



City of Westminster

Committee Agenda

Title:

Planning Applications Sub-Committee (2)

Meeting Date:

Tuesday 19th March, 2019

Time:

6.30 pm

Venue:

Rooms 18.01 & 18.03, 18th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP

Members:

Councillors:

Melvyn Caplan
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 a pass, 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: gwills@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. ELECTION OF CHAIR

The Planning Sub-Committee (2) are required to appoint a Chair.

2. MEMBERSHIP

To note that Councillor Melvyn Caplan had replaced Councillor Robert Rigby.

To note any further changes to the membership.

3. 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.

4. MINUTES

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

5. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

Members of the public are welcome to speak on specific applications at planning committee meetings.

To register to speak and for guidance please visit:

www.westminster.gov.uk/planning-committee

In the event that you are successful in obtaining a speaking slot please read the guidance, in order to familiarise yourself with the process prior to attending the meeting.

(Pages 5 - 8)

- | | | |
|-----------|--|------------------------|
| 1. | 103 OXFORD STREET, LONDON, W1D 2HF | (Pages 11 - 38) |
| 2. | 39 HILL STREET, LONDON, W1J 5LZ | (Pages 39 - 66) |
| 3. | 46 BROADWICK STREET, LONDON, W1F 7AF | (Pages 67 - 82) |
| 4. | BASEMENT AND GROUND FLOOR, 42 MARYLEBONE
HIGH STREET, LONDON, W1U 5HD | (Pages 83 - 94) |

**Stuart Love
Chief Executive
8 March 2019**

Order of Business

At Planning Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

Order of Business
i) Planning Officer presentation of the case
ii) Applicant and any other supporter(s)
iii) Objectors
iv) Amenity Society (Recognised or Semi-Recognised)
v) Ward Councillor(s) and/or MP(s)
vi) Council Officers response to verbal representations
vii) Member discussion (including questions to officers for clarification)
viii) Member vote

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.



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 26th February, 2019**, Room 18.1-18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Rigby (Chairman), James Spencer, Tony Devenish and Geoff Barraclough

1 MEMBERSHIP

- 1.1 Councillor Devenish substituted for Councillor Hyams and Councillor Barraclough for Councillor Mckie.

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 There were no declarations.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 29 January 2019 be signed by the Chairman as a correct record of proceedings.

4 PLANNING APPLICATIONS

The Chairman explained that any deputations received, should relate to material planning issues. He advised that the time allocated for each deputation was a total of 3 minutes and after all speakers had finished speaking and officers had responded to any new issues raised, Members would debate the Application before a vote was taken.

1 21 PALMER STREET, LONDON, SW1H 0AD

Alterations to existing eighth floor and extension to create new tenth floor to provide additional office accommodation.

Mr Kaivin Wong addressed the Sub-Committee and spoke in support of the Application

Mrs Agapi Fylaktou addressed the Sub-Committee and spoke in objection of the Application

RESOLVED: That conditional permission be granted

(To refuse permission: Councillor Geoff Barraclough)

(To grant permission as recommended: Councillors Robert Rigby, Tony Devenish, and James Spencer)

2 78 ST JAMES'S STREET, LONDON, SW1A 1JB

Replacement and extension at fifth floor level and addition of a new sixth floor for office (Class B1) purposes.

The Presenting Officer tabled the following amended conditions and informative:

10. You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the building.

Reason

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

11. The extension hereby approved shall achieve at least a 'very good' rating under the BREEAM non-domestic refurbishment standards, or equivalent under any other nationally recognised sustainability assessment scheme.

Reason

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016).

Letter received from Howes Percival LLP on 25 February 2019

RESOLVED: That conditional permission and listed building consent be refused on grounds of bulk, height, detailed design (fenestration) of roof extension and adverse impact upon the conservation area and setting of listed buildings, with reasons settled under officers' delegated powers

(To refuse permission: Councillors Robert Rigby, Geoff Barraclough and James Spencer)

(To grant permission as recommended: Councillor Tony Devenish)

3 49 MADDOX STREET, LONDON, W1S 2PQ

Variation of Conditions 3, 4, 5, 7, 8 and 9 of planning permission dated 8 April 2013 (RN: 13/01588) for the continued use of ground floor for cafe/restaurant purposes (Class A3) and installation of new ventilation duct at rear; NAMELY to (i) increase the hours of use of the restaurant premises to allow for opening from 07:00am to 23.30 Monday to Thursday, 07:00 to midnight Friday to Saturday and between 10:00 and 22:30 on Sundays (including Bank Holidays); (ii) To increase the plant/machinery operating times to 08:00 to 23.30 Monday to Saturday and 10:00 and 22:00 on Sundays (including Bank Holidays); (iii) To increase the capacity of the restaurant from 34 covers to 45 covers; (iv) To allow a small ancillary customer bar area to be used exclusively to serve restaurant customers only; (v) to change the layout of the ground floor and (vi) to update refuse plan numbers.

RESOLVED UNANIMOUSLY:

That conditional permission be granted.

The Meeting ended at 7.49 pm.

CHAIRMAN: _____

DATE _____

Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 19th March 2019
 PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	RN(s): 18/09283/FULL West End	103 Oxford Street London W1D 2HF	Redevelopment behind retained and refurbished facades, demolition and reconstruction of the interior of the building, alterations to shop fronts and reconstruction of the existing mansard and erection of a new sixth floor level plus rooftop plant room, in connection with the use of the basement, ground and first floor levels for retail purposes (Class A1) and offices (Class B1) on upper levels above.	
	Recommendation 1. Grant conditional permission including a condition to secure the following benefits: a) A carbon offset payment of £17,608 (index linked), payable prior to commencement of the development.			
Item No	References	Site Address	Proposal	Resolution
2.	RN(s): 18/07737/FULL West End	39 Hill Street London W1J 5LZ	Alterations to all elevations of the property to include the installation of balconies and extended windows to create doors; installation of plant at main roof level and lower ground floor level; use of lower ground floor as 6 residential flats (Class C3) and reconfiguration of the existing residential units on the upper floors of the property; extension at lower ground floor level within the existing lightwell and at all floor levels on the Hay's Mews elevation; alterations at main roof level including the creation of an internal residential amenity space. (SITE INCLUDES 27A HAY'S MEWS)	
	Recommendation Grant conditional permission, including a condition to secure the following benefits: i) mitigation of the potential increased demand for on street residents' car parking			
Item No	References	Site Address	Proposal	Resolution
3.	RN(s): 19/00327/FULL 19/00328/LBC West End	46 Broadwick Street London W1F 7AF	Installation of a Closed Circuit Television Camera (CCTV) to the front elevation at first floor level. [RETROSPECTIVE APPLICATION]	
	Recommendation Refuse permission and listed building consent - the size, siting and appearance			
Item No	References	Site Address	Proposal	Resolution
4.	RN(s) : 18/08647/FULL Marylebone High Street	Basement And Ground Floor 42 Marylebone High Street London W1U 5HD	Installation of 4 x condensing units at rear lower ground floor level in shared service yard. (RETROSPECTIVE APPLICATION).	

CITY OF WESTMINSTER
PLANNING APPLICATIONS SUB COMMITTEE – 19th March 2019
PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Recommendation Grant conditional permission.			

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 March 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved West End	
Subject of Report	103 Oxford Street, London, W1D 2HF		
Proposal	Redevelopment behind retained and refurbished facades, demolition and reconstruction of the interior of the building, alterations to shop fronts and reconstruction of the existing mansard and erection of a new sixth floor level plus rooftop plant room, in connection with the use of the basement, ground and first floor levels for retail purposes (Class A1) and offices (Class B1) on upper levels above.		
Agent	CBRE Ltd		
On behalf of	Royal London Asset Management		
Registered Number	18/09283/FULL	Date amended/ completed	31 October 2018
Date Application Received	31 October 2018		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission, including a condition to secure the following benefits:

- i) A Carbon Offset Contribution of £17,608 (index linked), payable prior to commencement of development.

2. SUMMARY

The building lies on the corner of Oxford Street with Great Chapel Street. The existing building currently provides 6 storeys of accommodation plus a basement level and is currently used as a retail unit and English Language school.

The application seeks to demolish the building behind its retained façades and to reconstruct the existing mansard and roof level structures to provide an additional level of accommodation. New shopfronts are proposed in connection with the refurbishment of the retail use proposed at basement, ground and first floors, and the use of the upper floors as B1 accommodation.

The key issues for consideration are:

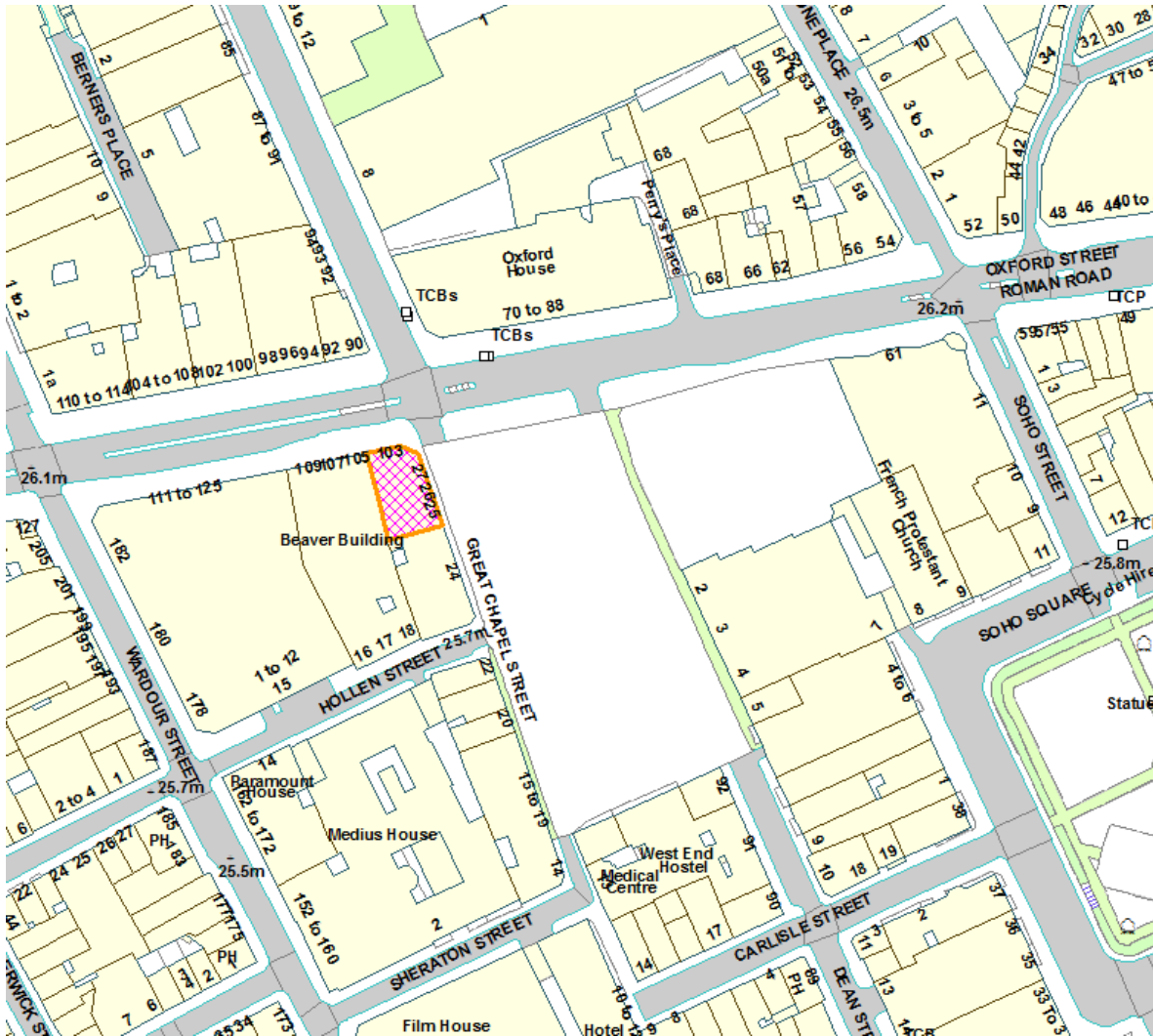
- the loss of the language school;

- the impact of the proposed extensions on the character and appearance of the Soho Conservation Area;
- the impact on residential amenity

UDP and City Plan policies seek to protect social and community floorspace, including educational uses. The City Plan also places a strong emphasis on the provision of additional office accommodation within the Core CAZ. Given the site constraints, it is accepted that the premises would be unsuited to many alternative Class D1 uses. It is acknowledged that language schools provide little value to the local community and are primarily a private commercial enterprise. In these circumstances, and given that the potential office use is welcomed, the proposals are considered acceptable in land use terms.

The proposed replacement mansard and roof plant are considered acceptable in design terms and the additional bulk is not considered to have a harmful impact on residential amenity. The application is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

SOHO SOCIETY

No objections raised provided the sedum roof is constructed.

LONDON UNDERGROUND

No objections subject to conditions.

CROSSRAIL

No comments.

THAMES WATER

No objections raised.

ENVIRONMENTAL HEALTH

No objections raised.

HIGHWAYS PLANNING MANAGER

No objections raised.

WASTE PROJECT OFFICER

No objections raised

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 56

Total No. of replies: 6

No. of objections: 5; One letter of neither objection or support

Four letters of objection on the following grounds:

Amenity

- * Loss of light and inaccuracies in daylight report
- * Suggestion that sun tubes should be used
- * New roof will tower over neighbouring properties
- * Proposed plant should not be located so close to the boundary

Other Issues

- * Strict conditions need to be imposed relating to construction and demolition including dust omissions, working hours and provision of a contact point for local residents/businesses
- * Construction traffic should not be allowed on Hollen Street and a weight limit should be imposed on all vehicles
- * Lack of notification and discrepancy in drawings

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The building lies on the corner of Oxford Street with Great Chapel Street. The existing building currently provides 6 storeys of accommodation plus a basement level. In addition, a set-back plant enclosure is located at roof level. The building is identified as an unlisted building of merit within the Soho Conservation area.

The application site is located within the:

- Core Central Activities Zone (Core CAZ);
- West End Special Retail Policy Area;
- Primary Frontage of the West End International Shopping Frontage;
- West End Stress Area;
- Tottenham Court Road Opportunity Area; and
- Strategic Viewing Corridor (Parliament Hill to Palace of Westminster).

The building is currently used as retail accommodation at basement and ground floor and as a language school at first to fifth floor. Entrance to the language school is via an entrance on Oxford Street.

The surrounding buildings are mainly in commercial use. Directly adjacent to the east is 105-109 Oxford Street, known as the Beaver Building which is a Grade II listed building built as a shop, factory and offices in 1887-88 by Christopher and White for the latter Henry Heath. The property is in retail use at basement and ground level and residential use on the upper 5 storeys (6 apartments). Directly to the south of the site is 24 Great Chapel Street which is currently occupied by the Oxford House College Language School. To the west of this building and rear of 105-109 Oxford Street is 16-18 Hollen Street which is an old Hat Factory Building currently in use as three residential apartments.

The site on the opposite side of Great Chapel Street is being redeveloped as part of the Crossrail project and will accommodate a mixed use scheme with residential flats fronting Oxford Street.

A London Underground tunnel (the Central Line) lies beneath the northern part of the site. The entirety of the site is located within Cross Rail 1 Safeguarding Area.

6.2 Recent Relevant History

Permission granted December 2002 for the use of 2nd floor for either Class B1 office use or D1 education use (language school).

Permission granted October 2003 for the use of 3rd and 4th floors for educational purposes (Class D1)

Permission granted October 2003 for the use of the 5th floor for Class D1 (educational) use as an English Language school for overseas students

Certificate issued in December 2003 for the use of ground and basement for retail (Class A1) purposes.

Permission granted April 2009 for the use of the 3rd and 4th floors for educational purposes (Class D1)

Permission granted January 2012 for the use of the 1st and 2nd floors for educational purposes (Class D1)

Permission granted January 2012 for the variation of conditions 2 and 3 of planning permission 09/00621 for the use of the 3rd and 4th floors for education purposes (D1); namely, to extend hours of use to between 08.00 and 21.30 Monday to Saturday and to allow the number of students permitted on these floors to be increased 150.

Permission granted January 2012 for the variation of conditions 1, 2 and 3 planning permission 04/08298 for the use of the 5th floors for education purposes (D1) for use as English language school for overseas students; namely, to have an unrestricted education use, to extend hours of use to between 08.00 and 21.30 Monday to Saturday and to allow the number of students permitted on these floors to be increased 86.

Permission granted October 2012 for the use of the 1st to 5th floors for educational purposes (Class D1).

7. THE PROPOSAL

Permission is sought to demolish the building behind its retained façade and reconstruction of the existing mansard and roof level structures to provide an additional level of accommodation. New shopfronts are proposed in connection with the refurbishment of the retail (Class A1 use) at basement, ground and first floors, and the use of the upper floors as B1 (office).

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Language school	1116	0	-1116
Retail	397	411	+14
Office	0	1156	+1156
Total	1513	1567	+54

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of Language School

Mayfair School of English currently occupy a small area of the ground floor (access only) and first to fifth floors for educational purposes. The proposal would result in the loss of the existing language school, which is still trading from the premises. This is a private educational facility which is defined as a 'social and community use' within the adopted development plans.

Item No.
1

UDP policy SOC 1 (D) states that all community facilities will be protected. Under SOC 1(E), schemes involving the redevelopment or change of use of community facilities are required to include adequate replacement facilities. Where the facility is surplus to the needs of the existing provider, any new development should include an alternative community facility. Where adequate replacement facilities are not proposed, the City Council will refuse planning permission.

Such uses are also protected under City Plan Policy S34 ‘...except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider.’ In all such cases, the council will need to be satisfied that the overall level of social and community provision is improved and that there is no demand for an alternative social and community use for that floorspace. Where the council accepts the loss or reduction of social and community floorspace, the priority replacement use will be the priority use for the area which, within the Core CAZ, is commercial development.

Although the premises have not been marketed, in considering similar applications on sites elsewhere in Oxford Street, (submitted also without any marketing information), the Council has accepted that there been a significant reduction in the demand for language schools. Operators have reported a shift to online learning and an increasing requirement to offer students a more flexible study programme – which means that the operation of large premises in central London with, necessarily, more rigid timetabling, is no longer appropriate.

It is acknowledged that the accommodation would be largely unsuitable for many alternative Class D1 uses due to its central location, the lack of wheelchair access to the upper floors, the absence of outside amenity space and lack of a vehicular access or drop-off provision. Given these constraints, it is accepted that the premises are unlikely to be considered attractive for a Class D1 use except by other language school operators. It is also considered that language schools offer very little ‘social’ benefit to the local community.

It is also recognised that the building has historically been used for office purposes, that the language school has been introduced incrementally since 2002, and that the entire building has only been used as a language school since 2009. For these reasons, and given the increased emphasis on the provision of office accommodation in the Core CAZ, a departure from the policy requirement to protect existing social and community uses is considered justifiable and the application is therefore considered acceptable in land use terms.

Increase in office floorspace

The proposal will see an increase in office floorspace of 1,156 sqm (GIA) which will assist in meeting the target of 774,000 sq.m of additional B1 office floors between 2016/17 and 2036/37 set out within City Plan Policy S20. The site’s location within the Core CAZ and within a location that is deeply commercial in character means that this increase in office floorspace is welcome, in accordance with City Plan Policies S6, S18 and S20.

As the increase in floorspace is less than 400sqm (54sqm), there is no requirement for the equivalent amount of residential floorspace.

Retail use

The increase in retail floorspace and the continual retail frontage proposed onto Oxford Street, the primary retail frontage, is also welcomed.

8.2 Townscape and Design

The proposals involves demolition and redevelopment behind retained facades on Oxford Street and Great Chapel Street. This is acceptable in principle as the facades contribute positively to the character and appearance of the Soho Conservation Area and so there is a strong presumption to retain them. The main changes are at roof level and at the rear.

The building has its original mansard roof, with an unsightly plant roof on top. The proposal replaces the mansard with a new one which includes a shallow secondary pitch. The design of the new roof has been subject to negotiation and is now acceptable. This is in accordance with the City Council's policies and supplementary planning guidance.

A plant area is included at roof level. This is at the rear of the building and not visible from the public realm. It is not in full accordance with the City Council's policies, as it is not integrated into the design of the roof. However, given its location and the varied context, which includes the large new building to the west and the caged area on the roof of the school to the south, this is considered acceptable.

As the proposed roof alterations are well below the development plane within the strategic viewing corridor there is therefore no harm to this view.

The proposal is considered to comply with the City Council's urban design and conservation policies, including S25 and S28 of the City Plan and DES 1, DES 5, DES 6 and DES 9 of the Unitary Development Plan and will preserve the character and appearance of the Soho Conservation Area.

8.3 Residential Amenity

The closest residential accommodation within the vicinity of the site are the flats within the former Beaver Building at 105-109 Oxford Street and the flats within the former Hat factory at 16-18 Hollen Street. Both sites are immediately adjacent to the site. 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.

Daylight/Sunlight

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. Only windows facing within 90 degrees of due south of the proposed development need to be tested. Oxford House College at 24 Great Chapel Street have objected on the grounds that the daylight study does not make any assessment to the roof of their property which is used as an outdoor amenity space. However, the application site is due north of this space and it is not considered that there would be any overshadowing or loss of sunlight to this area.

The sunlight/daylight assessment submitted with the application shows that the greatest loss of VSC is 9.35% to a fourth floor bedroom window in the adjacent Crossrail oversite development on Great Chapel Street (currently under construction). 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 tests.

The report demonstrates that only minor losses of sunlight would be experienced and all would be well within the parameters set out above. Given that there are no material losses of sunlight, and given the retained levels of sunlight to the adjoining buildings, a requirement for sun tubes is not considered necessary.

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.

The proposal involves an additional floor which is 4.8m taller than the existing building. However, this additional bulk is some 16m from the north facing windows within the flats within the Hat Factory on Hollen Street and it is not considered that given these distances that the proposal would result in any adverse impact in terms of increased sense of enclosure.

The Language School also object to the additional bulk at roof level which they consider will tower over the neighbouring properties making Great Chapel Street feel unwelcoming and claustrophobic. Most of the additional bulk is formed by the plant enclosure which is set back from Great Chapel Street. The replacement mansard

slopes back from Great Chapel Street and for these reasons it is not considered that there would be an adverse impact on pedestrians in Great Chapel Street.

Loss of Privacy

There are windows within the existing building on the western flank elevation of the building. These are to be replaced in the new building, however, as these face onto the converted flats in the adjacent Beaver Building at 105-109 Oxford Street, a condition is proposed to ensure these are obscure glazed and fixed shut.

8.4 Transportation/Parking

A Transport Statement (TS) produced on behalf of the applicant identifies the site as being within a highly accessible location in terms of public transport. Trip generation modelling concludes that the majority of trips associated with the site will be via public transport or other sustainable modes (e.g. walking, cycling) and indicates that the proposal will not have a significantly adverse effect on the safety or operation of the highway network.

Site servicing

In terms of servicing, Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that “vehicular servicing needs of developments are fully accommodated on-site and off-street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development”. However, in this case, the existing building is serviced on street and the locations of single and double yellow lines within the vicinity allow loading and unloading to occur. The TS shows that the proposed development would result in approximately 6 trips per day (an overall increase in one trip per day compared to the existing use). These are expected to take place either on Great Chapel Street with larger vehicles delivering onto Oxford Street.

Given the location of the site and limited details provided, the Highways Planning Manager has requested a condition is imposed to restrict the operation of a retail/supermarket.

Cycle parking

22 cycle parking spaces are to be provided at basement level in accordance with London Plan standards. The provision of shower and changing facilities is also welcomed and will encourage staff away from other less sustainable modes and encourage cycle usage. These will be secured by condition

8.5 Economic Considerations

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

8.6 Access

The building provides an inclusive step free accessible entrance onto Oxford Street into the revised retail unit and a step free access (with internal lift) for the proposed office accommodation to meet Part M of the Building Regulations.

8.7 Other UDP/Westminster Policy Considerations

Plant

Plant is proposed at basement and roof levels. The adjoining Language school object to the location of the roof level plant on the grounds of increased noise. However, an acoustic report has been submitted with the application and assessed by Environmental Health who raise 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.

Refuse /Recycling

Dedicated waste storage areas are proposed at basement level which provides adequate facilities for waste and recycling facilities for the building. These facilities will be secured through condition.

Sustainability

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

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.

An Energy Strategy has been submitted which sets out the energy efficiency measures for the proposals. The proposals comprise several energy efficiency measures to improve the sustainability credentials of the buildings as part of the energy strategy. These include:

- * Passive design measures, including refurbishment, providing insulation and new double-glazed windows to the retained façade and efficient new fabric within redevelopment;
- * Energy efficient lighting systems;
- * High efficiency boilers and cooling system;
- * PV array where viable in townscape terms at roof level; and
- * Future connection possible to decentralised network.

The proposed development provides carbon savings of 20.5% below the baseline emission rate. As these savings are below the targets set out in London Plan a carbon off-set payment of £17,608 is proposed to secure the delivery of carbon reduction measures elsewhere.

A BREEAM pre-assessment has also been undertaken to establish the likely and potential score and rating for the commercial elements of the development. The results show that the development achieves a BREEAM Excellent Rating.

Biodiversity

The proposed development includes the provision of a sedum room at roof level. This is welcomed and, as requested by the Soho Society, will be secured by condition.

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 closed on Friday 21 December 2018. 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

The Soho Neighbourhood Plan is currently at a very early stage in its development and therefore can currently be given little material weight.

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 the applicant’s adherence to the Council’s Code of Construction Practice, for a requirement for detailed design, method statements and load calculations to accommodate the location of the existing London Underground structures and tunnels and for a carbon off-set payment. The applicant has agreed to these conditions.

8.12 Planning Obligations

A carbon off-set payment is to be secured by Grampian condition.

8.13 Environmental Impact Assessment

The application is not of a sufficient scale to require its own Environment Impact Assessment.

8.14 Other Issues

Construction impact

Objections have 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 vehicles should be prohibited from Hollen Street. Whilst these concerns are noted, permission could not reasonably be withheld on these grounds. However, as the proposals constitute a Level 2 type development, this will require the applicant to sign up to the Council's Code of Construction Practice. This will be secured by condition. Hours of construction work will also be restricted by condition.

Other issues

Two of the objectors raises concerns that there is a discrepancy in the submitted location plan and the plans forwarded by the applicant's party wall surveyors. However, whilst it appears that the map identifying the site shown on the Council's website had been incorrectly plotted, the drawings submitted by the applicant correctly identify the site and the extent of demolition.

One of the objectors claims that neither he nor his immediate neighbours did not receive notification about the planning application. However, all the flats within the Hat Factory (18 Hollen Street) were notified on 5th November 2018. A site notice was also displayed on the site, and the application was advertised in the local newspaper and in this regard, the Council fully complied with the statutory requirement regarding the publicity of the previous planning application.

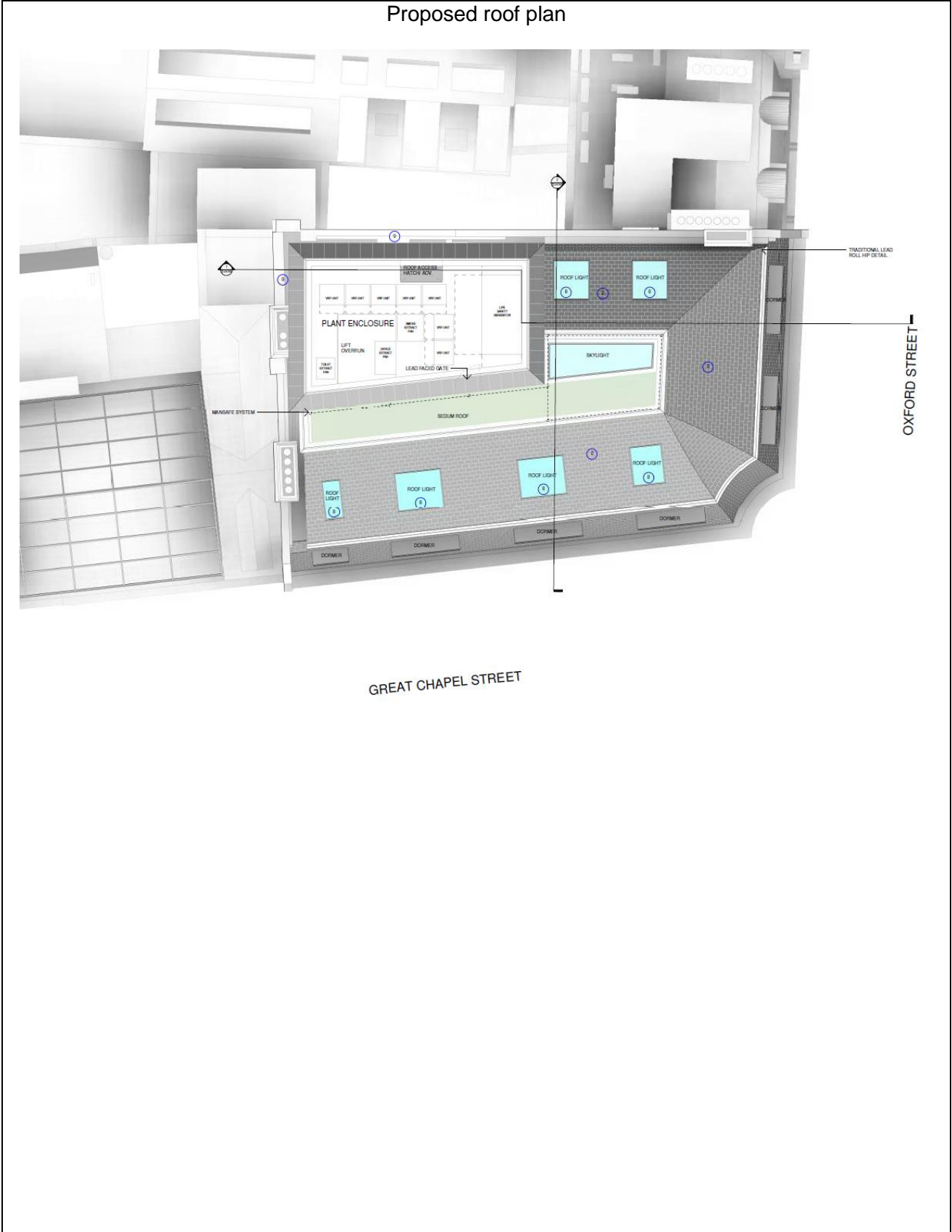
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

9. KEY DRAWINGS



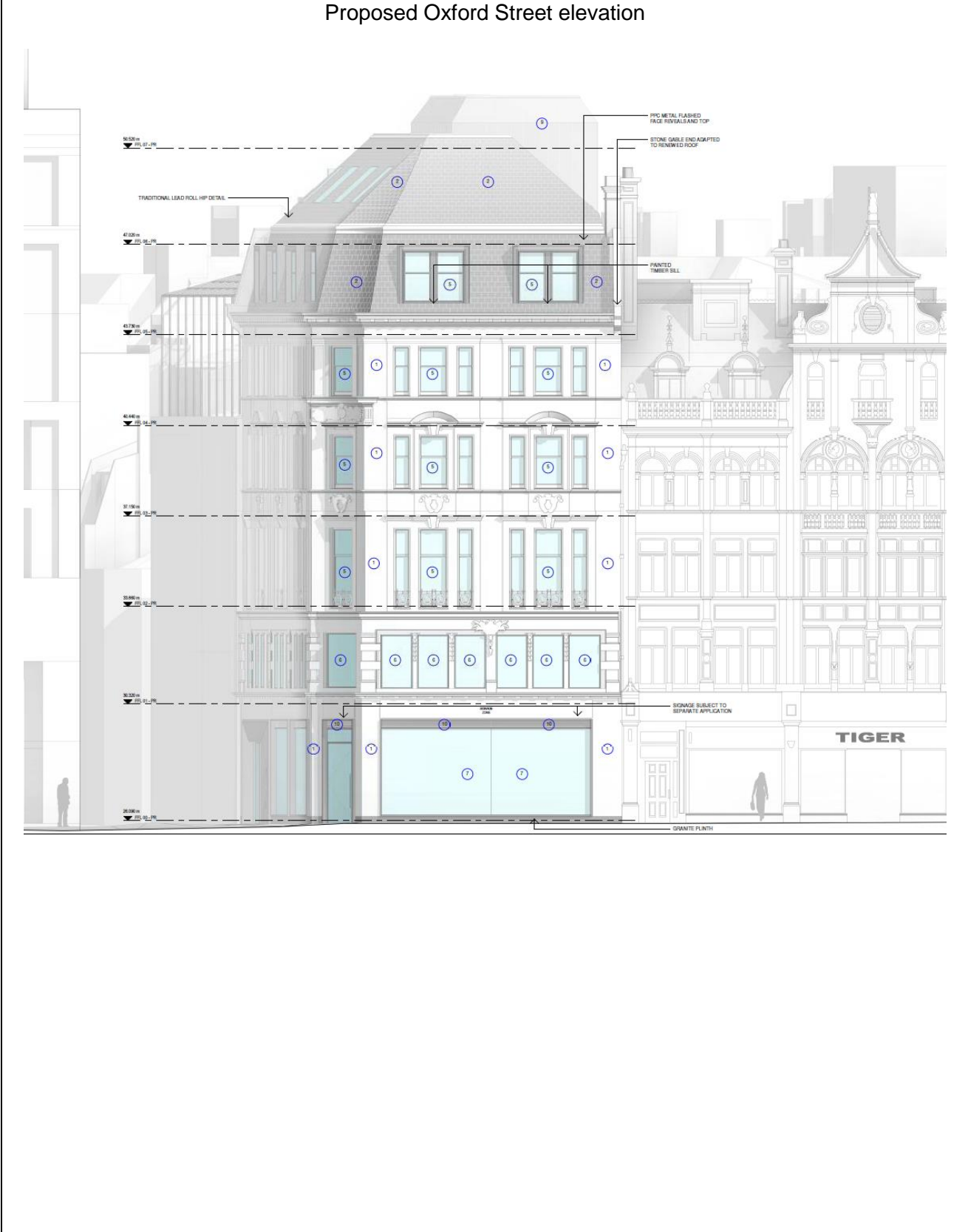
Proposed roof plan



Existing Oxford Street elevation



Proposed Oxford Street elevation



Existing Great Chapel Street elevation



Proposed Great Chapel Street elevation



DRAFT DECISION LETTER

Address: 103 Oxford Street, London, W1D 2HF

Proposal: Redevelopment behind retained and refurbished facades, demolition and reconstruction of the interior of the building, alterations to shop fronts and reconstruction of the existing mansard and erection of a new sixth floor level plus rooftop plant room, in connection with the use of the basement, ground and first floor levels for retail purposes (Class A1) and offices (Class B1) on upper levels above.

Reference: 18/09283/FULL

Plan Nos: B1-X312001 Rev P03, GF-X312001Rev P03, 01-X312001Rev P01, 02-X312001 Rev P01, 03-X312001 Rev P01, 04-X312001 Rev P01, 05-X312001 Rev P03, 06-X312001 Rev P03, 07-X312001 Rev P03, ZZ-X312101 Rev P01, ZZ-X312102 Rev P01, ZZ-X312103 Rev P01, ZZ-X312203 Rev P01, ZZ-X312204 Rev P01, Acoustic report dated 2 October 2018

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 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)

- 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)

Item No.
1

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

- New roof including plant area at the rear.

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 7 You must support and protect the parts of the building which are to be kept during building work in accordance with Structural Methodology Statement dated 26 September 2018.

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

- 8 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

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

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

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

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

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

Reason:

Item No.
1

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.

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

Reason:

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

- 11 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

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

Reason:

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

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

Reason:

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

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

Reason:

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

Item No.
1

- 14 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)

- 15 Notwithstanding the provisions of Class A1 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 retail accommodation hereby approved at ground and basement level shall not be used for convenience retail/supermarket purposes.

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)

- 16 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number B1-X312001 Rev P03. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

Reason:

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

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

- sedum roof

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)

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

Reason:

Item No.
1

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)

- 19 The development hereby permitted shall not be commenced until detailed design, method statements and load calculations (in consultation with London Underground), have been submitted to and approved in writing by the local planning authority which:

- * provide details on all structures
- * provide demolition method statement
- * accommodate the location of the existing London Underground structures and tunnels
- * accommodate ground movement arising from the construction thereof
- * and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2015 Table 6.1, draft London Plan policy T3 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012

- 20 {b Pre Commencement Condition}. You must not start work on the site until we have approved in writing appropriate arrangements to secure the following.

1. Delivery of carbon reduction measures

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

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)

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 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. You should take account of this minimum pressure in the design of the proposed development.
- 4 You should incorporate protection to the property by installing a positive pumped device (or equivalent reflecting technological advances) 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. Fitting only a non-return valve could result in flooding to the property should there be prolonged surcharge in the public sewer. 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. , , Thames Water would expect you to demonstrate what measures you 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 wwqriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality
- 5 The applicant will need technical approval for the works to the highway (supporting structure) prior to commencement of development. The applicant should contact Andy Foster (afoster1@westminster.gov.uk) in Westminster Highways Infrastructure and Public Realm to progress the applicant for works to the highway.
- 6 The term 'clearly mark' in condition 16 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 7 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point., , If you need to change the level of the road, you

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

- 8 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 9 Conditions 9-11 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 10 The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statements, in particular with regard to: demolition; drainage; and construction methods.
- 11 Under condition 20 we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure a carbon off-set payment of £17,608, as set out in the letter dated 6 March 2019 from CBRE. Please look at the template wordings for planning obligations (listed under 'Supplementary planning guidance') on our website at www.westminster.gov.uk. Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition. (I77AA)

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.
2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 March 2019	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	39 Hill Street, London, W1J 5LZ		
Proposal	Alterations to all elevations of the property to include the installation of balconies and extended windows to create doors; installation of plant at main roof level and lower ground floor level; use of lower ground floor as 6 residential flats (Class C3) and reconfiguration of the existing residential units on the upper floors of the property; extension at lower ground floor level within the existing lightwell and at all floor levels on the Hay's Mews elevation; alterations at main roof level including the creation of an internal residential amenity space. (SITE INCLUDES 27A HAY'S MEWS)		
Agent	Montagu Evans LLP		
On behalf of	Hills Investment Limited		
Registered Number	18/07737/FULL	Date amended/ completed	7 September 2018
Date Application Received	7 September 2018		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional planning permission, including a condition to secure the following benefits:

i) mitigation of the potential increased demand for on street residents' car parking

2. SUMMARY

39 Hill Street is an unlisted building located within the Mayfair Conservation Area and the Core Central Activities Zone (CAZ). The building has frontages to Hill Street, Waverton Street and Hay's Mews and comprises a restaurant at lower ground floor level accessed off a courtyard at the rear of the building and residential flats on the ground to eighth floor level.

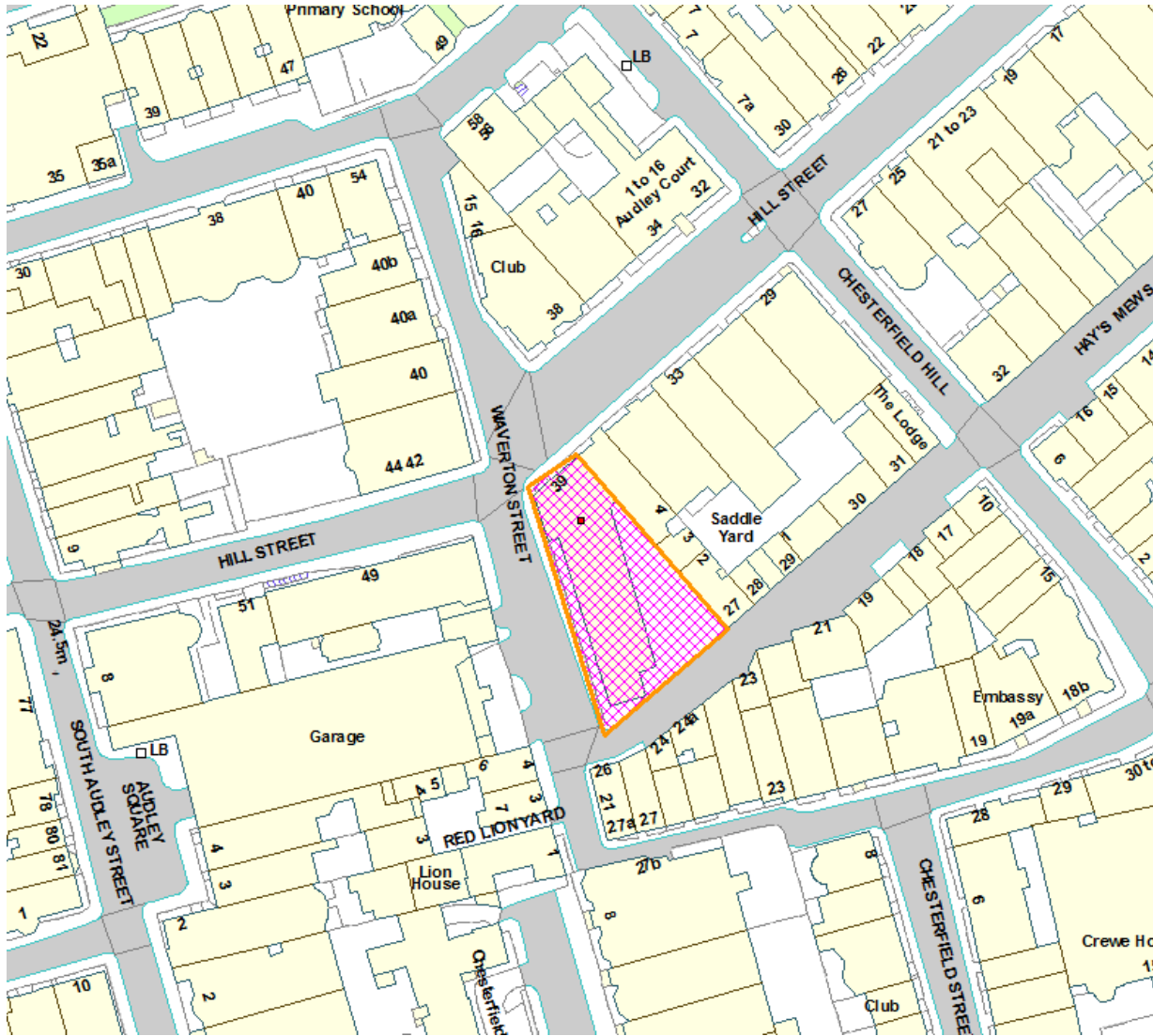
Planning permission is sought for the change of use of the restaurant to form six residential flats, alterations to all elevations of the building including an extension on the southern side of the building at all floor levels and the introduction of balconies and erection of replacement single storey extensions at the rear and in the lower ground floor lightwell.

The key issues in this case are:

- * The impact of the proposed works on the appearance of the building and the character and appearance of the Mayfair Conservation
- * The quality of the proposed residential accommodation
- * The impact of the extensions and alterations on residential amenity
- * The principle of the loss of the restaurant use

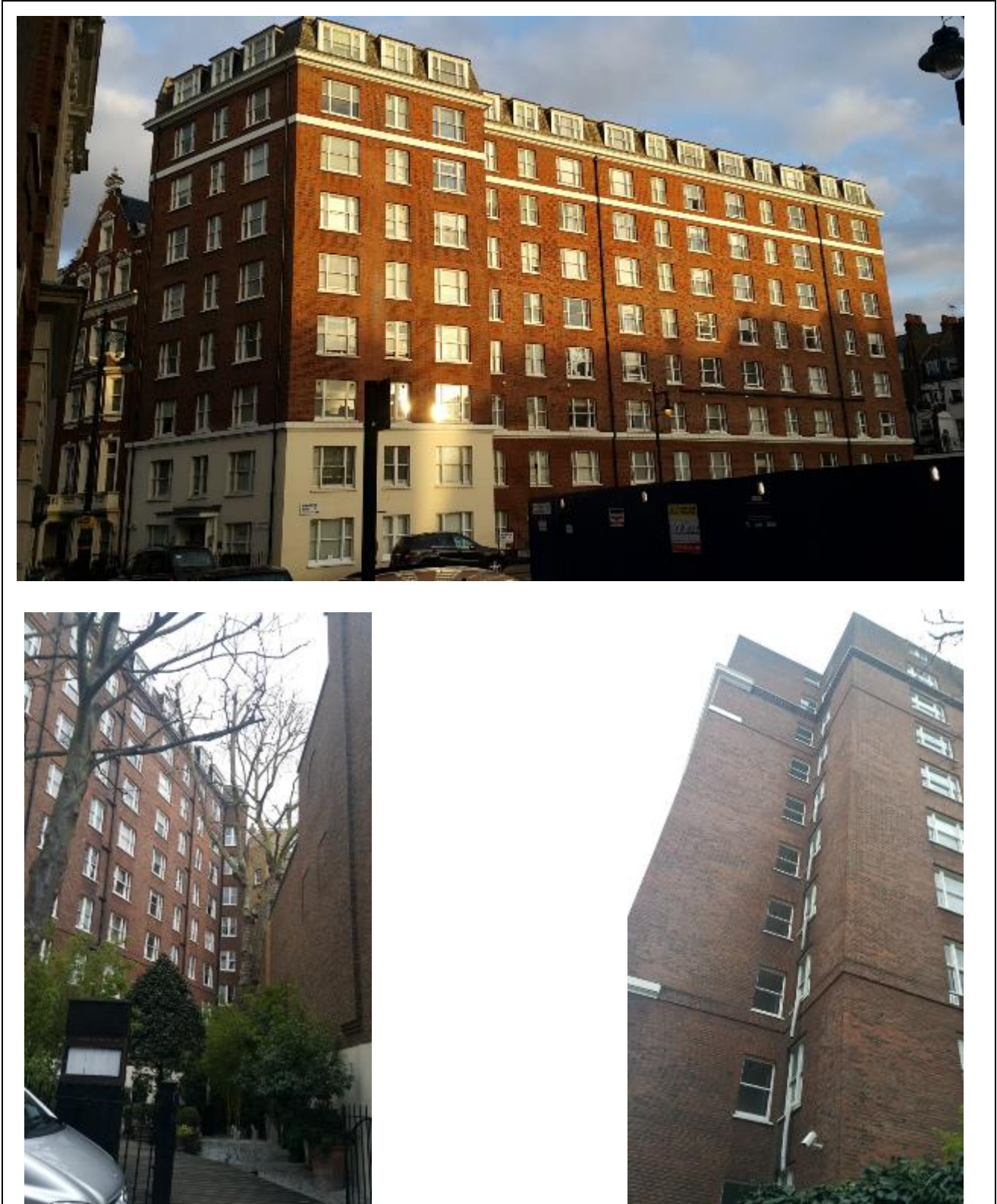
The proposal is considered acceptable in design terms in respect of the proposed extensions and alterations to the property. The change of use of the restaurant floorspace to provide residential flats is also acceptable and the quality and mix of the units provided is appropriate. It is therefore recommended that conditional planning permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Any response to be reported verbally.

HIGHWAYS

Acceptable subject to conditions.

ARBORICULTURAL

Acceptable subject to conditions.

WASTE PROJECTS OFFICER

Objection – further information required.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS AND OCCUPIERS

No Consulted: 129; No Replies: 5

5 letters of objection on the following grounds:

Design

*Alterations to the elevations have a detrimental impact on the appearance of the building and wider Mayfair Conservation Area.

Amenity

- *Proposed daylight and sunlight levels in the new flats would be unacceptable.
- *Loss of daylight and sunlight to neighbouring properties.
- *Installation of balconies will affect daylight / sunlight of other units in the block.
- *Overlooking from proposed balconies and roof terrace
- *Loss of daylight/sunlight
- *Inaccuracies within daylight report

Land use

- *Loss of the restaurant use would be detrimental to Mayfair and the wider Central Activities Zone.
- *Lack of provision of family sized residential units.
- *Lack of affordable housing provision.
- *Loss of the restaurant reduces employment opportunities.

Other

- *Possible smells from bins affecting residents.
- *Alterations to the internal layout of the flats would not suit the resident.
- *Electric vehicle charging should be included.

- *Cycle parking provision is insufficient.
- *More attention should be given to improving energy and water efficiency.
- *Unclear what arrangements have been put in place during the construction period and how construction would take place concurrently with the Audley Square redevelopment.
- *Loss of the restaurant garden.
- *Works could detrimentally impact on the survival of the trees within the courtyard.
- *Full planning application has not been sufficiently amended to account for comments in the pre-application response.
- *Fire safety
- *Consider the address on the neighbour notification letter to be misleading as well as the notice served on the restaurant occupier.
- *Lack of consultation

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

39 Hill Street is an unlisted building in the Mayfair Conservation Area. The property comprises of lower ground, ground and first to eighth floor levels with roof access and plant room on the main roof level. The building has frontages to Hays Mews, Waverton Street and Hill Street.

The lower ground floor of the property is occupied by a restaurant called 'The Greenhouse' which is accessed from a courtyard at the rear of the main property fronting Hays Mews to the south. The remainder of the property is utilised as 65 residential flats with ancillary services on various floors including laundry rooms, a reception area and storage cupboards.

6.2 Recent Relevant History

None relevant.

7. THE PROPOSAL

Planning permission is sought for the change of use of the restaurant at lower ground floor level to provide six residential flats together with internal reconfiguration of the upper floors of the existing residential flats. Alterations are proposed to all elevations of the property including the installation of balconies and conversion of existing windows to doors. An extension is proposed on the Hay's Mews frontage of the building from lower ground to roof level with alterations at roof level to provide a new internal residential amenity area. Single storey structures are removed from within the front basement lightwell and replaced with new extensions to the proposed residential flats at this level.

Following negotiation during the application, amendments have been made to remove certain contentious elements including a large terrace at main roof level and extensions into the rear courtyard garden.

Land Use Table:

Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Restaurant (A3)	495.8	0	-495.8
Residential (C3)	4,302.2	5,060.4	+647.8
Total	4,798	5,060.4	+262.4

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of restaurant use

The City Plan recognises that there is a mix of land uses within the Core CAZ and that this contributes towards the character and vitality of the area. The restaurant operator has also objected to the loss of the restaurant on this basis and have stated that they provide a 'benefit to the local area' and have been an 'impeccable' neighbour to neighbouring residential occupiers.

Restaurant uses are noted as providing an important contribution to the night-time economy in the city within the Mayor's 'Culture and the night time economy' SPG. The London Plan Policy 4.6 also states that boroughs, '*...should support the continued success of London's diverse range of arts, cultural, professional sporting and entertainment enterprises and the cultural, social and economic benefits that they offer to its residents, workers and visitors*'.

With regard non-A1 retail premises, such as the existing restaurant, these are only afforded specific protection within the City Plan within the designated shopping centres. This restaurant is not located within a designated shopping centre and therefore the loss is not specifically resisted by policies within Westminster's City Plan.

Policy S18 of the City Plan considers general commercial development within the City and states, '*Although the priority for Core CAZ, the Opportunity Areas and the Named Streets is commercial, where residential streets and areas within those areas are wholly residential, commercial encroachment is not appropriate*'.

These policies promoting the night-time economy and mix of uses within the Core CAZ need to be considered in the context of other policies which seek to increase the number of residential units within the city including London Plan policy 3.3 which states there is a '*...pressing need for more homes in London in order to promote opportunity and provide a real choice for all Londoners in ways that meet their needs at a price they can afford*'.

Taking into account this is an isolated restaurant premises outside of any designated shopping centre surrounded by other residential uses and the proposal will result in six new residential units including a number of family sized units with outside amenity space, the loss of the restaurant floorspace is considered acceptable in this instance.

Residential use

In addition to the change of use of the lower ground floor to residential accommodation, extensions are proposed at lower ground floor level within the front lightwell and to the upper floors to extend into a recessed area to the south of the building. New balconies to the existing residential units are also proposed and the upper floors are re-configured internally.

The increase in residential floorspace is welcomed and complies with Policies H3 of the UDP and S14 of the City Plan, both of which seek to maximise the amount of land or buildings in residential use. The proposal results in an increase in the number of residential units from 65 in the existing building to 71, an increase of 6 residential units.

Policy H5 of the UDP normally requires that in new developments 33% of the residential units should be family sized (three bedrooms or more), whilst Policy S15 of the City Plan states, *'Residential developments will provide an appropriate mix of units in terms of size, type and affordable housing provision to contribute towards meeting Westminster's housing needs and creating mixed communities'*. Currently there are only two family sized units in the building which equates to 3% of the total units. In the redeveloped building there are 9 family sized units which represents 12.5% of the units in the property. Of the new flats created 66% of them will be family sized (4x3 bed, 1x2 bed and 1x1 bed flats). Some of the flats on the upper floors are owned by leaseholders (as demonstrated by the consulting responses received) and there are likely to be leasehold issues with converting these units to family sized dwellings. Given this, and the overall increase in family sized units, the proportion of family sized accommodation is acceptable in this instance. An objection has been received to the application due to the low level of family sized accommodation but for the reasons set out above it is not considered the application can be reasonably refused on these grounds. A condition is included to ensure the three bedroom units are provided and retained as such to ensure the level of family sized units is maintained.

All the new flats accord with the minimum room sizes as set out in the London Plan (2016) and conditions are proposed to ensure noise levels inside the flats meet the Council's standard in respect to internal noise limits.

A Daylight and Sunlight Assessment has been submitted which assesses the internal levels of daylight / sunlight for the new residential units at lower ground floor level. An objection has been received to the application on the grounds that the new residential units would not receive acceptable levels of daylight / sunlight and would therefore not provide an acceptable form of living accommodation. The daylight and sunlight assessment shows that all new flats within the lower ground floor level will receive acceptable levels of daylight as set out in the BRE Guidance. The levels of sunlight are entirely dependent on the orientation of the windows as well as the location of existing obstructions. Indeed the BRE Guidance states that, *'If a room faces significantly north of due east or west, it (the sunlight criterion) is unlikely to be met'*. The building is on a north-south axis and therefore it is very difficult to meet the sunlight criteria and it is recognised that only 3 of the 21 windows fully meet the sunlight criteria. However, the guidance also states that "sensitive layout design of flats will attempt to ensure that each individual dwelling has at least one main living room which can receive a reasonable amount of sunlight." The family sized units have been designed with a dual aspect layout

Item No.
2

meaning that individual rooms within the flats will receive some sunlight at different parts of the day. These levels are considered acceptable within this built-up urban location. All the windows receive acceptable levels of daylight and in this regard it is considered that the flats will provide an acceptable form of living accommodation.

An objection has also been received that the new balconies might impact on the daylight / sunlight of the flats below, however, the balconies do not project far from the building façade and as the existing windows are enlarged into door openings this is likely to increase the levels of daylight and sunlight within the units. The objection on these grounds is not therefore considered sustainable.

Affordable housing

Given the residential floorspace increase of 647.8 sq.m, resulting in six new residential units, there is no requirement for affordable housing provision as set out in Policy S16 of the City Plan as neither then 1,000 sq.m nor ten unit threshold has been breached. An objector has commented on whether the proposal generates an affordable housing requirement but this is not the case.

8.2 Townscape and Design

The main design implications of the proposal involves a full height extension to the south elevation fronting on to Hays Mews, alterations to the existing facades including the installation of balconies to the east and west facades, infill of the lightwells to the west elevation and alterations to the existing fenestration.

The proposed extension is located on the south east corner of the site and extends the full height of the building. This is contrary to DES 5 of the Council's Unitary Development Plan which seeks to resist extensions which exceed the penultimate height of the existing building. However, in this instance the proposal for a full height infill within the existing recess will have a minimal impact on the appearance of the building and the character and appearance of the conservation area. The visuals provided in the submission demonstrate that the proposed extension will not cause harm to local views and will not harm the architectural composition of the building. The fenestration is designed to relate to the pattern of fenestration on the existing building, details of which are to be secured through condition, along with details of the proposed materials to ensure these blend sensitively with the existing. This aspect of the proposals is therefore considered acceptable in design terms.

Permission is also sought to partially infill the existing lightwells to the front (west) elevation. This is also contrary to DES 5 which resists the enclosure of basement areas. However, in this particular instance the existing lightwell is largely infilled with plant enclosures and storage structures. It is considered that this lightwell does not make a significant contribution to the character and appearance of the conservation area. The proposal to infill it is therefore considered acceptable in this instance, subject to the imposition of a condition to secure details of the proposed materials.

Permission is also sought for alterations to the existing facades including the installation of balconies to the east and west elevations. The balconies on the west elevation are to be positioned on the recessed element of the facade and therefore do not project

beyond the principal building line. Given that this part of the façade is recessed, it is considered that the balconies will not dominate local views and are considered acceptable. To the east elevation, the proposal for balconies is considered acceptable given that this is a secondary frontage in a more discreet position. The imposition of a condition to secure design details of the balconies is recommended.

Alterations are also proposed to the existing window openings, in order to accommodate full height glazing behind the balconies. One objection has been received to this aspect of the proposals, on the grounds that the proposed glazing pattern does not accord with the style of the building and is an unnecessary removal of windows which fit the traditional style of the period. The mansion block building has been designed in the Neo-Georgian style and the proportions of the existing fenestration are reflective of this architectural style. The proposal for full height glazing would alter the proportions of the window openings and disrupt the consistent cill height. However, given that the proposed full height glazing would be largely obscured behind the proposed balconies, it is not considered sustainable to refuse the application on these grounds. It is therefore considered that this objection cannot be supported.

Alterations are also proposed to the palette and materials of the façade, including the proposal for a Portland stone band between the lower ground and first floors, reflecting the existing treatment of the north elevation. A vertical bronze coloured anodised aluminium band is also proposed to the west and north elevations. Details of the proposed materials are to be secured through condition.

Permission was originally sought for alterations at roof level, including an increase in height to the existing plant enclosure and the installation of a glazed balustrade to accommodate a roof terrace. Due to the impact of the proposed roof development on local views from within the conservation area, this aspect was considered unacceptable in design terms and following negotiations has been omitted from the scheme. The proposed elevation drawings have been amended to show the balustrade retained in the position of the existing. For clarity, the imposition of a condition requiring the existing balustrade to be retained is recommended. The only roof level works now proposed are alterations to the existing plant enclosure to accommodate new full height window openings. This aspect of the proposals is considered acceptable in design terms. The applicant has provided a statement confirming that the plant required for the building can be accommodated within the reduced designated plant area.

Overall, the revised proposals are considered compliant with DES 5 and DES 9 of the Council's Unitary Development Plan and are recommended for approval in design terms.

8.3 Residential Amenity

Sunlight and Daylight

Policy ENV13 of the UDP states that 'the City Council will normally resist proposals that result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. In cases where the resulting level is unacceptable, permission will be refused.' Policy S29 of the City Plan states that 'the Council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment.'

The daylight and sunlight report submitted with the application has assessed the changes to all sensitive properties surrounding the site and concludes the changes to sensitive windows are all compliant with the BRE Guidance. Whilst an objection has been received to the application from the restaurant operator concerned about any losses to surrounding buildings, the expected reductions are all in accordance with the BRE Guidance and very minor. A resident on Charles Street has raised concerns on the grounds that their property has not been included within the sunlight/daylight report, however, the daylight report does assess the impact of light levels to their property and the report shows that only negligible losses would be experienced (0.03% losses at third floor and none at fourth floor).

Privacy

Policies ENV13 of the UDP and S29 of the City Plan seek to protect residential amenity and ensure that new developments do not result in a 'significant increase in overlooking' to neighbouring residential or sensitive buildings.

Initially the application also included the introduction of a large terrace at roof level for use by residents of the block. Concerns were expressed by officers and objectors to the potential for unacceptable noise and overlooking and the impact on the appearance of the building. The terrace aspect of the scheme was subsequently removed from the application.

The development includes the creation of small balconies for all the flats at first to seventh floor level. Objections have been received to this element of the scheme from the representative of the restaurant occupier concerned about overlooking of neighbouring buildings and a leasehold owner within the block concerned about overlooking of the flats they own in the block. A resident on Charles Street is also concerned about overlooking. The balconies are all relatively small and serve individual units and it is not considered that the provision of the balconies and their use would result in a 'significant' increase in the degree of overlooking such that the proposal would be contrary to the requirements of policies ENV13 and S29.

8.4 Transportation/Parking

UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased to 'stress levels'. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays has exceeded 80%. Within a 200m radius of the development site the occupancy of on-street parking during the day is currently 77%. This reduces to 53% overnight. The proposals would not therefore be contrary to TRANS 23 and given the close proximity of this site to excellent public transport facilities it is considered that the lack of parking in this instance is likely to be acceptable, subject to the addition of a condition requiring lifetime membership of a car club for each of the new residential units.

An objection has been received stating that the cycle parking provision is insufficient. However, the scheme has been amended during the course of the application to increase the level of cycle parking to 18 spaces and new internal cycle storage is now

proposed. This now accords with the requirements of the London Plan and is considered acceptable. A condition is included to require the provision and retention of this cycle parking provision.

An objector has commented on the proposal stating that electric charging points should be provided, but there is no off-street parking in the development and no alterations to the highway are proposed so it is not considered there is any possibility of providing such a facility.

8.5 Economic Considerations

An objector has commented on the loss of employment opportunities at the restaurant premises resulting from the proposal. Whilst the loss of a small number of jobs at the restaurant premises is regrettable and will undermine the ability to meet the job targets set out within City Plan Policy S18, as set out within Section 8.1 of this report, the benefits of the additional residential units is considered to outweigh the loss of the restaurant in this instance.

8.6 Access

New ramped access will be provided to the ground floor at the main entrance eliminating the current stepped access. There is an existing lift in the building providing access to all floors. The new flats at lower ground floor level are to be accessed from the courtyard garden to the rear of the property. It is not possible to provide level access to these flats as any alterations to the pathways through the gardens could have detrimental impacts upon the protected trees in the garden.

8.7 Other UDP/Westminster Policy Considerations

Plant Noise

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

An acoustic report has been submitted in relation to the installation of the new plant equipment. The nearest noise sensitive properties are located within the same building at a distance of approximately 2m. It is proposed that the plant could be operated at any time over a 24hour period (as it is serving residential properties) the design criteria for noise from the plant is 37dB. The plant is to be installed within acoustic enclosures which ensures that the noise levels from the plant operations accords with the City Council criteria. The proposal has been reviewed by Environmental Sciences who confirm the plant operation is compliant with the standard Westminster noise criteria detailed above. Standard conditions are imposed with regard acceptable levels of noise, hours of operation, installation of the screening and vibration from the plant operation as required by Environmental Health.

Refuse /Recycling

The existing arrangements for the storage of refuse and recycling are to be retained to serve the new residential units. The Waste Projects Officer has requested the submission of further information to confirm the bin capabilities and show appropriate waste and recycling storage provision. It is considered this can be dealt with by a suitable condition requiring the submission of drawings to show this capacity in the existing waste storage area. The existing bin store is connected internally to the ground floor level of the building and also has existing doors to street level to allow the collection of the waste / recycling.

Trees

There is a London plane and sycamore tree within the rear garden area which are subject to Tree Preservation Orders. Single storey extensions were originally proposed at the rear of the property into the courtyard area, but following concerns about the impact of these extensions on these trees, this element of the proposal has been removed. Extensions are still provided to the building at all floor levels on the south east corner of the building fronting Hays Mews and on the rear north side of the property but there are already built structures in these locations so the extensions would not have a detrimental impact upon the trees in the courtyard area. These works have been considered acceptable by the Arboricultural Officer and would not have an impact on the long term survival of the trees. An objector has commented on the potential damage to the trees but, due to the reduced scope of the application, this is no longer the case and the objection has been addressed.

As it is likely the rear garden area will be used in some form during the development process a condition is proposed requiring the submission of information detailing how the trees will be protected during construction.

Sustainability

An objector has commented on the potential for energy and water efficiency savings to be made in the proposal. There is no requirement for the applicant to submit an energy strategy in this instance, however, the installation of replacement windows to the block should result in improved energy efficiency for the residential dwellings and the alterations will have to be carried out in accordance with relevant building regulations.

Other

The Environmental Health Officer has commented on the submitted drawings stating that potentially the flats include 'remote rooms' which would not provide acceptable 'Means of Escape in Case of Fire'. This is a matter for the Building Regulations and would be considered under separate legislation. An informative is included to advise the applicant of this potential issue.

Objections have also been received from a local resident and the representative of the restaurant operator stating that the courtyard will not be accessible to the public. The courtyard currently forms part of the restaurant space and is in private ownership. It is not a public space and the City Council has no control over access. Whilst the courtyard

would move into the ownership of the lower ground floor flats proposed in this application, this has no wider implications for the public.

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 closed on Friday 21 December 2018. 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

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.

8.10 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 relating to the protection of trees and the parking mitigation measures. The applicant has not responded within the required time frame and therefore the City Council can now impose these conditions without the applicant's express agreement.

8.12 Planning Obligations

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

The estimated CIL payment relating to the proposal is £18,709 for the mayoral CIL and £188,059 for the Westminster CIL.

8.13 Other Issues

An objector has commented on how some elements of the proposal identified as contentious at pre-application stage have been remained in the planning application which they consider inappropriate. The application has been amended since it was initially submitted and all contentious elements removed.

The restaurant occupier also considers the notice served on them was misleading, although it is not clear why. The notice clearly states 'change of use of lower ground floor from A3 (restaurant) to C3 (residential)', this would clearly identify to the restaurant operator it related to their premises as they are the only restaurant in the building. In any event, the occupier of the restaurant has submitted representations on the application and therefore officers are content that it has had full opportunity to comment on the application.

An objector is concerned that the immediate neighbours were not notified. However, all adjoining neighbours were notified in accordance with the Council's normal procedures and the application was advertised with both press and site notices. The restaurant occupier is also concerned that the original neighbour letter may have misled neighbours with the address being 39 Hill Street. New neighbour letters were also sent out which included 27A Hay's Mews within the description of development and again included reference to extensions on the Hay's Mews elevation of the property.

An objector who claims to own the leasehold to three flats in the block has objected to the proposed internal layouts of flats and to the installation of balconies, stating that this would not suit their requirements. This is an issue between the leaseholder and the freeholder and is not a matter that could justify refusal.

An objector has commented on the potential for odours from the bins to affect future occupiers of the flats. The bin storage is retained in the existing location and, whilst there are new flats at lower ground floor level, these are no closer to the bin store than the flats at ground and first floor levels. Only one comment has been made about odours from the bin store and considering waste collections are on a daily basis it is not considered that waste odour can be a common occurrence. Planning consent cannot be reasonably withheld on these grounds.

Construction impact

A resident of the building has commented on potential disruption during the construction period and a resident on Charles Street is concerned about how construction would take place concurrently with the Audley Square redevelopment. These concerns are noted, however, planning permission cannot be withheld on these grounds. The standard condition has been included which restricts the hours of noisy works to ensure that

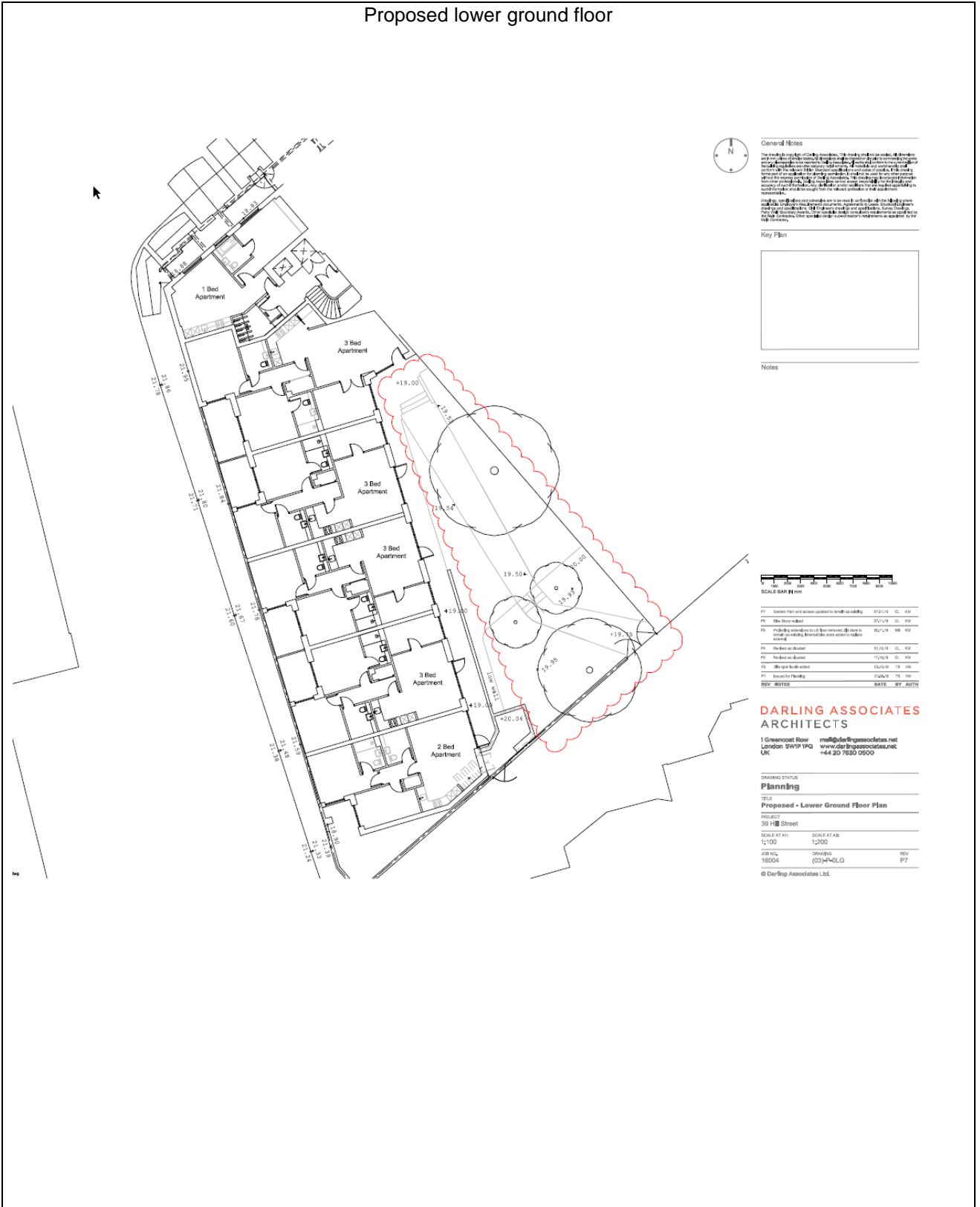
Item No.
2

construction does not impact on the amenity of existing tenants. An informative is also proposed to encourage the applicant to sign up to the Considerate Constructors Scheme.

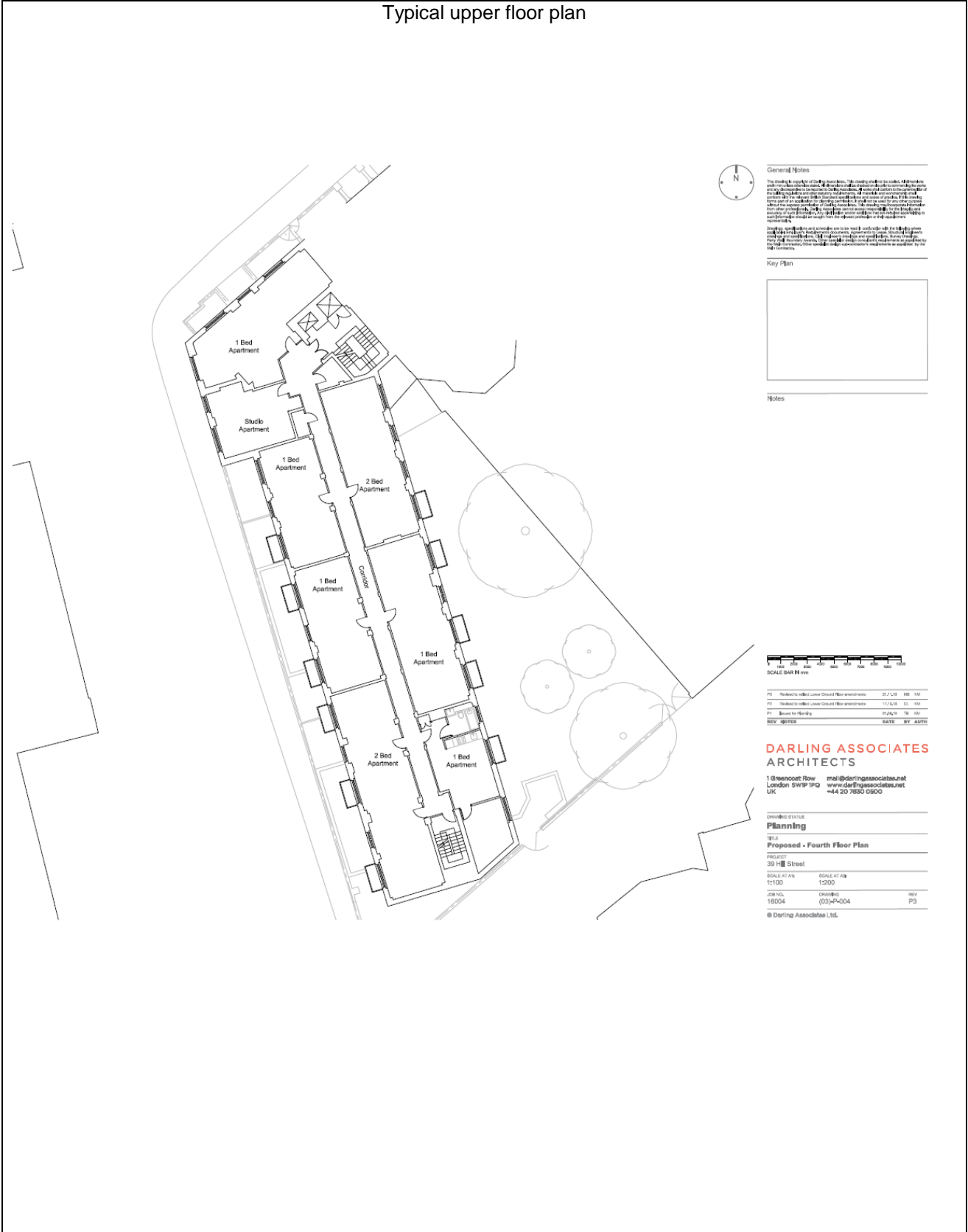
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

9. KEY DRAWINGS



Typical upper floor plan



General Notes

The reader is advised that this plan shows the typical layout of the apartments and is not intended to be used as a guide for the construction of any individual apartment. The reader is advised that the plan shows the typical layout of the apartments and is not intended to be used as a guide for the construction of any individual apartment. The reader is advised that the plan shows the typical layout of the apartments and is not intended to be used as a guide for the construction of any individual apartment.



Notes



PT	Product to refer Lower Ground Floor elements	21.11.18	MS	AM
PT	Product to refer Lower Ground Floor elements	11.11.18	DS	SM
PT	Product to refer Upper Ground Floor elements	21.11.18	MS	AM
REV	NOTES	DATE	BY	AUTH

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DRAWING STATUS

Planning

TITLE
Proposed - Fourth Floor Plan

PROJECT
33 Hill Street

SCALE AT A1 1:100 **SCALE AT A8** 1:200

JOB NO. 18004 **DRAWING** (03)-P-004 **REV** P3

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Proposed Waverton Street elevation



Proposed Hill Street and Hay's Mews elevations



Item No.
2

DRAFT DECISION LETTER

Address: 39 Hill Street, London, W1J 5LZ,

Proposal: Alterations to all elevations of the property to include the installation of balconies and extended windows to create doors; installation of plant at main roof level and lower ground floor level; use of lower ground floor as 6 residential flats (Class C3) and reconfiguration of the existing residential units on the upper floors of the property; extension at lower ground floor level within the existing lightwell and at all floor levels on the Hay's Mews elevation; alterations at main roof level including the creation of an internal residential amenity space. (SITE INCLUDES 27A HAY'S MEWS)

Plan Nos: Acoustic Report (15824.PCR.01), Drawings: (03)-E-001 RevP3, (03)-E-002 RevP6, (03)-E-003 RevP3, (03)-P-0LG RevP7, (03)-P-00G RevP7, (03)-P-001 RevP3, (03)-P-002 RevP3, (03)-P-003 RevP3, (03)-P-004 RevP3, (03)-P-005 RevP3, (03)-P-006 RevP3, (03)-P-007 RevP3, (03)-P-008 RevP3, (03)-P-0RF RevP3, (03)-X-001 RevP1, (03)-X-002 RevP2, (03)-X-003 RevP2, (03)-X-015 RevP2.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

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 (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)

- 4 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)

- 5 You must install the acoustic enclosures as shown on the submitted drawings to the specification detailed in the acoustic report at the same time as the plant is installed and maintain them in this form for as long as the plant remains in place.

Reason:

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

- 6 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)

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

Reason:

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

Item No.
2

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

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

1. Balconies and railings (1:5 and 1:20)
2. New windows and doors (1:5 and 1:20)

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

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

Reason:

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

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

Reason:

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

- 11 Notwithstanding the drawings hereby approved, the existing roof level hand rail shall be retained in situ.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in

Item No.
2

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)

- 12 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

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

- 13 **Pre Commencement Condition.**

Prior to the commencement of any demolition or construction on site the applicant shall submit details to secure the following:

1. Mitigation of the potential increased demand for on street resident's car parking.

You must include in the arrangements details of when you will provide the benefits and how you will guarantee this timing. 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.

Reason:

To mitigate the potential impact on-street car parking stress and to promote more sustainable modes of transportation, in accordance with Policy S41 of the City Plan adopted November 2016 and Policy TRANS 23 of our Unitary Development Plan that we adopted in January 2007.

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

Reason:

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

- 15 **Pre Commencement Condition.**

You must apply to us for approval of the ways in which you will protect the trees within the rear garden area. 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. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2012. You must then carry out the work according to the approved details.

Reason:

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

- 16 You must apply to us for approval of details of how waste and recycling is going to be stored on the site. You must not occupy the residential use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling store in line with the approved details prior to occupation, and clearly mark it and make it available at all times to everyone using the flats. You must not use the waste and recycling store for any other purpose. (C14GA)

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)

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, neighbourhood plan (where relevant), 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 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

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

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

Item No.
2

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. 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)

- 4 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)

- 5 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.

- 6 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.

- 7 You are advised to carefully consider the internal layout of the flats with regard Building Regulations and acceptable Means of Escape in Case of Fire.
- 8 You are advised that condition 8 of this planning permission requires you to submit details of the proposed materials. You are advised that the front lightwell infills should not be glazed over. Lead or zinc are likely to be considered more favourably.
- 9 You are advised that condition 11 of this planning permission requires you to retain the existing roof level hand rail. Permission is not granted for a new balustrade or railings.
- 10 You are advised that permission has not been granted for the installation of any external plant at roof level. You will be required to submit a separate application for planning permission if this is required, which is not likely to be considered favourably. You are also advised that any future proposals for a roof level terrace are not likely to be supported.
- 11 Some of the trees on the site are protected by a Tree Preservation Order. You must get our permission before you do anything to them. You may want to discuss this first with our Tree Officer on 020 7641 6096 or 020 7641 2922. (I30AA)
- 12 Please read the following.
- * British Standard BS: 5837 (2005) and later revisions - Recommendations for trees in relation to construction
 - * National Joint Utilities Group guide NJUG 10 - Guidelines for the planning, installation and maintenance of utility services in proximity to trees (1995)
 - * Arboricultural Practice Note APN 1 - Driveways close to trees (1996), and the products available to provide hard surfaces close to trees. (I92AA)
- 13 Under Condition 13 we are likely to accept a legal undertaking under Section 106 of the Town and County Planning Act (1990) (as amended) to secure 20 year membership provision for each of the new residential dwellings to a Car Plus accredited car club.
- Please look at the template wordings for planning obligations (listed under 'Supplementary Planning Guidance') on our website at www.westminster.gov.uk. Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition.
- 14 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.

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Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 March 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved West End	
Subject of Report	46 Broadwick Street, London, W1F 7AF		
Proposal	Installation of a Closed Circuit Television Camera (CCTV) to the front elevation at first floor level. [RETROSPECTIVE APPLICATION]		
Agent	Rolfe Judd Planning		
On behalf of	Shaftesbury Carnaby PLC		
Registered Number	19/00327/FULL 19/00328/LBC	Date amended/ completed	22 January 2019
Date Application Received	17 January 2019		
Historic Building Grade	II		
Conservation Area	Soho		

1. RECOMMENDATION

Refuse planning permission and listed building consent – detrimental impact upon the listed building and conservation area.

2. SUMMARY

This application relates to façade of a Grade II listed building located within the Soho Conservation Area. No. 46 Broadwick Street comprises a narrow four storey brick terraced townhouse with two bays of timber sash windows, likely to date from 1706. The neighbouring properties to the west, 48 to 58, are grade II* listed dating from c.1722-23.

The proposal seeks retrospective planning permission and listed building consent for the installation of a Closed Circuit Security Camera (CCTV) on the façade of the listed building, at the first floor level. This camera and associated cabling was installed unlawfully in 2017 and is the subject of an ongoing enforcement investigation.

The proposals are considered harmful to the listed building and the quality of the local townscape. The CCTV camera, therefore, fails to preserve or enhance the special character of the listed building and the character and appearance of the Soho Conservation Area.

Supporting representations have been made by the Metropolitan Police, Safer West End Business Partnership and Councillor Glanz. These supporters raise concerns about the removal of the camera and its impact on the surveillance of the area. The camera currently provides views of Lexington

Street and Broadwick Street and is linked to an overall Carnaby Estate CCTV System. The camera is currently used by Shaftesbury PLC and the Metropolitan Police.

The camera and cabling are harmful to the special interest of the grade II listed building, setting of the adjacent Grade II* listed terrace and character of the Soho Conservation Area. This application is, therefore, contrary to Saved Policies DES1, DES5, DES9 and DES10 of the UDP.

The camera was installed unlawfully. Its position on the façade of a listed building is unacceptable and the applicant has failed to provide clear and convincing justification for why the camera needs to be located on this building. Its relocation on to the neighbouring unlisted building is likely to be acceptable.

3. LOCATION PLAN



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4. PHOTOGRAPHS









5. CONSULTATIONS

WARD COUNCILLORS:

Cllr Glanz – Supports the application on the ground that, whilst not necessarily an attractive element, it is essential as a contribution to Public Safety. Argues on behalf of residents, businesses and the law-enforcement community within the West End that the camera should remain in situ unless and until further effective coverage can be put in place in order to protect them.

SOHO SOCIETY:

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. adjoining occupiers consulted: 9

Total No. of replies: 0

No. of objections: 0

No. in support: 0

Two letters of support have been received from interested parties:

Metropolitan Police

The police have relied on this particular CCTV camera in the past. The Metropolitan Police have designed and positioned new cameras away from this area to coincide with the position of this particular camera. The removal of this camera would hinder the investigation of future crimes in this area.

Safer West End Business Partnership –

If Shaftesbury were to successfully retain the camera located in Broadwick Street, this camera would enable improved coverage as it is currently connected to the wider network which benefits not only Shaftesbury but Carnaby security, local businesses and the work we conduct with Metropolitan Police Service.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application lies in the Core Central Activities Zone, the West End Stress Area and the Soho Conservation Area. The application building is Grade II listed.

No. 46 Broadwick Street comprises a narrow four storey brick terraced townhouse with two bays of timber sash windows, likely to date from 1706. It stands out from the neighbouring buildings, due to the lighter brick colour, lower parapet height and two-bay width. The neighbouring properties to the west, 48 to 58, are Grade II* listed dating from c.1722-23. These form larger terraces of three bays, faced in a darker brick with rubbed

brick window arches and flush courses, and stuccoed ground floor. The building to the east dates from the twentieth century and is not listed.

6.2 Recent Relevant History

According to the covering letter and officers' own research, a CCTV camera was first installed on the façade of 46 in 2008. It was replaced with a larger camera in 2016 and then again 2017. No planning or listed building consent application has been received by the Council throughout this period.

The unlawful installation of the camera, two electric heaters and illuminated projecting sign was reported to the City Council's Planning Enforcement Team 30th November 2017 (Case Ref. 17/66198/O). An enforcement notice has not yet been served requiring the removal of the camera.

7. THE PROPOSAL

These applications seek retrospective planning and listed building consent for the installation of a Closed-Circuit Television Camera (CCTV) on the front elevation at first floor level.

8. DETAILED CONSIDERATIONS

8.1 Townscape and Design

In considering the applications the City Council has a statutory duty to:

- a) Have special regard to the desirability of preserving 46 Broadwick Street or any features of special architectural or historic interest which it possesses and the setting of 48-58 Broadwick Street (Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990).
- b) Pay special attention to the desirability of preserving or enhancing the character or appearance of the Soho Conservation Area (Section 72 of the above Act).

Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (NPPF Para. 184). The importance of protecting the significance of heritage assets is emphasised in NPPF Para. 193 that requires the City Council to give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm to, or loss of, significance of a designated heritage asset (i.e. 46 Broadwick Street, 48-58 Broadwick Street and the Soho Conservation Area) requires clear and convincing justification (NPPF Para. 194).

The size and siting of the CCTV camera at first floor level adds to visual clutter on the main elevation of the building. It is in an unsympathetic position forming a prominent detractor from the principal elevation of the building. The camera is readily and widely visible within views from both Broadwick Street and Lexington Street. Furthermore, due to its dark colour, it stands out against the light weathered yellow stock brick. Its projection beyond the building line and metallic/plastic finish sees it stand-out upon approach and contribute to a high level of clutter within the streetscene.

For these reasons, the proposals are harmful to the special interest of the Grade II listed building, the setting of the adjacent Grade II* listed terrace and character of the Soho Conservation Area. This application is, therefore, contrary to Policy 7.8 of Westminster's City Plan, policies S25 and S28 of Westminster's City Plan, 'saved' policies DES1, DES5, DES9 and DES10 of the UDP, as well as the City Council's SPGs pertaining to works and alterations to listed buildings and the siting of security equipment. Furthermore, it is also considered contrary to Policy 7.4 of the London Plan (2016).

In addition to the above, the retention of the large CCTV camera could encourage the installation of similar unauthorised works on neighbouring properties in the terrace and the surrounding area, which in turn would neither preserve or enhance the character or appearance of the Soho Conservation Area, contrary to saved UDP policy DES9.

The applicant states that the existing CCTV camera has been in position for over ten years and currently aids in the mitigation of anti-social behaviour and crime in the area. It is used by the Metropolitan Police who have raised concerns regarding its removal. A letter provided by Senate Group and Grantfen Fire & Security states that the most recent camera was installed in this location as it is the 'only position for the camera views of Lexington Street and Broadwick Street'. Furthermore, the applicant argues that the camera's position is strategically linked to the position of other cameras across the security network and has expressed concerns that its removal could disrupt the wider network and surveillance coverage of this area.

As set out above, any harm or loss of significance of a designated heritage asset requires clear and convincing justification. The applicant has failed to undertake studies that have demonstrated that an alternative site is unavailable for this camera or that additional sensitively located cameras could provide just as effective crime and security benefits without causing harm to designated heritage assets. There are, for example, modern and unlisted buildings located immediately to the east and opposite the site that could potentially be used. No information has been submitted which provides clear justification for why these buildings cannot be used.

Given the City Council's statutory duties set out above, the great weight that must be given to the conservation of heritage assets and the failure of the applicant to demonstrate that there are no alternative sites for the camera, the harm caused to the significance of the listed building, the setting of the neighbouring listed building and the harm to the character and appearance of the Soho Conservation Area is unacceptable. The applicant is advised to explore a different location for the camera that is not located on a listed building and is sited more sensitively.

8.2 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 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, any representations received are being 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.

8.3 Neighbourhood Plans

The Soho Neighbourhood Plan is currently at a very early stage in its development and therefore can currently be given little material weight.

8.4 London Plan

The CCTV camera is an obtrusive modern fixture, which has clearly not been informed by, or respects, the surrounding historic environment contrary to London Plan policy 7.4(e), which states 'Buildings, streets and open spaces should provide a high quality design response that is informed by the surrounding historic environment'.

8.5 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.

Section 12 of the NPPF attaches great importance on well-designed places and should address the connections between people and places and the integration of new development into the natural, built and historic environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, and Paragraph 66 states that applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community.

Furthermore, Section 16 of the NPPF requires the Local Planning Authority to give great weight to the conservation of built heritage assets when considering planning applications.

Furthermore, saved policies DES1 and DES5 of the UDP require alterations to buildings to be of the highest standards of design, furthermore, saved policies DES9 and DES10 of the UDP require proposals to preserve or enhance listed buildings and the character and appearance of conservation areas.

Guidance set out within 'A Guide to the Siting of Security Cameras and other Security Equipment' states that the Council, 'in considering proposals for installing security cameras, will strive to protect and preserve the character and appearance of historic buildings, by resisting the application of excessive security hardware.' This document also provides successful and unsuccessful examples.

Item No.
3

8.6 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: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk .

9. KEY DRAWINGS

FRESSON AND TEE
 6th Floor Queens House
 55-56 Lincoln's Inn Fields
 LONDON WC2A 3LJ
 020 7300 7100 www.frtat.com

NOTES:
 LOCATION PLAN @ 1:2500 AND NORTH UP
 FOR INFORMATION ONLY. NOT TO BE USED FOR CONSTRUCTION.

NO.	REV.	DATE	BY	CHKD.	DESCRIPTION
1	01	15/08/18	MM	MM	ISSUED FOR PERMIT

**Front Elevation + Section
Proposed**

PROJECT NAME: Retention of existing CCTV

ADDRESS: 46 Broadwick Street, LONDON, W1F.

CLIENT: Shaftesbury Carribery PLC

DATE: 24/16/18

SCALE: 1:50 + 1:20 @A3

DRAWN BY: RUS

CHECKED BY: INF

Section A 1:20

Front Elevation 1:50

46 Broadwick Street - Photographic Schedule - CCTV unit

		Street View 2012	Estate wide CCTV camera located above street sign – erected in 2008 Painted white
		Street View July 2014	Estate wide CCTV camera located above street sign at first floor level – still in situ Painted white
		Street View March 2017	Replacement estate wide CCTV camera located above street sign at first floor level Painted white
		Street View September 2017	Replacement estate wide CCTV camera located above street sign at first floor level Painted black Street sign relocated to the centre of the first floor between the windows
		Street View April 2018	As existing today

DRAFT DECISION LETTER (REF: 19/00327/FULL)

Address: 46 Broadwick Street, London, W1F 7AF,

Proposal: Installation of a Closed Circuit Television Camera (CCTV) to the front elevation at first floor level. (Linked to 19/00328/LBC) [RETROSPECTIVE APPLICATION]

Plan Nos: E01-A, 'AXIS Q6000-E PTZ Dome Network Camera Full 360° overview with one-click PTZ control'

Case Officer: Holly Sharpley

Direct Tel. No. 020 7641 5399

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

- 1 Because of the size, siting and appearance the proposed CCTV camera and associated cabling and junction box would harm the significance of this grade II listed building and harm the setting of the neighbouring Grade II* listed buildings at 48-58 Broadwick Street. It would also fail to maintain or improve (preserve or enhance) the character and appearance of the Soho Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5, DES 9, DES 10 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

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

The applicant is advised to find a different location for the camera that is not located on a listed building and is sited more sensitively.

DRAFT DECISION LETTER (REF: 19/00328/LBC)

Address: 46 Broadwick Street, London, W1F 7AF,

Proposal: Installation of Closed Circuit Television Camera (CCTV) to the front elevation at first floor level. (Linked to 19/00327/FULL) [RETROSPECTIVE APPLICATION]

Plan Nos: E01-A, 'AXIS Q6000-E PTZ Dome Network Camera Full 360° overview with one-click PTZ control'

Case Officer: Holly Sharpley

Direct Tel. No. 020 7641 5399

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

- 1 Because of the size, siting and appearance the proposed CCTV camera and associated cabling and junction box would harm the significance of this grade II listed building. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 5, DES 9, DES 10 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (X17CC)

Informative(s):

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

The applicant is advised to find a different location for the camera that is not located on a listed building and is sited more sensitively.

Agenda Item 4

Item No.
4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 March 2019	Classification For General Release	
Report of Executive Director, Growth Planning and Housing		Ward(s) involved Marylebone High Street	
Subject of Report	Basement And Ground Floor, 42 Marylebone High Street, London, W1U 5HD		
Proposal	Installation of 4 x condensing units at rear lower ground floor level in shared service yard. (RETROSPECTIVE APPLICATION).		
Agent	Bidwells LLP		
On behalf of	Getti Ltd		
Registered Number	18/08647/FULL	Date amended/ completed	10 October 2018
Date Application Received	10 October 2018		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

<p>42 Marylebone High Street is an unlisted building located within the Harley Street Conservation Area currently operating as a restaurant (Class A3) at basement and ground floor level. Offices (Class B1) and residential (Class C3) units are located on the upper floors of the building.</p> <p>Retrospective permission is sought for the installation 4 x condensing units to the rear elevation of the building within a shared service yard. It is proposed that the plant will operate between 07.00 and 23.00 daily.</p> <p>The application has been submitted as a result of complaints to the City Council's Planning Enforcement Team regarding the installation of unauthorised plant in respect to noise disturbance throughout the night.</p> <p>Throughout the course of this application, the proposal has been amended to omit reference to a cold room condenser. This is to ensure that the plant fully complies with the City Council's noise level requirements. The applicant has stated that this condenser is no longer required for the operation of the restaurant. An informative has been included to remind the applicant that this has not been approved as part of this application and to remove this unit from the site.</p>
--

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

Three objections have been received from a neighbouring residents from above and to the rear of the premises. They object to the additional background noise, the units operating all night and inconvenience to local residents since the restaurant opened in May 2018.

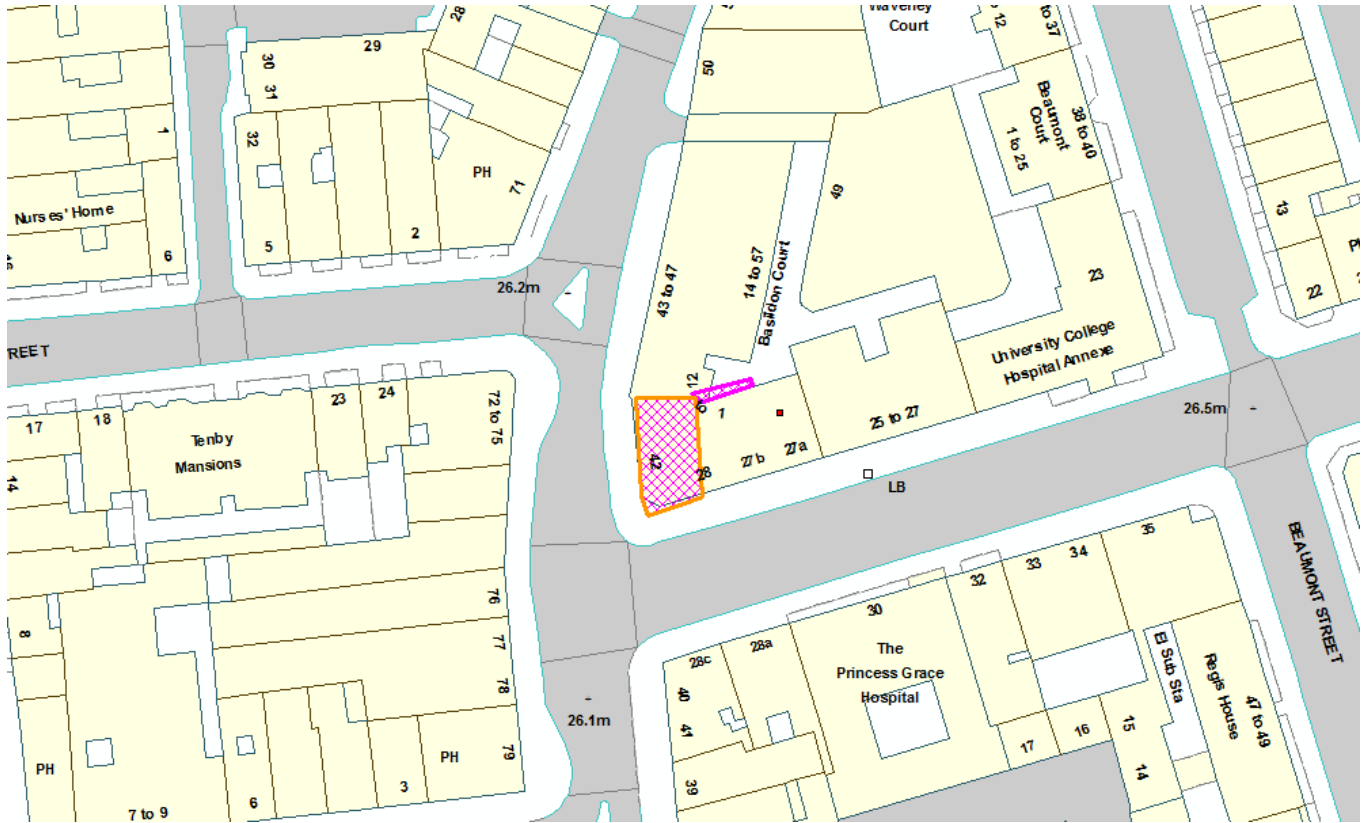
The application is supported by an acoustic report that was amended in January 2019 to omit reference to the cold room condenser. Acoustic readings from two occasions in 2018 have been used to assess the four air conditioning units against the potential impact of noise from the plant at the nearest residents.

The report has been assessed by the Council's Environmental Health Officer who has confirmed that the plant should operate in accordance with the relevant criterion set out within UDP Policy ENV 7. Conditions are recommended relating to plant noise, vibration and limited hours (07:00 – 23:00 daily) the plant can be in use.

Following a number of complaints being lodged to the City Council's Environmental Health noise team in July 2018, a number of inspections were conducted between July and November 2018. The most recent inspections conclude that confirm the plant is switched off by 23:00. Since there have been no recent complaints, Environmental Health have closed their investigation.

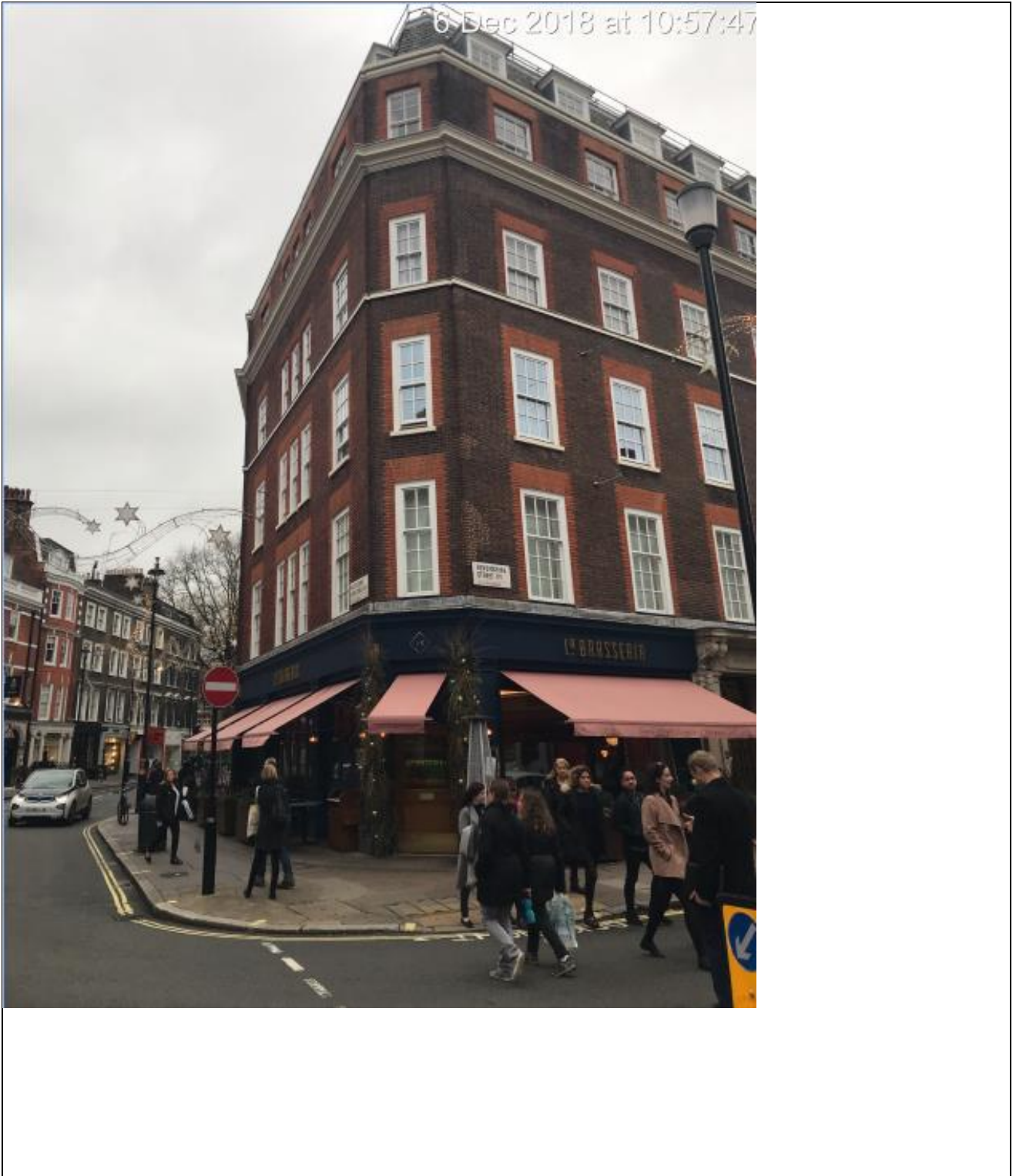
For these reasons, the proposal is acceptable in amenity terms. Furthermore, given its discreet location, the proposal will preserve the character and appearance of the Harley Street Conservation Area. It is accordingly recommended that condition permission be granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

MARYLEBONE ASSOCIATION:

Concerns regarding plant running 24 hours. Recommends the plant be enclosed within acoustic enclosures.

ENVIRONMENTAL SCIENCES:

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 86

Total No. of replies: 3

No. of objections: 3

- units operate before 7am and after 11pm
- fans when in operation are too noisy

PRESS ADVERTISEMENT / SITE NOTICE: Yes

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

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

6. KEY DRAWINGS

PART REAR ELEVATION # 1

PART REAR ELEVATION # 2

PART REAR PLAN

LEGEND:

- EXISTING PIPE
- EXISTING INSPECTION CHAMBER
- ACCESS TO REAR OF LA BRASSERIA
- NEW WC RELATIVE INSPECTION
- NEW WC WALL MOUNTED UNITS

LOCATION PLAN
SCALE @ 1:1000

BLOCK PLAN
SCALE @ 1:500

ampersand
17 The Arcade
Marylebone, London W1U 3AH
Tel: 020 7492 2222
www.ampersand.co.uk
a registered architectural practice
commercial architectural design and fit-out space

LA BRASSERIA
42 Marylebone High Street
Marylebone
London
W1U 3HD

PROPOSED

Plan & Elevations
SCALE: 1:25 @ A1
DATE: 18/09/18
DRAWN: NUC/002/18
CHECKED: SHD

7722/02

Item No.
4

DRAFT DECISION LETTER

Address: Basement And Ground Floor, 42 Marylebone High Street, London, W1U 5HD

Proposal: Installation of 4 x condensing units at rear lower ground floor level in shared service yard. (RETROSPECTIVE APPLICATION).

Plan Nos: 7722/02 REV A

Case Officer: Shaun Retzback **Direct Tel. No.** 020 7641 6027

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 (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)

- 3 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)

- 4 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 23:00 hours daily.

Reason:

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

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), 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 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.

- 3 Conditions 2, 3 and 4 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

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

- 5 The City Council are aware that the cold room condenser is in situ. You are reminded that planning permission has not been granted for this unit and it should be removed. Planning

Item No.
4

Enforcement are aware that the plant is unauthorised and will seek to take enforcement action to regularise this breach of planning control.

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