



City of Westminster

Committee Agenda

Title:

Planning Applications Sub-Committee (2)

Meeting Date:

Tuesday 18th December, 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, Georgina Wills, Committee and Governance Officer.

**Tel: 020 7641 7513; email: gwillis@westminster.gov.uk
Corporate Website: www.westminster.gov.uk**

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

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note any changes to the membership.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

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

(Pages 5 - 10)

4. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

1. **MICHELLE HOUSE, 45-46 BERNERS STREET,
LONDON, W1T 3NE**

(Pages 15 - 44)

2. **EAGLE HOUSE, 50 MARSHALL STREET, LONDON
W1F 9BQ**

(Pages 45 - 70)

3. **EDGSON HOUSE, EBURY BRIDGE ROAD, LONDON
SW1W 8RU**

(Pages 71 - 92)

4. **309-311 HARROW ROAD, LONDON, W9 3RG**

**(Pages 93 -
138)**

5. **OPEN SPACE AT JUNCTION OF FERNHEAD ROAD
AND, ELGIN AVENUE, LONDON**

**(Pages 139 -
152)**

6. **1 ELGIN AVENUE, LONDON, W9 3PR**

**(Pages 153 -
164)**

7. **CHRISTCHURCH GARDENS, VICTORIA STREET,
LONDON, SW1H 0AY**

**(Pages 165 -
184)**

8. **MERCER WALK, LONDON, WC2H 9FA**

**(Pages 185 -
198)**

9. **97 RANDOLPH AVENUE, LONDON, W9 1DL**

**(Pages 199 -
212)**

**Stuart Love
Chief Executive
10 December 2018**

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CITY OF WESTMINSTER

MINUTES

Planning Applications Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (2)** Committee held on **Tuesday 20th November, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Robert Rigby (Chairman), Louise Hyams, Guthrie McKie and James Spencer

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Robert Rigby explained that a week before the meeting, all four Members of the Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and e-mails containing objections or giving support. Members of the Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.

2.2 Councillors Rigby and McKie declared that that they had attended a site visit in respect of Item 5.

2.3 Councillor McKie also declared that he was a member of the South East Bayswater Residents Association and commented that the Association had made representation in respect of Item 5.

2.4 Councillor Hyams declared that the application site for Item 4 was located in her ward.

2.5 Councillors Rigby, McKie, Hyams and Spencer all declared that they had sat on the Sub-Committee which previously considered the main application for Item 4

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 16 October 2018 be signed by the Chairman as a correct record of proceedings.

4 PLANNING APPLICATIONS

1 8 PRINCES GARDENS, LONDON, SW7 1NA

Use of 8- 9 Princes Gardens as Nursery (Class D1); internal and external alterations to building; installation of plant machinery and extract duct; and extension of garden area to the rear including installation of new fencing and sheds.

Additional representations were received from the Planning Team (undated), David Wyld & Co Solicitors (09.11.18), two residents (10.11.18 and 13.11.18), Resident Association (05.11.18) and Knightsbridge Association, (11.11.18) and (13.11.18).

Late representations were received from the Planning (Undated), five Residents (15.11.18, 14.11.18, 13.11.18, 19.11.18 and 20.11.18), Imperial College London (16.11.18) and Councillor Tony Devenish (19.11.18)

RESOLVED UNANIMOUSLY:

1. That conditional permission and conditional listed building consent be granted subject to an additional condition requiring a Community Liaison Group to be set up.
2. That the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter be agreed.

2 GARDEN HALL OF RESIDENCE IMPERIAL COLLEGE, 10-12 PRINCES GARDENS, LONDON, SW7 1ND

Use of 10 - 13 Princes Gardens as school (Class D1) with outdoor teaching area to rear; external alterations including building refurbishment and installation of extract duct; installation of plant machinery and internal alterations.

An additional representation were received from David Wyld & Co Solicitors (09.11.18), three Residents (11.11.18, 12.11.18 and 13.11.18)

Late representations were received from five Residents (15.11.18, 15.11.18, 14.11.18, 13.11.18 and 19.11.18) and Councillor Tony Devenish

RESOLVED UNANIMOUSLY:

1. That conditional permission and conditional listed building consent be granted subject to:
 - a) a Grampian Condition to secure air quality mitigation;
 - b) a condition which required a community liaison group to be set up to ensure the school involved the local community; and
 - c) a condition which required that a staff member be present immediately outside the school at main arrival and departure times to manage school traffic movement and to ensure no idling of cars.
2. That the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter be agreed.

3 334-348 OXFORD STREET, LONDON, W1C 1JG

Application 1:

Use of part of the ground floor (on the corner of Henrietta Place and Vere Street) as restaurant (Class A3) with associated external alterations to form new entrance.

Application 2:

Use of an area of the public highway measuring 14.71m x 2.63m for placement of 25 tables, 50 chairs, 10 barriers and 8 planters on Vere street elevation in association with the ground floor restaurant.

RESOLVED UNANIMOUSLY:

1. Application 1:
 - 1.1 That conditional permission be granted.
 - 1.2 To authorise the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway to enable this development to take place.
 - 1.3 That the Executive Director of City Management & Communities or other appropriate officer be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.
2. Application 2:
 - 2.1 That conditional permission be granted.

4 40 VILLIERS STREET, LONDON, WC2N 6NJ

Facade replacement with retention of existing structural frame, replacement of office entrance, creation of a terrace and dry storage room and installation of plant at seventh floor roof level, in connection with continued use as office (Class B1) at first to sixth floor levels and retail (Class A1) at ground floor level.

Late Representation were received from London Underground (Transport for London) (19.11.18) and Waterman Structure Ltd. (19.11.18).

The Presenting Officer tabled the following amended wording of Condition 10.

The development hereby permitted shall be implemented in accordance with the revised load assessment letter dated 4 October 2018 from Waterman Structures to London Underground and the response from London Underground dated 19 November 2018.

RESOLVED UNANIMOUSLY:

That conditional permission be granted with the amended tabled condition.

5 103 WESTBOURNE GROVE, LONDON, W2 4UW

Erection of roof extension at first floor level to provide a flat and associated alteration to provide pedestrian access from Monmouth Road. (Addendum Report)

Additional representation was received from Planning (14.11.18)

The Presenting Officer advised of the following additional Condition

Additional Condition:

Condition 11

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

- Installation of a living green roof to the flat roof at first floor level directly behind 26 Monmouth Road.

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

Reason-

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the 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.

Omitted Condition:

Condition 8

The Presenting Officer advised that Condition 8 was to be omitted and had been included in error.

RESOLVED UNANIMOUSLY:

That conditional permission be granted subject to the additional condition including a requirement to maintain the green roof for the lifetime of the development.

The Meeting ended at 8.05 pm

CHAIRMAN: _____

DATE _____

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Agenda Annex

CITY OF WESTMINSTER PLANNING APPLICATIONS SUB COMMITTEE – 18th December 2018 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	RN(s) : 18/04936/FULL West End	Michelle House 45-46 Berners Street London W1T 3NE	Demolition and replacement of front and rear facades, erection of extensions at fifth, sixth and seventh floor levels with photovoltaic panels above, rear extension from first to new sixth floor level, replacement infill extension at rear basement and ground floor level, infilling of car park access at ground floor level. Installation of plant (including extract duct) with associated screening at seventh floor level. Creation of terraces / balconies at first and fourth to seventh floor levels. Creation of a living green roof at seventh floor level. Triple / alternative use of the basement and ground floor as retail (Class A1) / restaurant (Class A3) / showroom uses (Sui Generis) and use of the first to seventh floor level as office accommodation (Class B1).	
<p>Recommendation Grant conditional permission subject to the completion of a legal agreement to secure the following:</p> <p>a) A contribution to the City Council's Affordable Housing Fund of £719,831 (index linked), payable on commencement of development.</p> <p>b) Undertaking of highways works associated with the removal of the existing vehicle crossover and the re-instatement of a footway on Berners Street</p> <p>c) Costs of monitoring the S106 agreement.</p> <p>2. If the S106 legal agreement has not been completed within eight weeks of the date of this resolution then:</p> <p>a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers</p>				
Item No	References	Site Address	Proposal	Resolution
2.	RN(s) : 18/06875/FULL West End	Eagle House 50 Marshall Street London W1F 9BQ	Demolition of rear glazed pitched roof and erection of rear extensions at third and fourth floors, extension at fifth floor and new fifth floor terrace, all for office purposes (Class B1). Replacement of existing mansard roofs and alterations at roof level including installation of plant enclosed by acoustic louvres and trellising and new roof terrace and staircase housing enclosed by planted trellis. Use of ground floor as retail (Class A1) floorspace and installation of replacement windows throughout, new shopfronts to ground floor retail units, replacement entrance gates and associated alterations.	
<p>Recommendation Grant conditional permission.</p>				

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 18th December 2018
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
3.	RN(s) : 18/08372/COFU L Churchill	Edgson House Ebury Bridge Road London SW1W 8RU	Demolition of Edgson House; back-filling of basement, regrading of site and laying out of porta cabin accommodation for use for a temporary period of up to three years for social and community uses.	
	Recommendation Grant conditional permission under Regulation 3 of the Town and Country Planning Regulations 1992.			
Item No	References	Site Address	Proposal	Resolution
4.	RN(s) : 18/07841/FULL Westbourne	309-311 Harrow Road London W9 3RG	Dual/ alternative use of part of the basement and ground floors for Class A1 or Class A3 use. Erection of roof extension to form new third floor and erection of rear extension comprising basement extension, ground and three upper floors and associated external alterations to existing building including new windows to front elevation at ground floor level. Use of part basement and ground floors and the first, second and third floors as student accommodation (34 bed spaces).	
	Recommendation Grant conditional permission, subject to a Unilateral Undertaking to secure the accommodation for students who are primarily receiving their education via a higher education institution(s) in Westminster.			
Item No	References	Site Address	Proposal	Resolution
5.	RN(s) : 17/10180/COFU L Harrow Road	Open Space At Junction Of Fernhead Road And Elgin Avenue London	Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)	
	Recommendation Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.			
Item No	References	Site Address	Proposal	Resolution
6.	RN(s) : 18/08250/FULL Harrow Road	1 Elgin Avenue London W9 3PR	Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.	
	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Resolution
7.	RN(s) : 18/07319/COFU L	Christchurch Gardens Victoria Street	Hard and soft landscaping improvements to public open space, with new and realigned paths, enhanced signage, lighting and planting.	

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 18th December 2018
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	St James's	London SW1H 0AY		
Recommendation Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.				
Item No	References	Site Address	Proposal	Resolution
8.	RN(s) : 18/08669/TCH	Mercer Walk London WC2H 9FA	Use of six areas of the Mercer Walk measuring (Unit 7) 3.70m x 6.70m, 8.00m x 1.20m, 5.00m x 1.80m; (Unit 5) - 11.47m x 3.40m; (Unit 4)- 11.50m x 1.20m; (Unit 2) 11.00M x 2.70m in association with the existing retail units.	
Recommendation Grant conditional permission.				
Item No	References	Site Address	Proposal	Resolution
9.	RN(s) : 18/07288/FULL Maida Vale	97 Randolph Avenue London W9 1DL	Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.	
Recommendation Grant conditional permission.				

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Agenda Item 1

Item No.
1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Michelle House, 45-46 Berners Street, London, W1T 3NE,		
Proposal	Demolition and replacement of front and rear facades, erection of extensions at fifth, sixth and seventh floor levels with photovoltaic panels above, rear extension from first to new sixth floor level, replacement infill extension at rear basement and ground floor level, infilling of car park access at ground floor level. Installation of plant (including extract duct) with associated screening at seventh floor level. Creation of terraces / balconies at first and fourth to seventh floor levels. Creation of a living green roof at seventh floor level. Triple / alternative use of the basement and ground floor as retail (Class A1) / restaurant (Class A3) / showroom uses (Sui Generis) and use of the first to seventh floor level as office accommodation (Class B1).		
Agent	Rolfe Judd		
On behalf of	Berners-Allsopp Estate		
Registered Number	18/04936/FULL	Date amended/ completed	12 June 2018
Date Application Received	12 June 2018		
Historic Building Grade	Unlisted		
Conservation Area	N/A		

1. RECOMMENDATION

<p>1. Grant conditional permission subject to the completion of a legal agreement to secure the following:</p> <ul style="list-style-type: none"> a) A contribution to the City Council's Affordable Housing Fund of £719,831 (index linked) payable on commencement of development. b) Undertaking of highways works associated with the removal of the existing vehicle crossover and the re-instatement of a footway on Berners Street. c) Costs of monitoring the S106 agreement. <p>2. If the S106 legal agreement has not been completed within eight weeks of the date of this resolution then:</p> <ul style="list-style-type: none"> a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so,

the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

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

2. SUMMARY

Michelle House is an unlisted building situated outside of any designated conservation area. The building comprises basement, ground and four upper floors, and with the exception of a car park entrance at part ground floor level, is in use as showrooms and offices throughout.

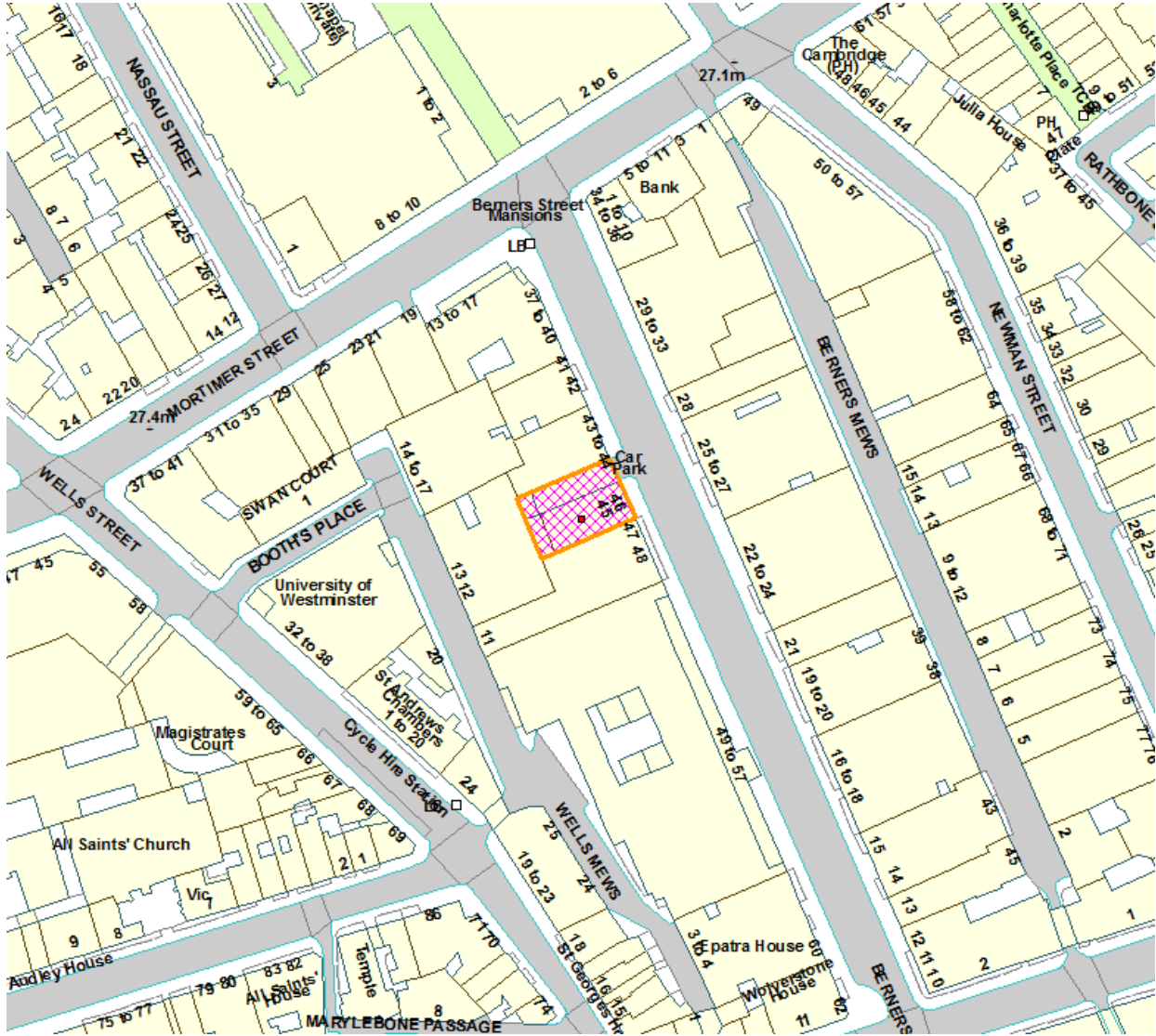
Permission is sought for substantial demolition of the building including replacement facades and rear and roof extensions to provide additional commercial floorspace.

The key issues for consideration are:

- The design, height and bulk of the proposal and the contribution it makes to the local townscape;
- The acceptability of a new restaurant in this location;
- The acceptability of the proposal in amenity terms; and
- The impact of the displaced vehicular traffic on Well Mews.

The proposals are considered acceptable in land use, amenity, highways and design grounds and broadly comply with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation



Rear Elevation



Wells Mews Car Park Entrance (Outside of site)



Wells Mews



5. CONSULTATIONS

FITROVIA NEIGHBOURHOOD ASSOCIATION
To be reported verbally.

ENVIORNMENTAL HEALTH
No objection.

HIGHWAYS PLANNING
No objection.

WASTE PROJECT OFFICER
No objection.

BUILDING CONTROL
Not necessary to Comment

THAMES WATER
No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED
No. Consulted: 181
Total No. of replies: 2 letters of objection on the following grounds:

- Impact on vehicular flows and safety on Wells Mews

PRESS ADVERTISEMENT / SITE NOTICE:
Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

45 – 46 Berners Street, is an unlisted buildings comprising basement, ground and four upper floors. The site lies within the core Central Activities Zone (CAZ) but outside of any designated conservation area.

The basement and part of the ground floors are in use as a wholesale showroom (sui generis). The ground floor of the site also provides a second means of access to a commercial car park at 12-13 Wells Mews to the rear. The upper floors are being used for office purposes.

The nearest residential properties are located to the north of the application site at Newland House which fronts Mortimer Street but has rear windows looking towards the application site, albeit approximately 36 metres away.

6.2 Recent Relevant History

Planning permission was granted on the 11th August 1951 for the erection of a four storey building with basement for use as offices, showrooms and warehousing.

Conditional permission was granted on 29 July 1952 for the erection of a fourth floor for use as offices and showrooms.

Conditional permission was granted on 15 July 1953 for the use of each floor of the premises as showrooms with ancillary offices.

An application for a Certificate of Lawfulness for the existing use of the first and fourth floors for purposes within Class B1 was issued on 07 March 1995.

A certificate of lawfulness issued on the 23 October 2009 confirmed the public car park at 12-13 Wells Mews with an access at part ground floor of 45-16 Berners street is lawful.

7. THE PROPOSAL

The main aspects of the proposed scheme comprises:

- Demolition and replacement of front and rear façade.
- Erection of extensions at fifth, sixth and seventh floor levels and rear extensions from first to new sixth floor level.
- Infilling of the NCP car park entrance on the ground floor from Berners Street and creation of a new ground floor frontage.
- Erection of replacement infill extension at basement and ground floor level.
- Erection of plant enclosure at seventh floor level and internally routed extract duct terminating above plant enclosure.
- Creation of terraces/balconies at first to seventh floor level.
- Photovoltaic panels are proposed above the seventh floor accommodation.
- Installation of replacement pavement lights.

The basement and ground floors would be used for either retail or restaurant purposes or as wholesale showrooms. Offices would occupy first floor level and above.

The existing and proposed floorspace schedule is as follows:

	Existing GIA (sqm)	Proposed GIA (sqm)	Difference GIA (sqm)
Offices	873	1718	+845
Showroom	449	0	-449
Public Car Park	118	0	-118
Flexible retail / restaurant/ showroom	0	428	+428
Total	1440	2146	+706

8. DETAILED CONSIDERATIONS

8.1 Land Use

Potential Loss of Showroom (Sui Generis)

There is no policy to protect the potential loss of the existing showrooms and the use of the ground and lower ground floors to alternative commercial uses, which also serve visiting members of the public, is therefore acceptable in principle in land use terms.

Loss of Car Parking Entrance (Sui Generis)

Objections have been received from commercial occupiers within Wells Mews due to loss of the car park entrance and the associated impact on traffic flows and on safety and residential amenity as a result of the displacement of vehicles from Berners Street onto Wells Mews.

The car park currently has 96 spaces, all of which would remain. The applicant has provided information which suggests it reaches some 70% of its capacity (68 vehicles) within the morning peak hour of 0800 – 0900 and that most drivers seem to stay the entire day with a similar number of vehicles leaving between 1700 – 1800.

The flows are therefore largely tidal, which will minimise any conflicts that might occur between drivers that are leaving and entering the site, but it is unlikely that it is totally tidal. Whilst both the Berners Street access and Wells Mews access allow vehicles to enter and exit, the Wells Mews access can only accommodate one-way movement at any time due to width constraints.

The supporting documents state that vehicle movements are split within the region of 47 entering and leaving via Berners Street and 21 doing so via the Mews, although this has been disputed by neighbouring objectors.

Based on the applicant's figures, the effects of the closure of the Berners Street entrance will therefore add some 47 vehicles to traffic flows on the Mews in each of the peak hours, i.e. less than one a minute to what is an existing access point.

The lease on the car park access from Berners Street is due to expire in 2020, which will remove access rights. The applicant has also stated that regardless of whether this application is approved or not, the lease will not be renewed and therefore the impact on the access arrangement is inevitable. Whilst the implications of the displaced traffic to Wells Mews is clearly not ideal, given we have little control over it as is, it is not considered the proposal could be refused on these grounds.

Potential Retail Accommodation (Class A1)

Policy SS4 of the Unitary Development Plan (2007) and policies S6 and S21 of the City Plan promote the introduction of new retail floorspace within the CAZ. Therefore, the principle of new retail floorspace is acceptable.

Potential Restaurant Accommodation (Class A3)

City Plan Policy S6 acknowledges that, in principle, entertainment uses are appropriate for the Core Central Activities Zone.

Given the size of the proposed restaurant, UDP policy TACE9 of the UDP applies. This states that permission will only be granted for proposals where the City Council is satisfied that the proposed development has no adverse effect upon residential amenity or local environmental quality as a result of noise; vibration; smells; increased late night activity; increased parking and traffic and no adverse effect on the character or function of the area, including any cumulative adverse impact. City Plan policy S24 requires proposals for new entertainment uses to demonstrate that the use is 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 the use does not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

Given the character of Berners Street, it is not considered that the replacement of the basement and ground floor showroom with a restaurant would have an adverse impact upon the character and function of the area. Although there are other restaurants/cafes in the area, and an extant consent for a basement and ground floor restaurant at 41-44 Berners Street, it is not considered that the introduction of a new restaurant would have an adverse cumulative impact on the character of the area, given the dispersed nature of these premises. It is also considered that the proposed use would, as a result of the infilling of the car park entrance, increase street level interest and positively impact upon the character of the street.

The restaurant proposals are speculative with no end-user identified and therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, conditions could be used to control the opening times and to limit the impact. These conditions would ensure that the restaurant use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (i.e. 15%) and this bar could be used only by diners before and after meals. The hours of opening would be restricted a terminal hour of midnight with breakfast opening at 07.30hrs. The new doors on Berners Street would be required to be self-closing to minimise noise escape and a purpose-built internal kitchen extract terminating at high level would be installed to prevent nuisance from odours.

Given the speculative nature of the proposals, a condition is recommended requiring the submission of a finalised Operational Management Plan (OMP) to be submitted, for the prospective tenant, and approved prior to the commencement of the restaurant use: This would include measures to ameliorate the potential impact of the use including:

- The prevention of customers queuing on the street
- Measures to encourage customers to wait inside the premises until taxis arrive,
- Management of customers who wish to smoke; and
- Methods preventing customers from taking their drinks onto the street.

With the imposition of appropriate operating conditions, it is considered that there will be no material loss of amenity arising from the introduction of a restaurant in this location. The proposed restaurant use is therefore considered acceptable on land use and amenity grounds. The acceptability of the proposals in highways terms is discussed in section 8.4 below.

Increase Office Accommodation (Class B1)

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

City Plan Policy S1 (the Mixed Use policy) is applicable for development within the Core CAZ, when net additional B1 office floorspace is proposed. As the net additional floorspace (for all uses) is less than 50 % of the existing building but more than both 30% of the existing building and more than 400 m², residential floorspace, or an equivalent payment in lieu, is required equivalent to the net additional B1 office floorspace, less 30% of the existing building floorspace.

The existing building is 1,440 m² GIA. The net additional floorspace (of all uses) proposed is 706 m² GIA. The residential required therefore is equivalent to the net additional office (845 m²) floorspace less 30 % of the existing building floorspace (432 m²). Therefore the residential floorspace required to accord with City Plan policy S1 is 413 m² GIA. The policy requires this quantum of residential to be provided in accordance with one or a mix of the following at the applicant's discretion.

- i) on site or in the immediate site vicinity of the site;
- ii) off site, including by mixed use credits on a site in the vicinity of the development site;
- iii) off site, including mixed use credits elsewhere within the Central Activities Zone;
- iv) or an appropriate payment in lieu to the Affordable Housing Fund, which in this case would be £719,831.

In with the above, the applicant wishes to pay a policy compliant payment in lieu to the Affordable Housing Fund.

8.2 Townscape and Design

Michelle House at 45- 46 Berners Street is an unlisted building located outside of a conservation area.

The site is located on the west side of Berners Street just north of a grade II* listed building at the Sanderson Hotel. Permission is sought to demolish the existing facades, retaining the loadbearing concrete frame and floor slabs. The existing building is clad in red bricks to the front and a yellow stock brick to the rear with aluminium windows. The building is likely to date from the latter half of the 20th century and is considered to be of limited design merit, making a neutral contribution to the appearance of the area. The principle of demolishing the existing facades is therefore considered uncontentious in principle.

Three additional storeys are proposed at roof level, the uppermost of which accommodates a plant enclosure with a glazed roof access enclosure and terrace to the rear with a lift overrun projecting above. The additional height proposed will not exceed that of the adjacent building at no. 43-44 which has recently been redeveloped. Following negotiations, the seventh storey plant enclosure has been pitched at the front to soften its appearance in high level views. The sixth storey is set back from the front building line to reduce high level bulk from street level and is aligned with that of the adjacent building at 43- 44 Berners street. The height and massing of the proposed

rebuilt elevations on the front Berners Street elevation therefore relate well to the streetscape and height of buildings in this part of Berners Street, in compliance with DES 6, and are considered acceptable in design terms.

To the rear, full height extensions are proposed. At present, the principal rear building line, aside from the stairwell projection, aligns with the neighbouring building at 47- 48 to the south from first floor level upwards. The proposed rear extensions in the original scheme broke the continuous building line, projecting further rearwards than the new development to the north. Following negotiations, the scheme has been revised with the extensions from fourth floor level upwards pushed back, adjacent with the principal building line of the development to the north. The revised scheme is considered more successful in townscape terms. The area at the rear of this group is not of significant design merit with a large amount of external plant and is limited in visibility. The proposed extensions will not be visible from any public vantage points and will remain subordinate to the principal building. The revised extensions are therefore considered compliant with DES 5 of the UDP and are recommended for approval.

In detailed design terms the new front elevation is to be clad in Portland stone with Basalt stone to the ground floor frontage and zinc cladding to the upper storeys. Paired window openings are proposed within recessed openings and bronze frames. Following negotiations, the scheme has been amended to omit a large projecting cornice detail originally proposed to cap the principal front elevation. It was considered that this detail, which projected frontwards from the building line, would be highly prominent in long views. Subject to the imposition of conditions to secure samples of the proposed materials, the scheme is considered acceptable in detailed design terms. Following negotiation, the materials at the rear have also been amended, omitting an original proposal for a mix of stock brick and glazed brick. The revised proposals show a continuous use of stock brick. This simplified design is considered appropriate in this context.

The application is therefore compliant with DES 1, DES 5 and DES 6 of the UDP and is recommended for approval in design terms.

8.3 Residential Amenity

UDP Policy ENV13 seeks to protect and improve the residential environment and to resist proposals, which would result in a material loss of daylight or sunlight, increased sense of enclosure to adjoining windows or loss of privacy to adjoining occupiers. Similarly, City Plan Policy S29 seeks to safeguard the amenity of surrounding properties.

A daylight and sunlight report has been submitted which assesses the impact of the proposal on neighbouring residents. The nearest residential properties are located on the upper floors of 13-17 Mortimer Street and 34 – 36 Berners Street to the north and east. Both properties are situated too far away from the development site to have the light they currently enjoy reduced by the additional massing being proposed.

Given the distance between the proposal and neighbouring residential properties, it is not considered that the proposal would result in any increased sense of enclosure or overlooking.

8.4 Transportation/Parking

Parking/traffic generation

The site is centrally located and well served by public transport including principal bus routes. Anyone visiting the site by car would be subject to local parking restrictions and the proposal is considered unlikely to have a significant impact on car parking demand and is consistent with UDP policies TRANS21 and TRANS22.

Servicing

The existing building is serviced from Berners Street. While UDP Policy TRANS 20 seeks off-street servicing, there is plenty of single yellow line on Berners Street which has no restriction on loading. Some of this is currently not really available as it crosses the access to the car park, but will become available with the closure of this access. It is therefore considered that servicing can continue to be accommodated on-street. The removal of this access point will require the footway on Berners Street to be reinstated. This will be secure by legal agreement.

Cycle Parking

The office use increases would require 10 cycle parking spaces in order to comply with the London Plan (as amended). The proposal includes the provision of 36 cycle spaces which would include for the long-stay provision plus short-stay spaces for the office accommodation. These spaces would provide for the building as a whole, including the retail floorspace, and is therefore considered acceptable.

Pavement Lights

The replacement pavement lights are acceptable.

8.5 Economic Considerations

Any economic benefits generated as a result of the proposal is welcome.

8.6 Access

The proposal includes step free access throughout.

8.7 Other UDP/Westminster Policy Considerations

Plant

The proposal includes the installation of plant (including extract duct) with associated screening at seventh floor level. The Environmental Health Officer has raised no objection to the proposal and consider that the plant is likely to comply with the City Council's standard conditions relating to noise and vibration. A further condition is recommended requiring the plant screen to be installed prior to the operation of the plant and the duct to be installed prior to occupation of the restaurant use. Subject to these conditions, the proposal would comply with UDP policy ENV7 and S32 of the City Plan.

Refuse /Recycling

The proposal provides a waste storage area at lower ground level to serve both the office and retail/showroom/restaurant element. The Waste Project Officer has raised no objection to proposed refuse and recycling storage arrangements, which would be secured by condition.

Biodiversity

The proposals incorporate a living roof at seventh floor level along the Berners Street frontage Street. This is welcomed and accords with City Plan Policy S38 and ENV17 of the UDP. It is recommended that details of this roof (construction and planting) are secured by condition.

Sustainability

The proposal comprises a refurbishment and extension to the existing building. The proposal includes energy efficiency measures including; improved fabric insulation, improved air tightness; high efficiency fans, high efficiency heat recovery heating and cooling plant, heat recovery on ventilation systems and daylight control of the lighting. This will ensure the development achieves part L 2013 compliance through energy efficiency and green measures. The proposal also includes photovoltaic collectors extending to an area of 24 sqm at roof level which is welcome. It is considered that the maximum sustainability and energy improvements have been achieved.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

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

8.10 Planning Obligations

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

- i) a financial contribution of £719,831 towards the City Council's affordable housing fund (index linked and payable on commencement of development).
- ii) costs relating to highways works associated with the removal of the existing vehicle crossover and the re-instatement of a footway on Berners Street
- iii) Costs of monitoring the S106 agreement

In addition, the estimated Mayoral CIL payment is £35,300 and the Westminster CIL payment is £141,200.

8.11 Environmental Impact Assessment

The proposal is of insufficient scale as to trigger an environmental assessment.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT JPALME@WESTMINSTER.GOV.UK.

KEY DRAWINGS

Existing Front Elevation



C	01.01.2019	Quality check by planning	PL
A	01.01.2019	Check by architect	PL
B	01.01.2019	Check by architect	PL
Rev	01.01.2019	Revised by architect	PL

Drawn by: [Name]

Checked by: [Name]

Approved by: [Name]

Project Name: [Name]

Client: [Name]

Address: [Address]

Scale: [Scale]

Date: [Date]

PLANNING

App No: 854

Drawing No: (01)200

Rev: C

Scale: 1:1000

Date: 13/09/21

Proposed Front Elevation



Key to Materials

- 1: London stock brick stair enclosure. Powder coated metal parapet capping to match zinc cladding.
- 2: Powder coated louvre plant enclosure, colour to match adjacent zinc cladding.
- 3: Pre-patinated dark grey zinc cladding to roof enclosure.
- 4: Pre-patinated dark grey zinc cladding.
- 5: Slimline framed bronze coloured metal framed windows, operable onto a terrace.
- 6: Painted metal railings.
- 7: Reconstituted stone cornice or string course.
- 8: Reconstituted stone mullion.
- 9: Reconstituted stone cladding.
- 10: Bronze coloured metal framed windows. Reconstituted stone cills, recessed lintel and deep reconstituted stone lined reveals.
- 11: Dark basalt stone cladding to ground floor shop front.
- 12: Bronze coloured metal framed glazed shopfronts.
- 13: Bronze coloured metal framed vertical louvers.
- 14: Bronze coloured metal framed doors to refuse area with vertical fin panel detail.

C	01.01.2019	Quality check by planning	PL
A	01.01.2019	Check by architect	PL
B	01.01.2019	Check by architect	PL
Rev	01.01.2019	Revised by architect	PL

Drawn by: [Name]

Checked by: [Name]

Approved by: [Name]

Project Name: [Name]

Client: [Name]

Address: [Address]

Scale: [Scale]

Date: [Date]

PLANNING

App No: 854

Drawing No: (01)700

Rev: J

Scale: 1:1000

Date: 13/09/21

Existing Rear Elevation



EXISTING REAR ELEVATION WITH DEMOLITIONS
1200943



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Proposed Rear Elevation



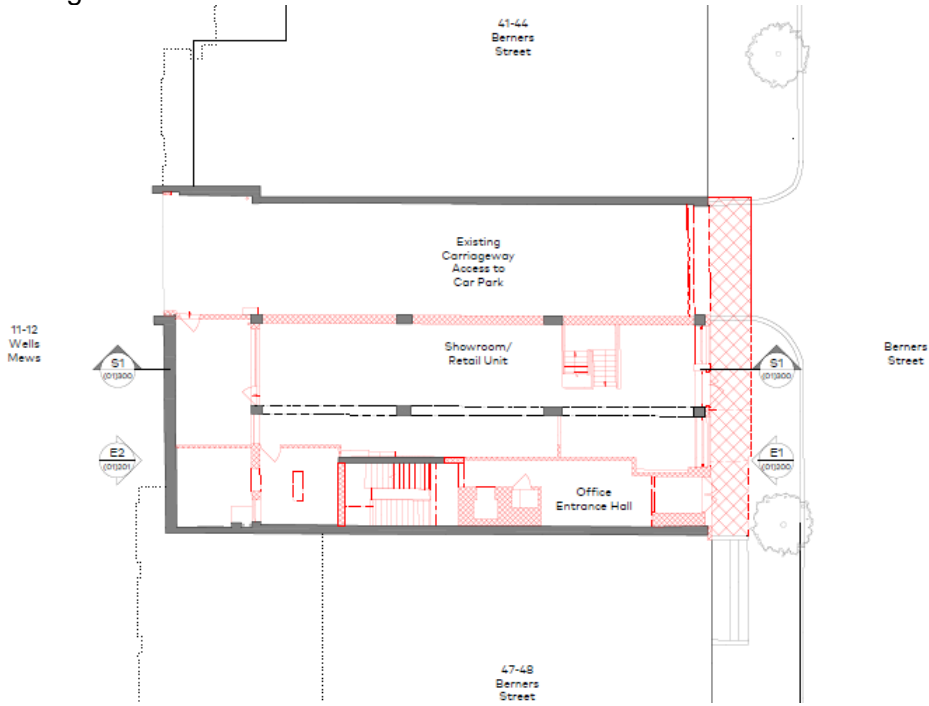
PROPOSED REAR ELEVATION
1200943



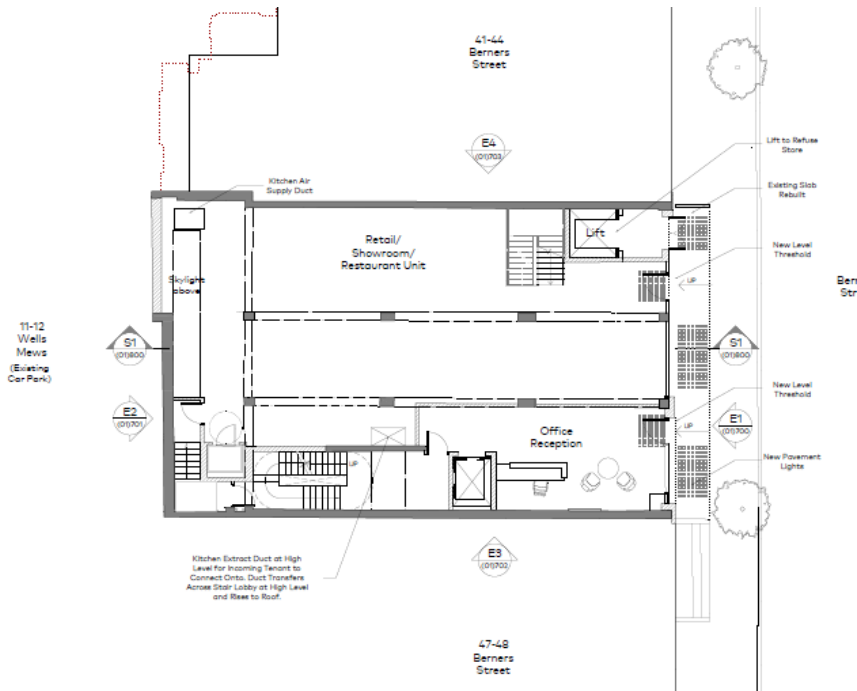
- 1: Photo voltaic panels fixed to roof.
- 2: Pre-patinated zinc cladding panels to wall of roof enclosure.
- 3: Natural timber trellis fixed to wall of roof enclosure.
- 4: Pre-patinated dark grey zinc cladding to Sun Room.
- 5: Bronze coloured full height glass door operable onto terrace.
- 6: Bronze coloured metal framed windows.
- 7: Bronze coloured metal framed French doors.
- 8: Bronze coloured metal framed slot window to stair enclosure.
- 9: Bronze coloured metal louvre spandrel panels above windows.
- 10: London stock brick to rear facade.
- 11: Reconstituted stone copings to all brick parapets and upstands.
- 12: Bronze coloured painted metal railing.
- 13: Bronze coloured painted balcony and rollings.
- 14: Bronze coloured painted Juliet balcor

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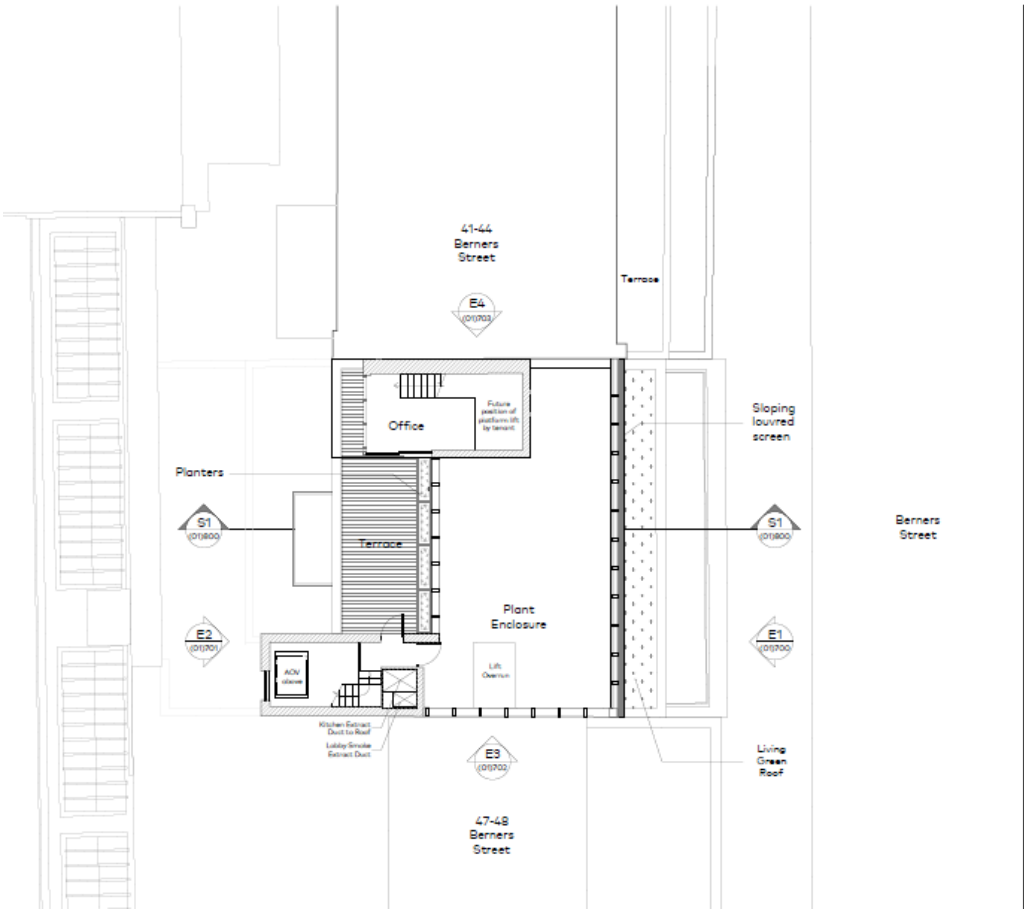
Existing Ground Floor Plan



Proposed Ground Floor Plan



Proposed Seventh Floor Plan



DRAFT DECISION LETTER

Address: Michelle House, 45-46 Berners Street, London, W1T 3NE,

Proposal: Demolition and replacement of front and rear facades, erection of a part two/ part three storey extension fronting onto Berners Street with photovoltaic panels above, rear extension from first to new sixth floor level, replacement infill extension at rear basement and groundfloor level, infilling of car park access at ground floor level. Installation of plant (including extract duct) with associated screening at seventh floor level. Creation of terraces / balconies at first and fourth to seventh floor level. Creation of a living green roof at seventh floor level. Triple / alternative use of the basement and ground floor as retail (Class A1) / restaurant (Class A3) / showroom uses (Sui Generis) and use of the first to seventh floor level as office accommodation (Class B1).

Reference: 18/04936/FULL

Plan Nos: (01)100 F, (01)101 F, (01)102 E, (01)103 E, (01)104 E, (01)105 E, (01)106 E, (01)10E F, (01)200 C, (01)201 B, (01)202 A, (01)300 D.

(01)600 O, (01)601 Q, (01)602 M, (01)603 N, (01)604 N, (01)605 M, (01), (01)606 M, (01)607 M, (01)608 N, (01)609 M, (01) 700 J, (01) 704 D, (01) 703 E, (01)701 G, (01)800 H, (01)702 F, (01)801 E.

Section 5 and 7 of document titled 'Energy statement' by GDM dated 23/05/2018

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

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.

Item No.
1

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

Reason:

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

- 3 You must 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

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

- 4 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balconies or terraces.

Reason:

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

- 5 If you provide the restaurant use, no more than 15% of the floor area of each of the uses shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours 07.30 to midnight Monday to Saturday and 08.00 - 23.00 on Sundays.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 7 If you provide a restaurant use, you must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, prevent customers queuing on the street, manage customers who wish to smoke and prevent customers from taking their drinks outside. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 8 The restaurant use allowed by this permission must not begin until you have fitted self-closing doors to the Berners Street entrance. You must not leave these doors open except in an emergency or to carry out maintenance work.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 9 The railings hereby approved to the front elevation shall be painted black and maintained that colour.

Reason:

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

- 10 Prior to occupation you shall submit and have approved in writing by the local planning authority a detailed servicing management strategy for the Class A1 and Class A3 uses, the plan should identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the 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)

- 11 You must submit detailed drawings showing the layout of the restaurant use before the restaurant is occupied. The drawings must include, entrances, kitchen, covers, bar areas and access arrangements to the lower ground floor area.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 12 The extract duct hereby approved shall be installed in full prior to the commencement of the restaurant (Class A3) use hereby approved and shall be retained in situ for the life of the development.

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)

- 13 The retail accommodation hereby approved at basement and ground floor levels shall not be used as a supermarket/ food store 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)

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

Reason:

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

- 15 You must provide the waste store shown on drawing (01)600 O before anyone moves into the property. You must clearly mark it and make it 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. You must not use the waste store for any other purpose. (C14DC)

Reason:

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

- 16 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the living roof to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details prior to occupation of any of the residential units hereby approved and thereafter retain and maintain in accordance with the approved management plan.

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)

- 17 You must provide the be lean and be green environmental sustainability features (environmentally friendly features) identified in Section 5 and 7 of document titled 'Energy statement' by GDM dated 23 May 2018 before you start to use any part of the new accommodation.

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

Reason:

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

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

Reason:

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

- 20 (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

Item No.
1

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)

- 21 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the extract duct will comply with the Council's noise criteria as set out in Condition 20 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

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

- 22 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.
- (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

Item No.
1

- (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AB)

- 23 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)

- 24 The office plant/machinery hereby permitted shall not be operated except between 0700 hours and 1900 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)

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

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

Informative(s):

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

application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 3 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 You may need separate licensing approval for the premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 5 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.

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.

- 6 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.

- 7 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. (I80DB)

- 8 Manual-handling accidents account for 38% of all reported accidents. Careful consideration at the design stage can eliminate or reduce the need for manual handling within buildings, for example the location of delivery areas in relation to store rooms and access to and the position of plant rooms.

There is more guidance on the Health and Safety Executive website at <http://www.hse.gov.uk/msd/index.htm>. (I80EB)

- 9 Conditions 20 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- 10 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 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. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: <https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 12 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 13 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 14 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the retail (Class A1) / restaurant (Class A3) / showroom uses (S floor can change between the retail (Class A1) / restaurant (Class A3) / showroom (Sui Generis) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 15 Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality.

Item No.
1

- 16 On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development

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 - Michelle House, 45-46 Berners Street, London, W1T 3NE,
18/04936/FULL**

1. Application form
2. Response from Environmental Health, dated 16 July and 27 July 2018
3. Response from Project Officer (Waste), dated 30 July 2018
4. Response from Highways Manager 09 October 2018
5. Email from Thames Water dated 21 June 2018
6. Response from building Control, dated 11 October 2018
7. Letters from occupiers of 11 Wells Mews, London, dated 26 and 28 June 2018

Agenda Item 2

Item No.

2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Eagle House, 50 Marshall Street, London, W1F 9BQ,		
Proposal	Demolition of rear glazed pitched roof and erection of rear extensions at third and fourth floors, extension at fifth floor and new fifth floor terrace, all for office purposes (Class B1). Replacement of existing mansard roofs and alterations at roof level including installation of plant enclosed by acoustic louvres and trellising and new roof terrace and staircase housing enclosed by planted trellis. Use of ground floor as retail (Class A1) floorspace and installation of replacement windows throughout, new shopfronts to ground floor retail units, replacement entrance gates and associated alterations.		
Agent	Rolfe Judd Planning		
On behalf of	Shaftesbury Carnaby PLC		
Registered Number	18/06875/FULL	Date amended/ completed	21 August 2018
Date Application Received	15 August 2018		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

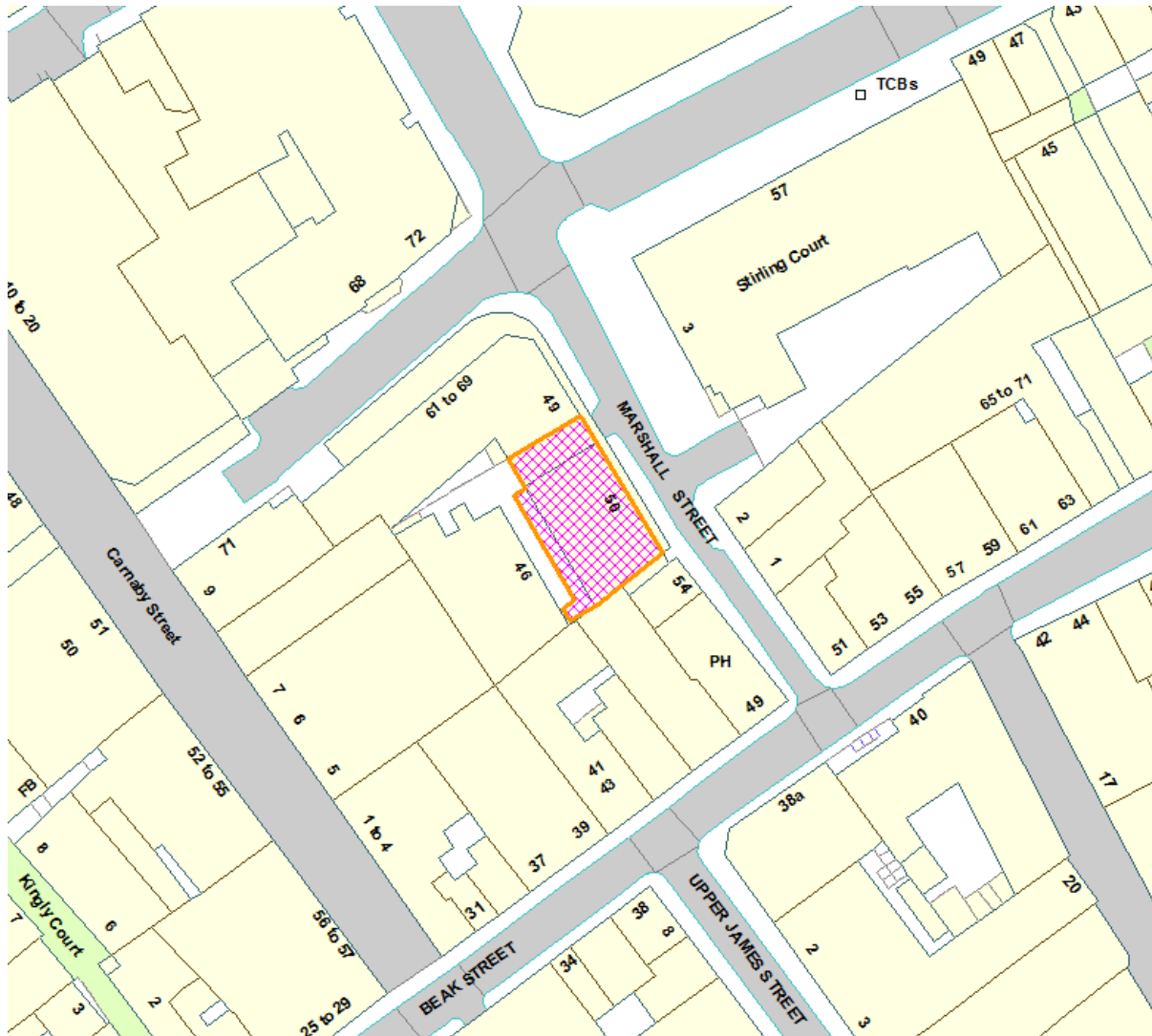
<p>The application involves a five storey building office building on the west side of Marshall Street. Permission is sought to extend and reconfigure the upper floors of the building providing office use throughout, but with a new retail unit at ground floor. The key issues for consideration are:</p>
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- | |
|--|
| <ul style="list-style-type: none"> • The introduction of a retail use in this location; • The impact of the proposed alterations and extensions on the character and appearance of the Soho Conservation Area; • The impact of the use on highways/traffic movements/servicing; • The impact on residential amenity. |
|--|

For the reasons set out in the main report, the introduction of a retail use is considered to be an

appropriate use in this location and will help to enliven this part of Marshall Street. The alterations proposed are considered acceptable in design terms and would not adversely impact on residential amenity. The application is therefore recommended for conditional approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

Original application

SOHO SOCIETY

No objections raised on the basis that traffic management proposals are implemented in Marshall Street and Broadwick Street in order to reduce severe congestion, that the terrace is restricted to office opening hours and that security measures, including cameras, are provided around the entrance to the Samaritans building.

HIGHWAYS PLANNING MANAGER

No objections raised.

ENVIRONMENTAL SCIENCES

No objections raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 141

Total No. of replies: 13 letters (from 9 respondents) raising the following issues:

Amenity

- * Loss of privacy from roof terraces and enlarged windows at fourth and fifth floors
- * Loss of light and overshadowing
- * Daylight report fails to include flats in Stirling Court
- * A roof terrace was previously refused in 2000
- * Noise and nuisance including smoking from use of terraces
- * Dark fencing and dark ceramic tiles are likely to create a sense of enclosure and loss of light
- * Any lighting and advertising should not reflect against the glass of the opposite building or cause disturbance to adjoining residents
- * Light pollution
- * Music and sound transmission should be limited to protect adjoining neighbours
- * Hours of opening for the retail/office should be restricted between 8am and 5pm with no opening on weekends
- * Roof terrace should be restricted to use up to 9pm
- * 24 hour plant is likely to cause substantial harm and loss of amenity and should be restricted between the hours of 8am and 9pm
- * Noise report is inaccurate
- * Pollution

Design

- * Adverse impact on the conservation area with an abrupt differential in height between 50 Marshall Street and the buildings to the south which would be out of proportion to the lower buildings of merit to the south
- * The increased height and bulk, including the large plant and fencing on the roof will negatively impact the vertical and horizontal rhythm of the streetscape and the skyline.

- * Proposed fencing/screening for the rooftop plant is unnecessarily close to the facade and will be visible from ground level
- * Little detail shown for the proposed windows which appear to be metal framed
- * The materials proposed are not in keeping with the rest of the street which is brick and concrete

Highways

- * Traffic congestion
- * Deliveries are likely to block access to Stirling Court garages and cause traffic jams
- * Traffic calming measures should be introduced
- * All loading should be relocated away from the immediate residential and the motor bike parking bay on the corner of Broadwick Street and Marshall Street should be relocated (enabling loading to take place from this point)
- * Access should be maintained between Broadwick Street and Beak Street via Marshall Street

Other issues

- * Requests that the developer contributes towards replacement of the windows at 49 Marshall Street, towards fibre optic upgrade and triple glazing (to flat 24)
- * Removal of the gated entrance will encourage rough sleepers and other anti-social activities
- * Noise during construction
- * Restaurant/bar and take away uses should be prohibited
- * Site delivery, collections and working hours should start no earlier than 8pm and no working on weekends/or only from 8am to 12 midday on Saturdays
- * Noisy construction activities to be restricted and scaffolding should be alarmed
- * A resident's roof terrace should be provided in place of the proposed green roof.
- * The developer should be encouraged to bollard off the road adjacent to 72 Broadwick Street and create a green space and water feature.
- * The application does not promote high levels of sustainability
- * Inaccurate, inadequate and misleading plans
- * Notification letters sent during the holiday period and lack of engagement at pre-application stage
- * Residents sceptical that concerns are not welcomed or noted and are afraid to object
- * Street trees have been recently removed on Broadwick Street and this application would result in further deterioration of the street environment

Re-consultation following submission of revised plans

ENVIRONMENTAL SCIENCES

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

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 10; Total No. of comments: 3

Three letters of objection raising the following concerns:

- * Amendments fails to address the key concerns of overlooking, loss of privacy and increased sense of enclosure

- * The plant will be noisy and ugly and darken Stirling Court
- * The location of water tanks and waste bins will compromise the emergency exit for 46 Marshall Street and encourage rough sleepers and anti-social activity
- * Query whether new gates will enable access to 46 Marshall Street on a 24/7 basis
- * Without a roof enclosure to the plant, or details of specifications for the acoustic enclosure, it is not clear how sufficient noise reductions will be met
- * A 14-day consultation period is insufficient

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This site lies on the west side of Marshall Street just south of the junction with Broadwick Street. The building is located within the Soho Conservation Area and the Core Central Activities Zone (CAZ). The building is in Class B1 office accommodation and comprises of a five storey building with a roof top plant room.

There is an existing walkthrough to the side and rear of the property which also provides access to a building at the rear, 46 Marshall Street, which is occupied by the Samaritans. A sloped undercroft area at the rear provides a storage and plant area for the property.

The surrounding area is mixed in character, but there are a number of residential properties within the immediate vicinity including the flats in Stirling Court directly opposite the site and flats in Marshall House adjoining the site.

6.2 Recent Relevant History

Planning permission granted May 2009 for the installation of a safety handrail around the perimeter of the flat roof at fifth floor level.

Planning permission refused in July 2000 for the erection of a handrail and decking to a fifth floor roof terrace for both design and amenity reasons. An appeal against this decision was also dismissed on the grounds that the railings, being similar to tubular scaffold poles, would not preserve or enhance the character or appearance of the Conservation Area.

Planning permission was obtained in February 1986 for the 'mixed development consisting of parking/shops/offices at ground floor and residential and offices from 1st to 5th floors' (ref: 85/04428/FULL).

Planning permission was also granted in May 1985 for the 'office development with 17 residential flats and retail on ground floor' (ref: 85/00096/FULL).

7. THE PROPOSAL

The proposals involve the demolition of the existing rear glazed pitch roof and erection of rear extensions at third and fourth floors, an extension at fifth floor, replacement of the

existing mansard roofs and the erection of plant enclosed by acoustic enclosures and a new escape access stair at roof level. A new shopfront is proposed to enable the ground floor to be used for retail purposes. Terraces and green roofs are also proposed at fifth floor and roof level. Alterations to the façade of the building are also proposed including new windows, window surrounds and window fins.

The application initially involved the infilling of the rear undercroft and the erection of a rear ground floor extension, however, these works are no longer proposed. The application has also been amended to include the addition of trellis planting at roof level and provision of access gates. The acoustic report has also been updated.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office	1,038	1,014	-24
Retail	0	123	+123
Total	1,038	1,137	+99

8. DETAILED CONSIDERATIONS

8.1 Land Use

Retail use

The use proposed for the ground floor is for retail purposes. Policy SS4 (UDP) aims to enhance the retail function and mixed-use character of the CAZ and recognises that redevelopments are an opportunity for introducing new shop-type units in locations which would benefit from additional retail uses. Policy S6 of the City Plan states that the Core CAZ is an appropriate location for a range of commercial uses whilst Policy S21 directs new retail floorspace to the designated shopping centres. Although the application site is not located on a designated shopping frontage, it is within the Core CAZ and within the vicinity of a number of other retail uses and it is considered that the use of the ground floor for retail purposes is acceptable in land use terms.

It is considered that this proposal will activate the existing blank frontage onto Marshall Street and provide an appropriate street level frontage that would attract visiting members of the public and enliven this part of Soho.

This is an entirely speculative proposal and the applicant has yet to secure a tenant for this space. Objections have been raised on the grounds that hours of opening should be restricted between 8am and 5pm with no opening on weekends, that music and sound transmission should be limited to protect adjoining neighbours and restaurant/take-away uses prohibited. The proposal however is for Class A1 retail use only and given the small size of the proposed retail unit (123sqm) it is not considered reasonable or necessary to limit the hours that the retail unit can operate. Conditions are however proposed to ensure that no music played in the units is audible outside the premises. With this condition in place it is considered that the objections raised are satisfactorily addressed.

Office use

Whilst office extensions are proposed at roof and at the rear, with the ground floor in retail use, the proposals would result in a net loss of 24sqm in office floorspace. However, as this loss is to an alternative commercial use it is acceptable in policy terms.

8.2 Townscape and Design

The existing building dates from the 1980's. It occupies a corner site with facades on Marshall Street and Broadwick Street. The height of the building varies; on Broadwick Street it has a five storey facade with a set back roof. On Marshall Street it is five storeys stepping down to four at its southern boundary, again with set back floors. On the corner it rises to six sheer storeys, making a dramatic and prominent corner feature. The brick facades are all designed in a similar fashion, with vertically proportioned window openings surrounded by stonework. The corner is treated differently with semi-circular projecting balconies. The ground floor shopfronts are set back behind the facades which project slightly beyond the historic building line.

The current application relates to the Marshall Street facade only, not including the corner or the wing on Broadwick Street. The proposal involves changes to the massing and design of the building at roof level and alterations to facades, including new shopfronts and windows.

The existing roof is a mansard type. This would be replaced by a more modern, vertical roof, clad in a grey metal. Additional bulk would be added at the southern end of the building and objections to this height and bulk, and its architectural relationship to adjacent buildings to the south, and the impact on the conservation area, have been received.

The existing building's massing steps down to respect the scale of the lower buildings to the south, on Beak Street. The proposal would remove this stepping, but the additional bulk is set back following negotiations, and its visual impact is limited from street level and it is not considered that the objections on height, bulk and impact on the conservation area are sustainable. The proposals achieve some additional floorspace without unacceptable harm to heritage assets. A new plant room and roof terrace are proposed at the top of the building and these will be hidden behind trellis work and planting. According to the applicants submitted images the planting will be not be noticeable from street level.

The proposed changes to the street facade involve new glazed shopfronts and the addition of decorative frames to the existing window openings and new aluminium windows. These changes would differentiate this part of the building from the wing on Broadwick Street, but this is considered acceptable. Objections to the proposed materials have been received, however the palette of materials, including the grey metal roof, metal window fins, rendered window surrounds and powder coated new window frames are considered acceptable for this modern building and would not harm its contribution to the character and appearance of this part of the Soho Conservation Area.

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 5, DES 6 and DES 9.

8.3 Residential Amenity

The closest residential accommodation to the site are the flats within Stirling Court, on the opposite side of Marshall Street, and the flats in Marshall House on Broadwick Street which face the site at the rear. A daylight and sunlight report has been commissioned by Point 2 Surveyors which examines the impact on daylight and sunlight conditions to the adjacent residential properties.

Sunlight and Daylight

UDP Policy ENV 13 aims to protect and improve the amenity of the residential environment, which includes ensuring that sunlighting and daylighting levels to existing properties are not unreasonably compromised. In implementing this policy, the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used. The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. VSC 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 BRE advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable.

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited and would be reduced by more than 20% as a result of a development, and has a 4% loss in total annual sunlight hours, the window is likely to be adversely affected.

The sunlight/daylight assessment submitted with the application shows that the greatest loss of VSC is 6.7% to a third floor bedroom window in a flat within Marshall House. This window and all of the other windows within the adjacent residential properties facing towards the development site will comfortably meet the BRE Guidelines in relation to BRE daylighting tests.

One of the residents in Stirling Court objects on the grounds that the report fails to assess the flats in their building. The submitted Daylight and Sunlight report does only assess the fourth floor flat of Stirling Court but the report concludes that this flat would experience a maximum loss of 5.5% in VSC levels and no losses in daylight distribution. The applicant argues that it was therefore not considered necessary to assess the residential windows above the fourth floor, as the levels of daylight and sunlight improve at higher levels in the building. It is accepted that the lowest residential windows in Stirling Court represent the worst case scenario for any losses of daylight and sunlight and as there is no adverse breach to BRE guidelines at fourth floor it can reasonably be assumed that the windows at upper levels are likewise unlikely to experience any noticeable impact.

The report demonstrates that one north facing fourth floor bedroom window within 2 Marshall Street would experience an annual sunlight loss of 38.5%. However, this room is also served by one other window which is unaffected by the proposals and retains excellent total APSH hours of 54%, of which 22% are enjoyed during winter months. These values are significantly in excess of the BRE criteria.

Whilst objections have been raised on the grounds of loss of sunlight and daylight, it is not considered that the application could be refused on these grounds and the objections are therefore not considered to be sustainable.

Sense of Enclosure

Policy ENV13(F) states that where developments result in an unacceptable increase in the sense of enclosure, planning permission will be refused. Policy S29 states that the Council will resist proposals that result in an unacceptable loss of residential amenity. Objectors are concerned that the use of dark cladding and dark acoustic fencing is likely to result in an increased sense of enclosure. Whilst the proposal involves an extended fifth floor and a larger plant room and new stair core and terrace enclosure at roof level, the proposed extensions are approximately the same height as the existing plant room enclosure, and with the set-backs proposed at roof level, it is not considered that the proposals would result in any adverse sense of enclosure.

Privacy/Noise

Part (F) of Policy ENV13 seeks to resist development which would result in an unacceptable degree of overlooking. Terraces are proposed both at fifth floor level and at roof level. The terrace at fifth floor is only some 1m in width onto Marshall Street and will be largely hidden by the extended fifth floor. The new roof terrace is to be screened by a 2m high planted trellis and with this in place it is not considered that the use of this terrace would result in increased privacy or overlooking. A condition however is proposed to limit the hours that both terraces may be used and this is considered to address the objector's concerns.

One of the objectors refers to a previous application for a roof terrace that was refused in 2000 on both design grounds and on the basis that the roof terrace would result in overlooking and loss of privacy. However, a subsequent appeal against this decision was dismissed only on design grounds. The inspector noted that *"the nearest residential unit is the fifth floor flat on the south west corner of Stirling House. The windows are at about the same level as the roof terrace and are approximately 15 metres away. There are views at an angle from the terrace towards these windows and there would be some loss of privacy. However, there are already several windows in Eagle House and Marshall House which are closer and which look directly across the street into the flats. I consider that overlooking from the terrace would not cause any undue additional loss of privacy and that the development would comply with UDP policy in this respect."*

Given this decision it is considered that a roof terrace in this location is acceptable in principle.

Objectors are also concerned that the proposed replacement windows at fourth and fifth floor would also cause a loss of privacy to occupiers in Stirling Court. The proposed windows at fourth floor are only marginally deeper than the existing fourth floor windows and therefore the replacement windows will not result in any increased loss of privacy. Whilst the new windows at fifth floor are deeper than those existing, these are set back from the front elevation of the building and given that there are no new window to be installed (other than within the extended fifth floor) it is not considered that there would be any adverse increased loss of privacy as a result of the proposals.

Other Issues

Concerns have also been raised by adjoining neighbours regarding light pollution, lighting from advertising and the general deterioration of the street environment. Whilst there are some additional windows in the upper floors of the extended building, most of the new windows are not directly opposite the flats in Stirling Court and it is understood that all lighting will be controlled by a sensor system.

The proposal also includes lighting to the walkway which will be concealed under the archway and will not be visible to the residents in Marshall House. Any adverts that are illuminated will also be subject to separate advertisement consent. As such the objections are considered to be satisfactorily addressed.

8.4 Transportation/Parking

The application identifies the site as being within a highly accessible location in terms of public transport. A draft Delivery and Servicing Plan (DSP) has also been submitted which indicates that servicing requirements for the proposed new retail unit are unlikely to change significantly from the existing situation. The Highways Planning Manager concurs with this view.

Objections have been received on the grounds that deliveries are likely to block access to Stirling Court garages, cause traffic jams and that all loading should be relocated away from the immediate residential. The DSP indicates that, as with the existing arrangement, all larger deliveries and refuse collection will take place from Marshall Street. The gated entrance to the side of the site which provides access to the rear of the development, will also be used for any small delivery drop-offs or servicing. The Highways Planning Manager considers that a Servicing Management Plan (SMP) will help to reduce impact of the servicing on the surrounding highway network and raises no objections to the scheme subject to the submission of a SMP. This will be secured by condition.

Cycle Parking

Cycle parking is shown within the retail unit. This will be secured by condition.

8.5 Economic Considerations

The economic benefits generated are welcomed.

8.6 Access

Access from the street in to the retail unit is fully level and the new office entrance provides level access to a new lift providing step free access to all office floors from the entrance lobby.

Concerns have been raised by the Samaritans, who occupy the building at the rear of the site, on the grounds that the proposal would prevent level access into their building (as there would be insufficient space for a temporary ramp to be placed into their building). The proposals no longer involve a rear extension and sufficient space is retained between the proposed water tanks and the emergency exit at No. 46 to enable a temporary wheelchair ramp to be installed.

8.7 Other UDP/Westminster Policy Considerations

Plant

The proposal includes two areas for external plant at roof level. The original acoustic report submitted with the application was assessed by Environmental Sciences who initially raised no objection, subject to the imposition of conditions to control the noise output from the proposed plant to ensure that it is compliant with the Council's noise standards for operational plant.

Objectors in Marshall House have raised concerns on the grounds that the original noise report was inadequate and that hours of plant operation should be restricted between the hours of 8am and 9pm. One of the objectors also commissioned an independent noise report which queried the position for the measurement of background noise levels, requested further calculations for the acoustic louvres and clarification on the reductions used in the calculations for 'barrier loss'.

A revised acoustic report has been submitted to address these concerns. The revised report has amended the location of the measured background noise levels and incorporates a 600mm deep acoustic louvred enclosure (in place of the originally proposed 300mm acoustic louvres). A further objection to the revised report has also been received on the grounds that without a roof enclosure to this plant area, and without specific calculations for the acoustic louvres, that it is still not clear how the Council's standard noise requirements may be met.

Environmental Sciences have been re-consulted on these amendments and believe that the design of the plant enclosure with 600mm deep acoustic louvres, is likely to ensure that the standard noise requirements are achieved, subject to the submission of a supplementary report to demonstrate that these standards are met. This is dealt with by condition.

Refuse /Recycling

The new retail unit has a designated refuse storage space which will be secured by condition. The location of this space has been amended to address the concerns raised by the Samaritans. As there is no additional office area created over the existing the current arrangement for waste storage and collection will be maintained for these spaces.

Sustainability/Biodiversity

Policy 5.2 of the London Plan seeks to minimise carbon dioxide emissions in line with the Mayor's energy hierarchy. Policies S28 and S40 of Westminster's City Plan require major development to reduce energy use and emissions that contribute to climate change during the life-cycle of the development and to maximise onsite renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions.

The application is supported by a Sustainability Strategy which follows the hierarchy set out in the London Plan which incorporates the principals of Lean, Clean and Green to demonstrate the methods to reduce the carbon emissions from the developments. Measures include provision of thermal insulation, new high performance glazing to reduce solar heat gain and the selection of high efficiency plant. An objection has been

received on the grounds that the sustainability measures are inadequate, however, given the nature of the works and the retention of the majority of the existing building, this is considered to satisfy the requirements of Policy S28.

The fifth floor and roof area will be provided with a green roof that will be planted to improve biodiversity and reduce water run-off. This is welcomed.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

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

8.10 Planning Obligations

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

8.11 Environmental Impact Assessment

Not applicable.

8.12 Other Issues

Construction impact

An objection has been received from local residents on the grounds that the demolition and construction works will impact on the amenity of local residents and that construction activity should be restricted. Whilst these concerns are noted, permission could not reasonably be withheld on these grounds. As the proposals involve only a small uplift in floorspace (99sqm) there is requirement for the applicant to sign up to the Council's Code of Construction Practice. Hours of construction work will however be restricted by condition and an informative has been added to encourage the applicant to join the nationally recognised Considerate Constructors Scheme.

Crime and security

Objections have been received on the grounds that the removal of the gated entrance will encourage rough sleepers and other anti-social activities. The Samaritans are also concerned that the rear water tank and retail bin store will provide cover for such anti-social activities. Gates are however now to be retained and both the water tank and the bins have been placed into the corner against the rear of 50 Marshall Street and would not create a recessed or concealed location where people could hide.

The gates are on land owned by Shaftesbury and the management of the gates is therefore a private matter between Shaftesbury and the Samaritans. However, it is understood that Shaftesbury have agreed the following management principles with the Samaritans:

- Gates to be left in the open position from 8.00 a.m. to 10.00 p.m. and outside

those hours the gates will be shut and locked

- An intercom for the gates will be linked to both the Samaritans and the offices and separate call buttons will be provided. The Samaritans will be able to release the locking mechanism on the pedestrian gate using this intercom system
- In addition a key pad will be provided to allow the Samaritan staff to access the pedestrian gate. To exit there will be a button that releases the lock in a normal manner. The office and other commercial users will be provided with fobs to access the pedestrian gate.

Other

Objectors also request that the motor bike parking bay on the corner of Broadwick Street and Marshall Street is relocated; that the developer contributes towards replacement of the windows at 49 Marshall Street, towards fibre optic upgrade and triple glazing; that a resident's roof terrace should be provided and that the developer should be encouraged to bollard off the road adjacent to 72 Broadwick Street and create a green space and water feature. Given the extent of works it is not considered reasonable to insist on these requests which in any event do not appear to be directly related to the planning application and would therefore fail to meet CIL tests.

Concerns about loss of trees on an adjoining site, the submission of inaccurate, inadequate and misleading plans, the lack of engagement at pre-application stage and that residents views are not welcomed, heard, or are afraid to object are noted. However, the application could not be refused because of the loss of trees on an adjoining site, detailed plans have been submitted and the concerns raised by residents are considered in the main body of the report.

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

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

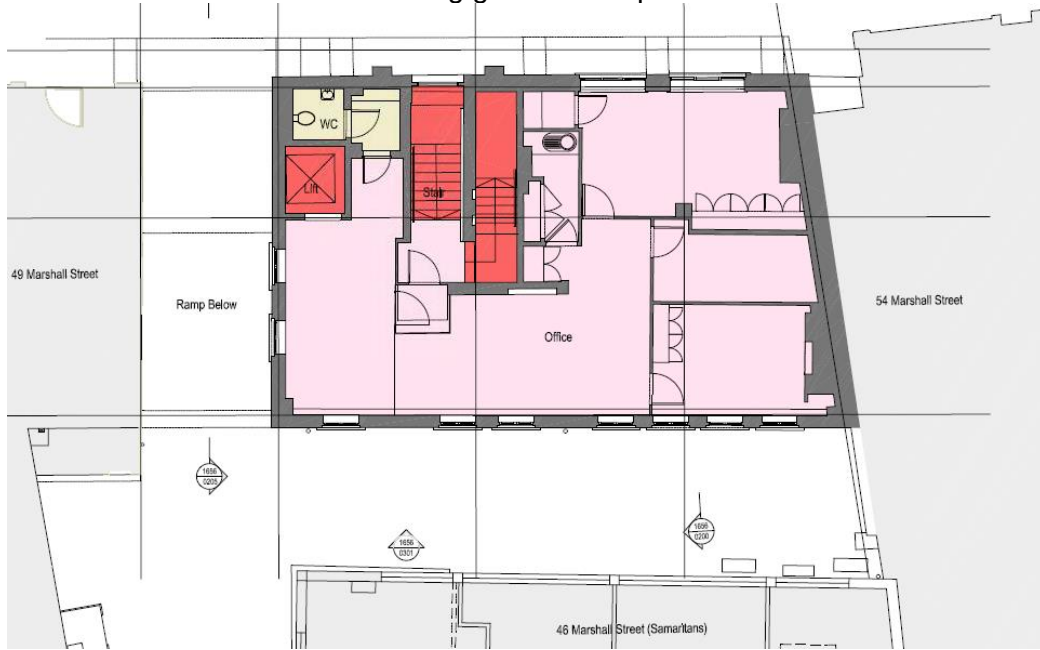
9. KEY DRAWINGS



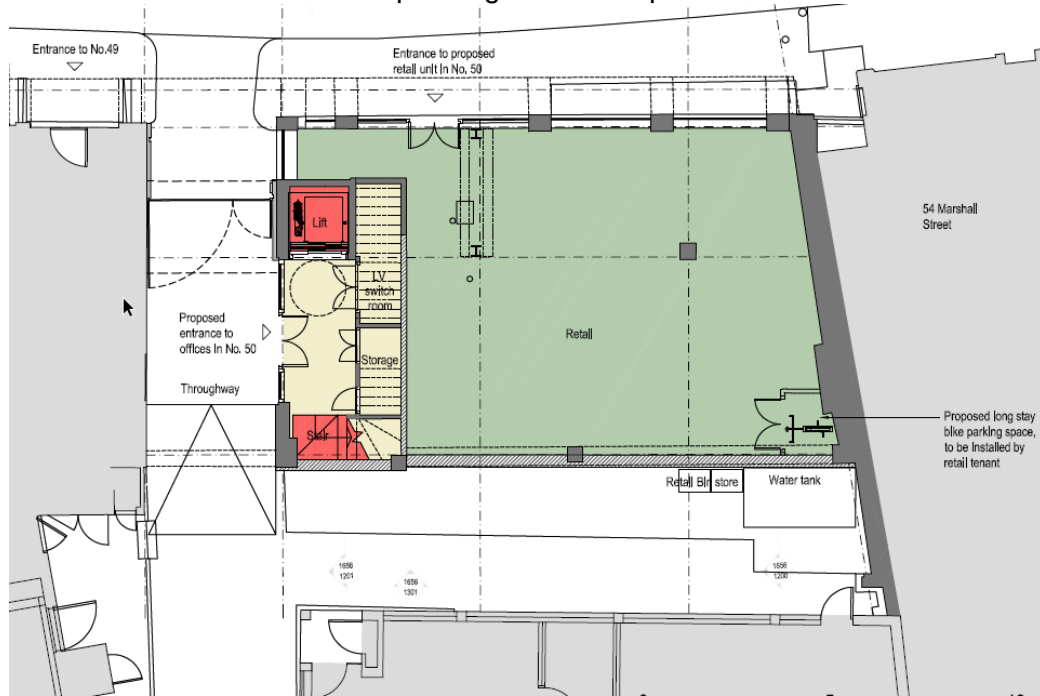
Proposed front elevation

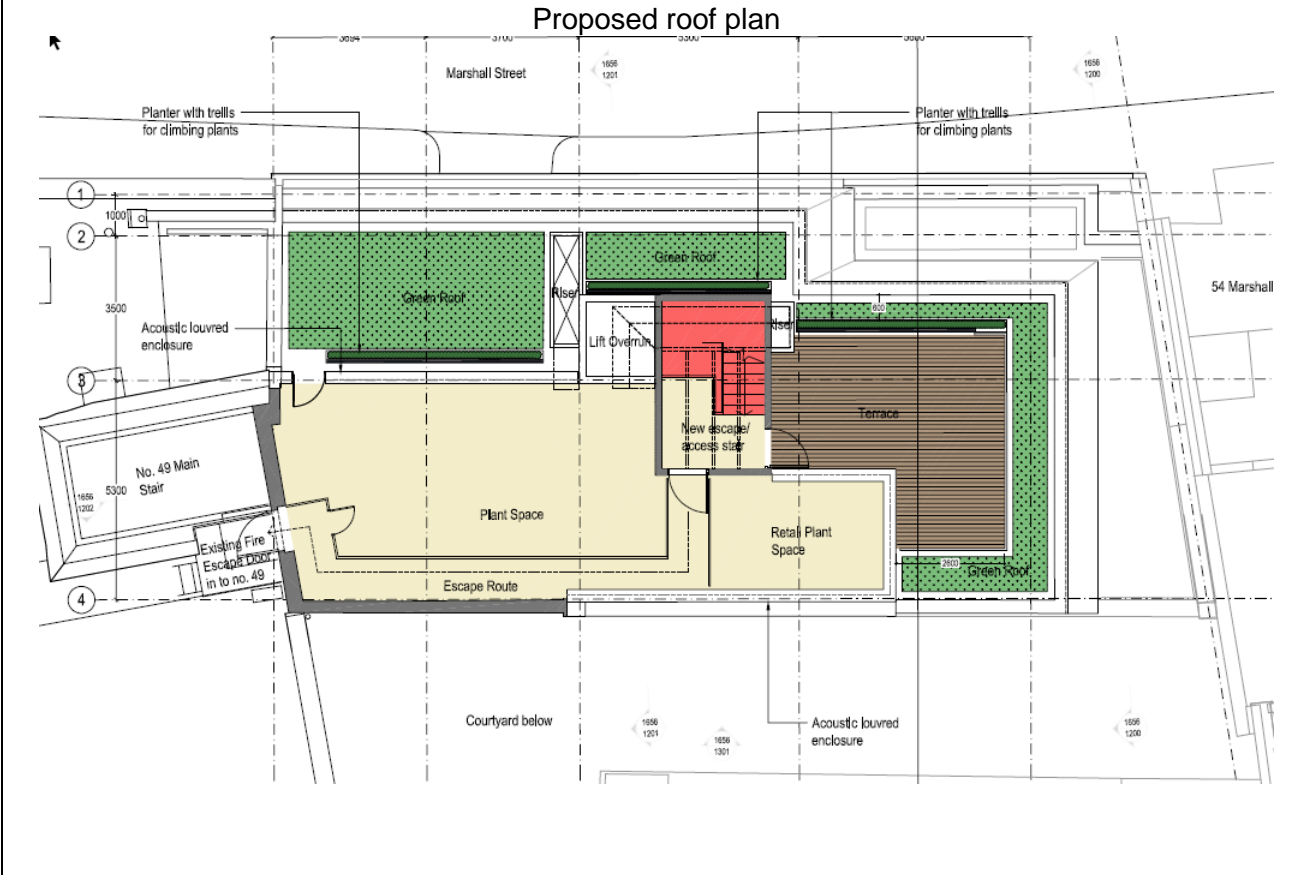
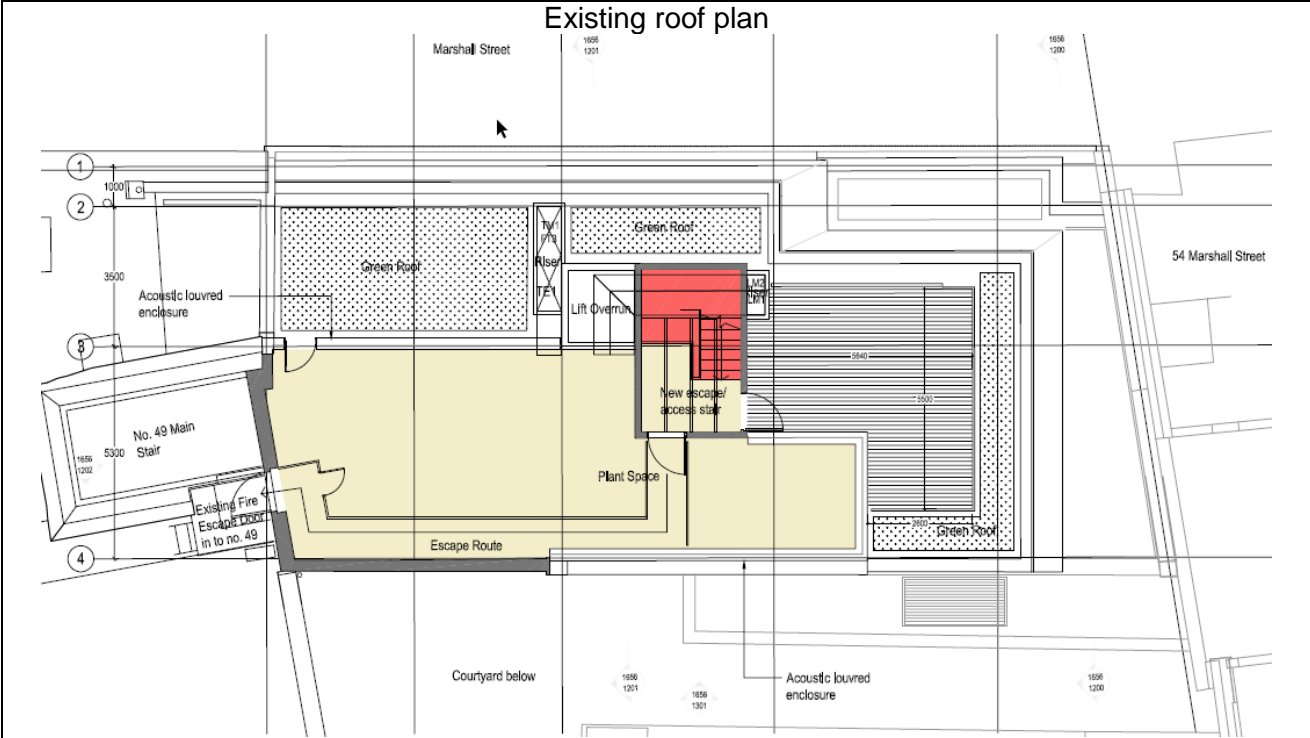


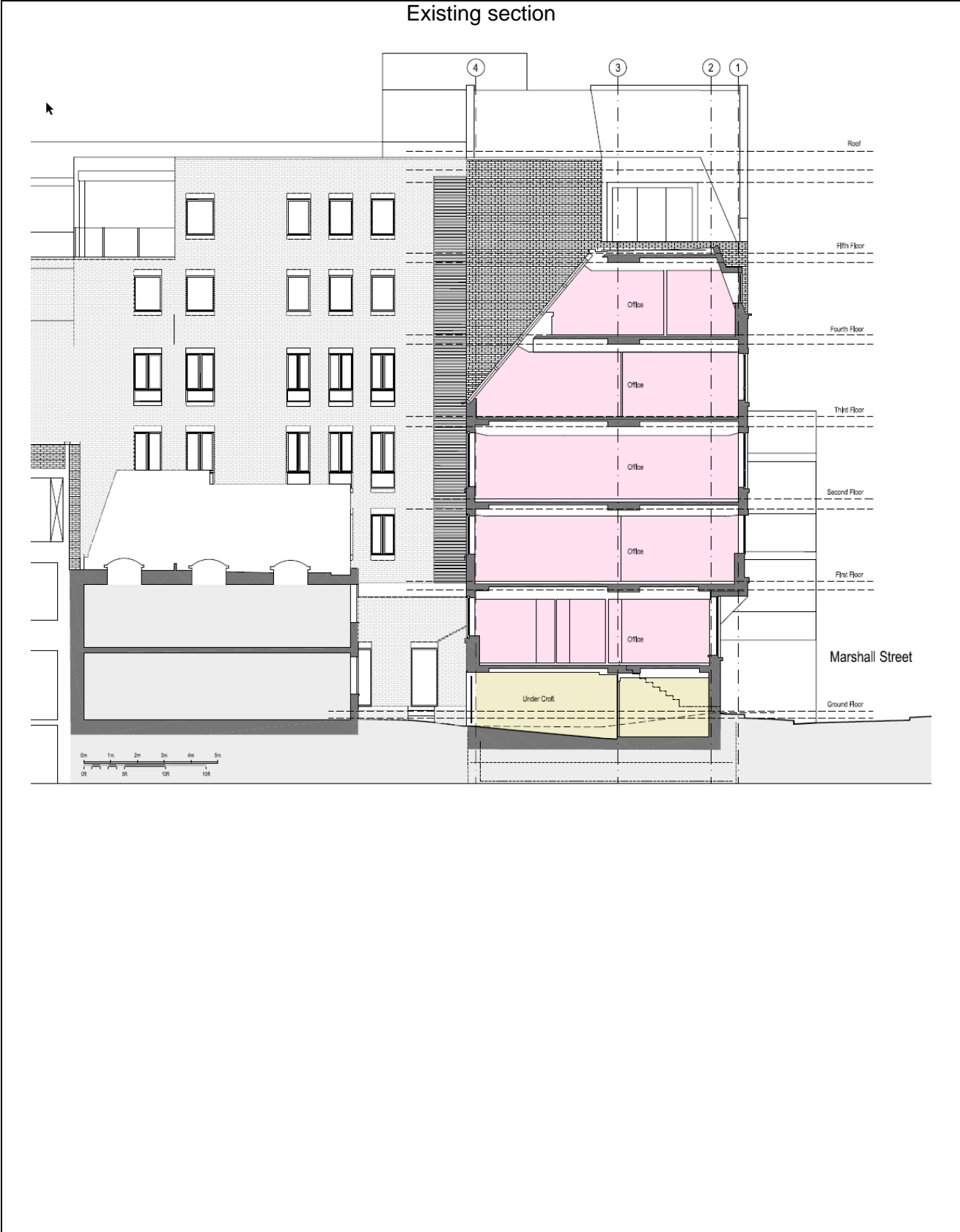
Existing ground floor plan



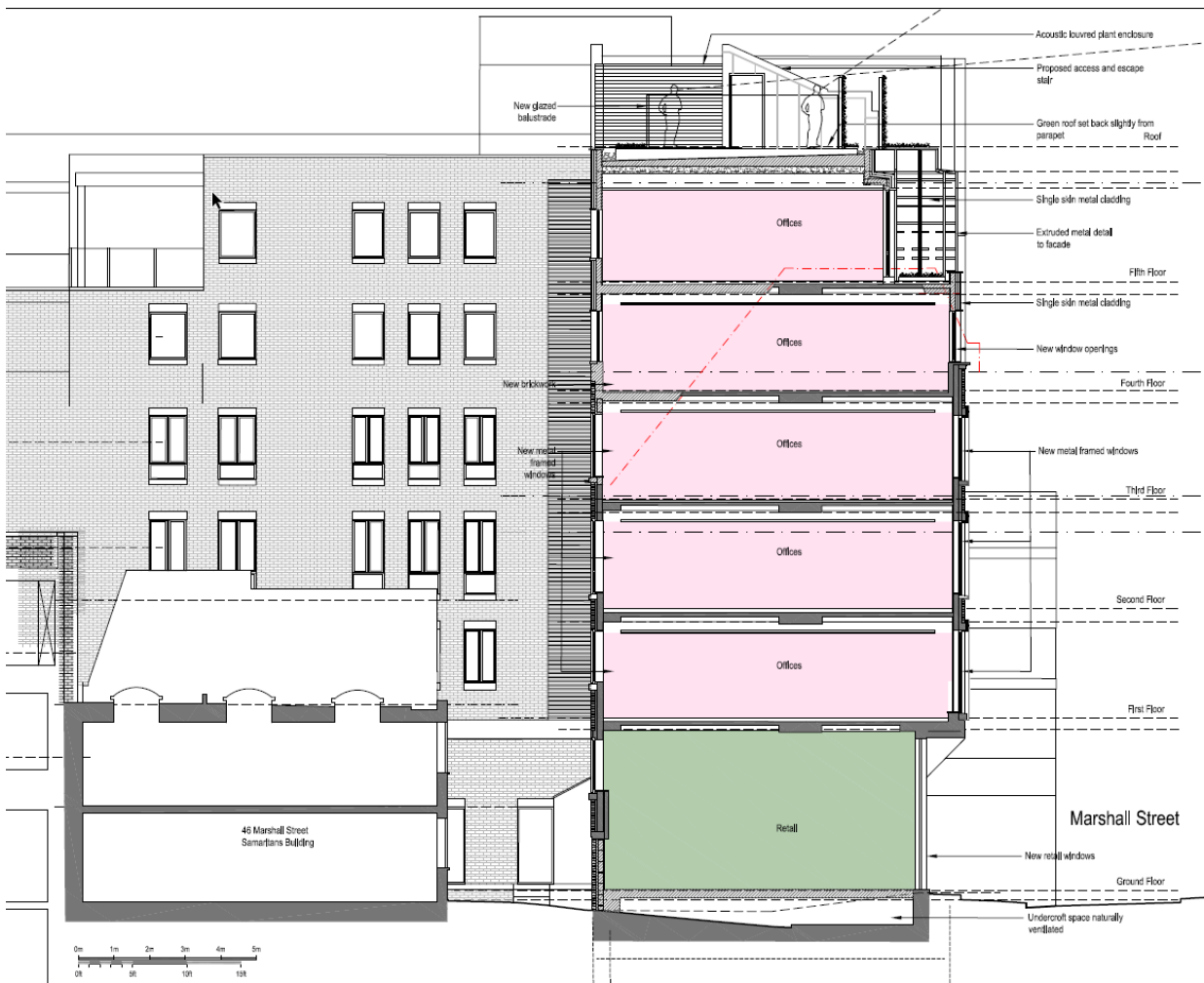
Proposed ground floor plan







Proposed section



DRAFT DECISION LETTER

Address: Eagle House, 50 Marshall Street, London, W1F 9BQ,

Proposal: Demolition of rear glazed pitched roof and erection of rear extensions at third and fourth floors, extension at fifth floor and new fifth floor terrace, all for office purposes (Class B1). Replacement of existing mansard roofs and alterations at roof level including installation of plant enclosed by acoustic louvres and trellising and new roof terrace and staircase housing enclosed by planted trellis. Use of ground floor as retail (Class A1) floorspace and installation of replacement windows throughout, new shopfronts to ground floor retail units, replacement entrance gates and associated alterations.

Reference: 18/06875/FULL

Plan Nos: 1656-1100 REV J, 1101 REV H, 1102 REV G, 1103 REV G, 1104 REV H, 1105 REV H, 1106 REV H, 1300 REV F, 1301 REV H, 1302 REV C, 1303 REV D, 1200 REV B, 1205 REV D

Case Officer: Jo Palmer

Direct Tel. No. 020 7641 2723

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the 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)

- 4 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),

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

noise level to be emitted by the plant and equipment.

Reason:

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

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

Reason:

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

- 7 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 5 of this permission. You must not start work on this part of the development until we have approved what you have sent

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)

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

Reason:

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

- 9 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the 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)

- 10 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1656-1100 REV H. You must clearly mark them and make them available at all times to everyone using the retail unit. (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)

- 11 You must not use the terraces except between the hours of 08.30 - 20.30 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays.

Outside of these hours you can only use the terraces to escape in an emergency.

Reason:

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

- 12 You must not play live or recorded music within the retail unit hereby approved which can be heard outside of the premises.

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)

- 13 Before you use the approved terrace at main roof level for sitting out or for any other purpose, you must install the planters and hedging as identified on the approved drawings. You must thereafter maintain the hedging at a minimum height of 2.0m in perpetuity.

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)

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

- green roofs at fifth and roof levels

You must not remove any of these features. (C43FA)

Reason:

To reduce the effect the development has on the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43AB)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , www.westminster.gov.uk/cil , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form** , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to CIL@Westminster.gov.uk, , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**
- 3 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 Conditions 5 & 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 5 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)

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

Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Churchill	
Subject of Report	Edgson House, Ebury Bridge Road, London, SW1W 8RU		
Proposal	Demolition of Edgson House; back-filling of basement, regrading of site and laying out of porta cabin accommodation for use for a temporary period of up to three years for social and community uses.		
Agent	Jones Lang LaSalle Limited		
On behalf of	Westminster City Council		
Registered Number	18/08372/COFUL	Date amended/ completed	1 October 2018
Date Application Received	1 October 2018		
Historic Building Grade	Unlisted		
Conservation Area			

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning Regulations 1992.
--

2. SUMMARY

Ebury Bridge Estate is one of five priority housing estates identified in the Westminster Renewal Strategy 2010 as being in need of improvement and significant investment. The current application relates to Edgson House a 1950's building located on the Ebury Bridge Road frontage of the Estate.

The City Council is committed to undertaking the renewal and regeneration of the Estate and although it is no longer intended to implement the 2016 planning permission for redevelopment of the Estate, a large number of the estate residents including those from Edgson House have already moved to alternative accommodation whilst a wider estate regeneration scheme is worked up.

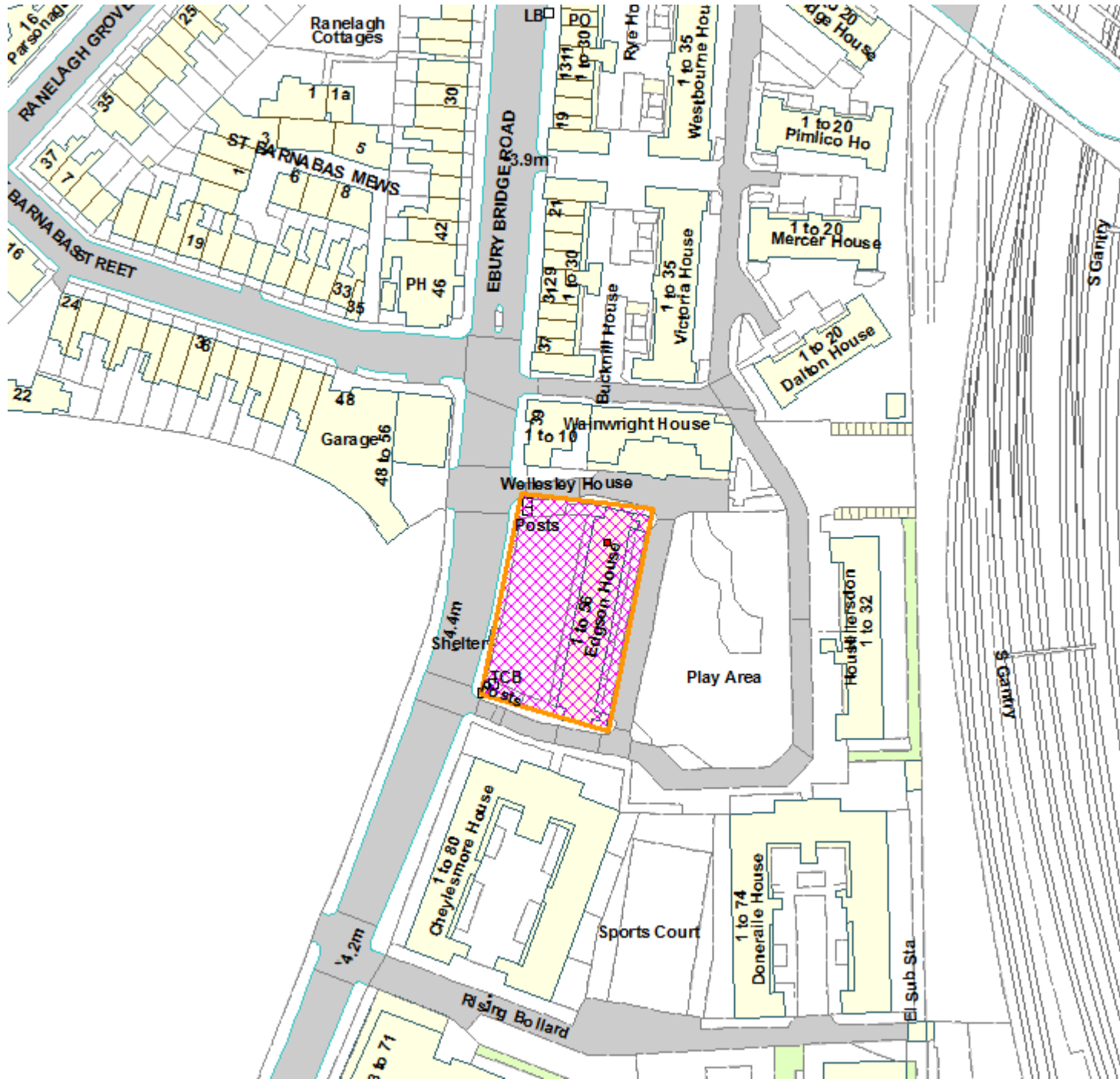
Edgson House has been vacant since August 2017 but previously comprised 55 residential units (39 social rented units and 16 leaseholder units) with a youth centre/community space in the basement. Permission is sought to demolish the building and replace it with a porta cabin for a temporary period of up to three years to provide social and community uses for the estate residents.

The primary use will be as an adult employment skills training/advisory centre but there is also a wide ranging list of other potential social and community uses which has been drawn up via community engagement with estate residents. However, insufficient information has been provided as part of this application to fully assess the potential amenity and environmental impact of some of these aspirational uses so it is recommended that the use of the porta cabin be restricted by condition to an adult employment skills training facility and community hall for Ebury Bridge Estate residents only.

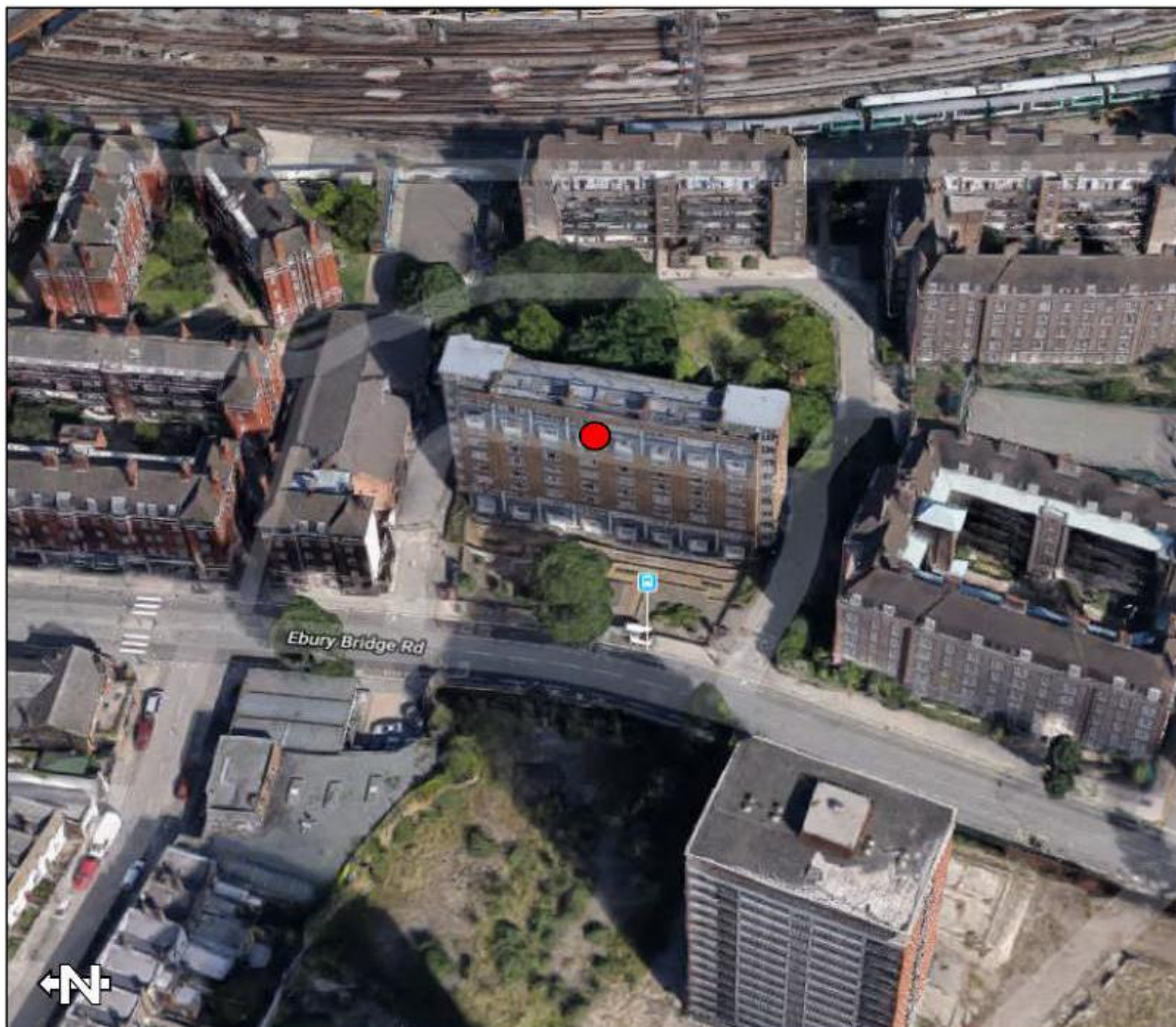
Some residents have expressed concern about the noise, dust and disruption that is likely to be caused by the demolition of the building. These issues will be managed and appropriate mitigation measures put in place in accordance with the Council's Code of Construction Practice. Consultation with all residents and local stakeholders is on going and there is a dedicated Community Engagement Team and Regeneration Base (advice centre) nearby on Ebury Bridge Road.

Subject to appropriate conditions and, for the reasons set out in the report, the proposals are considered acceptable and in accordance with relevant London Plan and Westminster City Plan and Unitary Development Plan policies.

3. LOCATION PLAN



4. PHOTOGRAPHS



Aerial view of Edgson House
Ebury Bridge Estate

5. CONSULTATIONS

WESTMINSTER SOCIETY

Any response received to be reported verbally by officers

ENVIRONMENTAL HEALTH

The project involves 'sizable demolition' and would therefore benefit from the involvement of the Council's Environmental Sciences Team. Pre-commencement conditions ensuring compliance with the Council's Code of Construction Practice and requiring the submission of a detailed contaminated land investigation report prior to the commencement of demolition are required.

Noise Impact Assessment reports are likely to be required for some or all of the temporary uses once details of these are known.

HIGHWAYS PLANNING

Given the wide variety of potential temporary social and community (Class D1 and Class D2) uses, concern is raised that some of these uses may generate significant peaks of vehicular traffic and increased servicing needs e.g. school/nursery type uses, farmers markets, food stalls and cinema/movies. The expectation is that all servicing will occur from within the site/estate and not from the public highway. Further information must be submitted once details of the individual temporary use(s) are known. Some uses will also generate the need for a Travel Plan.

Whilst the proposed social and community uses are temporary, three years is sufficiently long enough to warrant some form of cycle parking; details of cycle parking should therefore be secured by condition.

WASTE (PROJECT OFFICER)

Request a condition is attached requiring the submission of a detailed plan showing the provision of storage for residual waste and recyclable materials and that the waste storage facility is made permanently available for the duration of the temporary uses.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 318 Total No. of replies: 3

No. of objections: 1 No. in support: 1 No. of comments: 1

Comments/objections from residents of the estate raising the following issues:

- Noise, dust and disruption during the demolition process
- Insufficient consultation with estate residents
- Importance of continued engagement and effective communication with residents/stakeholders

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Ebury Bridge Estate is one of Westminster's oldest housing estates with the majority of the buildings constructed in the 1930s. Nine buildings (Rye, Bucknill, Westbourne, Victoria, Bridge, Pimlico, Mercer, Dalton and Wellesley Houses) completed in 1930/1931 make up the original northern part of the estate, with a further three buildings (Cheylesmore, Doneraile and Hillersdon Houses) completed in 1938 at the southern end of the estate. Edgson House on Ebury Bridge Road was added in 1955 and Wainwright House was built on to the rear of Wellesley House in the 1980s. The current application relates to Edgson House only. The building has been vacant since August 2017 but comprised 55 residential units (39 social rented units and 16 leaseholder units) with a youth centre/community space (154sqm) in the basement.

The Estate is not located within a conservation area but the Belgravia Conservation Area lies immediately to the west at the northern end of the Estate. None of the Estate buildings are listed. The site is within the Central Activities Zone (CAZ) but outside Core CAZ.

6.2 Recent Relevant History

Planning permission was granted on 7 March 2016 (14/01295/COFUL) for:

Demolition of eight existing buildings and construction of four new buildings of between four and 14 storeys to provide 271 new flats (118 x 1 bedroom, 95 x 2 bedroom, 51 x 3 bedroom and 7 x 4 bedrooms) consisting of 129 social rent flats, 26 equity share flats and 116 private/market flats: use of ground/basement floors of Block 1 for Class A1/A2/D1 purposes; a replacement community room and children's playspace; new landscaping and pedestrian route through the site; new basement car park (62 spaces) and 12 surface level parking spaces (one car club space and 11 disabled spaces).

This permission is subject to a S106 legal agreement (unilateral undertaking) to secure the following:

- i) provision of affordable housing on site;
- ii) provision of a new community room (200m²);
- iii) provision of landscaped open space; and children's playspace and play equipment;
- iv) a financial contribution towards education;
- v) car park management plan;
- vi) servicing management plan;
- vii) car club membership for residents of the estate from first occupation of the development;
- viii) all highways works surrounding the site required for the development to occur including the servicing lay-by, changes to on-street restrictions, vehicle crossovers, footway repaving and street tree planting;
- ix) bus stop relocation;
- x) employment and training opportunities for local people;

- xi) a financial contribution to the Council's Environmental Inspectorate and Environmental Sciences Team to monitor compliance with the site Construction Environment Management Plan;
- xii) monitoring costs associated with the obligations.

This permission has not been implemented and will expire on 7 March 2019.

7. THE PROPOSAL

Planning permission is sought to demolish the vacant Edgson House. The basement will be back-filled and the site regraded with a new porta cabin erected (225sqm) to provide a variety of social and community uses for a temporary period of up to three years whilst a wider estate regeneration scheme is worked up which will include the replacement of the residential units within Edgson House.

The primary use of the porta cabin accommodation will be as an adult employment skills advisory centre providing general advice and back to work skills for local residents in a classroom with ancillary facilities (e.g. toilets, offices and kitchen). In addition, the City Council Ebury Bridge Community Engagement Team have carried out an extensive consultation exercise with estate residents which has resulted in a wide ranging list of other potential 'meanwhile' uses for the temporary porta cabin including childcare space, social club for older residents, pop-up cinema and a farmers market.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Residential

London Plan Policy 3.14 resists the loss of housing including affordable housing unless the housing is replaced at existing or higher densities with at least equivalent floorspace. For estate regeneration schemes, paragraph 3.82 of the London Plan advises that where redevelopment of affordable housing is proposed it should not be permitted unless it is replaced by better quality accommodation, providing at least an equivalent floorspace of affordable housing.

Westminster City Plan (adopted 2016) Policy S14 and Unitary Development Plan (adopted 2007) Policy H3 seek to optimise housing delivery and resist the loss of existing residential units, except where (as Policy S14 states) the Council considers that the reconfiguration or redevelopment of affordable housing would better meet affordable housing need. City Plan Policy S16 states that affordable housing and floorspace that is used or was last used as affordable housing will be protected.

The demolition of Edgson House involves the temporary loss of 55 flats, 36 of which are social rent units.

Ebury Bridge Estate is one of five priority housing estates identified in the Westminster Housing Renewal Strategy 2010 as being in need of improvement and significant investment. The City Council is committed to undertaking the renewal and regeneration of the Estate and a large number of the estate residents have already moved to

alternative accommodation while the scheme is progressed including those from Edgson House, which has been vacant since August 2017. However it is no longer intended to implement the 2016 planning permission and instead an alternative regeneration scheme encompassing most of the buildings on the Estate is being worked up.

Meanwhile, it is proposed to demolish the vacant Edgson House (to prevent it being used for anti-social behaviour and for pest control reasons) to provide a variety of social and community (meanwhile) uses in temporary porta cabin accommodation for estate residents. Edgson House was always likely to be the first building demolished (due to its position on Ebury Bridge Road) to provide access/egress for the construction of the new estate buildings. The forthcoming estate renewal/redevelopment will explicitly replace the flats that are to be demolished in Edgson House and the City Council has already committed to tenants and leaseholders that they will have a right of return to the Estate.

Social and Community uses

London Plan Policy 3.16, Westminster City Plan Policy S34 and Unitary Development Plan Policy SOC1 seek to protect and enhance social and community facilities and resist the loss of social and community floorspace except where it is being reconfigured, upgraded or relocated to improve services and meet identified needs as part of a published strategy by a local service provider. Policy S34 also states that new social and community facilities will be encouraged throughout Westminster and will be provided on large-scale development sites. In addition, existing or new developments should wherever possible, extend the use of the facilities to serve the wider community.

A youth group and the resident's association formerly used the basement of Edgson House. Demolition of the building will involve the temporary loss of this facility, but a replacement facility plus the provision of new social and community uses and floorspace to support the needs of the new and returning estate residents will form a necessary part of the larger regeneration scheme in accordance with the above London Plan, City Plan and UDP policies.

The temporary porta cabin (225sqm) will consist of one main large classroom/space with two smaller rooms/spaces, a small kitchen and toilets and is capable of accommodating between 40-80 people at any one time. The porta cabin would be available for estate residents to use Monday to Sunday between the hours of 07.00 until 22.00 and would be managed by the City Council's Ebury Bridge Community Engagement Team who are located nearby in the Regeneration Base on Ebury Bridge Road.

The main 'meanwhile' temporary use will be the provision of an adult employment skills (back to work education) facility. Policy S19 of the City Plan supports initiatives that provide employment, training and skills development for local residents.

The Community Engagement Team would also like to be able to use the porta cabin for a variety of other 'meanwhile' uses drawn from a list drawn up through consultation with estate residents. Many of these potential uses are Class D1 (non-residential institution) type activities which typically take place in a community hall e.g. playgroup for under-fives, social club for older residents, learning space, technology suite etc. However, some of the other aspirational uses identified are Class D2 (entertainment and leisure) type uses which are likely to draw in people and traffic from outside the Estate e.g. pop-

up cinema, sports hall, trampoline park causing noise, nuisance and traffic congestion. Given the lack of information available about these types of 'meanwhile' use at this stage, both Environmental Health and the Highways Planning Manager have requested conditions requiring the submission and approval of full details of each of the uses prior to occupation. In addition, Environmental Health advise that a Noise Impact Assessment will be required for some of the proposed uses and the Highways Planning Manager has requested a condition requiring a Travel Plan should the porta cabin be used as a school or similar education facility.

As the primary intention is to use the porta cabin as a temporary community facility for Ebury Bridge Estate residents, a condition is recommended restricting the use to an adult employment skills training facility and as a community hall for Ebury Bridge Estate residents only and for no other use within Class D1 for the reason that there is insufficient information available at this stage to ensure that other types of D1 uses will not have a detrimental impact on residential amenity and the quality of the local environment. Should other types of Class D1 uses and Class D2 (entertainment and leisure) uses wish to use the porta cabin, a further planning application supported by full details of the use/operation and any mitigation measures required would need to be submitted for approval to the City Council as local planning authority.

8.2 Townscape and Design

Edgson House is located on Ebury Bridge Road, positioned between two buildings (Wellesley and Cheylesmore) that are of a more traditional appearance. The entire estate is located outside of a conservation area and none of the buildings (including Edgson House) are listed.

Edgson House is a building of its time and is of little architectural merit. Its demolition would be permitted development if not for the extant permission (14/01295/COFUL) for redevelopment of the entire estate. This permission will not now be implemented and so the City Council's Development Project Team propose to demolish Edgson House and provide temporary 'meanwhile' uses in porta cabins on the cleared site while they work up a wider estate regeneration scheme. Whilst the proposed porta cabins are not ideal, they are for a limited period of time and as such are considered acceptable in design terms. It is recommended that details of the hard and soft landscaping around the porta cabins are secured by condition.

8.3 Transportation/Parking

There is currently no car parking provision on Ebury Bridge Estate except for a few ad hoc spaces provided for disabled residents. There are no car parking spaces proposed for use in conjunction with the 'meanwhile uses. It is intended that the temporary porta cabin will be used primarily as a space for Ebury Bridge Estate community activities run by locally based providers. Provided the proposed uses are directly related to/for the estate residents it is accepted that the impact on the local highway network is likely to be negligible. However, significant concern is raised with regard to some of the other aspirational uses, which rely on a wider catchment and could draw traffic into the surrounding highway network. Some of the uses e.g. schools can generate significant peaks of motor traffic and others like medical uses have drop-offs throughout the day and increased servicing needs. Restricting the use to an adult employment skills training

facility and community hall for estate residents (in the absence of sufficient information about the other uses) will address this issue.

Whilst the temporary nature of the porta cabin is acknowledged, it is considered that three years is sufficiently long enough for there to be some form of cycle parking provision; this could be communally available to all residents on the estate. A condition requiring the submission and approval of cycle parking provision is therefore required.

No details of the storage provision for waste and recyclables have been provided and therefore a condition requiring the submission and approval of this is also required.

8.4 Other issues

Demolition process

An Outline Environmental Plan and an Outline Method Statement have been submitted with the application for information purposes. These two documents deal with some of the issues associated with the demolition process and are referred to by the Wainwright House resident in their comments on the current planning application.

On the advice of Environmental Health, the Development Project Team have agreed to a pre-commencement condition, which will require them to adhere to the City Council's Code of Construction Practice. This requires the submission of a Site Environmental Management Plan (SEMP) for review and approval by the Council's Environmental Sciences Team. The Environmental Sciences Team will monitor dust levels, noise etc throughout the demolition process via live environmental monitoring positions. In addition, the principal contractor will be required to apply for a Section 61 consent under the Control of Pollution Act 1974, which will impose periods of quieter/non-noisy works to give the residents some respite.

Consultation with estate residents

The application is supported by a Statement of Community Involvement, which sets out the process of consultation undertaken. This includes a leaflet sent to approximately 750 addresses, two consultation events and various meetings associated with Edgson House demolition project. Following receipt of the Wainwright House residents' objection to the planning application, the Community Engagement Team held a further meeting with the Wainwright House residents on 21 November 2018 to address their concerns.

In addition, there are regular Ebury Bridge Newsletter updates, a dedicated website, a resident's group (Community Futures Group) and The Ebury Bridge Community Engagement Team is based nearby in the Regeneration Base, 15-19 Ebury Bridge Road where residents can have queries answered and be put in touch with the City Councils' Relocation and Employment Teams.

Contaminated Land

Environmental Health records indicate the possibility of historical contaminated land sources on the site and so a pre-commencement condition requiring the submission and approval of a contaminated land investigation report is required. This report, when

submitted, will be assessed by the Council's Environmental Health officers in consultation with the Environment Agency who are responsible for safeguarding aquifers and ground water sources from contamination.

8.5 Economic Considerations

The demolition of Edgson House will remove a vacant, unsightly building and thereby improve the appearance of the Estate and help reduce instances of anti-social behaviour and drug related crime until the larger scale regeneration scheme goes ahead. The adult employment skills training facility will assist in improving the economic and social well-being of Westminster residents.

8.6 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in paragraph 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.7 London Plan

London Plan policies resist the loss of housing including affordable housing and require that on redevelopment the residential accommodation must be better quality with at least an equivalent of affordable housing provided.

8.8 National Policy/Guidance Considerations

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, require the City Council to seek the written agreement of the applicant to the imposition of a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission. During the course of this application, a pre-commencement condition notice was served on the applicant informing them of the proposed imposition of two pre-commencement conditions requiring i) evidence of compliance with the City Council's code of Construction Practice and ii) submission and approval of a contaminated land site investigation report. The applicant has agreed to the imposition of these conditions.

8.9 Planning Obligations

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

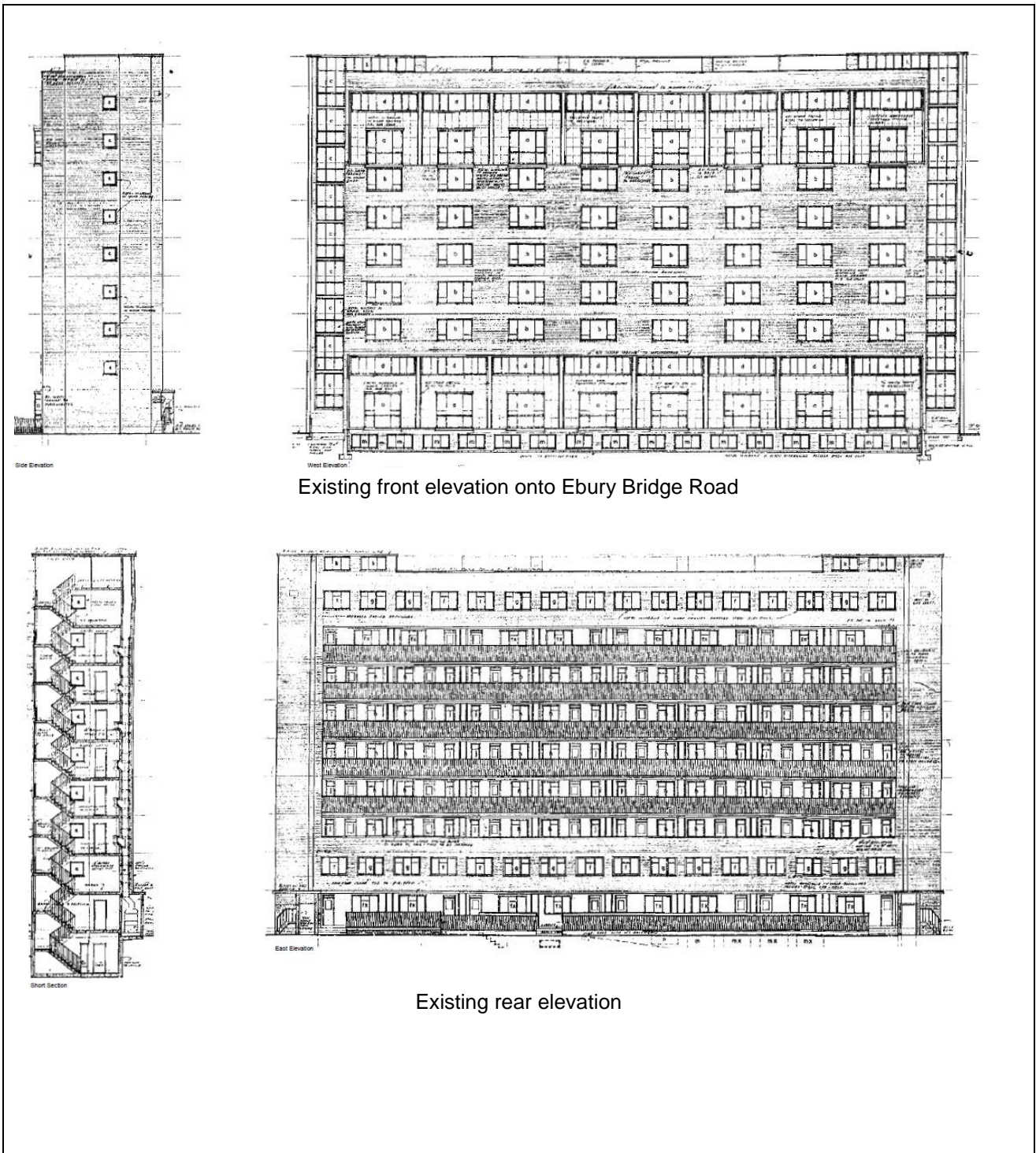
8.10 Environmental Impact Assessment

An Environmental Impact assessment is not required. Environmental issues have been covered in sections 8.1, 8.3 and 8.4 above.

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

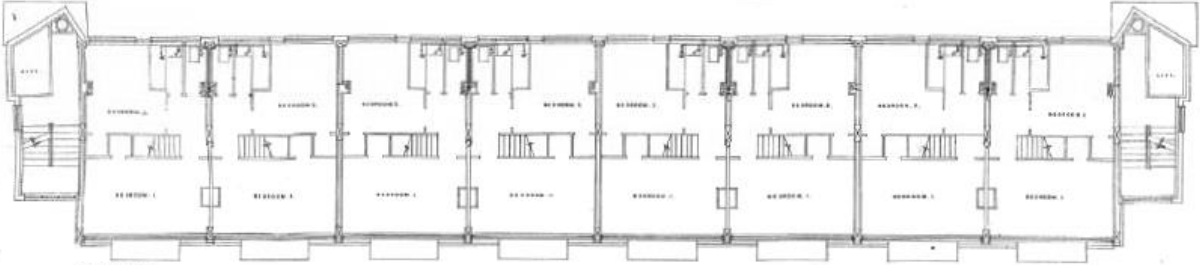
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JULIA ASGHAR BY EMAIL AT: JASGHAR@WESTMINSTER.GOV.UK

9. KEY DRAWINGS

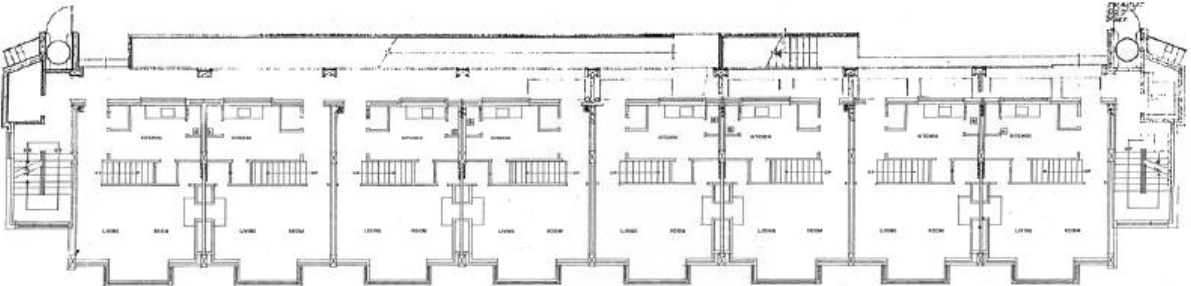


Existing front elevation onto Ebury Bridge Road

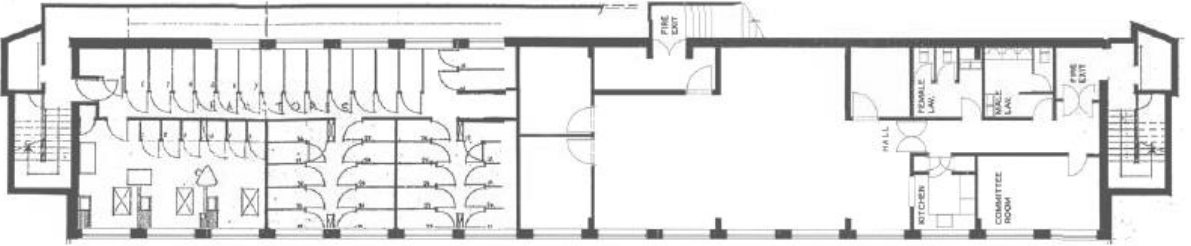
Existing rear elevation



First Floor Plan

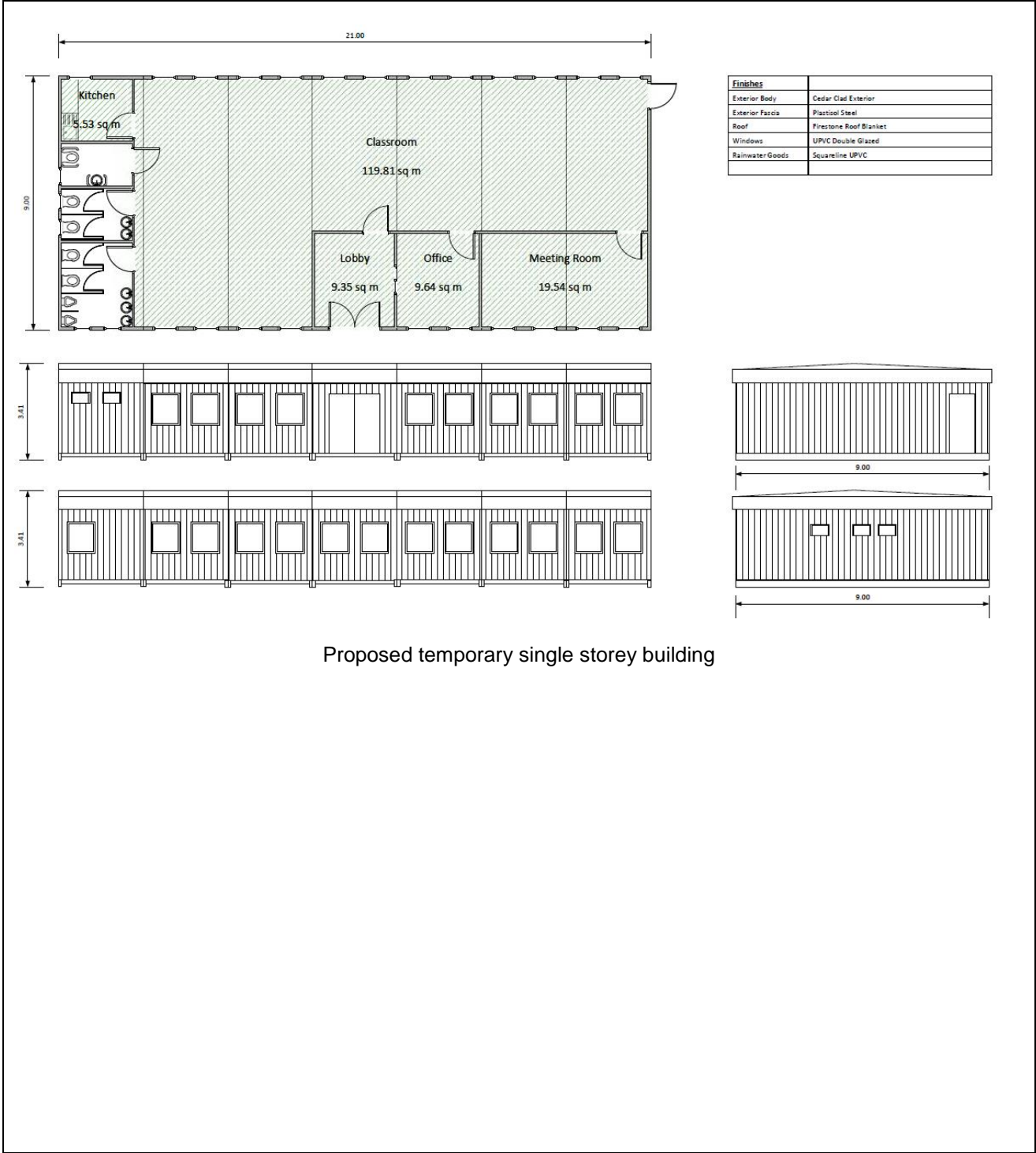


Ground Floor Plan



Basement Plan

Existing basement, ground and first floors



Proposed temporary single storey building

DRAFT DECISION LETTER

Address: Edgson House , Ebury Bridge Road, London, SW1W 8RU

Proposal: Demolition of Edgson House; back-filling of basement, regrading of site and laying out of portacabins for use for a temporary period of up to three years for a variety of social and community uses.

Plan Nos: Site Location Plan; as existing drawings CWH-EBE-AL-541, 542, 543, 544; as proposed modular building Rev A.
For information purposes: Jones Lang LaSalle Planning Statement dated September 2018; Jones Lang LaSalle Design and Access Statement dated September 2018; Paul Mew Associates Transport Statement dated September 2018.

Case Officer: Amanda Jackson **Direct Tel. No.** 020 7641 2934

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

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of residents and the area generally as set out in S29 of

Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 **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 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 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed but before it is occupied.

Phase 1: Desktop study - full site history and environmental information from the public records.

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

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

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

Reason:

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

- 5 The adult employment skills training/advisory centre use and community hall use allowed by this permission can continue until 1 June 2021. After that, the use must end and you must remove the porta cabin building. You must then return the land to its previous condition and use. (C03DA)

Reason:

The porta cabin building is acceptable on a temporary basis only to meet the community needs of the Ebury Bridge Estate residents until permanent replacement community facilities are provided as part of a comprehensive estate regeneration scheme.

- 6 Notwithstanding the provisions of Class D1 of the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in any statutory instrument revoking or re-enacting that order) the social and community (Class D1) use approved shall only be used for the provision of an adult employment skills training/advisory centre and community hall for use by Ebury Bridge Estate residents and no other use within Class D1.

Reason:

We cannot grant planning permission for unrestricted use within Class D1 because we do not have enough information to decide whether other uses within Class D1 would be acceptable within this part of the Central Activities Zone (CAZ).

- 7 Staff, trainees, residents and visitors shall not be permitted to use the porta cabin for any purpose before 07.00 or after 22.00 each day.

Reason:

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

- 8 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 porta cabin. (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)

- 9 You must apply to us for approval of details of secure cycle storage for anyone using the porta cabin. 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)

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

Reason:

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

- 11 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)

- 12 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us.

You must then carry out the landscaping and planting within three months of completing the development (or within any other time limit we agree to in writing).

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

Reason:

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

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

- 4 With reference to Condition 3 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). These documents must be sent to environmentalsciences2@westminster.gov.uk.

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

You are urged to give this your early attention

- 5 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: <https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 6 Condition 4 refers to a publication called 'Contaminated land, a guide to help developers meet planning requirements' - produced in October 2003 by a group of London boroughs, including Westminster. You can get a copy of this and more information from our environmental health section at the address given below.

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

Phone: 020 7641 3153
(I73AB)

The term 'clearly mark' in condition 8 means marked by a permanent wall notice or floor markings, or both. (I88AA)

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Agenda Item 4

Item No.

4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Westbourne	
Subject of Report	309-311 Harrow Road, London, W9 3RG		
Proposal	Dual/ alternative use of part of the basement and ground floors for Class A1 or Class A3 use. Erection of roof extension to form new third floor and erection of rear extension comprising basement extension, ground and three upper floors and associated external alterations to existing building including new windows to front elevation at ground floor level. Use of part basement and ground floors and the first, second and third floors as student accommodation (34 bed spaces).		
Agent	Nexus Planning		
On behalf of	YPP Lettings Ltd		
Registered Number	18/07841/FULL	Date amended/ completed	12 September 2018
Date Application Received	12 September 2018		
Historic Building Grade	Unlisted		
Conservation Area	Not applicable.		

1. RECOMMENDATION

Grant conditional permission, subject to a Unilateral Undertaking to secure the accommodation for students who are primarily receiving their education via a higher education institution(s) in Westminster.

2. SUMMARY

The application site is located on the southern side of Harrow Road, at its intersection with Windsor Gardens and Chippenham Road. It contains a three storey (plus basement) vacant public house (Use Class A4). The public house has been vacant since early 2010.

The applicant proposes changing the use of the basement and ground floor of the property to a dual/alternative retail (Use Class A1) or restaurant/café use (Use Class A3). The applicant also proposes extending the existing building to provide 34 bed spaces of student accommodation (Use Class Sui Generis). A mansard roof extension would be added at main roof level. To the rear, the existing two storey extension would be demolished and replaced with a three storey plus basement

contemporary extension. Several external alterations to the retained part of the building, including new windows to the front and flank elevations are also proposed.

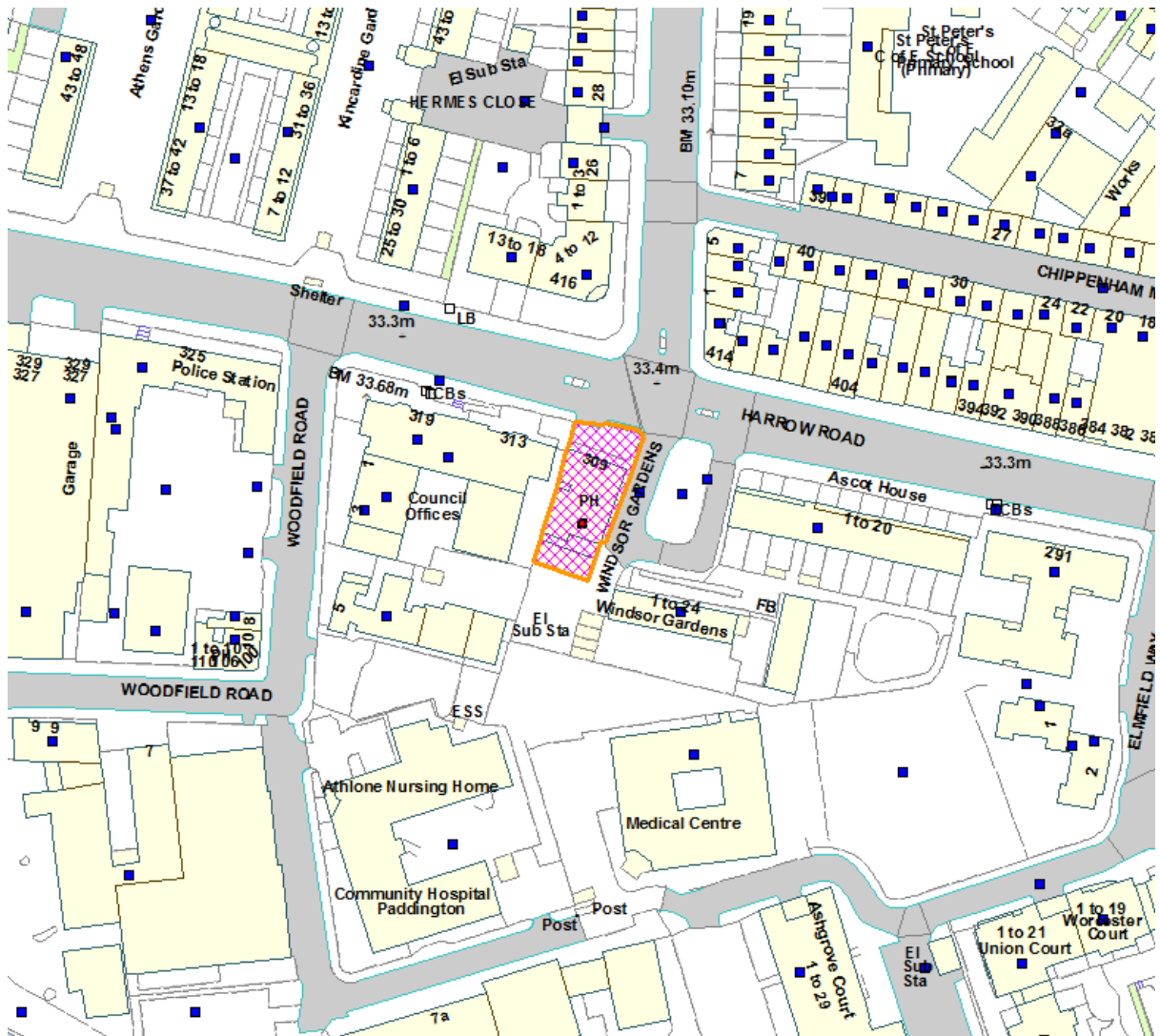
The proposed development has attracted representations in support from the ward councillors and local residents.

The key considerations are:

- Loss of existing public house use;
- Provision of A1, A3 and student accommodation uses on-site;
- Impact on the amenity of nearby residents;
- Impact on highways and parking; and
- Impact on protected trees

The proposed development overcomes the reasons for refusing application RN: 16/09974/FULL. Subject to the recommended Unilateral Undertaking and conditions, 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



Frontage of application site as seen from Harrow Road and Chippenham Road intersection.

5. CONSULTATIONS

COUNCILLOR BOOTHROYD ON BEHALF OF WESTBOURNE WARD COUNCILLORS
As ward councillors, we have looked candidly at the restrictions placed by the state of the economy and the market, and the restrictive covenant placed on the building.

Our conclusion is that this scheme is the best way of preserving the Windsor Castle building, which has considerable historical significance and is deteriorating.

The market assessment report convincingly shows how little other interest there is, and how limited are the alternative use proposals.

The reasons for refusal of the previous scheme have been fully addressed. In particular, the applicants' fully detailed analysis of demand for student housing in Westminster, not previously compiled into a full report, shows there is a need.

While a permanent housing scheme might be prepared, it would not necessarily be more appropriate for the site and would probably mean demolishing the building and losing the heritage.

The mansard roof and other extensions have been redesigned to remove windows and make others smaller, so it does not harm the building (reason 2). The terrace has been removed (reason 4). An acoustic report demonstrates that proposed sound insulation will ensure residents are not subject to excessive noise (reason 5). A tree survey shows how the development can proceed without damaging nearby trees (reason 6).

We note none of the residents of 313-315 Harrow Road objected to the previous application, and that they would get the most benefit from no longer living next door to a deteriorating, closed building.

NORTH PADDINGTON SOCIETY

Support the proposal. Having considered other applications for this site over many years, strongly feel that this proposal has merit in the intention to preserve and restore many of the original external Victorian architectural features which are of a piece with the old town hall and police station buildings adjacent to this one further along the Harrow Road.

The proposed use of managed student accommodation is an acceptable and reasonable use for the building. The public transport links in the area make a wide range of educational institutions in this part of London easily accessible.

The current application has taken account of the issues of concern raised by officers about the previous application and the current proposal is stronger for having done so.

Pleased that part of the ground floor and basement of the building will be retained for uses and provisions other than residential. Too often, they see applications that seek to turn buildings used to provide other types of services being converted into residential accommodation. This is leading to an imbalance in the area which is slowly being turned into a dormitory community with reduced opportunities for people to work, obtain services or enjoy themselves in the neighbourhood.

This building has been unused since 2009 and is slowly deteriorating. Support the current proposal and look forward to its restoration and use as a vibrant active building that will lift the character of the area.

MAIDA HILL NEIGHBOURHOOD FORUM

Any response to be reported verbally.

WESTBOURNE FORUM

Support proposal. This building has lain empty since its closure in 2009 and is deteriorating. They consider that the revised proposals address the previous reasons for refusal.

They consider there to be a genuine need for affordable accommodation for students in the area and this site is suitable for students studying at Westminster University or UCL, as both are served by bus route 18. Students would not be likely to generate car traffic in the area.

Also consider that the ground floor should be restored and put into use for community use, should difficulties to reopen it as a pub turn out to be prohibitive. The idea of a community-run café, as suggested by the developers is supported.

HIGHWAYS PLANNING MANAGER

Support absence of parking for proposed A class uses. Object to the absence of parking for student accommodation and provision of appropriate cycle parking and servicing arrangements. Comments considered in full below.

WASTE PROJECT OFFICER

Objection, discussed in further detail below.

ENVIRONMENTAL HEALTH OFFICER

No objection, subject to conditions. Discussed in further detail below.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 117

Total No. of replies: 3

No. of objections: 0

No. in support: 2

In summary, the supporters raise the following issues:

- There have been numerous problems of anti-social behaviour associated with these unoccupied buildings. Occupation would prevent this.
- The proposal retains the façade of local historic value and keep the ground floor for commercial use as hoped by local groups.
- The proximity of the neighbours at 313/315 Harrow Rd has been addressed.
- Student accommodation seems perfect for the area with frequent local buses to colleges.

- Students residing on-site have the potential to revive or improve local amenities in the area.

An additional representation sought information on the basement extension, particularly how mess associated with it will be managed, how big it will be and how long its excavation is likely to take.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located on the southern side of Harrow Road, at its intersection with Windsor Gardens and Chippenham Road. It contains a three storey (plus basement) vacant public house (Use Class A4). The public house has been vacant since early 2010.

Built from the local stock brick, it features a prominent arcaded projecting pub front, with a railed terrace and ornately detailed tall sash windows with decorative pediment mouldings to the *piano nobile* and simpler squarer windows to the second floor. It is not listed, located within a conservation area or within a designated shopping area. This property is located within the North Westminster Economic Development Area (NWEDA).

6.2 Recent Relevant History

10/01737/FULL

Demolition of existing public house and erection of five storey and basement 59-bedroom aparthotel building together with associated external alterations.

Permission was refused for the following reasons:

1. The proposal would result in the loss of a public house which is considered to contribute to the character and function of this part of North Westminster and its replacement with an aparthotel of insufficient design quality is not considered to be beneficial to the area to outweigh this loss. In addition, the arrangement of the ground floor accommodation with bedrooms facing onto the Harrow Road frontage would result in no active shop front being provided to contribute to the surroundings and to attract visiting members of the public. This would not meet CS 20 of our Core Strategy that we adopted in January 2011 and NWW1 of our Unitary Development Plan that we adopted in January 2007.
2. Based upon the submitted Report on Daylight and Sunlight dated January 2011, it is evident that the redevelopment proposal to provide a new aparthotel building would lead to loss of day and sun light for the people living in the residential flats at 313 Harrow Road. This is because of the proposed height, bulk and close proximity to the residential windows of these neighbouring properties. Insufficient information has been submitted to demonstrate whether there would be any

material loss of light in breach of the BRE guidance in respect of neighbouring properties located in Windsor Gardens and in Woodfield Road. For these reasons, the proposal would not meet CS 28 of our Core Strategy that we adopted in January 2011 and TACE 2 (B) ENV 13 of our Unitary Development Plan that we adopted in January 2007.

3. The proposed redevelopment to provide a hotel building would make the people living in the flats at 313 Harrow Road feel too shut in. This is because of its bulk, height and close proximity to the windows of these residential properties. This would not meet CS 18 and CS 28 of our Core Strategy that we adopted in January 2011 and TACE 2 (B) ENV 13 of our Unitary Development Plan that we adopted in January 2007.
4. Because of the loss of the existing mid-19th century public house building and the scale, height massing and materials of the new building, the proposal would harm the significance of this site and the appearance and townscape of this part of the City. This would not meet CS 24 and CS27 of our Core Strategy that we adopted in January 2011 and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (X16BB)

The proposal is also contrary to guidance in PPS 1 (Delivering Sustainable Development) and policy HE 7 and 8 of Planning Policy Statement 5 (Planning for the Historic Environment 2010)

16/09974/FULL

Retention of the existing public house use at part basement and part ground floor levels. Use of first and second floors and new roof extension to provide Student Accommodation (34 bed spaces) with an associated four storey, plus basement extension to the rear, as well as external alterations including new windows to the front elevation at ground floor level.

1. The student accommodation does not meet an identified local housing need and would occupy scarce land that could accommodate market and/or affordable housing. The student accommodation would be contrary to policy 3.8 of The London Plan (March 2016), policy H17 of the Draft London Plan (December 2017), policies S14, S15 and S16 of the Westminster City Plan (November 2016) and policy H6 of the Unitary Development Plan (January 2007).
2. Because of the detailed design of the mansard roof and rear extensions, the proposed development would harm the appearance of this building and this part of the City. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and policies DES 1, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007.
3. The rear and roof extensions would make the people living in 313-319 Harrow Road feel too shut in. This is because of its bulk and height and how close it is to windows in that property. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (X14BC)

4. The third floor terrace would lead to unacceptable noise levels for people in neighbouring properties. This would not meet S29 of Westminster's City Plan (November 2016) and ENV6 of our Unitary Development Plan that we adopted in January 2007.
5. The applicant has not provided any information to demonstrate that the proposed student accommodation would not be subject to excessive noise from the public house and/or from mechanical plant on-site. In the absence of this information, the applicant has failed to demonstrate that an appropriate standard of accommodation would be provided, contrary to policies S29 and S32 of the City Plan (November 2016), and policies ENV 6 and ENV 7 of our Unitary Development Plan, adopted January 2007.
6. Insufficient information has been submitted to demonstrate that a protected tree would be adequately safeguarded during excavation of the front lightwell. In the absence of this information, the proposal would be contrary to policy S38 of Westminster's City Plan (adopted November 2016) and policy ENV 16 of our Unitary Development Plan that we adopted in January 2007.

The applicant has appealed this decision, with an informal hearing scheduled for 22-23 January 2019.

7. THE PROPOSAL

The applicant proposes changing the use of the basement and ground floor of the property to a dual/alternative retail (Use Class A1) or restaurant/café use (Use Class A3). The applicant also proposes extending the existing building to provide 34 bed spaces of student accommodation (Use Class Sui Generis). A mansard roof extension would be added at main roof level. To the rear, the existing two storey extension would be demolished and replaced with a three storey plus basement contemporary extension. Several external alterations to the retained part of the building, including new windows to the front and flank elevations are also proposed.

The floor area of the proposed development would be comprised as follows.

Table 1: Existing and Proposed Floor Areas

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Public House (Use Class A4)	759	0	-759
Retail or Restaurant/café (Use Class A1 or A3)	0	257	+257
Student Accommodation (Use Class Sui)	0	632	+632

Generis)			
TOTAL	759	889	

Unlike application RN: 16/09974/FULL, the applicant now proposes removing the existing public house use. In response to the reasons for refusing application RN: 16/09974/FULL, the applicant has amended the development as follows:

1. Provided an updated Market Demand Report, two appeal decisions and a Unilateral Undertaking to justify the provision of student accommodation on the application site;
2. The design of the proposed extensions have been amended. The mansard roof extension over the public house building is now more traditionally detailed and its height has been lowered. A glazed roof has been added to the glazed band between the existing building and the proposed rear extension. The fenestration pattern on the rear extension has been amended.
3. Additional information on the layout of 313-319 Harrow Road and its relationship to the application site has been submitted to justify the sense of enclosure impact of the proposed development.
4. The third floor roof terrace has been removed.
5. Additional acoustic information has been submitted to demonstrate that the student accommodation would be safeguarded from excessive noise from the A class uses and mechanical plant.
6. An Arboricultural Method Statement has been submitted to demonstrate that the proposal can be built without harm to protected trees. The front lightwell has also been reduced in size to reduce its encroachment into the RPA of the protected London Plane tree on 313-319 Harrow Road.

8. DETAILED CONSIDERATIONS

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12th November 2018 and will close on Friday 21st December 2018 ("the Emerging City Plan"). Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under regulation of the Town and Country Planning Act (Local Planning (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the Emerging City Plan are given little to no weight at the present time. Where relevant, the policies of the Emerging City Plan are noted below.

8.1 Land Use

8.1.1 Loss of Public House

Paragraph 91 of the National Planning Policy Framework ("NPPF") advises that planning decisions should aim to achieve places which promote opportunities for meetings between members of the community who might not otherwise come into contact with each other. Paragraph 92 of the NPPF also advises that planning decisions should "guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs". The NPPF expressly refers to public houses as community facilities.

Policy 4.8 of The London Plan (March 2016) ("the London Plan") states, inter alia, that policies should be developed "to prevent the loss of retail and related facilities that provide essential convenience and specialist shopping or valued local community assets, including public houses". This is based on the Mayor of London's "recognition of the important role that London's public houses can play in the social fabric of communities and recent research highlights the rapid rate of closures over the past decade and the factors behind these. To address these concerns, where there is sufficient evidence of need, community asset value and viability in pub use, boroughs are encouraged to bring forward policies to retain, manage and enhance public houses" (paragraph 4.48A).

Policy HC7 of the first draft of the new London Plan (consultation closed March 2018) ("the Draft London Plan") also guards against the loss of public houses that have heritage, economic, social or cultural value and ancillary spaces. The Draft London Plan has been through one round of consultation with no in principle objections received to policy HC7. Accordingly, and having regard to paragraph 48 of the NPPF, policy HC7 of the Draft London Plan can be given some weight at this particular stage.

The Mayor of London's "Town Centres: Supplementary Planning Guidance" (adopted July 2014) advises that policies to protect public houses should include consideration of the viability of the public house, history of vacancy, the prospect for achieving reuse at prevailing market values and whether it has been marketed effectively for re-use.

Policy SS 8 of the Unitary Development Plan (adopted 2007) ("the UDP") seeks to protect services in locations such as this because of the convenience and service they provide to local residents and also to visitors and local businesses. Paragraph 7.98 of the supporting text to policy SS 8 recognises that traditional public houses are generally considered to add to the character and function of a locality and their loss will only be acceptable if they have been vacant and marketed for at least 18 months without success.

Policy S13 of the City Plan (adopted 2016) ("the City Plan") states that areas such as this (outside of special policy areas) will be primarily for residential use with supporting social and community provision. In its supporting text it makes clear that the provision of social infrastructure is vital to support the residential community in these parts of Westminster.

The proposal would result in the loss of the Windsor Castle Public House. However, this pub does not have Asset of Community Value (ACV) and its potential loss has not attracted any objections from the local community. It is also not listed, is not an unlisted building of merit and has no known heritage, economic, social or cultural value.

Accordingly, it is not a valued community facility/pub and is not the type of public house that the NPPF, London Plan or Draft London Plan seeks to protect.

Notwithstanding this, the Windsor Castle Public House has been vacant for eight years. This pub has also been the subject of a comprehensive two year marketing exercise that attracted two initial enquiries for continued use of the premise as a public house. These enquiries were taken no further forward following initial dialogue with the applicant. Another 38 enquiries were received from developers and others who wished to convert the public house to another use. Accordingly, there is little interest from the market in continued operation of this public house.

Whilst the loss of this public house would be regrettable, this public house has little to no value to the local community and has no known heritage, economic, social or cultural value. There is also little interest in its continued use as a public house. Accordingly, the proposal would not result in the loss of a valued facility and its loss would be acceptable. The proposal therefore meets the NPPF and policy 4.8 of the London Plan, policy HC7 of the Draft London Plan, policy SS8 of the UDP and policy S13 of the City Plan.

8.1.2 Proposed A1/A3 Use

Policy S21 of the City Plan directs new retail development toward the Central Activities Zone (CAZ) and the District and Local Centres. Policy S12 of the City Plan states that development should, amongst other things, encourage economic activity and provide local services.

Policy SS8 of the UDP recognises that isolated local shops and other A class uses provide a valuable service to residents, although permission will not be granted to proposals that significantly harm residential amenity or local environmental quality as a result of smells, noise, increased late-night activity and disturbance, or increased parking and traffic. Similarly, policy TACE 9 of the UDP notes that entertainment uses, like the restaurant proposed, will only be granted where they have no adverse effect upon residential amenity and the character and function of the area.

Policy 18 of the Emerging City Plan states that proposals for food and drink and entertainment uses will be of a type and size appropriate to their location, and will be neighbourly.

It is recognised that the application site is located outside the CAZ and is not located within a District or Local Centre. However, the proposed A1 or A3 use would provide a local service and encourage economic activity in this vacant property, in accordance with policy S12 of the City Plan. In principle, the proposed A1 or A3 use would not have a more harmful residential amenity or highways impact than the A4 use it replaces, although this is subject to the more detailed consideration set out below. As the proposed use would bring activity to this long vacant unit, it would also enhance the character of the area. Accordingly, the proposed A1 or A3 use would be consistent with policies S21 and S12 of the City Plan, policy SS8 of the UDP and policy 18 of the Emerging City Plan.

8.1.3 Proposed Student Accommodation

Policy 3.8(h) of The London seeks to ensure that strategic and local requirements for student housing meeting a demonstrable need are addressed by working closely with stakeholders in higher and further education and without compromising capacity for conventional homes. Para. 3.53A of the supporting text encourages, inter alia, a more dispersed distribution of future provision of student accommodation away from central London. Paragraph 3.53 also notes that the provision of student accommodation should not compromise capacity to meet the need for conventional dwellings, especially affordable family homes, or undermine policy to secure mixed and balanced communities. Paragraph's 3.53B and 3.53C go on to note that student accommodation should be robustly secured for students by planning agreement or condition relating to specific education institutions. Where there is no undertaking from a specific education institution, an element of affordable student accommodation should be provided, subject to viability.

Policy H17 of the Draft London Plan similarly seeks student accommodation that meets local and strategic need, provided that it contributes to a mixed and inclusive neighbourhood; the use of the accommodation is secured for students; the accommodation is secured through a nomination agreement for occupation by student members of one or more specified higher education providers; the maximum level of accommodation is secured as affordable student accommodation as defined through the London Plan and associated guidance and that the accommodation provides adequate functional living space and layout. Where less than 35% of the accommodation is secured as affordable student accommodation, the development will be viability tested and subject to review mechanisms.

Policy H17 also encourages student accommodation in areas well connected to local services and public transport but away from existing concentrations in central London. Paragraph 4.17.3 of the supporting text to policy H17 states that, to demonstrate local need for new student accommodation, it must be operated directly by a higher education institution or have an agreement in place from initial occupation to provide housing for students at one or more higher education institutions. The Draft London Plan has been through one round of consultation with no in principle objections received to policy H17. Accordingly, and having regard to paragraph 48 of the NPPF, policy H17 of the Draft London Plan can be given some weight at this particular stage.

In the UDP, student accommodation is considered a form of hostel accommodation. Policy H6 of the UDP states that hostels will be allowed where they meet the needs of institutions within Westminster and require a Westminster location. Policy SOC 3 of the UDP encourages the provision of student accommodation, although paragraph 6.28 of the supporting text indicates that this is intended to be provided by higher education institutions.

As set out in the history section above, the previous application (RN: 16/09974/FULL) for this site was refused as the applicant had not demonstrated a local need for the student accommodation proposed. To address this reason for refusal, the applicant has provided the following:

- An updated Market Demand Report by Cushman and Wakefield (June 2018) (“the MDR Report”);
- Two appeal decisions in relation to the provision of student accommodation (PIN’s ref: APP/D0840/W/17/3182360 and APP/Q0505/W/15/3035861); and
- A Unilateral Undertaking to secure the accommodation for students attending Westminster Universities.

There is a clear strategic need for student accommodation within London. As demonstrated by para. 4.17.2 of the Draft London Plan, there is a requirement for 3500 bedspaces to be provided annually.

Turning to local need, the City Council has undertaken two studies into the local need for student accommodation - the 2014 Westminster Housing Market Study by Ecorys (“the Ecorys Study”) and the 2014 Westminster Housing Market Analysis by Wessex Economics (“the Wessex Study”). The Wessex Study notes that the relatively low student population in Westminster is consistent with conventional commuting patterns (i.e. most workers cannot afford to live within Westminster despite working there). Like many working adults, students have limited incomes, so are unlikely to be able to pay for market accommodation in Westminster. The Wessex Study concludes that there is no convincing evidence that the relationship between where students live and where they study is having an adverse effect on higher education institutions in Westminster. Given high land values in Westminster, the Wessex Study notes that it is more cost-effective for higher education institutions to build student accommodation outside of Westminster. The Wessex Study recommends further research by the City Council to justify policies that support student accommodation in Westminster at the expense of conventional housing.

The Ecorys Study concludes that there are affordability issues around purpose built student accommodation within Westminster, particularly that provided by the private sector. Like the Wessex Study, the Ecorys Study also notes that there are other factors within Westminster limiting the development of student accommodation, including the high cost of development, land scarcity and good transport links into central London. Greater provision for developing affordable student housing should be made, although not at the expense of conventional affordable housing. Overall, both studies indicate a potential local need for student accommodation, particularly affordable student accommodation, although not where it would prejudice the provision of conventional housing.

However, both studies pre-date current Planning Practice Guidance, which notes that “*Encouraging more dedicated student accommodation may provide low cost housing that takes pressure off the private rented sector and increases the overall housing stock*”¹. Further to this and the Inspectors’ rationale in the submitted appeal decisions, the applicant has submitted the MDR Report which demonstrates the impact of students on Westminster’s housing market. The MDR Report notes the following:

- Approximately 21% of all full time students studying in London, study at a Westminster based HEI. Despite this, Westminster currently has only 6% of

¹ See paragraph: 020 Reference ID: 2a-020-20180913

London's total purpose built student accommodation. As of April 2018, there are currently no proposals for additional purpose built student accommodation schemes in the pipeline across Westminster.

- In London, the ratio of students to bedspaces is 2.3:1. In Westminster, this student to bed ratio increases to 5.8:1. This indicates a significant undersupply of purpose-built student accommodation within Westminster.
- Successive University of London Housing Surveys have found that the majority of students wish to live within a 30-minute commute of campus and that the most important factor when choosing accommodation is proximity to their HEI .
- This lack of supply and the desire of students to live close to their HEI has resulted in an increasing number of students living in private housing, particularly Houses in Multiple Occupation ('HMOs'), which has grown by 8% since 2011/2012. Whilst student pressures on housing in Westminster is likely to continue to increase, the development of 34 additional bed spaces has the potential to free up seven houses (at five students per household).

Given the conclusions of the MDR Report, it is clear that there is a need for student accommodation within Westminster and that this unmet need is being accommodated in the private rented sector. The provision of this student accommodation would potentially free up seven houses in the private rented sector and would therefore contribute toward the City Council's housing target, as per policy S14 of the City Plan.

It is noted that the applicant is not a Higher Education Institution. However, and unlike the previous application, the applicant has now provided a Unilateral Undertaking that secures the accommodation for students of HEI's within Westminster in the first instance. Should no HEI require these bedspaces, then they would be offered to students of HEI's in the neighbouring authorities of Kensington and Chelsea, Camden, Brent, the City of London, Lambeth or Wandsworth. Accordingly, this Unilateral Undertaking secures this accommodation for students of HEI's in Westminster and therefore satisfies this requirement of policies 3.8 of the London Plan, H17 of the Draft London Plan, S15 of the City Plan, 12 of the Emerging Local Plan and H6 and SOC 3 of the UDP.

Having regard to policy H17's other requirements, there are no other student accommodation developments within the immediate vicinity of the application site. Accordingly, it would also contribute to a mixed and balanced community within this area by introducing a new form of accommodation to the area.

The applicant does not propose any affordable student accommodation and has provided an appraisal that demonstrates that it would not be viable to provide any. This has been reviewed on behalf of the City Council, by Bilfinger GVA, who concur with its findings. As this development is not a major development, it is not subject to the threshold approach and review mechanism requirements of policy H6 of the Draft London Plan. Accordingly, this requirement of policy H17 is not relevant to this development.

The application site is well served by public transport, with a high PTAL rating of 5. It is also a short walk from the Harrow Road District Centre. Accordingly, it is well connected to local services.

Overall, the proposed student accommodation would be consistent with policies 3.8 of the London Plan, H17 of the Draft London Plan, S15 of the City Plan, 12 of the Emerging Local Plan and H6 and SOC 3 of the UDP.

8.2 Townscape and Design

As noted above, the previous application (RN: 16/09974/FULL) was previously refused due to the detailed design of the mansard roof and rear extensions proposed.

The application site contains an unlisted building outside a conservation area. The building is a mid 19th century public house of five bays and three storeys. The existing building is a positive element in the townscape, being one of the few historic properties on this side of the road in the locality. This is particularly the case as The Windsor Castle, known for its parapet castellation forms part of characterful group with the adjacent former council offices and the neighbouring Edwardian Police Station. As such, the building is an undesignated heritage asset.

The proposal results in the loss of the rear of the building and the attractive rear stable, which has a sturdy timber framed roof internally. While the stable has historic and social interest and could provide an attractive office or home, its loss would be difficult to resist given the rear location and the lack of public visibility.

The building is a completed composition with a flat roof behind a castellated parapet and policy DES 6 of the UDP would normally resist a roof extension. However, given the location outside of any conservation area and the need to find a viable use for this undesignated heritage asset, a mansard roof is acceptable, subject to its detailed design.

The applicant has amended the mansard roof proposed over the former public house by lowering its height, setting it back from the parapets and reducing the number of dormers from five to four. On the front elevation these dormers have been arranged over the brick piers below to ensure that the mansard does not appear cluttered and reflects the asymmetrical fenestration pattern on the existing façade below. These dormers are traditionally detailed, with lead cheeks and timber framed two over two sash windows. Accordingly, the design of the proposed mansard roof over the former public house is consistent with the age of this building and is considered appropriate.

With regards to the extension, the glazed band has been reduced in width from that previously proposed so that it does not dominate the Windsor Gardens elevation. The glazed band also wraps up to main roof level and sits at a height very slightly below the two mansard roofs proposed. This creates a more elegant transition between the mansards and the glazed band and overcomes officer's previous concerns with the abrupt and awkward nature of the arrangement proposed in the refused scheme.

The height and proportions of the extension itself and the stone string course above the ground level façade mimic that of the existing public house building. The fenestration pattern on the Windsor Gardens façade also repeats the asymmetrical pattern found on the Harrow Road façade of the original building. On all elevations, the windows are now vertically aligned, diminish in size from the lower to upper storeys and match the size of those found on the existing building. These windows are simply detailed with no

surrounds proposed and are comprised of single panes only. The use of matching brick on the public facades and zinc roofing are also considered appropriate, subject to a condition to secure appropriate samples.

Whilst the lightwells within the Windsor Gardens façade are regrettable, it is acknowledged that they are necessary to provide adequate light and ventilation to the basement accommodation proposed. They are also located on the secondary Windsor Gardens frontage and are not of such a scale that they detract from the overall composition proposed. Overall, the proposed extension is considered an appropriate modern response to the Victorian public house to which it would be attached and would preserve its special interest.

The lightwell proposed on the Harrow Road frontage is setback from the footway and would be comparable to similar lightwells on the neighbouring former council offices and Edwardian police station. Accordingly, it would not be out of place in the streetscene. However, no details of fall protection, such as railings surrounding it or a grille over it, have been provided. To secure appropriate details, a condition is recommended.

Subject to the recommended conditions, the proposed development would be consistent with policies DES 1, DES 5 and DES 6 of the UDP and policies S 25 and S 28 of the City Plan.

8.3 Residential Amenity

8.3.1 Loss of Light

Policy ENV13 of the UDP seeks to protect existing premises, particularly residential from a loss of daylight and sunlight as a result of new development. Permission would not normally be granted where developments result in a material loss of daylight or sunlight.

The supporting text to policy ENV 13 specifies that regard should be had to the BRE publication “Site Layout Planning for Daylight and Sunlight: A guide to good practice” (2011) (“the BRE Guide”). The BRE stress that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances since natural lighting is only one of many factors in site layout design. For example, in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

The applicant has submitted a Daylight and Sunlight Report by Point 2 Surveyors Limited (“the Light Study”) as part of the application to demonstrate compliance with the BRE Guide. The Light Study considers the following adjacent or nearby residential properties that are eligible for testing in the BRE Guide:

- 313-319 Harrow Road;
- 1-24 Windsor Gardens; and
- 5 Woodfield Road.

Residential properties beyond these are considered too distant from the subject property to result in potentially unacceptable light loss.

Daylight

In assessing daylight levels, the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. The BRE guide also recommends consideration of the distribution of light within rooms served by these windows. Known as the No Sky Line (NSL) method, this is a measurement of the area of working plane within these rooms that will receive direct daylight from those that cannot. With both methods, the BRE guide specifies that reductions of more than 20% are noticeable.

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

The Light Study concludes that 1-24 Windsor Gardens and 5 Woodfield Road would have VSC and NSL losses that do not exceed BRE Guidelines. Accordingly, the proposed development would not result in material loss of daylight to those properties.

With regards to 313-319 Harrow Road, the Lights Study's results are set out below.

Table 2: Daylight Losses to 313-319 Harrow Road

Level	Room	Existing VSC	Proposed VSC	VSC Loss	NSL Loss
Ground	R1 (Bedroom)	21.49	14.72	0.68	0.86
	R2 (Bedroom)	27.91	20.27	0.72	0.70
	R5 (Bedroom)	22.59 and 10.93*	17.10 and 8.53	0.75 and 0.78	0.61
	R6 (Bedroom)	13.38	10.29	0.76	0.63
	R7 (Kitchen)	15.89	12.78	0.80	0.80
First	R1 (Bedroom)	33.04 and 34.80*	26.49 and 27.26	0.80 and 0.78	0.95
	R2 (Bedroom)	34.43	26.18	0.76	0.69
	R3 (Bedroom)	31.02	22.90	0.73	0.53
	R4 (Bedroom)	29.68	22.11	0.74	0.54

	R5 (Bedroom)	25.30	19.19	0.75	0.49
	R6 (Unknown)	23.55 and 16.91*	17.93 and 12.75	0.76 and 0.75	0.48
	R7 (Unknown)	13.27	10.38	0.78	0.67
Second	R1 (Bedroom)	34.33 and 36.37*	29.45 and 30.41	0.85 and 0.83	0.99
	R2 (Bedroom)	36.21	29.62	0.81	0.83
	R3 (Bedroom)	35.04	27.19	0.77	0.77
	R4 (Bedroom)	34.50	26.67	0.77	0.78
	R5 (Bedroom)	31.81	24.87	0.78	0.64
	R6 (Unknown)	30.72 and 25.50*	24.02 and 20.01	0.78 and 0.78	0.72
	R7 (Unknown)	18.96	15.25	0.80	0.88
	R8 (Unknown)	20.88	18.27	0.87	0.94
Third	R1 (Bedroom)	26.40 and 36.42*	23.33 and 32.90	0.88 and 0.90	1.00
	R2 (Bedroom)	36.75	32.85	0.89	1.00
	R3 (Bedroom)	36.58	31.55	0.86	1.00
	R4 (Bedroom)	36.49	31.26	0.85	0.99
	R5 (Bedroom)	35.82	30.43	0.84	0.99
	R6 (Unknown)	35.35 and 31.28*	30.08 and 26.37	0.85 and 0.84	0.99
	R7 (Unknown)	28.69	23.57	0.82	0.99

*** Rooms served by two windows**

The Light Study notes that 18 of the 34 windows eligible for testing would have light losses exceeding BRE Guidelines. All of these windows would result in VSC levels falling below 27%, with seven of these falling from levels above 27%. Nineteen of the 20 affected windows would have daylight losses up to 30%, with daylight loss to the remaining window being 32%.

These losses are only marginally over what the BRE Guide deems noticeable and are therefore not necessarily harmful. The BRE Guide itself also states that it is intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London location like this, expectations of natural light levels cannot be as great as development in rural and suburban locations and to which the BRE guide also applies.

Many sites within Westminster have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation. In this context, the level of light loss is considered acceptable and does not warrant refusal of the development.

Sunlight

The BRE Guide states that only windows with an orientation within 90 degrees of south are eligible for testing. It also states that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of annual winter sunlight hours. A room will be adversely affected if the resulting sunlight level is less than the recommended standards and reduced by more than 20% of its former values and if it has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

In this instance, only the east facing windows within 313-319 Harrow Road are eligible for testing. The Light Study concludes that 12 of the 34 windows eligible for testing would have sunlight losses exceeding BRE Guidelines. However, all of the affected windows serve bedrooms. As per paragraph 3.2.3, sunlight to bedrooms is less important than sunlight to main living areas. Accordingly, an objection to the development on this basis would not be sustainable.

8.3.2 Sense of Enclosure

As noted above, the previous application (RN: 16/09974/FULL) for this development was refused permission, amongst other reasons, for its sense of enclosure impact on 313-319 Harrow Road (the neighbouring property to the west).

The applicant has not amended the bulk, height or setback from the boundary with 313-319 Harrow Road to address this reason for refusal. The applicant has instead provided further information on the layout of buildings on 313-319 Harrow Road and undertaken a comparison to the proposed development. The applicant notes that 313-319 Harrow Road is comprised of two wings that run parallel to the proposed building. These wings are approximately the same distance from one another as the proposed building would be from the easternmost wing that faces the proposed development. Both wings are also higher than the proposed building. Accordingly, the bulk, height and setback proposed is a common amenity relationship on 313-319 Harrow Road.

The applicant also notes that the bedrooms within 313-319 Harrow Road would face the proposed building with living rooms facing into the internal courtyard separating the two wings. As bedrooms, the applicant contends that they are secondary viewpoints from the affected flats, with their primary outlook being toward the internal courtyard.

The additional considerations put forward by the applicant are material and compelling. In addition, none of the residents within 313-319 Harrow Road have objected to the proposal, indicating that they do not consider themselves adversely affected by the bulk, height and setback of the proposed building.

As set out above, the proposed student accommodation that would occupy the new building is now considered acceptable and would bring this long vacant property that has been a negative feature on Harrow Road back into use. On balance and in light of the above, refusal of the application on unacceptable sense of enclosure grounds to 313-319 Harrow Road is not considered sustainable.

All other residential properties surrounding the site are considered too far from the proposed extensions to experience a material increase in sense of enclosure.

8.3.3 Privacy

The applicant has removed the third floor terrace, the privacy impact of which was a reason for refusing the previous application (RN: 16/09974/FULL).

The proposed development includes several windows in its western elevation that would face and be located approximately 10 metres from bedroom windows within 313-319 Harrow Road. However, the proposed windows serve circulation spaces, rather than living areas. Were the development otherwise acceptable, a condition could be imposed that would require that these windows are obscure glazed and fixed shut. Subject to this condition, the proposed windows would not result in a material loss of privacy for the occupants of 313-319 Harrow Road.

All other residential properties surrounding the site are considered too far from the proposed extensions to experience a material loss of privacy.

Accordingly, the privacy impact of the proposed development would be consistent with policies S29 and ENV 13 of the UDP.

8.3.4 Noise

It is proposed to install building services plant within the basement of the proposed development. The use of the A1/A3 unit also has the potential to harm the living conditions of students living above if not adequately mitigated and this was a reason for refusing the previous application (RN: 16/09974/FULL).

To address this previous reason for refusal, the applicant has submitted a Plant Noise Assessment and details of internal noise insulation. The Environmental Health Officer has reviewed these details and confirms that they are acceptable, subject to conditions to limit noise from the proposed plant and to provide adequate noise insulation for the student accommodation. Subject to these conditions, the proposed development would be consistent with policies S29 and S32 of the City Plan and policies ENV 6 and ENV 7 of the UDP.

8.4 **Transportation/Parking**

8.4.1 Car Parking

The proposed development has been reviewed by the Highways Planning Manager who notes that the proposed units would be occupied for more than 90 days at a time and are therefore eligible for resident's car parking permits. Accordingly, policy TRANS23 of the

UDP applies to the proposal. Policy TRANS 23 would require the provision of six off-street parking spaces unless sufficient capacity exists on-street to accommodate these spaces.

No off-street parking is proposed which will increase the demand for on-street car parking in the area. The impacts of high parking demand are well known and include:

1. drivers being forced to circulate around an area seeking empty spaces which causes unnecessary congestion, environmental pollution and noise disturbance;
2. drivers being tempted to park in dangerous or inconvenient locations, such as close to junctions or on pedestrian crossing points;
3. drivers having no choice but to park some distance from their homes causing inconvenience and more serious problems for elderly or disabled residents.

Policy TRANS23 details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. The addition of even one additional residential unit is likely to have a significantly adverse impact on parking levels in the area and this may lead to a reduction in road safety and operation.

The City Council's most recent parking surveys indicate that on-street parking occupancy in this area already exceeds 80% during daytime hours. Accordingly, insufficient on-street parking capacity exists to accommodate the potential parking demand of the proposed student accommodation.

It is acknowledged that the site has a high level of public transport accessibility. However, 33% of households within this ward have one or more cars (see 2011 Census figures). Whilst this is lower than the borough average, it does indicate that residents in the area do own cars and the development will add to existing on-street parking stress. On this basis, the Highways Planning Manager objects to the proposed development.

However, paragraph 109 of the NPPF states that "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*". In this instance, the proposed development would potentially increase on-street parking demand by just two spaces given car ownership levels within this ward. This site is also well serviced by public transport. Accordingly, the proposed development is unlikely to result in a severe impact on on-street parking levels and an objection to the development on this basis would not be sustainable.

8.4.2 Cycle Parking

Policy 6.9 of the London Plan requires the provision of 18 cycle spaces for the proposed student accommodation and an additional two spaces for the proposed A1/A3 unit. The applicant proposes the provision of 12 shared hire cycles in a locker at the front of the property for the student accommodation and 8 cycle spaces at the front of the property for the A1/A3 use. The Highways Planning Manager has objected to the shared hire cycles for the student accommodation, as it does not meet policy 6.9 of the London Plan. However, a condition has been recommended to secure an appropriate level of cycle parking. Subject to this condition, the proposed development would be consistent with policy 6.9 of the London Plan.

8.4.3 Waste

The Waste Project Officer has reviewed the proposed development and raises several concerns with the details of the waste storage proposed. However, a condition could be imposed to secure appropriate details. Subject to this condition, the proposed development would be consistent with policies ENV 12 and TRANS 20 of the UDP.

8.4.4 Servicing

Policy TRANS20 requires the provision of off-street servicing for the A1/A3 use. A Service Management Plan (SMP) has been submitted that indicates that servicing will occur on-street. It is not clear why this needs to be the case as there appears to be an existing drop crossing and hardstanding to the front of the site. If the proposed bike hoops were relocated to the west of this area this would enable more room. Whilst the largest regular service vehicle (refuse collection vehicle) expected to be associated with this development would be unable to use this other smaller vehicles could which would relieve the pressure on the public highway. The refuse vehicle would service the property in a similar fashion to the previous use and nearby properties. The site is located within a Controlled Parking Zone, which means that locations single and double yellow lines in the vicinity allow loading and unloading to occur. Accordingly, a condition is recommended to secure an updated SMP that uses the area of hardstanding at the front of the site for small servicing vehicles. Subject to this condition, the proposal would be consistent with policy TRANS20 of the UDP.

Delivery vehicle parking associated with the A1/A3 unit can reduce the availability of parking for other uses and increases noise and fumes in the area. To minimise the impact of the proposed use on the road network, a condition is recommended that prevents a delivery or takeaway service operating from the premise.

8.5 **Economic Considerations**

The proposed A1/A3 unit would bring this vacant site back into use. This would provide a source of employment and a place for small businesses to operate within NWEDA.

8.6 **Access**

The proposed development includes level access to the proposed student accommodation.

8.7 **Other UDP/Westminster Policy Considerations**

8.7.1 Basement Development

The applicant has submitted a Structural Methodology Statement which demonstrates that the basement extension proposed can be safely built whilst taking into account the specific ground conditions of the application site. Were the development otherwise acceptable, a condition would be attached requiring compliance with the City Council's Code of Construction Practice. Subject to this condition, the proposal complies with part A. 2 of policy CM 28.1 of the City Plan.

The basement extension itself would be single storey and confined to the area beneath the proposed extension. The light wells at front and rear are also discreetly located. Accordingly, the proposed basement meets the size, location and depth limitations within policy CM28.1 of the 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 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 a pre-commencement condition 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. The applicants response to this notice will be reported before or at the Sub-Committee meeting.

8.11 Planning Obligations

As noted above, an appropriate Unilateral Undertaking must be secured to ensure that the student accommodation is retained for students of Westminster in the first instance.

Subject to any exemptions or relief available to the applicant, the proposed development has a total CIL liability of £230,500 (£184,400.00 Westminster CIL and £46,100.00 Mayoral CIL)

8.12 Environmental Impact Assessment

The proposed development is too small to require an Environmental Impact Assessment.

8.13 Other Issues

8.12.1 Trees

As noted above, the previous application (RN: 16/09974/FULL) was refused for, amongst other things, the potential impact of the development on a protected London Plane tree on 313-319 Harrow Road.

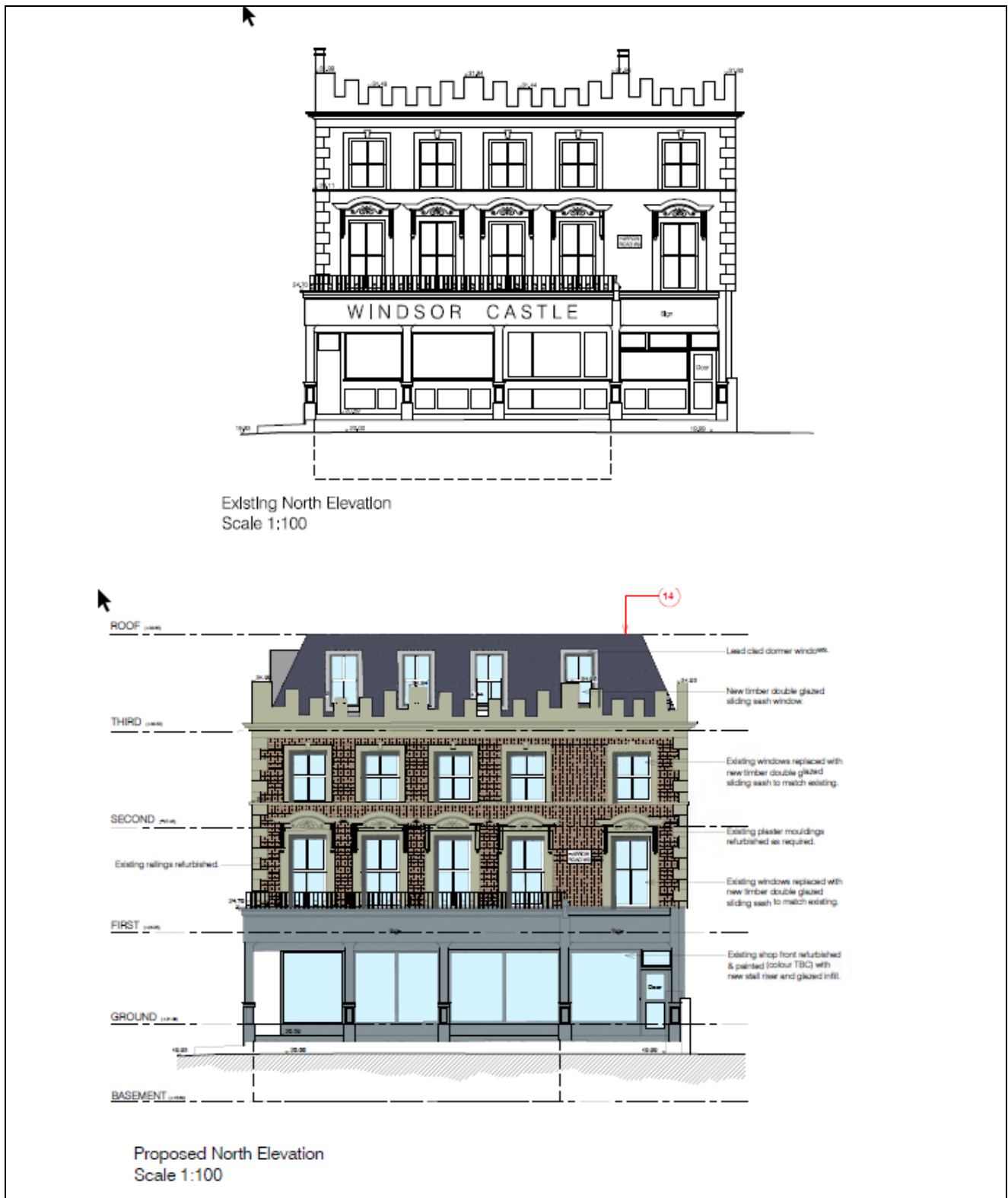
The applicant has undertaken trial excavation at the front of the site to determine the extent of roots on-site. Subsequent to this, the applicant has revised the extent of the front lightwell to reduce its encroachment into the RPA of this tree. The Arboricultural Manager has reviewed this and considers it acceptable, subject to conditions requiring submission of an Arboricultural Method Statement and pruning of this tree to minimise potential conflict with the mansard extension proposed.

Subject to these recommended conditions, the proposed development would be consistent with policy S38 of the City Plan and policy ENV16 of the UDP

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

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

9. KEY DRAWINGS





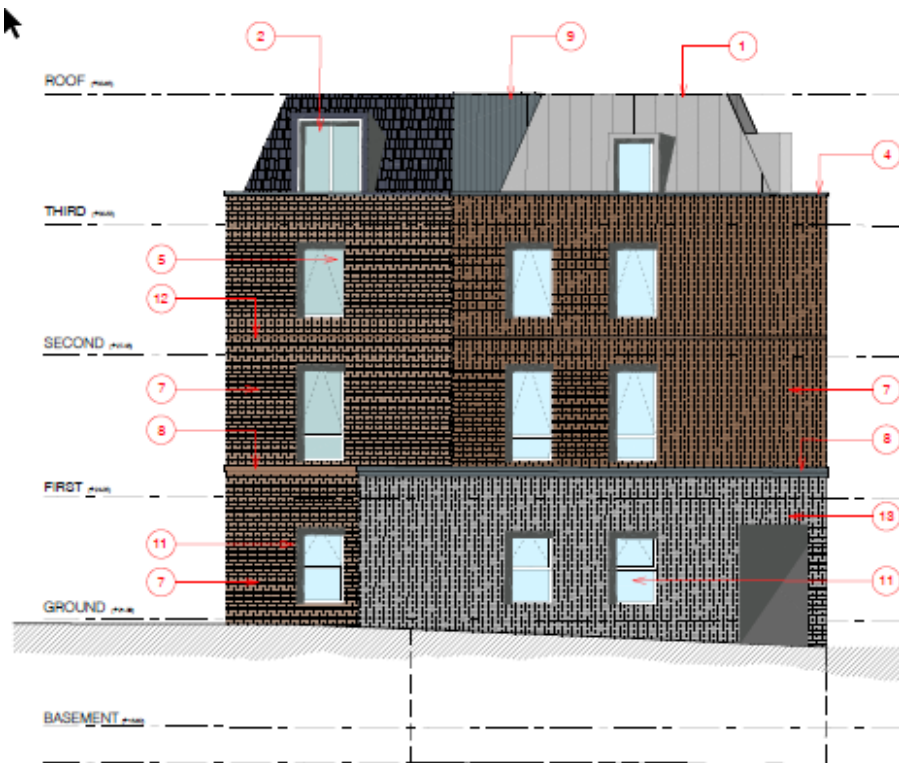
Existing East Elevation
Scale 1:100



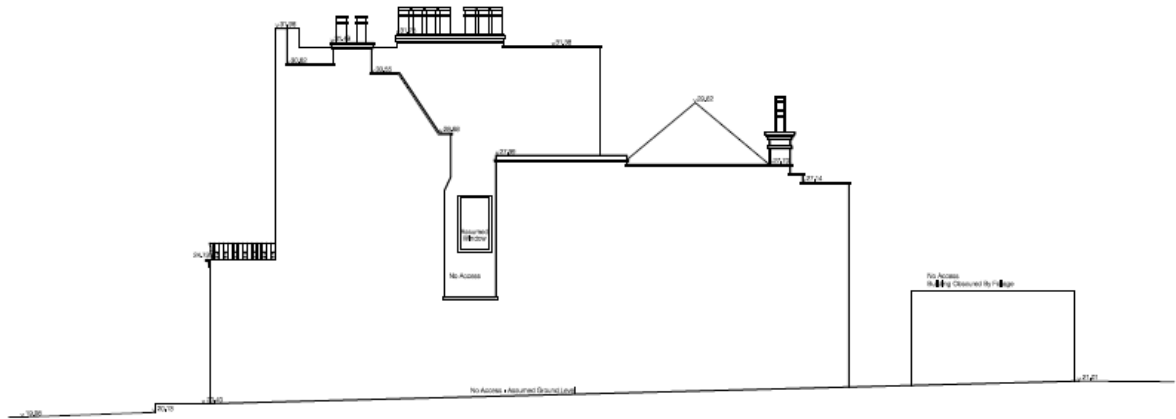
Proposed East Elevation
Scale 1:100



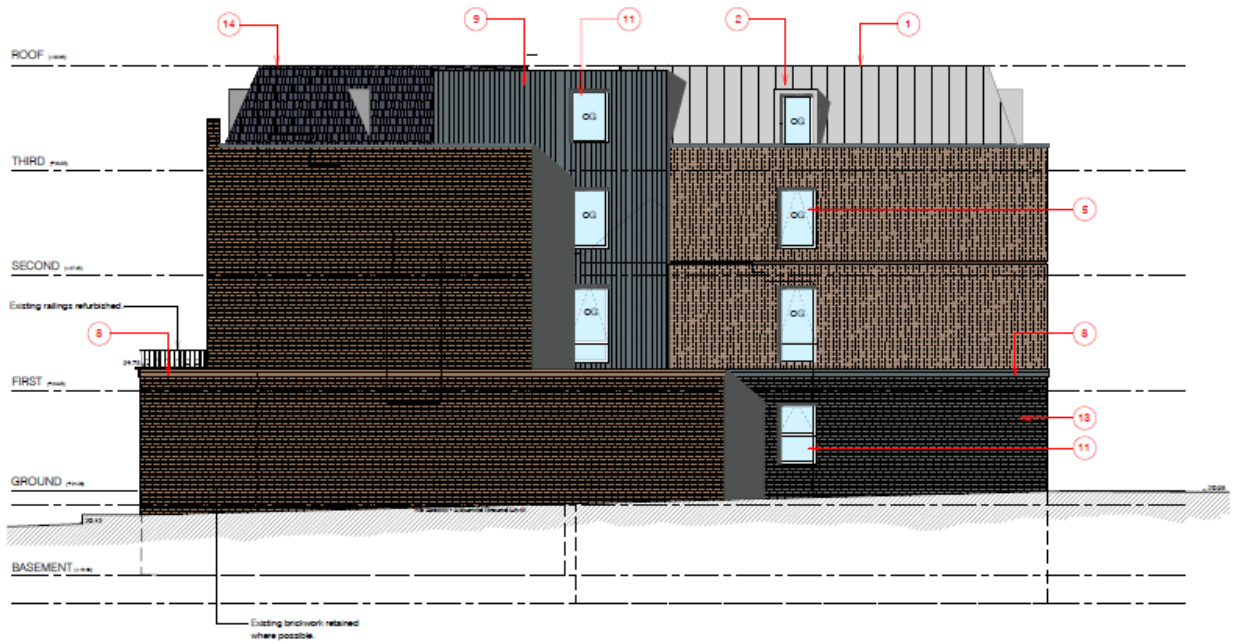
Existing South Elevation
Scale 1:100



Proposed South Elevation
Scale 1:100

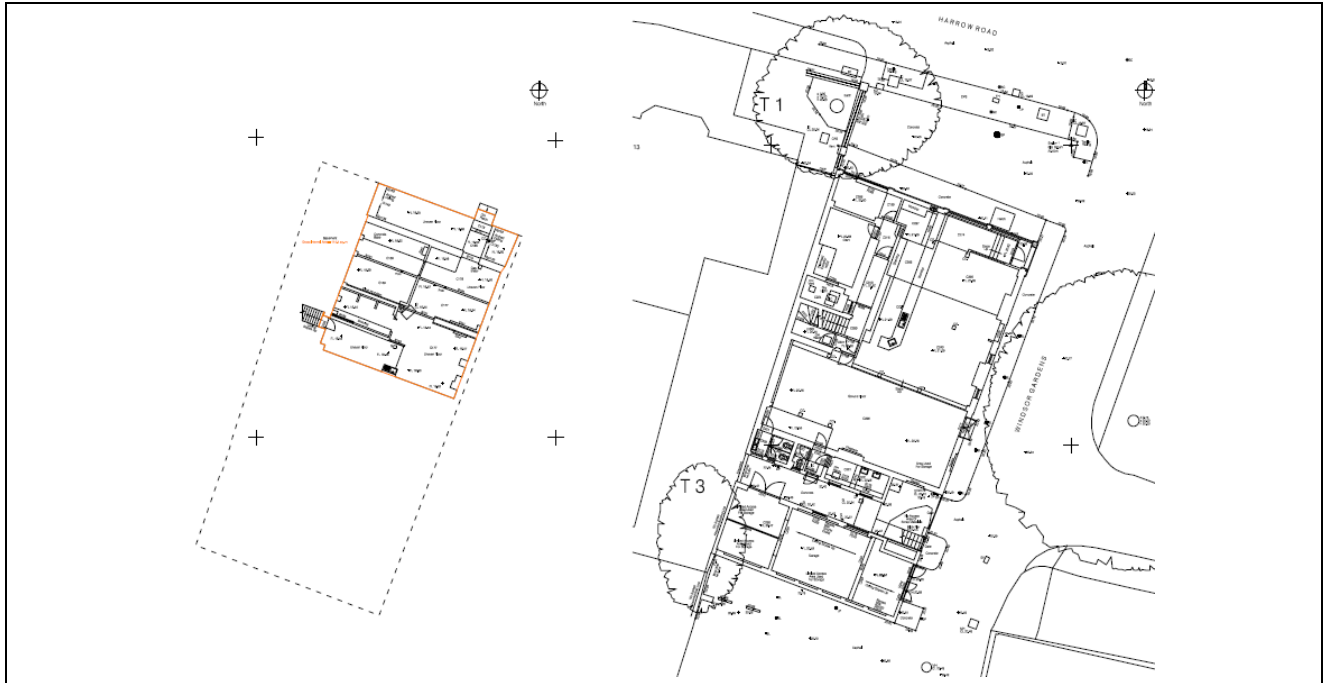


Existing West Elevation
Scale 1:100



Proposed West Elevation
Scale 1:100

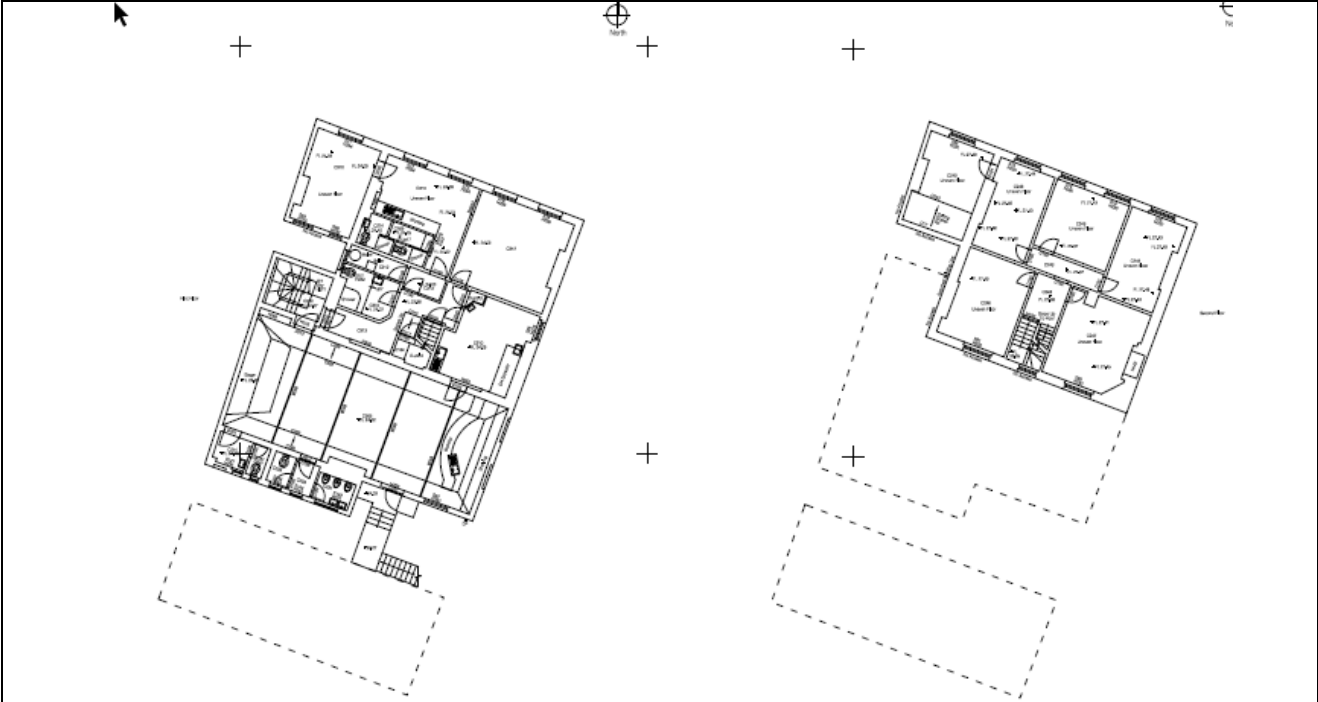
Key:



Existing Basement and Ground Floor Plans



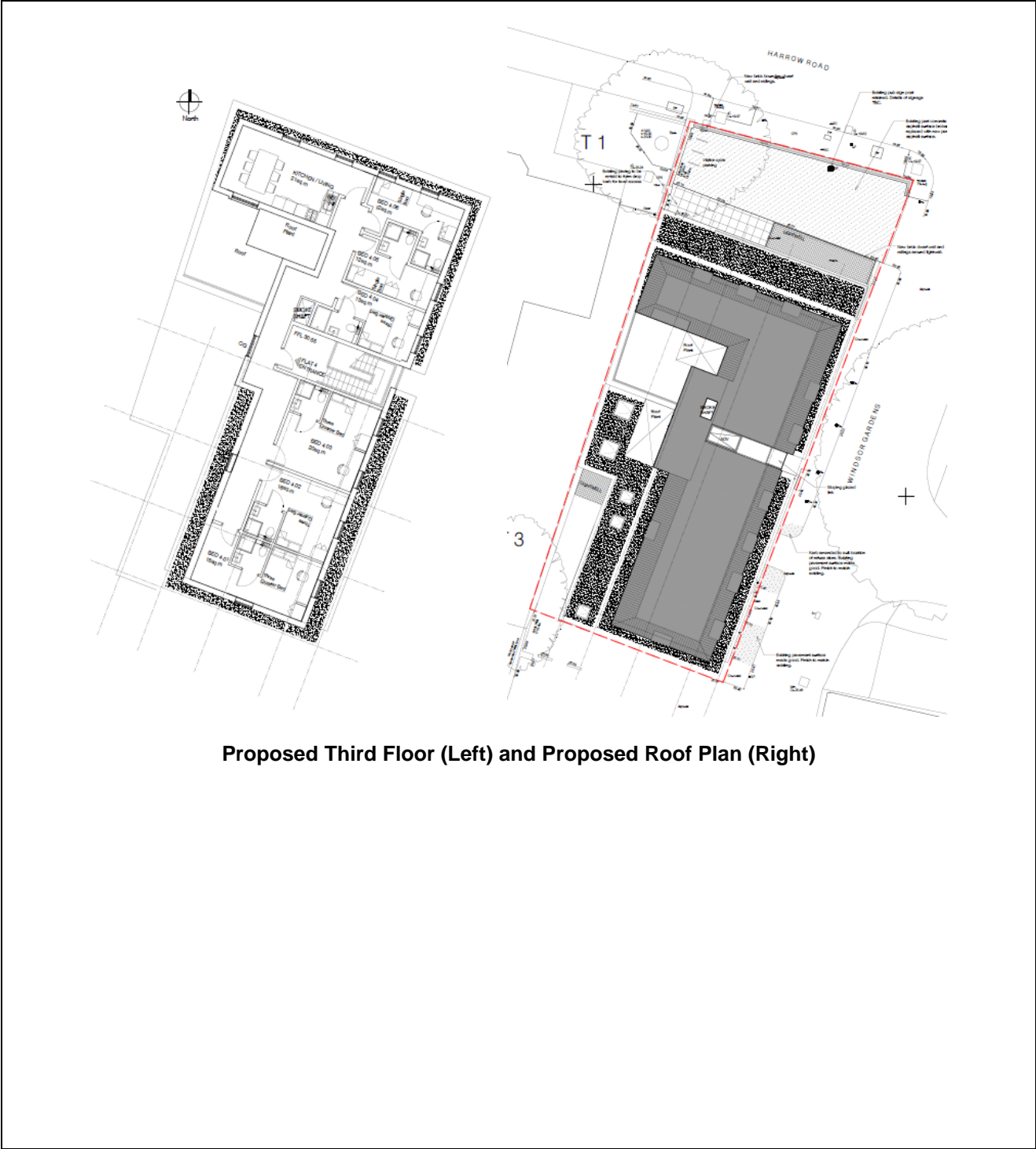
Proposed Basement and Ground Floor Plans



Existing First and Second Floor Plans



Proposed First and Second Floor Plans



Proposed Third Floor (Left) and Proposed Roof Plan (Right)

DRAFT DECISION LETTER

Address: 309-311 Harrow Road, London, W9 3RG

Proposal: Dual/ alternative use of part of the basement and ground floors for Class A1 or Class A3 use. Erection of roof extension to form new third floor and erection of rear extension comprising basement, ground and three upper floors and associated external alterations to existing building including new windows to front elevation at ground floor level. Use of part basement and ground floors and the first, second and third floors as student accommodation (34 bed spaces).

Reference: 18/07841/FULL

Plan Nos: Drawing numbers (03) 01, (03) 03 Rev A, (03) 04, (03) 05 Rev A, (03) 06, (03) 07 Rev E, (03) 08 Rev I, (03) 09 Rev E, (03) 10 Rev I, (03) 11 Rev E

FOR INFORMATION ONLY: Planning Statement by Nexus Planning (August 2018), Design and Access Statement by Box Architects (June 2018), Heritage Statement by Geoff Noble (June 2018), Structural Methodology Statement by WYG (June 2018), Transport Statement by Vectos (June 2018), Market Demand Report by Cushman Wakefield (June 2018), Daylight and Sunlight Report by Shroders Begg (June 2018 Rev 1), Student Accommodation Management Statement by YPP Lettings Limited (Undated), Arboricultural Method Statement by Tyler Grange (12 June 2018), Pruning Methodology by Pruning Methodology by Tyler Grange (ref: 10540_R03_JP_HM, dated 5th December 2018), Internal Sound Insulation report by Cole Jarman (21 June 2018, ref: 18/0037/R2), Planning Assessment Report by Cole Jarman (21 June 2018, ref: 18/0037/R1), Market Assessment Report by Lambert Smith Hampton (June 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 **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 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 only use the accommodation for students of higher education institution(s) that provide a designated course approved by the Department for Education for higher education study.

Reason:

To make sure the accommodation is used for this purpose as we know there is a need for this type of accommodation. This is as set out in S15 of Westminster's City Plan (November 2016), H 6 of our Unitary Development Plan that we adopted in January 2007 and H17 of the Draft London Plan (November 2017).

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

- all new windows and doors;
- railings around and/or a grille over the front lightwell; and
- shopfront to Harrow Road

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

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

Reason:

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

- 6 You must apply to us for approval of 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

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

- 7 (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)

- 8 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.
- (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the A1/A3 use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.
- (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R47AB)

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

Reason:

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

- 10 The plant/machinery 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)

- 11 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 7 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

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

Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. (R51AB)

- 12 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)

- 13 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not cook food in the A1/A3 unit until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

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

- 14 You must not use the roof of the extension for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21BA)

Reason:

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

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

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)

- 16 You must apply to us for approval of details of secure cycle storage for the student accommodation and A1/A3 uses. 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)

- 17 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 student accommodation and A1/A3 uses. (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)

- 18 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

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

- 19 The development hereby approved shall not be occupied until a Servicing Management Plan (SMP) has been submitted to and approved in writing by the local planning authority. You must then carry out the development in accordance with the approved SMP.

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 TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 20 You must apply to us for approval of a management strategy for the student accommodation hereby approved. You must not permit occupation of the student accommodation until we have approved in writing what you have sent us. You must then manage the student accommodation in accordance with the management strategy approved.

Reason:

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

- 21 You must not sell any take-away food or drink on the premises, for either collection or delivery, even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (November 2016) and TRANS20 of our Unitary Development Plan that we adopted in January 2007.

- 22 **Pre-Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

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

- 23 You must carry out any pruning of the London Plane tree that overhangs the front of the site in accordance with the pruning methodology by Tyler Grange (ref: 10540_R03_JP_HM and dated 5th December 2018).

Reason:

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

Informatives:

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

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 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.
 - * Window cleaning - where possible, install windows that can be cleaned safely from within the building.
 - * Internal atria - design these spaces so that glazing can be safely cleaned and maintained.
 - * Lighting - ensure luminaires can be safely accessed for replacement.
 - * Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).
 More guidance can be found on the Health and Safety Executive website at www.hse.gov.uk/falls/index.htm.

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your

drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

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

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

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

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 7 Your proposals include demolition works. If the estimated cost of the whole project exceeds £300,000 (excluding VAT), the Site Waste Management Plan (SWMP) Regulations 2008 require you to prepare an SWMP before works begin, to keep the Plan at the site for inspection, and to retain the Plan for two years afterwards. One of the duties set out in the Regulations is that the developer or principal contractor "must ensure, so far as is reasonably practicable, that waste produced during construction is re-used, recycled or recovered" (para 4 of the Schedule to the Regulations). Failure to comply with this duty is an offence. Even if the estimated cost of the project is less than £300,000, the City Council strongly encourages you to re-use, recycle or recover as much as possible of the construction waste, to minimise the environmental damage caused by the works. The Regulations can be viewed at www.opsi.gov.uk.
- 8 The design and structure of the development shall be of such a standard that the dwelling is free from the 29 hazards listed under the Housing Health Safety Rating System (HHSRS). However, any works that affect the external appearance may require a further planning permission. For more information concerning the requirements of HHSRS contact:

Residential Environmental Health Team
4th Floor East, Westminster City Hall
64 Victoria Street
London SW1E 6QP
www.westminster.gov.uk
Email: res@westminster.gov.uk
Tel: 020 7641 3003 Fax: 020 7641 8504.

- 9 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 10 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

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

If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk

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

- 11 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. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: <https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 12 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 13 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 14 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's

Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: www.westminster.gov.uk/cil

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

CIL forms are available from the planning on the planning portal:
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

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

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

- 15 This permission is governed by a Unilateral Undertaking from the applicant under Section 106 of the Town and Country Planning Act 1990. The Undertaking relates to securing the accommodation for the use of students of higher education institution(s) based in Westminster.
- 16 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the ground and basement floors at the front of the building can change between the A1 and A3 uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

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

Item No.
4

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Agenda Item 5

Item No.

5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date: 18 th December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Harrow Road	
Subject of Report	Open Space At Junction Of Fernhead Road And, Elgin Avenue, London, ,		
Proposal	Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)		
Agent			
On behalf of	Ruchi Chakravarty - Westminster Council		
Registered Number	17/10180/COFUL	Date amended/ completed	25 January 2017
Date Application Received	15 November 2017		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
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2. SUMMARY

Planning permission was originally granted in 2008 for the use of Maida Hill junction as a retail street market and to hold community events. This permission has been renewed on a temporary basis with the most recent permission expired on 31 October 2017.

The current application seeks to renew the most recent permission (which was a slight variation on previous year's permissions in that it no longer proposes the full area previously allowed on Fernhead Road) for the Maida Hill market. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

This application is linked to the application for the storage unit submitted on the 27th September 2018. Given the length of time between the submission of the two applications, re-consultation was undertaken with neighbours on this application. No responses have been received as a result of this re-consultation

The key issues in this case are:

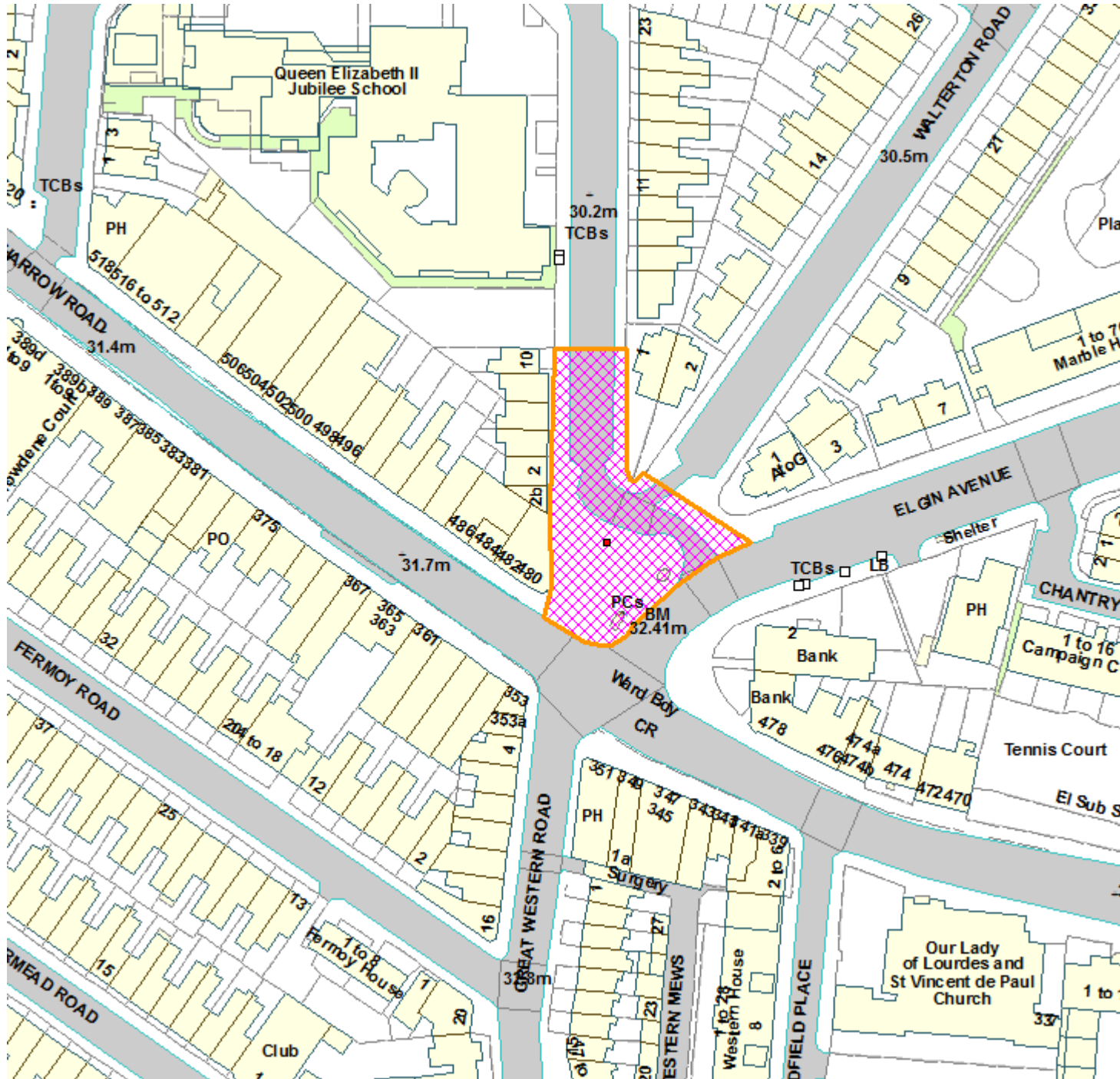
- The impact of the market in land use terms on the retail character and function of the Harrow

Road District Shopping Centre.

- The impact on the local highway network, including the availability of on street parking and the acceptability of servicing arrangements.
- The impact on the amenity of neighbouring residents.

The use of the public highway as a temporary street market accords with Policy S12 of Westminster's City Plan, and it is recommended that conditional permission is granted to renew the market for a further temporary period of one year. This further temporary period will allow a future review of the impact of the market on the amenity of neighbours and the area generally.

3. LOCATION PLAN



4. PHOTOGRAPHS



Photo to show area used for market

5. CONSULTATIONS

ORIGINAL CONSULTATION:

WARD COUNCILLORS FOR HARROW ROAD AND QUEENS'S PARK:

Verbal support of proposals from Cllr Bush. Any other responses to be reported verbally.

TRANSPORT FOR LONDON

No objection.

NORTH PADDINGTON SOCIETY

Any responses to be reported verbally.

HIGHWAYS PLANNING MANAGER

No objection.

CLEANSING MANAGER:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 214;

Total No. of objections: 3.

The following concerns were raised:

Amenity & Parking:

- The market is disruptive day and night both in terms of setting up/dismantling and operation;
- The fish stall is smelly and attracts seagulls which result in further mess;
- The market attracts antisocial behaviour;
- Noise from the use of the storage area at 1 Elgin Avenue;
- Increase in rubbish;
- Impact upon use of Fernhead Road for access and subsequent congestion;
- Parking of market vehicles on Fernhead Road, taking away parking from residents which isn't controlled by parking attendants
- Considerable No of complaints have been made to Westminster departments and staff.

Other:

- Health and safety standards over the products sold in the market;

ADVERTISEMENT/SITE NOTICE: Yes.

NO RESPONSES RECEIVED TO RE-CONSULTATION:

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site relates to an area of open space at Maida Hill Place (formerly known as the Prince of Wales Junction) that is bounded by Harrow Road, Elgin Avenue, Fernhead Road and Walterton Road, and an area of public highway at the lower ends of Fernhead Road and Walterton Road.

The application site forms part of the Harrow Road District Shopping Centre, within the North Westminster Economic Development Area in Westminster's City Plan and North Westminster Special Policy Area (NWWSPA) in the Unitary Development Plan (UDP). The site is located outside a conservation area.

6.2 Recent Relevant History

Permission has been granted for the use of the public highway market on a yearly basis since 2008. The most recent permission is as follows:

11.10.2016 - Planning permission granted in respect of continued use of the public highway as a street market for six days a week from 09.00 to 20.00 (Monday to Saturday). (Council's Own Development). This permission was limited until 31 October 2017 (16/07725/COFUL)

Alongside the applications for the use of the public highway for market purposes, yearly permissions have been granted for the use of the basement car park at 1 Elgin Avenue for the storage of street market stalls and associated equipment relating to the market. The most recent permission is as follows:

1.2.17 – Planning permission granted for the continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market. This permission was limited until 31 October 2017 (16/10632/FULL).

7. THE PROPOSAL

The current application seeks permission to renew planning permission for a temporary period of one year, for the street market at the junction of Harrow Road, Elgin Avenue and the public highway at the southern ends of Fernhead Road and Walterton Road. The hours of operation are the same as those previously approved, which are Monday-Saturday 09.00-20.00.

In total, 36 pitches are proposed on the site Monday to Saturday. In recent years a further 15 pitches have been allowed on Saturdays on Fernhead Road, however this is no longer proposed. The market will not operate on Sundays.

In 2017, a temporary permission was granted to the leaseholder of the basement carpark of 1 Elgin Avenue for the retailers of the market to store their goods at 1 Elgin Avenue, until 31 October 2017. This wasn't originally approved alongside the concurrent

market application 16/07725/COFUL as officers were informed that this space was no longer required by the market traders. The use of the storage area does also not form part of this application. However, an application for the use of the basement for storage has now been submitted and is to be determined in conjunction with this application.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The continuation of Maida Hill market is consistent with Policy S12 of Westminster's City Plan, which states that development within the North Westminster Economic Development Area should encourage economic activity. The redevelopment of a civic space at the Prince of Wales Junction/Maida Hill for community activities and to provide a focus for the area is a priority of the policy.

The continuation of the retail market is not considered to adversely impact the retail character and function of this part of the Harrow Road District Shopping Centre.

The proposal therefore fully accords with Policy SS13 of the UDP.

8.2 Townscape and Design

The demountable market stalls are of a uniform design (as per the existing market stalls) and these will be removed at the end of the day. Therefore, the proposal will have limited impact on the townscape of this area.

8.3 Residential Amenity

Policies ENV6 and ENV13 in the UDP seek to resist proposals that result in a material loss of amenity, including noise disturbance, as do Policies S29 and S32 in the City Plan. Objection has been received from a nearby resident, raising general amenity concerns, in relation to the market.

As per the previous permission, the market will be confined to the very southern end of Fernhead Road and the junction of Harrow Road and Elgin Avenue, which is more commercial in character rather than residential, and is in close proximity to heavily trafficked roads, where a certain level of noise and activity associated with a market, shops and traffic is anticipated.

Whilst the amenity concerns of the adjoining residents are well understood, it is not considered that a further one year use, in the hours proposed will result in such material levels of harm to warrant refusal of permission.

Issue of anti-social behaviour, street drinking and groups loitering near the market during operating hours and after has previously been raised with the Police and the Community Protection Unit. There is an area based city inspector who deals with logged complaints. A large majority of the logged complaints relate to music and anti-social behaviour in the area, seemingly centring around the permanent benches and not the market itself.

While it is apparent from the logs that there are issues relating to noise and anti-social behaviour, it is not considered that they are directly related to the market.

Subject to a condition to control the hours of operation of the street market, it is not considered that a refusal on amenity grounds could be sustained and the proposal is considered to be in accordance with Policy ENV13 of the UDP and Policy S29 of Westminster's City Plan.

8.4 Transportation/Parking

The alterations to public highway necessary to facilitate the previously expanded Saturday market expansion in 2014 included the relocation of parking, amendments to loading bays, alterations to road markings and prohibition of vehicles from entering the expanded market area along Fernhead Road and Walerton Road. These alterations were the subject of a Traffic Order. Committee has previously agreed to the proposed alterations to the highway network and parking layout as part of the expansion of the street market. The Traffic Regulation Order was made in May 2014 and the alterations to the parking and road layout implemented in July 2014. Objections to the parking arrangements for the market on Fernhead Road have been received. This is not a matter for assessment under this application, as there is no alteration to the local highway network or parking layout proposed under this current application for a renewal of the street market.

In respect of servicing arrangements, there is no change proposed to the current servicing arrangements for the market from the slip road connecting Fernhead Road and Elgin Avenue (which is closed to traffic during market hours) and loading/unloading bays outside Nos. 2-4 Fernhead Road. In addition, there are eight dedicated pay by phone parking bays on the west side of Fernhead Road for market traders and provision for 16.5 metres of single and double yellow lines on Fernhead Road for retailers. Objections have been received on the grounds that the parking in the area is not controlled in the area. This is a matter for parking officers.

The site is well served by public transport; the 2013 District Shopping Centre Health Check survey confirms that 95% of people using Harrow Road arrive by foot and public transport. Visitor parking is available in the northern section of Fernhead Road up to Kennet Road and, from 18.30 weekdays and Saturdays, visitors and traders are able to park on single yellow lines, residents' bays and pay-by-phone bays, as no restrictions apply at these times.

8.5 Economic Considerations

The continued operation of the Maida Hill Place market and offers wider economic benefits to the area in accordance with Policy S12 in the City Plan.

8.6 Access

This application raises no issues as the market has level access

8.7 Other UDP/Westminster Policy Considerations

Policy ENV12 of the UDP requires all developments to make provision for the storage of waste and, in some cases, a waste management plan provided.

The applicant has provided a waste management plan as part of the application. This states the market is supplied with a Eurobin from Veolia, the Council's waste contractor and are lockable. Waste collections are undertaken daily by the City Council from the waste collection point at the junction of Elgin Avenue and Walterton Road. Objections in relation to smells and wastes from a fish stand have been received. The market pavement area requires regular cleaning, which is the responsibility of the City Council Street Cleansing Team.

One objection has been received on the grounds that since the market opened the levels of rubbish are unacceptable. Whilst there may be occasion where there is rubbish from traders/ visitors as would be expected for a function such as a market, any issues which are reported to the City Inspector prior to usual waste collection, are passed to Veolia and are on the whole is dealt with quickly. No objections are therefore raised to the renewal of the market for a further temporary period of one year on these grounds..

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.9 Neighbourhood Plans

None relate to this area.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

No pre-commencement conditions were recommended.

8.12 Planning Obligations

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

The proposals are not considered to be CIL liable.

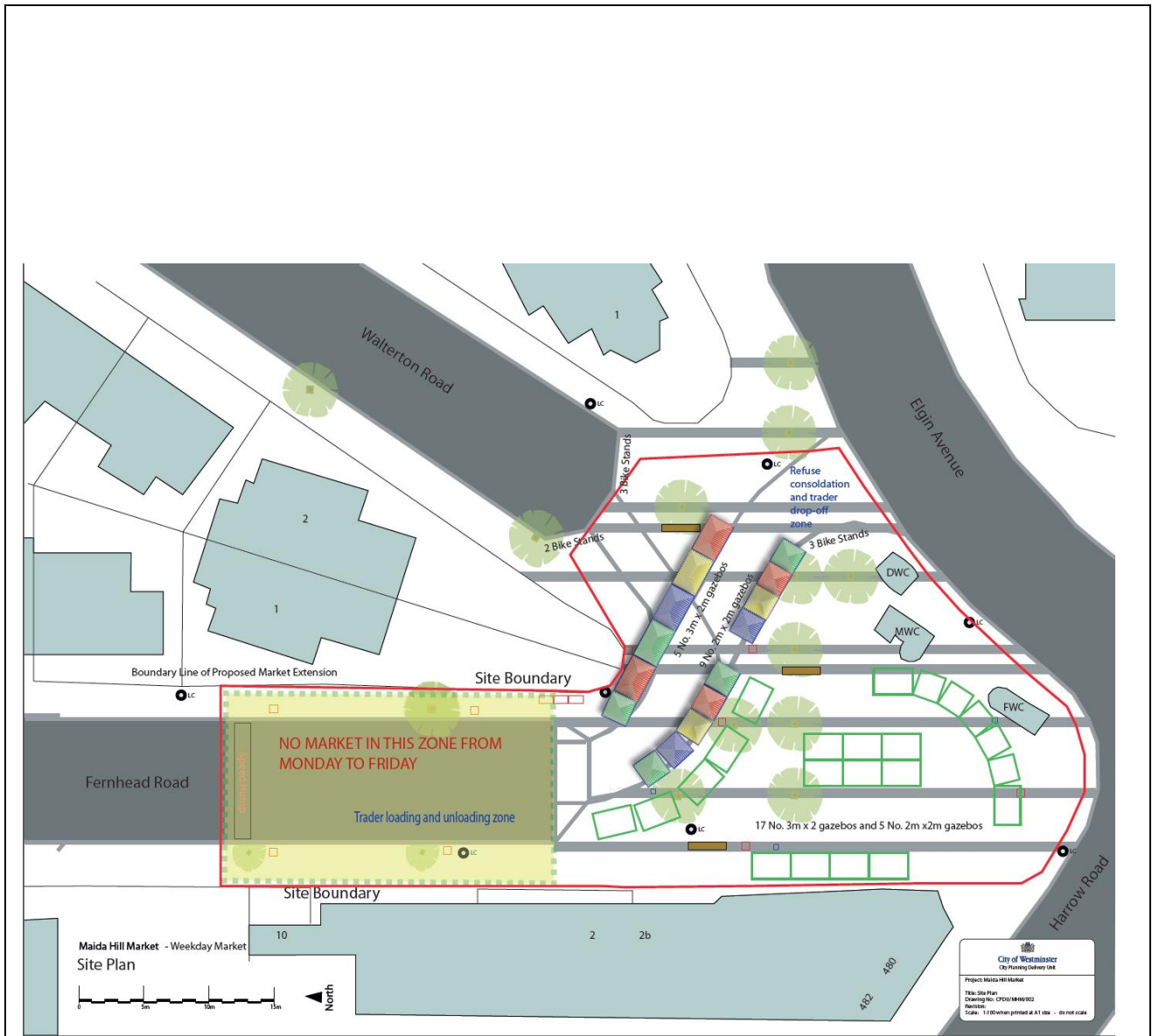
8.13 Environmental Impact Assessment

Not applicable to a development of this scale.

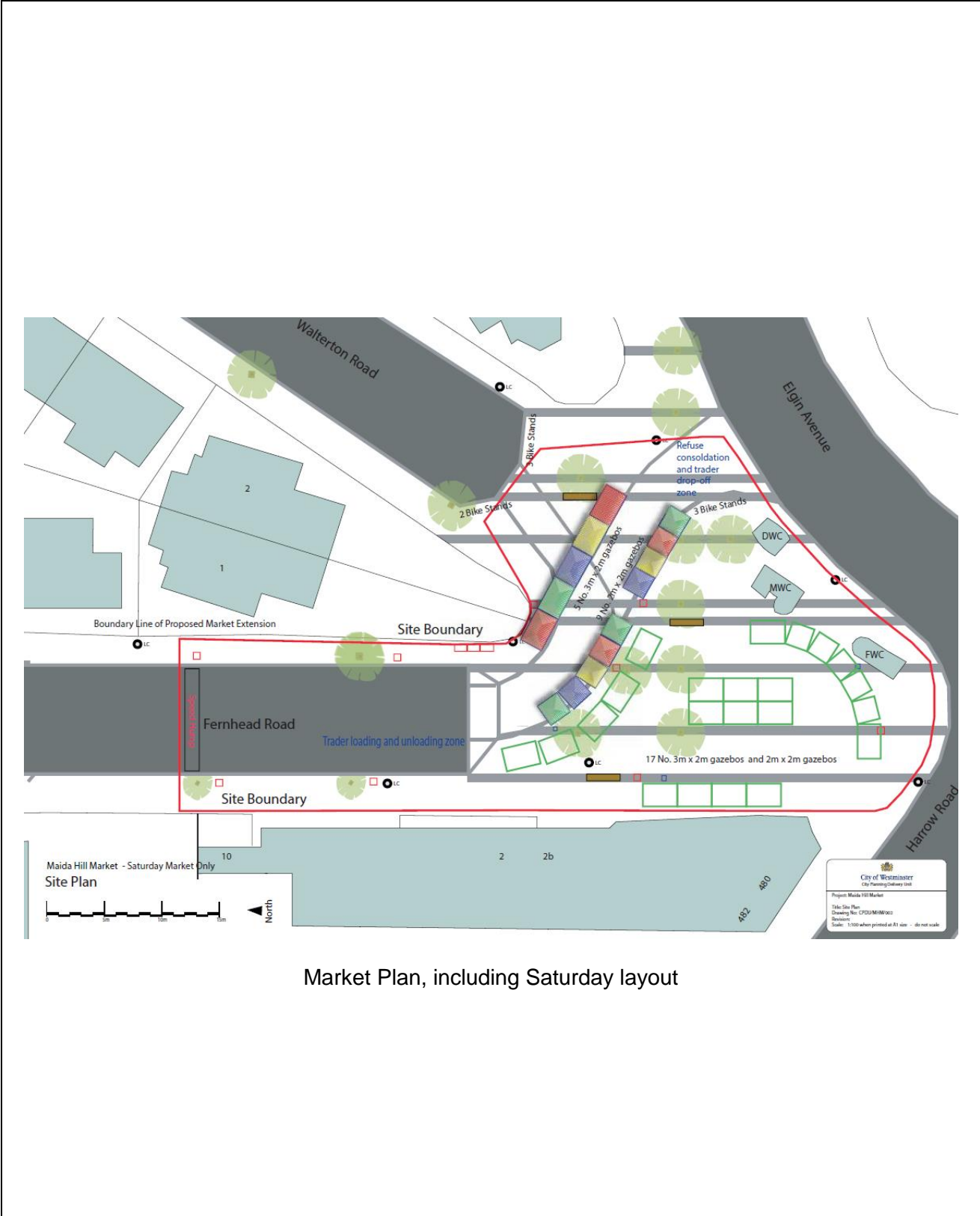
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

9. KEY DRAWINGS



Monday – Friday Layout Plan



DRAFT DECISION LETTER

Address: Open Space At Junction Of Fernhead Road And, Elgin Avenue, London,

Proposal: Continued use of designated public space and public highway for a street market (Monday to Saturday 09.00 to 20.00)

Plan Nos: CPDU/MHM/002 (titled 'Maida Hill Market - Weekday Market'); CPDU/MHM/002 (titled 'Maida Hill Market - Saturday Market Only'); Design and Access Statement dated August 2016; Market Supporting Information dated August 2016; Waste Service Plan.

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

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.
Reason:
For the avoidance of doubt and in the interests of proper planning.
- 2 The market can operate between the hours of 09.00 to 20.00 Monday to Saturday in the area shown on drawing CPDU/MHM/002 (titled 'Maida Hill Market - Weekday Market') and on CPDU/MHM/002 (titled 'Maida Hill Market - Saturday Market Only').
Reason:
In order to reserve details of the days/ times for the operation of the market with the chosen market operator in order to safeguard the amenities of nearby residents as set out in S29 and S32 of Westminster's City Plan: Strategic Policies which we adopted in July 2016 and ENV6 and ENV13 of our Unitary Development Plan that we adopted in January 2007.
- 3 The market use allowed by this permission is limited until 31 December 2019.
Reason:
It is considered reasonable to impose a temporary time limit in order to assess the impact of the use of the market on the amenities of nearby residents in accordance with S29 of Westminster's City Plan which we adopted in November 2016 and ENV13 of the Unitary Development Plan, adopted January 2007.
- 4 No servicing of the market shall take place at any time from the Harrow Road.
Reason:
To ensure the smooth passage of vehicles and pedestrians on the Harrow Road as required by Transport for London.

- 5 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

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)

- 6 No amplified music shall be played in connection with the market use.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 7 No deliveries or unloading of items associated with the market stalls shall be made between the hours of 20.00 and 08.00 hours.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

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 (July 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.

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date: 18 th November 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Harrow Road	
Subject of Report	1 Elgin Avenue, London, W9 3PR,		
Proposal	Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market.		
Agent	Mr Chris Struthers		
On behalf of	Mr Chris Struthers		
Registered Number	18/08250/FULL	Date amended/ completed	27 September 2018
Date Application Received	27 September 2018		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission for a temporary period of one year.
--

2. SUMMARY

This application seeks approval for the continued use of the car park underneath No. 1 Elgin Avenue for the storage of market stalls and associated equipment in association with the operation of the retail market at Maida Hill Place also being presented before committee (RN: 17/10180/COFUL). It is proposed that this storage area will be used seven days a week. Permission was last granted for the storage use of the car park was granted in January 2017 (RN: 16/10632/FULL) by Committee and was for a limited period until 31st October 2017.

There have been no objections raised to the continued use of the car park for the storage of market stalls.

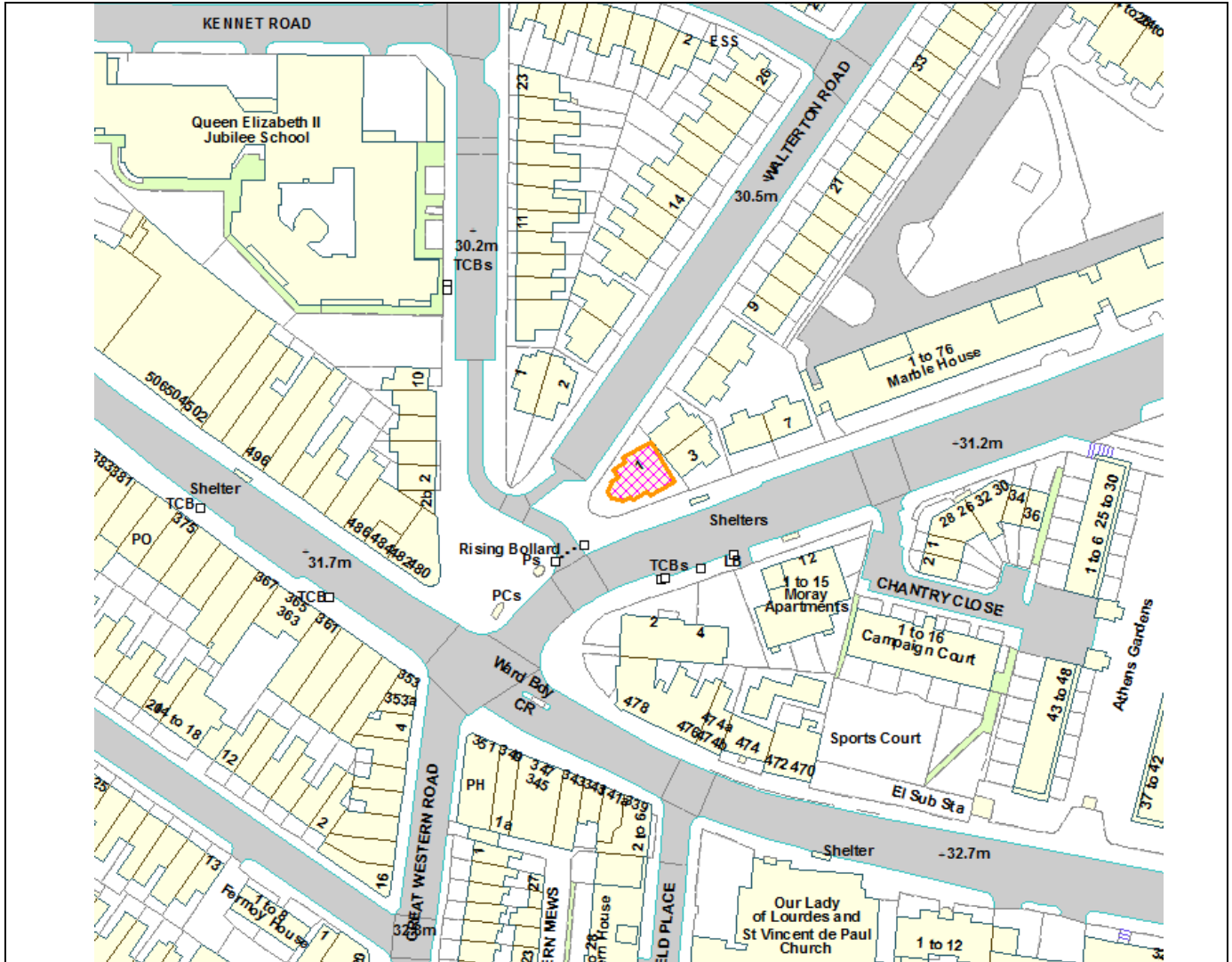
The key issues in this case are:

- Whether the continued use of the car park for market storage will result in a material loss of amenity to neighbouring residents by reason of increased noise and disturbance.
- The loss of four off street residents parking spaces in the car park.

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

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

3. LOCATION PLAN



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4. PHOTOGRAPHS

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



5. CONSULTATIONS

WARD COUNCILLORS FOR HARROW ROAD:

Any response to be reported verbally

NOTTING HILL EAST NEIGHBOURHOOD FORUM:

Supports proposals

NORTH PADDINGTON SOCIETY:

Supports proposals. Aware of measures to manage the Maida Hill Market and the storage unit improves the opportunities for uses of the space that benefit the area and discourage antisocial behaviour.

MAIDA HILL NEIGHBOURHOOD FORUM:

Any response to be reported verbally

TRANSPORT FOR LONDON:

No comments.

WASTE PROJECT OFFICER:

Raise no objection

HIGHWAYS PLANNING - DEVELOPMENT PLANNING:

Use of the car park is contrary to policy TRANS 23, however as no highways or transport issues, there are no objections to the continued temporary permission.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 48

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

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

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

The car park has been used for storage purposes by the Maida Hill Market since the market use started in June 2009 on the open space at the former Prince of Wales

junction. Retrospective permission was first granted in February 2010 for its use as market storage and this was limited until 18 July 2010 and was subsequently renewed until 31 December 2010. The last permission was granted on 24th January 2017 by the Planning Applications Committee again for another limited period which expired on 31st October 2017.

6.2 Recent Relevant History

24th January 2017 - Continued use of the basement car park for the storage of street market stalls and associated equipment relating to Maida Hill Place and Maida Hill Market. (16/10632/FULL),

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

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

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

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

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

16 June 2011 - Permission was granted for continued use of the basement car park at 1 Elgin Avenue for storage of market stalls (11/00275/FULL)., , 25 November 2010 - Permission granted for continued use of the basement car park to allow storage of market stalls for a temporary period until 31 December 2010 (10/07416/FULL).

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

7. THE PROPOSAL

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

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

In addition to the hours set out above, the management plan submitted with the application does state that the storage unit has the potential to be open between 08.00 and 19.00 which will be for additional access by the leaseholder only, to access the 'ping pong table and piano which are put in the market area and for maintenance and cleaning.

8. DETAILED CONSIDERATIONS

8.1 Land Use

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

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

The market use is considered to be benefit to the local area, and is supported by Policy S12 in Westminster's City Plan and providing storage allows this market use to continue in the future.

However, this does need to be weighed against the impact of this use on the residents who live in No. 1 and this is set out in Section 8.3 of this report.

8.2 Townscape and Design

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

8.3 Residential Amenity

Policies ENV5, ENV6 and ENV13 in the UDP seek to resist proposals that result in a material loss of amenity, including noise disturbance and pollution, as do Policies S29, S31 and S32 in the City Plan.

During the course of previous applications at this site, objections were raised regarding the operation of the site, noise and disturbance. Since the last temporary permission dated 1st February 2017, there have been two records of complaints to the planning enforcement team on the grounds of a breach of the Management Plan and breaches of conditions 3 and 6 relating to storage and movement hours. Following investigation, no further action was taken and the cases closed. A complaints log has been submitted with the application, which lists complaints to Westminster's Noise Team.

The complaints logs between 28th September 2016 and October 2018 submitted in with the application includes some complaints regarding rubbish being left outside the garage, cars being parked outside the garage, the garage door banging in the wind. In the above cases the actions column of the log address the issues by informing Catalyst (management company of 1 Elgin Avenue) of the door banging in the wind and informing the complainant that parking outside of the garage is a parking issue and not controlled be the market operators. Similarly the waste put outside the garage was not from the market and was directed to viola to dispose of.

The log also contains some complaints of the garage being used outside of the agreed hours in July, September, October 2017. The complaints log states that the key holders and market operators where spoken to regarding the hours of use. Some of the complaints were on days that the market was not in use and the claims are therefore un-substantiated.

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

Subject to conditions to limit the use of the garage for a further year and mitigation measures such as the management plan, rubber wheels and limited hours of operation, the use of the garage is considered acceptable, in amenity terms

8.4 Transportation/Parking

The loss of parking within the basement car park was previously found to be acceptable on a temporary basis when permissions were granted from 2010 through to 2017.

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

8.5 Economic Considerations

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

8.6 Access

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

8.7 Other UDP/Westminster Policy Considerations

None relevant.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.9 Neighbourhood Plans

None relevant to this application.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

No pre-commencement conditions are recommended.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

None.

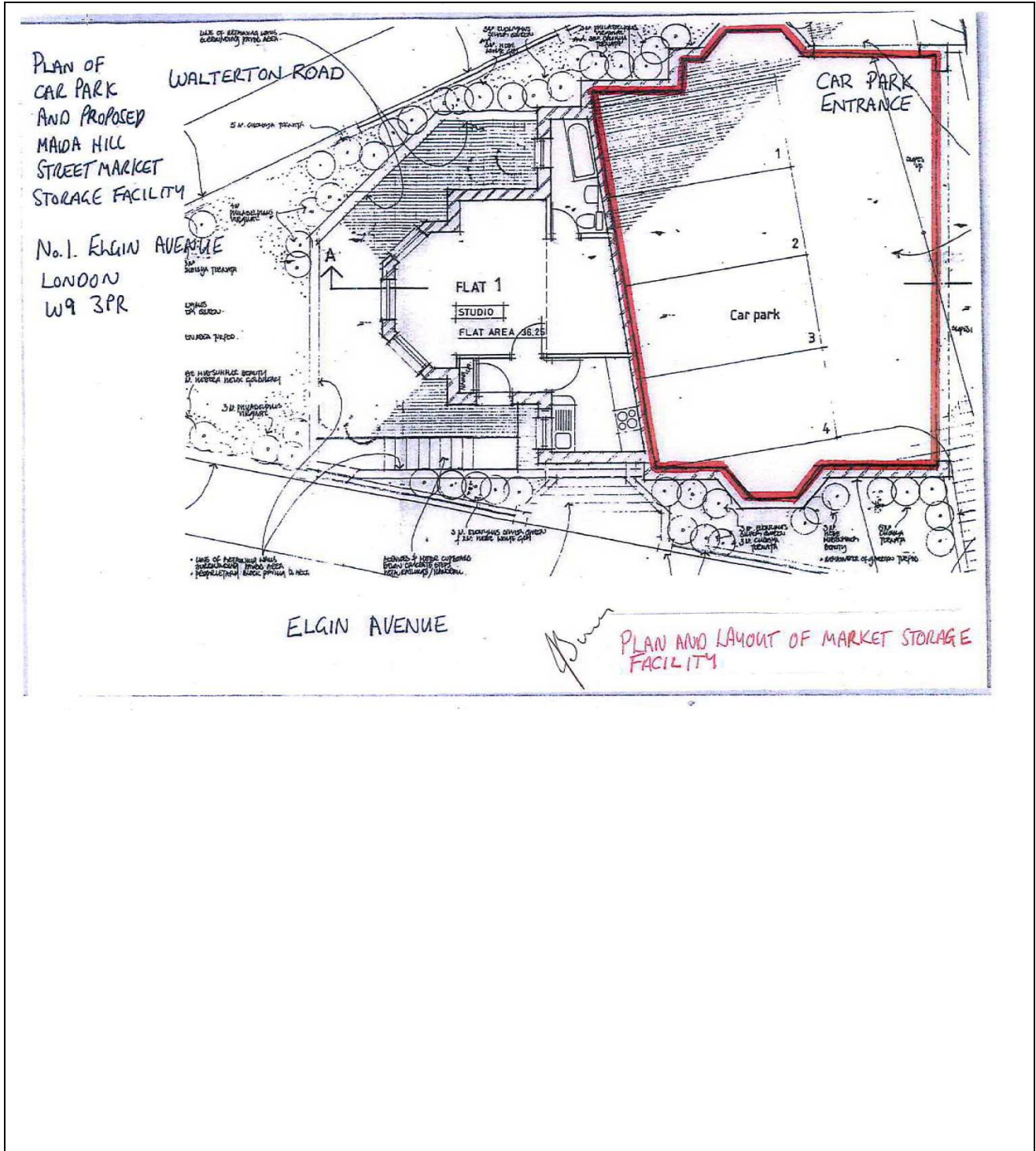
8.14 Other Issues

None.

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

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

9. KEY DRAWINGS



DRAFT DECISION LETTER

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

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

Reference: 18/08250/FULL

Plan Nos: Site location plan, Plan of car park and proposed Maida Hill street market storage facilities, Management Plan and opening times for 1 Elgin Avenue

Case Officer: Max Jones **Direct Tel. No.** 020 7641 1861

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 The temporary use of the carpark for market storage (Class B8) in connection with Maida Hill Place street market can continue until 31st December 2019.

Reason:

The use of this residential carpark is only permitted on a temporary basis because of the special circumstances of the case, as set out in S12, S29 and S32 of the Westminster City Plan that we adopted in November 2016 and policies ENV6, ENV13, TRANS23 of our Unitary Development Plan that we adopted in January 2007.

- 3 No goods or equipment shall be moved into or out of the market storage area hereby permitted except between the hours of 08.00 and 20.00 Monday to Saturday only. No goods or equipment shall be moved into or out of the market storage area on Sundays.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 and S32 of Westminster's City Plan that we adopted in November 2016 and ENV6 and ENV13 of the Unitary Development Plan that we adopted in January 2007.

- 4 Rubber wheeled trolleys must be used to transport goods and equipment in and out of the storage area.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 and S32 of the Westminster's City Plan that we adopted in November 2016 and ENV6, ENV13 of the Unitary Development Plan that we adopted in January 2007.

- 5 The use of the carpark for market storage in connection with Maida Hill Place market shall operate in accordance with the Management Plan and opening times statement submitted with the application unless varied by the City Council as Local Planning Authority.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 and S32 of the Westminster's City Plan (November 2016) and ENV6 and ENV13 of the Unitary Development Plan that we adopted in January 2007.

- 6 You must not use the car park for the storage of perishables or food.

Reason:

To protect the environment of people in neighbouring buildings as set out in S29 of the Westminster's City Plan (November 2016) and ENV13 of the Unitary Development Plan that we adopted in January 2007.

Informative(s):

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

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

Item No.
7

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	Christchurch Gardens, Victoria Street, London, SW1H 0AY		
Proposal	Hard and soft landscaping improvements to public open space, with new and realigned paths, enhanced signage, lighting and planting.		
Agent	Westminster City Council		
On behalf of	Victoria BID and Westminster City Council		
Registered Number	18/07319/COFUL	Date amended/ completed	29 August 2018
Date Application Received	28 August 2018		
Historic Building Grade	Unlisted		
Conservation Area	Broadway And Christchurch Gardens		

1. RECOMMENDATION

Grant conditional permission under Regulation 3 of the Town and Country Planning Regulations 1992.

2. SUMMARY

Christchurch Gardens is a green open space located at the corner of Victoria Street and Broadway. The site lies within the Central Activities Zone, the Broadway and Christchurch Gardens Conservation Area, and within a Tier 2 Archaeological Priority Area.

The Victoria Business Improvement District (BID) are leading on proposals for landscape improvements in Christchurch Gardens in partnership with Westminster City Council (WCC). The aspiration of the Victoria BID and WCC is to transform the site through a hard and soft landscaping scheme from one that currently feels unwelcoming, into an enhanced public space with increased opportunities for seating and positive social interaction.

The key issues are:

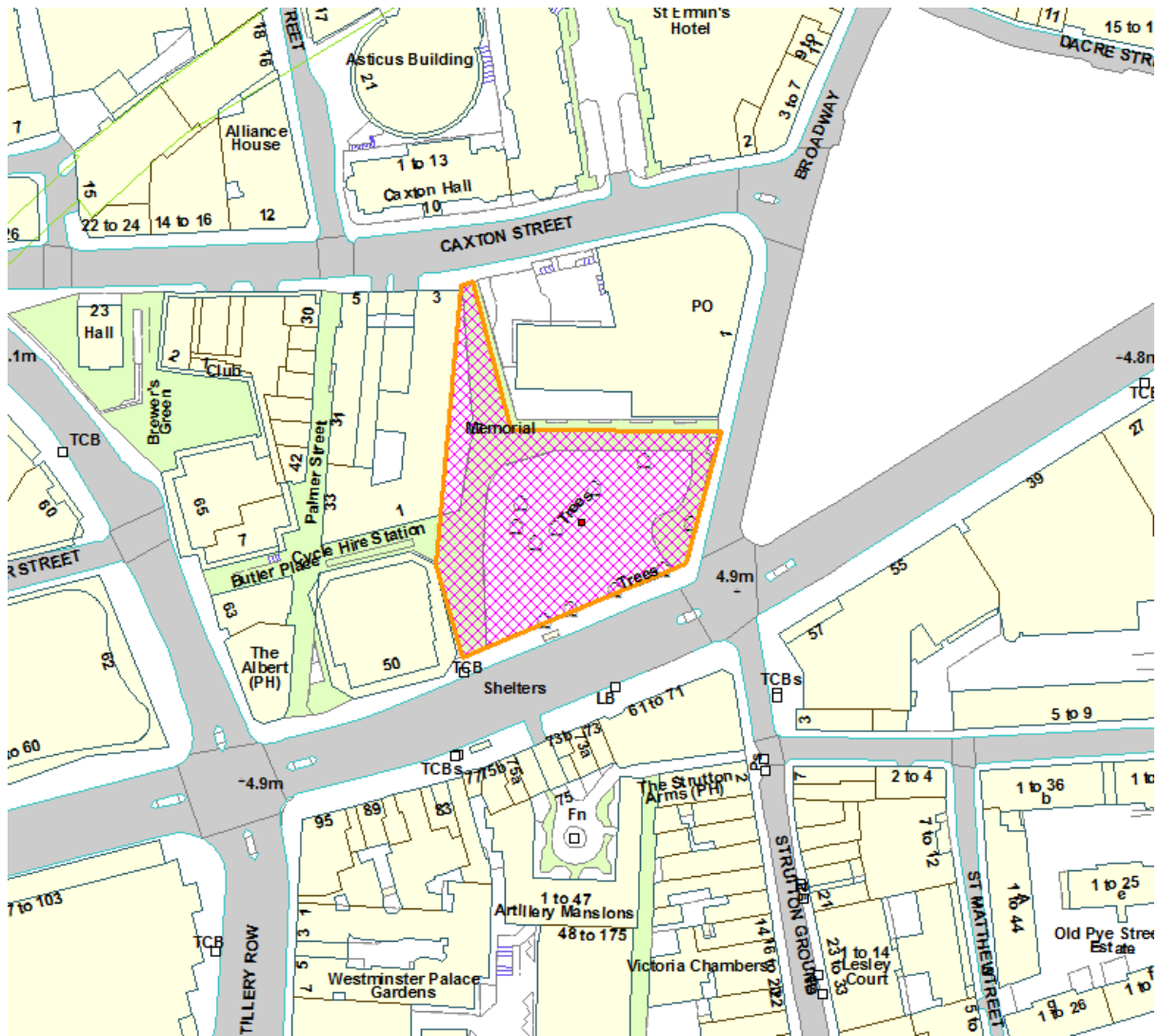
- The effect of the proposal on the character and appearance of the Broadway and Christchurch Gardens Conservation Area;
- The effect of the proposals on existing trees.

The proposed landscaping scheme is considered to offer benefits to the quality of the environment in Christchurch Gardens. The layout has been designed to open up new routes through the gardens,

to create a usable and attractive green space.

For the reasons set out in this report, the proposed development is considered to accord with relevant policies within the Unitary Development Plan adopted in January 2007 (the UDP) and Westminster's City Plan adopted in November 2016 (the City Plan). As such, it is recommended that planning permission is granted, subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Christchurch Gardens

5. CONSULTATIONS

THORNEY ISLAND SOCIETY:

Welcome the approach to design. Consider the history of the site is fascinating and would welcome a condition requiring display boards explaining its history.

ARBORICULTURAL MANAGER:

The proposed redesign of Christchurch Gardens, a Westminster maintained open space is to be welcomed. The removal of a number of trees, which are of poor quality greatly improves the appearance and usability of the space.

However, there are areas for concern. The most visually important trees are the mature London planes that abut the Victoria street boundary of the site. The installation of the proposed new pathways within the Root Protection Areas (RPAs) of these trees could result in damage to the trees' root systems. The applicant will need to demonstrate that the proposed pathways and seating within the RPAs can be installed without harm to the trees.

The proposed treatment of the northern boundary with the BT exchange building seems a missed opportunity to create a sustainable boundary comprising low level herbaceous and shrub planting backed by a natural barrier of hedging or climbing plants.

In summary, the proposed scheme is generally acceptable but there is concerns regarding the installation of the pathway and seating within the RPAs, and the treatment of the northern boundary.

Conditions are recommended requiring an arboricultural impact assessment that addresses the issues raised and tree protection.

LONDON PARKS AND GARDENS

Supportive of the proposals which will enhance the space and improve the usage for those in the area. This space provides rare access to green landscape in an area of open space deficiency and we recommend support - these proposals will improve the amenity value.

HISTORIC ENGLAND – GREATER LONDON ARCHAEOLOGICAL ADVISORY SERVICE (GLAAS):

The development could cause harm to archaeological remains. However the significance of the asset and scale of harm to it is such that the effect can be managed by planning conditions.

WASTE (PROJECT OFFICER):

No objection.

HIGHWAYS PLANNING MANAGER:

No objection. The only effect on the highway will be to improve access between it and the gardens, which is positive.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 132
Total No. of replies: 6

No. in support: 2

One letter of support from The Cathedral Area Residents Group on following grounds:

- Welcome proposals to improve this area, the only green space on Victoria Street, in order to make it more welcoming and useful for residents and visitors to this neighbourhood.
- Appreciate the action of the Victoria Business Improvement District to develop the proposed changes and to invite comments.
- Agree it is appropriate that an objective of the development is to design out features which facilitate various forms of anti-social behaviour. At present these gardens do not provide a safe place for those sleeping rough and other vulnerable people but do leave them at risk to their health and to being exploited whilst discouraging entry and use by the great majority of residents and passers-by.
- Though we broadly support the development described in this application we are concerned that it is proposed to introduce too many paths and five different paving types which reduce and fragment the grassed area.
- Urge WCC to require that the proposed pathways are somewhat reduced and simplified and also to ensure that the removal of trees is limited to those which are not viable.

One letter of support from a neighbour on the following grounds:

- Fully support the proposal to transform a dismal eyesore into an intelligent, imaginative and exciting public space.
- Commend the design team and Victoria BID for their time and efforts to explain their proposals to the public.

No. of objections: 3

One letter of objection from a neighbour on following grounds:

- The proposals set out to improve limited green space in Victoria, while actually reducing the grassed area and felling existing mature trees.
- References to "antisocial behaviour" in the proposal documents, and specifically to homelessness, suggest that the real purpose is to make the space less welcoming to rough sleepers.
- Rough sleepers are among the most vulnerable and most marginalised members of our society and the least able to respond to any public consultation or planning consultation. Using a 'greening' proposal to reduce green space in order to further marginalise vulnerable people cannot be permitted in good conscience.

Two letters of objection from representatives on behalf of Strutton Ground Market Stall Traders on following grounds:

- Christchurch Gardens was to be used to relocate the 22 Traders currently residing and trading in Strutton Ground during works to resurface Strutton Ground;
- The council indicated that the Landlord (Church of England) objected this sighting as it would be in conflict with their Doctrine but the CoE advised traders that they would be satisfied with this sighting
- Victoria BID would not assist traders with relocating preferring to go ahead with this proposal
- Victoria Bid Has made this application in the knowledge that their activities would cause Traders severe financial impact to the 22 businesses and 100 employees of Strutton Ground Market Pitches
- Council officers have repeatedly misinformed relevant Stakeholders and accepted this application some months after the traders looked to relocate

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Christchurch Gardens is a green open space located at the corner of Victoria Street and Broadway. The site lies within the Central Activities Zone, the Broadway and Christchurch Gardens Conservation Area, and within a Tier 2 Archaeological Priority Area.

The Gardens do not feature on the Register of Historic Parks and Gardens, nor are they protected under the London Squares Preservation Act.

The Gardens are owned by the Diocese of London, leased to WCC (on a long lease), and managed by the WCC Parks team. Whilst 'Christ Church' was destroyed by bombing in WWII, its churchyard, a former burial ground, was landscaped and opened to the public in the 1950s. The gardens have remained open to the public since then and are the main subject of this report.

Currently Christchurch Gardens is made up of a central lawn space with sparsely planted planting beds and paved footpaths around its periphery. A low brick wall borders the southern and eastern boundaries with railings to the northern boundary. A dense tree canopy is provided by a number of London Plane trees located in the lawn area. Smaller trees of varying species are present in the northern half of the gardens, of mixed age and generally of a low quality. The Gardens contain three sculpture commemorating Henry Purcell, the Suffragettes, and Victims of Violence.

The BT Exchange building bounds the site to the north, and the buildings of Windsor House and 1 Butler Place bound the site to the west. To the south sits Strutton Ground Market which is undergoing regeneration and improvement. Redevelopments are also taking place to the east at Broadway and to the west at Buckingham Green.

6.2 Recent Relevant History

11/01254/FULL

Erection of a stone memorial dedicated to victims of violence in Christchurch Gardens.
Application Permitted 22 October 2012

95/04996/COFUL

Erection of memorial statue to Henry Purcell.
Application Permitted 25 August 1995

7. THE PROPOSAL

The proposal is for a hard and soft landscaping scheme to redesign Christchurch Gardens to create a public outdoor space for use by local residents, workers, tourists and visitors as well as to improve the biodiversity benefits.

The new proposals provide open and inviting footpaths into, out of and through the gardens, connecting to key routes in the surrounding urban area.

New lawns provide flexible open space for seating and activities while a range of seating opportunities in carefully selected locations offer numerous places to sit and enjoy the gardens.

New lighting will improve safety and security after dark to enhance the quality of visitor experience and legibility of the space.

New planting in the gardens will provide visual amenity through all the seasons.

The proposals key objectives are:

- To create a space that people enjoy spending time in and where they can engage with each other.
- To increase opportunities for seating.
- Maximise the biodiversity of the site through diverse planting with extended flowering periods of pollinator friendly plants.
- To establish a relationship between the gardens and adjacent Strutton Ground market recognising pedestrian desire lines.
- To design out crime and anti-social behaviour.
- To allow for the future relationship of adjacent premises to the gardens.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The use of Christchurch Gardens, is primarily as a place of relaxation for public use. The proposal aims to enhance the existing public outdoor space for use by local residents, workers, tourists and visitors, which is welcomed. This is in accordance with policies ENV 15 of the UDP and S35 of the City Plan, which seek to enhance open space for public use.

8.2 Townscape and Design

The proposals seek to make better use of Christchurch Gardens, through the installation of additional paths and removing some of the existing barriers. Concern has been raised that the proposed pathways should be somewhat reduced and simplified. In design terms, the works are beneficial and the paths connect desire lines, bringing people into the gardens.

The proposal retain all existing monuments, albeit in relocated positions, which is welcome. Whilst the loss of some trees may be regrettable, it is likely to allow greater amounts of sun light into the space, which will further enhance its usability.

In summary the proposals are considered to have a positive effect on the character and appearance of the Broadway and Christchurch Gardens Conservation Area.

8.3 Residential Amenity

The proposals are not considered to raise any amenity issues.

8.4 Transportation/Parking

None of the physical works proposed would encroach upon the highway. The only effect on the highway will be to improve access between it and the Gardens, which is welcomed.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Other UDP/Westminster Policy Considerations

Trees

The proposed redesign of Christchurch Gardens, a Westminster maintained open space is to be welcomed and, in general the Arboricultural Manager does not raise any objections to the proposed design.

Concerns have been raised to proposals to remove a number of trees in the central lawn. The removal of a number of trees, which are of poor quality is considered to greatly improve the appearance and usability of the space.

The most visually important trees are the mature London planes that abut the Victoria street boundary of the site, and would be retained (Nos. T1, T2, T6, T8 and T12). These are all large mature specimens that contribute to the fundamental character of the space and the immediate surrounds. The installation of the proposed new pathways within the Root Protection Areas (RPAs) of these trees could result in damage to the trees' root systems. A condition is recommended requiring an arboricultural impact assessment to

demonstrate that the proposed pathways and seating within the RPAs can be installed without harm to the trees.

A number of conditions are recommended requiring details to demonstrate that all existing trees to be retained will be satisfactorily protected during works.

On the northern boundary with the BT exchange building it is proposed to install a decorative art wall and green wall. The Arboricultural Manager considers that this is a missed opportunity to create a sustainable boundary with low level planting, backed by a natural barrier of hedging or climbing plants. However this is not considered a sustainable reason for refusal.

Biodiversity

New planting in the gardens will provide visual amenity through all the seasons. The plant palette will be selected to enhance the diversity of plants, insects and birds in the gardens. It is hoped that this increased presence of wildlife will improve the connection between garden users and nature.

Archaeology

The site is located within a Tier 2 Archaeological Priority Area (Victoria Street). A Historic Environment Assessment report has been submitted with the application which accords with relevant standards and guidance. The site had been used as a burial ground for 230 years (17th- C19th) and the Greater London Historic Environment Record indicates an association with the London plague of 1665 and 1666 increasing its historic significance. There is also potential for post medieval remains of former structures and properties at the southern and western fringes of the site.

Historic England's Greater London Archaeological Advisory Service (GLAAS) have reviewed the applicant's Historic Environment Assessment and consider that the work could impact on archaeological remains which may survive here. Therefore, GLAAS consider that further exploratory fieldwork and assessment will be required to determine the nature and significance of remains, and to refine an appropriate mitigation strategy if required. As such, GLAAS advise that appropriate conditions be attached to secure a staged programme of archaeological work in the usual way. This would ensure any archaeological assets are protected.

8.7 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.8 Neighbourhood Plans

The Knightsbridge Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 18 October 2018, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Knightsbridge Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the 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.

8.9 London Plan

This application raises no strategic issues.

8.10 National Policy/Guidance Considerations

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

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

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 protect the archaeological heritage and trees to be retained. The applicant has agreed to the imposition of these conditions.

8.11 Planning Obligations

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

8.12 Other Issues

Site History

The Thorney Island would welcome display boards which explain the site's history. It is intended that the decorative art wall on the northern boundary with the BT exchange building would contain graphics/ text/ imagery illustrating the site history as well as other points of interest.

Anti-Social Behaviour and Rough Sleepers

The site has known anti-social behaviour issues with incidents of drug use. Westminster's Rough Sleeping Strategy (2017-2022) lists Victoria as a notable hotspot for rough sleepers. The gardens often attracts rough sleepers and the applicant's design team have been working with the City Council's Homelessness Prevention Team to support the rough sleepers that do come to the gardens, into accommodation.

Concern has been raised from a local resident that references to 'antisocial behaviour' in the proposal documents, and specifically to homelessness, suggest that the real purpose is to make the space less welcoming to rough sleepers, and that a proposal to further marginalise vulnerable people cannot be permitted in good conscience. Whilst the concerns of the objector are understood, it is not considered that this is a sustainable planning ground for refusal.

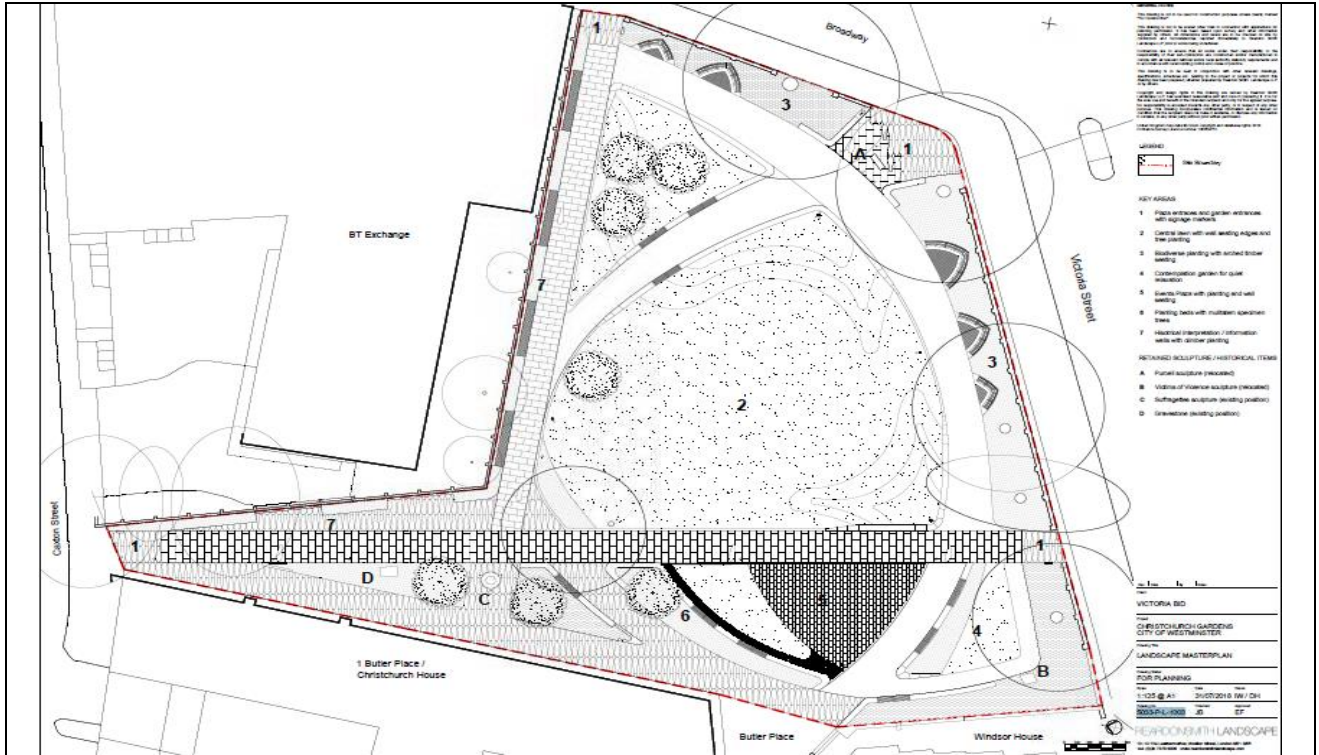
Strutton Ground Market Traders

Concerns have been raised from representatives on behalf of Strutton Ground Market Stall Traders who consider that Christchurch Gardens should be used to relocate the 22 traders currently residing and trading in Strutton Ground during works to resurface Strutton Ground. Any proposal to relocate Strutton Ground Market Traders would need planning permission and would have to be assessed on its own merits.

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

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

9. KEY DRAWINGS





DRAFT DECISION LETTER

Address: Christchurch Gardens, Victoria Street, London, SW1H 0AY,

Proposal: Hard and soft landscaping improvements to public open space, with new and realigned paths, enhanced signage, lighting and planting.

Reference: 18/07319/COFUL

Plan Nos: 5033-P-L-1001, 5033-P-L-1002, 5033-P-L-1003, 5033-P-L-1004, 5033-P-L-1005, 5033-P-L-1010, 5033-P-L-3001, 5033-P-L-3002, 5033-P-L-3101

For Information: Design and Access Statement August 2018 including Illustrative CGIs, Arboricultural Impact Assessment / Arboricultural Method Statement, Conclusions & Recommendations from Archaeological Evaluation, and Soil and Turf Assessment Report; Preliminary Ecological Appraisal (TEC); Drainage Strategy Report; Lighting Report, Statement of Community Involvement; Historic Environment Report (MOLA); Archaeological Evaluation Report; , , UXO Risk Assessment (1st Line Defence); and 1846 Broadway Ground Burial Map (Westminster Archives)

Case Officer: David Dorward

Direct Tel. No. 020 7641 2408

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:

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.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.
- You must carry out piling, excavation and demolition work only:
- o between 08.00 and 18.00 Monday to Friday; and
 - o not at all on Saturdays, Sundays, bank holidays and public holidays.
- Noisy work must not take place outside these hours unless otherwise agreed through a Control of

Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

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

Reason:

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

- 4 You must apply to us for approval of samples of the materials you will use, including plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials.

Reason:

To make sure that the appearance of Christchurch Gardens is suitable and that it contributes to the character and appearance of this part of the Christchurch Gardens 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.

- 5 **Pre Commencement Condition.** No demolition or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- A. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and,
B. The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material.

You must then carry out the archaeological work and development according to this approved scheme.

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)

- 6 **Pre Commencement Condition.** No development shall take place until details of the foundation design and construction method to protect archaeological remains have been submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason:

To avoid damage to any archaeological remains on site 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. (R32AC)

- 7 You must apply to us for approval of an arboricultural impact assessment to demonstrate that the proposed pathways within the Root Protection Areas of the trees you are keeping can be installed without harm to these trees. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work according to the approved details.

Reason:

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

- 8 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

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

- 9 You must apply to us for our approval of the positions and method to be used to dig trenches, pipelines or ducts for services or drains. You must not start any work to dig trenches, pipelines or ducts for services or drains until we have approved in writing what you have sent to us. The work must be carried out according to the approved details. (C31PB)

Reason:

To protect the trees and the character and appearance of this part of the Christchurch Gardens

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

- 10 You must apply to us for our approval of any planned digging to make a hard surface underneath any trees that you are going to keep, and the materials you plan to use to make the hard surface. You must not start any work on any digging to make a hard surface underneath any trees that you are going to keep until we have approved in writing what you have sent to us. The surfacing must be carried out according to the approved details. (C31LB)

Reason:

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

- 11 You must apply to us for our approval of the depth and methods to be used to dig the foundations. You must not start any work to dig the foundations until we have approved in writing what you have sent to us. The excavation and foundations must be carried out according to the approved details. (C31MB)

Reason:

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

- 12 You must carry out any digging underneath the canopy of any trees which are to be kept as shown on plan 5033-P-L-1005 by hand or using hand-held tools (other than power-driven tools). If you come across any roots of 25 millimetres or more in diameter, you must carefully protect them from being exposed and drying out. You must cut any damaged or severed roots with a sharp cutting tool so that the final wound is as small as possible. (C31FA)

Reason:

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

Informative(s):

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

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 8

Item No.
8

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 17 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved	
Subject of Report	Mercer Walk, London, WC2H 9FA		
Proposal	Use of six areas of the Mercer Walk measuring (Unit 7) 3.70m x 6.70m, 8.00m x 1.20m, 5.00m x 1.80m; (Unit 5) - 11.47m x 3.40m; (Unit 4)- 11.50m x 1.20m; (Unit 2) 11.00M x 2.70m in association with the existing retail units.		
Agent	DP9		
On behalf of	The Mercers' Company		
Registered Number	18/08669/TCH	Date amended/ completed	10 October 2018
Date Application Received	10 October 2018		
Historic Building Grade	Unlisted		
Conservation Area	Covent Garden		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

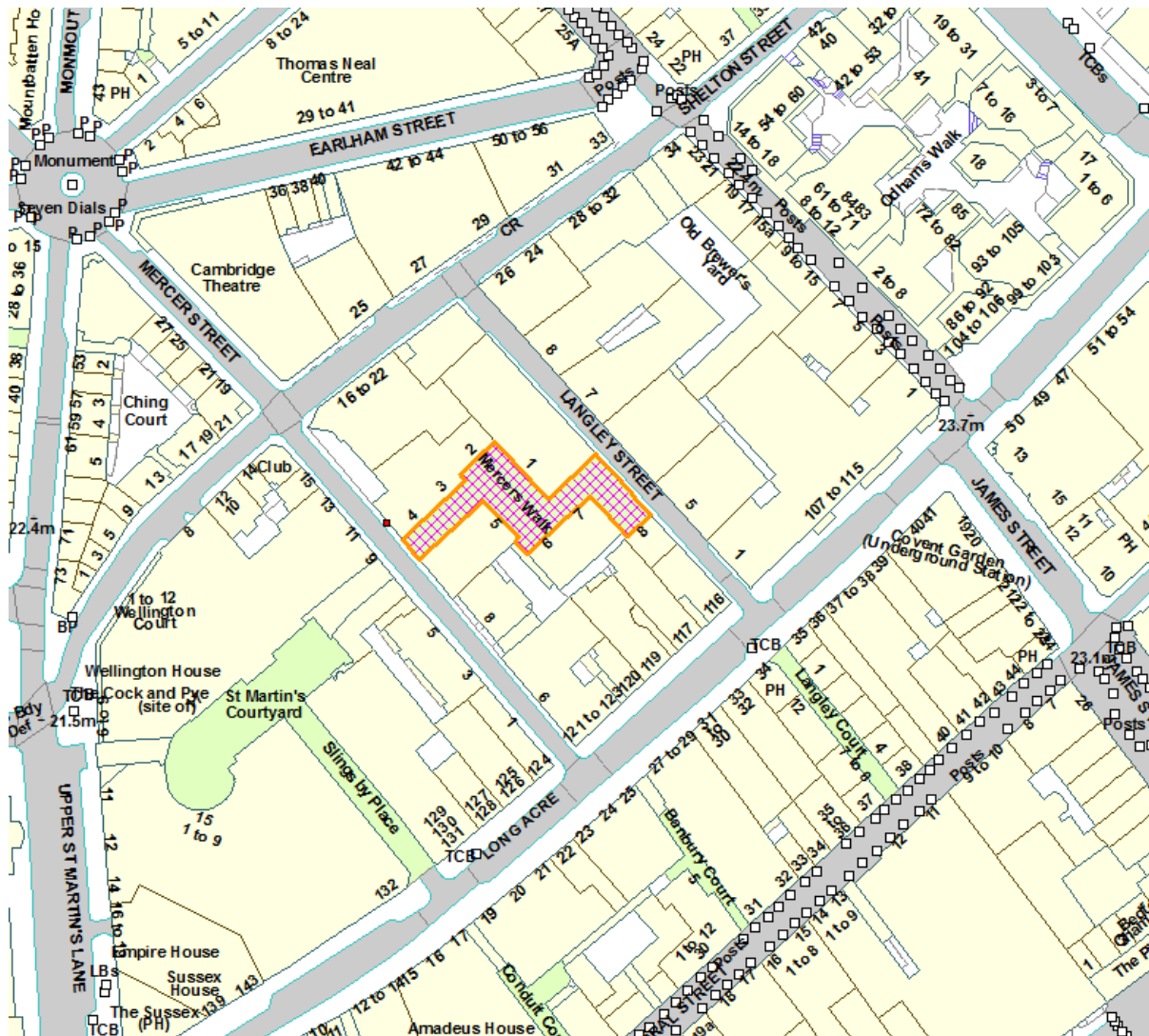
Mercer Walk is a pedestrian route through the newly redeveloped Block C of The Mercers' Company wider Covent Garden Estate. Mercer Street, Shelton Street, Langley Street and Long Acre bound the block, and Mercer Walk provides a route from Mercer Street to Langley Street. Planning permission is sought for the use of six areas on Mercer Walk for the placing of 39 tables, 122 chairs and 2 barriers in connection with four retail units.

The key issues in this case are:

- the impact of the proposals on residential amenity; and
- the impact of the proposals on pedestrian movement and servicing operations.

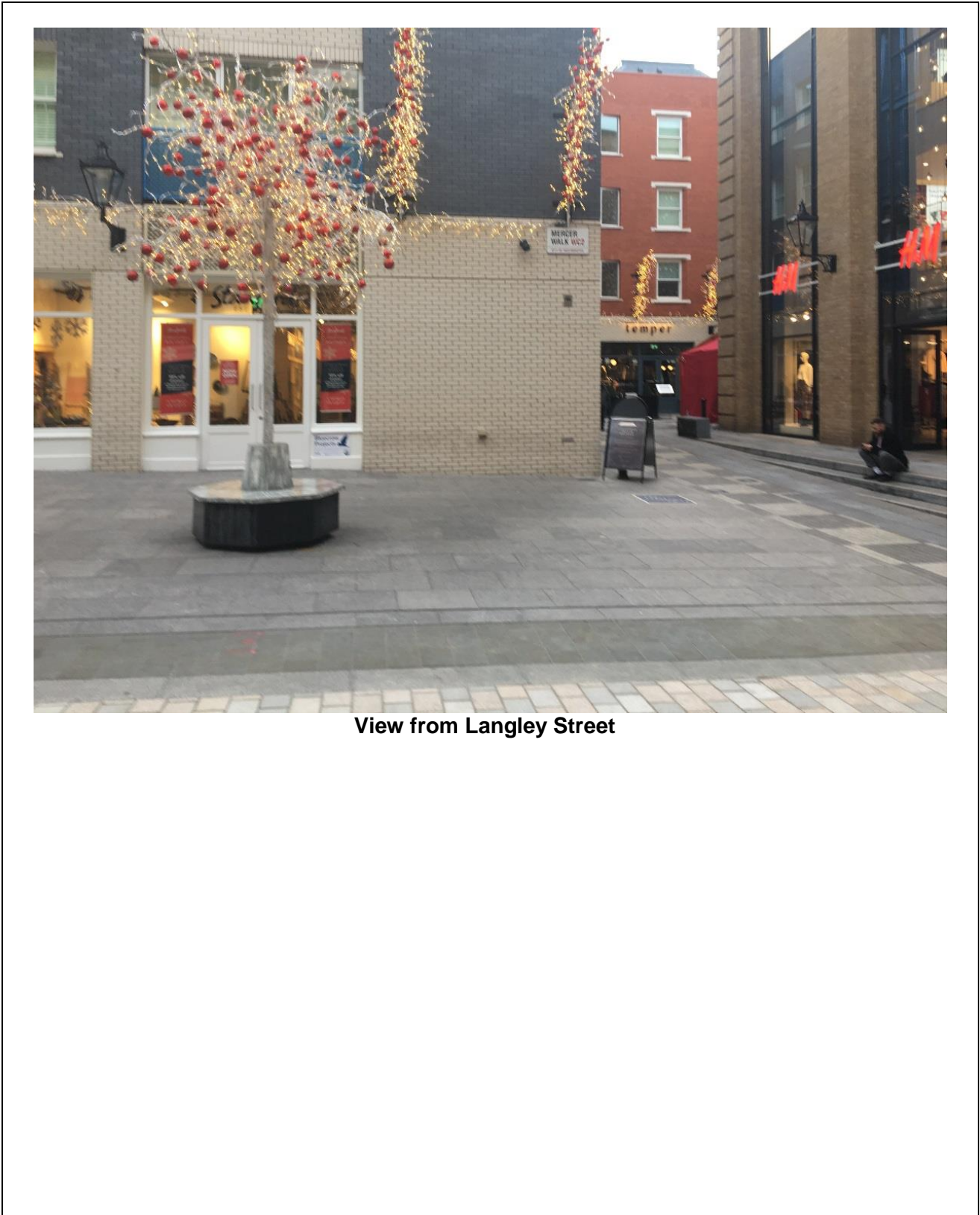
As set out in this report, the proposed development is considered to accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and is therefore acceptable in land use, design and amenity terms. As such, the application is recommended for approval subject to the conditions as set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View from Langley Street



View from Mercer Street

5. CONSULTATIONS

COVENT GARDEN COMMUNITY ASSOCIATION:

Objection. The hours of use proposed are not clear, but if the tables and chairs are to be out until the units close, this would cause noise, disturbance and nuisance harmful to residential amenity. The application could be acceptable if the use ceases at 10pm Monday to Saturday and 9pm on Sundays. The applicant manages deliveries to the site poorly, and these are causing nuisance on Mercer Street. The applicant refers to the tables and chairs as being associated with retail units, when some of the units are restaurants.

HIGHWAY PLANNING MANAGER:

No objection, subject to conditions.

WASTE PROJECT OFFICER:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 76

Total No. of replies: 5

No. of objections: 5

Surrounding residents within Covent Garden area have objected on the following grounds:

Amenity:

- Mercer Walk is part of a residential community, and the numbers of tables and chairs is excessive and would exacerbate existing issues with noise, disturbance and nuisance in the area;
- The use should cease by 10pm on weekdays and 9pm on weekends.

Land use:

- The tables and chairs would unacceptably intensify the existing units they would be associated with.

Highway:

- The deliveries associated with the site are causing nuisance.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Mercer Walk is a pedestrian route through the newly redeveloped Block C of Mercer's wider Covent Garden Estate. Mercer Street, Shelton Street, Langley Street and Long Acre bound the block, and Mercer Walk provides a route from Mercer Street to Langley Street, and includes a central piazza space.

There are six retail/restaurant units which line the Walk, comprising three retail units (class A1), two restaurants (class A3) and a café/ shop unit, with 24 residential units on the upper floors.

The site is within the Core Central Activities Zone (Core CAZ) and the West End Stress Area. The buildings are not listed, but lie within the Covent Garden Conservation Area.

6.2 Recent Relevant History

On 28 March 2014, the City Council granted permission for the retention and refurbishment of 13-14 Langley Street for retail (Class A1) use. Demolition of 6, 10-14 Mercer Street, the one/two storey warehouse-type buildings and the later rear addition of 116 Long Acre and redevelopment to provide 24 residential flats (Class C3), retail (Class A1) and restaurant (Class A3) units with associated plant and ancillary space. Creation of new pedestrian and servicing piazza and street, works of hard landscaping, alterations to existing vehicular and pedestrian access together with associated enabling works.

There are two current applications to amend the site management plan that was secured by condition and a legal agreement pursuant to permission dated 28 March 2014, which is required in order to take account of the current application before you to increase the number of tables and chairs.

7. THE PROPOSAL

The applicant created Mercer Walk as part of the development granted consent in 2014. This permission allowed the placing of tables and chairs in two areas in the central piazza to serve two units (numbers 2 and 5).

The current application proposes tables and chairs outside four units in six areas throughout Mercer Walk. In total 39 tables, 122 chairs and 2 barriers are proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Policies TACE 11 of the UDP and S41 of the City Plan relate to the use of the highway for tables and chairs in connection with eating and drinking establishments. These policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity occurs.

Policy TACE 11 recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. This area is mixed in terms of uses, including retail, cultural, leisure and office uses as well as residential buildings.

The proposed external seating areas would support the continued vitality and vibrancy of this development and the area more widely.

Some objectors state that the tables and chairs would result in an unacceptable intensification of the uses of the retail units. Whilst the overall the numbers of tables and

chairs is relatively high, given they serve multiple units, each would have a relatively typical level of external seating. Therefore, the seating is considered acceptable in land use terms.

8.2 Townscape and Design

The tables and chairs are removable and are consequently acceptable in design and conservation terms.

8.3 Residential Amenity

Policies S29 and S32 of the City Plan and ENV 6 and TACE 11 of the UDP seek to protect the amenities of the occupiers of neighbouring properties.

Objections have been received from neighbouring residents, and the Covent Garden Community Association, primarily on the grounds the proposal would harm residential amenity in terms of noise disturbance.

The applicant has amended the application to reduce the number of tables and chairs that would be placed on the Walk.

As part of the 2014 permission, the City Council secured a Site Management Plan (SMP) to ensure that the applicant manages the Walk appropriately. It sets out how the buildings and open spaces are maintained, including measures relating to the operation of the tables and chairs and how security will be managed. The applicant has updated their SMP to accommodate the increase in the tables and chairs proposed, and should the application be permitted the applicant will be required to adhere to it. This would ensure the effective management of the area and the retailers comply with its provisions, thereby reducing noise disturbance from patrons.

Some objectors state that their concerns would be mitigated if the terminal hour of use of the tables and chairs were reduced to 10pm Monday to Saturday, and 9pm on Sundays. The applicant has agreed to this and it is recommended that this be ensured by condition.

It is appreciated that the proposal represents an increase in tables and chairs within the development, and therefore there will be an increase in general noise as a result, particularly in the evening. It is therefore recommended that a temporary one year permission be granted so that the situation can be reviewed.

For the reasons stated above, and subject to the proposed conditions, officers consider the proposal is in accordance with policies S29 and S32 of the City Plan and ENV 6 and TACE 11 of the UDP.

8.4 Transportation/Parking

Policies TRANS 3 and TACE 11 of the UDP, policy S41 of the City Plan and The Westminster Way relate to tables chairs and other objects placed on the footway.

Mercers Walk does not form part of the public highway, but its provision as a pedestrian route was a benefit of the 2014 permission. It is also used by servicing vehicles at certain

times of the day. Therefore, it is important safe pedestrian access is retained and the tables and chairs are not in situ at times that would prevent servicing.

In the revised form, with reduced table and chair numbers and hours of use from 10am to 10pm Monday to Saturday and 10am to 9pm on Sundays, the Highway Planning Manager raises no objection to the proposal. There will be sufficient space for pedestrians for safe and convenient movement, and the servicing as set out in the management plan would not be impacted.

Some objectors report that the existing servicing of the site is causing a nuisance. The SMP for the site permits deliveries within the hours of 7am and 10am only, and these should take place from three designated servicing bays within the central piazza. Reports from objectors indicate that deliveries take place throughout the day and evening and are taking place from Mercer Street, in contravention of the plan. An informative is recommended to remind the applicant that they must ensure that retailers within the development adhere to the management plan.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

Access to the unit will remain as permitted.

8.7 Other UDP/Westminster Policy Considerations

None.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.9 Neighbourhood Plans

Not applicable to this site.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application, and the development is not liable to pay CIL.

8.13 Environmental Impact Assessment

The proposed development is of insufficient scale to require an EIA.

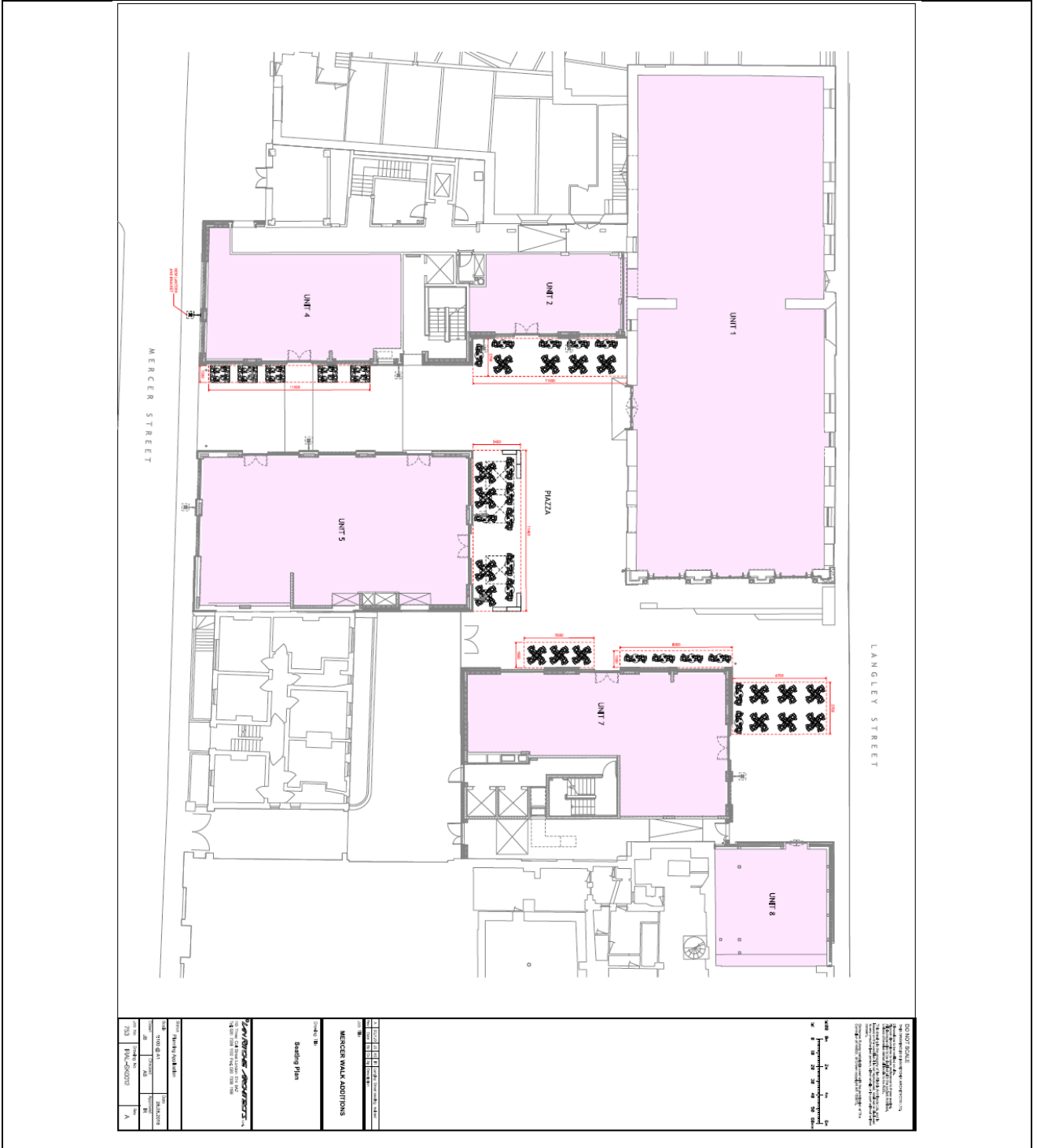
8.14 Other Issues

An objector states that the applicant incorrectly refers to some units as retail units when they are in use as restaurants. Retail uses include non-A1 uses. The glossary of the City Council's UDP states non- A1 retail uses are any use falling within classes A2, A3, A4 and A5 of the Use Classes Order (as amended) or a sui generis use where the sale, display or service is to visiting members of the public. The confusion arises because the word retail is often used interchangeably with shop.

(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: JULIA ASGHAR BY EMAIL AT jasghar@westminster.gov.uk
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9. KEY DRAWINGS



DRAFT DECISION LETTER

Address: Mercer Walk, London, WC2H 9FA, ,

Proposal: Use of seven areas of the Mercer Walk measuring (Unit 7) 3.70m x 6.70m, 8.00m x 1.20m, 5.00m x 1.80m; (Unit 5) - 11.47m x 3.40m; (Unit 4)- 11.50m x 1.20m; (Unit 2) 11.00M x 2.70m in association with the existing retail units.

Reference: 18/08669/TCH

Plan Nos: Site Location Plan; IRAL-SK0012 rev A.

For Info Only:
Design Note; Cover Letter.

Case Officer: Joshua Howitt

Direct Tel. No. 020 7641 2069

Recommended Condition(s) and Reason(s)

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

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

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing IRAL-SK0012 rev A. (C25AA)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 10:00 and 22:00 hours Monday to Saturday, and 10:00 and 21:00 hours on Sundays and bank holidays.

Reason:

Item No.
8

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

- 4 The tables and chairs must only be used by the customers of units 2, 4, 5 and 7 within the development.

Reason:

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

- 5 This use of the pavement may continue until 30 December 2019. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

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

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing IRAL-SK0012 rev A000. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 If you want to know about the progress of your application for a street trading licence, you can contact our Licensing Service on 020 7641 8549. (I49AB)
- 5 You are reminded that you must ensure retailers and those servicing the site adhere to the Management Strategy Plan that governs the site.

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 9

Item No.

9

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning	Ward(s) involved Maida Vale		
Subject of Report	97 Randolph Avenue, London, W9 1DL		
Proposal	Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.		
Agent	Mr Matt Deeming		
On behalf of	Ms Mary-Claire Pereira		
Registered Number	18/07288/FULL	Date amended/ completed	23 October 2018
Date Application Received	24 August 2018		
Historic Building Grade	Unlisted		
Conservation Area	Maida Vale		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

97 Randolph Avenue is an unlisted single family dwelling house located within the Maida Vale Conservation Area.

The application seeks permission the installation of a shed/summer house including an air conditioning unit and enclosure at ground floor level to the back of the rear garden of the property.

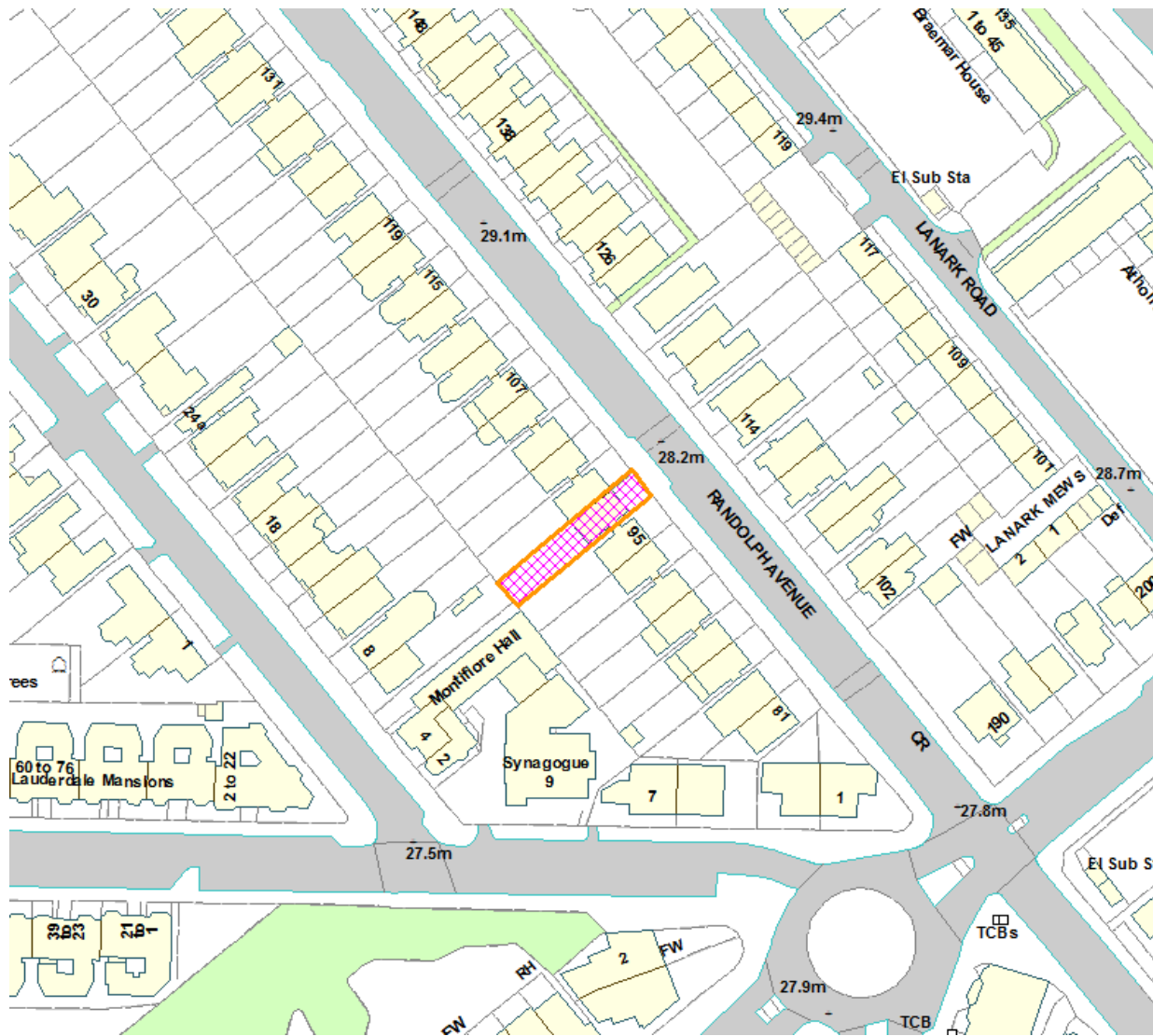
Planning permission was granted for the erection of a similar shed, including plant in the same location in January 2017. This proposal involves a shed which is 242 mm higher than the approved scheme and approximately 200mm deeper and unlike the approved scheme includes glazing to the facade facing the property.

The key issues in this case are:

- The impact on the appearance of the building and the character and appearance of the Maida Vale Conservation Area.
- The impact on the amenity of neighbouring residents.

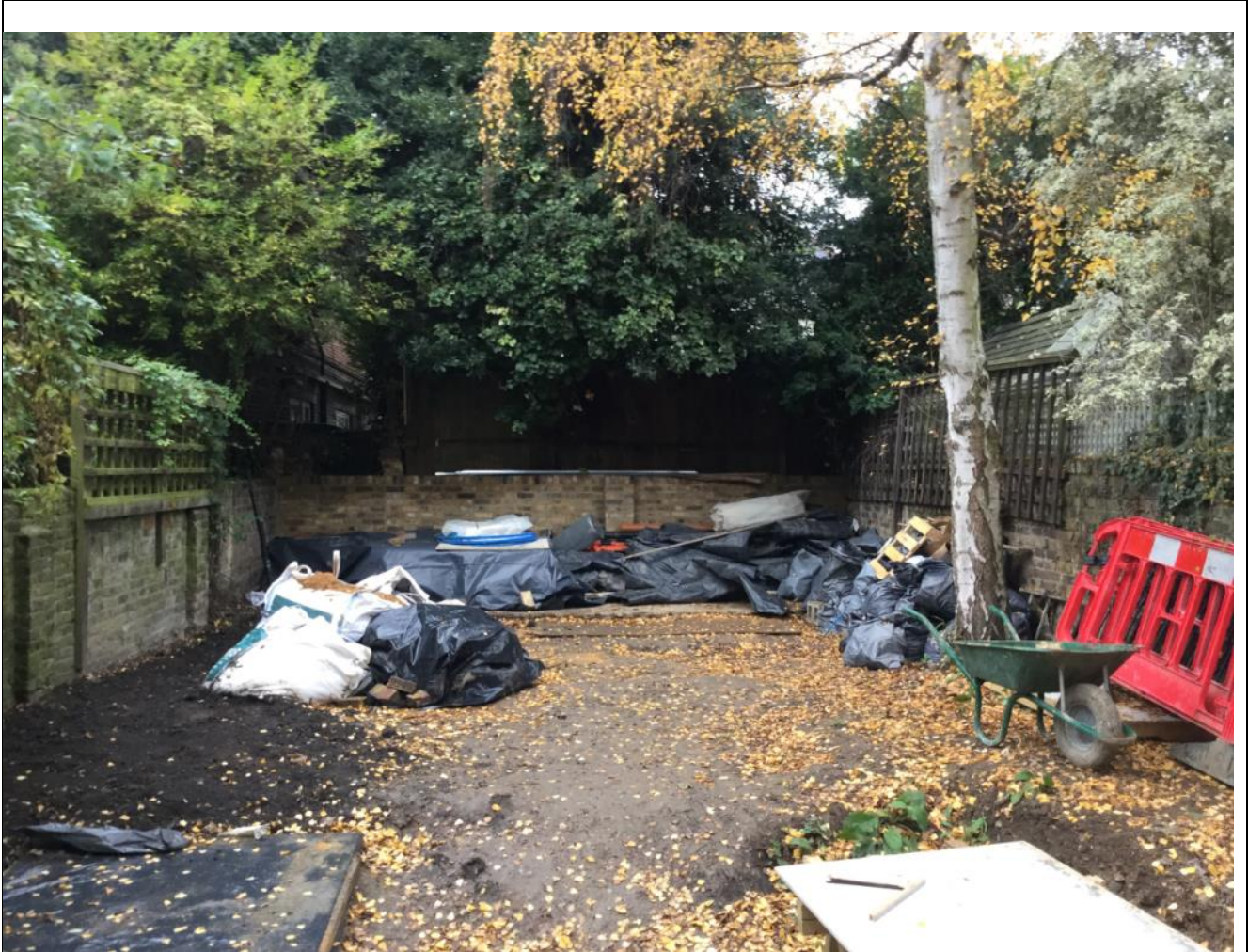
The proposal is not considered to result in an unacceptable loss of amenity to neighbouring residents or to have an unacceptable impact on the appearance of the building and the character and appearance of the Maida Vale Conservation Area. Subject to the recommended conditions, as set out in the draft decision letter at the end of this report, the proposals are considered to accord with the relevant policies in Westminster’s City Plan adopted in November 2016 (the City Plan) and the Unitary Development Plan adopted in January 2007 (UDP). It is therefore recommended that conditional permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Photograph showing rear garden towards proposed location of outbuilding.

5. CONSULTATIONS

FIRST CONSULTATION

PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

Raise no objection, however ask for neighbours views to be taken into consideration.

ENVIRONMENTAL HEALTH

Additional acoustic information required.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 15

No. of Responses: 3

No. of objections: 2

No. of general comment: 1

Objections on the following grounds:

Amenity

- Acoustic report does not provide conclusive evidence that the quiet enjoyment of the property will not be compromised.
- Inadequate acoustic report.
- Operates 24 hours a day providing no respite.

Design

- Unightly and too large (above party walls).
- Loss of garden.

Other issues

- Consider gap between shed and party walls should be increased to a minimum of 1m so it does not affect the quiet enjoyment of neighbouring owners and ensure access for maintenance.
- Creates dead space on 3 sides.
- Drawing does not reflect level of rear garden.
- Unclear what height of shed is.
- Proposal unsustainable design.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

SECOND CONSULTATION FOLLING SUBMISSSION OF REVISED ACOUSTIC REPORT

PADDINGTON WATERWAYS & MAIDA VALE SOCIETY

The proposed 'shed' would appear to be summer room. We do not object in principle to the proposal but consider that the description should be updated to reflected what is

drawn and be conditional to not permit overnight sleeping or conversion to separate living accommodation. Please take neighbours' views into consideration.

ENVIRONMENTAL HEALTH

No objection subject to acoustic louvred enclosures being installed as detailed in Section 7.1 of the Acoustic Report dated October 2018.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 14

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One response re-iterating their objection on design/size grounds.

6. BACKGROUND INFORMATION

6.1 The Application Site

97 Randolph Avenue is an unlisted single family dwelling house located within the Maida Vale Conservation Area.

6.2 Recent Relevant History

17/03517/FULL

Variation of Condition 1 of planning permission dated 7 October 2014 (RN: 14/04980/FULL) for the excavation of basement extension under garden and house, lower ground floor rear and side extension, conversion of roof space to provide habitable accommodation, insertion of four rooflights. NAMELY, to amend the arrangement of rooflights in the roof of the lower ground floor rear extension from 3 rooflights to one larger rooflight.

Application Refused 4 January 2018

17/02060/FULL

Alterations of existing boundary wall and brick pier in association with the installation of a new slatted timber bin store within front yard.

Application Permitted 31 July 2017

16/07619/FULL

Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.

Application Permitted 4 January 2017

14/04980/FULL

Excavation of basement extension under garden and house, lower ground floor rear and side extension, conversion of roof space to provide habitable accommodation, insertion of 4no. rooflights.

Application Permitted 7 October 2014

7. THE PROPOSAL

Planning permission is sought for the installation of a shed/summer house to the back of the rear garden which will also house an air conditioning unit.

8. DETAILED CONSIDERATIONS

8.1 Land Use

No change to the existing residential use.

8.2 Townscape and Design

Objections have been received from neighbours on the grounds of the increased bulk of the structure, including its appearance projecting above the garden boundary walls and the loss of garden space.

Permission was granted in January 2017 for a similar structure at the end of the rear garden, which was also proposed as a shed and acoustic enclosure. This revised scheme increases the size by 242mm higher and 200mm wider. The same timber cladding and window frames are proposed. The air conditioning unit is again to be located within the envelope of the new structure.

While the proposed structure is slightly larger than that previously approved, given the size of the rear garden and as a similar structure has already been approved, it is not considered the proposed changes have a significant harmful impact on the character and appearance of the Maida Vale Conservation Area. The proposals are therefore considered to comply with S28 of Westminster's City Plan and DES 1, DES 5 and DES 9 of Westminster's UDP.

8.3 Residential Amenity

The Environmental Health Officer initially commented that insufficient information was supplied in support of the background noise assessment. Concern was also raised by neighbours that the acoustic report did not provide conclusive evidence that the quiet enjoyment of the property would not be compromised and that the initially submitted Acoustic Report did not provide full information regarding the noise survey. However additional information in an updated Acoustic Report has since been submitted and re-consulted on.

Environmental Health have confirmed that their concerns have now been addressed. Subject to a condition to ensure that the acoustic enclosure is installed it is not considered that the proposals will harm the amenity of neighbouring properties. It is recommended that the same conditions relating to plant that were attached to the 2017 permission. As it has been demonstrated that the proposed plant will not create any significant noise disturbance the objectors suggestion that the structure should be moved away from the garden boundary's to enable the quiet enjoyment of their garden is not sustainable.

The proposal is sited some distance from any neighbouring properties windows and therefore there would be no sense of enclosure or loss of sunlight/daylight issues. The proposed windows and glazed doors face into the garden of the subject premises and would introduce any significant loss of privacy.

8.4 Transportation/Parking

The proposal has no transportation or parking implications.

8.5 Economic Considerations

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

8.6 Access

No changes to access are proposed by the application

8.7 Other UDP/Westminster Policy Considerations

A tree protection condition was attached to the 2017 planning permission at the request of the City Council's Arboricultural Manager. It is recommended that the same condition is attached to this permission and has been agreed by the applicant.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.9 Neighbourhood Plans

No Neighbourhood Plan is in place for this area.

8.10 London Plan

This application raises no strategic issues.

8.11 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 a pre-commencement condition to secure tree protection methods. The applicant has agreed to the imposition of the condition.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

An environmental Impact assessment is not required for an application of this size.

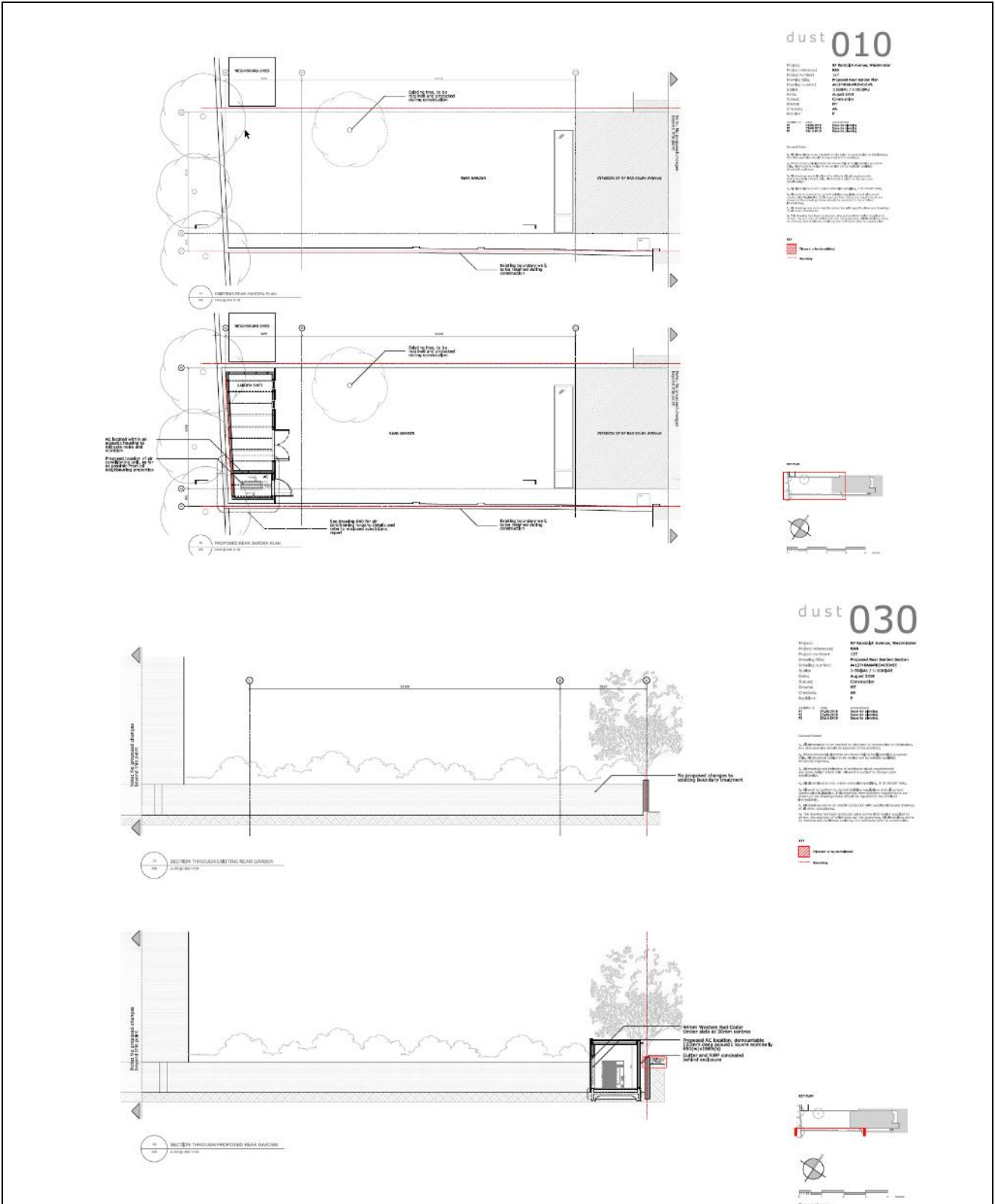
8.14 Other Issues

An objection has been received that the proposal will create dead space on 3 sides of the structure and does not provide a large enough maintenance gap between the structure and boundary which would result in the accumulation of debris. The applicant has stated that the shed aims to maximise the space at the back of the garden whilst leaving sufficient space so as to not impose on neighbouring properties and leaving room for maintenance. The gaps are similar to those granted permission in 2017.

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

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

9. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 97 Randolph Avenue, London, W9 1DL,

Proposal: Installation of one external air conditioning unit, shed and enclosure at ground floor level at rear of site.

Plan Nos: 000P3; 010P3; 030P3; 040P3; Acoustic Report 160706-002D; October 2018; Design and Access Statement;

Case Officer: Richard Langston

Direct Tel. No. 020 7641 7923

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

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

Reason:

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

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

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

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

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

Reason:

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

- 3 The air conditioning plant hereby approved shall not be used until the acoustic enclosure and timber enclosure shown on the plans and detailed in Section 7.1 of the submitted Acoustic Report dated October 2018, have been provided. The enclosures must then be retained in place thereafter.

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. (R22CC)

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

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

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out

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

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

Reason:

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

- 6 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

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

Informative(s):

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

- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 Condition 6 requires you to submit a method statement for works to a tree(s). The method statement must be prepared by an arboricultural consultant (tree and shrub) who is registered with the Arboricultural Association, or who has the level of qualifications or experience (or both) needed to be registered. It must include details of:
- * the order of work on the site, including demolition, site clearance and building work;
 - * who will be responsible for protecting the trees on the site;
 - * plans for inspecting and supervising the tree protection, and how you will report and solve problems;
 - * how you will deal with accidents and emergencies involving trees;
 - * planned tree surgery;
 - * how you will protect trees, including where the protective fencing and temporary ground protection will be, and how you will maintain that fencing and protection throughout the development;
 - * how you will remove existing surfacing, and how any soil stripping will be carried out;
 - * how any temporary surfaces will be laid and removed;
 - * the surfacing of any temporary access for construction traffic;
 - * the position and depth of any trenches for services, pipelines or drains, and how they will be dug;
 - * site facilities, and storage areas for materials, structures, machinery, equipment or piles of soil and where cement or concrete will be mixed;
 - * how machinery and equipment (such as excavators, cranes and their loads, concrete pumps and piling rigs) will enter, move on, work on and leave the site;
 - * the place for any bonfires (if necessary);
 - * any planned raising or lowering of existing ground levels; and
 - * how any roots cut during the work will be treated.
- 5 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I32AA)
- 6 It has come to our attention that the tree protection measures approved pursuant to Condition 8 of the basement permission (14/04980/FULL) are not currently being implemented. Furthermore, they could not be carried out properly if this planning permission is implemented, as the shed and air conditioning unit and enclosure are within the area which is to be fenced off and from which all construction activity should be excluded (see approval of details application RN: 14/11361/ADFULL). Therefore when you apply to us for our approval of details pursuant to Condition 6 you should also submit an application to approve alternative tree protection measures pursuant to Condition 8 of the planning permission dated 7 October 2014 (14/04980/FULL).