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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 19 September 2017 | Classification For General Release | |
| Report of Director of Planning | | Ward(s) involved Marylebone High Street | |
| Subject of Report | Site 1: 110 Marylebone High Street, London, W1U 4RY Site 2: 100 Marylebone Lane, London, W1U 2QB | | |
| Proposal | Site 1: Alterations to all buildings including demolition of St Vincent Street buildings, the erection of a mansard roof extension to 110 Marylebone High Street, and the erection of a new building fronting St. Vincent Street comprising ground to fourth floors with new plant areas and extract ducting to the backland building. Use of the rear lower ground and part ground for restaurant (Class A3) use (accessed from St. Vincent Street), use of part lower ground and part ground as a shop (Class A1), use of part lower ground, part ground, part 1st, 2nd to 4th floor levels as office (Class B1) floorspace (accessed from St. Vincent Street) and use of part ground and part first floor levels as day nursery (Class D1) (accessed from Cramer Street). (Part of land use swap with 100 Marylebone Lane). Site 2: Use of the ground to third floors as a permanent (Class D1) educational use (Land use swap with 110 Marylebone High Street). | | |
| Agent | Howard de Walden Estate Ltd. | | |
| On behalf of | Howard de Walden Estate Ltd. | | |
| Registered Numbers | 1. 17/01347/FULL 2. 17/01868/FULL | Date amended/ completed | 9 March 2017 |
| Date Application Received | 17 February 2017 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Harley Street | | |

1. RECOMMENDATION

1. Grant conditional permission for Applications 1 and 2, subject to a S106 legal agreement to secure:
- i) A contribution of £300,000 towards the cost of public realm improvement works to St. Vincent Street (payable on commencement);
 - ii) Rescinding the temporary education use permission (ref: 16/03525) at 100 Marylebone Lane;
 - iii) All highway works immediately surrounding the site required for the development to occur, including reinstatement of redundant vehicle crossovers and associated work (legal, administrative and physical)
 - iv) Dedication of land on St Vincent Street as public highway

v) The costs of monitoring the S106 agreement.

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

(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

These proposals involve two different sites in a land use swap. 110 Marylebone High Street (site 1) lies on the west side of Marylebone High Street with frontages also onto St Vincent Street and Cramer Street. The site consists of basement, ground and four upper levels fronting on to Marylebone High Street. There is also an attached building to the rear occupying a large 'backland' site which extends to the rear and north and comprises basement, ground and first floor levels. The frontage onto St Vincent Street is set back from the street and is currently utilised as a servicing area. Site 1 is entirely in lawful educational use and was until recently occupied by Regents University.

Permission is sought for the demolition of the St Vincent Street building and erection of a new building along the St Vincent Street frontage comprising basement, ground and first to fourth floor levels bringing the building line forward to partly infill the existing recessed area. It is also proposed to extend the 'backland' building to create a new second floor level with a new mansard roof to 110 Marylebone High Street. The extended building would provide new retail and restaurant units at basement and ground floor levels, office accommodation at basement, ground and first to fourth floor levels and educational floor space at ground and first floor levels accessed off Cramer Street. Plant is proposed with associated screening as well as a new high level extract duct associated with the restaurant to terminate at main roof level.

The loss of educational floorspace at Site 1 would be re-provided at 100 Marylebone Lane (site 2) where the proposals seek the use of the ground to third floors from office accommodation to an educational use.

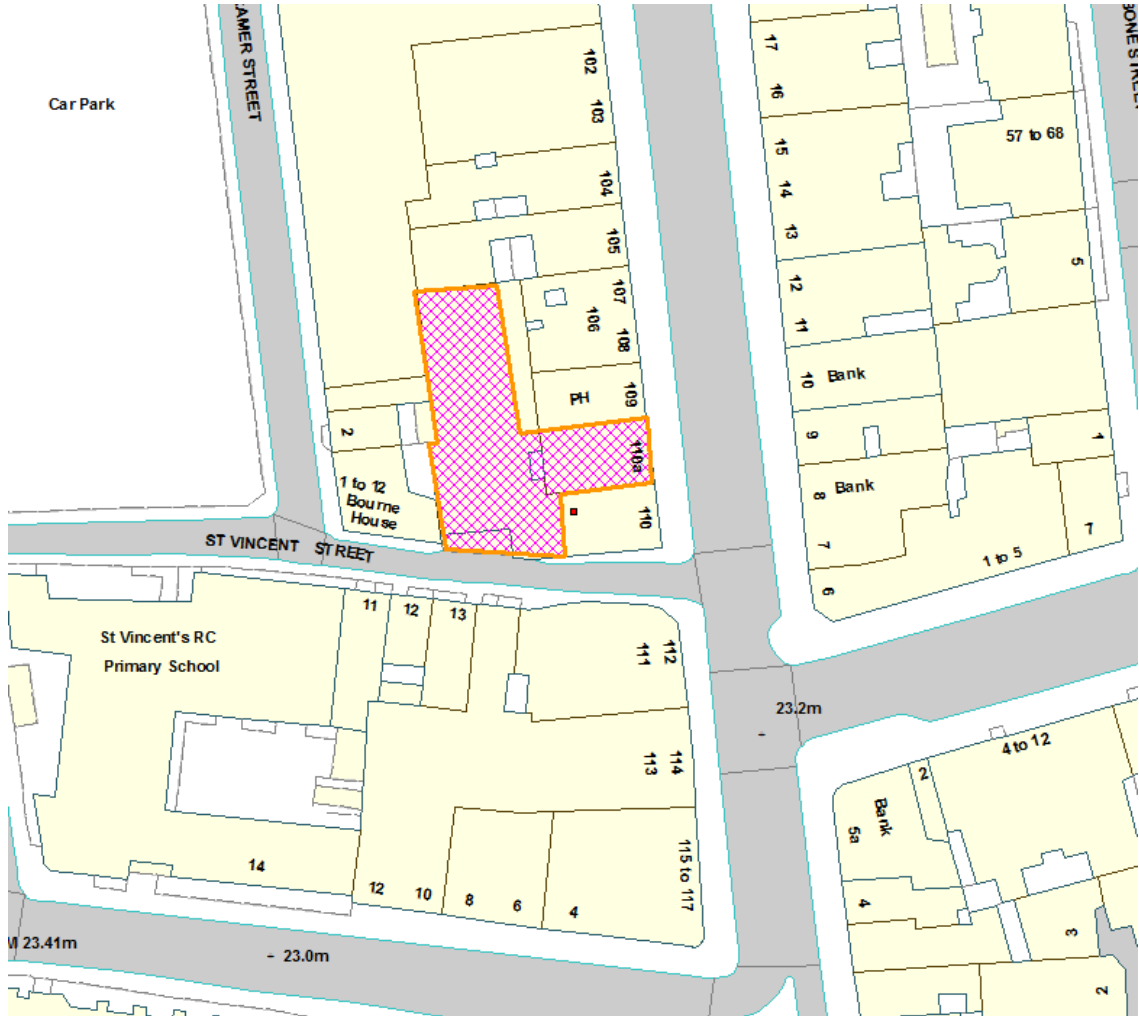
The key issues are:

- * The principle of the restaurant use at Site 1;
- * The amenity impact of the proposed extensions at Site 1 on surrounding sensitive properties;
- * The impact of the proposed alterations at Site 1 on the character and appearance of the conservation area;
- * The highways implications of bringing the building line forward at Site 1 and introducing entrances for the proposed office and restaurant units on St Vincent Street.

The proposal would result in, across both sites, an overall small loss of educational floorspace, however, this is considered acceptable taking into account the other benefits of the scheme and the very small loss involved. The proposal is otherwise considered acceptable in land use, design, highways and amenity terms and recommended for conditional approval subject to a legal agreement.

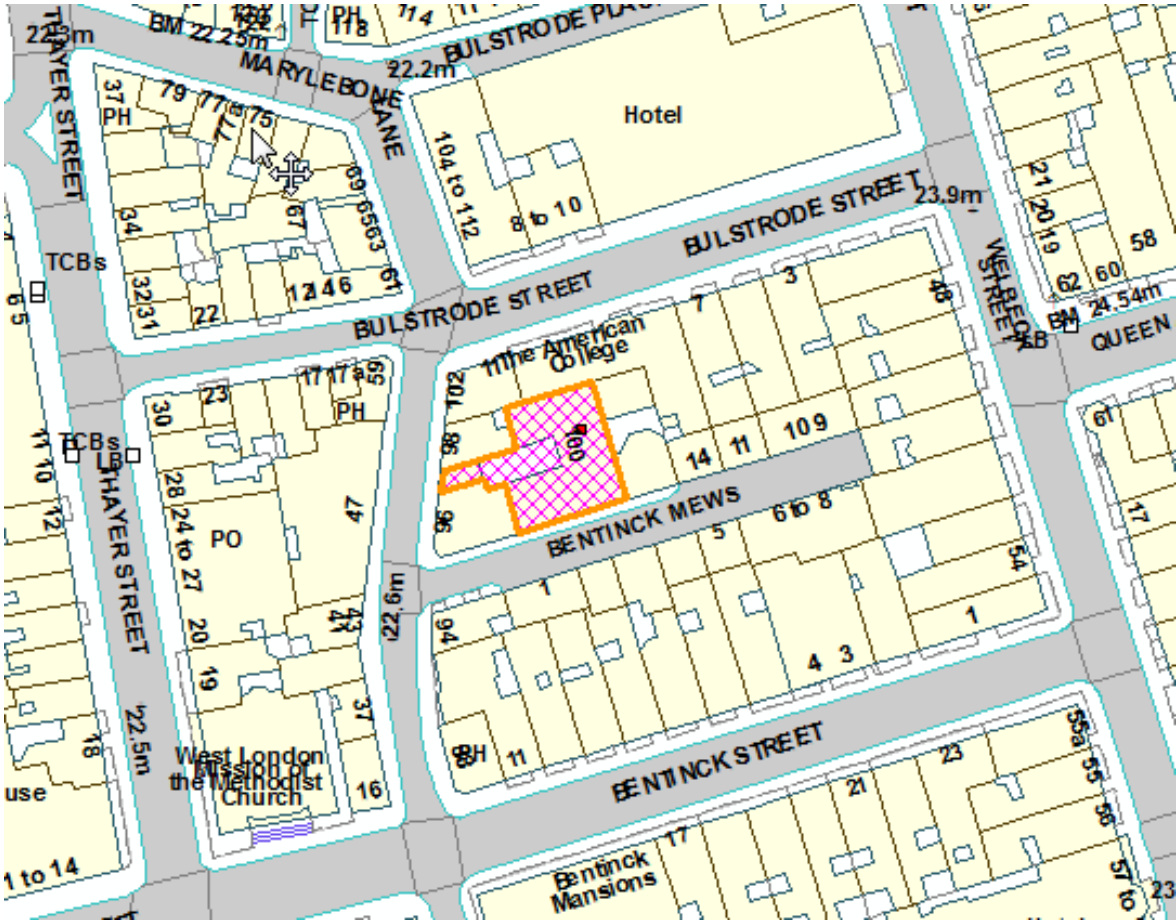
LOCATION PLAN

Site 1:



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Site 2:



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3. PHOTOGRAPHS

Site 1:



Site 2:



4. CONSULTATIONS

Site1:

MARYLEBONE ASSOCIATION

Concerns expressed in relation to the design of the St. Vincent Street façade.

HIGHWAYS PLANNING

No objection subject to reinstatement and dedication of highway to the City Council.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

CLEANSING

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 123; Total No. of replies: 2

One letter from the operator of the farmers market in Moxon Street car-park, welcoming the improvements to St. Vincent Street and requesting limited access on Sundays.

One letter of objection on the following grounds:

Amenity:

- *Loss of privacy resulting from the proposed extensions
- *Noise disruption from the restaurant patrons (especially smokers)
- *Loss of daylight and sunlight to existing residents in surrounding buildings
- *Noise impact from the plant installation.

Design:

- *The design of the St Vincent Street façade is out of character for the area and too large.

Other:

- *Noise and highways disruption resulting from the construction works

RE-CONSULTATION FOLLOWING REVISED PLANS

No. Consulted: 123; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Site 2:

MARYLEBONE ASSOCIATION

No objection.

HIGHWAYS PLANNING

No objection subject to conditions.

CLEANSING

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 34; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

5. BACKGROUND INFORMATION**5.1 The Application Sites**

Site 1 relates to 110 Marylebone High Street, an unlisted building located within the Harley Street Conservation Area outside of the Core CAZ, the building has frontages on Marylebone High Street, St Vincent Street and Cramer Street. Fronting Marylebone High Street the building comprises basement, ground and four upper floors, whilst the frontage to St Vincent Street comprises a recessed servicing entrance. There is a 'backland' building located behind the main Marylebone High Street property which runs north and comprises basement, ground and first floor levels. There is also access to the property from Cramer Street to the west of the application site but this only comprises a ground floor entrance and the floors above are outside the demise of the site. The entire property has lawful use as educational floor space and although currently vacant they were until recently occupied by the Regents University.

Site 2 relates to 100 Marylebone Lane, an unlisted building in the Harley Street Conservation Area and in the Core CAZ. The whole of the building is currently utilised as educational floor space and occupied by Wetherby Preparatory School. This application relates to the ground and first to third floors of the property which are utilised as educational floor space by virtue of a planning consent granted for the use for a temporary period. After this temporary period, the permission enables the use to revert to office accommodation. Consent is now sought for the permanent use of the premises as educational floor space.

5.2 Recent Relevant History**Site 1:**

Planning permission was granted on the 3rd February 2000 for the 'Use of second and third floors at No. 109 and basement to fourth floors at No. 110a for educational purposes.

Planning permission was granted on the 14th July 2005 for the 'removal of canopy over loading bay and conversion of area into external seating area. Removal of two rooflights and recovering of main slate roof.' This permission was not implemented.

Site 2:

Planning permission was granted on the 16th June 2016 for the, 'variation of Condition 3 and removal of Condition 6 of planning permission dated 10 March 2014 (RN:

14/00295/FULL) which in itself varied Condition 1 of planning permission dated 15 May 2003 (RN: 03/00730) for use of basement, part ground floor and first to third floors for educational purposes for a temporary period until September 2043. Namely, to allow students between the ages of 11 - 19 to attend the school (this was previously restricted to students aged 14 -19) and to allow fresh and raw food to be cooked on site (previously no primary cooking was allowed)'

Planning permission was granted on the 10th March 2014 for the, 'variation of Condition 1 of planning permission dated 15 May 2003 (RN 03/00730) for use of basement part ground floor and first to third floors for educational purposes for a temporary period of 25 years namely extension of time on the educational use until September 2043.'

Planning permission was originally granted for the educational use on the site on the 15th May 2003; 'use of basement, part ground floor and first to third floors for educational purposes for a temporary period of 25 years.'

6. THE PROPOSAL

At site 1 permission is sought for the demolition of the St Vincent Street buildings, alteration to the 'backland' building and erection of a new building along the St Vincent Street frontage comprising basement, ground and first to fourth floor levels bringing the building line forward to partly infill the existing recessed area. It is also proposed to extend the 'backland' building to create a new second floor level and erect a new mansard roof to 110 Marylebone High Street. The extended building would provide new retail and restaurant units at basement and ground floor levels, office accommodation at basement, ground and first to fourth floor levels and educational floor space at ground and first floor levels accessed off Cramer Street. Plant is proposed with associated screening as well as a new high level extract duct associated with the restaurant to terminate at main roof level.

At site 2, permission is sought for the change of use of the ground to third floors from office accommodation to an educational use. The building is already used as educational floor space which benefits from a temporary consent for educational use.

The table below shows the land use figures for both schemes:

110 Marylebone High Street:

| Use | Existing (GIA) | Proposed (GIA) | +/- difference (m2) |
|------------------|----------------|----------------|---------------------|
| Educational (D1) | 1,912 | 385 | -1,527 |
| Office (B1) | 0 | 1,632 | +1,632 |
| Retail (A1) | 0 | 245 | +245 |
| Restaurant (A3) | 0 | 328 | +328 |
| TOTAL | 1912 | 2,599 | +687 |

100 Marylebone Lane:

| Use | Existing (GIA) | Proposed (GIA) | +/- difference (m ²) |
|------------------|----------------|----------------|----------------------------------|
| Office (B1) | 1496 | 0 | -1496 |
| Educational (D1) | 0 | 1496 | +1496 |
| TOTAL | 1496 | 1496 | 0 |

Since the proposals involve a land use swap between the sites it is necessary to consider the floorspace provision on both sites as a composite package as follows:

| Use | Existing (GIA) | Proposed (GIA) | +/- difference (m ²) |
|--------------|----------------|----------------|----------------------------------|
| Office | 1496 | 1632 | +136 |
| Educational | 1912 | 1881 | -31 |
| Retail | 0 | 245 | +245 |
| Restaurant | 0 | 328 | +328 |
| TOTAL | 3,408 | 4,086 | +678 |

7. DETAILED CONSIDERATIONS

7.1 Land Use

Site 1:

Office Use

Overall the proposal results in the provision of an additional 136m² of office floor space. Whilst Policy S20 of the City Plan seeks to direct new office provision to the Core CAZ / Named Streets / Opportunity Areas / NWEDA, Policy S18 also allows commercial development including office provision within the designated Shopping Centres and Policy S8 advises that retail and other appropriate town centre uses will be directed to Marylebone High Street (with offices being detailed as an 'appropriate town centre use'). The proposal to increase the office floor space by 136m² is therefore considered acceptable in this location.

Restaurant Use

The proposal includes a new restaurant unit measuring 328m² located primarily in the basement of the property but accessed from a ground floor entrance / reception area which fronts onto St Vincent Street on the southern side of the site. The office and restaurant entrances have been relocated since the scheme was first submitted to locate the restaurant entrance closer to Marylebone High Street.

Policy S8 of the City Plan states that 'retail and other appropriate town centre uses will be directed to Marylebone High Street and the Local Shopping Centres' with restaurants being included within appropriate town centre uses. Policy S24 of the City Plan requires that, 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and

function of the area.' Given the size and location of the restaurant the proposal will also need to be considered with regard to Policy TACE9 of the UDP.

The immediate vicinity along Marylebone Road is characterised mainly by restaurant and retail units on the lower floors and office or residential uses on the upper floors. Although opposite and east along St Vincent Street the area is predominantly residential in character with the nearest residential properties to the restaurant entrance being at Bourne House and the upper floors of 111-112 Marylebone High Street, 12 and 14 St Vincent Street.

Factors that the Council will take into account when assessing new entertainment uses include the gross floorspace to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use. It is also recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers.

The restaurant proposals are speculative with no end-user identified, therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, conditions could be used to control the opening times and activity to limit the impact. These conditions would ensure that the use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) only to be used by diners before and after meals. The main entrance door would be required to be self-closing and it is noted a further set of internal doors are proposed to create an 'acoustic lobby'. These doors would be secured by condition to ensure they are retained in perpetuity in order to minimise noise outbreak from the premises.

An extract duct is provided to high level, the location has been amended during the course of the application as originally it was to terminate on the 'backland' site but it is now to terminate on the main roof level of the Marylebone High Street building above the height of all nearby residential properties. Environmental Health have confirmed this is acceptable for dispersal of cooking odours and its installation and retention is secured by condition.

The opening hours of the premises are proposed as 08:00 till 23:00 which is considered acceptable in this location. Paragraph 8.88 of the UDP states that; 'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'. The proposed opening hours are therefore in accordance with these hours.

Conditions are also proposed to ensure that there is no takeaway service (including home delivery service) from the restaurant and to restrict the number of covers to 150.

An objection has been received to the proposed restaurant use from a residential occupier within Bourne House to the east of the development site. They have expressed concerns relating to the potential for noise and disruption resulting from people entering / leaving the premises and smokers standing outside. These concerns are noted but subject to conditions restricting the capacity, hours of operation and the provision of an acoustic

lobby, it is considered noise levels can be successfully controlled so the restaurant operation will not negatively impact upon the living conditions of adjoining residents. As a final restaurant operator has not been selected it is also considered appropriate to condition the submission of an Operational Management Plan to demonstrate how the restaurant will operate to minimise noise disruption especially from smokers and from customers entering or exiting the premises. With these conditions in place it is considered that the objections raised are satisfactorily addressed.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24.

Retail Use

The provision of new retail floor space at lower ground and ground floor levels fronting Marylebone High Street measuring 245m² is welcomed and accords with Policy S21 of the City Plan and Policy S8 which states that 'retail and other appropriate town centre uses will also be directed to Marylebone High Street and the Local Shopping Centres.' The introduction of the new retail unit will help to support the vitality of Marylebone High Street and is considered a benefit of the scheme.

Educational Use/Land use swap arrangements

Policy S34 of the City Plan states that 'all social and community floor space (including educational floorspace) will be protected except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider. In all such cases the council will need to be satisfied that the overall level of social and community provision is improved and there is no demand for an alternative social and community use for that floor space. In those cases where the council accepts a loss or reduction of social and community floor space the priority replacement use will be residential.' Policies SOC1 and SOC3 of the Unitary Development Plan also afford substantial protection to social and community / educational uses.

As a standalone scheme, the proposals for site 1 would be unacceptable as it involves the loss of 1,527sqm of educational floorspace, contrary to policy S34. However City Plan policy CM47.1 allows the swapping of uses between sites and for land use packages in order to maximise the potential of individual sites within the commercial areas of Westminster's Central Activities Zone. A land use swap will be appropriate provided that the sites are in the vicinity of each other; the mixed use character of the immediate area is secured; there is no net loss of floorspace across the site taken as a whole; the uses are appropriate and there is no loss of amenity, any residential accommodation is of a higher quality and the applications are submitted at the same time and all elements are completed within a time frame agreed by the Council.

The land use swap is therefore an appropriate mechanism to secure the benefits of each proposal and to withstand the loss of educational floorspace. Both sites are within Marylebone High Street ward and owned by Howard de Walden. Whilst there would be an overall net loss of 31m² of educational floorspace across both site contrary to S34, given the very minor loss involved, and the amount of D1 space retained overall, the loss in this case is considered acceptable.

It is considered that the land use option is acceptable in this regards and accords with Policy CM47.1, S14 and S20 of the City Plan. Clauses within the legal agreement would secure the permanent provision of the educational use at 100 Marylebone Lane by rescinding the temporary permission (as after the expiry of the current temporary permission at 100 Marylebone Lane, the existing educational use can lawfully revert to office use).

The retention of the educational floor space in 110 Marylebone High Street is to provide a new nursery. This is existing educational floorspace which will be retained and accessed from Cramer Street at the rear of the site. The main entrance to the former educational use on the site was from Marylebone High Street, however the permission granted in 2000 did not prevent the former educational use from using the existing rear entrance. The nursery will provide the capacity for a maximum of 80 children and would have opening hours from 08:00 until 18:00 Monday to Friday. The capacity and proposed opening hours are considered acceptable and taking into account the close proximity of the nursery entrance to residential properties along Cramer Street, relevant conditions are imposed to ensure the nursery operates in accordance with these requirements.

It is noted that the acoustic report assesses the potential noise outbreak from the new educational use and states that new double glazing windows will be installed as part of the redevelopment of the property. It is also considered that the use of a small lightwell in association with the nursery's restricted hours of operation would not detrimentally impact upon the amenity of any nearby residents.

Site 2:

The property is currently in use entirely as educational accommodation (Class D1). Planning permission was granted for this use for a temporary period until the 30th September 2043 whereupon the use has to revert back to office accommodation. Permission is now sought to make the educational use at this site permanent, in order to off-set the loss of educational floor space resulting from the proposed works at 110 Marylebone Lane. Relevant conditions are proposed to ensure the same controls are in place on the permanent consent as were included on the current temporary consent. These relate to the age range of the children, the hours of operation and ensuring certain external doors are not used for access.

7.2 Townscape and Design

The site is made up of a group of unlisted buildings of merit on the extreme western edge of the Harley Street Conservation Area. The Harley Street Conservation Area Audit identifies the buildings as being unsuitable for a roof extension. The existing façade to St Vincent Street is recessed and set back in relation to its adjacent buildings.

The proposals are for the redevelopment of the buildings involving façade rebuilding, partial demolition, rear infill and a fourth floor extension. The proposed alterations are acceptable in height and bulk terms, having been subject to negotiation. In this case the increase in height proposed can be justified in context and would not harm the character and appearance the adjacent buildings and the wider Harley Street Conservation Area.

The main visual impact of the proposals is the new façade on St Vincent Street. This is a narrow side street which is currently temporarily pedestrianized by the deployment of bollards at the Marylebone High Street end. The narrowness of the street means that the building is only seen in oblique angles and the full façade would be nearly impossible to see. The building has been designed as a contemporary response and to align with the fenestration patterns to the adjacent Victorian red brick corner building. The currently proposed design is considered to be an improvement over the existing building. Previously the applicant proposed the use of very light grey bricks, however this material was considered inappropriate and the bricks are now changed to reference yellow London Stocks.

An objection has been received to the proposed design of the St Vincent façade that it is too 'busy' and lacks contextual reference.

In terms of materials the design will now be mainly from a contextual pallet, stone and London stock brick, this has been negotiated during the life of the application, as the applicant originally proposed a light grey brick, which was considered to jar with the existing context. The design is considered to be acceptable and to accord with the City Councils UDP DES 1, DES 5 and DES 9.

7.3 Residential Amenity

Sunlight and Daylight Overview

A daylight and sunlight report has been submitted with the application which assesses the impact of the development with regard to BRE guidelines for daylight and sunlight to existing sensitive properties. Paragraph 2.2.2 of the BRE guidelines states that they 'may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops and some offices.'

Under the BRE guidelines the level of daylight received by a property may be assessed by the Vertical Sky Component 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.

With regard to situations where the existing daylight levels are below the BRE recommendations, Policy ENV13 states that 'where principal habitable rooms such as bedsits, living rooms, studies or kitchens are affected, the City Council may find any loss of light unacceptable.' The BRE guidelines state that daylight to living rooms, kitchens, and bedrooms should be assessed but 'windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed'.

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 windows included in the assessment serve 4 to 5, 6, 7 to 8, 9, 10, 11 to 12, 13 to 15, 16 to 17, 97 to 104, 105, 106 to 108, 109, 111 & 112 Marylebone High Street, Bourne House, 2 Cramer Street, Waitrose (and properties sited above), 12, 13 & 14 St Vincent Street, and Saint Vincent RC Primary School. However, only some of these windows serve residential units, with the remaining windows being to commercial uses.

Daylight

105 Marylebone High Street

This building is utilised as residential flats on the upper floors of the building and is located to the north of the application site. Only one habitable window serving a kitchen would experience losses in excess of the BRE. The VSC reduction for this window is 31% (from 22.8% to 15.4%).

106-108 Marylebone High Street

There are residential flats on the upper floors of this property which is located to the north and east of the application site. Two kitchen windows would be adversely affected, one serving the flat at first floor level which loses 60% of its former value (from 19.7% to 7.9%) and a kitchen at second floor level which would experience a loss of 45% (from 29.9% to 16.5%). However, it is noted these are large flats with three large rooms on the front elevation overlooking Marylebone High Street which are unaffected by the proposal.

Bourne House

This building is in use entirely as residential accommodation and is situated to the south west of the application site comprising basement to third floor level. The table below details the losses to the VSC in excess of the BRE guidance:

| Window | %VSC | | |
|-------------------|----------|----------|-------|
| | Existing | Proposed | Ratio |
| Lwr Grd (kitchen) | 5.7 | 4.5 | 21% |
| Lwr Grd (kitchen) | 14.3 | 7.0 | 51% |
| Lwr Grd (bedroom) | 4.9 | 2.0 | 59% |
| Ground (kitchen) | 14.3 | 7.1 | 50% |
| First (kitchen) | 19.8 | 12.5 | 37% |
| Second (kitchen) | 24.9 | 19.5 | 22% |

There are other windows in the block which experience losses but they all serve bathrooms which the BRE guidance states need not be assessed. The residential flat at lower ground floor level is the worst affected unit in the block with large losses of light to two rooms at the rear of the property. However, existing VSC levels are low, and therefore the reductions appear as a larger percentage reduction. The survey plans provided show that this unit also has small windows to St Vincent Street and Cramer Street.

The other windows impacted all serve kitchens to flats at ground, first and second floor levels with these flats all being dual aspect with other windows fronting Cramer Street which are unaffected by the development proposal.

2 Cramer Street

This building is entirely used as residential accommodation from basement to second floor level, the basement and ground floor is used as a duplex unit with the first and second floors in use as individual flats which continue laterally into an adjoining property to the north. The affected windows are on the rear elevation of the property at basement and ground floor level with five windows experiencing losses in excess of the BRE Guidance as detailed in the table below:

| Window | %VSC | | |
|-------------------|----------|----------|-------|
| | Existing | Proposed | Ratio |
| Lwr Grd (bedroom) | 5.1 | 3.9 | 24% |
| Lwr Grd (kitchen) | 12.2 | 6.9 | 43% |
| Ground (kitchen) | 19.9 | 12.3 | 38% |
| Ground (bedroom) | 19.7 | 12.4 | 37% |
| Ground (bedroom) | 16.0 | 10.1 | 37% |

It should be noted that the flat at basement and ground floor level is dual aspect also having windows on the front elevation of the property to Cramer Street.

111-112 Marylebone High Street

This property is situated to the south of the application site on the opposite side of St Vincent Street, the ground floor of the building is in use as retail accommodation with the upper floors in use as residential accommodation, with one flat per floor with elevations to both St. Vincent Street and Marylebone High Street. The losses in excess of the BRE Guidance set out below are to main bedroom or living rooms. All other windows serving these flats retain daylight levels in accordance with BRE Guidance.

| Window | %VSC | | |
|--------------|----------|----------|-------|
| | Existing | Proposed | Ratio |
| First Floor | 9.4 | 7.1 | 24% |
| First Floor | 12.2 | 8.1 | 34% |
| Second Floor | 17.6 | 12.9 | 27% |

14 St Vincent Street

A duplex flat at first and second floor levels lies above a communal entrance at ground floor level at 14 Vincent Street. There are four windows to the flat on the front elevation with the flat also having windows on the rear elevation of the property. Both windows at first floor level serve the same bedroom and both windows at second floor level serve the same kitchen. All windows to the residential property on the front elevation experience losses in excess of the BRE guidance as detailed below:

| Window | %VSC | | |
|-------------------------------|----------|----------|-------|
| | Existing | Proposed | Ratio |
| 1 st (bedroom) | 18.7 | 9.8 | 48% |
| 1 st (bedroom) | 19.8 | 10.0 | 49% |
| 2 nd (living room) | 23.4 | 14.1 | 40% |
| 2 nd (living room) | 24.7 | 14.4 | 42% |

13 (12.5) St Vincent Street also appears to be in use as a single family dwelling, there are large losses in excess of the BRE guidance to the majority of the windows on the front elevation of the property, however, no floorplans are available of the building and it is not possible to ascertain from the street what the various rooms serve, attempts have been made to contact the occupiers but with no success. The property is dual aspect and has windows on the rear elevation of the property which are unaccepted by the proposal.

12 St. Vincent Street is in use as a single family dwelling and is situated on the southern side of the street facing the development site. The property consists of basement, ground, first and second floor levels. The window at basement level serves the kitchen / dining area and would experience a 27% loss in VSC (from 7.3% to 5.3%). However, there is another window in a door at basement level also serving this room to which the losses accord with the BRE guidance and the room is also served by a large rooflight at the rear of the property. At ground floor level the window on the front elevation serving the living room study experiences a 28% loss from 10.4% to 7.5%, however, this room is also served by a window at the rear which is unaffected by the proposal. At first floor level there are two windows on the front elevation serving a single bedroom, one of these windows experiences a 24% loss from 14.7% to 11.1%, the other window accords with the BRE guidance.

Sunlight

Two kitchen windows at ground and first floor level within 106 to 108 Marylebone High Street would experience material losses of sunlight in excess of the BRE Guidance. One window would experience a 74% loss in sunlight hours (from 19% to 5%) and the other a 50% loss (from 36% to 18%) with both windows losing all winter sunlight hours. One kitchen window at 105 Marylebone High Street would also experience a 62% loss in sunlight hours (from 49% to 11%) and would lose all winter sunlight hours. Whilst the losses to these windows are unfortunate these windows serve large flats which are dual aspect with windows to Marylebone High Street and the BRE guidance states that 'kitchens and bedrooms are less important' than the main living room when assessing sunlight losses.

Conclusions on Sunlight and Daylight

The reductions to windows that are in excess of the BRE guidance are primarily on the rear elevations of properties where they overlook the existing 'backland site' or within St Vincent Street where they are detrimentally impacted by the creation of the new taller building. St Vincent Street is very narrow and the works within the existing recessed servicing area inevitably have a large impact upon the buildings on the southern side of the street, especially 12 and 13 St. Vincent Street. However, these losses must also be balanced against the improvements the proposed scheme will have on this part of Vincent Street through the removal of the recessed area which will alleviate the current anti-social behaviour in this area. Most of the windows which fail to accord with the BRE guidance also already have low levels of light due to the dense, urban environment and therefore small reductions can appear as a larger percentage reduction. Taking this into account, and given the site's location within this urban built up location, and the levels of daylighting/sunlighting retained, it is not considered the application could be reasonably refused on the grounds of losses of daylight / sunlight to nearby sensitive properties.

Only one objection from the occupier of the top floor flat in Bourne House has been received to the application with regard loss of daylight and sunlight. The levels of daylight and sunlight retained to this flat accord with the BRE guidelines.

Sense of Enclosure

Policy ENV13 of the UDP states that the City Council will seek to ensure new developments do not result in a 'significant increase in the sense of enclosure'. The proposal includes the re-configuration of the 'backland' site to remove the existing pitched roof and replace this with a floor of additional usable accommodation. The site is surrounded by residential accommodation and due to concerns expressed during the course of the application the proposal has been revised to remove one floor level of plant and to also set back the new second floor area so it is further back from surrounding buildings. The proposed extensions to the building are now not considered to result in any adverse sense of enclosure to surrounding properties. No objections have been received to the application in relation to an increase in the sense of enclosure of neighbouring properties.

Privacy

Policies ENV13 of the UDP and S29 of the City Plan seek to protect residential amenity and ensure that new developments do not result in a 'significant increase in overlooking' to neighbouring residential or sensitive buildings. To ensure the development does not result in any increase in overlooking a condition is proposed to ensure the green roof areas at the rear of the site can only be accessed for maintenance purposes or in the case of an emergency. Certain new windows on the rear elevation of the new building have also been shown on the drawings as being obscure glazed and fixed shut in order to ensure there is no potential for overlooking of nearby residential occupiers. A condition is also proposed to ensure the windows are installed as shown and maintained in this manner in perpetuity. An objection has been received with regard to loss of privacy from a residential occupier within Bourne House to the east of the application site. With the safeguarding conditions detailed above it is not considered that the proposal would result in any loss of privacy and it is not considered that the application could be refused on these grounds.

7.4 Transportation/Parking

Site 1:

A Transport Statement (TS) produced on behalf of the applicant identifies the site as being within a highly accessible location in terms of public transport. The TS shows that the majority of trips associated with the site will be via public transport or other sustainable modes (e.g. walking, cycling) and indicates that the proposal will not have a significantly adverse effect on the safety or operation of the highway network

Site Servicing

In terms of servicing, Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that "vehicular servicing needs of developments are fully accommodated on-site and off-street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development". No off-street servicing is provided for the development, other than some deliveries for the A3 use which will take place from the basement level in the existing

private Howard de Walden owned car park on Cramer Street. The Highways Planning Manager has expressed some concern about the lack of provision of an off-site servicing bay, however, the existing building is serviced on-street and given that the site has a limited street frontage, it is not considered that an off-street servicing facility could reasonably be accommodated here.

Whilst a Servicing Management Plan (SMP) has been submitted, the Highways Planning Manager has requested the submission of a revised robust SMP to demonstrate how the proposed development would minimise the impact of the proposed development on the highway network, so as not to have a significantly detrimental impact on other highway users. The SMP should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised, in this case. This will be secured by condition.

The proposal at Site 1 seeks to retain a part of the ground and first floor levels as educational floor space for use as a nursery or pre-school facility with access from Cramer Street. The Highways Planning Manager has requested the addition of a condition to any approval requiring the submission of a Travel Plan for the new occupier in order to manage any traffic associated with the educational use and to try to encourage more sustainable methods of transportation.

Pedestrian Movement/Building Line

There is an existing recessed loading area fronting St. Vincent Street which is to be removed to provide the main entrances to the restaurant and office accommodation. The existing pavement on the northern side of St. Vincent Street is very narrow and initially the Highways Planning Manager raised concerns regarding the complete removal of the recessed area on the grounds that this would present a safety issue for pedestrians. During the course of the application the proposal has been amended to set back both the office and restaurant entrances so they are now recessed from the highway. This will provide space for pedestrians who may gather or pause before entering or after exiting each unit without being within the main carriageway on St Vincent Street. This amended design has therefore addressed previous highway safety concerns and is now considered acceptable.

Glazed folding glass doors are proposed to enclose the recessed area and to provide security during the evening and after the restaurant and office closes.

Given the revised building line, where the building line is being setback on St Vincent Street, this area of land should be dedicated as highway to ensure that this section of narrow highway is improved from the increased pedestrian activity immediately associated with the new B1 office and A3 restaurant use accesses. This will be secured by legal agreement.

It should also be noted that there is currently an Experimental Traffic Order in place to pedestrianise this section of St. Vincent Street in association with safety issues raised by St. Vincents Primary School. The Traffic Order is currently only temporary and may not be made permanent at the end of the experimental period. However, in anticipation of the Traffic Order to pedestrianise the street being made permanent the applicant is offering to fund further highway improvements to the section of St Vincent Street between Cramer

Street and Marylebone High Street. These are welcomed and will, subject to a permanent traffic order being secured, improve the general pedestrian environment here. These works are not a necessary requirement to make the scheme acceptable, but in principal are a welcomed third party funded scheme subject to detailed highway design and agreement of the Highway Authority. The applicant has offered £300,000 towards the potential future public realm improvement works in St. Vincent Street and this would be secured in the legal agreement for works in St Vincent Street if the Traffic Order is made permanent to be delivered at an agreed time scale.

Cycle parking

Appropriate levels of cycle parking are indicated within the restaurant, retail and office accommodation to accord with London Plan policy 6.9, the volume of cycle parking in the educational use appears to fall short by one cycle space. Showering and locker facilities are also provided for the larger big store associated with the office parking and these are welcomed. A condition is proposed to ensure that all the cycle parking shown on the drawings is provided and retained.

Site 2:

It is not considered that the change of the temporary nature of the educational use to a permanent use would result in any significant impact on transportation or parking requirements. The Highways Planning Manager has requested the submission of details of cycle parking and a Travel Plan but considering a school is already operating from the site and has been for a number of years conditions of this nature are not considered necessary or reasonable.

7.5 Economic Considerations

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

7.6 Access

Level access will be provided to the retail and restaurant units and to the office accommodation from street level, lifts will serve all the floors in the offices and a lift and disabled toilets are shown internally within the restaurant accommodation. A condition is proposed to ensure the disabled access provision is provided as shown on the drawings and retained in this form.

7.7 Other UDP/Westminster Policy Considerations

Plant

Plant is proposed within the first floor level on the roof of the 'backland' site and also on the main roof level of 110 Marylebone High Street.

The proposed plant installation 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.

The area has been identified in the Acoustic Report as having background noise levels which are above WHO guideline levels during the daytime and nighttime. To accord with Policy ENV7 of the UDP, the noise levels emitted by the plant will have to be 10dB below background at the nearest noise sensitive windows.

The nearest noise sensitive windows have been identified as Bourne House at a distance of 20m from the retail, office and common parts plant items and 106-108 Marylebone High Street at a distance of 8m from the restaurant, educational and kitchen extract fans.

In order to ensure the plant noise is compliant with the City Council criteria, Environmental Health require that certain mitigation measures are installed as detailed within the submitted acoustic report. This includes acoustic screening for certain units and the installation of in-line attenuators for the ducted fans. With these acoustic mitigation measures in place, Environmental Health has confirmed that the application will be compliant with the Council noise criteria and have raised no objection to the proposal. Conditions are proposed in relation to noise, vibration and the installation of the acoustic mitigation features as detailed in the acoustic report. No condition is necessary with regard the hours of operation as the plant is shown to be compliant over a 24 hour period.

Whilst an objection has been received from a resident of Bourne House concerned about the potential for noise nuisance from the plant operation the applicant has provided the relevant information to demonstrate that the plant will be compliant with the City Council standard noise criteria. With safeguarding conditions in place it is not considered the proposal could be reasonably refused on this basis.

Refuse /Recycling

Waste and recycling storage areas have been shown on the submitted drawings for Site 1 for the various uses. Whilst the storage areas are considered suitable for the restaurant, retail and educational units it is not considered the office waste storage area is large enough and the access route wouldn't provide sufficient width for the transportation of the bins. As this issue can be easily resolved through minor internal reconfiguration a condition is proposed requiring the submission of amended plans to show the provision of suitable waste and recycling storage at Site 1.

The Cleansing Manger has also requested a Condition be applied to any consent for Site 2 as no waste / recycling storage facilities were shown on the submitted drawings. It is noted that there is space within the premises for suitable provision and an appropriate condition is applied as requested.

Biodiversity

With Site 1 a large green roof area is proposed on the St. Vincent Street building. The inclusion of these green roof areas is welcomed in biodiversity terms and the provision of the green roof is secured by condition with further details requested of the species and maintenance schedule.

7.8 London Plan

This application raises no strategic issues.

7.9 National Policy/Guidance Considerations

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

7.10 Planning Obligations

The draft 'Heads' of agreement are proposed to cover the following issues:

- A voluntary contribution of £300,000 for public realm improvement works to St. Vincent Street, however, if this does not take place the money shall be spent on other public realm improvements in the Howard de Walden Estate area.
- Rescinding the temporary planning consent for the educational use at 100 Marylebone Lane.
- Highway works and dedication of land on St Vincent Street as public highway

The estimated CIL payment is £42,869 for the Mayoral CIL and £105,828 for the Westminster CIL, resulting in a total requirement of £148,697.

7.11 Other Issues

Construction impact

The Code of Construction Practice was published in July 2016 and is designed to monitor, control and manage construction impacts on construction sites throughout Westminster. It applies to all major developments from September 2016.

The publication of the Code represents a fundamental shift in the way the City Council deals with the construction impacts of developments. Before September 2016, developments of this scale used legal agreements to fund the Environmental Inspectorate (EI) and required Site Environmental Management Plans to be submitted to and approved by the City Council.

In recognition that there is a range of regulatory measures available to deal with construction impacts and that planning is the least effective and most cumbersome of these, the new approach is for a condition to be imposed requiring the applicant to provide evidence that any implementation of the scheme (by the applicant or any other party) will be bound by the Code. The applicant provided evidence that they will sign up to the Code of Construction Practice and a condition is proposed to ensure that this is the case.

The objector to the scheme has commented on the accessibility of the site for construction traffic and the disruption that this may cause to transportation in the area. As detailed above these issues will now be considered through the Code of Construction Practice and monitored by the Environmental Inspectorate to ensure compliance and that disruption during construction is minimised. The application could not be reasonably refused on these grounds.

The standard condition is proposed to restrict the hours of noisy construction work to ensure that noisy building works do not take place at the most sensitive times for nearby residential occupiers.

Construction Contract

A condition is proposed for Site 1 to ensure no works take place including works of demolition until evidence has been provided to show that the entirety of the re-development work will take place. This is to ensure that the works are completed once commenced in order to maintain the character and appearance of the Harley Street Conservation Area.

Other issues

A response has been received to the application for site 1 from the operator of the farmers market in Moxon Street. With the impending redevelopment of the Moxon Street car-park the market is to be moved into St Vincent Street. The operator has commented on any improvements to the street being welcomed and to the pedestrianisation of the street as being a positive outcome, subject to access being provided on Sundays for the farmers market. This application does not propose any works to St Vincent Street and whilst the applicant has offered £300,000 for pedestrianisation works, the acceptability of the Traffic Order is considered under separate legislation.

8. BACKGROUND PAPERS**Site 1:**

1. Application form
2. Response from Marylebone Association, dated 29 March 2017
3. Response from the Highways Planning Manager dated 30 June 2017
4. Response from Environmental Health dated 29 August 2017
5. Response from the Cleansing Manager dated 20 March 2017
6. Letter from occupier of Bourne House, St. Vincent Street, received 28 March 2017
7. Response from the representative of the Cramer Street Farmers Market, received 20 June 2017

Site 2:

1. Application form
2. Response from the Marylebone Association received 21st March 2017
3. Response from the Highways Planning Manager dated 23rd March 2017
4. Response from the Cleansing Manager dated 16th March 2017

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

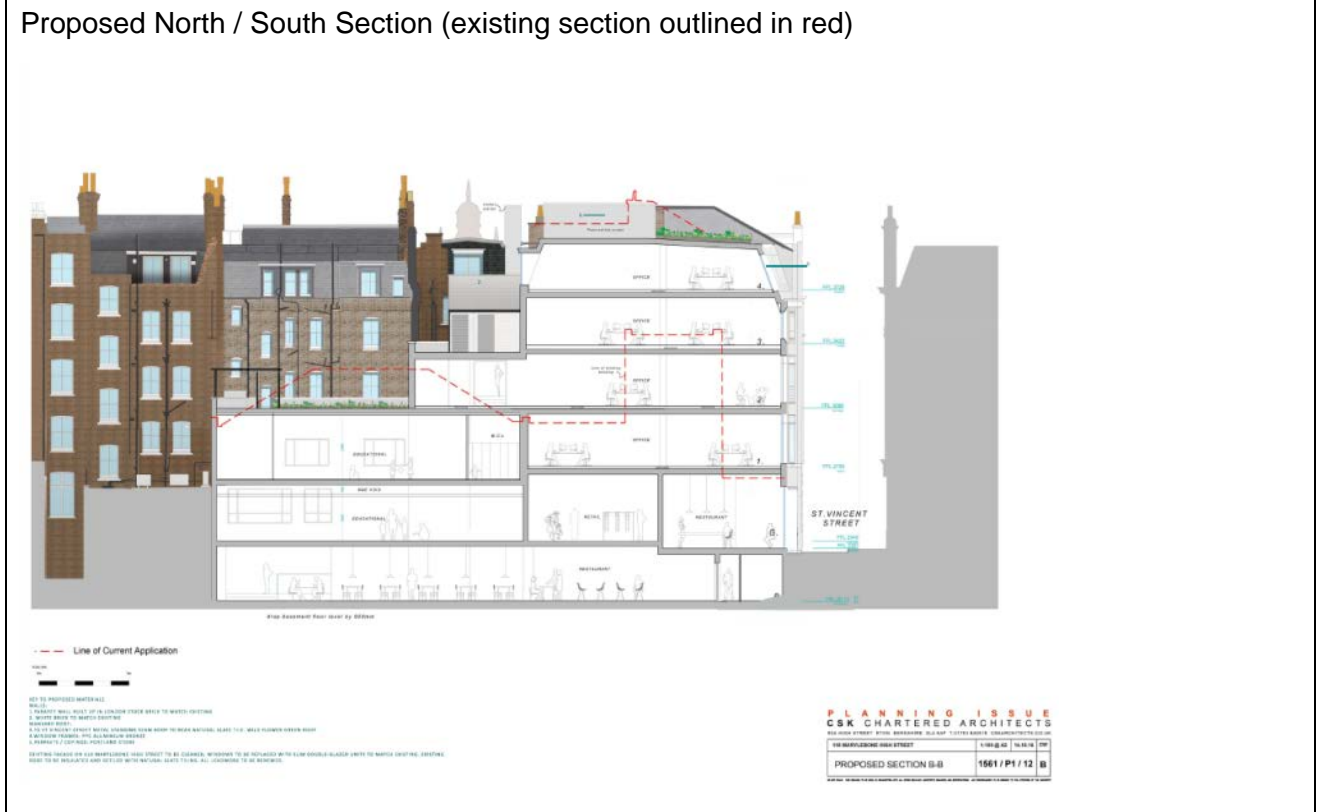
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

9. KEY DRAWINGS

Proposed St. Vincent Street elevation:



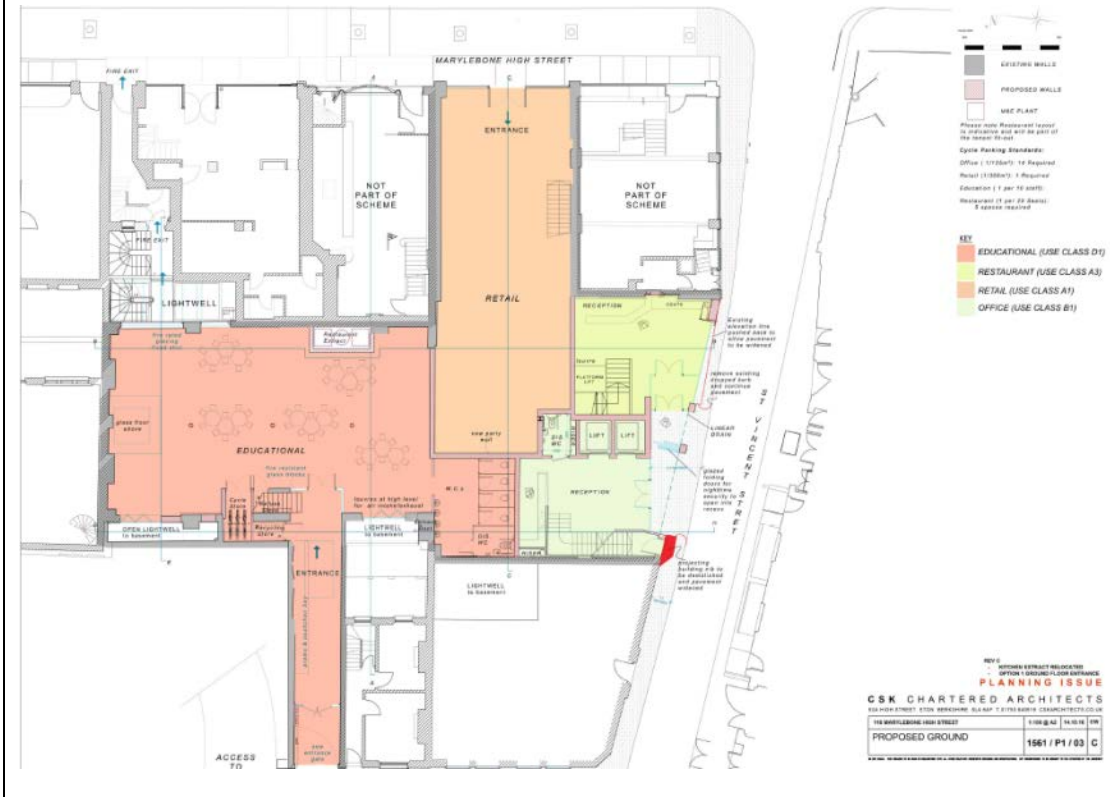
Proposed North / South Section (existing section outlined in red)



Proposed East / West Section (existing section outlined in red)



Proposed Ground Floor Plan:



DRAFT DECISION LETTER

Address: 110 Marylebone High Street, London, W1U 4RY

Proposal: Alterations to all buildings including demolition of St Vincent Street buildings, the erection of a mansard roof extension to 110 Marylebone High Street, and the erection of a new building fronting St. Vincent Street comprising ground to fourth floors with new plant areas and extract ducting to the backland building. Use of the rear lower ground and part ground for restaurant (Class A3) use (accessed from St. Vincent Street), use of part lower ground and part ground as a shop (Class A1), use of part lower ground, part ground, part 1st, 2nd to 4th floor levels as office (Class B1) floorspace (accessed from St. Vincent Street) and use of part ground and part first floor levels as day nursery (Class D1) (accessed from Cramer Street). (Part of land use swap with 100 Marylebone Lane).

Reference: 17/01347/FULL

Plan Nos: Brick Sample Document (31/08/2017) Construction Management Plan (VM025), Servicing Management Plan (M16119-02 SMP), Acoustic Assessment 23rd August 2017 (7594/PNA), Drawings: 1561/P1/02 RevA, 1561/P1/03 RevC, 1561/P1/04 RevC, 1561/P1/05 RevC, 1561/P1/06 RevC, 1561/P1/07 RevB, 1561/P1/08 RevB, 1561/P09 RevD, 1561/P1/10, 1561/P1/11 RevC, 1561/P1/12 RevB, 1561/P1/13 RevA, 1561/P1/14 RevA, 1561/P1/15 RevB, 1561/P1/16 RevA, 1561/P1/17, 1561/P19 RevA, 1561/P1/20 RevA, 1561/P1/21 RevA, 1561/P1/22, 1561/P1/23, 1561/P1/24, 1561/P1/25, 1561/P1/26, 1561/P1/27, 1561/pP1/18RevA.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

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 S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 4 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:; (a) A schedule of all plant and equipment that formed part of this application;; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;; (c) Manufacturer specifications of sound emissions in octave or third octave detail;; (d) The location of most affected noise sensitive receptor location and the most affected window of it;; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;; (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;; (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), 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.

- 5 You must install the acoustic attenuation as detailed in the submitted acoustic information at the same time as the plant is installed. This must be maintained in this form for as long as the plant remains in situ.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof area 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.

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

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

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 8 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence 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 a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 9 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either: (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or, (b) an alternative means of ensuring we

are satisfied that demolition on the site will only occur immediately prior to development of the new building. You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Harley Street Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

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

Reason:

To maintain the character of the Harley Street Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 12 You must apply to us for approval of samples and specification details 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 any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

development i) new windows and reveals, ii) new doors. You must not start work until we have approved what you have sent us. You must then carry out the work according to these approved drawings. (C26CB)

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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 15 You must not sell any hot-food take-away from the restaurant premises, nor operate a delivery service, even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 16 You must not allow more than 150 customers into the restaurant premises at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 17 The high level extract ducting shown on the approved drawings shall be fully installed before the restaurant use commences and thereafter maintained for as long as the Class A3 restaurant is in operation.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 18 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours: 08:00 till 23:00 daily.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 19 If you provide a bar and bar seating within the restaurant premises, it must not take up more than 15% of the floor area of the restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 20 You must apply to us for approval of a management plan for the approved restaurant premises to show how you will prevent customers who are leaving the premises from causing nuisance for people in the area, including people who live in nearby buildings. You must not occupy the approved restaurant use until we have approved what you have sent us. You must then carry out the measures included in the 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 S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 21 You must provide the acoustic lobby in association with the restaurant at ground floor level as shown on the approved drawings and fit self-closing doors. You must not leave these doors open except in an emergency or to carry out maintenance.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 22 You must provide the access for people with disabilities as shown on the approved drawings before you can occupy either the new restaurant unit or the office accommodation. The disabled access provision must thereafter be retained in situ.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

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

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 24 Prior to the occupation of the restaurant / office / educational and retail units, you shall submit and have approved in writing by the local planning authority detailed servicing management strategies for the individual uses to include an assessment of delivery noise combined with mechanical services, servicing hours, noise from doors and gates and activity noise from trolleys and/or human voices. All servicing shall be undertaken in accordance with the approved strategies unless otherwise agreed in writing by the local planning authority.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January

2007. (R24AC)

- 26 Access is only to be provided to the identified green roof areas for maintenance purposes. These roof areas are not to be used for any other purpose unless in the case of an emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 27 The windows shown on the approved drawings as being obscure glazed and fixed shut must be installed as shown on the drawings and retained in this manner.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 28 Before you begin to use the new nursery accommodation, you must apply to us for approval of a Travel Plan. The Travel Plan must include details of: (a) A comprehensive survey of all users of the school; (b) Details of local resident involvement in the adoption and implementation of the Travel Plan; (c) Targets set in the Plan to reduce car journeys to the school; (d) Details of how the Travel Plan will be regularly monitored and amended, if necessary, if targets identified in the Plan are not being met over a period of 5 years from the date the new school buildings are occupied. At the end of the first and third years of the life of the Travel Plan, you must apply to us for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

Reason:

In the interests of public safety, to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2, TRANS 3 and TRANS 15 of our Unitary Development Plan that we adopted in January 2007. (R45AB)

- 29 You must use the educational accommodation only as a nursery or pre-school facility. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (or any equivalent class in any order that may replace it). (C05A)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 30 Pupils are only allowed into the educational accommodation (Class D1) between 08.00 and 18.00 hours on Monday to Friday except in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 31 The nursery / pre-school facility (Class D1) hereby granted consent shall only be used to accommodate a maximum of 80 children.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 32 The folding glass doors to the recessed area on St. Vincent Street can only be fully opened between the following hours:

07:00-19:00 Monday to Friday (for the B1 entrance)

08:00-23:00 daily (for the Class A3 entrance)

Outside these times the folding glass doors should be extended across the recessed areas.

Reason:

The provision of the recessed areas outside these times may give rise to anti-social behaviour and crime, contrary to the requirements of policy S29 of Westminster's City Plan.

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 Westminster's City Plan (November 2016), 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 applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 With regard condition 29 of this planning permission: a) The D1 use will carry out regular surveys of students and staff at least every 2 years so no survey data is more than 2 years old. If the data currently submitted in the STP is more than 2 years old then a survey will be carried out within 3 months, b) The D1 use will circulate details of all proposed soft and hard measures to local residents. This information can be in the form of a circular or other suitable method, c) From the recent surveys of travel behaviour at the D1 use a set of revised targets will be produced within 3 months of the survey data., d) The D1 use will supply a detailed and up to date action plan and identify how they will deal with not achieving annual targets. This will require annual monitoring. Each Action Plan will look forward for at least 5 years.
- 3 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 4 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold

levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

- 5 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk. If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk. It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 6 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work. Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974., , 24 Hour Noise Team, Environmental Health Service, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP, Phone: 020 7641 2000, Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)
- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 8 With reference to condition 9 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.
- 9 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, perhaps by issuing regular bulletins about site progress.

- 10 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 11 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point. If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)
- 12 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 13 Conditions 4 and 5 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 14 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , www.westminster.gov.uk/cil , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form** , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to CIL@Westminster.gov.uk , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

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

Address: 100 Marylebone Lane, London, W1U 2QB,
Proposal: Use of the ground to third floors as a permanent (Class D1) educational use (part of a land use swap with 110 Marylebone High Street).
Reference: 17/01868/FULL
Plan Nos: Drawings: 002/P, 003/P, 004/P, 005/P.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

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 use the property only as a school for students within the 11-19 age range. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (or any equivalent class in any order that may replace it). (C05A)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 3 You can use the property for this purpose between 08.00 and 22.00 hours on Monday to Saturday (not bank holidays) only

Reason:

In granting this permission the City Council has had regard to the special circumstances of this case and would need to consider any other use within Class D1 in light of the relevant policies of the development plan.

- 4 No part of the third floor of the building shall be used before 08.00 or after 18.00 hours on any day.

Reason:

To safeguard the amenity of the residential occupiers of the fourth floor of the building. This is in accordance with H10, SC19 and SOC2 of our Unitary Development Plan; STRA 14, ENV6 and SOC1 of our Replacement Unitary Development Plan (Second Deposit version), and STRA 14, ENV6a and SOC1 of our Replacement Unitary Development Plan (Pre-Inquiry version)

- 5 You must keep the doors in the Bentinck Mews elevation closed. You can use them in an emergency, for deliveries or for maintenance only.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

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

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 7 Between the hours of 20.00 and 22.00 hours the use must operate as detailed in the submitted operational statement and in no other way.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

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 Westminster's City Plan (November 2016), 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 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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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.