

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 5 <sup>th</sup> June 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Axtell House, 23-24 Warwick Street, London, W1B 5NQ,		
Proposal	Variation of condition 1 of planning permission dated 10 January 2017 (RN:16/08729/FULL) for the demolition of existing 4th to 6th floors and erection of new 4th to 6th floors, including provision of a roof top garden and terrace at 6th floor level; all for office (Class B1) purpose. Relocation of plant to a 1st floor lightwell, replacement of windows to front elevation, alterations to rear elevation and new ground floor entrance. NAMELY, changes to the rear elevation, to the Warwick St entrance and the double-height corner bay at roof level (partially retrospective application).		
Agent	Rolfe Judd Planning Ltd		
On behalf of	Estates & Agency Property Investment Company Ltd		
Registered Number	18/02336/FULL	Date amended/ completed	22 March 2018
Date Application Received	22 March 2018		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

## 1. RECOMMENDATION

Grant conditional permission.

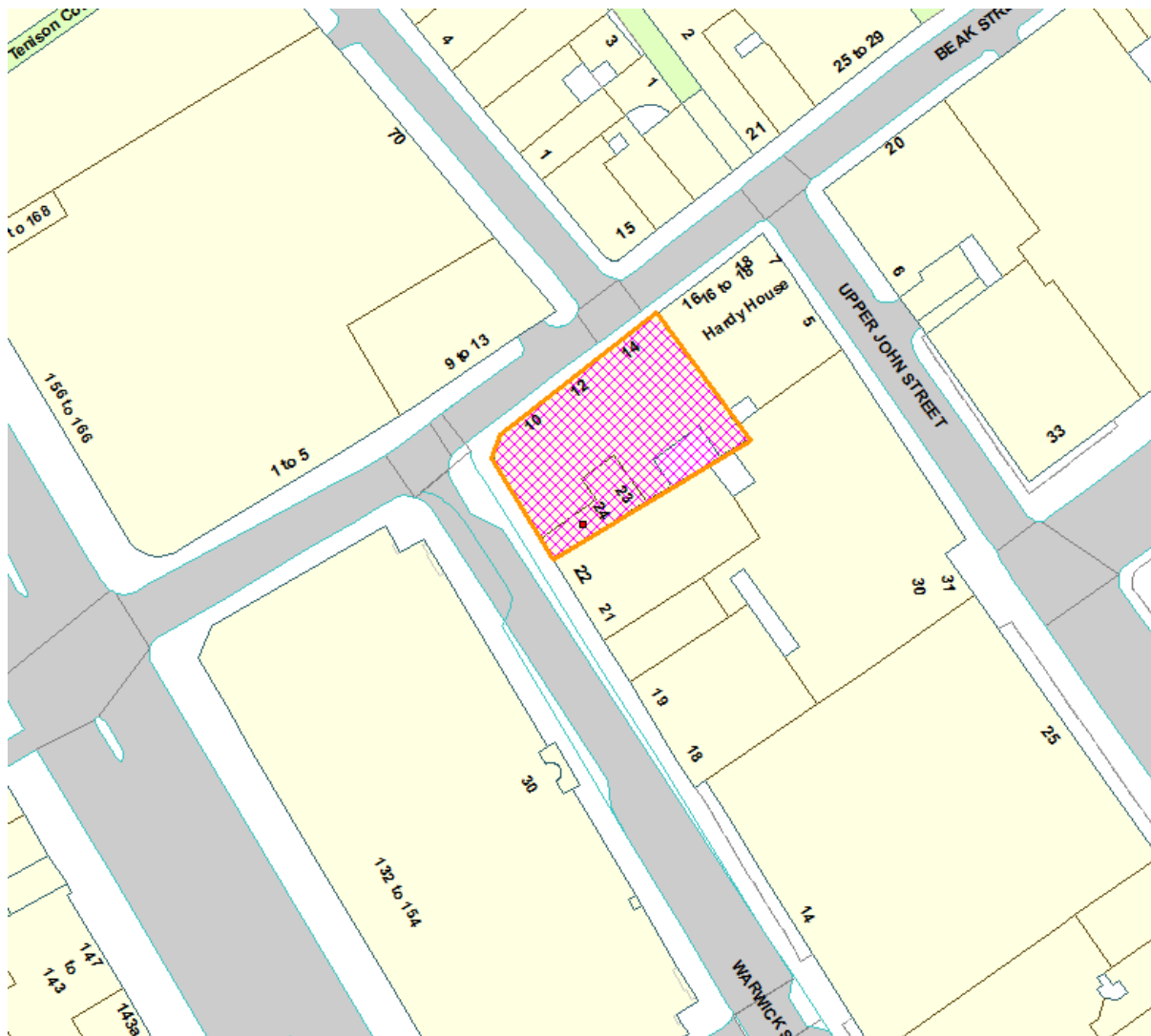
## 2. SUMMARY

The proposals involve a 7-storey building on the south side of Beak Street at its junction with Warwick Street. In 2017 permission was granted for replacement roof extensions, new windows, relocated plant and a roof terrace for office purposes. This application seeks design changes to that consent including alterations to the rear façade, the roof extension and the main office entrance on Warwick Street.

The key issues for consideration are:

- The impact of the alterations on the character and appearance of the Conservation Area.
- The impact on surrounding amenity

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



## 5. CONSULTATIONS

SOHO SOCIETY

No response to date.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 20; Total No. of objections: 3

Three letters of objection (on behalf of one objector) on the following grounds:

- \* Overlooking and loss of privacy
- \* Windows/doors to the terrace at sixth floor level should be fixed shut and opaque glazed/fritted to mitigate any overlooking
- \* The glass balustrade at sixth floor should be formed of opaque glazing
- \* Office lights to be turned off outside of 08:00 and 22:00
- \* Access to the sixth floor terrace adjoining 6 Upper John Street should be for maintenance staff only
- \* An eastern elevation drawing had not previously been submitted and works to this part of the building are therefore unlawful and retrospective
- \* The changes to the eastern elevation do not constitute a minor change to the approved scheme
- \* Lack of notification to previous application

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

Axtell House, 23-24 Warwick Street, is located on the south side of Beak Street at its junction with Warwick Street. The building occupies a prominent position closing the vista south down Kingly Street and is visible in views east along Beak Street from Regent Street. The building is ground and basement plus six upper storeys and is located in the Soho Conservation Area. Axtell House is noted as being an unlisted building of merit in the conservation area audit and it makes a positive contribution to its surrounding area.

The building is in use as bar at basement and ground floors and in lawful office use on the upper floors. Access to the upper office floors is via a separate access on Warwick Street.

### 6.2 Recent Relevant History

Planning permission granted 10 January 2017 for demolition of existing 4th to 6th floors and erection of new 4th to 6th floors, including provision of a roof top garden and terrace at 6th floor level; all for office (Class B1) purpose. Relocation of plant to a 1st floor

lightwell, replacement of windows to front elevation, alterations to rear elevation and new ground floor entrance.

Detailed drawings in relation to the proposed roof landscaping planting layout and species, pursuant to condition 12 planning permission dated 10 January 2017 (RN: 16/08729/FULL) approved 8 September 2017.

This application has now been implemented and works are well advanced on site.

## **7. THE PROPOSAL**

This application seeks detailed design amendments to the permission granted on 10 January 2017 including additional brickwork and revisions to the design of the windows on the rear elevation, a stone finish to the office entrance on Warwick Street, minor changes to the roof extension and a Portland stone finish to two columns on the Warwick Street elevation.

During the course of the application, an adjacent neighbour argued that as an east elevational drawing had not been submitted as part of the 2017 permission that any operational development on this part of the building has not been approved. An east elevation has now been submitted and the adjacent neighbour has been re-consulted.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal does not raise any new land use issues. The uplift of office floorspace is in accordance with Policy S20 and, as the increase in floorspace is less than 400sqm (203sqm), there is no requirement for the equivalent amount of residential floorspace.

### **8.2 Townscape and Design**

The design alterations at the front and rear are relatively minor and uncontentious and would not harm the character of appearance of the Soho Conservation Area.

### **8.3 Residential Amenity**

Policy S29 in the City Plan and Policy ENV13 in the UDP relate to protecting amenities, daylight and sunlight, and environmental quality. Part (D) of ENV13 states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Part (E) of ENV13 goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing.

The application involves rebuilding the upper floors, but the re-built floors will be both taller and bulkier than the existing with the rebuilt sixth floor being 1.55m higher than the existing plant room and 4.3m higher than the existing fifth floor. In granting the previous scheme it was considered that given the relatively small increase in bulk and mass and its positioning away from residential windows, that there would be a material loss of daylight or sunlight.

The proposal also involves the provision of a terrace at sixth floor level and a roof terrace which replaces an existing roof terrace. Council records indicate that the nearest residential properties are located at 6 Upper John Street on the opposite side of Upper John Street. An objection has been received from the penthouse flat in this property on the grounds of overlooking and loss of privacy. The objector also argues that as an east elevational drawing had not been submitted as part of the previous application that the impact of the proposals on the amenity of nearby neighbours had not been properly scrutinised. This issue was considered as part of the original application. The approved sixth floor plan clearly shows the windows and door onto a terraced area at sixth floor level and it is considered that it was clear from the previous submissions that access to this terrace was to be gained from doors facing the objector's property. The visuals submitted with the Design and Access Statement also clearly show the balustrade onto the sixth floor terrace, the windows on that elevation and the balustrade encompassing the terrace at roof level. The previous report also sets out that the terrace at roof level is set back from the facades of the building and includes planting to limit any future overlooking. 6 Upper John Street is also some 23m from the application site on the opposite side of Upper John Street. Given this distance, and the fact that the proposed roof terrace replaces an existing roof terrace, it is considered that a terrace in this location is once again acceptable, subject to a condition, as in the consented scheme, limiting the hours when the terrace can be used.

The objector also considers that the windows/doors to the terrace at sixth floor level should be fixed shut and formed of opaque glass/fritted, that access to the sixth floor terrace adjoining 6 Upper John Street is limited to maintenance staff only, that the glass balustrade is formed of opaque glazing and that office lights are turned off outside of 08:00 to 22:00 to mitigate any overlooking. There are windows within 16-18 Beak Street and 30-32 Golden Square that are directly opposite the objector's property that are clear glazed and only some 8.5m from the objector's property. Given that the proposed windows and the sixth floor terrace are substantially further away than these existing windows and over 23m from the objector's property, the conditions the objector requests are not considered reasonable.

#### **8.4 Transportation/Parking**

Not applicable to the consideration of these proposals.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

The main office entrance is constrained by an existing step and therefore a managed mobile ramp system is proposed at the reception.

#### **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**

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

## **8.11 Environmental Impact Assessment**

Not applicable.

## **8.12 Other Issues**

The objector claims that neither he nor his neighbours received letters or observed other notifications to the previous application. However, a total of 14 letters were sent to residents of 6 Upper John Street on 11th November 2016 including the Penthouse Flat, at fourth floor and fifth floor. A site notice was also displayed on the site, and the application was advertised in the local newspaper and in this regard, the Council fully complied with the statutory requirement regarding the publicity of the previous planning application.

The objector is also of the view that the works to the eastern elevation cannot constitute a minor material amendment to the approved scheme. The NPPG advises that “there is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.” Whilst an eastern elevation had not previously been submitted, the approved plans clearly show windows and a door onto a terraced area at sixth floor level and as such the submission now of an eastern elevation is not considered to result in a materially different scheme to that approved.

The objector also requests that he is notified of applications to discharge details of samples under Condition 3 (to ensure that any glazing materials on the eastern elevation are screened or opaque) and details of landscaping under Condition 12. As set out above, obscure glazing is not considered reasonable and Condition 12 has already been discharged. The reason that this condition was imposed was to “improve and contribute to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment.” As this condition was not imposed to mitigate amenity concerns, in approving these details it was not necessary for the City Council to carry out any public consultation.

Finally, the objector also argues that the application is part retrospective as works have commenced on the east elevation for which detailed drawings have not previously been submitted. The description of development has been amended accordingly.

(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](mailto:jpalme@westminster.gov.uk)



## 9. KEY DRAWINGS

Proposed front entrance

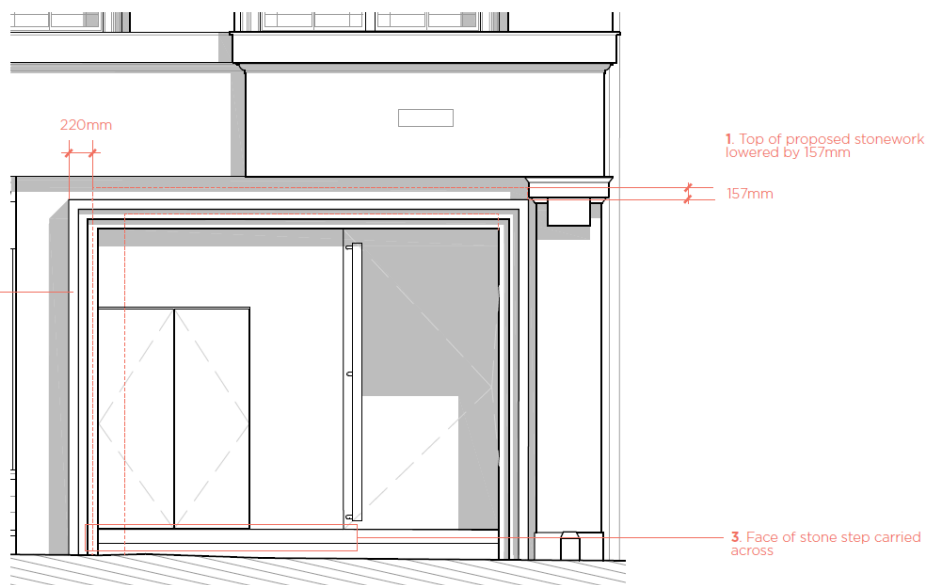
1. The amended proposal has a lower stone surround to ensure continuity of the soffit level of the entrance. The stone finish fascia area above the projecting stone element increases in depth by 157mm.

3. Stone portal widened by 220mm to ensure escape door is compliant with fire strategy following the discovery of an existing structural column that created a clash with the door.

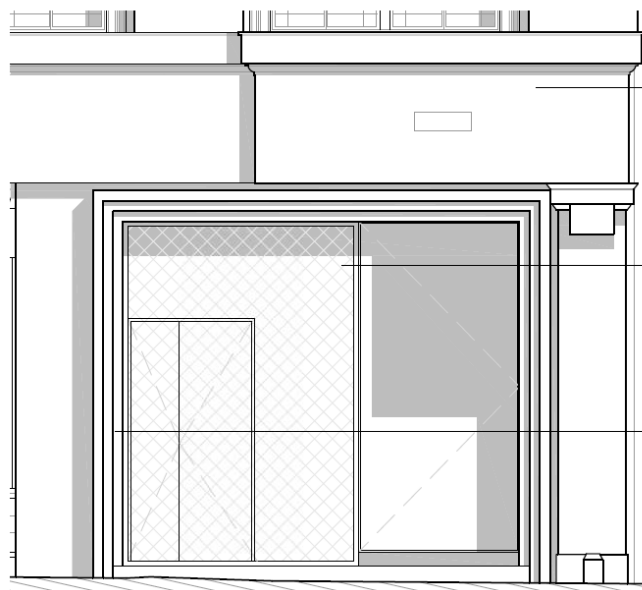
3. The existing door threshold level has been found to be higher, requiring the new stone face of the second step to be continued across below the metalwork.

----- Outline of previous proposal

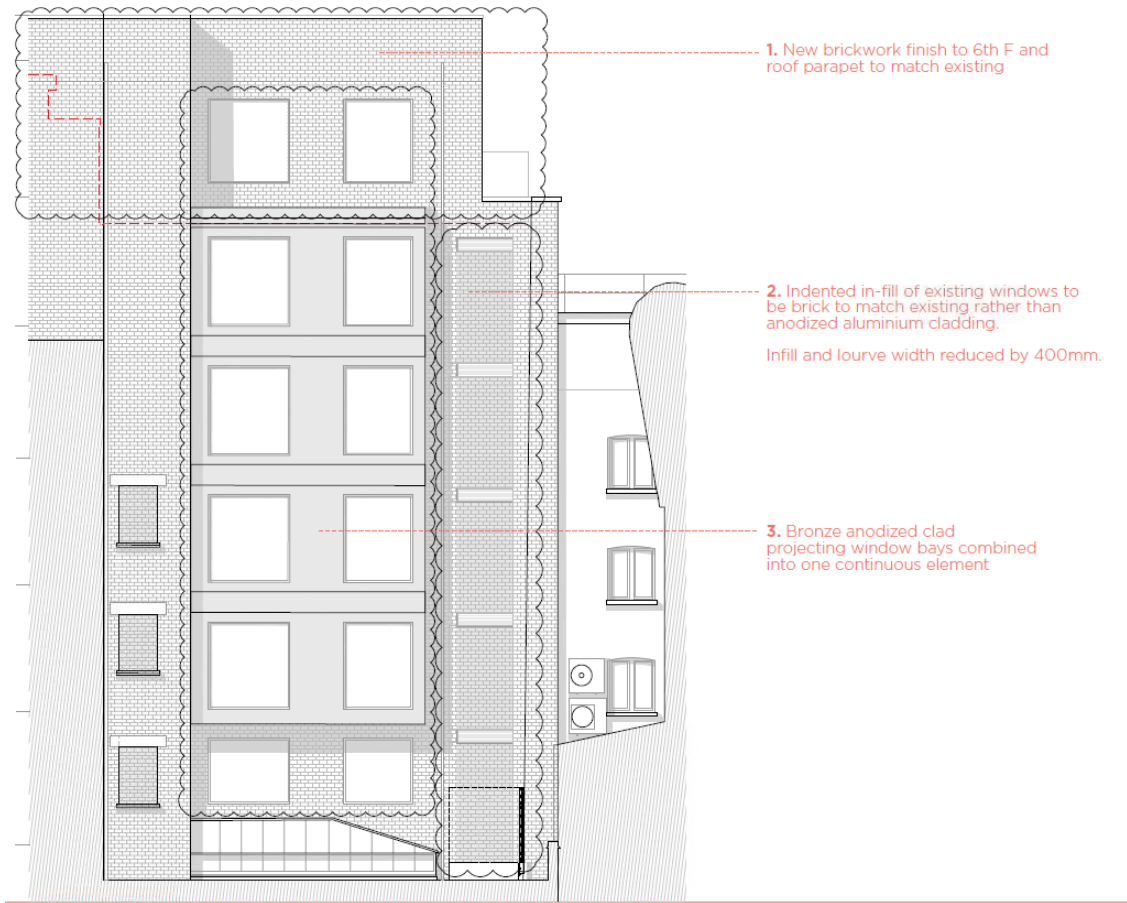
2.Width of proposed stone work increased by 220mm



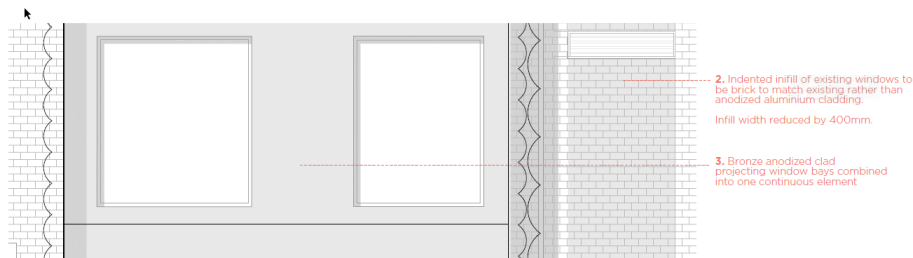
Previously consented front entrance



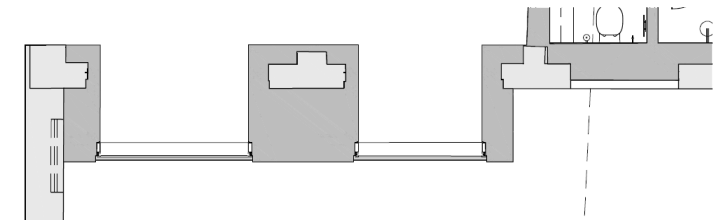
Proposed rear elevation



EXAMPLE FLOOR

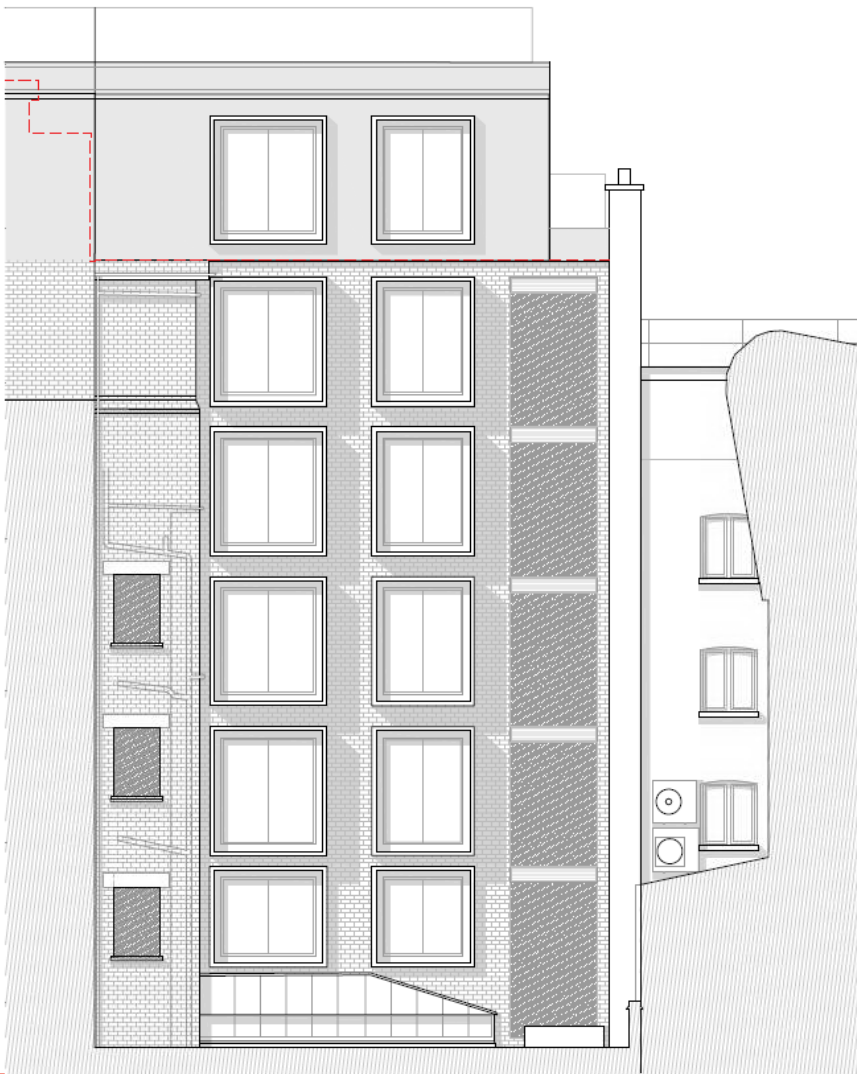


Elevation - Drawing ref: 15059\_(PL)-32\_P4



Plan - 4<sup>th</sup> Floor - Drawing ref: 15059\_(PL)-23\_P4

Previously consented rear elevation



**DRAFT DECISION LETTER**

**Address:** Axtell House, 23-24 Warwick Street, London, W1B 5NQ,

**Proposal:** Variation of condition 1 of planning permission dated 10 January 2017 (RN:16/08729/FULL) for the demolition of existing 4th to 6th floors and erection of new 4th to 6th floors, including provision of a roof top garden and terrace at 6th floor level; all for office (Class B1) purpose. Relocation of plant to a 1st floor lightwell, replacement of windows to front elevation, alterations to rear elevation and new ground floor entrance. NAMELY, changes to the rear elevation, to the Warwick St entrance and the double-height corner bay at roof level (partially retrospective application).

**Reference:** 18/02336/FULL

**Plan Nos:** 15059\_(PL)-20\_P5. , (PL)-21\_P4 , (PL)-22\_P4 , (PL)-23\_P4 , (PL)-24\_P4 , (PL)-25\_P4 , (PL)-26\_P4 , (PL)-27\_P4 , (PL)-28\_P4 , (PL)-29\_P4 , (PL)-30\_P4 , (PL)-31\_P4 , (PL)-32\_P4 , , (PL)-33\_P1,

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**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 You must apply to us for approval of samples 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 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)

- 4 The glass balustrade at roof level must be set back in accordance with the permission approved on 27 March 2017 (17/02048/ADFULL) and as shown on the approved drawings, or in accordance with an alternative scheme to be approved by the City Council showing the balustrade set back to reduce its visual impact from street level.

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)

- 5 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace or sixth floor balcony.

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)

- 6 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:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 7 (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.

- 8 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.

- 9 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.

- 10 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 15059\_(PL)-19(1). You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

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)

- 11 You can only use the approved terrace and balcony areas between the hours of 08:00 to 21:30 Monday to Friday and 09:00 to 21:00 on the weekends, Bank Holidays and public holidays. You cannot use the terrace areas outside of these hours other than in the case of an emergency.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 12 You must carry out the roof landscaping work according to the scheme approved on 8 September 2017 (17/05852/ADFULL) or in accordance with an alternative detailed roof planting scheme to be approved by the City Council. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved details.

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30BC)

- 13 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)

- 14 You must install the new windows in the original (existing) facades in accordance with the details approved by the City Council on 13 December 2017 (17/10822/ADFULL) or in accordance with alternative detailed drawings for the new windows in the original (existing facades).

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)

- 15 This permission must be commenced no later than 9 January 2020.

Reason:

This permission authorises amendments to the original planning permission granted on 10 January 2017 (RN 16/08729/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 7&8 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 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.
- 4 With respect to condition 14 the City Council expects the replacement windows to be a close match to the original windows in terms of their external appearance.
- 5 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](http://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: {\i  
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>}

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

{\b 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.