



City of Westminster

Committee Agenda

Title: **Planning Applications Committee (3)**

Meeting Date: **Tuesday 11th October, 2016**

Time: **6.30 pm**

Venue: **Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP**

Members: **Councillors:**

Andrew Smith (Chairman)
Barbara Grahame
Louise Hyams
Robert Rigby

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Committee and Governance Officer.

**Tel: 020 7641 2341; Email: tfieldsend@westminster.gov.uk
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note any changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by members and officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

3. MINUTES

To sign the minutes of the last meeting as a correct record of proceedings.

4. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

- | | |
|--|------------------------|
| 1. 41 GREAT PULTENEY STREET, LONDON, W1F 9NT | (Pages 3 - 26) |
| 2. 31 SPRINGFIELD ROAD, LONDON, NW8 0QJ | (Pages 27 - 42) |
| 3. GROUND FLOOR, PRINT WORKS HOUSE, 83 GREAT TITCHFIELD STREET, LONDON, W1W 6RH | (Pages 43 - 62) |
| 4. OPEN SPACE AT JUNCTION OF FERNHEAD ROAD AND, ELGIN AVENUE, LONDON | (Pages 63 - 78) |
| 5. 19 BALCOMBE STREET, LONDON, NW1 6HE | (Pages 79 - 94) |

Charlie Parker
Chief Executive
3 October 2016

Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS COMMITTEE – 11th October 2016
 PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN NO(s) : 16/03788/FULL	41 Great Pulteney Street London W1F 9NT	Erection of new fourth storey, plant room and perimeter railing for use as offices (Class B1) with a terrace. External alterations comprising new fenestration and painting of the facades, and alterations to the office entrance on Great Pulteney Street including erection of a fixed canopy.	Sir Richard Sutton Limited
	Recommendation Grant conditional permission			
2.	RN NO(s) : 16/05956/FULL	31 Springfield Road London NW8 0QJ	Retention of wraparound dormer. (Reconsultation due to submission of revised drawings which accurately reflect the as built structure).	Ms Eve Brenner
	Recommendation Refuse permission -design			
3.	RN NO(s) : 16/05737/FULL	Ground Floor Print Works House, 83 Great Titchfield Street London W1W 6RH	Dual/alternative use of the ground floor, including new upper and lower mezzanine levels, for retail purposes (Class A1) of the basement as offices (Class B1) or use of the basement, ground and upper and lower mezzanine levels as a Pilates studio, personal training area, physiotherapy/sports massage treatment rooms and retail floorspace (sui generis).	Ten Health & Fitness
	Recommendation Grant conditional permission			
4.	RN NO(s) : 16/07725/COFUL	Open Space At Junction Of Fernhead Road And Elgin Avenue London	Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)	Westminster City Council
	Recommendation Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.			
5.	RN NO(s) : 16/06623/COFUL	19 Balcombe Street London NW1 6HE	Use of communal basement storage at 19 Balcombe House as a residential flat (Class C3) and associated external alterations to provide access to amenity spaces at front and rear.	CityWest Homes Ltd
	Recommendation Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.			

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Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date	Classification For General Release	
Report of Director of Planning	Ward(s) involved West End		
Subject of Report	41 Great Pulteney Street, London, W1F 9NT		
Proposal	Erection of new fourth storey, plant room and perimeter railing for use as offices (Class B1) with a terrace. External alterations comprising new fenestration and painting of the facades, and alterations to the office entrance on Great Pulteney Street including erection of a fixed canopy.		
Agent	Mr Robert Winkley		
On behalf of	Mr Mark Woodford		
Registered Number	16/03788/FULL	Date amended/ completed	27 April 2016
Date Application Received	26 April 2016		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional planning permission.
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2. SUMMARY

41 Great Pulteney Street is an unlisted building located within the Soho Conservation Area and the Core Central Activities Zone. The building comprises, basement, ground and first to third floor levels with a plant room / roof access at fourth floor level and an external terrace area. The basement and ground floors are utilised as plant, restaurant and retail premises, with the upper floors being in use as office accommodation (Class B1).

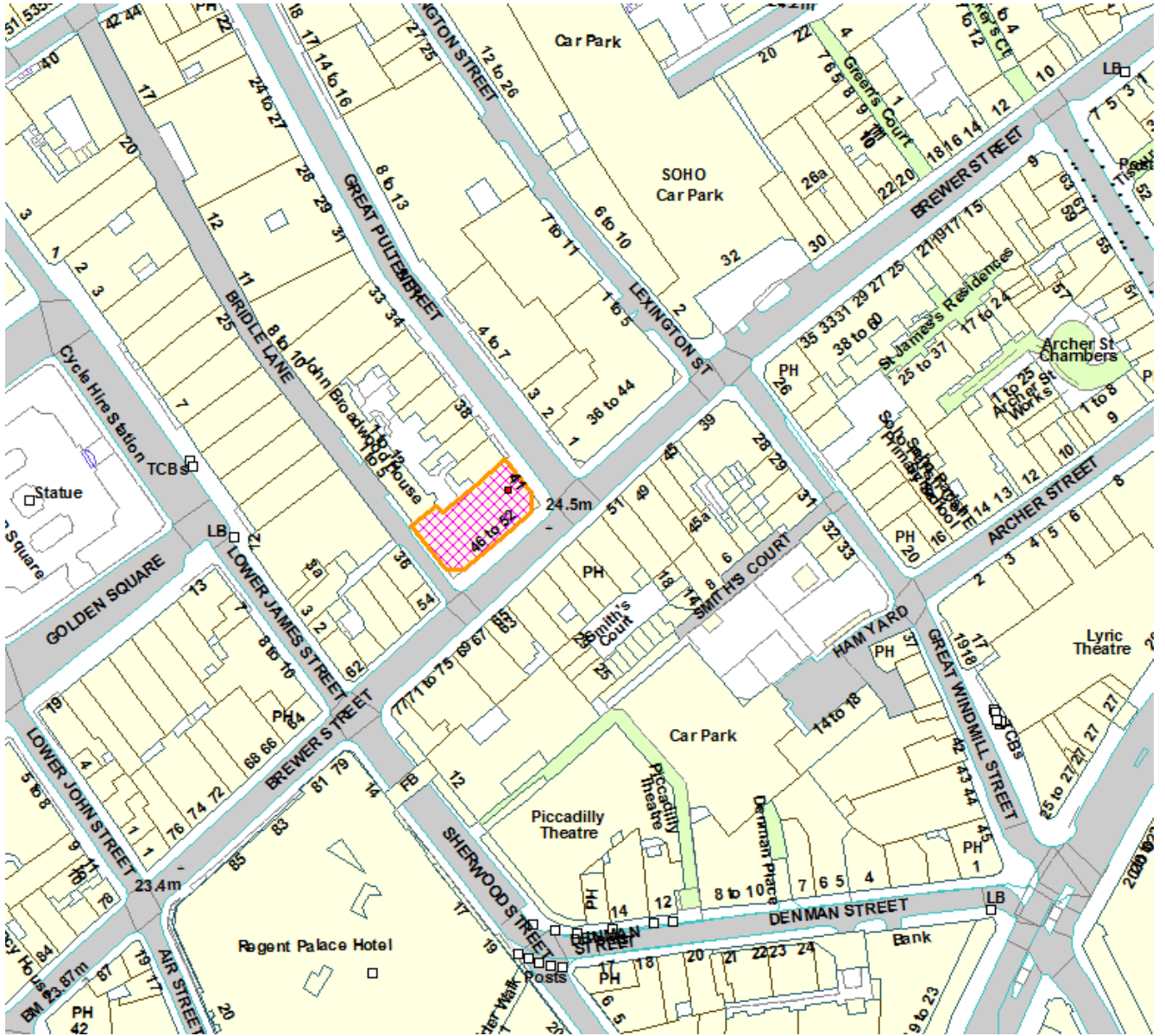
Planning consent is sought for alterations to the elevations of the property which fronts Brewer Street, Bridle Lane and Great Pulteney Street, including the installation of new windows. At fourth floor level it is proposed to remove the existing plant room and roof enclosure and construct a single storey extension for use as office accommodation, including the installation of plant on the roof and at fourth floor level. New railings will be installed at fourth floor level with screening and a green roof created in association with a terrace area. A new canopy is proposed on the Great Pulteney Street frontage over the office entrance.

The key issues are:

- The impact of the fourth floor extension and terrace on the amenity of nearby sensitive occupiers.
- The acceptability of the design of the proposal and the impact upon the character and appearance of the Soho Conservation Area.

Subject to conditions, the proposal is considered acceptable on design and land use grounds and in terms of its impact upon the amenities of neighbouring occupiers. The application is considered to comply with relevant City Plan and Unitary Development Plan (UDP) policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

COUNCILLOR CHURCH

Objection -

The proposed terrace would overlook residential properties and detrimentally impact their amenity.

SOHO SOCIETY

Objection on the following grounds -

Hours of use of the terrace should be restricted to 20:00 to protect residential amenity, with visual / acoustic screening provided.

The proposed black brickwork is detrimental to the appearance of the Soho Conservation Area.

HIGHWAYS PLANNING MANAGER

No objection subject to conditions.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72

Total No. of replies: 7

No. of objections: 6

No. in support: 1

Objections on some or all of the following grounds:

Amenity:

Overlooking and noise from the fourth floor terraces adversely impacting existing residents in nearby properties to the north of the site;

Overlooking from the new fourth floor office accommodation of residential windows along Great Pulteney Street;

Loss of daylight / sunlight to nearby sensitive properties;

Increased sense of enclosure to nearby properties;

Obstruction of views from residential roof terraces.

Design:

Black painted brick on the elevations would be oppressive and detrimental to the Soho Conservation Area;

The proposed entrance canopy is too large and dominates the streetscape;

The proposal would detrimentally affect the setting of nearby listed buildings.

Other:

Impact upon fire escape routes.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The property is situated on the northern side of Brewer Street and has frontages to Great Pulteney Street and Bridle Lane, it is unlisted and located within the Soho Conservation Area and the Core Central Activities Zone. The building comprises lower ground, ground and first to fourth floor levels with plant room / roof access enclosure and terrace at fourth floor level. The lower ground and ground floor levels are in use as two retail and a restaurant unit with an office entrance at ground floor level. The upper floors are utilised entirely as office accommodation.

6.2 Recent Relevant History

None relevant.

7. THE PROPOSAL

Permission is sought for the demolition of the existing structure at fourth floor level and the erection of a new fourth floor for office accommodation (Class B1). Part of the fourth floor will be utilised as a plant room with additional screened plant set back on the roof of the proposed fourth floor. Externally at fourth floor it is proposed to create a terrace and install new railings around the parapet, on the northern side, there would be a green roof with 2m high box hedging in order to mitigate any overlooking of residential flats to the north of the application site. New full height windows are proposed on the three street facing elevations of the property, with existing brickwork being painted mid-grey. A new ground floor entrance to the office accommodation is also proposed with glazed sliding doors and a new entrance canopy.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Increase in office accommodation:

The application site is located within the Core Central Activities Zone which is considered a suitable location for office accommodation as stipulated by City Plan Policies S1 and S18. The extension at fourth floor level would result in an increase in the office floor space of 129m²; an increase of this size does not result in a policy requirement for any corresponding residential floor space.

8.2 Townscape and Design

41 Great Pulteney Street is a large unremarkable building in the Soho Conservation Area. Planning permission is sought for alterations to the façade and a roof extension.

The Soho Conservation Area Audit notes that this building would not normally be considered suitable for a roof extension. However, there is an existing unsightly extension already in place and its replacement with the new extension is welcomed in design terms and considered an improvement to the building. The new extension does not rise above the height of the existing plant room although its footprint is significantly increased. The visibility of the roof is increased in views from the opposite side of Brewer Street and in longer views along both Brewer Street and Great Pulteney Street. However due to the removal of large elements of glazing from the proposals the new roof would not be incongruous in this location. Anodized bronze is the primary cladding material on both the roof extension and on the new window surrounds. This is a high quality material that sits well within the contemporary palette. Following negotiation the design of the extension has been revised to incorporate more solid elements and make use of more traditional materials which are prevalent in the immediate townscape. Initially a glass balustrade was proposed around the fourth floor terrace but this has now been removed from the proposal and replaced with metal railings.

The proposal as a whole sees significant improvements to the main elevations with dropped cill heights, new slightly projecting framing and the repainting the building contributing to a more contextual appearance despite being contemporary in style. Vertical emphasis is improved and the building appears less squat and boxy than before. Taken as a whole the overall impact of the proposals are broadly positive and will preserve and enhance the character and appearance of the Soho Conservation Area.

The application is in accordance with Policies DES 1; DES 5; DES 6; DES 9; S 25; S 28 and the NPPF.

Objections have been received to the application from neighbouring residents and the Soho Society in relation to the brickwork being painted black and how this would make the building appear very dominant in the street and detrimental to the appearance of the conservation area. These concerns were supported by officers and during the course of the application the colour of the brickwork was changed to mid-grey which is considered acceptable and this change is considered the address the objections expressed about the dominance of the black painted brickwork.

An objection has been received to the installation of the entrance canopy which the objector considers too large for the property. It is considered the proposed canopy is a reasonable addition to a contemporary office building such as this and in this context is considered acceptable in design terms.

Further objectors have commented on the impact of the proposal on the setting of nearby listed buildings. However the building is separated from the adjacent listed buildings via a brick pillar and given the overall improvement works to the façade of the office building the impact of the scheme as a whole is positive.

8.3 Residential Amenity

Daylight and Sunlight

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used and it is a requirement of the City Council that most major planning applications are accompanied by a sunlight and daylight report using accepted BRE methodology.

A Daylight and Sunlight Assessment has been submitted which assesses the impact of the proposal on neighbouring residential windows at the following properties 51, 55 and 57 Brewer Street, 1-5 Bridle Lane, 37, 38, 39 and 40 Great Pulteney Street. An assessment has also been made of the impact of the development on the sunlight to the communal courtyard area to the north between the flats on Bridle Lane and Great Pulteney Street.

In all cases the study shows that losses are minor for any windows affected and in accordance with Building Research Establishment (BRE) Guidelines. There is also no impact recorded upon the levels of sunlight in the external courtyard to the north which serves the surrounding flats such that it would be contrary to the guidelines.

Objections have been received to the application from a number of surrounding residential occupiers concerned about the impact of the proposal on the levels of light their properties will receive and also expressing concern as to additional overshadowing of the communal courtyard to the north. As detailed above the Daylight and Sunlight Report demonstrates that any losses to sensitive windows accord with the BRE Guidelines and refusal of the application could not be sustained on this basis.

Sense of Enclosure

An objection has been received to the application from the residential occupier of 39 Great Pulteney Street (to the north of the application site) on the grounds that the increased bulk at fourth floor level resulting from the extension will lead to an increased sense of enclosure. There is an existing plant room and roof access enclosure at fourth floor level on the northern side of the building, essentially this bulk will be extended further across the existing roof. Policy ENV13 of the UDP states that 'developments should not result in a significant increase in the sense of enclosure or overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use.' Whilst the additional fourth floor extension will be visible from the residential properties to the north, this would only be in peripheral views from windows and could not be considered to result in a 'significant' increase in the sense of enclosure for occupiers, especially when considering the impact of the existing structure at fourth floor level.

The occupier has also commented on the impact upon the views to the south from their roof terrace. Whilst it is acknowledged that views of rooftops to the south would be blocked by the fourth floor extension, the protection of private views from roof terraces is not a material planning consideration and the objection on these grounds cannot be sustained.

Privacy

An objection mentions the increase in overlooking from the office windows of residential properties. There are no new proposed windows on the northern elevation of the property with the proposed fourth floor having windows to the south, west and east. It is not considered these windows will result in any significant increase in the degree of overlooking of neighbouring sensitive properties considering there are already windows on these elevations on the lower levels and an existing terrace at fourth floor level. The objection on these grounds is not therefore considered sustainable.

A number of objections were received from residential occupiers concerned the introduction of an enlarged terrace at main roof level would result in an increase in overlooking and noise of their properties, these concerns were supported in the representation from Councillor Church. It is noted that there is an existing area of decking at main roof level, and photographs submitted by the objectors clearly show deckchairs over other parts of the roof. There are no planning records indicating whether the roof (or part of it) has lawful consent to be utilised as a terrace but there is clearly some historic evidence to show it has been partially used as a terrace at times.

The application has been amended since it was first submitted to address concerns of overlooking from the terrace of the residential properties to the north. A green roof area is proposed on the rear western side of the fourth floor terrace to restrict access with a 2m high 'box hedge' proposed between the green roof area at the rear and the terrace to the front. The installation of the hedging will mean anyone utilising the terrace would be unable to look towards the north and the residential flats along Bridle Lane and Great Pulteney Street. Conditions are proposed to ensure the green roof area and the hedging is provided and retained. With these mitigation measures in place and conditioned to be retained on any approval it is considered the concerns about overlooking / loss of privacy have been satisfactorily addressed.

Noise

Objections have been received to the potential for the use of the terrace by office workers to result in a noise disturbance to nearby sensitive occupiers. These concerns are noted and it is considered that the use of the terrace should be conditioned to between 08:30 and 21:00 daily in order to protect residential amenity at sensitive times of the day, which the applicant has agreed to. The Soho Society and some objectors have suggested the terminal hour for the use of the terrace should be 20:00, however, at this busy, central location and taking into account the current terrace at this level which appears to be utilised without any restrictions on its hours, this is considered overly restrictive. It is not considered necessary to condition the capacity of a terrace of this size.

8.4 Transportation/Parking

The proposed entrance canopy for the office entrance accords with the minimum clearance requirements for pedestrians and being set-back from the carriageway and is therefore considered acceptable in highways terms.

Taking into account the existing office use of the upper floors and the relatively modest extension to the office accommodation it is not considered the proposal would generate a

significant change in servicing requirements or a change in the numbers of people visiting the site which would impact upon parking requirements.

To accord with the requirements of the London Plan two cycle parking spaces need to be provided to cater for the users of the office extension. Following negotiation with the applicant amended drawings have been submitted to show the provision of the required cycle parking spaces at basement level which are considered suitable. A condition is proposed to ensure that these cycle parking spaces are provided and retained in perpetuity.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

There is currently no level access to the property with an existing step into the office accommodation. The proposal would provide level access to the office entrance with lift access to all floors, including level access to the fourth floor terrace. There will also be a wheelchair accessible bathroom on each floor of the office accommodation.

8.7 Other UDP/Westminster Policy Considerations

The Basement Revision and Mixed Use Revision to the City Plan were submitted to the Secretary of State in December 2015. The independent examination was held in March 2016. Following the examination, a further consultation was held between 20 April and 5 June 2016, inviting responses to the proposed main modifications. Having considered the responses, none of the matters raised bring forward new issues which were not considered by the Inspector at the examination hearings in March.

Therefore, in accordance with Paragraph 216 of the National Planning Policy Framework, the Council will take the Basement Revision and Mixed Use Revision into account as a material consideration with significant weight in determining planning applications, effective from Tuesday 7 June 2016. One exception applies, in relation to the Basement Revision, specifically the application of the Code of Construction Practice [Policy CM28.1 Section A2b], which will be applied from the date of publication of the Code of Construction Practice document, likely to be at the end of June.

The implications of the revisions to the City Plan for the development subject of this report are outlined elsewhere in the report

Plant

Plant is proposed at fourth floor level. The proposed plant installation has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

A background noise assessment has been undertaken at main roof level with the lowest background noise level being recorded as 52dB during the proposed hours of operation of

the plant (07:00 till 19:00). The area has been identified in the Acoustic Report as having background noise levels which are above WHO guideline levels during the hours of plant operation. Therefore, to accord with Policy ENV7 of the UDP, the noise levels emitted by the plant will have to be 10dB below background at the nearest noise sensitive windows, which provides a design criteria of 42dB.

The nearest noise sensitive windows have been identified as serving the upper floor flats at 39 and 40 Great Pulteney Street to the north of the proposed plant location.

Acoustic mitigation measures are proposed to be installed in association with the plant, including duct attenuators (silencers) to the air handling units and toilet extract and acoustic screening around the external condenser units. With these acoustic mitigation measures in place, the noise from the plant operation is calculated as 40dB at the nearest sensitive window. Environmental Health has confirmed that the application will be compliant with the Council noise criteria and have raised no objection to the proposal. Conditions are proposed in relation to noise, vibration and the installation of the acoustic mitigation features.

In order to address any potential vibrations from the plant operation being transmitted through the building structure the plant is to be installed using vibration isolators.

Refuse /Recycling

No information has been provided with regard the internal waste and recycling storage facilities for the office accommodation. A condition is therefore proposed requiring the submission of amended drawings to show these details.

Biodiversity

The introduction of the green roof area and hedging at main roof level is welcomed and a condition is imposed to ensure these are provided and retained.

Other

A number of objections have commented on existing fire escape routes from the residential flats which they consider includes the roof of the application site. This issue would be considered under separate building regulation legislation and an informative is proposed to advise the applicant of this issue.

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

A scheme of this scale does not require the submission of an Environmental Impact Assessment.

9. BACKGROUND PAPERS

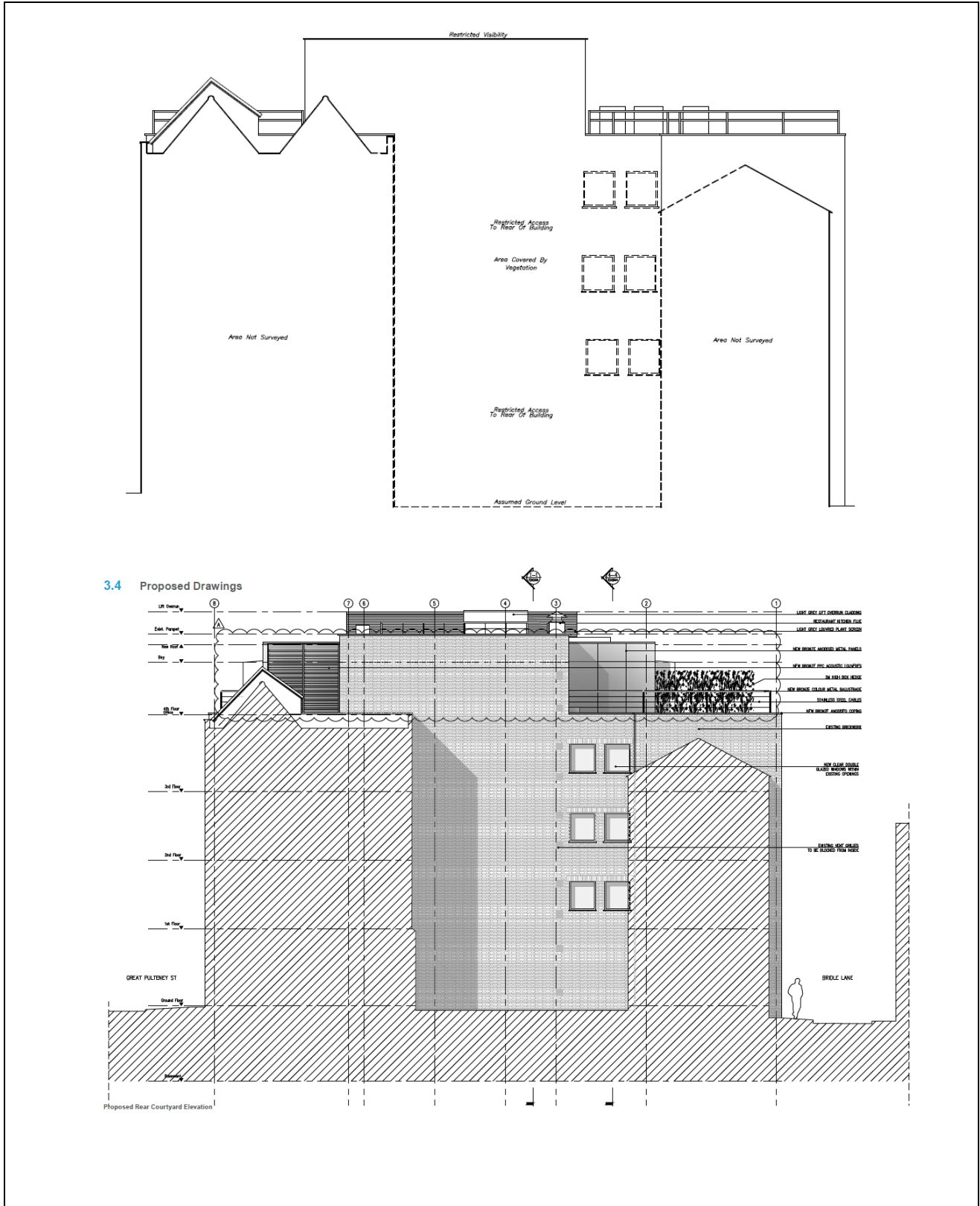
1. Application form
2. Email from Councillor Church dated 7 June 2016.
3. Representation from the Soho Society, dated 14 May 2016
4. Memorandum from Environmental Sciences, dated 5 May 2016.
5. Memorandum from the Highways Planning Manager dated 17 May 2016
6. Letter from occupier of 39C Great Pulteney Street, London, dated 3 June 2016
7. Letter from occupier of 39D Great Pulteney Street, London, dated 3 June 2016
8. Letter from occupier of 39 Great Pulteney Street, London, dated 6 June 2016
9. Letter from occupier of 37C Great Pulteney Street, London, dated 6 June 2016
10. Letter from occupier of Flat 4, John Broadwood House, 1, Bridle Lane, dated 19 May 2016
11. Letter from an unknown address, dated 17 May 2016
12. Letter from occupier of 37C Great Pulteney Street, London, dated 27 July 2016

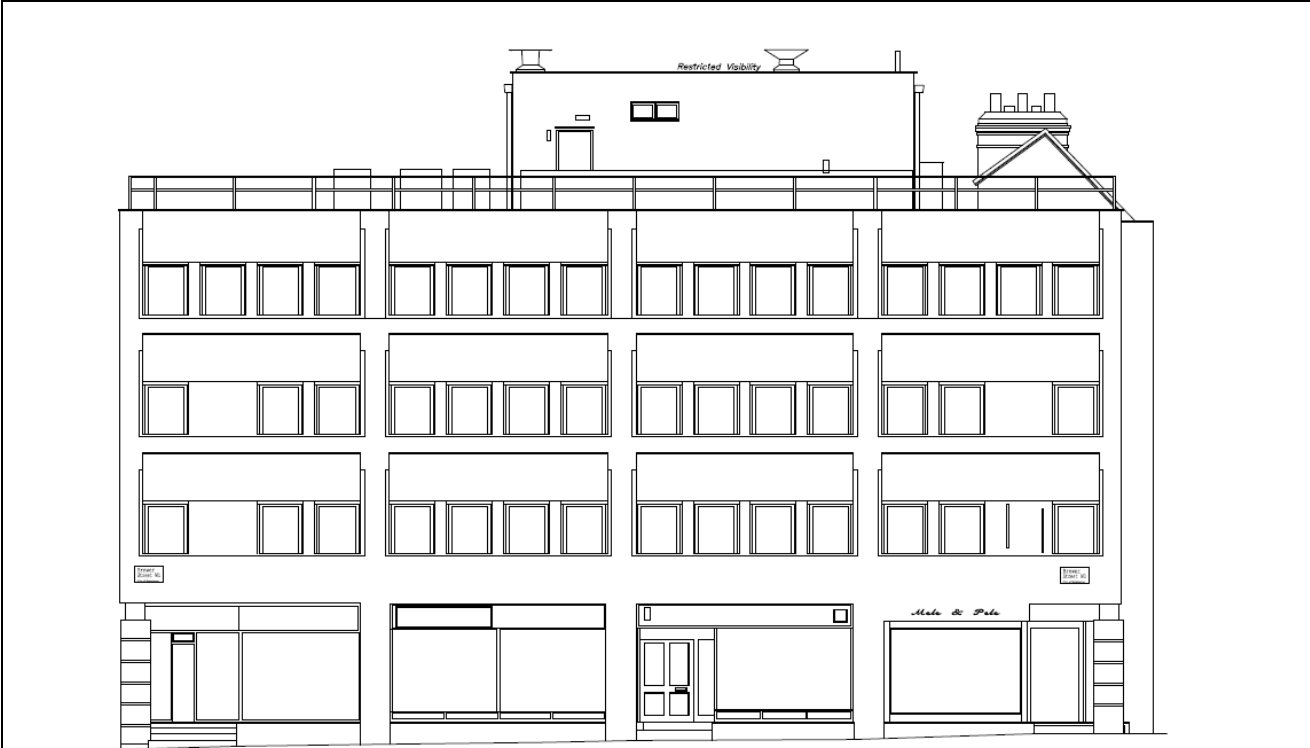
Selected relevant drawings

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

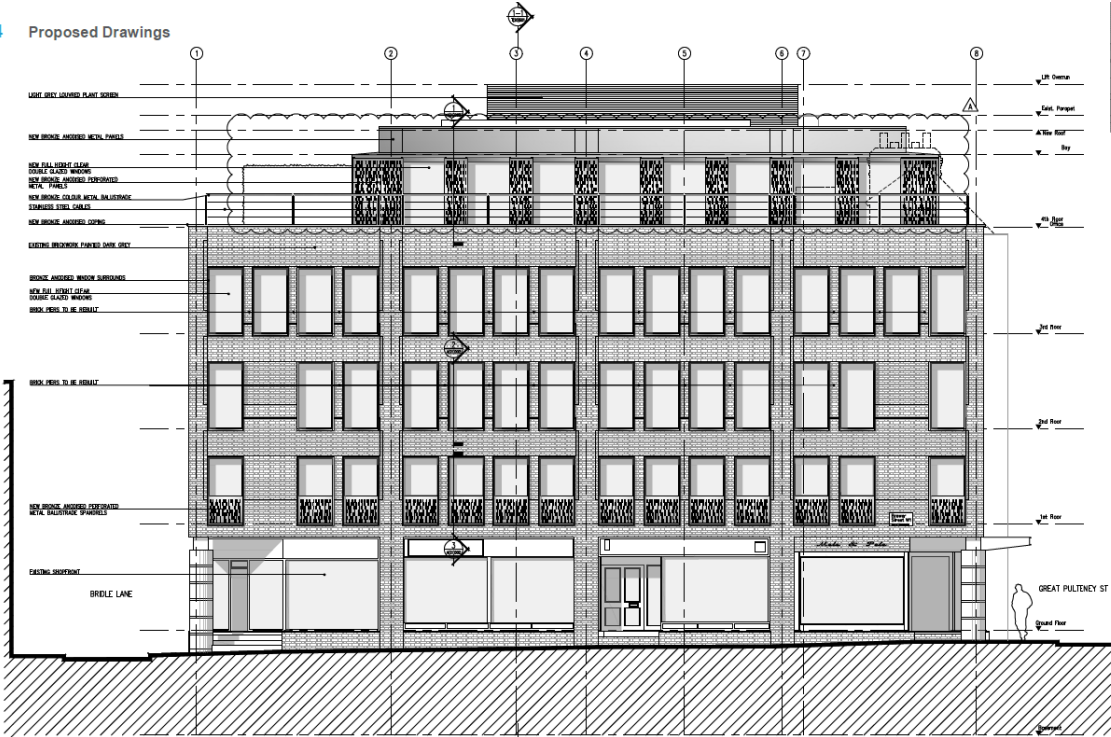
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

10. KEY DRAWINGS





3.4 Proposed Drawings



DRAFT DECISION LETTER

Address: 41 Great Pulteney Street, London, W1F 9NT,

Proposal: Erection of new fourth storey, plant room and perimeter railing for use as offices (Class B1) with a terrace. External alterations comprising new fenestration and painting of the facades, and alterations to the office entrance on Great Pulteney Street including erection of a fixed canopy.

Reference: 16/03788/FULL

Plan Nos: Acoustic Report (15209-002), Drawings: A(21)D02 RevA, T(20)E01 RevA, T(20)E02 RevA, T(20)E03 RevA, T(20)04 RevA, T(20)P-1, T(20)P00, T(20)P01, T(20)P02, T(20)P03, T(20)P04 RevA, T(20)P05 RevA, T(20)S01 RevA, T(20)S02 RevA, T(20)S03 RevA.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

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 (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 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.

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

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 5 (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 (July 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.

- 6 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.

- 7 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 19:00 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 (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 8 You must install the acoustic mitigation measures to the specification detailed in the approved acoustic report at the same time as the plant is installed. It must thereafter be maintained in this form for as long as the plant remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 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 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 (July 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)

- 11 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof area to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 12 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 (July 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 13 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 (July 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 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 (July 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 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

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 (July 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)

- 16 All new and existing railings must be painted black and maintained in that colour.

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 (July 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)

- 17 Before you use the approved terrace for sitting out or for any other purpose, you must plant the hedge as identified on the approved drawings at main roof level adjoining the approved terrace. You must thereafter maintain the hedge at a minimum height of 2.0m in perpetuity.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 18 The terrace area hereby approved at fourth floor level associated with the office accommodation can only be used between the hours of 08:30 and 21:00. You can not use the terrace area outside of these hours other than in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 19 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 start work on the relevant part of the development 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 (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

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 (July 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 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 3 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

- 4 Conditions 5 and 7 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)
- 5 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.
- 6 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

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:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to CIL@Westminster.gov.uk

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.

- 7 You are advised that there is a potential means of escape in case of fire over the roof of this building from adjoining properties which may be impacted by the proposal. Please contact our Head of District Surveyors' Services and/or The London Fire Authority regarding this aspect of your proposal.

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.

Item No.
1

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Agenda Item 2

Item No.

2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 11 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Abbey Road	
Subject of Report	31 Springfield Road, London, NW8 0QJ		
Proposal	Retention of wraparound dormer.		
Agent	Mr Matthew Black		
On behalf of	Ms Eve Brenner		
Registered Number	16/05956/FULL	Date amended/ completed	12 September 2016
Date Application Received	24 June 2016		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

1. RECOMMENDATION

Refuse permission.

2. SUMMARY

31 Springfield Road is a semi-detached villa on the south side of Springfield Road. Along with no.33 Springfield Road they form a pair of attractive unlisted buildings which date from the mid-nineteenth century. It is a three storey building with stucco facades to front and side. There is a lower and recessed entrance bay to the side. The stucco treatment does not extend to the rear facades of both 31 and 33 and instead these are faced in stock brick. The villas have a hipped slate roof with chimney stacks on the party wall and on the end walls. The two buildings display a high degree of symmetry to the front and to a lesser extent at the rear.

There are no listed buildings in Springfield Road, but most are attractive villa buildings, either detached or semi detached properties, which are either of a similar date to the application site, or are post-war neo-Georgian replacements. The application site and most of Springfield Road lies within the St John's Wood Conservation Area.

The application seeks permission to retain a dormer structure which wraps around the side and rear roof pitches. The dormer structure was built between 2013 and 2015 and it is the applicant's assertion that it was built following the grant of planning permission on 29 August 2012 (ref. 12/06126/FULL). That planning permission has been granted for any form of 'wraparound' dormer structure is firmly

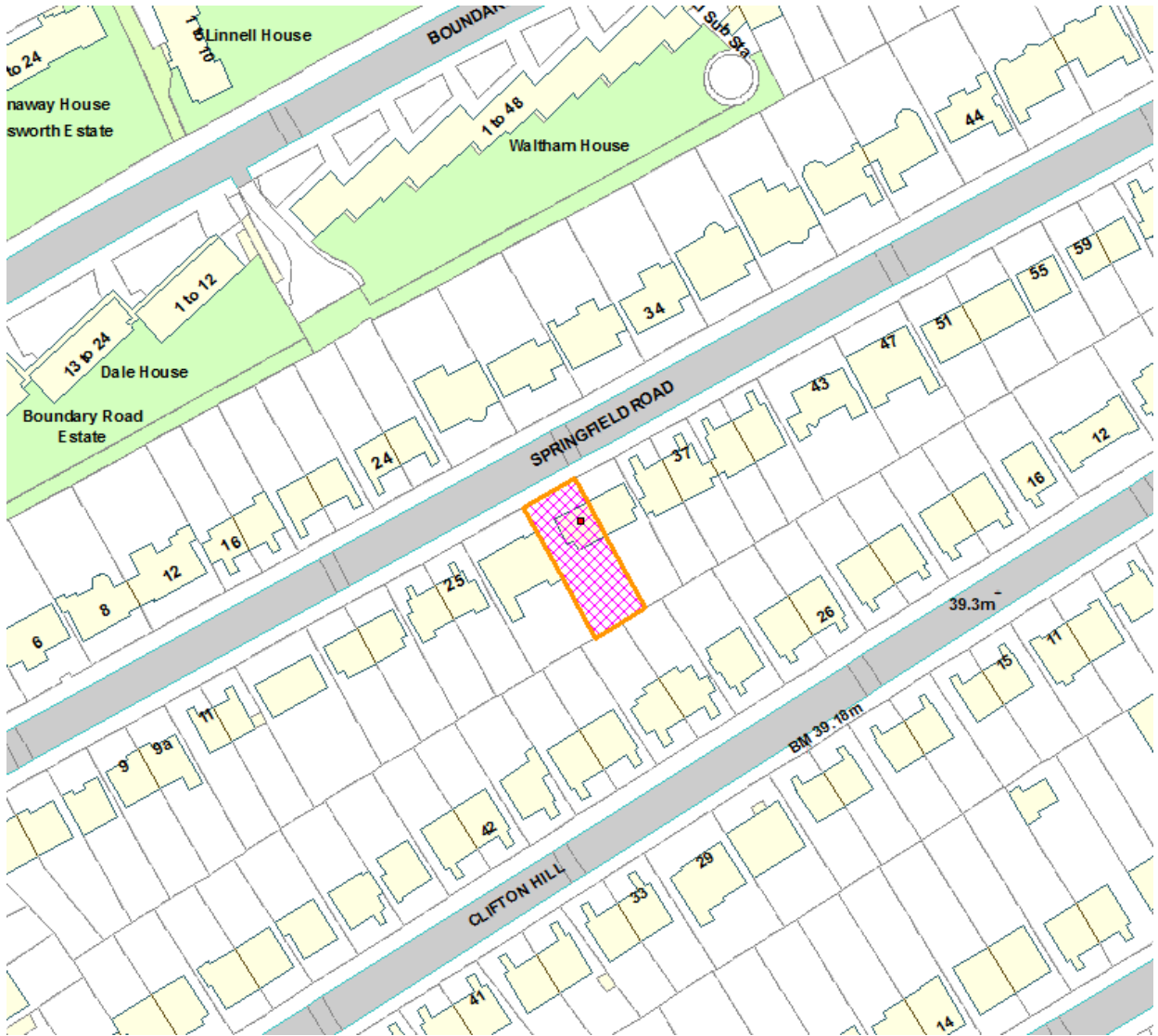
contended by the City Council and as such the structure that has been built is considered an unauthorised development. There is an open planning enforcement case on this matter, which is currently in abeyance pending the outcome of this application. The application has been made without prejudice to the applicant's position that they already have permission.

The key issue raised by the proposal is:

- The impact of the proposal upon this unlisted building and upon the character and appearance of the St John's Wood Conservation Area.

The dormer structure that has been built is considered to result in harm to the appearance of the building and to the character and appearance of the conservation area. There are no public benefits which would outweigh the harm caused and as such it is recommended that the application is refused.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Street view (winter)



View from rear garden

5. CONSULTATIONS

ST JOHN'S WOOD SOCIETY:

Object. Consider the dormer is overly bulky and oversized and negatively impacts on the roof symmetry of the pair of buildings.

PLANNING ENFORCEMENT:

Awaiting outcome of application. Applicants have been given formal notice of intention to pursue action to secure removal of the dormer.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 4

Total No. of replies: 1

No. of objections: 1

- Dormer is unattractive and harms the character and appearance of the building. Incongruous with No.33 and other similar semi-detached villas on Springfield Road. Does not preserve or enhance the conservation area.

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

ADDITIONAL CONSULTATION FOLLOWING THE RECEIPT OF AMENDED PLANS

ST JOHN'S WOOD SOCIETY:

Objection, as above.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 4

Total No. of replies: 0 at the time of writing.

6. BACKGROUND INFORMATION

6.1 The Application Site

31 Springfield Road is a semi-detached villa on the south side of Springfield Road. Along with no.33 Springfield Road they form a pair of attractive unlisted buildings which date from the mid-nineteenth century. It is a three storey building with stucco facades to front and side. The site lies within the St John's Wood Conservation Area. There are no listed buildings within Springfield Road, although most of the buildings to the south in Clifton Hill, including the properties which back onto the application site are grade II listed buildings and of a similar character to no.31.

6.2 Recent Relevant History

12/03687/CLOPUD

Erection of rear lower ground floor extension.

Application Permitted 8 June 2012

12/06126/FULL

Erection of single storey side extension at lower ground floor level, erection of dormers to both side and rear roofslopes, and installation of a rooflight to front roofslope.

Application Permitted 29 August 2012

12/11042/FULL

Erection of single storey lower ground floor extension to side/rear and side extension at upper ground and first floors and associated alterations to enlarge single family dwelling.

Application Refused 8 January 2013

13/00988/FULL

Erection of two storey side extension at lower ground and ground floor levels to enlarge single family dwellinghouse.

Application Permitted 25 March 2013

It is the applicant's contention that the planning permission granted on 29 August 2012 approved a 'wraparound' dormer extension, similar in form to that which has been built. The Planning Statement which sets out the applicant's position is included in full in the background papers to this report for members due consideration.

It is the City Council's position that when application reference number 12/06126/FULL was initially made it included proposals for a 'wraparound' roof extension of similar form to that which has been built. This proposal was considered harmful and unacceptable and amendments to the application were sought. This resulted in revised drawings being submitted which included a single dormer window to the rear roof pitch and a single dormer window to the side roof pitch. The revised scheme ensured that the roof to no.31 was modified in a way which was symmetrical to that of no.33. It was only on the basis of these amended proposals that planning permission was granted and legal advice concurs with this position.

A copy of the 29 August 2012 decision letter, the approved drawings and delegated officers report are also included as background papers.

7. THE PROPOSAL

The current application seeks permission to retain the 'wraparound' dormer roof extension that has been built. The roof extension, which provides additional living accommodation, is a box-like structure which wraps around the rear ridge line of the hipped roof and extends onto both the side and rear roof pitches. It is a lead-clad structure with a flat roof and there is tripartite casement window in the rear face of the extension.

Although this current application initially contended that the extension had been built in accordance with the drawings which had originally been submitted as part of the 2012 application (12/06126/FULL) and which the applicant's argue are the approved drawings, it has become apparent that the structure that has actually been built does not accord with these earlier drawings and is instead a wider structure, with a different arrangement of windows. During the course of this current application the proposed drawings have been amended to ensure that they reflect the size and external appearance of the structure that

has been built, although internal floor layouts have not been submitted despite officers' requests.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The building is used as a single residential unit. The current application does not seek to change the use or the number of units and as such no land use issues arise from the proposal.

8.2 Townscape and Design

Nos.31 and 33 Springfield Road form an attractive pair of semi-detached villas on the south side of the road. They date from the mid-nineteenth century and were originally three storey properties (lower ground floor, raised ground floor and first floor). The front and side facades are in stucco and both buildings exhibit attractive Victorian embellishment. Both buildings are identified as unlisted buildings of merit within the St John's Wood Conservation Area Audit.

The two buildings exhibit a high degree of symmetry when viewed from the street, albeit no.31 has lost some of its original window detailing eg. the non-original first floor casement windows, and the boundary walls differ.

The rear facades of both buildings are brick-faced and while they maintain a broad symmetry in terms of form and massing, they have been altered which has introduced asymmetric elements: both have differing garden level extensions and no.31 has had a projecting brick bay add to the rear facade and has a differing fenestration pattern.

Both buildings have a hipped slate roof with a large central brick chimney stack on the party wall line and brick stacks rising above the side walls. The roof has an overhanging eaves. Prior to the planning permission in August 2012, the roof of no.31 featured a small rooflight to the front roof pitch and a similar rooflight to the rear roof pitch, whereas no.33 featured a small rooflight to the front roof pitch but a dormer window to the side roof pitch and a dormer window to the rear roof pitch. Thus at this time there was a degree of asymmetry to the pair at roof level, caused by the dormer additions to no.31.

Nos.31 and 33 Springfield Road, along with many of the other buildings in the street are considered to be buildings which contribute very positively to the character and appearance of the St John's Wood Conservation Area. The adopted Conservation Area Audit makes the following observations:

The main building types within the conservation area are a range of detached villas and semi-detached houses, often treated as villas. These are particularly spread over the northern half of the area, with some of a more imposing nature along Hamilton Terrace to the west. The design of these villas was greatly influenced by Nash in the Regent's Park area and most date from the early-mid Victorian period. There are also a number of later detached houses of interest, particularly from the early 20th century. (Paragraph 4.30)

Houses are generally two or three storeys over basement and are set in large plots, with generous gardens to the front and rear, and wide gaps between properties. They do not form designed groups as already noted but rely on the use of a mixture of stucco and brick, along with their generous landscape setting and consistent scale to create a feeling of unity. However they accommodate a variety of architectural styles as set out below – contributing to the diversity and interest of the area. (Paragraph 4.31)

This [Classical / Italianate Villa] basic villa design was adapted to include semi-detached buildings, often designed to resemble a single large property. Entrances are often recessed on the side wall of each property to create the feeling of one grand house. (Paragraph 4.33)

With respect to development proposals within a Conservation Area, the City Council have a statutory duty, as set out in S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. This requirement is underlined in Policy DES 9 of the UDP which in its policy application indicates that alterations and extensions to buildings in conservation areas should preserve or enhance the character or appearance of that area. This same policy application indicates that views from surrounding buildings and other non street-level views may be important.

Policy DES 6 of the UDP is also particularly relevant to this application as it relates to roof level extensions and alterations, and indicates that permission may be refused where any additional floors or installations would adversely affect either the architectural character or unity of a building or group of buildings.

These policies were applied at the time the St John's Wood Conservation Area Audit was adopted and the audit identified Nos.31 and 33 Springfield Road, along with all of the buildings in the immediate area as being properties either with existing roof extensions or where extensions would not normally be acceptable. In clarifying this designation the audit stated as follows:

Category 1 – Properties with existing roof extensions, or where extensions would not normally be acceptable – *This includes all listed buildings and groups of buildings that remain largely unaltered. It applies to many of the villas in St John's Wood which are completed compositions, often with distinctive roof forms, and overhanging eaves, making extensions difficult to achieve and highly visible. It also applies to semi-detached houses and groups of houses, where an extension would imbalance or damage the integrity of a pair or group. Included here are 20th century developments where prominent mansard and pitched roofs are important elements of the original design. The removal of unacceptable alterations and extensions in order to restore the original character of a roof, however, will be encouraged and in some instances alterations to roofs may be acceptable, even if a full additional storey is not. (Paragraph 4.81)*

With this policy context in mind and having regard to the positive contribution the application property makes to the character and appearance of the conservation area, it is considered that the 'wraparound' dormer which has been built at no.31 and which this application seeks permission to retain, has a harmful impact upon the individual building, a harmful impact upon the pair of semi-detached villas and a harmful impact upon the character and appearance of the conservation area.

As indicated, the symmetry and balance of nos.31 and 33 Springfield Road is a very positive townscape characteristic and the 'wraparound' dormer harmfully erodes this symmetry at roof level. This impact is most severely evident in views from the rear. In terms of the impact on the individual building, it is a well detailed mid-nineteenth century villa, and its design is based on the principles of Classical architecture, exhibiting order and proportion. The 'wraparound' dormer structure introduces a highly discordant element to the building, largely eradicating the low hipped roof profile to the rear and introducing a bulky roof extension which bears no relationship with the architecture or proportions of the original building.

In terms of the impact upon the conservation area, it is considered that the disfigurement of the roof profile and of the symmetry with no.33, has a harmful impact on the character and appearance of the area. The 'wraparound' dormer is clearly visible from Springfield Road, albeit this visibility is curtailed when the adjacent trees are in leaf and in these winter views the large lead-clad structure appears as a bulky addition to the side roof pitch eroding the profile of the roof and the silhouette contribution of the side chimney stack. During site visits to the site the applicant has pointed out several other dormer structures to other buildings within Springfield Road, however, none are comparable in size with the application proposal. While there are several examples of side and rear dormers, there is no evidence of a 'wraparound' dormer. Indeed even if there were incongruous dormers elsewhere in the street, this would not justify acceptance of the current proposal.

The 'wraparound' dormer and its impact on the roof profile and symmetry with no.33 is most evident in views from the rear. Views of the dormer can be had from the gardens of neighbouring properties, from within properties on the northern side of Carlton Hill, and from the highway of Carlton Hill, where it can be seen in the gap between nos.30 and 32 Carlton Hill. Thus the harmful impact is appreciable from a number of both public and private vantage points.

In the terms of the NPPF the degree of harm caused to the conservation area (the 'designated heritage asset' in this case) is considered to be 'less than substantial'. In these circumstances the NPPF requires the harm to be weighed against the public benefits of the proposal. In this case it is considered that there are no obvious public benefits.

The proposal is considered to be contrary to design policies S25 and S28 of the City Plan; and DES 1, DES 6 and DES 9 of the UDP.

8.3 Residential Amenity

The proposal is not considered to have an adverse impact upon residential amenity.

8.4 Transportation/Parking

No transportation or parking issues arise from this proposal.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

The existing access arrangements to and within the house are maintained.

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 in this case.

8.12 Other Issues

As set out earlier in the report, it is the applicant's position that a 'wraparound' dormer structure was approved by the permission granted on 29 August 2012 and their case is set out in full in the revised Planning Statement for the application which is included in the background papers for members' consideration.

As indicated in this Planning Statement the applicant suggests that revised drawings were submitted to overcome the case officer's concerns about the original proposal, but were submitted for discussion purposes only and not intended as a formal revision. This position is not accepted by the Council and it is contended that the correspondence between the case officer and the agent for the application clearly indicates that the scheme was amended and that the approved drawings under planning permission 12/006126/FULL, dated 29 August 2012 are the revised plans showing two separate dormers: one to the rear and one to the side, replicating the arrangement of windows at no.33. This position has been taken following legal advice.

It is acknowledged that the approved drawings, which bore the same reference number as the originally submitted drawings, were not uploaded onto the Council's website following the issue of permission on 29 August 2012. This did not take place until 6 March 2015 once it had been discovered that the original drawings had not been superseded on the website. This discovery followed another planning officer's site visit to the adjoining property at 33 Springfield Road in order to assess planning application 14/12072/FULL. The officer had noticed that the proposals in that application had been modelled on the

'wraparound' dormer that had been built at no.31 and after checking, he reported the apparent breach of planning control to the Planning Enforcement Team and this was the subject of the future investigation

As indicated earlier, the Planning Enforcement investigation relating to this matter is currently in abeyance pending the outcome of this application. If the recommendation in this report is accepted and the application is refused, then the enforcement proceedings would continue. These are likely to take the form of a recommendation to issue a planning enforcement notice requiring the removal of the 'wraparound' extension and to either return the roof to its former condition, or to rebuild the roof so that it matches the approved drawings of the 29 August 2012 permission, i.e. two separate dormers: one to the rear and one to the side.

9. BACKGROUND PAPERS

1. Application form
2. Response from St John's Wood Society, dated 26 July 2016
3. Letter from occupier of 33 Springfield Road, London, dated 18 July 2016
4. Application Planning Statement, dated August 2016
5. Decision Letter, Approved Drawings and officers delegated report for 12/06126/FULL, dated 29 August 2012.

Selected relevant drawings

(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

Item No.
2

DRAFT DECISION LETTER

Address: 31 Springfield Road, London, NW8 0QJ,

Proposal: Retention of wraparound dormer.

Plan Nos: 2012/SP/PLANNING/001/A; 2012/SP6/PLANNING/002/A; S-114-005/D;
S-114-006/D; S-114-007/D; Planning Statement, dated August 2016.

Case Officer: Tom Burke

Direct Tel. No. 020 7641 2357

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

- Reason:
- 1 Because of size, location and detailed design the 'wraparound' box dormer structure would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the St John's Wood Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 6 and DES 9 of our Unitary Development Plan that we adopted in January 2007.

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.

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Item No.
3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 11 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	83 Great Titchfield Street, London, W1W 6RH,		
Proposal	Dual/alternative use of the ground floor, including new upper and lower mezzanine levels, for retail purposes (Class A1) and use of the basement as offices (Class B1), or use of the basement, ground and upper and lower mezzanine levels as a Pilates studio, personal training area, physiotherapy/sports massage treatment rooms and retail floorspace (sui generis).		
Agent	Daniel Watney LLP		
On behalf of	Ten Health and Fitness		
Registered Number	16/05737/FULL	Date amended/ completed	24 June 2016
Date Application Received	20 June 2016		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application premises have a lawful use as a ground floor retail shop (Class A1) and basement offices (Class B1), confirmed by the implementation of a recent permission for these uses, including replacement basement and ground floor extensions. However, there is little evidence that the ground floor has been in bona fides retail use. The approved extensions have been constructed but include additional basement and ground floor mezzanine levels within the ground floor shop.

This application is for the use of the ground floor, including new upper and lower mezzanine levels, for Class A1 retail purposes and for the use of the basement as Class B1 offices, or for the use of the entire unit to provide a Pilates studio, physiotherapy treatment rooms/sports massage services, personal training facilities and retail floorspace selling sports/exercise related goods (sui generis). Objections have been received on the ground that the proposed alternative use would have an adverse impact upon the amenities of neighbouring residents.

The key issues in this case are:

- the acceptability of the proposal in land use terms
- the impact of the proposed alternative use upon residents' amenities.

The potential loss of the existing retail and office floorspace is considered acceptable in land use terms, as is the proposed alternative use, which would serve the local residential and working populations. Subject to operational controls, the proposed use, which is low-key in nature, would not adversely affect neighbours' amenities. The scheme complies with relevant UDP and City Plan policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

HIGHWAYS PLANNING

No objection subject to condition to secure cycle parking

CLEANSING

Details of arrangements for the storage of waste and recycling required.

ENVIRONMENTAL HEALTH

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 84; Total No. of replies: 5

No. of objections: 5; No. in support: 0

Objections:

- Existing uses are sympathetic to residential character of north end of the street; proposed uses would result in unacceptable intensification of level of activity on the site.
- Proposed use for assembly and leisure purposes, unsocial opening hours and seven day a week operation would result in increased noise and disturbance to local residents from customers entering/leaving the premises, noise nuisance from operation of gym machinery and loud music.
- Likely that a future application will be made for later opening hours to reflect those in other branches
- No demand for another gym in the area

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is an unlisted building, comprising basement, ground and four upper floors, located in the East Marylebone Conservation Area, outside of the Core Central Activities Zone. This site is not located on a Named Street or a designated Shopping Centre.

The upper floors are currently being converted to residential use.

The basement was previously accessed via a corridor within part of the adjoining building at 85 Great Titchfield Street and was linked, internally, to the basement of 81 Great Titchfield Street. The lawful use of the basement is for Class B1 purposes The ground floor is a

separate unit, accessed from street level, and also has a secondary access leading to the neighbouring office corridor.

Permission has been granted for a scheme, under construction, including the use of the basement as offices and the ground floor as a retail shop, with the demolition and replacement of basement and ground floor rear extensions. These rear extensions are nearing completion. At the rear of the shop, the floor level to the extension steps down slightly (to create a lower mezzanine), reducing the head height within the basement extension. An additional upper mezzanine has been created at the back of the shop unit, resulting in a slight increase in retail floorspace (30 sqm). The floorspace provided at basement level is unchanged.

The lawful use of the ground floor, including the new upper and lower mezzanine floors, is considered to be for (Class A1) retail purposes.

This part of East Marylebone is characterised by a mixture of commercial and residential uses however, to the north of Foley Street the street is largely characterised by residential and office uses. To the south of this junction, the mix is livelier, including numerous cafes and restaurants.

There are residential flats on the upper floors of the two neighbouring buildings (nos. 81 and 87 Great Titchfield Street), at no., 79 and opposite at nos. 90-102. There are also numerous flat flats at the rear of the site at nos. 2, 4, 6 and 7-8 Gosfield Street.

6.2 Recent Relevant History

19 June 2007: Permission granted for use of the ground floor at 83 Great Titchfield Street as a retail art gallery (Class A1). The applicant was Mummery + Schnelle

The officer's report advised:

"The applicants state that the premises were last used as a Class B1 office/showroom; the Council's own records are inconclusive, with the 'Study of Wholesale Showrooms In East Marylebone 2000' report referring to Nos. 81-83 being a fabric showroom, but Nos. 81 and 83 are quite separate, with No. 81 currently occupied by a textile showroom....."

As the site was located outside of the wholesale showroom special policy area (SPA), and as the unit, being on the fringes of the showroom area, did not contribute the character and function of the area, a new retail use was considered acceptable in land use terms.

A series of permissions has been granted, for no. 83 in isolation and as part of 81-83 Great Titchfield Street, which include alterations and extensions to no. 83, the demolition and replacement of the basement and ground floor rear extensions, the use of the basement either as offices or as a flat, and the use of the ground floor as a retail shop.

At the time of the submission of the first of these applications, in 2013, the ground floor of no. 83 appeared to be in office use. Photographs submitted as part of the application showed signage for "Mummery + Schnell".

The applicants contend that the premises were never used as a retail art gallery and that Mummery + Schnelle occupied the ground floor as offices and a viewing gallery, which was not open to visiting members of the public. They have advised that Mummery + Schnelle vacated the premises in July 2013 and that it was subsequently occupied as offices by a television production company, until December 2015.

However, other correspondence submitted in relation to a pre-application enquiry (from a different agent) advises that an art gallery use was introduced on the site, but this agent was of the opinion that the premises were either a mixed/office/retail/storage use (sui generis) or a Class D1 use (Non-residential institution). However, based on the information submitted at that time, officers took the view that the 2007 permission had been implemented.

29 September 2015: Permission granted for alterations at 83 Great Titchfield Street including the demolition and replacement of the basement and ground floor rear extensions, the erection of a first to third floor rear extension and replacement mansard roof extension, including an extension over the existing fourth floor rear terrace and a glazed enclosure, accessing a new roof terrace. Use of the building as basement offices, a ground floor shop and three flats on first to fourth floors (15/05246/FULL).

16 June 2016: Permission granted for alterations at 83 Great Titchfield Street including the demolition and replacement of the basement and ground floor rear extensions to the ground floor retail shop (Class A1) with louvres to the pitched roof to accommodate plant located directly beneath the roof ridge; the erection of a first to third floor rear extension and replacement mansard roof extension (with plant enclosed within the rear louvered roof), including an extension over the existing fourth floor rear terrace and a glazed enclosure, accessing a new roof terrace. Use of the building as basement offices, a ground floor shop and three flats on first to fourth floors, installation of a satellite dish to fourth floor level (16/02502/FULL). Implemented.

The approved plans do not show any rear basement and ground floor mezzanine levels. A plant area is shown directly beneath the roof, with ventilation louvres in the roof slopes.

The creation of additional floorspace within the shop unit does not require planning permission.

7. THE PROPOSAL

The application is for the dual use of the ground floor, and new upper and lower mezzanine level, as a retail shop (Class A1) and for the basement as offices (Class B1), or for the use of the basement, ground and lower and upper mezzanine levels as a single unit providing a basement level Pilates studio for a maximum of 10 clients (70 sqm), retail floorspace at ground floor level (58.5 sqm) and two sports massage/ physiotherapy rooms (total 30 sqm) and a personal training room (30 sqm) on the mezzanine levels. Changing rooms and showers will be provided within the basement.

The proposals are submitted on behalf of Ten Health and Fitness, a company which currently has studios all over London including at 6 Duke Street and 25 Hanover Square. Services on this site would be offered on a pay-as-you-go basis, with no membership or joining fees, making the use accessible to a wide client base.

All of the basement and ground floor accommodation would be accessed via the main ground floor shop entrance. The secondary access points would be used in the case of an emergency only.

As part of the alternative use, the premises would sell fitness products, such as sports-wear and nutritional products. The property is intended to be the applicant's flagship store, in terms of retail sales, and would maintain a shopfront display.

The use would operate between 0600 and 20.00 on Monday to Friday, 0800 and 1800 on Saturday and 08.00 to 20.00 hours on Sundays. The use would employ 10 members of staff.

The applicants have confirmed that the plant serving the office and retail use, and the alternative use, would be located within the ground floor roof, in accordance with the plans approved in 2016 and that the plant requirements for the permitted and proposed uses are the same.

Although, the applicant has applied for separate A1/D1/D2 uses in association with the proposed alternative use, and the proposal has been advertised accordingly, this is a single operation, with all areas internally linked, and is considered to constitute a mixed use (sui generis). The applicants have agreed to this amended description.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Proposed retail and office uses

The continuation of the lawful retail and office uses is considered acceptable in land use terms.

8.1.2 Potential Loss of offices

The site is located outside of the Core CAZ. Under policy S1 of the City Plan (2016) the potential loss of basement level office floorspace is acceptable in land use terms.

8.1.3 Potential Loss of retail floorspace

Officers have previously taken the view that the 2007 permission was implemented but it is accepted, even if this was the case, that there is little evidence of a bona fides retail use on the site. This lawful retail use is now established by the implementation the 2016 permission.

As part of the proposed alternative use, the scheme would result in the loss of approximately 126 sqm (GIA) of retail floorspace within the on ground and mezzanine levels, albeit that the floorspace on the upper mezzanine level (approximately 30 sqm) was not shown on the approved plans.

UDP policy SS8 relates to shops outside of the designated shopping centres, outside of the Core CAZ, as is relevant to the consideration of this application. Under this policy, permission will not be granted for change of use from an A1 and will not be given for proposals that would

significantly harm residential amenity or local environmental quality as a result of smells, noise, increased late-night activity and disturbance, or increased parking and traffic. City Plan policy S21 seeks to protect existing retail floorspace throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy, despite reasonable attempts to let.

The applicants have not sought to demonstrate that the existing retail unit is unviable. However, notwithstanding the policy presumption to protect the existing retail use, the alternative mixed use scheme would provide a significant retail function on the majority of the ground floor, and a shopfront display maintained, the potential loss of the Class A1 retail use is considered acceptable in this case and would not prejudice the retail character and function of the area.

8.1.4 Proposed alternative use

City Plan Policy S18 states that proposals for new commercial development will be directed to designated locations including the Core CAZ, the Named Streets and designated Shopping Centres, where proposals for new commercial uses must be appropriate in terms of the scale and intensity of land uses and the character and function of the area. The site is not within any of these designated areas. Policy S8 also directs commercial developments to Named Streets within Marylebone and Fitzrovia and directs retail uses to Marylebone High Street and the Local Shopping Centres. Outside of these locations, new commercial uses will not generally be appropriate unless they provide services to support the local residential community within that part of the wider CAZ. Again, the site is outside of any Named Streets within Marylebone.

As detailed above, the proposed alternative use is considered to constitute a sui generis use. As individual uses, the Pilates studio and personal training use would constitute an assembly and leisure use (Class D2); a physiotherapy use would fall within Class D1. It is considered most appropriate to consider the proposed use in relation to policies for new social and community uses, most of which fall within Class D1 and D2.

Policy SOC 1 generally encourages the provision of new social and community facilities requiring them to be located as near as possible to the residential areas they serve, not to harm the amenity of the surrounding area, including the effect of any traffic generated by the proposal, and to be safe and easy to reach on foot, by cycle and by public transport.

Policy SOC 4 seeks the retention, improvement and redevelopment of facilities for health service uses that meet local needs. In assessing proposed new facilities, the demand for the services will be set against the effect of the proposals on the surrounding area and nearby activities. These policies relate to both public and private facilities.

Policy SOC 5 relates to private medical facilities, including complementary medical uses. Outside of the Harley Street SPA, the demand for them will be considered in relation to the scale and location of the facility and its impact on the area in environmental terms.

City Plan policy S34 encourages the provision of new social and community uses throughout Westminster. Policy S29 requires new developments to maximise the opportunities to contribute to health and well-being, including supporting opportunities for healthier lifestyle choices.

Objections have been received on the grounds that there is no demand for another gym use in the area. However, the proposed use is not a gym but provides a mixture of leisure, health and medical-type functions, all of which are low key. In these circumstances, given the nature and scale of the proposed use, which could only be occupied for the purposes applied for, and which would serve the resident and working populations, the scheme is considered acceptable in principle in land use terms.

The impact of the use upon residents' amenities and the local highway network is discussed considered in sections 8.3 and 8.4 below.

8.2 Townscape and Design

No alterations are proposed.

8.3 Residential Amenity

City Plan policy S29 seeks to ensure that new developments do not adversely affect the amenities of occupants of neighbouring residents. UDP Policies ENV6 and ENV7 deal with the subject of noise pollution and vibration both from new uses, internal activity and the operation of plant. The policies require the potential for any disturbance to be ameliorated through operational controls and/or attenuation measures. Policy S32 requires disturbance from noise and vibration to be contained.

Under Policy ENV6 new developments are expected to incorporate design features and operational measures to minimise and contain noise levels in order to protect noise sensitive properties. Where developments adjoin other buildings, the applicant is required to demonstrate that, as far as reasonably practicable, schemes will be designed and operated to prevent the transmission of audible noise or vibration through the fabric of the building

8.3.1. Noise from internal and external activity

Objections have been received on the ground that the proposal would result in increased noise disturbance associated with clients entering and leaving the premises, disturbance from the operation of gym equipment and noise from loud music.

The proposed activities would take place below the level of the residential uses in the adjoining properties, and beneath new flats currently being constructed on the upper floors of the application building. The applicants are keen to stress that Pilates exercise involves the undertaking of slow movements to quiet music, played on a domestic music system, and that the use does not compare to a general gym use which often includes high impact exercise to loud music. The sports massage and physiotherapy treatment services, on a one-to-one basis, are similarly low-key.

Given the nature of the proposed use, as any change in the operating model is likely to require further planning permission, and subject to conditions to ensure that noise levels within neighbouring flats meet acceptable limits, and submission of an acoustic report to demonstrate that these levels can be achieved, it is not considered that noise levels from internal activity would have a material impact on the amenities of neighbouring flats. Furthermore, another condition limits noise levels from any music that may be played.

The applicants have confirmed that the premises would be accessed via the shopfront entrance on at 83 Great Titchfield Street and that other entrances/exits would only be used in the case of emergency. This would be controlled by condition. Given the limited numbers of clients visiting the premises at any one time, which is comparable with the potential numbers associated with the lawful office and retail uses, it is not considered that the disturbance caused by customers and staff entering and leaving the premises would adversely affect neighbours' amenities. In these circumstances, the proposed opening hours and 7-day operation are considered acceptable. The hours of use would be controlled by condition.

Objectors have expressed concern that an application could be made to extend these opening hours at some future date. Any such application would be considered on its merits at that time.

8.3.2 Plant noise

Objectors have also expressed concern about potential noise disturbance from the operation of plant associated with the use.

The approved scheme permits the installation of commercial plant beneath the pitched roof of the ground floor extension, ventilated by louvres in the roof slope. The applicants have confirmed that, given the nature of the activities taking place, the approved office/retail plant would be adequate for the proposed use. In these circumstances, it is considered appropriate to impose the same plant operating condition imposed on the previous application, including a requirement to submit a supplementary noise report once the plant has been selected demonstrating that the noise condition can be complied with.

Subject to these conditions, it is not considered that objections relating to the impact of the use on residents' amenities can be supported

8.4 Highways

8.4.1 Parking and cycle parking

The site is centrally located with a high level of public transport accessibility.

The site is located with a Controlled Parking Zone, meaning that any customers driving to the site will be subject to existing parking controls. However, it is not considered that the proposed alternative use would result in a significant increase in the number of vehicle trips or on parking levels in the area.

The Further Alterations to the London Plan set cycle parking standards for Class D1 and D2 uses. Given the number of staff, one parking space would be required. None is proposed as part of the application and a condition is recommended requiring the submission of plans showing the provision of a store to accommodate a minimum of 1 staff cycle space, in a secure and covered location.

8.4.2 Servicing

In common with the existing arrangements, the premises would be serviced from Great Titchfield Street. Areas within the Controlled Parking Zone permit loading and unloading at

the kerbside and it is not considered that the proposed use would have a significant increase in the level of servicing demand when compared with the lawful retail and office uses.

Subject to conditions, the scheme is considered acceptable in highways terms.

8.4 Economic Considerations

Any economic benefits generated by the scheme are welcomed. It is noted that the existing retail and office uses would be replaced by another commercial activity.

8.5 Access

The existing site access arrangements are as previously approved. Changes to the internal levels, and the creation of an additional mezzanine level are acceptable given the applicant's client base.

8.6 Other UDP/Westminster Policy Considerations

8.6.1 Refuse /Recycling

The Project Officer (Waste) has requested a condition requiring the submission of details of arrangements for the storage of waste and recyclable material in connection with the proposed uses.

8.7 London Plan

This application does not raise any strategic issues.

8.8 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.

8.9 Planning Obligations

This application does not trigger any planning obligations, nor would it generate CIL payments.

8.10 Environmental Impact Assessment

The scheme does not require the submission of an Environmental Impact assessment.

8.11 Other Issues

None relevant

9. BACKGROUND PAPERS

1. Application form and letter dated 19 July 2016
2. Memorandum from Project Manager (Waste) dated 13 July 2016

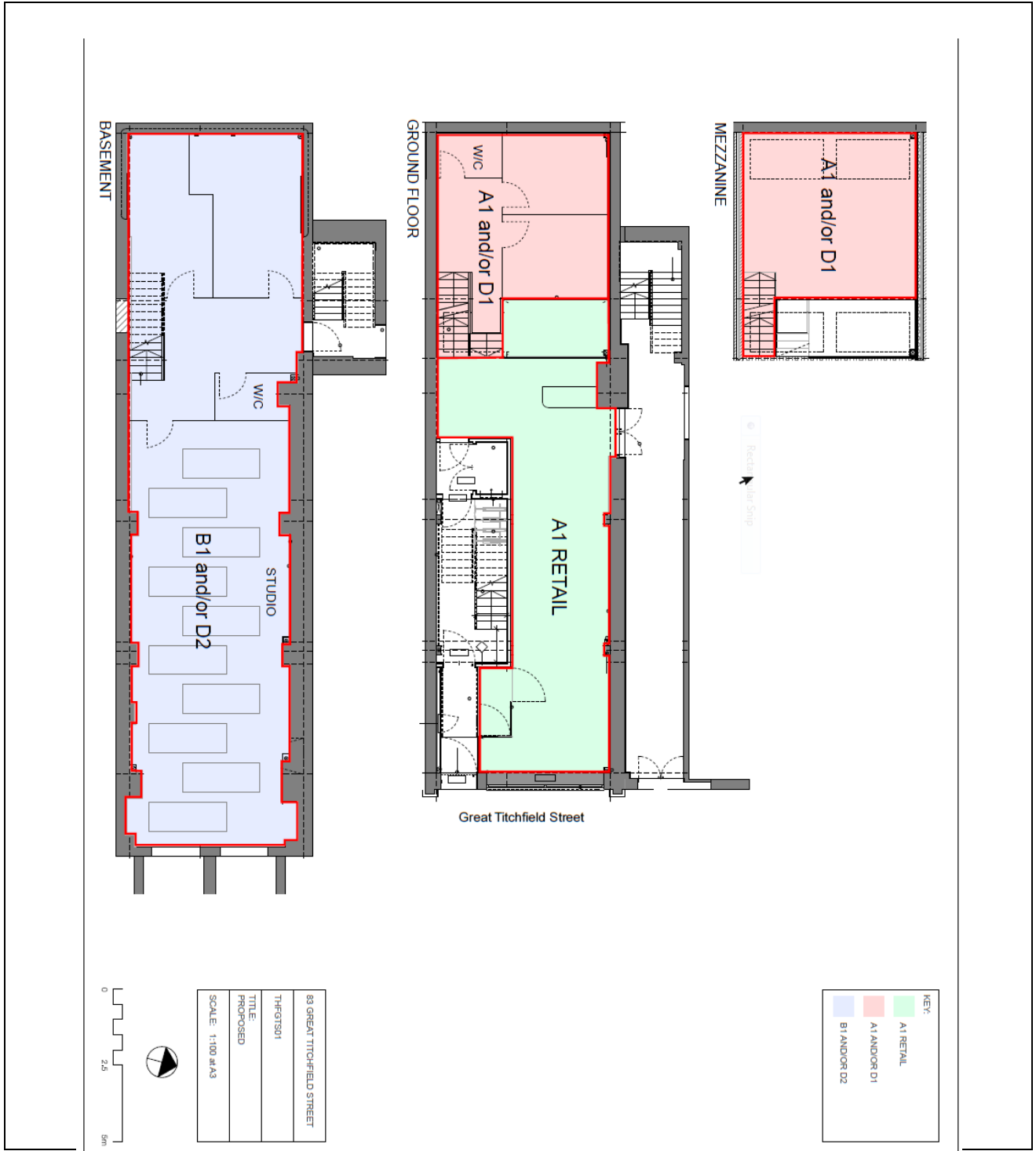
3. Memorandum from Highways Planning dated 30 June 2016
4. Letter from occupier of Flat 4, 87 Great Titchfield Street, dated 15 July 2016
5. Letter from occupier of Flat 6, 87 Great Titchfield Street, dated 16 July 2016
6. Letter from occupier of 87 Gt Titchfield St, London, dated 14 July 2016
7. Letter from occupier of 87 Great Titchfield Street, London, dated 14 July 2016
8. Letter from occupier of Flat 3, 100 Great Titchfield Street, London, dated 7 July 2016

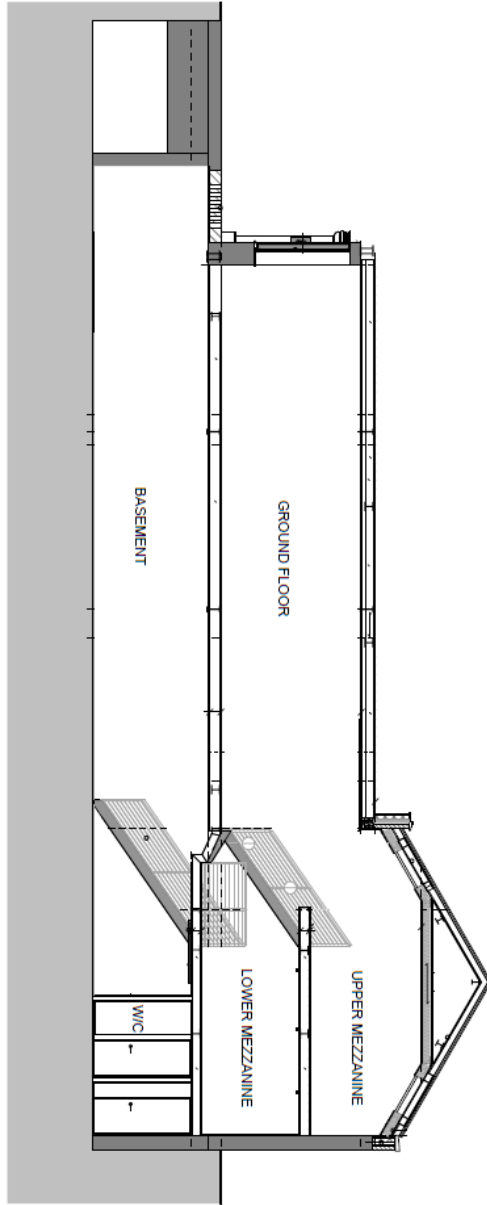
Selected relevant drawings

(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: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk.

10. KEY DRAWINGS





83 GREAT TITCHFIELD STREET
THRGTS01
TITLE: EXISTING - GROUND FLOOR & BASEMENT ONLY
SCALE: 1:100 @A3

DRAFT DECISION LETTER

Address: Ground Floor, Print Works House, 83 Great Titchfield Street, London

Proposal: Dual/alternative use of the ground floor, including new upper and lower mezzanine levels, for retail purposes (Class A1) of the basement as offices (Class B1) or use of the basement, ground and upper and lower mezzanine levels as a Pilates studio, personal training area, physiotherapy/sports massage treatment rooms and retail floorspace (sui generis).

Plan Nos: THFGTS01 (PROPOSED)

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

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

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

Reason:

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

- 2 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 start work on the relevant part of the development 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 H337/P010. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 3 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 4 You must apply to us for approval of details of secure cycle storage for the use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in policy 6.9 of the Further Alterations to the London Plan

- 5 You must apply to us for approval of details of a supplementary acoustic report demonstrating that sound insulation measures would ensure compliance with condition 3 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 6 No waste shall be stored on the highway

Reason:

To protect the environment as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 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 (July 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 apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 7 of this permission. You must not commence any of the uses hereby approved until we have approved what you have sent us.

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 (July 2016), by contributing to reducing excessive ambient noise levels.

- 10 Customers shall not be permitted within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms/retail area (sui generis) before 0600 or after 2000 hours on Monday to Friday (not including Bank Holidays and public holidays), between 08.00 and 18.00 hours on Saturdays and between 08.00 and 20.00 hours on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 11 All access/egress to the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training room/retail area (sui generis) shall be via the ground floor shopfront entrance and the basement and ground floor doors leading into the adjacent corridor at 85 Great Titchfield Street, shown on drawing THFGTS01 (PROPOSED) hereby approved, shall only be used in the case of emergency.

Reason:

In accordance with the submitted application and to protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 12 The layout of the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (sui generis) must be provided and permanently maintained and the premises occupied in accordance with that layout as shown on drawing THFGTS01 (PROPOSED) hereby approved.

Reason:

In accordance with the submitted application, to prevent a use that would be unacceptable because of the character and function of this part of the East Marylebone Conservation Area and to ensure the provision of a retail trading area at ground floor level. This is in line with S21 and S25 of Westminster's City Plan (July 2016) and SS8 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 13 A retail shopfront display, situated immediately behind the ground floor shop window, and which must not contain any obscured elements shall be provided and permanently maintained for all times that the ground floor is occupied as part of the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail use (sui generis).

Reason:

To maintain the retail appearance of the premises as set out in SS 17 of our Unitary Development Plan that we adopted in January 2007. (R26IA)

- 14 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (sui generis) use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (sui generis) use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, 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 including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

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 (UDP), 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 (July 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.

- 15 No music shall be played within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (sui generis) use that is audible outside the premises or within neighbouring properties.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally as set

out in S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

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 (July 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 This permission does not allow any work which would change the outside appearance of the property. (I18AA)
- 3 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 4 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement, mezzanine and ground floors can change between within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms/retail area (sui generis) or the Class A1 retail and Class B1 offices uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 5 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement and ground floors (including the upper and lower mezzanine floors within the ground floor unit) can change between the ground floor retail (Class A1) and basement office uses (Class B1) and the Pilates studio, physiotherapy treatment room/sports massage facility and personal training room use (sui generis) we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)

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.

Agenda Item 4

Item No.

4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 11 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Harrow Road	
Subject of Report	Open Space At Junction Of Fernhead Road And, Elgin Avenue, London, ,		
Proposal	Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)		
Agent			
On behalf of	Roger Austin – Westminster Council		
Registered Number	16/07725/COFUL	Date amended/ completed	23 August 2016
Date Application Received	11 August 2016		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
--

2. SUMMARY

Planning permission was originally granted in 2008 for the use of Maida Hill junction as a retail street market and to hold community events. This permission has been renewed on a temporary basis with the most recent permission due to expire on 10 November 2016.

The current application seeks to renew the most recent permission (which was a slight variation on previous years permissions in that it allowed an extended area) for the Maida Hill market. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

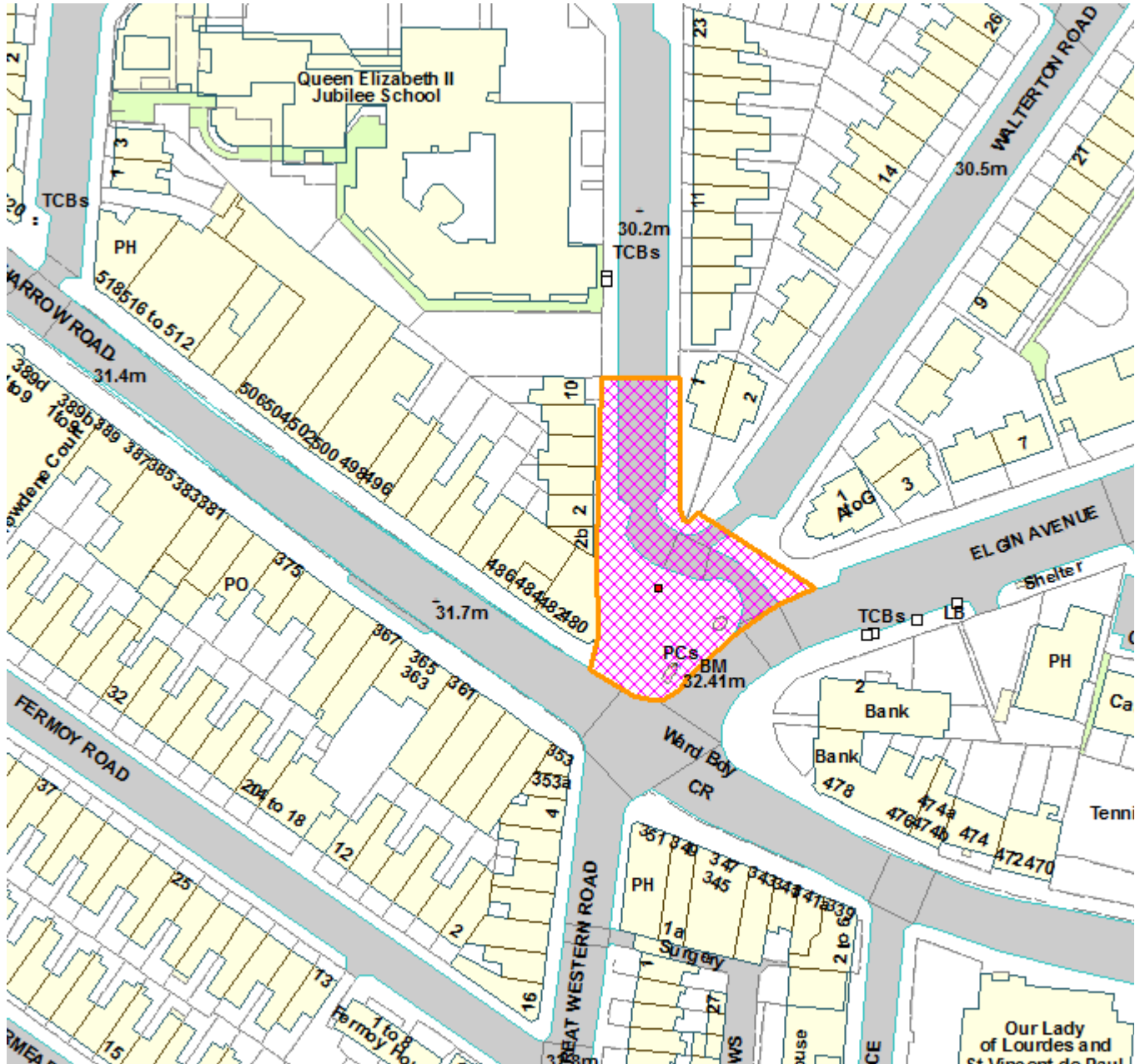
The key issues in this case are:

- * The impact of the market in land use terms on the retail character and function of the Harrow Road District Shopping Centre.
- * The impact on the local highway network, including the availability of on street parking and the acceptability of servicing arrangements.
- * The impact on the amenity of neighbouring residents.

The use of the public highway as a temporary street market accords with Policy S12 of Westminster's

City Plan, and it is recommended that conditional permission is granted to renew the market for a further temporary period of one year. This further temporary period will allow a future review of the impact of the market on the amenity of neighbours and the area generally.

3. LOCATION PLAN



4. PHOTOGRAPHS



Photo to show area used for market

5. CONSULTATIONS

WARD COUNCILLORS FOR HARROW ROAD AND QUEENS'S PARK:

No responses received.

NORTH PADDINGTON SOCIETY

No objection to the market in principle, however pedestrian safety is a prime concern in this shared space. A letter outlining all the 'highways' concerns of this junction has been submitted and this focuses on the re-introduction on yellow lines, maintenance of bushes and shrubs and adequate signage.

HIGHWAYS PLANNING MANAGER

No response received.

TRANSPORT FOR LONDON

No objections.

CLEANSING MANAGER:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 229; Total No. of Replies: 1.

The following concerns were raised:

Amenity & Parking:

- Increase in rubbish
- Market results in loss of parking facilities
- Poor quality market doesn't justify the amenity and parking implications upon neighbours.

Other:

- Market stall holders are impolite
- The area could be put to much better use

ADVERTISEMENT/SITE NOTICE: Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site relates to an area of open space at Maida Hill Place (formerly known as the Prince of Wales Junction) that is bounded by Harrow Road, Elgin Avenue, Fernhead Road and Walterton Road, and an area of public highway at the lower ends of Fernhead Road and Walterton Road.

The application site forms part of the Harrow Road District Shopping Centre, within the North Westminster Economic Development Area in Westminster's City Plan and North

West Westminster Special Policy Area (NWWSPA) in the Unitary Development Plan (UDP). The site is located outside a conservation area.

6.2 Recent Relevant History

10.11.2015 - Planning permission granted in respect of continued use of the public highway as a street market for six days a week from 09.00 to 20.00 (Monday to Saturday). (Council's Own Development). This permission was limited until 10 November 2016. (15/07349/COFUL)

Further to the granting of this permission a complaint was made by a local resident to the Local Government Ombudsman on the grounds that the Council was at fault when considering the market licenses and complaints of noise and other nuisance and that planning committee Councillor did not have all the relevant information before them when considering the application.

The findings of the Ombudsman was that the Council was not at fault when considering market licenses and complaints of noise and other nuisance but that it did act with fault when it failed to put all relevant information before the planning committee Councillors.

The members of the planning committee will have access to all the information submitted with the application, including the complaints log which is collated by the Market Team. This is a sensitive document and will therefore be forwarded to the members of the committee when the reports are published.

Previous permissions:

7.10.2014 – Planning permission granted in respect of continued use of the public highway as a street market for six days a week from 09.00 to 20.00 (Monday to Saturday). (Council's Own Development). This permission was limited until 30 September 2015. (14/06684/COFUL)

27 May 2014 – Planning permission granted for the use of public highway at the southern ends of Fernhead Road and Walerton Road between 09.00-20.00 (Monday to Saturday) to enlarge the Maida Hill market by provision of up to 36 additional stalls (14/01010/COFUL). This was limited until 30 September 2014.

24 September 2013 – Planning permission granted for use of area of land at junction of Harrow Road, Elgin Avenue, Walerton Road and Fernhead Road as a street market and to hold community events (sui generis use) (13/05069/COFUL). Permission granted for a temporary one year period until 30 September 2014.

16 June 2011 – Planning permission granted for continued use of open space for market and events purposes (11/00274/COFUL). This was until 31 December 2012.

9 July 2009 – Planning permission granted for variation of Condition 2 of planning permission dated 9 October 2008 (RN: 08/06957) to extend the operating hours of the market, namely from 10.00 to 20.00 hours on Thursday and Friday, 09.00 to 20.00 hours

on Saturday, and for three additional days of trading on Monday, Tuesday and Wednesday opening from 10.00 to 20.00 hours (09/04007/COFUL).

9 October 2008 – Planning permission granted for use of open space for market and event purposes for a temporary two year period at the Prince of Wales Junction (08/06957/COFUL).

7. THE PROPOSAL

The current application seeks permission to renew planning permission for a temporary period of one year, for the street market at the junction of Harrow Road, Elgin Avenue and the public highway at the southern ends of Fernhead Road and Walterton Road. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

In total, 58 stalls will be provided in the market, 36 pitches during the week and a further 15 on Saturdays. As is currently the case, the area of public highway in Fernhead Road will operate solely as a Saturday market, with the market at the top of Walterton Road and at the junction of Harrow Road and Elgin Avenue operating Monday to Saturday. The market will not operate on Sundays. In 2015, a temporary permission was granted to the retailers of the market to store their goods at 1 Elgin Avenue. This does not form part of this application and the applicant has advised that this arrangement is no longer to continue and traders will have to find their own storage for their goods.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The continuation of Maida Hill market is consistent with Policy S12 of Westminster's City Plan, which states that development within the North Westminster Economic Development Area should encourage economic activity. The redevelopment of a civic space at the Prince of Wales Junction/Maida Hill for community activities and to provide a focus for the area is a priority of the policy.

The continuation of the retail market is not considered to adversely impact the retail character and function of this part of the Harrow Road District Shopping Centre. The most recent Town Centre Health Check for the Harrow Road District Shopping Centre (2013) shows that the centre performs well in terms of unit occupancy, but the market was performing poorly.

Since the results and recommendations of the Health Check, the City Council has invested in two new market offers to the area: a general market from Monday-Friday, offering a range of commodities, and a Saturday market, which offers produce and design related commodities and street food, providing a more specialist and high end offer. Since its inception in May 2014, the expanded retail Saturday street market has assisted in bringing in more business to the District Shopping Centre.

The proposal therefore fully accords with Policy SS13 of the UDP.

8.2 Townscape and Design

The demountable market stalls are of a uniform design (as per the existing market stalls) and these will be removed at the end of the day. Therefore, the proposal will have limited impact on the townscape of this area.

8.3 Residential Amenity

Policies ENV6 and ENV13 in the UDP seek to resist proposals that result in a material loss of amenity, including noise disturbance, as do Policies S29 and S32 in the City Plan. One objection has been received from a nearby resident, raising general amenity concerns, from what they consider to be a 'non-quality' market.

As per the current permission, the market will be confined to the southern end of Fernhead Road and the junction of Harrow Road and Elgin Avenue, which is more commercial in character rather than residential, and is in close proximity to heavily trafficked roads, where a certain level of noise and activity associated with a market, shops and traffic is anticipated.

Whilst the amenity concerns of the adjoining resident are well understood, it is not considered that a further one year use will result in such material levels of harm to warrant refusal of permission.

Issue of anti-social behaviour, street drinking and groups loitering near the market during operating hours and after has previously been raised with the Police and the Community Protection Unit. It is understood that the Council and Police are working together to agree a strategy to tackle this issue and that emerging problems are reported to the fortnightly Tasking Meetings attended by the Council, local stakeholders, Harrow Road Councillors and the Police, the 'Town Team'.

There is a full time market manager to be on site to oversee the operation of the market day-to-day.

Subject to a condition to control the hours of operation of the street market, no objection is raised in amenity terms and the proposal is considered to be in accordance with Policy ENV13 of the UDP and Policy S29 of Westminster's City Plan.

8.4 Transportation/Parking

The alterations to public highway necessary to facilitate the proposed market expansion in 2014 included the relocation of parking, amendments to loading bays, alterations to road markings and prohibition of vehicles from entering the expanded market area along Fernhead Road and Walerton Road. These alterations were the subject of a Traffic Regulation Order. Committee has previously agreed to the proposed alterations to the highway network and parking layout as part of the expansion of the street market. The Traffic Regulation Order was made in May 2014 and the alterations to the parking and road layout implemented in July 2014. A letter from the North Paddington Society has been received to this planning application raising significant issues with the highways alterations that have taken place. This is not a matter for assessment under this application, however this letter of concern has been forwarded to officers within Highways Maintenance and Public Realm.

There is no alteration to the local highway network or parking layout proposed under this current application for a renewal of the street market.

In respect of servicing arrangements, there is no change proposed to the current servicing arrangements for the market from the slip road connecting Fernhead Road and Elgin Avenue (which is closed to traffic during market hours) and loading/unloading bays outside Nos. 2-4 Fernhead Road. In addition, there are eight dedicated pay by phone parking bays on the west side of Fernhead Road for market traders and provision for 16.5 metres of single and double yellow lines on Fernhead Road for retailers.

The site is well served by public transport; the 2013 District Shopping Centre Health Check survey confirms that 95% of people using Harrow Road arrive by foot and public transport. Visitor parking is available in the northern section of Fernhead Road up to Kennet Road and, from 18.30 weekdays and Saturdays, visitors and traders are able to park on single yellow lines, residents' bays and pay-by-phone bays, as no restrictions apply at these times.

8.5 Economic Considerations

The continued operation of the Maida Hill Place market and offers wider economic benefits to the area in accordance with Policy S12 in the City Plan.

8.6 Access

This application raises no issues and the market will be accessible to those with physical disabilities.

8.7 Waste and Recycling Storage/Collection

Policy ENV12 of the UDP requires all developments to make provision for the storage of waste and, in some cases, a waste management plan provided.

The applicant has provided a waste management plan as part of the application. This states that market refuse management comprises the removal of traders food waste and removing any recyclable materials where possible. The market pavement area requires regular cleaning, which is the responsibility of the City Council.

Refuse receptacles are supplied by the City Council's waste contractor and are lockable. Waste collections are undertaken daily by the City Council from the waste collection point at the junction of Elgin Avenue and Walterton Road.

One objection has been received on the grounds that since the market opened the levels of rubbish are unacceptable. The measures for the storage and collection of waste are considered to be acceptable and whilst there may be occasion where there is a little rubbish from traders/ visitors, this on the whole is dealt with quickly. No objections are therefore raised to the renewal of the market for a further temporary period of one year.

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.

The proposals are not considered to be CIL liable.

8.11 Environmental Impact Assessment

Not applicable.

8.12 Other Issues

The objection raised on the grounds that the market holders are impolite is not considered to be a material planning consideration.

In terms of the quality of the produce/ items for sale sold at the market, this is considered to be a matter for the Market Team to address. The health checks, as referred to above, indicate that this is a well used market. The application cannot be refused on the basis of peoples shopping preferences.

9. BACKGROUND PAPERS

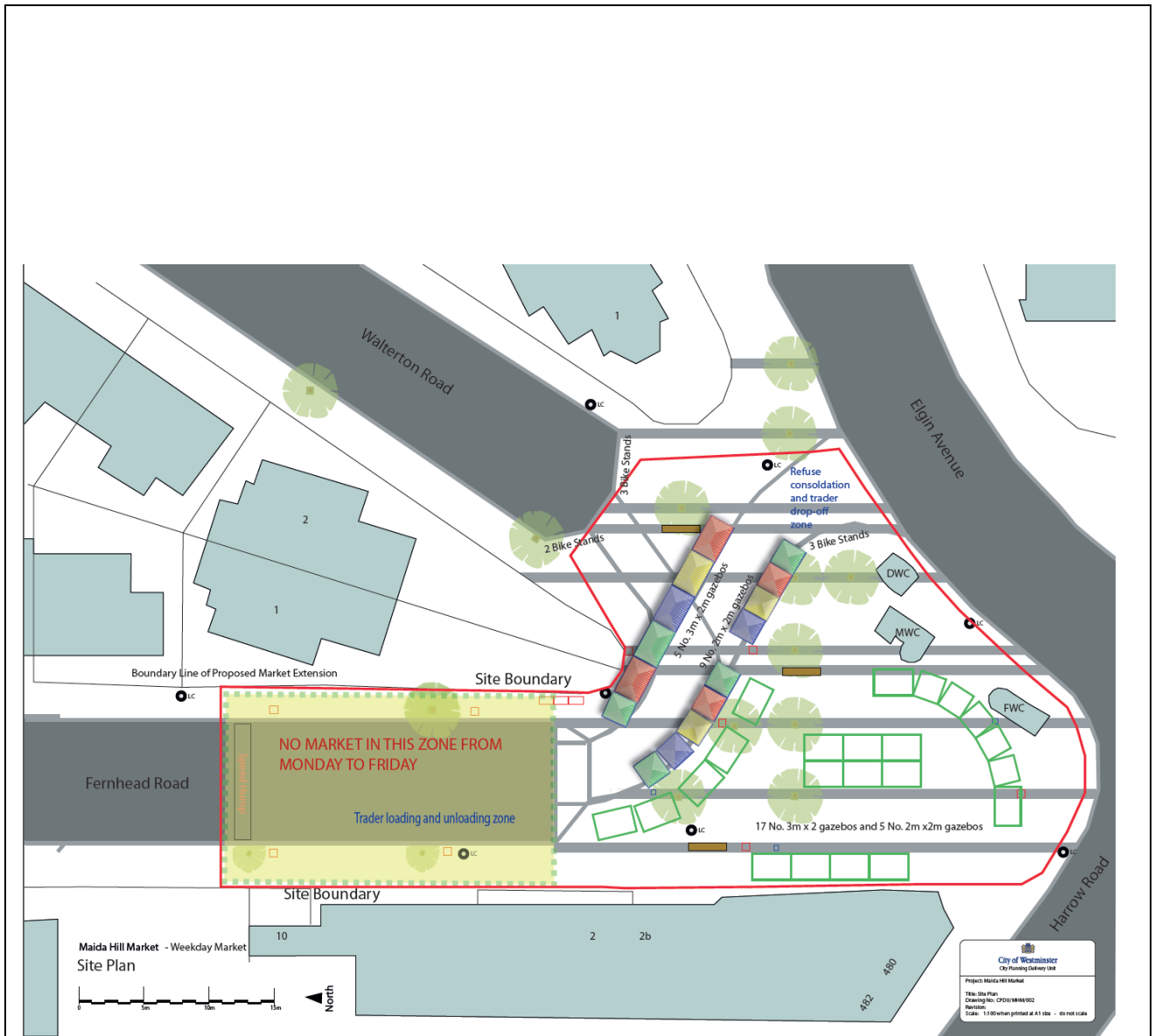
1. Application form
2. Complaint log (sent to Members of the Planning Committee, as log is considered to be a 'sensitive' item)
3. Response from North Paddington Society, dated 7 September 2016.
4. Letter from TFL dated 31 August 2016.
5. Memorandum from Cleansing Manager dated 7 September 2016.
6. Letter from occupier of 15, Fernhead Road, dated 12 September 2016

Selected relevant drawings

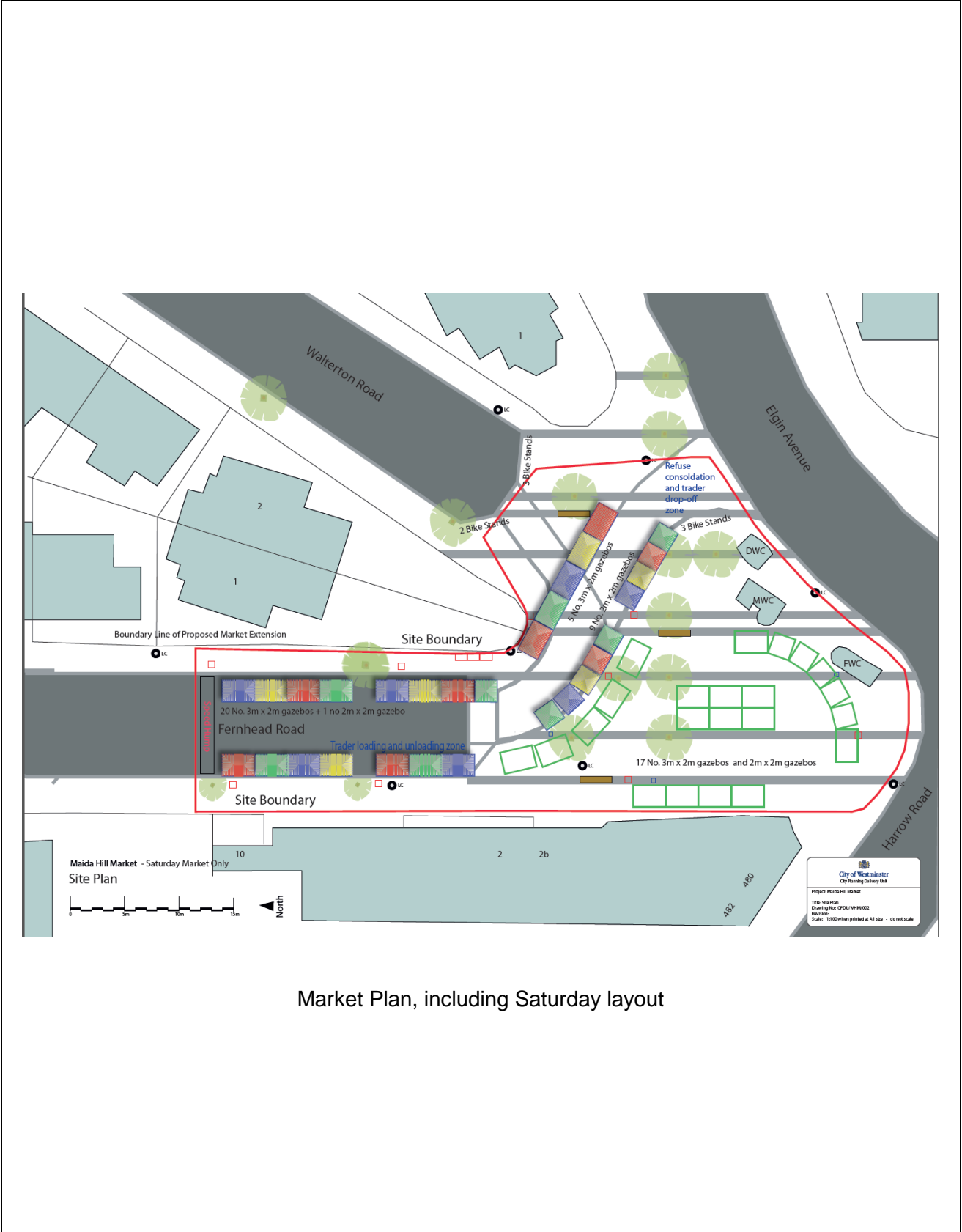
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

10. KEY DRAWINGS



Monday – Friday Layout Plan



Market Plan, including Saturday layout

DRAFT DECISION LETTER

Address: Open Space At Junction Of Fernhead Road And, Elgin Avenue, London,

Proposal: Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)

Plan Nos: CPDU/MHM/002 (titled 'Maida Hill Market - Weekday Market'); CPDU/MHM/002 (titled 'Maida Hill Market - Saturday Market Only'); Design and Access Statement dated August 2016; Market Supporting Information dated August 2016; Waste Service Plan.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641 5939

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

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

Reason:

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

- 2 The market can operate between the hours of 09.00 to 20.00 Monday to Saturday in the area shown on drawing CPDU/MHM/002 (titled 'Maida Hill Market - Weekday Market') and between the hours of 09.00 to 20.00 on Saturday only within the area within Fernhead Road shown on CPDU/MHM/002 (titled 'Maida Hill Market - Saturday Market Only').

Reason:

In order to reserve details of the days/ times for the operation of the market with the chosen market operator in order to safeguard the amenities of nearby residents as set out in S29 and S32 of Westminster's City Plan: Strategic Policies which we adopted in July 2016 and ENV6 and ENV13 of our Unitary Development Plan that we adopted in January 2007.

- 3 The market use allowed by this permission is limited until 31 October 2017.

Reason:

It is considered reasonable to impose a temporary time limit in order to assess the impact of the use of the market on the amenities of nearby residents in accordance with S29 of Westminster's City Plan: Strategic Policies which we adopted in July 2016 and ENV13 of the Unitary Development Plan, adopted January 2007.

- 4 No servicing of the market shall take place at any time from the Harrow Road.

Reason:

To ensure the smooth passage of vehicles and pedestrians on the Harrow Road as required by

Transport for London.

- 5 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 6 No amplified music shall be played in connection with the market use.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 7 No deliveries or unloading of items associated with the market stalls shall be made between the hours of 20.00 and 08.00 hours.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

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 (July 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.

Item No.
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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.

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Item No.
5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date <p style="text-align: center;">11 October 2016</p>	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bryanston And Dorset Square	
Subject of Report	19 Balcombe Street, London, NW1 6HE,		
Proposal	Use of communal basement storage as a residential flat (Class C3) and associated external alterations to provide access to amenity spaces at front and rear.		
Agent	Mr Sean Coyne		
On behalf of	CityWest Homes Ltd		
Registered Number	16/06623/COFUL	Date amended/ completed	27 July 2016
Date Application Received	13 July 2016		
Historic Building Grade	Unlisted		
Conservation Area	Dorset Square		

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

2. SUMMARY

The application site comprises a modern building set over lower ground, ground and three upper floors, currently in use as 4 flats, located on the eastern side of Balcombe Street. The property is unlisted and but lies within the Dorset Square Conservation Area. Permission is sought to use the basement as a flat and associated external alterations to windows and doors to provide new amenity spaces at front and rear.

Objections have been received, primarily from residents within the building with regards to the loss of the communal storage and refuse accommodation in the basement for the creation of a flat.

The key issues in this case are:

- *The impact of the development on the amenity of neighbouring properties;
- *The impact of the development on the character and appearance of the building and the Dorset Square Conservation Area.

The proposals are considered to be acceptable in land use, amenity, design and highways terms and

comply with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan).

3. LOCATION PLAN



4. PHOTOGRAPHS



Front and Side Elevations of Application Site

5. CONSULTATIONS

THE ST MARYLEBONE SOCIETY

Concerns regarding loss of communal storage area and queries raised regarding the adequacy of refuse and bicycle storage.

CLEANSING - DEVELOPMENT PLANNING

Revisions required regarding the existing and proposed capacity of the general waste and recycling.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 13

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

RE-CONSULTATION ON REVISED PLANS

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 13

Total No. of replies: 7

No. of objections: 7 letters of objection on behalf of four properties on the following grounds:

Amenity:

- The provision of formal outside amenity space will result in overlooking and noise concerns;
- Overlooking from the windows of the new flat to residents across the road;
- Noise from the proposed gate to the rear of the building which allows access to refuse collectors;

Transportation:

- The creation of an additional flat in the area will lead to an increase in parking.

Waste:

- Do the proposals provide sufficient waste and recycling facilities;
- Do the proposals meet Council's requirements;

Other:

- Loss of communal basement storage and waste facilities;
- Dissatisfaction with process of consultation by both the applicant and the City Council as part of the planning process;
- Queries regarding whether pre-application advice was sought;

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site is a modern building on the eastern side of Balcombe Street, on the corner with Taunton Mews. The property comprises lower ground, ground and three upper floors and is in use as four flats. The lower ground floor is currently used as ancillary storage and refuse storage for the flats above. To the rear of the site is a rear lightwell accessed from Taunton Mews. The building is not listed but lies within the Dorset Square Conservation Area.

6.2 Recent Relevant History

None relevant.

7. THE PROPOSAL

Permission is sought to use the lower ground floor storage area as a 2 bedroom (72m²) flat. Alterations are proposed to windows and doors to provide access to amenity spaces at front and rear and to allow sufficient light to the flat itself.

The description of development, as initially consulted on, did not refer to the external alterations proposed. Further, the applicant was asked to revise the plans to show indicative locations for cycle and refuse storage. As a result the application was re-advertised by way of letter to neighbours.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The provision of an additional residential unit (providing 2 bedrooms) is supported in principle by policy S14 in the City Plan and policy H3 of the UDP. The loss of the communal basement storage facility and the area used for waste storage is regrettable, however they are not protected by any conditions and therefore its loss cannot be resisted in this instance. In response to objections on this point, it is not considered reasonable in this instance to ask the applicant to provide storage elsewhere.

The proposed unit would have a floor area of approximately 72m². This would meet the minimum floor area for a 2 bedroom 4 person flat (i.e. 70m²) set out in the Government's Technical Housing Standards (March 2015) and is considered to provide an acceptable standard of accommodation in terms of size, layout and natural light and ventilation given its location at lower ground floor. The proposals includes two small areas of outdoor space in the front and rear lightwells which is welcomed under policy H10 of the UDP.

8.2 Townscape and Design

Minor alterations are proposed to the lower ground floor front and rear elevations to increase the size of existing windows and to create two doorways from windows which will increase light availability into the proposed flat and allow access to proposed outdoor amenity spaces to the front and rear. The proposals will only be seen in minimal views if looking into the front and rear lightwell and are considered acceptable in conservation and design terms. The alterations are considered to preserve the character and appearance of the Dorset Square Conservation Area.

8.3 Residential Amenity

Uses:

The proposed use of the internal basement accommodation as residential flat is not considered to result in an unacceptable relationship with the other flats within the building.

Comment has been made that the consultation letters and proposed plans did not indicate who could access the 'amenity spaces'. It is clear from the plans that the amenity spaces are to be provided for the occupiers of the proposed basement flat.

Noise:

Objections have been raised on the grounds that the two proposed amenity spaces to the front and rear lightwells will have an impact upon the residents living directly above due to an increase in noise levels. Given the size of these amenity spaces it is not considered that the spaces will give rise to unacceptable noise levels to residents within the same building or adjacent properties.

Waste and recycling storage for the proposed flat is proposed externally in the rear lightwell. It is unclear whether this will serve the existing residents also (further discussed in paragraph 8.7 of this report). The proposed storage area will not be sited adjacent any windows so should not cause any issue with regards to noise. One objector has commented that the gate to this rear lightwell bangs against the wall of the building and will only get worse if this is where the refuse is collected from. The applicant has therefore agreed to install a rubber stopper on this gate to prevent any noise, and is secured by condition.

Overlooking:

An objection has been received from one of the flats above on the grounds that the new window and door openings and the use of the amenity space will result in overlooking. Given the narrow depth of the front and rear lightwells, there are limited views to ground and upper floor windows, and any such views would be so oblique so the proposals do not warrant refusal on this basis.

An objection from one of the residents in the building refers to customers of the public house opposite the application site being able to look directly into the windows of the proposed basement flat. Any future residents of the basement flat are unlikely to experience any significant overlooking from people walking by the property at street level.

An objection has been received from an occupier of a flat directly opposite the site on the grounds of overlooking from the new flat. Given that the flat is to be located at lower

ground floor, where the only outlook is to within the front and rear lightwells of the application site, this objection cannot be sustained.

8.4 Transportation/Parking

The Highways Planning Manager has confirmed that the latest on-street parking survey indicates there is insufficient on-street parking availability in the vicinity during daytime hours, however, during the night time hours there is sufficient parking availability with the use of single yellow lines. Although an objection to the scheme is raised, it is not considered that the creation of one flat in this location will have a detrimental impact upon the existing car parking situation in the area to such a detrimental level so as to warrant refusal. As such, the proposed development is consistent with Policy TRANS23 in the UDP.

Currently, residents argue that the basement storage area allows for adequate cycle storage for the flats (although upon the case officers site inspection some cycles were parked in the front lightwell at lower ground and to the front railings by the entrance door way) and that no replacement facilities appear to be shown on the plans.

As a result of the proposals, the applicant indicates that cycle parking for the new flat will be to the rear of the site in the alleyway from Taunton Mews. At present it is unclear as to what form this storage is to take and therefore details of the cycle storage both undercover and secure are to be secured by condition.

The applicant has not shown any cycle storage for the existing flats which will be displaced as a result of the proposals, however as there appears to be no historic conditions relating to this basement storage, and as some of the existing residents use the lightwells and railings, although regrettable, it is not considered that the application could be refused on this basis.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

Given the constraints of the existing building, it is not possible to provide step free access to the proposed basement level flat. The proposed flat is only accessible via a staircase, as are the rest of the flats in the building. Whilst unfortunate that there is no level access, the proposals are not considered to warrant refusal on this basis.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

At present, refuse storage is within the basement and the front basement lightwell in the form of six domestic rubbish bins. One of the objectors confirms that the waste storage comprises eight waste bins and three recycling bins, although this did not appear to be the case from the officers site visit. The applicant has been asked to provide information

on the capacity of these bins and the arrangements of storage and collection which has not be forthcoming.

The proposals seek to displace this facility. The submitted floor plans indicate that refuse storage can be provided within bins to the rear of the site accessed from Taunton Mews. The objectors argue that this provision does not appear to be in accordance with City Council guidance 'Recycling and Waste Storage Requirements 2015/2016'. Whilst the proposed storage facilities may be acceptable in principle, it is unclear whether this will be sufficient to accommodate waste and recycling for all five flats or just the proposed basement flat. This, and the fact that the applicant has not referred to specific City Council guidance is not considered to justify refusal of this application and therefore details of the waste and recycling facilities are to be secured by condition. Should the waste storage facilities only serve the proposed basement flat, this will unfortunately be considered acceptable, as with the issue of cycle parking and storage facilities, there are no historic conditions to prohibit their removal. Waste storage for the flats above will therefore be a private matter between the occupiers.

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

The estimated CIL payment is £28,000 based on the floorplans submitted with the application.

8.11 Environmental Impact Assessment

Not applicable for a development of this scale.

8.12 Other Issues

One response objects on the grounds that they were not notified of the proposals with due diligence. It appears that there has been some overlap and confusion between the communication from City West Homes to its tenants and the formal consultation undertaken as part of the planning application. The City Council has carried out in excess of its statutory requirements with regards to consultation with letters sent to neighbours, an advert put into the local press and a site notice displayed in the street.

Comment has also been made that the letters that were sent to neighbours did not include the planning reference number, which added to delays in providing comments to the application. City Council records indicate that the neighbour consultation letter and the site and press notice all had a complete reference number, in which to find the application details on the Council's website.

One of the objectors state that the applicant should have sought pre-application advice from the City Council. Although the seeking of pre-application advice is recommended this is not a statutory requirement.

An objection has been made on the grounds that the application submission includes no details with regards to structural soundness, drainage or fire escape facilities. These are all considered to be a matter for Building Regulations rather than a planning control.

Concerns have been raised with regards to noise and disruption during the course of building works. The application cannot be refused on this basis and the Council's standard hours of working condition is proposed.

The matter of tenant/ leaseholder contracts regarding the basement storage facilities is considered to be a private matter.

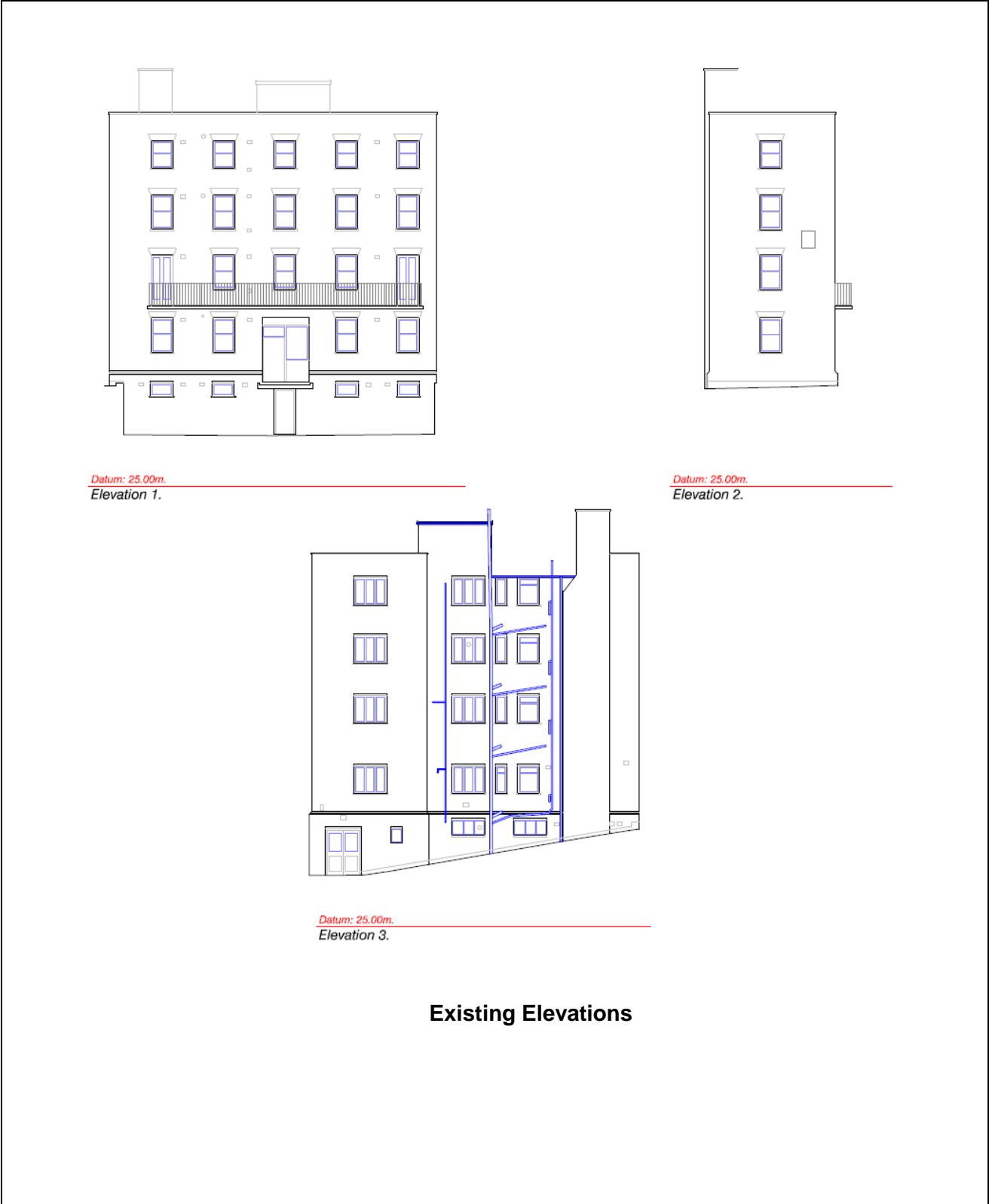
9. BACKGROUND PAPERS

1. Application form
2. Response from The St Marylebone Society, dated 9 August 2016
3. Memorandum from Cleansing Manager dated 7 September 2016
4. Letters from occupier of 19b Balcombe Street, dated 24 and 25 August 2016
5. Letters from occupier of 19d Balcombe Street, dated 25 August 2016
6. Letters from occupier of 19a Balcombe Street, dated 25 August 2016
7. Letter from occupier of 26b Balcombe Street, dated 25 August 2016

(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@wesminster.gov.uk

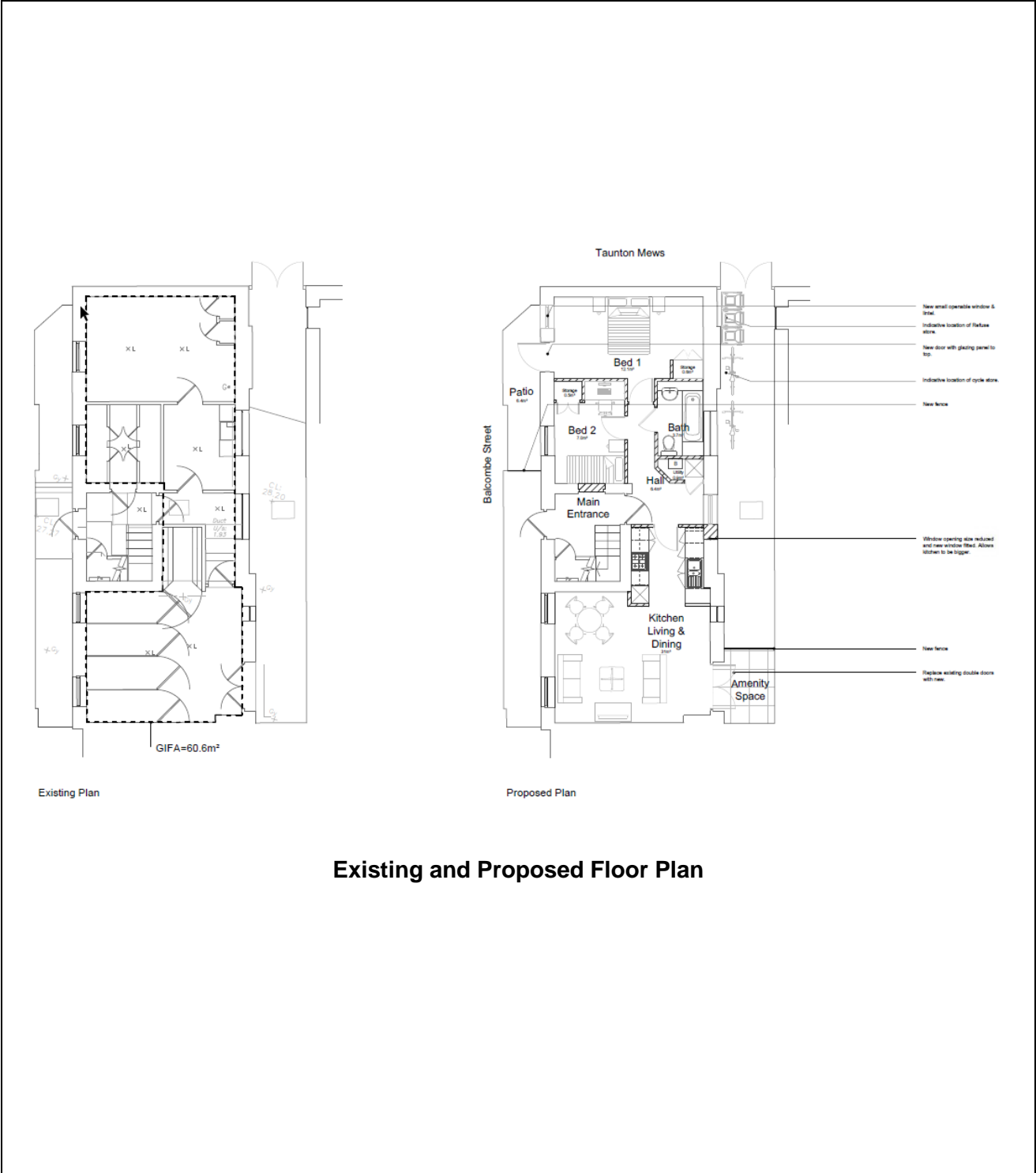
10. KEY DRAWINGS



Existing Elevations



Proposed Elevations



Existing and Proposed Floor Plan

DRAFT DECISION LETTER

Address: 19 Balcombe Street, London, NW1 6HE,

Proposal: Use of communal basement storage at 19 Balcombe House as a flat and associated external alterations to provide access to amenity spaces at front and rear.

Plan Nos: 22895_03_E; 007B; 005M; Site Plan

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641 5939

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

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 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 Dorset Square Conservation Area. This is as set

out in S25 and S28 of Westminster's City Plan (July 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 All new windows and doors shall match the existing in terms of their materials and be painted white and retained in that condition thereafter.

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 Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 The gate to the rear access of the building from Taunton Mews shall be fitted with a rubber stopper prior to the occupation of the flat and be retained in that condition thereafter.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 6 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 start work on the relevant part of the development 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 basement flat. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 7 You must apply to us for approval of details of secure cycle storage for the basement flat in the rear lightwell use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

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.

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 (July 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 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

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:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to CIL@Westminster.gov.uk

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.

- 3 You are reminded that the cycle storage should be a weatherproof and secure facility.

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.

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