

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 8 August 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Lancaster Gate	
Subject of Report	7 Caroline Place, London, W2 4AW		
Proposal	Installation of 1 air conditioning unit in the rear garden, housed in an acoustic enclosure.		
Agent	Studio McLeod		
On behalf of	Mr Hadrien de Montferrand		
Registered Number	22/08515/FULL	Date amended/ completed	16 December 2022
Date Application Received	16 December 2022		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant Conditional Permission

2. SUMMARY & KEY CONSIDERATIONS

The application proposes the installation of an air conditioning unit within an acoustic enclosure and timber screening in the rear garden of this single family dwelling.

Objections have been received from Councillor Ormsby, the Bayswater Residents Association and 8 neighbours on grounds including noise disturbance, the proposal being contrary to the Councils carbon reduction aim and design.

The key considerations in this case are:

- The impact of the proposal on the character and appearance of the building and the Bayswater Conservation Area.
- The impact on the amenity of neighbouring residential properties.
- The acceptability of the proposals in sustainability terms.

Item No.

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The proposal is considered to be acceptable and would accord with policies within Westminster's City Plan 2019 – 2040 (April 2021).

3. LOCATION PLAN



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4. PHOTOGRAPHS



Aerial photograph showing rear of application site



Photograph of the rear of the property

5. CONSULTATIONS

5.1 Application Consultations

WARD COUNCILLOR ORMSBY

Cllr Ormsby objects to the application on the grounds that the installation of the air conditioning units does not meet the Councils policy to minimise carbon impacts and create conditions to reduce energy consumption, plus the potential noise impact on residents in this quiet residential location. The councillor has requested that if the application is not recommended for refusal it is taken to Committee for member scrutiny and resident representation.

BAYSWATER RESIDENT'S ASSOCIATION

Objection on the grounds of noise disturbance especially at night and environmental impact.

ENVIRONMENTAL HEALTH:

No objection to the proposals, subject to conditions securing the specified noise attenuation measures including louvered acoustic enclosure.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8

Total No. of replies: 8

No. of objections: 8

No. in support: 0

Eight objections were received by nearby residential occupiers on the following grounds:

Design

- Properties within the Masefield Estate are within the Conservation Area and maintain uniformity in their properties.

Amenity

- Air conditioning units will cause noise nuisance to neighbours especially at night.

Environment

- Contrary to Council's carbon reduction aim

- Alternative more environmentally friendly options should be used to cool the property

Other

- Request that the application is considered at Committee

- The nearest windows identified in acoustic report are incorrect

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was carried out with regards to this proposal.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The application relates to a detached property in use as a single family dwelling located within the Bayswater Conservation Area. The building was constructed post-war in a Neo-Georgian style and consists of buff colour brick, panelled timber doors, timber three over three sash windows and a crown roof form. The street is largely characterised by mews form properties.

7.2 Recent Relevant History

03/03735/FULL

Erection of a full width conservatory at rear ground floor level, a dormer window within the rear roof slope and replacement of garage door.

Application Permitted 11 September 2003

21/07355/FULL

Rear dormer roof extension and new rooflights, infill extension to ground floor rear; alterations to windows and doors on all elevations.

Application Permitted 10 March 2022

22/06235/FULL

Variation of condition 5 of planning permission dated 6th August 2021 (RN: 21/07355/FULL) for the rear dormer roof extension and new rooflights, infill extension to ground floor rear; alterations to windows and doors on all elevations. Namely, to allow the installation of openable windows for natural ventilation at first floor side (south) elevation instead of the approved fixed window.

Application Permitted 24 October 2022

8. THE PROPOSAL

Planning permission is sought for the installation of an air conditioning unit within an acoustic enclosure and timber screening, adjacent to a rear garden boundary of this single family dwelling.

The proposal has been amended during the course of consideration to remove a roof light to the front roof slope from the application and to correct a typo in the submitted acoustic report.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The property is a single family dwelling. The proposal does not involve any change of use or increase in floorspace.

9.2 Environment & Sustainability

Sustainable Design and Energy Performance

Policy 38D of the City Plan 2019-2040 states that “development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design, including: 1. use of high-quality durable materials and detail; 2. providing flexible, high quality floorspace; 3. optimising resource and water efficiency; 4. enabling the incorporation of, or connection to, future services or facilities; and 5. minimising the need for plant and machinery”.

Policy 36 states that the council will promote zero carbon development and expects all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change. All development proposals should follow the principles of the Mayor of London’s energy hierarchy although only major development should be net zero carbon and demonstrate through an energy strategy how this target can be achieved.

Objections have been received on the grounds that the use of mechanical plant is contrary to the Council's carbon reduction aim and that more environmentally friendly options should be used.

The applicant has submitted a Sustainability Statement with their application. They have explained that an air conditioning unit is required to address issues of overheating within the house, which have not been able to be rectified with other measures. They point out that the recent planning permission (ref: 21/07355/FULL) was built following sustainable design principles, upgrading property whilst converting a one-bedroom two-storey house into a five-bedroom three-storey home. The applicant has set out how they have followed the London Plan Energy Hierarchy tiered approach to reduce carbon dioxide emissions in the renovation of the property. They state that energy demand has been reduced through the installation of additional windows and rooflights (to enhance natural and through ventilation) and the draughtproofing of the new and existing windows and doors.

To reduce the need for heating and cooling, insulation to the property has been increased such that the house exceeds all minimum u-values for building fabric. This has included replacing glazing with higher thermal performance glazing, the installation of cavity wall insulation, lining all external walls with insulation (lining the previously uninsulated cavity walls) and increasing the insulation to the roof. Despite these upgrades, due to the limitations of the existing building, the applicant expects excess solar gain to result in overheating during the summer.

The applicant has stated that they have investigated the use of an air source heat pump system for heating, hot water, and cooling to the property but this was not practical due to the size of the acoustic enclosure required for this type of installation within the garden. Therefore, the proposed condenser unit was considered the only practical option to deliver the necessary cooling of the property during summer months.

The applicant notes that they have also recently submitted applications to install external solar louvres to the existing ground floor extension which they state was to reduce solar gain, and therefore reduce the need for mechanical plant, and to build a pitched roof to the garage of the property to house plant equipment for a ASHP system. However, these proposals were withdrawn following concerns raised by the Council on design grounds. It should however be noted that the roof extension application did not include any plant and the internal space was shown as "storage" space on the proposed floorplans.

Air Quality

The site is not within an Air Quality Focus Area and no Air Quality Assessment is required as part of the application.

Flood Risk & Sustainable Drainage

The site is not located within a Surface Water flood Risk Hotspot or within a flood zone.

Environment & Sustainability Summary

On balance, it is considered that the installation of the air condensing unit is acceptable

due to the small environmental impact it will have and the fact that the applicant has investigated alternative options to achieve the necessary cooling of the property. Therefore, it is not considered reasonable to refuse planning permission on sustainability grounds.

9.3 Biodiversity & Greening

Policy 34B of the City Plan requires that “developments will, wherever possible, contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme.

It is recognised that the proposal does not provide any opportunities for significant greening. The roof of the enclosure has an area of less than 2sqm and it is not considered that this would provide sufficient biodiversity benefit to require a green roof is used. Providing such a feature would also require an increase in the height of the enclosure which would increase its visual presence.

The applicant has stated that the existing concrete slab foundation below the hard landscaping and a fixed concrete bench structure to the rear garden will be removed. With a lawn, permeable finishes, and planting installed in their place, to reduce surface water run off, lower risk of flash flooding, and increase biodiversity. This is welcomed.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

The key legislative requirements in respect to designated heritage assets are as follows:

Policy 39 of the Westminster City Plan 2019-2040 (April 2021) requires development to conserve features that contribute positively to the settings of conservation areas and take opportunities to enhance their settings, wherever possible.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

An objection has been received on the grounds that the proposals will be detrimental to the Masefield Estate and Conservation Area, which currently maintains a great deal of uniformity. However, because of its discreet location and limited visibility it is considered that the proposal would not have any significant impact on the uniformity of nearby properties.

The proposed acoustic enclosure will be accommodated adjacent to and below the height of the existing timber boundary fence and screened in timber matching that fence, therefore it will be largely hidden from views and is considered to preserve the appearance of the building and the character and appearance of the conservation area.

The application is therefore considered compliant with Policies 38 (design principles), 39 (heritage) and 40 (townscape and architecture) of the City Plan and is recommended for approval.

9.5 Residential Amenity

Policy 7 of the City Plan seeks to protect surrounding residences from unacceptable loss of daylight/ sunlight, sense of enclosure, loss of privacy and noise. Policy 33 aims to minimise local environmental impacts of development. Policy 38C of the City Plan requires that all development, introduces measures that reduce the opportunity for crime and anti-social behaviour, promoting health, well-being and active lifestyles through design and ensuring a good standard of amenity for new and existing occupiers.

Daylight & Sunlight and Sense of Enclosure

The proposed acoustic enclosure will be accommodated adjacent to and below the height of the existing timber boundary fence, therefore it will have no significant impact on daylight and sunlight or sense of enclosure on neighbouring properties.

Privacy

The proposal would have no loss of privacy implications on neighbouring properties.

Noise & Vibration

Objections have been received on the grounds of the potential for the air conditioning unit to cause noise nuisance to neighbours, especially at night. One of the objections noted that the submitted acoustic report stated the incorrect address at the nearest affected residential window. The originally submitted report did reference the incorrect address in paragraph 5.2. However, the applicant has confirmed that this was a typographical error and has since issued a report with this reference corrected. In the updated report, the closest noise sensitive receiver was identified in the correct position.

The City Council's Environmental Health officer has assessed the planning compliance noise report and confirms that the measurements and calculations in the report are all accurate and references the correct nearest noise sensitive location.

The Environmental Health officer has raised no objection to the proposals on environmental noise or nuisance grounds, subject to the imposition of standard noise and vibration conditions including the installation of noise mitigation measures. It is therefore considered that the proposals meet the Council's requirements in terms of noise and vibration, and are considered to be acceptable in terms of noise and amenity.

9.6 Transportation, Accessibility & Servicing

The proposal has no transport, accessibility or highways implications.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

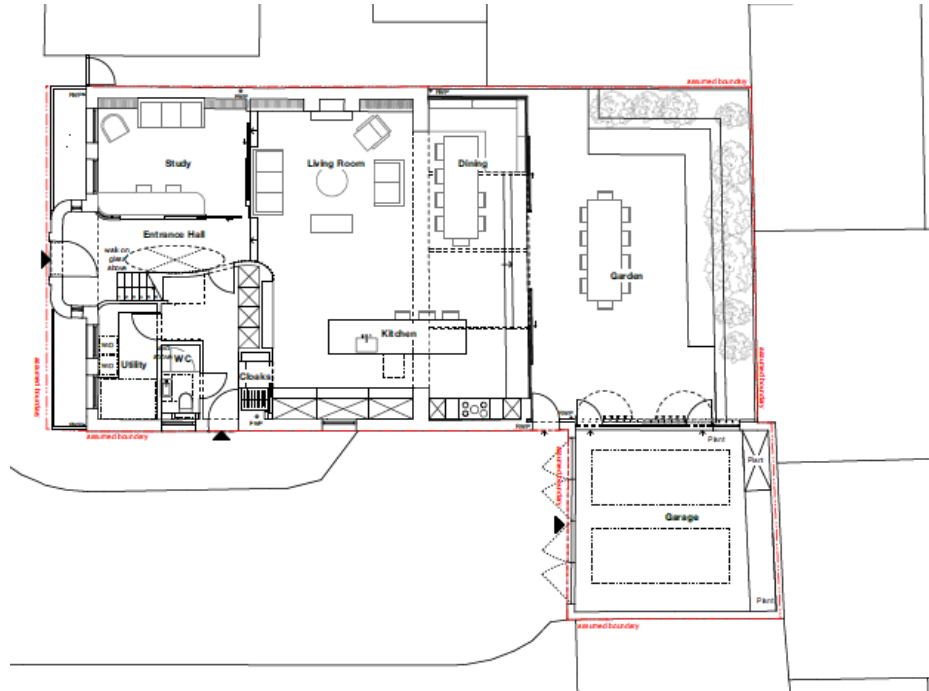
The proposal is considered acceptable in design, conservation, sustainability and amenity terms. The proposed air condensing unit and acoustic enclosure are considered to protect the character and appearance of the conservation area.

As such, the proposal is considered acceptable, mindful of policies 7, 33, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

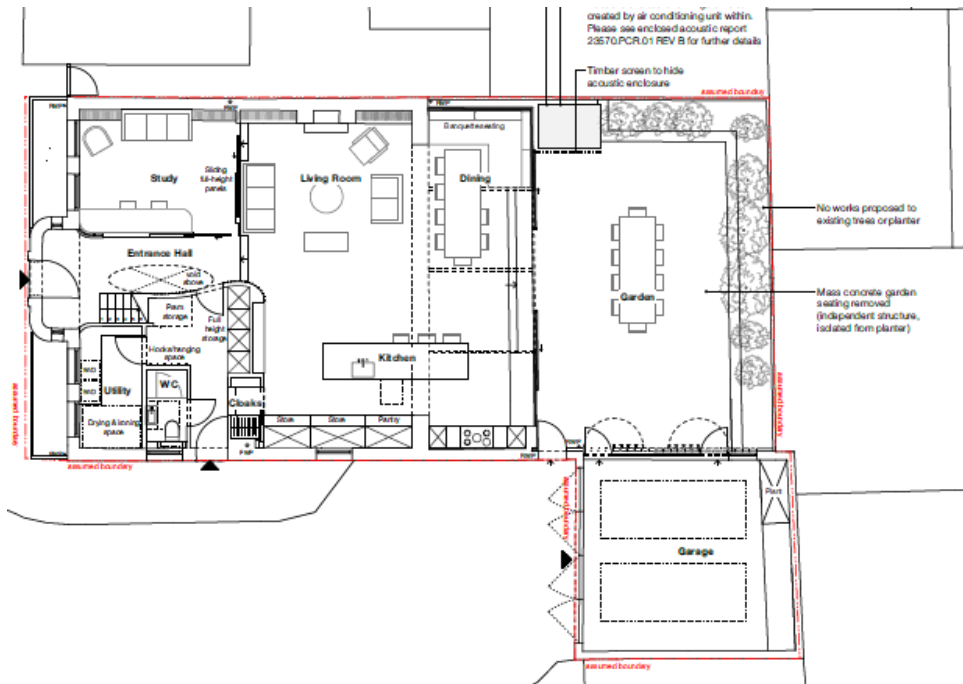
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

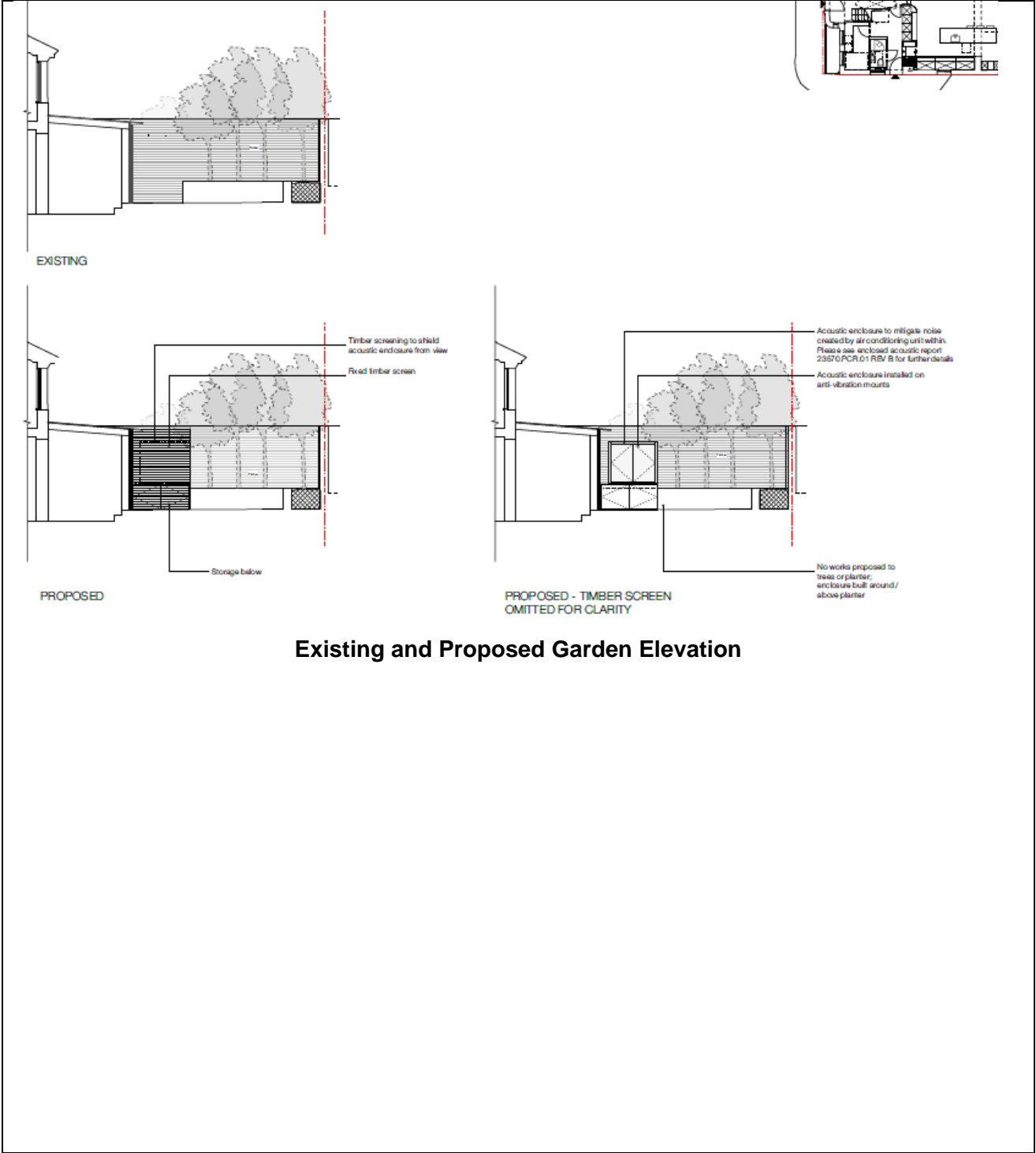
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

11. KEY DRAWINGS



Existing (above) and Proposed (bottom) Plan





Existing and Proposed Garden Elevation

DRAFT DECISION LETTER

Address: 7 Caroline Place, London, W2 4AW

Proposal: Installation of 1 air conditioning unit in the rear garden, housed in an acoustic enclosure.

Reference: 22/08515/FULL

Plan Nos: Location Plan; Site Plan: 250-SU-400; 250-SU-401; 250-SU-402; 250-SU-403; 250-SU-404A; 250-SU-405; 250-SU-406; 250-SU-407; 250-SU-408; 250-SU-409; 260-PL-400A; 260-PL-401; 260-PL-402A; 260-PL-403A; 260-PL-404A; 260-PL-405A; 260-PL-409A; Sustainability Statement dated 4th May; Acoustic Report Rev C; Planning Statement and Design and Access Statement; Heritage Statement;

Case Officer: Richard Langston

Direct Tel. No. 07866 036470

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 , onot 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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 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 Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing 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 in writing 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 written 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 LA90, 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. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the

Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 5 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 6 You must install the acoustic attenuation measures detailed in Section 6 of your Planning Compliance Report reference 3570.PCR.01 Rev C before you use the machinery. You must then maintain the attenuation measures in the form specified for as long as the machinery remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 HIGHWAYS LICENSING:, Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of

that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at www.westminster.gov.uk/guide-temporary-structures.

CONSIDERATE CONSTRUCTORS:, You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

BUILDING REGULATIONS:, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference 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.