



City of Westminster

# Committee Agenda

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

Meeting Date: **Tuesday 30th April, 2024**

Time: **6.30 pm**

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

Members: **Councillors:**  
Jason Williams (Chair)  
Md Shamsed Chowdhury  
Sara Hassan  
Elizabeth Hitchcock

**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, Steven Clarke, Committee and Councillor Coordinator.**

**Email: [sclarke1@westminster.gov.uk](mailto:sclarke1@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

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

## **AGENDA**

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

#### **1. MEMBERSHIP**

To note any 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. 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. To access the recording after the meeting please revisit the Media link. Please note that the link is only available 90 days after the meeting.

**(Pages 5 - 8)**

1.	19 SOUTH STREET, LONDON, W1K 2XB	(Pages 13 - 60)
2.	BEAUMONT, FLETCHER AND SHERIDAN BUILDINGS, MARTLETT COURT, LONDON, WC2B 5SF	(Pages 61 - 85)
3.	THE GARDEN CAFE, BROWN HART GARDENS, LONDON, W1K 8UH	(Pages 87 - 138)
4.	BASEMENT, PART GROUND FLOOR AND FIRST TO SECOND FLOOR REAR, 127 MOUNT STREET, LONDON, W1K 3NT	(Pages 139 - 170)
5.	48 SHIRLAND MEWS, LONDON, W9 3DY	(Pages 171 - 196)
6.	34-37 HENRIETTA STREET, LONDON, WC2E 8NA	(Pages 197 - 224)
7.	39-40 BEDFORD STREET, LONDON, WC2E 9ER	(Pages 225 - 248)
8.	58-60 LUPUS STREET, LONDON, SW1V 3EE	(Pages 249 - 266)

**Stuart Love**  
**Chief Executive**  
**19 April 2024**

## Order of Business

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

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

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



CITY OF WESTMINSTER

## MINUTES

### Planning Applications Sub-Committee (1)

#### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 5th March, 2024**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Jason Williams (Chair), Md Shamsed Chowdhury, Laila Cunningham and Sara Hassan

**Also Present:** Councillor Paul Fisher (Item 3), Councillor Jim Glen (Item 5)

#### 1 MEMBERSHIP

1.1 It was noted that Councillor Cunningham substituted for Councillor Hitchcock.

#### 2 DECLARATIONS OF INTEREST

2.1 Councillor MD Shamsed Chowdhury declared an interest in Item 1, that the application falls within his ward, however he has not had any discussion regarding this application.

2.2 Councillor MD Shamsed Chowdhury also declared that Councillor Paul Fisher, who was speaking on Item 3, was a friend and colleague but he had had no discussions with him regarding the application.

2.3 Councillor Jason Williams declared an interest that he had met one of the speakers at a previous committee who will be speaking on Item 3.

2.4 Councillor Jason Williams also declared an interest in Item 5 that he had attended a meeting in Pimlico where the application had been discussed but he did not give a view on the application.

#### 3 MINUTES

3.1 **RESOLVED:** That the minutes of the meeting held on 19 December 2023 be signed by the Chair as a correct record of proceedings.

#### **4 PLANNING APPLICATIONS**

##### **1 GROUND AND BASEMENT UNIT, 195-197 EDGWARE ROAD, LONDON, W2 1ES**

###### **Proposed 'under' enforcement notice, as follows:**

That the Notice take effect 35 days after the date of service and requires within 2 months from the date it takes effect, the following:

1) Cease use of the highway at the Edgware Road frontage of the property for the placement of tables and chairs for customer use, except to the extent that:

a) The 6 tables and 12 chairs must only be placed within the part of the highway shown outlined by green lines on Plan A, with the area to be enclosed by barrier banners only;

b) The 6 tables and 12 chairs must only be placed on the highway, between the hours of 09:00 and 23:00 daily;

c) The 6 tables and 12 chairs must only be used by customers of the Property;

d) No additional tables, chairs, screens or any other furniture or equipment shall be placed on the highway; and

e) The 6 tables and 12 chairs may only be placed on the highway until [one year after date of service].

That authority for the issue of the Enforcement Notice also includes authority to withdraw any such notice

and to issue further notices if it becomes necessary to do this in order to remedy the breach of planning control to which this notice relates

###### **RESOLVED UNANIMOUSLY:**

1. That "under" enforcement notice regarding provision of tables and chairs on the highway at the Star Street elevation and the Edgware Road elevation, and installation of fixed screen at Star Street elevation be served.

##### **2 TEMPLAR COURT, 43 ST JOHN'S WOOD ROAD, LONDON, NW8 8QJ**

Construction of a new three storey dwelling with external terrace and patio located in between 7 & 8 Squire Gardens.

An additional representation was received by Cllr Mendoza (27.02.24) and a representative of Templar Court & Squire Gardens Management Company Ltd (27.02.24).

A late representation was received by a representative of Templar Court & Squire Gardens Management Company Ltd (29.02.24).

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

The Committee Officer Jessica Barnett addressed the Sub-Committee on behalf of Anuj Anand, who was due to attend online but could no longer attend, in objection to the application.

Chair requested informative to remind applicant of the need to satisfy building control requirements regarding the reconfigured fire escape stairs.

**RESOLVED UNANIMOUSLY:**

1. That conditional permission be granted.

**3 19 SOUTH STREET, LONDON, W1K 2XB**

Partial demolition to rear wing and roof; excavation of a new basement storey and extension at rear second floor level with erection of a new single story roof extension with rear terrace at third floor; installation of plant with screening on the second-floor terrace; installation of sedum roof at main roof level; and associated works all in association with the continued use as a single-family dwelling.

An additional representation was received from Triglyph Property Consultants Ltd (17.7.23)

Sam Farmer addressed the Sub-Committee in support of the application.

Tessa Green addressed the Sub-Committee in objection to the application.

Diane Baines addressed the Sub-Committee in objection to the application.

Belinda Harley, representing the Resident's Society of Mayfair and St James's, addressed the Sub-Committee in objection to the application.

Cllr Paul Fisher, in their capacity as Ward Councillor for the West End Ward, addressed the Sub-Committee in objection to the application.

**RESOLVED UNANIMOUSLY:**

1. That the Committee agreed to defer making a decision on the application on the basis that there was a high level of local community objections, it would be beneficial for the Committee to visit the site to obtain a greater sense and understanding of what is happening on the ground.

**4 SECOND FLOOR FLAT, 27 WIMPOLE STREET, LONDON, W1G 8GN**

Use of the second floor as a sui generis use comprising part residential and part medical accommodation for a temporary period of five years.

**RESOLVED UNANIMOUSLY:**

1. That conditional permission be granted.

**5 GLOBE HOUSE, 89 ECCLESTON SQUARE, LONDON, SW1V 1PN**

Use of building as hotel (Class C1) and part of ground floor as flexible commercial, business or service premises (Class E).

Additional representations were received from Centro Planning Consultancy (28.02.24) and Criterion Capitol (29.02.24).

A late representation was received from a representative of The Between the Squares Residents' Association (03.03.24)

Luke Raistrick addressed the Sub-Committee in support of the application.

Anthony Smith addressed the Sub-Committee in objection to the application.

Cllr Jim Glen, in his capacity as Ward Councillor for the Pimlico North Ward, addressed the Sub-Committee in objection to the application.

**RESOLVED UNANIMOUSLY:**

1. That permission be refused.  
Reason: that insufficient information has been submitted to demonstrate no interest in continued use of building within CAZ as offices.

The Meeting ended at 8.47 pm

**CHAIR:** \_\_\_\_\_

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



# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 30th April 2024  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s) : 23/03029/FULL  West End	19 South Street London W1K 2XB	Partial demolition to rear wing and roof; excavation of a new basement storey and extension at rear second floor level with erection of a new single story roof extension with rear terrace at third floor; installation of plant with screening on the second-floor terrace; installation of sedum roof at main roof level; and associated works all in association with the continued use as a single-family dwelling.	Mr Sam Farmar
	<b>Recommendation</b> Grant conditional planning permission.			
Item No	References	Site Address	Proposal	Applicant
2.	RN(s) : 23/08154/COFUL  St James's	Beaumont Buildings Martlett Court London WC2B 5SF	Replacement of the existing windows with UPVC double glazed windows, replacement of doors and new render detailing around windows in gable elevations of Fletcher, Beaumont and Sheridan Buildings.	Westminster City Council
	<b>Recommendation</b> Refuse planning permission – harm to the appearance of the buildings, harm setting of the adjacent Covent Garden Conservation Area and grade II listed Bow Street Magistrates Court and not following principles of sustainable design.			
Item No	References	Site Address	Proposal	Applicant
3.	RN(s) : 24/00669/FULL 24/00670/LBC 24/00671/TCH  West End	The Garden Cafe Brown Hart Gardens London W1K 8UH	Proposal 1: Partial demolition, reconfiguration and alteration of existing building for continued cafe / restaurant use (Class E) and provision of landscaping to deck.  Proposal 2: Use of a private land for the placement of 10 tables, 30 chairs associated with the cafe, restaurant.	BH1 Ltd
	<b>Recommendation</b> Proposal 1: 1. Grant conditional planning permission;  2. Grant Conditional Listed Building Consent.  3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.  Proposal 2: 1. Grant conditional planning permission			

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 30th April 2024  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
4.	RN(s) : 23/04885/FULL 23/04886/LBC	Basement Part Ground Floor and First To Second Floor Rear 127 Mount Street London W1K 3NT	Installation of air conditioning units within the rear lightwells; erection of an extract duct to roof level on rear facade; air vents and the installation of a new window within the rear western lightwell; replacement of entrance step finishes to the front facade; installation of new awning and display of signage and refurbishment of the shopfront and display of vinyl behind the glazing; and internal alterations including refurbishment of the ground, part first, part second and lower ground floors.	Tanner Krolle International Limited
Item No	References	Site Address	Proposal	Applicant
5.	RN(s) : 23/01174/FULL  Harrow Road	48 Shirland Mews London W9 3DY	Erection of rear extensions at ground and first floor levels; increase in roof ridge height; new entrance to front elevation; and associated works.	Mr Faysal Fozan
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): 23/07307/FULL  St James's	34-37 Henrietta Street London WC2E 8NA	External alterations at basement and ground floor levels to the Henrietta Street and Covent Garden elevation including demolition, rebuilding of the Covent Garden elevation, removal and replacement of windows, removal of railings, installation of lighting, installation of new plant equipment, replacement of existing windows with ventilation louvres at the rear of the building, and other associated works at 34 Henrietta Street.	Shaftesbury Capital PLC
Item No	References	Site Address	Proposal	Applicant
7.	RN(s): 23/06521/FULL  St James's	39 - 40 Bedford Street London WC2E 9ER	Installation of new extract duct shaft and mechanical plant to rear of building; lowering of ground floor window cills on Bedford Street and Maiden Lane elevations; opening up of existing blocked up windows and replacement doors on Maiden Lane; new stone steps; new façade lighting to ground floor elevations and regrading of pavement to create level	Shaftesbury Capital PLC

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 30th April 2024  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

			access from Bedford Street.	
<p><b>Recommendation</b></p> <p>Refuse permission – harm to the appearance of the building, harm to the character and appearance of the Covent Garden Conservation Area and insufficient information regarding the re-grading of the public highway.</p>				
Item No	References	Site Address	Proposal	Applicant
8.	<p><b>RN(s):</b> 21/03747/TCH</p> <p>Pimlico North</p>	<p>58 - 60 Lupus Street London SW1V 3EE</p>	<p>Use of an area of the public highway measuring 11.2m x 1.93m for the placing of four tables and eight chairs in connection with ground floor retail unit.</p>	<p>Mr Jose Cruz</p>
<p><b>Recommendation</b></p> <p>Grant conditional planning permission for a temporary period of two years.</p>				

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# Agenda Item 1

Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>19 South Street, London, W1K 2XB</b>		
<b>Proposal</b>	Partial demolition to rear wing and roof; excavation of a new basement storey and extension at rear second floor level with erection of a new single story roof extension with rear terrace at third floor; installation of plant with screening on the second-floor terrace; installation of sedum roof at main roof level; and associated works all in association with the continued use as a single-family dwelling.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	Mr Sam Farmar		
<b>Registered Number</b>	23/03029/FULL	<b>Date amended/ completed</b>	5 May 2023
<b>Date Application Received</b>	5 May 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair Neighbourhood Plan		

## 1. RECOMMENDATION

Grant conditional planning permission.
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## 2. SUMMARY & KEY CONSIDERATIONS

This application was reported to the Planning Applications Sub-Committee on 5<sup>th</sup> March 2024 (see attached copy of report). Members resolved to defer consideration of the proposal for the following reason:

*That the Committee agreed to defer making a decision on the application on the basis that there was a high level of local community objections, it would be beneficial for the Committee to visit the site to obtain a greater sense and understanding of what is happening on the ground.*

The site visit to the application site and neighbouring properties took place on 21<sup>st</sup> March 2024.

Since the previous report was published the applicant has amended the extent of the proposed basement excavation so it is pulled back within their demise within the rear courtyard shared between the application site and 17 South Street. The objector at 17 South Street had queried

whether a small part of the basement excavation in the courtyard had been in their ownership. Officers were of the opinion it was not but that notice had been served and it would have been a matter for private resolution between the relevant parties. The revised basement plan and section drawing are included below. The amendment is acceptable in planning terms but any ongoing dispute about the boundary is a private matter.

At the site visit some discussion took place with regard to alternative forms of screening around the second and third terraces, currently proposed as railings with planting inside maintained to a height of 1.8m. Objectors have queried the effectiveness of planting to prevent overlooking, citing concerns about inadequate maintenance, etc. The applicant has confirmed that they are amenable to alternative forms of screening and in design terms Officers are of the opinion a trellis or fret cut metal screen may be acceptable on the west facing side of the second / third floor terrace to provide increased privacy to the neighbouring occupier of 17 South Street, should Committee deem it necessary. It is noted in the recent (12 September 2023) planning permission related to 15 South Street and the creation of a terrace on a flat roof at second floor level with an external access stair from third floor level, the installation of a wooden trellis on the eastern side of the new terrace was conditioned in order to ensure there was no loss of privacy to 17 South Street to the east. The condition required that the trellis was installed before the terrace could be used and had to be maintained in perpetuity. The trellis does not appear to have been installed and there is an ongoing planning enforcement investigation.

Since the last meeting of the Sub-Committee, an additional letter has been received from the daylight and sunlight assessor representing the occupiers of 10 Balfour Mews to the north of the application site. They have clarified the uses of rooms at lower ground floor level in the property (which were visited during the Sub-Committee site visit). What was referred to as the 'media room' in the original committee report is in use as a 'painting room' and the 'bedroom' is in use as a 'music room'. With regard to these windows, as explained in the original report to the Sub-Committee, there are some losses in excess of the BRE guidance and these have now been included in the table below given the additional submission from the neighbour's daylight and sunlight assessor. With regard the no sky line (NSL) to 10 Balfour Place (details in table below), the kitchen at lower ground floor experiences losses in excess of the BRE guidance but the losses to the other two rooms are well below the 20% limit advised by the Guidance and are therefore considered to be acceptable.

Window	NSL		
	Existing	Proposed	Loss (%)
Kitchen (lower ground)	18.11%	13.64%	24.68
Painting room (lower ground)	18.09%	16.79%	7.2%
Music room (lower ground)	14.06%	13.43%	4.48%

There are losses in excess of the BRE guidance with regard the sunlight to one of the windows serving the kitchen, which is served by two windows and detailed in the table below (along with the music room and painting room):

The kitchen is served by two windows and the overall sunlight losses to the room are from 14.0% to 7.0%.

Window	Annual Sunlight		
	Existing (%)	Proposed (%)	Loss (%)
Music Room W3	13.0%	10.0%	23%
Music Room W4	17.0%	13.0%	23.52%
<b>Music Room Overall</b>	<b>18.0%</b>	<b>14.0%</b>	<b>22.22%</b>
Painting Room W5	17.0%	16.0%	6%
Painting Room W6	16.0%	13.0%	18.75%
<b>Painting Room Overall</b>	<b>22.0%</b>	<b>19.0%</b>	<b>13.6%</b>
Kitchen W7	12.0%	6.0%	50.0%
Kitchen W8	5.0%	2.0%	60%
<b>Kitchen Overall</b>	<b>14.0%</b>	<b>7.0%</b>	<b>50%</b>

The BRE Guidance states that reductions below 25% of annual probable sunlight hours (APSH) should be kept to a minimum and if the available sunlight hours are both less than 25% of APSH over the annual period and less than 0.8 times the former value and the loss is greater than 4.0% of the APSH, the 'room may appear colder and less cheerful and pleasant.' This is the secondary kitchen to the property with the primary kitchen being unaffected by the proposal. Only one of the kitchen windows experiences a loss in excess of the suggested absolute margin of loss in the BRE of 4% APSH. The BRE Guidelines advise that when considering sunlight effects to surrounding properties, the primary focus is on living rooms and conservatories, whereas kitchens and bedrooms are less important. Given the secondary nature of the kitchen and the BRE guidance that kitchens are less important and that these windows are on the boundary of the site looking into a closed courtyard area between multiple different buildings the loss is considered acceptable.

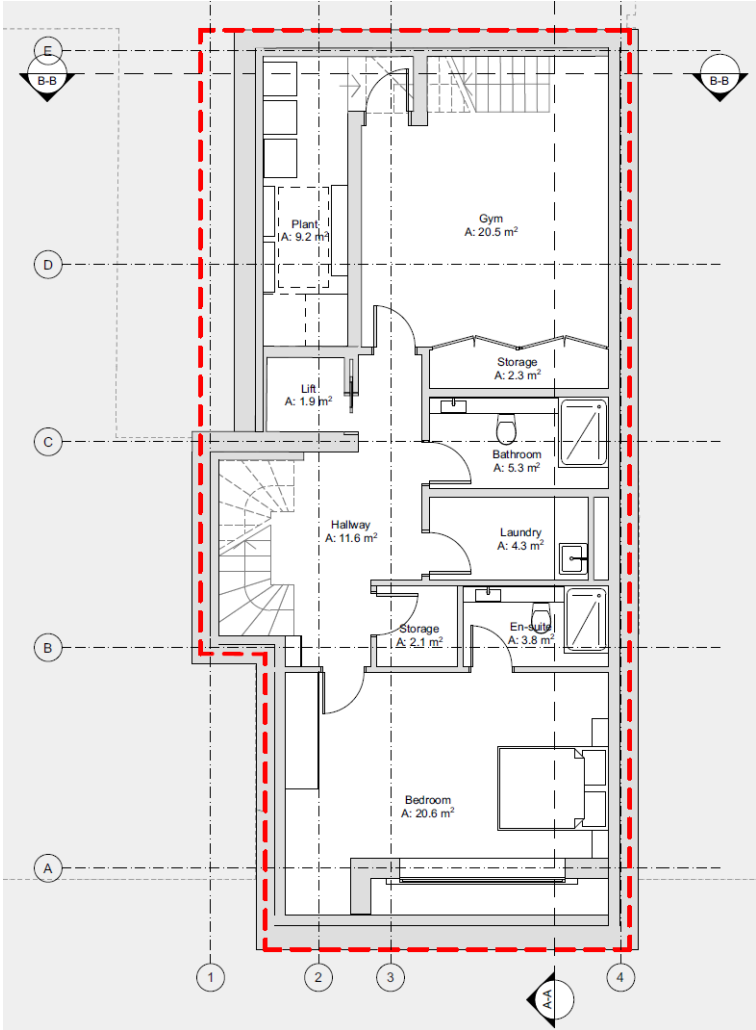
With regard to the music room, as the BRE Guidance states that the overall loss of APSH should not be "greater than" 4%, it is acknowledged that this is at the maximum limit of loss advised by the Guidance but as it does not exceed this, there are no grounds for refusal. There is also some loss to the painting room, but this is within the losses considered to be acceptable by the BRE Guidance.

Subsequent to the site visit having taken place the application is reported back to Committee for further consideration.

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

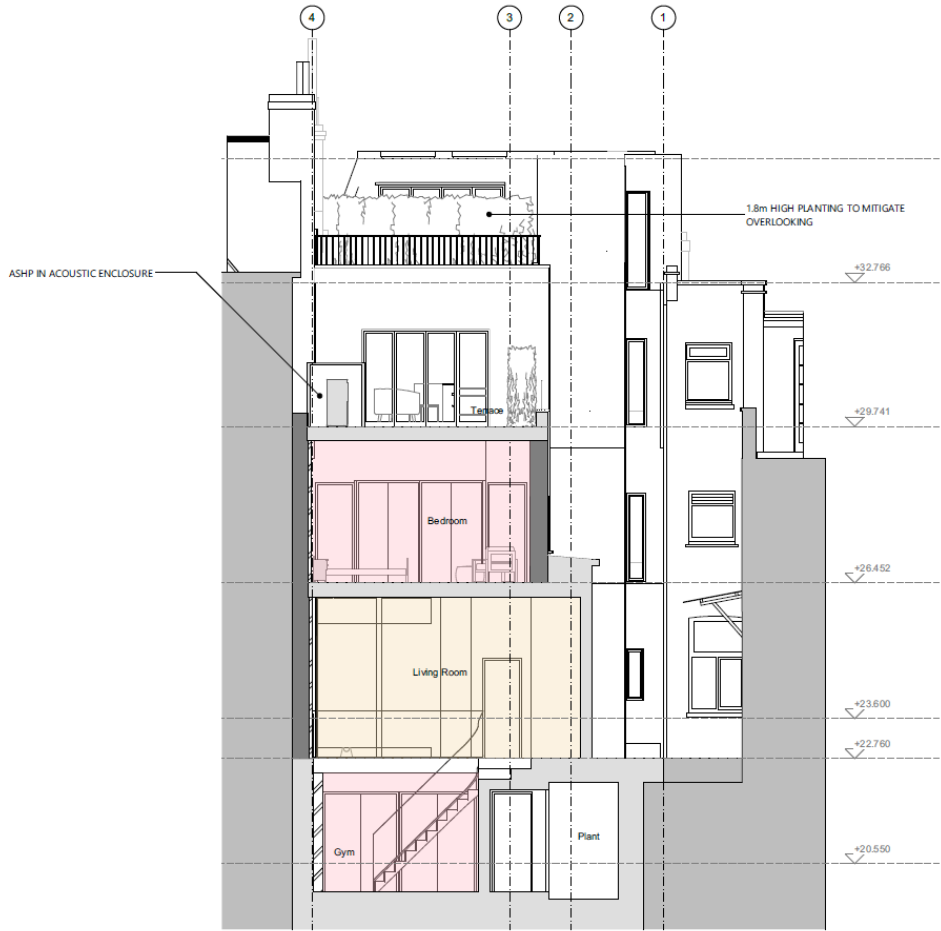
**3. REVISED DRAWINGS**

**Proposed Basement Plan:**





**Proposed Section BB**



Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 5 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>19 South Street, London, W1K 2XB</b>		
<b>Proposal</b>	Partial demolition to rear wing and roof; excavation of a new basement storey and extension at rear second floor level with erection of a new single story roof extension with rear terrace at third floor; installation of plant with screening on the second-floor terrace; installation of sedum roof at main roof level; and associated works all in association with the continued use as a single-family dwelling.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	Mr Sam Farmar		
<b>Registered Number</b>	23/03029/FULL	<b>Date amended/ completed</b>	5 May 2023
<b>Date Application Received</b>	5 May 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair Neighbourhood Plan		

**4. RECOMMENDATION**

Grant conditional planning permission.
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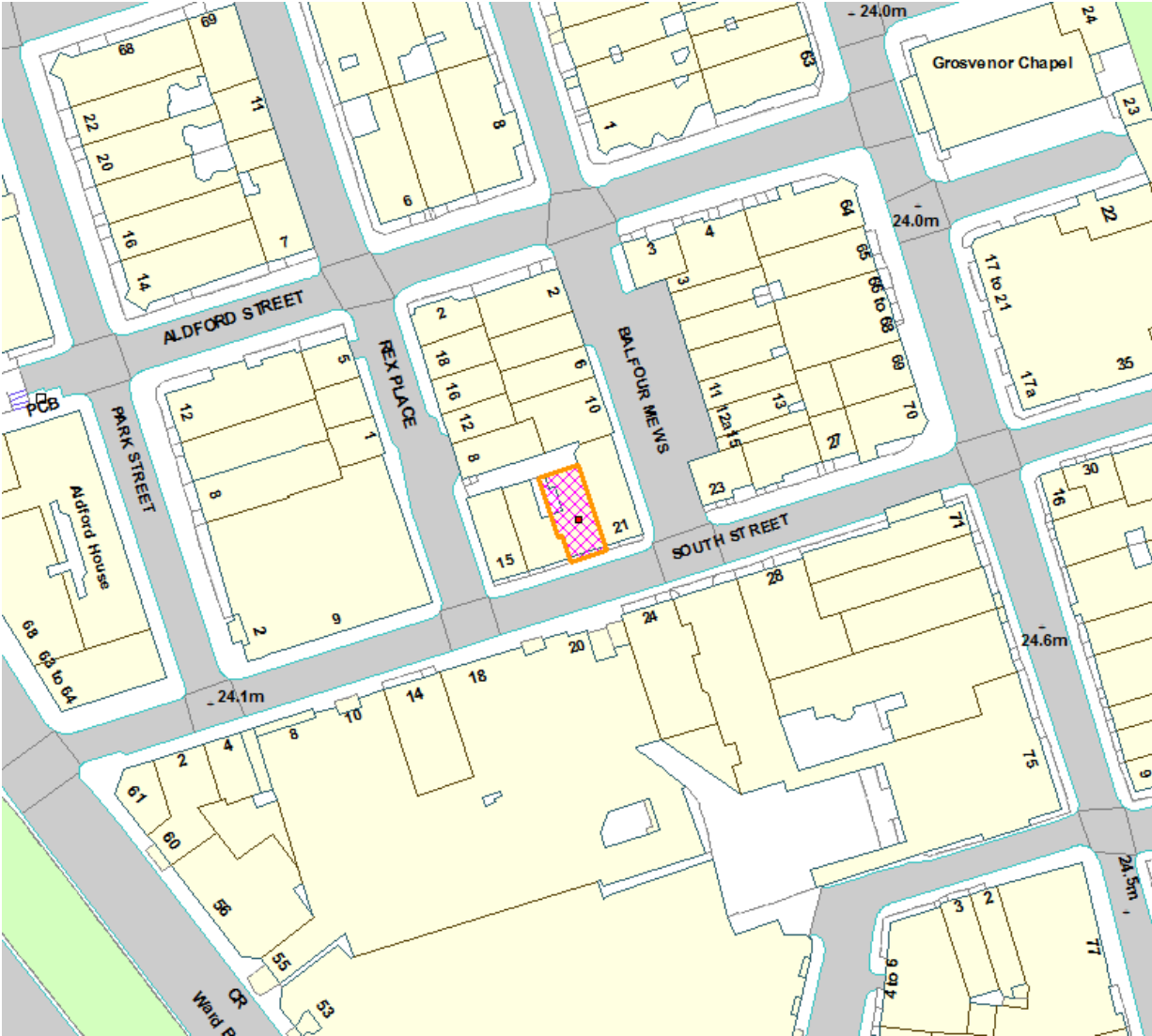
**5. SUMMARY & KEY CONSIDERATIONS**

<p>The application proposes the partial demolition of the existing building and the excavation of a new basement level, provision of a single storey mansard roof extension and extensions to the building at the rear all in connection with the continued use of the building as a single-family dwelling (Class C3). The existing terrace at second floor level is retained whilst a new terrace is proposed at rear third floor level with associated planting. An air source heat pump within an enclosure is proposed on the terrace at second floor level. A green roof would be provided at main roof level.</p> <p>The key considerations in this case are:</p> <ul style="list-style-type: none"> <li>• The acceptability of the energy performance of the proposed building.</li> <li>• The acceptability of the proposed building in design terms.</li> </ul>
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- The impact of the proposed building on the character and appearance of the wider Mayfair Conservation Area.
- The impact of the development on the amenity of neighbouring residential properties, specifically with regard overlooking, sense of enclosure and impact on daylight and sunlight.
- Highways and amenity impacts during excavation and construction of the basement.

The application has been amended since it was originally submitted and the proposed alterations to the property are now considered acceptable in design and amenity terms. Subject to safeguarding conditions, the proposal complies with relevant policies from the adopted City Plan 2019-2040 and the Mayfair Neighbourhood Plan and the application is therefore recommended for conditional approval.

6. LOCATION PLAN



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**7. PHOTOGRAPHS**

**Front elevation of the property:**



**North side of South Street:**



**Rear elevation of the property:**



## 8. CONSULTATIONS

### 8.1 Application Consultations

#### MAYFAIR RESIDENTS GROUP

No response to date.

#### MAYFAIR NEIGHBOURHOOD FORUM

No response to date.

#### RESIDENTS' SOCIETY OF MAYFAIR & ST. JAMES'S

\*More minimal works should be carried out the property in order to upgrade the property.

\*Additional overlooking of neighbouring properties from the third-floor terrace.

\*Noise disturbance from the vents in the courtyard wall.

\*Concern over the ownership of the courtyard.

\*Design concerns in relation to the additional storey of accommodation.

\*Proposed works are detrimental to the appearance of the Mayfair Conservation Area.

#### HISTORIC ENGLAND (ARCHAEOLOGY)

No objection subject to conditions.

#### BUILDING CONTROL

No objection.

#### ENVIRONMENTAL HEALTH

No objection subject to conditions.

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

No. Consulted: 18; Total No. of replies: 18

No. of objections: 12 (Two respondents have submitted two letters of objection, and one respondent has submitted three letters of objection)

No. in support: 6

#### PRESS NOTICE/ SITE NOTICE:

Yes

Support on the following grounds:

\*Proposed dwelling will provide better quality living space.

\*Existing building requires extensive internal and external refurbishment and repair.

\*Consider the development represents an improvement to the appearance of the building and the character and appearance of the wider Mayfair Conservation Area.

\*Welcome improvements to the energy efficiency of the building.

Objections on the following grounds:

*Amenity:*

\*Potential for disturbance during construction (dust, construction vehicles, noise etc)

- \*Noise disturbance in the courtyard resulting from the 'plant room' in the basement of the property.
- \*Encroachment of the basement development into areas owned by 17 South Street.
- \*Loss of privacy resulting from the windows at the rear and from the terrace.
- \*Increased sense of enclosure
- \*Potential for light pollution to neighbouring properties.
- \*Loss of sunlight, daylight and overshadowing
- \*Potential for the door to the ground floor courtyard to result in noise nuisance to neighbouring properties.
- \*Noise from plant
- \*Noise transference through the building structure to neighbouring properties.

*Design and Heritage:*

- \*Failure to Positively Contribute to Westminster's Townscape.
- \*Roof extension has a detrimental impact on the appearance of the building.
- \*Works are detrimental to the character and appearance of the Mayfair Conservation Area.

Other:

- \*Impact on the water table in the area.
- \*Non-compliance with basement policy
- \*Overdevelopment
- \*Access not having been provided to the applicant's property.

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

Following a number of withdrawn applications the applicant has had in-person meetings both with the owner of the adjoining property at 17 South Street and with the owner of a number of neighbouring properties (21 South Street / 15 South Street / 10 Balfour Mews / 12 Rex Place). Meetings have also been held with representatives of the Mayfair Neighbourhood Forum and the Residents Society of Mayfair and St James's'.

The applicant contends that various design concessions have been made to the scheme to address the objections of neighbouring residents and the amenity societies, however the neighbouring residents continue to object to the current proposal.

## **9. WESTMINSTER'S DEVELOPMENT PLAN**

### **9.1 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) (September 2023) 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.

## **9.2 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.

## **9.3 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 (September 2023) unless stated otherwise.

# **10. BACKGROUND INFORMATION**

## **10.1 The Application Site**

19 South Street is an unlisted building located within the Mayfair Conservation Area and the Central Activities Zone. The property comprises of ground, first and second floor levels and is in use as a single-family dwelling (Class C3). There is a large existing terrace at second floor level.

The property is accessible from the rear along a gated passage and steps down from Rex Place, leading to an archway, beyond which is a small, shared, courtyard.

## **10.2 Recent Relevant History**

22/04228/FULL - Demolition behind partially retained front facade to provide a replacement single family dwelling (Class C3) with excavation of a new basement storey and ground to third floor levels; creation of terraces at rear second and third floor levels; installation of green roof at main roof level; installation of plant at basement level served by a ventilation grille on the western ground floor elevation.

Application considered unacceptable on multiple grounds and withdrawn prior to determination.

21/02083/FULL - Demolition of existing three storey dwelling house, excavation of new basement floor and erection of a replacement building of four storeys plus basement for use as a single family dwelling house (Class C3) with associated air conditioning units at basement and rear ground floor lightwell. Creation of terraces at the rear of the property and at main roof level.

Application considered unacceptable on multiple grounds and withdrawn prior to determination.

## **11. THE PROPOSAL**

The existing residential dwelling measures 233sqm and comprises ground, first and second floor levels. There is a shared courtyard with 17 South Street at the rear and to the side of the building. The proposal sees some demolition of the existing dwelling, but this is limited to the rear wing and roof, and the creation of a new dwelling measuring 404sqm comprising basement, ground and first to third floors.

A small extension at second floor is proposed which as a result reduces the size of the existing terrace at this level, and a mansard and new terrace is proposed at rear third floor level. An air source heat pump within an enclosure is proposed on the rear second floor terrace. A new lightwell is proposed at the front of the building which is currently covered over by paving behind existing railings (which are retained). At main roof level a green roof is proposed.

## **12. DETAILED CONSIDERATIONS**

### **12.1 Land Use**

The existing house measures 233m<sup>2</sup> and the proposed house would measure 404m<sup>2</sup>. Policy 8 of the City Plan 2019 – 2040 requires that new residential units do not exceed 200m<sup>2</sup> however, paragraph 8.11 states that; 'the limit will not apply to the replacement of a single dwelling.' The principle of extending the existing single-family dwelling is therefore acceptable in land use terms. Objections have been received to the application stating that the proposal would be 'overdevelopment' of the site given that the unit would be over the 200m<sup>2</sup> threshold in this policy, but as detailed above given that this application is not creating a new unit, the unit size created here is not seen to be in breach of the policy.

### **12.2 Environment & Sustainability**

#### **Sustainable Design**

Part D of Policy 38 of the City Plan requires the following:

*Development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design, including:*

- 1. use of high-quality durable materials and detail;*
- 2. providing flexible, high quality floorspace;*

- 3. *optimising resource and water efficiency;*
- 4. *enabling the incorporation of, or connection to, future services or facilities; and*
- 5. *minimising the need for plant and machinery.*

Paragraph 38.11 of the City Plan requires that; ‘as new developments are large consumers of resources and materials, the possibility of sensitively refurbishing or retrofitting buildings should also be considered prior to demolition and proposals for substantial demolition and reconstruction should be fully justified on the basis of whole-life carbon impact, resource and energy use, when compared to the existing building.’

The previously withdrawn planning applications proposed either full or substantial demolition of the building. The current proposal retains the majority of the facades of the building including the entire front elevation, the majority of the rear elevation, the rear lift shaft and most of the upper floor slabs. The rear archway over the courtyard between the application site and 17 South Street is also to be retained and repaired. The applicant has confirmed that all timbers removed from the floors will be inspected and repaired for re-use on site if possible. It is also acknowledged that the property does require extensive intervention to bring the building up to modern requirements.

### **Energy Performance**

Part A of Policy 36 of the City Plan states that; ‘*The council will promote zero carbon development and expects all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change.*’ The use of an all-electric heating system at the property through the air source heat pump and the mechanical ventilation with heat recovery system results in the operational carbon output of the proposed dwelling being around 1 ton of CO<sub>2</sub> per annum compared to the existing dwelling which is 12 tonnes of CO<sub>2</sub> per annum, meaning a reduction of 91%.

### **Air Quality**

Environmental Health have reviewed the submitted documentation and consider the proposed alterations to the building including the new air source heat pump, double glazing and improvements to the thermal performance of the building will optimise the building’s energy efficiency and reduce heat loss and on-site CO<sub>2</sub> & NO<sub>x</sub> emissions, therefore meeting the building emission air quality neutral benchmark. They consider the provision of the green roof will also make a positive contribution to air quality.

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

A green roof is proposed to help intercept and retain precipitation, reduce the volume of runoff and attenuating peak flows. It is also proposed to install a sump and a pump in the basement to ensure water discharge into the gravity sewer system and the high-level gravity connection will minimise flood risk to the basement in the event of extreme storm event. The outlined measures will reduce the risk of surface water flooding in the area and the site’s surroundings.

### **Light Pollution**

An objector has commented on the potential for light pollution resulting from the windows at the rear of the property, however there are existing windows on the rear elevation and side (west) facing elevation. It is not considered the proposal would result in any greater level of light pollution compared to the existing situation, especially given the presence of windows on other buildings in the immediate vicinity and it is not considered that the application could be refused for these reasons.

### **Land Contamination**

The Environmental Health Officer has identified the risk of asbestos in the building and its method of disposal is dealt with by informative. In addition, although the potential of radon is low in the whole of Westminster, as the development includes the excavation of a new basement there is the potential for Radon contamination. Environmental Health have requested a condition be included requiring the applicant carry out a radon assessment in accordance with the UK National Action Plan.

### **Environment & Sustainability Summary**

Given the improvements to the environmental performance of the building the proposal is compliant with the requirements of Policy 36 of the City Plan which requires development to reduce on-site energy demands and maximise the use of low carbon energy sources. A condition is included to ensure that prior to the development being occupied all the energy efficiency measures as detailed in the approved Energy and Sustainability Statement are provided and thereafter retained.

## **12.3 Biodiversity & Greening**

Policy 34 of the City Plan deals with green infrastructure and requires developments to, wherever possible, contribute to the greening of Westminster by incorporating trees, green roofs, rain gardens and other green features and spaces into the design of the scheme.

A green roof is proposed at main roof area (16sqm), it is shown this will reduce surface water run off by 80% in Summer and 25% in Winter. A condition is included to require the submission of further details of the green roof including species to be planted and a maintenance scheme, the condition is worded to ensure the green roof is provided and retained due to the benefits this will provide in terms of biodiversity.

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

### **Legislative & Policy Context**

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that "In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to

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the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

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

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

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

### **Detailed Design and Impact on Heritage Assets including Archaeology**

No. 19 South Street is an unlisted building in the Mayfair Conservation Area and the site lies within the Great Estates Area of Special Archaeological Priority. The nearest listed buildings (Grade II) are at 24, 26 and 28 South Street, 23 South Street, and at 12A, 15 and 15 Balfour Mews. A little further to the east is 71 South Street (listed Grade II-Star).

South Street has a mixed architectural character and the site is part of a densely developed urban block of relatively small-scale buildings many of which are typical Mayfair mews houses.

A building superficially similar to No.19, but better preserved, can be found at 39 Bruton Place.

No. 19 stands on the north side of the street and is historically part of a pair with No.17. The two buildings were used in the past for a variety of purposes including by a riding school and vet. Both uses have long since ceased, but there are some remaining architectural elements of both buildings that are evidence of these uses. It is clear from the consultation responses received that these buildings and their evidence of historic uses are highly valued by local residents.

Seen from South Street, No.19 now appears markedly different to No.17, has an altered façade which has been unsympathetically modernised with poor quality replacement windows, and there is an isolated pilaster at the eastern end of the facade which stops abruptly and awkwardly below a second floor window. While both buildings have some features in common, such as a shared parapet height and flat roofs, they do not appear as a matching pair when seen from South Street.

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Both buildings are accessible from the rear along a gated passage and steps down from Rex Place, leading to an archway, beyond which is a small, shared, courtyard. At the rear, the facades of the two are a mix of rendered, painted, and unpainted brickwork. The Archaeological Desk Based Assessment submitted with the application provides helpful, historic, plans of the building, although the plan dated 1880 has been inadvertently substituted by an irrelevant drawing.

The proposed alterations envisage excavation of a basement with a front area lightwell, a roof extension, and alterations at the rear. Several objections from neighbours and from the Residents' Society of Mayfair & St James's have been received which, in essence, object to the loss of historic features and harm to the appearance of the building as part of a pair with No 17.

Since the initial submission the proposals have been amended to take into account, as far as the applicant considers possible and reasonable, the objections received. Consequently, the detailed design of the mansard roof has been changed, and the detailed design of the alterations which included an incongruous vertical slot window and installation of glass balustrades have all been satisfactorily amended.

The proposed basement occupies the full extent of the site which is mostly under the existing building except at the rear where it is also beneath the courtyard adjacent to No. 17. This has no adverse impact in terms of the building's external appearance or relative size in relation to similar properties within the surrounding conservation area. It is acceptable in heritage asset terms and the front lightwell is open to the basement instead of being glazed over as previously proposed. Therefore, the basement accords with City Plan policy 45 (parts 3 and 4). Historic England (Archaeology) confirm that the impact of the basement can be adequately addressed by condition, and it therefore is also in accordance with City Plan policy 39. The relevant condition as requested by Historic England is included.

At roof level, the proposed mansard is set back an appropriate distance behind a parapet gutter and the hipped end (on the east side) means it now has a suitable architectural relationship with No.21.

Notwithstanding the objections received, in design and heritage asset terms, the South Street façade of No.19 is more than sufficiently different to that of No.17 so as to not read as a pair. The proposed mansard follows established principles in terms of its size and detailed design, the neighbours' objections to it cannot be sustained in design and heritage asset terms.

The building's footprint is a key part of its historic interest and the contribution it makes to the character and appearance of the surrounding conservation area. While this is largely invisible from the public realm, it is readily apparent from the tight-knit group of buildings around the rear yard accessed from Rex Place. The revised design at rear ground floor level is now of the same groundline as the existing building. The enlarged window openings have been omitted in favour of design which better suits the character and appearance of the building and surrounding conservation area. Likewise, glass balustrades have been omitted in favour of painted-metal ones.

## **Conclusion on heritage matters**

Overall, there is no harm in design or heritage asset terms and proposals accord with City Plan policies 38, 39, and 40, and with policy MD of the Mayfair Neighbourhood Plan.

### **12.5 Residential Amenity**

#### **Daylight & Sunlight**

Policy 7 of the City Plan requires that development is neighbourly and '*protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.*' Para 7.3 elaborates and states that '*negative effects on amenity should be minimised as they can impact on quality of life. Provision of good indoor daylight and sunlight levels is important for health and well-being and to decrease energy consumption through reduced need for artificial heating and lighting.*'

A Daylight and Sunlight Assessment has been submitted in support of the application which assesses the impact of the development on a number of nearby residential properties including 17 South Street, 10 Balfour Mews, 8 Rex Place and 55 Park Lane.

Under the BRE guidelines the level of daylight received by a property is assessed by the Vertical Sky Component (VSC) which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. An assessment has also been made of the 'No Sky Line' (NSL) in rooms. The NSL is a measure of the daylight within rooms measured mapping the region of the room where light can reach directly from the sky. The BRE Guidance states that; '*if, following construction of a new development, the no sky line moves so that the area of the existing room, which does receive direct skylight, is reduced to less than 0.80 times its former value this will be noticeable to the occupants, and more of the room will appear poorly lit.*'

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, and there is a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

The applicant's daylight and sunlight assessment concludes that of the 75 windows tested one has a loss of VSC in excess of the BRE Guidance and of the 57 windows assessed for NSL one has a loss in excess of the guidance. Of the 21 windows tested for sunlight losses one window fails to meet the guidelines. An objection was received which raised the issue of a window being missed from the analysis but subsequent to this objection and amendments to the scheme as a whole a new daylight and sunlight assessment has been submitted which includes the window.

### *Daylight*

With regard to the one window which fails to comply with the VSC test, this is a rear ground floor window serving the kitchen of 17 South Street. The existing VSC level is 2.29 which falls to 1.82 as a result of the development which is a reduction of 21%. Whilst the BRE guidance states that reductions in excess of 20% are likely to be noticeable, the existing level is also very low so even a small change would result in a significant percentage change. With regard the NSL for this kitchen the results show that this would retain 96% of the former value and well above the 0.8 value in the guidance.

In the analysis of all other windows there is one room shown as having a loss of NSL in excess of the 20% in the guidance which is a window to a kitchen at lower ground floor level in 10 Balfour Mews. An objection has been received with regard to the losses of light to the lower ground floor. It is understood that this is a secondary kitchen at lower ground floor, and this would experience a relative change of 25%. This effect is only slightly beyond BRE Guidelines recommendations and is largely a result of the very low existing levels of light in these rooms. In absolute terms, the loss of sky view to this room caused by the development is 0.97m<sup>2</sup>, which equates to less than 5% of the total room area.

### *Sunlight*

The lower ground floor kitchen at 10 Balfour Mews also experiences the loss of annual sunlight in excess of the guidance. There are two windows serving this room. One window serving this rooms meets the BRE recommendations for APSH, however one window will result in an absolute reduction to the annual Sunlight potential of 6 APSH (from 12% to 6%). This is slightly above the suggested absolute margin of loss in the BRE of 4 APSH. The BRE Guidelines advise that when considering sunlight effects to surrounding properties, the primary focus is on living rooms and conservatories, whereas kitchens and bedrooms are less important. It is understood that this is a secondary kitchen and given that the primary one is unaffected, the sunlight effect to this room is considered to be minor and it is not considered that the application is refusable on these grounds.

### *Overshadowing*

Further analysis has been carried out with regard to three outside gardens / terraces of neighbouring properties, these being the first-floor terrace at 21 South Street, second-floor terrace to 17 South Street and the rear ground floor garden of 10 Balfour Mews. With regard to gardens and useable outside spaces the BRE Guidance states: *It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21 March is less than 0.80 times its former value, then the loss of sunlight is likely to be noticeable. If a detailed calculation cannot be carried out, it is recommended that the centre of the area should receive at least two hours of sunlight on 21 March.*

It should be noted that 55 Park Lane to the south of the application site is 10 storeys and has a significant impact on the levels of sunlight to the building and its neighbours. The BRE recommends that ideally 50% of any open space should receive at least two hours of Sunlight availability on 21st March. None of the three areas assessed are close to this



threshold, with the highest result recorded being 31.48% (at 10 Balfour Mews) and the other two areas receiving less than 1%.

With regard to the terrace at 21 South Street, the changes comply with the guidelines.

For the second-floor terrace at 17 South Street the following changes would result from the proposal:

<b>Sunlight Availability (mins)</b>	<b>21<sup>st</sup> March</b>		<b>21<sup>st</sup> June</b>	
	Existing (%)	Proposed (%)	Existing (%)	Proposed (%)
More than 2 hours	0.72	0	68.71	65.93
Between 1 and 2 hours	6.53	4.74	7.84	8.07
Less than 1 hour	92.75	95.26	23.45	26

The BRE guidance is that 50% of the open space should receive two hours of sunlight on March 21<sup>st</sup>. As the above table demonstrates only 0.7% of the terrace space would have over two hours of sunlight on the 21<sup>st</sup> March and with the development this reduces to 0%. This is technically contrary to the BRE guidance as the loss is greater than 20% but given only 0.7% of the area would have over 2 hours of sunlight this is such a small volume as to be inconsequential. The analysis of the 21 June shows that during the summer months the proposal has only a minimal impact on the sunlight to this terrace.

For the rear garden at 10 Balfour Mews the following losses result from the proposal:

<b>Sunlight Availability (mins)</b>	<b>21<sup>st</sup> March</b>		<b>21<sup>st</sup> June</b>	
	Existing (%)	Proposed (%)	Existing (%)	Proposed (%)
More than 2 hours	31.48	4.45	79.48	79.48
Between 1 and 2 hours	11.67	37.96	6.13	6.13
Less than 1 hour	56.84	57.59	14.37	14.37

The area of the garden receiving over 2 hours sunlight will reduce by 86% from the existing 31.48% to 4.45% contrary to BRE guidance. This is a significant reduction and strong objections to this loss have been received from the neighbouring resident.

The detailed submitted shadow analysis shows that the shadow of the development would impact the neighbouring garden between 09:00 and 11:00, however, by 10:45 the shadow of the proposed development is already subsumed by the shadow of the larger building behind at 55 Park Lane. The applicant argues that this identifies that the material effect of the proposed development on this garden is limited to a 90-minute window on 21<sup>st</sup> March, occurring between 9:00 and 10:30. During this time, the majority of the garden is already in shadow. The applicant considers that given the limited availability of sunlight on the 21<sup>st</sup> March that this means that even a relatively modest effect can be enough to reflect a seemingly large relative change when referenced only against the binary two-hour sunlight threshold that is typically recommended by the BRE.

The BRE suggests that it can also be practical to consider the effect of proposed developments on sunlight availability in the summer period as an additional point of

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reference. During the summer period, there is no effect from the proposed development and the garden will continue to enjoy sunlight availability for approximately 80% of the garden area for more than two hours on 21<sup>st</sup> June. However, it should be borne in mind that 21<sup>st</sup> June represents the best case of minimum shadow, and that shadows for the rest of the year will be longer.

Whilst the proposed development will result in overshadowing, the losses are relatively early in the morning, and after 10.30 the area of garden receiving sunlight is unaffected by the proposals. Given this, and that there would be no impact in the summer months when the garden is most likely to be in regular use, the impact on the amenity of this space is considered acceptable.

### **Sense of Enclosure**

Policy 7 of the City Plan states that; 'development will be neighbourly by; protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.' A number of objections have been received to the application from residential occupiers in the immediate vicinity concerned that the increased height and bulk of the building will result in an increased sense of enclosure to their properties.

The extended second floor level would be set 3.4m further back than the existing rear wall at this level. The neighbouring property at 17 South Street has no windows facing the extension at this level which would be impacted. There is a terrace at rear second floor level to 17 South Street and a courtyard garden at 10 Balfour Mews but the proposed extension at rear second floor level would have minimal impact upon the resident's enjoyment of their external amenity spaces. The adjoining property to the east at 21 South Street has a blank wall at this level so would not be impacted.

### **Privacy**

Policy 7 of the City Plan states that; 'development will be neighbourly by; protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.' A number of objections have been received to the application concerned about overlooking from the windows looking into the shared courtyard to the rear of the property, and as a result the full height 3-storey window on the rear courtyard elevation has been deleted from the proposal.

There is an existing window on the rear ground floor level and on the west facing elevation at ground and first floor levels. Windows are proposed at ground and first floor level on both the rear and west facing elevations which overlook the courtyard. In order to mitigate the potential for overlooking of the courtyard from the property a condition is proposed to require the rear ground floor window and the windows on the west facing elevation to be obscure glazed with samples to be provided to the City Council before being installed. With this condition for the provision of obscure glazing and taking into account there are existing windows overlooking this shared courtyard the objection on these grounds can not be sustained.

Objections have also been received with regard to the potential for overlooking from the

new third floor terrace. There is a terrace at second floor level on the existing building which would be reduced in size by approximately 50%. The proposed second floor terrace would measure 13.4sqm whilst the terrace proposed at third floor level would measure 12.2sqm, both terraces have metal balustrading and planting around their edges. The adjoining property at 17 South Street has a terrace at rear second floor level. Permission has also recently been granted for a terrace at second floor level at the rear of 15 South Street with steps out the rear of the building at third floor level in association with a residential property, screening was provided to that terrace in the form of a wooden trellis to a height of 1.8m and conditioned to be installed and retained. There is considered to be a high degree of mutual overlooking at the rear of the buildings with the presence of high level terraces on a number of neighbouring buildings, given the site context the terrace proposed at third floor level is considered acceptable. A condition is included to require the installation of planting as shown on the drawings and to ensure that it is maintained to a height of 1.8m on the third floor terrace.

An objection was also received to the application on overlooking grounds from the occupier of 2-4 Balfour Mews however this property is 20m away and appears to have no windows which would be overlooked by the development.

## **Noise & Vibration**

### **Plant**

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

An acoustic report has been submitted in relation to the installation of the plant equipment. A single air source heat pump is proposed on the second floor terrace within an acoustic enclosure. Background noise measurements at the property have been measured with the lowest background noise level being recorded as 40dB. As this figure is above the WHO guideline levels the design criteria is 10dB below being 30dB at the nearest noise sensitive property.

The nearest noise sensitive windows were identified as being the windows of the adjoining residential house at 17 South Street at a distance of 4m from the plant. It is proposed that the plant can operate at any time over a 24 hour period. The air source heat pump would be installed within an acoustic enclosure for noise mitigation purposes.

The acoustic report concludes that with the acoustic mitigation measures installed that the noise levels at the nearest sensitive property will be compliant with the City Council criteria. An objection has been received to the application from an acoustic consultant representing a nearby occupier, they comment that no detailed design has been provided to demonstrate what this may look like, its size and indeed whether it is technically possible. The proposed drawings have the detail of the acoustic enclosure and the acoustic report includes the details of various manufacturers who can supply the enclosure which will provide the required acoustic mitigation. Environmental Health have reviewed the application and have determined that the acoustic mitigation required by the enclosure is achievable. The objector has also queried whether the plant would be

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intermittent or tonal which would require a further reduction of 5dB in the noise levels but given the nature of heat pumps this would not be the case. Environmental Health have assessed the documentation and confirmed that the plant operation will be acceptable. Conditions are included to control noise and vibration levels from the plant and the installation of the acoustic enclosure.

The objector has commented on the potential for structural borne vibration from the operation of the unit. The standard condition has been included on the application stipulating acceptable vibration levels from the plant operation. Additionally, to avoid the potential for vibration from the equipment the vibration isolators will be installed within the enclosure between the unit and the enclosure itself with no rigid connection between the enclosure and the plant.

Objections have been received to the application concerned with the potential for noise disturbance from the operation of plant in the basement of the property as the proposed plans show a small plant room at this level. The applicant has confirmed that this plant room would house the water tank with integral booster pumps, hot water cylinder, air source heat pump hydronic module (pump and valves), mechanical ventilation heat recovery (MVHR) system (which provides extract to the bathroom) with associated electrical and lighting equipment. The acoustic consultant for the applicant has confirmed that the only item which may generate noise is the MVHR system and comment that; *'The only item above which may generate some noise that is at risk of being audible from the grilles in the light well is the MVHR (background ventilation) system. However, these are well known and essential items on new, low energy homes and designed to prevent noise transfer externally or internally and operate virtually silently.'* Small air vents are shown on the west facing courtyard elevation of the property to serve the new basement plant room. Whilst the majority of the plant in the basement plant room will not generate noise given the comments of the acoustic consultant on the MVHR system a condition is included to require the submission of a supplementary acoustic report to demonstrate compliance with the City Council standard noise condition.

### **Building Structure**

An objector has commented on the potential for noise transference through the building structure to impact them once the building is occupied. Whilst it is considered the extensive works proposed to the property will likely result in improved acoustic insulation between the properties the standard noise condition is included to ensure the building structure is of sufficient quality in order to protect occupiers of neighbouring buildings from noise and vibration generated within the building. The inclusion of this condition is considered to address the concerns of the neighbouring occupier. A further standard condition is included to ensure the structure of the building is such that occupiers are protected from external noise sources.

Environmental Health have reviewed the submitted documentation and concluded that with the existing mid-18th century brickwork, the proposed new roof, new double-glazed windows and the proposed alterations to the building this will ensure adequate noise insulation for occupants with regard external noise sources.

**12.6 Transportation, Accessibility & Servicing**

**Cycling & Cycle Storage**

It is not considered the proposal would result in any additional highways demands considering the existing building is a single family dwelling. Two cycle parking spaces are shown to be provided within the rear courtyard for the use of occupiers / visitors and this accords with Policy 25 of the City Plan. A condition is included to ensure this area is retained as cycle parking spaces.

**12.7 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.

**12.8 Other Considerations**

**Courtyard Door**

An objection has been received to the door leading onto the rear courtyard from the property due to the potential to 'permit considerable noise and disturbance to impact the residents of no. 17'. There is an existing door in this location providing access from No. 19 to the shared courtyard and the proposed door is in the same location.

**Basement**

The proposal includes the excavation of a new basement level under the main property to provide additional residential floorspace for the house. As the proposal includes the excavation of a new basement area the application must be considered against Policy 45 of the City Plan.

Part A Policy 45

These parts of the policy relate to structural stability; surface water and sewerage flooding; minimising the impact at construction and occupation stages; protecting heritage assets and conserving the appearance of the existing building, garden setting and surrounding area.

The policy also requires that the applicant provide a signed pro forma Appendix A of the Code of Construction Practice. This has been completed and submitted by the applicant as part of the application.

The submitted structural methodology statement has been reviewed by the Building Control Officer who has confirmed they are satisfied with the information provided and consider that sufficient safeguards have been shown to ensure the structural stability of neighbouring properties during construction works. A site investigation of existing structures and geology has been carried out and demonstrated the basement excavation to be acceptable. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has

been found to be negligible. The basement is to be constructed using traditional reinforced concrete underpinning to provide permanent basement wall which is considered to be appropriate for this site.

The purpose of the structural methodology report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. Therefore, we are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. This report will be attached for information purposes to the draft decision letter.

The City Council has adopted a Supplementary Planning Document which relates to basement extensions in Westminster. This identifies areas of the borough as being more susceptible to surface water flooding and where applications for basements will need to be accompanied by additional information relating to rainwater infiltration. As this site is located outside of the identified 'Surface Water Risk Hotspots' no further information is required with regard this issue. Objections have been received to the potential for the construction of the basement to adversely impact the local water table and underground rivers but given the information submitted the analysis shows this not to be the case and the proposal is acceptable with regard the impact on the local water hydrology.

Objections have been received concerned about the structural implications of the proposal for the building and neighbouring properties. However as detailed above the submitted information demonstrates that the proposed construction methodology is acceptable.

The impact of the basement upon the heritage asset is addressed above in section 9.4 above and has been considered acceptable. Historic England have assessed the application and raised no objection subject to a relevant condition to require the submission and approval of a written scheme of investigation for a programme of archaeological work.

#### Part B of Policy 45

These parts of the policy relate to the extent and depth of basements. Objectors have raised concern that the proposed basement would extend under the entirety of the courtyard area contrary to Policy 45.

Part B. (1) states that basement developments will be supported where they do not extend beneath more than 50% of the garden land – on small sites where the garden is 8m or less at its longest point, basements may extend up to 4m from the original building in that direction. The policy also restricts basement depths to one storey beneath the lowest original floor level.

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The proposed basement comprises one storey beneath the lowest original floor level and would extend beneath the courtyard by a depth of 7.2m in excess of the policy stipulation for a small site such as this. However, this is still a modest area and an unconventional layout with the footprint of the existing building running up to the rear boundary. The policy is intended to strike a balance between allowing development, while ensuring a substantial area remains undeveloped without any impermeable surfacing installed. Although strictly not compliant with the word of the policy, in this instance, as the courtyard is already fully paved and no additional impermeable surface is created, on balance the extent of basement excavation is considered acceptable.

An objector considers that the basement 'encroaches under the neighbour's side of the courtyard' (17 South Street). This does not appear to be the case from the drawings as the basement excavation falls along the centre of the courtyard and no further evidence has been provided to substantiate this claim. Nonetheless, notice has been served on 17 South Street and any underpinning of neighbouring walls would require the relevant party wall agreements. The applicant has also provided their property 'title' to the property which shows they own half of the courtyard to the rear of the building.

### **Construction impact**

Concerns have been raised by neighbouring occupiers with regard potential disruption and disturbance during building works. The applicants have also confirmed they will sign up to the City Council's Code of Construction Practice to mitigate construction impacts upon the highway and amenity within the vicinity. The Code of Construction Practice is designed to monitor, control and manage construction impacts on construction sites throughout Westminster. A condition is proposed to secure this commitment. Whilst objections have been received to the impacts of the construction the Code of Construction Practice will ensure all appropriate measures are included to deal with construction vehicle movements, dust, and cleaning of the highway. With these controls in place it is not considered the objections on these grounds could be supported. The standard building hours' condition is also recommended to safeguard residents' amenity.

### **Access**

An objection has been received from an agent acting on behalf of a neighbouring property who tried to arrange access to the application building and it seems access was denied. The objection on these grounds is noted but the applicant is under no obligation to provide access to their property to consultants of neighbouring occupiers and planning permission could not be denied on these grounds.

### **Consultation process**

Objections were initially raised regarding the accuracy of the description of development which initially omitted reference to the proposed third floor terrace. Neighbours have been re-notified following the revised description of development.

## **12.9 Environmental Impact Assessment**

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

**12.10 Planning Obligations & Pre-Commencement Conditions**

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant’s written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. During the course of this application a notice was served relating to the proposed imposition of pre-commencement conditions to secure the applicant’s adherence to the City Council’s Code of Construction Practice during the demolition/excavation and construction phases of the development and for the submission of a written scheme of investigation for a programme of archaeological work. The applicant has agreed to the imposition of these pre-commencement conditions.

**13. Conclusion**

This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, Having regard to this assessment, it has found that the proposed development is acceptable. Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and London Plan 2021. It is recommended that planning permission is granted, subject the conditions listed at the end of this report, which are necessary to make the development acceptable.

(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: JO PALMER BY EMAIL AT <a href="mailto:jpalme@westminster.gov.uk">jpalme@westminster.gov.uk</a>
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14. KEY DRAWINGS

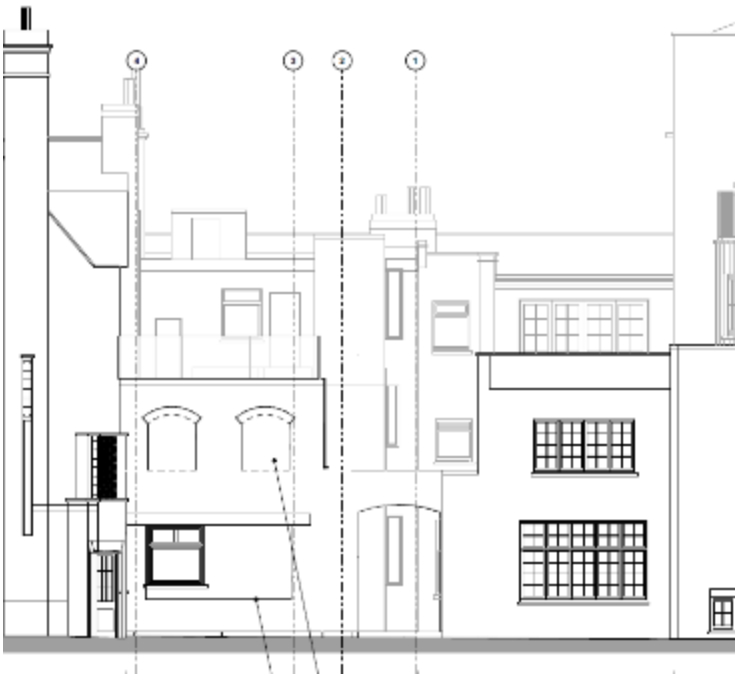
Existing Front Elevation:



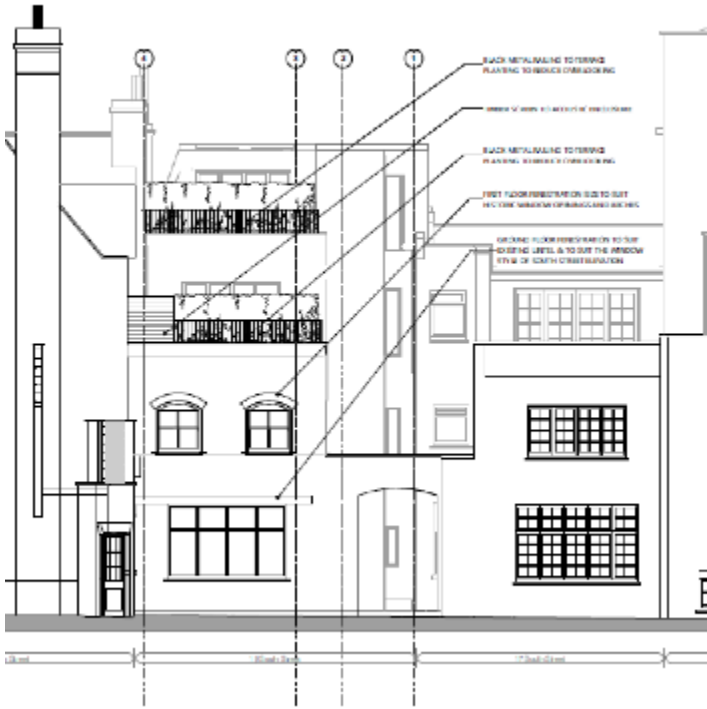
Proposed Front Elevation:



**Existing Rear Elevation:**



**Proposed Rear Elevation:**

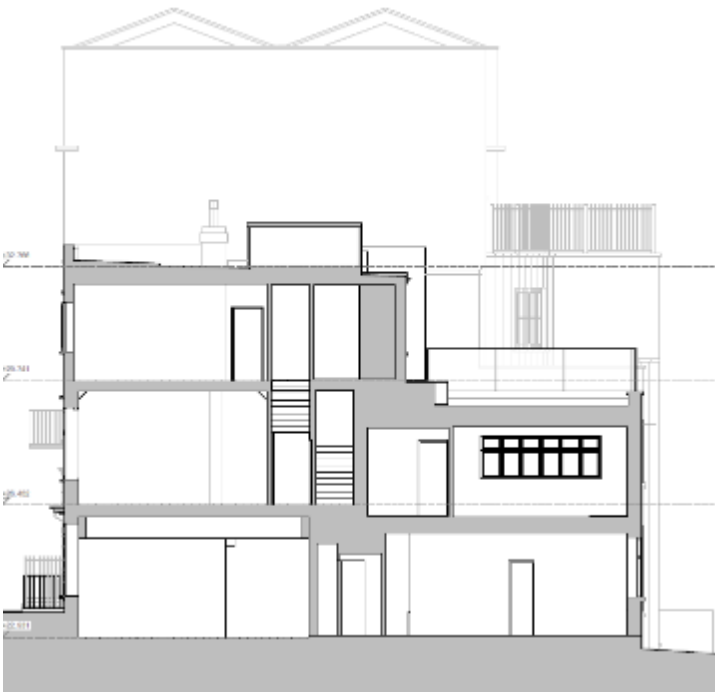


**Proposed visuals:**

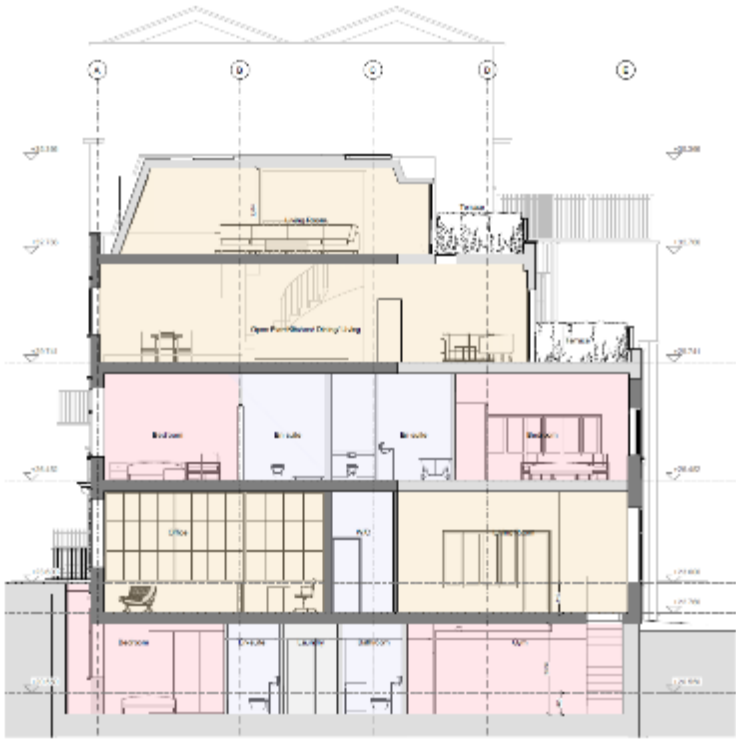




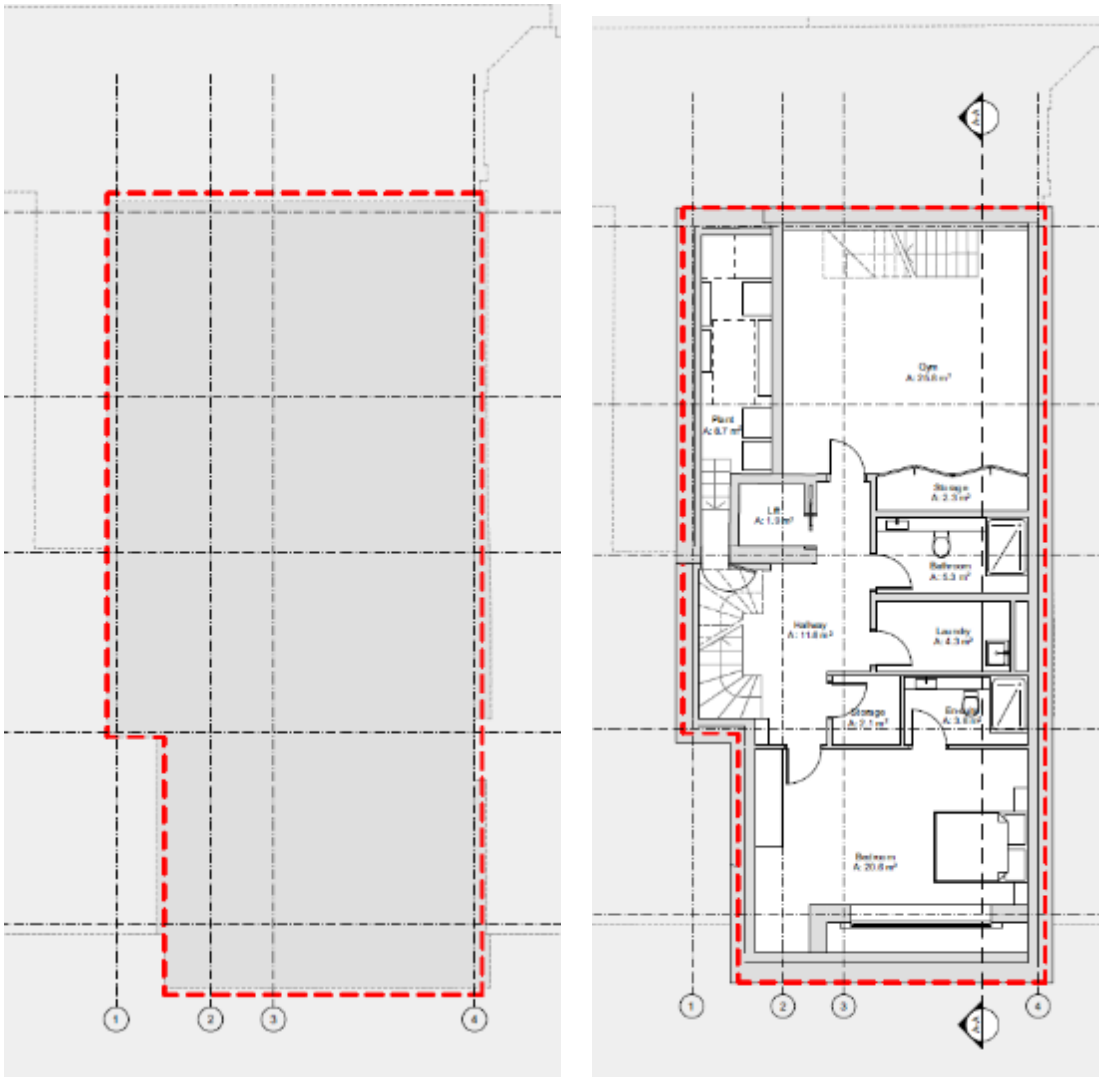
**Existing section:**



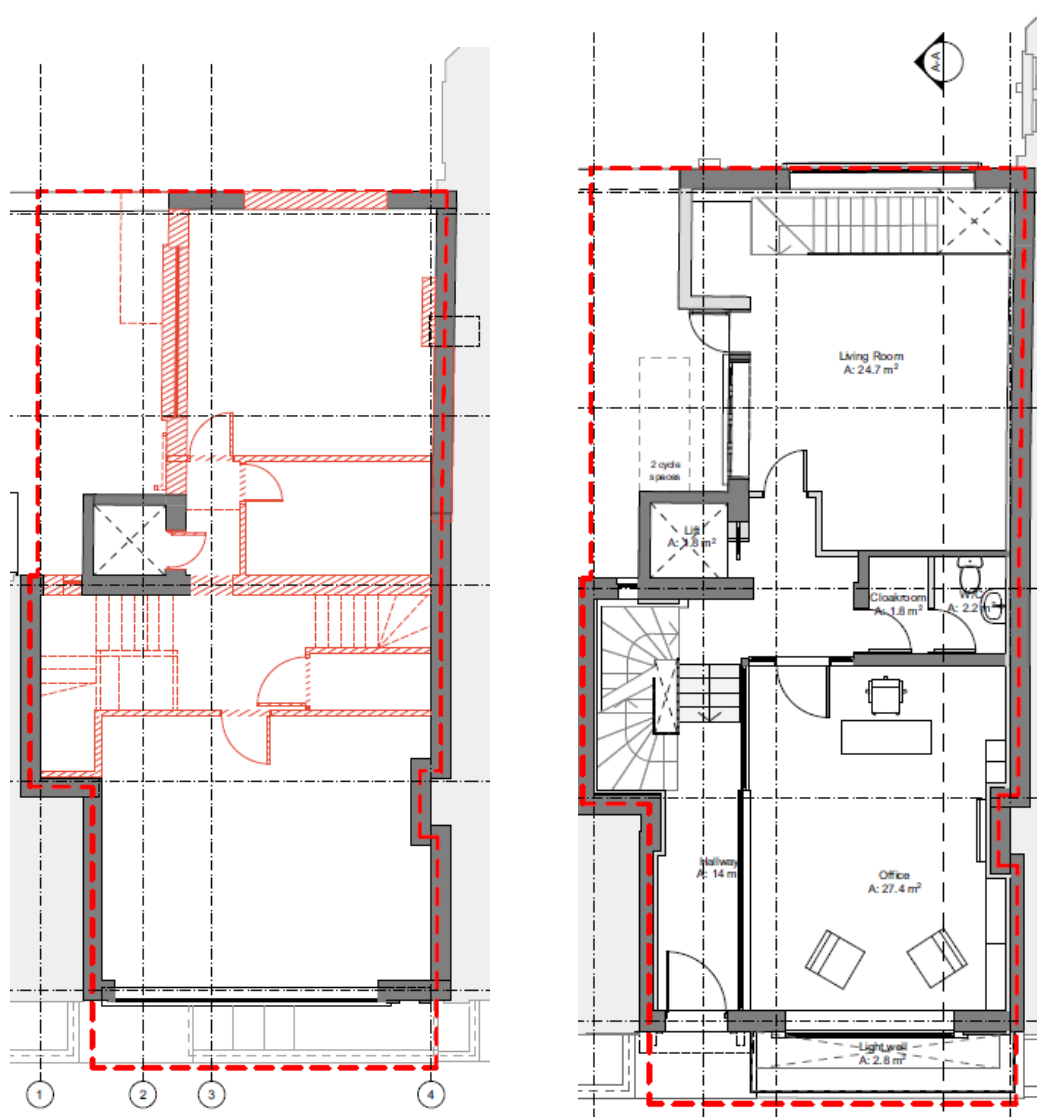
**Proposed Section:**



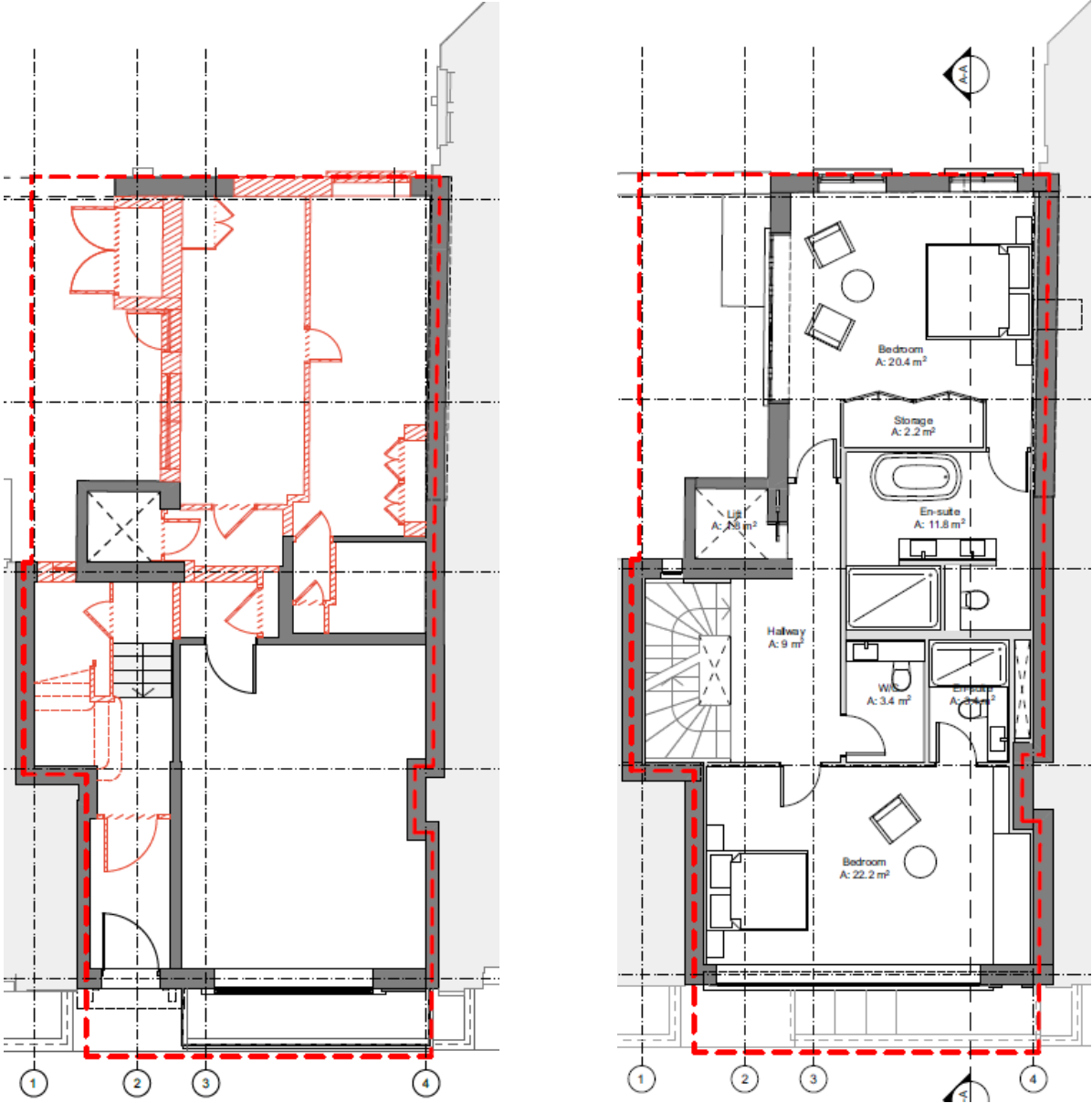
**Existing and Proposed basement floor plan:**



Existing and Proposed ground floor plan:

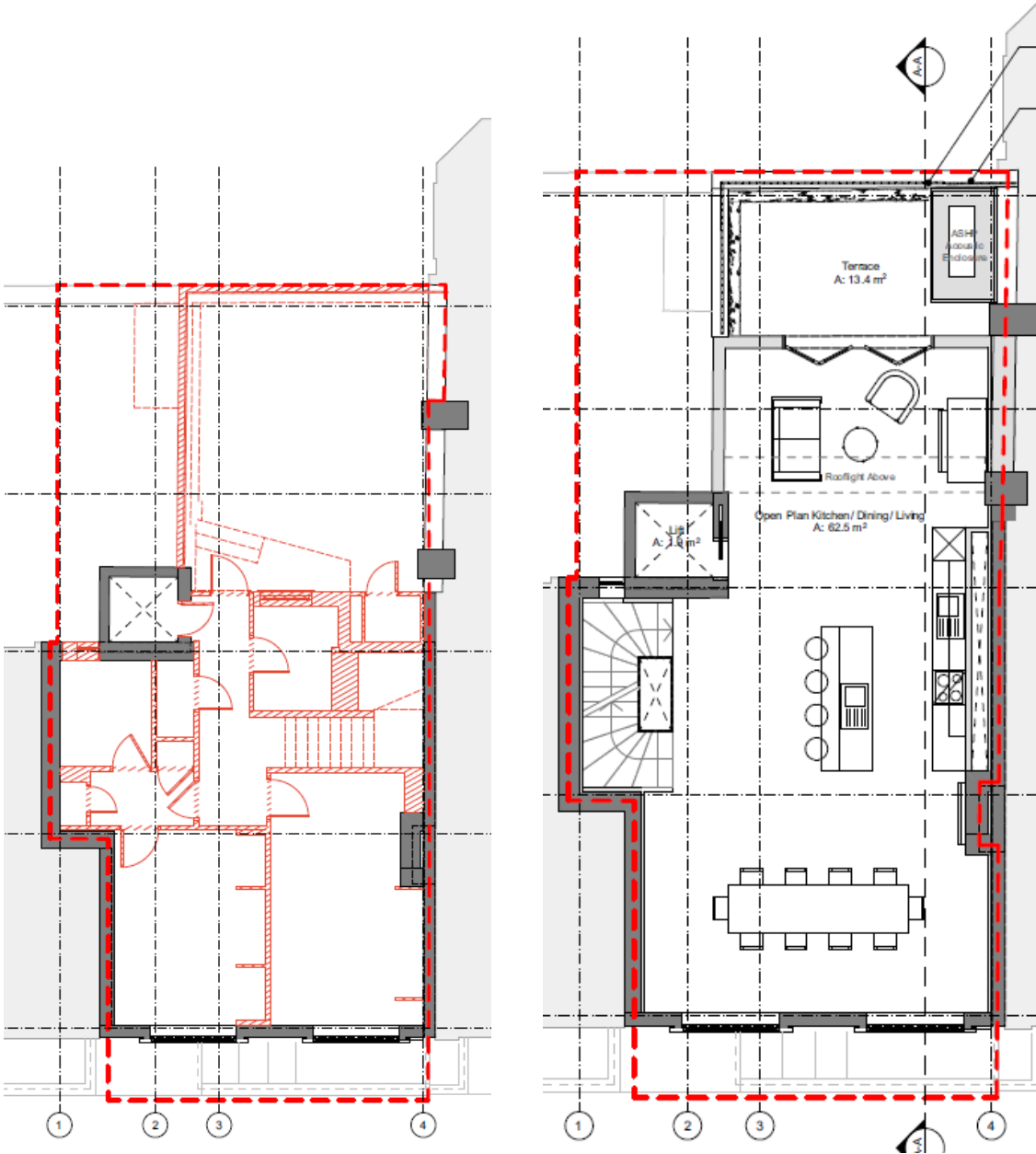


**Existing and proposed first floor plan:**

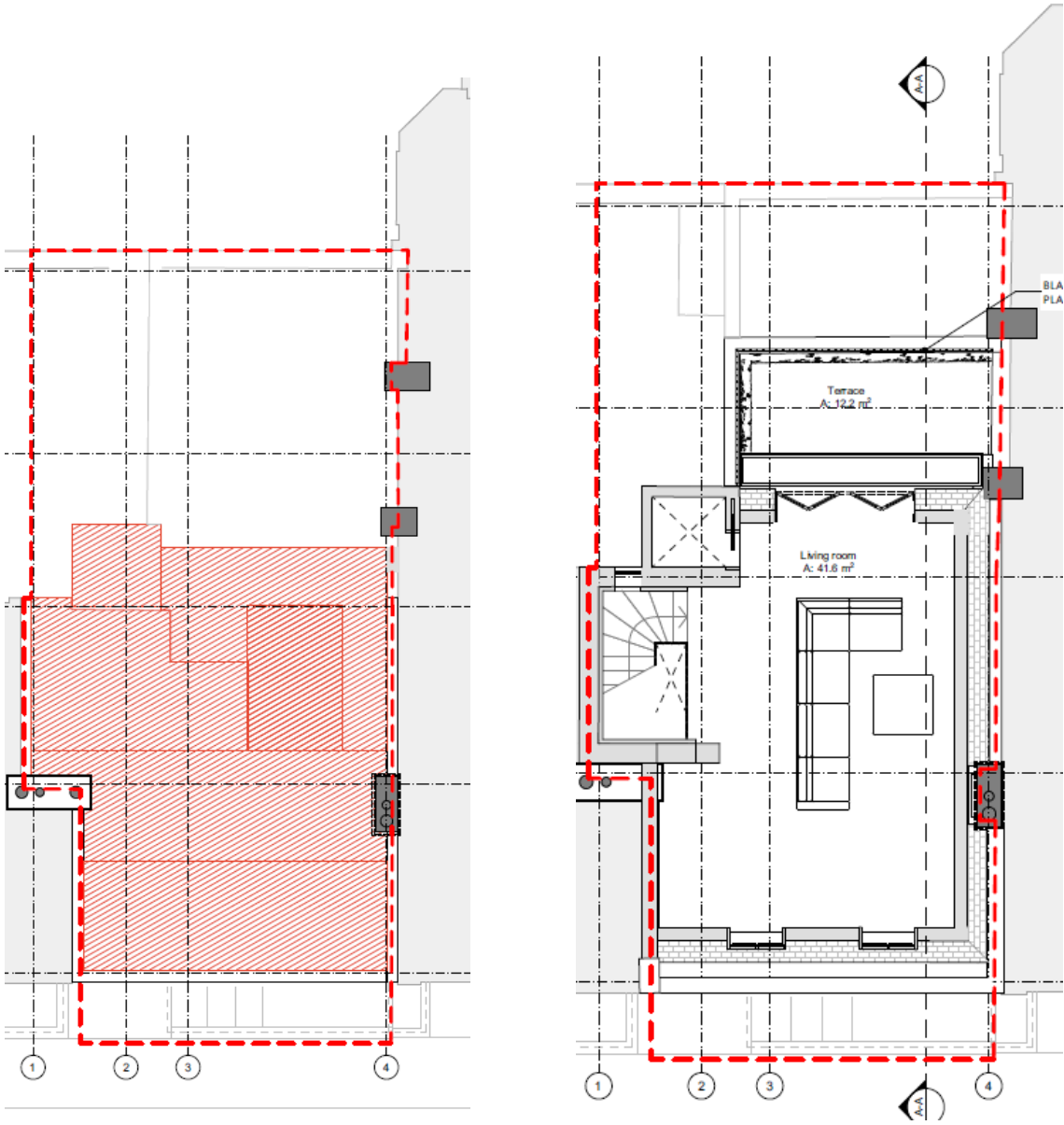




**Existing and proposed second floor plan:**



**Existing and proposed third floor:**



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## DRAFT DECISION LETTER

**Address:** 19 South Street, London, W1K 2XB

**Proposal:** Partial demolition to rear wing and roof; excavation of a new basement storey and extension at rear second floor level with erection of a new single story roof extension with rear terrace at third floor; installation of plant with screening on the second-floor terrace; installation of sedum roof at main roof level; and associated works all in association with the continued use as a single-family dwelling.

**Reference:** 23/03029/FULL

**Plan Nos:** Drawings: 2101 RevP04, 3100 RevP04, 3101 RevP04, 2102 Rev P04, 2103 RevP04, 2104 RevP04, 2100 RevP03, 2200 RevP14, 2201 RevP14, 2202 RevP13, 2203 RevP14, 2204 RevP14, 2205 RevP13, 3200 RevP13, 3201 RevP17, 3202 RevP14, 4100 RevP02, 4200 RevP14, 4201 RevP05.

Documents: Acoustic Report Ref: 1294.NIA.07, Structural Method Statement May 2023, Archaeological Desk Based Assessment Ref: 06747E, Appendix A Checklist B: Code of Construction Practice, Desk Study and Basement Impact Assessment Report Ref: J20230.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 07866040155

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and,
  - o not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only:
    - o between 08.00 and 18.00 Monday to Friday; and 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 Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 You must apply to us for approval of samples of the 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. (C26BD)

Reason:

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

- 5 You must apply to us for approval of detailed drawings of the following parts of the development

- 1) all new windows and external doors drawn at a scale of 1:10 with full size sections through mouldings and glazing bars,
- 2) the new front area lightwell railings drawn at a scale of 1:10 with full size details.

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

- 6 **Pre Commencement Condition.**
  - (a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved in writing what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, and to the Greater London Sites and Monuments Record, Greater London Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.

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

Reason:

To protect the archaeological heritage of the City of Westminster as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021). (R32BD)

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

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

Reason:

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

- 8 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 9 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the

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

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 10 You must install the acoustic enclosure associated with the air source heat pump on the rear second floor terrace at the same time as the plant is installed and to the specification detailed in the acoustic report. Thereafter the enclosure must be retained

for as long as the unit remains in place.

Reason:

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

- 11 With regard the plant in the new basement plant room: You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 9 of this permission. You must not start work on this part of the development until we have approved in writing what you have sent us. (C51AB)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the 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. (R51AC)

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

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

on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

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

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

Reason:

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

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

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

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

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

16 The glass that you put in the rear facing ground floor window and in the ground and first floor windows / doors of the western / courtyard elevation must not be clear glass. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have given our written approval for the sample. You must then install the type of glass we have approved and must not change it without our permission.

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)

17 You must install the hedging to the third floor terrace as shown on the approved drawings before the terrace at this floor level can be used. You must thereafter maintain the hedging to a height of 1.8m.

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)

18 Prior to use of the basement you must carry out a detailed site investigation to find out



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if the building or land are contaminated with Radon, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018. You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1 and 2 before any excavation work starts, and for phase 3 when the development has been completed but before it is occupied. Phase 1: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property. Phase 2: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution. Phase 3: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.

**Reason:**

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

- 19 You must provide, maintain and retain all energy efficiency measures to the minimum specification outlined in the approved Energy and Sustainability Statement dated 3rd May 2023 before you start to use any part of the development. You must not remove any of these features.

You must provide, maintain and retain all energy efficiency measures to the minimum specification outlined in the approved Energy and Sustainability Statement dated 3rd May 2023 before you start to use any part of the development. You must not remove any of these features.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice and to apply online please visit [www.westminster.gov.uk/suspensions-dispensations-and-skips](http://www.westminster.gov.uk/suspensions-dispensations-and-skips).

- 3 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
  2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises). This applies to both new and existing residential accommodation. Please see our website for more information: [www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets](http://www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets). Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).
- 4 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 5 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.
- 6 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering). (I54AB)
- 7 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM's). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACM's, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations.htm](http://www.hse.gov.uk/asbestos/regulations.htm) (I80AB)
- 8 Conditions 9 and 10 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)

- 9 In relation to the green roof condition, you should review the guidance provided by the Greater London Authority on their website prior to finalising the structural design of the development, as additional strengthening is likely to be required to support this feature: [www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening](http://www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening).
- 10 With reference to condition 12 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work. Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate ([cocp@westminster.gov.uk](mailto:cocp@westminster.gov.uk)) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition. You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement. Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Inspectorate team must be paid on submission of the details relating to the relevant phase. Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.
- 11 With regard Condition 6 the written scheme of investigation will need to be prepared and implemented by a suitably professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

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# Agenda Item 2

Item No.
2

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Beaumont, Fletcher and Sheridan Buildings, Martlett Court, London, WC2B 5SF</b>		
<b>Proposal</b>	Replacement of the existing windows with UPVC double glazed windows, replacement of doors and new render detailing around windows in gable elevations of Fletcher, Beaumont and Sheridan Buildings.		
<b>Agent</b>	JD Clayton Ltd - Mr John Clayton		
<b>On behalf of</b>	Westminster City Council		
<b>Registered Number</b>	23/08154/COFUL	<b>Date amended/ completed</b>	23 November 2023
<b>Date Application Received</b>	23 November 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of, but within the setting of, the Covent Garden Conservation Area		
<b>Neighbourhood Plan</b>	Not applicable.		

## 1. RECOMMENDATION

Refuse planning permission – harm to the appearance of the buildings, harm setting of the adjacent Covent Garden Conservation Area and grade II listed Bow Street Magistrates Court and not following principles of sustainable design.

## 2. SUMMARY & KEY CONSIDERATIONS

The application site comprises three residential tenement buildings named the Beaumont, Fletcher and Sheridan Buildings. Each comprise five storeys and date from the late 19<sup>th</sup> Century and are considered undesignated heritage assets. Whilst the site is located outside of a conservation area, the buildings are within the setting of the Covent Garden Conservation Area. The Fletcher Building is also within the setting of the grade II listed Bow Street Magistrates Court.

The applicant seeks planning permission for the replacement of all the existing single glazed timber sash windows and Crittall windows with double-glazed uPVC windows, the replacement of external render with an insulated cladding system and replacement of entrance doors.

The key considerations in this case are:

- The acceptability of the proposed windows in sustainability terms.
- The acceptability of the proposed windows in design terms.  
The visual impact of the proposed works on the setting of nearby designated heritage assets, including impact on adjacent listed buildings and the Covent Garden Conservation Area.

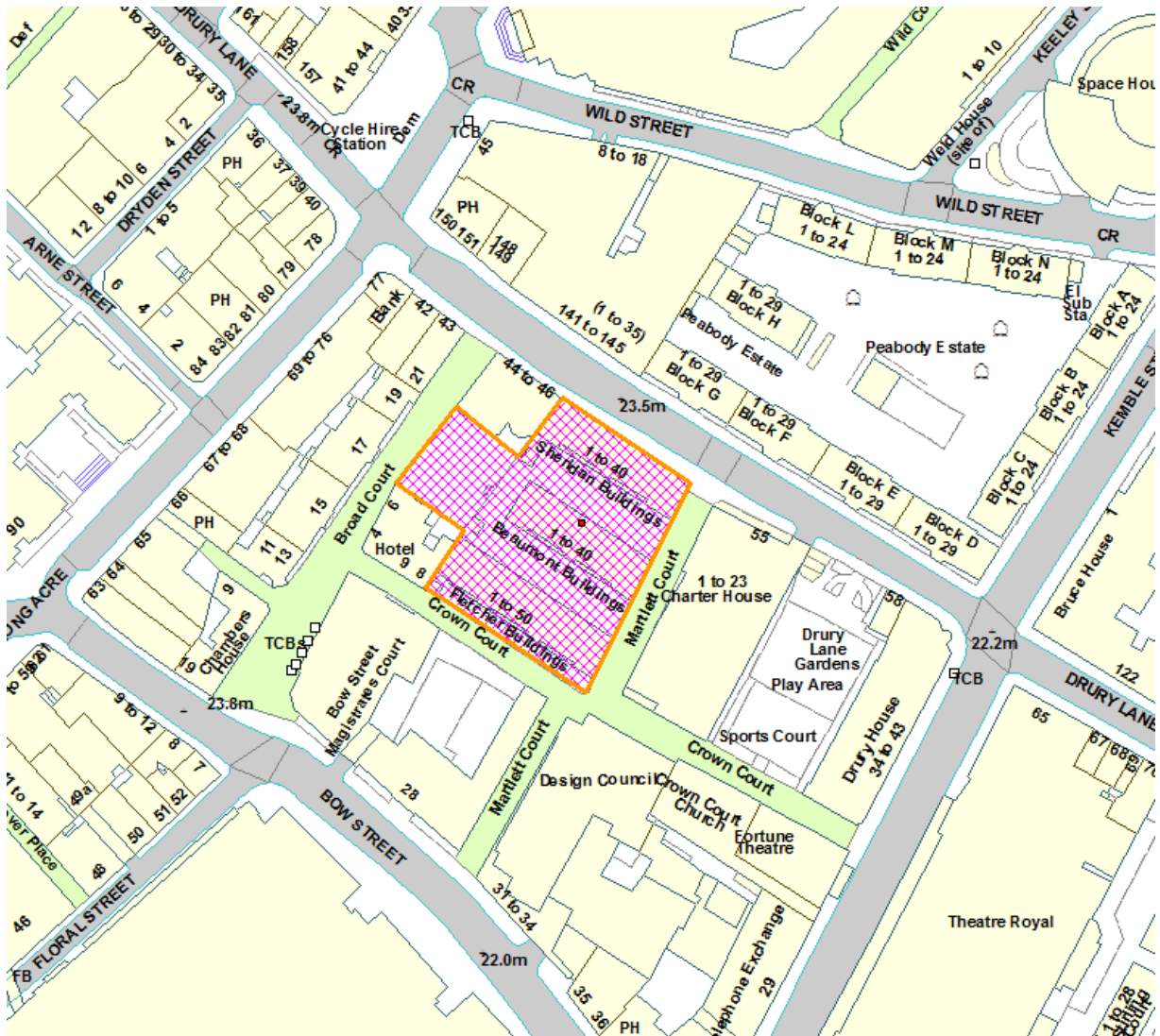
Objectors, including 20 residents, the Covent Garden Community Association and the Victorian Society, consider plastic windows would harm the appearance of the building and setting of the conservation area. They also do not consider plastic windows are a sustainable option and will have shorter life spans than plastic windows.

15 supporters consider that the proposed replacement windows would be more energy efficient and also more economically and environmentally sustainable as they would have lower maintenance costs.

This report explains the proposed windows would be harmful to the appearance of the building and the setting of the adjacent conservation area. The use of plastic does not follow the principles of sustainable design.

The proposal is assessed against the relevant policies set out in the City Plan 2019-2040. For the reasons set out in the report, the proposed works, are unacceptable in design, heritage, townscape and sustainability terms. The heritage harm identified in this report is not outweighed by public benefits. The application is therefore recommended for refusal as set out in the draft decision letter appended to this report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS







## 5. CONSULTATIONS

### 5.1 Application Consultations

**Consultations carried out on the 14/12/2023 and 24/01/2024.  
(The second consultation followed submission of a Heritage Statement and Sustainability Statement)**

#### COVENT GARDEN COMMUNITY ASSOCIATION

Objects. Consider that the historic character of the building would be lost if timber windows are to be replaced with uncharacteristic uPVC whilst they would fail to preserve the character and appearance of the Covent Garden area. Furthermore, uPVC has shorter lifespans compared to timber, are prone to discolouration and less easily repairable and result in condensation issues. Note that other housing associations have reverted to timber where uPVC has been previously installed. Double-glazed timber framing, as previously approved, could provide purported building performance improvements whilst protecting the historic character of the building and area.

#### COVENT GARDEN AREA TRUST

Notes a preference for repairing and maintaining windows with appropriate replacement or replica components that look materially the same as original elements.

#### VICTORIAN SOCIETY

Objects. Note the importance of the buildings as examples of early 19<sup>th</sup> century tenement housing and the historic detailing of the existing timber sash windows, considering the buildings as undesignated heritage assets. The uPVC would be noticeably different harming the historic appearance of the buildings and streetscape. Other options should be explored which retain or replicate the glazing more closely.

#### ADJOINING OWNERS/OCCUPIERS & OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 142

No. of replies: 35

No. of objections: 20

No. of support: 15

#### OBJECTIONS

##### Sustainability & Maintenance

- uPVC would be prone to discolouration and cannot be repainted like timber to fix deterioration, it would need to be replaced in the future, with shorter lifespans and thus with higher longer-term costs.
- uPVC has a lifespan of just 15-30 years whereas timber can last over 100 years when properly maintained.
- The technical workings of mechanisms within uPVC means they are prone to failure whilst plastic can warp, meaning they could require more frequent replacement and so cost.
- Wood is a natural, sustainable and environmentally friendly product, as opposed to uPVC.
- Whilst upfront costs for timber may be more, as they would last longer, they would be more sustainable and cost less in the longer term.

- Whilst timber may require 10 year cyclical maintenance, this should be expected as part of continuous wider building maintenance.
- Soho Housing, Peabody and other housing providers have been removing uPVC windows and replacing them with timber as they have found uPVC to be troublesome, having shorter lifespans, often one third of wood, they crack, discolour, require constant repair, having substandard details like stick on beading.
- From experience living in previous properties with uPVC, plastic windows result in more maintenance issues from condensation, poor ventilation, breaking and discolouration.

#### Design & Conservation

- uPVC would look ugly and devalue the buildings. In contrast timber is the characteristic window framing material for the area and buildings and it would look beautiful for years to come and so should be maintained as such.
- The metal mechanisms within the window would be visible when windows are open, which would exacerbate their uncharacteristic and non-historic appearance.
- Martlett Court and this part of Covent Garden has historical and cultural significance, uPVC would look aesthetically unpleasant and would be 'cultural vandalism'.
- Covent Garden is renowned for its rich history and unique charm, largely attributed to the preserved Victorian-era buildings and architectural features. Allowing the installation of plastic windows on such prominent buildings would significantly compromise its aesthetic and historical significance and the surrounding area.
- The buildings overlook the Covent Garden Conservation Area and opposite listed buildings. uPVC would be inappropriate and harmful to this context.
- These beautiful and historic flats immediately border onto the Covent Garden heritage area. As such, any proposed materials should be of the highest quality and be in visual harmony with this world-renowned neighbourhood. The use of PVC windows and cheap beading would blight the flats and appearance of the area.

#### Other Issues

- Experience from uPVC windows are that they do not provide adequate ventilation and do prevent condensation compared to timber windows.
- Concern that due to the number of plastic windows proposed, and that they are heavier with greater load bearing, whether this would have a cumulative impact upon the structural integrity of this historic building given its age.
- In a pre-application survey of residents only 26 out of 127 voted for plastic windows.
- Plastic windows would devalue flats for leaseholders.

## SUPPORT

### Sustainability & Maintenance

- The proposed windows would be more sustainable and energy efficient as they'd have a BRE Green Guide 'A' rating and a U-Value to meet current Building Regulations and remove the need for cyclical decorating.
- The proposed windows would require less maintenance and cleaning.
- The Council have failed to maintain the existing timber frames since the 1990s and so they are in a poor state of repair. The proposed windows are a cost effective, low maintenance, sustainable solution for the future.

### Design & Conservation

- The site is not within a conservation area and the fenestration will match the existing and so the proposals would not harm the appearance of the area.
- As all the windows would be uPVC they would all match, improving the appearance of the buildings.

### Other Issues

- The proposed windows would not require cyclical painting or repair and so more cost effective to maintain.
- Concern that new windows should be able to be safely cleaned from the outside.
- A survey, with a turnout rate of 35% (i.e 44 flats), returned a majority favouring replacement of windows with uPVC and these residents views should be adhered to.

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

It is understood that engagement was carried out by the applicant with the local community in the area prior to the submission of the planning application. Although, unfortunately the applicant has not provided details of this engagement and so it is unclear whether it was carried out in accordance with the principles set out in the Early Community Engagement guidance. Nonetheless, the application must be considered on its planning merits.

## **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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

**6.2 City Plan Partial Review**

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review includes updated policies for affordable housing, retrofitting and site allocations.

An emerging local plan is not included within the definition of “development plan” within s.38 of the Planning and Compulsory Purchase Act 2004. However, paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Footnote 22 to paragraph 48 states that during the transitional period for emerging plans consistency should be tested against the version of the Framework, as applicable, as set out in Annex 1 (paragraph 230). This means that the consistency of the policies in the City Plan Partial Review must be tested for consistency for the purposes of paragraph 48(c) against the September 2023 version of the NPPF.

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it will generally attract limited if any weight at all.

**6.3 Neighbourhood Planning**

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

**6.4 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 (December 2023) unless stated otherwise.

**7. BACKGROUND INFORMATION**

**7.1 The Application Site**

The application site is within the Central Activities Zone and is formed of three unlisted residential tenement buildings named the Fletcher, Beaumont and Sheridan Buildings. Each comprise five storeys and date from the late 19<sup>th</sup> Century and are considered undesignated heritage assets. Whilst the site is located outside of a conservation area,

the buildings are within the setting of the Covent Garden Conservation Area, the boundary of which encloses the southern, western and northern boundaries of the site and make a positive contribution to the appearance of the area. The Fletcher Building also opposes the grade II listed Bow Street Magistrates Court located on the opposite side of Crown Court.

## **7.2 Recent Relevant History**

On 17 January, the City Council granted permission for the replacement of the existing windows to Beaumont Buildings, Fletcher Buildings and Sheridan Buildings with new windows comprising a mix of decorated timber double glazed sliding sash, casement and fixed window units.

On 4 September 2023, the City Council granted permission for the installation of replacement timber sash and casement windows and flat entrance doors to flats, as well as new render detailing around windows to gable elevations of Fletcher, Beaumont and Sheridan Buildings.

These permissions have not been implemented.

## **8. THE PROPOSAL**

Planning permission is sought for the replacement of all of the existing single glazed timber sash windows and Crittall windows with double-glazed uPVC windows, the replacement of external render with an insulated cladding system and replacement of doors.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

Policy 12 of Westminster's City Plan (April 2021) seeks to improve the quality of residential accommodation. Improving the thermal efficiency of the buildings will result in an improved living environment, which is supported. The buildings are currently used as residential flats and no changes are proposed in land use terms.

### **9.2 Environment & Sustainability**

#### **Sustainable Design & Energy Performance**

Policy 36 of Westminster's City Plan (April 2021) seeks to promote zero carbon development and expects all development to reduce on-site energy demand to minimise the effects of climate change whilst Policy 38 (D) requires developments incorporate sustainable design measures to enable extended building lifetimes, including the use of high-quality durable materials.

The Council's 'Environment Supplementary Planning Document' (2022) supports the retrofitting of historic buildings with double-glazing to improve energy performance subject to design detail and sensitivity to historic buildings and heritage assets.

The disposal of hundreds of serviceable 19<sup>th</sup> century sash windows capable of refurbishment, will have a negative environmental impact in terms of loss of embodied carbon in those windows and the carbon involved in manufacturing, transporting and installing the glass and plastic the new windows are made of.

While the loss of original windows could be justified if replaced with the same matching sustainable and renewable materials, ie. timber, the same reasoning does not apply to replacing with a modern material made from non-renewable resources, such as UPVC (unplasticized polyvinyl chloride), i.e. plastic.

Like any manufactured material, the use of UPVC has a number of environmental issues associated with its production and disposal being primarily made from oil (43%) and (57%) salt products (source: British Plastics Federation). While it is recyclable, there are limited facilities in Britain to do so and 83% of UPVC waste goes to landfill (source: World Wildlife Fund). UPVC recycling is also limited due to collection and contamination issues, as well as the relatively low value of both the raw material and post-consumer material.

UPVC windows have a short lifespan of 30-35 years (source: Building Research Establishment), which compares unfavourably with historic timber windows, an issue also raised in objection comments. For example, Martlett Court's present windows are around 125 years old and much older examples remain throughout the City. UPVC is not biodegradable nor can it be painted, so while it can degrade and turn yellow after long term contact with sunlight, it will never rot. It can be incinerated in controlled circumstances, though it produces 21 times more toxic dioxins than timber when incinerated.

New UPVC windows have in use benefits, such as improving the energy efficiency of the building by reducing energy demand (as supporters have noted), with consequent benefits to resident comfort and wellbeing, from lower bills. However, these benefits, which positively contribute to the City Council's aim to become zero carbon by 2040 and mitigate climate change, could also be achieved with the previously approved double-glazed timber windows.

In sustainability terms, there are lower impact options to complete window replacement, which also could meet energy efficiency and resident need. Firstly, there are the approved timber windows, but also re-glazing the existing historic timber frames with slim double glazed panels, with refurbishment (draft strip brushes and new seals) and redecoration is also a feasible option. Such an approach would combine carbon savings from avoiding purchasing new windows of newly with minimising waste of the existing windows.

The Sustainable Design Statement outlines that the proposed uPVC windows would achieve a BRE Green Guide 'A' rating and a U-Value to meet current Building Regulations and so would have a significantly greater energy efficiency than the existing single-glazed windows. However, the same energy efficiency benefits could also be achieved from timber double-glazing. Whilst timber may require cyclical maintenance and repainting, UPVC windows would also be prone to discoloration in the longer term which could require more carbon intensive, and costly, replacement rather than repair and maintenance – this is particularly the case when comparing the life span of timber

and UPVC windows.

### 9.3 Townscape, Design & Heritage Impact

#### Legislative & Policy Context

Given the proposals relate to alteration of a building within the setting of the Covent Garden Conservation Area the proposals are considered within the context of policies 38, 39 and 40 of Westminster's City Plan.

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 states that features that contribute positively to the significance of the setting of a conservation area will be conserved and opportunities will be taken to enhance conservation area settings, wherever possible.

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 be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, 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 relation to undesignated heritage assets, the NPPF states the effect of an application on the significance of these assets should be taken into account in determining the application. In considering such applications, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

#### Assessment

The most of the proposed windows are UPVC sliding sashes designed to replicate the existing designs, the manufacturers information illustrates a window design called 'Roseview', which is stated as being the closest match to traditional timber sash windows. However, the sashes are not weighted, as a traditional sash is, but have a concealed spiral balance mechanism. Spiral balance systems have more movable parts and are known to be more difficult to maintain / repair and so do not have the longevity of weighted systems. Detailed drawings have been submitted to show the existing windows and proposed details allowing a comparison.

The detailed design of the UPVC window differs in a number of respects to the existing timber sashes and metal and timber casements, for example the frame sections of the sliding sashes are significantly thicker:

- the existing timber meeting rail is currently 30 mm, while the proposed UPVC is 38 mm.
- the existing timber cill and bottom rail is currently 90 mm high, while the proposed UPVC is 151 mm high.
- the existing timber top rail and box is currently projects 70mm high from the



brickwork, while the proposed UPVC projects 106mm.

As a result of these dimensions the frame casings would project further beyond the brickwork on each side than the original timber sash boxes, more plastic being visible than is timber of the present window and the overall design would have a heavier appearance.

The frame sections of the casements are also significantly thicker with a large overlap, particularly noticeable on the bathrooms, presently Crittall steel casements.

- the existing bottom rail is 60mm high, but would become 99mm, while the top rail presently 45mm, would become 94mm, the stile (side glazing bar) is 45mm and become 65mm, with the use of UPVC.

The frame sections of the UPVC casements replacing timber casements are also significantly thicker, again with a large overlap.

- the existing cill and bottom rail is 80mm high, but would become 109 mm, while the top rail presently 25 mm, would become 94 mm,
- stile (side glazing bar) is 65 mm and become 94 mm, with the use of UPVC.

In addition:

- the opening profile of the sashes has a tilt mechanism, as well as a sliding sash.
- the windows are glazed the 'wrong' way around, i.e. with glazing beads to effect putty on the inside rather than outside.
- the glazing bars would be applied and adhered, rather than part of the frame.

The present buildings are considered to be 'undesigned' heritage assets. The NPPF glossary defines a heritage asset as 'A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)'.

Marlett Court is a traditional passageway route, typical of the original development form of Covent Garden, which is known for its discreet courts and lanes. The red brick facades of these imposing Victorian tenement blocks are attractively uniform in appearance with painted timber sash windows within arched openings. The linear arrangement of the three blocks facing each other, with communal gardens evoking the courts of old between, overlooked by balconied walkways, are an interesting and now rare element of the architecture of the area.

While tenement buildings are typically architecturally restrained, the blocks are not without architectural flourishes, such as the curved pediments and projecting bow windows to the fourth floor.

The blocks are located on the boundary of the Covent Garden Conservation Area and contribute to the attractiveness of the conservation area's setting. As well as their appearance and architectural details, the buildings have significance in terms of their social history, as examples of worker housing relating to Covent Garden Market, as the

Victorian Society have commented and which neighbouring objectors have also noted. The Fletcher Building also opposes the grade II listed Bow Street Magistrates Court, which is a prominent and widely recognised building in the area.

The Covent Conservation Area Audit is presently being undertaken by external consultants. While not a material consideration here, were the buildings within the conservation area, they would still be considered (undesigned) heritage assets.

Policy 38 of the City Plan relates to design quality borough wide and part b *Responding to Westminster's Context* says that *'All development will positively contribute to Westminster's townscape and streetscape, having regard to: 1. the character and appearance of the existing area, adjacent buildings and heritage assets, the spaces around and between them and the pattern and grain of existing streets, squares, mews and passageways'*.

The use of plastic windows with different frame thickness and detailing would not respond positively to Westminster's context. A positive response to the attractive composition of three traditionally constructed Victorian buildings in Marlett Court, with largely intact tradition fenestration would be to refurbish the existing windows or use matching materials to replicate them in detailing typical of the building and period. i.e. timber.

Part D Sustainable design says that: *'Development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design, including: 1. use of high-quality durable materials and detail;*

Given what is known of the limited lifespan of plastic compared to timber windows, the proposal is not consistent with the sustainability aims of part D of the policy 38. The need for ongoing window replacement with the consequent loss of embodied carbon of the original windows and of each successive program of replacements should be avoided by using a product with greater longevity. Given the age of the buildings and the expectation that most buildings presently existing will exist in 50 years' time, UPVC would represent a temporary installation with an ongoing carbon (and financial) cost to the owner(s) (i.e. Westminster City Council and the long leaseholders).

Policy 39 relates to Westminster's heritage and states that 'Westminster's unique historic environment will be valued and celebrated for its contribution to the quality of life and character of the city. Public enjoyment of, access to and awareness of the city's heritage will be promoted. B. Development must optimise the positive role of the historic environment in Westminster's townscape, economy and sustainability, and will: 1. ensure heritage assets and their settings are conserved and enhanced, in a manner appropriate to their significance;

Changes of style, architectural quality and or / use of lower quality materials in alterations and extensions to buildings can have a harmful visual impact on the buildings, whether assets or not, as well as the setting of heritage assets, such as listed buildings or a conservation areas. These works can lessen the appreciation and views of heritage assets when a marked or striking contrasts are juxtaposed against each other.

In previously approving timber double glazed windows, the committee report stated:

*'Fortunately, in this case, the use of timber sash windows will ensure the visual impact of the works to these period blocks is minimised and that the buildings continue to have a positive contribution to the setting of adjacent listed buildings and the Covent Garden Conservation Area'.*

The converse is not the case, UPVC windows throughout Fletcher, Beaumont and Sheridan Buildings will be a visually arresting alteration, appearing starkly different to the block's existing architectural elements and jar with the traditional setting. For example, Drury Lane side has Victorian London stock Victorian Peabody housing blocks, with double glazed timber sliding sashes. The use of plastic windows to the blocks of Martlett Court, in particular Sheridan Building, which faces Drury Lane would be seen in the context of these timber sashes and contrast unsympathetically with the Peabody buildings.

### **Impact on Heritage Assets & Design Conclusion**

The detrimental impact of the works to the appearance of Fletcher, Beaumont and Sheridan Buildings and setting of the Covent Garden Conservation Area and grade II listed Bow Street Magistrates Court would be harmful. And, it would result in 'less than substantial' harm to the setting of a designated heritage assets: the Covent Garden Conservation Area and grade II listed Bow Street Magistrates Court.

Given the multitude of windows and their prominence within the six main elevations, there would be a moderate degree of harm to the significance these undesignated heritage assets. Whereas the impact on the adjacent designated assets, i.e. the conservation area and listed building, the impact on their setting would be in the lower half of the less than substantial scale.

The conservation of designated heritage assets should be afforded great weight in the planning balance, with any harm weighed against public benefits. However, in this instance, as set out in section 9.11 of this report, given the energy efficiency / climate change mitigation benefits could be achieved without the harm identified to the undesignated heritage assets and setting of the Covent Garden Conservation Area and listed building through other measures, such as timber framed double-glazing, there are limited mitigations which are not considered to outweigh the harm identified.

For the above reasons the proposals are considered contrary to policies 38, 39 and 40 of Westminster's City Plan and Chapters 12 and 16 of the NPPF. The proposals are therefore considered unacceptable in design terms.

### **9.4 Biodiversity & Greening**

As the proposals relate to window and door replacements and new insulation render to the gables, the proposals do not provide urban greening measures.

### **9.5 Residential Amenity**

Policies 7 and 33 of Westminster's City Plan seek to protect residential amenity and

would resist proposals that would result in harm by way of increased sense of enclosure, loss of light, privacy or unacceptable noise disturbance.

The proposals seek to replace windows and doors in a the same positions. Where obscured glazing is present, this would be replicated. The double-glazing would offer greater noise insulation from external noise disturbance for occupiers. The above considered the proposals raise no significant amenity issues.

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

As the proposals relate to replacement of existing windows, doors and facing materials the proposals raise no highways issues.

#### **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.

#### **9.11 Assessment of Planning Balance**

As set out within Section 9.3 of this report, the harm is considered to be less than substantial harm to the character and appearance of the Covent Garden Conservation Area and to the listed buildings and their settings. The harm would be caused by the detailed design and materiality of the proposed uPVC windows. The level of harm caused would be at the lower end of less than substantial.

Paragraph 208 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the 'public benefits' of the proposal, including optimising its optimum viable use. 'Public benefits' could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public to be genuine public benefits. Paragraph 209 states that the effect of an application on the significance of a non-designated heritage

asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

When undertaking this weighing exercise, the Sub-Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 9.4 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

The proposals would provide public benefits conferred from the proposals as a sustainability measure in the form of increased energy efficiency of the housing stock helping the council reduce carbon emissions to help reduce the effects of climate change.

The public benefits that would flow from the proposed development are identified in Sections 9.2 and 9.3 and summarised above. However, whilst the scheme would deliver these public benefits it is concluded that they would have limited significance in this case due to the fact that these benefits could be achieved through alternative proposals such as timber framed windows which would not result in the harm identified whilst the embodied carbon and shorter lifespan of UPVC compared to timber would be a limiting factor of these sustainability benefits. Consequently, the public benefits would not be of such significance that they would be sufficient to outweigh the less than substantial heritage harm that would occur, and therefore the proposal would not comply with paragraph 208 in the NPPF. The proposal is also not considered to comply with the requirements in relation to undesignated heritage assets in paragraph 209 of the NPPF. Accordingly, a clear and convincing justification for the harm caused to the designated heritage assets has not been presented in compliance with paragraph 206 of the NPPF.

## **10. Conclusion**

Martlett Court and its tenement buildings, Beaumont, Sheridan and Fletcher, are historic and attractive early 19<sup>th</sup> century Victorian redbrick buildings which are considered to be undesignated heritage assets which make a positive contribution to the setting of the Covent Garden Conservation Area and the grade II listed Bow Street Magistrates Court..

The removal of the historic timber sash windows would harm the appearance of these buildings and the setting of the Covent Garden Conservation Area and the listed building. Whilst the proposed UPVC windows would improve comfort and wellbeing of the occupiers of the flats through lowering the building's energy use and subsequently its contribution to climate change, these benefits could equally be achieved through other means which would not cause the identified harm.

Accordingly, the proposed development would fail to accord with policies 38, 39 and 40 of Westminster's City Plan and would not meet the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, it is recommended that planning permission should be refused on grounds that the proposed development would result in harm the character and appearance of the buildings and setting of the Covent Garden Conservation Area.

Item No.
<b>2</b>

(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 <a href="mailto:jhowitt@westminster.gov.uk">jhowitt@westminster.gov.uk</a>
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### Beaumont Building Existing Elevation



### Beaumont Building Proposed Elevation



### Fletcher Building Existing Elevation



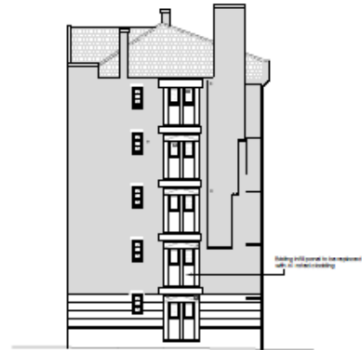
### Fletcher Building Proposed Elevation



### Sheridan Building Existing Elevation



EXISTING SOUTH WEST ELEVATION  
Scale: 1:100



EXISTING SOUTH EAST ELEVATION  
Scale: 1:100

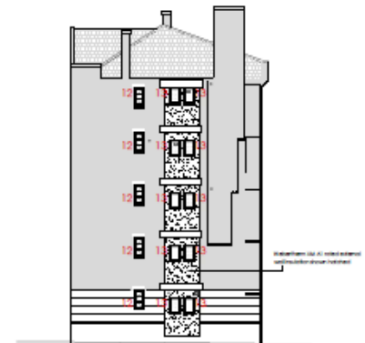


NEIGHBOURING PROPERTY

### Sheridan Building Proposed Elevation



PROPOSED SOUTH WEST ELEVATION  
Scale: 1:100



PROPOSED SOUTH EAST ELEVATION  
Scale: 1:100



PROPOSED NORTH EAST ELEVATION

NEIGHBOURING PROPERTY

**DRAFT DECISION LETTER**

- Address:** Beaumont Buildings, Martlett Court, London, WC2B 5SF
- Proposal:** Replacement of external windows and doors to flats; all of the existing glazed windows of the flats, the existing doors, including all service intake cupboard doors, service riser doors and cross corridor doors and infill panels to the side elevations of Fletcher, Beaumont and Sheridan Buildings.
- Reference:** 23/08154/COFUL
- Plan Nos:** Location & Site Plan 20217-UL-MAR-SPP-DWG-A-400 PL1, Beaumont Buildings Existing Elevations 20217-UL-BEA-SPP-DWG-A-200 P1; Fletcher Buildings Existing Elevations 20217-UL-FLE-SPP-DWG-A-100 PL1; Sheridan Buildings Existing Elevations 20217-UL-SHE-SPP-DWG-A-300 PL1; Beaumont Buildings Proposed Elevations 20217-UL-BEA-SPP-DWG-A-201 P1; Fletcher Buildings Proposed Elevations 20217-UL-FLE-SPP-DWG-A-110 PL1; Sheridan Buildings Proposed Elevations 20217-UL-SHE-SPP-DWG-A-301 PL1; HFO Flush FED & Coupled Glazed Fanlight HFO-UL-FD30PAS24-FLUSH-001 (Door Details); Fletcher Buildings Proposed Window Elevations 20217-UL-FLE-SPP-DWG-A-102 PL1; Sheridan Buildings Proposed Window Elevations 20217-UL-SHE-SPP-DWG-A-302 PL1; Beaumont Buildings Proposed Window Elevations 20217-UL-BEA-SPP-DWG-A-202 P1; Typical Existing Window Elevations & Sections 20217-UL-FLE-SPP-DWG-A-103 PL1; Typical Proposed uPVC Window Elevations & Sections 20217-UL-FLE-SPP-DWG-A-104 PL1

## For Further Information:

PVC-U WINDOW AND DOORS SYSTEMS REHAU (Casement Window Brochure); Rose Collection Conservation Brochure (Sash Window Brochure); Design & Access Statement; Cladding Estimate Saint-Gobain Weber ref. 7026 dated 25th August 2022; Martlett Ct, uPVC Window Replacement Sustainability Addendum; Sustainable Design Statement (Rev. B); Heritage Statement; Webertherm XM External Wall Insulation Project Information Pack.

**Case Officer:** Jonathon Metcalfe

**Direct Tel. No.** 07866038118

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

## Reason:

Because of their materiality and detailed design, the proposed replacement windows would harm the appearance of these buildings and this part of the City, would fail to maintain or improve (preserve or enhance) the setting of the adjacent Covent Garden Conservation Area and grade II listed Bow Street Magistrates Court and would fail to appropriately follow principles of sustainable design. This would not meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

Item No.
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**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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

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# Agenda Item 3

Item No.
<b>3</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>The Garden Cafe, Brown Hart Gardens, London, W1K 8UH</b>		
<b>Proposal</b>	<p>Proposal 1: Partial demolition, reconfiguration and alteration of existing building for continued cafe / restaurant use (Class E) and provision of landscaping to deck.</p> <p>Proposal 2: Use of a private land for the placement of 10 tables, 30 chairs associated with the cafe, restaurant.</p>		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	BH1 Ltd		
<b>Registered Number</b>	<p>Proposal 1: 24/00669/FULL and 24/00670/LBC</p> <p>Proposal 2: 24/00671/TCH</p>	<b>Date amended/ completed</b>	2 February 2024
<b>Date Application Received</b>	2 February 2024		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair		

## 1. RECOMMENDATION

<p>Proposal 1:</p> <ol style="list-style-type: none"> <li>1. Grant conditional planning permission;</li> <li>2. Grant Conditional Listed Building Consent.</li> <li>3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.</li> </ol> <p>Proposal 2:</p> <ol style="list-style-type: none"> <li>1. Grant conditional planning permission</li> </ol>
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## 2. SUMMARY & KEY CONSIDERATIONS

The applications propose the partial demolition and reconstruction of the existing café pavilion structure on the public deck of the gardens. This will create a new restaurant use, with marginally longer operating hours but less capacity than the existing café operation. Substantial re-landscaping of the existing deck is also proposed.

The key considerations in this case are:

- The acceptability of the altered use,
- The impact on the amenity of neighbouring residential properties.
- The acceptability of the proposed buildings in design terms,
- The impact of the proposed buildings on the character and appearance of the Mayfair Conservation Area, and
- The acceptability of the impact of the proposals on the public highway.

While objections have been received with regards to the impact of the enlarged operation on the amenity of residents surrounding the site, the increase in operational hours is considered modest. Alongside the requirement for an operational management plan to be submitted by condition, the overall capacity reduction, and the outside seating areas closing earlier than the indoor seating, it is considered the use is acceptable and can be controlled through appropriate conditions. While cooking will be introduced at the site and the impact of odour has been raised as a concern by objectors, Environmental Sciences are satisfied that the proposed internal circulation system is suitable and the use of this can be secured by condition.

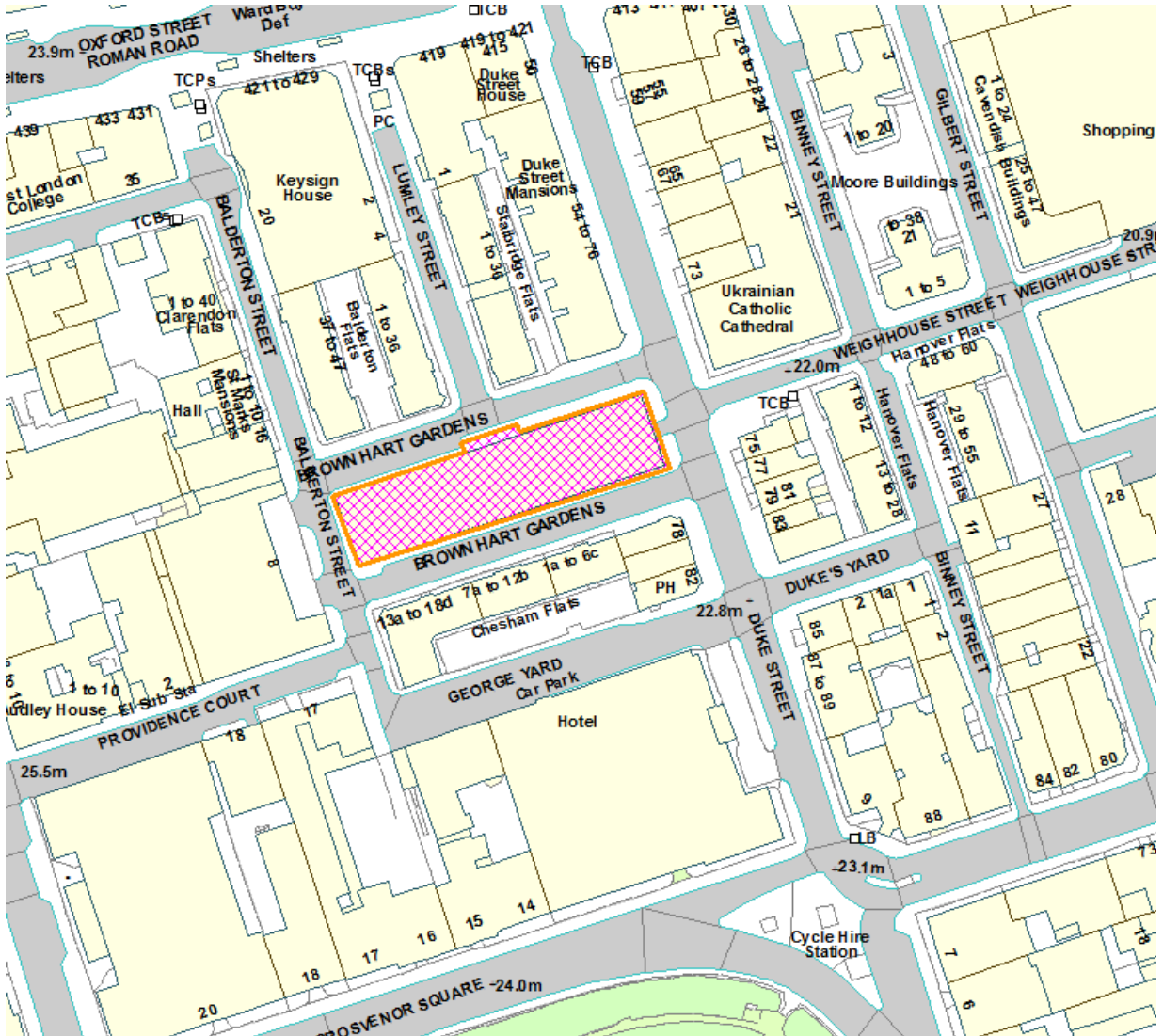
Objectors raise concerns that the enlargement of the commercial operation represents an overcommercialisation of the public gardens (which are privately owned) and the loss of vital public space. While the footprint of the pavilion is increasing modestly, when considering the previous permissions that have been granted in the past for external searing on the deck associated with the café, the area occupied will be relatively similar and still confined to just the western portion of the deck. Public access to the deck shall, as before, be secured by condition.

The Mayfair Neighbourhood Forum and Victorian Society have objected on design and heritage grounds, raising concerns regarding the impact of the increased footprint of the structure on the character and special interest of the Gardens. Officers consider that despite the modest increase in size of the structure (with a slightly larger footprint, but a lower roof form), it will remain subservient and appropriate to the host listed building. The proposed additional landscaping has drawn objection from The Victorian Society. While it is acknowledged that the proposals will result in a change to the appearance of the terrace, it has undergone several phases of development throughout its lifetime including changes in planting and focal features. The planting will provide greening and shade across the deck, while forming reversable additions to the listed building. Subject to the provision of additional details and/or adherence to the necessary conditions, the proposals will preserve the special interest of the listed building and the contribution that it makes to the character and appearance of this part of the conservation area.

The substantial relandscaping of the eastern side of the deck will provide substantial benefits in terms of biodiversity and quality of amenity space. This is welcomed and shall be secured by condition.

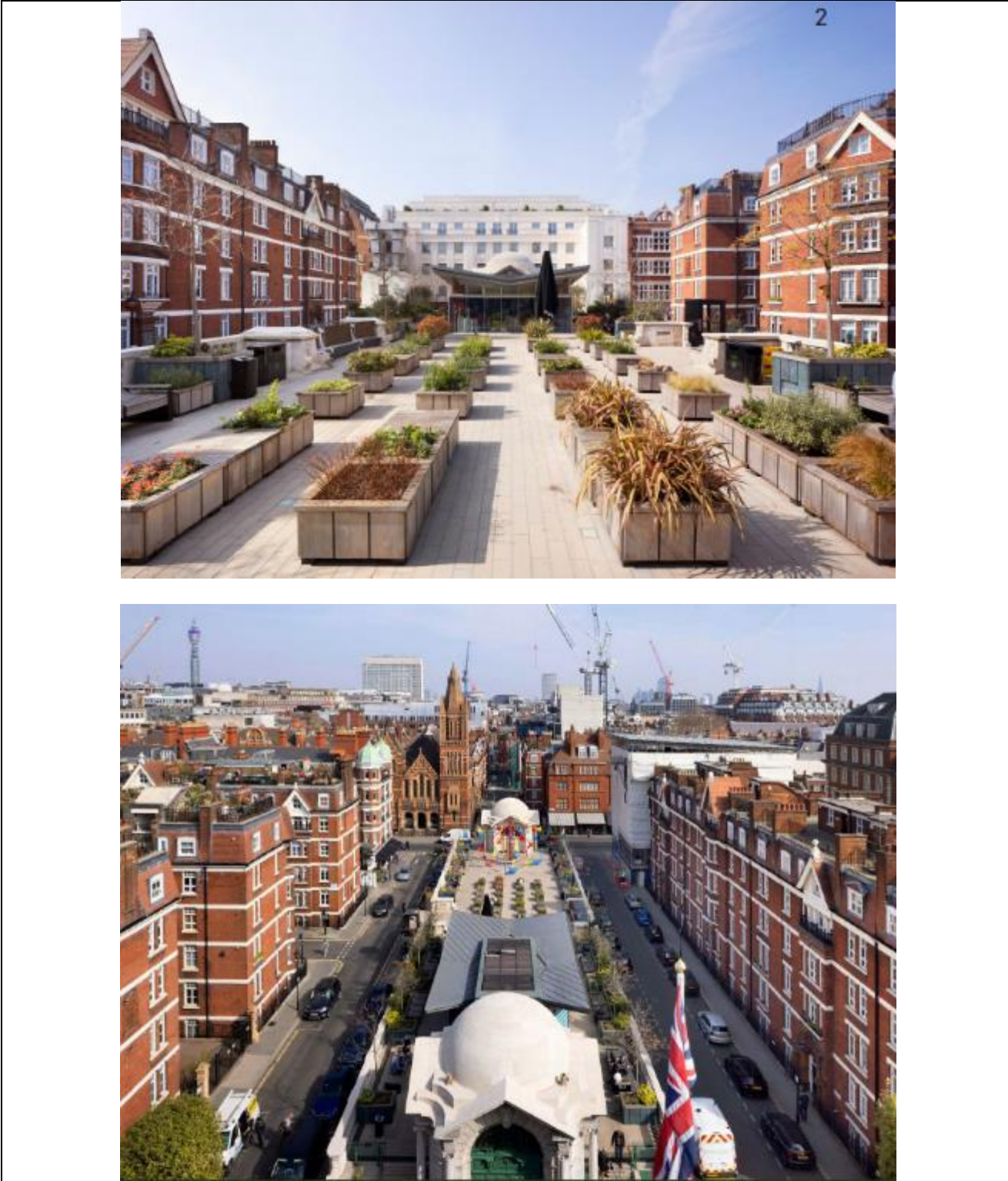


### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### Proposal 1 -

##### MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

##### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally.

##### MAYFAIR NEIGHBOURHOOD FORUM

Objection:

- The deck should be primarily used by residents and visitors as quiet amenity space. Original café was considered ancillary and low-key that supported the space, but the proposals now represent a change in the character and overcommercialisation of the space.
- Request restaurant should close at 10pm and there should be no amplified music.
- Request assurances there will be no plant on the roof.
- Environmental Health must be satisfied with neighbours not being affected by cooking smells.
- Concern over the ability of the structure to take additional weight.

##### WASTE PROJECT OFFICER

No objection subject to condition.

##### HIGHWAYS PLANNING

Objection: No cycle storage, impact of food retail/takeaway, gates opening over the highway.

##### ENVIRONMENTAL SCIENCES

No objection subject to condition.

##### UK POWER NETWORKS

Any response to be reported verbally.

##### HISTORIC ENGLAND

Authorisation to determine as seen fit.

##### NATIONAL AMENITY SOCIETIES:

###### VICTORIAN SOCIETY:

Objection: The 2011 interventions are inappropriate and harm the significance of the building. New proposals increased scale of the cafe building and cladding it with artwork (design to be confirmed) would increase the harm to the significance of the listed building. The imposition on the openness of the terrace would be increased, and the relationship with the pavilions made even more disjointed. The application of an artwork to the cladding of the cafe building would further distract from appreciation of the historic building. Any alterations must retain the scale of the existing building. Landscaping also

raises concerns and, while reversible, the design is fundamentally opposed to the formal, ordered character of the terrace introducing a further level unwanted contrast between the historic building and new interventions. Ample opportunity to landscape the terrace, but it must be inspired by the character of the historic building.

#### TWENTIETH CENTURY SOCIETY

Any response to be reported verbally.

#### GEORGIAN GROUP

Any response to be reported verbally.

#### COUNCIL FOR BRITISH ARCHAEOLOGY

Any response to be reported verbally.

#### SOCIETY FOR PROTECTION OF ANCIENT BUILDINGS

Any response to be reported verbally.

#### ANCIENT MONUMENTS SOCIETY

Any response to be reported verbally.

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

No. Consulted: 136: Total No. of replies: 7

No. of objections: 3;

No. in support: 4 (2 form the same person)

Objections have been received raising some or all of the following points:

- Impact on residential amenity from noise,
- Café use caused unacceptable levels of noise,
- Café use opened beyond approved times,
- The nature of the area amplifies any noise, submitted acoustic report fails to take this into account,
- Loss of provision for facilities for children and local residents,
- No demand/need for another food outlet,
- Already problems with antisocial behaviour at the site,
- Proposed servicing will increase pollution and traffic,
- Keep hours 8-8
- Open 7 days a week until 11:30pm unacceptable,
- Impact during construction.

Three comments in support of the proposals (including one on behalf of the Brown Hart Gardens Committee) have been received raising some or all of the following points:

- Stating "*wholehearted support*" for the proposals,
- Previous failures of café occupiers will be addressed,
- Unoccupied café attracts antisocial behaviour, having an active use will address this,
- Support anything done to encourage more use and enjoyment of the gardens.

#### PRESS NOTICE/ SITE NOTICE:

Yes

Proposal 2 -

## MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

## MAYFAIR NEIGHBOURHOOD FORUM

Objection:

- The deck should be primarily used by residents and visitors as quiet amenity space. Original café was considered ancillary and low-key that supported the space, but the proposals now represent a change in the character and overcommercialisation of the space.
- Request restaurant should close at 10pm and there should be no amplified music.
- Request assurances there will be no plant on the roof.
- Environmental Health must be satisfied with neighbours not being affected by cooking smells.
- Concern over the ability of the structure to take additional weight.

## WASTE PROJECT OFFICER

No objection.

## UK POWER NETWORKS

Any response to be reported verbally.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 129

Total No. of replies: 4

No. of objections: 4

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

- Encroachment on public space and loss of space for public,
- Use of the space should not extend beyond the gardens hours,
- Existing issues with antisocial behaviour,
- Increased noise,
- The nature of the area makes sound echo,
- Café should be reopened but not encroach on public space and not beyond existing hours,
- Impact on highway (traffic/parking)

PRESS NOTICE/ SITE NOTICE:

Yes

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

While the scheme does not meet the Council requirements for carrying out Pre-Application Community Engagement, the applicant has nonetheless carried out engagement with the local community prior to submitting this application.

The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement (SCI)) involved posting newsletters to the local area to encourage people to provide feedback via an online survey, two in-person public exhibitions, and a series of meetings with key local stakeholders. The applicant also advises that newsletters were distributed to 700 addresses in the local area, which invited people to attend the exhibition events or view the materials online. People were encouraged to complete an online survey or respond directly to the project team via the email address provided.

The SCI describes that two in-person exhibition events were held in the Ukrainian Catholic Cathedral of the Holy Family in Exile in August 2023 and September 2023. A total of 40 people attended across the two sessions. To ensure consultees were able to provide feedback on the proposals, a QR code linked to the online survey was provided on the final exhibition board for people to give their feedback on the proposals. Roughly 100 flyers were handed out at the drop-in sessions to allow attendees to share with other residents who were unable to attend the exhibitions.

The Applicant describes that several meetings were held with key stakeholders including:

- The Mayfair Neighbourhood Forum;
- Resident's Association of Mayfair and St James's;
- North Mayfair Residents Association;
- New West End Company;
- Grosvenor Estate;
- Residents Society of Mayfair and St James's; and
- Brown Hart Gardens Residents Association.

The SCI concludes that discussions with stakeholders have been broadly positive, welcoming the approach to enhancing the landscaping and urban greening in addition to bringing a vacant site into active use and reducing the levels of anti-social behaviour through introducing natural surveillance for longer periods of the day.

The SCI also notes that, whilst the majority of respondents support the Applicant's approach to the Site including the restaurant use, a number of consultees raised concerns regarding the impact of the proposed restaurant on neighbouring amenity. The Applicant states that they have sought to address these concerns in a number of ways, by adjusting the proposal design in numerous ways and, for example, by reducing the initially proposed hours of operation in the evening. The Applicant has also committed to delivering an operational management plan, which any future tenant will need to abide by, to be controlled by planning condition. The SCI also identifies that concerns were raised about the impact on residents during construction and that the Applicant advised that the works will take place within existing Council controls. They also note that as the existing pavilion structure is being retained, the potential impact should be reduced when compared with complete demolition.

## **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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **6.2 City Plan Partial Review**

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review includes updated policies for affordable housing, retrofitting and site allocations.

An emerging local plan is not included within the definition of “development plan” within s.38 of the Planning and Compulsory Purchase Act 2004. However, paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Footnote 22 to paragraph 48 states that during the transitional period for emerging plans consistency should be tested against the version of the Framework, as applicable, as set out in Annex 1 (paragraph 230). This means that the consistency of the policies in the City Plan Partial Review must be tested for consistency for the purposes of paragraph 48(c) against the September 2023 version of the NPPF.

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it will generally attract limited if any weight at all.

## **6.3 Neighbourhood Planning**

The Mayfair Neighbourhood Plan (MNP) 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.

#### **6.4 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 (December 2023) unless stated otherwise.

### **7. BACKGROUND INFORMATION**

#### **7.1 The Application Site**

The application site is a formal garden on the deck roof of a Grade II listed Edwardian electricity substation dating from 1904-05. It is located within the Mayfair Conservation Area, the Central Activities Zone (CAZ) and West End Retail and Leisure Special Policy Area (WERLSPA). The MNP identifies the site as a Local Green Space and an Oasis Area.

The deck includes a modern café structure, which is currently vacant, and some limited public seating and planting.

#### **7.2 Recent Relevant History**

Planning permission and listed building consent were granted on 28 March 2012 (RN: 11/09200/FULL and 11/09201/LBC) which allowed “Alterations including construction of a new pavilion at western end of deck (Balderton Street end), installation of new access stairs and lift to deck from north side of Brown Hart Gardens and associated landscaping and lighting. Use of the proposed new pavilion as a cafe (Class A3).” The design of the structure has been amended through various non-material amendments in 2012 and a Section 73 application approved on 28 March 2012 (RN: 12/07648/FULL and 12/09480/LBC).

Temporary planning permission was granted 11 February 2021 (RN: 20/06980/TCH) for the placement of 20 tables and 44 chairs externally on part of the deck, in association with the café operation. This permission was granted until 28 February 2022 and was not renewed.

### **8. THE PROPOSAL**

Planning permission and Listed Building Consent applications seek to allow the partial demolition, reconfiguration and alteration of existing building on the deck of the gardens. This will then allow for continued cafe / restaurant use (still within Class E) which will be accommodated within a moderately larger footprint. This would accommodate a larger kitchen and slightly more seating within the building.



It is important to note that the permitted cafe (at that time, Class A3) is now Class E. Changes to the Uses Classes Order which came into effect in September 2020 combined a number of town centre uses into a single use class, Class E Commercial Business Service. There is therefore no change of use associated with this application as both the existing café and proposed restaurant are within the same use class (Class E).

The proposals also include re-landscaping the existing deck to provide greater planting and biodiversity as well as public seating.

Separate planning permission (24/00671/TCH) is sought to provide external seating on the deck to be used in association with the enlarged restaurant use. This would be located in locations around the enlarged building and be positioned so as to face inwards to the site.

Table 1: Existing and proposed land uses.

Land Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Café/Restaurant (Class E)	97	129	+32
Total	97	129	+32

The existing deck is privately owned, with public access allowed at certain times of day. The applicant advises that under the proposal, the hours of access would be unchanged and that the deck would continue to be accessible during the daytime, closing to the public after 8pm (with the exception of those using the restaurant).

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

#### Land Use Overview

City Plan City Plan policy 1 supports town centres and high streets to evolve as multifunctional commercial areas to shop, work and socialise.

Policy 2 of the City Plan seeks to intensify the West End Retail and Leisure Special Policy Area (WERLSPA) through providing job growth through commercial-led development, including leisure, and a diverse evening economy.

Policy 14 (Town centres, high streets and the CAZ) supports developments in existing centres that enhance and diversify their offer as places to shop, work and spend leisure time. Part C2 of this policy identifies that the WERLSPA will provide a wide mix of commercial uses that support the West End’s role as a retail, employment and cultural hub, and as a centre for the visitor, evening and night-time economy.

Policy 15 (Visitor Economy) seek to maintain and enhance the attractiveness of Westminster as a visitor destination.

Policy 16 (Food, drink and entertainment) of the City Plan requires that proposals for food and drink and entertainment uses will be of a type and size appropriate to their location.

Policy MRU1 of the MNP requires that proposals for new commercial or entertainment uses in Mayfair must demonstrate how they protect the amenity of nearby residential units and create no material additional adverse effects (after mitigation) such as noise and rubbish between 11pm and 7am.

MNP Policy MRU3.1 sets out that new entertainment uses will be encouraged where they complement both nearby residential communities and also the character which those nearby communities foster.

MNP Policy MSG1 sets out that growth is encouraged within Mayfair which includes increased density, intensity of use, efficient use of existing floorspace and activity (by providing restaurants, cafés, galleries, shops, and other uses which animate the streetscene for the public).

Policy MSG2 identifies commercial growth being encouraged in Central and East Mayfair.

Policy MR3 encourages Oasis Areas to support retail frontages through the provision of areas to relax, sit and, where appropriate, and subject to amenity considerations, to eat and drink. The policy also supports proposals for development within Oasis Areas which include the improvement of, or provision of, new urban green infrastructure.

**Land Use Consideration**

As noted above, there is no change of use associated with this application as both the existing café and proposed restaurant are within the same use class (Class E). The assessment in land use terms is therefore limited to the impact of the larger use.

The applicant advises that the site has been vacant since February 2022, with other periods of vacancy before this. The principle of a moderate enlargement of the existing use is considered to be acceptable and in accordance with the above policies, subject to assessment of the potential impact the use may have on the surrounding environment as a result of its altered operation.

The table below sets out the key differences between the existing café and proposed restaurant operation.

Table 2: Existing and proposed operation.

	<b>Existing</b>	<b>Proposed</b>	<b>Change</b>
<b>Covers</b>	Internal: 50 External: 44 Total: 94	Internal: 60 External: 30 Total: 90	Internal: +10 External: -14 Total: -4
<b>Hours</b>	08:00 - 20:00 daily indoors  08:00 - 20:00 daily outdoors	<u>Monday to Saturday:</u> 08:00 - 23:00 indoors (outdoors closed by 21:30);  <u>Sundays:</u> 08:00 - 22:00 indoors (outdoors closed by 20:30).	<u>Monday to Saturday:</u> +3 hours indoors +1.5 hours outside  <u>Sundays:</u> +2 hours indoors +30 mins outside
<b>Floorspace</b>	97 sqm	129 sqm	+ 32 sqm
<b>Servicing</b>	Vehicles stop on northern side of Brown Hart Gardens/Balderton St junction in appropriate locations.	Same as existing, deliveries minimised.	None

In terms of the changes in capacity of the use, the extension would allow slightly more seating within the building. The proposal overall, when considering the enlarged use along with the external seating, would not substantially increase the number of covers overall compared to previous permissions.

The outdoor seating associated with the café / restaurant building has been limited to a maximum of 30 covers, 14 less than the number of external covers previously permitted on a temporary basis for the café in 2021, but there is an increase of 10 for the inside seating.

The applicant considers that the outdoor seating (now mostly either side of the café/restaurant rather than all in front of it) has been located to minimise the potential for noise disturbance to nearby residents whilst also preserving open space toward the centre of the deck. On this basis the proposal for external seating locates some of the outdoor seating along the northern and southern boundaries of the deck (9 seats and 3 tables on each side), behind planting which assists with screening the seating from surrounding residential properties and also facing away from residential properties. 12 seats at 4 tables will be located at the 'front of the restaurant facing the deck.

With regards to the opening hours, the applicant advises that the proposed opening hours have been reduced following those originally proposed during the public consultation (with a latest closing time of 11:30PM Monday to Saturday originally suggested), whilst still retaining some evening opening. They consider that these evening opening hours are necessary to ensure a restaurant business can be sustained and therefore contribute positively to the vitality of the West End. As is set out in the table above, these hours represent a moderate change in the operational hours

compared to the existing café operation. The largest differences in the operational hours are related to the internal operation of the restaurant with the external covers being closed earlier than the main use. This approach is welcomed. An objector has objected on the basis that the restaurant will be open 7 days a week until 11:30pm. As is clear above, this is not the case and therefore the objection is not sustainable.

Objectors have raised concern that the use of the space should not extend beyond the garden's hours and that the restaurant should not operate beyond the existing hours. The proposed hours of both the main internal restaurant and the external seating area are within those set by the MRU1 of the MNP – "*Proposals for new commercial or entertainment uses in Mayfair must demonstrate how they protect the amenity of nearby residential units and create no material additional adverse effects (after mitigation) such as noise and rubbish between 11pm and 7am.*". The Mayfair Neighbourhood Form (creators of the MNP) have objected to the proposals and request that restaurant close at 22:00 and that there should be no amplified music. Given that MNP policy would allow opening until 23:00 as noted above, it is considered that it would be unreasonable to require a 22:00 closing, especially in this mixed use location close to Oxford Street, and this part of the objections cannot be upheld. In terms of the music, the Applicant has advised that it is not proposed to play any music externally and that they would accept such a condition. A condition shall therefore be added prohibiting the playing of live or amplified music outside the restaurant, as well as ensuring any music played inside is not audible outside, so as to address the objection.

A Draft Operational Management Plan (OMP) has been submitted in support of the proposed new operation. This provides details on the intended operation such as:

- Main/only customer entrance/exit from doors facing the central area of the deck,
- Host greeting customers for evening service,
- Staff entrance/exit at rear of building,
- Details capacity and hours, as set out above,
- Servicing will remain the same as the existing situation with deliveries minimised (anticipate 3-4 a day with average duration of 10 mins),
- Staff to close doors to prevent noise breakout, and
- Resident telephone number accessible online for concerns/complaints.

These measures are welcomed and should serve to minimise the impact of the altered use on the area. It is considered that the main entrance doors facing the deck should be conditioned to be self-closing so as to reduce the need for staff to manage this aspect in preventing noise break out. The Applicant has stated that they agree to the imposition of a planning condition which would require the approval of an updated OMP prior to the use commencing. This shall also be secured by condition.

Objections have been received on the grounds that the proposed restaurant use would lead to an increase in noise. Objectors also note that the nature of the area amplifies external noise, and that this has not been considered in the submitted acoustic report. The external seating is considered to be well placed, and, given that there is a reduction in external seating at the site along with the measures set out in the draft OMP, it is not considered that the changes will result in a significant increase in noise at the site. Furthermore, the applicant has submitted an acoustic report which assesses the likely impact of noise from the proposed use, which includes noise from patrons.

Environmental Sciences have assessed this report and found it to be acceptable in terms of demonstrating that the anticipated operation of both the internal and external areas shall be within Council noise criteria, subject to conditions already discussed above (no external music, patron capacity, doors kept closed, hours of use of outdoor area, etc.) and a condition limiting noise emissions from internal uses. They have raised no concern in terms of the method of assessment used with regards to the objections about noise amplifying in the external space. The objections in relation to noise from the use therefore cannot be upheld.

Environmental Sciences request a condition to ensure that, with the exception for immediate access and egress, and in an emergency, the internal premises shall keep all windows and doors closed after 09:30. Given that there are only doors to the premises and that these shall be conditioned to be self-closing as identified above, it is not considered this additional condition would be necessary.

Objectors have also noted that the previous café use caused unacceptable levels of noise and opened beyond approved times. While this is noted, it is not within the remit of this application to consider possible issues with the operation in the past. The use of the building (and the occupier) will be different under this permission. These points of objection therefore cannot be upheld, but subject to any future breaches of conditions being reported to the Council, these could be investigated by the Planning Enforcement Team.

Objectors have raised concern that the proposed servicing will increase pollution and traffic at the site. The Highways Planning Manager considers that, given the limited size of the extension and the proposed use, the servicing arrangements are unlikely to change significantly from that which could be generated from the existing use. Planning permission granted on 28 March 2012 (RN: 11/09200/FULL) which allowed the initial use of the café included a condition (11) that secures hours of servicing to between 07:30-18:00 daily for the existing café. Given that the applicant aims to focus the majority of their deliveries to within the hours of 11 am and 4 pm, the hours imposed before are still considered to suit their needs and shall be carried over to this permission. The proposal in servicing terms is not expected to have a significant adverse impact on the public highway subject to the same condition as previously imposed, and the objection on these grounds cannot be upheld.

The Highways Planning Manager has raised significant concern regarding the delivery aspect of food retail/takeaway. They state that the site should not own or operate its own delivery service (i.e. have its own fleet of vehicles that would be left when not in use on the public highway). Such an operation would have an unacceptable impact on the public highway and they therefore request a condition should be imposed to prevent this. Given that such an operation would also likely have an impact on the amenity of the area (as a result of increased vehicle comings and goings and associated noise), it is considered appropriate that such a condition is imposed.

Objectors state that they consider there to be no demand or need for another food outlet. While these views are noted, it is not a consideration in the planning process for an application of this nature and therefore permission could not be withheld on these grounds.

As has been demonstrated above, the proposed operation of the restaurant would not be significantly more intense than the existing permitted café use, given that while there is a modest increase in operational hours, there is a reduction in covers and a management plan has been submitted. The greatest changes in the operation will be contained to within the restaurant building itself, which will limit the possible impacts on residential amenity. Subject to conditions limiting the capacity and hours of the restaurant and that it be operated in line with a detailed final OMP to be submitted, the moderately larger use is considered acceptable.

Within Class E, there is the potential for a broad range of uses which have the potential to generate significant noise, as well as other amenity impacts such as odour and highways impacts (notably indoor gyms, day nurseries etc.). No detail of how such uses would be managed so as to safeguard amenity has been provided (such as how arrivals for a nursery would be managed, etc.). Given that the site is surrounded by residential properties, they would be considered highly sensitive to amenity impacts and potentially the other impacts associated with the other uses within Class E. As such, a condition is recommended to restrict the potential uses within Class E to only the restaurant (Class E(b)) that has been applied for. The other uses within Class E cannot be suitably assessed in this application and are likely to have an impact on amenity of the area without suitable controls so must be prohibited by condition. The applicant has agreed to a condition to restrict Class E, as recommended.

### **Impact on Public Space**

City Plan Policy 34 protects all open spaces and their quality, heritage and ecological value, tranquillity and amenity. The MNP identifies this space as an Oasis Area.

The Mayfair Neighbourhood Forum have objected to the proposals on the basis that the deck should be primarily used by residents and visitors as quiet amenity space. They consider that the original café was seen as ancillary and low-key, which supported the space, but the proposals now represent a change in the character and they consider it to be over-commercialisation of the space. Objectors have also raised that they consider the café should not encroach onto public space and also that the proposals would result in the loss of facilities for children and local residents. They also raise that the use of the space should not extend beyond the gardens hours.

The existing deck is privately owned, with public access allowed at certain times of day. The applicant has confirmed that the hours of access would be unchanged and that the deck would continue to be accessible during the daytime, closing to the public after 8pm (with the exception of those using the restaurant).

Currently, the deck has a limited number of comparatively small rectangular planters placed upon it with restricted planting, along with a number of benches and small trees in pots located along the edges.

The applicant states that the provision of the improved landscaping (discussed in section 9.3 below) and a slightly extended restaurant building at the site has been designed to preserve the majority of the space as open and accessible space, whilst ensuring a truly functional and viable restaurant can be provided and meaningful landscaping, integrating

public seating, would be accommodated. The proposals include higher quality planting along with integrated seating.

As set out above, the increase in size of the restaurant building is modest. The re-landscaping is considered to be good quality and will enhance the public space beyond the existing situation, which is considered to be underutilised and of a limited quality given.

There is arguably a small reduction in the area that is public space due to the area set aside for external restaurant seating and the increase in the footprint of the building however, this has been kept on the western side of the deck which is the same area as previous seating has occupied. The area previously permitted for seating under the temporary permission granted 11 February 2021 (RN: 20/06980/TCH) also extended out to the same area as the new external seating. The applicant notes that the central and eastern areas of the deck will still have public access and will be of significantly improved quality.

Planning permission was granted on 28 March 2012 (RN: 11/09200/FULL) which allowed the initial use of the café, and included a condition (10) which secured the opening hours of the terrace and the café. To ensure public access is maintained at the same times as already available (08:00-20:00 daily), an updated condition shall be imposed which also accommodates the extended restaurant hours proposed.

To prevent over-commercialisation of the space and use of the planted area of the deck when the space is not open to the general public, a condition shall be imposed prohibiting the consumption of food or drink from the restaurant in the landscaped area during hours the deck is closed to the general public. This should not prevent people bringing their own food and drink who want to sit on the main part of the garden when it is open to the general.

In this instance, the proposals are considered acceptable given the significant improvements to the quality of the space overall. The objections on these grounds therefore cannot be upheld.

## **9.2 Environment & Sustainability**

### **Energy Efficiency**

Policy 38D of Westminster's City Plan (Design principles) covers sustainable design, while policy 36 covers Energy Performance.

The proposals have moved away from comprehensive demolition of the existing café building and are now reducing waste and carbon by retaining most of the structure (the existing roof structure and the longer north and south elevations). The materials that are removed will have the chance to be reused where possible. Energy consumption will be sought to be kept to a minimum through the use of modern energy efficient materials, fittings and equipment. The overhanging roof of the building will serve as a solar shade reducing solar gain and overheating. The proposals is therefore welcomed under policies 36 and 38 and the Environmental SPD.

## Light Pollution

Policy 33(B (Local environmental impacts) seeks to minimise the detrimental impact of glare and light spill on local amenity, biodiversity, highway and waterway users.

The proposals will see a reduction in the amount of glazed wall at the site as a result of the proposed longer flank walls now including perforated metal screens along them, as opposed to the current fully glazed elevations. This is welcomed and in accordance with policy.

## Odour

The proposals include primary cooking at the site (whereas this was not permitted under the café use). The applicant has submitted an odour risk assessment which proposes installation of a recirculation system thus limiting any cooking by electricity only. Environmental Sciences are satisfied with the details within this report and request that a condition be applied securing operation of the cooking facilities in line with the document. While no external plant and equipment is proposed, Environmental Sciences have requested that the standard Council noise and vibration conditions be applied, along with restricting the hours of use of any machinery that may create noise (such as internal) to between 08:00-23:00 so as to protect amenity.

The Mayfair Neighbourhood Forum have stated that Environmental Health must be satisfied with neighbours not being affected by cooking smells. Environmental Science Officers have assessed the submitted odour assessment and considered the proposed recirculation systems. They advise that the proposed recirculation system for the restaurant is acceptable and compliant with Council guidance. Conditions shall be applied to ensure that the equipment remains complaint.

### 9.3 Biodiversity & Greening

City Plan Policy 34 seeks to protect and enhance the city's green infrastructure and to maximised its environmental, social and economic value as well as requiring that where possible developments contribute to the greening of Westminster and that all open space will be protected.

MNP Policy MGI1 states that development proposals in Mayfair should enhance and or protect existing green infrastructure.

Policy MR3 of the MNP supports proposals within Oasis Areas which include improvement of or provision of new urban green infrastructure.

The proposals include the provision of a significantly re-landscaped deck area. The applicants advise that this has been designed to enhance the quality and heritage and ecological value, tranquillity and amenity value of the site as an open space. They note that they seek to maximise as far as possible the green infrastructure and biodiversity of the site, whilst balancing this against the competing requirements of retaining the open character of the existing deck, given its designation as an Oasis Area and its role as one of a limited number of open spaces within Mayfair.



The additional green infrastructure at the site is identified as being in the form of extensive permanent landscaping features accommodating trees, shrubs, perennials and grasses within curved planters providing substantial soil space. The landscaped area at the site would be increased by the proposal from 138 sqm to 288 sqm. A variety of planting species would be provided, adding visual interest in the context of a primarily hard-landscaped site as well as enhancing biodiversity. The applicant notes that the new landscaping beds have been designed to provide a more permanent, sustainable and resilient method of greening the deck than the existing situation, which provides only movable temporary planting boxes with limited soil capacity, thereby requiring regular watering and limiting potential growth. They consider that this proposal would therefore deliver a far higher quality planting environment at the site.

A landscaping strategy has been submitted with the application which includes a management plan for the space. This plan includes measures which will ensure the planting and the benefits are sustained for the long term. These measures include using species which are 'low-input, high-impact', requiring little regular maintenance and watering, also making them tolerant of the site's relatively exposed setting. This will ensure the proposal's resilience to climate change as well as providing interest throughout the year.

The applicant sets out that the proposals will provide an Urban Greening Factor (UGF) score of 0.35, up from the existing score of 0.23. This reflects the increase in greening coverage at the site, which will more than double, from 138 sqm to 288 sqm. While there are no policy requirements for a scheme of this size to provide an increase in UGF, the applicant has nonetheless demonstrated the benefits in this regard.

The submitted biodiversity impact assessment shows the proposals would introduce new additional species and increase the sites ecological value by 17.46%. The report notes that, given the urban context of the existing site, the proposal would act as "a key green stepping stone in an otherwise nature depleted environment".

All of the above benefits described that result of the re-landscaping of the deck are very welcome and in accordance with policy. The provision of these benefits shall be secured by condition requiring the provision of the re-landscaping, planting and maintenance in accordance with the submitted documents.

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

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

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

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

Section 66 of the LBCA Act requires that "*In considering whether to grant planning permission for development which affects a listed building or its setting, the local*

*planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

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

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, 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.

Policies 38, 39 and 40 of the City Plan 2019-2040 (adopted April 2021) include Design Principles which require development to respond to Westminster’s townscape and preserve or enhance heritage assets.

The Mayfair Neighbourhood Plan 2018-2038 (adopted December 2019) includes further policies relevant in this case, particularly those relating to greening and the preservation of heritage assets.

### **Consideration**

Brown Hart Gardens is a formal park on the roof of a Grade II listed electricity substation dating from 1904-5 to designs by C. S. Peach and Balfour for the Grosvenor Estate. The substation is sunken and covered by a raised terraced with two domed neo-Baroque stone pavilions at each end. The terrace formed compensation for the associated loss of the public garden formerly on the site, dating from 1889, as shown within the submitted Heritage Statement.

It is located in the Mayfair Conservation Area and makes a positive contribution the character and appearance (significance) of this part of the conservation area.

A modern café structure sits to the western end of the terrace. This was approved in May 2012 (RNs. 11/09200/FULL & 11/09201/LBC) and forms a lightweight, largely glazed addition which is legible as a modern, reversible addition. It is of no architectural or historic interest. However, its success lies in its materiality, which appropriately contrasts with grounded stonework of the listed structure, and its shallow concave roof structure, which preserves views towards both pavilion domes from the terrace.

This application seeks to partially demolish the café structure and provide a new roof, new cladding and glazed walls to improve the internal arrangement and usability of the café. Landscaping is also proposed across the terrace.

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This application has been assessed against policies 38, 39 and 40 of the City Plan 2019-2040 (Adopted April 2021) and the Mayfair Neighbourhood Plan 2018-2038 (adopted December 2019).

When compared with the existing arrangement, the roof form will sit lower than the existing and see the removal of the cladded box structure. This will improve the visibility of the stone pavilion and provide a more lightweight coherent roof form. The east façade will be fully glazed with a set of double doors at the centre. The side returns and rear façade will be finished in metal fret-cut artwork. A condition is recommended to ensure that the screens form suitable artwork.

The roof will extend across the same width as the existing roof. However, the structure will extend by 3.5m in length, with the roof extending an additional 1.5m to the front. Overall, its footprint will increase from a 16m to 19m in length. The rear will also be infilled to provide a rounded, coherent footprint.

The Mayfair Neighbourhood Forum and Victorian Society have objected on design and heritage grounds. Concerns are raised regarding the impact that the increased footprint of the structure would have on the character and special interest of Brown Hart Gardens. While the structure will increase in size, its calm design and reduction in height will see it remain a subservient structure, while the proposed artwork allows the opportunity to visually break-up the side elevations and provide interest. Furthermore, the increase in size allows a more usable space internally and enables the removal of external parasols and canopies which currently serve to provide visual, commercial clutter throughout the terrace. A condition is recommended to ensure that the terrace remains clear of such structures.

The proposals will see the addition of much needed landscaping across the terrace. The Victorian Society have objected to these works. While it is acknowledged that the proposals will result in a change to the appearance of the terrace, it has undergone several phases of development throughout its lifetime. For example, the original large round central fountain, paving slabs and planters have been removed, and later new artwork and new planters provided throughout (see submitted Heritage Statement for further information). The proposed scheme will provide large, raised fibreglass planters which will allow highly diverse planting, including small trees, while forming lightweight wait structures. Timber benches will be incorporated within these planters. The planting will provide plentiful greening and much needed shade across the exposed deck, while forming reversable additions to the listed building. A condition is recommended regarding the finish, colour and texture of the planters and benches. The enhanced greening is welcomed under policies 7 and 34 of the City Plan 2019-2040 and MUB1-4 of the Mayfair Neighbourhood Plan 2018-2038.

Subject to the provision of additional details and/or adherence to the aforementioned conditions, the proposals will preserve the special interest of the listed building and the contribution that it makes to the character and appearance of this part of the conservation area. The design is considerate to its context, provides artwork and much needed greening to the space. This application, therefore, complies with the requirements of Section 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policies 38, 39 and 40 of the City Plan 2019-2040.

## 9.5 Residential Amenity

City Plan 2019-2040 Policy 7 (Managing Development for Westminster's People) seeks to ensure proposals are neighbourly by protecting and enhancing amenity, and preventing unacceptable impacts such as loss of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking, as well as protecting local environmental quality.

Policy 22 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

MNP Policy MRU1 requires that new commercial or entertainment uses must demonstrate how they protect the amenity of nearby residential units and create no additional adverse effects.

Objections have been received on a range of amenity grounds, addressed in the relevant sections below or, where related to land use, in section 9.1 above.

Council records show that the site is almost entirely surrounded by residential properties, with the exceptions being the hotel to the west (The Beaumont), and the Ukrainian Catholic Cathedral to the northeast. The properties on the corners of Duke Street/Brown Hart Gardens (both north and south corners) have commercial at the ground floors on these elevations but residential along the rest of the ground floors and are residential above. The remaining buildings surrounding the site are entirely in residential use.

### Daylight & Sunlight

The applicant has submitted a daylight and sunlight assessment summary (not a full report) which has been carried out with reference to the recommended Building Research Establishment (BRE) guidelines (2022). The BRE guidelines states that bathrooms, toilets, storerooms, and circulation space need not be analysed as these rooms are non-habitable rooms and do not have a requirement for daylight. The guidelines state that the tests may also be applied to non-domestic buildings where there is a reasonable expectation of daylight. The BRE guide explains that this would normally include schools, hospitals, hotels and hostels, small workshops and some offices. The BRE guide is not explicit in terms of which types of offices it regards as having a requirement for daylight.

The summary letter notes that given the proposed alterations to the structure will result in minimal alterations to the buildings massing, it is unlikely that there will be any noticeable change to the daylight and sunlight levels to neighbouring properties. Officers would agree with this summary and consider that distance between the key area of works and the nearest residential receptors would further reduce any likely negative impact.

The summary also considers the impact on the proposed trees. They note that the BRE Guidelines provides some advice within Appendix G: Trees and hedges and states the following:

*G1.1 Trees and hedges vary in their effects on skylight and sunlight. Most tree species will cast a partial shade; for deciduous trees this will vary with time of year. However very little light can penetrate dense belts of evergreen trees, and the shade they cause will be more like that of a building or wall.*

*G1.2 It is generally more difficult to calculate the effects of trees on daylight because of their irregular shapes and because some light will generally penetrate through the tree crown. Where the effect of a new building on existing buildings nearby is being analysed, it is usual to ignore the effect of existing trees. This is because daylight is at its scarcest and most valuable in winter when most trees will not be in leaf.*

The report notes that the new trees being proposed would be deciduous and would not be forming a dense belt of vegetation. On this basis they consider they would not usually be considered but for completeness have included a summary on the topic. The letter notes that there will continue to be eight trees next to the restaurant building (i.e. on the western half of the square), so the daylight and sunlight levels will be maintained. There would be a similar number of trees on the eastern half of the square as existing, although the amount of low level planting would be increased. There is unlikely to be a material difference in the daylight and sunlight available to the neighbouring residential properties in comparison to what is received today.

On this basis, the proposals are unlikely to have any noticeable impact on daylight and sunlight for surrounding properties.

### **Noise & Vibration**

The noise impacts of the proposals have been considered above in sections 9.1 and 9.2.

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

### **Accessibility**

The garden deck currently benefits from an accessible lift on its north elevation. There will be no changes to these access arrangements as part of these proposals.

### **Highway Impact**

The Highways Planning Manager and Waste Project Officer have assessed the applications and provided comment on the following aspects.

### **Waste & Recycling Storage**

The Waste Project Officer has assessed the proposals in relation to the use of the café / restaurant and advised they have no objection to waste details that have been submitted. They note that they are in line with Council requirements and should be secured by condition.

With regards to the use of part of the deck for the placing of tables and chairs, The Waste Project Officer has no objection given that the deck is private space and not part

of the public highway.

### **Cycling & Cycle Storage**

The Highways Planning Manager notes that under the London Plan restaurant uses of over 100m<sup>2</sup> require a minimum provision of 2 long-term spaces and 1 short-term space per 20m<sup>2</sup>. In this case the requirement is for 2 long-term and 6 short-term spaces. The plans indicated 2 long-term covered and secure spaces which is acceptable, in accordance with policy, and shall be secured by condition.

The Transport Statement indicates that 6 short-term spaces are proposed within the public highway on Duke Street. The short-term spaces should be provided within the application site and clear of the public highway. The Highways Manager considers that the existing platform lift could be used by cyclists and cycle gutters could be installed in the stairs in particular that on the northern side to facilitate access to cycle storage on the deck.

These spaces are not shown on any of the submitted plans and would fall outside of the site (red line). However, given the restraints of the site it is not considered reasonable to request these additional spaces.

### **Parking**

The site is also within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls. The impact of the change of use on parking levels in the area is likely to be minimal and consistent with Policy 27.

### **Gates Over the Highway**

The Highways planning Manager has objected to the proposals on the grounds that the submitted plans show gates opening outwards over the highway. They state that it is unacceptable for doors/gates/accesses to open outwards over the public highway and is contrary to the Section 153 of the Highways Act in addition to City Plan policies 25 & 43. Gates opening outward over the Highway represent a hazard to pedestrians in particular those with protected characteristics. They request a condition should be imposed to secure all doors opening clear of the public highway.

However, these gates in question are indeed existing and, given that these gates are immediately in front of steps leading upwards (to the deck), they cannot open inwards. To impose the condition would lead to the requirement to alter the gates which would introduce design and conservation considerations which may not be able to be overcome given the listed nature of the site. In this instance, it is not considered suitable to impose the condition request.

## **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 both during the construction phase through the generation of increased opportunities for local employment, procurement and spending, and when the café/restaurant is completed .

## 9.8 Other Considerations

### Anti-Social Behaviour

The applicant notes that they consider the existing building and surrounding site comprising the deck suffer from several constraints which have led to the underutilisation of the deck and extended periods of vacancy at the café building (which has been vacant since February 2022). They consider that this vacancy has led to a lack of surveillance of areas of the deck from the surroundings, made worse by the extended vacancy of the café, failing to discourage antisocial behaviour. They identify that this has led to an increase in anti-social behaviour at the site when the deck is closed. Objectors have also noted that the site is frequently subject to anti-social behaviour.

The applicant argues that the proposals, through providing longer periods of passive surveillance as a result of the restaurant being open, will result in a reduction in anti-social behaviour. While there are no security improvements being proposed to the site itself, such as higher gates which would have separate historic building and design considerations, the reactivation of the use of the pavilion would be welcomed in terms of providing more active usage of the area and, hopefully, working to reduce anti-social behaviour at the site.

### Structural Concerns

The Mayfair Neighbourhood Forum have raised concern over the ability of the structure to take additional weight. While this is not a planning issue (it is subject to building control regulations), the Applicant has advised that a structural engineer has been engaged in the proposals since design stage. The Forum request that UKPN be consulted, which they have been, however, at the time of writing, they have not provided a response. This point of objection is not upheld.

### Impact During Construction

Objections have been received raising concern about the impact on residents and the local area as a result of the construction process. While these concerns are noted, it is not considered reasonable to withhold a planning permission on this basis. The standard condition restriction noisy construction hours shall be imposed to permission granted which is the maximum control that can be asserted over this level of development under the planning system. These objections therefore cannot be upheld.

### Support Comments

A number of comments in support of the proposals (including one on behalf of the Brown Hart Gardens Committee) have been received. They support the scheme and believe these changes would overcome the previous commercial failures of the café. They also support bringing the restaurant into use as the unoccupied café attracts antisocial behaviour, and they believe having an active use will address this. They also support anything that can be done to encourage more use and enjoyment of the gardens. These supportive comments are noted.

### **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**

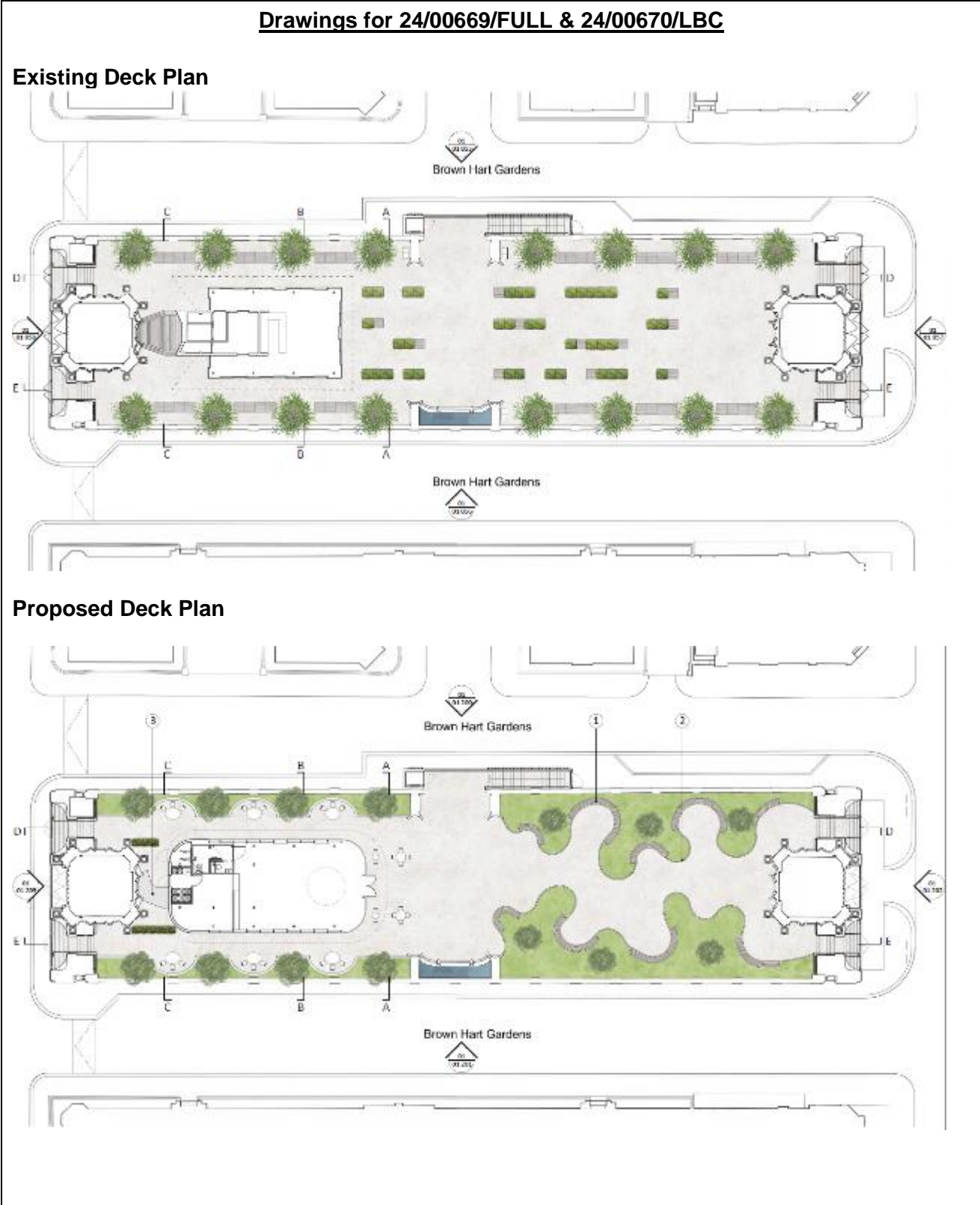
Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and London Plan 2021. It is recommended that permission is granted for the proposals, subject the conditions listed at the end of this report, which are necessary to make the development acceptable.

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

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



11. KEY DRAWINGS



**Existing Roof Plan**



**Proposed Roof Plan**



**Existing North Elevation**



**Proposed North Elevation**



**Existing South Elevation**



**Proposed South Elevation**



Existing East Elevation



Proposed East Elevation



**Existing West Elevation**



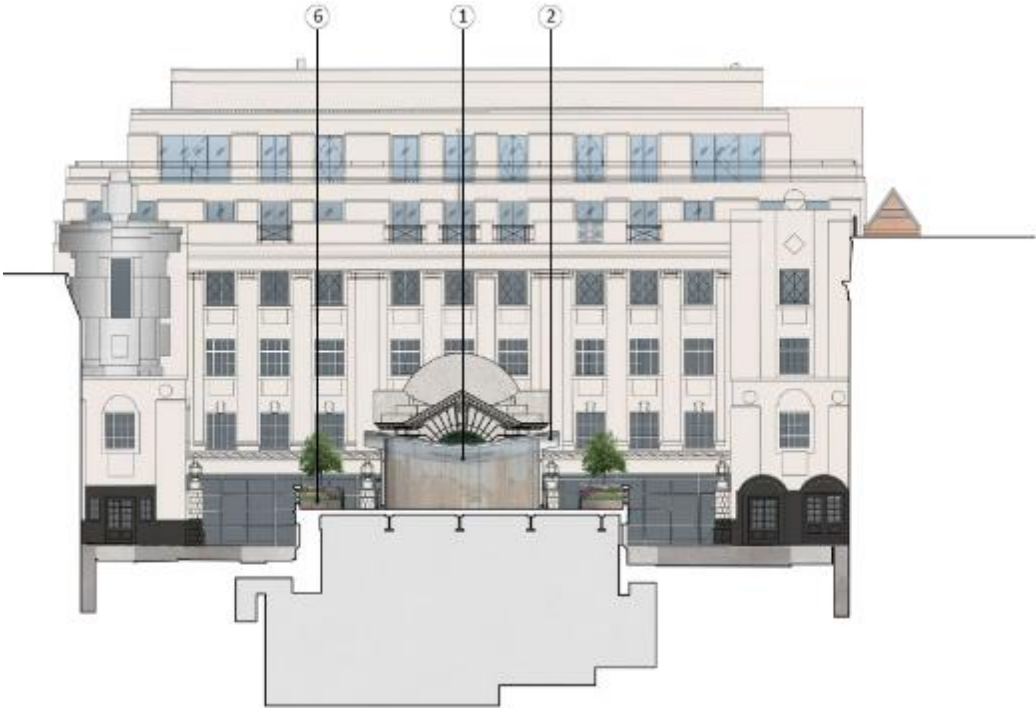
**Proposed West Elevation**



**Existing Section AA**



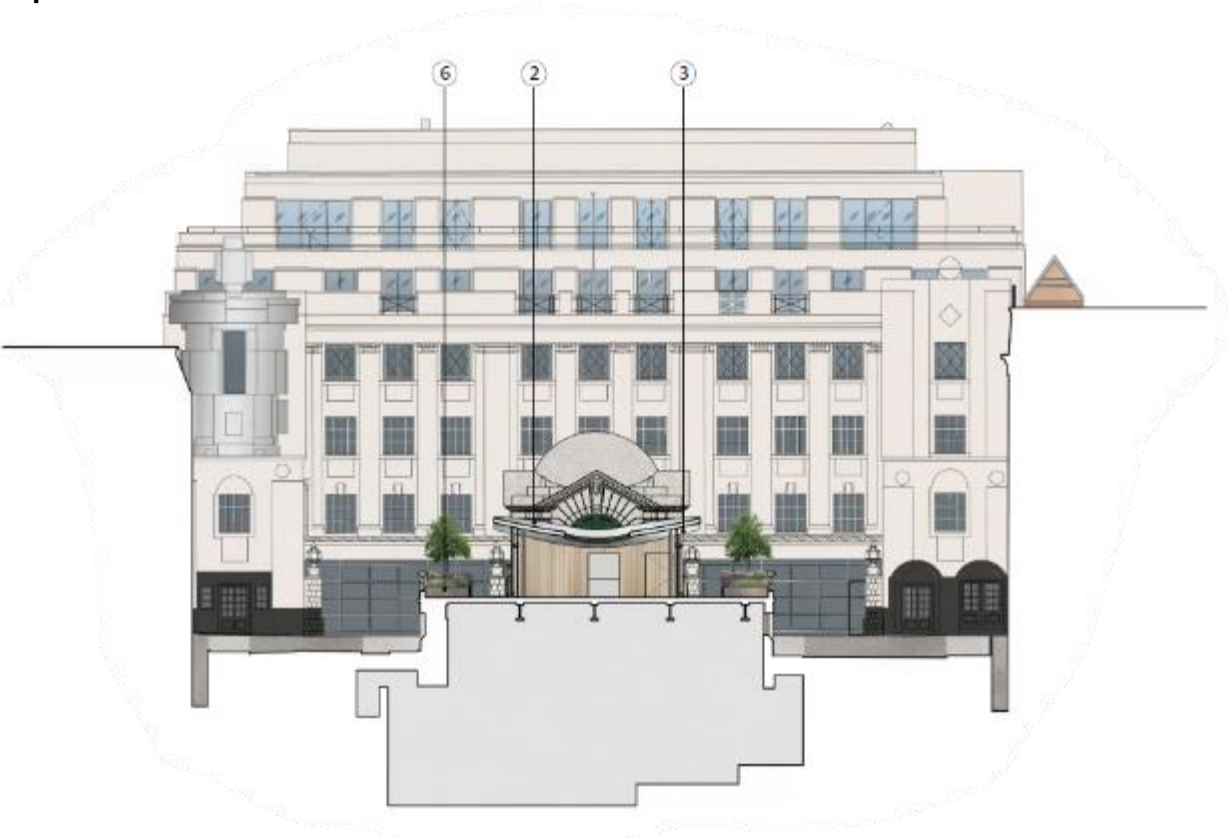
**Proposed Section AA**



**Existing Section BB**



**Proposed Section BB**

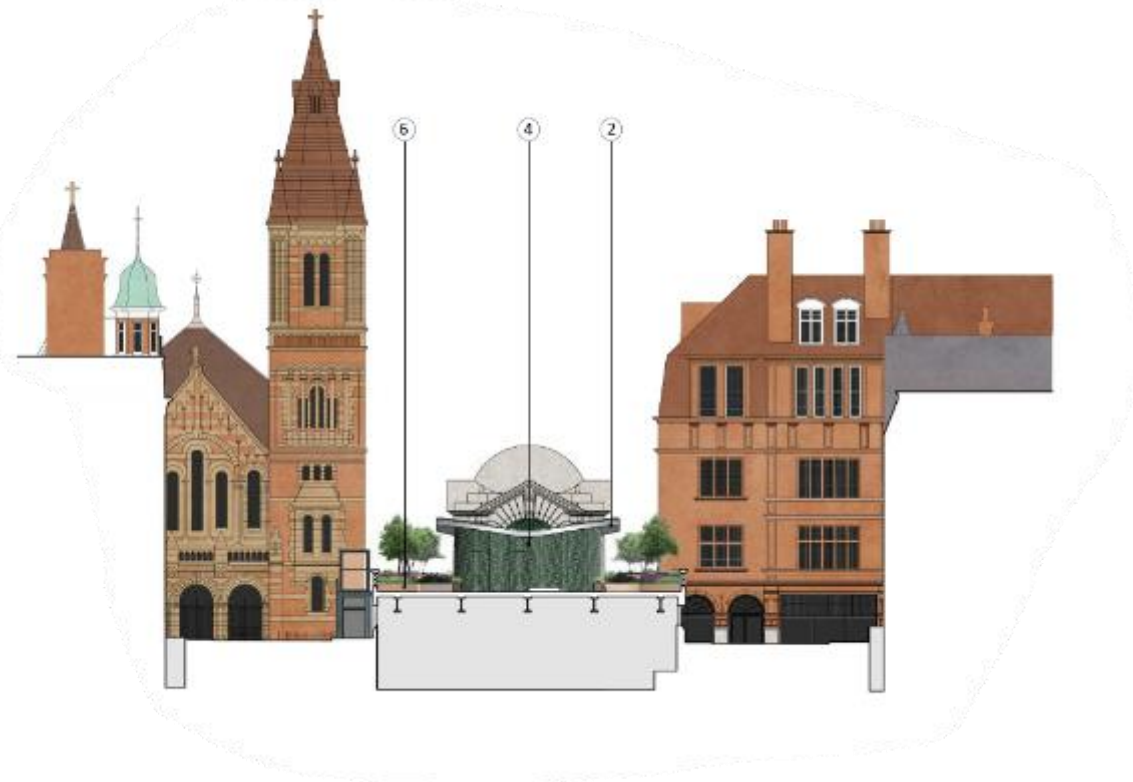




**Existing Section CC**



**Proposed Section CC**



Existing Section DD



Proposed Section DD



Existing Section EE

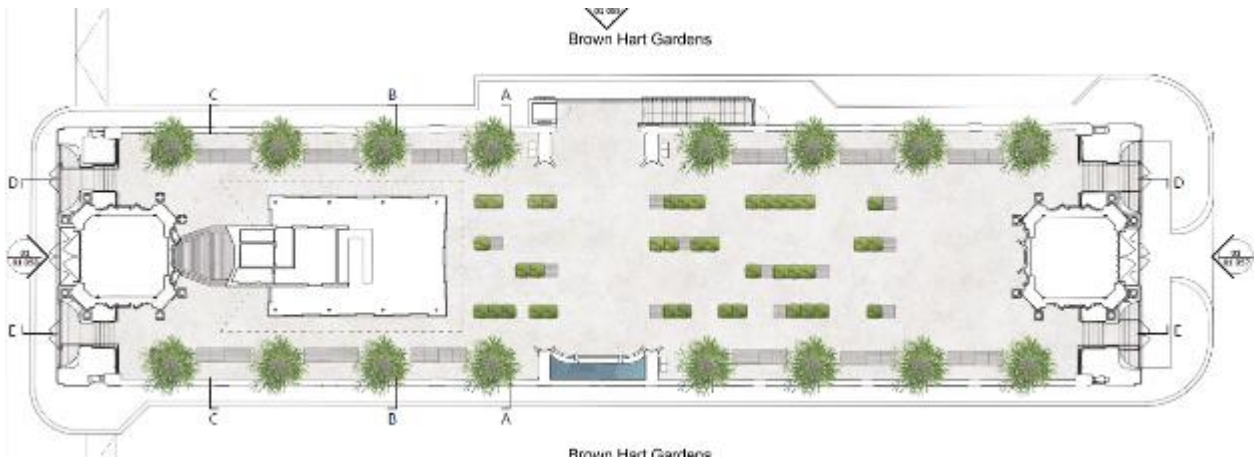


Proposed Section EE

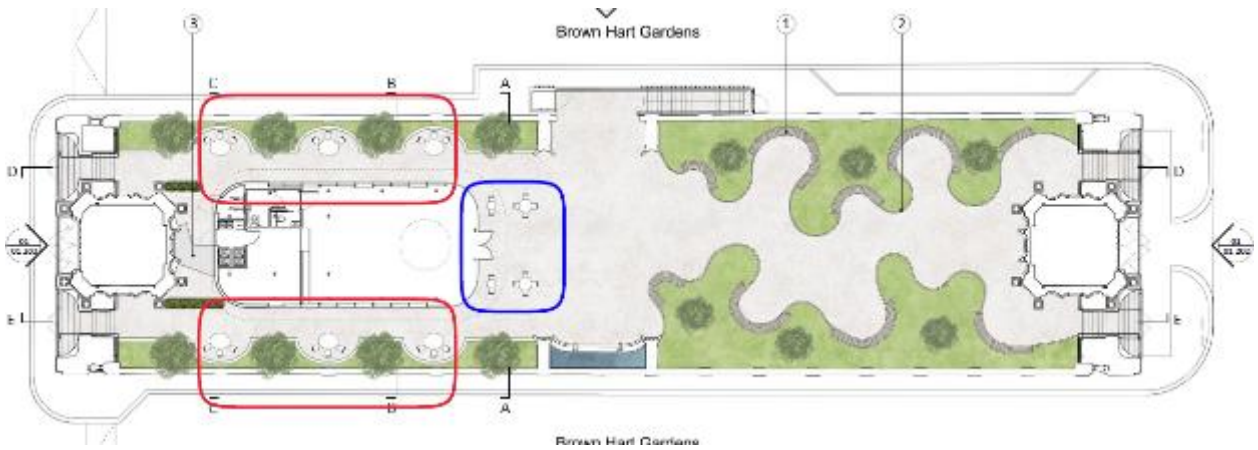


**Drawings for 24/00671/TCH**

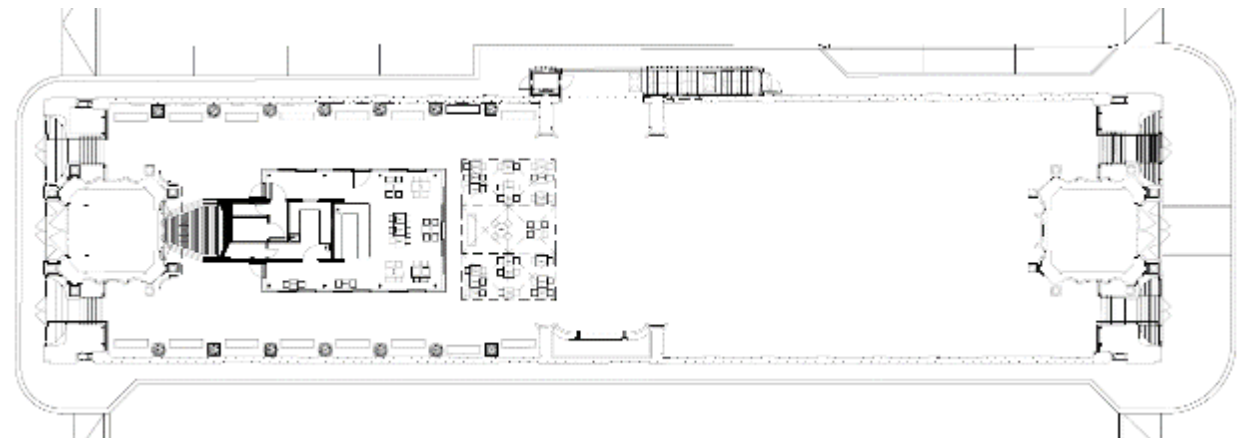
**Existing Deck Plan**



**Proposed Deck Plan with External Furniture Highlighted**



**Deck plan previously permitted under 20/06980/TCH:**



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**DRAFT DECISION LETTER- 24/00669/FULL**

**Address:** The Garden Cafe, Brown Hart Gardens, London, W1K 8UH

**Proposal:** Partial demolition, reconfiguration and alteration of existing building for continued cafe / restaurant use (Class E) and provision of landscaping to deck.

**Plan Nos:** Proposed Drawings:  
 SA BHG 01 100 Rev. PL2 ; SA BHG 01 101 Rev. PL2 ; SA BHG 01 200 Rev. PL0 ;  
 SA BHG 01 201 Rev. PL0 ; SA BHG 01 202 Rev. PL0 ; SA BHG 01 203  
 Rev. PL0 ; SA BHG 01 300 Rev. PL0 ; SA BHG 01 301 Rev. PL1 ; SA BHG  
 01 302 Rev. PL0 ; SA BHG 01 303 Rev. PL0 ; SA BHG 01 304 Rev. PL0

Supporting Documents:  
 Document titled "Biodiversity Impact Assessment" dated January 2024, by Greengage ; Document titled "Landscape Strategy", dated January 2024, Ref 2031-RP01, Rev C, by Nigel Dunnet with the landscape agency ; Drawing titled "LANDSCAPE MASTERPLAN" by the landscape agency ; Odour Risk Assessment from Calmec, reference 24-17 REV A, dated 16.01.2024.

**Case Officer:** Adam Jones **Direct Tel. No.** 07779431391

**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

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

- 4 The works approved are only those shown on the drawings listed on this decision letter. (C27NA)

Reason:

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

- 5 You must apply to us for approval of samples of the facing materials you will use, including glazing and planters, 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 and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

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

Reason:

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

- 7 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the deck.

Reason:

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

- 8 You must apply to us for approval of a scheme of public art shown in the approved drawings.

You must not start work on the public art until we have approved in writing what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details.

You must maintain the approved public art and keep it on this site. You must not move or remove it.

Reason:

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

- 9 No live or amplified music or sound played in the premises shall be audible outside the premises at any time. No live or amplified music or sound shall be played externally in any associated outdoor seating areas.

Reason:

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

- 10 The restaurant/ café use allowed by this permission must not begin until you have fitted self-closing doors at the main entrance. You must not leave these doors open except in an emergency or to carry out maintenance. (C13MB)

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 the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 11 You must apply to us for approval of an Operational Management Plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the 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 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 in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 12 You must not allow more than 60 customers into the property at any one time. (C05HA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out

Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 13 Customers shall only be permitted within the cafe / restaurant use (Class E) between the following times:

- Monday to Saturday: 08:00 - 23:00,
- Sundays: 08:00 - 22:00.

Customers shall only be permitted to use any external seating associated with the cafe / restaurant use (Class E) between the following times:

- Monday to Saturday: 08:00-21:30,
- Sundays: 08:00-20:30

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)

- 14 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)

- 14 All servicing must take place between 07:30-18:00 daily. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

- 15 The cafe / restaurant use (Class E) will not operate its own delivery service from the site.

Reason:

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

- 16 You may only use the hereby approved building as Class E(b) use, within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it).

Reason:

We cannot grant planning permission for unrestricted Class E use because it would harm the amenity of neighbouring occupiers and would not meet Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R05JA)

- 17 The deck shall be open to the general public only between the hours of 08:00 and 20:00 daily.

Access shall be provided for customers of the cafe / restaurant use (Class E) only between the hours of 08:00 and 23:15 Mondays to Saturdays and 08:00 and 22:15 on Sundays.

Access shall be provided only for maintenance purposes and for staff access to the cafe / restaurant use (Class E) between the hours of 07:30 to 00:00 midnight Mondays to

Saturdays and 07:30 to 23:00 on Sundays. Maintenance work which can be heard at the boundary of the site must only be carried out:

- 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.

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)

- 18 No consumption of food or drink from the cafe / restaurant use (Class E) shall occur in the landscaped area of the deck during hours that the deck is closed to the general public.

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)

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

Reason:

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

- 20 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number SA BHG 01 100 Rev. PL2 prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the cafe / restaurant use (Class E). (C14FC)

Reason:

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

- 21 You must carry out the landscaping work, planting and maintenance shown on the approved drawings and set out within the approved "Biodiversity Impact Assessment" dated January 2024, by Greengage; Document titled "Landscape Strategy", dated January 2024, Ref 2031-RP01, Rev C, by Nigel Dunnet with the landscape agency ; Drawing titled "LANDSCAPE MASTERPLAN" by the landscape agency.

You must have completed the installation of the landscaping and installation of all planting within one year of completing the development (or within any other time limit we agree to in writing)

You must maintain and retain the landscaping in the way approved for the lifetime of the development.



## Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Mayfair Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 22 The kitchen extract ventilation scheme to prevent odour nuisance shall be to at least the standard described in the odour risk assessment from Calmec , reference 24-17 REV A, dated 16.01.2024 and any cooking shall be by electrical equipment only

## Reason:

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

- 23 (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 schedule of all plant and equipment that formed part of this application;
  - Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
  - Manufacturer specifications of sound emissions in octave or third octave detail;
  - The location of most affected noise sensitive receptor location and the most affected window of it;
  - Distances between plant & equipment and receptor location/s and any mitigating features

- that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
  - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
  - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
  - (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 24 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 25 The plant/machinery hereby permitted shall not be operated except between 08:00 hours and 23:00 hours daily. (C46CA)

Reason:

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

- 26 (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 cafe / restaurant use (Class E) 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 cafe / restaurant use (Class E) 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)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National

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

- 2 Conditions 23, 24 and 25 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
  
- 3 With regards to Condition 17, where reference is made to the "deck", this is in reference to the landscaped area which is to be open to the general public.

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

**DRAFT DECISION LETTER - 24/00670/LBC**

**Address:** The Garden Cafe, Brown Hart Gardens, London, W1K 8UH

**Proposal:** Partial demolition, reconfiguration and alteration of existing building for continued cafe / restaurant use (Class E) and provision of landscaping to deck.

**Plan Nos:** Demolition Drawings:  
SA BHG 01 070 Rev. PL1 ; SA BHG 01 071 Rev. PL0 ; SA BHG 01 072 Rev. PL0 ;  
SA BHG 01 073 Rev. PL0 ; SA BHG 01 074 Rev. PL0 ; SA BHG 01 075 Rev. PL0.

Proposed Drawings:  
SA BHG 01 100 Rev. PL2 ; SA BHG 01 101 Rev. PL2 ; SA BHG 01 200 Rev. PL0 ;  
SA BHG 01 201 Rev. PL0 ; SA BHG 01 202 Rev. PL0 ; SA BHG 01 203 Rev. PL0 ;  
SA BHG 01 300 Rev. PL0 ; SA BHG 01 301 Rev. PL1 ; SA BHG 01 302 Rev. PL0 ;  
SA BHG 01 303 Rev. PL0 ; SA BHG 01 304 Rev. PL0.

**Case Officer:** Adam Jones

**Direct Tel. No.** 07779431391

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

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

**Reason:**

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

- 2 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

**Reason:**

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

- 3 The works approved are only those shown on the drawings listed on this decision letter. (C27NA)

**Reason:**

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

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing and planters, 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 and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

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

**Reason:**

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

- 6 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the terrace.

**Reason:**

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

- 7 You must apply to us for approval of a scheme of public art shown in the approved drawings.

You must not start work on the public art until we have approved in writing what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details.

You must maintain the approved public art and keep it on this site. You must not move or remove it.

**Reason:**

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

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan

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(March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

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

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

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**DRAFT DECISION LETTER - 24/00671/TCH**

**Address:** The Garden Cafe, Brown Hart Gardens, London, W1K 8UH

**Proposal:** Use of a private land for the placement of 10 tables, 30 chairs associated with the cafe, restaurant.

**Plan Nos:** SA BHG 01 100 Rev. PL2

**Case Officer:** Adam Jones

**Direct Tel. No.** 07779431391

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

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

Reason:

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

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing SA BHG 01 100 Rev. PL2. (C25AA)

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area and to protect the special architectural or historic interest of this building. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021).

- 3 You can only put the tables and chairs hereby approved on the deck, and allow customers to use them, between the following hours:  
Monday to Saturday: 08:00-21:30,  
Sundays: 08:00-20:30.

The tables and chairs must be stored within the associated Cafe/Restaurant at all other times.

Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021). (R25BE)

- 4 You can only put out on the deck the tables and chairs hereby approved shown on drawing SA BHG 01 100 Rev. PL2. No other furniture, equipment or screening shall be placed on the deck in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs is suitable and that no additional furniture, equipment or screening is placed on the deck to the detriment of the



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character and appearance of the area. This is as set out in Policy 43 of the City Plan 2019 - 2040 (April 2021).

- 5 The tables and chairs must only be used by customers of the associated restaurant. (C25CA)

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)

**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.

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# Agenda Item 4

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>Basement, Part Ground Floor and First To Second Floor Rear, 127 Mount Street, London, W1K 3NT</b>		
<b>Proposal</b>	Installation of air conditioning units within the rear lightwells; erection of an extract duct to roof level on rear facade; air vents and the installation of a new window within the rear western lightwell; replacement of entrance step finishes to the front facade; installation of new awning and display of signage and refurbishment of the shopfront and display of vinyl behind the glazing; and internal alterations including refurbishment of the ground, part first, part second and lower ground floors.		
<b>Agent</b>	Monmouth Planning Ltd		
<b>On behalf of</b>	Tanner Krolle International Limited		
<b>Registered Number</b>	23/04885/FULL & 23/04886/LBC	<b>Date amended/ completed</b>	4 March 2024
<b>Date Application Received</b>	17 July 2023		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair Neighbourhood Plan 2018-2038		

## 1. RECOMMENDATION

<ol style="list-style-type: none"> <li>1. Grant conditional planning permission</li> <li>2. Grant conditional listed building consent.</li> <li>3. Agree reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.</li> </ol>
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## 2. SUMMARY & KEY CONSIDERATIONS

<p>The application site is a Grade II listed, mid-terraced building with vacant estate agent use at ground and basement level, office use at rear first and second floor levels and residential flats on the upper four floors of the main/front part of the building.</p>
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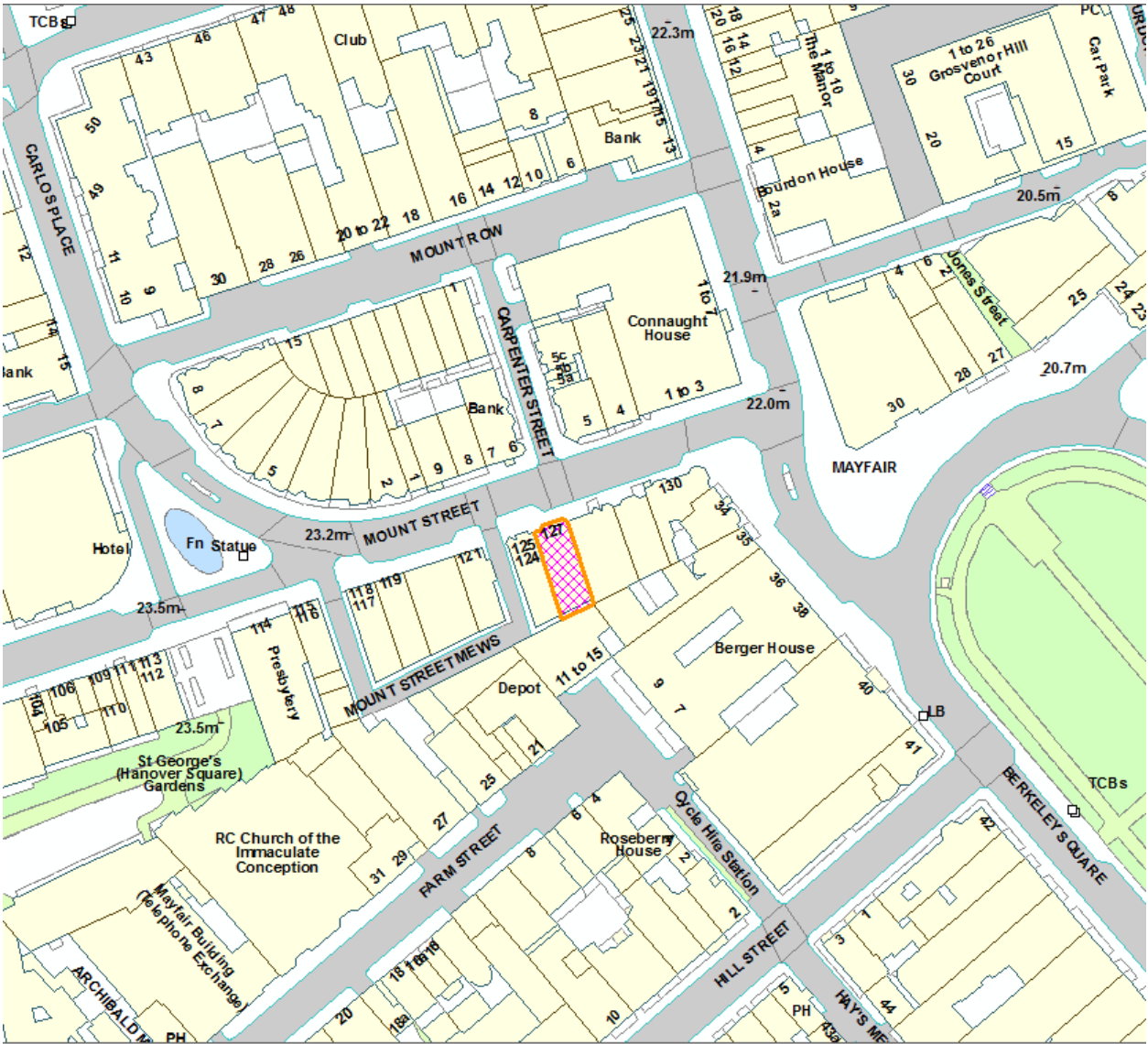
The applications relate to external and internal works in connection with the conversion of the existing commercial use on the lower floors of the building from mixed financial and professional service use and office use to mixed retail and restaurant use. Notwithstanding the substantial objections to the proposed use, the former estate agent, office, retail and restaurant uses all fall within Class E of the Use Class Order and planning permission is not required to change the building from one or more of these uses to another.

The key considerations in this case are:

- The acceptability of the proposed alterations in design terms, in particular the extract duct.
- The impact on the amenity of neighbouring residential properties.

For reasons set out in the main body of the report, it is considered that subject to appropriate conditions the internal and external alterations would not result in harm to residential amenity and are also considered to be acceptable in design terms. Accordingly, the application is recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation from Mount Street



Rear elevation showing location of the residential accommodation occupying the upper floors of the main building



View from Mount Street Mews showing the location of the alleyway to the rear of 127 Mount Street





## 5. CONSULTATIONS

### 5.1 Application Consultations

#### MAYFAIR RESIDENTS GROUP:

Any response to be reported verbally

#### MAYFAIR NEIGHBOURHOOD FORUM:

Any response to be reported verbally

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

Objection due to noise and vibration from plant equipment, noise disturbance due to restaurant use

#### ENVIRONMENTAL SCIENCES:

No objection

#### ADJOINING OWNERS / OCCUPIERS

No. Consulted: 50

No. Responses: 7 letters of objection (including one on behalf of 4 residents) on the following grounds:

#### Amenity

- Noise disturbance from plant equipment and restaurant use
- Disturbance through shared residential and commercial entrance

#### Design and Conservation

- Restaurant use will negatively impact the character of the conservation area, listed building, residential character of the street/terrace
- Too much original fabric to be removed impacting the listed building

#### Other issues

- Insufficient consultation
- Insufficient drawings/submission documents
- Plans associated with the application are subject to legal dispute

#### SITE AND PRESS NOTICE

Yes

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

The applicant advises that there has been engagement with the neighbours during the course of the application, in particular as part of the licensing process where the neighbours reviewed the plans with the applicant and various meetings held.

## 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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **6.2 City Plan Partial Review**

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review includes updated policies for affordable housing, retrofitting and site allocations.

An emerging local plan is not included within the definition of “development plan” within s.38 of the Planning and Compulsory Purchase Act 2004. However, paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Footnote 22 to paragraph 48 states that during the transitional period for emerging plans consistency should be tested against the version of the Framework, as applicable, as set out in Annex 1 (paragraph 230). This means that the consistency of the policies in the City Plan Partial Review must be tested for consistency for the purposes of paragraph 48(c) against the September 2023 version of the NPPF.

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it will generally attract limited if any weight at all.

## **6.3 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.

#### **6.4 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 (December 2023) unless stated otherwise.

### **7. BACKGROUND INFORMATION**

#### **7.1 The Application Site**

127 Mount Street is a Grade II listed building located within the Mayfair Conservation Area. The building is five storeys high, with retail use at ground and basement level and office use at rear first and second floor levels. The rear first and second floors in commercial use can be accessed via the main staircase used by the occupiers of the flats but it is understood that in practice, at least recently, they have been accessed via the commercial use on the ground floor. The upper four floors at the front of the building are in residential use. It is part of a row of buildings, the Mount Street façade of which is highly decorated with structurally polychromatic bands of terracotta and brick. It is surrounded by a number of other listed buildings including 117-125 Mount Street, 130 Mount Street, and 1 Carlos Place, all of which are listed at Grade II.

This application site is located within the Central Activities Zone and within Central Mayfair as designated in the Mayfair Neighbourhood Plan (as a location which “performs a strong commercial function”).

#### **7.2 Recent Relevant History**

Planning permission (22/04682/FULL) and Listed Building Consent (22/04683/LBC) were granted on 19 December 2022 for the following: "Installation of an air conditioning unit at rear lightwell, new timber sash windows to the rear and replacement of entrance step finishes to the front facade. Internal alterations including reopening of infilled window to the rear elevation, refurbishment of the ground, first, second and lower ground floors, including the removal of non-original partition walls, infilling of openings, erection of new partition walls and removal of suspended ceilings and WCs" The applicant has advised that these permissions have been partially implanted.

A Premises License (23/09196/LIPN) was granted on 22 February 2024 for the operation of the proposed mixed retail/restaurant use at the site. A copy of this is included in the background papers. Following consultation with the neighbours, which took place during the licensing process, and through which initial comments and objections were made, the proposals were amended in response to the comments and ultimately the objections to

the licence were withdrawn and the licensing application was granted under delegated authority.

## 8. THE PROPOSAL

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

### Lower Ground floor

- The removal of non-original partition walls
- Removal and replacement of modern WC's
- Removal and replacement of non-original doors
- Installation of 2X condenser units and 2X AC units
- Installation of new floor coverings over existing floor
- Installation of new suspending ceiling
- Installation of supply duct, kitchen extract duct from lower ground floor to roof level
- Installation of a potash and toilet extract

### Ground Floor

- Removal of non-original timber cabinet
- Existing panelling to be preserved and carefully covered by new display joinery
- Replacement of non-original ceiling and installation of new suspended ceiling
- Removal and replacement of non-original doors
- Installation of 2X AC units
- Installation of new floor coverings.
- Windows to be retained and refurbished to match existing.
- Installation of new casement window to match existing
- Staircase to be refurbished and bob-original cladding over balustrade to be removed
- Installation of mechanical ventilation/heat recovery unit within lightwell

### First floor (Part)

- Remove non-original partition walls.
- Replacement of WC.
- Replacement of timber door with new.
- Installation of a floor mounted AC unit within joinery within rear room.
- New access deck for plant raising from ground floor level.
- Installation of new floor coverings over existing floor.
- Installation of 2x air condenser units on the rear flat roof
- Remove non-original roof light.
- Remove non-original condenser units.
- Installation of supply fan

### Second floor (Part)

- Installation of new floor coverings over existing flooring.
- Installation of new WC's.
- Installation of new AC unit within the joinery.

### External works

- Installation of extract duct to roof level.

- Shopfront to be retained and refurbished.
- Existing non-original step to be replaced. New step in black stone with white stone inlay including TK logo.
- Installation of a traditional awning, awning box to be fitted internally at fascia level.
- Display of vinyls behind shopfront window.
- Display of a non-illuminated fascia sign.

The proposals initially included a "gazebo structure" within the rear lightwell which has since been omitted during the course of the application.

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

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

The unit has historically been in financial and professional service use, occupied by an estate agent, a use which falls within Class E. The rear first and second floors historically been used as offices, now also within Class E. The applicant has set out that the site will be mixed retail and restaurant use to be occupied by Tanner Krolle, a leather goods brand. The ground floor and basement will provide the main retail and restaurant spaces. The rooms at first and second floor level, previously offices, will provide customers with a private space for either retail or restaurant purposes. These areas will be hired to restaurant customers for private dining and will also be used by retail customers as a consultation room to customise and finalise their retail purchases. This proposed use is considered to operate within Class E and therefore planning permission is not required for the change of use.

A number of the objections by neighbouring properties, as well as the Resident's Society of Mayfair and St James', have been made in relation to the operation of a restaurant/hospitality venue at the site. These objections include comments that a hospitality venue will harm the character of the local area and is contrary to various planning policy documents.

The objectors also believe that it will be harmful to residential amenity through noise disruption given the proximity of residential accommodation (with some residential flats sharing walls with the commercial use) as well as the potential for the communal entrance and corridors serving the residential use to be shared with the restaurant causing further harm to amenity.

Neighbouring residents have also made a number of requests for conditions to be imposed in relation to the restaurant, in the event that a restaurant commenced at the site. These requested conditions related to opening hours, servicing, access, management issues, noise disruption, capacity, amongst other issues, in relation to the operation of the restaurant. These matters are not relevant to the determination of this planning application

and therefore conditions relating to the operation of the restaurant cannot be included. However the premises licence (23/09196/LIPN) which was recently granted, includes an Operational Management Plan, and imposes conditions relating to many the issues raised by neighbours. For example –

- The opening hours of the premises: Monday to Thursday: 09:00 to 23:30, Friday to Saturday: 09:00 to 00:00 and Sunday: 09:00 to 22:30.
- Save for pre-booked private events (limited to 12 in any calendar year) or in the area hatched black on the plans, the premises shall only operate as a restaurant:
  - (i) in which customers are shown to their table;
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table;
  - (iii) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
- All outside tables and chairs shall be rendered unusable and stacked in front of the shopfront of 127 Mount Street by 22.30 hours each day.
- Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables and consuming a table meal.
- All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.
- No deliveries to the premises via the rear entrance shall take place between 18:00 and 08.30 hours on the following day.
- The rear entrance shall not be used between 18:00 and 08:30 on the following day except for means of escape.
- No deliveries to the premises via the front entrance shall take place between 23:00 and 07.30 hours on the following day.
- After 20:00, the first and second floors will only be used for office use.
- After 22:00 the capacity of the 1st floor will not exceed 2 persons and the capacity of the 2nd floor will not exceed 2 persons.
- The glass walkway and staircase connecting the upper floors of the restaurants/offices to the residential flats shall not be used except for fire escape and maintenance.
- No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition

detailing the capacity so determined, (such capacity on the premises not to exceed [120 persons (excluding staff) at any time, The capacity of the first floor will not exceed 10 and the 2nd floor 7 (excluding staff) .

Given the scope of the planning application being limited to the external and internal alterations only as set out above, and not the use as a restaurant, it would not be reasonable to refuse permission on any of these grounds. With regards to the neighbouring concerns about the potential for shared corridors and entrances between residential and restaurant occupants, there is a link at first floor level between commercial and residential spaces which is accessed via the residential entrance; the application does not propose any changes to the links between the two uses, and therefore there are not considered to be any changes of use of the access and communal areas as part of the proposal. However, this access is controlled as part of the licence – see above. Given there is no formal change of use, this is not a matter that can be controlled by the planning decision and the objections relating to the use are not considered to be sustainable.

It is noted that planning permission has not been sought for tables and chairs on the pavement at the front of the property and is now no longer required, as this can be dealt with by licensing. However, the approved premises licence does include outside seating, with an indicative plan for 4 tables and 8 chairs.

## **9.2 Environment & Sustainability**

The application is supported by a Sustainable Design Statement which outlines how the proposals comply with these sustainable design principles. There are limited opportunities to add sustainability measures to the building due to the sensitive nature of the site in listed building terms, nonetheless sustainable energy efficiency measures have been incorporated within the design as appropriate, including through the addition of secondary glazing to the existing windows and upgrading of mechanical and electrical services; lighting, and heating.

## **9.3 Biodiversity & Greening**

The physical constraints of the building, including the limited size of the rear roof mean that the provision of biodiversity or greening is considered to be impractical in this case.

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

### **Legislative & Policy Context**

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

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

Section 66 of the LBCA Act requires that "*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning*

*authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 states that features that contribute positively to the significance of the setting of a conservation area will be conserved and opportunities will be taken to enhance conservation area settings, wherever possible.

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 be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

### **Consideration**

127 Mount Street is a Grade II listed building located within the Mayfair Conservation Area. The Mount Street façade is highly decorated with structurally polychromatic bands of terracotta and brick, an elliptical arched doorway at ground floor level, and a continuous decorated entablature which runs the length of the Mount Street façade. It is surrounded by a number of other listed buildings including 117-125 Mount Street, 130 Mount Street, and 1 Carlos Place, all of which are listed at Grade II.

Many of the works included in these proposals have previously been approved in 2022 (Ref Nos. 22/04682/FULL & 22/04683/LBC).

Neighbour objections and the amenity society objection have referenced design and heritage issues as reasons for objecting to the works, stating that the external alterations proposed including the ducts and associated paraphernalia are out of keeping of the conservation area, and that the internal and external works will impact the setting of the listed building and that the stripping out of the layouts of the various storeys removes too much of the original fabric.

The retention of significant elements of the interior fabric of the listed building has been negotiated with the applicant where appropriate. This included the timber and glazed screen at ground floor level as well as doors and door surrounds through the building. Furthermore, some elements of fabric are being sensitively retained albeit housed behind new joinery. It is not considered that any elements which positively contribute to the special interest of the listed building are proposed to be removed.

### **Shopfront alterations**

The proposed works to the shopfront include the removal and replacement of the step to



the doorway, the removal and replacement of the fascia signage, and the removal and replacement of the mesh within the stallriser, and the installation of an awning. The existing shopfront is not original, however it is in keeping with the character of Mount Street and these elements of the works in principle are sensitive to the special interest of the listed building and are in keeping with the existing streetscape of Mount Street and will have a neutral impact on the character and appearance of the Mayfair Conservation Area (subject to the comments below regarding the threshold step). Details of how the awning brackets will be attached to the slender timbers of the shopfront have not however been provided. Therefore, conditions have been included requiring further details before works can commence on these elements of the proposals.

The existing threshold step which is proposed to be removed is in keeping with the character and appearance of the streetscape, the uniformity of which positively contributes to Conservation Area. It is proposed to remove it and replace it with a new step in black stone with white stone inlay logo. This would introduce an obtrusive feature into the shopfront which would disrupt the architectural language of the streetscape and harm the character and appearance of the Conservation Area. An amending condition has been attached requiring that the existing step is not removed until further details of a new step be submitted for approval. A Portland stone or York stone step is most likely to be supported.

Given that the proposals would replace the existing threshold step, level access would not be achieved improving the accessibility of the ground floor unit. Whilst this has not been proposed, creating level access to the unit in this location would raise areas of concern on heritage ground with regard to the potential detailed design.

If the applicant proposed to install a ramp, due to the height differential between street level and the threshold this would require the ramp to project out into the street. This would sit awkwardly within the shopfront which is of high-quality and positively contributes to the special interest of the listed building, and it would also raise potential highways issues as it juts out into the pavement.

If the applicant proposed to remove the step entirely and lower the door so that the threshold of the door was flush with the pavement and handle the level change internally, this would require the loss of the door, and the loss of a section of the interior floor both of which positively contribute to the special interest of the listed building.

Both approaches would result in harm to the special interest of the listed building. This harm would need to be weighed against the public benefits of providing level access. The applicant has not however proposed level access of any form using the approaches above, or another approach. As there are no specific designs to assess, the potential harm to the listed building cannot be determined and then weighed against the public benefits of level access.

#### Rear elevation

On the rear elevation it is proposed to remove an existing concrete threshold, and replace it with a York stone threshold, to repair and refurbish the existing windows and doors, and to remove and replace the plant equipment in the lightwells. These elements of the proposals would have a neutral impact on the special interest of the listed building, and on the character and appearance of the Conservation Area.

It is also proposed to install an extract duct from basement level to roof level running up the rear façade. This would likely be unacceptable in usual circumstances due to the harm caused to the character of the Mayfair Conservation Area of an obtrusive extract flue. There is however a highly prominent black lift shaft made of metal with glazed elements on the adjacent property, next to which the flue is proposed to be run. In the context of this lift shaft, it is considered that the extract duct will not be overly obtrusive within the townscape of the Conservation Area.

#### Internal works

At basement level it is proposed to demolish a number of existing sections of partition wall, install new partition walls, and remove and reuse the existing doors from their existing location to new locations. These works are in line with what was previously approved in December 2022.

At ground floor level it is proposed to install new flooring, new partition walls, new joinery, remove and replace the existing ceiling, relocate the timber screen, and install new air conditioning units. The works which will impact the historic fabric are the relocation of the timber screen and the demolition of three areas of wall to form new windows into the lightwells. The screen is proposed to be relocated to another location at ground floor level in line with what was previously been approved. The new planform at the front of the shop is more in keeping with the original planform, and the new floor build up will be laid on top of the historic floorboards protected by a floating overlay.

At first and second floors it is proposed to remove and replace the WCs, install new air conditioning units, remove and replace the existing doors, and demolish sections of modern partition walls. These works will not harm the special interest of the listed building.

On the flat roof at first floor level, it is proposed to install two air conditioning units. These units will not be visible in public views, although they will be visible from high level private views. They are proposed to be housed within an acoustic enclosure, although details have not been provided in regarding its design, a condition has been included requiring details to be submitted and approved. It is also proposed to remove the non-original rooflight.

Overall, these proposals will have a neutral impact on the special architectural and historic interest of the listed building, and on the character and appearance of the Mayfair Conservation Area. They are in accordance with policies 38, 39 and 40 of the Westminster City Plan 2019-2040 (adopted April 2021), and policy MD3 of the Mayfair Neighbourhood Plan 2018-2038 (adopted December 2019).

## **9.5 Residential Amenity**

### **Visual Amenity**

Policy 7 of the City Plan seeks to protect surrounding residences from unacceptable loss of daylight/ sunlight, sense of enclosure, loss of privacy and noise. Policy 38C of the City Plan requires that all development, introduces measures that reduce the opportunity for crime and anti-social behaviour, promoting health, well-being and active lifestyles through design and ensuring a good standard of amenity for new and existing occupiers.

The proposed extract duct will be located in close proximity to rear facing residential windows and may cause some minor visual intrusion. Plans available within historic planning applications indicate that the closest residential windows to the duct serve bedrooms at first and third floor level (RN: 23/02180/LBC and 17/02154/LBC). The plans show that these bedrooms are served by two windows. Taking into account the existing lift shaft which already protrudes from the rear and dominates the view from these windows, any additional visual intrusion above what is already existing is considered to be minor and therefore does not warrant a refusal. There is not considered to be any material loss of daylight nor sunlight. The remaining equipment, including the air conditioning units and air vents are not likely to cause any harm in terms of loss of light or visual intrusion.

### **Noise & Vibration**

City Plan 2019-2040 Policy 7 (Managing Development for Westminster's People) seeks to ensure proposals are neighbourly by protecting and enhancing amenity, preventing unacceptable impacts such as in terms of loss of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking as well as protecting local environmental quality.

Policy 33 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

The proposed external plant equipment will consist of a high level extract duct from lower ground, 2x condenser units and mechanical ventilation/heat recovery unit within the rear lightwell, as well as the replacement of 2x condenser units on the first floor flat roof.

Residential accommodation is located in close proximity to the location of the proposed plant equipment, on the upper floors of the site, as well as within the adjoining properties at 125 and 128 Mount Street.

A number of objections have been made in relation to the impact of the plant equipment on the amenity of the neighbouring residential properties, including neighbours located within 127 Mount Street. The objections specify that motors, vibration, air rush, equipment being turned on and off, and any other noise associated with the plant equipment will be disruptive to nearby residents.

Environmental Health Officers have assessed the acoustic report that was submitted with the application and have determined that it is sufficient in demonstrating the noise impacts of the equipment. They also consider that the proposed plant is likely to comply with the City Council's noise Policy 33 with the acoustic mitigation measures set out in the report. The acoustic mitigation measures include enclosures to surround the condensers, silencers to be fitted close to fans, and acoustic ductwrap to cover the external duct to attenuate break-out noise. Taking into account these mitigation measures and the assessments carried out within the submitted acoustic report, the Environmental Health Officers have determined that the proposals would not likely cause significant noise disturbance to neighbouring properties.

Although the data indicates that operation of the units overnight would not result in any noise nuisance the applicant advises that the operational hours of equipment will be from

09.00 to 00.00 hrs. Conditions are therefore included restricting the hours of operation to these hours and to ensure compliance with the Council's standard noise criteria.

### **Odour**

The proposed kitchen extract duct will terminate at roof level 1m above the nearest residential window at 127 Mount Street, however there are residential windows at 128 Mount Street positioned at a higher elevation the duct. The applicant has set out within the Ventilation Strategy specifications of a bespoke extraction system that will push the air vertically away into the atmosphere and mitigate risk of any odours harming the amenity of nearby receptors.

The Ventilation Strategy and kitchen extract duct has been assessed by the Environmental Sciences Officers and has been deemed compliant with "best practicable means (BPM)" standards as set out in Westminster's Guidelines for Kitchen Extract Ventilation Systems (March 2021), and is therefore in accordance with Policy 33 part D.

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

Objections have been received in relation to the impact of the servicing and deliveries relating to the restaurant use. Objectors specified that the use of the rear alleyway for servicing and deliveries could cause noise disruption to residents. Planning permission is not required for the restaurant use, and therefore the operational aspects of this use including servicing and access arrangements have not been assessed as part of this decision.

However, under recently granted licensing application (RN: 23/09196/LIPN), an Operational Management Plan was provided, which set out detailed servicing arrangements and mitigation measures to reduce disruption to neighbouring properties. These measures, which have been conditioned within the granted licence, include limiting deliveries and the use of the rear door located in rear alleyway to between 08:30am and 18:00 only.

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

### **9.8 Other Considerations**

Neighbour comments have stated that the drawings provided are insufficient, given that they do not show the proximity of the neighbouring residential accommodation. Whilst the upper floor plans do not show the full building, it is possible to identify the proximity of the proposed alterations to the nearest residential windows. The elevation plans also show the location of the residential windows and proximity to the alterations. The drawings are therefore considered acceptable and it would not be reasonable to refuse permission on this basis.

Other comments have been made in relation to lack of consultation with residents. With regards to the council's consultation, press and site notices have been posted and individual letters have been sent to this property and neighbouring properties. Outside of the statutory consultation taken place as part of the planning application process there is no requirement for applicants to consult neighbours separately to this. The applicant has advised that there has been engagement with the neighbours during the course of the application in particular as part of the licensing process where the neighbours reviewed the plans with the applicant and various meetings were held with the neighbours.

A further comment has been received, stating that the plans "encompassed in this application are currently subject to an ongoing legal dispute for copyright infringement", and therefore requesting that the decision is put on hold until this matter is resolved. Copyright issues and ongoing legal disputes are separate processes to planning, and it would therefore not be reasonable to refuse permission or delay this decision on this basis.

### **9.9 Environmental Impact Assessment**

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

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

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

### **10. Conclusion**

Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and London Plan 2021. It is recommended that planning permission is granted, subject the conditions listed at the end of this report, which are necessary to make the development acceptable.

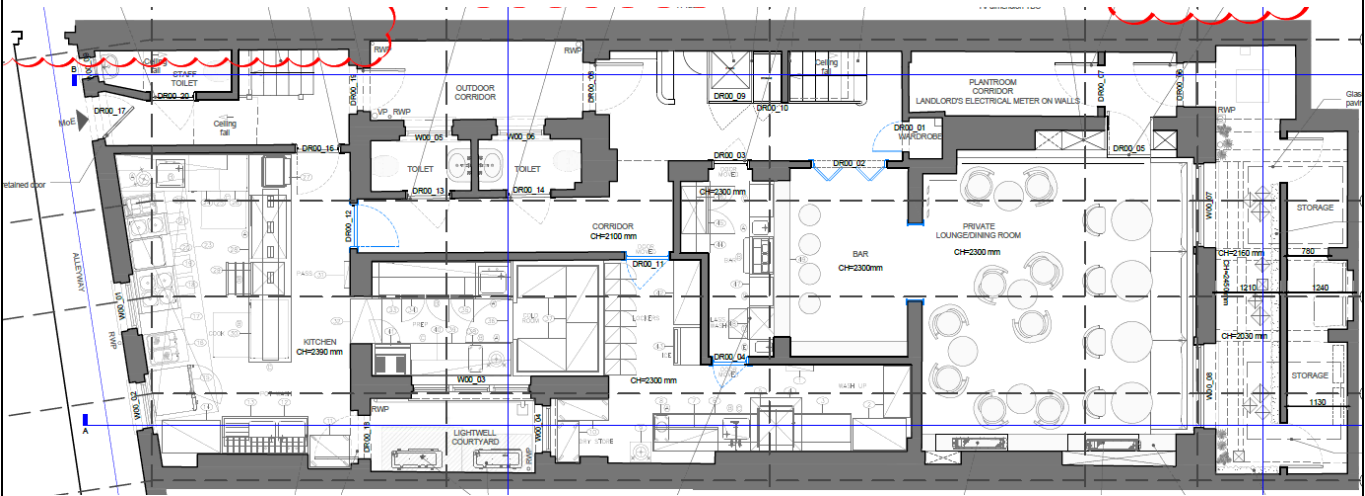
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

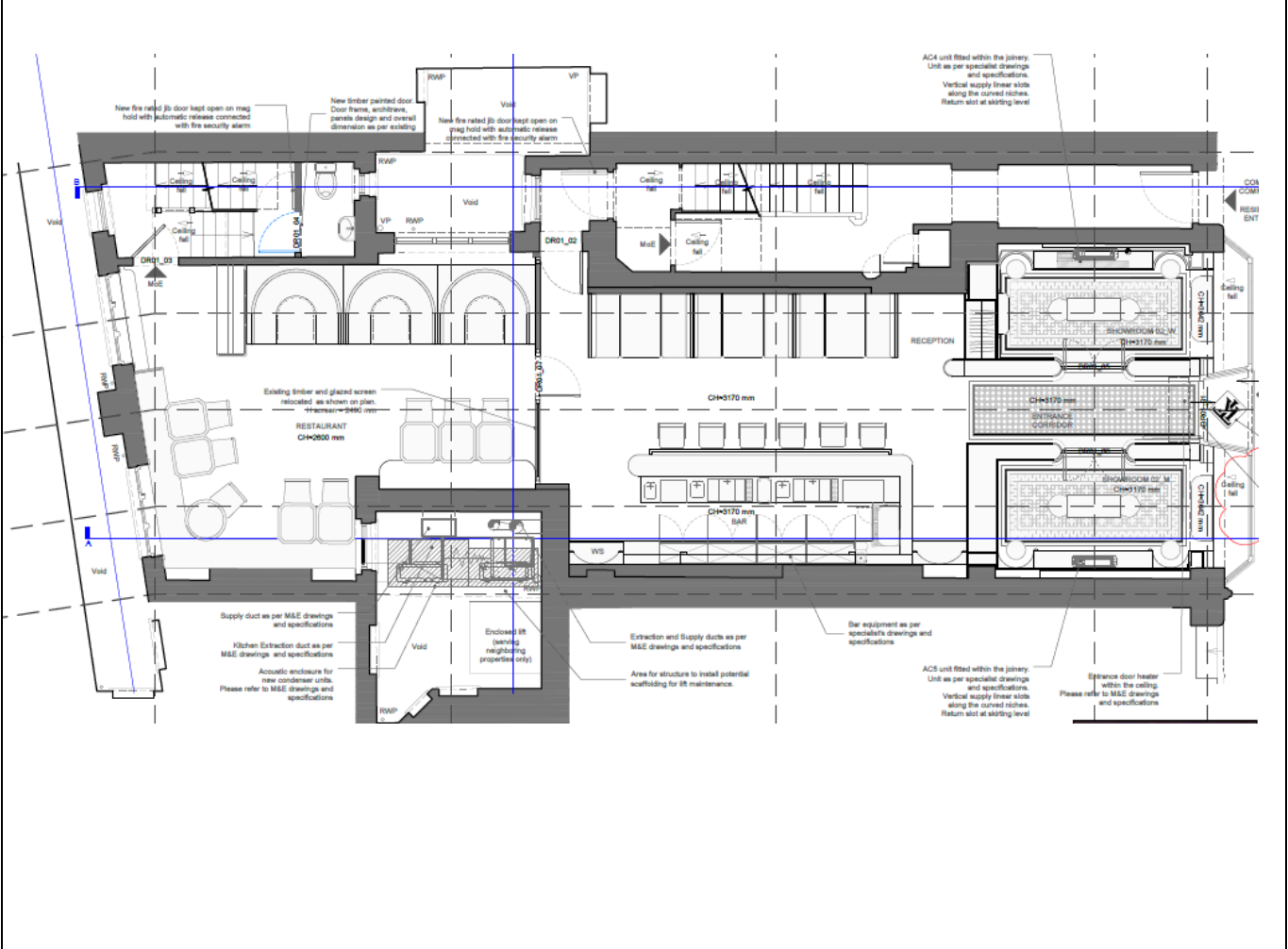




### Proposed lower ground floor plan

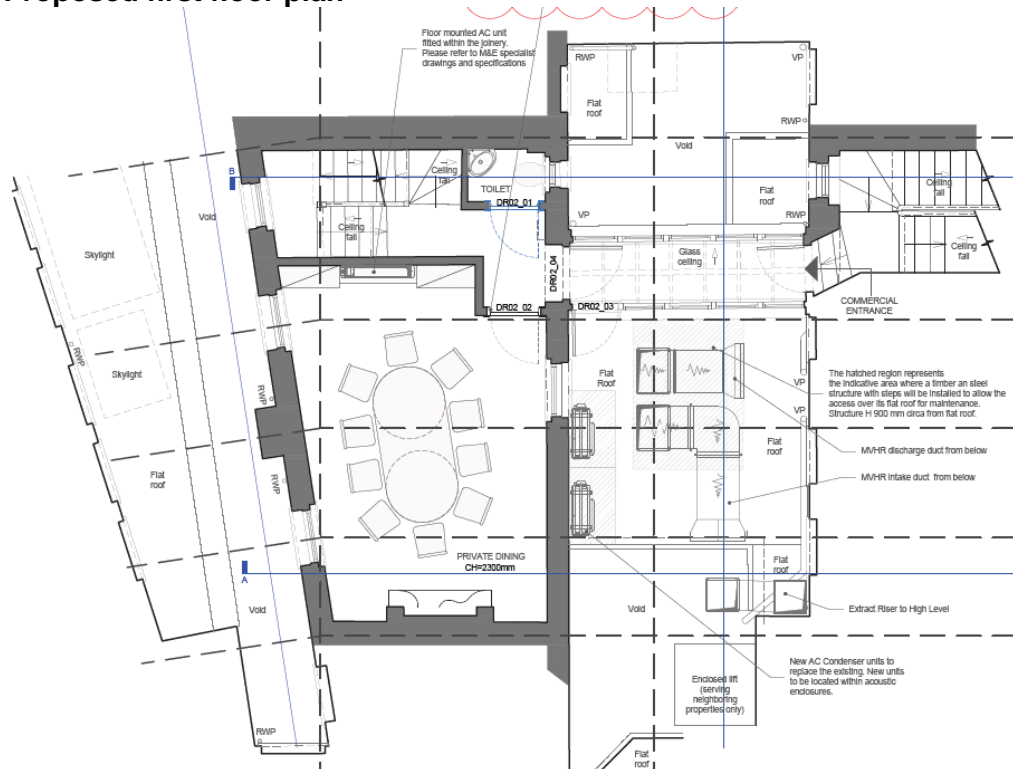


### Proposed ground floor plan

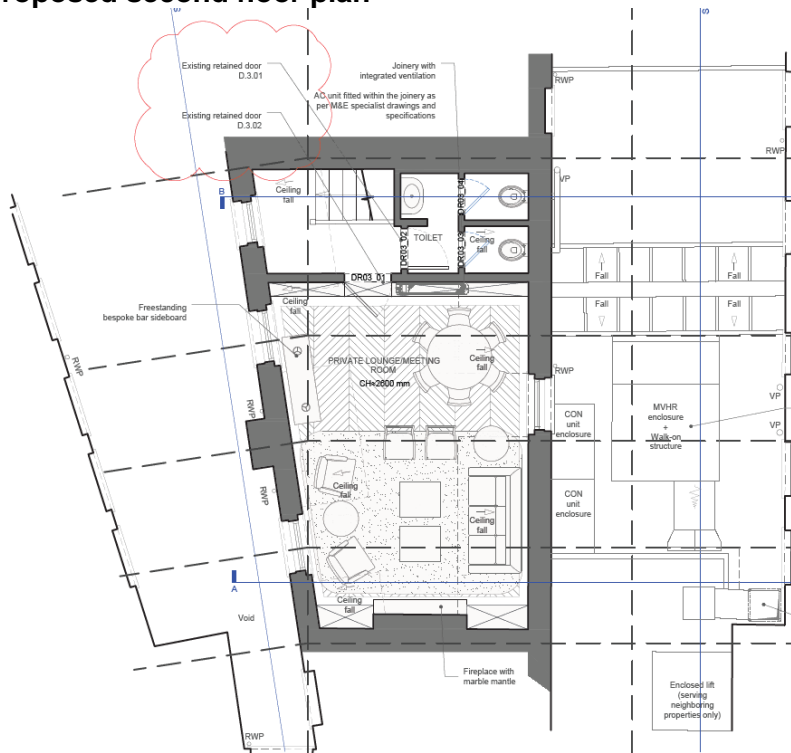




### Proposed first floor plan



### Proposed second floor plan



Item No.
4

**DRAFT DECISION LETTER – PLANNING PERMISSION**

**Address:** Basement Part Ground Floor And First To Second Floor Rear, 127 Mount Street, London, W1K 3NT

**Proposal:** Installation of air conditioning units within the rear lightwells; erection of a full height extract duct to roof level; air vents and the installation of a new window within the rear western lightwell; replacement of entrance step finishes to the front facade; refurbishment of the shopfront (Linked with 23/04886/LBC)

**Reference:** 23/04885/FULL

**Plan Nos:** A1100\_PA 04 ; A2100\_PA 03 ; A3100\_PA 03 ; A4100\_PA 03 ; A7100\_PA 03 ; A7101\_PA 04 ; A8102\_PA 02 ; 23021-SD1 07 ; 23021-SD1 7 ; 23021-SD100 07 ; 23021-SD200 01 ; 23021-SD3 07 ; A1001\_PA 02 ; A7004\_PA 01 ; A12000\_PA ; A12001\_PA ; A12002\_PA ; A12004\_PA ; A12005B\_PA ; A12005C\_PA ; A12006\_PA ; A12006B\_PA ; A12006C\_PA ; A12007\_PA ; A1400\_PA ; A1410\_PA ; A2201\_PA ; A2202\_PA ; A2202B\_PA ; A2400\_PA ; A2410\_PA ; A3001\_PA ; A3400\_PA ; A3410\_PA ; A4001\_PA ; A4400\_PA ; A4410\_PA ; A7003\_PA ; A8003\_PA ; A8004\_PA ; A8005\_PA ; A8100\_PA ; A8100C\_PA ; A2001\_PA 01

HVAC Planning Drawing, dated 20/02/23 ; HVAC Planning Drawing Sections and Details, dated 20/02/23 ; Electrical Heater Tender Drawing dated 14/03/23

Acoustic report for 127 Mount Street W1K, by Sound Planning, dated 11 September 2023 ; Door Schedule, titled "DOORS @ 127 MOUNT ST" received 18 October 2023 ; The Ventilation strategy document, dated 4 March 2024, from M Leech Services

**Case Officer:** Tristan Goldsmid

**Direct Tel. No.** 07890604915

**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 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

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

(April 2021). (R26FE)

- 3 The extract duct must be painted and maintained black.

Reason:

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

- 4 You must apply to us for approval of drawings for the connection between the proposed awning bracket and the shopfront, as well as the acoustic enclosures for the condenser units at lower ground and first floor levels. 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 and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 5 Contrary to what is shown on the hereby approved drawings including A2201\_PA, A2400\_PA, A8100C\_PA, A8100\_PA, A2100\_PA, A8003\_PA, the existing threshold step must not be removed and replaced. You must apply to us for approval of details for a new threshold step. You must not start any work on the step until we have approved these details, and you must then carry out the work to the floor in accordance with the details we have approved.

Reason:

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

- 6 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , onot at all on Saturdays, Sundays, bank holidays and public holidays. , , Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

7 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

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

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include: (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90 (15 minutes) measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46BC)

Reason:

As set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

(R46BC)

- 8 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 9 The plant/machinery hereby permitted shall not be operated except between 09:00 hours and 00:00 hours daily. (C46CA)

Reason:

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

- 10 You must install the acoustic attenuation measures, including all the acoustic enclosures and the ductwrap to the extract duct, shown on the approved drawings and specified in the Acoustic report by Sound Planning, dated 11 September 2023 before you use the machinery. You must then maintain the attenuation measures in the form shown for as long as the machinery remains in place. (C13DB)

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 the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 11 The design and location of the kitchen extract ventilation scheme for the prevention of odour nuisance shall comply with The Ventilation strategy document, dated 4 March 2024, from M Leech Services.

Reason:

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

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040

(April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

2 HIGHWAYS LICENSING:, Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures)., , CONSIDERATE CONSTRUCTORS:, You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk)., , BUILDING REGULATIONS:, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

3 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage.

You may wish to contact our Environmental Sciences Team (email: [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) to make sure that you meet all the requirements before you draw up contracts for demolition and building work. When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974). British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

4 Under the Construction (Design and Management) Regulations 2015, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:, , \* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;, , \* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls

during maintenance such as for any high level plant., , Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm). , , It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 5 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained., Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:,\* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;,\* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;,\* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;,\* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;,\* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.
- 6 Working at height remains one of the biggest causes of fatalities and major injuries. You should carefully consider the following., \* Window cleaning - where possible, install windows that can be cleaned safely from within the building., \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained., \* Lighting - ensure luminaires can be safely accessed for replacement., \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission)., More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/toolbox/height.htm](http://www.hse.gov.uk/toolbox/height.htm), , Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)
- 7 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.

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

**DRAFT DECISION LETTER – LISTED BUILDING CONSENT**

**Address:** Basement Part Ground Floor And First To Second Floor Rear, 127 Mount Street, London, W1K 3NT

**Proposal:** Installation of air conditioning units within the rear lightwells; erection of a full height extract duct to roof level; air vents and the installation of a new window within the rear western lightwell; replacement of entrance step finishes to the front facade; installation of new awning and display of signage and refurbishment of the shopfront and display of vinyl behind the glazing; and internal alterations including refurbishment of the ground, part first, part second and lower ground floors. (Linked with 23/04885/FULL)

**Reference:** 23/04886/LBC

**Plan Nos:** A1100\_PA 04 ; A2100\_PA 03 ; A3100\_PA 03 ; A4100\_PA 03 ; A7100\_PA 03 ; A7101\_PA 04 ; A8102\_PA 02 ; 23021-SD1 07 ; 23021-SD1 7 ; 23021-SD100 07 ; 23021-SD200 01 ; 23021-SD3 07 ; A1001\_PA 02 ; A7004\_PA 01 ; A12000\_PA ; A12001\_PA ; A12002\_PA ; A12004\_PA ; A12005B\_PA ; A12005C\_PA ; A12006\_PA ; A12006B\_PA ; A12006C\_PA ; A12007\_PA ; A1400\_PA ; A1410\_PA ; A2201\_PA ; A2202\_PA ; A2202B\_PA ; A2400\_PA ; A2410\_PA ; A3001\_PA ; A3400\_PA ; A3410\_PA ; A4001\_PA ; A4400\_PA ; A4410\_PA ; A7003\_PA ; A8003\_PA ; A8004\_PA ; A8005\_PA ; A8100\_PA ; A8100C\_PA ; A2001\_PA 01

HVAC Planning Drawing, dated 20/02/23 ; HVAC Planning Drawing Sections and Details, dated 20/02/23 ; Electrical Heater Tender Drawing dated 14/03/23

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**Case Officer:** Tristan Goldsmid

**Direct Tel. No.**

**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:

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 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

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 scribe all new partitions around the existing ornamental plaster mouldings. (C27JA)

Reason:

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

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF., , In reaching this decision the following were of particular relevance:, Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:, , \* any extra work which is necessary after further assessments of the building's condition;, \* stripping out or structural investigations; and, \* any work needed to meet the building regulations or other forms of statutory control., , Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents., , It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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# Agenda Item 5

Item No.
<b>5</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved.</b> Harrow Road	
<b>Subject of Report</b>	48 Shirland Mews, London, W9 3DY		
<b>Proposal</b>	Erection of rear extensions at ground and first floor levels; increase in roof ridge height; new entrance to front elevation; and associated works.		
<b>Agent</b>	Mr Safa Alattar		
<b>On behalf of</b>	Mr Faysal Fozan		
<b>Registered Number</b>	23/01174/FULL	<b>Date amended/ completed</b>	January 2024
<b>Date Application Received</b>	23 February 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Not applicable		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

The application site is an end of terrace single family dwelling that lies on the south side of Shirland Mews. The property is not listed and does not lie within a conservation area. It is a modern house dating from the early 1980's.

The application proposes a number of extensions and external alterations. These can be split into five key elements. An existing conservatory structure at ground floor is to be replaced with a larger solid structure, featuring a roof light. A second ground floor rear extension is proposed, which would adjoin the boundary with 46 Shirland Mews. Third, a rear extension at first floor level is proposed, to sit atop the new solid conservatory replacement structure. Fourth, the existing roof ridge height is to be increased by 0.5m. Finally, works to the front elevation are proposed, to include the erection of a new porch and secondary access door. The applicant has confirmed that much of the proposed works are intended to accommodate specialist access requirements, as supported by a letter from an Occupational Therapist.

Ward Councillor Albert has requested that this application be reported to planning applications -sub-committee for determination. Objections have been received from neighbours of 4 different addresses. These broadly focus on the likely impact of the proposed works in terms of loss of daylight and sunlight for neighbouring properties, their bulk and massing, loss of greenery, overdevelopment and quality of accommodation.

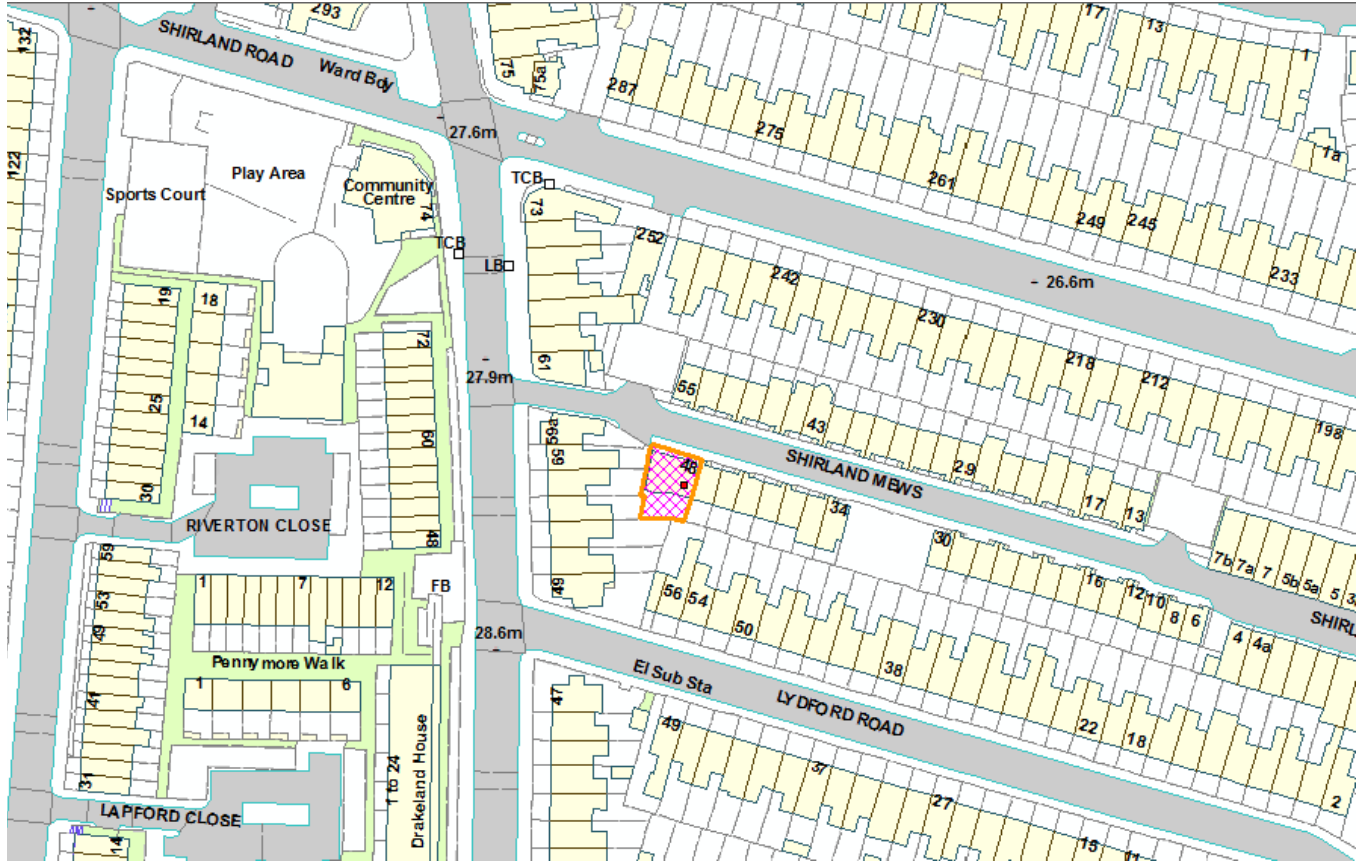
In response to officer comments and neighbour objections, the scheme has been amended so that the proposed rear extension at the boundary with 46 Shirland Mews has been reduced to 3m in depth.

The key considerations in this case are:

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

The revised proposals are considered acceptable for the reasons set out within this report, complying with City Council policies and subject to conditions as set out in the draft decision notice.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Front Elevation





Rear Elevation





**Aerial View of site**

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### FIRST CONSULTATION ON 9 MARCH 2023 RESPONSES

WARD COUNCILLORS FOR HARROW ROAD

COUNCILLOR ALBERT

Request for case to be reported to planning committee for determination.

MAIDA HILL NEIGHBOURHOOD FORUM

No response.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 26

Total No. of replies: 5 objections from 4 addresses on some or all of the following grounds:

Land Use

- Questions need for large additional space, stating that this scheme would constitute overdevelopment.

Design

- Bulk of the extension is unacceptable in design terms and would disrupt the established pattern of the properties in Shirland Mews.

Amenity

- Loss of daylight and sunlight to neighbouring properties.
- Increase in sense of enclosure.

Environment

- Raises concerns over lack of green space.

SITE NOTICE / PRESS ADVERTISEMENT:

Yes

**ADDITIONAL NEIGHBOUR RESPONSES FOLLOWING DRAWINGS UPDATED ON 10 JUNE 2023 (NO FORMAL RECONSULTATION WAS UNDERTAKEN AT THIS TIME)**

**Revised drawing showing reduction in the extent of the extension to 3m had been uploaded on to the public access portal. Other changes to the scheme remained under negotiation.**

5 objections from 4 addresses received on some or all of the following grounds:

Land Use

- Questions need for large additional space, stating that this scheme would constitute over development.

## Design

- Bulk of the extension is unacceptable in design terms, and would disrupt the established pattern at the rear of the properties on this side of Shirland Mews.
- Design will create inaccessible areas to the side of the property, stated to be impractical.
- Concerns over the quality of internal accommodation.

## Amenity

- Continued concerns over loss of daylight and sunlight

## Environment

- States that green roof does not compensate for loss of green space.
- Asks for greening to be secured by condition.

**SECOND CONSULTATION ON 22 NOVEMBER 2023**

**Revised drawings showing reduction in projection of extension and inclusion of green roof, daylight and sunlight assessment undertaken.**

## WARD COUNCILLORS FOR HARROW ROAD

No response.

## MAIDA HILL NEIGHBOURHOOD FORUM

No response.

## WESTMINSTER LEAD LOCAL FLOOD AUTHORITY:

No objection.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 29

Total No. of replies: 3 Objections from 3 addresses on some or all the following matters:

## Land Use

- Questions need for large additional space, stating that this scheme would constitute over development.

## Design

- Bulk of the extension is unacceptable in design terms and would disrupt the established pattern at the rear of the properties on this side of Shirland Mews.
- Design will create inaccessible areas to the side of the property, stated to be impractical.
- Concerns over the quality of internal accommodation.

## Environment

- States that green roof does not compensate for loss of green space.
- Asks for greening to be secured by condition.

**THIRD CONSULTATION ON 23 JANUARY 2024**

**Revised description of development to include increase in roof ridge height.**

WARD COUNCILLORS FOR HARROW ROAD  
Any response to be reported verbally.

MAIDA HILL NEIGHBOURHOOD FORUM  
Any response to be reported verbally.

LEAD LOCAL FLOOD AUTHORITY:  
No objection raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED  
No. Consulted: 29  
Total No. of replies: 2 objections from 2 addresses on some or all the following matters:

Land Use

- Questions need for large additional space, stating that this scheme would constitute over development.

Design

- Bulk of the extension is unacceptable in design terms and would disrupt the established pattern at the rear of the properties on this side of Shirland Mews.

Amenity

- Continued concerns over loss of amenity for neighbours via loss of privacy.

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

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

## **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) (September 2023) 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.

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review

includes updated policies for affordable housing, retrofitting and site allocations.

Paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans. The weight attributable is dependent on the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF (note that in accordance with paragraph 230 the consistency of the policies in the City Plan Partial Review must be tested against the September 2023 version of the NPPF).

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it generally attract limited if any weight.

## **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 (September 2023) unless stated otherwise.

# **7. BACKGROUND INFORMATION**

## **7.1 The Application Site**

The application site is an end of terrace single family dwelling that lies on the south side of Shirland Mews. The property is two-storeys tall, with ground and first floor. The property features a conservatory to the rear and a mixture of wood decking, gravel and lawn in the rear garden. The property was extended in 1988 to abut the rear boundary wall of 59 Fernhead Road. To the front of the property, there is a porch structure which matches the other properties of the mews.

To the rear of the site boundary, sits the rear gardens of the properties of Lydford Road. To the west, is the rear gardens of the properties of Fernhead Road. The closest neighbour to the site however is 46 Shirland Mews. The application site is the end of terrace neighbour to this property, and the majority of objections to the proposal relate to this property.

The application site is situated within flood zone 1 as identified by the Environment Agency (low risk of flooding) but is located within a surface water flood risk management zone.

The property is unlisted and sits outside of any conservation area.

## **7.2 Recent Relevant History**

88/03952/FULL  
Erection of side extension  
Application Permitted 6 December 1988

23/01251/CLOPUD  
Alterations at rear roof level to create a loft space with rooflights and associated works.  
Application Permitted 1 June 2023

## **8. THE PROPOSAL**

Planning permission is sought for extensions and alterations comprising of four main elements.

- Erection of an extension to the rear of the property at the boundary with 46 Shirland Mews, projecting 3m beyond the existing building line, and 2.6m in height.
- Replacement of the existing conservatory at the rear of the property, with a larger solid structure, which will have a rearward projection of 0.6m greater than the existing and feature a roof light. Both elements will feature a flat green wildflower roof. The first floor of the property above this structure is also to be extended rearwards by 1.6m.
- The ridge height of the existing roof of the western side of the property is also to be increased by 0.5m.
- To the front elevation the creation of a second access door opening directly onto a proposed 'special needs room', and the erection of a porch structure above this new door, to be used for storage.

The existing hardstanding and green back garden area is shown as being replaced with a new landscaped area.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

Objections have been made by neighbours stating that the proposed works represent an overdevelopment of the site.

The principle of providing additional floorspace to enlarge the existing residential dwelling house is acceptable in land use terms and accords with Policy 8 of City Plan 2019 - 2040 (2021). Subject to other considerations, which are outlined below, the proposed works are not considered an overdevelopment and the objections of neighbours is not supported.

### **9.2 Environment & Sustainability**

#### **Sustainable Design**

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

The applicant has stated that the materials intended for the development are to be robust, low maintenance and long lasting to suit the intended use. The building elements of the extension works are to incorporate appropriate design and specification measures to limit material degradation due to environmental factors. Once selected, the contractor will be instructed to ensure materials are selected to prioritize the use of recycled materials and content avoiding materials with high embodied carbon content.

### **Energy Performance**

Policy 36 of the City Plan states that the council will promote zero carbon development and expects "all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change". It goes on to state "all development proposals should follow the principles of the Mayor of London's energy hierarchy. Developments should be designed in accordance with the Mayor of London's heating hierarchy".

The applicant has confirmed that the new development will incorporate the use of LED low energy lighting throughout the extended space. The proposed extension will need to comply with relevant building regulations which will represent an uplift in the insulation performance when required to the existing building.

### **Circular Economy**

The Applicant has confirmed that material re-use will be considered once a demolition contractor is appointed. The scheme is not a "major" proposal, and therefore the applicant is not obliged to comply with the Circular Economy policies requirements. However, the applicant has confirmed that existing materials will be recycled where possible. They will also encourage the appointed contractor to develop and implement a site waste management plan (SWMP) to identify opportunities to minimise waste, optimise reuse and recycling and reduce waste to landfill.

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

Policy 35 of the City Plan states all developments should be safe for their lifetime from the risk of flooding, complying with the council's Strategic Flood Risk Assessment (SFRA), Surface Water Management Plan (SWMP), Local Flood Risk Management Strategy (LFRMS) and the Mayor of London's Regional Flood Risk Appraisal (RFRA). The application site is situated within flood zone 1 as identified by the Environment Agency (low risk of flooding) but is located within a surface water flood risk management zone. The applicant has therefore provided a flood risk assessment. The report concludes that the site is not exposed to any significant risk of flooding, but does recommend flood risk mitigation measures (including 2x uPVC soakaway crates and flood resilient construction materials) to protect neighbouring properties from future flood risk.

It is considered that subject to the provided green roof, flood water storage mechanism, construction methods and landscaping proposals incorporated into the scheme will mean that the proposal is unlikely to increase the risk of surface water flooding for neighbours. A condition is recommended to secure these measures. On this basis, the

proposal is considered to comply with Policy 35 and the Local Lead Flood Authority is satisfied.

### **Light Pollution**

Policy 33 of the City Plan states that developments must be designed to minimise the detrimental impact of glare and light spill on local amenity, biodiversity, highway and waterway users.

Given the size and location of the proposed rooflights within the rear extension, which are common within domestic extensions, it is not considered that they would result in any significant light spill so as to cause a nuisance to neighbours.

### **Land Contamination**

The site has been in residential use for some time and there is no evidence of any significant risk of land contamination.

### **Environment & Sustainability Summary**

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

## **9.3 Biodiversity & Greening**

Policy 34B of the City Plan requires that "developments will, wherever possible, contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme.

Objections have been received regarding loss of greenery as a result of the scheme due to the loss of garden space.

The proposed extensions are to project over existing hard-landscaped areas containing gravel, and lawn areas. The application proposal incorporates a green roof atop the entire rear extension elements and will have a new landscaped green space to the rear. A condition is recommended to secure the installation of the proposed green roof, and its maintenance for the lifetime of the development and is considered acceptable.

Whilst landscaping is shown in the application drawings, it was not considered proportionate to require a full landscaping plan by condition. The scheme is of a householder scale and so the provided drawings are considered sufficient in this instance, especially when considering that green roof details are already required.

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

### **Policy Context**

Policy 38 of the City Plan states that new development will incorporate exemplary standards of high quality, sustainable and inclusive urban design and architecture befitting Westminster's world-class status, environment and heritage and its diverse



range of locally distinctive neighbourhoods. The policy goes on to state that all development will positively contribute to Westminster's townscape and streetscape, having regard to the character and appearance of the existing area, adjacent buildings and heritage assets, the spaces around and between them and the pattern and grain of existing streets, squares, mews and passageways, as well as the materials, building lines, scale, orientation, access, definition, surface treatment, height and massing.

### **Townscape, Bulk and Massing**

There are a number of extensions to the rear of properties in this part of Shirland Mews. Of particular note are the extensions approved at the rear of 24, 27 and 21 Shirland Mews, which have all have similar proportions to the proposed. There are also extensions at the nearby 34 and 36 Shirland Mews, which are more lightweight, giving rise to a decidedly mixed character to the rear of the run of properties to which the application site bookends.

Although objections have been received raising concerns regarding the bulk of the structure to sit at the boundary with 46 Shirland Mews. The size of the rear extension has been reduced and is considered acceptable in townscape and design terms. The proposals do not represent a radical departure in design from other extensions approved nearby, and as such a recommendation for refusal could not be sustained on design grounds. It is acknowledged that a rearward extension of 3m, could be lawfully constructed under permitted development rights.

The other two extension elements of the proposal, at ground and first floor respectively, are likewise not considered contentious in terms of their bulk and massing. These are considered subservient additions to an unlisted property outside of a Conservation Area, which will be largely obscured from public views.

The proposed works to the roofline of the property represent a relatively small increase in the overall ridge height and would not appear alien when viewed in its context. Indeed, the ridge height of the western side of the property sits below the height of the surrounding properties. An increase in the height of this portion will therefore bring into greater uniformity with its neighbours and is therefore acceptable.

The addition of the porch structure is acceptable in terms of its bulk and massing, as this is a replica of the existing porch structures that exist on the front elevations of the properties on Shirland Mews, and this addition will not unduly disrupt this consistency.

### **Detailing**

The detailing of the new entrance porch will match that of the existing porch at this property and the others in the development. This is welcomed.

The replacement of the existing conservatory with a new more solid structure and associated extension at first floor level is not contentious in its detailing, this is a modern property, and the use of modern details is therefore acceptable in this context.

As above, the detailing of the extension element on the boundary with 46 Shirland Mews is modern, as would be expected for a property of this age.

A condition is recommended to ensure the proposed external doors and windows will match those in the host building and in the surrounding development in terms of their materials and detailed design.

**Design Conclusion**

Subject to the condition recommended above, the proposals are considered acceptable in design.

**9.5 Residential Amenity**

When considering matters of amenity, the relevant policies are 7, and 38C of the City Plan 2019-2040 (adopted April 2021). Policy 7 on Managing development for Westminster's people relates to protecting neighbouring amenities. Part (A) states that development should be neighbourly by protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

Objections have been received from a neighbouring property, which focus on loss of daylight and sunlight, overshadowing and sense of enclosure.

**Daylight, Sunlight and Overshadowing**

In response to the concerns raised by objectors, the applicant has submitted a daylight and sunlight report, based on the recommended standards for daylight and sunlight in residential accommodation are set out in the Building Research Establishment (BRE) publication "Site layout planning for daylight and sunlight: a guide to good practice" (2022), to assess the impact on the residential property at 46 Shirland Mews.

The applicant has assessed a ground floor window (W1) and a door (W2) in the rear elevation of 46 Shirland Mews. These are the garden access door and rear window. These are referenced in the report as kitchen windows and doors. However, officer visits to the property have confirmed these serve a living space. This however does not impact the results of the assessment.

Daylight

Table 1 Impact on daylight to 46 Shirland Mews

Window	Existing	Proposed	Pr/Ex	Meets Criteria	BRE
<b>Kitchen</b>					
<b>1</b>	27.82	27.29	0.98		Y
<b>2</b>	27.43	27.43	1.00		Y
<b>NSL</b>	94.62	94.60	1.00		Y

The BRE guidelines state that if the VSC value (centre of the window assessment) is both less than 27%, and results in a reduction of more 20% then daylight may be adversely affected and noticeable to its occupants. With respect to the NSL assessment (distribution of daylight within a room assessment). A reduction in more than 20% would be material and noticeable to occupants.

The report (see table above) demonstrates that the proposals would comply with BRE guidelines in terms of daylight. The assessed windows have above 27% VSC value in the existing and proposed scenarios and have well under a 20% reduction. It is therefore considered that any reduction in daylight would not be material.

Sunlight

Table 2 Impact on sunlight to 46 Shirland Mews

Window Name	Room use	Annual Ex	Annual Pr	Pr/Ex	Meets BRE Criteria	Winter Ex	Winter Pr	Pr/Ex	Meets BRE Criteria
W1	Kitchen	70	66	0.94	YES	20	20	1.00	YES
W2	Kitchen	69	69	1.00	YES	19	190	1.00	YES

With regards to sunlight, the BRE guidelines suggest that if a window point can receive more than 25% of Annual Probable Sunlight Hours (APSH) including at least 5% in the winter months then the room should still receive enough sunlight. A reduction in 20% of APSH of winter sunlight and a total loss of value of 4% would be noticeable to the occupants.

As is seen in the table above, the proposals again comply with the relevant BRE guidelines. For winter months, there is no loss of APSH.

Overshadowing

Table 3 impact on overshadowing to 46 Shirland Mews

	Amenity Area	Lit Area Ex	Proposed	Meets BRE Target
<b>46 Shirland Mews</b>	24.24	48%	48%	YES

For overshadowing, BRE guidance recommends that for it to appear adequately sunlit throughout the year, at least half of a garden area should receive at least two hours of sunlight on 21 March. If because of new development an existing garden or amenity area does not meet the above and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable.

From the above table, we can see that there is no change to the overshadowing of the neighbour's garden as a result of the proposed development.

### Other properties and conclusion

Given their size, massing and position, the extension works are unlikely to have a detrimental impact on any other surrounding buildings on Fernhead Road (the closest property being number 55 Fernhead Road, 15M away) or Lydford Road (the closest property being 56 Lydford Road, 8m away). It is noted that objections received following the re-consultations undertaken for the proposal acknowledge that the daylight and sunlight issues have been addressed.

The increase in the height of the roof line, due to its positioning away from neighbouring properties and small extent, does not result in any significant impact in terms of the amount of daylight and sunlight enjoyed by surrounding neighbours.

### **Sense of Enclosure**

Whilst the proposed single storey rear extension at ground floor level would be visible in oblique views from the neighbouring property at 46 Shirland Mews, it is not considered to reduce the level of visible sky or lead to an unacceptable sense of enclosure. The ground floor extension nearest the boundary with 46 Shirland Mews will project 3m in depth and 2.6m in height at that boundary. When viewed in context, this will not have a materially overbearing effect, and will leave 46 Shirland Mews with significant openness to its rear.

Part of the rear ground floor extension and first floor extensions will also be visible from the properties at Fernhead Road and Lydford Road, however given the distance between the properties (15m and 8m away respectively as above), it is considered that the extensions would not have an unacceptable impact over the existing situation on site.

The distance of the increase in roof height from neighbouring properties means it will not increase the sense of enclosure for neighbours, and will be largely obscured behind the existing roof line when viewed from the rear gardens of neighbouring properties on Shirland Mews.

### **Privacy**

The proposed extensions to the rear will not grant views that cannot already be attained from the application site. Likewise, the proposed creation of a new entrance, to the front of the property will not create new views that cannot already be attained from the application site. The scheme is therefore considered acceptable in privacy terms, and objections on these grounds cannot be sustained.

## **9.6 Economy including Employment & Skills**

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

## **9.7 Other Considerations**

Objections have been received with regards to the quality of accommodation proposed in the extensions. Reference is made to London Plan standards for internal ceiling heights. However, these standards apply only to newly created residential dwellings, and do not apply to extensions to existing dwellings such as the proposed. This matter cannot therefore be considered as part of this proposal.

#### **9.8 Environmental Impact Assessment**

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

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

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

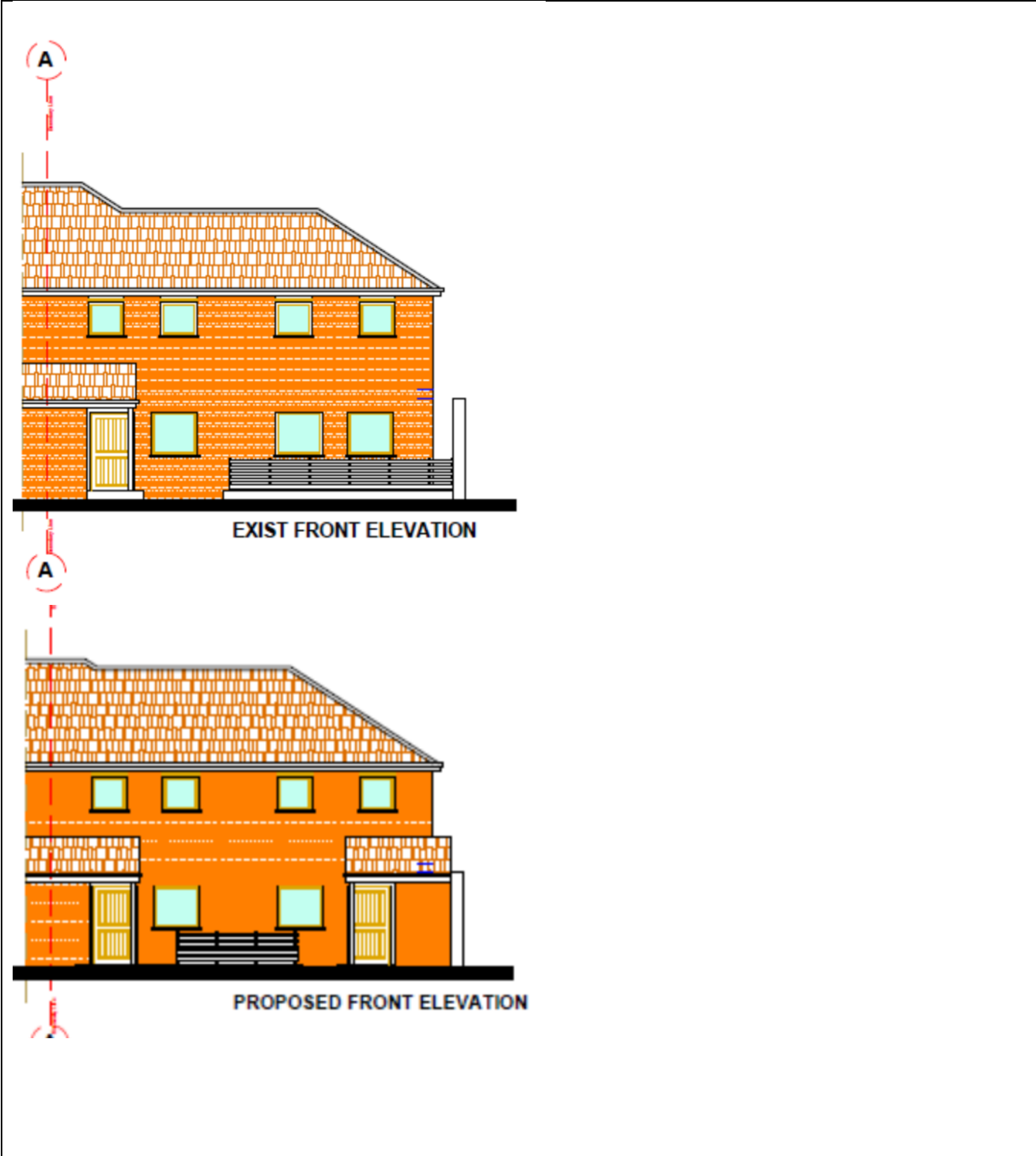
#### **10. Conclusion**

The proposals are considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and London Plan 2021. It is recommended that planning permission is granted, subject to the conditions listed at the end of this report, which are necessary to make the development acceptable.

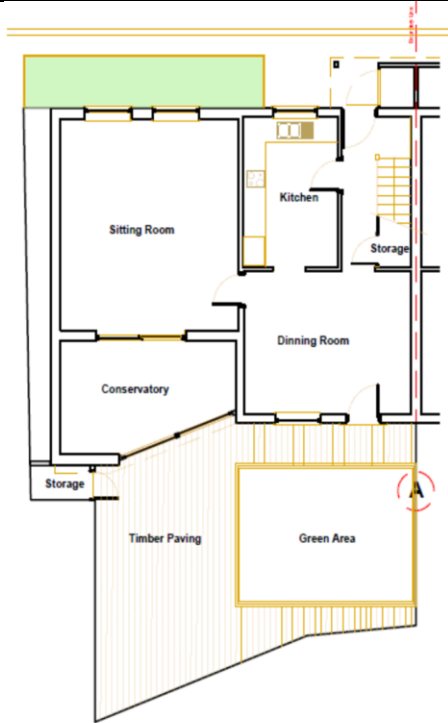
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

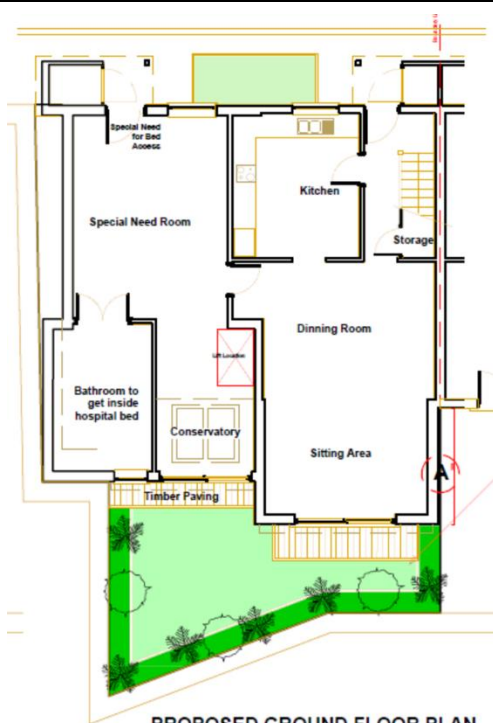
11. KEY DRAWINGS





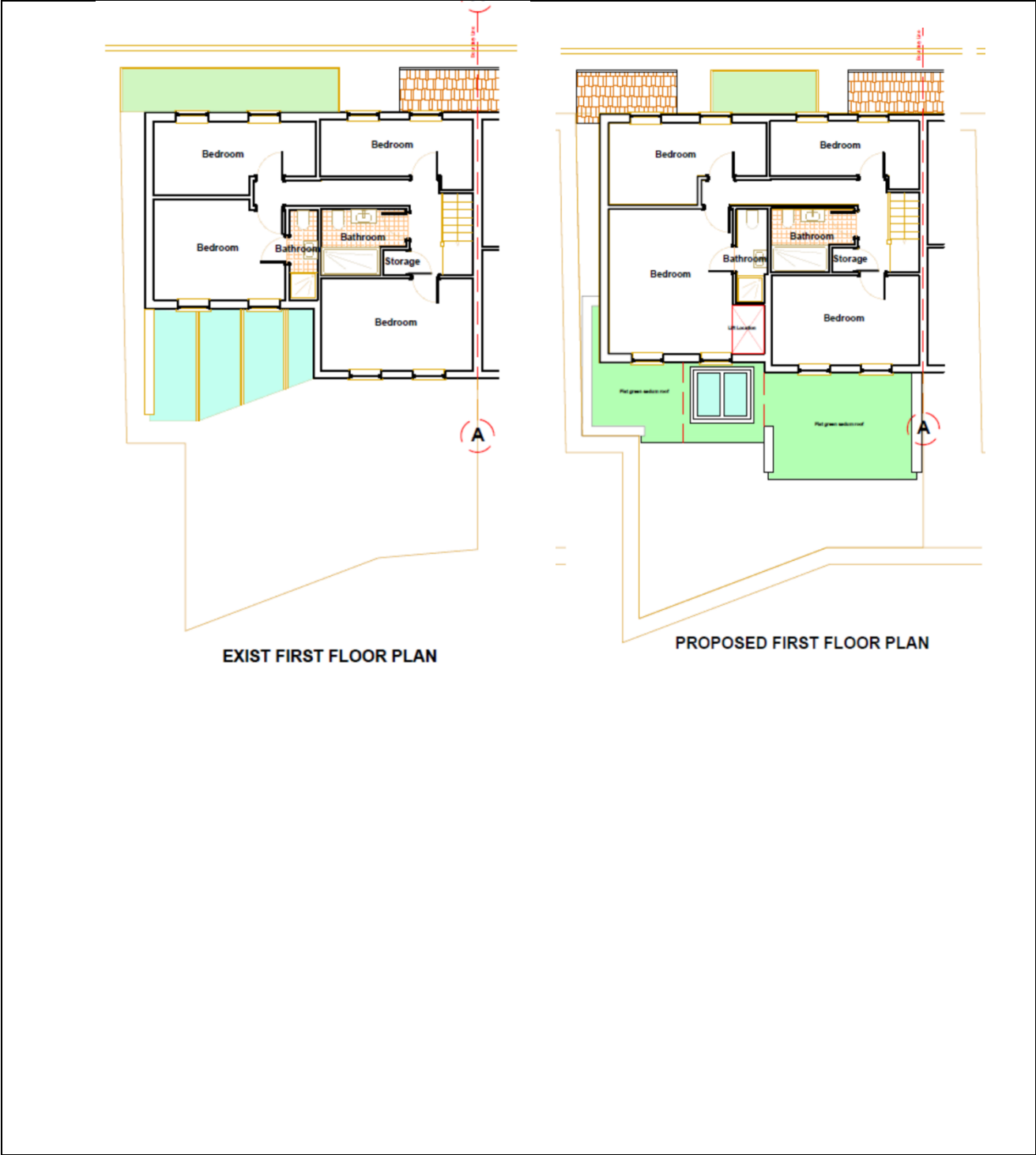


**EXIST GROUND FLOOR PLAN**



**PROPOSED GROUND FLOOR PLAN**





Item No.
<b>5</b>

## DRAFT DECISION LETTER

**Address:** 48 Shirland Mews, London, W9 3DY

**Proposal:** Erection of a single storey rear extension at ground floor level; first floor side and rear extension; convert the conservatory to solid extension; new entrance to front elevation.

**Reference:** 23/01174/FULL

**Plan Nos:** 03 Rev A, 02 Rev A, 05 Rev C, 04 Rev C, 01 Rev A, 08 Rev A, 07 Rev A, Flood Risk Assessment reference 2023/48 Shirland Mews Assessment of December 2023

**Case Officer:** Alex Jones

**Direct Tel. No.** 020 7641 07866  
036268

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only between 08.00 and 18.00 Monday to Friday between 08.00 and 13.00 on Saturday; and not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

- 3 The green roof must be installed in accordance with approved drawing no. 08 Rev A and maintained as such thereafter.

Reason:

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

- 4 You must not use the roof of the extension for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

Reason:

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

- 5 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 the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 6 You must provide, maintain and retain the flood mitigation measures outlined in the approved flood risk assessment and works mitigation measures document ref. 2023/48 Shirland Mews before you start to use any part of the development, as set out in your application. You must not remove any of these features. (C44CA)

Reason:

To alleviate and manage flood risk. This is as set out in Policy 35 of the City Plan 2019 - 2040 (April 2021).

### **Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 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

Item No.
<b>5</b>

[www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures)., , CONSIDERATE CONSTRUCTORS:; You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk)., , BUILDING REGULATIONS:; You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

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

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	34-37 Henrietta Street, London, WC2E 8NA		
<b>Proposal</b>	External alterations at basement and ground floor levels to the Henrietta Street and Covent Garden elevation including demolition, rebuilding of the Covent Garden elevation, removal and replacement of windows, removal of railings, installation of lighting, installation of new plant equipment, replacement of existing windows with ventilation louvres at the rear of the building, and other associated works at 34 Henrietta Street.		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Shaftesbury Capital PLC		
<b>Registered Number</b>	23/07307/FULL	<b>Date amended/ completed</b>	20 October 2023
<b>Date Application Received</b>	20 October 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Covent Garden		
<b>Neighbourhood Plan</b>	Not Applicable		

## 1. RECOMMENDATION

Refuse permission – harm to the appearance of the building, harm to the character and appearance of the Covent Garden Conservation Area and harm to the setting of adjacent listed buildings.

## 2. SUMMARY & KEY CONSIDERATIONS

34-37 Henrietta Street is an unlisted building of townscape merit in a prominent corner of the Covent Garden Conservation Area. The building is within the setting of the Church of St Paul (Grade I) and the Market (Grade II STAR) and other grade II listed buildings on Henrietta Street.

The application proposes external alterations at basement and ground floor levels to the Henrietta Street and Covent Garden Piazza elevation including demolition, rebuilding of the Piazza elevation, removal and replacement of windows, removal of railings, installation of lighting, installation of new

plant equipment to rear lightwell, replacement of existing windows with ventilation louvres at the rear of the building, and other associated works.

The key considerations in this case are:

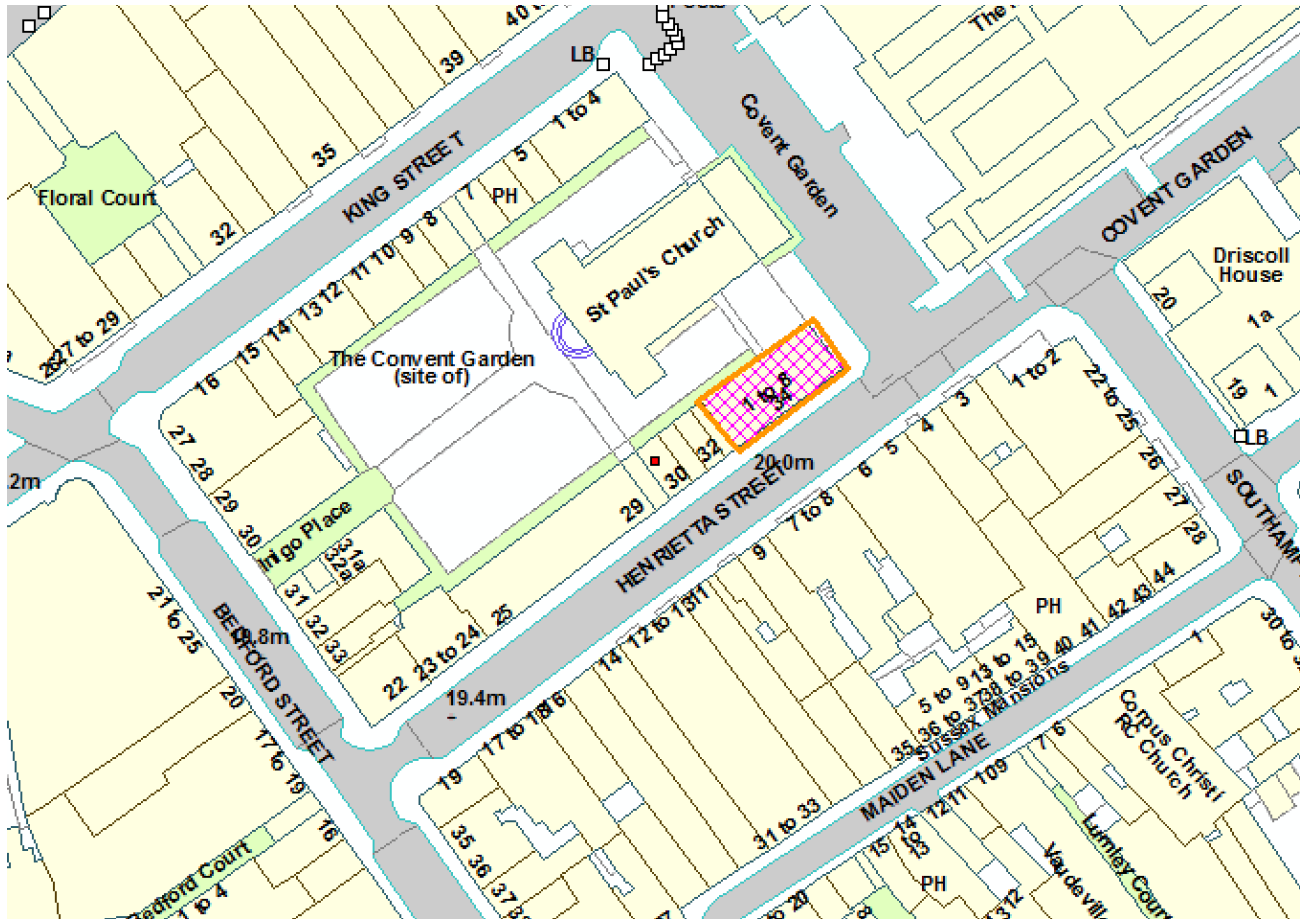
- The acceptability of the proposed alterations in design terms and their impact on the character and appearance of the Covent Garden Conservation Area and the setting of other nearby designated heritage assets, such as the grade I and II\* listed buildings adjoining the site.
- The impact on the amenity of neighbouring residential properties.

This report explains the proposed alterations to the frontages along Henrietta Street and the Piazza would harm the appearance of the building, would harm the character and appearance of the conservation area and would harm the setting of nearby listed buildings.

Objections from local residents were received on the grounds of noise nuisance associated with a potential restaurant or bar use. However, the proposal is for external alterations only and the unit will remain within the E use class.

The proposal is assessed against the relevant policies set out in the City Plan 2019-2040. For the reasons set out in the report, the proposed works, are unacceptable in design, heritage and townscape terms. The heritage harm identified in this report is not outweighed by public benefits. The application is therefore recommended for refusal as set out in the draft decision letter appended to this report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Henrietta Street elevation





Covent Garden piazza elevation



Rear elevation

## 5. CONSULTATION

### 5.1 Application Consultations

#### COVENT GARDEN AREA TRUST:

After finding out more about the plans for the site and how they will fit in with, and potentially enhance, the whole of the area, the Covent Garden Area Trust withdrew their initial objection.

#### COVENT GARDEN COMMUNITY ASSOCIATION:

In view of the applicant retaining the embellishments to the windows on the Henrietta Street façade, the Covent Garden Community Association withdrew their initial objection.

#### ENVIRONMENTAL HEALTH

No objection subject to recommended conditions.

#### HIGHWAYS PLANNING:

Could be considered acceptable but will require separate Highway Authority approvals.

#### WASTE PROJECT OFFICER:

No objection subject to recommended condition.

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

No. Consulted: 56

Total No. of replies: 4

No. of objections: 4

No. in support: 0

4 letters of objection on the following grounds:

- Noise from patrons arriving and departing late in the evening if the site is as used as bar or restaurant.
- Impact of live, amplified and recorded music, in particular if doors are left open
- Historical day-time opening hours have become established over time and area a material consideration. Hours of use should be restricted to 10.00 to 20.00.
- Upper residential flats were allowed in the context of the prevailing bank use at the time and its associated day-time opening hours.
- Future of use of unit should be restricted to a retail and/or restaurant use with appropriate planning controls.
- Noise report only assesses the proposed plant installations and openings into rear lightwell. No assessment of introduction of an use with extended opening hours and playing of music, failure to meet the test of planning policy.
- Lack of details with regards to proposed methods of ventilation and extraction. Odour assessment must be submitted.
- Smells and fumes from low level extraction
- External flue at roof top level would be unsightly addition
- Lack of attempts to give feedback as no invitations to meet or discuss the plans

PRESS NOTICE/ SITE NOTICE:

Yes

## 5.2 Applicant's Pre-Application Community Engagement

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

Engagement Method/Event/Activity	Date	Attendance	Summary of Discussions
Designed summary proposals shared with St James's Ward Councillors, Covent Garden Area Trust and Covent Garden Amenity Society	19.09.23	Not applicable	-Unlikely to be contentious and broadly supported as reimagining the use of a former bank and loss of bank signage. -Opportunities to enhance the design. -Management of tables and chairs. -Area now has enough restaurants - Loss of 'clunky' doors supported -Retention of interesting friezes below window frames
Newsletter posted to 317 addresses to present plans and details of consultation website for feedback. A telephone number and a dedicated email address were also provided to supply further information.	05.09 to 28.09.23	116 views and 2 responses.	- Confirmation that there would be no alterations to northern elevation. - Area already has sufficient food and beverage premises and so hoped that this would be retail rather than a restaurant.

One local resident noted that they felt there were given limited opportunity to provide feedback as there was no meeting. However, given the scale of proposal it is acknowledged that the information in the newsletter provided sufficient opportunities (in line with the guidance) to comment on the proposal. In summary, across the range of engagement undertaken by the applicant the principal issues raised relate to the alterations to the shopfront and the over-concentration of restaurants in the locality.

## 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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **6.2 City Plan Partial Review**

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review includes updated policies for affordable housing, retrofitting and site allocations.

An emerging local plan is not included within the definition of “development plan” within s.38 of the Planning and Compulsory Purchase Act 2004. However, paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Footnote 22 to paragraph 48 states that during the transitional period for emerging plans consistency should be tested against the version of the Framework, as applicable, as set out in Annex 1 (paragraph 230). This means that the consistency of the policies in the City Plan Partial Review must be tested for consistency for the purposes of paragraph 48(c) against the September 2023 version of the NPPF.

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it will generally attract limited if any weight at all.

## **6.3 Neighbourhood Planning**

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

## **6.4 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 (December 2023) unless stated otherwise.

## **7. BACKGROUND INFORMATION**

### **7.1 The Application Site**

34-37 Henrietta Street is a late nineteenth century (1889-90), six storey building fronting the corner of Henrietta Street and the eastern side of Covent Garden Piazza. It is an unlisted building is of townscape merit and makes a positive contribution to the Covent Garden Conservation Area. The building is within the setting of the Church of St Paul (Grade I) and the Market (Grade II STAR), and other grade II listed buildings on Henrietta Street.

The site is also located within the Central Activities Zone (CAZ), West End Strategic Cultural Area and West End Special Retail and Leisure Special Policy Area.

The first to fifth floor levels are used as self-contained apartments, which are accessed from Henrietta Street. The unit at basement, ground and mezzanine levels is currently accessed from the Piazza. It was last occupied by NatWest bank and is lawfully within the E use class.

The ground floor frontage to Henrietta Street is six bays wide, featuring a rusticated four arched window arcade, flanked by door entrances; and a two arched arcade to the Piazza, within the arches sit window openings with stone mullions, transoms, and decorative stone surrounds. On the Piazza side, a modern entrance door has been installed within one of the arches, though part of the former window opening has been retained above as a fan light. This modern opening detracts from the architectural coherence of the facades, but otherwise very few alterations have occurred to the ground floor frontage of the building.

### **7.2 Recent Relevant History**

Between 1986 and 2013 there are a number of permissions for advertisement signs and the installation/relocation of service till/cash machine. In 2020 planning permission was granted for the removal of one ATM on the Henrietta Street elevation and infill area with matching stone surround (RN: 20/02880/FULL).

However in 2007, planning permission was refused for the removal of existing cash machines from Henrietta Street elevation and installation of two new cash machines on Covent Garden Piazza elevation, and the blocking up of a current entrance on Henrietta Street (RN: 07/01085/FULL) as the location, design and materials chosen the installation of two new cash machines on the Covent Garden Piazza elevation would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area and would increase the fear of crime, actual crime and nuisance for residents, businesses and visitors.

External alterations to the basement and ground floor units were also allowed with the

following permissions:

In 2002, planning permission was granted for the installation of pavement grilles behind existing railings for ventilation of replacement air conditioning units within basement vaults (RN: 02/07345/FULL).

In 2004, planning permission was granted for Installation of new handrails to main entrance door, 3 external lights and tactile paving (RN: 04/03262/FULL).

In 2006, planning permission was granted for the removal of two steps to the ground floor entrance (Henrietta Street elevation) to create new level access (RN: 06/02670/FULL).

In 2014, retrospective permission was granted for the retention of an existing flue at roof level and proposed encasement of the flue with a lead-covered cladding screen (RN: 14/06674/FULL).

In 2016, permission was granted for the installation of external lighting to the Henrietta Street and Piazza facades (RN: 16/07973/FULL).

In 2005 and 2010 planning permissions were granted for the erection of a double height mansard roof extension and the use of the upper floors as residential flats with associated external alterations.

## **8. THE PROPOSAL**

Proposals seek external alterations at basement and ground floor levels to the Henrietta Street and Covent Garden elevation. The works include the demolition and the rebuilding of the Piazza elevation at ground floor level, the removal and replacement of windows and the removal of railings at ground floor level on the Henrietta Street elevation and the installation of lighting.

It is also proposed to install three air conditioning units to rear lightwell and the replacement of existing windows with ventilation louvres at basement level to the rear of the building. The proposal includes the replacement of windows to rear elevation at basement level and the replacement of the footway paving to match the wider footway.

Upon officers' advice a revised planning statement has been submitted clarifying that the application is for external alterations only, and not a change of use.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

This basement and ground floor unit has been vacant since January 2024 and was last occupied by a bank, a use falling within the E use class. Changes to the Uses Classes Order which came into effect in September 2020 which combined a number of town centre uses into a single use class, Class E (Commercial Business Service). There are no restrictions attached to the unit to prevent the occupation by other uses within the E use class. The applicant explains the proposed works are intended to facilitate the occupation of the unit as a restaurant or as a retail unit, uses which also fall within the Class E.

Because of the Use Class Order, planning permission is not required to use the unit for these uses – planning permission is only required for the external alterations and installation of plant equipment.

Representations received from and on behalf of local residents raised concerns about the use of unit as a bar or restaurant and the associated noise nuisance at late hours from patrons arriving and departing, the playing of music and odour from necessary extraction.

Because the current application is only for the external alterations and installation of plant equipment, consideration can only be given to the impact of these works (which is discussed in the sections below) and consideration cannot be given to the potential use of the space as a restaurant because it would be lawful to begin that use without planning permission. However, the applicant would need planning permission to use the unit as a drinking establishment, or other uses outside of class E, but that is not proposed and nor is it the applicant's stated intention for the unit.

If the unit is occupied by a restaurant, separate planning permission would likely be needed for the installation of extraction and ventilation equipment associated with a kitchen. With regards to hours of use of operation, the occupier will need to obtain appropriate licensing consent to operate a restaurant at late hours.

## **9.2 Environment & Sustainability**

The supporting documents details the applicant is committed to recycling materials as much as possible, the new heating/cooling and ventilation systems will be more efficient and the new windows will improve the insulation.

## **9.3 Biodiversity & Greening**

Not applicable for this proposal.

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

### **Legislative & Policy Context**

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

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

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, 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.



Also of consideration are policies with Westminster's City Plan 2019-2040 (April 2021):

Policy 38 Design Principles (A) states that new development will incorporate exemplary standards of high quality, sustainable and inclusive urban design....(B) respond to Westminster's context by positively contributing to Westminster's townscape and streetscape.

Policy 39 Westminster's Heritage (K), states that development will preserve or enhance the character and appearance of Westminster's conservation areas. (I) states Development within the settings or affecting views of listed buildings will take opportunities to enhance or better reveal their significance. (L) goes on to state that there will be a presumption that unlisted buildings that make a positive contribution to a conservation area will be conserved.

Policy 40 Townscape and Architecture, states that (A) Development will 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. (D). Alterations and extensions will respect the character of the existing and adjoining buildings, avoid adverse visual and amenity impacts and will 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. Supporting text contained in Para 40.14 states that, even small-scale alterations and additions can have a cumulative impact on townscape character. The design of new doors, windows or shopfronts should be carefully considered to relate sensitively to the existing building and adjoining townscape.

### **Detailed Design and impact on heritage assets**

The proposed alterations to the rear elevation with the replacement of windows, the installation of louvres and the installation of three air conditioning units to lightwell are not opposed from a design and townscape perspective subject to their detailed design (drawings of which could have been secured by condition had the application been otherwise acceptable). This is because of their discreet location.

The proposals also seek ground floor façade alterations to Henrietta Street and Piazza facing façades to create a more active frontage, including new entrance arrangement. The ground floor windows have some good quality decorative stonework of which it is proposed to remove a large percentage.

On the Henrietta Street façade, the proposals see the loss of the decorative stone mullions and transoms and to accommodate taller glazing the decorative plinth bands will also be removed. The windows are to be replaced with larger windows comprising large glazed panels, as is one of the former timber doors. Proposals also include the removal of railings along both façades (which is not considered to be contentious). The alterations and increased glazing are sought to provide a more active frontage.

In relation to the Henrietta Street frontage, whilst the current proposals have evolved through pre-application discussions to retain more of the fabric of the building including the stone window surrounds and decorative pediments, the loss of the decorative mullions, transoms and plinth bands would still detract from the appearance of the building. The

modern glazed panel at the former entrance door would appear incongruous against the traditional stone façade and a more traditional timber door, which could incorporate glazing, would be a more suitable approach. These proposed façade alterations would diminish the building's appearance and its positive contribution to the character and appearance of the conservation area.

The alterations to the Piazza facing frontage are more intrusive, seeing the removal of all remaining elements of the original decorative stonework which, although compromised by the current entrance, still contribute to the aesthetic quality of the building. The wholesale removal of the existing fabric and installation of a modern glazing system would be at odds with the retained façade and diminishes the appearance of the building, and in turn this would harm the character and appearance of the conservation area and the setting of listed buildings, St Paul's Church and the Market Building..

The proposals therefore raise significant design and townscape concerns because they result in the removal of traditional architectural details which currently contribute positively to the building's appearance and the character and appearance of the conservation area / setting of adjacent listed buildings and would introduce new elements at odds with the character of the building and area. To overcome these concerns, officers recommended to the applicant that they amend the proposal to achieve a more balanced design solution by allowing alterations in the position of the original main entrance doors providing clear points of visibility and entry into the unit whilst retaining the historic detailing surrounding the windows. This was not agreed by the applicant. The applicant refers to the shopfronts to the similar building on the opposite side of the St Paul's Church (at the junction of the Piazza and Kings Street) in part as justification for their proposals. This building has somewhat similar shopfronts to those proposed at 34-37 Henrietta Street, however there is no known planning history for those shopfronts (although it appears to have been in existence for a significant length of time in this form / a similar form). The existing shopfronts there impact negatively on the appearance of that building and the area and officers disagree that its presence should justify the proposals at 34-37 Henrietta Street.

Overall, the proposals would result in a low to moderate level of less than substantial harm to the significance of the unlisted building of merit, character and appearance of the Covent Garden Conservation Area and the setting of the adjacent listed building including the St Paul's Church and the Market Building. In accordance with para 208 of the NPPF, this harm must be weight against any public benefits and this assessment is carried out below in paragraph 9.11.

## **9.5 Residential Amenity**

### **Noise & Vibration**

Policies 7 and 33 of the City Plan require developments to be neighbourly and designed to ensure that proposals will not adversely affect the local environment in terms of noise and odours.

The application includes the installation of mechanical plant equipment to the rear lightwell and the installation of louvres at basement level to rear elevation. The application is supported by a noise assessment report. The Council's Environmental Health has no objection in terms of noise and vibration subject to the standard noise conditions. Had the

application been considered acceptable in all other respects it would have been recommended that these conditions were attached.

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

The proposal involves the removal of the existing railings and installation of York paving to the footway to match existing paving of the wider footway. The Highways Planning Manager confirms that the proposal does not raise significant highway concerns, however separate approvals will be required from the Highways Authority as well as a legal agreement. Had the application been considered acceptable in all other respects, the applicant would be required to enter into a S106 legal agreement to ensure that the cost of all the highway works (including that the new pavement is designed to be tied into the wider footway) are paid for by the developer.

The Highways Planning Manager notes that it is disappointing given the interventions to the site no improvements to support cycling is proposed. However, given the nature of the proposal and that planning permission is not required for use as a restaurant or retail unit, it is not reasonable to require cycle parking provision in this case.

The waste storage provision shown on the drawings is in line with the Council's requirements. Had the application been considered acceptable on all other aspects this would have been secured by condition.

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

The development is of insufficient scale to require an employment and skills plan.

Bringing a vacant unit back into use is welcomed. Given that the floorspace remains as existing, and given the nature of the proposed uses, this will likely create a similar or moderate increase level of employment and jobs as compared to the former bank. It will also 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**

Had the application been considered acceptable in all other respects and had the proposed works to the public highway also been considered acceptable, the applicant would be required to enter into a S106 legal agreement to ensure that the cost of all the highway works including that the new pavement is designed to be tied into the wider footway are paid for by the developer.

## 9.11 Assessment of Planning Balance

As set out within Section 9.4 of this report, the proposal is considered to cause less than substantial harm to the unlisted building of merit, the character and appearance of the Covent Garden Conservation Area and the setting of listed buildings, including the Grade I Church of St Paul and the Grade II STAR Market Building. The harm would be caused by the level of alterations to the Henrietta Street and Piazza frontages. The harm to the significance of the unlisted building merit would be a moderate level of less than substantial given the works harm the main façades of the building, the impact to the conservation area would be a low level of less than substantial harm given this building forms a relatively small (albeit important) part of the overall area, and the impact on the setting of the listed buildings would be at a low to moderate level of less than substantial harm given this building forms an important part in the setting of the Church of St Paul and the Market Building.

Paragraph 208 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the 'public benefits' of the proposal, including optimising its optimum viable use. 'Public benefits' could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public to be genuine public benefits.

When undertaking this weighing exercise, the Sub-Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 9.4 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

The applicant contends that the proposed alterations are necessary to secure the long-term viable use of the ground and basement unit (in Class E use), however officers are not of the same opinion, and consider that the increase in glazing to Henrietta Street would have a limited benefit in this respect and would not be sufficient to outweigh the harm being proposed. Also, the Piazza facing façade could incorporate more glazing and a more active frontage without the extent of fabric removal being proposed, and a sensitive and complementary aesthetic achieved.

Although ensuring the prompt reuse of the building would be an economic benefit, there is no evidence that a refurbished building with a less harmful set of alterations would be of little / no interest to operators within the broad E use class. There are many buildings in Westminster which do not have a conventional retail/restaurant façade (shopfront) yet are successfully trading.

For the reasons set out above, the proposals are harmful in design, heritage and townscape terms and the public benefits would not be of such significance that they would be sufficient to outweigh the less than substantial heritage harm that would occur, and therefore the proposal would not comply with paragraph 208 in the NPPF. Accordingly, a clear and convincing justification for the harm caused to the designated heritage assets has not been presented in compliance with paragraph 206 of the NPPF.

## 10. Conclusion

This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, and has also considered the weight to be attributed to the public benefits and harm that would arise from the scheme. Having regard to this assessment, it has found that the proposed development is unacceptable.

Accordingly, the proposed development would fail to accord with policies 38, 39 and 40 of the City Plan 2019-2040 and would not meet the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, it is recommended that planning permission should be refused on grounds that the proposed development would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area or the setting of nearby listed buildings.

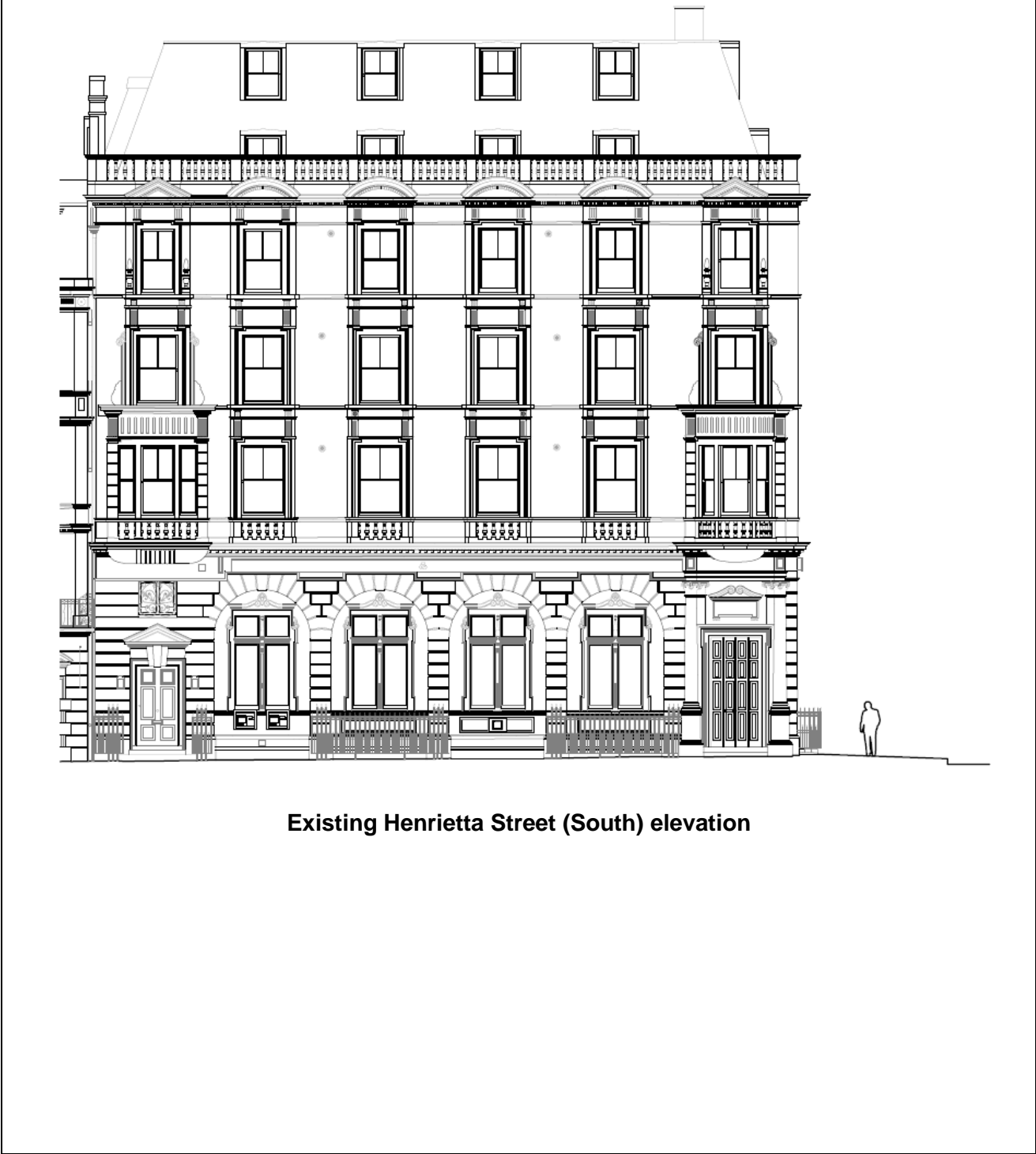
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

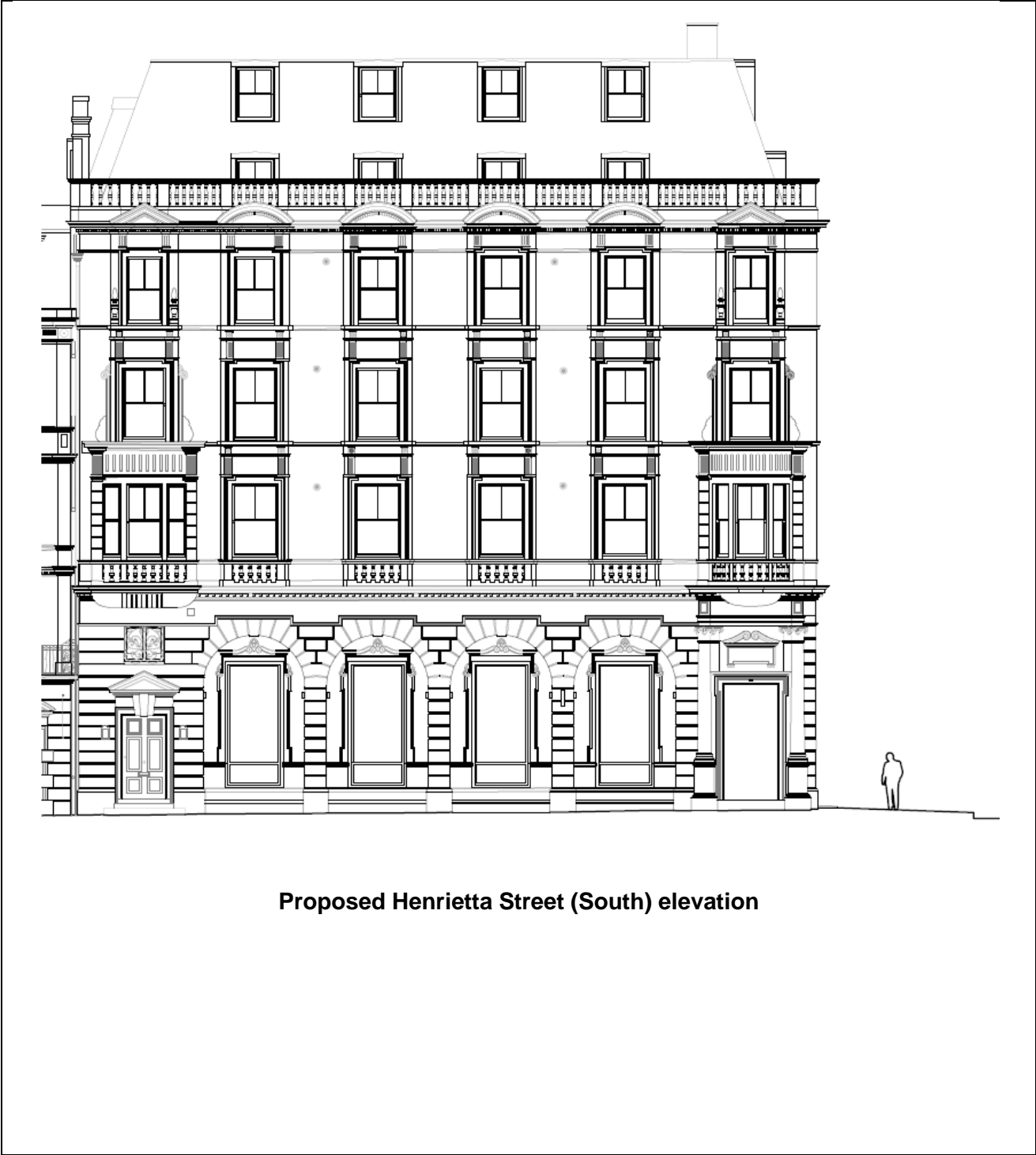
11. KEY DRAWINGS



Computer Generated Image of Proposed Frontage



Existing Henrietta Street (South) elevation



**Proposed Henrietta Street (South) elevation**

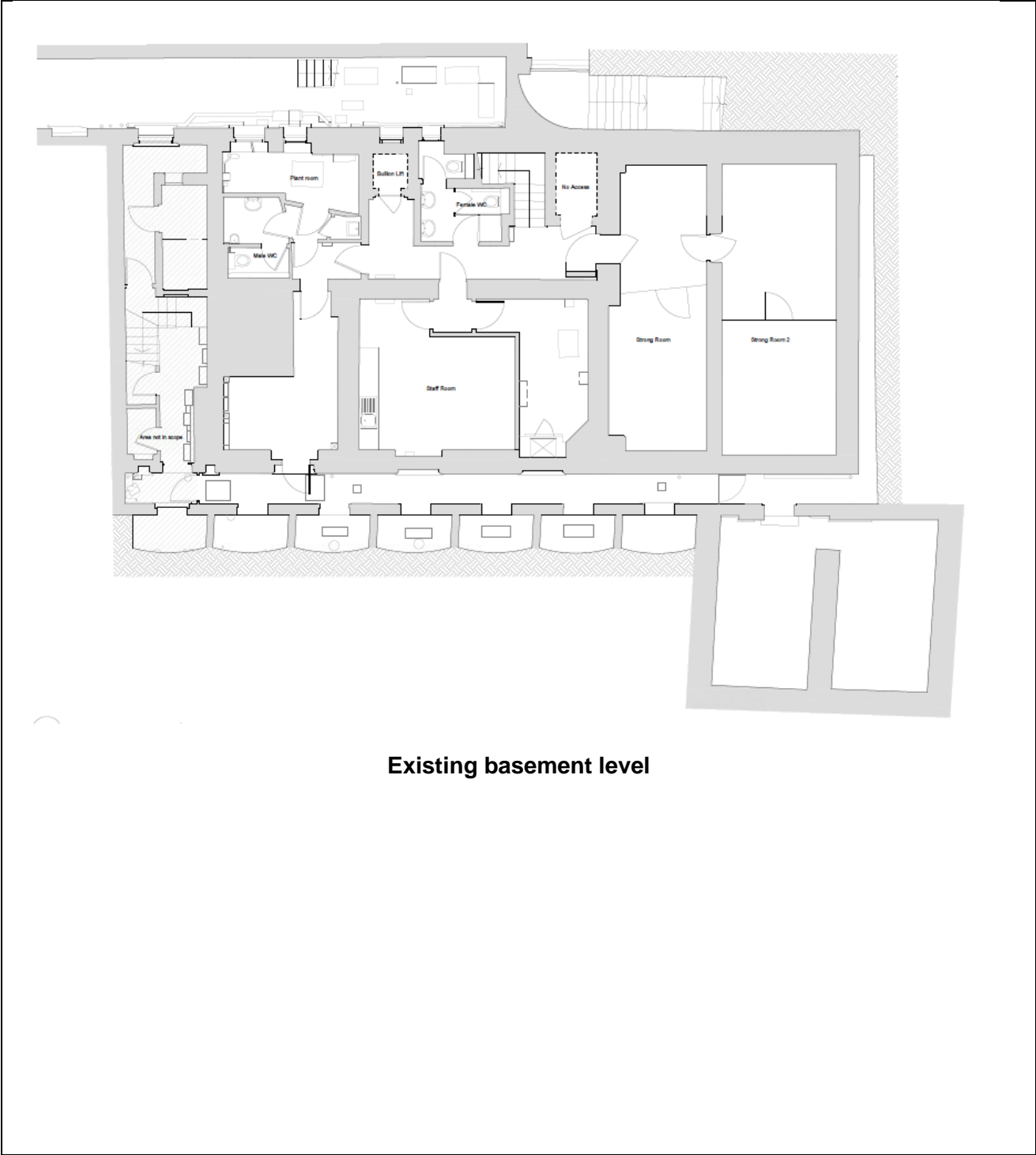




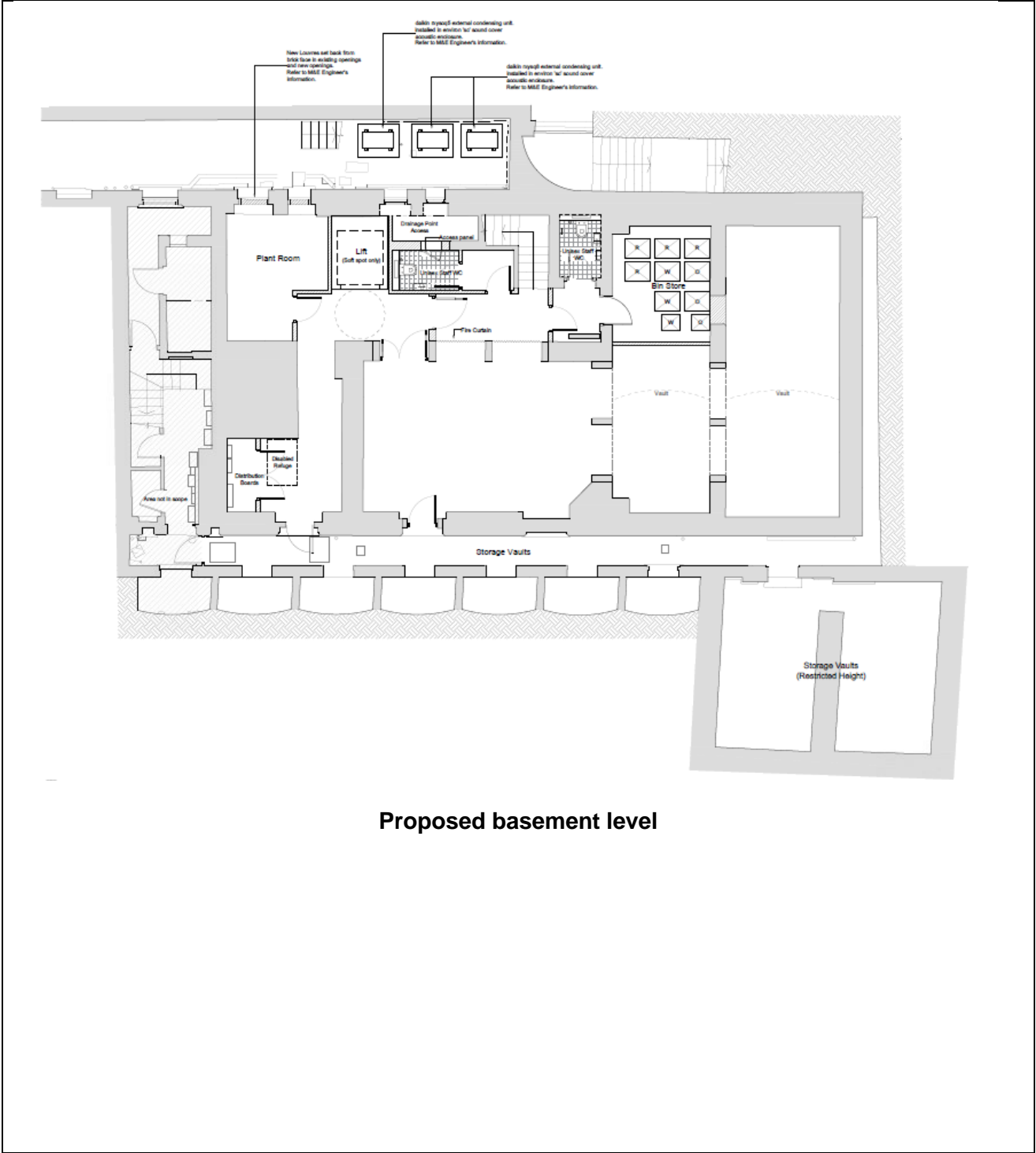
Existing Piazza (East) elevation



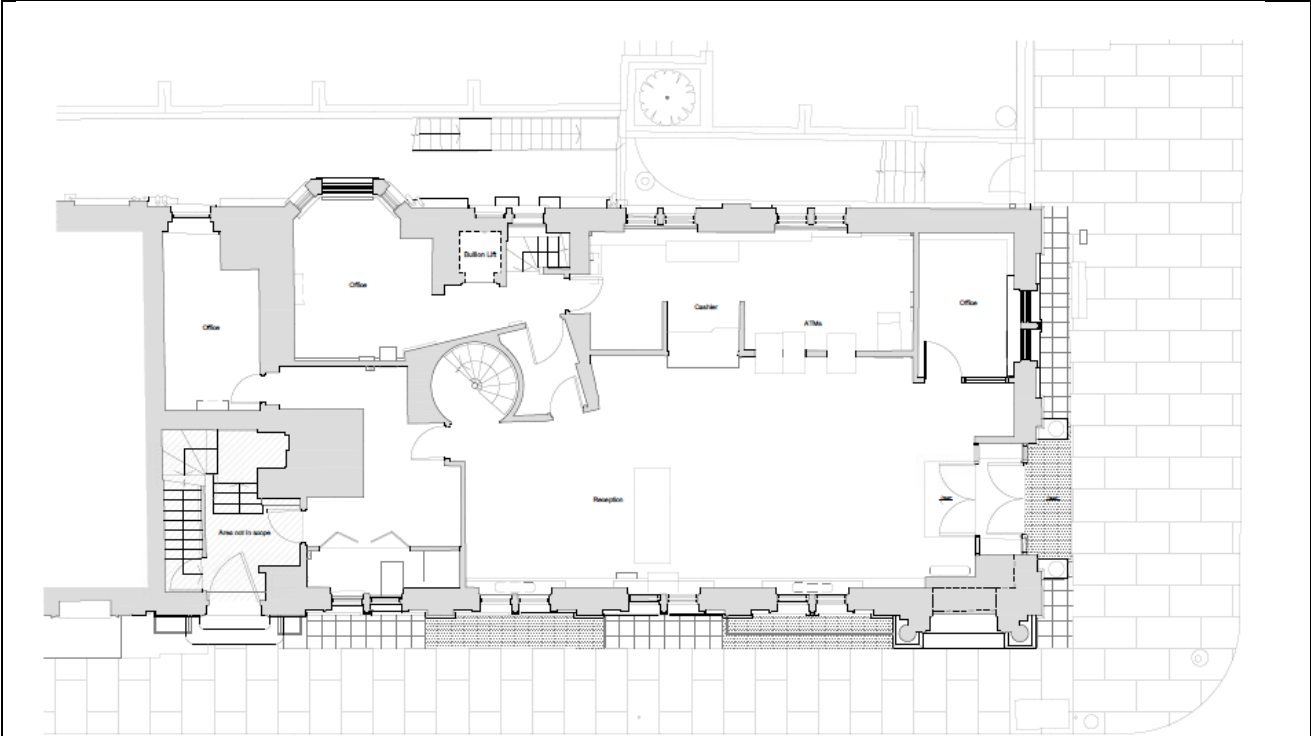
Proposed Piazza (East) elevation



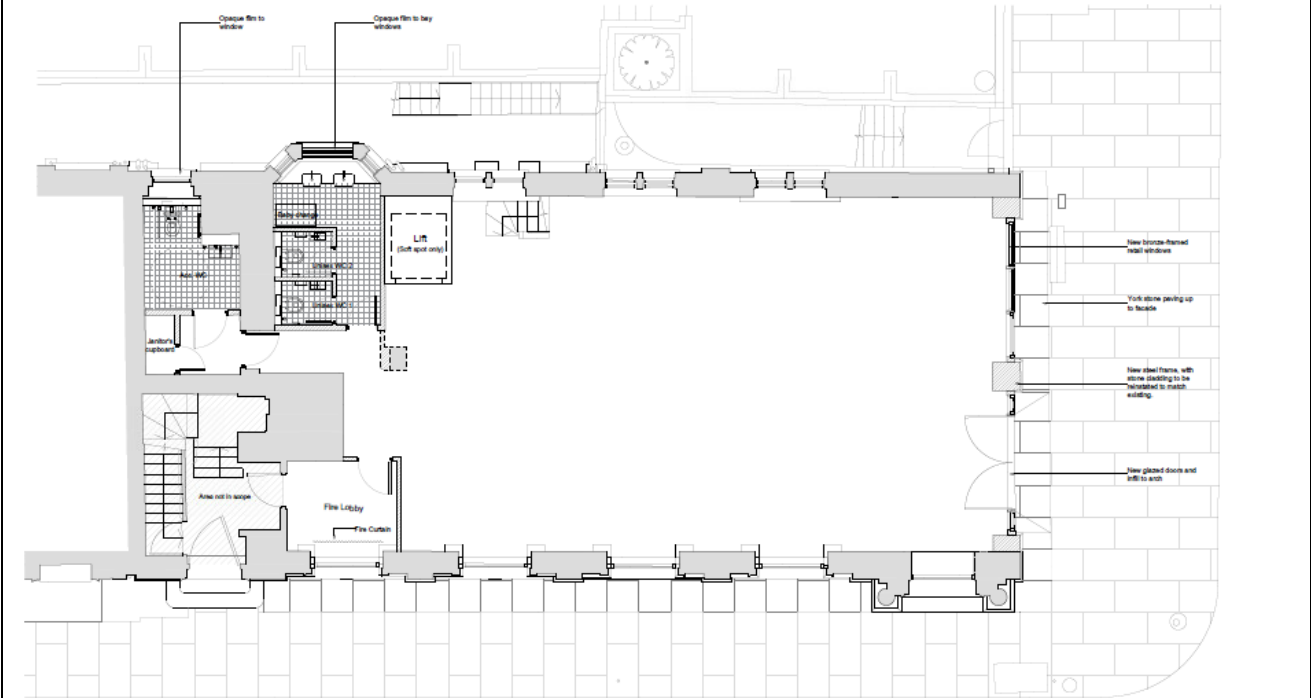
**Existing basement level**



**Proposed basement level**



**Existing ground floor plan**



**Proposed ground floor plan**



**Existing rear elevation**



**Proposed rear elevation**

- Existing windows to be refurbished.
- New Flood Timber Windows to replace existing windows and entrance. Profile & finish to match existing.
- Porches to be refurbished.
- Each Timber Window to be replaced. Profile & finish to match existing.
- New high performance aluminum weather louvre installed within new openings. PVC White to match other frames on elevation. Louvres set back from brick face.
- Window in landlord garage & not in scope.

**DRAFT DECISION LETTER**

**Address:** 34-37 Henrietta Street, London, WC2E 8NA

**Proposal:** External alterations at basement and ground floor levels to the Henrietta Street and Covent Garden elevation including demolition, rebuilding of the Covent Garden elevation, removal and replacement of windows, removal of railings, installation of lighting, installation of new plant equipment, replacement of existing windows with ventilation louvres at the rear of the building, and other associated works at 34 Henrietta Street.

**Reference:** 23/07307/FULL

**Plan Nos:** (01)002 rev. B; (01)003 rev.B; (01)010 rev.A; (01)020 rev.A; (01)080 rev. A; (01)100 rev. A; (01)201 rev. A; (01)400 rev. A; (01)700 rev. A; (01)101 rev. A; (01)200 rev.A; (01)203 rev. A; (01)401 rev. A; (01)500 rev.A; (01)501 rev. A; (01)502 rev. A; ((01)503 rev.A; 01)701 rev. A; (01)800 rev.A; (01)801 rev. A; (01)802 rev. A; (01)803 rev. A; (61)001 rev. A; (61)002 rev.A; (61)011 rev. A; Noise survey and plant noise egress limits Ref: 023724-R01-B dated 29 September 2023.

For information only:

Historic building report; Structural Commentary on the Façade Works; Design and access statement rev.B dated 02.10.23.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 07779567368

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

Reason:

Because the loss of the original ground floor fenestration, window proportions and stonework detailing to the principal Henrietta Street and Piazza facades, the lowering of cills and removal of intermediate architectural detailing would harm the appearance of the building, failing to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area. The works would also harm the setting of adjacent listed buildings, including St Paul's Church and the Market Building. This would not meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

The works are also contrary to adopted and published supplementary planning advice, namely 'Shopfronts Blinds and Signs' (City of Westminster: 1993)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National

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<b>6</b>

Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, further guidance was offered to the applicant by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, you did not want to amend the scheme.

To remind you, the required amendments are:

- alternative shopfront alterations which retain a larger extent of the traditional decorative details, proportions and materials.

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 7

Item No.
7

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	39 - 40 Bedford Street, London, WC2E 9ER		
<b>Proposal</b>	Installation of new extract duct shaft and mechanical plant to rear of building; lowering of ground floor window cills on Bedford Street and Maiden Lane elevations; opening up of existing blocked up windows and replacement doors on Maiden Lane; new stone steps; new façade lighting to ground floor elevations and regrading of pavement to create level access from Bedford Street.		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Shaftesbury Capital PLC		
<b>Registered Number</b>	23/06521/FULL	<b>Date amended/ completed</b>	12 March 2024
<b>Date Application Received</b>	21 September 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Covent Garden		
<b>Neighbourhood Plan</b>	Not Applicable		

## 1. RECOMMENDATION

Refuse permission – harm to the appearance of the building, harm to the character and appearance of the Covent Garden Conservation Area and insufficient information regarding the re-grading of the public highway.

## 2. SUMMARY & KEY CONSIDERATIONS

Two of the St James's Ward Councillors, Cllr Hyams and Cllr Shearer have requested that the application be reported to Planning Applications Sub-Committee for determination.

The application relates to the basement, ground and first floors of 39-40 Bedford Street which was the former headquarters of 'The Lady' magazine, which is an unlisted building of townscape merit in the Covent Garden Conservation Area. The application premises have been vacant since 2019 but were previously used as offices, a use falling within Class E.

The application proposes the installation of new extract duct shaft and mechanical plant to rear of building, lowering of ground floor window cills on the Bedford Street and Maiden Lane frontages, opening up of existing blocked up windows and replacement doors on Maiden Lane, new stone steps, new façade lighting and regrading of pavement to create level access from Bedford Street. The proposed works are intended to facilitate the occupation of the lower floors of the building as a restaurant or a retail shop; uses which also fall within Class E.

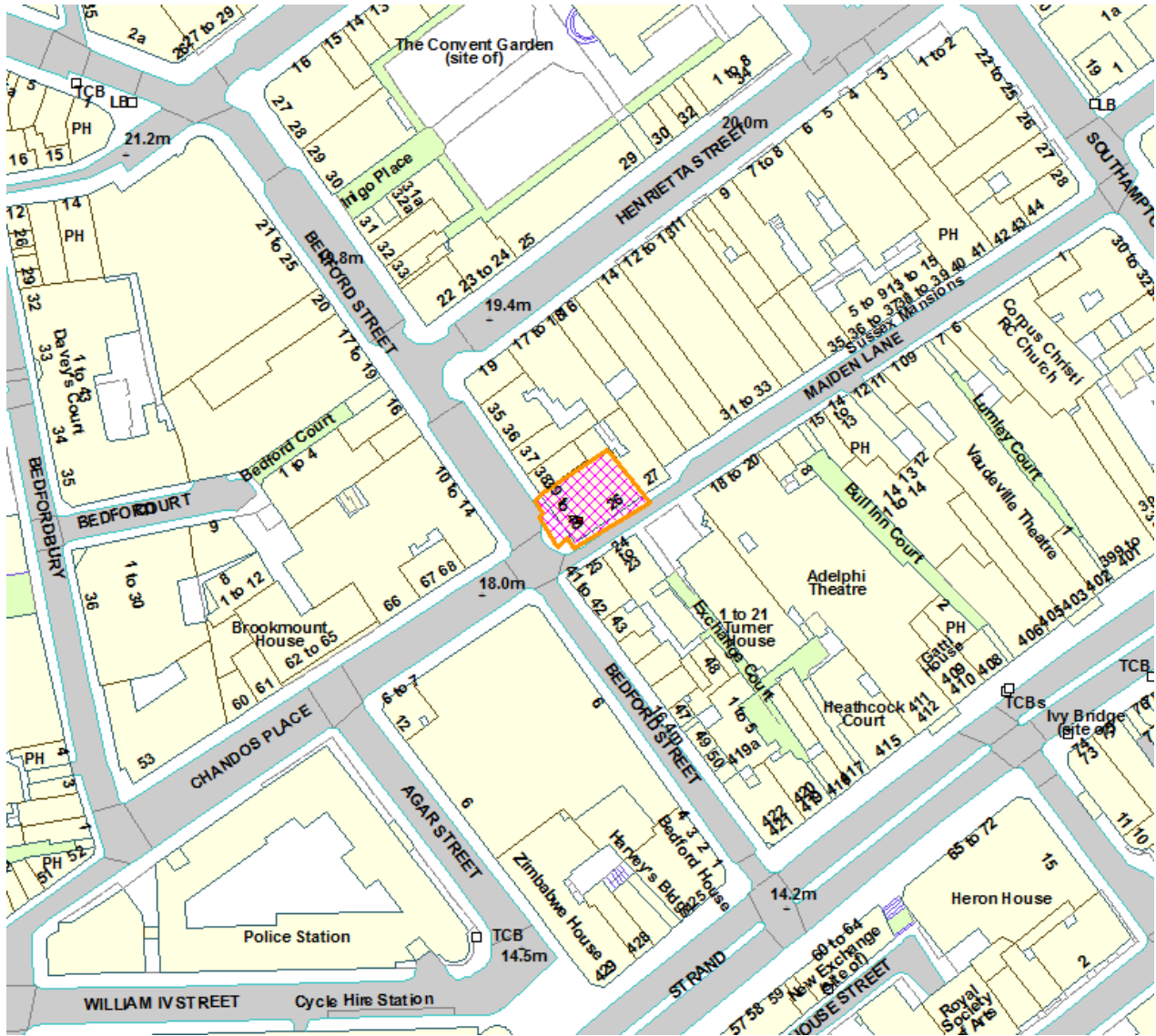
The key considerations in this case are:

- The impact of the proposed alterations on the character and appearance of the building and the Covent Garden Conservation Area.
- The impact of the proposed works on the safety and movement of pedestrians on the public highway.

This report explains the proposed fenestration alterations to all four ground floor windows along Bedford Street frontage would harm the appearance of the building and would harm the character and appearance of the Covent Garden Conservation Area. Also, the applicant's information relating to the proposed re-grading works to the public highway to enable step free access into the site has failed to show that this level access could not be accommodated within the building, failed to show that the re-grading would in fact allow level access and failed to show how a re-grading of the public highway could be achieved without having an adverse impact on the highway.

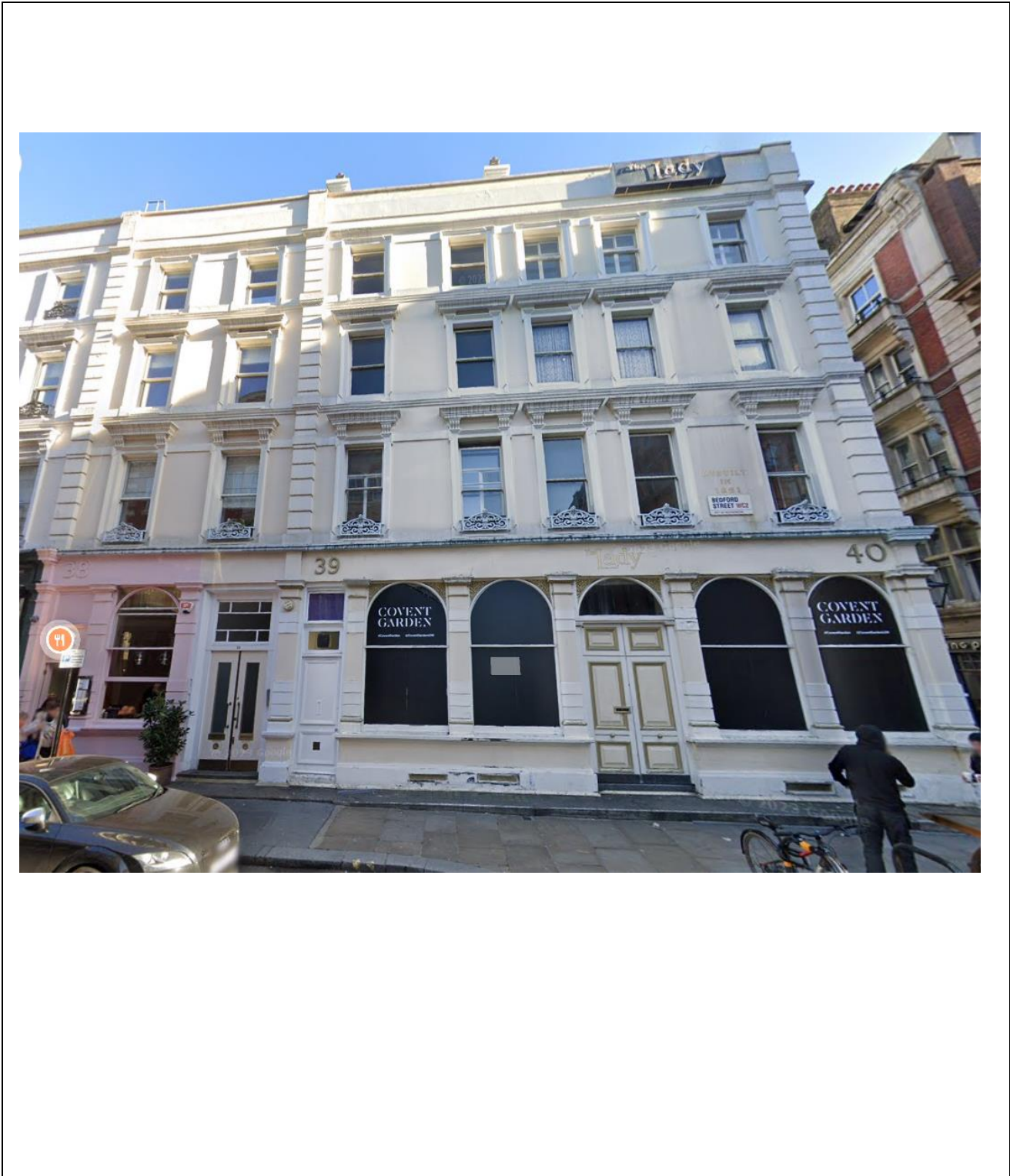
The proposal is assessed against the relevant policies set out in the City Plan 2019-2040. For the reasons set out in the report, the proposed works, are unacceptable in design, heritage, townscape and highways terms. The heritage harm identified in this report is not outweighed by public benefits. The application is therefore recommended for refusal as set out in the draft decision letter appended to this report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## **5. CONSULTATIONS**

### **5.1 Application Consultations**

WARD COUNCILLORS FOR ST JAMES'S, COUNCILLORS HYAMS AND SHEARER:  
Request that the application is reported to Sub-Committee for decision.

COVENT GARDEN AREA TRUST:

Object. Lowering of the ground floor window cills would disrupt the scale and proportions of the building's elevations and create a sense of disunity between it and No. 38 which forms part of the same building. Concerned that the proposed new lantern lights should conform to the Covent Garden Lantern Design. The façade illumination would be inappropriate and create light pollution.

COVENT GARDEN COMMUNITY ASSOCIATION:

Any comments received to be reported verbally.

ENVIRONMENTAL HEALTH:

No objection subject to conditions to control noise emission levels from mechanical plant.

HIGHWAYS PLANNING:

Object. Very limited and conflicting information has been submitted regarding the 'regrading of the highway' to create a ramp which would appear to extend far beyond the site's frontage and is therefore likely to have an adverse impact on other users of the public highway.

WASTE PROJECT OFFICER:

Object. The applicant must provide permanent (for the duration of the use) not temporary waste storage as currently indicated on the submitted basement drawing.

STREET LIGHTING:

The existing 'listed cherished' wall mounted gas lantern on 26 Maiden Lane cannot be removed and must be protected during any building works. Full details of the proposed additional 'heritage type' lantern lights must be submitted for review. The swan neck signage downlighters should be aligned to minimise excessive light spill into the public domain. N.B. Originally proposed LED wall grazer uplighters have subsequently been omitted.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 28

Total No. of replies: 1

No. of objections: 0.

No. in support: 1 from The Northbank BID.

SITE NOTICE AND PRESS NOTICE:

Yes.

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

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

Engagement Method/Event/Activity	Date	Attendance	Summary of Discussions
Stakeholder meetings	3 <sup>rd</sup> May 2023	Project team met with representatives of the Covent Garden Community Association	Licensing, Kitchen extracts, Pavement reprofiling and the impact of this on railings.
Stakeholder meetings	3 <sup>rd</sup> May 2023	Project team met with the St James Ward Councillors	Change of use, Pavement reprofiling, Enhanced Street Lighting and Lowering Window Cills.
Estate wide newsletter drop	5 <sup>th</sup> May 2023	4,507 addresses	Promote existing estate wide consultation website, summarising existing consultations and encourage to sign up to mailing list.
Email to 131 email addresses who signed up to receive updates on consultations in Covent Garden			
Advertised telephone number			
A designed summary of proposal newsletter distributed to 193 addresses	5 <sup>th</sup> May 2023		Provided residents and immediate neighbours with further details about the proposals and to encourage people to get in touch or provide their feedback.
Consultation website		Viewed 278 times with 261 unique visits.	

In summary, across the range of engagement undertaken by the applicant the principal issues raised relate to the lowering of the window cills, the impact of the proposed lighting of the building façade and clarification regarding the potential future occupier of the restaurant.

## 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) (December 2023) and should be afforded full weight

in accordance with paragraph 225 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 47 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## **6.2 City Plan Partial Review**

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review includes updated policies for affordable housing, retrofitting and site allocations.

An emerging local plan is not included within the definition of “development plan” within s.38 of the Planning and Compulsory Purchase Act 2004. However, paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans according to:

1. the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
2. the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
3. the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Footnote 22 to paragraph 48 states that during the transitional period for emerging plans consistency should be tested against the version of the Framework, as applicable, as set out in Annex 1 (paragraph 230). This means that the consistency of the policies in the City Plan Partial Review must be tested for consistency for the purposes of paragraph 48(c) against the September 2023 version of the NPPF.

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it will generally attract limited if any weight at all.

## **6.3 Neighbourhood Planning**

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

## **6.4 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 (December 2023) unless stated otherwise.

**7. BACKGROUND INFORMATION**

**7.1 The Application Site**

39-40 Bedford Street is a six-storey building located on the corner of Bedford Street and Maiden Lane. Formerly the headquarters of 'The Lady' a weekly magazine publication, the basement, ground to first floors are currently vacant office space and the upper floors (second to fourth) are occupied as a single residential unit. The building is an unlisted building of merit within the Covent Garden Conservation Area. The site is also located within the Central Activities Zone and the West End Retail and Leisure Special Policy Area.

**7.2 Recent Relevant History**

Planning permission was granted on 16 January 2023 for the installation of new vents within aluminium acoustic enclosures and new walk on rooflight at first floor roof level, new sash window with ventilation grill and new door on the Maiden Lane elevation at ground floor level, and removal of first floor redundant servicing and associated works (22/07508/FULL). These works have not yet been implemented and are indicated on the submitted drawings for the planning application currently under consideration and the subject of this report.

**8. THE PROPOSAL**

Planning permission is sought for the lowering of the ground floor window cills on the Bedford Street and Maiden Lane elevations; the opening up of existing blocked up windows, a replacement door and stone steps on Maiden Lane; new ground floor façade lighting; regrading of the pavement to create level access from Bedford Street and a replacement full height extract duct at the rear.

The LED facade uplighters originally proposed to the upper floors on both street elevations have been omitted.

**9. DETAILED CONSIDERATIONS**

**9.1 Land Use**

The basement, ground and first floors have been vacant since 2019 but were previously used as offices, a use falling within Class E. The proposed works are intended to facilitate the occupation of the lower floors of the building as a restaurant or a retail shop; uses which also fall within Class E and do not therefore require planning permission from the City Council.

**9.2 Environment & Sustainability**

**Light Pollution**

Policy 39 (B) requires that developments must be designed to minimise the detrimental impact of glare and light spill on local amenity, biodiversity, highway and waterway users.



The LED uplighting of the upper floors of the building originally proposed has been omitted in order to avoid light pollution nuisance to the residential occupiers of the upper floors of the building and nearby buildings. The proposed façade lighting is now limited to three swan neck signage lamps to each street elevation and new three new heritage lanterns to the ground floor corner of the building.

The City Council's Street Lighting Consultants have advised that the swan neck signage downlighters should be positioned to avoid excessive light spill into the public domain. Had the application being considered acceptable in all other respects, the applicant would be advised of this by way of an informative attached to the decision.

### **9.3 Biodiversity & Greening**

Not applicable for this proposal.

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

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

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

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

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, 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.

Also of consideration are policies with Westminster's City Plan 2019-2040 (April 2021).

Policy 38 Design Principles (A) states that new development will incorporate exemplary standards of high quality, sustainable and inclusive urban design....(B) respond to Westminster's context by positively contribution to Westminster's townscape and streetscape.

Policy 39 Westminster's Heritage (K) Conservation Areas, states that development will preserve or enhance the character and appearance of Westminster's conservation areas. (L) goes on to states that there will be a presumption that unlisted buildings that make a positive contribution to a conservation area will be conserved.

Policy 40 Townscape and Architecture, states that (A) Development will 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. (D). Alterations and extensions will respect the character of the existing and adjoining buildings, avoid adverse visual and amenity impacts and will 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. Supporting text contained in Para 40.14 states that, even small-scale alterations and additions can have a cumulative impact on townscape character. The design of new doors, windows or shopfronts should be carefully considered to relate sensitively to the existing building and adjoining townscape.

### **Assessment**

There are significant design and townscape concerns with regards to the proposed fenestration alterations to all four ground floor windows along Bedford Street. The scheme seeks to drop the cills of the windows, elongating their traditional scale and proportions in order to increase the extent of glazing.

Currently the building's façade has a uniformity with 38 Bedford Street, which will be eroded by the proposals. The proposed glazing arrangement also introduces a more contemporary and uncharacteristic aesthetic which is uncomplimentary and detracts from the buildings architectural character.

These ground floor fenestration alterations to the Bedford Street frontage are contrary to Policy 38 because they are not of an adequate design quality and Policy 39, as the proposed alterations detract from the appearance of this unlisted building of merit and the character and appearance of the Covent Garden conservation area. In addition, the proposals do not conform to Policy 40 as the alterations do not relate sensitively to the existing building and adjoining townscape.

These fenestration alterations would harm the significance of this unlisted building of merit and would harm the character and appearance of the Covent Garden conservation area.

The proposed façade alterations to Maiden Lane are not opposed from a design and townscape perspective. While the alterations to this façade would also lower the cills, this façade is not seen in the context of a uniform context described above for the Bedford Street façade.

The proposed replacement duct would follow the same route as the existing duct but terminate slightly higher (1m) above roof level. There would be only limited views of the new duct from Maiden Lane and in private views from the upper floors. The proposed duct is therefore considered acceptable in design and townscape terms and had the application been considered acceptable in all other respects a condition would have been recommended requiring the duct to be coloured to match the appearance of the facing material of the rear of the building.

Overall, while some works cause no harm to heritage assets, because of the loss of the original fenestration and window proportions to the principal facade, the lowering the Bedford Street cills would cause low to moderate levels of less than substantial harm to the significance of this unlisted building of merit and the character and appearance of the

conservation area. In accordance with para 208 of the NPPF, this harm must be weight against any public benefits and this assessment is carried out below in paragraph 9.11.

## **9.5 Residential Amenity**

### **Noise & Vibration**

Policies 7 and 33 of the City Plan require developments to be neighbourly and designed to ensure that proposals will not adversely affect the local environment in terms of noise and odours.

The application is supported by a noise assessment report. The Council's Environmental Sciences Team have raised no objections to the proposed replacement duct subject to conditions controlling noise emission levels. Had the application been considered acceptable in all other respects it would have been recommended that these conditions were attached.

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

### **Re-grading the pavement**

The applicant wishes to carry out re-grading works to the public highway to enable step free access into the site. However, it has not been demonstrated that level access could not be accommodated within the building which would be the normal expectation. The applicant has provided information indicating a potential alternative internal solution which would provide level access without the re-grading of the highway, but this would limit the usability of the internal area of the unit. All internal solutions would have an impact on the usability of the space internally to some degree, but it is clear that this could be achieved and it is likely that the potential alternative internal solution they have shared with officers could be improved upon to better align with the applicant's aspirations for the internal environment of the unit.

Limited and conflicting information has been submitted to demonstrate if and how a re-grading of the public highway could be accomplished without having an adverse impact on other highway users (principally pedestrians). The information submitted is also unclear as to whether level access would in fact be achieved by the changes proposed (some of the drawings submitted indicate that after the re-grading is carried out, a step would be maintained at the entrance – defeating the stated purpose of the works). The applicant has not been able to submit additional information that satisfies the Highway Planning Manager nor was willing to amend the application so that level access is achieved within the building. Because of the existing gradients around the frontage of the building, including the significant level difference from the north of the site to the junction with Maiden Lane, the Highway Planning Manager does not consider re-grading the highway in the manner suggested by the applicant is achievable nor could it likely achieve the applicant's stated aim of level access into the building. The Council's Highways Planning Manager has therefore recommended that the application be refused on the grounds that the applicant has failed to demonstrate how the proposed re-grading of the public footway could be achieved without adversely affecting the safety and convenience of pedestrian movement on the public highway and whilst achieving level access into the building, and this is contrary to Policies 25 and 43B of the City Plan.

The Highways Planning Manager is also concerned that insufficient information has been submitted to demonstrate that the required vertical clearance depth of no less than 900mm below the footway/carriageway and horizontal extent of no more than 1.8m under the adjacent highway would be achieved.

Had the application been considered acceptable in terms of the impact on the public highway and other respects, the applicant would be required to enter into a S106 legal agreement to ensure that the cost of all the highway works including the removal and reinstatement of existing street furniture (cycle stands, wayfinding sign and traffic management sign) and the making good of the pavement are paid for by the developer.

### **Waste & Recycling Storage**

Policy 37 requires new developments to provide dedicated waste storage facilities for separate waste streams. The Council's Waste Officer has objected on the grounds that the proposed waste store in the basement is shown on the submitted drawing as temporary. Had the application been considered acceptable in all other respects a condition requiring the submission and approval of a permanent waste store would have been secured by condition.

### **Cycling & Cycle Storage**

Policy 25 of the City Plan seeks to promote and prioritise walking and cycling as a sustainable method of transport and requires provision of dedicated cycle parking. The basement plan shows that one of the vaults would be used to provide four long stay cycle storage spaces for staff, which is welcomed (particularly given the applicant is not required to provide it because use as a restaurant or retail unit does not require planning permission in this case as the unit is already within class E).

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

The development is of insufficient scale to require an employment and skills plan.

Bringing a vacant unit back into use is welcomed. Given that the floorspace remains as existing, and given the nature of the proposed uses, this will likely create a similar or moderate increase level of employment and jobs as compared to the former bank. It will also 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**

The Council's Street Lighting Consultants have advised that the existing 'listed cherished' wall mounted gas lantern on 26 Maiden Lane cannot be removed and must be protected during any building works. Full details of the proposed additional 'heritage type' wall mounted lantern lights are also required to ensure that these meet the Council's street lighting requirements and are adoptable standard. Had the application been otherwise acceptable, this would have been ensured by condition.

## **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**

Had the application been considered acceptable in all other respects and had the proposed works to the public highway also been considered acceptable, the applicant would be required to enter into a S106 legal agreement to ensure that the cost of all the highway works including the removal and reinstatement of existing street furniture (cycle stands, wayfinding sign and traffic management sign) and the making good of the pavement where the existing plinth is proposed to be removed are paid for by the developer.

### **9.11 Assessment of Planning Balance**

As set out within Section 9.4 of this report, the proposal is considered to cause less than substantial heritage harm to the unlisted building of merit and the character and appearance of the Covent Garden Conservation Area. The harm would be caused by the alterations to the Bedford Street frontage. The harm to the significance of the unlisted building merit would be a moderate level of less than substantial given the works harm the main façade of the building. The impact to the conservation area would be a low level of less than substantial harm given this building forms a relatively small part of the overall area. Section 9.6 also identifies potential harm to the highway.

Paragraph 208 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the 'public benefits' of the proposal, including optimising its optimum viable use. 'Public benefits' could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public to be genuine public benefits.

When undertaking this weighing exercise, the Sub-Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 9.4 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

The applicant argues that the works are necessary for the building to be leased as a retail/restaurant unit, however officers are not persuaded that the harmful alterations to the Bedford Street frontage are essential for the building to be a viable commercial unit, as the ground floor façade is already highly glazed, with existing views into the interior. In addition, the alterations to Maiden Lane frontage are not opposed which would themselves improve the visibility of internal parts of the unit. While creating level access into the building would be a benefit, the information submitted with the application does not demonstrate satisfactorily that the works would achieve level access and achieve it without wider harm to the highway (notwithstanding that this is the applicant's intention). Moreover, works to provide level access could be provided within the applicant's own

property without the highway impact.

Although ensuring the prompt reuse of the building would be an economic benefit, there is no evidence that a refurbished building with a less harmful set of alterations would be of little / no interest to operators within the broad E use class. There are many buildings in Westminster which do not have a highly glazed retail/restaurant façade (shopfront) yet are successfully trading.

For the reasons set out above, the application is considered unacceptable in design, heritage and townscape terms due to the harmful impact that the proposed lowering of the window sills on the Bedford Street elevation would have on the character and appearance of the unlisted building of merit and the character and appearance of the Covent Garden Conservation Area, harm which, it is considered, is not outweighed by public benefits associated with the proposed scheme.

## **10. Conclusion**

This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, and harm that would arise from the scheme. Having regard to this assessment, it has found that the proposed development is unacceptable.

Accordingly, the proposed development would fail to accord with policies 25, 38, 39, 40 and 43 would not meet the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, it is recommended that planning permission should be refused on grounds that the proposed development would harm the appearance of this unlisted building of merit and fail to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area and failed to demonstrate how the proposed re-grading of the public footway could be achieved without adversely affecting the safety and convenience of pedestrian movement on the public highway and while also providing level access into the building.

(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 <a href="mailto:jhowitt@westminster.gov.uk">jhowitt@westminster.gov.uk</a>
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11. KEY DRAWINGS

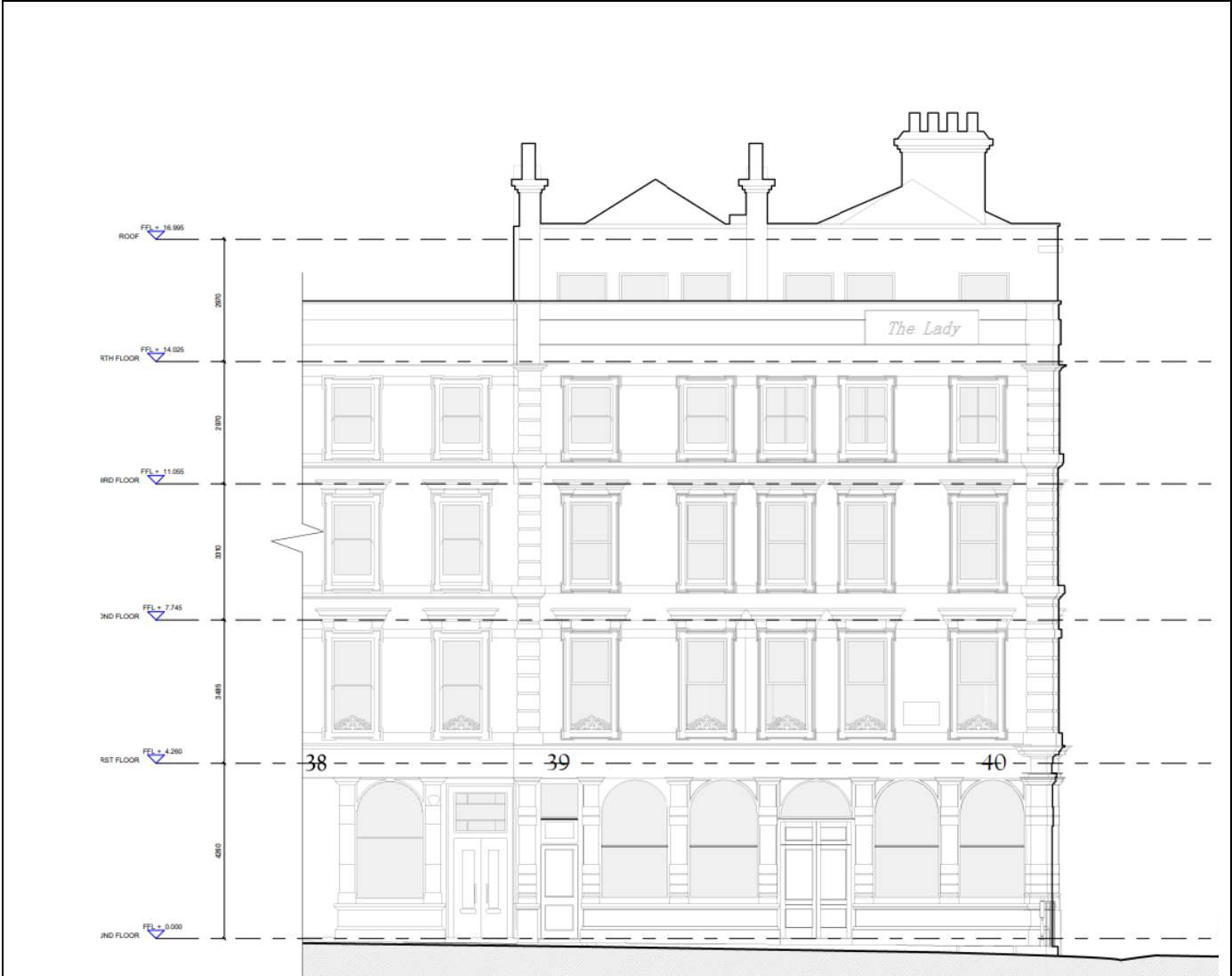


Existing



Proposed

Existing and Proposed Images of the Bedford Street Frontage



**Existing Bedford Street Elevation**





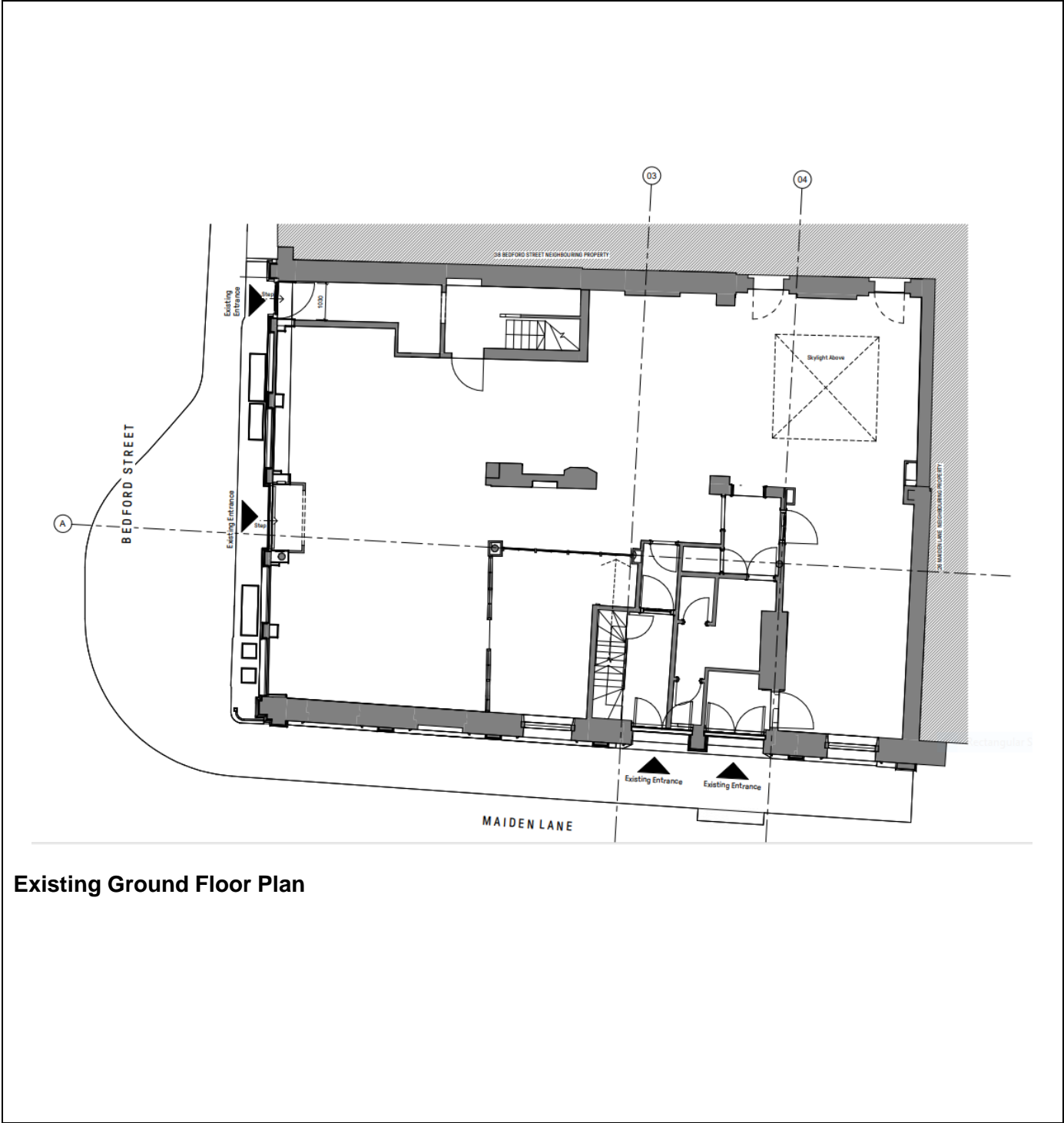
**Proposed Bedford Street Elevation**



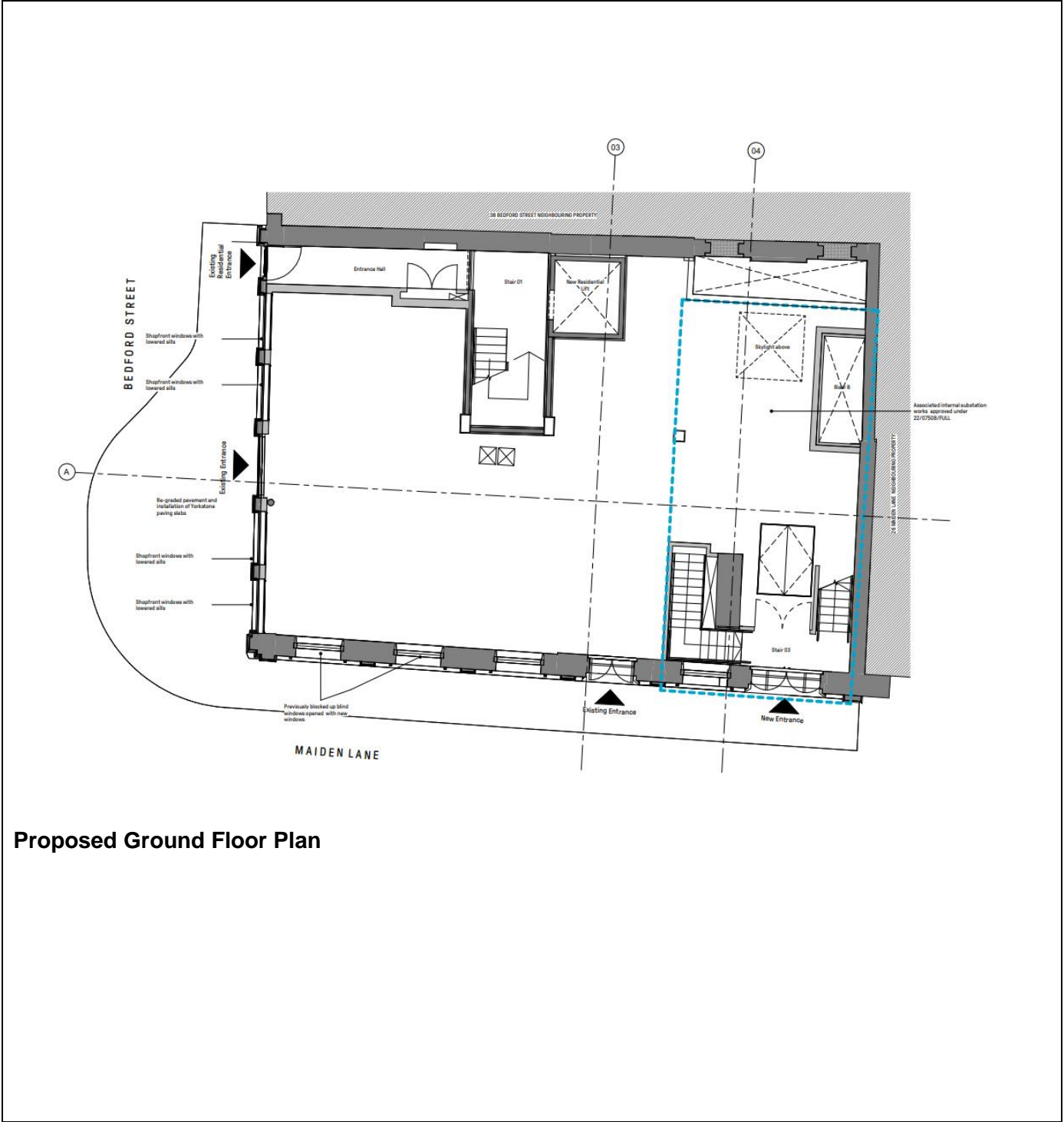
**Existing Maiden Lane Elevation**



**Proposed Maiden Lane Elevation**



Existing Ground Floor Plan



**Proposed Ground Floor Plan**

**DRAFT DECISION LETTER**

**Address:** 39 - 40 Bedford Street, London, WC2E 9ER

**Proposal:** Installation of new duct shaft and mechanical plant to rear of building; lowering of ground floor window cills on Bedford Street and Maiden Lane elevations; opening up of existing blocked up windows and replacement doors on Maiden Lane; new stone steps; new façade lighting to ground floor elevations and regrading of pavement to create level access from Bedford Street.

**Reference:** 23/06521/FULL

**Plan Nos:** PL0001 Rev. 0A, PL0002 Rev. A, CGL-Z1-B1-DR-A-PL1103 Rev. A, CGL-Z1-00-DR-A-PL1104 Rev. A, CGL-Z1-01-DR-A-PL1105 Rev. A, CGL-Z1-R1-DR-A-PL1106 Rev. A, CGL-Z1-XX-DR-A-PL1107 Rev. A, CGL-Z1-XX-DR-A-PL1108 Rev. A, CGL-Z1-XX-DR-A-PL1109 Rev. A, CGL-Z1-XX-DR-A-PL1115 Rev. B, CGL-Z1-B1-DR-A-PL1110 Rev. A, CGL-Z1-00-DR-A-PL1111 Rev. A, CGL-Z1-01-DR-A-PL1112 Rev. A, CGL-Z1-R1-DR-A-PL1113 Rev. A, CGL-Z1-XX-DR-A-PL1114 Rev. B, CGL-Z1-XX-DR-A-PL1115 Rev. B, CGL-Z1-XX-DR-A-PL1116 Rev. A, CGL-Z1-XX-DR-A-PL1117 Rev. A, CGL-Z1-XX-DR-A-SK210, CGL-Z1-00-GA-A-SK200 Rev. 01, Planning Noise Assessment (22502-R01-D) dated 26 April 2023 prepared by Sandy Brown Consultants in Acoustics, Noise and Vibration, Operational Management Statement and Planning Statement dated 19 September 2023.

For information only: Heritage Statement dated June 2023, Fire Statement Rev. 1 dated 22 May 2023, Statement of Community Involvement dated July 2023 and Sustainability Statement Issue No. 4 dated 03/05/2023.

**Case Officer:** Zulekha Hosenally

**Direct Tel. No.** 07866037615

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

Reason:

- 1 Because of the loss of the original fenestration and window proportions to the principal facade, the lowering the Bedford Street cills would harm the appearance of this building, failing to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area. This would not meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

The works are also contrary to adopted and published supplementary planning advice, namely 'Shopfronts Blinds and Signs' (City of Westminster: 1993).

Reason:

- 2 Insufficient information has been submitted to demonstrate how the proposed regrading of the public footway could be achieved without adversely affecting the safety and convenience of pedestrian movement on the public highway, nor has the submitted information demonstrated that the highway works would improve access into the building. This would not meet Policies 25, 38 and 43B of the City Plan 2019-2040 (April 2021).

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, further guidance was offered to the applicant by the case officer during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, these amendments were not made. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

## Required amendments:

- omit the lowering of the ground floor windows cills on the Bedford Street elevation.
- further consideration to provide accessible access into the building.

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

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# Agenda Item 8

Item No.
<b>8</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 30 April 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Pimlico North	
<b>Subject of Report</b>	58 - 60 Lupus Street, London, SW1V 3EE		
<b>Proposal</b>	Use of an area of the public highway measuring 11.2m x 1.93m for the placing of four tables and eight chairs in connection with ground floor retail unit.		
<b>Agent</b>	Truekiffin & Co - Mr Andrew Kiffin		
<b>On behalf of</b>	Mr Jose Cruz		
<b>Registered Number</b>	21/03747/TCH	<b>Date amended/ completed</b>	4 June 2021
<b>Date Application Received</b>	4 June 2021		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Pimlico		
<b>Neighbourhood Plan</b>	Pimlico Neighbourhood Plan		

## 1. RECOMMENDATION

Grant conditional planning permission for a temporary period of two years.
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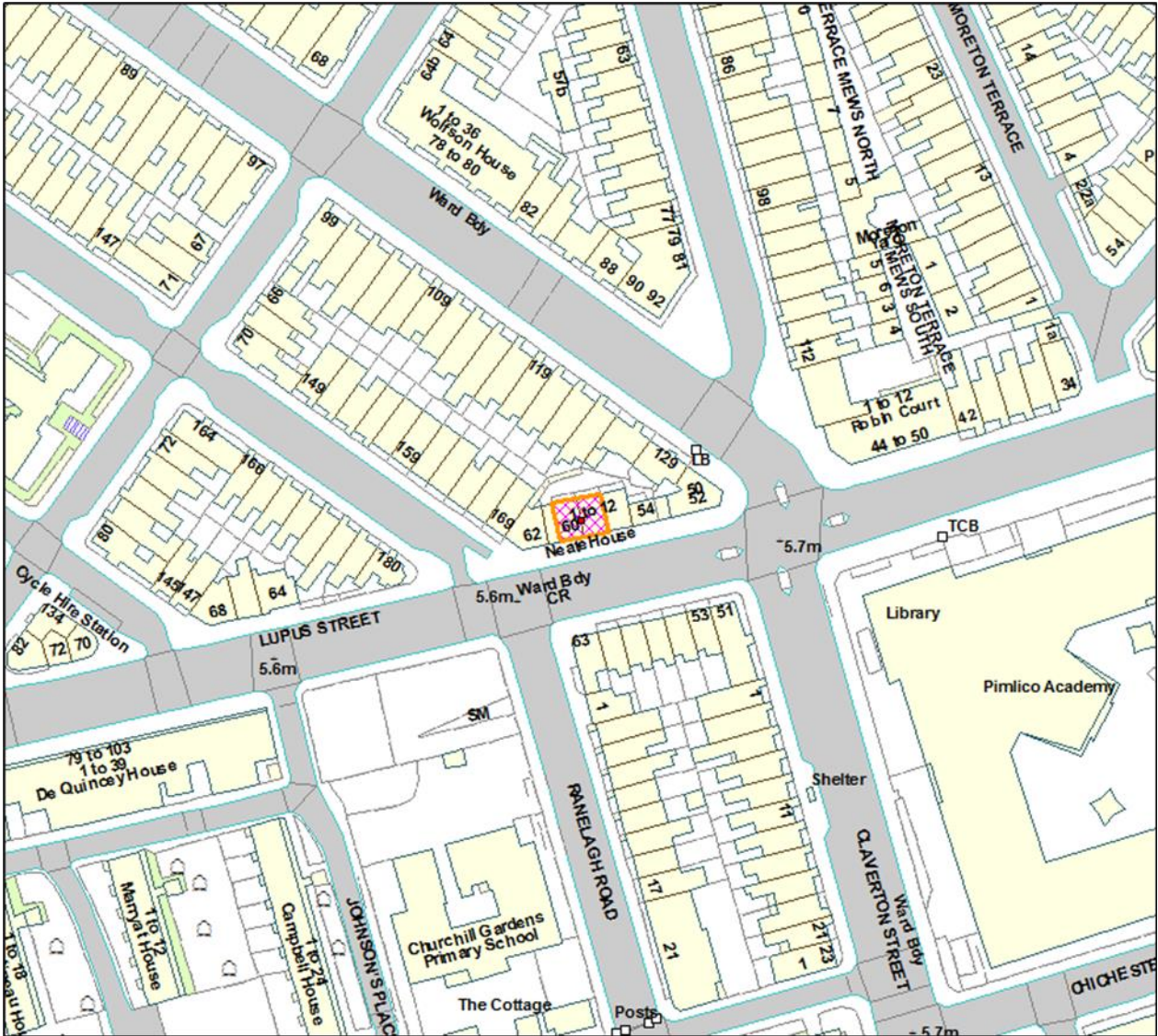
## 2. SUMMARY & KEY CONSIDERATIONS

<p>The application proposes to use an area of public highway in front of the delicatessen at 58 - 60 Lupus Street in Pimlico for the placing of four tables and eight chairs to be used by customers of the delicatessen. The application site is located in the Pimlico Conservation Area and the Lupus Street Local Centre.</p> <p>The key considerations in this case are:</p> <ul style="list-style-type: none"> <li>• The principle of tables and chairs on the highway in this location.</li> <li>• The impact of the proposed tables and chairs on the character and appearance of the Pimlico Conservation Area.</li> <li>• The impact on the amenity of neighbouring residential properties.</li> <li>• The impact on pedestrian movement along Lupus Street.</li> </ul> <p>Objections to this application have been received from numerous neighbours and the Pimlico</p>
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FREDA. The objections are principally on the grounds of the impact of the proposals on neighbouring amenities in terms of noise and the proposal's potential to cause pinch points on the footway in front of the premises.

In this report the proposal is assessed against the relevant policies in the Pimlico Neighbourhood Plan 2021-2040, the City Plan 2019-2040, London Plan 2021 and any relevant material considerations. This report concludes that the proposal, if subjected to a number of conditions (as set out in the draft decision notice at the end of this report), would be acceptable for a temporary period of up to two years.

**3. LOCATION PLAN**



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4. PHOTOGRAPHS



Front of Application Site.

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### *Initial consultation, begun in June 2021*

##### Pimlico FREDA

Objects. Plans and description are incorrect.

##### Westminster Society

Any response to be reported verbally.

##### Pimlico Neighbourhood Forum

Any response to be reported verbally.

##### Highways Planning Manager

4 large tables with 16 chairs are not acceptable in highways planning terms. 4 standard sized tables with 8 chairs, as approved by application RN 19/08975/TCH, would be acceptable.

##### Waste Project Officer

No objection.

##### Adjoining Owners/Occupiers

No. of letters sent: 40

##### Site & Press Notice

Yes.

##### Public Representations

No. of representations received: 7

No. of objections: 6

No. in support: 0

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

##### Residential amenity:

- Noise nuisance.
- Smoke/odours.
- Litter.

##### Highways:

- Obstruction/pinch point on pavement.

##### Other:

- Inaccurate plans and description.

#### *Consultation on revised plans, begun March 2022*

##### Ward Councillors for Warwick and Tachbrook Wards

Any response to be reported verbally.

Pimlico FREDA

Objection. Proposals would adversely impact character and appearance of Pimlico Conservation Area, encourage loitering and “overspill”, encroach on to public highway and contribute towards street clutter, contrary to policy. In particular, the proposed barriers and parasols should not be permitted.

Westminster Society

Any response to be reported verbally.

Pimlico Neighbourhood Forum

Any response to be reported verbally.

Highways Planning Manager

Proposed layout of tables and chairs is acceptable, subject to conditions. Proposed umbrellas overhanging the footway is not acceptable, smaller umbrellas should be used.

Waste Project Officer

No objection.

Adjoining Owners/Occupiers

No. of letters sent: 43

Public Representations

No. of representations received: 7

No. of objections: 7

No. in support: 0

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

Residential amenity:

- Noise nuisance.
- Smoke.

Highways:

- Obstruction/pinch point on pavement.

Other:

- Applicant’s non-compliance with previous planning permission or licenses for tables and chairs at this site.
- 2023 application for premises license does not match proposed layout of tables and chairs.

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

The applicant did not engage with neighbouring residential occupiers or other members of the community that might be affected by the proposals before making this application. The Council’s Early Community Engagement Guidance encourages developers to

engage with local stakeholders and communities where their proposals will have significant impacts. It is, therefore, disappointing that the applicant did not carry out early community engagement, however not doing so was not contrary to the guidance for development of this scale. The planning application must be considered on its merits.

## **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 City Plan Partial Review**

The council published its draft City Plan Partial Review for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 on 14 March 2024. The consultation continues until 25 April 2024. The Partial Review includes updated policies for affordable housing, retrofitting and site allocations.

An emerging local plan is not included within the definition of “development plan” within s.38 of the Planning and Compulsory Purchase Act 2004. However, paragraph 48 of the NPPF provides that a local authority may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Footnote 22 to paragraph 48 states that during the transitional period for emerging plans consistency should be tested against the version of the Framework, as applicable, as set out in Annex 1 (paragraph 230). This means that the consistency of the policies in the City Plan Partial Review must be tested for consistency for the purposes of paragraph 48(c) against the September 2023 version of the NPPF.

Accordingly, at the current time, as the Partial Review of the City Plan remains at a pre-submission stage, the policies within it will generally attract limited if any weight at all.

### **6.3 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.

### **6.4 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 is an area of public highway in front of 58 - 60 Lupus Street, which is a ground and basement level commercial unit used as a delicatessen (Class E), trading as 'Delicias Pimlico'. It is located on the north side of Lupus Street and within a building known as Neate House, which occupies the land between Cambridge Street and St George's Drive and comprises commercial units on the ground and basement levels, with three upper floors comprising residential units. The site is a part of the Lupus Street Local Centre and is within the Central Activities Zone (CAZ). The site is located in the Pimlico Conservation Area and Neate House is an unlisted building of merit.

### **7.2 Recent Relevant History**

#### Planning Applications

On 31 August 2023, the City Council granted permission for the installation of extract fan with associated acoustic enclosure to rear at lower ground floor level.

On 31 August 2023, the City Council granted permission for the installation of two air conditioning units and associated acoustic enclosures to rear at lower ground floor level.

On 17 August 2021, the City Council refused permission for the erection of two canopies



above the front windows of the shop on the grounds they would harm the appearance of the building and Pimlico Conservation Area.

On 29 May 2020, the City Council granted permission for the use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit for a temporary 1 year period expiring 1 June 2021.

### Enforcement

There are two currently pending enforcement investigations at the property, one relating to the unauthorised use of the highway for the placing of tables and chairs and one relating to a kitchen extract to the rear of the building.

Since 2019, nine other enforcement investigations have been opened but subsequently closed.

## **8. THE PROPOSAL**

This application seeks planning permission for the use of an area of the public highway in front of 58 - 60 Lupus Street, measuring 11.2m X 1.93m, for the placing of four tables and eight chairs to be used in connection with the delicatessen at 58 - 60 Lupus Street.

The proposal originally included parasols and barriers enclosing the tables and chairs, but these have been removed from the proposal by the applicant.

It is acknowledged that the applicant has placed up to four tables and 16 chairs on the site in breach of planning control, but this arrangement is not what the applicant is seeking approval under this application.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

Policy 14 of the City Plan sets out the approach to be taken for development in town centres and high streets. At Part A, Policy 14 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, it requires development within the town centre hierarchy to be of a scale, type and format that reflects and enhances the role and function of the centre within which it is proposed. In Local Centres, such as Lupus Street, this means a mix of commercial and community uses to meet residents' day to day shopping needs, provide local employment opportunities and support opportunities for community interaction.

Policy 43 of the City Plan requires development to contribute to a well-designed, clutter-free public realm with use of high quality and durable materials capable of easy maintenance and cleaning, and the integration of high-quality soft landscaping as part of the streetscape design. It also sets out that proposals for trading from premises extending into the street (including provision of tables and chairs on the highway) will be supported where they would not: 1. harm local amenity; 2. compromise pedestrian movement or traffic conditions; and, 3. impede refuse storage and street cleansing arrangements.

Policy PIM 1 of the Pimlico Neighbourhood Plan sets out that the Local Centres, including Lupus Street, 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. It also sets out that proposals in the Local Centres must protect and where appropriate enhance residential amenity, including neighbouring properties.

Considering the above policies, the proposed tables and chairs should be supported in land use terms unless they result in unacceptable impacts on Westminster's townscape value, pedestrian environment, or local amenities. These matters are assessed later in this report.

## **9.2 Environment & Sustainability**

This proposal, by virtue of its small scale, does not trigger any requirements in relation environmental, sustainability or biodiversity.

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

### **Legislative & Policy Context**

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

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

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 be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Policy 38 of the City Plan requires that development positively contributes to Westminster's townscape. Policy 39 of the City Plan requires that development preserve or enhances the character and appearance of Westminster's conservation areas. Policy 43 of the City Plan requires that development contributes to a well-designed clutter-free public realm.

Policy PIM 4 of the Pimlico Neighbourhood Plan requires development in the Pimlico Conservation Area to demonstrate well-detailed, high quality, sustainable and inclusive design which preserves and enhances the historic character of the conservation area.

### **Impact on Heritage Assets and Townscape**

The scale and layout of the proposed tables and chairs, along with their temporary

nature and that they will be required (by conditions on the grant of planning permission) to be taken in every evening, mean that the proposals will not cause any harm to the character and appearance of the Pimlico Conservation Area or the streetscape of Lupus Street.

Some objectors have commented that the proposed parasols will clutter the streetscape and limit the appreciation for Neate House, but these have now been removed from the proposal.

Hence, subject to conditions securing the layout and permitted hours that the items may be placed in the public highway, the proposal is considered acceptable in conservation and townscape terms and would accord with Policies 38, 39 and 43 of the City Plan and PIM 4 of the Pimlico Neighbourhood Plan.

#### **9.4 Residential Amenity**

Policies 7, 33 and 43 of the City Plan seek to ensure that development in Westminster does not harm local amenities. Policy PIM 1 of the Pimlico Neighbourhood Plan has the same objective but applies only to the local centres in the Pimlico Neighbourhood Area.

The proposed use of the highway for the placing of tables and chairs could result in the potential for greater noise to be generated from social activity than if the public highway were not used for this purpose. Noise will be generated by customers using the areas for sitting and when staff put out and take in the items each day. The applicant has applied to extend the hours by one or two hours each day compared to what they were permitted in 2020 under planning permission RN 19/08973/TCH, which permitted placing the items on the highway between 9 a.m. and 6 p.m. every day. Given the proximity of the flats above in Neate House, it is considered necessary in the interests of neighbouring residential amenity that these hours are not extended beyond what was previously authorised. Hence, a condition is recommended to be attached to the planning permission securing that the highway is only used for sitting out between 9 a.m. and 6 p.m. each day.

Given the number of tables and chairs proposed, the hours they will be permitted to be out on the pavement and their proposed location on Lupus Street - a busy road in the Local Centre - it is considered that the noise resulting from these tables and chairs will not unacceptably affect the amenities of nearby residential occupiers.

Some objectors have raised objection to possible smoke from customers using the tables and chairs rising into the flats in Neate House. The behaviour of customers on the street is outside of planning control. Nevertheless, the effects of occasional customers smoking while using these tables and chairs is not considered to be so harmful to the amenities of the residents in Neate House as to be unacceptable.

#### **9.5 Transportation, Accessibility & Servicing**

Policy 25 of the City Plan sets out that development must prioritise and improve the pedestrian environment and contribute towards achieving a first-class public realm.

Policy 28 of the City Plan sets out that, given the increasing demands on existing highway space, the council will resist loss of highway land, particularly footways.

As mentioned previously, Policy 43 of the City Plan resists development for trading from premises into the street where they compromise pedestrian movement or impede refuse storage and street cleansing arrangements.

Policy PIM 18 of the Pimlico Neighbourhood Plan seeks for development to enhance the public realm, particularly where this rebalances space in favour of pedestrians. In particular, proposals should take opportunities to reduce street clutter created by physical infrastructure.

The Highways Planning Manager does not object to the revised proposed arrangement for four tables and eight chairs, as it would maintain a minimum pedestrian clearway on the pavement of 2 metres.

The Highways Planning Manager did raise concern with the proposed parasols potentially being unstable and overhanging the footway, but the parasols have now been removed from the proposal.

As this permission affects the use of the public highway and they City Council, as Local Highway Authority, has a duty assert and protect the rights of the public to the use and enjoyment of the highway and also it is considered necessary to continually assess the effects of tables and chairs, the permission can only be for a temporary period. As the previous planning permission (RN 19/08973/TCH) was authorised for only one year and the tables and chairs have continued to be placed on the site unlawfully since that permission expired in 2021, it is considered that two years is an appropriate period to authorise these tables and chairs for in order to assess their effect and allow for any enforcement action to be taken against any possible non-compliance with this permission.

For these reasons, and subject to conditions, the proposal is considered acceptable in highways terms.

## **9.6 Economy including Employment & Skills**

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy by adding to the vitality and vibrancy of the Lupus Street Local Centre.

## **9.7 Environmental Impact Assessment**

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

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

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

### **9.9 Other Matters**

Licensing application RN 23/08600/LIPV for variation of the delicatessen's premises license was determined at a meeting of the Council's Licensing Sub Committee No. 1 on 6 March 2024. At this meeting it was decided that the license will require that tables and chairs must be removed from outside the premises by 18:00 each day. This is accords with the limitations proposed to be put on the planning permission for the tables and chairs. The license does not allow for any consumption of alcohol at the tables and chairs seeking planning permission here.

### **10. Conclusion**

This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy. Having regard to this assessment, it has found that the proposed development is acceptable for a temporary period of two years.

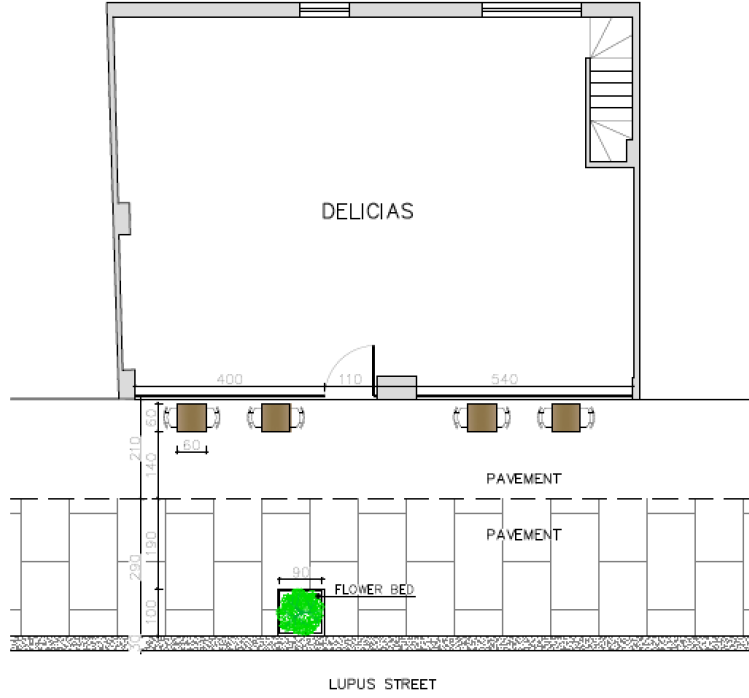
Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the Pimlico Neighbourhood Plan 2021-2040, the City Plan 2019-2040 and London Plan 2021. It is recommended that planning permission is granted, subject the conditions listed at the end of this report, which are necessary to make the development acceptable.

(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 <a href="mailto:jhowitt@westminster.gov.uk">jhowitt@westminster.gov.uk</a>
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11. KEY DRAWINGS





**Proposed Tables & Chairs Layout**

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## DRAFT DECISION LETTER

**Address:** 58 - 60 Lupus Street, London, SW1V 3EE,

**Proposal:** Use of an area of the public highway measuring 11.2 m x 1.93 m for the placing of four tables and eight chairs in connection with ground floor retail unit.

**Reference:** 21/03747/TCH

**Plan Nos:** P'S'01 Rev. A; P'x'01 Rev. A; Proposed Tables and Chairs Layout (received 1 December 2023).

**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 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on the Proposed Tables and Chairs Layout (received 1 December 2023). (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 09:00 and 18:00. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022).

- 4 The tables and chairs must only be used by customers of ground floor shop at 58 -60 Lupus Street. (C25CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)



- 5 This use of the pavement may continue until 30 April 2026. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission. (R25DD)

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on Proposed Tables and Chairs Layout (received 1 December 2023). No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved. (C25EA)

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable, and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the Pimlico Conservation Area. This is as set out in Policies 39 and 43 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022).

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: [www.westminster.gov.uk/tables-and-chairs-licence](http://www.westminster.gov.uk/tables-and-chairs-licence).

If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to [streettradinglicensing@westminster.gov.uk](mailto:streettradinglicensing@westminster.gov.uk). If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply

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again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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.