



City of Westminster

Committee Agenda

Title: **Planning Applications Sub-Committee (1)**

Meeting Date: **Tuesday 18th 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)
Md Shamsed Chowdhury
Sara Hassan
Robert Rigby



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 Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note that Councillor Bush will be substituting for Councillor Jason Williams.

To note that Councillor Robert Rigby will be substituting for Councillor Jim Glen.

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 pecuniary interests or any other significant interest 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.

(Pages 5 - 14)

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

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

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

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

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|---|--------------------------|
| 1. 17-19 DENMAN STREET, LONDON, W1D 7HW | (Pages 17 - 28) |
| 2. BASEMENT AND GROUND FLOOR, 79 WILTON ROAD, LONDON, SW1V 1DL | (Pages 29 - 52) |
| 3. 11 CHURTON PLACE, LONDON, SW1V 2LN | (Pages 53 - 76) |
| 4. 10 UPBROOK MEWS, LONDON, W2 3HG | (Pages 77 - 98) |
| 5. VERNON HOUSE, 40 SHAFTESBURY AVENUE, LONDON, W1D 7ER | (Pages 99 - 118) |
| 6. 24-31 GROSVENOR SQUARE, LONDON, W1K 6AH | (Pages 119 - 128) |

**Stuart Love
Chief Executive
6 April 2023**

Order of Business

At Planning Applications 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 (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 21st February, 2023**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Jason Williams (Chair), Md Shamsed Chowdhury, Jim Glen and Sara Hassan

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Williams 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.

2.2 Councillor Williams declared in respect of Item 6, he knew an individual who was employed by Waitrose and confirmed that he had not discussed the Application with them (this was the same declaration as that made by Cllr Williams on 28 June 2022 in relation to application 21/04074/FULL).

The solicitor to the council explained that following the 28 June 2022 planning committee, an allegation of conflict against Cllr Williams was investigated on behalf of the Director of Law. As a result, it was confirmed that it was appropriate for Councillor Williams to chair the meeting and there was no

perception of a conflict of interest and that Councillor Williams made the decision with an open mind. That position remained unchanged.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 17 January 2023 be signed by the Chair as a correct record of proceedings.

4 PLANNING APPLICATIONS

1 2-6 STANHOPE ROW, 16 STANHOPE ROW, 36 & 37 HERTFORD STREET, 16A, 16B AND 17 MARKET MEWS, LONDON

Demolition and replacement of existing fifth floor, demolition of existing plant room, and erection of a single storey roof extension at sixth floor to 2-6 Stanhope Row with replacement windows, terraces at fifth and sixth floors and remodelling works; demolition of 16 Stanhope Row, 16a, 16b and 17 Market Mews, excavation at basement level and erection of a four-storey (plus part basement floor) replacement building, all to provide an 82-bedroom hotel (Class C1). Demolition of 37 Hertford Street and erection of replacement building (basement to fourth floor plus mansard roof plus roof plant enclosure); and Internal and external alterations to 36 Hertford Street including demolition and remodelling of existing mansard roof, with new roof level plant enclosure; together with excavation at basement level to 36 and 37 Hertford Street to lower existing basement slab level; all to provide 16 residential dwellings (Class C3) along with provision for cycle parking, terraces, refuse storage and rooftop plant, together with other associated works.

Late representations were received from Bain Capital & Orka Investments

The presenting officer also circulated a revised description of development, revised recommendation, amendments/additional conditions and a draft decision LBC letter

1. The revised description of development:

Demolition and replacement of existing fifth floor, demolition of existing plant room, and erection of a single storey roof extension at sixth floor to 2-6 Stanhope Row with replacement windows, terraces at fifth and sixth floors and remodelling works; demolition of 16 Stanhope Row, 16a, 16b and 17 Market Mews, excavation at basement level and erection of a four-storey (plus part basement floor) replacement building, all to provide an 82-bedroom hotel (Class C1). Demolition of 37 Hertford Street and erection of replacement building (basement to fourth floor plus mansard roof plus rooftop plant enclosure); and Internal and external alterations to 36 Hertford Street including demolition and remodelling of existing mansard roof, ~~with new roof level plant enclosure~~; together with excavation at basement level to 36 and 37 Hertford Street to lower existing basement slab level; all to provide 16 residential dwellings (Class C3) along with

provision for cycle parking, terraces, refuse storage and rooftop plant, together with other associated works.) (Amendments in red)

2. Revision to Part b) of the recommendation (to include works to the passageway)

b) All highway works immediately surrounding the site required for the development to occur prior to occupation of the development, including reinstatement of redundant crossovers on Stanhope Row, and works to the passageway including lighting. All of the above to the Council's specification, at full cost (administrative, legal and physical) of the developer;

3. And a requirement for an additional condition (43) and amendments to conditions 11, 21 and 34 to 22/05759/FULL (amendments in red)

Amended Condition 21 (22/05759/FUL):

The glass that you put in the windows in the east elevation (overlooking the rear of 44-46 Shepherd Street); must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on this part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

Amended condition 11:

The **3** No. three-bedroom residential units must be provided and each one shall thereafter be retained as a residential unit with three separate bedrooms.

Amended condition 34:

You must apply to us for approval of detailed drawings showing the following alteration to the scheme:

- Omission of casement windows proposed to No. 37 Hertford Street and their replacement with sash windows.
- Drawings showing the use of yellow stock or red brick at 37 Hertford Street

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.

Condition 43

You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the reconfigured bar or restaurant 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 bar or restaurant is in use.

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

4. Revised decision letter for 22/05744/LBC

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:

To protect the special architectural or historic interest of this listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

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 listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

3 Notwithstanding what is shown on the drawings, you must apply to us for approval of samples of the facing materials you will use, including glazing, and 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.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

4 You must apply to us for approval of detailed drawings (scale 1:20 and 1:5) of the following parts of the development:

- a) All new windows
- b) Upgrades to existing windows to 36 Hertford Street
- c) All new window linings within 36 Hertford Street
- d) All new doors within the 36 Hertford Street
- e) All new cornicing, skirtings within 36 Hertford Street
- f) Roof insulation build-up within 36 Hertford Street
- g) Floor build-up within 36 Hertford Street

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.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

5 You must apply to us for approval of a sample panel of brickwork, built on site, which shows the colour, texture, face bond and pointing with a key plan for each facade. You must not start work on this part of the development until we have approved the sample panel in writing. You must then carry out the work according to the approved sample.

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)

6 You must apply to us for approval of a sample area of exposed and soot washed brickwork to 36 Hertford Street. You must not start work on this part of the development until we have approved the sample in writing. You must then carry out the work according to the approved sample area.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

7 You must apply to us for approval of method statements outlining:

- a) how the cantilevered stone stair at 36 Hertford Street will be supported and protected during the construction works
- b) Any proposed repairs and restoration work to the cantilevered stone stair at 36 Hertford Street

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 this statement.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

11 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades at No. 36 Hertford Street. You must leave them in their present position. You must protect those features properly during work on site.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R26EE)

Speakers

Supporter: Robert Mangan

Objector: John Bresniham

**RESOLVED, CHAIRS CASTING VOTE (Grant: Councillor Glen, Williams;
Refuse: Councillors Hassan and Chowdhury)**

That agreed amended description, recommendation changes to the planning conditions and changes to listed building consent, be granted

1. To grant conditional permission, subject to a S106 legal agreement to secure the following planning obligations:

- a) The residential flats on Hertford Street to be provided prior to the occupation of the reconfigured hotel accommodation.
- b) All highway works immediately surrounding the site required for the development to occur prior to occupation of the development, including reinstatement of redundant crossovers on Stanhope Row and works to the passageway including lighting. All of the above to the Council's specification, at full cost (administrative, legal and physical) of the developer;
- c) Be seen energy monitoring;
- d) The costs of monitoring the S106 agreement.

2. That the S106 legal agreement has not been completed within six weeks of the Committee resolution then:

a) The Director of Town Planning & Building Control shall consider whether the permission can be issued with additional condition to secure the benefits listed above. If this is possible and appropriate, the Executive Director for Growth, Planning and Housing is authorised to determine and issue such a decision under delegated powers;

b) The Director Town Planning & Building Control shall consider whether permission be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and the proposal is unacceptable in the absence of the benefits that would have been secured; if so, the Executive Director for Growth, Planning and Housing is authorised to determine the application and agree appropriate reason for refusal under Delegated Powers.

3. That grant conditional listed building consent.

4. To agree the reasons for granting conditional listed building consent as set out in informative on the draft listed building consent decision letter.

2 4 QUEEN ANNE STREET, LONDON, W1G 9LQ

Installation of replacement air conditioning unit within acoustic enclosure and replacement of window panels.

Additional representations were received from Madeline Korn and Ian Trehearne

Late representations were received from K J Gayler, Ian Trehearne

Speakers

Supporter 1: Jack Clemance

Objector 1: Madeline Korn

Objector 2: Chris Brown

Objector 3: Committee Officer read out the comments from Mr Ian Trehearne

RESOLVED UNANIMOUSLY

To defer these applications for the applicant to consider an updated acoustic report based on an up-to-date noise survey with all the u/a air conditioning units turned off and address 5 vents in the windows, in order to establish background noise levels, so assess the proposed new plant in an acoustic enclosure meets the Council's noise conditions.

3 30-32 BRUTON PLACE, LONDON, W1J 6NL

Use of 32 Bruton Place as a drinking establishment with expanded food provision (sui generis) to form extension to existing Guinea Grill at 30 Bruton Place, alterations to shopfront, replacement upper floor windows and rationalisation of plant on roof.

Additional representations were received from Margaret Brierley

Late representations were received from The Guinea.

Speakers

Supporter 1: Kate Turvey

Supporter 2: Margaret Brierley

RESOLVED UNANIMOUSLY:

To grant permission subject to planning permission and listed building consent and to agree the reasons for granting conditional listed building consent as set out in informative on the draft listed building consent decision letter.

4 47 GREAT CUMBERLAND PLACE, LONDON, W1H 7TQ

Internal and external works, including partial infill extension of inner lightwell at lower ground, ground, first and second floors; rear second floor extension, terrace at rear fourth floor, and a mansard roof extension to the rear mews building, removal of a lift, various modern additions, and reinstatement of hallway. Installation of 2 condenser units at lower ground floor and 5 at rear third floor. Use of the building as seven residential apartments.

Late representations were received from Andrew Rutherford.

Speakers

Supporter: Silas Willoughby

RESOLVED UNANIMOUSLY:

To grant conditional planning permission, to grant conditional listed building consent and to agree the reasons for granting conditional listed building consent as set out in informative on the draft listed building consent decision letter.

5 27 UPPER BERKELEY STREET, LONDON, W1H 7QN

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

RESOLVED UNANIMOUSLY:

To grant conditional planning permission, to grant conditional listed building consent and to agree the reasons for granting conditional listed building consent as set out in informative on the draft listed building consent decision letter.

6 THE COLONNADES, 34 PORCHESTER SQUARE, LONDON, W2 6AP

Details of plan indicating a clear and unobstructed route for pedestrians of The Colonnades to access the residential waste and recyclable storage within the service yard of The Colonnades pursuant to condition 32 of planning permission dated 06 October 2022 (RN: 21/04074/FULL)

Additional representations were received from Councillor Small-Edwards and Hannah Corney.

Late representations were received from Councillor Max Sullivan, John Zamit and Alan Ogilvie.

Speakers

Objector: Alan Ogilvie

Objector: Cllr Max Sullivan

RESOLVED (Grant: Councillor Glen; Refuse: Councillors Williams, Hassan and Chowdhury)

That the Sub-Committee refused the approval of details application on the basis that the proposed access route for the residents to the refuse storage is not considered safe given the conflict with the vehicles using the service yard (swept path analysis).

The Meeting ended at 9.25 pm

CHAIRMAN: _____

DATE _____

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Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 18th April 2023
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 22/07236/FULL West End	17 - 19 Denman Street London W1D 7HW	Installation of art work on flank party walls above 17 Denman Street	LS 1 Sherwood Street Limited
	Recommendation Grant conditional permission, subject to a legal agreement to ensure that the public art is secured, retained and maintained (to include an Operation and Maintenance Strategy).			
Item No	References	Site Address	Proposal	Applicant
2.	RN(s): 22/06456/FULL Pimlico North	79 Wilton Road London SW1V 1DL	Use of basement and ground floors as restaurant/hot food takeaway (sui generis) with installation of extraction flue system to roof at rear.	MR SAYED
	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
3.	RN(s): 23/00414/FULL Pimlico North	11 Churton Place London SW1V 2LN	Formation of new entrance door and access staircase to basement front light well, erection of single storey rear extension with a rear ground floor roof terrace and use of the lower-ground floor as a 1x bed flat and the ground, first and second floor as a 4x bed maisonette.	Mr & Mrs Anthony Akinajo
	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
4.	RN(s): 22/07278/FULL Lancaster Gate	10 Upbrook Mews London W2 3HG	Erection of roof extension with associated terrace; Conversion of garage to habitable space; Formation of new windows and doors; and associated external alterations.	Mr John Gulian
	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
5.	RN(s): 22/07879/FULL St James's	Vernon House 40 Shaftesbur y Avenue London W1D 7ER	Use of basement and ground floors as a drinking establishment (Sui Generis).	Simmons Camden Limited

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 18th April 2023
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): 22/07266/NMA West End	24 - 31 Grosvenor Square London W1K 6AH	Amendments to planning permission dated 18th February 2021 (RN:20/06601/FULL) for Variation of condition 1 of planning permission dated 21.5.20 (RN:19/07406/FULL), which itself varied condition 1 and 9 of planning permission dated 20.11.18 (RN: 18/03520/FULL) which itself varied condition 1 of planning permission dated 12 September 2017 (RN: 16/06423/FULL) for, 'Alterations to the existing building including retention & repair of the front and side facades, part demolition & replacement of the rear facade, rear extension of the 2nd-5th floors, removal of existing & introduction of a new 6th floor, introduction of a new set-back 7th floor, extension of the existing basement levels to include two additional basement levels (including one mezzanine level), installation of roof plant & plant screen, public realm works including hard & soft landscaping, removal of the security kiosks, fencing, bollards & gates/barriers to Blackburne's Mews & Culross Street, removal & replacement of 6 No. trees in front of the Grosvenor Square elevation & re-opening of the road on the western side of the Square, all in connection with the use of the building as a hotel (Class C1) with flexible retail/restaurant use at 1st floor, ground floor and basement 1 (Class A1/Class A3/Class C1), flexible restaurant/bar use at 7th floor (Class A3/Class A4/Class C1), leisure/spa facilities within the basement (Class D2/Class C1) & an ancillary ballroom, event spaces, back of house facilities & associated car, cycle parking & servicing facilities accessed from Blackburne's Mews, & other associated works' - NAMELY, to amend Condition 17 to remove reference to the seventh-floor level [requiring public access] to provide the hotel operator with greater discretion as to its use in light of the sensitivities around access and operation and the focus of the public offer at ground and first floor level.	30 GS NOMINEE 1 LIMITED for and on behalf of 30 GS Limited Partnership
	Recommendation Agree the non-material amendment to condition 17.			

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	17 - 19 Denman Street, London, W1D 7HW		
Proposal	Installation of art work on flank party walls above 17 Denman Street		
Agent	Jones Lang LaSalle Limited		
On behalf of	LS 1 Sherwood Street Limited		
Registered Number	22/07236/FULL	Date amended/ completed	26 October 2022
Date Application Received	26 October 2022		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Soho Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission, subject to a legal agreement to ensure that the public art is secured, retained and maintained (to include an Operation and Maintenance Strategy)

2. SUMMARY & KEY CONSIDERATIONS

17-19 Denman Street is an unlisted building in the Soho Conservation Area to which it makes a positive contribution. It stands at the junction of Denman Street and Sherwood Street and is flanked by taller buildings to the south and east which have large, blank, areas of plain brickwork. Nearby are The Regent Palace Hotel and The Quadrant, which are grade II listed buildings.

The lower floors (basement, ground, first and second floors) are occupied as a restaurant with a roof level terrace. The adjacent flank walls form part of the neighbouring redevelopment site at 1-17 Shaftesbury Avenue, 19-20 Denman Street and 4-6 and 8 Glasshouse Street, 1 Sherwood Street and 19 and 20 Denman Street. Permission was originally granted for this scheme in April 2016, to provide a new mixed-use building, with subsequent amendments, the latest approved on 21 May 2019. This development is now at fit-out stage. The permission is subject to a condition (Condition 4) requiring the submission of details of a scheme of public art. It was originally envisaged that this would be delivered on site. Whilst the original application did not include a formal public art proposal, the applicant was initially considering incorporating the artwork on the ceramic corner feature at the

junction of Shaftesbury Avenue and Denman Street, at high level. However, the scheme was subsequently amended, via an application under s96a (non-material alteration), which enables the public art to be delivered off-site.

Although the details of the public art required to discharge Condition 4 have recently been approved (under 22/07237/ADFULL), further planning permission is also required for the artwork as it now projects beyond the redevelopment site boundary, being attached to the flank walls and sitting above the roof of 17 Denman Street. Both sites are within the applicant's ownership.

The artwork would take the form of an AI- designed (Artificial Intelligence) installation on the theme of 'London is a Forest'. The AI algorithm is used to predict natural patterns which create an organic form 'grown' across the taller flank walls. The installation would be formed from aluminium or steel tubes, of differing diameters, finished in a range of greys to contrast with the brickwork behind and to harmonise with the neighbouring development. Once installed, the maintenance of the artwork would be managed by Land Securities.

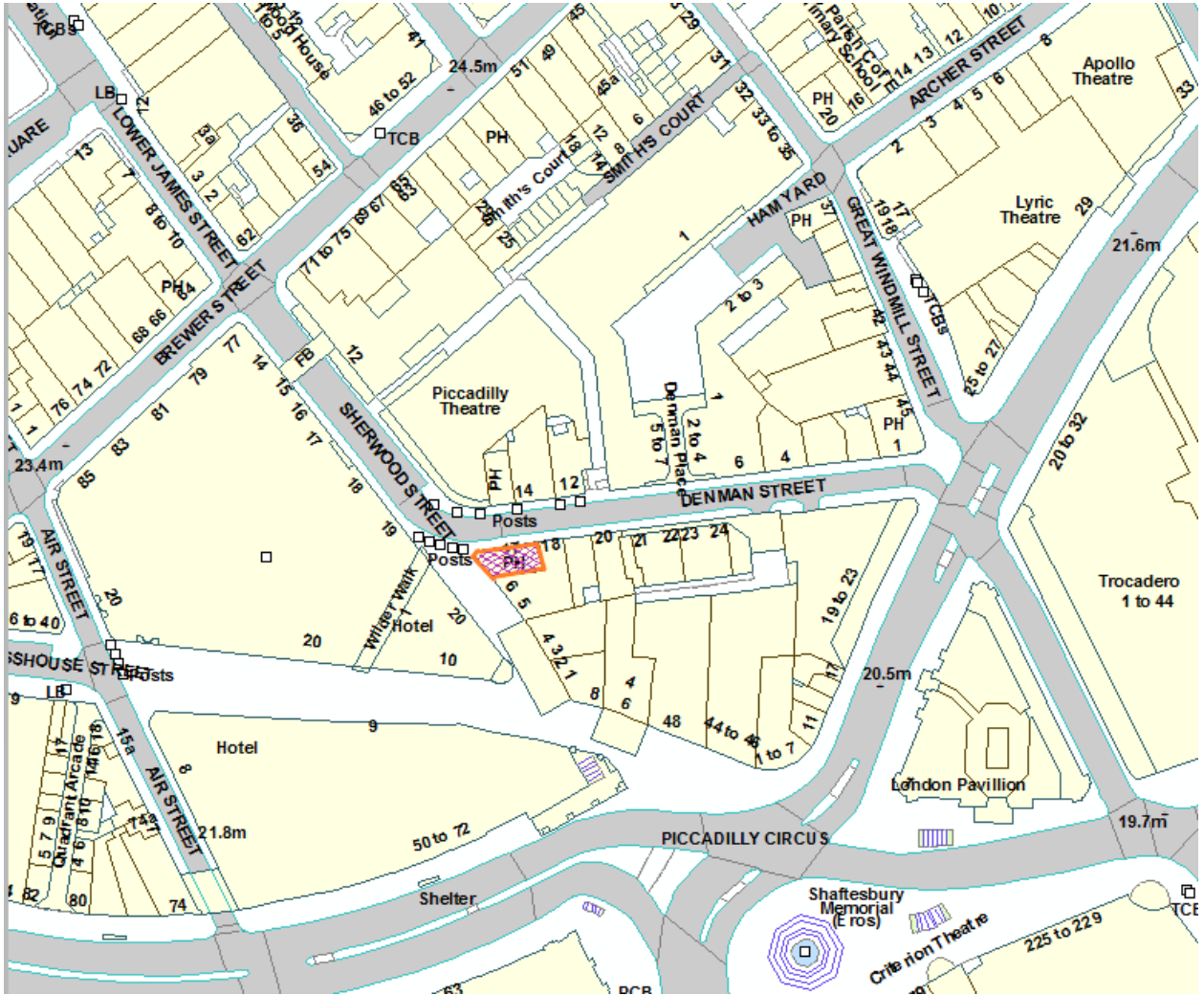
The installation is intended to represent either a leaf caught in the breeze, or ivy growing out of, and up, the walls and around the chimney. Subtle illumination will be provided. The Soho Society strongly objects to the scheme for various reasons, including that it is inappropriate in heritage asset terms and that the concept 'makes no sense'.

The plain brickwork of the existing flank walls is in stark contrast to richly detailed facades of the surrounding buildings and is a conspicuously and incongruously plain feature in views south along Sherwood Street. Consequently, in principle, this is a good location for something providing appropriate visual interest. The theme and method of design are topical, and the result is visually engaging and of an appropriate scale for its location. Therefore, it will enhance the appearance of the walls on which it is situated and create visual interest which is compatible with the surrounding historic environment including nearby listed buildings. The proposal fully accords with City Plan Policy 43, which encourages applicants to provide high quality public art as an integral part of the design of new major developments and Policy 8 of the Soho Neighbourhood Plan which states that public art should reflect the culture and heritage of Soho. The Soho Society's suggested 'greening' of the wall for environmental purposes is noted but this would be contrary to the objectives of the original condition, which was imposed to secure public art. Refusal of permission for that reason, or on the basis of other design/heritage comments received, could not be justified given that the proposal accords with the development plan, and it is acceptable in heritage asset terms.

Further objections been raised on the grounds of light pollution and unnecessary energy use as a result of the lighting scheme. The closest residential accommodation is at 20 Denman Street and above the public house opposite the site at 15 Denman Street. The submitted lighting strategy proposes the use of low energy LED fittings, intended to throw a gentle wash on the artwork rather than illuminate unnecessary areas of the flank wall and is therefore acceptable in amenity terms. The installation would only be illuminated after sunset. The energy usage for the combined light fittings is predicted at 0.04kwh per hour. The standard informative relating to light pollution is proposed.

Subject to securing an appropriate unilateral undertaking to secure the provision, retention and maintenance of the public art, it is considered that the public art is acceptable in design, townscape and amenity terms.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

SOHO SOCIETY

Objection: the artwork is inappropriate within the conservation area, given the appearance of the adjacent buildings. The concept - 'the urban landscape being reclaimed by nature through artificial intelligence' 'makes no sense'. This objective would be better met by installing further greening. Aim appears to be to attract attention to the adjacent development rather than to enhance the conservation area or provide public benefit. Potential light pollution with an adverse impact on residents opposite in Denman Street ; query energy use/lighting proposals in relation to the Council's commitment to the climate change emergency.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 24

Total No. of replies: 0

PRESS NOTICE/ SITE NOTICE:

Yes

6. Relevant history

25 April 2016 : Permission granted for the demolition of existing buildings and demolition behind retained facades of 19 and 20 Denman Street facades realignment of 4-6 Glasshouse Street, 1 Sherwood Street, 8 Glasshouse Street and 11-17 Shaftesbury Avenue facades and retention of Piccadilly Lights (adverts). Construction of a replacement six storey building (plus 6th floor mezzanine office) with three basement levels to create a mixed-use scheme comprising office (Class B1) at part ground to 6th storey mezzanine, retail (Classes A1 retail and A3 restaurant) at part basement 1, part ground and part first floor up to seven residential units (Class C3) at part first floor, part second floor and part third floor and plant and cycle storage within the basement. Associated works including mechanical plant within roof enclosure and loading facilities(15/07092)

10.December 2018: Permission granted for alterations to the permission of 25 April 2016 NAMELY to allow use of 6th floor mezzanine (Level 7) as restaurant (Class A3), roof realignment at Level 7 and new plant enclosure at Level 8, flexible use of approved retailing (Class A1) for retail and restaurant purposes (Classes A1 and A3), removal of chimneys on 1-17 Shaftesbury Avenue facade, minor adaptations to accommodate the Piccadilly Lights planning permission and advertisement, and adaptation to accommodate LBC consent (17/07490/LBC) (Application under s73 of the Act) RN: 18/02900);

21 May 2019 Permission granted for the variation of Conditions 1 and 31 of the permission dated 10 December 2018 (NAMELY, to revise the energy strategy and to enable development behind reconstructed facades to 19 & 20 Denman Street. (19/00087/FULL).

Condition 4 of this permission requires the submission of detailed drawings of a scheme of public art .

19 April 2022 The City Council determined that amendments to planning permission of 21 May 2019 NAMELY, to reconfigure the upstand to 19 Denman Street by raising it to introduce a new decorative iron cast grill to allow for natural ventilation. Constituted a non-material alteration to the approved scheme.

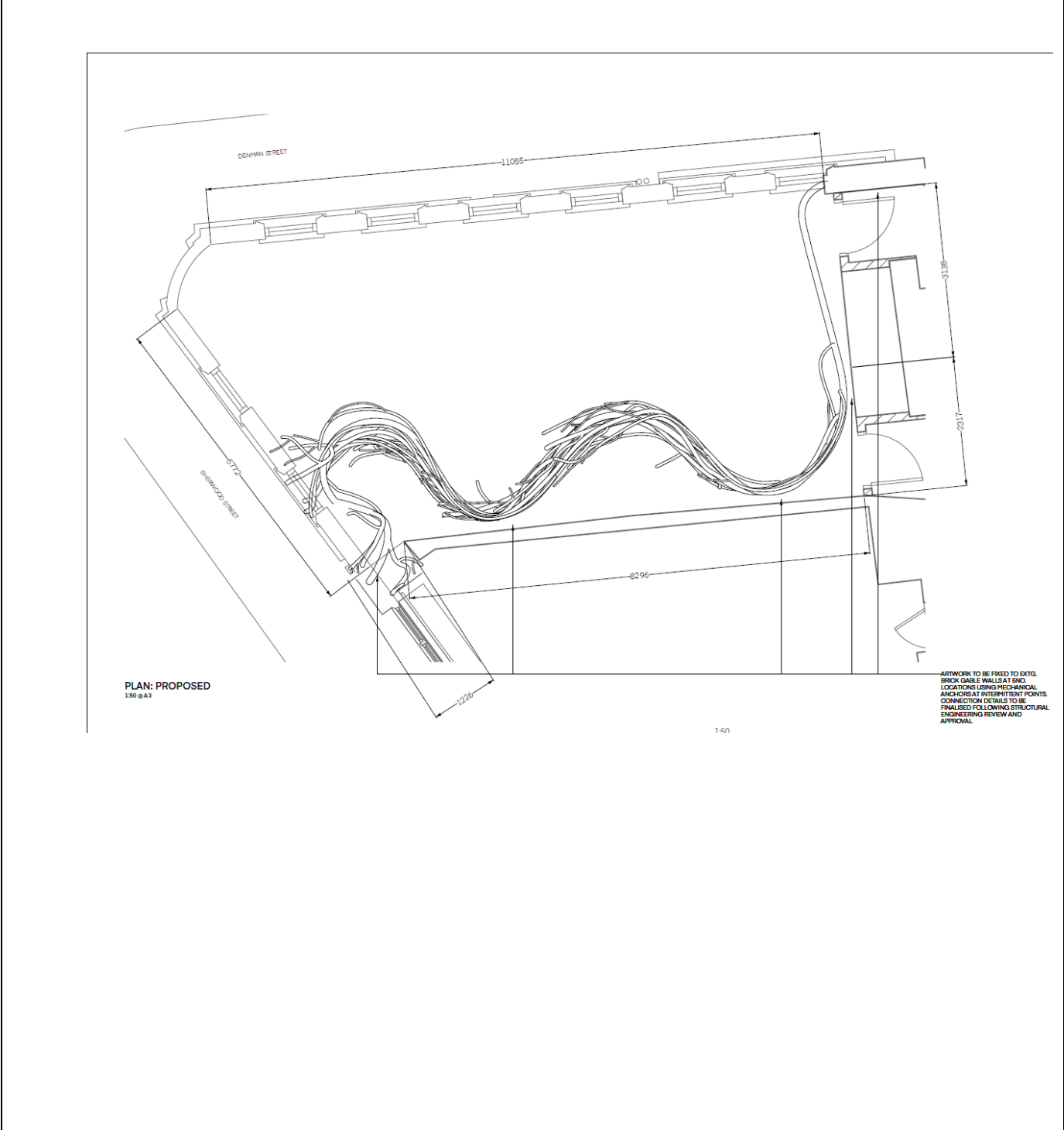
7 September 2022: The City Council determined that (Amendments to planning permission 4th January 2019 /should be 21 May 2019 (RN: 19/00087/FULL) NAMELY; to amend the description of development to replace reference to Classes A1 retail and A3 restaurant with Class E (g)(i) office, Class E (a) retail and Class E (b) restaurant; and to amend the wording of Conditions 4 and 33 to enable the public art to be relocated to 17-19 Denman Street and to clarify the number of retail units constituted a non-material alteration to the approved scheme (22/04995/NMA)

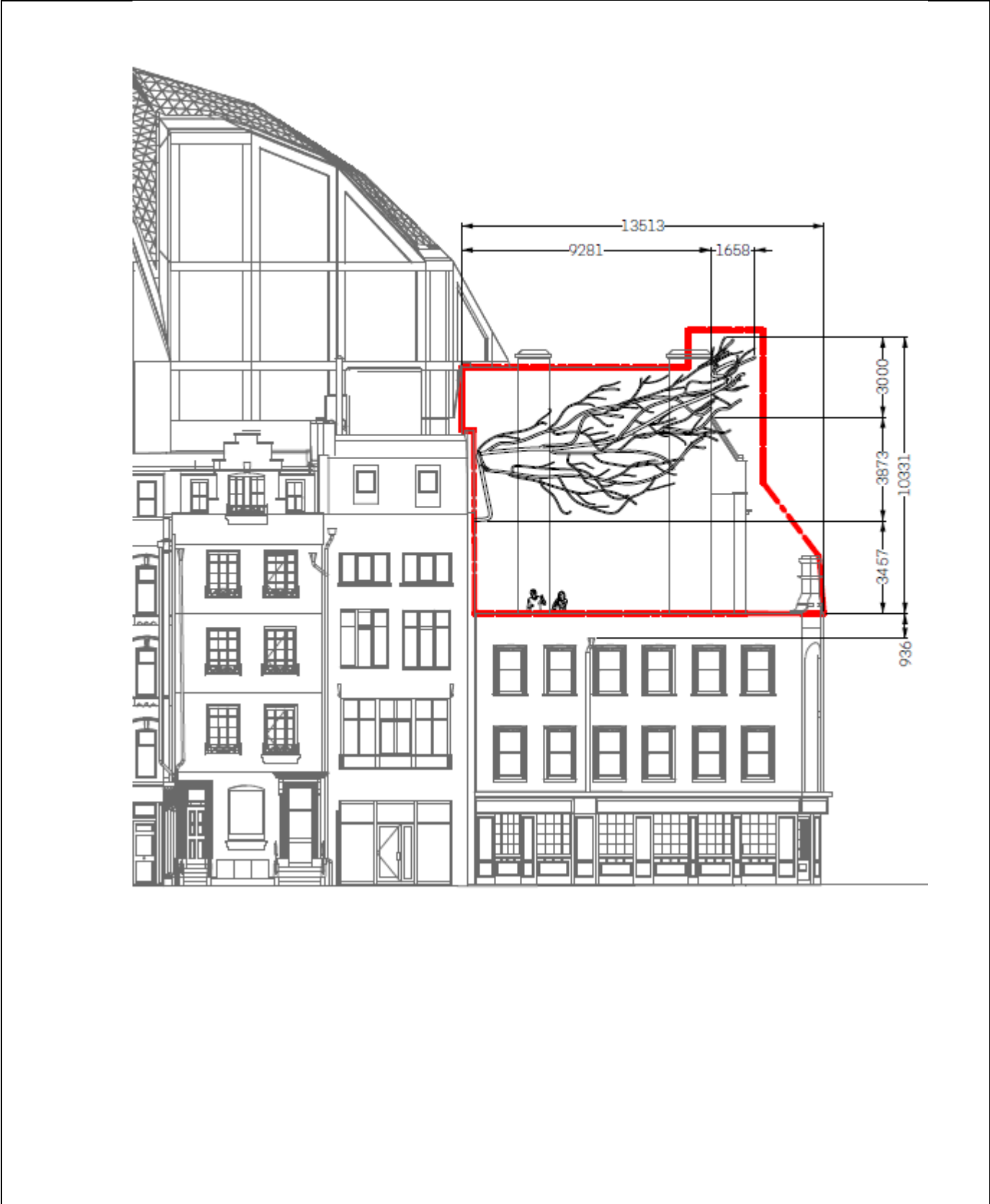
16 Nov 2022 :Approval of details of public art pursuant to Condition 4 of the planning permission dated 21 May 2019 (22/07237/ADFULL). The approved artwork is as proposed under the current planning application.

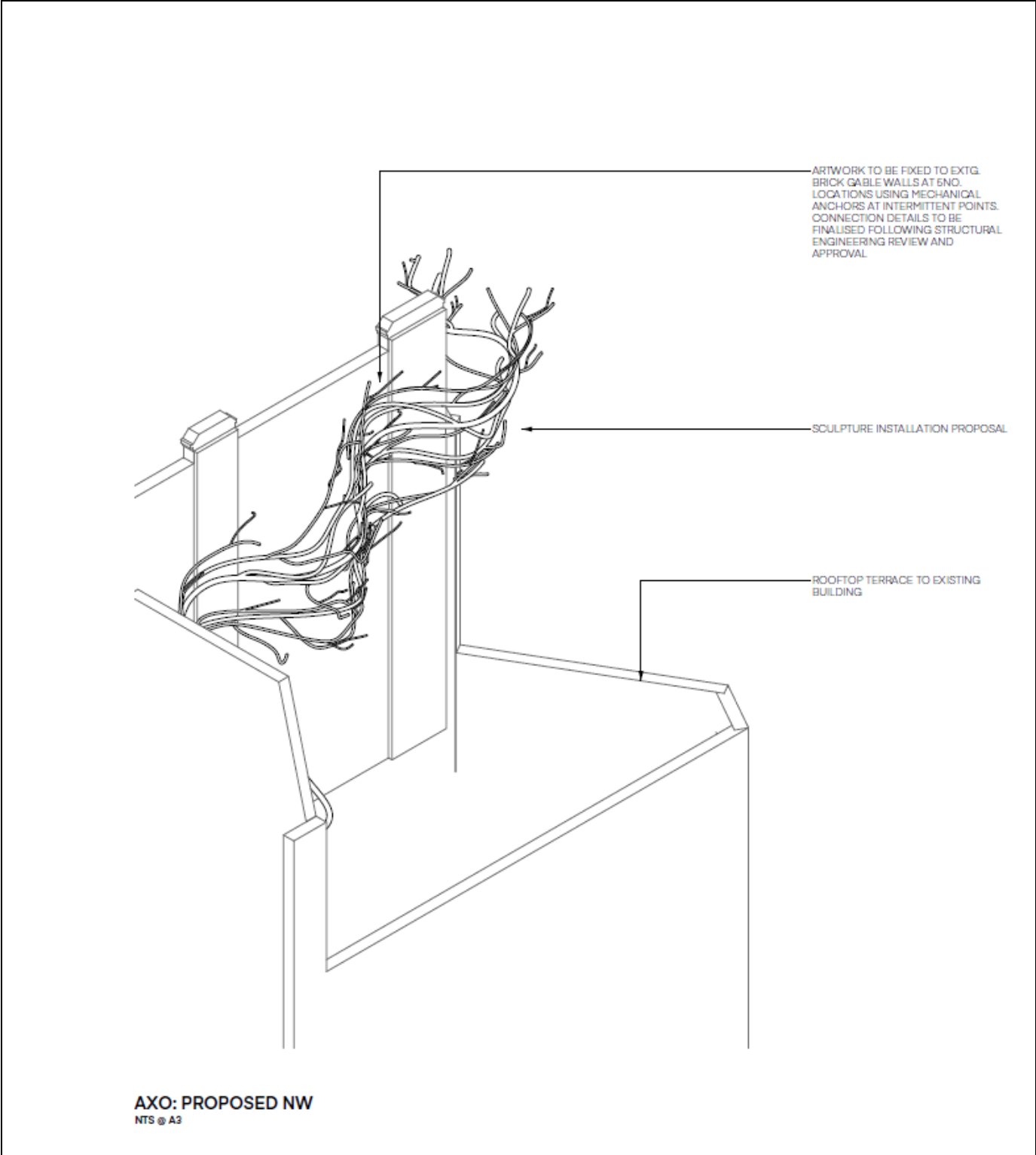
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk

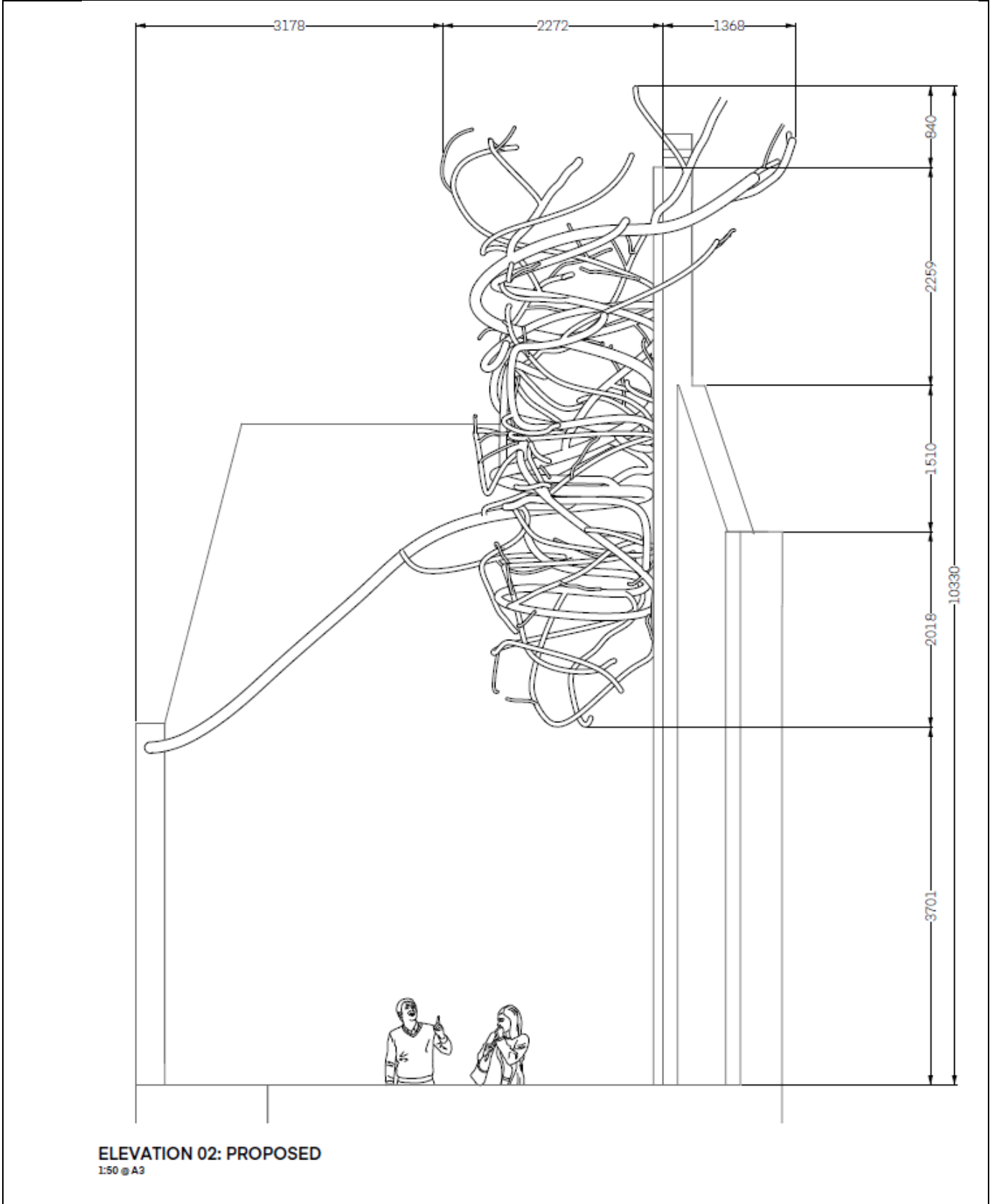
7. KEY DRAWINGS







Item No.
1



DRAFT DECISION LETTER

Address: 17 - 19 Denman Street, London, W1D 7HW
Proposal: Installation of art work on flank party walls above 17 Denman Street
Reference: 22/07236/FULL
Plan Nos: 230, 320, 340, 341, 401, 402, 540

Case Officer: Jo Palmer

Direct Tel. No. 020 7641
07866040238

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)

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 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.

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 18 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Pimlico North	
Subject of Report	Basement And Ground Floor, 79 Wilton Road, London, SW1V 1DL		
Proposal	Use of basement and ground floors as restaurant/hot food takeaway (sui generis) with installation of extraction flue system to roof at rear.		
Agent	DELTA TECH LTD - Mr T AY		
On behalf of	MR SAYED		
Registered Number	22/06456/FULL	Date amended/ completed	27 September 2022
Date Application Received	23 September 2022		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		
Neighbourhood Plan	Pimlico Neighbourhood Plan 2021-2040		

1. RECOMMENDATION

Grant Conditional Planning Permission.

2. SUMMARY & KEY CONSIDERATIONS

This application proposes to change the use of the basement and ground floor premises at 79 Wilton Road as a restaurant and hot food takeaway (a sui generis use) and install an extraction flue system to the rear elevation of the building. This application does not propose any external works to the front of the building.

The key considerations in this case are:

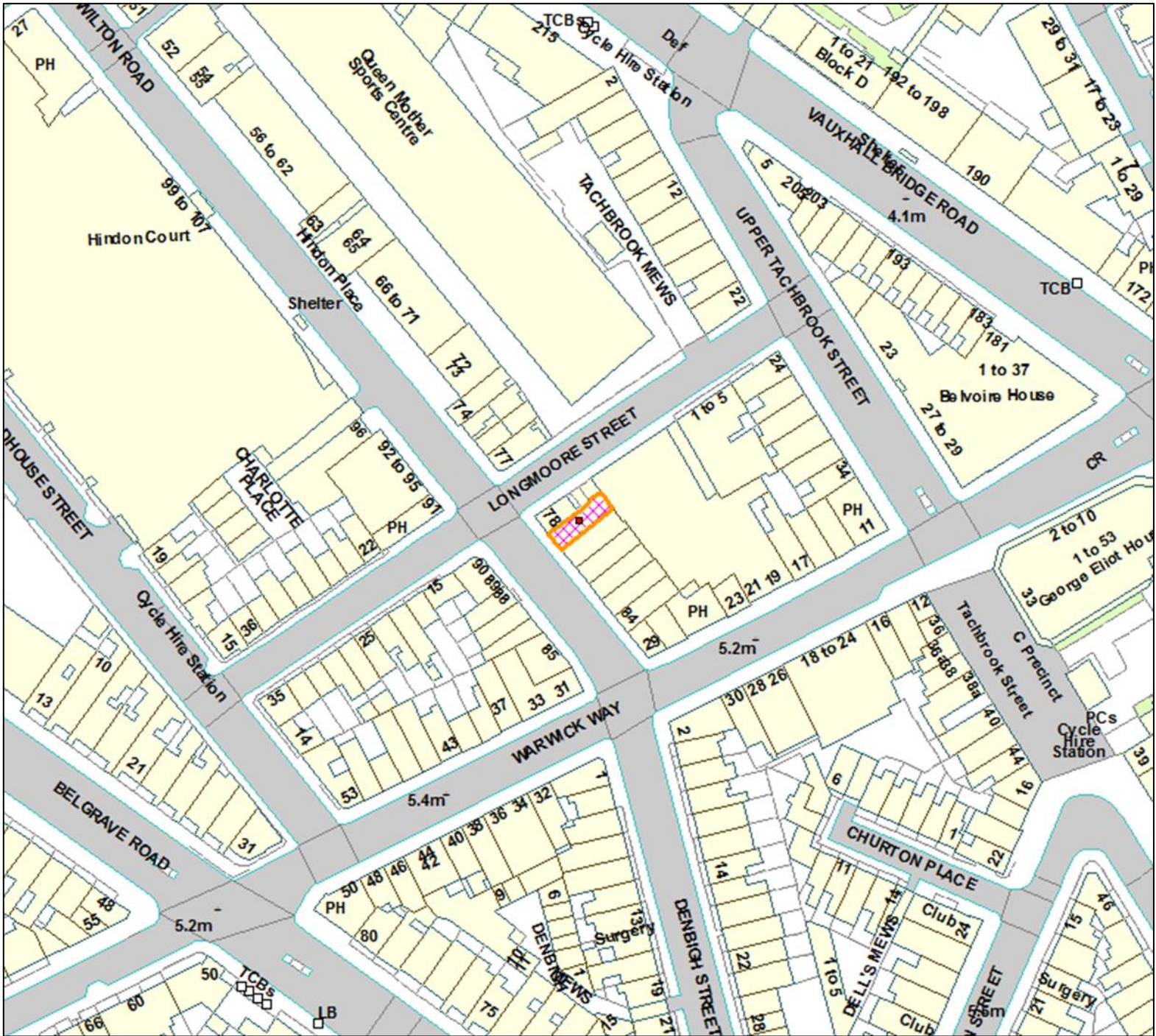
- The acceptability of a hot food takeaway use at this location.
- The impact of the proposed use and extraction flue system on the amenity of neighbouring residential properties.
- The impacts of the proposed use on the public highway.
- The impacts of the proposed extraction flue system on the character and appearance of the host building and the Pimlico Conservation Area.

These considerations are assessed in turn in this report.

Item No.
2

Subject to conditions securing the appearance, noise, odour and highways impacts of the proposed development, as set out in the draft decision letter, it is considered that the development would comply with the policies of the City Plan and the Pimlico Neighbourhood Plan. It is, therefore, recommended that conditional planning permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

WESTMINSTER SOCIETY

Any response received to be reported verbally by officers.

PIMLICO FREDA

Any response received to be reported verbally by officers.

PIMLICO NEIGHBOURHOOD FORUM

There is an over concentration of hot food takeaways in Pimlico which has a harmful impact on the character and function of the area and on residential amenity as result of late-night noise and activity and nuisance from cooking fumes. Object to any further increase in hot food takeaways. The external alterations will have a harmful impact on the appearance of the building and on the conservation area. There are no details of waste storage or deliveries.

ENVIRONMENTAL HEALTH

No objection subject to conditions mitigating the impacts of the external plant noise, internal noise generated from restaurant use and odour generated by extract ventilation equipment.

HIGHWAYS PLANNING MANAGER

Whilst no details of servicing have been provided, it is accepted that the proposed use will be serviced similarly to the existing use and nearby properties. Request that conditions are attached restricting the use to a restaurant and no delivery service to operate from the premises.

WASTE (PROJECTS OFFICER)

No objection subject to a condition to ensure that the storage for waste and recyclables is provided and made permanently available.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

First consultation begun September 2022

No. Consulted: 3

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Consultation on revised plans begun March 2023

No. Consulted: 5

Total No. of replies: 1

No. of objections: 1

No. in support: 1

Four objections have been raised by two neighbours across the two consultation periods on the following grounds:

LAND USE

- Excessive number of pizza/fast food restaurants in the area
- Within 200m of a prep school and within meters of the Queen Mother Sports Centre – used by school children
- Should be retained for retail use

AMENITY

- Light pollution
- Smells from new flue
- Noise from customers and delivery drivers

One resident has written in support on the following grounds:

- A good pizza restaurant is needed in the area;
- Will enhance the area and help attract more visitors.

PRESS NOTICE/ SITE NOTICE:

Yes

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 Pimlico Neighbourhood Plan includes policies on a range of matters including commercial uses, design and heritage, housing and hotels, open spaces, pedestrian and transport facilities and protecting the environment.

It has been through independent examination and was supported by local residents in a referendum held on 22 September 2022. It was adopted on 7 December 2022. It therefore forms part of the development plan for Westminster for development within the Pimlico Neighbourhood Area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

The subject building is an unlisted building of merit located in the Pimlico Conservation Area. It forms part of a terrace of two storey buildings along the east side of Wilton Road. The building consists of basement, ground and first floor levels. The ground and basement floor levels are currently vacant but were most recently in use as a shop. The first-floor level of the building is a self-contained flat.

The application site is located within the following designated areas:

- Warwick Way/Tachbrook Street CAZ Retail Cluster
- Pimlico Conservation Area
- Flood Zone 3
- Pimlico North & Victoria Surface Water Flood Risk Hotspot

7.2 Recent Relevant History

There are signs installed on the shopfront of the building which do not have advertisement consent. The applicant is seeking approval for these signs through an application for advertisement consent which has been refused. See the following recent relevant history:

On 27 February 2023, the City Council refused consent for the 'display of an externally illuminated fascia sign measuring 70cm x 420cm and an externally illuminated projecting sign measuring 70cm x 70cm' on the grounds the extent and means of illumination of the proposed fascia and projecting signs harm the appearance of the building and area, and because it would also fail to preserve or enhance the character and appearance of the Pimlico Conservation Area. (RN: 22/08591/ADV)

27 February 2023

On 8 December 2022, the City Council refused consent for the 'display of internally illuminated fascia lettering and an internally illuminated projecting sign.' on the grounds the extent and means of illumination of the proposed fascia and projecting signs harm the appearance of the building and area, and because it would also fail to preserve or enhance the character and appearance of the Pimlico Conservation Area (RN: 22/06457/ADV)

8. THE PROPOSAL

The proposal would change the use of the basement and ground floor levels of the building from a retail unit (Class E) to a premises with a use that blends restaurant and hot food takeaway (sui generis). It is understood that most customers will eat on the premises and there is space for approx. 30 covers on site along with toilet facilities for customers. However, given the type of food being sold and the style of dining offered on the premises (i.e. no reusable cutlery) any takeaway service from the site would not seem truly ancillary to the restaurant use and so the proposal is assessed as a composite use of hot food takeaway and restaurant.

Along with this change of use, this application seeks planning permission for the installation of an extract flue system emerging out of the rear roof of the building after passing through the first floor flat on the site.

The location of the extract flue has been amended from what was originally consulted upon and additional details have been provided to secure the noise impacts and maintenance of the flue, given it would pass through the first floor flat. This amended from the original consultation prompted an additional consultation of neighbouring occupiers.

This application does not propose any alterations to the front of the building at all. New signage to be displayed on the front of the building has been proposed and assessed under regulations for the control of advertisements, see Recent Relevant History, above.

Table: Existing and proposed land uses.

Land Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (Class E)	126.65	0	-126.65
Restaurant and Hot Food Takeaway (Sui Generis)	0	126.65	+126.65
Total	126.65	126.65	0

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Policy

City Plan Policy 14, at Part A, requires proposals in existing town centres and high streets to enhance and diversify their offer as places to shop work and spend leisure time. At Part C, Policy 14 also requires that development be of a scale, type and format that reflects and enhances the function of the centre within which it is proposed. CAZ Retail Clusters, such as the Warwick Way/Tachbrook Street CAZ Retail Cluster the subject site is located within, are expected to provide large format retail and complementary town centre uses to meet the needs of residents, workers and visitors.

City Plan Policy 16, at Part A, requires that food and drink uses be of a type and size

appropriate to their location and the over-concentration of such uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. At Part C, Policy 16 also requires that proposals for hot food takeaways are not within 200 metres walking distance from the entrance of a primary or secondary school.

Pimlico Neighbourhood Plan Policy PIM 1, at Part A, sets out that Warwick Way/Tachbrook Street CAZ Retail Cluster (and the Local Centres) are the areas of a commercial and mixed use character to which main town centre uses that both serve visiting members of the public and provide active frontages should be directed within the Pimlico Neighbourhood Area. At Part C this policy set out that proposals for hot food takeaways within 200m walking distance from the entrance of a primary or secondary school will not be supported. Part C also sets out details criteria for proposed hot food takeaways that are assessed in more detail later in this report.

Consideration and Assessment

The above land use polices can be summarised as giving rise to two requirements that the proposed restaurant and hot food takeaway must meet in order to be considered acceptable in land use terms. Firstly, it must be more than 200 metres walking distance from the entrance to any primary or secondary school and, secondly, it must not be detrimental to the vitality, character and diversity of the Warwick Way/Tachbrook Street CAZ Retail Cluster that it would be located within, nor harmful to the amenities of the residents of the area either.

The subject premises are not within 200 metres walking distance of the entrance of any primary or secondary school. The nearest two schools are the branch of the Westminster Cathedral Choir School (WCCS) at 47 Francis Street (a primary school), which is approx. 270 metres walking distance from the subject premises, and Eaton Square Sixth Form (a secondary school) on Eccleston Square which is approx.. 270 metres walking distance from the subject premises as well. All other schools in the area that officers have been able to identify (e.g. St Vincent De Paul Primary School) are over 300 metres walking distance from the premises.

One objection states that the premises are less than 200 metres from a prep school at the corner of Vauxhall Bridge Road and Francis Street. It is assumed this must be referring to the WCCS branch on Francis Street as there is no primary or secondary school directly on this junction. As outlined above, this school is more than 200 metres walking distance from the subject premises.

Hence, the proposal accords with the minimum distance requirements between hot food takeaways and schools set out in Policy 16 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan and the proposal cannot be considered to contribute to the negative consequences of children consuming junk food.

The next land use question to address is whether the proposal would maintain the vitality, character and diversity of the Warwick Way/Tachbrook Street CAZ Retail Cluster. It is acknowledged that the proposed development would result in a row of five consecutive restaurants and about half of all ground floor units along both sides of Wilton Road between Gillingham Street and Warwick Way are already restaurants, cafes

or pubs. However, given the size and scale of the subject premises and the context of the existing use falling with Class E of the Use Classes Order, meaning it could become a restaurant without needing planning permission, the restaurant aspect of the development cannot reasonably be resisted, even if it could be assessed as being a change of use of the premises.

It is also noted here that no open premises along this stretch of Wilton Road have planning permission to operate as hot food takeaways, although some restaurants evidently do have a degree of hot food takeaway occurring from their premises, such as both the neighbouring SeaFresh Restaurant and Chicken Joint. However, taking a view on the mix of uses along Wilton Road and the wider Warwick Way/Tachbrook Street CAZ Retail Cluster, the introduction of a hot food takeaway use in this location would not detrimentally impact the diverse mix of uses that help maintain the vitality and character of this CAZ Retail Cluster. Its function of providing retail and complementary town centre uses for the benefit of residents, workers and visitors in the CAZ would not deteriorate as a result of the introduction of this hot food takeaway, nor would it cumulatively contribute to over-concentration of such a use in the surrounding area.

The nearest residential properties are the unit at first floor level in the subject building, on the upper floor levels of 85 Wilton Road, at first floor level above the commercial premises on the opposite side of Wilton Road and in the upper floor levels of 7-11 Longmoor Street, to the rear of the building. The direct impacts of the proposed use (and the proposed extract flue) are assessed in detail in the Residential Amenity section of this report. There are many more residential properties in the wider CAZ Retail Cluster (e.g. above the Sainsbury's on Wilton Road) but these would not be directly affected by the proposed use and the introduction of the proposed hot food takeaway. Taking the wider area as a whole and the prevalence of hot food takeaways within it, it cannot be concluded that the proposed hot food takeaway would result in an overconcentration of food, drink and entertainment uses that is harmful to the amenities of residents in the area.

The Pimlico Neighbourhood Forum raise the number of hot food takeaways within the nearby Tachbrook Street Market. However, these hot food takeaway stalls are a part of the wider market use of that land and so, for the purposes of consideration of this application, we cannot add the concentration of hot food takeaways within the market to permanent and authorised hot food takeaways in the wider area to concluded there might be an overconcentration of such uses in the area.

Hence, the proposed introduction of a hot food takeaway use in this location is not considered to conflict with Policies 14 and 16 of the City Plan or Policy PIM 1 of the Pimlico Neighbourhood Plan in land use terms.

9.2 Environment & Sustainability

Sustainable Design

As the only operational development proposed as a part of this application is the installation of an extract flue to the rear of the building, it does not trigger any policy requirements in terms of sustainability.

Flood Risk & Sustainable Drainage

The subject site is located in Flood Zone 3 and Pimlico North & Victoria Surface Water Flood Risk Hotspot. The applicant has submitted a site-specific Flood Risk Assessment (FRA) that complies with the requirements of City Plan Policy 35 and the Environmental SPD (adopted 2022). As the proposal's flood risk vulnerability would be the same as the existing use's - shops, restaurants and hot food takeaways are all classified as uses that are 'less vulnerable' to flood risk - it is not necessary to consult the Environment Agency on the proposals.

Policy does not prevent 'less vulnerable' uses in Flood Zone 3 and there is no policy trigger requiring this type of development to provide any sustainable drainage measures. Hence, the proposal is considered acceptable in terms of flood risk and sustainable drainage.

9.3 Townscape, Design & Heritage Impact

Section 72 of the Planning (Listed Buildings and Conservation Areas) 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."*

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.

Policy 39 of the City Plan 2019-2040 (April 2021), at part K, requires development in conservation areas to preserve or enhance the character and appearance of Westminster's conservation areas. Features that contribute positively to the significance of conservation areas and their settings will be conserved and opportunities taken to enhance conservation areas and their settings, wherever possible.

Policy 40 of the City Plan, at part A, states that development will be sensitively designed, having regard to the prevailing, scale, heights, character, building lines and plot widths, materials, architectural quality and degree of uniformity in the surrounding townscape. Part B goes on to state that: Spaces and features that form an important element in Westminster's local townscapes or contribute to the significance of a heritage asset will be conserved, enhanced and sensitively integrated within new development. Part D requires that alterations and extensions respect the character of the existing and adjoining buildings, avoid adverse visual and amenity impacts and do not obscure important architectural features or disrupt any uniformity, patterns, rhythms or groupings of buildings and spaces that contribute positively to Westminster's distinctive townscape.

Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) sets out

that development within or affecting the setting of the Pimlico Conservation Area should demonstrate well-detailed, high quality, sustainable and inclusive design and architecture which preserved and enhances the historic character of the conservation area.

79 Wilton Road is an unlisted building of merit located within the Pimlico Conservation Area. There are a number of existing extract ducts to the rear of the terrace that 79 Wilton Road forms a part of. The proposed route of the extract duct work is towards the rear of the site and the duct would be short in length compared to other nearby extract ductwork along the rear of the terrace because extract flue system emerges out of the rear roof of the building after passing through the first floor flat on the site. This appears to be the best available route for an external duct and would be only moderately visible in private views to the rear. Due to the poor townscape quality (because of existing ducts) to the rear of the building, the installation of this duct would preserve and cause no harm to the character and appearance of the Pimlico Conservation Area. The proposal is therefore considered to be acceptable in design and conservation terms.

It must be noted here that although objections have been raised about a new shopfront and signage, this application does not seek planning permission to alter the shopfront, nor is any alteration to the shopfront proposed and the existing shutter and shutter box will remain. It is acknowledged that there is already signage erected at the site. However, these signs are advertising that are handled through the separate control of advertisements regulations and could be enforced against, if necessary, even if planning permission is granted for this change of use and installation of an extract flue. Still, given the advertisements exist and consent for them have been refused, the planning enforcement team have been notified so that they can investigate.

9.4 Residential Amenity

Policy 7 of the City Plan requires development to protect and where appropriate enhance amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking. It also requires development to protect and where appropriate enhance the quality of the local environment.

Policy 33 of the City Plan sets out that the Council will make sure that quality of life and health of existing and future occupiers and the natural environment are not adversely affected by harmful pollutants and other negative impacts on the local environment. This includes minimising noise and vibration from plant, machinery and internal uses and addressing the adverse impact of odour through the incorporation of appropriate mitigation measures using a precautionary approach.

Policy PIM 1 of the Pimlico Neighbourhood Plan requires proposal for restaurants and hot food takeaways to protect local environmental quality by mitigating the detrimental impacts of staff and customer activity in respect of noise and by providing adequate extraction and air conditioning which does not impact on the amenity of residents living above or close to the unit in terms of noise or odours.

The Council's Environmental SPD (adopted 2022) has sections guiding the

implementation of the above policies in respect of noise, vibration and odour.

The proposal, by virtue of its nature, size and location, could not impact neighbouring amenity in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy or overlooking. The proposal's impacts on residential amenity in terms of noise, vibration and odour are considered in turn below.

Noise & Vibration

This application has been submitted with an acoustic report in accordance with the requirements of our Environmental SPD. This report has demonstrated that the proposed extract flue on the rear roof of the building would operate 10 dB below the background noise level outside adjacent residential properties and is therefore not considered harmful to neighbouring occupiers' amenities. That this is implemented and maintained as such will need to be secured by conditions on the grant of planning permission, including conditions requiring that the proposed plant is never operated outside of the hours 07:00 and 23:00 and that vibrations greater than tolerable levels are not transmitted to neighbouring properties or structures. An updated noise report considering the noise and vibration impacts on the occupiers of the first floor flat the flue would run through has been submitted and concludes it would not have an unacceptable impact on the occupiers of that flat. This updated report meets the approval of the Council's Environmental Health officers.

The proposed use as a restaurant and hot food takeaway may also have noise and vibration implications for nearby occupiers resulting from its use. These impacts can be mitigated by limiting the hours of operation of the use and by restricting the amplified music that may be played on the premises. These will be secured by conditions on the grant of planning permission. The hours of operation of the proposed restaurant and hot food takeaway use will be limited to being between 07:00 and 23:00 every day, so as to align with the hours that the use of the associated plant will be limited to. It is considered that these conditions will adequately mitigate any detrimental effects of the proposed development in terms of noise and vibration and it would, therefore, comply with the relevant parts of Policies 7 and 33 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

Odour

The application has been submitted alongside an odour management plan which complies with the requirements of our Environmental SPD. So long as the extract flue and its odour control system are installed and maintained in accordance with the recommendations included in the submitted odour management plan (as updated to outline its routine maintenance without requiring access to the first floor flat), the proposed restaurant and hot food takeaway will not have any adverse effects on the local environment in terms of odour. That the extract flue is installed and maintained in accordance with this management plan will be secured by a condition on the grant of planning permission here. Subject to this condition, the proposed development would comply with the relevant parts of Policies 7 and 33 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

9.5 Transportation, Accessibility & Servicing

The proposed change of use and extract flue do not trigger any policy requirements in terms of car or cycle parking, and it is not considered that the coming and goings of staff and customers could impact the transport and highway network any differently to the prior use.

Policy 7 of the City Plan requires development to make appropriate and effective waste management arrangements.

Policy 29 of the City Plan requires servicing collection and delivery needs to be fully met within a development.

Policy 37 of the City Plan requires all development (including changes of use) to provide appropriate facilities for the storage of separate waste streams which are safe and convenient to access for deposit and collection, with sufficient capacity for current and projected future use.

Policy PIM 1 of the Pimlico Neighbourhood Plan requires that hot food takeaways mitigate the detrimental impacts of customer and staff activities in respect of litter, commercial waste and dirty pavements by ensuring adequate waste storage arrangements. This policy also requires that deliveries (both by moped and bicycle) from hot food takeaways ensure that pavements and roadways are not obstructed and that delivery workers do not congregate in a location that creates unacceptable obstruction and noise.

Servicing and Waste & Recycling Storage

The applicant has submitted a waste management plan in respect of the proposal which meets the Council’s Environmental SPD and Recycling and Waste Storage Requirements. This ensures appropriate waste management arrangements for the proposed use. Therefore, a condition will be attached to the grant of planning permission here that ensures the waste storage will be provided in accordance with the waste management plan prior to the first use of the development. Subject to this condition, the proposal would comply with the relevant parts of Policies 7 and 37 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

The proposed restaurant and hot food takeaway will be prohibited from operating its own delivery service from the premises by a condition on the grant of planning permission here. This is necessary to ensure the proposal’s impact on the public highway is no different to the prior use’s and, therefore, acceptable in highways terms. We are unable to control platform-based delivery services using the restaurant and hot food takeaway as a provider since planning conditions cannot control what is done outside of land under the control of the applicant (i.e. on the internet and between the premises and customer’s homes), but the condition would prevent any operator of the premises from operating their own delivery service.

Servicing of the proposed restaurant and hot food takeaway, other than in terms of waste and delivery services, would not be materially different from the prior retail use of

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the premises. Hence the proposal's servicing arrangements are considered acceptable.

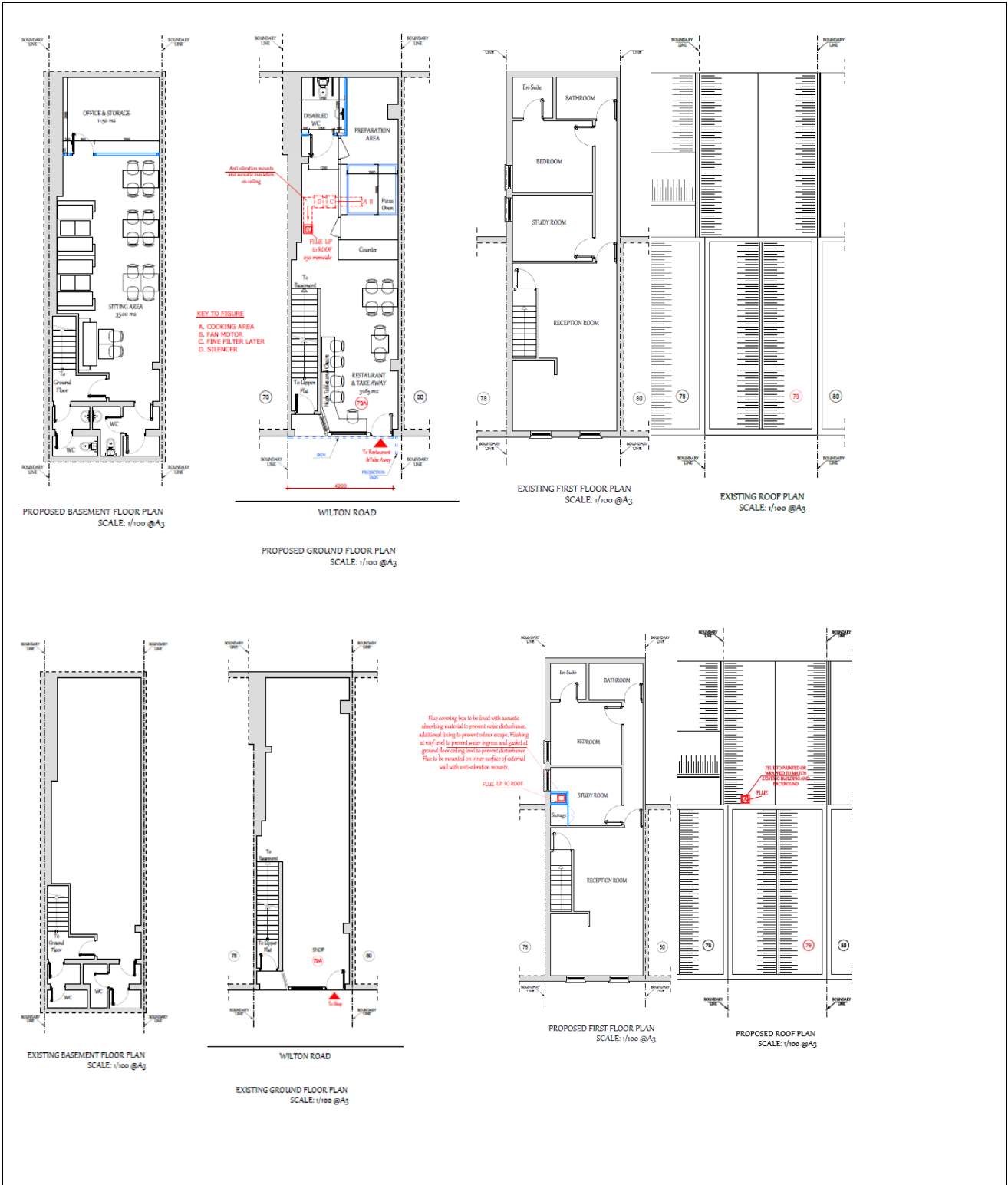
10. Conclusion

Subject to conditions, the proposal is policy compliant and gives rise to no identified harm. It is therefore recommended for approval subject to conditions.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JOSHUA HOWITT BY EMAIL AT jhowitt@westminster.gov.uk

11. KEY DRAWINGS





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DRAFT DECISION LETTER

Address: Basement And Ground Floor, 79 Wilton Road, London, SW1V 1DL

Proposal: Use of basement and ground floors as restaurant and hot food takeaway (sui generis) with installation of extraction flue system to rear.

Reference: 22/06456/FULL

Plan Nos: Plans:
WLT79/22/01 Existing Site, Basement & Ground Floor Plans; WLT79/22/02 Existing Roof Plan & Front & Rear Elevations; WLT79/22/03 Existing Side Elevations; WLT79/22/04 Location Plan; WLT79/22/05 Rev A Proposed Site, Basement & Ground Floor Plans; WLT79/22/06 Rev B Proposed Roof Plan & Rear Elevation; WLT79/22/07 Rev B Proposed Side Elevations; WLT79/22/09 Existing & Proposed First Floor Plan.

Supporting Documents:
Noise Impact Assessment Issue 03 prepared by Deane Austin Ltd (DAA) dated 17 March 2023; Odour Management Plan prepared by Delta Tech Ltd dated March 2023; Waste Management Plan Rev A Dec 2022 prepared by Delta Tech Ltd; Flood Risk Assessment January 2023 produced by Delta Tech Ltd.

Case Officer: Max Leonardo **Direct Tel. No.** 07817095744

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 Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R26BF)

- 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), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) 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 shall not be operated except between 0700 hours and 2300 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), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) the Environmental Supplementary Planning Document (February 2022). (R46CC)

- 6 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), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

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

Noise from music and entertainment from the restaurant and hot food takeaway use shall be 10 dB below the measured/assessed background in adjoining residential habitable space measured in the parameters Leq & LFmax of 63 Hz and 125 Hz octave bands OR fixed criteria of Day: NR30 Leq, NR35 FLmax and Night: NR25 Leq, NR30 LF max.

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) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R13ED)

- 8 A noise limiter must be fitted to the musical amplification system and the operational panel of the noise limiter shall then be secured by key or password which shall be inaccessible to staff.

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) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R13ED)

- 9 Prior to first occupation of the premises as a restaurant and hot food takeaway you must provide the separate stores for waste and recyclable material storage as shown on drawing no. WLT79/22/05 Rev A of the submitted Waste Management Plan and thereafter maintain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the restaurant and hot food takeaway. You shall not leave any waste on the highway other than immediately before collection.

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), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R14CD)

- 10 You shall maintain the extract ventilation system in accordance with the recommendations in the submitted Odour Management Plan prepared by Delta Tech Ltd dated March 2023.

Reason:

To protect neighbouring residents from odour nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022).

- 11 Customers shall not be permitted within the restaurant and hot food takeaway premises before 0700 or after 2300 each day. (C12AD)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R12AD)

- 12 You shall not operate a delivery service from the premises.

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) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R23AD)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 This permission does not allow any alterations or advertisements to the front elevation of the building.
- 3 Conditions 4 & 5 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)

- 4 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.
- 5 The operating timings for the mechanical plant for the kitchen ventilation system should be controlled by an automated system rather than relying on staff manually switching the system off at closing time.
- 6 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.
- 7 The term 'clearly mark' in condition 9 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 8 Kitchen Extract Ventilation Informative:
 - i. The best solution to prevent odour nuisance for any food operation is a scheme consisting of 'full height' discharge - see guidance at;
 - o <https://www.westminster.gov.uk/media/document/westminster-guidelines-for-kitchen-extract-ventilation-systems-mar-2021>

In this case the 'low' discharging scheme submitted with the application is considered to be acceptable as it complies with 'Best Practicable Means' standards if implemented and maintained in accordance with Section 2.6 of the Odour Management Plan from Delta Tech Ltd.

As food operations and intensity of use are always difficult to precisely define at the outset final acceptance of the scheme as being sufficient to prevent odour nuisance may therefore require further mitigation works to be carried out if nuisance is being caused post-installation. In addition if in the future the food operation changes significantly you must assess if the scheme is still adequate to prevent nuisance - see the guidance above.

- ii. Any installed scheme should also contain the following elements:
 - o All fume producing cookline equipment must be placed under the extraction canopy
 - o The kitchen extract ducting should be designed to discharge vertically
 - o 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
 - o The kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance, at approximately 2-3 metre intervals or be in compliance with the BESA document TR19 for cleaning and maintenance
 - o 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
 - o Access to the ducting must comply with the Health & Safety safe access standards

9 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

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

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Pimlico North	
Subject of Report	11 Churton Place, London, SW1V 2LN		
Proposal	Formation of new entrance door and access staircase to basement front light well, erection of single storey rear extension with a rear ground floor roof terrace and use of the lower-ground floor as a 1x bed flat and the ground, first and second floor as a 4x bed maisonette.		
Agent	NoP Ltd. - Mr James McDonnell		
On behalf of	Mr & Mrs Anthony Akinajo		
Registered Number	23/00414/FULL	Date amended/ completed	23 January 2023
Date Application Received	23 January 2023		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		
Neighbourhood Plan	Pimlico Neighbourhood Plan (December 2022)		

1. RECOMMENDATION

Grant conditional planning permission.
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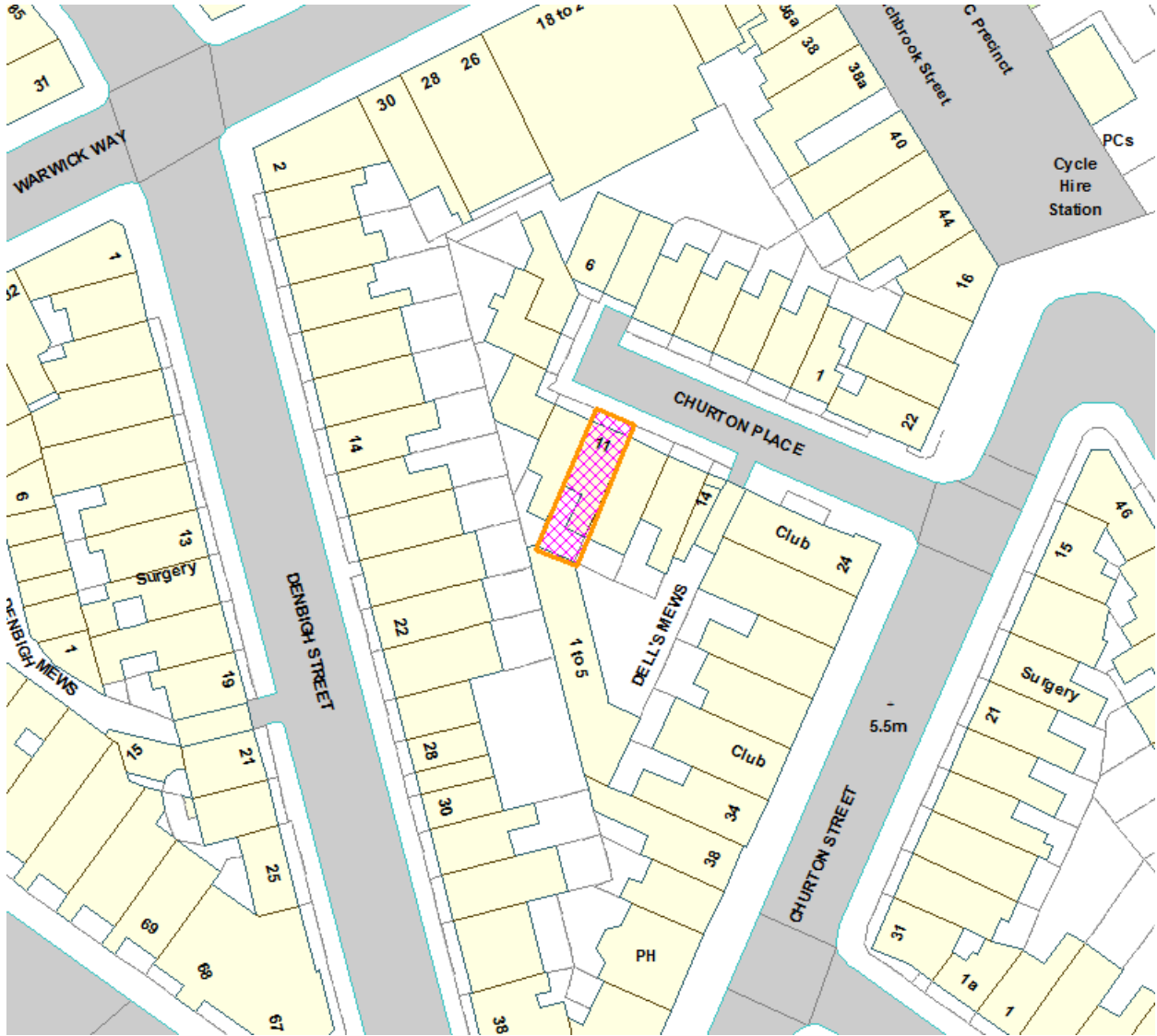
2. SUMMARY & KEY CONSIDERATIONS

<p>The application relates to 11 Churton Place, a residential building located within the Pimlico Conservation Area, currently used as a family-sized 3x bedroom flat at basement and ground level and a 2x bedroom flat at first and second floor level.</p> <p>Permission is sought for a new metal staircase and entrance door within the front lightwell to create direct access to the basement level from street level and the erection of a rear lower-ground floor infill extension between the existing closet wings, with a proposed roof terrace atop. Internal reconfigurations are also proposed to use the building as a 1x bedroom flat at lower-ground and a 4x bed maisonette above.</p> <p>The key considerations in this case are:</p>

- The acceptability of the proposed residential accommodation and use of the building;
- The acceptability of the proposed extensions and alterations in design terms;
- The impact of the proposed buildings on the character and appearance of the Pimlico Conservation Area;
- The impact on the amenity of neighbouring residential properties.

Objections have been received raising concerns regarding the loss of a purpose-built single-family dwelling through the use of the building as two separate dwellings; the design of the proposed extension; and the impacts upon the amenity of neighbouring occupiers. As set out in this report, with recommended conditions to secure further design details, the proposed development is considered acceptable in design, land use and amenity terms and would accord with relevant policies within the adopted Westminster City Plan (April 2021) and Pimlico Neighbourhood Plan (December 2022).

3. LOCATION PLAN



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4. PHOTOGRAPHS



Churton Place Frontages



Rear of Churton Place (as seen from Dell's Mews)



Rear of 11 Churton Place with approximate position of proposed extension indicated in red

5. CONSULTATIONS

5.1 Application Consultations

WESTMINSTER SOCIETY

No response to date.

PIMLICO NEIGHBOURHOOD FORUM

No response to date.

PIMLICO FREDA

No response to date.

ENVIRONMENT AGENCY

No objection. The site is located within Flood Zone 3 and is protected to a very high standard by the Thames tidal flood defences up to a 1 in 1000 (0.1%) chance in any year flood event. The latest flood modelling shows the site would not be at risk if there was to be a breach in the defences or they were to be overtopped. The developer has not provided the most up to date tidal breach data in their Flood Risk Assessment and the development includes a self-contained basement dwelling. However, as the site lies outside the modelled tidal breach extents, the proposal is acceptable in this instance.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. consulted: 34

No. of responses: 4

No. of objections: 3

No. neither objecting nor supporting: 1 (N.B. this resident recorded their comment as an objection, but stated no objection in the body of their comment)

In summary, four neighbouring residents object on the following grounds:

Land use:

- The use of the building as two separate flats would result in a change in the nature of the use within an area characterised by single-family dwellings. Previously, although used as two flats, they were occupied by members of the same family.
- Concern over the density and occupancy of the dwellings because of proposed development – the number of people who would occupy the building would increase and this would be harmful to neighbours.
- Concern that the proposals would/ could result in the use of the property as a House in Multiple Occupation (HMO) or for short term letting (particularly given bedrooms are provided with en-suites, and the living room may be used as a further bedroom).
- Other properties on Churton Place do not have similar basement dwellings.

Residential Amenity:

- Concern regarding noise disturbance from the extension, roof terrace, the large openings and alteration to front lightwell to create access (including that the terrace could be used more intensively).
- The extension is not in keeping with the intended nature of extensions at the rear

of properties in Churton Place, which are designed to provide some space and privacy between neighbouring houses.

Design, Townscape and Heritage:

- Considers that the proposed extension and alterations would harm the appearance of the building, conservation area and Churton Place terrace group and result in loss of open space
- Conditions should be used to ensure appropriate materials/ design if approved.
- The drawings are misleading/ inaccurate – including missing railings on the drawings.

Other:

- The fire safety report contains inaccurate height measurements.
- Unclear whether the owners will live in the building, or rent it - Churton Place is a stable community of long-term residents;

In summary, one other resident stated the following:

- No objection to the proposed works but request that no access be given to or scaffold erected on the party wall or on the land which encompasses their demise.

5.2 Applicant's Pre-Application Community Engagement

The Council's Early Community Engagement Guidance encourages developers to communicate with local stakeholders and communities through online or leaflet methods. Given the proposals relate to small scale householder development, the applicant did not indicate that they have carried out Early Community Engagement prior to submission of the application. However, it is noted that following neighbour objections, planning permission was refused in September 2022 for a three-storey rear extension and roof extension. In response to the objections on the previous application and the reasons for refusal, the applicant has sought to address these concerns and the current submission now only proposes a single-storey rear extension.

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 Pimlico Neighbourhood Plan includes policies on a range of matters including commercial uses, housing, residential amenity, green and open spaces, public realm and climate change, and design and heritage.

It has been through independent examination and was supported by local residents in a referendum held on 22 September 2022. It was adopted on 7 December 2022. It therefore forms part of the development plan for Westminster for development within the Pimlico 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 Churton Place is a residential building located within the Pimlico Conservation Area. It comprises lower-ground, ground, first and second floor levels. The building is in use as a family-sized 3x bedroom dwelling at basement and ground floor and a 2x bedroom dwelling at first and second floor. Currently the two units are accessed via a communal hallway at ground floor.

7.2 Recent Relevant History

On 26 September 2022, the City Council refused permission for the “formation of new entrance door and access staircase to basement front light well; and erection of three storey rear extension (basement, ground, and first floor levels) and roof extension” on the grounds the extensions would have harmed the appearance of the building and the character and appearance of the Pimlico Conservation Area; that the building would result in dwellings which would fail to meet required space standards; and the loss of the family sized dwelling would be unacceptable in that context. (RN: 22/04808/FULL)

On 21 February 2023, the City Council issued a lawful development certificate to confirm that the lawful use of the building comprises a three-bedroom flat at basement and ground floor and a two-bedroom flat at first and second floor. (RN: 23/00428/CLEUD)

8. THE PROPOSAL

Planning permission is sought for the formation of a new entrance door and access

staircase to the basement front lightwell and the erection of a single storey rear extension with a rear ground floor roof terrace and use of the lower-ground floor as a 1x bed flat and the ground, first and second floor as a 4x bed maisonette.

Table: Existing and proposed land uses.

Existing GIA (sq/m)		Proposed GIA (sq/m)	
3x Bedroom flat	82sq/m	1x Bedroom flat	54sq/m
2x Bedroom flat	75sq/m	4x Bedroom flat	120sq/m
Total	5 bedrooms – 157sq/m		5 bedrooms – 174sq/m
		Uplift	17sq/m

9. DETAILED CONSIDERATIONS

9.1 Land Use

Policy 8 of Westminster’s City Plan seeks to protect existing residential units whilst policy 12 requires developments to provide a high-quality living environment, including ensuring homes meet or exceed the Nationally Described Space Standards (NDSS). Policy PIM 12 of the Pimlico Neighbourhood Plan supports residential extensions where these ensure space standards for dwellings are maintained or improved.

As confirmed through the lawful development certificate granted in February 2023, the lawful use of the building is as a 3x bedroom flat at basement and ground floor level and a 2x bedroom flat at first and second floor.

Objection comments have been received that note that in the past the property has been used as two separate flats, but by members of the same family, and that the current application to use it as two reconfigured and extended separated dwellings which would be unacceptable as it would alter the nature of how the building is used and would alter the character of the street. Concerns are also raised in regards to potential use for short-term letting or as a House in Multiple Occupation (HMO), and in regards to space standards and the over-intensification of the residential uses.

The City Plan defines a family sized home as those comprising between three and five bedrooms. The existing family-sized dwelling over basement and ground does not meet the NDSS however – a minimum of 84sqm is required and 82sqm exists. The proposed development comprises the proposed reconfiguration of the units that would provide a larger family-sized dwelling of four bedrooms over the three upper floors that would exceed the NDSS, whilst providing additional bathrooms and an outdoor amenity space for prospective occupiers, therefore providing a family-sized dwelling of improved quality over the existing. Similarly, the lower-ground dwelling would generously exceed NDSS for a 1 bedroom dwelling – while it would have less light and outlook as compared to the existing flat which also includes the ground level, it would remain acceptable because the unit would still enjoy large openings to the front a rear to allow for light and some outlook.

Overall, the number of bedrooms across the two units would remain the same and so the potential occupancy levels would not be significantly different to the existing uses –

indeed the extension to the building is relatively modest in size, but the extension and reconfiguration would enable an improved living environment for prospective occupiers.

In relation to the potential for a HMO or for short term letting use, this application does not propose these uses – the application involves two dwellings within Class C3, i.e. single family dwellings. In relation to short term letting, if this occurs for more than 90 nights in a year, planning permission would be required.

The above considered, the proposals would not result in any loss of residential units and would result in provision of a better-quality family-dwelling and therefore accords to the relevant development plan policies.

9.2 Environment & Sustainability

Energy

Policies 36 and 38 of Westminster’s City Plan requires developments to be designed to reduce energy demand and to incorporate sustainable design measures. As part of the development there would be new roof, wall and floor insulation installed internally to increase the energy performance of the building – and this is welcomed.

Flood Risk

The application is supported by a flood risk assessment. The site is located within flood risk zone 3. Flood risk zone 3 indicates high susceptibility to flooding from the River Thames, however this part of London benefits from flood defences which reduces this risk to a very high standard – reduction to a 1 in 1000 (0.1%) chance in any year flood event.

Policy 35 of the City Plan states that development involving ‘Highly Vulnerable Uses’ in flood risk zone 3 will not be allowed. Basement dwellings are classified as Highly Vulnerable and, in this case, the floor level of the lower ground floor flat would be below street level (although not garden level). However, the Environment Agency have noted that the latest flood modelling shows the site would not be at risk if there was to be a breach in the defences or they were to be overtopped – and so consider the application acceptable in terms of flood risk from the River Thames, and so no concern is raised in this respect.

The site is not within a Surface Water Flood Risk Hotspot.

9.3 Biodiversity & Greening

Policy 34 of the City Plan seeks to encourage developments to contribute to the greening of Westminster through the provision of trees, green walls and roofs and other green features where possible. The policy also seeks to increase biodiversity and protect open spaces.

Objection comments raise concern that the proposed infill extension would result in a loss of valuable open, garden space. The current area where the proposed extension would be positioned is a paved, yard area, nestled between two existing closet wings

which does not appear to benefit from direct sunlight given its low-level position. The proposed roof terrace would provide outdoor amenity space for the upper floor dwelling and so it is not possible to incorporate a green roof in this instance. The extension would not project beyond the existing closet wings and so overall, significant open amenity space would be maintained at the rear. This considered, given the scale of the proposed extension and the amenity benefits the outdoor terrace space would provide for occupiers of the upper dwelling, the proposals are considered acceptable in this respect.

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 Planning (Listed Buildings and Conservation Areas) 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.”*

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. Given the proposals relate to alterations and extension of a building within the Pimlico Conservation Area the proposals are considered within the context of policies 38, 39 and 40 of Westminster's City Plan (adopted April 2021) and policies PIM 2 and PIM 4 of the Pimlico Neighbourhood Plan (adopted December 2022).

Consideration

The application site is a 19th century terraced property which is unlisted though located within the Pimlico Conservation Area. It is highlighted in the Pimlico Conservation Area Audit as an unlisted building of merit. Given its architectural design approach, detailing and facing materials closely following others throughout the conservation area, and its 19th century character and attractive appearance, the building is also regarded as a non-designated heritage asset.

Objection comments have been received which consider that the proposed rear extension would be harmful to the character and appearance of the building and Churton Place's contribution to the Pimlico Conservation Area.

The proposed rear extension is a single storey addition to the rear of the building and would be set between two larger closet wings whilst it would not project any further than these existing closet wings. The site has a rear brick boundary wall to the rear of the site which would screen much of the views of the structure from the mews to the rear. It is principally clad in bricks and it is recommended that these be conditioned to match those on the rear elevation of the building, and with timber doors, overall, it will integrate appropriately into the building and surrounding townscape. The new opening from the side elevation of the rear closet wing onto the terrace to the roof of the extension is considered inappropriately large, however it is sought to address this by a condition securing a new opening and door design of more appropriate scale and approach. Comments received have noted that the drawings do not clearly show the railings; these

are to be black painted metal and of a height sufficient for fall protection; however, a condition is recommended to secure further details.

Subject to the above, this extension and the associated alterations to the building are considered in line with Pimlico Neighbourhood Plan policies PIM 2 and PIM 4 which relate to protecting historic townscapes and promoting high quality design preserving and enhancing the conservation area, and with relevant City Plan policies and planning guidance.

The new staircase to the front lightwell is proposed in position where a staircase is assumed to have previously existed. Though not clearly shown in terms of its design, it is considered that that an appropriate design for this new feature could be appropriately addressed by a condition. Though a significant new intervention into the front lightwell, it more closely reflects the strongly assumed original built form of the building. A gate exists to ground floor in the railings, and the application states that the works do not require altering the front railings. As such, this element of the proposals is considered acceptable in design terms. The new door opening to the front lightwell at lower ground floor level is traditional in form and considered acceptable in design terms.

The submitted Sustainable Design Statement includes reference to the incorporation of a ventilation which may require external vents (not currently shown to the submission) and these could have implications for the external appearance of the building. It is recommended that details of these vents are secured by condition to ensure an appropriate approach for the building, and subject to that and the informative included to advise on an appropriate location this proposal is considered acceptable.

The above considered the proposals are considered acceptable in design terms and in line with relevant policy and planning guidance and the statutory duties set out in s. 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9.5 Residential Amenity

Policy 7 of Westminster's City Plan requires development to be neighbourly and would resist proposals that would result in harm to residential amenity by way of increased sense of enclosure, overlooking or loss of light. Policy 33 of the City Plan would resist proposals that would result in unacceptable levels of noise disturbance.

Objection comments raise concerns regarding noise, both during construction of the proposed extension and from the extension and ground floor roof terrace.

In terms of the extension itself, it would be contained between the existing closet wings and of a single storey, therefore the extension would not result in any unacceptable impact towards neighbouring occupiers by way of sense of enclosure or loss of light. Conditions are recommended to limit hours of construction to safeguard the amenity of surrounding occupiers as the extension is constructed.

It is noted that neighbouring properties on this side of Churton Place currently exhibit rear roof terraces at first floor level. The proposed roof terrace would be located at rear ground level, below the existing terrace of 10 Churton Place and between the flank elevations of the closet wings. The terrace would look towards the solid brick flank

elevation of Dell's Mews. Given its confined position, surrounded by solid elevations, the proposed terrace would not result in an unacceptable increase in overlooking towards surrounding properties. The proposed terrace would be used by the occupiers of the property and is only a single storey above the existing external yard area which has the same potential to allow social activity as the proposed roof terrace; therefore, its use is unlikely to give rise to an unacceptable increase in noise compared to use of the yard, which is only at a marginally lower level. It is also considered that the terrace would not result in any more potential noise disturbance than existing roof terraces within the row.

The above considered, the proposals are acceptable in amenity terms.

9.6 Transportation, Accessibility & Servicing

While it is disappointing that the proposals do not show cycle storage or waste storage areas, given the proposals do not result in any increase in the number of residential units nor number of bedrooms across the building, no increased transportation, accessibility or servicing requirements would arise.

9.7 Economy including Employment & Skills

Not relevant for the nature and scale of proposed development.

9.8 Other Considerations

Fire Risk

Comments also raise concerns relating to fire safety, particularly if the building is used as a HMO. The proposals consist of the reconfiguration and modest extension of the existing two units on the site – this would not give rise to significantly different fire risk. Means of escape in the event of fire would be through the existing ground floor entrance for the family sized unit and through a new lower ground floor door and external lightwell stairs. An objector raises concern that the Fire Safety Report measures the height of the building from street level, and consider it should be from garden level – however, these heights are in reference to a means of escape from the building in the event of fire, and given the escape would be to the street, measuring from the street level would be the most suitable for this purpose.

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

Pre-commencement conditions and planning obligations are not relevant in the determination of this application.

10. Conclusion

As established by the Certificate of Lawfulness granted in February 2023 the lawful use

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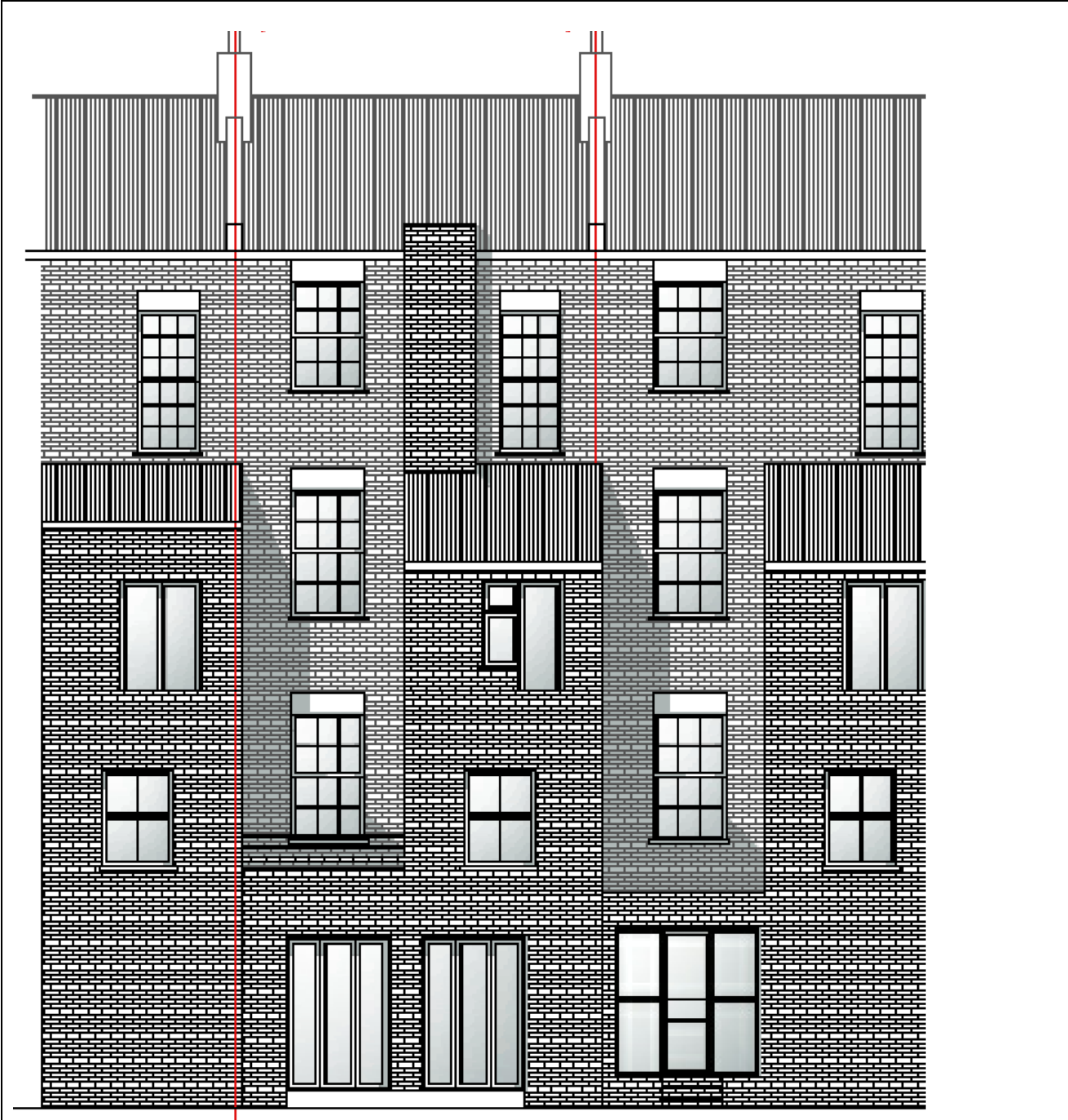
of the site is as two separate dwellings. As a result of the development the building would provide a family-sized dwelling of improved quality whilst there would be no loss of residential units. The proposed rear extension and roof terrace would not result in undue harm to the amenity of surrounding occupiers by way of overlooking, noise, sense of enclosure or loss of light. With recommended conditions for further design details, the proposals are also considered acceptable in design and heritage terms. Mindful of policies 3 within the development plan , a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JOSHUA HOWITT BY EMAIL AT jhowitt@westminster.gov.uk

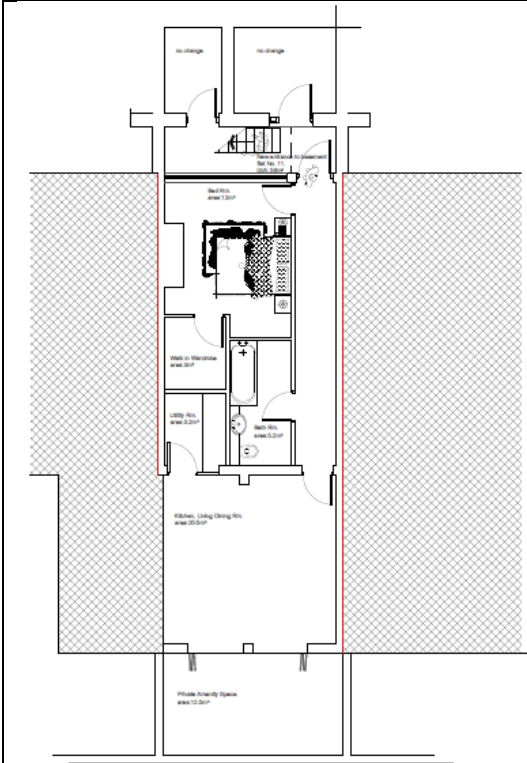
11. KEY DRAWINGS



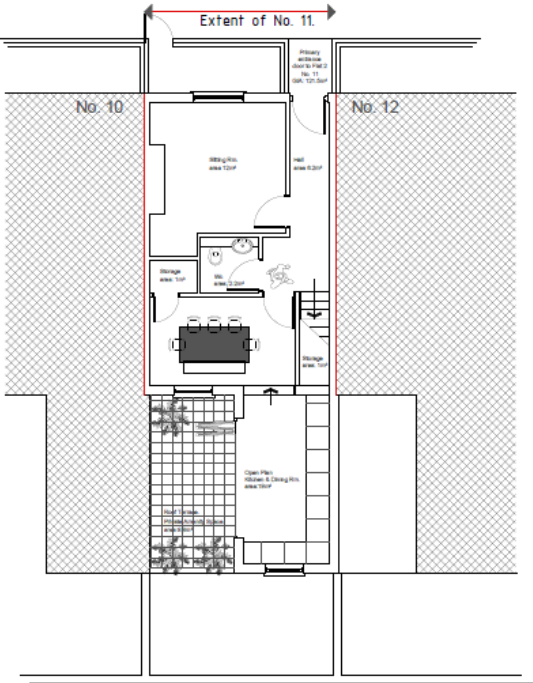


Proposed Rear
South Facing Elevation.

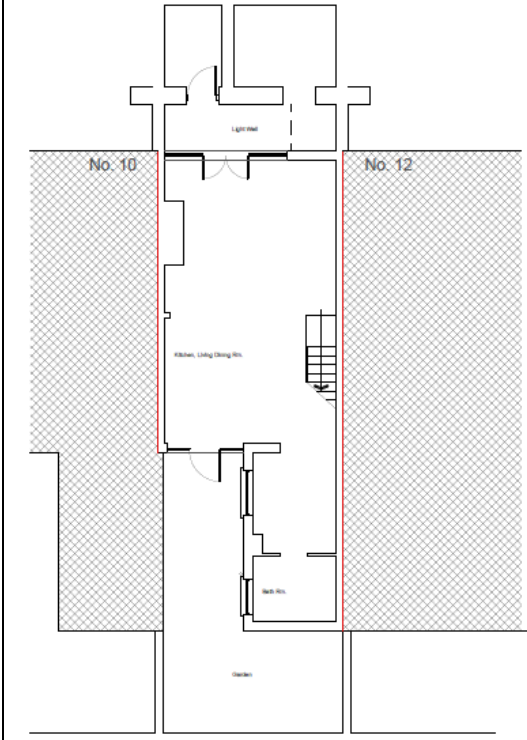




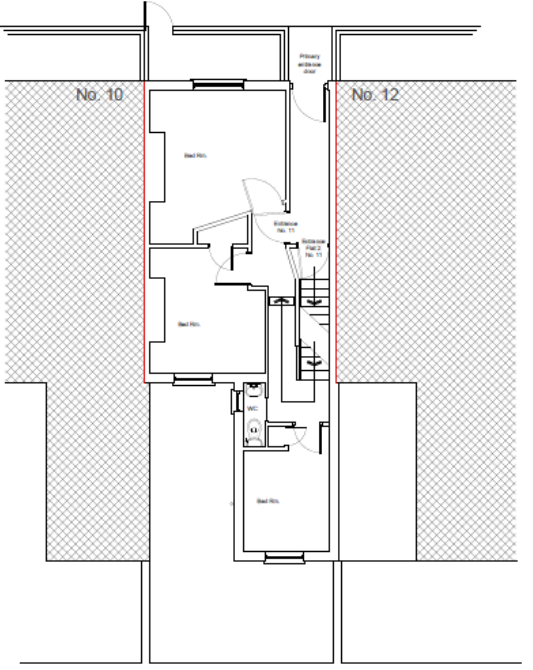
Proposed Basement Floor Plan.



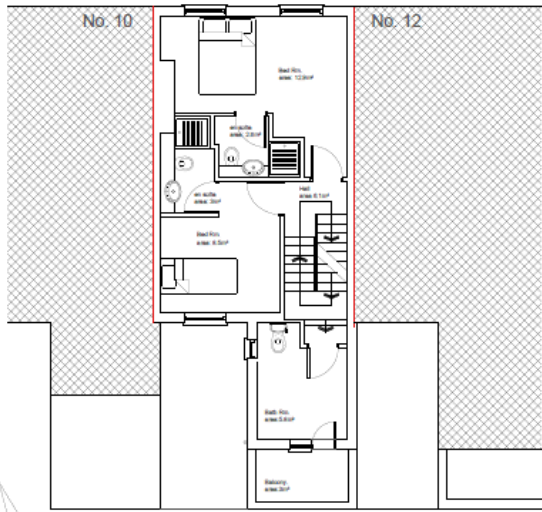
Proposed Ground Floor Plan.



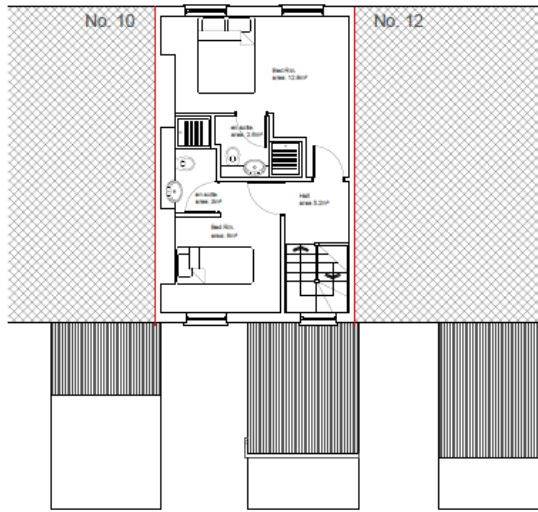
Existing Basement Floor Plan.



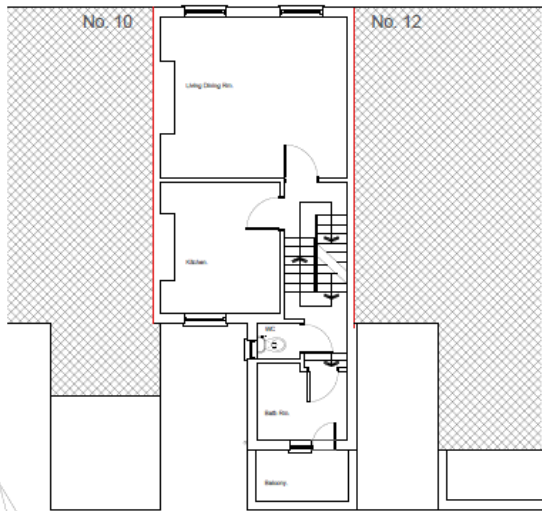
Existing Ground Floor Plan.



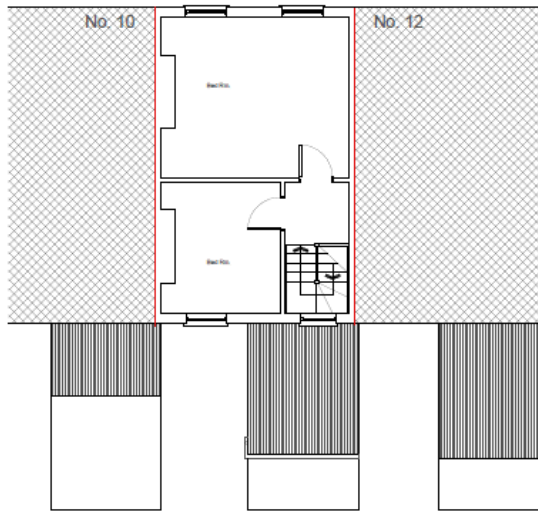
Proposed First Floor Plan.



Proposed Second Floor Plan.



Existing First Floor Plan.



Existing Second Floor Plan.

DRAFT DECISION LETTER

Address: 11 Churton Place, London, SW1V 2LN

Proposal: Formation of new entrance door and access staircase to basement front light well; and erection of single storey rear extension with a rear ground floor roof terrace and use of the lower-ground floor as a 1x bed flat and the ground, first and second floor as a 4x bed maisonette.

Reference: 23/00414/FULL

Plan Nos: 101 D; 102 D-1; 103; , , For Further Information;, Design & Access Statement Planning Statement by No.P Ltd; Sustainable Design Statement; Flood Risk Assessment; Heritage Statement

Case Officer: Jonathon Metcalfe

Direct Tel. No. 07866038118

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

- 4 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

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

- 5 Notwithstanding the submitted drawings, you must apply to us for approval of drawings and manufacturers specifications showing the location of any external vents in association with the mechanical ventilation and heat recovery system, and including their location, detailing and finished colour. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings and manufacturers specifications (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 Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 6 Notwithstanding the submitted drawings, you must apply to us for approval of detailed plan, elevation and section drawings showing the design of the new staircase to the front lightwell. These drawings must confirm that the staircase is formed in black metalwork, and incorporating a balustrade in black metal flanking the staircase which is designed with plain uprights beneath a flat handrail. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 7 Notwithstanding the submitted drawings, you must apply to us for approval of a revised elevation drawing showing amendments to the scheme; namely, showing the area shown occupied by the central of the three doors to the side elevation of the existing

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rear closet wing at ground floor level (as shown to 'Proposed Side East Facing Elevation' on drawing 102D) retained as the existing brickwork elevation, with the proposed doors flanking either side of this on drawing 102D remaining as shown on the application drawings submitted with the scheme. 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 this drawing. (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 Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 8 Notwithstanding the submitted drawings, you must apply to us for approval of railings to rear ground floor level (on the roof of the new lower ground floor extension). You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Pimlico 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 With regards to condition 5, you are advised that proposals for vents on the front elevation, main rear elevation or the rear elevation of the existing closet wing projection would not be considered acceptable. The only location where it appears there is scope for their sensitive and discreet inclusion into the elevations of the building is to the side elevation of the rear closet wing where it faces back into the application site (ie. not on its external party wall side)
- 3 With regards to condition 8, you are advised that the strong expectation is that the railings will be designed as simple and undecorated uprights beneath a flat handrail with no finials above

Please note: the full text for informatives can be found in the Council's Conditions, Reasons

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& Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

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Agenda Item 4

Item No.

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 th April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Lancaster Gate	
Subject of Report	10 Upbrook Mews, London, W2 3HG		
Proposal	Erection of roof extension with associated terrace; Conversion of garage to habitable space; Formation of new windows and doors; and associated external alterations.		
Agent	Sand Architects		
On behalf of	Mr John Gulian		
Registered Number	22/07278/FULL	Date amended/ completed	1 February 2023
Date Application Received	27 October 2022		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application site forms part of an unlisted mews terrace located within the Bayswater Conservation Area.

Permission is sought for the construction of a flat-topped mansard roof extension, conversion of the garage to living accommodation with associated elevation changes. The application has been revised to overcome design concerns and re-consultation took place as a result of these changes.

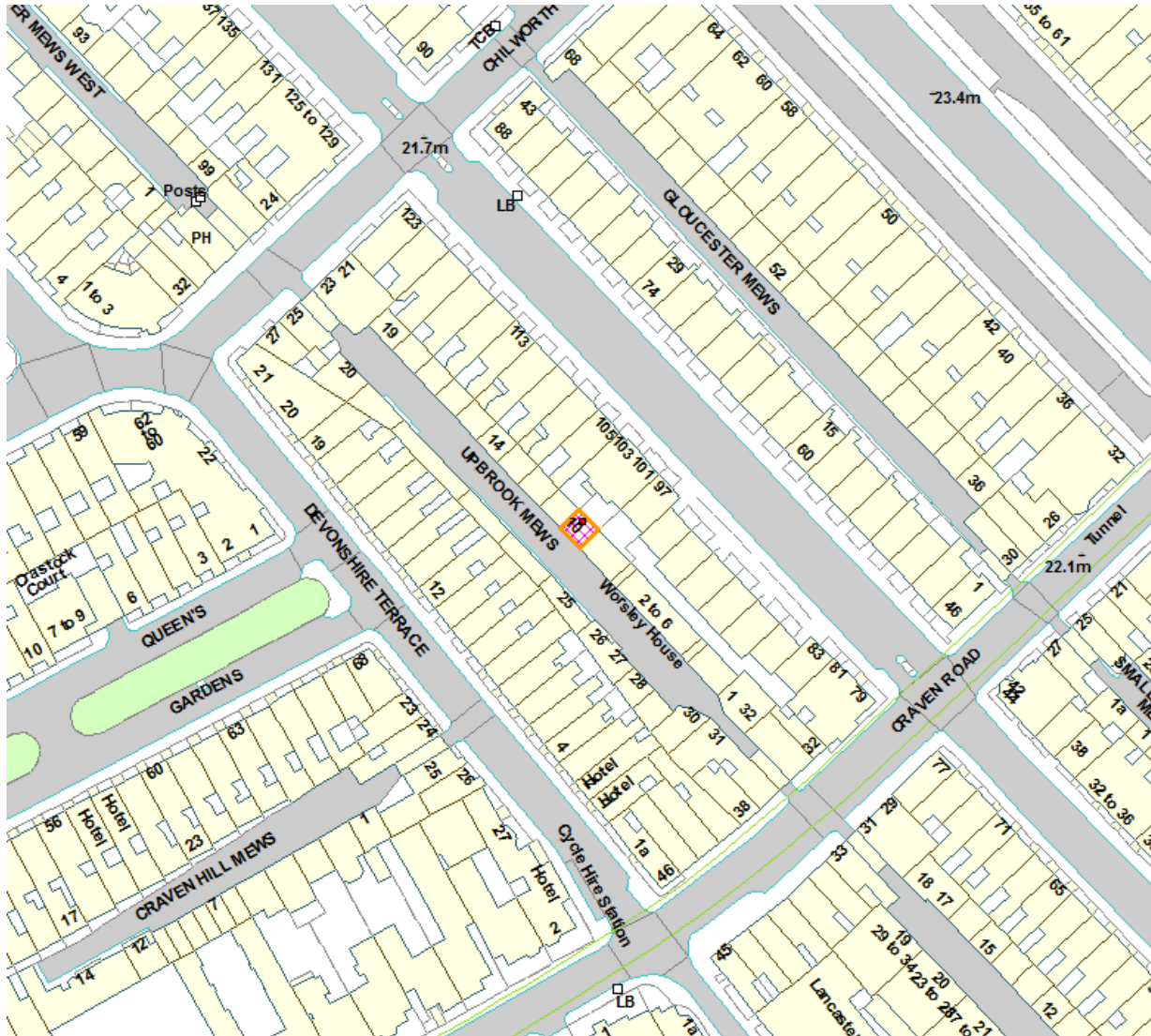
Objections have been received from the South East Bayswater Resident's Association and neighbouring properties on the grounds of the loss of garage and the impact of the roof extension and terrace on amenity.

The key issues in the determination of this application are:

- The impact of the works on the character and appearance of the Bayswater Conservation Area;
- The impact of the mansard roof on the amenity of neighbouring properties;
- The impact of the loss of the integral garage for parking of a car.

For the reasons as discussed in the report, the proposals are considered in accordance with City Council policies as set out in the City Plan 2019-2040 with respect to land use, design and highways and is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front Elevation



Rear Elevation (taken from Flat A Devonshire Court)

5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION

WARD COUNCILLORS FOR LANCASTER GATE:

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS' ASSOCIATION:

Objection.

- Insufficient information provided regarding the consideration of the neighbouring context – the impact of the proposed higher roof at the rear upon daylight and sunlight reaching low level flat behind at 101 – 103 Gloucester Terrace. Without this information, our conclusion can only be that the proposal causes harm through loss of light and also creates a sense of enclosure; and potentially also through reflections from large areas of glazing at the rear of the proposed mansard roof.
- A similar application (84/04289/FULL) was refused in 1984 or 1985 on amenity and parking grounds, including a condition that the garage should be used only for the storage of a motor vehicle. (NB- This application was approved with conditions)
- Loss of daylight and sunlight
- Increase in sense of enclosure.
- No daylight report has been submitted.
- Light pollution from four skylights
- Lack of consistency between the fenestration on the front elevation which will harm the conservation area.
- Four skylights are excessive in size.
- Loss of garage will increase pressure in on street parking.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 78

Total No. of replies: 6

No. of objections: 6

Six objections received from several flats within Devonshire Court, at 101 – 103 Gloucester Terrace and from Swinton House, 85 – 97 Gloucester Terrace on some or all of the following grounds:

Amenity:

- Loss of light from roof extension
- Loss of privacy
- Noise pollution and disturbance from terrace

Highways:

- Loss of garage will create more on-street parking.

It is noted that several letters of objection submitted include points stating no objection raised to the replacement of the windows to the front and the garage conversion.

PRESS NOTICE/ SITE NOTICE:

Yes

RE-CONSULTATION (following amendments made to the mansard roof design and fenestration changes to front elevation):

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 78

Total No. of replies: 1

No. of objections: 1

One objection received from those that have already made an objection, reiterating their original objection.

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

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

10 Upbrook Mews is an unlisted mid-19th century two storey painted brick fronted mews house in use as dwellinghouse that is located in the Bayswater Conservation Area. To the rear the residential block of flats 101 – 103 Gloucester Terrace is unlisted however from No 105 Gloucester Terrace onwards are Grade II listed.

7.2 Recent Relevant History

84/04289/FULL

ALTERATION AND CONVERSION TO DWELLING WITH PRIVATE GARAGE

Approved 18 February 1985

Condition 2 states:- The garage shall not be used for any purpose (including use as living accommodation) other than the garaging or storage of a private motor vehicle and no trade or business shall be carried on therefrom.

Reason:- In order to safeguard the amenities of the residential building and of the area generally.

8. THE PROPOSAL

Permission is sought for the conversion of the garage to living accommodation with associated elevational fenestration alterations, replacement windows, construction of a roof extension with associated terrace to the front.

The proposal has been amended during the course of the application to omit the Juliet balconies from the front elevation, alter the window design, lower the height of the roof extension and reduce the rooflights to the rear.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The enlargement of the existing dwellinghouse is acceptable in principle in land use terms in accordance with policy 8 of the City Plan 2019-2040.

9.2 Environment & Sustainability

Sustainable Design & Energy Performance

The proposal would provide high quality additional residential floorspace to the existing property. The roof extension will have good insulation and the windows will have sound thermal energy performance. The proposal includes three solar panels at roof level which is welcomed. 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

Environmental Supplementary Planning Document.

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 flood risk assessment concludes that the proposals to extend this dwelling and the risk of flooding and surface water flooding is very low. The development will be renewed with a new damp proof membrane throughout, and the existing drainage channels will remain.

Light Pollution

There is unlikely to be any detrimental light pollution arising from the windows within the mansard roof. These replicate the window positionings of other mansards in the mews.

9.3 Biodiversity & Greening

The proposal does not include any proposals for greening of the building or site. A green roof has not been proposed, as any upstand to support a green roof would increase the height of the mansard roof which would not be supported in design and townscape terms. Given the site and the nature of the proposal, there is little alternative scope to include greening in this particular case. As such whilst regrettable, is not considered a reason to justify withholding permission.

9.4 Townscape, Design & Heritage Impact

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(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 turn, Policies 38, 39 and 40 of the City Plan are of particular relevance when considering the proposed works.

The mansard roof, as amended, is a flat topped hipped mansard roof. A dormer window and a small terrace with French doors are proposed to the front elevation and three rooflights are proposed in the rear roof slope. The mansard has been designed to replicate the neighbouring mansard at 11 Upbrook Mews with a slightly lower height.

The applicant notes that within the mews, several properties benefit from mansard roof extensions namely 15 and 19 Upbrook Mews. It should also be noted that changes to an existing roof extension to a traditional mansard roof was approved at 29 Upbrook Mews in 2018.

Mansard roofs are commonplace within this mews with almost half the properties on the eastern side and almost all of the properties on the western side having one. It is therefore considered that the principle of a mansard roof extension would be difficult to resist and that an appropriately designed mansard would help unify the character of the mews.

The proposed mansard is appropriately designed, including 75 degree primary pitches, a traditionally detailed zinc clad dormer, aluminium windows and slate tiles and relates well to the terrace as a whole, noting the variety of mansard and roof extensions.

The alterations to the garage door on the front elevation also raise no design concerns. There is a variety of treatments at ground floor level within the mews, from garage doors, garage doors with windows above (serving rooms behind), windows across the whole elevation and car ports. The detailed design of the garage door with glazing above is acceptable and does not detract from the character and appearance of the mews.

Whilst the windows are aluminium framed, there are many different types of materials present along the mews and it is not considered that the proposed would cause concern. Furthermore, the green glazed tiles forming a band at ground floor level on the front elevation do not raise any design concerns.

The proposals are considered to accord with the aims of the identified policies and will preserve the character and appearance of the Bayswater Conservation Area and the setting of the nearby listed buildings.

As such, the proposal is considered acceptable, mindful of policies 38, 39, 40 and 45 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory

duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers is protected.

A number of objections have been received on grounds of loss of light, loss of privacy and noise disturbance from the proposed roof extension and the proposed terrace to the residential flats to the rear at 101 – 103 Gloucester Terrace particularly at lower levels.

As viewed on site by the case officer, the application site already benefits from a built up rear party wall for over half the rear wall, the remainder will be built up to match the existing height, with the pitch of the rear roof slope approximately 45 degrees with three rooflights. The height of the mansard roof will be set 20cm lower than the existing mansard at the adjacent property, 11 Upbrook Mews. The distance to the nearest residential windows at lower level to the rear is 5.7m. Whilst it is recognised that there will be an increase in height (1.8m) and bulk of the building, given the pitch of the roof slope and the distance of 5.7m to the rear elevation of the residential flats within Devonshire Court it is not considered that the change would be substantial enough to result in any significant increase of enclosure or loss of daylight.

As there are already windows at first floor level to the front of the building the introduction of a dormer window to the second floor mansard is not considered to result in any significant increase in overlooking to neighbours on the opposite side of the mews. The introduction of an external terrace to the front at second floor level will mirror the existing arrangement at the adjacent property, 11 Upbrook Mews. As such, given the existing arrangement, size of terrace and distance to neighbours opposite, it is not considered to give rise to any significant overlooking to neighbours on the opposite side of the mews. Furthermore, given the small domestic size (3.5sqm) of the terrace, it is not considered to result in any significant noise disturbance to neighbours. It is noted that objections to the terrace on loss of privacy and noise grounds have been received from the properties to the rear. However, due to the application site and the location of the proposed terrace to the front of the property, the terrace is not considered to result in significant overlooking or noise disturbance to these neighbours.

To the rear, the proposed roof slope will be clad in tiles with three sloped rooflights. It is proposed that two of these are to contain obscured glazing, the remaining one will serve the stairwell and therefore given their height and proximity to neighbouring windows it is considered that they preserve the privacy of Gloucester Terrace residents. In order to ensure this, a condition is recommended that these rooflights must contain obscured glazing and that this obscured glazing must remain in situ.

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

Objections have been received from residents with respect to the loss of the integral garage for the parking of a car and the increase in pressure on on-street parking in the area.

Whilst it is acknowledged that the loss of the garage may result in a marginal increase in local parking demand for on street parking, the loss of the existing garage is in accordance with policy 27 of the City Plan 2019 - 2040. As the proposal is supported in policy terms the minor increase in parking demand is not sufficient grounds to refuse permission.

Policy 27 of the City Plan 2019 – 2040 states that our approach to residential car parking confirms to the London Plan principles in which car parking free developments are now welcomed with the encouragement of sustainable travel modes such as walking and cycling, therefore whilst it is noted that within the original planning permission decision notice dated 18 February 1985 a condition was attached preventing the use of the garage for any use apart from the garaging or storage of a private motor vehicle, the recent change in policy now results in the proposed change of use of the garage to living accommodation complying with policy 27.

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

None.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

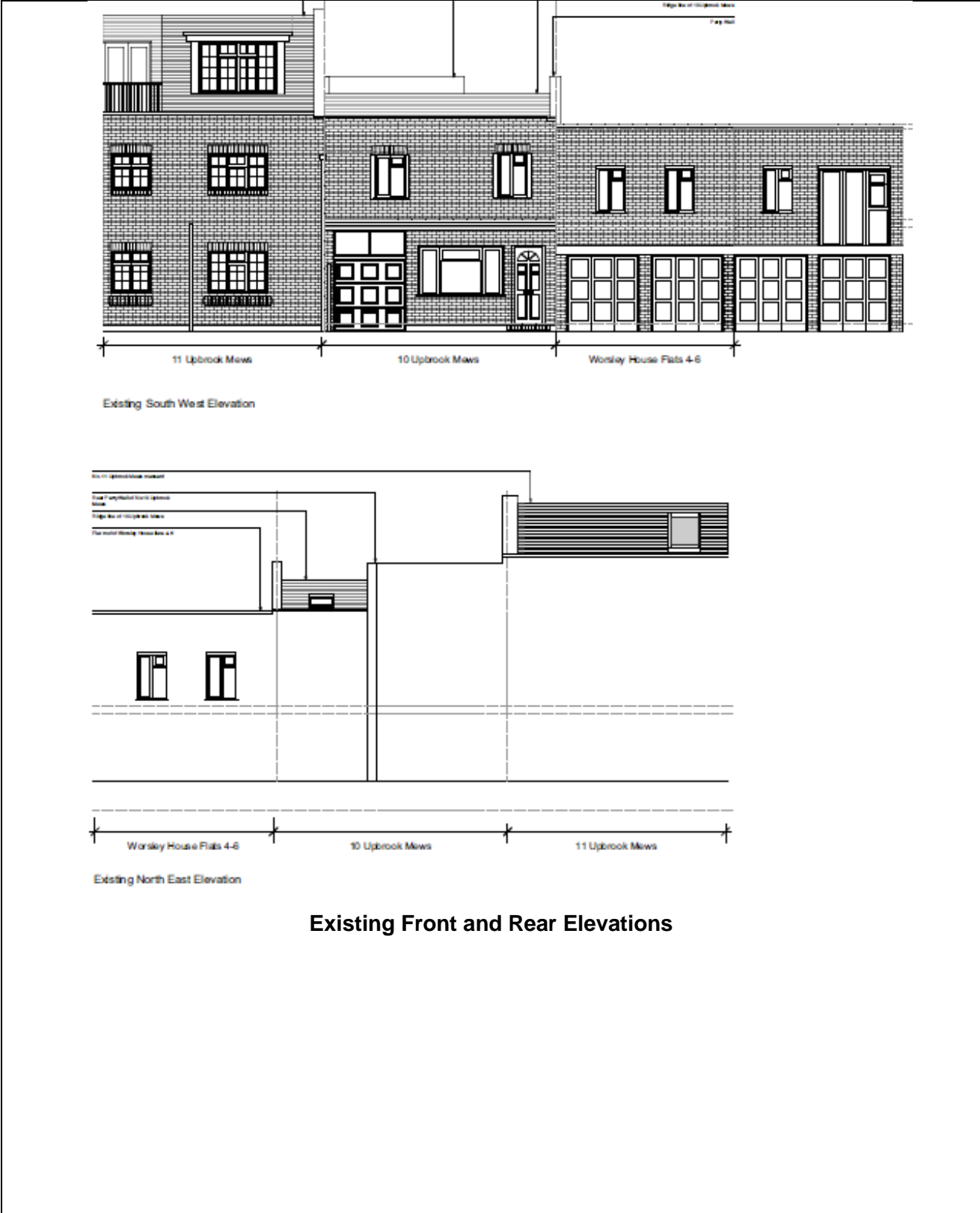
The proposals for additional residential accommodation are acceptable and the works to facilitate this are acceptable in conservation and design terms and are not considered to harm surrounding residential amenity. As such, notwithstanding the objections raised, the proposal is considered acceptable, mindful of policies 7, 8, 33, 34, 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: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk

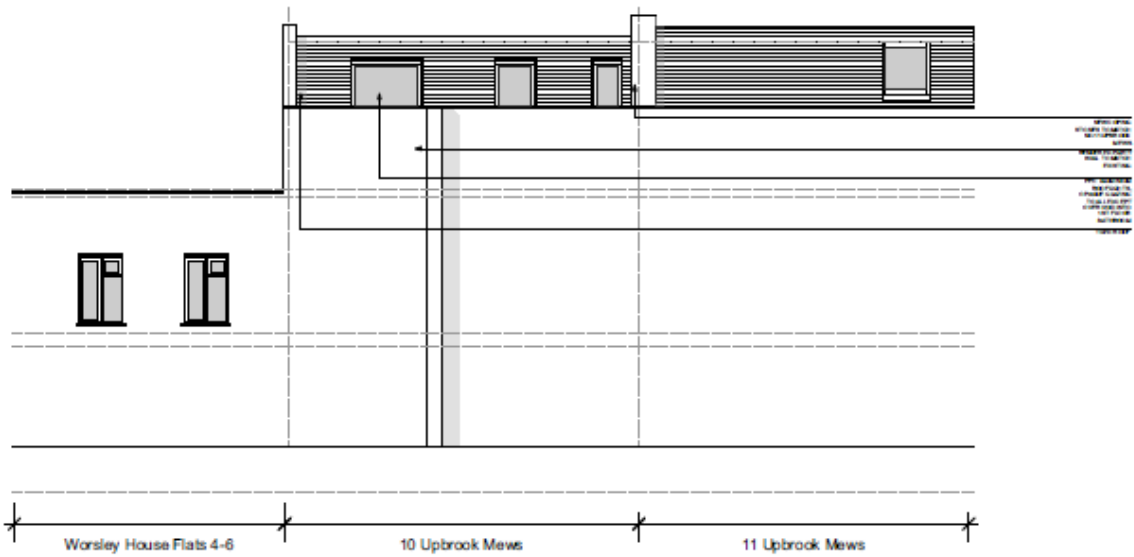
11. KEY DRAWINGS



Existing Front and Rear Elevations

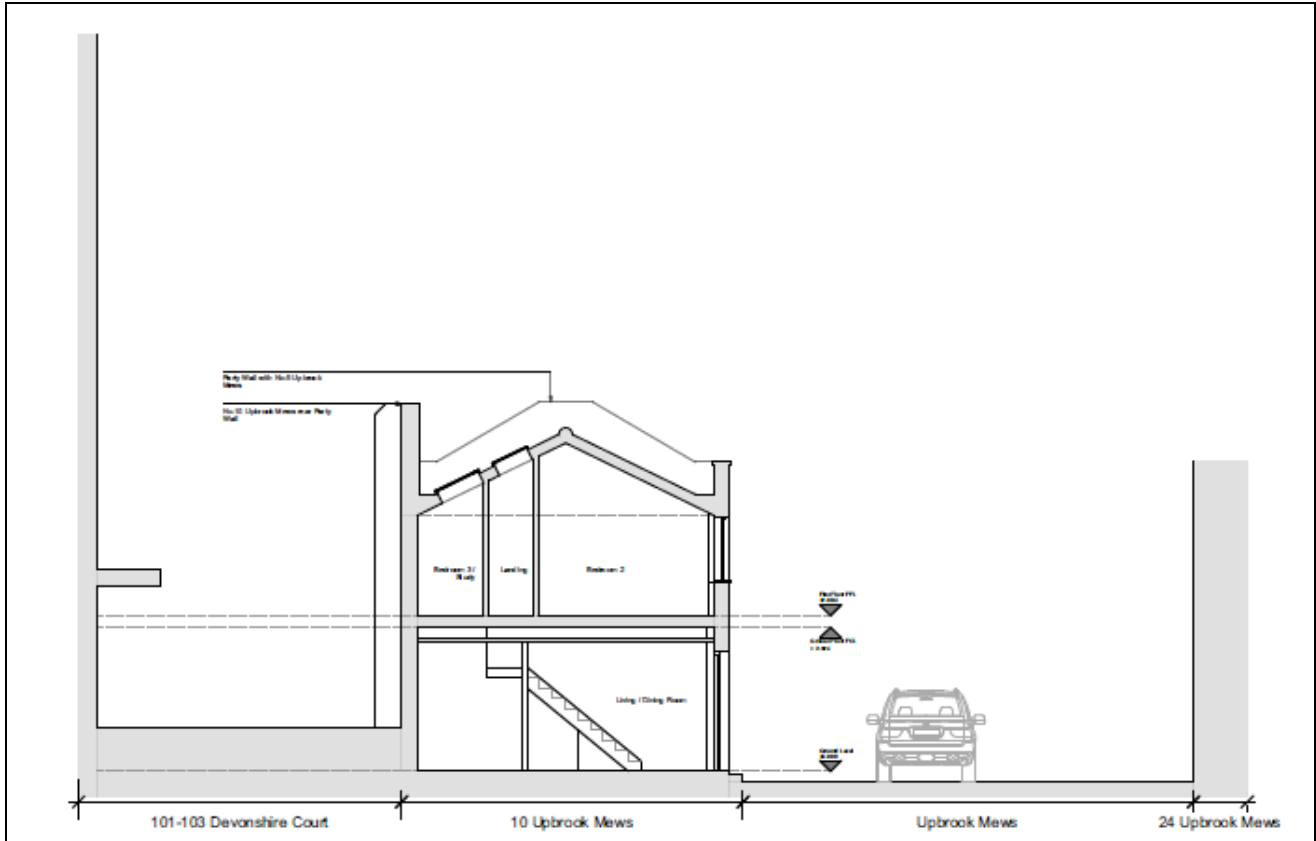


Proposed South West Elevation

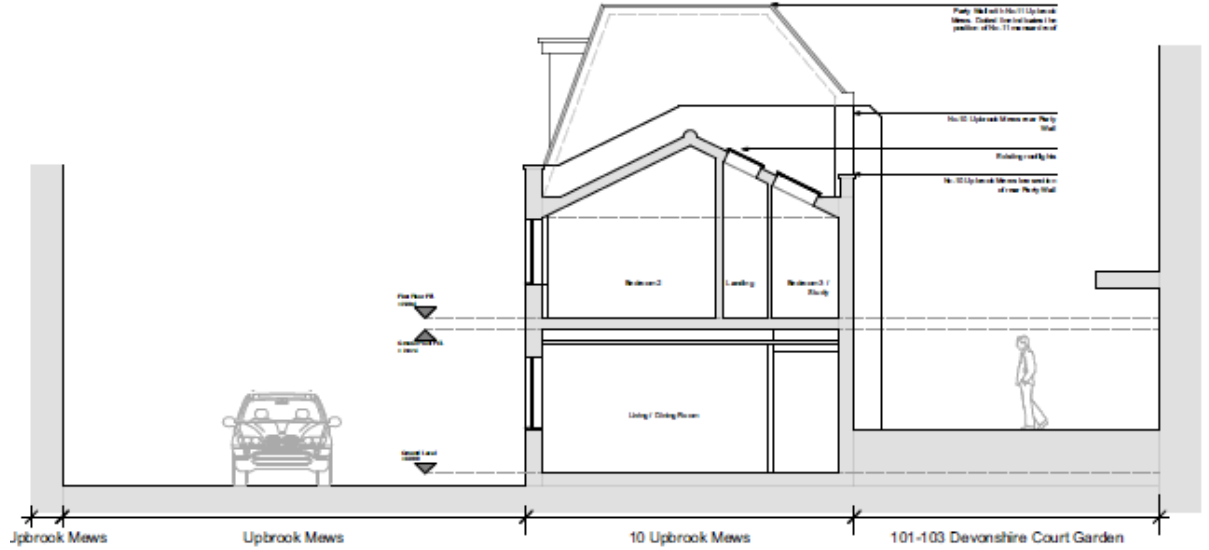


Proposed North East Elevation

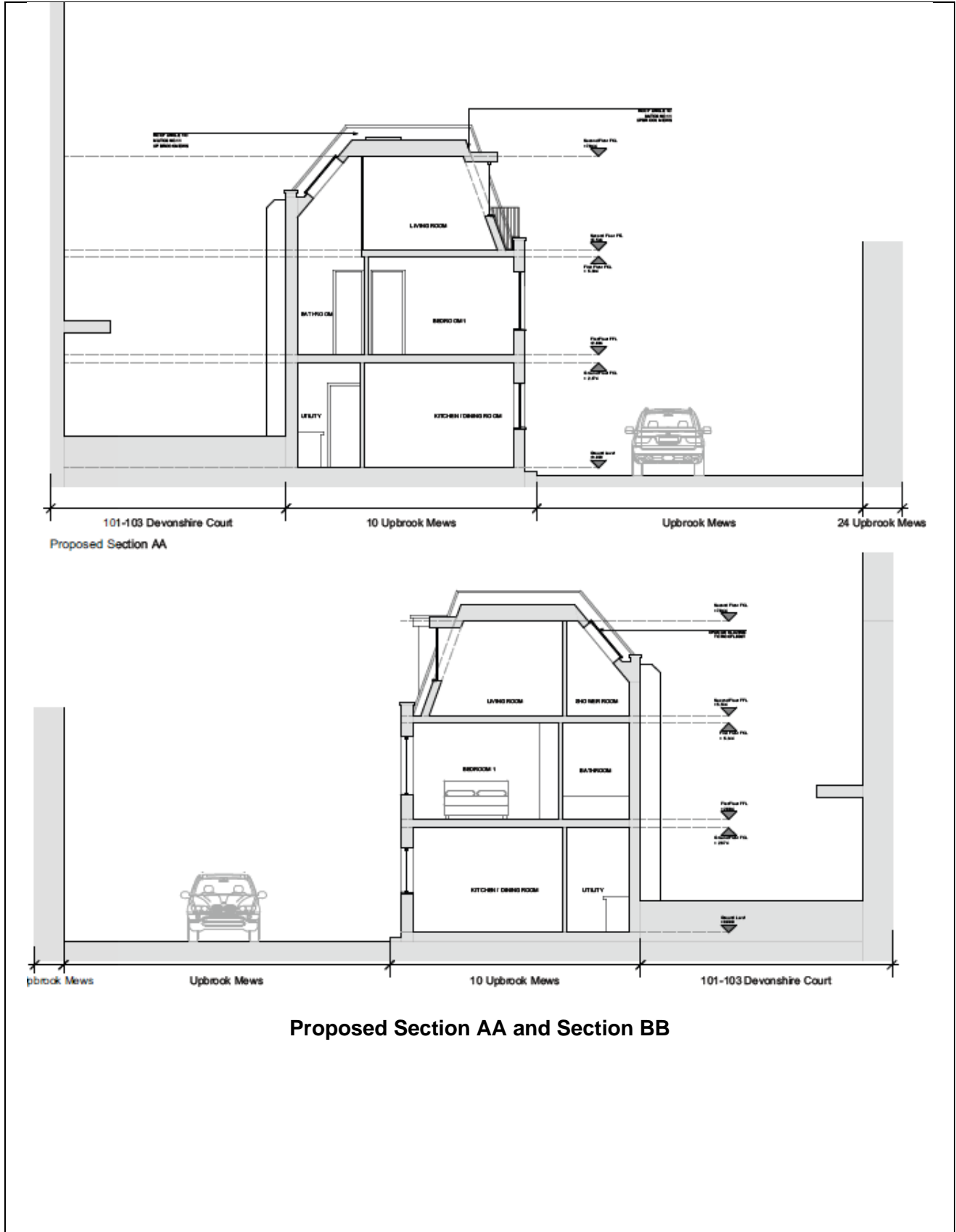
Proposed Front and Rear Elevations

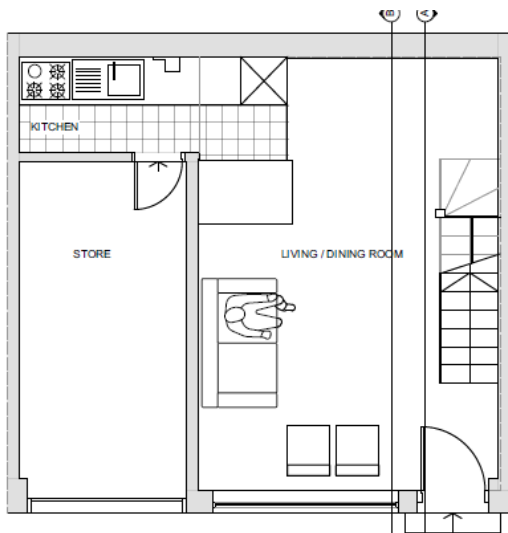


Existing Section AA

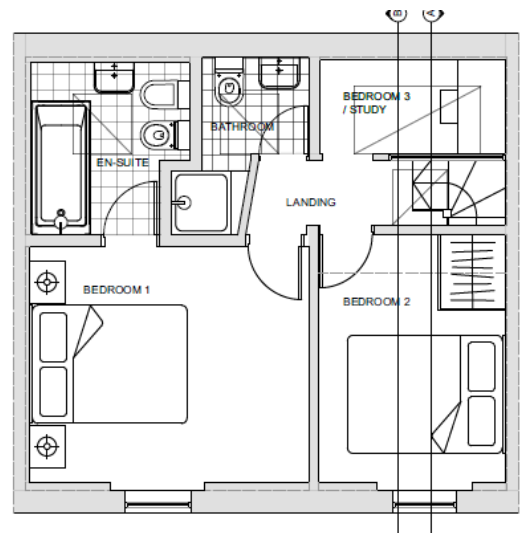


Existing Section AA and Section BB

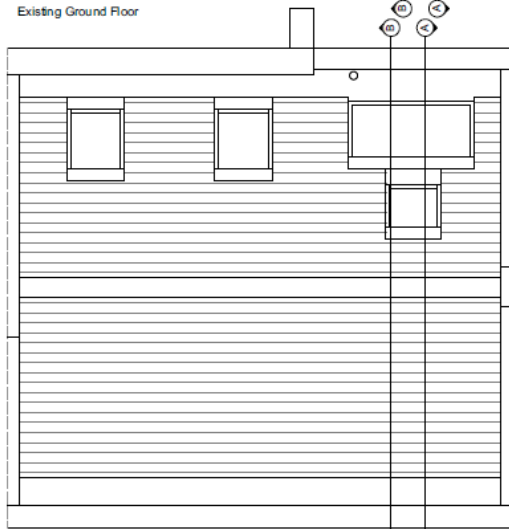




Existing Ground Floor

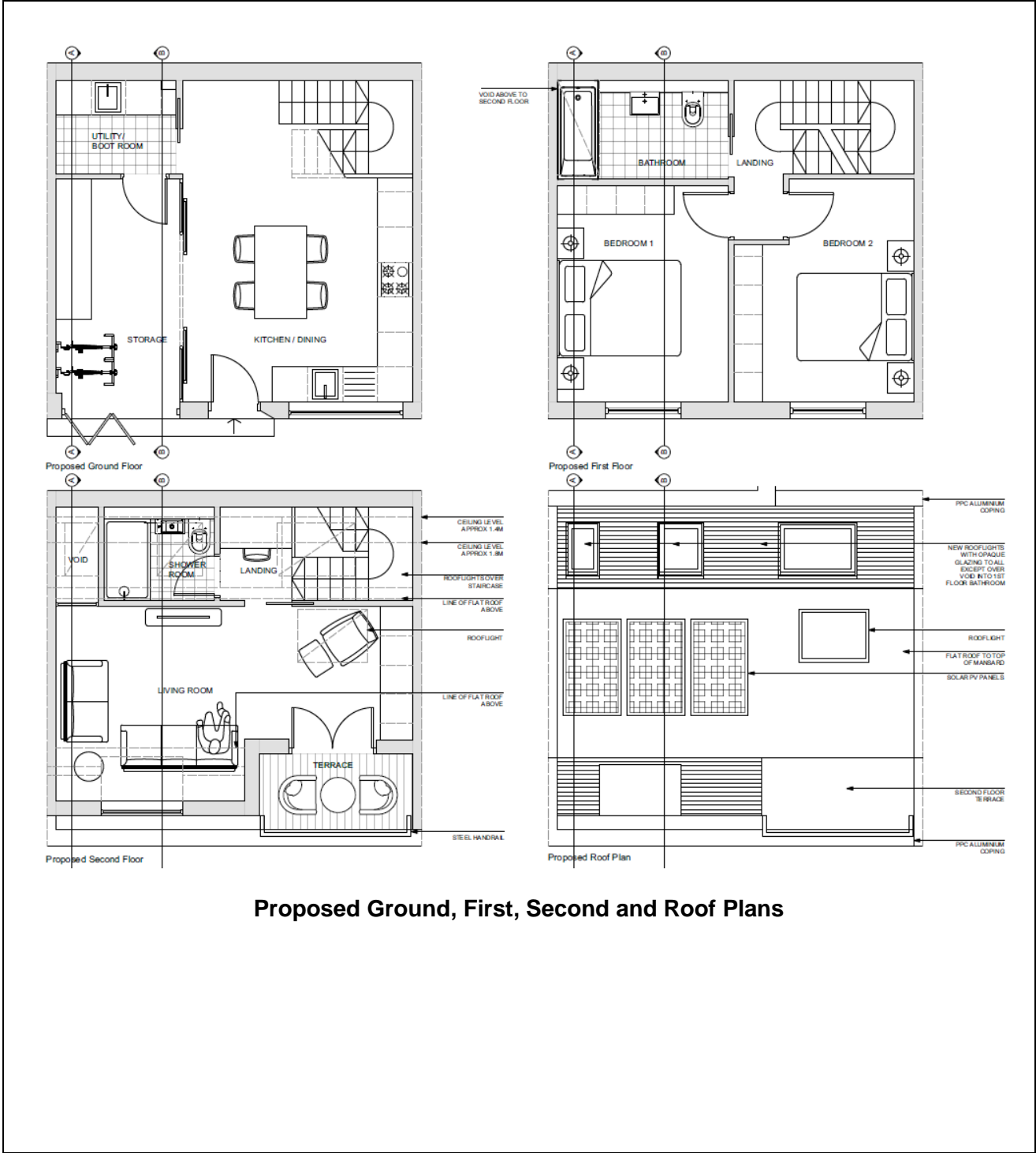


Existing First Floor



Existing Roof Plan

Existing Ground, First and Roof Plan



DRAFT DECISION LETTER

Address: 10 Upbrook Mews, London, W2 3HG

Proposal: Erection of roof extension with associated terrace; Conversion of garage to habitable space; Formation of new windows and doors; and associated external alterations.

Reference: 22/07278/FULL

Plan Nos: Site Location Plan, P22-001-SAND-XX-ZZ-DR-A-05101-P1, P22-001-SAND-XX-ZZ-DR-A-05102-P3, P22-001-SAND-XX-ZZ-DR-A-05103-P2, P22-001-SAND-XX-ZZ-DR-A-05106-P2, P22-001-SAND-XX-ZZ-DR-A-05105-P2, P22-001-SAND-XX-ZZ-DR-A-05107-P2, Flood Risk Assessment dated 01 November 2022 and Design and Access Statement dated 04 October 2022.

Case Officer: Frederica Cooney

Direct Tel. No. 020 7641
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 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 metal railings at roof level must be finished in black and maintained in this colour 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 two rear roof lights at Second Floor level situated in the mansard roof must contain obscured glazing. A sample of the obscure glazing shall be submitted to and approved to the City Council as local planning authority before works start on this part of the development.

The development shall be carried out in accordance with the approved sample and you shall not remove the obscure glazing unless agreed in writing by the City Council as local planning authority.

Reason:

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

- 6 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

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

- 7 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 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)

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

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.
5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved St James's	
Subject of Report	Vernon House, 40 Shaftesbury Avenue, London		
Proposal	Use of basement and ground floors as a drinking establishment (Sui Generis).		
Agent	Pegasus Group		
On behalf of	Simmons Camden Limited		
Registered Number	22/07879/FULL	Date amended/ completed	19 November 2022
Date Application Received	19 November 2022		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

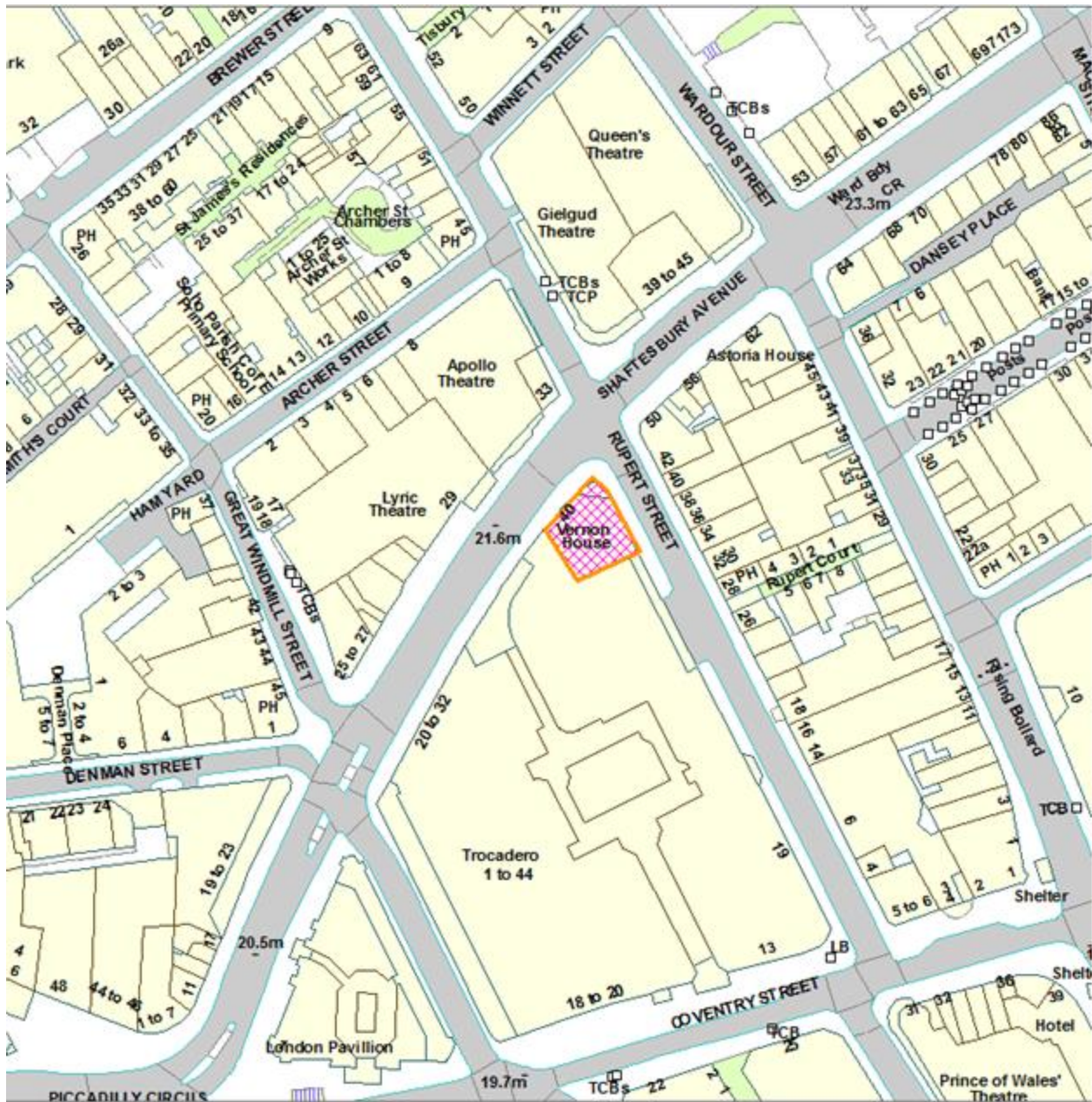
The application involves the use of the basement and ground floors of the building as a bar. The intended operator is Simmons cocktail bar. The premises has recently been occupied as a souvenir/vape shop but, historically, was in restaurant use.

The key considerations in this case are:

- The acceptability of the proposal in land use terms
- The impact on the amenity of neighbouring occupiers.

For the reasons set out in the report, it is considered that the proposal, with conditions, is acceptable in land use, amenity and highways terms. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Shaftesbury Avenue



Rupert Street



5. CONSULTATIONS

5.1 Application Consultations

SOHO SOCIETY

No response to date

ENVIRONMENTAL HEALTH

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 61

Total No. of replies: 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, including the Soho Society and Nimax Theatres, prior to the submission of the planning application in accordance with the principles set out in the Early Community Engagement guidance.

The applicant's Statement of Community Involvement and other application documents identify that the scheme has been revised to include an earlier terminal hour (from 03.00 to 02.00 hours) following discussions with the Soho Society.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

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

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

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site comprises the basement and ground floors of Vernon House, which lies at the junction of Shaftesbury Avenue and Rupert Street. The lower floors have recently been occupied as a souvenir/vape shop, but were previously in restaurant use (Fratelli la Bufala, an Italian restaurant), following a permission granted in 2010. Part of the ground floor of the former restaurant has recently been converted into a bureau de change (Class E), and is not included within the current proposal.

Vernon House is part of the Trocadero, a large entertainment complex which contains a mix of uses including retail, restaurants and cafes at ground level, and a night club at basement level. The majority of the complex, including the floors immediately above the former restaurant, has been converted to a 740-bedroom hotel with a roof level restaurant and bar, 'The Skybar'.

The site is located within the Central Activities Zone (CAZ), the West End and Leisure Special Policy Area (WERLSPA), the Strategic Cultural Area: West End and the Soho Conservation Area. This part of the Trocadero is not listed, and the nearest listed buildings are the Apollo and Lyric Theatres, on the opposite side of Shaftesbury Avenue.

The area is characterised by ground floor commercial uses. There are limited residential properties on Shaftesbury Avenue and some flats on Rupert Street, the closest being at 40 Rupert Street.

7.2 Recent Relevant History

Permission was granted on 27 May 2010 for the use part basement, ground and first floors as restaurant (Class A3) and installation of an extract unit at roof level. Implemented.

A recent licensing application 23/00236/LIPN was withdrawn by the applicant.

8. THE PROPOSAL

This proposal seeks permission for the use of the basement and ground floors as a cocktail bar, with music (sui generis). The unit would be occupied by Simmons Bar who operate in over 20 venues across London, including in Westminster.

The proposed opening hours are from 15.00 to 02.00 hours on Monday to Saturday, and from 15.00 to 22.30 hours on Sunday.

No external alterations are proposed. An internal lobby is proposed to accommodate customers arriving at the main entrance on Shaftesbury. Access/egress from a secondary entrance, at the corner of Shaftesbury Avenue/Rupert Street, would be prevented after 24.00 hours. A separate means of escape exits onto Rupert Street.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Overview

The site lies within the CAZ and the WERLSPA (the West End Retail and Leisure Special Policy Area) as designated in the City Plan.

London Plan Policy SD4 seeks to promote the unique international, national and London-wide roles of the CAZ, based on an agglomeration and rich mix of strategic functions and local uses. The policy also states that "the unique concentration and diversity of cultural, arts, entertainment, night-time economy and tourism functions should be promoted and enhanced".

Policy HC6 of the London Plan requires boroughs to develop a vision for the night-time economy, supporting its growth and diversification, and requires local development plans to promote the night-time economy, where appropriate, particularly in the CAZ, strategic areas of night-time activity, (which includes the West End) and town centres, where public transport such late night underground and bus services are available, in order to build on the Mayor's vision for London as a 24-hour City. The policy encourages the diversification of the range of night-time activities, including extending the opening hours of existing daytime facilities and seeks the protection and support of evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues. However, the policy also requires the boroughs to take account of the cumulative impact of high concentrations of licensed premises, having regard to potential anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses, and to seeks ways to diversify and manage these busy areas.

City Plan Policy S1.A (Westminster's spatial strategy) seeks to ensure that Westminster will continue to 'grow, thrive and inspire at the heart of London as a world city'. Policy 1 acknowledges the need to balance the competing functions of the Central Activities Zone (CAZ), including those as a retail and leisure destination and home to residential neighbourhoods.

City Plan Policy 2 recognises that the intensification of the WERLSPA will deliver certain priorities, including an improved retail and leisure experience that responds to innovation and change in the sector, along with a diverse evening and night-time economy and enhanced cultural offer. The supporting text (paragraphs 2.7, 2.9 and 2.10) anticipates that the WERLSPA will absorb much of Westminster's future commercial growth,

including the development of retail, food and drink uses and entertainment uses; will protect and support the arts, culture and entertainment offer, for residents, workers, and visitors, and diversify the food and beverage offer whilst, at the same time, minimising negative impacts on residential neighbourhoods. The West End is recognised as home to the largest evening and night-time economy in the UK, supporting a wealth of cultural uses, pubs, bars, restaurants, nightclubs, cinemas, theatres and other leisure uses.

City Plan Policy 14 concerns town centres, high streets and the CAZ, with their intensification supported in principle for main town centre uses. Uses that provide active frontages will be required at ground floor level, with the WERLSPA providing a wide mix of commercial uses that support the West End's role as a cultural hub and centre for visitor, evening and night-time economy. Policy 14 goes on to state that town centre uses will be supported in principle in areas of the CAZ with a commercial or mixed-use character, having regard to existing mix of land uses. The supporting text (paragraph 14.5, 14.6 and 14.7) acknowledges that, to ensure their long-term sustainability, town centres will need to provide a mix of commercial uses to create an environment which encourages customers to shop, access services, and spend leisure time, whilst also supporting their role as major employment hubs and visitor destinations., "...town centre uses such as pubs and drinking establishments, exhibition spaces, cultural and leisure uses, can all help support the future success of these key clusters of commercial activity...".

Policy 16 (A) of the City Plan requires proposals for food and drink and entertainment uses to be of a type and size appropriate to their location. The over-concentration of these uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate. The definition of entertainment uses within the City Plan glossary includes uses premises dominantly, or partly used for entertainment purposes including live music venues and other sui generis uses e.g., nightclubs, casinos and amusement arcades.

Related policies

To ensure that any detrimental impacts on existing users of an area are avoided, City Plan policy 7 requires new development to be 'neighbourly' by protecting, and where appropriate enhancing, local environmental quality and protecting and positively responding to local character and the historic environment. In considering development proposals, the Council will take a balanced approach that considers the specific site location and context as well as the merits of the proposals, including the consideration of the wider benefits of a scheme against impacts on the surrounding area.

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents and development to prevent the adverse effects of noise and vibration, with particular attention to minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses, minimising noise from plant machinery and internal activities and minimising noise from servicing and deliveries.

Licensing position

The proposal lies within the West End Cumulative Impact Zone, as set out within the City Council's Cumulative Impact Assessment which has been produced as an approach to licence applications. In cumulative impact areas, there is a presumption that the licensing authority will refuse or impose limitations on applications which are likely to add to the cumulative impact unless the applicant can demonstrate that there will be no negative cumulative impact on the licensing objectives. However, Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations.

Proposed use and impact on amenity

The proposed use accords with the principles of the aforementioned land use policies subject to consideration of the impacts of the new entertainment use in terms of scale of activity, relationship to any existing concentrations of entertainment uses (and any cumulative impacts) and impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

The supporting text to Policy 16 acknowledges that "the cumulative impact of multiple food, drink and entertainment uses in a particular area can have a negative impact on the functioning and use of an area and can negatively impact residential amenity. We will therefore prevent the over-concentration of these uses and require proposals to make sure any negative impacts are managed (applying the Agent of Change principle)."

It is acknowledged that the proposed bar would be close to Bar Rumba at 36 Shaftesbury Avenue; beneath the Skybar rooftop bar and restaurant; in close proximity to the Rainforest Café at 20-24 Shaftesbury Avenue and a number of pubs and restaurants on Rupert Street and Great Windmill Street and numerous late-night entertainment venues within the wider Soho area. Permission has also recently been granted for a further bar (the Coyote Ugly venue) at 40-48 Shaftesbury Avenue. However, this part of Shaftesbury Avenue remains of a mixed-use character providing other uses including the Crystal Maze Experience, the Picturehouse cinema, a bureau de change immediately adjacent to the site, and the Lyric, Apollo and Gielgud Theatres opposite. Despite the proximity of other pubs and restaurants, the principle of a long-standing entertainment use has already been established on this site following the 2010 restaurant permission. As the premises is now in retail use, that previous permission has clearly been extinguished. However, under Class E, the premises could revert to a restaurant use at any time, but this new restaurant use would not be bound by any of the previous planning controls, or those operational controls proposed in relation to the new bar use e.g. opening hours, noise levels, the requirement to provide an entrance lobby and restrictions on the opening and use of doors and windows. Whilst it is accepted that the nature of the proposed use will be more focused upon the consumption of alcohol than a potential restaurant use, it is considered that, subject to operational controls, and the submission of a finalised Operational Management Plan, that the impact upon the character and function of the area will be very similar to a restaurant use.

The applicant has indicated that operational measures would be introduced to ameliorate potential disruption and noise disturbance including the employment of door staff, the provision of CCTV and measures to limit background noise levels. The closest

residential properties are on Rupert Street, and, following negotiation, the main entrance to the bar has been relocated from the corner of Shaftesbury Avenue/Rupert Street to a position further along the Shaftesbury Avenue frontage. The ground floor plan has also been amended to introduce an internal lobby to this entrance to accommodate any potential queuing within the premises. A fully worked up operational management plan, to secure these measures, would be reserved by condition. Conditions are also proposed requiring all windows and external doors to be kept closed after 21:00 hours, other than for access/egress from the doors, and for the door on the corner of Rupert Street and Shaftesbury Avenue to remain closed after midnight.

With the exception of Sunday opening hours (until 22.20), the proposed opening hours (until 02.00 hours) are later than those allowed under the 2010 restaurant permission (until 01.00 hours). However, there are several other licensed establishments in the vicinity of the site including Bar Rumba, 36 Shaftesbury Avenue (licensed opening hours of from 09:00 to 06:00 Monday to Saturday and from 09:00 to 03:30 on Sundays); The Windmill nightclub at 17-19 Great Windmill Street, to the north of the site (licensed opening hours from 09:00 until 05:30 on Monday to Saturday and from 09:00 until 03:00 on Sunday); and The Piccadilly Institute, 1 Shaftesbury Avenue (licensed opening hours from 07:00 to 03:00 on Monday to Saturday and from 07:00 to 01:00 on Sundays).

In relation to internal noise, and in acknowledgement that the proposed use would intensify site activity when compared with the former restaurant use, the applicant has submitted a noise assessment. This sets out proposed measures to control/contain noise on site, including general upgrades and maintenance of doors and a defined maximum operating level for the sound system. The Environmental Health Officer has reviewed the submitted information and has raised no objection subject to conditions requiring compliance with internal noise levels to prevent noise break out from the premises.

With these conditions in place, and subject to other operational measures within a finalised OMP, it is not considered that the proposal will materially affect the amenity of neighbouring residents and local environmental quality.

Whilst the former Frattelli restaurant appears to have operated without noise complaint, the building is now being used as a late night vape and souvenir shop and this use has generated a number of complaints to the Council's Noise Team. Additionally, unauthorised works have recently been undertaken, including the removal of the fixed shopfronts and their replacement with openable doors and roller shutters. The entire frontage onto Shaftesbury Avenue is effectively open, allowing noise to escape whilst the doors are left open. These works are unlawful and subject to a current enforcement investigation. This application proposes no external changes to the lawful/historic condition of the shopfront and the submitted plans are based upon the previous situation.

9.2 Environment & Sustainability

This application is for a change of use only and does not raise any additional energy/sustainability issues.

9.3 Biodiversity & Greening

Not relevant in the determination of the application.

9.4 Townscape, Design & Heritage Impact

The unauthorised removal and replacement of the original shopfronts is the subject of a current enforcement investigation, and the replacement of the shopfronts will be secured through this process.

9.5 Residential Amenity

The local environmental impacts are detailed within both Section 9.1 of this report.

9.6 Transportation, Accessibility & Servicing

Highway Impact

The impact upon the local highway network of the proposed bar compared to the former restaurant use is not considered to be materially different. Servicing would take place via the servicing yard on Rupert Street. This arrangement will be secured by condition and accords with City Plan policy 29 which generally requires off street servicing,

The original submission relied on a designated queuing area on Rupert Street. The scheme has been amended to omit this and now proposes an enlarged lobby to the main Shaftesbury Avenue entrance, which can accommodate 15 people. This lobby ameliorates the potential for localised congestion, including on the footway and the revised proposals are therefore acceptable in terms of City Plan policy 28 which seeks to ensure developments does not adversely impact on available space for the free flow of pedestrian traffic.

The provision of cycle parking spaces for staff is to be secured by condition to ensure compliance with City Plan policy 25.

There is sufficient space within the basement for the storage of waste and recyclable materials in accordance with City Plan policy 37 The details would be secured by condition.

9.7 Economy including Employment & Skills

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

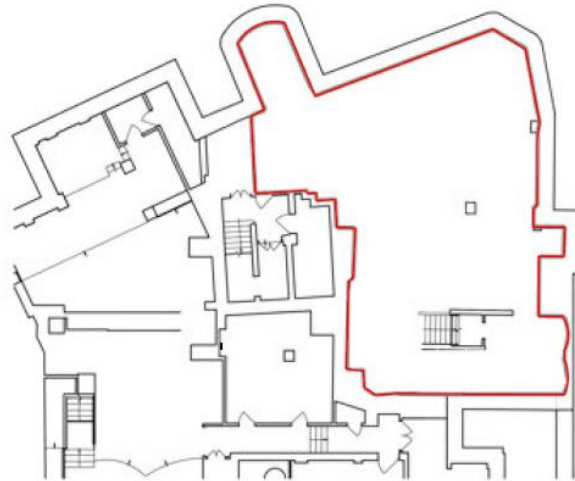
The impact of the proposed use upon residential amenity, the character of Soho and local environmental quality of the proposed is, subject to the proposed operational controls, considered to be very similar to that of the previous restaurant use. Subject to conditions, the proposed change of use is considered to be compliant with the policies within the adopted development plans.

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

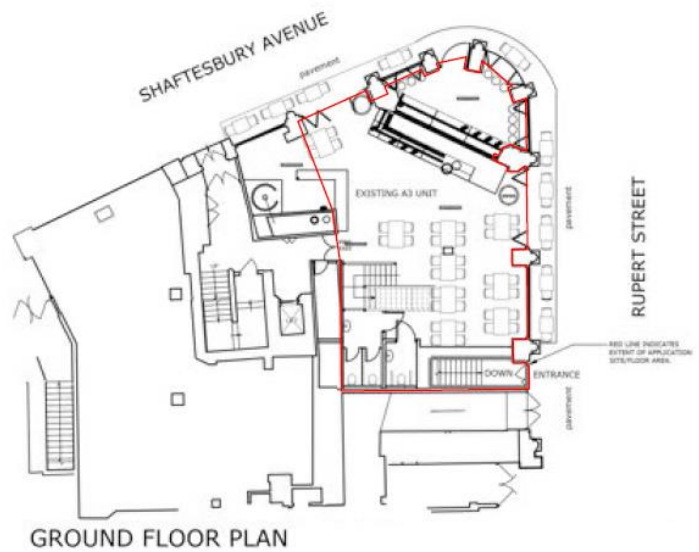
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk

11. KEY DRAWINGS

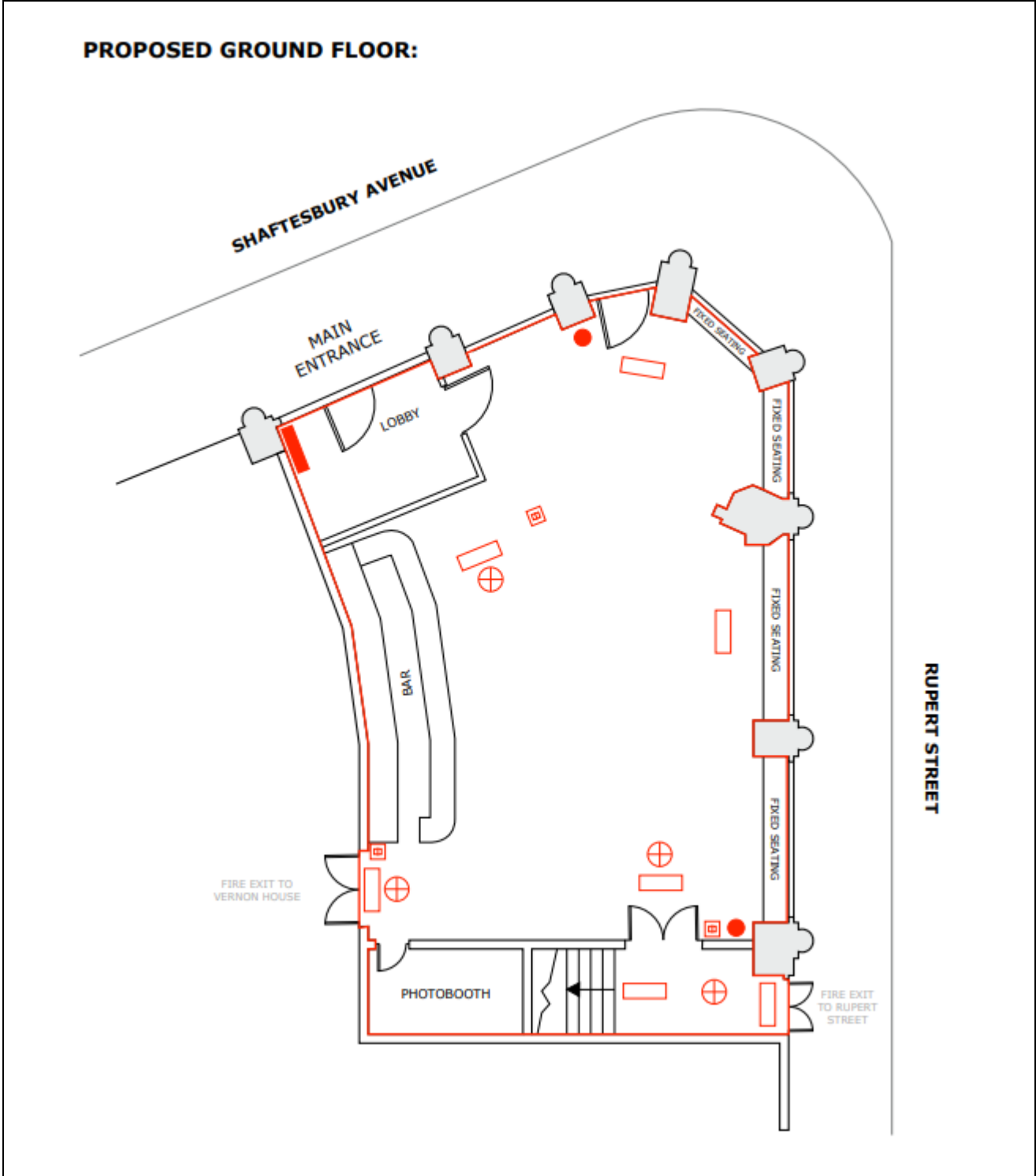
EXISTING PLAN
CLASS E (RESTAURANT)



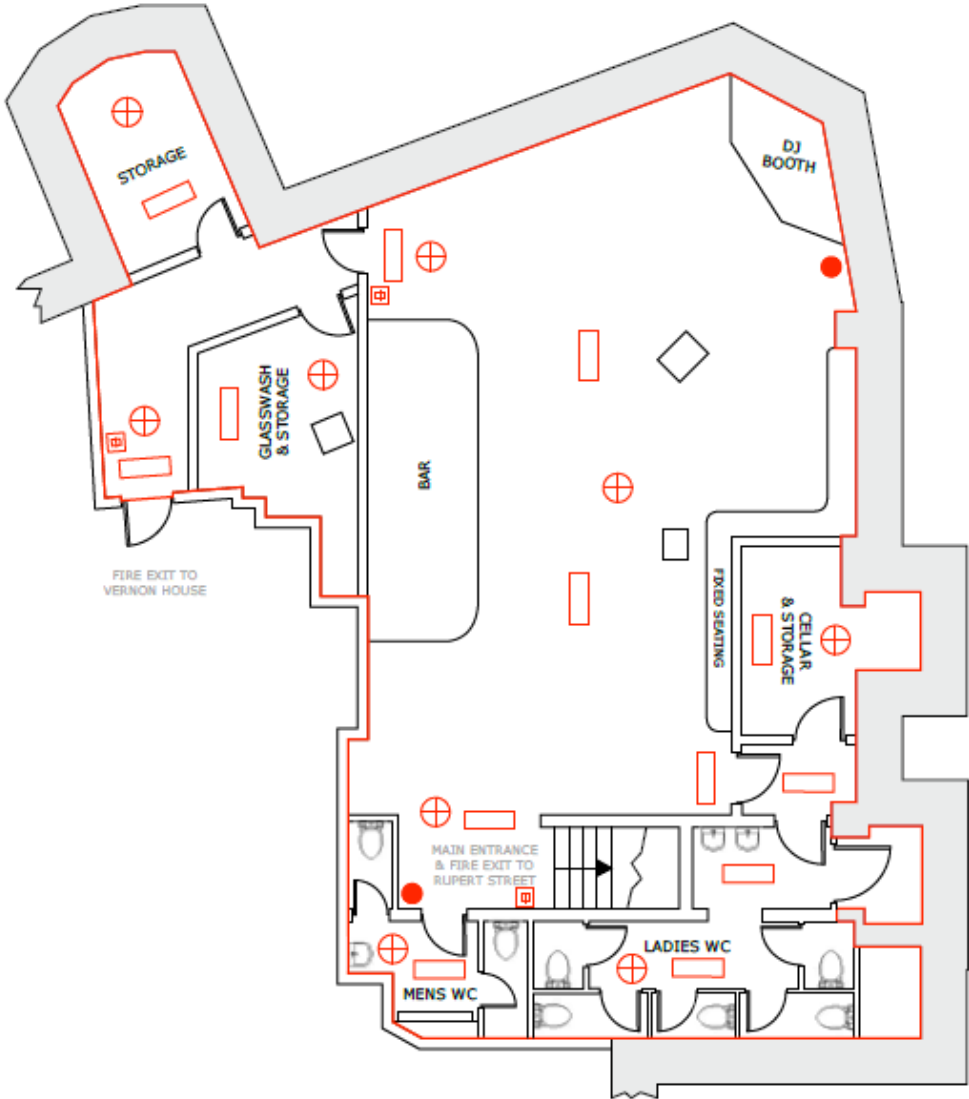
BASEMENT FLOOR PLAN



GROUND FLOOR PLAN



PROPOSED BASEMENT FLOOR:



DRAFT DECISION LETTER

Address: Vernon House, 40 Shaftesbury Avenue, London, W1D 7ER

Proposal: Use of basement and ground floors as a drinking establishment (Sui Generis).

Reference: 22/07879/FULL

Plan Nos: PROPOSED GROUND AND BASEMENT FLOOR PLAN v2 Op 1.

Case Officer: Jo Palmer

Direct Tel. No. 020 7641
07866040238

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 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.

Noise from music and entertainment from the bar use shall be 10 dB below measured/assessed background in adjoining residential habitable space measured in the parameters Leq & LFmax of 63 Hz and 125 Hz octave bands OR fixed criteria of Day: NR30 Leq, NR35 Lfmax and Night: NR25 Leq, NR30 Lfmax

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. (R47AC)

- 3 A noise limiter, to ensure compliance with the sound levels set out in Condition 2, must

be fitted to the musical amplification system and installed prior to commencement of the bar use. The operational panel of the noise limiter shall then be secured by key or password which shall be inaccessible to staff.

Reason:

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the 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. (R47AC)

- 5 All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.

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). (R13BD)

- 6 After midnight the entrance/exit door on the corner of Shaftesbury Avenue/Rupert Street cannot be used by patrons as an entrance/exit except for in emergencies only.

Reason:

To protect the environment of people in neighbouring properties and to ensure the appearance of the development is suitable and would not harm the appearance of this part of the city. This is in line with Policies 7, 33, 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R13CD)

- 7 The fire exit door in Rupert Street cannot be used as an entrance by patrons at any time but can be used as an exit in emergencies only.

Reason:

To protect the environment of people in neighbouring properties and to ensure the appearance of the development is suitable and would not harm the appearance of this part of the city. This is in line with Policies 7, 33, 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R13CD)

- 8 Customers shall only be permitted within the bar premises between the hours of 15:00 and 02:00 (the following day) on Monday to Saturday, and Sunday between the hours of 15:00 and 22:30

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)

- 9 You must apply to us for approval of an operational management plan to show how you will prevent customers who are either arriving or leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the bar 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 bar is in use. (C05JC)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 10 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the restaurant. (C14EC)

Reason:

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

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

Reason:

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

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

Reason:

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

- 13 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

Reason:

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)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.

Agenda Item 6

Item No.

6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	24 - 31 Grosvenor Square, London, W1K 6AH		
Proposal	<p>Amendments to planning permission dated 18th February 2021 (RN:20/06601/FULL) for Variation of condition 1 of planning permission dated 21.5.20 (RN:19/07406/FULL), which itself varied condition 1 and 9 of planning permission dated 20.11.18 (RN: 18/03520/FULL) which itself varied condition 1 of planning permission dated 12 September 2017 (RN: 16/06423/FULL) for, 'Alterations to the existing building including retention & repair of the front and side facades, part demolition & replacement of the rear facade, rear extension of the 2nd-5th floors, removal of existing & introduction of a new 6th floor, introduction of a new set-back 7th floor, extension of the existing basement levels to include two additional basement levels (including one mezzanine level), installation of roof plant & plant screen, public realm works including hard & soft landscaping, removal of the security kiosks, fencing, bollards & gates/barriers to Blackburne's Mews & Culross Street, removal & replacement of 6 No. trees in front of the Grosvenor Square elevation & re-opening of the road on the western side of the Square, all in connection with the use of the building as a hotel (Class C1) with flexible retail/restaurant use at 1st floor, ground floor and basement 1 (Class A1/Class A3/Class C1), flexible restaurant/bar use at 7th floor (Class A3/Class A4/Class C1), leisure/spa facilities within the basement (Class D2/Class C1) & an ancillary ballroom, event spaces, back of house facilities & associated car, cycle parking & servicing facilities accessed from Blackburne's Mews, & other associated works' - NAMELY, to amend Condition 17 to remove reference to the seventh-floor level [requiring public access] to provide the hotel operator with greater discretion as to its use in light of the sensitivities around access and operation and the focus of the public offer at ground and first floor level.</p>		
Agent	Gerald Eve		
On behalf of	30 GS NOMINEE 1 LIMITED for and on behalf of 30 GS Limited Partnership		
Registered Number	22/07266/NMA	Date amended/ completed	27 October 2022
Date Application Received	27 October 2022		
Historic Building Grade	Grade II		
Conservation Area	Mayfair		

Neighbourhood Plan	Mayfair
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1. RECOMMENDATION

Agree non-material amendment to condition 17.

2. SUMMARY & KEY CONSIDERATIONS

The site was formerly occupied by the US Embassy. In September 2017 permission (with subsequent variations/minor amendments) was granted for the redevelopment of the site (retaining the front and side facades) as an hotel (140 rooms) with associated retail/restaurant and leisure spaces. Work is progressing on site. Condition 17 of the permission states [parts relevant to the current application are underlined.]:

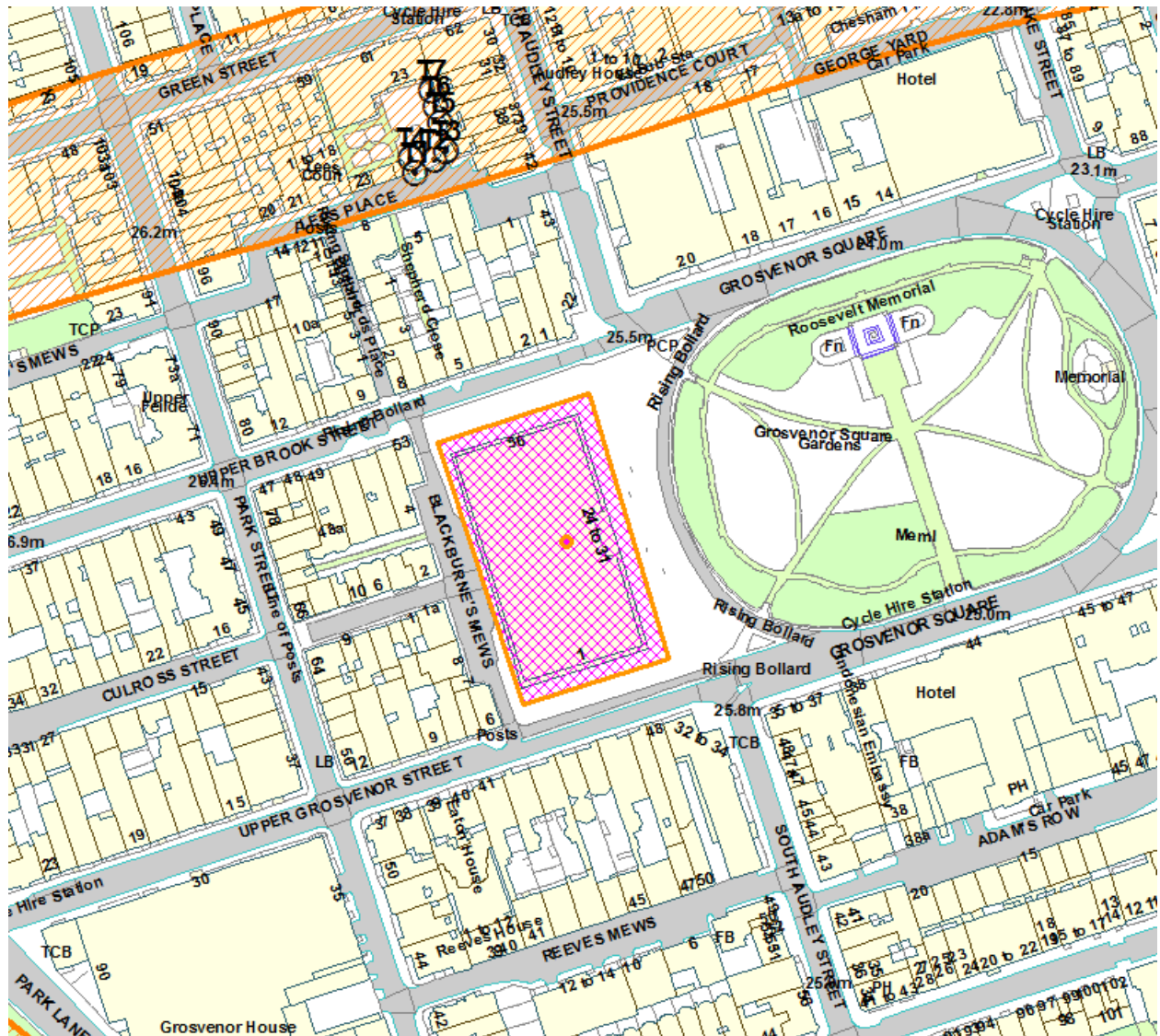
“In the event that the units at basement, ground and first floor levels shown on the approved plan for 'Retail (Flexible Class A1/C1)' and 'Retail/Restaurant (Flexible Class A1/A3/C1), the area at seventh floor level designated as 'Restaurant/Bar (Flexible Class A3/A4/C1), and the spa/similar type of leisure facility at basement level 2 (Flexible Class D2/C1) are operated by the hotel as ancillary uses within Class C1, they must remain open to members of the general public (whether or not they are guests at the hotel or visitors of hotel guests) and shall not be used for any other hotel activity other than retail, restaurant or bar and spa/similar type of leisure facility as indicated. These units must be fitted out and made ready for occupation before commencement of the hotel use in the remainder of the development.”

Public access to the seventh floor bar /restaurant, providing views over Grosvenor Square and beyond was, together with general access to the public spaces on the lower floors, considered to be a public benefit of the hotel scheme. After the permission was originally granted, the Rosewood Hotel Group were appointed as the hotel operator. They now wish to remove the requirement for general public access to the seventh floor., although they confirm that there will still be opportunities for managed public accessible to the space for events/occasions. However, they wish to have greater discretion over the use of, and the ability to regulate access to, the seventh floor level.

The applicant advises that a number of operational challenges have become evident in respect of the use of the seventh floor level, as prescribed by Condition 17, including with regard to access, security, the hotel operation, and privacy of adjacent hotel suites. The public spaces of the hotel are focused on the ground and first floor, maximising engagement with the public realm. The upper floor levels are naturally more private, ensuring a level of security and safety commensurate to a high-end Mayfair hotel. The seventh floor level can only be accessed from the central lift cores in the ground or first floor. There is no dedicated lift to the rooftop space which by-passes the lower floors. Not only does this impact on wayfinding, but it also raises security concerns. The same bank of lifts serving the seventh floor also serves the ballroom, which would further exacerbate these issues in periods of peak lift demand. Consequently, the applicants contend that unregulated public access to the seventh floor level would put a strain on the hotel operation and service delivery to paying guests and visitors.

Whilst the loss of guaranteed public access to the seventh floor is unfortunate, there would be no reasonable planning grounds for resisting this. The rewording of Condition 17 to give the hotel operator greater control over the use of the seventh floor bar/restaurant is considered to be a non-material change to the approved scheme.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation (before redevelopment)



5. CONSULTATIONS

5.1 Application Consultations

Not applicable.

5.2 Applicant's Pre-Application Community Engagement

Not applicable.

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 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 is located within the Central Activities Zone and the Mayfair Conservation Area. The building is listed Grade II, though only the front and side façade have been retained as part of the redevelopment. The site is currently being redeveloped as an hotel.

7.2 Recent Relevant History

12 September 2017: Permission granted for @Alterations to the existing building including retention & repair of the front and side facades, part demolition & replacement of the rear facade, rear extension of the 2nd-5th floors, removal of existing & introduction of a new 6th floor, introduction of a new set-back 7th floor, extension of the existing basement levels to include two additional basement levels (including one mezzanine level), installation of roof plant & plant screen, public realm works including hard & soft landscaping, removal of the security kiosks, fencing, bollards & gates/barriers to Blackburne's Mews & Culross Street, removal & replacement of 6 No. trees in front of the Grosvenor Square elevation & re-opening of the road on the western side of the Square, all in connection with the use of the building as a hotel (Class C1) comprising up to 137 hotel rooms with flexible retail/restaurant use at 1st floor, ground floor and basement 1 (Class A1/Class A3/Class C1), flexible restaurant/bar use at 7th floor (Class A3/Class A4/Class C1), leisure/spa facilities within the basement (Class D2/Class C1) & an ancillary ballroom, event spaces, back of house facilities & associated car, cycle parking & servicing facilities accessed from Blackburne's Mews, & other associated works - including replacement of all windows with double glazing, internal reconfiguration & refurbishment works including extension of the diagrid & removal in part, replacement of internal ground & 1st floor columns & slab, part replacement of the 2nd floor slab & replacement of 3rd & 4th floor slabs & internal remodelling of front and side entrances; external works including removal of the glacis & balustrade, reconfiguration of front & side entrances & steps & addition of canopies over each entrance & relocation of Eagle sculpture to centre of the front elevation of new 6th floor'. (16/06423/FULL)

20 November 2018: Permission granted for the variation of Condition 1 of planning permission dated 12 September 2017 (RN: 16/06423/FULL) NAMELY, to make a number of amendments to the approved development including: the introduction of two new mezzanine floors; complete omission of 4th floor basement; internal reconfiguration; amendments to approved floor areas, changes to rear (Blackburne's Mews), sides and front facades, green roof, terraces, and roof pavilion; minor amendments to the entrance to the servicing yard and building entrances.

21 May 2020: Permission granted for the variation of condition 1 and 9 of planning permission dated 20 November 2018 (RN: 18/03520/FULL) NAMELY, to allow changes to rooftop plant enclosure, increase of species diversity of green roof area at 2nd floor, 7th floor and roof level, amendments to the western facade, amendments to the ground floor paving and canopies, temporary removal and safe storage of diagrid endcaps, internal reconfiguration of hotel rooms at 7th floor level, increase in the number of hotel

keys/rooms by three, and associated works. (19/07406/FULL)

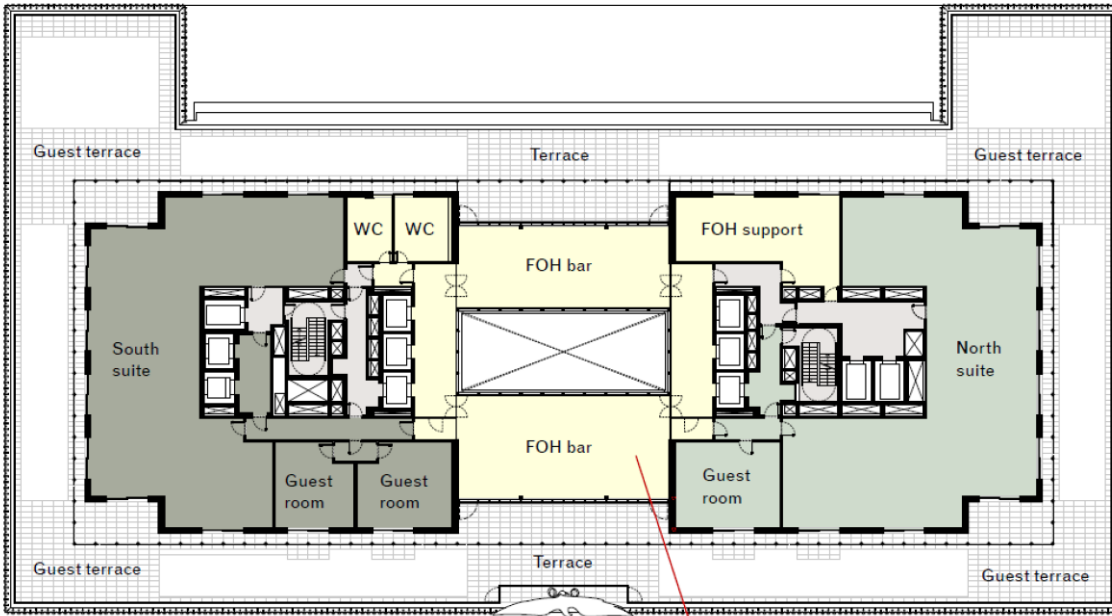
18 February 2021: Permission granted for Variation of condition 1 of planning permission dated 21 May 2020 (RN:19/07406/FULL), NAMELY, to enable amendments to the approved elevations and plans, including provision of external lighting on all facades, uplighting to the eagle sculpture, lighting within the landscape (including uplighting to the trees and building columns); removal and storage, and reinstatement of existing column stone cladding and end caps on all façade; cleaning of existing column stone cladding and end caps. (S73 application)(20/06601/FULL)

(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: SARA SPURRIERBY EMAIL AT sspurrier@westminster.gov.uk.

8. KEY DRAWINGS

Approved 7th floor layout



Proposed to omit condition 17 requirement for public access to yellow spaces, allowing operational flexibility, no plan or area changes

DRAFT DECISION LETTER

Address: American Embassy, 24 - 31 Grosvenor Square, London, W1K 6AH

Proposal: Amendments to planning permission dated 18th February 2021 (RN:20/06601/FULL) for Variation of condition 1 of planning permission dated 21.5.20 (RN:19/07406/FULL), which itself varied condition 1 and 9 of planning permission dated 20.11.18 (RN: 18/03520/FULL) which itself varied condition 1 of planning permission dated 12 September 2017 (RN: 16/06423/FULL) for, 'Alterations to the existing building including retention & repair of the front and side facades, part demolition & replacement of the rear facade, rear extension of the 2nd-5th floors, removal of existing & introduction of a new 6th floor, introduction of a new set-back 7th floor, extension of the existing basement levels to include two additional basement levels (including one mezzanine level), installation of roof plant & plant screen, public realm works including hard & soft landscaping, removal of the security kiosks, fencing, bollards & gates/barriers to Blackburne's Mews & Culross Street, removal & replacement of 6 No. trees in front of the Grosvenor Square elevation & re-opening of the road on the western side of the Square, all in connection with the use of the building as a hotel (Class C1) with flexible retail/restaurant use at 1st floor, ground floor and basement 1 (Class A1/Class A3/Class C1), flexible restaurant/bar use at 7th floor (Class A3/Class A4/Class C1), leisure/spa facilities within the basement (Class D2/Class C1) & an ancillary ballroom, event spaces, back of house facilities & associated car, cycle parking & servicing facilities accessed from Blackburne's Mews, & other associated works' - NAMELY, to amend Condition 17 to remove reference to the seventh-floor level [requiring public access] to provide the hotel operator with greater discretion as to its use in light of the sensitivities around access and operation and the focus of the public offer at ground and first floor level.

Reference: 22/07266/NMA

Plan Nos: 1120_P_E0_00 (Location Plan)

Case Officer: Paul Quayle

Direct Tel. No. 07866 039895

Recommended Condition(s) and Reason(s)

17	In the event that the units at basement, ground and first floor levels shown on the approved plan for 'Retail (Flexible Class A1/C1)' and 'Retail/Restaurant (Flexible Class A1/A3/C1)', and the spa/similar type of leisure facility at basement level 2 (Flexible Class D2/C1) are operated by the hotel as ancillary uses within Class C1, they must remain open to members of the general public (whether or not they are guests at the hotel or visitors of hotel guests) and shall not be used for any other hotel activity other than retail, restaurant or bar and spa/similar type of leisure facility as indicated. These units must be fitted out and made ready for occupation before commencement of the hotel use in the remainder of the development.
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