



City of Westminster

Committee Agenda

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

Meeting Date: **Tuesday 30th October, 2018**

Time: **6.30 pm**

Venue: **Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR**

Members: **Councillors:**

Tony Devenish (Chairman)
Timothy Barnes
Elizabeth Hitchcock
Tim Roca

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 Director of Law 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. 10 BERKELEY SQUARE, LONDON, W1J 6AA | (Pages 5 - 28) |
| 2. ORANGE SQUARE FARMERS MARKET, PIMLICO ROAD, LONDON, SW1W 8NB | (Pages 29 - 42) |
| 3. THE WELLINGTON BUILDING, 28-32 WELLINGTON ROAD, LONDON, NW8 9SP | (Pages 43 - 78) |
| 4. BASEMENT AND GROUND FLOOR, 294 ELGIN AVENUE, LONDON, W9 1JS | (Pages 79 - 96) |

**Stuart Love
Chief Executive
22 October 2018**

Agenda Annex

CITY OF WESTMINSTER PLANNING APPLICATIONS SUB COMMITTEE – 30th October 2018 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	RN(s) : 18/05958/FULL West End	10 BERKELEY SQUARE LONDON W1J 6AA	Use of basement and ground floors as restaurant (Class A3), installation of external ventilation and roof top plant, installation of a new shopfront and associated works.	
	Recommendation Grant conditional permission			
Item No	References	Site Address	Proposal	Resolution
2.	RN(s) : 18/06344/FULL Churchill	Orange Square Farmers Market Pimlico Road London SW1W 8NB	Use of open space between Ebury Street and Pimlico Road as weekly Saturday farmers' market with servicing hours from 7am - 3pm and trading hours from 9am - 2:05pm.	
	Recommendation Refuse permission – impact on amenity.			
Item No	References	Site Address	Proposal	Resolution
3.	RN(s) : 18/01721/FULL Regent's Park	The Wellington Building 28-32 Wellington Road London NW8 9SP	Variation of Condition 1 of planning permission dated 8 February 2017 (RN: 15/08352/FULL) for the 'Demolition of existing building and erection of a new six storey, plus basement building with frontages to Wellington Road and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping'; NAMELY, to the increase the height of the building by 0.93m to the Wellington Street frontage of the site, by 0.89m to the Cochrane Street frontage of the site and introduce a lift overrun to the central link block.	
	<p>1. Grant conditional permission, subject to completion of a deed of variation to the legal agreement dated 8 February 2017 to ensure the continued provision of the following previously secured planning obligations:</p> <ul style="list-style-type: none"> i. (i) The provision of a financial contribution of £5.5m (index linked) in lieu of on-site affordable housing; ii. (ii) Provision of a management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation will only be used by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment; iii. (iii) Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development. iv. (iv) Submission of a Site Environmental Management Plan (SEMP) and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice. v. (v) Provision and management of on-site residents' car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction. vi. (vi) Restriction to prevent mixed use of the building as serviced apartments use and Class C3 residential use and to require the occupation of the whole building to be as one of these use at any one time. 			

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 30th October 2018
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	vii. (vii) Provision of costs for monitoring of agreement (£500 per Head of Term). 2. If the deed of variation has not been completed by 18 December 2018 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 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 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.			
Item No	References	Site Address	Proposal	Resolution
4.	RN(s) : 18/06271/FULL Maida Vale	Basement And Ground Floor 294 Elgin Avenue London W9 1JS	Variation of condition 5 (hours of use) and 9 (no deliveries) of planning permission dated 05 September 2016 (RN: 16/04625/FULL) for the Use of basement and ground floor as a cafe/restaurant (A3). Replacement of existing shopfront with new timber shopfront including new fascia board, retractable awning. Reinstatement of two rear windows and other minor alterations. NAMELY, to allow operational hours of 07.00-23.00 hours Monday to Saturdays and 08.00-22.30 hours on Sundays and to allow deliveries.	
Recommendation Grant conditional permission, subject to a one year temporary permission and requirement for an operational management plan in respect of delivery service.				

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 30 October 2018	Classification For General Release	
Report of Director of Planning	Ward(s) involved West End		
Subject of Report	10 Berkeley Square, London, W1J 6AA		
Proposal	Use of basement and ground floors as restaurant (Class A3), installation of external ventilation and roof top plant, installation of a new shopfront and associated works.		
Agent	Gerald Eve		
On behalf of	Berkeley Square Holdings and Amazonica UK Ltd		
Registered Number	18/05958/FULL	Date amended/ completed	23 July 2018
Date Application Received	16 July 2018		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

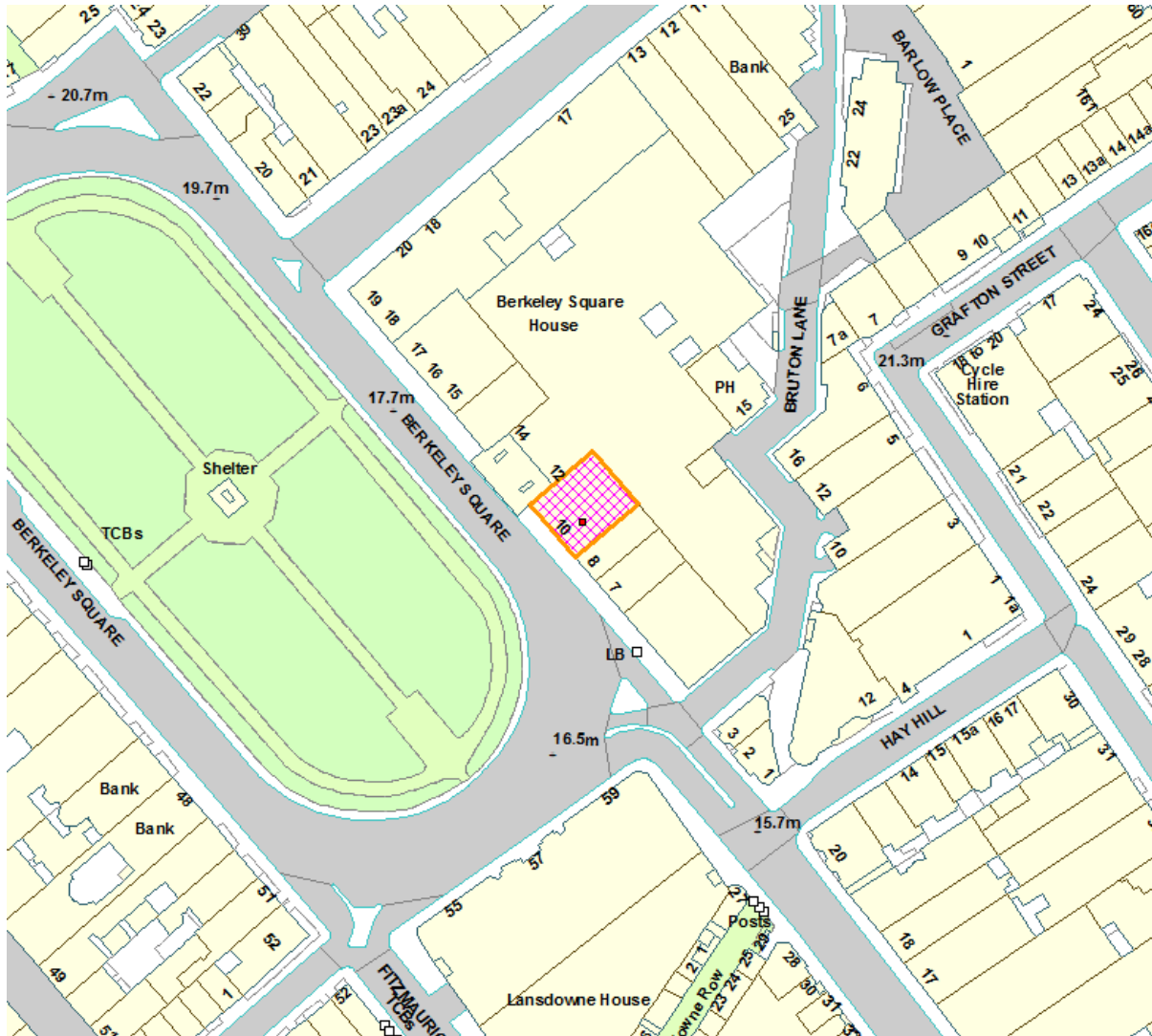
The application relates to a vacant bank (Class A2) on the lower floors of Berkeley Square House, on the east side of Berkeley Square. Permission is sought to convert the premises to a large restaurant (Class A3) which would accommodate 281 customers and would open between 07.00 until 01.00. Various works are also proposed including the installation of a new shopfront, alterations to the ground floor rear façade fronting Bruton Lane, the installation of a full height kitchen extract duct to the rear and the provision of plant on the main roof of the building. No objections have been received.

The key issues are:

- The acceptability of a new large entertainment use in land use terms
- The impact of the development upon neighbours' amenity and local environmental quality
- The acceptability of the proposed alterations in design terms

For the reasons set out in the main body of the report, subject to conditions, the proposals are considered to be acceptable and accord with relevant UDP and City Plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS



No.10

5. CONSULTATIONS

THAMES WATER

No objection: recommend the installation of a 'fat trap' and collection of waste oil by a contractor. Request informative regarding water pressure.

RESIDENTS' SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally

MAYFAIR RESIDENTS' GROUP

Any response to be reported verbally

CLEANSING

Revised plans required.

HIGHWAYS

No objection subject to conditions

ENVIRONMENTAL HEALTH

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 120

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The proposal relates to a basement and ground floor unit, formerly in bank use, within Berkeley Square House. This building, on basement, ground and nine upper floors, dates from the 1930s and comprises ground floor shop units, with offices above. The unit is located towards the southern end of the building, close to the junction of Berkeley Square with Bruton Lane and Berkeley Street. The site is located within the Mayfair conservation area and the Core Central Activities Zone but is not located within an entertainment Stress Area.

There is an existing off-street servicing bay adjacent to the application unit, accessed from Bruton Lane, which serves the whole development.

The area is primarily commercial in character with a mixture of offices, shops and entertainment uses. The existing frontage between Bruton Lane and Bruton Street comprises a restaurant at no 4-6, sandwich bars at nos. 7 and 8, the application premises, the entrance to offices on the upper floors of Berkeley Square House, a restaurant at no. 12a and two car showrooms. The closest residential premises are dwelling houses at 3 Berkeley Square, and at 4 and 5 Grafton Street, and flats in Hay Hill. There is one residential block on the west side of the Square, at no 48.

6.2 Recent Relevant History

None relevant.

7. THE PROPOSAL

Permission is sought to convert the existing, vacant, basement and ground floor bank premises to a restaurant (Class A3).

The scheme also includes the installation of a full height kitchen extract duct, including a ground level plant screen. The duct would be clad in Portland Stone and brick to match the adjacent facing materials. It is also proposed to replace the existing shopfront and to replace existing ground floor rear windows fronting Bruton Lane. The replacement windows would include decorative fenestration and fresh air intake louvres in the upper part. An existing ground level ventilation louvre on this frontage would also be replaced.

New plant, comprising a total of 8 condensing units and plant screen is proposed on the main roof.

The application has been amended to revised details of proposed light fittings to the Berkeley Square shopfront, the originals being considered unacceptable in design and highways terms.

Proposed shopfront awnings benefit from deemed advertisement consent.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of existing Class A2 use

The lawful use of the existing premises is for Class A2 (Financial and Professional Services). The unit was occupied as a bank but has been vacant since this used ceased in 13 November 2017. Policy S21 of the City Plan states that existing non-A1 retail uses will be protected from changing to uses that do not serve visiting members of the public and that do not have active shopfronts. As the proposed restaurant use would serve visiting members of the public and, subject to other policy considerations, there is no objection in principle to the loss of the existing use.

Proposed restaurant

This application is submitted by Berkeley Square Holdings Limited (the building freehold owner) and Amazonico UK Ltd. Amazonico is part of the Dogus Group which is responsible for, or has an interest in, several London restaurants, including Zuma and Tom's Kitchen. Amazonico, which provides 'tropically inspired' food, already operates successfully in Madrid.

The proposed restaurant opening hours are from 07.00 to 01.00 hours the following morning on Monday to Saturday and from 07.00 to 24.00 (midnight) on Sundays

The unit measures 1,141 sqm. The front of house reception, dining areas and bar and kitchens and customer WCs would occupy the ground floor (802 sqm). The food preparation, storage, washing-up facilities, refuse stores, glass compactors and staff facilities would be located in the basement (339 sqm). There would be no customer access to the basement.

The restaurant would accommodate a total of 281 customers (258 diners plus 23 seats for customers waiting in the bar area). This figure does not include any seating outside of the premises, which would require separate planning approval. The applicants have provided information to show that the proposed customer: floorspace ratio (excluding the bar seating) is comparable with that at other high-end restaurants in the area and represents a less intensive use than at some other neighbouring restaurants.

The bar would occupy 15% of the total floor area. The bar would only serve customers before, during or after their meals.

UDP policies TACE 8-10 are applicable to the consideration of entertainment uses and aim to control the location, size and nature of the operation in order to safeguard residential amenity, environmental quality and the established character and function of the area, whilst acknowledging that such uses provide a service to people living in, working in and visiting the City and contribute to its role as an entertainment centre of national and international importance. In general terms, those premises with the greatest floor area have the potential to attract the largest attendances, with a corresponding potential impact on noise and disturbance, adversely affecting residents' amenity, local environmental quality, and adversely affecting the character and function of an area. Given the size of the proposed restaurant unit, UDP policy TACE 10 is applicable. This states that permission will only be granted for large entertainment uses, of 500 sqm or more, in exceptional circumstances. City Plan policy S24 requires proposals for new entertainment uses 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. It also states that new large-scale late-night entertainment will not generally be appropriate within Westminster.

Where it can be demonstrated that a large entertainment use would not cause demonstrable harm, it has been accepted that this can constitute exceptional circumstances.

The closest restaurants/bars to the application site are:

- 'Sexy Fish' at 4-6 Berkeley Square: (part of Berkeley Square House). Permitted opening from 07.00 to 00.30 on Monday to Saturday and 08.00 to 00.30 on Sundays. Capacity 235 customers (807 sqm).

When permission was granted for this use in 2014, extended opening hours until 02.00 on Monday to Saturday and until 01.00 on Sunday were permitted for a 1 year trial period from the date of opening (of which the Council was to be notified). The restaurant appears to be operating with these extended hours, however there is no record of any

notification of the premises opening or of any subsequent application having been made to operate during these extended opening hours on a permanent basis (although the later hours are permitted under the current premises licence). An application to regularise these extended hours is anticipated.

- 'Benares' at 12a Berkeley Square: (part of Berkeley Square House). Open 12.00 to 14.30 and 17.30 to 23.00 Monday to Saturday and closed on Sundays (although its licence permits opening until 01.30 hours Monday to Sunday)
- 'Hakkasan' 17 Bruton Street (also part of Berkeley Square House) opening 08.00 to 1.30 hours the following morning on Sundays to Wednesdays and 08.00 to 02.30 the following morning on Thursday to Saturday
- 'Fifty9' at 59 Berkeley Square (a cocktail bar that also provides some food) Its licence permits opening until 03.30 on Monday to Saturday and 01.00 on Sunday (although the advertised opening hours are midnight on Monday, 01.00 on Tuesday, 02.00 on Wednesday/Thursday, 03.00 on Saturday, with the premises closed on Sundays but available for private hire).
- 20 Berkeley Street; restaurant. Capacity 102 customers. Opening 07.00 to 23.30 Monday to Wednesday; 07.00 to 24.00 hours on Thursday to Saturday and 08.00 to 23.00 on Sundays and Bank Holidays.
- 'Bocconcino' 19 Berkeley Street alternative schemes for restaurant uses (of 496 or 547 sqm) on lower ground and ground floors for either 115 or 127 customers; Opening 07.30 to 00.30 on Monday to Friday; 09.00 to 00.30 on Saturdays and 11.00 to 00.30 on Bank Holidays and 11.00 to 23.30 on Sundays.

There is also a traditional public house at the rear of the site, 15 Bruton Lane, and there are other entertainment uses on the west and north sides of Berkeley Square (including Annabel's nightclub), and to the south of the site in Berkeley Street.

As detailed above, the site is located within a predominantly commercial area. The closest residential property is a dwelling house (approved in November 2014) at 3 Berkeley Square. The applicant's view is that this use may not have been implemented as there are no Council tax records relating to a residential use. However, works have been carried out in association with the implementation of the residential permission, including the installation of a number of windows in the side (previously blank) elevation. The approved plans show that these windows serve a study, an en-suite bathroom and dressing rooms (rather than bedrooms). There are also new dwelling houses at 4 and 5 Grafton Street, which backs on to Bruton Lane.

The supporting text to UDP policies TACE 8-10 states that as a general rule 'in predominantly residential areas' planning conditions will be imposed so that no customers will be allowed to remain on the premises after midnight on Sundays (other than those immediately preceding Bank Holidays) to Thursdays, and after 12.30 am on Friday and Saturday nights and on Sundays immediately preceding Bank Holidays. An earlier closing time may be sought where there are residential uses in immediate proximity. However, the Environmental Health officer has confirmed that the proposed

terminal opening hour, until 01.00 hours, is consistent with the hours of restaurant operation permitted under Westminster's Statement of Licensing policy.

Although proposed opening hours, until 01.00 hours on Monday to Friday and 00.30 on Sunday exceed the stated hours within the UDP, for predominantly residential areas, Berkeley Square is a largely commercial area, where later opening hours have been permitted. The applicants state that their proposed opening hours have regard to the permitted opening hours for the neighbouring restaurant at 4-6 Berkeley Square (until 00.30 hours each day) and are designed to ensure that the final customers do not leave both restaurants at the same time.

In this location, which is further away from the approved dwelling house at 3 Berkeley Square than the existing restaurant at 4-6 Berkeley Square, the proposed opening hours are considered acceptable. The submitted plans also show an entrance lobby, which would help ameliorate potential noise outbreak. The installation and retention of this lobby can be controlled by condition. Additionally, in order to control noise disturbance conditions are recommended requiring all restaurant windows fronting Bruton Lane to be fixed shut and to restrict all customer access/egress to the Berkeley Square entrance, other than in case of emergency. The staff access is onto Bruton Lane.

The application is supported by a draft Operational Management Plan which includes detailed measures regarding the management of the premises and restaurant customers and staff (including smokers) in order to ameliorate potential noise disturbance arising from the use. Whilst the measures detailed are generally acceptable, the OMP requires updating to include:

- i) measures for keeping the pavements clear of customer cigarette ends and to confirm that customers smoking outside of the premises, (who will be accompanied by a restaurant doorperson), will be restricted to the Berkeley Square frontage
- ii) details of the earliest and latest delivery times. The OMP confirms that most deliveries will take place in the afternoon but that there will some 'off-peak' morning deliveries. Further details including confirmation of the earliest time, number and frequency of any early morning deliveries will be required.
- iii) details of the times of scheduled waste collection times, which are to be undertaken by private contractors
- iv) an obligation to install and retain an entrance lobby to control noise outbreak.

The submission of a finalised OMP would be secured by condition.

The Council's Environmental Health Officer has recommended a number of conditions relating to the installation of sound limiters given that the applicants have confirmed that amplified music will be played in the restaurant bar/lounge. However, as the remainder of the building is in commercial use, given the distance of the restaurant from the closest residential property at 3 Berkeley Square and subject to conditions to prevent any music being played that is audible outside the premises and requiring all doors/windows to be kept shut, it is not considered that the imposition of these additional conditions would be reasonable. Such controls are more appropriate for any future Licensing application.

Although there are other entertainment uses in the vicinity of the site, it is not considered that the proposed use, either individually or in terms of any cumulative impact, would be harmful to the character and function of this part of Mayfair, particularly given the dispersed nature of these entertainment uses. There have been no objections to the application and, subject to appropriate controls, it is not considered that the proposed restaurant use would have an adverse impact on neighbours' amenities or local environmental quality and the proposed use is therefore considered acceptable.

8.2 Townscape and Design

The building, on basement, ground and up to nine upper floors, dates from circa 1938 and is an austere design faced with Portland stone and light-brown brickwork. It stands on the east side of Berkeley Square in the Mayfair Conservation Area. There are numerous listed buildings in the vicinity of the site and the Bruton Lane façade faces the rear of Grade I listed buildings in Grafton Street.

At street level there have been numerous alterations to the shopfronts and the main entrance over the years, and the entire building has replacement windows. Consequently, it has the look of a much newer building.

The proposed granite cladding is contained within the architectural framework of the building at ground floor level and is similar to that of adjacent shopfronts. Likewise, the wall mounted lamps, which have been revised to reduce their size and to improve their design, will suit the appearance of the building.

The proposed extract duct is acceptable in the intended location subject to its cladding matching the adjacent brickwork and the proposed alterations to the windows facing Bruton Lane are acceptable in design terms.

The alterations accord with City Plan policies S25 and S28 and UDP policies DES 1, DES 5, DES 8, DES 9 and DES 10, and will maintain the character and appearance of the surrounding conservation area and the setting of nearby listed buildings.

The proposed awnings are acceptable as proposed, and with non-illuminated advertisements they have 'deemed consent' and therefore fall outside the scope of the planning application.

8.3 Amenity

Plant

Policies ENV 6 and ENV 7 of the UDP and S32 of the City Plan seek to protect occupants of neighbouring noise sensitive properties from the impact of noise from new development, including from plant. The scheme includes proposals for new roof level plant, including new refrigeration plant, with two condensing units at the rear of the roof at ninth floor level to the north-west of an existing two storey plant room and a further six units to the west of the existing plant room on a low deck concealed by a 2m high plant screen; a new extract fan located towards the centre of the roof and a full height kitchen extract duct to the rear of the site, with a brick enclosure.

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The application is accompanied by an acoustic report which confirms that the proposed plant will satisfy Council noise standards. The Council's Environmental Health officer has reviewed the application and has raised no objection subject to standard conditions to control noise and vibration and a requirement to provide and maintain the entrance lobby.

The proposed arrangements for the dispersal of cooking fumes are considered satisfactory given the height of the building in relation to neighbouring properties, subject to conditions.

8.4 Transportation/Parking

Highway obstruction (shopfront alterations)

The Highways Planning Manager objected to the original submission on the grounds that the proposed ball light fittings on the front façade left insufficient clearance over the public highway (both vertically and horizontally). The design of the light fittings has since been revised. They overhang the highway at a height of 2.15m and 2.27m above the pavement. Whilst such fittings should provide a minimum 2.6m clearance over the highway, as they project only 0.2m from the face of the building, they are highly unlikely to affect pedestrian movement and are therefore considered acceptable on highways grounds.

Servicing

Policies S42 of the City plans and TRANS 20 of the UDP require developments to provide adequate off-street servicing. The new restaurant would utilise the existing off-street servicing area, accessed from Burton Lane, which serves the whole of Berkeley Square House. This servicing area has been included within the revised plans to address the concerns of the Highways Planning Manager. There is an internal link between this servicing area and the restaurant via a basement servicing corridor.

It is estimated that the restaurant will generate 14 deliveries and servicing trips each day. These vehicles will already be on the road network as they also service the 10 other restaurants in the common ownership of the applicant. Most deliveries would be scheduled to take place in the afternoon, when there is minimal delivery activity, with a small number of deliveries at 'off peak' hours.

The draft Operational Management Plan confirms that all site servicing will take place off-street. The Highways Planning Manager has raised no objection to the servicing proposals subject to the submission and approval of a Servicing Management Plan to identify, amongst other things, the delivery process and storage locations, scheduling of deliveries, type of vehicles and staffing to demonstrate that the servicing demands of the proposed restaurant can be accommodated within this shared servicing area. The submission of a SMP would be secured by condition.

Parking/trip generation

No car parking is provided for the proposed use. The site is within a Controlled Parking Zone which means that anyone who does drive to the site will be subject to those

controls. However, the site is in a central location with good public transport links and it not considered that the proposal is likely to have a significant impact on on-street parking demand in the area.

Any additional vehicles visiting the site, including taxis, can be accommodated in this busy central area without detriment to the operation of the local highway network.

Cycle parking

London Plan standards would require the provision of 7 cycle parking spaces in association with the proposed use. These cycle spaces should be accessible, covered and secure. Although the submitted Planning statement confirms that 14 cycle spaces will be provided, together with staff showers and secure lockers, these are not shown on the submitted plan. A condition is recommended requiring the submission of revised plans showing these spaces.

8.5 Economic Considerations

Any economic benefits generated by the proposal are welcomed the applicants estimate that the restaurant would employ approximately 70 staff in total

8.6 Access

Level access will be provided from Berkeley Square and all customer WCs, including wheelchair-accessible facilities, are at ground floor level. The submitted Design and Access Statement conforms that there is an internal level change of approximately 500m and that a platform lift will be provided to accommodate this change, details of which are secured by condition.

8.7 Other UDP/Westminster Policy Considerations

Waste

The restaurant would have access to the central waste facility provided by the building owner. This has adequate space to accommodate additional waste and recyclable materials generated by the proposed restaurant. Refuse would be transferred at scheduled times from the basement store to the loading bay, via the goods lift and will be collected by a private contractor.

The Project Manager (Waste) has requested the submission of revised drawings with bins for general waste, food waste, recyclable material and waste oil marked in accordance with Council protocols. A condition is recommended requiring the submission of revised plans.

8.8 Neighbourhood Plans

The submission version of the Mayfair Neighbourhood Plan has been submitted by Mayfair Neighbourhood Forum to the council for consultation and an independent examiner is due to be appointed shortly.

8.9 London Plan

This application raises no strategic issues.

8.10 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.

8.11 Planning Obligations

The application does not trigger any planning obligations

8.12 Environmental Impact Assessment

Environmental Impact issues have been covered elsewhere in this report.

8.13 Conclusion

The introduction of a large entertainment use in this location is considered acceptable on the basis that, subject to appropriate operational controls, it would not result in any demonstrable harm to the character and function of the area or to the amenity of neighbouring occupiers or to local environmental quality. The revised proposals are considered acceptable in design terms and it is not considered that the scheme would have any adverse impact upon the operation of the local highway network. Consequently, the application is recommended for approval.

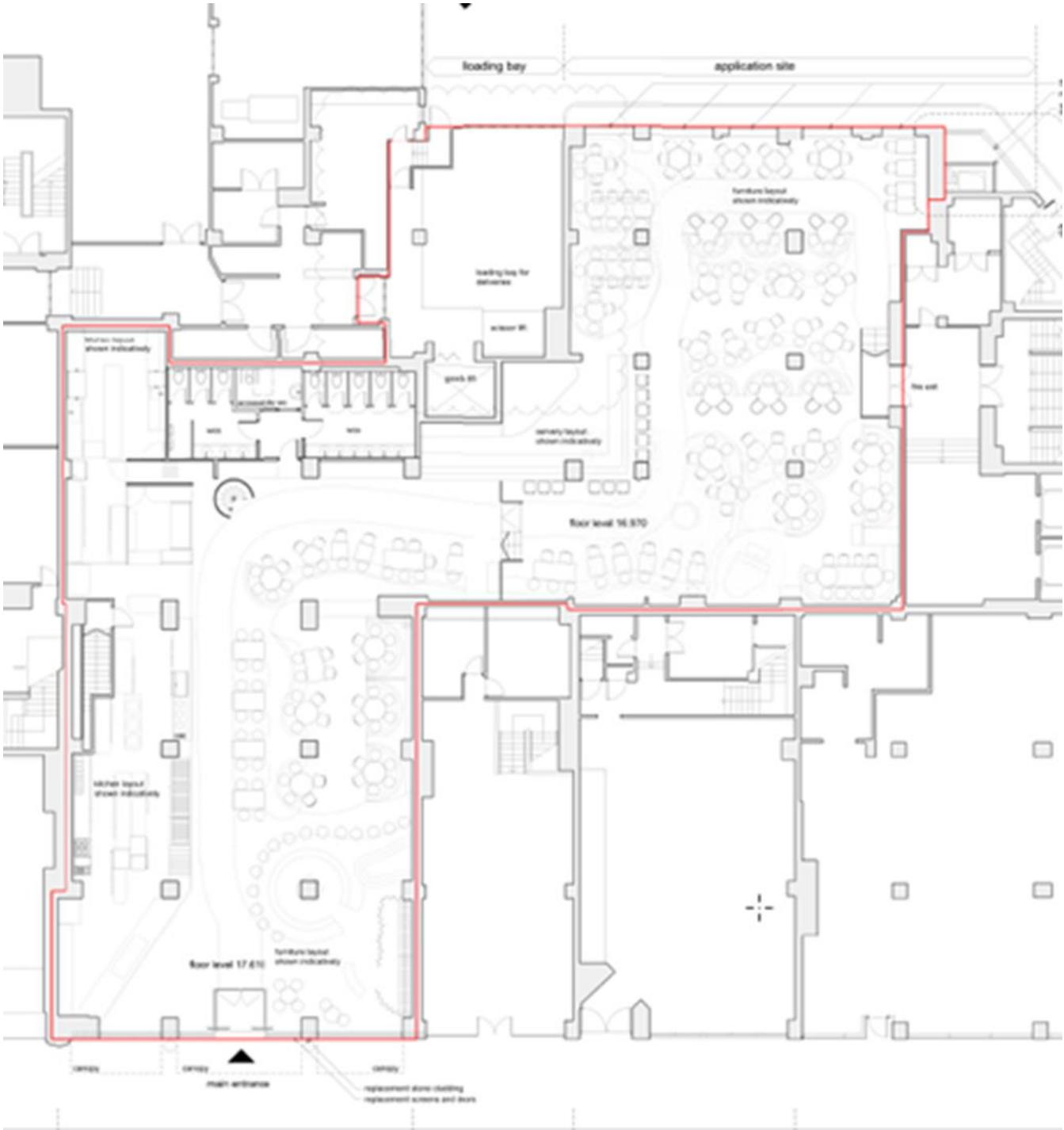
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

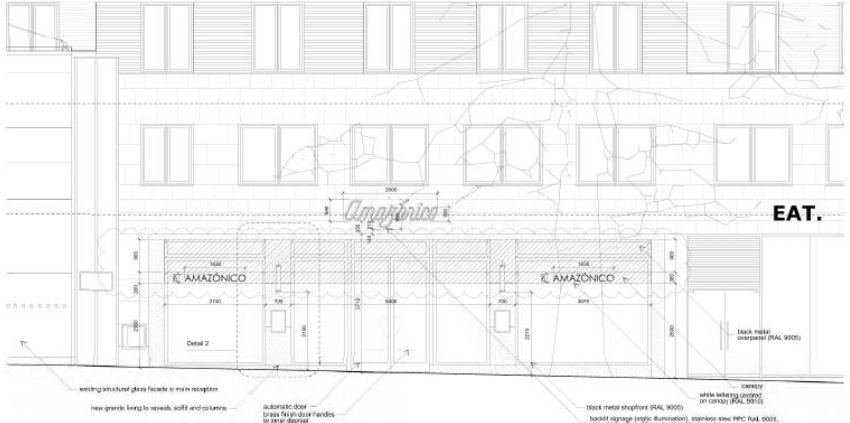
9. KEY DRAWINGS



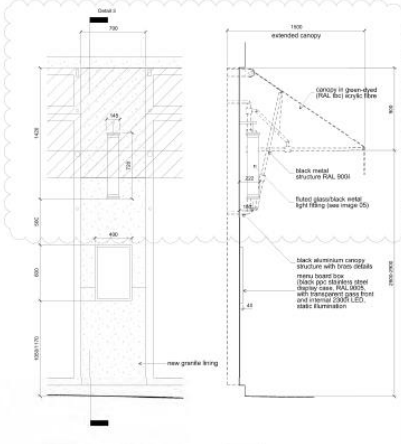
Proposed ground floor plan extract



Proposed shopfront



01 Berkeley Square Elevation
SCALE 1:50




02 Column Detail, Elevation
SCALE 1:25

03 Column Detail, Section
SCALE 1:50

GENERAL NOTES:
DO NOT SCALE DRAWING. USE DIMENSIONS ONLY.
ALL DIMENSIONS TO BE CHECKED ON SITE (DISCREPANCIES TO BE NOTIFIED IMMEDIATELY TO THE ARCHITECT).
FOR STRUCTURAL DIMENSIONS AND SETTING OUT SEE STRUCTURAL CONSULTANTS DRAWINGS.
ALL INFORMATION SUBJECT TO STATUTORY APPROVALS BEING OBTAINED.
INFORMATION NOT TO BE USED OTHER THAN AS DEFINED BY THE DRAWING NOTES.
SPECIFIC NOTES:

2	1/19/2018	Light fittings, canopy embedded	AK	JMB	AKB
3	26/02/2018	Revised for Planning	AK	JMB	AKB
4	1/07/2018	Revised for Planning	AK	JMB	AKB
A	26/02/2018	Issued for Construction for review	AK	JMB	AKB
Rev	Date	Description	By	Check	Appr



10 BERKELEY SQUARE, LONDON W1J 8JF
Tel: 020 7377 8300 Fax: 020 7377 8840
email: mjpa@mjparchitects.co.uk web: www.mjparchitects.co.uk
MJP Architects Ltd Registered in England No. 12181918

Client: Private Client

Project: 10 Berkeley Square

Title: Proposed Shopfront Elevation
Berkeley Square

Issue	Date	Drawn	Checked	Scale	Rev
Issue	1/30/2018	JMB	JMB	1:50@A1	26/02/2018

P L A N N I N G

Project No.	Disc.	Drawn	Checked	Scale	Rev
1804	A	P	22	51	D



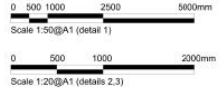
04 Shopfront, indicative reference image (disregard light fittings)
NOTE



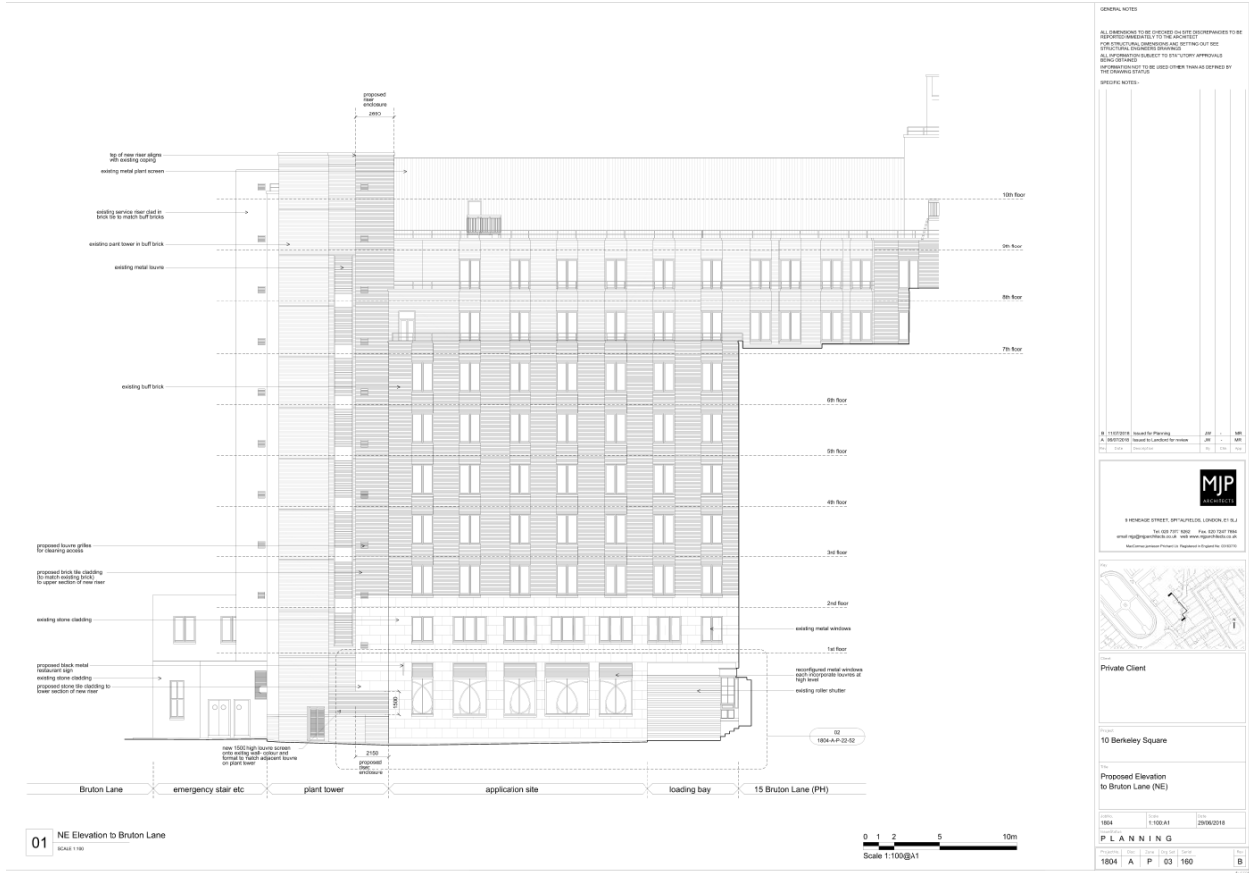
05 Light Fitting, indicative reference image
NOTE



06 Illuminated signage, indicative reference image
NOTE



Proposed rear elevation



Item No.
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DRAFT DECISION LETTER

Address: 10 Berkeley Square, London, W1J 6AA

Proposal: Use of basement and ground floors as restaurant (Class A3), installation of external ventilation and roof top plant, installation of a new shopfront works and associated works.

Reference: 18/05958/FULL

Plan Nos: 1804-A-P-03/150 Rev B, 151 Rev C, 152 Rev A, 155 Rev B, 160 Rev B, 161 Rev B, 162 Rev D; 1804-A-P-22/10 Rev B, 51 Rev D (excluding image 4), 52.

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

Recommended Condition(s) and Reason(s)

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

Reason:

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

2 You must carry out any building work which can be heard at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday;
- * between 08.00 and 13.00 on Saturday; and
- * not at all on Sundays, bank holidays and public holidays.

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

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

3 You must not sell any hot food take-away or drink on the premises, nor operate a delivery service or permit a delivery service to be operated, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

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

Reason:

To 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: Strategic

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Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007.

5 You must not allow more than 281 customers into the property at any one time, including customers seated at the bar. (C05HA)

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: Strategic Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007.

6 The enclosed entrance lobby shown on drawing number 1804-A-P-03/151 Rev C hereby approved shall be fully constructed before the restaurant use commences and thereafter permanently maintained.

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)

7 All windows to the restaurant shall be kept closed at all times and all doors shall be kept closed except for access/egress

Reason:

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

8 You must not play live or recorded music on your property that will be audible externally

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007

9 The design and structure of the development shall be of such a standard that it will protect residents in neighbouring 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. (R49BA)

10 Customers shall only be permitted within the restaurant premises during the following hours:

Mondays to Saturdays: 07.00 - 01.00 hours the following morning (excluding public holidays and Bank Holidays) and;

Sundays, public holidays and Bank Holidays: 07.00 - 24.00 (midnight)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32

of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007

11 You must apply to us for approval of a revised Operational Management Plan which also includes measures to control smokers congregating outside the premises and to keep the pavements clear of cigarette ends, details of the earliest and latest delivery times, including conformation of the number and frequency of any early morning deliveries, details of the times of scheduled waste collection times and an obligation to install and retain an entrance lobby to control noise outbreak.

You must not commence the restaurant use until we have approved what you have sent us. You must then manage the premises according to the revised Operational Management Plan.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007

12 The high level extract duct shown on the approved drawings shall be fully installed before the restaurant use commences and thereafter maintained for as long as the premises are used as a Class A3 restaurant.

Reason:

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

13 (1) Where noise emitted from the proposed 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. (R46AB)

14 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. (R48AA)

15 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 restaurant. (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)

16 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

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)

17 You must apply to us for approval of a Servicing Management Plan that fully identifies the process, storage locations, scheduling of deliveries and staffing. You must not commence the restaurant use until we have approved what you have sent us. You must then manage the premises according to the approved Servicing Management Plan.

Reason:

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

18 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)

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

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

20 You must apply to us for approval of detailed drawings/other details of how you will give people with disabilities access into the restaurant. These drawings must include full details of the internal platform lift referred to in the Design and Access Statement. You must not commence the restaurant use until we have approved what you have sent us and the work has been carried out the work according to the approved drawings.

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)

21 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)

22 The kitchen extract duct hereby approved shall be clad in materials to match the adjacent

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brick/stone prior to the commencement of the restaurant use and these cladding materials shall be maintained for as long as the duct remains in situ.

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)

23 All restaurant customer must enter/leave the premises via the main Berkeley Square entrance except in the case of emergency

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007

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

Reason:

To protect the environment of people in neighbouring properties, 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. (R13BC)

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 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)

5 You may need separate licensing approval for the premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)

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6 Conditions 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)

7 All kitchen extract must be fitted with doors/hatches for cleaning. at 3m intervals, complying with safe access standards.

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 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

10 Thames Water recommends the installation of a 'fat trap' in all catering establishments, which must be properly maintained. In line with best practice for the disposal of fats, oils and grease, they also recommend the collection of waste oil by a contactor, particularly for recycling for the production of bio diesel. Failure to implement these recommendations may result in the application site and other properties suffering blocked drains, sewage flooding and pollution to local watercourses.

11 Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Water's pipes. You are advised to take account of this minimum pressure in the design of the development.

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

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Agenda Item 2

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 30 October 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Churchill	
Subject of Report	Orange Square Farmers Market, Pimlico Road, London, SW1W 8NB,		
Proposal	Use of open space between Ebury Street and Pimlico Road as weekly Saturday farmers' market with servicing hours from 7am - 3pm and trading hours from 9am - 2:05pm.		
Agent	Mr Mark Handley		
On behalf of	London Farmers' Markets		
Registered Number	18/06344/FULL	Date amended/ completed	27 July 2018
Date Application Received	27 July 2018		
Historic Building Grade	Unlisted		
Conservation Area	Belgravia		

1. RECOMMENDATION

Refuse permission - impact on amenity.
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2. SUMMARY

Orange Square is an area of public open space located at a prominent junction between Ebury Street and Pimlico Road. The site lies within the Belgravia Conservation Area and is adjacent to the Pimlico Road Local Shopping Centre.

In 2001, temporary planning permission was originally granted for the use of Orange Square as a weekly Saturday farmers' market with servicing hours from 7am - 3pm and trading hours from 9am - 1pm.

Previously on 29 August 2017, the farmer's market was considered by committee for renewal and members resolved that conditional permission be granted for one year only, subject to an amendment to the start time for setting up to 7.45am because of objections by local residents on grounds of noise and disturbance.

This latest application seeks permission to operate the Saturday farmers' market for a further five years with extended servicing hours from 7am - 3pm and trading hours from 9am - 2.05pm.

The principle of using the square as a weekly farmer's market has been previously accepted by the City Council.

The key issue in this case is:

* The impact of reverting to a 7am start time for setting up on the amenity of neighbouring residents.

Following consultation, 70 letters and a petition in support have been received. Supporters consider the market is a great asset to the neighbourhood serving the local community and attracting visitors to the area and makes good use of Orange Square, which brings revenue to other businesses around the area.

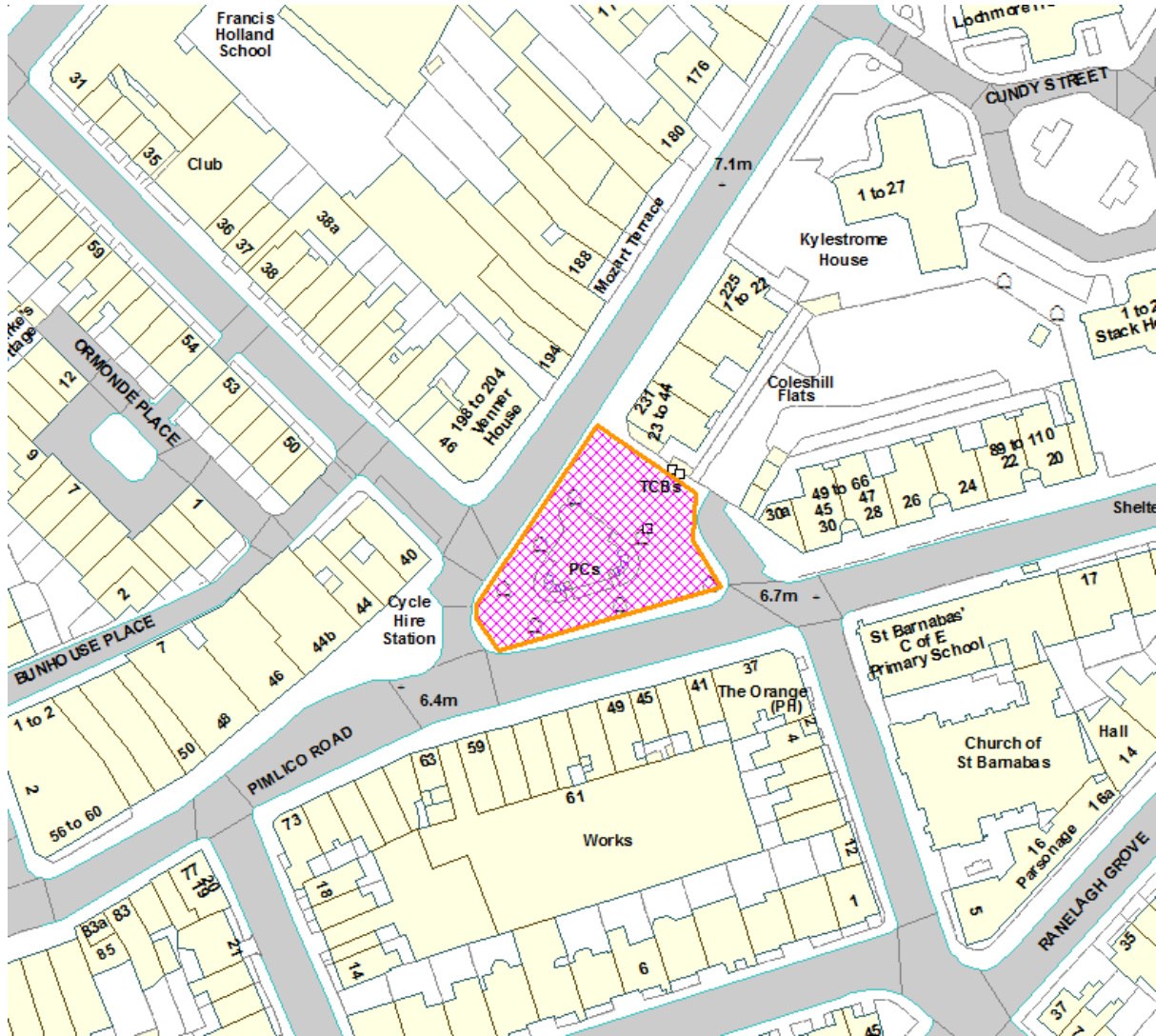
There has also been 3 objections received from local residents which principally object to the 7am start time for setting up on the grounds residents experience noise and disturbance.

The applicant states that a start time of 7am is required because stallholders need to unload prior to the operation of parking restrictions at 8.30am. A later start time they argue would mean a reduced servicing window resulting in more vehicles competing for limited road space. The applicant advises that moving the start time any later than 7am will put the market under threat because of the potential traffic management problems.

There has been a reduction in number of objections compared to the previous years' application for renewal, which received 10 objections based on resident experience of a 7am start time for setting up. The change to the start time for setting up to 7.45am is considered to have had a positive impact on the experience of local residents who live adjacent to where the loading and unloading takes place in the morning, which has subsequently led to fewer objections.

Whilst the principle of the farmers' market is supported, it is recommended to refuse permission on amenity grounds because reverting to a 7am start time for setting up would have an unacceptable impact on the amenity of people in neighbouring properties in terms of noise, disturbance and nuisance. This would not meet 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.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Orange Square - view from Ebury Street



Typical picture of the market

5. CONSULTATIONS

BELGRAVIA RESIDENTS ASSOCIATION

Any response received will be verbally reported.

THE BELGRAVIA SOCIETY

Any response received will be verbally reported.

BELGRAVIA NEIGHBOURHOOD FORUM

Any response received will be verbally reported.

DESIGNING OUT CRIME

Any response received will be verbally reported.

ENVIRONMENTAL HEALTH

No objection. The applicant has worked with Environmental health to identify, address and monitor noise issues. There has been a reduction in the number of complaints received by the council concerning noise.

HIGHWAYS PLANNING MANAGER

No objection on the basis that the use of public highway is for a temporary period.

CLEANSING MANAGER:

No objection- subject to details of waste storage being conditioned.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 65

Total No. of replies: 73

No. of objections: 3

No. in support: 70

A petition with 65 pro forma letters.

The letters of objection principally raise the following amenity concerns:

- object to reverting to the 7.00am start up time in a residential area.
- noise and disturbance from the set-up of the market.
- an 8.00am start up time is more acceptable.

The letters of support make the following points:

- the market is a great asset to the neighbourhood serving local community and attracting visitors to the area.
- would be a great addition more than one day a week
- more enjoyable to visit the area; gives a sense of community.
- a good use of Orange Square which brings revenue to other businesses around the area.
- the area is left clean after the market.

The petition has 140 pro forma letters stating support for the planning application for the weekly farmers' market to continue trading on Saturdays under the previously approved arrangements with a set up time of 7am and later trading times.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Orange Square is an area of public open space located at a prominent junction between Ebury Street and Pimlico Road. The site lies within the Belgravia Conservation Area and is adjacent to the Pimlico Road Local Shopping Centre.

6.2 Recent Relevant History

17/05148/FULL

Use of open space between Ebury Street and Pimlico Road as weekly Saturday farmers' market.

Application Permitted 8 September 2017

12/08541/FULL

Use of open space between Ebury Street and Pimlico Road as weekly Saturday farmers' market.

Application Permitted 15 November 2012

09/04818/FULL

Use of open space between Ebury Street and Pimlico Road as weekly Saturday farmers' market.

Application Permitted 18 August 2009

06/03420/FULL

Use of open space as weekly Saturday farmers' market.

Application Permitted 29 June 2006

02/08533/FULL

Use of open space as a weekly Saturday farmers' market.

Application Permitted 20 March 2003

7. THE PROPOSAL

The applicant is London Farmers Markets who operate 23 markets across London. Permission is again sought to operate a farmers' market on Orange Square for a five-year period. It is proposed to extend the servicing hours from 7am - 3pm and trading hours from 9am - 2.05pm.

This is an increase in the trading hours by 1 hour and reverts to the previously approved 7am start time for setting up, which was changed by committee to 7.45am under the previous 2017 permission (RN: 17/05148/FULL)

This application does not proposed to increase the size of the market which varies from approximately 26 stalls up to a maximum of 31 (the highest recorded number of stalls).

8. DETAILED CONSIDERATIONS

8.1 Land Use

UDP Policy SS13 states that proposals for new street markets will be considered with reference to amenity, parking, servicing, highways, cleansing, refuse storage/ recycling and licensing considerations and the effect on existing street markets and local shopping facilities.

Policy S18 of the City Plan directs new commercial development to the Core CAZ and designated shopping centres, amongst other specific locations, but states that proposals for new commercial uses must be appropriate in terms of the scale and intensity of land uses and their impact on the character and function of the area. Policy S21 directs new retail uses (floorspace) to the designated shopping centres, amongst other specified locations.

Given the temporary nature of the market, and its scale, it is not considered that it would have an adverse impact on local shopping in the area, but could be seen to supplement it. Given the proximity of the site to the CAZ, and the nature of the proposals, it is not considered that the market could reasonably be resisted on the grounds that it would have an adverse impact upon the character of the area. In these circumstances, the market is considered acceptable in principle in land use terms.

8.2 Townscape and Design

Policy DES12 states that development will not be permitted on or under parks, landscaped spaces and public or private gardens where the open spaces form an important element in the townscape, part of a planned estate or street layout; are characteristic features of conservation areas; provide the setting of a listed building or are of significant ecological value.

Under Policy S35, all open spaces and their quality, heritage and ecological value, tranquillity and amenity will be protected.

The demountable market stalls will be removed at the end of the day. Therefore, the proposal will have limited impact on the townscape of this area.

8.3 Residential Amenity

Policies ENV6 and ENV13 of the UDP and S29 and S32 of the City Plan seek to protect residential amenity and contain noise from development proposals.

As demonstrated by the letters of support and petition, the market is clearly valued by many people in the neighbourhood and has been running successfully since 2001. The Council has received 70 letters of support including from addresses within the vicinity of the site. There appear to be no objections to the extension of trading hours from 9am – 2.05pm, in fact there seem to be some calls for this period to be extended further until 3.00pm. It is not considered that the general level of activity associated with the market and extended trading hours would have a significant adverse impact upon the amenities of local residents.

Environment Health has raise no objection to the management of the market and has stated that the applicant has worked with Environmental health to identify, address and monitor noise issues

However, concerns have been expressed from a small number of local residents about noise and disturbance from the stallholders setting up the market early in the morning at 7am.

Previously on 29 August 2017, the farmer's market was considered by committee for renewal and members resolved that conditional permission be granted for one year only, subject to an amendment to the start time for setting up to 7.45am. The reason for the later start time for setting up is to protect the amenity of those local residents who live adjacent to where the loading and unloading takes place in the morning.

The applicant states that a start time of 7am is required because stallholders need to unload prior to the operation of parking restrictions at 8.30am. A later start time they argue would mean a reduced servicing window resulting in more vehicles competing for limited road space. The applicant advises that moving the start time any later than 7am will put the market under threat because of the potential traffic management problems.

In response to the concerns of residents, the applicant has reiterated that they have operational procedures designed to keep noise and disturbance to noise sensitive properties down to a minimum. These procedures are set out in the following documents submitted with the application (and provided as background papers): Farmers Market Noise and nuisance management plan, waste management plan and the London Farmers Market Method Statement for set up and break down. Based on the submission documents the operators of the market appear to have robust procedures in place to keep noise and disturbance from the market to a minimum.

However, the recent change to the start time for setting up to 7.45am is considered to have had a positive impact on the experience of local residents who live adjacent to where the loading and unloading takes place in the morning. This latest application has had fewer objections compared to the previous year, which received more objections based on resident experience of a 7am start time for setting up.

Whilst the principle of the farmers' market is supported, it is recommended to refuse permission on amenity grounds because reverting to a 7am start time for setting up would have an unacceptable impact on the amenity of people in neighbouring properties in terms of noise and disturbance. This would not meet S29 and S32 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

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8.4 Transportation/Parking

There are no highway issues given that the market can be serviced from the street and the proposal is for a temporary rather than a permanent use.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

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

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 consistent with the NPPF unless stated otherwise.

8.9 Planning Obligations

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

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT ddorward@westminster.gov.uk .

9. KEY DRAWINGS



DRAFT DECISION LETTER

- Address:** Orange Square Farmers Market, Pimlico Road, London, SW1W 8NB,
- Proposal:** Use of open space between Ebury Street and Pimlico Road as weekly Saturday farmers' market with servicing hours from 7am - 3pm and trading hours from 9am - 2:05pm.
- Reference:** 18/06344/FULL
- Plan Nos:** Site plan, Pimlico Noise and Nuisance management, LFM Method Statement December 2017, 2018 Waste management plan, LFM rules for producers; Trading Areas Plan, Letter dated 26th July 2018.

Case Officer: Seana McCaffrey

Direct Tel. No. 020 7641 1091

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

The proposed start time for setting up at 7am would lead to noise, disturbance and nuisance to nearby residential occupiers. This would be harmful to residential amenity and contrary to 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.

Informative(s):

1. In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, 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 to the applicant by the case officer to the applicant during the processing of the application to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. 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: a 7.45am set up time is considered appropriate.

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2

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

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Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB-COMMITTEE	Date 30 October 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Regent's Park	
Subject of Report	The Wellington Building, 28-32 Wellington Road, London, NW8 9SP		
Proposal	Variation of Condition 1 of planning permission dated 8 February 2017 (RN: 15/08352/FULL) for the 'Demolition of existing building and erection of a new six storey, plus basement building with frontages to Wellington Road and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping'; NAMELY, to the increase the height of the building by 0.93m to the Wellington Street frontage of the site, by 0.89m to the Cochrane Street frontage of the site and introduce a lift overrun to the central link block.		
Agent	DP9		
On behalf of	Roxburg Overseas Ltd		
Registered Number	18/01721/FULL	Date amended/ completed	4 October 2018
Date Application Received	28 February 2018		
Historic Building Grade	Unlisted		
Conservation Area	No (but adjacent to the St. John's Wood Conservation Area)		

1. RECOMMENDATION

<p>1. Grant conditional permission, subject to completion of a deed of variation to the legal agreement dated 8 February 2017 to ensure the continued provision of the following previously secured planning obligations:</p> <ul style="list-style-type: none"> i. (i) The provision of a financial contribution of £5.5m (index linked) in lieu of on-site affordable housing; ii. (ii) Provision of a management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation will only be used by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment; iii. (iii) Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development.

- iv. (iv) Submission of a Site Environmental Management Plan (SEMP) and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice.
- v. (v) Provision and management of on-site residents' car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.
- vi. (vi) Restriction to prevent mixed use of the building as serviced apartments use and Class C3 residential use and to require the occupation of the whole building to be as one of these use at any one time.
- vii. (vii) Provision of costs for monitoring of agreement (£500 per Head of Term).

2. If the deed of variation has not been completed by 18 December 2018 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 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 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

The application seeks permission to vary Condition 1 of the planning permission dated 8 February 2017 (RN: 15/08352/FULL), which permitted the demolition of the existing building and redevelopment of the site to provide a six storey, plus basement, building to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments for use by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment (Sui Generis). It is proposed to vary Condition 1 to allow amendment of the approved drawings so that the height of the building can be increased by 0.93m to the Wellington Road frontage of the site, by 0.89m to the Cochrane Street frontage of the site and to introduce a lift overrun to the roof of the central link block.

The increases in height are proposed to enable the scheme to be amended to increase its weight (through use of thicker floor slabs etc.) to offset ground movement so that possible future ground heave does not adversely impact the structure of the adjacent Metropolitan and Jubilee Line London Underground tunnels.

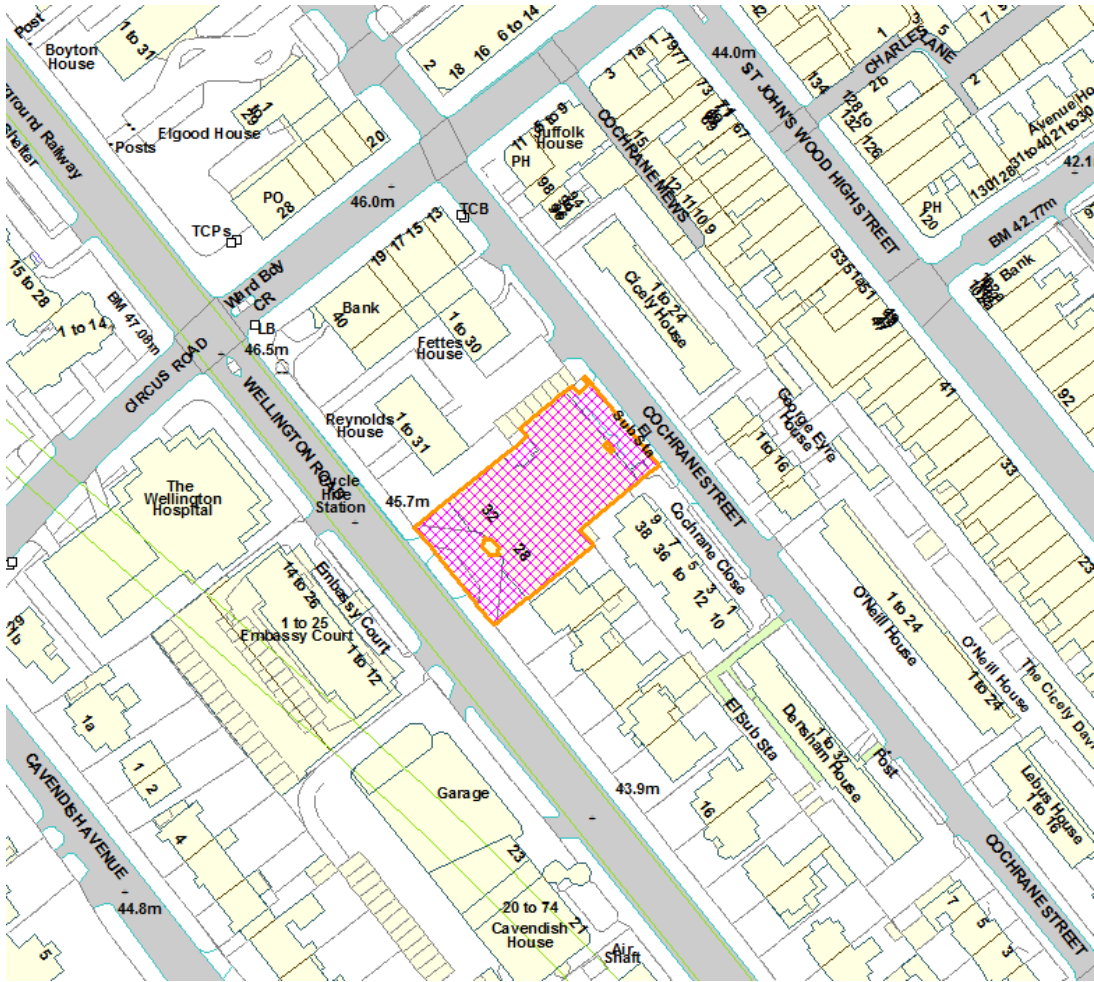
The key issues in this case are:

- The impact of the additional height proposed on the appearance of the building, the setting of the neighbouring St. John's Wood Conservation Area and grade II listed building.
- The impact of the additional height on amenity of neighbouring residents.

The proposed amended development is considered to be acceptable in land use, design, amenity, transportation and environment terms for the detailed reasons set out in the report and would accord

with the relevant policies in the Unitary Development Plan (UDP), Westminster’s City Plan (the City Plan) and the adopted London Plan (March 2016).

3. LOCATION PLAN



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4. PHOTOGRAPHS



Prior to demolition views of the site from Wellington Road (top) and Cochrane Street(bottom).



View of site from Wellington Road following demolition of the previous building pursuant to the February 2017 permission.

5. CONSULTATIONS

WARD COUNCILLORS - REGENTS PARK

Any response to be reported verbally.

ST. JOHN'S WOOD SOCIETY

No objection. The applicant has been diligent in consulting with the society in respect of the increased height of the building.

ARBORICULTURAL MANAGER

Alterations to height of the building have no direct impact on adjoining trees. Notes that the proposed section drawing suggests a greater degree of excavation within the root protection area (RPA) of the adjacent tree in Cochrane Street to form the vehicular ramp to basement level. This element of the scheme should be amended to be consistent with the originally approved scheme. Conditions recommended.

CITY WEST HOMES

Any response to be reported verbally.

DESIGNING OUT CRIME ADVISOR

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No comment.

HEAD OF AFFORDABLE HOUSING & STRATEGY

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER

No objection. Note that Wellington Road is part of the Transport for London Road Network (TLRN). The proposed changes would not significantly affect the highway or transport issues. Threshold levels for the development (both Wellington Road and Cochrane Street) will still need to meet the Highway Authority requirements, as per the S106 legal agreement.

LONDON UNDERGROUND

No comment. Confirm that the applicant is in communication with London Underground (LU) in relation to the impact on the underground tunnel. Note that the applicant should continue to work with London Underground's engineers.

TRANSPORT FOR LONDON

The developer should continue to work closely with London Underground engineers to ensure that there will be no negative impact on the TfL and LU infrastructure.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS

No. of Consultations: 282; No. of Responses: 2.

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

Design

- Increased impact on views from Embassy Court towards Primrose Hill.

Amenity

- Additional height will have an adverse impact on the amenity of occupiers of Embassy Court.
- Increased overshadowing and loss of daylight to flats opposite in Cochrane Street.
- Loss of outlook.

Other Matters

- Proposed additional height would not increase the number of units, only increase floor to ceiling heights.

ADVERTISEMENT/ SITE NOTICES (x2)

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The site currently comprises a cleared site, with the previous three storey Class B1 office building on the site having been recently demolished pursuant to the planning permission for redevelopment of the site that was granted permission in February 2017 (see Section 6.2). The site has two street frontages to Wellington Road and Cochrane Street.

The site is not located within a conservation area and does not contain any listed buildings. However, the site does border the St. John's Wood Conservation Area to the south east. The neighbouring building to the south east at No.26 Wellington Road is Grade II listed. Wellington Road (A41) forms part of the Transport for London Road Network (TLRN).

6.2 Recent Relevant History

17/02462/ADFULL

Details of construction management and logistics plan pursuant to Condition 3(b) of planning permission dated 8 February 2017 (RN: 15/08352/FULL).
Application Approved 12 September 2017

17/03496/ADFULL

Details of trees protection measures pursuant to Condition 10 of planning permission dated 8 February 2017 (RN: 15/08352).
Application Approved 6 September 2017

17/02461/ADFULL

Details of construction management and logistics plan pursuant to Condition 3(a) of planning permission dated 8 February 2017 (RN: 15/08352/FULL).
Application Approved 1 August 2017

17/03845/ADFULL

Details of design and LUL method statements for all foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent) pursuant to Condition 17 of planning permission dated 8 February 2017 (RN: 15/08352).

Application Approved

1 June 2017

15/08352/FULL

Demolition of existing building and erection of a new six storey, plus basement building with frontages to Wellington Street and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping.

Application Approved

8 February 2017

15/00004/P3JPA

Use of building from office (Class B1a) to provide 21 residential units (Class C3). Application for prior approval under Part 3 Schedule 2 Class J of the Town and Country Planning (General Permitted Development) (England) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 and the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014.

Prior approval was approved

25 February 2015

7. THE PROPOSAL

The application seeks permission to vary Condition 1 of the planning permission dated 8 February 2017 (RN: 15/08352/FULL), which permitted the demolition of the existing building and redevelopment of the site to provide a six storey, plus basement, building to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments for use by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment (Sui Generis). It is proposed to vary Condition 1 to allow amendment of the approved drawings so that the height of the building can be increased by 0.93m to the Wellington Road frontage of the site, by 0.89m to the Cochrane Street frontage of the site and to introduce a lift overrun to the roof of the central link block.

The increases in height are proposed to enable the scheme to be amended to increase its weight (through use of thicker floor slabs etc.) to offset ground movement so that possible future ground heave does not adversely impact the structure of the adjacent Metropolitan and Jubilee Line London Underground tunnels.

In terms of changes to the planning policy context since permission was originally granted in February 2017, there has been no change to the policies in the Unitary Development Plan adopted in January 2007 and the City Plan adopted in November 2016. Whilst the Mayor has published his 'Draft New London Plan showing Minor Suggested Changes', following public consultation on the Draft New London Plan earlier in 2018, it has yet to undergo a full examination in public and is therefore of limited weight for decision making purposes. Whilst the Revised NPPF was published by the Government in July 2018, the amendments made have not materially altered the

national policy context relevant to the assessment of the development previously approved in February 2017. Set in this policy context, the remaining sections of this report focus on the amendments now proposed to the previously approved development. The previous officer report to the Planning Applications Sub-Committee held on 18 October 2016 is provided in the background papers for information in respect of the previous policy considerations.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The removal of the previous office use of the site and its replacement with a development delivering 36 residential units, with the mix of units comprising 12 x 1 bedroom units, 11 x 2 bedroom units and 13 x 3 bedroom units (Class C3) accords with Policies H3 and H5 in the adopted UDP and Policies S13, S14 and S15 in the City Plan.

As part of the approved scheme the applicant successfully demonstrated that in this location there was a demand and a need to provide short term visitor accommodation to serve local hospitals in St. John's Wood to provide patients of the hospitals and their families and carers accommodation that was more suitable to their convenience than hotel accommodation. On this basis, the Sub-Committee determined that on this site there were exceptional circumstances that justified the provision of the flats within the development either as residential flats within Class C3 or as serviced apartments let on a short term basis to patients of local hospitals and their families and carers. However, this was subject to the restriction occupation of the serviced apartments being controlled via the S106 agreement.

There is no evidence to suggest that the demand for this type of accommodation from patients of local hospitals has been eroded in the time since approval of the original permission in February 2017. Therefore, it is not considered that there are grounds for revisiting this site specific exceptional circumstance to the normal presumption of providing only residential accommodation (Class C3) on this site as part of the current S73 application to vary the original permission. It is of course recommended that the previously negotiated controls on the occupation of the serviced apartments, restricting them to occupation by patients of local hospitals and their families and carers is maintained as part of any legal agreement accompanying any new permission that may be granted pursuant to the current application.

The originally approved scheme delivers a financial contribution of £4 million to the Affordable Housing Fund (index linked from the date of that permission). There are no amendments proposed to the originally approved floorspace in the current scheme and therefore it is recommended that the originally secured affordable housing contribution continues to be secured, with the contribution index linked from the date of the original approval in February 2017.

8.2 Townscape and Design

In design terms the footprint and detailed design of the proposed building is identical to that previously approved, with the only alterations proposed to 'stretch' the proportions of

the blocks facing Wellington Road and Cochrane Street, such that their overall height would be increased by 0.93m and 0.89m, and to introduce a lift overrun to the previously approved lift core to the centre of the site.

The increase in height of the two street facing blocks would not have any adverse impact on the appearance of the development in terms of its proportions and detailed design. Whilst the blocks would be marginally taller than approved, the increase in height proposed would not have an adverse impact in this case in design terms as the blocks would continue to comprise buildings of transitional scale between the smaller scale townscape to the south of the site and Fettes House and Reynolds House to the north. Given this the additional height proposed is not considered to have a harmful effect on the setting of the neighbouring St. John's Wood Conservation Area or the grade II listed building at No.26 Wellington Road.

The increase height to the central link block to accommodate a lift overrun would increase the height of part of this element of the building by 2.5m. This would result in the lift overrun being taller than both the street facing blocks. However, given the relatively small size of the overrun structure and its location at the centre of the site where it would not be visible in any public views, due to the screening afforded by the two street facing blocks, it is not considered that the proposed overrun would harm the appearance of the building or the setting of the neighbouring heritage assets to such an extent that it would warrant withholding permission on design grounds. In terms of detailed design, the link block would clad in translucent glazing, as per the approved scheme, so that it appears subservient to the principal street facing blocks.

In summary, in design terms the amendments proposed to the approved scheme are considered to be acceptable and would accord with Policies DES1, DES4, DES9 and DES10 in the UDP and S25 and S29 in the City Plan.

8.3 Residential Amenity

8.3.1 Daylight

The application is accompanied by a detailed daylight and sunlight assessment, which surveys the impact of the amended scheme now proposed relative to both the existing situation (the now demolished building) and the scheme previously approved in February 2017. The assessment identifies that the proposed development would result in a small number of additional material losses of daylight relative to the approved scheme, which caused a material loss to 5 windows in the south eastern elevation of Reynolds House. Reynolds House faces the north western side elevation of the application site. The proposed scheme would increase the material loss of daylight caused to the five windows that were already materially affected by approved scheme and would cause the loss of light caused to two further windows (Windows 1 and 6 in Table 1) to become material (i.e. the loss of daylight caused would exceed 20% of that previously enjoyed by the window using the Vertical Sky Component (VSC) method of assessment). The material losses caused would be to windows at first, second and third floor levels and are set out in Table 1 along with the losses caused by the approved scheme.

The daylight and sunlight assessment demonstrates that the proposed development would continue to have no material impact on the daylight reaching all residential windows in other surrounding buildings.

Table 1: Material Losses of Vertical Sky Component (VSC) caused to Windows in Reynolds House, as previously approved and as now proposed.

No.	Flr	Elevation	Window Description	Exist. VSC	Appr. Scheme VSC	Appr. Scheme Loss	Appr. % Loss	Prop. VSC	Prop. Loss	Prop. % Loss
1 *	1 st	South East	Window adjacent to balcony door (west side of elevation)	10.3	8.5	1.8	17%	7.4	3.0	29%
2	1 st	South East	Window adjacent to balcony door (east side of elevation).	9.2	6.4	2.4	31%	5.1	4.2	46%
3	2 ⁿ _d	South East	Window adjacent to balcony door (west side of elevation).	16.6	12.5	4.1	24%	11.0	5.6	34%
4	2 ⁿ _d	South East	Window adjacent to balcony door (east side of elevation).	16.3	11.2	5.0	31%	9.5	6.8	42%
5	2 ⁿ _d	South East	Balcony door (east side of elevation).	23.2	18.4	4.8	21%	16.7	6.5	28%
6 *	3 rd	South East	Window adjacent to balcony door (west side of elevation)	21.0	17.0	4.0	19%	15.4	5.6	27%
7	3 rd	South East	Window adjacent to balcony door (east side of elevation).	21.7	16.7	5.0	23%	14.8	6.9	32%

The seven windows/door affected in terms of VSC losses in Table 1 serve the living accommodation of flats in the south eastern end of Reynolds House, some of which are studio flats. Small units of residential accommodation such as this can be particularly susceptible to losses of daylight. However, in this case, the 6 rooms served by the affected windows and door are all dual aspect and are also served by further unaffected windows in the north east or south west elevations of Reynolds House. As a result, none of the rooms served by the windows that individually suffer an increased material loss of daylight as a result of the amended scheme, using the VSC method of assessment, would suffer any significant loss when assessed using the No Sky Line method of assessment, which assesses the impact on the daylight distribution within a room, having regard to the daylight received by that room from all of the windows serving it.

Accordingly, in this case, despite the additional material losses of daylight that have been identified, the proposed development would not result in an unacceptable loss of daylight and therefore the scheme accords with the guidance set out in the Building Research Establishment (BRE) Guidelines (2011) and would be compliant with Policy ENV13 in the UDP and Policy S29 in the City Plan. As such, the objections raised on loss of daylight grounds cannot be supported as a ground on which to withhold permission.

8.3.2 Sunlight

In terms of sunlight losses caused by the amended scheme now proposed, those losses that would be material and may therefore be noticeable to occupiers of neighbouring properties, would be limited to windows serving the same rooms to the south east and south west elevations of Fettes House and Reynolds House that were materially affected by the previously approved scheme. The material losses of sunlight (i.e. those where sunlight losses exceed 20% of existing total or winter Annual Probable Sunlight Hours - APSH) are set out in Table 3 below.

Table 2 – Material sunlight losses to windows in Fettes House and Reynolds House. Losses caused by approved scheme in brackets.

Building	Floor Level	Elevation	Window Description	Exist Total APSH	Exist Winter APSH	Prop Total APSH	Prop Winter APSH	Total Loss	Winter Loss
Fettes	Grd	SE	Single High Level Window	4	3	1 (2)	0 (1)	75% (50%)	100% (67%)
Fettes	Grd	SE	Single High Level Window	5	3	3 (3)	1 (1)	40% (40%)	67% (67%)
Fettes	1 st	SW	Window	27	5	25 (25)	3 (4)	8% (8%)	40% (20%)
Fettes	1 st	SW	Window	26	6	24 (24)	4 (4)	8% (8%)	33% (33%)
Reynolds	1 st	SE	Window adj. to Balcony Door	13	9	9 (9)	9 (9)	31% (31%)	0% (0%)
Reynolds	1 st	SE	Window adj. to Balcony Door	12	2	3 (6)	1 (1)	75% (50%)	50% (50%)
Reynolds	1 st	SE	Balcony Door	27	6	19 (21)	5 (5)	30% (22%)	17% (17%)
Reynolds	2 nd	SE	Balcony Door	50	16	39 (44)	11 (13)	22% (12%)	31% (19%)
Reynolds	2 nd	SE	Window adj. to Balcony Door	22	15	13 (16)	9 (11)	41% (27%)	40% (27%)
Reynolds	2 nd	SE	Window adj. to Balcony Door	27	10	12 (18)	1 (5)	56% (33%)	90% (50%)
Reynolds	2 nd	SE	Balcony Door	38	14	26 (30)	6 (8)	32% (21%)	57% (43%)
Reynolds	3 rd	SE	Balcony Door	54	19	48 (50)	14 (15)	11% (7%)	26% (21%)

Reynolds	3 rd	SE	Window adj. to Balcony Door	26	19	20 (22)	14 (15)	23% (15%)	26% (21%)
Reynolds	3 rd	SE	Window adj. to Balcony Door	31	14	22 (25)	7 (8)	29% (19%)	50% (43%)
Reynolds	3 rd	SE	Balcony Door	46	20	39 (39)	13 (14)	15% (15%)	35% (30%)

Whilst the material losses that would be caused to the windows included in Table 3 would be increased relative to the previously approved scheme, the additional sunlight losses that would be caused would be relatively limited and all but one window would retain access to sunlight both annually and during winter months. Only one ground floor window in Fettes House, which currently receives very limited sunlight due to the balcony above it, would suffer a complete loss of existing winter sunlight. However, this small window does not appear to serve a habitable room.

On this basis, whilst the amended scheme would have a marginally greater impact in terms of sunlight loss to windows in Fettes and Reynolds House, it is not considered that the impact would be so significant so as to warrant withholding permission. Consequently, having regard is had to the wider planning benefits of the scheme in terms of housing delivery. the proposal is acceptable in sunlight terms.

8.3.3 Sense of Enclosure

To the north west of the site, Fettes House is approximately 19 metres from the application site and at this significant distance it is not considered that the proposed development, despite the additional height now proposed to the Cochrane Street frontage of the site (0.89 metres), would cause a material increase in enclosure to windows in this neighbouring building.

Reynolds House is closer to application site (approximately 7 metres), but the windows are already significantly enclosed by the flank wall of the existing building below second floor level. As such, the additional height now proposed to the Wellington Road frontage of the site relative to the approved scheme (0.93 metres), would not materially increase the sense of enclosure felt by windows at ground and first floor level facing the application site.

The windows in the south east elevation of Reynolds House at second and third floor levels currently enjoy a more open aspect to the south. However, as the approved building would be set back further from the site boundary relative to the now demolished existing building, it is not considered that the small amount of additional height and bulk now proposed to the Wellington Road frontage of the site would cause a material increase in enclosure to these windows. It should also be noted that the rooms served by windows in the south east elevation are dual aspect with unaffected windows serving the same rooms in either the north east or south west elevations of Reynolds House.

To the south east of the application site No.26 Wellington Road is already significantly enclosed by the existing building. The approved building is set back from the boundary with No.26 by approximately 4 metres; whereas the existing (now demolished building) extends right up to the boundary. The previously approved set back therefore

significantly eases the relationship with No.26 relative to the existing relationship, and as a result the additional height now proposed to the Wellington Road frontage of the site would not result in a materially increased sense of enclosure for the occupiers of No.26 Wellington Road. Similarly, the previously approved building is to be set back slightly further from the windows to the side and rear of Cochrane Close and therefore despite the increase in height now proposed to the Cochrane Street frontage of the site, the windows to the rear of Cochrane Close would retain unaffected outlook to the south and west. Consequently, the amended scheme now proposed would not result in a material increase in enclosure to these neighbouring residential buildings.

The residential blocks adjacent on the opposite side of Cochrane Street, such as Cicely House, would be approximately 22m from the Cochrane Street elevation of the proposed building and at this distance, whilst the outlook from the front windows of adjacent blocks would be altered by the appearance of the new building, the marginal increase in height now proposed would not amount to a significant increase in enclosure relative to either the existing situation (i.e. the now demolished building) or the previously approved scheme. Similarly, the proposed scheme would not cause a significant increase in enclosure to residential windows in buildings on the opposite side of Wellington Road given the distance of approximately 34m to these buildings, which include Embassy Court.

In summary the proposals are acceptable in sense of enclosure terms and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

8.3.4 Privacy

As per the previously approved scheme, the proposed development would introduce residential windows and balconies to the street elevations of the site in Wellington Road and Cochrane Street. These windows and balconies would be sufficiently distant from the windows in residential blocks on the opposite sides of these streets so as not to cause a significant increase in overlooking.

To the side elevations of the proposed building, the arrangement of windows and balconies remains as per the approved scheme. The amendments to the floor levels within the building, associated with the proposed increase in height of the approved building, would not result in the previously approved windows and balconies causing an increase in overlooking relative to the approved scheme.

To prevent unacceptable overlooking occurring, as per the approved scheme conditions are recommended to (i) require the windows at the corner north western corner of the building, which would face Reynolds House, to be obscure glazed; (ii) require the balconies proposed to the north western and south eastern (side) elevations to be partially enclosed by obscure glazed screens to prevent overlooking; (iii) ensure the proposed vertical fins are installed and retained either side of the windows in the side elevations of the recessed roof storey at fourth floor level; and (iv) to prevent the use of the roofs of the building as terraces in future.

Subject to the recommended conditions, the amended scheme now proposed is considered to be acceptable in overlooking terms and would accord with Policy ENV13 in the UDP and Policy S29 in the City Plan.

8.4 Transportation/ Parking

The current scheme has been submitted principally to enable the form and structure of the development to be amended to ensure that it would not have an adverse impact on adjacent London Underground infrastructure as a result of ground heave. To alleviate the risk of ground heave the scheme proposes the thickening of floor structures within the building to increase the weight of the development, thus resulting in the increased height of the proposed development. London Underground have acknowledged that the applicant is working with them to resolve the issue of ground heave and on the basis that the applicant continues to work with them, they do not object. TfL make similar comments on the basis that the applicant will continue to work with London Underground on this issue. In light of these comments, the amendments to the scheme to ensure it does not harm the strategic transport infrastructure running adjacent to and below the site are welcomed and they would accord with Policy 6.3 in the London Plan, which states that *'Development should not adversely affect safety on the transport network'*.

The amendments to the approved scheme would not result in any reduction in the number of car or cycle parking spaces at basement level and no changes are proposed to waste and recycling storage. 34 off-street car parking spaces would continue to be provided at a ratio of 0.94 spaces per unit, of which 20% would have electric car charging facilities in accordance with the London Plan. 61 cycle parking spaces would be provided at basement level in accordance with Policy 6.9 in the London Plan. As per the approved scheme, servicing would occur on-street. Given that there would be no material changes in circumstance relative to the approved scheme in parking and servicing terms, the Highways Planning Manager does not raise any objections to the current application.

8.5 Economic Considerations

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

8.6 Access

The proposed amendments to the levels of the building would not have any adverse impact on the accessibility of the building relative to the approved scheme. The proposed building would continue to provide level access from the public highway and all flats within the development would be accessible by lift. As such, in terms of access the development remains in accordance with Policy DES1 in the UDP and Policy S28 in the City Plan.

8.7 Other UDP/ Westminster Policy Considerations

As initially submitted, the current application included additional excavation in the south east corner of the site within the root protection area (RPA) of the Poplar tree in the front garden of Cochrane Close. The excavation in this corner of the site, where it is required to form the ramped access to the basement car park, is subject to a condition on the original February 2017 permission (Condition 11) which reserves details of the level changes within the RPA of the tree to ensure it would not be harmed.

The significant level changes shown on the initially submitted drawings were unacceptable in arboricultural terms and the submitted drawings have therefore been amended to omit this level change and revert to the originally approved levels in this corner of the site. Officers are now working with the applicant outside of the scope of the current S73 planning application to reach agreement on the extent of excavation within the RPA of the Poplar tree that would be acceptable pursuant to Condition 11, which it is recommended is re-imposed should the Sub-Committee resolve to approve the current application.

No other amendments are proposed to the originally approved scheme in Arboricultural terms and therefore the Arboricultural Manager does not object, subject to imposition of the same condition. Subject to these conditions, the amended scheme would continue to accord with Policies ENV16 and ENV17 in the UDP.

8.8 Neighbourhood Plans

Not applicable.

8.9 London Plan

The proposed development is of insufficient scale to be referred to the Mayor of London. Where relevant policies in the London Plan are referred to elsewhere in this report.

8.10 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

In this case there are no pre-commencement conditions requiring the agreement of the applicant, as details pursuant to the pre-commencement conditions imposed on the original permission dated 8 February 2017 have already been approved in late 2017 (see Section 6.2). As such, Conditions 3 (construction management plan), 10 (tree protection measures) and 17 (details of below ground structures/ piling to protect London Underground structures) have been amended to comprise compliance conditions requiring ongoing compliance with the details that were previously approved.

8.11 Planning Obligations

The approved scheme for redevelopment of this site is subject to a S106 agreement, which secured the planning obligations that are set out below. It is recommended that a deed of variation is entered into in the event the Sub-Committee resolve to grant conditional permission for the current application, to ensure these planning obligations continue to be delivered.

- i. A financial contribution of £5.5 million to the Affordable Housing Fund (index linked).
- ii. A management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation are used only by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment.
- iii. Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development (appropriate arrangements to be agreed prior to commencement and highway works to be carried out prior to occupation at the applicant's expense).
- iv. Submission of a Site Environmental Management Plan and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice.
- v. Provision and management of on-site resident's car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.
- vi. Provision of costs for monitoring of agreement (£500 per Head of Term).

The current scheme does not propose any additional floorspace and therefore the CIL liability would remain the same as the approved scheme. Therefore, the Westminster CIL payment, based on the floorspace figures in the applicant's CIL form and assuming that the application does not qualify for any CIL exemptions would be £2,781,900. The Mayoral CIL payment, again based on the floorspace figures in the applicant's CIL form and assuming that the application does not qualify for any CIL exemptions would be £252,900.

8.12 Environmental Impact Assessment

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

8.13 Other Issues

None relevant.

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

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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk.

11. KEY DRAWINGS



A3
 SKETCH VIEW FROM SOUTH-WEST 28-32 WELLINGTON RD LONDON N16 9SP
Design: 469-613
 Alan Power Architects Ltd 13 Needham Road London W11 2BP April 2015 Copyright reserved

View along Wellington Road as consented under planning permission dated 8 February 2017, planning ref. 15/08352/FUL



A3
 SKETCH VIEW FROM SOUTH-WEST 28-32 WELLINGTON RD LONDON N16 9SP
Design: 469-613
 Alan Power Architects Ltd 13 Needham Road London W11 2BP Nov. 2017 Copyright reserved

Revised view along Wellington Road : 2017

As approved (top) and as proposed (bottom) photomontages of Wellington Street elevation.



A3
 Dwg No. 469-515
SKETCH VIEW FROM SOUTH-EAST 28-32 WELLINGTON RD LONDON NW8 9SP
 Alan Power Architects Ltd 13 Needham Road London W11 2RP April 2015 Copyright reserved

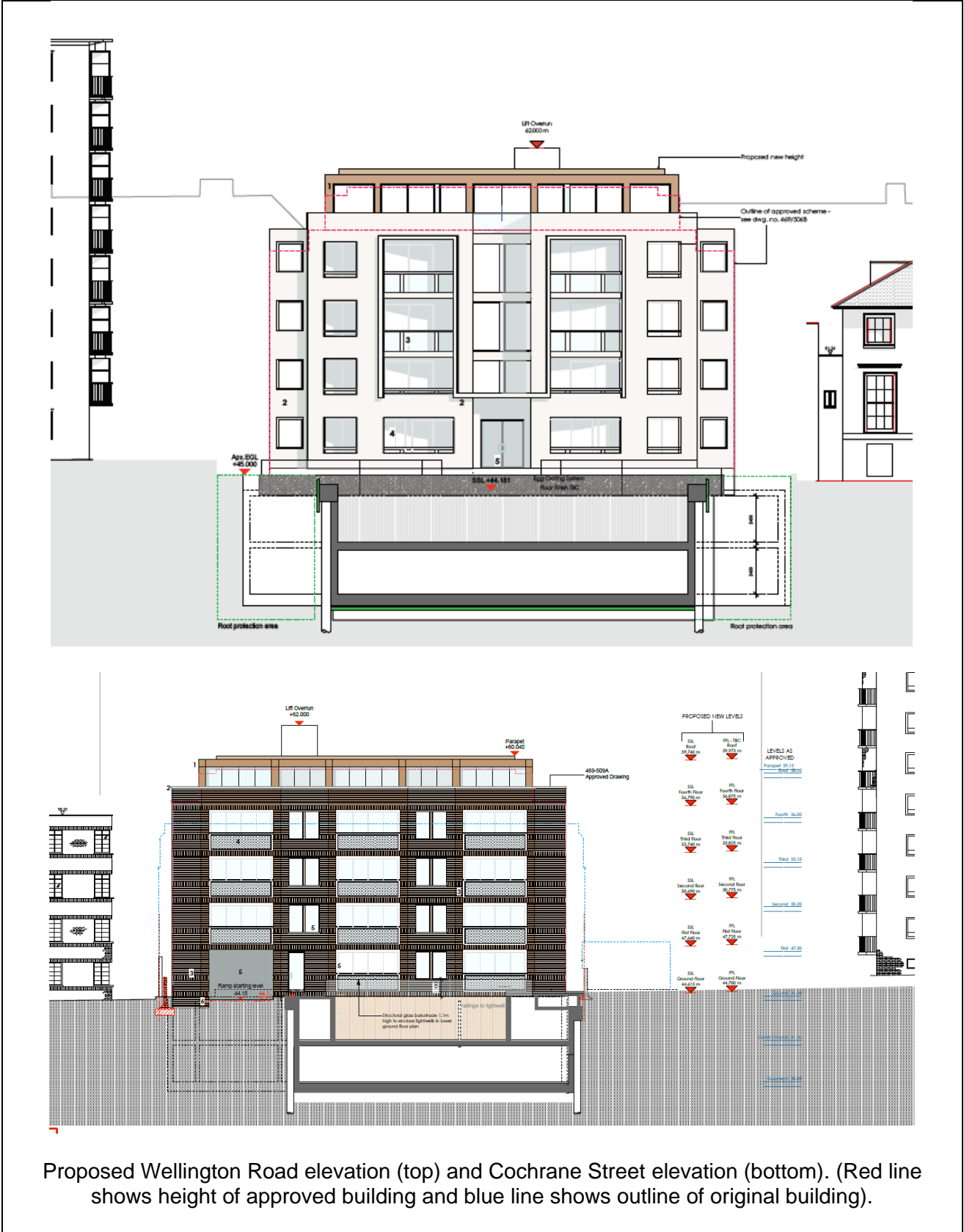
View along Cochrane Street as consented under planning permission dated 8 February 2017, planning ref. 15/08352/FUL



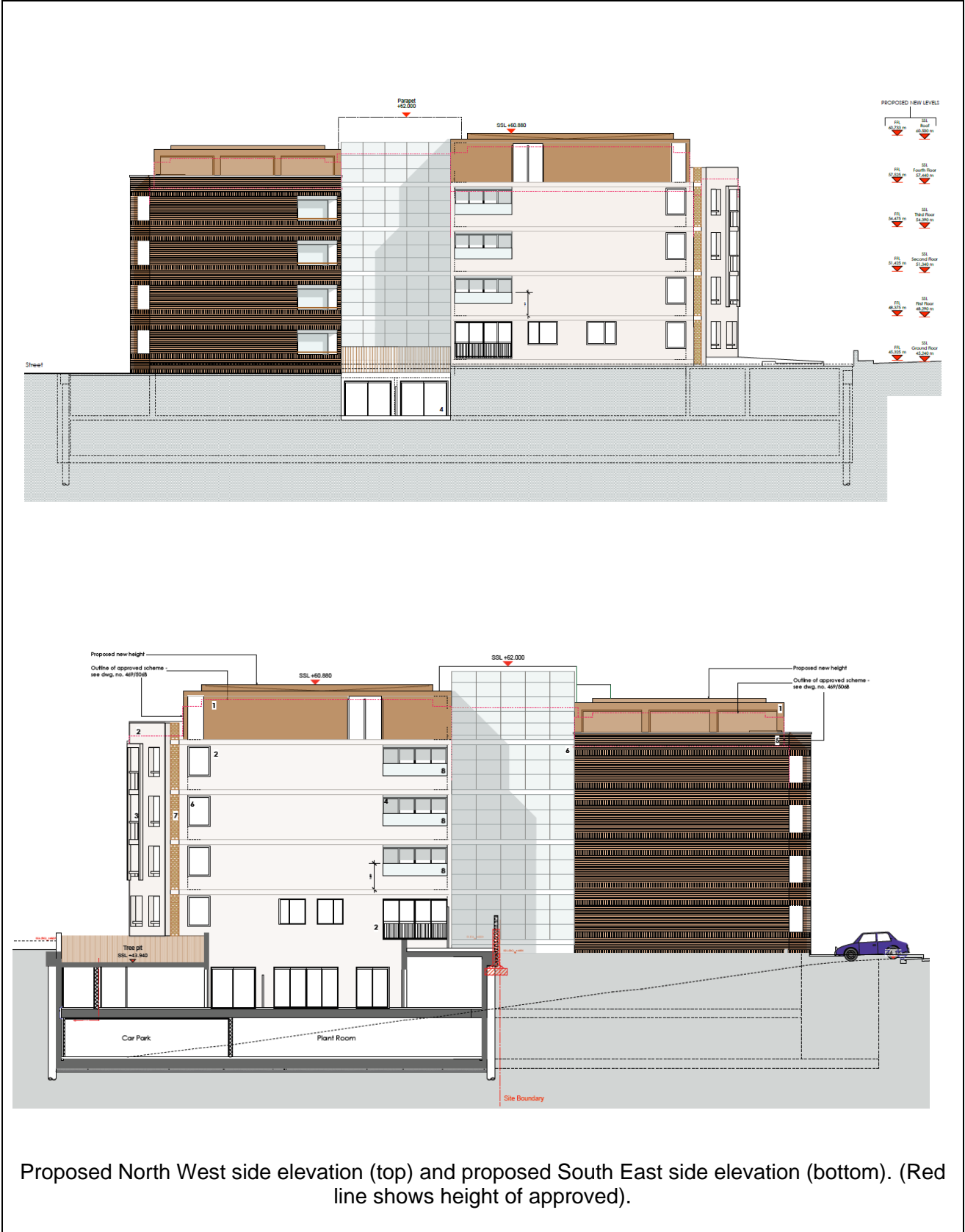
A3
 Dwg No. 469-615
SKETCH VIEW FROM SOUTH-EAST 28-32 WELLINGTON RD LONDON NW8 9SP
 Alan Power Architects Ltd 13 Needham Road London W11 2RP Nov. 2017 Copyright reserved

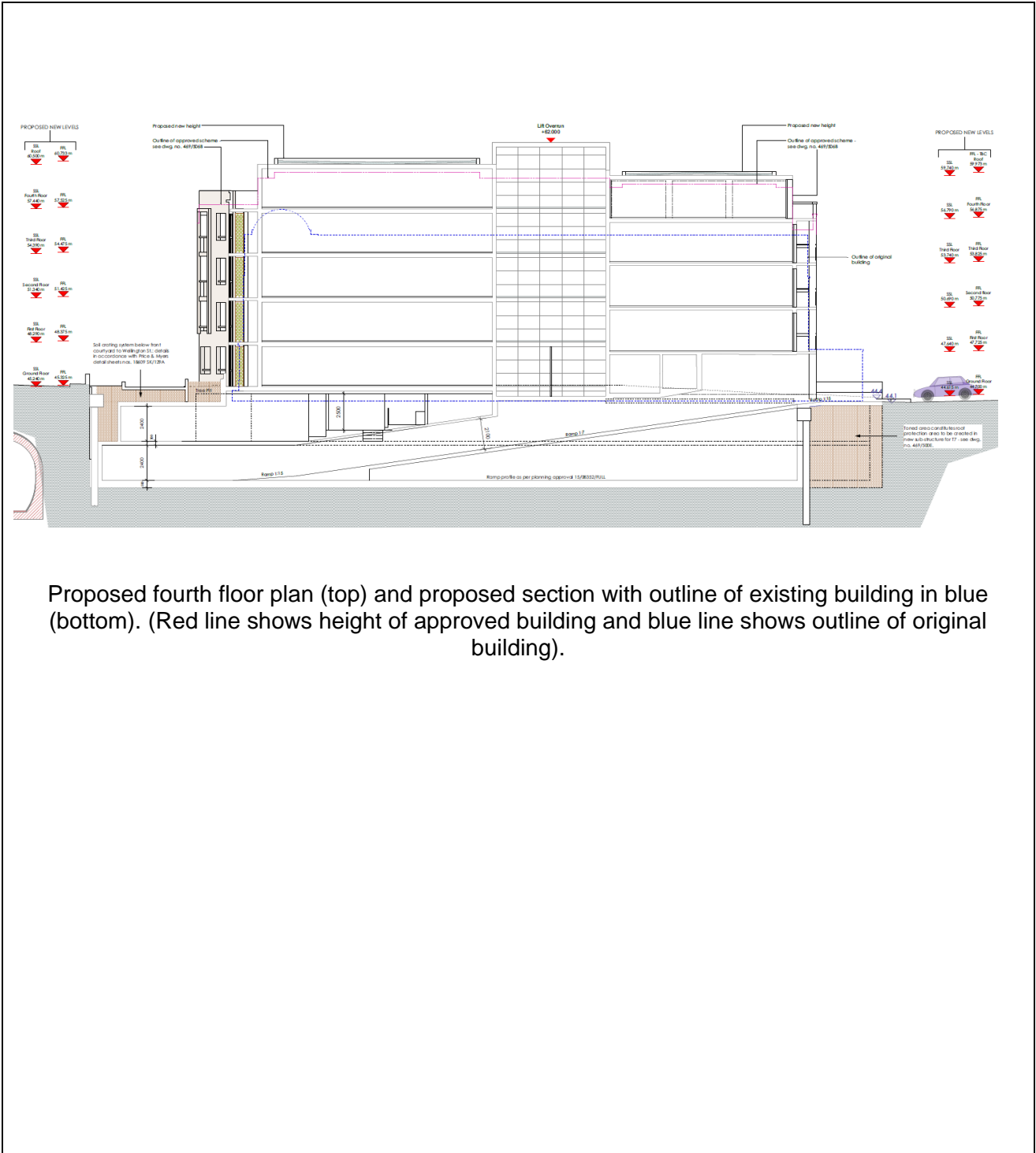
Revised view along Cochrane Street : 2017

As approved (top) and as proposed (bottom) photomontages of Cochrane Street elevation.



Proposed Wellington Road elevation (top) and Cochrane Street elevation (bottom). (Red line shows height of approved building and blue line shows outline of original building).





Proposed fourth floor plan (top) and proposed section with outline of existing building in blue (bottom). (Red line shows height of approved building and blue line shows outline of original building).

DRAFT DECISION LETTER

Address: The Wellington Building , 28-32 Wellington Road, London, NW8 9SP

Proposal: Variation of Condition 1 of planning permission dated 8 February 2017 (RN: 15/08352/FULL) for the 'Demolition of existing building and erection of a new six storey, plus basement building with frontages to Wellington Road and Cochrane Street to provide 36 units for a dual/ alternative use as residential flats (Class C3) or serviced apartments (Sui Generis), with car and cycle parking at basement level and new landscaping'; NAMELY, to the increase the height of the building by 0.93m to the Wellington Street frontage of the site, by 0.89m to the Cochrane Street frontage of the site and introduce a lift overrun to the central link block.

Plan Nos: **Drawings and Documents Approved Under RN: 15/08352/FULL:** 469/01 Rev.A, 469/02 Rev.B, 469/03 Rev.A, 469/04 Rev.A, 469/500 Rev.E, 469/501 Rev.C, 469/502, 469/503, 469/504, 469/505 Rev.C, 469/506 Rev.B, 469/507 Rev.C, 469/508 Rev.B, Rev.C, 469/509, 469/510 Rev.C, 469/511 Rev.B and 469/512. Design and Access Statement dated June 2015, Planning Statement dated August 2015, Transport Statement dated 28 August 2015, Noise Impact Assessment dated 26 May 2015, Environmental Performance Statement dated 31 July 2015, Energy Strategy Report dated 31 July 2015, Statement of Community Involvement dated August 2015, Tree Assessment dated 25 July 2015 (as amended revised drawings listed on this decision letter and by emails dated 5 May 2016 and 12 May 2016 with attached drawings 18609/110 Ver.1 and SK-131), Landscape Stage D Design Proposals document dated 02-12-2015, Flood Risk Assessment dated November 2014 (Rev.03), Drainage Feasibility Report dated November 2014 (Rev.02), Daylight and Sunlight Report dated 31 July 2015, Structural Method Statement dated July 2015 (for information only) and Construction and Logistics Plan dated 4 August 2016 (for information - see Condition 3). (All supporting documents as amended by revised drawings hereby listed).

As Amended By Drawings and Documents Hereby Approved: 469/604 Rev.A, 469/606 Rev.A, 469/608 Rev.A, 469/609 Rev.A, 469/611 Rev.B, 469/612 Rev.A, 469/510 Rev.D, Daylight and Sunlight Report dated 13 February 2018, Design and Access Statement dated November 2017 (as amended by revised drawings listed here), letter from Price and Myres dated 30 June 2017, Proposed Loading data sheet by Price and Myers, Figure 8 Rev.P1 (Proposed Loading Schedule) and letter from DP9 dated 28 February 2018.

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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must carry out the demolition works and construction works in accordance with the construction management and logistics plans we approved on 1 August 2017 and 12 September 2017 (RNs: 17/02461/ADFULL and 17/02462/ADFULL) unless or until we approve an alternative construction management and logistics plan in writing. If an alternative construction management and logistics plan is approved, you must then carry out the remaining construction works in accordance with that plan.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R21HB)

- 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:

- (a) Typical detailed elevations and sections of all new windows and doors.
- (b) Typical detailed elevation of Limestone and bronze cladding showing typical cladding joints and relationship of cladding to fenestration.
- (c) Elevation and section of glazed and bronze balustrades to balconies.
- (d) Detailed elevation of front entrance and canopy to Wellington Road.
- (e) Plan and elevation of vehicular door/ gate/ shutter to basement car park.
- (f) Plans and elevations of all new boundary walls and fences/ walls within the site.
- (g) Elevations of all railings or other means of enclosure around lightwells.
- (h) Typical details, including plans and elevations showing their location, of lighting and CCTV units.
- (i) The fins to the side elevation windows at fourth floor level.

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)

- 7 You must apply to us for approval of details (including drawings, samples and any other supporting documents as appropriate) of the public art to be provided on the external envelope of the building. You must not start work on the relevant parts of the development until we have approved what you have sent us. You must then carry out the work in accordance with these details.

Reason:

To secure the offer of public art and to make sure that the appearance of the building is suitable. This is as set out in DES 7 (A) of our Unitary Development Plan that we adopted in January 2007. (R26GC)

- 8 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 and the landscaping scheme should include the provision of not less than four new trees to replace those previously

removed from the Cochrane Street frontage of the site. 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 one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees that form part of the landscaping scheme we approve or find that they are dying, severely damaged or diseased within five 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)

- 9 You must provide the soil depth and overall soil volume above the top cover of the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in CM28.1 and 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.

- 10 You must carry out the construction work in accordance with the tree protection method statement we approved on 16 September 2017 (RN: 17/03496/ADFULL), unless or until we approve an alternative tree protection method statement in writing. If an alternative tree protection method statement is approved, you must then carry out the remaining construction works in accordance with that statement.

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)

- 11 Notwithstanding the details shown on the drawings hereby approved, you must apply to us for approval of detailed drawings and a method statement in relation to the following parts of the development:

- (a) The level changes and excavation required to form the vehicular entrance to the basement from Cochrane Street.
- (b) The soil crating system to be installed below the driveway to the Wellington Road frontage (a manufacturer's specification should also be submitted).
- (c) The gaps to be created in the retaining wall of the planter to Cochrane Street to enable root growth below the highway.

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 drawing and method statement. (C26DB)

Reason:

To protect trees and the character and appearance of the site as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31CC)

- 12 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 occupiers of the development.

Reason:

To provide parking spaces for people using the development as set out in STRA 25 and TRANS23 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 13 You must apply to us for approval of detailed drawings the vehicular ramp to basement level, including drawings that demonstrate the gradient of the ramp and the gradient of the transition zones at the top and bottom of the ramp. 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 ensure the basement car parking spaces can be safely accessed, thereby providing car parking 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)

- 14 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 2016 (R22FA)

- 15 Prior to occupation, you must provide the separate stores for waste and materials for recycling shown on the drawings hereby approved. You must clearly mark them and make them available at all times to everyone occupying the flats.

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)

- 16 You must provide the vehicle electric charging points shown on the drawings hereby approved prior to occupation of the flats and thereafter you must permanently retain them.

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Reason:

To enable the use of electric vehicles in accordance with Policy 6.13 in the London Plan (FALP 2015).

- 17 The development shall be carried out in accordance with the detailed design and method statement for all foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent) that we approved on 1 June 2017 (RN: 17/03845/ADFULL), unless or until we approve an alternative detailed design and method statement in writing. If an alternative detailed design and method statement is approved, you must then carry out the remaining construction works in accordance with that statement.

All structures and works comprised within the development hereby permitted which are required by the approved design statements shall be completed in their entirety, before any part of the building is occupied.

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with Policy 6.2 and Table 6.1 in the London Plan (FALP 2015) and the Mayor's 'Land for Industry and Transport' Supplementary Planning Guidance (2012).

- 18 You must carry out the development in accordance with the Energy Strategy Report by Price and Myers dated 31 July 2015 that is hereby approved and following occupation you must operate the development in accordance with the approved energy strategy.

Reason:

To make sure that the development provides is environmental sustainable and would accord with Policies S28, S39 and S40 of Westminster's City Plan (November 2016) and Policies 5.1, 5.2, 5.3, 5.6, 5.7 and 5.9 in the London Plan (FALP 2015). (R44AC)

- 19 You must carry out the development in accordance with the drainage strategy set out in the Drainage Feasibility Report (Rev.02) by Price and Myers that is hereby approved and following occupation you must operate the development in accordance with the approved drainage strategy.

Reason:

To ensure the development incorporates sustainable urban drainage in accordance with Policy 5.13 in the London Plan (FALP 2015).

- 20 Unless the omission of green and/ or brown sedum roofs can be fully justified by the submission of a written statement, submitted pursuant to this condition, setting out the site specific constraints that prevent their provision, you must apply to us for approval of detailed drawings showing the following alteration to the scheme:

- Incorporation of green and/ or brown sedum roofs to the roofs of the building.

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 reduce the effect the development has on 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 and to ensure compliance with Policy 5.11 in the London Plan (FALP 2015). (R43AB)

- 21 The glass that you put in the windows at the western end of the north west elevation between first and third floor levels must not be clear glass, and you must fix the windows permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission. (C21DB)

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)

- 22 You must apply to us for approval of detailed drawings showing the following alteration to the scheme:

- Provision of obscure glazed screens to the balconies to the north west and south east side elevations.

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 flats that the balconies serve and thereafter you must not remove the obscure glazed screens.

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)

- 23 You must install the privacy screen fins to the side elevation windows in accordance with the drawings hereby approved prior to occupation of the flats that these windows serve. Thereafter you must permanently retain these fins and you must not remove them.

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)

- 24 You must not use the roofs of the building for sitting out or for any other purpose, unless the drawings hereby approved are annotated or otherwise marked (by lines indicating the provision of decking) to show their use as balconies or terraces. You can however use the roofs 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)

- 25 (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. (R46AB)

- 26 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. (R48AA)

- 27 You must apply to us for approval of full details, including detailed drawings, of the mechanical plant and equipment to be installed within the development and any external manifestations in the form of flues and extract grilles. You must not start work on these parts of the development until we have approved what you send us. You must then carry out the development in accordance with the details of mechanical plant and equipment that we approve.

Reason:

To protect the appearance of the building and this part of the City and to protect the noise environment of people in noise sensitive properties in accordance with S28, S29 and S32 in Westminster's City Plan (November 2016) and Policies DES1, DES4, ENV6 and ENV7 in the Unitary Development Plan we adopted in January 2007.

- 28 You must apply to us for approval of a supplementary acoustic report demonstrating that the plant and equipment proposed pursuant to Condition 27 will comply with the Council's noise criteria as set out in Conditions 25 and 26 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. (R51AB)

- 29 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. (R49AA)

- 30 The central link block containing the stair and lift core shall be clad in translucent glass prior to occupation of the building and thereafter retained in this material.

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)

- 31 This permission must be commenced no later than 7 February 2020.

Reason:

As required by s91 of the Town and Country Planning Act 1990 as amended by s51 of the Planning and Compulsory Purchase Act 2004. (R03EA)

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 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.

- 3 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.

- 4 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- (i) The provision of a financial contribution of £5.5m (index linked) in lieu of on-site affordable housing;
 - (ii) Provision of a management plan to demonstrate that those units within the development used as serviced apartments providing short term visitor accommodation will only be used by patients of hospitals in the vicinity of the site and their family members and/ or carers that are staying with them whilst they receive treatment;
 - (iii) Highway works in Wellington Road and Cochrane Street to form vehicular access to the site and amend the layout of the public highway to reflect the proposed development.
 - (iv) Submission of a Site Environmental Management Plan (SEMP) and provision of a financial contribution of £28,000pa during the construction period to the Environmental Inspectorate to ensure compliance with the Code of Construction Practice.
 - (v) Provision and management of on-site residents car parking, including the making available of parking spaces to all occupiers of the building on an 'un-allocated' basis without restriction.
 - (vi) Restriction to prevent mixed use of the building as serviced apartments use and Class C3 residential use and to require the occupation of the whole building to be as one of these use at any one time.
 - (vii) Provision of costs for monitoring of agreement (£500 per Head of Term).
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 6 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 7 Some of the trees on the site are protected by a Tree Preservation Order. You must get our permission before you do anything to them. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I30AA)
- 8 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)
- 9 For the avoidance of doubt the Construction Management Plan required under Condition 3 shall be limited to the items listed. Other matters such as noise, vibration, dust and construction methodology will be controlled under separate consents including the Control of Pollution Act 1974 and the Building Regulations. You will need to secure all necessary approvals under these separate regimes before commencing relevant works.
- 10 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)
- 11 Condition 10 requires you to submit a method statement for works to a tree(s). The method statement must be prepared by an arboricultural consultant (tree and shrub) who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered. It must include details of:
- * the order of work on the site, including demolition, site clearance and building work;
 - * who will be responsible for protecting the trees on the site;
 - * plans for inspecting and supervising the tree protection, and how you will report and solve problems;
 - * how you will deal with accidents and emergencies involving trees;
 - * planned tree surgery;

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

- 12 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:

Thames Water Utilities Ltd
Development Planning
Maple Lodge STW
Denham Way
Rickmansworth
Hertfordshire
WD3 9SQ
Tel: 01923 898072
Email: Devcon.Team@thameswater.co.uk

- 13 In respect of Condition 17 you are advised to contact London Underground Infrastructure Protection (Locationenquiries@tfl.gov.uk) in advance of preparation of final design and associated method statements, in particular with regard to demolition, excavation and construction methods.

Agenda Item 4

Item No.
4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 30 October 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Maida Vale	
Subject of Report	Basement And Ground Floor , 294 Elgin Avenue, London, W9 1JS		
Proposal	Variation of condition 5 (hours of use) and 9 (no deliveries) of planning permission dated 05 September 2016 (RN: 16/04625/FULL) for the Use of basement and ground floor as a cafe/restaurant (A3). Replacement of existing shopfront with new timber shopfront including new fascia board, retractable awning. Reinstatement of two rear windows and other minor alterations. NAMELY, to allow operational hours of 07.00-23.00 hours Monday to Saturdays and 08.00-22.30 hours on Sundays and to allow deliveries.		
Agent	Mr Dragan Romanic		
On behalf of	Mr Dragan Romanic		
Registered Number	18/06271/FULL	Date amended/ completed	23 August 2018
Date Application Received	25 July 2018		
Historic Building Grade	Unlisted		
Conservation Area	Maida Vale		

1. RECOMMENDATION

Grant conditional permission, subject to a one year temporary permission and requirement for an operational management plan in respect of delivery service.

2. SUMMARY

Permission was granted on 5 September 2016 for works including the use of the basement and ground floor as a café/restaurant. The permission included conditions which limited the number of customers (maximum of 40), the opening hours (07:00 – 19:00 Monday to Saturday and 08:00 – 18:00 on Sundays, bank and public holidays) and to ensure that no delivery service was provided.

This application seeks to amend the opening hours for the premises and to allow the provision of a delivery service. No change is proposed to the number of customers allowed on the premises.

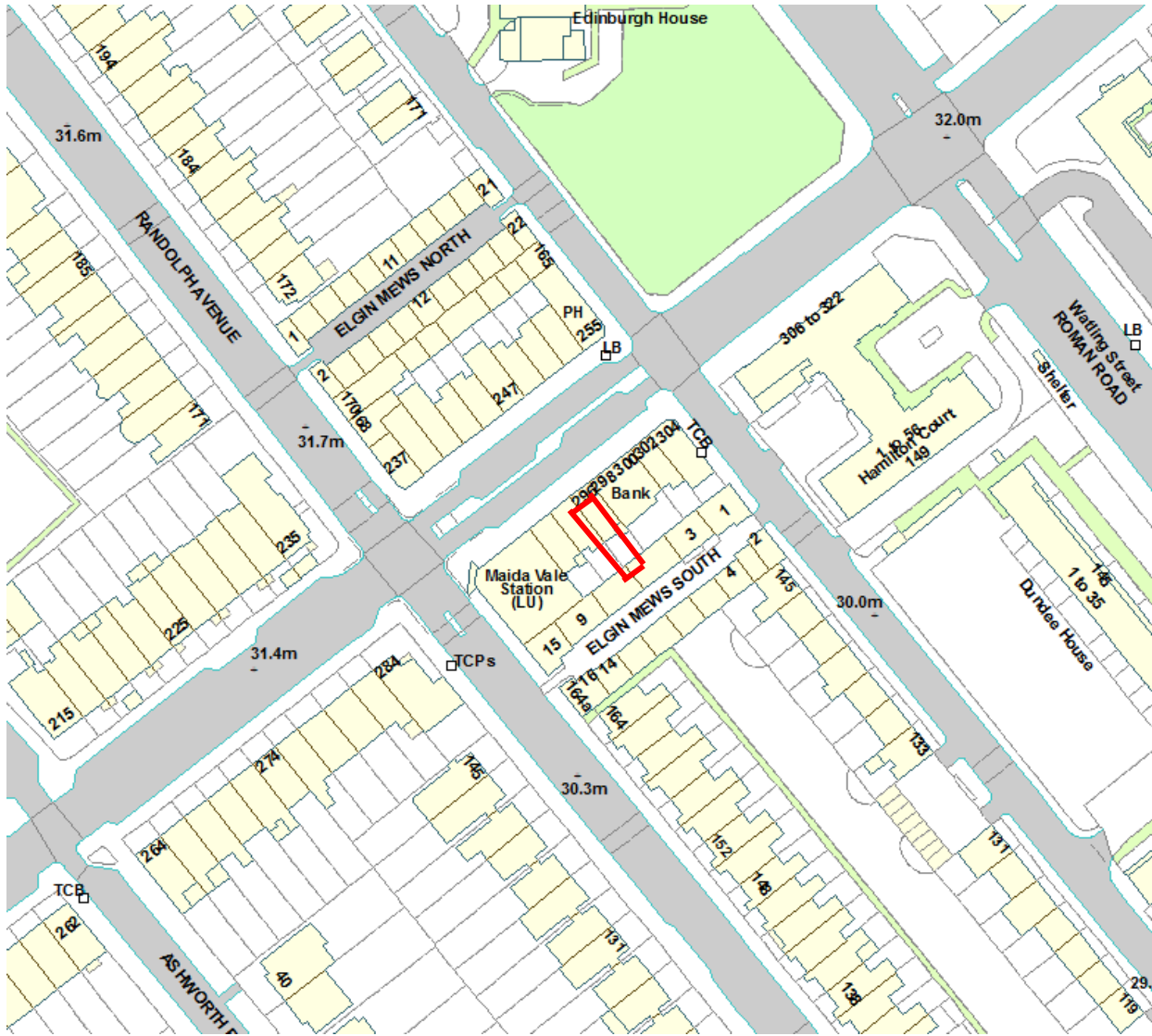
Objections have been received on the grounds that the proposed amendments could have a negative impact on the area. One letter of support has also been received.

The key issues in relation to this case are:

- The impact of the proposals on the highway network;
- The impact of the proposals on the amenity of neighbouring residents.

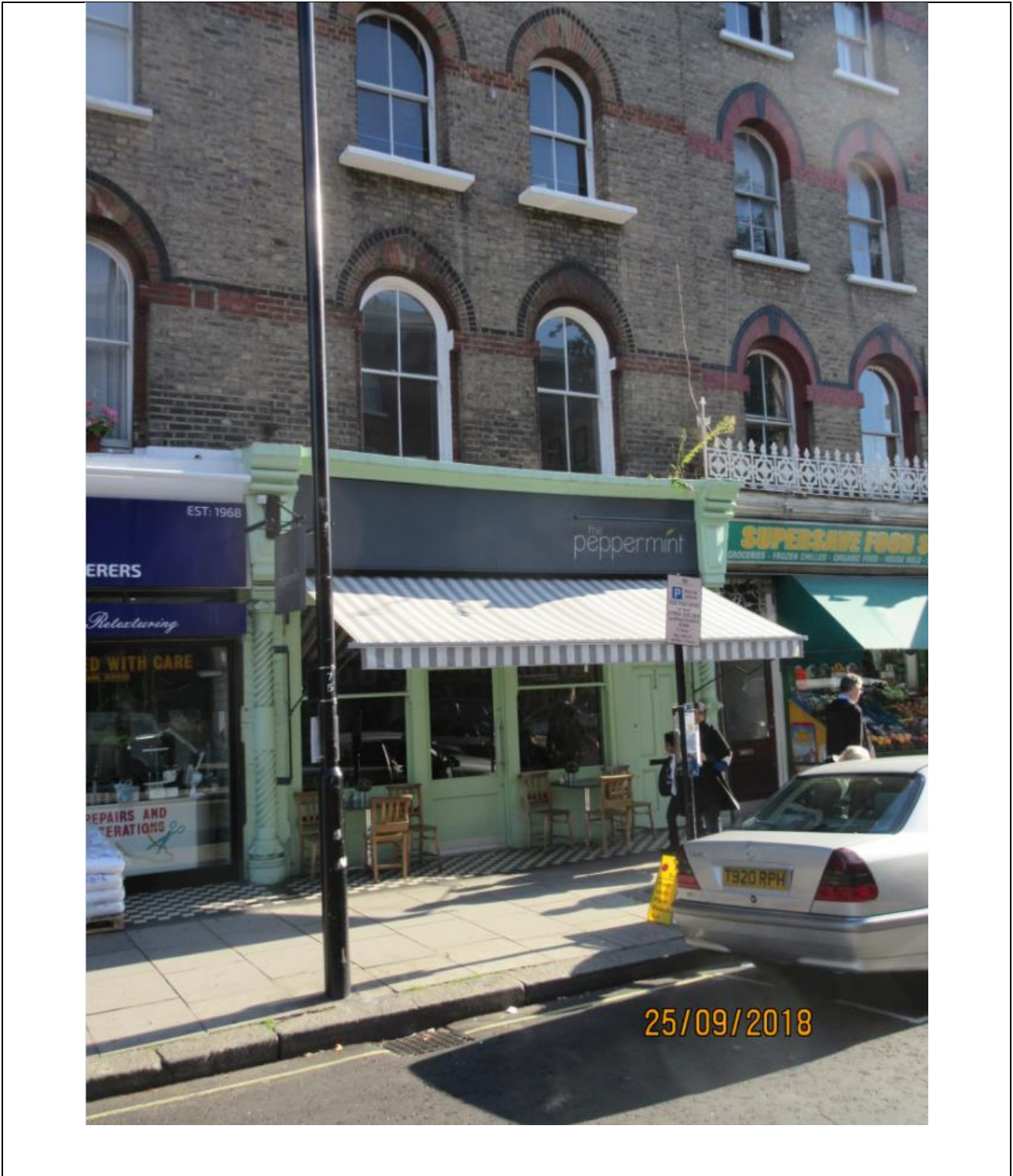
The proposed variations to the opening hours and for the provision of a delivery service are considered acceptable subject to permission being granted for the delivery service for a temporary period of one year and the submission of an Operational Management Plan. Subject to this condition the proposals are considered to accord with the City Councils adopted policies in the City Plan (November 2016) and the Unitary Development Plan (UDP) (January 2007) in land use, amenity and highways terms. The application is therefore recommended for temporary approval (in relation to the delivery service), subject to the conditions as set out on the draft decision letter appended to this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS (front elevation)



5. CONSULTATIONS

PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY:

No objection, but consider the deliveries should be restricted to standard core hours.
Request for neighbours' views to be taken into consideration.

HIGHWAYS PLANNING MANAGER:

Raise objection to the removal of the condition and the provision of a delivery service.
Comment that should officers recommend approval, this should be subject to the provision of a Delivery Service Management Plan prior to implementation and permission should only be granted for a temporary period.

WASTE PROJECTS OFFICER:

No objection.

ENVIRONMENTAL HEALTH:

No objection.

PLANNING ENFORCEMENT:

Any response to be reported verbally.

DESIGNING OUT CRIME OFFICER:

Any response to be reported verbally.

ADJOINING OWNERS / OCCUPIERS:

No Consulted: 70

No responses: Four responses. Three objections (2 from the same address) raising some or all of the following issues:

- Request for considerations to reduce noise from additional traffic and cooking (particularly given long hours);
- Increased vagrancy;
- Increased anti-social behaviour;
- Improvements to business should not be at the expense of local residents;
- There is no enforcement of traffic and parking restrictions past 18:30 so local residents must fend for themselves;
- Limited other establishments in area open as late;
- If rear courtyard is allowed for additional customer seating noise levels to adjacent residences will increase (noise hotline would not be enforceable).

One letter of support raising the following points:

- Vital to support local businesses;
- Road is always busy late at night and pub opposite operates late hours, so extended opening hours acceptable.

SITE NOTICE / PRESS ADVERT:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application relates to a cafe located at ground and basement floors, on the south side of Elgin Avenue, close to the entrance to Maida Vale Tube Station. The property is not listed but within the Maida Vale Conservation Area. The site also lies within the Maida Vale Local Centre. There are residential flats on the upper floor levels.

6.2 Recent Relevant History

Permission was granted on 5 September 2016 (Referenced 16/04625/FULL) for the use of basement and ground floor as a cafe/ restaurant (A3). Replacement of existing shopfront with new timber shopfront including new fascia board, retractable awning. Reinstatement of two rear windows and other minor alterations.
Application Permitted 5 September 2016

7. THE PROPOSAL

The original permission (ref 16/04625/FULL) included restrictive conditions to limit the opening hours of the cafe to between 07:00 and 19:00 Monday to Saturday and 08:00 to 18:00 Sundays and Bank Holidays, to reduce the impact on the amenity of neighbouring residents and so that no delivery service was provided which could reduce the availability of parking for other uses and increase noise and fumes in the area.

This application seeks to vary these conditions to allow the premises to open longer hours and to provide a delivery service. The proposed opening hours are:

- Monday to Saturday 07:00 to 23:00
- Sundays and Bank Holidays 08:00 to 22:30

Through the amendments to the conditions the applicant is looking to expand their offer and to compete with other local operators.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The principle of the use was established through the granting of permission for the café/restaurant use. The unit has since been operating as 'Peppermint', a café use (Class C3). The operator is looking to expand their offer, by amending their menu, opening hours and by providing a delivery service.

The café has a floorspace of approximately 116sqm and therefore TACE 8 of the UDP applies, which relates to entertainment uses. The policy states that permission will generally be granted where the City Council is satisfied that proposals have no adverse impact upon residential amenity or local environmental quality as a result of a) noise; b) vibration; c) smells; d) increased late night activity; e) increased parking and traffic. It

also seeks to ensure that development will have no adverse effect on the character or function of its area.

In order to mitigate against negative impacts as a result of the development, conditions were applied to the original permission. Consideration must therefore be had as to the acceptability of varying these conditions as proposed.

Three objections have been received from residents within the mews directly behind the unit on Elgin Avenue, on various grounds including increased noise and anti-social behaviour. No objections and one letter of support has been received from residents on Elgin Avenue.

Extended opening hours (Condition 5):

The terrace which this unit sits within, is largely characterised by retail units, including local convenience shops, a laundrette and an estate agents. The opposite side of Elgin Avenue includes a number of convenience shops, a pharmacy, an antiques shop, a hair dressers a Thai restaurant and a pub. There is also a restaurant just off Elgin Avenue on Randolph Avenue, 'Banana Tree'. Records would indicate that none of these existing restaurant uses are restricted by conditions in relation to hours or delivery services. The website for the Thai restaurant indicates that it is open until 23:00 daily, Banana Tree also until 23:00 daily (except 22:30 on Sundays) and the pub until 23:00 Monday to Thursday and midnight on Friday and Saturday. Both the Thai restaurant and Banana Tree provide a delivery service.

Objectors located within the Mews to the rear have raised concerns in relation to the provision of an additional unit which is open until late in the evening and suggest that this may set a precedence. Each application must be assessed on its merits and this unit sits within a frontage which currently does not include any other entertainment uses. No objections have been received from residents located on Elgin Avenue, who are most likely to be directly impacted by extended hours, due to comings and goings later into the evening. Given that there are other examples of premises in the location with similar opening hours, and the relatively small size of the unit, it is not considered that the proposals will have such a significant impact on the amenity of adjacent residents, as to justify refusal.

Concerns have also been raised in relation to the use of a yard to the rear of the unit at basement level for additional seating until 11pm, which could cause noise disturbance to residents to the rear. While the use of this space is not currently limited, the premises are restricted in terms of their opening hours to 7pm. While it is unlikely that this space would be used by customers, due to its 'back of house' location, a condition is recommended to limit the use of this space, so that it is not used by customers to ensure that amenity of residents to the rear is protected. This has been accepted by the applicant.

Provision of delivery service (Condition 9):

Concerns have also been raised by residents of Elgin Mews South that scooters currently congregate at the junction of Elgin Avenue / Randolph Avenue, causing discomfort to surrounding residents. They also note that there is no enforcement of traffic or parking restrictions past 18:30.

The Highways Planning Manager has also raised concerns in relation to parking, noise and fumes. While the concerns raised by the residents of the mews and the Highways Planning Manager are shared by officers, the applicant is seeking to expand their offer in order to increase the long term viability of the permitted use. No objections have been received in relation to the existing use, with one letter of support from a resident of Elgin Avenue, who wishes to encourage a local independent business looking to diversify.

Subject to permission for a delivery service being granted on a temporary basis of one year, so that the impact of such a service can then be fully considered following a fresh round of consultation, it is considered that the provision of a delivery service on a trial basis is acceptable. Any future application for the continuation of a delivery service will be considered in light of consultation responses and may be refused if the impact is considered to have been too great.

8.2 Townscape and Design

Not applicable as not changes proposed.

8.3 Residential Amenity

Please refer to section 8.1 for main amenity considerations.

8.4 Transportation/Parking

It has been noted by objectors that delivery services for the existing restaurant linger at the junction of Elgin and Randolph Avenue, where parking restrictions are not enforced. It is unclear if these cause harm or which restaurant these services relate. Subject to the condition for the submission of an Operational Management Plan and permission being granted on a temporary basis, it is considered that the impact of the service can be mitigated and its impact be reconsidered in a years time should the operator wish to continue providing this service.

8.5 Economic Considerations

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

8.6 Access

No change to existing access arrangements.

8.7 Other UDP/Westminster Policy Considerations

Concerns have been raised in relation to the ventilation equipment for the restaurant. The original permission included details of ventilation and conditions in relation to noise, which will need to be adhered to under the revised operating hours. This is considered acceptable. In addition, no objection has been received from Environmental Health in relation to the proposals.

8.8 Neighbourhood Plans

Not applicable.

8.9 London Plan

This application raises no strategic issues.

8.10 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

An Operational Management Plan is required to be submitted confirming how the delivery service will be managed and when it will commence. The applicant has agreed to this condition.

8.11 Planning Obligations

Planning obligations and a CIL payment is not relevant in the determination of this application.

8.12 Environmental Impact Assessment

The development is of insufficient scale to require the submission of an EIA.

8.13 Other Issues

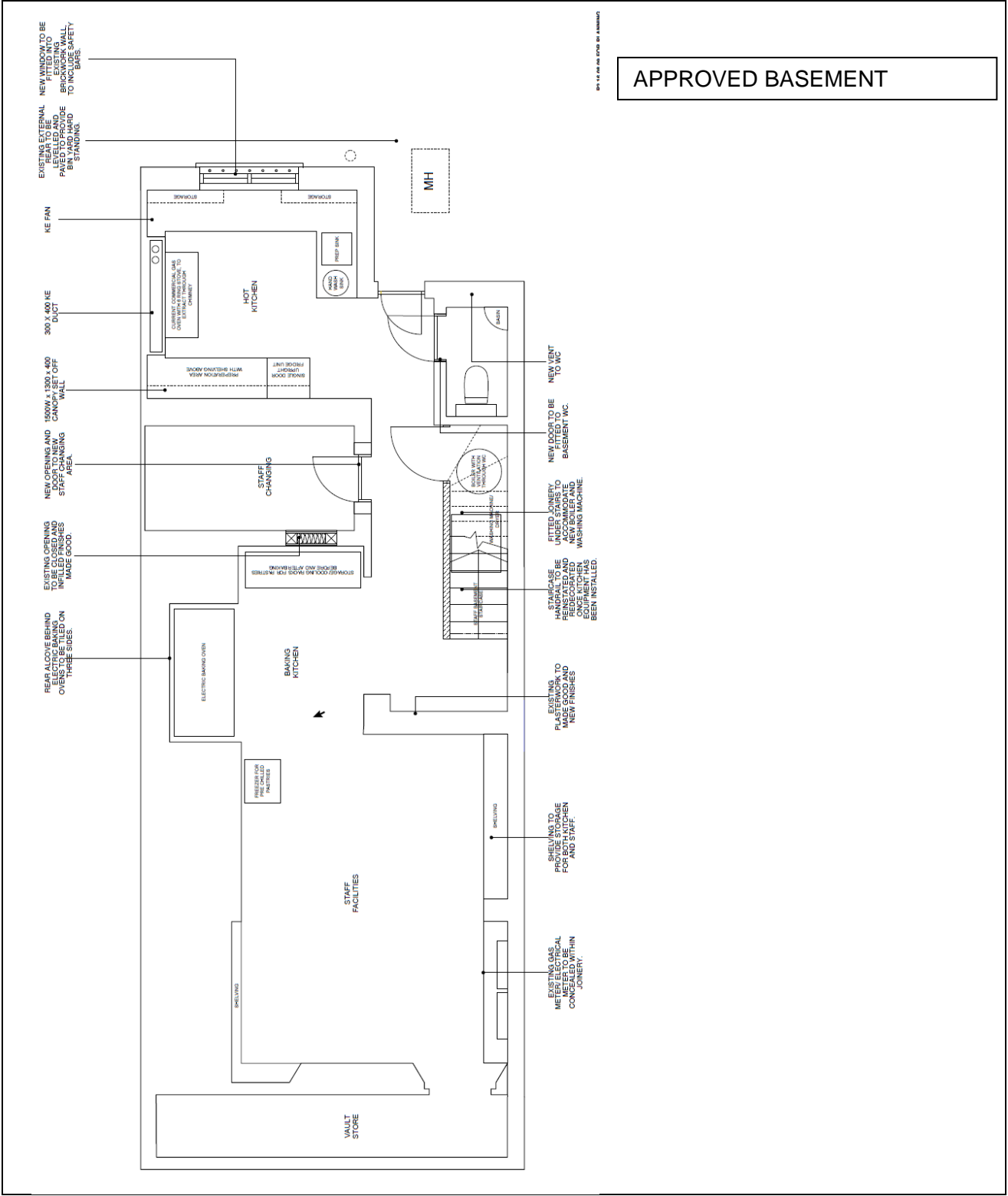
Concerns in relation to anti social behaviour have been received. An informative is recommended to require the OMP to include details of how customers will be managed to reduce anti-social behaviour.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **RUPERT HANDLEY** BY EMAIL AT rhandley@westminster.gov.uk

9. KEY DRAWINGS





DRAFT DECISION LETTER

Address: Basement And Ground Floor , 294 Elgin Avenue, London, W9 1JS

Proposal: Variation of condition 5 (hours of use) and 9 (no deliveries) of planning permission dated 05 September 2016 (RN: 16/04625/FULL) for the Use of basement and ground floor as a cafe/restaurant (A3). Replacement of existing shopfront with new timber shopfront including new fascia board, retractable awning. Reinstatement of two rear windows and other minor alterations. NAMELY, to allow operational hours of 07.00-23.00 hours Monday to Saturdays and 08.00-22.30 hours on Sundays and to allow deliveries.

Plan Nos: Document titled "6.Condition(s) - Removal"; email dated 17 October 2018 from Dragan Romanic.

As approved under 16/04625/FULL:

15025 1.001 P1 SITE LOCATION PLAN; 15025 1.002 P1 SITE PLAN; 15025 1.100 P1 EXISTING BASEMENT FLOOR PLAN; 15025 1.101 P2 EXISTING GROUND FLOOR PLAN; 15025 1.102 P2 EXISTING ELEVATION; 15025 1.103 P2 EXISTING REAR ELEVATION; 15025 1.200 P2 PROPOSED BASEMENT PLAN; 15025 1.201 P2 PROPOSED GROUND FLOOR PLAN; 15025 1.207 P3 PROPOSED NEW SHOPFRONT; 15025 1.208 P2 PROPOSED REAR ELEVATION; 15025 1.209 P2 PROPOSED HOARDINGS; PLANNING STATEMENT; ACOUSTIC REPORT DATED 14 JUNE 2016; COVERING LETTER DATED 9 AUGUST 2016; Extraction Drawings: 200 T1; 208 T1.

Case Officer: Rupert Handley

Direct Tel. No. 020 7641 2497

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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (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 Maida Vale 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 not allow more than 40 customers into the property at any one time. (C05HA)

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Maida Vale Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 5 Customers shall not be permitted within the cafe/restaurant premises before 07:00 or after 23:00 on Monday to Saturday (not including bank holidays and public holidays) and before 08.00 or after 22:30 on Sundays, bank holidays and public holidays. (C12BD)

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 TACE8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

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

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

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

- 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. (R48AA)

- 8 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. (R49BA)

- 9 The delivery service hereby approved shall only operate for 1 year from the date an Operational Management Plan (OMP) has been submitted and approved by the Council as Local Planning Authority. The delivery service will then be provided in accordance with the OMP, unless otherwise agreed first by the City Council through the submission of a revised OMP. Following one year of the date of approval, the delivery service will then cease to be provided.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 10 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 cafe. (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)

- 11 You must not allow customers into the rear yard at basement level.

Reason:

To protect the 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)

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 must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 3 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)
- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 In relation to the Operational Management Plan required by condition 9, this will include details of how you will manage the delivery service to ensure that its impact on the amenity of adjacent residents is reduced, and how you will ensure that delivery operators adhere to local highways restrictions. It should also include details of how customers will be managed to ensure that they do not cause undue harm to local residents in terms of noise or anti-social behaviour.

**BACKGROUND PAPERS - Basement And Ground Floor, 294 Elgin Avenue, London, W9
1JS 18/06271/FULL**

1. Application form
2. Response from Paddington Waterways & Maida Vale Society, dated 10 September 2018
3. Memorandum from Waste Project Officer, dated 6 September 2018
4. Memorandum from Highways Planning Manager, dated 16 October 2018
5. Memorandum from Environmental Health, dated 25 September 2018
6. Letter from occupier of 300 Elgin Avenue, London, dated 1 September 2018
7. Letters from occupiers of 5 Elgin Mews South, London, dated 6 September and 18 October 2018
8. Letter from occupier of 9 Elgin Mews South, London, dated 15 September 2018

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