



City of Westminster

# Committee Agenda

Title: **Planning Applications Committee (1)**

Meeting Date: **Tuesday 7th March, 2017**

Time: **6.30 pm**

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

Members: **Councillors:**  
Melvyn Caplan  
Tim Mitchell  
Louise Hyams  
David Boothroyd

**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](mailto:tfieldsend@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://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 Director of Law in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. MEMBERSHIP**

To note that Councillors Melyvn Caplan and Louise Hyams have replaced Councillors Richard Beddoe and Susie Burbridge.

To appoint a Chairman.

#### **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**

- |  |                          |
|--|--------------------------|
| <b>1. WILLIAM COURT, 6 HALL ROAD, LONDON, NW8 9PA</b>            | <b>(Pages 5 - 32)</b>    |
| <b>2. MANOR APARTMENTS, 40 - 42 ABBEY ROAD, LONDON</b>           | <b>(Pages 33 - 62)</b>   |
| <b>3. 16 DEVONSHIRE PLACE, LONDON, W1G 6HY</b>                   | <b>(Pages 63 - 92)</b>   |
| <b>4. THE PLAZA, 120 OXFORD STREET, LONDON, W1D 1LT</b>          | <b>(Pages 93 - 112)</b>  |
| <b>5. 134 BAKER STREET, LONDON, W1U 6UB</b>                      | <b>(Pages 113 - 128)</b> |
| <b>6. 37 CURZON STREET, LONDON, CITY OF WESTMINSTER, W1J 7TX</b> | <b>(Pages 129 - 140)</b> |
| <b>7. 18 WELLS STREET, LONDON, W1T 3PG</b>                       | <b>(Pages 141 -</b>      |

8. 2C CHIPPENHAM MEWS, LONDON, W9 2AW

168)

(Pages 169 -  
180)

9. MARYLEBONE FLYOVER, LONDON

(Pages 181 -  
190)

**Charlie Parker**  
**Chief Executive**  
**27 February 2017**

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# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS COMMITTEE – 7th March 2017  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	RN NO(s) : 16/08855/FULL  Abbey Road	William Court 6 Hall Road London NW8 9PA	Construction of 3 dwelling houses with associated amenity space in the grounds of William Court, 6 Hall Road to the rear, associated landscaping improvements, creation of additional cycle parking. (ADDENDUM REPORT)	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
2.	RN NO(s) : 16/09157/FULL  Abbey Road	Manor Apartments 40 - 42 Abbey Road London	Demolition of existing roof level structures and part of front chimney stack and erection of a single storey roof extension with roof terraces with associated balustrade and screening to provide one residential flat (Class C3) and installation of mechanical plant to rear at roof level.	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
3.	RN NO(s) : 16/11937/FULL 16/11938/LBC  Marylebone High Street	16 Devonshire Place London W1G 6HY	Use as six self-contained flats (Class C3) including the demolition and replacement of rear extensions at lower ground and ground floor levels, excavation of rear garden and vault at lower ground floor level. Installation of four condensers at roof level within acoustic enclosure and a condenser unit within an acoustic enclosure within the rear patio at lower ground floor level and condenser in front lightwell. Replacement windows and internal alterations.	
	<b>Recommendation</b> 1. Grant conditional permission including a condition to secure lifetime (25 years) car club membership for each residential unit. 2. Grant conditional listed building consent. 3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.			
Item No	References	Site Address	Proposal	Resolution
4.	RN NO(s) : 16/11237/FULL  West End	The Plaza 120 Oxford Street London W1D 1LT	Use of the ground and first floor unit on corner of Wells Street and Eastcastle Street as a restaurant (Class A3), alterations to shopfronts on Eastcastle Street and Berners Street elevations, installation of ventilation louvres at first floor level on Wells Street and installation of an extract duct and air-conditioning units at roof level.	
	<b>Recommendation</b> 1. Grant conditional permission subject to a S106 legal agreement to secure: - the completion of the reconfigured retail units at ground, first and basement floors prior to the occupation of the new restaurant. 2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then: a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to			

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 7th March 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	determine and issue the decision under Delegated Powers; however, if not; b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.			
Item No	References	Site Address	Proposal	Resolution
5.	<b>RN NO(s) :</b> 16/08921/FULL  Marylebone High Street	134 Baker Street London W1U 6UB	Use of ground floor and basement as restaurant (Class A3), and erection of full height extract duct to rear elevation.	
<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Resolution
6.	<b>RN NO(s) :</b> 16/11057/FULL  West End	37 Curzon Street London City Of Westminster W1J 7TX	Variation of Condition 5 of planning permission dated 17 July 2013 (RN: 13/03289/FULL) for use of the first floor and second floors as 4 x 3 bedroom flats (Class C3); namely, to allow changes to sound proofing and to allow the submission of a revised acoustic report.	
<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Resolution
7.	<b>RN NO(s) :</b> 16/02143/FULL  West End	18 Wells Street London W1T 3PG	Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over fifth and sixth floors. Installation of plant at rear ground floor levels and at main roof level with associated screening. Creation of terraces/balconies at first to sixth floor levels. (ADDENDUM REPORT)	
<b>Recommendation</b> 1. Grant conditional permission, subject to a S106 legal agreement to secure the following:  a) Provision of £941,000 towards public realm improvements in the vicinity of the site (index linked); b) The costs of monitoring the S106 agreement.  2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:  (a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;  (b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of				

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 7th March 2017  
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	Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.			
Item No	References	Site Address	Proposal	Resolution
8.	RN NO(s) : 16/11716/FULL  Harrow Road	2C Chippenham Mews London W9 2AW	Installation of replacement timber framed windows to rear elevation at first floor level. (Retrospective Application)	
<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Resolution
9.	RN NO(s) : 16/10855/ADV  Bryanston and Dorset Square	Marylebone Flyover London	Display of internally illuminated digital advertising unit (portrait unit) 7.5m x 5m wide.	
<b>Recommendation</b> Grant conditional advertisement consent.				

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# Agenda Item 1

Item No.

**1**

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> <b>7 March 2017</b>	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>William Court , 6 Hall Road, London, NW8 9PA</b>		
<b>Proposal</b>	Construction of 3 dwelling houses with associated amenity space in the grounds of William Court, 6 Hall Road to the rear, associated landscaping improvements, creation of additional cycle parking.		
<b>Agent</b>	Matt Richards		
<b>On behalf of</b>	Mansley Limited		
<b>Registered Number</b>	16/08855/FULL	<b>Date amended/ completed</b>	14 September 2016
<b>Date Application Received</b>	14 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

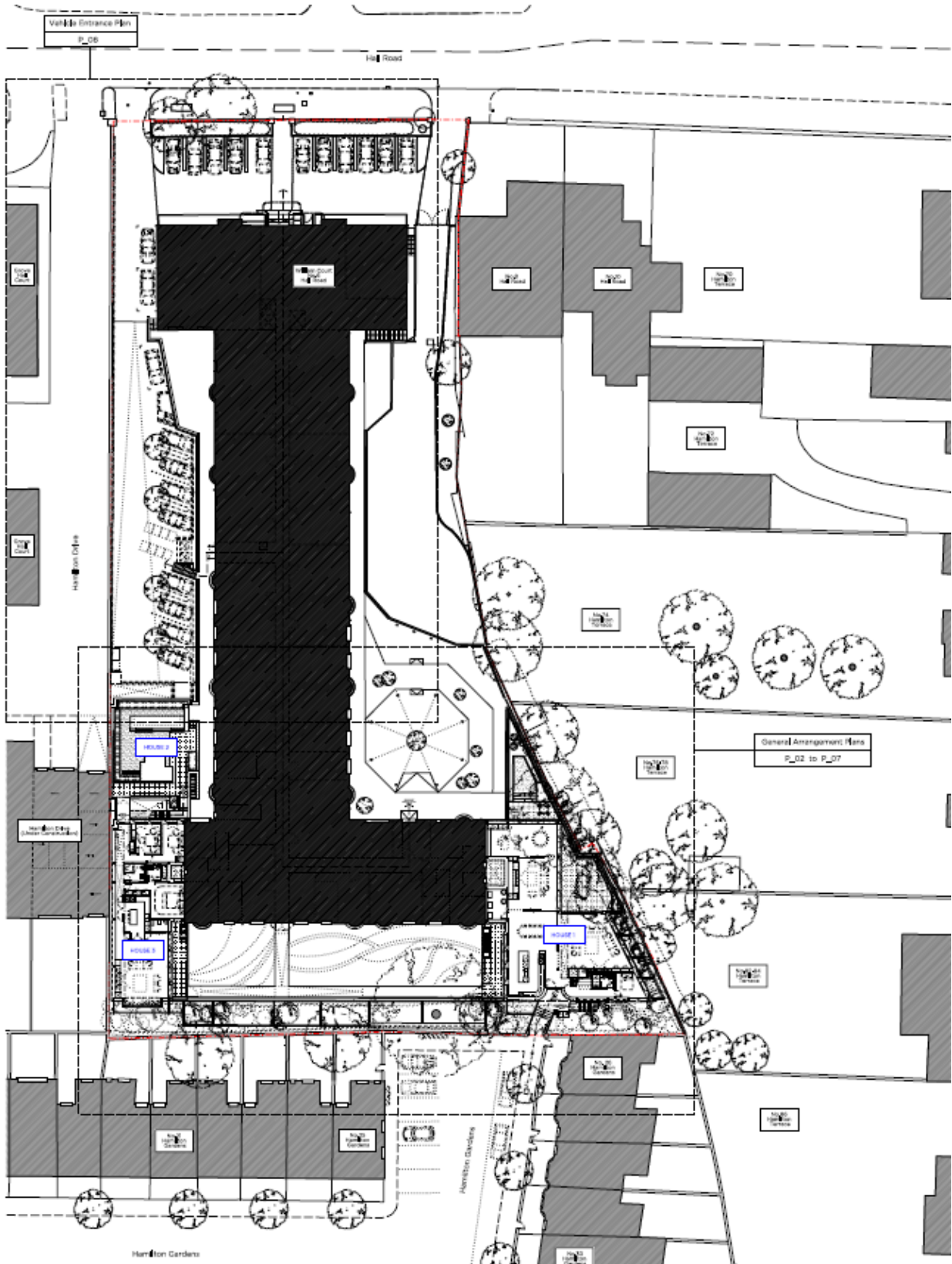
## 1. RECOMMENDATION

Grant conditional permission.

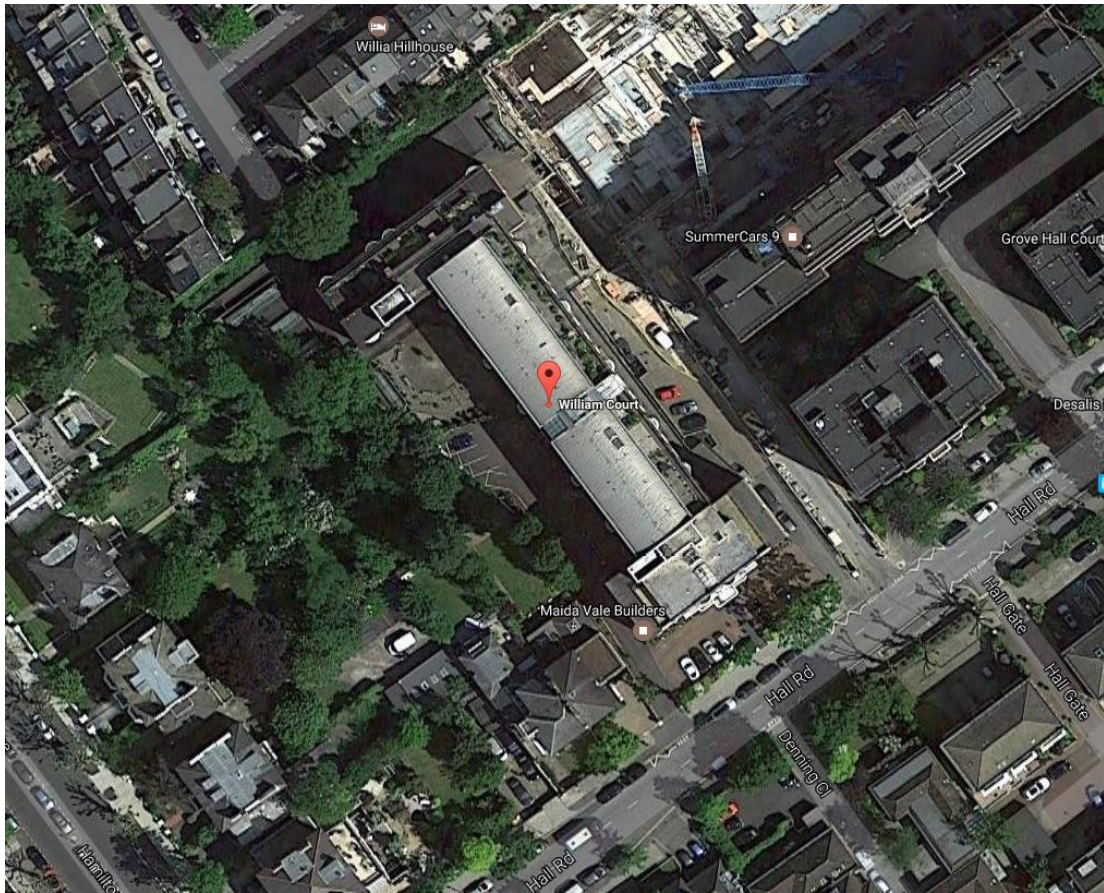
## 2. SUMMARY

This application was reported to the Planning Applications Committee on 14 February 2017, where the committee resolved to defer making a decision on the application to enable the committee to visit the application site and neighbouring properties. The site visit is scheduled to take place on 1 March 2017. The application is therefore reported back to the committee for further consideration.

### 3. LOCATION PLAN



4. PHOTOGRAPHS



Top Photo – Aerial View  
Bottom left – front of building, Bottom right – eastern elevation/ communal driveway

## 5. CONSULTATIONS

Original representations as detailed in report to committee of 14 February 2017.

Additional representations received after the report of 14 February was published and circulated to members prior to the committee meeting (blues)

8 letters of objection received on the following grounds:

- Original objections to scheme are maintained (and attached to the additional representations);
- The additional sunlight and daylight analysis is too technical, incomprehensible to those that the development affects and makes false justifications;
- Requests made for the item to be deferred from the planning committee of 14 February as this fell within a half term;

Additional representations received after the report of 14 February was published and scheduled to be presented to members at the committee meeting (reds)

26 letters received on behalf of 19 properties received on the following grounds:

- Original objections to scheme are maintained (and attached to the additional representations);
- The additional sunlight and daylight analysis is too technical, incomprehensible to those that the development affects and makes false justifications;
- Requests made for the item to be deferred from the planning committee of 14 February as this fell within a half term;
- Requests made for the item to be deferred from the planning committee of 14 February for a members site visit;
- Objectors were not given enough time to respond the officer recommendation and the scheduled planning committee date;
- The case officers published report does not respond to the objections previously made.
- The case officers recommendation does not accord with the advice given in the pre-application response (as detailed within the applicants design and access statement)

Additional representation:

1 objection reiterating concerns already made and highlighting to the members of the planning committee points of interest, querying comments made in the application submissions and responding comments to the case officers draft report/ decision notice.

## 6. BACKGROUND PAPERS

1. Report and minutes of committee dated 14 February 2017 including original representations as detailed in the report to committee of 14 February 2017.
2. Additional representation received after report of 14 February 2017 was published and circulated to members prior to the committee meeting (blues); listed 3-8 below.
3. Letter from owner of Flat 16 William Court, 6 Hall Road dated 6 and 7 February 2017.
4. Email from owner of 20 Hamilton Gardens dated 7 and 8 February 2017.
5. Email from owner of 80-84 Hamilton Terrace dated 7 February 2017.

6. Email from owner of 24 Hamilton Gardens dated 8 February 2017.
7. Email from owner of Flat 13 William Court, 6 Hall Road dated 7 February 2017.
8. Email from owner of 36 Alma Square dated 8 February 2017.
9. Late representations received after report of 14 February 2017 was published and circulated to members of the committee meeting (reds); listed 10-30 below
10. Email from Councillor Hall dated 13 February 2017.
11. Email from owner of 20 Hamilton Gardens dated 9 February 2017.
12. Email from owner of Flat 16 William Court, 6 Hall Road dated 9 February 2017
13. Email from owner of Flat 33 William Court, 6 Hall Road dated 9 February 2017.
14. Email from owner of Flat 14 William Court, 6 Hall Road dated 10 February 2017.
15. Email from owner of Flat 15 William Court, 6 Hall Road dated 10 February 2017.
16. Email from occupier of top floor flat, 25 Hamilton Gardens dated 10 and 11 February 2017.
17. Email from owner of 78 Hamilton Terrace dated 12 February 2017.
18. Email from owner of 28 Hamilton Gardens dated 13 February 2017.
19. Email from owner of Flat 11 William Court, 6 Hall Road dated 13 February 2017.
20. Email from owner of 8 Hall Road dated 11 February 2017.
21. Emails (x4) from owner/occupiers of 80-84 Hamilton Terrace dated 11 February 2017.
22. Email from occupier of Flat 10, 45 Marlborough Place dated 13 February 2017.
23. Email from unknown address dated 11 February 2017.
24. Email from owner of Flat 31 William Court, 6 Hall Road dated 11 February 2017.
25. Email from owner of 36 Alma Square dated 12 February 2017.
26. Email from owner of 28 Finchley Road dated 12 February 2017.
27. Email from owner of Flat 34 William Court, 6 Hall Road dated 12 February 2017.
28. Email from unknown address dated 12 February 2017.
29. Email from owner of 19 Hamilton Gardens dated 14 February 2017.
30. Letter and brochure from applicant received 14 February 2017.
31. Email from occupier of 14 William Court dated 22 February 2017.

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

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

7. KEY DRAWINGS

Visuals of Houses 1-3 in context of William Court



As Proposed Axonometric View 1 - REVISED SCHEME

Visuals of House 1 from podium deck of William Court and Hamilton Garden



House 1  
Proposed William Court Podium View



House 1  
Proposed View from Hamilton Gardens

### Visuals of Houses 2 & 3



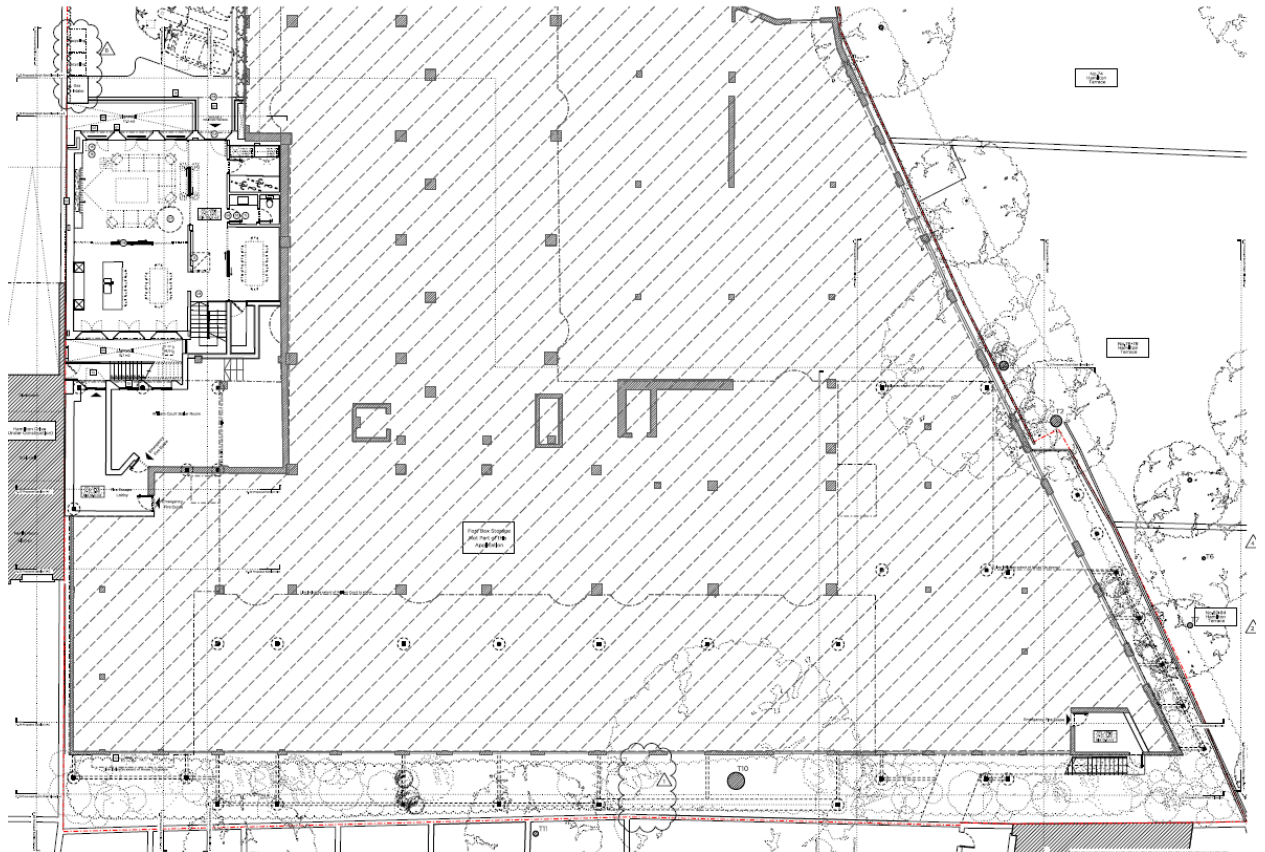
1 Houses 2&3  
Proposed View from Vehicle Approach



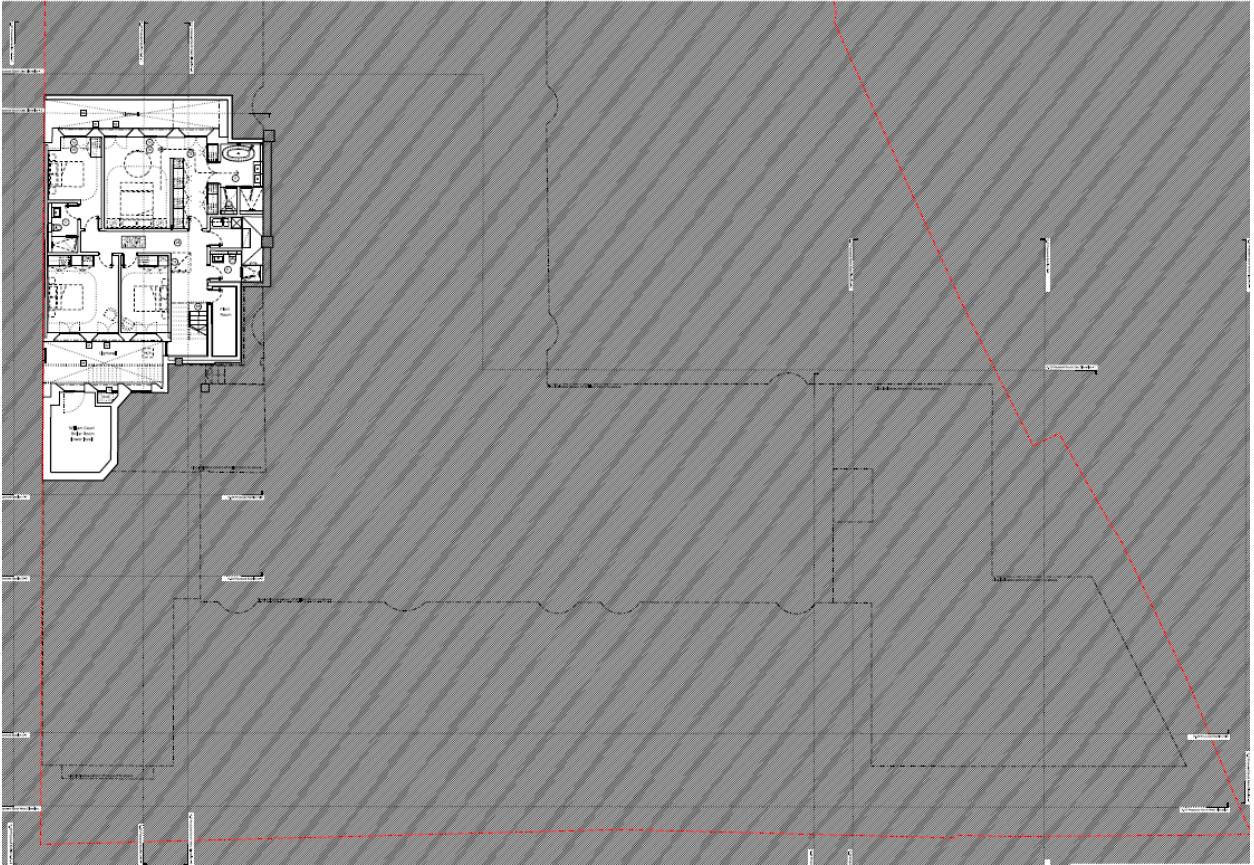
2 Houses 2&3  
Proposed Sectional Axonometric View



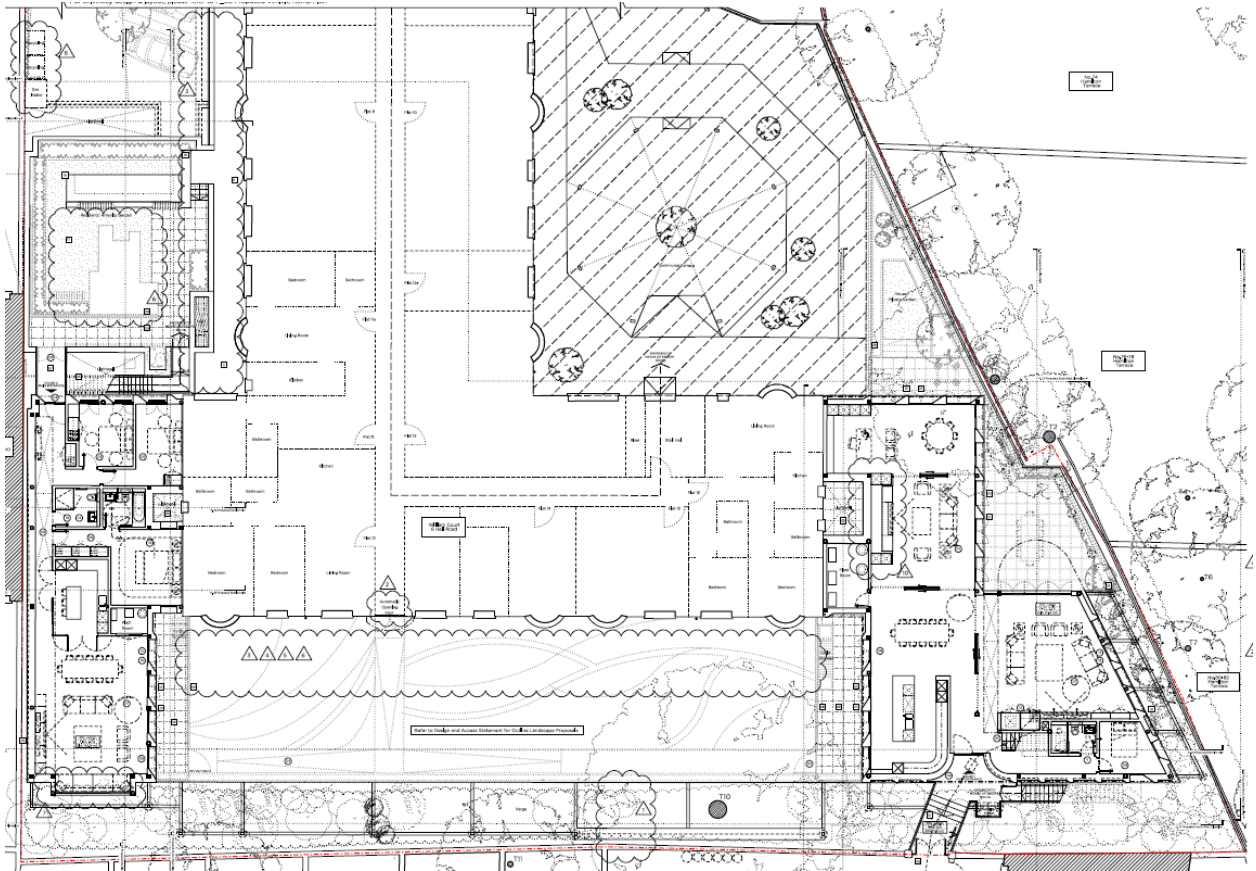
Drawing to show ground floor of House 2 to the eastern side of William Court



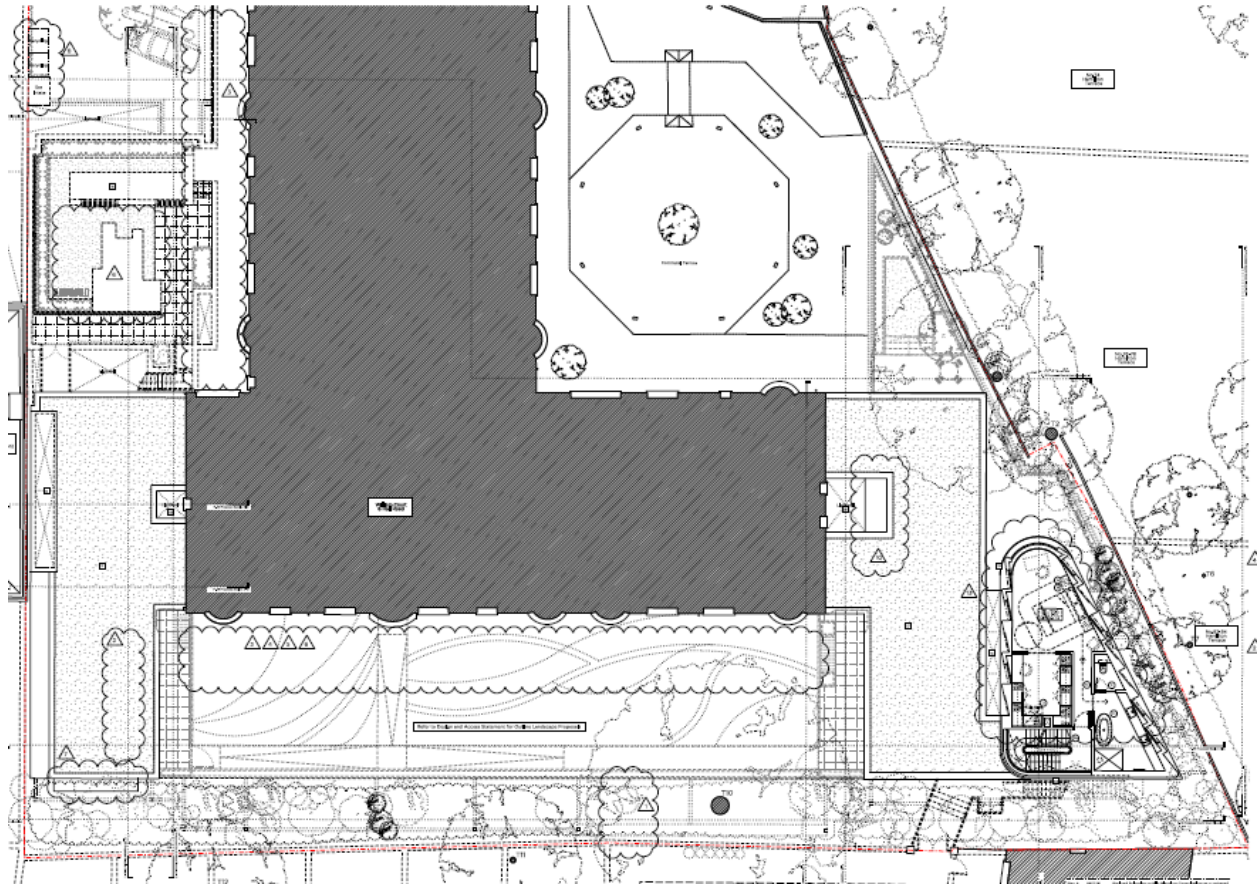
Drawing to show lower ground floor of House 2 to the eastern side of William Court



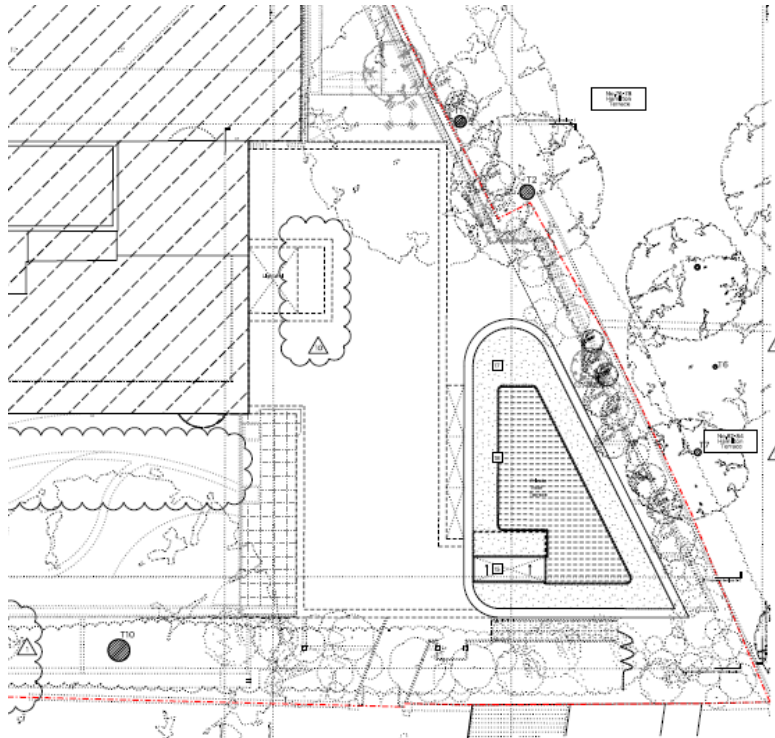
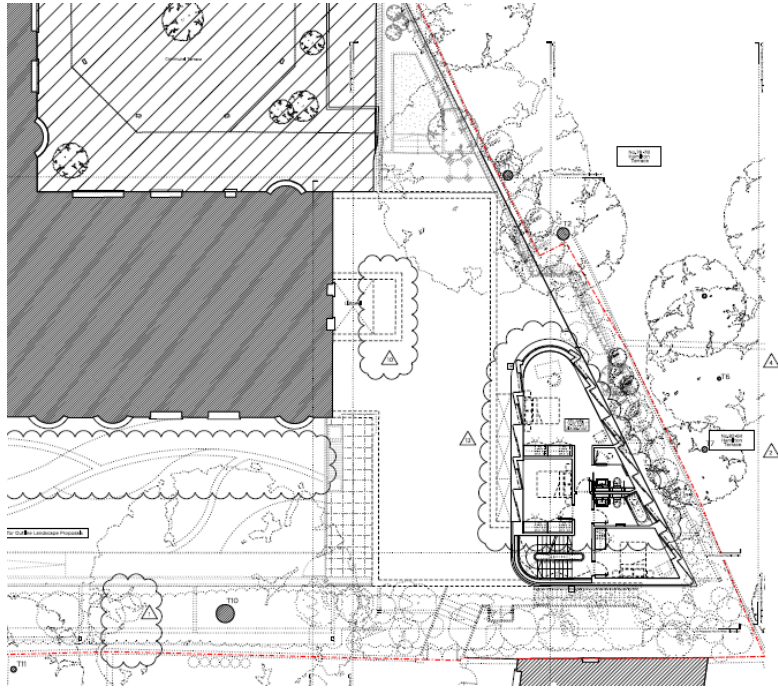
**Drawing to show podium deck level –Ground Floor of House 1, Ground Floor of House 3 7  
Roof of House 2 and landscaping proposals to rear of William Court**



Drawing to show First floor plan of House 1 and roof of House 3



**Extract Drawing to show Second floor and roof plan of House 1**



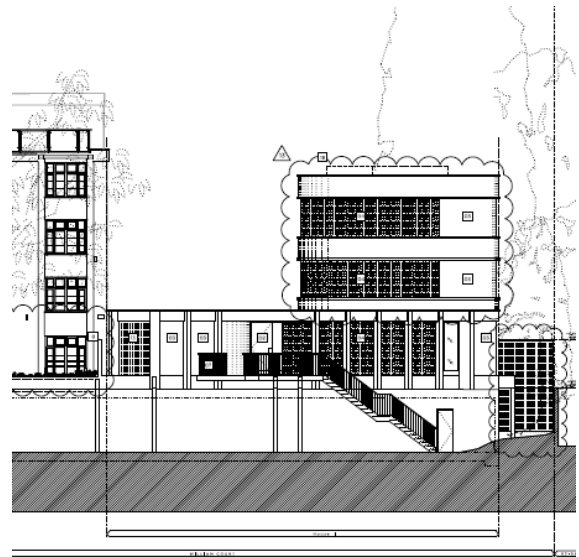
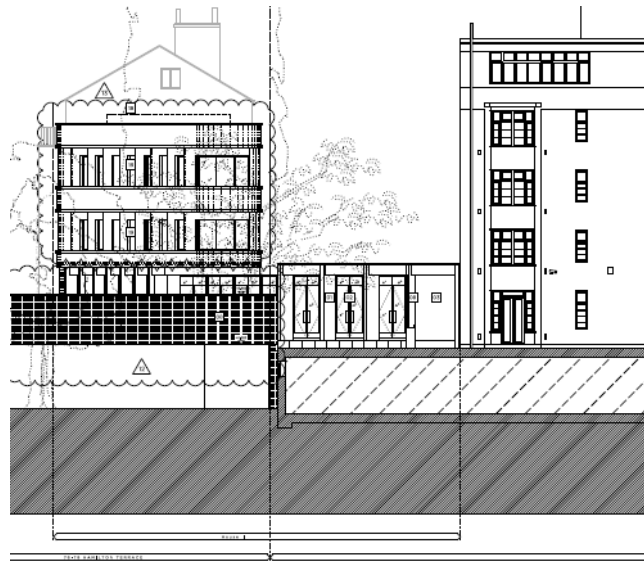
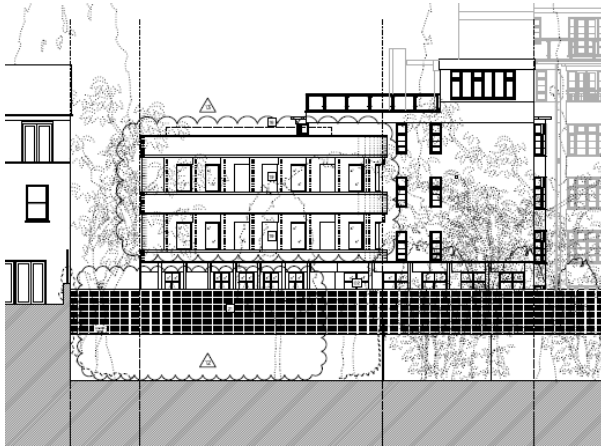
**Section (east-west) through Houses 1 & 3 in relation to William Court (centre), Hamilton Terraces (to the right) and new development at rear of Grove Hall Court (left)**



**Section through Houses 2 & 3 showing William Court in the rear and Hamilton Garden properties to the right**



Elevations drawing of House 1 (Top left – west elevation, Top Right-east elevation, Bottom Left- South Elevation, Bottom Right – North elevation)



**DRAFT DECISION LETTER**

**Address:** William Court , 6 Hall Road, London, NW8 9PA

**Proposal:** Construction of 3 dwelling houses with associated amenity space in the grounds of William Court, 6 Hall Road to the rear, associated landscaping improvements, creation of additional cycle parking.

**Plan Nos:** P00; D\_02A; D\_03A; D\_04A; D\_08A; D\_10A; D\_11A; D\_12A; D\_13; D\_20A; D\_21A; D\_22A; P\_01A; P\_02A; P\_03A; P\_04A; P\_05A; P\_06A; P\_07A; P\_08A; P\_10A; P\_11A; P\_12A; P\_13A; P\_20A; P\_21A; P\_22A; P\_30; Design and Access Statement dated December 2016; Planning Statement; Daylight and Sunlight Assessment amended 30 January 2017; Arboricultural Impact Assessment dated 13 December 2016; Landscaping information dated 14 December 2016; Sustainability Statement dated 10 August 2016; Noise Impact Assessment dated 8 August 2016; For information only: Construction Management Plan dated December 2016; Structural Engineer's Study dated December 2016.

**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 (November 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing and framing to glazing and including the 'Bolou boarding', and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 5 You must apply to us for approval of a sample panel of brickwork to be erected on site for each type of new brick proposed to be used, and submit a photograph of each erected panel, and which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. The brickwork shall not be painted, rendered or otherwise overclad. (C27DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 6 You must provide the green roofs to main roof level on houses 1, 2 and 3 (in the locations shown on drawings P-07A, P-02A and P-05A) and to the podium deck before you start to use any part of the development, as set out in your application. You must not remove any of these features. (C43FA)

Reason:

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

- 7 The external brick facings to each of the three new buildings shall be formed in complete bricks and not brick slips

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 8 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:-

The window to the north-west elevation of house 3 subdivided into two window openings separated by a brick pier and together of reduced size as compared to the opening shown on P-10A

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 9 You must apply to us for approval of a detailed elevation drawing, and also a detailed plan/section drawing (as appropriate) for each of the following areas:-

- 1) Curved corner to the southern end of first and second floor levels on House 1
- 2) Example bay (showing all detailing) of the east and the west elevation at ground to second floor levels of House 1
- 3) Example bay (showing all detailing) of the south elevation of House 2
- 4) Example bay (showing all detailing) of the south elevation of House 3

The drawings must also be annotated detailing the use of facing materials. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 10 You must not erect any extensions or alter the appearance of the building, including the installation of new windows and doors, without our permission. This is despite the provisions of Classes A, B, C and D of Part 1 of Schedule 2 to the Town and Country Planning General

Permitted Development Order 1995 (or any order that may replace it). (C21HA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 11 You must apply to us for approval of an elevation drawing showing the louvred doors to the boiler/plant room at ground floor level of House 1, including annotation of materials and colour of finish. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to this drawing. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 12 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terraces or flat roofs adjacent. This applies unless differences are shown on the drawings we have approved or are required by conditions of this permission (C26NA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 13 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:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 14 The new external railings, and the deck to the new entrance bridge from Hamilton Gardens, shall be formed in black painted metal

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in

January 2007. (R26CD)

- 15 You must apply to us for approval of a detailed elevation of the balustrade to main roof level of House 1, including confirmation of its materials. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to this drawing. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 16 You must apply to us for approval of an existing and a proposed elevation drawing showing the area of boundary wall to Hamilton Gardens where the new entrance to House 1 is proposed. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 17 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number P\_02A, P\_03A, P\_04A, P\_08A. You must clearly mark them and make them available at all times to everyone using the residential units. (C14FB)

Reason:

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

- 18 You must apply to us for approval of detailed drawings and specifications (including colour) of the following parts of the development - privacy screening/fencing to Houses 1 and 3. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these details. (C26DB)

Reason:

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

- 19 You must not use the roof of the building of House 3 and the podium deck for sitting out or for any other purpose. You can however use the roof of House 3 to escape in an emergency and the podium deck to provide disabled access to Houses 1 and 3; to escape in an emergency or for access/ maintenance of flats within William Court. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 20 You must install the privacy screen/fencing associated with House 1 and 3 prior to the use of the approved amenity areas.

Reason:

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

- 21 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.

- 22 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 and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 23 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be

intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 24 (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 residential 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 residential 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 (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 25 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.

- 26 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to 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 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 27 You must apply to us for approval of detailed drawings of a planting scheme of the proposed trees to the communal driveway which includes the number, size, species and position of the trees. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the planting within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within 2 years of planting them, you must replace them with trees of a similar size and species. (C30BB)

Reason:

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

- 28 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work in relation to House 1 and 3 and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 29 The lightwells to House 1 and 3 must remain open and be retained as lightwells at all times.

Reason:

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



- 30 You must provide the communal roof terrace atop House 2 prior to the occupation of the House 2. The communal terrace must remain accessible to everyone within William Court and retained as such thereafter.

Reason:

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

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 3 Condition 28 requires you to submit a method statement for works to a tree(s). The method statement must be prepared by an arboricultural consultant (tree and shrub) who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered. It must include details of:
  - \* the order of work on the site, including demolition, site clearance and building work;
  - \* who will be responsible for protecting the trees on the site;
  - \* plans for inspecting and supervising the tree protection, and how you will report and solve problems;
  - \* how you will deal with accidents and emergencies involving trees;
  - \* planned tree surgery;
  - \* how you will protect trees, including where the protective fencing and temporary ground protection will be, and how you will maintain that fencing and protection throughout the

development;

- \* how you will remove existing surfacing, and how any soil stripping will be carried out;
- \* how any temporary surfaces will be laid and removed;
- \* the surfacing of any temporary access for construction traffic;
- \* the position and depth of any trenches for services, pipelines or drains, and how they will be dug;
- \* site facilities, and storage areas for materials, structures, machinery, equipment or piles of soil and where cement or concrete will be mixed;
- \* how machinery and equipment (such as excavators, cranes and their loads, concrete pumps and piling rigs) will enter, move on, work on and leave the site;
- \* the place for any bonfires (if necessary);
- \* any planned raising or lowering of existing ground levels; and
- \* how any roots cut during the work will be treated.

- 4 The tree removal and tree pruning work recommended in the tree report is not always necessary to carry out the construction work although some are close to the building and pile locations. Therefore, it is not approved as part of this planning consent and if you wish to prune or remove any trees you must submit a Section 211 notification for works to trees within a conservation area (as described in the tree report) or obtain consent to work on a protected tree (if included in a Tree Preservation Order).
- 5 The trees within the rear gardens of Hamilton Terraces are within a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922.
- 6 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (150AA)

- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 8 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by issuing regular bulletins about site progress.
- 9 Our Environmental Health officers advise that, although it is not possible to be certain from your submitted plans, the scheme may not provide sufficient natural light into and a reasonable view from the main habitable rooms. You are recommended to refer to the Housing Health and Safety Rating System - Housing Act 2004 guidance to obtain full details about the requirement for natural lighting and reasonable view. The dwelling may therefore be considered for action under the Housing Act 2004 by our Residential Environmental Health team. In those circumstances, that team would have the power to require works to improve natural light and the view to the affected rooms (which may require planning permission) or alternatively, where this is not practicable, to prohibit the use of those rooms. For further advice, please contact:
- Residential Environmental Health Team  
4th Floor East, Westminster City Hall  
64 Victoria Street  
London SW1E 6QP  
Website [www.westminster.gov.uk](http://www.westminster.gov.uk)  
Email [res@westminster.gov.uk](mailto:res@westminster.gov.uk)  
Tel : 020 7641 3003 Fax : 020 7641 8504
- 10 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)

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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# Agenda Item 2

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>Manor Apartments, 40 - 42 Abbey Road, London, NW8</b>		
<b>Proposal</b>	Demolition of existing roof level structures and part of front chimney stack and erection of a single storey roof extension with roof terraces with associated balustrade and screening to provide one residential flat (Class C3) and installation of mechanical plant to rear at roof level.		
<b>Agent</b>	DP9		
<b>On behalf of</b>	Extrakeen Ltd		
<b>Registered Number</b>	16/09157/FULL	<b>Date amended/ completed</b>	22 September 2016
<b>Date Application Received</b>	22 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	St John's Wood		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

The application seeks permission for the demolition of the existing roof level structures, which house an existing flat, and part of front chimney stack and the erection of a single storey roof extension with roof terraces to the front and rear wings of the building. The proposed roof extension would provide a replacement residential flat (Class C3). A single piece of mechanical plant is proposed to the rear elevation of the new roof extension.

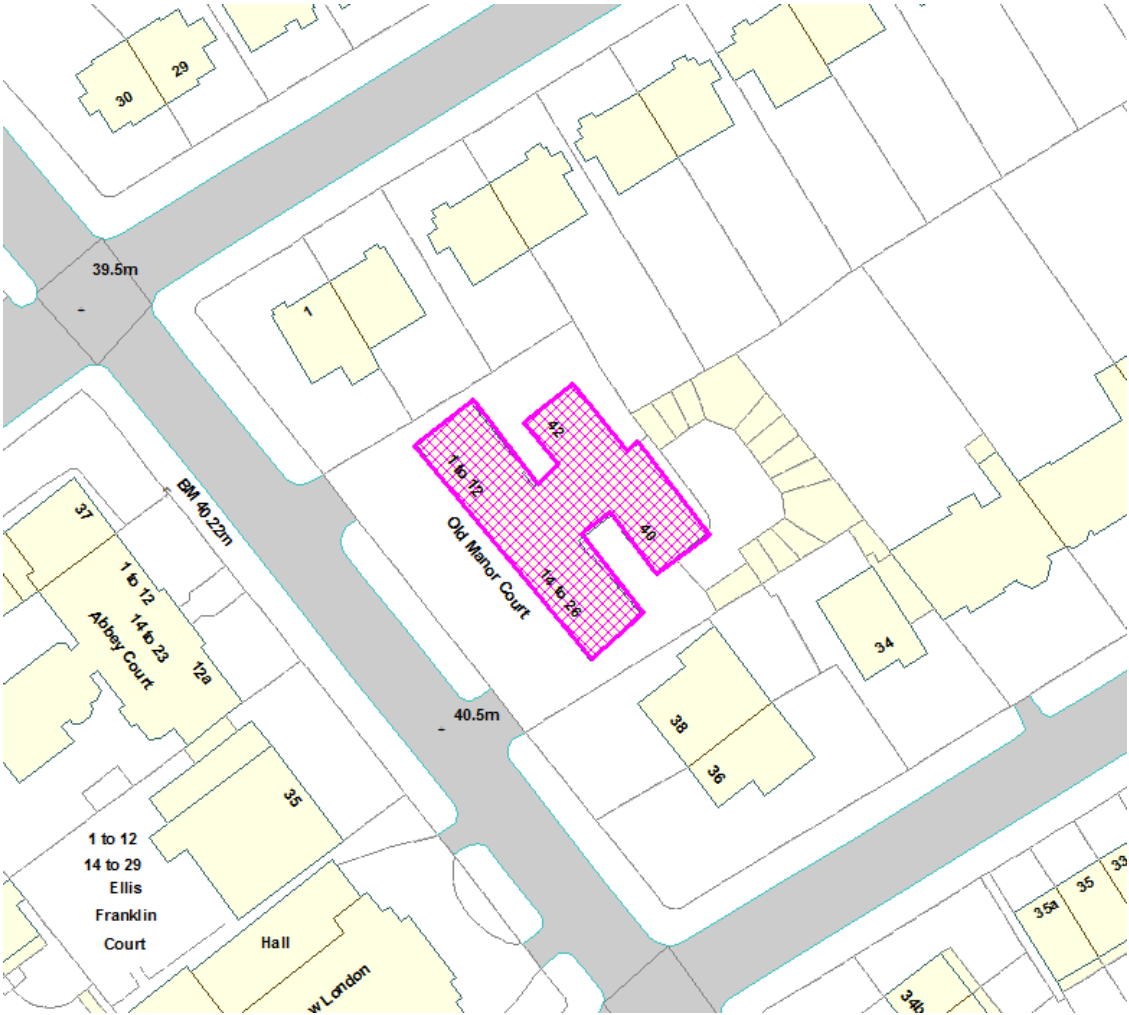
The key issues in this case are:

- The impact on the appearance of the building and the character and appearance of the St. John's Wood Conservation Area.
- The impact on the amenity of neighbouring residents.

The proposals are considered to be acceptable in land use, design and amenity terms and would accord with the relevant policies in the Unitary Development Plan (UDP) adopted in 2007 and

Westminster's City Plan (the City Plan) adopted in November 2016. Therefore it is recommended that conditional permission is granted.

**3. LOCATION PLAN**



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4. PHOTOGRAPHS



Front elevation.



## 5. CONSULTATIONS

### 5.1 Consultation on Initially Submitted Scheme (October 2016)

#### ST. JOHN'S WOOD SOCIETY

No objection, but ask that the case officer considers the impact of overlooking from the proposed terraces.

#### CLEANSING MANAGER

No objection.

#### ENVIRONMENTAL HEALTH

No objection, subject to recommended conditions to control noise from mechanical plant.

#### HIGHWAYS PLANNING MANAGER

No objection. Conditions and informatives recommended.

#### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 102; No. of Responses: 5 emails/ letters from 4 respondents raising objection on some or all of the following grounds:

##### Design Issues

- Appearance of the proposed structure would be architecturally disruptive to the appearance of the building.
- Extension would not fit in with the surroundings and would be bulkier and out of place.
- Change in scale of the roof level structures when seen from Abbey Road would be profound.
- Only Abbey Court and Ellis Franklin Court opposite are similar in scale and height and other blocks mentioned by the applicant are not in the conservation area.

##### Amenity Issues

- Increased risk of noise disturbance to existing flats.
- Loss of light to Abbey Court opposite.
- Obstruction of view from Abbey Court
- Overlooking to Abbey Court.

##### Parking

- Additional pressure on on-street parking as parking on the forecourt is not offered to residents.

##### Other Issues

- Cannot find any information in the submitted documents on how people living in the building will be affected in terms of noise and disturbance from construction works.
- Noise and disturbance from construction works.
- Noise from existing works to rear to build two mews houses.
- Was not surveyed as part of applicant's pre-application engagement.
- Flats are owned by persons living overseas and often sub-let leading to low engagement/ response to planning matters.
- Additional pressure on building services such as waste bins.

- Constant problems with hot water and heating.
- Not clear how access to existing flats will be maintained during the works.
- How will construction waste be disposed of?
- Application does not explain how existing communal gas central heating to four of the existing flats will be maintained.
- Meeting should be arranged by the Council with long standing tenants/ flat owners.
- No benefit to anyone living in the building from this proposal.
- Will tenants be compensated/ rehoused during construction works?
- No community benefits (such as affordable housing or additional residential units) to outweigh the harm caused.

#### ADVERTISEMENT/ SITE NOTICE

Yes.

### 5.2 Re-consultation on Revised Scheme (February 2017)

Amendments made to set back the front elevation of proposed roof extension, reduce the size of roof terraces and introduce a privacy screen to the existing rear terrace. The site location plan and application form were also amended to correct discrepancies as initially submitted.

#### ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 108; No. of Responses: 2 emails raising objection on some or all of the following grounds:

##### Amenity Issues

- Loss of privacy/ overlooking.

##### Other Matters

- Owners are trying to build on every single piece of spare land on this site.
- Consistent building work in the building for 4 years causing noise and dust pollution on a daily basis.
- Front of the building looks a mess due to bins being placed near to the entrance.
- Service charge is being increased whilst a poor service is offered by the managing agent and rubbish is left at the entrance.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is a 1920/ 1930's residential mansion block located on the east side of Abbey Road. The building comprises a 'H' plan form with 6 sheer storeys above ground level, with a basement floor providing storage and services and a small former caretakers flat at roof level, which cannot be accessed via the main lifts.

The building is not listed, but is located within the St. John's Wood Conservation Area. The mansion block is surrounded on either side and to the rear by Victorian villa properties, the

scale and form of which represent the predominant character of this part of the St. John's Wood Conservation Area.

Opposite in Abbey Road there is a six storey 1960's block of flats at No.35 Abbey Road and Abbey Court, which are 8 storeys in height. Further to the south along Abbey Road there are a number of larger mansion blocks; however, these are beyond the immediate townscape context of the site.

## 6.2 Recent Relevant History

### Proposals for Roof Level Extension

6 June 2002 – Planning permission and conservation area consent were refused on design grounds for demolition of the roof top caretaker's flat and erection of roof extension to create two additional units and reconfiguration of the car parking spaces, new landscaping and alterations to vehicular entrance (01/08914/FULL & 01/08915/CAC).

9 February 2004 – Planning permission and conservation area consent was refused for demolition of caretakers flat at roof level and replacement with a four bedroom penthouse with new entrance lobby at ground floor, demolition of existing garage block at rear and replacement with surface car parking, and new crossover and alterations to front forecourt area (03/06087/FULL & 03/07047/CAC). The reason for refusal for planning permission in relation to the roof level alterations was:

*'Because of location, size and height of the proposed roof extension and its relationship to nearby properties the proposed roof extension 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 DES6 and DES7 of our Unitary Development Plan, DES6 and DES9 of our Replacement Unitary Development Plan (Second Deposit version) and DES6 and DES9 of our Pre-Inquiry Unitary Development Plan.'*

8 April 2005 – An appeal against the decision to refuse permission dated 9 February 2004 was dismissed (see appeal decision and relevant drawings in the background papers). In terms of the harmful impact of the size and bulk of that proposal the Inspector opined that:

*'I find no harm in the replacement of the caretaker's flat with a building that would co-ordinate the roof structures. Nevertheless, I consider that the replacement of the visually recessive caretakers flat with a structure of the scale proposed, together with the increased parapet height, would have a perceptible and harmful effect on the height, form and silhouette of the building which already dominates the outlook from the smaller older dwellings in Blenheim Road and Marlborough Place. While I acknowledge that there are buildings of comparable height on Abbey Road, these adjoining roads also form part of the urban context of the appeal building. Due to the raised parapet, only parts of the proposed penthouse would be visible from neighbouring streets but, in my opinion, the raised parapet, in itself, would harmfully increase the height and silhouette of the building. I consider that the scale of the proposed flat together with the raised parapet to enable the use of the whole of the undeveloped roof as amenity space would cause harm to the Conservation Area.'*

10 February 2014 – Permission refused for demolition of the existing roof level structures and partial demolition of the existing front chimney stack and erection of a single storey roof extension with roof terraces to provide one residential flat (13/07550/FULL) (see decision letter and relevant drawings in the background papers). The reason for refusal was:

*‘Because of its location, size, height and relationship to nearby properties, the proposed roof level extension 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: Strategic Policies adopted November 2013 and DES 1, DES 6, DES 9 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. Your proposal would also be contrary to the guidance set out in the St. John’s Wood Conservation Area Audit (adopted 2008).’*

29 May 2015 – Planning application proposing the erection of a roof extension (6th floor) to provide 1x3 bedroom flat with roof terraces and installation of plant at roof level was withdrawn (15/03039/FULL).

### **Proposals for New Dwellings to Rear**

12 August 2014 – Planning permission and conservation area consent were granted for demolition of the existing garages to rear and erection of 2x2 storey dwelling houses comprising ground and basement floors, with provision of parking within garages adjacent to side (south) boundary of site (13/07576/FULL and 13/07577/CAC). This development is presently under construction on site.

## **7. THE PROPOSAL**

The application seeks permission for the demolition of the existing roof level structures, which includes an existing flat, and partial demolition of the existing front chimney stack and erection of a single storey roof extension with roof terraces to three of the four ‘wings’ of the ‘H’ roof form of the building. The enlarged residential accommodation this would provide at roof level is proposed to be used as a single two bedroom flat. To the rear elevation the scheme includes the provision of a single piece of mechanical plant sited at a low level below the height of the roof edge parapet.

Amendments have been made to the proposed development during the course of the application to set back the front elevation by an additional 0.3 metres, set the front roof terraces back from the roof edges at the centre of the site by a further 0.9 metres and introduce a privacy screen to alleviate overlooking from the existing rear roof terrace, which is to be retained. The site location plan and application forms were also updated to correct discrepancies in the initially submitted versions of these documents. The amendments and updated site location plan and application form have been the subject of further consultation with neighbouring occupiers in February 2017 and the additional representations received are summarised in Section 5.2 of this report.

Permission has previously been refused on three occasions (in 2002, 2004 and 2013) for the erection of an extension at roof level to provide an additional floor of residential accommodation. On each occasion permission was withheld principally on design grounds relating to the size, bulk and height of the roof extension proposed. An appeal against the second refusal in 2004 was upheld at appeal in 2005. The full planning history for the site in terms of proposals for extensions at roof level is set out in Section 6.2.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

There is no specific protection for the existing former caretakers flat in terms of restricting its occupation to that of the building's caretaker and therefore its loss and replacement with an enlarged flat at roof level is acceptable in land use terms and accords with Policy H3 in the UDP. The flat would provide an acceptable standard of residential accommodation that would accord with Policies S14 and S15 in the City Plan and the minimum standards set out in the Government's Technical Housing Standards and Policy 3.5 in the London Plan (March 2016). The unit would have good access to external amenity space given the provision of a number of terraces.

### **8.2 Townscape and Design**

The building dates from the 1920/1930's and comprises an imposing six storey structure above ground level with an 'H' shaped plan form. At roof level there is an additional much smaller recessed seventh floor, which provides a single flat, which is understood to have formally been used by a caretaker. The St. John's Wood Conservation Area Audit identifies the building as having a neutral contribution to the character of the conservation area, though with its brick facing and sash windows it is nonetheless considered to integrate acceptably into the surrounding townscape. However, the former caretaker's flat at seventh floor level is not any particular contribution to the overall character and appearance of the main building.

It is of note that the Audit highlights the building within a group referred to as 'Properties with existing roof extensions, or where extensions would not normally be acceptable'. The reference in the Audit is recognised, albeit the application proposes to create a larger extension to this floor level rather than the creation of a new floor of accommodation. Whilst it is also noted that several previous applications for extensions to roof level have been refused by the City Council, with an appeal against one of the refusals of permission being dismissed by the Planning Inspectorate, for the reasons set out below the current application proposals are considered to have overcome previous grounds for refusal and are acceptable in design and townscape terms.

In her appeal decision in 2005, the Inspector made particular note of the impact the roof extension proposed at that time would have in accentuating the height and bulk of Manor Apartments, which already has a significant visual presence seen above the roof scape of the lower villa buildings in Blenheim Road and Marlborough Place. However, the Inspector did also recognise that in the Abbey Road there are other buildings of comparable height to Manor Apartments.

The south side of Blenheim Road, where it is closest to the application site is flanked by Grade II listed villa buildings, with the north side of Marlborough Place being flanked by fine quality, but unlisted villa buildings. Manor Apartments is visible above the roofline of buildings from both these streets, especially so from Marlborough Place. The impression from these streets is of a substantial building; albeit one with a relatively cluttered roofline with a large projecting lift overrun, particularly thick projecting chimney stacks and prominent railings, which all serve to clutter the roofline of the building. The existing former caretaker's flat is also visible, but is not especially prominently from either street.

It is recognised that the extension proposed has a larger footprint than the existing caretakers flat; however, to the rear of the building, which is most prominent in views from Blenheim Road and Marlborough Place, the proposed extension does not project out any closer to the side elevations than the existing roof level structure. The scheme most recently refused in 2014 had the extension set 1.5m back from the north side of the rear wing (facing towards Blenheim Road) as compared to 6.3m in this current scheme, and 2.5m back from the south side of this rear wing (facing towards Marlborough Place) as compared to 8.8m in this current scheme. Whilst the currently proposed extension projects slightly closer to the rear elevation than the existing caretakers flat, this in itself will not add unacceptable additional bulk to the roofline of the building.

To the front half of the building facing Abbey Road, there is an increase in bulk proposed, with the front elevation set 1.1m forward of the existing front elevation of the former caretaker's flat. The width of the extension to the front of the building would be wider than the existing structure; however, the proposed extension would be set in significantly from the end elevations of the two windows of the building. In terms of height, there would be little difference in height between the existing structure at seventh floor level and the proposed extension.

Seen in views from Blenheim Road and Marlborough Place the extension would be partially visible over the rear wing, but would not be a dominant skyline feature, nor would it add significant bulk over and above the existing seventh floor level structure. Whilst the extension would result in a greater impression of bulk to the front of the building in views from Abbey Road, this would be seen in context with the Abbey Road frontage, which as a whole is of significant scale. Given this and as the additional bulk would be less prominent as views along Abbey Road become more oblique further in medium to longer views of application site, it is not considered that the proposed extension would detract from the overall composition of the building.

Though the extension will be visible on the skyline of the building in views from Abbey Road itself, the impression of a central focus to the composition is not considered unacceptable on this particular large neo-Georgian style building, which already has a large central chimney stack prominently located at roof level. Furthermore the proposed extension would be detailed and finished to integrate with the overall character of the building. In addition, Manor Apartments is seen in context with the seven storey residential blocks, Abbey Court and Ellis Franklin Court, which are directly opposite, and those buildings would continue to appear bulkier and higher than Manor Apartments, even with the proposed extension at roof level, due to their existing more bulky form at roof level.

The design of the extension proposed incorporates matching brickwork to the main building, and an arrangement of sash windows and door openings which integrate

successfully with the design of the main building. Although railings are proposed around the terraces, the much more prominent existing railings to the front and side parapets and the large later addition finial structures on the front parapet are to be removed and overall there will be less impression of roof clutter.

An air source heat pump is proposed to the rear of the roof extension. This would be located in a discreet location in the narrow gap that would be formed between the rear elevation of the extension and an adjacent chimney. Together these structures, along with the roof edge parapet, would screen the mechanical plant from view. Photovoltaic panels are also proposed to roof level; however, these are well set back from the edge of the extension, are low profile and would therefore not unduly clutter the roof scape of the extended building.

In conclusion in design terms, Policy DES 6(A) in the UDP sets out a series of criteria for situations where permission may be refused for roof level extensions; however, in this case none are considered to demonstrate a case for the refusal of the application. For the reasons set out above, the current scheme is considered to have overcome the concerns on design and townscape grounds as set out in the previously refused applications and as expressed by the 2005 appeal Inspector (see Section 6.2). The proposed development is not considered to harm the character and appearance of the building or St John's Wood Conservation Area or the setting of the nearby listed buildings in Blenheim Road. The application is therefore considered acceptable in design and townscape terms and in accordance with Policies DES 1, DES 6 and DES 9 in the UDP and Policies S25 and S28 in the City Plan.

### **8.3 Residential Amenity**

Objection has been received from neighbouring residents on overlooking, loss of light and noise disturbance and loss of view grounds.

Despite the objection received, due to its limited size and bulk and setbacks from the roof edges of the existing building, the proposed roof extension would not result in a material loss of daylight or sunlight or significantly increase overshadowing of neighbouring windows or gardens. The proposed roof extension would be no higher and would have a smaller footprint than the 2013 scheme, which was not refused on loss of daylight or sunlight grounds. In this context, it is not considered that the current scheme could reasonably be withheld on loss of daylight or sunlight grounds.

Given the existing relationship of this taller block with the neighbouring 2 and 3 storey houses, it is not considered that the roof extension, which would be set in from the roof edges to the front and rear of the building, would cause a materially increased sense of enclosure. The residential blocks opposite in Abbey Road (Abbey Court and Ellis Franklin Court) would be a significant distance from the proposed roof extension and the impact on the outlook from these flats would not amount to a significantly increased sense of enclosure. The objection raised on loss of view grounds cannot be supported as the impact of development on private views is not a ground on which planning permission can reasonably be withheld.

In terms of the impact on existing upper floor windows within Manor Apartments, there are a number of windows that look out into the two 'lightwells' formed by the front and rear

wings of the 'H' shape plan form. There will be some effect on these windows in terms of loss of light and increased enclosure. The windows affected serve kitchens, bathrooms and secondary windows to dining rooms. However, the proposed roof extension would be set back from the elevations below adjacent to the 'lightwells' and therefore the impact on these windows would not be so great as to warrant refusal on this basis. Indeed the current scheme would be set back further from these 'lightwells' than the 2013 scheme, which was not refused on these amenity grounds.

In respect of overlooking, it is not considered that the proposed window openings will result in a material loss of privacy to adjoining residents given that they would be located at a high level relative to neighbouring windows and recessed from the existing roof edge. Roof terraces are proposed to either end of the front section of the roof extension and the existing roof terrace to the northern side of the rear section of the roof extension is to be retained. The new roof terraces would be sufficiently recessed from the roof edge so as to prevent significant overlooking to neighbouring properties and the terraces would be of sufficiently limited size so as to minimise noise disturbance arising from their use.

The applicant has agreed to the provision of a privacy screen along the western edge of the existing roof terrace at the rear of the building to restrict overlooking from this terrace, which unlike the new terraces proposed to the front of the building, is not set back from the roof edge, and so affords views down towards windows in the 'lightwell' between the front and rear wings of the building. A condition is recommended to secure this screen and ensure its permanent provision.

A further condition is recommended to prevent the use of the remaining roof areas of the existing building and the proposed roof extension as a terrace or for siting out on.

The issue of noise transference from new flat to the flats on the floor below has also been raised as a concern by existing occupiers of Manor Apartments and a condition is recommended to ensure the extension is appropriately insulated to prevent noise transference.

In summary in amenity terms the scheme is acceptable and would accord with Policies S29 and S32 in the City Plan and Policies ENV6 and ENV13 in the UDP.

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

No parking is proposed in connection with the proposed flat. However, given this would replace an existing smaller flat at roof level the Highways Planning Manager is content that there would be no material increase in on-street parking pressure as a result of the proposal.

No cycle parking is proposed; however, given the scheme does not propose any additional residential units, this is not considered to be a ground to warrant refusal of the application.

The Cleansing Manager is satisfied that the existing waste and recycling storage is of sufficient capacity.

Concerns have been expressed about the existing waste storage arrangements, which have been relocated on a temporary basis to the front forecourt of the site. However, the



planning permission dated 12 August 2014 for the new mews houses to the rear of the site includes a condition requiring the applicant to provide a new permanent waste and recycling store to replace the former storage to the rear of the site, which has been removed to allow the provision of the mews houses. This condition attached to the permission dated 12 August 2014 will resolve the existing issues raised regarding refuse storage on this site.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The proposed flat would have level access from the ground floor lobby via the existing lifts within the building, which would be extended to roof level. Access to the building at ground floor level from the forecourt and the public highway is already step free.

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

The proposed mechanical plant would be located to the rear in a discreet location where it would be remote from neighbouring windows. Environmental Heath have confirmed that they are satisfied that, subject to the recommended conditions including a requirement to provide supplementary acoustic report, the mechanical plant would not cause noise disturbance to neighbouring occupiers.

The applicant has submitted an Energy Statement and a Sustainability Statement with the application. These demonstrate that the proposed roof extension would be highly sustainable relative to the existing fabric of Manor Apartments. The energy strategy includes the provision of photovoltaic panels at roof level and a condition is recommended to ensure these are provided. Given the site constraints the scheme the energy and sustainability strategies are acceptable and accord with Policies S28 and S38 in the City Plan.

#### **8.8 London Plan**

This application does not raise any 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 Westminster CIL liability, based on the floorspace figures in the applicant's CIL form and assuming that the application does not qualify for any CIL exemptions, would be £36,278. The Mayoral CIL liability, again based on the floorspace figures in the applicant's

CIL form and assuming that the application does not qualify for any CIL exemptions, would be £4,008.

### **8.11 Environmental Impact Assessment**

The application does not require an Environmental Impact Assessment. Where relevant, environmental issues are covered in other sections of the report.

### **8.12 Other Issues**

Objection has also been raised on grounds of noise and general disturbance from construction works (objectors note that recent refurbishment works to other flats in the block and to create two mews houses to the rear have caused significant disturbance to neighbours in and surrounding the block). However, this is not a ground on which permission can reasonably be withheld. To mitigate noise from construction works a condition would have been recommended restricting the hours of noisy construction works.

Concerns have been expressed in relation to the extent of pre-application engagement by the applicant, the fact that many owners of flats in the building live abroad resulting reduced levels of response and as there are current issues with services in the building such as heating and hot water. However, these are not grounds on which planning permission could reasonably be withheld as they do not affect the planning merits of the currently proposed development.

On the issue of the impact on the services within the building, the applicant has confirmed that existing gas flues at roof level within the front chimney, which is to be partially demolished, will be redirected during the course of construction works. The applicant has also confirmed that the four remaining flats within the building that are provided heating and hot water via a communal boiler will continue to be served by this communal system and the new flat at roof level will have its own heating and hot water system.

## **9. BACKGROUND PAPERS**

1. Application form.
2. Copy of appeal decision dated 8 April 2005 and relevant drawings.
3. Copy of decision letter dated 10 February 2014 and relevant drawings.
4. Email from the St. John's Wood Society dated 31 October 2016.
5. Memo from the Highways Planning Manager dated 10 October 2016.
6. Memo from the Cleansing Manager dated 10 October 2016.
7. Memos from Environmental Health dated 18 October 2016 and 23 November 2016.
8. Letter from the occupier of 14 Manor Apartments, 40 -42 Abbey Road dated 8 October 2016
9. Email from the occupier of 1 Blenheim Road dated 10 October 2016 and 20 February 2017.
10. Email from the occupier of 22 Manor Apartments, 40-42 Abbey Road dated 13 October 2016.
11. Email and letter from the occupier of 16 Abbey Court, Abbey Road, both dated 3 November 2016.

12. Email from the occupier of 17 Manor Apartments, 40-42 Abbey Road dated 15 February 2017.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [SWHITNALL@WESTMINSTER.GOV.UK](mailto:SWHITNALL@WESTMINSTER.GOV.UK)

10. KEY DRAWINGS

Existing View



Existing View, looking north from Abbey Road

Current Proposal



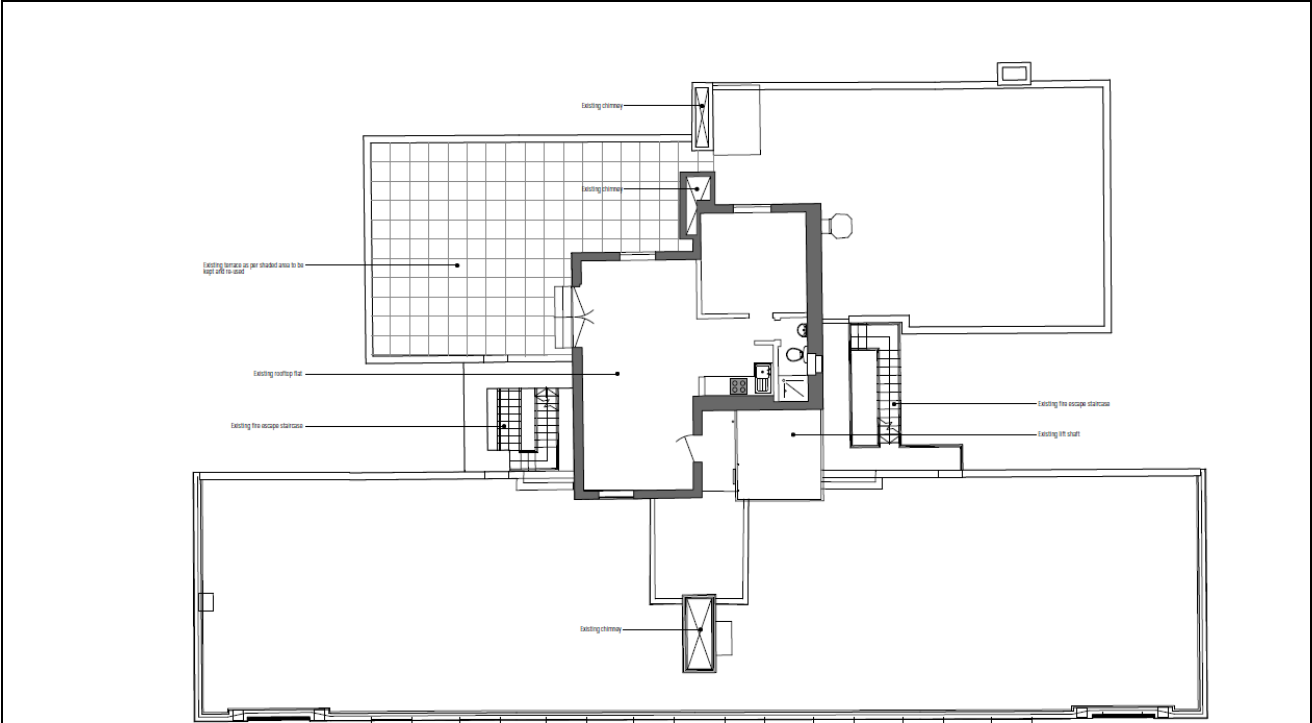
Verified View, looking north from Abbey Road



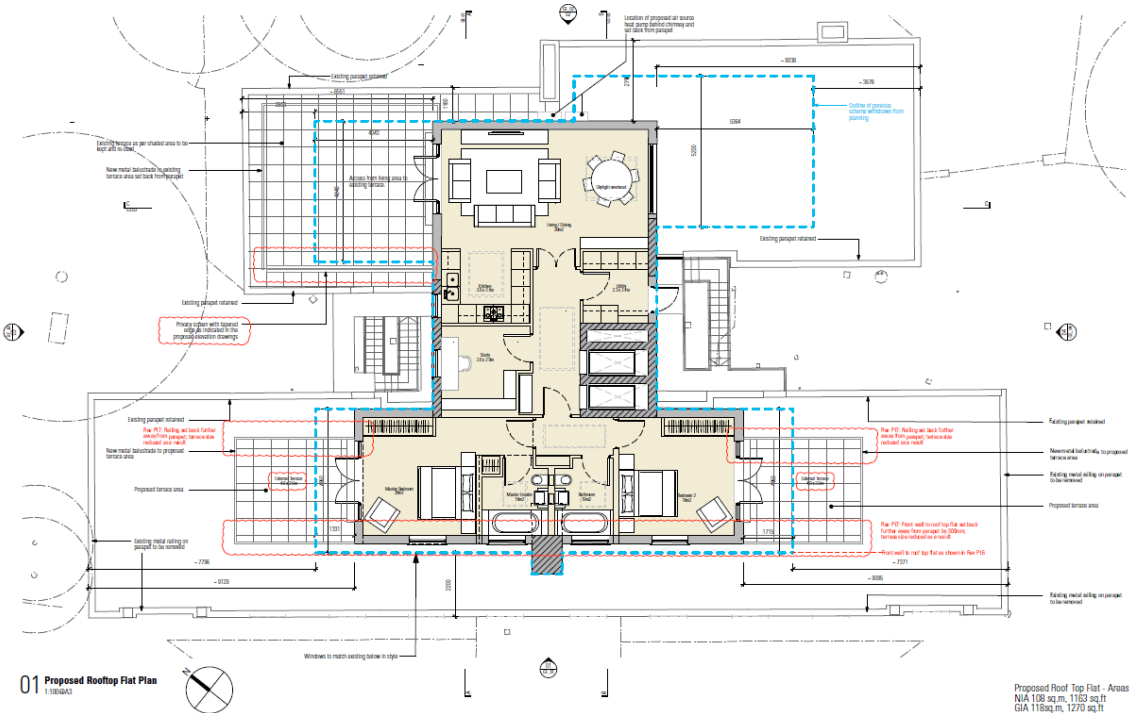
Existing View, looking east from Abbey Road



Verified View, looking east from Abbey Road



01 Existing Rooftop Flat Plan  
1:1000/0A3



01 Proposed Rooftop Flat Plan  
1:1000/0A3

Proposed Roof Top Flat - Areas:  
GIA 118sq.m, 1270 sq.ft

Existing roof level plan (top) and proposed roof level plan (bottom).





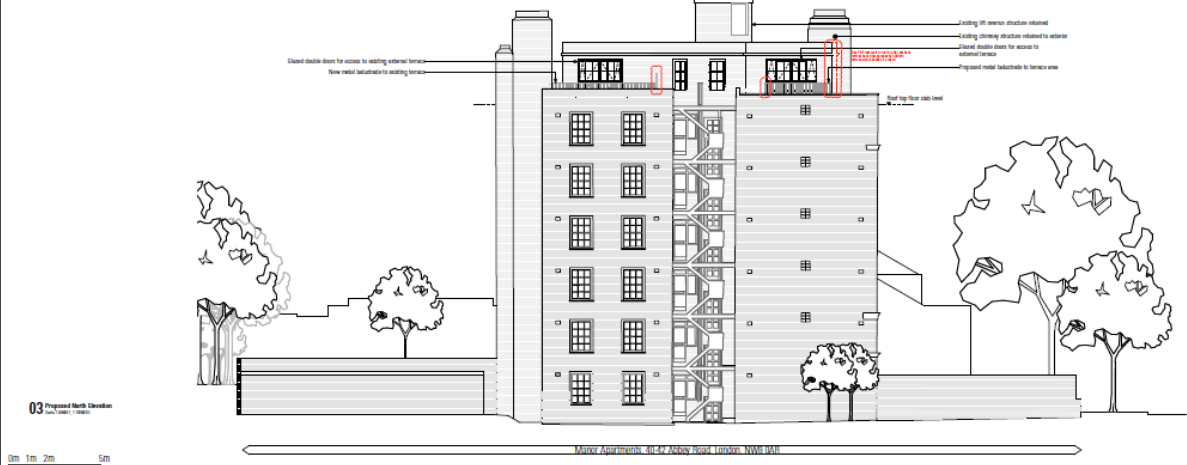
Existing and proposed front elevation.







EX-03 Existing North Elevation



03 Proposed North Elevation

Existing and proposed side (north) elevation.



Existing and proposed side (north) elevation.



**DRAFT DECISION LETTER**

**Address:** Manor Apartments, 40 - 42 Abbey Road, London, ,

**Proposal:** Demolition of existing roof level structures and part of front chimney stack and erection of a single storey roof extension with roof terraces with associated balustrade and screening to provide one residential flat (Class C3) and installation of mechanical plant to rear at roof level.

**Reference:** 16/09157/FULL

**Plan Nos:** 573\_S-00 Rev.P5, 573\_EX\_01 Rev.P1, 573\_EX\_RF Rev.P1, 573\_GA\_01 Rev.P17, 573\_GA\_RF Rev.P10, 573\_GE01 Rev.P9, 573\_GE02 Rev.P8, 573\_GE03 Rev.P8, 573\_GE04 Rev.P8, 573\_GS\_01 Rev.P7, 573\_GS\_02 Rev.P7, 573\_GS\_03 Rev.P5, Design and Access Statement dated January 2017, Heritage Impact Assessment and Visual Assessment of Effects Statement dated September 2016, Energy Statement dated December 2016, Sustainability Statement dated 30 August 2016, Planning Statement dated September 2016, Statement of Community Involvement dated August 2016 (for information only) and Structural Report (for information only).

**Case Officer:** Oliver Gibson

**Direct Tel. No.** 020 7641 2680

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

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

Reason:

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

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

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

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

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

## Reason:

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

- 3 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 St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

## 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 St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 The new windows shall be formed in glazing with white painted timber frames.

## 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 St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 The new railings to roof level shall be formed in black metal, and maintained in that colour 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 St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 Prior to the occupation of the flat hereby approved, the existing railings to the front and side parapets to the front wing of the building and the finial structures mounted on the front parapet shall be removed and the parapet made good.

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 St. John's Wood Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 (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 5 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 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.

(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:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) 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 (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 9 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.

- 10 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 8 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 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 (November 2016), by contributing to reducing excessive ambient noise levels.

- 11 You must not use the roof of the building (except where it is marked as a roof terrace on the drawings hereby approved) or the roof of the extension for sitting out or for any other purpose. You can however use the roofs to escape in an emergency. (C21AA)

Reason:

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

- 12 You must provide the obscure glazed privacy screen shown on 573\_GA\_01 Rev.17 and 573\_GE02 Rev.P8 prior to occupation of the seventh floor flat and thereafter you must permanently retain the privacy screen in the approved location and it must remain obscure glazed.

Reason:

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

- 13 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.

- 14 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

- Photovoltaic panels at main roof level.

You must not remove any of these features. (C44AA)

**Reason:**

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 3 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This



commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

- 4 Conditions 8, 9 and 10 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 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil), , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>, , Forms can be submitted to [CIL@Westminster.gov.uk](mailto: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.**

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.
<b>3</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>16 Devonshire Place, London, W1G 6HY</b>		
<b>Proposal</b>	Use as six self-contained flats (Class C3) including the demolition and replacement of rear extensions at lower ground and ground floor levels, excavation of rear garden and vault at lower ground floor level. Installation of four condensers at roof level within acoustic enclosure and a condenser unit within an acoustic enclosure within the rear patio at lower ground floor level and condenser in front lightwell. Replacement windows and internal alterations.		
<b>Agent</b>	DP9 Ltd		
<b>On behalf of</b>	DAO Estate Ltd		
<b>Registered Number</b>	16/11937/FULL 16/11938/LBC	<b>Date amended/ completed</b>	16 December 2016
<b>Date Application Received</b>	16 December 2016		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Harley Street		

**1. RECOMMENDATION**

<ol style="list-style-type: none"> <li>1. Grant conditional permission including a condition to secure car club membership for each of the units for 25 years.</li> <li>2. Grant conditional listed building consent.</li> <li>3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.</li> </ol>
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**2. SUMMARY**

<p>16 Devonshire Place is a Grade II listed building. It is a lawful single family dwelling house comprising of a lower ground, ground and four upper floors.</p> <p>The site is located within the Harley Street Conservation Area and the Harley Street Special Policy Area. It lies outside the Council's Core Central Activities Zone (CAZ).</p> <p>Planning permission and listed building consent is sought for the sub-division of the building as six self-contained dwelling (Class C3). Further works involve the demolition and replacement of rear extensions over lower ground and ground floor levels, excavation of rear garden and vault at lower ground floor level, replacement of windows, installation of plant with acoustic enclosures and</p>
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associated internal alterations.

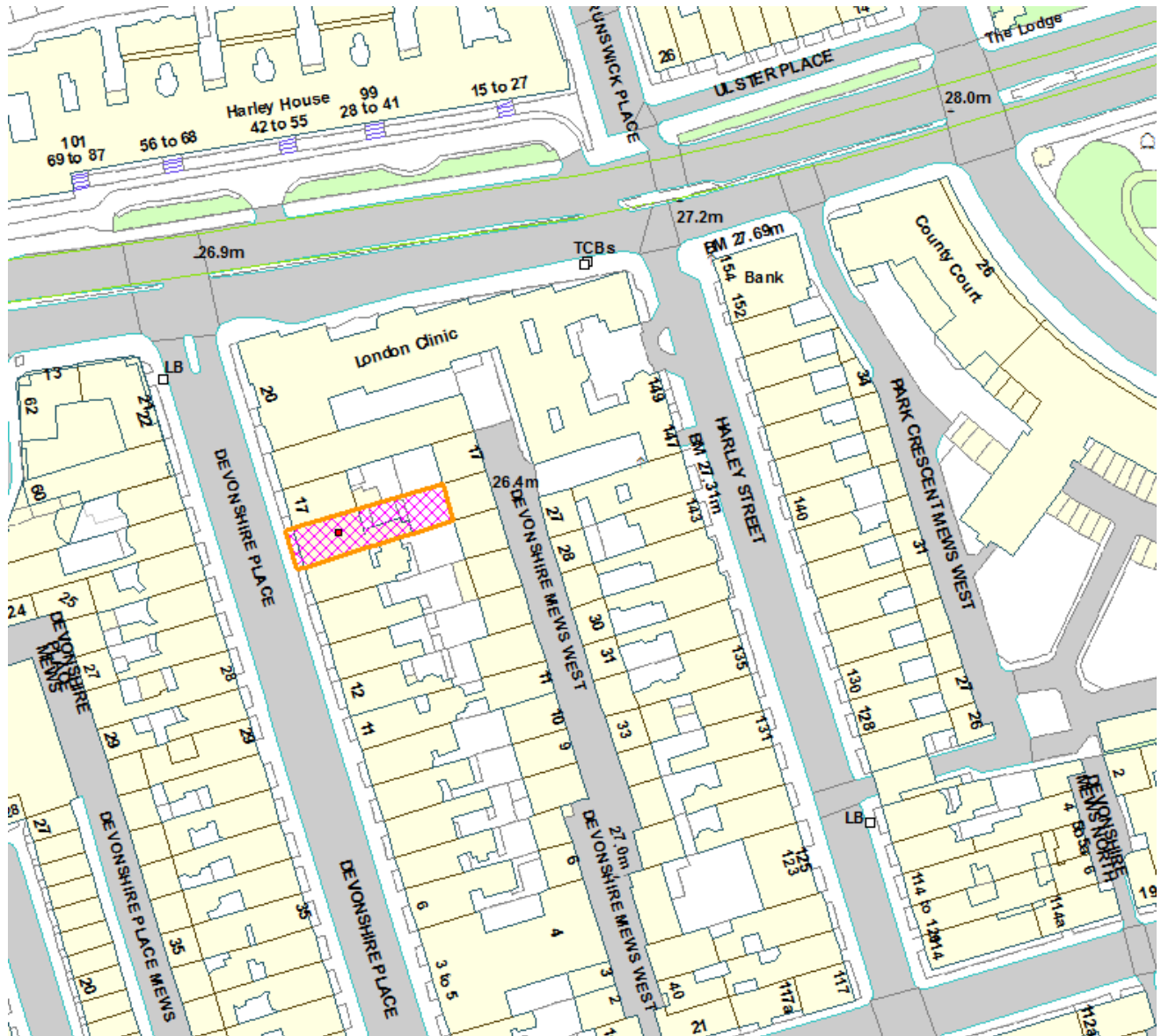
The key issues for consideration are:

\* The impact of the works upon the provision of amenity space for the proposed occupiers.

\* The impact of the internal and external works upon the character and appearance of the Harley Street Conservation Area and this Grade II listed building.

The application is considered acceptable in land use, amenity, design and conservation terms, and highways terms and is in accordance with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan).

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation of application site



## 5. CONSULTATIONS

### HISTORIC ENGLAND:

No objection- to be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

### MARYLEBONE ASSOCIATION:

Objections on the grounds of

- Loss of external amenity/garden space
- Substantial loss of and/or alteration to historic fabric on this listed building

### BUILDING CONTROL:

The proposed demolition works appears to be in close proximity to underground tunnels and sewers. The application should be advised that the appropriate approvals should be obtained from the relevant statutory undertakes prior to commencement of the works.

### CLEANSING:

No objection, revised plans have overcome initial objections

### ENVIRONMENTAL HEALTH:

Objection- the arrangements for means of escape appear to be inadequate and the main living room for the lower ground floor flat (Flat 1) will not be provided with adequate light as required by the Housing Act.

No objections are raised to the proposed plant.

### HIGHWAYS PLANNING:

Objection- lack of car parking

### THAMES WATER:

No objection

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 14

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

16 Devonshire Place is a Grade II listed building. It is a lawful single family dwelling house comprising of a lower ground, ground and four upper floors. The site is located within the Harley Street Conservation Area and the Harley Street Special Policy Area. It lies outside the Council's Core Central Activities Zone (CAZ).

There is a garden to the rear which abuts 16 Devonshire Mews to the east, which is in residential use. There adjoining properties to either side of the application site, to the north and south are 15 and 17 Devonshire Place, which are also in residential use.

There are existing rear extensions to the building at lower ground and ground floor level. At basement level, the rear extension leads to a courtyard and vault, underneath a raised concrete garden, which is accessed by stairs from the courtyard. There is also access to the raised concrete garden from the ground floor extensions, with part of its roof used as a terrace.

## 6.2 Recent Relevant History

14/02336/FULL & 14/02337/LBC

Applications withdrawn- for internal and external alterations including installation of lift shaft on rear facade, new windows to front and demolition of rear extension.

## 7. THE PROPOSAL

Planning permission and listed building consent is sought for the sub-division of the building as six self-contained dwelling (Class C3).

In addition, works involve

- the demolition of existing rear extensions, excavation of rear garden and vault and replacement with new extensions over lower ground and ground floor.
- Installation of replacement windows to the front and rear elevations of the first, second and third floors, the front elevation at ground floor level and the rear windows at fourth floor level.
- Installation of four condensers at roof level within an acoustic enclosure and an additional condenser unit within an acoustic enclosure within the rear patio at lower ground floor level.
- Internal alterations including the installation of an internal lift to serve second to fourth floors and alterations in connection with the sub-division of the building as six self-contained flats.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Harley Street Special Policy Area

Residential uses complement the medical excellence within the Harley Street Special Policy Area. Therefore the continued use of the property as residential is compliant with Policy CM2.1 of the City Plan.



## Residential use

Policy S14 Westminster's City Plan: Strategic Policies states that proposals for the conversion or redevelopment of single family houses to flats will be assessed taking into account the character of the street and area and the impact on residential amenity and the mix of units proposed. The number of residential units on site will be optimised. Policy S15 of the City Plan also seeks to ensure that residential developments will provide an appropriate mix of units in terms of size, type and affordable housing provision to contribute towards meeting Westminster's housing needs and creating mixed communities.

The six residential units will comprise of 2 x 1 bed flats, 2 x 2 bed flats, 1 x 3 bed flats and 1 x 4 bed flats. The proposed units are considered to be acceptable in terms of their size and layout. The layout and size is detailed in the table below, which demonstrates that each unit exceeds the requirements set out in the GLA Housing Standards:

Flat	Floor	Bedrooms	GIA (m <sup>2</sup> )	GLA minimum space standards (m <sup>2</sup> )
1	Lower Ground Floor	1	70	50
2	Lower Ground Floor/Ground Floor	4	340	124
3	First Floor	1	94	50
4	Second Floor	2	87	70
5	Third Floor	2	110.3	70
6	Fourth Floor and Mezzanine	3	129.7	102
<b>Total</b>			<b>972</b>	

Devonshire Place contains a mix of townhouses that remain as single family dwellinghouses, medical (D1) or other mixed use and split into flats. It is not considered that the proposal will have a detrimental impact upon the character of the street. It is considered that generally, the internal arrangement of the units would not have any detrimental impact upon residential amenity.

The unit mix would achieve the requirement of Policy H5 to provide 33% family size (3 or more bedrooms). The remaining units, being either one or two bedroom units assist in providing an appropriate mix. The proposal is therefore considered to comply with Policy S14 and S15 of the City Plan and Policy H5 of the UDP.

## Affordable housing

The total increase in residential floorspace is 77m<sup>2</sup> GIA (Gross Internal Area), which is below the City Council's threshold for providing affordable housing.

## 8.2 Townscape and Design

16 Devonshire Place is a grade II listed building in the Harley Street Conservation Area. It forms part of some of the most complete Georgian terraces in the Conservation Area.

The majority of the building is unaltered, with the exception of a rear extension, added in 1924, which detracts significantly from the rear elevation. Its construction resulted in the loss of some original window openings, and its design and materials are at odds with the host building.

The key design issues are:

- The principle, and detailed execution, of subdivision of a single family dwelling into six apartments.
- The demolition and reconstruction of the rear extension
- The insertion of a passenger lift
- The insertion of bathroom 'pods'

### **Subdivision into flats**

The subdivision of a listed single family dwelling into flats would ordinarily be contentious. The applicant's contention that flats represent a more viable long term use, and are therefore a heritage gain is not accepted. However permission has already been granted for the subdivision of the basement into a separate flat (05/2000).

The existing floor plan of the building means that subdivision can be carried out with a minimum of alteration to historic fabric; the layout, particularly of the upper storeys, lends itself to subdivision without serious compromise to plan form or circulation. The works necessary to subdivide the building are largely reversible, should the building be required as a single dwelling in the future.

The incorporation of one of the roof forms into the top floor flat is considered to be acceptable in principle. The roof fabric in question dates from a late nineteenth century extension and has only modest significance in its own right.

### **Lift**

The proposed lift will run between second and fourth floors only. It will therefore avoid the principal rooms on the ground and first floor. The lift as proposed is considered to be acceptable. The arrangement of the upper floors lends itself to a discreet lift enclosure, which would have minimal impact to the historic fabric of the building. The protection of the first floor ceiling would be very important however. The proposed lift is understood to require very little overrun, which can be accommodated within the roof space. An overrun which breached the roof form would not be acceptable.

### **Rooftop plant**

The valley between the two roof forms is often considered to be a suitable location for plant, providing its visibility is minimized. 16 Devonshire Place is one of the tallest buildings in the vicinity – it is overlooked only by the upper storeys of the London Clinic. The applicants have reduced the height of the plant to be equal to the height of the rear roof ridge, concealing the equipment from buildings of an equivalent height.

### **Loss of vault**

The loss of the vault in the rear garden is considered to be acceptable. While unusual, there is no evidence that this arrangement is particularly significant. The further excavation in the front vaults is acceptable, providing that there are no historic floor surfaces surviving within them. A condition shall be appended to protect any undiscovered floor surfaces. The historic brick wine cellar is retained.

### **Capsule bathrooms**

The capsule bathrooms have been carefully considered to minimise their impact on the first, second and third floor rooms, both in terms of appearance, and the proposed servicing. The second and third floor rooms are less significant in terms of decorative detail. The first floor room is the most sensitive to an intervention of this kind. On the basis that they do not occupy a large area in terms of floorspace, read as separate and freestanding elements within existing rooms, do not result in the loss of historic fabric and are entirely reversible, it is considered that the capsule bathrooms are considered to be acceptable.

### **Rear extension**

The demolition of the existing rear extension is considered to be acceptable in principle, and the reinstatement of the rear wall of the house a heritage gain. The existing extension was originally built in the 1920s, but subsequently substantially altered in the 1970s.

The proposed rear extension is unconventional in its plan form, and modern in its design. It would not normally be a suitable addition to a listed building. Our usual expectation in terms of the form of rear extensions would be of a traditional closet wing forming a single rear extension at around half the width of the plot.

The rear extension is considered acceptable in this instance only because of the particular circumstances of the case; the poor quality existing extension across the whole of the rear of the property and the pattern of adjacent extensions. The heritage benefits at the rear façade also contribute some weight to the overall acceptability.

The main part of the proposed extension is separate from the body of the house, effectively enclosing a small light well adjacent to the rear wall of the house. It is this lightwell which effectively reveals the original rear wall of the house, and the window openings therein. The adjacent building at number 15 Devonshire Place has a similar rear extension, though one which is even more detached than that proposed at number 16, reading very much as a pavilion in the garden.

The proposed materials; stock brick, with bronze frames to the window openings, are considered to be acceptable.

### **Loss of Historic Fabric**

The Marylebone Association have objected on the basis of the loss of historic fabric. While the scheme does indeed involve a considerable amount of demolition, this is mainly to modern fabric, or to historic fabric of lower significance. The degree of loss involved is

considered to be acceptable. A proposed large opening on the third floor has been reduced in size following negotiation. The loss of part of the fourth floor ceiling has also been removed from the scheme.

### **Heritage benefits**

The heritage benefits of the scheme, which are considered to outweigh the modest harm caused, are considered to be:

- replacement of modern windows throughout with multi-paned single-glazed timber sash windows;
- improvements to brickwork in rear façade;
- reinstatement of rear façade at lower ground and ground floors;
- revealing chimneybreasts and reinstating fireplaces/chimneypieces
- removal of stair enclosure within entrance hallway

## **8.3 Residential Amenity**

### **Amenity of Proposed Units**

Policy S29 of the City Plan requires that 'all new housing, and where possible refurbishment of existing housing, will provide a well-designed, high quality living environment, both internally and externally in relation to the site layout and neighbourhood'. All the flats with exception of Flat 1 are double aspect. Flat 1 only has one aspect to the front; however they all have an adequate outlook.

The Environmental Health Officer has raised concerns that Flat 1 (within lower ground floor level) will not be provided with adequate natural light as required by the Housing Act. There is a partition to separate the living room and bedroom, but this extends at right angles to enclose the bedroom space, meaning there is no direct natural light. The agent has provided additional information from the daylight and sunlight analysis that the partition has limited effect on the distribution of light to the space itself. Furthermore, the partition has been re-designed, and will comprise of a solid low wall up to 900mm high with a glass partition above. Subject to further details of the partition secured by condition, it is considered that the habitable rooms within the lower ground floor Flat 1 will receive adequate natural light in planning terms (see also sunlight and daylight section of this report below) and largely overcomes the objection of Environmental Health, who considers this matter under different legislation.

### **Provision of amenity spaces/gardens**

Saved policy H10 of the UDP requires the provision of amenity spaces as part of housing developments. The site is located outside the Core CAZ and as such, the Council will expect the provision of gardens in association with the ground floor dwellings, which should be family sized. The City Council recognises that it will not be appropriate for balconies and roof gardens to be provided in some cases, such as on a listed building, or

where a straightforward change of use or conversion is proposed with no external alterations.

An objection has been received from the Marylebone Association citing that the proposals would result in a loss of amenity/garden space. The existing amenity areas include a courtyard (measuring 29m<sup>2</sup>) within the lower ground floor and the raised garden (measuring 69.4m<sup>2</sup>) at ground floor level.

The proposals at lower ground floor level will see the courtyard being re-provided although reduced in size and measuring 20m<sup>2</sup>, a patio measuring 10m<sup>2</sup> to be provided to the rear of the site, abutting the party wall with No. 16 Devonshire Mews West. A raised garden including terrace measuring 40m<sup>2</sup> will be re-provided at ground floor level above the ground floor extension. These will serve the four bedroom maisonette flat (No. 2). The proposed amenity spaces to Flat 2 within the lower ground floor are within enclosed areas. In addition, Flat 3 shall have access to an external terrace measuring 4.5m<sup>2</sup> at first floor level, to the rear of the main building.

In terms of accessible amenity spaces, the proposed scheme will provide 74.5m<sup>2</sup> of private amenity space, which is 23.9m<sup>2</sup> below the existing provision. It is also acknowledged that the majority of the amenity spaces will be used in connection with only one of the six flats. However, this flat is a four bedroomed and the provision of amenity space to the larger family sized flat at lower ground and ground floor level accords with Policy H10 in this regards.

It is noted that the building is listed which impacts the level of amenity spaces that can be provided for the remaining four flats proposed within the building. On balance, it is considered that the provision of amenity spaces for the development is acceptable taking into account the listed status of the building, and the provision of private amenity spaces to the larger of the flats. The objection cannot be supported in this respect.

The proposals shall also provide a green roof at first floor level measuring 34m<sup>2</sup>, although this shall not be used in connection with any of the proposed flats. If it was to be used as a private amenity space, its location may give rise to concerns in respect to noise and disturbance to the other Flats within the upper floors of the building and require extensive external alterations to provide access.

### **Privacy**

The main impacts of overlooking will be from the extensions and the additional amenity areas.

There is an existing degree of mutual overlooking between the existing building and the residential property to the rear of the site at 16 Devonshire Mews West. The existing rear extension at ground floor level is positioned 7.8m (approximately) from the rear boundary wall. The replacement rear extension is to be located at a reduced distance from the rear boundary wall of 7.4m. It is not considered that an increase in overlooking of 0.4m from the extension wall would lead to a significant loss of privacy to the detriment of neighbouring occupiers that would warrant refusal of the application. In addition, the relationship of the rear garden to this adjacent dwelling would be as existing and is not considered to result in any detrimental amenity impacts.

In respect to the first floor terrace, to the rear of the main building, it is proposed to provide fixed planters along the perimeter of the terrace and a fixed timber screen to a height of 1.8m from the finished floor level of the terrace on the southern boundary with No. 15 Devonshire Place.

It is also proposed to provide 1.8m high trellis and planting along the northern and southern boundaries with 15 and 17 Devonshire Place, along the rear raised garden. It is considered that the screening proposed would be adequate to maintain the privacy of the occupiers of the neighbouring properties to the north and south of the application site.

### **Sense of Enclosure**

The replacement of the rear extensions would not have an impact upon the sense of enclosure to neighbouring properties; the proposed extensions are similar in scale and position to the existing rear extensions. It is therefore not considered that the resulting relationship between the site and the adjoining residential buildings would result in an unacceptable degree of enclosure to reasonably withhold planning permission.

### **Sunlight and Daylight**

A daylight and sunlight report has been submitted in order to assess whether the proposed extension would have an impact on daylight and sunlight level to neighbouring properties and to assess whether the residential flats would achieve adequate daylight and sunlight. The properties that have been tested are 15 and 17 Devonshire Place and 16 Devonshire Mews West.

#### Daylight

Under the BRE guidelines the amount of daylight received to a property may be assessed by the Vertical Sky Component which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. For buildings that neighbour a new development, the guidance suggests that daylight will be adversely affected by the development if its windows achieve a VSC below 27% and have their levels reduced to less than 0.8 times their former value.

The window that would result in loss of VSC is the ground floor bedroom window (identified as R1) in 17 Devonshire Place would result in a loss of 18.08%. The existing level VSC achieves 22.95 and this will be reduced by 4.15 to 18.80.

The report demonstrates that all of the windows in 15 and 17 Devonshire Place and 16 Devonshire Place West achieve compliance with the BRE guidelines in respect of VSC assessment.

#### No Sky Line

The 'No Sky Line' (NSL) method measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky. Accurate assessment of the No Sky Line method is dependent upon knowing the actual room

layouts or having reasonable understanding of the likely layouts. BRE guidelines states that if the no-sky line is reduced by 20% this will be noticeable to its occupants.

The window in the ground floor of 17 Devonshire Place serving a bedroom (identified as R1) would result in loss of NSL of 0.19%, however the room would still receive a high level of sky line (existing 88.51% and proposed 88.34%).

The report demonstrates that all windows serving the surrounding properties achieve compliance with the BRE guidelines in respect NSL daylight assessment.

#### Average Daylight Factor

The Average Daylight Factor (ADF) is an accurate assessment of daylighting conditions within new rooms. The BRE report advises that where supplementary electric lighting is available, the recommended daylight factor levels for dwellings are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The submitted report demonstrates that all rooms within the proposed development would experience adequate light depending on the type of room, including the bedroom at front lower ground floor.

#### Sunlight

Only 16 Devonshire Mews West is within 90 degrees north and therefore are required to be tested. The windows that have been tested comply with BRE guidance and there are no losses to existing sunlight levels.

### **8.4 Transportation/Parking**

#### Car Parking

No off street car parking is proposed for the new flats. UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased beyond identified 'stress levels'. 2011 census figures indicate 35% of households in the Marylebone High Street ward have one or more cars. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays exceeds 80%. Within a 200m radius of the site, parking occupancy during the day is 85%; overnight parking occupancy reduces to 63%. Overnight residents can park on single yellow lines which further reduces the parking stress level to 32%.

The Highways Planning Manager has objected to the application due to the lack of on-street parking availability in the daytime. However, given the close proximity of this site to excellent public transport facilities including Regent's Park and Baker Street underground stations, it is considered that permission should not be withheld for parking reasons.

The applicant has also agreed to provide lifetime membership of a car club for each of the residential units and this is dealt with by condition. Given these measures, the objection to increased parking demand and traffic, it is not considered that the application could be refused for parking reasons.

### Cycle Parking

10 Cycle parking spaces are proposed in one of the front vaults, meeting the requirements set out in the London Plan (Further Alterations to the London Plan) and shall be secured via condition.

### **8.5 Economic Considerations**

The economic benefits of bringing the building into residential use are welcome.

### **8.6 Access**

Access to the property from street level will be unchanged, however flat one within the front part of the basement will be accessed from the front lightwell. The remaining five flats will use the front entrance as existing.

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

#### Noise

The amenity spaces are considered to be sufficiently screened and given the distances to neighbouring properties are unlikely to give rise to any significant noise disturbance and for both the occupiers of the flats within the main building and any neighbouring occupiers.

#### Plant

The application 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.

Mechanical plant comprising of four external condensers at roof level within an acoustic enclosure and an additional condenser unit within an acoustic enclosure within the rear patio is proposed. Calculations indicate that with the specified acoustic louvres and distance attenuation; the plant will be compliant with the City Council's noise criteria.

The agent has confirmed that the climate control system will enable windows to be opened for ventilation purposes, and satisfies the concerns of the Environmental Health Officer in this respect. A Noise Report has been submitted which demonstrates that the internal living conditions of residents in the development, subject to the implementation of the recommendations providing within the noise report, will meet the daytime and night time noise criteria set out in UDP policy ENV 6.

A condition is recommended to ensure that the envelope of the new building will provide adequate insulation to the residential properties from external noise.

#### Refuse /Recycling

The Cleansing Officer initially objected to the application due to the lack of details relating to the waste storage and routes from the residential units. Revised plans have been provided and the details of the waste arrangements in one of the front basement vaults are now considered acceptable and shall be secured by condition.



### Biodiversity

Policy S38 seeks to protect and enhance biodiversity and green infrastructure as part of development proposals. The proposal includes the provision of an intensive green roof on the first floor flat roof. An intensive green roof is welcomed as it provides opportunities for biodiversity. A condition is recommended to ensure a biodiversity management plan is submitted and the green roof is provided.

### **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 estimated CIL payments are:

Mayoral- £62,778.83; Westminster- £413,274.69; Total- £476,053.52

### **8.11 Environmental Impact Assessment**

There are no environmental impacts associated with this proposed development.

### **8.12 Other Issues**

#### Excavation/Basement

This is a site with an unusual arrangement to the rear and the proposals are considered to involve excavation of raised land around an existing vault, rather than a basement that would result in a new floor level below the original lower ground floor level. The floor level to be created would be in line with the existing lower ground floor and vault level.

If the basement policy was to be applied, the works would be contrary to City Plan policy CM28 in respect to extending beneath more than 50% of garden land. The existing undeveloped garden land measures 81.4m<sup>2</sup>, and after the proposals 32m<sup>2</sup> of undeveloped garden land would be retained. This would equate to an excavation of 60.7%, 11% above the 50% target. However, this site has an unusual arrangement and the works would result in excavation of an area marginally above the target. Given the context this is considered an acceptable form of development.

#### Construction impact

The Code of Construction Practice was published in July 2016 and is designed to monitor, control and manage construction impacts on sites throughout Westminster. It applies to all major and basement developments from September 2016.

The publication of the Code represents a fundamental shift in the way the City Council deals with the construction impacts of basement developments. Before September 2016, developments of this scale used legal agreements to fund the Environmental Inspectorate (EI) and required Site Environmental Management Plans to be submitted to and approved by the City Council.

In recognition that there is a range of regulatory measures available to deal with construction impacts and that planning is the least effective and most cumbersome of these, the new approach is for a condition to be imposed requiring the applicant to provide evidence that any implementation of the scheme (by the applicant or any other party) will be bound by the Code. Such a condition is recommended.

### Means of Escape

The Environmental Health Officer has raised an objection to the arrangements for means of escape in case of fire. The occupiers of the bedrooms are required to escape via areas of highest risk, namely the kitchen/living room. Particular concern is raised to Flat 3 on the first floor and Flat 4 at second floor level. The agents have been made aware of these concerns; however they have not been able to provide a response to date. Notwithstanding this, the means of escape is primarily a matter for building control.

### Trees

There is a tree in the neighbouring rear garden of 15 Devonshire Place. Given the potential risk to this tree from the proposed works it is considered appropriate to require details to be submitted demonstrating how this tree will be protected. This is secured by condition.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Historic England, dated 4 January 2017
3. Emails from the Marylebone Association, dated 27 January and 22 February 2017
4. Response from Building Control, dated 3 January 2017
5. Response from Thames Water, dated 3 January 2017
6. Response from Highways Planning, dated 10 January 2017
7. Response from Cleansing, dated 16 February 2017
8. Response from Environmental Health, dated 17 February 2017

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

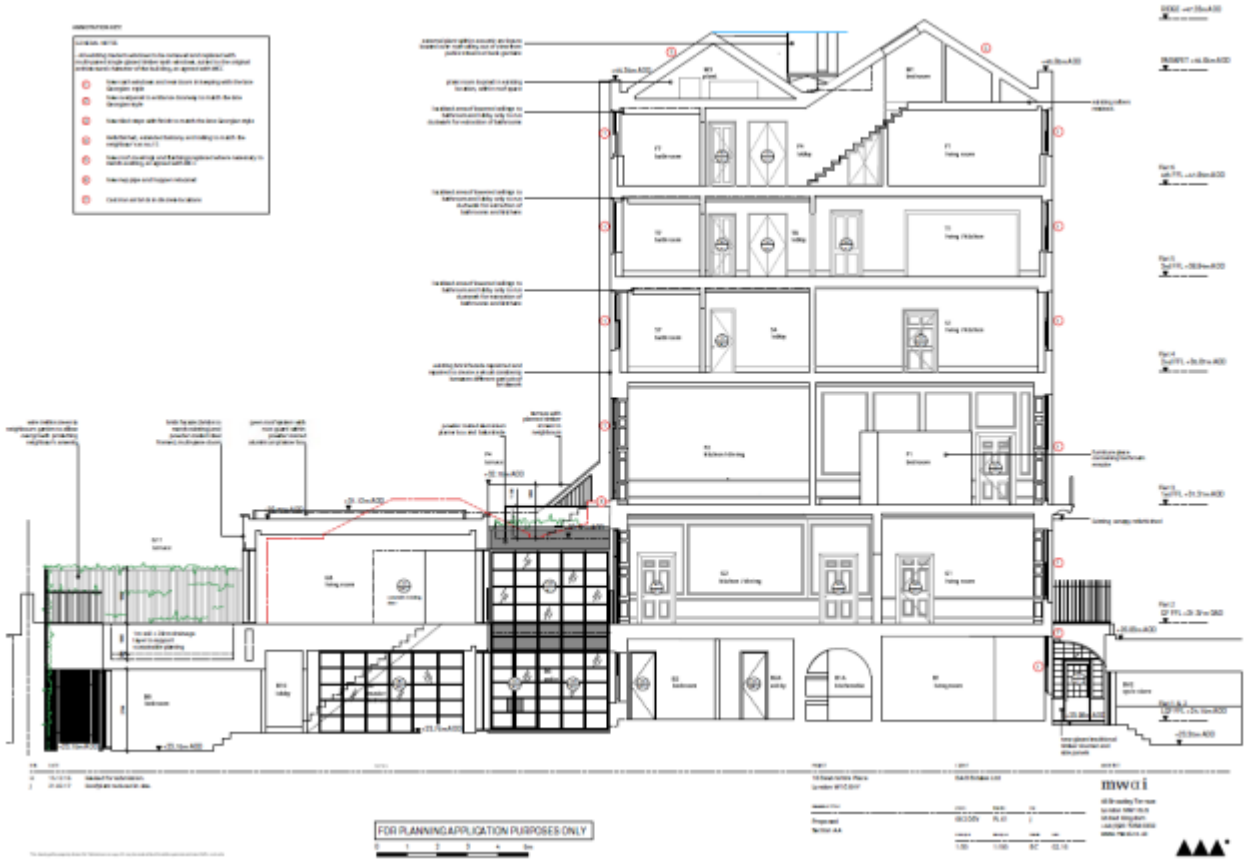
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

10. KEY DRAWINGS

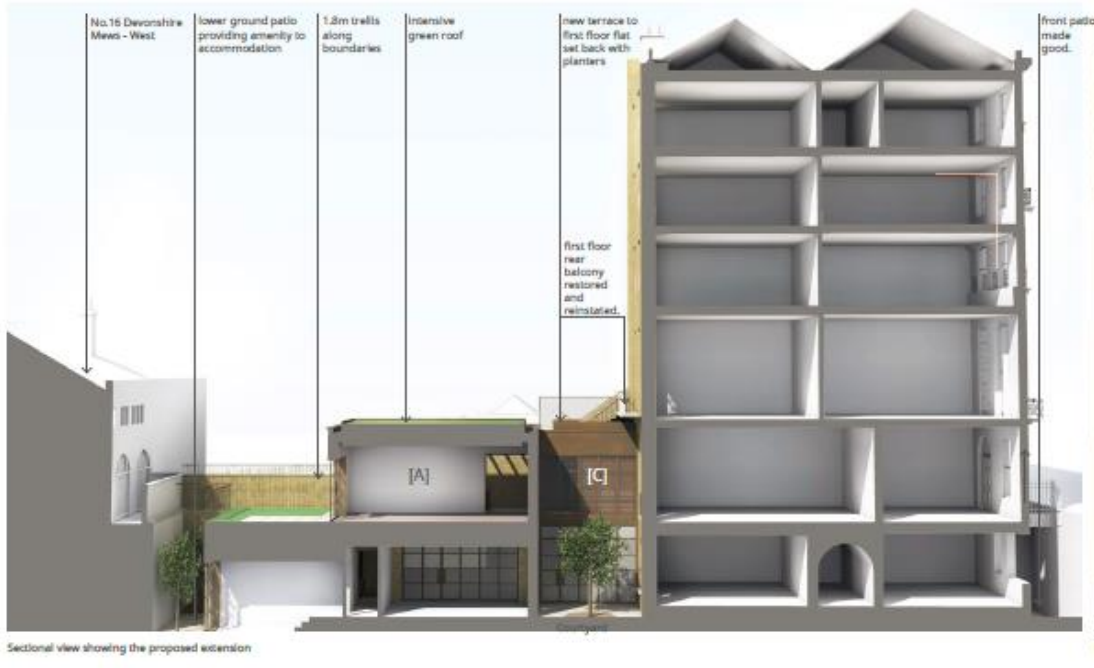
Plan showing the subdivision of the building



Proposed Section A-A



Diagrammatic section



Sectional view showing the proposed extension

**DRAFT DECISION LETTER - PLANNING**

**Address:** 16 Devonshire Place, London, W1G 6HY,

**Proposal:** Use as six self-contained flats (Class C3) including the demolition and replacement of rear extensions at lower ground and ground floor levels, excavation of rear garden and vault at lower ground floor level. Installation of four condensers at roof level within acoustic enclosure and a condenser unit within an acoustic enclosure within the rear patio at lower ground floor level and condenser in front lightwell. Replacement windows and internal alterations.

**Reference:** 16/11937/FULL

**Plan Nos:** 082 DEV PL11 rev K, 082 DEV PL12 rev I, 082 DEV PL13 rev H, 082 DEV PL14 rev G, 082 DEV PL15 rev H, 082 DEV PL16 rev G, 082 DEV PL17 rev G, 082 DEV PL18 rev G, 082 DEV PL19, 082 DEV PL20, 082 DEV PL21, 082 DEV PL51 rev E, 082 DEV PL52 rev H, 082 DEV PL61 rev J, 082 DEV PL62 rev H, 082 DEV PL63.

**Case Officer:** Lindsay Jenkins

**Direct Tel. No.** 020 7641 5707

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

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

Reason:

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

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

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

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

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

Reason:

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

- 3 Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

Reason:

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

- 4 The three and four bedroom residential units (Flats 2 and 6) shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms. (C07DC)

Reason:

To protect family accommodation as set out in S15 of Westminster's City Plan (November 2016) and H 5 of our Unitary Development Plan that we adopted in January 2007. (R07DC)

- 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 (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 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 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.

- 8 You must install the plant enclosures to the condenser within the lower ground floor patio and to the four condenser units at roof level as shown on the approved drawings before you use the condensers. You must then maintain the enclosures in the form shown for as long as the condensers 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 (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 9 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 082 DEV PL 20 and 082 DEV PL21. You must clearly mark them and make them available at all times to everyone using the residential flats. (C14FB)

Reason:

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

- 10 Prior to occupation of any of the flats, you must provide the 10 cycle parking spaces as shown on the approved drawings. 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.

- 11 **Pre Commencement Condition.** You must apply to us for approval of details of a biodiversity management plan in relation to the intensive green roof at rear first floor level.

You must not start any work until we have approved what you have sent us. You must carry out the measures in the biodiversity management plan according to the approved details before you occupy any of the flats and you must not remove any of these features.

Reason:

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

- 12 No residential unit forming part of the development shall be occupied until a car club scheme containing the following provisions has been submitted to and approved in writing by the local planning authority and thereafter the scheme shall be carried out in accordance with those details. Such a scheme shall contain the following:



- a) Confirmation of approval of the particular car club which is to be a Carplus accredited club; ,
- b) Confirmation that on first occupation of each of the residential units forming part of the development and thereafter from first occupation a new resident shall be notified in writing of: ,
  - 1. the existence of the car club ,
  - 2. explaining that each residential unit is entitled to join the car club without being liable for payment of the membership fee; ,
  - 3. details of how to become a member of the car club; and,
  - 4. in the event that a resident indicates that they wish to become a car club member then this shall be arranged on behalf of that resident [for a continuous period of [25] years] ,
- c) Confirmation that the car club membership shall be fully transferable from outgoing residents to incoming residents. ,
- d) Confirmation that the applicant will provide on written request by the Council evidence of the car club membership for each residential unit within the development. ,
- e) Confirmation that any advert or marketing in relation to the sale of any of the residential units at the development shall include reference to the provision of the car club membership and details of how to become a member of the car club. ,
- f) Confirmation that marketing materials for the development publicise annually will include details of the availability of car club membership and provide details of how to join the car club.
- g) Confirmation that the applicant will provide on reasonable written request by the City Council evidence of the provision of marketing.

## Reason:

To mitigate the demand for on-street car parking for people living in the residential part of the development as set out in TRANS 23 of our Unitary Development Plan that we adopted in January 2007 and S41 of the City Plan adopted in November 2016.

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

## Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 14 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

## Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 15 You must apply to us for approval of detailed drawings of the following parts of the development
- Cast iron air bricks,
  - Lift doors,
  - New timber sash windows and multi paned timber doors,
  - New internal and external powder coated steel frame mutli-pane windows and doors

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 16 The rooftop plant enclosure must be finished in a slate-grey colour.

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 17 No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason:

The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

- 18 Before the occupation of the lower ground floor flat (Flat 1), details shall be provided of the partition separating the living room and bedroom.

The partition shall be installed as per the approved details and must be maintained for as long as the lower ground floor is in residential use.

Reason:

To ensure the occupiers of the lower ground floor flat has adequate natural light as set out in S29 of Westminster's City Plan (November 2016).

- 19 Prior to anyone occupying the flats, you must install the following screening measures:

- fixed planters along the perimeter of the terrace and a fixed timber screen to a height of 1.8m from the finished floor level of the first floor terrace on the southern boundary.
- a 1.8m high trellis and planting along the northern and southern boundary of the rear raised garden

You must maintain and retain the screening according to these details as long as the first floor terrace and raised garden are in use as private amenity areas.

Reason:

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

- 20 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the tree in the rear garden of 15 Devonshire Place. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To protect the trees and the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25, S28 and S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17, DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R31DC)

#### Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil), , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>, , Forms can

be submitted to [CIL@Westminster.gov.uk](mailto: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 advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

4 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:;

\* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;; ,

\* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992.

At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant. Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation.

For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm). It is now possible for local authorities to prosecute any of the relevant parties with respect to non-compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.

5 With reference to condition 3 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.

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

7 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please

contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)

- 8 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact: Thames Water Utilities Ltd, Development Planning, Maple Lodge STW, Denham Way, Rickmansworth, Hertfordshire, WD3 9SQ, Tel: 01923 898072, Email: Devcon.Team@thameswater.co.uk
- 9 Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.
- 10 With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921.
- 11 Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you email Thames Water a scaled ground floor plan of your property showing the proposed work and the complete sewer layout to developer.services@thameswater.co.uk to determine if a building over / near to agreement is required.
- 12 Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 13 Thames Water expects the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the

provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwriskmanagement@thameswater.co.uk](mailto:wwriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality)."

### DRAFT DECISION LETTER - LISTED BUILDING

**Address:** 16 Devonshire Place, London, W1G 6HY,

**Proposal:** Demolition and replacement of rear extensions at lower ground and ground floor levels, excavation of rear garden and vault at lower ground floor level. Installation of four condensers at roof level within acoustic enclosure and a condenser unit within an acoustic enclosure within the rear patio at lower ground floor level. Replacement windows and internal alterations.

**Reference:** 16/11938/LBC

**Plan Nos:** 082 DEV PL11 rev K, 082 DEV PL12 rev I, 082 DEV PL13 rev H, 082 DEV PL14 rev G, 082 DEV PL15 rev H, 082 DEV PL16 rev G, 082 DEV PL17 rev G, 082 DEV PL18 rev G, 082 DEV PL19, 082 DEV PL20, 082 DEV PL21, 082 DEV PL51 rev E, 082 DEV PL52 rev H, 082 DEV PL61 rev J, 082 DEV PL62 rev H, 082 DEV PL63., Servicing plans- 1602-SK-101 rev P4; 102 P4; 103 P3, 104 P3; 105 P3; 106 P3; 107 P3., (Demolition plans-EX11 F, EX12 F, EX13 C, EX14 C, EX15 C, EX16 C, EX17 C, EX51 D, EX61 C, EX62 A, EX63 D.),

**Case Officer:** Lindsay Jenkins

**Direct Tel. No.** 020 7641 5707

#### Recommended Condition(s) and Reason(s)

- 1 The works 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 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must apply to us for approval of detailed drawings of the following parts of the development
- Cast iron air bricks,
  - Lift doors,
  - New timber sash windows and multi paned timber doors,
  - New internal and external powder coated steel frame multi-pane windows and doors

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

- 4 The rooftop plant enclosure must be finished in a slate-grey colour.

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 You must apply for approval of a sample area (1m<sup>2</sup>) of the proposed repointing, including profile and mortar mix. You must not start work on the cleaning of the building and the repointing until we have approved the sample panel. You must then carry out the work according to the approved sample panel.

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1

and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 7 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 8 Notwithstanding the approved drawings, you must not disturb existing historic floor surfaces if they are discovered during the course of construction. You must leave them in their present position and protect those features properly during work on site.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

#### **Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest. In reaching this decision the following were of particular relevance: S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>The Plaza, 120 Oxford Street, London, W1D 1LT,</b>		
<b>Proposal</b>	Use of the ground and first floor unit on corner of Wells Street and Eastcastle Street as a restaurant (Class A3), alterations to shopfronts on Eastcastle Street and Berners Street elevations, installation of ventilation louvres at first floor level on Wells Street and installation of an extract duct and air-conditioning units at roof level.		
<b>Agent</b>	DP9		
<b>On behalf of</b>	Siroso Ltd		
<b>Registered Number</b>	16/11237/FULL	<b>Date amended/ completed</b>	6 January 2017
<b>Date Application Received</b>	25 November 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		

## 1. RECOMMENDATION

- |   |
|---|
| <p>1. Grant conditional permission subject to a S106 legal agreement to secure the completion of the reconfigured retail units at ground, first and basement floors prior to the occupation of the new restaurant.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:</p> <p>a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p> |
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## 2. SUMMARY

<p>The application involves the conversion of part of the former WH Smith unit on the corner of Wells Street and Eastcastle Street for restaurant purposes. The proposed restaurant would also extend at first floor level into part of the former Plaza Shopping Centre's food court area. Minor external works</p>
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are also proposed including alterations to shopfronts, new louvres and new plant at roof level.

The proposal raises the following key issues:

- \* The loss of existing retail accommodation
- \* The impact on neighbouring residential amenity.
- \* The impact of the external alterations on the character and appearance of the East Marylebone Conservation Area

The loss of the retail accommodation is considered acceptable in this instance taking into account the 2013 permission for this site which provided a large net uplift of retail floorspace. The minor alterations proposed, including new plant at roof level are considered acceptable in design terms and subject to appropriate conditions it is also considered that the proposed restaurant use will be acceptable in terms of its impact upon residential amenity in the vicinity. The application is therefore recommended for conditional approval subject to a legal agreement to secure the previously consented retail floorspace prior to the occupation of the new restaurant use.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

### HIGHWAYS PLANNING MANAGER

No objections raised subject to conditions.

### ENVIRONMENTAL HEALTH

No objections raised subject to the submission of a supplementary noise report.

### CLEANSING MANAGER

No objections raised.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 110; Total No. of Replies: 2

Two letters of objection on the following grounds:

- \* Late night noise
- \* Increase in traffic and parking
- \* Disturbance from other A3 nearby premises from people leaving, arriving and smoking outside the premises
- \* Saturation of A3 premises within the vicinity
- \* If consent is granted, conditions preventing external seating and smoking on Eastcastle Street, prohibiting audible music, limiting opening hours until 11pm and servicing hours during normal working hours

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application concerns Colegrave House, also known as The London Plaza, which is located on the street block between Oxford Street, Berners Street, Wells Street and Eastcastle Street. The building comprises basement plus seven upper floors formed around two large lightwells. The building is unlisted and lies within the Central Activities Zone, the West End Stress Area and the East Marylebone Conservation Area and on the Oxford Street International Centre Primary Shopping Frontage.

The building was originally constructed in the 1920s as a department store for Bourne and Hollingsworth. Following the closure of the department store the building was reconfigured and converted in 1987 to a shopping centre at basement, ground and first floors, with a food court at first floor level. In 2013 permission was granted for the refurbishment and reconfiguration of the building which included additional retail accommodation at ground and first floor providing enlarged (Class A1) retail units at these levels. This permission is currently being implemented.

The current application involves part of the ground floor of the former W.H. Smith unit which lies on the corner of Wells Street and Eastcastle Street, and part of the former Plaza Shopping Centre's food court area at first floor level. These areas of the building formed part of a large retail unit consented as part of the 2013 permission.

The office accommodation on the upper floors comprises some 12,000m<sup>2</sup> and is occupied entirely by the Arcadia Group Ltd, who employ some 1,600 staff. The main entrance to this office accommodation is on Berners Street with a further staff entrance on the corner of Berners Street and Eastcastle Street. Deliveries are made via a loading bay on Wells Street.

## **6.2 Recent Relevant History**

In October 2013 permission was granted for the refurbishment and reconfiguration of the existing building comprising the roofing over and partial infilling of the existing north and south lightwells to provide additional office accommodation (Class B1); the enlargement of the office reception on Berners Street at ground and first floor; the change of use of part of the second floor from private medical centre (Class D1) to offices (Class B1); the extension of the gymnasium at second floor; reconfiguration and enlargement of the existing retail accommodation at ground and first floor to provide enlarged (Class A1) retail floorplates; external cladding of the sixth floor; external alterations at ground and first floor and new roof top plant.

Minor non-material amendments to this approval have subsequently been granted in May 2015, October 2015 and January 2016.

## **7. THE PROPOSAL**

The proposals involve the change of use of part of the former W.H. Smith retail (Class A1) unit at ground floor level on the corner of Wells Street and Eastcastle Street, to create a restaurant unit (A3). The proposals would also involve the change of use of part of the former Plaza Shopping Centre's food court area at first floor level. As part of the consented 2013 permission these areas were identified as Class A1 retail floorspace (865sqm GIA). As a result, the introduction of a restaurant in this location would involve the loss of 865sqm of consented A1 retail space.

Minor amendments to the shopfront are also proposed and plant, including a new high level extract duct, is proposed at roof level.

## **8. DETAILED CONSIDERATIONS**

### **8.1 LAND USE**

#### **Loss of retail use**

The unit lies on the corner of Wells Street and Eastcastle Street and is part of the former Plaza Shopping Centre, which, by virtue of its frontage to Oxford Street lies on the International Centre Primary Shopping Frontage. Policy SS3 of the UDP and S21 of the City Plan are therefore relevant. Policy SS3 states that planning permission will not, except in the most exceptional circumstances, be granted for a change of use from A1

use at basement, ground floor or first-floor levels. Policy S21 states that existing A1 retail will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let.

In dealing with the last application on this site, it was recognised that the reconfiguration of the existing mall, providing a net uplift of 1,176m<sup>2</sup> of retail floorspace and creating two large retail units, improved the retail offer in the West End. The current proposal to use part of the ground and first floors for restaurant purposes reduces the original A1 retail uplift by 865sqm, but there would still be a 475sqm net increase in overall A1 retail floorspace compared to the consented scheme (as summarised in the table below):

	Existing (GIA)		Consented (GIA)		Proposed (GIA)	
	A1	A3	A1	A3	A1	A3
Ground floor	3,495	0	3,365	0	3,040	325
First floor	2,080	1,440	3,550	0	3,010	540
<b>Total</b>	<b>5,575</b>	<b>1,440</b>	<b>6,914</b>	<b>0</b>	<b>6,050</b>	<b>865</b>

Given the retail policies set out above, the loss of retail in this location would ordinarily be contentious in land use terms. In support of the application a retail assessment has been submitted by Cushman & Wakefield that argues that this is a secondary retail location and that demand for a large store over two levels is limited with most occupiers requiring this type of accommodation preferring to secure premises on Oxford Street or Tottenham Court Road. It is also acknowledged that this part of the WH Smith unit functioned as a back of house ancillary office and storage area, was not publicly accessible and did not have an active retail shopfront. Given the overall uplift of retail floorspace on the wider site, the fact that the proposal would introduce an active frontage to these parts of Wells Street and Eastcastle Street, improving the surveillance of the street and increasing footfall in this area, it is considered that the loss of retail in this location is acceptable.

Furthermore, the site's location just to the north of Oxford Street could be argued to support the main retail areas in the West End Special Retail Policy Area in accordance with City Plan Policy S7 which seeks to secure the development of Oasis Areas of rest, including seating areas, and A3 café and restaurant uses where appropriate.

Given that the area is mixed in character, and provides a variety of different uses (including retail, restaurant, bar, hotel and office), it is not considered that the use of the rear part of the ground floor of the former WH Smith unit as a restaurant would be detrimental to the character and function of the area or the vitality or viability of the shopping frontage or locality.

The original permission was subject to a legal agreement requiring the conversion of the restaurant units at first floor to retail to take place prior to the use of an enlarged office entrance on Berners Street (for the Arcadia Group Ltd). Clearly this can no longer take place as one of the former restaurant units falls within the demise of the proposed restaurant at first floor level. In any event the new Arcadia office entrance is now in use and to off-set the loss of the consented retail floorspace, a revised S106 agreement is required to secure the completion of the enlarged shop units at ground, basement and first floor prior to the occupation of the new restaurant.

### **Proposed restaurant use**

This application proposes a new restaurant premises at part ground and first floor levels measuring 865sqm. The proposal must therefore be considered against the relevant City Council policies relating to entertainment uses. Policy S24 of Westminster's City Plan states that 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area'. The policy also states that new large scale late night entertainment uses measuring in excess of 500m<sup>2</sup> (GEA), will not generally be appropriate within Westminster. Policy TACE 10 of the UDP is also applicable and this states that entertainment uses over 500m<sup>2</sup> will only be permissible in exceptional circumstances.

It is important to note that the existing use of the site included 1,440m<sup>2</sup> of A3 floorspace in the form of the food court. The previous permission resulted in the loss of all the A3 use and that the current proposal for a replacement A3 unit of 865m<sup>2</sup> is still considerably less than what previously existing on the site.

The site is located on the periphery of the defined West End Stress Area, an area where the numbers of restaurants, cafés, takeaways, public houses, bars and other entertainment uses is considered to have reached a level of saturation. Paragraph 8.89 of the UDP states that in Stress Areas "the City Council will consider whether any additional entertainment proposal, when taken alongside others nearby, will adversely affect residential amenity, local environmental quality, or the character or function of the surrounding area." An objection has been received to the application stating that there are a number of new A3 premises within the vicinity and that a further restaurant would harm residential amenity.

Whilst the proposed new restaurant would be immediately opposite the Champion public house, and within the vicinity of a number of new A3 uses on Berners Street, it is not considered that this part of Wells Street generally is 'saturated' with entertainment premises. Immediately to the south is Oxford Street which is dominated by retail uses whilst to the north there are very few entertainment uses, with the majority of the ground floor commercial premises being in use as retail and/or office accommodation. It is not considered that an additional restaurant would result in an unacceptable concentration of entertainment uses or harm the character and function of this part of the East Marylebone Conservation Area.

The nearest residential accommodation are the four flats in 1 Wells Mews opposite the application site. There are also some 40 flats at York House on the corner of Berners Street and Eastcastle Street and two letters of objection have been received from occupants of York House on the grounds of likely noise disturbance.

The restaurant proposals are speculative with no end-user identified, and therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, the applicant states that the restaurant would provide high quality dining and has submitted a draft Operational Management Plan that the restaurant is expected to be operated in accordance with. This seeks to address a



range of considerations to protect neighbouring amenity, including hours of operation, entrance and exit arrangements, deliveries and servicing, security and fume extraction.

The applicant initially requested hours of opening of the restaurant until 01:00 on Fridays and Saturdays, however, given the proximity of residential properties a terminal hour of midnight on Monday to Thursdays, 00:30 on Fridays to Saturdays and 23:00 on Sundays is considered more appropriate and in line with core hours set out in the UDP. The applicant has agreed to these revised hours. Local residents have suggested that the restaurant should not be open beyond 23.00 hours, however, the proposed terminal hours are similar to other nearby restaurant premises including Patara Thai and Gourmet Burger Kitchen on Berners Street.

In order to further ensure the protection of residential occupiers in the vicinity, a condition is proposed requiring the submission of a full Operational Management Plan to ensure the restaurant is managed effectively. Conditions are also proposed to restrict the hours of operation as set out above, to restrict servicing to daytime hours, to restrict capacity to 250, to ensure that no more than 15% of the restaurant floor area is used for a bar/bar seating and that drinks can only be served at the bar to restaurant customers, before, during or after their meals.

With these conditions in place it is considered that the proposal would be in accordance with UDP Policy TACE10 and City Plan Policy S24.

## **8.2 Townscape and Design**

The external alterations are broadly similar to the approved scheme and only minor alterations are proposed to the consented shopfronts. At first floor level new ventilation louvred panels are proposed and at roof level additional plant is proposed behind the dummy mansard approved in 2013. The first floor louvres are required as there is limited riser connectivity to the roof through the upper floors of the building to enable fresh air intake to be taken from above the building.

These alterations are acceptable and accord with policies DES5, DES6 and DES9 of the 2007 UDP and S25 and S28 of the City Plan.

## **8.3 Residential Amenity**

The application has been supported by an acoustic report that assesses both noise break out from the proposed restaurant and from the potential noise and vibration impacts of the proposed plant. The report sets out that the Eastcastle Street entrance will incorporate an internal lobby in order to mitigate noise break-out from the restaurant during ingress and egress of patrons. The ground floor façade shall incorporate full height shopfront glazing and windows at first floor level are existing and understood to be double glazed. Environmental Health raise no objections to the proposal subject to conditions.

### **Plant**

The proposed restaurant would be served by a full height extract duct that terminates at roof level. Air conditioning units are also proposed at roof level and an acoustic report

has been submitted to assess the potential noise and vibration impacts of the proposed plant. The nearest residential windows affected by the roof level plant are the flats opposite in Wells Mews. Background noise levels have been provided to demonstrate that noise from the duct and associated equipment will be compliant with the City Council requirements and this has been considered acceptable by Environmental Health. Conditions are proposed in relation to the noise and vibration levels from the plant.

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

Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that 'vehicular servicing needs of developments are fully accommodated on-site and off street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development'. Policy S42 is similarly worded.

An on-site servicing/loading bay is available on Wells Street that can accommodate vehicles up to 10m in length which the Highways Planning Manager anticipates would cover most of the vehicle types likely to service the site. The application is also supported by a Service Management Plan that indicates that 6-8 trips per day are likely to be generated by the servicing associated with the site between 09:30 and 11:30. No objections have been raised by the Highways Planning Manager in relation to impact on either servicing or parking levels, and despite the objection from a local resident, it is not considered that the use of taxis and private cars would be so significant as to justify refusal on highways grounds. In order to minimise the impact of the proposed use on the road network, it is considered that a delivery service should not operate from the premises, and a condition to this effect has been recommended.

Waste storage and cycle parking are provided at basement level. A condition is proposed to ensure the additional 13 cycle spaces proposed as part of this application are delivered and retained.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

All new entrances will incorporate a flush threshold and lift access is provided to the first floor level.

#### **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

### **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**

To ensure that an overall uplift of retail occurs on the site as a whole, a legal agreement is required requiring the completion of the enlarged shop units consented in 2013 at ground, basement and first floor prior to the occupation of the new restaurant. The proposed variation is considered acceptable for the reasons set out in 8.1 above.

A CIL payment is not liable.

### **8.11 Environmental Impact Assessment**

Not applicable for a scheme of this scale.

## **9. BACKGROUND PAPERS**

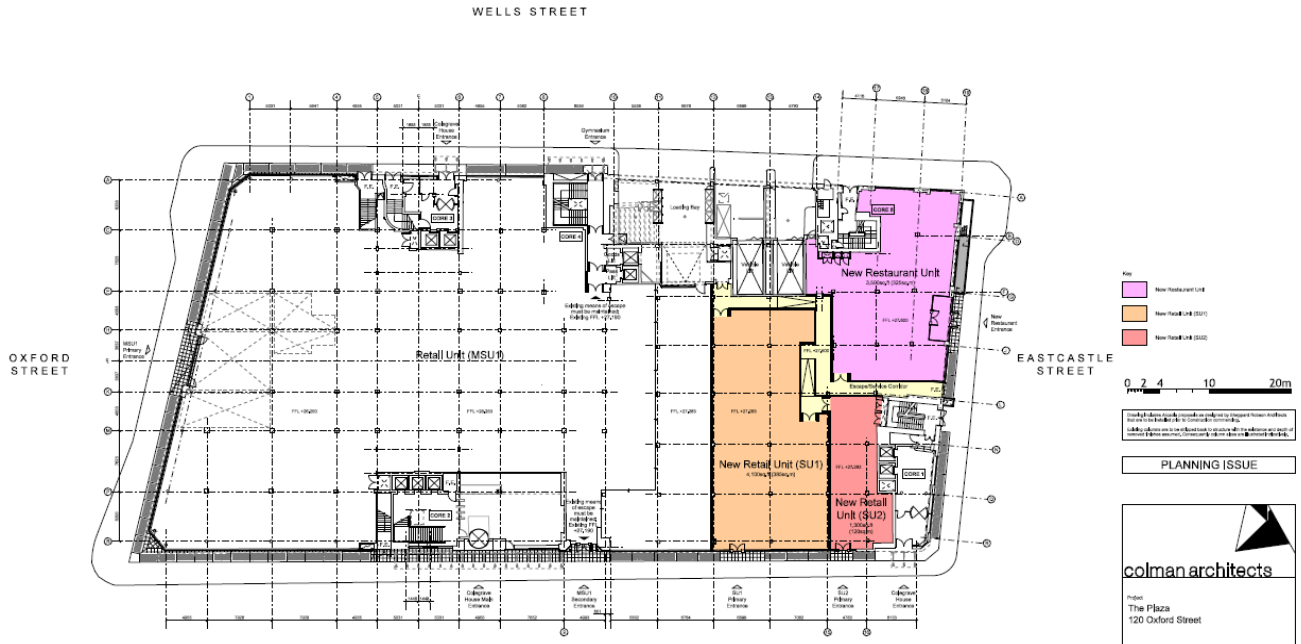
1. Application form
2. Response from Environmental Health dated 16 January 2017
3. Memorandum from Highways Planning Manager dated 19 January 2017
4. Letter from occupier of 11 York House, 12 Berners Street, dated 15 January 2017
5. Letter from occupier of 2 York House, 12 Berners Street, dated 1 February 2017

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

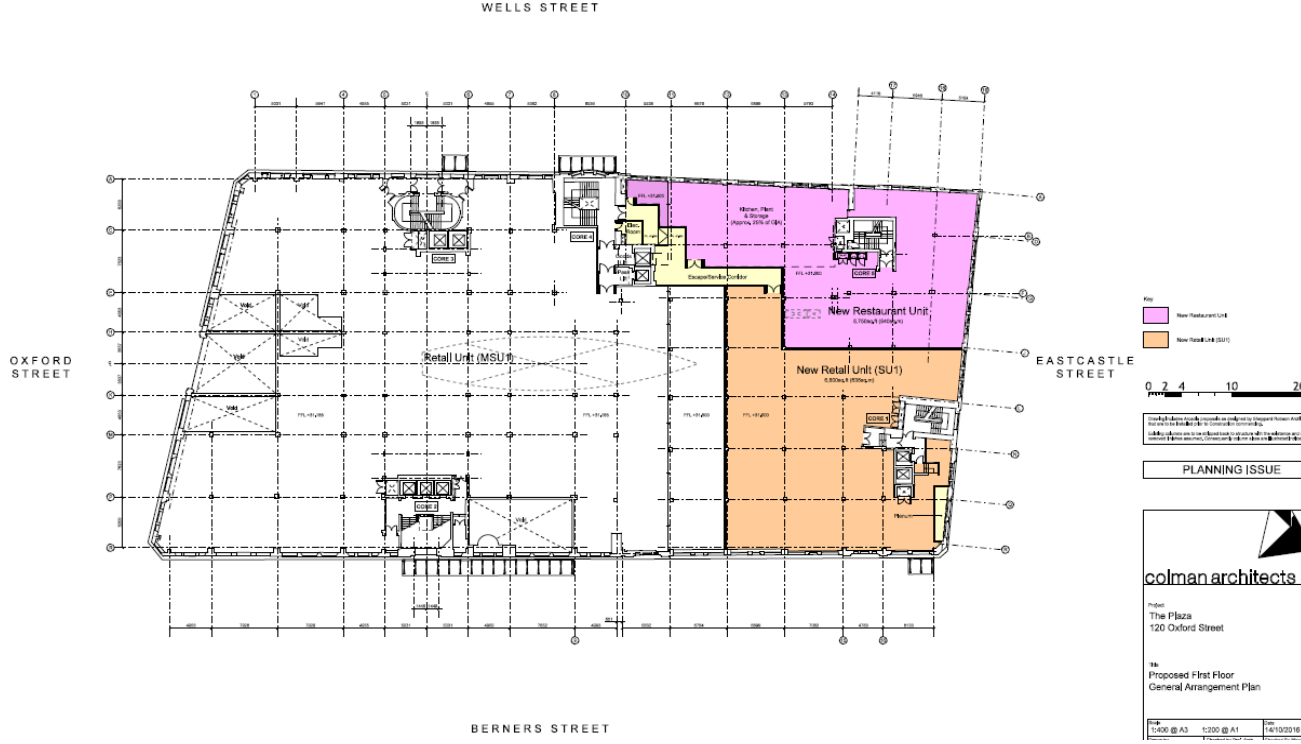
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

10. KEY DRAWINGS

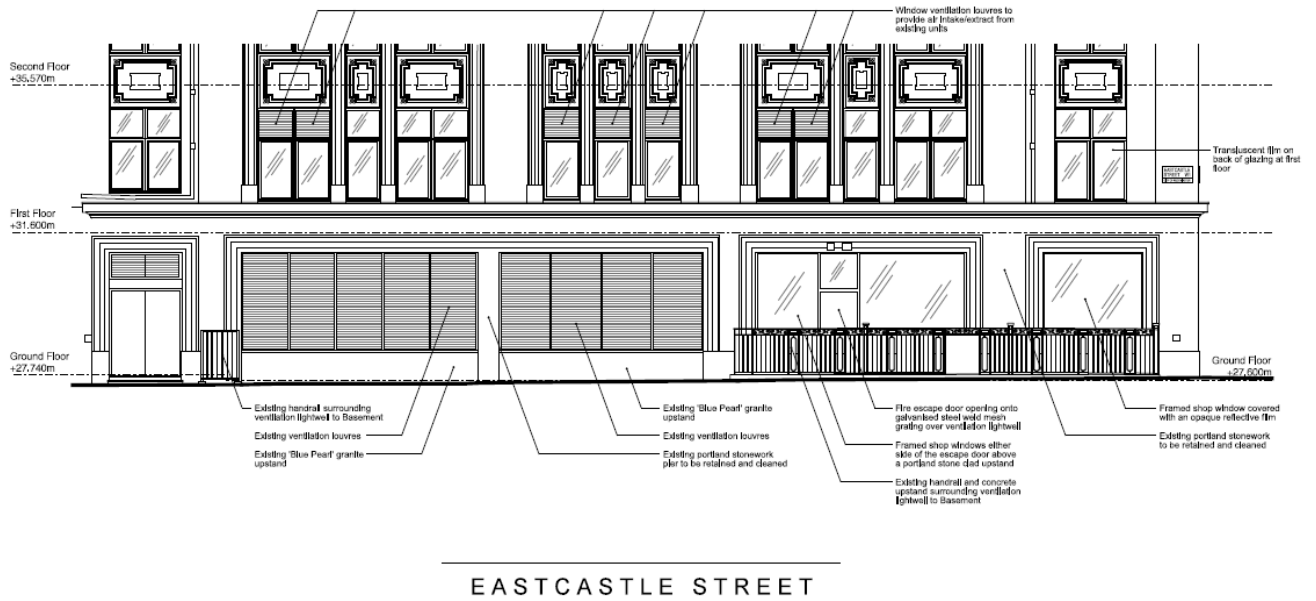
Proposed ground floor



Proposed first floor

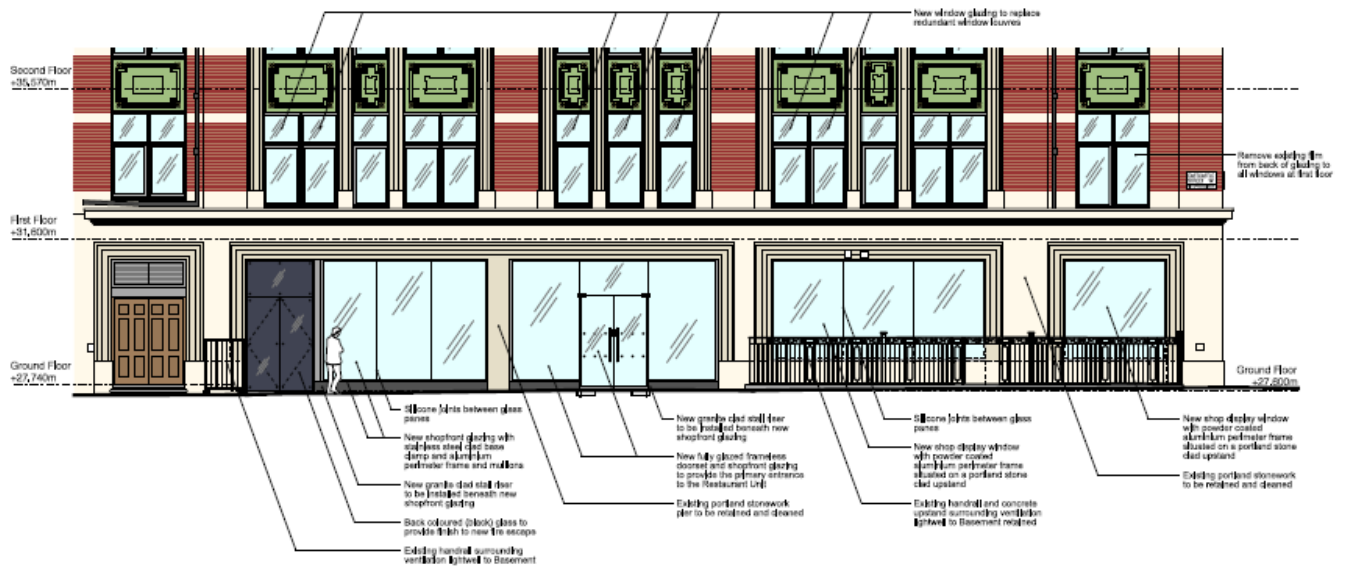


Existing Eastcastle Street Elevation



EASTCASTLE STREET

Proposed Eastcastle Street Elevation



EASTCASTLE STREET

**DRAFT DECISION LETTER**

**Address:** The Plaza, 120 Oxford Street, London, W1D 1LT,

**Proposal:** Use of the ground and first floor unit on corner of Wells Street and Eastcastle Street as a restaurant (Class A3), alterations to shopfronts on Eastcastle Street and Berners Street elevations, installation of ventilation louvres at first floor level on Wells Street and installation of an extract duct and air-conditioning units at roof level.

**Reference:** 16/11237/FULL

**Plan Nos:** 1110\_P-1(--)-099\_P1, 100\_P1, 101\_P1, 107 REV P2, 200\_P1, 201\_P1, 202\_P1, 400\_P1, 500\_P1, 501\_P1, 502\_P1, 503\_P1, Noise Impact Assessment Report dated November 2016, Ventilation and Extraction Systems Report dated October 2016.

**Case Officer:** Jo Palmer

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

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

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

Reason:

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

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

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

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

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

Reason:

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

- 3 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 4 No vibration shall be transmitted to adjoining or other premises and structures through the

building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 5 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 protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 6 You must not allow more than 250 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 You must not play live or recorded music within the restaurant premises that will be audible externally or in the adjacent properties.

Reason:

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

- 8 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours:  
 07.00 to midnight Monday to Thursday,  
 07.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and  
 07.00 to 23.00 on Sundays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)



- 9 The restaurant use hereby approved must be operated in accordance with the submitted Servicing Management Plan.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 10 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 and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 11 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 12 You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use. (C05JB)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 13 You must provide detailed drawings (plans and section/elevation) showing the full height kitchen extract duct indicated on your approved drawings. These details must be provided before the restaurant use commences and the approved duct shall thereafter be permanently retained for as long as the restaurant is in use.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 14 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 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:

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 3 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

- 15 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.

- 16 The Class A3 use allowed by this permission must not begin until you have fitted self-closing doors at the entrance to the restaurant. You must not leave these doors open except in an emergency or to carry out maintenance. (C13MA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 17 All servicing must take place between 08:00 and 19:00 on Monday to Saturday and 09:00 and 18:00 on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 18 You must not operate a delivery service from the premises even as an ancillary part of the use.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Conditions 3, 4 & 5 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>134 Baker Street, London, W1U 6UB</b>		
<b>Proposal</b>	Use of ground floor and basement as restaurant (Class A3) and erection of a full height extract duct to rear elevation.		
<b>Agent</b>	Advance Planning Licensing		
<b>On behalf of</b>	Baker Street Digital Technology Ltd		
<b>Registered Number</b>	16/08921/FULL	<b>Date amended/ completed</b>	24 October 2016
<b>Date Application Received</b>	16 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		

**1. RECOMMENDATION**

Grant conditional planning permission.
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**2. SUMMARY**

The application site is an unlisted building located in the Portman Estate Conservation Area. The application site is located outside of the Core CAZ but is located on a CAZ Frontage as defined by the Unitary Development Plan and on a 'named street' within Marylebone and Fitzrovia (Westminster City Plan). The building comprises basement, ground and first to fourth floors. The basement and ground floor levels are in use within 'A' Use Class. The first floor is in Class D1 educational use. The upper floors have recently been granted planning permission for change of use from office (Class B1) to residential accommodation (Class C3).

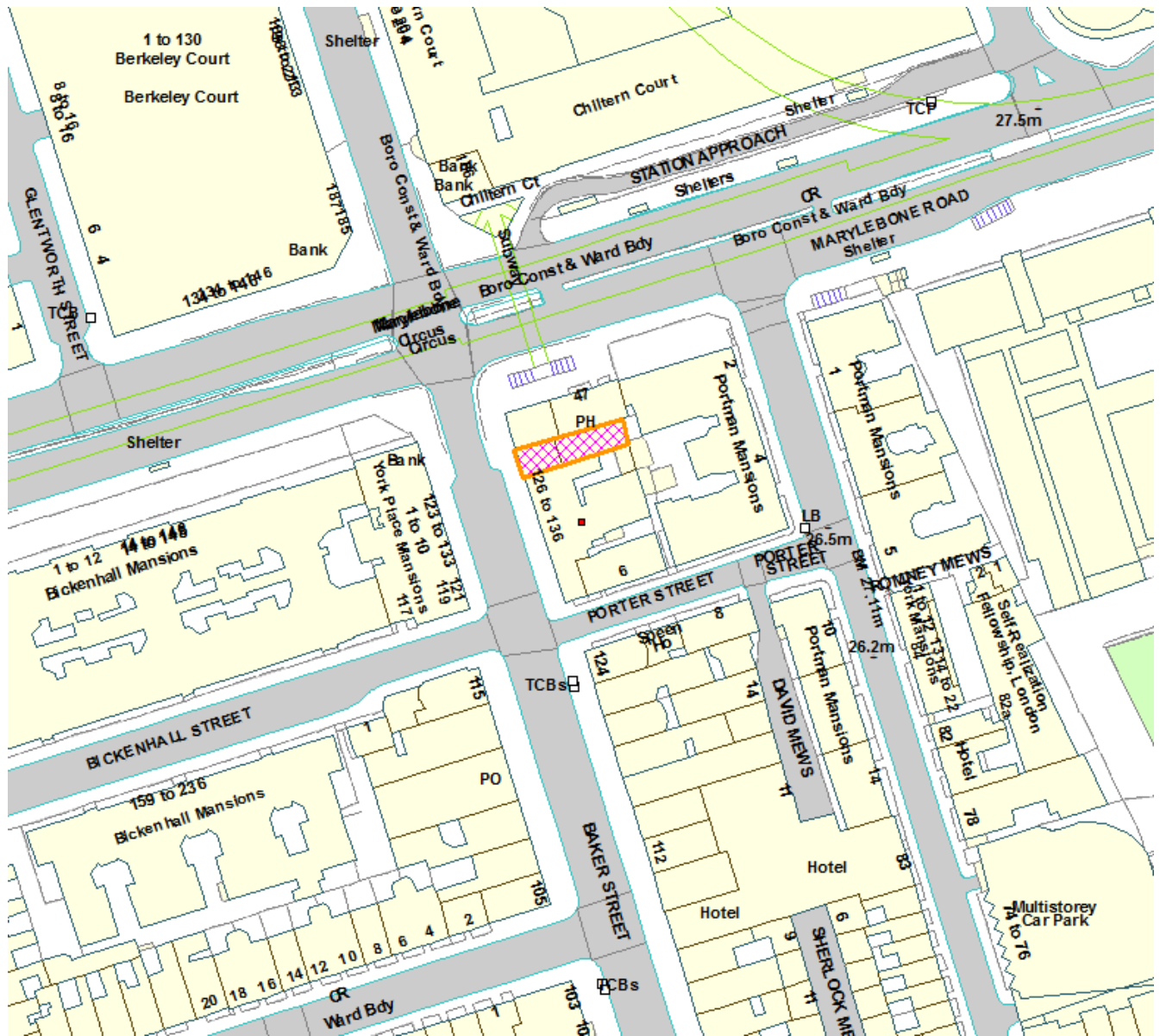
Planning permission is sought for the change of use of the basement and ground floor premises to provide a restaurant (Use Class A3) and to install a high level extract duct to serve the kitchen on the rear elevation of the property.

The key issues for consideration are:

- The loss of existing retail accommodation
- The impact of the proposed restaurant on the amenity of nearby sensitive occupiers

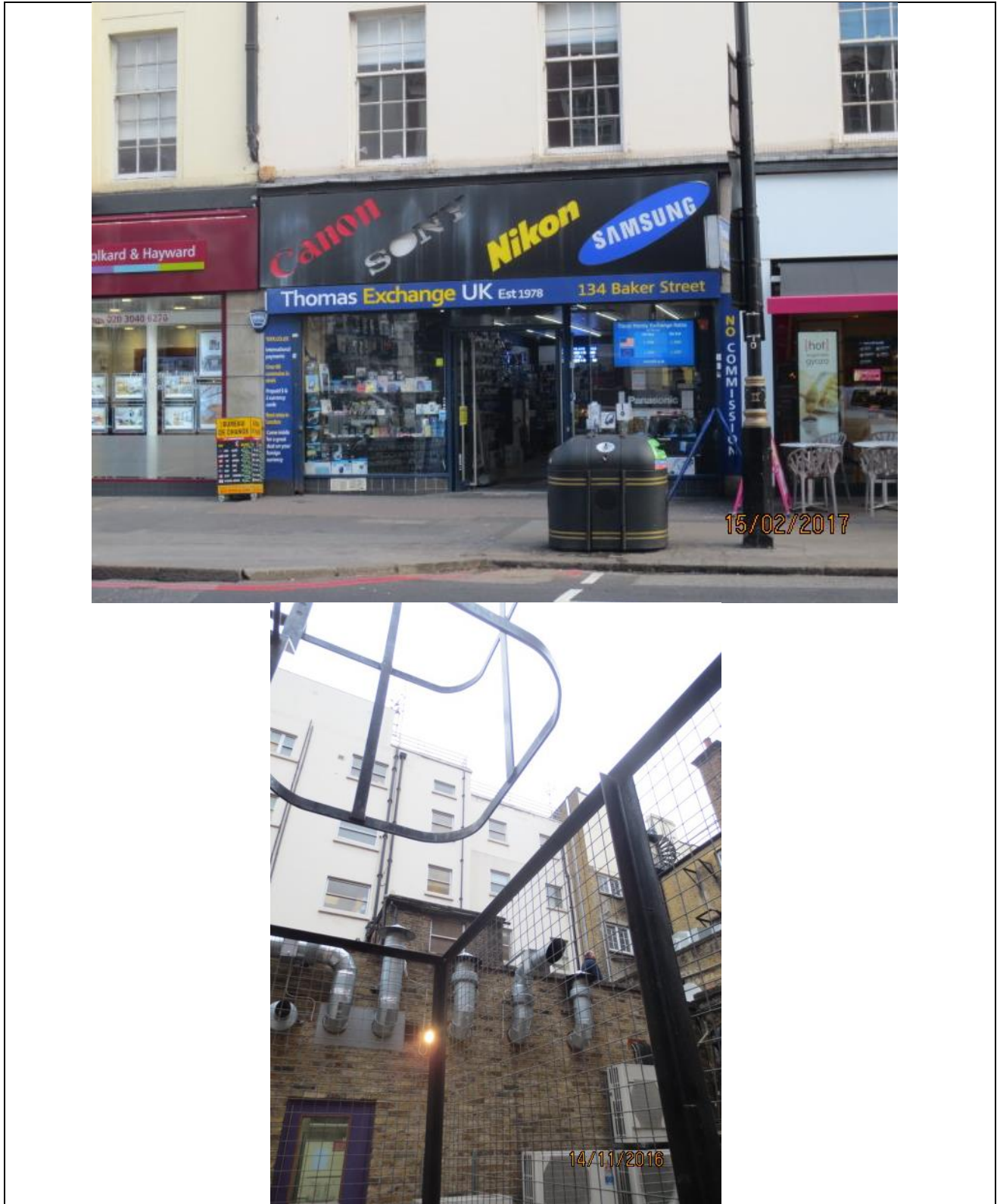
Subject to appropriate conditions, the proposal is considered acceptable in land use, design, amenity and transport terms. The application is therefore recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and City Plan Policies.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

MARYLEBONE ASSOCIATION:  
Any response to be reported verbally.

ENVIRONMENTAL HEALTH:  
No objection subject to conditions.

HIGHWAYS PLANNING MANAGER:  
No objection subject to conditions.

CLEANSING:  
No objection subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 100; Total No. of replies: 2  
No. of objections: 2, on the following grounds:

Amenity:

- Smells, fumes and noise from the proposed use
- Parking, road access and traffic generation from the proposed use

PRESS ADVERTISEMENT / SITE NOTICE:  
Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is 134 Baker Street, which is an unlisted building located in the Portman Estate Conservation Area. The application site is located outside of the Core CAZ but is located on a CAZ Frontage as defined by the Unitary Development Plan and on a 'named street' within Marylebone and Fitzrovia (policy S8, Westminster City Plan). The site is not located within a Stress Area.

The application site is part of the larger site 126 - 134 Baker Street. The building comprises basement, ground and first to fourth floors. The basement and ground floor levels are in retail use within 'A' Use Class and include 6 separate units. The first floor of 126 - 134 Baker Street is in Class D1 educational use. The upper floors of the building are in lawful use as office accommodation (Class B1) but have a recent planning consent to be used for residential accommodation (Class C3)

### 6.2 Recent Relevant History

In November 2015 (RN: 15/07396/FULL), planning permission was granted at 126 - 134 Baker Street for 'Erection of three storey extension at the rear of the building at second, third and fourth floor level and use of enlarged second to fourth floors as 11 flats (Class C3). Installation of plant within existing roof top plant room and plant within existing stairwell at roof level. Installation of photovoltaic panels and living roof at roof level and



new entrance doors at ground floor level.' This consent does not appear to have been implemented. Prior to this consent, the lawful use of the second to fourth floor levels was office accommodation (Class B1).

## 7. THE PROPOSAL

The existing retail premises are currently occupied by a retailer selling electrical goods and also contain a Bureau de Change. There is no planning history for the addition of this Bureau de Change and it is considered to be ancillary to the main retail use.

Planning permission is sought for the change of use of the basement and ground floor premises to provide a restaurant (Use Class A3) and to install a high level extract duct to serve the kitchen on the rear elevation of the property. The kitchen extract duct would run to the main roof level of the property and would terminate above the height of the roof.

The change of use of the retail floorspace to restaurant results in an entertainment use measuring 181sqm (GIA). The applicant has not specified a prospective tenant, although the plans indicate that the kitchen and toilets would be located at basement level with the ground floor providing space for 88 covers and a disabled toilet. There is a bar area at ground floor level with an additional 3 covers. The hours of opening sought are: 09:00 to 23:00 daily.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of retail accommodation

The ground and basement floors are considered to be in lawful retail use (Class A1), with a small, ancillary element of Class A2 at rear ground floor that is the Bureau de Change.

UDP Policy SS5 seeks an appropriate balance of town centre uses on the CAZ Frontages (including Baker Street), stating that proposals must not cause or intensify an existing over-concentration of A3 and entertainment uses in a street or area.

Part (A) of Policy SS5 states 'A1 uses at ground, basement or first floor level in the CAZ and CAZ Frontages will be protected'.

Part (B) states planning permission for the introduction of a non-A1 town centre use at basement, ground and first floor level will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality.

Part (C) states proposals for non-A1 uses must not:

1. Lead to, or add to, a concentration of three or more consecutive non-A1 uses
2. Cause or intensify an existing over-concentration of A3 and entertainment uses in a street or area.

Policy S21 of the City Plan states that existing A1 retail will be protected throughout Westminster except where the Council considers the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let.

There are 6 units at ground floor level on this part of Baker Street between Marylebone Road and Porter Street. The unit adjacent to the application site, No 136, is a corner unit with frontages on both Marylebone Road and Baker Street. The six units on Baker Street are as follows:

No. 136 Baker Street:

Part of the premises appears to be long established as a Class A2 'financial and professional services' use. The premises is currently operating as an Estate Agents (Class A2). Prior to some point in 2014 the unit was occupied by 'Brook Street', a jobs and recruitment agency, which would also be considered as Class A2.

However, the relationship between the units at No. 136 and No. 134 is unclear. Google Street View images from July 2008 to October 2014 indicate that the unit at No. 134 was originally larger and No. 136 was smaller. In July 2012 No. 134 appears to have been subdivided, with the 'new' unit next to No. 136 shown as vacant. From June 2015, the Google Street View images show No. 134 and No. 136 divided as they currently exist, i.e. No. 136 appears to have amalgamated with that portion of No. 134 that was separated off. There is a planning consent for installation of a new shopfront at No. 136 in 2014 (14/05624/FULL) which indicates that this is when the two units, as they currently exist, were divided by their signage. The existing Baker Street elevation for this permission shows this frontage divided into two parts. The proposed Baker Street elevation shows the installation of a uniform shopfront, as matching what is currently in situ. However, the existing and proposed ground floor plans show the unit as occupying the full width of the Baker Street elevation.

No. 134 (application site) – Class A1 Electronics shop (with an ancillary Bureau de Change).

No. 132 - The lawful use of the premises is Class A1. The site is currently occupied by 'Itsu' which sells food and drink. Business rate records also list the premises as 'shop and premises'

No. 130 - The lawful use of the premises is Class A1. The site is currently occupied by a photo printing and processing shop. Business rate records also list the premises as 'shop and premises'

No. 128 - The lawful use of the premises is Class A3. The site is currently occupied by a restaurant/take away operator.

No. 126 - The lawful use of the premises is Class A3. The site is currently occupied by a coffee shop.

Paragraph 7.50 of Policy SS5 states the number of consecutive non-A1 uses will 'include those that continue around a corner'. Around the corner adjacent to No. 136 is a public house, The Globe, No. 43 Marylebone Road. (Class A4). The loss of the existing A1 use would therefore appear to result in three consecutive non-A1 uses, though the unclear

status of that part of the premises separated off and amalgamated with No. 136 does complicate the situation.

Part (A) of Policy SS5 states A1 uses at ground and basement level will be protected.

However, Policy SS5 does allow for some flexibility for the introduction of a non-A1 use where it would not be detrimental to the character or function of the area. The unit is not vacant and is located at the northern end of Baker Street, close to its junction with Euston Road. The loss of A1 in this location is regrettable, however it is not considered that the proposed loss of retail floorspace would have a detrimental impact on the 'vitality or viability of a shopping frontage or locality' as set out in Policy SS5. For this reason it is not considered the loss of retail floorspace can be resisted in this instance.

### **Proposed restaurant use**

Policy S24 of Westminster's City Plan states that 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area.'

UDP Policies TACE8-10 control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the city, depending upon the size and type of entertainment use.

The application site is located outside the Core CAZ and has a floorspace of 181sqm (GIA) - the relevant policy for its assessment is therefore UDP Policy TACE9. TACE 9 states that permission will only be granted for proposals where the City Council is satisfied that the proposed development has:

No adverse effect upon residential amenity or local environmental quality or upon the character or function of its area paying particular regard to the number of customers that may be present, the opening hours, prevention of smells, noise and vibration, service arrangements, the arrangements for waste and the changes of use to other uses..

There is general support for commercial uses in this location, with City Plan Policy S8 stating that the 'named streets' (including Baker Street) are appropriate locations for residential and a range of commercial uses.

The immediate vicinity is characterised mainly by commercial uses with most of the neighbouring buildings in use as retail/restaurants on the ground floor. There are various licensed A3 premises in the vicinity. Whilst it is not considered that the area is 'saturated' with such uses, as described above, Baker Street is characterised by a balanced mix of uses which Policy SS5 of the UDP seeks to maintain.

The nearest residential properties are located to the rear of the application site within a residential block, Portman Mansions. There are also residential properties on the upper floors of the building on the opposite side of Baker Street to the front of the application site.

The upper floors of the application site also have a live planning permission to be used for residential purposes (Class C3).

The proposed plan submitted with the application shows 91 covers in total which is relatively modest. The applicant has not specified a prospective tenant. The proposed opening hours are 9:00 to 23:00 which accord with the City Council's 'core hours'.

Given the context this part of Baker Street being a busy and noisy street with a heavy commercial presence and on the basis of the guidance within UDP Paragraph 8.88 that states, even in predominately residential areas, the usual terminal hours is 00.00 (Sunday - Thursday) and 00.30 (Friday and Saturday) (except where residential uses are in immediate proximity). The hours sought are less than this general approach even in an area which cannot be reasonably described as being 'predominately residential' in nature. As such, it is considered that there will be no material loss of amenity as a result of the proposed restaurant. Both the capacity and opening hours can be controlled through the imposition of conditions. Conditions are also proposed to ensure that there is no delivery service provided from the property which might result in increased vehicular movements.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24.

## **8.2 Townscape and Design**

The proposed change of use and associated flue at No.134 Baker Street are considered acceptable in design terms.

The rear of the building is an undistinguished white rendered elevation with modern sash windows. It neither contributes to nor detracts from the character or appearance of the conservation area.

An existing flue, in stainless steel, rises up the rear of the same building. It detracts considerably from the appearance of this backland area.

Adjacent buildings are of better quality, and in particular the facing building (the rear of Portman Mansions) is of considerable merit.

An additional stainless steel flue would certainly add to the harm caused by the existing, and would be unacceptable. However, if suitably clad, and coloured to match the existing render, it would be possible to design the flue to cause minimal impact on the appearance of the area.

With an amending condition requiring details of boxing in of the flue to match the host building, the proposal could be considered acceptable in design terms. The boxing in should be rendered and painted to match the existing.

## **8.3 Residential Amenity**

The application 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.

An objection has been raised from a neighbouring residential occupier to the rear of the application site on the grounds of smells and fumes already being emitted from restaurant uses in the area. Another objection has been raised from a neighbouring occupier on the grounds of noise from the proposal which would affect their business.

The proposal includes a high level extract duct which terminates at main roof level. This is considered to be acceptable and a condition could be imposed to ensure the full height extract duct is provided and retained in perpetuity. This should ensure that cooking smells are adequately dispersed.

The application was accompanied by an acoustic report. This has been assessed by the City Council's Environmental Health Officers, who consider that the proposed extract duct is likely to comply with City Council's standard noise criteria as stated within the UDP Policies ENV6 and ENV7 and policy S32 of the Council's Strategic Policies subject to conditions. The hours of use of the extract duct being applied for are 09:00 - 23:00 which will be secured by condition.

It is therefore considered that the proposed extract duct will not be harmful to local residential amenity in terms of odour and noise and these objections cannot be sustained.

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

An objection has been raised from a neighbouring occupier on the grounds that the proposal will result in parking and road access issues and traffic which would impact upon their business.

Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that 'vehicular servicing needs of developments are fully accommodated on-site and off street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development'. No off street servicing is proposed for the proposed use and the site is located within a Controlled Parking Zone which means people using the premises will be subject to these controls. The site is well served by public transport and it is considered there would be no significant change in pedestrian or vehicular traffic as a result of the proposed change of use. No objections have been raised by the Highways Planning Manager in relation to the impact on parking levels or highways movements. On this basis, the objection cannot be sustained.

In order for the development to accord with the requirements of The London Plan, one cycle parking space is required within the demise of the premises. This has not been shown on the proposed plans and a condition will be attached requiring the submission of amended drawings to show the provision of one cycle parking space in the demise of the unit.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

## 8.6 Access

Access to the property will be provided at street level and a disabled toilet will be provided at ground floor level.

## 8.7 Other UDP/Westminster Policy Considerations

### Waste / Recycling

The proposed drawings do not include provision for storage of residual waste and recyclable materials in line with the council recycling and waste storage requirements. A condition will be attached requiring the submission of amended drawings indicating proposals for the storage of residual waste and recyclable materials which must be approved prior to commencement of the use.

## 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 for this application and as the application is for a change of use without additional floor area, the proposal does not attract CIL.

## 8.11 Environmental Impact Assessment

Not applicable for a scheme of this size.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Plant And Equipment, dated 9 November 2016
3. Letter from occupier of 123 Baker Street, London, dated 6 November 2016
4. Letter from occupier of Penthouse 8, Portman Mansions, Chiltern street, dated 15 November 2016

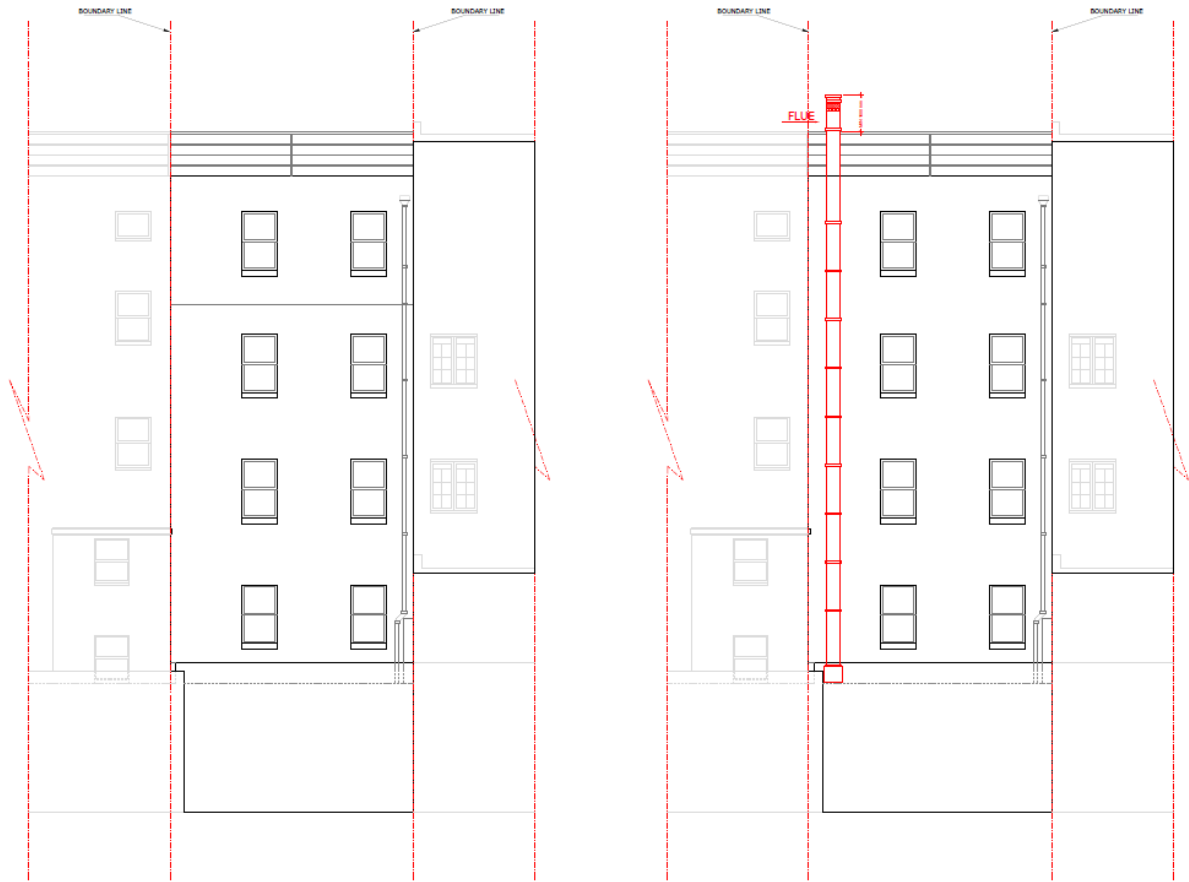
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

10. KEY DRAWINGS



Proposed basement floor



EXISTING REAR ELEVATION

PROPOSED REAR ELEVATION

Proposed rear elevation



**DRAFT DECISION LETTER**

**Address:** 134 Baker Street, London, W1U 6UB

**Proposal:** Use of ground floor and basement as restaurant (Class A3). Erection of full height extract duct to rear elevation.

**Reference:** 16/08921/FULL

**Plan Nos:** P104/16.070.01; P104/16.070.02; P104/16.070.03; P104/16.070.04 (Proposed Rear Elevation); P104/16.070.04 (Proposed Front Elevation); Noise Impact Assessment Report Ref: 134 BAKER ST.NIA.REV01 Dated 24.10.2016.

**Case Officer:** Alice Dunn

**Direct Tel. No.** 020 7641 7957

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

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , o not at all on Saturdays, Sundays, bank holidays and public holidays. , , Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

- 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 Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency

auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing L A90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 5 The plant/machinery hereby permitted shall not be operated except between 09:00 hours and 23:00 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 (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 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 Customers shall not be permitted within the basement and ground floor restaurant (Class A3);, , -Before 09.00 or after 23.00 daily.

## Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 The high level extract duct hereby approved must be installed before the restaurant use commences, it shall thereafter be permanently retained in situ and maintained for as long as the restaurant is in use.

## Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 9 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 and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 10 You must not operate a delivery service from the premises.

## 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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 11 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 and ground floor restaurant (Class A3). (C14EC)

## Reason:

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

- 12 You must apply to us for approval of detailed drawings showing the following alteration to the scheme:, , GRP or other suitable cladding/treatment to the extract duct, finished to match adjacent materials., , You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings and maintain the cladding in the approved form for

as long the duct remains in place.

**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 Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 13 You must not allow more than 91 customers into the property at any one time. (C05HA)

**Reason:**

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 14 You must apply to us for approval of details of secure cycle storage for the restaurant (A3) 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 (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 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 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 4 The term 'clearly mark' in condition 11 means marked by a permanent wall notice or floor markings, or both. (I88AA)

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 6

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>37 Curzon Street, London, City Of Westminster, W1J 7TX</b>		
<b>Proposal</b>	Variation of Condition 5 of planning permission dated 17 July 2013 (RN: 13/03289/FULL) for use of the first floor and second floors as 4 x 3 bedroom flats (Class C3), namely, to allow changes to sound proofing and to allow the submission of a revised acoustic report.		
<b>Agent</b>	DP9		
<b>On behalf of</b>	Vevil International Ltd and 38 Curzon Limited		
<b>Registered Number</b>	16/11057/FULL	<b>Date amended/ completed</b>	18 November 2016
<b>Date Application Received</b>	18 November 2016		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

The application site comprises the first and second floor of a Grade II listed building situated on the corner of Curzon Street and Hertford Street. The Curzon Cinema is located on the lower floors of the property. Planning permission was granted in July 2013 for conversion of the office accommodation at first and second floors into four residential units. At the time of consideration of the application it was considered important to ensure that the residential flats were not affected by the cinema and vice versa. An acoustic report was submitted with the application which included mitigation measures (a screed to the floor) to help prevent noise transference from the cinema to the residential units. Condition 5 of the permission stated that "The proposed mitigation measures as listed in "assessment of impact of cinema noise" dated 16.05.2013, must be implemented before the residential flats are occupied."

The 2013 permission is being implemented on-site and when the construction works started, the applicants discovered that the approved mitigation measures listed in the acoustic report would not be sufficient to protect the new residents from the noise generated from cinema screenings.

Permission is therefore sought to vary Condition 5 of the 2013 permission to allow changes to the soundproofing measures (improvements to the floor screed) and the submission of an updated acoustic report. As the works on-site are continuing, the soundproofing measures have already been implemented. However, this has allowed Environmental Health officers to visit the first and second floors to determine whether the improved soundproofing measures are sufficient to protect the residents from noise from the cinema. Environmental Health officers visited the first and second floors

at a time that there was a scheduled performance in the cinema. The officers were there for the trailers and the first 45mins of the film. Officers have confirmed that there was no audible noise from the cinema in any part of the first floor.

Prior to officers visiting the site the cinema had agreed to have an amplification control system installed (which has been done) and this monitors and adjusts the sound of a film, but not to the detriment of the films shown or the experience.

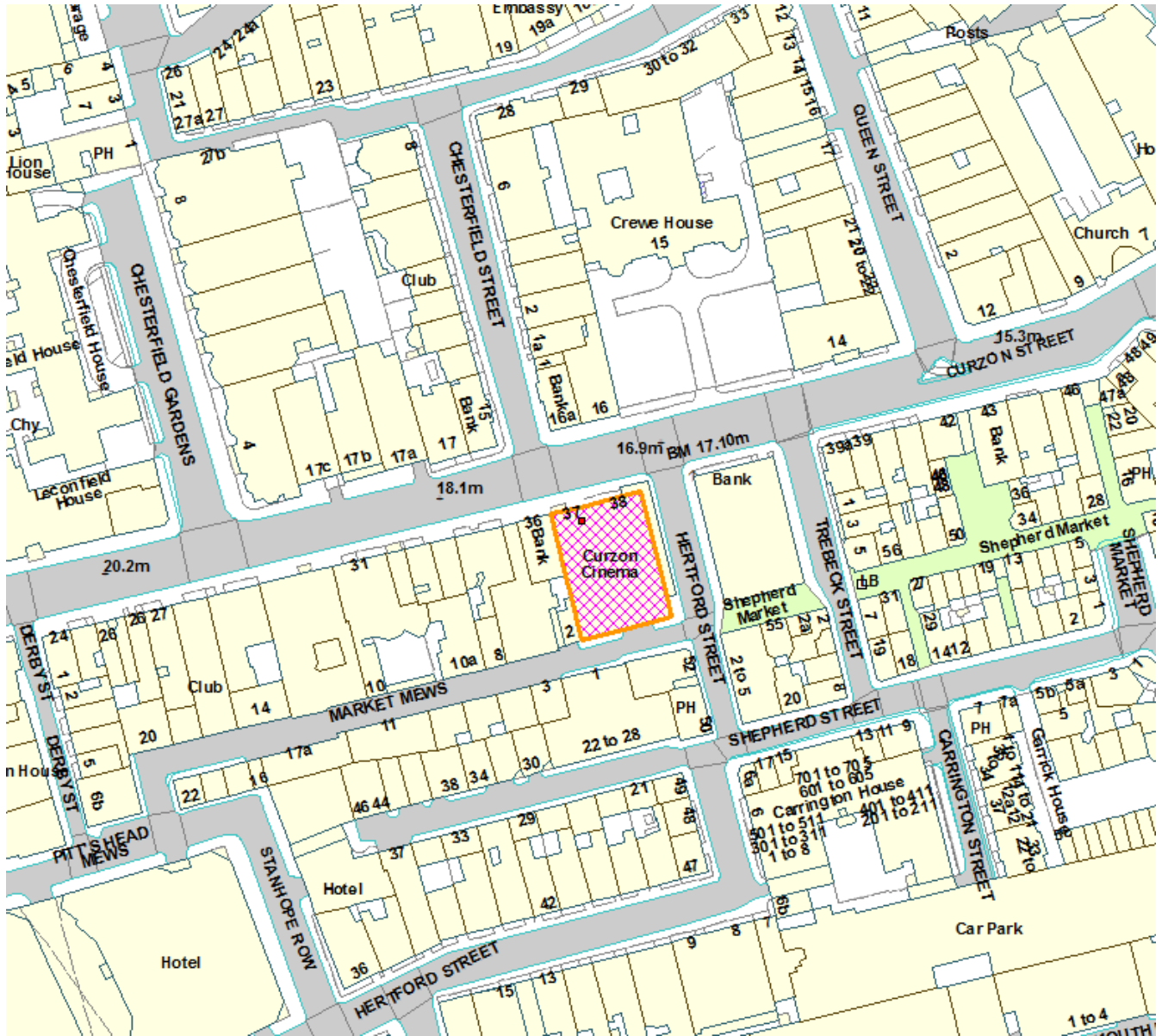
During the course of the application, Environmental Health officers noted that the acoustic report submitted with this application indicated that the residential flats would not comply with the standard noise condition (condition 4). This standard noise condition seeks to ensure that residential flats comply with the WHO noise standards in terms of acceptable internal noise levels. A new report has now been submitted and this takes account of the sound control system installed by the cinema, and also includes additional works that have been carried out which were not required by the original (2013) acoustic report. These works included airborne sound transmission mitigation work (flanking) to risers and vents between the cinema and the dwellings. On this basis it is considered that the proposal now complies with the standard noise conditions.

Environmental Health is satisfied that the variation of Condition 5 is appropriate and provides a better standard to the original Condition 5 as permitted.

## 2. SUMMARY

Grant conditional permission

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





**5. CONSULTATIONS**

## RESIDENTS SOCIETY OF MAYFAIR &amp; ST. JAMES'S

Any response to be reported verbally

## ENVIRONMENTAL HEALTH

No objection

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 11

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

**6. BACKGROUND PAPERS**

1. Application form
2. Response from Environmental Health, dated 13 February 2017
3. Cinema Impact Assessment dated 3 February 2017

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

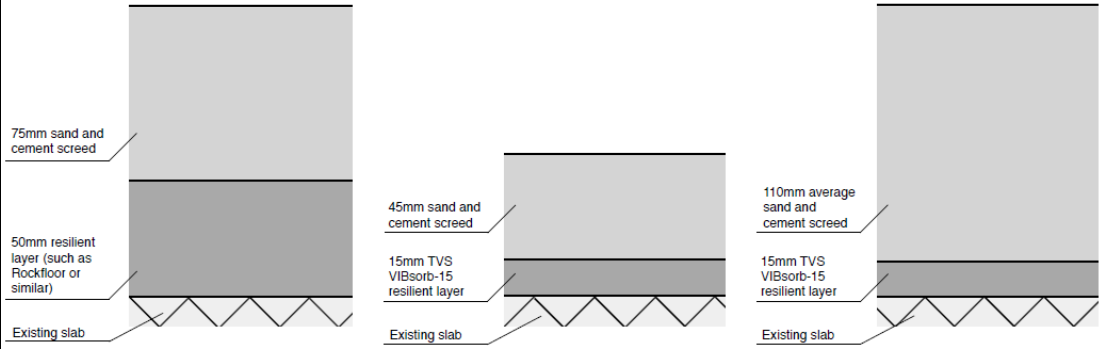
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk).

## 7. KEY DRAWINGS

Photos showing the installation of the screed and flanking



Comparison between the as approved and installed screed to floors




**A - Existing MTT Design in Westminster Planning**

\* MTT sub-let this design to Red Twin for their 2013 report

**B - Red Twin Alternative Design of Equal Performance**

**C - Actual Installed Higher Performance**

PROJECT		
38 CURZON STREET		
DRAWING TITLE		
CONDITION 5 FLOOR BUILD UP'S		
SCALE	DATE	DRAWN
NA	15.11.16	
 <b>Ovington</b> DEVELOPMENTS <small>Ovington Developments Limited          8 Broadwater Place London SE16 1RQ</small>		
JOB NO	DRAWING NO	
X212	300/165-01	

**DRAFT DECISION LETTER**

**Address:** 37 Curzon Street, London, City Of Westminster, W1J 7TX

**Proposal:** Variation of Condition 5 of planning permission dated 17 July 2013 (RN: 13/03289/FULL) for use of the first floor and second floors as 4 x 3 bedroom flats (Class C3). Namely, to allow changes to sound proofing.

**Reference:** 16/11057/FULL

**Plan Nos:** Acoustic report ref: 10199-N&V-05 dated 3 February 2017,

13/03289/FULL, 12-11 00, P01 P1, P02 P1, P03 P1, P04 P1, P05 P1, P06 P1, P07 P1, P08 P1, P09 P1, P10 P1, P11 P01, P12 P1, P13 P1, P14 P1, P15 P1, P16 P1, P17 P1 assessment of impact of cinema noise by MTT Consultants, daylight assessment by GVA Schatunowski Brooks dated 28 March 2013, environmental noise survey report by MTT consultants, design and access statement,

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**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 You must carry out any building work which can be heard at the boundary of the site only:  
 \* between 08.00 and 18.00 Monday to Friday;  
 \* between 08.00 and 13.00 on Saturday; and, \* not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

Reason:

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

- 3 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to 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 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation

of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 4 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.

- 5 The proposed mitigation measures as listed on page 6 of the Cinema Impact Assessment dated 3 February 2017, must be implemented before the residential flats are occupied, and must thereafter be retained in situ.

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 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.

- 7 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 8 You must not use the first floor flat roof (Drawing P07 P1) as a balcony or for any other purpose. You can however use the roof to escape in an emergency. (C21CA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 9 You must provide the waste store shown on drawing P06 P1 before anyone moves into the property. You

must clearly mark it and make it available at all times to everyone using the residential flats. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

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

- 10 You must carry out the development according to the approved arrangements to secure the affordable housing provision approved by the City Council as Local Planning Authority on 06.01.2014 under reference RN:13/10216/ADFULL or in accordance with other appropriate arrangement measures as submitted to and approved by the City Council.

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (November 2016) (R19AC)

- 11 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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 12 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) A schedule of all plant and equipment that formed part of this application; (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; (c) Manufacturer specifications of sound emissions in octave or third octave detail; (d) The location of most affected noise sensitive receptor location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected

receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing L A90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 13 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.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You are advised that any future compliance with Condition 4 should not be reliant upon the cinema's equipment.

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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# Agenda Item 7

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>18 Wells Street, London, W1T 3PG,</b>		
<b>Proposal</b>	Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over fifth and sixth floors. Installation of plant at rear ground floor levels and at main roof level with associated screening. Creation of terraces/balconies at first to sixth floor levels.		
<b>Agent</b>	Rolfe Judd		
<b>On behalf of</b>	Berners-Allsopp Estate		
<b>Registered Number</b>	16/02143/FULL	<b>Date amended/ completed</b>	9 March 2016
<b>Date Application Received</b>	9 March 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		

## 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p>a) Provision of £941,000 towards public realm improvements in the vicinity of the site;</p> <p>b) The costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>
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## 2. SUMMARY

The application was considered by Planning Applications Committee on 19 July 2016 (see attached copy of report), where it was resolved to grant planning permission for the above development, subject to a S106 to secure the following:

- a) Provision of £941,000 towards public realm improvements in the vicinity of the site;
- b) Highways works;
- c) The costs of monitoring the S106 agreement.

The application is being reported back to Committee because, in finalising the legal agreement it is apparent that no highway works are required. Therefore the application is reported back to committee for a revised resolution to delete reference to highways works. In all other respects the recommendation remains the same.



#### 4. PHOTOGRAPHS



#### 5. CONSULTATIONS

No further consultations carried out.

#### 6. BACKGROUND PAPERS

1. Previous minutes and report from 19 July 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: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk).

**DRAFT DECISION LETTER**

**Address:** 18 Wells Street, London, W1T 3PG,

**Proposal:** Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over fifth and sixth floors. Installation of plant at rear ground floor levels and at main roof level with associated screening. Creation of terraces/balconies at first to sixth floor levels.

**Reference:** 16/02143/FULL

**Plan Nos:** 887\_A-DE-00 PL1, 887\_A-DE-01 PL1, 887\_A-DE-02 PL1, 887\_A-DE-03 PL1, 887\_A-DE-04 PL1, 887\_A-DE-LG PL1, 887\_A-DE-RF PL1, , 887\_A\_EE PL1, 887\_A-EW PL1, 887\_A-P-00 PL1, 887\_A-P-01 PL1, 887\_A-P-02 PL1, 887\_A-P-03 PL1, 887-A-P-04 PL1, 887\_A-P-05 PL2, 887\_A-P-06 PL2, 887\_A-P-LG PL1, 887\_A-P-RF PL, 887\_A-S\_AA PL1

**Case Officer:** Helen MacKenzie

**Direct Tel. No.** 020 7641 2921

**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 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 3 You must apply to us for approval of detailed drawings (at scales 1:20 and 1:5) of the following parts of the development:
1. Front façade - typical details
  2. Rear façade - typical details
- You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. (C26DB)

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 4 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

## Reason:

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

- 5 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.

- 6 (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 LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 7 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.

- 8 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:, , - the balustrade to the front fifth and sixth floor level to be positioned behind the parapet wall, , You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

**Reason:**

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

- 9 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either:, , (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or, (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building., , You must only carry out the demolition and development according to the approved arrangements. (C29AC)

**Reason:**

To maintain the character of the East Marylebone Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 10 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

**Reason:**

To maintain the character of the East Marylebone Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas)

Act 1990. (R29AC)

- 11 **Pre Commencement Condition.** Notwithstanding the details submitted in the Construction Management Plan dated September 2015, this is not considered sufficient, therefore a detailed CMP must be submitted., , No development shall take place, including any works of demolition, until a construction management plan for the proposed development has been submitted to and approved in writing by the City Council as local planning authority. The plan shall provide the following details:; (i) a construction programme including a 24 hour emergency contact number; ; (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);; (iii) locations for loading/unloading and storage of plant and materials used in constructing the development;; (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate);; (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and, (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works. , You must not start work until we have approved what you have sent us. You must then carry out the development in accordance with the approved details.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 12 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

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

- 13 (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 retail 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 retail 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



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 retail 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 (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 14 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 building. (C14EC)

Reason:

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

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

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

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

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

Reason:

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

### Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

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

Forms can be submitted to [CIL@Westminster.gov.uk](mailto: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 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to

occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)

- 4 You are reminded of the need to vary condition 16 of the planning permission dated 10 April 2015 (14/09714/FULL) with regard to the provision of residential accommodation at 18 Wells Street prior to commencement of the office use at 41-44 Berners Street.

**3 18 WELLS STREET, LONDON, W1T 3PG**

Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over fifth and sixth floors. Installation of plant at rear ground floor levels and at main roof level with associated screening. Creation of terraces/balconies at first to sixth floor levels.

The presenting officer tabled the following recommended changes to the draft decision letter.

Deletion of condition 11

The three bedroom residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

**RESOLVED:**

1. That conditional permission be granted subject to:
  - A. a S106 legal agreement to secure the following:
    - a) Provision of £941,000 towards public realm improvements in the vicinity of the site;
    - b) Highways works
    - c) The costs of monitoring the S106 agreement.
  - B. The deletion of Condition 11 tabled and set out above.
2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:
  - (a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
  - (b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 19 July 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>18 Wells Street, London, W1T 3PG,</b>		
<b>Proposal</b>	Demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over fifth and sixth floors. Installation of plant at rear ground floor levels and at main roof level with associated screening. Creation of terraces/balconies at first to sixth floor levels.		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	Berners-Allsopp Estate		
<b>Registered Number</b>	16/02143/FULL	<b>Date amended/ completed</b>	9 March 2016
<b>Date Application Received</b>	9 March 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		

### 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:</p> <p>a) Provision of £941,000 towards public realm improvements in the vicinity of the site;</p> <p>b) Highways works</p> <p>c) The costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:</p> <p>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>
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## 2. SUMMARY

The application site relates to an unlisted building situated within the East Marylebone Conservation Area. The building comprises retail use over the basement and ground floor and office use on the three floors above.

In February 2016, two applications were considered by Planning Applications Committee for this site. Both schemes were the same in terms of the detailed design, height and bulk, but the proposed uses differed. This is set out in detail in the main report, but to summarise, a fully residential scheme was approved and the part office, part residential scheme was refused.

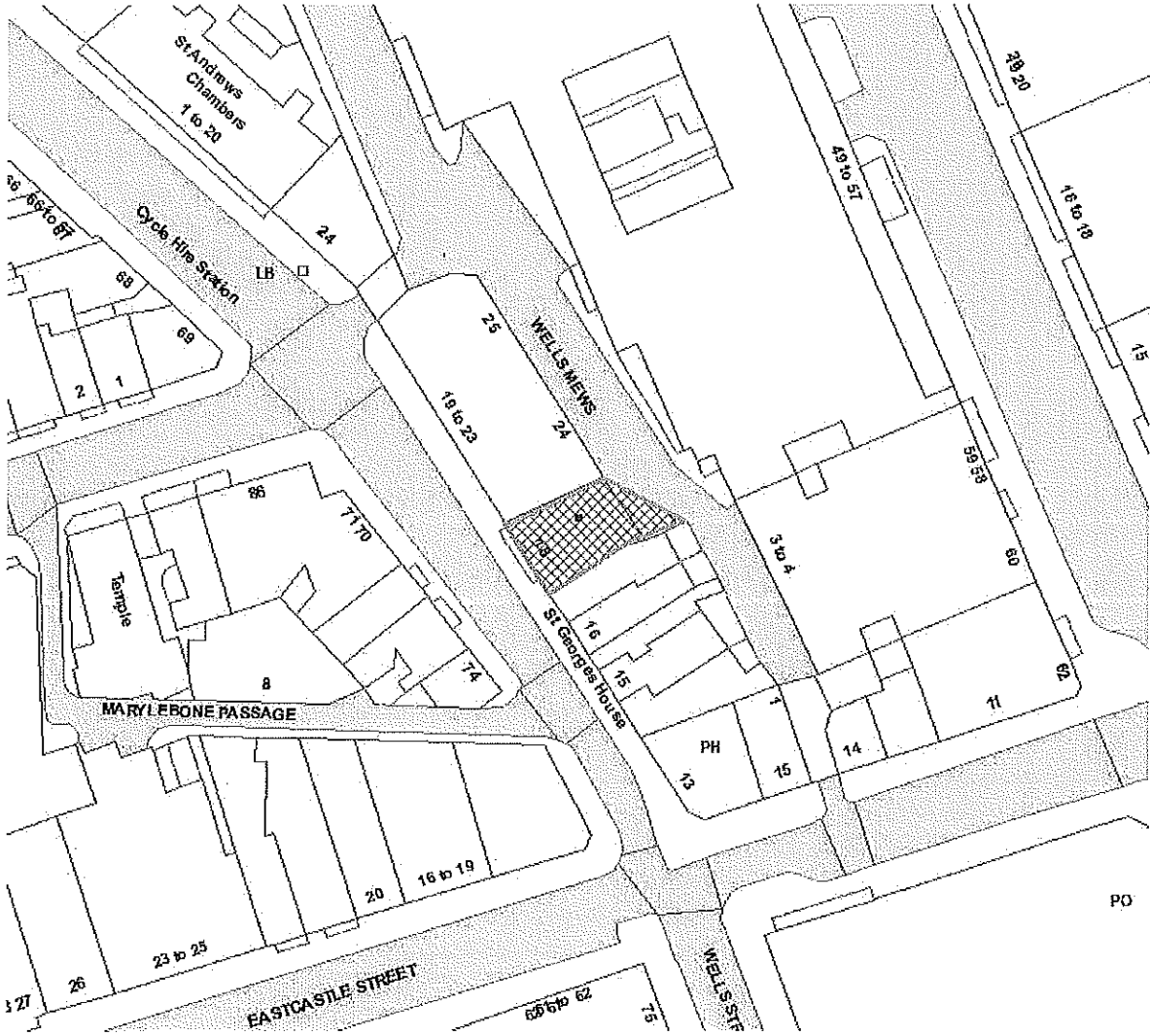
Permission is sought for the resubmission of the part office, part residential scheme. The proposals therefore include the demolition of the existing building comprising lower ground, ground and six upper floors and construction of a new building for use of the lower ground and ground floor for retail purposes, to use the first to fourth floors for office purposes and two residential units over fifth and sixth floor levels. The design, height and bulk are the same as previously considered in February 2016.

This proposal would be linked to an approved scheme on Berners Street. The office uplift as per Policy S1 will be matched by the proposed residential uplift. Two residential units are now proposed and this therefore overcomes the previous reason for refusal.

The application is recommended for approval and now complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan).

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3. LOCATION PLAN



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4. PHOTOGRAPHS





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## **5. CONSULTATIONS**

HISTORIC ENGLAND  
Do not wish to comment.

FITZROVIA NEIGHBOURHOOD ASSOCIATION  
Any response to be reported verbally

ENVIRONMENTAL HEALTH  
No objection

CLEANSING  
Objection – further drawings required to ensure that there are separate stores for commercial and residential part of the development.

HIGHWAYS PLANNING  
No objection

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

No. Consulted: 53  
Total No. of replies: 1  
No. of objections: 1 received on the following grounds:

#### Design

- Proposed façade does not enhance the streetscape.
- Proposed height of the building is not in keeping in the area.

#### Amenity

- Impact of light into office space.

#### Other

- Disruption caused by the demolition and rebuilding.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

This is an unlisted building comprising basement, ground and three upper floors which is in use as a shop on the two lower floors and offices on the floors above. At roof level there is a large plant room, which has a similar floor-to-ceiling height to the floors below, although it does not occupy the whole of the roof area.

To the rear of the site is Wells Mews where there is an entrance to the NCP car park within the mews. The nearest residential properties are located to the south above the public house on the corner of Eastcastle Street and Wells Street.

The building is located within the East Marylebone Conservation Area.

## 6.2 Recent Relevant History

### 18 Wells Street

Planning permission was refused on 2 March 2016 for the demolition of the existing building and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and a duplex residential unit (Class C3) on the fifth and sixth floor. Installation of plant and associated screening at rear ground floor levels and at main roof level. Creation of terraces/balconies at first to sixth floor levels.

This application was refused on two grounds:

- Your development would lead to a reduction in the number of residential units which would not meet S14 of Westminster's City Plan: Strategic Policies adopted November 2013 which seeks to optimise housing delivery. We do not consider that the circumstances of your case justify an exception to our policy; and
- Your proposal would result in a commercial uplift which is not match by an increase in residential floorspace. This would not comply with Policies COM2 and CENT 3 of our Unitary Development Plan that we adopted in January 2007 and Policy S1 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013.

Had the 2016 application been considered acceptable, a payment of £1,533,574 towards the City Council's affordable housing fund would have been secured by a S106 legal agreement in line with UDP Policy CENT 3 and COM2.

On the same date an application was also considered for the demolition of 18 Wells Street and erection of a building comprising lower ground, ground and first to sixth floor levels. Use of part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to sixth floor levels as five residential units (Class C3).

Planning permission was granted on 10 April 2015 for the demolition of the existing building and erection of a building comprising lower ground, ground and first to fifth floor levels. Use of the part basement and ground floor levels as retail accommodation (Class A1) and part basement, ground and the first to fifth floor levels as four residential units (Class C3). This permission included the installation of plant at rear ground floor level and at main roof level with associated screening and the creation of terraces/balconies at first to sixth floor levels.

### 41-44 Berners Street

Planning permission granted on 10 April 2015 for the demolition of 41-44 Berners Street and erection of a mixed use development comprising basement, ground and first to seventh floor levels. Creation of lightwells at the front and rear of the property and creation of terraces / balconies at first to seventh floor level. Triple / alternative use of part basement and part ground floors as retail / restaurant / showroom uses and use of the first to seventh floor levels as office accommodation (Class B1). Installation of plant with associated screening at main roof level.

The two applications granted on the 10 April 2015 were linked as part of a land use swap to ensure that the existing residential floorspace/units and the commercial uplift at 41-44

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Berners Street were offset at 18 Wells Street. This application was policy compliant and therefore there was no financial contribution.

## 7. THE PROPOSAL

The application is a re-submission of the previously refused application for the demolition of the existing building and the erection of a building comprising lower ground, ground and first to sixth floor levels, the installation of plant and associated screening at rear ground floor levels and at main roof level and creation of terraces/balconies at first to sixth floor levels. The design of the proposed scheme is the same as that previously approved in March 2016.

The below land use table sets out the approved combined land use figures for the approved Berners Street scheme granted in 2015 and the current proposals.

The 2016 residential consent for 18 Wells Street is not included as the applicants have confirmed that they are unlikely to pursue this scheme.

### Approved 2015 land use table for 41-44 Berners Street and 18 Wells Street.

Use	Existing	Approved	+/- difference
Residential	160	720	+560
Offices	2606	3071	+465
Retail	75	140	+65
Showroom	573	0	-573
Flexible retail/restaurant/showroom	0	507	+507
<b>Total commercial</b>	<b>3254</b>	<b>3718</b>	<b>+464</b>

This was a policy compliant scheme at the time of the decision as it was assessed under the previous mixed use policy, where the uplift in commercial floorspace was matched by the uplift in residential floorspace.

The current application proposes to use the part basement and ground floor levels as retail accommodation (Class A1), first to fourth floors as office (Class B1) and two residential units (Class C3) over the fifth and sixth floors. The proposed residential units will be in the form of 1 studio flat and a two bedroom unit. The office and residential elements of the scheme will share the same entrance.

### Current application and the approved 41-44 Berners Street land use table.

Use	Existing	Proposed	+/- difference
Residential	160	323	+163
Offices	2606	3551	+945
Retail	75	130	+55
Showroom	573	0	-573
Flexible retail/restaurant/showroom	0	507	+507
<b>Total commercial</b>	<b>3254</b>	<b>4188</b>	<b>+934</b>
<b>Total office</b>	<b>2606</b>	<b>3551</b>	<b>+945</b>

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Offices

The sites are located within the Core Central Activities Zone, to where new offices are directed by City Plan Policy S18 and UDP Policy COM1. Therefore, an increase in office floorspace in this location is acceptable in principle.

#### Mixed Use

The previously refused scheme was refused on two grounds, the loss of the residential unit, which will be addressed below. The second reason for refusal related to the uplift of commercial floorspace not being matched by the increase of residential floorspace. This second reason for refusal was in accordance with the relevant policies at the time of determination, namely, UDP Policies CENT3 and COM2 and replaced Policy S1 of the City Plan. The uplift in commercial was 934sqm which equated to a required contribution towards affordable housing of £1,533,574. The applicants agreed to make this payment but wanted the monies to be directed to public realm. This is the reason the application was refused as it did not comply with policy.

From the 7<sup>th</sup> June 2016 the City Council is taking the Mixed Use Revision into account as a material consideration with significant weight in determining planning applications (see 8.7 below).

Policy S1 (3) states that for development within the Core CAZ, the Named Street, and Opportunity Areas, which includes net additional B1 office floorspace: B) where the net additional floorspace is:

- i) between 30% and 50% of the existing building floorspace, and
- ii) more than 400sqm, residential floorspace or an equivalent payment in lieu will be provided, equivalent to the net additional B1 office floorspace, less 30% of the existing building floorspace. The residential can be provided: on-site; off-site; by mixed use credits or as a payment in lieu.

The existing office floorspace comprises 2,606sqm and as a result of the proposals there is an increase of office floorspace of 945sqm which represents 36% of the existing building floorspace, thereby triggering the above policy. In order to calculate the net additional B1 office floorspace, 30% of the existing floorspace has to be taken from the net additional floorspace, which results in 164sqm. The proposed residential uplift is 163sqm, resulting in a shortfall of 1sqm. It is considered that this is acceptable and the proposal complies with Policy S1.

The planning permission at 41-44 Berners Street is linked to the consented scheme at 18 Wells Street by Grampian condition. In the event that the applicant wishes to implement these current proposals the Grampian condition would have to be varied to reflect the new application.

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### **Residential**

City Plan Policy S14 aims to protect all residential land. There are two existing residential units at 41-44 Berners Street (160m<sup>2</sup>). This application provides two residential units over the fifth and sixth floor levels (323m<sup>2</sup>). As there is now no loss in the number of residential units the proposal is acceptable and overcomes the previous reason for refusal.

The proposed housing would provide one 2-bed (74sqm) and one studio unit (52sqm). No three bedroom units are proposed. However, given the small number of units proposed in the overall scheme and that neither of the flats currently provided at 41-44 Berners Street is family sized, the mix is considered acceptable. Both the units would comply with the minimum space standards as set out in the London Plan.

The office and residential elements of the scheme will share the same entrance. The City Council requires where physically possible that separate access to residential and commercial uses is provided. This is not an ideal situation and as this is a new build development separate entrances should have been designed within the new building. However, there is no policy requirement to ensure the entrances are separate and the City Council could not sustain a reason for refusal on these grounds.

### **Retail**

The protection and enhancement of retail shopping provision is supported under City Plan Policy S21 and UDP Policy S4. There is an existing retail unit at 18 Wells Street, which will be replaced and enlarged in the proposed development.

## **8.2 Townscape and Design**

The design of the building has been approved previously. The top two floors and plant area are set back progressively from the Wells Street frontage to reduce their visual impact.

An objection has been received relating to the height and bulk of the proposed building has been received. As permission has previously been granted for the scheme it is not considered that the objection is sustainable to justify a reason for refusal.

The proposed height and bulk are considered acceptable in the context of the taller building immediately to the north. The proposed building will make an acceptable transition between the latter building and the lower buildings to the south. This complies with UDP design and conservation policies, including DES 4 and DES 9.

## **8.3 Residential Amenity**

The proposed height and bulk have previously been approved. The nearest residential property is located on the corner of Eastcastle Street and Wells Street which is at sufficient distance to not be materially affected by the proposed development.

An objection has been received from the occupier of the office space on the top floor of 72 Wells Street which lies opposite the application site stating that that proposed building is too tall and will reduce the amount of light received into his working studio. Office floorspace is not afforded the same protection as residential properties and therefore do not need to be tested for loss of daylight and sunlight. The height and bulk of the proposed

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building is the same as consented earlier this year. Therefore the objection is not considered sustainable to justify a reason for refusal.

The proposed bringing forward of the building line at ground to sixth floor on the Wells Mews frontage would have no amenity implications as there are no residential properties opposite. The rear terraces are also considered acceptable in amenity terms.

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

There would be no car parking provision. UDP Policy TRANS23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'. The UDP parking standards would normally require one parking space per residential flat. As per the previous application as the two existing flats would be at 41-44 Berners Street would be lost, there is no net gain in residential units.

Cycle parking is proposed at basement level. A condition is recommended to secure the cycle parking.

#### **8.5 Economic Considerations**

Any economic benefits generated are welcomed.

#### **8.6 Access**

Level access is provided for the retail unit for both applications, and for the residential/office entrance. Lift access is then provided for the upper part of the development.

#### **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

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### **8.8 London Plan**

The proposal is not considered to raise any London-wide strategic planning matters

### **8.9 National Policy/Guidance Considerations**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

### **8.10 Planning Obligations**

From the 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permission granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works.

The applicant has confirmed that they are willing to fund £941,000 towards the enhancement of the public realm in Berners Street as a goodwill gesture. This payment will be secured as part of a S106 legal agreement and is not material to the consideration of the planning merits of the proposals and has no weight in the decision making process.

The estimated CIL payment is: £102,142.97

### **8.11 Environmental Impact Assessment**

Not applicable.

### **8.12 Other Issues**

An objection has been received on the potential disturbance during the construction process. A Construction Management Plan has been submitted with the application,

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however this document is outline only. It is noted that a more robust CMP has been approved for the demolition and rebuilding, but this has not been submitted with this application. A condition is therefore recommended to ensure that a CMP is submitted.

#### **9. BACKGROUND PAPERS**

1. Application form
2. Response from Historic England (Listed Builds/Con Areas), dated 19 April 2016
3. Response from Cleansing, dated 19 April 2016
4. Response from Highways Planning, dated 19 April 2016
5. Response from Environmental Health, dated 5 May 2016
6. Letter from occupier of 72 Wells Street, London, dated 30 April 2016

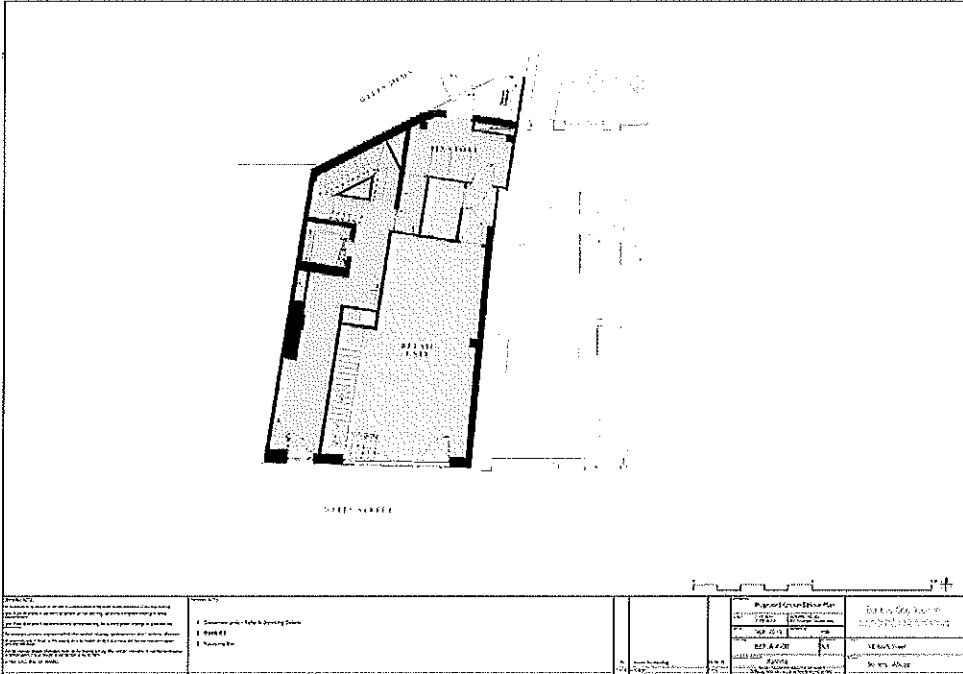
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT <a href="mailto:pquayle@westminster.gov.uk">pquayle@westminster.gov.uk</a>
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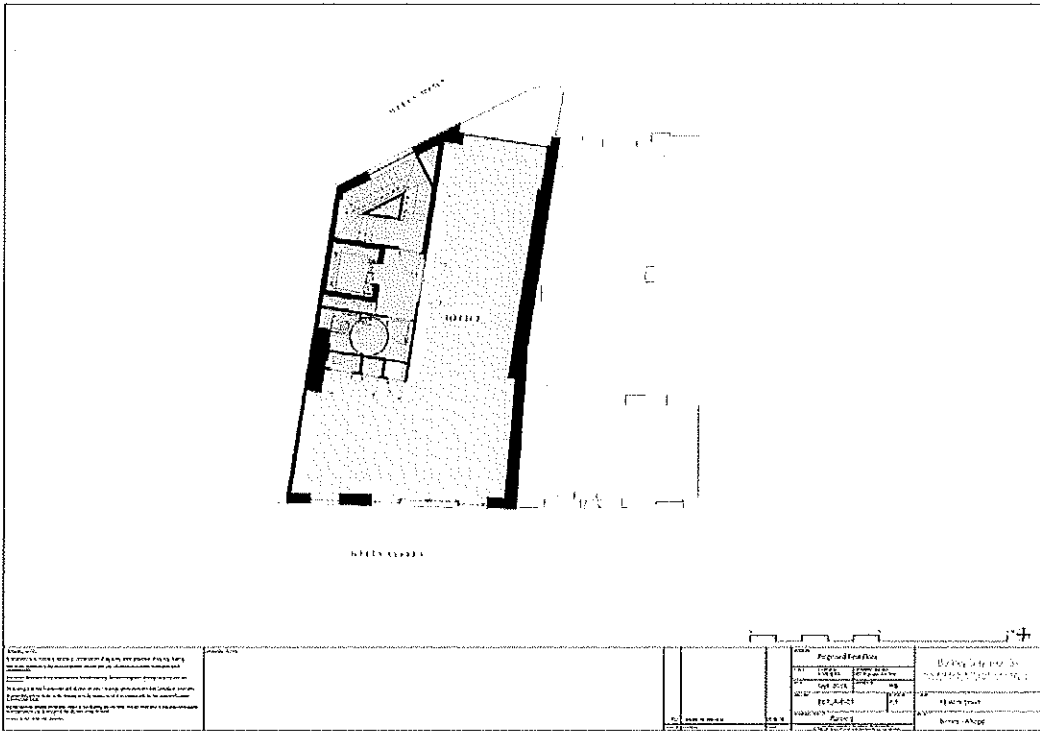




Proposed ground floor plan



Proposed first floor plan



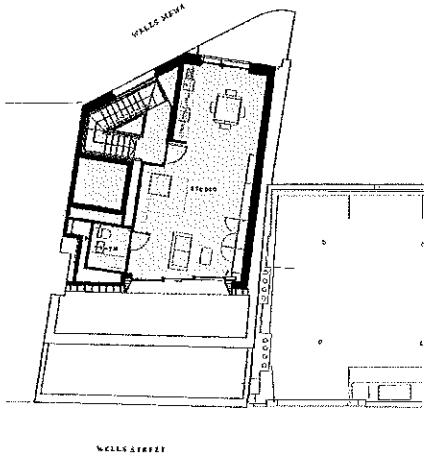
Proposed fifth floor plan



**NOTES:**  
 1. All dimensions are in feet and inches unless otherwise noted.  
 2. All dimensions are to the centerline of the wall unless otherwise noted.  
 3. All dimensions are to the centerline of the window unless otherwise noted.  
 4. All dimensions are to the centerline of the door unless otherwise noted.  
 5. All dimensions are to the centerline of the column unless otherwise noted.  
 6. All dimensions are to the centerline of the beam unless otherwise noted.  
 7. All dimensions are to the centerline of the slab unless otherwise noted.  
 8. All dimensions are to the centerline of the roof unless otherwise noted.  
 9. All dimensions are to the centerline of the foundation unless otherwise noted.  
 10. All dimensions are to the centerline of the structure unless otherwise noted.

Project Name	Proposed Fifth Floor Plan	City	Quincy City, Missouri
Project No.	2024-001	Address	1000 Wells Street
Client	ABC Company	City	Quincy, Missouri
Architect	XYZ Architects	City	Quincy, Missouri
Scale	1/8" = 1'-0"	Sheet	5-05
Date	10/26/2024	Project	Quincy City, Missouri

Proposed sixth floor plan



**NOTES:**  
 1. All dimensions are in feet and inches unless otherwise noted.  
 2. All dimensions are to the centerline of the wall unless otherwise noted.  
 3. All dimensions are to the centerline of the window unless otherwise noted.  
 4. All dimensions are to the centerline of the door unless otherwise noted.  
 5. All dimensions are to the centerline of the column unless otherwise noted.  
 6. All dimensions are to the centerline of the beam unless otherwise noted.  
 7. All dimensions are to the centerline of the slab unless otherwise noted.  
 8. All dimensions are to the centerline of the roof unless otherwise noted.  
 9. All dimensions are to the centerline of the foundation unless otherwise noted.  
 10. All dimensions are to the centerline of the structure unless otherwise noted.

Project Name	Proposed Sixth Floor Plan	City	Quincy City, Missouri
Project No.	2024-001	Address	1000 Wells Street
Client	ABC Company	City	Quincy, Missouri
Architect	XYZ Architects	City	Quincy, Missouri
Scale	1/8" = 1'-0"	Sheet	5-06
Date	10/26/2024	Project	Quincy City, Missouri

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# Agenda Item 8

Item No.

**8**

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 <sup>th</sup> March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Harrow Road	
<b>Subject of Report</b>	<b>2C Chippenham Mews, London, W9 2AW</b>		
<b>Proposal</b>	Installation of replacement windows to rear elevation at first floor level. (Retrospective Application)		
<b>Agent</b>	Ms Diana Carrasco		
<b>On behalf of</b>	Ms Diana Carrasco		
<b>Registered Number</b>	16/11716/FULL	<b>Date amended/ completed</b>	11 December 2016
<b>Date Application Received</b>	11 December 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

Permission is sought to retain three windows in the rear elevation of the property at first floor level.

One local resident has raised an objection on the grounds of the impact of the proposed windows on residential amenity.

The key issues are:

- Impact on the character and appearance of the building and surrounding area.
- Impact on the amenity of neighbouring residents.

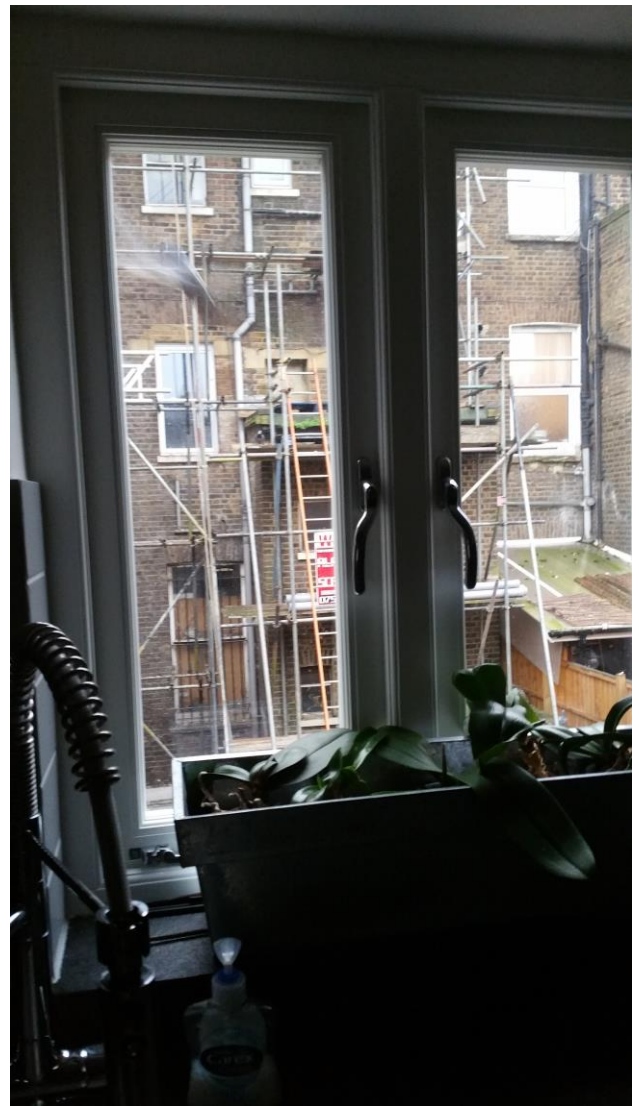
The proposed development accords with relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and is therefore acceptable. As such, the application is recommended for approval subject to the conditions set out in the draft decision letter.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS







## CONSULTATIONS

COUNCILLOR DIMOLDENBERG:

- Requested that the application be reported to committee for determination.

NORTH PADDINGTON SOCIETY

- Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 12

Total No. of replies: 1

No. of objections: 1

No. in support: 0

In summary, the following issues were raised:

- The window opening provides potential access to adjoining roofs which is a security issue.
- The windows open over neighbouring land belonging to No. 4 Maryland's Road.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 5. BACKGROUND INFORMATION

### 5.1 The Application Site

The application site is 2C Chippenham Mews, London, W9 2AN a residential property which is not listed nor located within a Conservation Area.

### 5.2 Recent Relevant History

#### 87/03571/FULL

Conversion and refurbishment to provide office and store at ground floor level with one flat above at 2a and 2b.

Application Permitted.

#### 96/07691/FULL

Mansard roof extension to provide new living room and kitchen.

Application Withdrawn.

#### 06/10110/FULL

Erection of a mansard roof extension with dormer windows to create additional living accommodation in connection with the residential flat at first floor level. 2B Chippenham Mews

Application Permitted

16/05785/FULL

Replacement of windows to front elevation at first floor level.  
Application Permitted 25<sup>th</sup> July 2016.

## 6. THE PROPOSAL

The application seeks the retention of three windows installed at the rear first floor level, which replaced three existing windows. This retrospective planning application has been submitted following an enforcement investigation. The original windows were casements, with a top opening light- the applicant advises that the bottom section of the windows were openable, the objector states that they were not. In respect of the windows that have been installed, the central window is a top hung casement, whereas the other two have vertical two paned glazing with a fixed central security glazing bar. These two windows open outwards by approximately 22-25 cms (10-11 inches).

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use

The proposal does not raise any land use implications.

### 7.2 Townscape and Design

The proposal is uncontentious in design terms as the windows are similar in terms of design and appearance, the building is unlisted and outside of a conservation area. The proposal satisfies policies DES 1 and DES 5 of our UDP and S25 and S28 of our City Plan.

### 7.3 Residential Amenity

In terms of amenity, the central window serves a bathroom, is top opening only and is obscure glazed and therefore raises no amenity concerns in terms of overlooking, and is similar to the window it replaced.

The other two windows are casement in style, with two panes which open outwards to between 22-25mm over the demise of No 4 Maryland's Road. However, compared to the previous windows in situ, it is not considered that that these two windows result in any significant change in amenity terms in relation to their impact on neighbours opposite at No4 and No2 Maryland's Road and No. 362 Harrow Road.

The windows located above the flat roof of the adjoining property has been in place prior to the erection of the building below and given that in this instance the window opening is not being increase in size, and a central security bar is being provided, it is not considered that the replacement windows would result in any significant change in amenity terms.

The windows are able to be opened over adjoining land, which has brought about concerns with regard to the principle of overhanging adjoining land and in security terms in terms of providing access to a flat roof. Land ownership is a private matter and in respect

to potential to access to the flat roof, given that for this to happen a member of the household of the application site would need to have climbed out of the window and no public access would be possible, this is not considered to raise any significant security issues in which to warrant withholding permission. Given the proximity of these windows on the boundary the applicant is also to be advised by way of an informative that the City Council cannot provide future protection of these windows.

The proposal is acceptable in amenity terms and complies with policy ENV 13 of our UDP and S29 of our City Plan.

#### **7.4 Transportation/Parking**

The proposal raises no transportation implications.

#### **7.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **7.6 Access**

The proposal does not have any adverse access implications.

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

There are no other policy considerations.

#### **7.8 London Plan**

This application raises no strategic issues.

#### **7.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

#### **7.10 Planning Obligations**

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

#### **7.11 Environmental Impact Assessment**

An Environmental Impact Assessment was not required for a development of this scale.

#### **7.12 Conclusion**

The proposed development accords with relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (the City Plan) and is therefore recommended favourably subject to the conditions set out in the draft decision letter.

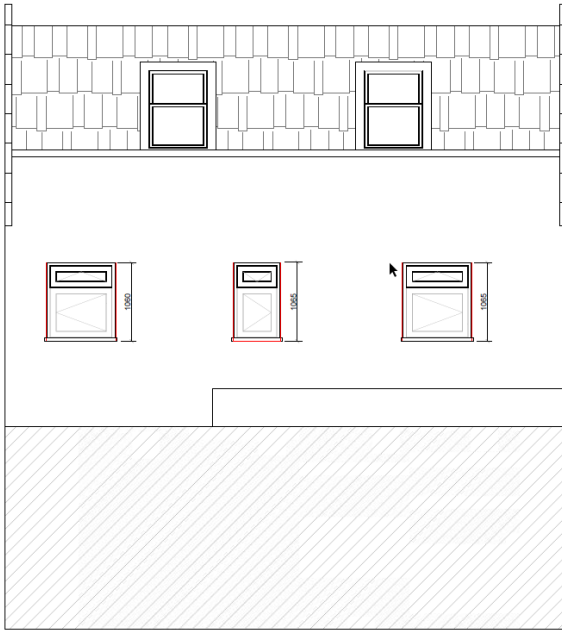
**8. BACKGROUND PAPERS**

1. Application form
2. Email from Councillor Dimoldenberg dated 14<sup>th</sup> February 2017.
3. Letter from occupier of 4 Maryland Road , London W9 2DZ, dated 22 December 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: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

9. KEY DRAWINGS



A Previous Exterior Elevation

		Maria de la Mota Studio Design Ltd. 100014, New Rd Phone: 0198300011 www.mariadelamota.com		Exterior Elevation (PREVIOUS WINDOWS) 2C CHIPPENHAM MEWS W9 2AW	
SCALE	DRAWN BY	Maria de la Mota	2/12/2016		SHEET
1:100	CHECKED BY				PL-004
@A3	APPROVED BY				4/5



A Existing Exterior Elevation

		Maria de la Mota Studio Design Ltd. 100014, New Rd Phone: 0198300011 www.mariadelamota.com		Exterior Elevation (EXISTING WINDOWS) 2C CHIPPENHAM MEWS W9 2AW	
SCALE	DRAWN BY	Maria de la Mota	2/12/2016		SHEET
1:100	CHECKED BY				PL-005
@A3	APPROVED BY				5/5

**DRAFT DECISION LETTER**

**Address:** 2C Chippenham Mews, London, W9 2AW

**Proposal:** Installation of replacement timber framed windows to rear elevation at first floor level.

**Reference:** 16/11716/FULL

**Plan Nos:** PL-003; PL-004; D-001; D-002.

**Case Officer:** Victoria Coelho

**Direct Tel. No.** 020 7641 6204

**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 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You are reminded that the City Council cannot protect these windows (which open over a neighbour's property), if the owner of the adjoining property decides to erect a barrier /structure in front of these windows.

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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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 7 March 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston and Dorset Square	
<b>Subject of Report</b>	<b>Marylebone Flyover, London, ,</b>		
<b>Proposal</b>	Display of internally illuminated digital advertising unit (portrait unit) 7.5m high x 5m wide.		
<b>Agent</b>	Mr Thomas Johnston		
<b>On behalf of</b>	Mr Thomas Johnston		
<b>Registered Number</b>	16/10855/ADV	<b>Date amended/ completed</b>	14 November 2016
<b>Date Application Received</b>	14 November 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside a conservation area		

**1. RECOMMENDATION**

Grant conditional advertisement consent.
--

**2. SUMMARY**

<p>The application site lies adjacent to the Marylebone Road at the point where it becomes the Westway and at the eastern end of the flyover. The site is on land owned by Transport for London and is at the rear of Edgware Road Underground Station (Metropolitan, District and Circle Line). The site lies outside a conservation area and there are no listed buildings in the immediate vicinity. The local environment could be described as harsh and has poor townscape qualities.</p>
---

<p>There are two advertisement hoardings already on the site: one at the western end which measures 12m x 2.5m and one at the eastern end which measures 6m x 3m. Both hoardings are internally illuminated and the base of both adverts is 2.8m above the footway. Consent was granted for advertisement hoardings on this site in 1987 and advertisement hoardings have been in this location since that time. The advertisement site at the eastern end of the site has two further relevant advertisement consents of recent date. Consent was granted as a delegated decision in January 2016 for a replacement internally illuminated digital advertising screen, which measured 6m x 3m and was 700mm higher than the current sign. A second application was refused by the Planning Applications Committee on 7 June 2016 for a replacement internally illuminated digital advertising screen, which measured 7.5m x 3m but which was in a portrait format, so was considerably higher than the current sign. This application was refused due to the size and height of the proposed screen. An appeal was lodged against this refusal and was subsequently allowed on 22 September</p>
--

2016. The appeal decision included the following remarks: "Taken as a whole the area lacks a coherent architectural approach and has a somewhat unplanned and irregular character. Based on the above, I do not consider the area is particularly notable or sensitive in streetscape or amenity terms.....The height, scale and bulk would not be out of keeping with its surroundings which in my view are sufficiently robust to accommodate the hoarding."

With this planning history in mind, this current application relates to the replacement of the other advertisement which is at the western end of the site. The existing sign measures 12m x 3m and is in a landscape format and the proposed replacement digital sign would measure 7.5m x 5m, but would be in a portrait format, so would be significantly taller than the current sign, albeit no higher than the sign at the eastern end of the site, which was allowed on appeal. In addition to the change in scale and format, the new sign would be orientated so as to more directly face the westward travelling road traffic.

The section of the road onto which the sign faces forms part of Transport for London's Road Network. The consultation response received from TfL has confirmed that they have no objection to the principle of a replacement advertisement screen in this location, but they have requested that a number of conditions are imposed. These are similar to those imposed on the January 2016 and September 2016 consents.

As with the consideration of the portrait sign at the eastern end of the site there are concerns that the size and proportions of the new sign will have an adverse impact upon amenity.

Policy DES 8 of the UDP is the main policy relating to advertisements and this indicates that consent will be granted for signs that are well designed and sensitively located within the street scene, but also indicates that consent will not be granted for high level signs.

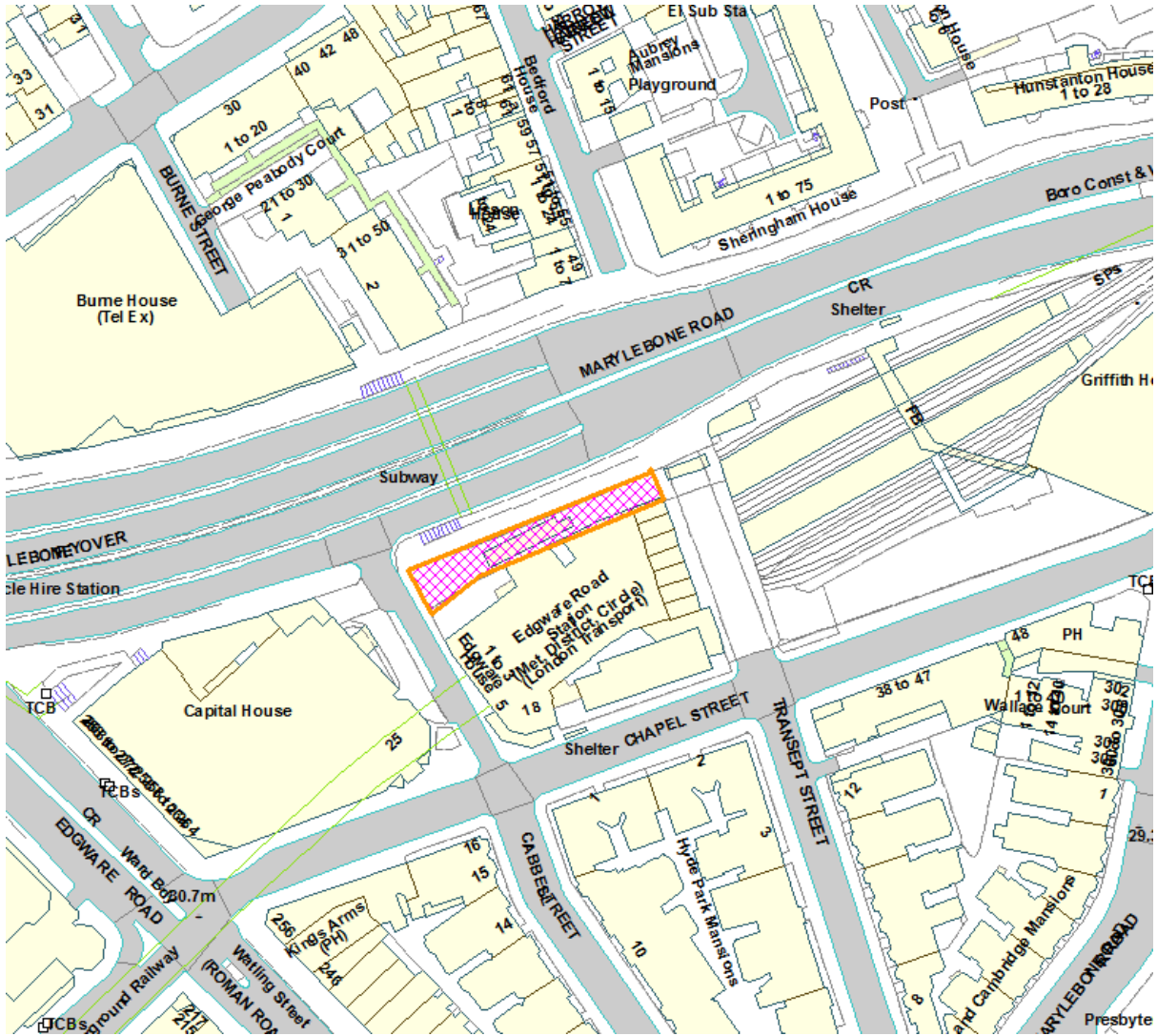
In this case, the existing and approved signs have as their backdrop the buildings to the south, namely the buildings on the south side of Chapel Street and also Capital House to the west and Griffith House to the east. This results in the signs sitting below these background buildings in most of the main views of the signs. By raising the height and changing the proportions of the sign, the proposed new sign will more prominently break above this backdrop and mean that the sign will become far more obtrusive and discordant within the townscape.

However, notwithstanding these concerns, the appeal decision to allow the sign at the eastern end of the site is a material consideration and there are very little differences between the two sites. Thus, with some regret, but on the basis of the analysis of the Planning Inspectorate, it is concluded that the proposal should be considered acceptable, having no adverse impact on amenity.

On the basis of the imposition of certain conditions Transport for London have raised no objection in principle to the advertisement and as such it is considered that the proposal would not raise public safety issues.

It is therefore recommended that conditional consent is granted.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### THE ST MARYLEBONE SOCIETY:

No objection in principle, but would wish to see conditions imposed restricting speed of change to images, no moving images and control of brightness.

### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY:

Objection. Regard the increase in height as being unnecessary and express concerns about highway safety.

### TRANSPORT FOR LONDON - BOROUGH PLANNING:

No objection in principle, subject to imposition of various conditions.

### HIGHWAYS PLANNING – DEVELOPMENT PLANNING:

Consider proposal acceptable on highways safety grounds, subject to the conditions suggested by TfL.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No consultation undertaken.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. RELEVANT PLANNING HISTORY

### 86/05002/ADV

ERECTION OF TWO 96 SHEET ULTRAVISION DISPLAY UNITS

Application Permitted                      4 March 1987

### 15/10677/ADV

Replacement of existing internally illuminated 6mx3m advertising display with an internally illuminated digital advertising unit.

Application Permitted                      26 January 2016

### 16/02445/ADV

Removal of existing internally illuminated 6m x 3m advertising display (landscape format), to be replaced with an internally illuminated digital advertising unit (portrait format) 7.5m x 5m.

Application Refused                      7 June 2016

Allowed on Appeal                      22 September 2016

(See background papers for copy of the appeal decision)

## 7. BACKGROUND PAPERS

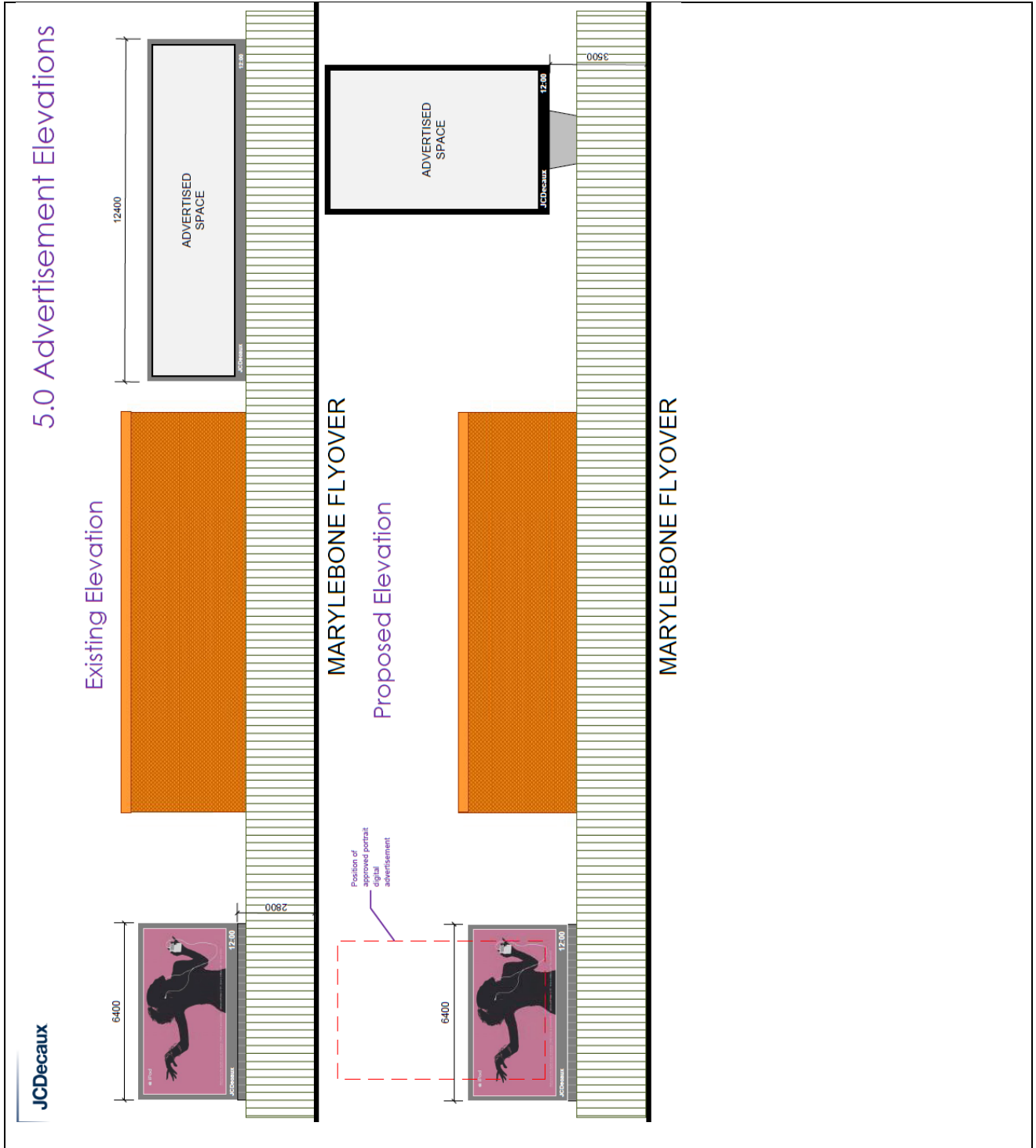
1. Application form
2. Appeal decision 22.09.2016 (16/02445/ADV)
3. Response from The St Marylebone Society, dated 13 December 2016

4. Response from Highways Planning - Development Planning, dated 31 January 2017
5. Response from Transport For London - Borough Planning, dated 1 December 2016
6. Response from Paddington Waterways & Maida Vale Society, dated 9 December 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: SARAH WHITNALL BY EMAIL AT [SWHITNALL@WESTMINSTER.GOV.UK](mailto:SWHITNALL@WESTMINSTER.GOV.UK)

8. KEY DRAWINGS



**DRAFT DECISION LETTER**

- Address:** Marylebone Flyover, London, ,
- Proposal:** Removal of existing internally illuminated 12m x 3m advertising display (landscape format), to be replaced with an internally illuminated digital advertising units (portrait unit) 7.5m x 5m wide.
- Reference:** 16/10855/ADV
- Plan Nos:** A01163 – document titled “Land at Marylebone Flyover / Cabbell Street – Advertising Proposal, Planning Submission”

**Case Officer:** Tom Burke

**Direct Tel. No.** 020 7641 2357

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

- 1 The intensity of the illumination of the digital sign shall not exceed 300cd/m<sup>2</sup> between dusk and dawn.
- Reason:  
In the interests of amenity and public safety.
- 2 The digital sign shall not display any moving, or apparently moving, images.
- Reason:  
In the interests of amenity and public safety.
- 3 The sequential advertisements on the digital sign shall not change more than once every 10 seconds.
- Reason:  
In the interests of amenity and public safety.
- 4 Any sequential change between advertisements on the digital sign will take place over a period no greater than one second.



Reason:

In the interests of amenity and public safety.

- 5 Day time levels of luminance on the digital sign should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within acceptable limits.

Reason:

In the interests of amenity and public safety.

- 6 The footway and carriageway must not be blocked during the installation and maintenance of the signage panel. Temporary obstruction during the installation must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic.

Reason:

In the interests of public safety.

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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