

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 9 January 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	85 Piccadilly, London, W1J 7NB		
Proposal	Variation of Condition 1 of planning permission dated 13 January 2015 (RN 14/09157/FULL) for, 'Installation of ductwork from ground to roof level on south west elevation, installation of plant within first floor car park, and installation of replacement plant and acoustic screens at rear sixth floor level and at roof level'; NAMELY, to amend the approved development to re-position and modify the duct running from first floor to main roof level and associated opening at first floor; alterations to acoustic screens at rear sixth floor level and at roof level and alterations to the rear walkway at first floor level to include steps over rear plant at first floor level.		
Agent	Ms Fiona Flaherty		
On behalf of	Hedonism Drinks Ltd		
Registered Number	17/07384/FULL	Date amended/ completed	16 August 2017
Date Application Received	16 August 2017		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises an unlisted building located within the Mayfair Conservation Area. The building is in use as a residential car park and first floor level, with residential flats over second and seventh floors. The basement, ground and mezzanine floors are currently being converted into a restaurant (Class A3) following permission granted in December 2014.

Permission was granted in January 2015 for the installation of roof top plant and extract ducts on the western elevation in order to serve the new restaurant. As the detailed design of the plant has progressed there is a need to make some relatively minor alterations to the location of the ducts and some items of plant. The applicant is applying to make these 'minor material amendments' to the approved development in order to accommodate the required alterations.

Objections have been received from occupiers of residential properties in the building, primarily on noise and vibration grounds.

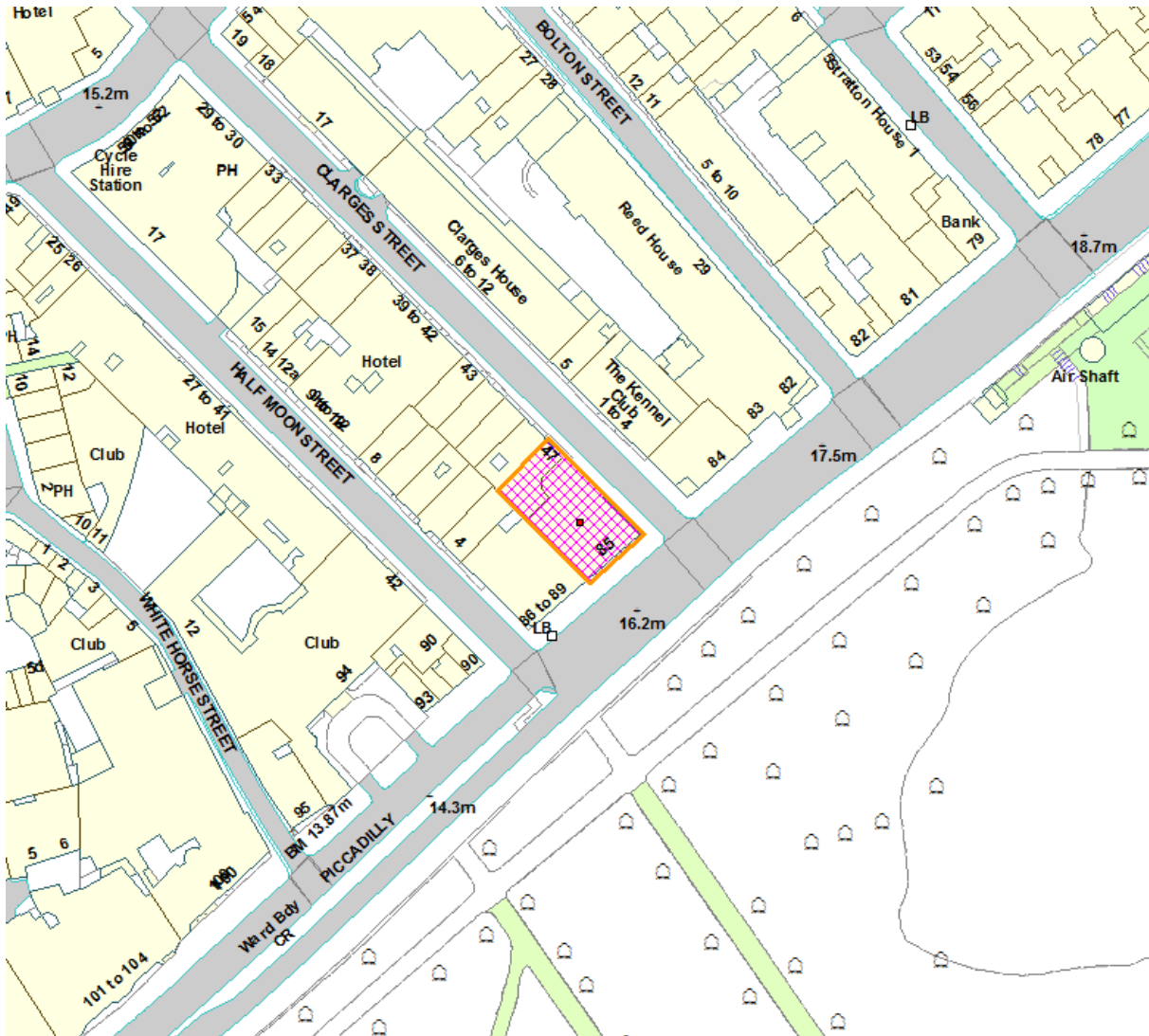
The main issues for consideration are:

- Whether the amendments to the approved plant will result in the plant being noisier and resulting in more vibration, to the detriment of the amenity of the residents living both within the building and in nearby buildings.
- Whether the proposed amendments to the plant will still result in a development that preserves or enhances the character and appearance of the Mayfair Conservation Area.

Environmental Health has reviewed the submitted acoustic information and are satisfied that the proposed plant will not result in noise and vibration concerns for local residents. Furthermore, the design alterations will have a negligible impact upon the visual impact of the proposed plant and therefore the proposal will still preserve the character and appearance of the Mayfair Conservation Area.

For these reasons the proposal is considered to comply with the policies contained within Westminster's City Plan (2016) and the Unitary Development Plan (UDP) (2007). It is accordingly recommended that permission be granted.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S:

- Any response to be reported verbally.

ENVIRONMENTAL HEALTH:

- No objection, subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

NO. CONSULTED: 39

TOTAL NO. OF REPLIES: 2

NO. OF OBJECTIONS: 2

NO. IN SUPPORT: 0

Objecting on the following grounds:

Amenity:

- Noise and vibration.
- Loss of light.

Other:

- Impact upon fire escape routes.
- Additional door within the acoustic enclosure will hinder the ability to access a neighbouring resident's property.
- There is an unidentified element on the submitted drawings at seventh floor level.
- Proposed new access bridge at rear second floor level will have an unacceptable impact upon view, security and privacy.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The site is located on the northern side of Piccadilly at its junction with Clarges Street and lies within the Mayfair Conservation Area. It is also located within the Core Central Activities Zone but is outside the West End Stress Area.

The building is not listed and comprises basement, ground, mezzanine and seven upper floors. The basement, ground and mezzanine floors are in the process of being converted into a restaurant (Class A3) pursuant to permission granted on 18 December 2014. The replacement shopfront approved in this permission has already been installed. The first floor provides residential car parking, accessed via a car lift on Clarges Street. The second to seventh floors are residential flats.

6.2 Recent Relevant History

14/09157/FULL

Installation of ductwork from ground to roof level on south west elevation, installation of plant within first floor car park, and installation of replacement plant and acoustic screens at rear sixth floor level and at roof level.

Application Permitted 13 January 2015

The following conditions of this permission are of particular relevance:

- Condition 4 secures that, with the exception of 24-hour refrigeration plant, the plant / machinery can only operate between 07.30 hours and 00.30 hours daily.
- Condition 5 requires the submission of a post-commissioning noise and vibration survey demonstrating compliance with UDP Policies ENV 6 and ENV 7.
- Condition 6 requires the installation of a number of anti-vibration mitigation measure.

14/08017/FULL

Installation of replacement double height shopfront on Piccadilly and Clarges Street frontages (including enclosing lobby area at corner of Clarges Street and Piccadilly), alterations to residential access to upper floors and waste and recycling store, and installation of replacement pavement lights on Clarges Street and Piccadilly; all in association with the use of the basement, ground floor and mezzanine level as a restaurant (Class A3) and the upper floor floors as flats (Class C3).

Application Permitted 18 December 2014

The following conditions of this permission are of particular relevance:

- Opening hours are restricted to 07.30 - 01.00 daily.
- With the exception of the kitchen extract ducts and any 24 hour plant, the restaurant plant is only permitted to operate between 07.30 – 01.00 daily.

7. THE PROPOSAL

As set out above, permission was granted on 13 January 2015 for the installation of replacement ductwork on the western flank elevation of the building, replacement plant within the first floor car park and replacement plant with acoustic screens at rear sixth floor level. Work has commenced on the approved development within the three-year time limit.

Condition 1 of this permission requires the development to be carried out in accordance with drawings and other documents listed on the decision letter. The development of the design following this permission being granted has meant that the detailed design of the approved plant needs revising for, amongst other reasons, so as not to compromise the fire escape route for the residents within the building. The applicant therefore seeks to vary Condition 1 to allow modified drawings to be substituted for the originally approved drawings in order to make the following 'minor material amendments' to the approved development:

- Re-position and modify the ductwork proposed at rear second floor level, resulting in a bridge access walkway in this location
- Relocation of two ducts on the western elevation so that they are slightly further south than approved.
- Reconfiguration of the plant with the acoustic enclosure at rear seventh floor level.

- Addition of an extra access door within the approved acoustic enclosure.
- Correct a slight discrepancy between the approved drawings whereby the approved front elevation showed one of the extract flues to be slightly lower than set out in the other approved drawings.
- The approved acoustic screen has been slightly redesigned so that the panels now run vertically and also now cover the support posts.

Notwithstanding these proposed amendments, the plant enclosure is proposed to remain the same size and be in the same location. The maximum plant height is also proposed to remain unchanged. The hours of plant operation are also proposed to remain unchanged.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposed plant is to serve the restaurant approved by the City Council on 18 December 2014. As set out above the replacement shopfront approved in this permission has already been installed and therefore this permission has been implemented and this use can commence at any time despite the three year life of this permission having now lapsed.

8.2 Townscape and Design

The proposed changes to the approved plant will have a negligible visual impact on the approved development. The assessment therefore remains unchanged; namely that, although it is unfortunate that existing bulky plant at roof level is being replaced by larger equipment, the new equipment will be primarily sited behind an acoustic screen and overall this will improve and tidy up the appearance of the roof which at present is an eyesore. Furthermore, the screens will only be visible from limited public views and therefore the works are considered to have a neutral impact on the character and appearance of the Mayfair Conservation Area.

8.3 Residential Amenity

As set out above, objections have been received from the occupiers of two flats within the host building – the occupants of the flat at second floor level and the penthouse flat that occupies the top three floors of the building. These objections raise a variety of issues but are mainly focussed on the noise and vibration impacts of the proposed plant.

Noise and Vibration

The application was initially accompanied by a letter from the applicant's acoustic consultant setting out how an assessment of the proposed changes to the plant had been undertaken and, based on this assessment, it was not anticipated that the amendments would result in a significant change in noise level from the plant. No details of this assessment, however, was provided.

Environmental Health did not consider that this was sufficient and requested that a revised acoustic report be submitted to demonstrate that the plant will still be able to

achieve the required noise and vibration criteria when the proposed changes are taken into account (ref background paper No. 2).

An addendum to the original Acoustic Report was then submitted by the applicant and all owners / occupiers of neighbouring properties were notified of this additional application document.

Following discussions between Environmental Health and the applicant, further acoustic information was submitted by the applicant. Having reviewed this additional information, Environmental Health confirmed that all plant items have been satisfactorily addressed and the stated noise levels from each item correlate with manufacturer's data. Environmental Health advised that all plant is to operate during the daytime with the exception of the wine cellar condenser which will operate overnight. Environmental Health found that the predicted levels at both day and night are comfortably below the design level criterion and therefore raised no objection (ref background paper No. 3).

An objection was then received from an occupier of one of the flats within the building that was accompanied by an acoustic report raising a number of concerns in respect to the applicant's acoustic information. Environmental Health reviewed this acoustic report and advised (please see background paper No. 4) that the submitted report does not change its earlier conclusion that the plant installation will comply with the relevant criterion within UDP Policy ENV 7 for the following reasons:

- The data referred to in the report had been superseded by additional information provided by the applicant at the request of Environmental Health.
- The difference in background noise at the applicant's and objector's monitoring position amounts to only 1dB
- Additional data provided by the applicant demonstrates that the plant will be able to achieve compliance with noise conditions, even if the plant is found to have tonal or other acoustic characteristics, and even including the differing monitoring positions.
- A condition on the original permission (and still recommended) requires the preparation and submission of a post-commissioning noise and vibration survey. This will need to be discharged before the plant can be operated which give additional comfort that the plant will be compliant with the required noise criteria.

It is clear that the acoustic implications of the proposed plant have been closely scrutinised by Environmental Health and there is no reason why the revised plant will not comply with the relevant criterion within UDP Policy ENV 7.

Objections have also been received on vibration grounds. In addition to a condition securing the proposed vibration mitigations measures, it is recommended that the same post-commissioning noise and vibration survey condition be imposed to ensure compliance with UDP Policy ENV 6. This condition will ensure that there is no harm to residential amenity, through vibration from the plant.

Daylight

An objection has been received on the ground that the approved acoustic enclosure at seventh floor level is being relocated closer to the rear elevation of the penthouse flat

over fifth, sixth and seventh floor level and that this will have an unacceptable impact on the daylight received within this property. This objection is unfounded. The approved acoustic enclosure is not proposed to be relocated and therefore there will be no impact upon daylight levels received in neighbouring properties.

Sense of Enclosure / Privacy / Security

An objection has been received on the ground that the proposed new access bridge at second floor level will have an unacceptable impact upon view, security and privacy given the close proximity of residential windows at this level. This access bridge is for maintenance use only and is not for day-to-day use by residents or restaurant customers. This remains unchanged from the existing situation where this part of the building is accessed for servicing. The proposed amendment will therefore not have an unacceptable amenity impact in terms of security or privacy.

Furthermore, the highly enclosed nature of this rear lightwell and the reasonable distance between the proposed access bridge and the affected residential windows will mean that the structure will not result in a material increase the sense of enclosure for the occupants of the rooms facing this lightwell within the second floor flat.

8.4 Transportation/Parking

The application raises no transportation or parking issues.

8.5 Economic Considerations

The plant is required for the operation of the approved restaurant which will generate economic benefits.

8.6 Access

Access arrangements are unaffected by the proposed minor material amendments to the proposed plant.

8.7 Other UDP/Westminster Policy Considerations

None.

8.8 London Plan

This application raises no 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

No planning obligations are required.

The proposed development is not CIL-liable.

8.11 Environmental Impact Assessment

The development is of insufficient scale to require an Environmental Impact Assessment.

8.12 Other Issues

Impact upon fire escape routes

An objection has been made on the ground that the applicant has failed to demonstrate that the proposed development would not impede fire escape routes and requests that permission should not be granted unless the Council's fire safety officers are satisfied. Fire safety is a separate regulatory regime and permission cannot be refused on the ground that the proposal may not satisfy this separate regime.

Impact upon access to neighbouring property

An objection has been made on the ground that the proposed additional door within the acoustic enclosure will hinder the ability to access a neighbouring resident's property. The proposed door would not block any existing access routes and therefore this does not present a sustainable reason for refusing permission.

Unidentified elements on submitted drawings

The supposed additional feature on the flank elevation of the penthouse flat is an existing cat ladder at seventh floor and this is not proposed to be replaced or relocated.

9. BACKGROUND PAPERS

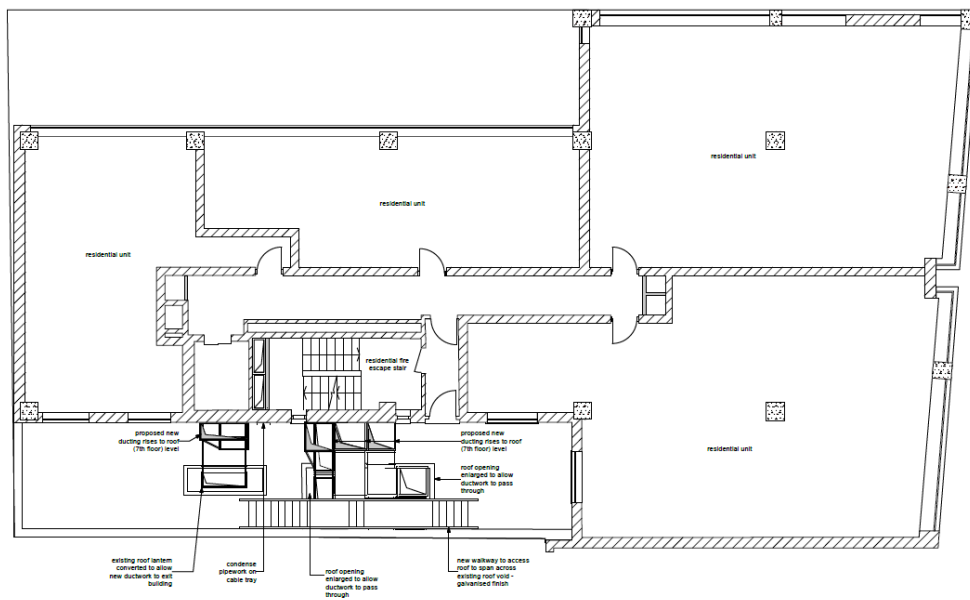
1. Application form
2. Response from Environmental Health, dated 18 September 2017.
3. Response from Environmental Health, dated 26 October 2017.
4. Response from Environmental Health, dated 1 December 2017.
5. Letter on behalf of the owner of the penthouse flat, 47 Clarges Street, dated 29 September 2017.
6. Letter from occupier of Flats 1 and 4, 47 Clarges Street, dated 1 October 2017.
7. Letter from occupier of Flats 1 and 4, 47 Clarges Street, dated 8 November 2017.
8. Letter on behalf of the owner of the penthouse flat, 47 Clarges Street, dated 9 November 2017.
9. Letter from occupier of Flats 1 and 4, 47 Clarges Street, dated 16 November 2017 (including report by MACH Residential dated 15 November 2017).
10. Letter from agent dated 23 November 2017.
11. Letter from agent dated 14 December 2017.

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

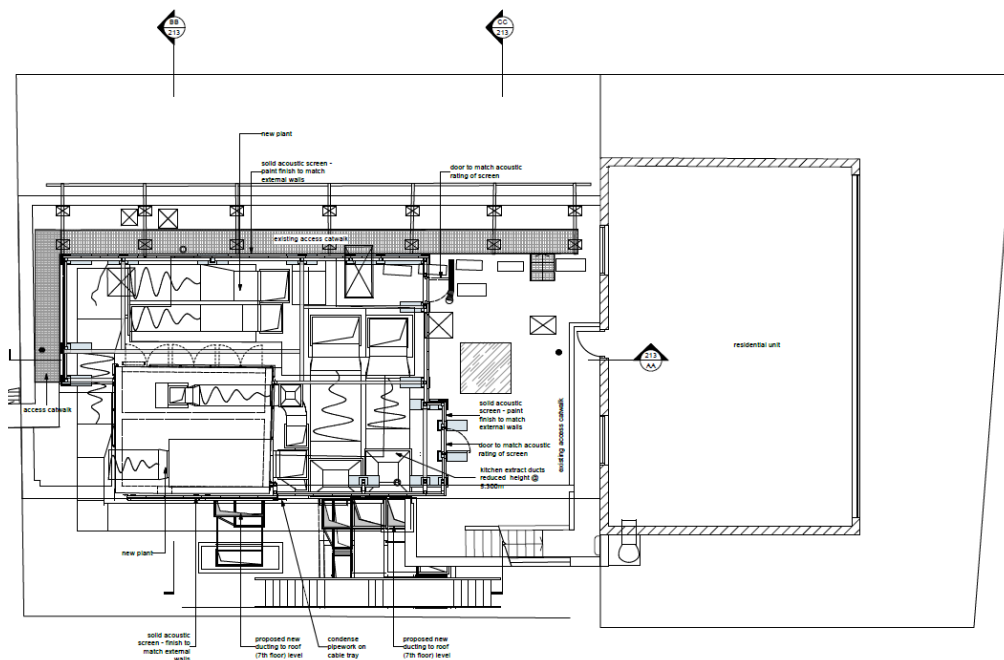
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

10. KEY DRAWINGS

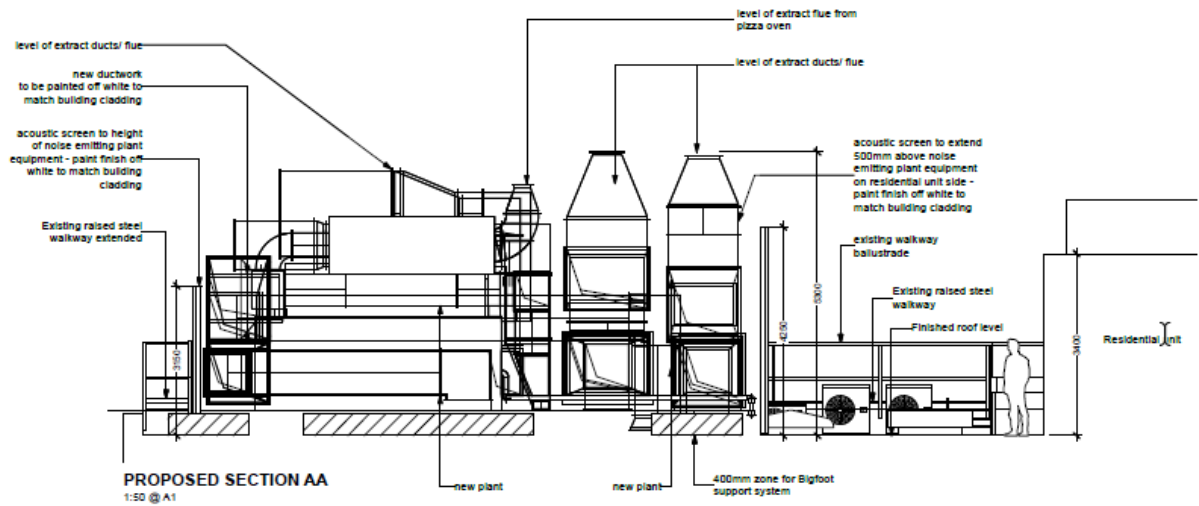
Proposed second floor plan:



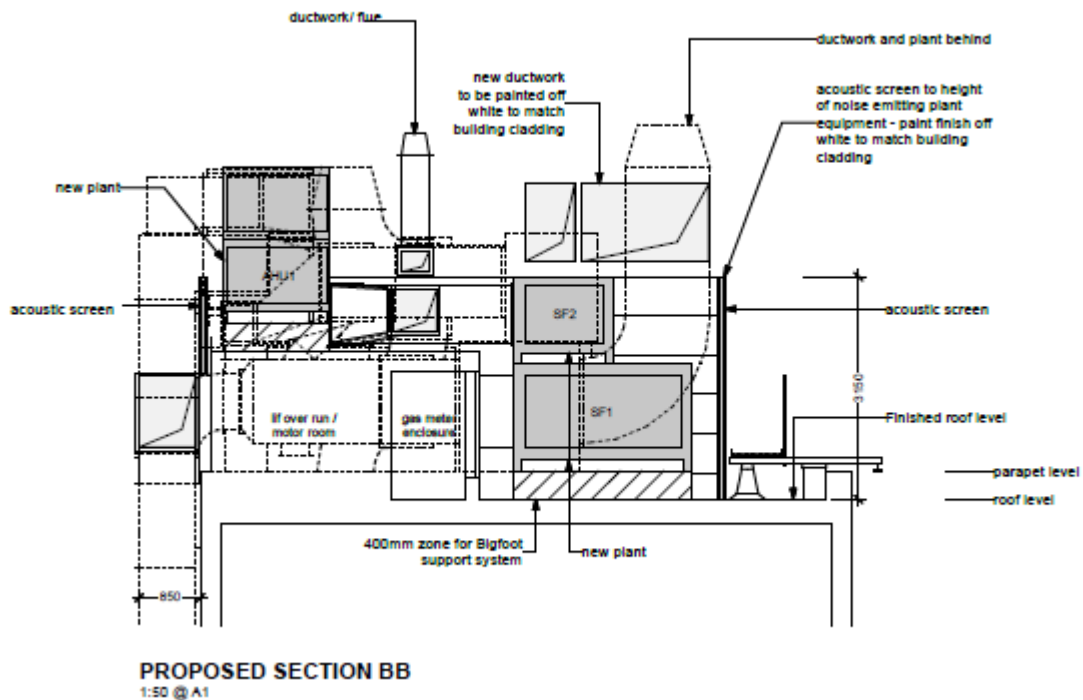
Proposed seventh floor plan:



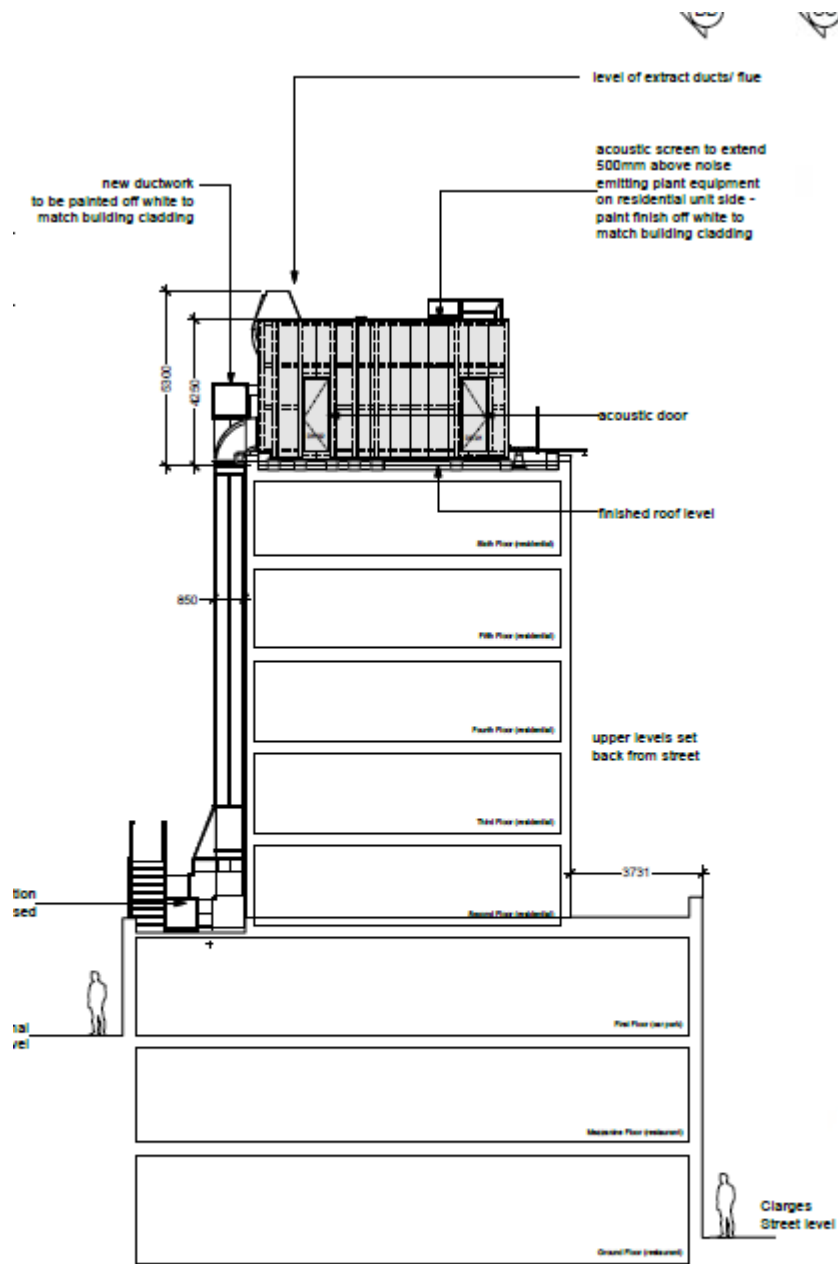
Proposed Section A-A:



Proposed Section B-B:



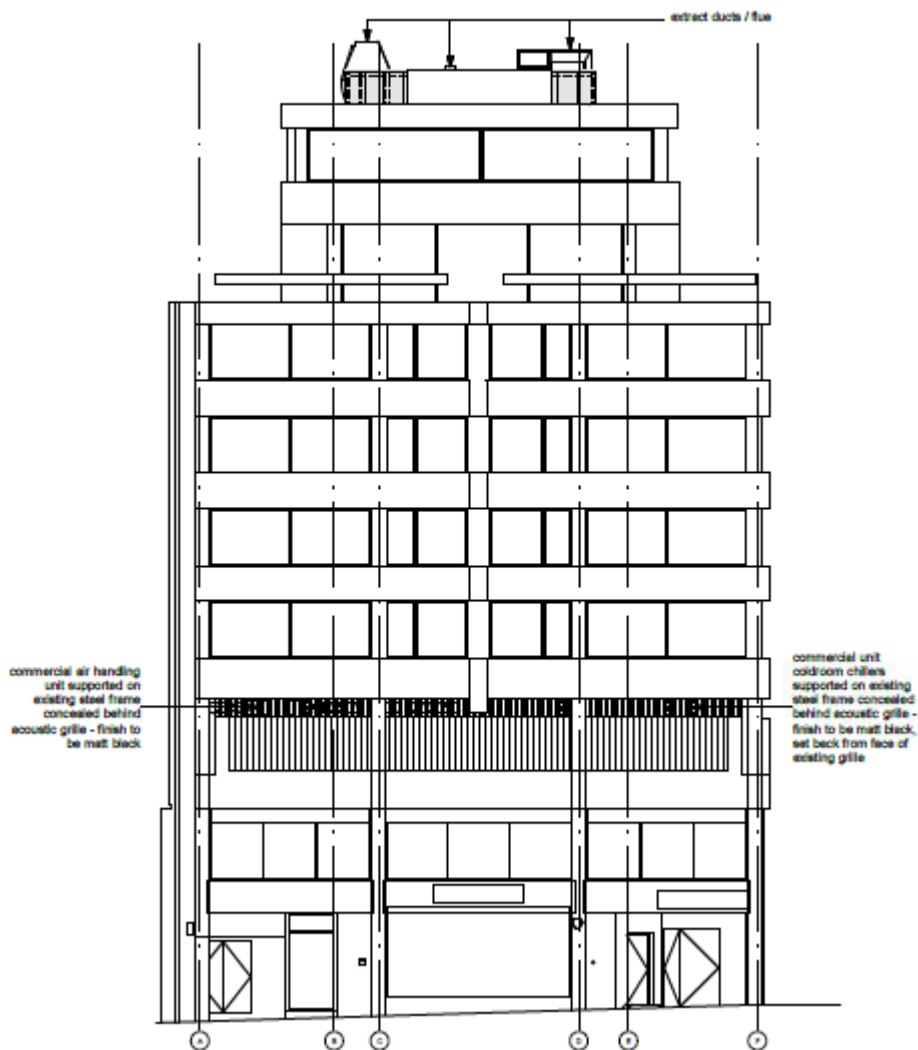
Proposed Section C-C:



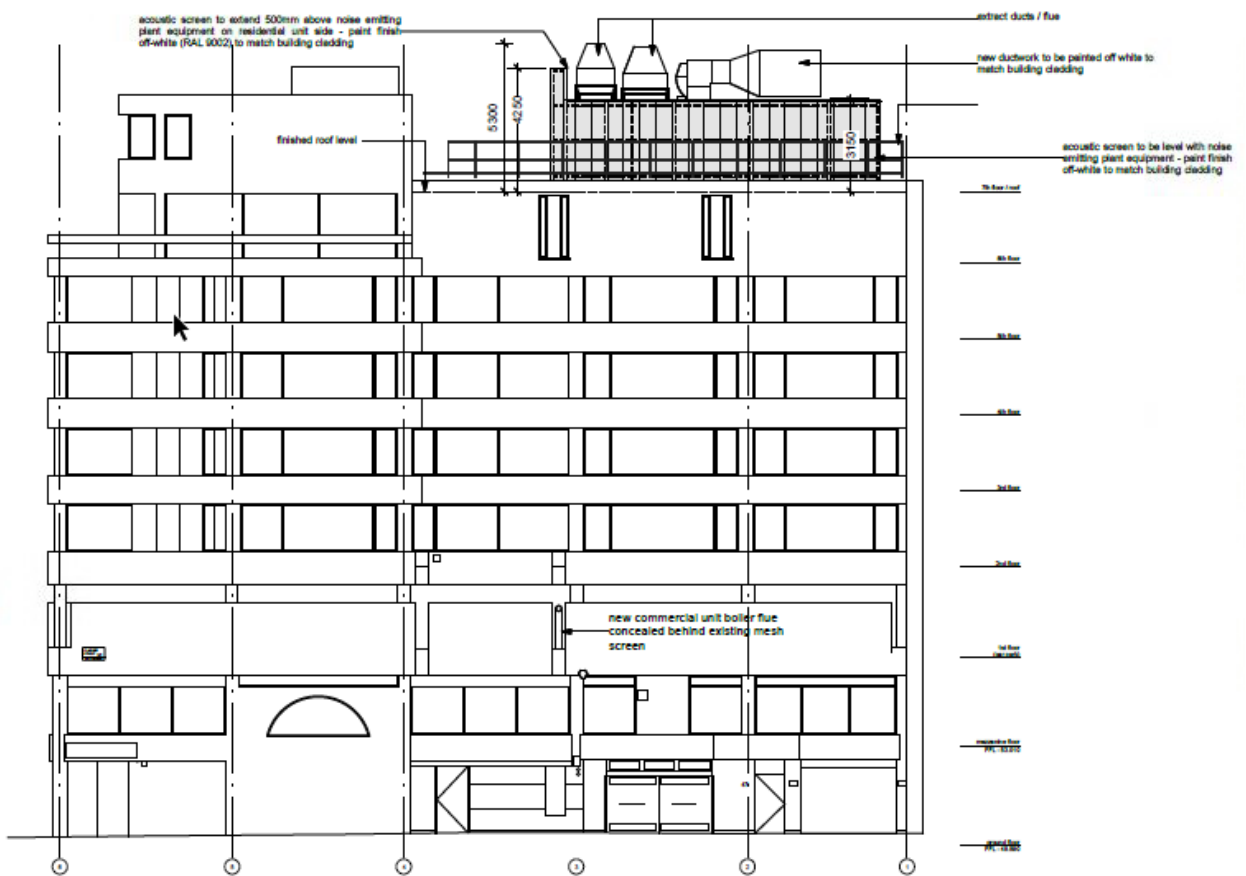
PROPOSED BUILDING SECTION CC

1:100 @ A1

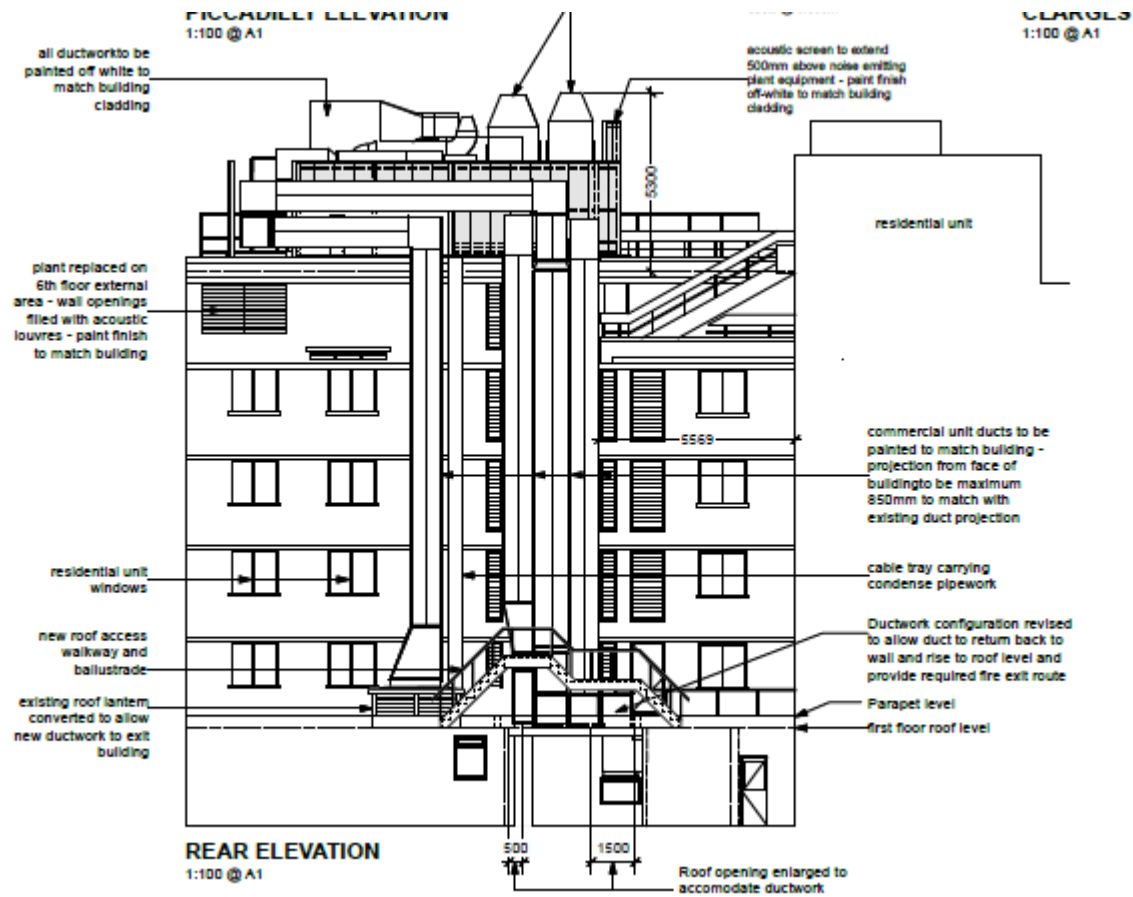
Proposed front elevation:



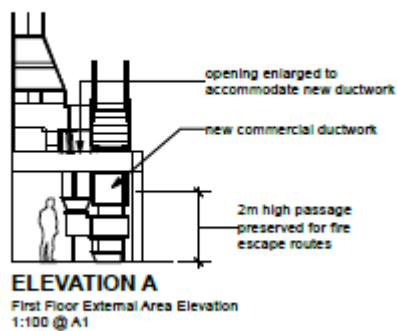
Proposed Clarges Street elevation:



Proposed west elevation:



Proposed Elevation A (within western lightwell):



DRAFT DECISION LETTER

Address: 85 Piccadilly, London, W1J 7NB,

Proposal: Variation of Condition 1 of planning permission dated 13 January 2015 (RN 14/09157/FULL) for, 'Installation of ductwork from ground to roof level on south west elevation, installation of plant within first floor car park, and installation of replacement plant and acoustic screens at rear sixth floor level and at roof level'; NAMELY, to amend the approved development to re-position and modify the duct running from first floor to main roof level and associated opening at first floor; alterations to acoustic screens at rear sixth floor level and at roof level and alterations to the rear walkway at first floor level to include steps over rear plant at first floor level.

Reference: 17/07384/FULL

Plan Nos: 14/09157/FULL
LG51/01-121b, 122a, 123b, 124c, 213d, 215c, 216a, 3005a and SK004.

17/07384/FULL
LG51/02 121 Rev. C, LG51/02 122 Rev. B, LG51/02 123 Rev. C, LG51/02 124 Rev. D, LG51/01 213 Rev. E, LG51/01 215 Rev. D, LG51/01 216 Rev. C3, LG51/01 SK004 and LG51/02 510.2 Rev. E

Case Officer: [Redacted] Wellington

Direct Tel. No. 020 7641 2523

Recommendation(s) and Reason(s)

- 1 The development 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 carry out any building work which is to be carried out at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday
- * between 08.00 and 13.00 on Saturday
- * not at all on Sundays, bank holidays and public holidays

Noisy work must not take place outside these hours. (C11A)

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 (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.

- 4 With the exception of 24 hours refrigeration plant, the plant / machinery hereby approved shall not be operated except between 07.30 hours and 00.30 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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.

- 5 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise and vibration survey and we have approved the details of the survey in writing. The post-commissioning survey must demonstrate that the plant/ machinery complies with the noise and vibration criteria set out in Conditions 3 and 6 of this permission.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (2), (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 that the development is designed to prevent structural transmission of noise or vibration; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 6 You must not operate the plant/ machinery that we have allowed until the following mitigation measures are installed:

- Installation of anti vibration mounts and the use of inertia bases where required.
- Flexible connections between plant/equipment and ductwork/pipework.
- Anti vibration mounts/hangers for all ductwork/pipework within 10 m of the equipment.

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.

These mitigation measures shall be retained in full for as long as the relevant pieces of plant/ machinery are in situ.

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.

- 7 The acoustic screens hereby approved shall be installed in full prior to the installation of the plant / machinery hereby approved and these acoustic screens shall be retained in full for as long as the relevant plant / machinery is in situ.

Item No.
6

Reason:

To make sure that the noise environment of people in noise sensitive properties is protected and that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25, S28 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1, DES 5, DES 6, ENV 6, ENV 7 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 8 The acoustic screens and ductwork hereby approved shall be painted and maintained in a matching colour to the host building.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in 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)

- 9 This permission must be commenced no later than 12 January 2018

Reason:

This permission authorises amendments to the original planning permission granted on 13 January 2015 (RN 14/09157/FULL) which must be commenced no later than the above date.

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 Conditions 3, 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)
- 3

Item No.
6

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.

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.