soho Square). The acoustic report includes recommendations for increased acoustic mitigation for internal transmission which includes party wall acoustic upgrades including additional plasterboard lining/insulation and acoustic upgrades to the ceilings of levels 4 and 5 in order to assist with the reduction of flanking noise transmission.

This has been reviewed by Environmental Health and deemed acceptable subject to conditions to control the internal noise level and ensure the acoustic mitigation measures detailed are installed to the specification detailed and retained in situ.

8.5 **Transportation, Accessibility & Servicing**

The site is located within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls. The majority of trips associated with the site (excluding servicing activity) will be via public transport or other sustainable modes (eg walking, cycling) and will not have a significantly detrimental impact on the safety or operation of the highway network. The site is close to Tottenham Court Road station and there are a number of bus routes on nearby Oxford Street. Taxi use associated with the operation is likely to be similar to the existing use.

Servicing and Waste & Recycling Storage

Policy 29 requires off-street servicing and freight consolidation. Deliveries, goods left and waste collection on the highway create an obstruction to pedestrians and have an adverse impact on the improvements to the public realm. Delivery vehicles stopping on the highway can also result in localised congestion to other motorists.

No off-street servicing is indicated for the development. A Servicing Management Plan (SMP) and an Operational Management Plan (OMP) are provided and have been assessed by the Highways Planning Manager. The reports contained limited detailed information on how the servicing of the premises containing only outline information on servicing and process. The Highways Planning Manager has requested a condition be included on any permission requiring the submission of a revised SMP. This should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised, in this case. A condition has been included as requested.

The Cleansing Manager has requested further information in relation to the storage facilities for the waste and recycling and a condition is included to require the submission of amended drawings to show suitable provision.

Highway Impact

The Highways Planning Manager has also raised concerns should the unit operate a delivery service as to the impact on the local highway and competition for parking space and delivery drivers waiting in the vicinity. As requested a condition has been included to state no delivery service can operate from the premises.

A condition is included to require all doors to open inwards to ensure they do not open out over the public highway and cause an obstruction to pedestrians.

Cycling & Cycle Storage

No provision of cycle parking has been shown on the drawings for either staff or patrons. Although this is disappointing, given there is no increase in floorspace at the property it cannot be insisted upon.

8.6 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.

8.7 Other Considerations

None.

8.8 Environmental Impact Assessment

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

8.9 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. No pre-commencement conditions are proposed on this application.

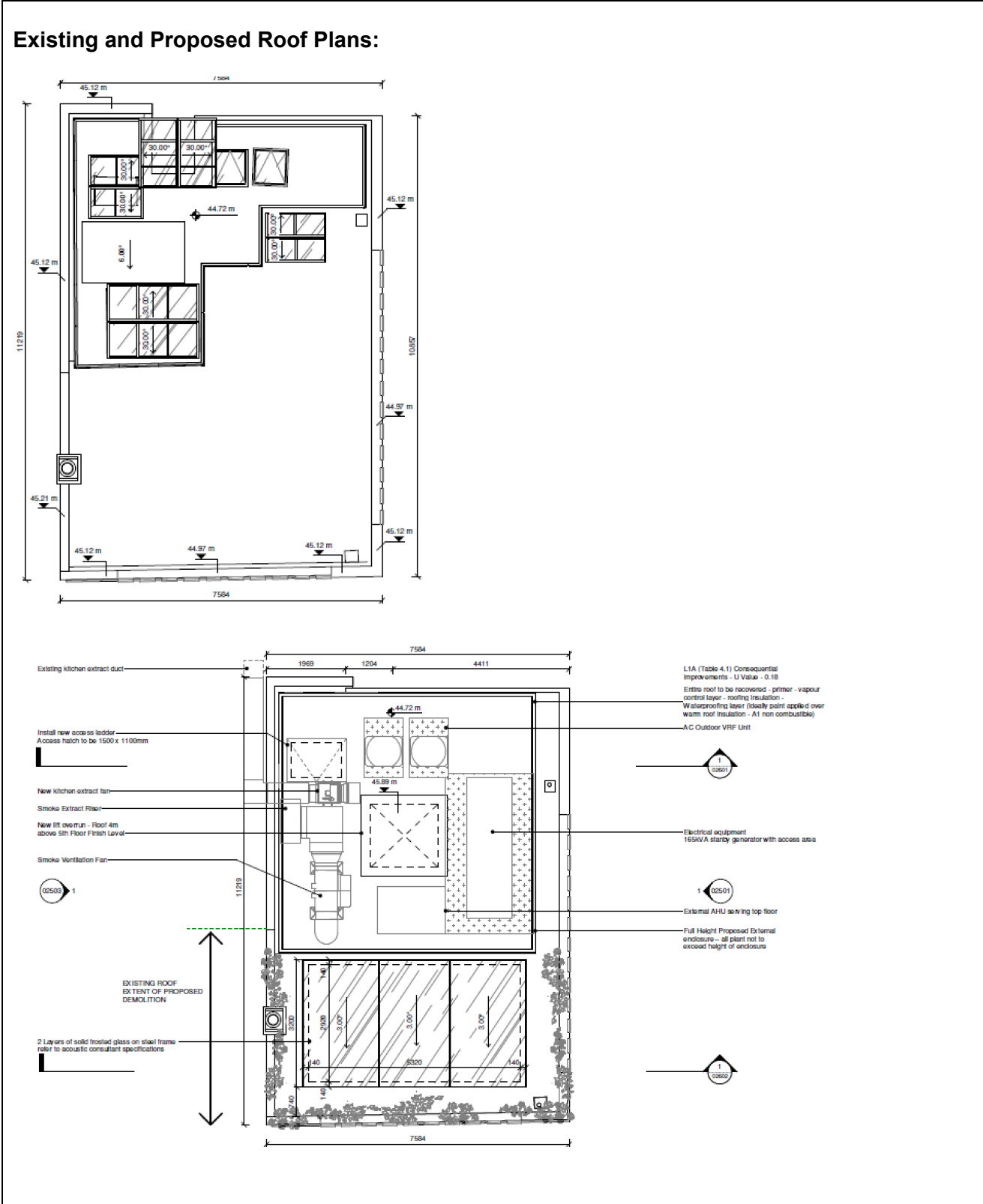
9. Conclusion

The proposed use of the building is considered acceptable with regard the relevant policies of the Soho Neighbourhood Plan and the City Plan and with the inclusion of relevant safeguarding conditions 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."

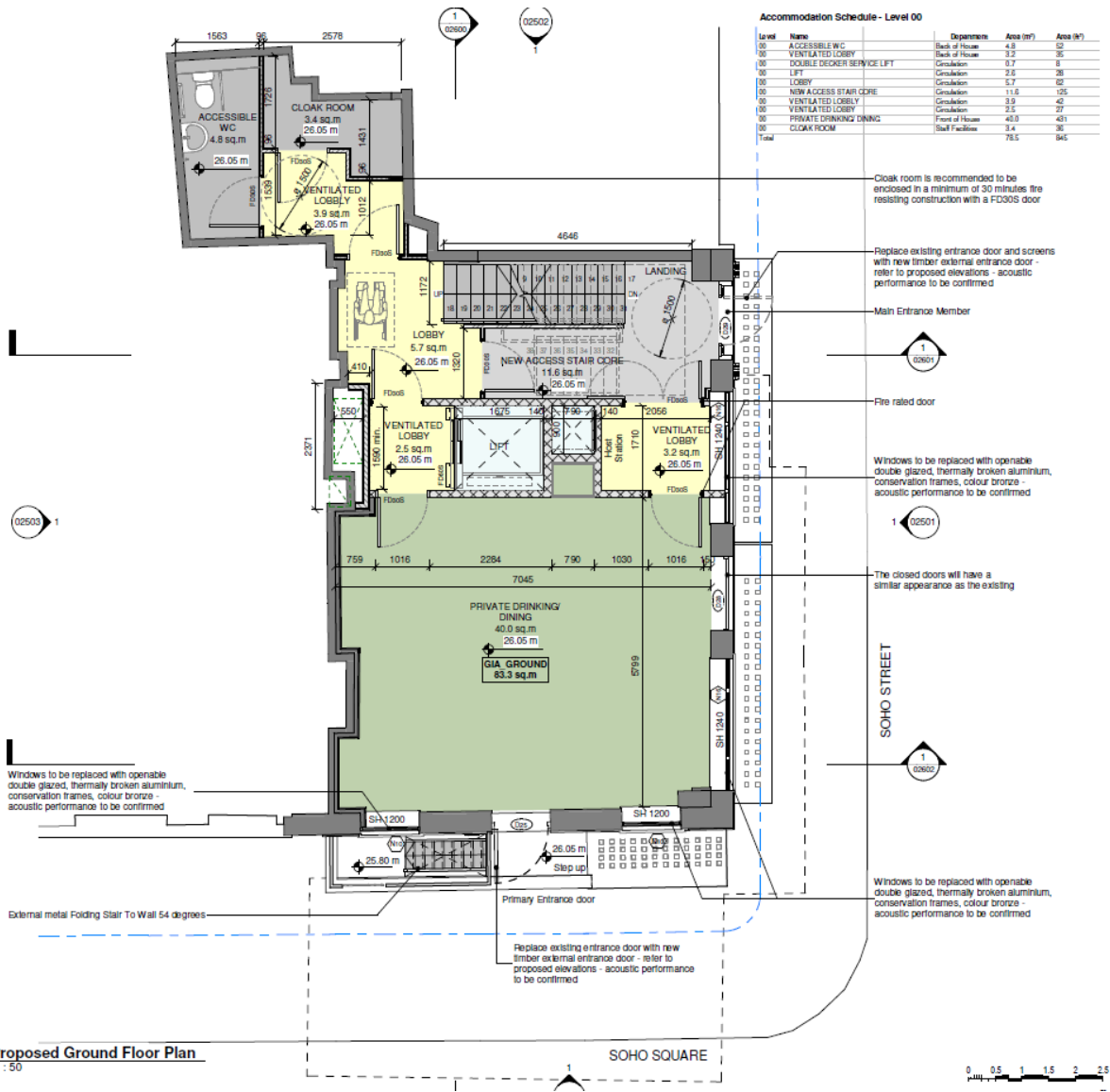
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

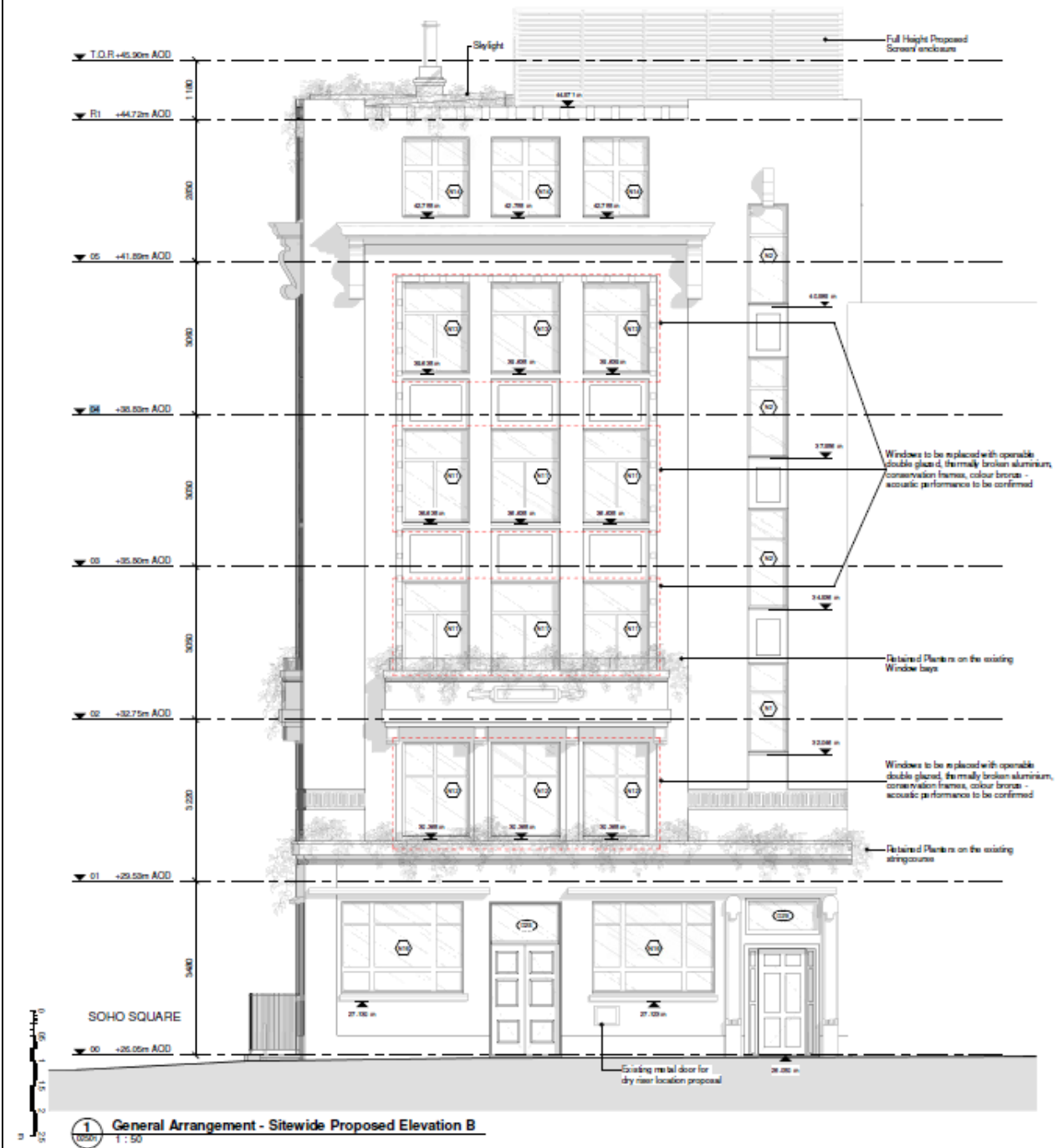
10. KEY DRAWINGS



Proposed ground floor:



Proposed Soho Street Elevation:



DRAFT DECISION LETTER

Address: 11 Soho Square, London, W1D 3QE

Proposal: Use of the building as a private members club (sui generis) with external alterations including the replacement of windows and doors; installation of plant with screening and a new rooflight at main roof level and plant within a rear lightwell at second floor level.

Reference: 22/06191/FULL

Plan Nos: Acoustic Report 11S/NAREPENV REV: 21/11/22, Operational Management Strategy dated 5 September 2022, 11 Soho Square - Ventilation Report (dated 18 08 2022), Drawings: 6895 SRA ZZ 00 DR A 02400 RevP01, 6895 SRA ZZ 01 DR A 02401 RevP01, 6895 SRA ZZ 02 DR A 02402 RevP03, 6895 SRA ZZ 03 DR A 02403 RevP01, 6895 SRA ZZ 04 DR A 02404 RevP01, 6895 SRA ZZ 05 DR A 02405 RevP01, 6895 SRA ZZ B1 DR A 02399 RevP01, 6895 SRA ZZ R1 DR A 02410 RevP04, 6895 SRA ZZ ZZ DR A 02500 RevP01, 6895 SRA ZZ ZZ DR A 02501 RevP01, 6895 SRA ZZ ZZ DR A 02502 RevP01, 6895 SRA ZZ ZZ DR A 02503 RevP01, 6895 SRA ZZ ZZ DR A 02600 RevP01, 6895 SRA ZZ ZZ DR A 02601 RevP01, 6895 SRA ZZ ZZ DR A 02602 RevP01.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641
07866040155

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 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 Soho Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 The plant screening at roof level must be finished dark grey and be maintained that 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 Soho 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 details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not occupy the private members club 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 private members club. 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)

- 6 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)

7 Prior to the operation of the private members club hereby approved you must apply for approval of a Servicing Management Plan. This must thereafter be followed / maintained at all times that the private members club is in operation, unless a revised strategy is approved (in writing) by the Local Planning Authority. The plan must identify process, internal storage locations, scheduling of deliveries and staffing as well as a clear process for managing vehicle sizes.

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 You must not operate a food / drink delivery service, even as an ancillary part of the primary private members club use.

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)

9 The windows and skylight must be closed between the hours of 23:00 and 08:30 (the following morning) daily.

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)

10 You must carry out the measures included in your management plan dated 5 September 2022 at all times that the private members club is in use. (C05KA)

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)

11 You must operate and retain the high level extract duct on the rear elevation of the property as detailed in the Ventilation Report dated 18th August 2022 for as long as the private members club is in use.

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)

12 Customers shall only be permitted within the private members club during the following hours:
Monday to Thursday - 07:00 until 01:30;
Friday and Saturday - 07:00 until 04:00;

Sundays - 07:00 until 00:00 (midnight).

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)

- 13 You must not allow more than 300 customers into the property at any one time. (C05HA)

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)

- 14 (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 Environmental Supplementary Planning Document (February 2022), 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)

- 15 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 Environmental Supplementary Planning Document (February 2022). (R48AB)

- 16 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 04:00 hours daily. (C46CA)

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

- 17 You must install all the internal acoustic mitigation measures as detailed in the acoustic report before the private members club can operate. These measures must thereafter be maintained in this form for as long as the club remains in operation.

Reason:

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

Document (February 2022). (R49BB)

- 18 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. For any music noise; the indices of Leq and LFMax in the octave bands 31.5 Hz, 63 Hz and 125 Hz should be at least 10 dB below the existing background noise level measured in terms of L90,5mins (31.5Hz, 63Hz, 125Hz) inside the neighbouring premises. For music noise where access to relevant habitable spaces is unavailable; the design of the separating structures should be such that the received music noise level in the habitable spaces, with music playing, should be demonstrated through calculation to not exceed a rating of NR20 (Leq, day time), NR15 (Leq, night time) and NR30 (LFMax, night time).

Reason:

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

- 19 If there is a musical amplification system at the premises played above background levels, then a suitable noise limiter must be fitted to comply with condition 18.

Reason:

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

- 20 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 Environmental Supplementary Planning Document (February 2022), 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)

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 must register your food business with the Council, please use the following link: www.westminster.gov.uk/registration-food-business. Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at 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.
- 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. (I54AB)
- 4 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public., Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm The following are available from the British Standards Institute - see shop.bsigroup.com/: BS 6465-1:2009: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances, BS 6465-3:2009: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)

- 5 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). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide (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. 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.
- 6 In relation to Condition 7 of this consent the Servicing Management Plan should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. This must be provided for waste / recycling collection and storage as well.
- 7 With regard the kitchen extract ventilation duct. The ducting vertical discharge should not be hindered by a cap or cowl and have a sufficient discharge velocity to limit the potential entrainment of exhaust air. All fume producing cookline equipment must be placed under the extraction canopy. The general ventilation within the kitchen must be designed to provide sufficient air changes within the workspace and achieve an upper ambient temperature in accordance with Building & Engineering Services Association (BESA) guidance document DW172 -2018 or as updated. 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. Any cladding to the ducting 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. Access to the ducting must comply with the Health & Safety safe access standards.
- 8 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.
- 9 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 can be found at the following government website: <https://www.gov.uk/smoke-control-area-rules>.

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.

4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4th April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved. Lancaster Gate	
Subject of Report	50 Eastbourne Terrace, London, W2 6LG		
Proposal	Details of an operational management plan (OMP) pursuant to Condition 4 (B) of planning permission dated 27th July 2022 (RN:22/00672/FULL).		
Agent	FirstPlan		
On behalf of	Vapiano Ltd		
Registered Number	22/08590/ADFULL	Date amended	10.02.2023
Date Application Received	20 December 2022		
Historic Building Grade	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).		
Conservation Area	Outside of, but borders the Bayswater Conservation Area		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Approve Details

2. SUMMARY & KEY CONSIDERATIONS

This approval of details application seeks approval of an Operational Management Plan (OMP) for Vapiano's restaurant (with ancillary delivery and click and collect) located on the corner of Eastbourne Terrace and Craven Road. Following the refusal of an earlier version of the OMP in December 2022, a new OMP has been submitted which has itself been revised during the course of this application.

The key considerations in this case are:-

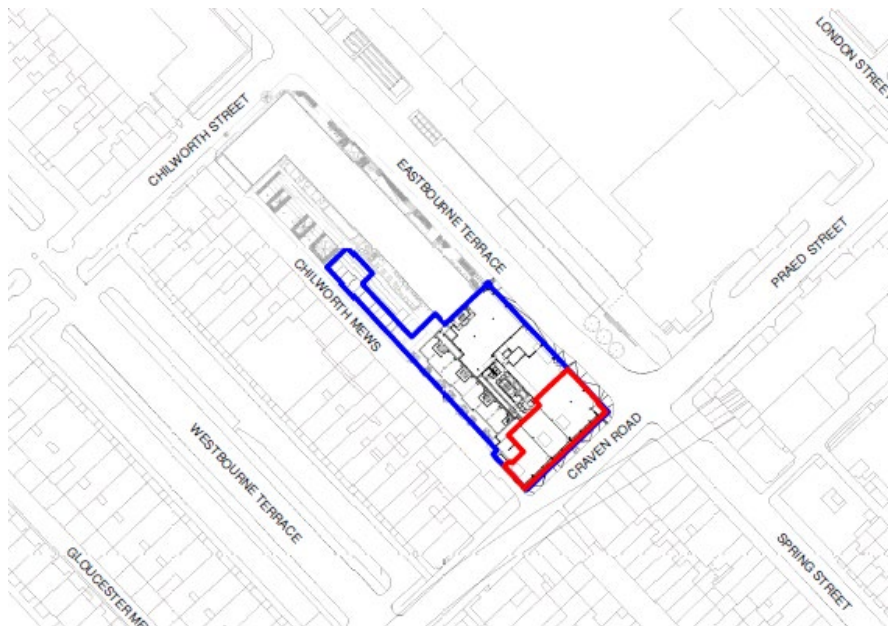
- Whether the OMP is sufficiently detailed to make sure that the use will not cause nuisance for people in the area.

Representations of objection have been received by the South East Bayswater Residents Association, and two residents of Chilworth Mews. These include concerns that Vapiano continue to operate without an approved OMP; their inability to provide adequate operational methods and controls in their OMP as is evidenced by the numerous complaints regarding deliveries and servicing, waste collection, job roles and processes. Alongside this, are concerns raised with respect to vehicles (& vehicles of specific sizes) being able to access Chilworth Mews and the off-street servicing bay safely.

In granting permission for the redevelopment of the site (as now built) and subsequent permissions, it was accepted that the development would be served by an off-street loading bay (whether enclosed or not), and the single bay was sufficient to receive the expected number of servicing vehicles. Subsequently a Servicing Management Plan (SMP) was approved by the Planning Applications Sub-Committee. Regrettably, Vapiano's began operating as a restaurant (no delivery or click and collect services are being offered at present) before receiving approval of their OMP. Consequently, a breach of condition and enforcement notice have been served.

The OMP is intended to set out measures with respect to various aspects of the operation of the use, in order to make sure that the use will not cause nuisance for people in the area. This report sets out in detail the processes and procedures set out in the submitted OMP and explains why officers now consider that the OMP is sufficiently detailed to meet the requirements of condition 4B and notwithstanding the objections, why the OMP is recommended for approval and for this condition to be discharged.

3. LOCATION PLAN



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4. PHOTOGRAPHS



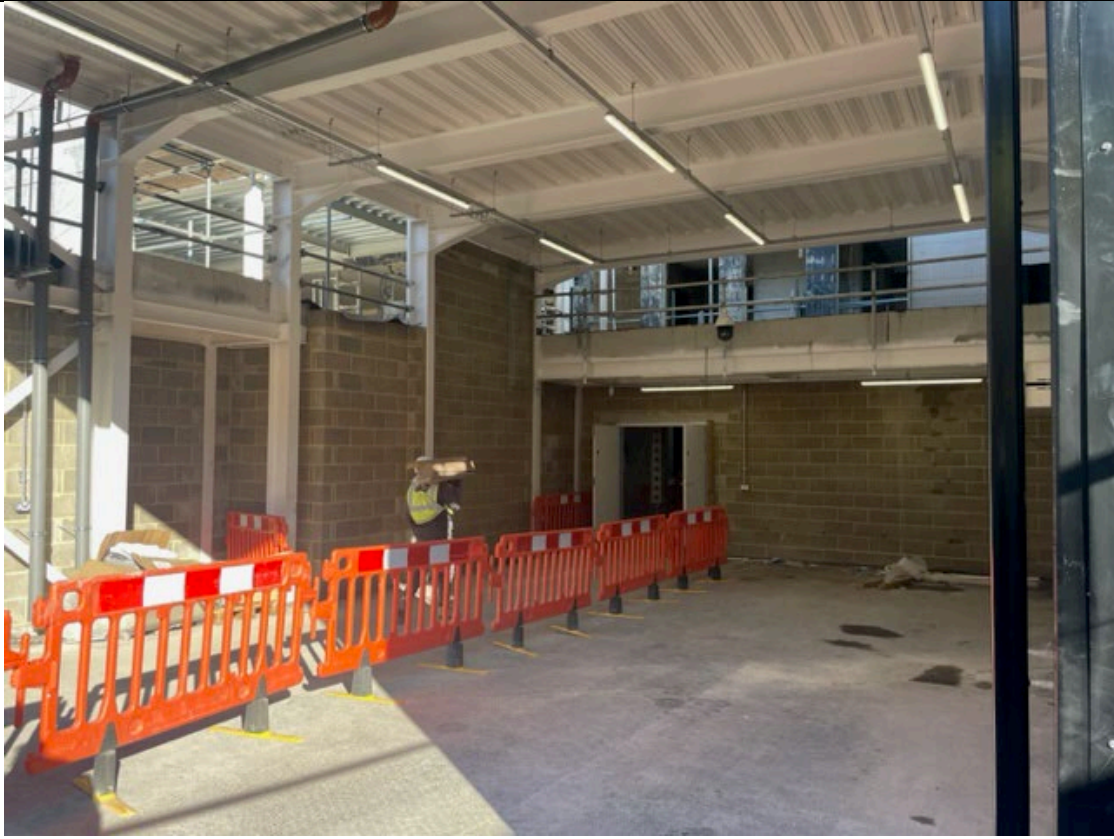
Vapiano's on the corner of Eastbourne Terrace and Craven Road.



Vehicular Access Via Arch (another Arch at the northern end of the Mews) from Craven Road to Chilworth Mews, which leads to the off street loading bay for 50 Eastbourne Terrace.



Loading Bay for 50 Eastbourne Terrace (& 40 Eastbourne Terrace) under construction in Chilworth Mews.



Internal area of loading bay

5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION

HIGHWAYS PLANNING TEAM

Comment. It is accepted in highway and transport terms that the document is consistent with the requirements of the condition. While it is not believed that the submitted OMP resolves the original concerns raised by Highways Planning (Highways Planning raised an objection to the proposed restaurant delivery operation), however the use was permitted by Town Planning.

WASTE PROJECT OFFICER

No objection.

WARD COUNCILLORS FOR LANCASTER GATE

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS' ASSOCIATION (SEBRA)

Objection.

The submission for the OMP fails to address the requirements set out in Condition 4(B).

- Operating already in breach of this condition, which states that the OMP should be agreed before the restaurant opens.
- Persistent reports by residents of other breaches of planning conditions, location of deliveries, use of door to Chilworth Mews, failure to use the authorised smoking area for staff.
- In breach of condition 6B which requires an approved off street servicing area to be used for all deliveries and collections including rubbish and waste.
- OMP conflicts with condition 6B " *All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.*"
- Condition 4B requires delivery operatives to park lawfully, but the OMP is vague on this issue.
- The phrase " *Drivers on non-combustion engine vehicles will not be able to receive orders from the app*" is confusing. Are electric cars or vans meant? If so, how will this be enforced? Are only delivery drivers meant, or 'click and collect' customers as well?
- Adequacy of staff for monitoring compliance with the provisions of the OMP. This is not covered in the draft OMP which is required to have " *Dedicated restaurant employee to monitor delivery driver compliance with the OMP*".
- The Incident log should be 'incident and complaints log'. Should record all complaints and be subject of inspect by Council planning enforcement officers.

PADDINGTON RESIDENTS ACTIVE CONCERN ON TRANSPORT (PRACT)

Any response to be reported verbally.

PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 0
Total No. of replies: 3 from two residents
No. of objections: 2
No. in support: 0

No consultation is required for approval of details applications. However, representations of objection from two residents of Chilworth Mews were received.

- No improvement on the last plan.
- Plan is lacking in substantive, practical and credible procedures for restaurant and take away staff to achieve the planning and licensing conditions and is currently operating to the detriment of the local area.
- No operating procedures are included describing the process for booking and receiving restaurant food and other supplies. The restaurant has been causing a nuisance by using the public highway and footpath in Chilworth Mews and Craven Road for the delivery of its supplies since it began operating in December 2022.
- The plan does not include any operating procedures relating to access to the loading bay in the case of mechanical failure of the unit's lift. This has already occurred, and local area residents have had the restaurant's rubbish carted along the busy footpath in Craven Road and down the residential road in Chilworth Mews rather than the infinitely shorter and more direct route of via the adjacent entrance at 50 Eastbourne Terrace.
- The staff rest area is entirely inadequate and results in staff using Chilworth Mews.
- No complaints log or manager's telephone number was available in December 2022. A formal, written complaint to the Manager in January 2023 did not receive a reply.
- No designated smoking area for staff and customers.
- Does not indicate a drop off and collection area for customers that arrive at the restaurant by vehicle.
- The procedures for click and collect customers are unclear.
- Contradictory information regarding vehicles, initially stating that these will be by pedal cycles and e-bike, followed by a bullet point stating that: "non-combustion engine vehicles" will not be able to receive orders.
- Contradictory information regarding where take-away delivery vehicles will park.
- The monitoring of compliance regarding deliveries and servicing is vague.
- Requires a directive to engage with the local community on the issues. We have attempted to engage with the restaurant management and received a stony silence.
- Objection to deliveries from Chilworth Mews.
- At present deliveries to Vapiano are being made from vehicles parked at the south end of the Mews.
- If the loading-bays that are being made available to the occupants of No. 50 are not yet operational, would it not be possible to remove the restriction on parking on the north side of Craven Road to service these units, as was formally the modus operandi of those shops before the No. 50 development?
- Disappointed that the City and WCC Highways Officers are not coming up with

any strategy to ensure that residents of Chilworth Mews can continue to live in the Mews free of nuisance, when we have pointed out over the last six months, that the Mews may be just too narrow to take even a Short Wheel Base van into the proposed loading-bays, in the position that they are at the moment.

- We have sent you the Developer's own swept-path drawings on several occasions, which show that even the smallest vans of under 6m, have to make an extra 3-point turn to exit the bays and, with a second vehicle already in the second bay, it is almost certain that there will be several adjustments made to reverse in alongside, to avoid hitting it.
- Have provided photographs of vehicles having to use our frontage, i.e., inside the single yellow parking line on our side of the Mews, where we have enjoyed and been encouraged to add greenery to our Mews, as with so many others.
- We need the two Highways Officers to face up to the problem of Vapiano not being able to use the No. 50 loading-bay for the immediate future and also to tell us how it will play out when the No. 40 deliveries are taking place at the same time.

SITE/PRESS NOTICE: Not required for this approval of details application.

**SECOND CONSULTATION ON REVISED OMP INCLUDING CHECKLIST TEMPLATE
(15.02.2023)**

HIGHWAYS PLANNING

Any response to be reported verbally.

WASTE PROJECT MANAGER

Any response to be reported verbally.

WARD COUNCILLORS FOR LANCASTER GATE

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS' ASSOCIATION (SEBRA)

Any response to be reported verbally.

PADDINGTON RESIDENTS ACTIVE CONCERN ON TRANSPORT (PRACT)

Any response to be reported verbally.

PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 120

Total No. of replies: 6 from 2 residents of Chilworth Mews

No. of objections: 2

No. in support: 0

No consultation is required for approval of details applications. However, representations of objection were received to the originally submitted OMP, as such on receipt of the revised OMP (10.02.2023) consultation was undertaken with residents.

- Vapiano continue to operate with no approved OMP.
- Inability to provide adequate operational methods and controls is evidenced by the numerous complaints to the WCC Enforcement Team regarding their:
 1. Rubbish and recycling deposited on the pavement in Craven Road, contrary to planning permissions.
 2. Rubbish and recycling carted down Craven Road and Chilworth Mews, rather than transporting it internally as required.
 3. Rubbish/recycling put out in the loading bay throughout the evening up to midnight each night, creating considerable noise, instead of storing it in the internal stores until 30 minutes before collection, as required.
 4. Food deliveries undertaken in Chilworth Mews and on double yellow double-crossed lines in Craven Road, contrary to servicing permissions.
 5. Staff using Chilworth Mews as a rest area, contrary to licensing permissions.
 6. Service vehicles that exceed the published traffic height restrictions on Chilworth Mews arches accessing the road, contrary to road traffic regulation.
- This 3rd OMP fails to detail the processes by which local area safety, welfare and amenity will be ensured during their receipt of supplies/servicing.
- The OMP must reasonably detail how the SMP conditions will be carried out, including: job roles and processes, routes to and through the unit, timings of servicing activities, how the conditions and restrictions for servicing will be communicated to staff and suppliers, who will be responsible for monitoring service vehicle compliance with SMP and road traffic requirements, how and which process risks have been reviewed, and what the contingency arrangements have been made to accommodate any issues with normal operational processes.
- At the very least, this OMP must detail critical job role processes and plans, for example:
 1. Moving waste and recycling from the restaurant into the internal storage area on the lower ground floor, the route, timings of movements, risk assessment of potential issues, such as the mechanical failure of the lift, and contingency arrangements.
 2. Moving waste and recycling from the internal storage area on the lower ground floor into the loading bay, along with details of timings of refuse collections; by whom and how monitoring is done for the condition that no waste or recycling is put out in excess of 30 minutes before collection, risk/issues assessment of potential issues, such as early or delayed collections, and contingency plans.
 3. Booking food deliveries and/or other service vehicles, and when and how information is provided to service vehicle drivers, (e.g., mandated routes to be taken to and exit from the loading bay, Chilworth Mews arch vehicle height restrictions, no deliveries or collections from the public highway, exclusion timings for the use of reversing beepers, requirements for door closure for all deliveries and collections, etc.),
 4. Opening loading bay doors, receiving the goods and transporting the goods to the unit, including when/how the loading bay door operator will be notified to open the loading bay doors, who will deliver the received goods to the unit, risk assessment of potential issues, such as mechanical failure of the lift, and contingency arrangements.

- Other areas of the plan that remain unspecified or unreasonably vague include:
- Which types of complaints would receive a written response and the maximum time for a response and for action.
- A detailed escalation process for complaints.
- Details, (including maps), of the drop off and collection areas for customers that arrive at the restaurant by motor vehicle and how these will be communicated.
- The location of the smoking area for staff, customers, and/or delivery drivers and how this will be communicated.
- Appropriate commercial delivery driver parking and how this will be communicated. The use of public cycle parking is neither addressed nor mitigated by the statement that individual drivers will only be there a "short time".
- The OMP clearly requires further development before it can be accepted as an effective means of ensuring the protection of the local community.
- At present, our welfare and amenity continue to decline while the Council allows what seems to be an unlimited amount of time for this firm to get their business operations in order. This is entirely inequitable, and I would be most grateful if the Council would now put into effect the published planning requirement for this unit - that this business not operate forthwith and until such time as they fully demonstrate the capability to prepare a meaningful operating management plan.

SITE/PRESS NOTICE: Not required.

Applicant's Pre-Application Community Engagement

As this application is for an approval of details application, it does not trigger the City Council's Early Community Engagement guidance.

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

50 Eastbourne Terrace comprises of 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. There are two commercial (Class E) units at ground floor level, a ground floor restaurant (with permission for ancillary delivery and click and collect) on the corner of Eastbourne Terrace and Craven Road currently occupied by "Vapianos" and a second commercial unit along Craven Road which is currently vacant but anticipated to be occupied as a gym. The remainder of the building (part ground and all upper floors) provides office floorspace, not all of which is currently occupied. At the rear on Chilworth Mews are 7 residential townhouses (2-14 Chilworth Mews).

Adjacent to the Mews house at 14 Chilworth Mews, the approved off-street servicing bay (open to the elements) for the development is now located within a new purpose built enclosed loading bay structure with a clearance height of 4.6m (allowing for use by smaller private refuse vehicles and provided with electrical vehicle charging infrastructure). The structure which contains two bays, 1 for this site (50 Eastbourne Terrace) and 1 for the adjacent site (40 Eastbourne Terrace) was secured as part of the development of 40 Eastbourne Terrace and is nearing completion.

The site occupies a prominent corner position at the junction of Eastbourne Terrace and Craven Road, opposite Paddington Station and benefits from three street frontages to Eastbourne Terrace, Craven Road and Chilworth Mews, all with differing characteristics.

To the north of the site is 40 Eastbourne Terrace, previously an office, but currently under development as a hotel following 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

50 EASTBOURNE TERRACE

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.

Non-Material Amendment Application

Amendments to planning permission dated 5 December 2016 (RN: 16/07359) 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 split condition 3 into two stages: demolition and construction. (18/08770/NMA)
Application permitted 09 November 2018

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.

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.

Non- Material Amendment Application

Amendments 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 stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, amend the wording of condition 21 to allow the installation of public art (proposed clock) to be installed to project over the footway and closer to the kerb edge than condition 21 allows. (19/09883/NMA)

Application permitted 14 January 2020

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.

Non-Material Amendment Application

Amendments to planning permission dated 05.02.2020 for 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. (19/07378/FULL) NAMELY, to allow the regularisation of the as-built north-east elevation through the addition of a second set of double doors on the respective floorplan.(22/05771/NMA) (22/05771/NMA)

Application permitted 28 November 2022

Non Material Amendment Application

Amendments to planning permission dated 5 February 2020 (19/07378/FULL)
 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.

Non-Material Amendment Application

Non material amendment agreed on 18.07.2022 for 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 southern elevation linked to the approved restaurant unit along Craven Road. (22/00674/NMA)

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).

Ancillary Take-away application

Conditional planning permission granted on 27.07.2022 for *Variation of condition 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. (22/00672/FULL)*

Approved Servicing Management Plan Condition 18

Details of Servicing Management Plan and waste storage pursuant to condition 18 and 24 of planning permission dated 5th February 2020 (RN:19/07378/FULL).(20/02855/ADFULL)
Application permitted 05 October 2020

Refused OMP condition 4A (Gym)

Details of operational management plan, scheme for the shop windows and secure short stay cycle storage, all for the Gym use pursuant to conditions 4(A), 8 and 15 of planning permission dated 27th April 2022 (RN: 22/00672/FULL).(22/05521/ADFULL).
Application Refused 16 September 2022.

Refused OMP condition 4B (Restaurant)

Details of operational management plan pursuant to Condition 4 (Part B) of planning permission dated 27th July 2022 (RN: 22/00672/FULL) (22/07118/ADFULL)
Application Refused 7 December 2022.

Approved Kitchen Extract condition 10

Details of a scheme for the prevention of odour nuisance from the kitchen extract ventilation and subsequently install it and maintain it pursuant to Condition 10 of planning permission dated 27th July 2022 (RN: 22/00672/FULL). (23/00964/ADFULL)
Application Approved 15 March 2023

Planning Enforcement

A breach of condition notice and enforcement notice were served on 3rd March 2023 in respect of condition (4B) OPM, requiring the use to cease until an OMP has been submitted to and approved by the City Council. The Breach of Condition Notice requires compliance by 31st March 2023 and the Enforcement Notice by 5th May 2023. (22/77460/H) (unless an appeal is submitted against the Notice).

40 EASTBOURNE TERRACE**Original Application**

Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). 19/03058/FULL
Application Permitted 1 November 2019

1st Non-Material Amendment

A First Non-Material Amendment was agreed on 05.03.2021 to remove reference to the specific number of bedrooms (366) within the development and change the description

of the proposal to "Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1)" and to include a new condition to restrict the number of hotel bedrooms to 369. . (21/00688/NMA)

2nd Non-Material Amendment

A Second Non-Material Amendment was agreed on 17.05.2021 to amend the wording of condition 26 (tree protection measures) to enable details to be provided in four phases.(21/01953/NMA)

3rd Non-Material Amendment

A third Non-Material Amendment was agreed on 09.09.2021 for Replacement of relocated lower ground floor plant rooms with bedrooms; recesses to fire exits removed at lower ground floor level; cycle and bin store relocated within the lower ground floor level; entrance to cycle store relocated at lower ground floor level; 8 windows replaced with 8. inset brick bays at ground floor level; 1 window added at ground floor level on the South Elevation; curtain walling replaced with individual windows on Chilworth Street; windows included within lightwell on Chilworth Street; and certain consented windows replaced with shadow box windows. (21/01110/NMA)

4th Non-Material Amendment

A fourth Non-Material Amendment was agreed on 12.01.2022 for Amendments to planning permission dated 01 November 2019 (RN:19/03058/FULL), as amended by non-material amendments dated 05 March 2021 (RN: 21/00688/NMA) and 09 September 2021 (RN: 21/01110/NMA) for the: Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). NAMELY, to allow the addition of a fire escape door at lower ground level, adjustment of bedroom window positions, fire exit door rotated, and brick wall extended at lower ground level and smoke vent louvres removed at lower ground floor level. (21/07942/NMA)

5th Non-Material Amendment

A fifth Non-Material Amendment was agreed on 25.11.2022 for Amendments to planning permission dated 01 November 2019 (19/03058/FULL) for Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). Namely, design changes to hotel back of house; loading bay; changes to refuse provision; change of a window to a door at 4th floor level; relocation of a door at 5th floor level; revision to staircase enclosure.(22/01848/NMA)

Water Tank Application

Conditional permission was granted on 09.09.2021 for Excavation below existing building to accommodate basement level for water tank relating to the approved hotel planning permission (19/03058/FULL) (21/01170/FULL).

Public Art

Details of a scheme of public art. Pursuant to condition 6 of planning permission dated 1 November 2019 (19/03058/FULL) (22/02757ADFULL).
Application permitted 06.12.2022.

Tree Protection

Detailed phase 4 tree protection for installation of hard & soft landscaping pursuant to condition 26 and Details of hard and soft landscaping scheme pursuant to condition 31 of planning permission dated 1st November 2019 (RN:19/03058) as amended under 21/01953/NMA).

Application permitted: 17.05.2021.

Pending Application

Servicing Management Plan, Operational Management Plan for the hotel and restaurant uses, and details of how a no Coach/no group bookings policy will be managed, pursuant to condition 10A (OMP) and 10B (No coach or Group booking policy) and 32 (SMP) of planning permission dated 1 November 2019 (19/03058/FULL)(22/01773/ADFULL)

7.3 Background

Approved Servicing Strategy

The redevelopment of 50 Eastbourne Terrace is now substantially complete and starting to be occupied. Under the permission, the loading bay to serve the development was an off-street open servicing bay accessed via Chilworth Mews. However, the planning permission for the development of the adjacent site at 40 Eastbourne Terrace includes a new purpose built enclosed loading bay structure, also accessed via Chilworth Mews. In granting permission for the adjacent site, it was made clear that under the permission for 50 Eastbourne Terrace the loading bay was non-enclosed, but that if the planning permission for 40 Eastbourne Terrace was implemented, then the non-enclosed loading bay would become enclosed in a purpose built structure which would serve both developments. Either scenario was considered to be acceptable, and both have the benefit of planning permission.

The development of 40 Eastbourne Terrace has been implemented and construction is underway. The purpose built enclosed loading bay structure has also been built (although not completed at the time of writing this report) and contains two bays, 1 for 40 Eastbourne Terrace and 1 for the 50 Eastbourne Terrace, with a maximum clearance height of 4.6m, allowing use by a smaller private refuse vehicle and provided with an electrical vehicle charging point. The loading bay does not include a turntable and it was agreed therefore that vehicles would be required to reverse into or out of the loading bays. The agreed servicing hours are 07.00-20.00 Monday to Saturday and 09.00-16.00 Sundays and Bank Holidays.

A Servicing Management Plan (SMP) for the development at 50 Eastbourne Terrace was agreed unanimously by the Planning Applications Sub-Committee in 2020 subject to some further concessions by the applicant, being agreed post committee by the Chair.

Complaints /Breach of Condition/s

Vapiano's are in occupation of the ground floor corner restaurant unit to Eastbourne Terrace and Craven Road, although they are not currently operating a delivery or click

and collect service. However, it was brought to the attention of the City Council's Planning Enforcement Team that the operation of the restaurant was in breach of a number of planning conditions:-

- Condition 4B required prior to the use of the restaurant approval of an operational management plan.
- Condition 6B requires operation of the restaurant in accordance with the SMP approved for the site 05.10.2020 20/02855/ADFULL.
- Condition 9 requires all servicing to take place from the off street loading bay (whether enclosed in a structure or not) between 07.00-20.00 Monday to Saturday and 10.00-16.00 on Sundays and Bank Holidays.
- Condition 10 – Prior to use of the restaurant submission of a scheme for prevention of odour nuisance from the kitchen extract ventilation.
- Condition 16 – The back of house access door along Chilworth Mews, shown on approved shall only be used for emergency purposes only, unless otherwise approved in writing by the local planning authority.

The City Council's Planning enforcement officers held a Teams meeting with complainants on 1st February 2023. Subsequently a site visit was undertaken by the case officer, along with colleagues from Planning Enforcement and Highways Planning on 8th February 2023. Officers looked around the restaurant, future delivery pick up area, back of house areas including access route to and from the loading bay and the loading bay (within a structure) itself.

It is not uncommon for new developments to have "teething problems" at the outset. This site incorporates both 40 and 50 Eastbourne Terrace and whilst the development at 50 Eastbourne Terrace is largely complete, 40 Eastbourne Terrace is still under active construction. Both developments once complete will utilise the same loading bay which is currently directly below the ongoing building works taking place at 40 Eastbourne Terrace. The area adjacent to the loading bay is still protected by a timber hoarding and temporary timber gates provide access in and out of the loading bay.

Whilst the loading bay remains under active construction, the developer has advised that it is likely to be completed by the end of March 2023 and it is understood that deliveries are now taking place from within the loading bay and that staff man the temporary timber gates enabling access as and when delivery vehicles attend the loading bay. Furthermore, evidence has now been provided to the City Council Planning Enforcement Team demonstrating that the booking system for servicing vehicles (15 and 30 minute slots) is fully operational and that all tenants have access to the system.

The Council's Planning Enforcement Team continue to conduct an investigation in relation to alleged breaches of planning control taking place at the premises.

The details relating to Condition 10 (kitchen extract ventilation) was approved on 15.03.2023. It is understood that Vapiano's is endeavouring to operate in accordance with all conditions including 6B, 9 and 16 as set out above (although this is disputed by residents). Potential breaches of planning control brought to the City Council's attention are being continually monitored by our Planning Enforcement Team.

A breach of condition and enforcement notice were served on 3rd March 2023 in respect of condition (4B) OPM, requiring the use to cease until an OMP has been submitted to and approved by the City Council. The Breach of Condition Notice requires compliance by 31st March 2023 and the Enforcement Notice by 5th May 2023.

The City Highways Report on Chilworth Mews

The planning permission for the redevelopment of 40 Eastbourne 01.11.2019 under reference: 19/03058/FULL included an informative (No.16) advising the developer to liaise with neighbours with respect to the condition requiring a SMP (No.32) of that permission and that the SMP would be the subject of formal consultation by the City Council. Consequently, a residents meeting took place on 29.06.2022. One of the outcomes of this meeting was that it was agreed that Highways Planning would request City Highways to undertake a review of Chilworth Mews with respect to vehicular access to and through the Mews and to consider a number of highways matters raised by those who attended the meeting. The City Highways report on Chilworth Mews has been completed and was circulated on 10.03.2023. A copy of the report is provided in the background papers.

8. THE PROPOSAL

This approval of details application seeks approval of an Operational Management Plan (OMP) for the restaurant including its ancillary delivery and click and collect service (Vapiano's) on the corner of Eastbourne Terrace and Craven Road as required by condition 4B of the July 2022 permission. This follows the refusal of an earlier OMP by officers in December 2022, which was considered to lack the detailed procedures that the OMP was imposed to secure.

For the avoidance of doubt, this application is not an opportunity to revisit the approved development, or the approved SMP for the entire development of 50 Eastbourne Terrace. The expectation is that the OMP is explicit in wording and provides a working manual for staff to refer to for the entire restaurant, delivery and click and collect operation.

Condition 4B states:-

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 operatives must only attend the site by way of foot, by bicycle or by electrically powered bicycle.*
- *Delivery operatives 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 delivery operatives 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).

An Operational Management Plan by Firstplan on behalf of Vapiano's (the restaurant operator) was originally submitted on 20th December 2022 and revised on 10th February 2023. The full OMP is included the background papers.

The details within the OMP are set out below following the headings set out under condition 4B:-

DETAILS OF STAFF AND CAPACITY, ARRIVAL AND DEPARTURE PROCESSES, HOURS OF OPERATION.

- A maximum of 20 staff on shift at any given time with a minimum of 1 manager and 4 managers at peak times.
- Capacity of the restaurant is 172, with 3no. seats available in the takeaway waiting area.
- Staff and restaurant customers will arrive and leave through the main entrance door on the corner of Eastbourne Terrace and Craven Road.
- Rest areas for staff will be provided in allocated seating areas within the restaurant.
- The provider utilises advanced software platforms for all riders, allowing them to be tracked and in order to provide advice, procedures and tips specific to individual premises. The restaurants are also now able to limit catchment areas, throttle the incoming orders and turn the system off and on very easily. This advancement in technology will ensure that there is not too much demand to the restaurant at any one time. This will enable the restaurant to control the number of orders and cap these to ensure that the restaurant can safely manage the collections. These limits can be applied on a one off or reoccurring basis.
- Both the restaurant and riders are incentivised to follow the above protocol based on app ratings and customer reviews. As such, riders have a limited dwell time, meaning orders leave the restaurant in a prompt manner.
- The OMP states that delivery service provider will be Uber Eats only and that a typical delivery is completed in the following sequence:-
 - An order is placed either through a web page or mobile application linked to the restaurant.
 - The restaurant accepts the order and prepares the food.
 - A rider is assigned to the order and once the food is ready the rider will receive a notification via the app. The rider then attends the restaurant at the specified time for collection of the food.
 - The rider takes the food to the specified customer location.
 - The rider may then collect a new order from another restaurant or return and fulfil a new order from the same restaurant.

- The operating hours of the takeaway will be: 12:00 to 22:00 Sunday to Thursday, 12:00 - 23:00 Friday and Saturday.
- The delivery radius will be approximately 2.6 miles.
- It is expected that there will be circa 60 delivery orders per day (average 5-7 deliveries an hour based on trading hours) and 30 Click and Collect orders per day.

DELIVERY & CLICK AND COLLECT TO REMAIN ANCILLARY TO THE SIT DOWN RESTAURANT

- The plan indicates that as required, Delivery and Click and Collect will remain ancillary to the sit down restaurant. And sets out that this is one of Vapiano's Key Business Indicators, with current national averages as a percentage of sales across of sites as follows: 3.92% takeaway, 9.32% delivery, and 86.75% dine-in. The General Manager will keep a log of these percentages for the Paddington premises, to be made available for inspection by the Council to evidence that the restaurant component forms the main portion of sales.

DELIVERY OPERATIVES MUST ONLY ATTEND THE SITE BY WAY OF FOOT, BY BICYCLE OR BY ELECTRICALLY POWERED BICYCLE

- The OMP states "Delivery riders will be directed to public bicycle racks along the eastern and western side of Spring Street, with further cycle parking provision available on the northern side of Craven Road".
- Delivery operatives must only arrive by foot, bicycle or electrically powered bicycle and will be turned away if arrival by any other means.
- Click and Collect customers will park in parking bays along Eastbourne Terrace and Spring Street.
- It is expected that all staff will use public transport, however, should any staff drive to work they will be required to park in the paid public parking areas.

DELIVERY OPERATIVES MUST PARK LAWFULLY

- All takeaway riders will park in line with existing highway network controls and restrictions and staff will remind riders to do this.
- Delivery operatives must park their bicycles in designated public bike racks only and not on the pedestrian pavement or on the vehicular highway or any other location including Chilworth Mews. This will be communicated to delivery operatives via their collection app each time they arrive at the site and patrolling staff will ensure this is followed.

NO OBSTRUCTION OF THE PEDESTRIAN OR VEHICULAR HIGHWAY WITHIN THE VICINITY OF THE SITE.

- Riders will be informed that they cannot stand outside the restaurant. Staff will monitor this to confirm that riders inside the restaurant stay in the designated waiting area and will discourage any loitering and noise generation/smoking. Riders will also be informed that they cannot obstruct the pedestrian or vehicular highway within the vicinity of the site.
- In terms of the Click and Collect service, customers would place an order and then will be directed to collect their orders from the delivery area as shown above. Staff will continuously monitor to ensure that customers are not blocking the footpath and are orderly in their behaviour.
- Riders will also be informed and managed not to obstruct the pedestrian or vehicular

highway within the vicinity of the site. Restaurant management and staff will monitor and manage this, and non-compliance will be recorded in the complaints log. A manager will make a walkthrough of Chilworth Mews at the times that a twice a day digital checklist is completed.

NO USE OF CHILWORTH MEWS AT ANY TIME

- There will be no use of Chilworth Mews by anyone at any time, as per the conditions of the restaurant licence and planning permission, apart from stock/supplier deliveries and refuse collections via the landlord loading bay at specific times, as per the building planning permission. Restaurant management on-shift, alongside staff manning the takeaway, will monitor Chilworth Mews throughout the day to ensure this is complied with.

LITTER PATROLS

- Routine litter patrols will also be undertaken by staff, with a dedicated restaurant employee instructed to monitor delivery driver compliance with the enclosed OMP protocols.
- Routine litter patrols will also be undertaken by staff, with a dedicated restaurant employee instructed to monitor delivery driver compliance with the enclosed OMP protocols. Litter patrols are to be undertaken by restaurant management and staff on a daily basis and will cover the entire restaurant frontages of Eastbourne Terrace and Craven Road.

DEDICATED RESTAURANT EMPLOYEE TO MONITOR DELIVERY DRIVER COMPLIANCE WITH OMP

- All takeaway riders will park in line with existing highway network controls and restrictions and staff will remind riders to do this.
- Monitoring of delivery driver compliance will be undertaken by both restaurant management and by staff on a daily basis throughout the day. The member of staff will walk round the site with a check list of behavioural points to ensure these are being complied with.

POLICY TO EXCLUDE DELIVERY OPERATIVES WHO FAIL TO COMPLY WITH OMP

- Riders who are not compliant with the OMP protocols will be excluded from collecting from the site. A log of issues will be maintained with the delivery operator and will feedback to the aggregators. Rider feedback will be sent to Vapiano's Uber EATS account manager via email. Two repeated transgressions will result in riders being banned from the location.

CONTACT FOR COMPLAINTS

- Any possible complaints should be directed to Marco De Checco (gm.london10@vapiano.co.uk), who will be available during restaurant opening hours.

LOG OF COMPLAINTS/ISSUES OVER 12 MONTHS FROM DATE OF FIRST OCCUPATION OF THE RESTAURANT.

- A log of complaints/issues will be kept over a 12 month period, commencing from the first occupation of the restaurant. If an incident/complaint occurs, it will be logged into a spreadsheet and will be categorised via issue (e.g., noise, incorrectly using Chilworth Mews, using motorised vehicle etc). the log will be updated by the General Manager. The spreadsheet will be reviewed each year, with a subsequent plan of action made to

address any such issues.

RESUBMISSION OF OMP WITH ANY NECESSARY REFINEMENTS/ REVISIONS

- Based on the log of complaints, the OMP will be revised and resubmitted if necessary to fully address any concerns. Notwithstanding this, the OMP will be reviewed on an annual basis to ensure that it is effective.

OTHER

- Signage will be placed on the restaurant frontages to indicate the nearest parking opportunities and pickup point. Vapiano will secure the necessary advertisement consent, if required, and landlord consent.

LICENSING

- All conditions required by the Premises Licence will be complied with (Ref: 22/03010/LIPN), in particular:
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
- All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
- No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
- An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours and on Sunday after 22:30 hours.
- No collections of waste or recycling materials including bottles from the premises shall take place between 23:00 and 08:00 hours on the following day.
- All deliveries of food and/or alcohol shall be made on foot, by bicycle or by electrically powered vehicle.
- The Premises Licence Holder shall ensure that any takeaway delivery service do not use Chilworth Mews or its entrance at any time.
- All crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
- There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours and on Sunday after 22:30 hours.
- No collections of waste or recycling materials including bottles from the premises shall take place between 23:00 and 08:00 hours on the following day.
- All deliveries of food and/or alcohol shall be made on foot, by bicycle or by electrically powered vehicle.

- The Premises Licence Holder shall ensure that any takeaway delivery service do not use Chilworth Mews or its entrance at any time.

ASSESSMENT

In granting permission for the redevelopment of the site (as now built) and subsequent permissions, it was accepted that the development would be served by an off-street loading bay (whether enclosed or not). Subsequently a Servicing Management Plan (SMP) for the whole development of 50 Eastbourne Terrace, was approved by the Planning Applications Sub-Committee.

Regrettably, Vapiano's began operating as a restaurant (no delivery or click and collect services are being offered at present) before receiving approval of their OMP. Consequently, they have been served a breach of condition/enforcement notice advising them to cease operation from 31.03.2023 until such a time as their OMP has been agreed. Whilst representations of objection have been made by SEBRA and two residents of Chilworth Mews with respect to the breach of planning conditions, this is the subject of separate planning enforcement and is not in itself a reason to withhold approving the OMP if found to be acceptable.

It is understood that Vapiano's are now servicing the site including for collection of waste by a private contractor, from the off-street servicing loading bay (the enclosure of which remains under construction) and other breaches of planning conditions (use of door and staff smoking in Chilworth Mews) have now ceased. The objections made to the numbers of vehicles expected to service the site, the approved Servicing Management Plan and the ability of servicing vehicles to enter and travel along Chilworth Mews are not matters for consideration of this OMP. The number of servicing vehicles expected to serve the development of 50 Eastbourne Terrace as a whole (up 35 per day) was accepted as part of the original development and in approving the SMP.

The concerns raised with respect to Chilworth Mews and its use by vehicles and of vehicles of particular size being able to access the Mews and the off-street servicing bay safely, following the installation of a pavement outside of the 7 new mews houses in Chilworth Mews, is outside of the development site and outside of the control of the application, is public highway and is the subject of a highways report by Westminster's City Highways team. As such, it is considered unreasonable to withhold the determination of this OMP awaiting the outcome of that discussion with Ward Councillors, SEBRA, PRACT and residents, particularly as Vapiano's are in situ and operational.

The OMP is intended to set out measures with respect to various aspects of the operation of the use, in order to make sure that the use will not cause nuisance for people in the area. This officer report sets out above in detail the processes and procedures set out in the submitted OMP. This OMP seeks to address both Officer concerns and the matters and queries raised in representations of objection. Some of the key aspects confirmed and clarified in the OMP are:-

- No use of Chilworth Mews by staff or delivery operatives.
- Servicing from off street loading bay
- Delivery operatives are only to attend the restaurant by pedal bike, electric bike or foot.
- Specific separate area within restaurant with separate door for delivery and click and collect collections.
- Provision of a complaints log

The City Council's Highway's Planning Manager has indicated that the OMP generally lists the

matters requested in the condition, the document is now considered to be a sufficient working document with detailed procedures that the OMP was imposed to secure. The OMP is now explicit and provides a working manual for staff to refer to for the entire operation (restaurant, delivery, click and collect). As such, officers consider the reason for imposing the condition has been met and that the OMP is in a condition to be approved. As such a favourable recommendation is given. The objections raised, whilst noted, where they relate specifically to the OMP are considered to be satisfactorily addressed by the most recent OMP.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Not applicable

9.2 Environment & Sustainability

Not applicable to application of this nature.

9.3 Biodiversity & Greening

Not applicable to application of this nature.

9.4 Townscape, Design & Heritage Impact

Not applicable to application of this nature.

9.5 Residential Amenity

See Assessment above.

9.6 Transportation, Accessibility & Servicing

See Assessment above.

9.7 Economy including Employment & Skills

Not applicable to application of this nature.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

Not applicable to application of this nature.

9.10 Planning Obligations & Pre-Commencement Conditions

Not applicable to application of this nature.

10. Conclusion

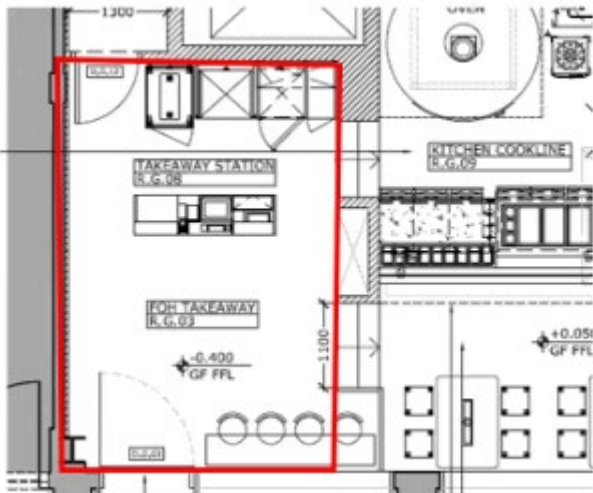
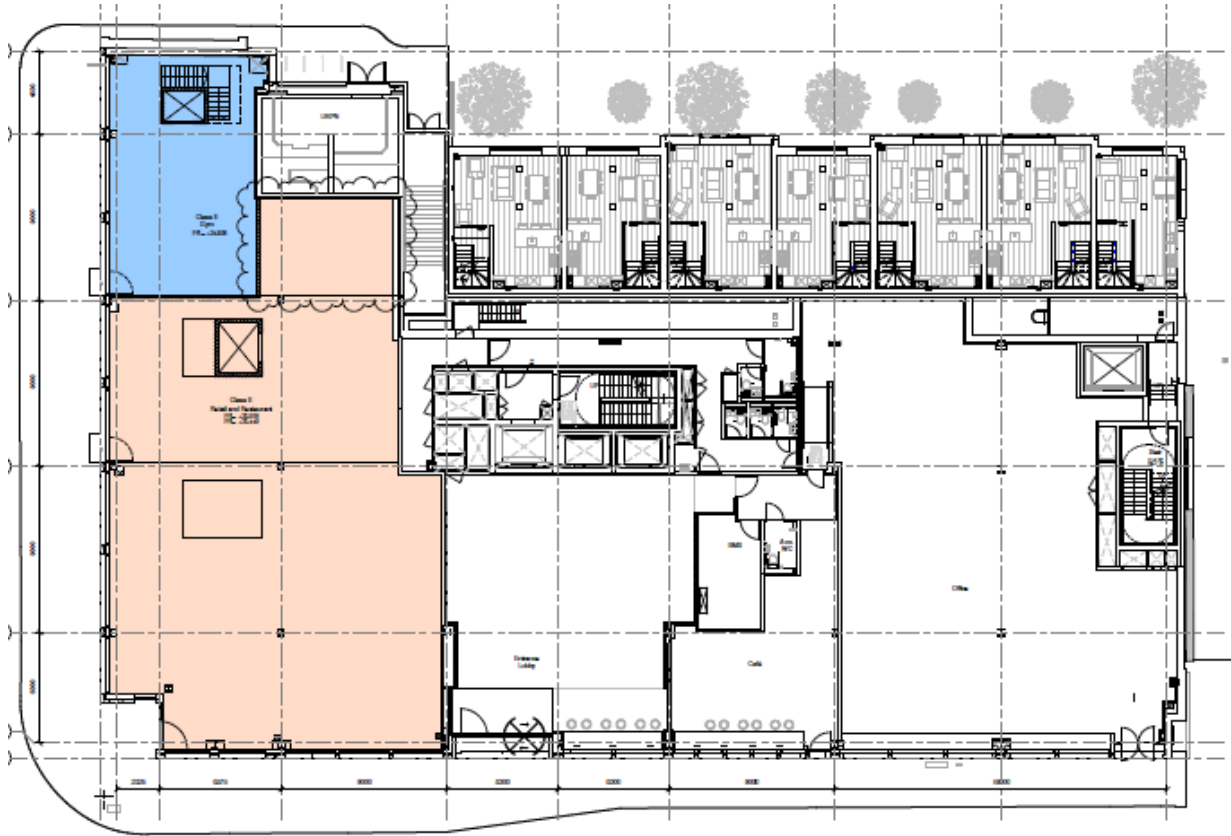
It is regrettable that Vapiano's have begun operation without first receiving approval of their OMP and that residents have had to deal with the "teething" problems associated with the use and the incomplete off-street loading bay. However, the OMP must be assessed on its own merits. Notwithstanding the objections raised, officers consider that the OMP is now sufficiently detailed and has gone as far as can be reasonably expected to make sure that the use will not cause nuisance for people in the area. The applicant is expected to operate in accordance with their OMP and subject to this, the operation of the Restaurant and ancillary delivery and click should be able to be carried without causing a nuisance to residents.

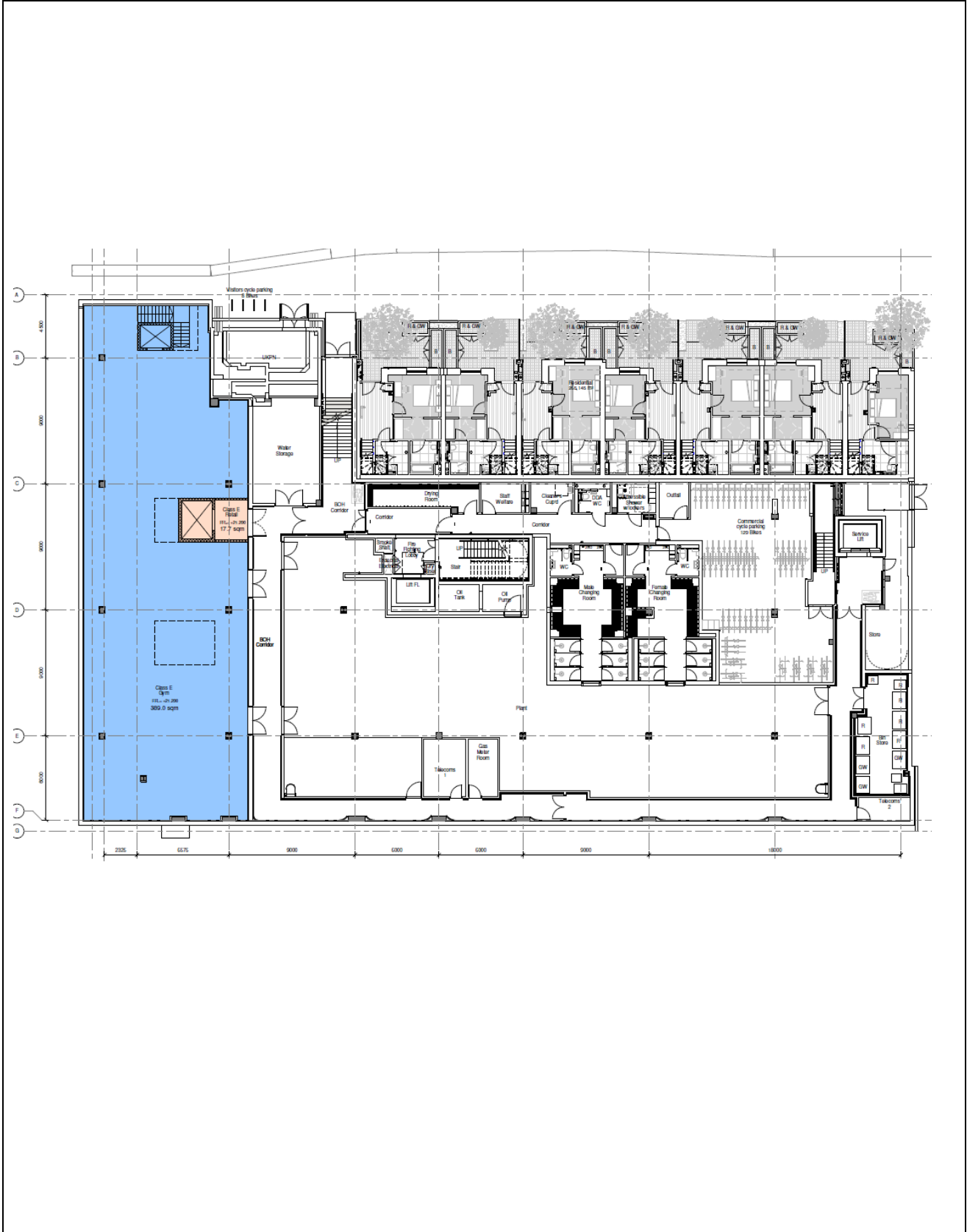
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

11. KEY DRAWINGS

Ground floor plan





DRAFT DECISION LETTER

Address: 50 Eastbourne Terrace, London, W2 6LG

Proposal: Details of an operational management plan (OMP) pursuant to Condition 4 (B) of planning permission dated 27th July 2022 (RN:22/00672/FULL).

Reference: 22/08590/ADFULL

Plan Nos: Firstplan Covering Letter 20.12.2022, Firstplan Operational Management Plan

Case Officer: Sarah Whitnall

Direct Tel. No. 020 7641
07866036375

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

- 1 This permission fully meets condition(s) 4B of the planning permission dated 27th July 2022 (RN:22/00672/FULL). (I11AA)
- 2 You are reminded of the need for the restaurant operator to comply with this Operational Management Plan, the agreed Servicing Management Plan and the conditions of the Planning Permission. Failure to complete with all or some of these, is likely to result in the City Council instigating Enforcement proceedings.

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 5

Item No.

5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Bayswater	
Subject of Report	Flat 27, Saxon Hall, Palace Court, London, W2 4JA		
Proposal	Erection of single storey extension at ground floor level to House (known at flat 27).		
Agent	Keystone Planning Limited		
On behalf of	Abbey Property Management Ltd		
Registered Number	22/05532/FULL	Date amended/ completed	1 September 2022/4-5 November 2022/ 3 February 2023
Date Application Received	12 August 2022		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

Saxon Hall is a residential block of flats, located on the east side of Palace Court and comprises lower ground, ground floor and 5 upper storeys and a recessed plant room/lift overrun. To the rear of the building is a house attached to the main block, known as Flat 27 – this is the application site.

Permission is sought for the construction of a single storey extension to the northern elevation of the house known as Flat 27. The proposal has been revised during the course of the application to reduce the depth of the extension and it is now proposed to measure 1.96m in depth, 5.3m in width and 3.1m in height to the top of the parapet. Amended drawings have also been received to accurately depict what has been approved at the site under earlier applications.

Representations of objection have been received to the proposals on amenity and highways grounds.

The key issues in the determination of this application are:

- The impact of the proposed extension and alterations upon the character and appearance of the Bayswater Conservation Area;
- The impact of the proposals upon the amenity of neighbouring residential properties; and
- The acceptability of the proposals in highways terms.

The application is considered to accord with the development plan and the application is therefore recommended for approval, subject to the conditions set out in the draft decision letter appended to the report.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Rear of application site (red building to the right is Saxon Hall Flats, white building to the left is rear of 14c Palace Court)



5. CONSULTATIONS

5.1 Application Consultations

BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally .

HISTORIC ENGLAND

No comments to make.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 30

Total No. of replies: 6

No. of objections: 8 (including four letters on behalf of two properties and one on behalf of eight properties within Saxon Hall.

No. in support: 0

Objections received on some or all of the following grounds:

Design:

- important to note the recently refused 22/03473/CLOPUD where an extension to the dwelling was not considered to accord with the Council's design policies;
- extension does not respect the character of the existing and adjoining buildings.

Amenity:

- loss of light to ground floor flats at Saxon Hall;
- no daylight or sunlight assessment has been submitted;
- As part of the renovation to the rear of Flat 27, a fence has been installed at the front door of the adjacent flats affecting light levels.

Highways:

- loss of a car parking space protected by condition 3 of permission 19/04621/FULL;
- access to cycle parking is restricted with this extension.

Other:

- loss of green space;
- proposals are 'land grabbing' and 'creeping development';
- impact of the rear courtyard works on fire safety for residents;
- there are plans underway to convert the roof at the south of flat 27 into a terrace, which is not clearly mentioned in the proposed plan. - Converting the roof into a terrace will cause significant noise for all the flats facing the terrace, and in addition affect the access of sunlight to the patio in the lower ground;
- the matter of an unauthorised terrace has been reported to the Council's Enforcement Officer.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was carried out with regards to this proposal however the applicant did engage with officers through the earlier 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, 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

Saxon Hall is an unlisted block of flats located on the east side of Palace Court, within the Bayswater Conservation Area. The block was built in the 1960s and comprises lower ground, ground and five upper floors with a recessed plant room at roof level. The area of the site which is the subject of this application is a house within the rear curtilage of the site, on the eastern side of the plot known as Flat 27, originally approved in 2011 under application 10/08269/FULL.

7.2 Recent Relevant History

21/05530/FULL

Demolition of existing lift overrun at roof level and construction of a single-storey roof extension to provide three additional residential units, alterations to ground floor comprising new disabled access ramp and accessibility alterations to existing main entrance and cycle parking and bin storage in the rear yard, installation of air source heat pumps at roof level.

Application Permitted 20 December 2022

22/03473/CLOPUD

Erection of single storey rear extension.

Application Refused 20 July 2022

The certificate was refused on the following grounds:

“The erection of an extension to the northern elevation of 27 Saxon Hall is not considered to be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), Schedule 2, Part 2, Class A. It therefore does requires planning permission”

19/04621/FULL

Rationalisation and reduction of the existing parking in the rear yard to provide three vehicle spaces.

Application Permitted 21 January 2020

17/01729/FULL

Erection of a single storey roof extension and external alterations to create a second floor level.

Application Permitted 19 July 2017

16/10856/FULL

Infilling of lightwell to the rear of site at ground floor level to create an extension to an existing flat (Flat 27) and creation of a roof terrace.

Application Permitted 19 January 2017

14/00018/FULL

Conversion of part lower ground floor to create two-bedroom flat and associated external alterations including new windows and doors, and rear terrace with trellis screening.

Application Permitted 3 February 2015

13/07714/FULL

Conversion of 1x3 bed flat in rear south east corner of site to 1x1 bed and 1x2 bed flats and associated external alterations including installation of rooflight, fenestration changes and subdivision of existing terrace.

Application Permitted 3 February 2015

11/03552/FULL

Erection of part 2 storey and part 1 storey one bedroom mews property with roof terrace and glass balustrade and lightwell to the rear of Saxon Hall.

Application Refused 24 June 2011

11/02842/FULL

Erection of 2x 2bedroom storey mews houses with basements and the provision of associated first floor balconies and balustrading.

Application Refused 20 June 2011

11/01453/FULL

Conversion of part lower ground floor to create one-bedroom flat and associated external alterations involving the introduction of new windows and doors.

Application Permitted 21 July 2011

10/08269/FULL

Alterations and excavation at lower ground floor level to create a three bedroom flat with new double height rear extension (to south east corner of application site), lightwells, windows, doors and green roof and walls.

Application Permitted 14 April 2011

8. THE PROPOSAL

Permission is sought for the construction of a single storey extension to the northern elevation of the house known as "Flat 27". This house is a modern structure, as originally approved under application 10/08269/FULL, with later amendments to design and configurations as detailed above and extended at roof level under application 17/01729/FULL. The house is to the rear of the main 1960's building, on the eastern side of the plot. The extension is proposed to measure 1.96m in depth, 5.3m in width and 3.1m in height to the top of the parapet, to be constructed in brickwork to match the existing house with white windows.

The proposal has been revised during the course of the application to reduce its depth as it was originally proposed to project beyond the boundary wall with No. 14a Palace Court.

9. DETAILED CONSIDERATIONS

9.1 Land Use

This application is for an extension to an existing residential house to create 11m² of additional floorspace. This is acceptable in principle under Policy 8 of the City Plan.

9.2 Environment & Sustainability

9.2.1 Sustainable Design

The extension is proposed to be built to provide 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 Whole life carbon

The proposed scheme is a minor development and therefore a Whole Life Carbon Assessment is not required.

9.2.3 Circular Economy

Whilst Policy 37C states that developers are required to demonstrate the recycling, re-use and responsible disposal of construction, demolition and excavation waste, the scheme is not a major application, therefore the applicant is not obliged to comply with the Circular Economy policies.

9.2.2 Flood Risk & Sustainable Drainage

The site does not lie within a flood zone or within a surface water hotspot.

9.2.3 Environment & Sustainability Summary

For a development of this size and nature it is considered that the proposal meets the City Council's environmental and sustainability policies.

9.3 Biodiversity & Greening

Objections have been received on the grounds of loss of garden area. Whilst the extension is to be built over a section of 'private' grassed area, the extension is minor and it is not considered that an application could be refused on this ground.

Policy 34B of the City Plan requires that "developments will, wherever possible, 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. The proposal does not include a living green roof to the extension given its size. Whilst regrettable, it is considered that the absence of such, would be difficult to justify withholding permission under Policy 34 of the City Plan and the guidance as set out within the ESPD.

9.4 Townscape, Design & Heritage Impact

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

Section 72 of the Listed Buildings, and Conservation Area Act 1990 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.

Objections have been received to the proposals on the grounds that a recent lawful development certificate was refused for an extension (the same detailed design and size as proposed under this current application) on the grounds that it did not meet the Council's design policies and that the proposals do not respect the host property or the adjacent buildings. Comment is also made that the proposals are 'land grabbing'.

It is important to note that the application referred to was a lawful development certificate application (22/03473/CLOPUD) and the applicant was seeking to demonstrate that the proposed extension benefitted from permitted development under the Town and Country Planning (General Permitted Development) Order (TCP GPDO) and could therefore be constructed lawfully without the need for planning permission.

Such an application for a certificate of proposed lawful development is assessed in a different way to a planning application. It is not assessed under planning policy, but is assessed in terms of whether it meets the requirements of the TCP GDPO. In this particular case the certificate was refused because the house has had its permitted development rights removed by condition (Condition 6 of permission dated 4 July 2017 (Ref 17/01729/FULL)) and because of the proposed location of the extension (to its front).

As noted above, the extension has been reduced slightly in depth since its original submission. Officers were originally concerned that the extension's projection beyond the boundary wall with No. 14c Palace Court, created an uncomfortable and awkward relationship. This has now been stepped to create a flush extension.

This modest extension, sited to the rear of the modern block of flats and seen primarily only from views from the rear flats within the main building; measuring the full width of the rear elevation of the building forming the 'application site', is acceptable in principle, and would be respectful of the character of the host building. At 1.96m in depth, 3.1m in height (no higher than the adjacent boundary wall) and measuring the full width of the host property the extension, is considered to be appropriate to the host property and not considered to result in an over-dominant extension.

The detailed design of the extension is acceptable being of brickwork to match the existing and with white windows to match the existing windows. The fenestration pattern of the windows is also acceptable. A condition securing these materials is recommended.

The proposals are considered to preserve and enhance the building and the character and appearance of the Bayswater Conservation Area. This would meet Policies 38, 39 and 40 of the City Plan 2019

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.

The objections received raise concern regarding the potential loss of sunlight and daylight to ground floor flats within Saxon Hall and 14a Palace Court and that no daylight and sunlight assessment has been submitted.

It is acknowledged that no daylight and sunlight assessment has been submitted with the application. However, following the case officer's site visit to the property and given the size (height and depth of the extension) it was not considered that this was required.

There are 3 flats at lower ground floor, 2 within the original 1960's building accessed from the pavement on Palace Court and one internally through the main building and out to the rear of the site (No. 26). Flat 26 has a bedroom window overlooking the western flank wall of No. 27 and that window is sited some 4.7m from the proposed extension. The east facing windows to the rear of the lower ground flats in the main building are 5.1m away from the proposed extension and comprises a bedroom, bathroom and kitchen. The bedroom and bathroom are obscured glazed. As a point to note between these windows and the application site area is an external staircase leading from the ground floor lobby to the rear and boundary fencing.

At 3.1m in height and 1.96m in depth, set substantially away from the flats at lower ground floor, already obscured by fences of 1.8m in height or the external staircase, the extension is not considered to result in any significant loss of daylight/ sunlight or sense of enclosure to the lower ground floor flats over the existing situation. With regard to the potential impact to the adjacent property No. 14a Palace Court, given the height of the extension, at the same height of the boundary wall with this property, the proposed extension is not considered to result in any material impact on the amenities of that neighbouring property.

In terms of overlooking, whilst the extension projects into the grassed area, the proposed rear elevation comprises two windows which replaces the existing arrangement of full width doors and these overlook the rear courtyard/parking allocated area and therefore it is not considered that this relationship would afford any detrimental views to neighbours.

On the matter of the installation of fences to the rear of the flats, these are considered to be permitted development and do not require planning permission. Should residents remain concerned with the location and siting of these fences, then it is a matter to be raised with the freeholder of the site.

The proposals are considered acceptable in amenity terms.

9.6 Transportation, Accessibility & Servicing

Objections have been received on the ground of the loss of a car parking space protected by condition 3 of permission 19/04621/FULL and that access to cycle parking is restricted with this extension.

History of Car Parking on the Site

On 17 November 1961 planning permission was granted on the application site for a six storey and basement building comprising 19 residential flats. The following condition was attached to the decision: *'The garage accommodation shall be retained as shown on the drawings approved and shall not be used for the accommodation of commercial vehicles, and no trade or business shall be carried on therefrom'*. The planning history appears to show that these garages either never existed in the rear courtyard area currently under consideration or were demolished a significant period of time ago (well over ten years ago). This condition is therefore incapable of being enforced and is of no effect.

Planning permission was granted on 28.05.2013 for the lowering of the rear courtyard and alterations to the access ramp (RN: 12/05820/FULL). Condition 3 of this planning permission required car parking spaces to be provided in the rear courtyard in accordance with the details shown approved plan Drawing No. 1589-22 Rev. C. The condition does not specify exactly how many parking spaces were supposed to be provided but it appears from Drawing No. 1589-22 Rev. C that five spaces were to be provided. The condition does not specify which residential units the spaces were to be allocated to. The Planning Enforcement Officer has said that the works that were carried out to the rear courtyard in 2013/14 were broadly in accordance with permission RN: 12/05820/FULL. The ramp as built is slightly different in design to what was approved, but the Planning Enforcement Team do not consider it to be materially different to that approved on account of the plans being quite basic, with only one section. The parking spaces were never used but this is outside of the control of the City Council.

On 03.02.2015 permission was granted for the conversion of 1x3 bed into 1x1 bed and 1x2 bed flats (RN: 13/07714/FULL). Condition 6 of this permission required the applicant to provide and retain one car parking space for the approved flats. The car parking spaces required by permission RN: 13/07714/FULL is depicted on the existing and proposed plans for the current proposal. It is the same one that is labelled as Bay 3 on the proposed plan on Drawing No. 1589 - x43E rev. E. As the flats approved under RN: 13/07714/FULL have been constructed and occupied and as the Officer's site visit showed that the parking space is capable of being used it is considered that condition 6 of RN: 13/07714/FULL is still enforceable.

Fencing and a gate was erected at the rear of the application site between 2014 and 2015. As noted above, these works were permitted development. Although this fencing made it more difficult to park in the spaces referred to by condition 3 of planning permission RN: 12/05820/FULL, it is considered by the Planning Enforcement Team that the fencing and gate does not breach this condition. In any case, the parking spaces were not being used at the time the gate and fence were erected.

Finally and of most relevance, under permission 19/04621/FULL, which was for the 'rationalisation and reduction of the existing parking in the rear yard from 5 vehicle

spaces to 14*three vehicle spaces', one car parking space was allowed to the west of the flank wall of Flat 27 (known as Bay 3), and two spaces were allowed to the north of Flat 27 in the courtyard area (known as Bay 1 &2).

Bay 3 will be lost as a result of this proposal. Policy 27F of the City Plan states 'where sites are redeveloped, existing parking provision must be reduced' and therefore the loss of one car parking space cannot be resisted. This is shift change in policy from when the earlier applications were assessed.

An objector says cycle parking will be restricted. It is believed that they are referring to two cycle spaces which were shown on the existing and approved plans of 19/04621/FULL, but originally secured under permission 13/07714/FULL. These were secured as part of the original approval for Flat 27. Whilst these are not shown on the current proposed plans given the garden area of Flat 27 can accommodate cycle parking it is not considered that the proposals could be refused on this basis.

The proposals are acceptable in terms of car parking and cycle storage.

9.7 Economy including Employment & Skills

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

9.8 Other Considerations

9.8.1 Fire Safety

Given the proposals are for a small extension to a house, details of fire safety measures are not required as part of this application and will be dealt with through building regulations.

9.8.2 Terrace to roof of Flat 27

Two objectors notes that there are plans underway to convert the roof at the south of flat 27 into a terrace, which is not referenced in the application, and any terrace would cause significant noise for all the flats facing the terrace, and in addition affect the access of sunlight to the patio in the lower ground.

As originally submitted, the existing and proposed plans showed a terrace and decked area with a door and gate leading onto the private forecourt of Palace Court.

The case officer made the applicant aware of Condition 5 of permission 17/01729/FULL which stated '*You must not use the roof of the ground floor rear extension permitted under RN:16/10856/FULL for sitting out or for any other purpose. You can however use the roof to escape in an emergency or for maintenance purposes*'

Condition 4 of the same permission also stated '*You must install the green roof to the flat roof of the ground floor rear addition in accordance with the drawings hereby approved prior to occupation of the extension and it shall be retained thereafter*'. Therefore, what has been built is in breach of condition and a terrace is not allowed. The applicant was

advised, that for the purposes of moving this application forwarded to revise the plans to show as consented, as this is not directly relevant to the application before the City Council and an application could not reasonably be refused on this basis. This was done and revised plans received 3 February 2023. It was not considered necessary to consult on these plans. The Council's Enforcement Team have been made aware of the breaches.

9.8.3 Noise and Disturbance During Construction

Objection has been received to unnecessary construction and disruption to amenity, presumably from noise and disturbance.

Whilst the objection of noise and disruption during works is noted, it is not itself a reason to withhold permission. A condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highway's authority or by the local authority under the Control of Pollution Act 1974. An informative is also recommended to advise the applicant to join the considerate constructors scheme. Through the use of the above conditions and informative, it is considered that the impact of the development on surrounding occupiers is being suitably controlled and mitigated as far as practicable under planning legislation.

Given the nature of the proposed works, a construction management plan or the applicant's agreement to adhere to the City Council's Code of Construction Practice is not required.

9.8.4 Freeholder Leaseholder Disputes/ Behaviour of Applicant Land Grabbing

Objections have been received on the grounds that before new works are proposed, that the existing building should be brought up to standard and that the applicant is land grabbing with a creeping development strategy. Whilst this is regrettable and whilst officers understand the frustration caused when applicants have a poor relationship with neighbours and the local community, this is not considered a material planning consideration and permission cannot be withheld 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.

10. Conclusion

The proposal is considered acceptable in design terms, mindful of policies 38, 39, 40 of the Westminster City Plan 2019-2040 (April 2021) with limited impact to the character and appearance of the building and no significant harm to the character and appearance

of the St Johns Wood Conservation Area a designated heritage asset. The proposal would also be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

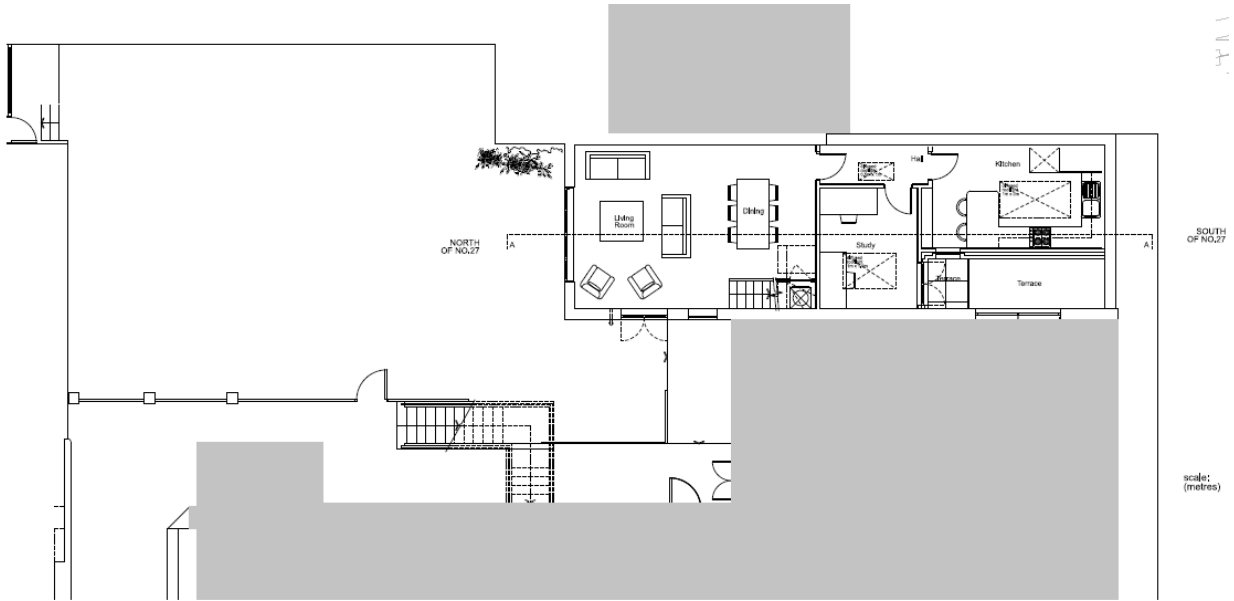
Whilst recognising the concerns raised by the objectors, the proposal is considered acceptable in design, conservation, sustainability, amenity and highways terms.

(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: IAN CORRIE BY EMAIL AT icorrie@westminster.gov.uk

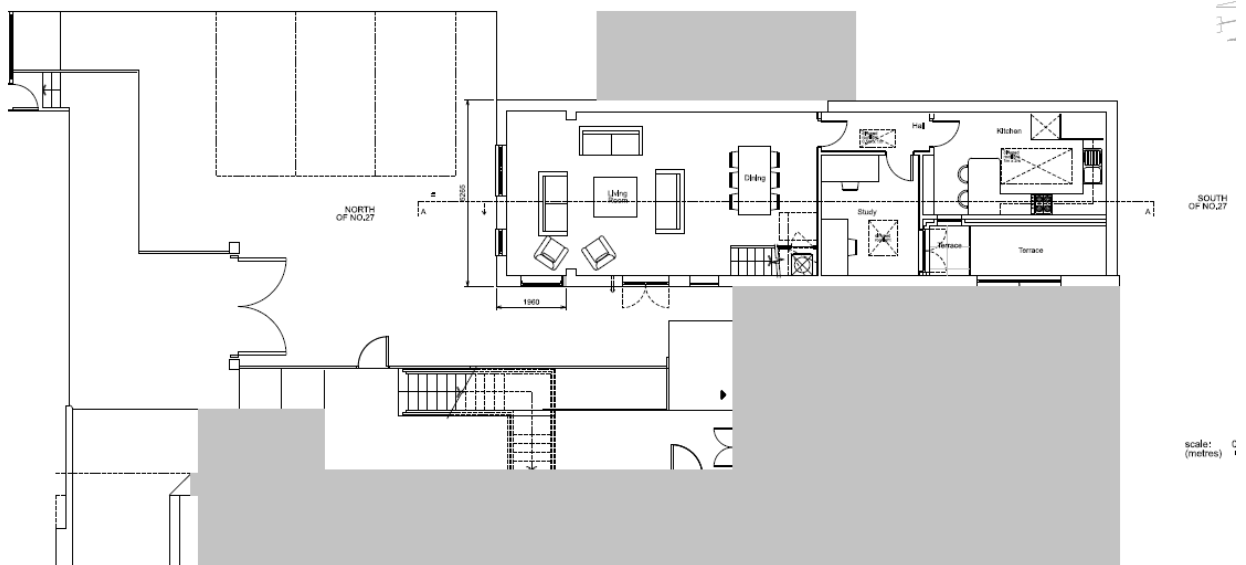
11. KEY DRAWINGS

Existing Ground Floor



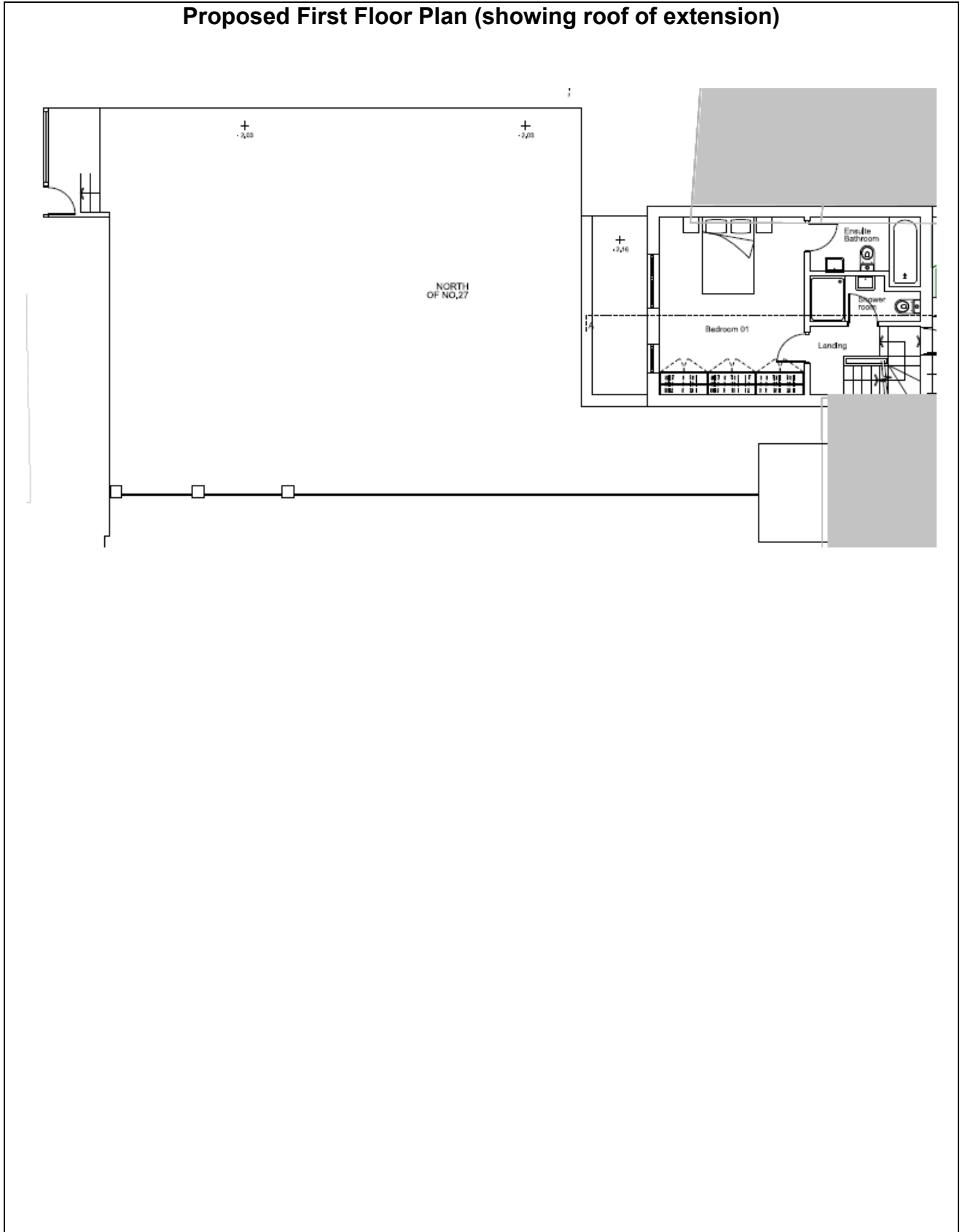
EXISTING GROUND FLOOR PLAN

Proposed Ground Floor



PROPOSED GROUND FLOOR PLAN

Proposed First Floor Plan (showing roof of extension)



Existing Elevations and Section



EXISTING SECTION AA



EXISTING NORTH ELEVATION



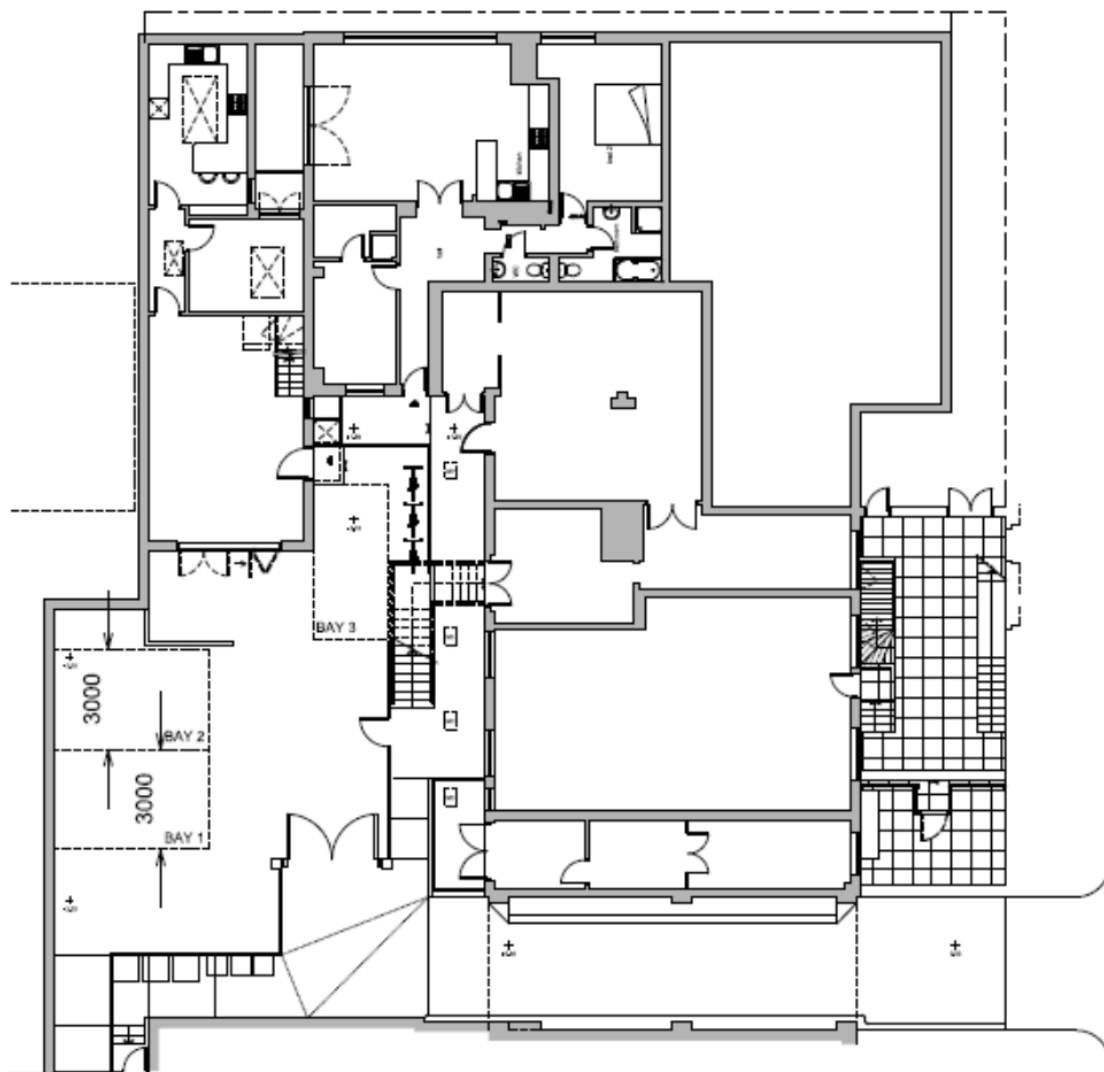
EXISTING SOUTH ELEVATION

scale: 0
(metres)

Proposed Elevations and Section



Approved Car Parking Arrangement - 19/04621/FULL



PROPOSED GROUND FLOOR PLAN

DRAFT DECISION LETTER

Address: Flat 27, Saxon Hall, Palace Court, London, W2 4JA

Proposal: Erection of single storey extension at ground floor level to House (known at flat 27).

Reference: 22/05532/FULL

Plan Nos: Site plan; 2407-ex-001; 2407-ex002 Rev E; 2407-ex003 Rev E; 1589-x43C; 2407-P004; 2407-P005 Rev F; 2407-P006 Rev F; Design and Access Statement/ Covering Letter; Sustainable Design 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 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)

- 4 The brickwork of the extension must match the brickwork of the host building (known as Flat 27) in terms of colour and finish and must remain 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)

- 5 The windows shall be white 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 not use the roof of the extension for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

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)

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.

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 or visit 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

- 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)
- 4 You are reminded of the need to make available the two car parking spaces on the eastern side of the rear courtyard in accordance with Condition 3 of permission 19/04621/FULL. sThe two bays shall thereafter be retained for car parking to be used only by people living at Saxon Hall, Palace Court. The three bays shall not be used for the parking of commercial vehicles.

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 6

Item No.
6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Abbey Road	
Subject of Report	4 The Lane, London, NW8 0PN		
Proposal	Excavation of new basement storey below footprint of existing dwelling extension partially below the garden to the rear and driveway to the front together with new lightwells on the front and rear elevations, erection of side extension and alterations to the garage.		
Agent	Mark Dodes Planning		
On behalf of	Mr & Mrs Jacob Lyons		
Registered Number	22/04334/FULL	Date amended/ completed	26 July 2022
Date Application Received	30 June 2022		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

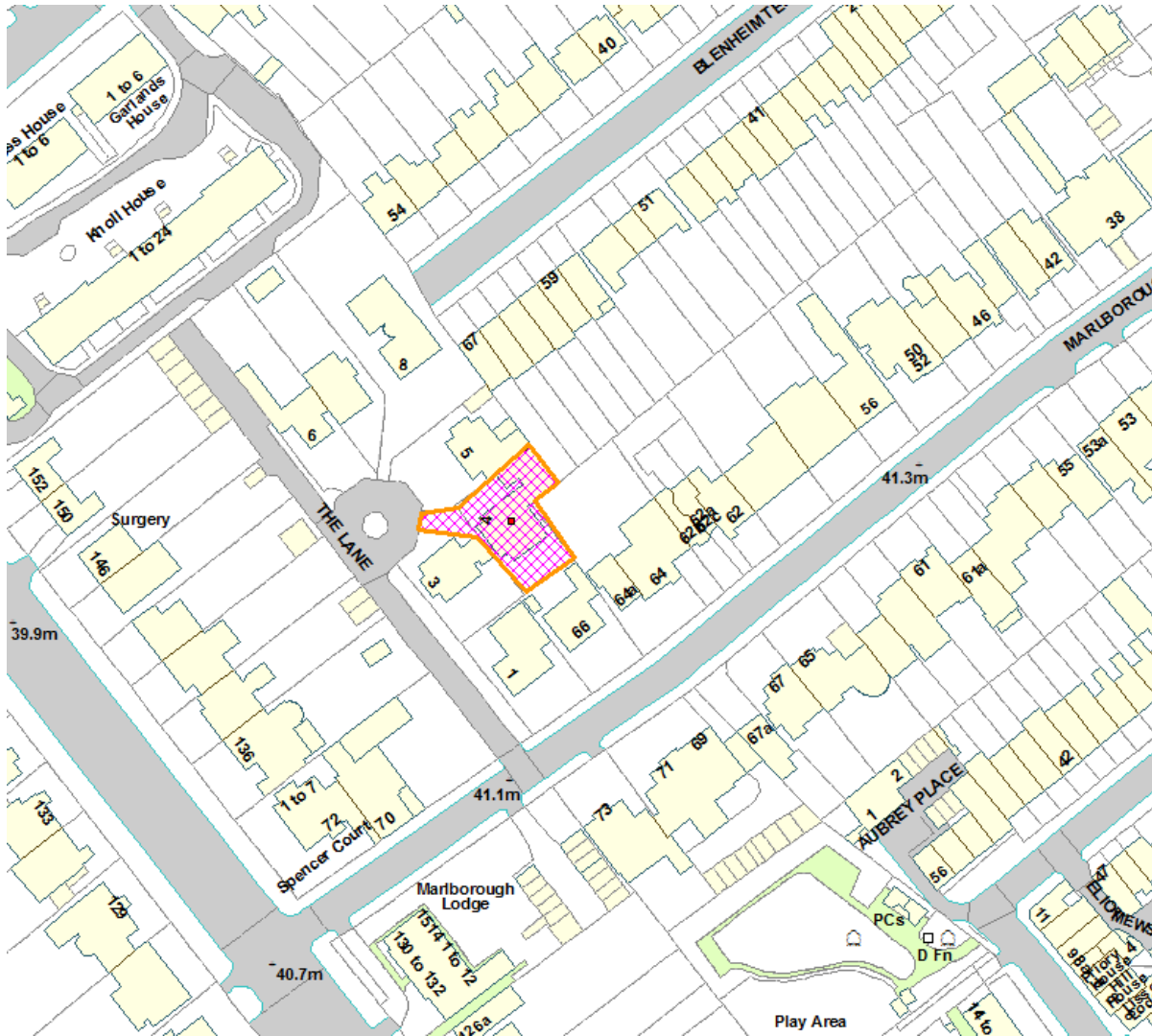
<p>The application proposes excavation of a basement level below the footprint of the existing building and part of the rear garden and front driveway. This includes the introduction of lightwells to the front, side and rear elevations. A side extension is proposed as well as alterations to the garage to the front.</p> <p>Objections have been received from neighbouring residents on a number of grounds including the design, impact on residential amenity and construction impact.</p> <p>The key considerations in this case are:</p> <ul style="list-style-type: none"> The impact of the proposed buildings on the character and appearance of the St John's Wood
--

Conservation Area

- The impact on the amenity of neighbouring residential properties

Subject to appropriate conditions as set out in the draft decision letter appended to this report, the proposed development is considered to comply with the relevant design, conservation and amenity policies in the City Plan 2019 – 2040 adopted in April 2021. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front Elevation

5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION

ST JOHN'S WOOD SOCIETY:

- Unneighbourly overdevelopment of the site
- Query whether the proposal comply with basement policy as the basement appears to extend under more than 50% of the garden.
- Plant room is positioned too close to neighbours and will have a negative impact on amenity.
- We request that the arboricultural manager makes a site visit to ensure that no trees of amenity value are lost or harmed.
- Access to the site will be difficult on this narrow private road and suggest the case officer conditions no Saturday working.
- We request that the case officer ensures that all residents of the Lane are consulted on the construction management plan as this will be essential to protect the amenity of neighbours.

ENVIRONMENTAL HEALTH OFFICER:

No objections subject to conditions.

BUILDING CONTROL OFFICER:

Requests an updated Structural Methodology to be provided.

HIGHWAYS OFFICER:

Concerns with the loss of the garage for cycle parking and waste storage, could be addressed by conditions.

ARBORICULTURAL OFFICER:

Requests an updated Arboricultural Report in line with the proposal and concerns the basement proposal is not policy compliant.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 7

Total No. of replies: 2

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

Land Use;

- The proposals represent an overdevelopment of the site

Design:

- Side extension will disrupt the architectural value and result in a displeasing bulky appearance which will harm the conservation area.

Amenity:

- Living green roof will add to the bulk and result in loss of light and outlook

- Close proximity of plant room will result in noise and odour nuisance

Other:

- Concern with addition of full door opening onto passageway which seems unnecessary and intrusive
- In the previous application, the basement excavation left an area to protect nearby trees within this application this has been removed
- No cumulative assessment with the neighbouring development at 66 Marlborough Place
- Concerns with increase in flooding as a result of basement excavation
- No updated Construction Management Plan or Acoustic Report has been provided
- Inaccuracies within the Design and Access Statement
- Site notice not displayed as part of consultation.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

REVISED CONSULTATION sent on 10th November 2022 (following revised design of side extension and updated Arboricultural Report)

ST JOHN'S WOOD SOCIETY:

No response to date.

ENVIRONMENTAL HEALTH OFFICER:

No objections subject to conditions.

BUILDING CONTROL OFFICER:

Following updated Structural Methodology provided, no objection raised.

HIGHWAYS OFFICER:

Concerns with the loss of the garage for cycle parking and waste storage, could be addressed by conditions.

ARBORICULTURAL OFFICER:

Following updated Arboricultural Report and drawings, no objection raised subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 7

Total No. of replies: 3

In summary, three objections have been received raising some or all of the following grounds:

Land Use:

- The proposals represent an overdevelopment of the site.

Design:

- Side extension will disrupt the architectural value and result in a displeasing bulky appearance which will harm the conservation area.

Amenity:

- Close proximity of plant room will result in noise and odour nuisance
- Loss of light from side extension

Other:

- Increase in construction noise, dust and vibration
- Increased pressure on parking from construction vehicles
- Increase in flood risk and natural drainage issues
- No updated Construction Management Plan or Acoustic Report has been provided
- Inaccuracies within the Design and Access Statement
- Potential damage to nearby trees.

5.2 Applicant's Pre-Application Community Engagement

No engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application.

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

Not applicable.

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 a two storey single family dwelling of neo-Georgian design located in the St John's Wood Conservation Area. The building forms one of five dwellings located within a private cul-de-sac named "The Lane" and is accessed from Marlborough Place. The properties on The Lane are identified as unlisted buildings of merit in the St John's Wood Conservation Area Audit SPD (adopted 2008).

7.2 Recent Relevant History

Planning permission and conservation area consent were refused on 25 September 2012 for demolition of the existing dwellinghouse and erection of a three-storey dwellinghouse above ground, with excavation of a basement level beneath the house and part of the garden, and associated works, ventilation louvres serving internal plant, and landscaping. These applications were refused on the grounds that the replacement dwelling's detailed design and modern appearance, would fail to preserve or enhance the character and appearance of this part of the St John's Wood Conservation Area. An appeal to the Planning Inspectorate was dismissed on 15 May 2013.

Planning permission was subsequently granted on 7 November 2014 for the complete demolition of the existing dwellinghouse and the erection of a new two storey plus mansard dwellinghouse with excavation of basement level beneath house and part of garden and associated works.

Furthermore, planning permission was granted by members on 12 May 2016 for the erection of a two storey rear extension, single storey side extension plus mansard roof extension together with associated works including an air condenser within single storey side extension.

More recently, planning permission was granted by members at planning sub-committee, on 8 February 2022, for the excavation of a new basement below the footprint of existing dwelling, partially below the garden to the rear and driveway to the front together with new lightwells on the front and rear elevations, erection of side extension and alterations to the garage.

Various alterations have been made to other properties within the cul-de-sac which includes the excavation of basements.

8. THE PROPOSAL

Permission is sought for the excavation of a basement level below footprint of the existing building and part of the rear garden and driveway. This includes the introduction of lightwells to the front and rear elevations and a glazed rooflight to the rear. A two-storey side extension is proposed to enlarge the existing side projection to the same depth and 2m projection to the front and rear and increase the height by 0.3m.

Alterations to the front of the garage are also proposed which involve infilling an area to the front, the introduction of a new door, and the replacement of the garage door with two sliding sash windows, associated with its use as habitable accommodation.

This current proposed basement is largely the same footprint as previously approved in 08 February 2022 (RN: 21/02808/FULL) with a change under the side projection and with a different internal layout. The pool is now being proposed to the rear as opposed to the previously permitted location at the front of the application site.

9. DETAILED CONSIDERATIONS

9.1 Land Use

An objector has stated that the proposals represent an overdevelopment of the site. It is not considered that this proposal represents an over development of the site, as this is a large plot and a large proportion of the new space is being created at basement level. The new house would be comparable to a number of the existing houses in The Lane and surrounding area. Therefore, the objection raised on these grounds cannot be supported in this instance.

The enlargement of the existing dwellinghouse is considered to be acceptable in land use terms and would comply with policy 8 of the City Plan 2019-2040.

9.2 Environment & Sustainability

Sustainable Design

The applicant has confirmed that they will endeavour to purchase locally recyclable and environmentally preferable products.

The scheme demonstrates compliance with Policy 38 (Parts D, E and F).

Flood Risk & Sustainable Drainage

The application site is within a Surface Water Flood Risk Hotspot and therefore a site specific Flood Risk Assessment has been submitted as required by Policy 35 of the City Plan 2019 – 2040. The extent of the basement has been amended to leave an undeveloped margin around the structure and provide a drainage layer above it. Further mitigation measures have also been incorporated into the design of the proposed basement including a separate foul water pump chamber which will manage the foul water sewer and be fitted with a non-return valve. This will be secured by condition ensuring these measures are implemented and retained prior to the occupation of the basement to help reduce the risk of flooding in the area as set out in policy 35 and 45 of the City Plan 2019 – 2040.

Light Pollution

A walk on glazed rooflight to the rear elevation is proposed, which is relatively modest in size and not considered likely to result in any significant increase in light pollution.

Land Contamination

The Environmental Science Officer has requested that the councils contaminated land

condition is attached to any permission and states that as the proposal includes a basement, as per Public Health England document titled: 'UK National Radon Action Plan' published in 2018 it states: 'Radon measurements should be made in regularly occupied basements of properties irrespective of their geographical location (HPA, 2010)'. On this basis they would expect an assessment for the potential of radon, therefore the Contaminated Land condition is recommended in order to comply with Policy 33(E) of the City Plan 2019 - 2040.

9.3 Biodiversity & Greening

Policy 34B of the City Plan requires that "developments will, wherever possible, 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.

A large living green roof has been proposed above the ground floor garage and it is recommended that the details of this are secured by condition to ensure it provides adequate biodiversity properties.

Objectors have raised concern to the potential loss/damage to trees.

Amendments during the course of the application have been made to ensure that a margin of undeveloped land has been incorporated around the perimeter of the basement and 1.2m of soil provided above it (including drainage layer). Following these amendments, no objection is raised from the Council's Arboricultural Officer, subject to conditions to secure tree planting and appropriate landscaping and tree protection measures.

9.4 Townscape, Design & Heritage Impact

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

Section 72 of the 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 considering the basement extension in terms of design, Part 4 of Policy 45 of the City

Plan 2019 - 2040 is of particular relevance. The policy states basement development should conserve the character and appearance of the existing building and garden setting, ensuring lightwells, plant, vents, skylights and means of escape are sensitively designed and discreetly located.

The principle of excavating a basement is not contentious in design terms, subject to the external manifestations being appropriate. Aside from the two lightwells proposed adjacent to the rear and front elevations of the garage, and a walk on rooflight to the rear elevation the proposed basement has no other external manifestations to indicate its presence.

The lightwells are located adjacent to the building. The rear lightwell is of relatively limited size, whilst the front, although larger, is on the side of the elevation and would not interrupt the front building line.

Objectors state that the side extension will result in a displeasing bulky appearance which will harm the conservation area.

In turn, Policies 38, 39 and 40 of the City Plan are of particular relevance when considering the increase in the side extension. Following revised drawings, showing the set back from the front and rear elevations and the reduction in height the side extension now sits as a subordinate feature to the host building. The proposed materials will be in keeping with the existing building and the adjacent properties within The Lane, the replacement of the existing circular window at first floor level to a sliding sash timber window is not considered to result in any design concerns.

The proposed alterations to the front of the garage include replacing the existing garage door with two timber sliding sash windows and the installation of a door providing access, whilst these alterations remove the functionality of the garage they will match the host building and therefore preserving its appearance and contribution to the conservation area. The alterations also involve the infilling of the gap to the front of the garage, ensuring a more consistent building line, this is not considered to cause harm to the host building.

As such, whilst not insubstantial, the proposals are considered to preserve the appearance of the host building, and the manner in which it contributes to the character and appearance of the St John's Wood Conservation Area. The application is therefore considered to be in accordance with Policies 38, 39, 40 and 45 of the City Plan 2019-2040.

9.5 Residential Amenity

The relevant policies for consideration of the proposal are 7 'Managing developments for Westminster's people', 33 'Local environmental impacts' of the City Plan 2019 – 2040 and 38 C 'People Centred Design'

Given its subterranean location and limited external manifestations, the proposed basement would not have any material impact on the amenity of neighbouring residents. The only external elements are the lightwells, which given their size and location will

have very minimal impact in terms of neighbouring amenity.

The proposed side extension will project by 2m to the front and rear of the existing extension and increase its height by 0.3m. Whilst there will be additional bulk on the boundary close to the adjacent neighbour at No 3 The Lane it is considered that this would not have an unacceptable impact in terms of loss of light or sense of enclosure over the existing situation.

It is noted that the existing window in the side elevation at ground floor level is being located further towards the front which is not considered to result in an increase in overlooking given the existing arrangement.

The alterations to the garage involve the infilling of the gap to bring it forward to meet the existing front building line which will not raise any amenity impacts due to the location of these works. The flat roof of the garage is also proposed to be installed with a living green roof. Objectors have stated that the living green roof will increase height and bulk and therefore result in a sense of enclosure. Whilst these concerns are noted, the increase in height to accommodate the living green roof will be marginal and therefore is not considered to result in an increase in sense of enclosure sufficient to warrant refusal on these grounds.

Objections have also been received to the introduction of a plant room at basement and ground floor level and the potential for this to cause noise and odour nuisance to nearby residents. This element has been removed from the proposals and would therefore need to be dealt with under a separate application.

Given the above, and subject to conditions, the proposal would be consistent with policy 7 and 33 of the City Plan 2019-2040.

9.6 Transportation, Accessibility & Servicing

The loss of the garage parking space is considered to be acceptable under City Plan Policy 27 (E). It is considered that there would be ample room for bike storage within the house, given its size. Construction vehicular activity will be managed through the CoCP.

Waste & Recycling Storage

The Waste Project Officer has noted that the details submitted are not in line with the council waste storage requirements. As this application relates to an existing large single family dwelling, it is not considered that a condition to secure these details is required.

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

Basement

The application involves the excavation of a single storey basement level. City Plan Policy 45 relates to basement developments.

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 surrounding area.

Objections have been received on the grounds of flooding, due to the site being located within a Surface Water Hotspot area, and to the impact the construction will have on the surrounding residential area.

The applicant has provided a Structural Method Statement and Flood Risk Assessment.

The City Council's Building Control Officers have reviewed the applicant's Structural Methodology and Flood Risk Assessment and advise that they have no adverse comments with regard to the ground condition and stability of existing structures during the works. The scheme is justified structurally and the proposal is considered to be viable from a the preliminary structural information provided at this stage.

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 flooding, the site is located within a Surface Water Hotspot Area, and mitigation measures have been incorporated within the design of the basement, which include the introduction of a separate foul water pump chamber which will manage the foul water sewer and be fitted with a non-return valve. These will be secured by condition. Further information is included in Section 9.2 of this report.

It is considered that the applicant has demonstrated sufficiently at this stage that the works can be carried out without structural harm to neighbouring properties and without risk of flooding.

In relation to the applicant's Construction Management Plan, it was raised by objectors that the site will be difficult for construction traffic to enter, due its position on a narrow

private road.

It should be noted that the submitted Construction Management Plan has been provided for information only and that the final construction details will be considered under the Council's Code of Construction Practice (COCP). To that end, the applicant has submitted an Appendix A for the CoCP and it is recommended that a condition is attached to any permission requiring that the construction method is agreed with Environmental Services prior to commencement of the scheme. It is considered that this is the best method to address potential construction disturbance for neighbouring properties.

As discussed within the in Section 8.2 of this report, the proposals are considered acceptable in terms of their impact on heritage assets.

Part B of policy 45

These parts of the policy relate to the extent and depth of basements. This includes limiting the extent and depth of basement developments so to reduce both the risks associated with basement development and to mitigate any negative environmental and amenity impacts. Basement developments are typically (unless exceptions apply) limited to a single storey and must not extend more than 50% of the garden land. Where basements shall not reside directly underneath the building footprint, a minimum of one metre of soil depth (plus minimum 200mm drainage layer) and adequate overall soil volume above the top cover of the basement must be provided. In addition, a margin of undeveloped land should be left, proportionate to the scale of the development and the size of the garden, around the entire site boundary.

The proposal is to extend the lower ground floor beneath the existing dwelling house and partially under the driveway to the front and to the rear garden with the introduction of lightwells. The area of garden land is approximately 225m² and the proposed basement, would extend underneath 90m² of this, therefore it does not extend under more than 50% of this garden land and is compliant in this regard. During the course of the application, the plans have been amended so that a margin of undeveloped garden land of 1.2m has been retained around the basement under the rear garden, in accordance with the policy.

Part B 3 states that basement developments should not comprise of more than one storey beneath the lowest original floor level. The proposals are for a single storey basement, and whilst deeper than the standard depth of approx. 2.7m, are considered to be acceptable in this instance given the previously approved basement depth.

Part B 4 requires a minimum of one metre of soil depth plus 200mm drainage layer to be provided and adequate soil volume over the top cover of the basement, this has been provided where appropriate.

The requirements of part B 5 of policy 45 are not relevant to these proposals.

In summary of the above, the proposed basement is considered to be in accordance with the relevant policy of 45 of the City Plan 2019 – 2040.

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 following:

- City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development;
- contaminated land;
- tree protection measures.

The applicant has agreed to the imposition of the conditions.

10. Conclusion

As such, the proposal is considered acceptable in design terms, mindful of policies 38, 39, 40 and 45 of the City Plan 2019-2040 with limited impact to the character and appearance of the building and no significant harm to the character and appearance of the St Johns Wood Conservation Area a designated heritage asset. The proposal would also be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Whilst recognising the concerns raised by the objectors, the proposal is considered acceptable in design, conservation, sustainability and amenity terms and compliant with City Plan policies 7, 8, 33, 34, 35 and 36.

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

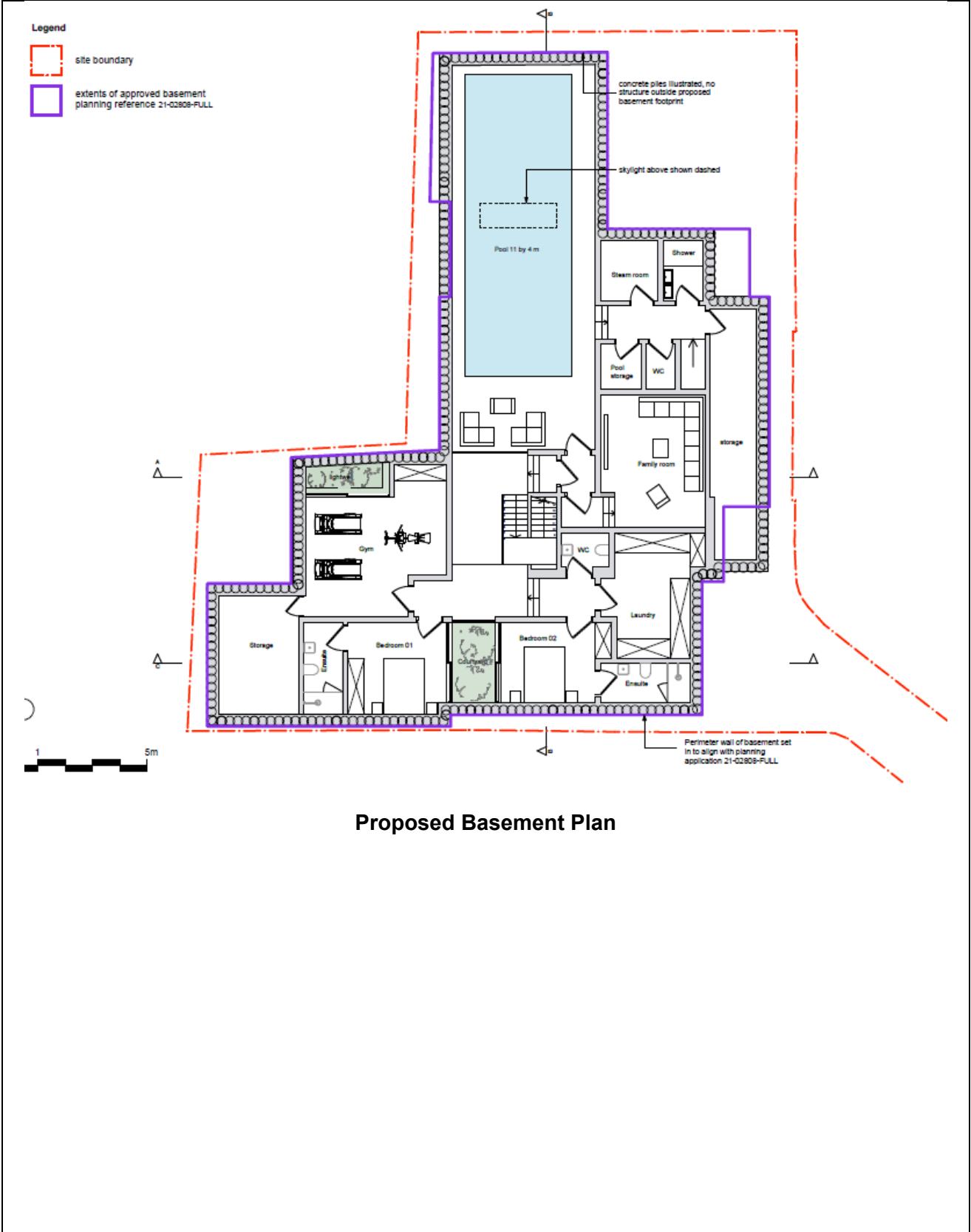
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: IAN CORRIE BY EMAIL AT icorrie@westminster.gov.uk

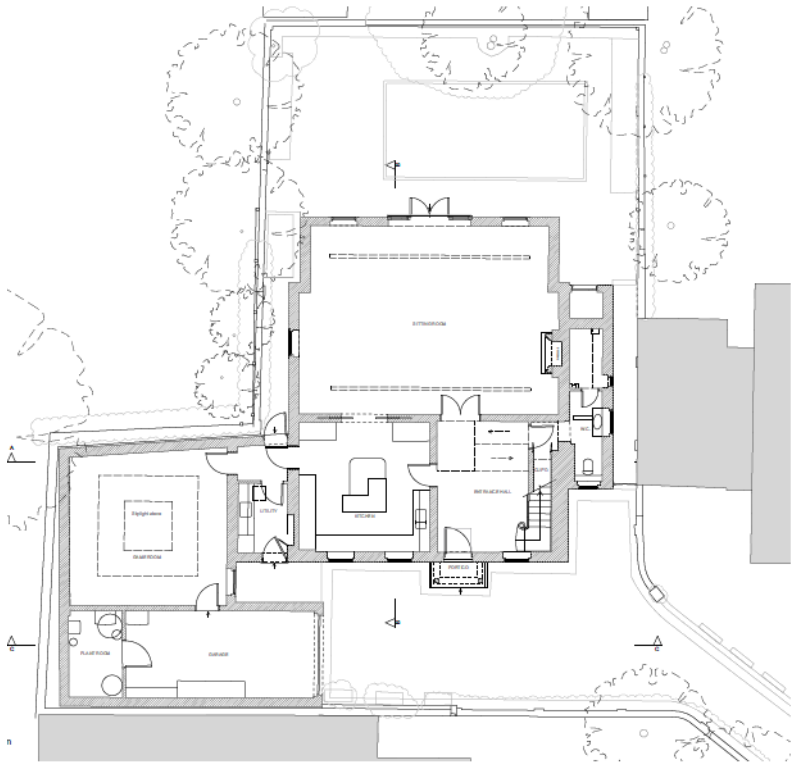
11. KEY DRAWINGS



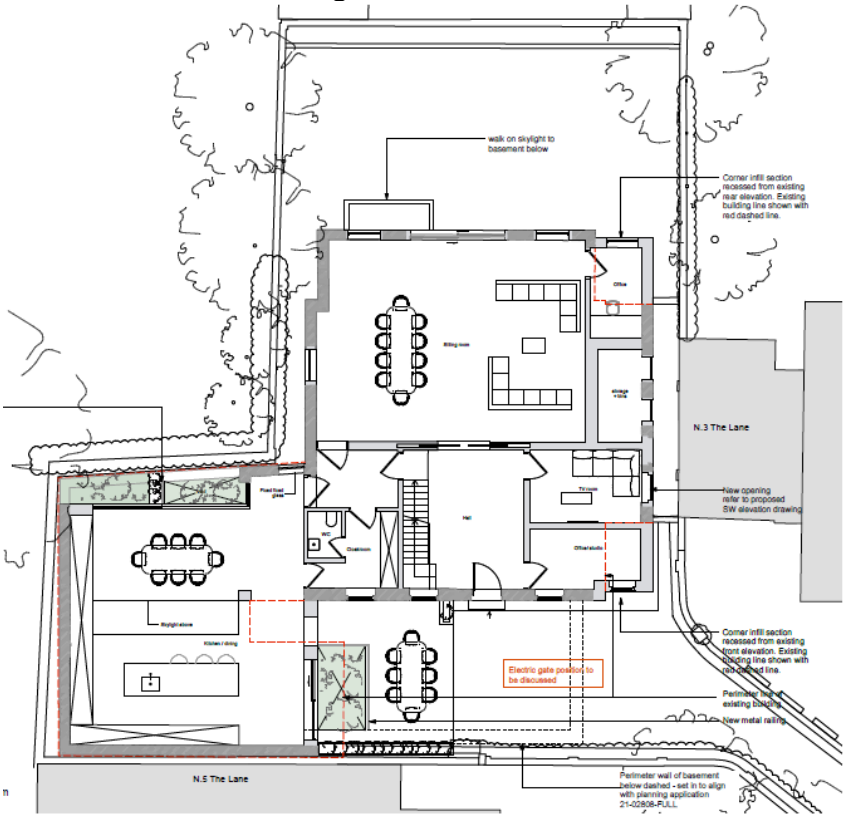
Existing Front Elevation

Proposed Front Elevation

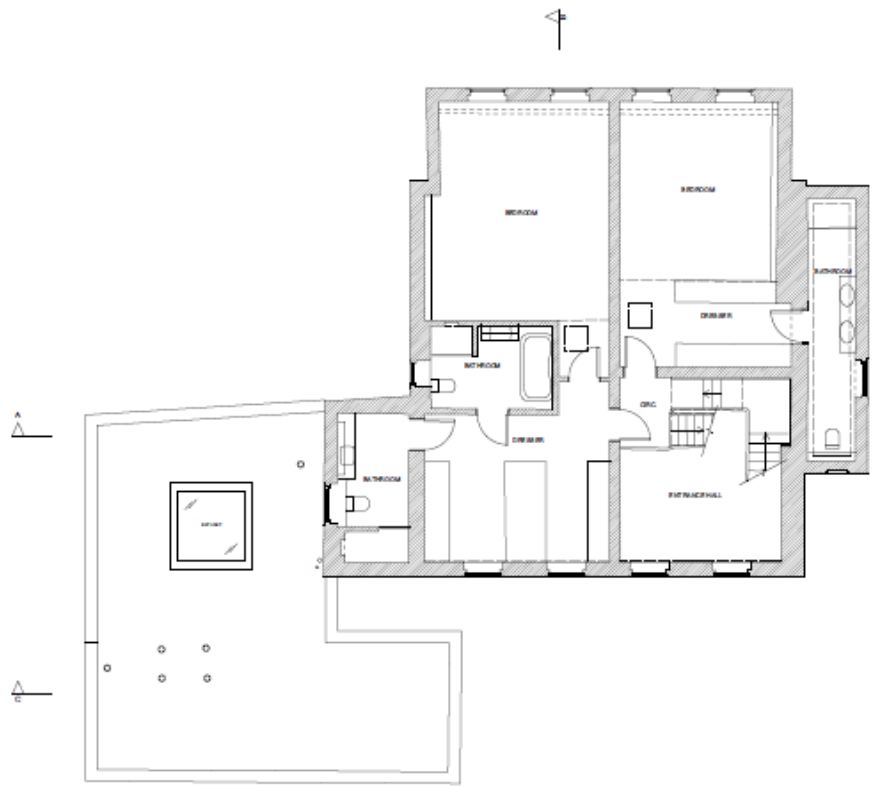




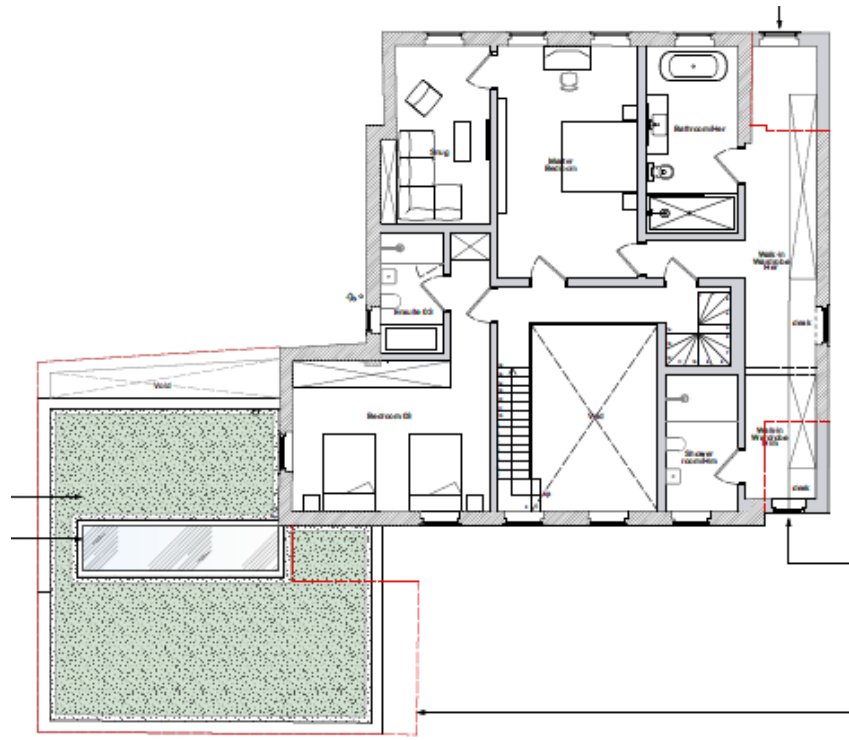
Existing Ground Floor Plan



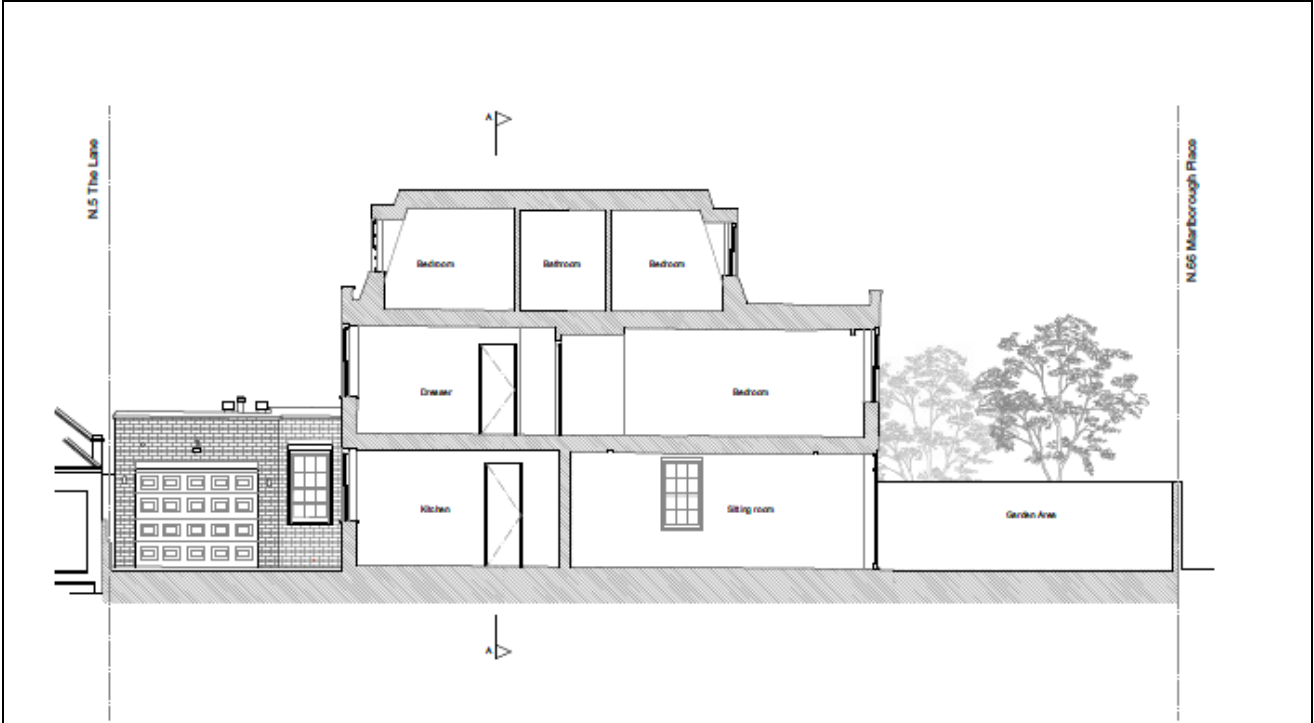
Proposed Ground Floor Plan



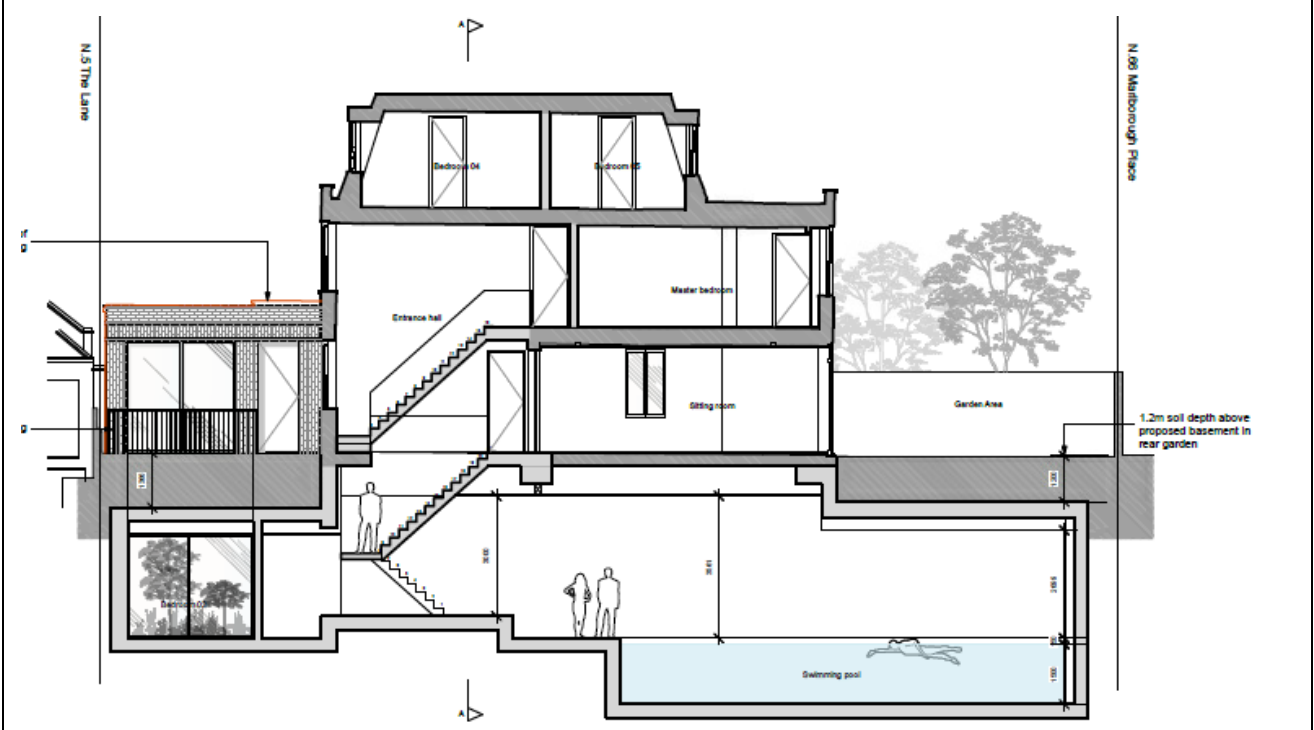
Existing First Floor



Proposed First Floor



Existing Section BB



Proposed Section BB

DRAFT DECISION LETTER

Address: 4 The Lane, London, NW8 0PN

Proposal: Excavation of new basement storey below footprint of existing dwelling extension partially below the garden to the rear and driveway to the front together with new lightwells on the front and rear elevations, erection of side extension and alterations to the garage.

Reference: 22/04334/FULL

Plan Nos: Site Location Plan, 1964 - 110, 1964-111, 1964-112, 1964-101, 1964-102, 1964-103, 1964-104, 1964-120, 1964-121, 1964-122, 1964-213, 1964-210-A, 1964-211-B, 1964-212-B, 1964 - 200 - E, 1964-201-C, 1964-202-B, 1964-203, 1964-204, 1964-220-A, 1964-221-A, 1964-222, Tree Statement dated 04 November 2022, Appendix A Checklist, Flood Risk Assessment dated 18 July 2022 and Planning Statement dated May 2022.

For info only:
Structural Methodology dated 08 March 2023.

Case Officer: Frederica Cooney **Direct Tel. No.** 07866037206

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 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 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 Pre Commencement Condition. You must apply to us for our approval of details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include:

- i) identification of individual responsibilities and key personnel.
- ii) induction and personnel awareness of arboricultural matters.
- iii) supervision schedule, indicating frequency and methods of site visiting and record

keeping
 iii) procedures for dealing with variations and incidents.

You must include a specification to send a written report to the tree officer within 5 days of each visit by the arboricultural consultant.

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 what you have sent us. You must then adhere to the approved supervision schedule

Reason:
 To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R30AD)

- 6 You must apply to us for details of the specification and profile of the soil which you propose above basements, including details of the drainage layer and other components. The soil and drainage layer must be a minimum of 1.2m deep (1.0m soil and 0.2m drainage layer) excluding all other structures and hard surfacing, as shown on the drawings hereby approved. You must also include a methodology for installing the soil and drainage layer without causing contamination or compaction. You must not start any work on this part of the development until we have approved what you have sent to us. You must then carry out the work according to the approved details and the soil depth and soil volume above the basement must thereafter be retained as approved.

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)

- 7 **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 trees and the character and appearance of the site as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31CD)

- 8 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 include at least one standard tree in the rear garden. 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 1 year; 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 5 years of planting them, you must replace them with trees of the same size and species, (or alternative sizes and species which we agree to in writing).

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)

- 9 You must implement the mitigation measures outlined in the Flood Risk Assessment by mdp dated 18 July 2022 prior to occupation of the basement. The measures must be retained and maintained for the lifetime of the development.

Reason:

To reduce the risk of flooding as set out in Policy 45 of the City Plan 2019 - 2040 (April 2021).

- 10 **Pre Commencement Condition.** 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. 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)

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

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

Reason:

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

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.

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, sitenquiries@ccscheme.org.uk or visit 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

- 3 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You can apply online at the following link: www.westminster.gov.uk/trees-and-high-hedges. You may want to discuss this first with our Tree Officers by emailing privatelyownedtrees@westminster.gov.uk.
- 4 When you apply to us for approval under condition 8 you should maximise the areas of soft landscaping and ensure that hard landscaping is permeable and you should avoid the use of artificial grass.
- 5 With reference to condition 3 please refer to the Council's Code of Construction Practice at (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) **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.

- 6 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:

Thames Water Utilities Ltd
Development Planning

Maple Lodge STW
Denham Way
Rickmansworth
Hertfordshire
WD3 9SQ
Tel: 01923 898072
Email: Devcon.Team@thameswater.co.uk

- 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.

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 7

Item No.

7

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Bayswater	
Subject of Report	26 Alexander Street, London, W2 5NT		
Proposal	Alterations to existing residential unit including construction of a new fourth floor mansard with dormer windows to front and rear, plus rooflight. Modifications to third floor front and rear facades and fenestration, including installation of double-glazed timber framed sash windows.		
Agent	Alexander Hobbs Associates		
On behalf of	Pembridge Developments Ltd		
Registered Number	22/05586/FULL	Date amended/ completed	1 September 2022; and 2 February 2023
Date Application Received	15 August 2022		
Historic Building Grade	Unlisted		
Conservation Area	Westbourne		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional planning permission

2. SUMMARY & KEY CONSIDERATIONS

The application relates to detached residential property divided into flats, comprising of four storeys plus basement, located on Alexander Street. The building is not listed but is located within the Westbourne Conservation Area.

Planning permission is sought for the erection of a mansard roof extension with two dormers to the

front and rear, plus a rooflight. Associated alterations include works to the third-floor front and rear facades and fenestration, including the replacement of windows with double-glazed timber sash windows.

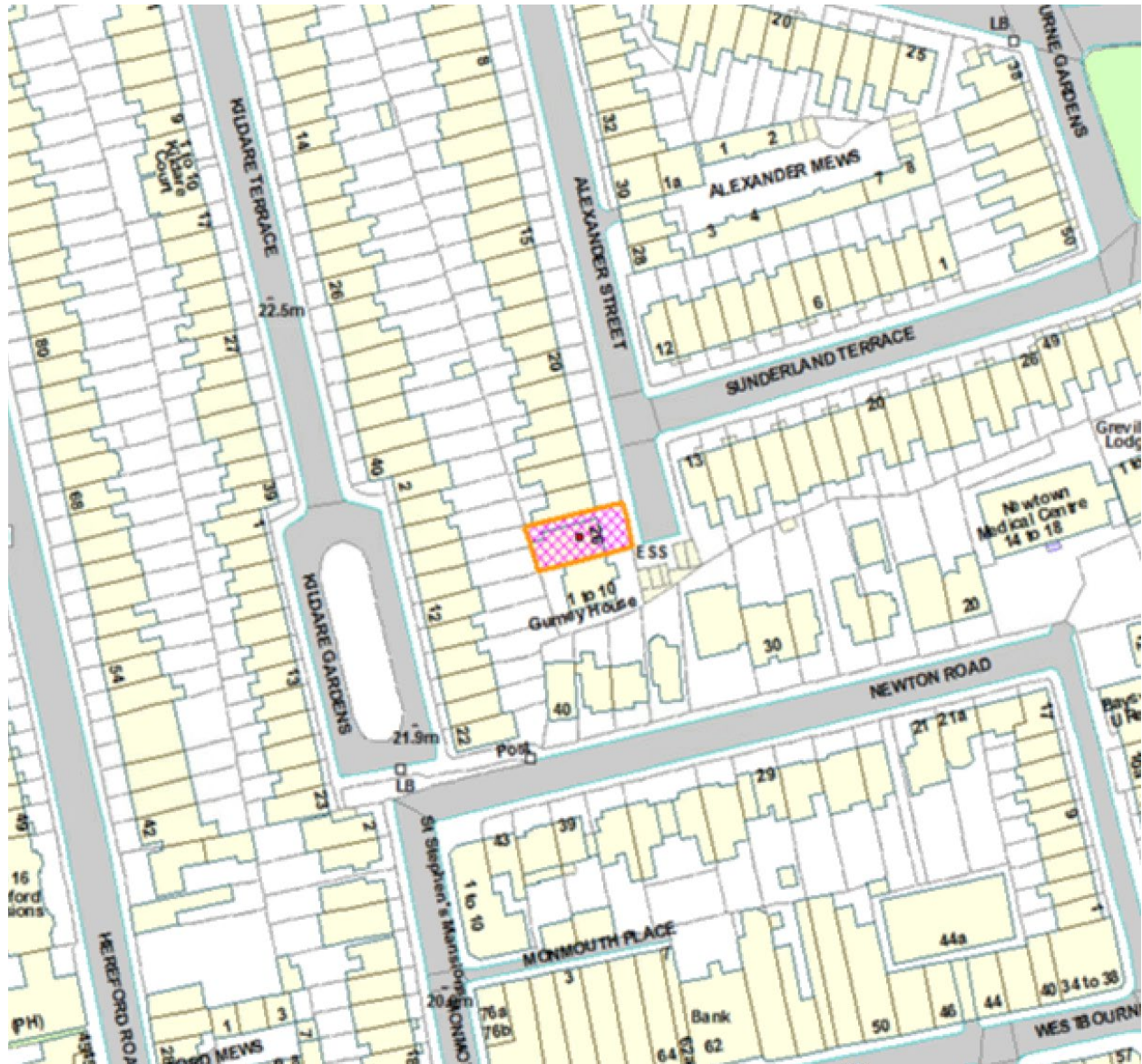
Objections have been raised from neighbouring residents on a number of grounds, including the design of the proposals and impact on the conservation area, loss of light, increased sense of enclosure and loss of privacy.

The key considerations in this case are:

- Impact of the development on the character and appearance of the Westbourne Conservation Area
- The impact on the amenity of neighbouring residential properties.

The application is considered to accord with the development plan and the application is therefore recommended for approval, subject to the conditions set out in the draft decision letter appended to this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation



5. CONSULTATIONS

5.1 Application Consultations

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 38

Total No. of replies: 8 from 6 different addressees

No. of objections: 6

No. in support: 0

Objections raise the following issues:

Amenity

- Daylight/Sunlight impacts of the proposal on properties to the rear on Kildare Gardens
- Increase sense of enclosure; the mansard roof extension would make the building appear intrusive from the upper floors of any houses on the east side of Kildare Gardens and will have a serious impact on their standard of living
- Impact on privacy
- Object to any outdoor terraces due to noise disturbance

Design

- Object to proposed building height; it should be the same height as existing or not higher than no. 25.
- Proposed additional new mansard roof would result in a 2-storey extension above the original 4-storey house; this would set a precedent for 2-storey extensions on Alexander Street and immediate area; there are no other houses in the area which have 2-storey roof extensions.
- Object to detailed design of roof extension

Land Use

- Object to the number of flats they are squeezing into the building.

Other matters

- Noise nuisance and disturbance due to construction works for substantial amount of time
- Concerned about the number of applications being submitted and withdrawn, and the constant changes in size, number of flats; and various different alterations; there is no idea of the final vision for the property.
- Works have started on site back in September 2022
- If the development is permitted, there should be a requirement to complete construction within a certain number of months, in order to minimise disturbance.

PRESS NOTICE/ SITE NOTICE:
Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application.

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 is an unlisted detached building located within the Westbourne Conservation Area.

The building currently comprises of 6 flats located over 5 floors, including lower ground, ground, first, second and third floors. However, there have been recent planning permissions granted for the property which, if both built out, would reduce the number of residential units within the building from 6 to 4. This includes planning permission

granted on 2 December 2022, for the amalgamation of two flats (Flat 3 located at 1st floor and Flat 5 located at 2nd Floor) to create a family sized maisonette (RN:22/05770/FULL) and planning permission granted on 14 December 2022 for works including the amalgamation of two flats (Flat 1 located at lower ground floor and Flat 3 located at upper ground floor) to form a 3-bedroom maisonette (RN: 22/04976/FULL).

7.2 Recent Relevant History

The following is the most recent and relevant history for this site only:

83/03978/FULL

Conversion to provide 5 Flats including demolition of rear extension and rebuilding at basement and ground floor levels.

Granted 10 July 1985

13/11517/FULL

Excavation works under front garden and existing coal store in connection with the extension of the dwelling at basement level to create additional residential floorspace.

Granted 4 February 2014

16/00795/FULL

Variation of Condition 4 of planning permission dated 4 February 2014 (RN: 13/11517) for excavation works under front garden and existing coal store in connection with the extension of the dwelling at basement level to create additional residential floorspace; namely, to enable a retrospective construction management plan to be submitted for approval.

Granted 1 April 2016

16/03185/FULL

Alterations to front garden including new paving, installation of railings, construction of a refuse enclosure, automatic solar powered parking restrictors and stair lights and installation of railings to front portico.

Refused 14 July 2016

16/07208/FULL

Alterations to paving finish to front garden stairs and lightwell, installation of balustrade to front lightwell and first floor portico, construction of a new refuse enclosure, installation of parking barriers and light fitting either side entrance door.

Granted 25 October 2016

22/02039/FULL

Amalgamation of six residential units into three residential units, including demolition of the existing rear back addition at lower ground level and installation of doors to garden. General internal reconfiguration together with the infill of one entrance door at side lower ground level and the creation of new communal storages at lower ground level.

Replacement of the existing windows to double glazed timber framed windows to the front, and double-glazed windows to the rear and side elevations.

Application Withdrawn 20 July 2022

22/02927/FULL

Construction of a side extension at all levels, alteration of existing openings at side elevations lower levels; modification to third floor front, rear and side facades and fenestrations, using double-glazed timber framed sash windows to match existing; and replacement of windows with double glazed timber framed sash windows throughout.

Application Withdrawn 24 June 2022

22/04976/FULL

Amalgamation of part lower ground and upper ground floor to create a family sized dwelling in association with the use of building as five residential units (Class C3); Alterations to third floor front and rear facades and erection of parapet at roof level; Replacement of front and rear windows; Relocation of external staircase to side; Reinstatement of balustrades to front balcony at first floor level; Works to front yard, including installation of dwarf walls with railing, new pillars and black metal entrance gates, new paving, erection of bin storage area and retention of two car parking spaces.

Granted 14 December 2022

22/05150/FULL

Use of first and second floor flat roofs to the rear as terraces including 1.2m metal balustrades and 1.6m trellis fencing.

Refused 8 November 2022

22/05705/FULL

Erection of fourth floor hipped mansard roof extension and new dormer windows to front and rear and three conservation type rooflights and modification to third floor front and rear facades and fenestrations, using double-glazed timber framed sash windows to match existing.

Application Withdrawn 9 September 2022

22/05770/FULL

Amalgamation of two flats at 1st and 2nd floor levels (flats 4 and 5) to create a family sized dwelling (Class C3)

Granted 2 December 2022

8. THE PROPOSAL

The current proposals, subject of this planning application, relate to the existing 2-bedroom flat located on the 3rd floor, which is proposed to be extended with a mansard roof extension with new dormer windows and a conservation rooflight, to provide additional accommodation for the existing flat on the new fourth floor. Associated alterations include, modifications to the third-floor front and rear facades and replacement of the windows at this level with double-glazed timber framed sash windows.

Revisions have been submitted during the course of the application relating to the detailed design of the proposed mansard roof.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The existing flat is a 2-bedroom flat at third floor level (Flat 6), and the proposed extension to this flat would provide a 3-bedroom maisonette over the third floor and new fourth floor. The Gross Internal Area (GIA) of the proposed 3-bedroom maisonette will measure 120sqm, which exceeds the minimum space standard for new dwellings as set out in Table 3.3 of the London Plan for 3-bedroom, 6 person dwelling over 2-storeys. Although the proposal is for the extension to an existing dwelling, and not for an additional dwelling, City Plan policy 12, on Housing quality for new homes, is relevant in regards to the quality of accommodation. This policy requires all new homes to exceed the Nationally Described Space Standards, and also provide external amenity space. There is no private amenity space provided for the maisonette, and it is not practicable to do so. Where it is not practicable to provide external amenity space, policy 12 states that additional internal living space will be required. This should equate to at least 5sqm for dwellings for 1-2 persons, and a further 1sqm for each additional person the dwelling is designed to accommodate. The minimum GIA required for a 3-bedroom 6 person dwelling over 2 floors as set out in the National Described Space Standards is 102sqm. At 120sqm, the proposed GIA exceed this by 18sqm which more than meets the requirements for additional living space where there is no external amenity space proposed set out in Policy 12. The proposed maisonette would also be dual aspect, with windows both to the front and rear.

Objections have been received raising concerns over the number of flats being created at the property and the impact that would have in terms of noise. This application does not result in an increase in the number of flats, as it relates only to the extension of an existing flat within the building to provide additional habitable accommodation.

The proposals would provide good quality family accommodation and is considered to be in accordance with Policies 8 and 12 of City Plan 2019-2040 (April 2021)

9.2 Environment & Sustainability

Sustainable Design

The proposed new works provide the opportunity to refurbish and upgrade the property in line with current building regulations, and will include sustainable building standards, higher standards of insulation, and energy saving heating and ventilation. New double-glazed timber sash windows at third floor front and at rear elevations are also proposed, which will improve thermal and sound insulation. This is in accordance with City Plan Policy 38(D)

9.3 Biodiversity & Greening

The proposal comprises of a mansard roof extension which does not provide any appropriate opportunities for greening. It is therefore not considered appropriate to insist on any provision for biodiversity measures for this development.

9.4 Townscape, Design & Heritage Impact

The application site is not listed but is located within the Westbourne Conservation Area

Legislative & Policy Context

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

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

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

Assessment

26 Alexander Street is a mid-19th century classically detailed stucco fronted former townhouse of two bays and four storeys. While the building has been noted as unsuitable for roof extension within the Westbourne Conservation Area Audit, this consideration was made on the audit’s publication in 2002, when the building’s third floor terminating storey was a UPVC framed glazed box. This crude and uncharacteristic building termination was a dissonant feature in the building’s composition, diminishing the house’s contribution to the street scene and conservation area.

However, in 2022 permission was granted for the removal of the third floor and replacement with a sheer storey replicating the stucco detailed elevations of the second floor. This was a significant visual improvement to the building and enhancement to the Westbourne Conservation Area. This change to the building’s form and appearance, was a significant material change in circumstance, as was the adoption of the new City Plan 2020-40 in 2021.

The 2022 scheme for a new stucco faced third floor, which is currently being constructed, includes a flat roof surrounded by parapet walls and could potentially accommodate another floor.

The present mansard roof proposal, which had been negotiated in a previous application, now features pitched slated slopes to all sides, rather than sheer side elevations (gables). The design also has a secondary pitch rising to a central ridge, hipped to both front and rear. The roof design is a traditional form for a mid-19th century building, with pitched slated slopes behind parapet walls with lead clad dormers. The design ensures the terminating storey has a subordinate relationship to the building, which recedes in street views. The rear will feature the typical ‘V’ shape parapet, suggesting the presence of a butterfly roof, which in this case, was removed many years ago.

The secondary pitch ensures an elegant termination to the roof and while the ridge is

slightly higher than the adjoining terrace's parapet, it would have only a modest impact in street views, being both set back and hipped at both ends. The new roof storey remains subordinate to the host building and has a comfortable relationship to the adjacent more imposing end terrace at no. 25.

The use of timber sash windows to the dormers is appropriate, though conditions are recommended to refine the thickness of the top and sides of the dormers, the use of natural Welsh slate, (typical of the conservation area) and of traditional rolled leadwork for the hips and ridge. In addition, a sample panel of the rebuilt brickwork is necessary to ensure details of salvaged stock brickwork in Flemish bond, with flush lime pointing and the coping details spec are approved.

The proposed works also include associated modifications to the third floor front and rear facades and fenestration, using double-glazed timber framed sash windows to match existing. These works are an improvement to the existing appearance of the building at third floor level, and acceptable in design terms.

Subject to these conditions, the new mansard would be a fitting termination to the house and would not be harmful to the scale of adjacent buildings or the appreciation of the conservation area's street scene. The roof extension would meet the policy expectations outlined in City Plan policy 38 (standards of development), 39 (heritage) and policy 40 E (part 3), (alterations and extension to roofs), which applies to this instance, as the building is not part of a terrace.

The proposed works also included associated modifications to the third floor front and rear facades and fenestration, using double-glazed timber framed sash windows to match existing. These works are an improvement to the existing appearance of the building at third floor level, and acceptable in design terms.

It is considered that the works will preserve the character and appearance of the Westbourne Conservation Area in accordance with section 72 of the Act, guidance in the NPPF and the relevant City Plan Policies.

9.5 Residential Amenity

Relevant policies for consideration are policies 7(A) on Managing development for Westminster's people; and 33(A) on Local environmental impacts and Policy 38(C) on Design principles of the City Plan 2019-2040.

Daylight & Sunlight

The application is accompanied by a Daylight and Sunlight Assessment by T16 Design, to assess the daylight, sunlight and overshadowing impacts on neighbouring properties in proximity to the application site. The applicant has confirmed that the assessments were undertaken based on the 2011 BRE guidance. However, there are no changes between revised BRE guidance of 2022 and the previous 2011 guidance with regard to the methodology for assessment of the impact of development on neighbours.

In assessing daylight levels, the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves a value of 27 VSC or more, the BRE advise that the

window will have the potential to provide very good levels of daylight. If a value of 27 VSC is not achieved with the proposed development in place, then the relative change between the existing condition and when the proposed development is in place should be considered; and BRE guidelines suggest that the relative change between the two scenarios should be less than 20% (ie a ratio of more than 0.8)

The findings of the VSC test in the report indicates that all 70 windows pass and therefore are in line with BRE guidelines.

To determine the impact on sunlight on windows, direct sunlight to existing windows may be affected by a proposed development if at the centre of a window receives less than 25% of Annual Probable Sunlight Hours (APSH) throughout the whole year, or less than 5% APSH between 21st September and 21st March; and receives less than 0.8 times its former APSH during either period; and has a reduction in sunlight over the whole year of greater than 4% APSH. Loss of sunlight to windows only needs to be assessed if the window faces within 90° of due south. In order to assess the impact of a development on the levels of sunlight, the APSH has been calculated for those windows which face within 90° of due south and hence fall within the BRE Sunlight criteria.

The sunlight assessment was undertaken on 12 affected windows that qualify for the test, all of which meet the BRE guidance.

Sunlight tests were also undertaken on 7 neighbouring gardens all of which meet the BRE guidance, with 100% of the existing sunlight retained for all gardens tested.

Overall, the proposals are considered to meet BRE guidance and it is therefore considered that the proposals would not have an unacceptable impact on neighbouring properties in terms of loss of light.

Sense of Enclosure

Objections have been received in grounds of an increase sense of enclosure to neighbouring properties to the rear on Kildare Gardens. The distance between the rear of the application property and the rear of properties on Kildare Gardens is at least 14 metres. Whilst it is noted that the proposed mansard extension would be noticeable from rear windows, it is not considered that there would be a harmful impact to neighbouring properties, given the distance from affected windows.

Privacy

The new windows proposed would not result in any issues of privacy or overlooking for neighbouring properties. An objection has been made on grounds of loss of privacy, with reference to terraces. However, there are no terraces proposed in this application. There have been several different planning applications submitted for this property over the past year, including one for the use of existing flat roofs to the rear as terraces, under planning application reference 22/05150/FULL, which was refused on 8 November 2022.

9.6 Transportation, Accessibility & Servicing

The proposals relate to an extension to an existing flat and would not result in any changes to the requirements for car parking, cycle parking or waste storage. There are also no changes to the existing arrangements relating to access for the site.

9.7 Economy including Employment & Skills

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

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

9.8 Other Considerations

The issues raised in representations have largely been addressed above. However, the following is also noted:

9.8.1 Construction impact

Objections have been received with regards construction impact. A condition is attached to the permission that limits the hours when building works can take place to protect the environment of the neighbouring properties. A further informative will encourage the applicant to join the nationally recognised Considerate Constructors Scheme.

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 pre-commencement conditions are recommended.

10. Conclusion

The proposal is considered acceptable in design and conservation terms, mindful of policies 38, 39 and 40 of the City Plan 2019-2040 (2021), causing no harm to and in fact improving the appearance of the building and preserving the character and appearance of the Westbourne Conservation Area, a designated heritage asset. The proposal would also be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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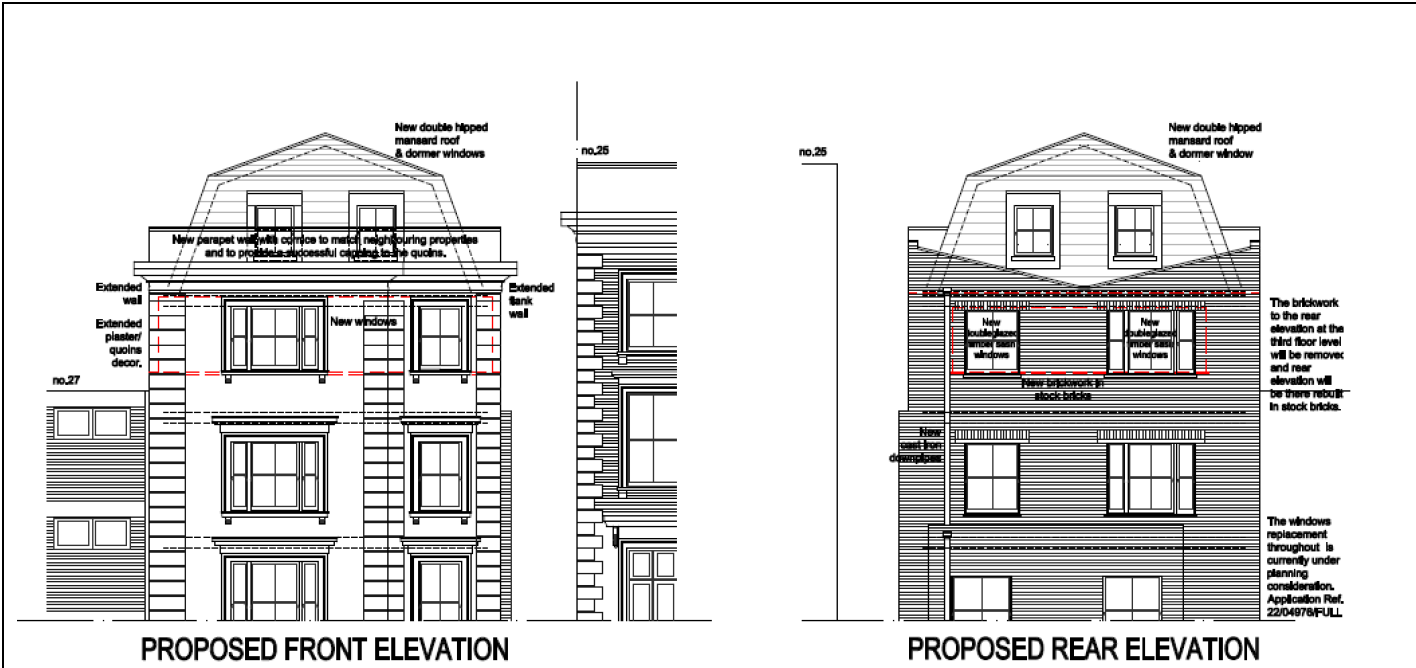
Whilst recognising the concerns raised by the objectors, the proposal is considered acceptable in design, conservation, sustainability, amenity and highways terms. The application is therefore recommended for conditional approval.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: IAN CORRIE BY EMAIL AT icorrie@westminster.gov.uk .
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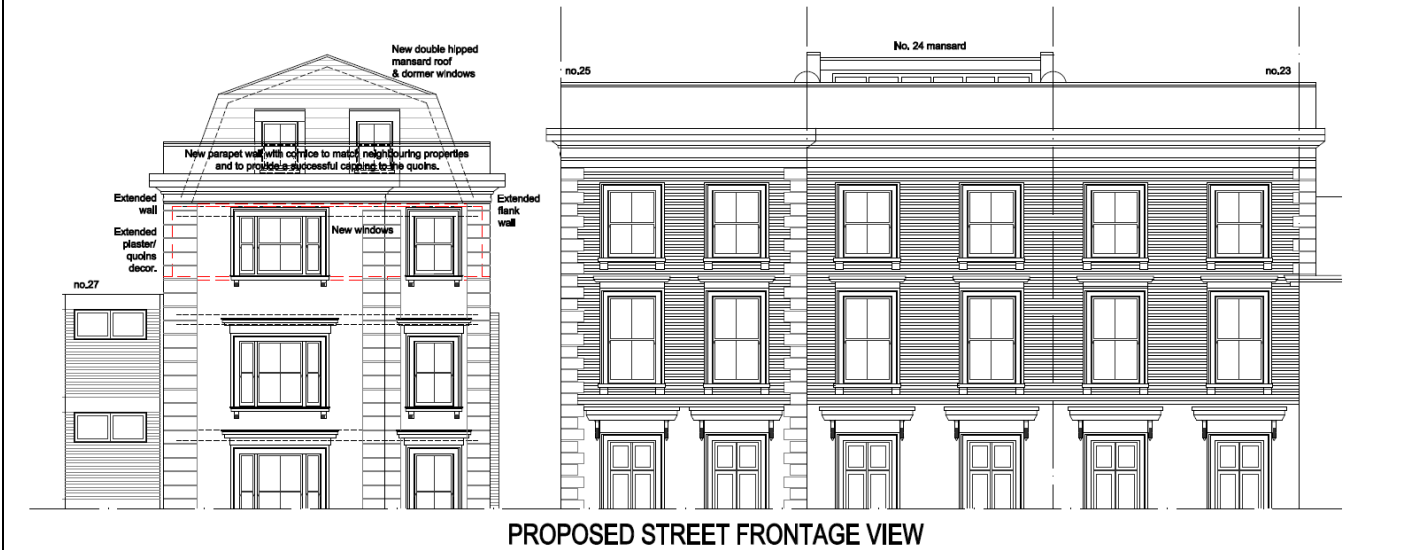
11. KEY DRAWINGS





PROPOSED FRONT ELEVATION

PROPOSED REAR ELEVATION



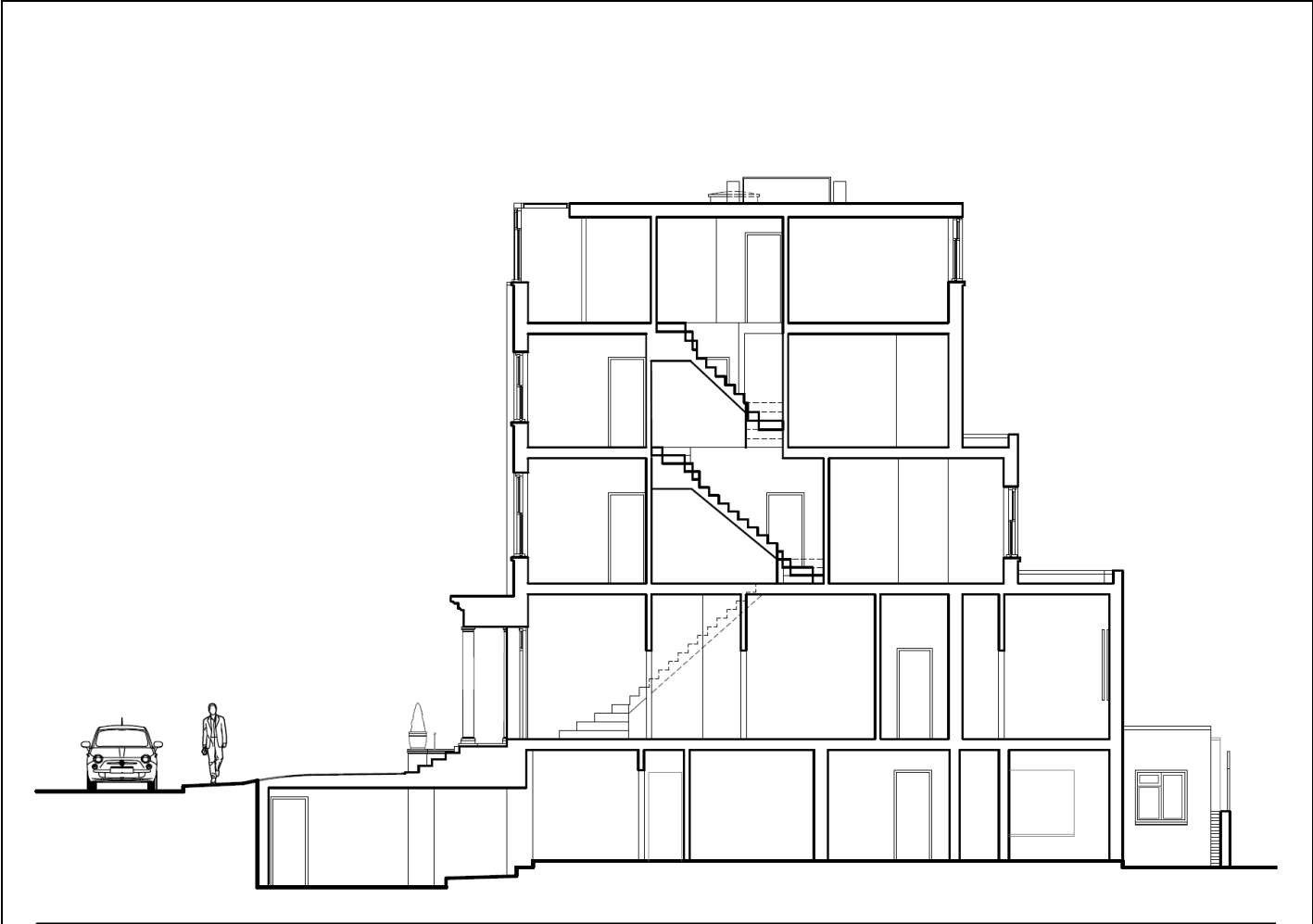
PROPOSED STREET FRONTAGE VIEW



EXISTING NORTH SIDE ELEVATION

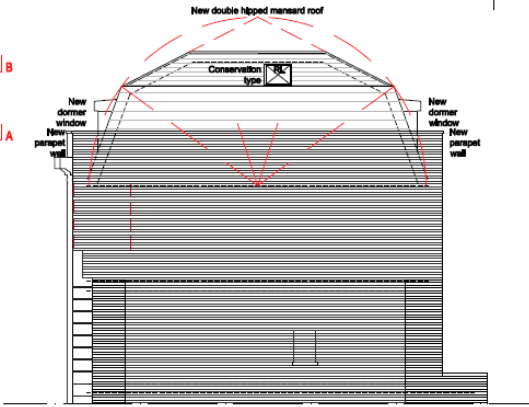
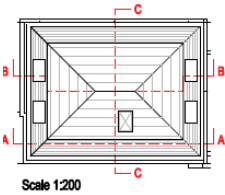


EXISTING SECTION AA

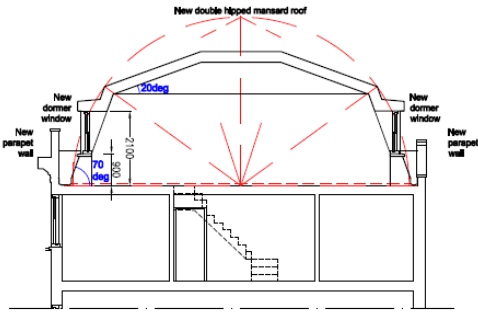


EXISTING SECTION BB

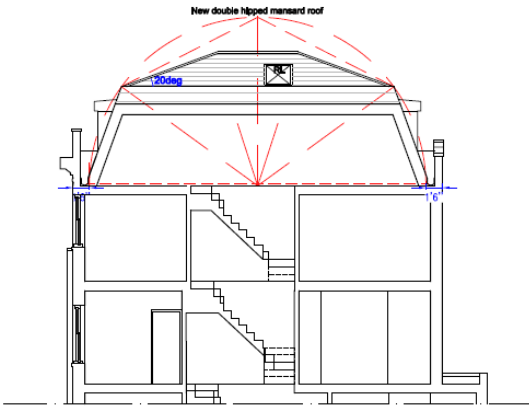
Proposed Sections



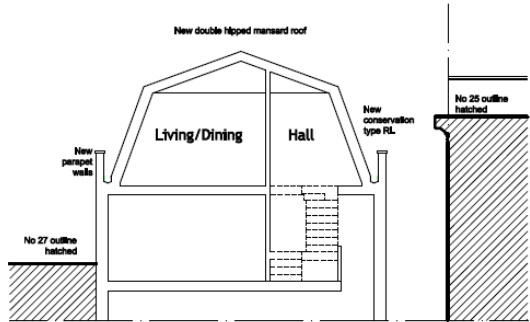
PROPOSED SIDE ELEVATION (part.)



PROPOSED SECTION BB (part.)



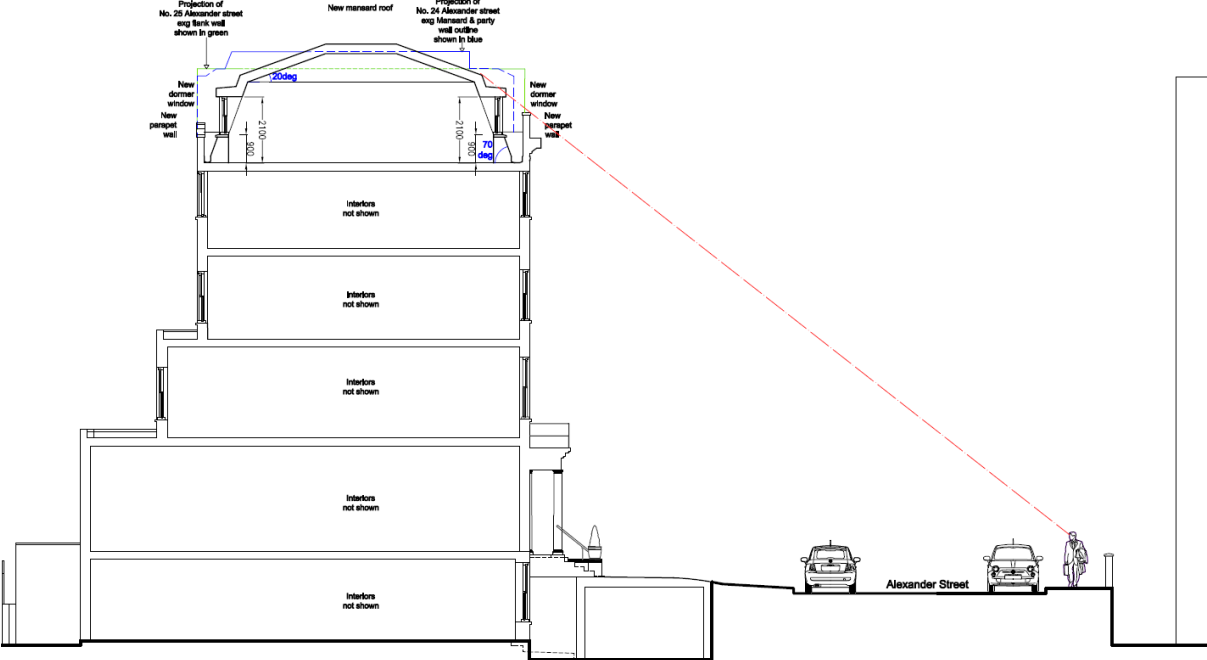
PROPOSED SECTION AA (part.) through stairs



PROPOSED SECTION CC (part.)
Cross section



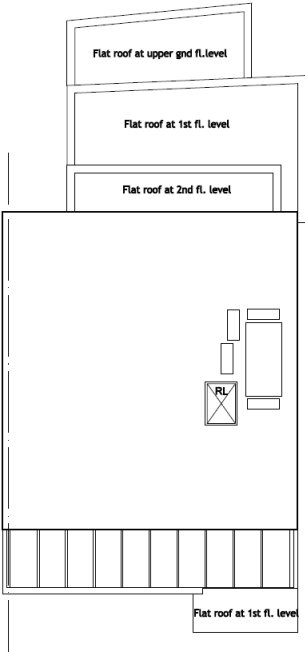
Proposed Street Section



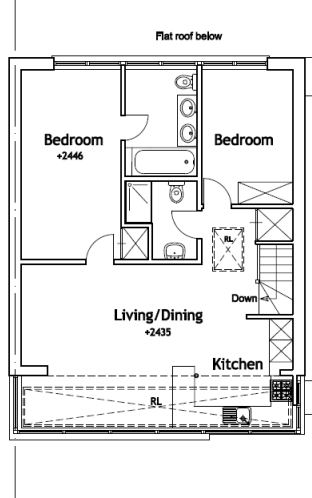
**PROPOSED SECTION (TYP.) - including field of view to proposed mansard
(Section looking towards no. 25 Alexander street)**

0 1 2 3 4 5 6 7 8 9

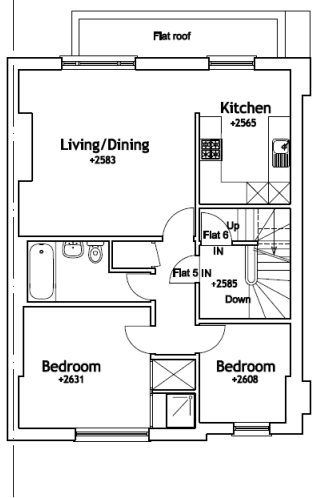
Existing Floor Plans



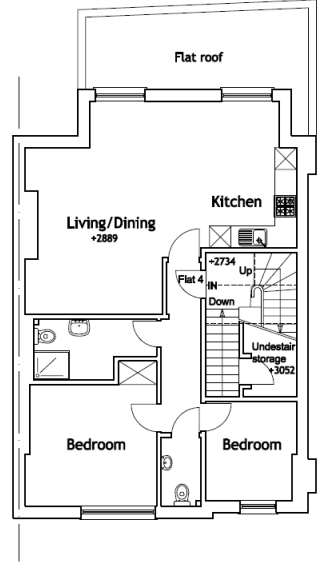
ROOF PLAN



THIRD FLOOR PLAN

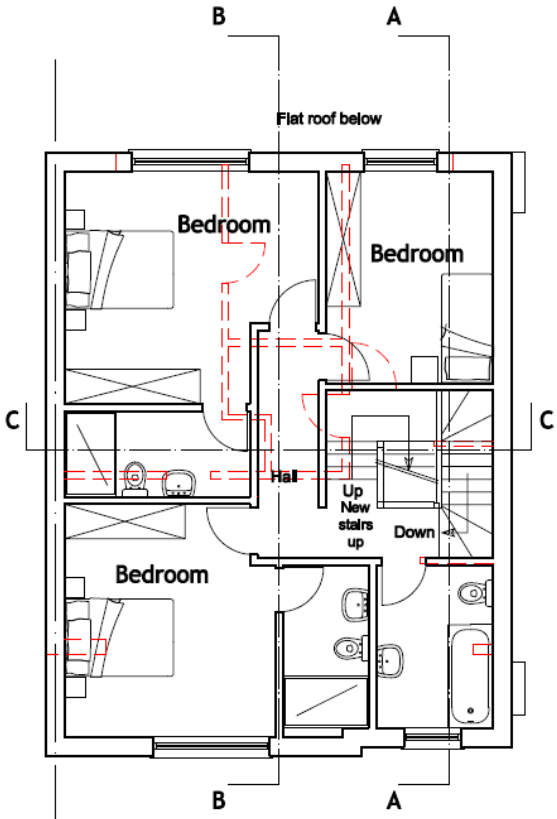


SECOND FLOOR PLAN

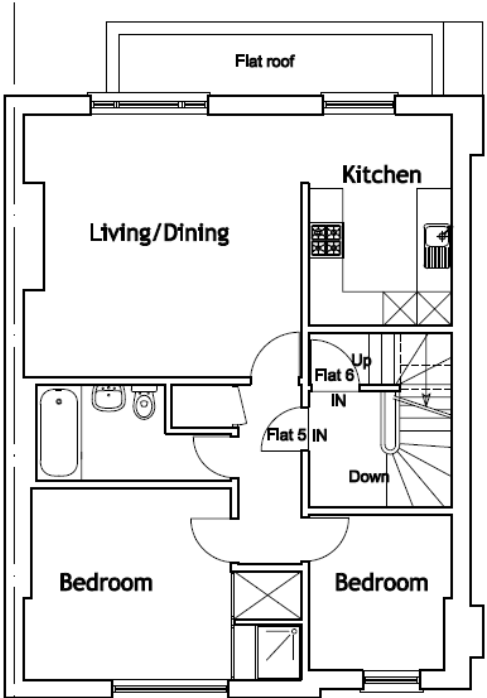


FIRST FLOOR PLAN

Proposed Second and Third Floor Plan

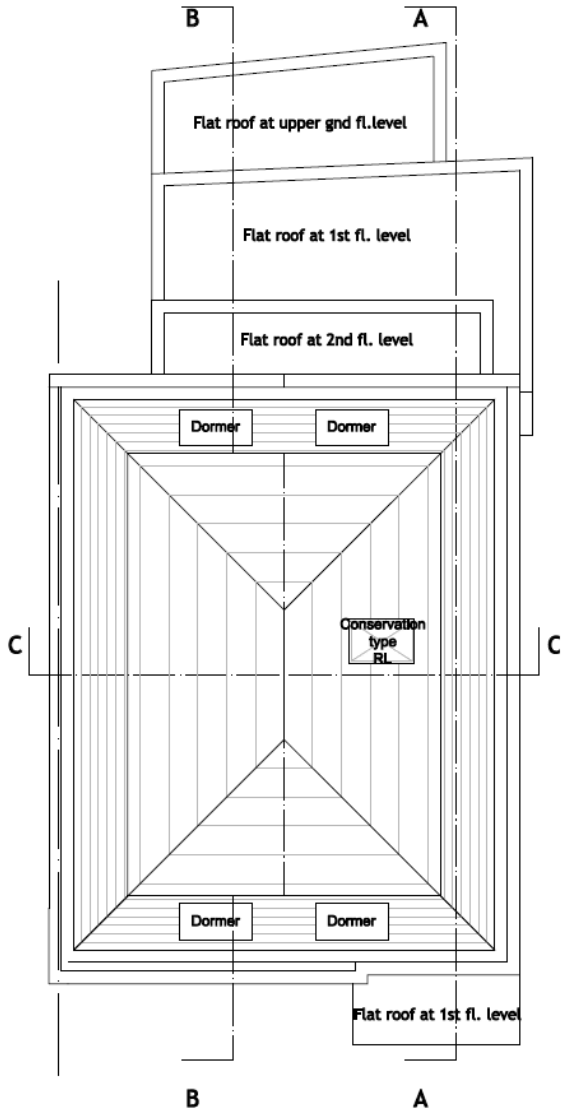


**PROP. THIRD FLOOR PLAN
- Flat 6 -**

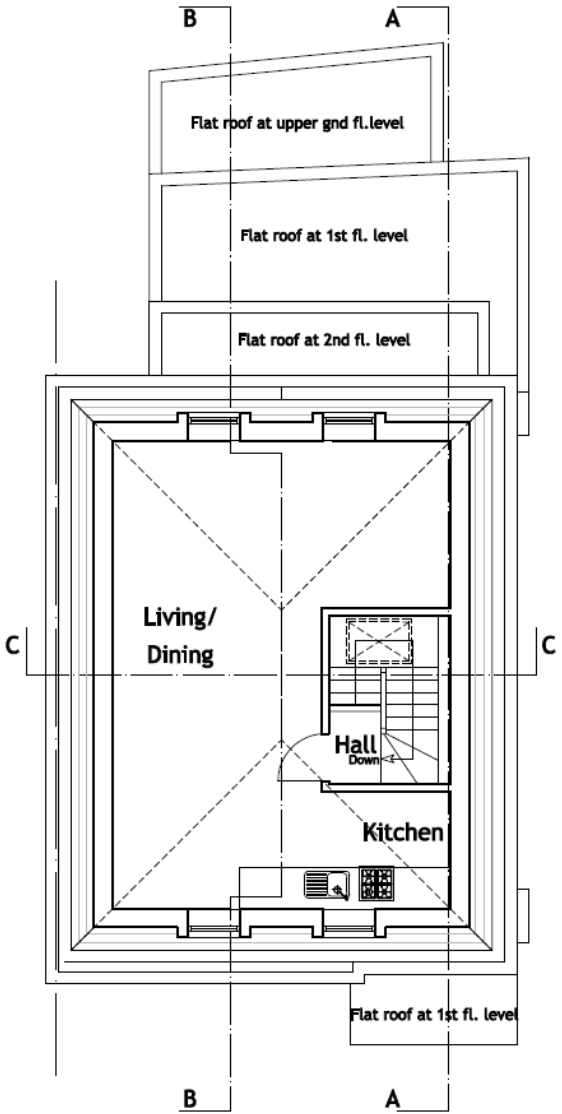


**PROP. AS EXG. SECOND FLOOR PLAN
- Flat 5 & Flat 6 entrance -**

Proposed Fourth Floor and Roof Plans



PROP. ROOF PLAN



**PROP. FOURTH FLOOR PLAN
- Flat 6 -**

DRAFT DECISION LETTER

Address: 26 Alexander Street, London, W2 5NT

Proposal: Alterations to existing residential unit including construction of a new fourth floor mansard and new dormer windows to front and rear and two conservation type rooflights. Modification to third floor front and rear facades and fenestrations, using double-glazed timber framed sash windows to match existing

Reference: 22/05586/FULL

Plan Nos: 22/18/00; 22/18/01; 22/43/01/P Rev A; 22/43/02 Rev A; 22/43/03 Rev C; 22/43/04 Rev A; 22/43/05 Rev A; 22/43/06; 22/43/07; 22/43/08 Rev D; 22/43/09 Rev A; 22/43/10 Rev G; 22/43/11 Rev D; 22/43/12 Rev A; 22/43/13 Rev C; Sustainable Design Statement; Vertical Sliding Sash Window Thermal Performance (U value) Calculation Report by Therm Consulting Ltd dated 21 August 2014; Daylight and Sunlight Assessment by T16 Design dated 28.04.22; For Information Only: Planning/Design & Access Statement;

Case Officer: Avani Raven

Direct Tel. No. 020 7641
07866037313

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 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 Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 You must apply to us for approval of samples of the following materials you will use
- (i) Natural Welsh slate for cladding to mansard roof extension
 - (ii) Rolled lead to ridges and hips of dormers
 - (iii) sample panel of brick work to the rear

Details should include elevations and roof plans annotated to show where the materials are to be located. 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 Westbourne 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 sash windows shall be timber painted white.

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 Westbourne 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 apply to us for approval of detailed drawings, including sections of the following parts of the development

- reduced dimensions of dormer top and sides.

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 approved details. (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 Westbourne Conservation Area. This

is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 7 You must apply to us for approval of detailed specification of the following parts of the development

- coping to the rear 'V' shape parapet.

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 approved details. (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 Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 8 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building and would not meet Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26HC)

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.

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 or visit 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

- 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. (I54AB)
- 4 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)

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 8

Item No.

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 04 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Vincent Square	
Subject of Report	32 Maunsel Street, London, SW1P 2QN		
Proposal	Erection of single storey rear extension at first floor level.		
Agent	T Space Architects		
On behalf of	Rachael Robathan		
Registered Number	22/08691/FULL	Date amended/ completed	6 January 2023
Date Application Received	23 December 2022		
Historic Building Grade	Unlisted		
Conservation Area	Vincent Square		
Neighbourhood Plan	N/A		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

32 Maunsel Street is an unlisted but historic building of merit within the Vincent Square Conservation Area. It is a small mid-terraced house laid out over three above-ground storeys, and dates from the street's first development around 1823.

Planning permission is sought for the erection of a first floor rear extension to enlarge this single family dwelling house.

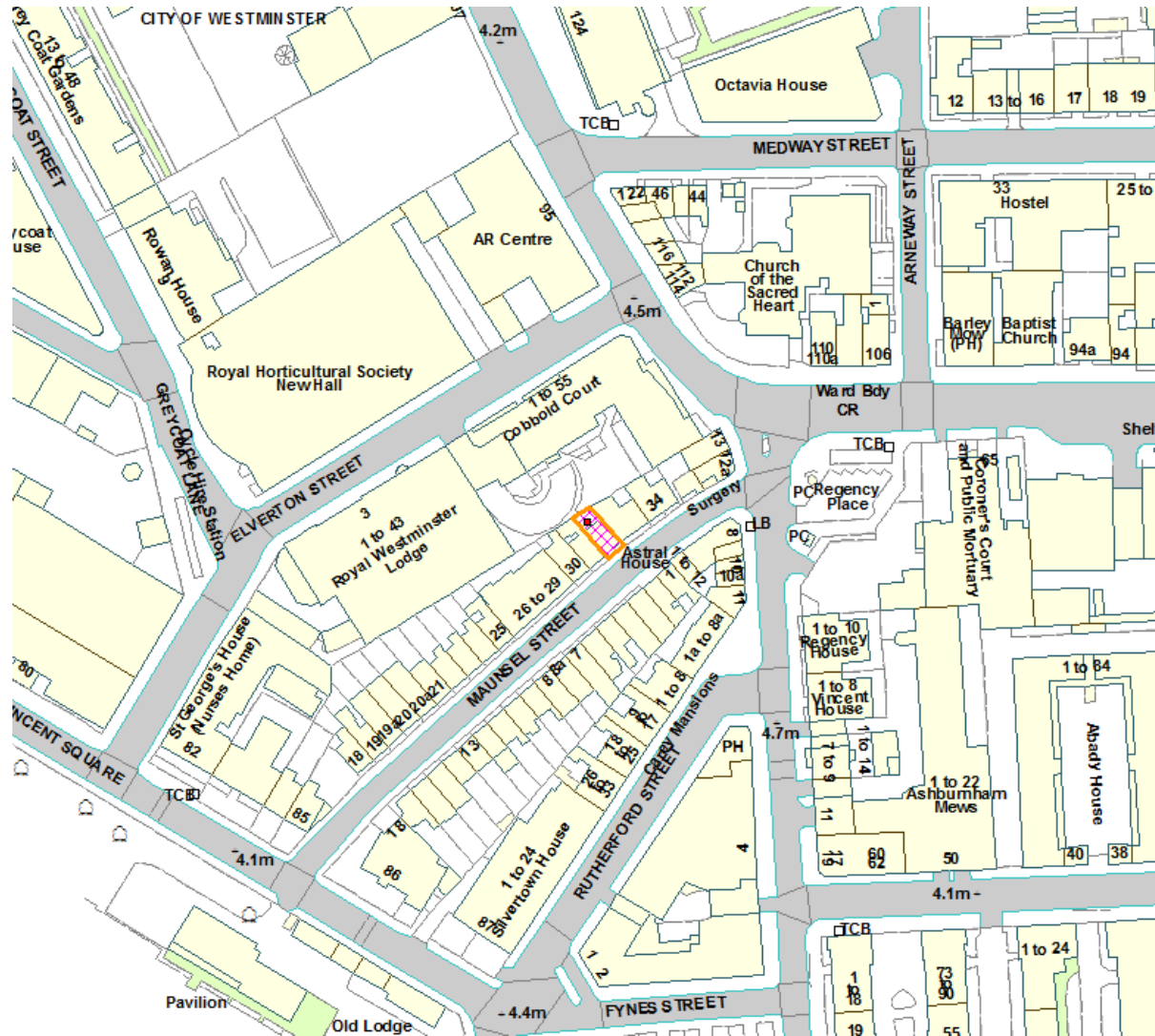
In 2018 planning permission was granted for a first floor rear extension (18/04857/FULL). This latest proposal is broadly similar with the only material change being the choice of cladding material to the external face of the extension: slate tile cladding is now proposed over facing brick.

The key issues in the determination of this case are:

- The impact of the extension on the character and appearance of the Vincent Square Conservation Area.
- The impact on the amenity of neighbouring residents.

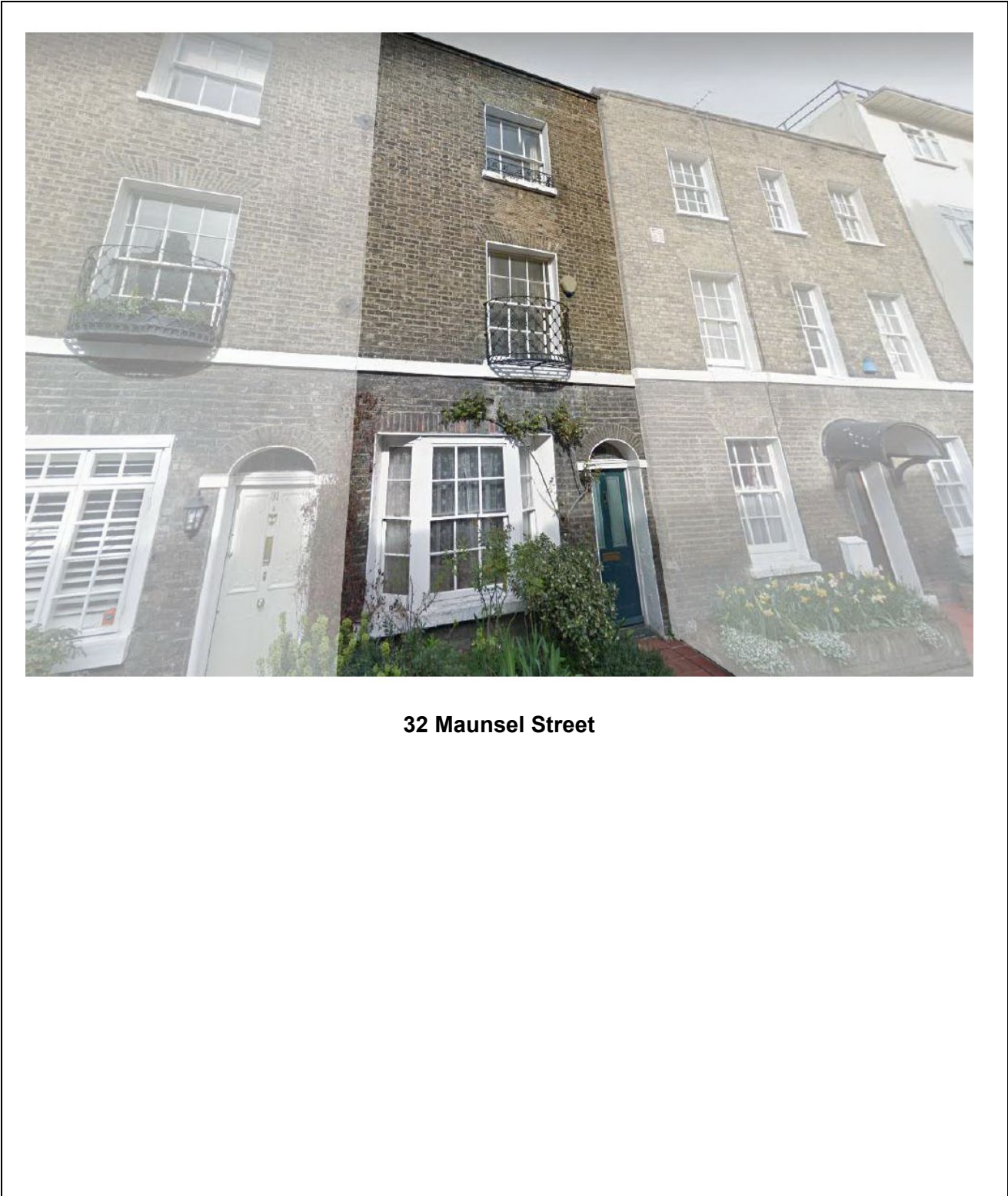
For the reasons as set out in this report, the proposed extension is considered to accord with the the relevant policies in Westminster's City Plan 2019-2040 (adopted April 2021). As such, the application is recommended for approval subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



32 Maunsel Street

5. CONSULTATIONS

5.1 Application Consultations

THE THORNEY ISLAND SOCIETY:

No objection

THE WESTMINSTER SOCIETY:

No response

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 59

No. of replies: 0

PRESS/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. 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 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

32 Maunsel Street is an unlisted but historic building of merit within the Vincent Square Conservation Area. It is a small mid-terraced house laid out over three aboveground storeys, and dates from the street's first development around 1823.

Its rear boundary, with those of its neighbouring properties on the terrace, forms the northern boundary of the Conservation Area. To the rear of the site is a residential block, Cobbold Court (outside of the Conservation Area).

7.2 Recent Relevant History

On 31 July 2018, planning permission was granted for the erection of single storey rear extension at first floor (RN: 18/04857/FULL).

8. THE PROPOSAL

Planning permission is sought for the erection of a first floor rear extension to enlarge this single family dwelling house.

In 2018 planning permission was granted for a first floor rear extension (18/04857/FULL). This latest proposal is broadly similar with the only material change being the choice of cladding material to the external face of the extension: slate tile cladding is now proposed over facing brick.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The new extension would create an additional bedroom for an existing single-family dwelling house, which would increase the space available and improve the internal living environment. Proposals for extensions to existing housing are acceptable in principle and in line with policy 12 of the City Plan.

9.2 Environment & Sustainability

Sustainable Design

A Sustainable Design Statement has been submitted as part of this application. The proposals would increase the insulation and airtightness to the proposed new walls and roof, avoiding thermal breaks in the fabric. These works would improve the energy

performance of the dwelling and are welcomed in sustainability terms.

9.3 Biodiversity & Greening

The proposal does not increase biodiversity/ provide greening.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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

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

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

Consideration

The building’s primary significance is its forwards contribution to the character and appearance of the street, but to the rear, it also provides a sense of historic character through the exposure of its original upper-level brickwork and contribution to the historic roofscape. All of the original terraced houses on this street appear to retain their original butterfly roof, and mostly feature low rear eaves.

To ground floor level, the building has been extended, infilling its original, very shallow rear yard. Above it at first floor, the building remains unextended but with alterations to its fenestration. To the rear is a very tall later boundary wall which runs around the whole of the rear courtyard to Cobbold Court, and which rises just short of the rear eaves line of the terrace.

The proposed first floor extension would extend above the height of the rear boundary wall, which would not be consistent with the established pattern of development in this location. There are first floor extensions nearby in the terrace, notably at Nos.30 and 31, which rise up to the height of the rear boundary wall. As demonstrated by Nos. 30 and 31, the effects of such extensions are well contained by the rear wall. This latest proposal is broadly similar with the only material change being the choice of cladding material to the external face of the extension: slate tile cladding is now proposed over facing brick. However, views of the rear of this terrace are severely limited from anywhere other than the upper floors of Cobbold Court to the rear (outside of the Conservation Area). In these circumstances, it is considered that an extension projecting above the height of the rear wall is acceptable.

9.5 Residential Amenity

Policies 7 and 33 of the City Plan seek to protect residential amenity in terms of light, privacy, sense of enclosure and to encourage development, which enhances the residential environment of surrounding properties.

A key issue in this case is the impact of the proposals on the amenity of neighbouring residents, particularly Nos.31 and 33.

No.31 has already been extended up to first floor level with a roof terrace on top. The proposed first floor extension would be higher than that at No.31 and would mostly abut its flank wall.

To the other side, No.33 is divided into flats and has been extended at ground floor level only. To the rear, the property has a ground floor rooflight, and rear facing first and second floor windows, which appear to serve kitchens for the flats. The proposed first floor extension would add some bulk along the boundary and could cause some increased sense of enclosure to this rooflight and first floor windows. However, any increased sense of enclosure is considered to be not significant given that the rooflight and windows are already contained behind the existing tall rear boundary wall.

The application is supported by a Daylight and Sunlight Assessment, which confirms that the development would be within the BRE recommended guidelines and would not therefore, adversely affect neighbour's daylight and sunlight levels.

9.6 Transportation, Accessibility & Servicing

The proposal does not raise any transport / parking issues.

9.7 Economy including Employment & Skills

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

9.8 Environmental Impact Assessment

The proposal 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.

10. Conclusion

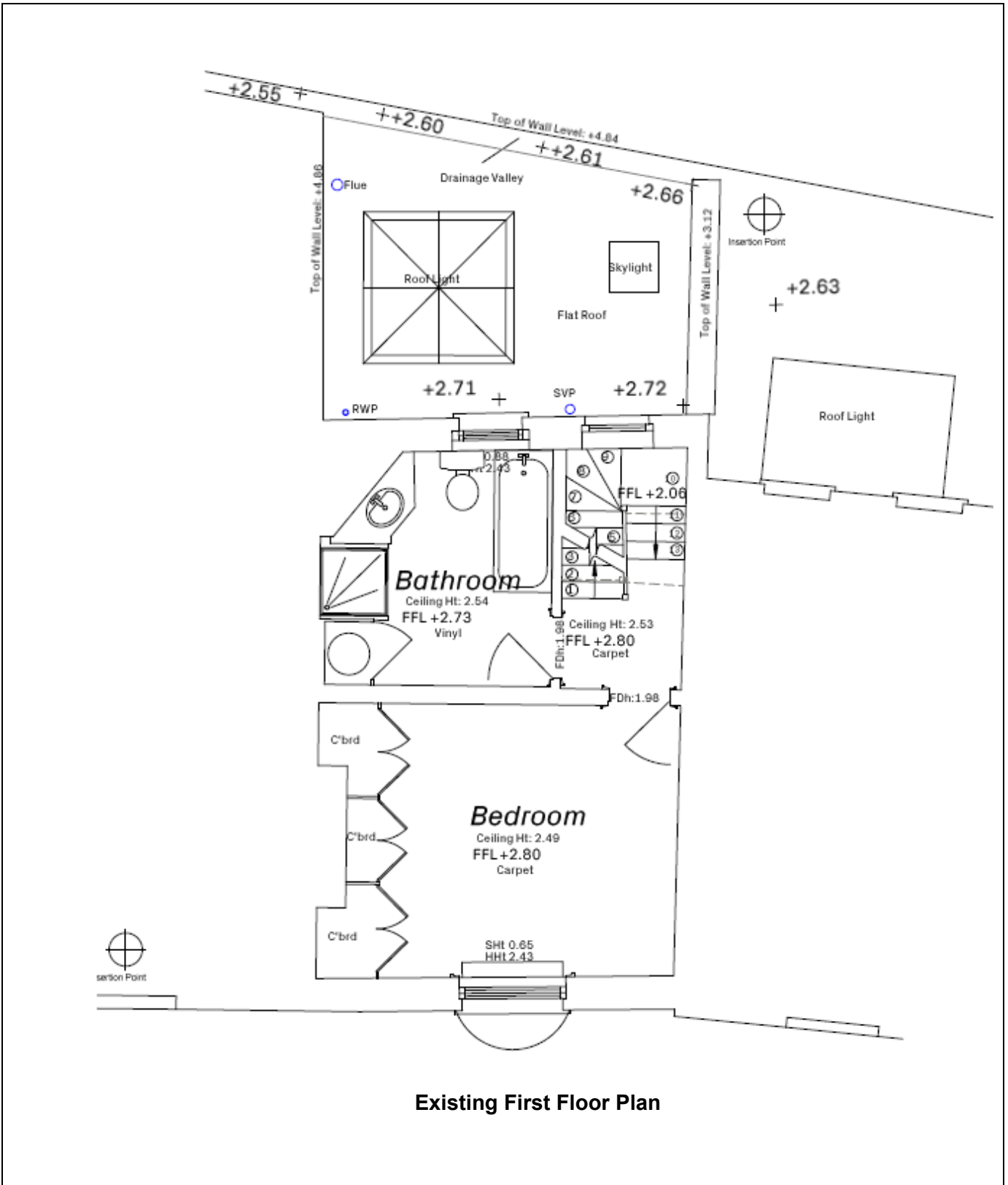
This latest proposal is broadly similar to that granted planning permission in 2018. For the reasons as set out in this report, the proposed extension is considered to accord with the the relevant policies in Westminster's City Plan 2019-2040 (adopted April 2021) in terms of design and amenity. As such, the application is recommended for approval subject to the conditions set out in the draft decision letter.

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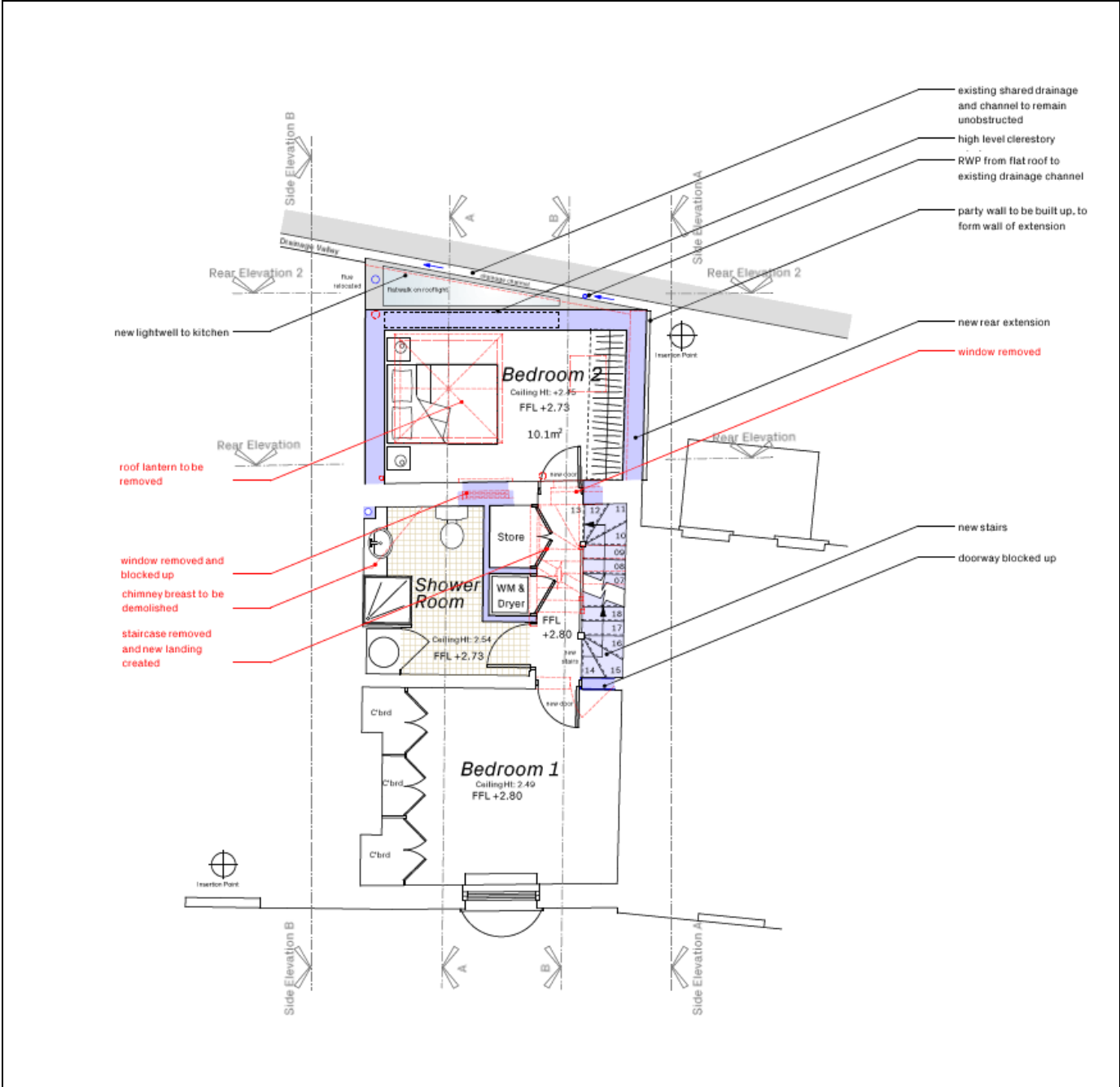
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT ddorward@westminster.gov.uk

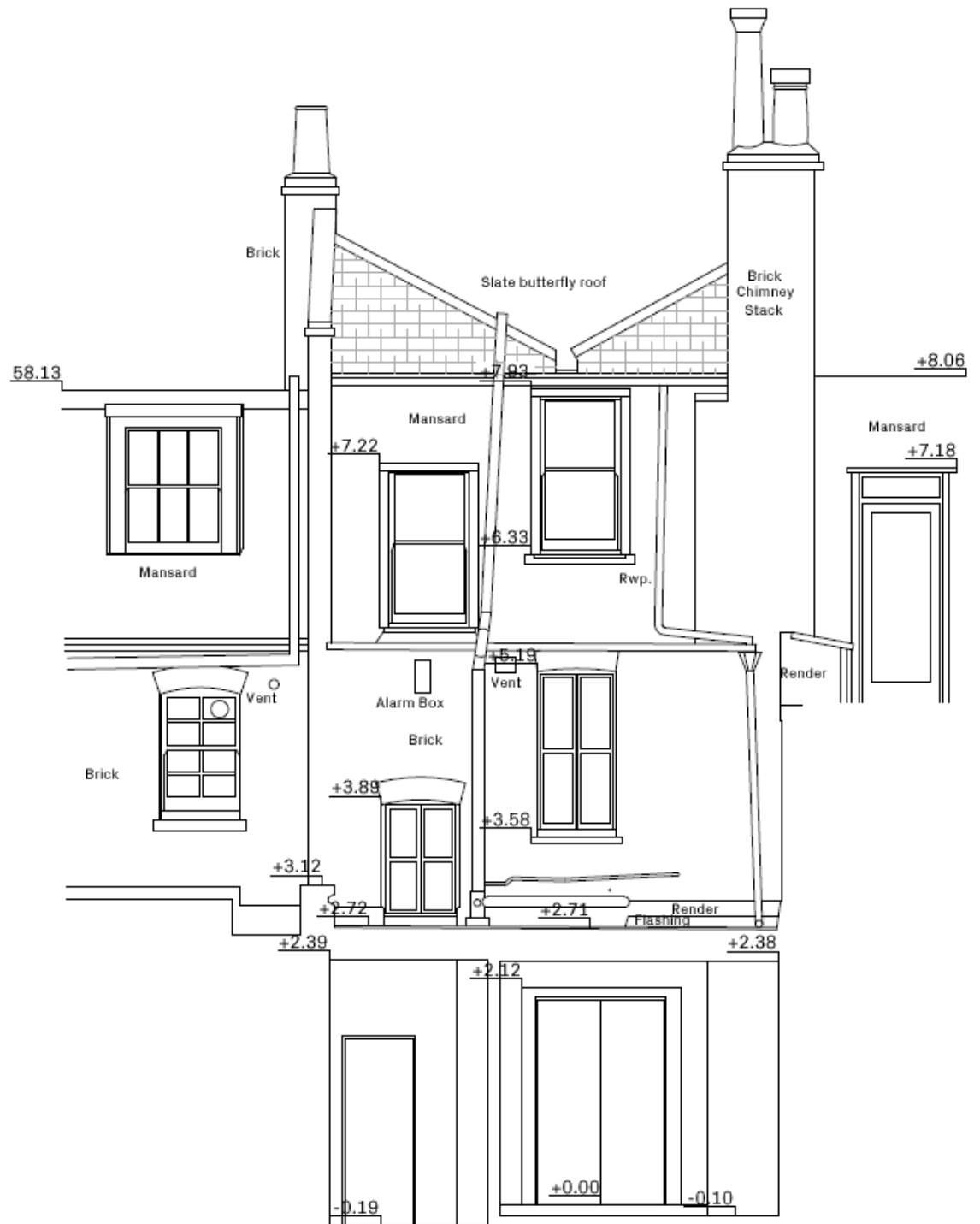
11. KEY DRAWINGS



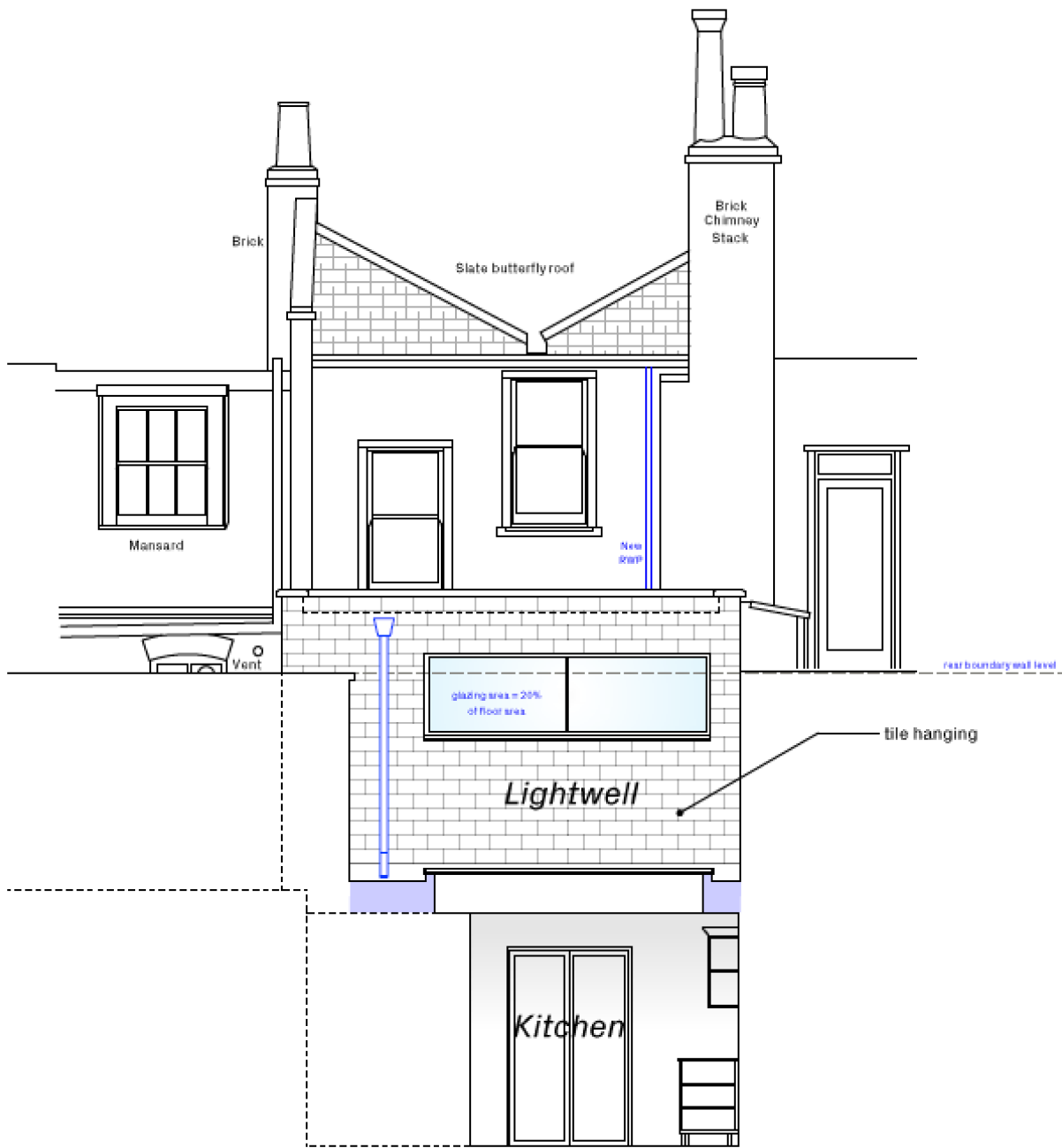
Existing First Floor Plan



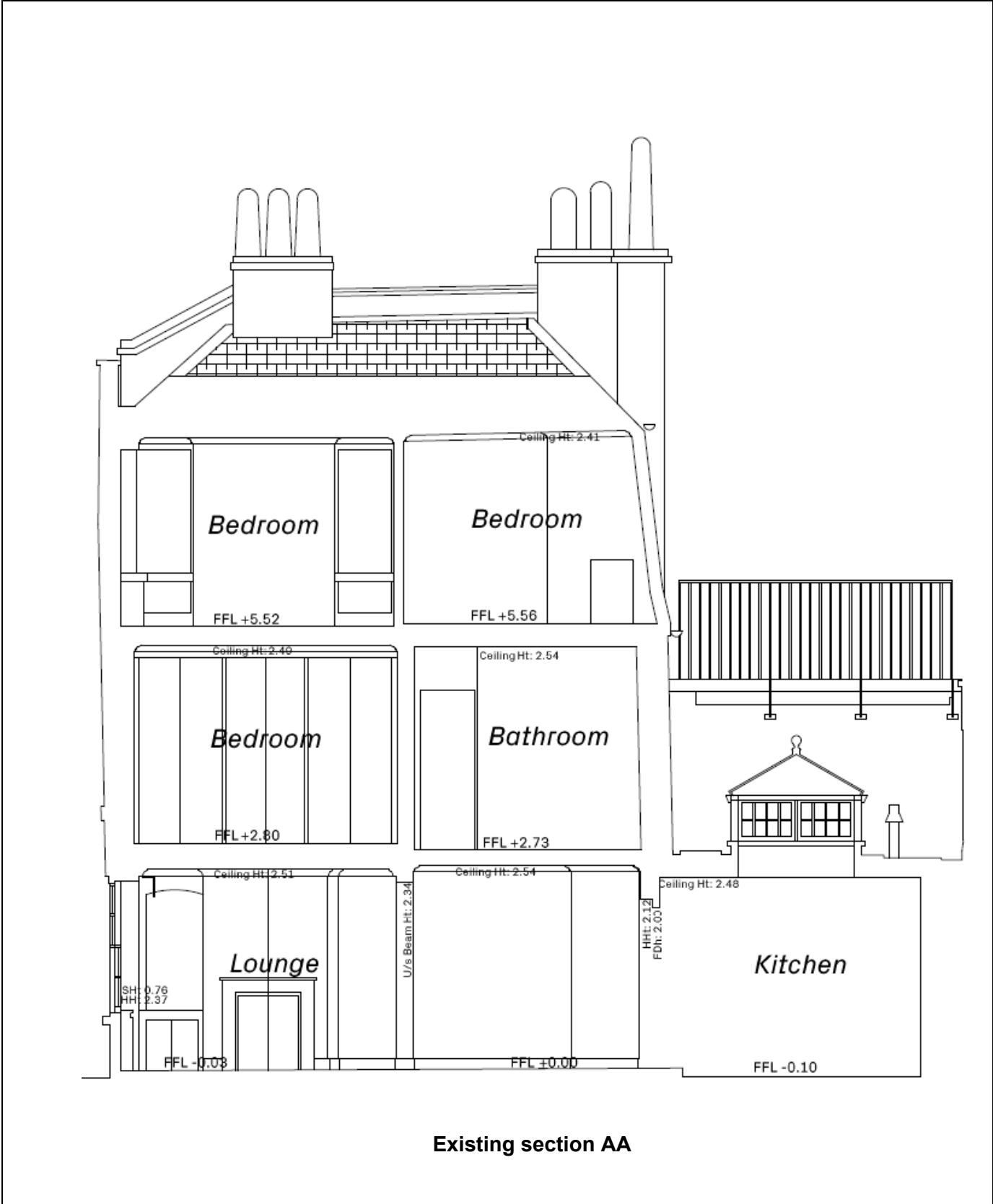
Proposed First Floor Plan

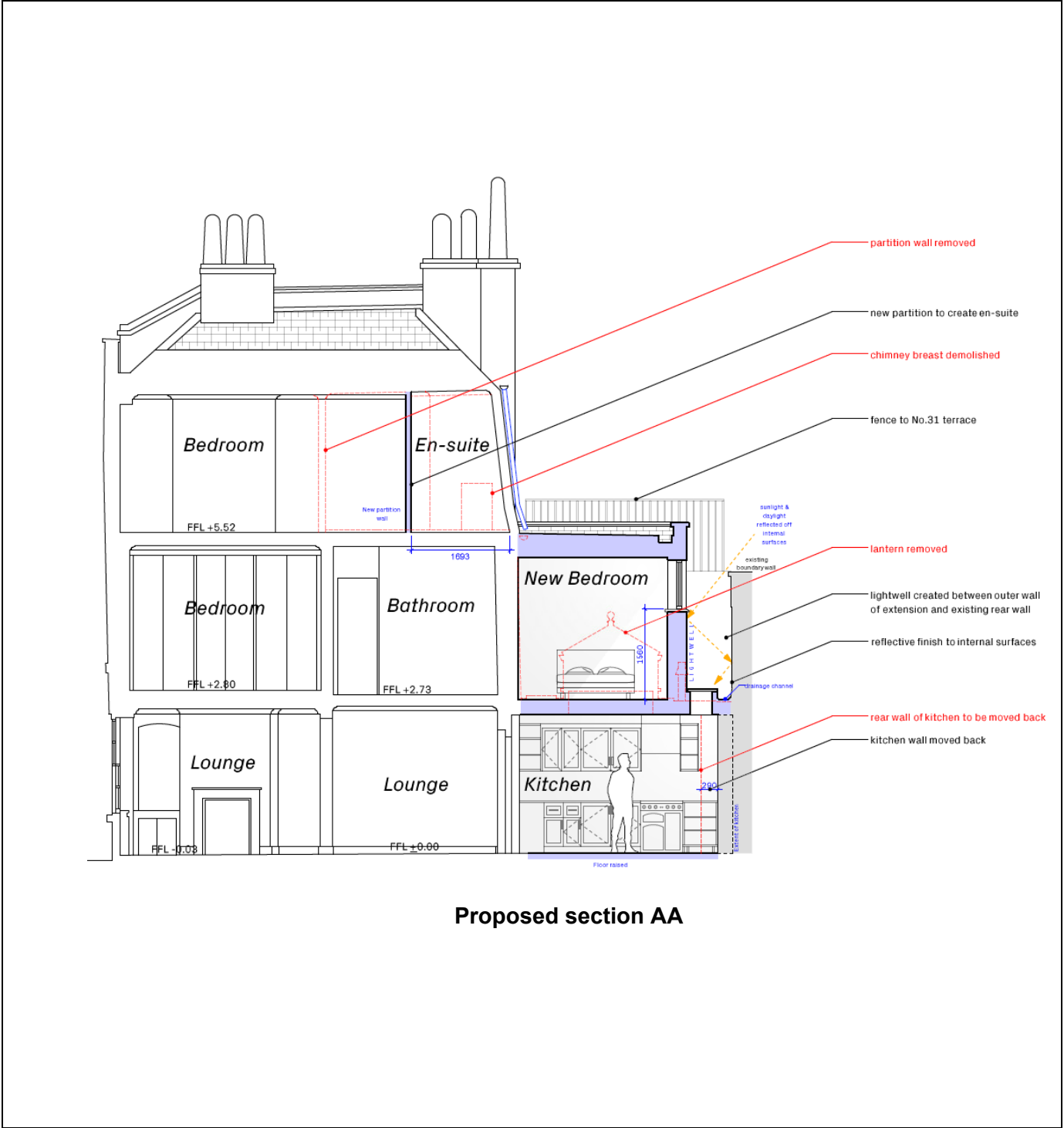


Existing rear elevation



Proposed rear elevation





Proposed section AA

DRAFT DECISION LETTER

Address: 32 Maunsel Street, London, SW1P 2QN

Proposal: Erection of single storey rear extension at first floor level.

Reference: 22/08691/FULL

Plan Nos: 00, 11, 10, 21, 13, 12, 31, 30, 111, 110, 121, 122, 113, 112, 130, 131, 123, 124, External Daylight Study, Sustainable Design Statement, Flood Risk Assessment.

Case Officer: Morgan Cheung **Direct Tel. No.** 07971092759

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.

Reasons:
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)

Reasons:
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)

Reasons:

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 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)

Reasons:

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)

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.

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. 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.

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 or visit 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

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