



City of Westminster

Committee Agenda

Title:

Planning Applications Sub-Committee (1)

Meeting Date:

Tuesday 9th November, 2021

Time:

6.30 pm

Venue:

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

Members:

Councillors:

Robert Rigby (Chairman)
Susie Burbridge
Mark Shearer
Tim Roca



Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Committee members will attend the meeting in person at Westminster City Hall. The Committee will be a hybrid Meeting and will be live broadcast via Microsoft Teams.

Admission to the public gallery is by a pass, issued from the ground floor reception from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



If you require any further information, please contact the Committee Officer, Georgina Wills: Committee and Councillor Coordinator.

**Tel: 07870 548348; Email: gwills@westminster.gov.uk
Corporate Website: www.westminster.gov.uk**

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

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note any changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

3. MINUTES

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

To Follow.

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 hybrid meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

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

- | | | |
|----|--|-----------------|
| 1. | 318 OXFORD STREET LONDON W1C 1HF | (Pages 9 - 46) |
| 2. | 48 - 58 HUGH STREET LONDON SW1V 4ER | (Pages 47 - 56) |
| 3. | 29 NORTHUMBERLAND PLACE LONDON W2 5AS | (Pages 57 - 86) |
| 4. | 96 HAMILTON TERRACE LONDON NW8 9UP | (Pages 87 - 98) |

PART 2 (IN PRIVATE)

RECOMMENDED: That under Section 100 (a) (3) and Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), the public and press be excluded from the meeting for the following Item of Business because it involves the likely disclosure of exempt information relating to the financial or business affairs of any particular person (including the Authority holding that information) and it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Items	Grounds	Para. of Part 1 of Schedule 12a of the Act
5 - 6	The Reports involve the likely disclosure of exempt information relating to financial or business affairs.	Para. 3

- | | | |
|----|--|-------------------|
| 5. | 5 RANDOLPH GARDENS LONDON | (Pages 99 - 116) |
| 6. | 30 SUTHERLAND AVENUE LONDON W9 2HQ | (Pages 117 - 136) |
| 7. | TREE PRESERVATION ORDER NO. 681 – 50 SPRINGFIELD ROAD LONDON NW8 0QN | (Pages 137 - 144) |
| 8. | TREE PRESERVATION ORDER NO. 678 – ST GABRIEL’S CHURCH WARWICK SQUARE LONDON | (Pages 145 - 152) |

Stuart Love
Chief Executive
29 October 2021

Order of Business

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

Order of Business
i) Planning Officer presentation of the case
ii) Applicant and any other supporter(s)
iii) Objectors
iv) Amenity Society (Recognised or Semi-Recognised)
v) 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
 PLANNING APPLICATIONS SUB COMMITTEE – 9th November 2021
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 21/01633/FULL West End	318 Oxford Street London W1C 1HF	Installation of new ground floor shopfronts including 2no. new double height entrances; extensive refurbishment of the existing Portland stone facade; replacement of the existing windows between first and fifth floors with new double-glazed units, and modification of the fifth floor windows to increase their height; infill construction along fifth floor Chapel Place in facsimile of the existing facade to provide additional Class E floorspace; installation of ventilation louvres to the Chapel Place elevation at first to fourth levels; demolition of the sixth and seventh floors and erection of replacement sixth and seventh floors (including the creation of new external terrace areas) and new eighth floor roof extension with external terrace areas, all for use within Class E; and consolidation of roof level plant within a single enclosure and provision of a new building maintenance unit at roof level.	Publica Properties Limited
<p>Recommendation</p> <p>1. Grant conditional permission subject to a legal agreement to secure the following:</p> <p>a) A financial contribution of £225,000 towards the Carbon Off-Set Fund (payable prior to commencement of development).</p> <p>b) Undertaking of highways works to Chapel Place, Oxford Street, Old Cavendish Street and Henrietta Place. Highway works be agreed and alterations to traffic orders to have been confirmed prior to commencement of development. If undertaken by the owner (by agreement with the City Council), highway works be completed prior to occupation of any part of the new floorspace at sixth, seventh and eighth floors.</p> <p>c) A financial contribution of £41,000 to support the Westminster Employment Service (payable prior to commencement of development).</p> <p>2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:</p> <p>a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</p> <p>b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 9th November 2021
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
2.	RN(s): 18/03060/FULL Warwick	48 - 58 Hugh Street London SW1V 4ER	Erection of mansard roof extensions on Nos 48-58 Hugh Street to create additional residential accommodation in connection with each property. (ADDENDUM report)	Zaheed Nizar
	Recommendation Refuse permission - design, height, location and loss of original roofscape would be visually intrusive and harmful to the appearance and architectural integrity of this group of buildings and to the character and appearance of the Pimlico Conservation Area.			
Item No	References	Site Address	Proposal	Applicant
3.	RN(s): 21/03055/FULL Bayswater	29 Northumber land Place London W2 5AS	Excavation to lower level of lower ground floor and excavation of rear garden to full length and width; extension under front garden with alterations to front lightwell. Demolition of rear closet wing and erection of replacement at lower ground, ground and first floor level; erection of two storey side infill extension at lower ground and ground floor levels. Erection of mansard roof extension. Alterations to front and rear boundaries. Alterations to windows and doors.	Mr & Mrs Glazebrook
	Recommendation Grant conditional permission			
Item No	References	Site Address	Proposal	Applicant
4.	RN(s): 20/05385/HH Abbey Road	96 Hamilton Terrace London NW8 9UP	Complaint about a high hedge at the boundary between the rear gardens of 20A Alma Square and 96 Hamilton Terrace made under Part 8 of the Anti-Social Behaviour Act 2003.	Emmanuelle Tandy
	Recommendation <ol style="list-style-type: none"> 1. That the complaint be upheld 2. That a remedial notice be issued requiring: <ol style="list-style-type: none"> (a) Hedge A (as specified in Fig. 1 and 2 of this report) to be reduced to a height not exceeding 4.6m above the garden level of 96 Hamilton Terrace and Hedge B (as specified in Fig. 1 and 2 of this report) to be reduced to a height not exceeding 3.5m above the garden level of 96 Hamilton Terrace. (b) Hedge A to be maintained so that at no time does it exceed 5.2m above the garden level of 96 Hamilton Terrace and Hedge B to be maintained so that at no time does it exceed 4.1m above the garden level of 96 Hamilton Terrace. 			

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 9th November 2021
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

CONFIDENTIAL ITEMS
 The following items are due to be published on the “confidential” part of the agenda as the reports involve the likely disclosure of exempt information relating to financial or business affairs.

Item No	References	Site Address	Proposal	Applicant
5.	RN(s) : 21/03141/TPO Maida Vale	5 Randolph Gardens London	1 x lime (front): fell	Sedgwick
	Recommendation Grant conditional consent			
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): 21/04696/TPO Westbourne	30 Sutherland Avenue London W9 2HQ	T1 London plane: fell	Crawford and Company
	Recommendation Refuse consent Reason: <ul style="list-style-type: none"> Adverse effect on amenity and on character and appearance of conservation area 			

Item No	References	Site Address	Proposal	Applicant
7.	RN(s): Tree Preservation Order No 681 Abbey Road	50 Springfield Road London NW8 0QN	T1 Japanese maple tree	
	Recommendation Refuse consent Reason: <ul style="list-style-type: none"> Adverse effect on amenity and on character and appearance of conservation area 			
Item No	References	Site Address	Proposal	Applicant
8.	RN(s): Tree Preservation Order No 678	St Gabriel's Church Warwick Square London	T1 Bay tree	

CITY OF WESTMINSTER
PLANNING APPLICATIONS SUB COMMITTEE – 9th November 2021
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Warwick			
	<p>Recommendation</p> <p>(a) TO CONFIRM Tree Preservation Order No. 678 (2021) with or without modification with permanent effect: OR</p> <p>(b) NOT TO CONFIRM Tree Preservation Order No. 678 (2021).</p>			

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 9 November 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	318 Oxford Street, London, W1C 1HF		
Proposal	Installation of new ground floor shopfronts including 2no. new double height entrances; extensive refurbishment of the existing Portland stone facade; replacement of the existing windows between first and fifth floors with new double-glazed units, and modification of the fifth floor windows to increase their height; infill construction along fifth floor Chapel Place in facsimile of the existing facade to provide additional Class E floorspace; installation of ventilation louvres to the Chapel Place elevation at first to fourth levels; demolition of the sixth and seventh floors and erection of replacement sixth and seventh floors (including the creation of new external terrace areas) and new eighth floor roof extension with external terrace areas, all for use within Class E; and consolidation of roof level plant within a single enclosure and provision of a new building maintenance unit at roof level.		
Agent	DP9		
On behalf of	Publica Properties Limited		
Registered Number	21/01633/FULL	Date amended/ completed	9 April 2021
Date Application Received	15 March 2021		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

<p>1. Grant conditional permission subject to a legal agreement to secure the following:</p> <p>a) A financial contribution of £225,000 towards the Carbon Off-Set Fund (payable prior to commencement of development).</p> <p>b) Undertaking of highways works to Chapel Place, Oxford Street, Old Cavendish Street and Henrietta Place. Highway works be agreed and alterations to traffic orders to have been confirmed prior to commencement of development. If undertaken by the owner (by agreement with the City Council), highway works be completed prior to occupation of any part of the new floorspace at sixth, seventh and eighth floors.</p> <p>c) A financial contribution of £41,000 to support the Westminster Employment Service (payable prior</p>
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to commencement of development).

2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:

- a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
- b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

The application site comprises an unlisted purpose-built department store located on the West End International Shopping Frontage and the Central Activities Zone (CAZ). The site is located within the Harley Street Conservation Area and adjacent to St. Peter's Church (Grade I listed).

Permission is sought to make a number of alterations to the building including the demolition of the sixth and seventh floor level and replacement with a three-storey roof extension with plant enclosure above. It is proposed that these new sixth, seventh and eighth floors (6,009 sq.m) be used for uses within Class E (except uses within Class E(e) (i.e. medical or health services) or for uses within Class E(f) (i.e. a creche, day nursery or day centre)). The applicant has agreed that any restaurant will not exceed 1,556 sq.m. Highway works are proposed on all four sides of the building on Oxford Street, Old Cavendish Street, Henrietta Place and Chapel Place.

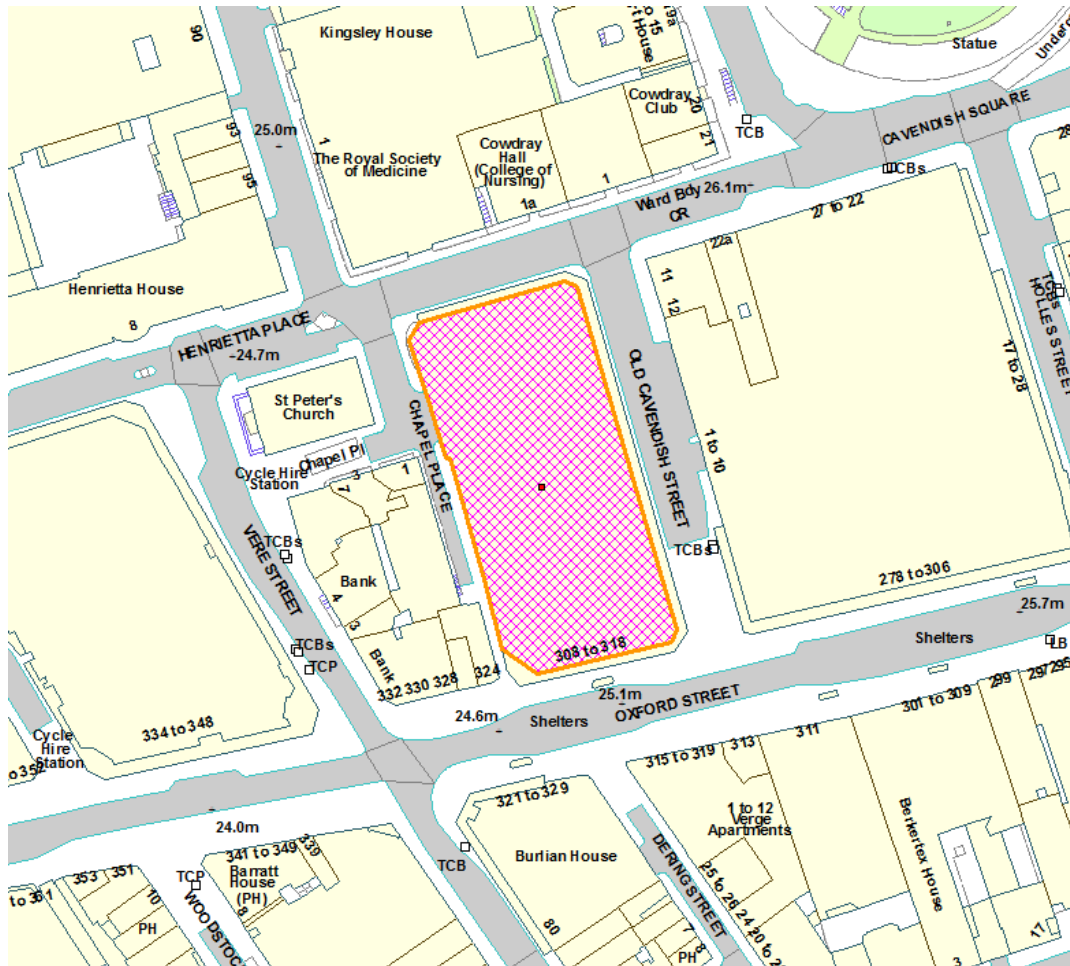
The key issues for consideration are:

- Whether the proposed extensions and alterations will preserve and enhance the character and appearance of the Harley Street Conservation Area and not harm the setting of the neighbouring St. Peter's Church.
- Whether the range of uses sought within Class E are acceptable in land use, amenity and transportation terms.

For the reasons set out in this report, the alterations and extensions to this building are considered to be acceptable in design and heritage terms through preserving the character and appearance of the Harley Street Conservation Area and not harming the setting of the neighbouring St. Peter's Church. This is subject to the imposition of an amending condition requiring that the new windows on the vertical elevations of the building retain their existing eight-paned window pattern, albeit in new window frames with clear glazing. The range of uses proposed are also considered to be acceptable in the context of the site's location in a heavily commercialised part of the CAZ.

For these reasons, it is recommended that conditional planning permission be granted subject to the completion of a legal agreement securing highways works surrounding the site and financial contributions towards the City Council's Carbon Off-Set Fund and to support the Westminster Employment Service.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Oxford Street elevation



5. CONSULTATIONS

MARYLEBONE ASSOCIATION:

No objection.

HISTORIC ENGLAND:

No comment.

WASTE PROJECT OFFICER:

No objection.

HIGHWAYS PLANNING:

Any response to be reported verbally.

ENVIRONMENTAL SCIENCES:

No objection.

THAMES WATER:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 177

Total No. of replies: 2

No. of objections: 0

No. in support: 2.

Support on the following grounds:

- The proposal will diversify the building's offer.
- The improvements proposed to the public realm, particularly the additional active frontages on Chapel Place, represents a great improvement to the appearance of the building and the pedestrian experience.
- The proposed increases in height are proportional to the scale of the building.
- Support the alterations to the façade.

Comments:

- Request that deliveries are restricted to certain hours to protect the public space on Chapel Place.
- Concern over the refuse store proposed on Chapel Place and requests that this is located within the demise of the application site.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site comprises an unlisted building of merit (non-designated heritage asset) located within the CAZ and the Harley Street Conservation Area. The building is prominent in views from the Mayfair Conservation Area to the south. The Church of St. Peter's (Grade I listed) is located to the west of the site. The building occupies a street block bound by Oxford Street, Old Cavendish Street, Henrietta Place and Chapel Place.

Along with Regent Street and Bond Street, Oxford Street forms part the West End International Shopping Centre. The site is also located within the West End Retail and Leisure Special Policy Area.

Records indicate that there are very few residential units in the vicinity of the site; the nearest being a fourth floor of 1 Vere Street.

The building is arranged over sub-basement, basement, ground and seven upper floors and comprises a purpose-built department store completed in 1937 and originally occupied by DH Evans. It was designed by Louise Blanc (who was also responsible for the Basil Street extension to Harrods (Grade II*)) and was completed in 1937 in an Art Deco style which had become prominent during the inter-war years.

The building is of steel frame construction faced in Portland stone, apart from at the rear to Chapel Place and has been found to suffer from 'Regent Street Disease' whereby the steel frame is suffering from corrosion due to the porous limestone façade. Without planning permission, an unattractive mesh was erected around the upper floors of the building. It is understood that this was to prevent any masonry falling from the building causing a danger to passing pedestrians. Retrospective temporary planning permission was granted on 5 June 2020 to retain this mesh for a temporary period until 6 April 2022 in order to allow the required repair works to take place safely.

At the time of construction, the height restrictions imposed on trade buildings by the London Building Acts were amended to 100ft, 20ft more than the old limit. This resulted in the opportunity to provide the sixth and seventh floors. At the time of its conception, 318 Oxford Street would have been the tallest building along this part of Oxford Street. The sixth and seventh floors were designed to sit back from the principal façade following a recommendation from the Howard de Walden Estate (Survey of London).

The Harley Street Conservation Area Audit identifies this building to be one 'where a roof extension would normally be acceptable, subject to analysis of impact on amenity'. The existing roof form has been insensitively altered in some areas previously.

The building is partly currently occupied by House of Fraser department store, with retailing taking place over basement, ground and first, second and part third floors. The applicant advises that most of the floorspace over part third, fourth, fifth, sixth and seventh floors have been handed over from House of Fraser to the applicant and strip out works to convert these floors into offices is underway. The building features a loading bay accessed from Chapel Place. On 1 September 2020, the lawful use of the building transitioned to be within Class E (Commercial, Business and Service).

6.2 Recent Relevant History

20/04062/FULL

Installation of replacement windows to a single bay at 4th floor and trial stonework to the surrounding stone panels, columns and mullions.

Refused - 02.09.2020

20/02382/FULL

Retention of safety netting on the external facades for a temporary period until 6 April 2022.

Permitted - 05.06.2020

18/10897/FULL

Use of part basement, part ground, part first, part second, part third, fourth, fifth, sixth and part seventh floors as office use (Class B1) (including waste storage and cycle parking at part ground and part basement floors levels). Use of part ground and part basement as gymnasium (Class D2). Use of part ground and part seventh floor as restaurant (Class A3). Alterations at roof level including new louvred screen to plant and increase in height to the lift overrun.

Permitted - 14.02.2020

7. THE PROPOSAL

As set out above, permission was granted on 14 February 2020 to convert the existing building to 13,546 sq.m of office floorspace access from Henrietta Place over part third, the entirety of the fourth to sixth floors, and part seventh floor. A gymnasium (984 sq.m) was approved at basement level and a restaurant (1,121 sq.m) was approved at front seventh floor level. Customers access to the restaurant was prohibited by condition before 07.00 and after 01.00 each day. This permission secured by legal agreement highways works to Chapel Place in order to improve the quality of this public space.

The current application is more ambitious than that approved, seeking permission to demolish the sixth and seventh floors and replace them with a three-storey extension with plant enclosure above. Each of these new floors would have terraces. New shopfronts are proposed at ground floor level, two double-height entrances are proposed to the Old Cavendish Street and Henrietta Street facades, the Chapel Place façade will be extended upward at fifth floor level, and new double-glazed windows will be installed throughout. The works will see the restoration of the stone façade, urban greening at roof level and enable the building to achieve BREEAM level 'excellent'.

A communal refuse store is proposed at sub-basement level. An enlarged loading bay with bin presentation area is proposed on the Chapel Place frontage. Provision for 344 x cycle parking spaces with associated showers / lockers / changing facilities is proposed at basement level and accessed from Chapel Place.

The lawful use of the basement to fifth floors of the building will remain unchanged by the development proposal (i.e. they will remain within Class E). As such, the applicant will be able to benefit from the flexibility to change the use of some or all of the floorspace over these floor levels to other uses within Class E without the need for

planning permission.

A summary of the land use implications of the proposed development are as follows:

	Existing GIA (sqm)	Demolished	Proposed new construction	Proposed GIA (sqm)	+/-
Class E	31,507	4,729	6,009	32,787	1,280

In land use terms, the applicant has agreed that the new sixth, seventh and eighth floors will not be used for uses within Class E(e) (i.e. medical or health services) or for uses within Class E(f) (i.e. a creche, day nursery or day centre). Furthermore, the applicant has agreed that the total amount of floorspace at new sixth, seventh and eighth floor levels used as a restaurant (i.e. Class E(b)) will be limited to a maximum of 1,556 sq.m. As such, the application needs to be assessed on the basis that the new sixth, seventh and eighth floor levels (i.e. 6,009 sq.m) will be used or part used for the following purposes:

- Retailing (i.e. Class E(a));
- Café / restaurant (i.e. Class E(b) (albeit limited to 1,556 sq.m));
- Financial and professional services (Class E(c).
- Indoor sport, recreation or fitness (i.e. Class E(d); and / or
- Offices (i.e. Class E(g).

The following assessment is made against these potential uses for the new sixth, seventh and eighth floor levels.

8. DETAILED CONSIDERATIONS

8.1 Land Use and Amenity

8.1.1 Provision of office floorspace

The development could result in an increase of up to 6,009 sq.m of office floorspace in the CAZ. This is in full compliance with London Plan Policies SD4, SD5 and E1 and City Plan Policies 1(B)(1), 2(A) and 13(A).

8.2.2 Provision of up to 1,556 sq.m of restaurant floorspace

City Plan Policy 2 supports the intensification of the West End Retail and Leisure Special Policy Area, alongside an improved retail and leisure experience that responds to innovation and change in the sector and a diverse evening and night-time economy and enhanced cultural offer. These objectives need to be balanced against the requirement to protect residential amenity and local environmental quality, as set out within City Plan Policy 7. City Plan Policy 14(C) requires all development to be of a scale, type and format that reflects and enhances the role and function of the centre within which it is proposed, with the West End Retail and Leisure Special Policy Area providing a wide mix of commercial uses that support the West End's role as a retail, employment and cultural hub, and as a centre for the visitor, evening and night-time economy.

In terms of the impact of the proposed large restaurant needs to be assessed against City Plan Policy 16(A) that states, *'Proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate'*.

The location of the restaurant in a highly commercial location in the heart of the West End, its excellent public transport connections, the very few residential properties in the vicinity of the site and the lack of objections to the proposal, all combine to mean that such a use would not have an adverse effect on the character and function of the area, harm residential amenity or degrade local environmental quality.

Conditions are recommended to be imposed preventing a delivery service from operating from the premises, limiting the ancillary bar area to 15% of the floorspace of the unit, requiring customers to have left the premises by 01.00 daily, and the delivery of the proposed high-level kitchen extract flues.

8.1.3 Provision of retail floorspace or other service uses floorspace

The use of some or all of the sixth, seventh and eighth floors levels for retail or other service uses is uncontentious given the site's location within the West End Retail and Leisure Special Policy Area and the West End International Centre, in accordance with City Plan Policies 2 and 14.

8.1.4 Provision of indoor sport, recreation or fitness floorspace

The use of some or all of the sixth, seventh and eighth floors levels for indoor, recreation or fitness uses is similarly uncontentious through providing an improved leisure experience within the Oxford Street District, in accordance with City Plan Policies 2 and 14.

8.2 Townscape and Design

Legislation

Section 66 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."

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 existing roof form has been insensitively repaired, extended, and altered previously. The sixth and seventh storeys have particularly mean floor-to-ceiling heights for such a large floorplate (2.43 to 2.59m) and appears cluttered and incoherent in views towards the Chapel Place elevation. While these floors contain good architectural features, such as the chevron windows to the Oxford Place and Old Cavendish Street facades, and curved former restaurant window to the Chapel Place facade, albeit covered, its demolition provides the opportunity to enhance the building's appearance from the east, rationalise the roof level plant and improve upon the quality of internal and external spaces. As such, the degree of demolition proposed in this part of the conservation area is acceptable in this case.

The proposed extension will see the overall height of the building increase by approximately 6m. It comprises a substantial addition, however the stepped back nature of the sixth floor serves to retain the established parapet level, while the recessed corners of the seventh storey further reduces the visual impact of the massing. The chamfered corners of the sixth storey reflect the form of the building beneath providing a sympathetic transition between the existing structure and the new extension.

Throughout the course of the application officers have advised on the reduction in the degree of glazing proposed at the seventh and eighth storeys however, the inclusion of metal balustrades and proposed greening will serve to break up this expanse. Furthermore, it is reflective of the solid-to-void ratios found at the upper storeys of the John Lewis building (278-306 Oxford Street) and the scheme at the former Debenhams site (334-348 Oxford Street) which has been recommended for approval by Committee, both of which are nearby. As such, the taller floor-to-ceiling height of the eighth floor and expanses of glazing is reflective of the local context and acceptable in this case. The seventh and eighth floors each step back from the Oxford Street and Henrietta Place facades, however, the eighth floor is sheer to the Old Cavendish Street and Chapel Place facades. While the extension will be prominent above the modest terraced properties at 324-332 Oxford Street, the massing is similar to the scheme at the former Debenhams site that the City Council has resolved to grant permission and is considered appropriate on this street.

The proposed changes to the shopfronts at ground floor level have been negotiated to reflect the original 1930s scheme, including the use of Honeycomb granite, grey and dark grey granite, with bronze finished shopfronts. While it is disappointing to see the loss of original canopies, these survive in poor condition and the ground floor level proposals include quality materials and reflect an Art Deco style which complement the building above. The works at this level will enhance the appearance of the building, particularly on the Chapel Place façade, where there is a lack of active frontage and a back of house character. Furthermore, the removal of the canopies will see the loss of the unsightly condenser units found on the Old Cavendish Street façade. Officers have negotiated the reduction in the height of the roof top building maintenance

unit. While it is disappointing that the plant enclosure will be visible from a number of street level views, its height and footprint have been reduced and rationalised. The new enclosure will improve the views from Chapel Place and Vere Street, as well as high level views from surrounding buildings.

A number of vents are proposed within window openings to the Chapel Place facade. Officers have negotiated a reduction in the number of these and were unable to agree to their omission. However, there are currently a number of such vents in place within this elevation and the proposals will incorporate a fish scale pattern to reflect the existing Art Deco character. The location within high level window openings also allow their removal and replacement with windows in the future, if possible. Taking into account the existing vents within the façade and the overall improvements to the building's appearance, these vents are acceptable on balance.

The increase in height and bulk is considerable, however, acceptable in the context of the large department stores close by and the commercial character of Oxford Street. While the extension will appear prominent above 324-332 Oxford Street, the plant enclosure will from a prominent utilitarian form in the roofline, and the vents to the Chapel Place façade are undesirable, the scheme offers a number of improvements. The rationalisation and better realised Chapel Place façade will enhance the setting of St. Peter's Church (Grade I listed), the new good quality shopfronts will contribute to a less cluttered and more welcoming streetscape, the restoration and installation of new pant throughout will see the building achieve BREEAM excellence and provide much welcomed greening. As such, this application is acceptable on balance and will preserve the character and appearance of the Harley Street Conservation Area and the setting of St Peter's Church.

However, the proposed window replacements would dilute the architectural interest of this building and its contribution to the character and appearance of the conservation area and streetscene. An application for such windows was refused on 2 September 2020 (Ref: 20/04062/FULL) because they fail to reflect the original window design, which are a key feature of Art Deco architecture which contribute greatly to the character of this unlisted building of merit and its contribution to the character and appearance of the conservation area.

The majority of the existing windows are eight-paned (the top two opening inwards to allow ventilation) and have steel frames. The majority have copper lighting and frosted glazing. Ordinarily, the expectation is that replacement windows should be 'like for like' in their design and materiality. However, it is recognized that the existing window type is not conducive to a comfortable office space as the frosted glazing limits the light intake and visibility.

The applicant proposes replacing these with a mixture of three-paned aluminium windows and two-paned sliding windows that would be openable to internal 'winter gardens'. These large panes fail to reflect the original windows and fail to relate to the Art Deco façade. Furthermore, two styles of windows are proposed instead of one consistent style at present. This would cause harm to the appearance of the building and its contribution to the character and appearance of the Harley Street Conservation Area.

On balance, officers could support the loss of the copperlights and frosting. While the

loss of these elements would dilute the original Art Deco design, the retention of an eight paned window would still reflect the period and sit appropriately within the façade, whilst allowing for a wide range of users of the building and enhancing the environmental performance of the building. The retention of the ability to be able to open the top two lights would also future-proof the building and make it more flexible should future occupants wish to naturally ventilate some or part of the building. A well-designed aluminium slimline double-glazed unit that retained the eight paned window and has a consistent window pattern throughout would be acceptable in design and conservation terms.

Officers have requested that the applicant reconsider its approach and amend the window design by accepting officer's suggested approach. However, the applicant has declined to amend the scheme. In order to avoid recommending the application for refusal, it is recommended that an 'amending condition' is imposed requiring the applicant to submit amended drawings showing that all new windows on the first, second, third, fourth, and fifth floor levels on the Oxford Street, Old Cavendish Street, Henrietta Place, and Chapel Place facades of the building to be clear-glazed with slim section double-glazing set in metal frames to match the sub-divisions, proportions, and detailed design of the existing metal-framed windows.

Subject to this amended condition securing an appropriate design for the replacement windows, the proposals comply with policies 38, 39, 40 and 43 of Westminster's City Plan 2019-2040 (adopted April 2021) and will not harm the character and appearance of the Harley Street Conservation Area or harm the setting of the Grade I listed St. Peter's Church. A recommendation to grant conditional permission would therefore 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

The City Council places high priority on protecting residential amenity, with City Plan Policy 7(A) stating that development will be neighbourly by, *'Protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking'*. City Plan Policy 33(A) states, *'The council will make sure that quality of life and health and wellbeing of existing and future occupiers, and the natural environment are not adversely affected by harmful pollutants and other negative impacts on the local environment'*.

Given the very small number of residential properties in the vicinity of the site and reasonable location from the application site, the proposal development raises no amenity concerns. There are not considered to be justifiable reasons for limiting the hours that the terraces on the upper three floors can be used.

8.4 Transportation/Parking

8.4.1 Cycle parking

There is currently no dedicated cycle parking on site. 344 x cycle parking spaces and associated lockers / showers / changing facilities are proposed for all the anticipated uses within the building at basement level. This will be accessed from Chapel Place. A

dedicated lift and stair are provided from ground to basement level, and two passenger lifts provide direct access to the office floors. This is acceptable and the provision of these facilities is recommended to be secured by condition.

8.4.2 Servicing

The service yard would be significantly improved under the proposed scheme. The existing loading bay would be modified and enlarged to provide off-street parking/loading for three vehicles to service at once, including two bays that can accommodate a 10.5m rigid truck and one bay for smaller vans. Vehicles would continue to reverse into the loading bay from Chapel Place however they would fit fully within the building envelope and no longer straddle the public highway. It is recommended that delivery of this enlarged service bay is secured by condition.

The owner of a nearby building has requested that conditions be imposed restricting the hours that deliveries can take place on the ground that the alterations to Chapel Place may bring the turning head for vehicles closer to this commercial property. There are currently no restrictions on the hours of servicing and it is not considered necessary or reasonable to impose such control as a result of the proposed development.

8.4.3 Highway works

The principle of the proposed improvements to the public realm on Chapel Place, Oxford Street, Henrietta Place and Old Cavendish Street have been discussed with the Highways Planning Manager and the Oxford Street District Team and there are no in-principal objections. The detailed design is a matter for the City Council in its capacity as the Highways Authority, with input from the Oxford Street District Team.

8.5 Economic Considerations

The economic benefits of the development proposal are welcome.

8.6 Access

Level access will be provided throughout the building.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Plant

Conditions are recommended to be imposed ensuring that the plant selected will comply with City Plan Policy 33(C). Environmental Sciences has no objection to the proposal.

8.7.2 Refuse / Recycling

The existing waste strategy utilises a skip compactor located at ground floor. This occupies a significant portion of the existing loading bay. The proposals would improve on the existing waste management on site by removing the existing skip compactor and providing a shared refuse store located at sub-basement level.

The refuse store would be located close to a goods lift that links directly to the ground floor loading bay where a bin presentation area would be provided. Waste would be stored and compacted in the refuse store, freeing up space for vehicles at ground floor level.

The Waste Projects Officer has no objection to the proposed refused storage arrangements. It is recommended that the delivery of this improved waste store is secured by condition.

The concern from the owner of a neighbouring building to the proposed refuse store on Chapel Place is unfounded. This is an existing refuse store unconnected to the application site.

8.7.3 Biodiversity

Planting on the proposed roof terraces will enhance urban greening and the biodiversity potential of the site.

8.7.4 Sustainability

London Plan Policy SI 2 requires major development to be net zero-carbon, with a minimum requirement of on-site reduction in regulated emissions (i.e. those associated with heating, cooling, ventilation, hot-water and lighting) of at least 35 per cent beyond Building Regulations 2013 for major development. Residential development should achieve 10 per cent, and non-residential development should achieve 15 per cent through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either:

- 1) through a cash in lieu contribution to the borough's carbon offset fund, or
- 2) off-site provided that an alternative proposal is identified and delivery is certain.

City Plan Policy 36(B) requires major development to be zero carbon. City Plan Policy 36(C) adds, *'Where it is clearly demonstrated that it is not financially or technically viable to achieve zero-carbon on-site, any shortfall in carbon reduction targets should be addressed via off-site measures or through the provision of a carbon offset payment secured by legal agreement'*.

The applicant's energy strategy states that the refurbished element is expected to achieve a 52% improvement in regulated carbon dioxide emissions over and above Building Regulations 2013, all by energy efficiency measures. In terms of the new extension element, the applicant's energy strategy states that it will meet the minimum requirement of 15% by energy efficiency measures and achieve a further 25% improvement through the provision on on-site renewable technology (i.e. 90 sq.m of photovoltaic panels and heat pumps). The result would be an overall improvement of 40%.

Both are short of zero carbon (i.e. 100% improvement over Part L 2013) but is considered to be the maximum that can be delivered in in this instance. The residual 79 tCO₂/annum is required to be off-set through a financial contribution to the City Council's

Carbon Offset Fund. This equates to a financial contribution of £225,000. This is recommended to be secured by legal agreement.

City Plan Policy 38(E) requires non-domestic developments of 500 sq.m or above to achieve at least BREEAM 'Excellent' or equivalent standard. The development is expected to achieve BREEAM 'Excellent'. This is acceptable and is recommended to be secured by condition.

8.7.5 Overheating and Ventilation.

The applicant proposes that the building be mechanically ventilated. Currently, the top two lights of the majority of the windows are openable and it is considered to be a retrograde step to rule out passive ventilation as a result of the proposed windows design.

As set out within Section 8.2 of this report, officers recommend that an amending condition be imposed requiring the applicant to retain the eight-paned window design, albeit in new double glazed units with clear glazing. In addition to the design and conservation benefits of this amended design, the retention of the ability to be able to open the top two lights would future-proof the building and make it more flexible should future occupants wish to naturally ventilate some or all of the building. This will assist in ensuring that overheating is avoided in a way that does not require mechanical cooling with the associated negative carbon implications.

8.7.6 Air Quality

The proposed development is expected to be air quality neutral.

8.7.7 Surface Water Run-Off

Inadequate information has been submitted to demonstrate that surface water run-off has been minimised. Further assessment and the delivery of the required mitigation is recommended to be secured by condition.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

There is no neighbourhood plan for this part of the City.

8.10 London Plan

This application raises no strategic issues. Despite the proposal height of the building exceeding 30m, it is not 15m taller than the existing building and therefore the application is not referable to the Mayor of London

8.11 National Policy/Guidance Considerations

The revised NPPF was adopted in July 2021. The proposals are consistent with this guidance.

A number of pre-commencement conditions will be recommended to be imposed. Officers are in discussions with the applicant and an update will be provided to the Sub-Committee in due course.

8.12 Planning Obligations

Regulation 122(2) of the CIL Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

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

All of the draft 'heads' of agreement set out in detail within Recommendations 1(a) to (c) meet these tests.

The proposed improvements to the public realm on Chapel Place, Oxford Street, Henrietta Place and Old Cavendish Street are considered to be necessary given the more intensive use of the building, the greater points of access to the proposed uses and the opening up of the western frontage of the building onto Chapel Place.

In order to ensure that there is no legal impediment to the City Council or, if agreed, the owner undertaking the highways works, it is recommended that the detailed design of the highway works be agreed and any necessary alterations to traffic orders to have been confirmed prior to commencement of development. If the development is permitted to be constructed prior to any necessary alterations to traffic orders having been confirmed, there is a risk that these are not able to be agreed. The result would be that either: (i) The City Council will be unable to deliver the required highways works by practical completion of the development, as required by the legal agreement; or (ii) If the highway works are undertaken by the owner, the new floorspace at sixth, seventh and eighth floors could not be occupied. Both are clearly outcomes that should be avoided.

The estimated CIL payments are:

- £102,400 – Mayoral CIL
- £315,733 – Westminster CIL

8.13 Environmental Impact Assessment

The development is of insufficient scale to require assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

8.14 Other Issues**8.14.1 Employment and Skills**

It is recommended that a financial contribution of £41,000 to support the Westminster Employment Service is secured by legal agreement in order to contribute to improvement employment prospects for local residents, in accordance with City Plan Policy 18(D). This is payable prior to commencement of development.

8.14.2 Construction Impact

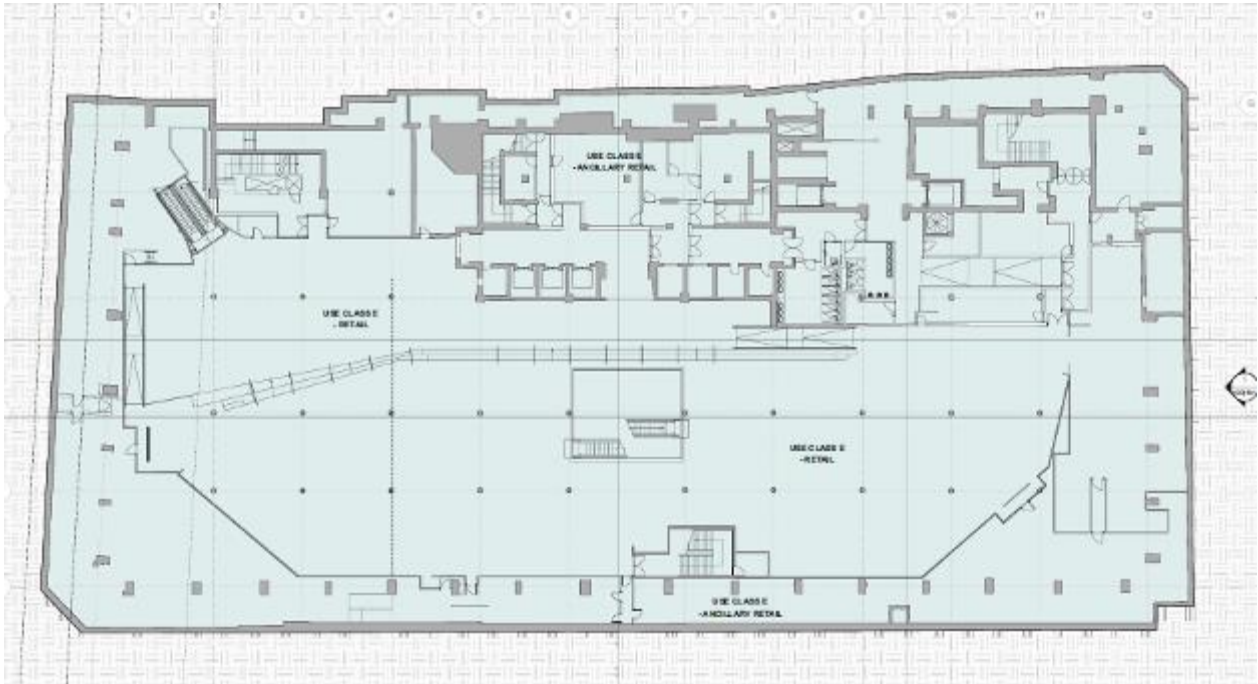
It is recommended that adherence to the City Council's Code of Construction Practice be secured by condition, in accordance with City Plan Policy 33(F).

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

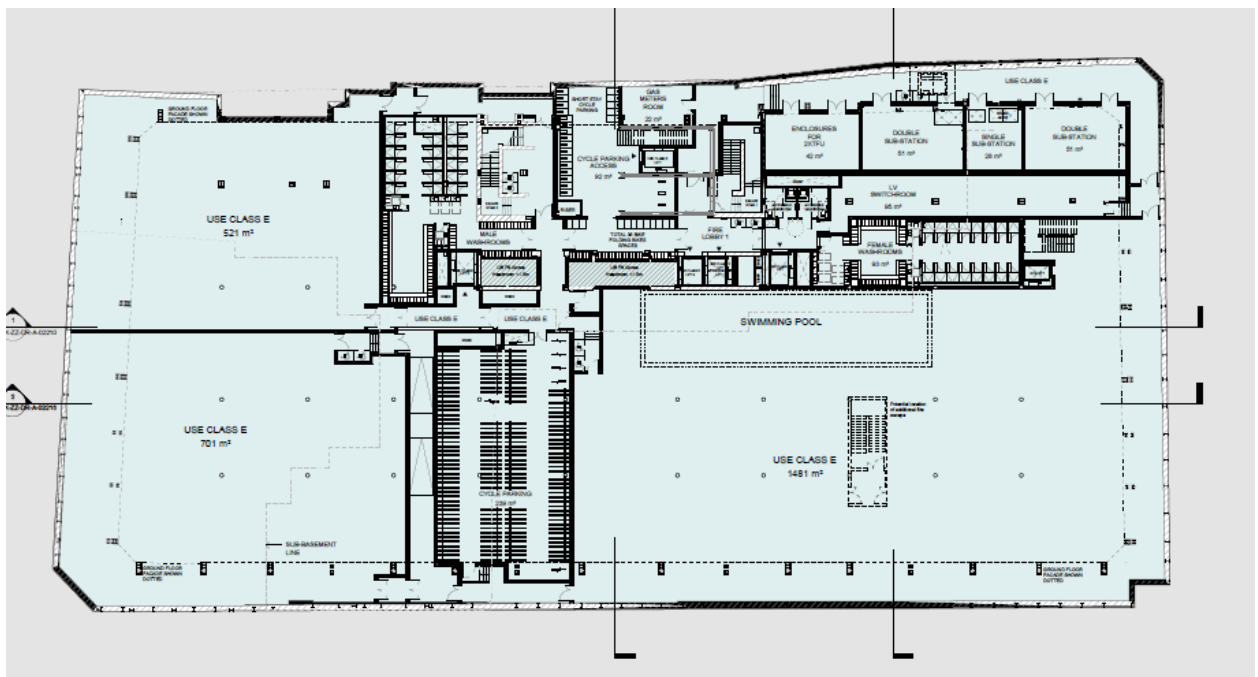
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

9. KEY DRAWINGS

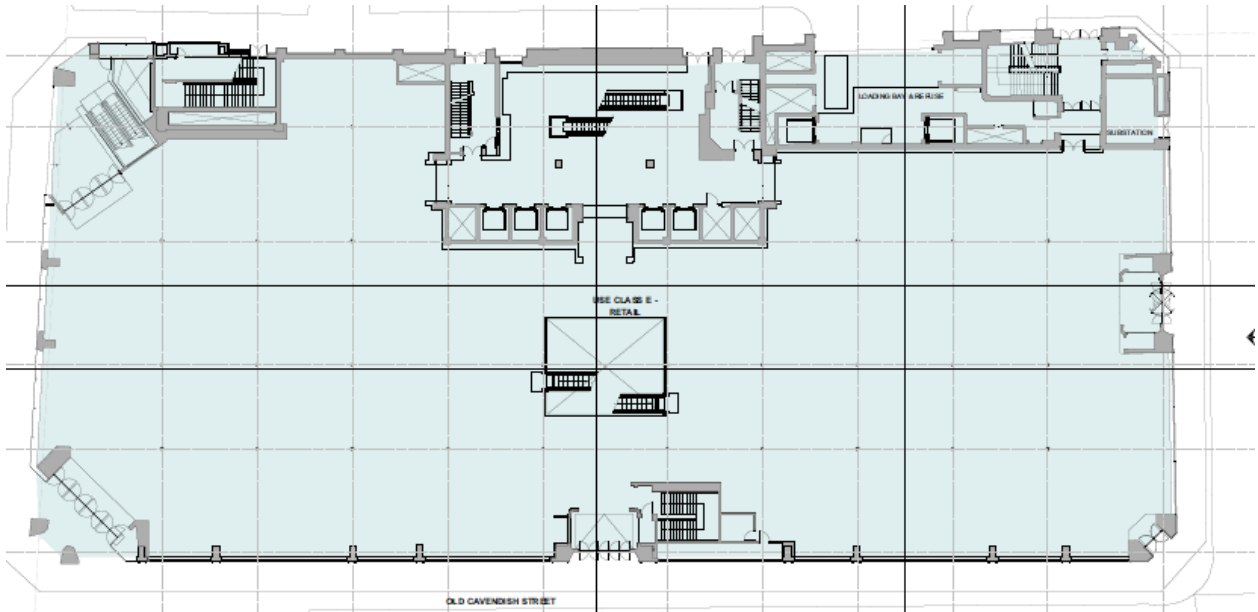
Existing basement floor



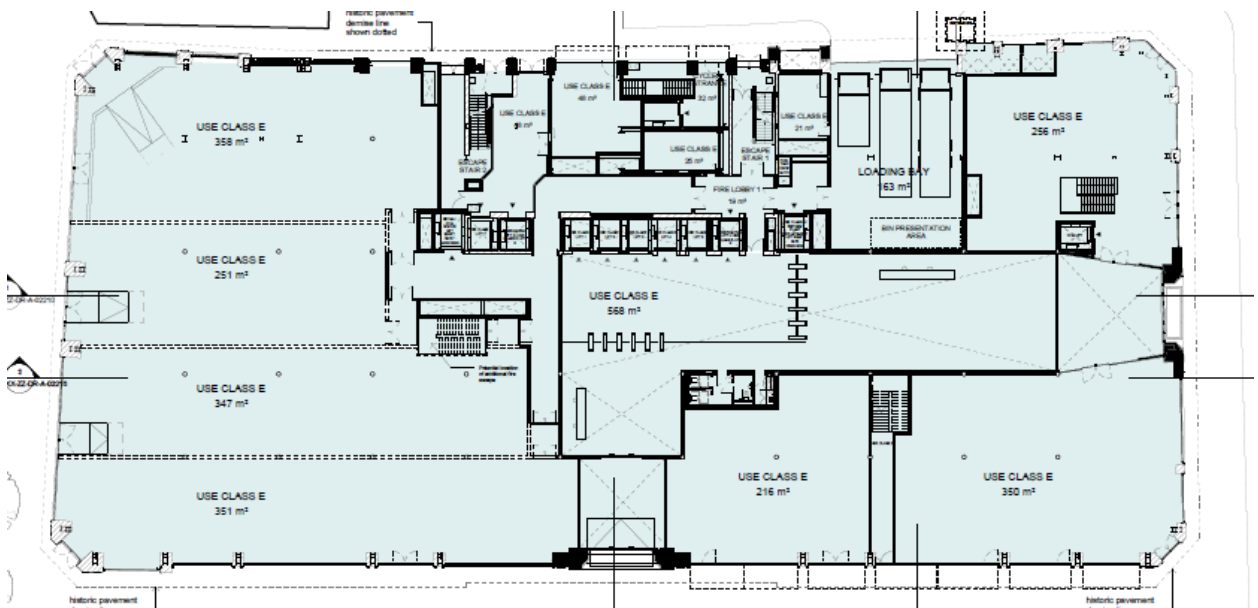
Proposed basement floor



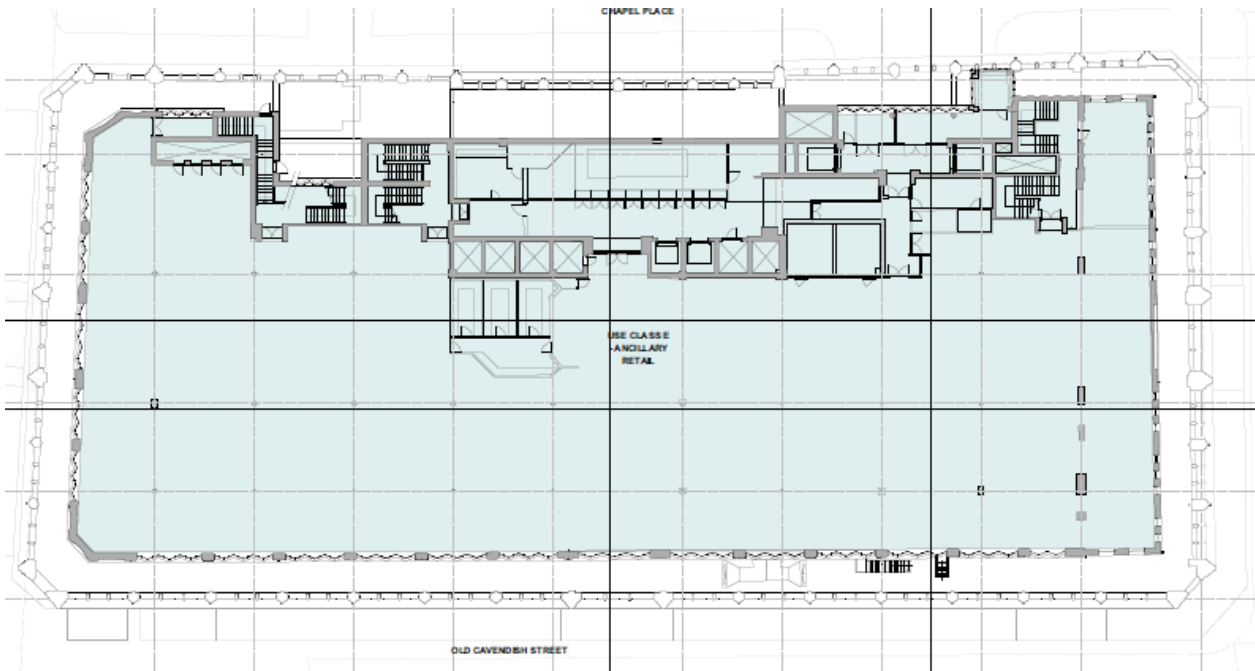
Existing ground floor



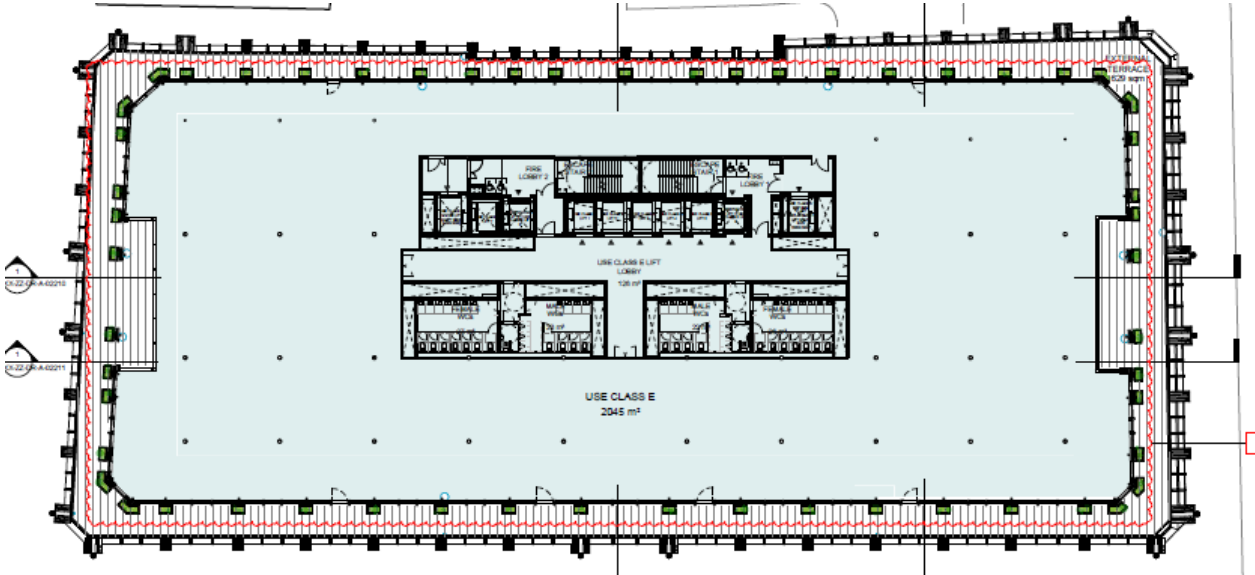
Proposed ground floor



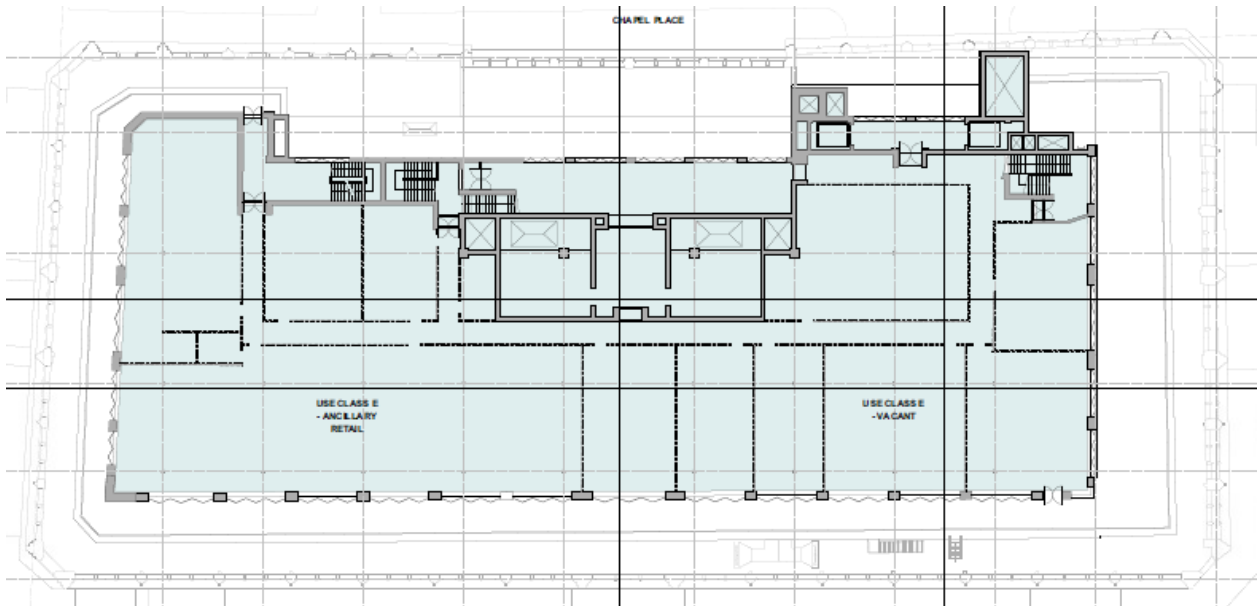
Existing sixth floor



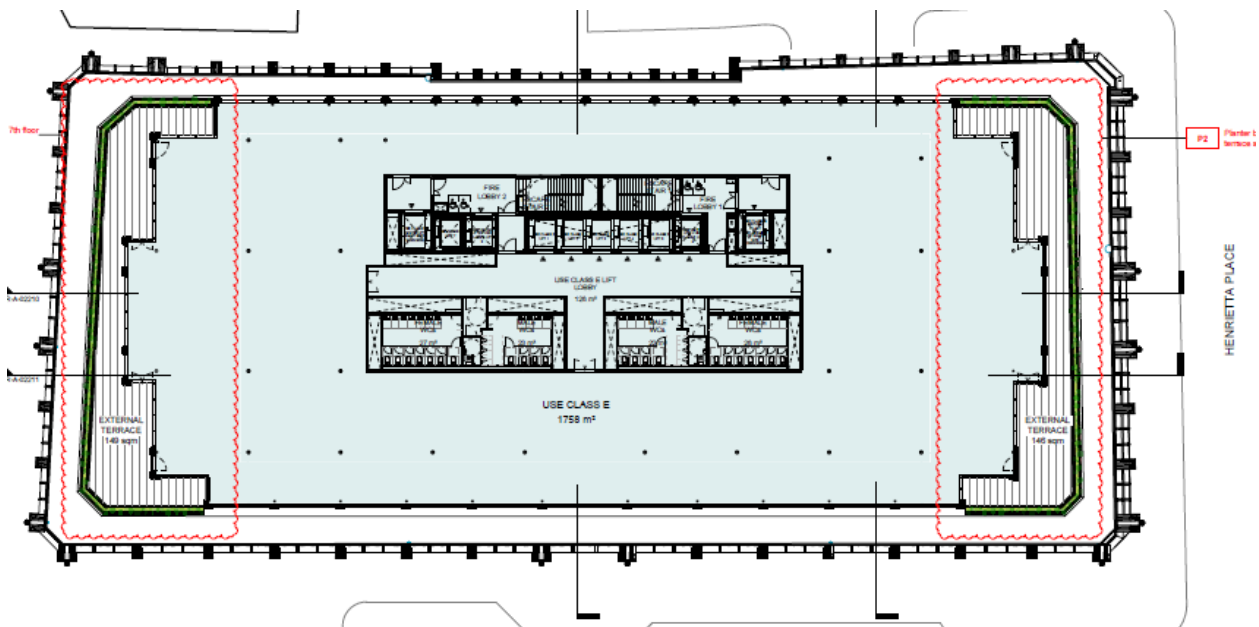
Proposed sixth floor



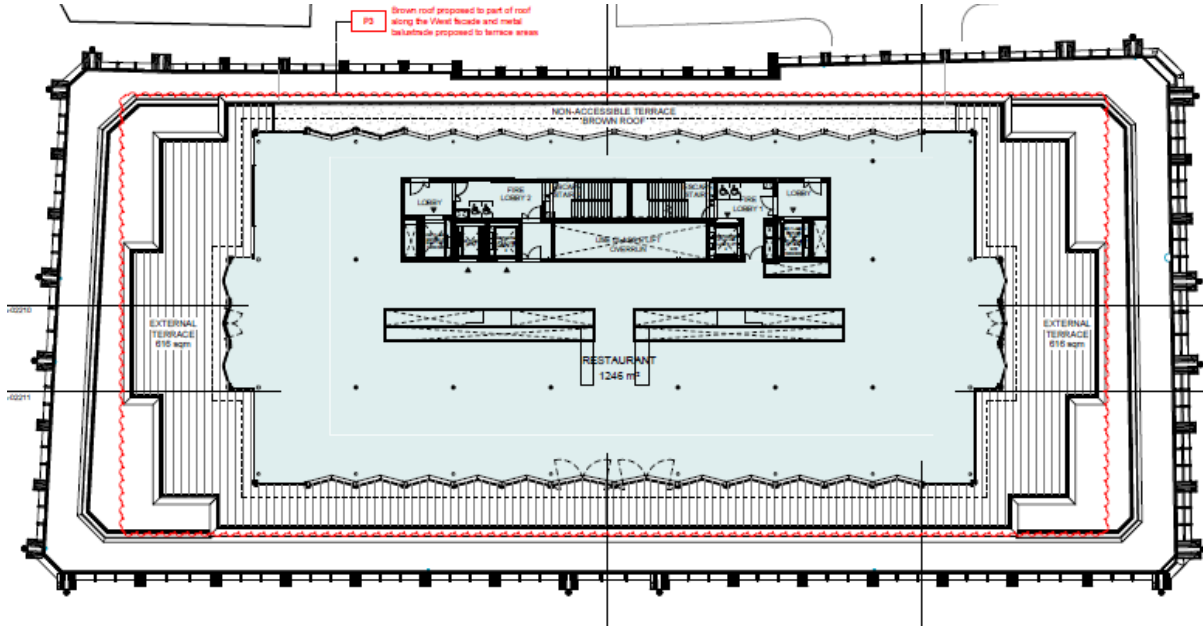
Existing seventh floor



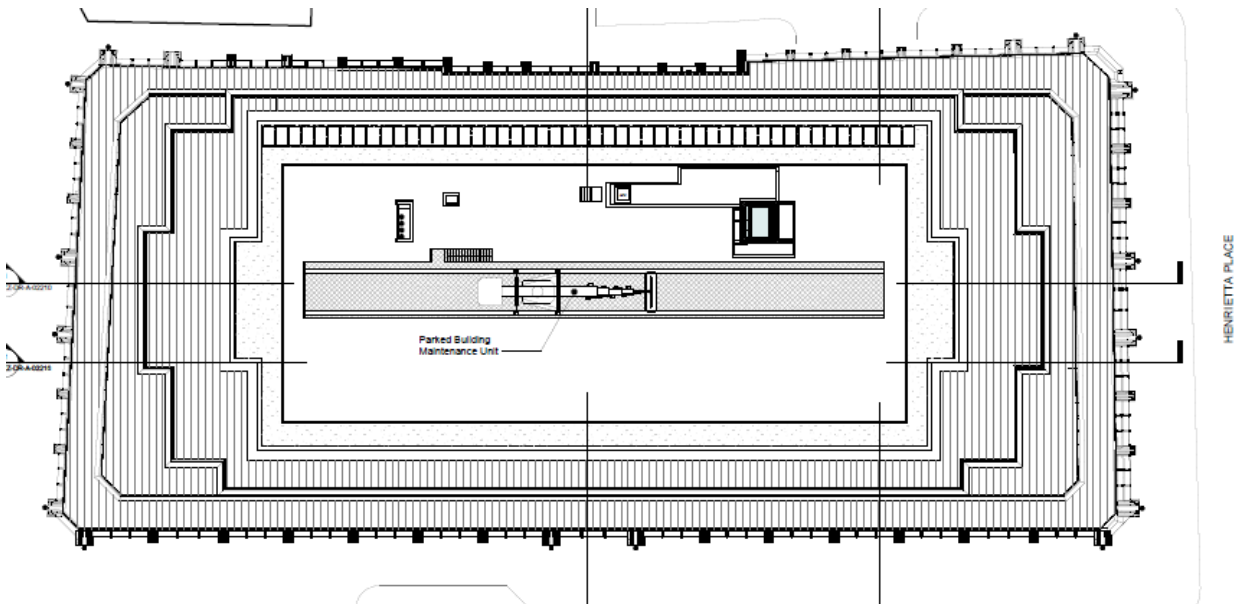
Proposed seventh floor



Proposed new eighth floor



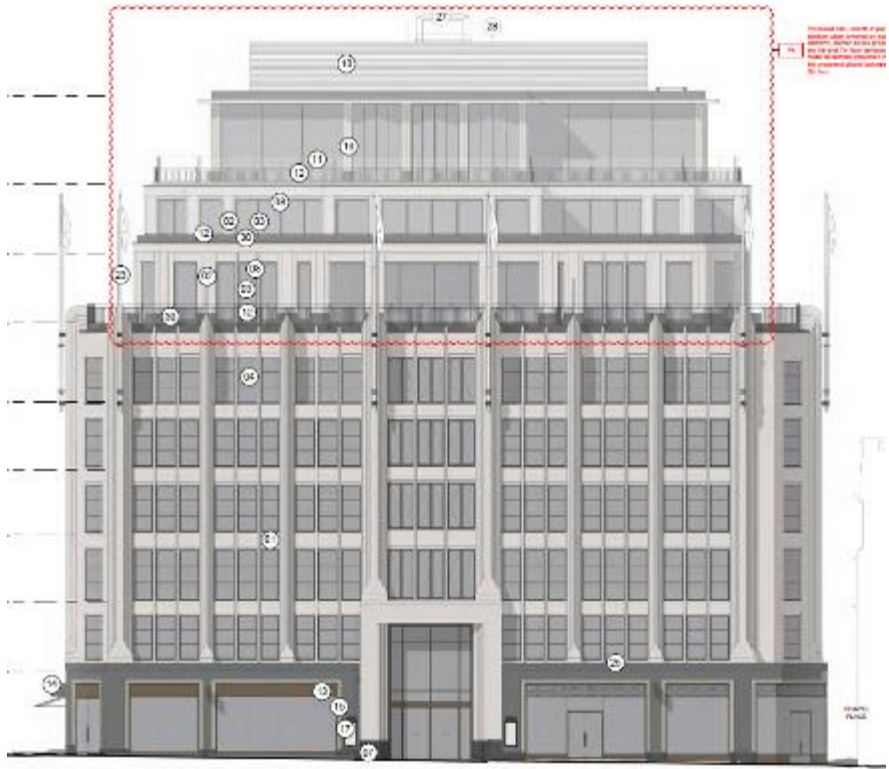
Proposed roof plan



Existing Oxford Street elevation



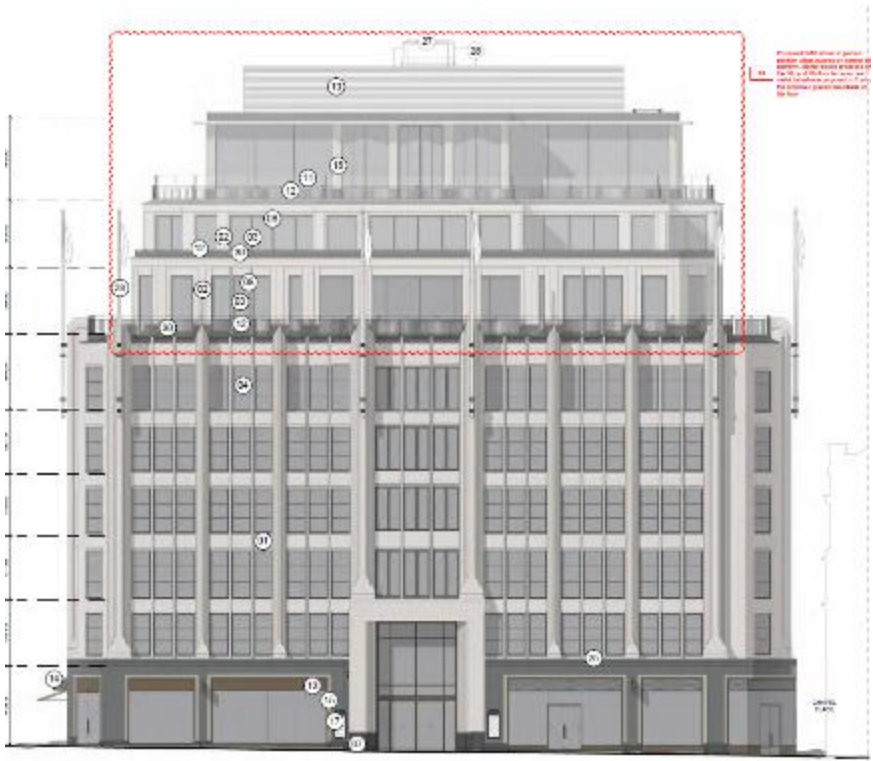
Proposed Oxford Street elevation



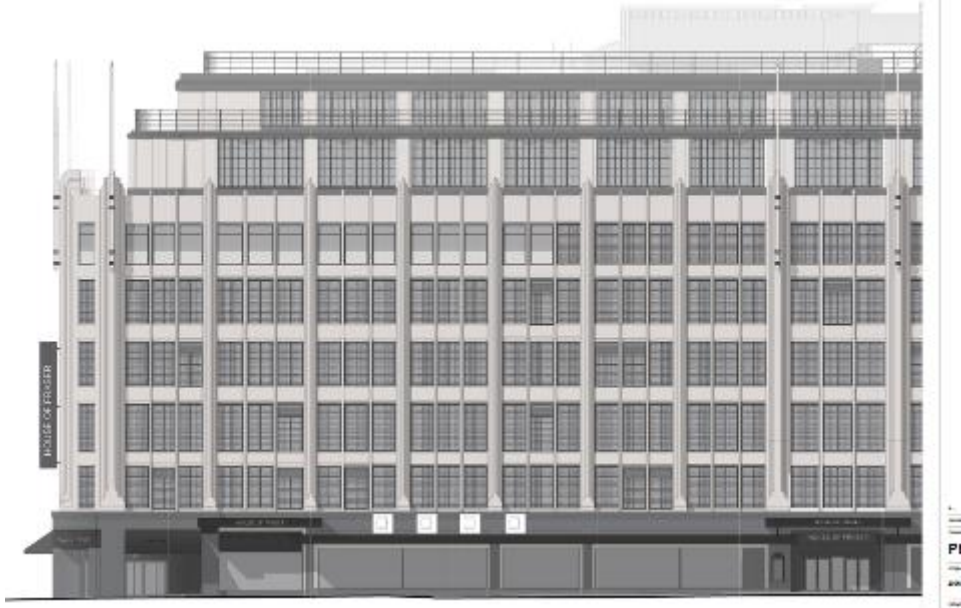
Existing Henrietta Place elevation



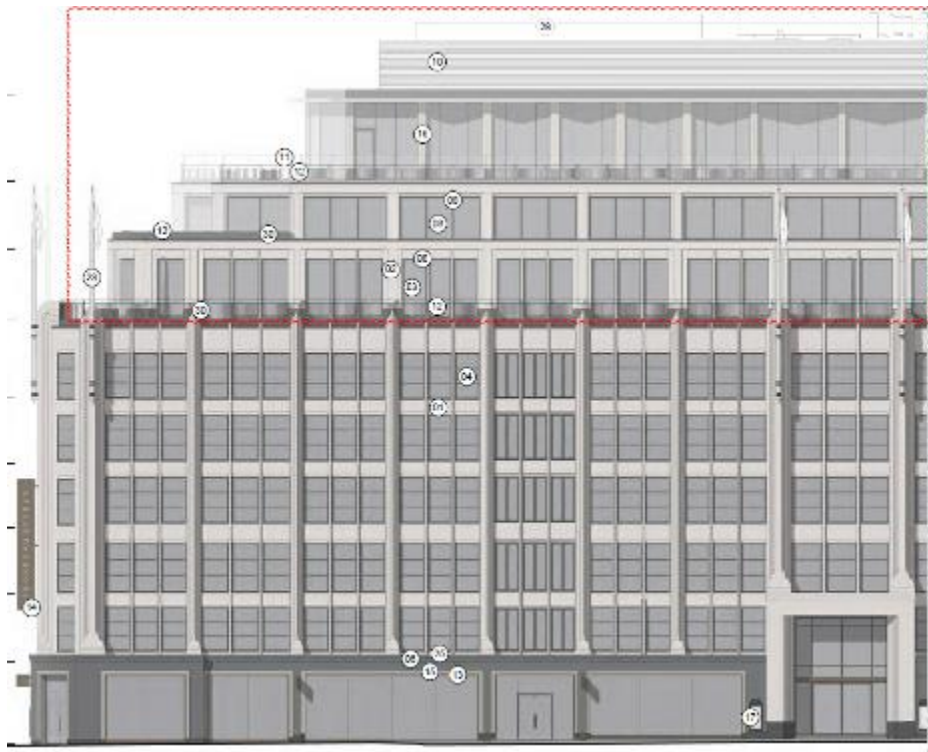
Proposed Henrietta Place elevation



Existing Old Cavendish Street elevation (southern half)



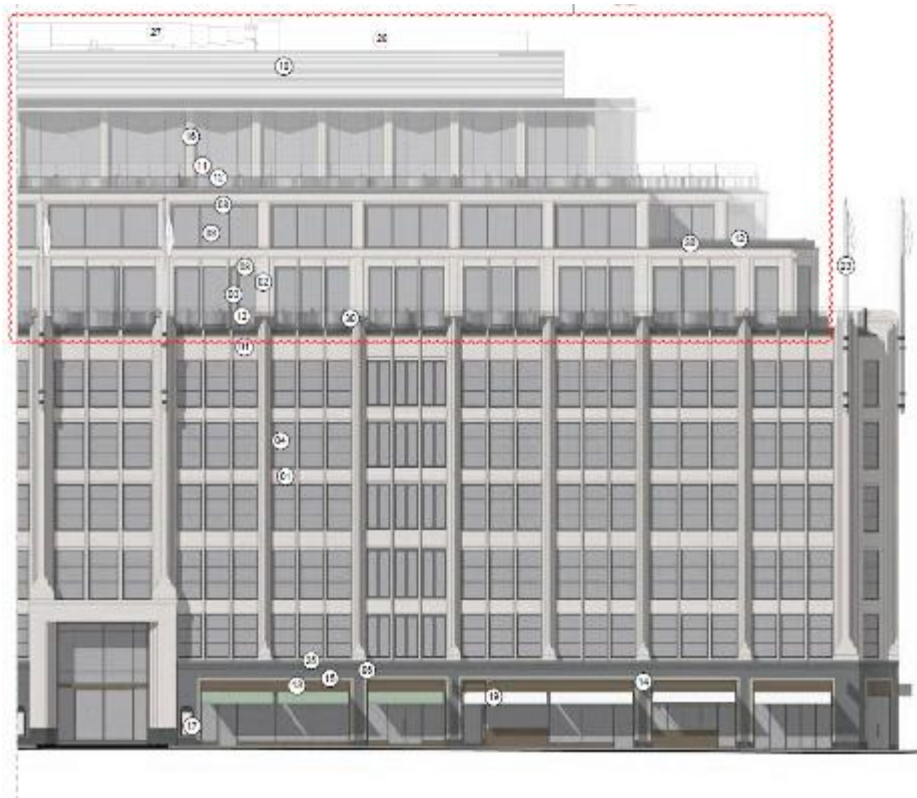
Proposed Old Cavendish Street elevation (southern half)



Existing Old Cavendish Street elevation (northern half)



Proposed Old Cavendish Street elevation (northern half)



Existing Chapel Place elevation (northern half)



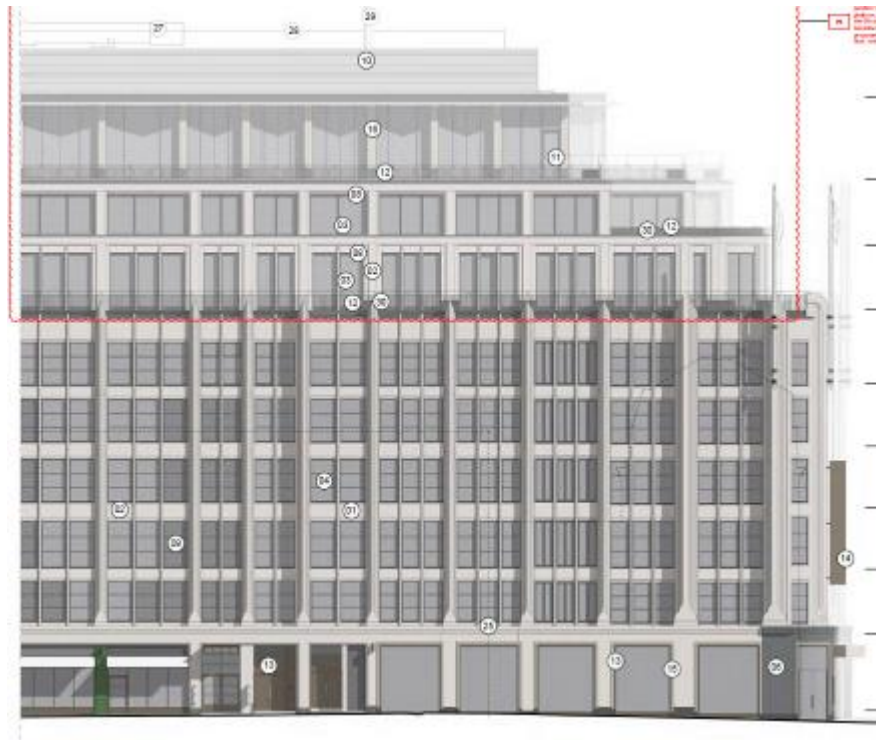
Proposed Chapel Place elevation (northern half)



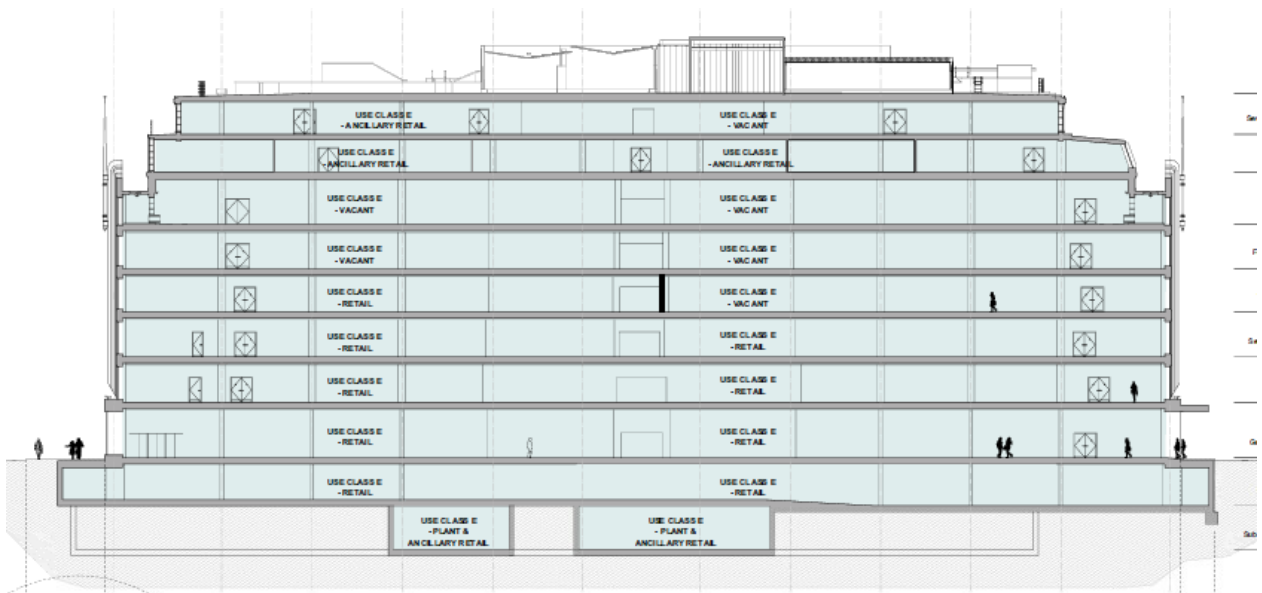
Existing Chapel Place elevation (southern half)



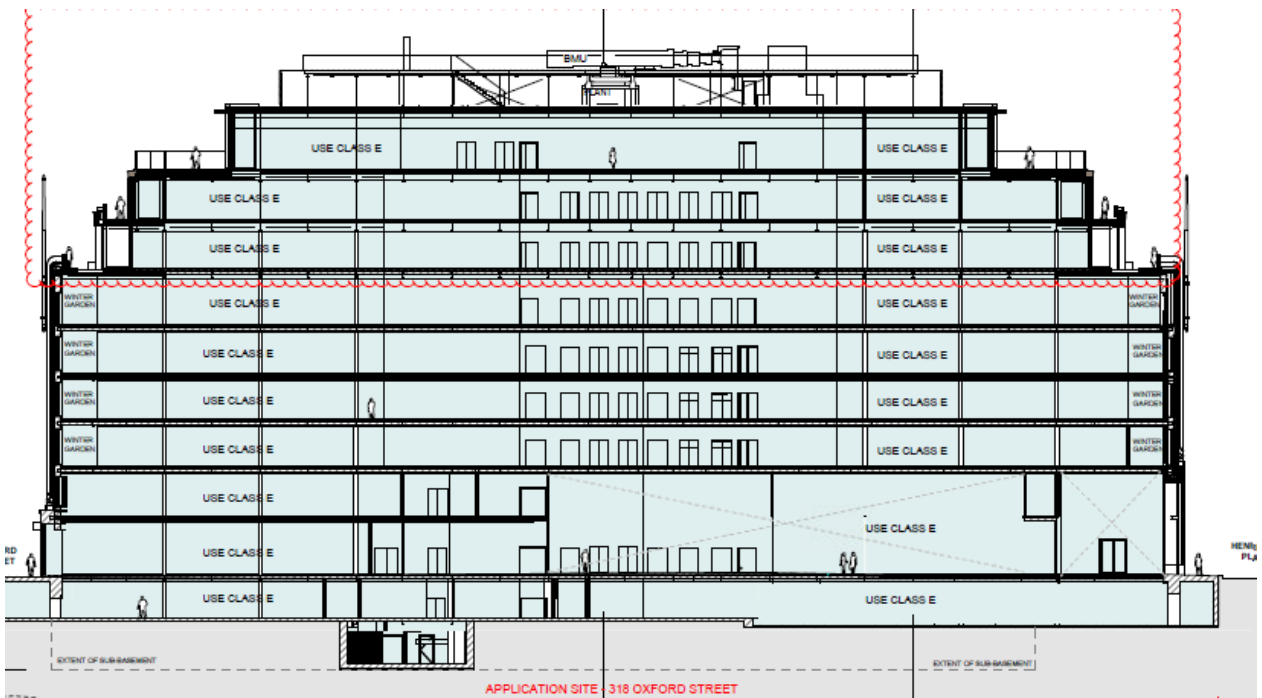
Proposed Chapel Place elevation (southern half)



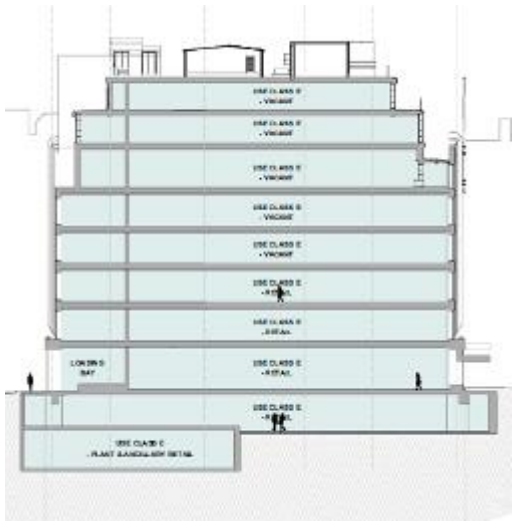
Existing north-south section



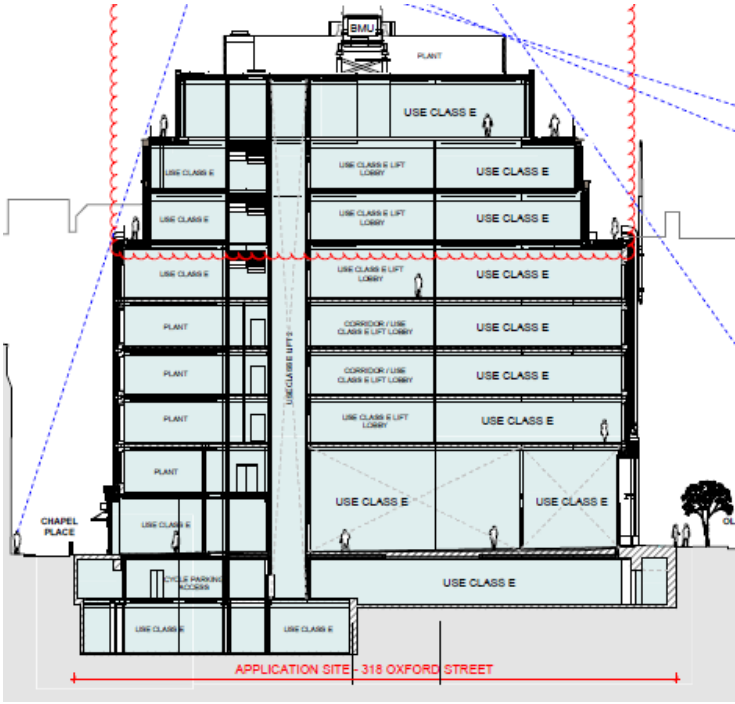
Proposed north-south section



Existing east-west section



Proposed east-west section



Existing view to St Peter's Church from Henrietta Place and Vere Street



Proposed view to St Peter's Church from Henrietta Place and Vere Street



Existing view down Chapel Place from Vere Street



Proposed view down Chapel Place from Vere Street



Existing view from Oxford Street and Woodstock Street



Proposed view from Oxford Street and Woodstock Street



Existing view from Dering Street



Proposed view from Dering Street



Existing view from Oxford Street opposite John Lewis



Proposed view from Oxford Street opposite John Lewis



Existing view from Henrietta Place between Old Cavendish Street and Cavendish Square



Proposed view from Henrietta Place between Old Cavendish Street and Cavendish Square



Item No.
1

DRAFT DECISION LETTER – TO FOLLOW

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

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Agenda Item 2

Item No.

2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 9 November 2021	Classification For General Release	
Addendum Report of Director of Place Shaping and Town Planning		Ward(s) involved Warwick	
Subject of Report	48 - 58 Hugh Street, London, SW1V 4ER		
Proposal	Erection of mansard roof extensions on Nos 48-58 Hugh Street to create additional residential accommodation in connection with each property.		
Agent	Mr James Smith		
On behalf of	Zaheed Nizar		
Registered Number	18/03060/FULL	Date amended/ completed	16 April 2018
Date Application Received	16 April 2018		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

Refuse permission - design, height, location and loss of original roofscape would be visually intrusive and harmful to the appearance and architectural integrity of this group of buildings and to the character and appearance of the Pimlico Conservation Area.

2. SUMMARY

The application was reported to the Planning Applications Sub-Committee on 24 July 2018 with an officer recommendation to refuse permission on the grounds that the design, height, location and loss of the original roofscape of the proposed mansard extensions, would be visually intrusive and harm the appearance and architectural unity of this group of buildings and would fail to maintain or improve (preserve or enhance) the character and appearance of the Pimlico Conservation Area.

The Planning Applications Committee were of the view that a full line of mansard roof extensions across the whole terrace would be a completed composition and therefore, in this particular case, would not harm the appearance of this terrace and would preserve the character and appearance of the Conservation Area.

Committee resolved to grant conditional permission subject to the satisfactory completion of a S106 legal agreement to ensure that all the mansards are built as a single construction project. Detailed conditions to be delegated to officers.

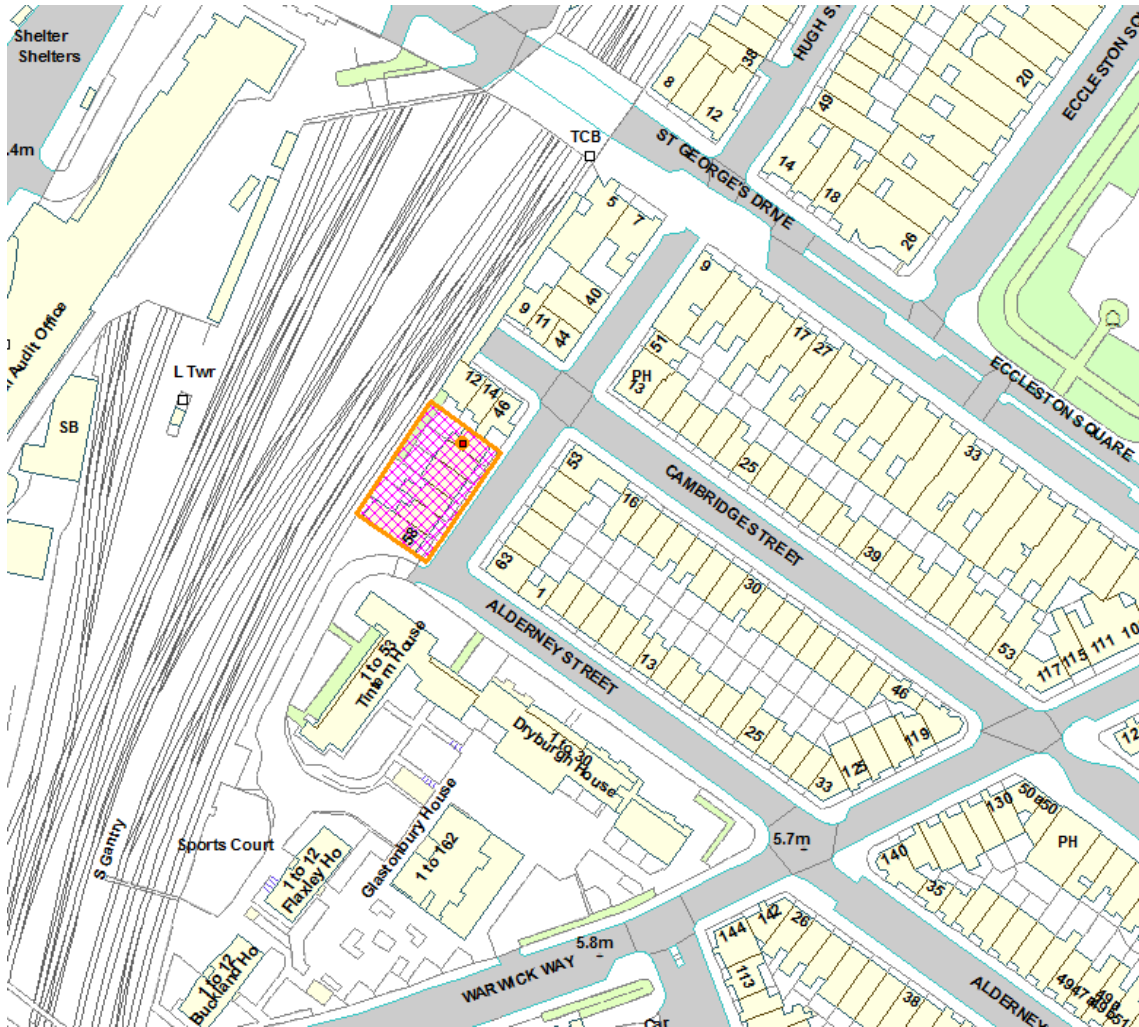
The City Council's Legal Services Team were instructed in August 2018 to produce a first draft of the legal agreement. Work on the agreement progressed in 2019 but slowed during 2020 due to the Covid pandemic. However, the agreement seemed close to completion in September 2020 but then stalled due to what the applicant referred to as 'an outstanding matter' on one of the properties involved.

Since September 2020 the City Council's Legal Services Team has been given assurances that the matters relating to the successful completion of the legal agreement were being dealt with, but with the passing of several deadlines to resolve the 'outstanding matter', progress toward the completion of the legal agreement has now completely stalled. In addition, the owners of two of the properties (Nos. 56 and 58) who were to be party to the legal agreement, have withdrawn their support for the scheme.

Since the application was last reported to the Planning Applications Sub-Committee, the City Council has adopted its City Plan 2019-2040 (April 2021). Policy 40 Part E (Roof Extensions) states at Point 2 that roof extensions should 'where part of a terrace with an existing roof line unimpaired by roof extensions, take a coordinated approach, adding roof extensions of consistent and appropriate design to each property across the terrace'. This is further reinforced by paragraph 40.11 which states that 'we will consider applications which take a coordinated approach, adding roof extensions of consistent design to a complete terrace with a uniform roof line'. 'In such cases we will require extensions across the whole terrace group to be implemented at one time and this may be secured by a legal agreement'.

Despite the City Council being flexible in its approach due to the unforeseen difficulties posed by the pandemic, now that two of the owners have withdrawn from the scheme, it will not be possible for the proposed mansard extensions to be constructed as a single development and therefore the application is recommended for refusal on the grounds that the mansard extensions would be visually intrusive and would harm the appearance and architectural integrity of this group of buildings and the character and appearance of the Pimlico Conservation Area.

3. LOCATION PLAN



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4. PHOTOGRAPHS



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

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5. KEY DRAWINGS

no. 58 no. 56 no. 54 no. 52 no. 50 no. 48

no. 46

elevation to Hugh Street as existing

DVM ARCHITECTS	
10 Mary Street, London, E01 6SE	
Telephone 020 7473 2222, Facsimile 020 7473 2227	
www.dvmarchitects.com	
Client: Residents of 46-58 Hugh St.	
Project: 46-58 Hugh Street London SW1V 4ER	
Arch: Elevation to Hugh Street AS EXISTING	
Scale:	1:50
Date:	01.03.18
Year:	1940
Sheet:	1940-08
© DVM ARCHITECTS 2018. ALL RIGHTS RESERVED.	

6. 7. 8.

no. 58 no. 56 no. 54 no. 52 mansard dormer with mansard roof no. 50 no. 48

no. 46

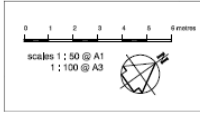
elevation to Hugh Street as proposed

DVM ARCHITECTS	
10 Mary Street, London, E01 6SE	
Telephone 020 7473 2222, Facsimile 020 7473 2227	
www.dvmarchitects.com	
Client: Residents of 46-58 Hugh St.	
Project: 46-58 Hugh Street London SW1V 4ER	
Arch: Elevation to Hugh Street AS PROPOSED	
Scale:	1:50
Date:	21.03.18
Year:	1940-20
Sheet:	A
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9.



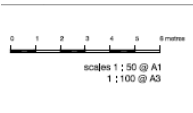
rear elevation as existing



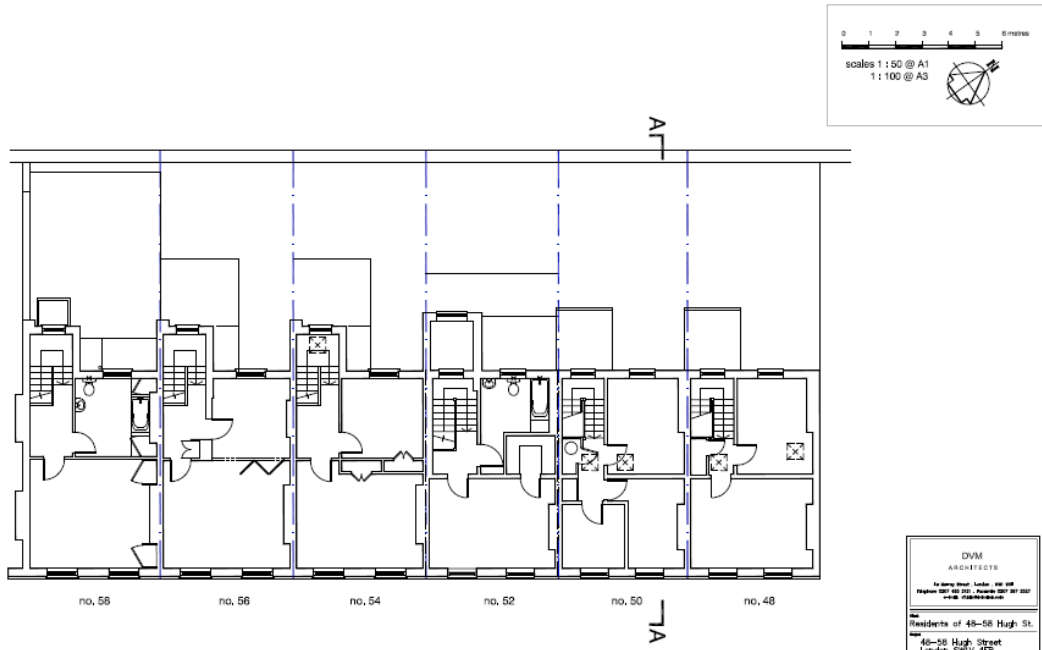
DVM ARCHITECTS	
14 Gandy Street, London, SW14 8JF Telephone: 020 8746 0200, Fax: 020 8746 0201 www.dvmarchitects.com	
Residents of 46-58 High St.	
46-58 High Street London SW14 4ER	
Rear Elevation AS EXISTING	
Scale:	1:50
Date:	01.03.19
Year:	1940-09
Project No: 1920/2006/0000/0000/0000	



rear elevation as proposed

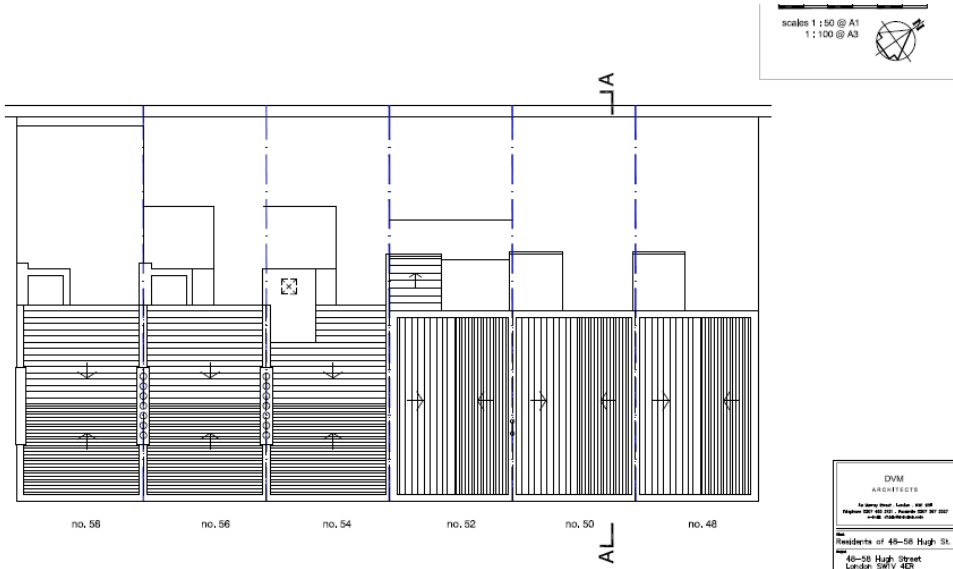


DVM ARCHITECTS	
14 Gandy Street, London, SW14 8JF Telephone: 020 8746 0200, Fax: 020 8746 0201 www.dvmarchitects.com	
Residents of 46-58 High St.	
46-58 High Street London SW14 4ER	
Rear Elevation AS PROPOSED	
Scale:	1:50
Date:	21.03.19
Year:	1940-21
Project No: 1920/2006/0000/0000/0000	



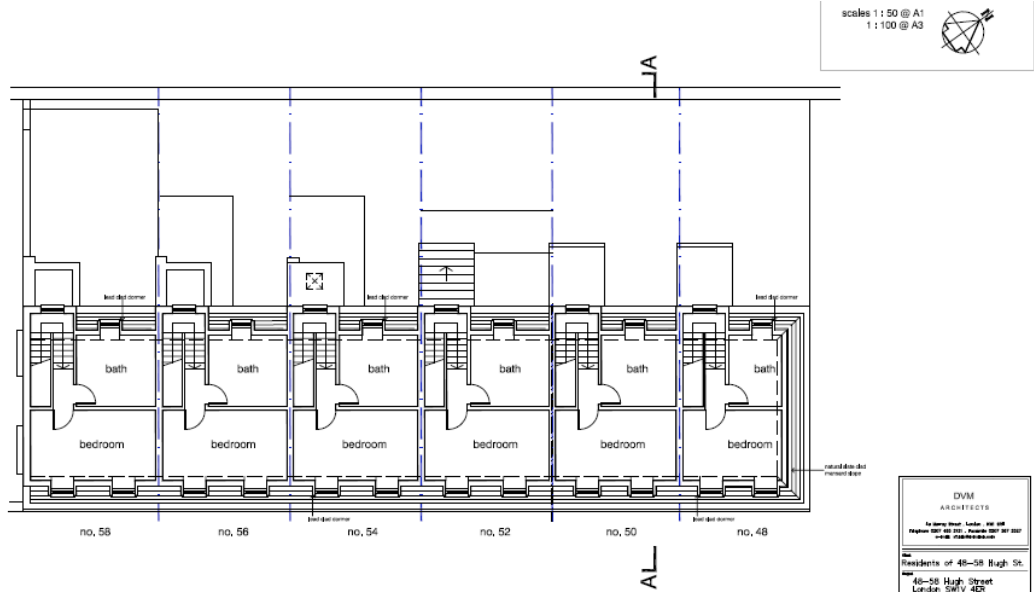
Second Floor as Existing

DVM ARCHITECTS	
10 Mary Street, London, W1U 2EH Phone: 020 7463 2000 - Facsimile: 020 7463 2007 e-mail: dvm@dvm.co.uk	
Residents of 48-58 High St.	
48-58 High Street London SW1V 4ER	
Second Floor AS EXISTING	
Scale:	1:50
Date:	01.03.18
Year:	1940
Drawn by:	06
D:\Projects\180318\180318_06.dwg	



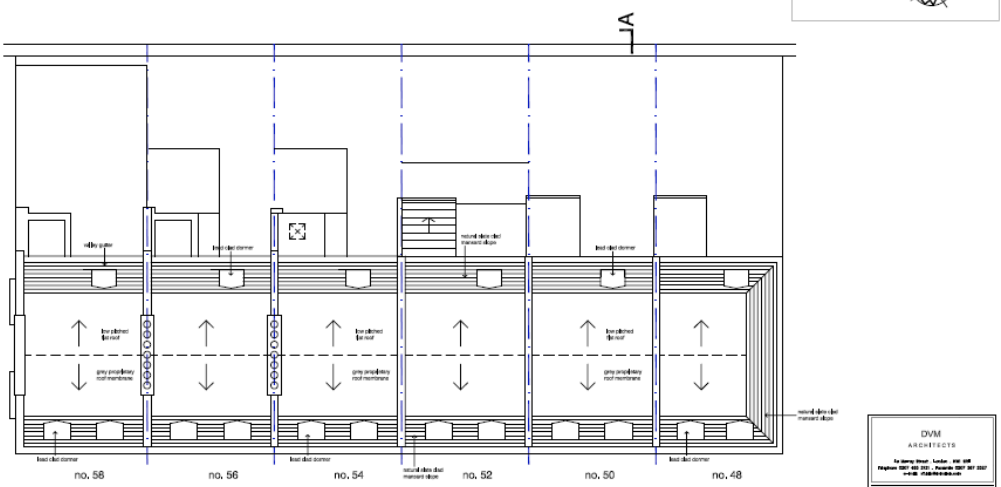
Roof Plan as Existing

DVM ARCHITECTS	
10 Mary Street, London, W1U 2EH Phone: 020 7463 2000 - Facsimile: 020 7463 2007 e-mail: dvm@dvm.co.uk	
Residents of 48-58 High St.	
48-58 High Street London SW1V 4ER	
Roof Plan AS EXISTING	
Scale:	1:50
Date:	21.03.18
Year:	1940
Drawn by:	A
D:\Projects\180318\180318_07.dwg	



third floor as proposed

DVM ARCHITECTS	
<small>10 Mary Street, London, SW8 5EB Telephone 071 481 2001, Facsimile 071 481 2002 e-mail: dvm@dvm.co.uk</small>	
Residents of 48-58 High St.	
48-58 High Street London SW1V 4ER	
Third Floor (MANSARD) AS PROPOSED	
DATE	NO.
1:50	12.04.18 1940
1940-18	A



roof plan as proposed

DVM ARCHITECTS	
<small>10 Mary Street, London, SW8 5EB Telephone 071 481 2001, Facsimile 071 481 2002 e-mail: dvm@dvm.co.uk</small>	
Residents of 48-58 High St.	
48-58 High Street London SW1V 4ER	
Roof Plan AS PROPOSED	
DATE	NO.
1:50	21.03.18 1940
1940-18	A

DRAFT DECISION LETTER

- Address:** 48 - 58 Hugh Street, London, SW1V 4ER
- Proposal:** Erection of mansard roof extensions on Nos 48-58 Hugh Street to create additional residential accommodation in connection with each property.
- Reference:** 18/03060/FULL
- Plan Nos:** 1940-01, 1940-02, 1940-03, 1940-04, 1940-05, 1940-06, 1940-07 Rev. A, 1940-08, 1940-09, 1940-10 Rev. A, 1940-11 Rev. A, 1940-12, 1940-14, 1940-15, 1940-16, 1940-17, 1940-18 Rev. A, 1940-19 Rev. A, 1940-20 Rev. A, 1940-21 Rev. A, 1940-22 Rev. A, 1940-23 Rev. A, 1940-24 Rev. A,

For Information only:

Design and Access Statement, Planning and Heritage Statement dated April 2018 (Ref: 12752) and Statement of Community Involvement dated April 2018 (Ref: 12752).

Case Officer: Zulekha Hosenally

Direct Tel. No. 07866037615

Recommended Condition(s) and Reason(s)

Reason:

- 1 Because of their design, height, location and loss of the original roofscape, the proposed mansard extensions would be visibly intrusive and harm the appearance and architectural unity of this group of buildings and would fail to maintain or improve (preserve or enhance) the character and appearance of the Pimlico Conservation Area. This would not meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). It would also fail to comply with the guidance set out in the Pimlico Conservation Area Audit (April 2006).

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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

Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 9 November 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bayswater	
Subject of Report	29 Northumberland Place, London, W2 5AS		
Proposal	Excavation to lower level of lower ground floor and excavation of rear garden to full length and width; extension under front garden with alterations to front lightwell. Demolition of rear closet wing and erection of replacement at lower ground, ground and first floor level; erection of two storey side infill extension at lower ground and ground floor levels. Erection of mansard roof extension. Alterations to front and rear boundaries. Alterations to windows and doors.		
Agent	Christophe Spiers		
On behalf of	Mr & Mrs Glazebrook		
Registered Number	21/03055/FULL	Date amended/ completed	25 May 2021
Date Application Received	10 May 2021		
Historic Building Grade	Unlisted		
Conservation Area	Westbourne		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

This application relates to an unlisted single family dwelling house located within the Westbourne Conservation Area. Permission is sought for alterations and extensions to the dwelling including a mansard roof, rear extensions, excavation of rear garden level down to lower ground floor level, new planting, alterations to fencing around garden, lowering the level of the existing lower ground floor level, excavation under the front garden to create a utility room and alterations to the front garden and boundary.

Objections have been received from adjacent neighbours on design, amenity and on grounds of the loss of trees within the rear garden with inadequate suitable replacement trees and greening .

The key issues in the consideration of this application are:

- The impact of the development on the character and appearance of the conservation area;
- The impact on the amenity of the adjacent occupiers;

- The impact on city greening

The proposed development is considered against policies in the City Plan 2019-2040 (adopted April 2021). As set out within this report, the proposals are considered to be acceptable in relation to the key considerations set out above subject to the conditions on the draft decision letter.

3. LOCATION PLAN



4. PHOTOGRAPHS

Front garden



front elevation



Rear Garden and extensions



Boundary with rear of Talbot Road



Boundary with 30 Northumberland Place



5. CONSULTATIONS

NOTTING HILL EAST NEIGHBOURHOOD FORUM (nhenf)

- Comments reflect the objections of neighbours who have concerns and potential overdevelopment of this property.
- Object to the excavation of the entire rear garden, which is contrary to their guidance, which seeks to retain gardens at original levels, to promote greening, protect views and preserve habitats and ecological stability.
- Increased depth of garden would reduce light to greening – backward step in carbon reduction required by climate crisis. Also concerns of noise due to 'squash court acoustics' to rear, which would impact neighbours.
- First floor extension and terrace would affect multiple neighbours and be negative to character and appearance of area.
- Extensions under front garden as contrary to nhenf guidelines, which limits excavation to 50% to total garden area. Also would support the return of the front parking to a garden.
- Front railings should match north boundary.
- No objection to mansard

BUILDING CONTROL

No objection raised. The structural method statement is considered to be acceptable. Note that the proposed mansard extension will have implications under Approved Document B for means of Escape in case of fire, which will need to be incorporated into any scheme.

ARBORICULTURAL SECTION

Comment as follows:

- Alterations within front garden as previously approved – updated conditions as previously.
- No objection to removal of hazel and horse chestnut trees in rear garden as they are of limited arboricultural merit.
- Objection in relation to the garden lowering, which can affect drainage and wildlife corridors. Removal of topsoil may limit potential replacement tree planting.
- Any replacement planting would be at lower level and have very limited wider amenity value.
- Concerns about replacement tree, planting and soil/ concrete base to garden.
- Conditions recommended.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 34

No. of objections: 8 from 5 different properties on the following grounds:

Amenity:

- The light survey has missed off a property which will be affected by the fence.
- Rear balcony should be screened to protect amenity

Design:

- The back extension should not extend more than 50% of the width of the house, so it

- is subservient and to preserve the garden space.
- Basement should not be over 50% of rear or front gardens

Greening & biodiversity:

- Due to being vacant, the trees have suffered, and garden become overgrown due to lack of maintenance.
- The current garden is enjoyed by at least 8 surrounding properties.
- Objection to the loss of the existing trees, which are only in a poor state due to lack of care. They provide greening, visual amenity and add to the conservation area.
- Objection to the lowering of the garden as any greening would provide little visual amenity and greening, particularly compared to existing.
- Replacement tree isn't comparable to existing.
- Previous approval replaced trees at same level.
- Any fencing would limit light and views of garden and greening.
- Any development should improve not reduce diversity and wildlife.

Other:

- Property has been vacant and subject to a variety of owners and plans meaning it has gone into a state of disrepair
- Inaccurate statements within submitted reports and drawings.
- Exasperated with the planning process, with multiple proposals over the years. Applicant seeking to wear down the planning team and residents.
- Concerns in relation to structural stability.
- Ideally no parking should be provided in front garden, or more greening where tires do not go.
- Development should improve not worsen drainage.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is a four storey end of terrace property which is vacant but was last in use as a single family dwelling. The building is not listed but is located within the Westbourne Conservation Area. Due to having been vacant for some time, the building is in a poor state of repair and the rear garden is overgrown. There are trees located within the rear garden which are in close proximity to the rear of the properties on Talbot Place, which have small rear patio gardens which abut the application site. To the rear the gardens of Sutherland Place abut the end of the garden of the application site. Within the garden there is an existing closet wing and single storey structure which projects out into the garden which is to be removed.

6.2 Recent Relevant History

Permission was granted on 26 May 2020 for: Excavation to lower level of lower ground floor and extension under front garden and creation of rear lightwell and alterations to front lightwell. Demolition of closet wing and erection of full width infill at ground floor

level and two storey extension at ground and first floor levels. Erection of mansard roof extension. Raise level of rear garden and alterations to boundaries. Alterations to windows and doors. This permission has not been implemented.

7. THE PROPOSAL

Permission is sought for many of the works which were granted as part of the previous permission, including the erection of a mansard roof extension and alterations to the front garden including excavation in order to create a utility room under the front car parking yard.

Permission was previously granted for the rear garden to be retained at a similar level to existing and for the erection of a side infill extension adjacent to the closet wing, which was also to be raised in height slightly. This application seeks to amend this, with the garden excavated so that it is at the same level as the lower ground floor. Due to the lower garden level, the rear closet wing and side extension will be extended down to this level. The existing trees are to be removed with new planting proposed within the lowered garden.

During the course of the application the proposals have been amended to remove a balcony at rear ground floor level, which is now a Juliette balcony, to amend the fences around the rear garden so that they are open lattice, amendments to the detailed design of the rear extensions and to the proposed replacement tree species within the lowered garden.

8. DETAILED CONSIDERATIONS

8.1 Land Use

No change to existing use as a single family dwelling. Extensions and alterations are in accordance with Policy 8 of the City Plan 2019-2040.

8.2 Townscape, Design, Biodiversity & Greening

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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 relevant City Council policies for consideration

of this case are 34, 38, 39 and 40 of the City Plan 2019-2040.

Lowering of the garden level and replacement planting:

Strong objection has been raised in relation to the lowering of the rear garden and the resultant loss of greenery. The objections are not only in relation to the loss of the existing trees within the rear garden, a hazel and a horse chestnut, but in relation to the lowering of the garden level, which will make any replacement planting have poor access to light, and will provide less visual amenity to the residents who currently have an outlook onto the garden and planting thereby affecting the character of the conservation area.

Permission has been granted for the removal of the existing two trees under the previous permission, however that application retained the garden at a similar level to existing with replacement planting at this level. It is apparent from neighbour responses that the existing trees required regular maintenance to ensure that they did not dominate this rear garden environment and negatively impact on resident's outlook and light. Given the time the property has been vacant the rear garden has become somewhat overgrown with ivy covering much of the trees. Regardless, alike with the previous application the Arboricultural Officer raises no objection to the existing trees being removed, and it is clear that they may be inappropriate due to the regular maintenance.

Given that the tree removal is acceptable, the next objection relates to the lowering of the garden to which some residents object and consider if replacement planting is appropriate. The Arboricultural Officer has also raised concerns in relation to the garden lowering, with concerns of the poorer access to light for any planting and also concerns in relation to the quality of the soil, as the existing topsoil would be removed. Concerns were also raised in relation to drainage as drawings indicated considerable concrete under the garden.

Following discussions between officers and the applicant revisions and clarifications have been made to the scheme namely:

- The fencing around the rear garden has been amended to hit and miss timber trellis.
- The proposed tree amended to a single stem Himalayan birch.
- Clarification that the structure shown under the garden is required for structural reasons, but does not occupy the vast majority of the garden land.
- Confirmation that a minimum of 1m worth of topsoil will be replaced under the new garden level.

It should be noted that this garden appears to be the last garden within the immediate vicinity at this level (assumed original), with all the adjoining garden levels being lower or at the proposed garden level. The lowering of the garden must however also be considered in light of Policy 34, which seeks to ensure that developments protect and enhance the City's green infrastructure.

While it is noted that the proposals may result in less verdant green outlook for neighbours, it is also apparent that these existing trees are unsuitable for their location and their removal is not opposed. The proposals have been amended to ensure that the new and replacement fencing will allow more light down to the new level and that suitable soil depth will be provided to ensure good growing and drainage conditions. This application also gives the council more ability to control the proposals, by agreeing a

more suitable replacement tree and landscaping for the garden, to meet its Policy aims. Through the use of conditions to secure these benefits, and given that lowered gardens are characteristic of the area, the lowering of the garden, is on balance considered acceptable.

Rear extensions:

The rear extensions are different to what has been previously approved, due to the lowering of the garden level and therefore providing a new lower ground floor elevation, which would have previously been under the garden level and therefore not readily visible. The extensions form two parts, the rebuilt closet wing and the side infill extension.

The closet wing height and depth is comparable to those approved at neighbouring buildings, and the same as previously approved however now runs down to lower ground floor level. It includes a new Juliet balcony at rear ground floor level, which is considered acceptable with a simple black painted metal railing. It also now features a green roof which will help to meet the requirements of policy 34 and will be secured by condition.

The contemporary side infill extension is a storey lower than the closet wing and is of a similar appearance to previously approved however also now runs down to lower ground floor level. This contemporary approach is considered acceptable so that it clearly reads as separate from the characteristic closet wing.

Front garden:

Currently the front garden features a large concrete lightwell and a small parking space accessed via the existing crossover. Concerns have been raised in relation to the paving and railings. The proposals are the same as those previously approved, however include the provision of permeable paving for the car parking and York stone paving. The front lightwell is considerably reduced and will have a grill over, to reduce the appearance of the basement. An electric car charging point is also proposed. Subject to conditions to secure details, the alterations to the front remain acceptable.

Mansard roof extension & windows:

At roof level a hipped mansard is proposed which is a traditional approach for end of terrace buildings within the conservation area. The mansard is double pitched, the proposed dormers are lead clad and the roof finished in traditional slate. A condition is recommended to secure samples of the finishing materials. The mansard is the same as previously approved and is still considered acceptable.

New windows are proposed to the front and rear. These are the same as previously approved, details of which are to be secured by condition.

Conclusion

The proposal is considered to accord with the identified policies and will preserve the character and appearance of the conservation area. In making this recommendation consideration has been had to the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, notably Section 72 and the requirements set out in Chapters 12 and 16 of the NPPF.

8.3 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents must be found to be in accordance with policies 7 and 38C of Westminster's City Plan 2019-2040. These policies resist proposals that would result in a material loss of natural light and that developments should not result in a significant increase in the sense of enclosure, overlooking or cause overshadowing.

The proposals do not result in any additional bulk when compared to what has already been approved, the impacts are however discussed below. As previously discussed, the fencing has however been amended during the course of the application so that it is an open lattice trellis fence, which will sit atop the existing boundary wall level. In addition a section of the fence has been removed, which sits in front of a window to the rear of No 55 Talbot Road, as there is currently not a fence panel in this location, and following concerns of loss of light by this resident.

The impacts will be discussed below.

8.3.1 Sense of enclosure

The main impacts will be as a result of the side extension at ground floor level and the mansard roof extension.

The side extension will require the boundary to be built higher than the existing solid boundary fence by approximately 80cm projecting 3.2m out from the existing rear elevation. This will have an impact on the residents to the north of the site, namely rear windows of 51 and 53 Talbot Road. The nearest windows are those to the rear of 51 are understood to be a kitchen and study, which are separated by a terrace. Given the existing aspect of these windows onto the boundary and their separation, it is not considered that they will suffer such an increased sense of enclosure as to be unacceptable.

A trellis is to be fixed to the top of the fence shared with No 30 Northumberland Place. As previously mentioned this has been amended from the previously approved so that it is an open lattice trellis. It is of a comparable height to the existing trellis which No 30 has along their southern boundary. While it will increase enclosure within their garden, given the existing approval, which is now proposed to be more open, and the existing fence on the other side of their garden, the trellis is considered acceptable.

The open lattice trellis along the northern boundary to the rear of Talbot Road should improve the outlook for residents as it replaces a solid timber fence. To the rear a trellis is proposed at the end of the garden which matches the height of the neighbour on Sutherland Place and is considered acceptable. It is also noted that the removal of the trellis will provide greater access to light for the immediately affected neighbours, however it is appreciated this removal of greening has been objected to as discussed elsewhere within this report.

The proposed mansard extension will be noticeable from the upper floors of 51 and 49 Talbot Road and from there existing terraces at 3rd floor and roof level. While the mansard will increase the height of the building and increase the sense of enclosure for residents when using the terraces, views across the roofs of the properties on

Northumberland Place will be maintained and it is not considered that the mansard would result in a level of sense of enclosure which would justify a refusal of the application, particularly given its hipped nature, pulling the bulk away from the boundary.

8.3.2 Daylight:

For daylight matters, VSC is the most commonly used method for calculating daylight levels. It is a measure of the amount of light reaching the outside face of a window. This method does not rely on internal calculations, which means that it is not necessary to gain access to affected properties. If the VSC is 27% or more, the Building Research Establishment (BRE) advises that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change.

The BRE stresses that the numerical values are not intended to be prescriptive in every case and should be interpreted flexibly depending on the circumstances. This is because expectations may be different in rural or suburban situations compared to a more densely developed urban context. The guidance acknowledges that although these values should be aimed for, it may be appropriate in some locations such as in urban areas to use more realistic values. For instance, properties that are affected by reduced daylight that see retained VSC values in the mid-teens may be considered to have a reasonable amount of daylight in the context of this particular urban location. This approach is supported by policy D6 of the recently adopted London Plan, which sets out that the design of a development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context.

The BRE notes that where room layouts are known, then the no sky line (NSL) can be calculated. The NSL method describes the distribution of daylight within rooms by calculating the area of the 'working plane' which can receive a direct view of the sky and hence 'sky light'. If following the construction of a new development, the NSL moves so that the area of the existing room, which does receive direct skylight, is reduced to less than 0.8 times its former value this will be noticeable to occupants, and more of the room will appear poorly lit. It states that this does however also need to be applied flexibly.

The applicant has submitted a daylight and sunlight report to support their application which notes some losses in VSC to the properties on Talbot Road and the adjoining No. 30 Northumberland Place. The table below demonstrates the losses that are greater than 20%.

Window and address	Use	Existing VSC	Proposed VSC	% Reduction
7 at 51 Talbot Road	Bathroom	0.2	0.1	50
8 at 51 Talbot Road	Bedroom	0.5	0.1	80
17 at 53 Talbot Road	Bedroom	12.1	7.7	46
40 at 30 Northumberland Place	Kitchen/diner	30.6	23.7	23
42 at 30 Northumberland Place	Study	9.2	6.7	27
43 at 30 Northumberland Place	Reception room	12	9.3	22

51 Talbot Road, windows 7 and 8

Windows 7 (Bathroom) and 8 (Bedroom) have existing VSC levels of 0.2 and 0.5 and serve rooms at lower ground floor level with the windows looking out to a courtyard which is almost entirely covered by a terrace at ground floor. The low levels of light are as a result of the ground floor level terrace rather than the proposed works. Due to the

existing very low levels of light, any additional losses are disproportionately high. The impact on these windows is unlikely to be noticeable, given the existing low levels.

53 Talbot Road, window 17

No comments have been received from the owner/occupier and it was not possible to gain access on the previous proposal. The report states that the window is a bedroom, the council has no evidence which would suggest that it is not. It BRE noted that bedrooms do not require the same amount of light as living spaces. The window has low levels of existing VSC due to the lower ground floor setting and the established enclosed nature at the rear of the buildings on Talbot Road. Given the existing situation which is long standing, and the secondary nature of the room being a bedroom, it is not considered that the loss in VSC is considered as a reason for refusal in this instance.

30 Northumberland Place.

Window 40 (kitchen diner) is a glazed roof to a lower ground floor extension the loss of VSC is 0.23 of the existing however the window retains a VSC of 23.7 which is considered a good level of VSC in an urban environment.

Window 42 (study) is in the side elevation of a closet wing and serves a study which is dual aspect. Window 43 (reception room) serves a ground floor reception room which is also dual aspect. Due to the locations of windows 42 and 43 the existing VSC levels are already low, 9.2% and 12% respectively. Given both windows are dual aspect, and the existing situation the losses at No. 30 are not considered a reason for refusal of the application.

Daylight Distribution:

The report indicates a reduction greater than 20% of existing for two windows as demonstrated by the table below

Window	Use	% Existing	% Proposed	% Reduction
8 at 51 Talbot Road	Bedroom	47	8	83
17 at 53 Talbot Road	Bedroom	78	37	53

51 Talbot Road, window 8

The report shows that window 8 (bedroom) has existing daylight distribution levels of 47% and the window serve a lower ground floor bedroom. The windows look out to a courtyard which is almost entirely covered by a terrace at ground floor. There is very low existing levels of light in the room due to the terrace at ground floor. It is recognised that the report shows significant losses to window number 8. However, given the existing situation where the lower ground courtyard area is covered by a terrace it is not considered that the reduction in daylight distribution would justify a refusal of the application.

53 Talbot Road, window 17

Window 17 (bedroom) is at the lower ground floor of No. 53 Talbot Road to the rear of the building. Due to the lower ground floor setting, the established enclosed nature at the rear of the buildings on Talbot Road, the existing situation which is long standing, the secondary nature of the room being a bedroom, which do not require as much light as living areas and the retained light, it is not considered the reduction in daylight would justify a refusal of the application.

Sunlight

In terms of sunlight to an existing dwelling, the BRE advises it may be adversely affected if the centre of a main window: receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours (APSH) between 21 September and 21 March; and receives less than 0.8 times its former sunlight hours during either period; and has a reduction in sunlight received over the whole year greater than 4 % of annual probable sunlight hours.

The details submitted show a reduction which would not meet BRE guidelines for three windows.

Window 8 (bedroom) at 51 Talbot Road shows a 75% loss of total hours sunlight. The terrace at ground floor level above the window means the sunlight received by the room as existing is 2% of the available Total Sunlight Hours. The low level of light is considered to be due to the existing terrace and not the proposed works at No. 29 Northumberland Place.

Window 10 (Kitchen/dining) at 51 Talbot Road retains 25% Total Sunlight Hours and 5% Winter Hours which is considered as a good level of sunlight in a dense urban environment.

Window 17 (most likely a bedroom) at Talbot Road would retain 12% of Total Sunlight Hours and 1% of Winter Sunlight Hours. The rooms served is understood to be a bedroom. Due to the lower ground floor location at the rear of the building and the enclosed nature of the rear courtyard owing to the existing boundary wall with 29 Northumberland Place the room currently receives low levels of sunlight as would be the expectation of a room in such a location.

Due to the existing level of light and the enclosed nature of the surroundings at the rear of Talbot Road it is not considered that the reduction in light is a reason for refusal of the application.

Summary of daylight/sunlight

As described above there are some significant reductions in light, however, this is largely due to existing low levels of light resulting in large percentage changes. The environment to the rear of Talbot Road is already highly enclosed due the small gap between the rear of the buildings and the application site. The provision of the open lattice fence should indeed improve light levels to a number of windows compared to the existing solid fence. On balance the proposals are considered to be acceptable and in accordance with Westminster policies.

8.3.3 Privacy and overlooking

The proposals were amended during the course of the application to remove a balcony at rear ground floor level. The proposals now include a new Juliette balcony at rear ground floor level which may result in views to the adjacent rear garden. These will be mitigated through the erection of the trellis.

Given the existing highly overlooked existing situation to both the front and rear, it is not considered that the proposals will result in any significant increase in overlooking or loss

of privacy.

8.4 Transportation/Parking

The proposals include the provision of a car parking space within the front garden. There is an existing crossover to the property, which provides access to an existing small parking space. While comments have been received which would like to see the removal of this, as it is no change to existing, this would not be reasonable. The provision of the electric charging point is welcomed to promote sustainable transport.

8.5 Economic Considerations

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

8.6 Access

No change to existing situation.

8.7 Other Westminster Policy Considerations

8.7.1 Basement development

The proposal includes the excavation a single storey under the front garden. The site is not located within a surface water flooding hotspot or an archaeological hotspot area. The proposals are considered to accord with Policy 45:

- A structural report has been provided which has been assessed by Building Control Officers who raise no objection.
- The applicant has agreed to sign up to the councils code of construction practice, which will be secured by condition.
- 1.2m of soil has been provided above the front basement, which is acceptable and will be secured by condition.
- A margin of undeveloped garden land has been provided along the north and street sides to provide drainage, and the new parking space is to have permeable paving. While a margin along the south side would also be preferential, it is clear that this would be hard to implement given internal arrangements. Given this is the same as previously approved, and the other areas of drainage provided, this is on balance considered acceptable.
- As discussed within the design section of this report, the character of the area will be maintained and improved from the existing situation with currently the front area being characterised by a large open concrete lightwell, which will largely be covered and with new planting proposed. No 'basement' is proposed to the rear, with the garden level lowered, regardless it is considered that through conditions to secure the planting, the proposals are on balance acceptable.
- The basement does not excavate under a highway.
- The basement does not excavate under more than 50% of the garden land. While objections in relation to this have been received, that this should relate to the front garden, this cannot be sustained as the policy relates to all the garden land of the property. There is no basement to the rear, with the garden being lowered to lower ground floor level as discussed elsewhere in this report.

8.7.2 Biodiversity and greening

Conditions are recommended to secure details of landscaping to the front and rear. A condition is also recommended for details to be submitted in relation to the green roof atop the closet wing. Subject to these conditions and as discussed elsewhere in this report, the proposals are considered acceptable and in accordance with Policy 34.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

The site is not within an area with an adopted neighbourhood plan.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 unless stated otherwise.

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

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the:

- Code of construction practice
- Tree protection details

The agreement of the applicant to these conditions will be confirmed prior to committee.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application. The development is of insufficient scale to trigger the requirement for a CIL payment.

8.13 Environmental Impact Assessment (EIA)

The development does not trigger the requirement for the submission of an EIA.

8.14 Other Issues

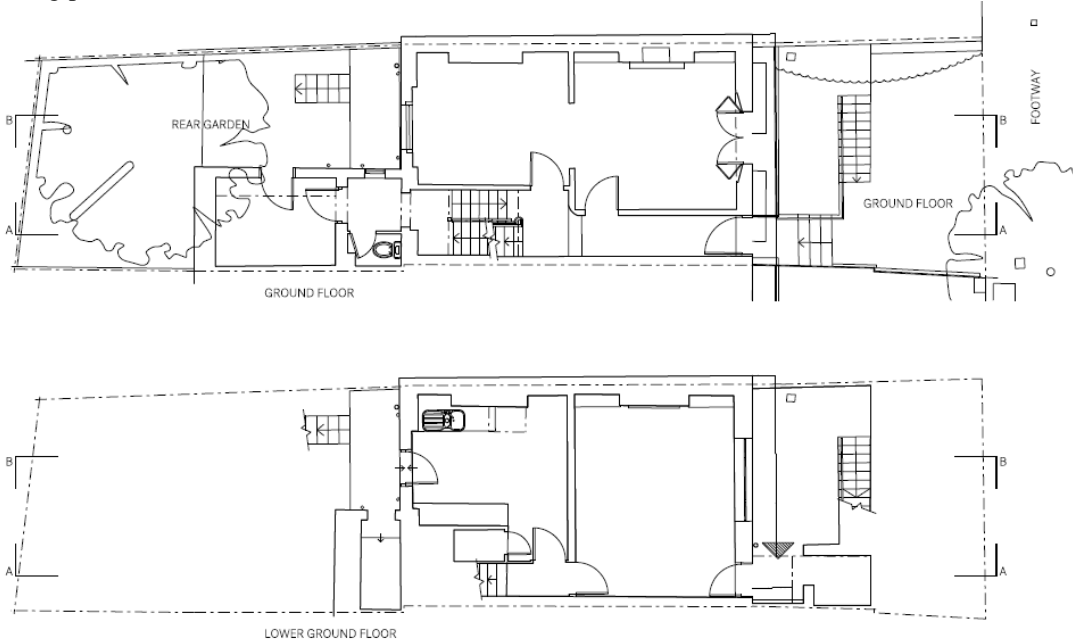
Concerns have been raised by the Building Control Officer in relation to the new fourth floor and fire escape. This would be covered under separate building control legislation and a suitable informative is therefore recommended.

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

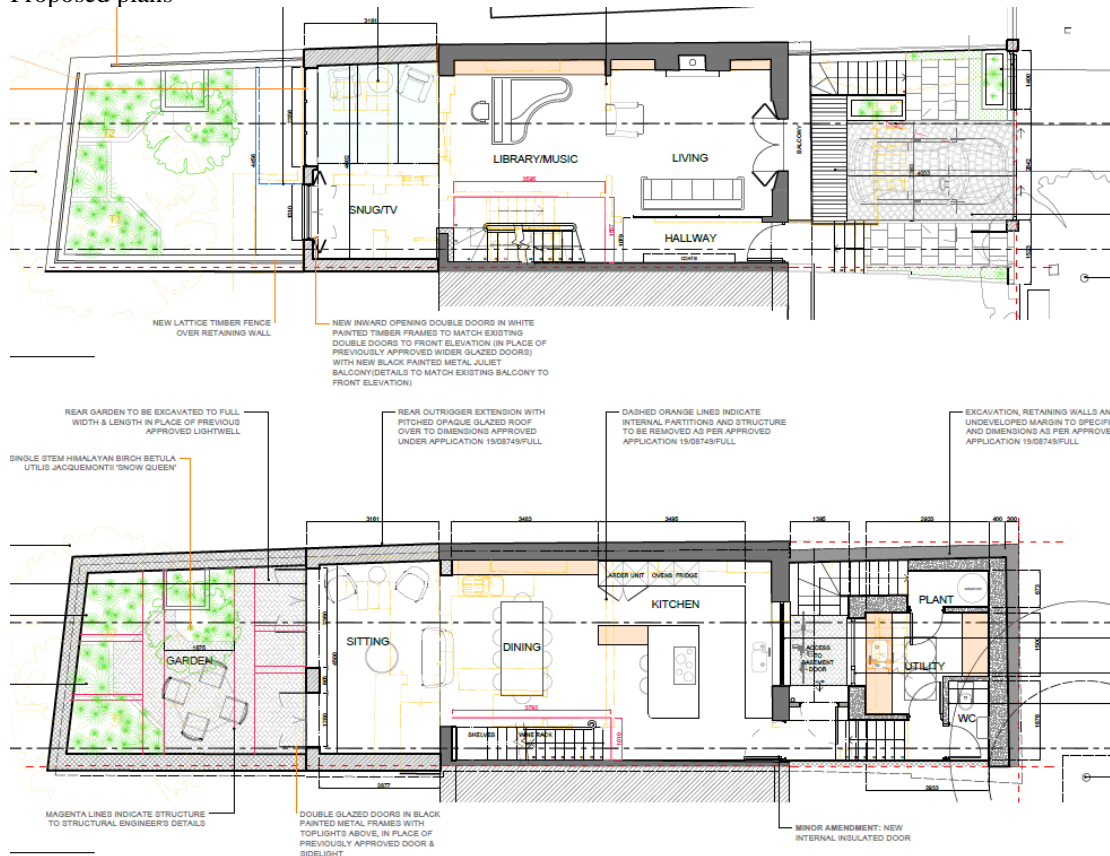
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@wesmtinster.gov.uk

9. KEY DRAWINGS

Existing plans



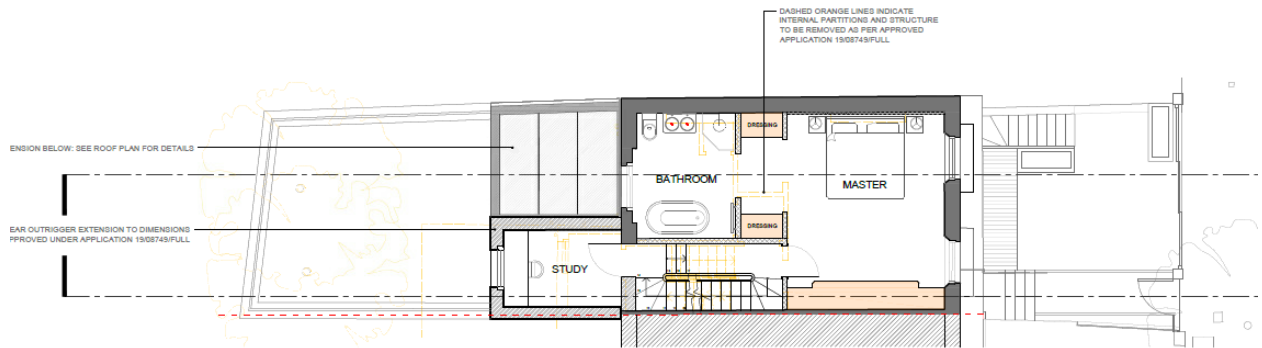
Proposed plans



Proposed plans



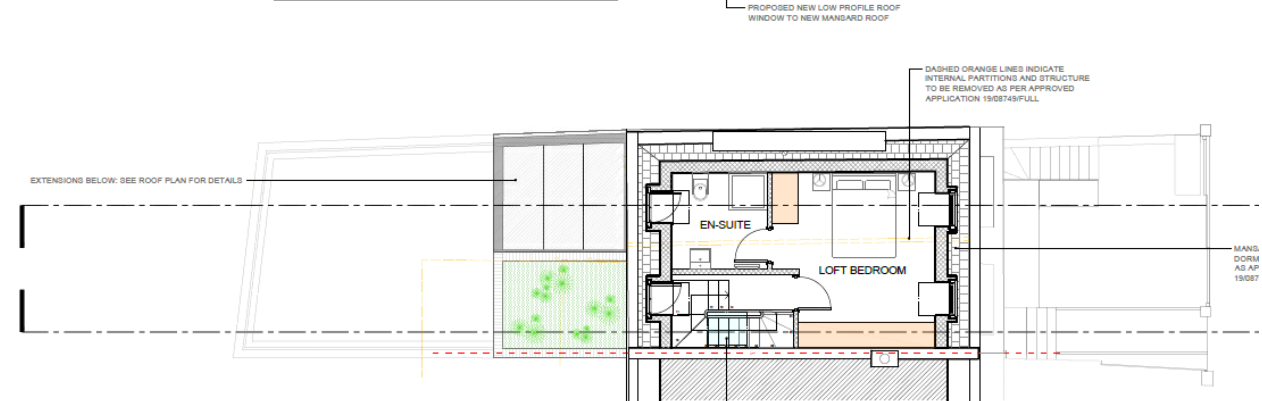
2 SECOND FLOOR



1 FIRST FLOOR

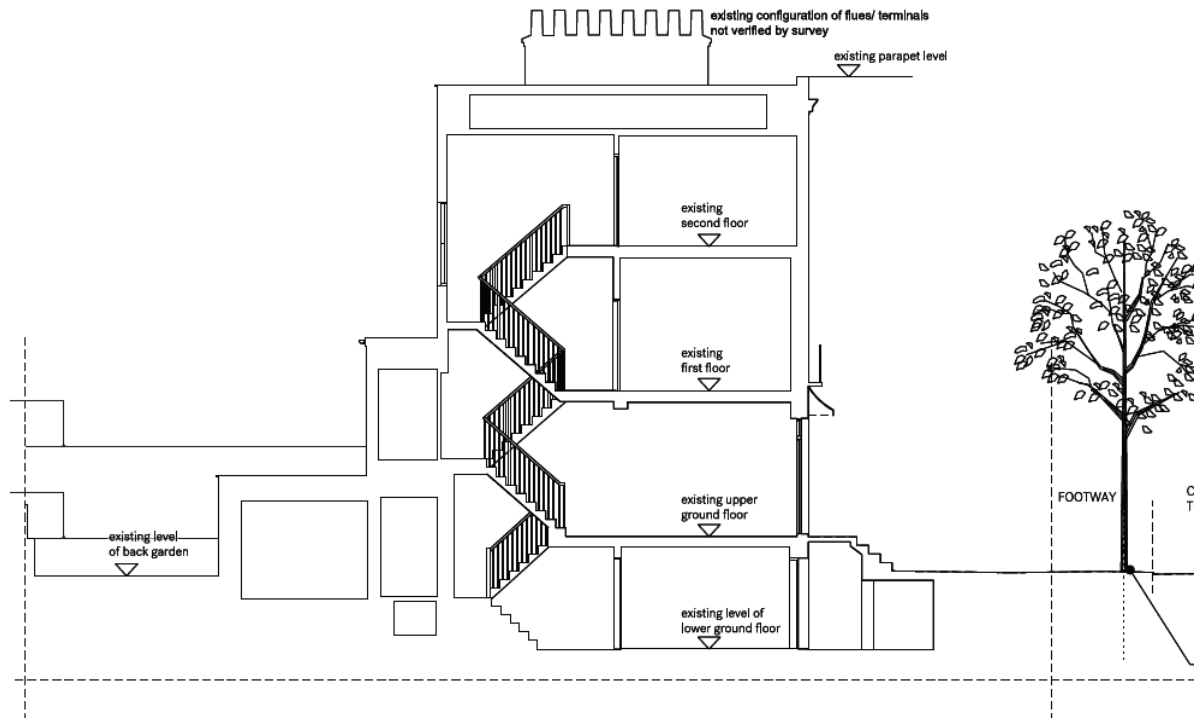


2 ROOF PLAN

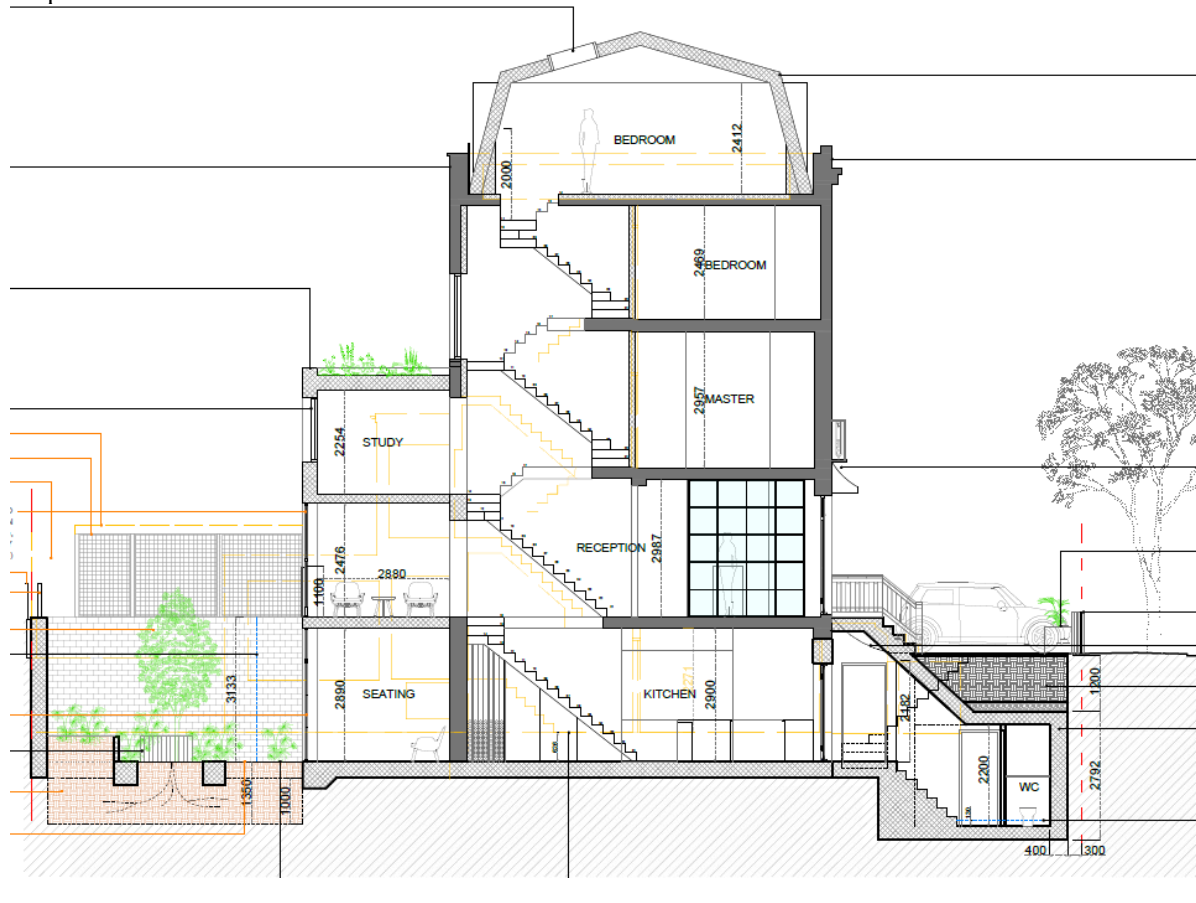


1 LOFT FLOOR

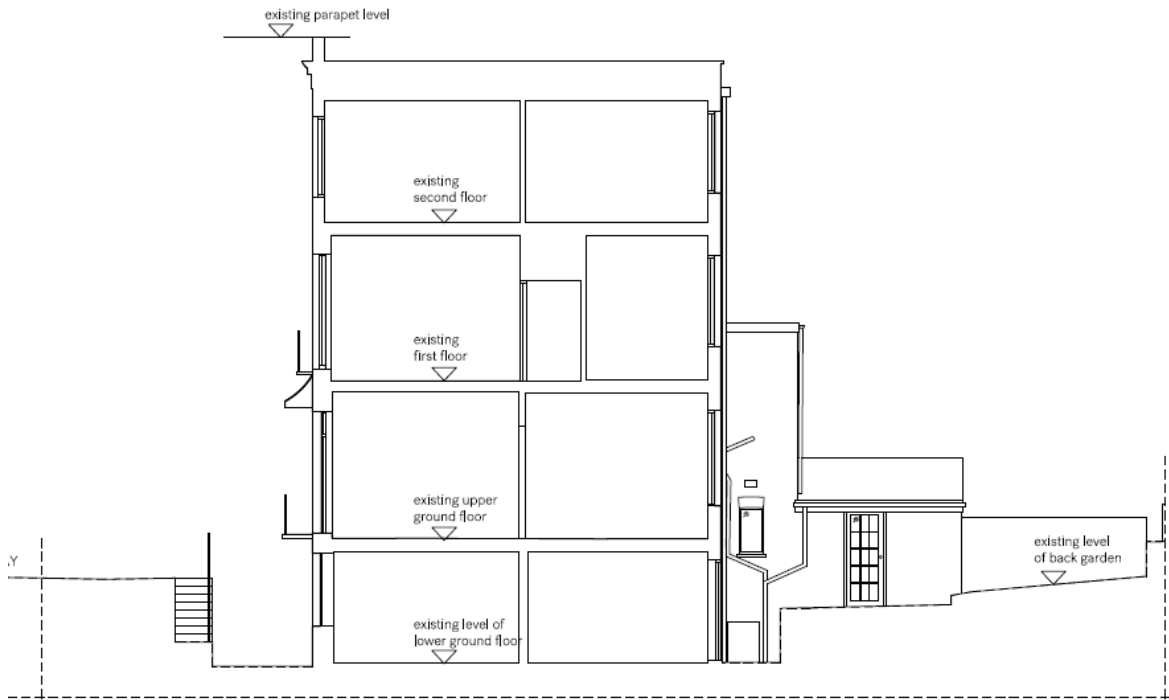
Existing north section



Proposed north section



Existing south section



Proposed south section



DRAFT DECISION LETTER

Address: 29 Northumberland Place, London, W2 5AS,

Proposal: Excavation to lower level of lower ground floor and excavation of rear garden to full length and width; extension under front garden with alterations to front lightwell. Demolition of rear closet wing and erection of replacement at lower ground, ground and first floor level; erection of two storey side infill extension at lower ground and ground floor levels. Erection of mansard roof extension. Alterations to front and rear boundaries. Alterations to windows and doors.

Plan Nos: 0595_002_EX_P_L; 0595_003_EX_P_LF; 0595_004_EX_P_UF; 0595_005_EX_P_EL; 0595_007_EX_P_AA Rev A; 0595_008_EX_P_BB; P296_LP_0.0; P296_GA_0.01 Rev C; P296_GA_0.02 Rev A; P296_GA_0.03 Rev A; P296_GA_0.04 Rev C; P296_GA_0.05 Rev C; P296_GA_0.06 Rev C; P296_ARB Version 001; Report by Simon Pryce Arboriculture dated 4 May 2021; Existing Site Plan; Proposed site and tree protection plan (TPP) dated 19 February 2021.

For information only: Construction Method Statement dated April 2021 by Symmetrys; Structural Condition Report dated 8 September 2020 by Cogley structural solutions; Daylight and Sunlight Study dated 14 February 2020 by Right to Light Consulting

Case Officer: Rupert Handley

Direct Tel. No. 07866036401

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

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 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 **Pre Commencement Condition.** Prior to the commencement of any:

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 5 **Pre commencement condition.** The 2 x nearby magnolia street trees (T3 and T4) must be protected in accordance with the trunk protection details within the Proposed site and tree protection plan (TPP) (by Simon Pryce Arboriculture) Report ref: 20/010, dated 19th of February 2021). The trunk protection must be checked and signed off by an appointed arboricultural consultant before any development activity begins and must remain in place for the duration of the development works.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 6 You must carry out the initial 800mm depth of excavation for the front basement using hand held tools where adjacent to the public footpath. You must cut any tree roots with a sharp cutting tool to the edge of the excavation.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 7 You must apply to us for details of the specification and profile of the soil which you propose above the front basement and for the rear garden, including details of the drainage layer and other components, and details of the front boundary wall foundations; which will allow access for the roots of the Magnolia street tree (T3) to the soil within the front garden.

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

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policies 34 and 45 of the City Plan 2019 - 2040 (April 2021). (R30DB)

- 8 **Prior to any excavation of the rear garden**, you must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within 6 Months of completing the development (or within any other time limit we agree to in writing).

If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within 5 years of planting them, you must replace them with trees of a similar size and species. (C30CC)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R30AD)

- 9 Notwithstanding the approved drawings, you must apply to us for approval of detailed drawing of the following parts of the development:

- a) Railings, paving and steps to front garden and light well showing method of railing attachment / construction (caulked into a plinth/stone, no bottom rail);
- b) New doors and windows, (front basement door to be four panel);

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 Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 10 You must provide a minimum of 1m soil depth (plus minimum 200mm drainage layer) and adequate overall soil volume above the top cover of the basement as shown on the drawings hereby approved. The soil depth and soil volume above the basement must thereafter be retained as approved. (C30GA)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policies 34 and 45 of the City Plan 2019 - 2040 (April 2021). (R30DB)

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

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

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

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 13 You must apply to us for approval of samples (photo) 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 Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 **HIGHWAYS LICENSING:**

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

BUILDING REGULATIONS:

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

- 3 With reference to condition 4 please refer to the Council's Code of Construction Practice at (www.westminster.gov.uk/code-construction-practice). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

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

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning

authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

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

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

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Item No.
4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 09.11.2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Abbey Road	
Subject of Report	96 Hamilton Terrace, London, NW8 9UP		
Proposal	Complaint about a high hedge at the boundary between the rear gardens of 20A Alma Square and 96 Hamilton Terrace made under Part 8 of the Anti-Social Behaviour Act 2003.		
Agent	Emmanuelle Tandy		
On behalf of	Emmanuelle Tandy		
Registered Number	20/05385/HH	Date amended/ completed	4 September 2020
Date Application Received	24 August 2020		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

1. RECOMMENDATION

<ol style="list-style-type: none"> 1. That the complaint be upheld 2. That a remedial notice be issued requiring: <ol style="list-style-type: none"> (a) Hedge A (as specified in Fig. 1 and 2 of this report) to be reduced to a height not exceeding 4.6m above the garden level of 96 Hamilton Terrace and Hedge B (as specified in Fig. 1 and 2 of this report) to be reduced to a height not exceeding 3.5m above the garden level of 96 Hamilton Terrace. (b) Hedge A to be maintained so that at no time does it exceed 5.2m above the garden level of 96 Hamilton Terrace and Hedge B to be maintained so that at no time does it exceed 4.1m above the garden level of 96 Hamilton Terrace.

2. SUMMARY

<p>A complaint has been made under Part 8 of the Anti-Social Behaviour Act 2003 in respect of the hedge planted adjacent to the rear boundary between the rear gardens of 96 Hamilton Terrace and 20a Alma Square. A copy of the relevant part of the act is included within the background papers.</p> <p>The hedge, within the rear garden of 96 Hamilton Terrace where it is directly to the rear boundary wall of 20A Alma Square comprises of a row of holm oaks trees and is in two distinct sections. One</p>
--

row (Hedge B) with the stems of the hedge are approximately 3.5 metres away from the southern part of the rear boundary wall of 20a Alma Square and the second (Hedge A) stepped further back where with the stems of the hedge are approximately 6 meters from the northern part of the boundary of 20a Alma Square. Lateral branches from the tree trunks reach towards the boundary, at varying lengths. The hedges are approximately 7 metres tall. The hedges are roughly parallel to the rear boundary. There is no significant difference in the levels between the two gardens. Hedge C (as specified on in Fig. 1 and 2 of this report) is not directly adjacent to the complainants property and is not considered to be harmful to its amenity.

The hedges constitute a high hedge as defined by Section 66 of Part 8 of the Anti-Social Behaviour Act 2003 as it is formed wholly or predominantly by a line of two or more evergreens; and rises to a height of more than two metres above ground level. The complainant considers that the high hedge is causing a loss of light to the home and garden of 20A Alma Square and that this is harmful to their amenity. The complainant has submitted correspondence to the hedge owner requesting that the hedge be reduced in height. The complainant and the hedge owner have not to date come to a resolution to reduce the height of the hedge. The hedge has been assessed from the property of the complainant (20a Alma Square) and from the hedge owners property (96 Hamilton Terrace) in accordance with the complaints procedure set out in Section 68 of Part 8 of the Anti-Social Behaviour Act 2003.

The Council's role in this case is to try to strike a balance between the competing rights of neighbours to enjoy their respective properties and to consider whether the amenity problems encountered in the complaint are sufficiently serious to justify action being taken against to require the hedge to be altered in height.

To assess the impact of the high hedge on the rear garden and rear windows of 20A Alma, the method of assessment for high hedges set out in the Building Research Establishment (BRE) guidelines on 'Hedge Height and Light Loss' (2005) have been followed. This guidance document includes a method for calculating the 'Action Hedge Height' (AHH), i.e. the height to which the hedge should be reduced in order to ensure it would not cause an unreasonable obstruction of light to the windows or garden of the neighbouring properties.

It was evident from the site visit to the complainant's property (20A Alma Square) on 26 April 2021 that the hedge has an overbearing impact on the relatively small rear garden of the property.

Because the hedge subject to this complaint comprises of two distinct sections which due to their relative set back from the boundary with 20a Alma Square have differing impacts on that property. It is therefore considered necessary to apply the BRE method of assessment on each section independently.

By using the BRE method of assessment that is set out in the guidelines, it has been established that the greatest impact of the hedges is on the garden of 20A Alma Square. The assessment calculates that the high hedge must be reduced to an AHH of 2.73 meters in the case of the section closest to the boundary and an AHH of 5.2 metres and for the section furthest away from the boundary.

This assessment confirms that the height of the hedge in its current form is having an impact on the complainant's property and that it is therefore reasonable to require the height of the hedge to be reduced.

However, an assessment by the Council's Arboricultural Officer has concluded that any pruning of

the hedges below the height of 3.5 meters could cause significant harm to the trees and that they may not survive pruning to the AHH of 2.73 meters. Government guidance on high hedges states that the Council must weigh up all relevant information before reaching a balanced decision and that they must also think about effects on the neighbourhood, for example the hedge might help to make the area an attractive and pleasant place. The guidance also makes it clear that the council *may* use government guidance (including the Hedge Height and Light loss document and AHH calculation) to help decide what could be the best height for the hedge rather than should the decision wholly be based on that. The guidance also states that the Council cannot order a neighbour to take any action that could result in the hedges death or destruction.

Mindful of this guidance, it is considered appropriate to require the pruning of the hedge closest to the boundary to a height of 3.5 metres and no more to ensure its survival, rather than basing the height requirement entirely on the AHH calculation of 2.73.

Under the legislation, where action is found to be required to protect the amenity of the complainant's property, the local authority is required under Section 69 of Part 8 of the Anti-Social Behaviour Act 2003 to issue a remedial notice specifying the work to be done to the hedge to reduce its impact on the neighbouring property. The remedial notice cannot require the reduction of the hedge to below 2 metres in height above ground level or the complete removal of the hedge. The local authority must ensure that the works specified in the remedial notice relate to the hedge itself (i.e. excluding other planting that does not form part of the hedge), are directly resulted to the adverse effect found to be caused by the hedge and must not exceed what is necessary to remedy the adverse effect of the hedge.

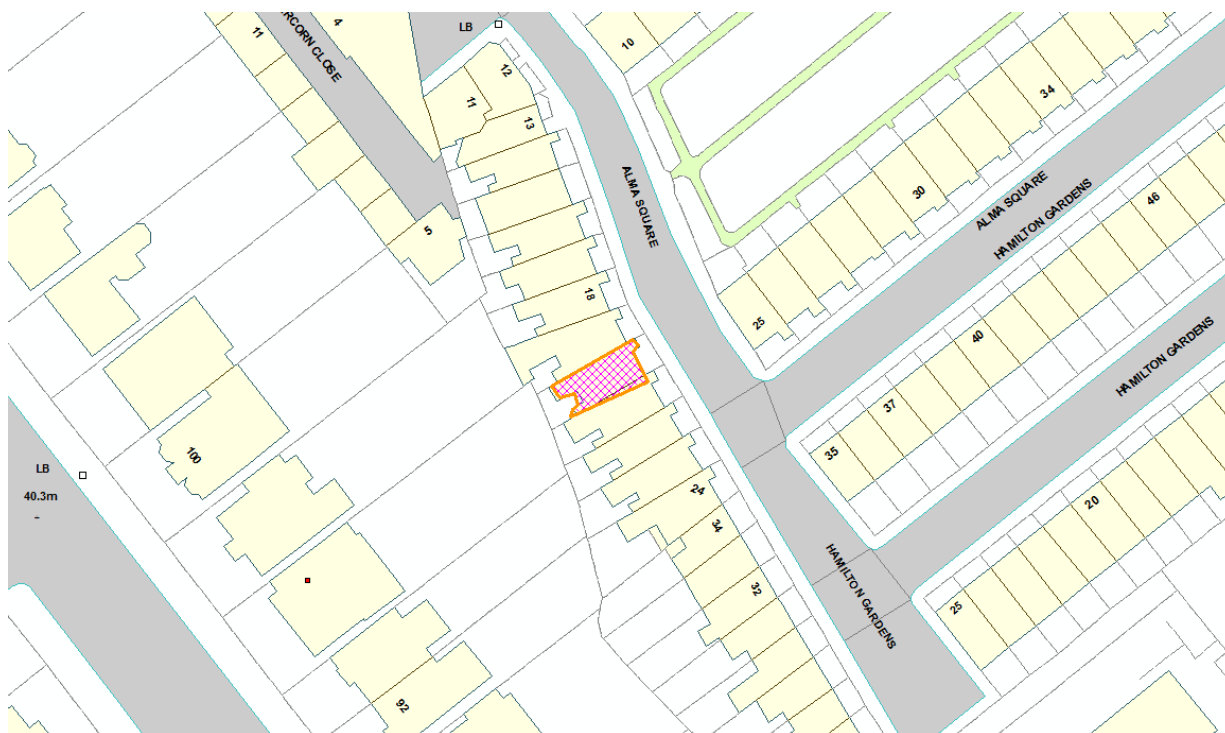
The legislation permits remedial notices to include requirements in terms of future maintenance of the hedge to ensure that it continues to be trimmed to avoid it exceeding the identified AHH. The BRE guidance recommends that a growing margin is considered when specifying the requirements in the remedial notice. This is to prevent short term re-growth causing a reoccurrence of the breach of the legislation.

In the case of the hedge closest to the boundary wall (Hedge B), 3.5 metres is considered the maximum that the hedge can be reduced to whilst ensuring its survival the growing margin should be allowed above this height. In the case of the hedge furthest away (Hedge A), the normal BRE guidance should be followed. This suggests that the initial required reduction height should be below the Action Hedge Height to allow a growing margin. The BRE guidance suggests a growing margin of between 0.6 meters and 1 meter. In this case it is considered that because the trees which makes up the hedges are not a particularly fast growing species and because the hedge closest to the boundary will not be required to be reduced to the Action Hedge Height, it is reasonable that the growing margin is specified at the lowest end of this range at 0.6 meters.

It is recommended that the remedial notice issued under Section 69 of Part 8 of the Anti-Social Behaviour Act 2003 requires the height of the hedge to be reduced, as specified in the preceding paragraph, within 3 months of the operative date of the notice (i.e. the date on which the remedial notice is issued).

Under Section 71 of Part 8 of the Anti-Social Behaviour Act 2003, once a remedial notice has been issued by the City Council, both the complainant and the hedge owner have 28 days in which to appeal to the Secretary of State against the requirements of the remedial notice.

3. LOCATION PLAN – complainant property outlined



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4. PHOTOGRAPHS



View of hedge from garden of 20a Alma Square



View from boundary looking back towards windows of 20a Alma Square



View from boundary looking back towards the garden and windows of 20a Alma Square

5. CONSULTATIONS

ST JOHNS WOOD SOCIETY

Defer to Council

ARBORICULTURAL OFFICER

Surveyed high hedge on site with case officer.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 17

Total No. of replies: 2

No. of objections: 1

No. in support: 1

One letter in support of the application

One letter from owner of hedge stating that the lowering of the height of the hedge will have no material impact on the complainants light because of the existing lime trees and the distance to the property. Has not been able to prune recently because of COVID situation but has every intention to do so when feels comfortable doing so.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

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

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

6. KEY DRAWINGS

Fig.1: Plan showing hedge Sections



Fig.2: Photograph showing hedge sections taken from the garden of 96 Hamilton Terrace.



DRAFT DECISION LETTER

**IMPORTANT - THIS NOTICE AFFECTS THE PROPERTY AT 96 HAMILTON TERRACE,
LONDON, NW8 9UP**

ANTI-SOCIAL BEHAVIOUR ACT 2003

REMEDIAL NOTICE (REF: 20/05385/HH)

ISSUED BY: WESTMINSTER CITY COUNCIL

1. THE NOTICE

This Notice is issued by the Council under section 69 of the Anti-social Behaviour Act 2003 pursuant to a complaint about a high hedge situated at 96 Hamilton Terrace, London, NW8 9UP. The Council has decided that the hedge in question is adversely affecting the reasonable enjoyment of the property at 20A Alma Square, London, NW8 9QA and that action should be taken in relation to the hedge with a view to remedying the adverse effect and preventing its recurrence.

2. THE HEDGE TO WHICH THE NOTICE RELATES

The sections of hedge marked Hedge A and Hedge B (as specified in Fig. 1 and 2 of this report) adjacent to the boundary between the rear gardens of Nos.96 Hamilton Terrace, London, NW8 9UP and 20A Alma Square, London, NW8 9QA. The hedges are formed of holm oak trees.

3. WHAT ACTION MUST BE TAKEN IN RELATION TO THE HEDGE**Initial Action**

The Council requires the following steps to be taken in relation to the hedge before the end of the period specified in paragraph 4 below:

- (i) reduce Hedge A (as specified in Fig. 1 and 2 of this report) to a height not exceeding 4.6m above the garden level of 96 Hamilton Terrace and;
- (ii) reduce Hedge B (as specified in Fig. 1 and 2 of this report) to a height not exceeding 3.5m above the garden level of 96 Hamilton Terrace.

Preventative Action

Following the end of the period specified in paragraph 4 below, the Council requires the following steps to be taken in relation to the hedge:

- (i) maintain Hedge A so that at no time does it exceed 5.2m above the garden level of 96 Hamilton Terrace and;
- (ii) maintain Hedge B so that at no time does it exceed 4.1m above the garden level of 96 Hamilton Terrace.

Informative

It is recommended that the hedges are cut back annually to the heights specified in the initial action section above. This allows room for the hedge to re-grow between annual trimmings and

still not exceed heights of 5.2 metres for hedge A and 4.1 metres for hedge B, as specified in the preventative action section.

All works should be carried out in accordance with good arboricultural practice/BS 3998: 'Recommendations for Tree Work'.

In taking the action specified in this Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act 1981. This includes birds and bats that nest or roost in trees.

4. TIME FOR COMPLIANCE

The initial action, steps (i) and (ii) specified in paragraph 3 above, are to be complied with in full within 3 months of the date specified in paragraph 5 of this Notice.

5. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 21 December 2021.

6. FAILURE TO COMPLY WITH THE NOTICE

Failure by any person who, at the relevant time, is an owner or occupier of the land where the portion of hedge specified in paragraph 2 above is situated:

- a. to take action in accordance with the Initial Action steps (i) and (ii) specified in paragraph 3 above within the period specified in paragraph 4; or
- b. to take action in accordance with the Preventative Action steps (i) and (ii) specified in paragraph 3 above by any time stated there;

may result in prosecution in the Magistrates Court with a fine of up to £1,000. The Council also has power, in these circumstances, to enter the land where the hedge is situated and carry out the specified works. The Council may use these powers whether or not a prosecution is brought. The costs of such works will be recovered from the owner or occupier of the land.

Dated:

Signed:

Deirdra Armsby, Director of Place Shaping and Town Planning.

on behalf of Westminster City Council, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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City of Westminster

Executive Summary and Recommendations

Title of Report: Tree Preservation Order No. 681 – 50 Springfield Road London NW8 0QN

Date: 9 November 2021



Summary of this Report

On 24 June 2021 the City Council made a provisional Tree Preservation Order (TPO) to protect one Japanese maple tree (labelled T1 on the TPO plan) located at 50 Springfield Road, London NW8 0QN (the Property). The TPO is provisionally effective for a period of six months from the date it was made (24 June 2021) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 24 December 2021. The TPO was made as the tree makes a significant contribution to local amenity and the residential outlook of the surrounding property and makes a positive contribution to the St John's Wood Conservation Area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Japanese maple (T1) from the rear garden of 50 Springfield Road. The tree is protected by virtue of its location within the St John's Wood conservation area. The reasons given for the proposed removal of the tree are that the tree is causing excessive and unacceptable inconvenience to the occupier of the property due to its proximity to the rear elevation, that it is an over mature tree with poor structural form and that there are limited options to sustainably manage the tree through pruning. The s211 notification also included a proposal to remove one cherry tree from the front garden of 50 Springfield Road but this tree is not recommended for inclusion on the TPO.

In general terms the confirmation of a provisional TPO does not preclude the appropriate management or removal of the protected trees in the future, subject to the merits of a TPO application.

Objections to the TPO were received from:

- The Owner of the Property and the Owner of the adjoining property.

Recommendations

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 681 (2021) with or without modification with permanent effect; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 681(2021).



City of Westminster

Committee Report

Item No:

Date:

Classification:

Title of Report:

Report of:

Wards involved:

Policy context:

Financial summary:

Report Author:

Contact details

1 Background

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 681 (2021) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 24 June 2021.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they must be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the City Council the power to control any such works or require replacement if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 681 (2021) was made following the receipt by the City Council of six weeks’ notice of intention to remove one Japanese maple (T1) from the rear garden of 50 Springfield Road (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is defence to the offence of removing a tree in a conservation area if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the City Council in a position where it must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.
- 1.4 The Japanese maple T1 is in the rear garden of 50 Springfield Road and provides a green leafy outlook to neighbouring residents. There is a limited view of the tree from Springfield Road, glimpsed through the gap between numbers 50 and 52 Springfield Road. The tree is about 9m tall with a naturally rounded and open canopy. It has lost one structural limb on the upper west side, which leaves a slight gap in the canopy cover, and it appears to have also been subject to several branch removals on this side of the crown. However, the loss of these branches does not significantly detract from quality of the well-branched crown structure and overall, the tree is considered to have a good form.
- 1.5 Japanese maples are relatively common in Westminster as small shrubby specimens, but large, mature Japanese maples like this one are relatively rare. This tree is not known to have a specific cultural or historic value, but trees are a key component of the conservation area, and so contributes to this general cultural value.

- 1.6 The scale and form of the Japanese maple are such that they are in proportion with the garden and the property at 50 Springfield Road. The trunk of the tree is about 3m from the rear elevation of the property and some of the branches in the upper crown are touching the building. The relationship between the tree and the building could be managed through judicious pruning.
- 1.7 The tree is considered by the Council's Tree Section to have significant amenity value and makes a positive contribution to the St John's Wood conservation area. The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.
- 1.8 The initial reason given by the applicant for the proposed removal of the tree (T1) was:
- the tree is causing excessive and unacceptable inconvenience to the occupier of the property due to its proximity to the rear elevation, that it is an over mature tree with poor structural form and that there are limited options to sustainably manage the tree through pruning
- 1.9 No technical evidence was submitted with the application.

Subsequent to making the TPO the City Council received two objections

2 Objection from the owner of the Property

- 2.1 The Council's Legal Service received an email dated 27 July 2021, from the owner of the property objecting to the TPO on the grounds that:
- The tree may cause subsidence damage to the house in the future.
 - The Japanese maple T1 is causing damage to the boundary wall.
 - The tree is a nuisance to your neighbour and cutting the tree down is permitted as an abatement of the nuisance under regulation 14 of the Town and Country (Tree Preservation) (England) Regulations 2012.
 - In making the TPO the City Council has not followed Government guidance or industry best practice (TEMPO) in assessing the suitability of the tree for the TPO.
 - The tree is not suitable for protection by a TPO, as it has limited public visibility, is dominant and overbearing, has a poor form, is overmature, has no

cultural value, is not suitable for its setting and does not make a positive contribution to the landscape.

- The removal and replacement of the tree would meet the Council's policy objectives.
- The tree has 'negative amenity' and the problems it causes have not been resolved through previous pruning.

3. Objection from adjoining owner

3.1 The Council's Legal Service received an email dated 23 July 2021, from the owner of the adjoining property objecting to the TPO on the grounds that:

- The Japanese maple T1 is too large, too close to the house and causes shade to the house and garden. It has a negative impact and therefore causes negative amenity to your home. Previous pruning has failed to resolve the problems caused by the tree.
- The tree is only partially visible from a public place and therefore has no public amenity value.
- The tree is not a native species.
- The tree is undermining the party wall between 50 and 52 Springfield Road.

4 Response to both objections

4.1 The City Council's Arboricultural Officer responded to the objections by letters dated 10 September 2021.

- The Officer's response considered that the Japanese maple T1 has significant amenity value and makes a positive contribution to the St John's Wood conservation area.
- The Officer stated removal of T1 on the grounds that it is too large, too close to the house and causes excessive shade and that it therefore has negative amenity is not considered to be justified. Instead, the Officer suggested these issues could be managed through pruning.
- The Officer also considered the removal of the tree on the grounds that the problems it causes cannot be managed through pruning is not considered to be justified. The Officer inspected the tree and found the tree had not previously been crown reduced, although it had been crown thinned. The Officer concluded a sensitive crown reduction would mitigate the issues of shading and dominance.

- Removal of T1 on the grounds of its limited visibility is not considered to be justified. Although it is located in a rear garden, with limited public visibility the tree is considered to make a positive contribution to local amenity and to make a significant contribution to the character and appearance of the St John's Wood conservation area.
- The Officer also noted that removal of T1 on the ground of damage to the boundary wall has not been justified. If the tree is causing the damage, it is likely that the wall could be repaired without the need to remove the tree, using simple design modifications such as lintels.

5 Ward Member Consultation

- 5.1 The Ward Members have been consulted in relation to this matter. No responses have been received at the time of finalising this report. Any responses received between the time of finalising this report and the date of the sub-committee will be presented at the sub-committee.

6 Conclusion

- 6.1 In light of the representations received from the objectors it is for the Planning Applications Sub-Committee to decide EITHER
- (a) TO CONFIRM Tree Preservation Order No. 681 (2021) with or without modification with permanent effect.; OR
- (b) NOT TO CONFIRM Tree Preservation Order No. 681 (2021).

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT LOUISE METSON, LEGAL SERVICES (Email imetson@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES ON 078 1705 4603 (Email gheudebourck@westminster.gov.uk)

Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 681 (2021)
2. Photograph of T1
3. Objection letter from the owner of the Property dated 27 July 2021
4. Response letter from the City Council's Arboricultural Officer to objector dated 10 September 2021.
5. Objection email from adjoining property dated 23 July 2021
6. Response letter from the City Council's Arboricultural Officer to adjoining property dated 10 September 2021.
7. Report of Council's Arboricultural Officer dated 18 June 2021 recommending making of the Provisional Order



Executive Summary and Recommendations

Title of Report: Tree Preservation Order No. 678 – St Gabriel’s Church Warwick Square London

Date: 9 November 2021



Summary of this Report

On 17th May 2021 the City Council made a provisional Tree Preservation Order (TPO) to protect one Bay tree (labelled T1 on the TPO plan) located in the garden which surrounds St Gabriel's Church, Warwick Square. The TPO is provisionally effective for a period of six months from the date it was made (17th May 2021) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 17th November 2021. The TPO was made because the tree makes a valuable contribution to amenity, to the outlook from nearby properties and to the character and appearance of the Pimlico conservation area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Bay tree (T1) from the garden of St Gabriel's Church, Warwick Square. The tree is protected by virtue of its location within the Pimlico conservation area. The reason given for the proposed removal of the tree is that it has previously damaged the churchyard wall and is likely to cause further damage in the future. The City Council considered it expedient and in the interests of amenity that a TPO was made to protect the tree, in order to safeguard its preservation and future management.

In general terms the confirmation of a provisional TPO does not preclude the appropriate management or removal of the protected tree in the future, subject to the merits of a TPO application.

Objection to the TPO has been received from:-

- **Simon Pryce Arboriculture**, CP House, Otterspool Way, Watford WD25 8HP
(Agent on behalf of St Gabriel's Church)

The City Council's Arboricultural Officer has responded to the objection.

Recommendations

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 678 (2021) with or without modification with permanent effect: OR

(b) NOT TO CONFIRM Tree Preservation Order No. 678 (2021).



City of Westminster

Committee Report

Item No:

Date:

Classification:

Title of Report:

Report of:

Wards involved:

Policy context:

No requirement to have regard to Development Plan policies when confirming a TPO but special attention must be paid to desirability of preserving enhancing the character and appearance of the conservation area
Notwithstanding the above – the following planning policies are of relevance: 32, 34, 39 of the City Plan 2019 - 2040 April 2021

Financial summary:

Report Author:

Contact details

1. Background

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 678 (2021) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 17th May 2021.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they must be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the Council the power to control any such works or require replacement if consent is granted for the tree to be removed.
- 1.3 Tree Preservation Order 678 (2021) was made following the receipt by the City Council of six weeks’ notice of intention to remove the Bay tree (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is a defence to the offence of removing a tree in a conservation area if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the City Council in a position where it must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.
- 1.4 The tree is located in the garden which surrounds St Gabriel’s Church, on the northwest boundary which is opposite numbers 29 to 32 Warwick Square. It is clearly visible from that stretch of Warwick Square and also from the far side of St Georges Drive and Cambridge Street. The bay tree is about 10m tall with an oval canopy. It is considered to have a good form.
- 1.5 The tree is a mature specimen and appears to be in good condition. It has a long-life expectancy. It has been subject to modest crown reductions in the past to maintain it at an appropriate size for its location and it would be reasonable to continue to manage it in this way. This pruning does not detract from the condition or appearance of the tree. The tree is considered by the Council’s Tree Section to make a valuable contribution to amenity, to the outlook from nearby properties and to the character and appearance of the conservation area. The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer’s report.

1.6 The initial reasons given by the Applicant for the proposed removal of the tree were:

- The tree has previously damaged the churchyard wall and is likely to cause further damage in the future.

1.7 Subsequent to making the TPO the City Council received one objection.

2 Objection

2.1 The Council's Legal Service received a letter dated 8 June 2021 from Simon Price Arboriculture objecting to the TPO on the grounds that:

- The amenity value of the bay tree T1 does not outweigh the problems associated with the damage it is causing to the boundary wall of the Grade II* listed building, which cannot be repaired properly with the tree in situ;
- Reducing the tree periodically would contain the size of the crown and slow its overall growth, however the trunk would continue to expand causing more damage to the boundary wall and that the damage will worsen if the tree is not removed;
- The amenity value of the tree could be replaced by other existing trees and by the provision of a replacement tree within the church curtilage;
- The removal of the tree will improve views of the church;
- It is unlikely that it was intended or envisaged that the bay tree would have attained this size based on its location only 500mm from the wall and that many bay trees are commonly planted as shrubs and are managed by regular trimming.

3. Response to Objection

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 24 June 2021 and the following is a summary of the response;

- The bay tree has high amenity value and makes a positive contribution to the Pimlico Conservation Area;
- The tree is not especially large, it is appropriate in size and scale for its setting.
- The bay tree fits in well and links the more formal setting of the grid streets with the more leafy character of the open space at Warwick Square;

- The tree clearly has a main trunk and a tree-like and not a shrubby form and it has certainly been managed as a tree rather than a shrub. The bay tree does have high amenity value and the species of the tree wouldn't be a reason to remove it;
 - The Officer inspected the tree on 12 May 2021 and noted the wall showed signs of recent repairs but appeared to be in good condition with no bowing or cracking. The Officer determined that further repairs are currently unnecessary. The Officer also noted that the tree trunk is close to the wall but not touching and therefore any contact between the tree and the wall is likely to be between the buttress roots and the foundations;
 - The Officer suggested that should the wall be damaged in the future, there may be options for repair that could accommodate the tree roots and buttresses. Lintels over buttress roots could be considered. The Officer also suggested another solution would be to rebuild a section of the wall with the same materials but with a slightly thinner profile so that it is set back from the tree on the inner face but has the same appearance on the outer surface;
 - The Officer concluded that the bay tree has high amenity value and makes a positive contribution to the Pimlico Conservation Area. Its removal is not considered to be justified on the grounds of the potential future damage to the boundary wall.
4. The Council's Legal Service received five emails in support of the TPO from nearby properties on the grounds that:
- *"Not only would an unthinkable removal of the tree have extremely poor implications on the unique character of this Pimlico conservation area, but also deeply sadden the people living around it on a personal level, and as well I'm sure, animal/birds living in it"*
 - *"It would be devastating to see a beautiful and healthy tree taken down. It is a tree that is evergreen and adds important character to the area and church"*
 - *"We are living in a conservation area, and it is important for us that the character and appearance is conserved".*

5. Ward Member Consultation

- 5.1 Ward Members have been consulted in relation to this matter. No responses have been received at the time of finalising this report. Any responses received between the time of finalising this report and the date of the sub-committee will be presented at the sub-committee.

6. Conclusion

6.1 In light of the representations received from the objectors it is for the Planning Applications Sub-Committee to decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 678 (2021) with or without modification with permanent effect.

(b) NOT TO CONFIRM Tree Preservation Order No. 678 (2021); OR

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT LOUISE METSON, LEGAL SERVICES (Email Imetson@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES (Email Georgia.heudebourck@rbkc.gov.uk)

Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 678 (2021).
2. Photograph of T1
3. Objection Letter from Simon Pryce Arboriculture dated 8 June 2021
4. Response Letter from City Council's Arboricultural Officer dated 24 June 2021
5. Emails in support of the TPO
6. Report of Council's Arboricultural Officer dated 12 May 2021 recommending making of the Provisional Order