



City of Westminster

# Committee Agenda

Title:

**Planning Applications Sub-Committee (2)**

Meeting Date:

**Tuesday 16th October, 2018**

Time:

**6.30 pm**

Venue:

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

Members:

**Councillors:**

Robert Rigby (Chairman)  
Louise Hyams  
Guthrie McKie  
James Spencer



**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](mailto:tfieldsend@westminster.gov.uk)  
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**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**

- |  |                          |
|--|--------------------------|
| <b>1. 9-11 RICHMOND BUILDINGS, LONDON, W1D 3HF</b> | <b>(Pages 5 - 40)</b>    |
| <b>2. 30-32 FOUBERT'S PLACE, LONDON, W1F 7PS</b>   | <b>(Pages 41 - 62)</b>   |
| <b>3. 37-41 WESTBOURNE GROVE, LONDON, W2 4UA</b>   | <b>(Pages 63 - 80)</b>   |
| <b>4. 108 WESTBOURNE GROVE, LONDON, W2 5RU</b>     | <b>(Pages 81 - 106)</b>  |
| <b>5. 103 WESTBOURNE GROVE, LONDON, W2 4UW</b>     | <b>(Pages 107 - 126)</b> |

**Stuart Love**  
**Chief Executive**  
**8 October 2018**

# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 16th October 2018  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	RN(s) : 18/03246/FULL  West End	9-11 Richmond Buildings London W1D 3HF	Demolition of the existing building and redevelopment of the site to provide a six storey replacement building, with lowered basement, comprising offices (Use Class B1) at basement, ground and second to fifth floor levels and residential accommodation (Use Class C3) at first floor level comprising two residential units.	
2.	RN(s) : 18/06478/FULL  West End	30-32 Foubert's Place London W1F 7PS	Dual/alternative use of the basement, ground and first floor for either retail (Class A1) or restaurant (Class A3) use and dual/alternative use of second and third floor for either retail (Class A1) use, restaurant (Class A3) use or offices (Class B1) use. Installation of an intake duct and extract duct located internally from basement to third floor terminating at roof level and enclosed within an acoustic enclosure.	
3.	RN(s) : 17/09491/FULL  Lancaster Gate	37-41 Westbourne Grove London W2 4UA	Use of the ground floor as a mixed (Class D2/Class A1), comprising of an exercise studio, changing and shower facilities, a cafe/energy kitchen and retail area.	

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 16th October 2018  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
4.	RN(s) : 18/02532/FULL  Bayswater	108 Westbourne Grove London W2 5RU	Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning units on roof of 110 Westbourne Grove.	
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
5.	RN(s) : 17/09582/FULL  Bayswater	103 Westbourne Grove London W2 4UW	Erection of roof extension at first floor level to provide a flat and associated alterations to provide pedestrian access from Monmouth Road.	
	<b>Recommendation</b> Grant conditional permission.			

# Agenda Item 1

Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 October 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	9-11 Richmond Buildings, London, W1D 3HF,		
<b>Proposal</b>	Demolition of the existing building and redevelopment of the site to provide a six storey replacement building, with lowered basement, comprising offices (Use Class B1) at basement, ground and second to fifth floor levels and residential accommodation (Use Class C3) at first floor level comprising of 2 residential units.		
<b>Agent</b>	Jones Lang LaSalle Ltd		
<b>On behalf of</b>	Firmdale Hotels plc.		
<b>Registered Number</b>	18/03246/FULL	<b>Date amended/ completed</b>	14 August 2018
<b>Date Application Received</b>	20 April 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to a legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>i) a financial contribution of £7,623 (index linked and payable on commencement) towards the City Council's carbon offset fund;</li> <li>ii) car club membership for each of the two residential flats for 25 years;</li> <li>iii) monitoring costs for each of the above clauses.</li> </ul> <p>2. If the S106 legal agreement has not been completed within six weeks from the date of the Sub-Committee's resolution, then:</p> <ul style="list-style-type: none"> <li>a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</li> <li>b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ul>
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## 2. SUMMARY

The existing building, dating from the 1960s, is currently vacant but was last used as offices with two flats on the top floor. The flats use the same entrance, staircase and lift as the offices. There is basement car parking accessed from a ramp at the rear of the building, in Richmond Buildings. Part of the building oversails the entrance to Richmond Mews and abuts the Soho Hotel, creating a small lightwell onto which some of the hotel bedrooms look. Permission was first granted in August 2016 for the complete redevelopment of the site to provide a new building, with additional basements, for wholly residential use, comprising 13 flats with eight parking spaces. Permission was subsequently granted in February 2018 for partial demolition of the building and its extension to provide additional office accommodation and two replacement flats.

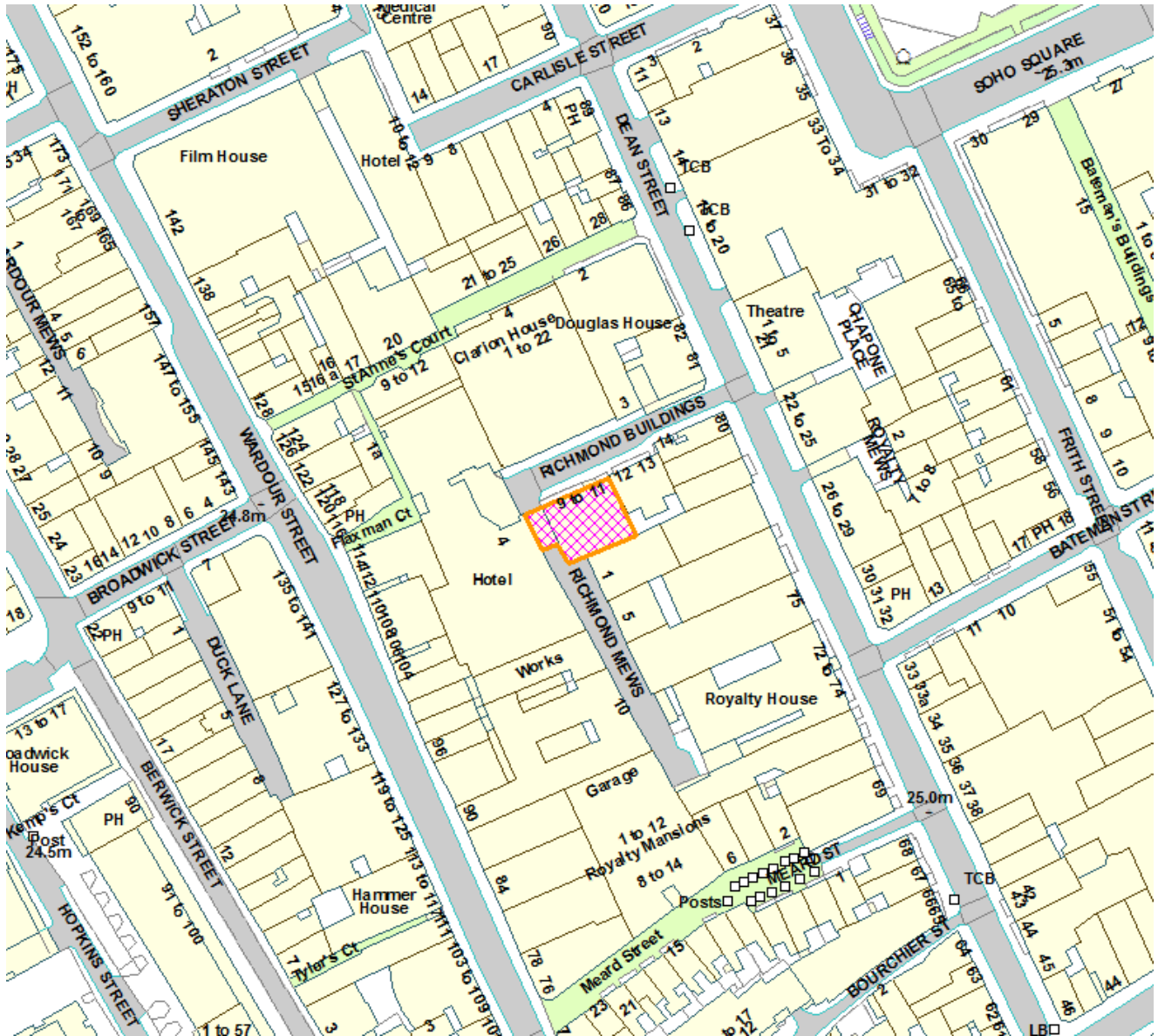
The new owner of the site (who also owns the adjacent hotel) now wishes to completely demolish the building and provide replacement office and residential accommodation. As with the previous schemes, there are extensions to the rear and one additional floor at roof level. The height and bulk of the new building are broadly similar to the previous schemes, though marginally lower in height than the first one and with slightly increased bulk at the rear. The main change is the design, particularly the front façade – previously approved brick and metalwork has been replaced with green glazed terracotta tiles. The building line will be brought forward slightly (600mm), again in accordance with the approved schemes.

There has been one objection on amenity grounds received from a resident living opposite, the proposals are considered to be acceptable as the impact on amenity is no worse than what the Council has previously agreed.

The key issue is considered to be the changes in the design of the new building.

For the reasons set out in detail in the main report, the revised proposal is considered to be acceptable. It is acknowledged that given the constraints of the site, partial demolition and construction of the new building will cause noise and disturbance, including local transport movements, but the proposals would be subject to the Council's Code of Construction Practice and this should help minimise disruption. The disruption will also be less than the first approved scheme, which could still be implemented, which included excavation to create additional basements.

### 3. LOCATION PLAN



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**4. PHOTOGRAPHS**





## 5. CONSULTATIONS

### HISTORIC ENGLAND (ARCHAEOLOGY)

No objection subject to a condition securing archaeological works.

### CROSS LONDON RAIL 2 LINKS LTD

No objection subject to a safeguarding condition.

### SOHO SOCIETY

No objection subject to the residential units not being let on short leases but on assured tenancies to long term tenants.

### BUILDING CONTROL

No objections

### HIGHWAYS PLANNING MANAGER

Objection to:

- the loss of the car parking (on the assumption that this might have been used by the existing residential units and is not being re-provided for the replacement residential units);
- questions about the adequacy of the proposed cycle parking, including no separate cycle parking for the residential flats;
- lack of off-street servicing (though this may be overcome by a robust service management plan);

Confirms that the rebuilt section that oversails the highway is acceptable, as is the bringing forward of the building.

### PROJECT OFFICER (WASTE)

Initial objection overcome by revisions/additional information.

### ENVIRONMENTAL HEALTH

- Initial objections about the means of escape from the residential accommodation withdrawn following clarification that this is a matter for subsequent determination by Building Control;
- queries about environmental noise issues connected with the proposed plant subsequently overcome by additional information;
- Detailed comments and advice on the need for conditions with regard to the mechanical plant, sound insulation, contaminated land and the Code of Construction Practice.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 139;

Total No. of replies: 2, raising objections on

- noise/disruption/pollution from demolition and rebuilding works
- loss of amenity through obstruction, breach of privacy/overlooking, loss of natural light
- includes comments about an unrelated development for an hotel.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The building is located on the south side of Richmond Buildings, and partially oversails the entrance to Richmond Mews. Dating from the 1960s, it comprises a lower ground floor largely occupied as parking space (approximately 5-6 vehicles, accessed from a shallow ramp in Richmond Mews), upper ground and four upper floors. Apart from two small flats occupying the fourth floor (123 sqm), the rest of the building was last used as Class B1 offices (1,003 sqm): the whole building is currently vacant. The flats and offices share the same entrance, stairs and a single lift.

The building is not listed but it is within the Soho Conservation Area. It is also within the Core Central Activities Zone and the West End Stress Area. Most of the site, apart from the section which oversails the entrance to Richmond Mews, is within the safeguarding zone for Crossrail 2.

### 6.2 Recent Relevant History

August 2016 – permission granted for the demolition of the existing building and erection of a replacement building to provide sub-basements for use by a car stacker, and basement, lower ground, ground and first to fifth floor levels for use as residential accommodation comprising 13 residential units (Class C3); creation of terraces at first to fifth floor levels and lightwells to the front and rear of the property; installation of plant and PV cells at main roof level and condenser units within an enclosure at ground floor level within the undercroft.

This was subject to a legal agreement that secured the following:

- i) A financial contribution of £1,015,000 towards the Council's affordable housing fund (index linked and payable on commencement of the development);
- ii) Provision of lifetime car club membership (minimum 25 years) for all 13 flats;
- iii) Provision of Site Environmental Monitoring Plan and £27,000 per annum towards construction monitoring;
- iv) Management and maintenance of the car lift;
- v) Securing unallocated car parking within the development;
- vi) Monitoring costs of £500 for each of the above clauses.

February 2018 – permission granted for demolition of existing front and rear façades and construction of replacement facades in new position incorporating full height front and rear extensions to provide additional office accommodation; extension to the undercroft; rooftop extension and relocation of the two existing residential units at 4th floor to the new 5th floor level, roof terraces at front fifth floor level and on the main roof, refurbishment of offices in remainder of the building and associated works.

This was subject to a legal agreement that secured the following:

- i) A financial contribution of £91,000 towards the Council's affordable housing fund (index linked and payable on commencement of the development);
- ii) a Crossrail payment of £62,397;

- iii) car club membership for each of the two residential flats for 25 years;
- iv) Monitoring costs of £500 for each of the above clauses.

Neither of the above permissions has been implemented.

## 7. THE PROPOSAL

Since the last permission was issued, the site has been bought by Firmdale Hotels plc, which owns the Soho Hotel adjacent to the site. Their proposal is broadly similar to the last permission, in that it is a redevelopment to provide replacement offices and two replacement flats. Key changes are the design of the new building, with some increase in bulk at the rear and a different design, particularly in the use of the building materials for the front façade (green glazed terracotta tiles rather than brick and metalwork), and relocation of the two flats to first floor level. The proposed offices are to be occupied by the applicant, as Firmdale Hotel's headquarters.

The changes in floorspace are summarised in the table below:

	<i>Feb 2018 Existing GIA sqm</i>	<i>Feb 2018 Approved scheme GIA sqm</i>	<i>Feb 2018 +/-</i>	<i>Oct 2018 Existing GIA sqm - updated</i>	<i>Oct 2018 Proposed GIA (sqm)</i>	<i>Oct 2018 +/-</i>
Office (Class B1)	995	1,441	+446 (+44.82%)	1,003	1,213	+210 (+20.94%)
Residential (Class C3)	114	175	+61 (+53.51%)	123	217	+94 (+76.42)
<b>Total</b>	<b>1,109</b>	<b>1,616</b>	<b>+507</b> <b>(+45.72%)</b>	<b>1,126</b>	<b>1,430</b>	<b>+304</b> <b>(+26.99)</b>

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Increase in office floorspace

The site is located within the Core Central Activities Zone and, under the terms of policy S1 and S20 of the City Plan, an increase in office floorspace is acceptable in principle. The existing accommodation is outdated and the provision of modern floorspace will help contribute to the area's economic function, which is welcomed. It is noted that the applicant company (which has five hotels within Westminster) intends to occupy the offices as their own headquarters (which are currently split across a couple of sites).

The existing basement is laid out as a car park. The proposed scheme replaces this with office accommodation. There are no planning controls that would prevent the existing parking area in the basement from being used as additional office accommodation, and this was accepted in the last permission.

Policy S1 also states that:

A) Where the net additional floorspace (of all uses) is

- i) less than 30% of the existing building floorspace, or
  - ii) less than 400sqm; (whichever is the greater),
- or where the net additional B1 office floorspace is less than 30% of the existing building floorspace (of all uses), no residential floorspace will be required.

The current proposal is slightly smaller than the previous one. In the current application the net additional floorspace (of all uses) is 304 sqm, an increase of 27% (compared with 507 sqm/45.72% in the last scheme). Accordingly these proposals do not trigger a requirement for additional residential accommodation.

#### Residential use

The existing two flats on the top floor of the building are both 1-bedroom and share the same access arrangements as the office accommodation. Policy S14 of the City Plan is clear that residential use is the priority across Westminster except where specifically stated. All residential uses, floorspace and land will be protected. The replacement of the two flats is therefore in accordance with this policy and the small increase in floorspace is welcome. There is no policy requirement to provide affordable housing, given the small increases in floorspace.

Policies H5 of the UDP and S15 of the City Plan seek to secure an appropriate mix of units in housing developments. Policy H5 normally requires at least 33% of new units providing three or more bedrooms. The proposed replacement flats would comprise 1 x 1-bedroom and 1 x 2-bedroom units, a slight improvement in the mix, which is welcome and given that there are only two units, there are not considered to be any policy grounds for requiring a 3-bedroom unit. This would not be practical anyway, given the small size of the floor plate.

The replacement flats are larger than the existing flats and would have a good standard of accommodation and amenity. The existing flats are on the top floor and have their own very small balconies: the proposed flats are at first floor level and would arguably have less natural lighting, nor do they have any outdoor amenity space, but they are larger and the design incorporates larger windows to the front. (The original proposal had 'winter gardens' at the front of the flats, but these limited light penetration into the main body of the flat and were subsequently removed.)

There is also a slight improvement to the access arrangements for the flats, which at the moment is shared with the office entrance on the Richmond Buildings frontage. The proposed residential entrance is at the rear of the site, in Richmond Mews (where there is other residential accommodation) and would be solely for the flats (the office entrance would remain on Richmond Buildings). However, they would still share the stairs and lift, along with waste and bike storage. On balance the proposed arrangements for the replacement residential accommodation is considered to be acceptable.

The Soho Society have commented that they have no objections to the proposal subject to the residential units not being let on short leases but on assured tenancies to long term tenants. There are no planning grounds for controlling the tenancies of the flats, so long as they are used for permanent residential accommodation. It is noted however that

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legislation allows that the flats could be used for short-term let purposes for up to 90 nights per calendar year.

## **8.2 Townscape and Design**

The existing building is a post war development of little merit. It does not make a positive contribution to the character and appearance of the Soho Conservation Area in which it is located. Planning permission has already been granted for its redevelopment. Richmond Mews is of very mixed architectural character. The street has been comprehensively redeveloped and no buildings of historic interest or architectural merit survive other than at the south-east corner. The western end is dominated by the former Wardour Street Car Park, now the Soho Hotel, which has a warehouse/ light industrial character. On the north side is a modern housing development from the 1980's. Immediately east of the site is another post war building which has recently been refurbished (although some works carried out are not in accordance with the planning permission granted and are under investigation by the Planning Enforcement Team).

The proposed scheme is very different to that which was granted planning permission on 2 February 2018. The height is similar to the approved scheme, but the massing is greater, especially at the rear where the top floor is not recessed from the facade. Officers have sought to negotiate changes to this part, to reduce its bulk. However, because of the location of the core (lift, staircase and plant) of the building, the applicant has not been able to set the top floor back. Given that this part of the building is not visible from street level, except from the southern end of the mews, which is not heavily used by pedestrian, it is considered that the proposed massing is acceptable on balance.

The design of the front facade is extensively glazed with large window openings. The approved scheme was influenced by the proportions and solidity of the Georgian houses which characterise much of Soho. The current proposal makes reference to the larger scale redevelopments of the 19<sup>th</sup> and 20<sup>th</sup> centuries. It relates more closely to the former car park, now hotel, immediately to the west. This approach is considered acceptable in principle. The facade is to be clad in glazed ceramic blocks, which also makes reference to 19<sup>th</sup> century commercial buildings in the conservation area. This is also considered to be acceptable. The rear of the building is clad in metal rainscreen panels. The top floor is clad in perforated panels. These are considered acceptable in this location, subject to approval of samples of the materials.

This is a well-designed modern building which will sit comfortably in the context of the street. The proposals are considered to be acceptable in urban design and conservation terms and compliant with the relevant policies of the City Plan and Unitary Development Plan, including S25, S28, DES 1, DES 4 and DES 9.

The site lies within protected vista 2A.2 – Parliament Hill summit to the Palace of Westminster. In accordance with London Plan Policies 7.11 and 7.12 and WCC Policies S26 of the City Plan and DES15 of the UDP, the proposed development will not rise above the threshold plane.

### 8.3 Residential Amenity

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

#### Sunlight and Daylight

The application is supported by a daylight and sunlight report based on the guidance published by the Building Research Establishment (BRE). Under the BRE guidelines the amount of daylight received to a property may be assessed by the Vertical Sky Component which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change.

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. If the level of sunlight received is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, then the loss would be noticeable. Only those windows facing within 90 degrees of due south require testing. The BRE guidelines do advise that they should be applied sensibly and flexibly.

There has been one objection from a resident in Clarion House (a residential building directly opposite the site) raising concerns about the impact of the proposals on the amenity of their property. The current proposal is slightly higher and bulkier than the 2018 consented scheme but marginally lower than the August 2016. An updated daylight and sunlight assessment shows that whilst there will still be some losses of daylight to the flats in Clarion House, only three bedroom windows will have losses exceeding 20% (the worst being 24.28%).

Similarly, with regard to sunlight, the current proposals will have a similar impact on the flats in Clarion House to what has already been approved in the 2016 development, namely, three windows will lose more than 20% of their annual probable sunlight hours (APSH) and 14 will lose more than 20% of their winter sunlight (of which four will lose all of their winter sunlight). However, for the winter sunlight, most of the affected windows currently enjoy very limited amounts of winter sun and therefore any reduction expressed as a percentage is disproportionate. This is the same as the 2016 permission.

Whilst sympathetic to the resident's concerns, although the loss of daylight and sunlight to this property is regrettable, it is not considered to justify a refusal, as these losses are small and have previously been agreed by the Council. The existing application building is barely visible from the communal courtyard at the centre of the Clarion House and it is not considered that the additional floor that is proposed will have any material impact on the daylight or sunlight to this space.

Immediately adjoining the site to the east is 12-13 Richmond Buildings, which has recently been converted to residential accommodation. The approved plans show a mix of bedrooms and living accommodation at the rear of the building. To address concerns about the potential impact of the proposals on the new flats, a condition to ensure that the office windows very close to the new flats are kept closed (to minimise outbreak of noise). Whilst this scheme, like the previous ones, largely infills the rear of the site, the amenity at the rear is already largely determined by the flank wall of 1 Richmond Mews. This aspect of the latest proposals are virtually identical to the approved scheme, though it is a little bulkier on the top floor, to accommodate the main staircase. Three of the windows in the rear of these flats will experience losses of daylight in excess of 20% (up to 24.46% to an open plan living-kitchen-diner) but again, this is comparable to the approved schemes.

The proposal will have an impact on the windows to rooms of the adjacent hotel. However, Council policy does not seek to protect such accommodation. Furthermore, the hotel is in the ownership of the applicant. The hotel's lightwell created where the application site over sails the entrance to Richmond Mews will be the same as existing.

#### Sense of Enclosure and Privacy

Part (F) of Policy ENV13 seeks to resist developments that would result in an unacceptable degree of overlooking or increased sense of enclosure. There has been an objection from a resident in Clarion House about increased overlooking. Whilst the objection appears to refer to the increased height of the building, this is no worse than the previous proposals. The new scheme does have slightly larger windows than the previous designs but there is already a degree of overlooking from the existing offices and flats, and there is not considered to be any material worsening of this aspect.

The latest proposal does differ from the approved scheme in how the proposed roof terrace is designed. The last office/residential scheme had a terrace on the main roof, for use by the staff in the office accommodation. It had a screen around it which minimised the possibility of overlooking the flats opposite or the hotel bedrooms. It was also conditioned for use between 08.00 – 21.00 hours, Monday to Friday only, to protect residents' amenity from potential noise nuisance. There are a number of roof terraces in the vicinity, though these largely seem to be for residential use.

The proposed terrace in the latest scheme is at fifth floor level, between the fifth floor office accommodation and the hotel (with a planted area separating the two uses). The Environmental Health officer initially raised concerns about potential noise nuisance from use of the roof by the office occupiers: although the applicant intends to occupy the offices as the headquarters of the hotel company, there is no intention for the terrace to be used in any way as part of the adjacent hotel. The hours that the terrace can be used will also be conditioned as before. The terrace is set back from the building frontage but a condition requires the submission of details of a screen, to ensure there is no overlooking of Clarion House.

## 8.4 Parking, Servicing and Waste Storage

The Highways Planning Manager has raised some concerns about the current proposal:

### Loss of Existing Car Parking and Car Parking for Residential Units

The existing site has some off-street car parking, accessed from a ramp in Richmond Mews, for approximately 5-6 car parking spaces. UDP policy TRANS23 states “The permanent loss of any existing off-street residential car parking space will not be permitted other than in exceptional circumstances.” The Highways Planning Manager is concerned that the loss of the car parking will add to existing on-street parking pressures and be contrary to TRANS23 and therefore objects to the proposals. However, there is no restriction on how this parking might have been used, i.e. it may have been used just by the offices and would not have been protected for use by the flats. Furthermore, the basement could have been used for other purposes ancillary to the office use on the upper floors of the building without the need for planning permission.

Notwithstanding the objection to lack of parking for the residential accommodation, the replacement of the existing flats is considered to take priority over the objection raised. The applicant has agreed to offer life time (25 years) car club membership for each of the flats and given the circumstances of the case, this is considered to be an acceptable compromise.

### Cycle Parking

The London Plan Policy 6.9 requires 1 space per 90m<sup>2</sup> of B1 office and 1 space per 1 bedroom residential unit or 2 spaces for 2 plus bedroom units. Long term off-street cycle parking promotes this sustainable transport to staff. The proposed additional residential units would require 3 cycle parking spaces (1 x 1-bed unit and 1 x 2-bed unit). For the B1 office floor space, 14 cycle parking spaces are required.

The total required for the site is 17 long stay cycle parking spaces and storage for this number is provided at basement level. However, the cycle storage for the office and residential accommodation is provided together. Although the Highways Planning Manager has queried this, these arrangements are considered to be acceptable given the relatively small size of the building. Cycle parking access for both the residential and office spaces will be facilitated via a separate access on Richmond Buildings, which will provide access to the platform lift leading to the cycle spaces at basement floor. Access will be managed and controlled by an electronic system.

### Servicing

Policies S42 and TRANS20 seek off-street servicing. The Highways Planning Manager has commented that even though servicing currently occurs on-street, given the substantial intervention within the site, there appear to be no valid reasons not to provide off-street servicing. However, the site is relatively small, and whilst a service bay could potentially be provided at the rear of the site, this would create its own problems, including increased traffic congestion with Richmond Mews.

Servicing for the site will be undertaken via Richmond Buildings. Given the proposed uses and the small scale of the development, it is not expected that there will be any regular daily deliveries to the site, except for post deliveries. It is likely that the majority of vehicles associated with servicing and deliveries to the site will be of the transit van



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type, if not smaller. Such vehicles can utilise the natural turning head available at the junction of Richmond Buildings/Richmond Mews to ensure that vehicles enter and exit Richmond Buildings in a forward gear. For larger vehicles, such as refuse collection, the servicing strategy will be consistent with the existing strategy for units on Richmond Buildings/Richmond Mews, with vehicles reversing onto Richmond Buildings via Dean Street. In addition, the western side of Dean Street has unrestricted double yellow lines which permit loading at any time, providing alternative arrangements for vehicles to undertake deliveries to the site from this point.

It is considered that servicing can be adequately dealt with by requiring a servicing management plan, which will be secured by condition.

#### Supported transportation issues

There is no objection to the lack of car parking for the replacement offices. The site is within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls. The impact of the change of use on parking levels will be minimal and consistent with TRANS21 and TRANS22.

The existing building over sails the highway, across Richmond Mews. The proposal is for the over-sail to be demolished and rebuilt. The drawings submitted by the applicant indicate a minimum clearance of 5.3 metres. This is consistent with the minimum requirements of the Westminster Highways Planning Guide. Therefore, the over sailing section of the proposal is considered acceptable.

#### Highway Boundary/Building Line

The proposal alters the building line in Richmond Buildings by bringing it forward (towards Richmond Buildings) by approximately 600mm. This space isn't highway, but within the site boundary. Given the existing highway layout and existing structures, namely the stairs that lead up the entrance of the existing building, it is not considered that the proposed change to the building line will have an adverse impact on the visibility splays. This aspect of the proposals has been approved in the two previous permissions.

#### Waste storage

The proposed refuse store is at basement level, with separate but adjacent storage areas for the offices and the flats. On collection days, the management team will transfer the waste to a collection point on Richmond Buildings, via the platform lift. The collection point is within the site boundary; therefore, no refuse will be stored on the carriageway. The applicant has provided additional information about the capacities of the waste storage bins and clarified that there will also be provision for recyclable material storage. This will be secured by condition.

### **8.5 Economic Considerations**

The updated office accommodation is likely to contribute positively to the economic vibrancy of this part of the Core CAZ and as such is welcomed in principle.

The applicant has been asked if they would consider signing up to an Employment and Training Strategy, but they have declined, advising that as a company Firmdale already employ personnel from the local borough and have a number of their own apprenticeship schemes.

## **8.6 Access**

The development is designed to provide step-free access throughout the entire building. Access to the site will be via Richmond Buildings and Richmond Mews. The office access will be taken from Richmond Buildings, the key frontage of the site. The office entrance will lead into a main area and through to a lift, which provides access to all the upper floors. Residential access will be at the south western corner of the site, via Richmond Mews. The level entrance leads to the lift, which is also accessible at this level. This is an improvement on the existing situation, where there is a flight of stairs up to the main entrance (for both the offices and the flats).

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

### Plant

The NPPF contains guidance on noise management in planning decisions: it advises that decisions should aim to avoid noise giving rise to significant impacts on quality of life as a result of development, and mitigate noise impacts, but recognises that development will 'often create some noise'. Policy 7.15 of the London Plan, 'Reducing Noise and Enhancing Soundscapes' aims to support the Mayor's Ambient Noise Strategy. The reduction of noise resulting from developments, and screening of them from major noise sources, is sought under this policy. The reduction of noise pollution is covered in Westminster's City Plan Policy S 32. Improvements to the borough's sound environment will be secured, as will the minimisation and containment of noise and vibration in new developments. Developments should provide an acceptable noise and vibration climate for occupants. UDP Policy ENV 6 describes policy to address noise pollution issues. Design features and operational measures which minimise and contain noise from developments are required. Residential developments should be appropriately protected from background noise.

Plant is proposed within the basement but also at roof level. A noise survey report is provided as part of the application package, which identifies surveyed background noise levels and identifies the maximum plant noise emission limits for the proposed rooftop plant, in accordance with Westminster City Council's standards, so as to prevent any adverse noise from the plant adversely affecting the amenity of residents in the vicinity of the site. The proposals have been assessed by the Council's Environmental Health officer who has no objections in principle to the proposals, subject to standard conditions. This includes the need for a supplementary acoustic report to ensure that the installed plant will comply with the relevant noise conditions. On this basis this aspect of the proposal is considered to be acceptable.

### Basement excavation and Flood Risk

The proposed scheme includes the excavation of the basement below the existing half basement. The proposed basement would occupy the footprint of the existing half basement and would be approximately 1.9m deeper than the finished floor level of the existing basement.

A Basement Impact Assessment has been submitted to support the planning application submission which indicates that the proposed works are not likely to adversely impact on the surrounding environment. In relation to adjacent structures, any potential risks will need to be managed by experienced temporary works design and execution. Several

mitigation measures are set out within the report to reduce the risk of movement and subsequent cracking to neighbouring properties.

A review of the Environment Agency's ('EA') flood map has shown that the proposed development site is in Flood Zone 1 – landed assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%).

The proposals have been assessed by the Council's Building Control officers, who advise that the structural method statement is considered to be acceptable and the investigation of existing structures and geology is of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been considered in the design. The basement is to be constructed using secant piles and mass concrete underpins, which is considered to be appropriate for this site. The proposals to safeguard adjacent properties during construction are considered to be acceptable. Therefore, the proposal is in accordance with WCC Policy CM28.1.

#### Archaeology

NPPF section 16 and the London Plan (2011 Policy 7.8) make the conservation of archaeological interest a material planning consideration. NPPF paragraph 189 says applicants should provide an archaeological assessment if their development could affect a heritage asset of archaeological interest. If you grant planning consent, paragraph 199 of the NPPF says that applicants should record the significance of any heritage assets that the development harms. Applicants should also improve knowledge of assets and make this public. UDP policy DES 11 seeks to ensure that archaeological remains are properly evaluated and protect and preserve where appropriate

The site is situated within the Great Estates Tier 2 Archaeological Priority Area (APA) covering Soho and Mayfair. A Historic Environment Assessment (Archaeology) has been prepared by MOLA (Museum of London Archaeology) in support of the planning application. The desk-based study assesses the impact of the scheme on buried heritage assets (archaeological remains). It is considered that archaeological survival potential on the site is likely to be low to moderate, rising to moderate on the western side of site where there is no basement. As requested by Historic England (Archaeology), a pre-commencement safeguarding condition is attached to the draft permission, requiring that a written scheme of investigation is submitted to and approved by the Council before any demolition or development works commence.

#### Energy, Sustainability and Biodiversity

Policies 5.1 to 5.9 of the London Plan focus on how to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. Developments are required to make the fullest contribution to tackling climate change by minimising carbon dioxide emissions (be lean), adopting sustainable design and construction measures and prioritising decentralised energy (be clean), including renewables (be green). London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments and requires a 35% reduction of CO2 emissions over the baseline emissions to be achieved by the development.

An Energy Strategy has been submitted in support of the planning application. The proposed development demonstrates an estimated reduction of 25.94% in on-site

regulated emissions. This is against a target emission reduction of 35% over Building Regulations Part L for new non-domestic buildings and Zero Carbon for the residential element (introduced as part of the Zero Carbon Homes criteria by the GLA in October 2016). The Energy Strategy sets out several energy efficiency measures that have been incorporated to achieve the 25.94% carbon dioxide saving.

- Be Lean – The heating specification for the domestic element is gas system boilers. For the non-domestic element, space heating will mainly be provided by an air source heat pump, with other areas being heated by electric heating. Water heating will be provided by a gas-fired water heater. Other factors include optimising orientation and site layout, natural ventilation and lighting, thermal mass and solar shading.
- Be Clean – The potential for connecting the development to an existing or planned heat network has been investigated. Due to the absence of a heat network close to the development site and the limited heat demand, the connection to a network is not considered viable.
- Be Green – A detailed assessment of renewable energy opportunities has been undertaken and has determined that renewable energy will be provided in the form of photovoltaic (PV) solar panels on the roof: a system of 3.92 kWp is proposed.

The applicant has been demonstrated that the minimum improvement over the target emission reduction cannot be achieved on-site. This is mainly due to the limited roof space available which restricts the amount of PV that can be placed on-site. On-site emissions have been reduced as far as reasonably possible with a high performance fabric, efficient services and renewable energy (both solar PV and heat pumps). As such, the shortfall will be provided through a payment in lieu contribution (of £7,623) to the Council's carbon-offset fund to secure delivery of carbon dioxide savings elsewhere. Subject to entering a legal agreement to provide a carbon offset contribution, the development proposal is in accordance policy.

A Thermal Comfort Study has been undertaken by Build Energy Limited in support of the planning application. The study assesses the overheating risk in the proposed office floorspace and investigates the efficacy of the proposed passive design strategies. The scheme seeks to reduce the requirement for cooling through the implementation of passive design solutions, including minimising internal heat gains and the application of solar control glazing. It is also proposed that the heavyweight construction of the building is exploited through the implementation of a night cooling strategy whereby outside air is passed through the office floorspace during non-occupied hours to provide free cooling. The reliance on active cooling is mitigated as far as possible through passive design measures, however some active (mechanical) cooling is also required.

At fifth floor level a 30 sqm green roof is proposed, with a range of plants, on top of the rebuilt portion that over sails the entrance to Richmond Mews. Rainwater will be retained on top of the raised planter to provide sustainable urban drainage/attenuation. Although the main benefit of the green roof is likely to be visual (given that it is immediately next to the proposed roof terrace), it may help promote biodiversity, in accordance with Policy 7.19 of the London Plan, Policy S38 of the City Plan: Strategic Policies and policies ENV4 and ENV17 of the UDP.

A proposed blue roof over the stairwell consists of a void former set between the building envelope and the roof pavers. A blue roof is a roof design that is intended to store water, typically during rainfall and helps with water attenuation and management to regulate drainage of water from the roof.

#### Crossrail

The application site is within the limits of land subject to consultation by the Crossrail 2 Safeguarding Direction. Transport for London have been consulted and have confirmed that they have no objection, subject to a pre-commencement condition requiring the submission of a detailed design and construction method statement for their approval. This condition is on the draft decision letter.

#### Construction works

There have been two objections from residents in the block of flats opposite the site about the noise and disruption caused by the building works, as well as increased traffic congestion. The current proposal will be less disruptive than the 2016 residential development, as it does not involve significant excavation works to create additional basement levels. However, it is considered appropriate that the scheme is subject to the Council's Code of Construction Practice (as with the previous approvals) and this will be secured by pre-commencement condition.

### **8.8 London Plan**

This application raises no strategic issues and is not referable to the Mayor of London. Because the office increase is less than the February 2018 approval, and under 500 sqm, this scheme does not generate a Crossrail contribution.

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

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

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.

During the course of this application a notice was served relating to the proposed imposition of pre-commencement conditions to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development, to submit and comply with an archaeological written scheme of investigation, submission of a remediation strategy to deal with any potential land or building contamination, and detailed design and construction method statements for all of the ground floor structures, foundations and basements and for any other structures below ground level, to comply with the Crossrail 2 Safeguarding Direction. The applicant's formal response is awaited.

## 8.10 Planning Obligations

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- i) a financial contribution of £7,623 (index linked and payable on commencement) towards the City Council's carbon offset fund;
- ii) car club membership for each of the two residential flats for 25 years;
- iii) monitoring costs for each of the above clauses.

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

The applicant estimates that the Mayoral CIL will be £21,607 (subject to indexation) and the Westminster CIL to be £81,913 (subject to indexation).

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### **8.11 Conclusion**

The current proposal is considered to comply with relevant policies and its impact on the amenity of neighbouring properties is no worse than the two previously approved schemes. The main change is to the design, particularly to the front façade. Given the context of the site, the proposed design is considered to be acceptable.

(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: HELEN MACKENZIE BY EMAIL AT HMACKENZIE@WESTMINSTER.GOV.UK
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## 9. KEY DRAWINGS

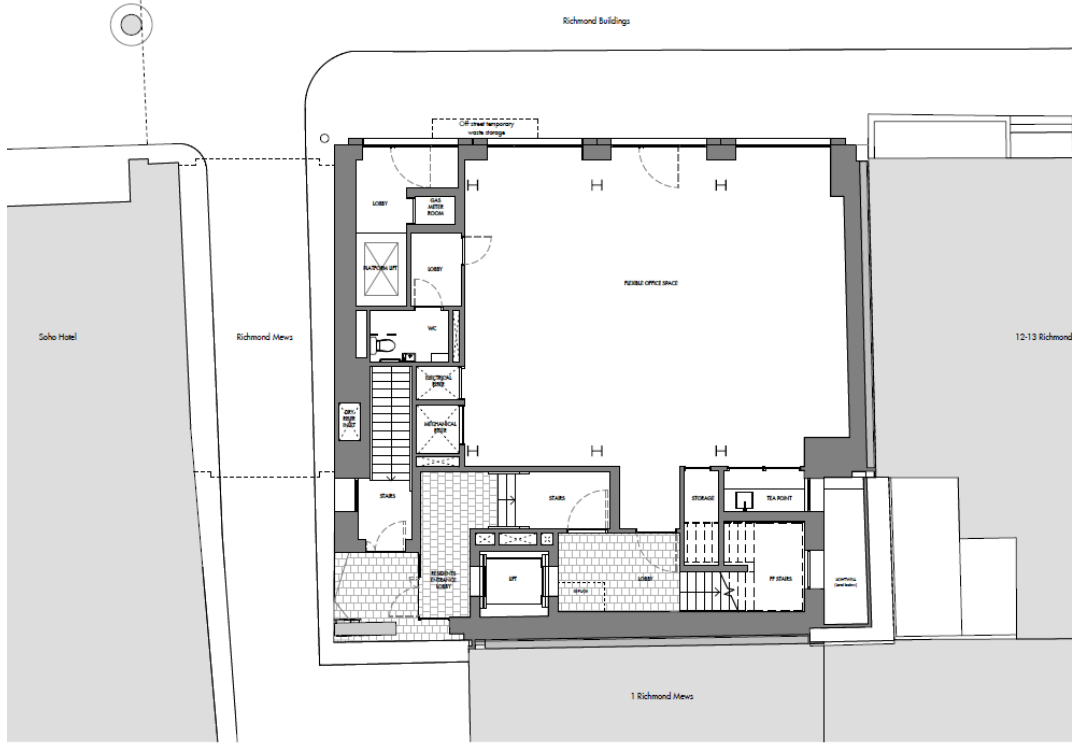




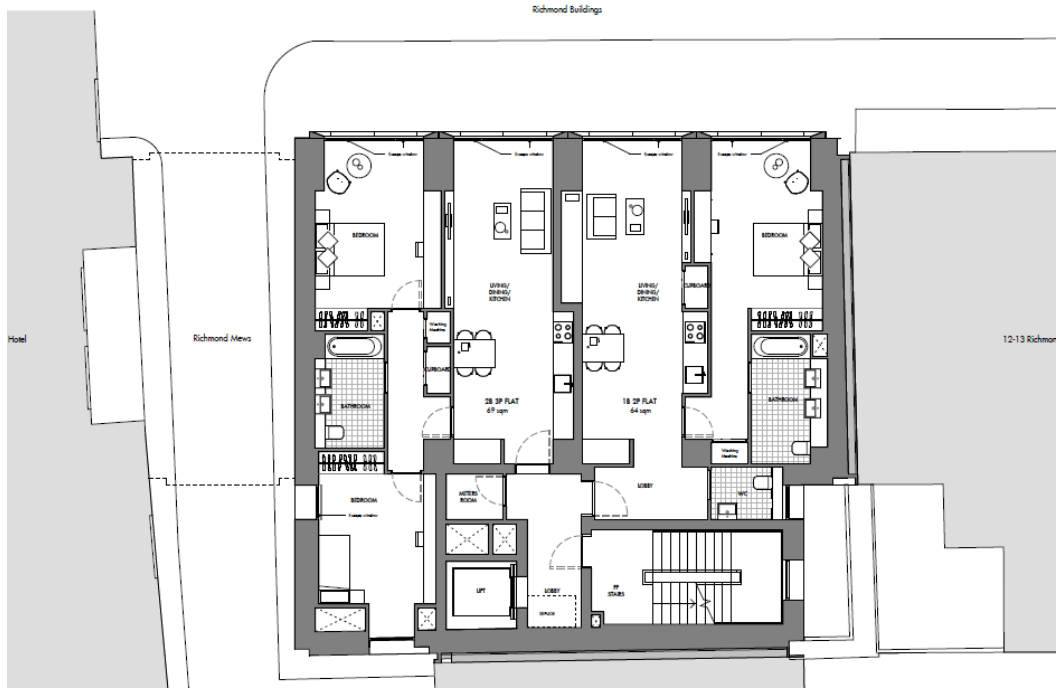
Proposed section B-B



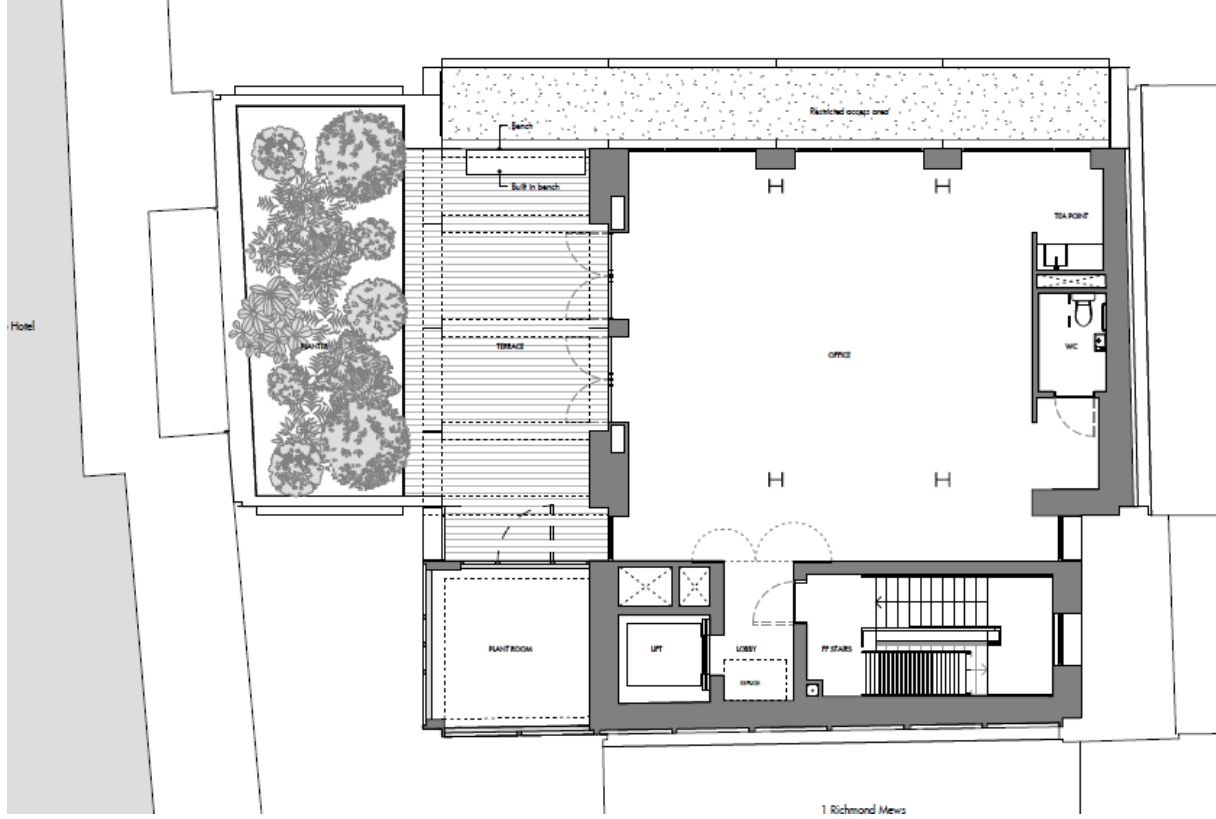
Proposed ground floor



Proposed first floor



Proposed fifth floor plan



**DRAFT DECISION LETTER**

**Address:** 9-11 Richmond Buildings, London, W1D 3HF,

**Proposal:** Demolition of the existing building and redevelopment of the site to provide a six storey with basement replacement building comprising offices (Use Class B1) at basement, ground and second to fifth floor and residential accommodation (Use Class C3) at first floor comprising of 2 residential units.

**Reference:** 18/03246/FULL

**Plan Nos:** 17176\_07\_001; 17176\_07\_099 P2, 17176\_07\_100 P3, 17176\_07\_101 P2, 17176\_07\_102 P1, 17176\_07\_105 P2, 17176\_07\_106 P2, 17176\_07\_120 P2, 17176\_07\_200 P2, 17176\_07\_201 P2, 17176\_07\_202 P2, 17176\_07\_300 P2, 17176\_07\_301 P2, 17176\_07\_302 P2, 17176\_07\_400 P1, 17176\_07\_401 P1, 17176\_07\_402 P1.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 020 7641 2547

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

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

Reason:

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

- 2 Except for basement excavation work, you must carry out any building work which can be heard at the boundary of the site only:  
 \* between 08.00 and 18.00 Monday to Friday;  
 \* between 08.00 and 13.00 on Saturday; and,  
 \* not at all on Sundays, bank holidays and public holidays.  
 You must carry out basement excavation work only: \* between 08.00 and 18.00 Monday to Friday; and, \* not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours. (C11BA)

Reason:

To protect the environment of 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 **Pre Commencement Condition.** Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local

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planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its written approval of such an application (C11CC)

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)

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

- 5 You must apply to us for approval of detailed drawings at scale 1:20 and 1:5 of the following parts of the development: typical facade details at all levels (front and rear). You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

Reason:

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both

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and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

Reason:

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

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

Reason:

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

- 9 (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)

- 10 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)

- 11 You must apply to us for approval of details of a supplementary acoustic report demonstrating that all plant will comply with the Council's noise criteria as set out in Condition 9 of this permission. You must submit this report before occupation of any part of the building. Any remedial measures identified by the report or required by the Council must then be installed within three months of the Council's approval of the supplementary acoustic report., The supplementary acoustic report must include:
- (a) A schedule of all plant and equipment installed;
  - (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 all most affected noise sensitive receptor locations and the most affected windows;
  - (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) The lowest existing L A90 (15 minutes) measurement as already established.;
  - (g) New noise monitoring data, measurement evidence and any calculations demonstrating that plant complies with the planning condition.

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)

- 12 **Pre Commencement Condition.** You must complete a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018. It is noted that the reports for Phases 1 and 2 have already been submitted. You must apply to us and receive our written approval for phase 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed but before it is occupied., , Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution., , Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate., , With regard to the Phase 2 report already submitted (Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property), you should adhere to its recommendations where appropriate.

Reason:

To make sure that any contamination in the building or of the ground under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18BA)

- 13 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)

- 14 The design and structure of the development shall be of such a standard that it will protect residents within it from structural borne noise from London Underground tube lines so that they are not exposed to levels indoors of more than 35 dB LASmax within habitable rooms during day or night.

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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 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 (in particular the lift), 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)

- 16 You must provide each cycle parking space shown on the approved drawings prior to occupation - with a minimum of 14 spaces for the office accommodation and clearly designated spaces for a minimum of 3 cycles for the residential accommodation. Thereafter the cycle spaces and changing facilities 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)

- 17 You must provide the separate residential and office waste stores shown on the approved basement plan before anyone moves into the property, distinguishing for normal waste and recyclable waste. You must also clearly mark them for the separate office and residential uses and make them available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. No waste is to be left on the highway. You must not use the waste stores for any other purpose. (C14DC)

Reason:

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

- 18 Any structure over the highway must maintain a minimum of 5.3m vertical clearance from the highway surface at all times.

Reason:



To make sure that the entrance to Richmond Mews will be available for all types of vehicles, 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. (R23BB)

- 19 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)

- 20 Any development beneath the footway must maintain a minimum depth between the surface of the footway and the development of 900mm.

Reason:

To ensure sufficient space remains for utilities, in accordance with TRANS 19 of our Unitary Development Plan that we adopted in January 2007.

- 21 **Pre Commencement Condition.** None of the development hereby permitted shall be commenced until detailed design and Construction method statements for all of the ground floor structures, foundations and basements and for any other structures below ground level, including piling and any other temporary or permanent installations and for ground investigations have been submitted to and approved in writing by the Local Planning Authority which:-, (i) Accommodate the proposed location of the Crossrail 2 structures including temporary works;; (ii) Accommodate ground movement arising from the construction thereof; , (iii) Mitigate the effects of noise and vibration arising from the operation of Crossrail 2 within its tunnels and other structures., , The development shall be carried out in all respects in accordance with the approved design and method statements. All structures and works comprised within the development hereby permitted which are required by paragraphs 1(i), 1 (ii) and 1 (iii) of this condition on shall be completed, in their entirety, before any part of the building[s] hereby permitted is/are occupied. No alteration to these aspects of the development shall take place without the approval of the Local Planning Authority in consultation with Crossrail 2.

Reason:

To meet the requirements of a direction made in connection with the Chelsea-Hackney line (CrossRail Line 2) by the Secretary of State for Transport under Articles 14(1) and 18(3) of the Town and Country Planning General Development Order 1988 and as set out in S41 and S43 of Westminster's City Plan (November 2016) and TRANS 5 (E) and para 4.68 of our Unitary Development Plan that we adopted in January 2007. (R33BC)

- 22 The windows in the rear elevation immediately adjacent to 12-13 Richmond Buildings must be fixed permanently shut.

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 **Pre Commencement Condition.**, (a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved in writing what you have sent us.(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, and to the Greater London Sites and Monuments Record, Greater London Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.  
(c) You must not use any part of the new building until we have confirmed in writing that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 24 You must provide the access for people with disabilities as shown on the approved drawing(s) and as outlined in the Design and Access Statement before you use any part of the building. (C20AB)

Reason:

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

- 25 The entrance to the building in Richmond Mews shall only be used by the residents of the two flats and shall not be used by the occupiers of the office accommodation except for maintenance purposes or in the case of an emergency.

Reason:

To protect the environment of the people in the residential part of the development. This is 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. (R21CC)

- 26 The roof terrace at fifth floor level may be used by occupiers of the office accommodation only between 08.00 and 21.00 hours Mondays to Fridays and not at all at any other time. The area shown annotated as 'Planter' on the fifth floor plan (on top of the part of the building that oversails the entrance to Richmond Mews) may not be used at any time (apart from maintenance of the plants). However, these areas may be used at any time to escape in an emergency.

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: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 27 You must apply to us for approval of detailed drawings (part plan, elevation and section) showing the following alteration to the scheme: screening that is 1.8m high along the perimeter (behind the built in bench shown on the floor plan) of the roof terrace at fifth floor level that faces Clarion House. You must not start any work on this part of the development nor use these terraces until we have approved what you have sent us. You must then carry out the work according to these approved details and install the screen before occupation of any part of the building hereby approved and permanently maintain the screen thereafter. The flat roof on the northern edge of the fifth floor (annotated as 'Restricted access area' on the fifth floor plan) shall not be used for any purpose, except for escape in an emergency.

Reason:

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

- 28 You must apply to us for approval of a servicing management plan. You must not commence any of the uses until we have approved what you have sent us. The servicing of the building must then be carried out in accordance with 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)

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

Reason:

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

- 30 You must not carry out building, engineering or other work which will involve increasing the height of the building above what is shown on the approved plans. (C34AA)

Reason:

This is as set out in 7.11 and 7.12 of the London Plan 2016, S26 of Westminster's City Plan (November 2016) and DES 14 of our Unitary Development Plan that we adopted in January 2007. (R34AC)

- 31 You must apply to us for approval of a detailed drawing (with accompanying details of species to be used) showing the provision of a green roof/planter on the flat roof of the building that oversails the entrance to Richmond Mews (ie the roof adjacent to Soho Hotel) at fifth floor level. You must not commence work on this part of the development until we have approved what you have sent us. The development must then be carried out in accordance with these approved details prior to occupation of any part of the development, and thereafter permanently retained.

Reason:

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

- 32 You must provide the environmental sustainability features (environmentally friendly features) set out in the Energy and Sustainability Statement prepared by Building Energy Ltd issued on 20.04.2018 before you start to use any part of the development. You must not remove any of these features without the written approval of the City Council as local planning authority. (C44AA)

Reason:

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

- 33 You must apply to us for approval of details/detailed drawings showing the proposed treatment of the lightwell shared with the Soho Hotel. You must not commence work on this part of the development until we have approved what you have sent us. The development must then be carried out in accordance with these approved details, prior to occupation of any part of the development.

## Reason:

To minimise the impact of the development on the adjoining hotel, in accordance with policy 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. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
  
- 2 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil) , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form** , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk) , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**
  
- 3 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) A financial contribution of £7,623 (index linked) towards the City Council's carbon offset fund;, ii) car club membership for each of the two residential flats for 25 years;, iii) monitoring costs for each of the above clauses.
  
- 4 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the

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Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

- 5 The City Council supports a scheme to provide a free a recruitment service for businesses. Over 90% of people helped into work have been retained for over 6 months by their employing businesses. The scheme uses Work Place Coordinators to match vacancies and candidates. They have helped over 600 Westminster residents into jobs in Westminster businesses across the City. Further details can be found at [www.crossriverpartnership.org](http://www.crossriverpartnership.org). The scheme is supported by Westminster City Council, Cross River Partnership, the Crown Estate, New West End Company and Victoria BID.
- 6 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point., , If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)
- 7 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 8 With regard to condition 21, you should refer to the Crossrail 2 Information for Developers available at [crossrail2.co.uk](http://crossrail2.co.uk). Crossrail 2 will provide guidance in relation to the proposed location of the Crossrail 2 structures and tunnels, ground movement arising from the construction of the tunnels and noise and vibration arising from the use of the tunnels. Applicants are encouraged to contact the Crossrail2 Safeguarding Engineer in the course of preparing detailed design and method statements. If you require any further information or assistance then please contact a member of the Safeguarding Team on 0343 222 1155, or by email to [crossrail2@tfl.gov.uk](mailto:crossrail2@tfl.gov.uk).
- 9 Condition 9 controls noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 10 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.

- 11 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met: 1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety]. 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises). This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>. Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

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

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# Agenda Item 2

Item No.
<b>2</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 October 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>30-32 Foubert's Place, London, W1F 7PS,</b>		
<b>Proposal</b>	Dual/alternative use of the basement, ground and first floor for either retail (Class A1) or restaurant (Class A3) use and dual/alternative use of second and third floor for either retail (Class A1) use, restaurant (Class A3) use or offices (Class B1) use. Installation of an intake duct and extract duct located internally from basement to third floor terminating at roof level and enclosed within an acoustic enclosure.		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	Shaftesbury Carnaby PLC		
<b>Registered Number</b>	18/06478/FULL	<b>Date amended/ completed</b>	2 August 2018
<b>Date Application Received</b>	1 August 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

30-32 Foubert's Place is an unlisted building located within the Core Central Activities Zone (CAZ) Soho Conservation Area and the designated West End Stress Area. The property occupies a corner site with a frontage to Foubert's Place to the north and Newburgh Street to the west. The building comprises basement, ground and first to third floor levels, the lawful use of the basement, ground and first floors are for retail purposes (Class A1) and the second to third floor levels are lawfully in use as offices (Class B1).

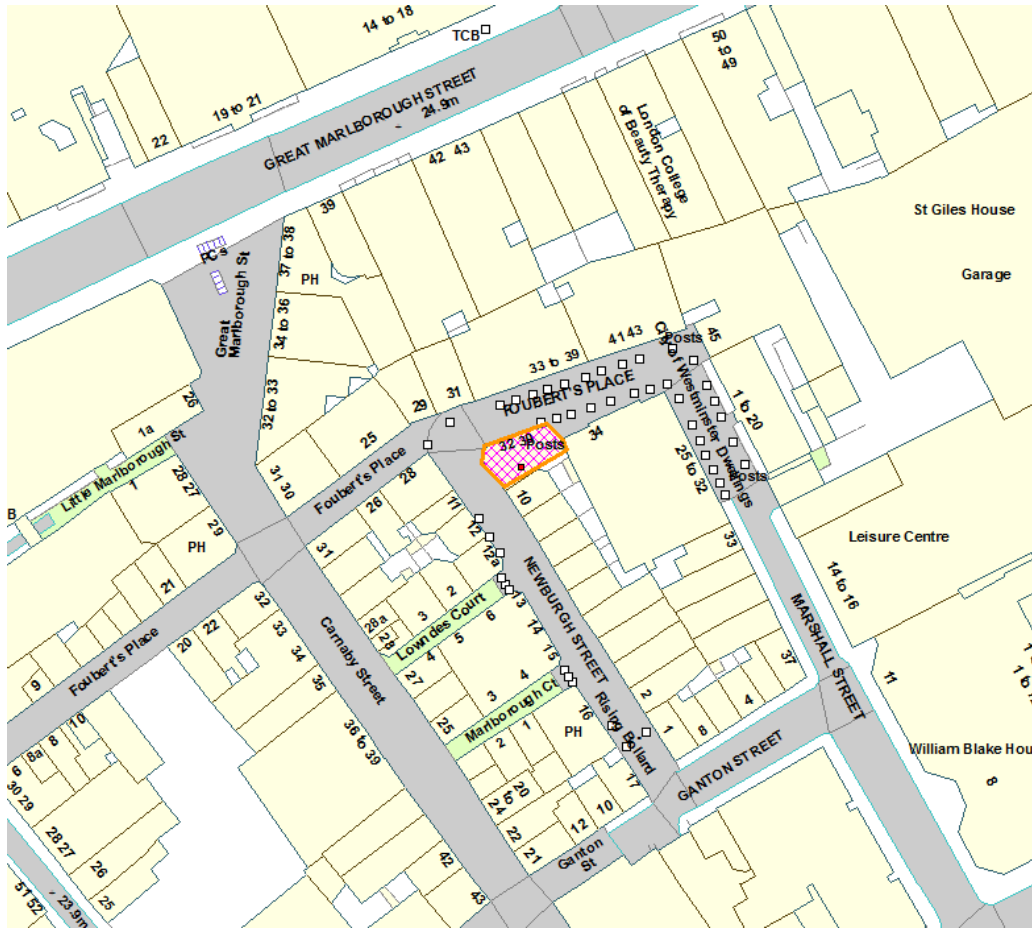
Planning permission is sought for dual / alternative use of the basement to first floors as either retail or restaurant accommodation and triple / alternative use of the second and third floor levels as either retail, restaurant or office accommodation. It is also proposed to route a new high level extract duct internally through the premises to terminate at main roof level within an acoustic enclosure.

The key issues are:

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

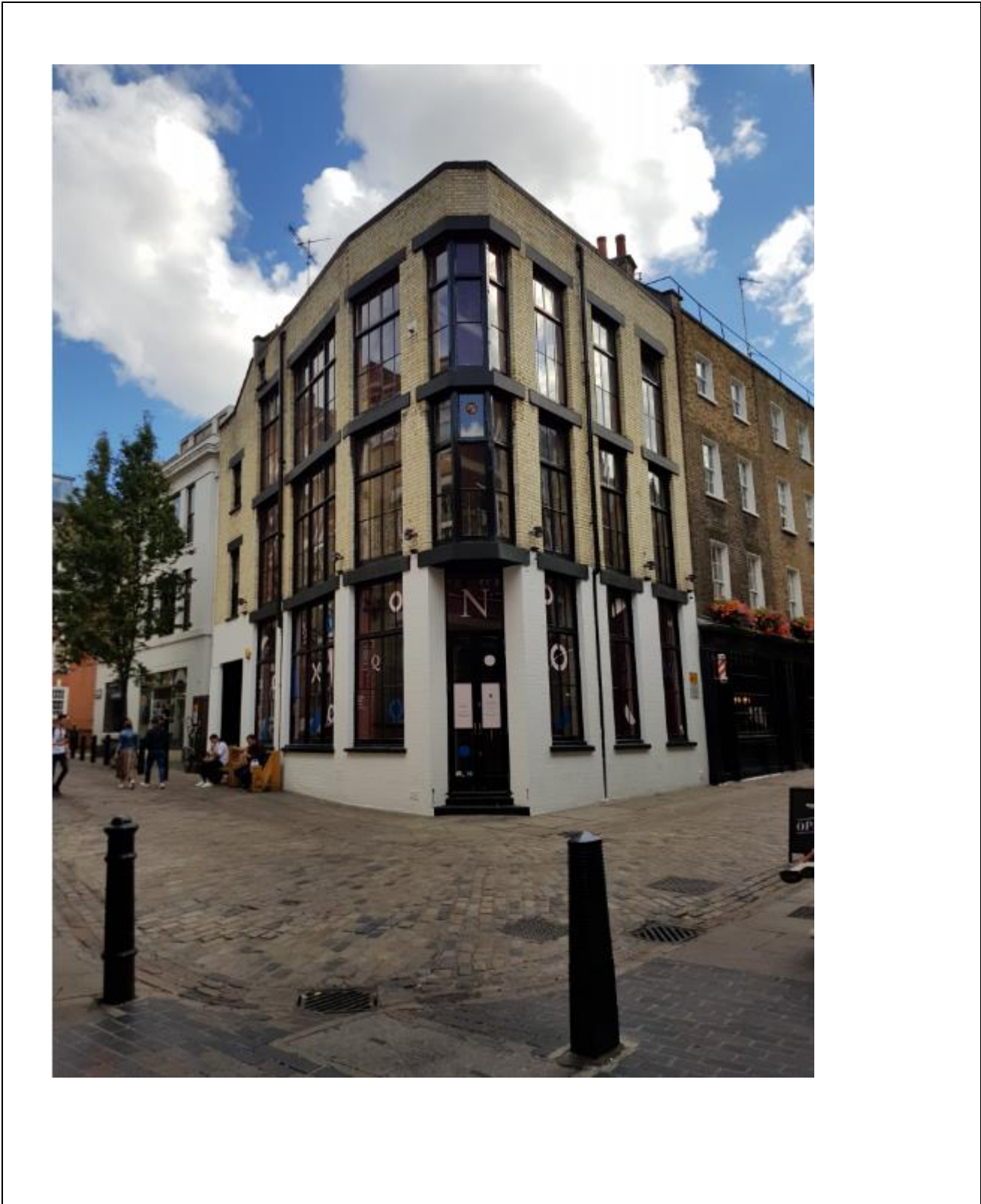
The loss of retail floorspace does not comply with Policy S21, however, it is considered acceptable taking into account the proposed use, location of the property and the character of the immediate vicinity. Subject to appropriate conditions it is also considered the proposed restaurant use will be acceptable in terms of its impact upon residential amenity in the vicinity. The proposal is therefore considered acceptable in land use, transport, design and amenity terms. The application is recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and Westminster's City Plan policies.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Aerial photograph of the application site



## **5. CONSULTATIONS**

### SOHO SOCIETY

Objection to the increase in restaurant accommodation within Soho.

### HIGHWAYS PLANNING

No objection subject to conditions.

### WASTE PROJECT OFFICER

No objection subject to conditions.

### ENVIRONMENTAL HEALTH

No objection subject to conditions.

### THAMES WATER

Requested the addition of informatives to any approval.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 30

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site is an unlisted building located within the Soho Conservation Area, West End Stress Area and the Core Central Activities Zone. The building comprises a retail unit over basement, ground and first floors levels with office accommodation at second and third floor levels.

The building is located on the corner of Foubert's Place and Newburgh Street. Access to the retail units is gained from the chamfered corner a separate entrance to the offices on the upper floors is on Newburgh Street. The nearest residential units are located on the upper floors of 11 Newburgh Street being opposite the application site and on the upper floors of 29-31 Foubert's Place.

### **6.2 Recent Relevant History**

Planning permission was granted on the 11 April 2018 for the dual/alternative use of the second and third floor for either retail (Class A1) use or office (Class B1) use.

Planning permission was granted on 13 November 2001 for the use of basement as Class A1 retail/ retail showroom.

## 7. THE PROPOSAL

Permission is sought for the dual/alternative use of the basement, ground and first floors for either continued retail or restaurant purposes, and the triple/alternative use of the second to third floors for either continued office purposes, or retail purposes, or restaurant purposes. A full height extract duct will be routed internally through the building and will extract at roof level, within an acoustic enclosure.

### 1. Land use table.

Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (A1)	176	0	-176
Office (B1)	101	0	-101
Flexible Retail / Restaurant (A1 / A3) (basement ground and first floors)	0	176	+176
Flexible Retail / Restaurant / Office (A1 / A3 / B1) (second and third floors)	0	101	+101
Total	277	277	0

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of office use

The proposals could result in the loss of office floorspace over the second and third floor levels. The City Council has no policies seeking the protection or retention of general office accommodation in this location where the proposed change is to another commercial use. The potential loss of the office floorspace is therefore considered acceptable in principle.

#### Loss of Retail Use

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

As the site is located within the Core Central Activities Zone the relevant policy from the UDP relating to the loss of retail floorspace is Policy SS5. This also seeks to resist the loss of retail floorspace within the Core CAZ, and outside of the Prime Shopping Frontages. The policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

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

Policy SS5 (B) says that planning permission for the introduction of a non-A1 town centre use at basement, ground and first floor level will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality.

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

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

The unit is located on the corner of Newburgh Street and Foubert's Place. The majority of the ground floor units along Newburgh Street are in use as retail with the street being parallel with Carnaby Street (which is one street to the west). Foubert's Place is also primarily retail to the west of the application site but heading east along the street from the application site the properties are in use as office accommodation at ground floor level with no further uses serving visiting members of the public along this section of the street. It is therefore considered that the existing retail unit in the building is primarily associated with the shopping frontage south along Newburgh Street as opposed to the office accommodation along Foubert's Place to the east.

With regards to the stipulations of SS5 (B) the adjoining six premises to the south along Newburgh Street are in use as retail accommodation and within Newburgh Street there are 18 ground floor units, 14 of which are retail, three restaurant and one public house. Along Foubert's Place to the west of the application site are five ground floor units (excluding those fronting Carnaby Street) of which four are retail and one restaurant.

It is therefore not considered that the loss of this retail unit to another use serving visiting members of the public would be 'detrimental to the character and function of the area or to the vitality or viability of a shopping frontage or locality' such that the proposal would be contrary to the stipulations of Part B of Policy SS5 of the UDP. The proposal would also not result in three or more consecutive non-retail uses along Newburgh Street with the adjoining ground floor unit being in use as retail accommodation, which complies with the requirement of Part C (1) of the Policy. It is noted that the adjoining building east along Foubert's Place is in use as offices and there are no units serving visiting members of the public along this section of street. In terms of the streetscape the unit would be read in connection with the retailing frontage along Newburgh Street which experiences a much greater pedestrian footfall.

With regard Part C (2) of the policy which relates to an overconcentration of entertainment uses in the area, this is discussed in the section below. The main thrust of Policy SS5, is to ensure that the character and function of an area or the vitality or viability of a shopping frontage or locality is not harmed by the replacement of shops with non-A1 town centre uses. As detailed above, the proposal is considered to accord with the requirements of the relevant retail policies in the UDP and there are only a very limited number of restaurant / public house uses within the vicinity. This area is also a secondary frontage to the primary retail accommodation along Carnaby Street and the provision of restaurant functions could be seen as providing a supporting function to the



adjoining retail destination street. Whilst the proposal does not accord with the stipulations of Policy S21 as no long term vacancy has been demonstrated, for the reasons detailed above it is not considered the loss of retail floor space can be resisted.

Provision of Retail Use

The proposals could also result in the use of the whole building for retail purposes, which would result in an increase in the retail floorspace of 101m<sup>2</sup>. This retail increase is welcomed and complies with City Plan Policies S7 and S21 of and SS5 of the UDP.

Provision of Restaurant Use

The proposed potential restaurant use over the entire building would comprise 277sqm (176sqm over basement, ground and first floors and 101sqm over second and third floors). An entertainment unit of this type and size located within the Core CAZ and West End Stress Area would be considered against Policies TACE9 of the UDP and S24 of the City Plan.

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

Policy TACE 9 of the UDP states that permission for restaurant uses (Class A3) will generally be permissible, where the proposed development will have no adverse impact on residential amenity or local environmental quality, and no adverse effect on the character or function of its area. Where necessary, conditions will be imposed to control capacity, hours of operation, amenity and servicing arrangements.

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

As detailed above the immediate vicinity along Foubert's Place and Newburgh Street is characterised mainly by retail units on the lower floors and offices on the upper floors. The nearest residential units are located on the upper floors of 11 Newburgh Street being opposite the application site and on the upper floors of 29-31 Foubert's Place. There are no other residential flats within the immediate vicinity.

Other licensed premises in the vicinity include the Antidote restaurant at 12A Newburgh Street and Pitta Bun at 4 Newburgh Street both of which have licensed opening hours of 10:00 till 00:30 Monday to Saturday, 12:00 till 00:00 Sundays; further there is the Kua 'Aina restaurant at 26 Foubert's Place with licensed opening hours of 10:00 till 23:30 Monday to Thursday; 10:00 till 00:00 Friday and Saturday and 12:00 till 22:30 on Sundays. It is not considered there is any saturation of entertainment premises in the vicinity with the majority of the ground floor units in use as retail floorspace.

Should consent be implemented for restaurant purposes over basement, ground and first floors for restaurant purposes, there would be 44 covers, in the event that the entire premises be used for restaurant purposes it is proposed the use would have 92 covers. Opening hours are proposed as 08:00 to 00:00 Monday to Thursday; 08.00 to 00.30 Friday and Saturday and 08:00 to 23:00 on Sundays. Paragraph 8.88 of the UDP states, *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. The proposed opening hours therefore accord with this approach and the proposed premises would close around the same time as other licensed premises in the vicinity so the proposal would not introduce additional noise from patrons at a later hour.

Conditions are proposed to control the opening times and activity in order to limit the impact of the restaurant. These conditions would ensure that the use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) and this could be used only by diners before and after meals.

A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties. Given the limited number of covers in the premises being a maximum of 92, it is not considered necessary to require the submission of an Operational Management Plan.

A high level extract duct is also proposed as part of the development, this is considered an acceptable method for odour dispersal from any new restaurant and a condition is proposed stating that if the restaurant use is implemented the extract duct is installed and thereafter retained in situ.

The Soho Society have objected to the provision of the restaurant accommodation within the Soho area due to 'over intensification'. As detailed above the majority of the ground floors units in the vicinity west along Foubert's Place, Newburgh Street and Carnaby Street are retail premises, east along Foubert's Place the buildings are in use as office accommodation. It is not considered there is an over-concentration of entertainment uses in the immediate area. Taking into account the opening hours of other licensed premises in the area and with the safeguarding conditions detailed above the restaurant use will not have a detrimental impact upon residential amenity.

The proposal enables the property to potentially be utilised as a restaurant at ground, basement and first and also, separately, at second and third floor levels. To ensure the use of the second and third floor levels as restaurant accommodation is only implemented if the use of the lower floors as restaurant use is also implemented a suitable condition is attached. This condition is necessary as insufficient information has been provided with regard suitable waste / recycling storage and odour extraction to show the upper floors could operate as an independent restaurant.

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

Thames Water has requested the addition of an informative on any approval detailing the requirement to install fat traps on restaurant drainage systems and to arrange for the collection of waste oils.

## **8.2 Townscape and Design**

If the restaurant use is implemented, new intake and extract ducts would be installed to run internally through the property to terminate within an acoustic enclosure at main roof level. The enclosure would be located adjacent to the existing chimneys at main roof level and would be the same height as the chimneys. The installation would require the removal of an existing metal vent, which is currently located in this area. The proposal is considered to have a neutral impact on the character and appearance of the Soho Conservation Area and with the acoustic enclosure installed acting as visual screening for the ducting the proposal is considered acceptable in design terms.

## **8.3 Transportation/Parking**

The Highways Planning Manager has requested the addition of a condition to any permission requiring the submission of amended drawings to show the provision of two cycle parking spaces for members of staff. However, given the very small floorplates on each floor of the building any members of staff bringing cycles into the building would have to take them through the main customer area at ground floor. It is not therefore considered there is a feasible location in the property for the provision of cycle storage.

Servicing requirements for the expanded retail operation and the potential new restaurant use are likely to be greater than the current office and retail use and there are limited on-street servicing opportunities in the vicinity. A Servicing Management Plan has been submitted with the application and the Highways Planning Officer considers this acceptable to alleviate any implications for the highway resulting from the proposal. A condition is imposed stating that the retail unit cannot be utilised as a food retail supermarket as this will have additional servicing requirements which have not been considered as part of this application. Additionally to minimise the impact of the potential restaurant use on the road network (with regard parking availability and increased noise) a condition is included stating no delivery service can operate from the restaurant.

With these conditions in place the proposal is considered acceptable with regards the highways implications of the development.

## **8.4 Economic Considerations**

Any economic benefits generated by the scheme are welcomed.

## **8.5 Access**

The existing access arrangements to the premises will be retained which includes steps inside the property. The applicant contends that it is 'structurally impossible' to provide level access due to the internal floor levels being 30cm higher than the street and there is no possibility of ramped access due to space constraints.

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

### Plant Noise

Two kitchen fans are required to be installed on the roof of the property in association with the high level extract ducting. With regard noise from the proposed plant the application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant.

An acoustic report has been submitted in relation to the installation of the new plant equipment. The nearest noise sensitive properties are located within the building on the opposite side of Foubert's Place at a distance of 10m from the proposed plant. Consent is sought for the plant to operate at any time. Acoustic mitigation measures are proposed in the form of in-duct attenuators and an acoustic enclosure around the fans (this has been shown on the submitted drawings). The calculations demonstrate that with the acoustic mitigation measures installed the operation of the plant will be compliant with the standard Westminster noise criteria.

Standard conditions are imposed with regard acceptable levels of noise, vibration from the plant and the installation and retention of the stipulated acoustic mitigation measures as required by Environmental Health. Environmental Health has requested that a supplementary acoustic report is submitted once the plant has been chosen. However, the acoustic reports details the exact specification of the duct fans and any additional plant will require separate planning consent and on this basis a supplementary report is not considered necessary.

### Refuse /Recycling

Detailed drawings have been provided of the waste and recycling storage provision within the various proposed uses and these are considered acceptable. A condition is attached to ensure that if the permission is implemented the waste and recycling storage is provided as shown on the drawings and retained in this form.

## **8.7 Neighbourhood Plans**

The draft Knightsbridge Neighbourhood Plan and all submission documents, representations received, and subsequent modifications proposed to it have been considered by an independent examiner who has issued their final report with recommendations. The council will now consider the examiner's recommendations before publishing its 'Decision Statement'. Depending on the outcome of this, the plan will then need to proceed to a referendum before it can formally become part of the statutory development plan and be attributed full weight. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the draft neighbourhood plan, these are discussed elsewhere in this report.

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.

## **8.8 London Plan**

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This application raises no strategic issues.

**8.9 National Policy/Guidance Considerations**

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

**8.10 Planning Obligations**

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

(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: HELEN MACKENZIE BY EMAIL AT <a href="mailto:hmackenzie@westminster.gov.uk">hmackenzie@westminster.gov.uk</a>
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## 9. KEY DRAWINGS

### Proposed basement, ground and first floors

**PROPOSED EXTRACT VENTILATION SYSTEM**  
 PROPOSED EXTRACT VENTILATION SYSTEM TO BE IN ACCORDANCE WITH:  
 \*GUIDELINES FOR THE CONTROL OF ODOUR FROM COMMERCIAL KITCHEN EXTRACT VENTILATION SYSTEMS  
 WESTMINSTER CITY COUNCIL ENVIRONMENTAL HEALTH ADVICE FOR PLANNING APPLICATIONS  
 REFER TO ENVIRONMENTAL NOISE SURVEY & PLANT NOISE SURVEY BY HANN TUCKER ASSOCIATES FOR FURTHER INFORMATION  
 FOR RECYCLING & WASTE STORAGE SEE SEPARATE DRAWINGS FOR EACH PROPOSED USE

**PROPOSED BASEMENT PLAN**

**PROPOSED GROUND FLOOR PLAN**

**PROPOSED FIRST FLOOR PLAN**

No. 250.100/PLA14 A

PRIME MERIDIAN

Client: SHAPTESBURY CARNABY PLC  
 Project: 30-32 FOUBERT'S PLACE CARNABY LONDON W1F 7PS  
 Title: PROPOSED PLANS  
 No. 250.100/PLA14 A

### Proposed second and third floors

**PROPOSED EXTRACT VENTILATION SYSTEM**  
 PROPOSED EXTRACT VENTILATION SYSTEM TO BE IN ACCORDANCE WITH:  
 \*GUIDELINES FOR THE CONTROL OF ODOUR FROM COMMERCIAL KITCHEN EXTRACT VENTILATION SYSTEMS  
 WESTMINSTER CITY COUNCIL ENVIRONMENTAL HEALTH ADVICE FOR PLANNING APPLICATIONS  
 REFER TO ENVIRONMENTAL NOISE SURVEY & PLANT NOISE SURVEY BY HANN TUCKER ASSOCIATES FOR FURTHER INFORMATION  
 FOR RECYCLING & WASTE STORAGE SEE SEPARATE DRAWINGS FOR EACH PROPOSED USE

**PROPOSED SECOND FLOOR PLAN**

**PROPOSED THIRD FLOOR PLAN**

**PROPOSED ROOF PLAN**

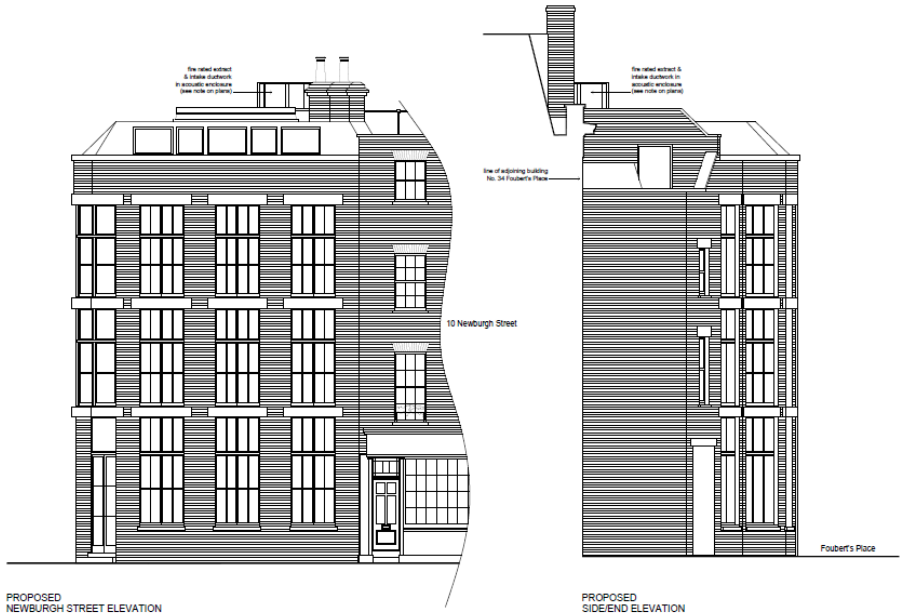
No. 250.100/PLA15 A

PRIME MERIDIAN

Client: SHAPTESBURY CARNABY PLC  
 Project: 30-32 FOUBERT'S PLACE CARNABY LONDON W1F 7PS  
 Title: PROPOSED PLANS  
 No. 250.100/PLA15 A

Proposed Newburgh Street and side elevations:

No. 250.100/PLA17 A



PROPOSED NEWBURGH STREET ELEVATION

PROPOSED SIDE/END ELEVATION






Client: **SHAFTESBURY CARNABY PLC**

Project: **30-32 FOUBERT'S PLACE CARNABY LONDON W1F 7PS**

Title: **PROPOSED ELEVATIONS 2 OF 2**

No. **250.100/PLA17 A**

**DRAFT DECISION LETTER**

- Address:** 30-32 Foubert's Place, London, W1F 7PS,
- Proposal:** Dual/alternative use of the basement, ground and first floor for either retail (Class A1) or restaurant (Class A3) use and dual/alternative use of second and third floor for either retail (Class A1) use, restaurant (Class A3) use or offices (Class B1) use. Installation of an intake duct and extract duct located internally from basement to third floor terminating at roof level and enclosed within an acoustic enclosure.
- Reference:** 18/06478/FULL
- Plan Nos:** Acoustic Report (25728/PNA1Rev1), Drawings: 250.100/PLA14 RevA, 250.100/PLA15 RevA, 250.100/PLA16 RevA, 250.100/PLA17 RevA, 250.100/PLA21, 250.100/PLA19.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

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

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

Reason:

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

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

Reason:

To protect the environment of 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 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 250.100/PLA22 and 250.100/PLA19. You must clearly mark them and make them available at all times to everyone using the property. (C14FB)



Reason:

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

- 4 In the event the restaurant use is implemented, you must install the high level duct as shown on the approved drawings before the restaurant use can operate. Thereafter the duct must be maintained in situ for as long as the restaurant use remains in operation.

Reason:

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

- 5 In the event the restaurant use is implemented, you must not allow more than 92 customers into the property at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 In the event the restaurant use is implemented, you must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the following hours:  
08:00 to 00:00 Monday to Thursday;  
08:00 to 00:30 Friday and Saturday; and,  
08:00 to 23:00 on Sundays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 In the event the restaurant use is implemented, the management of the use shall be such that there is no external queuing of customers.

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 In the event the restaurant use is implemented, any bar and bar seating areas must not take up more than 15% of the floor area of the property. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 9 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)
- Reason:  
In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)
- 10 In the event the restaurant use is implemented, you must not operate a delivery service from the premises even as an ancillary part of the use.
- Reason:  
To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)
- 11 All servicing of the property must be carried out in accordance with the Servicing Management Plan hereby permitted.
- Reason:  
To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)
- 12 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) the retail accommodation hereby approved shall not be used as a supermarket/convenience store (or similar) unless otherwise agreed in writing by the City Council as local planning authority.
- 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)
- 13 The restaurant use of the second and third floors hereby permitted shall only be operated in association with the restaurant use at basement, ground and first floor levels. Should the restaurant use at basement, ground and first floor levels cease to operate the restaurant use at second and third floor levels must also cease operation.
- Reason:  
We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)
- 14 (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)

- 15 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)

- 16 You must install the acoustic mitigation measures as shown on the approved drawings and to the specification detailed in the acoustic report. These must be maintained in situ for as long as the plant remains in place.

Reason:

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

### Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk). If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteq.org.uk](http://www.habinteq.org.uk). It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 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

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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)

- 6 Thames Water recommend the installation of properly maintained fat traps on all catering establishments and in line with best practice for the disposal of fats, oils and grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses.
- 7 Conditions 14 and 15 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

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

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# Agenda Item 3

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 October 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Lancaster Gate	
<b>Subject of Report</b>	37-41 Westbourne Grove, London, W2 4UA,		
<b>Proposal</b>	Use of the ground floor for mixed use (Use Class D2 (Assembly and Leisure) /Class A1 (retail), comprising of a spin studio, changing and shower facilities, a cafe/energy kitchen and retail area.		
<b>Agent</b>	Mr John Mumby		
<b>On behalf of</b>	C/O Agent		
<b>Registered Number</b>	17/09491/FULL	<b>Date amended/ completed</b>	25 October 2017
<b>Date Application Received</b>	25 October 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne		

## 1. RECOMMENDATION

Refuse permission – loss of retail (Class A1) and insufficient information relating to impact of means of ventilation on design of shopfront and amenity of nearby residents.

## 2. SUMMARY

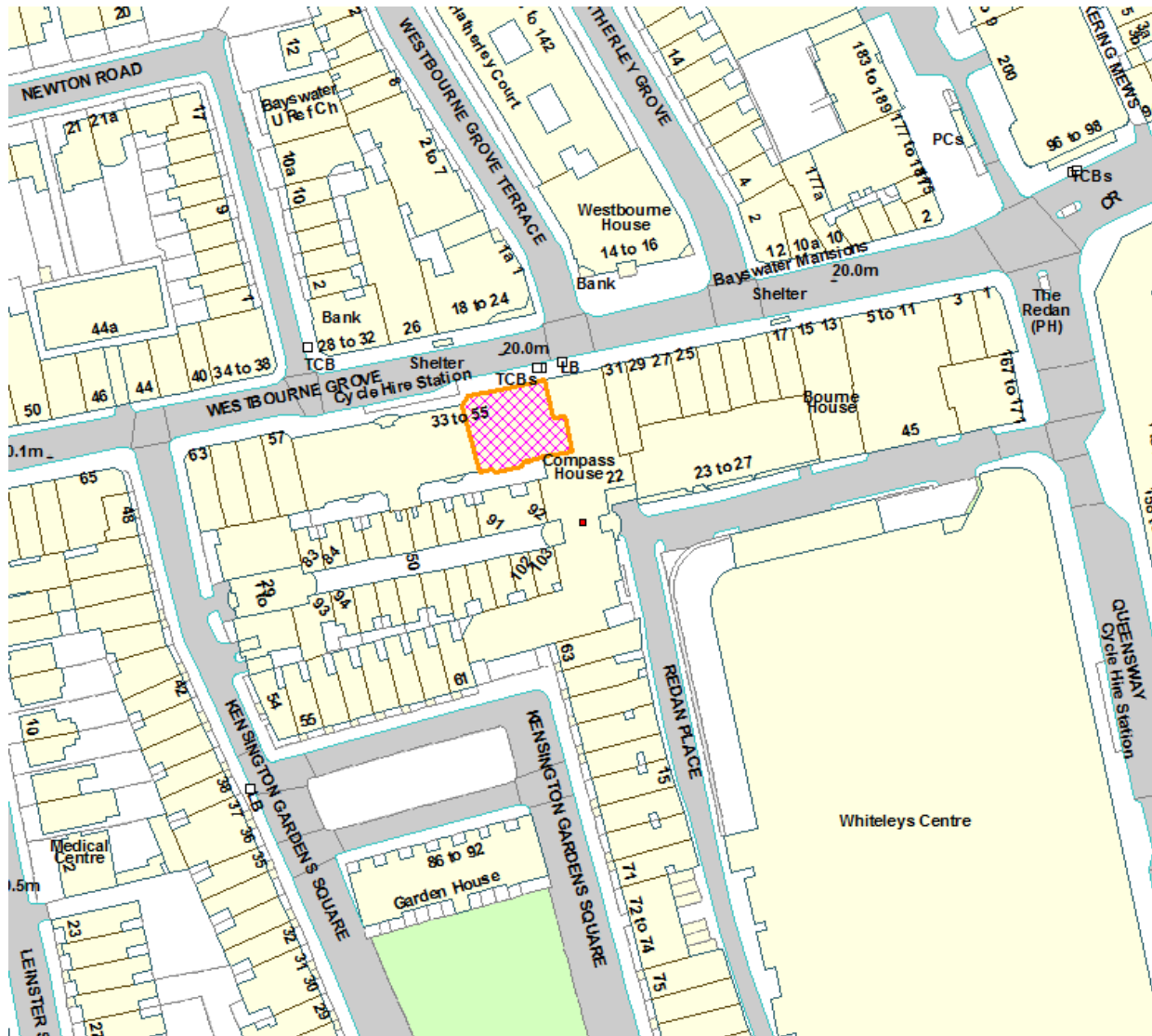
Permission is sought to use the vacant retail (Class A1) floor spaces as a mixed use (Class D2/Class A1), comprising of a spin studio, changing and shower facilities, a café/energy kitchen and a retail area.

An objection has been received from the South East Bayswater Residents Association to the loss of retail and loss of vitality within the Queensway/Westbourne Grove Shopping District. The freeholder of the site has written in support.

The proposal would result in the loss of viable retail (Class A1) floor space, of detriment to the viability and vitality and character and appearance of the Queensway/Westbourne Grove District Shopping Centre.

This is contrary to policy SS6 of the Unitary Development Plan that we adopted January 2007(UDP) and policies S13 and S21 of Westminster's City Plan (November 2016) (the City Plan). Furthermore, insufficient information has been submitted with respect to ventilation and potential changes required to the shopfront. As such, it is recommended that permission be refused.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation (top) and rear elevation (from Redan Place) (bottom)



**Photos of the inside of the triple unit, showing each of three areas with dividing walls**

## 5. CONSULTATIONS

### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

- Object - detrimental to the District Shopping Centre and the vitality of A1 retail use in Westbourne Grove
- The internal layout towards the front of the unit includes a bike rack in the shop window area which is taking up A1 space
- The unit could be marketed as 3 individual units or other configuration

### BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally

### HIGHWAYS PLANNING MANAGER

No objection; subject to a condition to secure cycle parking spaces.

### WASTE PROJECT OFFICER

No objection subject to a condition requiring a revised plan to be submitted indicating proposals for storage of residual waste and recyclable materials

### ENVIRONMENTAL HEALTH OFFICER

No objection subject to further details relating to noise mitigation via condition and other standard conditions relating to noise and vibration.

### DESIGNING OUT CRIME

Any response to be reported verbally

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 99

Total No. of replies: 1

A letter of support has been received on behalf of the owner of the site:

- Development accords with the physical requirements of the development plan to retain an active shopfront
- Comprises a retail function already fronting onto Westbourne Grove that will help to retain the established use.
- Due to the long term vacancy a proactive approach should be taken
- The vacancy of the unit has a negative impact on the shopping centre from both a customer and operator perspective
- The premises have been actively marketed to a range of potential retail operators.
- Nothing in the relevant policies that requires an applicant to look to sub-divide or reconfigure the floorspace in order to secure its re-occupation.
- No evidence of harm to the vitality and viability of the Centre as a result of the proposed change of use.
- Development is a mixed use that includes a retail function within the front area of the premises, therefore will have an active frontage

- Westminster City Council has previously supported applications for changes of use that retain a retail function at ground floor and active shopfront. Eg 16 Baker Street: permission was granted from retail to mixed use including retain and gym (Classes A1 and D2) (Planning ref: 16/08165/FULL).

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

No. 37-41 Westbourne Grove comprises of a retail (Class A1 unit) with residential above and to the rear. The application relates to the ground floor large retail unit located in the Queensway/Westbourne Grove Shopping Centre (Core Frontage). The site is also located within the Queensway Stress Area and the Westbourne Conservation Area. The unit is currently vacant, with the most recent occupiers being the furniture shop 'Gautier'. The 400m<sup>2</sup> ground floor unit would have originally been three separate units. There is off street servicing access to the unit from the rear, via Redan Place.

### **6.2 Recent Relevant History**

#### 17/03710/FULL

Use as a mixed Class D2/A1 (sui generis use) comprising an exercise studio with 49 bikes, changing and shower facilities, a café /energy kitchen and a clothing and retail area.

Application Refused 18 October 2017

This application was refused for the following reason:

1. The proposed development would result in the loss of a retail shop (Class A1) unit within the Core Frontage of the Queensway/ Westbourne Grove District Shopping Centre. This would reduce the range of shopping facilities, reducing the attractiveness of the centre to shoppers, and would be detrimental to the vitality, character and function of the shopping centre, contrary to Policy SS6 of the Unitary Development Plan that we adopted January 2007 and Policies S13 and S21 of Westminster's City Plan (November 2016).

## **7. THE PROPOSAL**

Planning permission is sought to change the use of the ground floor vacant retail (Class A1) floor space to a mixed use comprising of a spin studio with changing and shower facilities and a café/energy kitchen and retail area.

The majority of the proposed floor space is proposed to be for the exercise studio, with associated changing, shower, office, reception and storage facilities situated towards the rear section of the site, measuring approximately 325sqm. The main exercise studio is to accommodate 51 exercise bikes for the spinning studio 'Psyche', who are the proposed operators for this use. Towards front of the site is to be a café/energy kitchen and retail area, measuring approximately 74.2sqm.

This will provide a café area with tables, which will provide energy drinks, associated with the exercise studio and a retail shop area which will sell items associated with the exercise studio. There is also a cycle stand proposed within the frontage, which will provide space for five bicycles.

The proposed opening hours of the unit are between 06.00 hours and 21.30 hours every day, including weekends and bank holidays.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Loss of retail use (Class A1)**

##### **Impact on shopping centre**

The proposal would result in the loss of 400m<sup>2</sup> of retail floorspace (Class A1) from the Queensway/Westbourne Grove District Shopping Centre (Core Frontage).

Policy SS6 states that within Core Frontages at ground floor level, proposals for, non-A1 town centre uses will only be permitted where the proposals would not harm the vitality or viability, or character or function of the parade, Core Frontage or the centre. In addition:

1. The total length of Core Frontage in non-A1 use at ground floor level must not exceed 25% in Queensway/Westbourne Grove District Centre.
2. The proposal must not lead to, or add to, a concentration of non-A1 units in any individual frontage or parade.
3. The proposal must not result in more than two non-A1 units located consecutively in a frontage.
4. The proposal must not reduce the range of local convenience shops or shopping facilities, or reduce the attractiveness of the centre to shoppers.

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

In this case, it is the Council's view that the proposal would fail to meet all of the above criteria. The loss of such a significant amount of retail floor space within a Core Frontage of a District Shopping Centre would inevitably harm the vitality, viability, character, and function of this centre. It would add to the concentration of non-A1 uses, resulting in more than three consecutive non-A1 uses in the secondary frontage, which already exceeds 25%, being closer to 40% non-retail, and would result in the loss of a unit last used as a retail furniture shop (Gautier).

In considering UDP policy SS6, taking into account the whole of this District Shopping Centre, the City Council's shopping survey indicates that this shopping centre already exceeds the 25% threshold for non-A1 uses at ground floor, with it currently being approximately 40% non-retail.

The existing retail unit is a large unit comprising of over 400m<sup>2</sup> of floor space, all provided at ground floor level. By virtue its size, the unit holds a prominent location on Westbourne Grove, occupying a frontage spanning the equivalent of three shop units.

The premises occupy what had originally been three separate units and so the proposal would result in the loss of more than two non-A1 units located consecutively in a frontage. The proposal does however also include an element of ancillary floor space towards the frontage of the premises includes a 'retail area', a reception area and an 'energy' kitchen, which is annotated as measuring 87sqm.

On this particular stretch of the south side of Westbourne Grove, from the junction with Queensway and the Kensington Gardens Square, there are 23 units at ground floor, (at odd numbers 1-63 inclusive) most of which are single units. However, there are also some double and triple units that have shop frontages. This does not include premises at 11 Westbourne Grove which provides access to offices above at upper floor levels of 5-11 Westbourne Grove, and also at 47-49 Westbourne Grove which provides access to residential flats above. Not including the application premises at 37-41 Westbourne Grove, of the remaining 22 units, only 8 units are A1 units. If the current application for the change of use of 37-41 Westbourne Grove was permitted then this would mean that there are 9 units out of 23 that are A1, resulting in only 39% of the units in A1 use.

As stated previously, some units are double units, including No. 5-7; No. 21-23; and No. 43-45 Westbourne Grove; and the application premises is a triple unit at No. 37-41. If considering the number of *units* that are in this block, then there are 29 units, with currently 14 out of 29 in use as A1 retail, being 48%. However, on the basis of number of units, if the current change of use of No. 37-41 is permitted, this would reduce the A1 units to 38%; or to consider it the other way: 62% of the units would be non-retail.

This illustrates that there would be a larger percentage of non-retail units within this particular block within the Queensway/Westbourne Grove District Shopping Centre. Consequently, it is considered that the proposal adds significantly to a concentration of non-A1 units in this this particular individual frontage or parade.

The application site is a triple unit, and it is considered that this large expanse of frontage as a result would count as more than two consecutive non-retail units. This is notwithstanding that the proposal also includes a small area of ancillary A1 use within the frontage of the premises. There are several consecutive units which are within non-retail use within this stretch on the south side of Westbourne Grove:

- 19 Westbourne Grove - 'Arancina' - Italian Restaurant
- 21-23 Westbourne Grove - The Banana Tree Canteen - Indo-Chinese Restaurant
- 25 Westbourne Grove - 'Fresco' - Lebanese Restaurant
- 27 Westbourne Grove - 'Sadaf' - Middle - Eastern Restaurant
- 27 Westbourne Grove - 'Tiroler Hut' - Austrian Restaurant
- 31 Westbourne Grove - 'Lokkanta' - Turkish Restaurant

This highlights that there are already 6 consecutive non-retail uses within this stretch of Westbourne Grove, including a double unit. These are only a few doors away from the application unit at 37-41 Westbourne Grove. The adjoining unit at no. 35 is a laundrette.

If the current proposal is permitted, there would only be one retail unit amongst nine consecutive units, and that is not taking into consideration that there is a double unit and a triple unit within that group of units. Consequently, the proposal would exacerbate the existing concentration of non-retail uses within this parade on Westbourne Grove.

The proposal would result in the loss of a retail shop unit, failing to comply with policy SS6 of the UDP, which states that any proposal should not reduce the range of local shopping facilities, or reduce the attractiveness of the centre to shoppers. The proposed A1 floor space shown on the submitted plans is to be ancillary to the gym use, - with the intention to provide clothing likely to be related to the gym, - as will the proposed 'energy kitchen'. These facilities are more likely to be used by those using the gym rather than attract other independent shoppers. Furthermore, despite the retail/café/energy kitchen unit it being along the whole of the frontage of the shop, it includes a cycle store for five spaces (in pursuance of the cycle parking standards) and so measures only 72.2sqm of the 400sqm, which accounts for only 18% of the whole floor area.

As such, the proposal is contrary to policy SS6.

Policy S13 of the City Plan relates to areas outside the Central Activities Zone (CAZ) and North Westminster Economic Development Area (NWEDA) and clearly states that the Queensway/Westbourne Grove Major Shopping Centre will be maintained and enhanced by securing retail growth and improved retail space, and ensuring that A1 retail provision is the priority within Core Shopping Frontages. The proposal would result in the loss of a large retail unit.

For the above reasons the proposed loss of Retail (Class A1) would further reduce the range of shopping facilities and reduce the attractiveness of the centre to shoppers, which is exacerbated by the loss of a large unit located amongst a parade of already significantly reduced retail provision. As such, the proposed loss of Retail (Class A1) is unacceptable and contrary to policy SS6 of the UDP and S21 of the City Plan. This view is supported by the South East Bayswater Residents' Association, who also consider the proposal detrimental to the Queensway/Westbourne Grove shopping centre.

#### **Viability of retail use**

Notwithstanding the above, policy S21 of our City Plan states that existing retail (Class A1) uses will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. In this case, the unit at 37-41 Westbourne Grove has been vacant since February 2016. The application is accompanied by a marketing report by Nash Bond in support of the change of use from retail to spin studio and associated retail and café/energy kitchen.

The report has been independently assessed on behalf of the City Council by HRH Retail. It is accepted that the premises have been marketed by Nash Bond for a continuous period of 18 months, with marketing of the unit commencing in May 2016.

It is also accepted that a large 400sqm unit is unviable in this location.

However, the premises would be attractive to a retail operator if the unit was sub-divided as there is demand for smaller units in this area. HRH also consider that it is possible that the unit could easily be subdivided into smaller, better configured units, and that the cost would be a viable proposition.

Given the conclusion of the independent Consultant that the unit would be viable as smaller retail class A1 units, the loss of retail floor space is unacceptable and contrary to policy. Consequently, the proposal is contrary to policy S21 as insufficient justification has been provided to allow the loss of retail on viability grounds.

**Proposed Exercise Studio/Gym use (Class D2)**

Notwithstanding the unacceptable loss of retail (Class A1), were its loss have been considered acceptable, then a spin studio would be an appropriate town centre use in land use terms.

**Other examples put forward by the owner of the site**

The owner of the application site has put forward examples of other cases where loss of retail has been permitted, including the Whiteleys development and at Baker Street. However, these cases are not considered to be comparable and therefore are not material considerations for this proposal.

**Land use conclusion**

The proposed loss of viable retail (Class A1) floor space within the Queensway/Westbourne Grove District Shopping Centre (Core Frontage) is detrimental to the vitality and viability and character and function of the Queensway/Westbourne Grove District Shopping District, contrary to policies SS6 of our UDP and S13 and S21 of our City Plan.

**8.2 Townscape and Design**

No external alterations are proposed as part of this application, although an indicative shopfront elevation has been submitted for illustrative purposes only. This indicated external louvres with the shopfront for ventilation of the premises. As this does not form part of the application and in the absence of sufficient details, it is not possible to make a full assessment of the potential impact on the street frontage and the Conservation Area.

As the property is located within the Westbourne Conservation Area, the character and appearance of the shopfront would be required to preserve or enhance the character of the conservation area. It is expected that louvres and or other measures are likely to be required for ventilation of internal mechanical plant, especially given the nature of the use. However insufficient information has been submitted to demonstrate that any measures affecting the exterior of the building would not result in harm to the character and appearance of the building or conservation area as required by UDP policies DES1, DES 5 and DES 9 and City Plan policies S25 and S28 as well as Westminster's our 'Supplementary Planning Guidance: Shopfronts, Blinds and Signs - A Guide to their Design.' (1993).



### **8.3 Mechanical Plant and Residential Amenity**

It is proposed to install all mechanical equipment internally. Whilst installation of internal plant does not require planning permission, external manifestations, such as louvres, inlets and outlets, require planning permission and a full assessment in noise and visual amenity terms. The applicant has submitted a noise report which indicates that proposed plant is likely to meet our standard noise conditions. However, in the absence of full details of the associated required external alterations to the shopfront (louvres, inlet/outlet etc.) it is not possible to fully assessment this element of the proposal. The design and noise implications are intrinsically linked and require a holistic assessment.

There are residential properties directly above the premises and towards the rear of the site. The proposed use of the premises as an exercise studio would have potential noise from music and human voices, whether amplified or non-amplified. Although the applicant is proposing to operate as a spinning studio, primarily using exercise bikes, consideration would have to be made to the possibility of a different operator who may wish to use the premises for a more conventional gym which may include equipment which would produce greater noise emanation.

The application is accompanied by a Noise Impact Assessment, which has been considered by the City Council's Environmental Health Officer. The report has proposed certain mitigating measures to minimise noise and vibration transmission to residential units above; including the installation of an acoustic ceiling; enhancing external wall lining with columns of given dimensions; mounting all equipment on independent AV mounts with an isolation efficiency of at least 90%; and all access points to be provided with high quality acoustic doors. The Environmental Health Officer has no objection to the proposal, subject to conditions, and it is considered that there would not be a harmful impact on neighbouring residential amenities as a result of noise from the use of the premises as an spin studio.

The proposed opening hours of for the gym applied for are from 6.00am until 9.30pm every day. However given the proximity of residential properties directly above, it is considered that a more appropriate opening time would be 6.30am. This could be controlled by condition.

As other uses within the Class D2 use classes very varied and have the potential to have adverse impact on residential amenity, traffic and transport, a restriction on permitted development to change uses and use classes would be appropriate in this case.

### **8.4 Transportation/Parking**

The proposed ground floor plan shows that there is to be proposed cycle stand for 5 spaces within the front of the unit. The Highways Planning Manager confirms that this meets the requirements for cycle parking for this use as required by the London Plan standards. However, it is considered to be more appropriate to locate the cycle parking provision towards the rear of the site, rather than in the shopfront. This could be required by condition.

There is an existing off-street servicing yard at the rear, accessed via Redan Place, which will be sufficient to serve the proposal and could be secured by condition.

Details of waste and recycling would be secured by condition.

**8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

**8.6 Access**

No changes are proposed.

**8.7 Other UDP/Westminster Policy Considerations**

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

**8.8 London Plan**

This application raises no strategic issues.

**8.9 National Policy/Guidance Considerations**

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

**8.10 Planning Obligations**

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

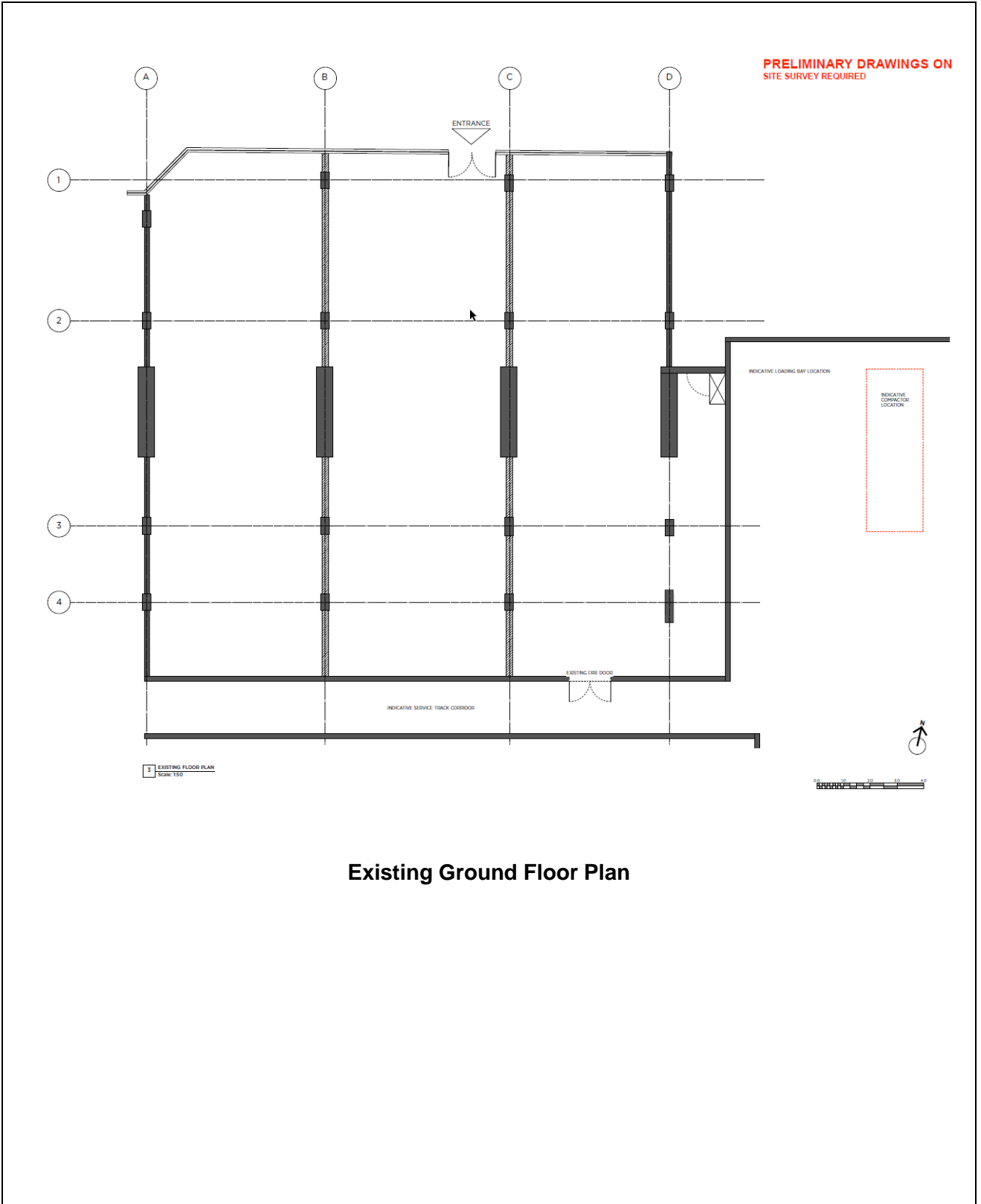
**8.11 Environmental Impact Assessment**

Environmental Impact Assessment is 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: SARAH WHITNALL BY EMAIL AT <a href="mailto:swhitnall@westminster.gov.uk">swhitnall@westminster.gov.uk</a>
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**9. KEY DRAWINGS**





Proposed Ground Floor Plan

**DRAFT DECISION LETTER**

**Address:** 37-41 Westbourne Grove, London, W2 4UA,

**Proposal:** Use of the ground floor as a mixed (Class D2/Class A1), comprising of an exercise studio, changing and shower facilities, a cafe/energy kitchen and retail area.

**Reference:** 17/09491/FULL

**Plan Nos:** 1000; 1100 Rev A; 3000; 6000; Noise Impact Assessment dated 02/05/2017; Planning Statement dated October 2017; Letter of response from agent to independent review dated 9 May 2018;

**Case Officer:** Avani Raven

**Direct Tel. No.** 020 7641 2857

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

- Reason:
- 1 The proposed development would result in the loss of a retail shop (Class A1) unit within the Core Frontage of the Queensway/ Westbourne Grove District Shopping Centre. This would reduce the range of shopping facilities, reducing the attractiveness of the centre to shoppers, and would be detrimental to the vitality, character and function of the shopping centre, contrary to Policy SS6 of the Unitary Development Plan that we adopted January 2007 and Policies S13 and S21 of Westminster's City Plan (November 2016).
- Reason:
- 2 Insufficient information has been submitted to demonstrate that the proposal would not lead to unacceptable noise nuisance as any required alterations to any proposed new shopfront required to mitigate the impact of noise may be harmful to the character and appearance of the building and may fail to maintain or improve (preserve or enhance) the character and appearance of the Westbourne Conservation Area. This is contrary to DES 5, DES 9, DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007 and the advice in our 'Supplementary Planning Guidance: Shopfronts, Blinds and Signs - A Guide to their Design.' (1993)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Item No.
<b>3</b>

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

**BACKGROUND PAPERS - 37-41 Westbourne Grove, London, W2 4UA, 17/09491/FULL**

1. Application form
2. Response from South East Bayswater Residents Association, dated 28 December 2017
3. Response from Waste Project Officer - Development Planning, dated 13 November 2017
4. Response from Highways Planning - Development Planning, dated 20 December 2017
5. Response from EH Consultation, dated 8 February 2018
6. Letter from Savills on behalf of owner of application site, dated 21 March 2018

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 October 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bayswater	
<b>Subject of Report</b>	<b>108-110 Westbourne Grove, London, W2 5RU,</b>		
<b>Proposal</b>	Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning units on roof of 110 Westbourne Grove.		
<b>Agent</b>	Caulmert Limited		
<b>On behalf of</b>	Halfacre & Westbourne Estates		
<b>Registered Number</b>	18/02532/FULL	<b>Date amended/ completed</b>	28 March 2018
<b>Date Application Received</b>	28 March 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

The application site comprises a basement and ground floor unit at 108 Westbourne Grove and a rooftop plant enclosure at 110 Westbourne Grove. It is located within the Westbourne Conservation Area. The site is located within the Core Frontage of the Queensway/Westbourne Grove District Centre. It is also located within the Queensway/Bayswater Stress Area.

Permission is sought for the use of the basement and ground floors as a retail unit (Class A1) for a temporary period of 15 years. The applicant also proposes installing additional air-conditioning plant within an existing rooftop enclosure at 110 Westbourne Grove.

Objections to the potential amenity and highways impact of the proposal have been received.

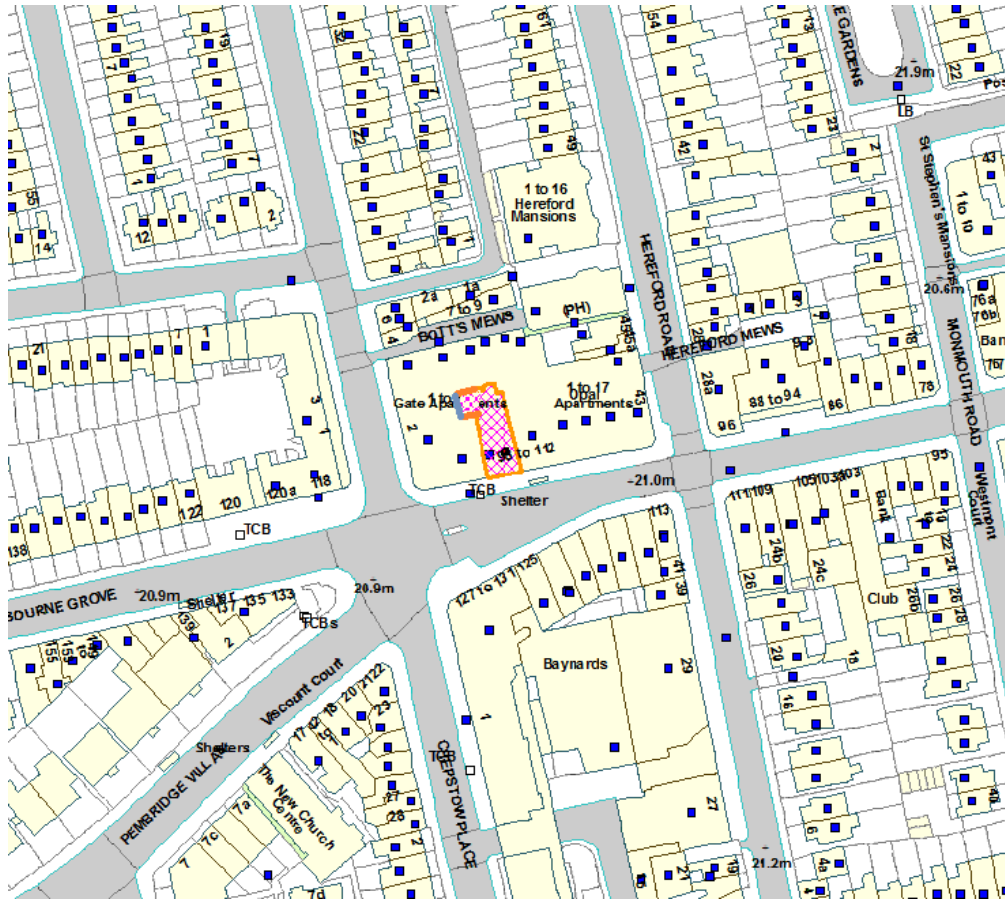
The key considerations are:

- Impact of the proposed use on the Queensway/Westbourne Grove District Centre and Queensway/Bayswater Stress Area;

- Impact on Highways, particularly Servicing/Deliveries and Pedestrian Movement; and
- Impact on Residential Amenity.

The proposed development is considered to comply with relevant policies in the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016 (the City Plan). The application is therefore recommended for approval subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front of Application Site



**Lay-by on Hereford Road to be Used for Delivery Vehicles.**

## 5. CONSULTATIONS

### WARD COUNCILLORS FOR BAYSWATER

Any response to be reported verbally.

### NOTTING HILL EAST NEIGHBOURHOOD FORUM

A section drawing would assist to show how residents might be affected. The low level hum and visual affect to residents is negative and alternative passive cooling system should be designed.

### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Objection; the hours of opening proposed are too late. They should be no longer than the permitted hours as there are residents above.

### WASTE PROJECT OFFICER

Objection; the drawings submitted are not in line with the City Councils recycling and waste storage requirements. This could be addressed by a condition.

### HIGHWAYS PLANNING MANAGER

Object to the servicing arrangement proposed. (This is discussed in greater detail below).

### ENVIRONMENTAL HEALTH OFFICER

No objection; subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 22

Total No. of replies: 3

No. of objections: 1

No. in support: 0

In summary, the objector raised the following issues:

#### Land Use

- This section of the shopping frontage is already adequately served by A1 uses and the change of use of this unit will not complement retaining a diverse range of uses and would adversely impact the vitality and viability of the Core Frontage. The aim of the City Council's policies is not to change every unit to A1.

#### Amenity

- The arrangements proposed for servicing and delivery will adversely affect neighbouring residents through noise, pollution and the frequency of servicing and delivery.

#### Other

- The accuracy of the red line around the site plan has been queried and that the roof area is not correctly depicted and access is from Botts Mews.
- Concerns are raised with regards to the storage of refuse and it is noted that conflicting information has been provided.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site comprises a basement and ground floor unit at 108 Westbourne Grove and a rooftop plant enclosure at 110 Westbourne Grove. It is located within the Westbourne Conservation Area. The site is located within the Core Frontage of the Queensway/Westbourne Grove District Centre. It is also located within the Queensway/Bayswater Stress Area.

### 6.2 Recent Relevant History

The application site was developed as part of a larger redevelopment encompassing 43 Hereford Road, 2 - 6 Botts Mews, 2 Chepstow Road, 104 - 106 Westbourne Grove and 112a/B 98 - 112 Westbourne Grove. This site was developed under the following application.

#### 02/03540/FULL

Part demolition / redevelopment of the application site and a number of other site to provide new buildings, part alterations/extensions (including listed building) to provide 36 flats, 2 live-work units, retail, restaurant facilities and 34 parking spaces in basement with associated works.

Granted – 7 February 2003

With regards to the application site, the following applications are currently also being considered by the City Council:

#### 18/06812/FULL

Alterations to shopfront and installation of 2no. air conditioning condenser units and 1no. refrigeration condenser unit at roof level.

Statutory expiry date is 15 October 2018

#### 18/08037/CLOPUD

Use of basement and ground floor unit as Class A1 retail use.

Statutory expiry date is 14 November 2018.

## 7. THE PROPOSAL

Permission is sought for the use of the basement and ground floors as a retail unit (Class A1) for a temporary period of 15 years. The applicant seeks a temporary

permission to align with the lease to be agreed with the Co-op who will occupy this unit. The unit would then be able to revert back to the lawful A3 use at the end of this period.

No external alterations to the unit itself are proposed. However, the applicant proposes installing additional air-conditioning plant within an existing rooftop enclosure at 110 Westbourne Grove. The applicant proposes using a lay-by/single yellow line area on Hereford Road to accommodate deliveries to the application site.

The existing and proposed floor areas are set out below:

**Table 1: Existing and Proposed Floor Areas.**

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
<b>Restaurant (Use Class A3)</b>	375	0	-375
<b>Retail (Use Class A1)</b>	0	375	+375
<b>Total</b>			

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

An objector is concerned that the proposed retail use would harm the vitality and viability of this shopping centre.

The existing restaurant is not protected by the development plan, whilst policy TACE 9 of the Unitary Development Plan (“the UDP”) generally discourages restaurants of this scale within this stress area. Policy S21 of the City Plan (November 2016) (“the City Plan”) notes that new retail floorspace will be directed to designated shopping centres. Policy SS6 of UDP the aims to enhance the vitality and viability of the District Centres by maintaining their predominantly retail function, whilst accommodating other town centre uses in appropriate locations.

Given the above and the application sites location within the Queensway/Westbourne Grove District Centre, the loss of a restaurant and its replacement with a retail unit in this location is encouraged by the development plan and welcome. The applicant seeks this change of use for a temporary period of 15 years only to safeguard the future potential of this unit to be used as restaurant. It is considered appropriate in this instance to grant permission for this temporary period as without such a condition, it is unlikely that the applicant would consider changing the unit to the more appropriate retail use sought.

Given the above, the proposed change of use is consistent with policy S21 of the City Plan and policy SS6 of the UDP.

### 8.2 Townscape and Design



The proposal includes no external changes to the unit at 108 Westbourne Grove.

Additional plant will be added to the existing rooftop plant enclosure at 110 Westbourne Grove. This plant would not project above this enclosure and would therefore be largely screened from outside the application site. Accordingly, the proposed development would preserve the Westbourne Conservation Area and is consistent with policies S25 and S28 of the City Plan and policies DES 1, DES 5, DES 6 and DES 9 of the UDP.

### **8.3 Residential Amenity**

As a non-entertainment use, it is anticipated that the proposed retail use would not generate a greater level of noise from people coming and going than the restaurant use it would replace. To ensure that nearby residents are not subject to excessive noise from people leaving the application site late at night, a condition is recommended that limits the opening hours of the retail use.

As noted above, no external changes are proposed to the unit at 108 Westbourne Grove whilst the proposed plant is located within an existing plant enclosure and does not project above this enclosure. Accordingly, the proposed development would not result in a material loss of light or sense of enclosure for the occupants of nearby properties.

With regards to the proposed rooftop plant, the Environmental Health Officer raises no objection on noise of nuisance grounds. The host property has been identified as being in an area in which existing ambient noise levels exceed WHO Guideline Levels. In line with policy ENV 6/7 of Westminster's Unitary Development Plan the design noise level criteria for non-tonal plant is 10dB below the background noise reading. Conditions are recommended to ensure that noise from the proposed plant does not harm the amenity of nearby residents.

Given the above, the proposed development would meet policy S29 of the City Plan and policies ENV 6, ENV 7 and ENV 13 of the UDP.

### **8.4 Transportation/Parking**

The site is well served by public transport and there is no significant change in pedestrian or vehicular traffic expected due to the change of use. In terms of people arriving and departing, the levels would not be significant in highways planning terms. Furthermore, the site is within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls.

With regards to cycle parking, policy 6.9 of the London Plan requires the provision of three spaces. Details of these cycle spaces have not been provided and a condition is recommended to secure appropriate details. Subject to this condition, the proposed development would be consistent with policy 6.9 of the London Plan.

The Waste Project Officer considers that the drawings that have been submitted do not demonstrate that appropriate waste and recycling storage has been provided. However, a condition has been recommended to overcome this.

The applicant proposes using a lay by on Hereford Road for delivery vehicles to drop-off and pick-up trolleys of goods and refuse respectively. These trolleys would be wheeled approximately 50 metres along the footpath on Hereford Road and Westbourne Grove and into/out of the front of the unit. The applicant has indicated that 4-6 deliveries per day are expected, compared to 3-4 deliveries per day for the existing restaurant (although it is unclear if these deliveries use the existing servicing bay). The applicant also proposes a Delivery and Servicing Management Plan to minimise the impact of these deliveries on the amenity of local residents and on pedestrians and other traffic.

The Highways Planning Manager has objected to this arrangement, noting that there is an existing servicing bay within the basement carpark that should be used. The Highways Planning Manager is also concerned that the wheeling of trolleys along Westbourne Grove may cause conflict with pedestrians, particularly given there is a bus stop that already narrows the route for trolleys.

It is noted that there is restricted head height that would prevent the Co-op's delivery vehicles from using the servicing bay. The access ramp from Hereford Road to the servicing bay is also steep and there are two flights of stairs between the servicing bay and the back of the unit. Due to this, the applicant considers it not possible to wheel trolleys into the rear of the unit via the servicing bay.

Whilst the Highways Planning Manager's concerns are understood, it is recognised that the occupant cannot service this unit through the existing servicing bay due to the constraints identified above. It also has to be recognised that the proposed use is one that is encouraged within this shopping centre and one that would replace a restaurant that is not desirable within this street area. The potential conflict with pedestrians identified would be a temporary nuisance limited to delivery periods only. However, it would not be a highways safety concern given the width of the footpath between the front of these shops and the bus stop (approximately 2.5 metres). On balance, and as per paragraph 109 of the NPPF, it would not be appropriate to refuse permission on highways grounds in this instance.

To minimise any conflict with pedestrians as far as is possible, conditions are recommended to limit deliveries to outside peak hours, prohibit the storage of trolleys on the footpath and to provide an updated delivery and Servicing Management Plan that minimises pedestrian conflict as far as possible.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The unit would maintain the existing level access from Westbourne Grove at the front of the shop.

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

None

**8.8 Neighbourhood Plans**

None relevant to the application site

**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**

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

**8.12 Environmental Impact Assessment**

The proposed development is not large enough to require an Environmental Impact Assessment.

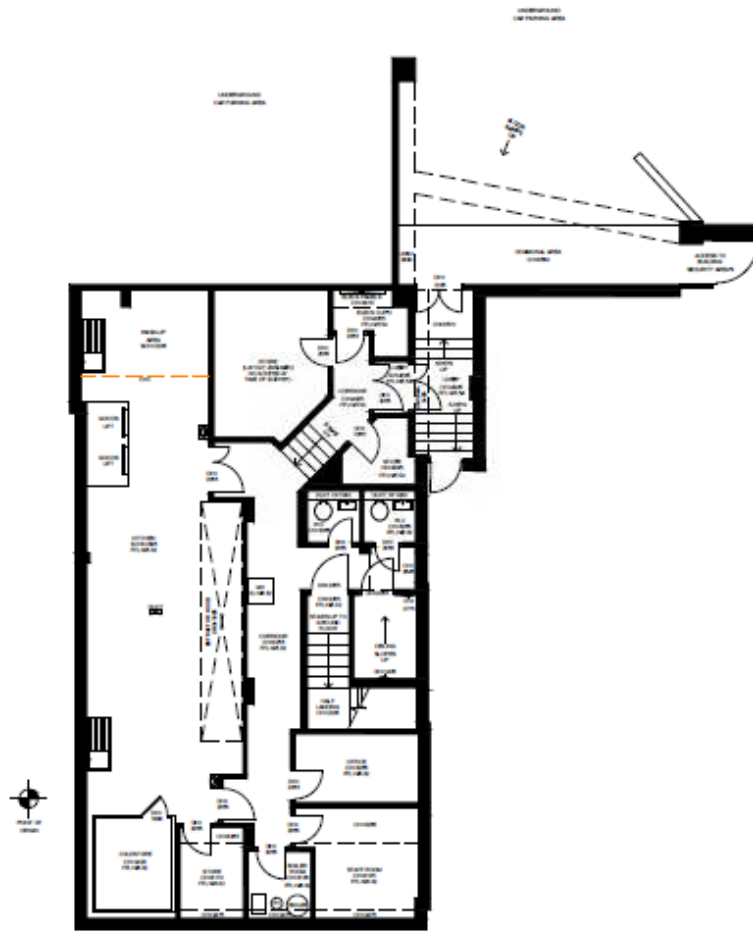
**8.13 Other Issues**

The concerns raised by the objector are largely addressed above. With regards to the red line site plans accuracy, the applicant has now provided an updated plan which includes the rooftop plant enclosure area.

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

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

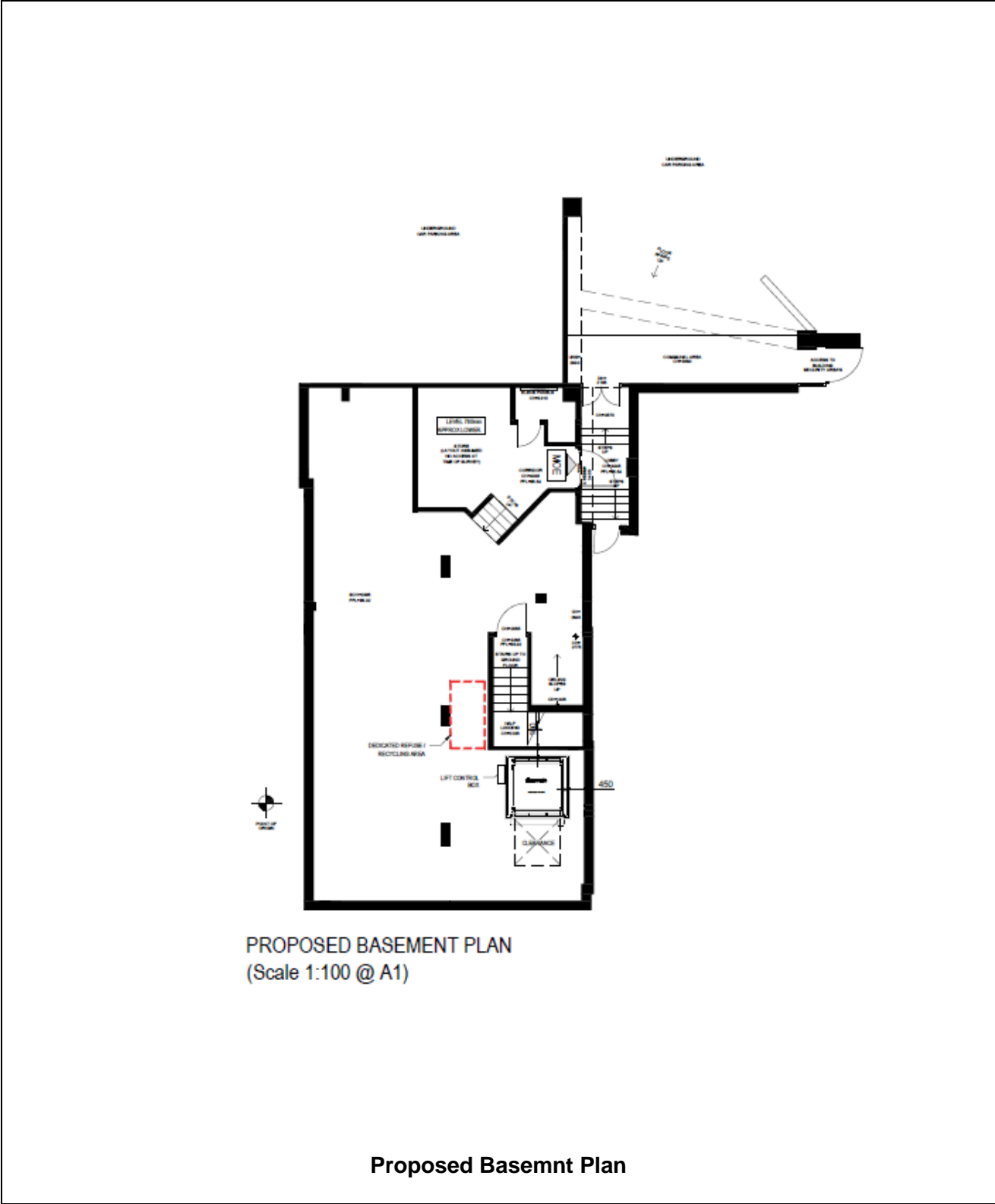
**9. KEY DRAWINGS**

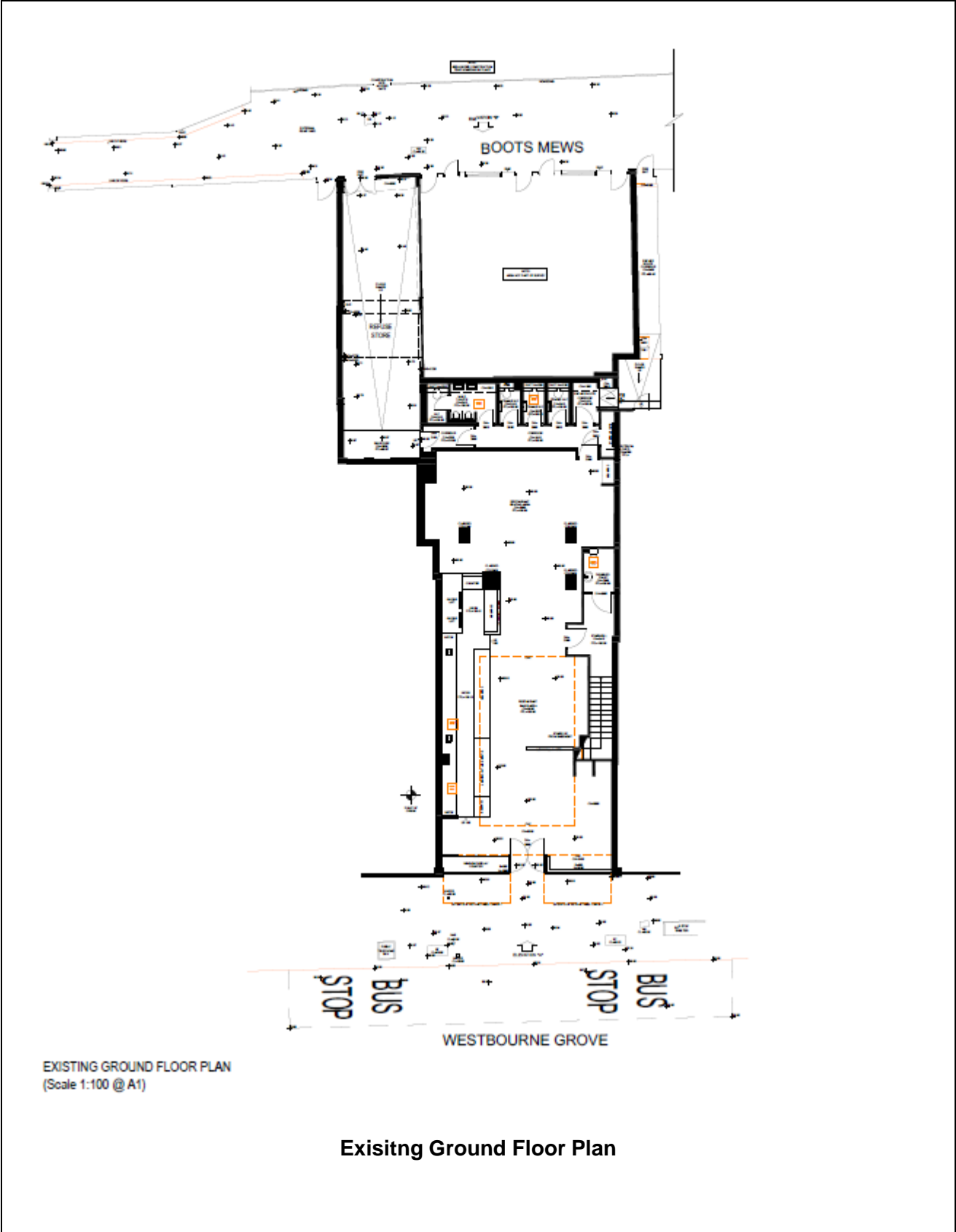


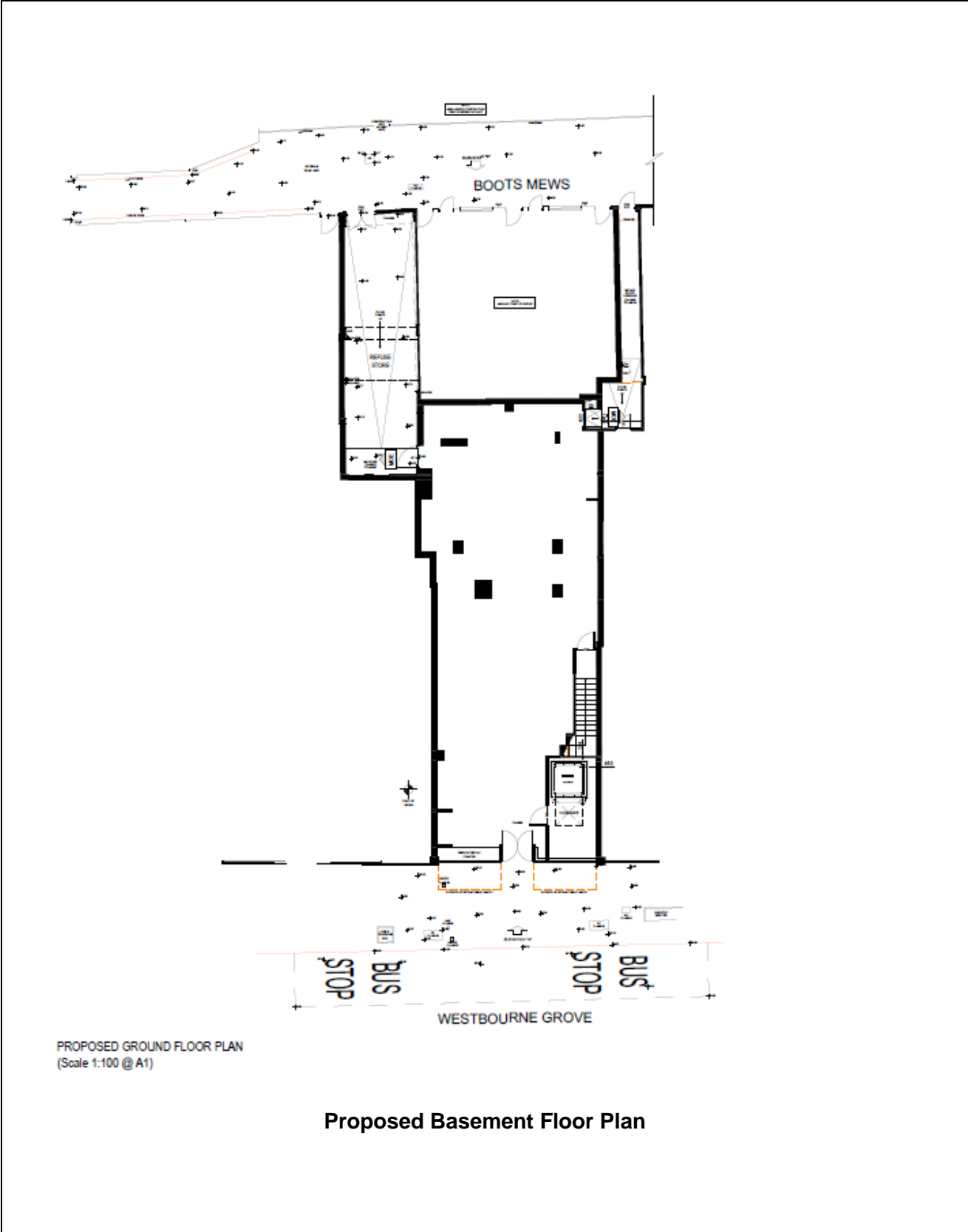
EXISTING BASEMENT PLAN  
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**Existing Basement Plan**









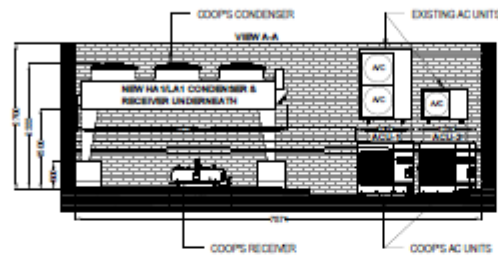
EXISTING ROOF - ELEVATION C  
(Scale 1:50 @ A1)



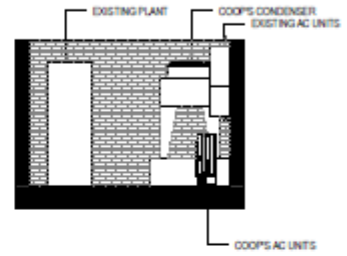
EXISTING ROOF PLAN  
(Scale 1:50 @ A1)

Existing Roof Plant Enclosure Elevation (top) and Plan (bottom)

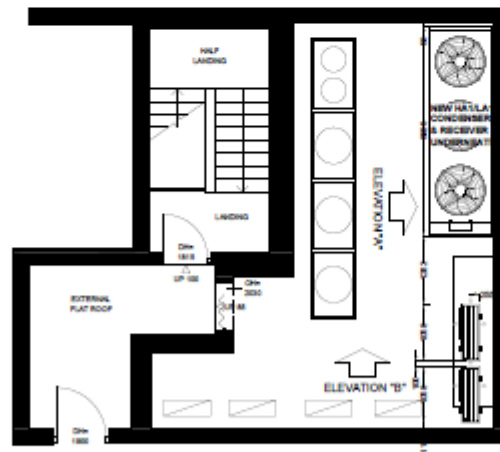




PROPOSED ROOF PLAN - ELEVATION A  
(Scale 1:50 @ A1)



PROPOSED ROOF PLAN - ELEVATION B  
(Scale 1:50 @ A1)



PROPOSED ROOF PLAN  
(Scale 1:50 @ A1)

**Proposed Roof Plant Enclosure Elevation (top) and Plan (bottom)**

**DRAFT DECISION LETTER**

- Address:** 108 Westbourne Grove, London, W2 5RU,
- Proposal:** Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning unit within the roof.
- Reference:** 18/02532/FULL
- Plan Nos:** PP101 Rev A, PP102 Rev A, PP103 Rev A, PP104, PP105 Rev B, PP106 Rev C, PP107, Drawing titled "Ground Floor Plan" Rev B, Drawing titled "Lower Ground Floor Plan".

FOR INFORMATION ONLY: Transport Statement by ADL Traffic and Highways Engineering Limited (dated March 2018); Planning Statement by Caulmert Limited (dated March 2018)

**Case Officer:** Nathan Barrett

**Direct Tel. No.** 020 7641 5943

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

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of 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 The retail use allowed by this permission can continue for 15 years from the date of this permission. After that, this unit must return to its previous use.

Reason:

To ensure that this use is implemented and to accommodate potential changes in development plan policy.

- 4 You must apply to us for approval of details of how waste is going to be stored on 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 provide the waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the retail use. You must not use the waste store for any other purpose. (C14CD)

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)

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

Reason:

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

- 6 All servicing or deliveries must take place between 0800 and 1800 Monday to Friday and between 0800 and 1300 Saturday. No servicing or deliveries shall take place on Sundays or Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

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

- 7 No goods, including delivery cages/trolleys, delivered or collected by vehicles arriving at or departing from the building shall be left on the public highway. You may accept or dispatch such goods only if they are directly unloaded or loaded out of or into the building hereby approved.

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)

- 8 The retail use shall not open for trading until a Servicing and Delivery Management Plan has been submitted to and approved in writing by the City Council. You must then carry out the development in accordance with the approved details.

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)

- 9 Customers shall not be permitted within the retail unit before 0700 or after 2300 Monday to Saturday and before 0800 or after 2300 on Sundays, bank holidays and public holidays.

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)

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

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

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

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;

- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing 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)

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

**Reason:**

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 12 The two Mitsubishi / PUMY-SP125VKM air conditioner units hereby permitted shall not be operated except between 0700 hours and 2300 hours daily.

**Reason:**

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R46CB)

**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 HIGHWAYS LICENSING:

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.

CONSIDERATE CONSTRUCTORS:

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

BUILDING REGULATIONS:

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website <https://www.westminster.gov.uk/contact-us-building-control>

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

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

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

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take

place outside the permitted hours unless you have our written approval. (I50AA)

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

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

\* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.

- 5 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.

Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:

\* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;

\* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;

\* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;

\* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;

\* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 6 You must ensure that the environment within a workplace meets the minimum standard set out in the Workplace (Health, Safety and Welfare) Regulations 1992 with respect to lighting, heating and ventilation. Detailed information about these regulations can be found at

[www.hse.gov.uk/pubns/indg244.pdf](http://www.hse.gov.uk/pubns/indg244.pdf). (I80DB)

- 7 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.

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.



**BACKGROUND PAPERS – 108-110 Westbourne Grove, London, W2 5RU - 18/02532/FULL**

1. Application form
2. Responses from Highways Planning Manager, dated 3 May and 4 July 2018
3. Response from Environmental Health Officer, dated 9 April 2018
4. Response from Waste Project Officer, dated 19 April 2018
5. Letters from Notting Hill East Neighbourhood Forum, dated 24 April and 12 June 2018
6. Letter from South East Bayswater Residents Association, dated 22 April 2018
7. Letter from occupier of 112 Westbourne Grove, dated 15 May 2018

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# Agenda Item 5

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 October 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bayswater	
<b>Subject of Report</b>	103 Westbourne Grove, London, W2 4UW		
<b>Proposal</b>	Erection of roof extension at first floor level to provide a flat and associated alterations to provide pedestrian access from Monmouth Road.		
<b>Agent</b>	Mr Rikesh Mistry		
<b>On behalf of</b>	Mr P Santos		
<b>Registered Number</b>	17/09582/FULL	<b>Date amended/ completed</b>	23 August 2018
<b>Date Application Received</b>	27 October 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne/Bayswater		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

Planning permission is sought for the erection of first floor roof extension to provide a 2 bedroom flat and associated alterations to provide access from Monmouth Road.

During the course of the application the proposal was revised to reduce the size of the stairway structure on the northern side.

Objections have been raised from four surrounding residential owners/occupiers on grounds of land use, amenity, design and the access.

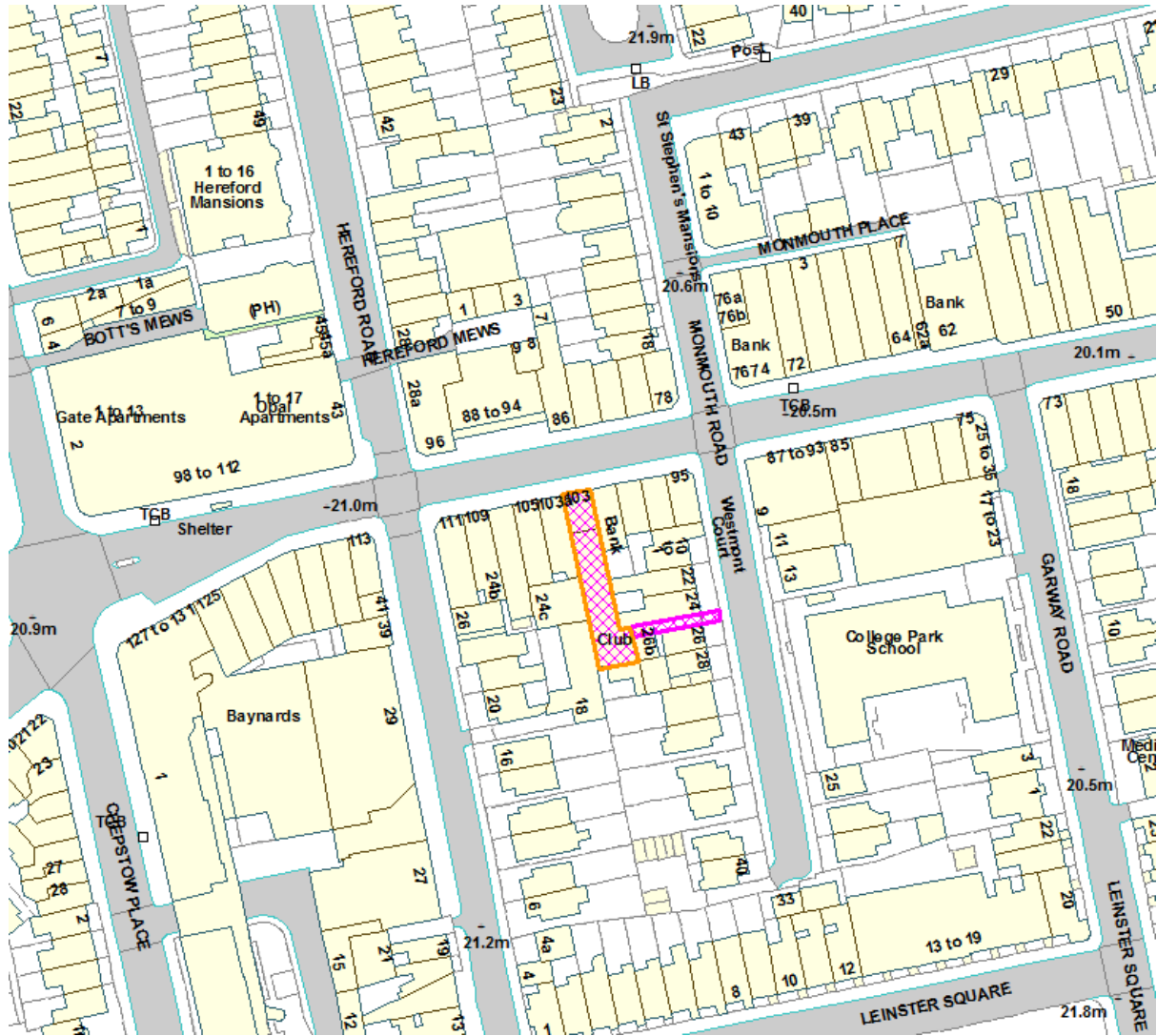
The key issues in this case are:

- The impact of the proposed extension on the character, appearance and setting of the adjacent listed buildings and the character and appearance of the Westbourne and Bayswater Conservation Areas.
- The impact of the proposed extension on the amenity of neighbouring residents.

Subject to the recommended conditions, the proposal is considered to comply with the Council's

policies in relation to design and amenity as set out in Westminster's City Plan and the Unitary Development Plan (UDP) and is accordingly recommended for approval.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

4 Dec 2017 at 09:13:48



No. 103  
Westbourne Grove

**View looking towards No. 26 and No. 28  
Monmouth Road**

4 Dec 2017 at 09:15:51

**View looking towards 103 Westbourne Grove**



## 5. CONSULTATIONS

ORIGINAL CONSULTATION (sent out 02 November 2017):

BAYSWATER RESIDENTS ASSOCIATION:

Any response to be reported verbally.

HIGHWAYS PLANNING:

No objection, subject to condition to secure cycle parking.

WASTE PROJECT OFFICER:

No objection, subject to condition to secure details of waste and recyclables.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 92; Total No. of replies: 4

Four letters/comments received raising objection on all or some of the following grounds:

Land Use

- Accommodation provided does not meet the Mayors guidance in terms of external amenity space

Design

- Design quality is poor
- Angled roofs form an unwelcome 'shouty' and brash intervention into the roofscape

Amenity

- Impact on outlook and sense of enclosure to the first floor at 26 Monmouth Road, 28 Monmouth Road and 28d Monmouth Road
- 

Other

- Previous approved scheme should not establish precedent
- Proposal does not meet Westminster's policy on Sustainability
- Queries in regards to the new access and how security, lighting, emergency exits, refuse collection and postal service will be dealt with
- Proposal does not create an accessible WC as required by Building Regulations

PRESS ADVERTISEMENT / SITE NOTICE: Yes

CONSULTATION ON REVISED PROPOSAL; the proposed stairway structure on the northern elevation was reduced in size and projection (sent out 23<sup>rd</sup> August 2018):

BAYSWATER RESIDENTS ASSOCIATION:

Any response to be reported verbally.

HIGHWAYS PLANNING:

See original comments.

**WASTE PROJECT OFFICER:**

See original comments.

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

No. Consulted: 92; Total No. of replies: 1

One letter/comment received raising objection on all of the following grounds:

**Design**

- Design quality is poor

**Amenity**

- Impact on outlook and sense of enclosure to the first floor at 26 Monmouth Road, 28 Monmouth Road and 28d Monmouth Road

PRESS ADVERTISEMENT / SITE NOTICE: Yes

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

No. 103 Westbourne Grove is a four storey plus basement terraced building located on Westbourne Grove. The ground floor is occupied by Byron Burger, the upper floors are in use as three residential flats accessed independently by a door and staircase from Westbourne Grove. The ground floor footprint of the building extends back by 40m parallel with the residential properties in Monmouth Road and turns towards Monmouth Road creating a 'L' shape. Whilst the front part of the property comprises basement, ground and upper floors, at the rear the property is just single storey at ground floor level with a flat roof and five projecting roof lights which have been blocked off therefore being made redundant.

The site lies within the designated Queensway/Bayswater Stress Area and is located within both the Bayswater and Westbourne Conservation Areas due to the unusual form of the site. The building is not listed however does adjoin Grade II listed building at No. 26 and 28 Monmouth Road to the rear.

103 Westbourne Grove has an existing Freehold right of way to Monmouth Road via an alley between No. 24 and No. 26 Monmouth Road and is used as a fire escape by Byron Burger.

**6.2 Recent Relevant History**

Planning permission was granted by the Planning Applications Committee on 29 October 2013 (RN: 13/07507/FULL) for the construction of a first floor rear extension to provide a one bedroom residential unit with external terrace and associated alterations to the ground floor of the existing building to provide access to the new extension from



Westbourne Grove and fire escape access from Monmouth Road via a replacement rooflight.

No.103 Westbourne Grove has a right of way to Monmouth Road via an alley way between 24 and 26 Monmouth Road and is currently used as a fire escape by Byron Burgers.

## **7. THE PROPOSAL**

Planning permission is sought for the construction of a first floor rear extension over the existing ground floor 'L shaped' footprint, to provide a 2 bedroom residential unit, together with alterations to provide pedestrian access from Monmouth Road.

The application has been amended during the course of the application to reduce the projection and overall bulk to the stairway structure. The current proposal differs from the previous permitted scheme in that it include pedestrian access via Monmouth Road rather than via the communal staircase at 103 Westbourne Grove. Furthermore, the current proposal includes a staircase access structure at first floor level. The proposed structure is slightly lower in height and of a more modern design than originally submitted. The unit proposed will be a 2 bedroom unit rather than a 1 bedroom residential flat.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The principle of creating additional residential floorspace is considered to be acceptable in land use terms in accordance with Policy H3 of Westminster's UDP, subject to meeting other relevant policies.

The proposed two bedroom self-contained flat would have a floor area of 134m<sup>2</sup> and would be accessed via an alleyway from Monmouth Road which is already used by Byron Burgers restaurant as an emergency exit. The layout of the proposed flat comprises a bathroom, utility and bin storage at ground floor level, a bedroom/study located on the mezzanine level and open plan living, dining and kitchen area with two bedrooms (both have en-suite shower rooms) and further WC and an enclosed external terrace (5m<sup>2</sup>). The flat would be served by a variety of windows, some proposed with opaque glazing and some with timber slatted screening in order to protect the privacy of existing residents. The use of lightwells and several rooflights will also provide daylight to the bedroom and the living area. As such, the proposed flat is considered to provide an acceptable standard of accommodation for future occupiers, in accordance with the requirements of Policy ENV13 in the UDP and Policy S29 in Westminster's City Plan.

### **8.2 Townscape and Design**

The extension would be visible in a view between buildings from street level on Monmouth Road, and from a number of rear elevation windows of properties in the surrounding urban block. It is recognised that in these views the impression would be of a relatively large new addition, and one designed in a modern style. Nonetheless, for

the reasons set out below, the proposals are considered acceptable in design terms in the particular circumstances of this case.

The site spans across the boundary of the Bayswater and Westbourne Conservation Areas, and the extension is proposed on the southern flat roof area at the rear of the site which is principally located within the Bayswater Conservation Area. In addition, there are listed buildings on the west side of Monmouth Road in proximity to the site, including no. 26 Monmouth Road which is sited to the immediate east side of the rear flat roof area to the application building. As such, the extension would be in close proximity to the listed buildings of nos. 26 and also 28 Monmouth Road. The site therefore is sensitive in heritage terms.

Though recognising the quite striking modern form of the extension proposed, this is not dissimilar from the approach taken in the scheme previously approved on 29.10.2013 under application 13/07507/FULL which saw the scheme clad in zinc cladding, with areas of translucent glazing, sections of slatted timber and photovoltaic panels. The current scheme takes a similar approach to cladding and though quite strikingly modern, the principal material is zinc which will give a grey finish which will help tone down the overall appearance to a certain degree. The design has been simplified through the application process, and is now in a more standard 'mansard' form in the sense that it incorporates a principal pitch and a secondary pitch, with flat roof above. Though a clearly modern structure diverging from the traditional approach taken in most of the surrounding street facing buildings, it is sited on a more modern backlands commercial unit structure, flanked by a further modern structure to the east, with the existing flat roof cluttered by quite striking projecting rooflight features, and with the rear elements of the modern Gap House adjacent to the south. Seen in its own right, the extension is considered of sound design. In the very particular circumstances of this case and its surroundings, the extension is considered acceptable in design terms and not to harm this or the adjoining conservation area.

It is recognised that the extension does step closer to the rear elevations of the listed buildings on Monmouth Road, however the proposals have been amended during the course of the application and they now show a relatively shallow sloping roof beginning 4.5m away from the rear elevation of the closest listed building at no. 26 Monmouth Road, with the main height of the extension at its central ridge some 13.2m away. The extension represents relatively prominent bulk in some proximity to the listed buildings on Monmouth Road, however overall it is not considered that it harms its setting.

Overall, and mindful of the previous approval, this application proposal is considered in line with City Council policies and guidance in terms of design, conservation and listed building issues. The recommendation is also considered in line with the statutory duties in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act of 1990 which set out that the local planning authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and also that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of a conservation area, whilst recognising that considerable importance and weight should be given to these duties.

### **8.3 Residential Amenity**

The proposed extension is, due to its location, surrounded on all sides by residential flats and houses. The proposal therefore has the potential to significantly impact on the amenities of these occupiers. Consequently, neighbours have raised objection to the proposal on amenity grounds. Whilst the proposed extension is not considered to be particularly neighbourly, the applicant has sought to minimise the potential impact on neighbouring residential occupiers through amending the design and the use of the materials in the proposed development.

#### No. 103 Westbourne Grove

The proposed flank of the first floor extension would be around 3m at its highest point above the existing flat roof and located 6m from the existing rear building line of the main property (103 Westbourne Grove) and the windows of an existing flat at first floor level. This is an increase of 1m in distance from the previous consented scheme. One of the windows within the first floor flat serves a bathroom and the other does not directly face the proposed extension. No windows are proposed within this elevation, however a door is proposed for means of emergency escape. Given the above, it is not considered that the extension would result in any significant loss of amenity to the occupier of that flat. Whilst the occupiers of other flats within 103 Westbourne Grove would look down upon the proposed extension, this in itself is not considered to be harmful to the amenity of the occupiers of these flats.

#### No. 18 Hereford Road

This neighbouring property is a contemporary single family dwellinghouse which backs onto the application site. The roof of this house extends above the height of the existing parapet wall between the two sites and has in its elevation three vertical slot windows which serve a corridor. The proposal would be of a similar height and would angle into the site resulting in a small distance between the properties which would affect two of the horizontal windows. Whilst this is an un-neighbourly relationship, the windows within No. 18 Hereford Road are also very un-neighbourly, given this, it is not considered that permission could be reasonably withheld on the basis of the impact on these windows.

#### Nos. 22-24 Monmouth Road and Westmont Court

These residential properties are in use as flats and back onto the application site. The proposed extension would face the rear of these properties and would be located between 8m and 10 m from their rear elevations. The proposed extension would be 3m at its highest point in height. Given this distance, it is not considered that the proposal would result in any significant adverse impact on the windows serving the flats by an increased sense of enclosure or loss of daylight.

In terms of privacy, the two bedrooms in the proposed extension facing these properties will have small lightwells funnelling light in along with rooflights therefore raising no loss of privacy for the residential properties. The proposed terrace would be enclosed with a timber slatted screen to prevent overlooking to neighbouring windows. Subject to the details of this timber slatted screen being secured via condition, it is not considered that the proposal would detrimentally impact on the occupiers of these neighbouring properties in terms of loss of privacy. Given the limited size of the proposed roof terrace it is not considered to cause concerns in terms of noise disturbance.

#### No. 26 Monmouth Road

This property is currently occupied as flats and the windows within the rear elevation face the proposed extension. The proposal will be set away from the rear elevation by 3.2m, which has been amended during the course of the application from 2.5m and due to the modern roof design has a height of 2.5m. There will be no openings in this elevation, apart from a rooflight to serve the hallway. It is acknowledged that the proposed extension would create additional built form and would change the outlook from neighbouring properties, however the occupiers have not raised an objection and it is considered that a refusal on these grounds cannot be justified.

#### No. 28 Monmouth Road

The closest part of the proposed extension would lie over 7m away from this property at a height of 3m at the highest point and whilst the extension would be visible from the rear facing upper floor windows of this neighbouring property (there is a window proposed on the flank wall) this would result in obscured views of this property.

The residents of this property have raised objection to the proposed development on grounds that the extension due to its massing and bulk would result in an increased sense of enclosure and loss of outlook from their property and that of their neighbours. Whilst it is acknowledged that the proposed extension would create additional built form and would change the outlook from neighbouring properties, however, in the absence of any significant harm to the amenities of neighbouring properties it is not considered that this objection is sustainable.

#### No. 28d Monmouth Road

This property is a contemporary house with projecting extensions to the rear which incorporate what previously was the garden of No. 28 Monmouth Road. The proposed extension will have one window within this elevation that would face the rear extension of this neighbouring property. Due to the location and angle of this window in relationship to this property, the proposed extension is not considered to result in any significant harm to the amenities of the occupiers of this dwellinghouse.

In conclusion, the proposed extension whilst not particularly neighbourly is not considered to result in any significant loss of amenity to neighbouring residents, so as to justify withholding permission on amenity grounds under policy ENV13 of the UDP and policy S29 of Westminster's City Plan. However, this is subject to the imposition of conditions to prevent any flat roof areas being used for sitting out and to require details of the slatted timber screen to be agreed and subsequently installed and maintained.

### **8.4 Transportation/Parking**

Whilst the creation of an additional residential unit without the provision for off street parking is likely to add to the demand for on-street parking in the vicinity, the City Council's Highways Planning Manager has indicated that there is sufficient capacity on-street. As such, the proposal is considered to be in accordance with Policy TRANS23 in the UDP. Details of secure cycle storage and waste and recycling are to be secured by condition.

### **8.5 Economic Considerations**

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

## **8.6 Access**

Pedestrian access is proposed by alleyway via Monmouth Road which Byron Burgers uses as an emergency exit.

Objections have been received on matters relating to the proposed access from Monmouth Road and how security, lighting, emergency exits, refuse collection and postal service will be dealt with. The proposed access will generate more activity than currently however due to the size of the residential unit, it is not considered that this increase in activity could be grounds on which permission could be withheld on.

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

The proposed development would provide solar panels to the roof of the proposed first floor extension. These sustainability improvements are welcomed and a condition is recommended to ensure that these elements of the scheme are delivered in accordance with policy S28 in Westminster's City Plan.

## **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 (July 2018) unless stated otherwise.

## **8.11 Planning Obligations**

The proposed development does not generate a requirement for any planning obligations and is not CIL liable.

## **8.12 Environmental Impact Assessment**

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

## **8.13 Other Issues**

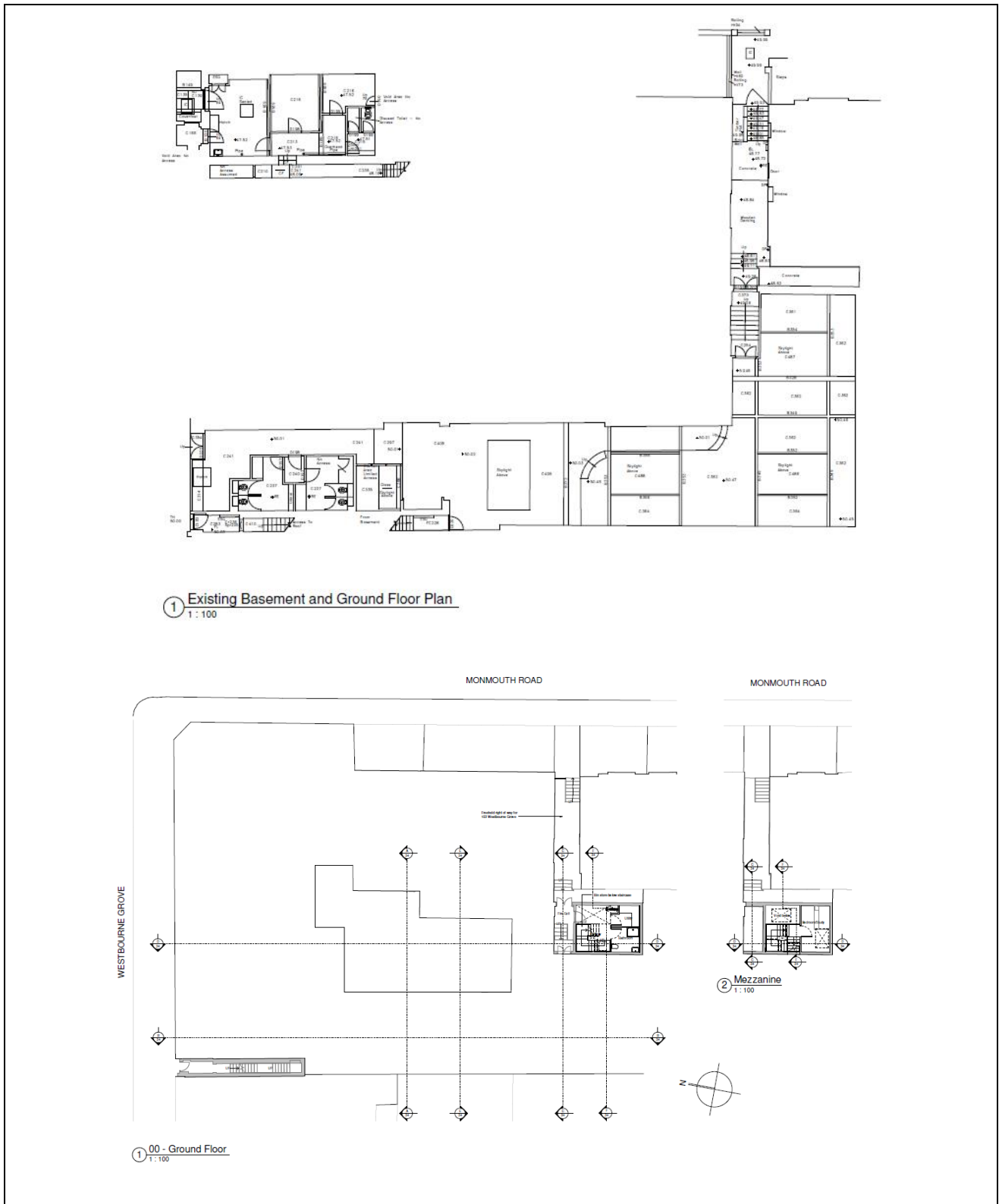
Objections have been raised in terms of the proposed residential unit not meeting Building Regulations due to not having an accessible WC. This is not considered to be a planning related matter and not a ground on which permission could be withheld on.

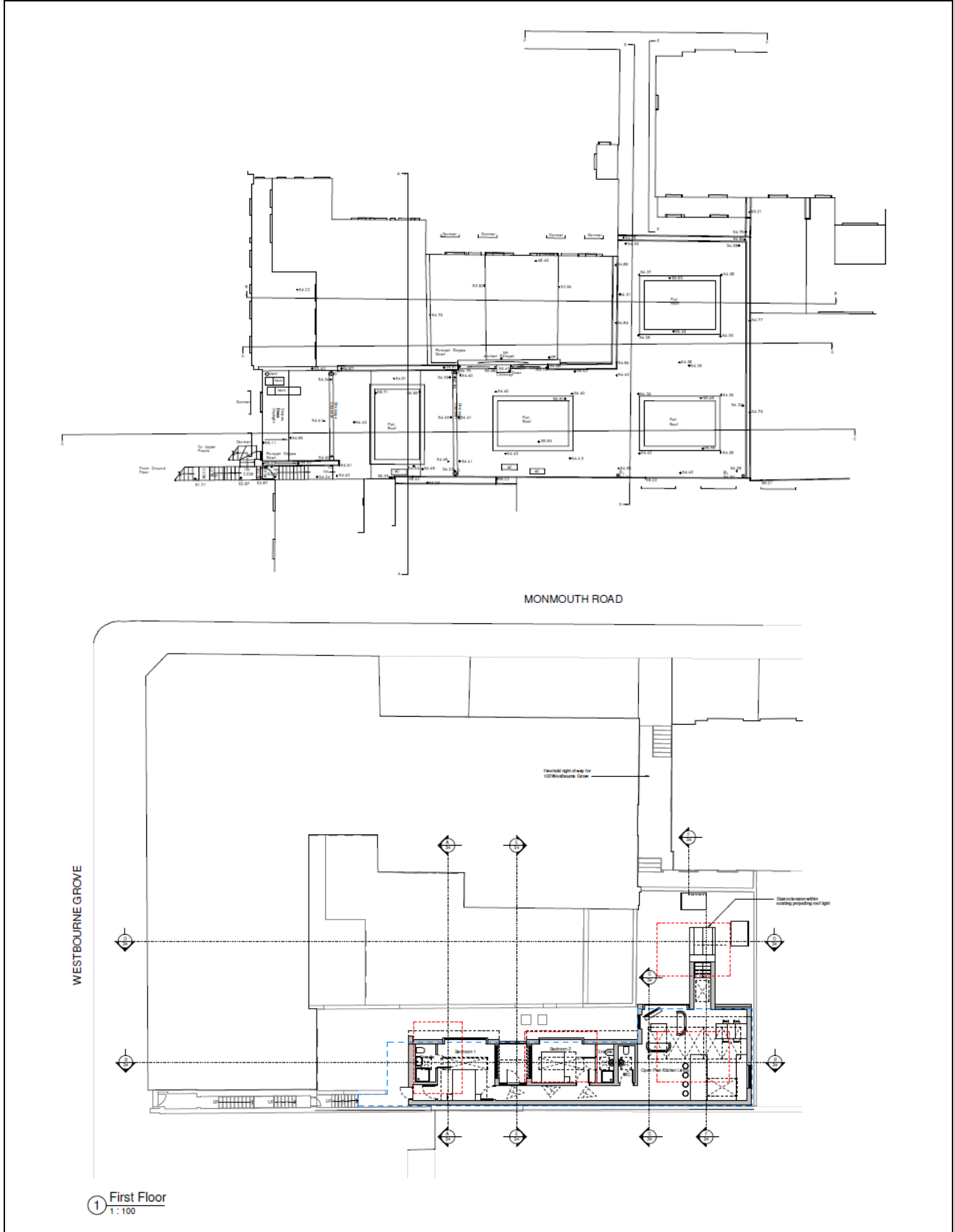
(Please note: All the application drawings and other relevant documents and Background

Papers are available to view on the Council's website)

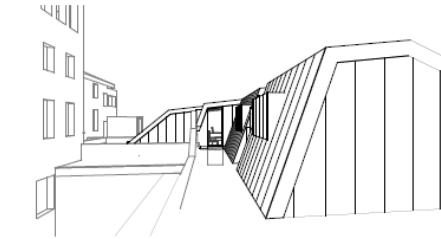
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT <a href="mailto:NORTHPLANNINGTEAM@WESTMINSTER.GOV.UK">NORTHPLANNINGTEAM@WESTMINSTER.GOV.UK</a>
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**9. KEY DRAWINGS**

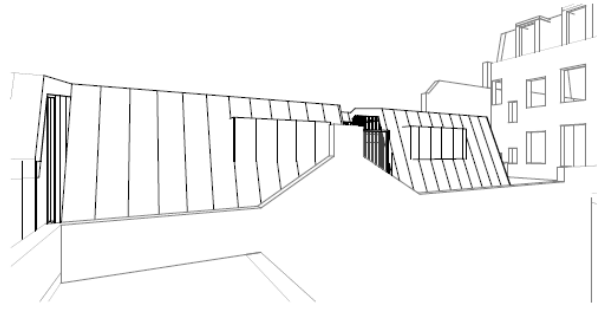




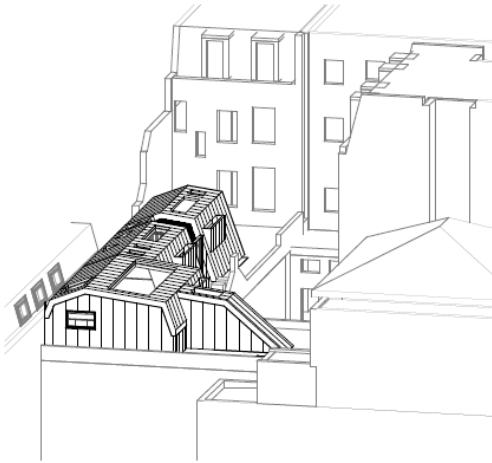




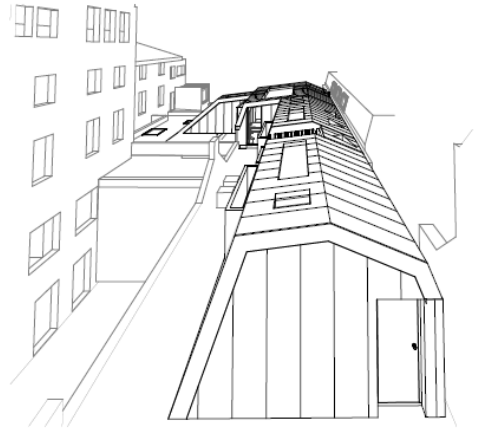
① View from first floor 103 Westbourne Grove



② View from first floor 24 Monmouth Road



③ Aerial from south



④ View from third floor 103 Westbourne Grove

**DRAFT DECISION LETTER**

**Address:** 103 Westbourne Grove, London, W2 4UW

**Proposal:** Erection of single storey 'roof' extension at first floor level to provide a flat and associated alterations to provide access from Monmouth Road.

**Reference:** 17/09582/FULL

**Plan Nos:** Site Location Plan, 4941\_2\_13 Rev A, 4941\_2\_12 Rev A, 4941\_2\_11 Rev A, 4941\_2\_10 Rev A, 4941\_3\_34 Rev C, 4941\_3\_32 Rev B, 4941\_3\_30 Rev C, 4941\_3\_31 Rev B, 4941\_3\_33 Rev B and 4941\_3\_35 Rev B.

**Case Officer:** Frederica Cooney

**Direct Tel. No.** 020 7641 7802

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.
- Reason:  
For the avoidance of doubt and in the interests of proper planning.
- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , o not at all on Saturdays, Sundays, bank holidays and public holidays. , , Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)
- Reason:  
To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)
- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

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

- 5 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

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

- 6 You must not use the door in the west elevation of the first floor extension facing 103 Westbourne Grove, as shown on drawing 4941\_3\_31 Rev B. However, you may use the door and rooflight to escape in an emergency or for building maintenance purposes.

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)

- 7 You must apply to us for approval of details of the timber slatted screen and a sample of the timber (at least 300mm square) to be used for the timber slatted screen annotated on the approved drawings. You must not start work on the relevant part of the development until we have approved the sample. You must then install the timber slatted screen in accordance with the details and sample we have approved, prior to the occupation of the flat, and it must be maintained as such thereafter and must not be changed without our permission.

Reason:

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

in January 2007. (R21AC)

- 8 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application., , - Solar panels., , You must not remove any of these features.

Reason:

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

- 9 You must 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 residential unit. (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)

- 10 You must apply to us for approval of details of secure cycle storage for the residential 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)

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

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

guidance was offered to the applicant at the validation stage.

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

**BACKGROUND PAPERS - 103 Westbourne Grove, London, W2 4UW 17/09582/FULL**

1. Application form
2. Highways Planning Officer memo dated 13 November 2017
3. Waste Project Officer memo dated 17 November 2017
4. Letter from owner of basement flat, 26 Monmouth Road, dated 10 November 2017
5. Letter from Gerald Eve, on behalf of Byron Burger at 103 Westbourne Grove, dated 16 November 2017
6. Two letters from occupier of 28 Monmouth Rd, London, dated 7 January 2018 and 3 October 2018
7. Letter from owner of 28d Monmouth Road, London, dated 4 January 2018