

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 20 February 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>19 Berwick Street, London, W1F 0PX</b>		
<b>Proposal</b>	Use of the first floor as offices (Class B1); erection of roof extension and rear extension at first and second floor levels to provide additional office (Class B1) floorspace, and repositioning and extension of extraction flue on rear elevation.		
<b>Agent</b>	CBRE		
<b>On behalf of</b>	Antipodean Soho Limited		
<b>Registered Number</b>	17/09736/FULL	<b>Date amended/ completed</b>	1 November 2017
<b>Date Application Received</b>	1 November 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Grant conditional permission

## 2. SUMMARY

The application site is a mid-terrace property comprising three storeys plus basement. It is an unlisted building located on the east side of Berwick Street, backing on to residential properties located on Duck Row to the rear. Permission is sought for the use of the first floor for office purposes, a rear extension at first and second floor level, the erection of a mansard roof to provide additional office accommodation (Class B1) and the relocation of an existing full height extract duct to the rear. The basement and ground floor unit does not form part of this application.

The key issues for consideration are:

- The impact of the external alterations on the character and appearance of the Soho Conservation Area; and
- The impact of the extensions and relocated duct on residential amenity.

The proposal is considered acceptable in land use, amenity, design and conservation terms and complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan and is therefore recommended for conditional approval.

## LOCATION PLAN



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3. PHOTOGRAPHS

Front Elevation



Satellite view over Duck Lane towards Berwick Street



Satellite view over Berwick Street towards Duck Lane



**Existing vacant first floor retail accommodation**



**View of existing extract to the rear looking towards No.3 Duck Lane**



#### 4. CONSULTATIONS

##### SOHO SOCIETY

Any response to be reported verbally.

##### ENVIRONMENTAL HEALTH

No objection

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

No. Consulted: 26

Total No. of replies:16

16 letters objection on behalf of the owner/occupiers of 5 individual properties (including representations following re-consultation on the revised scheme) on some or all of the following grounds.

##### Amenity

- Loss of light
- Overlooking
- Sense of enclosure
- Increase in noise and odour from extract duct.

##### Design

- Height/Bulk
- Appearance

##### PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

#### 5. BACKGROUND INFORMATION

##### 5.1 The Application Site

The application site is situated on the east side of Berwick Street backing on to residential properties along Duck Lane and comprises basement, ground plus two upper storeys.

The basement and ground floor currently operates as a restaurant/café (Class A3), and is occupied by 'Med Bar' a Mediterranean style café. The upper floors are currently vacant but it is understood that lawful use of the first floor is a barber shop (Class A1) and the second floor is lawfully office accommodation (Class B1).

The site is located within the Soho Conservation Area, the West End Stress Area and the core Central Active Zone (CAZ).

##### 5.2 Recent Relevant History

Permission was granted for the use of the first floor as a gents' hairdressing salon in November 1960.

## 6. THE PROPOSAL

Permission is sought for the use of the existing first floor (29 m<sup>2</sup> GIA) as offices and to erect a mansard roof extension and a rear extension at first and second floor levels, which projects 1.2m from the existing rear façade, all to provide additional office floorspace.

The proposed extensions would result in an additional 38 m<sup>2</sup> GIA, so that the total additional office (Class B1) accommodation would be 67 m<sup>2</sup> GIA.

It is proposed that the existing extract duct which terminates above the height of the new roof will be moved approximately 2m south along the outside face of the existing rear elevation.

The application has been amended during the course of its consideration to:

- Include the change of use of the existing retail accommodation at first floor level to offices;
- Reduce the massing of the proposed roof extension to the rear.
- Include obscured glazing on lower section of the rear windows to the new third floor.

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use

#### Loss of retail

City Plan Policy S21 seeks to protect retail floorspace throughout the City except where the City Council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. Under UDP policy SS5, which applies to sites within the Core CAZ, outside of the primary shopping frontages, the introduction of non-A1 uses must not lead to, or add to, a concentration of three or more consecutive non-A1 uses use at basement, ground and first floor level and permission will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of the shopping frontage or locality.

Whilst not specified in the wording of Policy SS5, the inclusion of first floor within this wording relates to a more typical arrangement of a retail unit spread across ground basement and first floor levels rather than the situation at 19 Berwick Street which is a self-contained retail unit (Class A1) at first floor level, with no street presence.

The existing first floor of the building is vacant, the hairdressing salon ceased operating in October 2016. The unit has been vacant for approximately 16 months. In its current state is extremely run-down and dilapidated and has not had a clear street presence now or historically relying on access through a shared stairwell.

Whilst no marketing assessment has been provided to demonstrate long term vacancy, as the existing small retail unit (29 sqm GIA) is an isolated unit at first floor level and does not have an active frontage or any street presence, it is considered that the loss of retail use would not have a detrimental impact on the character of the area and therefore due to these unique circumstances the loss of Class A1 retail accommodation is considered acceptable.

### **Increase in office accommodation**

Policy S20 of the City Plan sets out that new office development will be directed towards the Core CAZ therefore the proposed increase in office accommodation is acceptable. Policy S1 of the City Plan seeks to promote mixed use developments within the CAZ. The policy requires increases in office (Class B1) of over 400m<sup>2</sup> or 30 % of the existing building to provide residential to offset the increase in offices. In this case the scheme would provide a modest increase in offices of 67 m<sup>2</sup> and is not therefore mixed use liable 'under City Plan Policy S1.

## **7.2 Townscape and Design**

No. 19 Berwick Street is part of a group of four similar buildings on the east side of the street, and it makes a positive contribution to the Soho Conservation Area. The roof is modern and not visible from street level. However, it is overlooked by buildings opposite and at the rear in Duck Lane.

Neighbouring residents consider that the height, bulk and massing of the proposed extension are excessive and would be detrimental to the appearance of the Soho Conservation Area.

The proposed roof extension comprises a pitched roof with roof lights at the front and a mansard with dormer windows at the rear. The changes to the front roof slope will not be readily visible from front street level views. The rear mansard will also not be seen from any public views but would be visible from properties on Duck Lane to the rear. However, in this context the proposed roof alterations are acceptable in principle and accord with UDP policy DES 6.

The closet wing extension is a relatively modest addition subordinate to the main building and accords with UDP policy DES 5.

It is considered that the alterations and extensions would maintain the character and appearance of the surrounding conservation area, and accord with UDP policy DES 9.

## **7.3 Residential Amenity**

Policy ENV13 seeks to protect and safeguard the amenities of existing residential properties from development proposals including in relation to the levels of daylight and sunlight received, overlooking and increased sense of enclosure.

16 individual objections have been received on behalf of five residential properties to the rear of the site to a loss of daylight, sunlight, privacy and increased sense of enclosure.



## **Daylight and Sunlight**

A daylight and sunlight report has been submitted with the application which assesses the impact of the development with regard to BRE guidelines. This report assesses the impact upon No's 18, 20 and 21 Berwick Street and 1-4 Duck Lane.

### **Daylight**

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to be noticeable. The BRE guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

### **Sunlight**

With regard to sunlight the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

The submitted report illustrates that there are no breaches in BRE guidelines with regards to both daylight and sunlight at numbers 1-4 Duck Lane, 18 Berwick Street and 21 Berwick Street. The one breach to these guidelines is to the daylight (VSC levels) to a 1<sup>st</sup> floor bedroom window at no 20 Berwick Street. 20 Berwick Street is located directly north of the site and has a shared boundary wall. The bedroom in question has an existing VSC level of 7.5% which will be reduced to 5.7%. This is a 24% reduction which is marginally above the 20% threshold which the guidance states would be noticeable. The percentage loss is magnified by the existing low levels of light received. However, given that this is a bedroom window, which are afforded a lesser protection than principal living rooms, and that the existing lighting level to this room is already relatively poor, it is not considered that any losses to daylight would have a significant impact on the amenity of its residential occupants.

## **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 proposed half width rear extension projects approximately 1.2m from the existing rear façade on the northern boundary of the site. This would reduce the distance to the rear of 3 Duck Lane (which is in residential use) to approximately 2m. The nearest facing windows at No 3 Duck Lane are a 1<sup>st</sup> floor bathroom and a 2<sup>nd</sup> floor bedroom. Bathrooms are not afforded the same protection as habitable rooms. It is acknowledged that the rear extension would increase the sense of enclosure to the 2<sup>nd</sup> floor bedroom window, however the existing outlook from this room is enclosed and it is not considered that this would be materially worsened by the small extension at the application premises.

The proposed roof extension has been modified to ensure the rear 70 degree roofslope is set behind the parapet wall. As revised the proposed extensions are now considered acceptable and would not result in a significant increase in any sense of enclosure at flats at 3 Duck Lane or other 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.

The proposal includes two south facing windows on the return wall of the proposed rear extension serving two toilets. As these windows are obscured and fixed shut, it is not considered that there will be any reduction in privacy due to their presents. It is recommended that this is secured by condition.

The single storey roof extension is served by two windows to the front and an additional two dormer windows to the rear. A condition is recommended requiring the two rear windows serving the new third floor office accommodation to be fitted with obscured glazing and be fixed shut, thus omitting the potential of overlooking to residential properties to the rear.

The new windows to the front of the overlook commercial premises thus will have no impact on residential amenity.

### **7.4 Transportation/Parking**

Given the modest uplift of office accommodation, it is not considered that the proposal would give rise to any transportation/parking issues.

### **7.5 Economic Considerations**

Any economic benefits generated are welcomed.

### **7.6 Access**

The access arrangement remains unaltered.

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

#### **Plant**

To accommodate the rear extension, it is proposed to relocate the existing extract flue approximately three metres to the south of its current position. Objections have received due to the potential of noise and odour from the relocated extract duct. An acoustic report has been submitted as part of the application. This has been reviewed by Environmental Health Officers who raise no objection to the proposals subject to standard conditions relating to plant noise and vibration. Given that the duct is extended higher than the existing duct, it is likely to better the existing situation with regards to odour dispersal.

The application is therefore considered to comply with the City Council's noise policies ENV7 and ENV13 of the UDP. The proposals will not therefore materially harm the amenity of neighbouring properties.

**Refuse /Recycling**

No specific waste store for waste and recyclable materials is illustrated on the plans. A condition has been imposed requiring details of waste storage prior to the commencement of the use.

**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**

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

**7.11 Environmental Impact Assessment**

The proposal is of insufficient scale as to trigger an environmental assessment.

**8. BACKGROUND PAPERS**

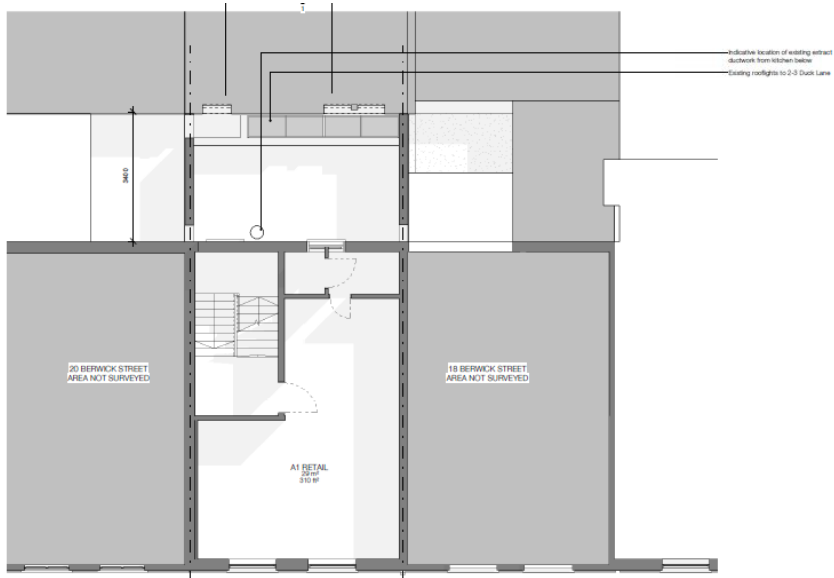
1. Application form
2. Memorandum from Environmental Health, dated 21 November 2017
3. Letters from occupiers of 3a Duck Lane, Soho, dated 23 November and 2 January 2018 (four letters from two occupants)
4. Letters from occupiers of Flat A, 1 Duck Lane, dated 23 November 2017 (two letters from two occupants)
5. Letters from occupiers of Flat B, 1 Duck Lane, dated 23 November 2017 (two letters from two occupants)
6. Letter from occupier of 3B Duck Lane, London, dated 22 November 2017 and 2 January 2018 (two letters from one occupant)
7. Letters from occupiers of 2A Duck Lane, London, dated 22 November 2017 (two letters from two occupants)
8. Letters from occupier of 3b Duck Lane, London, dated 22 November 2017 and 2 January 2018 (two letters from one occupant)

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

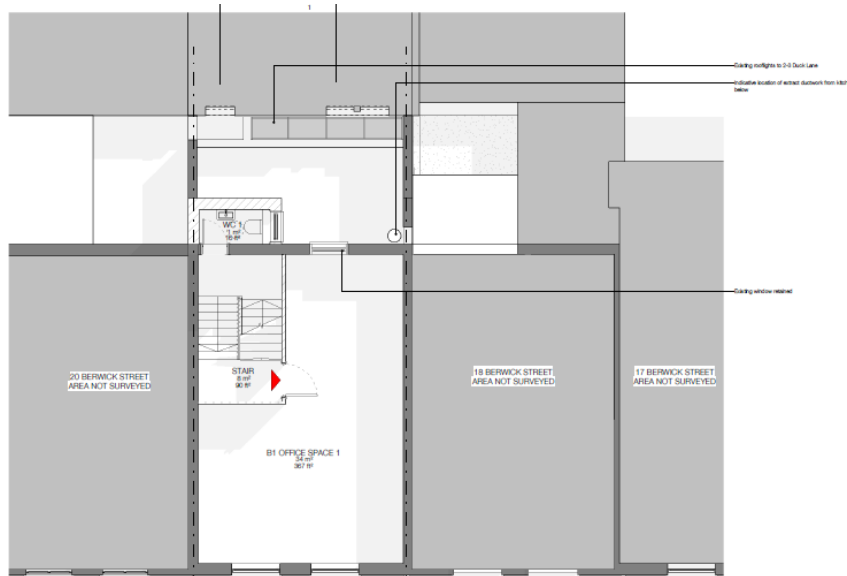
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT [mwalton@westminster.gov.uk](mailto:mwalton@westminster.gov.uk)

### 9. KEY DRAWINGS

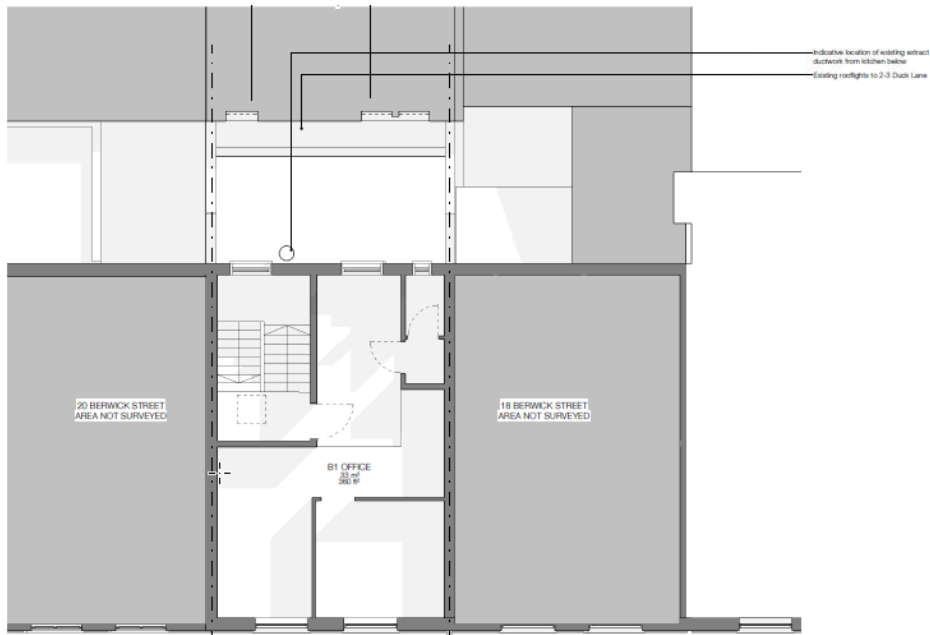
#### Existing First Floor Plan



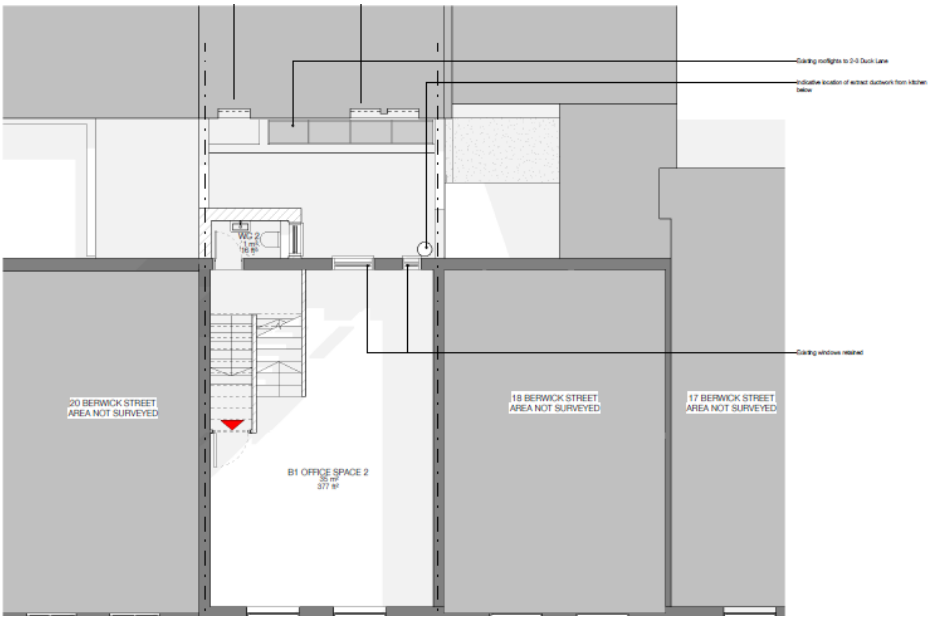
#### Proposed First Floor Plan



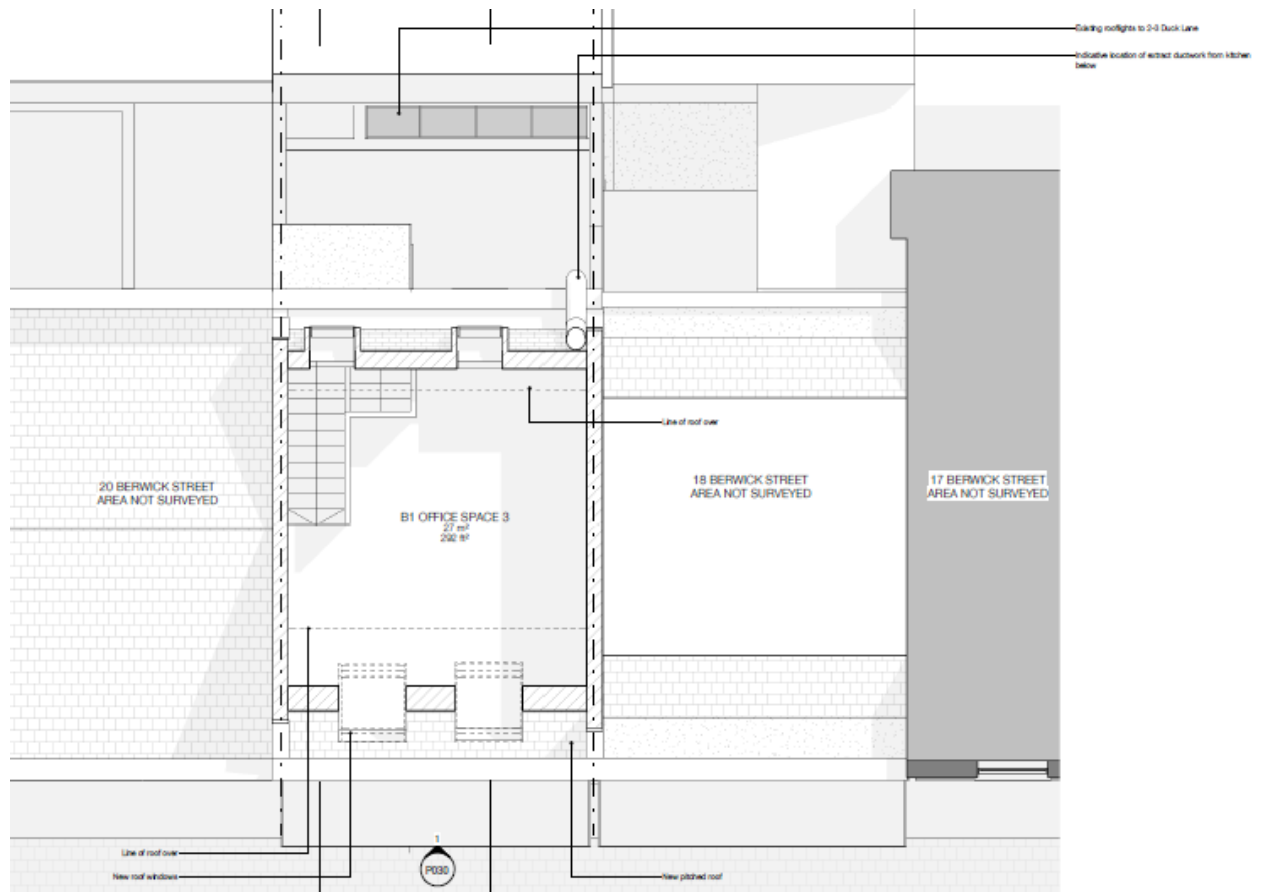
### Existing Second Floor Plan



### Proposed Second Floor Plan



### Proposed Third Floor Plan



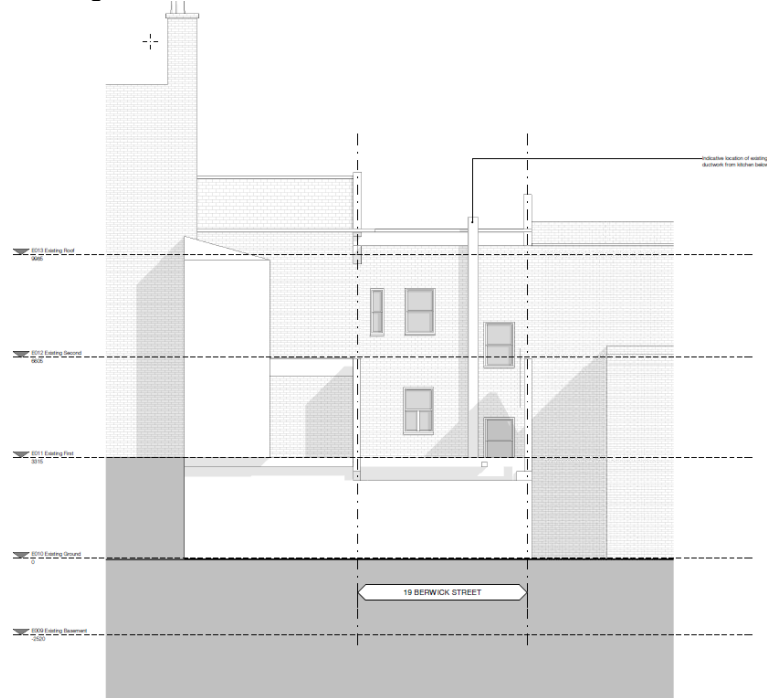
Existing front Elevation



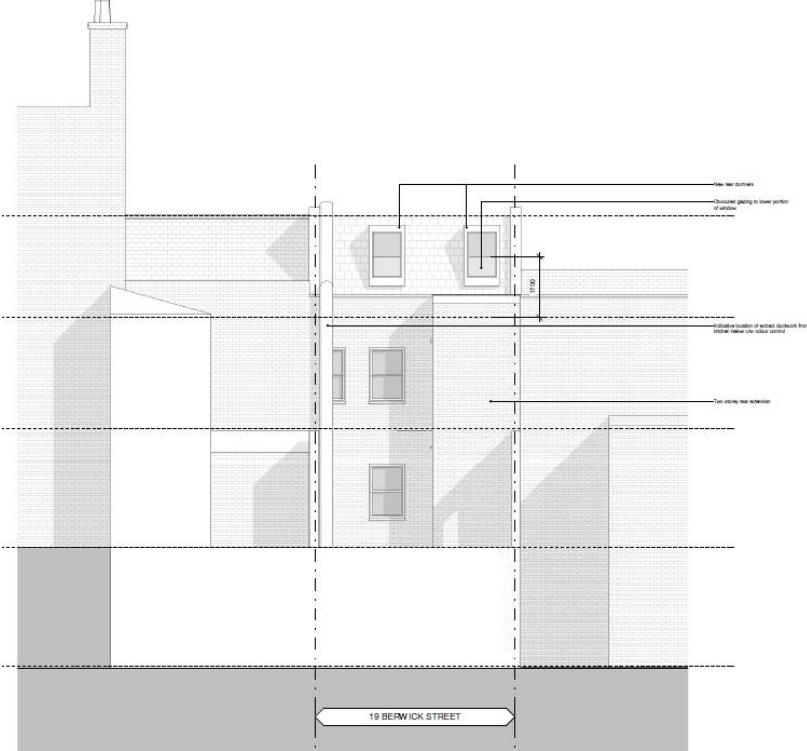
Proposed Front Elevation



### Existing Rear Elevation

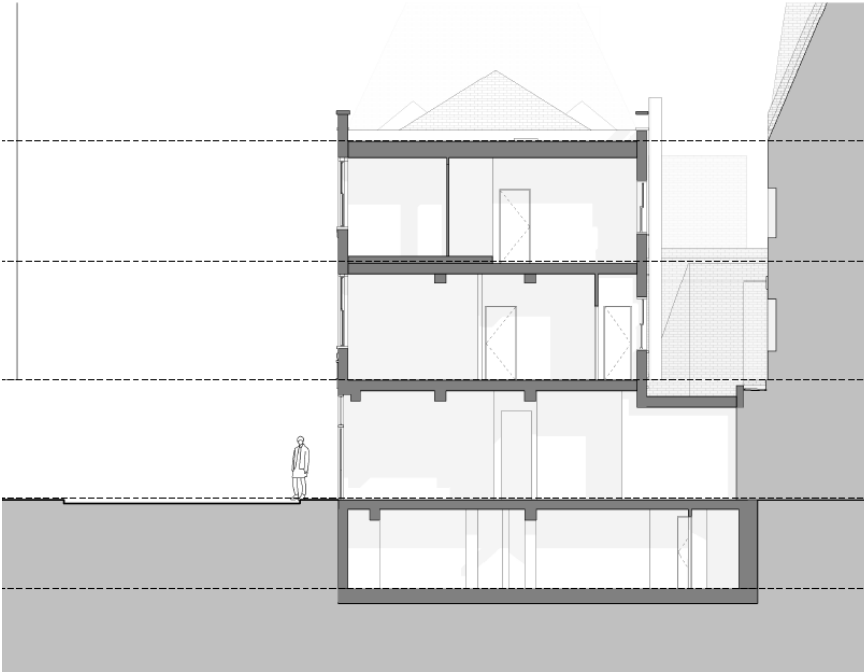


### Proposed Rear Elevation

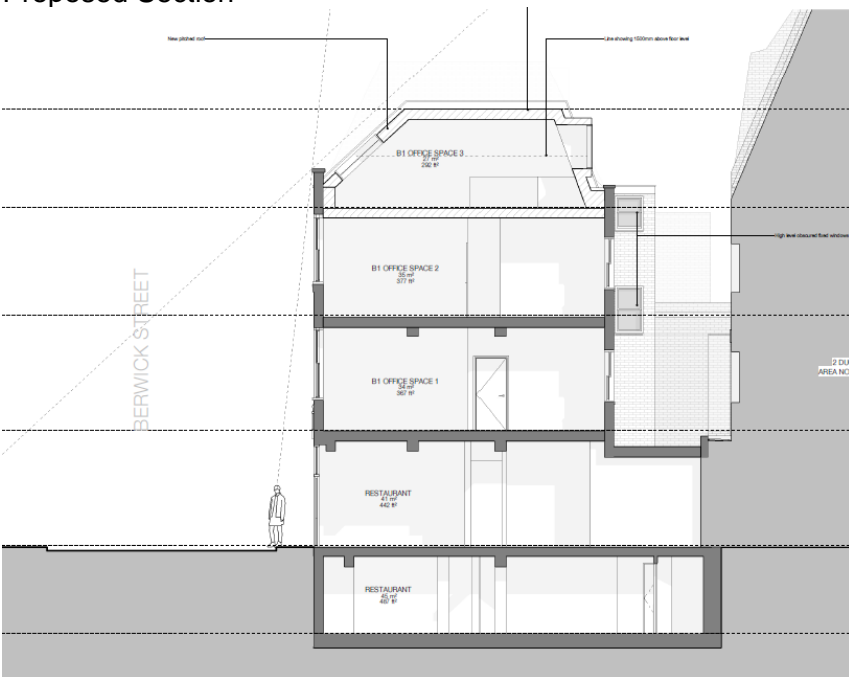




Existing Section



Proposed Section



**DRAFT DECISION LETTER**

**Address:** 19 Berwick Street, London, W1F 0PX

**Proposal:** Use the first floor as offices (Class B1). Erection of roof extension and rear extension at first and second to provide additional office floorspace (Class B1), and repositioning and extension of extraction flue on rear elevation.

**Reference:** 17/09736/FULL

**Plan Nos:** P009 A, P010 B, P011 F, P012 G, P013 G, P014 G, P030 B, P031 G, P040 G, P041 G.

**Case Officer:** Damian Lavelle

**Direct Tel. No.** 020 7641 5974

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

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

Reason:

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

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

You must carry out piling, excavation and demolition work only

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in 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 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.

- 5 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 occupy the additional office (Class B1) floorspace 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 office accommodation. (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)

- 6 The glass that you put in the following windows must not be clear glass and must be fixed shut:
- the two south facing windows on the return wall of the approved rear extension serving two internal toilets; and
  - the two rear windows at third floor.

You must apply to us for approval of a sample of the glass (at least 300mm square).

You must then install the glass in these windows in accordance with the approved sample. You must not change the glass in these windows without our permission.

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)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho 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)

- 8 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

**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 Soho 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 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 Soho 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)

- 10 The plant/machinery hereby permitted shall not be operated except between 0900 and 2345 Mondays to Saturday and between 0900 and 2230 on Sundays.

**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.

- 11 Prior to the erection of the rear extension or occupation of the office accommodation at first to third floor level you must erect the replacement duct as shown on the approved drawings

**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)

**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 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.