



City of Westminster

# Committee Agenda

Title:

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

Meeting Date:

**Tuesday 3rd September, 2019**

Time:

**6.30 pm**

Venue:

**Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members:

**Councillors:**

Robert Rigby (Chairman)  
Louise Hyams  
James Spencer  
Matt Noble



**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: [gwillis@westminster.gov.uk](mailto:gwillis@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

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

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. MEMBERSHIP**

To note any changes to the membership.

#### **2. DECLARATIONS OF INTEREST**

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

#### **3. MINUTES**

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

#### **4. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

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

To register to speak and for guidance please visit:

[www.westminster.gov.uk/planning-committee](http://www.westminster.gov.uk/planning-committee).

Please note that you must register by 12 Noon on the Friday before the Committee meeting

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.

**1. 41 - 43 BROOK STREET, MAYFAIR, LONDON W1K 4HJ**

**(Pages 13 - 54)**

**2. WILLIAM COURT, 6 HALL ROAD, LONDON, NW8 9PA**

**(Pages 55 - 86)**

- |           |   |                              |
|-----------|---|------------------------------|
| <b>3.</b> | <b>BASEMENT AND GROUND FLOOR, 108<br/>WESTBOURNE GROVE, LONDON, W2 5RU</b>  | <b>(Pages 87 -<br/>104)</b>  |
| <b>4.</b> | <b>KINGS COURT, 31 PRINCE ALBERT ROAD,<br/>LONDON,NW8 7LT</b>   | <b>(Pages 105 -<br/>120)</b> |
| <b>5.</b> | <b>DEVELOPMENT SITE BOUNDED BY 10 TO 18<br/>NEWPORT PLACE 28 TO 35 NEWPORT COURT AND<br/>51-79, CHARING CROSS ROAD,LONDON, WC2H 0NE</b> | <b>(Pages 121 -<br/>138)</b> |
| <b>6.</b> | <b>DEVELOPMENT SITE BOUNDED BY 10 TO 18<br/>NEWPORT PLACE 28 TO 35 NEWPORT COURT AND<br/>51-79 CHARING CROSS ROAD, LONDON, WC2H 0NE</b> | <b>(Pages 139 -<br/>152)</b> |

**Stuart Love  
Chief Executive  
23 August 2019**

## Order of Business

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

<b>Order of Business</b>
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 6th August, 2019**, Rooms 18.01 - 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Robert Rigby (Chairman), Louise Hyams, James Spencer and Matt Noble

#### **1 MEMBERSHIP**

1.1 There were no changes to the membership.

#### **2 DECLARATIONS OF INTEREST**

2.1 The Chairman 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 emails 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.

#### **3 MINUTES**

3.1 That the minutes of the meeting held on 16<sup>th</sup> July 2019 be signed by the Chairman as a correct record of proceedings.

## **4 PLANNING APPLICATIONS**

### **1 DEVELOPMENT SITE AT 29, 31, 33, 35, 37, 39, 41 AND 43 OXFORD STREET AND 16, 17-19 SOHO SQUARE, LONDON W1D 2DR**

Part demolition of Nos 29, 31, 33, 37, 39 Oxford Street and demolition 41 and 43 Oxford Street and 17-19 Soho Square and redevelopment of the site, including retention of facades of Nos 29, 31, 33, 37 and 39 Oxford Street, retention of 35 Oxford Street with alterations and alterations to the ground floor level and basement level of No. 16 Soho Square to provide a new building comprising 2 basement levels, ground and 6 upper floor levels plus a plant level and a level for a rooftop pavilion. Use of building for retail (Class A1) at basement level 2, basement level 1, part ground floor level and part first floor level; café (Class A3) at part ground floor level and part rooftop level; flexible office or retail (Class A1 or Class B1) at second floor level; office (Class B1) at part first floor level, and third to sixth floor levels; and associated works including plant, cycle storage and associated facilities at basement level 2 and the provision of a roof garden at roof and plant levels; and other works associated with the development.

Additional representations were received from Development Planning in the form of draft decision letters in relation to the planning application and listed building consent.

Late representations were received from Historic England (5.3.2019) and the Soho Society (5.8.2019).

The presenting officer circulated an addendum note regarding the legal and policy background in relation to preserving the listed buildings and the character and appearance of the Soho Conservation Area and the public benefits of the scheme.

The presenting also tabled the following changes to the draft decision letter:

**Condition 22** is amended to read

Customers shall not be permitted within the cafe at ground floor level before 09.00 or after 21.00 hours each day.

**Additional condition No 25**

Customers shall not be permitted within the cafe at roof level or on the roof garden before 10.00 or after 19.00 hours each day.

Reason

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

## **Additional condition 26**

The development shall achieve Secure by Design standards to the satisfaction of the Metropolitan Police, details of which shall be submitted to the Local Planning Authority. You must not allow public access to the roof gardens until we have approved what you have sent us. Access to the roof gardens must thereafter be in accordance with these approved details.

### Reason

To reduce the chances of crime without harming the appearance of the building as set out in S29 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007.

Nick Cullen addressed the Sub-Committee in support of the application.

### **RESOLVED UNANIMOUSLY:**

1. That conditional permission be granted subject to:
  - (A) Referral to the Mayor of London and subject to:
    - (B) A S106 legal agreement to secure:
      - i) The re-provision of two residential units (Class C3) at 98 New Bond Street or in another site in the vicinity of the site to prior to the occupation of any of the office floorspace on site.
      - ii) costs relating to highways works around the site to facilitate the development
      - iii) the applicant pays the City Council's reasonable costs of making and consulting on an Order pursuant to Section 247 of the Town and Country Planning Act (1990) (as amended) to 'stop-up' an area of public highway.
      - iv) A financial contribution towards employment, training and skills of £ 129,802.04 (index linked) payable on commencement of development.
      - v) An access management plan for the roof garden
      - vi) The costs of monitoring the S106 legal agreement.
    - (C) The change to condition 22 and the additional condition 25 not being accepted. Condition 22 would remain as per the draft decision notice. Condition 26 tabled ( secure by design ) – will therefore be condition 25 on the revised decision notice.

- (D) To ensuring by condition that the use of the roof garden is free and not just membership to it.
  - (E) The ceramic facing material of the new building No 41-43 Oxford Street should be a light stone colour rather than the light blue option.
2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution then: a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not b. The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
  3. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of the highway required to enable the development to take place.
  4. That conditional listed building consent be granted.
  5. That the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter be agreed.

## **2 CAR PARK, 12 - 13 WELLS MEWS, LONDON, W1T 3HE**

Erection of a single storey extension at fourth floor and single storey extension at part fifth floor level, including external plant and taller lift over-run. Infill of existing internal lightwell, installation of new ground floor frontage, creation of a terrace at fifth floor level overlooking Wells Mews, use of existing flat area at rear third floor and fourth floors as terraces, all in connection with the use of the ground and upper floors for office (Class B1) purposes.

An additional representation was received from the applicants in the form of a brochure in relation to the proposals.

A late representations was received from Highways Planning (15.5.2019).

### **RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

## **3 FLAT 7, 52 QUEEN'S GARDENS, BAYSWATER, LONDON, W2 3AA**

Erection of a rear mansard roof extension at first floor level, amalgamation of flat 7 and closet wing storerooms, and associated works.



**RESOLVED UNANIMOUSLY:**

1. That conditional permission and conditional listed building consent be granted.
2. That the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter be agreed.

**4 15 WARWICK WAY, LONDON, SW1V 1QT**

Use of part ground, first, second and third floors as two residential units (Class C3); erection of extensions at rear second floor and main roof level and external alterations to front and rear.

An additional representation was received on behalf of the applicants from Davis Brown in the form of a feasibility report on the letability of the retail unit on the proposed development (29.7.2019).

Stephanie Gray addressed the Sub-committee in support of the application.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

**5 FLAT 4, 149 CAMBRIDGE STREET, LONDON, W1V 4QB**

Erection of extension at rear second-floor level with rooflights above; new steel balustrade to existing terrace and replacement of existing window with French doors, in connection with the enlargement of Flat 4.

Late representations were received from the occupier of first floor flat, 70 Charlwood Street (6.8.2019) and Flat 2, 70 Charlwood Street (6.8.2019)

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

The Meeting ended at 8.07 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

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# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 3rd September 2019  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<b>RN(s):</b> 18/04972/FULL & 18/04973/LBC  West End	41 - 43 Brook Street Mayfair London W1K 4HJ	Demolition of the upper floors of 48-49 Brook's Mews and erection of building comprising ground and first to eighth floor levels; alterations to the basement and roof structure of 41-43 Brook Street; use of ground and first floors of 48-49 Brooks Mews as restaurant floorspace, use of lower ground and ground floors of 41-43 Brook Street as retail and use of the remainder of both buildings as hotel guestrooms in connection with the adjoining Claridge's hotel. (SITE INCLUDES 48-49 BROOK'S MEWS AND CLARIDGE'S HOTEL).	Mr Liam Cunningham
<b>Recommendation</b> 1. Grant conditional permission, subject to the completion of a S106 agreement to secure the following planning obligations: <ol style="list-style-type: none"> <li>i. A financial contribution of £116,880 (index linked and payable on commencement) to the Carbon Off-Setting Fund.</li> <li>ii. All highway works on Brooks Mews relating to the removal of the redundant vehicle crossover and associated work (legal, administrative and physical).</li> <li>iii. The costs of monitoring the agreement.</li> </ol> 2. If the legal agreement has not been completed within 6 weeks of the date of the Sub-Committee meeting then: <ol style="list-style-type: none"> <li>a) The Director of Place Shaping and Town Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;</li> <li>b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ol> 3. Grant conditional listed building consent. 4. Agree reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.				
Item No	References	Site Address	Proposal	Applicant
2.	<b>RN(s):</b> 19/02234/FULL  Abbey Road	William Court 6 Hall Road London NW8 9PA	Erection of a two-storey 4-bedroom single family dwelling.	Mansley Limited
<b>Recommendation</b> Grant conditional permission, subject to a Grampian condition to secure mitigation for the increased demand for on street car parking (lifetime (25 year) car club membership for the house).				
Item No	References	Site Address	Proposal	Applicant
3.	<b>RN(s):</b> 18/10507/FULL  Bayswater	Basement And Ground Floor 108 Westbourne Grove	Variation of Condition 6 (servicing hours and numbers) of planning permission dated 16 October 2018 (RN: 18/02532/FULL) Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning units on roof of 108 Westbourne Grove. NAMELY, to allow	Halfacre Estates Ltd and Westbourne

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 3rd September 2019  
 PROVISIONAL SCHEDULE OF APPLICATIONS TO BE CONSIDERED

		London W2 5RU	servicing and deliveries to take place between 08:00 and 18:00 Monday to Friday and between 08:00 and 13:00 Saturday.	
<b>Recommendation</b> Grant conditional permission.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
4.	<b>RN(s) :</b> 18/09805/FULL  Regent's Park	Kings Court 31 Prince Albert Road London NW8 7LT	Erection of single storey extension at eighth floor level and use of part of flat roof as a terrace with associated balustrade.	Mr Zaki Farsi
<b>Recommendation</b> Grant conditional permission				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
5.	<b>RN(s):</b> 19/02502/TCH  St James's	Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And 51-79 Charing Cross Road London WC2H 0NE	Use of the public highway within an area measuring 11m x 4m for the placing of 8 tables, 32 chairs and 17 barriers on Newport Place in connection with the restaurant at Unit 14 Newport Sandringham.	Mr. C T Tang
<b>Recommendation</b> Grant conditional permission.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
6.	<b>RN(s) :</b> 19/02501/TCH  St James's	Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And 51-79 Charing Cross Road London WC2H 0NE	Use of the public highway measuring 13.9m x 4.0m for the placing of 11 barriers, 14 tables and 28 chairs to Newport Place in connection with the restaurant unit at Unit 15 Newport Sandringham.	Mr. Jinli
<b>Recommendation</b> Grant conditional permission.				

# Agenda Item 1

Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 3 September 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>41 - 43 Brook Street, Mayfair, London, W1K 4HJ,</b>		
<b>Proposal</b>	Demolition of the upper floors of 48-49 Brook's Mews and erection of building comprising ground and first to eighth floor levels; alterations to the basement and roof structure of 41-43 Brook Street; use of ground and first floors of 48-49 Brooks Mews as restaurant floorspace, use of lower ground and ground floors of 41-43 Brook Street as retail and use of the remainder of both buildings as hotel guestrooms in connection with the adjoining Claridge's hotel. (SITE INCLUDES 48-49 BROOK'S MEWS AND CLARIDGE'S HOTEL).		
<b>Agent</b>	Blair Associates Architecture Ltd		
<b>On behalf of</b>	Mr Liam Cunningham		
<b>Registered Number</b>	18/04972/FULL and 18/04973/LBC	<b>Date amended/ completed</b>	13 June 2018
<b>Date Application Received</b>	13 June 2018		
<b>Historic Building Grade</b>	41-43 Brook Street – Grade II 48-49 Brook's Mews - Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

<p>1. Grant conditional permission, subject to the completion of a S106 agreement to secure the following planning obligations:</p> <ul style="list-style-type: none"> <li>i. A financial contribution of £116,880 (index linked and payable on commencement) to the Carbon Off-Setting Fund.</li> <li>ii. All highway works on Brooks Mews relating to the removal of the redundant vehicle crossover and associated work (legal, administrative and physical).</li> <li>iii. The costs of monitoring the agreement.</li> </ul> <p>2. If the legal agreement has not been completed within 6 weeks of the date of the Sub-Committee meeting then:</p>
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- a) The Director of Place Shaping and Town Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
- b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. Grant conditional listed building consent.
4. Agree reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site encompasses a Grade II listed building at 41-43 Brook Street and an unlisted building at 48-49 Brook's Mews. With the exception of a private members' club in the basement of the Brook's Mews building, both properties are in office use (Class B1). Claridge's Hotel occupies the building to the west of the site.

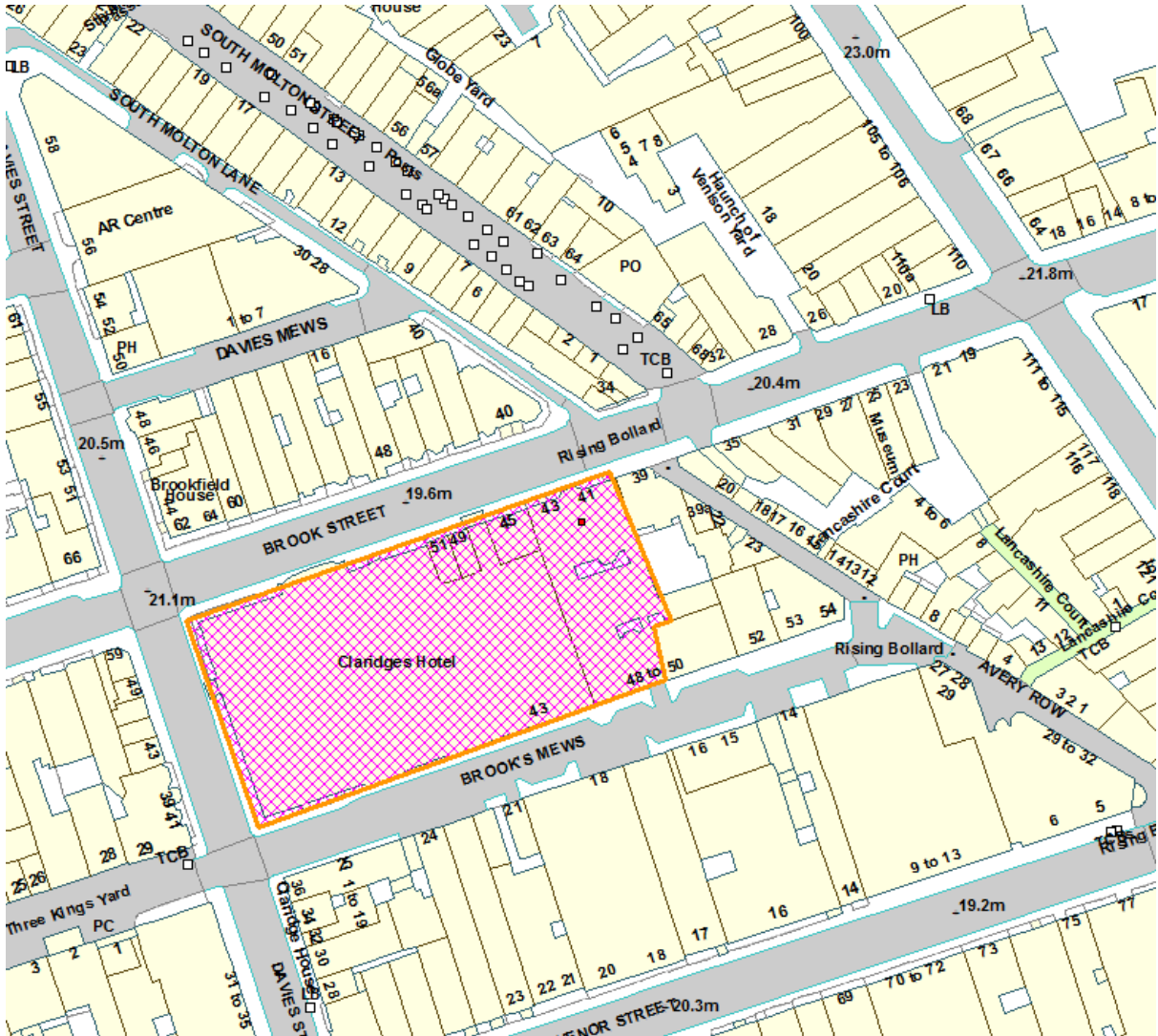
Planning permission and listed building consent are sought for the partial demolition of 48-49 Brook's Mews and the redevelopment of that part of the site to provide an extended building on ground to eighth floors, incorporating two restaurants on part ground and first floor levels; internal and external alterations to 41-43 Brook Street, including alterations to the roof; for the use of part ground and lower ground floors as retail shop (Class A1) and for the use of the upper floors of both buildings to provide 28 hotel bedrooms in association with Claridge's Hotel

The key issues for consideration are:

- The impact of the proposals upon the amenities of neighbouring residential properties.
- The acceptability of the proposed uses in land use terms
- The impact of the works upon the special interest of the listed building and the character and appearance of the Mayfair conservation area.

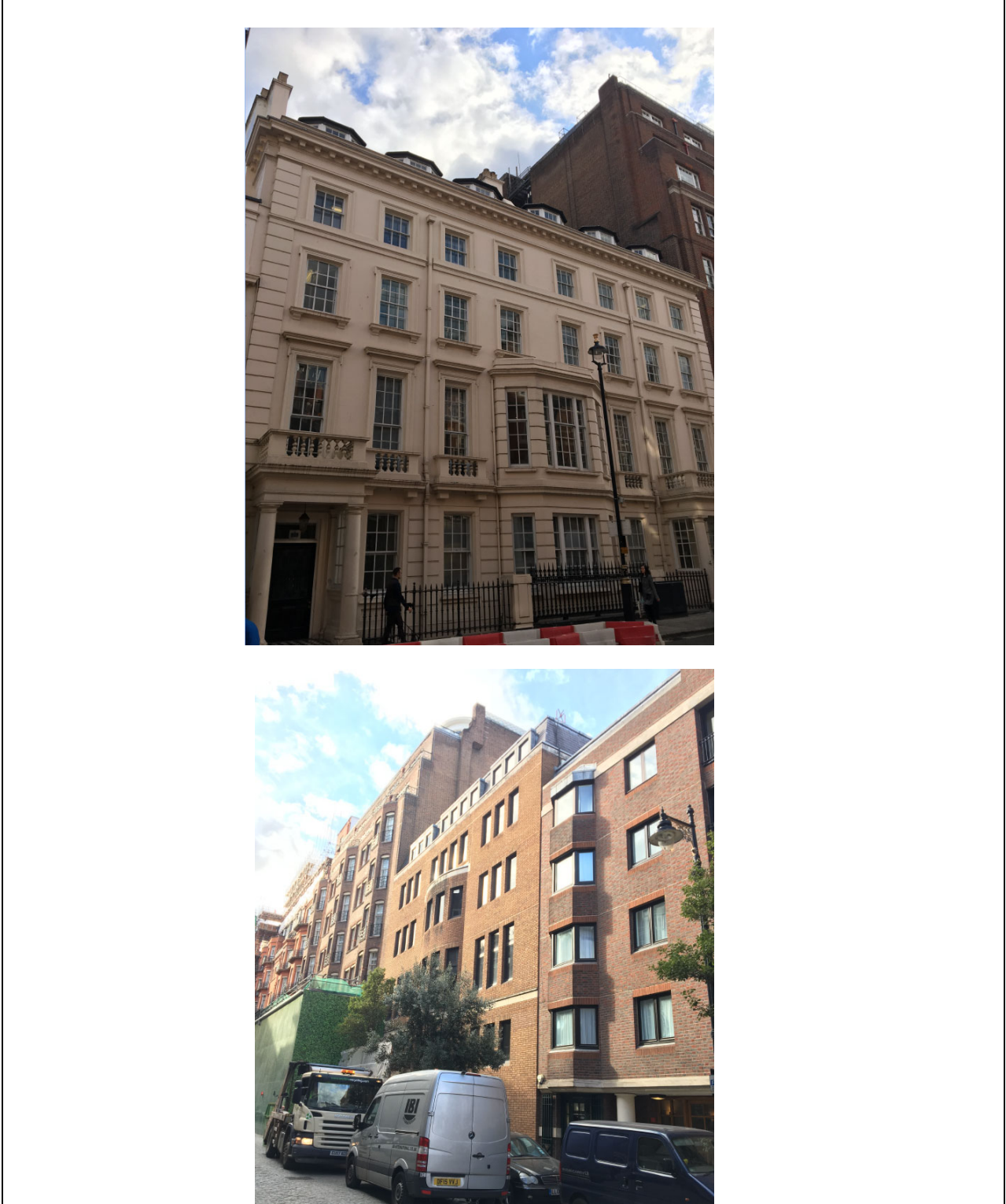
The loss of office accommodation to provide hotel floorspace is considered acceptable in principle in land use terms, as is the provision of a new retail and restaurant uses. The proposals are considered acceptable in terms of their impact on the amenity of neighbouring residential properties, subject to conditions. The proposed alterations to the listed building and the new building on Brook's Mews safeguard the special interest of the listed building and preserve the character and appearance of the conservation area. For these reasons the proposal is considered to comply with the relevant policies in the London Plan, the City Plan and the Unitary Development Plan (UDP) and it is recommended that conditional planning permission and listed building consent be granted subject to the completion of a S106 agreement to secure a carbon off-set payment and highway works on Brook's Mews.

### 3. LOCATION PLAN



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**4. PHOTOGRAPHS**





## 5. CONSULTATIONS

### HISTORIC ENGLAND

Authorisation to determine as seen fit.

### HISTORIC ENGLAND (ARCHAEOLOGY)

No objection subject to archaeological conditions

### RESIDENTS' SOCIETY OF MAYFAIR AND ST. JAMES'S

Supports the proposal, consider the Brook's Mews elevation to be an improvement.

### WASTE PROJECT OFFICER

No objection subject to conditions.

### HIGHWAYS PLANNING

No objection subject to conditions.

### BUILDING CONTROL

No objection.

### ENVIRONMENTAL SCIENCES

No objection subject to conditions.

### THAMES WATER

Request informatives be attached to any approval.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 177

Total No. of replies: 54 (some have submitted more than one representation)

No. of objections: 11

No. in support: 36

Objections on the following grounds:

#### Land use

- Draft City Plan policies resist the conversion of office floorspace to hotel use.

#### Amenity

- Increased footfall in Brook's Mews resulting in noise and disturbance to residents.
- Noise and disturbance from restaurant patrons; conditions requested with regard to the operation of the restaurants and external courtyard
- Increased sense of enclosure to neighbouring flats
- Increased overlooking from new hotel windows
- Lack of information relating to daylight and sunlight losses at 50 Brook's Mews (including the garden areas).

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## **Design**

- Bulk and height of extended building would have an adverse impact on the setting of neighbouring listed buildings and the wider Mayfair Conservation Area.

## **Other**

- Impact of construction activities on residential amenity.
- Detrimental impact on the value of property in the vicinity.
- Design and Access Statement identifies the wrong property as the nearest residential building.
- Lack of individual servicing provision for the proposed retail and restaurant uses.
- Lack of consultation from the applicant.
- Potential for damage of neighbouring properties during construction.

Letter of support on the following grounds:

- Improvements to the appearance of Brook's Mews.
- Confident the extended hotel and restaurant premises can operate without detriment to neighbouring residents.
- Proposal helps to strengthen an important, well regarded hotel premises.
- Increased employment opportunities.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application relates to two adjoining properties located in the Mayfair Conservation Area and the Core Central Activities Zone. The buildings are located just outside the boundary of the West End Special Retail Policy Area, which runs to the east of 39 Brook Street, and outside of any of the designated entertainment stress areas.

No. 41-43 Brook Street (lower ground, ground and first to third floor levels) is a Grade II listed building. No. 48-49 Brook's Mews (basement, ground and first to third floor levels) is unlisted. The buildings are connected internally but, due to differing street levels, the ground floor of the Brook's Mews building corresponds with the lower ground floor of the Brook Street building. There is a courtyard to the rear of the buildings.

Both buildings are currently in office use, with ancillary parking (Class B1), with the exception of the basement at 48-49 Brook's Mews which is occupied as a private members' club. This club (The Bath and Racquets Club) is not included within the development proposals and would continue to operate during the implementation of any approved development.

The Grade II listed Claridge's Hotel is located to the west of the application buildings at 47-57 Brook Street, with frontages on Davies Street and Brook's Mews. The main hotel entrance is located on Brook Street and servicing takes place from Brook's Mews. The

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hotel provides a range of ancillary functions within the building including a ballroom, restaurants and bars and retail units. The hotel currently has 203 guest bedrooms. Permission has been granted for alterations and extensions to the hotel, including new basement levels and a roof extension. This consent is currently being implemented and will increase the number of bedrooms to 243.

The site is located within the Great Estates Archaeological Priority Area.

## 6.2 Recent Relevant History

No relevant planning history for the application sites

### 47-57 Brook Street

23 May 2017: Permission and listed building consent granted for internal and external alterations including the removal of rooftop plant rooms and associated structures and the construction of additional two storeys to provide 40 additional hotel (Class C1) bedrooms; alterations to elevations on Brook Street, Davies Street and Brook's Mews and excavation of five new basement levels to provide additional hotel floorspace (Class C1) comprising ancillary restaurants/bars, function rooms, hotel leisure/spa facilities and ancillary and back of house spaces.

Works are currently progressing on site to implement this permission.

## 7. THE PROPOSAL

At 41-43 Brook Street it is proposed to provide a new retail unit (475 sqm) on part basement and part ground floor levels, with access from Brook Street. Part of the basement, ground and the upper floors would be converted to provide new guest bedrooms for the adjacent Claridge's Hotel. Internal works are proposed to all floors including the formation of new internal links to Claridge's at lower ground and ground floor levels. The existing roof structure is to be retained but is to be raised in height by 1m.

Permission is also sought to demolish 48-49 Brook's Mews on first to fifth floor levels (retaining the ground floor and the basement private members' club), and erection of new first to eighth floor levels. The redeveloped building would provide two separate restaurants on part ground and part first floor accessible from entrances off Brooks Mews and from within the main Claridge's hotel. Part ground, first and the remainder of the property would be used as hotel accommodation associated with Claridge's, providing hotel bedrooms on the upper floors. A small, single storey, extension to the Brook's Mews building is proposed in part of the rear courtyard. The remainder of the courtyard would provide amenity space for the hotel and restaurant patrons. The proposal also includes the removal of the existing vehicle crossover on Brook's Mews as this is no longer required with the removal of the garaging within the building.

The schedule of existing and proposed floorspace is as follows:

Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office (B1)	4073	0	-4073
Restaurant (A3)	0	499	+499

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Retail (A1)	0	475	+475
Hotel (C1)	0	3783	+3783
<b>Total</b>	<b>4073</b>	<b>4757</b>	<b>+684</b>

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of offices

The scheme would result in the loss of 4073m<sup>2</sup> of Class B1 office floorspace. City Plan policy S20 seeks to protect office floorspace on sites within the CAZ. However, this policy does not apply in cases where the offices are being replaced with an alternative commercial use. As the offices are being replaced by hotel, retail and restaurant uses, their loss is acceptable in land use terms.

An objection has been received to the loss of office accommodation to hotel use as the policies of the new City Plan 2019 - 2040 resist this change. 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 within the emerging draft City Plan are given very limited weight at present. As the loss of offices is considered acceptable in the context of the adopted policy framework, this objection cannot be supported.

#### New retail use

The proposal includes the provision of a retail unit (475 sqm) on the lower ground and ground floors of the Brook Street building. The introduction of new retail floorspace on this frontage is welcomed and complies with policies SS4 of the UDP and S7 of the City Plan which encourage the provision of new retail uses in the Core CAZ. Brook Street is commercial in nature and there are already a number of ground floor retail and restaurant uses particularly to the east of the site, towards Bond Street. The provision of a new retail unit would enhance vitality of the street and its retail character.

#### Extension of hotel use

The scheme involves a large extension to the neighbouring Claridge's Hotel. The extension will provide a further 28 bedrooms to the existing 203-bedroom hotel. A permission to provide 40 additional bedrooms is currently being implemented on this site and consequently, this application would take the total number of rooms to 271.

Policy TACE 2 of the UDP states that within the Core CAZ, in street which are not primarily residential in character, extensions to existing hotels will be permitted where no adverse environmental and traffic effects would be generated and where adequate on-site facilities are incorporated within developments proposing significant amounts of new visitor accommodation, including setting down and picking up of visitors by taxis and coaches.

Policy S23 of the City Plan states that hotels are important to support the visitor and business economy within the City. Proposals to improve the quality and range of hotels will be encouraged.

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London Plan Policy 4.5 seeks to achieve an additional 40,000 hotel rooms by 2036 and requires 10% of these rooms to be wheelchair accessible.

The main entrances to the hotel and ballroom entrance are located on Brook Street. Davis Street provides the main entrance to the restaurants and a secondary entrance. All servicing for the hotel and restaurants takes place from Brook's Mews, and this will continue to be the case, including for the proposed restaurants, which will utilise the existing servicing access points.

The new hotel rooms would be accessed from the existing hotel, with another new entrance on Brook Street between the existing hotel and the new retail unit. All new bedrooms are wheelchair accessible and level access will be provided through the hotel, with lift access to the new accommodation.

Given the site context, it is not considered that the provision of an additional 28 hotel bedrooms would have any significant detrimental environmental effects. The proposed extension to the established hotel is therefore considered acceptable in principle in land use terms. The impact of the proposals upon the amenity of neighbouring residential properties and in highways terms is discussed in the paragraphs below.

A number of letters of support have been received, primarily from other business occupiers in the area. They consider that an extension to the existing hotel, on the basis that it is well managed and well respected would be beneficial for the tourist industry and the reputation of London. These comments are noted.

### **New restaurant accommodation**

Two new restaurant units are proposed on the lower ground and ground floors of the Brook's Mews building. The two restaurants would measure 250 sqm and 249m sqm. Proposals for entertainment uses of this type and size on sites within the Core CAZ, but outside of any designated stress area, would be considered against UDP policy TACE10 of the UDP and S24 of the City Plan. The proposal is considered under TACE10 as there are a number of existing bars / restaurants within the Claridge's Hotel and the proposed increase in restaurant floorspace will take the entertainment floor area over the 500sqm threshold.

Policy S24 of the City Plan states that 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area'. The policy also states that new large-scale late night entertainment uses measuring in excess of 500sqm, will not generally be appropriate within Westminster. Policy TACE 10 of the UDP also states that entertainment uses over 500sqm will only be permissible in 'exceptional circumstances'.

It is recognised that there can be considerable variation between the impact entertainment uses have on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. When assessing the acceptability of new entertainment uses, the Council will

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take account of the size of the unit, its capacity, the type of use, servicing arrangements and any supporting details regarding the management of a use.

There are a number of existing restaurant units on Brook's Mews and the street has a mixed character comprising offices and residential uses. Claridge's occupies a long section of the street frontage. The nearest residential units are located in the adjoining building to the east of the application site, at 50 Brook's Mews.

Other licensed premises in the vicinity include:

The Bath and Racquets Club in the basement of the Brook's Mews building: Licensed opening: 10:00 to 23:30 hours on Monday to Saturday; 12:00 to 23:00 on Sundays;

La Petite Maison at 54 Brook's Mews: Licensed opening 10:00 to 00.30 the following morning on Monday to Saturday and 12:00 till 00:00 on Sundays;

Cafe 19 Brook's Mews: Licensed opening 07:00 to 22:00 daily.

Given the number, type and distribution of entertainment uses in the vicinity, it is not considered that the proposals would have any adverse impact on the character and function of the area, nor any adverse cumulative impact.

The proposed capacity of each restaurant is 100 customers which has been agreed with the applicant and would be conditioned accordingly on any consent. It is noted that the courtyard would have capacity for 40 patrons, however access to the courtyard is shared between the restaurants and hotel guests. The proposed restaurant opening hours (both restaurants) are from 07:00 to 24.00 hours (midnight) on Monday to Thursday and from 07.00 hours until 00:30 the following morning on Friday, Saturdays and the Sundays preceding Bank Holidays. Paragraph 8.88 of the UDP states; 'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas (author's underlining), it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'. Given that this is not a predominantly residential area, the proposed opening hours, which reflect those of other uses in the vicinity, are considered acceptable.

Objections have been received from residential occupiers at 50 Brook's Mews on the grounds that the introduction of the new restaurants would result in increased activity and disturbance within the mews to the detriment of residents' amenities, resulting from patrons of the premises, staff and servicing. In order to address these concerns, the application has been revised to move the restaurant entrance doors further eastwards, away from the residential block. The applicant has also agreed that the restaurant entrance doors should be closed after 22.00 hours. After this time, restaurant customers would exit the premises via the main hotel entrance on Brook Street.

In addition, the roof of the ground floor courtyard extension, serving the restaurant use has been changed from a glass roof to a more solid green roof incorporating skylights. A condition is included to ensure that these skylights are fixed shut to ensure there is no potential for noise disturbance.

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The courtyard is to be available for use by hotel and restaurant guests. The applicant had requested that access be permitted between the hours of 07:00 and 22:00, whilst the objectors have requested more restricted hours of 09:00 until 19:00. However, the use of the existing courtyard by office tenants is currently unrestricted, and it is considered that a condition limiting access to the courtyard between 08:00 and 22:00 would be reasonable. The capacity of the courtyard has been limited by condition to 40 persons at any one time.

Conditions are also proposed to control restaurant opening hours and capacity and to require the premises to operate as sit-down restaurants, with the size of the bar area restricted to a maximum of 15% of the floor area and to prevent drinks being served other than to restaurant diners. Further, conditions are proposed to prevent the playing of any music that would be audible outside of the premises; to require all restaurant doors and windows to be kept closed, other than for access/egress through the doors, and to prevent the amalgamation of the restaurant units, to prevent the creation of a large entertainment use which may have additional amenity impacts. Subject to these conditions, and given that there is already late night activity within the mews associated with the existing restaurant and club uses, it is not considered that the current restaurant proposals would have material impact on residents' amenities and the objections relating to noise disturbance from the proposed use cannot be supported.

A high level extract duct is also proposed as part of the development. This is considered an acceptable method for odour dispersal from the new restaurant premises and a condition is proposed requiring the installation of this extract duct prior to the commencement of the restaurant use.

Servicing of the extended hotel and the restaurants will take place from the existing servicing bay for Claridge's located in Brooks Mews near the junction with Davies Street at a distance of approximately 75m from the objector's properties at 50 Brooks Mews.

For the reasons detailed above, the applicant considers that the proposals would have a limited impact and that this constitutes 'exceptional circumstances' under Policy TACE10. Conditions are proposed requiring the restaurant operation to accord with the Servicing Management Plan which has been submitted to ensure that the servicing of the unit does not negatively impact upon the amenity of residents in the vicinity or use of the highway. Conditions are also proposed to ensure that there is no takeaway service provided from the property or a home delivery service which might result in increased vehicular movements.

Whilst it is acknowledged the new restaurants would constitute a large entertainment use, given the location of hotel bedrooms directly above, it will be in the interests of the hotel to ensure that these areas are properly managed. In addition, with a condition in place requiring the doors to Brooks Mews to be closed after 22:00 all patrons / staff will exit the restaurant premises through the hotel entrances to Brook Street meaning no additional disturbance in the late evening. Taking this into account and a high degree of management and control at the premises it is not considered the proposal would have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality.

The principle of the proposed restaurant units is therefore considered to be in accordance with UDP Policy TACE10 and City Plan Policy S24 subject to these safeguarding conditions. A number of letters of support have also been received expressing confidence

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that the extended use would not be a detriment to neighbouring residents given the way in which the existing hotel is managed and its international reputation.

## **8.2 Townscape and Design**

### **Brook Street**

41 and 43 Brook Street are grade II listed building with phases of development in 1725, 1853 and 1919. Built as a pair of terraced houses in 1725, No. 41 was remodelled by Charles Barry in 1853, and No. 42 was subsequently remodelled by Wimperis and Simpson in 1913-19. The whole now presents as a single, largely symmetrical, composition with a central bow window added in the twentieth century.

Brook Street in general is a historic streetscape containing a number of listed buildings (including the adjacent grade II\* 39 Brook Street). All of the unlisted buildings in this part of the street are considered to make a positive contribution to the character and appearance of the Mayfair Conservation Area.

### **Brooks Mews**

Brooks Mews comprises a greater mix of buildings in terms of character and scale. The application building, on basement, ground and three upper floors, dates from the late twentieth century. It is consistent with the character of the mews in terms of materials (brick) and scale and forms a step in height between the small scale buildings to the east and the much larger Claridge's Hotel to the west. In terms of its detailed design, the building does not make a significant contribution to the character of the area. The value of the existing building, in isolation, is limited. In terms of streetscape, its value is considered to be modest at best. There is no in principle objection to the loss of 48 Brooks Mews, provided that the replacement building makes an equal or greater contribution to the character and appearance of the Mayfair Conservation Area. The loss of the existing building is not considered to cause harm to the character or appearance of the conservation area. The proposed replacement building will make an equal contribution to the character and appearance of the area.

### **Proposal**

#### **Brook Street**

The only external change to the Brook Street building is the raising of the roof by 1m to provide additional headroom in the top floor. The roof is a later addition to the listed building, and this minor alteration is not contentious.

The most significant internal alteration to the listed building is the proposed lowering of the basement floor to provide additional headroom. The basement here is of lesser interest, with most fabric dating from later phases of the hotel development. The plan form would be retained, as is the case at each subsequent storey.

As the site is located within an area of archaeological interest Historic England (Archaeology) have requested a condition be included requiring the submission of a written



scheme of investigation, methodology of site investigation and recording and post-investigation assessment and analysis. A condition is included as requested.

The junction of the listed building with the redeveloped mews building is in the same plane as the existing connection between the buildings. This is in an area of later fabric and considerably lesser significance.

### **Brooks Mews**

The existing building forms a step between the four-storey building to the east and Claridge's ballroom building, to the west, which is eight storeys in height, including a penthouse, which is well set back from the main building line at the front, side and rear. Permission has recently been granted for the extension of this building to provide a total of nine storeys. The proposed building on Brooks Mews would rise to eighth floor level, a very significant increase on the existing, however the top storey, which forms part of the penthouse would be well set back from the principal elevations and would not be visible in street level views.

Objections have been received on the grounds that the bulk and height of the extended building would have an adverse impact on the setting of neighbouring listed buildings and the wider Mayfair Conservation Area.

The increased bulk does not relate visually with the setting of any of the adjacent listed buildings – Claridge's main building, 41-43 Brook Street or 39 Brook Street. The bulk of the building is indeed increased considerably. However, this increase is still considered to be acceptable as the new building will still form a step in scale between the tall ballroom wing and the lower buildings to the east of Brooks Mews.

The scale of the proposed development is considered acceptable on the basis that the approved extension at the Claridge's ballroom roof extension is completed. It would not be acceptable if the adjacent extension is not constructed. Officers have been advised that demolition of the roof structure on Claridge's is currently taking place in accordance with the planning consent. A tower crane has been installed to facilitate the development and steelwork for the new roof steel work is in place. As it is considered that the permission for the main Claridge's roof extension has been implemented and the roof works substantially completed, it is not considered necessary to impose conditions or to require a planning obligation to link the current proposals to the implementation of the proposals on the neighbouring site.

The height of the proposed Brooks Mews buildings with buildings to the east is considered acceptable. Only a very small proportion of the redeveloped building would be visible in views from Brook Street. Due to the change in level between Brook Street and Brooks Mews, the proposed building appears less tall in views including the listed buildings on Brook Street. Verified views have been produced showing that the impact of the new building on the setting of no. 47 Brook Street is minimal.

### **Materials and design**

The proposed Brooks Mews building consists of a brick frame with steel framed windows. The glazing bars are typical of early to mid-twentieth century metal window, and are

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consistent with the 1920s styling of the deco Ballroom Wing adjacent, particularly in combination with the penthouse storeys. As a whole, the brick and glass elevation results in a lower solid to void ratio than is seen elsewhere in the mews. However, this is considered acceptable due to the variation in styles throughout the mews and the detailing of the windows, which is to be secured by condition.

The application has been revised to reduce the depth of the balconies so that they now project no further than the projecting bays in the adjacent ballroom building. A 'spine' running up between the balconies had also been removed to reducing the impact of the building in views along Brooks Mews. Privacy screens will still be required between balconies serving adjoining rooms. These should be designed to be as low as possible and details are reserved by condition.

The penthouse floors have been designed in a modern style, with curving elevations and steel framed windows referencing the same inter-war aesthetic as the windows in the main elevation. The topmost penthouse storey will not be visible from the public realm, and the design has been revised to increase the solid elements to reduce the potential for a 'lightbox' effect.

The flank elevation to the Brooks Mews building would include art panels flush with the facade. The materials would be integrated with a brickwork and would be a non-porous limestone, details of this are secured by condition.

There is little detail of the proposed ground floor windows and a condition is recommended requiring the details of subdivision, window surrounds and other shopfront elements. Letters of support have been received from local business occupiers who welcome the improved design of the building fronting Brook's Mews. These comments are noted.

Subject to conditions, the proposals are considered acceptable in design and townscape terms and would comply with policies DES 1, DES4, DES 9 and DES 10 of the UDP and S25, S28 of the City Plan policies. It is not considered that objections on the basis that the development would have an adverse impact on the setting of adjacent listed buildings or on the character and appearance of the conservation area can be supported.

### **8.3 Residential Amenity**

Policy S29 of the adopted City Plan states that; 'the council will resist proposals that result in an unacceptable material loss of residential amenity and development should aim to improve the residential environment.' UDP policy ENV13 states that the Council will normally resist proposals which result in a material loss of daylight/sunlight to existing dwellings and, where the resulting level is unacceptable, permission will be refused.' Additionally, developments should not result in unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use.

#### **Daylight and Sunlight**

A daylight and sunlight report has been submitted with the application which assesses the impact of the development with regard to BRE guidelines for daylight and sunlight to existing sensitive properties. Paragraph 2.2.2 of the BRE guidelines states that they 'may

also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops and some offices.'

Under the BRE guidelines the level of daylight received by a property may be assessed by the Vertical Sky Component which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. An assessment has also been made of the daylight distribution in rooms, the BRE guidelines state that 'if following construction of a new development, the no sky line moves so that the area of the existing room, which does not received direct sunlight, is reduced to less than 0.8 times its former value this will be noticeable to the occupants, and more of the room will appear poorly lit'

With regard to situations where the existing daylight levels are below the BRE recommendations, Policy ENV13 states that 'where principal habitable rooms such as bedsits, living rooms, studies or kitchens are affected, the City Council may find any loss of light unacceptable.' The BRE guidelines state that daylight to living rooms, kitchens, and bedrooms should be assessed but 'windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed'.

The windows included in the assessment serve properties at 17 Brook's Mews on the southern side of Brook's Mews facing the proposed development and 50 Brook's Mews being the adjoining residential building to the east. The report identifies losses of daylight (in VSC terms) to windows serving the residential units at 17 Brook's Mews which are in excess of the BRE guidelines.

Objections were received from the occupiers of 50 Brooks Mews on the basis that the submitted report did not provide adequate information to permit an assessment of the impact on daylight and sunlight levels received to that property. However, additional information has since been provided in relation to daylight / sunlight losses at this property and neighbours have been reconsulted.

**Daylight**

The daylight analysis for 50 Brook's Mews shows that there would be no material breaches to VSC or to daylight distribution. 17 Brook's Mews is located to the south of the application site on the opposite side of Brook's Mews. There are residential units on the upper floors.

The table below details the impact (VSC) on these north facing windows.

Window	%VSC		
	Existing	Proposed	Loss (%)
First (Living Room)	13.53	10.54	23%
First (Kitchen)	14.25	11.32	21%
First (Living Room)	12.86	9.96	23%
Second (Kitchen)	17.05	13.17	23%

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Second (Living Room)	16.16	12.18	25%
Second (Living Room )	15.32	11.46	26%
Third (Kitchen)	20.68	15.51	25%
Third (Living Room)	19.60	14.29	28%
Third (Living Room)	18.57	13.40	28%
Fourth (Living Room)	23.47	16.62	30%
Fourth (Kitchen)	24.69	18.09	27%
Fourth (Living Room)	22.28	15.56	31%
Fifth (Kitchen)	28.44	20.98	27%
Fifth (Living Room)	27.25	19.38	29%
Fifth (Living Room)	26.12	18.29	30%
Sixth (Living Room)	30.12	23.69	22%

The report also includes an assessment of the daylight distribution within these rooms included in the chart above. This provides an assessment of the daylight distribution within the room itself as opposed to just the daylight received by the window as measured by VSC. The daylight distribution figures for these rooms show that only five rooms would not meet the standards outlined in the BRE guidance being the kitchen at third floor, living room at fourth, kitchen and living room at fifth and living room at sixth with the largest loss being to the living room at fourth floor level with a drop from 94% of the room to 47% equating to 49% of its former value.

Although it is acknowledged that reductions in VSC to these windows exceed the BRE targets, the retained VSC values are considered to provide a reasonable standard of daylight to the affected rooms in this built up central location and it is not considered that the losses would have a material impact on the amenity of the existing residents. It is also noted that no objections have been received from these properties. (There is a current enforcement investigation concerning the use of the premises as short-term letting accommodation).

The application has also been revised to step the building elevations further back on the upper floors fronting Brook's Mews, which is likely to result in some improvements to resulting VSC values. For the reasons set out above it is not considered that the proposals would have a detrimental impact on levels of daylight to flats at 17 Brook's Mews such that the application would be refused on this basis.

### **Sunlight**

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, and there is a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

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None of the windows tested at 17 Brook's Mews or 50 Brook's Mews face within 90° of due south and therefore do not need to be tested for sunlight. Consequently, there would not be any material impact on the level of sunlight received by these neighbouring flats and objections on these grounds could not be supported.

The existing flats at 50 Brooks Mews benefit from small patio areas to the rear of the ground floor flats whilst the upper floors have balconies. Objections have been received from some of the residents to the proposal on the grounds that the development may result in a loss of sunlight to these external amenity areas. The BRE Guidance states that; 'it is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.

A report has been submitted from the applicant to assess losses to the patio areas and balconies. The report concludes that as the patios and balconies all face north the proposal will not result in any additional overshadowing. The objections on these grounds are not therefore considered 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.

Objections have been received on the grounds that the proposal would result in an unacceptable increase in the sense of enclosure to residential windows and ground floor gardens at 50 Brooks Mews. The flats on the upper floors are served by small balconies.

The extended height and bulk to the Brook's Mews building will be apparent from the garden areas and balconies at 50 Brook's Mews, as well as in oblique views north-west from inside the flats. The single storey courtyard extension will be set behind an existing party wall and the main extension will be viewed in the context of, and set against, the main Claridge's building, directly behind it. Given the distance involved of approximately 17m the oblique views of the extended building from inside the residential flats and the context of the surrounding built form, it is not considered that the proposals would have a material impact on the sense of enclosure to neighbouring residential windows or external amenity spaces and objections on these grounds could not be supported.

### **Privacy**

Part (F) of Policy ENV13 seeks to resist development which would result in an unacceptable degree of overlooking. A number of the objectors consider that the proposed development would result in an increased overlooking from the new hotel bedrooms within the extended Brooks Mews building to residential windows in 50 Brooks Mews. As set out above, there would be only oblique views from the extended Brooks Mews towards the neighbouring flats. The top four windows to the new building serve bathrooms with the four windows on the penultimate floor lighting a hotel corridor.

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The new building also includes small balconies to individual bedrooms, which are closer to the main rear elevation of 50 Brooks Mews property, at a distance of approximately 17m from the closest windows. Due to the position of windows in surrounding properties, there is already a degree of mutual overlooking. In these circumstances, and given the distances between the buildings, it is not considered that the proposals increase the opportunity for overlooking to the rear of the neighbouring building to a degree that would justify a recommendation for refusal on amenity grounds. Consequently, objections on privacy grounds cannot be supported.

## **8.4 Transportation/Parking**

### **Trip Generation**

The application is supported by a Transport Assessment which details how the extended hotel will be managed to prevent the use having a detrimental impact upon other highways users. It is accepted that the existing large office uses will have servicing requirements which would generate vehicle movements in the area. Whilst the proposed use will result in higher levels of activity at different times, it is not considered this would result in a significant detrimental impact upon the operation or safety of the public highway.

### **Car Parking**

There is an existing car parking area on the ground floor of 48-49 Brook's Mews. This was utilised by the office occupiers of the building and some spaces were privately leased out by the building owner (Grosvenor Estate) to occupiers of other commercial buildings in the area. The Grosvenor Estate has confirmed that none of the spaces are let to local residents. The City Council holds no information to the contrary and the loss of this commercial parking is therefore considered acceptable being consistent with UDP policies TRANS21 and TRANS22.

The redundant vehicle crossover on the Brook's Mews pavement is also to be removed as part of the proposals and these works are secured at the applicants cost in the legal agreement. The removal of the vehicle crossover is considered a benefit of the scheme and will provide an improved environment for pedestrian movement.

### **Servicing**

New servicing access for Claridge's Hotel was approved as part of the 2017 permission which is currently being implemented. This scheme involved alterations to on-street parking spaces on Brook's Mews, near the junction with Davis Street, to provide an additional servicing area outside of the hotel, which was secured by legal agreement. An updated Servicing Management Plan confirms that the extended hotel and the restaurant premises would be serviced via the approved servicing routes for the main hotel. This is considered acceptable in highways terms, minimising the impact of servicing from the highway, and will be secured by condition. A condition is required to ensure that servicing of the extended hotel complies with the requirements detailed in the Servicing Management Plan.

The Highways Planning Manager has requested an additional condition requiring the submission of an Operational Management Plan detailing how coaches and taxis will be

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managed to minimise their impact upon highways users. This is considered to address the concerns objectors raise regarding impact on parking.

### **Cycle parking**

Based on the proposal, overall the London Plan would require the provision of 9 cycle parking spaces. The applicant has stated that these will be provided within the new basement extension to the main hotel, which is currently being constructed, where there are approved cycle stores but no detailed drawings have been provided of the new cycle provision. A condition is therefore imposed requiring the submission of a drawing of the new cycle parking to ensure it is provided and retained.

A condition is also imposed to ensure that none of the new doors open over the public highway in order to ensure there is no obstruction to pedestrians. On this basis of the above, the scheme is considered acceptable in highways terms, subject to conditions.

## **8.5 Economic Considerations**

Letters of support to the application have detailed the increased employment opportunities in the expanded hotel and restaurant operations. Any economic benefits generated are welcomed.

## **8.6 Access**

Level access will be provided to the restaurant premises from Brooks Mews and an internal lift will provide access within the restaurant premises to the first floor level. Level access is also provided through the main hotel entrance, which will lead through to the new hotel accommodation. The new bedroom accommodation will be served by lifts. Additionally, level access is provided from Brook Street into the ground floor level of the new proposed retail unit.

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

### **Plant Noise**

A new kitchen extraction system is proposed to serve the new restaurant uses. This would be routed internally and would terminate within an approved plant area at main roof level (ninth floor) on the existing Claridge's Hotel building to the west. Policies ENV6 and ENV7 of the UDP and S32 of the City Plan seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

The plant is proposed to operate at any time over a 24 hour period. An acoustic report has been submitted in relation to the operation of this new plant which specifies acoustic mitigation measures in the form of an attenuator to the end of the ducting set behind the approved acoustic screening. The final plant specification of the kitchen duct has yet to be determined and a condition is recommended to require the submission of a supplementary acoustic report to demonstrate compliance with the City Council standard noise criteria. Standard conditions are also imposed with regard acceptable levels of noise, vibration from

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the plant and the installation and retention of the stipulated acoustic mitigation measures as required by Environmental Health.

An additional plant area is also proposed at rear fourth floor level of 41 – 43 Brook Street but this is to serve a communications / switch room and will have no external ventilation openings and would not generate any noise. This is considered acceptable with regard any amenity impacts.

**Refuse /Recycling**

Full details of the provision of waste and recycling storage have been provided and are shown detailed on a submitted drawings. These have been assessed and considered acceptable by the Waste Project Officer and a condition is proposed to ensure that the stipulated waste storage areas are provided and retained.

**Biodiversity**

A green roof is proposed to be installed on the roof of the single storey extension into the courtyard area. The introduction of the green roof area is welcomed and a condition is imposed to ensure this is provided and retained.

**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.

The application is accompanied by an Energy Statement which sets out the sustainability credentials of the building. The energy efficiency and sustainability initiatives of the site have been optimised to address the Mayor’s Energy Hierarchy and to address the requirements of policies in Chapter 5 of the London Plan and Policy S28 of the City Plan.

The Energy Statement submitted as part of the application states that the proposed Combined Heat and Power (CHP) plant, as well as the installation of thermal stores which will reduce the regulated emissions of the Proposed Development by 21%. This equates to an emission saving of 102 tonnes of carbon dioxide per annum. As these savings are below the targets set out in London Plan a carbon off-set payment of £116,880 is proposed to secure the delivery of carbon reduction measures elsewhere in the borough. This will be index linked and secured by legal agreement



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## **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 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 took place between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

## **8.9 Neighbourhood Plans**

The examiner's report on the Mayfair Neighbourhood Plan was published on 11 June 2019 with recommendations. The City Council intends to accept all these recommendations and proceed to a local referendum. The publication of the examiner's report means that the Mayfair Neighbourhood Plan is now a material consideration for making planning decisions in the area. However, it will not have full development plan weight until the referendum process has been properly completed.

## **8.10 London Plan**

As detailed above the extension to the hotel use accords with the strategic policies of the London Plan which seeks to increase the number of hotel rooms in London.

## **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 notice was served relating to the proposed imposition of pre-commencement conditions to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition and construction phases of the development and the archaeological information. The applicant has agreed to the imposition of these conditions.

## 8.12 Planning Obligations

The estimated CIL payments are:

£99,261.25 for the Mayoral CIL and  
£165,573.44 for the Westminster CIL

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

- An index linked carbon off-set payment of £116,880;
- Highways works to Brooks Mews to remove the redundant crossover and restore the pavement.

## 8.13 Environmental Impact Assessment

The proposal is of insufficient scale to require the submission of an Environmental Statement.

## 8.14 Other Issues

### Construction impact

A number of objections have been received on the grounds that the construction works will be disruptive to local residents and businesses.

The Code of Construction Practice was published in July 2016 and is designed to monitor, control and manage construction impacts on sites throughout Westminster. It applies to all major developments from September 2016.

The publication of the Code represents a fundamental shift in the way the City Council deals with the construction impacts of developments. In recognition that there is a range of regulatory measures available to deal with construction impacts and that planning is the least effective and most cumbersome of these, the approach requires a condition to be imposed requiring the applicant to provide evidence that any implementation of the scheme (by the applicant or any other party) will be bound by the Code. Such a condition is recommended and the applicants have agreed to the imposition of this condition. This will ensure all appropriate measures are included to deal with construction vehicle movements, dust, and cleaning of the highway. This will also ensure that no construction vehicles block access to any surrounding properties during the construction process. With these controls in place it is not considered the objections on these grounds could be supported. The standard building hours' condition is also recommended to safeguard residents' amenity. Whilst objectors have requested this is made more restrictive, the standard hours condition is deemed suitable to protect residents' amenity.

### Other

A number of informatives have been required by Thames Water and these have been attached as requested.

Objections have also been received to the application on the grounds of the impact of

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construction works on the value of neighbouring properties. This is not a material planning consideration the application could not be reasonably refused on these grounds.

Residents of 50 Brook's Mews are concerned about potential for damage to their property during construction works. Structural information has been submitted in relation to the proposed works and the support works proposed to neighbouring properties. This has been reviewed by Building Control who raise no objections. Works to the party wall will also require the parties to sign a Party Wall Agreement.

An objector has commented on the lack of consultation with neighbouring residents from the hotel operator. It is understood that the applicant undertook a public exhibition and presentations with local stakeholders and residents prior to the application being submitted. The City Council has also sent letters to occupants of neighbouring properties and a site notice has been displayed and the application advertised in the local press.

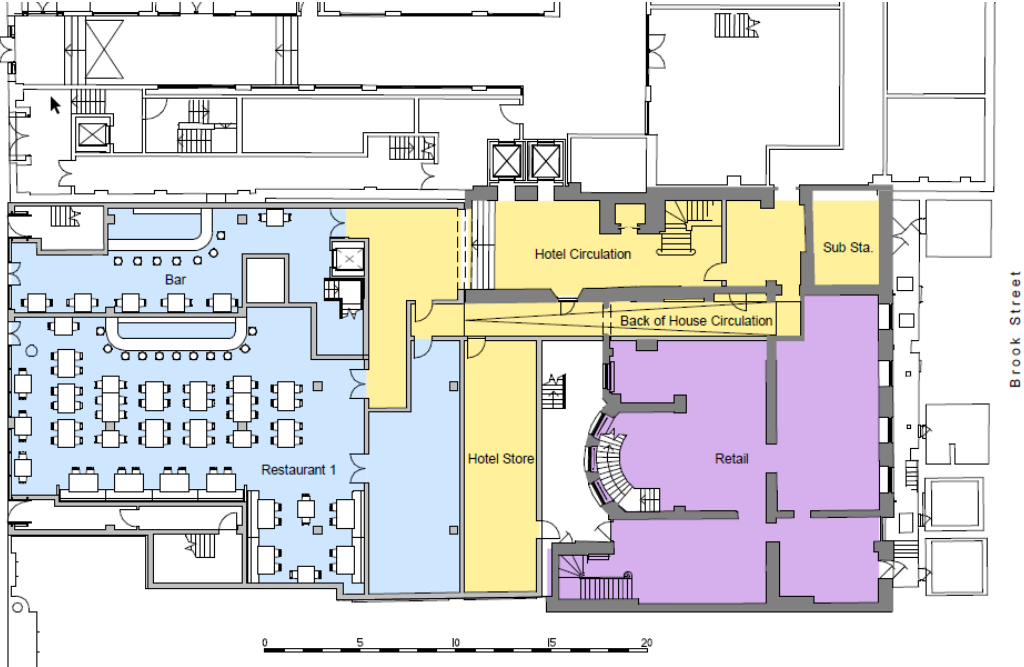
The initial Design and Access Statement omitted reference to the neighbouring flats at 50 Brook's Mews – an error noted by some objectors. However, this oversight has had no bearing on the consideration of the application. Additional information has been sought from the applicant in relation to the impact upon the neighbouring flats and meetings have taken place between these residents and the applicant's agent has also met with a number of neighbouring residents to discuss the scheme.

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

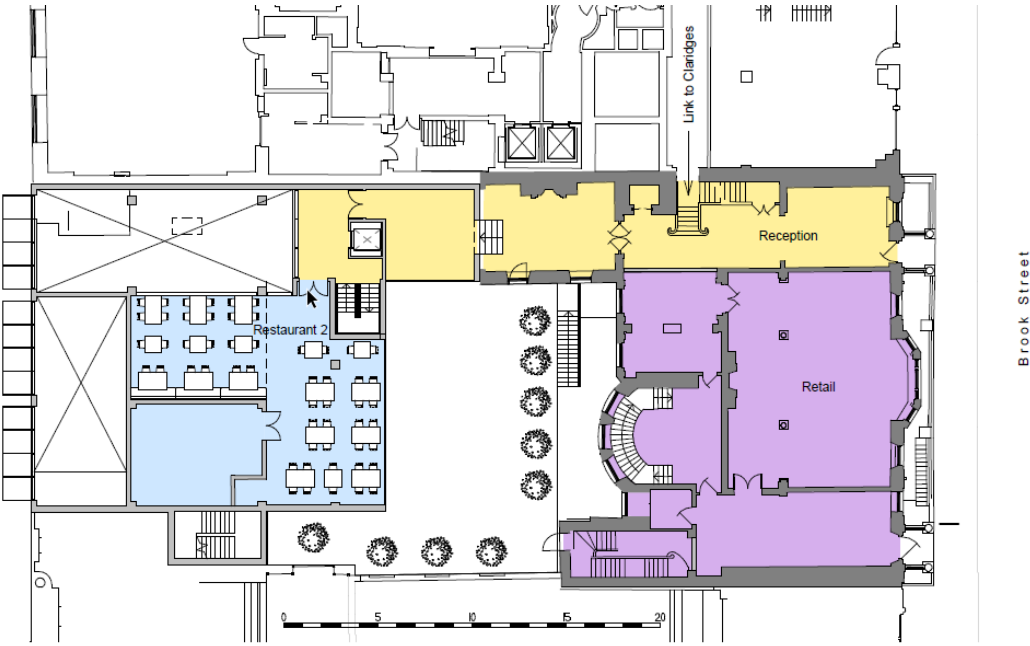
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT <a href="mailto:jpalme@westminster.gov.uk">jpalme@westminster.gov.uk</a>
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**9 KEY DRAWINGS**

Proposed lower ground floor:



Proposed ground floor:



East elevation with consented Claridge's roof extension:



South elevation with consented Claridge's roof extension:



**DRAFT DECISION LETTER**

- Address:** 41 - 43 Brook Street, Mayfair, London, W1K 4HJ,
- Proposal:** Demolition of the upper floors of 48-49 Brook's Mews and erection of building comprising ground and first to eighth floor levels; alterations to the basement and roof structure of 41-43 Brook Street; use of ground and first floors of 48-49 Brooks Mews as restaurant floorspace, use of lower ground and ground floors of 41-43 Brook Street as retail and use of the remainder of both buildings as hotel guestrooms in connection with the adjoining Claridge's hotel. (SITE INCLUDES 48-49 BROOK'S MEWS AND CLARIDGE'S HOTEL).
- Reference:** 18/04972/FULL
- Plan Nos:** Servicing Management Plan dated November 2018, Servicing Management Plan Summary dated 4 December 2018, Proposed Kitchen Extract route Sheets 1-4, Acoustic Report dated 13 November 2018, Energy and Sustainability Statement (May 2018), Structural Statement dated July 2019, Structural Statement Addendum dated 7th August 2019, Drawing: 1441-08-0090D, 1441-08-0091, 1441-08-0100D, 1441-08-0101, 1441-08-0105D, 1441-08-0110D, 1441-08-0111, 1441-08-0116, 1441-08-120D, 1441-08-0121, 1441-08-0130D, 1441-08-0131, 1441-08-0140D, 1441-08-0141, 1441-08-0151, 1441-08-0161, 1441-08-0171, 1441-08-0181, 1441-08-0300, 1441-08-2111, 1441-08-2121, 1441-08-2141, 1441-08-2172, 1441-08-2202, 1441-08-2210, 1374-20-5-094 RevP100.

**Case Officer:** Matthew Giles

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

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

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

**Reason:**

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

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

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

Reason:

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

- 3 **Pre Commencement Condition.** Prior to the commencement of any: (a) Demolition, and/or, (b) Earthworks/piling and/or, (c) Construction, on site you must apply to us for our written approval of evidence to demonstrate 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 the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

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

- 4 You must install the high level duct as shown on the approved drawings before either restaurant unit hereby approved can operate. Thereafter the duct must be maintained in situ for as long as the restaurant units remains in operation.

Reason:

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

- 5 You must not allow more than 100 patrons into either restaurant premises at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 You must not open either restaurant premises to customers, and you must not allow customers on the premises, outside the following hours: 07:00 to 00:00 (midnight) Monday to Thursday; and, 07:00 till 00:30 (following morning) Friday, Saturday and Sundays immediately preceding a Bank Holiday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

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- 7 Neither of the restaurant uses hereby approved can sell any hot-food take-away from the premises, even as an ancillary part of the primary Class A3 use.

Reason:

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

- 8 Within both restaurant 1 and restaurant 2 any bar and bar seating areas must not take up more than 15% of the floor area of the property. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 9 You must not operate a delivery service or permit a delivery service to be operated from either of the restaurant premises even as an ancillary part of the use.

Reason:

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

- 10 You must not play any music within either of the restaurant premises which is audible externally or within adjoining properties.

Reason:

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

- 11 The doors to Brook's Mews serving the two restaurant premises hereby approved are to be shut between 22:00 and 07:00 daily and are not to be used by staff or patrons except in case of emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 12 The restaurant uses allowed by this permission must not begin until you have fitted self-closing doors at ground floor level on the Brooks Mews elevation. You must not leave these doors open except in an emergency or to carry out maintenance.



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Reason:

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

- 13 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)

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

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Reason:

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

- 15 You must install the acoustic mitigation measures as shown on the approved drawings and to the specification detailed in the acoustic report dated 13 November 2018. These must be maintained in situ for as long as the plant remains in place.

Reason:

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

- 16 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 13 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. (R51AB)

- 17 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof area to include construction method, layout, species and maintenance regime. You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

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 You must apply to us for approval of an Operational Management Plan for the extended hotel use to include details of the management of coach and taxi activity, this must be approved prior to occupation of the extended hotel use and adhered to at all times.

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Reason:

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

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

Reason:

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

- 20 The servicing of the property must be carried out in accordance with the details in the submitted Servicing Management Plan (Summary Note dated 4 December 2018) which must be maintained and followed for the life of the development for all uses and units.

Reason:

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

- 21 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)

- 22 Other than in the case of an emergency you must only provide access to the external courtyard for staff and guests between the hours of 08:00 and 22:00 daily. You must also not allow more than 40 customers within the courtyard at any one time.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 23 You must not amalgamate the two restaurant units hereby approved and they must be operated as two distinct restaurant premises at all times.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007 or S24 of Westminster's City Plan (November 2016).

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- 24 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development:
- 1) All new windows and doors,
  - 2) The detailed design of the ground floor shopfronts,
  - 3) Privacy screens between the new balconies,
  - 4) The replacement mansard roof,
  - 5) Balustrades,
  - 6) New public art screens.

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

- 25 You must apply to us for approval of accurate photographs and manufacturers specifications 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.

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)

- 26 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)

- 27 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)

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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)

- 28 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1374-20-5-094 Rev P100. You must clearly mark them and make them available at all times to everyone using the property. (C14FB)

Reason:

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

29 **Pre Commencement Condition.**

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved in writing what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, and to the Greater London Sites and Monuments Record, Greater London Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.

(c) You must not use any part of the new building until we have confirmed in writing that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

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

- 30 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 Mayfair 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)

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31 {b Pre Commencement Condition}. You must not start any demolition work on site until we have approved either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or
- (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Mayfair 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)

32 The skylights installed at first floor level to the rear of 48-49 Brooks Mews at first floor level must be fixed shut and maintained in this form as long as they are in place.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (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 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil), Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the

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landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk). **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

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

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B must be submitted to the City Council's Environmental Sciences team ([environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) and the checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition. The full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements) must be submitted at least 40 days prior to commencement of works (which may include some pre-commencement works and demolition).

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Sciences team must be paid on submission of the details relating to the relevant phase. Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

- 4 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 5 We recommend all hoteliers to join the Westminster Considerate Hoteliers scheme and to support the Considerate Hoteliers Environmental Charter. This aims to promote good environmental practice in developing and managing hotels. For more information, please contact:  
John Firrell MHCIMA,  
Secretary - Considerate Hoteliers Association,  
C/o Wheelwright's Cottage,

Litton Cheney,  
Dorset DT2 9AR  
E-mail: [info@consideratehoteliers.com](mailto:info@consideratehoteliers.com), Phone: 01308 482313, (I76AA)

- 6 Conditions 12 and 13 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 7 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.
- 8 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 9 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 10 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. 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)
- 11 It is a legal requirement to ensure that every enclosed workplace is ventilated by a sufficient quantity of fresh or purified air. Where this ventilation is provided by mechanical means the regulations require those mechanical ventilation systems to be maintained (including appropriate cleaning) in efficient working order. B&ES Guide to Good Practice - TR19 Internal Cleanliness of Ventilation systems is a guidance document which can be used for new build, upgrade and maintenance of ventilation systems. Particular attention should be given to; , Section 2 - New ductwork system cleanliness, Section 3 - Design and access to the internal surfaces of the ventilation system , Section 7 - Specific considerations for kitchen extract systems. (This section deals specifically with access to the internal surfaces to the kitchen extract system, cleaning methods and frequency of cleaning). Where access hatches or panels are required in order to meet the above requirements, these must be incorporated into the design of the ducting and any associated screening or cladding.
- 12 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk). If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk) . It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access



Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 13 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)
- 14 Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. We further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses., , Where the developer proposes to discharge surface water to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>, , Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions. , , A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality).", , Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 15 The written scheme of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 16 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. This agreement relates to a carbon off-setting payment.

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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.

**DRAFT DECISION LETTER**

- Address:** 41 - 43 Brook Street, Mayfair, London, W1K 4HJ,
- Proposal:** Internal alterations at all floor levels including internal connections to the adjoining Claridge's hotel and raising the existing roof structure.
- Reference:** 18/04973/LBC
- Plan Nos:** Servicing Management Plan dated November 2018, Servicing Management Plan Summary dated 4 December 2018, Proposed Kitchen Extract route Sheets 1-4, Acoustic Report dated 13 November 2018, Energy and Sustainability Statement (May 2018), Structural Statement dated July 2019, Structural Statement Addendum dated 7th August 2019, Drawing: 1441-08-0090D, 1441-08-0091, 1441-08-0100D, 1441-08-0101, 1441-08-0105D, 1441-08-0110D, 1441-08-0111, 1441-08-0116, 1441-08-120D, 1441-08-0121, 1441-08-0130D, 1441-08-0131, 1441-08-0140D, 1441-08-0141, 1441-08-0151, 1441-08-0161, 1441-08-0171, 1441-08-0181, 1441-08-0300, 1441-08-2111, 1441-08-2121, 1441-08-2141, 1441-08-2172, 1441-08-2202, 1441-08-2210, 1374-20-5-094 RevP100.

**Case Officer:** Matthew Giles

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

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

- 1 The works hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.  
  
Reason:  
For the avoidance of doubt and in the interests of proper planning.
- 2 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development:
  - 1) All new windows and doors,
  - 2) The detailed design of the ground floor shopfronts,
  - 3) Privacy screens between the new balconies,
  - 4) The replacement mansard roof,
  - 5) Balustrades,
  - 6) New public art screens.

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

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

- 3 You must apply to us for approval of accurate photographs and manufacturers specifications of the facing materials you will use, 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.

Reason:

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

- 4 You must 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)

- 5 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development:

- 1) new service runs,
- 2) new fireplace surrounds,
- 3) new decorative plasterwork, skirtings and architraves,
- 4) new internal doors.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

- 6 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance 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

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paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 7 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

- 8 You must not remove historic floorboards. Where floorboards need to be lifted they must be numbered, photographed, carefully lifted and stored, and replaced in their original locations.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations. The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building. In reaching this decision the following were of particular relevance: S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
  - \* any extra work which is necessary after further assessments of the building's condition;
  - \* stripping out or structural investigations; and,
  - \* any work needed to meet the building regulations or other forms of statutory control. Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents. It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 3 <sup>rd</sup> September 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>William Court 6 Hall Road, London, NW8 9PA</b>		
<b>Proposal</b>	Erection of a two-storey 4-bedroom single family dwelling		
<b>Agent</b>	Savills		
<b>On behalf of</b>	c/o Agent		
<b>Registered Number</b>	19/02234/FULL	<b>Date amended/ completed</b>	8 April 2019 & 14 August 2019
<b>Date Application Received</b>	25 March 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside off, but St John's Wood Conservation Area lies immediately to the west and north of the site.		

## 1. RECOMMENDATION

Grant conditional permission, subject to a Grampian condition to secure mitigation for the increased demand for on street car parking (lifetime (25 year) car club membership for the house).

## 2. SUMMARY

This application follows an unsuccessful more ambitious appeal proposal for three houses in three locations around the podium of William Court and which involved a number of extensions to the building above podium level. Permission is now sought to redevelop the existing redundant boiler room to provide one single family dwelling house over lower ground and ground floor levels to the eastern side of the site, retaining the same height as the existing podium, with a green sedum roof.

The proposal has brought about significant objection from the local community, including from the St John's Wood Society, William Court, Hamilton Terrace and Hamilton Gardens as well as other local residents and includes two petitions. Objections are raised to the principle of the development and also include, among other grounds, objections on design, amenity and transportation grounds.

Officers understand the concerns of local residents with respect to the nature of the proposed development and acknowledge the recent appeal scheme which was dismissed. However, considering this as a stand-alone proposal on its own merits, it is considered to meet relevant planning policy, being quite discreetly sited and positioned to a part of the site that is currently relatively plain and utilitarian.

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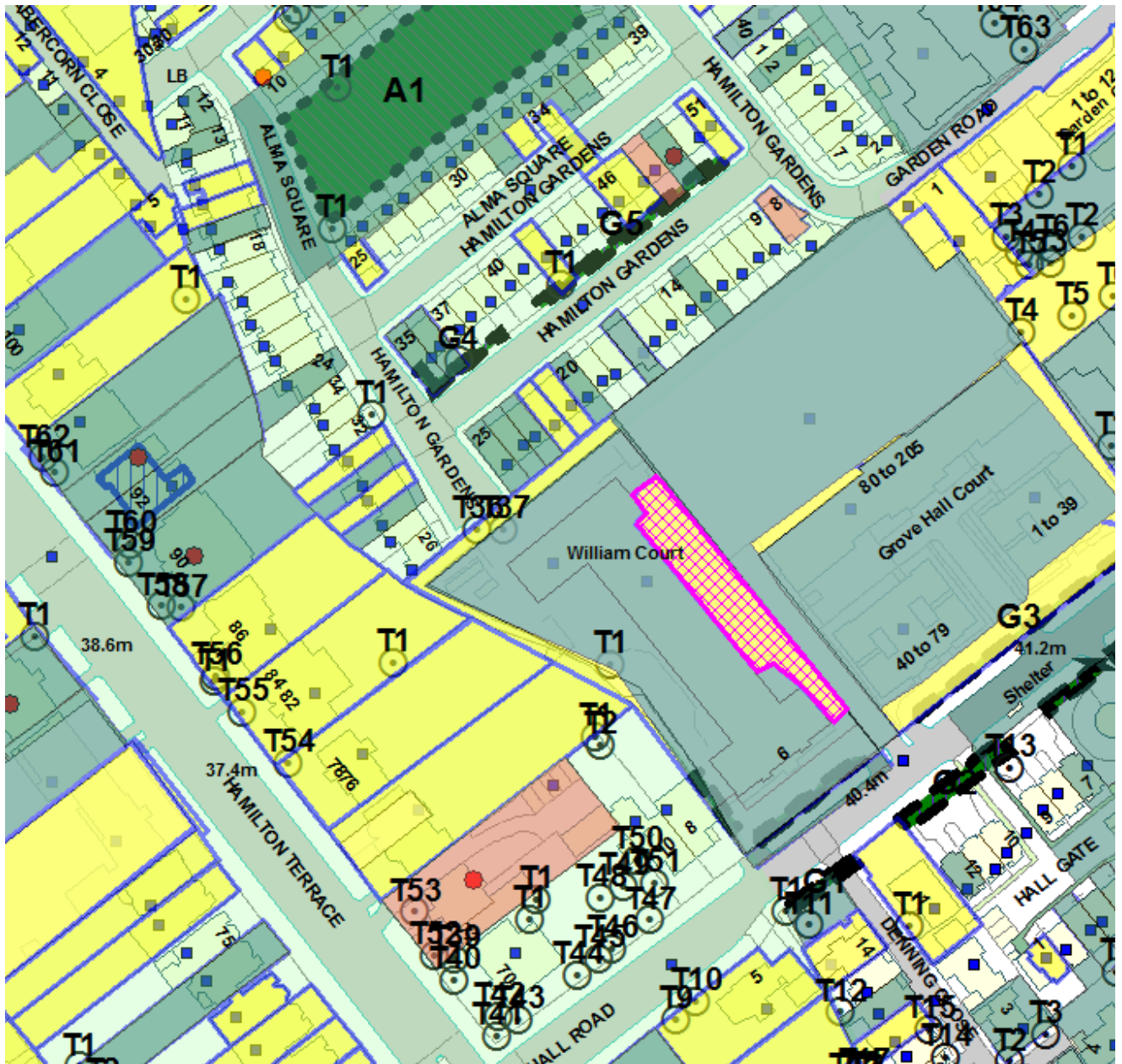
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As the building maintains the height of the existing podium, it is not considered to compromise the character of William Court as a freestanding block within a larger site plot (unlike houses 1 and 3 in the appeal scheme) and given its scale and location has no significant physical impact on the amenities of existing residents. Whilst the daytime on-street car parking stress level of 80% is marginally exceeded (80.8%), given the single house and the proposed mitigation in the form of car club membership, it is considered that it would be difficult to justify a refusal on this ground as advised by our Highways Planning Manager. As such, notwithstanding the significant local opposition to the proposal, a favourable recommendation is made.



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3. LOCATION PLAN



4. PHOTOGRAPHS



## 5. CONSULTATIONS

### HISTORIC ENGLAND

No comment.

### LONDON FIRE SERVICE

Any response to be reported verbally

### COUNCILLORS FOR ABBEY ROAD WARD

Any response to be reported verbally

### ST JOHNS WOOD SOCIETY

Objection. Inappropriate development around the base of this mansion block, creating a sense of enclosure for ground floor flats.

Building has an uncomfortable relationship with its surroundings due to the large light well at the front and "drawbridge" access point.

Loss of privacy from use of the roof as amenity space.

Compromises the architectural integrity of the existing building

Concerned that this application will represent a series of applications for further development and will cause an unfortunate precedent for additional unneighbourly infill developments in the adjacent conservation area.

### HIGHWAYS PLANNING MANAGER

Undesirable, but could be considered acceptable. No off-street car parking proposed and two cycle parking spaces proposed. The City Council's new car parking survey completed (2018) shows that available on street car parking has increased from the last survey (2014), the figures in this earlier survey were used at the time of the appeal scheme for 3 houses. This proposal for one house would result in a minor breach of stress threshold (81.2%) during the daytime, but not overnight (72.9%). Given the minor breach of the threshold, the one house proposed and the findings of the 2018 parking survey together with Inspectors comments on this matter with respect to the larger appeal scheme "limited breach of policy", this application could be considered acceptable, subject to the car club membership offered by the applicant being secured by Grampian condition or a legal agreement.

### ENVIRONMENTAL HEALTH

No objection, subject to conditions and informatives

### WASTE PROJECT MANAGER

No objection subject to a condition to secure in perpetuity.

### BUILDING CONTROL

Comment. Applicant is advised to seek a determination from the London Fire and Emergency Planning Authority (LFEPA) regarding the proposals relating to fire service vehicle access, access into and within the building for fire-fore fighting personnel to effect search and rescue, and fire-fighting.

### ARBORICULTURAL OFFICER

No objection, subject to conditions to secure full details of hard and soft landscaping scheme and details of the four new trees proposed to be planted.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No .Consulted: 367

Total.No. of Replies: Numerous representations of objection from 36 addresses

In addition, two petitions (William Court Residents Association-51 signatures and Hamilton Gardens- 48 signatures).

#### Principle

- House does not simply replace a boiler room, but over-development the site
- Development much more substantial than the 2003 conversion of the boiler room into a 2-car garage
- No public benefit
- Density, overly dense, crowded and congested.
- Proposal does little to address local housing needs
- Gross over development of a tight site.
- Substantial basement proposed which is another iceberg house

#### Design

- Detrimental to St Johns Wood conservation area and surrounding area
- Destroys appearance and design aspects of William Court
- House is squeezed into a tight area
- The style of the house is completely different to surrounding buildings which are Art Deco, Victorian, stucco etc
- Loss of breathing space around building

#### Amenity

- Loss of light to William Court and Grove Hall Court
- Landscaped" communal garden" will result in loss of privacy and noise disturbance to ground floor flats of William court ( east) and Hamilton Drive
- Noise disturbance
- Detrimental impact on outlook
- Impact on safety and security
- Loss of privacy
- Fire risk
- Does not comply with the Mayors London's Quality of Life report
- Detrimental to 22 Hamilton Gardens
- Relocated roof vent from boiler room closer to existing flats in William Court

#### Transportation

- Additional demand for on street car parking
- Additional stress on traffic flow
- Increase in unsocial parking causing hazards to pedestrians and road users
- Hall Road already congested

- Developer has attempted to buy existing car parking spaces from William Court residents.

#### Environmental

- Loss of wildlife
- Removes the chance for William Court to have a full line of poplar trees that delineated it from Hamilton gardens up to the 1987 hurricane, affording privacy and boundary with conservation area.
- House is not sustainable
- Layout for new trees and bin store doesn't work
- Impact on ground water

#### Construction

- Building works and associated noise, dust, nuisance etc. detrimental to residential

#### Previous Appeal/Other

- Previous application has been unsuccessful at appeal
- Development completely rejected by the Planning Inspector
- Application grossly misleading, the planning inspector did not consider house 2 to be acceptable- considered the proposal as a whole to have a detrimental impact on the character and appearance of the area and did not accord with the development plan
- Applicant has submitted applications in an underhand way to mask the longer term development which is planned.
- If granted the applicant will make further applications
- Developers approach is slicing and dicing
- Developer has failed to consult and communicate
- No existing drawings
- Residents of Hamilton Drive (Eyre Road, Hamilton Gardens, Grove Hall Court and other properties along Hall Road have not been notified and these residents will be affected by the poor design aspect and reduction in bio diversity of the area.
- Consultation carried out over Easter
- Developer has made multiple applications
- Area has been left in an untidy state by the freeholder on purpose
- No existing drawings submitted
- Some drawings not annotated
- Concerned at potential impact of any future developments
- Abuse of planning process

ADVERTISEMENT/SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

William Court is a large mansion block comprising of self-contained flats with a podium level communal garden to the west of the site. Part of the lower ground floor is in use by Fort Box Self Storage (Class B8). It is an unlisted building and lies outside a conservation area and there are no listed buildings in the immediate vicinity. The St John's Wood Conservation Area lies immediately to the west and north of the site. The surrounding area is residential in nature.

The site is not level, it slopes north from Hall Road creating a lower ground level which extends to a larger footprint than the main building and which creates a podium ground floor level to the north and partly to the west and east of the site. Part of this podium level accommodates the communal hard landscaped communal terrace; the remainder is a flat roofed area punctuated with some projecting roof lights providing light to the lower ground floor area.

There are two vehicular access points to the site both from Hall Road, located at the eastern and western ends of the frontage, enabling a drive in and out arrangement for drop offs and pick-ups. The western access also provides secure access to Fort Box and the eastern access to a parking area. Hall Road and Hamilton Gardens are local roads in the Council's hierarchy of streets. Both roads have on-street car parking bays and with some single and double yellow line, which gives an opportunity for the servicing of premises. The area surrounding the site is covered by Controlled Parking Zone ("CPZ").

## 6.2 Recent Relevant History

WCC Ref: 04/07502/FULL - Permission granted for Change of use of former boiler house to use as one bedroom flat with associated alterations to front elevation. dated 3rd March 2004

WCC Ref. 16/08855/FULL - Permission refused by our Planning Applications Sub-Committee for "Construction of 3 dwelling houses with associated amenity space in the grounds of William Court, 6 Hall Road to the rear, associated landscaping improvements, creation of additional cycle parking.", dated 07.03.2017. This decision to refuse permission followed a deferral by Committee on 14.02.2019 to allow for a site visit which took place on 04.03.2017.

WCC Ref. 17/04663/FULL - Permission refused by our Planning Applications Sub-Committee on 8th August 2017 for "Construction of 3 dwelling houses with associated amenity space in the grounds of William Court, 6 Hall Road to the rear, associated landscaping improvements, creation of additional cycle parking." The Sub-Committee were not satisfied that the reasons for refusal of the application on 07.03.2017 had been overcome. The application was refused for the same reasons, adapted to reflect the reduced impact on 20 Hamilton Terrace, and was settled under delegated powers following consultation with the Chairman.

Permission was refused for three reasons:

1. Because of the bulk, height and design of House 1 and its poor architectural relationship with the adjoining Conservation Area; and the footprint of House 3; the proposals (notably House 1 and 3); would harm the appearance of this building and this

part of the City. This would not meet S28 of Westminster's City Plan (November 2016) and DES 1, DES 4 and DES10; of our Unitary Development Plan that we adopted in January 2007.

2. House 1 and 3 would make the people living in the ground floor flats of William Court feel too shut in and as such represents an unneighbourly form of development harmful to residential amenity. This is because of the bulk, height, design and how close House 1 and 3 are to windows in those properties. This would not meet S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

3. Your development would add to an already high demand for on-street car parking in the area and this would affect people already living in the area. This would not meet our parking policy as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007."

A subsequent Appeal against this decision was heard at a Public Inquiry and the appeal was subsequently dismissed on 31st October 2018. Three houses were proposed, House 1, 2 and 3. Only houses 1 and 3 were referred to in the reasons for refusal (as set out above) and the subsequent appeal, apart from the third reason for refusal which related to the demand for on-street car parking from the development (all three houses). A copy of the Inspector's decision notice and key drawings can be found within the background papers

## **7. THE PROPOSAL**

This application follows a dismissed appeal at the end of last year in relation to a proposal for three houses within the curtilage of William Court, as set out within the history section of this report (section 6. above). It is of note that the single house proposed under this application is proposed in the same location as house 2 within the appeal scheme.

Planning permission is sought for the construction of a two-storey (lower ground and ground level- no basement is proposed) four-bedroom single family dwelling house with associated private amenity space green sedum roof. The application has been revised during the course of the application, in part on officer advice to secure the following changes: reduction in height of house, removal of projecting rooflight, omission of roof terrace and replacement with sedum roof, existing vent and fire escape access from storage unit retained and to seek further clarifications and annotations on drawings. A further 14-day re-consultation was carried out.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use/Principle**

The proposal to create a family house is acceptable in principle in land use terms in accordance with policy H3 of our UDP and S14 of our City Plan which seeks to optimise the provision of housing.

It is acknowledged that this proposal is different to the 2003 proposal to convert the boiler room and this is merely referred to in the relevant planning history section of the report.

The specific location of this house (house 2 in the appeal scheme), did not form a reason for refusal of the three-house appeal scheme, due to its scale and bulk being predominantly within the envelope of existing built form on this area of the site (boiler house). Unlike houses 1 and 3 of the appeal scheme which involved significant new built form above and beyond the envelope of the existing built form on site. It is for these reasons that this particular house is not considered to comprise overdevelopment of the site, unlike the two houses that were the subject of the appeal, which the inspector found to overdevelop the site at the expense of the character and appearance of the area. Given the specifics of this proposal, it is not considered that allowing this house would detrimentally affect the conservation area nor would it would set a precedent for other houses to be built within the curtilage of the site as the area around the site is considered to perform a function in providing a setting for William Court and the conservation area in its current state. (para 48 of the appeal decision).

The findings of the Inspector have been considered and whilst objectors quote the Inspector at paragraph 20 of the appeal decision “taking the proposal as a whole, I find it would cause less than substantial harm to the significance of the conservation area and would have a further detrimental impact on the conservation area more generally”, house 2 is not explicitly referred to and was not the subject of the refusal of the 2017 proposal or the subsequent appeal

It is acknowledged that significant representation of objection has been made to the principle of the provision of this house, however for the reasons set out above, it is not considered that a refusal of permission on grounds of over-development could be justified.

With respect to the objections raised on the basis that the proposal would have no public benefit. The Inspector considered the three-house appeal scheme to be moderate social benefit. As such it follows that this proposal for a single house would have even less social benefit. However, as it is considered that the proposal would not result in any harm to heritage assets, public benefits are not required to be considered (no need to consider whether public benefits outweigh any harm)

The proposed house would comprise 298m<sup>2</sup> (GEA) over basement and ground floor levels (ground floor is at the base of the ramp level (lower than street level as the site slopes down and away from Hall Road) and would provide four-bedroom accommodation. It would be independently accessed with kitchen, dining, living areas and study at ground level with bedroom and bathroom accommodation below. It would be lit with natural light from front and rear windows and rooflights at ground floor and lightwells to allow natural light to reach the basement. External areas are provided in the form of front and rear basement lightwells. Overall the size and layout of the proposed house, together with natural light and ventilation it would receive is considered to provide a satisfactory living environment for future occupiers.



## 8.2 Townscape and Design

William Court dates from the late 1930s-mid 1940s and it comprises a lower ground floor, ground floor and five upper storeys to most of the block, with the top floor being a later addition while the rear wing at the northern end of the site is lower in height, being ground plus three upper storeys. It is arranged, approximately, in an I-shaped plan, albeit the lower ground floor extends over a greater footprint than the plan of the building to ground and upper floors. It presents a symmetrical entrance façade to the south predominantly in red brick but with stucco and stone dressing including a 3-bay central stone-dressed bay. It is in a restrained and modest architectural style, exhibiting both classical and art-deco influences of the 1920s and 1930s.

St John's Wood Conservation Area lies immediately to the west and north of the site. Nos.8-10 Hall Road are within the conservation area and lie to the west of the entrance wing of William Court, they are a pair of three-storey semi-detached Victorian villas. The western boundary to William Court is also contiguous with the rear gardens of 74-84 Hamilton Terrace, which are large detached and semi-detached Victorian villas, which are also within the conservation area. The northern boundary of William Court is contiguous with properties in Hamilton Gardens, which are again within the St John's Wood Conservation Area and are red brick terraced houses of the late nineteenth century.

The proposal relates to the eastern side of the site where it is proposed to demolish an existing single storey structure, which forms part of the lower ground floor podium and to construct a two-storey (lower ground floor and basement) 4-bedroom residential unit. This proposal is very similar to previous, more ambitious proposals, which have included other extensions creating further units elsewhere on the site.

The existing structure of the podium to be demolished is a utilitarian single storey boiler room and a previous permission from 2004 granted permission for this space to be modified and converted for residential use.

The replacement structure would only have one main façade, which faces south towards Hall Road, although there would be a small area of rear façade facing onto a lightwell. It would be two storey but the lower storey would be sunk and lit by lightwells, so that the new building would appear as a continuation of the podium in height terms. The main façade would be in red brick to complement the main mansion block with curved bays. The flat roof features a green/sedum roof.

Overall the proposal is considered acceptable in design terms. The new building will be quite discreetly sited and will be positioned to a part of the site that is currently relatively plain and utilitarian. As the building maintains the height of the existing lower ground floor podium, it is not considered to compromise the character of William Court as a freestanding block within a larger site plot. Officers consider the proposal to be acceptable in design terms, with no adverse impacts on the wider townscape or the setting of the adjacent St John's Wood Conservation Area. As such officers do not support the objections raised by the St John's Wood Society and residents on this ground. The proposal would accord with policy S28 of the Council's City Plan; and DES 1 and DES 9 of the UDP.

A condition is recommended to remove permitted development rights, to prevent extensions and alterations to the house (under permitted development) without planning permission, so as to prevent development that may be harmful to the architectural integrity of William Court, the townscape and the setting of the St John's Wood Conservation Area.

### 8.3 Residential Amenity

The proposed house would sit predominantly within the envelope of the existing boiler house building. The originally proposed projecting roof light, communal terrace and associated timber screen on the roof of the proposed house have on officer advice been deleted from the proposal. Given that no significant built form is proposed beyond the envelope of the existing structure, the proposal is not considered to have any significant physical impact on the amenities currently enjoyed by existing residents. As such it would have no effect on the living conditions of the existing occupiers of William Court with regard to sense of enclosure, outlook, privacy or daylight and sunlight. For the reasons set out above the objections raised on amenity grounds is not supported by officers

A condition is recommended to remove permitted development rights, to prevent extensions and alterations to the house (under permitted development) without planning permission, to safeguard surrounding resident's amenities.

The originally proposed communal terrace has been omitted from the proposal and replaced with a green/sedum roof to provide improved visual amenity through greening, without the potential for noise, disturbance and overlooking, if it were to be used as formal useable amenity space by any residents of the site. Subject to controls on this, it is considered that the proposed house and the associated activities and comings and goings associated with its use, would not result in any significant loss of amenity to neighbouring residents in accordance with policy ENV13 of our UDP and S29 of our City Plan.

For the reasons set out above, the objection to a communal terrace on amenity grounds is no longer relevant.

### 8.4 Transportation/Parking

The proposal would not provide an off-street car parking for the new four-bedroom single family dwellinghouse. Policy TRANS23 of our UDP requires off-street car parking to be provided as a maximum of one or two spaces per unit of three or more bedrooms where appropriate and practical. It also requires the likelihood of additional on-street parking to be considered and where additional demand results in more than 80% of legal on-street spaces being occupied during the day or night (within 200m radius), mitigation is required. In this case one space would be required.

The City Council's most up to date car parking survey completed in 2018 shows that this proposal for one house would result in a minor breach of our 80% parking stress threshold during the daytime (81.2%), but not overnight (72.9%). The applicant is offering lifetime (25 year) car club membership as mitigation for the minor breach of the daytime stress level.

The previous proposal for three houses was refused permission on the basis that no off-street car parking was provided and that this would add to an already high demand for on-street car parking in the area and would affect people already living in the area. During

the appeal the applicant submitted a planning agreement to secure lifetime (25 years) annual season tickets (for three parking spaces at the Lanark Road car park or another local car park, together with lifetime (25 year) car club membership for use by occupiers of the proposed houses.

In dealing with the appeal the Inspector concluded in paragraph 42 " I find that the proposed parking arrangements would not be detrimental to highway safety or convenience....and would not conflict with policy STRA25....nor would it conflict with the framework (para 109) which advises that development should not be refused on highways grounds unless there would be an unacceptable impact on highways safety".

He goes on to conclude that: -"Nevertheless, since on-street parking availability around the appeal site is less than 80% and given my concerns over the use of the Lanark Road parking spaces as suitable mitigation, the proposal would result in a limited breach of Policy TRANS23 (B)".

The appeal decision is a material consideration in the determination of this application, as is the reduction in the number of units now proposed (one rather than three) as well as the findings of the most recent car parking survey of 2018 (rather than 2015 survey), which indicate only a minor breach of the daytime stress level over the 80% threshold (81.2%). Taking all these factors into account, together with the mitigation offered by the applicant (lifetime (25 year) car club membership) it is considered that it would be difficult to justify a refusal of the application on car parking grounds.

Several representations of objection have been received from residents with respect to the implications of the lack of on-site car parking to serve the development. These include additional demand for on-street car parking, additional stress on traffic flow, increase in unsocial parking causing hazards to pedestrians and road users and further congestion on Hall Road. However, for the reasons set out above, these objections are not supported by officers.

The proposal makes provision for cycle parking for the occupiers of the house within a designated cycle store located at ground floor level adjacent to the entrance hall of the dwelling, which is acceptable, subject to securing this by condition.

## **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

## **8.6 Access**

Access to the proposed house is from the curtilage of William Court via Hall Road.

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

Appeal scheme

A significant number of objections have referred to the earlier appeal scheme and consider that on the basis that the appeal scheme was dismissed that this proposal should also fail. This report refers to the appeal scheme under various sections and the Inspectors decision is attached as a background paper to this report. This proposal has been assessed on its own merits and reference to the appeal decision is made

where relevant. Notwithstanding the appeal decision, officers consider this current smaller proposal to be acceptable.

#### Refuse /Recycling

Provision is made for a dedicated storage for waste and recycling to the front of the house which meets our requirements to the satisfaction of our Waste Project Officer.

#### Trees and Biodiversity

The proposal should not have a direct impact on trees subject to tree protection during construction, and this is proposed to be controlled by condition.

The proposed drawings show new tree planting (proposed Vehicle Entrance Plan) but new trees are not mentioned in the Landscape Strategy within the design and access statement. New trees in this location are welcomed but they must have adequate soil volumes to support them and be of appropriate robust species. Details are proposed to be secured by condition.

A sedum roof is now proposed on the flat roof of the proposed house which is welcomed in biodiversity terms. Full details are proposed to be required by condition.

Whilst objections have been raised on grounds of loss of wildlife, there is no evidence of this and the proposed location of the house is a location of a redundant boiler room structure. Furthermore, the proposal is not located close to any existing trees and no loss of or works to trees is proposed. The City Council's arboricultural manager has not raised objection to the proposal but has suggested some standard conditions and informatives.

#### Energy and Sustainability

A number of design measures have been incorporated into the design, including thermal insulation, solar control glass, low temperature hot water system with underfloor heating, air source heat pumps (ASHP), low energy lighting, CFC free insulation materials, timber from responsible forest sources, water efficient items. The objections raised on grounds that the house is not sustainable is not supported by officers and there is no evidence of any significant impact on ground water. However, the proposal will need to satisfy relevant building regulation requirements.

#### Applicant

Objections on grounds of the applicants behaviour with respect to submitting multiple applications, is not a planning consideration.

## 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 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and

has now closed. The council will now review the comments received and the City Plan 2019-2040 will be submitted for examination in the autumn. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

### **8.9 Neighbourhood Plans**

Not applicable to this area.

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 National Policy/Guidance Considerations**

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

### **8.12 Planning Obligations**

A Grampian condition is proposed (condition 7) to secure parking mitigation and is likely to be secured by a unilateral undertaking or legal agreement to secure car club membership (25 years) for the house.

### **8.13 Environmental Impact Assessment**

Relevant Environmental Impact issues have been covered throughout the report.

### **8.14 Construction impact**

Control over the hours of noisy building works are proposed to be secured by condition. The objection on this ground are not a valid reason in which to withhold planning permission.

### **8.15 Fire risk**

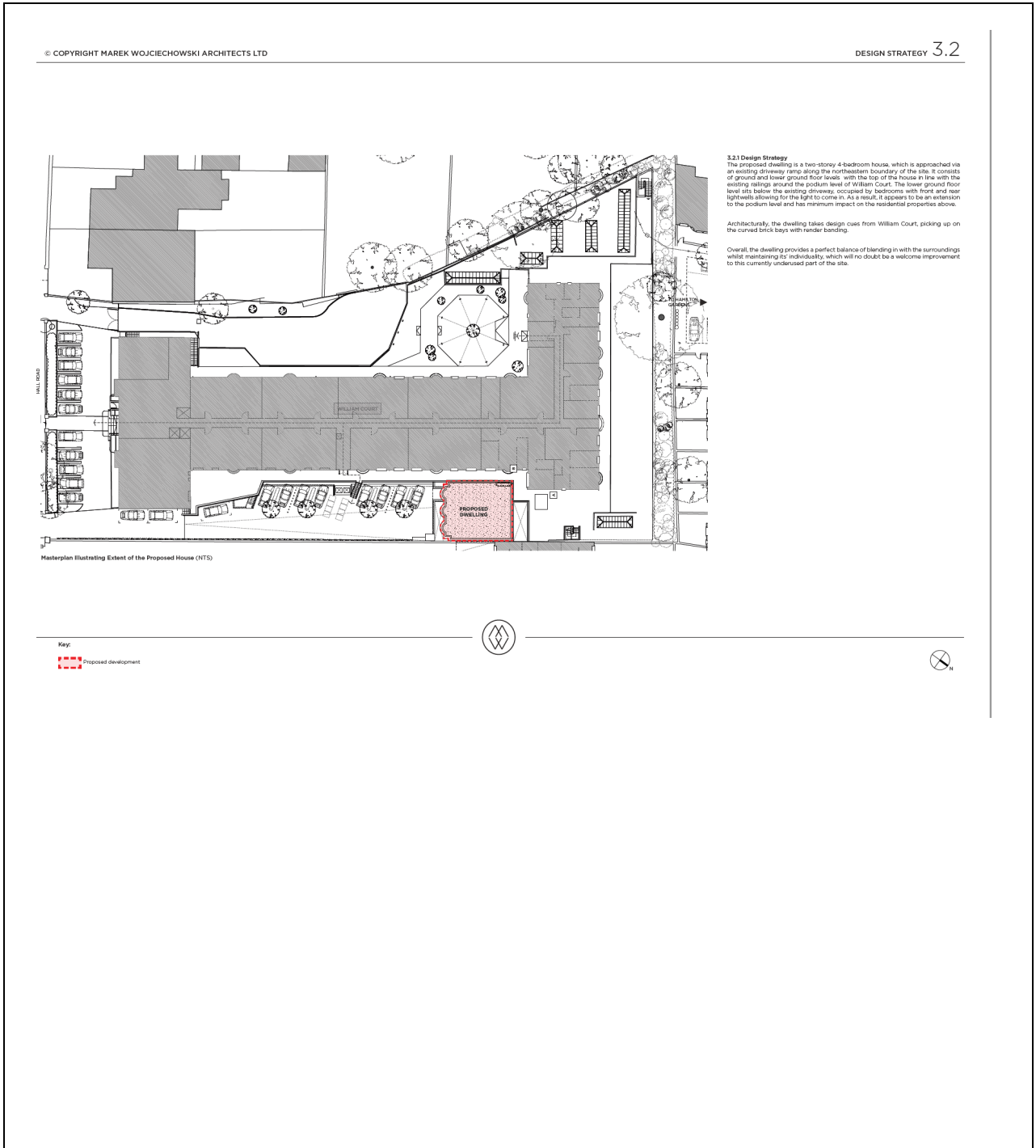
London Fire Brigade has been consulted with no response. The City Council's Building Control Team has requested that the applicant be made aware via an informative of the need to make provision for adequate fire escape measures.

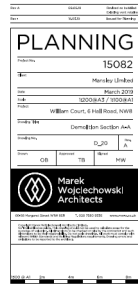
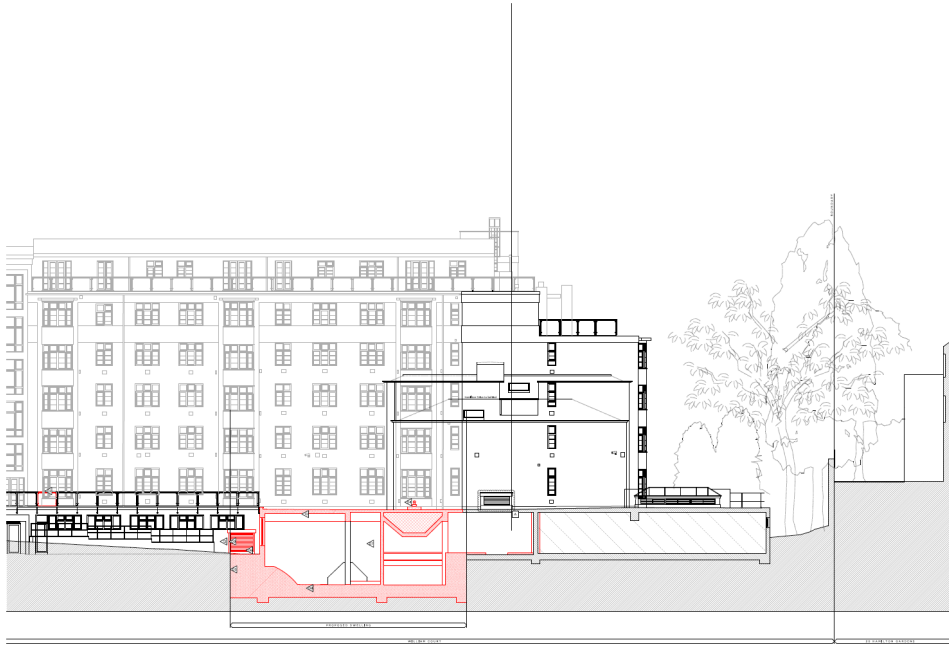
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(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

### 9. KEY DRAWINGS

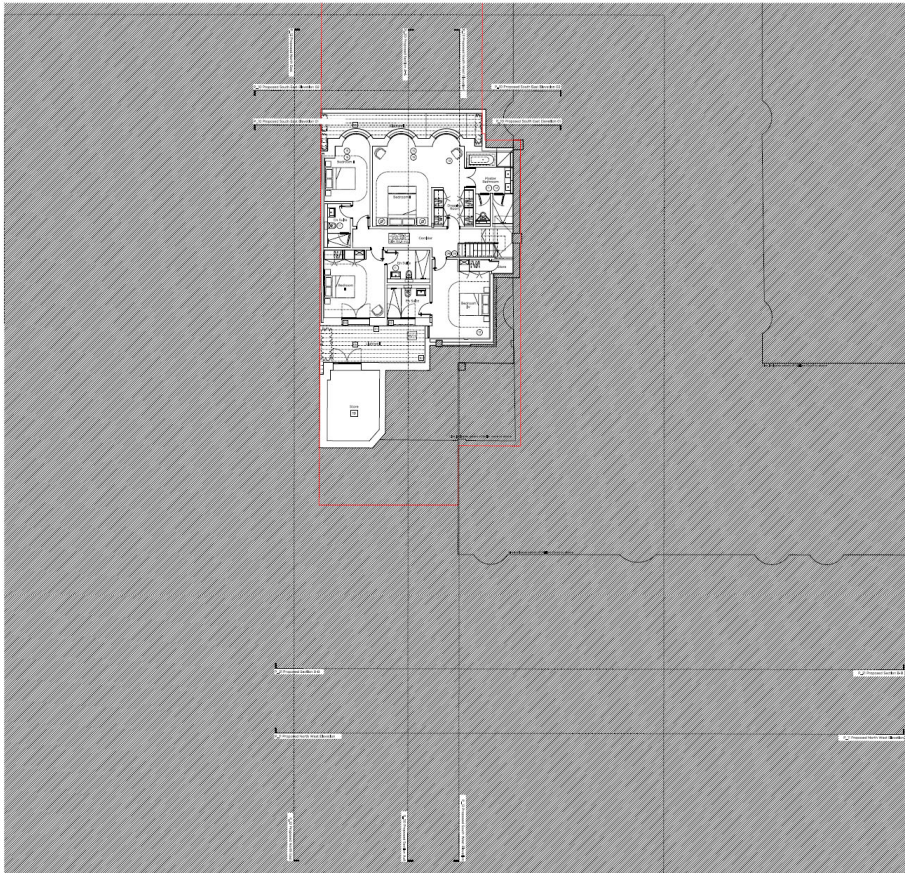


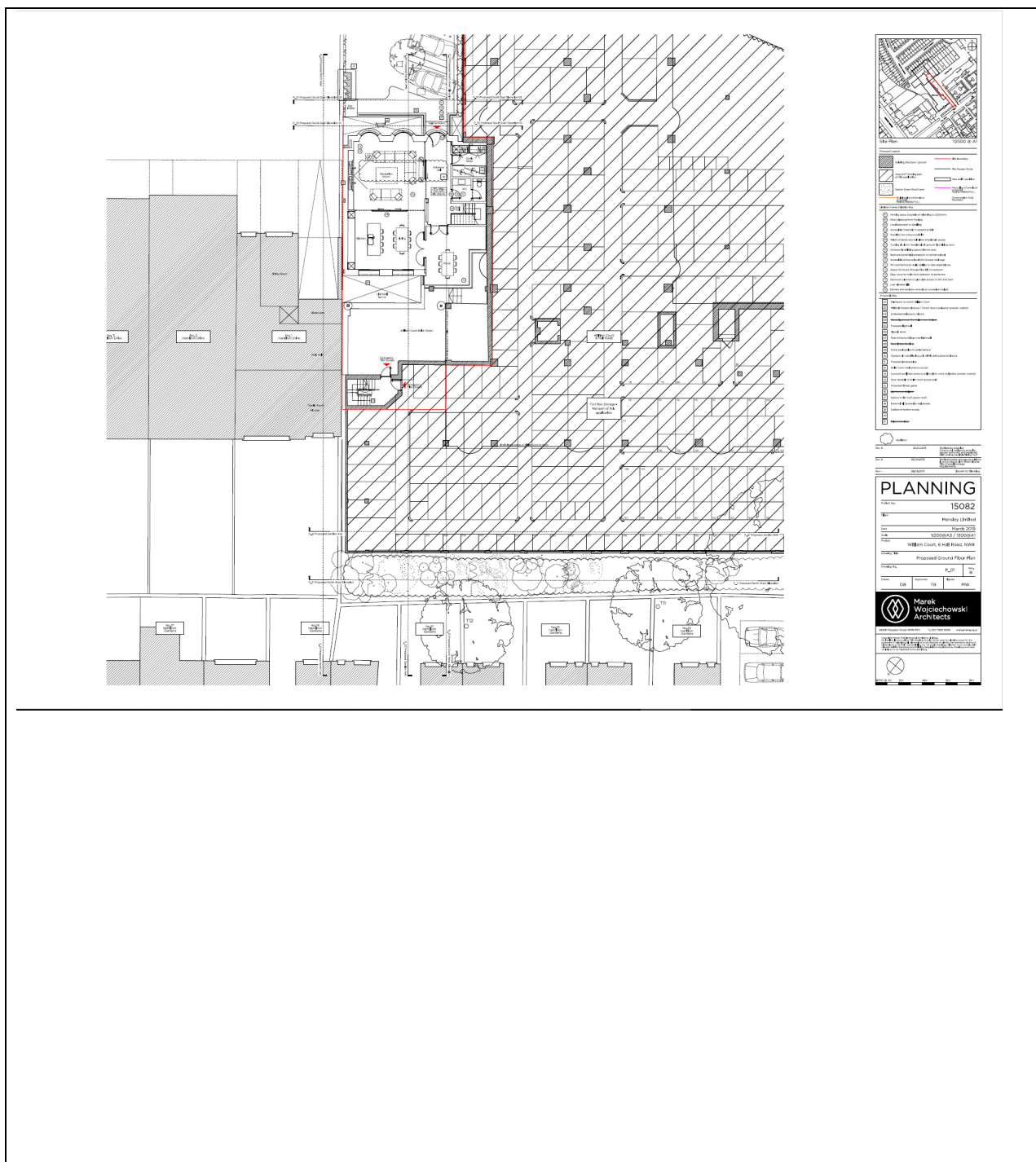




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### 3.1 DESIGN STRATEGY

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#### 3.1 DESIGN STRATEGY

**3.1.1 General Strategy**  
The scheme was designed following an in-depth site and context analysis, careful consideration of the planning guidance and policies and refined in accordance with pre-application advice received from the WCC following pre-planning submission. Proposals have been designed with care and attention, taking into consideration the sensitive nature of the site and its many constraints. As a result, the proposal not only introduces a new exemplary family dwelling to the site, but also a living roof to minimise environmental and visual impact.



As Proposed Aeronometric View 1

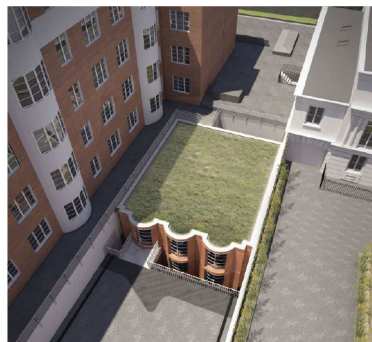
Key:

— Proposed development



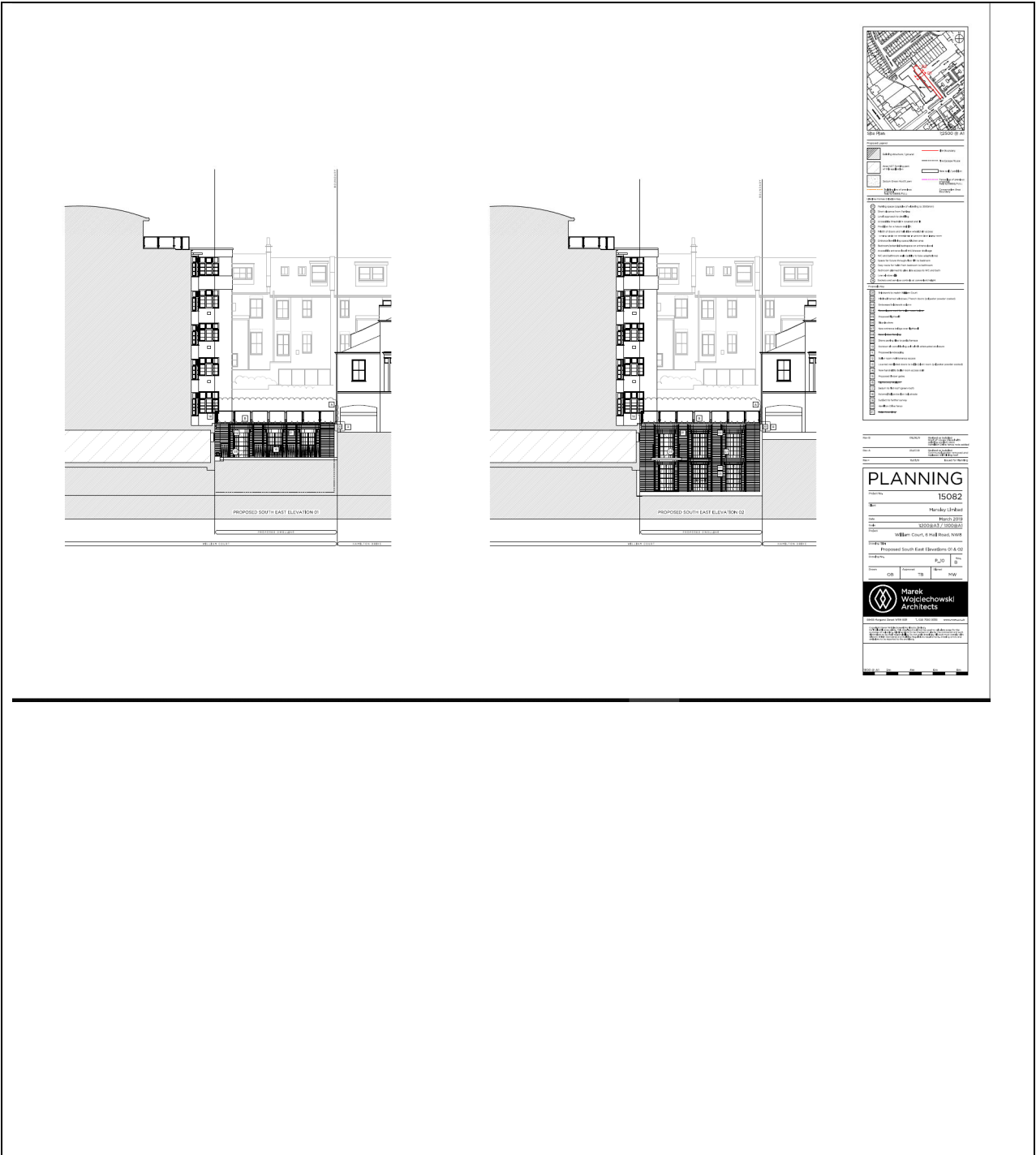


Existing Isometric View



Proposed Isometric View









**DRAFT DECISION LETTER**

**Address:** William Court, 6 Hall Road, London, NW8 9PA

**Proposal:** Erection of a two-storey 4-bedroom single family dwelling. (Re-consultation on revised drawings, reduction in height of house, removal of projecting rooflight, omission of roof terrace and replacement with sedum roof, existing vent and fire escape access from storage unit retained, further clarifications and annotations on drawings.

**Reference:** 19/02234/FULL

**Plan Nos:** D000 RevA, D01 RevA, D02, D03 Rev A, D04, D10 RevA, D11 RevA, D12, D13, D20 RevA, D21., P00 revA,P000 RevB, P01RevB, P02, P03 RevC, P04 RevA, P10 RevB, P11Rev C,P12 RevB,P13 Rev B,P20 RevC,P21 RevC,P30 RevB, Design and Access Statement March 2019 and revised Rev D; Planning Statement March 2019.,

**Case Officer:** Sarah Whitnall

**Direct Tel. No.** 020 7641 2929

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

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

**Reason:**

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

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

**Reason:**

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

- 3 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.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

- 4 You must apply to us for approval of full details of the following parts of the development - the rear lightwell facing elevation. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 4 of our Unitary Development Plan that we adopted in January 2007. (R26CD)

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

Reason:

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

- 6 You must provide the waste store shown on drawing P01- Rev B before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the house. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

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

- 7 **Pre Commencement Condition.** You must not start work on the site until we have approved in writing appropriate arrangements to secure the following., , Mitigation for the demand for on street car parking resultant from the development., , In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements. (C19AB)

## Reason:

To provide alternative arrangements for the use of a car for people living in the house as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 8 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme for the green/sedum roof which includes the number, size, species and position of trees and shrubs and also details of the volumes of soil provided within the scheme. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 1 year of completing the development (or within any other time limit we agree to in writing) and retain (and maintain) it thereafter.,

## Reason:

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

- 9 You must apply to us for approval of details of the four proposed new trees, as shown on the 'Proposed Vehicle Entrance Plan'. You must include the number, size, species and position of the trees. You must include details of the tree pits which must allow the trees adequate soil volume, to be contiguous with adjacent soil volumes beneath the driveway and parking areas. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 1 year of completing the development.

## Reason:

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

- 10 If you remove any of the new trees or find that they are dying, severely damaged or diseased, within 5 years of planting them, you must replace them with trees of the same size and species.

## Reason:

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

- 11 You must not use the roof of the house for sitting or for any other purpose. You can however use the roof to escape in an emergency and for required maintenance. (C21AA)

## Reason:

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

Development Plan that we adopted in January 2007. (R21BC)

- 12 You must not enlarge, alter or improve the dwelling house including any addition or alteration to its roof, install any chimneys, flues or soil and vent pipes, microwave antennas, erect or construct a porch and or erect any buildings within its curtilage without our permission and you must not erect or construct any gate, fence, wall or other means of enclosure or paint the building without our permission. This is despite the provisions of Classes A,B,C,D,E,F G,H of Part 1 and Classes A, B of Part 2 of Schedule 2 to the Town and Country Planning General Permitted Development Order (England) 2015 (or any order that may replace it). (C21EB)

**Reason:**

To protect the privacy and environment of people in neighbouring properties and to make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area and the setting of the St John's Wood Conservation Area This is as set out in S28, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13 , DES1, DES4 and DES9 of our Unitary Development Plan that we adopted in January 2007.

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

**Reason:**

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise. (R49AA)

**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 With respect to condition 7, we are likely to accept a legal undertaking (unilateral undertaking) to secure Lifetime (25 years) car club membership for the occupiers of the house.

- 3 Your landscaping and tree planting proposals must have sufficient soil volumes to be sustainable and must incorporate low water demand species. Development activity must not encroach beyond the site boundary into the strip of land to the rear of William Court.,
- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. 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)
- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 The term 'clearly mark' in condition means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 7 You are advised to seek a determination from the LFEP (London Fire and Emergency Planning Authority) regarding the proposals shown on plan relating to Fire Service vehicle access, access in to and within the building for fire - fighting personnel to effect search and rescue, and fire - fighting., , Section B5 of Approved Document B Volume 1 (Fire Safety) also provides guidance on requirements for design of access routes and hard standings.

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

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# Agenda Item 3

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 3 September 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Bayswater	
<b>Subject of Report</b>	<b>Basement and Ground Floor, 108 Westbourne Grove, London, W2 5RU</b>		
<b>Proposal</b>	Variation of Condition 6 (servicing hours and numbers) of planning permission dated 16 October 2018 (RN: 18/02532/FULL) Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning units on roof of 110 Westbourne Grove. NAMELY, to allow servicing and deliveries to take place between 08:00 and 18:00 Monday to Friday and between 08:00 and 13:00 Saturday.		
<b>Agent</b>	Caulmert Ltd		
<b>On behalf of</b>	Halfacre Estates Ltd and Westbourne		
<b>Registered Number</b>	18/10507/FULL	<b>Date amended/ completed</b>	12 December 2018
<b>Date Application Received</b>	12 December 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne		

## 1. RECOMMENDATION

Grant conditional permission.
-------------------------------

## 2. SUMMARY

<p>The application site comprises a basement and ground floor unit at 108 Westbourne Grove and a rooftop plant enclosure at 110 Westbourne Grove. This unit is currently in retail use (Class A1) but was previously used as a restaurant (Use Class A3). It is located within the Westbourne Conservation Area. The site is located within the Core Frontage of the Queensway/Westbourne Grove District Centre. It is also located within the Queensway/Bayswater Stress Area.</p> <p>Permission was granted for the A1 use at planning applications sub-committee on 16 October 2018 subject to a condition (6), which limited the number of deliveries and the times at which deliveries could be undertaken. The condition is worded as follows:</p>
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*No more than 6 vehicles per day shall service the site using the layby on Hereford Road and this must only take place between the hours of 08.00-11.00 and 15.00- 18.00 Monday to Friday, 08.00 - 10.00 on Saturdays and not at all on Sundays and Bank Holidays. All other servicing or deliveries to the site shall not take place from the public highway and must only take place internally utilising the existing internal servicing area at basement level, accessed via the vehicular access on Hereford Road.*

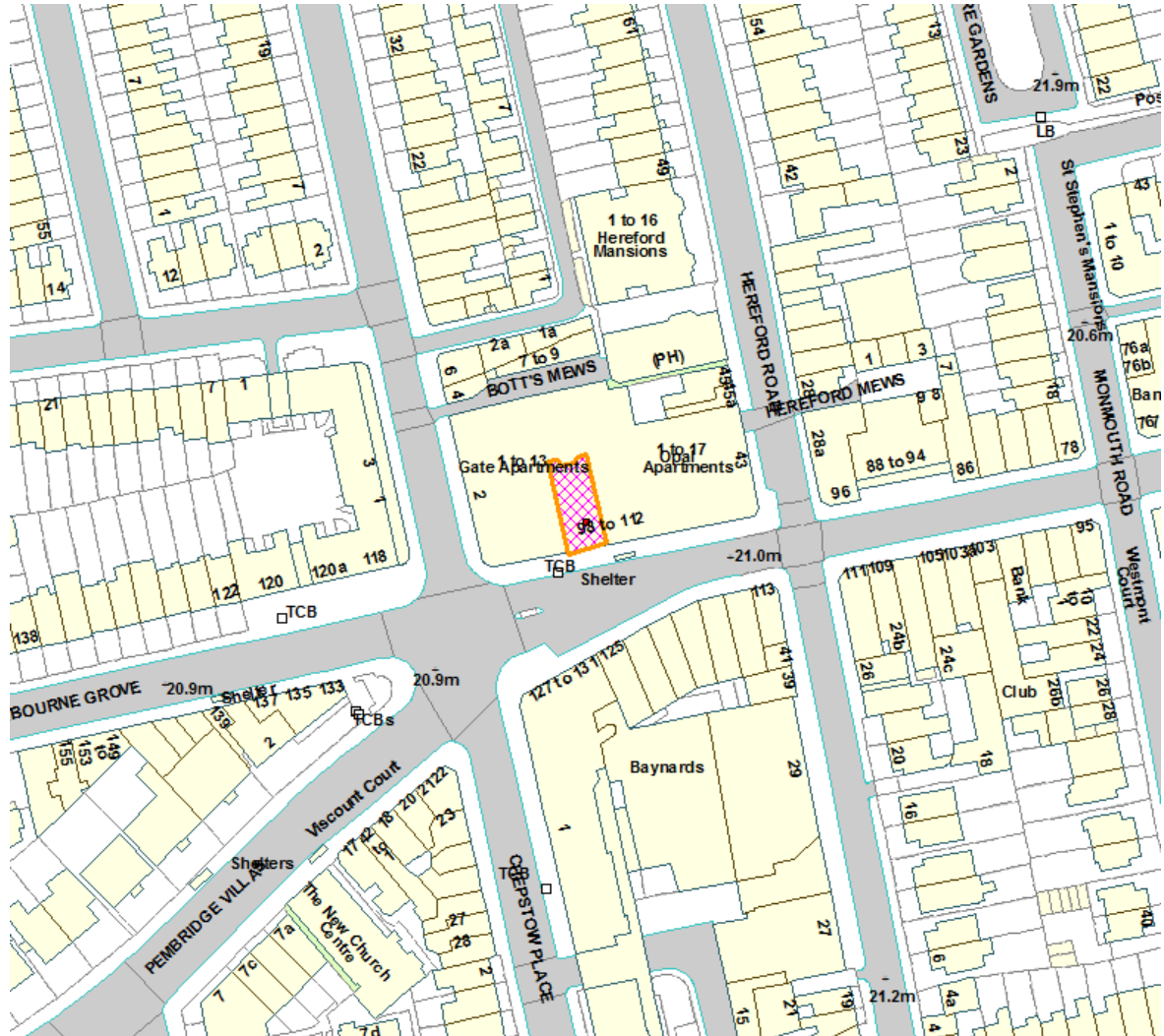
This applicant seeks to vary the condition to allow for deliveries to also take place during lunch time periods.

The key consideration is the impact on pedestrian safety on Westbourne Grove.

The amendments proposed are not considered to harm pedestrian safety on Westbourne Grove. Accordingly, the proposed development has been recommended for conditional approval.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Front of Application Site

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## **5. CONSULTATIONS**

**BAYSWATER WARD COUNCILLORS**  
Any response to be reported verbally.

**SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:**  
Any response to be reported verbally.

**NOTTING HILL EAST NEIGHBOURHOOD FORUM**  
They would like to safeguard the residents of Hereford Road and Botts Mews and the residents around the site. Also opposed to aircon units humming and polluting neighbours air. They believe there are ways of cooling that do not require neighbours to be disturbed.

**HIGHWAYS PLANNING MANAGER**  
No objection to the variations sought.

**WASTE PROJECT OFFICER**  
No objection.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**  
No. Consulted: 4  
No. of replies: 0

**PRESS ADVERTISEMENT / SITE NOTICE:**  
Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site comprises a basement and ground floor unit at 108 Westbourne Grove and a rooftop plant enclosure at 110 Westbourne Grove. This unit is currently in retail use (Class A1) but was previously used as a restaurant (Use Class A3). It is located within the Westbourne Conservation Area. The site is located within the Core Frontage of the Queensway/Westbourne Grove District Centre. It is also located within the Queensway/Bayswater Stress Area.

### **6.2 Recent Relevant History**

#### 04/08483/FULL

Amendments during the course of construction to planning permission 02/03540/FULL, namely, the reconfiguration of the basement and ground floor levels to subdivide the approved units from seven units to nine (providing seven retail units and 2 x A3 units) with a total increase in floorspace of 22m<sup>2</sup> retail and 77m<sup>2</sup> of A3 space and the reconfiguration the approved delivery bays and waste storage area.  
Application Permitted                      12 May 2005

Item No.
<b>3</b>

18/02532/FULL

Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning units on roof of 110 Westbourne Grove.

Application Permitted 16 October 2018

18/08037/CLOPUD

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

Application Permitted 18 October 2018

18/10612/ADFULL

Details of servicing and delivery management plan pursuant to condition 8 of planning permission dated 16 October 2018 (RN: 18/02532/FULL)

Under Consideration.

**7. THE PROPOSAL**

The applicant proposes varying condition 6 of planning permission RN: 18/02532/FULL. Condition 6 states:

*“No more than 6 vehicles per day shall service the site using the layby on Hereford Road and this must only take place between the hours of 08.00-11.00 and 15.00- 18.00 Monday to Friday, 08.00 -10.00 on Saturdays and not at all on Sundays and Bank Holidays. All other servicing or deliveries to the site shall not take place from the public highway and must only take place internally utilising the existing internal servicing area at basement level, accessed via the vehicular access on Hereford Road.*”

*Reason:*

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

The applicant proposes removing the restriction on lunchtime delivery. These restrictions were imposed by this committee at their meeting on 16 October 2019. The applicant proposes amending this condition to state the following:

*“No more than six vehicles per day shall service the site using the layby on Hereford Road and all servicing and deliveries must take place between 08:00 and 18:00 Monday to Friday and between 08:00 and 13:00 Saturday. No servicing or deliveries shall take place on Sundays or Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside.*”

*Reason:*

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

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**8. DETAILED CONSIDERATIONS**

The development approved under application referenced 18/02532/FULL remains extant and is a material consideration when assessing the subject application. There have also been no significant policy changes since that application was decided and that relate specifically to the changes proposed by the applicant. The extant permission is therefore a viable fall-back position and it is considered appropriate in this instance to consider only the impact of the changes proposed.

**8.1 Transportation/Parking**

As approved, this shop unit uses a lay by on Hereford Road for delivery vehicles to drop-off and pick-up trolleys of goods and refuse respectively. These trolleys are wheeled approximately 50 metres along the footpath on Hereford Road and Westbourne Grove and into/out of the front of the unit. The applicant is unable to use an on-site servicing bay to the rear of the application site due to restricted head height for the Co-op’s delivery vehicles from using the servicing bay. The access ramp from Hereford Road to the servicing bay is also steep and there are two flights of stairs between the servicing bay and the back of the unit which would prevent the use of trolleys. The committee amended condition 6 to minimise conflict between pedestrians and delivery trolleys by minimising the number of deliveries and preventing them from taking place during busy lunchtime periods.

The applicant contends that planning permission is not required to use this shop for retail as such a change of use (i.e. from the pre-existing A3 use to the existing A1 use) does not require planning permission. This was certified by the City Council under application referenced 18/08037/CLOPUD. On this basis, the applicant contends that the retail use can continue to operate without planning permission and not subject to any conditions. However, the applicant applied for the A1 use under application referenced 18/02532/FULL on a temporary basis. This is not permitted development and the City Council is entitled to impose conditions as it sees fit, provided they meet the relevant statutory tests. If the applicant wishes to implement the A1 use on a permanent basis, they can do so, but it will extinguish the potential to revert to the A3 use in 15 years time as allowed by the planning permission.

The applicant also contends that the number of deliveries is similar to those for the pre-existing A3 use. However, the Transport Statement (TS) submitted with the original application indicates that this is not correct. The TS indicates that the existing A1 use receives up to six deliveries per day. Up to two of these deliveries per day come from large rigid or artic lorries and it is these deliveries that are the source of the trolleys that were of concern to the committee. In comparison, the pre-existing A3 use had 4 deliveries per day, one of which was from a large lorry. A fortnightly delivery would also be received from a large artic lorry. It is unclear whether these lorry deliveries also included trolleys. Accordingly, the deliveries associated with the A1 use are materially different to those for the pre-existing A3 use.

Notwithstanding the deficiencies with the applicant’s justification, the Highways Planning Manager has raised no objection to the amendment sought by the applicant. The Highways Planning Manager notes that removal of the lunchtime restriction could have

the effect of staggering the deliveries rather than intensifying them at either ends of the day.

It should also be noted that paragraph 109 of the NPPF states that permission should only be refused on highways grounds where the impact would be severe. In this instance, officers do not consider the impact of this amendment to be severe.

On balance, and considering the above, the proposed amendment is considered acceptable in highways terms.

**8.2 Economic Considerations**

No economic considerations are applicable for a development of this size

**8.3 Access**

Not applicable.

**8.4 Other UDP/Westminster Policy Considerations**

None

**8.5 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, the draft plan has been revised and formal consultation is now being carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

**8.6 London Plan**

This application raises no strategic issues.

**8.7 National Policy/Guidance Considerations**

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

**8.8 Planning Obligations**

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

## 8.9 Environmental Impact Assessment

This development is not required to provide an Environmental Impact Assessment.

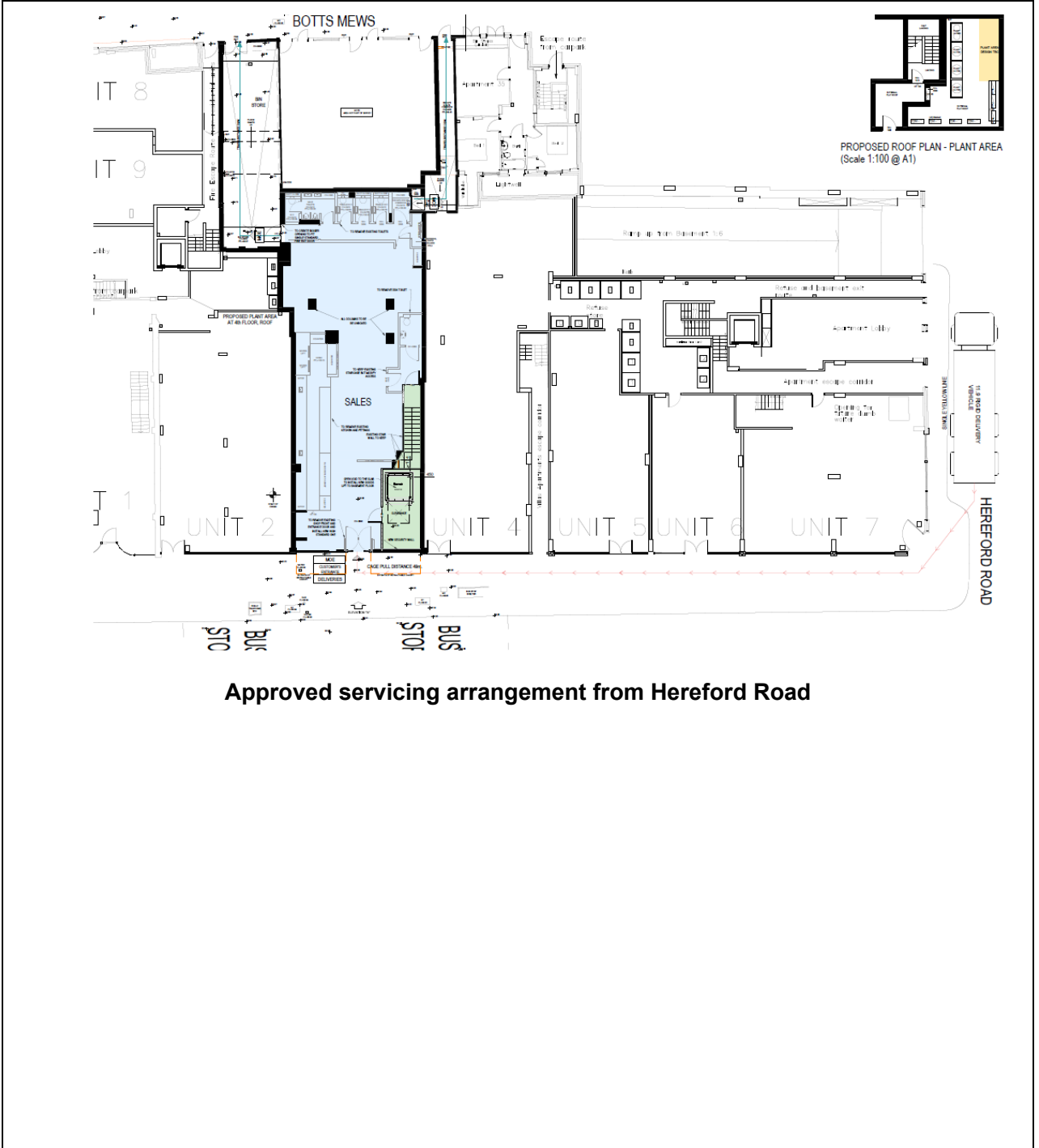
## 8.10 Other Issues

The Notting Hill East Neighbourhood Forum have raised a number of concerns with the air-conditioning units approved under the original application. These units are not the subject to the amendment sought by the applicant and no further consideration is considered necessary.

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

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

**9. KEY DRAWINGS**



**Approved servicing arrangement from Hereford Road**



Item No.
<b>3</b>

**DRAFT DECISION LETTER**

**Address:** Basement and Ground Floor, 108 Westbourne Grove, London, W2 5RU

**Proposal:** Variation of Condition 6 (servicing hours and numbers) of planning permission dated 16 October 2018 (RN: 18/02532/FULL) Use of basement and ground floors as a retail unit (Class A1) for a period of 15 years, and installation of air conditioning units on roof of 110 Westbourne Grove. NAMELY, to allow servicing and deliveries to take place between 08:00 and 18:00 Monday to Friday and between 08:00 and 13:00 Saturday.

**Reference:** 18/10507/FULL

**Plan Nos:** PP101 Rev A, PP102 Rev A, PP103 Rev A, PP104, PP105 Rev B, PP106 Rev C, PP107, Drawing titled "Ground Floor Plan" Rev B, Drawing titled "Lower Ground Floor Plan".

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

As amended by:  
Cover letter dated 12 December 2018 from Clive Cunio of Caulmert (Ref: 3800-CAU-XX-XX-CO-T-9110.A0-C1)

**Case Officer:** Nathan Barrett **Direct Tel. No.** 020 7641 5943

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

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

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

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

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

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

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

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

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Reason:

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

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

Reason:

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

- 4 You must apply to us for approval of details of how waste is going to be stored on the site. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the retail use. You must not use the waste store for any other purpose. (C14CD)

Reason:

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

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

Reason:

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

- 6 No more than six vehicles per day shall service the site using the layby on Hereford Road and all servicing and deliveries must take place between 08:00 and 18:00 Monday to Friday and between 08:00 and 13:00 Saturday. No servicing or deliveries shall take place on Sundays or Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside.

Reason:

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

- 7 No goods, including delivery cages/trolleys, delivered or collected by vehicles arriving at or

departing from the building shall be left on the public highway.

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by

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

**Informative(s):**

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

Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560.

**CONSIDERATE CONSTRUCTORS:**

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

**BUILDING REGULATIONS:**

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

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

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

24 Hour Noise Team  
Environmental Health Service

Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

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

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

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

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

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

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

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

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

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

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

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

- \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 6 You must ensure that the environment within a workplace meets the minimum standard set out in the Workplace (Health, Safety and Welfare) Regulations 1992 with respect to lighting, heating and ventilation. Detailed information about these regulations can be found at [www.hse.gov.uk/pubns/indg244.pdf](http://www.hse.gov.uk/pubns/indg244.pdf). (I80DB)
- 7 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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

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Item No.
4

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 3 September 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Regent's Park	
<b>Subject of Report</b>	<b>Kings Court, 31 Prince Albert Road, London, NW8 7LT,</b>		
<b>Proposal</b>	Erection of single storey extension at eighth floor level and use of part of flat roof as a terrace with associated balustrade.		
<b>Agent</b>	Miss Annie Reid		
<b>On behalf of</b>	Mr Zaki Farsi		
<b>Registered Number</b>	18/09805/FULL	<b>Date amended/ completed</b>	16 November 2018
<b>Date Application Received</b>	16 November 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Outside of a conservation area		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

This application relates to a residential block of flats located outside of a conservation area. Permission is sought for the erection of a roof extension at eighth floor level to be used as additional habitable accommodation for the existing flat at seventh floor level. A terrace is also proposed around part of the perimeter of the proposed roof extension on the existing flat roof.

Objections have been received from local residents largely on the grounds of amenity and design.

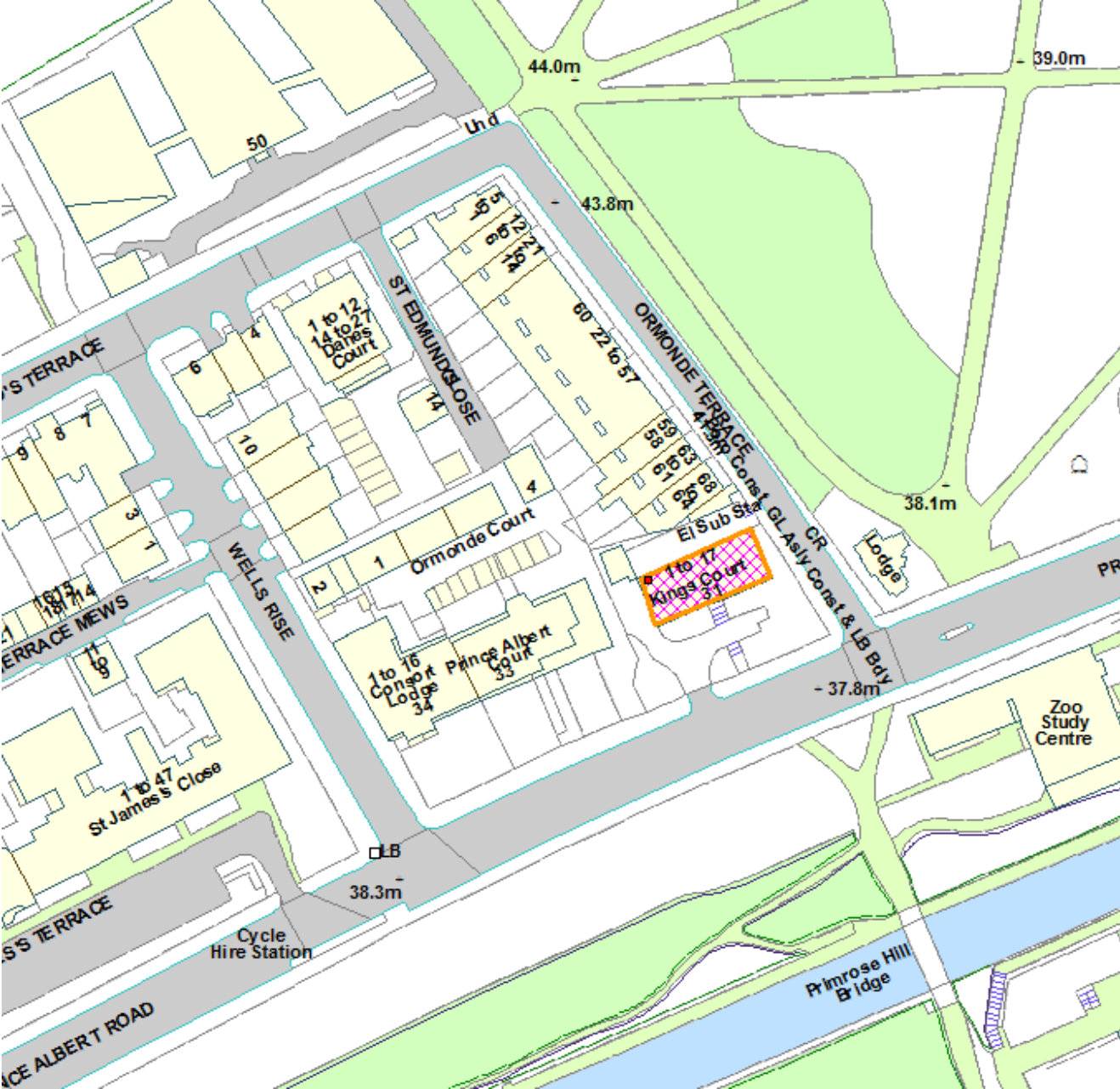
The key considerations of this case are:

- The impact of the extension on the townscape;
- The impact of the development on the amenity of adjacent occupiers.

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

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4

3. LOCATION PLAN



4. PHOTOGRAPHS



Front elevation from prince albert road



Google Earth birds eye view

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4

## 5. CONSULTATIONS

### ST JOHN'S WOOD SOCIETY:

Request that the case officer makes a site visit to assess the objections from neighbours.

### THE ROYAL PARKS

Any response to be reported verbally.

### LONDON BOROUGH OF CAMDEN:

Any response to be reported verbally.

### ADJOINING OWNERS/OCCUPIERS:

No. Consulted: 44

Total No. of replies: 7

No. of objections: 7 on the following grounds:

#### Amenity:

- Request a BRE assessment.
- Loss of light and privacy

#### Design:

- The proposed scheme does not have any design or architectural merit and is out of keeping with the area.
- The existing penthouse floor has been badly implemented and is highly visible and should be looked at if an additional floor is wanted.

#### Other

- Negative impacts from noise, dust and traffic.
- Little benefit other than to the proposer of the development.
- Council has been lax with developers allowing them to build what they want regardless of the views of residents.
- Request the case officer to visit the property to understand the development.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

31 Prince Albert Road is a large residential block known as Kings Court. The building was constructed in the mid part of the 20th century and it is not a listed building and is not located within a conservation area, though it faces the Regent's Park Conservation area and is also directly adjacent to Primrose Hill. There is an existing plant room and stairwell which provides maintenance access to the roof.

### 6.2 Recent Relevant History

Item No.
4

15/11197/FULL

Erection of single storey roof extension to the 8th floor to create a maisonette on the 7th and 8th floors.

Application Permitted                      2 February 2016

14/11460/FULL

Erection of single storey roof extension to 8th floor level and creation of roof terrace in connection with creation of 7th and 8th floor maisonette.

Application Refused                      20 January 2015

## **7. THE PROPOSAL**

The application relates to the top floor (7th floor) flat who proposes the erection of a single storey roof extension at 8th floor level and the creation of roof terrace in connection with the creation of additional habitable floorspace for the existing 7<sup>th</sup> floor flat. Associated works such as a handrail around the roof is proposed.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposed extension of an existing residential flat is acceptable in land use terms.

### **8.2 Townscape and Design**

Objections have been received in relation to the design and appearance of the extension and the existing seventh floor level of the building having a negative impact on the townscape.

Whilst it is located outside of a conservation area, it is located in a highly sensitive location adjacent to Primrose Hill and Regents Park Conservation Area, and the building is readily visible from both those vantage points. It is of relevance that a matching scheme was approved previously on 02 February 2016 under application referenced 15/11197/FULL. It is recognised that the City Plan has been adopted and the NPPF issued since that time, however these policies and guidance are not considered to give weight to a differing determination from the previous decision.

No alterations are proposed to the existing façade at seventh floor level. The extension is shown with a consistent rhythm of aluminium framing subdividing the main elevations of the extension into a series of bays responding to the width and location of the bays of the elevation below. The white framing will help integrate the structure into the character of the building which has a white rendered top floor, with the brickwork facing to the rear picking up on its use in the lower floors of the building. Overall, the extension is considered neatly detailed. A series of 'look a like' spandrel panels are being used to screen views from the extension on the western elevation, and the appropriate detailing of these will be secured by condition.

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Objectors state that the extension and existing seventh floor have a negative impact on the area. Officers consider that though the extension is readily visible from both relatively short and long views from the surrounding area, including the parks, it is not considered to harm the character and appearance of the building or townscape, nor harm the setting of the parks and in the context of the surrounding townscape does not appear excessively large to the roof of the building. Given the above, the extension is considered acceptable in design terms.

The recommendation is considered in line with relevant policies and guidance, and with the statutory duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

Objection has been received that the extension will have a negative impact in terms of loss of light and increased overlooking.

#### **8.3.1 Sunlight and Daylight**

The applicant has submitted a daylight and sunlight report to assess the impact of the proposed development on the neighbouring buildings in accordance with the Building Research Establishment (BRE) guidelines. This indicates that 100% of the adjacent windows meet the requirements of the BRE guide in terms of both daylight and sunlight. It is therefore not considered that a refusal on these grounds could be sustained.

#### **8.3.2 Sense of Enclosure**

The majority of the roof extension is set back from the edges with only a small amount of bulk located along the northern side of the building which will enlarge the existing rooftop structure. It is not considered that the proposed extension will have a significant impact given the existing parapet around the roof, the setback location of the majority of the extension and given the relationship of the extension with adjacent occupiers, who will only have oblique views of the development site. The proposals are therefore considered acceptable in these terms.

#### **8.3.3 Privacy**

A terrace is proposed around the roof extension, however in order to ensure that no adverse impacts from overlooking occur it is proposed to limit access to some of the roof so that it is not possible to gain access to the westernmost part of the roof (adjacent to Prince Albert Court) and the north eastern part of the roof (adjacent to Ormande Court). The terrace will therefore mainly face south overlooking Regents Park and west over Primrose Hill. Subject to a condition to ensure that these railings are installed, the proposed terrace is considered acceptable in privacy terms.

In relation to the extension itself, it is proposed for the windows in the west facing elevation to have opaque glazing to prevent any overlooking towards Prince Albert Court. One window is proposed in the north elevation, however given that this overlooks the blank side elevation of Ormande Court and there are already many windows in this elevation below, this will not result in any significant loss of amenity. Subject to a condition to ensure that the opaque glazing is installed, the proposals are considered acceptable in these terms.

### **8.4 Transportation/Parking**

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No change to existing arrangement.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

No change to existing arrangement.

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

None.

#### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation is now being carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

#### **8.9 Neighbourhood Plans**

None relevant to the application site.

#### **8.10 London Plan**

This application raises no strategic issues.

#### **8.11 National Policy/Guidance Considerations**

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

#### **8.12 Planning Obligations**

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

It is not considered that a CIL payment will be triggered for this application

#### **8.13 Environmental Impact Assessment (EIA)**

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<b>4</b>

An EIA is not required for a development of this scale.

#### **8.14 Other Issues**

Concerns have been raised by neighbours in relation to disturbance as a result of the construction of the roof extension. Refusal on these grounds could not be sustained, however a condition is recommended to limit the hours in which the building can be undertaken to daytime hours and an informative to recommend that the developer joins the Considerate Constructors scheme.

Objectors have also requested that a site visit is undertaken to note the impact of the development, which has occurred during the course of the application.

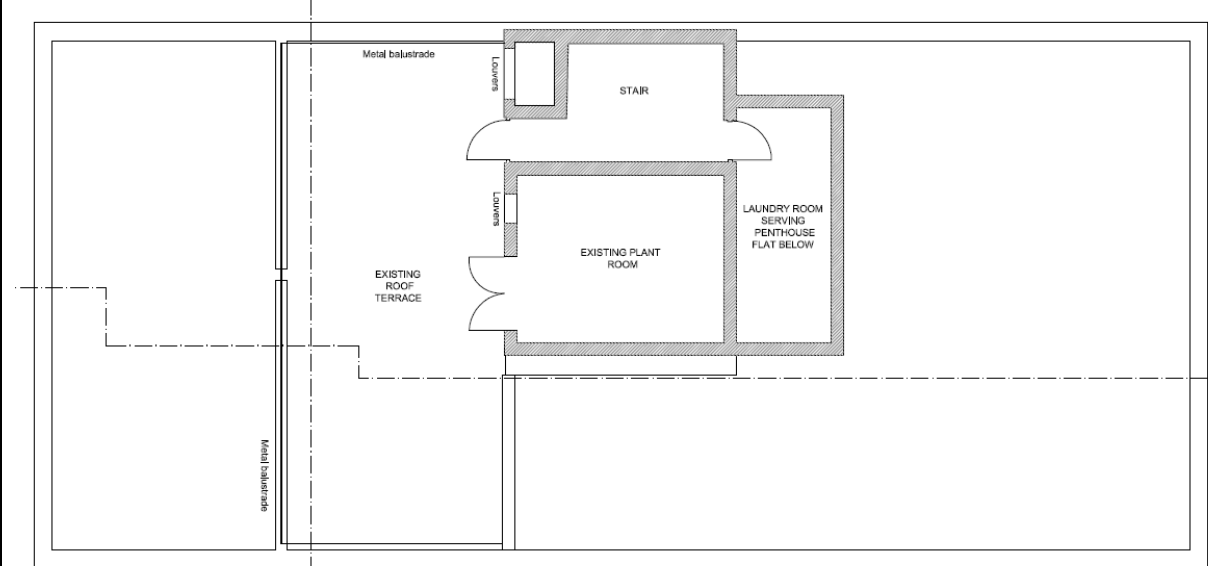
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT <a href="mailto:rhandley@westminster.gov.uk">rhandley@westminster.gov.uk</a> .
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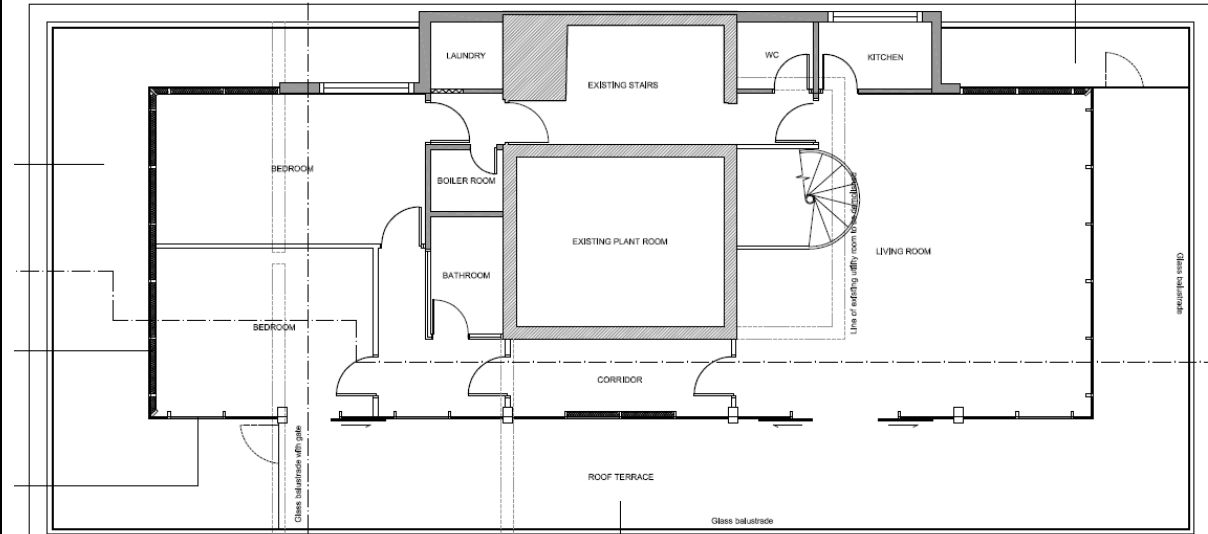


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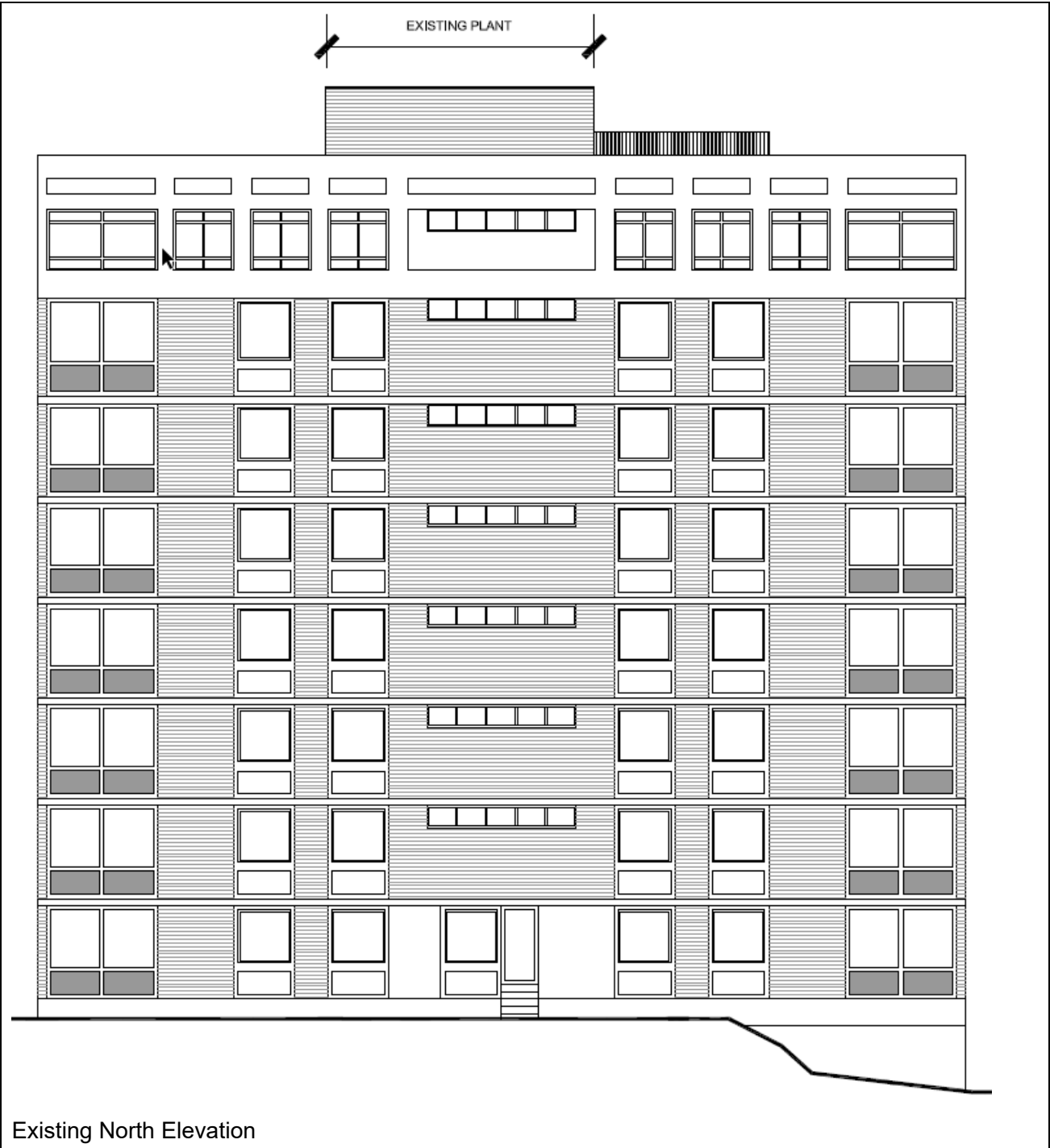
9. KEY DRAWINGS

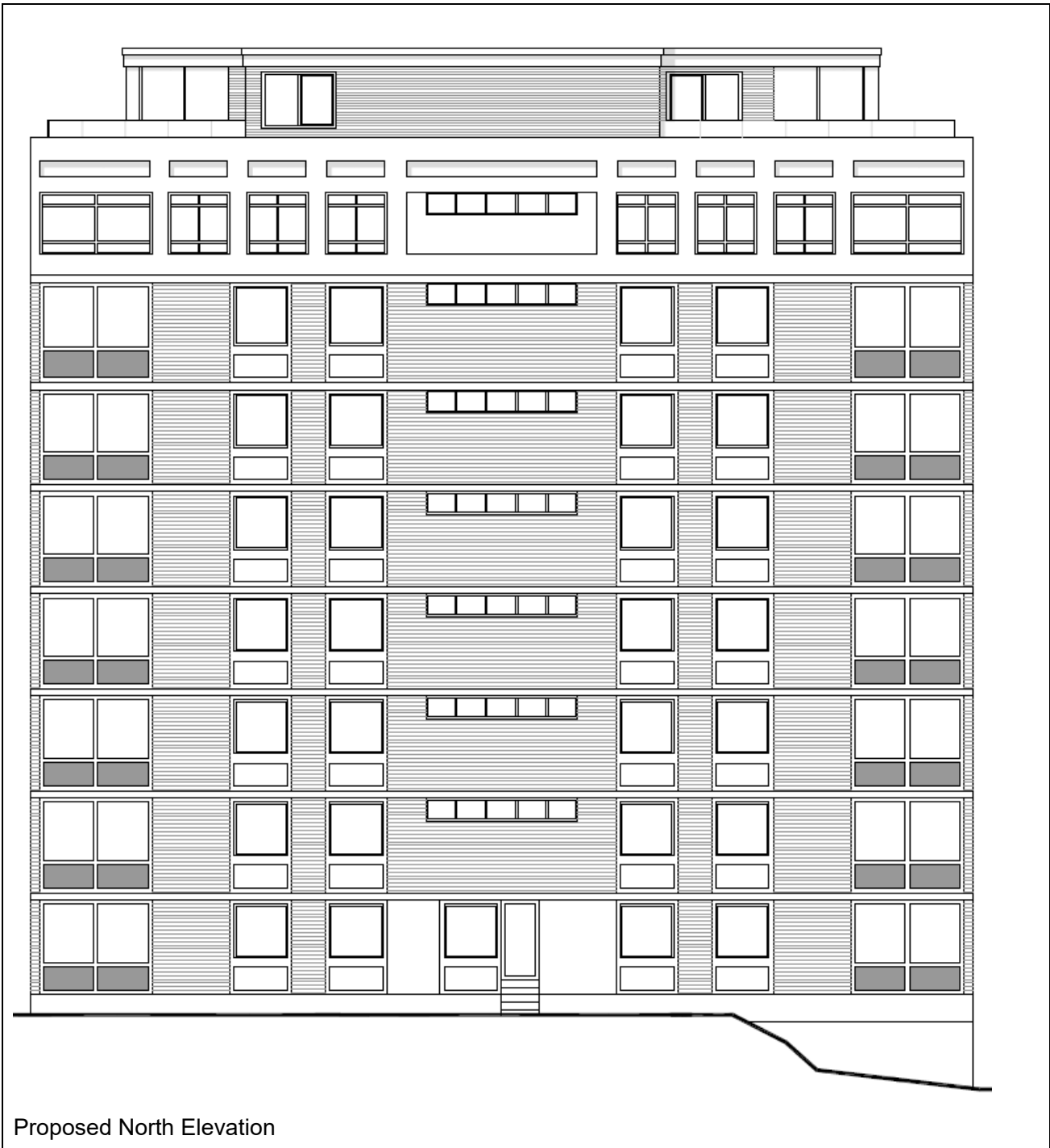


Existing Main Roof and Plant Room Plan

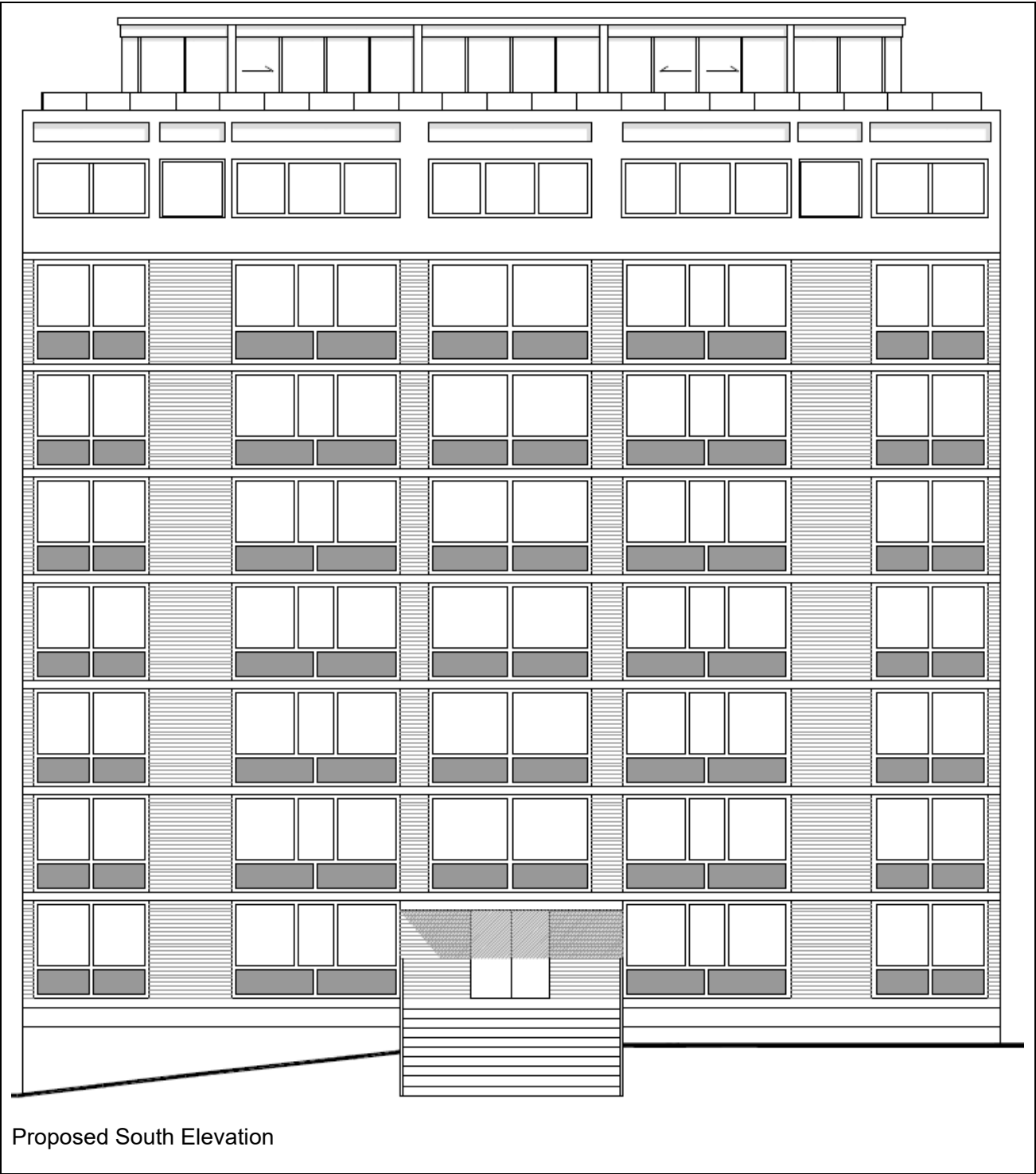


Proposed Penthouse Plan









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## DRAFT DECISION LETTER

**Address:** Kings Court, 31 Prince Albert Road, London, NW8 7LT

**Proposal:** Erection of single storey roof extension at eighth floor level in association with an existing flat at seventh floor level.

**Plan Nos:** Site location plan; (PA)009 P2; (PA)010 P5; (PA)011 P2; (PA)012 P2; (PA)013 P2; (PA)015 P2; (PA)019 P2; (PA)020 P9; (PA)021 P4; (PA)022 P6; (PA)023 P5; (PA)024 P4; (PA)025 P4; (PA)026 P3. For information only: Design and Access Statement dated November 2018; Planning Statement dated November 2018; Built Heritage Statement dated November 2018; Letter dated 14 May 2019 from Anstey Home; Terrace Vs Neighbouring building Rev B; Existing Vs Proposed Rev B

**Case Officer:** Rupert Handley

**Direct Tel. No.** 020 7641 2497

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

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

**Reason:**

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

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

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

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

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

**Reason:**

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

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless

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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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 4 You must apply to us for approval of a detailed elevation of and a sample of the new 'look a like' spandrel panels'. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings and samples. (C26DB)

Reason:

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

- 5 You must not use the roof of the building for sitting out or for any other purpose with the exception of the areas to the south and east marked as roof terrace. The areas of roof marked "access to terrace for maintenance and window cleaning only" on drawing (PA)020RevP9 cannot be used for sitting out purposes. You can however use the roof to escape in an emergency.

Reason:

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

- 6 The panels that you put in the west and north elevations of the extension annotated in drawing (PA)020Rev9 as "Look-a-like spandrel panels in white slim line frame" must not be clear, and you must fix it permanently shut. You must apply to us for approval of a sample of the panels (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then fit the type of glass we have approved and must not change it without our permission

Reason:

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

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**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 **HIGHWAYS LICENSING:**

Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560.

**CONSIDERATE CONSTRUCTORS:**

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

**BUILDING REGULATIONS:**

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



# Agenda Item 5

Item No.
<b>5</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 3 September 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And, 51-79 Charing Cross Road, London, WC2H 0NE.</b>		
<b>Proposal</b>	Use of the public highway within an area measuring 11m x 4m for the placing of 8 tables, 32 chairs and 17 barriers on Newport Place in connection with the restaurant at Unit 14 Newport Sandringham.		
<b>Agent</b>	Oliver Coleman		
<b>On behalf of</b>	Mr C T Tang		
<b>Registered Number</b>	19/02502/TCH	<b>Date amended/ completed</b>	3 April 2019
<b>Date Application Received</b>	3 April 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Chinatown		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

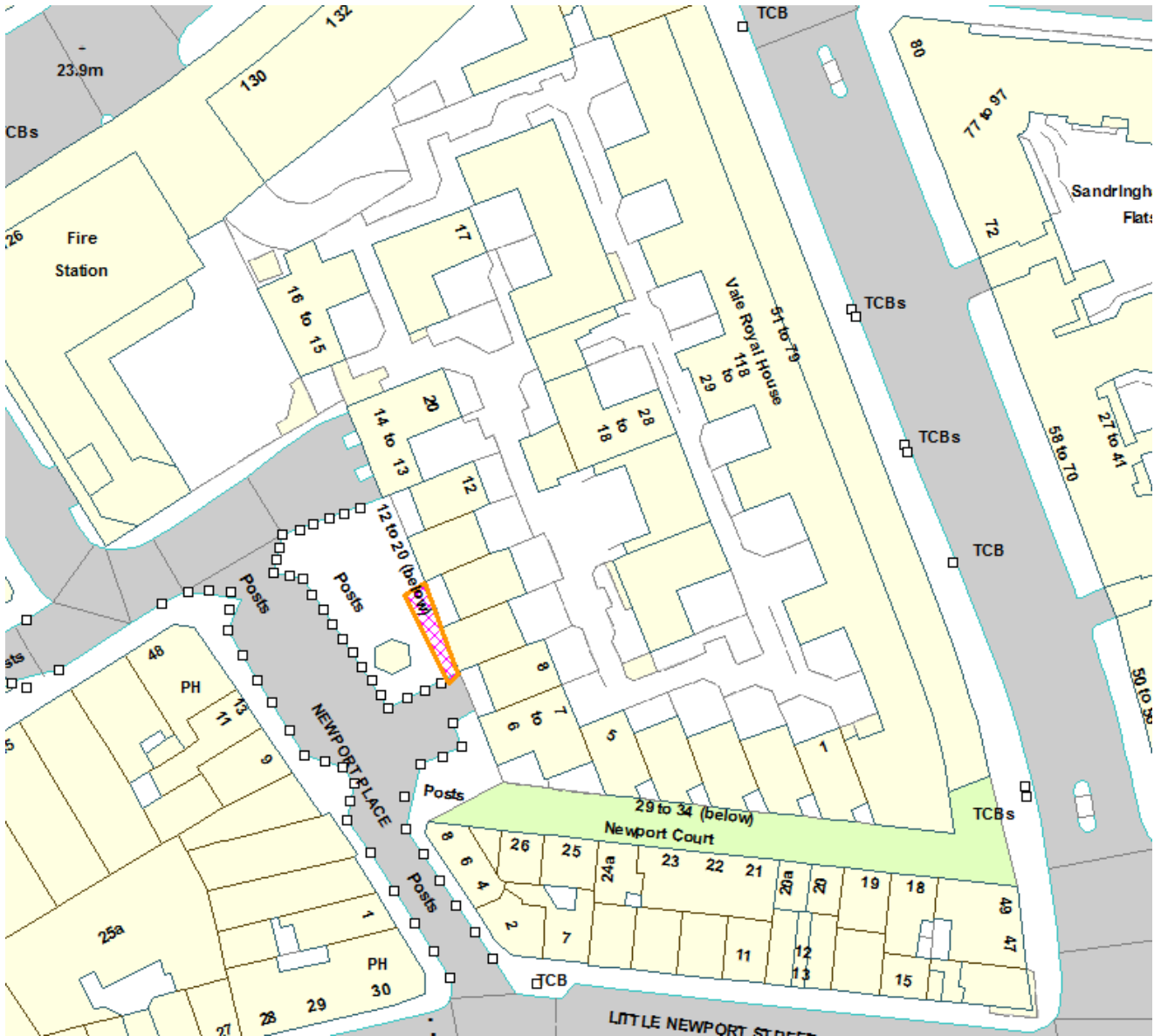
<p>The restaurant at Unit 14 forms part of Newport Sandringham building and faces Newport Court. The site is unlisted within the Chinatown Conservation Area, the Core Central Activities Zone and the West End Stress Area.</p> <p>The restaurant unit is seeking permission for outdoor seating on the public highway on Newport Place with 8 tables and 32 chairs. A similar application has been submitted for outdoor seating at Unit 15 adjacent which is considered as Item 6 on this agenda.</p> <p>The key issue in this case is the impact of the outdoor seating on residential amenity, particularly the residents of the flats above within Vale Royal House</p> <p>Letters of objection have been received from residents within Vale Royal House principally on amenity grounds. For the reasons set out in this report, the proposed tables and chairs is considered, both individually and cumulatively when assessed with the proposed tables and chairs at Unit 15, to comply with relevant policies in the UDP and the City Plan. However, in line with normal practice to</p>
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allow for monitoring, the proposal is recommended for approval for a temporary period of one year.
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### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the

4. PHOTOGRAPHS



Unit 14 (Shanghai Modern) above and in context with Unit 15 (Jinli) in Newport Place (below)



## 5. CONSULTATIONS

### WARD COUNCILLORS FOR ST JAMES'S

Any response to be reported verbally.

### SOHO SOCIETY

Any response to be reported verbally.

### WASTE PROJECT OFFICER

No objection

### HIGHWAYS PLANNING TEAM - CITY HIGHWAYS

No objection subject to recommended conditions. Discussed the proposal for a new Chinese pagoda in the vicinity with City Management and Communities department and considers that one year permission would avoid possible conflict.

### LONDON CHINATOWN CHINESE ASSOCIATION

Support the scheme as it would enhance the clean image of Chinatown and became an asset to Soho.

### VALE ROYAL HOUSE RESIDENTS ASSOCIATION

Oppose the development as it is deemed detrimental to the residents of the Vale Royal House.

### FIRST CONSULTATION ADJOINING OWNERS/OCCUPIERS :

No. Consulted: 30

Total No. of replies: 15 (from 13 addresses)

No. of objections: 15

No. in support: 0

15 letters of objection on the following grounds:

#### Amenity

- Noise from customers using the tables and chairs.
- Noise from putting the tables and chairs away each night.
- Noise from buskers attracted by the tables and chairs.
- Impact on air pollution from food smells.
- Impact on air pollution and health from customer smoking. This is a major public health concern.
- The proposal would go against the council's aim of reducing noise pollution and protecting the residents as 'Noise Sensitive Receptors'.

#### Character of the Area

- The application should not be assessed in isolation. The proposal will set a precedent for other tables and chairs in the vicinity.
- Change of character of the square and the neighbourhood. Chinatown has no heritage of outdoor dining.

**Other**

- The original application for the refurbishment of the shop units did not include outdoor seating.
- The shopfronts to this restaurant unit should not have been openable.
- Outdoor dining would be contrary to the 2007 Chinatown Supplementary Planning Guidance.
- Reference made to the relocation of the depot and associated nuisance to residents.
- There were multiple issues from construction work when the shop units were refurbished under a different permission. No respect of WCC guidelines during redevelopment and no hope for the tables and chairs to be run differently.

Second Consultation dated 13 May 2019.

No. Consulted: 12

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One letter of objection on the following grounds:

- No strategy to tackle noise caused by the movement of furniture
- No clear management plan when smokers stand around the barriers
- No clear management plan of the maintenance and cleaning of the outside seating area, the problems to be worsened when the Pagoda is built.
- Outdoor seating not part of the planning permission for redevelopment of the commercial units

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

Unit 14 is part of the Newport Sandringham Building, an unlisted building (dating from the early 1980s) which lies within the Chinatown Conservation Area, the Core Central Activities Zone and the West End Stress Area. Unit 14 is in use as restaurant and faces Newport Place.

The Newport Sandringham Building is a massive red brick structure designed by Diamond Redfern and Partners for the City of Westminster and includes residential flats to the upper floors and a mix of retail and restaurants along Charing Cross Road, Newport Place and Newport Court. The shopfronts have been altered following the July 2015 permission and in particular the Newport Place public realm has been enhanced and decluttered.

## 6.2 Recent Relevant History

Planning permission was granted on 14.07.2015 for the refurbishment and reconfiguration to create restaurant units (Class A3) to the Newport Place frontage at ground floor and part mezzanine; provision of retail units (Class A1) to Charing Cross Road at basement, ground and part mezzanine; and flexible use with retail (Class A1) or restaurant (Class A3) units to Newport Court at ground floor level. Change of use at basement of 79 Charing Cross Road to ancillary theatre accommodation in connection with the adjoining Arts Centre at 136 Shaftesbury Avenue (Welsh Chapel). Associated alterations including infilling of colonnade along Charing Cross Road; alterations to shopfronts on all three frontages; reconfiguration of internal service road and Cleansing Depot; alterations within service yard from Shaftesbury Avenue including new shutters and plant equipment ventilation. (RN: 15/02497/FULL)

## 7. THE PROPOSAL

Permission is sought for outdoor seating on the public highway on Newport Place for 8 tables and 32 chairs within an area measuring 11m x 4m . The hours sought are between 1200 midday (which is when the pedestrianisation of Newport Place comes into force) and 2200. The scheme also includes 17 barriers. A similar application has been submitted for outdoor seating at Unit 15 adjacent which is considered as Item 6 on this agenda.

The applicant had originally sought permission for a greater density of furniture with 12 tables and 40 chairs, 17 barriers and 1 parasol. However following consultation with local residents, revisions were made to reduce the amount of outdoor furniture and a revised Table and Chairs Management Plan submitted. The Management Plan has been prepared by the landlord (Shaftesbury) for the restaurant tenants within 10, 12-14 and 16-18 Newport Place, to assist with their applications for external table and chairs and the long term management of the external space.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The use of the highway for tables and chairs in connection with eating and drinking establishments is assessed under Policy TACE 11 of the UDP. This policy states that 'Planning permission for the provision of tables and chairs on the footway will only be granted when such developments (including any means of enclosure that may be required by the relevant licensing authority) will not:

- 1 unacceptably intensify an existing use
- 2 cause obstruction
- 3 endanger pedestrians and wheelchair users
- 4 cause or exacerbate a problem with refuse storage or street cleansing
- 5 have a detrimental effect on the character and appearance of the area, or the setting of a listed building
- 6 cause a nuisance to residents
- 7 harm the amenity of the area

8 create opportunities for crime.

#### Intensification of existing use

The area for tables and chairs will form part of a larger restaurant unit which measures 388sqm. It is not considered that an additional 32 covers will intensify the Class A3 use to an extent that it will cause harm to the character and function of the area or local environmental quality.

#### Obstruction

Newport Place has recently been enhanced with public realm improvements. This has resulted in an uncluttered area of public realm for pedestrian use from 1200 hours (midday). As currently laid out the tables and chairs will not cause any obstruction for pedestrians. At the time of writing details of the future installation of a replacement pagoda were not available. However, there is an indication in the public realm where it might be relocated which would not interfere with pedestrian movement around the tables and chairs. In any event permission is only recommended for a 12 month period, so if the pagoda is installed during this time then a future application would be able to take this obstruction into account.

#### Impact on pedestrians and wheelchair users

For the reasons set out above the proposal will not endanger pedestrians and wheelchair users.

#### Refuse storage or street cleansing

The Projects Officer (Waste) has no objections to the scheme in cleansing terms.

#### Effect on the character and appearance of the area, or the setting of a listed building

Objections have been received on the grounds that the introduction of tables and chairs will change the character of a protected heritage landscape. The proposed tables and chairs and other associated furniture are considered acceptable in design terms and they will have minimal impact on the appearance of the surrounding area. Moreover, they will be removed every evening and stored inside. The documents submitted show signs on the proposed barriers. Whilst the barriers themselves are approved under this application, the advertising shown on these requires advertisement consent. An informative will request the applicant to seek advertisement consent for any signs proposed on the barriers. Therefore it is not considered that the introduction of temporary outdoor furniture will harm the appearance of the China Town Conservation Area.

#### Impact on the amenity of the area

The Policy Application for TACE 11 states that 'The City Council will have regard to the proximity to residential accommodation and will not normally permit tables and chairs outside premises that have upper floors in residential use.' In this instance there are residential flats immediately above the proposed tables and chairs at Vale Royal House and letters of objection have been received on amenity grounds from individual residents and from the residents' association. These concerns are noted, however, it is considered that exceptional circumstances apply to allow tables and chairs in this location.

The site is in a busy central location with many other food and drink uses at ground floor level and in an area with a high pedestrian footfall. The shopfronts in Newport Place that



form part of the 2015 permission are permitted to be fully open until 2200hrs which will provide a strong active frontage to Newport Place. The proposed external tables and chairs will be an extension of the open shopfront. The proposed trading hours for the tables and chairs (between 1200h (midday) and 2200h each day) are considered reasonable and do not extend into late night hours. Whilst the use of the tables and chairs may generate noise given the approved openable shopfronts and the busy character of the area, it is not considered that the proposal will increase noise levels significantly beyond existing relatively ambient noise level. For these reasons it is not considered the proposal will cause significant harm to residential amenity to residents of Vale Royal House, either individually or cumulatively when the proposed application for tables and chairs at Unit 15 is taken into account.

The applicant has provided a Management Plan in support of the application. This sets out the requirements for the management of the tables and chairs including:

- Customer behaviour that may cause a disturbance or nuisance to our local residents should not be tolerated.
- An incident log should be recorded and maintained in respect of all incidents occurring in the outside seating area.
- Notices must be displayed in the outside seating area reminding customers to respect local residents and use the outside seating area as quietly as possible.
- External music and speakers are not permitted
- It will be a Condition of Entry to the restaurant that no customers will be permitted to smoke, use electronic cigarettes, Hookah or vaping equipment. This also applies to the outside seating area. Signage will be placed on entry and on the restaurant menus highlighting this Condition of Entry. It will be the restaurants responsibly to enforce this Condition of Entry policy.

One objector queried the lack of a noise report in support of the application, however, it is not considered reasonable to request a noise survey for this type of application, particularly as the tables and chairs have not yet been installed.

Given the openable character of the shopfront, it is not considered that withholding permission for tables and chairs on grounds that it would cause a problem of food smells is sustainable.

There is a strong concern about the impact of any smoking from some residents at Vale Royal House. Smoking is not within the control of planning as the area underneath the residential windows is public highway meaning that anyone can legitimately currently smoke outside the premises. It is recognised however that the presence of tables and chairs increases the chances that someone might smoke in this location whilst having a meal. The best way to control the smoking nuisance is through the management of the tables and chairs and the revised Management Plan document makes it clear that smoking is not allowed within the outdoor seating area and that signage advising this is required by the restaurant operator. This is welcome in amenity terms.

The letters of objection raise concerns that proposed tables and chairs might attract buskers, street entertainers, beggars and drug users as it is already an issue. Whilst the existing nuisance is understood it is not considered that the tables and chairs will worsen the existing situation. In addition, as set out in the Management Plan all furniture must

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be removed or rendered unusable by 2200hrs so they will not provide shelter for drug users and homeless persons at night time.

Opportunities for crime.

It is considered that the Management Plan sets effectively how the tables and chairs should be managed. However, it does not include the provision of hooks under the tables to allow customers to safely store bags. An informative is recommended to require these be provided.

Conclusion

The council's adopted policy recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. Therefore, these policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity and environmental quality occurs. As set out above the proposed tables and chairs are considered to comply with the relevant sections of TACE 11. It is recommended that permission is only granted on a temporary basis of one year so that the impact of the tables and chairs on residents and compliance with the recommended conditions can be monitored.

**8.2 Townscape and Design**

The site is located within the China Town Conservation Area. Policy S25 of the City Plan states that in 'Recognising Westminster's wider historic environment, its extensive heritage assets will be conserved, including its listed buildings, conservation areas, Westminster's World Heritage Site, its historic parks including five Royal Parks, squares, gardens and other open spaces, their settings, and its archaeological heritage.' UDP policy DES9(E) states that 'Permission will only be granted for development, involving a material change of use, which would serve either to preserve or enhance the character and appearance of the conservation area.' For the reasons set out in Paragraph 8.1, it is not considered that the change of use from public highway to outdoor seating will harm the appearance of the China Town Conservation Area.

**8.3 Residential Amenity**

The closest residential properties are located immediately above the application site within Vale Royal House.

Policy S29 of the City Plan S29 states that 'Development should ensure that the need to secure a healthy and safe environment is addressed, including minimising opportunities for crime.....The council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment.' Policy S32 states that 'the council will work to reduce noise pollution and its impacts and protect Noise Sensitive Receptors from noise by...requiring development to minimise and contain noise and vibration.

Policy ENV 13 of the UDP seeks to 'maintain and where possible improve the quality of life for residents, workers and visitors to Westminster.' Policy ENV 6 of the UDP seeks to 'reduce noise levels throughout the City to below maximum levels set out in World

Health Organisation guidelines; to limit and contain noise from development; to protect noise sensitive properties from noise disturbance; to protect tranquil areas.'

For the reasons set out in Paragraph 8.1 it is considered that the proposal is in accordance with policies S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our UDP (January 2007) and will not result in an unacceptable material loss of residential amenity to residents of Vale Royal House.

#### **8.4 Transportation/Parking**

Policy S41 of the City Plan states all developments will prioritise pedestrian movement and the creation of a convenient, attractive and safe pedestrian environment. This is also the aim of policy TRANS 3 and TACE 11 of the UDP. The 'Westminster Way: Public Realm Strategy' SPD recommends that proposals for commercial activities on pedestrianised streets/ alleyways should maintain at least half of the footway width clear of any commercial activity – this should usually be 25% on each frontage. In other circumstances, the minimum allowable clearway for pedestrians is a 2 metre width. The Highways Planning Manager confirmed with the current road layout no objection is raised for the tables and chairs to be laid out at times when the road is closed to traffic.

The unit is 388 sqm in size it is therefore reasonable to consider that the outdoor furniture could be accommodated internally outside the permitted hours. A condition will ensure that no outdoor furniture will remain on the pavement after 22h.

There is a project to site a new Chinese pagoda in the vicinity of the proposed areas for tables and chairs. However, no planning application has been submitted yet. The Highways Planning Manager has confirmed that a year permission could be done safely, and gives the opportunity to assess the proposals again if future circumstances are different.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

Not applicable

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

##### **Cleaning**

One resident queried the lack of a clear management plan for the maintenance and cleaning of the outside area. It is a requirement of the OMP that the external space must be well maintained and cleaned.

#### **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 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.

### **8.9 Neighbourhood Plans**

None relevant.

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 National Policy/Guidance Considerations**

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

### **8.12 Planning Obligations**

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

### **8.13 Environmental Impact Assessment**

Not applicable.

### **8.14 Other Issues**

The letters of objection advise that tables and chairs were not part of the 2015 permission that approved the refurbishment of the ground floor commercial units. Concerns have also been raised about the problems experienced by residents during the construction of the 2015 permission and that allowing tables and chairs for those units will create a precedent. These concerns are noted however each planning application is assessed on its own merit, having regard to the specific proposal and the circumstances and policies in place at the time. Accordingly, the absence of outdoor seating in the 2015 scheme does not preclude future applications for tables and chairs at this location and approval of these developments does not mean that similar proposals elsewhere will be accepted.

Some of the residents consider that the additional outdoor space is not required given the size of the existing unit. This is a non-planning matter and it is not reasonable to refuse permission on lack of need.

An objector has questioned the validity of the 2015 permission as 'the decision at the time was made when Robert Davis was Head of Planning.' This is considered to be a non-planning matter and the current application is assessed on its own merits.

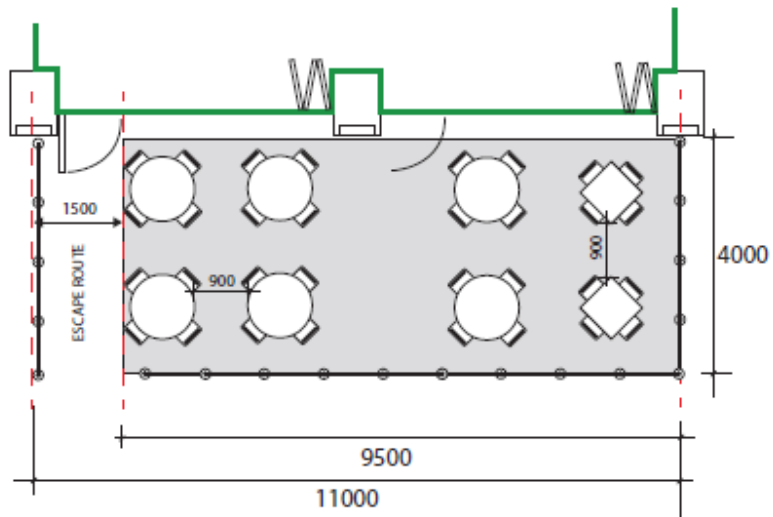
Item No.
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<b>5</b>
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(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT <a href="mailto:mmason@westminster.gov.uk">mmason@westminster.gov.uk</a>
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9. KEY DRAWINGS



Proposed outdoor seating layout



Proposed elevation of outdoor seating area

**DRAFT DECISION LETTER**

- Address:** Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And, 51-79 Charing Cross Road, London, WC2H 0NE,
- Proposal:** Use of the public highway within an area measuring 11m x 4m for the placing of 8 tables, 32 chairs and 17 barriers on Newport Place in connection with the restaurant at Unit 14 Newport Sandringham for a period of one year.
- Reference:** 19/02502/TCH
- Plan Nos:** Location plan; 1118-15538; 1118-15626; 1118-15649; 1118-19247; Tables and chairs management plan; barrier details.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 020 7641 7013

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

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

**Reason:**

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

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing 1118-19247. (C25AA)

**Reason:**

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

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 12.00 and 22.00. (C25BA)

**Reason:**

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

- 4 The tables and chairs must only be used by customers of the restaurant at Unit 14. (C25CA)

Reason:

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

- 5 This use of the pavement may continue until 30 September 2020. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

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

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing 1118-19247. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

- 7 You must manage the tables and chairs at all times in accordance with the approved Table and Chairs Management Plan.

Reason:

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



**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 You cannot put tables and chairs in the area unless you have a street trading licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 You must get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the following advertisements: signs on barriers. (I04AA)
- 5 You are advised to provide hooks under the tables to allow secure storage of customer belongings. The next iteration of the Tables and Chairs Management Plan should make this a requirement of the restaurant operator.

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

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# Agenda Item 6

Item No.
6

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 3 September 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And, 51-79 Charing Cross Road, London, WC2H ONE,</b>		
<b>Proposal</b>	Use of the public highway measuring 13.9m x 4.0m for the placing of 11 barriers, 14 tables and 28 chairs to Newport Place in connection with the restaurant unit at Unit 15 Newport Sandringham.		
<b>Agent</b>	Oliver Coleman		
<b>On behalf of</b>	Mr Jinli		
<b>Registered Number</b>	19/02501/TCH	<b>Date amended/ completed</b>	3 April 2019
<b>Date Application Received</b>	3 April 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Chinatown		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY

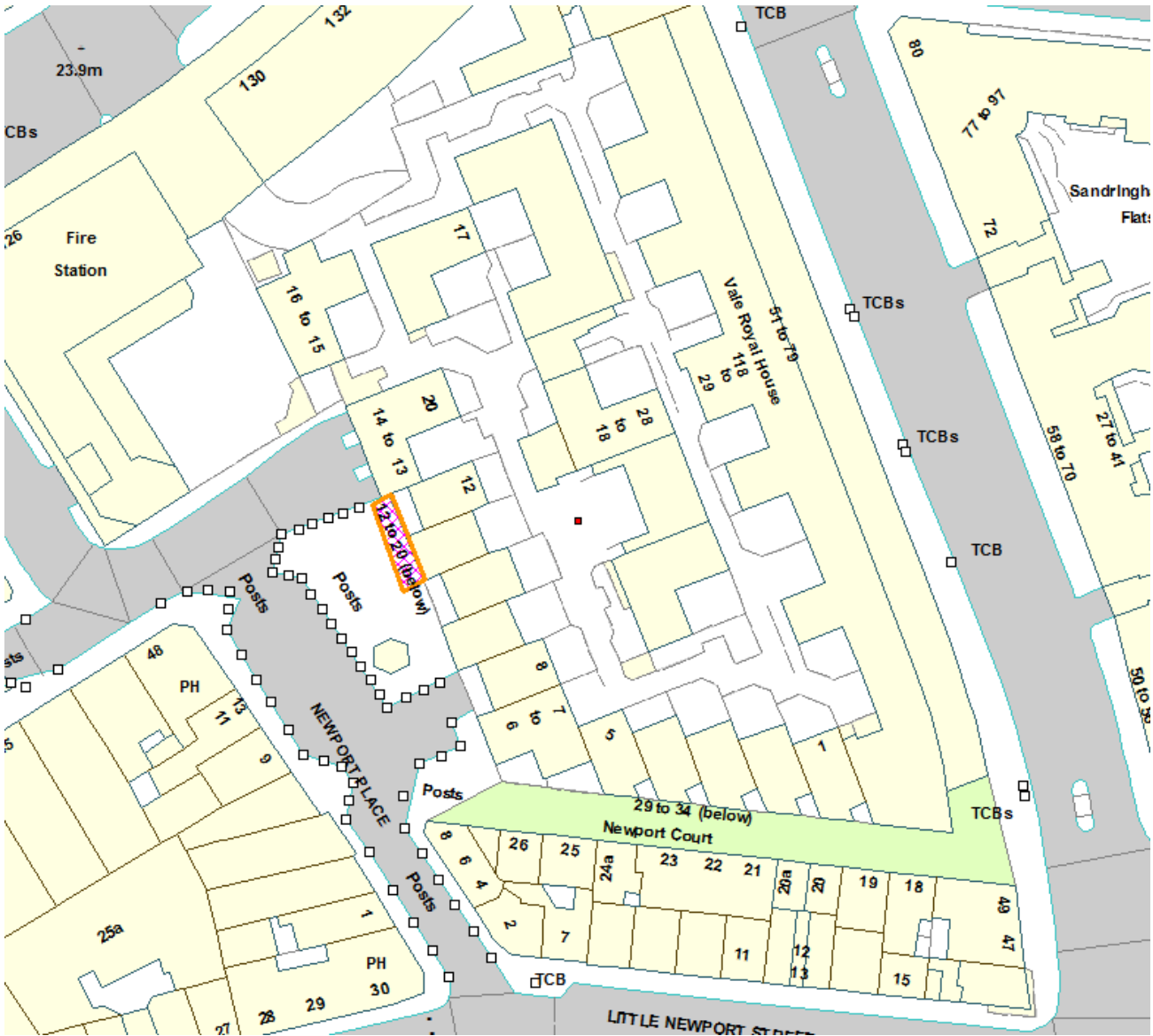
The restaurant at Unit 15 forms part of the Newport Sandringham building. The site is unlisted within the Chinatown Conservation Area, the Core Central Activities Zone and the West End Stress Area.

The restaurant unit is seeking permission for outdoor seating on the public highway on Newport Place with 14 tables and 28 chairs. A similar application has been submitted for outdoor seating at Unit 14 adjacent which is considered as Item 5 on this agenda.

The key issue in this case is the impact of the outdoor seating on residential amenity, particularly the residents of the flats above within Vale Royal House

Letters of objection have been received from residents within Vale Royal House principally on amenity grounds. For the reasons set out in this report, the proposed tables and chairs is considered, both individually and cumulatively when assessed with the proposed tables and chairs at Unit 15, to comply with relevant policies in the UDP and the City Plan. However, in line with normal practice to allow for monitoring, the proposal is recommended for approval for a temporary period of one year.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Photographs showing Unit 15 (Jinli) above and in context with Unit 14 (Shanghai Modern to the right) in Newport Place (below)



## 5. CONSULTATIONS

### WARD COUNCILLORS FOR ST JAMES'S

Any response to be reported verbally.

### SOHO SOCIETY

Any response to be reported verbally.

### WASTE PROJECT OFFICER

No objection

### HIGHWAYS PLANNING TEAM - CITY HIGHWAYS

No objection subject to recommended conditions. Discussed the proposal for a new Chinese pagoda in the vicinity with City Management and Communities department and considers that one year permission would avoid conflict.

### VALE ROYAL HOUSE RESIDENTS ASSOCIATION

Oppose the development as it deemed detrimental to the residents of the Vale Royal House.

### FIRST CONSULTATION - ADJOINING OWNERS/OCCUPIERS :

No. Consulted: 33

Total No. of replies: 16 (from 14 addresses)

No. of objections: 15

No. in support: 0

#### Amenity

- Noise from customers using the tables and chairs.
- Noise from putting the tables and chairs away each night.
- Noise from buskers attracted by the tables and chairs.
- Impact on air pollution from food smells.
- Impact on air pollution and health from customer smoking. This is a major public health concern.
- The proposal would go against the council's aim of reducing noise pollution and protecting the residents as 'Noise Sensitive Receptors'.

#### Character of the Area

- The application should not be assessed in isolation. The proposal will set a precedent for other tables and chairs in the vicinity.
- Change of character of the square and the neighbourhood. Chinatown has no heritage of outdoor dining.

#### Other

- The original application for the refurbishment of the shop units did not include outdoor seating.
- The shopfronts to this restaurant unit should not have been openable.
- Outdoor dining would be contrary to the 2007 Chinatown Supplementary Planning Guidance.
- Reference made to the relocation of the depot and associated nuisance to residents.
- There were multiple issues from construction work when the shop units were refurbished under a different permission. No respect of WCC guidelines during redevelopment and no hope for the tables and chairs to be run differently.

### SECOND CONSULTATION

No. Consulted: 12

Total No. of replies: 2  
No. of objections: 2  
No. in support: 0

Further objections received on:

- Disturbance
- Additional seating not required
- Concern about monitoring
- No strategy to tackle noise caused by the movement of furniture
- No clear management plan when smokers stand around the barriers
- No clear management plan of the maintenance and cleaning of the outside seating area
- Problems to be worsened when the Pagoda is built
- Outdoor seating not part of the planning permission for redevelopment of the commercial units
- Issues with management of Vale Royal House

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

Unit 15 is part of the Newport Sandringham Building, an unlisted building (dating from the early 1980s) which lies within the Chinatown Conservation Area, the Core Central Activities Zone and the West End Stress Area. Unit 15 is in use as restaurant and faces Newport Place.

The Newport Sandringham Building is a massive red brick structure designed by Diamond Redfern and Partners for the City of Westminster and includes residential flats to the upper floors and a mix of retail and restaurants along Charing Cross Road, Newport Place and Newport Court. The shopfronts have been altered following the July 2015 permission and in particular the Newport Place public realm has been enhanced and decluttered.

### **6.2 Recent Relevant History**

Permission was granted on 14.07.2015 for the refurbishment and reconfiguration to create restaurant units (Class A3) to the Newport Place frontage at ground floor and part mezzanine; provision of retail units (Class A1) to Charing Cross Road at basement, ground and part mezzanine; and flexible use with retail (Class A1) or restaurant (Class A3) units to Newport Court at ground floor level. Change of use at basement of 79 Charing Cross Road to ancillary theatre accommodation in connection with the adjoining Arts Centre at 136 Shaftesbury Avenue (Welsh Chapel). Associated alterations including infilling of colonnade along Charing Cross Road; alterations to shopfronts on all three frontages; reconfiguration of internal service road and Cleansing Depot; alterations within service yard from Shaftesbury Avenue including new shutters and plant equipment ventilation. (RN: 15/02497/FULL)

## **7. THE PROPOSAL**

Permission is sought for outdoor seating on the public highway on Newport Place for 14 tables and 28 chairs within an area measuring 13.9m x 4.0m. The hours sought are between 1200 midday (which is when the pedestrianisation of Newport Place comes into force) and 2200. The scheme also includes 11 barriers. A similar application has been submitted for outdoor seating at Unit 14 adjacent which is considered as Item 5 on this agenda.

The applicant had originally sought permission for a greater density of furniture with 18 tables and 36 chairs. However following consultation with local residents, revisions were made to

reduce the amount of outdoor furniture and a revised Table and Chairs Management Plan. The Management Plan has been prepared by the landlord (Shaftesbury) for the restaurant tenants within 10, 12-14 and 16-18 Newport Place, to assist with their applications for external table and chairs and the long term management of the external space and is provided as a background paper.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The use of the highway for tables and chairs in connection with eating and drinking establishments is assessed under Policy TACE 11 of the UDP. This policy states that 'Planning permission for the provision of tables and chairs on the footway will only be granted when such developments (including any means of enclosure that may be required by the relevant licensing authority) will not:

- 1 unacceptably intensify an existing use
- 2 cause obstruction
- 3 endanger pedestrians and wheelchair users
- 4 cause or exacerbate a problem with refuse storage or street cleansing
- 5 have a detrimental effect on the character and appearance of the area, or the setting of a listed building
- 6 cause a nuisance to residents
- 7 harm the amenity of the area
- 8 create opportunities for crime.

#### Intensification of existing use

The area for tables and chairs will form part of a larger restaurant unit which measures 443sqm. It is not considered that an additional 32 covers will intensify the Class A3 use to such an extent that it would cause harm to the character and function of the area or local environmental quality.

#### Obstruction

Newport Place has recently been enhanced with public realm improvements. This has resulted in an uncluttered area of public realm for pedestrian use from 1200 hours (midday). As currently laid out the tables and chairs will not cause any obstruction for pedestrians. At the time of writing details of the future installation of a replacement pagoda were not available. However, there is an indication in the public realm where it might be relocated which would not interfere with pedestrian movement around the tables and chairs. In any event permission is only recommended for a 12 month period, so if the pagoda is installed during this time then a future application would be able to take this obstruction into account.

#### Impact on pedestrians and wheelchair users

For the reasons set out above the proposal is not considered to endanger pedestrians and wheelchair users.

#### Refuse storage or street cleansing

The Projects Officer (Waste) has no objections to the scheme in cleansing terms.

#### Effect on the character and appearance of the area, or the setting of a listed building

Objections have been received on the grounds that the introduction of tables and chairs will change the character of a protected heritage landscape. The proposed tables and chairs and other associated furniture are considered acceptable in design terms and they will have minimal impact on the appearance of the surrounding area. Moreover, they will be removed every evening and stored inside. The documents submitted show signs on the proposed barriers. Whilst the barriers themselves are approved under this application, the advertising



shown on these requires advertisement consent. An informative will request the applicant to seek advertisement consent for any signs proposed on the barriers. Therefore it is not considered that the introduction of temporary outdoor furniture will harm the appearance of the China Town Conservation Area.

#### Impact on the amenity of the area

The Policy Application for TACE 11 states that 'The City Council will have regard to the proximity to residential accommodation and will not normally permit tables and chairs outside premises that have upper floors in residential use.' In this instance there are residential flats immediately above the proposed tables and chairs at Vale Royal House and letters of objection have been received on amenity grounds from individual residents and from the residents' association. These concerns are noted, however, it is considered that exceptional circumstances apply to allow tables and chairs in this location.

The site is in a busy central location with many other food and drink uses at ground floor level and in an area with a high pedestrian footfall. The shopfronts in Newport Place that form part of the 2015 permission are permitted to be fully open until 2200h which will provide a strong active frontage to Newport Place. The proposed external tables and chairs will be an extension of the open shopfront. The proposed trading hours for the tables and chairs (between 1200h (midday) and 2200h each day) are considered reasonable and do not extend into late night hours. Whilst the use of the tables and chairs may generate noise given the approved openable shopfronts and the busy character of the area, it is not considered that the proposal will increase noise levels significantly beyond existing relatively ambient noise level. For these reasons it is not considered the proposal will cause significant harm to residential amenity to residents of Vale Royal House, either individually or cumulatively when the proposed application for tables and chairs at Unit 15 is taken into account.

The applicant has provided a Management Plan in support of the application. This sets out the requirements for the management of the tables and chairs including:

- Customer behaviour that may cause a disturbance or nuisance to our local residents should not be tolerated.
- An incident log should be recorded and maintained in respect of all incidents occurring in the outside seating area.
- Notices must be displayed in the outside seating area reminding customers to respect local residents and use the outside seating area as quietly as possible.
- External music and speakers are not permitted
- It will be a Condition of Entry to the restaurant that no customers will be permitted to smoke, use electronic cigarettes, Hookah or vaping equipment. This also applies to the outside seating area. Signage will be placed on entry and on the restaurant menus highlighting this Condition of Entry. It will be the restaurants responsibly to enforce this Condition of Entry policy.

One objector queried the lack of a noise report in support of the application, however, it is not considered reasonable to request a noise survey for this type of application, particularly as the tables and chairs have not yet been installed.

Given the openable character of the shopfront, it is not considered that withholding permission for tables and chairs on grounds that it would cause a problem of food smells is sustainable.

There is a strong concern about the impact of any smoking from some residents at Vale Royal House. Smoking is not within the control of planning as the area underneath the residential windows is public highway meaning that anyone can legitimately currently smoke outside the premises. It is recognised however that the presence of tables and chairs increases the chances that someone might smoke in this location whilst having a meal. The best way to control the smoking nuisance is through the management of the tables and chairs and the

revised Management Plan document makes it clear that smoking is not allowed within the outdoor seating area and that signage advising this is required by the restaurant operator. This is welcome in amenity terms.

The letters of objection raise concerns that proposed tables and chairs might attract buskers, street entertainers, beggars and drug users as it is already an issue. Whilst the existing nuisance is understood it is not considered that the tables and chairs will worsen the existing situation. In addition, as set out in the Management Plan all furniture must be removed or rendered unusable by 2200hrs so they will not provide shelter for drug users and homeless persons at night time.

#### Opportunities for crime.

It is considered that the Management Plan sets effectively how the tables and chairs should be managed. However, it does not include the provision of hooks under the tables to allow customers to safely store bags. An informative is recommended to require these be provided.

#### Conclusion

The council's adopted policy recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. Therefore, these policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity and environmental quality occurs. As set out above the proposed tables and chairs are considered to comply with the relevant sections of TACE 11. It is recommended that permission is only granted on a temporary basis of one year so that the impact of the tables and chairs on residents and compliance with the recommended conditions can be monitored.

## **8.2 Townscape and Design**

The site is located within the China Town Conservation Area. Policy S25 of the City Plan states that in 'Recognising Westminster's wider historic environment, its extensive heritage assets will be conserved, including its listed buildings, conservation areas, Westminster's World Heritage Site, its historic parks including five Royal Parks, squares, gardens and other open spaces, their settings, and its archaeological heritage.' UDP policy DES9(E) states that 'Permission will only be granted for development, involving a material change of use, which would serve either to preserve or enhance the character and appearance of the conservation area.' For the reasons set out in Paragraph 8.1, it is not considered that the change of use from public highway to outdoor seating will harm the appearance of the China Town Conservation Area.

## **8.3 Residential Amenity**

The closest residential properties are located immediately above the application site within Vale Royal House.

Policy S29 of the City Plan S29 states that 'Development should ensure that the need to secure a healthy and safe environment is addressed, including minimising opportunities for crime....The council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment.' Policy S32 states that 'the council will work to reduce noise pollution and its impacts and protect Noise Sensitive Receptors from noise by...requiring development to minimise and contain noise and vibration.

Policy ENV 13 of the UDP seeks to 'maintain and where possible improve the quality of life for residents, workers and visitors to Westminster.' Policy ENV 6 of the UDP seeks to 'reduce noise levels throughout the City to below maximum levels set out in World Health

Organisation guidelines; to limit and contain noise from development; to protect noise sensitive properties from noise disturbance; to protect tranquil areas.'

For the reasons set out in Paragraph 8.1 it is considered that the proposal is in accordance with policies S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our UDP (January 2007) and will not result in an unacceptable material loss of residential amenity to residents of Vale Royal House.

#### **8.4 Transportation/Parking**

Policy S41 of the City Plan states all developments will prioritise pedestrian movement and the creation of a convenient, attractive and safe pedestrian environment. This is also the aim of policy TRANS 3 and TACE 11 of the UDP. The 'Westminster Way: Public Realm Strategy' SPD recommends that proposals for commercial activities on pedestrianised streets/alleyways should maintain at least half of the footway width clear of any commercial activity – this should usually be 25% on each frontage. In other circumstances, the minimum allowable clearway for pedestrians is a 2 metre width. The Highways Planning Manager confirmed with the current public realm layout no objection is raised for the tables and chairs to be laid out at times when the road is closed to traffic.

The unit is approximately 443 sqm in size it is therefore reasonable to consider that the outdoor furniture could be accommodated internally outside the permitted hours. A condition will ensure that no outdoor furniture will remain on the pavement after 22hrs.

There is a project to site a new Chinese pagoda in the vicinity of the proposed areas for tables and chairs. However, no planning application has been submitted yet. The Highways Planning Manager has confirmed that a year permission could be done safely, this would allow the Council to monitor the impact of the scheme and gives the opportunity to assess again the proposals if new conflicts with pedestrian movement arise.

#### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.6 Access**

Not applicable

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

##### **Cleaning**

One resident queried the lack of a clear management plan for the maintenance and cleaning of the outside area. It is a requirement of the OMP that the external space must be well maintained and cleaned.

#### **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 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.

## 8.9 Neighbourhood Plans

None relevant.

## 8.10 London Plan

This application raises no strategic issues.

## 8.11 National Policy/Guidance Considerations

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

## 8.12 Planning Obligations

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

## 8.13 Environmental Impact Assessment

Not applicable.

## 8.14 Other Issues

The letters of objection advise that tables and chairs were not part of the 2015 permission that approved the refurbishment of the ground floor commercial units. Concerns have also been raised about the problems experienced by residents during the construction of the 2015 permission and that allowing tables and chairs for those units will create a precedent. These concerns are noted however each planning application is assessed on its own merit, having regard to the specific proposal and the circumstances and policies in place at the time. Accordingly, the absence of outdoor seating in the 2015 scheme does not preclude future applications for tables and chairs at this location and approval of these developments does not mean that similar proposals elsewhere will be accepted.

Some of the residents consider that the additional outdoor space is not required given the size of the existing unit. This is a non-planning matter and it is not reasonable to refuse permission on lack of need.

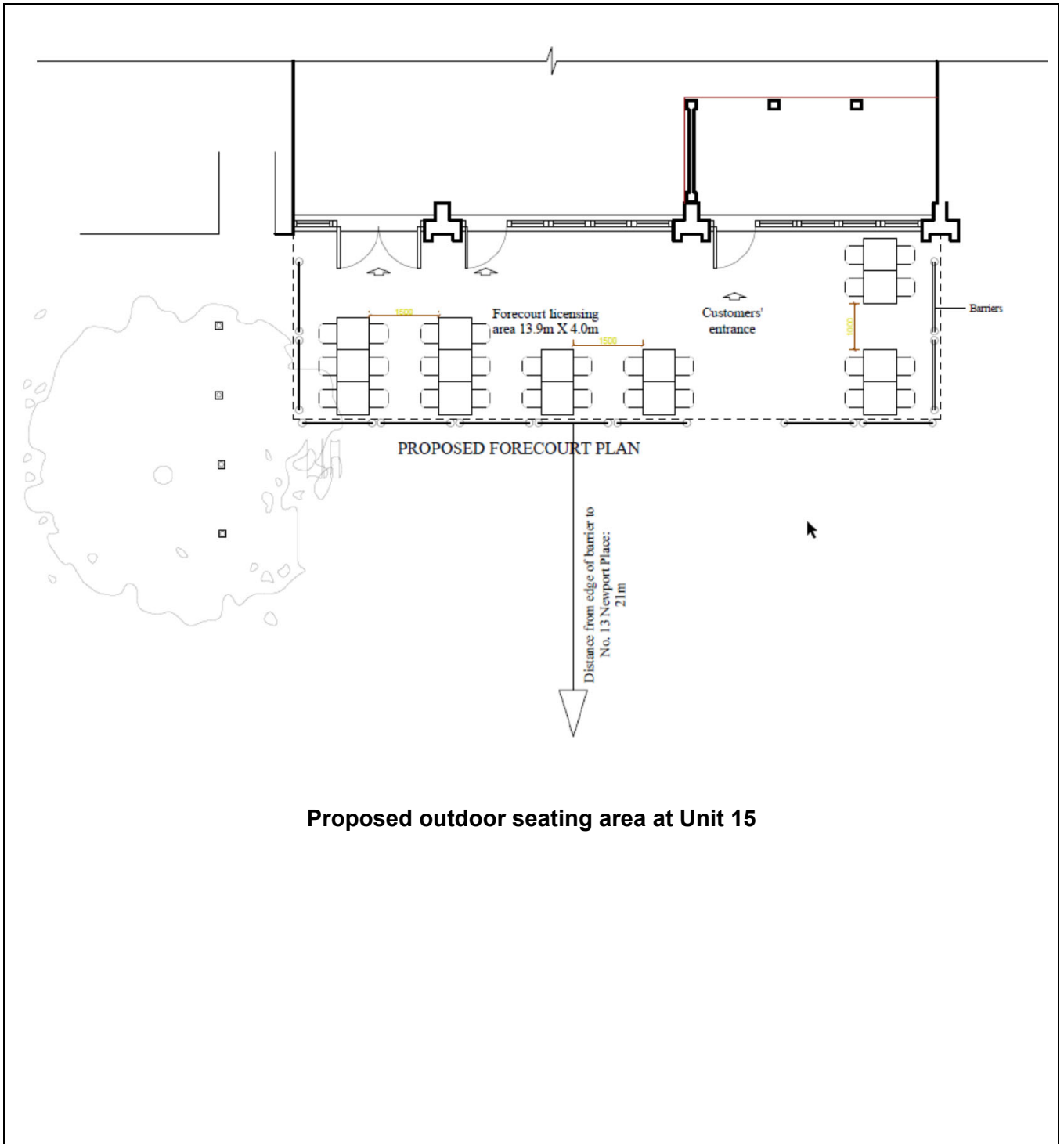
An objector has questioned the validity of the 2015 permission as 'the decision at the time was made when Robert Davis was Head of Planning.' This is considered to be a non-planning matter and the current application is assessed on its own merits.

Some of the residents consider that the additional outdoor space is not required given the size of the existing unit. Tables and chairs are considered to support the vitality and vibrancy of local areas, therefore is not considered reasonable to refuse permission on lack of need.

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

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

9. KEY DRAWINGS



Proposed outdoor seating area at Unit 15

**DRAFT DECISION LETTER**

- Address:** Development Site Bounded By 10 To 18 Newport Place 28 To 35 Newport Court And, 51-79 Charing Cross Road, London, WC2H 0NE
- Proposal:** Use of the public highway measuring 13.9m x 4.0m for the placing of 11 barriers, 14 tables and 28 chairs to Newport Place in connection with the restaurant unit at Unit 15 Newport Sandringham.
- Plan Nos:** Site plan; 1804-001-10SE; Tables and chairs management plan; 4 photographs of Newport Place and site; one photograph of proposed barrier; table stand specifications; table top specifications; chairs specifications; proposed barrier.
- Case Officer:** Aurore Manceau **Direct Tel. No.** 020 7641 7013

**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 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing 1804-001-10SE. (C25AA)

**Reason:**

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

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 12.00 and 22.00. (C25BA)

**Reason:**

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

- 4 The tables and chairs must only be used by customers of the restaurant at Unit 15 Newport Sandringham. (C25CA)

**Reason:**

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

- 5 This use of the pavement may continue until 30 September 2020. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

**Reason:**

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

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing 1804-001-10SE. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

**Reason:**

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

- 7 You must manage the tables and chairs at all times in accordance with the approved Table and Chairs Management Plan.

**Reason:**

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

**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 You cannot put tables and chairs in the area unless you have a street trading licence.

If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)

- 3 If you want to know about the progress of your application for a street trading licence, you can contact our Licensing Service on 020 7641 8549. (I49AB)
- 4 You must get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the following advertisements: signs on barriers. (I04AA)
- 5 You are advised to provide hooks under the tables to allow secure storage of customer belongings. The next iteration of the Tables and Chairs Management Plan should make this a requirement of the restaurant operator.