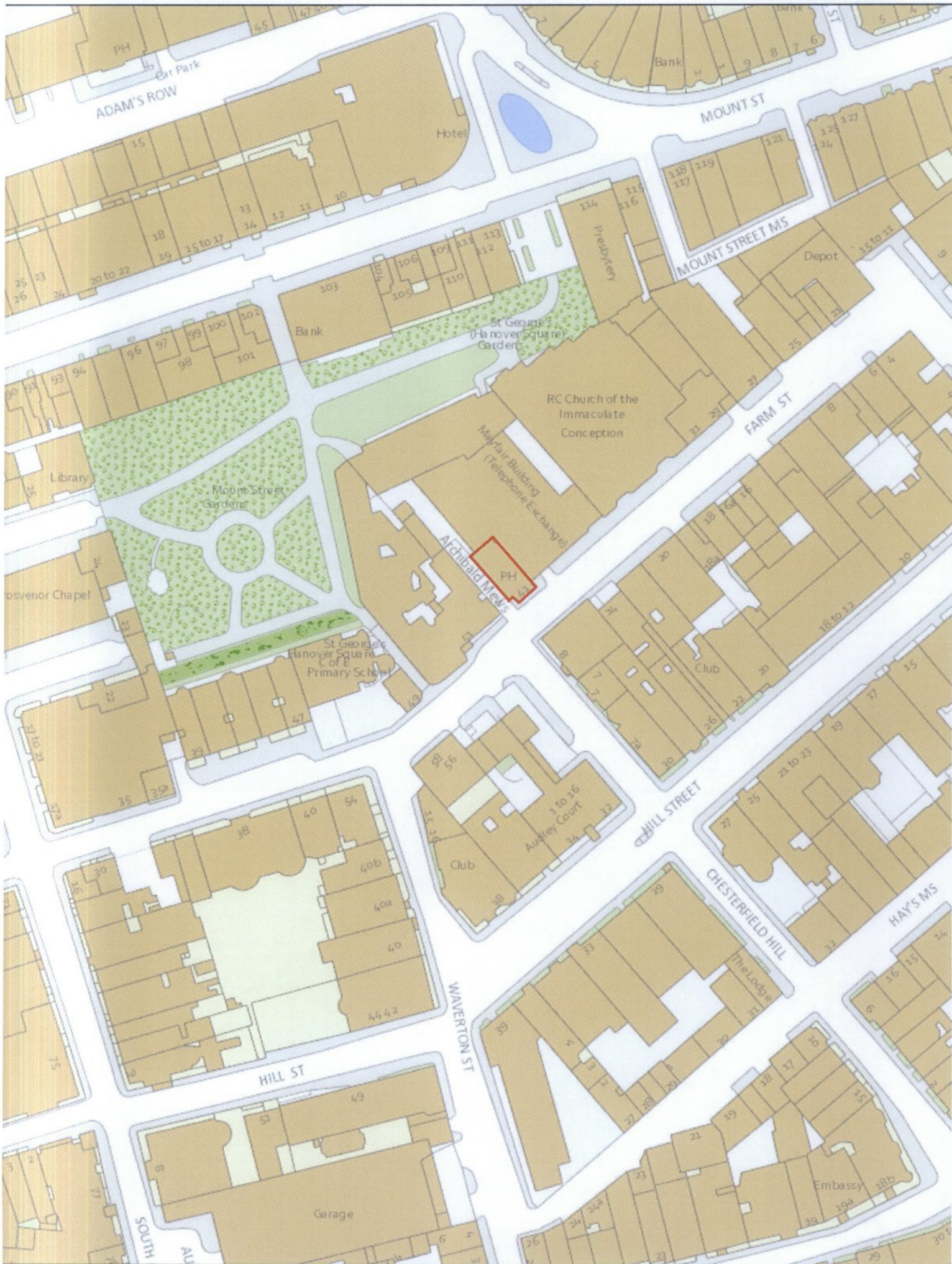


<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 27 October 2015	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Wards involved</b> West End	
<b>Subject of Report</b>	<b>41 Farm Street, London, W1J 5RP</b>		
<b>Proposal</b>	Retention and relocation of plant and installation of associated acoustic enclosures on the rear second floor level		
<b>Agent</b>	Walsingham Planning		
<b>On behalf of</b>	Cirrus Inns Ltd		
<b>Registered Number</b>	15/01607/FULL 15/01608/LBC	<b>TP / PP No</b>	TP/2730
<b>Date of Application</b>	23.02.2015	<b>Date amended/ completed</b>	23.02.2015
<b>Category of Application</b>	Minor		
<b>Historic Building Grade</b>	Grade II Listed Building		
<b>Conservation Area</b>	Mayfair		
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone  Within Central Activities Zone		
<b>Stress Area</b>	Outside Stress Area		
<b>Current Licensing Position</b>	Not Applicable		

## 1. RECOMMENDATION

Had an appeal not been lodged against non-determination, planning permission and listed building consent would have been refused on the grounds that the proposed plant installation and associated screening would harm the appearance of this listed building and detrimentally impact upon the character and appearance of the Mayfair Conservation Area.





41 FARM STREET, W1

## 2. SUMMARY

No. 41 Farm Street is a Grade II listed public house located within the Mayfair Conservation Area and the Core Central Activities Zone. Five air conditioning units and a chiller unit have been installed unlawfully on the rear first floor flat roof. Planning permission is sought for the retention of the five air conditioning units in their current location and relocation of the chiller unit within new acoustic enclosures.

The key issues in this case are:

- The impact of the proposed works on the character and appearance of this part of the Mayfair Conservation Area.
- The impact of the plant operation upon the amenity of neighbouring residents in terms of noise disturbance.

Subject to appropriate conditions, controlling noise emissions the scheme is considered acceptable on amenity grounds. The proposal is however considered unacceptable in design terms as the screening to the plant is extremely large and bulky. It is considered that this proposal would harm the appearance of the listed building and detrimentally affect the character and appearance of the Mayfair Conservation Area. The applications are the subject of appeals for non-determination. Had the appeals not been lodged, the applications would have been recommended for refusal for the reason outlined above.

## 3. CONSULTATIONS

RESIDENTS' SOCIETY OF MAYFAIR AND ST. JAMES'S

No objection.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 69; Total No. of Replies: 5.

Five objections were received on some or all of the following grounds:

Amenity:

- Noise nuisance from the operation of the plant.
- Odour nuisance.

Other Issues:

- Works are unauthorised.
- Structural implications for the property
- Unacceptable design
- Discrepancies between the acoustic reports.
- The information provided on the drawings is inadequate.
- The installation of air conditioning is not considered necessary.

ADVERTISEMENT/SITE NOTICE: Yes

## 4. BACKGROUND INFORMATION

### 4.1 The Application Site

41 Farm Street is a Grade II listed property located within the Mayfair Conservation Area and the Core Central Activities Zone as defined by the City Plan. It stands on the north side of the street at the junction of Archibald Mews and Chesterfield Hill. A public house has been on this site since approximately 1750 and the whole of the property is still considered to be a public house (Class A4). The site is abutted to the rear by a large telephone exchange and there is a much taller block of residential flats to the west on the opposite side of Archibald Mews which overlook the property.

### 4.2 Relevant History

14/03702/FULL / 14/03703/LBC – Applications for planning permission and listed building consent for: 'Installation of plant, ductwork and extraction equipment on a flat roof at rear second floor level and associated internal alterations.' These applications were refused on the 8 August 2014 due to noise nuisance, odour nuisance and design concerns. An appeal against the refusal was dismissed on the 26 March 2015 and all three reasons for refusal were upheld.

This appeal was in relation to the proposed installation of extraction ducting and associated equipment on the rear second floor flat roof. These works are not the subject of this application which relates to the retention and relocation of existing, unlawful equipment and the installation of associated screening.

## 5. THE PROPOSAL

Permission and listed building consent is sought for the installation of plant items on the rear first floor flat roof area with associated acoustic screening. The plant comprises air conditioning units and a chiller unit to provide refrigeration.

There is on-going planning enforcement action relating to the plant which is the subject of these applications. A planning enforcement notice and a listed building enforcement notice have been issued seeking the removal of the unlawful plant and appeals have been lodged by the applicant against these notices.

Appeals have also been made against non determination of these applications for planning permission and listed building consent.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

The proposal raises no land use issues.

### 6.2 Townscape and Design

The building was listed on 15 July 1987, and dates from circa 1750. It is a small scale structure of stuccoed brickwork with a roof of slate and pantiles. The rear of the building is lower and there is evidence on the form of scarring on the walls of there having been shallow pitched roof over part of what is all now covered by a flat roof.

The application seeks approval to partially retain and partially relocate existing unlawful plant and to provide new visual and acoustic screening.

An appeal against refusal for the installation of plant, ductwork and extraction equipment on the flat roof at rear second floor level was dismissed on 26 March 2015. The Inspector advised that:

*"The proposal would replace existing equipment on the flat roof but would extend over a substantially larger footprint and spread over much of the roof. Parts would also project well above the flat roof level. Due to the parapet surrounding the roof and the taller neighbouring sections of building, the plant would not be evident in views from the front in Farm Street or from the passage way of Archibald Mews which runs alongside. However, it would be clearly seen from residential windows at a number of levels in the taller residential apartment building of 51 South Street which abuts the other side of the Mews and therefore is very close by. Although these are private views, such vistas of roofscape are a material aspect of the Conservation Area and, in this case, the roof forms part of the fabric of the listed building.*

*It might be that screening of the plant in some way could reduce its visual impact, but none is included in the current scheme. With the size, extent and appearance of the plant it would be an obtrusive and incongruous feature on the flat roof area. It would detract from the architectural quality of the building and the contribution this makes to the Conservation Area. The result would be a degree of harm to the significance of the heritage assets, albeit less than substantial. The proposal does not meet the design requirements of policies S25 of the Westminster City Plan: Strategic Policies 2013 or of policies DES 1, DES 5, DES 6, DES 9 and DES 10 of the Westminster Unitary Development Plan 2007 in terms of a respect for context."*

A key issue in the appeal scheme, and in this case, is the impact the plant will have on the special architectural interest of the building and on the character and appearance of the surrounding conservation area.

The area of the building on which the equipment is to be located is a later addition and the principle of installing equipment here is considered acceptable. However, the current proposal does not provide a suitable design for the visual screening; neither does it contain the plant within a suitable area of the roof.

The proposed plant is considered far worse in design terms than the existing arrangement. It is incongruous, creates clutter on the roof, and it is entirely alien to the architecture of the building. Furthermore, the detrimental effect of the plant is exacerbated by the proposed crude industrial screening which does absolutely nothing to ameliorating its visual impact.

The plant should be contained in one area to the rear of the roof with appropriate screening to ensure its visual impact is minimized and acceptable. If this is not possible, then the amount of plant should be reduced until it can be suitably screened.

For the reasons set out above, the proposal is contrary to UDP policy DES 6 which requires the highest standard of design in roof level alterations.

The scheme would not provide a suitable design and/or location of plant, and is therefore also contrary to UDP policies DES 9 and DES 10 which require at the least that proposals maintain the character and appearance of conservation areas and the special architectural and historic interest off listed buildings.

With regard to listed buildings, the City Council's '*Repairs and Alterations to Listed Buildings*' supplementary planning guidance is also relevant and makes clear the importance of carefully locating plant and providing suitable screening. It states in paragraph 6.17 that:

*“External services or fittings will require listed building consent where they affect the character of a listed building. These include satellite dishes, burglar alarms, meter boxes, security cameras, light fittings, flues and trunking. The City Council will need to be satisfied that such additions are necessary, and have been designed and located to minimise their impact. Where such proposals are considered to harm the appearance or character of a listed building, consent will be refused.”*

In this case, in design and heritage asset term, the proposed alterations are contrary to the City Council's development plan policies and supplementary planning guidance and have no public benefits to outweigh the harm as set out in the NPPF.

### **6.3 Amenity**

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and Policy S32 of the adopted City Plan. These policies seek to protect the amenity of nearby noise sensitive properties.

There is a residential building housing a number of flats at 51 South Street, approximately 5m distant from the proposed plant across a small alley (Archibald Mews) to the west of the application site. This neighbouring property is significantly taller than the pub and a number of the residential flats have windows overlooking the flat roof area where it is proposed to install the plant. Objections have been received from occupants of these flats with regard the potential noise nuisance from the plant operation.

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

Some of the proposed plant will provide refrigeration for the restaurant unit and would need to operate on a 24 hour basis. The submitted acoustic report has therefore tested the ability of all of the proposed plant to operate within the stipulated City Council noise levels over 24 hours.

To accord with Policy ENV7 of the UDP the noise levels emitted by the plant will have to be 10dB below background noise levels at the nearest noise sensitive windows. The report identified a noise level criteria of 34dB, which is 10dB below the lowest recorded background noise level over the entire 24 hour period.

The nearest noise sensitive window was identified as being a residential window 8m distant from the air conditioning plant and 5m distant from the refrigeration plant serving a flat within 51 South Street.

In order to ensure the plant noise is compliant with the City Council criteria the Environmental Health Officer requires that acoustic screening is installed around all of the plant, as detailed within the acoustic report. With these acoustic mitigation measures in place calculations demonstrate the resultant noise level at the nearest sensitive window will be 32dB which is 2dB below the design criteria and 12dB below the lowest recorded background noise level.

Subject to appropriate conditions the Environmental Health Officer has raised no objection to the proposal. Whilst the objections with regard potential noise disturbance from the plant are noted, these objections are not considered sustainable given the conclusions of the acoustic report and the assessment by Environmental Health.

One objection refers to discrepancies between the acoustic reports submitted. It is noted that in the 'supporting information' it does say there is uncertainty as to whether the '100' or the '150' version of the refrigeration unit has been installed, but concludes there is no difference in

the noise output. The objector also noted that in the 'supporting documentation' it concludes the refrigeration unit should be located closer to the parapet wall and includes a drawing to show this location. The location of the refrigeration unit in the acoustic report accords with that shown on the submitted proposed drawings. The acoustic report also measures the distance to the nearest residential window from the chiller unit as being 5m which accords with the drawings.

It should also be noted that the plant installation will have to comply with the proposed condition ensuring the plant noise is 10dB below the background noise level. It is therefore considered that sufficient acoustic information has been provided to enable determination of the application.

An objector is concerned that some of the plant has already been installed on the roof without consent. Whilst this is regrettable, retrospective consent can be sought and is done so at the risk the City Council will refuse the application and proceed with enforcement action against the applicant.

An objector has queried the section of the acoustic report which refers to the noise attenuation provided by a standard window. However, this part of the report is an assessment of whether the plant installation complies with British Standard 8233:2014, having already determined it complies with the Westminster City Council requirements. The report concludes the installation would accord with the noise guidelines set out in the relevant British Standard.

#### **6.4 Transportation/Servicing**

Not applicable.

#### **6.5 Economic Considerations**

Any economic benefits generated by the proposals are welcomed.

#### **6.6 Access**

Not applicable.

#### **6.7 Other UDP/Westminster Policy Considerations**

An objector has commented on the potential for an increase in odour nuisance resulting from the proposal. However, this application is solely for the installation of air conditioning and refrigeration plant and there would be no odour output associated with their operation. Comments have also been made with regard the structural capacity of the roof to support the weight of the plant and equipment. This is not however considered a planning matter and the application could not be refused on these grounds.

An objection queries why air conditioning is required on a property which has been without air conditioning since the 1750's. The application could not be reasonably refused on these grounds and it is considered reasonable that a public house may want to install air conditioning to ensure the comfort of its patrons.

An objection also refers to the poor quality of the drawings and the lack of relevant annotated dimensions and a scale. However, the proposed drawing includes a scale and relevant dimensions. It is considered sufficient information has been included on the drawings to show exact what is being applied for and permission could not be withheld on the grounds of this objection.



## **6.8 London Plan**

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

## **6.9 National Policy/Guidance Considerations**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **6.10 Planning Obligations**

Not applicable.

## **6.11 Environmental Assessment including Sustainability and Biodiversity Issues**

The proposal is of an insufficient scale to require an environmental assessment.

## **7. Conclusion**

The proposed works would harm the appearance of the Grade II listed public house and detrimentally impact upon the character and appearance of the wider Mayfair Conservation Area. It is therefore recommended that had appeals not been lodged, permission and listed building consent would have been refused.

**BACKGROUND PAPERS**

1. Application form.
2. Memorandum from the Residents' Society of Mayfair and St. James's dated 16 March 2015.
3. Memorandum from Environmental Sciences dated 18 May 2015.
4. Email from the Planning Enforcement Team undated.
5. Letter from J&P Badham on behalf of occupiers of 24 Farm Street and a flat in 51 South Street dated 10 March 2015
6. Email from an occupier of a flat in 51 South Street, London dated 11 March 2015.
7. Email from Portrait Solicitors on behalf of the occupier of Flat 24, 51 South Street, London dated 19 March 2015.
8. Email from an occupier of a flat in 51 South Street, London dated 23 March 2015.
9. Email from the occupier of Flat 12a, 51 South Street, London dated 23 March 2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT MIKE WALTON ON 020 7641 2521 OR BY E-MAIL – [mwalton@westminster.gov.uk](mailto:mwalton@westminster.gov.uk)

**DRAFT DECISION LETTER**

**Address:** 41 Farm Street, London, W1J 5RP

**Proposal:** Retention and relocation of plant and installation of associated acoustic enclosures on the rear second floor level

**Plan Nos:** Site Location Plan, Acoustic Report dated 9th February 2015, Supplementary Acoustic Information dated 2nd February 2015, Drawing: 102.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

**Recommended Reason for Refusal:****Reason:**

Because of its location and detailed design the mechanical plant installation would harm the appearance of this grade II listed building. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the Mayfair Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 6, DES 9, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

**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 Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, 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, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. 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:**

The plant should be located in a more suitable location on the roof with appropriate screening.

**DRAFT DECISION LETTER**

**Address:** 41 Farm Street, London, W1J 5RP

**Proposal:** Installation of plant within associated acoustic enclosures on the rear second floor flat roof.

**Plan Nos:** Site Location Plan, Acoustic Report dated 9th February 2015, Supplementary Acoustic Information dated 2nd February 2015, Drawing: 102.

**Case Officer:** Matthew Giles **Direct Tel. No.** 020 7641 5942

**Recommended Reason for Refusal:****Reason:**

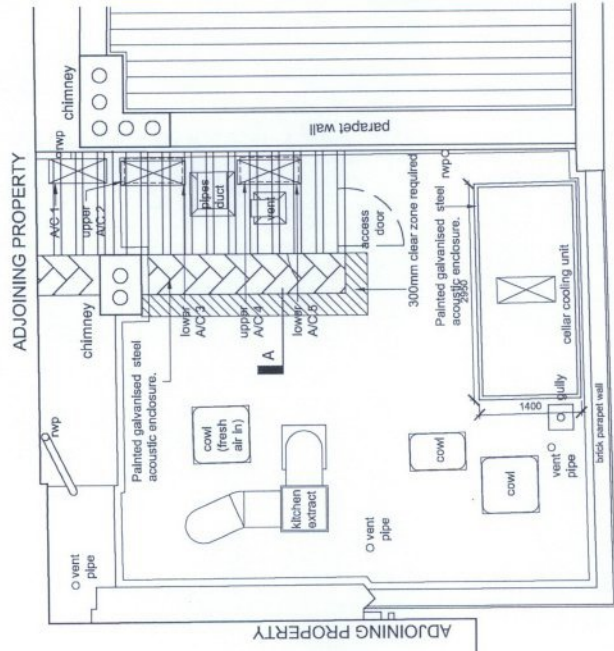
Because of its location and detailed design the mechanical plant installation would harm the appearance and special architectural interest of this grade II listed building. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the Mayfair Conservation Area. This would not meet S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

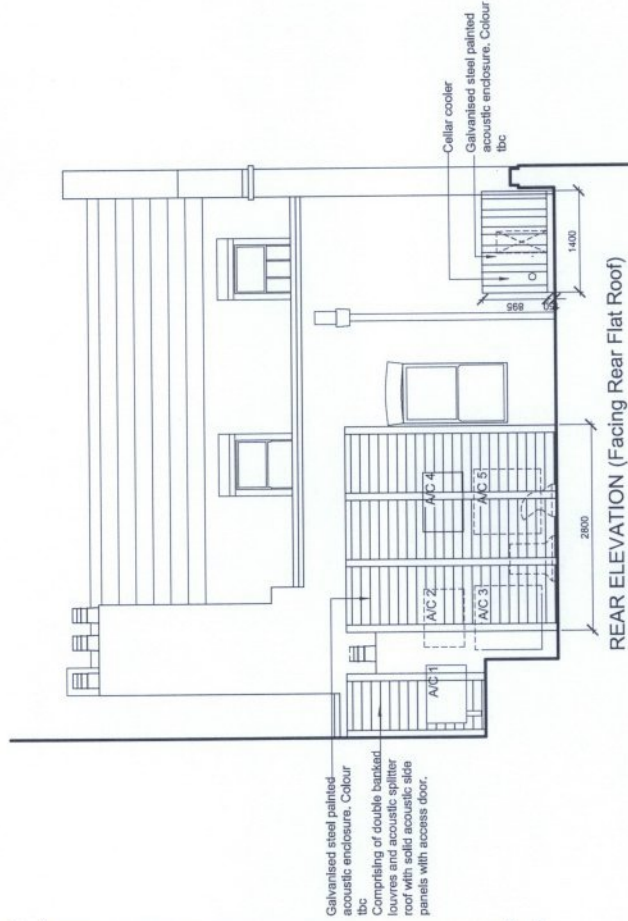
- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, 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.

You are advised that the reasons for refusal relate to the proposed installation of plant with associated screening on the rear roof of the property. A revised listed building consent application for the plant in a more suitable location with appropriate screening may be considered more favourably.

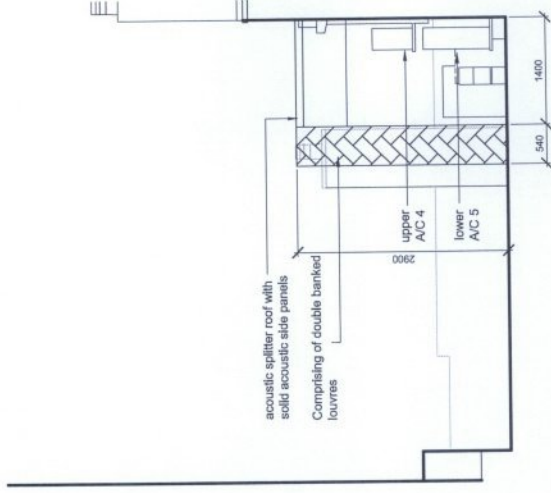
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 MITSUBISHI ELECTRIC  
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 A/C 2 - model SUZ-KA35VA4  
 A/C 3 - model SUZ-KA71VA4  
 A/C 4 - model SUZ-KA35VA4  
 A/C 5 - model SUZ-KA71VA4
- CELLAR COOLER**  
 model Hubbard Premium 100 with single evaporator



**PLAN**  
 scale 1:50 @A2



**REAR ELEVATION (Facing Rear Flat Roof)**  
 scale 1:50 @ A2



**SECTION AA (Facing side Flat Roof)**  
 scale 1:50 @ A2

**(d.m.p.)**

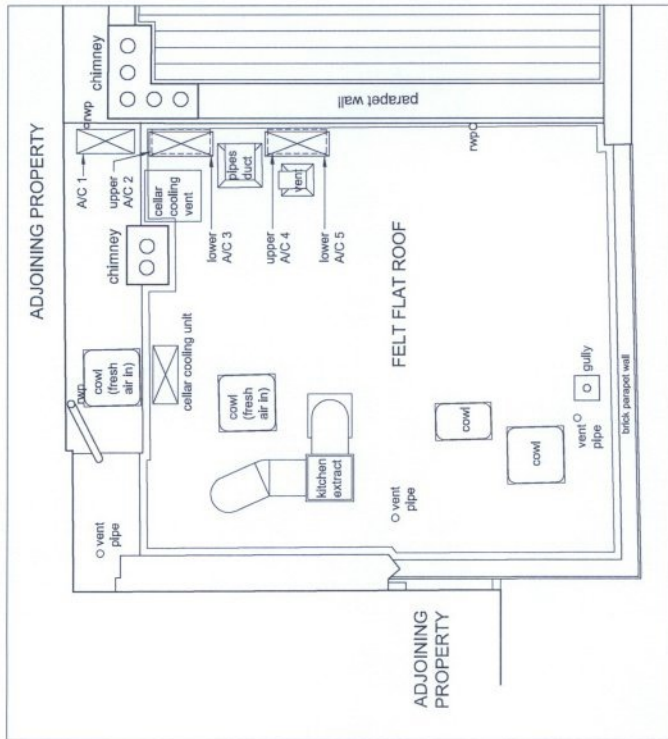
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revision: 20.01.10  
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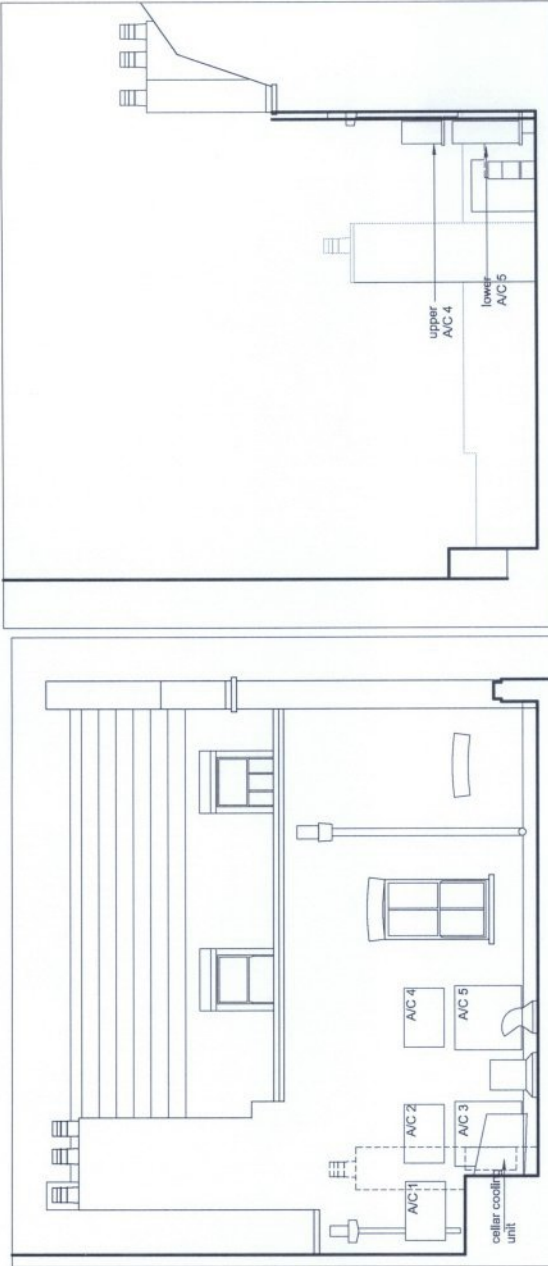
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sketch of plant on flat roof Plan & Elevation	1:50		1	02-11-14	planning	12.114	1

**102**

**AIR CONDITIONER KEY**  
 MITSUBISHI ELECTRIC  
 A/C 1 - model SUZ-KA35VA4  
 A/C 2 - model SUZ-KA35VA4  
 A/C 3 - model SUZ-KA71VA4  
 A/C 4 - model SUZ-KA35VA4  
 A/C 5 - model SUZ-KA71VA4



**PLAN**  
 scale 1:50 @A2



**REAR ELEVATION (Facing Rear Flat Roof)**  
 scale 1:50 @A2

**SIDE ELEVATION (Facing side Flat Roof)**  
 scale 1:50 @A2

	<b>design management:partnership</b> 8 Trade Street, Cardiff, CF10 5dt T +44(0)29 2064 4828 F +44(0)29 2064 4831 E mail@designmanagementpartnership.com		scale 1:50 1:50		rev A
	title Flat Roof Services Plan & Elevation		scale B A2 1:50		job no 18.114
client Punchbowl London for Citrus Inns		drawn JMC/KC		status planning	
checked ---		date 02/14		rev A	
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