



City of Westminster

# Committee Agenda

Title:

**Planning Applications Sub-Committee (3)**

Meeting Date:

**Tuesday 1st September, 2020**

Time:

**6.30 pm**

Venue:

**Please note that this will be a virtual meeting.**

Members:

**Councillors:**

Jim Glen (Chairman)  
Guthrie McKie  
Louise Hyams  
Robert Rigby

**This will be a virtual meeting and members of the public and press are welcome to follow the meeting and listen to discussion to Part 1 of the Agenda**

**This meeting will be live streamed and recorded. To access the recording after the meeting please revisit the link.**

**If you require any further information, please contact the Committee Officer, Georgina Wills, Committee and Governance Officer.**

**Tel: 07870 548348; Email: [gwills@westminster.gov.uk](mailto:gwills@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 Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

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

#### **1. MEMBERSHIP**

To note that Councillor Louise Hyams had replaced Councillor Elizabeth Hitchcock and Councillor Robert Rigby had replaced Councillor Eoghain Murphy as Committee Members.

To note any further 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 virtual planning committee meeting.

To register to speak and for guidance please visit:

<https://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 at the virtual meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

**(Pages 5 - 10)**

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

<https://www.westminster.gov.uk/stream-council-meetings>

To access the recording after the meeting please revisit the Media link

- |   |                          |
|---|--------------------------|
| <b>1. 51 - 53 EASTCASTLE STREET, LONDON W1W 8ED</b> | <b>(Pages 13 - 30)</b>   |
| <b>2. 55 MORETON STREET, LONDON, SW1V 2NY</b>       | <b>(Pages 31 - 50)</b>   |
| <b>3. 4 HALKIN MEWS, LONDON SW1X 8JZ</b>            | <b>(Pages 51 - 76)</b>   |
| <b>4. 35-38 DORSET SQUARE, LONDON, NW1 6QN</b>      | <b>(Pages 77 - 104)</b>  |
| <b>5. 39 NORTHUMBERLAND PLACE, LONDON, W2 5AS</b>   | <b>(Pages 105 - 126)</b> |

**Stuart Love**  
**Chief Executive**  
**21 August 2020**

## 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) Neighbourhood Forum
vi) Ward Councillor(s) and/or MP(s)
vii) Council Officers response to verbal representations
viii) Member discussion (including questions to officers for clarification)
ix) 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 (3)

#### MINUTES OF PROCEEDINGS

Minutes of the **Planning Applications Sub-Committee (3)** held virtually on **Tuesday 7th July, 2020,**

**Members Present:** Councillors Jim Glen (Chairman), Eoghain Murphy, Guthrie McKie and Elizabeth Hitchcock

#### **1 MEMBERSHIP**

##### **1.1 Membership**

There were no changes to the membership.

##### **RESOLVED:**

That Councillor Elizabeth Hitchcock was elected as deputy chairman for the meeting.

#### **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.

2.2 Councillor Glen declared, in respect of Item 6, that he is a Trustee of the Westminster Tree Trust. However, he declared that he has had no involvement or discussions regarding the application and had not come to the meeting with an open mind regarding the proposal.

### **3 MINUTES**

- 3.1 That the minutes of the meeting held on the 26 May 2020 be signed by the Chairman as a correct record of proceedings.

### **4 PLANNING APPLICATIONS**

#### **1 65 HORSEFERRY ROAD, LONDON SW1P 2ED**

Erection of side extension comprising of basement, ground, and double height first floor level to provide additional accommodation for Westminster Coroner's Court. Internal alterations to main building at ground and first floor levels and landscaping.

Professor Patrick Lynch spoke in support of the application.

Councillor Selina Short spoke in objection to the application in her capacity as the ward councillor for Vincent Square and on behalf of her two fellow ward councillors.

Late representations were received from Councillors David Harvey, Selina Short and Danny Chalkley, Vincent Square Ward Members (5.7.2020); a local resident ( no address given) (5.7.2020); Architecture Today (6.7.2020); the Occupier of 95 Wymering Mansions, Wymering Road London W9 2NE (undated); The Architecture Editor, The Financial Times (6 July 2020); Director, Architecture Foundation (6.7.2020); Dr Patrick Lynch (6.7.2020); Lynch Architects Ltd (6.7.2020); Authentic Futures (7.7.2020) past architecture critic of The Independent, critic and Best Building adjudicator for Architects Journal, and critic for Architectural Review' (6.7.2020) and Rowan Moore (6.7.2020).

#### **RESOLVED UNANIMOUSLY:**

1. That conditional permission be granted under Regulation 3 of the Town and Country Planning General Regulations 1992 subject to:
  - a) a S106 legal agreement to secure the following:
    - i) all highway works immediately surrounding the site required for the development to occur including any necessary changes to footway levels, on-street restrictions and associated work (legal, administrative and physical).
    - ii) monitoring costs.
  - b) amending the wording of condition 6 requiring the applicant to provide samples of the red brick to be used on the new boundary wall.
  - c) amending condition 12 regarding the requirement to provide detailed drawings of the hard and soft landscaping scheme to ensure that if any replacement trees became diseased or dying they are replaced within 5 years of planting and not one planting season.

- d) subject to an additional condition to ensure that no ducts or structures are erected on the barrel vaulted roof in order to preserve its appearance.
  - e) remove draft Condition 8 on the draft planning decision regarding no works top the principal staircase as this is covered under the listed building consent.
2. If the legal agreement has not been signed within 6 weeks of the date of the Committee resolution, then:
    - a) The Director of Place Shaping and Town 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 is authorised to determine and issue such a decision under Delegated Powers;
    - b) If it has not been possible to complete the legal agreement, this application shall be reported back to the Sub-committee for a decision.
  3. That Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway and creation of new public highway to enable this development to take place.
  4. That listed building consent be granted subject to referral to the Secretary of State.
  5. That the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter be agreed.

## **2 THE WATER GARDENS, BURWOOD PLACE, LONDON, W2 2DA**

Erection of a new building at ground and first floor level around a retained concrete pergola to create a new health and fitness studio (Class D2) at basement, ground and first floor, installation of a green roof, plant equipment and associated works.

Additional representations were received from Kanda (1.7.2020) Church Commissioners (1.07.2020) and a summary of the proposals July 2020.

The application was withdrawn by officers prior to the meeting on the grounds that a number of the objectors did not receive the notification letter of the committee date in sufficient time to register to speak.

## **3 47 - 49 ST JOHN'S WOOD HIGH STREET LONDON**

Alterations and extensions to the existing building including extensions at ground floor and second floor levels, additions to the rear including fire escape stairs and landings. and replacement shopfront, all in association with the flexible use of the building as either a family members hub (Sui Generis) or for Retail (Class A1) on the ground floor and Office (Class B1) use to first and second floors

An additional representation was received from the occupier, 95 Charlbert Court (1.7.2020).

Late representations were received from Trophaeum Asset Management (2.7.2020) and Councillor Robert Rigby, Regents Park Ward (3.7.2020).

Maggie Bolger, addressed the committee in support of the application on behalf of the applicant.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted subject to:

- a) amending condition 9 so that the use of the door from the bar on to the flat roof is kept shut at all times except for means of escape or maintenance.
- b) amending condition 10 to require the obscure glazing to the rear elevation of the second floor extension to be installed prior to occupation.
- c) an additional condition so that the outdoor amenity space for the nursery can only be accessed and operated between 07:30 to 18:00 hours Monday to Saturday and 09:00 to 18:00 on Sundays.

**4 33 BARK PLACE, LONDON, W2 4AT**

Partial demolition of property, construction of full width lower ground and ground floor extension, and half width extension at first floor level, alterations to roof level including change in pitch and installation of plant, alterations to the front garden and elevational changes including new/replacement windows.

Late representations were received from the occupier of 32 Bark Place, London, W2 4AT (6.7.2020) and Councillor Andrew Smith, Lancaster Gate Ward Member (7.7.2020).

Sam Ross, addressed the committee in support of the application on behalf of the applicant.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted subject to additional conditions to secure a green roof and to ensure that the demolition work only takes place as part of a completed development and an additional informative advising that any replacement tree should be suited to its urban environment.

**5 27 - 35 MORTIMER STREET LONDON W1T 3BL**

Erection of a roof extension to provide additional office (B1) floorspace at fifth floor level and associated external alterations including the creation of a roof terrace at fifth floor level and reconfiguration and relocation of plant within a new purposely designed acoustic enclosure at part rear fifth floor level and part sixth floor/roof level



A late representation was received from Barr Gazetas (undated).

Joseph Wilson, addressed the committee in support of the application on behalf of the applicant.

**RESOLVED UNANIMOUSLY:**

That conditional permission be granted.

**6 OPEN SPACE AT REAR OF 115-137 SUTHERLAND AVENUE, LONDON W9 2QJ**

**EXEMPT REPORTS UNDER THE LOCAL GOVERNMENT ACT 1972**

**RESOLVED:** That under Section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business because it involves the likely disclosure of exempt information on the grounds shown below:

<u>Item No</u>	<u>Grounds</u>	<u>Para of Part 1 of Schedule 12A of the Act</u>
6	Information relating to any Individual or the financial or business affairs of any particular person	1

**6 OPEN SPACE AT REAR OF 115-137 SUTHERLAND AVENUE, LONDON W9 2QJ**

T1 (London Plane) - Remove close to ground level and treat stump to inhibit regrowth.

**RESOLVED UNANIMOUSLY:**

That consent be refused.

The Meeting ended at 8.50 pm

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

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



# Agenda Annex

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 1st September 2020  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<b>RN(s):</b> 20/02457/FULL  West End	51 - 53 Eastcastle Street London W1W 8ED	Dual/alternative use of the basement and ground floors as either an e-gaming facility with restaurant, bar and retail functions (Sui Generis) or for continued use of the basement and ground floor of No. 51 as retail (Class A1) and the basement and ground floor of Nos. 52-53 as a restaurant (Class A3).	Platform Ltd
	<b>Recommendation</b> Grant conditional permission.			
2.	<b>RN(s):</b> 20/02850/FULL  Tachbrook	55 Moreton Street London SW1V 2NY	Use of basement and ground floors as a Community Cat Cafe (sui generis use).	Ms Florence Heath
	<b>Recommendation</b> Grant conditional permission.			
3.	<b>RN(s):</b> 19/06002/FULL  Knightsbridge And Belgravia	4 Halkin Mews London SW1X 8JZ	Demolition of existing two storey dwelling and erection of new dwelling over ground, first and second floors (Class C3).	Lantern Capital Ltd
	<b>Recommendation</b> Grant conditional permission.			
4.	<b>RN(s):</b> 20/03043/FULL & 20/03044/LBC  Bryanston And Dorset Square	35-36 Dorset Square London NW1 6QN	Erection of a single storey rear extension at lower ground floor level to create a self contained residential unit (Class C3) and associated works.	The Freeholders Notcutt House
	<b>Recommendation</b> 1. Grant conditional planning permission. 2. Grant conditional listed building consent. 3. Agree reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.			
5.	<b>RN(s):</b> 20/00094/FULL  Bayswater	39 Northumberl and Place London W2 5AS	Erection of two storey infill extension to the rear of the building at lower ground and ground floor levels.	Mr. Parker
	<b>Recommendation</b> Grant conditional permission.			

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# Agenda Item 1

Item No.
<b>1</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 1 September 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b>	
<b>Subject of Report</b>	51 - 53 Eastcastle Street, London, W1W 8ED		
<b>Proposal</b>	Dual/alternative use of the basement and ground floors as either an e-gaming facility with restaurant, bar and retail functions ( Sui Generis ) or for continued use of the basement and ground floor of No. 51 as retail (A1) and the basement and ground floor of Nos. 52-53 as a restaurant (Class A3).		
<b>Agent</b>	MRA Architecture & Interior Design		
<b>On behalf of</b>	Platform Ltd.		
<b>Registered Number</b>	20/02457/FULL	<b>Date amended/ completed</b>	20 April 2020
<b>Date Application Received</b>	9 April 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		

## 1. RECOMMENDATION

Grant conditional planning permission.

## 2. SUMMARY

The application relates to an adjacent retail shop (Class A1) and restaurant (Class A3) occupying basement and ground floors of units on the southern side of Eastcastle Street.

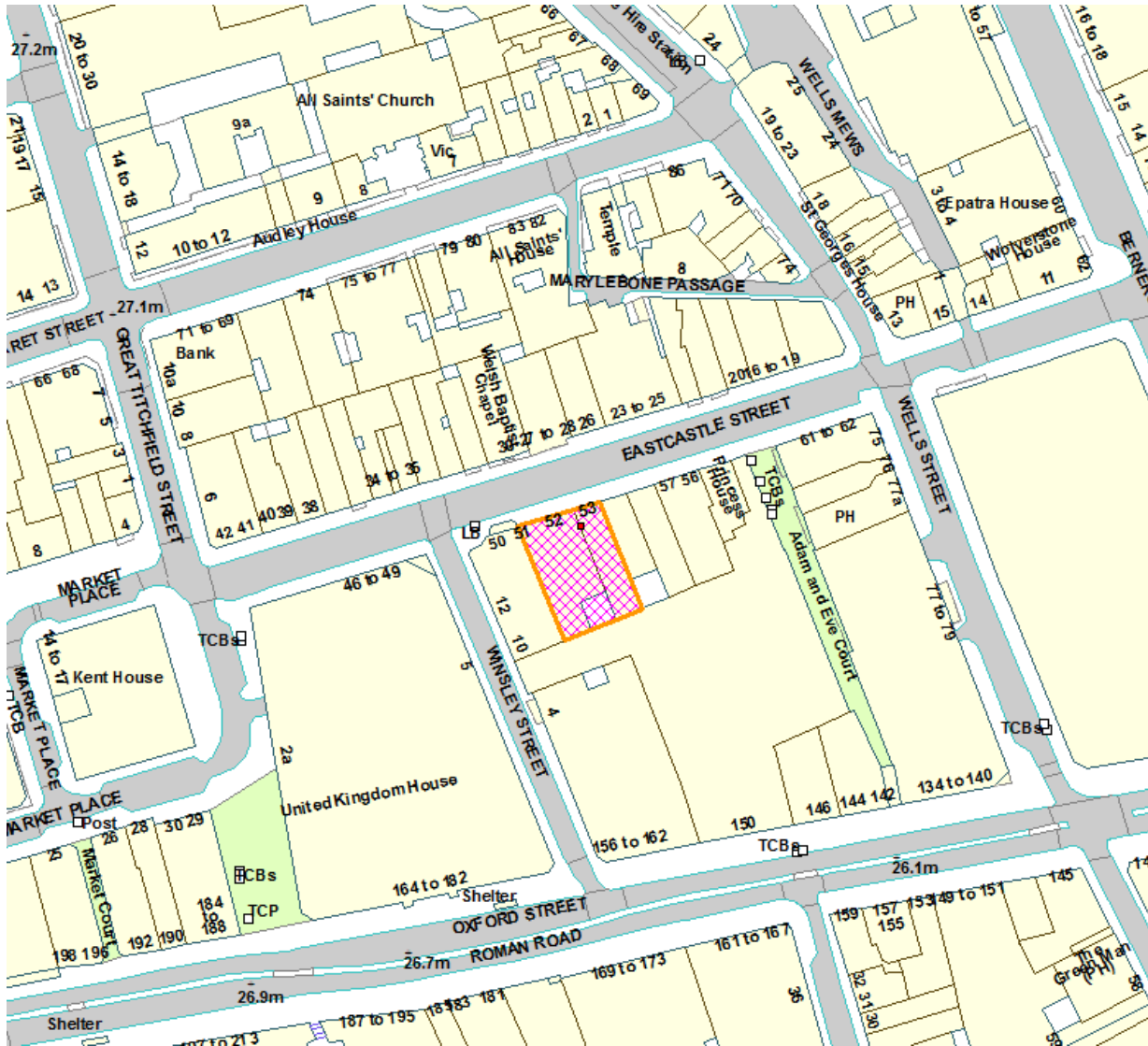
Permission is sought for dual/alternative uses involving the amalgamation of the units for use as an e-gaming centre (Sui Generis) comprising computer gaming, retail and restaurant elements, or for the retention of the existing retail and restaurant uses. No external alterations are proposed as part of the application.

The key issues are:

- The acceptability of the proposed e gaming centre a large entertainment/ leisure use in terms of land use and residential amenity.

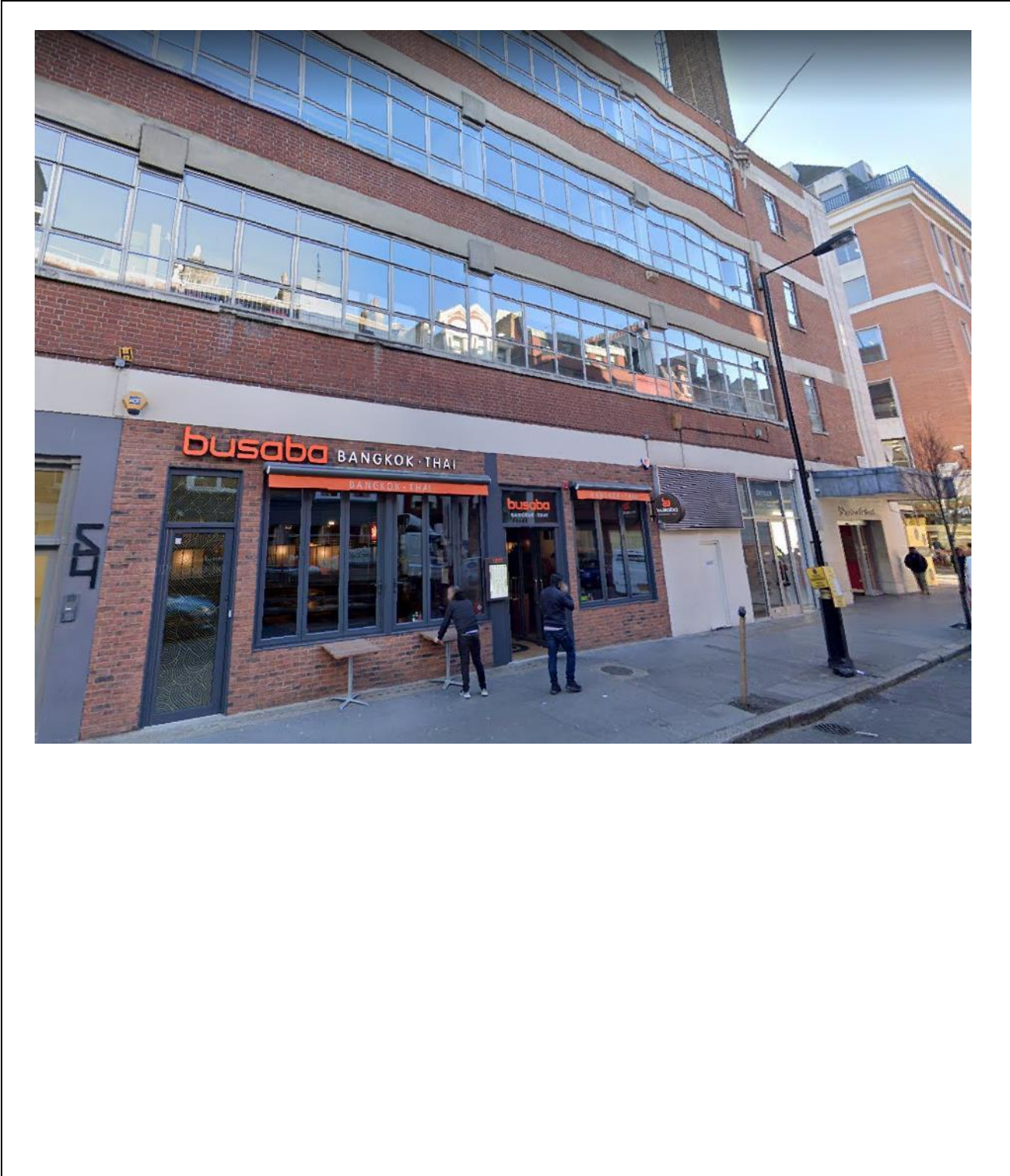
The potential loss of the retail accommodation is acceptable in the circumstances, and subject to appropriate conditions, it is also considered that the proposed entertainment use would be acceptable in terms of its impact upon the amenity of neighbouring occupiers and the character of the area. The application accords with the relevant Unitary Development Plan (UDP) and City Plan policies and is recommended for approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





Item No.
<b>1</b>

## **5. CONSULTATIONS**

### **FITZROVIA NEIGHBOURHOOD ASSOCIATION**

Any response to be reported verbally.

### **CLEANSING**

No objection subject to conditions.

### **HIGHWAYS**

No objection subject to conditions.

### **ENVIRONMENTAL HEALTH**

No objection.

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

No. Consulted: 66

Total No. of replies: 1

No. of objections: 1

Objection on the following grounds:

#### **Land Use**

The proposed gaming entertainment use is incompatible with an adjacent high end Art Gallery

#### **Amenity**

Odours emanating from the application premises currently present a nuisance to the operation of the gallery;

Potential noise nuisance from customers and an increased risk of anti-social behaviour associated with intoxicated customers;

#### **Other Issues**

COVID 19: Potential crowds will not make social distancing possible creating a health risk.

### **PRESS ADVERTISEMENT / SITE NOTICE:**

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

Eastcastle Street runs parallel too and one block north of Oxford Street within East Marylebone. The site comprises 2 x basement and ground floor shop units. No 51 is in retail use (Class A1), No's 52-53 are in use as a restaurant (Class A3). The upper floors of the building are in use as general office accommodation.

The building is not listed and located within the West End Stress Area, East Marylebone Conservation Area and the Core Central Activities Zone but outside of the West End

Special Retail Policy Area.

## 6.2 Recent Relevant History

### 51 EASTCASTLE STREET

11/11291/FULL - *Use of ground floor and basement as a retail art gallery (Class A1).* Planning permission granted on the 11<sup>th</sup> January 2012.

### 52 - 53 EASTCASTLE STREET

15/12046/FULL - *Use of the basement and ground floors as a restaurant (Class A3), installation of a partially openable shopfront and installation of a full height kitchen extract duct with associated plant equipment within the rear lightwell.* Planning permission granted on the 21<sup>st</sup> March 2016.

16/03857/FULL - *Variation of Conditions 5, 8 and 9 of planning permission dated 21 March 2016 RN: 15/12046/FULL for use of the basement and ground floors as a restaurant (Class A3), installation of a partially openable shopfront and installation of a full height kitchen extract duct with associated plant equipment within the rear lightwell. Namely, to allow a hot food take away and delivery service to operate from the restaurant; to enable up to 200 customers in the restaurant at any one time; and to extend the restaurant opening hours.* Planning permission granted on the 29<sup>th</sup> June 2016.

## 7. THE PROPOSAL

Permission is sought for the dual / alternative use of the existing retail and restaurant units, either for their continued lawful use, or to amalgamate the units to provide an e-gaming centre (Sui Generis) comprising gaming, retail and restaurant functions. The amalgamated e-gaming unit would measure 660m<sup>2</sup>. The application does not involve any external alterations, existing shopfronts and a full height rear extract duct are to be retained.

The floorspace figures are set out in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Restaurant (A3)	396	0	-396
Retail (A1)	264	0	-264
E-sports Centre	0	660	+660
Total	660	660	660

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The existing restaurant and retail units are operating lawfully in accordance with

planning consents from 2016 and 2012. The continued use of the premises for these lawful purposes is considered acceptable subject to relevant conditions.

The existing restaurant use at Nos.52-53 measures 396m<sup>2</sup> whilst the retail unit at No.51 measures 264m<sup>2</sup>. Amalgamation of the units for to create an e gaming facility would provide a unit of 660m<sup>2</sup>.

Retail:

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

Certain policies of the UDP have been 'saved' including ones relating to retail policies which are relevant to proposals for the loss of retail floor space. The site is located within the Core CAZ and therefore the applicable policy from the UDP relating to the loss of retail floor space is Policy SS5 which seeks to resist the loss of retail floor space within the Core CAZ, and outside of the Prime Shopping Frontages. The policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

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

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

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

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

The area is very commercial in nature with ground floor uses primarily comprising restaurant and retail uses and the upper floors primarily offices. The neighbouring unit to the west is an office entrance whilst the premises to the east is an art gallery (A1). The amalgamation of the two units and the potential loss of retail would not therefore result in three or more non-A1 units in a row.

As No 51 is currently in retail use the applicant is not advancing an argument that long-term retail use would not be viable as a justification for the potential loss of retail. Eastcastle Street does not however have a strong retail character. The potential loss of a single retail unit is not considered to be harmful to the character and function of the area. Furthermore, the proposed e gaming entertainment facility could be seen as a 'destination' use which would add to the vitality of the vicinity.

Item No.
<b>1</b>

Changes to the Town and Country Planning (Use Classes) Order which come into force on 1 September 2020 will create a new broad Class E group titled 'Commercial, Business and Service'. The uses contained within the new Class E include, retail shops, financial and professional services, offices, medical uses, gyms and other indoor sport uses, creches and nurseries. It will not be development to change between these uses once this legislation is in force. There will therefore be greater flexibility to change from retail (currently Class A1) to other commercial town centre uses within the new designated Class E class. Retail will not be offered the same protection as currently exists. Taking this into account the loss of a small retail floorspace proposed as part of this application is considered acceptable.

Restaurant:

The existing restaurant use on the site was permitted on the 21st March 2016 with a further consent on the 29th June 2016 to varying a number of conditions on the original consent. The potential continued use of the ground and basement of 52-53 Eastcastle Street as a restaurant is considered acceptable. The same conditions as previously permitted with regards to opening hours, capacity, retention of the high level extract duct are recommended.

E-gaming facility:

The e-gaming centre comprises individual and group gaming options with retro social gaming booths with the provision of an element of supporting retail and restaurant facilities. The proposed mixed use does not fall within any of specified classes as defined within the current or amended Use Class Order (September 2020). The use is an 'entertainment use' which given that the floorspace is 600m<sup>2</sup> needs to be accessed against UDP policy TACE10 and City Plan Policies S6 and S24.

City Plan Policy S6 accepts that, in principle entertainment uses are generally appropriate in the Core CAZ. Policy S24 requires proposals for new entertainments uses to demonstrate that they are appropriate in terms of the type and size of the use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. New large-scale late-night entertainment uses of over 500sqm floorspace will not generally be appropriate within Westminster.

Given that the size of the proposed facility is over 500sqm, Policy TACE10 of the UDP also applies which only allows such large entertainment uses in exceptional circumstances and where it can be adequately controlled by conditions to avoid environmental or amenity problems. In this case it is important when considering the proposed use under both S24 and TACE10 to appreciate that the primary purpose of the use is leisure, and although it also has significant areas for dining and a bar, they will support the gaming activity. This is akin to some other leisure uses such as bowling alleys which have large areas of bars and restaurants incorporated into their business model. Most operations of this type occur without the problems associated with drinking establishments because the primary reason for visits is not to drink but to undertake a leisure pursuit. Given that the proposed use is a combination of leisure and entertainment use, it is considered that there are exceptional circumstances that would

allow a facility of this size in this location.

The proposed opening hours of the extended e-games unit are the same as the existing restaurant premises being; 07.00 and 00.00 (midnight) Monday to Saturday and 07.00 to 23.00 on Sundays. There is limited residential accommodation in the immediate area. The City Council records indicating the nearest units are located at second and third floor levels within the Welsh Baptist Chapel, which is on the opposite side of Eastcastle Street and there is also an extant permission for residential flats on the upper floors of 34-35 Eastcastle Street approximately 20m from the site.

The existing restaurant has a capacity of 200. The proposed e-gaming facility would potentially see this increased to 400 customers. Given that this is primarily a commercial area close to Oxford Street with little residential in close proximity the use is considered acceptable in principle as it is unlikely to add to noise and disturbance.

Environmental Health have confirmed that they have no objection to the application on the basis that a high level extract duct is retained to ensure adequate dispersal of cooking odours. An appropriate condition is recommended.

The restaurant unit has a partially openable shopfront and a condition was included on the consent to restrict the hours for which the openable elements could be opened (between 09:00 and 21:30 daily). This condition is again included with regard both the restaurant and e-gaming centre uses. Conditions are also recommended in relation to the operation of the e-gaming facility limiting any bar to 15% of the total floor area and requiring the submission of an Operational Management Plan to show management processes that will be adopted to prevent noise nuisance from the use detrimentally impacting neighbouring occupiers.

An objection has been received to the application from the operator of the neighbouring art gallery, raising concerns that inebriated patrons of the e-gaming use could result in nuisance to the gallery. However, the proposed use is an entertainment facility in which gaming will be the main activity and the restaurant/ bar and retail uses support the gaming. Alcohol will not be the focus of the use and to a certain extent would be incompatible with gaming. Although this is a large entertainment facility given the nature of the use and the conditions proposed the use is considered an appropriate one for the location.

## **8.2 Townscape and Design**

No external alterations are proposed as part of this application.

## **8.3 Residential Amenity (Daylight/Sunlight/Sense of Enclosure)**

Not applicable

## **8.4 Transportation/Parking**

Amended drawings have been submitted during the course of the application to properly identify the provision of waste and recycling storage within the property. The Waste Project Manager has confirmed that the refuse storage provision is acceptable. A

condition is recommended requiring the storage area to be retained.

The Highways Officer also required that the drawings be amended to show the provision of five cycle parking spaces to accord with the requirements of the London Plan, this drawing has also been provided and a condition included to ensure the spaces are provided and retained.

A Delivery Management Plan was previously provided and deemed acceptable in association with the restaurant use and this has again been provided. A condition is recommended requiring the restaurant use to accord with the Delivery Management Plan. No details of deliveries from the e-gaming centre have been provided. A condition is recommended preventing a delivery service or hot food take-away as it is unknown how this might impact on the highway or on residential amenity.

Subject to the conditions recommended the Highways Planning Manager and the Waste Project Officer advise that they have no objection to application.

### **8.5 Economic Considerations**

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

### **8.6 Access**

No changes are proposed to the access arrangements to the unit as this application solely relates to the change of use of the premises. Both of the existing shopfront entrances have level access which is retained, it is noted there is an 'accessible toilet' to the rear of the existing restaurant unit and this is also retained as part of the proposed e-gaming facility.

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

An objection has been received to the application from a neighbouring art gallery concerned about the ability of patrons of the e-gaming facility to 'socially-distance' with regard Covid-19 regulations. If implemented the operator would have to accord with Government guidance the application cannot be refused due to the Covid-19 pandemic. The consent will also be extant for three years from the date of determination. The objector also considers the proposed e-gaming use might affect their reputation as a 'high end contemporary art gallery'. This is not a planning consideration.

The objector has stated that the existing restaurant presents a problem of odours being noticeable within the adjacent Art Gallery. The existing restaurant is lawfully operating and a high level extract duct has been installed from the kitchen, routed to the main roof level of the building where it terminates. Environmental Health raise no issues to this aspect of the application. The applicant advises having raised the points raised in objection with the management of the building that any nuisance from odours relates to drainage and not from cooking odours. This is a building maintenance issue and not something upon which permission could be reasonably withheld.

## **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 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 on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, 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 site is located within the area designated for the Fitzrovia West Neighbourhood Plan. However, the Plan has only reached its formal submission stage and therefore has very limited weight. The proposals are broadly considered to comply insofar as the relevant policies of the draft Plan state:

Policy PR3: 'The provision of new tourism and entertainment uses, such as hotels, bars and night clubs of 500m<sup>2</sup>. or more gross floor space will be supported if located in that part of the West End Retail and Leisure Special Policy Area (WERLSPA) that is the northern 25 Oxford Street frontage and the area north to Mortimer Street in the Plan area (see Figures 2 and Figure 3).'

Policy B2: 'A1 retail uses should be protected and applications for premises in the CAZ retail clusters will be considered in the light of the draft City Plan policies. Where there is evidence that a retail unit has been vacant and advertised to let for more than 18 months, alternative uses, such as A2, A3 and leisure uses can be considered. Particular attention should be paid to providing a vibrant and attractive street frontage at ground floor level.'

The site is within the area identified in Policy PR3 as being suitable for entertainment uses of over 500sqm.

## **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**

Item No.
<b>1</b>

Planning obligations are not relevant in the determination of this application and the proposal would not attract a CIL payment as it is solely commercial change of use.

**8.13 Environmental Impact Assessment**

Not relevant.

**8.14 Other Issues**

None relevant.

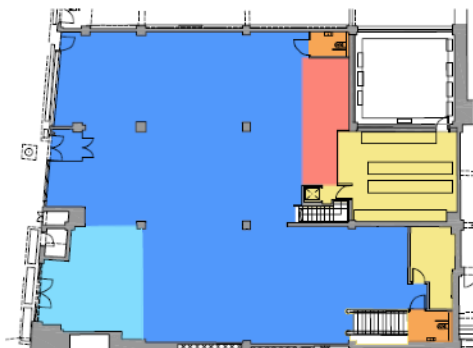
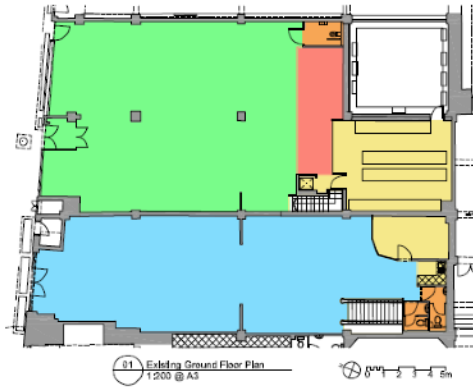
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council’s website)

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

Existing and Proposed Basement and Ground Floors:



Proposed dual / alternative use of the basement and ground floor as either a sui generis use comprising a sports restaurant, bar and retail functions or for continued use of the basement and ground floor of No. 51 as retail (A1) and the basement and ground floor of Nos. 52-53 as a restaurant (Class A3). (SITE INCLUDES 51 EASTCASTLE STREET)

PROPOSED DEVELOPMENT: PLANNING NUMBER 00  
 1. SITE VISUAL IMPACT STUDY 00/00 00  
 2. ENVIRONMENTAL STATEMENT 00/00 00  
 3. ARCHITECTURAL DRAWINGS 00/00 00  
 4. APPRAISAL 00/00 00  
 5. REPORT 00/00 00

**PLANNING**

**MRA**  
 MRA CONSULTANTS  
 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

**PLATFORM** 20011

51 & 52/5 Eastcastle Street  
London W1W

Item No.
<b>1</b>

## DRAFT DECISION LETTER

**Address:** 52 - 53 Eastcastle Street, London, W1W 8ED,

**Proposal:** Dual/alternative use of the basement and ground floors as either an e-gaming facility with restaurant, bar and retail functions ( Sui Generis ) or for continued use of the basement and ground floor of No. 51 as retail (A1) and the basement and ground floor of Nos. 52-53 as a restaurant (Class A3).

**Reference:** 20/02457/FULL

**Plan Nos:** Delivery and Servicing Plan (Busaba), Drawings: 20011-PL01, 20011-PL05, 20011-PL04, 021-003-01RevB, 021-003-02.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641  
07866040155

### 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 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)

- 3 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)

- 4 If you choose to implement the restaurant use hereby approved the delivery and take-away service must be carried out in accordance with the approved delivery and servicing plan.

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case.

- 5 If you choose to implement the restaurant use hereby approved any bar area provided 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 TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 If you choose to implement the restaurant use hereby approved you must not allow more than 200 customers into the property at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 Customers shall only be permitted within the restaurant or e-sports centre between 07.00 and 00.00 (midnight) Monday to Saturday and 07.00 to 23.00 on Sundays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 The high level extract duct currently installed at the property and as shown on drawings 021-003-01RevB and 021-003-02 must be retained and maintained in situ for as long as the restaurant or e-gaming facility are in use.

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)

- 9 If you choose to implement the restaurant use hereby approved all servicing activity must take place in accordance with the approved servicing management strategy

unless otherwise agreed in writing by the local planning authority.

Reason:

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

- 10 The openable panel element of the shopfront at 52-53 Eastcastle Street must be closed between the hours of 21.30 and 09.00 daily.

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 If you choose to implement the e-gaming centre (Sui Generis) use hereby approved you must provide the separate stores for waste and materials for recycling shown on drawing number 20011.PL04. 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)

- 12 If you choose to implement the e-gaming centre (Sui Generis) use hereby approved you must not sell any hot-food take-away or drink on the premises, nor operate a delivery service, even as an ancillary part of the primary Sui Generis use.

Reason:

We cannot grant planning permission for unrestricted use because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case.

- 13 If you choose to implement the e-gaming centre (Sui Generis) use hereby approved you must not allow more than 400 customers into the property at any one time.

Reason:

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

- 14 If you choose to implement the e-gaming centre (Sui Generis) use hereby approved any bar area provided must not take up more than 15% of the floor area of the property.

Item No.
<b>1</b>

**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.

- 15 If you choose to implement the e-gaming centre (Sui Generis) use hereby approved you must apply to us for approval of a management plan to show how you will prevent customers who are leaving the premises from causing nuisance for people in the area, including people who live in nearby buildings. You must not occupy the approved e-sports centre use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the operation is in use.

**Reason:**

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, 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 must register your food business with the Council, please use the following link: [www.westminster.gov.uk/registration-food-business](http://www.westminster.gov.uk/registration-food-business). Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at [ehconsultationteam@westminster.gov.uk](mailto:ehconsultationteam@westminster.gov.uk) for advice on meeting our standards on ventilation and other equipment. Under environmental health legislation we may ask you to carry out other work if your business causes noise, smells or other types of nuisance.
- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering) (I54AB)

- 4 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public. Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992.  
[www.opsi.gov.uk/SI/si1992/Uksi\\_19923004\\_en\\_1.htm](http://www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm). The following are available from the British Standards Institute - see [shop.bsigroup.com/](http://shop.bsigroup.com/), BS 6465-1:2009: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances, BS 6465-3:2009: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 5 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.
- 6 You are advised that a neighbouring occupier has commented on the application in relation to existing odour issues from the operational restaurant impacting on their business operation. You are advised that the full height extract duct should be working properly at all times and if there are odour issues this needs to be rectified and the City Council can take action to ensure a nuisance is not being caused.

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

Item No.
<b>2</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 01 September 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Tachbrook	
<b>Subject of Report</b>	<b>55 Moreton Street, London, SW1V 2NY</b>		
<b>Proposal</b>	Use of basement and ground floors as a Community Cat café (sui generis).		
<b>Agent</b>	N/A		
<b>On behalf of</b>	Ms Florence Heath		
<b>Registered Number</b>	20/02850/FULL	<b>Date amended/ completed</b>	11 May 2020
<b>Date Application Received</b>	3 May 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Pimlico		

**1. RECOMMENDATION**

Grant conditional permission.

**2. SUMMARY**

55 Moreton Street is a four-storey building including basement. The application relates to the basement and ground floor levels, which are currently vacant but were last in use as an estate agent (Class A2). The rear basement has access to an external courtyard area. The upper floors are in residential use as flats.

The site forms part of non-core frontage within the Moreton Street Local Shopping Centre. The building is not listed but is within the Pimlico Conservation Area.

Planning permission is sought for the use of the basement and ground floors as a community cat café (sui generis) 'La Maison Du Chat', which has elements of A1 (shop), D2 (assembly and leisure) and A3 (cafe).

The cat café aims to promote the role pets can play in promoting mental health and wellbeing, as well as provide an informal local community hub providing a social resource for residents to help combat isolation and loneliness, as well as a café area to socialise.

The key issues are:

- The impact on the amenity of surrounding residents; and
- The impact on the character and function of the Moreton Street Local Shopping Centre.

Objections have been received primarily from occupiers of residential properties to the rear in Lupus Street. These residents are concerned about noise and disturbance from the use of the rear basement courtyard for outdoor seating. The applicant had intended using the rear courtyard area as an outdoor seating area for customers but has now omitted this from the proposal in response to the concerns raised. A condition is recommended to restrict customers from using this area but members of staff may use this area. The proposal has also received a significant number of letters in support.

The proposed use of the basement and ground floor as a community cat café (Sui Generis) is considered acceptable in land use and amenity terms subject to the recommended conditions, which are discussed in the report and set out in the draft decision letter. The proposal complies with the relevant policies in Westminster's City Plan (November 2016) 'City Plan' and Unitary Development Plan (2007) 'UDP' and is recommended for approval.



3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation 55 Moreton Street

## 1. CONSULTATIONS

PIMLICO FREDA:  
No comment received.

PIMLICO NEIGHBOURHOOD FORUM:  
No comment received.

ENVIRONMENTAL HEALTH:  
No objection, subject to a condition preventing primary cooking on the premises.

WASTE PROJECT OFFICER:  
No objection, subject to condition to secure waste store.

HIGHWAYS PLANNING:  
No objection, subject to conditions incl. no delivery service.

ADJOINING OWNERS/OCCUPIERS & OTHER REPRESENTATIONS RECEIVED:  
Moreton Street properties notified on the 12 June 2020.  
Lupus Street properties notified on the 23 June 2020.

No. Consulted: 57  
Total No. of replies: 41  
No. of objections: 20  
No. in support: 19  
No. neutral: 2.

### Objections on some or all of the following grounds:

#### Land use issues

- Proposal not policy compliant in relation to Pimlico.
- New commercial uses should be directed to the Warwick Way/ Tachbrook Street Central Activity Zone.
- Area not large enough to accommodate numerous cats.
- Surplus of cafes and coffee shops in the Pimlico Area (Moreton Street and Lupus Street).

#### Amenity issues

- Noise and disturbance through use of rear courtyard/ garden area by customers.
- No noise assessment included.
- Use would impact on tranquillity and privacy of rear gardens of both Lupus Street and Moreton Street.
- Premises will serve alcohol.
- Use of a residential garden as a commercial cafe is contrary to policy.

#### Highways issues

- No parking assessment plan has been provided; surrounding area is already congested.

#### Other issues

- Lupus Street properties not notified of proposals.
- No site notice placed on Lupus Street.
- No visit done to Lupus Street properties.
- Postpone determination of application to organise a noise assessment report.
- Enough places to eat in the area.
- Applicant has not engaged with local residents.
- Labelled a community cafe but will be a commercial venture attracting visitors from elsewhere.
- Animals can act as fomites.

#### Support on some or all of the following grounds:

##### Land use issues

- Need more community spaces.
- Great community initiative to bring community together with animals.
- Provides a place for people to meet who cannot have animals in their homes.
- Short on community spaces and a family friendly cat cafe is welcomed.
- Facility provides an opportunity to bring groups together in a safe and relaxing way.
- Children interacting with cats can be therapeutic and educational.
- A place like this provides an important hub to bring the community together.
- Far better use of space rather than another utilitarian space.

##### Amenity issues

- Cats are generally quiet.
- Pimlico needs an accessible cafe/hub where the many isolated residents and others can meet.
- Many people live in flats and this is a great place for people to come and meet and interact with the cats.
- The premises is not going to be a pub and most cafes serve alcohol these days.
- Most children in Pimlico do not have the space to have a pet, so this is welcome addition in the neighbourhood.

#### Highways issues

- Traffic problems will not be applicable as the site has public transport nearby.

#### Other issues

- Cats provide a form of therapy.
- Beneficial for a health and wellbeing perspective.
- Provides a safe space for parents and toddlers.
- Hygiene issues will be covered by Environmental Health.
- The café will add to the variety and experience of living and working in Pimlico.

#### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 2. BACKGROUND INFORMATION

### 2.1 The Application Site

55 Moreton Street comprises of basement, ground and two upper floors. The basement and ground floors are currently vacant but were last in use as an estate agent (Class A2). The basement has access to an external courtyard to the rear of the site. The upper floors are in residential use as flats and have a separate entrance.

To the rear, the site backs onto residential properties on Lupus Street, which are mostly flats and have gardens.

The site forms part of non-core frontage within the Moreton Street Local Shopping Centre. The building is not listed but is within the Pimlico Conservation Area.

### 2.2 Recent Relevant History

105 Great Portland Street, W1:

Planning permission was granted for the use of the ground and basement levels as a 'Cat Café' (sui generis) (19/05927/FULL).

## 3. THE PROPOSAL

Planning permission is sought for the use of the basement and ground floor as a community cat café (Sui generis) 'La Maison Du Chat', which has elements of A1 (shop), D2 (assembly and leisure) and A3 (cafe).

The cat café aims to promote the role pets can play in promoting mental health and wellbeing, as well as provide an informal local community hub and social resource for residents to help combat isolation and loneliness, as well as a café area to socialise.

The café would have several resident cats on site (approximately 7-10 cats), where they will be accommodated within a designated 'Cat Room' at ground floor level but allowed to roam within the café under supervision. At basement level a small office area, function room, WC and a kitchen area will be provided.

Unlike other cat cafes the proposed community cat café would not operate a pre-booked slot basis and no entrance fee is charged to visit the café to see the cats. The proposed hours of opening are from 0700 to 1900 Monday to Friday and from 0800 to 1900 hours Saturday and Sunday. There will be five members of staff (two full-time and three part-time). To the rear of the site there is an existing courtyard area, but this will not be open to members of the public, although members of staff would be permitted to use this area.

The proposed café element will serve hot and cold drinks and pastries and homemade cakes. The applicant has indicated their intention to expand to providing afternoon teas, savoury snacks, soups and salads, as well as applying for an alcohol licence but basic cooking is restricted to making waffles, boiled eggs, and pancakes etc using appropriate appliances. No primary cooking will take place on site. A small section of the café would provide retail goods such as pet food and other pet accessories. It is also proposed to provide coffee mornings for over-65s on Monday mornings; and for parents with new-

born babies (0-6 months) on Tuesday mornings. The function room is intended to be used as a child friendly space, as well as for hosting toddler educational activities.

The applicant states the proposed Cat Café at 55 Moreton Street is based on the following principles:

- Accessible to all
- Free access, no booking slots or fees
- Local community is key
- We are a compassionate business
- We will support social enterprise, charities and small businesses

#### 4. DETAILED CONSIDERATIONS

##### 4.1 Land Use

The existing and proposed floorspace figures are set out in the table below:

	Existing GIA (sqm)	Proposed GIA (sqm)
Estate Agent (A2)	145	0
Community cat café (Sui generis)	0	145

The site is located within Pimlico and forms part of non-core frontage within the Moreton Street Local Shopping Centre

Moreton Street runs between Belgrave Road and Moreton Terrace and is characterised by a mix of residential and commercial uses. The surrounding area is predominately residential, but this part of Moreton Street contains a small pocket of independent specialist shops.

On the applicant's/ western side of Moreton Street the ground floor of nos. 35, 39, 41, 47, 51 and 59 (vacant) are in retail use; a beauty salon at no. 43; landscape design firm at no. 45; no. 55 (the application site) formerly an estate agent but currently vacant; and a dry cleaner at No. 57.

On the opposite/ eastern side of the street nos. 34, 40, 42, 44, 48 and 54 are in retail use; nos. 36, 38 and 46 are in restaurant use, no. 50 unknown commercial at ground floor level and no. 52 is an estate agent.

The upper floors of these premises are in residential use and there are existing residential flats at basement level of nos. 32, 34, 37, 39, 45, 49A, 51, 54B, 57A and 59A.

##### Existing use

The basement and ground floor were occupied by an estate agent (Class A2) for approximately four and half years but have been vacant since December 2018. The premises has been marketed during this time using various commercial estate agency

websites and a 'To Let' board (advertising the premises for A1 use) has been placed within the ground floor unit. Despite several viewings, prospective tenants have expressed interest in using the premises for non-retail purposes (e.g. sui generis, A3, D1, D2, B1 etc.). The property remains on the market, but interest has fallen since March 2020 as a result of the current pandemic.

### Policy context

Policy S10 of the City Plan relates to 'Pimlico' and states 'This area will be primarily for residential use with supporting retail, social and community and local arts and cultural provision. Retail and other appropriate town centre uses will be directed to the Warwick Way/Tachbrook Street CAZ Frontages and the Local Shopping Centres'. The policy recognises the predominately residential nature of this area, and 'village' character with associated local uses and sense of small-scale shops and services.

Policy SS 7 of the UDP relates to 'Local Centres' and aims to protect the designated local shopping centres for the service they provide to residents, visitors and workers, and because they reduce the need to travel.

Paragraph 7.87 of Policy SS 7 states that the introduction of non-A1 uses should not have a harmful effect on the vitality or viability of the centre or have a detrimental effect on character and function. Such effects include the following: weakening local convenience offer, weakening a concentration of specialist shopping, creating dead frontage, threatening the viability of individual shops by effectively isolating them from other shopping facilities, or introducing unacceptably high levels of activity. The balance of A1 uses and non-retail uses should be such as to maintain the attractiveness of the centre to both shoppers and retailers.

Policies S34 of the City Plan and SOC1 of the UDP seek to encourage social and community facilities throughout Westminster.

### Proposed use

Details of the use are set out above in section 3.

Objections have been received on grounds that the proposed use is not suited to this area and is not policy compliant. Objectors also comment that there are already too many existing cafes and restaurants in this area.

There are three restaurants on the opposite side of the Moreton Street, nos. 36, 38 and 46.

The primary aim of the community cat café is to act as a local community hub to provide a space for local people to come for food, drink and company and to help people combat isolation experienced by using pets as therapy. The proposed community cat café, whilst open to all members of the public, places an emphasis on catering for the local community in terms of providing a place for people to visit and socialise.

The nature of the proposed use, which provides a café, cats as therapy and proposed educational use to allow visitors to interact with the cats and for other resources provides

a unique use within this part of Moreton Street. The use is considered to be acceptable in the context of policies S10 and S34 of the City Plan, and SS7 and SOC 1 of the UDP and on this basis is considered acceptable in land use terms.

Conditions are recommended to control opening hours, ensure no primary cooking takes place on site, and also that the rear courtyard is not used by members of the public but restricted to staff use. In terms of the alcohol licence this would be subject to a separate application to the licensing team.

#### 4.2 Townscape and Design

No external changes to the elevations are proposed as part of this application.

The applicant has stated their intention to widen the existing entrance door to facilitate accessible access into the premises. No details have been provided and an informative is recommended to advise the applicant that this requires a separate application for planning permission.

#### 4.3 Residential Amenity

The nearest residents are located in flats above as well as in some basements below the commercial units in this part of Moreton Street. To the rear, the site backs onto residential properties on Lupus Street, which are mostly flats with gardens for those on the lower level.

The rear of the site has a small courtyard area measuring approximately 20sqm, which is enclosed by a low level boundary wall. The land to the rear of this part of Moreton Street and Lupus Street is in triangular formation, with both sets of building in this area coming closer together. Objectors cite that the height of the Lupus Street buildings and the proximity to the Moreton Street properties creates a canyon like effect, whereby the even the slightest noise is noticeable.

Many of the objections raised concerned about noise and disturbance from the use of the rear basement courtyard for outdoor seating. The applicant had intended using the rear courtyard area as an outdoor seating area for customers but has now omitted this from the proposal in response to the concerns raised. A condition is recommended to restrict customers from using this area but to allow members of staff to use this area.

Concern has been raised that no site visit has been done to the Lupus Street properties. Considering the current pandemic, it has not been possible to visit the properties affected. However, site photos do show the relationship of the rear courtyard area with the properties to the rear and the condition restricting use of the courtyard to staff only is considered reasonable in the circumstances. Given that the main concerns raised by the Lupus Street properties is the use of the courtyard area in terms of noise and disturbance it is not necessary to visit the inside of the Lupus Street properties in this instance.

Objectors raise concerns that no noise assessment has been provided. A noise assessment report would only be required if new mechanical plant was being installed. The proposal does not include any new plant and a condition is proposed to restrict



primary cooking from taking place.

Those in support of the application have stressed that a cat café would be quiet because of the nature of the use and that Pimlico needs an accessible café/hub where the many isolated residents and others can meet. Further reiterating that many people live in flats in the area and this would be an ideal place for people to come and meet and interact with the cats. In addition, supporters consider that the café will provide opportunities, particularly for children, who may live in a house without enough space for a pet. Supporters also emphasise that cats can provide a form of therapy and the café can provide a safe space for parents and toddlers.

It is considered that with conditions controlling the hours of use as well as the use of the rear courtyard, the proposal is acceptable in amenity terms.

#### **4.4 Highways**

##### Car Parking

The site is within a Controlled Parking Zone, which means anyone driving to the site would be subject to those controls.

##### Trip Generation

The site is well served by public transport, including bus transport links on Belgrave Road and Lupus Street and Pimlico underground station all within walking distance from the site, which also provides connection to Victoria underground and overground stations and Victoria Coach Station and beyond. It is accepted that most trips associated with the site (excluding servicing activity) will be via public transport or other sustainable modes (e.g. walking, cycling).

##### Servicing

The change of use is unlikely to materially alter the servicing generated when compared to an A2 unit (existing use). Given the sites location it is felt that any change in servicing can be accommodated within the existing on-street restrictions without significant impact on the operation of the highway network.

An objection has been raised that no parking assessment plan has been provided as the surrounding area is already congested. Given the scale of the proposal a transport assessment is not required. In support of the proposal comment has been made stating that there would not be traffic issues as the site has public transport links nearby.

The Highways Planning Manager has no objection subject to a condition requiring that no delivery service operates from the site as would reduce the availability of parking for other uses.

#### **4.5 Economic Considerations**

It is intended that the use would create employment for five members of staff (two full-time and three part-time).

#### **4.6 Access**

There is existing level access into the building.

#### **4.7 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 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 on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

#### **4.8 Neighbourhood Plans**

There are currently no neighbourhood plans applicable to the assessment of this application.

#### **4.9 London Plan**

This application raises no strategic issues.

#### **4.10 National Policy/Guidance Considerations**

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

#### **4.11 Planning Obligations**

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

#### **4.12 Environmental Impact Assessment**

Environmental Impact Assessment not required.

#### **4.13 Other Issues**

##### Cat Welfare

The supporting information places an emphasis on the benefits provided by animal assisted therapy for visitors but also for people who may experience isolation or find it difficult to socialise with others. The community cat café provides an opportunity for members of the public to engage with animals and learn more about caring for animals and their behaviour. The animals will be accommodated in a special cat room within the premises.

The applicant will primarily be working with animal rescue charity RANA (UK registered charity No. 1166028), a no kill small charity that often rehomes responsibly to elderly or special needs adopters. The applicant has advised that all the cats in the café will be available for adoption to suitable homes; which will be managed by RANA and subject to their usual safeguards and the cats selected for the café will be specifically those that enjoy human company. A condition is recommended to secure details of this arrangement.

It is proposed that the cats will arrive in groups of 7-10 that are already used to each other at the shelters that they come from, in order to minimise stress and would remain in the café for four weeks (unless a cat becomes stressed) in order to provide stability and ensure that RANA has time to undertake the necessary checks for any future adoption.

The applicant has indicated that a proportion of their annual profits would be donated to RANA Rescue to help fund their programme of trapping, neutering and releasing animals.

In October 2018 the Animal Welfare (Licensing Activities Involving Animals) (England) Regulations came into force. Under this Regulation, the applicant is required to obtain a licence to keep or train animals for 'Exhibition'. This licence has not yet been obtained, but the applicant is aware of this and will apply once the planning application has been determined. It is considered appropriate in this instance to have a condition that the use cannot commence until evidence of this licence has been submitted, along with arrangements of a working relationship with a registered animal shelter/charity.

### Consultation

Several objections received from properties in Lupus Street complained about not been formally notified by the council of the proposals. This oversight was corrected on the 23<sup>rd</sup> June 2020 when formal neighbour notification letters were sent to the Lupus Street properties immediately adjoining the rear of the application site.

Comment has also been made that a site notice was not placed in Lupus Street. Site notices are usually placed in front of the application property. However, the absence of a site notice on Lupus Street does not prejudice the consultation process, as the Lupus Street properties would have received individual neighbour notification letters.

### Covid 19

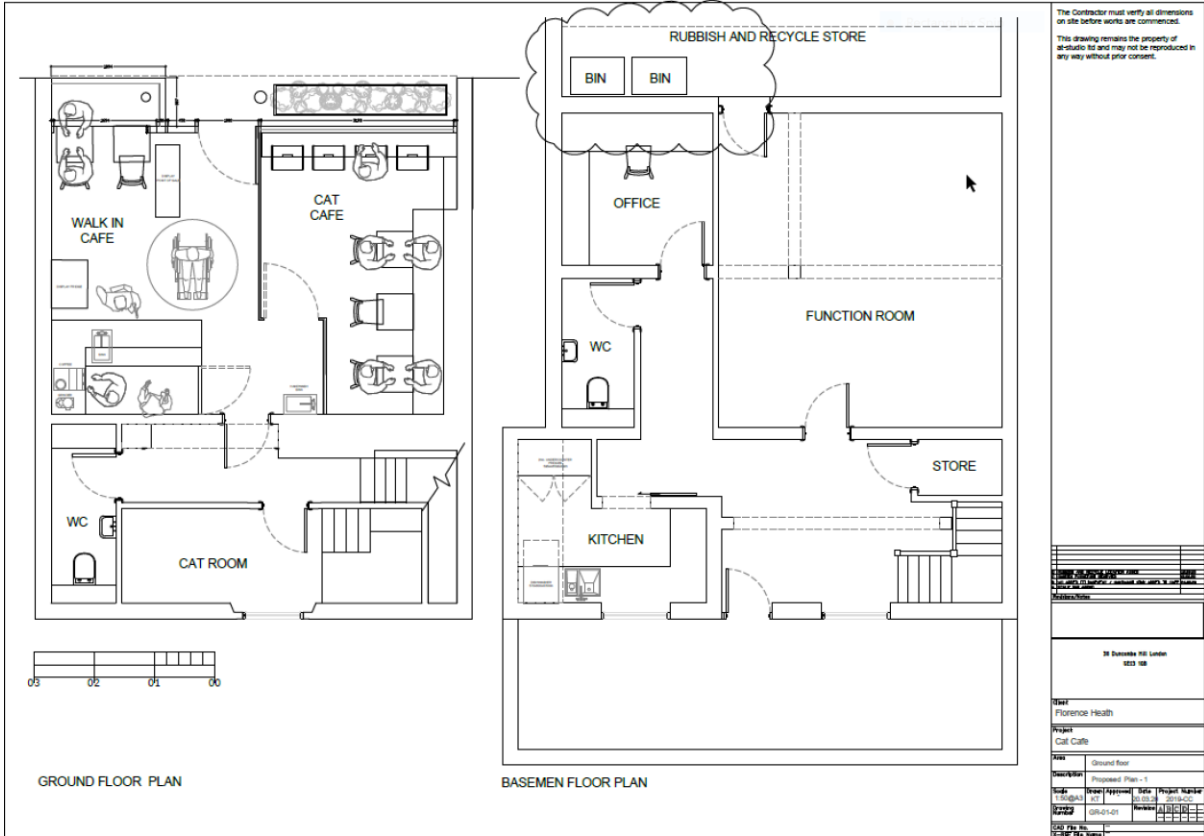
An objector raises concerns that animals, particularly cats could act as carriers of the Covid 19 virus. The cases that have arisen appear to have been animals being infected by humans, as opposed to the other way around. Whilst this remains a sensitive and concerning issue the advice from the British Veterinary Association website is "There is currently no definitive evidence that pets can pass Covid-19 to their owners. According to the OIE (The World Organisation for Animal Health) the current spread of Covid-19 is a result of human-to-human transmission, and, to date, there is no reason to conclude that companion animals can spread the disease. The OIE states that there is a possibility for some animals to become infected through close contact with infected

humans. The advice from the British Veterinary Association website to pet owners who have Covid-19 or who are self-isolating with symptoms “is to restrict contact with their pets as a precautionary measure and to practise good hygiene, including regular hand washing”. It is noted that this advice is not definitive and may change given the evolving situation. The application is assessed on its merits and it is considered that with the involvement of the pet charity it is expected that the applicant would adopt the most appropriate precautionary measures to comply with current guidelines.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT [DDORWARD@WESTMINSTER.GOV.UK](mailto:DDORWARD@WESTMINSTER.GOV.UK)





**Proposed ground and basement floor plans**

**DRAFT DECISION LETTER**

**Address:** 55 Moreton Street, London, SW1V 2NY

**Proposal:** Use of basement and ground floors as a Community Cat Cafe (sui generis use).

**Reference:** 20/02850/FULL

**Plan Nos:** Site location plan, PL-01-02 Rev. A, GR-01-01 Rev. D, Letting information prepared by Andrew Reeves Commercial Property and Flood risk assessment: 55 Moreton Street.

**Case Officer:** Zulekha Hosenally

**Direct Tel. No.** 020 7641  
07866037615

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

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

Reason:

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

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

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

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

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

Reason:

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

- 3 The use hereby approved shall not commence (i.e. open to the public) until you have applied to the council as local planning authority for written approval of the following:
- a) evidence that the proposed use will be carried out with the support of a registered animal shelter or charity, and
  - b). a copy of the licence obtained in accordance with the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

You must only carry out the development according to the approved arrangements.

Reason:

To make sure that the development is completed and used as agreed, and because of the special circumstances of the case.

- 4 You must not allow customers to use the rear basement garden area as external amenity space for sitting out or for any other purpose unless we have given you our written approval beforehand. You can however use the rear garden area for staff members of the cat community cafe and in case of emergencies and for maintenance purposes only.

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)

- 5 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises. The reheating of food, the cooking equipment used and hot food products served shall be limited only to those described in the 'La Maison du Chat - a Cat Cafe with a difference: Planning Statement.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet SS7 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 Customers shall only be permitted within the basement and ground floor premises between 0700 to 1900 Monday to Friday and from 0800 to 1900 hours Saturday and Sunday.,

Reason:

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

- 7 You must provide the waste store shown on drawing GR-01-01 Rev. D before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the Cat community cafe (sui generis). 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 and materials for recycling as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 8 You must not operate a food or drink delivery service from the premises.

Reason:

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

### **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 As required by Building regulations part H paragraph 2.36, Thames Water requests that the Applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the, provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwriskmanagement@thameswater.co.uk](mailto:wwriskmanagement@thameswater.co.uk). Application forms should be completed on line via, [www.thameswater.co.uk](http://www.thameswater.co.uk). Please refer to the Wholesale; Business customers; Groundwater discharges section., , As per Building regulations part H paragraph 2.21, drainage serving kitchens in commercial hot food premises should be fitted with a grease separator complying with BS EN 1825-:2004 and designed in accordance with BS EN 1825 -2:2002 or other effective means of grease removal. Thames Water 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. Please refer to our website, for further information:  
[www.thameswater.co.uk/advice](http://www.thameswater.co.uk/advice)

- 3 You must register your food business with the Council, please use the following link:  
[www.westminster.gov.uk/registration-food-business](http://www.westminster.gov.uk/registration-food-business). Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at [ehconsultationteam@westminster.gov.uk](mailto:ehconsultationteam@westminster.gov.uk) for advice on meeting our standards on ventilation and other equipment. Under environmental health legislation we may ask you to carry out other work if your business causes noise, smells or other types of nuisance.
- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 5 This decision does not permit any external alterations to the premises. You will need to make a separate application for planning permission should you wish to alter the existing entrance door/ shopfront or carry out any other external alterations.

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

# Agenda Item 3

Item No.
<b>3</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 1 September 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Knightsbridge And Belgravia	
<b>Subject of Report</b>	4 Halkin Mews, London, SW1X 8JZ		
<b>Proposal</b>	Demolition of existing two storey dwelling and erection of new dwelling over ground, first and second floors (Class C3)		
<b>Agent</b>	Annette Peters Design Limited		
<b>On behalf of</b>	Mr Giorgio Simioni, Lantern Capital Ltd		
<b>Registered Number</b>	19/06002/FULL	<b>Date amended/ completed</b>	31 July 2019
<b>Date Application Received</b>	31 July 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Belgravia		

## 1. RECOMMENDATION

Grant conditional permission
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## 2. SUMMARY

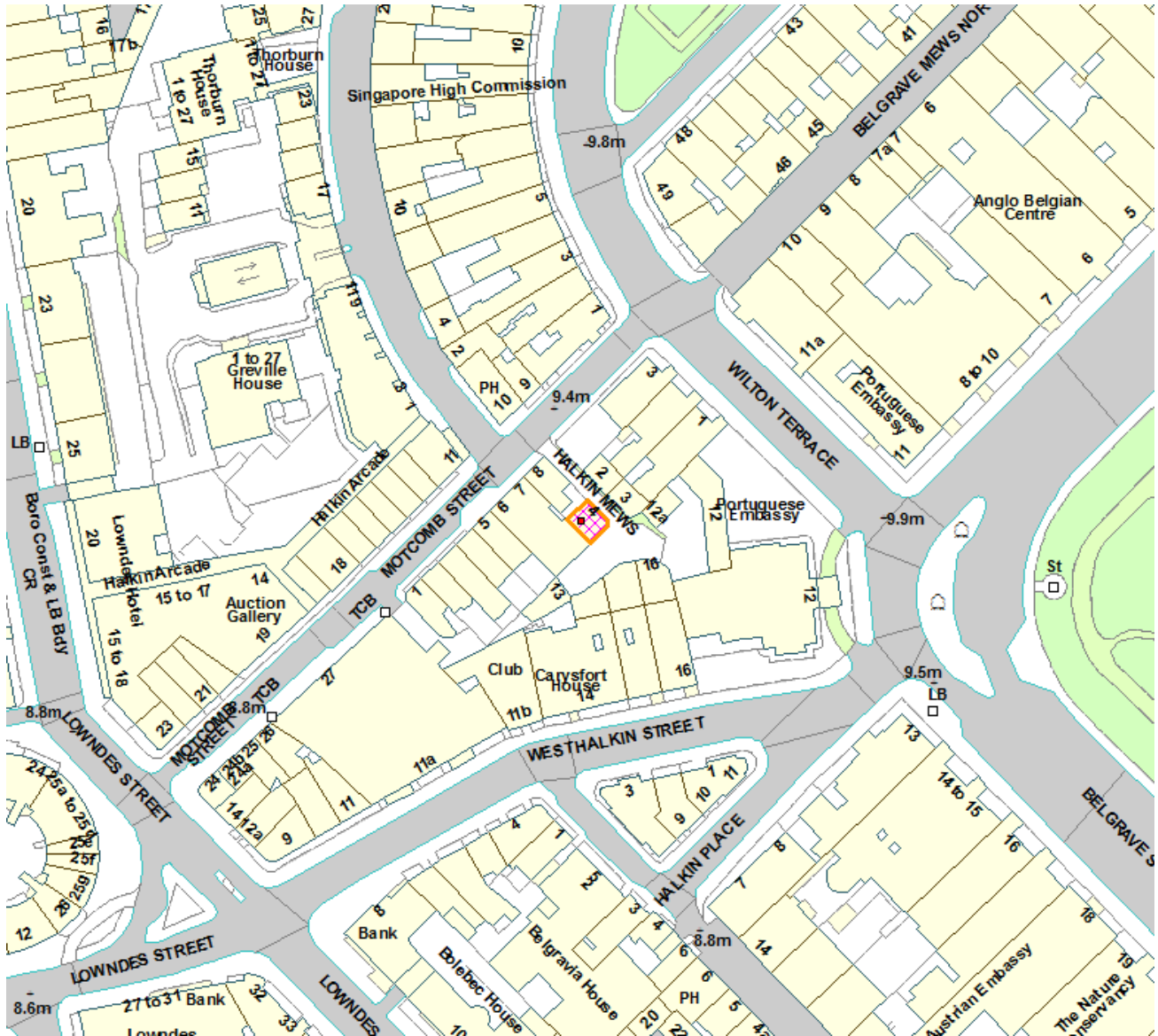
<p>4 Halkin Mews is an unlisted building which lies within the Belgravia Conservation Area. It comprises of a two storey dwelling located on the corner of Halkin Mews accessed from a passageway off Motcomb Street.</p> <p>Planning permission is sought for the demolition of the existing two storey dwelling and the erection of a new dwelling over ground, first and second floors (Class C3).</p> <p>The key issues are:</p> <ul style="list-style-type: none"> <li>* The impact upon the setting of the adjoining listed buildings and the character and appearance of the Belgravia Conservation Area; and</li> <li>* The impact upon the amenity of neighbouring residents.</li> </ul> <p>Objections have been received concerned about the impact on the amenity of neighbours in terms of loss of light and privacy. Objectors also raise concerns about the design of the replacement building as well as construction management issues.</p> <p>The principle of the replacement dwellinghouse is considered acceptable, in land use and design terms taking into account the mixed context of the design, size, scale and heights of other dwellings</p>
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Item No.
<b>3</b>

in the locality. The proposal would not cause harm to the character and appearance of the Belgravia Conservation Area subject to appropriate conditions. Furthermore, it is not considered that the proposal would adversely affect the amenity of neighbouring residential properties by reason of loss of light or privacy, or increased sense of enclosure.

As such, the application is considered to comply with the relevant UDP and City plan policies and is recommended for approval subject to the conditions set out in the draft decision letter.

**3. LOCATION PLAN**



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**4. PHOTOGRAPHS**



**4 Halkin Mews**

## 5. CONSULTATIONS

### BELGRAVIA RESIDENTS ASSOCIATION:

Any response to be reported verbally

### THE BELGRAVIA SOCIETY:

Any response to be reported verbally

### BELGRAVIA NEIGHBOURHOOD FORUM:

Any response to be reported verbally

### HIGHWAYS PLANNING MANAGER:

Concerned about the loss of off street parking. The mews belongs to Grosvenor and the proposal to park a car outside the property does not replace a lost garage.

No cycle spaces have been provided, but could be secure by condition.

### ENVIRONMENTAL HEALTH:

No objection subject to a condition and informatives.

### WASTE PROJECT OFFICER:

No objection subject to details of waste being secured by condition.

### BUILDING CONTROL:

No objections to the construction management statement.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

#### FIRST CONSULTATION: 1 AUGUST 2019

No. Consulted: 36

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Three letters of objection on some or all of the following grounds:

#### Design issues

- New building looks out of character with the addition of a mansard roof;
- Large beam going across the new faux garage doors and the front door is out of keeping with the other houses in the area;
- Bricks are unsympathetic and not traditional London Stock brick used on other properties in the locality.

#### Amenity issues

- Loss of privacy/ new windows will overlook adjacent properties;

- Additional height would result in loss of light to adjacent properties.

#### Other issues

- Noise, vibration and disturbance from construction works;
- The Mews is very tight with only one access/egress into it which is the width of a single car;
- This is the only access to the Mews and Portuguese Embassy and works would result in a loss of vehicular access to the Mews and Embassy for considerable time;
- The Design and Access Statement is incorrect and misleading as the site does not have an allocated parking space outside on the mews;
- A new side entrance to the rear of the site has recently been constructed using cheap materials and without the necessary permission.

#### SECOND CONSULTATION: 27 FEBRUARY 2020

A second consultation was carried out with adjoining owners/ occupiers on the following amendments:

- Amended drawings, that included changes to the parapet height; design of front garage door, and changes to windows;
- Updated Daylight and Sunlight Report amended to reflect the design changes;
- A Construction Management Plan submitted in response to neighbour's concerns.

No. Consulted: 36

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

4 Halkin Mews is an unlisted building within the Belgravia Conservation Area. It comprises of a two storey mews dwelling located on a corner of Halkin Mews adjacent to the mews entrance from Motcomb Street.

Halkin Mews is a cul-de-sac with a single vehicular entrance leading from Motcomb Street. 4 Halkin Mews is situated on a downward slope. To the rear, it abuts the taller Grade II listed buildings at 6 - 8 Motcomb Street which are in commercial use at basement and ground levels with residential accommodation above. Next door to the west, the adjoining property is a vacant two-storey commercial unit.

2 and 3 Halkin Mews directly face the side/ north east elevation on the opposite side of the mews entrance. 15 and 16 Halkin Mews face the front/ south east elevation on the opposite side of the mews. The Portuguese Embassy is also located next door to 16



Halkin Mews in the south east corner.

The character of the Mews is such that, the buildings have various heights, some two storey and also many three storey buildings or higher. 4 Halkin Mews is not of any particular value in terms of its design and architectural style and does not contribute significantly to the attractive and unique character of the Mews.

## **6.2 Recent Relevant History**

The application site has no relevant planning history.

8 Motcomb Street

Permission granted on 26 October 2018 for the 'Formation of door opening through wall onto Halkin Mews' (18/06926/FULL)

The door approved at 8 Motcomb Street is referenced by an objector as being unsightly and installed without permission. This matter will be investigated to determine whether the works have been carried out in accordance with the approved plans.

## **7. THE PROPOSAL**

Planning permission is sought for the demolition of the existing two storey dwelling and the erection of a new dwelling over ground, first and second floors (Class C3).

The proposed new dwelling would be a three-storey brick construction set over ground, first and second floors with a sedum green flat roof.

The proposed dwelling would provide three bedrooms compared to the existing which has two. The existing dwelling is 6.9m tall whereas the proposed would be 8.4m high (an increase of 1.5m). The existing dwelling does not have an off-street parking space as this has already been converted into habitable accommodation. A faux garage door is proposed on the south-east elevation.

The proposed design of the dwellinghouse has been amended during the course of the application. Amendments were made to drawings, that included changes to the parapet height; design of front garage door, changes to windows; and the installation of a sedum green roof. The revised design of the dwelling appears more traditional and is in keeping with the neighbouring dwellinghouses in the Mews. It would now incorporate a parapet and a curved corner and would be similar in height to the parallel corner building. The design of the new dwellinghouse would harmonise with the neighbouring buildings and would maintain the balance of the Mews.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Residential use**

The proposed alteration and enlargement of this single family dwelling house is

acceptable in principle. The proposed new dwelling is considered to provide an acceptable standard of living in terms of its size and layout.

## **8.2 Townscape and Design**

Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

A key issue is the design of the proposed replacement dwelling and its impact on adjoining townscape including the impact on the character and appearance of the Belgravia Conservation Area and the setting of nearby Grade II listed buildings. The existing building does not contribute positively to the character and appearance of the Conservation Area and the principle of its demolition is therefore considered acceptable. However, it is a sensitive site within an attractive mews and immediately adjacent to Grade II listed buildings at 6 - 8 Motcomb Street and therefore affecting their settings, as well as the character and appearance of the Conservation Area. Any replacement building therefore needs to be of high quality in terms of design detail of materials and sensitive to its context.

A sheer three-storey building of brick construction with timber fenestration is proposed, reflective of the palette of materials of this part of the conservation area and incorporates a curved corner of a similar composition to the existing building. At ground floor level, timber garage doors are proposed to the south elevation. A partially pitched roof is concealed behind the brick facade.

The application has been subject to extensive design negotiations. The proportions of the original submission were considered poor, with the sizes of window openings inconsistent across the facades and a disproportionately tall garage door opening.

Following negotiations, the height of the garage door opening has been reduced and the sizes of the upper window openings have been amended to reflect traditional proportions. A parapet has also been introduced to the roof following advice from officers and soldier courses have been introduced in place of concrete lintels originally proposed. A sedum roof is also now proposed. Overall, the design, materials and proportions of the revised scheme will relate sensitively to the character and appearance of this part of the Conservation Area and are considered acceptable in design terms.

An objection on design grounds considers it harmful to replace the existing building with a new three storey building. However, as set out above, the existing building is not considered to make a positive contribution to the character and appearance of the Conservation Area and its demolition is considered acceptable in principle providing the new building is of high quality in terms of its materials and design. Further, this mews is characterised by many buildings which are three storeys in height or higher. The amended design shown in the current submission would not be uncharacteristic of the building heights which typify this mews, which consists of many buildings three sheer storeys in height. The three-storey building will remain subordinate to the taller listed townhouses to the north and will not be unacceptably dominant when viewed in conjunction with the adjacent listed buildings at 6 - 7 Motcomb Street. The proposed three storey building in this location would therefore not cause harm to the setting of these nearby listed buildings. The new building will relate well to the attractive building opposite at 3 Halkin Mews, echoing its curved corner treatment and not exceeding its height. It is therefore considered that this design objection to a three-storey building in this location cannot be supported and the proposal is considered acceptable in principle in design terms.

A further objection has been received on design grounds which refers to the appearance of the lintel originally proposed above the garage doors and front entrance door. It also considers that modern bricks are to be used which are not sympathetic to the appearance of other nearby properties. Following negotiations with the applicant, revised drawings have been submitted which show brick soldier courses above the ground floor openings in place of the concrete lintel originally proposed. With regards to the type and colour of brickwork, the imposition of a condition requiring samples of brickwork to be submitted for inspection is recommended to ensure that the materials relate sensitively to the grain of this part of the Conservation Area. Consequently, subject to the imposition of conditions, it is considered that this objection has been addressed.

In order to protect the long-term appearance of this new building and to ensure it makes a better contribution to the character and appearance of the Conservation Area than the existing building, the imposition of a condition is recommended to remove permitted development rights for the new building.

As such, the revised proposals are considered compliant with DES 4 and DES 9 of the UDP and will preserve (or enhance) the character and appearance of this part of the Conservation Area and would not harm the setting of nearby listed buildings, in compliance with DES 10 and would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application is therefore recommended for conditional approval in design terms.

### 8.3 Residential Amenity

Policy ENV13 of the UDP states that the Council will resist proposals that would result in a material loss of daylight/sunlight, particularly to dwellings, and that developments should not result in a significant increased sense of enclosure, overlooking or cause unacceptable overshadowing. Similarly, Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development. Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, 'Site layout planning for daylight and sunlight: a guide to good practice' (the BRE Guide).

Objections have been received from 3 and 16 Halkin Mews on grounds that the increase in height and additional windows would have an adverse impact on their amenity in terms of loss of light and privacy.

#### *Daylight and Sunlight*

The applicant has submitted a Daylight and Sunlight Report by Avison Young which assesses the impact on the proposed development on daylight and sunlight levels at the following residential properties:

- 2 Halkin Mews;
- 3 Halkin Mews;
- 15 Halkin Mews; and
- 8 Motcomb Street.

#### Daylight

The adequacy of daylight received by existing neighbouring dwellings is measured using two methods of measurement. The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

Where the layout of affected room is known, the daylight distribution test can plot the 'no sky line' (NSL) which is a point on a working plane in a room between where the sky can and cannot be seen. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

#### Sunlight

With regard to sunlight, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

### Assessment

The majority of the windows and rooms tested comply with BRE guidelines in terms of both daylight and sunlight.

In respect of daylight, in the case of three of the four properties tested there are no material breaches in excess of BRE guidelines. All the windows and rooms to 8 Motcomb Street and 15 Halkin Mews would meet the guidelines.

The two exceptions are a first floor room in each of 2 and 3 Halkin Mews. The two affected rooms would experience transgressions beyond the BRE guidelines, very marginally beyond a 20% reduction, with 20.93% and 20.88% reductions in 'no sky line' (NSL). Given that this is very marginal it is unlikely that any noticeable reduction in daylight would occur to these properties.

If a window achieves 27% or more VSC, the BRE guidelines state that the window will have the potential to provide good levels of daylight. These two rooms would retain VSC levels close to and above 20%, with retained levels of 19.40% and 20.13%, which is considered good for central London.

In respect of sunlight, three of four windows to the rear of 8 Motcomb Street meet the BRE guidelines. A ground floor window serving a kitchen would see a reduction in the amount of APSH of 30.77%. However, the change of the absolute value is only 4% and is unlikely to be noticeable. This window also serves a commercial unit. All residential windows tested for sunlight at 2 and 3 Halkin Mews would fully comply with the BRE guidelines. Only windows that face within 90 degrees of due south have been considered, as they have a reasonable expectation of sunlight. As such none of the window at 15 Halkin Mews are relevant for the APSH test.

The applicant has confirmed that 16 Halkin Mews was not assessed because it is further away than 15 Halkin Mews. 15 Halkin Mews is directly opposite the application site where as 16 Halkin Mews is slightly orientated at an angle towards the site . The Sunlight and Daylight consultant explains that due to 16 Halkin Mews being orientated at an angle and further away than 15 Halkin Mews, the main habitable room windows would continue to receive good levels of sunlight and daylight and, this would not be changed by the construction of the proposed dwelling.

Although the development would not be fully compliant with BRE guidelines with regards to losses to daylight the impact is limited to first floor rooms at two properties. It is considered that the losses referred too would not materially adversely impact on the amenity of these dwellings. This aspect of the application is therefore considered to be acceptable.

### *Sense of Enclosure*

The proposed increase in height of the building (1.5m) would impact on some windows within the front elevation of 2 and 3 Halkin Mews in terms of increased sense of enclosure. The nearest habitable windows are within 3 Halkin Mews on the ground floor that serve a sitting room and on the first floor to a bedroom. These windows are set back on the opposite side of the mews entrance by approximately 3.7m. The two ground

floor windows have security railings obscuring them. Given the distance between the properties and taking into account that these properties already experience a similar impact from the existing two storey dwelling, it is not considered that the impact from the enlarged dwelling would be so severe to justify a refusal in terms of increased sense of enclosure.

*Privacy*

Objectors have raised concerns that the windows in the additional storey/ new second floor would result in direct overlooking of neighbouring windows, particularly 3 Halkin Mews. The additional windows would be the same separation distance as those that presently exist at ground and first floor levels. There is a degree of mutual overlooking that already exists between the ground and first floor windows of the application site and 3 Halkin Mews. It is not considered that the installation of additional windows facing 3 Halkin Mews would cause sufficient harm to justify refusal.

The additional first floor and second floor rear windows in the rear/ north west elevation facing 8 Motcomb Street would overlook the first and second floor residential windows on the upper floors of this property. There is a separation distance of approximately 4.7m between these properties. There are no existing high levels windows in the application site except for a first floor obscure window serving a bathroom. A condition is recommended for the proposed windows to be obscure glazed with top vent openings. Although not ideal for a bedroom to have obscure glazed windows, suitable light and ventilation would still be achieved to a good standard.

The separation distance between the site and the dwellings on the opposite side of the mew, 15 and 16 Halkin Mews, is approximately 8m. The additional second floor windows in the front elevation are considered to be set back a sufficient distance from the properties opposite and as such would not result in an unacceptable level of overlooking. In addition, 16 Halkin Mews is sited at an oblique angle and does not directly face the application site.

**8.4 Transportation/Parking**

The Highways Planning Manager raised concerns that the proposed replacement dwelling would result in the loss of an off street parking space. Whilst the existing property appears to have a garage door, this a faux garage door with a dining room behind. There are no planning conditions controlling the use of the garage and the conversion into habitable accommodation would have been permitted development. As such, the replacement dwelling would not result in the loss of an off street space given that one does not presently exist. The applicant confirms that there is capacity for a car to be parked in the mews outside the property. This arrangement would have to be agreed with the landowner Grosvenor.

The applicant has confirmed that cycle storage would be available within the patio area which is accessed via the side door. This cycle storage provision is welcomed.

**8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

**8.6 Access**

The proposal would not alter the access arrangements.

**8.7 Other UDP/Westminster Policy Considerations**

*Refuse /Recycling*

The waste and recycling storage would be the same as the existing dwellinghouse and it is not necessary to secure the details by condition under this application.

**8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 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 on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, 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 London Plan**

This application raises no strategic issues.

**8.10 National Policy/Guidance Considerations**

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

**8.11 Planning Obligations**

The development is exempt from a CIL payment.

**8.12 Other Issues**

*Biodiversity*

A sedum roof is proposed at main roof level. This green measure is welcomed and will reduce the effect the development has on the biodiversity of the environment.

*Construction impact*

Objections on the grounds of noise and disturbance from construction works do not in themselves form a sustainable reason to refuse permission. The Council's standard hours of building works condition is recommended to ensure that the development is carried out within the permitted guidelines and to help mitigate noise, vibration and disruption to neighbouring buildings within the Mews.

Item No.
<b>3</b>

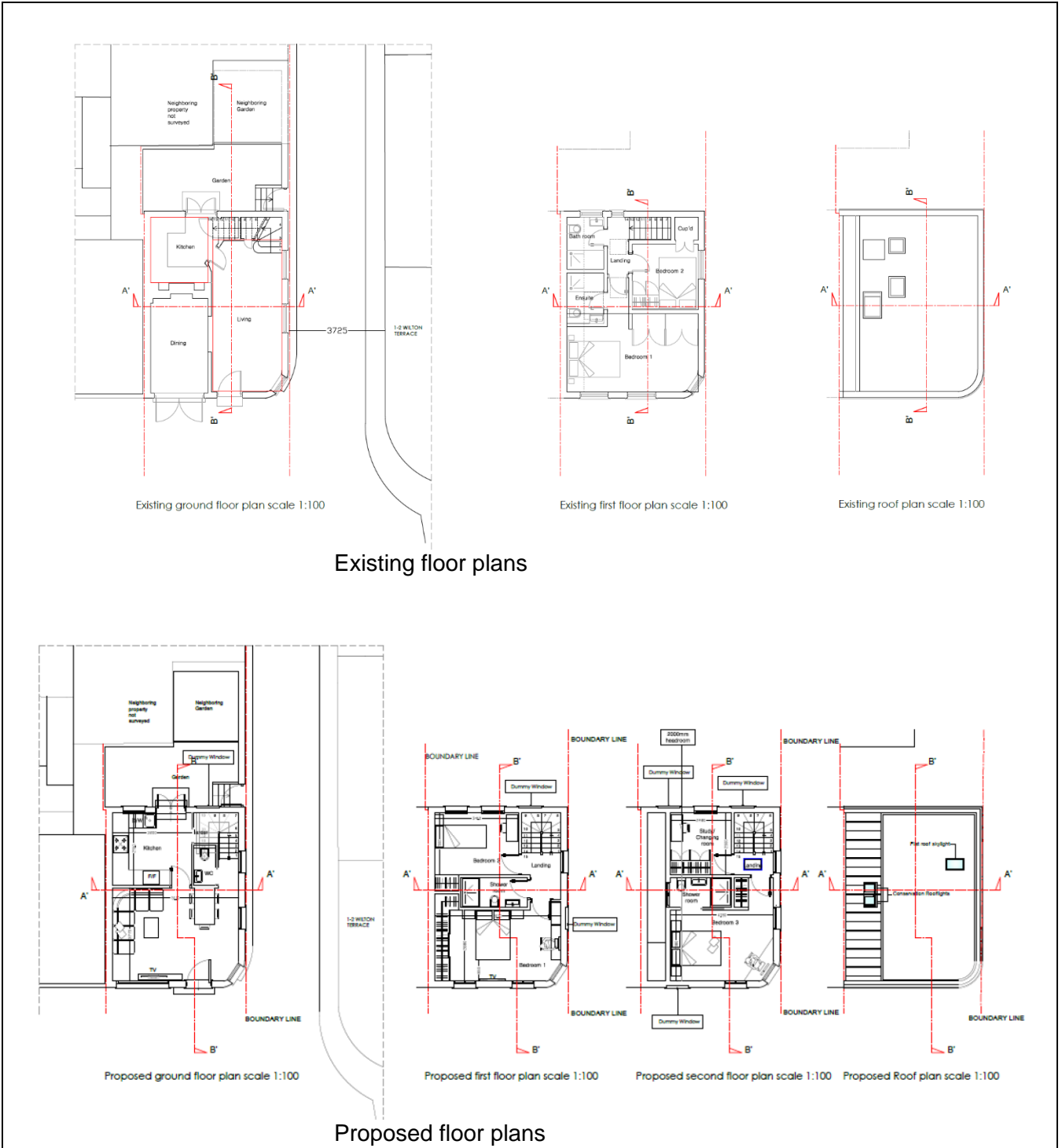
The applicant provided a Construction Management Statement during the course of the application to address the concerns of the residents in Halkin Mews. It advises that an appointed contractor would be registered to the considerate constructor's scheme and would comply with the requirements of the scheme to minimise the impact on the local environment and amenities of the neighbouring properties in Halkin Mews. The Construction Management Statement also provides details of the construction working hours, mitigation measures to eliminate dust, scaffolding, parking of construction vehicles and how demolition will take place. A highway licence is normally required before any construction equipment such as scaffolding, or skips can be placed on the road or pavement in any case. Therefore, the Construction Management Statement would be sufficient at this stage to satisfy the steps that would be taken to ensure that the demolition and reconstruction process would not result in a loss of vehicular access to the Mews and the Portuguese Embassy located at the southern end of Halkin Mews.

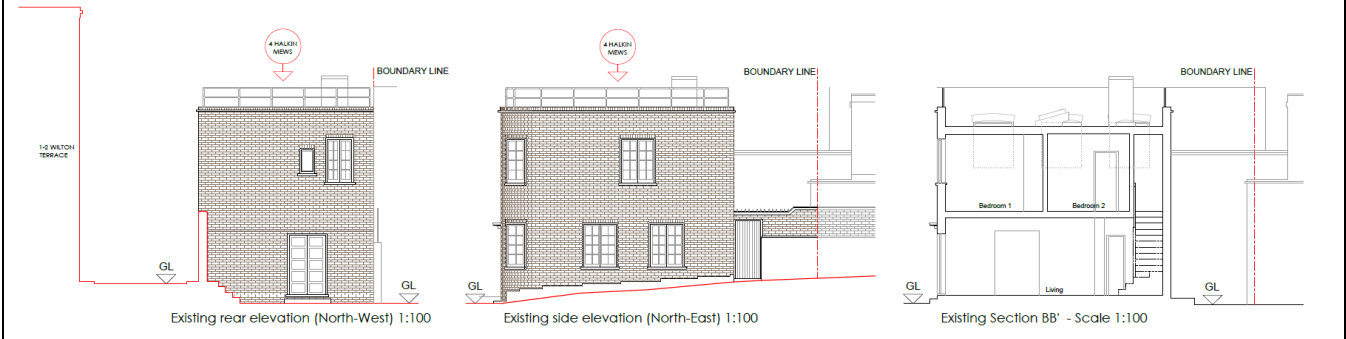
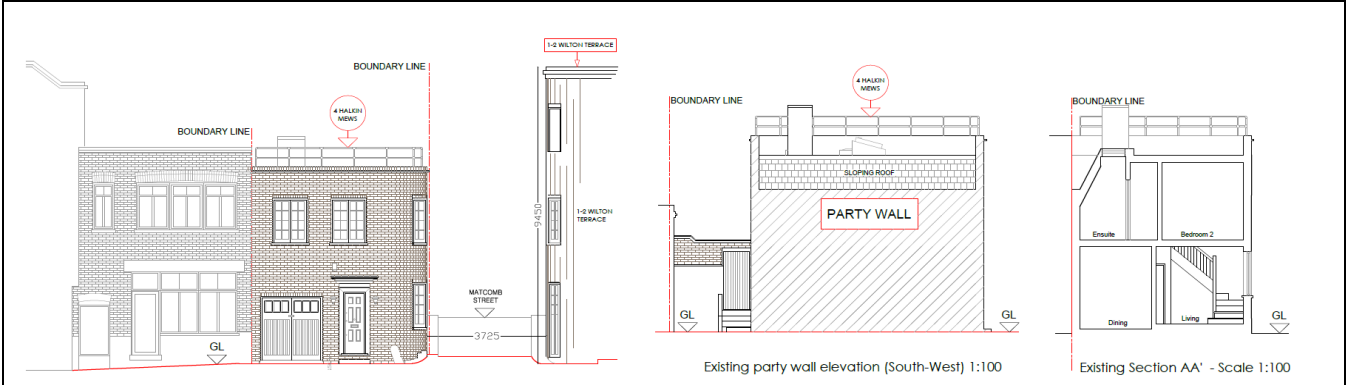
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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





Existing Elevations

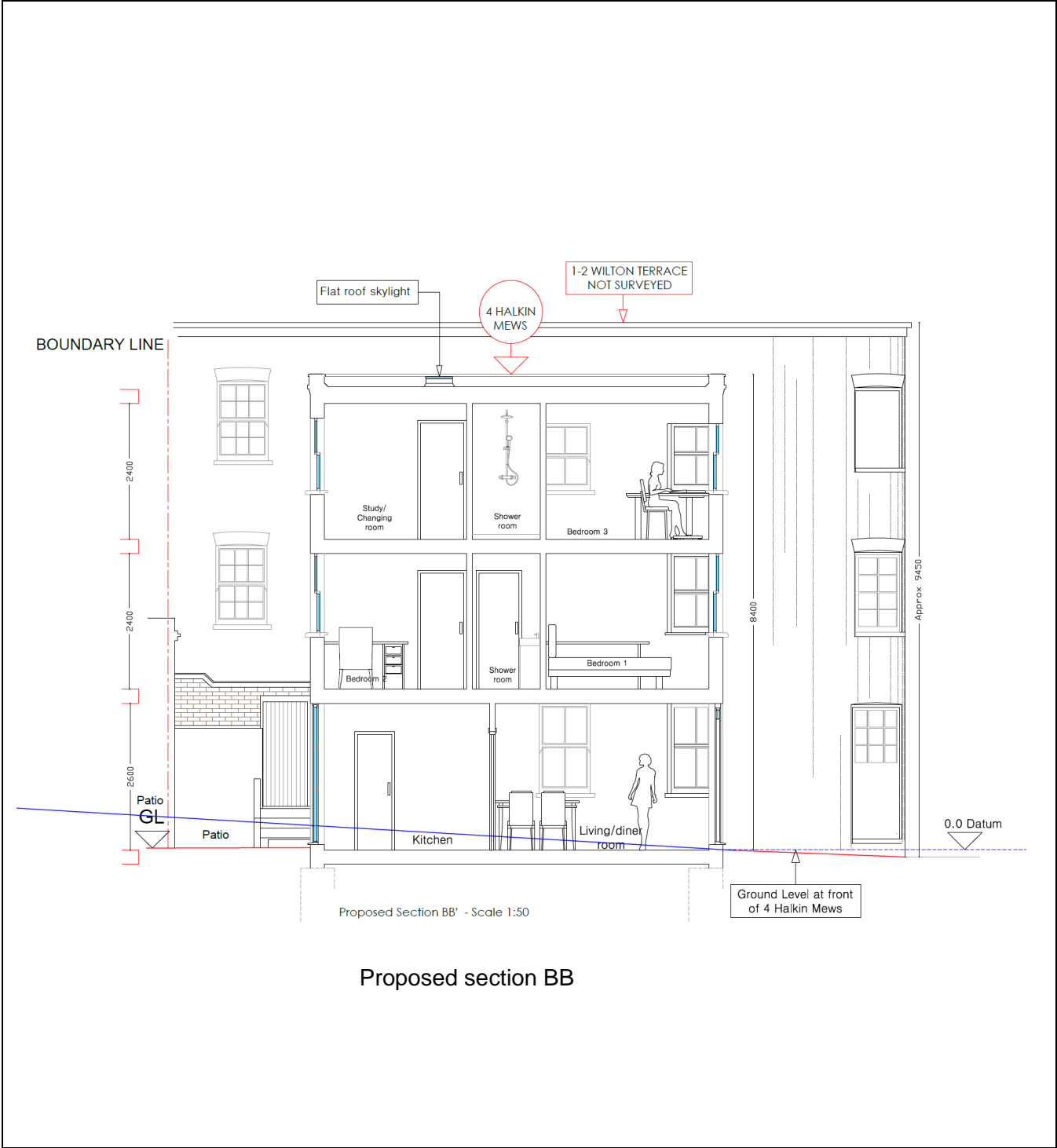


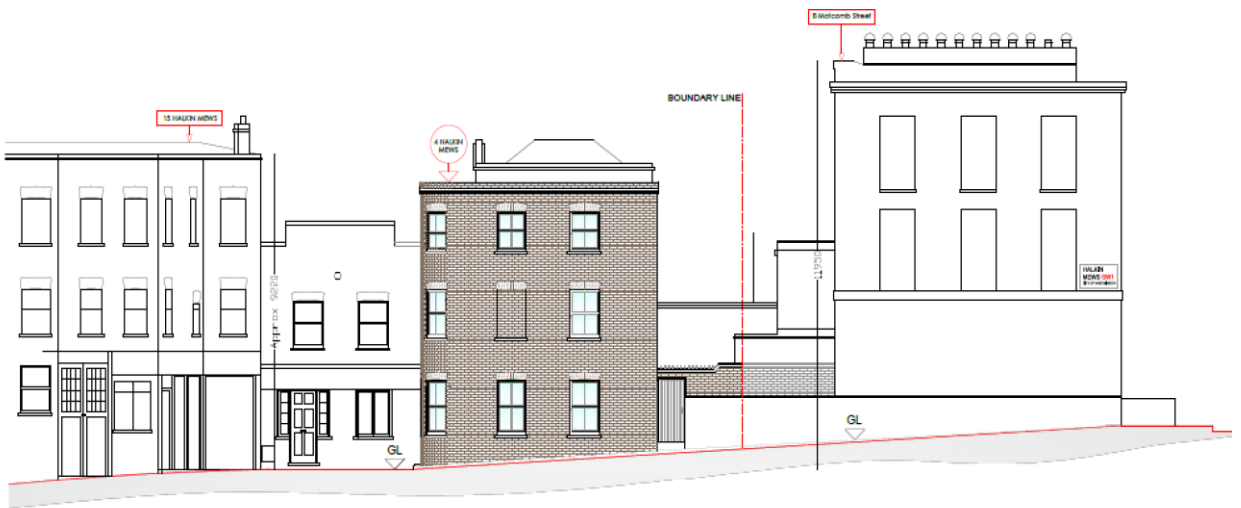
Proposed Elevations



Proposed street view - front elevation (South-East) 1:100

Proposed street view





Proposed street view - side elevation (North-East) 1:100

Proposed street scene – side elevation

**DRAFT DECISION LETTER**

**Address:** 4 Halkin Mews, London, SW1X 8JZ

**Proposal:** Demolition of existing two storey dwelling and erection of new dwelling over ground, first and second floors (Class C3)

**Reference:** 19/06002/FULL

**Plan Nos:** GP007 X01, X02, X03, X04, X005, P01B, P02B, P03B, P04A, P05A and P07A  
daylight and sunlight report updated on May 2020 and construction management plan dated 27/01/20.  
Design and Access Statement updated on 29/01/20 for information

**Case Officer:** Nosheen Javed

**Direct Tel. No.** 07866037836

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

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

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

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

Reason:

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

- 6 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

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

- 7 You must apply to us for approval of detailed drawings of the following parts of the development; 1. External windows, rooflight and doors (1:5 and 1:20), 2. Garage doors (1:5 and 1:20), 3. Brick arches (1:5), 4. Cornice and parapet (1:5) You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

Reason:

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

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

Reason:

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

- 9 The new windows hereby approved shall be white painted timber and maintained that colour.

Reason:

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

- 10 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Classes A, B or C of Part 1 or Class C of Part 2 of Schedule 2 of the Order shall be carried out on the application site without the prior written permission of the Local Planning Authority on an application made for that purpose.

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 Belgravia Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan



that we adopted in January 2007. (R26BE)

- 11 The glass that you put in the first and second floor windows in the north-west elevation of the dwelling must not be clear glass and must be fixed shut with only the top vent opening.

Reason:

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

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

Reason:

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

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

- Sedum roof

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

Reason:

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

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 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 at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)
  
- 3 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, [sitenquiries@ccscheme.org.uk](mailto:sitenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

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

Item No.
<b>3</b>

**BACKGROUND PAPERS - 4 Halkin Mews, London, SW1X 8JZ 19/06002/FULL**

1. Application form
2. Memo from Environmental Health dated 22 November 2019
3. Memo from Waste Project Officer dated 7 August 2019
4. Memo from Highways Planning Manager dated 16 September 2019
5. Letter from occupier of 8 Motcomb street, London, dated 13 August 2019
6. Letter from occupier of 16 Halkin Mews, London, dated 13 August 2019
7. Letter from occupier of 3 Halkin Mews, London, dated 4 September 2019

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 1 September 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>35-38 Dorset Square, London, NW1 6QN</b>		
<b>Proposal</b>	Erection of a single storey rear extension at lower ground floor level to create a self-contained residential unit (Class C3) and associated works.		
<b>Agent</b>	Higgs		
<b>On behalf of</b>	The Freeholders Notcutt House		
<b>Registered Number</b>	20/03043/FULL and 20/03044/LBC	<b>Date amended/ completed</b>	13 May 2020
<b>Date Application Received</b>	13 May 2020		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Dorset Square		

## 1. RECOMMENDATION

- |   |
|---|
| <ol style="list-style-type: none"> <li>1. Grant conditional planning permission;</li> <li>2. Grant conditional listed building consent;</li> <li>3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.</li> </ol> |
|---|

## 2. SUMMARY

<p>This application site contains four, basement plus four storey former townhouses that have been subdivided into laterally converted flats. The former townhouses are Grade II listed and located within the Dorset Square Conservation Area.</p>
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<p>The applicant proposes erection of a single storey rear extension at lower ground floor level to create a self-contained residential unit (Class C3) and associated works.</p>
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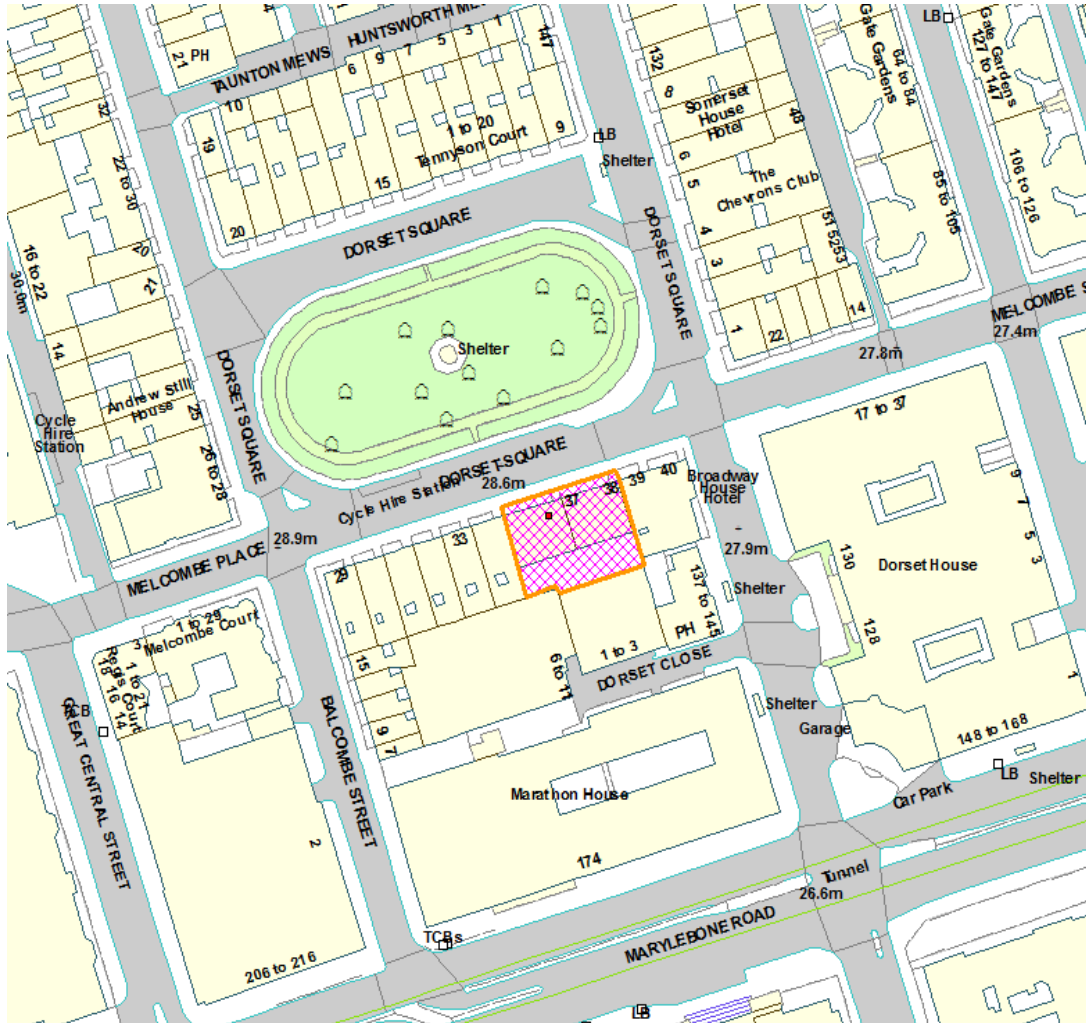
<p>Several objections to the proposed development have been received. The objectors are primarily concerned with the impact of the proposed extension/flat on the amenity of existing flats on and off-site and the character and appearance of the conservation area and this listed building. Several civil and other non-material planning considerations have also been raised.</p>
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The key considerations are;

- The standard of accommodation proposed;
- Impact of the proposed extension on the special interest of this Grade II listed building and the character and appearance of the Dorset Square Conservation Area; and
- Impact on the residential amenity of residents on the application site and on neighbouring sites.

The proposed development would preserve the special interest of this Grade II listed building and the character and appearance of the Dorset Square Conservation Area and would be consistent with the development plan. It is therefore recommended that permission and consent area granted, subject to the conditions set out in the draft decision letters appended to this report.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front of Application Site



Courtyard at Rear of Site



## 5. CONSULTATIONS

### **First Round of Consultation (Expired 8 June 2020)**

#### WARD COUNCILLORS

No response received.

#### THE ST MARYLEBONE SOCIETY

Where this can reasonably be achieved, given the urgent need for more residential accommodation in Westminster, they support the building of additional housing units.

They have seen several such applications permitted in the local area recently, including applications by WCC in council owned housing blocks.

They note objections from some neighbours to this use of the basement, but it is clear that only about a quarter of the basement is taken for the proposed new flat, and all storage areas remain as existing, as does access.

The building was destroyed in WWII and rebuilt with a replica North facade and was laid out as modern flats without any reference to the historic Georgian plan. The proposal does not change the listed north facade and there are no internal heritage features to preserve.

Defer to WCC on design.

#### WASTE PROJECT OFFICER

Proposed waste storage does not meet current WCC standards. However, this can be addressed by condition should permission be granted.

#### HIGHWAYS PLANNING MANAGER

No objection, subject to conditions requiring provision of cycle and waste storage.

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

No. Consulted: 40

Total No. of replies: 11

No. of objections: 11

No. in support: 0

In summary the objectors raise the following issues:

- The freeholder has treated leaseholder unfairly (e.g. removed dustbin from basement storage);
- The new flat will create more rubbish and result in it being stored on the pavement, causing inconvenience to residents and pedestrians and attracting vermin;
- The proposed flat is out of scale and out of character with the existing development and does not preserve the conservation area;
- Removal of a sash window at the front of the application site and its replacement with a door would disrupt the rhythm and proportions of openings at basement

- level;
- The new flat will create more noise for existing residents on the application site;
  - The new flat will create light pollution for existing residents on the application site;
  - The new flat will result in loss of outlook for existing residents on the application site;
  - Maintenance of the proposed green roof will result in loss of privacy for existing residents on the application site;
  - The proposed flat will have substandard light levels;
  - Existing residents will lose use of common areas at basement level and/or the rear courtyard for storage, drying, exercise and/or cleaning;
  - The proposed flat will cause security issues for the building;
  - The proposed flat is the first of four proposed flats and will result in three further flats being constructed in the basement and rear courtyard;
  - Residents were never consulted or informed of the proposed plans by the applicant;
  - Access to sewers takes place at basement level and these sewers often overflow and flood the basement area;
  - The temporary fence is not necessary as there are not any security issues with the property at 1 Dorset Close;
  - Two affordable flats at 1 Dorset Close are uninhabitable due to the temporary fence blocking light to these flats;
  - The rear wall of the proposed extension would result in loss of light and outlook for flats within 1 Dorset Close;
  - Cigarettes thrown from the first-floor windows at 1 Dorset Close may cause fires on the green roof proposed;
  - The site notice has been removed;
  - The site notice is too high;
  - The pandemic means that residents have not been receiving their post and that less people have been walking past the front of the application site so may not have had an opportunity to comment;
  - The applicant and architect are both members of the St Marylebone Society and the latter is therefore not impartial with respect to this application; and
  - The applicant is only financially motivated and does not actually care about providing residential accommodation.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

**Second Round of Consultation (Expired 30 July 2020)**

THE ST MARYLEBONE SOCIETY

No response received.

WASTE PROJECT OFFICER

Proposed waste storage does not meet current WCC standards. However, this can be addressed by condition should permission be granted.

HIGHWAYS PLANNING MANAGER

No response received.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 40  
Total No. of replies: 0  
No. of objections: 0  
No. in support: 1

In summary, the supporter raises the following issues:

- The basement has been used as a dumping ground and is under-utilised;
- The proposed development provides much-needed housing;
- The plans respect the access to the basement, storage cages, coal bunkers and bin storage areas and these remain unchanged; and

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application site contains four, basement plus four storey former townhouses that have been subdivided into laterally converted flats. The basement beneath these properties are used as ancillary storage areas/ laundry facilities. The former townhouses are Grade II listed and located within the Dorset Square Conservation Area. It should be noted that the rear of these properties have been rebuilt in the past and that the original fabric of the building is mainly retained to the front elevation.

### 6.2 Recent Relevant History

None

## 7. THE PROPOSAL

The applicant seeks planning permission and listed building consent for a single storey rear extension in the rear courtyard to accommodate one flat. The flat would be located to the rear of one of the former townhouses (no. 37) and extend beneath it into the existing basement space. The proposed extension would extend across approximately half the former townhouse and to 1.5 m from the rear boundary with 1-5 Dorset Close. It would also have a green roof.

The proposed flat would have two bedrooms and a floor area of approximately 105 sqm.

The proposed development has been amended since this application was first made to address officer and objector concerns. The rear extension has been reduced in size so that it covers only half the width of the rear elevation of the original townhouse and it has been set back from the boundary with 1-5 Dorset Close.

The applications originally sought the retention of a fence located along the rear boundary of the application site, but this is no longer proposed.

## 8. DETAILED CONSIDERATIONS

These applications were made during the Covid-19 'lockdown'. Accordingly, officers have been unable to visit the application site or its neighbours. However, officers have visited neighbouring sites previously and the applicant and objectors have provided photos of the area affected by the proposed development. Between this and other records the Council possesses, a site visit is not considered necessary to enable consideration of these applications in this instance.

### 8.1 Land Use

The existing basement accommodation is used for storage and laundry purposes. It is unclear who has access to what areas of this basement. Given that this is ancillary residential accommodation its loss can't be protected, The provision of a new additional residential unit is supported in principle by policy H3 of the UDP and policy S14 of the City Plan.

The proposed flat would have a floor area exceeding the relevant standard for a three-bedroom, four-person flat set out within the Nationally Described Space Standard (i.e. 70 sqm). It would also include a 20 sqm outdoor amenity area, which exceeds the 7 sqm and 1.5 m minimum dimension required by the Mayors Housing SPG (March 2016).

Objectors note that the proposed flat may have inadequate levels of natural light given its location at basement level. However, the western elevation of the proposed extension is almost entirely glazed, which will provide sufficient levels of natural light to the proposed living areas. Although the proposed bedrooms will be lit by single windows facing into the front lightwell and rear courtyard, there is less of an expectation of natural light to bedrooms than living spaces and refusal of permission on this basis would not be sustainable.

### 8.2 Townscape and Design

Several objectors raise concern with the design of the proposed extension and its impact on the character and appearance of the area and this listed building.

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 66 of the same Act requires that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The new rear extension incorporates brick walls to match the existing rear elevation, as do the side boundary walls, and with a design which is considered to integrate acceptably into this mid-20th century rear elevation. The living roof above will add an attractive element whilst also contributing in terms of its biodiversity provision. There are a number of rear extensions to the terrace, and the small scale of extension proposed in this case which only extends across approximately half of the width of this three-bay element (approximately the width of an original terraced property) is appropriate in itself.

The details submitted for the new doors to the rear elevation are not fully clear. However, the general approach appears in line with this modernised rear elevation and full details can be secured by condition.

To the front elevation a new door is proposed to be installed in place of an existing sash window to the lower ground floor level. The window is a more modern addition to the building and its replacement is appropriate in terms of the loss of fabric. It is recognised that the door would break into the run of sash windows to this part of the building and in a location not following the original pattern of lower ground floor doors being located solely underneath the bridges to the main ground floor openings. However, it is considered acceptable in terms of allowing the provision of the residential unit to this part of lower ground floor level given there are other door openings to lower ground floor level in more prominent locations not directly underneath ground floor bridges. The door is shown as being with a main section of subdivided glazing which matches the arrangement of glazing bars found to the flanking sash windows, and with a solid base below. This will allow for the general impression of sash window glazing continuing to this level, which will help integrate the door into the elevation without undue breaking of the pattern of windows to lower ground floor. To ensure that the detailed design of this door is appropriate, a condition is recommended.

Internally, to this part of the building at lower ground floor level there is little of significance or original fabric or character, and the internal works are considered acceptable.

Subject to recommended conditions, the proposal is considered acceptable in design and listed building terms, mindful of policies DES 1, DES 5, DES 9 and DES 10 of the UDP and S25 and S28 of the City Plan; and therefore the proposals are considered to be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### 8.3 Residential Amenity

Several objectors raise concern with the impact of the proposed extension/flat on light, outlook and noise levels for neighbouring properties. Concern has also been raised with light pollution from the extension.

The proposed extension is single storey and located at lower ground floor level on the application site. At this level, there are no flats on the application site, with all flats being located above the proposed extension, from ground and above. Accordingly, the proposed flat would not result in unacceptable loss of light, sense of enclosure or overlooking of flats on the application site.

The closest residential properties outside the application site are located at 1-5 Dorset Close and were recently established under prior approval application RN: 16/10996/P3JPA. Two flats in that property are located at lower ground floor level and have windows on the boundary with the application site. These windows form the sole source of light and outlook for these flats.

Given the location of these windows on the boundary with the application site, they are considered unneighbourly, and little weight is given to their protection from loss of light, sense of enclosure and loss of privacy. Notwithstanding this, the proposed extension has no windows facing 1-5 Dorset Close. The proposed extension is also located opposite three (two bedroom and one living room) out of six windows on the boundary. The applicant originally proposed building right up to these windows but has since amended the proposed development so that it is located 1.5 m from them. This space allows for a degree of light and outlook to these windows to be retained. The open courtyard would also be separated from these windows by a fence located 1.5 m from these windows. A condition is recommended that prevents access beyond this fence except for maintenance and emergencies. Subject to this condition and given the unneighbourly nature of the windows at 1-5 Dorset Close refusal of permission on this basis would not be sustainable.

The existing fence that currently blocks light and outlook to the lower ground floor windows at 1-5 Dorset Close no longer forms part of these applications and is subject to ongoing enforcement action. The applicant has advised that they will remove the fence if planning permission and listed building consent are granted, although it is unclear if that commitment relates to the length of the whole fence or just to the rear of the application proposals.

With regards to noise from the proposed flat, this is not anticipated to be significant given it is a single domestic flat. The objectors also note that the existing courtyard is currently used as an outdoor amenity space. It is not expected that noise from the proposed flat would be significantly greater or different to noise that currently takes place within the courtyard and a reason for refusal on this basis would not be sustainable.

With regards to light pollution, this too is not anticipated to be significant given only a single domestic flat is proposed. The proposed flat includes no rooflights that would allow for light to be directed up to other flats within the application site. Accordingly, refusal of permission on this basis would not be sustainable.

An objector considers that maintenance of the green roof will cause overlooking of flats within the existing building. However, green roofs should not require regular maintenance and it is anticipated that any maintenance will be infrequent and unlikely to cause significant and ongoing loss of privacy. Accordingly, refusal of permission on this basis would not be sustainable.

Overall, the proposed development is considered consistent with policy S29 of the City Plan and policies ENV 6 and ENV 13 of the UDP.

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

The Highways Planning Manager has reviewed the proposed development.

No off-street parking is proposed. As per policy TRANS 23 of the UDP, the proposed flat would require no more than one parking space and this may result on a commensurate increase in on-street parking demand. However, paragraph 109 of the NPPF states that development should only be refused where it could have a severe impact on the road network. Given the application sites location in an area with a very high public transport accessibility level (i.e. PTAL 6b) and the small scale of the parking shortfall, the absence of on-site parking is acceptable in this instance.

It is unclear from the submitted drawings whether adequate on-site cycle storage will be provided. To secure this a condition is recommended. Subject to this condition the proposed development would be consistent with policy 6.9 of the London Plan (March 2016).

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The proposed flat would be accessible from Dorset Square using the existing ramp and would be single level.

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

##### **8.7.1 Refuse/Recycling**

Several objectors consider that the proposed flat will result in refuse having to be stored outside the basement and/or on Dorset Square itself.

The proposed development has been reviewed by the Waste Project Officer. Although it is unclear from the proposed drawings whether appropriate refuse and recycling storage

will be retained on-site, the Waste Project Officer considers that there is sufficient space on-site and that the details of this storage can be secured by condition. Subject to this condition, the proposed development would have adequate on-site waste storage and is consistent with policy ENV 12 of the UDP.

## **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 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 on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, 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 London Plan**

This application raises no strategic issues.

## **8.10 National Policy/Guidance Considerations**

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

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

No pre-commencement conditions are proposed.

## **8.11 Planning Obligations**

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

## **8.12 Environmental Impact Assessment**

The proposed development is too small to require an EIA.

## **8.13 Other Issues**

### **8.13.1 Objector Comments**

The issues raised by the objectors have largely been addressed by revisions to the



proposed development and the assessment above. The following is also noted:

#### Treatment of Leaseholders by Applicant and Use of Common Areas

Several objectors consider that they have been treated unfairly by the applicant, that the proposed development breaches their lease agreements and that they will be deprived of the use of the common areas by the proposed development. However, these are all civil issues and not material planning considerations. The applicant has also served notice under Certificate B and has therefore discharged their responsibility to notify residents for the purpose of this application.

#### The Applicant Proposes Building Three More Flats

Several objectors are concerned that the proposed flat will result in three further flats being constructed and that this will result in the total loss of the courtyard area and basement to residents. However, only one flat is proposed under this application. Should an application or applications come forward for further flats, the impact of these flats, including their cumulative impact, will then be considered. It would be unreasonable and premature to refuse permission on the ground that the current proposal sets a precedent for further flats.

#### Security

Several objectors are concerned that the proposed flat will compromise the security of the existing building. It is unclear on what basis this would occur. The proposed flat would presumably have a lockable door and residents of said flat would be no more a security risk than existing residents within the building. The proposed extension has also been set away from 1-5 Dorset Close and access across its roof would not be possible.

#### Fire Risk

Several objectors contend that the green roof is a fire risk from cigarettes thrown from 1-5 Dorset Close. This is not a material planning consideration and will be considered at Building Regulations stage. If the green roof is deemed a fire risk at Building Regulations stage, then the applicant will have to apply to vary any planning permission and listed building consent granted to accommodate an alternative roof.

#### Site Notice and Publicity

Several objectors consider that the site notice was erected too high and note that it was removed. They also note that the current lockdown means that residents have not been receiving their mail on time and that fewer people have been walking past the site.

The City Council's contractor has provided photos showing that the site notice was erected at head height. The City Council's records also show that consultation letters were sent to all residents and no resident has actually said that they did not receive a letter. Whilst this application has been made during lockdown, the City Council has publicised this application in accordance with statutory requirements.

### Applicants Relationship with the St Marylebone Society

Several objectors note that the applicant's agent and one of the member of the applicants organisation are members of the St Marylebone Society (SMS) and that the latter's involvement is a conflict of interest.

The SMS comment makes it clear that the individuals in question were excluded from participating in their deliberation on the application. Notwithstanding this, the City Council decides these applications, not the SMS. Accordingly, there is no conflict of interest.

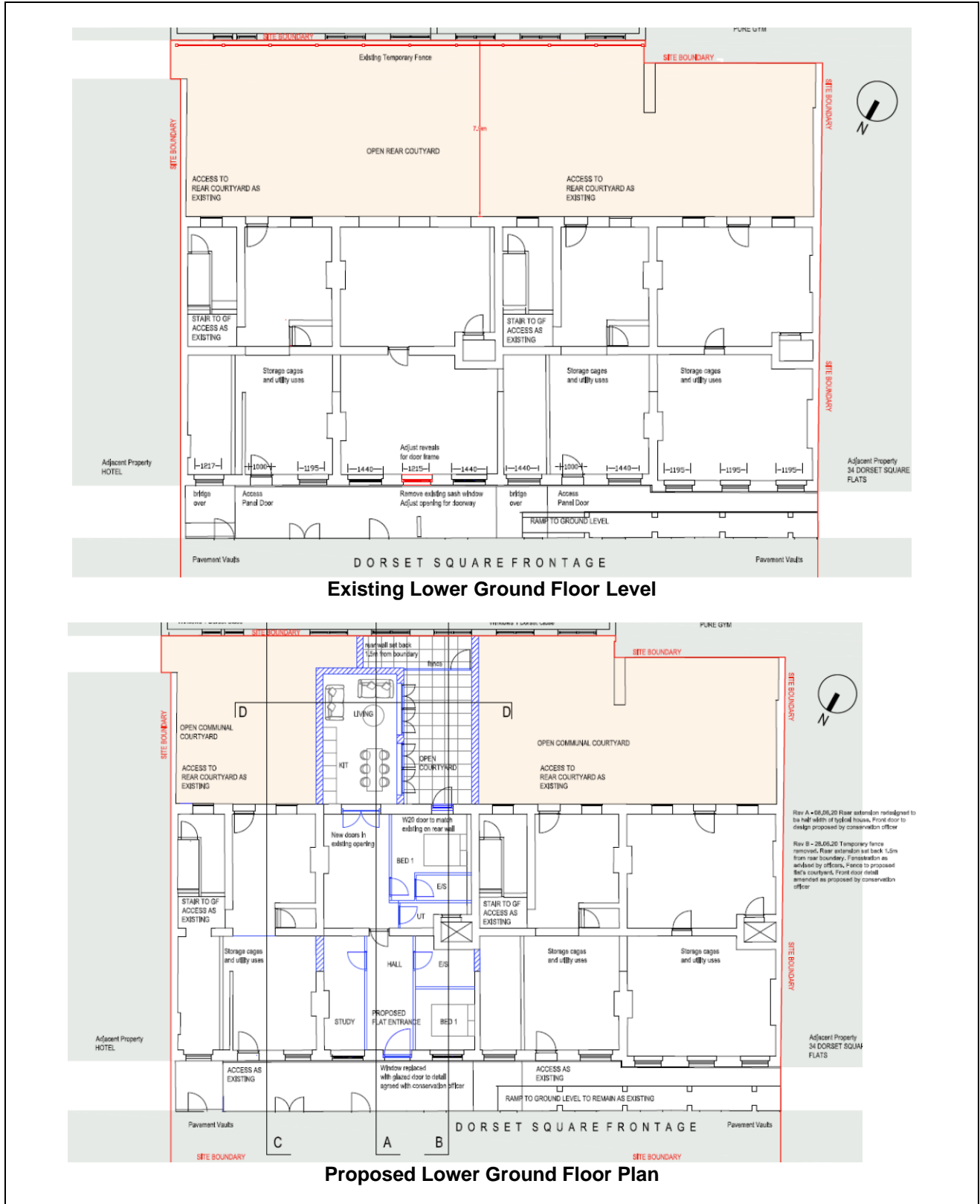
### Applicants Motivation

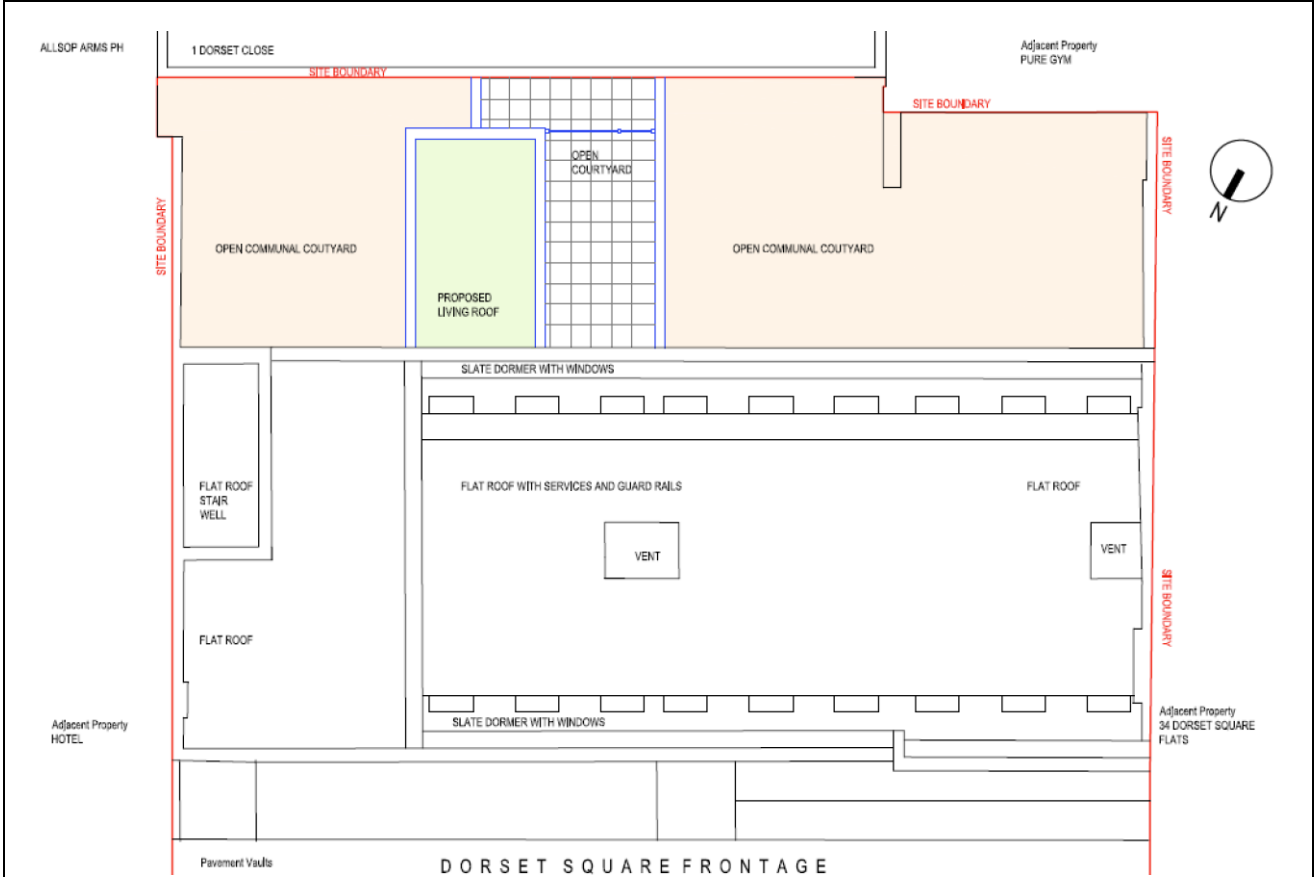
Several objectors note that the applicant is only financially motivated and does not actually care about providing residential accommodation. The applicant's motivation is not a material planning consideration.

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

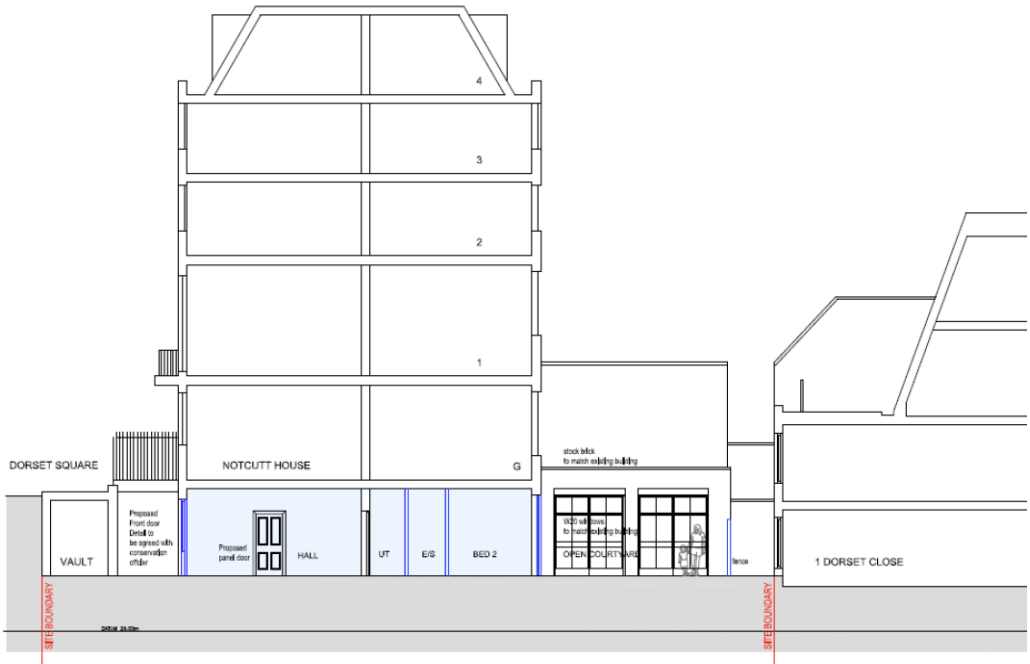
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)

9. KEY DRAWINGS



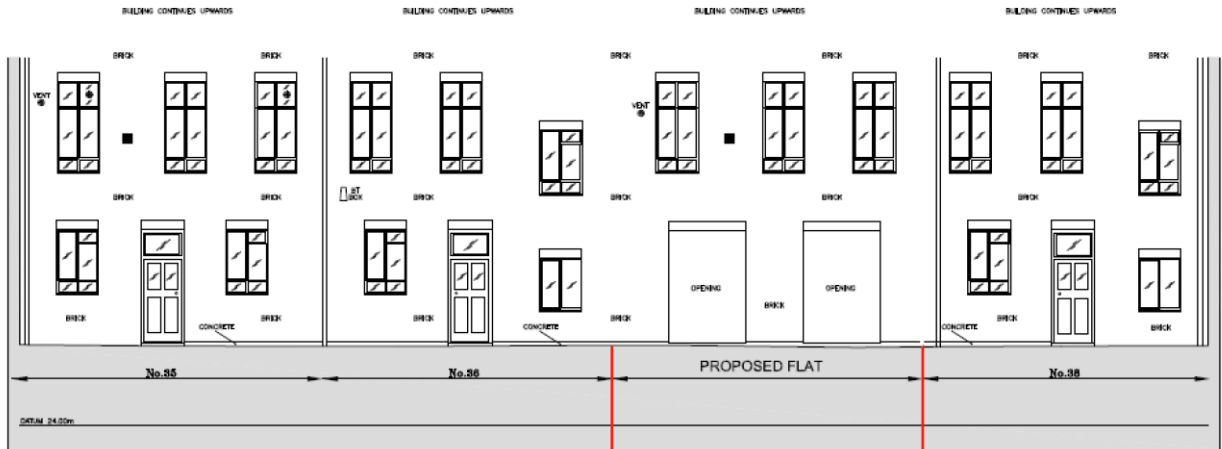


DORSET SQUARE FRONTAGE  
**Proposed Roof Plan**



**Proposed Long Section**





Existing Rear Elevation



Proposed Rear Elevation

**DRAFT DECISION LETTER – 20/03043/FULL**

**Address:** 35-36 Dorset Square, London, NW1 6QN,

**Proposal:** Erection of a single storey rear extension at lower ground floor level to create a self-contained residential unit (Class C3) and associated works. (Linked to 20/03044/LBC)

**Reference:** 20/03043/FULL

**Plan Nos:** Drawing numbers SK 01B, SK 02B, SK 03B, SK 04B, SK 05A, SK 06B, SK07A, SK 08A, SK 09A, SK 12

**Case Officer:** Nathan Barrett **Direct Tel. No.** 07866036771

**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 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 Dorset Square 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 The facing brickwork (in the locations shown to the application drawings) must match the existing original brickwork to the main rear elevation of the building in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

## Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Dorset Square 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 The new door to the front elevation shall be formed in glazing and white painted timber framing.

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

- 6 Notwithstanding the details submitted, you must apply to us for approval of detailed elevation and section drawings showing the detailing of the door to the front elevation at lower ground floor level including both:-

A) The thickness of glazing bars within the glazed upper part of the new door and also annotated clarification of the thickness of the existing glazing bars to the existing window in this location, and

B) The thickness of the framing surrounding the glazed upper part of the door which extends into the door opening and also annotated clarification of the thickness of framing of the existing window in this location in terms of the extent to which it projects into the existing window opening

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 Dorset Square 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)

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

-Green roof

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

Reason:

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

- 8 You must apply to us for approval of an elevation drawing of the doors to the main rear 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 this drawing. (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 Dorset Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 9 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the flat. (C14EC)

Reason:

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

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

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

**Reason:**

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

- 12 You must not use the courtyard area to the south of the proposed extension and fence (as shown on drawing no. SK02B) for sitting out or for any other purpose. You can however use this area to escape in an emergency.

**Reason:**

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

**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 regards to condition 6, you are advised that for an application for approval of those details to be considered acceptable it would need to be in line with the thickness of those elements of the existing sash window in that location
- 3 **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 visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

**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 at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

**DRAFT DECISION LETTER – 20/03044/LBC**

**Address:** 35-36 Dorset Square, London, NW1 6QN,

**Proposal:** Erection of a single storey rear extension at lower ground floor level to create a self-contained residential unit (Class C3) and associated works. (Linked to 20/03043/FULL) (Amended description)

**Plan Nos:** Drawing numbers SK 01B, SK 02B, SK 03B, SK 04B, SK 05A, SK 06B, SK07A, SK 08A, SK 09A, SK 12

**Case Officer:** Nathan Barrett **Direct Tel. No.** 07866036771

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

- 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 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 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, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 3 The facing brickwork (in the locations shown to the application drawings) must match the existing original brickwork to the main rear elevation of the building in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

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, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 4 The new door to the front elevation shall be formed in glazing and white painted timber

framing.

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, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 5 Notwithstanding the details submitted, you must apply to us for approval of detailed elevation and section drawings showing the detailing of the door to the front elevation at lower ground floor level including both:-

A) The thickness of glazing bars within the glazed upper part of the new door and also annotated clarification of the thickness of the existing glazing bars to the existing window in this location, and

B) The thickness of the framing surrounding the glazed upper part of the door which extends into the door opening and also annotated clarification of the thickness of framing of the existing window in this location in terms of the extent to which it projects into the existing window opening

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, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 6 You must apply to us for approval of an elevation drawing of the doors to the main rear 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 this drawing. (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, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

#### **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.

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>4</b>

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# Agenda Item 5

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 1 September 2020	<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>39 Northumberland Place, London, W2 5AS</b>		
<b>Proposal</b>	Erection of two storey infill extension to the rear of the building at lower ground and ground floor levels.		
<b>Agent</b>	DNA Architecture		
<b>On behalf of</b>	Parker		
<b>Registered Number</b>	20/00094/FULL	<b>Date amended/ completed</b>	13 January 2020
<b>Date Application Received</b>	8 January 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Westbourne		

## 1. RECOMMENDATION

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

## 2. SUMMARY

This application relates to a single family dwelling house; an unlisted building of merit within the Westbourne Conservation Area. Planning permission is sought for the erection of a two-storey infill extension to the rear of the building at lower ground and ground floor levels

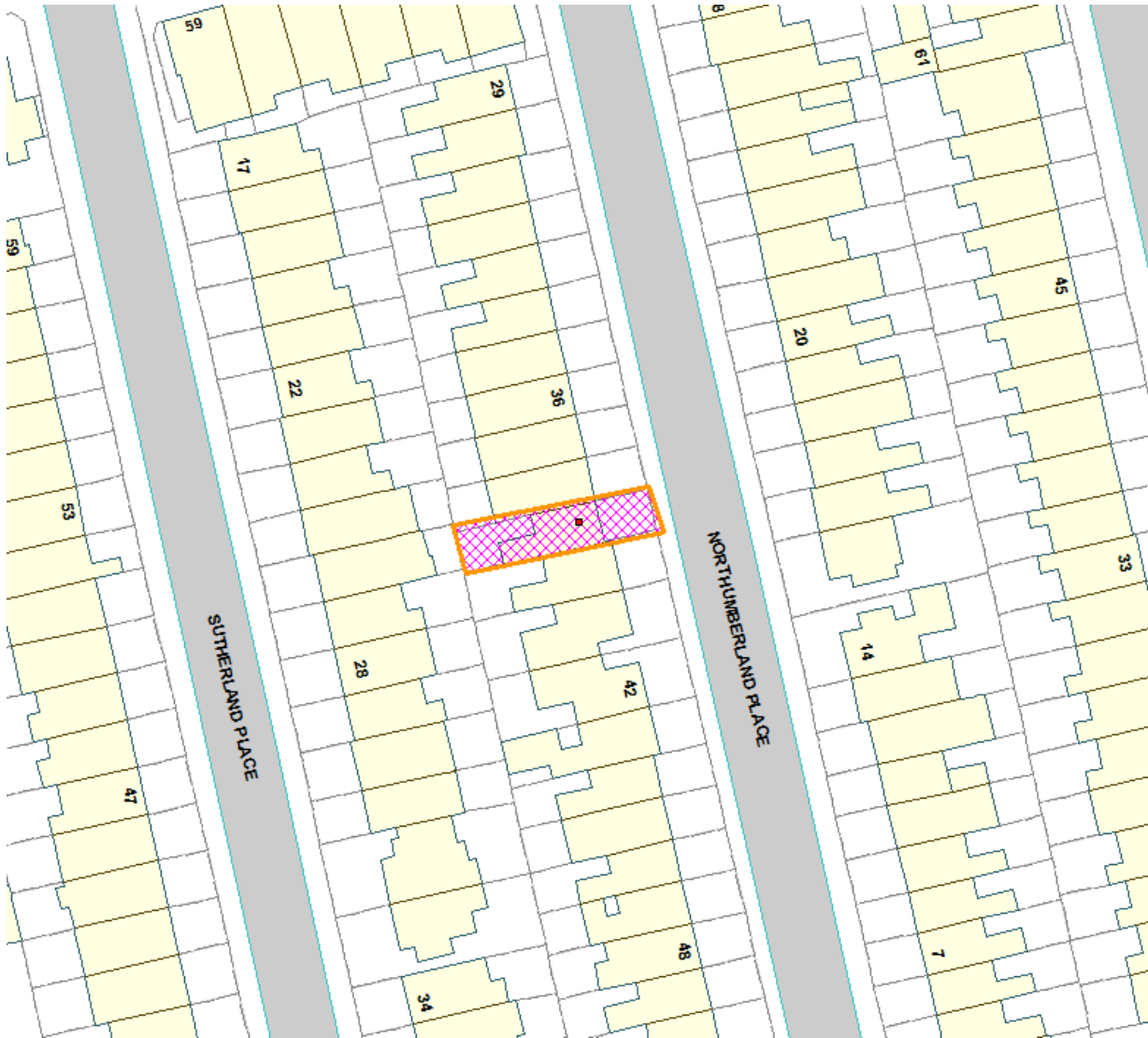
Concerns have been raised from five surrounding residential owners and also the Notting Hill East Neighbourhood Forum, principally on grounds of design and amenity.

The key issues in the determination of this application are:

- The impact of the proposed works on the character and appearance of the building and Westbourne Conservation Area;
- The impact of the proposed works on the amenity of neighbouring residents.

The proposals are considered to comply with the City Council's policies as set out in Westminster's City Plan and the Unitary Development Plan (UDP) and the application is accordingly recommended for approval.

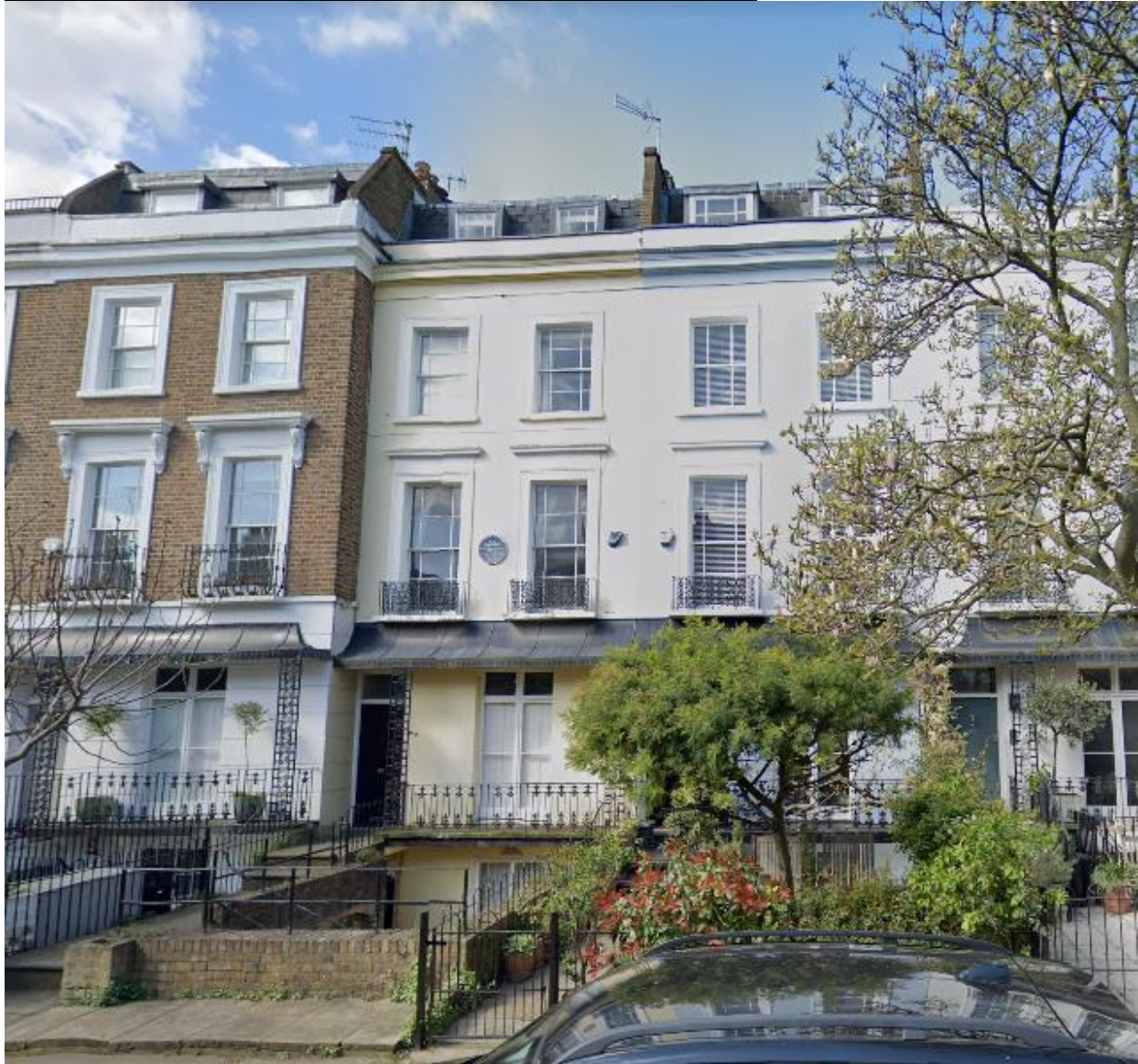
3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation (Prior to Works on the Basement Commencing)



Rear Elevation (Prior to Works on the Basement Commencing)



Views out from Rear Elevation



Cont'd....



## 5. CONSULTATIONS

### First Round of Consultation (expired 6 February 2020)

#### NOTTING HILL EAST NEIGHBOURHOOD FORUM:

##### Objection Received Citing the Following Concerns:

- State that the glazing should be set back slightly from the face of the rear extension
- State that they object to any infill over the principal floor level or upper ground floor level
- Concerns about other features shown to main roof and roof of existing closet wing
- State that the front railings appear to be very high and unsympathetic and that original examples are at no. 34
- Object to the loss of greenery to front and rear gardens including the hard paving
- State that the drawings should show the context including full elevations of adjacent houses
- State that all materials should be annotated on the drawings and query the lack of detail in the application submission
- Concern about light pollution and glare, and comment that this should be dealt with by conditions
- State that they prefer the historic or true mansard format
- State that the proposals do not appear to improve neighbours lives or the pleasure of their gardens

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 18

Total No. of replies: 4

No. of objections: 3

No. in support: 0

3 objections received, and one letter expressing queries and concerns, on the following grounds:

##### Design:

- Object to the appearance, bulk and height of the extension

##### Amenity:

- Concern expressed about impact of extension on lower ground and ground floor side windows
- Concern expressed about sound proofing of the extension
- Concerns expressed about light pollution
- Objection to overlooking from the extension

##### Other:

- Request for a site visit
- Concerns expressed about noise from building works
- Query whether other examples of similar extensions are in the area

- Query description of development in stating that the extension was proposed at ground and first floor levels
- Comment that a glazed infill extension is in place between nos. 40 and 41 Northumberland Place with opaque glazing to the upper third of the extension

PRESS ADVERTISEMENT / SITE NOTICE:  
Yes

**Second Round of Neighbour Consultation (Expired 17 April 2020):**

NOTTING HILL EAST NEIGHBOURHOOD FORUM:

Objection Received Citing the Following Concerns:

- Object on grounds of over-development
- State that at least a square of garden should be retained
- Concern expressed that no SUDS are proposed to compensate for loss of garden space
- State that the drawings should show the context including full elevations of adjacent houses
- State that it is necessary to have photographs to assess the building
- Concern expressed about the submission of drawings from previous application
- State that all materials should be identified on the drawings including glazing
- State that the rectangle feature shown to roof on elevation drawings is unacceptable
- Query the hoop feature on the rear elevation
- Query whether application 15/06654/FULL has lapsed or whether it remains valid
- State that missing information would be required for them to comment further

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 18  
Total No. of replies: 5  
No. of objections: 5  
No. in support: 0

Four objections received from three surrounding neighbours, and one further letter of comment, expressing views on the following grounds:

Design:

- Concern expressed regarding the lack of clarity on the materials proposed

Amenity:

- Objection on grounds of overlooking, including the impact this would have upon a business, and that it could not be appropriately mitigated with planting
- Comment that the extension should be soundproofed

Other:

- Query regarding it being unclear as to the nature of the changes in the revised scheme
- Concern expressed regarding the lack of time to give comments



- Note the approval of an extension at no. 40 Northumberland Place but maintain the objection to the proposals at no. 39 Northumberland Place
- Comment that a party wall award will be needed between nos. 38 and 39 Northumberland Place
- State that they do not object provided the architects are aware that the window being enclosed is for a toilet, and that they remain happy to provide access to fresh air and a certain amount of daylight as had been agreed with the architects
- Request that the Council do not wait for the 21-day consultation period to expire as they wish the construction project to complete

### **Third Round of Neighbour Consultation (Expired 21 August 2020):**

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 1 (immediate neighbour)

Total No. of replies: 0

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

This application building is an unlisted single dwelling house located within the Westbourne Conservation Area. The building comprises a newly created basement floor and also lower ground, ground and three upper floors, with the third floor being in mansard form.

### **6.2 Recent Relevant History**

19/09122/FULL

Variation of condition 1 of planning permission dated 15 April 2016 (RN: 15/06654/FULL) for: Excavation of new basement level below the existing footprint of the house and part front and rear gardens including lightwells, associated alterations to the front garden and boundary wall, extension into the front garden at lower ground floor level, erection of a rear infill extension at lower ground floor level, alterations to fenestration at rear including erection of first floor Juliet balcony, alterations to fenestration of side and rear elevations of closet wing. NAMELY, extension into the front lightwell at lower ground floor level and the widening of entrance steps and landing at ground floor level by 350mm.

Granted – 12 May 2020

A number of conditions pursuant to this permission have been discharged.

Earlier applications/permission include:

15/06654/FULL

Excavation of new basement level below the existing footprint of the house and part front and rear gardens including lightwells, associated alterations to the front garden and boundary wall, extension into the front garden at lower ground floor level, erection of a rear infill extension at lower ground floor level, alterations to fenestration at rear including erection of first floor Juliet balcony, alterations to fenestration of side and rear elevations

of closet wing.  
Granted 15 April 2016

14/04298/FULL

Lower ground floor extension to the front lightwell and the construction of a new basement level below the existing footprint of the house, part of the rear garden, and front lightwell. Lowering the lower ground floor by 600mm.

Non-determination appeal dismissed on 25th June 2015 - on grounds of the width of the front steps and extension resulting in a bulky form, with the solid upstand adding to that bulk

12/00342/FULL -

Erection of single storey rear extension together with lowering of the existing lower ground floor level by 600 mm and rear garden area. Infilling front lightwell area at lower ground floor and new front staircase.

Granted – 11 September 2012

## 7. THE PROPOSAL

The application proposes the erection of a two-storey infill extension to the rear of the building at lower ground and ground floor levels.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The increase in residential accommodation is in line with policies H3 in the Unitary Development Plan and S14 in the City Plan.

### 8.2 Townscape and Design

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The application building of no. 39 Northumberland Place has an existing brick faced closet wing extension at the rear of the building which rises to half landing level between ground and first floors. It is considered an unlisted building of merit within the Westbourne Conservation Area. The adjoining building to the north side (no. 38 Northumberland Place) also has a brick faced rear closet wing which rises to ground floor level. The application seeks permission to erect a two storey rear extension at lower ground and ground floor levels set between the existing rear closet wing of the application building and that on the adjoining building at no. 38, and slightly recessed from the rear elevation line of both of those existing closet wings. The applicants have confirmed that the new basement floor level included in application 15/06654/FULL approved in 2016 has already been erected underneath this area, and the extension proposed in this application represents a proposed new structure rising above that existing newly created basement.

The rear elevation of the extension is designed with a brick framework around four vertically proportioned glazed panels each at lower ground and at ground floor levels. To lower ground floor level the central two panels act as doors opening onto the rear garden with the two flanking panels being fixed windows. To ground floor level each of the glazed panels will be fixed shut. The roof above incorporates a projecting glazed rooflight/lantern structure, and also incorporates a glazed frame above the lightwell and fresh air vents both in association with protecting the amenity of the adjoining property at no. 38 Northumberland Place (as discussed elsewhere in the report).

The overall design of the infill extension with its brick frame and vertically proportioned window panels with subdivided timber framing is considered to integrate appropriately with the main building, and whilst with a brick framework nonetheless the overall visual impression is of an extension suitably lightweight enough to allow for the plan form of the side return of the closet wing to still be readily appreciated.

The subservient visual appearance of the extension is further enhanced by the set back from the rear elevation lines of both adjoining closet wing extensions, and by the two storey height remaining two full floor levels below the main rear elevation height of the building.

Two storey infill extensions are an increasingly common feature within the street, and in this regard it is noted that a two storey infill extension has been approved to no. 40 Northumberland Place on 10<sup>th</sup> December 2019, and a separate two storey infill extension has been approved to no. 41 Northumberland Place on 22<sup>nd</sup> November 2019, with a number of other similar approvals in Northumberland Place. As such, the two-storey infill extension proposed in this application is considered to integrate appropriately with the existing and emerging townscape in the street.

The objection received from a local resident citing concerns about the appearance, bulk and height of the extension is noted, as are the comments from the Notting Hill East Neighbourhood Forum regarding over-development, however set between two flanking brick closet wings and slightly recessed back from their rear elevation line it is considered that the height and bulk are acceptable, and they are in line with others approved in the street. The design of the extension has been amended during the course of the application process and is now considered to integrate appropriately with the character of the building. As such, the objections on these grounds are not considered sustainable.

The comments of the Notting Hill East Neighbourhood Forum state that the glazing should be set slightly back from the face of the existing rear extension and that there should not be any infill extension above upper ground floor level are noted. The extension proposed in this application however is recessed behind the line of the existing brick closet wing and the extension is proposed to lower ground and ground floor levels only. As such, it is considered in line with those comments expressed by the Forum.

The comments of the Notting Hill East Forum regarding the annotations of materials are noted, and the drawings in their revised form clearly state the materials proposed, which are considered sympathetic to this mid-19<sup>th</sup> century terraced property.

As such, the proposal is considered acceptable, mindful of policies DES 1, DES 5 and DES 9 of the UDP and S25 and S28 of the City Plan; and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **8.3 Residential Amenity**

Policy ENV13 in the UDP states that the Council will resist proposals that would result in a material loss of daylight and sunlight, particularly to dwellings, and that developments should not result in a significant increased sense of enclosure, overlooking or cause unacceptable overshadowing. Similarly, Policy S29 in the City Plan aims to protect the amenity of residents from the effects of development.

#### Sunlight, Daylight and Sense of Enclosure Issues

The infill extension proposed is located between two existing brick faced closet wings. It does not project above the height of these flanking closet wings and is slightly recessed behind their rear elevation lines. The main existing building to the application site is two floor levels higher than the height of the extension proposed. Given this, it is not considered that the extension proposed would give rise to an unacceptable impact in terms of sunlight, daylight or sense of enclosure to surrounding residents.

The exception to the above comments regarding sunlight, daylight and sense of enclosure is with regards to two windows in the south facing party wall elevation of the rear extension of No. 38 Northumberland Place. These windows in the party wall directly face into the application site in the location of the two-storey extension proposed. The window at lower ground floor level serves a utility room and the window at ground

floor level serves a toilet. A previous application (15/06654/FULL - approved on 15.04.2016) allowed for a single storey rear extension to the application building at lower ground floor level which enclosed across the line of the lower ground floor level utility room window of no. 38 Northumberland Place. The extension approved in that application incorporated a lightwell/air duct feature between the extension and the windows in the party wall to allow for ventilation and some light to be maintained to that room at lower ground floor level within no. 38, notwithstanding that the extension was very heavily enclosing that lower ground floor window.

In this current application a lightwell/air duct feature is again proposed to allow light and air to reach both the lower ground and ground floor windows in the south facing party wall of the adjoining building at no. 38 Northumberland Place. It is recognised that the lower ground floor window would be even more heavily enclosed than would have been the case in the previously approved scheme 15/06654/FULL, and that the extension now proposed also heavily encloses the ground floor window of no. 38 Northumberland Place. Nonetheless, given the approach previously approved, given what is known regarding the use of the rooms, that they are two small windows which form part of a relatively large house with numerous windows to main front and rear elevations, and that their presence are considered as 'bad neighbour' windows facing directly onto the application site on the party wall line, the proposed extension incorporating a lightwell to protect some light and ventilation to these windows is considered acceptable and in these circumstances not to unacceptably impact the amenity of the adjoining dwelling house.

The applicants have also confirmed that the construction of the walls enclosing the lightwell will meet the requirements of building regulations with respects to sound insulation, fire resistance and thermal insulation.

#### Overlooking Issues

Strong objections have been received on grounds of a perceived loss of privacy from the extension to surrounding neighbours primarily to those opposite in Sutherland Place (including reference to overlooking affecting a business undertaken within a house). Objectors also state that they wish obscure glazing to be installed to the windows of the extension.

The proposed rear extension would be approximately 7.5m - 8m to the rear extensions and approximately 11m to their main rear elevations of the buildings to the rear in Sutherland Place. The application building already has windows in the main rear elevation and at ground floor level there is a sash window in the closet wing and therefore these windows already look out across to the rear elevations of the properties in Sutherland Place. Whilst the extension proposed will bring the main rear elevation closer to the objectors properties it is not considered that a reason for refusal could be sustained in this case given the existing situation and the degree to which mutual overlooking already occurs. It is also recognised that the submitted plans show a large double height space behind the glazing to the new extension which would prevent access from occupiers of the application building up to the ground floor level rear elevation windows, and in addition the ground floor rear windows will also be fixed shut.

It is also noted that a similar two storey glazed extension has been approved in recent

years to no. 40 Northumberland Place, as well as to other locations in the street. The glass incorporated into the previously approved extension at nos. 40 Northumberland Place was clear glass, and it also incorporated an external balcony at rear ground floor level.

The concerns of the objectors, including their desire for obscure glazing to be incorporated into the extension are noted. It is also recognised that the section drawing submitted by the applicants includes a reference to 'possible introduction of opaque glazing in top panel of each fixed glazed timber screen in rear elevation', a reference implying a consideration that they may accept obscure glazing to the top pane of the 5 panes of glazing which form the window panels at ground floor level on the extension. Given the circumstances of the case however, including the distance to the Sutherland Place properties, the windows to the existing rear elevation, the tight urban nature of the site, and the previous approvals for clear glazed extensions at these floor levels, it is not considered that a condition requiring obscure glazing could be justified and that the proposals for clear glazing to the extension would not give rise to an unacceptable degree of overlooking to surrounding residential occupiers.

#### Other Amenity Issues

A glazed lantern feature is proposed to the roof of the extension and a glazed structure above the lightwell adjoining the neighbouring property at no. 38 Northumberland Place. It is recognised that the Notting Hill East Neighbourhood Forum have made reference to light pollution as an issue which they consider needs to be addressed through conditions, however these features are not considered to allow for an unacceptable impact on neighbours in terms of light pollution and notwithstanding the points raised by the Forum they are considered acceptable as shown to the application submission.

The Notting Hill East Neighbourhood Forum raised concerns regarding the loss of greenery and loss of garden, however the area set between the closet wings where the extension is proposed is limited in scope, and a single storey extension with matching footprint has previously been approved to this location. As such, the concerns on this ground are not considered sustainable.

#### Amenity Conclusion

Given the above points therefore, the application is considered acceptable in amenity terms and in line with policies ENV 6 and ENV 13 in the UDP and S29 in the City Plan, and the objections received on grounds of an impact on amenity are not considered sustainable.

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

The proposals do not raise any transportation or parking considerations.

#### **8.5 Economic Considerations**

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

**8.6 Access**

The proposals do not change the access arrangements into the building.

**8.7 Other UDP/Westminster Policy Considerations**

None relevant.

**8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 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 on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, 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**

There are no neighbourhood plans relevant for this site.

**8.10 London Plan**

This application raises no strategic issues.

**8.11 National Policy/Guidance Considerations**

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

**8.12 Planning Obligations**

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

**8.13 Environmental Impact Assessment**

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

**8.14 Other Issues**

The Notting Hill East Neighbourhood Forum state that they prefer the 'historic or true mansard format'. However, this application does not propose any alterations to roof level.

The Forum also expressed a concern that no SUDS are proposed to compensate for loss of garden space. However, the lack of such features would not be a sustainable

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<b>5</b>

reason for refusal of this application for an infill extension between two existing closet wings.

The Forum further query the accuracy of the drawings submitted and note the lack of photographs. However, and following revisions, it is considered that the drawings are sufficient to base a decision on and though noting the lack of photographs submitted by the applicants this in itself is not considered as a reason not to consider the application submission.

The Forum further state that the front railings appear to be very high and unsympathetic and that original examples are at no. 34 Northumberland Place. Whilst noting those points, they are not considered of direct relevance to this application for an extension to the rear of the building.

The Forum further query whether previous application 15/06654/FULL has lapsed, however the applicants have confirmed that the basement included in that application has been completed beneath the extension now proposed in this current application.

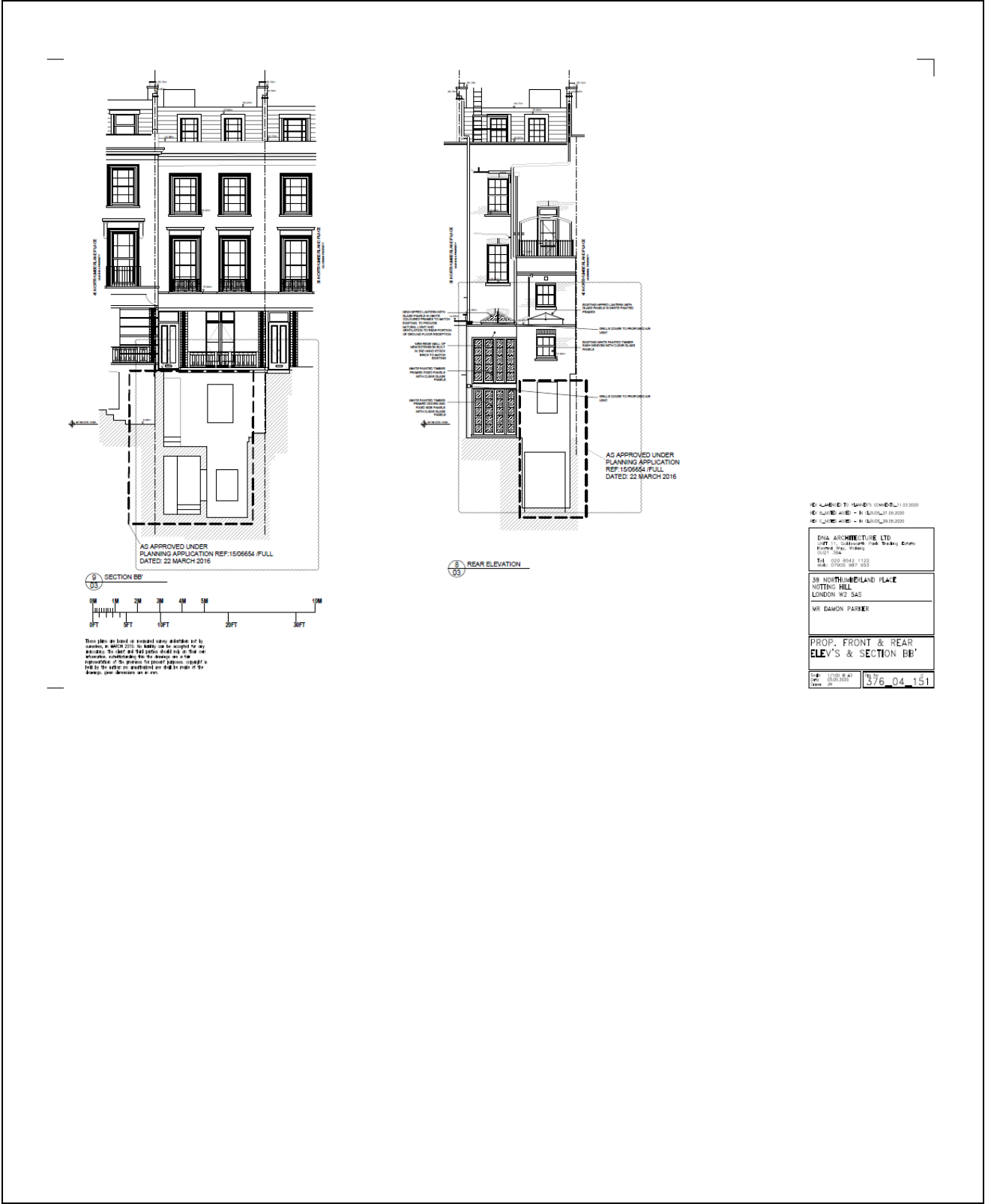
The comment received from a surrounding neighbour during the course of the application related to a request for a site visit is noted. The application was submitted prior to the current Government lockdown in response to the coronavirus pandemic, however the lockdown came into force prior to the writing up and completion of the assessment of the application. The case officer has visited the site early in the process of the application and retains photographs of the site. Along with other aerial photographs, photographs included with objections, the application drawings and other clarifications from the applicants it is considered that there is sufficient evidence available to allow for a full assessment of the current application proposals and base a decision on. The lockdown has unfortunately meant however that a site visit to the objector's property has not taken place.

(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: KIMBERLEY DAVIES BY EMAIL AT <a href="mailto:kdavies1@westminster.gov.uk">kdavies1@westminster.gov.uk</a> @westminster.gov.uk.
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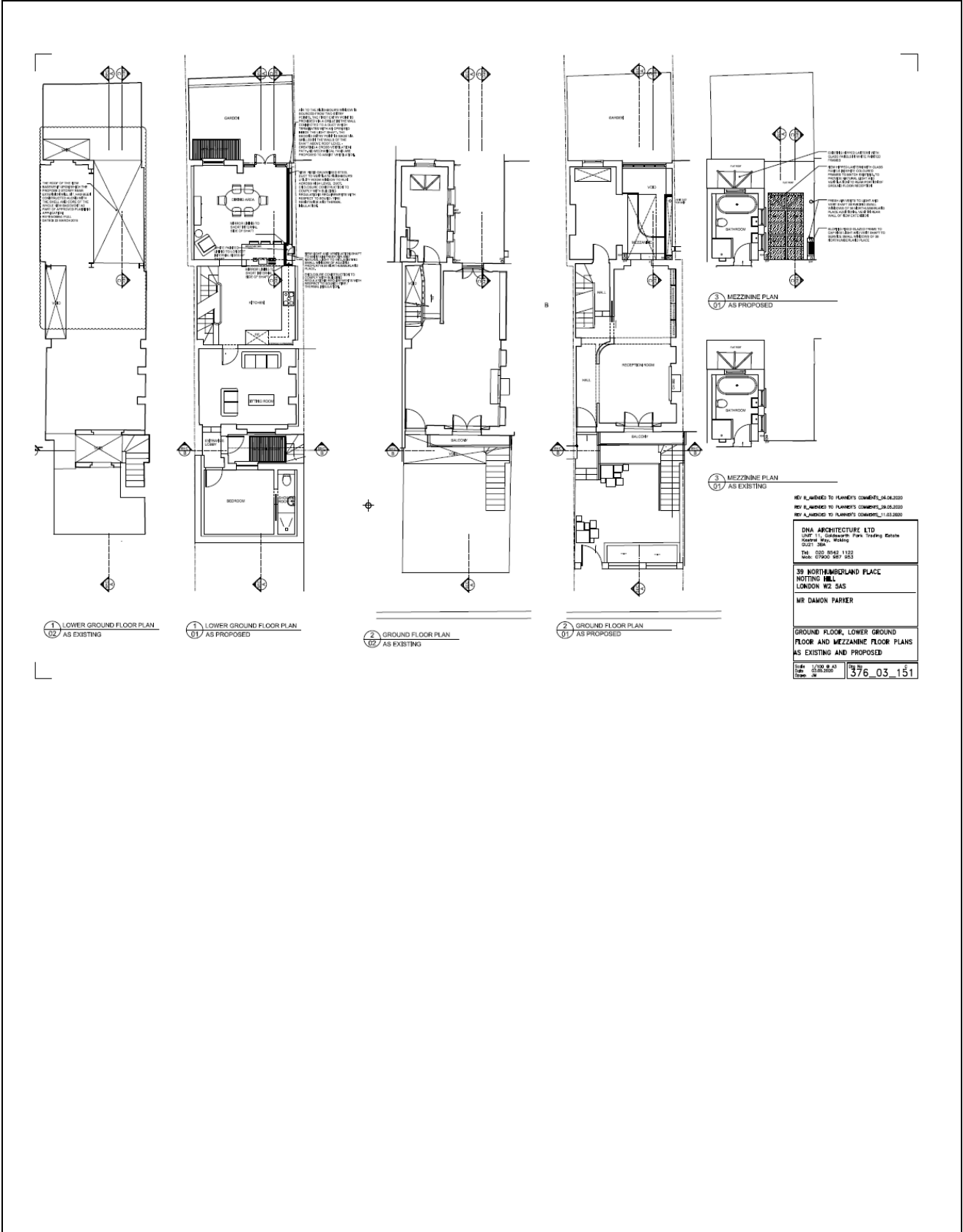


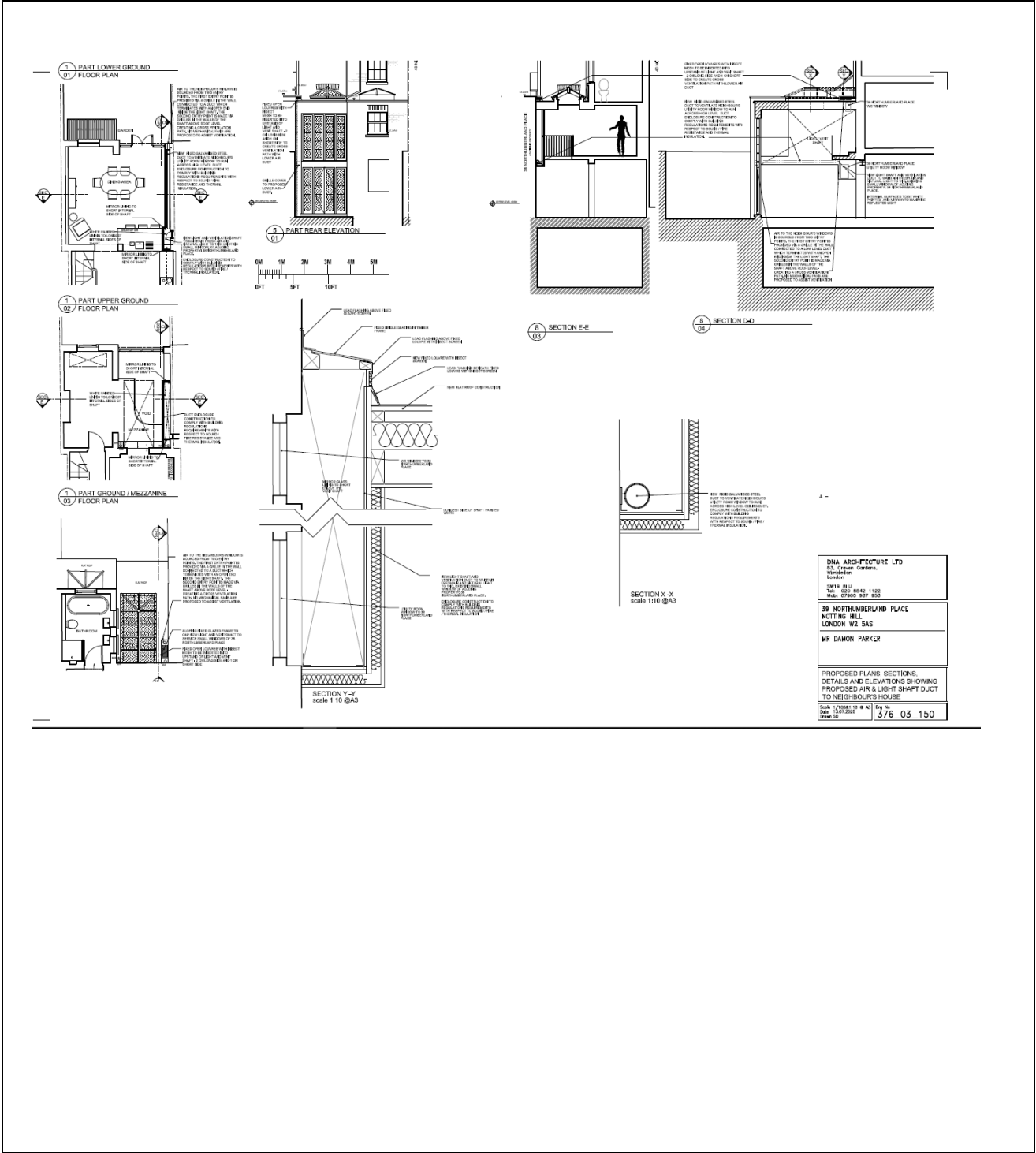
9. KEY DRAWINGS



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ENA ARCHITECTURE LTD 11, Ladbroke Grove, W11 2JN Tel: 020 8142 1222 Fax: 0208 189 2053
58 NORTH BRIDGEMAN PLACE NOTTING HILL LONDON W2 3AS MR DAMON PARKER
PROP. FRONT & REAR ELEV'S & SECTION BB
376_04_151





<b>DNA ARCHITECTURE LTD</b> 81, Upper Gardens, London Email: Bill Tel: 020 8042 1122 Mobile: 07900 887 883	
<b>59 NORTHUMBERLAND PLACE</b> NOTTING HILL LONDON W2 5AS <b>MR DAWN PARKER</b>	
PROPOSED PLANS, SECTIONS, DETAILS AND ELEVATIONS SHOWING PROPOSED AIR & LIGHT SHAFT DUCT TO NEIGHBOUR'S HOUSE	
Scale 1:100 @ A1 DW 13/03/10 Drawn by	Date 10/03/10 Drawn by 376_03_150



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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Westbourne 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 The facing brickwork to the rear elevation of the two-storey extension must match the existing original brickwork to the main rear elevation of the building in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Westbourne 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 The framing to the glazing of the windows and doors on the two-storey extension shall be formed in white painted timber framing

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

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

Reason:

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

- 7 You must keep the glazed panels to ground floor level on the rear elevation of the extension closed. You can use them in an emergency or for maintenance only. (C13LA)

Reason:

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

- 8 You must incorporate the air duct/lightwell in full as shown on drawing 376-03-150 as an integral part of the new rear extension hereby approved. Once installed, you must not remove this feature and must maintain it as shown to that drawing

Reason:

To protect the environment of neighbouring residents as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 9 The flat roof of the extension in the areas surrounding the lantern and air vents and roof to the lightwell shall be faced in lead or a grey coloured roofing membrane

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 Westbourne 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)

**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.

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.