

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bryanston And Dorset Square	
Subject of Report	170-172 Marylebone Road, London, NW1 5AR,		
Proposal	Variation of Condition 1 of the planning permission dated 20 December 2016 (RN: 16/09946/FULL) for use of basement room as retail accommodation (Class A1) with refurbishment and internal and external alterations, including new shopfronts and pumps, in connection with existing petrol station use at ground floor level. NAMELY, to amend replace a spiral staircase between the ground and basement floors of the retail unit with an L-shaped stairwell, extend the external staircase and landing between the forecourt and retail unit and introduce a night hatch in the shop front.		
Agent	Peacock and Smith Limited		
On behalf of	MRH Retail		
Registered Numbers	17/05907/FULL 17/05910/LBC	Date completed	5 July 2017
Date Applications Received	5 July 2017		
Historic Building Grade	Grade II		
Conservation Area	Dorset Square		

1. RECOMMENDATION

1. Grant conditional permission and conditional listed building consent.
2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 attached to the draft decision letter.

2. SUMMARY

This application seeks amendments to the planning permission and listed building consent granted on 20 December 2016 for alterations to the vacant petrol filling station at Dorset House. The amendments comprise the introduction of a night hatch in the shop front, extension of the approved staircase and landing between the forecourt and retail unit and the replacement of a spiral staircase between ground and basement levels within the retail unit with an L-shaped staircase.

Objections have been received from seven residents in the Dorset House strongly objecting to the

petrol filling station re-opening on the grounds of fire risk in the light of a previous fire in the building in 2012.

The key considerations are :

- The acceptability of these physical alterations on the special architectural and historic interest of this Grade II listed building and this part of the Dorset Square Conservation Area; and
- the impact of the works on the residents above.

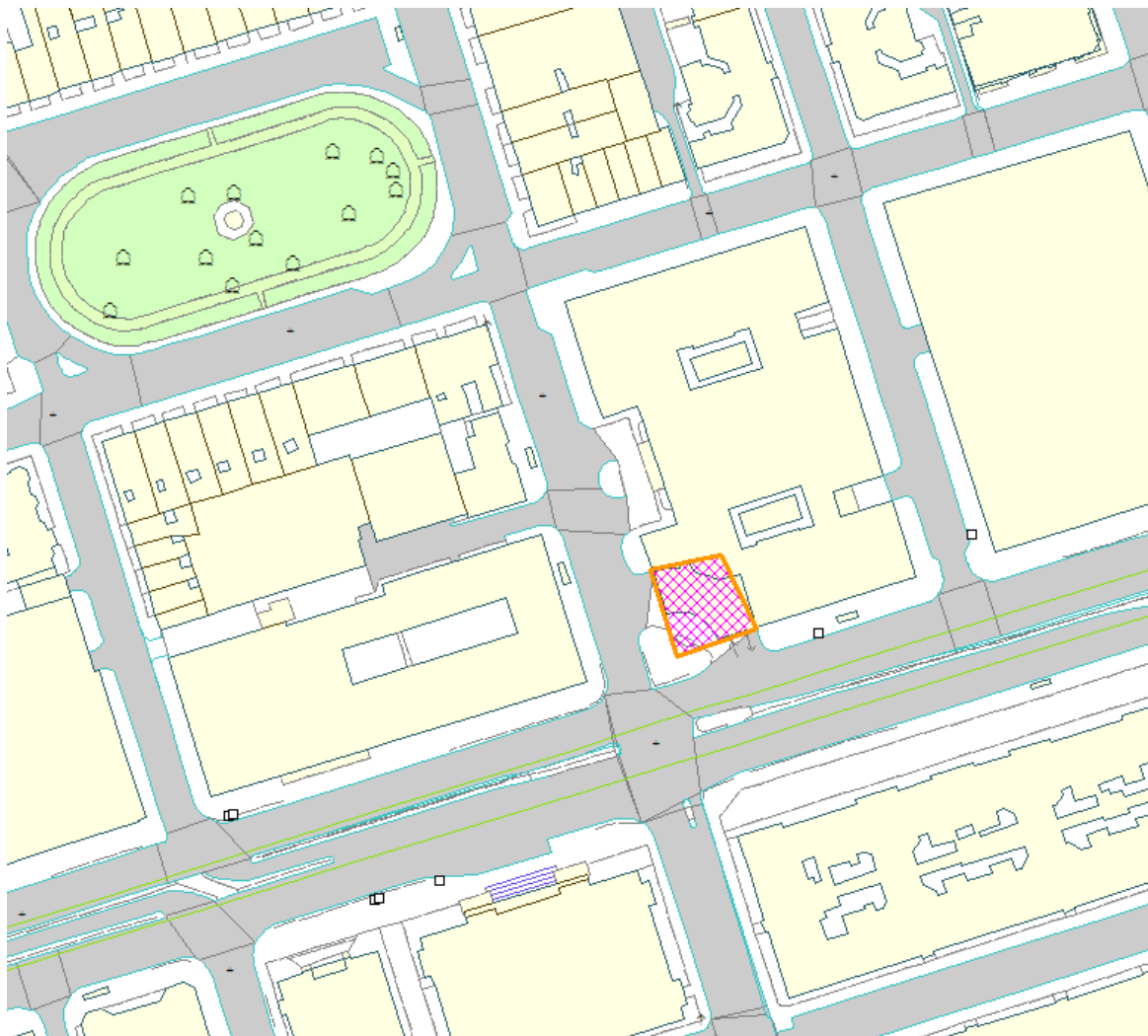
Despite the objections raised, the use as a petrol filling station with an ancillary retail shop is lawful in planning terms, and there are no objections to its re-opening. This is a petrol filling station protected by policy TRANS 18 in the UDP.

Whilst the residents' fears of increased fire risk are well understood given the events which took place in 2012, the fire did not take place on the forecourt of the filling station. The London Fire Brigade have confirmed that a Petroleum Storage Certificate has been granted and the premises are designed with safety mechanisms in place to prevent and minimise potential damage in the unlikely event of a fire.

In historic building terms, the amendments proposed are relatively minor and are acceptable, and will not harm the special architectural and historic interest of this listed building and will preserve the character and appearance of this part of the Dorset Square Conservation Area.

The applications accord with Policies DES1, DES5, DES9 and DES10 in the Unitary Development Plan (UDP) adopted in January 2017 and Policies S25 and S28 in Westminster's City Plan (the City Plan) and are therefore recommended for conditional approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Dorset House, as seen from Marylebone Road with petrol station undergoing works (top) and prior to the fire in the underground car park (bottom).

5. CONSULTATIONS

COUNCILLOR JULIA ALEXANDER

Considers that the application seems entirely reasonable. Asks though that it is noted that the residents at Dorset House are anxious about the potential for incremental applications to alter the application premises. Wider Dorset House site should be considered as a whole whenever a new modifications are proposed. Passed on correspondence from a resident in Dorset House objecting to the new petrol filling station as it is a massive safety risk, increase traffic and pollution, new hazard for pedestrians and station will sell alcohol and increase anti-social behaviour.

ST. MARYLEBONE SOCIETY

Defer to Conservation Officer Area, we have some objections to the re-instatement of the petrol station from Dorset House residents, but understand that this has already been approved. Disabled Access to the shop is very poor and may have further comments following their August meeting. No further comments received.

BUILDING CONTROL

No objection. Note that Building Control has no control over petroleum licencing and that this falls under London Fire Brigade control. Also note that if this is an existing premises then the building regulations would just require that the works are no worse than existing.

TRANSPORT FOR LONDON

No objection. Advise that no skips or construction material can be placed on the footway, carriageway or any other part of the Transport for London Road Network (TLRN)

HIGHWAYS PLANNING MANAGER

No objection. Same conditions as imposed on previous permission should be imposed if permission is granted.

LONDON FIRE BRIGADE (PETROLEUM MANAGER)

Confirms that an application for a Petroleum Storage Certificate has been approved. Have also received correspondence from a concerned resident, which they have responded to. Understand the concerns regarding the incident in the car park; however, this did not take place on the forecourt and please be assured petrol filling stations are designed with safety mechanisms in place to prevent and minimise damage in the event of fire.

DESIGNING OUT CRIME OFFICER

Any response to be reported verbally.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 196.

Total No. of replies: 7.

No. of objections: 7.

No. in support: 0.

Seven emails/ letters received raising objection on all or some of the following grounds:

- The petrol station was closed as a result of a woman driving into the underground car park directly below the petrol station and storage tanks and setting herself alight. In

view of recent tragic events at Grenfell Tower, the re-opening of the petrol station represents a high risk in Central London, not only to residents in Dorset House, but also cars on the busy 6 lane Marylebone Road, 3 lanes of traffic on Gloucester Place and to pedestrians. In addition, directly opposite is the Old Westminster Council House which is being converted into the London Business School.

- The Council needs to take fire hazards extremely seriously following the Grenfell tragedy.
- Lack of consultation with residents in Dorset House. The Council failed to consult in respect of the original planning application approved in December 2016. Request that the previous approval is reversed.
- No reference to a risk assessment associated with petrol stations situated within residential blocks.
- No reference to the possession of a relevant licence, as any previous licence will have expired.

PRESS ADVERTISEMENT/ SITE NOTICE

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

Dorset House is a substantial residential mansion block in the art deco style. It comprises of a range of shops and restaurants with ground floor frontages with 185 flats above. The block is Grade II listed and located within the Dorset Square Conservation Area.

This and this proposal relates to the petrol filling station located on the south western corner of the site at the junction of Marylebone Road and Gloucester Terrace. The petrol filling station is a long standing use, which has been vacant following a fire in 2012. Works are in progress refitting the petrol filling station with a small ancillary shop pursuant to planning permission and listed building consent that were granted conditional permission under delegated powers in December 2016.

Marylebone Road outside the application site to the south is a Red Route forming part of the Transport for London Road Network (TLRN) and is the responsibility of Transport for London.

6.2 Recent Relevant History

16/09946/FULL and 16/09947/LBC

Planning permission and listed building consent granted on 20 December 2016 for: Use of basement room as retail accommodation (Class A1) with refurbishment and internal and external alterations, including new shop fronts and pumps, in connection with existing petrol station use at ground floor level.

Works to implement the above permission and consent have commenced on site.

There have been a large number of decisions that relating to the petrol filling station over the years. An appeal was allowed in September 2015 for the installation of a temporary hoarding and associated access gate around the vacant petrol filling station.

Two appeals were dismissed in 2014 (advertisement consent and listed building consent) for the retention of (1) the 're-skin' of the extant internally illuminated freestanding totem; (2) the retention of the 're-skin' of the extant internally illuminated projecting sign on the Marylebone frontage; and (3) the replacement of the (temporary) fascia sign on the Marylebone Road frontage, with new permanent signage.

7. THE PROPOSAL

The applications for planning permission and listed building consent seek to vary Condition 1 of the 20 December 2016 permission and consent, which allowed alterations to the petrol filling station associated with its re-opening.

The proposed changes are relate to the introduction of a night hatch in the shop front, an extension to the approved staircase and landing between the forecourt and retail unit and the replacement of a spiral staircase between ground and basement levels within the retail unit with an L-shaped staircase.

The applications are being reported to Sub-Committee in the light of the objections received.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Despite the objections received to the re-opening of the petrol filling station, the premises have a lawful planning use as a petrol filling station (which is a Sui Generis use). Whilst it is recognised that the premises has been closed since 2012 as a result of the tragic fire associated with a woman setting herself alight in the underground car park, there are no sound planning grounds to prevent the lawful petrol filling station re-opening.

This is one of the petrol filling stations in the City which is protected by Policy TRANS 18 in the UDP.

8.2 Townscape and Design

As required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in dealing with these applications special regard has been had to the desirability of preserving the listed building, its setting and the features of special architectural or historic interest that it possesses, whilst also preserving or enhancing the character and appearance of this part of the Dorset Square Conservation Area.

The proposed amendments to the detailed design of the shop front and shop interior are considered to be relatively minor and will not harm this special architectural or historic interest of this Grade II listed building or the character or appearance of the Dorset Square

Conservation Area. The proposal therefore accords with policies DES1, DES5, DES9 and DES10 in the UDP and Policies S25 and S28 in the City Plan.

8.3 Residential Amenity

It is not considered that the proposed physical amendments will have an adverse impact in terms of the residents above in respect of their light, outlook or privacy. The objections relating to fire risk are dealt with later in this report.

8.4 Transportation/ Parking

Despite the objections received on grounds that increased traffic would be generated by the petrol filling station re-opening and congestion would be caused, Transport for London (the strategic highway authority) raise no objections to the proposal, nor does the Highways Planning Manager. In this context, it is not considered that the amendments proposed raise any new highway safety issues, or adversely affect pedestrian safety relative to the lawful planning use and layout of the site as a petrol filling site.

8.5 Economic Considerations

No new economic issues are raised by these applications.

8.6 Access

The St Marylebone Society considers that disabled access is poor. It is regrettable there are steps up to the forecourt shop unit; however, this is no worse than the previous situation. Also there are space constraints which preclude the creation of a ramp, and therefore the proposed steps are considered acceptable.

8.7 Other UDP/ Westminster Policy Considerations

None relevant.

8.8 London Plan

The application does not raise any strategic issues.

8.9 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.

8.10 Planning Obligations

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

8.11 Environmental Impact Assessment

This application does not require an Environmental Impact Assessment.

8.12 Other Issues

8.12.1 Fire Risk

Residents have raised objection to the proposal on the grounds of fire risk to the flats above especially in the light of events that took place in 2012 and recent tragic events at Grenfell Tower.

There was a fire in 2012 in the adjoining underground car park, when a woman set herself alight in a suicide attempt and ran up the ramp from the underground car park. However, this fire was not associated with the operation of the petrol filling station.

Petrol filling stations are licenced by the relevant Petroleum Licensing Authority (PEA) to ensure that all the necessary safety standards are observed and maintained. In Westminster, the relevant PEA is the London Fire Brigade, and in the light of the objections received their views have been sought.

The London Fire Brigade confirm that an application for a Petroleum Storage Certificate (PSC) was made to their office and subsequently granted. The London Fire Brigade understand the concerns raised by residents regarding the incident in the car park; however, as above, this did not take place on the forecourt and petrol filling stations are designed with safety mechanisms in place to prevent and minimise potential damage fire in the unlikely event that it occurs.

Residents' concerns about possible fire risk are well understood, but there are no sound planning grounds to refuse these latest applications as the use of the petrol filling station is lawful and the storage of petrol is regulated by other legislation.

8.12.2 Lack of Public Consultation

Objection has been raised to the lack of public consultation in respect of the 2016 planning application, and request objectors request that this decision is reversed. The previous planning application (RN: 16/09946/FULL) and a linked listed building consent application (RN: 16/09947/LBC) were submitted to the City Council on 18 October 2016 for various physical alterations associated with the refurbishment of the existing petrol filling station.

The City Council sent out 281 consultation letters on 21 October 2016, including the residents in Dorset House. The planning application was also advertised in the local newspaper and a site notice was erected in the vicinity of the site. In addition, the City Council consulted the local amenity society, the St Marylebone Society.

It is considered that the level of public consultation was appropriate given the scope and scale of the application and consistent with the requirements of the City Council's Statement of Community Involvement in Planning (June 2014). There are therefore no grounds to justify revoking the 2016 decisions to grant conditional permission and listed building consent.

One of the objectors raises that the applications provide no information in respect of the licence necessary for the operation of a petrol filling station in this location. However, this is not a relevant planning consideration in the determination of these applications. In any

event, as set out in Section 8.12.1, the London Fire Brigade have confirm that a Petroleum Storage Certificate (PSC) has been granted.

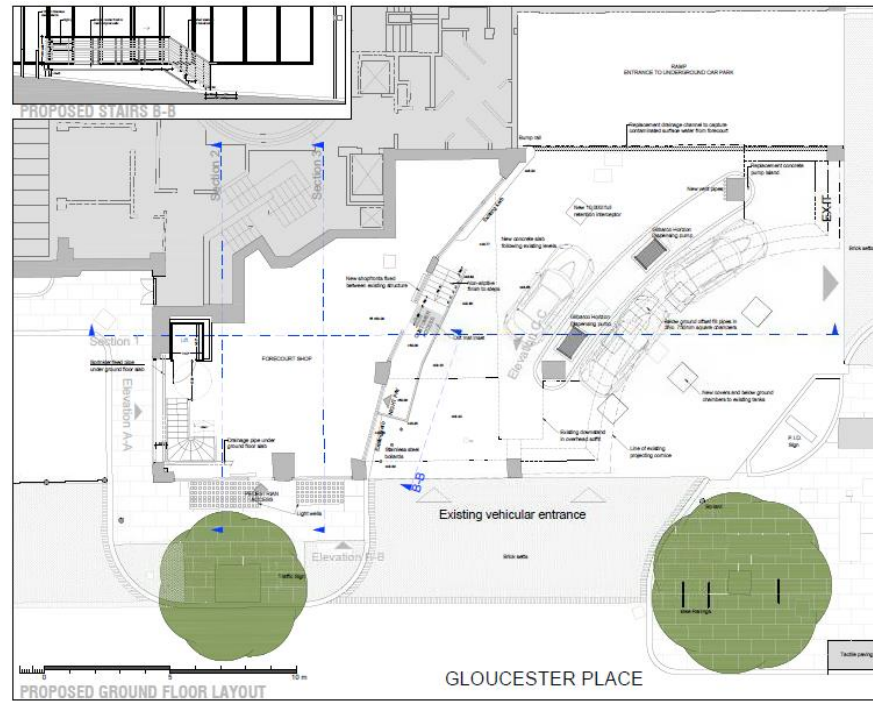
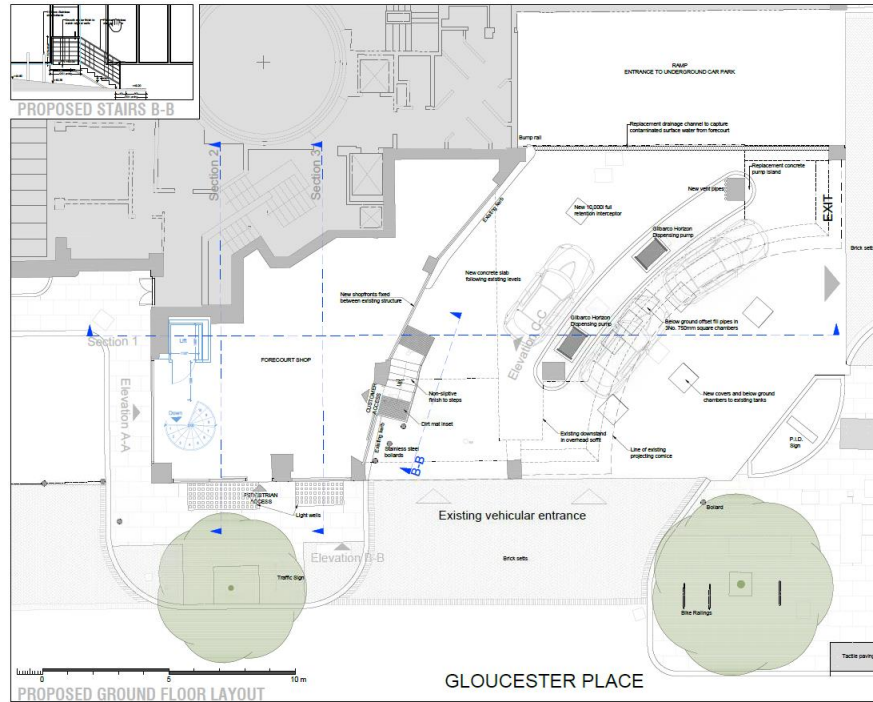
9. BACKGROUND PAPERS

1. Application form.
2. Emails from Councillor Julia Alexander and correspondence from a resident at Flat 83 Dorset House Gloucester Place dated 20 August 2017, 22 August 2017 and 15 November 2017.
3. Email from Transport for London dated 1 August 2017.
4. Email from the St. Marylebone Society dated 8 August 2017.
5. Email from London Fire Brigade dated 15 September 2017.
6. Memo from the Highways Planning Manager dated 13 November 2017.
7. Email from Building Control dated 15 November 2017.
8. Email from the occupier of 173 Dorset House, Gloucester Place dated 11 July 2017.
9. Email from an occupier of 51 Dorset House, Gloucester Place dated 18 July 2017.
10. Email from occupier of Flat 6 Dorset House Gloucester Place London dated 21 July 2017.
11. Email from the occupier of 27a Dorset House Gloucester Place dated 23 July 2017.
12. Email from an occupier of 51 Dorset House, Gloucester Place dated 23 July 2017.
13. Email from the occupier of 18 Radley House dated 27 July 2017.
14. Email from the occupiers of Flat 118 Dorset House, Gloucester Place dated 29 July 2017.

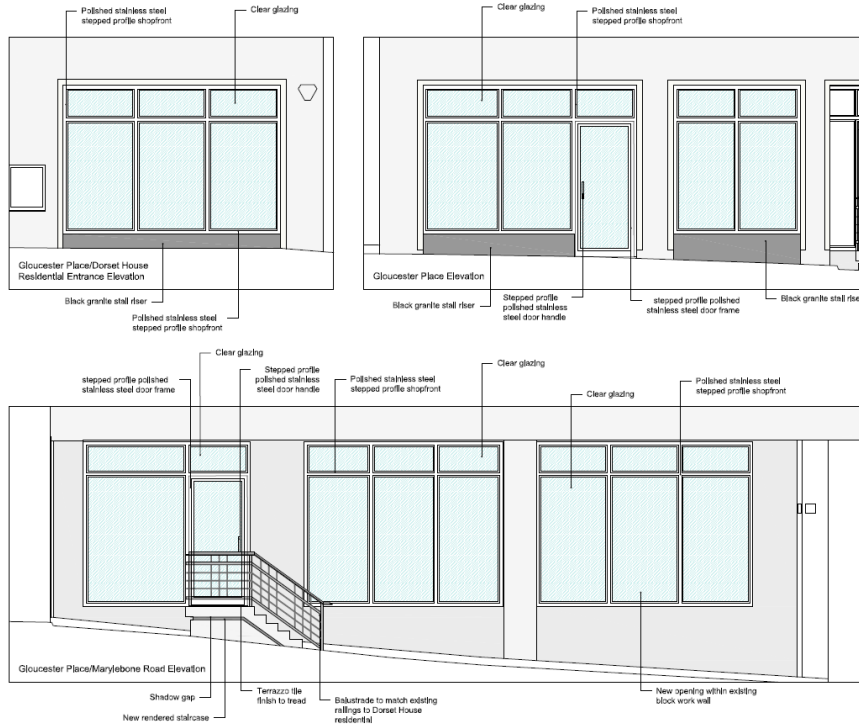
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: OLIVER GIBSON BY EMAIL AT ogibson@westminster.gov.uk.

10. KEY DRAWINGS



Previously approved ground floor (top) and amended ground floor plan now proposed (bottom).



Previously approved shop front elevations (above) and amended shop front elevations now proposed (below).



DRAFT DECISION LETTER

Address: 170-172 Marylebone Road, London, NW1 5AR,

Proposal: Variation of Condition 1 of the planning permission dated 20 December 2016 (RN: 16/09946/FULL) for use of basement room as retail accommodation (Class A1) with refurbishment and internal and external alterations, including new shopfronts and pumps, in connection with existing petrol station use at ground floor level. NAMELY, to amend replace a spiral staircase between the ground and basement floors of the retail unit with an L-shaped stairwell, extend the external staircase and landing between the forecourt and retail unit and introduce a night hatch in the shop front. Linked with 17/05910/LBC.

Plan Nos: Drawings and Documents Previously Approved under RN: 16/09946/FULL): 15562 PA-01, 15562 PA-02, 15562 PA-03, 15562 PA-04, 15562 PA-05 (Rev A), 15562 PA-06 (Rev A), 15562 PA-07 (Rev A), 15562 PA-08 (Rev A), 15562 PA-09 (Rev A), 15562 PA-10 (Rev A), 15562 PA-11 (Rev A), 15562 PA-12 (Rev A), 15562 PA-13 (Rev A), 16.016.00(P)010 (Rev A), 16.016.00(P)020, 15562 PA-14 (Rev A) Indicative Purposes Only, Planning and Heritage Statement (Oct 2016), Design and Access Statement (Oct 2016).

As Amended By Drawings and Documents Hereby Approved: Letter dated 5 July 2017; 15562 PA01; PA-02, PA-03, P0-04, PA-05 (Rev C), PA-06 (Rev B), PA-07 (Rev C), PA-08 (Rev C) A, PA-09 (Rev C), PA-10 (Rev C), PA-11 (Rev C), PA-12 (Rev B), PA-13 (Rev B), PA-14 (Rev C), 16.016.00(P) 010 (Rev C).

Case Officer: John Wilman

Direct Tel. No. 020 7641 5961

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of

Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in 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 The works to remove cladding from piers and soffits of the petrol station canopy and proposed new materials and levels to soffits shall be carried out in accordance with the details we approved on 1 September 2017 (RN: 17/01579/ADFULL).

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must provide the stores for waste and materials for recycling according to these details we approved on 1 September 2017 (RN: 17/01579/ADFULL). You must clearly mark the stores and make them available at all times to everyone using the premises. (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)

- 5 With the exception of collecting rubbish, no goods (including fuel) that are delivered or collected by vehicles arriving at or leaving the building must be accepted or sent out if they are unloaded or loaded on the public road. You may accept or send out such goods only if they are unloaded or loaded within the boundary of the site. (C23CB)

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)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in 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)

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.

DRAFT DECISION LETTER

Address: 170-172 Marylebone Road, London, NW1 5AR,

Proposal: Variation of Condition 1 of the listed building consent dated 20 December 2016 (RN: 16/09947/LBC) for use of basement room as retail accommodation (Class A1) with refurbishment and internal and external alterations, including new shopfronts and pumps, in connection with existing petrol station use at ground floor level. NAMELY, to amend replace a spiral staircase between the ground and basement floors of the retail unit with an L-shaped stairwell, extend the external staircase and landing between the forecourt and retail unit and introduce a night hatch in the shop front. Linked with 17/05907/FULL.

Plan Nos: **Drawings and Documents Previously Approved under RN: 16/09947/LBC):** 15562 PA-01, 15562 PA-02, 15562 PA-03, 15562 PA-04, 15562 PA-05 (Rev A), 15562 PA-06 (Rev A), 15562 PA-07 (Rev A), 15562 PA-08 (Rev A), 15562 PA-09 (Rev A), 15562 PA-10 (Rev A), 15562 PA-11 (Rev A), 15562 PA-12 (Rev A), 15562 PA-13 (Rev A), 16.016.00(P)010 (Rev A), 16.016.00(P)020, 15562 PA-14 (Rev A) Indicative Purposes Only, Planning and Heritage Statement (Oct 2016), Design and Access Statement (Oct 2016).

As Amended By Drawings and Documents Hereby Approved: Letter dated 5 July 2017; 15562 PA01; PA-02, PA-03, P0-04, PA-05 (Rev C), PA-06 (Rev B), PA-07(Rev C), PA-08 (Rev C) A, PA-09 (Rev C), PA-10 (Rev C), PA-11 (Rev C), PA-12 (Rev B), PA-13 (Rev B), PA-14 (Rev C), 16.016.00(P) 010 (Rev C).

Case Officer: John Wilman

Direct Tel. No. 020 7641 5961

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

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

Reason:

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

- 2 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

(R27AC)

- 3 The works to remove cladding from piers and soffits of the petrol station canopy and proposed new materials and levels to soffits shall be carried out in accordance with the details we approved on 1 September 2017 (RN: 17/01580/ADLBC).

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building.

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.