



City of Westminster

# Committee Agenda

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

Meeting Date: **Tuesday 24th January, 2017**

Time: **6.30 pm**

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

Members: **Councillors:**

Andrew Smith (Chairman)  
Christabel Flight  
Barbara Grahame  
Robert Rigby

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

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



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

**Tel: 020 7641 2341; Email: [tfieldsend@westminster.gov.uk](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 Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

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

#### **1. MEMBERSHIP**

To note any changes to the membership.

#### **2. DECLARATIONS OF INTEREST**

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

#### **3. MINUTES**

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

#### **4. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

- |  |                          |
|--|--------------------------|
| <b>1. 73 - 75 GROSVENOR STREET AND 31-33 GROSVENOR HILL, LONDON, W1K 3BQ</b> | <b>(Pages 5 - 36)</b>    |
| <b>2. 67 - 69 BEAK STREET, LONDON, W1F 9SW</b>                               | <b>(Pages 37 - 50)</b>   |
| <b>3. 45 CHESTER SQUARE, LONDON, SW1W 9EA</b>                                | <b>(Pages 51 - 78)</b>   |
| <b>4. 38 GROOM PLACE, LONDON, SW1X 7BA</b>                                   | <b>(Pages 79 - 94)</b>   |
| <b>5. UNITS 1 AND 2, TROCADERO, 13 COVENTRY STREET, LONDON, W1D 7DH</b>      | <b>(Pages 95 - 116)</b>  |
| <b>6. 185-187 OXFORD STREET, LONDON, W1D 2JU</b>                             | <b>(Pages 117 - 130)</b> |
| <b>7. 33 AYBROOK STREET, LONDON, W1U 4AP</b>                                 | <b>(Pages 131 - 152)</b> |
| <b>8. 1 ELGIN AVENUE, LONDON, W9 3PR</b>                                     | <b>(Pages 153 - 164)</b> |

9. PUBLIC HIGHWAY ADJ TO PADDINGTON GREEN  
POLICE STATION, 4 HARROW ROAD, LONDON, W2  
1XJ

(Pages 165 -  
176)

Charlie Parker  
Chief Executive  
Date Not Specified

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# Agenda Annex

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 24th January 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<b>RN NO(s) :</b> 16/09731/FULL 16/09732/LBC  West End	73 - 75 Grosvenor Street And 31-33 Grosvenor Hill London W1K 3BQ	Extension to existing office (Class B1) at rear third, fourth and fifth floors including at Grosvenor Hill, erection of sheer single storey fourth floor extension to front of No.74 Grosvenor Street, replacement of facade and installation of balconies at fourth and fifth floors on Grosvenor Hill, installation of plant rooms at roof levels, terraces and green roofs at fourth floor and fifth floors, and new surfacing to highway fronting Grosvenor Hill. New Substation at front lower ground of No.75 Grosvenor Street.	Kennane and Wendvale Holdings Ltd C/O Stenprop (UK) Ltd
<b>Recommendation</b> 1. Grant conditional permission subject to a S106 legal agreement to secure the following: (a) Payment to Crossrail of £144,685.80 (minus Mayoral CIL) (b) Payment to fund works to the highway at Grosvenor hill to raise the redundant dropped kerb (c) Costs of monitoring the S106 agreement.  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 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. 3. Grant conditional listed building consent 4. 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	Applicant
2.	<b>RN NO(s) :</b> 16/09126/FULL  West End	67 - 69 Beak Street London W1F 9SW	Erection of raised deck enclosed by timber balustrade to third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.	LaSalle Investment Management
<b>Recommendation</b> Grant conditional permission.				
Item No	References	Site Address	Proposal	Applicant
3.	<b>RN NO(s) :</b> 16/08638/FULL 16/08639/LBC  Knightsbridge And Belgravia	45 Chester Square London SW1W 9EA	Variation of Conditions 1 and 6 of planning permission and condition 1 of listed building consent both dated 15 December 2011 (RNs: 11/07657/FULL and 11/07659/LBC) for demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level, formation of new basement beneath mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square, construction of a four storey lift shaft extension to the rear of 45 Chester Square, installation of mechanical plant within the front basement vaults with associated louvred doors, infill extension to rear lightwell, rebuilding of part rear facade associated internal alterations to 45 Chester Square. Namely, provision of roof terrace with railings on roof of 44 Ebury Mews	Pangea Holdings

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 24th January 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

			with access via doors in rear elevation of 45 Chester Square.	
<b>Recommendation</b> 1. Grant conditional permission and conditional listed building consent. 2. Agree the reasons for granting listed building consent as set out within informative 1 of the draft decision letter.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
4.	<b>RN NO(s) :</b> 16/11438/FULL  Knightsbridge And Belgravia	38 Groom Place London SW1X 7BA	Removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) for: Use from Class A1 (Delicatessen) to Class A3 (Restaurant) and alterations to ground floor windows. Namely, to enable a delivery service to be provided at the restaurant premises.	Mr Carlo Tambini
<b>Recommendation</b> Refuse permission – impact on residential amenity, impact on character and appearance of the Belgravia Conservation Area.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
5.	<b>RN NO(s) :</b> <b>Application 1:</b> 16/10435/FULL <b>Application 2:</b> 16/10799/FULL 16/10800/LBC <b>Application 3:</b> 16/10808/ADV  St James's	Units 1 And 2 Trocadero 13 Coventry Street London W1D 7DH	1. Use of ground floor as a restaurant (Class A3) 2. Installation of extraction/ventilation equipment, internal restaurant fit out works and shopfront alterations and signage 3. Display of internally illuminated fascia sign measuring 0.20m X 1.61m and externally illuminated hanging sign measuring 0.73m X 0.77m	Five Guys JV Limited
<b>Recommendation</b> Application 1 - refuse permission - loss of retail floorspace.  Application 2 and 3 - grant conditional permission, listed building and advertisement consent				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
6.	<b>RN NO(s) :</b> 16/09880/FULL  West End	185-187 Oxford Street London W1D 2JU	Use of part of the ground floor, the first, second, third and fourth floors as restaurant/hot food takeaway (sui generis) in connection with the existing restaurant/hot food takeaway on the lower levels.	McDonald's Restaurants Ltd.
<b>Recommendation</b> Grant conditional permission				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
7.	<b>RN NO(s) :</b> 16/09845/FULL	33 Aybrook Street London W1U 4AP	Erection of a rear single storey extension at first floor level, erection of a dormer window within rear roofslope to enable the conversion of the attic space to create a new fourth floor and use of enlarged	Oakwell Business Investment Ltd

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS COMMITTEE – 24th January 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Marylebone High Street		building as a composite use comprising public house with associated dining and office facilities on basement, ground and part first floor together with guest accommodation over front first and second, third and new fourth floors (sui generis). Installation of replacement plant at rear ground floor level and installation of replacement full height extract duct to rear elevation.	
<b>Recommendation</b> Grant conditional permission				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
8.	RN NO(s) : 16/10632/FULL  Harrow Road	1 Elgin Avenue London W9 3PR	Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.	Julie Bundy
<b>Recommendation</b> Grant conditional permission for a temporary period of one year.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
9.	RN NO(s) : 16/08497/FULL  Little Venice	Public Highway Adj To Paddington Green Police Station 4 Harrow Road London W2 1XJ	Public art installation of two pieces by John Aiken measuring 180 x 220 x 120 (LxWxH) cm and 240 x 190 x 140 (LxWxH) cm to be sited on highway in front of Paddington Green Police Station for a temporary period.	Transport for London
<b>Recommendation</b> Grant conditional permission for a temporary period of one year.				

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# Agenda Item 1

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 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>73 - 75 Grosvenor Street And 31-33 Grosvenor Hill, London, W1K 3BQ</b>		
<b>Proposal</b>	Extension to existing office (Class B1) at rear third, fourth and fifth floors including at Grosvenor Hill, erection of mansard roof extension to create new fourth floor to No.74 Grosvenor Street, replacement of facade and installation of balconies at fourth and fifth floors on Grosvenor Hill, installation of plant rooms at roof levels, and terraces and green roofs at fourth floor and fifth floors. New Substation at front lower ground of No.75 Grosvenor Street.		
<b>Agent</b>	GL Hearn		
<b>On behalf of</b>	Kennane and Wendvale Holdings Ltd		
<b>Registered Number</b>	16/09731/FULL 16/09732/LBC	<b>Date amended/ completed</b>	19 October 2016
<b>Date Application Received</b>	12 October 2016		
<b>Historic Building Grade</b>	Nos. 73 and 74 Grosvenor Street: Grade II Listed		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

1. Grant conditional permission subject to a S106 legal agreement to secure the following:
  - (a) Payment to Crossrail of £144,685.80 (minus Mayoral CIL)
  - (b) Payment to fund works to the highway at Grosvenor hill to raise the redundant dropped kerb
  - (c) Costs of monitoring the S106 agreement.
  
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 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.

3. Grant conditional listed building consent.
4. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site comprises of four buildings: 73, 74 and 75 Grosvenor Street and 31-33 Grosvenor Hill, which are all connected internally and in office (Class B1) use. Nos. 73 and 74 are Grade II listed. The site is located within the Core Central Activities Zone (CAZ) and the Mayfair Conservation Area.

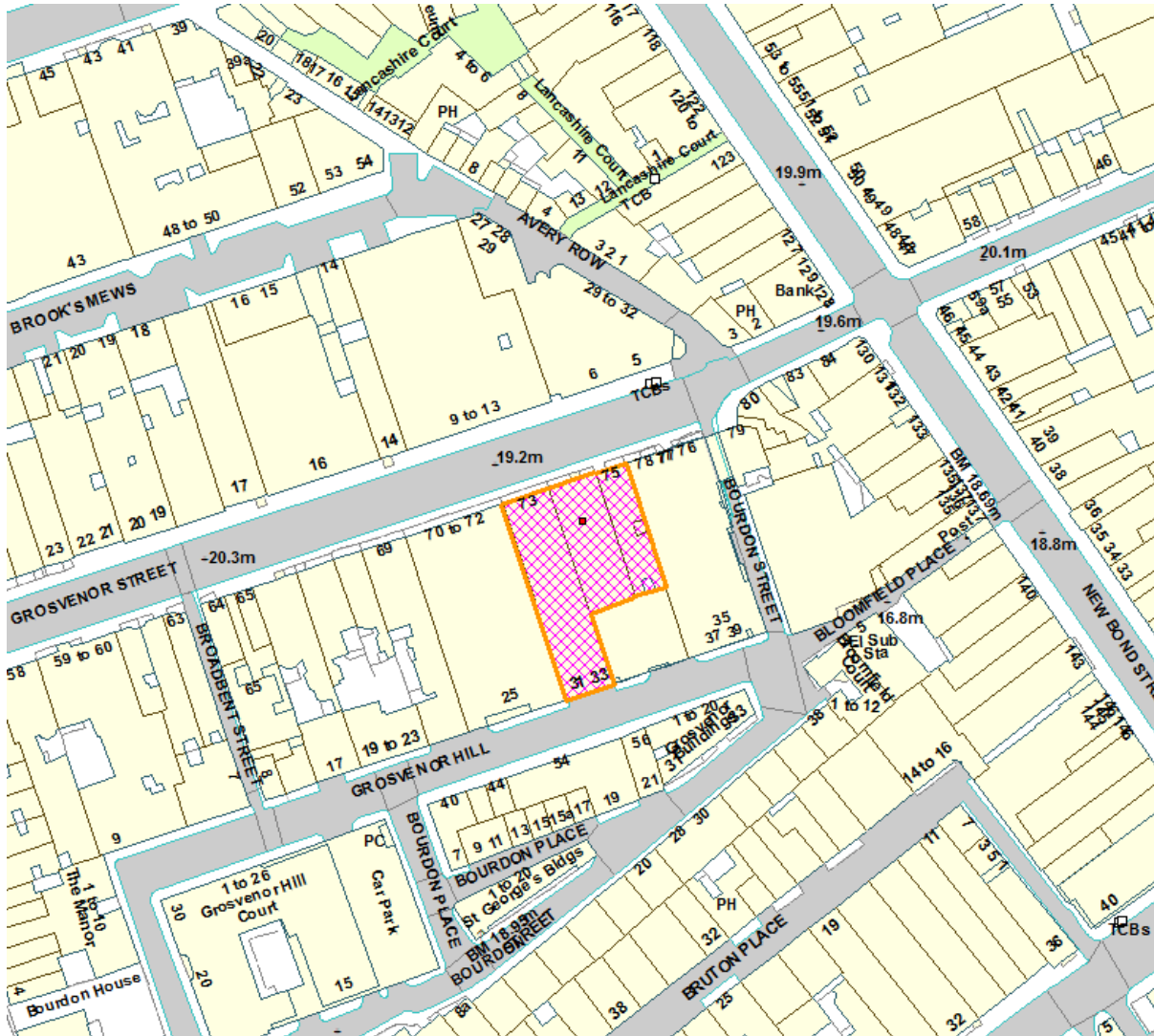
It is proposed to extend the existing office (Class B1) through enlarging the building at the rear third, fourth and fifth floors including at Grosvenor Hill and by erecting a mansard roof extension to No.74 Grosvenor Street. It is also proposed to replace the Grosvenor Hill facade and install balconies at fourth and fifth floors on this frontage and create plant rooms at roof levels. The proposals also include terraces and green roofs at fourth floor and fifth floors, and a new substation to be installed in the front lower ground of No.75 Grosvenor Street.

The key issues for consideration are:

- The impact of the proposed terraces on residential amenity;
- The impact of the proposed plant on residential amenity; and
- The impact of the proposals on the special interest of the listed buildings and the character and appearance of the Mayfair conservation area.

The provision of additional office space in this location is acceptable in principle and there is no requirement for residential provision under the City Council's mixed use policy. The proposed alterations and extensions are not considered to be harmful to the special interest of the listed buildings or the character and appearance of the Mayfair Conservation Area. The proposal will also not result in any material harm to the amenity of adjoining residents. For these reasons, the proposal is considered acceptable in land use, design, conservation and amenity terms, complying with the policies set out in the Unitary Development Plan (UDP) and the Westminster City Plan. For these reasons it is recommended that conditional planning permission be granted subject to a legal agreement securing the items listed within Section 8.10 of this report.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

View of Grosvenor Street frontages (Top). View of Grosvenor Hill frontage (Bottom)



## 5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S  
Any response to be reported verbally.

ENVIRONMENTAL HEALTH  
No objection subject to conditions.

HIGHWAYS PLANNING  
No objection subject to conditions.

CLEANSING  
No objection subject to a condition.

HISTORIC ENGLAND  
Authorised to determine the application as the City Council sees fit.

TWENTIETH CENTURY SOCIETY  
Any response to be reported verbally.

THE VICTORIAN SOCIETY  
Any response to be reported verbally.

ANCIENT MONUMENTS SOCIETY  
Any response to be reported verbally.

COUNCIL FOR BRITISH ARCHEOLOGY  
Any response to be reported verbally.

SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS  
Any response to be reported verbally.

THE GEORGIAN SOCIETY  
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED  
No. Consulted: 60  
Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site is located within the Core Central Activities Zone (CAZ) and the Mayfair Conservation Area. The site comprises of four buildings: 73, 74 and 75 Grosvenor Street and 31-33 Grosvenor Hill, which are all connected internally and in office (Class B1) use. Nos. 73 and 74 are Grade II listed.

## 6.2 Recent Relevant History

A certificate of lawful use (existing) was issued on 28 September 2016 (Ref: 16/07810/CLEUD) for the use of parts of the third and fourth floors of 73 Grosvenor Street and the third floor of 31-33 Grosvenor Hill as offices (Class B1).

## 7. THE PROPOSAL

Planning permission and listed building consent (for 73 and 74 Grosvenor Street) are sought for the extension of the existing office (Class B1) at rear third, fourth and fifth floors including at Grosvenor Hill, the erection of a mansard roof extension to No.74 Grosvenor Street, replacement of the facade and installation of balconies at fourth and fifth floors on Grosvenor Hill, installation of plant rooms at roof levels, and terraces and green roofs at fourth floor and fifth floors. A new substation will also be installed in the front lower ground of No.75 Grosvenor Street.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Increase in Office Floorspace

Policy S20 of the City Plan identifies the need for significant additional office floorspace (Class B1) within Westminster to retain and enhance Westminster's strategic role in London's office sector and support London's global competitiveness. The Core CAZ is identified as a suitable location for office floorspace in Policies S6 and S20 of the City Plan as it contributes to the unique and varied mixed use character of the Core CAZ which will ensure the continued vitality, attraction and continued economic success of Central London. The provision of additional office floorspace in this location is therefore acceptable in principle.

#### Mixed Use Policy

City Plan Policy S1 sets out the circumstances in which development proposals which include an increase in Class B1 office floorspace trigger a requirement to provide new residential accommodation. As the net increase in office floorspace (1033.47sqm GIA) is less than 30% of the total existing building floorspace (24% of 4302.3sqm GIA), no residential offset is required to offset the increase in office floorspace.

### 8.2 Townscape and Design

The proposals comprise three main parts. The redevelopment to the rear of 73-75 Grosvenor Street, the works to the roofs of all three properties and the demolition and redevelopment of 31-33 Grosvenor Hill.

The structure behind 74, whilst historic, dates from around 1890 and much later than the Georgian main building. It has no historic fabric remaining internally and has been extensively modernised. There is a secondary staircase of some interest to the rear which is being retained. The principle of redeveloping this structure is therefore acceptable in principle provided the replacement structure is appropriate in terms of its height to ensure it remains subservient to the main listed building. In terms of detailed design, whilst contemporary, it is considered contextual and is nevertheless bounded by taller buildings on all sides, including the Grosvenor offices which are overtly modern. The new development will pull back existing later additions from the rear of the listed properties which is of some benefit despite the general lack of historic detail in this area. New sash windows and other details will also lift these rear areas, the benefit of which assists with offsetting the impact of the new atrium roof and link bridges.

The atrium and link bridges are the most contentious element of the proposals. The lightweight atrium structures are proposed to sit a storey below the parapet height of the rear of the listed building, reducing its visual impact in longer views. The link bridges are in steel and glass and, whilst totally contemporary, the lack of existing historic detail in this area reduces the potential for harm. In summary, the atrium and link bridges taken as a whole with the restoration of traditional details and the removal of harmful structures result in a neutral impact on the special interest of No.74 and would not harm the character and appearance of the surrounding conservation area. The atrium will be partially visible in private views from the rear of surrounding properties, most of which are in commercial use.

The roof extension to no. 74 seeks to remove a roof which has a traditional shape but is constructed entirely from modern materials having been rebuilt at some stage in the post war era. The shadow of the previous M shape roof is visible, signifying a recent rebuild. The construction of a mansard would result in the loss of a traditional roof form but no historic fabric. Historic England raises some concern in respect to the proposed roof extension on the grounds of a loss of a historic roof form but has issued the City Council will authorisation to determine the application as it sees fit despite these concerns. The roofs to either side of no. 74 have both been extended, the roof at 75 being rebuilt in modern timbers and internal steels. A mansard on 74 would not therefore cause harm to a series of traditional roofs and is therefore considered to be compliant with UDP Policy DES 6. The new mansard is traditionally detailed and appropriately proportioned. The roof to No. 73 is already a modern mansard of limited historic interest and will accommodate a new louvered section at its peak as well as the dormer cills being lowered to match those being installed in 74. The visual hierarchy with the lower floors is maintained. The plant will be hidden in an enclosed valley within the mansards, as required in Westminster guidance on Roofs.

No. 75 is not listed and the works to the rear extend an existing atrium that already encroaches into the curtilage of 74 next door. The detailing of this work is acceptable. At roof level there is an existing mixture of poorly detailed plant, enclosures and exposed metal work which will be removed and replaced with a large plant enclosure to encompass much of the servicing of the new office space for all three buildings. This new enclosure will be slightly lower than the existing and is acceptable.

The Grosvenor Hill part of the scheme entails the demolition of much of the existing building. The proposed scheme results in a more sympathetic and less idiosyncratic

treatment in a contemporary palette. The existing building is six storeys and an extra storey plus a plant room is proposed which will be stepped back from the street frontage. The extra storey is acceptable in this instance as it is enclosed by large buildings. The plant enclosure is small and set even further back, not reading as an extra storey from street level or even in longer views. Due to the front elevation improvements and the relative quality of the new design this extra height can be accommodated in this instance.

Internally both no.74 and 75 have undergone a great deal of unsympathetic modernisation, with a particularly aggressive removal of internal plasterwork, fireplaces and floor coverings at ground, first and second floors in both properties. Only the reception spaces survive largely intact and it is proposed to remove some unsympathetic additions from these rooms which is welcome. There are some surviving fireplaces of unknown provenance. It is not clear if any are original. Historic partitions and lath and plaster ceilings survive only at the 3<sup>rd</sup> floor and above along with some very basic fireplaces in various states of whole or partial survival. The applicant proposes to install, refurbish and enhance historic fireplaces or copies throughout both buildings. Details are proposed to be secured by condition. The entrance hall flooring, whilst appearing quite radical, is in fact of a historic design that would have been familiar from the early 1740s and later, being appropriate for this building. There are surviving historic windows and shutters throughout which are being retained and refurbished. Details of this will also be requested by condition. A boxed in fragment of what appears to be the original Georgian basement stair in no.74 was recently uncovered and its treatment will also be conditioned.

### 8.3 Residential Amenity

Policy S29 of the City Plan relates to health, safety and wellbeing and states that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP aims to safeguard residents' amenities, and states that the City Council will resist proposals which result in a material loss of daylight/sunlight, increase in the sense of enclosure to windows or loss of privacy or cause unacceptable overshadowing to neighbouring buildings or open spaces.

#### Sunlight and Daylight

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used.

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. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change.

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH) where the total APSH is 1486 hours in



London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. If the level of sunlight received is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, then the loss would be noticeable. Only those windows facing within 90 degrees of due south require testing.

A daylight and sunlight report has been submitted as part of the application which assesses the impact of the development on residential properties at 1 – 20 Grosvenor Buildings (on Grosvenor Hill), 56 Grosvenor Hill and 21 Bourdon Street. The report does not assess any of the other neighbouring buildings as these have not been identified as being in residential use. Council records support this claim and indicate they are in commercial use. The Council does not seek to protect amenity for commercial uses except in specific circumstances.

The report demonstrates that a number of windows at the surrounding properties will experience small losses in daylight. The maximum loss in VSC is 9%; well below the 20% threshold above which losses in daylight are noticeable. The losses in APSH and APSH during the winter months are all also very small on the few windows measured; most of the assessed windows are north facing. The report demonstrates that all windows and rooms in the surrounding tested properties will be fully compliant with BRE guidelines for daylight and sunlight with the proposal in place.

### **Overlooking**

The proposed new façade to Grosvenor Hill and additional storeys will provide terraces at fourth, fifth and sixth floor levels on this frontage. The existing Grosvenor Hill façade includes small balconies at first, second and third floor levels which extend past the face of the building. While the new terraces are larger than the existing balconies, they are all set behind the new façade and step back at each subsequent floor. The increased in distance from the closest residential properties (56 Grosvenor Hill) and set back and stepping nature of the balconies is considered to be an improvement on the existing arrangement of balconies. As a result it is not considered that the new terraces on the Grosvenor Hill elevation will cause a material increase in overlooking for nearby residential properties.

There are two new terraces proposed at fourth floor which do not overlook the roads surrounding the site. These are between no. 73 Grosvenor Street and 31-33 Grosvenor Hill and the other at the rear of no. 75 Grosvenor Street. The new terrace between the Grosvenor Street/Grosvenor Hill properties will look across the new enlarged lightwell which overlooks the service core of the neighbouring office building at no. 70-72 Grosvenor Street. The new terrace behind no. 75 will overlook commercial premises at no.77 Grosvenor Street. The Council does not protect commercial premises from the impacts of overlooking, except in specific circumstances, so these two terraces are not considered to pose an issue.

The application is considered acceptable in amenity terms and in compliance with policies S29 of the City Plan and ENV13 of the UDP.

## 8.4 Transportation/Parking

The Highways Planning Manager has assessed the application and addressed a number of topics.

### Car Parking

No car parking is provided as part of the development. The site is located within a Controlled Parking Zone and has a good level of public transport accessibility. Given the above, the use of the site and its size, it is considered that the proposal is highly unlikely to have a significant impact on on-street parking in the area.

### Grosvenor Hill Kerb

On the existing Grosvenor Hill elevation, there is an area accessed via a roller shutter door. The area is small and appears to have been used for waste storage in the recent past. Historical applications indicate that this was original a garage area linked to residential units on the site. These residential units have not been present on the site for at least the past 10 years. The proposed new Grosvenor Hill elevation does not incorporate any areas for vehicle or waste storage.

The Highways Planning Manager has advised that, as this area is no longer used for vehicular access, the redundant dropped kerb which allowed access to the garage area should ideally be raised. The applicant has confirmed that it is willing to fund these works and this is proposed to be secured by legal agreement.

### Servicing

No off-street servicing is provided as part of the application. The site is located within a Controlled Parking Zone, which means that locations that have single and double yellow lines (without double kerb blips) in the vicinity allow loading and unloading to occur. The largest regular service vehicle expected to be associated with a development in this location is the refuse collection vehicle and the servicing requirements are unlikely to alter significantly. However, given the overall size of the site, the Highways Planning manager has recommended that a Service Management Plan should be secured through condition. This would ensure the impact on the public highway is kept to a minimum and does not cause an obstruction or a danger to highway users. While an indicative Service Management Plan has been provided, insufficient information is available at this time due to the final occupier of the building not having been secured. A fully detailed Service Management Plan is recommended to be secured by condition.

### Cycle Parking

Cycle parking helps to encourage staff away from less sustainable transport modes. Under the London Plan, B1 floorspace requires 1 cycle parking space per 90m<sup>2</sup>. This proposal would require at least 11 cycle parking spaces. The proposal demonstrates provision of 36 cycle spaces within the lower ground floor. The number of spaces provided

is excellent and more than satisfies the requirements of the London Plan in this aspect. These spaces will be secured through condition.

### **8.5 Economic Considerations**

The economic benefits of a more intensive use of the site as a result of the increase in office floorspace and resulting increase in jobs is noted and are welcome.

### **8.6 Access**

The access arrangement on Grosevnor Street will remain unchanged but level access from Grosvenor Hill will be provided which is acceptable.

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

#### **Plant**

The proposed scheme includes two plant rooms at roof level, one at no. 75 and one within the proposed new roof of no. 74. An acoustic report has been submitted in support of the application which details existing background noise levels. Environmental Health has assessed this and confirmed that the calculated noise levels of the proposed plant are likely to comply with the conditions set out by the Council. As such, they have raised no objection to the application subject to appropriate noise conditions which requires all plant to operate at a level 10dB below background noise levels. However, as the plant has not been specified in the report, Environmental Health has recommended that a supplementary acoustic report be secured through condition to demonstrate the selected plant is compliant with the Council's noise criteria.

#### **Refuse /Recycling**

The initial waste storage shown was identified as not being adequate for the proposal by the Council's waste officer. Following revisions and the submission of further details regarding waste arrangements and management, there is now no objection subject to condition securing the proposed waste storage and that no waste shall be left or stored on the highway.

#### **Biodiversity**

The scheme incorporates two green roofs, one at fifth floor behind 74/75 Grosvenor Street and one at fourth floor between no. 73 Grosvenor Street and 31-33 Grosvenor Hill. These elements are welcomed and accord with Policies S38 of the City Plan and ENV17 of the UDP which both encourage the enhancement of biodiversity and green infrastructure. These features will be secured through condition.

## 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

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which makes it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, if the obligation does not meet all of the following three tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The draft 'Heads' of agreement are proposed to cover the following issues:

- o Payment to Crossrail of £144,685.80 (minus Mayoral CIL)
- o Payment to fund works to the highway at Grosvenor Hill to raise the redundant dropped kerb

The total estimated CIL payment is: £ 284,406.47.

- o £66,271.84 of this is Mayoral CIL
- o £218,134.63 of this is Westminster CIL.

## 8.11 Environmental Impact Assessment

Not applicable

## 8.12 Other Issues

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 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 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.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Environmental health (Major Redevelopments And Infrastructure), dated 02 November 2016
3. Response from Environmental Health (Major Redevelopments And Infrastructure), dated 02 December 2016
4. Response from Cleansing, dated 09 November 2016
5. Response from Cleansing, dated 02 December 2016
6. Response from Highways Planning, dated 21 December 2016
7. Two Response from Historic England, both dated 08 November 2016

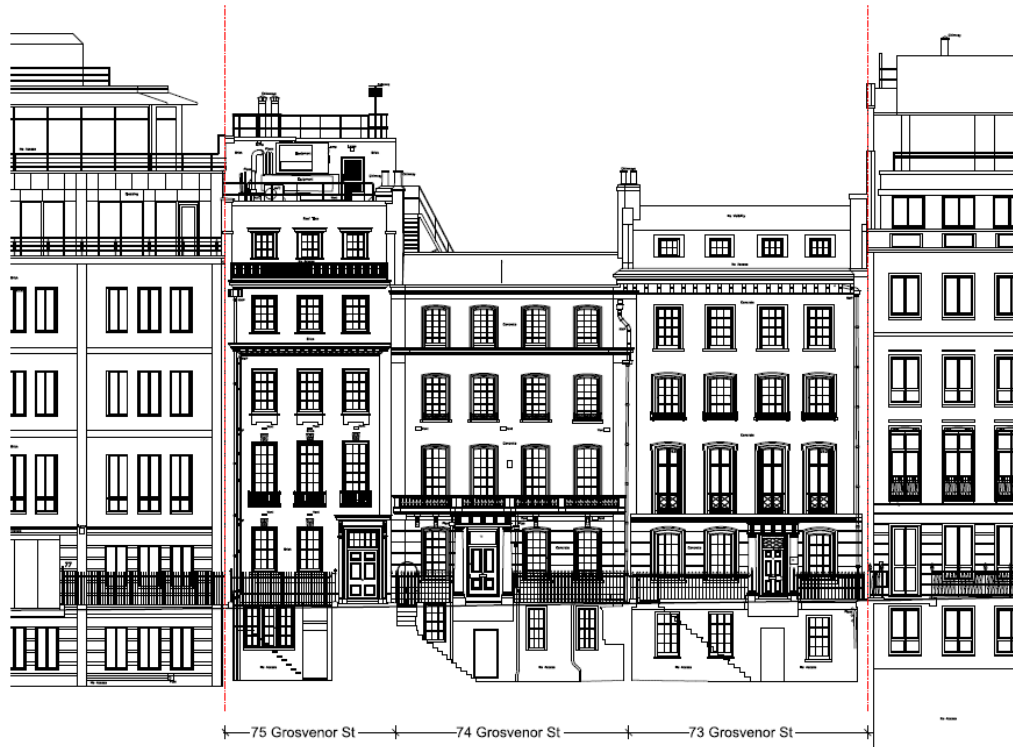
### **Selected relevant drawings**

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

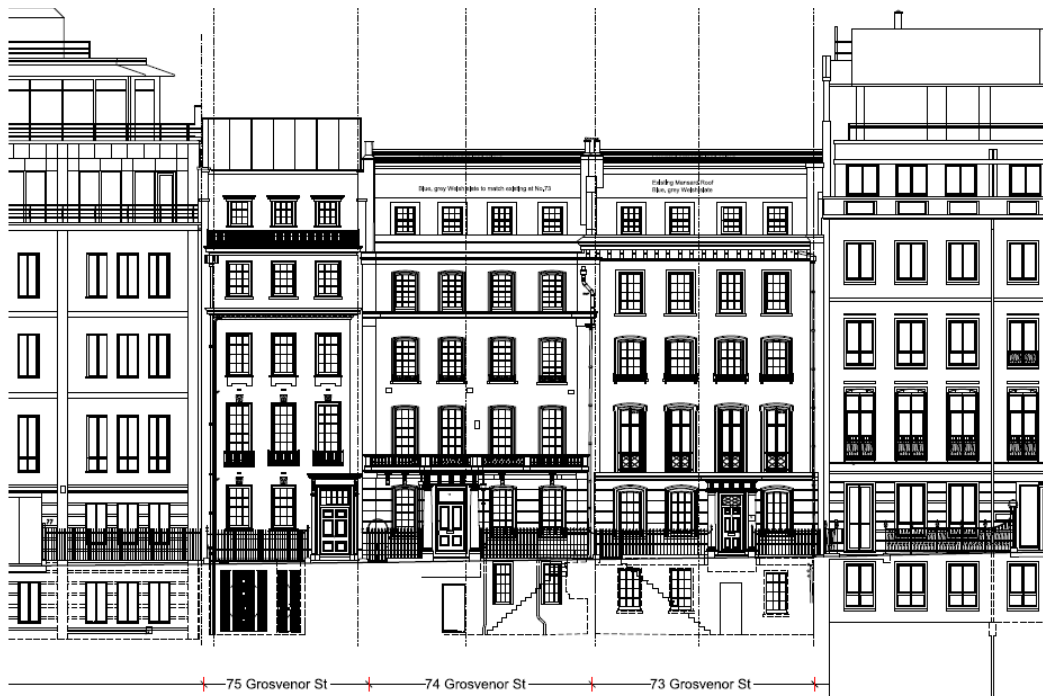
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

10. KEY DRAWINGS

Existing (top) and proposed (bottom) Grosvenor Street Elevations



01 Existing Front Elevation  
scale - 1/100 @ A1



01 Proposed Front Elevation  
scale - 1/100 @ A1

Existing (left) and proposed (right) Grosvenor Hill Elevations

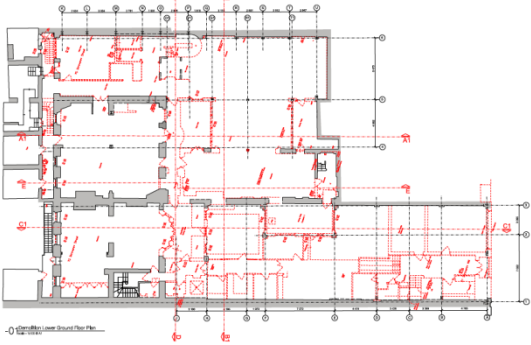


Visualisation of Proposed Grosvenor Hill Elevation (Right)

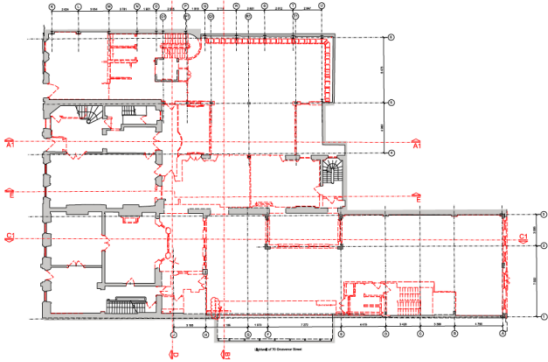


Existing/Demolition Floor Plans

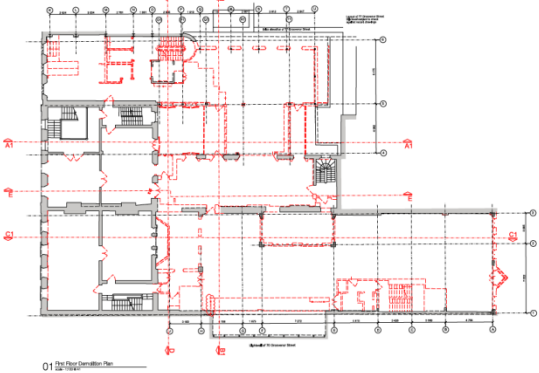
Lower Ground Floor



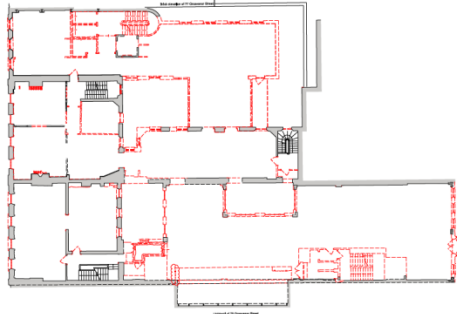
Ground Floor



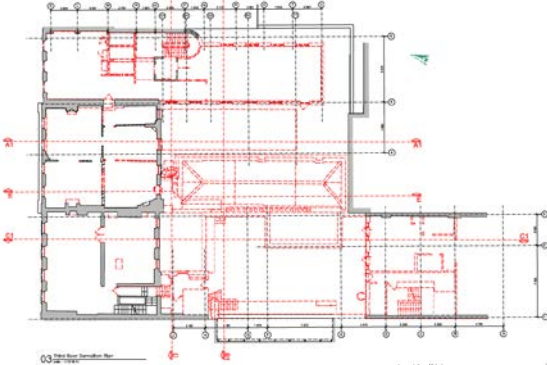
First Floor



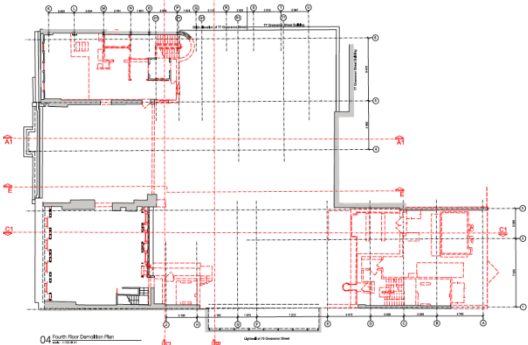
Second Floor



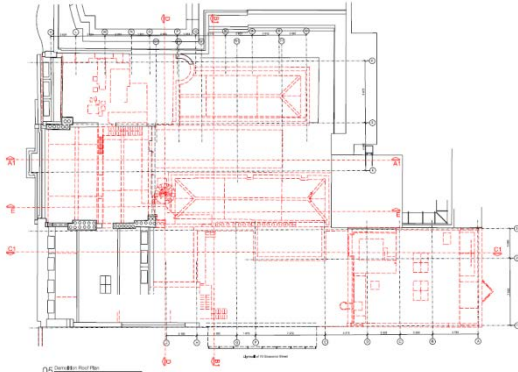
Third Floor



Fourth Floor



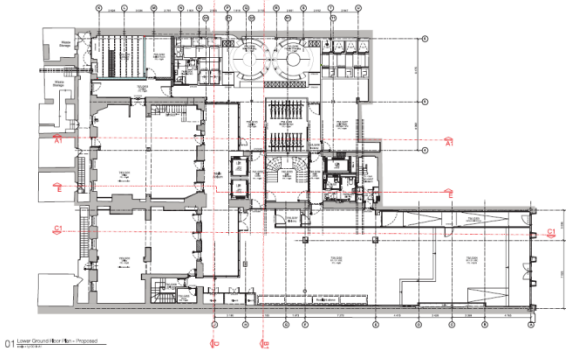
Roof





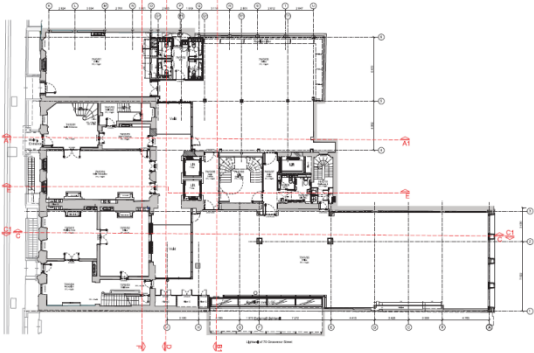
**Proposed Floor Plans**

Lower Ground Floor



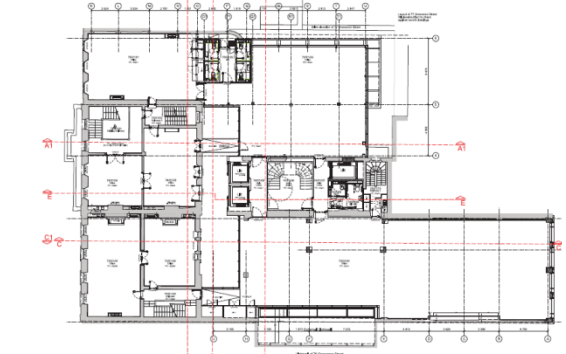
01 Lower Ground Floor - Proposed

Ground Floor



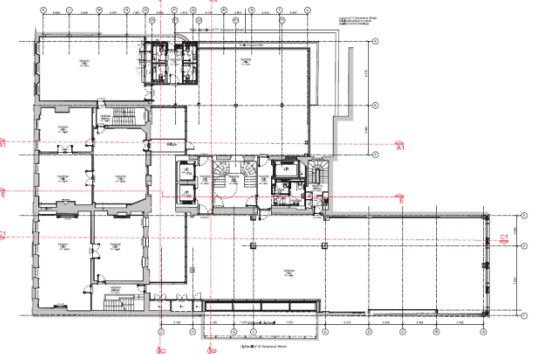
01 Ground Floor - Proposed

First Floor



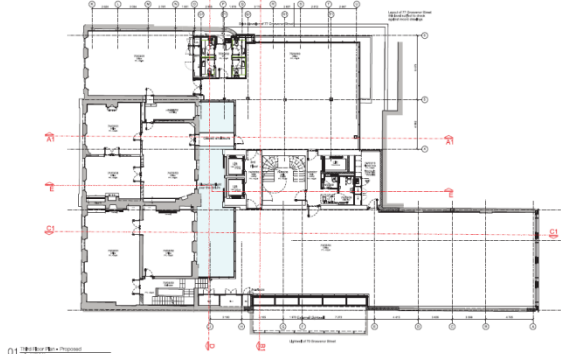
01 First Floor - Proposed

Second Floor



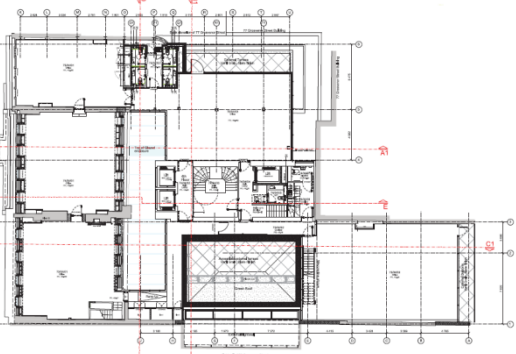
01 Second Floor - Proposed

Third Floor



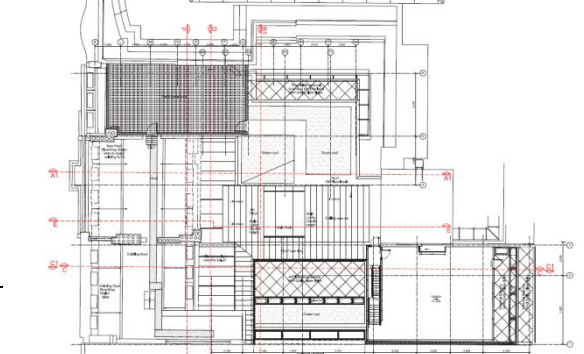
01 Third Floor - Proposed

Fourth Floor



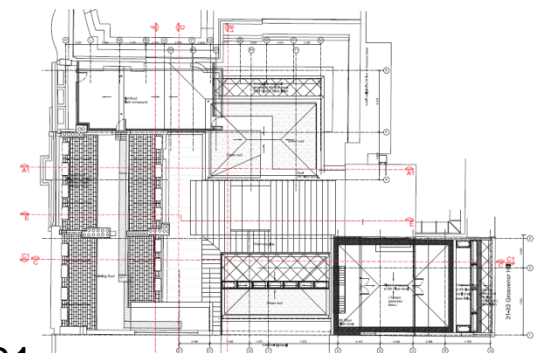
01 Fourth Floor - Proposed

Fifth Floor



01 Fifth Floor - Proposed

Roof

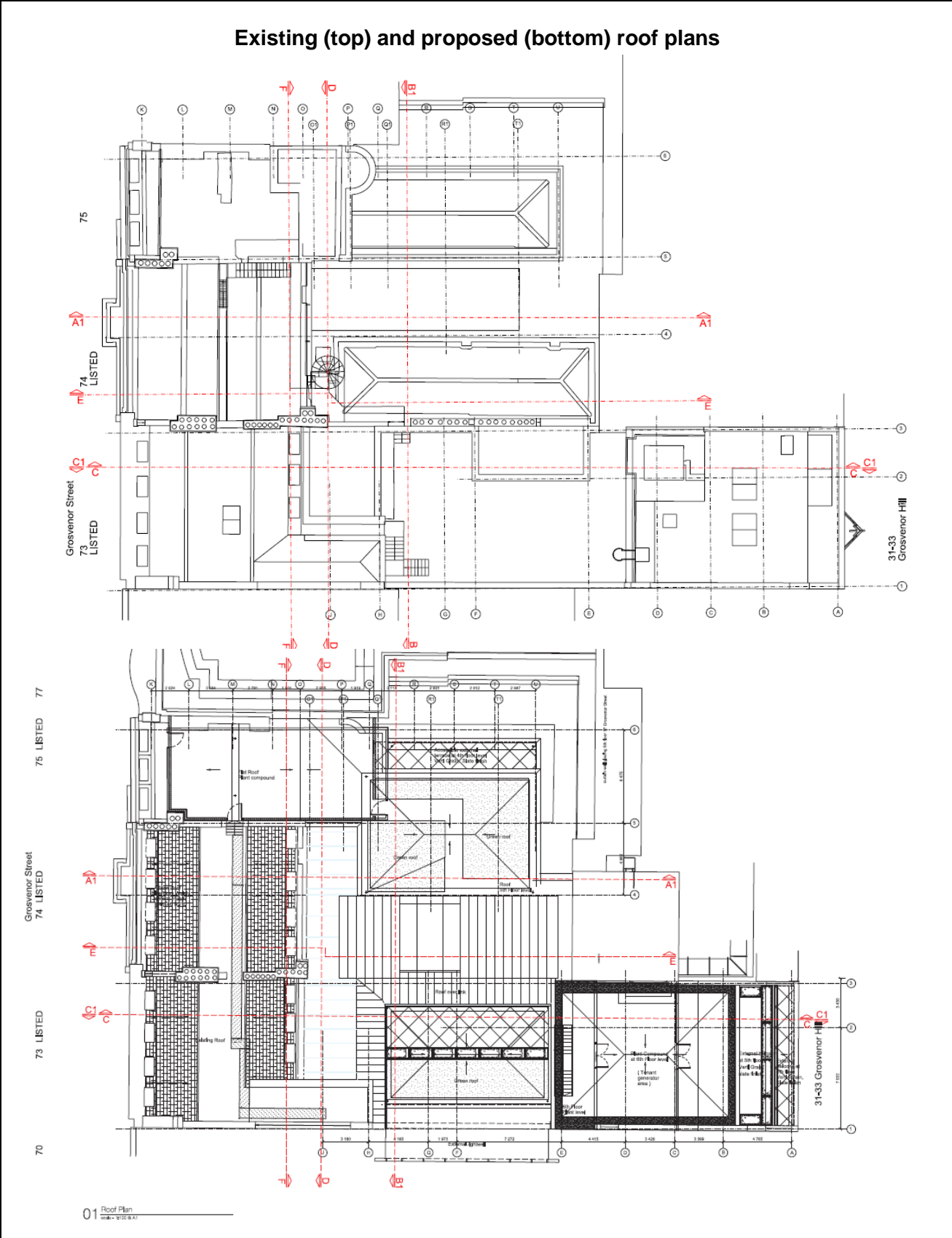


01 Roof - Proposed

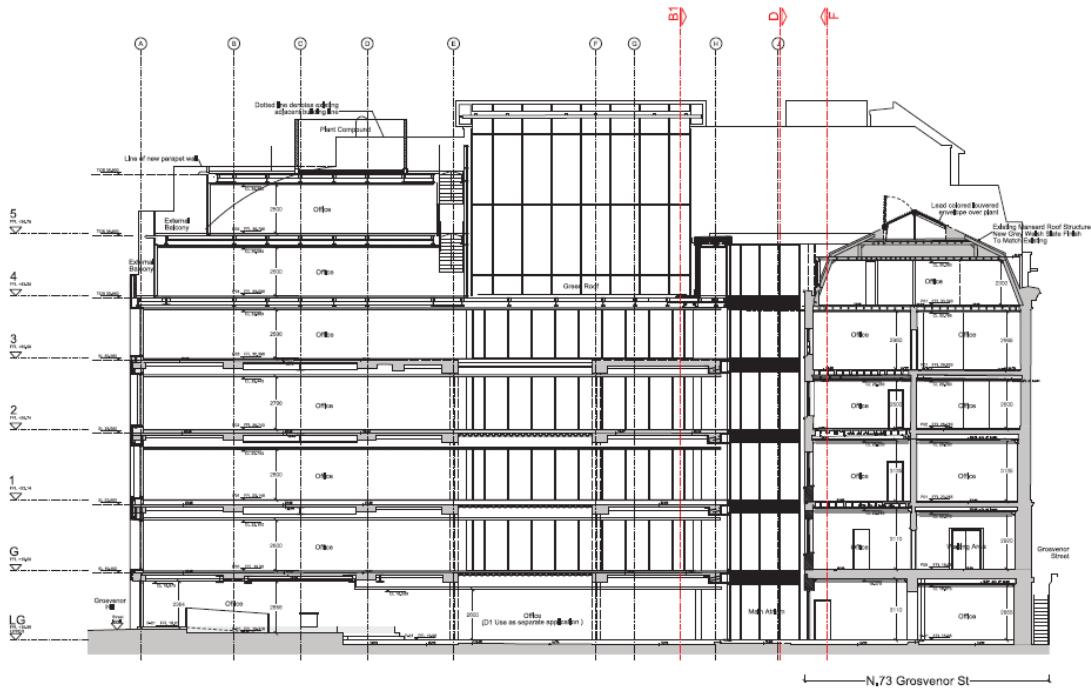
**Existing (top) and proposed (bottom) Lower Ground Floor**



Existing (top) and proposed (bottom) roof plans

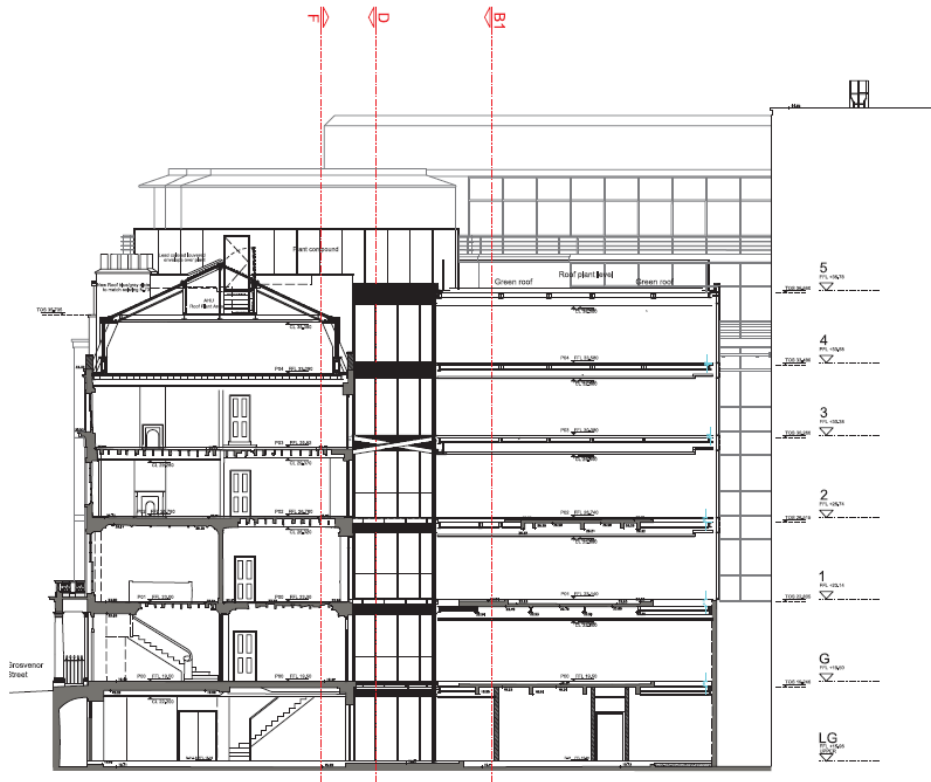


**Existing (top) and proposed (bottom) Section C1 – Through No.73 Grosvenor Street and 31-33 Grosvenor Hill**



01 Proposed Section C1 through No 73 and 31-33 Grosvenor Hill  
Scale: 1/8" = 1'-0" @ A1

**Existing (top) and proposed (bottom) Section A1 - Through No.74 Grosvenor Street**



**Existing (top) and proposed (bottom) Section D – Rear of Grosvenor Street properties**



**DRAFT DECISION LETTER – PLANNING PERMISSION**

**Address:** 73 - 75 Grosvenor Street And 31-33 Grosvenor Hill, London, W1K 3BQ,

**Proposal:** Extension to existing office (Class B1) at rear third, fourth and fifth floors including at Grosvenor Hill, erection of sheer single storey fourth floor extension to front of No.74 Grosvenor Street, replacement of facade and installation of balconies at fourth and fifth floors on Grosvenor Hill, installation of plant rooms at roof levels, terraces and green roofs at fourth floor and fifth floors, and new surfacing to highway fronting Grosvenor Hill. New Substation at front lower ground of No.75 Grosvenor Street.

**Reference:** 16/09731/FULL

**Plan Nos:** Demolition Drawings:  
050\_60 Rev. A ; 050\_61 Rev. A ; 050\_62 Rev. A ; 050\_63 Rev. A ; 050\_64 Rev. A ;  
050\_65 Rev. A ; 050\_66 Rev. A ; 050\_50 Rev. A ; 050\_68 Rev. A ; 050\_69 Rev. A ;  
050\_70 Rev. A

Proposed Drawings:  
050\_30 Rev. L ; 050\_31 Rev. I ; 050\_32 Rev. H ; 050\_33 Rev. H ; 050\_34 Rev. I ;  
050\_35 Rev. I ; 050\_36 Rev. H ; 050\_37 Rev. G ; 050\_38 Rev. F ; 050\_39 Rev. F ;  
050\_40 Rev. F ; 050\_46 Rev. G ; 050\_47 Rev. D ; 050\_48 Rev. A ; 050\_49 Rev. B ;  
050\_50 Rev. B ; 050\_51 ; 050\_52 ; 050\_80

**Case Officer:** Adam Jones

**Direct Tel. No.** 020 7641 1446

**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 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 Mayfair 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)

- 4 You must apply to us for approval of annotated photos of material 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 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 Mayfair 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)

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 8 You must provide the waste store shown on drawing 050\_30 Rev. L before occupation of the additional office floorspace hereby approved. You must clearly mark it and make it available at all times to everyone using the offices. 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)

- 9 You must provide each cycle parking space shown on the approved drawings prior to occupation of the additional office floorspace hereby approved. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 10 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 You must not occupy the extended office (B1) floorspace hereby approved until an Operational Management Plan, incorporating a Servicing Management Plan, has been submitted to and approved by the City Council which includes details of schedule and hours of delivery, storage

locations, emergency procedures and measures to manage visitors. You must then carry out the measures included in the servicing management plan at all times for the life of the development.

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)

- 12 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application.

The green roofs

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)

- 13 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)

**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 will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 3 Conditions 5 and 7 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 4 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.
- 5 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)
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 7 The term 'clearly mark' in condition 8 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 8 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)

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.

**DRAFT DECISION LETTER – LISTED BUILDING CONSENT**

**Address:** 73 - 75 Grosvenor Street And 31-33 Grosvenor Hill, London, W1K 3BQ

**Proposal:** Extensive redevelopment to rear of No. 73 and 74 Grosvenor Street, erection of mansard roof extension to No. 74 Grosvenor Street and internal alterations to all floor levels.

**Reference:** 16/09732/LBC

**Plan Nos:** Demolition Drawings:  
050\_60 Rev. A ; 050\_61 Rev. A ; 050\_62 Rev. A ; 050\_63 Rev. A ; 050\_64 Rev. A ;  
050\_65 Rev. A ; 050\_66 Rev. A ; 050\_50 Rev. A ; 050\_68 Rev. A ; 050\_69 Rev. A ;  
050\_70 Rev. A

Proposed Drawings:  
050\_30 Rev. L ; 050\_31 Rev. I ; 050\_32 Rev. H ; 050\_33 Rev. H ; 050\_34 Rev. I ;  
050\_35 Rev. I ; 050\_36 Rev. H ; 050\_37 Rev. G ; 050\_38 Rev. F ; 050\_39 Rev. F ;  
050\_40 Rev. F ; 050\_46 Rev. G ; 050\_47 Rev. D ; 050\_48 Rev. A ; 050\_49 Rev. B ;  
050\_50 Rev. B ; 050\_51 ; 050\_52 ; 050\_80

Proposed Internal Drawings:  
050\_91 ; 050\_92 ; 710\_10 ; 750\_01 ; 750\_02 ; 770\_01 ; 770\_02 ; 800\_01 ; 800\_02 ;  
800\_05 ; 800\_06 ; 1603\_02\_02\_01 Rev. 04 ; 1603\_02\_02\_03 Rev. 01 ;  
1603\_02\_03\_01 Rev. 02 ; 1603\_02\_03\_02 Rev. 02 ; 1603\_02\_03\_03 Rev. 03 ;  
1603\_03\_02\_04 Rev. 01 ; 1603\_03\_03\_01 Rev. 01 ; 1603\_03\_03\_02 Rev. 01 ;  
1603\_04\_02\_03 Rev. 01 ; 1603\_04\_03\_01 ; 1603\_04\_03\_02 ; 1603\_05\_02\_02 Rev.  
01 ; 1603\_05\_02\_03 Rev. 01

**Case Officer:** Adam Jones**Direct Tel. No.** 020 7641 1446**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 Contrary to what is shown on drawings hereby approved no new stone floor shall extend beyond the entrance hall of no.74 Grosvenor Street.

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 4.3 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 3 All new work and improvements inside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27BA)

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 4.3 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 4 You must apply to us for approval of details of the following parts of the development:

a) Floor build up details. Showing services, original timbers and new floor coverings within 73 and 74 Grosvenor Street.

b) Floor covering samples of all new flooring materials to be used within 73 and 74 Grosvenor Street.

c) Fireplace survey identifying historic fireplaces to be retained and refurbished as well as new and replacement fireplaces at all floor levels in both properties.

d) Chandelier fixing points and lighting details to the main entrance hall of no.74.

e) Proposed works to the uncovered stair at basement level. Detailed plans, sections and elevations.

f) Inventory of historic window shutters to both properties and proposed refurbishment or other alteration works.

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.

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 4.3 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 5 You must apply to us for approval of annotated photos of material 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 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)

**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.

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Item No.
2

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 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>67 - 69 Beak Street, London, W1F 9SW</b>		
<b>Proposal</b>	Erection of raised deck enclosed by timber balustrade to third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.		
<b>Agent</b>	Montagu Evans		
<b>On behalf of</b>	LaSalle Investment Management		
<b>Registered Number</b>	16/09126/FULL	<b>Date amended/ completed</b>	18 October 2016
<b>Date Application Received</b>	22 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

**1. RECOMMENDATION**

1. Grant conditional permission.
----------------------------------

**2. SUMMARY**

The application site comprises an unlisted building located within the Soho Conservation Area and in use as an office (Class B1). Retrospective permission is sought for the erection of raised deck enclosed by timber balustrade to the third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.

The key issue in this case is:

\* Whether the proposed roof terrace will result in a material loss of amenity for neighbouring residents in terms of noise and overlooking.

The reasonable distance between the proposed terrace and the adjoining residential properties means that the privacy of the occupants will not be materially harmed. Subject to a condition preventing access to the roof terrace except between 09.00 and 19.00 (Monday to Fridays) (except bank holidays) and preventing music being played on the terrace at any time, it is considered that the amenity of adjoining residents will not be materially degraded as a result of noise from the proposed terrace. The proposed is therefore in accordance with City Plan Policies S29 and S32, as well as UDP Policy ENV 6 and ENV 13.

3. LOCATION PLAN



4. PHOTOGRAPHS



## 5. CONSULTATIONS

### CLLR DIMOLDENBERG:

Supports the objections of neighbouring residents.

### SOHO SOCIETY:

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72

Total No. of replies: 7

No. of objections: 7

No. in support: 0

### Amenity:

- Noise and overlooking from proposed terrace will harm residential amenity.
- Request that, if granted, the hours of use are limited to between 09.00 and 19.00 (Monday to Friday).

### Other:

- Similar applications for roof terraces have been refused in the past on this site for legitimate reasons.
- The application is entirely retrospective and therefore the works have been undertaken without following due process.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises a four storey terraced property fronting Beak Street, a three storey warehouse building located between the terrace of properties on the north side of Beak Street and Stirling Court to the north, and a two storey hipped roof building linking these two buildings.

None of the buildings are listed but the site is located within the Soho Conservation Area. The site is located within the Core CAZ. The entirety of the site is in use as an office (Class B1).

Stirling Court is located immediately to the north of the application site. This building is in residential use from fifth to tenth (top) floors. Permission was granted on 29 April 2016 for, *inter alia*, the use of part of the fourth floors as two flats. This permission is currently being implemented. The remainder of the fourth floor is in use as offices and a caretaker's flat. The lower floors are in commercial use.

Immediately to the south are a number of residential flats on the upper floors of properties facing Beak Street.

## 6.2 Recent Relevant History

Permission (Ref: 09/00899/FULL) was refused on 6 April 2009 for the creation of a roof terrace on the existing first floor flat roof on overlooking, noise and disturbance, and design and conservation grounds.

Permission (Ref: 14/03919/FULL) was granted on 3 March 2015 for the retention of eight air conditioning units at main roof (third) floor level and alterations to reduce the size of the existing enclosure.

Permission (Ref: 14/05685/FULL) was granted on 2 June 2015 for the erection of an infill extension over ground to third floor levels to house a new lift shaft and stairwell, installation of glazed roof over existing courtyard, erection of railings around eastern third floor flat roof to facilitate use as terrace and demolition of stair housing at third floor level, all to extend and alter office building (Class B1). The terrace on the eastern third floor flat roof has not been implemented, but could be in the future. The hours of use of this terrace is controlled by condition to between 09.00 and 19.00 (Monday to Fridays).

Applications (Refs: 16/02629/FULL and 16/07596/FULL) to make 'minor material amendments' to the above approved development were approved on 12 July 2016 and 2 November 2016, respectively:

- To entirely remove the existing yard building and replace with a new building of the same scale and material;
- Addition of an access door and steps from proposed staircase to first floor flat roof (conditioned for maintenance access only).
- To increase the height of the approved staircore by approximately 1.0m.

## 7. THE PROPOSAL

The application seeks retrospective permission to erect a raised timber deck above the existing third floor flat roof and to enclose this deck with metal posts linked by timber slats to a height of 1.1m to create a roof terrace to be used in association with the use of the host building as an office (Class B1). Access to the roof terrace is from the rear of the new staircore (approved in June 2015) and a short section of decking on the lower section of roof.

The applicant has agreed to restricting access to the proposed roof terrace except between 09.00 and 19.00 (Monday to Friday) (except Bank Holiday).

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

As the proposed terrace is completely open, the proposal does not result in an increase in gross office floorspace. In any event, the site's location within the Core CAZ means that increases in office floorspace are acceptable in principle (City Plan Policies S6 and S20).

## 8.2 Townscape and Design

The proposed works are not publically visible and are to a relatively low building in the centre of this street block. This, combined with the use of high quality materials, means that the proposed alterations are acceptable in design terms and will preserve the character and appearance of the Soho Conservation Area, in accordance with City Plan Policies S25 and S28 and UDP Policies DES 1 and DES 6.

## 8.3 Residential Amenity

Until recently, the third floor flat roof was enclosed by a safety rail fitted to the top of the parapet wall and was readily accessible via a staircore. This ready access and the presence of planters, tables and chairs clearly indicates that this flat roof had long been used as an informal terrace for occupants of the building.

However, the combined height of the parapet walls and the safety rails was only 1.0m. This is below the 1.1m requirement set out within the Building Regulations to ensure that users of a terrace are protected from falls. The proposed terrace is also slightly larger (2.8m longer) as a result of the reduction in the size of the adjacent plant enclosure and is between 0.3 and 0.4m taller than the existing flat roof.

The proposed development would result in a roof terrace that is compliant with the Building Regulations. This would mean that it is likely to be more intensively used. This more intensive use, combined with its larger size and taller deck, is central to the assessment of whether it would result in a material loss of amenity for the residents that surround the site.

Four objections on noise and overlooking grounds have been received from residents living within Stirling Court (located immediately to the north of the application site) and in residential use from fifth to tenth (top) floors. Objections have also been received from three residents living within the upper floors of properties on Beak Street to the south.

Whilst there will be some overlooking from the proposed terrace to these residential properties, the reasonable distance between the proposed terrace and the affected residents and, in the case of the properties in Stirling Court, the oblique angle means that any overlooking is not considered to be sufficiently intrusive to result in a material loss of amenity. The two proposed new flats at fourth floor level within Stirling Court will be unaffected as neither of them have windows with a direct line of sight to the proposed terrace.

Whilst there will be some noise generated by occupants of the terrace, the applicant has agreed to the imposition of a condition restricting access to between 09.00 and 19.00 (Monday to Friday). This condition will ensure that the occupation of the terrace will not conflict with times when residents rightly expect a lower level of activity. During the day, the level of activity is unlikely to cause unacceptable amenity impacts subject to the imposition of a condition preventing music being played on the terrace at any time.

Finally, some objectors point out that a terrace has been refused on this site previously. This is correct, with permission being refused in 2009 for the creation of a roof terrace at first floor level. This proposed terrace was much closer to neighbouring residents and

would have allowed close and direct overlooking into a flat on the upper floors of a Beak Street building. The proposed terrace is not in the same location as that previously refused terrace and has very different impact. The two terraces are therefore not comparable.

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

The proposal raises no transportation impacts.

#### **8.5 Economic Considerations**

The proposal raises no material economic impacts.

#### **8.6 Access**

The proposed roof terrace will not be wheelchair accessible due to the lift not reaching this level and due to a step between the terrace and the staircore. Whilst this is regrettable, it is a product of the height of the staircore and is therefore not easily remedied.

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

None.

#### **8.8 London Plan**

This application raises no strategic issues.

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

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

#### **8.10 Planning Obligations**

The proposed development does not give rise to any planning obligations.

#### **8.11 Environmental Impact Assessment**

The proposed development is of insufficient scale to require the submission of an Environmental Statement.

#### **8.12 Other Issues**

An objection has been received on the ground that the application is entirely retrospective and therefore the works have been undertaken without following due process. Whilst this is true, this does not represent grounds for refusing permission. The City Council is required to determine prospective and retrospective application in the same way (i.e. in accordance with the policies within the development plan unless material considerations indicate otherwise).

## 9. BACKGROUND PAPERS

1. Application form
2. E-mail from Cllr Dimoldenberg dated 17 November 2016
3. Response from Soho Society, dated 8 November 2016
4. Letter from occupier of 61-63 Beak Street, Flat 1, dated 16 November 2016
5. Letter from occupier of Stirling Court, 3 Marshall Street, dated 24 November 2016
6. Letter from occupier of 5.2 Stirling Court, London, dated 16 November 2016
7. Letter from occupier of 65c Beak Street, London, dated 17 November 2016
8. Letter from occupier of 5.2 Stirling Court, 3 Marshall Street, dated 16 November 2016
9. Letter from occupier of Flat 3, 61-63 Beak Street, London, dated 16 November 2016
10. Letter from occupier of Stirling Court, Marshall Street, dated 24 November 2016

### Selected relevant drawings

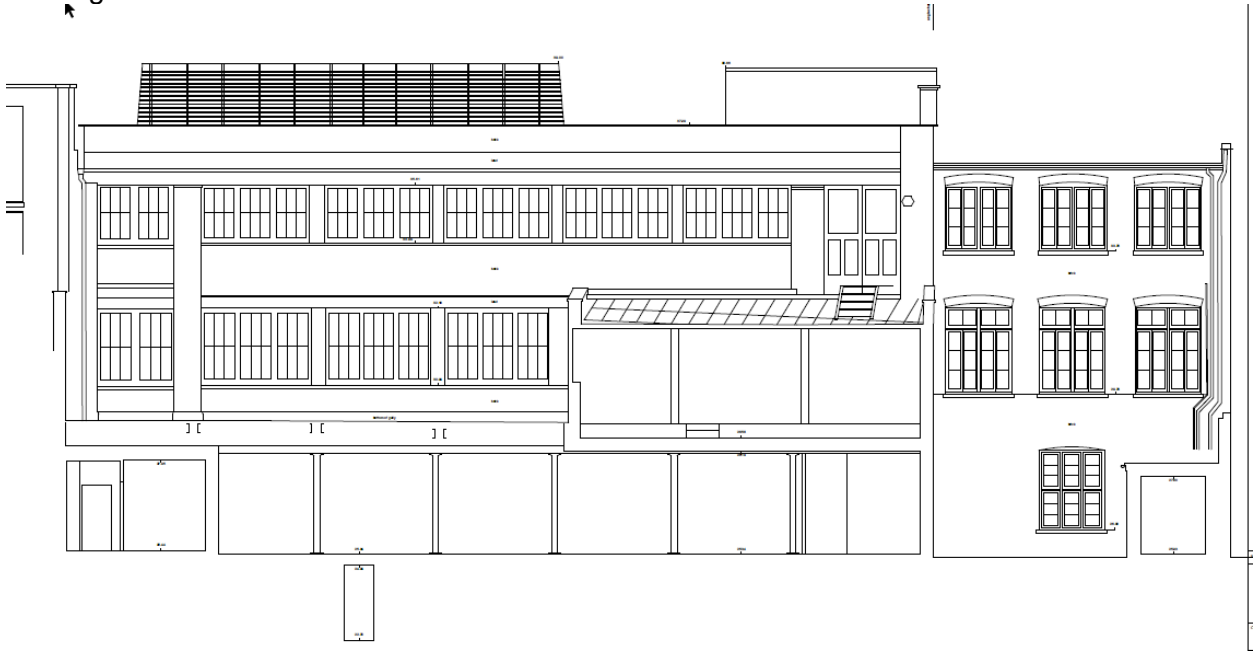
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT MHOLLINGTON2@WESTMINSTER.GOV.UK

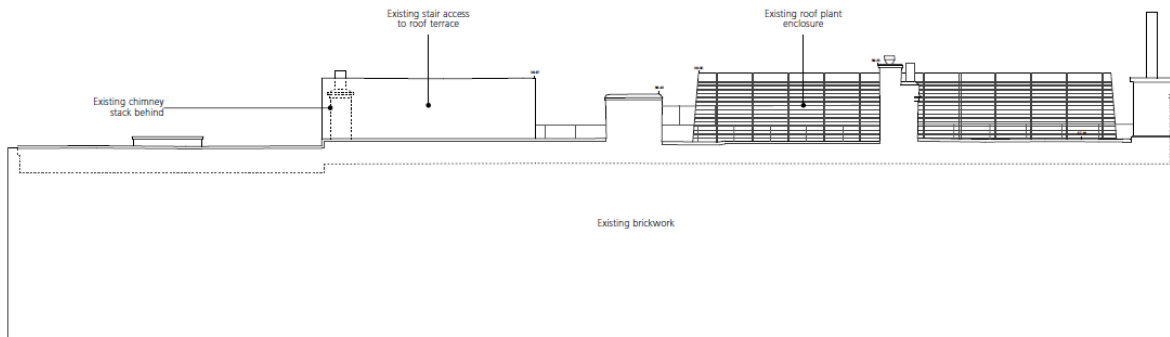


10. KEY DRAWINGS

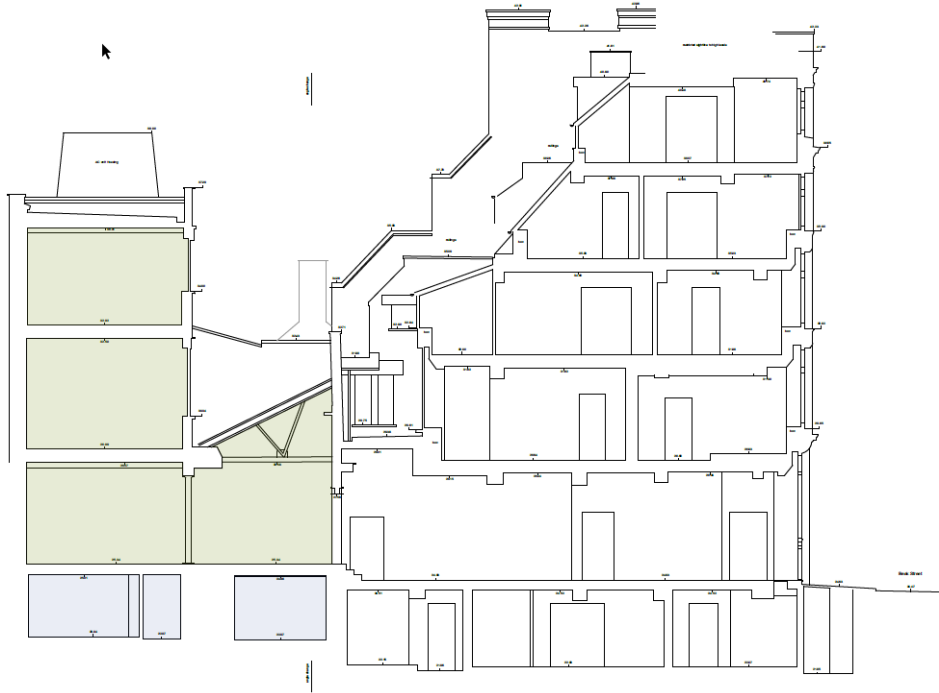
Existing south elevation:



Existing north elevation:

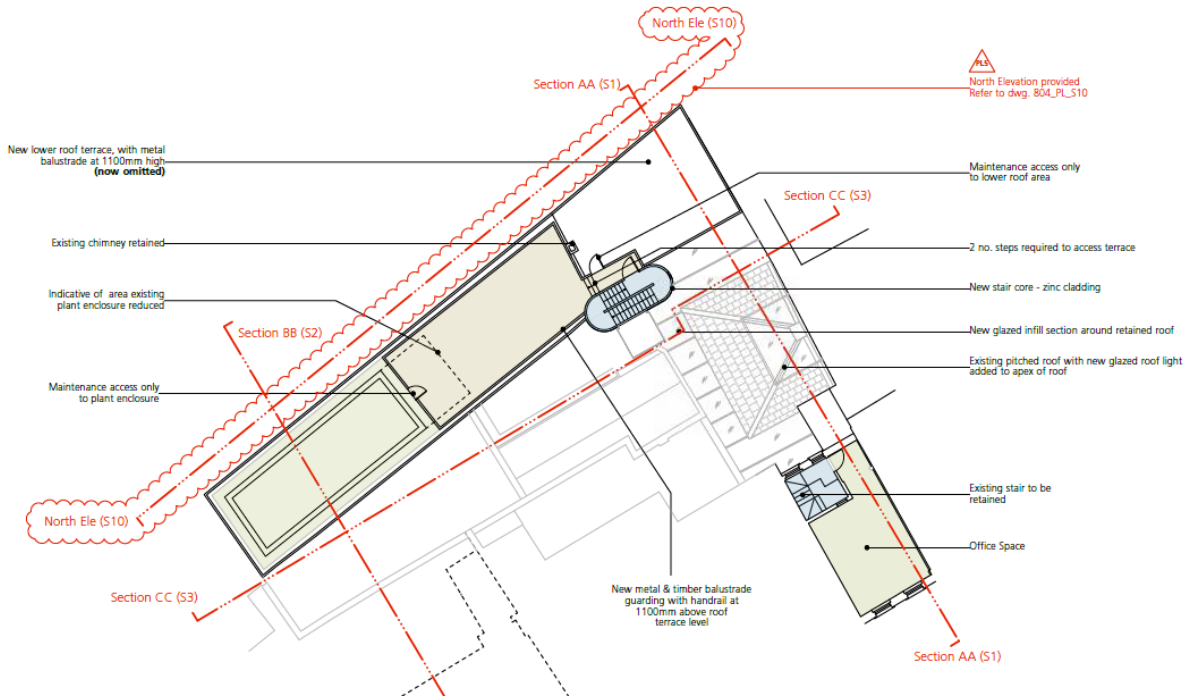


Existing Section B-B:

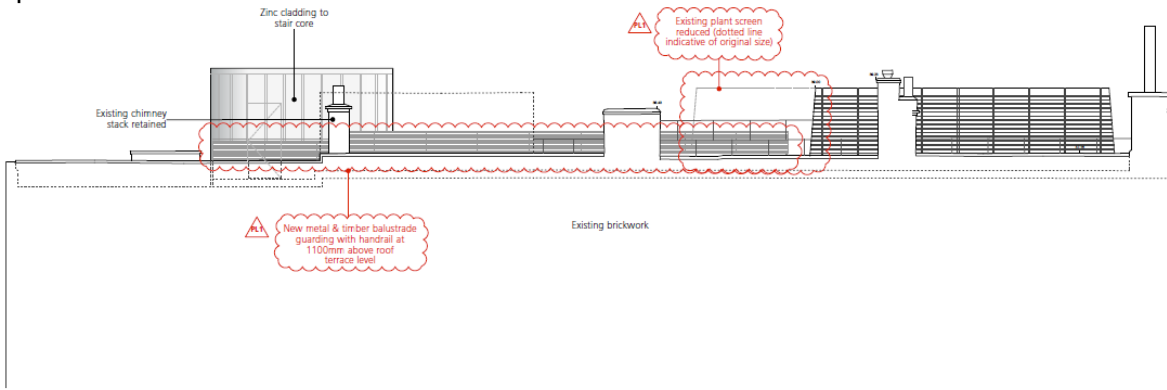


1 Existing Section BB  
R, EX, S2

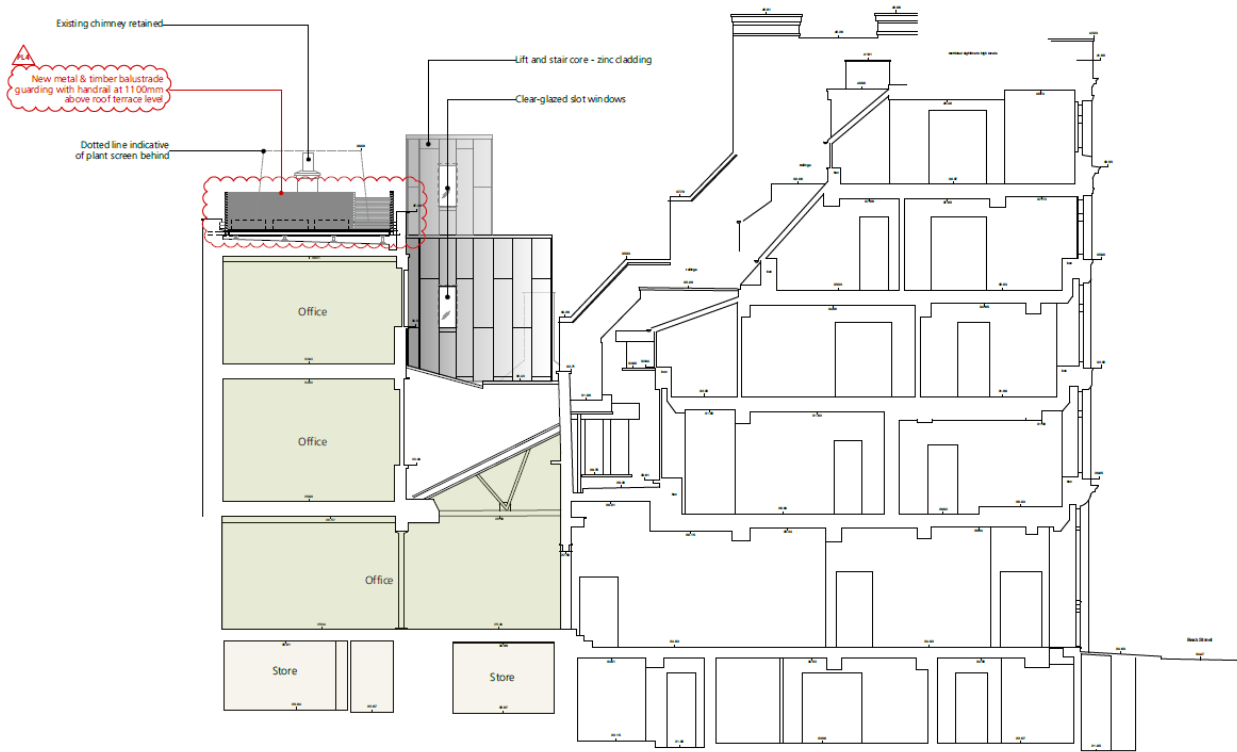
Proposed third floor plan:



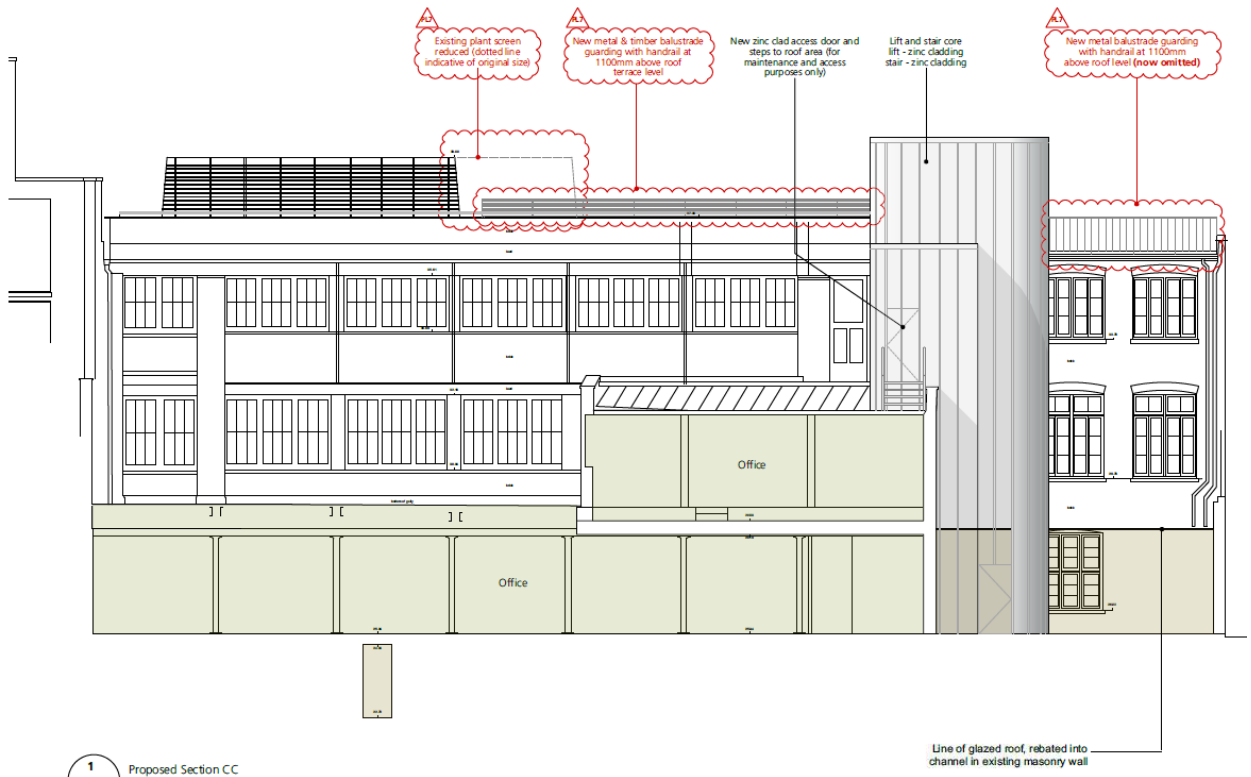
Proposed north elevation:



Proposed Section B-B



Proposed south elevation:



1 Proposed Section CC  
PL\_S3

**DRAFT DECISION LETTER**

**Address:** 67 - 69 Beak Street, London, W1F 9SW,

**Proposal:** Erection of raised deck enclosed by timber balustrade to third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.

**Reference:** 16/09126/FULL

**Plan Nos:** 804\_PL\_3.1 Rev. PL5, 804\_PL\_S10 Rev. PL1, 804\_PL\_S1 Rev. PL7, 804\_PL\_S2 Rev. PL4 and 804\_PL\_S3 Rev. PL7.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

**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 The roof terrace hereby approved shall not be used for any purpose (other than to escape during an emergency) except between 09.00 and 19.00 (Monday to Friday) (with the exception of Bank Holidays).

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 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

3. No music shall be played on the roof terrace hereby approved at any time.

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 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.

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 3

Item No.
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3
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Knightsbridge And Belgravia	
<b>Subject of Report</b>	45 Chester Square, London, SW1W 9EA,		
<b>Proposal</b>	Variation of Conditions 1 and 6 of planning permission and condition 1 of listed building consent both dated 15 December 2011 (RNs: 11/07657/FULL and 11/07659/LBC) for demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level, formation of new basement beneath mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square, construction of a four storey lift shaft extension to the rear of 45 Chester Square, installation of mechanical plant within the front basement vaults with associated louvred doors, infill extension to rear lightwell, rebuilding of part rear facade associated internal alterations to 45 Chester Square. Namely, provision of roof terrace with railings on part of the roof of 44 - 45 Ebury Mews with access via doors in rear elevation of 45 Chester Square.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	Mr Brett Henderson		
<b>Registered Number</b>	16/08638/FULL	<b>Date amended/ completed</b>	7 September 2016
<b>Date Application Received</b>	7 September 2016		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Belgravia		

## 1. RECOMMENDATION

- |  |
|--|
| <ol style="list-style-type: none"> <li>1. Grant conditional planning permission and conditional listed building consent.</li> <li>2. Agree the reasons for granting listed building consent as set out within informative 1 of the draft decision letter.</li> </ol> |
|--|

## 2. SUMMARY

<p>45 Chester Square is a Grade II listed building located in the Belgravia Conservation Area. To the rear the property backs onto 44 - 45 Ebury Mews. Both properties are in use as separate residential dwellings but are occupied by different members of the same family.</p>
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<p>Planning permission and listed building consent was granted on 15 December 2011 (RNs:</p>
--

11/07657/FULL and 11/07659/LBC) for the demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level., and the formation of a new basement beneath the mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square, and other alterations.

Condition 1 of both the planning permission and listed building consent dated 15 December 2011 required the development to be carried out in accordance with the approved drawings. Condition 6 of the planning permission states 'You must not use the roof of the new mews for sitting out or for any other purpose. You can however use the roof to escape in an emergency'.

These latest applications seek to vary conditions 1 and 6 of the planning permission and condition 1 of the listed building consent dated 15 December 2011 in order to use a part of the flat roof of 44 – 45 Chester Mews as a roof terrace with associated works including new railings and an access door.

The key considerations in assessing the proposal are:

- The impact of the proposals upon the special architectural or historic interest (significance) of the listed building and the character and appearance of the Belgravia Conservation Area; and
- The impact of the proposals on the amenity of neighbouring residents.

The proposals are considered to comply with Council policies in relation to amenity, design, conservation, and listed building matters as set out in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan) and the applications are therefore recommended for approval.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



PROPOSED TERRACE AREA FROM ABOVE.



PROPOSED TERRACE AREA FROM EXISTING FLAT ROOF, REAR LIGHTWELL OF 45A AND 45B TO RIGHT.



VIEW FROM TERRACE ACROSS EBURY MEWS

## 5. CONSULTATIONS

### BELGRAVIA RESIDENTS ASSOCIATION:

Objection on following grounds:

#### Design:

The proposal would adversely affect the local area, be out of character with the neighbouring properties, and will radically transform a listed building.

#### Amenity:

The terrace is the same level as other properties first floor bedrooms and living areas and use as a terrace would become highly intrusive on their privacy and a nuisance in terms of sounds and smells.

### BELGRAVIA SOCIETY:

Any response to be reported verbally.

### BELGRAVIA NEIGHBOURHOOD FORUM:

Any response to be reported verbally.

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

No. Consulted: 9

Total No. of replies: 4

No. of objections: 4

No. in support: 1

Objections from neighbours on some or all of the following grounds:

#### Amenity

- Loss of privacy to habitable rooms of adjoining residential occupiers.
- Noise disturbance resulting from the use of the terrace.
- Smells from use of the terrace.
- Noise disturbance from terrace use at night.
- The reasons for imposing Condition 6 of the original planning permission remain valid.

#### Other matters

- Concern regarding precedent being set.
- Loss of property value.
- Concern regarding use of the entire roof in future.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

45 Chester Square is a Grade II listed building located in the Belgravia Conservation Area. To the rear the property backs onto 44 - 45 Ebury Mews. Both properties are in use as separate residential dwellings but are occupied by different members of the same family. These applications relates to part of the flat roof of the mews building at 44 - 45 Ebury Mews.

### 6.2 Recent Relevant History

#### 45 Chester Square and 44 Ebury Mews

Permission granted on 15 December 2011 for 'Demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level. Formation of new basement beneath mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square. Construction of a four storey lift shaft extension to the rear of 45 Chester Square, installation of mechanical plant within the front basement vaults with associated louvred doors, infill extension to rear lightwell, rebuilding of part rear façade' (11/07657/FULL and 11/07659/LBC).

#### 42 Chester Square and 42 Ebury Mews

Permission granted on 11 May 1998 for 'Demolition and rebuilding of 42 Ebury Mews, provide a link and garage to 42 Chester Square, new 4<sup>th</sup> storey to 42 Chester Square and rebuilding rear extension. New roof terrace on 42 Ebury Mews' (97/0A072/FULL).

There are a number of roof terraces in the immediate area including the approved terrace at 42 Ebury Mews referenced above.

43 Chester Square and 45B Chester Square also have roof terraces but these do not have any planning history.

## 7. THE PROPOSAL

These latest applications seek to vary conditions 1 and 6 of the planning permission and condition 1 of the listed building consent dated 15 December 2011 in order to allow the use of part of the flat roof of 44 – 45 Chester Mews as a roof terrace. The proposed terrace would serve 45 Chester Square and not 44 – 45 Ebury Mews. Associated works include the installation of railings, planters, and a new door which would replace a window in the rear elevation of 45 Chester Square will enable access to the proposed terrace.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The proposal does not raise any land use issues.

## 8.2 Townscape and Design

45 Chester Square is located on the south western side of Chester Square, opposite St Michaels Church. The building is linked at the rear to 44 - 45 Ebury Mews, a two storey mews property.

The majority of mews properties on the north side of Ebury Mews exhibit butterfly roofs, however those which exhibit flat roofs, such as the application site, contain roof terraces.

Initially there were concerns that introducing a roof terrace would introduce visual clutter which would detract from the appearance of the mews. These concerns have been partly overcome by setting the balustrade back from the roof edge and replacing the glass balustrade with simple vertical metal railings. Additionally, the timber steps originally proposed have been replaced with metal, and the new door on the rear of the listed building is more traditional in its design.

Given the presence of other roof terraces within the mews and the design amendments, the works are considered acceptable in design, townscape and listed building grounds.

## 8.3 Residential Amenity

UDP Policy ENV 13 and City Plan Policy S29 aim to protect the amenity of existing residents from the effects of development. Objections have been received on grounds the proposal would adversely affect neighbours in terms of overlooking, noise and odour nuisance, and light spill.

### Overlooking

The proposed use of the flat roof as a terrace raises issues with regard to overlooking, particularly at 45A and 45B Chester Square and the buildings opposite the proposed terrace on Ebury Mews.

Any potential overlooking into the neighbours at nos. 45A and 45B Chester Square would take place within the rear lightwell of these properties, which is set behind the eastern part of the flat roof of 44 - 45 Ebury Mews. It is acknowledged noted that while some degree of overlooking into nos. 45A and 45B is possible from the use of the terrace, views are only available at an oblique angle and limited to when users are ascending or descending the steps from the house to the terrace. On balance, officers consider that the amount of overlooking afforded by the proposal would not result in a significant material impact on the privacy of 45A or 45B Chester Square.

The applicant initially proposed to extend the terrace forward to the full extent of the flat roof; however, officers advised this should be set back to limit the amount of overlooking afforded to the mews buildings opposite the flat roof on Ebury Mews, as well as for design reasons.

The use of the terrace is likely to increase the amount of overlooking afforded from the property, with the forward edge of the proposed terrace being set back approximately 7 metres from the mews properties opposite. However, as a result of the proposed railings and planters on the terrace it is considered that overlooking into these properties and any subsequent loss of privacy is likely to be low. It is further noted that 45B Chester Square

has a roof terrace at the same level, extending to the full depth of the terrace and in much closer proximity to the residential properties on Ebury Mews.

Officers have concern regarding the impact of overlooking on the residents of 44 Ebury Mews itself. The flat roof of the mews, on which the proposed terrace is to be located, has two rooflights that look directly into the mews property below and it is considered that there is the potential for overlooking and a loss of privacy to the residents of this property. However, a letter from the owner of the building confirms that 44 - 45 Ebury Mews is occupied by different members of the same family that occupy 45 Chester Square, and also that obscure glazing is proposed to be installed in the existing rooflights. The letter confirms there is therefore no objection to the creation of a roof terrace on the roof of 44 – 45 Ebury Mews.

In summary, with regard to overlooking and loss of privacy, it is considered that while there may be the potential for a minimal degree of overlooking, on balance, the proposals are not considered to significantly harm the amenity of adjoining neighbours to justify refusal.

#### Noise

Objections also raised concern regarding the potential for noise generated from the use of the terrace. Officers consider that additional noise is likely to be created by the use of the existing flat roof as a terrace; however it is unlikely that the noise levels associated with this proposal would be so significant to justify refusal. The terrace is modest in size, particularly given the additional setback agreed with officers, and it is unlikely that significant numbers of people could be accommodated on the area. Further, there are a number of other terraces in the area and there is no evidence of noise nuisance having been reported from these terraces. As such, it is considered that the proposal is unlikely to create noise nuisance which would significantly harm the amenity of the adjoining residential occupiers.

#### Light Spill

Neighbours also raise concern that the use of the roof terrace in the evenings would result in nuisance from light spill. Given that there are no neighbouring windows directly adjacent to the terrace, and the boundaries of the terrace are to be screened through railings and planting. It is considered unlikely that the use of the terrace would create significant levels of light pollution to adversely affect the residential amenity of adjoining occupiers.

#### Smells and odours

Objections also raise concern with potential smells associated with the use of the terrace, for example, these largely focus on the potential for cooking smells associated with BBQs taking place. Given that 45 Chester Square is a residential property it is not considered the terrace would be used in any different way to a conventional residential garden. It is therefore not considered reasonable to refuse the application on these grounds.

#### Condition 6 of 2011 Planning Permission

Condition 6 of the original planning permission dated 15 December 2011 states 'You must not use the roof of the new mews for sitting out or for any other purpose. You can however use the roof to escape in an emergency'.

Objections noted that in imposing Condition 6, the officer's committee report states; *'although not raised as an issue by neighbours, given the roof of the mews is flat with a paved surface, there is scope that this could be used as a terrace in the future which would*



*be considered unacceptable in terms of overlooking and loss of privacy. It is therefore recommended that a condition to prohibit this be attached to the decision letter'.*

It is important to note that the 2011 application did not seek to use the flat roof as a terrace and as such a full assessment of the potential impact of this use was not undertaken. The condition also referred to the use of the entirety of the flat roof across the mews building, whereas the current application only seeks to use half of the roof for terrace purposes.

#### Summary

In conclusion, it is considered that while there is likely to be a degree of overlooking and noise resulting from the use of the terrace, on balance it is not considered likely that these would result in a significant material impact on the amenity of adjoining occupiers to justify refusal of the application. It is considered that the proposal complies with policies ENV 13 of the Unitary Development Plan and S29 of the Westminster City Plan: Strategic Policies.

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

The proposal raises no transportation or parking issues.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

The proposal raises no access issues.

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

None relevant.

#### **8.8 London Plan**

This application raises no strategic issues.

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

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

#### **8.10 Planning Obligations**

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

#### **8.11 Environmental Impact Assessment**

Not applicable.

## 8.12 Other Issues

Not applicable.

## 9. BACKGROUND PAPERS

1. Application form.
2. Letter from Belgravia Residents Association dated 13 October 2016.
3. Letter from occupier of 45B Chester Square dated 25 September 2016.
4. Letter from occupier of 94 Ebury Mews dated 2 October 2016.
5. Letter from occupier of 96 Ebury Mews dated 4 October 2016.
6. Letter from Fenton Associates on behalf of the occupiers of 45A Chester Square dated 4 October 2016
7. Letter from Pandega Holdings on behalf of the occupiers of 44 – 45 Ebury Mews dated 14 December 2016.

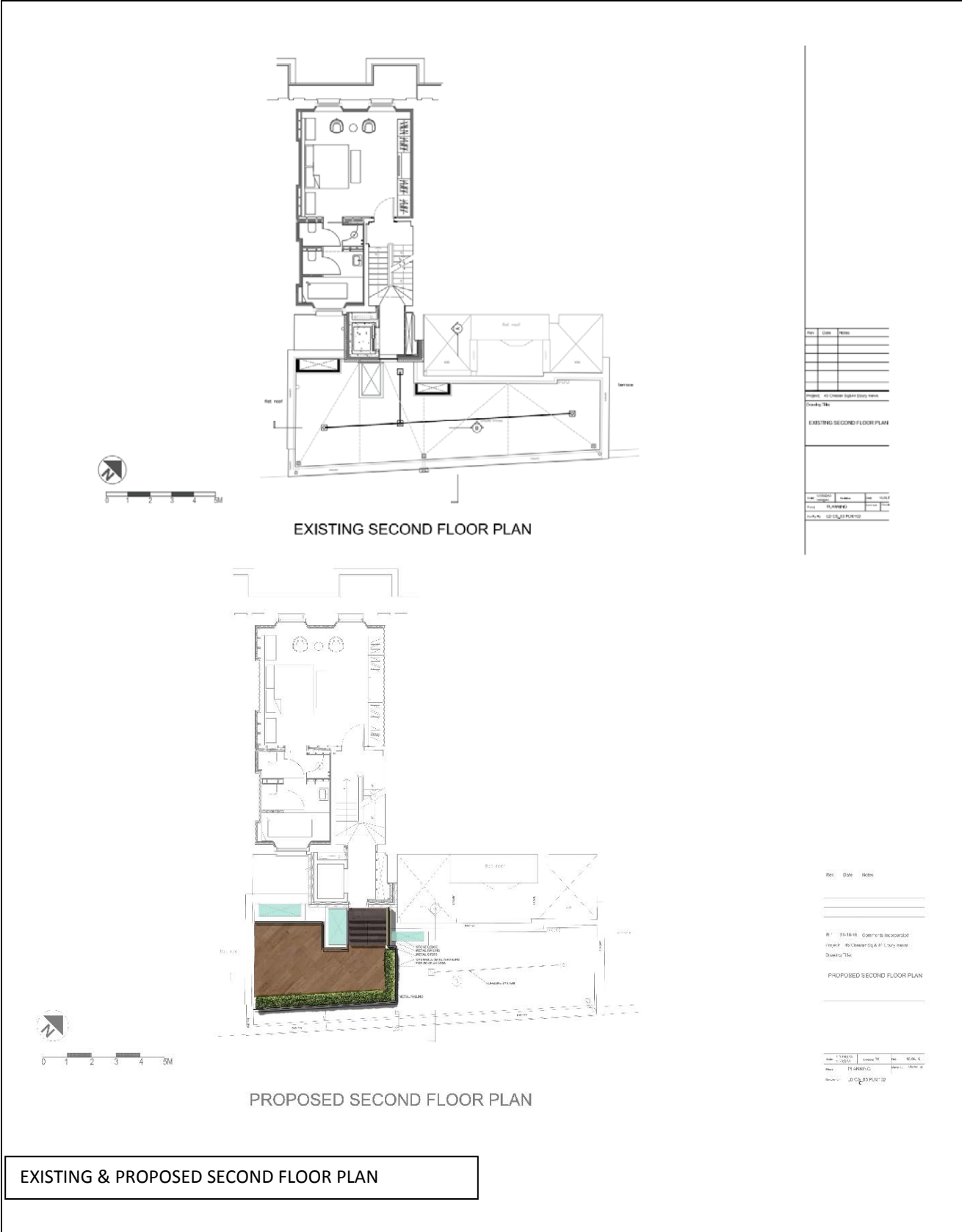
### Selected relevant drawings

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

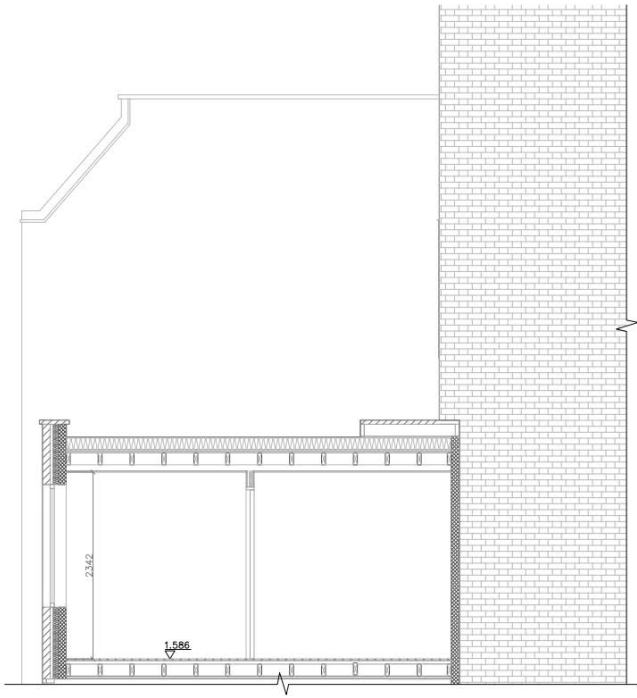
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT DDORWARD@WESTMINSTER.GOV.UK

10. KEY DRAWINGS

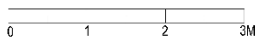
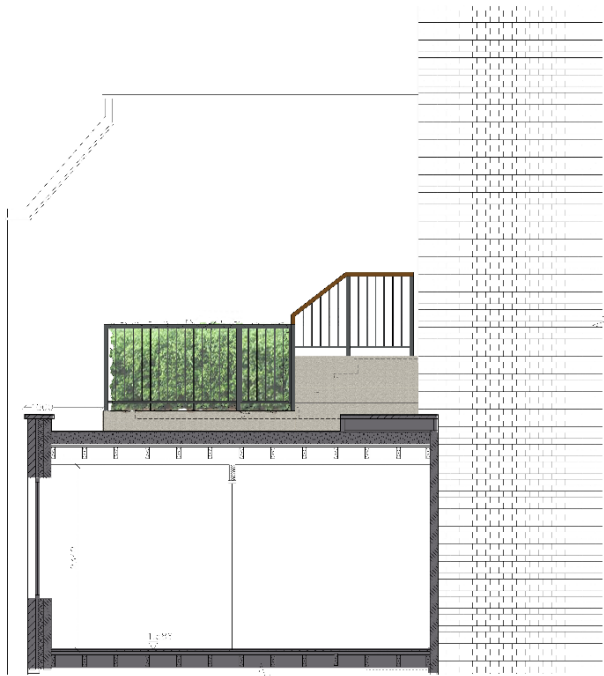




**EXISTING & PROPOSED SECOND FLOOR PLAN**



EXISTING SECTION A



PROPOSED SECTION A

Rev.	Date	Notes

Project: 45 Chatter Sq  
Drawing: 31C  
EXISTING SECTION A

Date	Drawn	Check	Date	Issue

Scale: 1:50 (S) SEC 301

Rev.	Date	Notes

Project: 45 Chatter Sq  
Drawing: 31C  
PROPOSED SECTION A

Date	Drawn	Check	Date	Issue

Scale: 1:50 (S) SEC 301

**DRAFT DECISION LETTER**

**Address:** 45 Chester Square, London, SW1W 9EA,

**Proposal:** Variation of Conditions 1 and 6 of planning permission dated 15 December 2011 (RN: 11/07657/FULL) for demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level, formation of new basement beneath mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square, construction of a four storey lift shaft extension to the rear of 45 Chester Square, installation of mechanical plant within the front basement vaults with associated louvered doors, infill extension to rear lightwell, rebuilding of part rear facade. Namely provision of roof terrace with railings on part of the roof of 44 - 45 Ebury Mews with access via doors in rear elevation of 45 Chester Square.

**Reference:** 16/08638/FULL

**Plan Nos:** LD CS\_03 ELE 301, LD CS\_03 PLAN 102, LD\_CS 03 SEC 301, LD CS 03 SEC 302, SITE LOCATION PLAN, BLOCK PLAN, LD CS\_05 ELE 301, LD CS\_05 ELE 301 C, LD CS\_05 PLN 102, LD\_CS 05 SEC 301 C, LD CS 05 SEC 302 C, LD CS\_05 PLN 102, LD\_CS 05 SEC 301, LD CS 05 SEC 302, COVER LETTER DATED 7 SEPTEMBER 2016, DESIGN AND ACCESS STATEMENT DATED SEPTEMBER 2016, HERITAGE IMPACT ASSESSMENT SUBMITTED 7 SEPTEMBER 2016, PLANNING STATEMENT DATED SEPTEMBER 2016.

**Case Officer:** Joe Whitworth

**Direct Tel. No.** 020 7641 1968

**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 basement excavation 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 basement excavation 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. (C11BA)

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 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 Belgravia 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)

- 4 The facing brickwork of the closet wing must be constructed using the same brick as the samples hereby approved and 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 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 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)

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

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 Belgravia 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 use the roof of the new mews for sitting out or for any other purpose. You can however use the roof 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)

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

- 8 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

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

- 9 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.

- 10 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 using the development as set out in STRA 25 and of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 11 The mews at ground and first floor level must remain a single family dwelling and must not be amalgamated with the lower ground floor of the mews.

Reason:

To ensure that development does not result in the loss of a residential unit and in order for the proposals to comply with policy CS14 of the Core Strategy that we adopted in January 2011

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.  
(R26BE)

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

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

- o between 08.00 and 18.00 Monday to Friday; and
  - o not at all on Saturdays, Sundays, bank holidays and public holidays.
- Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

**Reason:**

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

- 15 The planting show on Proposed Section A and Proposed Second Floor Plan must be set back behind on the internal side of the railing and maintained to be below the height of the railings.

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

- 16 You must apply to us for approval of details of the following parts of the development:

- i) Detailed drawings of the new door, which should be single, glazed within integral glazing doors. Sections and elevations scaled 1:5

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

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION - In reaching the decision to grant planning permission the City Council has had regard to the relevant policies in

the Draft National Planning Policy Framework July 2011, the London Plan July 2011, the City of Westminster Core Strategy adopted January 2011, 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 demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level, formation of new basement beneath mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square, construction of a four storey lift shaft extension to the rear of 45 Chester Square, installation of mechanical plant within the front basement vaults with associated louvred doors, infill extension to rear lightwell, rebuilding of part rear facade is acceptable in conservation, design, listed building, highways and amenity terms., , In reaching this decision the following policies of the City of Westminster Core Strategy and the Unitary Development Plan were of particular relevance:, , CS24, CS27, CS28, CS31, DES1, DES5, DES6, DES9, DES10, ENV7 and ENV13.

- 2 This permission is based on the drawings and reports submitted by you including the method statement for basement construction dated 6 May 2011. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.

Our approval is based on the report dated 6 May 2011. Because of the professional qualifications of this company we have not done any double-checking or appointed our own consultant engineers. We are relying on the knowledge and qualifications of your consultants. You and the consultants are responsible for carrying out the work in a way that will cause as little disturbance to the building as possible.

- 3 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)
- 4 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 5 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is

used for. (I23AA)

- 6 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)

- 7 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. (I50AA)

- 8 Conditions 7, 8 and 9 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)

**DRAFT DECISION LETTER**

**Address:** 45 Chester Square, London, SW1W 9EA,

**Proposal:** Variation of Condition 1 listed building consent dated 15 December 2011 (RN: 11/07659/LBC) for Demolition and rebuild of 44 Ebury Mews to provide a self-contained residential unit at ground and first floor level, formation of new basement beneath mews building to provide additional residential accommodation in connection with the main house at 45 Chester Square, construction of a four storey lift shaft extension to the rear of 45 Chester Square, installation of mechanical plant within the front basement vaults with associated louvred doors, infill extension to rear lightwell, rebuilding of part rear facade, associated internal alterations to 45 Chester Square. Namely provision of roof terrace with railings on part of the roof of 44 - 45 Ebury Mews with access via doors in rear elevation of 45 Chester Square.

**Reference:** 16/08639/LBC

**Plan Nos:** LD CS\_03 ELE 301, LD CS\_03 PLAN 102, LD\_CS 03 SEC 301, LD CS 03 SEC 302, SITE LOCATION PLAN, BLOCK PLAN, LD CS\_05 ELE 301, LD CS\_05 ELE 301 C, LD CS\_05 PLN 102, LD\_CS 05 SEC 301 C, LD CS 05 SEC 302 C, LD CS\_05 PLN 102, LD\_CS 05 SEC 301, LD CS 05 SEC 302, COVER LETTER DATED 7 SEPTEMBER 2016, DESIGN AND ACCESS STATEMENT DATED SEPTEMBER 2016, HERITAGE IMPACT ASSESSMENT SUBMITTED 7 SEPTEMBER 2016, PLANNING STATEMENT DATED SEPTEMBER 2016.

**Case Officer:** Joe Whitworth

**Direct Tel. No.** 020 7641 1968

**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 and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

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 Belgravia 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 The facing brickwork of the closet wing must be constructed using the same brick as the samples hereby approved and 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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Belgravia 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)

- 4 All new work and improvements inside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27BA)

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)

- 5 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 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 6 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 Belgravia 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 You must scribe all new partitions around the existing ornamental plaster mouldings. (C27JA)

## 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)

- 8 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 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)

- 9 You must apply to us for detailed drawings of the following parts of the development:

The fall arrest system to the closet wing.

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 these approved drawings.

## 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 Belgravia 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)



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

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 Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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)

- 11 The planting shown on Proposed Section A and Proposed Second Floor Plan must be set back behind on the internal side of the railing and maintained to be below the height of the railings.

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 Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 12 You must apply to us for approval of details of the following parts of the development:,

- i) Detailed drawings of the new door, which should be single, glazed within integral glazing doors. Sections and elevations scaled 1:5

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

**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 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:, , \* any extra work which is necessary after further assessments of the building's condition;, \* stripping out or structural investigations; and, \* any work needed to meet the building regulations or other forms of statutory control., , Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents., , It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (159AA)

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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4
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Knightsbridge And Belgravia	
<b>Subject of Report</b>	<b>38 Groom Place, London, SW1X 7BA,</b>		
<b>Proposal</b>	Removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) for: Use from Class A1 (Delicatessen) to Class A3 (Restaurant) and alterations to ground floor windows. Namely, to enable a delivery service to take place from the restaurant.		
<b>Agent</b>	NTR Planning		
<b>On behalf of</b>	Mr Carlo Tambini		
<b>Registered Number</b>	16/11438/FULL	<b>Date amended/ completed</b>	2 December 2016
<b>Date Application Received</b>	2 December 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Belgravia		

## 1. RECOMMENDATION

- |  |
|--|
| 1. Refuse planning permission – impact on residential amenity, and on the character and function of the Belgravia Conservation Area. |
|--|

## 2. SUMMARY

38 Groom Place is an unlisted building located in the Belgravia Conservation Area which is currently in use as a restaurant 'Pizzeria Pinocchio'.

Planning permission was granted on 14 April 2015 to change the use of the Property from Class A1 ((Delicatessen) to Class A3 (café/restaurant) use (Ref: 15/01423/FULL). Condition 5 attached to this planning permission states: *You must not provide a delivery service from the restaurant premises.*

It has been drawn to the City Council's attention that Condition 5 is being breached and that the restaurant is currently operating with a delivery service.

This application seeks the removal of Condition 5 of the above planning permission.

The key considerations in assessing the proposal are:

- The impact on the amenity of neighbouring residents, and
- The impact on the character and function of this part of the city.

A number of objections have been received on grounds the delivery service is adversely impacting on residential amenity in this mews setting.

The application is recommended for refusal because the delivery service harms the environment of neighbouring residents and the character and function of the Belgravia Conservation Area. This would not meet S25, S29, and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13, and DES 9 of our Unitary Development Plan that we adopted in January 2007.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



38 Groom Place



Groom Place (Pizzeria on Right)  
Looking North



Groom Place (Pizzeria on Right)  
Looking Southwest



## 5. CONSULTATIONS

### BELGRAVIA RESIDENTS ASSOCIATION

Any response to be reported verbally.

### BELGRAVIA NEIGHBOURHOOD FORUM

Any response to be reported verbally.

### BELGRAVIA SOCIETY

Any response to be reported verbally.

### HIGHWAYS PLANNING MANAGER

Undesirable on transportation grounds, could be made acceptable subject to conditions requiring delivery management plan.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 30

Total No. of replies: 12

No. of objections: 9

No. in support: 3 (incl. 2 letters of support from the applicant)

Objections received on some or all of the following grounds:

#### Amenity

- This is a quiet residential mews.
- The restaurant is currently operating an unauthorised delivery service.
- Regular delivery vehicles/ scooters coming into the mews increase noise and nuisance adversely affecting the amenity of neighbouring residents.
- Pollution from increase in vehicular traffic.
- Drivers smoke outside neighbouring residents homes.

#### Transportation

- Delivery vehicles/ Scooters travel the wrong way up one way street system.
- Parking in residents only spots

#### Other

- The restaurant is continually in breach of the original planning permission with unauthorised outdoor seating, signage, heaters, and delivery service.

Two letters of support received from a neighbour on the following grounds:

- There should be a compromise regarding the waiting area for bikes.
- There is more disturbance from the adjacent public house where customers block the path of traffic.
- Taxis also cause more traffic disruption in the mews.
- Residents value and use the restaurant.
- Most residents including objectors themselves get deliveries each day, e.g. Deliveroo and Tesco deliveries.

- The issue of deliveries is compounded by all in the mews and it hard to distinguish what deliveries are caused by the restaurant and what is caused by others using other delivery services.
- The restaurant does its best to be friendly and accommodating, and makes an effort to minimise disturbance, and provide a fine service.
- No delivery service may put the restaurant out of business or lead to an increase in prices.

Two letters of support have also been submitted by the applicant citing the following:

- The applicant agreed not to have a delivery service due to its impact, however, didn't agree not to have a collection service from the premises.
- The collections are vital for the business and make up 35-40% of this type of business.
- Only 7-8 bikes per day frequent the restaurant.
- No mess is created from the operation.
- There are mitigating factors including other traffic including taxis and uber.
- The complaints regarding traffic and noise actually relate to other traffic not associated with the restaurant.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

38 Groom Place is an unlisted building in the Belgravia Conservation Area currently in use as a Class A3 restaurant 'Pizzeria Pinocchio'.

Groom Place is a predominantly residential mews with the application site and the nearby 'Horse and Groom' Public House the exceptions.

### 6.2 Recent Relevant History

Planning permission was granted on 14 April 2015 to change the use of the Property from Class A1 (Delicatessen) to Class A3 (café/restaurant) use and alterations to ground floor windows (Ref: 15/01423/FULL). Condition 5 attached to this planning permission reads:- *You must not provide a delivery service from the restaurant premises.*

The reason for the imposition of this planning condition reads:-

*To prevent a use that would be unacceptable because of the character and function of this part of the Belgravia Conservation Area. This is in line with S25 of Westminster's City Plan (July 2016) and DES9 of our Unitary Development Plan that we adopted in January 2007.*

In respect of the imposition of Condition 5, the officer's report notes the following:

*'Of concern is the potential for local pizza deliveries through the use of mopeds or other vehicles and the impact this will have on the residents of the mews in terms of noise and disturbance. The applicant has agreed to a condition which prohibits this, in order to*

*receive a favourable recommendation, however it should be noted that they will be taking a view as to whether to appeal this condition at a later date.'*

Another application to retain wooden decking outside the premises and the use of this area for tables and chairs (RN: 16/08409/FULL) is currently pending consideration.

## **7. THE PROPOSAL**

Planning permission is sought for the removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) to enable the applicant to provide a delivery service from the premises.

The application form states that the applicant wishes the condition to be removed because it is unreasonable given the circumstances and renders the business unviable.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal raises no land use issues.

### **8.2 Townscape and Design**

No details have been provided by the applicant regarding the nature of the delivery service taking place at the restaurant. However, officers consider that the removal of Condition 5 would result in a restaurant clearly contrary to the character of the mews and this part of the Belgravia Conservation Area, which is characterised by an intimate and quiet nature as noted in the Belgravia Conservation Audit (para 4.3, page 18) and indeed highlighted by objections from neighbouring residents. A food delivery service involves the use of both motorised and non-motorised vehicles (predominantly the former) and particularly the use of motorbikes and mopeds. The use of any vehicles and the number of movements involved in a delivery service is highly likely to result in a consequential impact on the character and function of the area.

When permission was granted for the change of use to Class A3, it was on the basis that the proposal would not adversely affect the character and function of this part of the Belgravia Conservation Area in line with Policy S25 of the City Plan and DES 9 of the UDP and the imposition of Condition 5 specifically sought to protect these characteristics of the area. To remove the condition would undoubtedly result in an outcome contrary to the basis on which the initial application was granted.

It is considered that while the historic A1 use and current A3 use no doubt add to the vibrancy of the area and indeed the character and function of the area, a delivery service involving consistent commercial vehicular movement throughout the quiet mews area is unacceptable and contrary to Council policy. It is therefore considered that the removal of Condition 5 is unacceptable with regard to the impact on the character and function of this part of the Belgravia Conservation Area.

### 8.3 Residential Amenity

Objections have been received on grounds that the operators of the business at the property are operating a takeaway food delivery service and that this is having a negative impact on neighbouring residential amenity.

Groom Place is predominantly a quiet residential mews, notwithstanding the existing commercial premises at both the application site (Class A3) and the Horse and Groom Public House (Class A4). The application property is surrounded primarily by residential properties on all sides. The mews is mostly characterised by quiet residential living and is relatively enclosed, something that is highlighted by consultation responses received from neighbours.

Policies ENV 13 of the UDP and S29 of the City Plan seek to ensure that development does not harm the residential environment of surrounding properties and result in a material loss of residential amenity. As previously noted, Groom Place is characterised by a quiet residential nature and given the modest size of the restaurant premises, it is considered that to allow a delivery service to take place from the restaurant would have a significant material impact on the amenity of residents in the area and their ability to enjoy the quiet nature of the mews. The delivery service results in an increase in the number of vehicle movements associated with the restaurant, with an associated increase in noise nuisance that adversely impacts upon the residential environment and the amenity of properties within it. When permission for the A3 use was granted, officers considered that the modest size of the restaurant would mean it was unlikely there would be a significant nuisance or disruption to residential amenity. However, a delivery service being provided from the premises results in a noise nuisance not anticipated on the granting of the previous permission, nor is it acceptable now. This is of particular concern given restaurant hours are permitted from 10.00am until 23.00pm, which would result in an even greater adverse impact on the amenity of neighbouring residential properties with deliveries taking place late into the evening.

UDP Policy ENV 6 and City Plan Policy S32 seek to reduce noise pollution and its impacts and protect noise sensitive receptors. UDP Policy ENV 6 further outlines that the Council will require operational measures to minimise noise from developments and to protect noise sensitive properties. The policy also outlines that development will not be permitted where it would cause noise disturbance in tranquil areas and to seek measures to minimise and reduce noise from traffic. The noise generated by the increased traffic movements associated with the proposal results in a significant noise disruption to local residents that is having an adverse material impact on their enjoyment of the area and the residential amenity of neighbours. While UDP Policy ENV 6 enables the Council to impose operational measures to minimise noise, it is noted that the applicant has little control over the delivery or collection process given that this is undertaken by a third party delivery operator 'Deliveroo'. Therefore, any conditions imposed on granting of permission, with a view to controlling the delivery process, neither would be enforceable nor would the applicant be able to guarantee compliance from the third party operator. It is therefore considered that the proposal is contrary to UDP Policy ENV 6 and City Plan Policy S32 which seek to reduce noise pollution and its impacts and protect noise sensitive receptors.

In summary, a delivery service operating within the quiet mews would have an unacceptable impact on the environment of neighbouring residents in terms of noise and

disturbance. This would not meet S29 and S32 of the City Plan and ENV 6 and ENV 13 of the UDP.

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

The Highways Planning Manager considers that the proposal is undesirable on transportation grounds but may be considered acceptable. The Highways Planning Manager advises that limited information has been submitted with the application and it is not clear what the delivery service arrangement will be. Delivery vehicles owned and operated by a site can reduce the availability of parking for other users. However anecdotal evidence suggests that the site employs a delivery company (Deliveroo) and does not use their own transport to carry out deliveries.

If the proposal was considered acceptable, a condition would have been imposed to secure the submission of a Delivery Management Plan (DMP). The DMP should clearly indicate how deliveries will occur, details of the company used, and what steps will be taken to minimise the impact on the public highway.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The proposal raises no access issues.

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

None relevant.

#### **8.8 London Plan**

This application raises no strategic issues.

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

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

#### **8.10 Planning Obligations**

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

#### **8.11 Environmental Impact Assessment**

Environmental Impact issues are not relevant in the determination of this application.

#### **8.12 Other Issues**

Not applicable.

## 9. BACKGROUND PAPERS

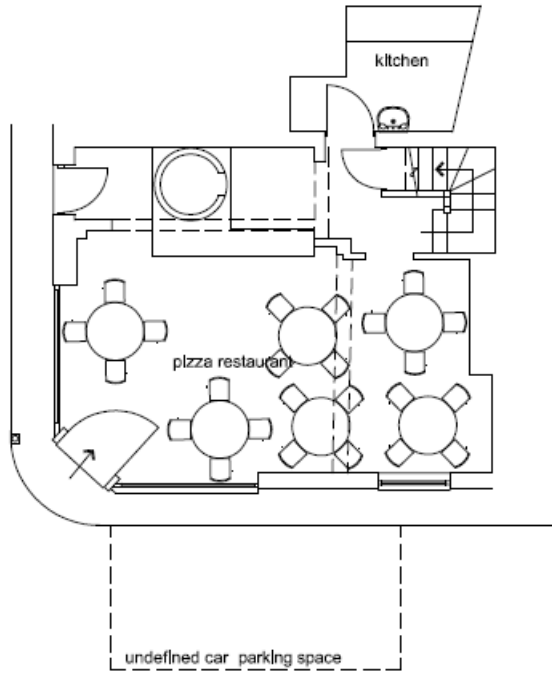
1. Application form
2. Memo from Highways Planning Manager dated 29 December 2016
3. Letter from occupier of 10 Groom Place dated 3 January 2017
4. Letter from occupier of 30 Groom Place dated 13 December 2016
5. Letter from occupier of 20 Groom Place dated 13 December 2016
6. Letter from occupier of 12 Groom Place dated 14 December 2016
7. Letter from occupier of 16 Groom Place, London, dated 14 December 2016
8. Letter from occupier of Apple Grove, Chiddingstone, dated 15 December 2016
9. Letter from occupier of 27 John Street dated 20 December 2016
10. Letter from occupier of 32 Groom Place dated 1 January 2017 (Support)
11. Letters from applicant at 38 Groom Place dated 3 and 11 January 2017 (Support)
12. Letter from occupier of 18 Groom Place, London 10 January 2017
13. Letter from occupier of 36 Groom Place, London 11 January 2017
14. Letter from occupier of 24a Groom Place dated 14 January 2017

### **Selected relevant drawings**

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

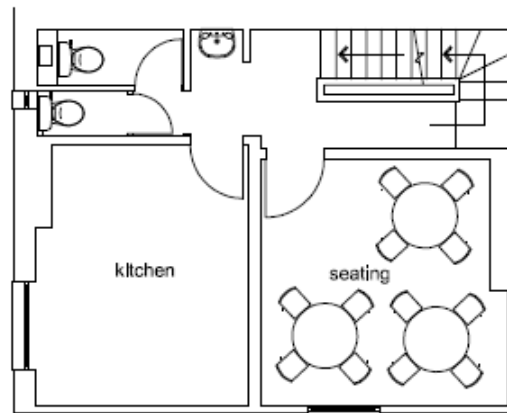
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT [DDORWARD@WESTMINSTER.GOV.UK](mailto:DDORWARD@WESTMINSTER.GOV.UK)

10. KEY DRAWINGS



Groom Place

Ground Floor Plan as proposed



First Floor Plan as proposed

Approved floor plans (Ref: 15/01423/FULL)

**DRAFT DECISION LETTER**

**Address:** 38 Groom Place, London, SW1X 7BA,

**Proposal:** Removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) for: Use from Class A1 (Delicatessen) to Class A3 (Restaurant) and alterations to ground floor windows. Namely, to enable a delivery service to take place from the restaurant.

**Reference:** 16/11438/FULL

**Plan Nos:** Site Location Plan.

**Case Officer:** Joe Whitworth

**Direct Tel. No.** 020 7641 1968

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

A delivery service would harm the environment of neighbouring residents and the character and function of the Belgravia Conservation Area. This would not meet S25, S29, and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13, and DES 9 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

1. In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.
2. It is considered that an unauthorised change of use from Class A3 (Restaurant) to a sui generis mixed Class A3 (Restaurant) and Class A5 (Hot Food Take-away) may have taken place. This matter may be reported to Council's Planning Enforcement Team and enforcement action may be taken.



Item No.
<b>4</b>

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 5

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Units 1 And 2, Trocadero, 13 Coventry Street, London, W1D 7DH</b>		
<b>Proposal</b>	Application 1: Use of ground floor as a restaurant (Class A3) Application 2: Installation of extraction/ventilation equipment at fourth floor roof level, internal restaurant fit out works and shopfront alterations Application 3: Display of internally illuminated fascia sign measuring 0.25m X 2.06m and externally illuminated hanging sign measuring 0.73m X 0.77m		
<b>Agent</b>	Pegasus Group		
<b>On behalf of</b>	Five Guys JV Limited		
<b>Registered Number</b>	Application 1: 16/10435/FULL Application 2: 16/10799/FULL and 16/10800/LBC Application 3: 16/10808/ADV	<b>Date amended/completed</b>	10 November 2016
<b>Date Application Received</b>	1 November 2016		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Application 1 - refuse permission – loss of retail floorspace.

Applications 2 and 3 – grant conditional permission, listed building and advertisement consent

## 2. SUMMARY

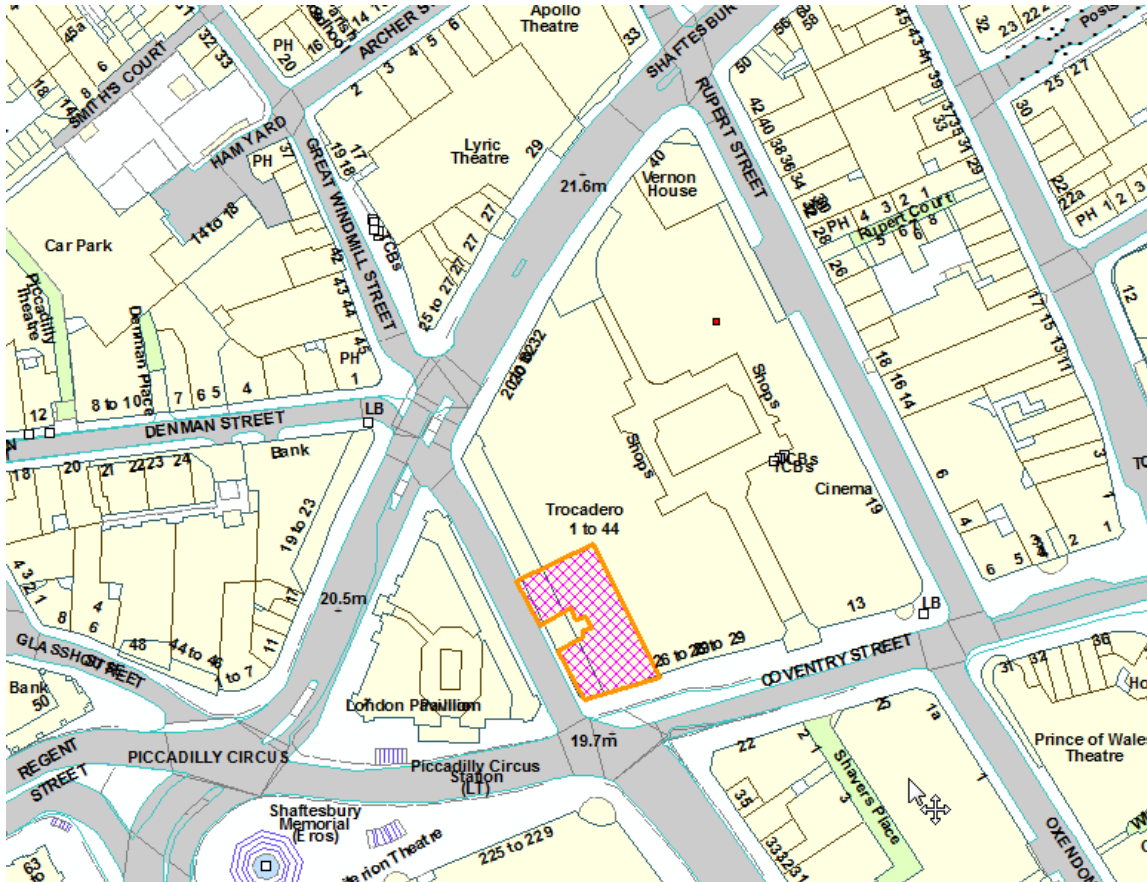
These applications involve a ground and mezzanine floor retail unit on the corner of Coventry Street and Great Windmill Street which is currently in use as a souvenir shop. Permission is sought by Five Guys to convert the unit into a restaurant (Class A3). Permission is also sought to install roof level extraction equipment to ventilate the proposed restaurant, for minor alterations to the shopfront and for the installation of adverts. The key issues for consideration are:

- \* the impact of the proposals upon the character and function of the area;
- \* the impact of the proposals upon the environmental quality of the area and residential amenity; and

\* the acceptability of the proposed works in design terms.

The introduction of the new restaurant floorspace in this location is acceptable in land use and amenity terms and the display of signage is also considered appropriate to this listed building. However, the loss of retail floorspace is not considered acceptable, contrary to Unitary Development Plan (UDP) and City Plan policies and as such is recommended for refusal.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### APPLICATION 1

SOHO SOCIETY

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

### APPLICATION 2

HISTORIC ENGLAND

Do not consider notification necessary.

SOHO SOCIETY

No objections raised.

ENVIRONMENTAL HEALTH

No objections raised.

CROSSRAIL

Do not wish to offer any comments

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 3

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

### APPLICATION 3

No consultations undertaken.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The Trocadero comprises a large street block made up of a number of buildings bounded by Shaftesbury Avenue, Rupert Street, Coventry Street and Great Windmill Street. Three of the buildings within the Trocadero, including the application site, are Grade II (Nos. 18-20 Coventry Street, Nos. 7-14 Coventry Street and Nos. 20-24 Shaftesbury Avenue).

The site is located within the Core CAZ, the West End Stress Area, the West End Special Retail Policy Area, the West End Strategic Cultural Area and the Soho Conservation Area. The site is located outside of a Primary Shopping Frontage.

At ground floor level the Trocadero has recently been reconfigured, the original shopping arcade has now been infilled, and its frontage onto Coventry Street now comprises a number of individual retail units. The application itself involves an existing ground and mezzanine floor retail unit on the corner of Coventry Street and Great Windmill Street which is currently in use as a souvenir shop.

The nearest residential properties are located within Coventry House, 22 Coventry Street, the upper floors of which comprise 18 flats. This is directly opposite the application site on the south side of Coventry Street. The eight flats approved in the hotel-led scheme within the Trocadero (in the process of being implemented) are located at first floor level on the Rupert Street frontage and at first floor mezzanine level at the corner of Rupert Street and Coventry Street. These eight flats must be completed prior to the commencement of the use of the new hotel.

## 6.2 Relevant History

### **The Trocadero**

The Trocadero was created in the early 1980s under a Greater London Authority permission issued on 22 January 1980.

Following this, a major scheme of refurbishment works was approved by the City Council on 24 November 1989 which permitted, inter alia, alterations and extensions to allow for an expanded mixed use complex incorporating retail, restaurant, entertainment, cinema and office uses. The scheme was substantially completed by the end of 1992.

### **Recent relevant History**

In November 2015 permission was granted for the use of the lower ground, ground and mezzanine levels of 7-14 Coventry Street as a museum (Class D1) with ancillary retail and cafe floor space at ground floor level, installation of replacement shopfront to Coventry Street elevation and alterations to entrances on Rupert Street elevation, and associated external alterations. This application has not been implemented.

In March 2014 permission was granted for the erection of extension over second, third, and fourth floor level within lightwell behind 7-14 Coventry Street facade and use of part ground floor, both to extend cinema (Class D2). Installation of railings around existing fourth floor flat roof to allow use as terrace. Alterations to ground floor level on Great Windmill Street in the form of installation of replacement shopfront, installation of two pairs of gates in lieu of existing ground floor railings, and erection of three awnings at ground floor level. Installation of two dormer windows in roof slope at fourth floor level on Coventry Street elevation, and installation of new plant at fourth floor level. This application has been implemented.

Planning permission and listed building consent were granted on 8 November 2012

for the erection of a two storey roof extension and use of part basement, subbasement, part ground to ninth floor levels as a hotel (Class C1) comprising of 527 bedrooms and 56 aparthotel rooms with a rooftop bar and associated terraces at eighth and ninth floor levels; use of part ground, first and first floor mezzanine levels (Rupert Street frontage) as eight flats (Class C3); use of part ground and first floor levels as a retail unit (Class A1); reconfiguration of the loading bay on Rupert Street and alterations to the shopfronts on Shaftesbury Avenue. The enabling works for this development are currently taking place and it is expected that the hotel will be open in 2018.

In June 2012 permission was granted for the use of first floor (mezzanine) as a restaurant (Class A3) with retail (Class A1) accommodation at ground floor level at 7-14 Coventry Street (corner with Rupert Street). Associated external alterations including the installation of plant at roof level. This application has been implemented. Consent was granted in November 2016 to vary this permission for a temporary period of two years to enable the ancillary retail accommodation to be relocated to first floor level.

In December 2011 permission was refused for the use of part ground floor, first floor mezzanine and part first floor at 7-14 Coventry Street (corner with Rupert Street) as a casino (sui generis); installation of plant at roof level. The application was refused on the grounds of loss of retail accommodation.

In March 2011 permission was granted for the use of part first floor and part first floor mezzanine as two restaurants (Class A3) at 7-14 Coventry Street. Installation of extract duct to terminate at roof level.

In March 2011 permission was refused for the use of Units 5, 6 and 7 at ground floor level as a restaurant (Class A3) and installation of a duct to terminate at sixth floor level. The application was refused on the grounds of loss of retail accommodation.

In March 2011 permission was refused for the use of Units 25 and 26 as a restaurant (Class A3) and installation of a duct to terminate at roof level. The application was refused on the grounds of loss of retail accommodation.

In January 2010 permission was granted for the conversion of retail accommodation at ground and part basement level at the corner of Coventry Street and Great Windmill Street into a restaurant. This application has not been implemented.

## **7. THE PROPOSAL**

Three separate applications have been submitted for this site. Application 1 proposes the change of use of the ground and mezzanine floors for restaurant (Class A3) purposes. Food preparation, kitchen and serving areas together with customer seating are proposed at ground floor whilst the mezzanine floor would provide customer toilets, staff facilities and offices, plant and further customer seating on the mezzanine. In total, the restaurant and associated floorspace will occupy 686 sqm.

Application 2 relates to internal restaurant fit out works, minor shopfront alterations and the installation of extraction/ventilation equipment with air conditioning units and extract duct located at fourth floor roof level.



Application 3 relates to the installation of advertisements including an externally illuminated hanging sign at fascia level and backlit individually applied lettering fixed externally to the shopfront glazing. The application has been amended to remove large individually applied lettering on the Coventry Street frontage.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of retail use

Application 1 involves the use of the premises as a restaurant for Five Guys (Class A3). This is a prominent corner site with a shopfront on both the Coventry Street and Great Windmill Street facades. The ground and mezzanine floors are currently in use as a souvenir shop (Class A1), currently trading as a 'Britannia Souvenirs' tourist gift shop. Prior to the current tourist gift shop use, the unit was occupied by HMV until they vacated in 2013. The unit has therefore been in long term use for Class A1 retail purposes and the applicant's argument that the unit has not been traditionally known for retail use, as it was built for Scott's Restaurant and Oyster Bar, is not accepted.

The City Council places a high priority on retaining A1 uses and City Plan Policy S7 seeks to maintain and enhance the unique status and offer of the West End Special Retail Policy Area. Policy S21 of the City Plan states that A1 uses will be protected throughout Westminster. Exceptions to the policies can be made if the City Council consider the unit is not viable. However, this unit has not been subject to long term vacancy therefore there is no justification for the loss of retail accommodation in this location. Policy SS5 of the Unitary Development Plan (2007) also aims to protect retail uses within the CAZ, particularly at ground floor level. The policy 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.

As stated above, this part of the Trocadero accommodates a number of retail units and therefore it can be argued that there is an established retail character in this location. This unit has a large retail frontage and given its location at ground floor level, it is considered that this use should be protected. The creation of a restaurant in this location will lead to a loss of 686sqm of retail accommodation and whilst it is acknowledged that the proposed A3 use will attract visiting members of the public, it is considered that the loss of a large retail unit at ground floor level would undermine the shopping function of the Trocadero complex. None of the retail units are vacant and the loss of such a large quantum of retail floorspace would clearly fail to maintain and enhance the unique status and offer of the West End Special Retail Policy Area, undermining the shopping function of the Trocadero and Coventry Street.

The applicant argues that the proposal would comply with Policy SS5 as it would not lead to a concentration of three or more consecutive non-A1 uses, that there has been little interest from long term retailers seeking to occupy the application site, and that this part of Coventry Street, and the Trocadero in particular, has a strong entertainment character and is a 'destination' for leisure uses and eating out. The applicant also makes reference to a permission issued in 2010 where the committee report states that *"It is not considered that the area has a particularly strong retail character and many of*

*the retail units in the vicinity, including the application site itself, are directed at tourist trade selling souvenirs.”*

The argument made by the applicant that the existing retail is of poor quality and that it would not comply with Policy SS5 is not accepted. Given the site's high footfall and enviable central location, it is considered that the retail floorspace could be reconfigured to provide good quality retail accommodation. In addition, as the unit adjoins the Picture House cinema which in itself adjoins the Rainforest Café, the proposal will result in three non-A1 shop-type units in a row. As such, the loss of the retail floorspace is undoubtedly contrary to City Plan Policies S7 and S21 and UDP Policy SS5.

It is acknowledged that consent has been granted previously for loss of retail premises in Coventry Street, but this was for an extremely small unit that was little more than a kiosk. The unit the subject of the current application is substantially larger and is considered to be in a location with a strong retail character where its retention is considered to be more important.

#### **Introduction of new 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'. 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.

UDP Policies TACE8-10 are applicable to entertainment uses and aim to 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, whilst acknowledging that they provide services to people living in, working in and visiting the City and contribute to its role as an entertainment centre of national and international importance. Due to the size of the restaurant proposed (being 686 sqm), the application must be determined against the requirements of Policy TACE10 of the UDP. Policy TACE10 considers entertainment uses 'which will only be permissible in exceptional circumstances'.

Part C of the policy requires that where exceptional circumstances have been demonstrated to permit the use that the City Council will seek to control the following:

1. The number of customers who may be present on the premises.
2. The opening hours.
3. The arrangements to be made to safeguard amenity and prevent smells, noise and vibration disturbance (including that from the use of ventilation and air conditioning plant) from the premises.
4. Servicing arrangements.
5. Arrangements for the storage, handling and disposal of waste, recyclable materials and customer litter.
6. The positioning of tables and chairs in open areas within the curtilage of the premises.
7. Changes of use to other uses and activities within the same Use Class.

8. Other relevant aspects of the use of premises, in order to minimise adverse effects.

The site is located within the Core CAZ which is identified within Policy S6 of the City Plan as being an appropriate location for a range of commercial uses. There are several restaurants in the complex itself and in the wider area including a large restaurant (the Aberdeen Steak House) directly opposite the application premises at No. 20-24 Coventry Street, which is open until 01.00. The nearest residential properties are located immediately above this within Coventry House, the upper floors of which comprise 18 flats. This is directly opposite the application site on the south side of Coventry Street. It is noted that no objections have been received to the current application from the occupiers of these flats.

The 'exceptional' circumstances the applicant has put forward are primarily with regard to the location of the premises within the Core CAZ and that there are very few sensitive properties in the vicinity. It is acknowledged that there are very few residential properties in the vicinity of the premises (with the exception of the flats on the opposite side of Coventry Street to the south) and this is reflected in the fact that no objections have been received to the application.

The applicant also argues that the majority of Five Guys' custom is for eat-in dining and customers are prevented from congregating outside the restaurant (other than when queuing). Had the application been considered acceptable an Operational Management Plan would have been secured by condition to secure measures to reduce noise and disturbance for residential occupiers in the vicinity, through controls on deliveries and customers entering and leaving the premises.

The opening hours of the premises are proposed as 10:00 till 01:00 Monday to Saturday and 10:00 to midnight on Sundays and Bank Holidays) with 280 covers. Given that the surrounding area currently experiences a high level of activity during the day and at night, these hours are considered reasonable. The nearest residential properties, at 22 Coventry Street, are located above a restaurant which also closes at 01.00. It is considered that this location is acceptable for an A3 use and it is not considered that the creation of a new restaurant in this location will lead to an over-concentration of restaurants that would have a detrimental impact on local environmental quality and residential amenity.

Environmental Health consider the proposed high level extract duct suitable to enable the discharge of cooking odours without detriment to neighbouring residential amenity.

## 8.2 Townscape and Design

Application 2 involves minor alterations to the shopfront including the installation of new entrance doors onto Coventry Street and a louvred panel onto Great Windmill Street. A high level extract duct is proposed at fourth floor level set back from the building façade. These works are considered acceptable in design terms.

The advertisement (Application 3) and the listed building application have been revised to remove large individually applied lettering on the Coventry Street frontage and large vinyl lettered panels on the Great Windmill frontage. The revised scheme ensures that

the proposed advertisements will, by being designed and located to preserve the character and appearance of the listed building and surrounding conservation area, maintain visual amenity and accord with UDP policies DES 8, DES 9 and DES 10. Applications 2 and 3 are therefore recommended for approval.

### **8.3 Residential Amenity**

#### **Mechanical Plant**

The extraction equipment proposed in Application 2 to serve the new restaurant is considered acceptable in amenity terms. The equipment is to be located at a high level and will not affect the occupants of the nearest residential flats. Environmental Health conclude that it is unlikely that the operation of the equipment will have any adverse impact in terms of noise or odour nuisance.

### **8.4 Transportation/Parking**

It is not considered that the proposed use of the site as a restaurant (Class A3) will have any adverse impact on the public highway and therefore Application 1 for restaurant use is considered acceptable in highways terms. The site has good access to public transport links, including various bus routes and two underground stations (Piccadilly Circus and Leicester Square). Service vehicles will use the existing Trocadero service bay located in Rupert Street.

### **8.5 Economic Considerations**

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

### **8.6 Access**

Level access is provided into the proposed restaurant from Coventry Street (Application 1) and an accessible wc is provided at ground floor level.

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

None.

### **8.8 London Plan**

The proposal is considered contrary to Policy 2.10 of the London Plan which seeks to support and improve the retail offer of CAZ for residents, workers and visitors, especially ...the West End as a global shopping destination.

### **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.

A CIL payment is not liable.

### **8.11 Environmental Impact Assessment**

The application does not prompt a requirement for an environmental statement.

## **9. BACKGROUND PAPERS**

### **Application 1**

1. Application form

### **Application 2**

1. Application form
2. Letter from Soho Society dated 6 December 2016
3. Memorandum from Environmental Health dated 29 November 2016
4. Letter from Historic England dated 21 November 2016
5. Letter from Crossrail dated 17 November 2016

### **Application 3**

1. Application form

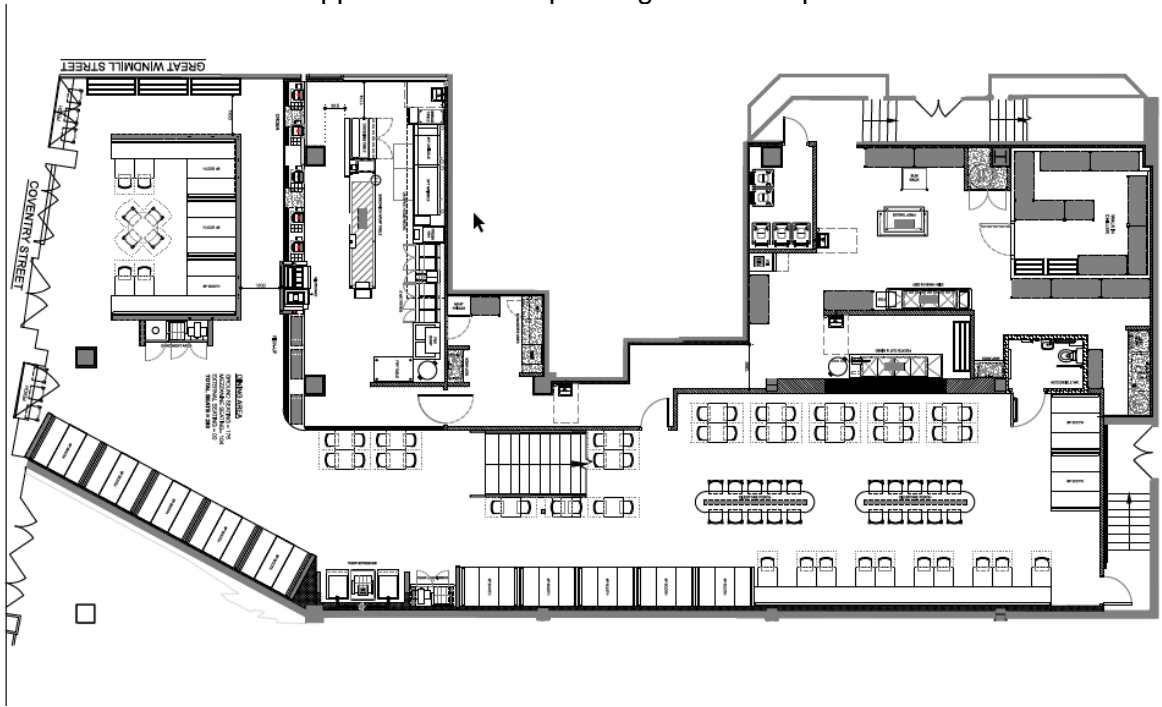
### **Selected relevant drawings**

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

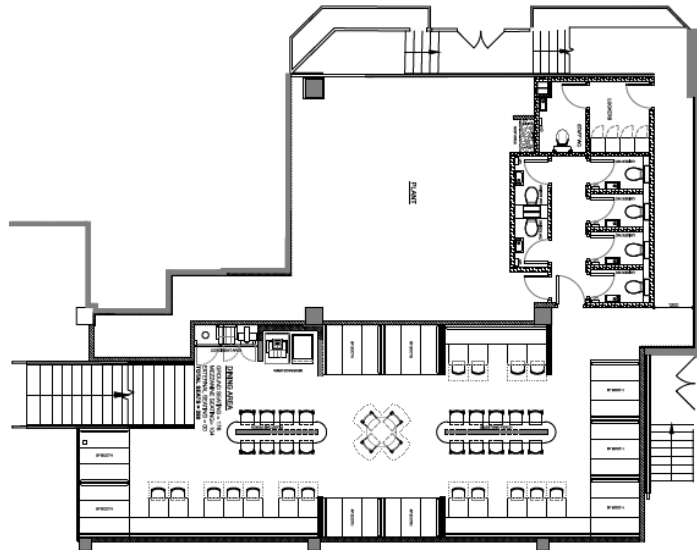
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

10. KEY DRAWINGS

Application 1: Proposed ground floor plan

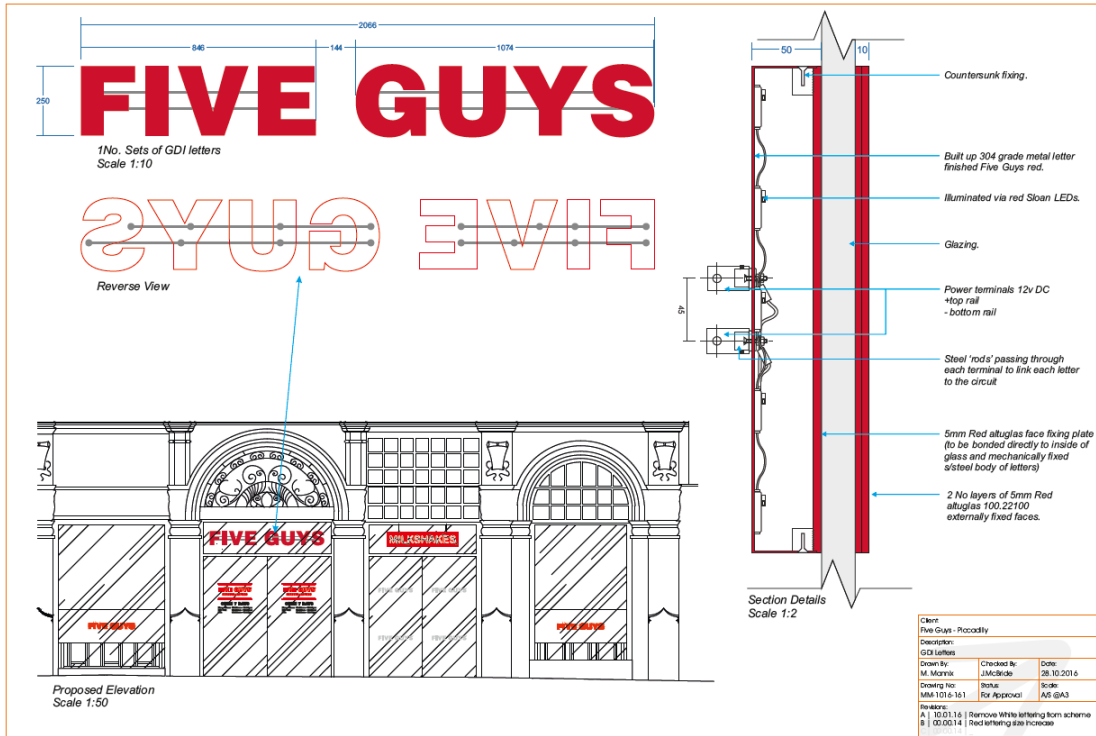


Application 1: Proposed mezzanine floor





Application 3: Proposed advertisements





**DRAFT DECISION LETTER**

**Address:** Units 1 And 2, Trocadero, 13 Coventry Street, London, W1D 7DH,

**Proposal:** Use of ground floor as a restaurant (Class A3)

**Reference:** 16/10435/FULL

**Plan Nos:** FIV131-A211-01-C, A211-02-C

**Case Officer:** Josephine Palmer

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

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

Your development would lead to the loss of a retail unit which would harm the retail character and function of the area. This would not meet S21 of Westminster's City Plan (November 2016) and SS 5 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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.

**DRAFT DECISION LETTER**

**Address:** Units 1 And 2, Trocadero, 13 Coventry Street, London, W1D 7DH,

**Proposal:** Installation of extraction/ventilation equipment, internal restaurant fit out works and shopfront alterations

**Reference:** 16/10799/FULL

**Plan Nos:** FIV131-A211-01-C, A211-02-C; 016-086-01-G, 086-02-G, 086-03-G, 086-04; FIV131-A410-01\_D, FIV131-A410-02\_C

**Case Officer:** Josephine 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 L A90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

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

- 4 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 00:00 hours daily.

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 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.

- 6 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)

**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.

**DRAFT DECISION LETTER**

**Address:** Units 1 And 2, Trocadero, 13 Coventry Street, London, W1D 7DH,

**Proposal:** Installation of extraction/ventilation equipment, internal restaurant fit out works, shopfront alterations and signage. (Linked to 16/10799/FULL)

**Reference:** 16/10800/LBC

**Plan Nos:** FIV131-A211-01-C, A211-02-C; 016-086-01-G, 086-02-G, 086-03-G 086-04; FIV131-A410-01\_D, FIV131-A410-02\_C; MM-1016-162-A, 1016-161-B, 1016-163; jm-0115-04

**Case Officer:** Josephine 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 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)

**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 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

**DRAFT DECISION LETTER**

**Address:** Units 1 And 2, Trocadero, 13 Coventry Street, London, W1D 7DH,

**Proposal:** Display of internally illuminated fascia sign measuring 0.25m X 2.06m and externally illuminated hanging sign measuring 0.73m X 0.77m

**Reference:** 16/10808/ADV

**Plan Nos:** FIV131-A410-01\_D, FIV131-A410-02\_C; MM-1016-161-B; jm-0115-04

**Case Officer:** Matthew Pendleton

**Direct Tel. No.** 020 7641 5971

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

Period of consent: 5 years from the date of this decision unless stated otherwise in any additional conditions.

**Standard Conditions:**

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to –
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

**Additional Condition(s):**

If you object to any conditions imposed by the City Council other than the Standard Conditions 1, 2, 3, 4 and 5, you may appeal to the Planning Inspectorate, at the Department of Communities and Local Government (DCLG), by notice in writing within two months from the receipt of this decision, or such longer period as the Secretary of State may allow.

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# Agenda Item 6

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 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>	185-187 Oxford Street, London, W1D 2JU		
<b>Proposal</b>	Use of part ground floor, part first, second, third and fourth floors as restaurant/hot food takeaway (sui generis) in connection with the existing restaurant/hot food takeaway over part basement, part ground and part first floor levels.		
<b>Agent</b>	Planware Limited		
<b>On behalf of</b>	McDonald's Restaurants Ltd.		
<b>Registered Number</b>	16/09880/FULL	<b>Date amended/ completed</b>	17 October 2016
<b>Date Application Received</b>	17 October 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

## 1. RECOMMENDATION

Grant conditional permission
------------------------------

## 2. SUMMARY

The application premises comprise basement, ground and four upper floors situated at the eastern end of Oxford Street. The site is a mixed use building. Part basement, part ground and part first floors are in restaurant/hot food takeaway use (sui generis). Part ground, part first floors and the 2nd to 4th floors are lawfully in educational use (Class D1 - non-residential institution), but are currently vacant. These floors were most recently been used as a language college until approximately December 2015.

Permission is sought to use the front first, second, third and fourth floor levels as an extension to the existing restaurant/hot food takeaway (sui generis).

The key issue for consideration is:

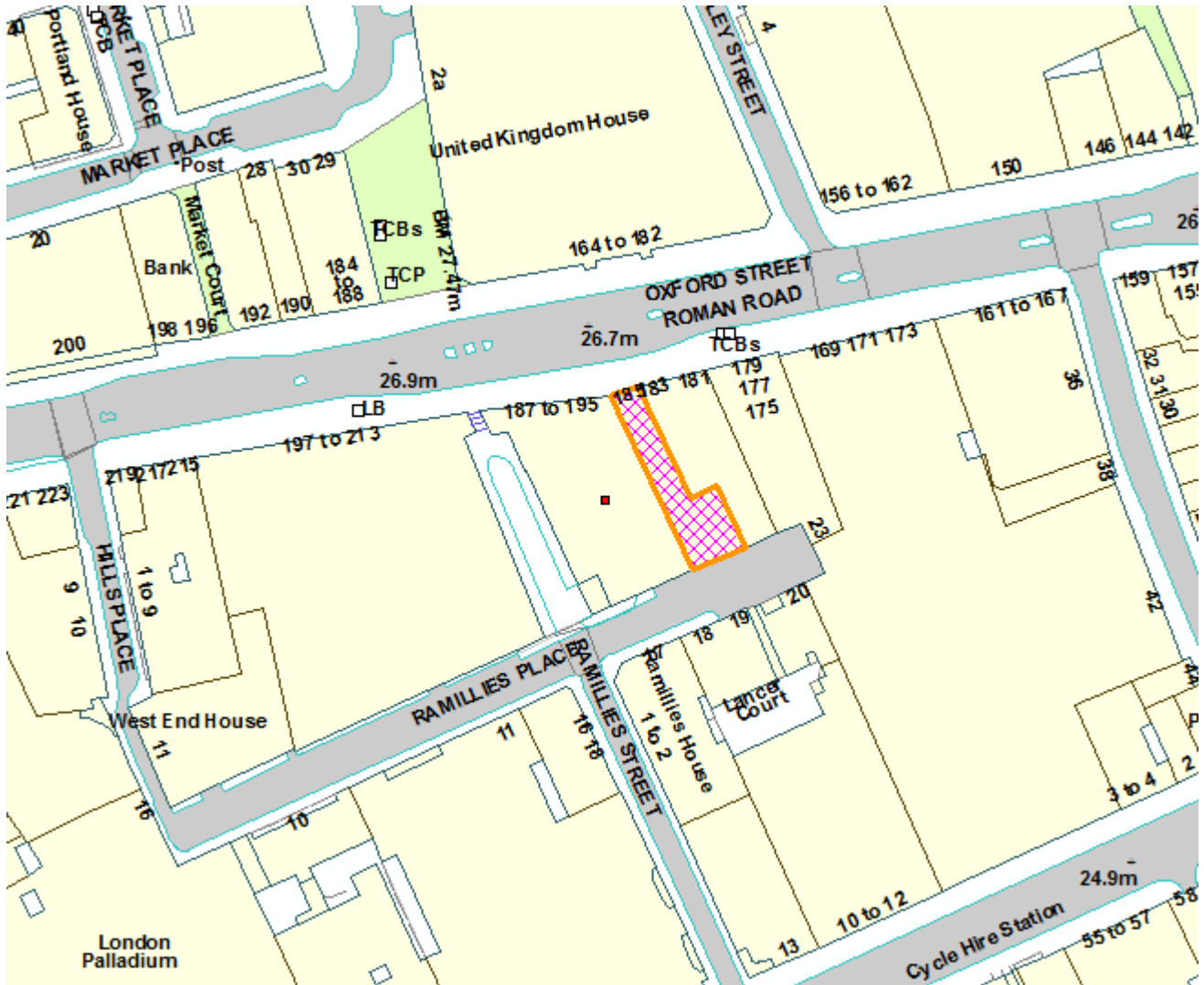
- \* The land use implications regarding the loss of educational use (a social and community facility).
- \* The acceptability of enlarging the existing restaurant/hot food takeaway (sui generis).

Despite the policy presumption against the loss of social and community floorspace, its former use as a language school and the unsuitability of its conversion to another social and community means that its loss of acceptable in this instance.

The scheme would result in the provision of 181.9 sqm of additional restaurant/hot food takeaway use (sui generis). The application does not, however, result in any additional covers. The additional floor space is to be used as additional ancillary staff area, training rooms and an office. As such, despite the site's location within the West End Stress Area, it will not give rise any unacceptable land use or amenity concerns.

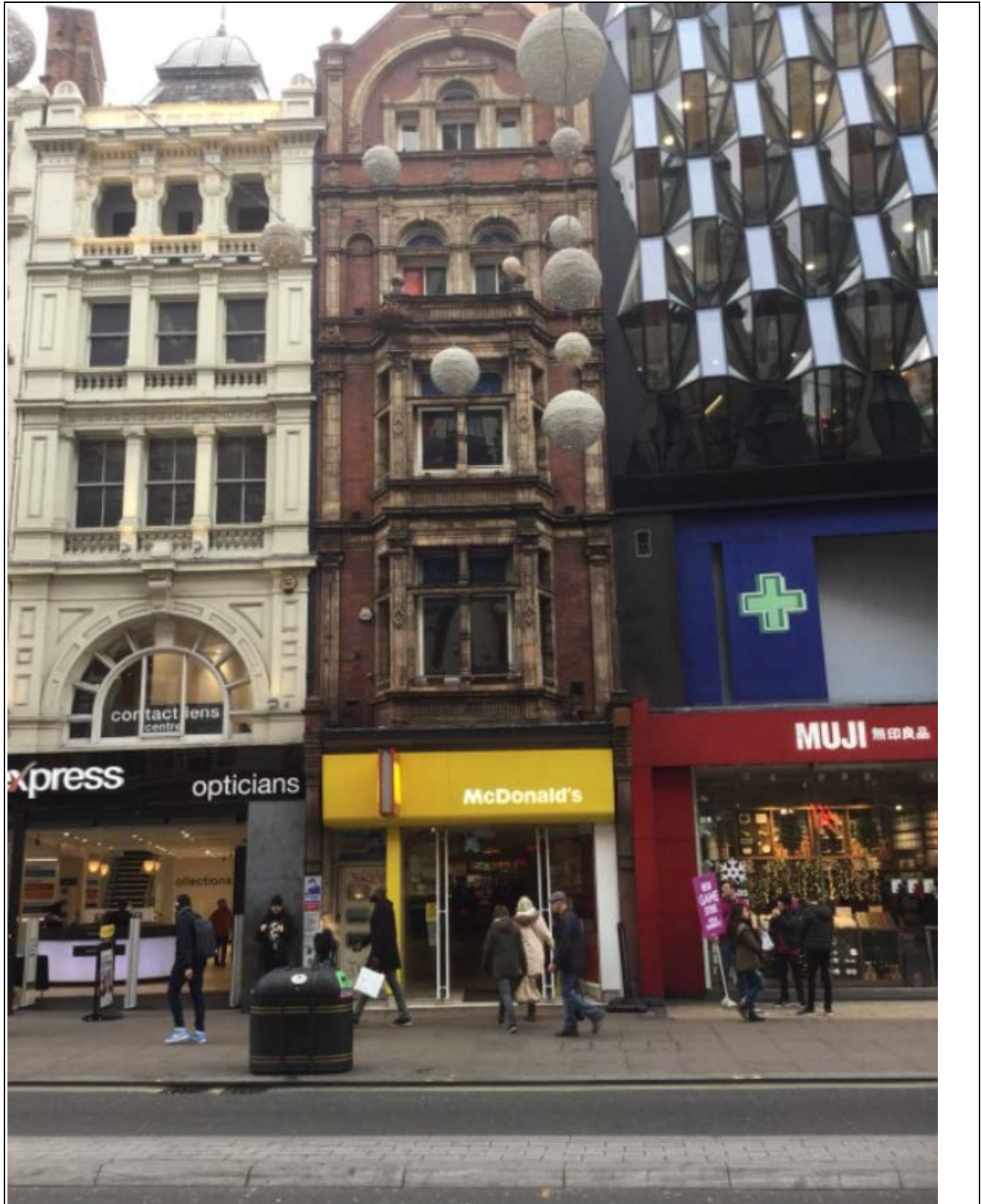
Accordingly, the application is recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### SOHO SOCIETY

The Soho Society does not object to this application provided the additional restaurant/hot food use floorspace is for ancillary purposes only, i.e. rest rooms, staff areas, office and not new customer area restaurant capacity.

### HIGHWAYS

No objection, subject to conditions

### CLEANSING

No objection, subject to conditions

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 26

Total No. of replies: 0

No. of objections: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an unlisted building and is not located within a conservation area. The site is located within the Core CAZ and the West End Special Retail Policy Area. It is located on the southern side of Oxford Street (a primary frontage within the West End International Shopping Centre) and within the West End Stress Area. The property consists of basement ground and four upper floors.

Part basement, part ground and part first floors are in use as restaurant/hot food takeaway (sui generis). Part first and second to fourth floors are lawfully within Class D1 (non-residential institution) use and have most recently been used as a language college. This area has been vacant since approximately December 2015.

### 6.2 Recent Relevant History

A certificate of lawfulness for the 'Use of first, second, third and fourth floor for educational purposes (Class D1)' (Ref: 11/00273/CLEUD) was issued on 15 March 2011.

## 7. THE PROPOSAL

Permission is sought for the use of part ground, part first floors and second to fourth floors as an extension to the existing restaurant/hot food takeaway (sui generis). No external alterations are proposed.

It is proposed that the additional floorspace will be used as office space, staff training space and employee areas, all of which are ancillary to the existing use of the ground and lower ground floor and part first floor premises.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use and Amenity

#### *Loss of language school*

Radcliffe College occupied a small area of the ground floor (access only) and part first to fourth floors for educational purposes.

UDP Policy SOC1 and City Plan Policy S34 seek to protect and improve community facilities in Westminster. Where the loss of such facilities is considered acceptable, policy requires evidence that the premises have been appropriately marketed for a period of at least two years and that no demand for a social and community facility has been identified.

The premises were aimed primarily at the higher education sector as it was considered that the location is not appropriate for other uses which would fall within Class D1 use (such as nursery, primary or secondary school, medical uses) due to the lack of drop off facilities/locations, outdoor spaces and stretcher lifts.

Although in this instance the premises have not been marketed for required period, the applicants' argument that the nature of the site (upper floors of a building on Oxford Street) restricts the suitability for alternative social and community uses is accepted. The former language school is a small private commercial facility of little value to the local community. In these circumstances the proposed a departure from the normal policy presumption to protect social and community facilities is considered acceptable.

#### *Extension to restaurant / takeaway*

The existing floorspace of the restaurant / takeaway is 837.9 sqm. This is proposed to increase by 181.9 sqm to 1,019.8 sqm as a result of the proposed extension.

City Plan Policy S24 requires entertainment uses to be 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. Furthermore, entertainment uses are required to not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. There is a presumption against entertainment uses of over 500 sqm floorspace anywhere within Westminster. UDP Policy TACE 10 reinforces this presumption against large entertainment premises, requiring exceptional circumstances to be demonstrated to overcome this presumption against such premises.

The proposal will not add any additional diners to the existing restaurant / takeaway but will provide additional ancillary staff facilities, training rooms and an office. The proposal will therefore have no harmful impact upon the character and function of the area or harm residential amenity. A condition is recommended to be imposed preventing customer access to the new floorspace to ensure that the entertainment use on site does not intensify in the future. This addresses the comment received from the Soho Society who does not object to the application provided the additional restaurant/hot food floorspace is

for ancillary purposes only, i.e. rest rooms, staff areas, office and not new customer area restaurant capacity.

## **8.2 Townscape and Design**

No external alterations are proposed.

## **8.3 Transportation/Parking**

It is not considered that the change of use will lead to an increase in servicing or car / cycle parking requirements. As such, the request from the Highways Planning Manager that additional cycle parking is secured by condition is not considered to be necessary.

## **8.4 Economic Considerations**

The proposed use is not considered to be materially different in terms of its economic impact than the existing use.

## **8.5 Access**

It is proposed to retain the existing access point to the premises on Oxford Street.

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

The additional ancillary floorspace is unlikely to generate a significant amount of waste. As such, it is not considered necessary to secure such storage by condition.

## **8.7 London Plan**

This application raises no strategic issues.

## **8.8 National Policy/Guidance Considerations**

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

## **8.9 Planning Obligations**

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

## **8.10 Environmental Impact Assessment**

The scheme is of insufficient scale to require an Environmental Impact Assessment.

## **8.11 Other Issues**

None

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Soho Society, dated 11 November 2016
3. Response from Highways Planning – Development Planning dated 25 October 2016
4. Response from Cleansing dated 28 October 2016

### **Selected relevant drawings**

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)



Item No.
6

**10. KEY DRAWINGS**





**DRAFT DECISION LETTER**

**Address:** 185-187 Oxford Street, London, W1D 2JU,

**Proposal:** Use of part of the ground floor, the first, second, third and fourth floors as restaurant/hot food takeaway (sui generis) in connection with the existing restaurant/hot food takeaway on the lower levels.

**Reference:** 16/09880/FULL

**Plan Nos:** 6524\_AEW\_0244\_0103 REV A

**Case Officer:** Shaun Retzback

**Direct Tel. No.** 020 7641 6027

**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 Customers shall not be permitted to the front first, second, third and fourth floors.

Reason:

To prevent the intensification of an entertainment use located within the West End Stress Area, as required by Policy S24 of the Westminster City Plan that we adopted in November 2016 and Policy TACE 10 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (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 contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk). , , If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk) , , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
  
- 3 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)

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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7
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 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>33 Aybrook Street, London, W1U 4AP</b>		
<b>Proposal</b>	Erection of a rear single storey extension at first floor level, erection of a dormer window within rear roofslope to enable the conversion of the attic space to create a new fourth floor and use of enlarged building as a composite use comprising public house with associated dining and office facilities on basement, ground and part first floor together with guest accommodation over front first and second, third and new fourth floors ( <i>sui generis</i> ). Installation of replacement plant at rear ground floor level and installation of replacement full height extract duct to rear elevation.		
<b>Agent</b>	Stiff + Trevillion		
<b>On behalf of</b>	Oakwell Business Investment Ltd		
<b>Registered Number</b>	16/09845/FULL	<b>Date amended/ completed</b>	14 October 2016
<b>Date Application Received</b>	14 October 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

Grant conditional permission
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## 2. SUMMARY

The application site is an unlisted building located in the Portman Estate Conservation Area. It comprises basement, ground and first to third floors. The site is currently in use as a public house, with basement beer cellar and storage, ground floor bar, front first floor function room, rear first floor ancillary office and storage and ancillary residential flat at second and third floor levels.

Planning permission is sought for the erection of a rear single storey extension at first floor level, erection of a dormer window within the rear roofslope to enable the conversion of the attic to create a new fourth floor, the replacement of existing plant at rear first floor level (including the replacement of a full-height extract duct), and the use of the building as a composite use comprising public house with associated dining and office facilities on basement, ground and part first floor together with guest accommodation over front first and second, third and new fourth floors (*sui generis*).

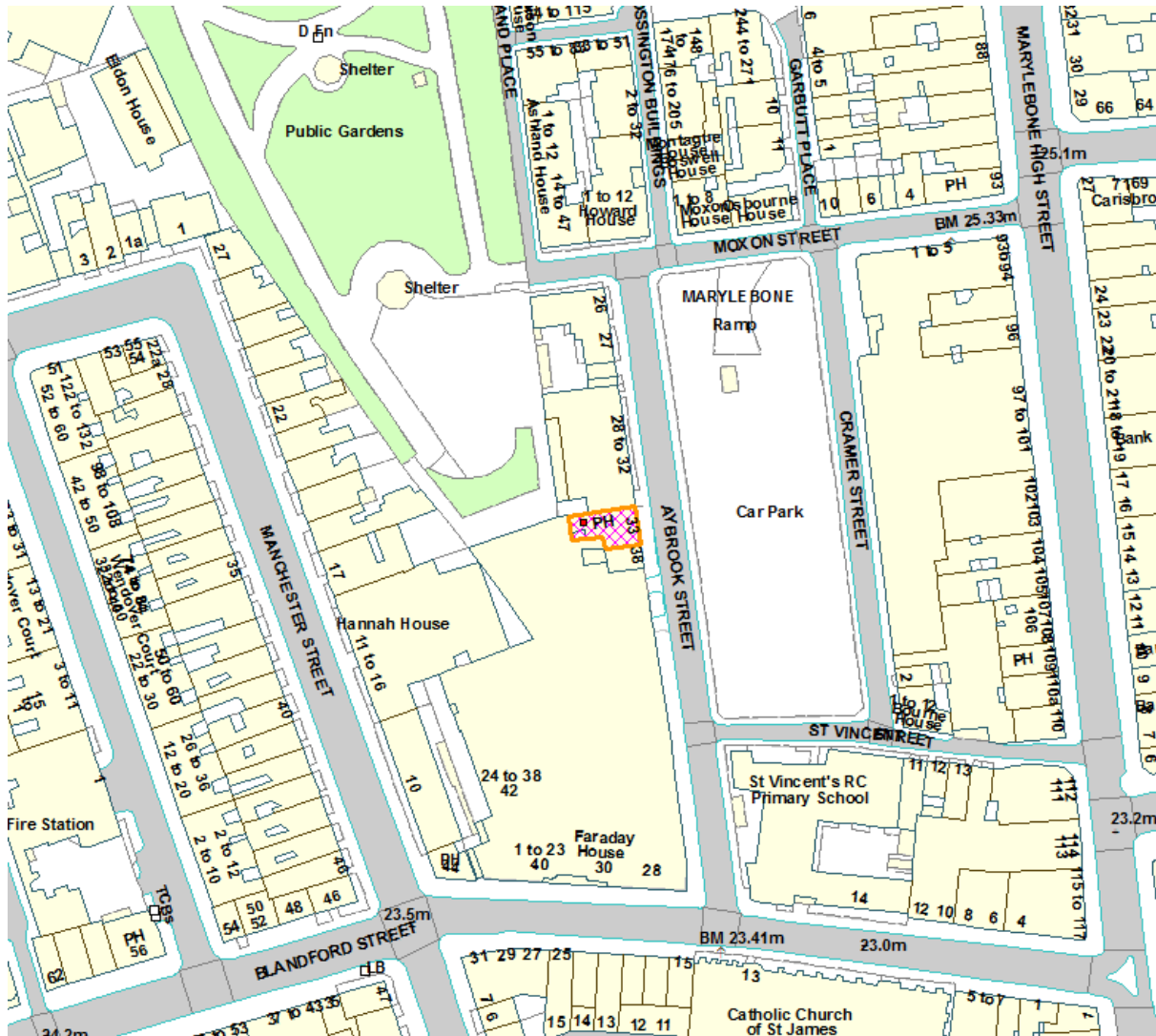
The key issues for consideration are:

- The acceptability of the loss of the ancillary residential accommodation at third floor level.
- The appropriateness of hotel-type accommodation located outside of the Core CAZ.
- The impact of the use, extensions and proposed replacement plant upon the amenities of neighbouring residential properties.
- The impact of the proposal upon both the appearance of the existing building and on the character and appearance of this part of the conservation area.

A neutral comment has been received on amenity grounds. However, for the reasons set out in the main body of the report, and subject to appropriate conditions, the proposals are considered to comply with relevant UDP and City Plan policies and the application is recommended for approval.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION:

No objection.

### HIGHWAYS PLANNING MANAGER:

Concern raised in respect to the lack of cycle parking and storage for waste.

### ENVIRONMENTAL HEALTH:

No objection to revised acoustic report.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 134

Total No. of replies: 1

No. of objections: 0

No. in support: 0

No. of neutral comments: 1

Neutral comment on the following grounds:

#### Amenity:

- No explanation in acoustic report of how additional sound reduction will be achieved.
- No explanation of how residents in neighbouring Faraday House will be safeguarded from construction work

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an unlisted building which comprises basement, ground and first to third floors. It is located in the Portman Estate Conservation Area. The site falls outside the boundary of the Core CAZ but is located within the wider CAZ. The rear of the site is visible from Paddington Street Gardens.

The site is currently in use as a public house (Class A4). The basement is used as a beer cellar and for storage. The ground floor is the public bar. At front first floor level there is a function room and a kitchen is located at rear first floor level. The second floor is in use as an office and storage, whilst the third floor is in use as storage and for occasional overnight accommodation of staff. All of these uses are considered to be ancillary to the primary use of the building as a public house.

The site is to the west side of Moxon Street Car Park. This area of hardstanding was cleared of built development in 1966 and is now a single level open public car park bounded by roads on all four sides. Permission was granted on 12 January 2016 to erect a six storey mixed use building (plus three subterranean floors) for up to 79 residential units, retail shops, restaurants, multi-purpose community hall, community space and cycle and car parking.

The nearest residential properties are within Faraday House, 30 Blandford Street which are located to the west and south of the application site, to the north at 28-32 Aybrook Street and (in the future) the 79 flats approved within the new building on Moxon Street Car Park.

## 6.2 Recent Relevant History

The City Council's planning records reveal that the site has a limited planning history. The oldest record appears to be an application for advertisement consent in 1996 submitted by the Bricklayers Arms (RN: 96/06525/ADV).

Of relevance, there are no planning applications in relation to the change of use to residential accommodation (Class C3) of the upper floors.

## 7. THE PROPOSAL

The application is for alterations to the building including the erection of a single storey extension on the first floor rear flat roof, the erection of a dormer window within the rear roofslope and the conversion of the attic space to create a new fourth floor level, replacement of existing plant at rear first floor flat roof level and retention of existing high level flue on the rear elevation adapted to suit new internal configuration. Minor alterations are proposed at basement and ground floor level consisting of the infilling of existing lightwells to form internal space.

The ground floor would continue to provide a bar area and customer toilets. The newly refurbished basement would provide a dining area, kitchen and additional customer toilets. The pavement vaults would provide a replacement beer cellar. The front first and second, third and new fourth floor are proposed be used as overnight guest accommodation in the form of six en-suite double bedrooms. An ancillary office is proposed to be located at rear first floor level. The applicant has advised that the building will be run as a single planning unit and therefore such a use is considered to comprise a mixed use comprising elements of restaurant, public house and guest bedrooms.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### *Nature of Proposed Use*

It is well established that the primary uses of land often embrace one or more ancillary activities. Whether or not an activity is ancillary to a primary use is a matter of fact and degree, based on the individual circumstance of each case. Factors such as the floorspace dedicated to each use, the character of the planning unit and the sales / revenue derived from each element are taken into account when making such an assessment. An ancillary use is one that has a functional relationship with the primary use of land - and a relationship that is normally found. However, if there are two or more primary uses of land, then it is likely to be in a mixed use.

The applicant has advised that the public house, restaurant and guest bedrooms will operate as a single planning unit managed by the current owners of the public house. A new website will be created to provide information about the accommodation. It is anticipated that the majority of bookings will be made via the website. Telephone bookings will also be available. Guests will provide an estimated time of arrival when booking. Staff will be on-site to meet guests and show them to their rooms. Guests will check-in at the bar at ground floor level when they arrive at the premises. There is no dedicated check-in area on the upper floors. Staff will be on-site at all times within the office area at first floor level. A night porter will remain on the premises overnight and breakfast will be served within the restaurant at basement level or within the bar at ground floor level.

The proposed plans show one kitchen at the premises at basement level which means there would be no separate kitchen for guest bedrooms. There are no dining areas proposed on the upper floors. It can therefore be considered that the guest rooms are unlikely to be able to operate without the supporting facilities of the public house at basement and ground floor level. It is therefore considered that the guestrooms would be intrinsically linked to the public house.

Plans originally showed no internal access from the ground floor to the basement and upper floors. This raised concerns that the ground floor area could be operated as a separate planning unit from the basement and upper floors. Revised plans show internal access from the ground floor to the hallway area serving the stairs. It is considered that, as long as the ground floor has internal access to the basement and other floors, the use of the premises as one planning unit will not be compromised. The need for internal access between the floors will be secured by condition because this is considered vital to safeguarding the long-term viability of the public house element of the proposed use.

On the basis that the building is used as a single planning unit, what is being proposed is a use more akin to an 'inn' which traditionally provides overnight accommodation to

travellers, as well as a food and drink. Such a use falls outside any of the classes and is therefore a *sui generis* use. In addition to the external alterations and extensions, the application is therefore for this composite use.

### *Policy Context*

As the proposal involves the conversion of the upper floors to provide guest bedrooms, the policies most relevant to the proposals are those relating to new hotels and to existing public houses.

The application site is located just to the north of the Core CAZ (but still within the CAZ). UDP Policy SS 8 seeks to protect non-A1 retail uses (including public houses) outside the Core CAZ from changing to uses that do not serve visiting members of the public. Paragraph 7.98 states, “*Traditional public houses are generally considered to add to the character and function of a locality and their loss will only be acceptable if they have been vacant and marketed for at least eighteen months without success*”. City Plan Policy S21 protect existing non-A1 retail uses (which includes public houses) from changing to uses that do not serve visiting members of the public and that do not have active shopfronts.

The City Council published an informal booklet entitled, ‘*Food, Drink, Entertainment, Tourism Arts and Culture*’ in February 2014. That includes a proposed specific policy for the protection of public houses. Due to the very early stage in the development of this policy, however, it should be given no material weight in the determination of this application.

UDP Policy TACE 2 states that planning permission for new hotels outside the Core CAZ will not be granted.

### *Consideration of Proposed Use*

As set out above, there is a presumption with UDP Policy TACE 2 against the provision of new hotels outside of the Core CAZ. Given the small number of rooms proposed, their intrinsic link with an existing entertainment use, the potential for these rooms to ensure the long-term viability of the ground floor drinking establishment and the fact that planning permission would not be required to use the upper floors of the building as additional public house floorspace, it is considered that an exception to the City Council’s usual policy approach is appropriate in this instance. A condition restricting the use of the four upper floors of the premises to guest accommodation would effectively remove the potential of the public house to expand in the future which would be beneficial to the occupants of the residential properties in close proximity to the site.

With restrictive planning conditions it is considered that the proposed use could be beneficial to the local residential amenity and this justifies an exception to UDP Policy TACE 2 in this instance.

As described earlier, there are no planning permissions at this site for change of use to residential accommodation (Class C3) of any part of the site. Whilst the bedroom on the third floor appears 'lived in' with furnishings like a bed, duvet and lamp as would be expected in a bedroom, the applicant has advised that this room is only used for occasional overnight accommodation. Without evidence to the contrary, on the balance of probabilities, it is considered that this room is not lawfully a self-contained flat but is in use as ancillary floorspace to the public house.

On this basis, there is no policy objection to the loss of this staff accommodation as it could be used for any other purpose ancillary to the public house without requiring planning permission.

The existing first floor of the premises consist of a function room/dining space and a kitchen. As set out above, the City Council seeks to protect public houses. Therefore the loss of this dining room space at first floor level must not prejudice the long-term viability of the public house. It is considered that the dining area proposed at basement level will balance out the loss of the dining area at first floor level. The dining area floorspace of the public house will not be lost; it will just be relocated to basement level.

Whilst the proposed use of the building is proposed to change, the building will still contain a public bar and restaurant facilities. As such, the City Council's policies protecting public houses are considered to be met. The provision of guest accommodation is likely to protect the long-terms viability of the public house and is therefore acceptable despite the site's location outside of the Core CAZ.

## **8.2 Townscape and Design**

The building is a distinctive nineteenth century pub that retains much of its architectural character and strong contribution to the Portman Estate Conservation Area.

The proposed dormer window is larger than normally allowed. However, as it is located on the rear elevation and is appropriately detailed it is considered acceptable in this instance.

There is no objection to the proposed rear first floor extension as it is modest in size, largely contained within the parties walls and matches the host building in terms of materials and detailing.

The proposed plant is acceptable subject to conditions requiring the units to be housed within a suitable enclosure and for the replacement full height extract duct to be clad in brick slips or GRP to match the host building.

For these reasons, the proposed modifications are considered acceptable in design and conservation terms, in accordance with City Plan Policies S25 and S28 and UDP Policies DES 1, DES 5, DES 6 and DES 9.

### **8.3 Residential Amenity**

#### *Extensions*

Policy ENV13 of the UDP states that the Council will resist proposals that would result in a material loss of daylight/sunlight, particularly to dwellings, and that developments should not result in a significant increased sense of enclosure, overlooking or cause loss of privacy. Similarly, Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development.

The nearest residential properties are located to the rear of the application site within Faraday House, 30 Blandford Street.

The single storey extension at first floor level is not considered to have any harmful impacts on neighbouring residential properties. This is because the depth of the proposed extension will be approximately 3m from the existing building facade, leaving approximately 3m of flat roof area. Given this small increase in depth and the extension being single storey, it is not considered to have any impact on sense of enclosure or loss of sunlight to neighbouring properties. The proposed window to the rear elevation within the single storey extension is not considered to raise any concerns of overlooking or privacy due to its distance from the nearest residential windows.

The erection of a dormer window at fourth floor level is not considered to raise any concerns of overlooking or loss of privacy due to its distance from the nearest residential windows.

There are minor alterations at basement level and ground floor level consisting of the infilling of existing lightwells to form internal space. These infills are small in size and will not extend beyond the footprint of the building and are therefore considered acceptable. These infills serve to create a uniform building line at the rear of the property at basement and ground floor level. It is not considered that this will have any harmful impact on the amenity of occupiers of neighbouring properties.

A comment has been received on the grounds of disturbance from construction work on residential neighbours. It is considered that the standard condition restricting the hours of building works will be adequate to protect the environment of neighbouring occupiers. Therefore it is considered that this part of the comment cannot be supported.



### *Plant*

The plant is proposed at first floor rear flat roof level to replace existing plant. Environmental Health objected to the original acoustic report submitted with the application on the grounds that background noise levels were possibly not representative of the background noise levels at the adjacent flats within Faraday House.

Subsequently a revised acoustic report was submitted. Environmental Health has assessed the revised acoustic report and considers that the proposed plant is likely to comply with the City Council's noise Policy ENV 7 of the UDP. It is therefore considered that the proposals will not harm the amenity of neighbouring properties. The revised acoustic report and Environmental Health have referenced mitigation measures required to ensure that the proposed plant complies with the City Council's noise conditions. These mitigation methods will be secured by condition.

A comment has been received on the grounds of there being no explanation in the calculations of how additional sound reduction has been achieved. The comment makes reference to calculations in 'App 2' which are likely to mean 'Appendix B'. The calculations in 'Appendix B' in the revised acoustic report are updated from those in the acoustic report originally submitted. Given that Environmental Health have assessed the revised report and considered that the proposed plant is likely to comply with the City Council's noise conditions, this part of the comment cannot be supported.

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

Whilst the Council's Highways Planning Manager has not objected to the proposal given the availability of public transportation at this site, it has been requested that the proposal incorporates the provision of off-street cycle and waste storage. Whilst a condition is recommended seeking details of internal waste storage, it is not considered feasible to condition the provision of cycle storage in this instance. The constraints of the site result in limited space for internal cycle storage within the communal areas consisting of only the staircase and a small hallway at ground floor level.

No off-street servicing is available for the application site. The proposal is likely to represent an increase in the servicing requirement of the site. That said, the likely increase is expected to be minimal given the size and type of the proposal. The increase is not expected to have an adverse impact on the highway in the vicinity.

#### **8.5 Economic Considerations**

The general economic benefits of the proposal are welcomed.

## 8.6 Other UDP/Westminster Policy Considerations

None.

## 8.7 London Plan

This application raises no strategic issues.

## 8.8 National Policy/Guidance Considerations

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

## 8.9 Planning Obligations

The proposals are of insufficient scale to require a planning obligation.

## 8.10 Environmental Impact Assessment

The proposals are of insufficient scale to provide opportunities for additional sustainability measures.

## 9. BACKGROUND PAPERS

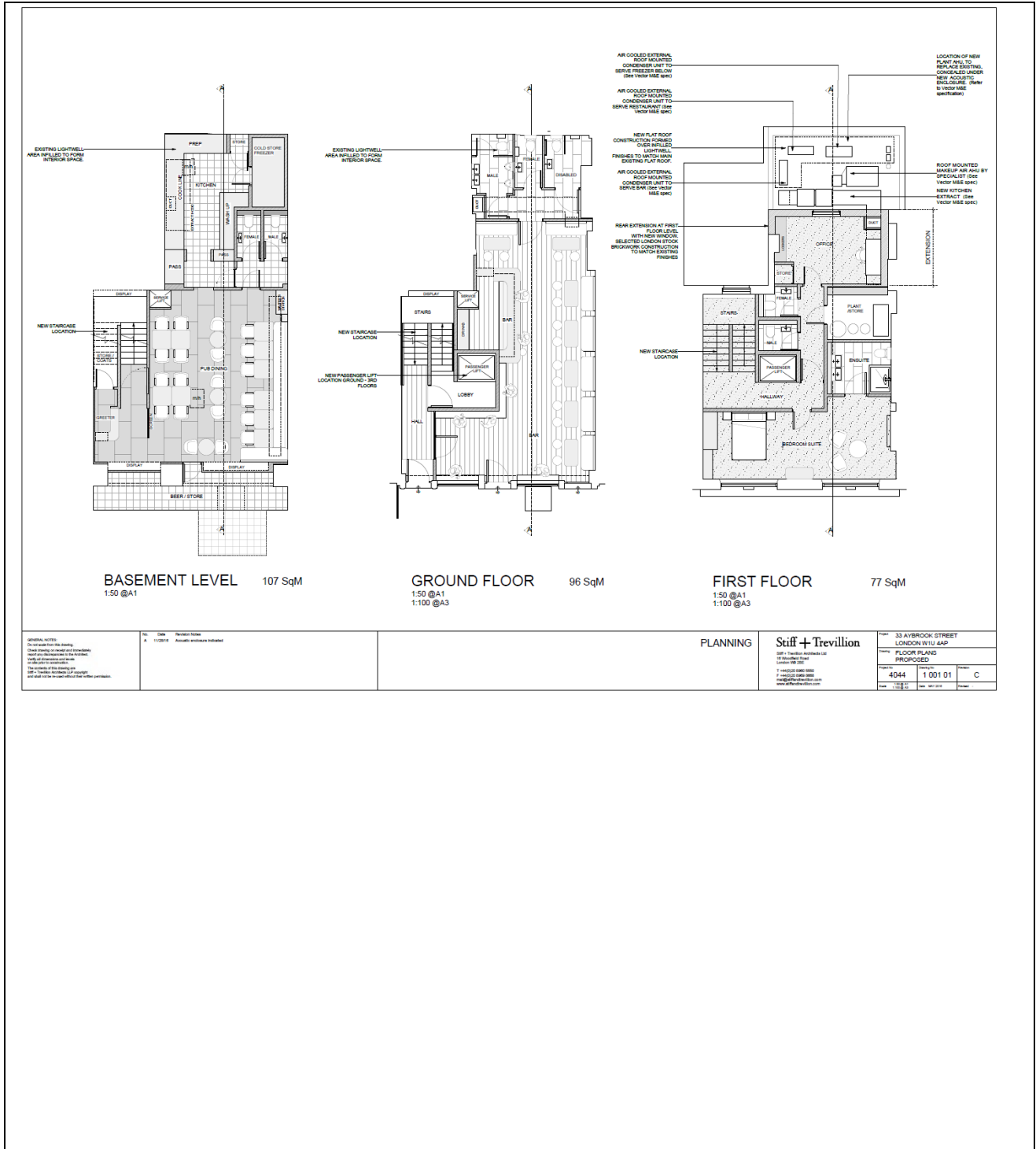
1. Application form
2. Response from Marylebone Association, dated 16 November 2016
3. Response from Environmental Health, dated 31 October 2016
4. Letter from occupier of Faraday Freehold Ltd, 62 Faraday House, 30 Blandford Street, dated 9 November 2016

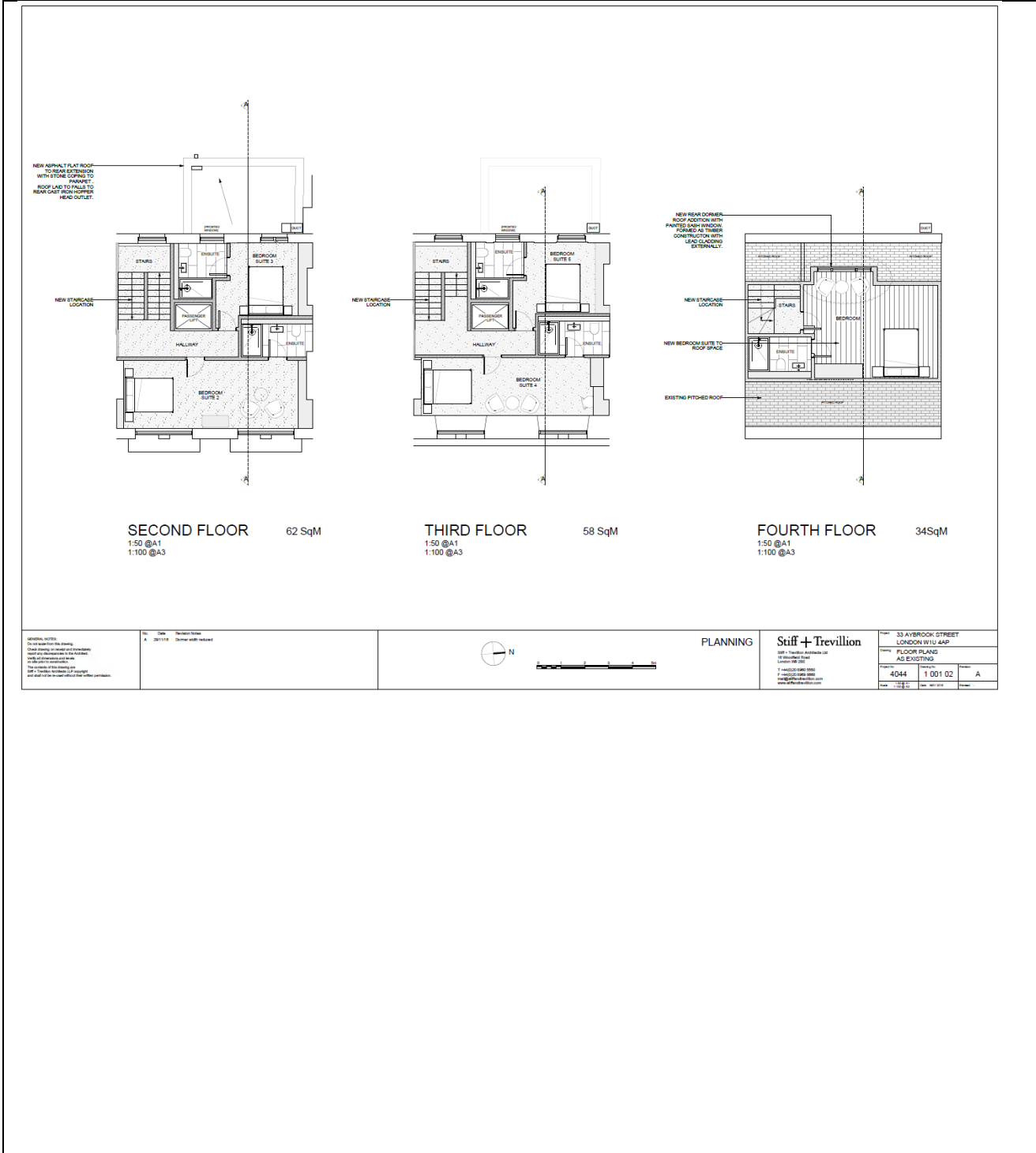
### Selected relevant drawings

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT MHOLLINGTON2@WESTMINSTER.GOV.UK.

# 10. KEY DRAWINGS





GENERAL NOTES:  
 1. Do not scale from the drawing.  
 2. Check existing and proposed boundaries.  
 3. Verify all dimensions to the finished condition.  
 4. Verify all dimensions to the ground.  
 5. The architect is not responsible for the accuracy of the survey data.  
 6. All work shall be in accordance with the relevant regulations.

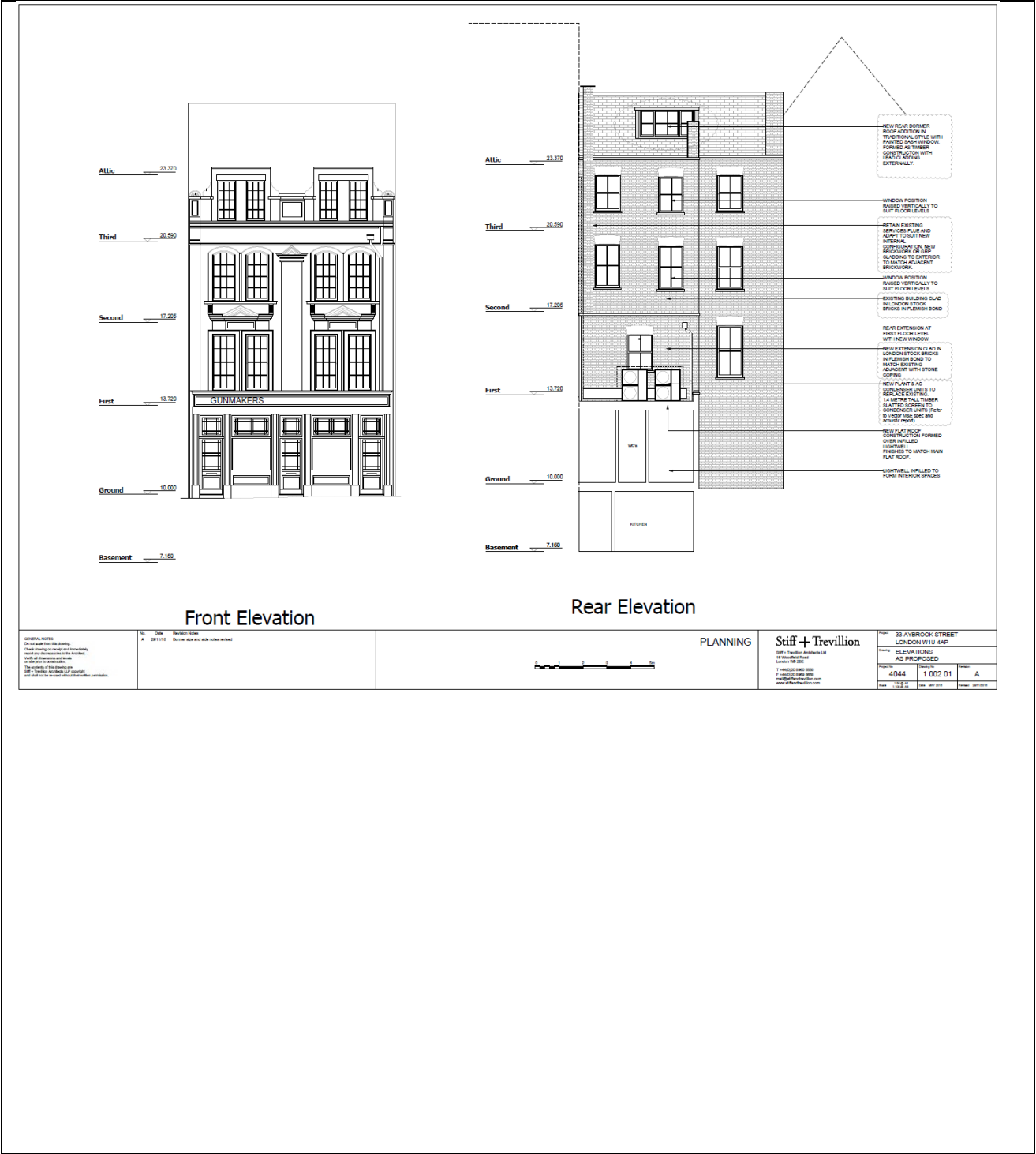
No. Date Revision Notes  
 A 20/11/18 Owner with reduced



PLANNING

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 F +44(0)20 5465 0202  
 info@stiff-trevillion.com  
 www.stiff-trevillion.com

33 AYERBROOK STREET LONDON W1U 4AP			
FLOOR PLANS AS EXISTING			
4044	1 001 02	A	
DATE	NO.	REV.	BY



Front Elevation

Rear Elevation

GENERAL NOTES:  
1. Do not scale from this drawing.  
2. Check existing conditions and dimensions.  
3. Report any discrepancies to the architect.  
4. All work to be completed in accordance with the contract documents.  
5. The architect is not responsible for the accuracy of the existing conditions.  
6. All work to be completed in accordance with the contract documents.

No.	Date	Revision/Notes
A	20/11/18	Original size and title block revised



PLANNING

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33 AYBROOK STREET LONDON W1U 4AP			
ELEVATIONS AS PROPOSED			
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Scale: 1:50	Date: 20/11/18	Sheet: 04/04	

**DRAFT DECISION LETTER**

**Address:** 33 Aybrook Street, London, W1U 4AP

**Proposal:** Erection of a rear single storey extension at first floor level, erection of a dormer window at fourth floor level, use of the first to fourth floor as six guest bedrooms, replacement of existing plant at rear first floor level, installation of passenger lift, all in association with the existing public house (sui generis).

**Reference:** 16/09845/FULL

**Plan Nos:** 1 001 01 Rev C; 1 001 02 Rev A; 1 002 01 Rev A and drawing titled 'Existing Section - Section' on page 20 of planning application document dated 12.10.2016.

**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. (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 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 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.

- 6 You must apply to us for approval of samples and specifications of the following parts of the development - all proposed external materials. You must not start work until we have approved what you have sent us.

You must then carry out the work according to these approved samples and specifications. (C26CB)

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)

- 7 You must apply to us for approval of detailed drawings (Scale 1:20 and 1:5) of the following parts of the development -

- i, proposed windows,
- ii, acoustic enclosure,
- iii, section through roof showing the existing ridge height retained and parapet relationship,
- iv, cladding to extract flue

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.

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)

- 8 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 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)

- 9 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 and materials for recycling 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. (R14CC)

- 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 The site shall only operate as a single planning unit and internal access between all floors must be maintained for the lifetime of the development.

## Reason:

To ensure that the long-term economic viability of the public house is maintained, as set out within Policy SS8 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 nuisance and 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, S28, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7, 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.

- 13 The ground floor bar area as shown on approved drawing 1 001 01 Rev. C shall be retained in this use for the life of the development.

**Reason:**

To protect the public house element of the proposed use, as required by Policy S21 of our City Plan that we adopted in November 2016 and by Policy SS8 of our Unitary Development Plan that we adopted in January 2007.

- 14 The replacement extract flue hereby approved shall be clad in brick slips or GRP.

**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)

**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 contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk).

If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk)

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability

Discrimination Acts.

- 3 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

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

- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 5 The term 'clearly mark' in Condition 9 means marked by a permanent wall notice or floor markings, or both. (I88AA)

- 6 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)

- 7 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)

- 8 One or more of the uses we have approved are referred to as being 'sui generis'. This means that the use or uses are not in any particular class. Any future plans to materially (significantly) change the use that we have approved will need planning permission. (I78AA)

- 9 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.

Item No.
<b>7</b>

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 8

Item No.
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8
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 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>	1 Elgin Avenue, London, W9 3PR		
<b>Proposal</b>	Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.		
<b>Agent</b>	Julie Bundy		
<b>On behalf of</b>	Julie Bundy		
<b>Registered Number</b>	16/10632/FULL	<b>Date amended/ completed</b>	1 December 2016
<b>Date Application Received</b>	7 November 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of one year.
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## 2. SUMMARY

This application seeks approval for the continued use of the car park underneath No. 1 Elgin Avenue for the storage of market stalls and associated equipment in association with the operation of the retail market at Maida Hill Place (the former Prince of Wales junction) which was reported to committee and approved for a further year on 11 October 2016 (16/07725/COFUL). The last permission for the storage use of the car park was granted in November 2015 (15/07501/COFUL) by Committee and was for a limited period until 9 November 2016.

It should be noted that as part of application 16/07725/COFUL, officers were informed that the storage facility at 1 Elgin Avenue was no longer required, and this was reported as such to the Committee.

Three letters of support have been received to the application. In previous years a resident directly above the car park has strongly objected to both the market and the continued use of the parking area for storage on the grounds of noise nuisance, disturbance and pollution, and cites poor management by former market operators. No objections have been received to this application.

The key issues in this case are:

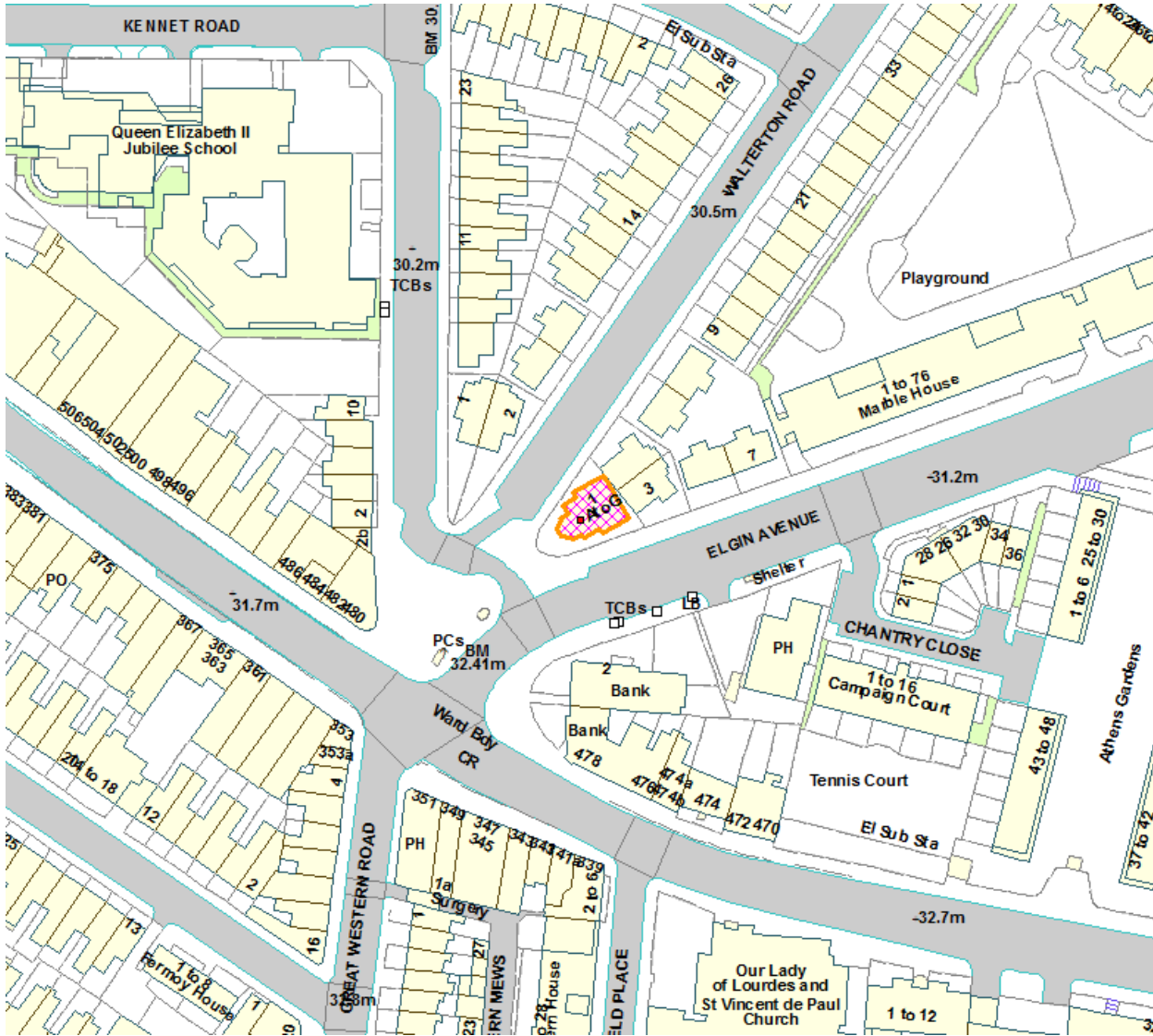
\* Whether the continued use of the car park for market storage will result in a material loss of amenity to residents in the flats above by reason of increased noise and disturbance.

\* The loss of four off street residents parking spaces in the car park which policy normally seeks to protect.

Whilst the loss of existing parking (four spaces) is regrettable, this loss has to be assessed in the light of the benefits a retail market brings to this part of the City. In order for the market to operate, a storage facility for the stalls and equipment needs to be provided nearby. The car park is located very close by to the proposed market, albeit it is recognised that there are flats immediately above and next door. There are no other suitable alternative locations for the market storage in the vicinity. It is proposed that this storage area will be used seven days a week.

Subject to conditions to control hours of use and a robust management plan, it is considered that the impact of noise and disturbance associated with the proposed use to the flats above can be mitigated. It is recommended that permission is only granted for an additional one year period (to be linked to the temporary market use) so that its operation can be reviewed in the light of any complaints received from residents.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Photo to show garage doors of 1 Elgin Avenue (accessed from Walterton Road)



## 5. CONSULTATIONS

### WARD COUNCILLORS FOR HARROW ROAD

Councillor McKie gives full support for the proposals.

### NORTH PADDINGTON SOCIETY

No objection. Comment that the basement storage is integral part of the market. The use of the car parking does not impinge on any other use and does not unreasonably disrupt neighbours.

### HIGHWAYS PLANNING MANAGER

Any response to be reported verbally.

### TRANSPORT FOR LONDON

No objection (comment made that there were no documents to view via the Council's website)

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

No. Consulted: 42

Total No. of replies: 2

No. in support: 2

Two letters received to the proposals, which support the retention of the storage facility to ensure the operation of the market.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This four storey property is located at the junction of Elgin Avenue and Walerton Road and is in use as seven self-contained flats. Part of the lower ground floor is occupied as a car park for four vehicles which is accessed off Elgin Avenue.

The application site is not located within a conservation area, and lies within the North Westminster Economic Development Area (NWEDA) in Westminster's City Plan: Strategic Policies and the North West Westminster Special Policy Area (NWWSPA) in the UDP.

The car park has been used for storage purposes by the Maida Hill Market since the market use started in June 2009 on the open space at the former Prince of Wales junction. Retrospective permission was first granted in February 2010 for its use as market storage and this was limited until 18 July 2010 and was subsequently renewed until 31 December 2010. The last permission was granted in November 2015 by the Planning Applications Committee again for another limited period which expired on 9 November 2016.

## 6.2 Recent Relevant History

10 October 2016 - Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00) (16/07725/COFUL) until 31 October 2017.

10 November 2015 - Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place street market. (Council's Own Development). (15/07501/COFUL)

7 October 2014 - Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place street market. (14/06689/COFUL).

27 May 2014 – Variation of Condition 5 of planning permission dated 24 September 2013 (RN. 13/05147/COFUL) for continued use of the car park at 1 Elgin Avenue for the storage of the street market stalls and associated equipment relating to Maida Hill Place street market; namely to extend the access times to the market storage facility to 08.00 and 11.00 and 17.00 and 20.00 Mondays to Fridays, and to 08.00 and 11.00, and 15.00 and 18.00 on Saturdays (14/01950/COFUL).

24 September 2013 – Permission was granted for continued use of the car park at 1 Elgin Avenue for the storage of street market stalls and associated equipment relating to Maida Hill Place street market (13/05147/COFUL).

16 June 2011 – Permission was granted for continued use of the basement car park at 1 Elgin Avenue for storage of market stalls (11/00275/FULL).

25 November 2010 – Permission granted for continued use of the basement car park to allow storage of market stalls for a temporary period until 31 December 2010 (10/07416/FULL).

18 February 2010 – Permission granted for continued use of the basement car park to allow storage of market stalls for a temporary period (09/09277/FULL)

## 7. THE PROPOSAL

Permission is sought for the continued use of the car park for the storage of equipment in association with the Maida Hill Place market. Access will be permitted for named market management staff and not for market traders. Access times are specified below:

Days	Access time for market set up	Access time for market close/breakdown
Monday to Saturday	08.00 to 11.00	17.00 to 20.00

In addition to the hours set out above, the management plan submitted with the application does state that the storage unit has the potential to be open between

08.00 and 19.00 which will be for additional access by the leaseholder only, to access the 'ping pong' table and piano which are put in the market area and for maintenance and cleaning

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The continued use of the car park for market storage will result in the displacement of a residential car park for four cars. The City Council's adopted planning policy (TRANS 23) normally seeks to protect existing residential car parking, and therefore there needs to be exceptional circumstances to warrant a policy departure.

In this case, the car parking spaces were not being used by the occupiers of No. 1, have been vacant for some time and had attracted anti-social behaviour. The use of this vacant car park provided essential storage for the market and was in close proximity.

The market use is considered to be benefit to the local area, as demonstrated in the applicants supporting statement, and is supported by Policy S12 in Westminster's City Plan and providing storage, allows this market use to continue in the future. However, this does need to be weighed against the impact of this use on the residents who live in No. 1 and this is set out in Section 8.3 of this report.

### **8.2 Townscape and Design**

No physical alterations are being proposed as part of this proposal.

### **8.3 Residential Amenity**

Policies ENV5, ENV6 and ENV13 in the UDP seek to resist proposals that result in a material loss of amenity, including noise disturbance and pollution, as do Policies S29, S31 and S32 in the City Plan. The resident who has previously objected to the application sets out that the market storage use has resulted in noise, disturbance and pollution and strongly objects to the use continuing.

As a result of these previous objections, the most recent application for the continued use of the market (submitted on behalf of the City Council) was submitted on the basis that this storage use was no longer required and that the market traders were aware of this. The application was reported to committee in October 2016 on this basis. The application currently before committee has been submitted by the leaseholder of the carpark area who was unaware that the market traders had been informed to cease storage in this area. Clarification has been sought from officers in the Council on this matter and therefore the application before committee must be assessed on its own merits.

It is recognised that the use of the garage by previous market operators has caused problems with the resident of the flat above. However, the Council has since taken over the responsibility as the market operator. It is managed on a daily basis by a market manager. Local residents and businesses will be able to contact the site manager with any issues as and when they arise. These are all logged on a daily/ weekly basis (a copy of

which was submitted with the application presented to Committee in November 2016 for the continued use of the market).

The applicant and supporters of the development argue that the benefits of the market outweigh the objections received from one resident.

In planning terms, the proposed use Monday to Saturday is considered acceptable, and given that there is no access before 08.00 and after 20.00 hours in the evening, any adverse impact should be mitigated together with a robust management plan. Given the restriction on the hours that the car park can be accessed, as well as the restriction on the people who can gain access, it is considered that the objections cannot be supported in this instance.

As previously advised, for clarification, market traders are not permitted to store perishables or food in the basement car park, but only for market stalls and associated equipment and overnight storage of bins. Whilst this is not included within the supporting information submitted with the application, (as in previous years) this will form one of the planning conditions to the temporary permission. As per previous permissions for the use of the basement car park as market storage, a condition is recommended requiring the use of rubber wheeled trolleys to transport heavy market equipment so that noise disturbance is limited.

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

The loss of parking within the basement car park was previously found to be acceptable on a temporary basis when permission was granted in October 2015.

The current proposal to renew the permission for a further temporary period is not considered to have any additional impact on parking demand in the area. The Highways Planning Manager has previously stated that whilst the use of the car park for storage is not compliant with Policy TRANS23 of the UDP, a temporary permission would allow the residential parking use to be retained, should there be future demand.

#### **8.5 Economic Considerations**

The continued use of the car park for storage facilitates the operation of the Maida Hill Place market, and offers wider economic benefits to the area in accordance with Policy S12 in the City Plan.

#### **8.6 Access**

The proposal does not raise any access issues. The access to the basement storage is suitable for the storage use that is proposed.

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

None relevant.

#### **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. This application does not trigger a requirement for a Community Infrastructure Levy payment.

### **8.11 Environmental Impact Assessment**

Not relevant.

### **8.12 Other Issues**

None relevant.

### **8.13 Conclusion**

In conclusion, the storage facility provided in the basement of No.1 Elgin Avenue forms an important support function that enables the provision of a street market at the Maida Hill junction. As such, this storage use facilitates a use that is consistent with Policy S12 in the City Plan, which seeks to promote development within the North Westminster Economic Development Area (NWEDA) that fosters and supports economic development and employment generating uses.

It is recommended that temporary planning permission be granted for a further period, to coincide with the permission granted for the market, until 31 October 2017.

## **9. BACKGROUND PAPERS**

1. Application form.
2. Email from Transport for London dated 28 December 2016.
3. Letter from Councillor McKie of 26 Sutherland Place, London, dated 14 December 2016.
4. Letter from occupier of 35 Hornead Road, Maida Hill, dated 20 December 2016.
5. Letters from occupier of 13, Rodborough Court, Hermes Close, dated 22 December 2016.

### **Selected relevant drawings**

1. Plan Layout

(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: RUPERT HANDLEY BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk).



**DRAFT DECISION LETTER**

**Address:** 1 Elgin Avenue, London, W9 3PR,

**Proposal:** Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.

**Plan Nos:** Plan and layout of market facilities; Site location plan; Photo; Management Plan, Supporting Statement.

**Case Officer:** Kimberley Davies **Direct Tel. No.** 020 7641 5939

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.  
Reason:  
For the avoidance of doubt and in the interests of proper planning.
- 2 The temporary use of the carpark for market storage (Class B8) in connection with Maida Hill Place street market can continue until 31 October 2017.  
Reason:  
The use of this residential carpark is only permitted on a temporary basis because of the special circumstances of the case, as set out in S12, S29 and S32 of the Westminster City Plan Strategic Policies that we adopted in November 2013 and policies ENV6, ENV13, TRANS23 of our Unitary Development Plan that we adopted in January 2007.
- 3 No goods or equipment shall be moved into or out of the market storage area hereby permitted except between the hours of 08.00 and 20.00 Monday to Saturday only. No goods or equipment shall be moved into or out of the market storage area on Sundays.  
Reason:  
To protect the environment of people in neighbouring buildings at set out in S29 and S32 of Westminster's City Plan: Strategic Policies that we adopted in November 2013 and ENV6 and ENV13 of the Unitary Development Plan that we adopted in January 2007.
- 4 Rubber wheeled trolleys must be used to transport goods and equipment in and out of the storage area.  
Reason:  
To protect the environment of people in neighbouring buildings as set out in S29 and S32 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013 and ENV6, ENV13

of the Unitary Development Plan that we adopted in January 2007.

- 5 The use of the carpark for market storage in connection with Maida Hill Place market shall operate in accordance with the Operational Statement dated August 2015 unless varied by the City Council as Local Planning Authority.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 and S32 of the Westminster's City Plan: Strategic Policies that we adopted in November 2013 and ENV6, ENV13 of the Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (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.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.



Item No.
<b>9</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 24 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Little Venice	
<b>Subject of Report</b>	<b>Public Highway Adj To Paddington Green Police Station , 4 Harrow Road, London, W2 1XJ</b>		
<b>Proposal</b>	Public art installation of two pieces by John Aiken measuring 180 x 220 x 120 (LxWxH) cm and 240 x 190 x 140 (LxWxH) cm to be sited on highway in front of Paddington Green Police Station for a temporary period.		
<b>Agent</b>	Mr Austin Nwadike		
<b>On behalf of</b>	TfL		
<b>Registered Number</b>	16/08497/FULL	<b>Date amended/ completed</b>	4 November 2016
<b>Date Application Received</b>	5 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

**1. RECOMMENDATION**

Grant conditional permission for a temporary period of one year.

**2. SUMMARY**

This application site is the footway in front of Paddington Green Police Station at the junction of Edgware Road and Harrow Road. This area forms part of the Transport for London Road Network. The proposal is to install public art on this area of highway. The proposed installation is a pair of cubed freestanding pieces entitled Europea 1 and 2 by John Aiken.

The two sculptures, measuring 180 x 220 x 120 (LxWxH) cm and 240 x 190 x 140 (LxWxH) cm, will be sited between existing street furniture and trees and the application seeks permission for an installation period of between 2 and 5 years.

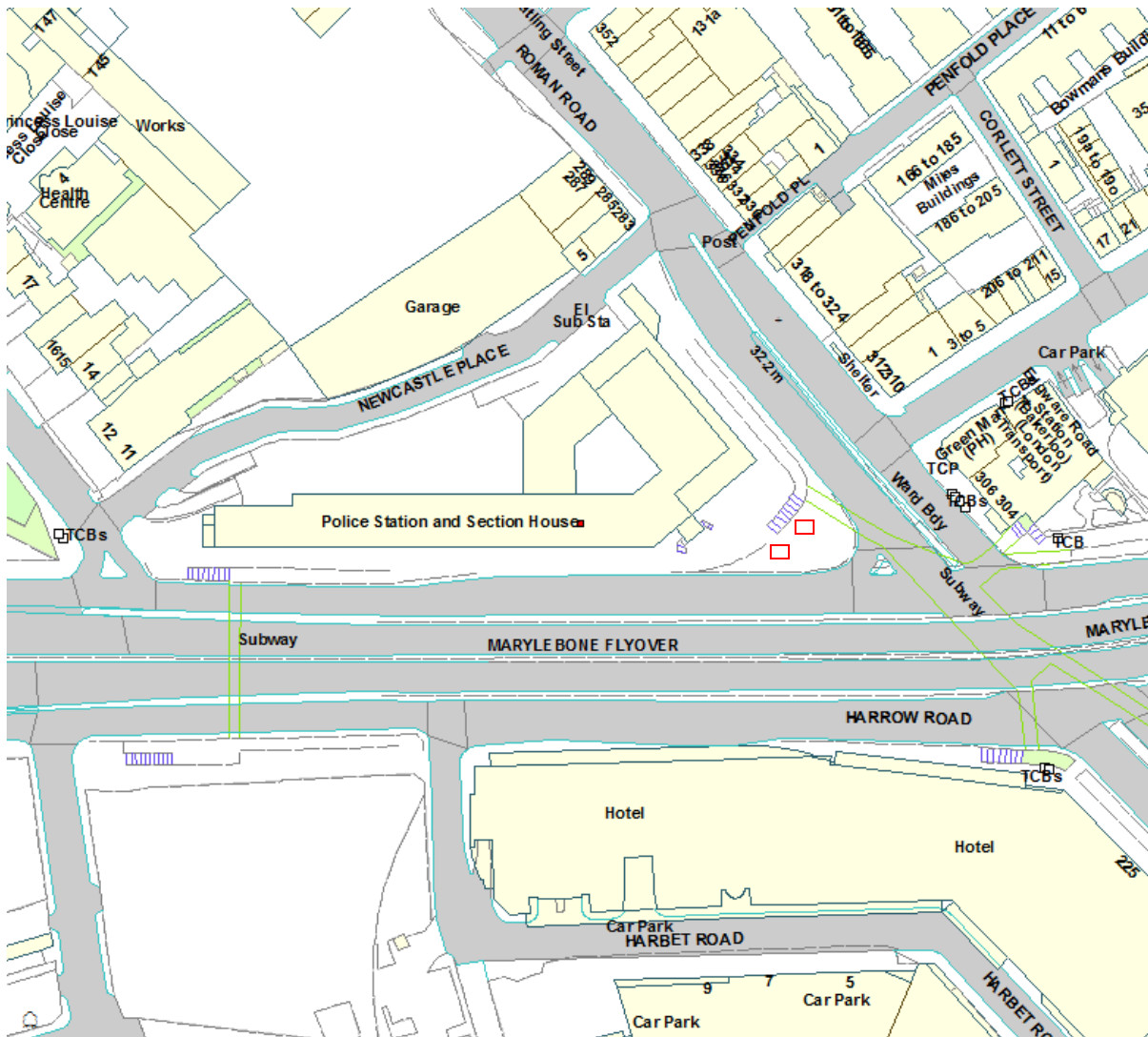
Objections have been received raising concerns about the impact of the proposal on pedestrian movement.

The key issues are:

- The acceptability of the proposal in land use terms;
- The impact of the proposal on the highway;
- The impact on the townscape.

Given that Transport for London, who are the highway authority for this site, have raised no objection, it is considered that the installation would be acceptable for a temporary period. However, the proposed 2-5 year permission sought is considered excessive and instead an installation period of one year is considered appropriate and would be more in line with other temporary public art installation permissions.

3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR CAPLAN:

No objection, but would wish to ensure that this would not affect any possible road widening scheme.

### TRANSPORT FOR LONDON:

Request that a condition is imposed to ensure that the footway/carriageway is not blocked during the installation of the artwork.

### DESIGNING OUT CRIME:

Do not have any security concerns.

### PADDINGTON WATERWAYS & MAIDA VALE SOCIETY:

Object. Consider the installation will obstruct pedestrian movement.

### ST MARYLEBONE SOCIETY:

Support the proposal. Consider the proposal to be a positive initiative in an area which can be bleak.

### HIGHWAYS PLANNING:

No objection. Transport for London is the Highways Authority. Comment that it is not considered that the proposals will affect sight lines or give rise to pedestrian obstruction.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 3

Total No. of replies: 1

No. of objections: 1

No. in support: 1

The objection raises concerns about pedestrian obstruction on an already busy area of highway

The representation in support from the Marble Arch Business Improvement District note this site one of only a few that can accommodate such pieces of art, which will help to create a greater sense of place and interest for passers-by.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site is the footway in front of Paddington Green Police Station at the junction of Edgware Road and Harrow Road. This area forms part of the Transport for London Road Network. The site lies outside a conservation area and there are no listed

buildings in the immediate vicinity. There is some street furniture (lamp columns, railings and feeder pillars) and street trees in the immediate vicinity of the proposal.

## **6.2 Recent Relevant History**

No relevant planning history on this actually site, although advertisement consent was granted on 5 January 2016 (ref.15/08510/ADV) to display public art on the underside of the Marylebone Flyover, immediately adjacent to the application site. This latter scheme was also an initiative of Transport for London.

## **7. THE PROPOSAL**

The proposal is to install public art on this area of highway. The proposed installation is a pair of cubed freestanding pieces entitled *Europea 1* and *2* by John Aiken. The pieces were designed as part of the public art strategy for Paddington Central and were previously located in Kingdom Street. The twin sculptures are fabricated from Portuguese silver grey granite with inlaid enamel panels in various bright colours. The sculptures are the property of British Land who own Paddington Central and arrangements have been made between them and the applicant, Transport for London. British Land would be responsible for undertaking the installation and removal and would be responsible for public liability.

The two sculptures, measuring 180 x 220 x 120 (LxWxH) cm and 240 x 190 x 140 (LxWxH) cm, will be sited between existing street furniture and trees and the application seeks permission for an installation period of between 2 and 5 years.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal would effectively be using a small area of land for the display of public art. Policy TRANS 3 of the Council's UDP seeks to ensure that development proposals will secure an improved environment for pedestrians, while policy S41 of the City Plan indicates that all developments will "prioritise pedestrian movement and the creation of a convenient, attractive and safe pedestrian environment, with particular emphasis in areas with high pedestrian volumes or peaks". The proposed installations would introduce additional obstacles on the footway and this is a concern expressed by the two objections to this application. However, Transport for London, who are both applicant and highway authority in this case, have not raised an objection to the proposal. As this is a temporary installation, with no long term change to the highway proposed, the proposal is considered acceptable in land use terms.

### **8.2 Townscape and Design**

The site lies outside a conservation area and is in an area of low quality townscape, with the road network in the immediate vicinity creating a rather harsh environment. In these circumstances it is considered that there is scope to improve the environment and that public art could achieve this. Nevertheless, the current proposal does appear somewhat arbitrary in terms of location and artwork, with no obvious rationale for the selection of the proposed piece or its precise siting. Indeed, it is regrettable that there is no evidence that the artist has been consulted or any assessment made of the relevance of the piece to the site. However, as a temporary installation, it is not considered that the proposal would be harmful to the townscape and as such no design objection is raised.

### **8.3 Residential Amenity**

No amenity issues arise from the proposal.

### **8.4 Transportation/Parking**

There are no impacts on parking or carriageway activity as a consequence of the proposal. As indicated in section 8.1 of this report there is an impact on pedestrian movement, with additional obstacles introduced onto the footway, in an area which objectors claim can be a busy one at times. No objection has been received by the highway authority to the proposal and given the temporary nature of the installation, it is considered that the proposal is acceptable for a limited period.

### **8.5 Economic Considerations**

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

### **8.6 Access**

While there is some reduction in extent to the footway, the installations would not prevent access across the footway or to adjacent properties.

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

There are some street trees in the immediate vicinity of the installations, but there is no proposal to remove these.

### **8.8 London Plan**

This application raises no strategic issues.

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

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

### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application. The proposals do not trigger the requirement for a CIL payment.

### 8.11 Environmental Impact Assessment

Not applicable to this application.

### 8.12 Other Issues

**Crime and Security** - The site lies immediately adjacent to Paddington Green Police Station, however, the Designing Out Crime Officer from the Met Police has not objected to the proposal. Public liability insurance will be covered by British Land.

**Maintenance** - Given that the land is owned and maintained by TfL, and the artwork is on loan from British Land, it is considered that the City Council has no liability in terms of the cleaning or maintenance of the proposed public art. A condition is however recommended for the submission of details to confirm how the artwork is to be maintained, particularly in the event of damage or graffiti, to ensure that it does not have a negative impact on the local townscape.

**Period of Installation** - The proposed period of time for installation is 2-5 years, but this is considered excessive. The site has not previously been used for public art, concerns have been expressed about pedestrian movement and the issue of maintenance is unresolved. Furthermore Councillor Caplan has remarked about the need to ensure that the installation would not encumber any road widening programme. While there is no planned programme, the site does lie close to the large development site at West End Green and any changes to the use of the highway as a consequence of this development or nearby developments should be taken into account. In these circumstances, and in line with many permissions the Council have granted for temporary public art, it is considered that a period of 12 months is appropriate and it is suggested that this is controlled by condition. This would not preclude TfL making an application to extend the period of installation and such an application would be assessed on its own merits, but with the benefit of a better understanding of the impacts that the sculptures have on pedestrian movement and the townscape.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Councillor Caplin, dated 18 November 2016
3. Response from Transport For London - Borough Planning, dated 23 November 2016
4. Response from Designing Out Crime, dated 22 December 2016
5. Response from Paddington Waterways & Maida Vale Society, dated 9 December 2016
6. Letter from St Marylebone Society, dated 13 December 2016
7. Memorandum from the Highways Planning Manager, dated 6 January 2017
8. Letter from occupier of 48 Lambourne House, 100 Broadley Street, dated 21 November



2016

**Selected relevant drawings**

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT: RHANDLEY@WESTMINSTER.GOV.UK.

10. KEY DRAWINGS



**DRAFT DECISION LETTER**

**Address:** Public Highway Adj To Paddington Green Police Station , 4 Harrow Road, London, W2 1XJ

**Proposal:** Public art installation of two pieces by John Aiken measuring 180 x 220 x 120 (LxWxH) cm and 240 x 190 x 140 (LxWxH) cm to be sited on highway in front of Paddington Green Police Station for a temporary period.

**Plan Nos:** Location plan; photomontage; background details.

**Case Officer:** Tom Burke

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

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

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

Reason:

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

- 2 The art installation hereby approved can remain for a period of 12 months from the date of this decision letter. After that you must remove it and return the land to its previous condition.

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway. We also need to reassess the effect of the artwork to make sure it meets S28, S41 of Westminster's City Plan (November 2016) and DES 1, DES 7 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen as a form of trial period, we can therefore only grant a temporary permission.

- 3 You must apply to us for approval of details of how the artwork will be maintained. You must not start work until we have approved what you have sent us. You must then maintain the artwork according to these details.

Reason:

To make sure that the appearance of the artwork 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 The precise citing of the artwork shall avoid being located on any tree pits.

Reason:

To protect trees and the character and appearance of the site 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. (R31CC)

**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 this permission only allows the installation for a period of 12 months from the date of the decision letter. Should you wish to extend this period, you would need to make a further application for an additional period of time.
- 3 In relation to condition 3, you are advised that any application should include details of how the artwork would be maintained in the event of any damage or graffiti.