



City of Westminster

Committee Agenda

Title:

Planning Applications Sub-Committee (3)

Meeting Date:

Tuesday 7th November, 2017

Time:

6.30 pm

Venue:

Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR

Members:

Councillors:

Andrew Smith (Chairman)
Ruth Bush
Louise Hyams
Robert Rigby



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

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



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

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

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

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note any changes to the membership.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

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

4. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

- | | |
|---|--------------------------|
| 1. PARSONS HOUSE, 124 HALL PLACE, LONDON, W2 1NE | (Pages 5 - 60) |
| 2. 2 LORD HILLS ROAD, LONDON, W2 6PD | (Pages 61 - 88) |
| 3. 84-99 ASHLEY GARDENS, THIRLEBY ROAD, LONDON, SW1P 1HH | (Pages 89 - 104) |
| 4. 48 ALBEMARLE STREET, LONDON, W1S 4DH | (Pages 105 - 126) |
| 5. 104 GREAT PORTLAND STREET, LONDON, W1W 6PE | (Pages 127 - 148) |
| 6. 46 LANGHAM STREET, LONDON, W1W 7AX | (Pages 149 - 162) |

Agenda Annex

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

Item No	References	Site Address	Proposal	Resolution
1.	<p>RN(s) : 17/06049/COFU L</p> <p>Little Venice</p>	Parsons House 124 Hall Place London W2 1NE	Works of demolition and redevelopment to the podium/ car park structure and redevelopment of site in a building comprising ground and five upper floors to provide 60 residential units (Use Class C3), including terraces and balconies, a communal garden space and 54 car parking spaces with altered entrance from Hall Place. Provision of 101 sqm of retail space fronting onto Edgware Road (Use Class A1/A2/A3). Replacement boundary treatment works and planting on Edgware Road, including replacement of trees and works to the raised bund in front of Parsons House. Re-location of existing recycling centre.	
<p>Recommendation</p> <p>1. Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992, subject to the satisfactory completion of a Unilateral Undertaking to secure the following:</p> <p>a) Provision of affordable housing in the form of 19 units (10 social rent units/ 9 intermediate housing units);</p> <p>b) Not to occupy the private market housing until the affordable housing units are available for occupation;</p> <p>c) Highways works to facilitate the proposed development and including vehicular crossovers, creation of a relocated parking space; reinstatement of redundant crossovers and paving;</p> <p>d) Car park strategy including all car parking spaces provided for the development itself and on an unallocated basis;</p> <p>e) Lifetime Car club membership for all units in the development;</p> <p>f) Management strategy for the development;</p> <p>g) Relocation of the micro-recycling centre;</p> <p>h) Employment training and apprenticeships opportunities for residents of Westminster; and</p> <p>i) Monitoring costs.</p> <p>2. If the Unilateral Undertaking has not been completed within six weeks of the date of the Committee's resolution then:</p> <p>a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;</p> <p>b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an Undertaking within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				
Item No	References	Site Address	Proposal	Resolution
2.	<p>RN(s) : 17/07368/FULL</p> <p>Westbourne</p>	2 Lord Hills Road London W2 6PD	Demolition of existing dwellinghouse and erection of four storey building with basement to provide 7 residential units (Class C3).	
<p>Recommendation</p> <p>Grant conditional permission.</p>				
Item No	References	Site Address	Proposal	Resolution
3.	<p>RN(s) : 17/04832/FULL</p>	84-99 Ashley Gardens Thirleby Road	Change of Use from student hostel to 30 residential flats (Class C3).	

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

	Vincent Square	London SW1P 1HH		
<p>Recommendation</p> <p>1. Do members agree that the case made by the University of Westminster for the loss of hostel accommodation is acceptable in this instance?</p> <p>2. Subject to 1, above refuse permission on the basis of the lack of onsite affordable housing.</p>				
Item No	References	Site Address	Proposal	Resolution
4.	<p>RN(s) : 17/03502/FULL</p> <p>West End</p>	48 Albemarle Street London W1S 4DH	Use of part ground floor level and first to second floor levels for either continued office (Class B1) use or retail (Class A1) use or a sui generis use comprising retail, restaurant and bar elements; the installation of a full height extract duct on the rear elevation and installation of plant with associated acoustic screening on the flat roof area at rear first floor.	
<p>Recommendation</p> <p>Grant conditional permission.</p>				
Item No	References	Site Address	Proposal	Resolution
5.	<p>RN(s) : 17/03402/FULL</p> <p>West End</p>	104 Great Portland Street London W1W 6PE	Use of the basement and ground floors as a restaurant (Class A3), installation of a new shopfront and replacement rooflight at rear first floor level. Installation of an internal high level extract duct to terminate at main roof level.	
<p>Recommendation</p> <p>1. Grant conditional permission subject to a legal agreement to secure:</p> <p>i) Upon implementation of this permission the planning permission (15/07544/FULL) for the residential use of the upper floors of the building shall not be implemented.</p> <p>ii) Or, that this permission shall not be implemented should the planning permission (15/07544/FULL) for the residential use of the upper floors of the building be implemented.</p> <p>iii) Costs for monitoring the legal agreement.</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of the Sub-committee resolution, then:</p> <p>(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				
Item No	References	Site Address	Proposal	Resolution
6.	<p>RN(s) : 17/06948/TCH</p>	46 Langham Street London W1W 7AX	Use of public highway for the placing of 5 wooden picnic benches on the public highway in Middleton Place measuring 10m x 1.5m and 1 picnic bench in Langham Street measuring 1.5m x 1.8m enclosed by a total of 10 posts and barriers.	

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

	West End			
	Recommendation Grant conditional permission for a temporary period of one year.			

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Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Little Venice	
Subject of Report	Parsons House, 124 Hall Place, London, W2 1NE,		
Proposal	Works of demolition and redevelopment to the podium/ car park structure and redevelopment of site in a building comprising ground and five upper floors to provide 60 residential units (Use Class C3), including terraces and balconies, a communal garden space and 54 car parking spaces with altered entrance from Hall Place. Provision of 101 sqm of retail space fronting onto Edgware Road (Use Class A1/A2/A3). Replacement boundary treatment works and planting on Edgware Road, including replacement of trees and works to the raised bund in front of Parsons House. Re-location of existing recycling centre.		
Agent	JLL		
On behalf of	Westminster City Council		
Registered Number	17/06049/COFUL	Date amended/ completed	18 July 2017
Date Application Received	7 July 2017		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

<p>1. Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992, subject to the satisfactory completion of a Unilateral Undertaking to secure the following:</p> <ol style="list-style-type: none"> a) Provision of affordable housing in the form of 19 units (10 social rent units/ 9 intermediate housing units); b) Not to occupy the private market housing until the affordable housing units are available for occupation; c) Highways works to facilitate the proposed development and including vehicular crossovers, creation of a relocated parking space; reinstatement of redundant crossovers and paving; d) Car park strategy including all car parking spaces provided for the development itself and on an unallocated basis; e) Lifetime Car club membership for all units in the development; f) Management strategy for the development; g) Relocation of the micro-recycling centre; h) Employment training and apprenticeships opportunities for residents of Westminster; and
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i) Monitoring costs.

2. If the Unilateral Undertaking has not been completed within six weeks of the date of the Committee's resolution then:

- a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
- b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an Undertaking within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that 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.

2. SUMMARY

Planning permission is sought for the redevelopment to the podium/ car park structure and redevelopment of site in a building comprising ground and five upper floor to provide 60 residential units, a communal garden space and 54 car parking spaces with altered entrance from Hall Place, provision of 101 sqm of retail space fronting onto Edgware Road (Use Class A1/A2/A3), highways and landscaping works and re-location of existing recycling centre.

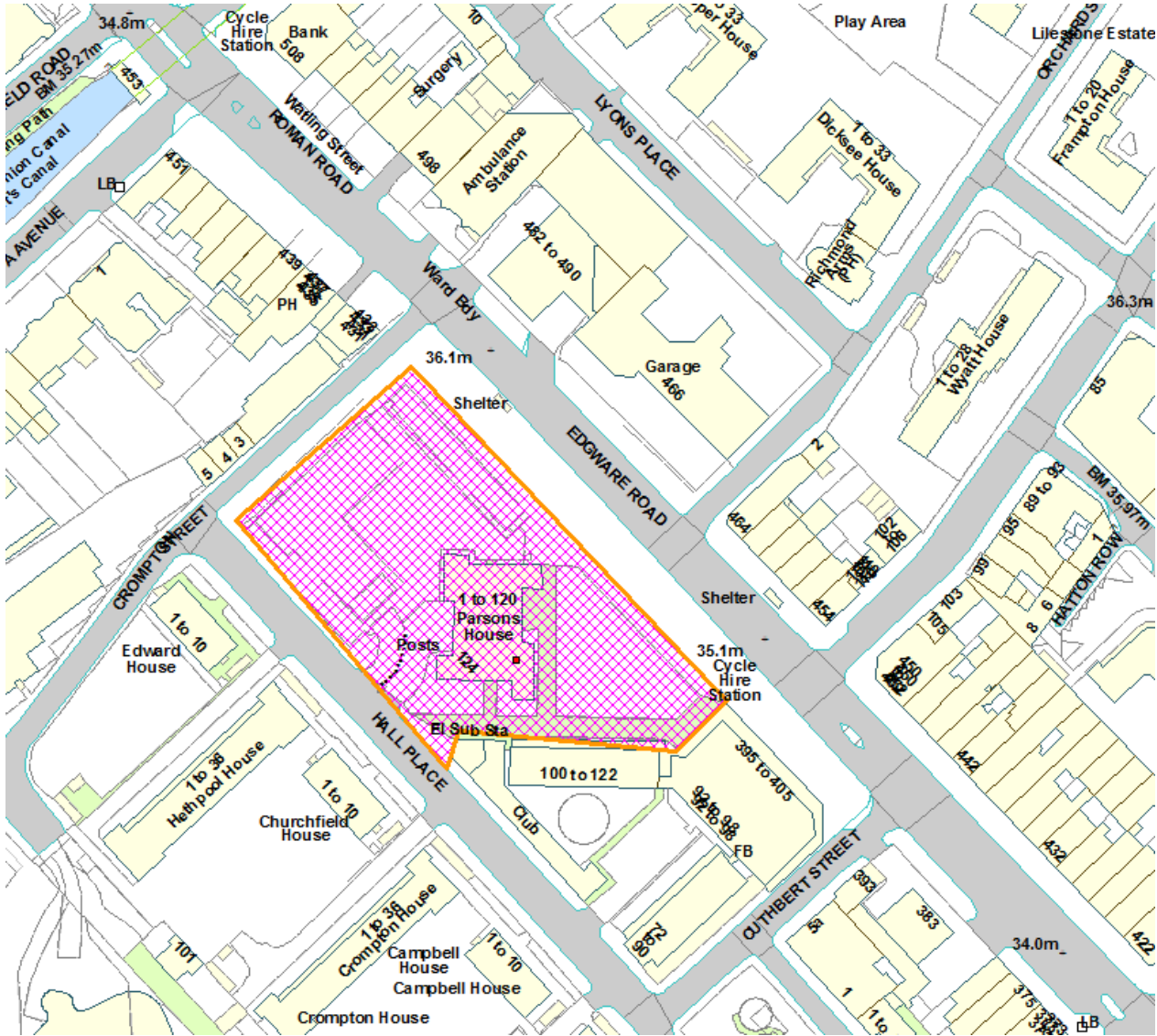
A number of concerns have been raised from surrounding residents in relation to the provision of more housing, construction, parking, on street parking stress levels, impact on amenity and design.

The key issues are:

- * The acceptability of the proposals in land use terms;
- * The impact of the new buildings on the townscape;
- * The impact of the proposals on the amenities of adjacent occupiers;
- * The impact of the development on the highway network; and
- * The impact of the development upon trees on the surrounding streets.

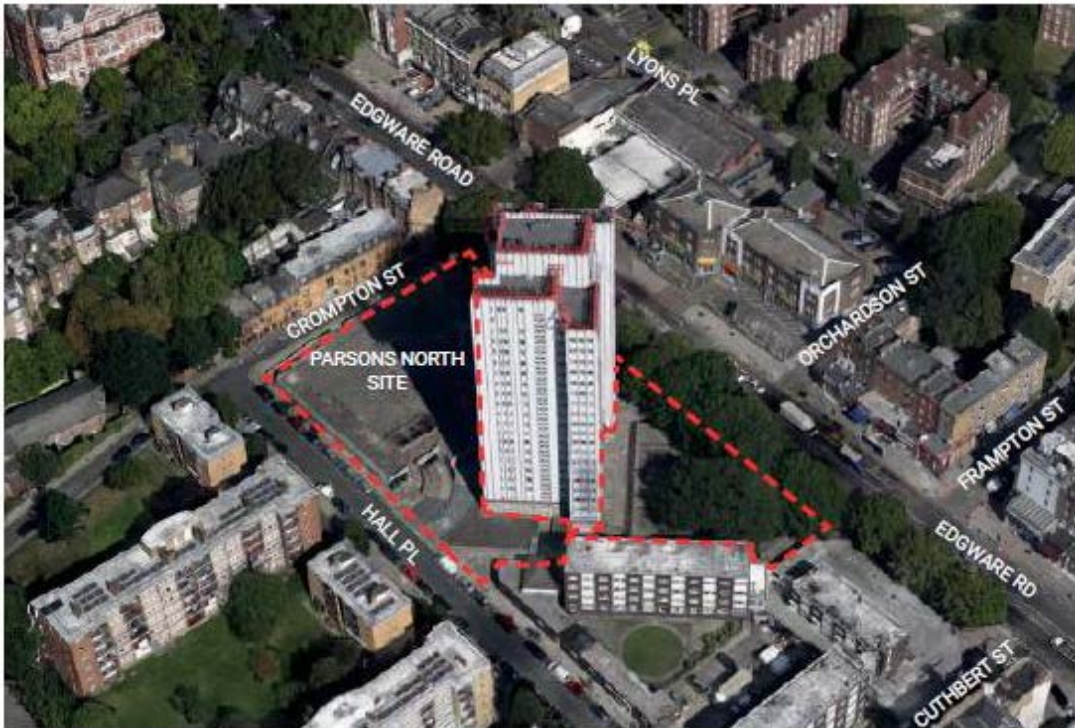
The application is recommended for approval as, subject to conditions, the proposed development complies with policies in our Unitary Development Plan (UDP) and City Plan.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Above: Aerial View Looking North along Edgware Road. **Below:** Podium Deck to the north of Parsons House



5. CONSULTATIONS

WARD COUNCILLORS FOR LITTLE VENICE

Any response to be reported verbally

TRANSPORT FOR LONDON - BOROUGH PLANNING:

Objection raised.

PADDINGTON WATERWAYS & MAIDA VALE SOCIETY:

No response received.

STRATEGIC SCHEMES - CITY PLANNING:

No response received.

CHURCH ST. LARP CO-ORDINATOR:

No response received.

HIGHWAYS PLANNING MANAGER:

No objection subject to conditions.

CLEANSING MANAGER:

No objection raised subject to conditions.

ENVIRONMENTAL HEALTH - MAJOR REDEVELOPMENTS AND INFRASTRUCTURE:

Objections raised to internal noise levels predicted.

BUILDING CONTROL - DEVELOPMENT PLANNING:

No objection.

HEAD OF AFFORDABLE HOUSING AND STRATEGY:

No objection subject to provisions within the legal agreement.

PUBLIC REALM & LANDSCAPE - CITY PLANNING:

No response received.

ARBORICULTURAL MANAGER:

Objection received on the grounds of the removal of trees without any meaningful replacement tree offer and inadequate landscaping.

CHILDRENS SERVICES:

No objection subject to a financial contribution to the City Council's education fund.

DESIGNING OUT CRIME OFFICER:

No objection, subject to recommendations.

LONDON FIRE SERVICES/ LONDON FIRE AND CIVIL DEFENCE AUTHORITY:

No response received.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 743

Total No. of replies: 4

No. of objections: 2

No. in support: 1

Two objections received on the following grounds:

Land Use:

- Not enough affordable Housing;
- Standard of accommodation is not good enough with the 'affordable homes' facing the polluted Edgware Road;
- Retail space is not necessary in this location

Design:

- The proposals do not follow the Planning Brief in terms of acceptable bulk and height.

Amenity:

- Loss of sunlight and daylight.

Highways:

- Increase in vehicles and number of pedestrians will be difficult to accommodate in Crompton Street;

Other:

- Impact upon the highway network during the course of construction;
- Options to improve the development proposals are given within the Planning Brief and should be adhered to.

One letter of support has been received to the principle of the development, however comments are raised in that letter of support regarding the loss of the trees on Edgware Road.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION**6.1 The Application Site**

This application site is a concreted podium deck to a semi-basement carpark, originally built for Parsons House, the 21 storey tower to the south. The site is bounded by Edgware Road, Hall Place and Crompton Street. The podium deck measures approximately 1800 sqm and is 1m taller than pavement of Edgware Road and 2m above pavement level of Hall Place. The site is surrounded by a concrete balustrade set 1m above the Edgware Road and the deck and is publicly accessible by steps from Edgware Road and Hall Place, and a ramp from Crompton Street. The application site also includes an item of public space adjacent to the eastern frontage of Parsons House.

The site lies within the North Westminster Economic Development Area. The site is not within a conservation area.

6.2 Recent Relevant History

Parsons House, designed by TP Bennett, was built in 1969 with a concrete panel system, and overclad in 1984. It is a 21 storey social housing tower block accommodating 120 flats, comprising council tenants and leasehold tenants. The freehold of the building is owned by the City Council as part of the Hall Place Estate.

There is no further relevant history pertaining to this site.

7. THE PROPOSAL

The proposed residential led scheme aims to redevelop the podium deck to the north of Parsons House and regenerate the surrounding streetscape surrounding the site including the perimeter of Parsons House.

The proposed residential building wraps in a C-shape around each street frontage to re-instate the streetscape whilst enclosing a private communal garden to the rear as a buffer between the new building and Parsons House tower. The building is split to accommodate both private and affordable housing and has separate entrances for each tenure. The affordable homes are accessed off the Edgware Road elevation and consist of a series of flats with a communal entrance to a shared core and alongside this are three maisonette homes that have their own individual entrances. The private homes are made up entirely of flats accessed of a communal core with the entrance along Crompton Street

The semi-basement car park structure will be dropped in level and re-built to provide car parking and ancillary space. The carpark entrance will remain in the same location off Hall Place. However, the ramp will be replaced with a new compliant set of access ramps. A total of 54 car parking spaces, 105 cycle storage spaces and six motorcycle spaces will be provided within the basement level.

A single storey commercial unit fronting the Edgware Road elevation is proposed. It has its own entrance and is split into two linked spaces.

The courtyard contained behind the new building will be a landscaped communal garden for the new Parsons North residents to enjoy and all of the proposed residential units are provided with their own private external amenity space in the form of balconies and terraces. In addition, the raised hard standing area to the east of Parsons House tower will be re-landscaped to provide an accessible and meaningful external amenity space for the existing residents of Parsons House tower, Heywood House and the surrounding estate.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Residential Use

The principle of residential accommodation on the podium level to the north of Parsons House was established through the Draft Parsons House North planning brief (October 2011), although not formally adopted and is supported by policies S12 and S14 of the City Plan and H3 of the UDP which seeks to optimise housing delivery in the City.

At the time of writing, the Draft Church Street Masterplan The masterplan is a renewal plan for the Paddington Green, Church Street and Lisson Grove for the period through to 2026/2030, to provide better homes, better parks and open spaces; cultural, economic and enterprise opportunities, improved retail, better connections and community facilities; that the redevelopment of Parsons House North is vital not only in townscape terms but as a key contribution to the provision of more housing in the area.

One neighbour has objected to the proposals questioning the need for private market housing in what is essentially an affordable housing scheme. Any proposals for a residential development will be assessed on its own land use merits and against City Council policy, taking into consideration the need for affordable housing.

Housing Mix:

The optimisation of housing delivery is a key strategic objective for the Council. Westminster City Plan Policy S15 and UDP Policy H5 require the provision of an appropriate mix of units in terms of size in new housing schemes. 60 residential units are proposed and the mix comprises the following:

Overall Scheme

No of Bedrooms	No of Units/ Floorspace
1 bed	18/ 932 sqm (21%)
2 bed	26/ 1936 sqm (45%)
3 bed	16/ 1512 sqm (35%)
	Total: 60

Private Market Units

No of Bedrooms	No of Units
1 bed	16
2 bed	18
3bed	7
	Total: 41

Affordable Housing Units

No of Bedrooms	No of Units
1 bed	2
2 bed	8
3 bed	9
	Total: 19

Policy H5 requires at least 33% family-sized (i.e. 3+ bedrooms) of which at least 5% should have five or more habitable rooms but does allow for some flexibility with regard to the overall mix. Paragraph 3.74 of the UDP acknowledges that a lower level of family accommodation may be acceptable in some circumstances. The proposals meet the requirements of policy H5 with 35% of the units having three or more bedrooms.

Housing Density:

Policy H11 within the UDP relates to housing density and recommends 250-500 habitable rooms per hectare in this location. Policy 3.4 of The London Plan is also a relevant consideration and includes a recommendation for housing density in Suburban, Urban and Central locations. It is considered that this is an 'urban' location, identified as areas with predominantly dense development such as terraced housing, mansion blocks, a mix of different uses, medium building footprints and typically buildings of two to four stories. For such areas a density of between 200-500 habitable rooms per hectare is recommended. The proposed density for this scheme is 379 habitable rooms per hectare and is therefore consistent with policy H11 of the UDP and policy 3.4 of The London Plan.

Standard of Accommodation:

All of the units proposed meet the minimum floorspace requirements set out in the Nationally Described Space Standard (March 2015) policy 3.5 of The London Plan.

A number of units on each floor have dual aspect outlooks and this is welcomed. Those units that only have a single aspect have been sensitively designed and are acceptable.

The applicant has undertaken a daylight and sunlight assessment to demonstrate that the internal lighting for the proposed residential units are in line with BRE Guideline. All habitable rooms exceed the recommendations in the guide and in most cases, by some considerable margin.

Given the sites location on the busy Edgware Road, in order to ensure that the new residential accommodation does not suffer from excessive noise from either external or internal noise sources, the City Council's Environmental Health officers have recommended standard noise conditions which are considered acceptable.

The development proposes that six units (10%) are fully compliant wheelchair accessible homes and this is welcomed.

Outside Amenity Space:

Policy H10 within the UDP expects housing developments to include the provision of amenity space. All of the units have either a balcony or patio areas which is welcomed and considered to accord with this policy. A communal garden in the courtyard is also proposed and again this is welcomed.

Whilst it is unfortunate that this communal garden does not offer any children's play equipment, despite officers requests, it is not considered reasonable to recommend refusal on this basis. It should be noted that the site is not located in an area deficient of open space and is in close proximity to an under fives playground on the corner of Hall Place and Cuthbert Street.

8.1.2 Affordable Housing

Nineteen of the 60 residential units are proposed for affordable housing use, representing 36% of the residential floor space proposed, which meets with planning policy S16 of the City Plan in relation to affordable housing provision. The application was submitted in July

2017 and since then the Mayor of London has adopted the Affordable Housing and Viability SPG (16 August 2017). The Mayor has made clear his ambition to move towards delivery of 50% affordable housing on all schemes in the long-term. In the medium-term, the SPG suggests that this expectation will come sooner for certain schemes, such as those in public ownership or on Industrial Land. Whilst the application site is under the ownership of the City Council and therefore 'public land', given the date of submission it is not considered reasonable to request the scheme provide 50% affordable housing.

Ten of the affordable homes (53%) are proposed to be for social housing use where rents will be charged in line with London Affordable Rents (LAR). LAR is the equivalent of average target rents for London. The remaining 9 affordable homes are proposed for intermediate housing use. Housing will need to ensure that these 9 intermediate homes are affordable to a range of intermediate household incomes that reflect the incomes of households registered for intermediate housing opportunities in the City.

To ensure this is achieved, the Head of Affordable Housing and Strategy will require that both intermediate rented housing and shared ownership can be provided such that 50% of the intermediate homes provided at Parsons North can be made affordable to Westminster intermediate households whose incomes are up to median levels. The Head of Affordable Housing and Strategy will look to set out target income bands for these intermediate homes within the legal agreement covering a planning consent for this scheme.

The table below sets out a more detailed analysis of the mix of dwellings and sizes of the affordable units proposed

Dwelling type	1bed 2 person	2bed 3 person	2bed 4 person	3bed 5 person	3 bed 5 person duplex
Floor area (sqm)	50.4-50.6	63.1-75.9	70.1-73.5	87.8-100.4	102.6
Total units	2	3	5	6	3
Social units	0	1	0	6	3
Intermediate units	2	2	5	0	0
Wheelchair access units		1		1	

The Head of Affordable Housing and Strategy welcomes the development proposals.

8.1.3 Commercial Units on Edgware Road

A commercial unit, which could be operated as two small units or one larger unit, at 101sqm is proposed along the Edgware Road frontage. As this is a speculative proposal, the applicant proposes a dual/alternative A1/A2/A3 use for the unit/s.

An objection has been received from a resident on Hall Place on the grounds that no more retail space is needed in this location.

The Draft Planning Brief states that as the site is outside of any designated shopping area (although on the periphery of the Church Street/ Edgware Road District Centre), a large retail unit would be unacceptable, but that small retail units, complimentary to the residential nature of the area could be acceptable. It is not considered that one or two

retail units, measuring no more than 101 sqm is excessive. The applicant has advised that should the A3 unit be occupied, that it is not expected that this would operate as a full restaurant, rather a more local style café. Subject to conditions, regarding hours of opening; that details of the uses be provided at a later date and that any A3 use results in no primary cooking to protect the surrounding residential amenity, in land use terms the proposed retail units are acceptable. The proposals are considered to comply with policies SS8 of the UDP and S20 of the City Plan.

8.2 Townscape and Design

8.2.1 Bulk and Massing

The proposed contemporary design is formed of two blocks forming a central courtyard. The higher of these blocks at six storeys (including roof storey), faces Edgware Road. The side and rear of the block steps down to five storeys (including roof storey).

The new building's primary street frontage to Edgware Road is a busy commercial frontage, so the higher scale here is appropriate, whilst the graduated height to the sides, demonstrates a respectful architectural approach, reflecting the changing context (i.e. buildings heights) around the building.

The building would sit in the shadow of Parson's House tower (21 storeys) and while that in itself should not be the determining factor in establishing its height, Parsons House being an exception in the local townscape, the scale, bulk and massing is appropriate. The Draft Planning Brief did state heights that would be appropriate in this location, specifically in relation to the amenity impacts and this is addressed in the amenity section of the report. The proposals do deviate slightly from this draft brief and un-adopted guidance. However in townscape terms the proposed bulk and massing is, for the reasons stated above considered acceptable.

8.2.2 Architectural Approach

The palate of materials used, including brickwork and reconstituted stone, reflects materials/colours seen in the present context, whilst also allowing for a distinctive new composition. The design features a stone base to the front, helping to 'ground' the building with a solid plinth. Though if this aspect were to be taller and more pronounced, this would reinforce that desirable character further. The use of brickwork is welcome, as this a material with excellent longevity, requires little maintenance for decades and, subject to the type of brick and quality of pointing, has an attractive appearance, texture and in time, patina.

The use of stone is echoed in the projecting window surrounds to the floors above, forming the middle of the building. These elevations consist of a series of two storey bays featuring windows and inset balconies, with glazed balustrades. On the corners are four storey feature bays with balconies behind. The windows are subdivided with decorative panels, these will provide a further level of visual interest as long as they are well crafted and artistic in form. The modulation created by this combination of brickwork, stone work and bays with inset windows and balconies adds articulation and visual interest, creating an architectural language, while reduces the impact of the buildings massing.

The internal elevations are somewhat cluttered in terms of the proliferation of balconies and windows, but these allow private amenity space and facilitate a well surveyed recreation / amenity space. As such, subject to the use of the same high quality brickwork and detailing as on the front, these are on balance, acceptable.

The building is terminated by a visually lightweight roof storey formed of reconstituted stone pillars, with full height screen glazing to create a recessive pavilion effect. The principle of this form is acceptable, though there is some concern with the detailed design and use of materials. It is important that reconstituted stone is used rather than a render, as this is a lower quality material, which quickly wears and wouldn't represent the high quality design sought by UDP policy DES 1. In terms of detail there is a somewhat unusual arrangement with glazed sections blanked out with solid panels, appearing to allow for the division of external amenity spaces. These would best be reordered to integrate solid masonry sections to create a more cohesive arrangement and therefore a condition relating to this element is recommended.

The use of living green roofs on the flat roofs is welcome and these will improve the outlook for overlooking residents, reduce water off and encourage habitat creation and biodiversity and integration of the building into the Green Spine Network – part of the Church Street Masterplan. Also at roof level, photovoltaic panels are proposed. These are not likely to raise significantly above the roof level and therefore from street level are unlikely to be seen. Residents within Parsons House will be able to view the panels but it is not considered that these views would be unacceptable.

In addition to living green roofs, a degree of defensible space has been integrated with landscaped areas around the building on all frontages. These landscaped areas behind low walls serve two functions. Firstly, they provide attractive greening which is necessary given the loss of trees and the busy commercial environment of Edgware Road. In addition, these spaces help to delineate public from private, which is an essential element of good urban design. Though modest in extent, they afford residents on the ground floor a sense of separation from the street and buffer to improve privacy.

A key element of good urban design is that the building allows passive surveillance (overlooking) to the streets it fronts. Given the residential use and the windows to all sides, the surrounding streets and spaces are well surveyed by a large number of windows and terraces. The entrances on Edgware Road and Crompton Street will contribute to active frontages, by encouraging street activity and therefore vitality. The introduction of front door access to the two storey maisonettes on the north east elevation also enhances this characteristic

These features, passive natural surveillance, light spill from residential windows in the evening, street activity through absence of blank facades and presence of well used and lit entrances and window openings all help to create a sense of place, which in turn create safe places where people wish to linger, interact and commune. Given the somewhat desolate character of the base of the present building, such features are a significant improvement. For these reasons, the design is successful both in architectural and urban design terms.

The existing basement is to be extended downward by some 0.9m to allow for adequate head height. Currently the basement is approximately 3m in height, but through the basement there are down stand beams which reduce the head height significantly to some 2.2m. The basement is not to extend any wider, only in depth following the footprint of the existing basement and will not result in more than one storey. The proposals are considered to comply with the City Council's basement policy CM28.1 of the City Plan. Other relevant aspects of the basement policy are discussed in the aboricultural section of this report.

8.2.3 Design Summary

The new building is considered of sound architectural quality, and to represent a significant improvement to the townscape of this northern part of Edgware Road. The proposed development overall represents an improvement in urban design and architectural terms. Subject to conditions reserving further detail of design elements, materials and amending aspects of the detailed design, the building is considered to meet the City Councils policy objectives of promoting high quality urban design and development as required by policy DES 1 of the UDP and policy S 25 of the City Plan.

Included in this application are the introduction of a canopy to Parsons House and wider landscaping works to the south of the tower block and to the front entrances of properties in Haywood House. Again, all these works are considered to be acceptable and seek to improve the townscape in this location.

8.3 Residential Amenity

Policy S29 of the City Plan and ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use.

One objection from a local resident has been received on the grounds that the massing and form of the development is contrary to the Planning Brief which states:

“Proposals must demonstrate that residential amenity is not adversely affected in terms of a material loss of daylight, sunlight, increased in sense of enclosure in habitable rooms of adjacent residential buildings or loss of privacy. Any proposals to introduce buildings more than 5 storey's in height (4 above the podium) on Edgware Road and Hall Place, and 4 storey's in height (3 above podium) on Crompton Street, are therefore unlikely to be acceptable”.

The scheme proposed is bulkier than the stipulations in the Planning Brief and comprises a building of two blocks forming a central courtyard. The higher of these blocks at 6 storeys, (including roof storey), faces Edgware Road. The side and rear of the block steps down to 5 storeys (including roof storey). These heights are taken from ground level, rather than from above the datum line of the existing podium deck.

For the reasons set out below, a departure from the guidelines is considered acceptable and the proposals are not considered to detrimentally harm the amenity of surrounding properties in terms of outlook, enclosure and privacy, sufficient to warrant refusal.

8.3.1 Daylight and Sunlight

The applicant has submitted a Daylight and Sunlight Assessment which tests the following adjacent buildings:

- Parsons House – north and west elevations
- Hethpool House – north east elevation facing windows
- Edwards House – north east elevation facing windows
- Crompton Street – south east elevation facing windows

Vertical Sky Component (VSC)

For daylight matters, VSC is the most commonly used method for calculating daylight levels. It is a measure of the amount of light reaching the outside face of a window. This method does not rely on internal calculations, which means that it is not necessary to gain access to affected properties. If the VSC is 27% or more, the Building Research Establishment (BRE) advises that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The BRE stresses that the numerical values are not intended to be prescriptive in every case and should be interpreted flexibly depending on the circumstances. This is because expectations may be different in rural or suburban situations compared to a more densely developed urban context. The guidance acknowledges that although these values should be aimed for, it may be appropriate in some locations such as in urban areas to use more realistic values.

The use of the affected rooms has a major bearing on the weight accorded to the effect on residents' amenity as a result of material losses of daylight. For example, loss of light to living rooms, dining rooms, bedrooms, studies and large kitchens (if they include dining space and are more than 12.6 square metres) are of more concern than loss of light to non-habitable rooms such as stairwells, bathrooms, small kitchens and hallways.

No Sky Line (NSL)

The NSL method measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky. BRE guidance states that if the no-sky line is reduced by 20% this will be noticeable to its occupants. Accurate assessment of the NSL method is dependent upon knowing the actual room layouts or a reasonable understanding of the likely layouts. The applicant's daylight assessment has had regard to the layouts of the building, having records of the floor layouts of the building.

Annual Probable Sunlight Hours

In terms of sunlight, the assessment measures the impact of overshadowing to all windows which face the application site within 90 degrees of due south. The BRE guidance advises that a room will appear reasonably sunlit if it received at least a quarter (25%) of annual probable sunlight hours including at least 5% of annual probable sunlight

hours during the winter. A room will be adversely affected if the resulting sunlight level is less than the recommended standards and reduced by more than 20% of its former values and if it has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

Assessment

The existing site is undeveloped and for this reason, most neighbouring properties have baseline daylight levels that meet or exceed the targets for their use based on the BRE criteria. The proposed development has arisen through analysis to find the most successful balance between the requirements of regeneration and good design along with mitigating the impact on neighbours.

The results demonstrate that the majority of windows retain vertical sky component (VSC) over 80% of current levels, some 121 windows of 205 tested (59%), and of the remaining 84 windows, 59 still retain a VSC in excess of 18%. Some 25 windows (12%) do not meet this target. These windows serve all the first and second floor of 3 Crompton Street which comprises the living area at first floor served by 2 windows and one bedroom at second floor served by 2 windows; the second floor of 2 Crompton Street, again 2 windows serving one bedroom; ground floor flats of Edward House, appearing to serve bedrooms and bathrooms and a number of windows at first and second floor of the recessed west façade of Parsons House, which appear mainly to serve bedrooms.

In regards to sunlight results, of the 104 windows assessed, 91 windows retain in excess of 25% APSH and 5% of WPSH. Five of the remaining 13 retain more than 80% of their current values, meaning that 8 windows fall below the level of sunlight normally recommended by BRE guidance. These windows serve one of the multiple windows serving the bedrooms of 1, 2 and 3 Crompton Street windows and a number of windows at first, second and third floor windows of the recessed west façade of Parsons House, which appear to mainly serving bedrooms. 2 of the Parsons House windows serve a living room, but these living rooms have multiple windows serving these habitable rooms. Of these 8 windows, 3 go from currently having adequate sunlight to below the recommended level and only by a relatively small amount.

Overall, it is clear that there are a significant number of windows which would be noticeably and negatively affected in terms of loss of both daylight and sunlight, which would normally fail to accord with policies S28 of the City Plan and ENV 13 of the UDP. These losses must then be considered in relation to the particular nature of this site and the merits of the proposed development.

As noted above, the BRE guidelines are intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London location, expectations of natural light levels cannot be as great as development in rural and suburban locations and to which the same BRE guidelines apply. Many sites throughout central London have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation. It is accepted that a VSC of around 15% in an urban context is not uncommon and is considered to provide an acceptable level of light.

The development is located within the Church Street masterplan as a development opportunity site and a Planning Brief has also allocated this site to redevelopment. The Planning Brief was aspirational to say that any development must not harm the amenity of neighbouring properties in terms of loss of light and sunlight, as it is likely that any development would have some impact given the undeveloped nature of the podium deck and the uninterrupted outlook over this deck from the surrounding properties of Parsons House, Hall Place and Crompton Street, which provides levels of daylight that are not typical of a dense urban location.

The scheme will provide much needed housing in this part of the City, including a policy compliant level of affordable housing. In light of this, and in accordance with paragraph 14 of the NPPF, it is therefore clear that any daylight/sunlight impacts and height of the development will not “significantly or demonstrably” outweigh the social, environmental and economic benefits of the development and the proposals are considered to be acceptable and in accordance with policies ENV13 of the UDP and S29 of the City Plan.

8.3.2 Sense of Enclosure

The northern elevation of the building will be sited a single street width away from the three existing residential houses on Crompton Street. Directly opposite these properties, the development is proposed to be 5 storey's in height, with the roof storey significantly set back from the main elevation. Whilst these properties in Crompton Street are undoubtedly going to experience a sense of enclosure from their first and second floor windows (the ground floor is occupied by a garage and the front door), their current situation of overlooking a large 'blank' area of the podium deck is highly unusual. The level of enclosure experienced by these properties is unlikely to be any worse than a normal terraced street where properties sit opposite one another and divided by a street.

The side 'wings' of the proposed building will be sited between 13.5m and 17.5m from the north east corner of Parsons House and between 15m and 17.5m from the north west elevation of Parsons House. The Edgware Road elevation is six storey's in height with the roof storey set back from the main elevation quite significantly. The Hall Place elevation is four storey's in height. However, the southern elevation fourth floor is flush with the main elevation. Again, whilst undoubtedly the residents of Parsons House in flats facing the application site at floors 1-6 will experience a significant sense of enclosure compared to their current uninterrupted outlook over the podium deck, given the distances between Parsons House and the new building and the modest height of the development, the proposals are considered to be acceptable in this instance.

At ground floor level on the Edgware Road frontage, the commercial unit at the southern end of the building is proposed to be single storey and is no higher than the architectural banding on Parsons House delineating the ground and first floor levels. Therefore whilst the windows at first floor level of Parsons House will overlook the roof of this commercial unit, the built form will not rise up in front of these windows.

Given the distance of the proposed building from the existing residential units of Edward House and Hethpool House to the west and south of the development, it is not considered that, at five storey's tall, again with the roof storey set back from the main elevation (a similar height to Edward House and Hethpool House) the development would result in an unacceptable sense of enclosure.

8.3.3 Privacy

The residential units at ground floor facing inwards to the courtyard have designated amenity areas. At upper levels, the units facing inwards to the courtyard have projecting balconies and to the street elevations, the units mainly have recessed balconies. To the top floor, terraces are created with the set back roof storey.

Whilst it is acknowledged that Parsons House has no balconies, balconies and recessed terraces are common place within the residential blocks to the west of Hall Place. It is not considered therefore that the introduction of balconies in the manner shown would result in such detrimental overlooking to neighbouring properties in Crompton Street, Hall Place or Parsons House to warrant refusal.

In terms of the balconies to the inner courtyard, these would allow some mutual overlooking between the new residential units. However, the benefit of each residential unit having their own external amenity space is considered to outweigh the harm caused by any overlooking.

8.3.4 Noise

It is not considered that noise created from using the terraces would be detrimental to the amenity of neighbouring properties, over and above what would be expected from 'normal' garden useage,

As detailed in section 8.4 of this report, refuse collection is proposed to take place from within the existing Parsons House service yard. Further details of this arrangement are discussed in more detail below. The existing service yard is adjacent ground floor residential windows of Parsons House and below first floor residential windows. Whilst the use of this service yard will intensify as a result of longer refuse collection times (as Parsons North refuse is likely to be collected at the same time as Parsons House), given that there will be a management strategy in place whereby refuse from Parsons North is brought to the service area only on the days refuse is to be collected and given that this is an existing arrangement, it is not considered that any additional noise created will be so harmful to the amenity of these adjacent residents.

8.3.5 Impact of Proposed Residential Accommodation

It is not considered that the redevelopment of the podium deck for residential purposes would result in any harmful amenity considerations to neighbours in terms of noise from future residents coming and going. The site is on an extremely busy road where noise, traffic and pedestrian footfall is considerable and the introduction of 60 residential units is unlikely to further increase this harm. The two main entrances to the building are on Edgware Road and opposite the Little Venice Medical, therefore not directly outside any existing residential units.

Overall and given the above, the proposals are considered to accord with policies S29 of the City Plan and ENV13 of the UDP.

8.3.6 Commercial unit on Edgware Road

As advised above, retail units comprising Class A1, A2 or A3 uses are acceptable in principle. Whilst it would have been ideal to have details of the uses proposed as part of the application, it is accepted that the application is speculative at this point. It is recommended that a condition securing the hours of opening from 07.00 until 22.00 daily are imposed. Given Environmental Health requirements for a full height flue should an A3 restaurant be proposed, it is recommended that a condition to secure that no primary cooking takes place is imposed as a full height flue would be unacceptable both in amenity and design terms. The applicant has agreed to this. It is not considered necessary to request further details as to whether the units will be operating as one single unit or as two separate units provided that any future users abide by the conditions described above. Environmental Health officers have suggested standard noise conditions which would apply to the whole development, should the retail units require any plant.

8.4 Transportation/Parking

8.4.1 Car Parking

There are currently 101 existing carparking spaces in the basement level carpark under the podium deck accessed from Hall Place. The car park was closed completely in January 2015 and up until it closed, the applicant advised that there were 53 users who have all had to park their cars elsewhere. According to the applicant, 32 of the 53 users were residents of Parsons House.

54 car parking spaces are to be re-provided as part of the proposals, split between the previous users of the car park and for the 60 proposed dwellings. It should be noted that TfL object to the number of car parking spaces and would welcome a car free scheme, given the sites excellent PTAL rating of 6A and its close proximity to multiple public transport routes.

The Transport Assessment notes that the existing 101 spaces are all sub-standard as they were originally designed to be only 2.0m wide which is 0.4m less than existing standards and the supporting beams of the carpark were too low in parts. Therefore, only 58 cars can realistically be accommodated.

Policy TRANS23 of the UDP details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. Policy TRANS23 includes all legal parking spaces. During the daytime period within the area, the legal on-street spaces for permit holders are Residents' Bays and Shared Use Bays.

The evidence of the Council's most recent daytime parking survey in 2015 (therefore reflective of the current situation of the carpark being closed) indicates that the parking occupancy of Residents' Bays and Shared Use Bays within a 200 metre radius of the development site is 68.4% (consisting of 214 Residents' and 22 Shared Use Bays, 140 and 20 of which were occupied, respectively). The data shows that 28 more cars could be parked on-street before the 80% threshold would be breached. Overnight the pressure on Residents' and Shared Use Bays increases further to 87.7%, although residents can also park free of charge on metered parking bays or single yellow line in the area. The inclusion of these types of bays brings the overall occupancy down to 51.4% mainly because of 174 potential spaces on single yellow line overnight. The data shows that 128

more vehicles could be parked on-street before the 80% threshold would be breached, although this would rely on much parking being on single yellow line, from which vehicles would have to be moved by 8.30am.

City Council records show that 50 residents of Parsons House currently have permits to park on-street within the Hall Place Estate. Some 46% of households in the Little Venice Ward had access to cars at the time of the 2011 census.

The applicant proposed that 32 of the 54 parking spaces would be for the proposed 60 residential units and 22 would be provided for the use of former users of the car park, split into two sections of unallocated parking.

Whilst officers consider that the existing car park should never have been closed in the first instance and that technically all residents of Parsons House should be offered their car parking spaces again in the new provision, the net effect of what has happened, together with the current proposals, is that all the parking demand from existing and future residents should be capable of being accommodated by a combination of the new car park and on-street, without the 80% threshold for on-street parking pressure being breached. Therefore, the Highways Planning Manager considers the proposals acceptable.

As the applicant can provide no evidence to suggest that previous existing users of the carpark are entitled to a space within the basement carpark, officers consider that all 54 spaces should be provided for the development itself, given that it is clear that any existing users of the carpark have been accommodated elsewhere. This would comply with policy S41 of the City Plan and TRANS21 of the UDP. The applicant has agreed to this requirement and this will be secured by legal agreement.

The applicant has agreed to provide each flat with car club membership for the lifetime of the development, which is welcomed and will be secured by legal agreement.

A condition to secure that ten of the parking spaces are provided with electric charging points or can be adapted to provide electric charging, is recommended in line with policy 6.13 of the London Plan.

8.4.2 Cycle Parking

The 60 new dwellings should have 102 cycle spaces plus two for visitors. 105 are proposed which is welcome. However, there are no details of this provision, only the space that is intended to be allocated in the basement. A condition to secure further details is recommended. This would comply with policy S41 of the City Plan.

The commercial space is too small to require cycle parking.

8.4.3 Residential Waste Servicing and Implications on the Highway

Residential waste is to be collected in two dedicated areas within the basement. A third store is proposed for bulky waste. The applicant has confirmed that a management strategy will be in place requiring staff from the management company bringing waste from its collection points, to an internal lift which will externally access the existing servicing area used for refuse collection by Parsons House. From this point, it is

envisaged that the City Council refuse collectors will reverse up the existing (all be it modified and improved) ramp to collect both bins for the development and Parsons House. This is considered acceptable.

Although not confirmed by the refuse collectors, the applicant has commented that on occasions the City Council refuse vehicle, parks on the highway adjacent to the existing ramp to the service area and to the carpark, and the refuse collectors then manually collect the waste from the service area. Whilst City Council policy seeks to encourage off-street servicing under policy S42 of the City Plan and TRANS20 of the UDP, given that refuse servicing has appeared to have taken place from Hall Place in the past with little adverse impact on the highway and public realm users, if on-street servicing continues to occur, even with a new development of 60 residential units potentially using the two way basement carpark entrance, there would be no objection to this. Health and Safety Regulations prohibits refuse collectors from pulling/pushing certain size refuse bins more than 10m to the refuse vehicle. The ramp distance from the existing refuse area is approximately 25m and therefore it may be more appropriate to ensure that if servicing from the street does take place, that the management strategy ensures that staff of the management company wheel the refuse bins to the edge of the service ramp ready for collection. This could be secured through the legal agreement.

8.4.4 Retail servicing

It is proposed that servicing for the retail units will take place on Hall Place, adjacent to the car park ramp. Whilst TRANS 20 says that servicing should take place off-street, in this instance this is acceptable given the limited impact on the highway network. Although acceptable to the Highways Planning Manager it may not be particularly convenient for the commercial units which front Edgware Road, which may be better off using the loading bay on Edgware Road, to the south east of the site.

8.4.5 Micro Recycling Centre Relocation

The existing micro recycling centre on the corner of Edgware Road and Crompton Street is proposed to be relocated east of Parsons House, adjacent to the existing open space and adjacent to an existing loading bay on Edgware Road. This has raised an objection from TfL on the grounds that the proposed new location is in close proximity to the existing 'Frampton Street' Cycle Hire docking station. The new recycling centre will be accommodated in an area designated by new planters. The planters and the recycling containers are shown to be more than five metres away from the existing cycle docking station with the bikes facing outward to Edgware Road, and therefore it is not considered that the recycling centre is in such proximity to impede pedestrian flow and the flow of users of the cycle hire station.

8.5 Economic Considerations

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

8.6 Access

The proposed building and residential are fully accessible, with level access from street level, internal lifts to all floors and with 6 wheelchair adaptable units proposed.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Internal Noise

The noise surveys undertaken and the discussion in the acoustic report note that to achieve the required internal noise levels, acoustic treatment to the external facades will be required. Details of a suitable façade treatment have been provided which suggests compliance with City Council standard conditions can be achieved.

The noise surveys undertaken and the discussion within the acoustic report note that the required internal noise levels can be met with appropriate acoustic treatment to the party walls, corridor walls, entrance doors, internal walls, party floors, entrance halls, corridors, hallways, stairwells etc.

There are two residential lifts proposed for this development, one per core with each reaching down to basement level and up to the top of each block; suitable mitigation for the lifts will need to be addressed by way of the submission of a supplementary acoustic report. A condition is recommended to secure this.

8.7.2 External Noise

Outdoor amenity areas including balconies and communal amenity spaces are proposed.

The Noise Map for Amenity Areas report showed that the balcony areas on Crompton Street and Hall Place are likely to exceed the relevant standards while the internal courtyard balconies will comply. Given the sites busy location, it is regrettable that the external balconies on Crompton Street and Hall Place will not meet acceptable noise standards. However, the provision of outdoor amenity space is considered to outweigh the exceeded noise levels and this transgression is considered acceptable in this instance.

8.7.3 Plant

Mechanical plant is proposed to serve the residential units and to the commercial units on Edgware Road. An initial noise survey has taken place, the conclusions of which Environmental Health officers are satisfied with. As the final plant selections have not yet been made, a condition to secure a supplementary acoustic report is recommended.

8.7.4 Refuse /Recycling

On - Site Waste and Recycling Storage

As advised above, the applicant has proposed two bin stores at basement level which are capable of accommodating residential waste and recyclable materials storage. The Cleansing Manager has no objection to the proposed refuse collection from the existing Parsons House service yard. The Cleansing Manager recommends that the waste refuse vehicle should reverse into the service yard, to collect waste that is close to the servicing lift. The access to Parsons House service yard is about 5m wide which is more

than the 2.5m width required for access. Collecting waste on-site will ensure that there is no need for council waste operatives to drag bins for more than 10m distance, as discussed above.

Although on-street waste servicing may be contrary to section 7 of the Westminster City Recycling and Waste Storage Requirements for new builds, as discussed above on-street waste servicing is possible, as Hall Place is a quiet street with a single and double yellow lines in front of the site to permit loading. However, collect waste on-street will require the management company (not the council waste operatives) to wheel the bins close to the pavement for collection. There is no objection to this in principle.

Subject to conditions, the Cleansing Manager has no objections to the proposals.

Micro Recycling Centre Relocation

The Micro Recycling Centre which currently sits on the corner of Edgware Road and Crompton Road is to be relocated adjacent to the open space east of Parsons House, on the Edgware Road frontage. This has been agreed in principle with the Council waste operation team provided the cost of relocation of the site is funded by the applicant. As advised in para 8.4 of this report, TfL have objected to its new location on highways grounds. Subject to agreement with TfL, the relocation and cost of the micro recycling centre will be secured by legal agreement.

8.7.5 Trees

Objections from a resident on Edgware Road have been made to the removal of several street trees.

Three Caucasian Wingnuts in the ownership of TfL are proposed to be removed to accommodate the development. TfL comment that the trees are hugely important public assets delivering considerable environmental, economic and social benefits to the people who live and work in this area and therefore seek their retention.

The Arboricultural Manager also considers that their loss would be regrettable, particularly the Wingnut tree on the corner of Crompton Street and Edgware Road which is a good specimen of very high amenity value. The Arboricultural Manager considers that the visual impact of the loss of the other two trees would be mitigated in part because there is a double row of trees in this location.

The Arboricultural Manager considers that the loss of these trees and planting would only be acceptable if a high quality scheme of landscaping and replacement tree planting were to be proposed. In most instances a landscaping scheme could be conditioned. However, no soil depth is proposed above the basement where it is external to the buildings, so it would not be possible to provide new tree planting and landscaping of any significant amenity value. Any landscaping in this scenario would be either artificial turf (within the courtyard) or would need to be in raised planters which would be unlikely to provide a satisfactory landscaped appearance, and would require artificial irrigation, and would therefore not be sustainable.

The proposed landscaping includes the greening of the retained podium deck, green roofs, a green wall on the chamfered 'wing' opposite the north west elevation of Parsons House, new planters on Edgware Road, and landscaped private areas to the front forecourts of Haywood House to the south of Haywood House.

Whilst officers also consider the loss of the trees regrettable, given the remaining tree cover on the Edgware Road frontage and that the proposed landscaping is considerable when compared to the existing bare podium deck, the proposals are, on balance supported. Whilst artificial turf is not considered to contribute environmentally, the applicant has argued that in the internal courtyard it has many benefits, given its enclosed nature and visually it will give an all year round appearance which could be used more efficiently by the residents of the new development, potentially without having to incur heavy service charges.

With regards to the soil depth proposed elsewhere on the site and in the planters, the applicant argues that the landscaping and planting will be carefully selected to provide a satisfactory setting for the development to mitigate the impact of tree and shrub loss on the highway. Again, officers consider that when compared to the existing podium deck, any landscaping scheme will be a drastic improvement. It is recommended that a condition to secure the landscaping scheme is proposed.

It should be noted that trees on Edgware Road are all owned by TfL and therefore agreement to their removal will ultimately be at their discretion.

The applicant's arboricultural report states two Caucasian wingnuts on Edgware Road, adjacent to the proposed commercial unit, will be retained. However, the City Council's Arboricultural Manager considers that these are likely to be lost as a result of the development. There was originally a discrepancy on the site plan, in that it omitted the full extent of the footprint of the commercial unit and therefore concern was raised as to the applicant's arboricultural report underestimating the impact on these trees. This has now been revised. A condition securing tree protection methods for the proposed retained trees is recommended.

Seven Field Maple trees are proposed to be retained on the Hall Place/ Crompton Road frontages. These trees are owned and maintained by the City Council. The Arboricultural Manager considers it unlikely that it would be possible to retain the trees because of construction logistics. They conclude that, as these are young trees which are replaceable as part of a scheme of redevelopment, at the expense of the applicant, that no objections would be raised to their removal. It is not considered reasonable in this instance to require the applicant to pay for new trees, given the landscaping offered as part of this redevelopment.

8.7.6 Sustainability

Policy S28 of Westminster's City Plan expects development to reduce energy use and emissions that contribute to climate change during the life-cycle of the development; and ensure the reduction, reuse or recycling of resources and materials. The policy also details how this can be achieved, through excellence in design quality, use of high quality durable materials, efficient operation, and the provision of high quality floorspace that can adapt to changing circumstances over time.

Policy 5.2 of the London Plan requires developments to make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

- Be lean: use less energy;
- Be clean: supply energy efficiently; and
- Be green: use renewable energy.

The building is designed to minimise the energy consumption of the building by implementing both best practice and innovative design. The scheme provides an overall 21% reduction in carbon emissions, complying with planning policy S40 of the City Plan. The proposals fall short of the London Plan energy reduction target due to site constraints. The applicant expects that the percentage reduction modelled could be improved as the scheme develops into detailed design stage.

As required by policy, renewable energy is to be provided through the provision of roof-mounted photo voltaic (PV) panels and this is welcomed.

The proposed development is considered to accord with Policy S28 and London Plan Policy 5.2 as a result of the scheme's high quality design and selection of proposed energy efficient materials and appliances.

8.7.7 Local Economy and Employment

On appropriate larger scale developments, policy S19 of the City Plan seeks to encourage contributions towards initiatives that provide employment, training and skills development for local residents and ensure that local people and communities benefit from opportunities which are generated from development. In accordance with policy S19, the City Council would expect the applicant to provide trainee/ apprenticeship placements during the course of construction works and notification to the City Council and affiliated work placement bodies of construction workforce vacancies so that local employment can be promoted. The applicant has agreed to this and this is to be secured by planning obligation.

8.8 London Plan

This application raises no strategic issues and is not referable to the Mayor of London.

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 proposed planning obligation requirements are considered to meet these tests.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

The City Council's Planning Obligations Supplementary Planning Guidance (SPG) sets out in detail the scope and nature of obligations to which certain types of development will be typically subject. In this case, the principal 'Heads of Terms' of the legal agreement are proposed to cover the following issues;

- a) Provision of affordable housing in the form of 19 units (10 social rent units/ 9 intermediate housing units);
- b) Not to occupy the private market housing until the affordable housing units are available for occupation;
- c) Highways works to facilitate the proposed development and including vehicular crossovers, creation of a relocated parking space; reinstatement of redundant crossovers and paving;
- d) Car park strategy including all car parking spaces provided for the development itself and on an unallocated basis;
- e) Lifetime Car club membership for all units in the development;
- f) Management strategy for the development;
- g) Relocation of the micro-recycling centre;
- h) Employment training and apprenticeships opportunities for residents of Westminster; and
- i) Monitoring costs.

The total estimated CIL payment is £1,396,815.06 of which £189,053.81 corresponds to Mayoral CIL and £1,207,761.25 corresponds to Westminster CIL. Please note that these figures are subject to Affordable Housing relief which needs to be applied and it is not given automatically.

The consultation response from Children's Services requests a financial contribution to the City Council's Education Fund. It would be unlawful to secure this as a condition or planning obligation under this permission, as this would be captured through the CIL regulations.

TfL have requested a contribution of £45,000 towards the extension of the Frampton Street cycle docking station on Edgware Road. This has been put to the applicant who has confirmed that the finances of the scheme were predicated on subsidising the provision of the affordable housing and that no account was ever taken of a potential TfL cycle hire payment and as such they decline the request. Officers do not consider it reasonable to insist on this contribution given the proposals before us.

8.11 Environmental Impact Assessment

The proposed development is of insufficient scale to require an Environmental Impact Assessment. Where relevant, the environmental impact of the development has been assessed in earlier sections of this report.

8.12 Other Issues

8.12.1 Construction Impact / Building Regulations

The City Council's Building Control officers have no objections to the proposals to extend the basement downwards and to carry out the above ground works. The proposed development would also be subject to the City Council's Code of Construction Practice and this could be secured by the recommended condition. A further condition is also recommended to limit construction hours. Subject to these conditions, the construction impact of the development would be mitigated as far as is reasonably practicable under planning law.

8.12.2 Air Quality

An Air Quality Assessment has been submitted and identifies mitigation measures that are required in order to mitigate any significant dust impacts during the construction period. Mitigation measures included under the Westminster City Council's Code of Construction Practice as well as relevant government guidance documents; including the GLA's control of dust and emissions from construction and demolition: best practice guidance, should be followed to minimise and prevent dust impacts.

Environmental Health officers request that the applicant submit an Air Quality Statement as part of the Code of Construction Practice.

8.12.3 Crime and security

The Met Police Designing Out Crime Officer has no objections to the principle of the development and has made recommendations as to how the development can achieve full Secured by Design Accreditation. An informative to advise the applicant of the recommendations is attached.

9 BACKGROUND PAPERS

1. Application form
2. Response from Children's Services dated 2 August 2017.
3. Response from Transport for London dated 14 August 2017
4. Response from Cleansing Manager updated 24 October 2017.
5. Response from Environmental Health - Major Redevelopments & Infrastructure, dated 19 September 2017.
6. Response from Designing Out Crime Office dated 27 September 2017.
7. Response from Head of Affordable Housing and Strategy, dated 2 October 2017.
8. Response from Arboricultural Manager dated 4 October 2017.
9. Response from Highways Planning Manager dated 5 October 2017.

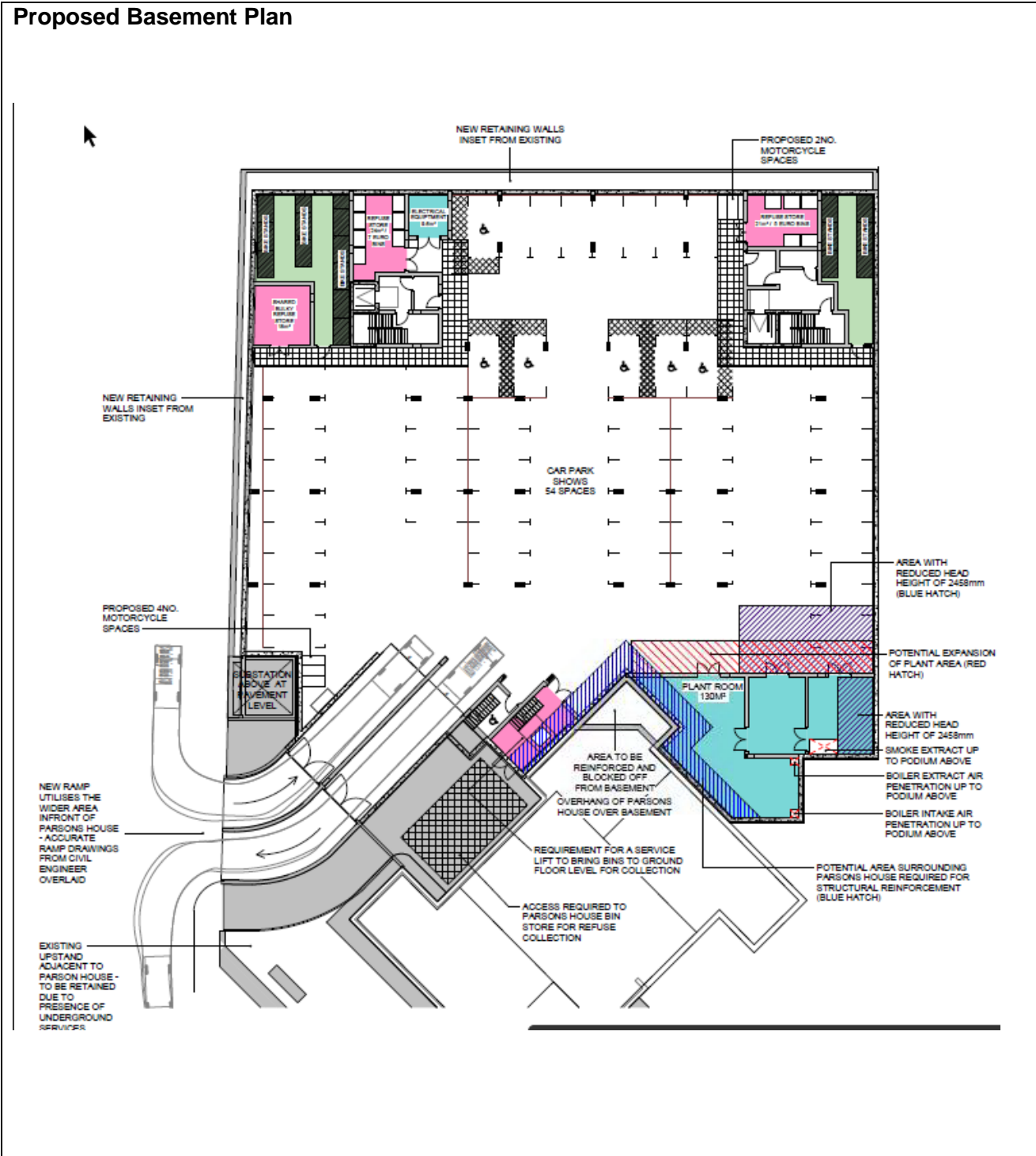
10. Letter from occupier of 433C Edgware Road dated 24 July 2017
11. Letter from occupier of 11 Cuthbert House, 15 Hall Place dated 26 July 2017
12. Letter from occupier of 3 Compton Street dated 9 August 2017

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT nbarrett@westminster.gov.uk

10 KEY DRAWINGS

Proposed Basement Plan



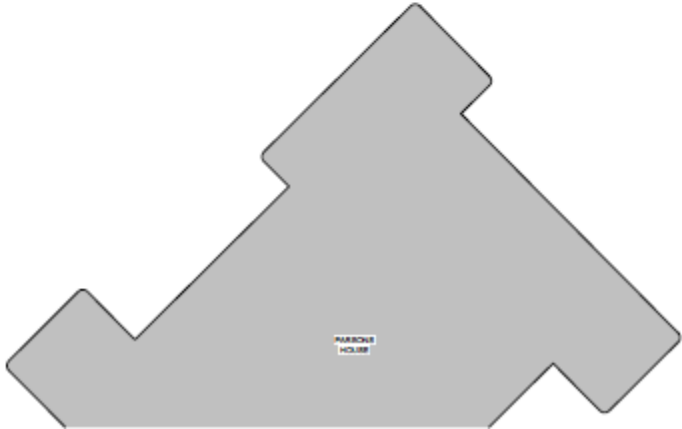
Proposed Ground Floor Plan



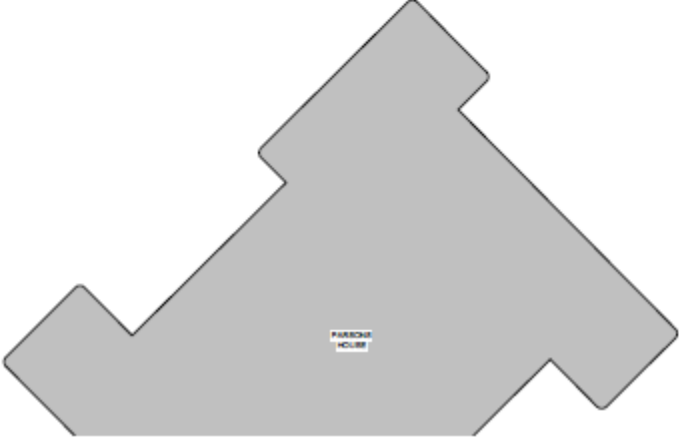
Proposed First Floor Plan



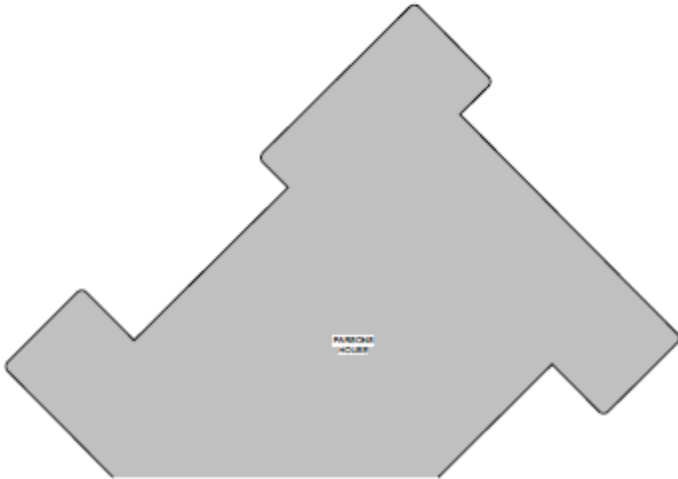
Proposed Second Floor Plan



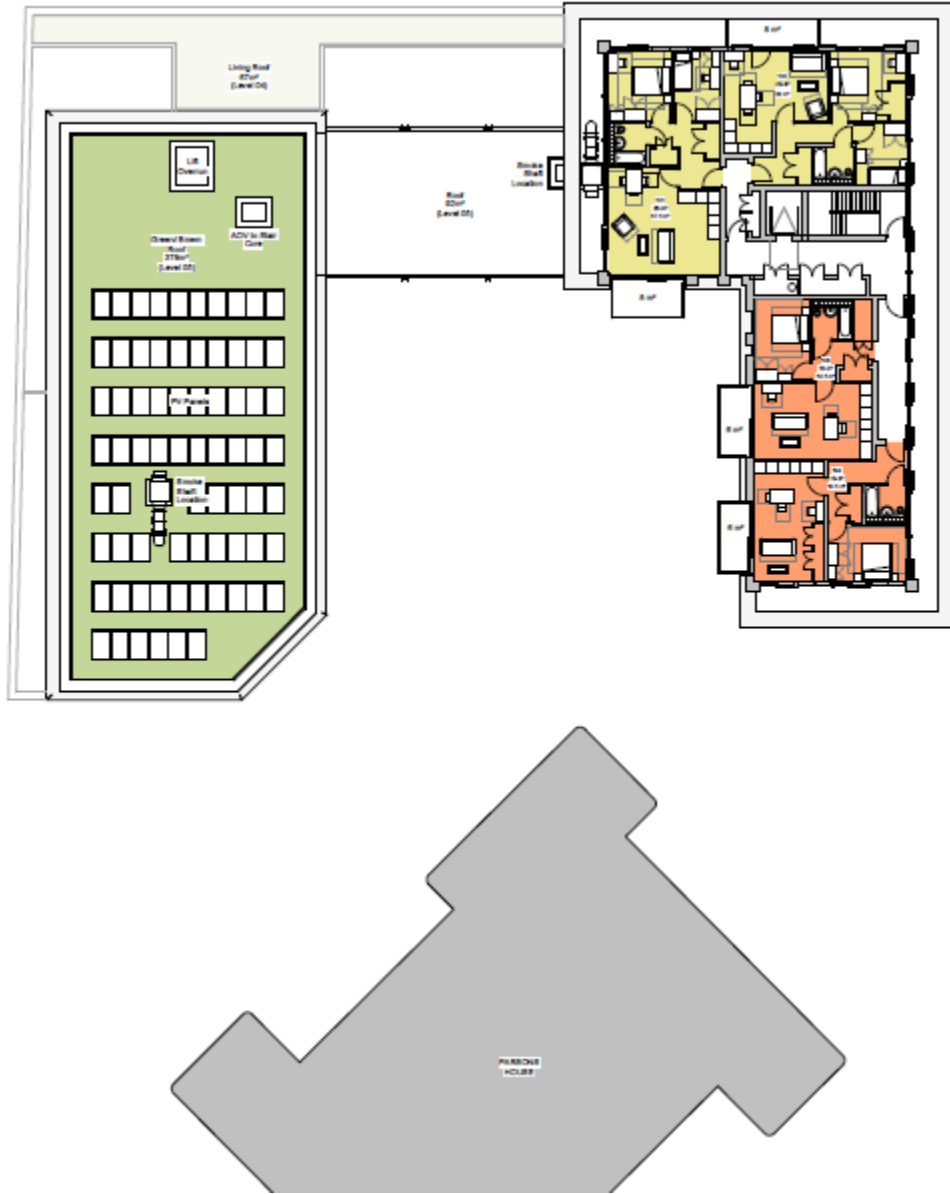
Proposed Third Floor Plan



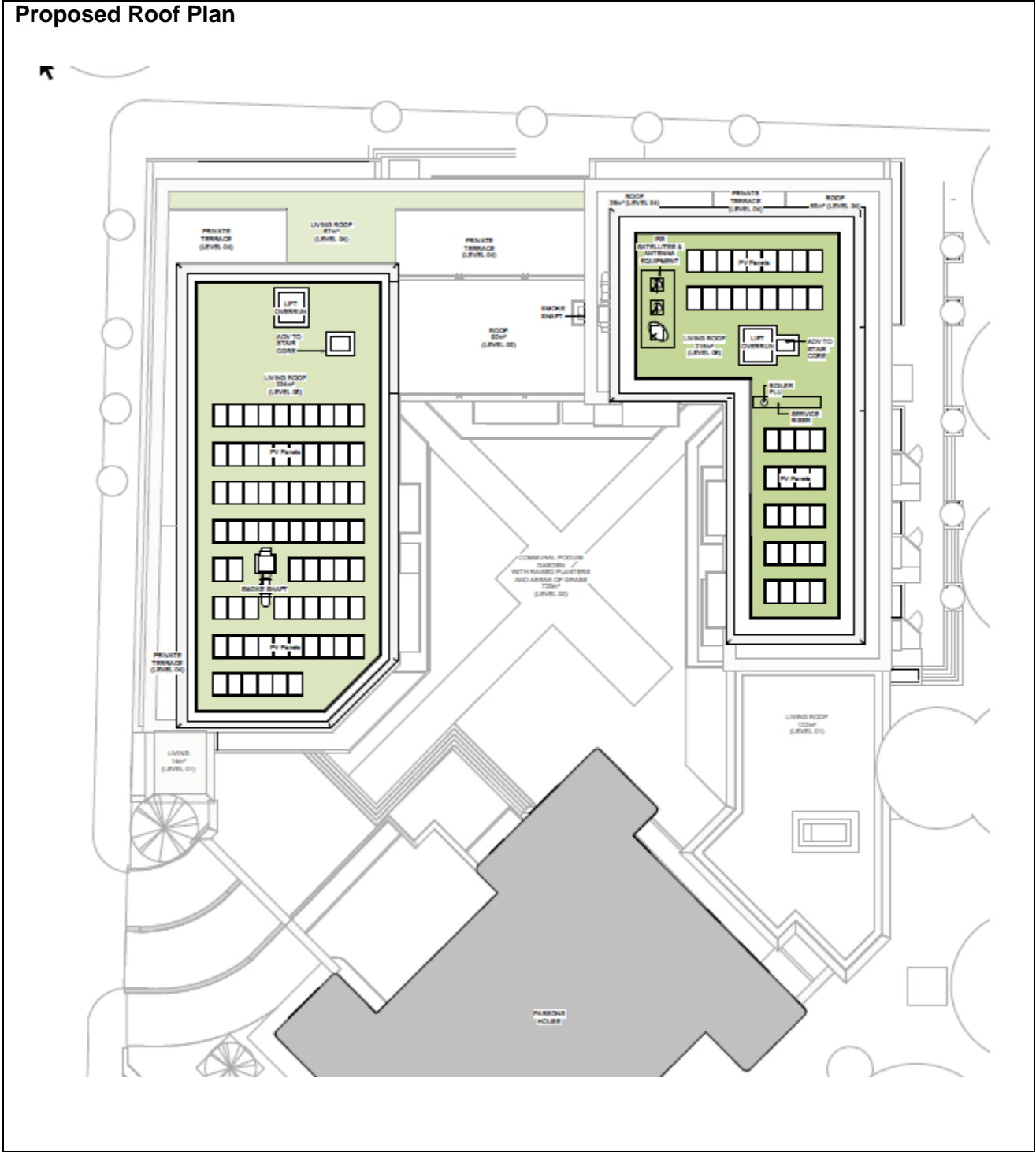
Proposed Fourth Floor Plan



Proposed Fifth Floor Plan



Proposed Roof Plan



Proposed Crompton Street Elevation



Proposed Edgware Road Elevation



Proposed Hall Place Elevation



Proposed Courtyard Elevation



Proposed Edgware Road and Crompton Street Elevation Visuals



Proposed Crompton Street and Hall Place Elevation Visuals



DRAFT DECISION LETTER

Address: Parsons House, 124 Hall Place, London, W2 1NE

Proposal: Demolition and redevelopment to the podium/ car park structure and redevelopment of site in a building comprising ground and five upper floors to provide 60 residential units (Use Class C3), including terraces and balconies, a communal garden space and 54 car parking spaces with altered entrance from Hall Place. Provision of 101 sqm of retail space fronting onto Edgware Road (Use Class A1/A2/A3). Replacement boundary treatment works and planting on Edgware Road, including replacement of trees and works to the raised bund in front of Parsons House. Re-location of existing recycling centre.

Plan Nos: 01000 P2; 01101 P1; 01102 P2; 01111 P2; 02101 P1; 02102 P1; 02103 P1; 02104 P1; 02105 P1; 02106 P1; 02100 P1; 02107 P1; 03001 P1; 03002 P1; 03003 P1; 03004 P1; 03201 P1; 03202 P2; 03203 P2; 03204 P1; 03205 P1; 03206 P1; 11021 P1; 11022 P1; 11023 P1; 04101 P1; 04102 P1; Design and Access Statement P2 dated 7 July 2017; Planning Statement P1 dated 7 July 2017; Affordable Housing Statement P2 dated 7 July 2017; Acoustic Strategy P2; Transport Assessment P3; Travel Plan P3; Arboricultural Survey Report and Impact Assessment P2 dated 5 July 2017; Email from Katy Van Geffen dated 20 October 2017.

For information only: Energy Assessment P2; Air Quality Assessment; Ecological Assessment P2; Construction Logistics Plan P3; Daylight and Sunlight Assessment P2 dated 5 July 2017; Internal Daylight Assessment P1 dated 5 July 2017; Phase 1 Environmental Report P2; Existing Basement Structural Condition Survey P1 dated 5 December 2016; Temporary Works Strategy P1 dated 16 May 2017; Statement of Community Involvement P1; Waste response dated 16 October 2017 Swept Path Analysis Tracking Diagram for on site and on street refuse collection - drawings 00004; 00005; Environmental Health response dated 16 October 2017.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641 5939

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

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

Reason:

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

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

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

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

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

Reason:

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

- 3 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising 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. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

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

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

Reason:

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

- 5 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

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

we adopted in January 2007. (R26AD)

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

- The roof storey to be re-ordered to integrate solid masonry sections, using reconstituted stone to create a more cohesive arrangement.

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

Reason:

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

- 7 You must apply to us for approval of detailed drawings at 1:20 of the following parts of the development:

- railings, balustrades and privacy screens.

You must not start any work on these parts of the development until we have approved what you have sent us.

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

Reason:

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

- 8 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

Reason:

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

- 9 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 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)

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

Reason:

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

- 11 You must apply to us for approval of detailed drawings at 1:20 showing the elevations of the commercial units and the areas allocated for signage. You must not start on this part of the development until we have approved the drawings.

Reason:

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

- 12 Unless otherwise shown on the drawings hereby approved, you must not use the roof(s) of the building (including the residential and commercial element) 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)

- 13 You must not use the area above the raised planter (above the internal service lift) adjacent to the north west elevations of Parsons House (as hatched on drawing no. 01102 P2) 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. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 14 You must apply to us for approval of a section and elevation drawing showing that the roof and parapet of the commercial unit on Edgware Road does not rise above the red architectural banding beneath the first floor residential windows of Parsons House. You must not start any work on these parts of the development until we have approved what you have sent us.

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

Reason:

To protect the 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)

- 15 Customers shall not be permitted within the commercial units premises before 07.00 or after 22.00 each day. (C12AD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and SS8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 16 You must use the commercial property only for Class A1, Class A2 or Class A3 purposes, of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it). (C05AB)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet SS8 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 17 You must not cook raw or fresh food on the premises. (C05DA)

Reason:

We do not have enough information to decide whether it would be possible to provide extractor equipment that would deal properly with cooking smells and look suitable. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05DC)

- 18 (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.

- 19 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.

- 20 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.
- (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.
- (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

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

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 22 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.

- 23 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 Conditions 18, 19, 20 and 21 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.

- 24 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 TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

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

Reason:

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

- 26 Prior to the occupation of the development, a minimum of 10% of the car parking spaces shall have electric vehicle charging points for use within the basement car park and thereafter maintained in working order.

Reason:

To provide electric vehicles charging for people using the development as set out in Policy 6.13 of the London Plan.

- 27 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 flats. (C14EC)

Reason:

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

- 28 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 commercial unit (s). (C14EC)

Reason:

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

- 29 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)

- 30 You must not put planters, tubs, tables, chairs or adverts on the road or pavement. (C24BA)

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)

- 31 All vehicles must enter and exit the site in forward gear (except refuse and recycling vehicles).

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)

- 32 You must provide the access for people with disabilities as shown on the approved drawing(s) and as outlined in the Design and Access Statement dated July 2017 before you use the building. (C20AB)

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

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

If you remove any trees or find that they are dying, severely damaged or diseased within three years of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)

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

Reason:

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

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

- green roofs
- PV panels
- living wall on the south west wing

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)

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

Reason:

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

- 37 **Pre Commencement Condition.** You must apply to us for approval of details of a security scheme for the development You must not start work until we have approved what you have sent us. You must then carry out the work according to the approved details before anyone moves into the building. (C16AB)

Reason:

To reduce the chances of crime without harming the appearance of the building as set out in S29 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that

we adopted in January 2007. (R16AC)

- 38 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.
(C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

Informative(s):

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

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form**

immediately. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

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

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

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

Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

- 3 This permission is based on the drawings and reports submitted by you including the structural methodology report. 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.
- 4 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)
- 5 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)
- 6 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)
- 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 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:

1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

- 9 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

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

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

Phone: 020 7641 2000

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

- 10 Your proposals include demolition works. If the estimated cost of the whole project exceeds £300,000 (excluding VAT), the Site Waste Management Plan (SWMP) Regulations 2008 require you to prepare an SWMP before works begin, to keep the Plan at the site for inspection, and to retain the Plan for two years afterwards. One of the duties set out in the Regulations is that the developer or principal contractor "must ensure, so far as is reasonably practicable, that waste produced during construction is re-used, recycled or recovered" (para 4 of the Schedule to the Regulations). Failure to comply with this duty is an offence. Even if the estimated cost of the

project is less than £300,000, the City Council strongly encourages you to re-use, recycle or recover as much as possible of the construction waste, to minimise the environmental damage caused by the works. The Regulations can be viewed at www.opsi.gov.uk.

- 11 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 12 With reference to condition 3 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). These documents must be sent to environmentalsciences2@westminster.gov.uk.

Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

You are urged to give this your early attention

- 13 This permission is likely to be governed by a Unilateral Undertaking from the applicant under Section 106 of the Town and Country Planning Act 1990. The Undertaking relates to:
 - a) Provision of affordable housing in the form of 19 units (10 social rent units/ 9 intermediate housing units);
 - b) Not to occupy the private market housing until the affordable housing units are available for occupation;
 - c) Highways works to facilitate the proposed development and including vehicular crossovers, creation of a relocated parking space; reinstatement of redundant crossovers and paving;
 - d) Car park strategy including all car parking spaces provided for the development itself and on an unallocated basis;
 - e) Lifetime Car club membership for all units in the development;
 - f) Management strategy for the development;
 - g) Relocation of the micro-recycling centre;
 - h) Employment training and apprenticeships opportunities for residents of Westminster; and
 - i) Monitoring costs.
- 14 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the commercial units can change between Class A1, A2 and A3 uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 15 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)

- 16 Condition 38 refers to a publication called 'Contaminated land, a guide to help developers meet planning requirements' - produced in October 2003 by a group of London boroughs, including Westminster. You can get a copy of this and more information from our environmental health section at the address given below.

Contaminated Land Officer
Environmental Health Consultation Team
Westminster City Council
Westminster City Hall
64 Victoria Street
London SW1E 6QP

Phone: 020 7641 3153
(I73AB)

- 17 Conditions 18 and 19 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)

- 18 Please read the following.

- * British Standard BS: 5837 (2005) and later revisions - Recommendations for trees in relation to construction
- * National Joint Utilities Group guide NJUG 10 - Guidelines for the planning, installation and maintenance of utility services in proximity to trees (1995)
- * Arboricultural Practice Note APN 1 - Driveways close to trees (1996), and the products available to provide hard surfaces close to trees. (I92AA)

- 19 Please let our arboricultural team (020 7641 2922) know when you are going to start work on the site. It would be useful if you could give us at least five working days' notice of this date. This will allow us to inspect your tree-protection measures during the work. (I92BA)

- 20 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)

- 21 You should include an environmentally sustainable system of irrigating the planting on the podium level. For more advice on this, please see the Mayor of London's supplementary planning guidance: Sustainable Design and Construction, April 2014. It will need to consider rainwater harvesting and storage or grey water filtration and storage to minimise the use of potable mains water for irrigation. However, if any features materially (significantly) affect the appearance of the outside of the building, this is likely to need planning permission.
- 22 For lifts associated with the development they should follow guidance within British Standard 8233:2014 Guidance on sound insulation and noise reduction for buildings section 7.7.3.4.1 table 5.
- 23 With regards to condition 37, in aiming to satisfy the applicant should seek the advice of the metropolitan Police Service designing Out Crime Officers (DOCOs). The services of the DOCO's are available free of charge and can be contacted via docomailbox.nw@met.police.uk

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

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Westbourne	
Subject of Report	2 Lord Hills Road, London, W2 6PD		
Proposal	Demolition of existing dwelling house and erection of four storey building to provide 7 residential units (Class C3).		
Agent	Campbell Architects Ltd		
On behalf of	Mr Sharad Madan		
Registered Number	17/07368/FULL	Date amended/ completed	16 August 2017
Date Application Received	16 August 2017		
Historic Building Grade	Unlisted		
Conservation Area			

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

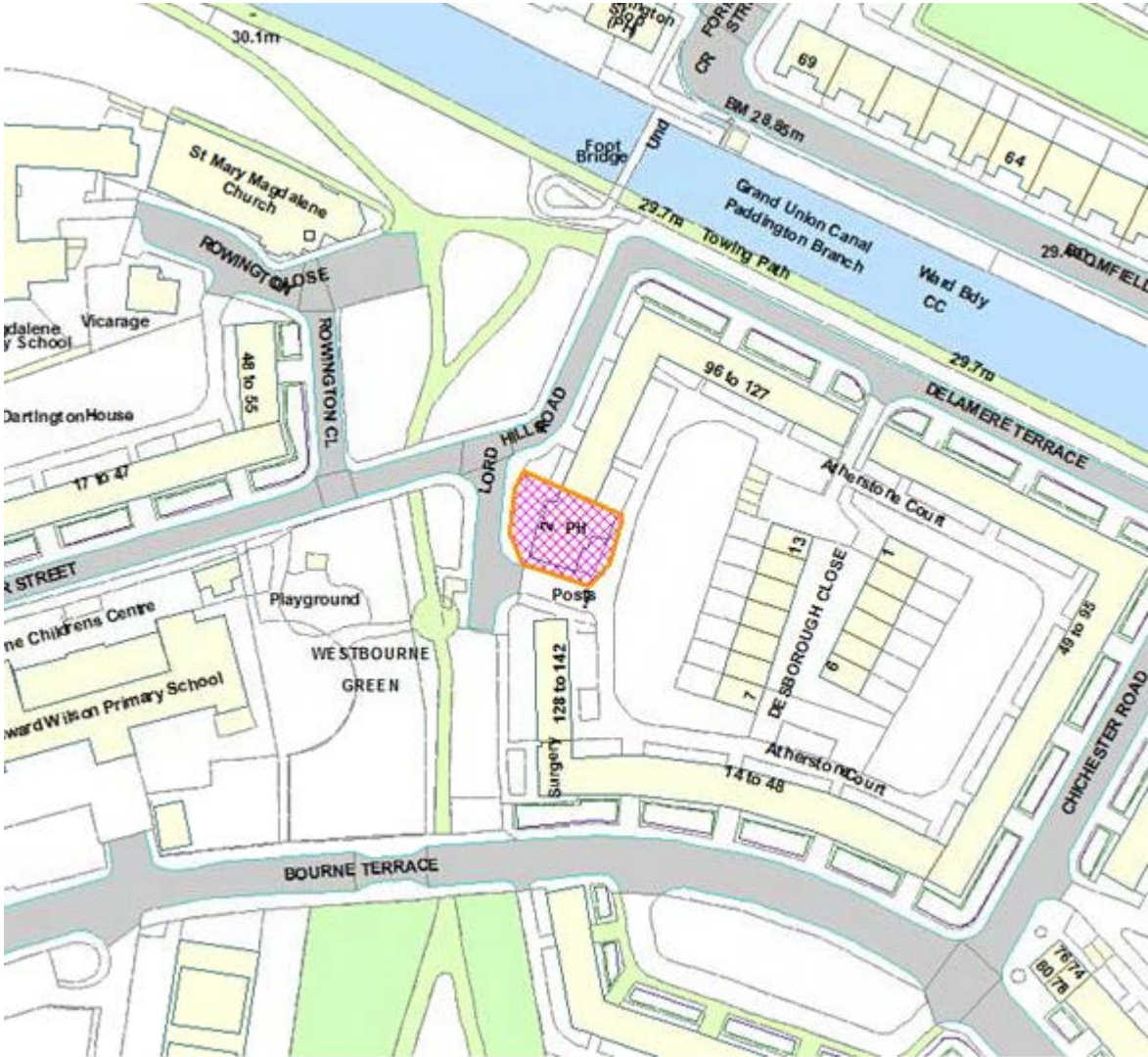
The application seeks permission for the demolition of the existing dwellinghouse and erection of a four storey building with a basement floor to provide 7 residential units (Class C3). The site is not within a conservation area and does not contain any listed buildings.

The key issues in this case are:

- The acceptability of the proposed residential accommodation.
- The impact on the appearance of this part of the City.
- The impact on the amenity of neighbouring residents.
- The impact on the availability of on-street parking in the vicinity of the site.

The proposed development is considered to be acceptable in land use, design, amenity, transportation and environment terms and would accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster’s City Plan (the City Plan). As such, the proposal is recommended for approval subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View of front of site from Lord Hills Road (top) and rear elevation (bottom).

5. CONSULTATIONS

NORTH PADDINGTON SOCIETY

Any response to be reported verbally.

ARBORICULTURAL MANAGER

Any response to be reported verbally.

BUILDING CONTROL

Any response to be reported verbally.

CLEANSING MANAGER

No objection. Condition recommended to secure waste and recycling store.

ENVIRONMENTAL HEALTH

No comment. Note that plant room is located internally with no external louvres. Recommend condition requiring details of any external mechanical plant.

HIGHWAYS PLANNING MANAGER

Any response to be reported verbally.

THAMES WATER

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 53.

Total No. of Replies: 2.

No. of objections: 2.

No. in support: 0.

Two responses received raising objection on all or some of the following grounds:

Design Issues

- Proposed block would not complement the existing structure.
- Size of proposed block is of concern.

Highways Issues

- Increased demand for on-street parking.
- Increased traffic and vehicular congestion.

Other Issues

- Not clear how proposed block will deal with anti social behaviour.
- Warwick Estate is about to undergo major building works and there is no indication on when the works to this site are proposed to be undertaken. This could lead to years of building works affecting neighbouring residents.

ADVERTISEMENT/ SITE NOTICE

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site currently contains a three storey building with a basement floor, which was originally built as a public house in the mid 20th Century, but latterly used as offices and currently as a single dwellinghouse (Class C3). The site is not located within a conservation area and does not contain any listed buildings. The nearest listed building is the grade I listed St Mary Magdalene Church which is located 200 metres to the north west.

6.2 Recent Relevant History

1 October 2015 – Planning permission granted for use of the whole building (basement, ground, first and second floors) as a single dwellinghouse (Class C3) (15/05030/FULL).

18 August 2016 – Planning permission refused for demolition of the existing dwellinghouse and erection of a replacement building comprising 6 storeys (basement, ground and four upper floors) to provide 10 flats (Class C3) (16/05646/FULL). The application was refused on design, density, residential unit mix, quality of amenity space, quality of cycle parking and quality of waste store grounds (see decision letter in the background papers).

7. THE PROPOSAL

The application seeks permission for the demolition of the existing dwellinghouse and erection of a four storey building with a basement floor to provide 7 residential units (Class C3). The scheme would provide 4x1 bedroom units, 1x2 bedroom unit and 2x3 bedroom unit.

	Existing GIA (m2)	Proposed GIA (m2)	+/-
Residential (Class C3)	358	669	+311
Total	358	669	+311

The proposed building would be finished in brickwork with a green or brown roof and photovoltaic panels at roof level. One parking space is to be retained on the front forecourt. Waste and recycling storage is to be provided to the front of the building within a brick clad store, with cycle parking provided at basement level.

The scheme has been amended during the course of the application to address concerns raised by officers in terms of the quality of accommodation at ground and basement levels, the design of the building at ground floor level and above and the impact of the development on the availability of on-street residents' parking. The amendments made are as follows:

- a) The car parking space on the front forecourt has been relocated to avoid the loss of the existing on-street residents' parking bays outside the site.

- b) The lightwell to the south west corner of the building has been reconfigured to improve the façade treatment at ground floor level and the daylight levels to basement level.
- c) The width of the rear wing of the building has been reduced so that it does not oversail the rear basement lightwell (i.e. to improve daylight levels to basement level).
- d) The bin store at ground floor level has been redesigned so that it is less prominent in public views of the site.
- e) A secondary means of access via a staircase has been provided to the basement cycle store so that it is not totally reliant on lift access.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The site is not within a part of the City where single dwellinghouses are protected and therefore the provision of additional residential accommodation on this site is acceptable and would accord with Policy H3 in the UDP and S13 and £14 in the City Plan.

The proposed mix of residential units would provide two family size units containing 3 or more bedrooms. This comprises 29% of the total number of units and whilst this falls marginally below the 33% of units as family size units required by Policy H5 in the UDP, it is considered that this is an acceptable level of provision given the number of units proposed within the building and as the policy indicates in its wording that it will be applied flexibly in such circumstances.

The proposed residential units would all accord with the Government's Technical Housing Standards and Policy 3.5 in the London Plan (March 2016) in terms of their size. All of the units would be provided with external amenity space in the form of a balcony, terrace or a garden area.

The accommodation at basement level would receive daylight levels in excess of minimum standards required to accord with BRE Guidelines and the scheme has been amended so that the basement lightwells are no longer oversailed by the building on the upper floors. Furthermore, the residential layouts have been designed so that the basement accommodation provides bedrooms for duplex flats across basement and ground floor levels, which have their principal habitable rooms (i.e. kitchens, dining and living areas) at ground floor level. As such, the standard of accommodation in terms of daylight levels is considered to be acceptable.

8.2 Townscape and Design

The existing building is located on the site of an earlier Victorian public house. The current building dates from the 1960s/70s and is broadly contemporary with the Warwick Housing Estate which surrounds it, albeit the design of the 20th Century public house building (now used as a single dwellinghouse) differs from the surrounding estate buildings.

The existing building has no architectural merit and therefore the principle of its demolition and redevelopment of the site is acceptable in design terms.

The proposed replacement building will be of 5 storeys (basement, ground and three upper storeys) and will provide a residential block of 7 flats, with 2 duplex flats occupying the basement and ground floors, each with individual access from the south façade; a large 3-bedroom flat on the first floor; and then two flats on each of the upper two floors. All of these upper floor flats are accessed via an entrance on the western façade.

The new building is proposed to rise to the same height as the adjoining building to the north (part of Atherstone Court) and on its western façade, will also match the building line of Atherstone Court. To the rear (or east facing façade) the building line will project beyond Atherstone Court, with the exception of an area where the two buildings join where the new building steps back.

The architecture of the new building will be a robustly detailed brick and concrete structure, with recessed balconies. Each floor plate is expressed with horizontal concrete banding, with the band between ground and first floor given greater depth to emphasise the base of the building. The primary facing material will be a textured buff brick and the windows are proposed to be formed in anodised aluminium with a champagne/regency gold finish. The balcony and terrace areas, as well as the perimeter to the ground floor garden space, feature a simple metal railing. The roof will be flat and it is proposed that it will have a green or brown roof.

All of the flats are provided with external amenity space, which is all contained within the architectural grid, with two larger areas of garden space at ground floor level.

Despite the concerns expressed by objectors, the proposal is considered acceptable in design terms. While the stepping in height of Atherstone Court is not maintained, the proposed height is not discordant and the building lines similarly are respectful of the surrounding context. The architecture and materiality respond appropriately to the prevailing townscape character, without slavishly adopting repetition. The resultant design would provide a robust and well-articulated series of facades, with good levels of private amenity, with an appropriate degree of defensible space. The layout of entrances, windows and balconies will also improve passive surveillance around the perimeter of the site, thus improving significantly upon the existing situation.

The proposal would represent a well-designed addition to the townscape, with no adverse impact upon the nearby listed church. Therefore, subject to conditions to secure samples of facing materials and further details of aspects of the scheme such as the bin store, fenestration and railings, the proposed development would accord with Policies S25 and S28 in the City Plan and Policies DES 1, DES 4 and DES 10 in the UDP.

8.3 Residential Amenity

In amenity terms the proposed building would be set back sufficiently from the windows in Nos.128 to 142 Atherstone Court to the north of the site so as not to cause a material loss of daylight or sunlight to any of the windows in this neighbouring block.

To the south of the site three north facing windows in the end elevation of Nos.96-127 Atherstone Court face the application site. The window at ground floor level serving a kitchen would suffer material loss of daylight as a result of the increased bulk of the proposed building. However, the loss caused would only be marginally above the 20%

loss of Vertical Sky Component (VSC), which the Building Research Establishment (BRE) Guidelines identify as the point at which loss of existing daylight may become noticeable to occupants of neighbouring properties. In this case the window in question would remain well lit with a residual VSC value of 25.44% and furthermore, all other windows within the affected flat, would not suffer material losses of daylight. As such, permission could not reasonably be withheld on the basis of the loss of daylight to this neighbouring window.

The bulk and massing of the proposed building would be sufficiently distant from the neighbouring blocks of Atherstone Court to the north and south so as not to cause a materially increased sense of enclosure.

Whilst the scheme would introduce new windows, balconies and terraces, these would be positioned such that they would not cause a material increase in overlooking to the neighbouring blocks to the north and south, provided an obscure glazed screen, or similar, is provided to prevent views from the first floor rear terrace back towards the rear windows in Nos.128 to 142 Atherstone Court. This is to be secured by condition.

There are no immediate neighbouring buildings to the front (west) and rear (east) of the site and as such, the proposed building would not cause any other material impacts in terms of daylight and sunlight, enclosure or overlooking.

A condition is recommended to prevent the use of the roof of the building as a terrace so as to prevent overlooking to neighbouring windows.

Subject to the recommended conditions, the proposed development is acceptable in amenity terms and would accord with Policies ENV6 and ENV13 in the UDP and S29 and S32 in the City Plan.

8.4 Transportation/Parking

On-street parking occupancy levels in the vicinity of the site are at 71% overnight and at 76% during daytime hours (based on 2015 survey figures) and are therefore marginally below the level of serious deficiency of 80% identified in Policy TRANS23 in the UDP.

The proposed development has been amended during the course of the application to retain a car parking space in the existing location on the front forecourt of the site. In this location one on-site parking space can be provided using the existing pavement crossover and this also allows the retention of the three existing on-street residents' parking bays outside the site in Lord Hills Road. Given the constraints of the site in terms of its size, this level of parking provision on site is considered to be acceptable and will provide off-street parking for one of the seven proposed flats. It is recommended that the increased pressure on on-street parking as a result of the six flats to be provided without off-street parking should be mitigated by provision of car club membership for each of the flats within the development. It is recommended that this mitigation measure is secured by condition. In combination, it is considered that the measures proposed would be sufficient to prevent the development causing a material increase in congestion and limit the increase in pressure on on-street parking in the vicinity. As such, it is not considered that the objections on these grounds can reasonably be supported as grounds for withholding planning permission.

The scheme includes the provision of 9 cycle parking spaces within a weatherproof and secure cycle store at basement level, which can be accessed via the lift. This accords with Policy 6.9 in the London Plan.

Waste and recycling storage is to be provided within a store at ground level and this is to be secured by condition to ensure the development accords with Policy ENV12 in the UDP.

8.5 Economic Considerations

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

8.6 Access

The proposed development would provide step free access to all of the flats within the development via the lift proposed within the residential core. The scheme has been designed so that all of the units are compliant with the Lifetime Homes standards in accordance with Policy H8 in the UDP.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Mechanical Plant

Environmental Health note that no external mechanical plant is proposed and recommend that a condition is imposed requiring full details of any external mechanical plant to be submitted prior to its installation. The suggested condition has been included in the draft decision letter and would ensure that the scheme would not cause noise disturbance to neighbouring residential occupiers as a result of mechanical plant and would accord with Policies ENV6 and ENV7 in the UDP and Policy S32 in the City Plan.

8.7.2 Basement Development

The applicant has submitted a structural methodology, ground investigation and flood risk assessment to address the technical requirements of new basement development in Part A of Policy CM28.1 ('the basement development policy'). Any comments on the submitted documents from Building Control will be reported verbally to the Sub-Committee. In terms of Part A.6, the site is not in an Archaeological Priority Area and therefore it would not have a significant impact on archaeological deposits.

In terms of Part B of the basement development policy, the scheme would deliver an acceptable landscaping scheme and would not result in the loss of trees of significant townscape, ecological or amenity value. The development would be required to meet building regulations and would be highly sustainable relative to the existing building on this site. The accommodation at basement level would be limited to bedrooms and all rooms would be naturally lit and ventilated via lightwells, thereby limiting the reliance of the basement accommodation on mechanical ventilation.

Details of sustainable urban drainage measures to reduce peak run off rates from the development have not been set out in detail in the submission, although it is clear that the applicant intends to accord with the London Plan policy to reduce run off rates. It is

therefore recommended that details of the sustainable urban drainage systems to be employed are reserved by condition to ensure compliance with Part B.4 of the basement development policy and Policy 5.13 in the London Plan.

In terms of Parts B.5 and B.6 of the policy, the external manifestations of the proposed basement; namely the lightwells, would be sensitively located and would relate appropriately to the form and scale of the proposed building and as per Section 6.3, the scheme would have no adverse impact on the setting of the nearby listed building.

The applicant has confirmed that the development would include a pumped device to avoid sewer flooding and this accords with Part B.7 of the policy.

In respect of Part C of the basement development policy, which seeks to limit the size and extent of basements, the proposed basement would be limited to a single storey, located within the footprint of the existing building, and would not extend beyond the footprint of the proposed building, save for where lightwells are proposed. As such, the basement proposed would be compliant with all elements of Part C of the policy.

8.7.3 Biodiversity and Sustainability

The scheme includes the provision of a green or brown roof at main roof level, which is to be integrated with photovoltaic panels. This combination at roof level will serve to maximise the biodiversity benefit of the development, in combination with the landscaping at ground level, and ensure the provision of the maximum possible quantum of renewable energy on site (having regard to the constraints of the site), in accordance with Policies S28, S38 and S40 in the City Plan.

8.7.4 Landscaping

The site is already largely developed at ground level, save for the front forecourt area and therefore the provision of a limited area of landscaping to the front of the site is acceptable. Details of the landscaping scheme are to be secured by condition. The front of the site currently includes two small trees and it is recommended that the landscaping scheme to be secured by condition includes at least one replacement tree to mitigate the loss of the existing trees. Subject to this condition, the scheme would comply with Policies ENV4, ENV16 and ENV17 in the UDP.

8.8 London Plan

This application does not raise any strategic issues. Where London Plan (March 2016) policies are applicable, these are referred to in the relevant sections of this report.

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

As set out in Section 8.1, the proposed development is of insufficient scale to require the provision of affordable housing. As referenced in Section 8.4 a Grampian condition is recommended to secure appropriate arrangements to secure car club membership to mitigate the increased pressure the development will place on on-street residents' car parking in the vicinity of the site.

The development is liable to pay Westminster's and the Mayor's Community Infrastructure Levy (CIL). Based on the applicant's floor space figures, the estimated CIL payment would be £84,389 for Westminster's CIL and £19,664 for the Mayor's CIL. It should be noted though that this amount is provisional and may be subject to relief or exemptions that may apply in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

8.11 Environmental Impact Assessment

The development is of insufficient scale to require the submission of an Environmental Impact Assessment. Where relevant, the environmental impact of the development has been considered in other sections of this report.

8.12 Other Issues

Objection has been raised on grounds that it is not clear how the proposed block will deal with anti-social behaviour. The scheme has been designed so that the majority of windows and doors, save for one window to the south elevation, would be set back from the site boundary so that there is defensible space between the habitable accommodation at ground floor level and the public realm. As such, given the constraints of the site, which is publically accessible on three of its four elevations, it is considered that the design and layout proposed suitably provides for defensible space in front of the new accommodation, whilst introducing a much greater degree of passive surveillance in this part of the Warwick Estate. For these reasons the scheme is considered to be acceptable in crime and anti-social behaviour terms and it is not considered that permission could be withheld on the basis of the concerns raised by the objector.

One objector notes that the Warwick Estate is about to undergo major building works and that it is unclear when the works on this site would be undertaken and that therefore the works could be carried out at the same time causing increased noise and disturbance to neighbours. It is not reasonable to control the time when a development may be carried out when granting planning permission and therefore whilst the objector's concerns are understood, permission could not be withheld on the basis that construction works may coincide with works to the wider estate. Conditions are though recommended to restrict the hours of construction works, particularly in respect of noisy basement excavation works, and to ensure the development is carried out in accordance with the Code of Construction Practice, which would include monitoring of the construction site by the Environmental Inspectorate team at the applicant's expense.

9. BACKGROUND PAPERS

1. Application form.

2. Copy of decision letter dated 18 August 2016 and relevant application drawings.
3. Memo from Environmental Health dated 11 October 2017.
4. Memo from the Cleansing Manager dated 23 October 2017.
5. Letter from an occupier of 118 Atherstone Court, Delamere Terrace dated 1 September 2017.
6. Letter from an occupier of 118 Atherstone Court, Delamere Terrace dated 16 September 2017.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT nbarrett@westminster.gov.uk.

10. KEY DRAWINGS



Montage of front and side elevations (top) and montage of rear and side elevations (bottom).



Proposed basement plan(top) and proposed ground floor plan (bottom).



Proposed first floor (top) and proposed second floor (bottom).



Proposed third floor plan (top) and proposed roof plan (bottom).



Proposed front elevation (top) and proposed side elevation (bottom).



Proposed rear elevation.

DRAFT DECISION LETTER

Address: 2 Lord Hills Road, London, W2 6PD,

Proposal: Demolition of existing dwellinghouse and erection of four storey building with basement to provide 7 residential units (Class C3).

Plan Nos: E010 Rev.A, E100, E101, E102, E103, E300 Rev.A, E301 Rev.A, E302 Rev.A, E303 Rev.A, D011, D100 Rev.B, D101 Rev.B, D102 Rev.B, D103 Rev.B, D104 Rev.B, D105, D300 Rev.B, D301 Rev.B, D302 Rev.B, D303 Rev.B, Design and Access Addendum dated October 2017, email from Campbell Architects dated 12 October 2017, Flood Risk Assessment dated April 2016 (Ver 1.0), Basement Impact Screening Assessment dated May 2016 (Ver 1.0) (for information only - see Informative 11), Ground Appraisal Report dated May 2016 (Ver 1.0) (for information only - see Informative 11) and Structural Method Statement dated June 2016 (for information only - see Informative 11).

Case Officer: Oliver Gibson

Direct Tel. No. 020 7641 2680

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

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

Reason:

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

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

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

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

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

Reason:

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

- 3 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising 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. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

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

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

Reason:

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

- 5 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

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

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

- (i) bin store;
- (ii) external doors and windows;
- (iii) reveal treatment to recessed balconies and windows;
- (iv) metal railings;
- (v) services terminations at roof level and to the facades.

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 approved details.

Reason:

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

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

- Living green or brown roof at main roof level.

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)

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

- Photovoltaic panels at main roof level.

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

Reason:

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

- 9 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency and for maintenance.

Reason:

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

- 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 apply to us for approval of details of any externally located mechanical plant or flues (if it is required in connection with the residential use of the building). The details you submit must comprise detailed drawing showing the appearance of the mechanical plant and flues (including any attenuation measures or enclosures that may be necessary) and an acoustic report demonstrating that the mechanical plant will comply with the Council's noise criteria as set out in Condition 12 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then install the mechanical plant and/ or flues in accordance with the details we approve and thereafter retain it in accordance with the approved details.

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.

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

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

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

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;

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

Reason:

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

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

Reason:

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

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

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 15 **Pre Commencement Condition.** You must not start work on the site until we have approved appropriate arrangements to secure the following.

- Measures to mitigate the increased demand the development will place on on-street residents' parking in the vicinity of the site.

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19AB)

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in S33 of Westminster's City Plan (November 2016) and in STRA25 and TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R19AC)

- 16 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on the drawings hereby approved (as amended by any drawings approved pursuant to Condition 6). You must clearly mark them and make them available at all times to everyone occupying the flats in the building. (C14FB)

Reason:

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

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

Reason:

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

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

Reason:

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

- 19 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme, which includes the surfacing of any part of the site not covered by buildings, and must include the provision of at least one tree to replace those to be removed as part of the development. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping according to these approved drawings within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any tree(s) that form part of the landscaping scheme we approve or find that they

are dying, severely damaged or diseased within five years of planting them, you must replace them with tree(s) of a similar size and species.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)

- 20 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme: Provision of a 1.8m high privacy screen along the northern side elevation of the terrace to the rear at first floor level. You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings prior to occupation of the development and thereafter you must permanently retain the privacy screen in accordance with the drawings we approve. (C26UB)

Reason:

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

- 21 You must apply to us for approval of details of sustainable urban drainage measures to be used to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. 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 development in accordance with the details we approve prior to occupation of the development. Thereafter you must permanently retain the sustainable urban drainage measures we approve. (C26DB)

Reason:

To reduce the water run off rate from this development in accordance with Policy CM28.1 in Westminster's City Plan (November 2016) and Policy 5.13 in the London Plan (March 2016).

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 With reference to condition 3 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to

starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). These documents must be sent to environmentalsciences2@westminster.gov.uk.

Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

You are urged to give this your early attention

3 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)

4 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:

1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

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

6 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, perhaps by

issuing regular bulletins about site progress.

- 7 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)
- 8 Under condition 15 we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure lifetime (25 year) car club membership for each residential unit within the development, as set out in the email dated 11 October 2017 from Area Planning Officer Oliver Gibson. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at www.westminster.gov.uk. Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)
- 9 One or more of the conditions above prevent work starting on the development until you have applied for, and we have given, our approval for certain matters. It is important that you are aware that any work you start on the development before we have given our approval will not be authorised by this permission. (I77BA)
- 10 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: www.westminster.gov.uk/cil

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

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

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

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

Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

- 11 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City

Item No.
2

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.

Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Vincent Square	
Subject of Report	84-99 Ashley Gardens , Thirleby Road, London, SW1P 1HH		
Proposal	Use from student hostel to 30 residential flats (Class C3).		
Agent	Savills		
On behalf of	University of Westminster		
Registered Number	17/04832/FULL	Date amended/ completed	23 June 2017
Date Application Received	2 June 2017		
Historic Building Grade	Unlisted		
Conservation Area	Westminster Cathedral		

1. RECOMMENDATION

1. Does the Sub Committee agree that the case made by the University of Westminster for the loss of student hostel accommodation is acceptable in this instance?
2. Subject to 1. above refuse permission on the basis of the lack of on-site affordable housing.

2. SUMMARY

The application site comprises Wigram House which is an eight storey late-Victorian mansion block designated an Unlisted Building of Merit within the Westminster Cathedral Conservation Area. The site is located outside the Core CAZ.

The application property comprises student hostel accommodation for the University of Westminster with 174 single rooms.

Permission is sought by the University of Westminster to use the building as 30 residential flats (Class C3) arranged as 7 x one bed, 13 x two bed, 8 x three bedroom and 2 x four bedroom units.

Student accommodation is protected by Policy S15 of the City Plan. However the UoW has provided supporting justification for the loss of the student hostel set out in the 'Student Residential Framework Strategy 2015-20' and the 'Student Accommodation Viability Appraisal'. These documents are assessed in detail in the main report and the Sub Committee is asked to consider

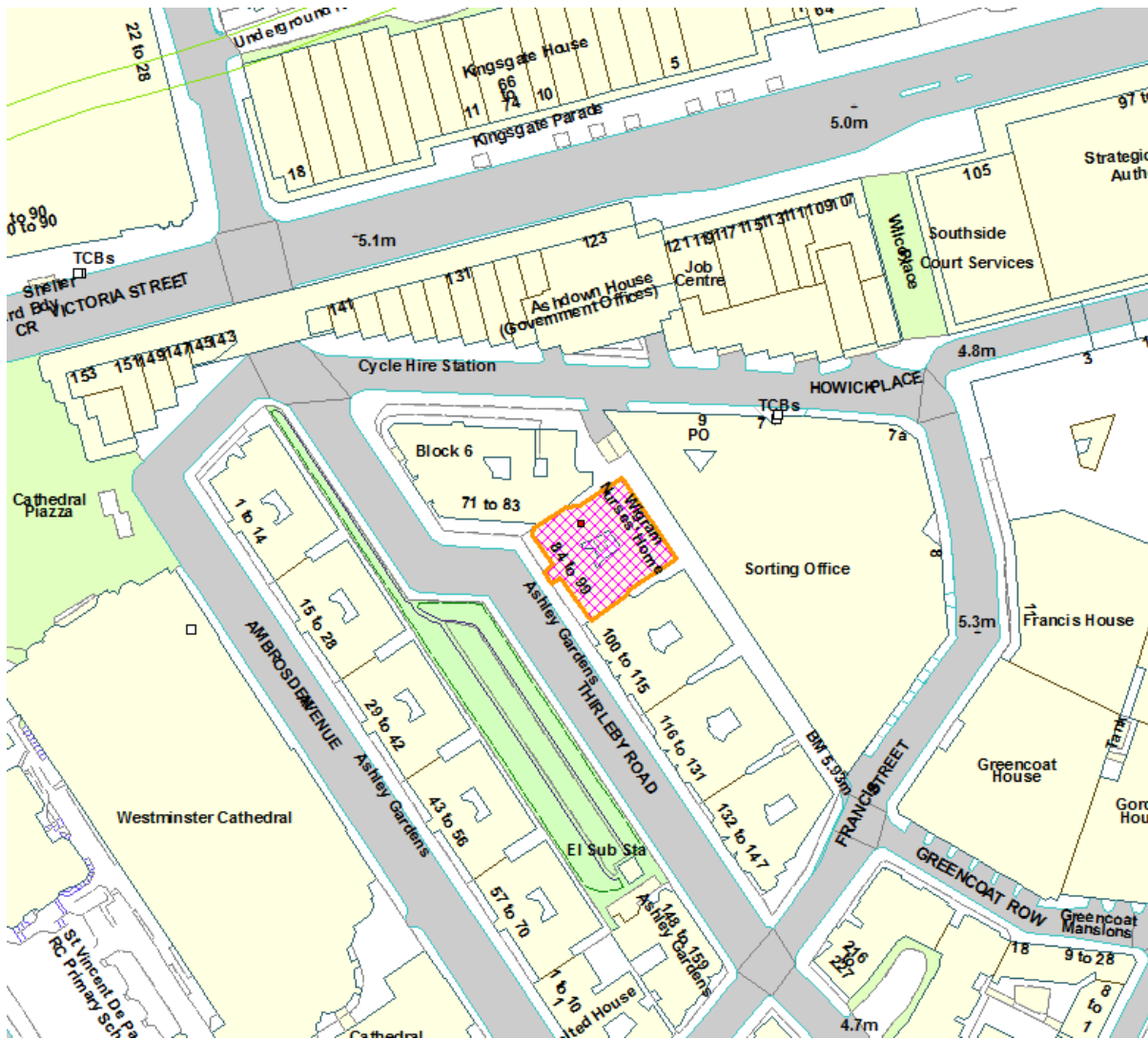
whether the case made by the University for the loss of student hostel accommodation is acceptable in this instance.

Under Policy S16 of the City Plan the scheme requires the provision of 11 affordable housing units on site. The applicant states that on-site provision would not be practicable or appropriate bearing in mind the layout of the building and the single entrance. However no evidence has been provided to support this position. Instead the applicant proposes to address the affordable housing policy through a policy compliant payment in-lieu of £4,326,467. However officers consider that without any evidence to demonstrate why the affordable housing cannot be provided on site the application is contrary to Policy S16 and should be refused.

The scheme does not propose any off-street car parking for the 30 residential flats. The Highways Planning Manager has objected to the scheme on this basis on the grounds that the development could increase parking stress..

The council has received 19 letters of support and 2 letters of objection. The principle of the change of use is generally supported however concerns are expressed in a number of letters about the impact of the scheme on on-street parking and some residents are seeking an assurance that the council will prevent future occupiers of the flats from obtaining respark permits. Officers do not consider that a refusal on parking grounds could be sustained at appeal and restricting parking permits for future occupiers is not supported as the council does not have a policy to secure this.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

Highways Planning Manager

Recommend that permission is refused. The introduction of increased residential in this area without off-street parking or on-street parking restraint is likely to increase the stress levels. Insufficient cycle parking is provided.

Cleansing

Further details of waste and recycling storage are required.

Westminster Society

This is a project of merit which warrants approval by the council. Although no parking is proposed, the access to public transport, including taxi service, should not present any real difficulties and the restoration of the building to what is in effect its original use is welcome.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 128

Total No. of replies: 23

No. of objections: 2

No. in support: 19

Neither supporting nor objecting: 2

Ashley Gardens Residents Association

Supports the scheme in principle but conditions should be attached to any approval to address the following issues: no parking permits to be issued to the new occupiers of the flats with the exception of the three and four bed units, the development should maintain the conservation area, surveys should be done of the building prior to any works commencing and the lane at the rear of the site should not be used for construction work.

Cathedral Area Residents' Association

Support the application but are disappointed that there is no detail about how the building is to be refurbished. Conditions should be used to safeguard the building's external appearance. The Association supports the use of a covenant by the applicant to prevent residents' in the redeveloped property from applying for on-street parking permits. subject to the following concerns being addressed:

The other letters of support welcome the restoration of the building as private residences which will be in keeping with the street and the rest of the conservation area but concerns regarding the impact on on-street parking and construction working hours have been raised. A large number of the letters of support consider that residents' permits should not be granted to residents of the development or should be available to the larger flats. The views of Ashley Gardens Residents Association are supported.

The two letters of objection raise concerns about the impact on residents parking. Appropriate parking limitations should be used otherwise congestion in Thirleby Road will become unbearable.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises Wigram House which is an eight storey late-Victorian mansion block designated an Unlisted Building of Merit within the Westminster Cathedral Conservation Area. The site is located outside the Core CAZ.

The application property comprises student accommodation for the University of Westminster with 174 single rooms. It is understood that Wigram House closed to students in the summer of 2016.

6.2 Recent Relevant History

16/05034/FULL

Use of a building as 30 self contained residential units (Class C3).

Application Withdrawn 2 August 2016

7. THE PROPOSAL

The application proposes to change the use of the building from a student hostel to residential flat use (Class C3). The scheme will provide 30 residential flats arranged as 7 x one bed, 13 x two bed, 8 x three bedroom and 2 x four bedroom units. Refuse storage and cycle parking is shown located in the pavement vaults. The scheme does not propose any external alterations to the building.

The existing and proposed floorspace for this development is set out in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Hostel	3875	0	-3875
Residential	0	3875	+3875
Total	3875	3875	0

8. DETAILED CONSIDERATIONS

8.1 Land Use

Student accommodation is a form of specialist housing. The relevant policy for the assessment of this application is S15 of the City Plan. [Meeting Housing Needs]. This policy states 'All specialist housing floorspace and units will be protected to meet those specific needs except where the accommodation is needed to meet different residential needs as part of a published strategy by a local service provider. Where this exception

applies, changes of use will only be to residential care or nursing homes, hostel, Houses in Multiple Occupation or dwelling houses use.'

The applicant has provided detailed information in support of their application and specifically to address Policy S15. The applicant's key arguments are that the closure of Wigram House is part of the University's published strategy for student accommodation, that the refurbishment of Wigram House for like for like student accommodation would not be viable and that the proceeds from the sale of Wigram House will release significant capital that will be re-invested in Westminster.

Student Residential Framework Strategy 2015-2020

This document sets out that the University currently provides 2,384 bed spaces for students (approximately 16% of full time students). Bed spaces are provided through a mixture of University owned accommodation (50%), private nomination agreements (30%) and referral agreements (20%). (i.e. using accommodation provided by other specialist student housing providers). The University expects that the number of spaces it will provide for students will remain close to 2,500 in 2020 and that the number of bed spaces owned and provided directly by the University will remain close to c. 1000 beds. This they advise will give the University control over rents and management.

Within the existing University's portfolio the report advises that sites in Lambeth, at its Harrow Campus in Wells Street could be redeveloped. Because of high refurbishment costs Wigram House does not form part of its 2015-2020 strategy for University provided accommodation.

In summary the overall objective of the University is to reinforce the teaching facilities within the main campuses in Westminster and Harrow and to disperse student accommodation outside central London where it is argued better, more modern accommodation can be delivered at a lower price point.

Wigram House Viability Appraisal

The University appointed Savills to undertake a review of the refurbishment options of Wigram House as student accommodation.

The viability report states that Wigram House is in poor condition and provides poor quality accommodation with single bedrooms, communal kitchens and separate bathrooms provided on each floor. The rooms range from approximately 9m² to 12.5m² and include a small wash basin, single bed and basic furnishings. The report advises that the rooms are small in comparison to the wider student accommodation market where most purpose built schemes provide en-suite cluster rooms ranging in size from 12.5m² to 14.5m². In addition the number of students sharing the separate WCs, bathroom and showers at Wigram House is very high at 5:1, 8:1 and 6:1 respectively.

The report advises that refurbishment works would be significant and because the building has inherent flaws in terms of floor layout, non-suite rooms, poor natural light to rooms facing the internal lightwell and the poor ratio of bathroom facilities, the University would not be able to recoup the costs of the refurbishment through higher rents.

Furthermore the refurbished accommodation would remain non-ensuite and would not meet current student expectations. In order to achieve a positive land value the report argues that the building would need to be converted to an all studio scheme.(92 studios)

and charge much higher rents. It is argued that the small scale of the development is unlikely to meet modern student operator requirements who generally manage much larger schemes.

Use of capital receipts from sale of Wigram House

The University advises that the sale of Wigram House will release capital that can be invested to improve the student experience within Westminster at its New Cavendish Street site. To reinforce this, the applicant has advised that it is willing to enter into a s106 Agreement that the proceeds from the sale of Wigram House will be entirely re-invested within Westminster.

Assessment of proposal against Policy S15

The proposal does not comply with policy S15 which seeks to protect specialist housing. The student hostel is not required to meet different residential needs as part of a published strategy by the University. The key argument put forward by the applicant is that the existing student accommodation is obsolete and does not meet current student expectations. In addition a like-for-like refurbishment would not be financially viable and in any case accommodation with small single bedrooms that do not have private bathrooms is still unlikely to meet current student expectations. Modern student developments offer more social space with better facilities and rooms that are arranged in clusters of 8 to 20 with communal kitchens. An enhanced refurbishment scheme at Wigram House may be able to offer something similar but the applicant argues that to achieve a financially viable scheme a direct let student provider would need to create a high specification studio scheme that will charge high rents and appeal to wealthy international students. In any case the applicant argues that a direct let student provider is unlikely to take on a small scheme of this size (92 studios) as most modern student accommodation is on a much larger scale.

The council has received a large numbers of letters of support for the principle of changing the use to private residential flats. It would appear that whilst the students have been relatively good neighbours, local residents consider that the use of the property as flats would be more in keeping with the residential character of the area, the conservation area and the status of the application site as an unlisted building of merit.

The applicant has advised that the only alternative hostel use would be a non-student hostel operator who would be prepared to use the site in its current poor condition.

Members views are therefore sought on whether the case the case made by the University of Westminster for the loss of student hostel accommodation is acceptable in this instance.

Affordable housing

Policy S16 states that 'Proposals for housing developments of either 10 or more additional units or over 1,000sqm additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing'. Based on the council's 'Interim Guidance Note: Affordable Housing Policy' for sites outside Core CAZ the affordable housing floorspace requirement is 880m² or 11 units.

Policy S15 goes on to state that 'The affordable housing will be provided on-site. Where the council considers that this is not practical or viable, the affordable housing should be provided off-site in the vicinity.'

London Plan policy 3.12(C) states 'Affordable housing should normally be provided on-site. In exceptional cases where it can be demonstrated robustly that this is not appropriate in terms of the policies in [the London Plan], it may be provided off-site. A cash in lieu contribution should only be accepted where this would have demonstrable benefits in furthering the affordable housing and other policies in [the London Plan]

The application does not propose on-site nor off-site affordable housing. Instead the applicant proposes to address Policy S16 by making a policy compliant payment in lieu of £4,326,467. No evidence has been provided to demonstrate that on-site affordable housing is neither practical or viable (the two tests required by Policy S15). Instead the applicant advises that on-site provision would not be practicable or appropriate bearing in mind the layout of the building and the single entrance. Officers accept that there is only one entrance to the building but that does not in itself preclude the provision of on-site affordable housing. It is therefore recommended that the proposal is refused for the lack of on-site affordable housing contrary to S16 of Westminster's City Plan (November 2016), London Plan policy 3.12 and the Mayor's Affordable Housing and Viability SPG.

Residential standards

The flats comply with the National Space Standards and when the internal lightwell is taken into account many of the flats could be considered to be dual aspect. The overall provision of three and four bedroom family units is 33% which complies with adopted policy. The flats are not considered to be oversized with an average flat size of 95m² (gross internal area). Details of the provision of adaptable and wheelchair dwellings have not been provided but had the application been supported this could have been dealt with by way of condition.

8.2 Townscape and Design

The application does not propose any modifications to the building so there are no townscape and design implications. It is noted that some local residents are concerned that the exterior of the building is not to be refurbished however this is not something that the council can insist upon. Any future modifications to the building would be assessed against our Townscape and Design policies in the City plan and UDP.

8.3 Residential Amenity

The change of use to residential is unlikely to raise any specific residential amenity concerns given that the site is located in a primarily residential area.

8.4 Transportation/Parking

The scheme does not propose any off street parking for the 30 residential flats. The Highways Planning Manager has objected on this basis. The letters of representation also raise concerns or objections to the lack of off street parking.

Policy TRANS23 states that 'For any new residential development including residential extensions and conversions the City Council may take into account the likelihood of additional demand for on-street parking arising from the development. The City Council will normally consider there to be a serious deficiency where additional demand would result in 80% or more of available legal on-street parking places being occupied during the day (i.e. parking bays) or at night (i.e. parking bays and single yellow lines) in the vicinity of the development. In these circumstances, the City Council will normally seek to resist development unless the potential impact of additional cars being parked on-street in the vicinity is mitigated.'

The evidence of the Council's most recent daytime parking survey in 2015 indicates that the parking occupancy of Residents' Bays and Shared Use Bays within a 200 metre radius of the development site is 81.0% (consisting of 248 Residents' Bays, 201 of which were occupied. (There are also 5 Shared-Use bays but these were all suspended at the time of the survey). Overnight the pressure on Residents' Bays is exactly the same, although residents can also park free of charge on metered parking bays or single yellow line in the area.

The introduction of increased levels of residential in this area without off-street parking or on-street parking restraint is therefore likely to increase the stress levels.

The applicant proposes to mitigate any potential on-street parking pressure by offering all occupants of the proposed flats lifetime (25 years) Car Club membership and by placing restrictive covenants in the leases of the 20 one and two bedroom apartments to prevent the occupants from applying to Westminster City Council for respark permits so that only occupants of the 10 family sized three bedroom apartments would be able to apply for them. Whilst the car club is an acceptable form of parking mitigation, the council does not have a policy restricting future occupiers from being able to apply for respark permits.

The concerns of the Highways Planning Manager and local residents about parking stress levels are understood. However the site is well served by public transport with buses, tube and trains all within a short walking distance. Had the application been supported then lifetime car club membership could have been secured through a s106 agreement. It is considered that with this measure in place, and taking into account the excellent public transport, a refusal on the lack of off street car parking would not be justified. .

It is considered that had the application been supported a condition could have been used to secure the additional cycle storage required to comply with London Plan policy.

8.5 Economic Considerations

It is not considered that the scheme will have significant economic considerations.

8.6 Access

All flats will benefit from lift access.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

The scheme proposes to use the vaults for refuse and recycling storage. The applicant argues that this is the same arrangement as the next door property.

The concerns of the Cleansing Manager about the refuse arrangements are noted however had the application been supported a condition could have been used to secure the revisions required.

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

Had the application been supported then draft 'Heads' of agreement would have been recommended to cover the affordable housing contribution and lifetime car club membership.

The estimated Westminster CIL payment for the proposal is £1,550,000.

8.11 Environmental Impact Assessment

The scheme does not raise any environmental impact issues.

8.12 Other Issues

A number of letters of representation raise concerns about the potential for construction disturbance. Had the application been considered acceptable then the standard working hours condition would have been recommended. The scheme is not considered sufficiently major to warrant the involvement of the Environmental Inspectorate.

9. BACKGROUND PAPERS

1. Application form
2. Memorandum from Highways Planning Manager dated 18 August 2017.
3. Memorandum from Cleansing dated 12 July 2017.
4. Response from Westminster Society, dated 29 June 2017
5. Letter from occupier of 80A ASHLEY GARDENS, THIRLEBY ROAD, dated 14 July 2017
6. Letter from occupier of 103a Ashley Gardens, Thirleby Road, dated 19 July 2017
7. Letter from Ashely Gardens Residents' Association dated 21 July 2017
8. Letter from occupier of 103 Ashley Gardens, Thirleby Road, dated 19 July 2017
9. Letter from occupier of 71 Ashley Gardens, Thirleby Road, dated 24 July 2017
10. Letter from occupier of 110 Ashley Gardens, Thirleby Road, dated 18 July 2017

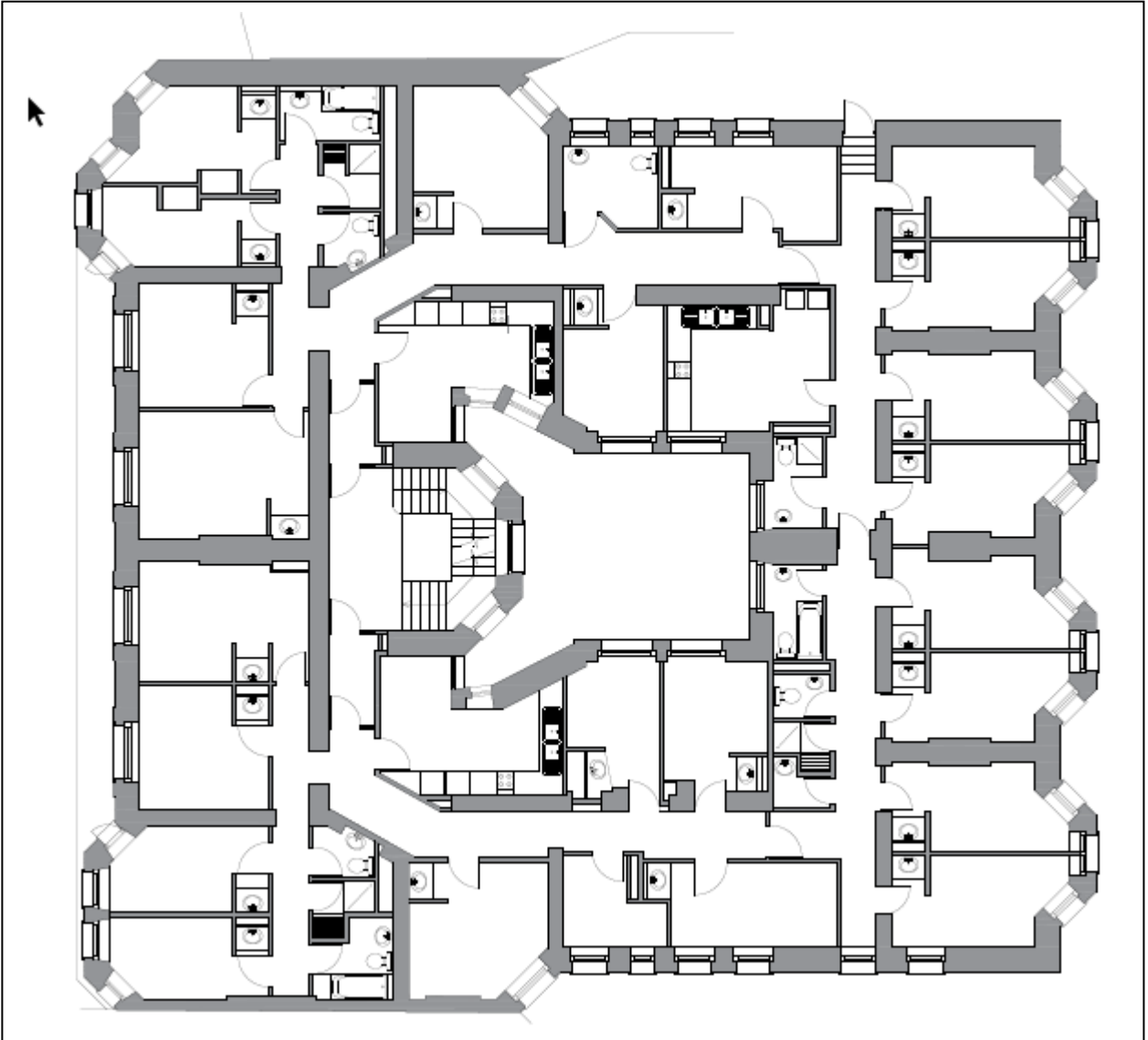
11. Letter from occupier of 83A Ashley Gardens, Thirleby Road, dated 13 July 2017
12. Letter from occupier of 82a Ashley Gardens, London, dated 12 July 2017
13. Letter from occupier of First Floor Flat, 47-49 Strutton Ground, dated 8 August 2017
14. Letter from occupier of 82b Ashley Gardens, Thirleby Road, dated 14 July 2017
15. Letter from occupier of 120A Ashley Gardens, Thirleby Road, dated 21 July 2017
16. Letter from occupier of 18 Dartmouth Road, Hayes, dated 9 August 2017
17. Letter from occupier of 23 Ashley Gardens, Ambrosden Ave, dated 22 July 2017
18. Letter from occupier of 129A Ashley Gardens, Thirleby Road, dated 19 September 2017
19. Letter from occupier of 43 Ashley Gardens, Ambrosden Avenue, dated 20 and 21 July 2017

20. Letter from occupier of Flat 7, Dean Abbott House, 70 Vincent Street, dated 8 August 2017
21. Letter from occupier of 132B Ashley Gardens, Thirleby Road, dated 16 July 2017
22. Letter from occupier of 129a Ashley Gardens, Thirleby Road, dated 23 July 2017
23. Letter from occupier of 78 Ashley Gardens, Thirleby Road, dated 13 July 2017
24. Letter from occupier of 108a Ashley Gardens, Thirleby Road, dated 6 July 2017
25. Letter from occupier of 3C Carlisle Place, London, dated 21 July 2017
26. Letter from occupier of Block 9, 121 Ashley Gardens,, London, SW1, dated 2 August 2017
27. Letter from occupier of 62 High Street, Meldreth, dated 17 July 2017
28. Letter from University of Westminster dated 24 May 2017.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **MATTHEW MASON** BY EMAIL AT MMASON@WESTMINSTER.GOV.UK.

10. KEY DRAWINGS



Existing Typical Floor Plan
(showing individual student rooms)



Proposed Typical Floor Plan
(showing individual flats)

DRAFT DECISION LETTER

Address: 84-99 Ashley Gardens , Thirleby Road, London, SW1P 1HH

Proposal: Use from student hostel to 30 residential flats (Class C3).

Reference: 17/04832/FULL

Plan Nos: Location Plan – 600 Rev A.
Existing – 100 Rev A, 101 Rev A, 102 Rev A, 103 Rev A, 104 Rev A, 105 Rev A, 106 Rev A, 107 Rev A and 108 Rev A.
Proposed - 300 Rev A, 301 Rev A, 302 Rev A, 303 Rev A, 304 Rev A, 305 Rev A, 306 Rev A, 307 Rev A and 308 Rev A.
For information purposes only: Planning Statement, Design and Access Statement, Viability Report, Student Residential Framework Strategy 2015 – 2020, Central London Car Parking Uptake Report.

Case Officer: Matthew Mason

Direct Tel. No. 020 7641 2926

Recommended Condition(s) and Reason(s)

The proposal does not include on-site affordable housing and no evidence has been provided to demonstrate why it is neither practical nor viable for the required amount of affordable housing to be provided on-site. This would not meet S16 of Westminster's City Plan (November 2016), London Plan policy 3.12 and the Mayor's Affordable Housing and Viability SPG.

Informatives

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, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition further guidance was offered by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments:

Provision of on-site affordable housing or evidence to demonstrate why it is neither practical nor viable for the required amount of affordable housing to be provided on-site.

Item No.
3

Agenda Item 4

Item No.

4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	48 Albemarle Street, London, W1S 4DH		
Proposal	Use of part ground floor level and first to second floor levels for either continued office (Class B1) use or retail (Class A1) use or a sui generis use comprising retail, restaurant and bar elements; the installation of a full height extract duct on the rear elevation and installation of plant with associated acoustic screening on the flat roof area at rear first floor.		
Agent	Monmouth Planning Ltd.		
On behalf of	Tizzola Properties		
Registered Number	17/03502/FULL	Date amended/ completed	24 April 2017
Date Application Received	24 April 2017		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional planning permission.
--

2. SUMMARY

48 Albemarle Street is an unlisted building located within the Mayfair Conservation Area and the Core Central Activities Zone (Core CAZ) but outside of the designated stress areas. The building currently comprises of basement and ground to fourth floor levels and is utilised as a retail unit at basement and ground floor levels, and office accommodation on the upper floors. Planning permission was recently granted on the 24th May 2016 for the use of the first to fourth floor levels as retail accommodation (Class A1).

Planning permission is now sought for the change of use of the first and second floors to allow for either continued office use; retail accommodation or a sui generis use comprising retail, restaurant and bar functions. Externally it is proposed to install plant on a flat roof at rear first floor level with associated acoustic screening and to install a high level extract duct on the rear elevation of the property to terminate at main roof level.

The key issue is:

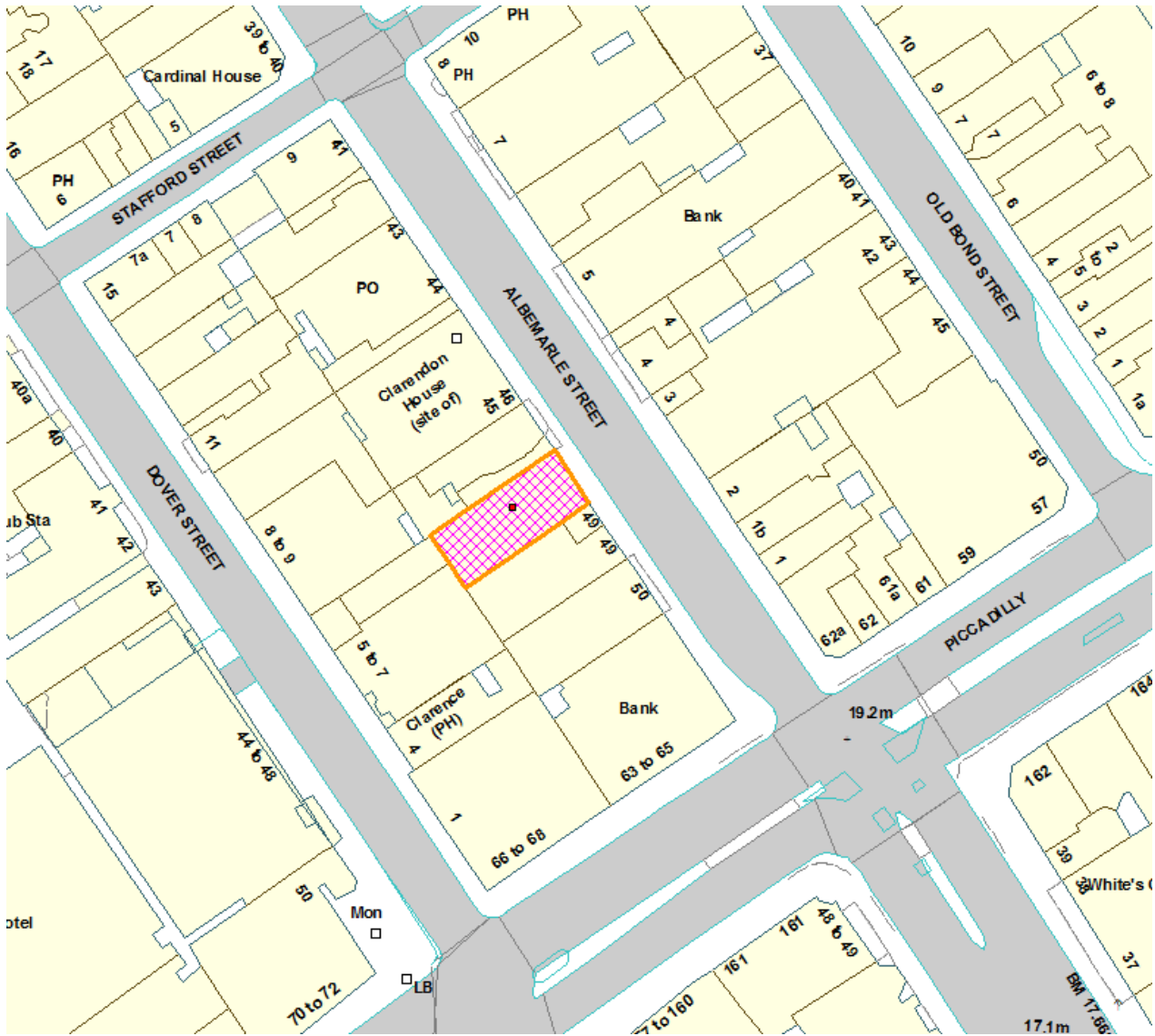
- The impact of the proposed use on the amenity of nearby sensitive occupiers and on the

character and function of the area.

- Potential noise transference from the proposed use through the building structure to adjoining sensitive properties.
- The impact of the proposed external alterations on the character and appearance of the Mayfair Conservation Area.

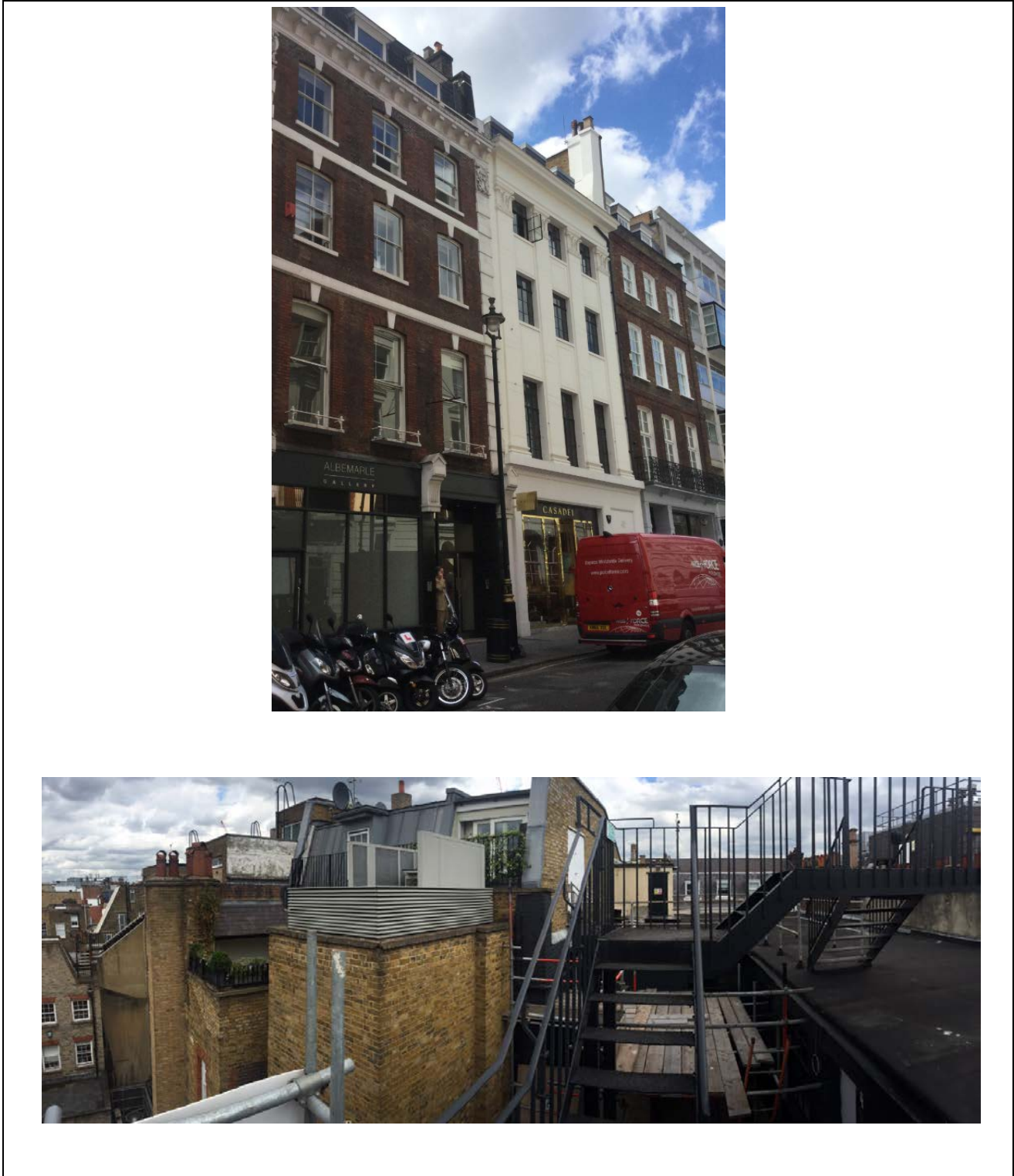
Subject to appropriate conditions it is considered the proposed office, retail or sui generis use would be acceptable in terms of the impact upon residential amenity in the vicinity and would not harm the character and function of this part of the Core CAZ. Furthermore, the proposed external alterations are considered to preserve the character and appearance of the Mayfair Conservation Area. The proposal is therefore acceptable in amenity, land use, transport, and design terms and the application is recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and City Plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

No objection.

HIGHWAYS

Acceptable subject to conditions.

CLEANSING

Objection – insufficient detail has been provided with regard the waste and recycling storage.

ENVIRONMENTAL HEALTH

Acceptable subject to conditions.

METROPOLITIAN POLICE

No comment.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 123

Total No. of replies: 1

No. of objections: 1

No. in support: 0

Objection on the following grounds:

- Noise disruption and air pollution from the operation of the proposed plant.
- Odour nuisance to neighbouring residential properties from the kitchen operation.
- Potential for noise transference through the building structure to the neighbouring residential unit.
- Noise disruption from staff and customers outside the property.
- Clarification sought on emergency access.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

48 Albemarle Street is an unlisted building in the Mayfair Conservation Area and the Core CAZ but outside of any designated stress area. The building comprises basement, ground and four upper floors and is utilised as retail accommodation at basement and ground with office accommodation at first to fourth. Planning permission was granted on the 24th May 2016 for the use of the first to fourth floor levels as retail accommodation (Class A1) with works progressing on-site to part implement this consent to enable the creation of a retail unit at third and fourth floor levels (hairdressers).

The area of the first and second floor levels (with ground floor entrance) to which this application relates currently has lawful use as office accommodation (Class B1) as, whilst

strip out works have taken place on these floors, the approved retail use on these floors has not been implemented.

6.2 Recent Relevant History

Planning permission was granted on the 24th May 2016 for the; 'Use of the first, second, third and fourth floors as retail accommodation (Class A1)'.

7. THE PROPOSAL

Permission is sought for the change of use of the first and second floors of the property and ground floor entrance to either retail accommodation, continued office use or a sui generis use comprising retail, restaurant and bar functions. It is also proposed to install air conditioning equipment on a flat roof area at rear first floor level with associated acoustic enclosures and to install a high level extract duct on the rear elevation of the property to terminate at main roof level to provide extraction for the proposed kitchen with the sui generis use.

The table below details the proposed arrangements of the potential sui generis use:

	Sui generis use comprising ground floor entrance and first and second floor levels
Floor space (m2)	259m ²
No of covers	120
Hours of Operation	08:00 till 00:30 Monday to Saturday and 08:00 till 23:00 on Sundays and Bank Holidays.
Ventilation arrangements	New kitchen extract to be routed externally on the rear elevation to terminate at main roof level.
Refuse Storage arrangements	Relevant conditions proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use and Amenity

Office use

The proposal could result in the loss of general office accommodation (Class B1). The City Council has no policies seeking the protection or retention of general office accommodation in this location where the proposed change is to another commercial use. The potential loss of the office floor space is therefore considered acceptable in principle.

Retail use

As detailed above there is an extant consent for the retail use of the premises which was granted in May 2016. The potential increase in retail accommodation is welcomed at this location and accords with Policies S6 and S21 of the City Plan and SS4 of the UDP.

Sui Generis use

The proposed occupier of the sui generis use already operates 'Bar Termini' from 7 Old Compton Street which has been in operation since 2012. The proposed sui generis use has been detailed within the submitted Operational Management Plan. Within the ground floor entrance there would be a small reception area where customers would be met, the capacity of the first and second floors would be 60 covers per floor. The premises would be open for breakfast, lunch and dinner, the retail function of the operation would result from any cold food and drinks sold for consumption off the premises. Whilst this is likely to be small element of any operation the applicant would offer juices, cakes and Italian influenced goods which could be purchased and taken away.

The proposed use would measure 259m², an entertainment unit of this type and size located within the Core CAZ but outside of a designated stress area would be considered against Policies TACE8 of the UDP and S24 of the City Plan.

Policy S24 of the City Plan requires 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 on residential amenity, health and safety, local environmental quality and the character and function of the area.'* Policy TACE8 of the UDP has similar stipulations and relates to new entertainment uses which 'will generally be permissible'. Where the City Council considers the proposal will not have an adverse impact (including cumulative effects) resulting from noise, vibration, odour, late night activity or traffic implications permission may be granted but conditions would be required to restrict opening hours, capacity, servicing, arrangements for waste and recycling, any take-away from the premises, deliveries, music, bar areas and suitable arrangements should be made to prevent noise nuisance and to disperse cooking odours.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floor space to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The immediate vicinity of the site is characterised primarily by commercial uses with retail and restaurants on the lower floors and office accommodation on the upper floors. The site is located approximately 40m north of the junction with Piccadilly. The nearest residential properties are two flats within the adjoining property to the north (47 Albemarle Street) and a single residential flat within 50 Piccadilly to the south of the application site. Council records do not indicate any other residential units on this section of Albemarle Street between Piccadilly and Stafford Street.

One objection has been received to the application from the residential occupier of the residential unit at second and third floor level within 47 Albemarle Street. They are concerned with regard the installation of plant and the potential for noise disturbance, pollution and odour resulting from its operation. They are also concerned about the

potential for noise and disturbance from customers and staff entering and exiting the premises and noise transference through the building structure itself resulting from the sui generis operation.

It is proposed for the new entertainment premises to have 120 covers and opening hours of 08:00 till 00:30 Monday to Saturday and 08:00 till 23:00 on Sundays and Bank Holidays. Paragraph 8.88 of the UDP states; *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. As detailed above this is not considered a 'predominantly residential area' and being so close to Piccadilly it is likely there is a high footfall of pedestrians in this area late into the evening.

The nearest licensed premises include:

- A restaurant at 42 Albemarle Street with opening hours of 10:00 to 02:30 Monday to Saturday and 10:00 till 01:30 on Sundays;
- The King's Head public house at 10 Stafford Street with opening hours of 07:00 to 00:30 Monday to Thursday, 07:00 to 01:30 Friday to Saturday and 07:00 to 00:30 on Sundays; and
- A premises in the lower ground floor of 36 Albemarle Street licensed to open from 09:00 till 06:00 Monday to Saturday and 09:00 till 23:00 on Sundays.

The proposed opening hours are therefore considered acceptable and it is not considered the proposal would result in additional late night noise within the area especially in such close proximity to Piccadilly which will facilitate rapid dispersal of patrons leaving the premises.

The Operational Management Plan submitted in support of the application states that in order to ensure the operation of the premises causes no nuisance to neighbouring occupiers the applicant will:

- Not allow customers to drink outside the premises;
- Contain all waiting customers in the ground floor area;
- Have a member of staff within the ground floor entrance at all times (including SIA trained door staff at appropriate times);
- Any customers congregating outside the premises will be asked to move on;
- Appropriate acoustic mitigation will be installed as required;
- Any music will not be audible outside the premises;
- Staff are also able to call taxis when people pay their bills with the customer remaining in the premises until the taxi is available; and
- Comply with the requirements of this Operational Management Plan should the sui generis use be implemented (to be secured by condition).

A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties. This is to ensure there is no noise nuisance to the adjoining residential occupiers.

The proposed restaurant would have a new high level extract duct terminating at main roof level which would provide suitable odour dispersal above the height of all neighbouring residential windows. A condition is proposed to ensure that, if the sui generis use be implemented, the duct is provided and retained in association with this premises. Whilst an objection has been received in relation to the potential for odour nuisance from the operation to affect the neighbouring sensitive property, with this duct in place the objection is not considered sustainable.

A number of acoustic reports have been submitted by the applicant with regard noise transference through the building structure from the proposed sui generis use to the residential flat within 47 Albemarle Street at second and third floor levels. The objector within this neighbouring property (second and third floor level) has had these critiqued by his own acoustic consultant and has maintain his objection to the proposal, arguing that the proposed acoustic mitigation measures would be insufficient to ensure the operation of the use does not result in unacceptable noise transmission through the building structure.

Subsequent to the submission of the application, the acoustic consultant for the applicant has conducted noise testing within the first floor flat at 47 Albemarle Street and this has informed its analysis. In order to comply with the City Council's policy requirements with regard to internal noise levels in residential properties, it is proposed to install secondary glazing to the windows (which should also be fixed shut), acoustically treated fire doors on the rear elevation, and acoustic wall lining at first and second floor levels on the party walls between the application site and No. 47 Albemarle Street.

The Environmental Health Officer has reviewed all the submitted information and has determined that, with the identified acoustic mitigation measures installed, the proposal will be compliant with the relevant adopted policies. Conditions will be imposed to ensure that any noise transmission resulting from the proposal to the neighbouring sensitive uses accords with UDP Policies ENV 6, thereby preserving the residential amenity of this neighbouring resident (in accordance with City Plan Policy S29). Conditions are proposed to ensure that all the acoustic mitigation measures are installed as described before the unit operates and maintained in situ for as long as the premises is in operation. Whilst the objection is noted, the acoustic information from both parties has been fully assessed by the Environmental Health Officer and the proposal deemed acceptable subject to the conditions detailed above.

With the relevant safeguarding conditions detailed above and the modest opening hours of the entertainment use, it is not considered that the proposal would have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality. The principle of the proposed entertainment premises is therefore considered to be in accordance with UDP Policy TACE8 and City Plan Policy S24.

8.2 Townscape and Design

No. 48 Albemarle Street is on the west side of the street and dates from the eighteenth century. It was refaced in the early twentieth century and has a painted stucco façade with metal-framed windows. To the rear the brick facades are painted black and are dominated by a metal fire escape. The rear of the property is visible from some of the neighbouring

properties, many of which have a variety of mechanical plant installations and full height flues/ducts.

In this context, the proposed location of the new plant at No. 48 is acceptable and in terms of its detailed design it has been sited to minimize its visual impact. Subject to the installation of GRP cladding around the high level extract duct finished to match the adjoining brickwork, the character and appearance of the building and surrounding conservation area will be maintained. This accords with UDP policies DES 1, DES 5 and DES 9.

8.3 Transportation/Parking

The site is located within a Controlled Parking Zone so anyone driving to the site will be subject to these restrictions. It is expected that most people visiting the site will use public transport.

Whilst the potential retail use would likely have the same servicing requirements of the office use, the potential entertainment use would likely result in additional servicing requirements. Whilst some information has been provided with regard deliveries in the Operational Management Plan, this only provides general information on the storage areas and management of staff requirements and delivery times. The Highways Planning Manager has requested the addition of a condition to any approval requiring the submission of a Servicing Management Plan to more fully detail the management of the servicing of the entertainment premises and how this will be managed to reduce any impact upon highways movements or the amenity of neighbouring sensitive occupiers. Such a condition is proposed.

Cycle parking has been shown on the half landing areas and a relevant condition is proposed to ensure this is provided and retained.

With these conditions in place the proposal is considered acceptable in transportation terms.

8.4 Economic Considerations

Any economic implication of the proposal is likely to be neutral.

8.5 Access

There is existing level access from the street to the ground floor of the property with an existing lift servicing the upper floors of the property. This arrangement would be retained and an accessible toilet would be provided at first floor level within the proposed entertainment use.

8.6 Other UDP/Westminster Policy Considerations

Plant

Four air conditioning units are proposed within associated enclosures on the rear first floor flat roof area and a high level extract duct is proposed on the rear elevation of the property

to terminate at main roof level. One existing item of plant on the rear flat roof area is to be removed. The proposed plant installation has been considered in the context of Policies ENV6 and ENV7 of the UDP and S29 and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

The initial acoustic assessment submitted in support of the application included background noise measurements from February 2017 in order to establish the design criteria for the new plant. It was noted that these measurements differed from the background noise measurements included in an earlier report when measurements were taken at the rear of the property in June 2016. Additional information was submitted to substantiate the February 2017 measurements and these measurements have now been accepted as accurate by Environmental Health with the June 2016 results described by the Environmental Health Officer as being 'an outlier as it presents noise data significantly at variance with the remaining three noise reports'.

The lowest background noise levels were recorded as 53dB, 54db and 52dB for the daytime, evening and night-time respectively. Taking into account the acoustic mitigation provided by the proposed enclosures the noise level from the plant is expected to be a maximum of 42dB at the nearest sensitive window which serves 47 Albemarle Street to the north.

Environmental Health has confirmed that the proposed plant will be compliant with the relevant criterion within UDP Policy ENV 7, raising no objection to the proposal. Conditions are proposed in relation to noise, vibration and the installation and retention of the acoustic mitigation features. An objection has been received to the application with regard the potential for noise disturbance from the plant installation but, as detailed above, all the proposed plant has been carefully considered by Environmental Health and noise levels will be compliant with the relevant policies.

The objector raised an issue about plant within the vicinity already causing a noise nuisance. However, this plant has been investigated by Environmental Health and found to be compliant with the relevant conditions attached to its planning consent. The objector has also questioned whether the duct is large enough for the restaurant. This is the duct which has been sought by the planning application and, if a materially different duct was required, its installation would need to be subject to a subsequent application. The objector has commented that the fan units for the duct are not been shown on the drawings. The applicant has confirmed that the fan associated with the duct will be located internally within the property. Considering the fan is within the premises, a condition is proposed requiring the submission of a supplementary acoustic report to demonstrate the fan operation is compliant with the standard noise criteria.

Refuse /Recycling

A suitable waste storage area has been identified on the proposed drawings for the entertainment use but the Cleansing Manager has requested the submission of a revised drawing to show the relevant bin capacities and labelled bins for general waste, food waste and recycling as well as the waste cooking oil storage. A condition is proposed requiring the submission of an amended drawing to show this.

Other

The objector has also asked for further information relating to emergency access for the proposed uses but this is a Building Control rather than a planning matter and would be assessed through the application of the building regulations.

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 application does not generate any requirement to secure any planning obligations.

9. BACKGROUND PAPERS

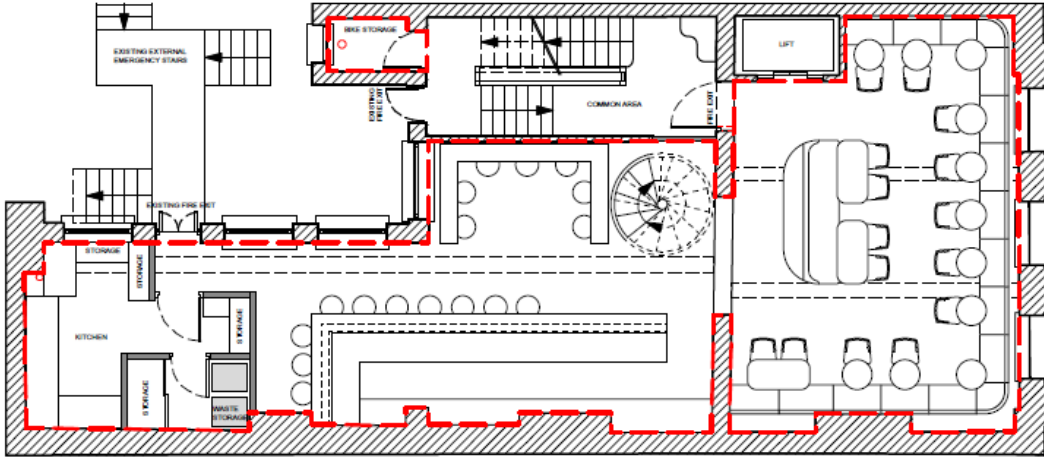
1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 24 May 2017
3. Response from the Metropolitan Police (Designing Out Crime) dated 28 April 2017
4. Response from the Cleansing Manager dated 10 May 2017
5. Response from the Highways Planning Manager dated 17 May 2017
6. Responses from Environmental Health, dated 2 June 2017, 4 September 2017 and 14 September 2017
7. Letters from One Planning Consultants, 83-87 Pottergate, Norwich, dated 17th May 2017, 22 May 2017, Francis Taylor Building, Inner Temple dated 19 May 2017 and 8 September 2017, Cole Jarman, 24B High Street, Addlestone, Surrey dated 30 May 2017 and 8 September 2017 (all representing the occupier of the second and third floor flat, 47 Albemarle Street, London).

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

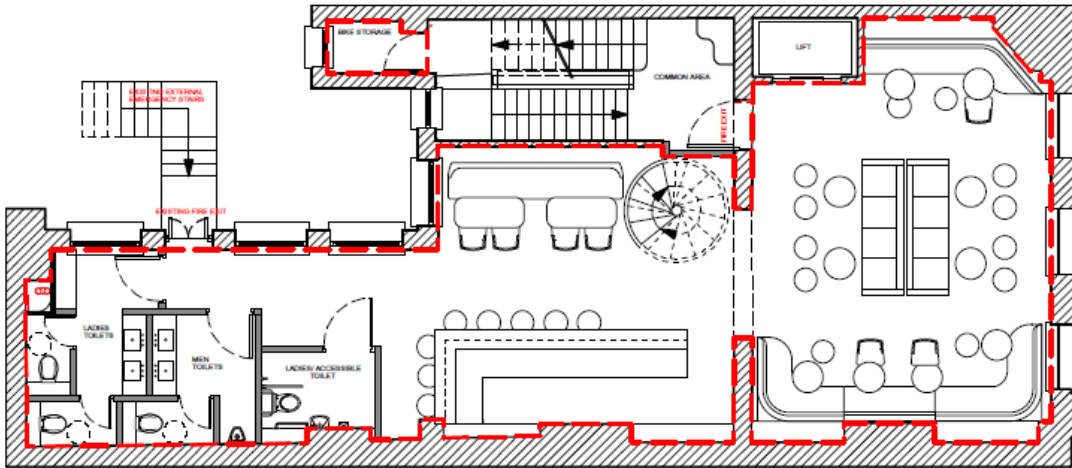
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

10. KEY DRAWINGS

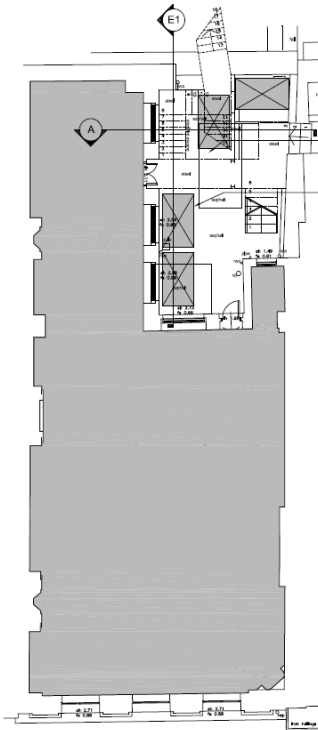
Proposed First Floor (sui generis use)



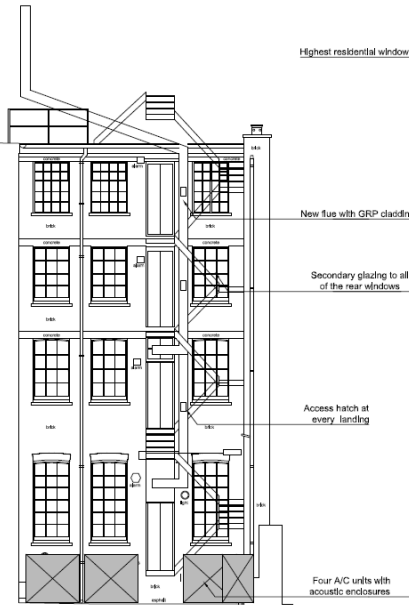
Proposed Second Floor (sui generis use)



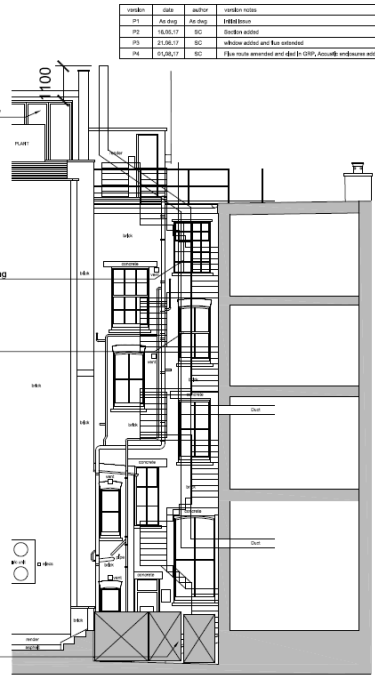
Proposed Rear Elevation



01 Proposed First Floor Plant Plan
Scale 1:100



02 Proposed Elevation E1
Scale 1:100



03 Proposed Section A
Scale 1:100

Version	Date	Author	Revision
P1	04.09.17	AR/DPG	Initial Issue
P2	04.09.17	SC	Structural notes
P3	21.09.17	SC	Window notes and Rev removed
P4	01.09.17	SC	Flu notes amended and added to GRP, acoustic enclosure notes

0 1m 2.5m 5m
SCALE: 1:100

PLANNING

Orbit Architects

DRAFT DECISION LETTER

- Address:** 48 Albemarle Street, London, W1S 4DH
- Proposal:** Use of part ground floor level and first to second floor levels for either continued office (Class B1) use or retail (Class A1) use or a sui generis use comprising retail, restaurant and bar elements; the installation of a full height extract duct on the rear elevation and installation of plant with associated acoustic screening on the flat roof area at rear first floor.
- Reference:** 17/03502/FULL
- Plan Nos:** Operational Management Plan for Gazelle, Acoustic Report (REP(00)U001), Acoustic Report (REP(00)U002) Drawings: 100 P4, 101 RevP2, 102 RevP1, A1 Use (001_01 and 001_02), B1 Use (001_01 and 001_02), Mixed Use (003_05 and 003_06).

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

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

Reason:

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

- 5 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

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

- 6 You must apply to us for approval of a sample of the following parts of the development - proposed treatment for the extract duct (eg through the use of GRP) so that it matches the adjacent brickwork. You must not start any work on these parts of the development (nor install the duct) until we have approved what you have sent us. You must then carry out the work according to these approved details.

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 Mayfair 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 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)

- 8 Prior to the implementation of the sui generis use hereby approved you must provide each cycle parking space shown on the approved drawings. Thereafter the cycle spaces must be retained and the space used for no other purpose.

Reason:

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

- 9 Prior to the operation of the sui generis use hereby approved you shall submit and have approved in writing by the local planning authority a detailed servicing management strategy (including hours of servicing) for the premises. All servicing shall be undertaken in accordance with the approved strategy.

Reason:

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

- 10 (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.

- 11 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.

- 12 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.

- 13 You must remove all redundant plant and associated fixtures and fittings before the plant hereby approved is installed.

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

- 14 Prior to the implementation of the sui generis use hereby approved you must install all the acoustic mitigation measures to the specification detailed within the approved acoustic reports and maintain them in this form for as long as the sui generis use is in operation.

Reason:

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

- 15 Prior to the implementation of the sui generis use hereby approved you must install the high level extract duct as shown on the approved drawings and maintain it in this form for as long as the sui generis use is in operation.

Reason:

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

- 16 You must install the acoustic enclosures around the plant at rear first floor level at the same time as the plant is installed to the specification detailed in the acoustic report and as shown on the approved drawings. Thereafter the enclosures must be maintained in situ for as long as the plant remains in place.

Reason:

To safeguard the amenity of occupiers of adjoining premises by preventing noise and vibration 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and ENV6, ENV7, 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.

- 17 Prior to the implementation of sui generis use hereby approved, all windows at first and second floor level shall be fixed shut and maintained in this form for as long as the sui generis use is in operation.

Reason:

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

- 18 The sui generis use hereby approved must be operated in accordance with the stipulations of the Operational Management Plan for Gazelle.

Reason:

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

- 19 If you choose to implement the sui generis use you must not allow more than 120 customers into the property at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 20 If you choose to implement the sui generis use hereby approved you must not play live or recorded music within premises that will be audible externally or in the adjacent properties.

Reason:

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

- 21 If you choose to implement the sui generis use hereby approved you must not open the premises to customers, and you must not allow customers on the premises, outside the hours:

- 08:00 till 00:30 Monday to Saturday; and
- 08:00 till 23:00 on Sundays and Bank Holidays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 22 Prior to the implementation of the retail or sui generis use hereby approved 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 for each of the uses hereby approved. You must not commence either of these uses until we have approved what you have sent us. You must then provide the relevant 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 premises.

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)

- 23 Prior to the implementation of the sui generis use hereby approved you must apply to us for approval of details of a supplementary acoustic report demonstrating that the fans associated with the high level extract duct will comply with the Council's noise criteria as set out in Condition 10 of this permission. You must not commence the sui generis use hereby approved until we have approved what you have sent us.

Reason:

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

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. 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. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit 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. 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)
- 4 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 5 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 7 Kitchen Extract Informative:
 - The kitchen extract ducts should be designed to discharge vertically at highest roof level and clear of all existing and proposed windows in the vicinity. We accept systems with a flue height level which is higher than any building within 20 metres of the building housing the commercial kitchen.
 - A scheme of odour reduction will need to be incorporated together with full height discharge if there are surrounding premises that are between 20 m - 50 m distance and which are also higher than the discharge point of the building housing the commercial kitchen.
 - All odour producing processes/cooking must be placed under the extract canopy hood in the kitchen to avoid low level odour escape from kitchen windows and doors.
 - All kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance at approximately 3 metre intervals and also complying with the H & S safe access standards (Informative 180CB).
- 8 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public. Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm, The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>;
 - BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances
 - BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 9 Conditions 10 and 11 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)

- 10 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the relevant parts of the property can change between the A1, B1 and sui generis uses we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

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 5

Item No.

5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 th November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	104 Great Portland Street, London, W1W 6PE		
Proposal	Use of the basement and ground floors as a restaurant (Class A3), installation of a new shop front and replacement roof light at rear first floor level. Installation of an internal high level extract duct to terminate at main roof level.		
Agent	Savills		
On behalf of	Darko Investments Ltd.		
Registered Number	17/03402/FULL	Date amended/ completed	26 April 2017
Date Application Received	19 April 2017		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

1. Grant conditional planning permission subject to a legal agreement to secure:

- i) Upon implementation of this permission the planning permission (15/07544/FULL) for the residential use of the upper floors of the building shall not be implemented.
- ii) Or, that this permission shall not be implemented should the planning permission (15/07544/FULL) for the residential use of the upper floors of the building be implemented.
- iii) Costs for monitoring the legal agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

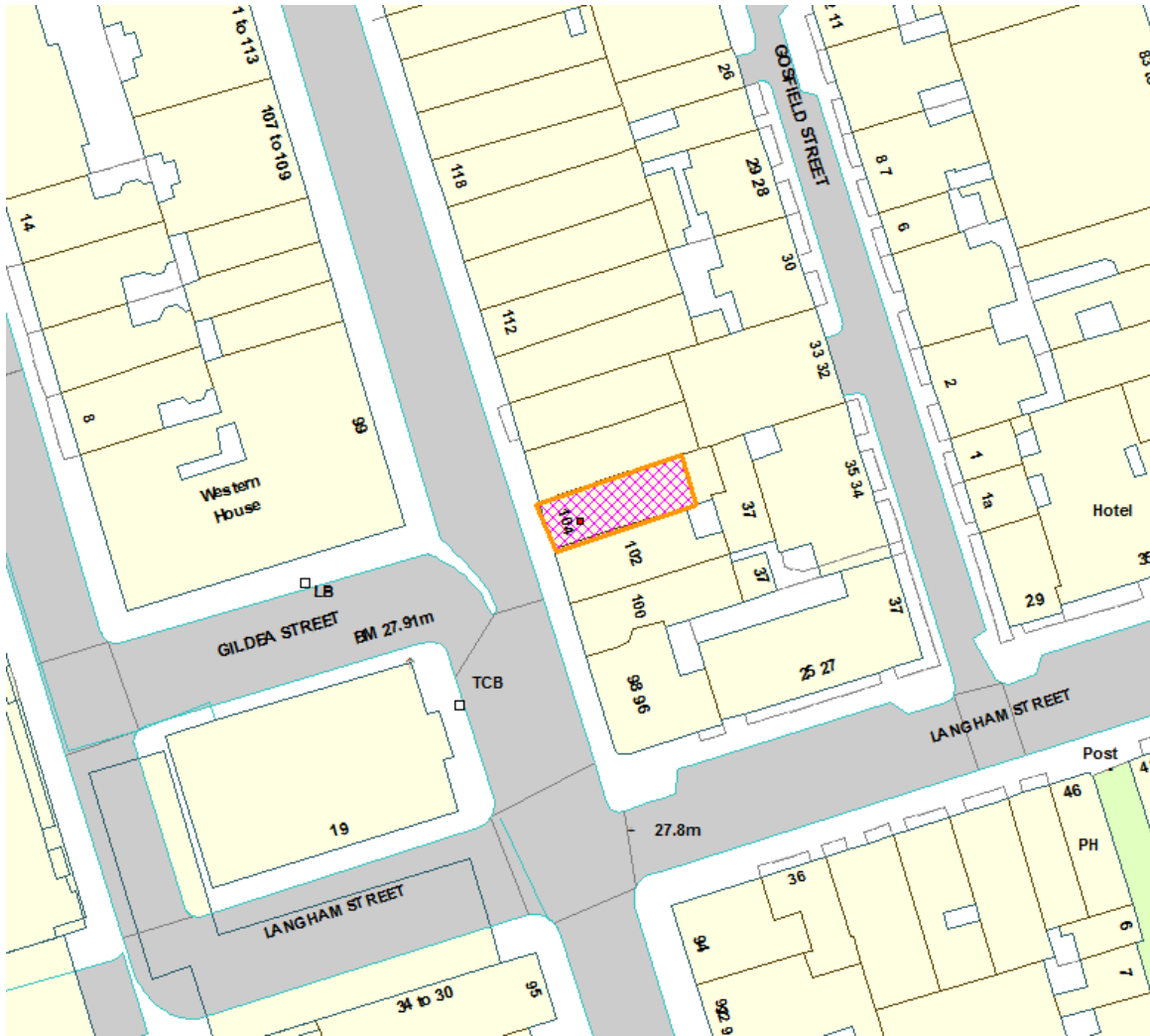
104 Great Portland Street is an unlisted building located within the East Marylebone Conservation Area, outside of a designated Stress Areas but located on a named street within the 'Marylebone and Fitzrovia' area. The property comprises of basement, ground and first to fourth floor levels. The first to fourth floors of the property are currently in use as office accommodation (Class B1) whilst the basement and ground floors are in use as retail accommodation (Class A1). Planning permission is sought for the change of use of the basement and ground floors to a restaurant, the installation of a new shop front and the installation of a high level extract duct, routed internally through the upper floors to terminate at main roof level.

The key issues are:

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

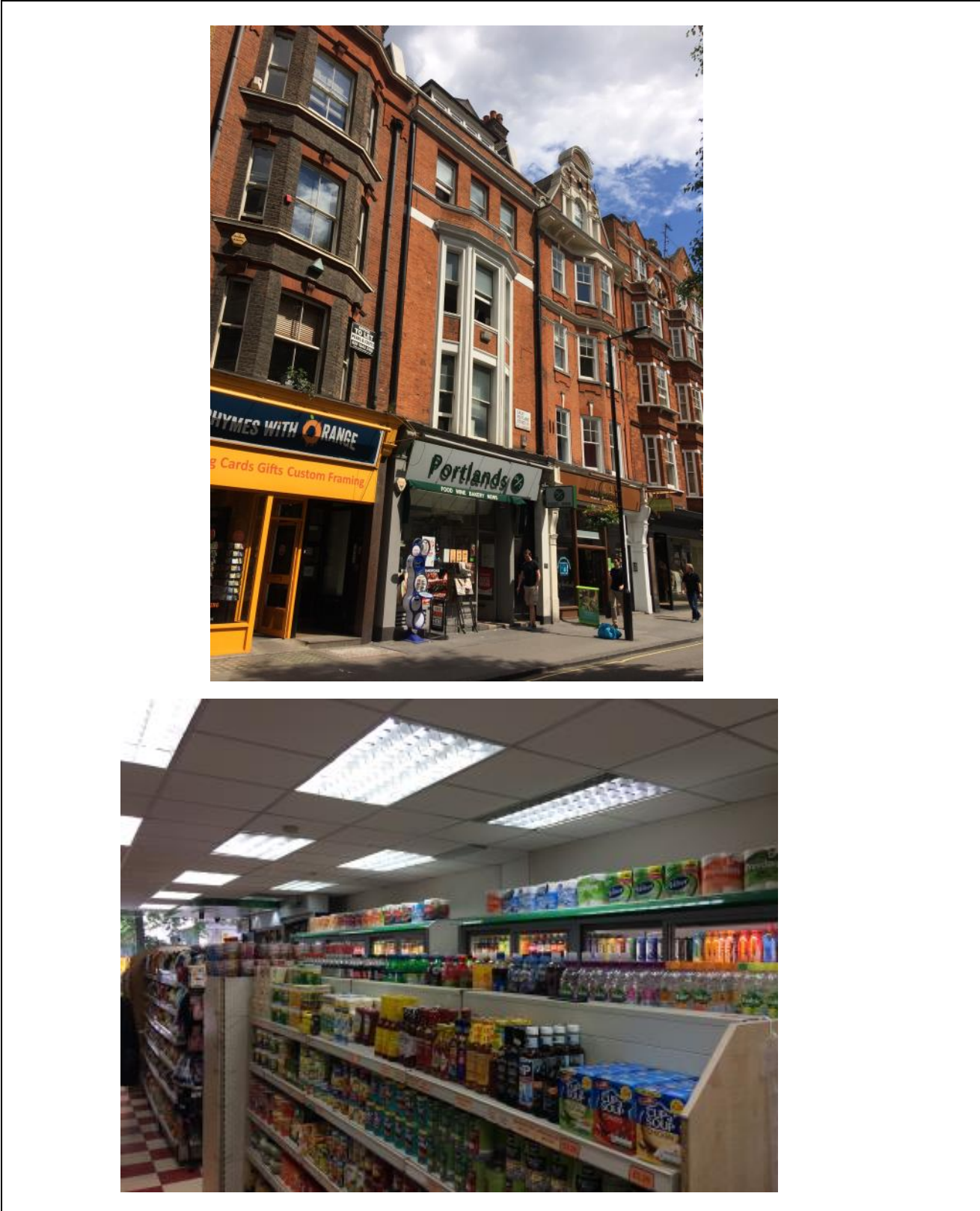
The loss of the retail accommodation is considered acceptable in this instance taking into account the proposed use, location of the property and the character of the immediate vicinity. Subject to appropriate conditions it is also considered the proposed restaurant use will be acceptable in terms of its impact upon residential amenity in the vicinity. The proposal is therefore considered acceptable in land use, transport, design and amenity terms. The application is recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and City Plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

CLEANSING

Requested further details with regard waste / recycling storage.

HIGHWAYS

No objection subject to conditions.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 75

Total No. of replies: 3

No. of objections: 2

No. in support: 0

One letter of comment has been received requesting opening hours are no later than 22:30 daily, the plant operation is carefully assessed to ensure compliance with City Council noise policies and that deliveries do not take place late into the evening.

Two letters of objection on the following grounds:

Amenity:

Increase in noise disruption to residents from the operation of the restaurant and the associated plant items.

Light pollution to neighbouring residential occupiers resulting from the sky-light at the rear of the property.

Odour nuisance from the restaurant operation affecting residential amenity.

Lack of information relating to the noise levels of the extraction equipment.

Highways:

Traffic disruption from deliveries.

There needs to be adequate storage facilities for the waste and recycling within the demise of the premises to ensure it is not left on the highway.

Smokers outside the premises would restrict the depth of pavement available for pedestrians.

Landuse:

Saturation of restaurant premises in the vicinity.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

104 Great Portland Street is an unlisted building located within the East Marylebone Conservation Area and on a 'named street' outside of any designated stress area. The building comprises a retail unit on the basement and ground floors with office accommodation on the first to fourth floor levels.

As detailed below planning permission was granted on the 6th October 2015 for the change of use of the upper floors of the property to three residential flats, however this permission has not been implemented but remains extant.

6.2 Recent Relevant History

Planning permission was granted on the 6th October 2015 for the 'use of the first to fourth floors as residential accommodation (Class C3) comprising 2 x 1 and 1 x 3 bedroom flats.' The consent has not been implemented.

7. THE PROPOSAL

Permission is sought for the change of use of the existing retail unit at basement and ground floor levels to a restaurant use. The basement of the premises would house the commercial kitchen, toilets and storage areas with some seating whilst the majority of the ground floor would be utilised as a seating area with a disabled access toilet. A replacement rooflight is proposed above the rear ground floor accommodation and a high level extract duct would be routed internally through the office accommodation, terminating externally at main roof level.

The existing retail unit comprises a convenience shop with a trading area at the front of the ground floor level with ancillary storage at rear ground and at basement level.

Land Use Table:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail	220	0	-220
Restaurant	0	220	+220
Total	220	220	0

Restaurant Use Table:

	Proposed restaurant incorporating basement and ground floor levels
Restaurant floor space (m2)	220m ²
No of covers	55
Hours of Operation	12:00 (midday) until 22:30 daily.
Ventilation arrangements	New kitchen extract to be routed internally to terminate at main roof level.
Refuse Storage arrangements	Relevant conditions proposed.

8. DETAILED CONSIDERATIONS**8.1 Land Use and Amenity****Loss of retail accommodation:**

Policy S21 of the City Plan states that 'existing A1 retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let'. The supporting text advises that this approach will ensure that the needs of customers and retailers across the city are met through the retention of the number of shops and overall amount of retail floor space.

Policy S8 of the City Plan identifies certain streets within the Marylebone and Fitzrovia areas which are designated as 'named streets'. One of these is Great Portland Street. Named streets are defined as, 'specific streets in Marylebone and Fitzrovia which are treated as part of the Core Central Activities Zone and as designated on the Policies Map.' Therefore, for the purposes of determining the application, the site is considered as being within the Core CAZ. Certain policies of the UDP have been 'saved' including ones relating to retail policies which are relevant to proposals for the loss of retail floor space.

As the City Plan states that named streets are to be treated as part of the Core CAZ and that policies should be applied as if they are, this supersedes any prior definition of the Core CAZ from the UDP. Therefore the applicable policy from the UDP relating to the loss of retail floor space is Policy SS5. This also seeks to resist the loss of retail floor space within the Core CAZ, and outside of the Prime Shopping Frontages. The policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

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

Policy SS5 (B) says that planning permission for the introduction of a non-A1 town centre use at basement, ground and first floor level will only be granted where the proposal would

not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality.

Policy SS5 (C) states that proposals for non-A1 uses must not:

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

The unit is located on the eastern side of Great Portland Street approximately half way between Oxford Street and Marylebone Road. The area is very commercial in nature with ground floor uses comprising either retail, restaurant or office accommodation and the upper floors of buildings either being in use as offices or residential flats. It is noted that a Co-operative supermarket has recently opened at 118-122 Great Portland Street being 40m from the application site and the applicant contends this has resulted in a reduction of trade for the existing business (although no evidence has been provided to support this assertion). There are existing retail units at ground floor level in the adjoining buildings to the north and south of the application site.

It is therefore not considered that the loss of this retail unit to another use serving visiting members of the public would be 'detrimental to the character and function of the area or to the vitality or viability of a shopping frontage or locality' such that the proposal would be contrary to the stipulations of Part B of Policy SS5 of the UDP. The proposal would also not result in three or more consecutive non-retail uses as the adjoining ground floor units to the north and south are both in use as retail accommodation which complies with the requirement of Part C (1) of the Policy.

With regard Part C (2) of the policy in relation to the proposal not generating an overconcentration of entertainment uses in the area, this is discussed in the section below. The main thrust of Policy SS5, however, is to ensure that the character and function of an area or the vitality or viability of a shopping frontage or locality is not harmed by the replacement of shops with non-A1 town centre uses. As detailed above the proposal is considered to accord with the requirements of the relevant retail policies from the City Plan and UDP and for these reasons it is not considered the loss of retail floor space can be resisted.

Provision of restaurant use:

The proposed restaurant over ground and basement levels of the building would measure 220m². An entertainment unit of this type and size located on a named street outside of a designated stress area would be considered against Policies TACE 8 of the UDP and S24 of the City Plan.

Policy S24 of the City Plan requires 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 on residential amenity, health and safety, local environmental quality and the character and function of the area.'*

Policy TACE8 of the UDP has similar stipulations and relates to new entertainment uses which 'will generally be permissible'. Where the City Council considers the proposal will

not have an adverse impact (including cumulative effects) resulting from noise, vibration, odour, late night activity or traffic implications permission may be granted but conditions would be required to restrict opening hours, capacity, servicing, arrangements for waste and recycling, any take-away from the premises, deliveries, music, bar areas and suitable arrangements should be made to prevent noise nuisance and to disperse cooking odours.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floor space to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The immediate vicinity along Great Portland Street is characterised mainly by restaurant and retail units on the lower floors and office or residential uses on the upper floors. The nearest residential units are located on the upper floors of 102 Great Portland Street and 106 Great Portland Street, being the adjoining properties to the north and south of the application site. Objections have been received to the application from residential occupiers living at 102 and 108 Great Portland Street.

Other licensed premises in the vicinity include the Picture restaurant at 110 Great Portland Street with licensed opening hours of 10:00 till 00:30 Monday to Saturday and 12:00 till 00:00 on Sundays and Love Die Late at 114 Great Portland Street with licensed opening hours of: 07:00 till 23:45 Monday to Thursday, 07:00 till 00:15 Friday to Saturday and 07:00 to 22:45 on Sundays.

It is proposed for the new restaurant premises to have 55 covers and opening hours of 12:00 (midday) until 22:30 daily. Paragraph 8.88 of the UDP states, *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. The proposed opening hours therefore accord with this approach and the proposed premises would close considerably earlier than other licensed premises in the vicinity so the proposal would not introduce additional noise from patrons at a later hour.

Conditions are proposed to control the opening times and activity in order to limit the impact of the proposal. These conditions would ensure that the use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) and this could be used only by diners before and after meals with no take-away service (including home delivery) operating from the premises.

Objections have been received from neighbouring residential occupiers concerned that the new restaurant unit may result in additional noise nuisance including from smokers congregating outside the premises. However, the proposal is for a relatively small restaurant unit with limited covers and restricted opening hours. A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties and requiring the submission of an Operational Management Plan to show management processes that will be adopted to ensure no noise nuisance

from the restaurant operation. The Operational Management Plan will also consider how smokers outside the premises will be dealt with to ensure there is no obstruction to other pedestrians or a noise nuisance.

The proposed restaurant would have a high level extract duct terminating at main roof level which would provide suitable odour dispersal and a condition is proposed to ensure that the duct is provided and retained in association with the extended restaurant premises. Objections have been received to potential odour nuisance from the operation of the restaurant. However, the high level extract duct will provide adequate odour dispersal and has been deemed acceptable by Environmental Health so the objections on these grounds cannot be sustained.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE8 and City Plan Policy S24 subject to these safeguarding conditions.

Impact on character and function of the area

The area is mixed use in character comprising commercial offices, retail and entertainment uses and a number of residential properties. There are some licensed premises in the vicinity although it is not considered that the area is saturated with such uses. The nearest licensed premises are restaurants at 110 Great Portland Street and 114 Great Portland Street.

Objections have been received from neighbouring residential occupiers concerned about the number of restaurants in the vicinity of the site and 'over-saturation' of the area with entertainment uses. A land use survey has been undertaken of the ground floor uses along the section of Great Portland Street between Langham Street to the south and New Cavendish Street to the north. It identifies that there are 26 commercial units, of these 12 are in use as retail shops, 4 restaurants, 1 public house, 4 offices, 1 medical and 4 in use as professional services. Restaurants and public houses constituted 26% of the number of individual units within the immediate area and this is considered acceptable for a named street such as Great Portland Street (treated as part of the Core CAZ) and compliant with the stipulations of Part C of Policy SS5. Whilst objections have been received to the application with regard the number of entertainment uses in the area, as detailed above this is not considered to be the case and the objections on these grounds are not considered sustainable.

Upper Floors

The current lawful use of the upper floors of the property is as office accommodation, however planning permission was granted on the 6th October 2015 for the change of use of the upper floors to residential flats. The proposed extract duct forming part of this application is routed internally through the upper floors and, should the upper floors be changed to residential, there would be a duct routed through the centre of the flats, the implications of which have not be considered as part of this application. Further, no information has been provided to show that the operation of the restaurant could take place without causing noise disruption to the occupants of the flats on the upper floors. The applicant has agreed to a legal agreement stating that should this restaurant use be implemented the residential permission on the upper floors will not be implemented.

Further, should the residential permission on the upper floors be implemented the permission for the restaurant will not be implemented.

8.2 Townscape and Design

In design terms the proposals are relatively minor with a replacement timber shopfront to the front elevation which is an improvement on the existing situation. To the rear an extract duct will terminate at roof level. Subject to a condition requiring it to be painted black to blend in with the dark slate, this would not be harmful to the character and appearance of the East Marylebone Conservation Area.

The application is acceptable in design terms and accords with the relevant adopted policies of the Unitary Development Plan and the City Plan.

8.3 Transportation/Parking

The Highway Planning Manager has advised that the proposed restaurant operation would not result in any additional servicing requirements when compared to the lawful retail use. An objector has commented on potential disruption due to deliveries but, as set out above, the proposed restaurant use is unlikely to generate any additional servicing requirement compared to the existing use as a shop.

The site is also within a Controlled Parking Zone and therefore all customers wishing to drive to the premises will have to accord with the on-street parking restrictions.

To minimise the impact of the proposed use on the highway network a condition is proposed to ensure no delivery service takes place from the premises. Delivery vehicles can reduce the availability of parking for other users and generate additional noise and pollution.

The Highways Planning Manager has requested the addition of a condition requiring the provision of two cycle parking spaces within the demise of the premises. However, these cycles would need to be taken in and out through the main entrance and then down the restaurant stairs to the basement level. This is not considered practical and in this instance cycle parking is not deemed necessary.

8.4 Economic Considerations

The economic implications of the change of use from retail to restaurant floor space are likely to be neutral.

8.5 Access

Level access will be provided to the ground floor of the premises and a disabled access toilet will be provided at ground floor level.

8.6 Other UDP/Westminster Policy Considerations

Plant

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant.

An acoustic report has been submitted in relation to the installation of the high level extract duct with regard the potential noise and vibration impacts of its operation. The nearest residential windows were identified as being the top floor residential units in Nos. 102 and 106 Great Portland Street. The noise producing item comprises solely of the duct fan which is located within the kitchen area at ground floor level, the operating hours are 09:00 till 23:00. It has been demonstrated that noise from the plant equipment will be compliant with the City Council requirements at the identified windows and this has been considered acceptable by Environmental Health. Conditions are proposed in relation to the noise and vibration levels from the plant.

Objections have been received with regard potential noise disruption from the plant operation but the acoustic report has been assessed by Environmental Health who has confirmed that the plant will be compliant with the standard noise criteria. The objections on these grounds are not therefore considered sustainable.

Light Pollution

An objection has been received to the application from a neighbouring residential occupier concerned about an increase in light pollution resulting from the replacement of the rooflight at rear first floor level. The replacement rooflight is of the same dimensions as the existing rooflight and it is not therefore considered it will result in any additional light pollution. There are no current controls over the rooflight and it is not therefore considered necessary to control the use of the proposed rooflight.

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

- i) Upon implementation of this permission the planning permission (15/07544/FULL) for the residential use of the upper floors of the building shall not be implemented.

- ii) Or, that this permission shall not be implemented should the planning permission (15/07544/FULL) for the residential use of the upper floors of the building be implemented.
- iii) Costs for monitoring the legal agreement.

As the application is for a change of use without additional floor area, the proposal does not include a requirement for a CIL payment.

8.10 Other Issues

Refuse /Recycling

Storage areas are identified in the basement of the premises which could easily accommodate the waste and recycling requirements of the premises. The Cleansing Manager has requested the addition of a condition to any approval to require amended drawings to show the provision of separate food, waste, recycling and cooking oil storage areas to be provided and made permanent. A condition is attached to request this information. An objector has raised concerns about waste storage at the premises and mentioned issues with regard other premises in the street placing their rubbish on the highway, as detailed there is sufficient space in the basement 'storage' areas of the basement for waste and more detailed information will need to be provided before the restaurant operation could be in operation.

9. BACKGROUND PAPERS

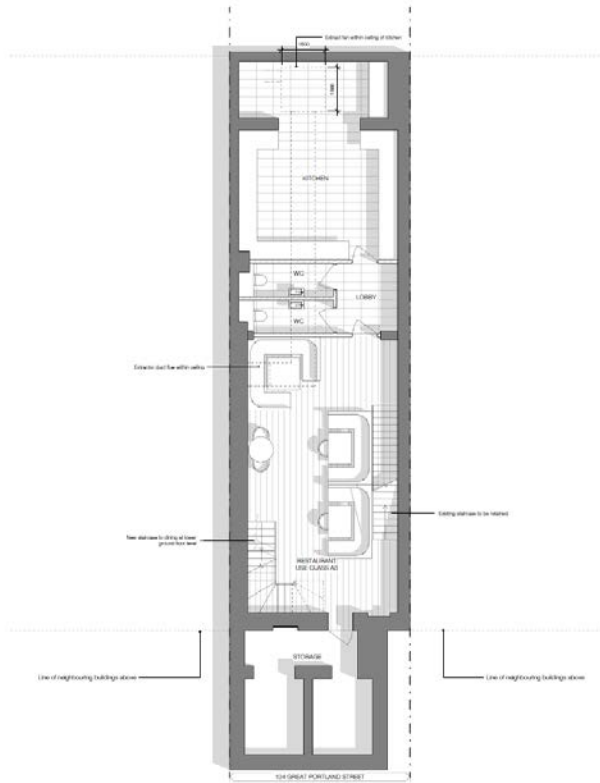
1. Application form
2. Response from the Highways Planning Manager dated 2 June 2017
3. Response from Environmental Health dated 13 June 2017
4. Letter from occupier of Flat 2, 108 Great Portland Street, dated 9 May 2017
5. Letter from occupier of Flat 2, 102 Great Portland Street, dated 11 May 2017
6. Letter from occupier of Flat 1, 108 Great Portland Street, dated 25 May 2017

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

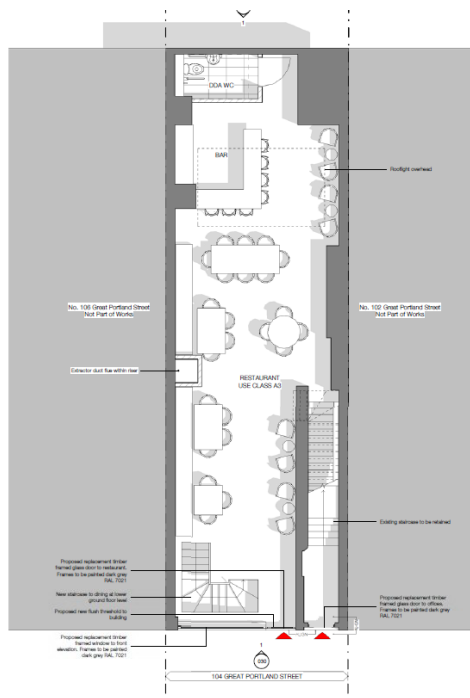
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

10. KEY DRAWINGS

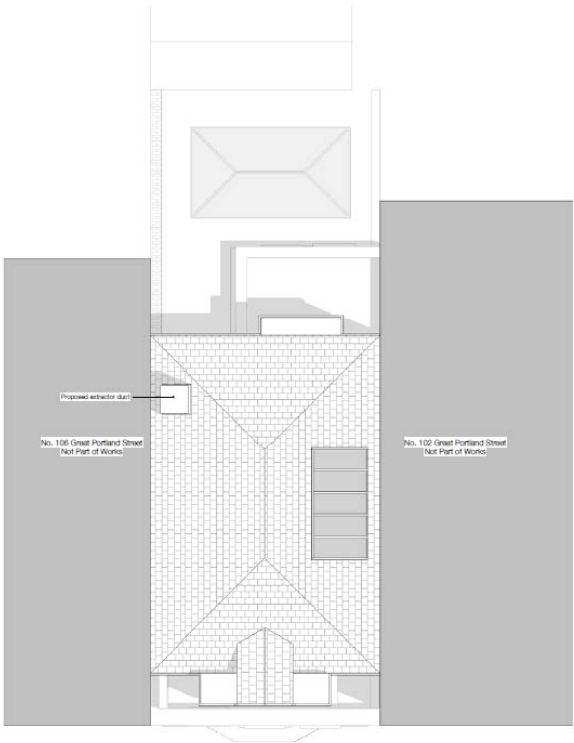
Proposed Basement:



Proposed Ground:



Proposed Roof:



DRAFT DECISION LETTER

Address: 104 Great Portland Street, London, W1W 6PE,

Proposal: Use of the basement and ground floors as a restaurant (Class A3), installation of a new shopfront and replacement rooflight at rear first floor level. Installation of an internal high level extract duct to terminate at main roof level.

Reference: 17/03402/FULL

Plan Nos: Acoustic Report (16501/001revB/ha, Drawings: 009 RevC, 010 RevC, 011 RevC, 012 RevA, 015, 013 RevA, 014 RevA, 030 RevB, 031 RevB.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- 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 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 Harley Street 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.

- 4 The proposed external parts of the extract duct should be finished / painted black and maintained in this form for as long as the duct remains in place.

Reason:

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

- 5 You must 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 occupy the approved restaurant use 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 property.

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)

- 6 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

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

plant operating at its maximum.

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

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

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

Reason:

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

- 8 You must install the high level duct as shown on the approved drawings before you can operate the restaurant hereby approved, the duct must thereafter be maintained in situ for as long as the restaurant remains in place.

Reason:

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

- 9 You must not sell any hot-food take-away from the restaurant premises, nor operate a delivery service, even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 10 You must not allow more than 55 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

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

Reason:

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

- 12 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours: 12:00 till 22:30 daily.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 13 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)

- 14 If you provide a bar and bar seating within the restaurant premises, it must not take up more than 15% of the floor area of the restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S24 of Westminster's City Plan (November

2016) and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

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

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 16 The plant/machinery hereby permitted shall not be operated except between 09:00 hours and 23:00 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

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 Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 3 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 4 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)

- 5 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public. Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992.
www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm. The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>: BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances, BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 6 Conditions 6 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)

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

Agenda Item 6

Item No.

6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 7 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	46 Langham Street, London, W1W 7AX		
Proposal	Use of public highway for the placing of 5 wooden picnic benches on the public highway in Middleton Place measuring 10m x 1.5m and 1 picnic bench in Langham Street measuring 1.5m x 1.8m enclosed by a total of 9 canvas barriers.		
Agent	Andrews and Boyd		
On behalf of	Samuel Smith (Southern)		
Registered Number	17/06948/TCH	Date amended/ completed	3 August 2017
Date Application Received	3 August 2017		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

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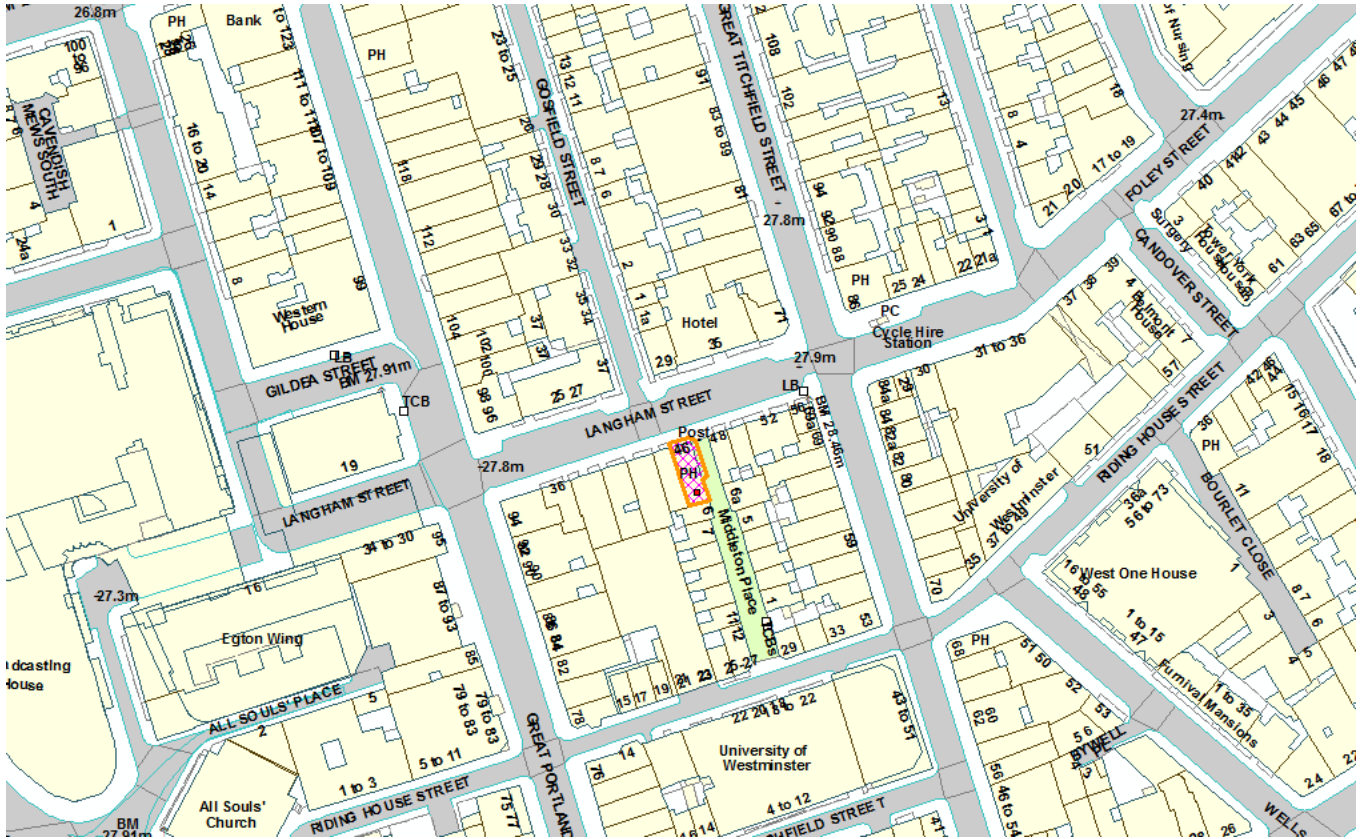
2. SUMMARY

The application site is a public house located on the southern side of Langham Street at its junction with Middleton Place. The immediate area is characterised by a mixture of residential and office uses although Middleton Place is primarily in residential use.

There is a long history of permissions for the placing of place tables and chairs outside the property, the last granted in September 2016 for a temporary period of one year. This permission expired on 30 September 2017. Objections have been received on the grounds of late night disturbance, highways obstruction and increased litter generation and on the basis that the Management Plan previously submitted by the applicants has not been adhered to and that the proposed seating area is larger than that previously permitted.

Subject to conditions, the scheme is considered acceptable on highways and amenity grounds. However, it is recommended that permission is granted for a temporary period of one year to enable the situation to be monitored.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER

No objection

CLEANSING:

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 61

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Objections on the following grounds:

- * Noise disturbance and nuisance;
- * Highway obstruction;
- * Applicants do not comply with undertakings in the management plan.
- * Litter generation

ADVERTISED/ SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is a public house located on the southern side of Langham Street on the corner with Middleton Place, which is a pedestrianised residential mews. The application property comprises basement storage, customer bars/seating areas on ground and first floor, a second floor kitchen and an ancillary staff flat at third floor level.

The premises licence permits the public house to open to customers until 23.00 hours on Monday to Saturday and until 22.30 hours on Sundays, with special arrangement for public holidays and Bank Holidays.

The surrounding area is characterised by a mixture of residential and office uses. The neighbouring property at No. 44 Langham Street has residential accommodation on the upper floors. Middleton Place is predominantly residential in use.

6.2 Relevant history

There is a history of permission for the placing of tables and chairs outside the premises dating back to 1986.

Most recently temporary permission was granted at Committee on 27 September 2016 for a temporary period of one year and included a number of additional conditions to address neighbour objections, including adherence to the approved Management Strategy.

7. THE PROPOSAL

Permission is sought for the use of public highway for the placing of 5 wooden picnic benches on Middleton Place, in an area measuring 10m x 1.5m, and 1 picnic bench in Langham Street, in an area measuring 1.5m x 1.8m, enclosed by a total of 9 canvas barriers

The most recent permission allowed for their use to cease at 22:30 and the barriers would be removed from the highway and stored inside the premises.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The use of the highway for tables and chairs in connection with eating and drinking establishments is considered under Unitary Development Plan (UDP) Policy TACE 11 and Policy S41 of the City Plan. These policies permit tables and chairs where there would be no adverse obstruction on the highway and no unreasonable harm to the local residential amenity. Each of these matters is discussed in the sections of this report below.

8.2 Design/townscape

The proposed picnic benches are considered acceptable in townscape terms and, being impermanent, would not harm the character and appearance of the East Marylebone Conservation Area. The use of the barriers is considered acceptable on the basis that, in this instance, they do not display advertising. An informative to this effect would be attached if permission is granted.

8.3 Amenity

The nearest residential accommodation is located above the public house and adjacent, at 44 Langham Street. There are also several residential dwellings in Middleton Place in close proximity to the site.

Objections have been received from three local residents, which re-iterate objections to previous applications. These relate to the principle of late night drinking outside the premises (and associated noise disturbance) and that external drinking is not confined to the area immediately outside the public house which causes noise disturbance and litter generation from pub customers and obstructions to neighbouring doorways. Other comments request that outside drinking is not permitted after 22.30 hours.

Many of the concerns detailed above relate to the principle of vertical drinking on the public highway outside of the seating area which is a matter for licencing. These issues were brought to the attention of the new operator, Samuel Smith, during the consideration of a 2011 application (as the brewery had taken control of the premises in 2010). At that time, the applicant was keen to address residents' concerns over problems associated

with external drinking and submitted a Management Strategy, which was designed to show how drinking outside the premises within the designated seating area, would be controlled and this area managed and maintained. The management strategy makes clear that any customers stepping outside of the area would not be served.

This Management Strategy forms part of the current application and is included in the background papers. It proposed the demarcation of an area to which customers, standing or seated, would be confined to keep them away from neighbouring residential properties. This area is to be regularly monitored by staff and those customers not keeping within it would not be served. The Management Plan also provides a direct telephone number for neighbours to report instances of customers not keeping within the marked area/or causing nuisance. As part of a wider commitment to reducing noise disturbance there is a commitment that the premise would not provide music, entertainment or television and would not serve 'alcopops'.

It is noted that complaints have been made to the City Council's Licencing Team relating to noise disturbance and highways obstruction (vertical drinking) with one active complaint being investigated. The Street Trading Licence was renewed in July 2017 (until 9 January 2018) for the placing of tables and chairs on the highways. This permits the use of the external seating until 22:30 hours on Monday to Sunday.

The City Council's Planning Enforcement Team has an ongoing investigation which was reported in October 2016. The complaint relates to a breach of Conditions 3 and 4 on the 2016 permission (16/07002/TCH) which relate to the hours of operation and use of the benches by patrons only. The Planning Enforcement team continue to monitor the site. It should be noted that, since the warning letter dated 13 December 2016 the Enforcement Officer, has not received any further complaints. Furthermore a letter from the Manager of the Public House received by City Council on 19 December 2016 confirms that the benches are chained up by 22:30 at the latest each night.

As stated above, objections remain related to the principle of late night drinking outside the premises, in particular to permitted drinking hours and "vertical drinking" in parts of Middleton Place, outside of the designated seating area, rather than to the placing of limited seating on the highway and the management of that area. In these circumstances, the removal of the seating would have no impact on objectors' concerns about late night disturbance and the use of other parts of the highway. In the absence of any permitted external seating it appears likely that the area vacated by the picnic benches could be taken over by a (potentially) greater number of "vertical" drinkers. This is not an activity that requires planning permission, being a licencing matter beyond the scope of planning control. It is important therefore to differentiate between the impact of activity taking place within the seating area, which is the subject of this planning application, and the drinking activity currently occurring elsewhere on the public highway.

In response to the additional objections from neighbours to this application, the brewery has submitted a 'Management Plan – Control of External Areas' which sets out to prevent public nuisance and protect the local residential amenity.

The additional Management Plan sets out a number of objectives including restrictions that patrons will not be permitted to drink in the area sought after 10:30pm Monday to Saturday and 10pm on Sunday and patrons are not permitted to block the pavement.

The majority of the 'Management Plan – Control of External Areas' relates to licencing matters. The planning related matters referred to within the plan relate to external housekeeping which has already been set out in within the existing Management Strategy. As the majority of the Management Plan relates to licencing matters, it is considered unreasonable to condition the plan as part of the planning application.

8.4 Highways

The Westminster Way, which requires a minimum 2.0m width of public highway beyond the proposed seating area to be maintained, free of physical obstructions to allow for pedestrian traffic. The plan shows an unobstructed highway width of 2.6m on Middleton Place and 2.8m on Langham Street.

The Highways Planning Manager has expressed concern that there are no openings between the canvas barriers and that the service corridor between the picnic benches and the canvas barriers, at 0.2m wide, does not accord with the 0.9m width recommended in the Highways Planning Guide. However, as these arrangements are identical to those approved in 2012, 2014 and 2016, no objection has been made to the current application.

As detailed above, objections on the grounds that pub customers congregate in Middleton Place and on Langham Street, obstructing the highway and access to neighbouring premises are not directly relevant to the current application and cannot justifiably form the basis of a recommendation for refusal.

As previously, outside the permitted hours of use, the picnic benches would be chained upright to the side of the public house premises and the barriers will be stored within the premises.

The proposal is therefore considered acceptable on highways grounds.

8.5 Conclusion

Whilst the City Council does not dispute there are problems associated with patrons of the public house, particularly in summer months, much of this is a result of drinkers standing on the highway in the pedestrianised Middleton Place and is not due to activity contained within the cordoned-off seating area. These problems would not cease if the application for picnic benches were to be refused since standing outside a public house to drink is not an activity that falls within planning control. Furthermore it is considered that benches within the contained area outside the premises, properly managed, allows the public house to contain the patrons in an area, preventing any obstruction in Middleton Place and Langham Street.

9. BACKGROUND PAPERS

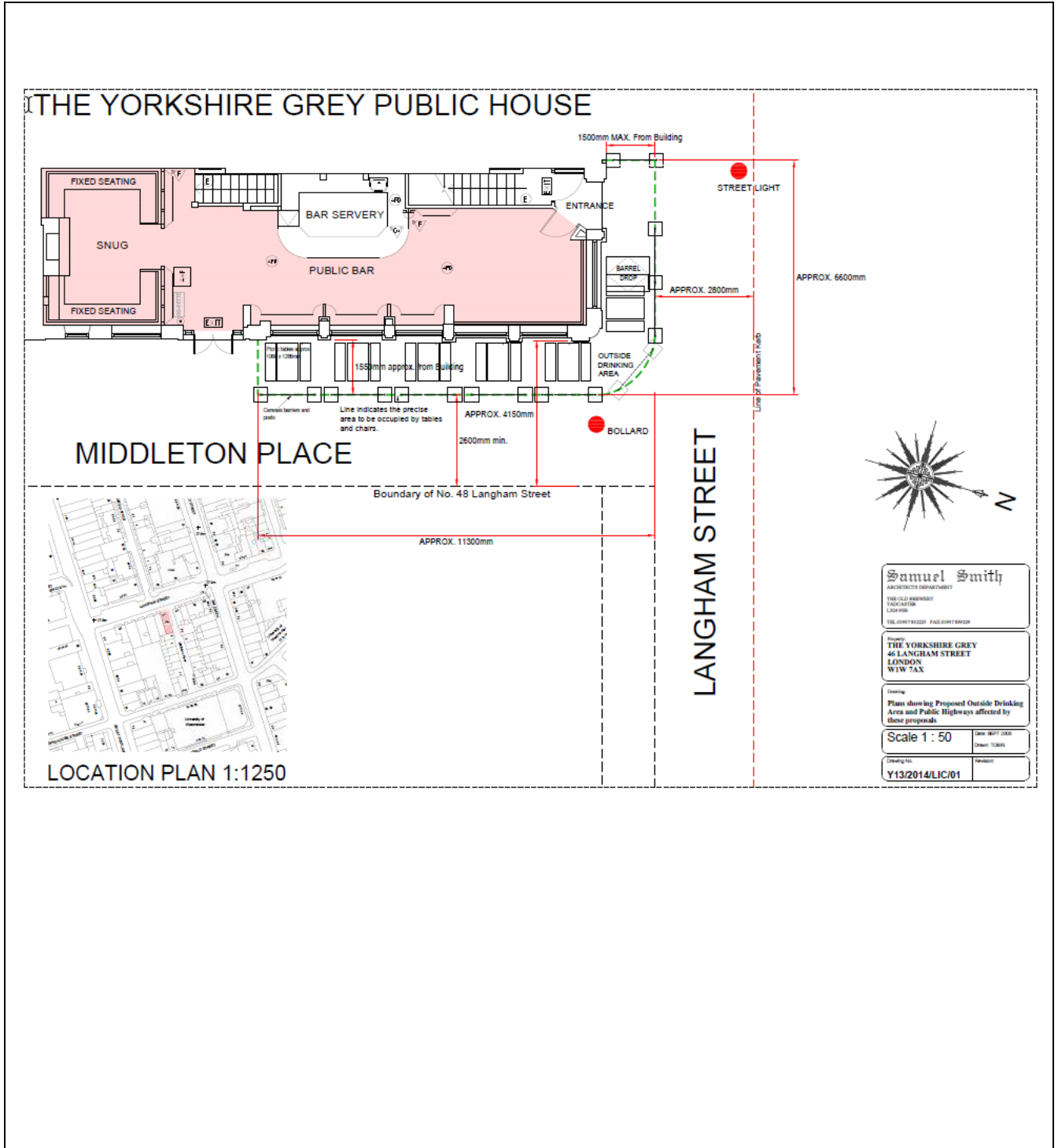
1. Application form and Management Strategy Plan received 3 August 2017
2. Management Plan – Control of External Areas received on 12 September 2017
3. Memorandum from the Highways Planning Manger dated 26 September 2017
4. Memorandum from the Cleansing Officer dated 18 August 2017

5. Letter from occupier of 10 Middleton Place, dated 24 August 2017
6. Letter from occupier of 44 Langham Street, dated 14 August 2017
7. Letter from occupier 1 Middleton Place, dated 28 August 2017

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

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

10. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 46 Langham Street, London, W1W 7AX,

Proposal: Use of public highway for the placing of nine canvas barriers and five picnic benches in Middleton Place and one on Langham Street frontage , in two areas measuring 10m x 1.5m x 1.5m x 1.8m

Reference: 17/06948/TCH

Plan Nos: Y13/2014/LIC/01, Management Strategy Plan received 03.08.2017

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 You must not put the picnic benches in any other position than that shown on drawing Y13/2014/LIC/01. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the picnic benches and barriers on the pavement for use by public house customers between 11.00 and 22.30 Monday to Saturday and 12.00 and 22.30 Sundays. Outside these times the picnic benches shall be removed from the pavement or securely chained upright to the side of the public house premises and the barriers will be stored within the premises.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 4 The picnic benches must only be used by customers of the existing public house. (C25CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 5 This use of the pavement may continue until 30 November 2018. You must then remove the picnic benches and barriers. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (July 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You must carry out the measures included in your management strategy received on 3 August 2017.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and TACE 11; and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 7 The area of footway is to be maintained in a clean and tidy condition at all times, litter receptacles are to be provided and the footway is to be thoroughly washed down each day after trading has ceased.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

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 cannot put tables and chairs in the area unless you have a street trading licence. If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter. Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 You are advised that customers not seated on the benches should be confined to the 'outside drinking area' shown on the floor plan.
- 5 You are advised that if the use of the highway continues to cause problems for local residents, planning permission is unlikely to be granted in the future.
- 6 The text on the free standing barriers has not been approved as part of this application. This should be subject to an application for advertisement consent. However this is unlikely to be approved and therefore barriers without text should be used.
- 7 Management strategy received on 3 August 2017 must be adhered to. If the City Council continue to receive complaints planning permission is unlikely to be renewed.

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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