



City of Westminster

Committee Agenda

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

Meeting Date: **Tuesday 6th December, 2022**

Time: **6.30 pm**

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

Members: **Councillors:**
Nafsika Butler-Thalassis (Chair)
Amanda Langford
Cara Sanquest
Md Shamsed Chowdhury



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 Governance Officer.

**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 Head of Legal & Democratic Services in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note that Councillor MD Shamsed Chowdhury had replaced Councillor Ryan Jude.

To note any further changes to the membership.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

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

4. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

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

To register to speak and for guidance please visit:

<https://www.westminster.gov.uk/planning-committee>

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

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

(Pages 5 - 8)

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/about-council/democracy/stream-council-meetings>

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

- | | |
|---|--------------------------|
| 1. 19 UPBROOK MEWS, LONDON, W2 3HG | (Pages 11 - 26) |
| 2. THE LONDON PAVILION, 1 PICCADILLY, LONDON, W1J ODA | (Pages 27 - 52) |
| 3. 16-17 HAY HILL, LONDON, W1J 8NY | (Pages 53 - 76) |
| 4. 24-26 MADDOX STREET, LONDON, W1S 1PN | (Pages 77 - 92) |
| 5. 26D RANDOLPH CRESCENT, LONDON, W9 1DR | (Pages 93 - 124) |
| 6. BASEMENT FLAT, 28 ALDRIDGE ROAD VILLAS, LONDON, W11 1BW | (Pages 125 - 146) |

**Stuart Love
Chief Executive
25 November 2022**

Order of Business

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

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

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



CITY OF WESTMINSTER

MINUTES

Planning Applications Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (3)** held on **Tuesday 4th October, 2022**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Nafsika Butler-Thalassis (Chair), Ryan Jude, Amanda Langford and Cara Sanquest

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

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

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 12 July 2022 be signed by the Chair as a correct record of proceedings.

4 PLANNING APPLICATIONS

1 16 DORSET SQUARE, LONDON, NW1 6QB

Demolition of the existing closet wing and rear infill extensions; Erection of rear infill extensions at lower ground and ground floor levels; erection of closet wing extension up to first floor level; use of rear flat roofs at ground and first floor levels as terraces, with associated railings and alterations; alterations to windows and doors; installation of plant equipment and enclosures within rear lightwell at lower ground floor level and to rear terrace at ground floor level; alterations to lower ground floor flat. Internal alterations including the removal and addition of partitions.

Additional representations were received from two local residents (30.06.22 and 28.09.22).

The presenting officer tabled the following amended recommendation, additional text highlighted in bold:

- 1) Grant conditional permission.
- 2) Agree the reasons for granting listed building consent as set out in informative 1 of the draft decision letter.
- 3) **Agree the reason for granting listed building consent.**

Tim Waters addressed the Sub-Committee in support of the application.

Ian Wylie, representing the St. Marylebone Society, addressed the Sub-Committee in support of the application.

RESOLVED UNANIMOUSLY:

- 1) That conditional permission, as amended, be granted subject to a further amendment to condition 14 requiring details of the green roof to be provided.
- 2) That the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter be agreed.
- 3) That the reason for granting listed building consent be agreed.

2 THE OLD DAIRY FLATS, CHAPEL SIDE, LONDON, W2 4LG

Demolition of the existing hipped roof and construction of a roof extension, a rear extension involving the infill of an existing undercroft area at ground floor, the replacement of an existing link building (between the building fronting Chapel Side and Esca House to the rear) and an additional second floor storey, and the excavation of a basement under the main building, in association with the change of use of the ground and first to residential flats

(Class C3). Replacement windows to the front and rear elevations, and the creation of a terrace and green roof on the rear extension roof at third floor level and a terrace at rear fourth floor level.

A late representation was received from a local resident (04.10.22).

The presenting officer tabled the following amendments to the conditions:

Condition 17 – additional text in **bold**

No piling shall take place until a piling method statement has been submitted to and approved by the local planning authority in consultation with Thames Water. **The development will then be carried out in accordance with this method statement.**

Amend condition 19 – from

You must apply to us for our written approval of an independent review of the energy efficiency measures to be provided within the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods ('BREEAM'), this review must show that you have achieved an 'excellent' rating. If you use another method, you must achieve an equally high standard. You must provide all the energy efficiency measures referred to in the review before you start to use the building. You must then permanently retain these features. (C44BB)

To

Prior to first occupation of any of the residential flats, you must apply to us for our written approval of an independent review of the energy efficiency measures within the development. In the case of an assessment using Building Research Establishment methods ('BREEAM'), this review must show that you have achieved an 'excellent' rating. If you use another method, you must achieve an equally high standard. You must provide and permanently retain all the energy efficiency measures referred to in the review thereafter.

Daniel Frost addressed the Sub-Committee in support of the application.

RESOLVED UNANIMOUSLY:

That conditional permission, as amended, be granted, subject to:

- a) An amendment to conditions 7 and 14 requiring the details of planting to the courtyards and the green roof to be provided;
- b) An informative to ensure that the basement living room/snug is not used as a bedroom; and
- c) Grampian conditions to secure the following:

- i) Reinstatement of the footway on Chapel Side adjacent to the site; and
- ii) Lifetime Car Club Membership for all residential units was secured to minimise the impact of the proposed development and reduce car ownership of future occupiers.

3 ARVON COURT, 3 TITCHBORNE ROW, LONDON, W2 2PZ

Erection of a roof extension to add two, 1 bedroom flats with associated internal alterations. Alterations to windows and doors including the installation of secondary glazing. Internal refurbishment including the removal and addition of partitions.

The presenting officer tabled the following amended recommendation, additional text highlighted in bold:

- 1) Grant conditional permission.
- 2) Agree the reasons for granting conditional listed building consent as set out in informative 1 of the draft decision letter.
- 3) **Agree the reason for granting listed building consent.**

RESOLVED ON THE CHAIR'S CASTING VOTE: Refuse – Councillors Butler-Thalassis and Sanquest; Defer – Councillors Jude and Langford

That conditional permission be refused on the grounds that it would provide substandard accommodation with the size of the two proposed units below the minimum size as set out in Policy 12 of Westminster City Council's City Plan. Appropriate reasons for refusal to be agreed under delegated powers.

RESOLVED UNANIMOUSLY:

- 1) That the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter be agreed.
- 2) That the reason for granting listed building consent be agreed.

The Meeting ended at 8.20 pm

CHAIRMAN: _____

DATE _____

Agenda Annex

CITY OF WESTMINSTER
PLANNING APPLICATIONS SUB COMMITTEE – 6th December 2022
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 21/00155/FULL (Addendum Report)	19 Upbrook Mews London W2 3HG	Conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall to 18 Upbrook Mews.	Mr Sammy Li
	Lancaster Gate	Recommendation Grant conditional permission.		
Item No	References	Site Address	Proposal	Applicant
2.	RN(s): 22/02113/FULL & 22/02114/LBC	The London Pavilion 1 Piccadilly London W1J 0DA	Use of part basement, part ground, and first to fifth floor plans as a tourist hostel (Class C1). Installation of photovoltaic panels, plant at roof level, internal alterations and replacement of windows with louvres at second floor level on east elevation.	London Trocadero (2015) LLP
	St James's	Recommendation 1. Grant conditional permission. 2. Grant conditional listed building consent. 3. Agree reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.		
Item No	References	Site Address	Proposal	Applicant
3.	RN(s): 22/04451/FULL	16 - 17 Hay Hill London W1J 8NY	Variation of conditions 12 and 13 of planning permission dated 19th June 2018 (RN:17/07518/FULL) for the Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser. Namely, to amend and extend the permitted opening hours of the restaurant use (from 23:00 to 00:00 (midnight) each day), as well as remove the requirement for an entrance lobby.	Mira Foods International (UK) Limited
	West End	Recommendation Grant conditional permission.		
Item No	References	Site Address	Proposal	Applicant
4.	RN(s): 22/03962/FULL	24 - 26 Maddox Street London W1S 1PN	Variation of Condition 13 of planning permission dated 20 April 2021 (RN: 21/00946/FULL) for, 'Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays' NAMELY, to allow the terrace areas at fourth and fifth floor levels to be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays on a permanent basis. (Application under Section 73 of the Act).	Allbright Group Limited
	West End			

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 6th December 2022
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
5.	RN(s): 21/06815/FULL Little Venice	26D Randolph Crescent London W9 1DR	Erection of two storey side extension at lower ground and upper ground floors, additional rear window, use of garage as internal floor space, replacement of garage doors with sash windows and brick panels and associated alterations.	CFA Creative Ltd
	Recommendation Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
6.	RN(s): 22/05799/FULL Westbourne	Basement Flat 28 Aldridge Road Villas London W11 1BW	Erection of single storey extension at lower ground floor level.	Pembridge Developments Ltd
	Recommendation Grant conditional permission.			

Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 December 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Lancaster Gate	
Subject of Report	19 UPBROOK MEWS, LONDON, W2 3HG		
Proposal	Conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall with 18 Upbrook Mews.		
Agent	Nuspace		
On behalf of	Mr Sammy Li		
Registered Number	21/00155/FULL	Date amended/ completed	6 October 2022
Date Application Received	11 January 2021		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application site forms part of an unlisted mews terrace located within the Bayswater Conservation Area. The site backs onto Grade II listed properties in Chilworth Street and Gloucester Terrace.

This application was reported to Planning Sub-Committee on 12 July 2022 where permission was originally sought to construct a basement under the footprint of the existing house, a flat topped hipped mansard roof level, and conversion of the garage to living accommodation with associated elevation changes. The committee report can be found in the background papers.

The application was deferred at that committee for the applicant to provide further information on flood risk and the proposed construction methodology with regard to the mitigation of any risk. The minutes of the Planning-Sub Committee can also be found in the background papers.

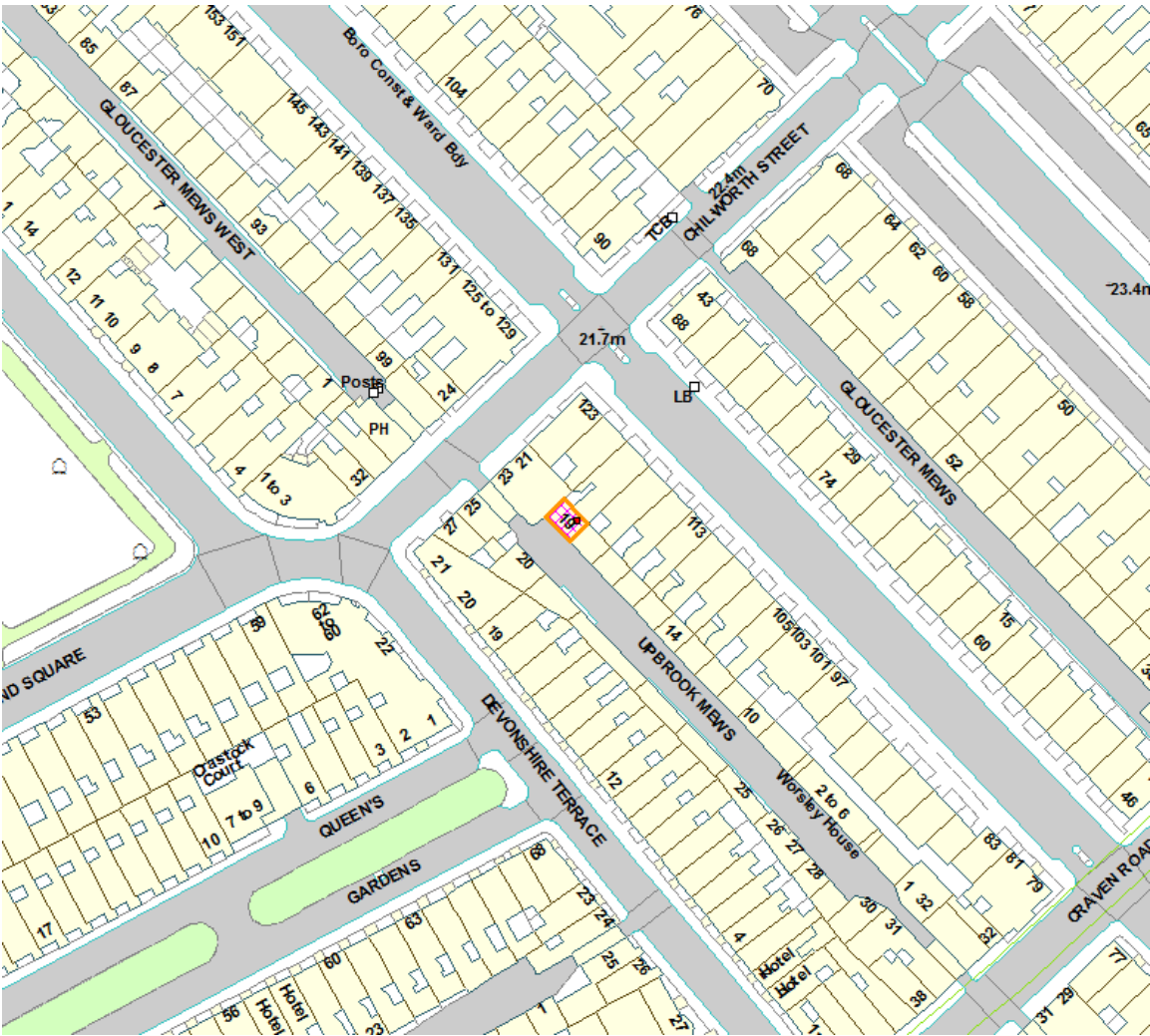
The applicant could provide no further information on flood risk from the basement construction, other than that originally presented as part of the application and to the Planning Sub-Committee and felt that they had sufficiently addressed the issue of flood risk. To this end, the applicant has removed the basement excavation from the proposals and now permission is sought only for the 'conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall with 18 Upbrook Mews'. With the removal of the basement element of the scheme, the proposed construction time and impacts will be substantially reduced.

Neighbours were re-consulted on the revised proposals. One further response was received where the original objections to the mansard roof were maintained due to amenity concerns.

As previously advised, the proposed change of the garage to habitable accommodation is considered acceptable in highways and design terms and the proposed mansard roof is considered acceptable in conservation, design and amenity terms. Whilst officer's sympathise with residents on their concerns of noise and disruption during the course of works, the Planning Sub-Committee is advised that this is not a reason in itself to refuse the proposals. As is the standard approach, conditions regarding hours of work are recommended.

Accordingly, the proposals are considered in accordance with City Council policies as set out in the City Plan 2019-2040 with respect to land use, design and amenity and is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation



5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION

WARD COUNCILLORS FOR LANCASTER GATE:

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Objection raised on the grounds that the drawings show the proposed mansard roof higher than the adjacent houses; the windows on the front elevation of the roof are too large; the mansard roof and raising of the height of the party wall may result in loss of light to neighbouring properties; flooding, loss of garage and that the basement appears to have no ventilation.

Conditions are suggested to if the party wall on the north is raised, this should be finished white; basement should not be occupied separately; no and Saturday workings. An informative is required regarding flooding.

ENVIRONMENTAL HEALTH:

No objection.

BUILDING CONTR-L - DEVELOPMENT PLANNING:

No objection.

HIGHWAYS PLANNING MANAGER:

Objection raised to the loss of the garage if protected via condition.

LOCAL FLOOD AUTHORITY:

No response Received.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 16

No. of objections: 16, received on behalf of 11 properties.

Sixteen objections received on some or all of the following grounds:

Design & Heritage:

- The proposals is inappropriate for the character of the mews and the conservation area.
- Increase in volume is out of character with mews.

Amenity:

- Loss of light;
- No plant/ ventilation should be allowed as this will be noisy and disrupt sleep.
- Overlooking.

Highways:

- Loss of parking is unacceptable.

Other:

- No reference made to the Upbrook water course;
- No details of monitoring of neighbouring properties during works;
- The owners of 19 Upbrook Mews should indemnify neighbouring properties in case of damage;
- Noise and disruption from proposed excavation of basement and construction of mansard to residential neighbours and adjacent office workers;
- No works should be allowed on Saturdays, Sundays or Bank Holidays;
- A construction management plan should be submitted upfront;
- Permission cannot be given without significant preparatory works and party wall surveyors being instructed;
- Not all neighbours affected by the proposals were notified of the application;
- Loss of rental income whilst works are taking place;

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

RE-CONSULTATION: Amendments made to the mansard roof design

SOUTH EAST BAYSWATER RESIDENT'S ASSOCIATION:

Continued objections made on the grounds of amenity, flooding, loss of garage, basement ventilation given lack of garden. Comment raised that the design of the mansard is now acceptable. A construction management plan is requested. Conditions suggested, similar to those received in initial response, however it was also noted that an attractive hoarding should be installed if works were to go ahead.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 4

No. of objections: 4

Four objections received from those that have already made objections, reiterating their original objections. New ground of objection include:

- How was the daylight and sunlight assessment carried out when no one visited neighbouring properties;
- Inaccuracy within the sunlight and daylight report with a kitchen being called a bathroom in one of the neighbouring properties.
- The flood risk assessment still doesn't identify how the basement excavation will affect neighbouring properties and doesn't take into consideration the floods of July 2021

Additional responses received after publication of the report for committee on 28 June 2022.

COUNCILLOR JUDE

Objection on the following grounds:

Item No.
1

- Given the residential nature of the road, we would request that all works are restricted on Saturday. We note that currently all piling and excavation works are prevented on Saturdays, but other work on-site will still be permitted during these hours as it stands. Preventing all works will allow the residents some respite during these hours.
- The lack of natural ventilation in the basement has been brought to our attention by local residents. Given this, we request a condition be included that restricts using the basement as bedroom, due to potential health and safety issues.

COUNCILLOR ORMSBY

Objection. Agree with Councillor Jude's comments set out above.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Comment. Condition 2 as proposed is not sufficient enough given the quiet nature of the mews. It is requested that no Saturday working is allowed.

It is requested that there be a condition restricting the use of the basement because of the lack of natural ventilation.

It is requested that a hoarding be installed during construction.

RE-CONSULTATION (11 Oct 2022): Removal of basement excavation from proposals.

No. Consulted: 61

Total No. of replies: 1

No. of objections: 1

One objection received, maintaining the objector's original concerns to the mansard roof.

6. Conclusion

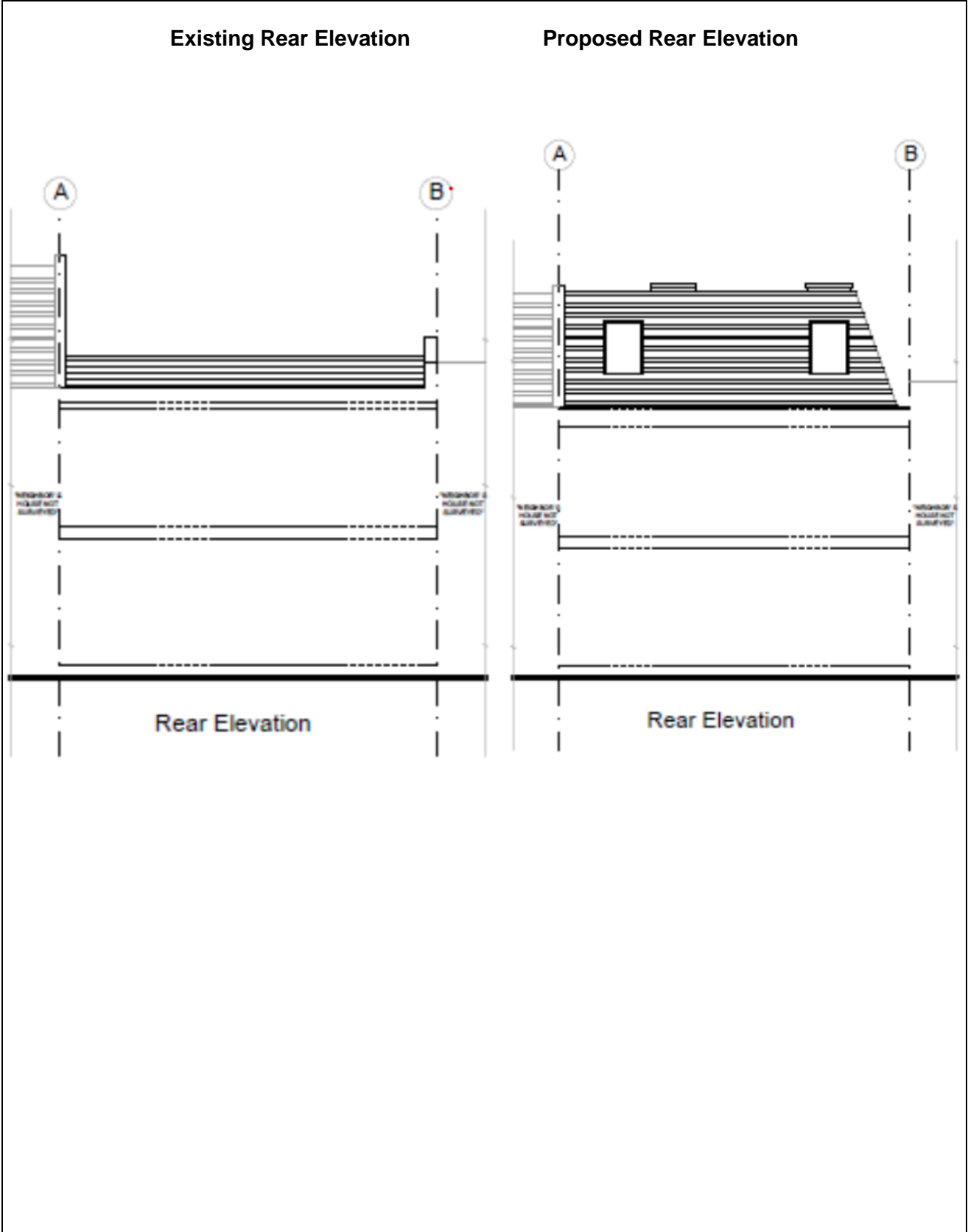
In its amended form, the proposals are now only for additional residential accommodation in the form of the conversion of a garage to a living room and the construction of a mansard roof, are acceptable and the works to facilitate this are acceptable in conservation and design terms and are not considered to harm surrounding residential amenity. The point of contention was the basement at the last planning committee, and this has been removed. As such, the proposal is considered acceptable, mindful of policies 7, 8, 33, 34, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

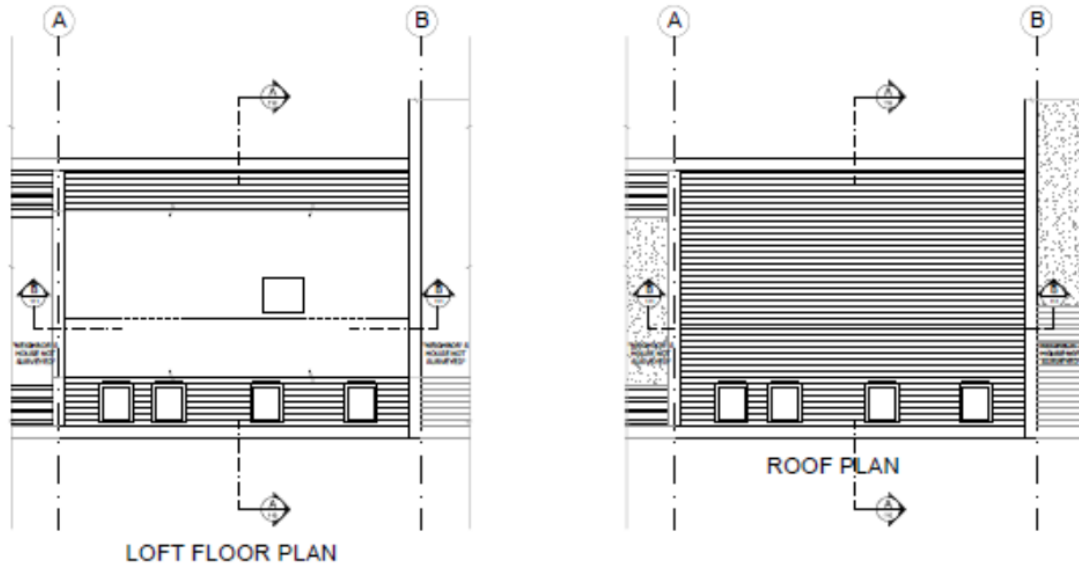
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk
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7. KEY DRAWINGS

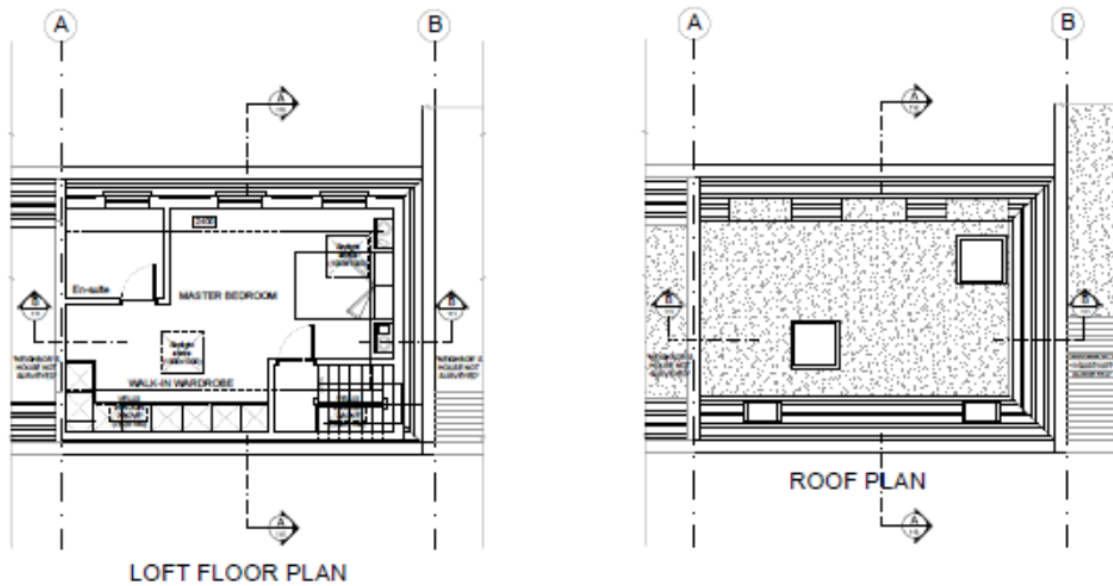




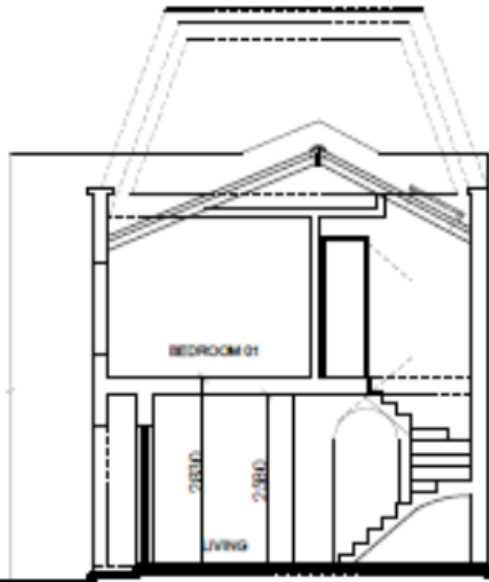
Existing Roof Plan



Proposed Mansard & Roof Level Plan

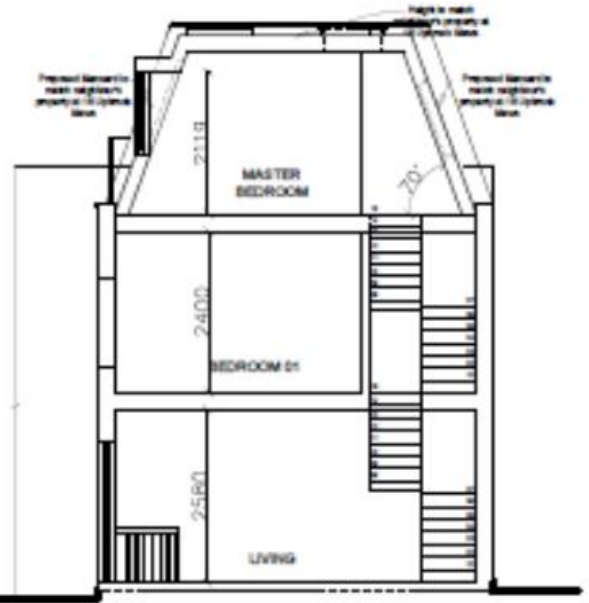


Existing Section A-A

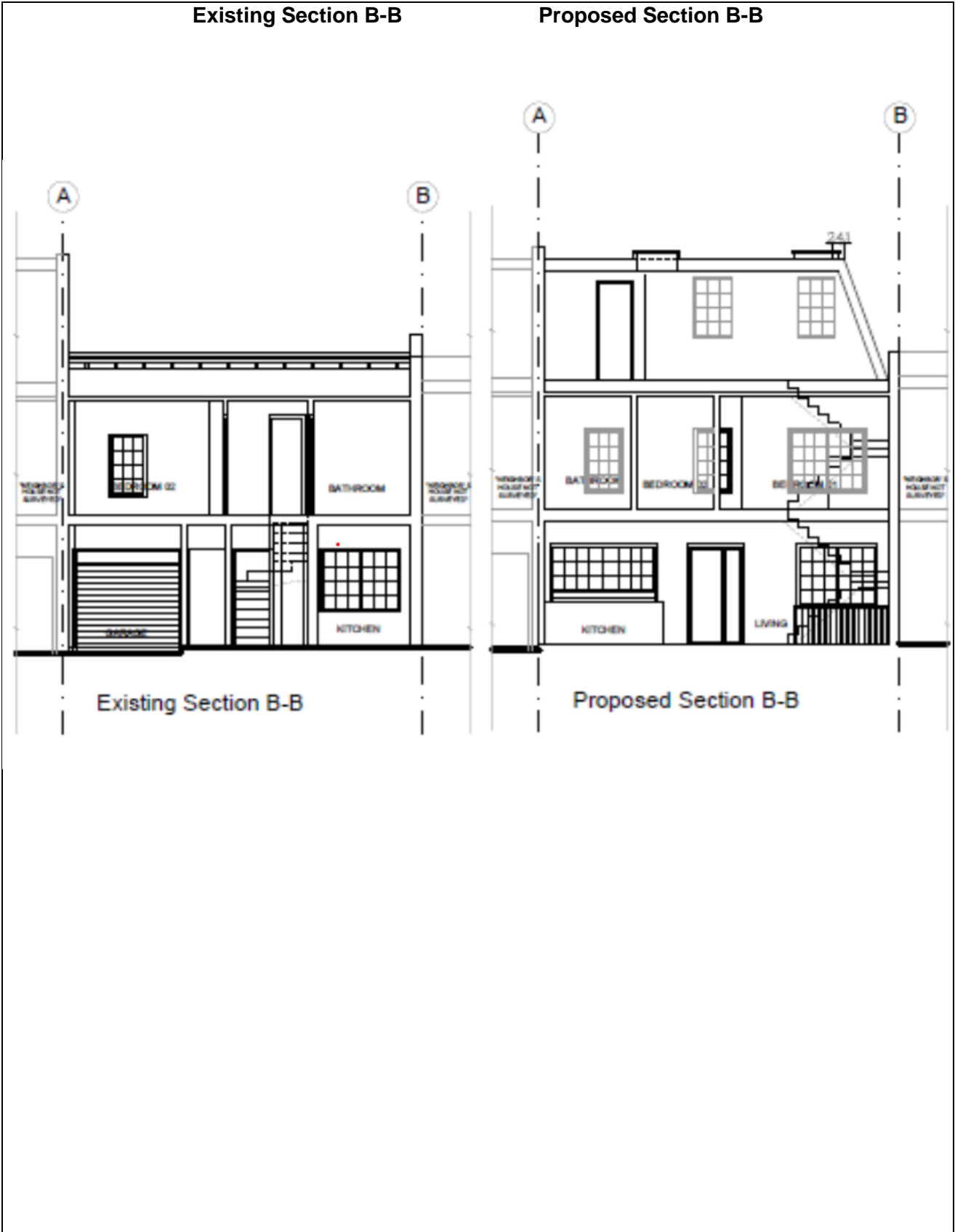


Existing Section A-A

Proposed Section A-A



Proposed Section A-A



Item No.
1

DRAFT DECISION LETTER

- Address:** 19 Upbrook Mews, London, W2 3HG,
- Proposal:** Conversion of garage into habitable space and erection of a mansard roof extension with raising the height of the party wall to 18 Upbrook Mews.
- Plan Nos:** 101P H; 102P H; 103P H; 104P H; 105P H; 106P L; 107P L; 108P L; 109P L; 110P L; 111P L; 112P L (proposed drawings received 6 October 2022) Flood Risk Assessment dated 4 September 2020, received 22 February 2022. For Information only: Daylight and Sunlight Assessment.
- Case Officer:** Kimberley Davies **Direct Tel. No.** 07866036948

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)

Item No.
1

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 All new windows to the mansard roof and the new 'garage door' shall be constructed in timber and painted to match the existing and be retained in that condition thereafter.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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

Reason:

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

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

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)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

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 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

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Item No.
2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved St James's	
Subject of Report	The London Pavilion, 1 Piccadilly, London, W1J 0DA		
Proposal	Use of part basement, part ground, and first to fifth floor plans as a tourist hostel (Class C1). Installation of photovoltaic panels and plant at roof level, internal alterations and replacement of windows with louvres at second floor level on east elevation.		
Agent	Centro Planning Consultancy		
On behalf of	London Trocadero (2015) LLP		
Registered Number	22/02113/FULL and 22/02114/LBC	Date amended/ completed	29 March 2022
Date Application Received	29 March 2022		
Historic Building Grade	II		
Conservation Area	Soho		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

<ol style="list-style-type: none"> 1. Grant conditional permission. 2. Grant conditional listed building consent. 3. Agree reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.
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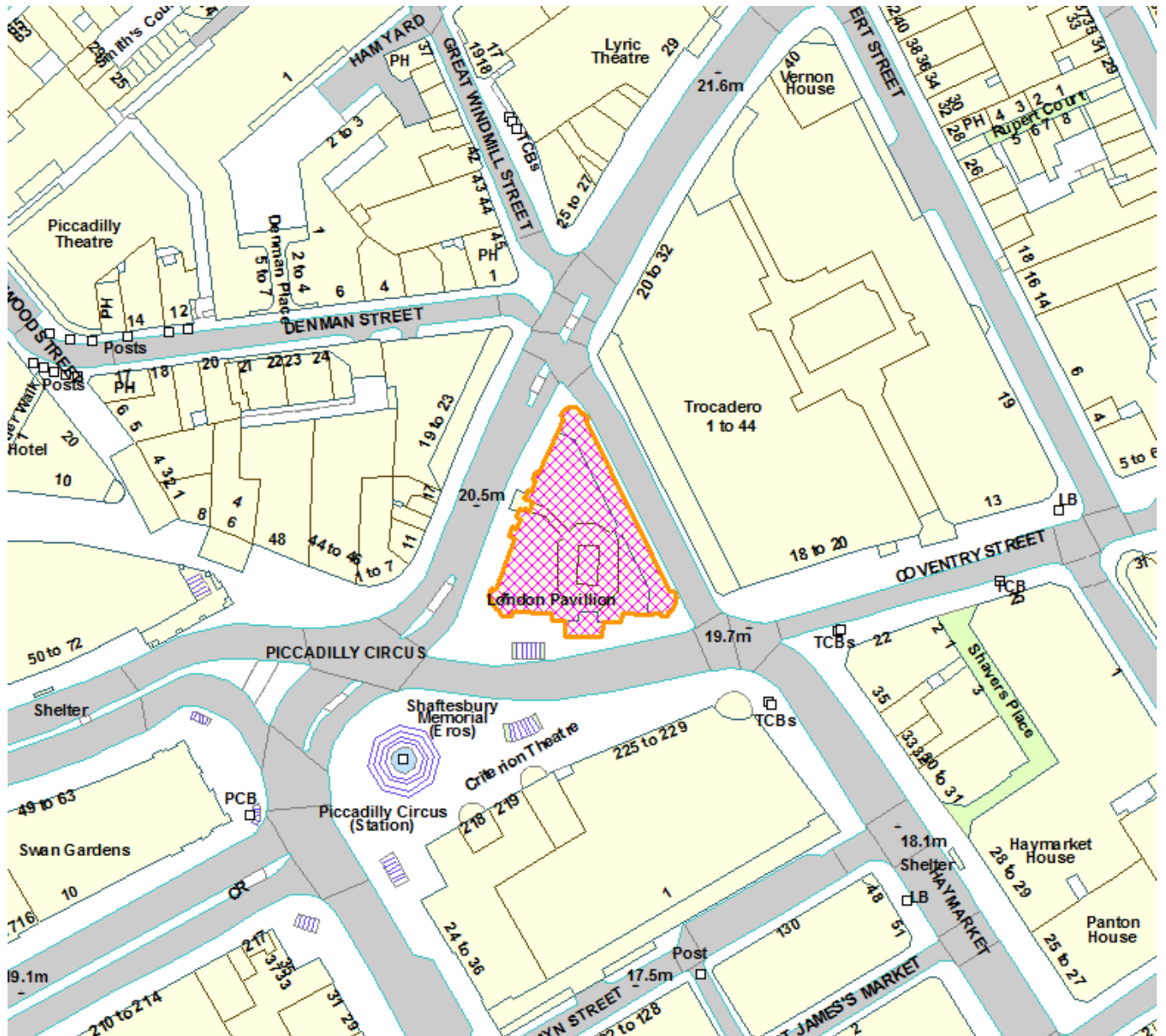
2. SUMMARY & KEY CONSIDERATIONS

<p>The application proposes the conversion of parts of the basement, ground and most of the upper floors of the building that were previously used for entertainment purposes into a visitor hostel. A significant portion of the floorspace already has planning permission for this use (approved in March 2020 but not yet implemented), to provide 434 bed spaces in shared rooms & with shared bathroom facilities. The current application incorporates additional floorspace, currently occupied by a nightclub, at first and second floor levels, as part of the proposed hostel. This will have a capacity of 964 bedspaces. A smaller nightclub venue (222 sqm) will be retained at basement and ground floor levels, thereby ensuring that an active frontage for visiting members of the public is retained at street level (on the Shaftesbury Avenue frontage).</p>

The key consideration in this case is the loss of the existing entertainment uses (to which the Soho Society has objected) and their replacement with the proposed visitor accommodation. There are council and London Plan policies in support of both uses. A key consideration is the fact that permission already granted for a large part of the floorspace; furthermore, the operator of the nightclub has confirmed that their premises were too large given financial difficulties and they had to surrender their lease and only retain a smaller venue on part basement and part ground floor. The proposed visitor hostel is considered to comply with policies to provide visitor accommodation, and with little low cost accommodation in the immediate area, it will help to diversify the range of accommodation and encourage younger visitors to the area.

Accordingly permission is recommended, subject to conditions.

3. LOCATION PLAN



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4. PHOTOGRAPHS

The London Pavilion, from Piccadilly Circus



Entrance to the night club on Shaftesbury Avenue



5. CONSULTATIONS

5.1 Application Consultations

SOHO SOCIETY

Objects to “the change of use from F1 and sui generis. The London Pavilion is in a very strategic location at Piccadilly Circus and its use indicates a great deal about the council's attitude to the centre of our great city. We believe it should continue to be regarded as primarily for cultural use (as with its previous designation of D1) and the change to hotel use would be a significant loss, at odds with the City Plan priority for the West End of 'A diverse evening and night-time economy and enhanced cultural offer' (Section 2C).”

WASTE PROJECT OFFICER

No objection subject to a condition to secure the area for waste storage.

HIGHWAYS PLANNING

Any response to be reported verbally

PLANT AND EQUIPMENT

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 62;

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application.

However, the Early Community Engagement guidance only expects such engagement to take place where the proposal may have a significant impact on residential amenity or other noise sensitive receptors.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan

for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan. (It falls just outside of the Soho Neighbourhood Plan.)

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The London Pavilion occupies a prominent location at Piccadilly Circus, a triangular site bounded by Shaftesbury Avenue, Coventry Street and Great Windmill Street. It is listed Grade II but there is very little internally that is of historic or architectural interest. The building has a history of entertainment use and was originally constructed as a theatre in 1885. Since that time it has been subject to a number of significant internal alterations, first to convert it to a cinema in the 1930s and then in the 1980s when the building was redeveloped (behind retained facades) to facilitate its use by The Rock Circus.

The site is located within the Central Activities Zone CAZ), the Soho Conservation Area, the West End Strategic Cultural Area and the West End Retail and Leisure Special Policy Area (WERLSPA).

The building is divided into a number of units: there are a couple of retail units on the ground floor a nightclub which predominantly occupies an entrance at ground floor, part basement and the first and second floors, and an entertainment venue which predominantly occupies an entrance at ground floor and the third, fourth and fifth floors. The entertainment unit was last occupied by the Body Worlds 'Museum Experience' based on 'plastinated' human specimens. However, this use closed in March 2020 at the beginning of the covid pandemic and did not reopen after the pandemic, but it had already indicated that it was facing financial difficulties. Prior to this the space had been used by 'Ripley's Believe It or Not', and before that the space was occupied by the 'Rock Circus' waxworks exhibition (operated by Madame Tussaud's Limited). The unit's occupational history strongly suggests that such entertainment type uses have had limited success, with the two previous occupants having also surrendered their leases early, with periods of vacancy in between.

The night club was operated as the Piccadilly Institute, formally known as On Anon. The nightclub has also suffered serve financial difficulty during the Covid-19 pandemic and has consequently surrendered its lease and is currently operating on a more informal landlord tenant basis, and only occupies part of the basement and ground floor, having vacated the first and second floors that it previously occupied.

There does not appear to be a specific planning decision for the nightclub (and thus no planning restrictions on the hours of use) but the use is longstanding. The applicant has suggested that it may be more akin to a drinking establishment rather than a nightclub (with implications for the significance of its contribution to the night-time economy). However, this has not been tested through a certificate of lawfulness and officers remain of the view that the use is as a nightclub and thus one type sui generis use, distinct from a drinking establishment, which is another type of sui generis use. It is acknowledged that in practice the actual use is similar to both categories, but the presence of dancing floors is considered to be a key feature of a nightclub use.

7.2 Recent Relevant History

June 2022 – Conditional listed building consent granted for removal of the redundant existing signage ("Body Worlds" and "Ripleys" at Street level) to the 3 facades; full clean of each of the elevations to the building; servicing and repairs of existing light fixtures; removal of redundant cables to the 3 facades; and associated works.

March 2020 – Conditional planning permission and listed building consent granted for use of part basement, part ground and parts first to fifth floors as a tourist hostel within Class C1 and associated internal alterations. There were no objections to the applications. This permission remains extant and is a realistic fallback position.

This approval related to those parts of the building that had been occupied by Body Worlds, which had occupied the building since October 2018, under a 10 year lease, but according to the agent the business had already signalled financial difficulties, making its short-term future uncertain (there was a letter from Body Worlds confirming as much). The applicant wished to establish a contingency planning permission in case Body Worlds surrenders its lease. Body Worlds appears to have subsequently closed in March 2020, with the arrival of the covid pandemic, and has not reopened.

The approval (which is still extant) was for a tourist hostel, providing 434 bed spaces in shared rooms & with shared bathroom facilities. It aimed to target a younger demographic of travellers within the age group 25-35 years. Most of the sleeping accommodation was at third, fourth & fifth level, with a few rooms occupying part of the second floor (which is largely occupied as part of a night club); the hostel lobby at ground floor would be accessed off Great Windmill Street & would provide a seating area & work space but there would be no other facilities such as a restaurant; at part basement level there are staff facilities, the refuse storage & staff cycle storage; the inclusion of first floor is purely to provide access.

February 2018 - the Council issued a letter with regard to the proposed use of parts of the building [including those areas subject to the current application] for the Body Worlds venture - although it queried whether the proposed use is a "museum" as such, as opposed to an "exhibition", "officers are satisfied that the use does fall within Class D1

(non-residential institutions). On that basis, I can confirm that use of parts of the building previously occupied by Ripley's (which was considered to be a Class D1 use) would not appear to require planning permission."

September 2007 - a Certificate for Lawfulness was issued (07/05836/CLEUD) for 'Use of third floor, third floor mezzanine and fourth floor as exhibition floorspace (Class D1) as well as part of first and second floors as access associated with this use.'

October 2005 - Permission granted for use of part ground, first, second, third, third mezzanine and fourth floors as an event venue including provision of 420 seat auditorium and facilities for conferences, trade shows/exhibitions and corporate hospitality with dining capacity for 500 persons (sui generis). This permission had not been implemented.

February 2002 - permission granted for use of part second to fifth floors as a health and fitness centre (Class D2).

August 1984 - Permission was granted for the use of the third and fourth floor as exhibition floorspace with entry off Coventry Street.

September 1980 - Permission was granted for the rehabilitation and extension of the London Pavilion, Piccadilly W1, retaining facades, to provide concourses, two cinemas, restaurant, shopping and ancillary facilities.

8. THE PROPOSAL

The current proposal is a variation of the March 2020 scheme: the main difference is the inclusion of much of the floorspace that the nightclub occupied, primarily the floorspace at first and second floor levels, to provide a larger visitor hostel. As before, the entrance will be under the colonnade on the Great Windmill Street frontage. The nightclub will remain on part basement and ground floor, on the Shaftesbury Avenue frontage.

The size of the existing nightclub is 1,172 sqm GIA; this will reduce to 222 sqm. The total size of the vacant entertainment use is 2,729 sqm GIA. The approved hostel was 2,547 sqm and 434 bedspaces; the current proposals are for a hostel occupying 5,764 sqm and providing 964 bed spaces in the hostel in the form of dormitory type accommodation, which will vary between 2 tier and 3 tier bunkbeds. The applicant advises that when the GIA was calculated for the approved hostel, the stair and lift cores were excluded in this calculation as these were shared between the hostel and the nightclub. For the current proposal, the stair cores have been included within this calculation, and hence the apparently larger GIA increase. Some of the bedspace increase is also due to better internal layout efficiency

There will be minimal back of house and amenity areas, and no bar nor restaurant areas that are frequently provided as part of visitor accommodation and which can have adverse impacts in terms of intensification of use.

Guests visiting the hotel will enter via Great Windmill Street entrance. It is expected that most guests will be using public transports such as London Underground and buses, and coach bookings will be strongly discouraged. Cycle parking is located in the

basement of the building and accessed by lift.

The proposed changes to the exterior of the building are for the removal of four windows on the Great Windmill Street façade and the installation of louvers to service the plant room, install three heat pumps and 70 photovoltaic panels at roof level, and alterations to the interior.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Policy considerations

The London Plan Policy HC6 supports the night-time economy, particularly in the Central Activities Zone, with a diverse range of night-time activities. Policy E10 supports the provision of visitor infrastructure.

Relevant policies in the Council's City Plan 2019-2040 (Adopted April 2021) include:

Policy 2. Spatial Development Priorities, including the West End Retail and Leisure Special Policy Area (WERLSPA), which promotes the intensification of the area and significant jobs growth through a range commercial-led development including retail, leisure, offices and hotel use. The policy also promotes a diverse evening and night-time economy and enhanced cultural offer (referred to in the objection from the Soho Society).

Policy14. Town centres, high streets and the CAZ, which requires uses that provide active frontages and serve visiting members of the public at the ground floor throughout the town centre hierarchy; and that the WERLSPA will provide 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

Policy15. Visitor Economy, which states that: the Council will maintain and enhance the attractiveness of Westminster as a visitor destination, balancing the needs of visitors, businesses and local communities; that the designated Strategic Cultural Areas contain a number of renowned arts and cultural uses, which we seek to promote, protect and enhance. The West End Strategic Cultural Area has one of the largest clusters of cultural and entertainment uses in the country, including Theatreland, of which Shaftesbury Avenue is clearly an important part.

But this policy also promotes visitor accommodation, stating that "Any significant decline in the extent of visitor accommodation in Westminster would have significant impacts on strategically important central London activities and levels of employment. Therefore, a strong level of protection is given to existing hotels" and encourages new hotels to locate in the commercial areas of the CAZ. When assessing proposals for new hotels and other visitor infrastructure, account is taken of the site location, relationship to neighbouring uses, scale of accommodation and facilities proposed (the number of bedrooms and nature of other services the hotel offers), highways and parking. Although there is no specific reference to 'visitor hostels', it is considered that these are a type of hotel, insofar as they provide budget visitor accommodation.

Loss of existing uses

The existing entertainment space (that was last used by Body Worlds) was largely used for Class D1 purposes, a non-residential use that is closest in nature to a museum, but effectively an entertainment use. The lawful unrestricted D1 use of the unit was established in September 2007, via a certificate of lawful existing use. [This excludes the existing main entrance area, which the agent has argued has lawful A1 retail use, based on its history, & is used for selling merchandise as part of Body Worlds. The current application does not include this former retail unit.] That use would now fall within Class F1 of the Use Classes Order introduced in September 2020.

When considering the application for visitor hostel use that was approved in 2020, the applicant, then as now, argued, perhaps rightly, that the entertainment uses that have occupied the building have not been successful and that the two previous occupants have surrendered their leases early, with substantial periods of vacancy in between. Given the nature of the last uses occupying that part of the building it was considered to be an 'entertainment' activity rather than an arts or cultural use: this was consistent with the view that the Council has taken with previous applications on the site. The relevant policies at the time for 'large' entertainment uses did not afford any protection to large entertainment uses and therefore there was limited policy grounds for resisting the loss of the existing use. These factors are still considered to be relevant to the loss of the entertainment use.

With regard to the nightclub, the use is being retained albeit much smaller. The space it occupied at first and second floor levels has already been vacated, and the tenant has confirmed in writing (included in the background papers) that they had to surrender their lease due to financial difficulties. The smaller nightclub will occupy part of the basement and ground floor, and thus provides an active frontage on Shaftesbury Avenue that serves visiting members of the public.

The applicant has argued that the nightclub makes little contribution to the West End's night-time economy, that it is in an area with a high concentration of similar uses and therefore its partial loss would not cause a significant loss or negative impact to the night-time economy owing to its modest and discrete offering. The applicant also argues that the proposal is part of a wider area vision for the Trocadero complex, for which the loss of the existing use would be a key facilitator. The London Pavilion falls within the 'Trocadero complex' under a single ownership and that there has already been significant investment in the Trocadero complex with the opening of the Zedwell Hotel in 2020, as well as the introduction of brands such as Hai Di Lao, Five Guys, The Crystal Maze, Bubba Gump, and other independent entertainment operators, over the last few years. In the near future other entertainment-type uses are proposed, including

- the 'Sky Bar' on the roof of the Trocadero complex (12th & 13th floor), to be operated by Tao (part of the Madison Square Garden group), with a capacity of 1,000, also offering some entertainment/cabaret/live music, a function room, and extensive dining, with an opening time until 3 am (planning and licensing both now in place for this development).
- Leasing the large ground floor unit at 30 Shaftesbury Avenue (currently operating as a 'meanwhile' souvenir shop) to be operated under the Coyote Ugly Saloon

brand (owned by Disney), with a capacity of 350, which will incorporate all day food and drink, and with some live entertainment incorporating singing and dance performances, with opening proposed until 3 am (following the recent grant of planning permission, with licensing pending).

- Leasing the 'Rainforest Café' unit to Albert Schloss restaurant/bar including some live performance and cabaret, with a capacity of 650, and opening time until 2 am (licencing application to extend the capacity pending).
- Leasing the former 'Opium' unit (Rupert Street) to an operator for entertainment use, including karaoke, with a capacity of 350 - 475, and opening time until 3 am (licencing application to extend the capacity to be submitted shortly).

This demonstrates that the applicant's wider vision for the Trocadero includes delivering a world-class experiential nightlife. These points are noted and it is acknowledged that there are a number of entertainment-type uses in the immediate vicinity. Given this, the contribution of the existing nightclub is considered to be modest and its reduction in size is considered to be acceptable. Issues of licensing are discussed in section 9.8 below.

Proposed use

When the visitor hostel was approved in 2020, the provision of low cost visitor accommodation was considered to be acceptable under the policies at the time. The larger hostel now proposed is similarly considered to be acceptable for the same reasons. Whilst there are a number of hotels in the area, these tend to be quite expensive. The proposal would deliver additional tourism accommodation, as supported by City Plan Policy 15 and London Plan Policy E10, a key benefit its affordability and consequent diversity of accommodation within the West End.

The delivery of affordable visitor accommodation in the form of a hostel would deliver something qualitatively different, offering visitor accommodation far more affordable than what is currently available. The applicant advises that there is a lack of nearby hostels within the West End/ Soho area. Currently, YHA London Oxford Street Hostel, and SoHostel are the only tourist hostels within the West End; YHA London Oxford Street Hostel has a capacity of 250 bed spaces and the SoHostel has a capacity of 295 bed spaces. This demonstrates an evident lack of supply of affordable visitor accommodation, and a likely barrier to the range of visitors to London.

The applicant argues that the delivery of a tourist hostel would be specifically welcoming to the younger generation (both domestically and internationally), who often have a preference for affordable/hostel accommodation. Such visitors are essential consumers of the night-time economy, and therefore the delivery of a hostel would be a key pillar in supporting the night-time economy and helping to ensure that there is sufficient demand to create sustainable growth in this sector.

These arguments are considered to have some validity and as with the approved smaller visitor hostel, the proposal for a larger one are considered to be policy compliant and as such is considered to be acceptable.

The nearest residential accommodation appears to be on the corner of Coventry

Street/Haymarket, Great Wind Mill Street (to the north of Shaftsbury Avenue) and Denman Street. Given that this is the heart of the West End with a large number of late night tourist facilities, it was not considered that the proposed use would have any material impact on local residents, nor adversely affect the character and function of the local environment. It was considered that in land use terms alone the proposal was acceptable and would help diversify the type and cost of visitor accommodation in this location. It was noted that the current proposal would effectively replace a similar visitor hostel which used to exist nearby at 12 Sherwood Street, which was lost when that site was converted to residential flats in 2013.

Objection

The concerns of the Soho Society are noted but the above arguments for the previous application are considered to be as applicable for the current proposals. There are clearly policies that protect and promote visitor infrastructure and uses that contribute to the night-time economy and both the existing and proposed uses fall within that category. However, key considerations are the extant planning permission for a visitor hostel in part of the site and the fact that the tenant of the nightclub has confirmed in writing (included in the background papers) that they have had to surrender their lease and contract the size of the nightclub to just part of the basement and ground floor. It is therefore considered that in land use terms the proposals are acceptable.

9.2 Environment & Sustainability

As well as general improvements to the building fabric, the proposals include the use of heat pumps and photovoltaic cells. Heat pumps are to be used for the generation of space heating, cooling and domestic hot water heating. The final arrangement of plant is not fixed however the intention is to use heat pumps as the lead energy source for the generation of hot water, backed up by gas boilers.

The existing flat roof allows space for an array of photovoltaic panels with an area of approximately 82m².

Overall, despite the restrictions imposed by the listing, the proposed redevelopment of the existing building will deliver energy improvements of 69% when compared with the existing building and 7% when compared with the current building regulations.

The pre-assessment indicates that for this project a BREEAM score of 69.85% is possible achieving a BREEAM rating of Very Good. Given that the building is listed it is accepted that there are limitations on what might be achieved.

9.3 Biodiversity & Greening

Although City Plan Policy 34 encourages the provision of green infrastructure, the physical constraints of the site, including the listed status of the building, prevent any being provided in this case.

9.4 Townscape, Design & Heritage Impact

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

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

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

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

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

The London Pavilion at 1 Piccadilly Circus is a grade II listed building located within the Soho Conservation Area. The building originally dates from 1885 and consists of three storeys with a mezzanine level, as well as a two-storey mansard roof. It is highly decorated on its Shaftesbury Avenue and Coventry Street facades which are clad in Portland Stone and are in an eclectic classical style with various pilasters and columns, as well as highly distinctive oculi at mezzanine level. Its Windmill Street façade is in comparison much simpler in a more restrained classical style with less decoration. The building is surrounded by a number of other listed buildings, including 18-20 Coventry Street, 20-24 Shaftesbury Avenue, both of which are listed at grade II, as well as the Criterion Theatre and Restaurant which is listed at grade II*.

The interior of the building is entirely modern and has been renovated on a number of occasions. This includes major renovations which occurred in 1934 when the interior was completely rebuilt to convert it into a cinema, and then again in 1986 when it was converted into a shopping arcade and exhibition space. The interior does not contribute to the special architecture and historic interest of the building. The proposed interior works will therefore not harm the special architectural and historic character of the listed building and are in keeping with policy 39 of the Westminster City Plan 2019-2040 (Adopted April 2021).

The proposed changes to the exterior of the building are for the removal of four windows on the Great Windmill Street façade and the installation of louvers to service the plant room. The windows which have been proposed to be replaced are modern in design and construction. The Great Windmill Street façade is the plainest of the buildings three facades and has a somewhat of a service character with a large proportion of the windows already having been replaced for louvres which was approved in 1999 (99/04141/LBC). The proposals will not harm the special architectural and historic character of the listed building and will have a neutral impact the character of the Soho Conservation Area and are in keeping with policies 38, 39, and 40 of the Westminster City Plan 2019-2040 (Adopted April 2021). Similarly the installation of the three heat pumps and 70 photovoltaic panels at roof level are considered to be acceptable.

Overall, the proposals will not harm the special architectural and historic character of the listed building and will have a neutral impact on the Soho Conservation Area. They are in keeping with policies 38, 39, and 40 of the Westminster City Plan 2019-2040 (Adopted April 2021), and policy 1 of the Soho Neighbourhood Plan.

9.5 Amenity

Environmental Health have assessed the application, which includes an Acoustic report, and have no objection to it. Similar to the previous noise assessment this report considers the impact of noise on the proposed hotel use and also the impact of noise from mechanical services plant and servicing activity on noise sensitive properties in the area. The nearest noise sensitive receiver is located at 35 Haymarket With flats on the upper floors). The report identifies that the site is located in an area where the existing background noise levels exceed WHO Guidelines. The proposal is to install three air handling units within plantrooms, with inlet and exhaust louvres in the north east façade of the building. In addition, there are mechanical units to be installed in a plant-well area on the 6th floor roof. The plant will be subject to standard noise conditions.

A large number of the bed spaces are in rooms with no natural light. However, this is similar to a number of recent hotel schemes, including 'pod' type accommodation, and there are no policy grounds for resisting this.

Air quality

The site is within the city-wide Air Quality Management Area (AQMA) with declared exceedances for short and long term Nitrogen Dioxide NO₂ and PM₁₀ objectives. Environmental Health confirm that the site has only been assessed against short term air quality objectives as the proposed use is a hostel and not for permanent occupation. The short term objectives are likely to be met for future occupants. The applicant has provided a statement confirming that the development is air quality neutral for building and transport emissions (GLA benchmarking assessment methodology). The proposals are considered to be car-free. As such, the development is air quality neutral from a transport emissions perspective.

9.6 Transportation, Accessibility & Servicing

No car parking is proposed, which is acceptable. The Highways Planning Manager has

previously confirmed that he has no concerns over trip generation although he would like confirmation about not accepting bookings from coaches enshrined by condition in some way. This is in fact incorporated into the Transport Assessment and will be conditioned.

Cycle parking is proposed to be provided to London Plan standards for long-stay spaces for employees and guests, with a total of 28 cycle parking spaces in the basement. The cycle parking will be secured by condition. The applicant argues that short-stay visitor cycle (the London Plan would require 11 such spaces) cannot be accommodated within the building. Whilst this is unfortunate, given the excellent public transport provisions within the vicinity, including the provision of Santander cycle hubs, this is considered to be acceptable.

With regard to servicing, the Transport Statement says the hotel will only require laundry/linen, vending machine supplies and stationery and that these would be accommodated within an existing off-street servicing bay [accessed in Rupert Street, as part of the Trocadero, and which is linked at basement level to the London Pavilion]. The number of vehicles that would be associated with these proposals is estimated to be only 5 per day, which seems reasonable in these particular circumstances.

The Highways Planning Manager previously agreed that the servicing could be accommodated within the existing servicing bay off Rupert Street but would like to be sure that the applicant has the necessary permission in place to service from this bay and that this arrangement will remain for the life of the development. A Framework Delivery and Servicing Management Plan has been submitted but it is considered that a final version should be secured by condition.

The Highway Planning Manager was previously also concerned that a different type of hotel could be created without further need for planning permission. A hotel with ancillary restaurants and bars would be a different proposition in terms of the amount of servicing it would require. He has therefore requested a condition that no such facilities should be created. The information the applicant has provided on servicing relates to this type of hotel only. If they, or a future operator, wants to provide such facilities they could apply to vary or delete the condition and would have to provide evidence in relation to servicing with such an application.

Following discussions between the applicant and the Council's Projects Officer (Waste), the proposed storage area at basement level has been confirmed as being acceptable and this area will be secured by condition.

9.7 Economy including Employment & Skills

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by providing employment for staff to operate the hostel and will attract younger visitors who will contribute to the broader economic activity within the area.

9.8 Other Considerations

Accessibility

The applicant has confirmed that the hostel will be fully accessible to wheelchairs bound and other impaired guests providing a platform lift to the basement and an accessible lift for evacuation to all floors. Every floor will house a fully accessible dorm with adjacent WC and washing accommodation. The existing fire stair cores will be retained and refurbished and accommodate accessible refuges.

Licensing

The applicant has submitted information regarding the licensing of the existing nightclub and their intention to effectively transfer the licence to other entertainment uses within the Trocadero. The Trocadero and Piccadilly Institute are both located within the West End Cumulative Impact zone. As such, the applicant advises, it is the Licensing Authority's policy to refuse applications within the West End Cumulative Impact zone for pubs and bars, and music and dancing & similar entertainment, other than applications to vary hours within the core hours under policy HRS1 and/or vary the licence to reduce the overall capacity of the premises. Increases in capacity are not accepted. The current licensing policy (effective from October 2021) states at D12 (page 47) that *"Applicants for premises uses that have a presumption to refuse will be expected to demonstrate an exception as to why their licence application should be permitted."* At D15 (page 48) one of the examples given which the committee may accept as an exception to policy states, *"One example might be a proposal to transfer an existing operation from one premises to another, where the size and location of the second premises is likely to cause less detrimental impact and will promote the licensing objectives, and where the existing operation would otherwise continue as before in the first premises."*

The applicant gives details of the entertainment uses it hopes to obtain licences for, as set out in paragraph 9.1 above, and regard the hostel proposal (and consequent loss of nightclub floorspace) as being a facilitator for these other night-time uses, which would deliver a more diverse evening and night-time economy in accordance with City Plan Policies 1, 2 and 14, and London Plan Policy HC6. Without the loss of this floorspace, the other uses could not come forward, owing to WCC's licensing policy.

It is noted that the site does lie within the West End Cumulative Impact Zone, a licensing designation demonstrating the high number of licensed premises within the area, and the applicant's aspirations for these other activities. However, planning and licensing are distinct and separate regulatory regimes, each with its own specific statutory and policy considerations.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

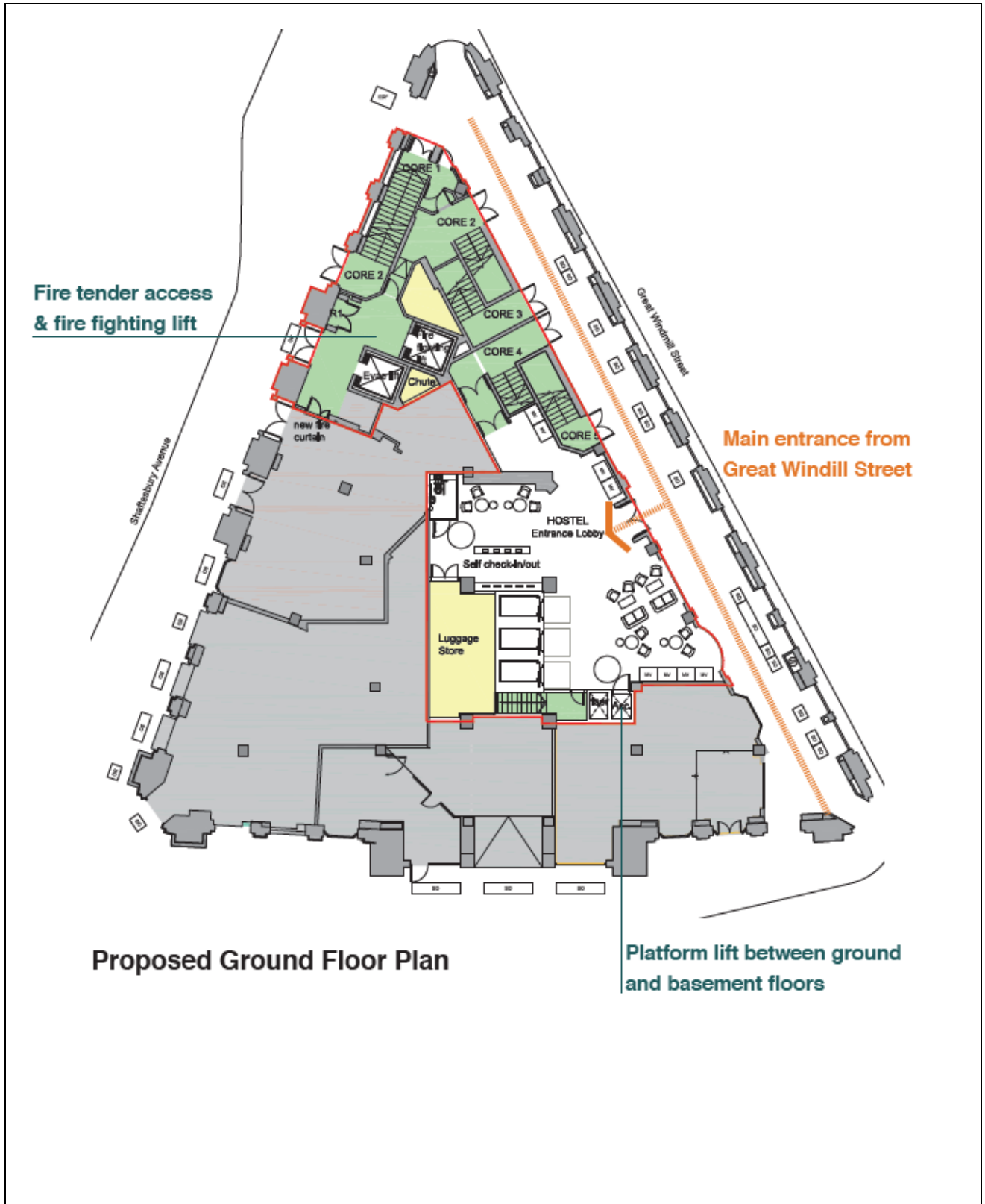
10. Conclusion

The objection from the Soho Society to the loss of the existing uses is noted. However, there is an extant permission for the change of use of the entertainment unit previously occupied by Body World to a visitor hostel. The existing nightclub is being retained, albeit much smaller, and the tenant has confirmed that the accommodation they previously occupied on the upper floors is no longer required. The area also has a number of other entertainment-type facilities and it is not considered that the loss of the uses in the current proposal will have a materially adverse impact on the character and function of this part of the West End. The proposed visitor hostel will provide a valuable contribution to the visitor infrastructure in the area, providing low cost accommodation that helps diversify the range of accommodation and attract a younger demographic that will contribute to the night-time and wider economy. The proposed works are limited and acceptable. For these reasons the objection from the Soho Society is not considered to be sustainable and approval 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)

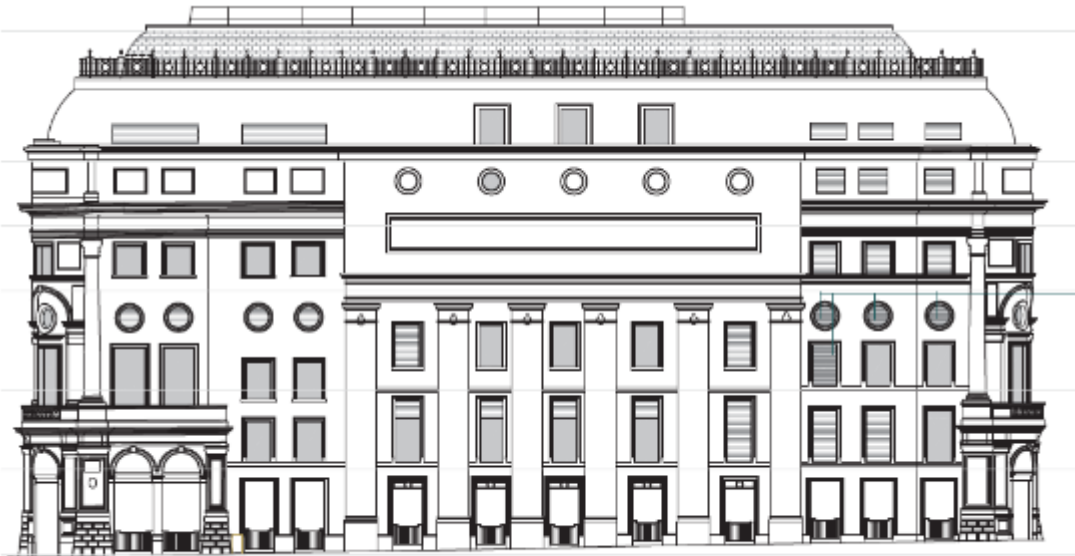
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

11. KEY DRAWINGS





Proposed Typical Floor Plan



Great Windmill Street Elevation



Photograph



DRAFT DECISION LETTER - 22/02113/FULL

Address: The London Pavilion, 1 Piccadilly, London, W1J 0DA

Proposal: Use of part basement, part ground, and first to fifth floor plans as a tourist hostel (Class C1). Installation of photovoltaic panels, plant at roof level, internal alterations and replacement of windows with louvres at second floor level on east elevation.

Reference: 22/02113/FULL

Plan Nos: TBC

Case Officer: Paul Quayle

Direct Tel. No. 07866 039895

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 The tourist hostel use hereby permitted shall be operated in accordance with the Hotel Management Plan dated March 2022.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 3 The tourist hostel use hereby permitted shall be operated in accordance with the Framework Travel Plan dated 28 March 2022 and with the Transport Statement dated 28 March 2022, in particular paragraph 2,4 'Coaches' of the latter document, namely, that the hostel will not accommodate coach/tour groups and this practice will be enforced and controlled at the booking stage.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021).

- 4 You must apply to us for approval of an updated Delivery and Servicing Management Plan that includes demonstrating how the servicing of the tourist hostel hereby approved will be co-ordinated with other servicing vehicles servicing the Trocadero. You must not start the tourist hostel use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the tourist hostel is in use.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021).

- 5 All deliveries and collections to the loading bay in Rupert Street can only take place between 08:00 and 18:00 hours on Monday to Fridays and 08:00 and 12:00 on Saturdays. No deliveries or collections to the loading bay shall take place on Sundays or Bank Holidays. Outside of these hours the loading bay door must remain closed.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021).

- 6 The tourist hostel hereby permitted shall be used solely for the provision of sleeping accommodation with associated bathroom facilities, and shall not provide any other ancillary facilities other than those shown on the ground floor plan 21122-D1-100 Rev P5, in particular it will not provide any ancillary bar or restaurant facilities.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021).

- 7 You must provide the waste store shown on drawing 2112-D1-099 Rev P8 before the tourist hostel use begins. You must clearly mark it and make it available at all times to everyone using the tourist hostel. You must store waste inside the property and only put it outside just before it is going to be collected. No waste shall be left or stored on the public highway. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

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

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 9 You must provide level access for people with disabilities as shown on the approved drawing(s) and in the Design and Access Statement dated March 2022 before you use the building.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in Policy 38 of the City Plan 2019 - 2040 (April 2021). (R20AD)

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

differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

- 11 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
 - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
 - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
 - (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary

Planning Document (February 2022). (R46CC)

- 12 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 13 You must provide, maintain and retain the three heat pumps and 70 photovoltaic panels at roof level as shown on approved drawing 2112-D1- 106 Rev P6 before you start to use any part of the development, as set out in your application. You must not remove or change any of these features unless otherwise agreed in writing with the City Council as local planning authority.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

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.

DRAFT DECISION LETTER - 22/02114/LBC

Address: The London Pavilion, 1 Piccadilly, London, W1J 0DA

Proposal: Installation of photovoltaic panels, plant at roof level, internal alterations and replacement of windows with louvres at second floor level on east elevation.

Plan Nos: TBC

Case Officer: Paul Quayle

Direct Tel. No. 07866 039895

Recommended Condition(s) and Reason(s) :

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

Reason:

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

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

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Regent Street Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF.

In reaching this decision the following were of particular relevance:

Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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

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Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 December 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	16 - 17 Hay Hill, London, W1J 8NY		
Proposal	Variation of conditions 12 and 13 of planning permission dated 19th June 2018 (RN:17/07518/FULL) for the Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser; NAMELY, to amend and extend the permitted opening hours of the restaurant use (from 23:00 to 00:00 (midnight) each day), as well as remove the requirement for an entrance lobby.		
Agent	Firstplan		
On behalf of	Mira Foods International (UK) Limited		
Registered Number	22/04451/FULL	Date amended/ completed	5 July 2022
Date Application Received	5 July 2022		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		
Neighbourhood Plan	Mayfair Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

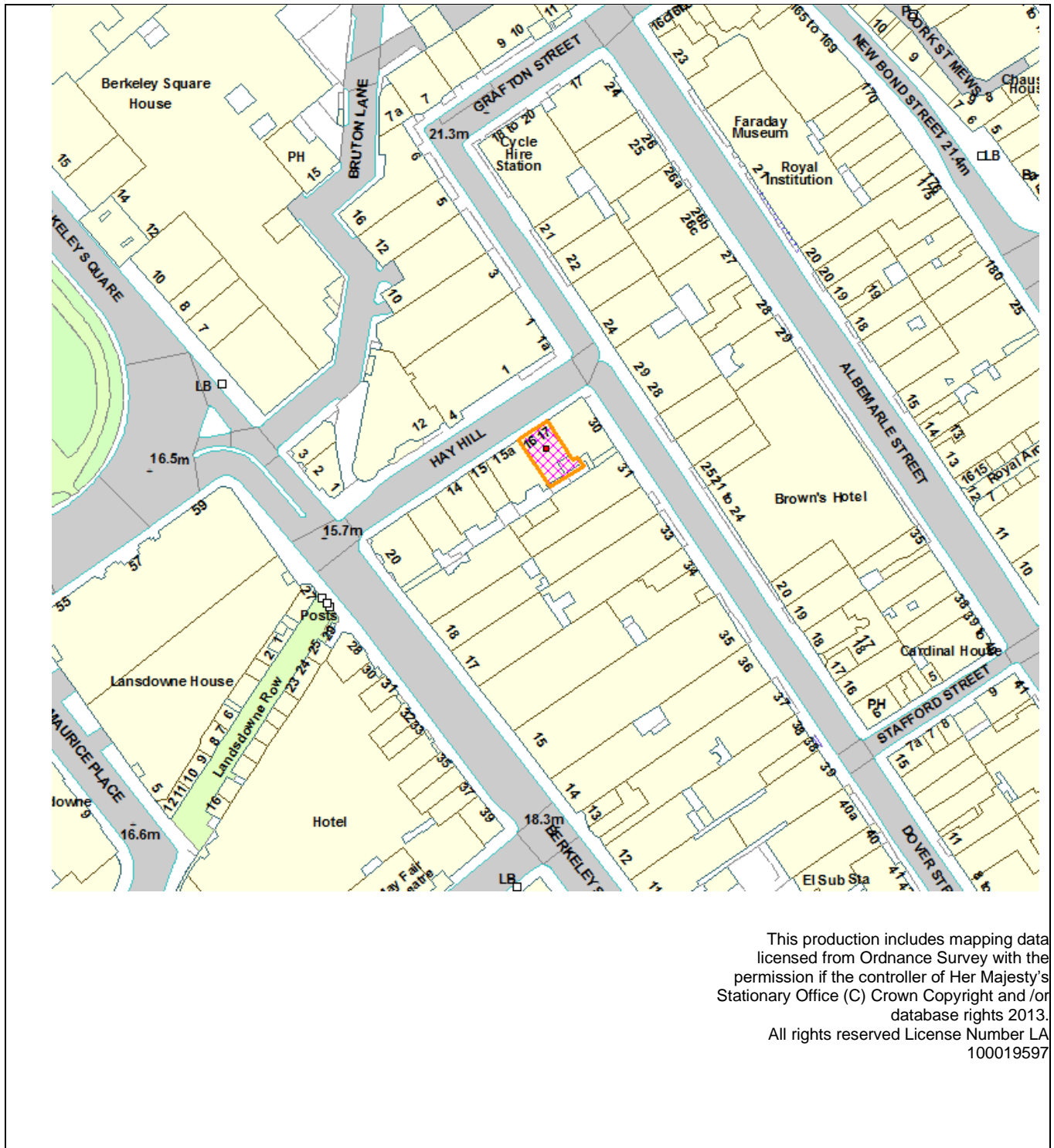
The application proposes to extend the permitted closing times of the restaurant at the site from 23:00 daily to 00:00 (midnight) daily. They also propose to remove the requirement to install and retain an entrance lobby for the restaurant.

The key consideration in this case is the impact on the amenity of neighbouring residential properties.

Objections have been received in relation to the impact of the later opening of the restaurant on surrounding residential amenity and the amenity of the area. Given that the increase in opening time is for one additional hour, and there are existing conditions on the restaurant use limiting possible impact on amenity, it is not considered the longer hour would create a material impact on amenity.

The removal of the requirement to retain and install an entrance lobby is, despite objections, considered acceptable in this instance as the applicant has provided an acoustic report demonstrating that it would provide no acoustic benefit beyond that which the existing structure provides. An additional condition is proposed to require that the main entrance door to the restaurant is self-closing and must not be propped open so as to ensure that there is minimal noise break out when the door is used.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S (RSMSJ)

Objection – impact on residential amenity from noise and nuisance, specifically:

- The building is predominantly residential on the upper floors and located in the Mayfair Special Consideration Zone (SCZ) [a licensing designation];
- Hours sought “to extend the licence” are beyond core hours;
- Precedents listed by the applicant from the surrounding area are all cases from before the creation of the Mayfair SCZ and therefore should be discounted;
- Located in an area identified in The Westminster Cumulative Impact Assessment 2020 that has demonstrated negative impacts on the licensing objectives to be cumulative in character;
- This area is primarily populated by bars, hotels and restaurants, with the latter giving rise to cumulative impact in this area;
- Consider that the hours currently granted are in keeping with the proposed use, are viable and should not be extended;
- Construction of an entrance lobby is vital to prevent the break-out of noise, provides an area for people to wait inside instead of on street, and is a common feature, that is insisted upon by the Council, in new restaurant developments.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally.

ENVIRONMENTAL SCIENCES

No objection.

HIGHWAYS PLANNING

No objection subject to ensuring no doors open outwards over the highway.

WASTE PROJECT OFFICER

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 88

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Three letters of objection have been received raising the following concerns:

- Impact on residential amenity, particularly for the residential flats above,
- Noise impact late at night,
- Area already saturated with late night operators and within the Mayfair SCZ,

- Increase in traffic to the site resulting in road congestion,
- Increasing number of late night venues in area destroying the residential character of the area,
- Currently permitted opening times are entirely reasonable and normal for a restaurant,
- Entrance lobby is vital for protecting amenity and stopping noise breakout,
- The precedents identified by the applicant in terms of late-night opening after 11pm harm the amenity of the area and residents.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application.

However, the Early Community Engagement guidance only expects such engagement to take place where the proposal may have a significant impact on residential amenity or other noise sensitive receptors.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with accordance with

Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site is an unlisted building located within the Mayfair Conservation Area, the Central Activities Zone (CAZ) and the Mayfair Special Policy Area (SPA). The building comprises basement, ground and seven upper floors and is on the south side of the street. The basement, ground and first floors are currently vacant but were last used as retail (Class E) and have a permitted use as a restaurant (Class E).

The upper floors are in residential use and form part of Berkeley House, 15 Hay Hill, which contains 44 flats. There are also other residential properties within the vicinity of the site, including one flat at 4 Hay Hill, opposite the application site.

7.2 Recent Relevant History

The Application Site:

Planning permission was granted by the sub-committee on 19 June 2018 (RN: 17/07518/FULL) for “*Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser.*” A site inspection shows that internal fit out works are currently underway in the unit on behalf of Mira Foods International, a Middle Eastern and Armenian restaurant with table service. The applicant has confirmed that the consent has been implemented and that this fit out is in relation to the approved use. A Premises Licence has also been issued.

Details of refuse & recycling storage and an updated Operational Management Plan pursuant to condition 14 and 16 of the June 2018 were approved on 05 October 2022 (RN: 22/06072/ADFULL)

On 08 June 2020 (RN: 20/03167/ADFULL), detailed drawings of the entrance lobby with self-closing doors for the approved restaurant and the proposed suspended ceiling at first floor level pursuant to condition 13 of this permission were approved.

Relevant History of Nearby Sites:

20 Berkeley Street is located at the western end of Hay Hill (approximately 35 metres from the current application site and in the same ‘block’) on the corner of the two streets. The basement, ground and lower ground floor unit has a permitted use as a restaurant

(granted 03 March 2015 (RN: 14/12025/FULL)). The permitted hours and capacity of this approved use (along with other variations to the initially permitted operational nature of the unit) have been extended over time since that permission. The most recent application and subsequent appeal decision at the site are directly comparable to the current application under consideration in this report, which further extended the opening hours.

An application recently refused at 20 Berkeley Street sought to allow the extension of the permitted opening hours of the restaurant, and the hours of use of the plant, to between 07.00 to 02.30 Monday to Saturdays and 08.00 to 02.00 on Sundays and Bank Holidays. The application was refused on 05 August 2021 (RN: 21/02115/FULL) with regards to the proposed hours of operation being considered unacceptable (the hours of plant operation were considered suitable subject to restrictions).

At application stage, the applicant provided an acoustic report to assess potential noise from patrons leaving the premises who would be in the street. This assessment used a hypothetical scenario to predict potential impacts. While the methodology was technically sound, officers considered that due to the variability in human behaviour, there is always the potential that these predictions can be inaccurate, and thus the possibility of a complaint from nearby sensitive receptors associated with the use. It would not be unreasonable to assume that patrons leaving a restaurant may have consumed alcohol, therefore increasing the variability of human behaviour, or be acting in a manner which is beyond the scope of the hypothetical scenario without alcohol.

The Environmental Sciences Officer suggested a possible solution could be to require an Operational Management Plan (OMP) be submitted by way of condition. However, officers found this suggestion to have significant limitations in that it could only reasonably be enforced within the application site (i.e. within the red line) and could not reasonably be expected to control patrons behaviour once they have moved beyond the restaurant and are in the street.

Officers therefore considered that the extension of the opening hours of the unit would be considered harmful in amenity terms. The reason for refusal for that application was:

“The proposed extension to the opening hours would add to existing late-night activity and disturbance and would increase levels of noise and cause late night disturbance for nearby residents. This would be harmful to residential amenity contrary to Policies 7, 16, 33 and 38 of the City Plan 2019 - 2040 (April 2021).”

However, this decision was appealed and allowed by the Planning Inspector on 21 July 2022 (Council Reference: 21/00134/TPCON / Planning Inspectorate Reference: APP/X5990/W/21/3289818). A copy of this decision is included in the background papers for the current application.

The inspector did not agree with officer's views on the suitability of the acoustic report and use of a hypothetical scenario and concluded that:

“it is highly unlikely that the restaurant will be full every day of the week during the last hour of trading, and that ...people will usually leave at staggered and irregular intervals. In any event, the local noise environment is heavily influenced by traffic, comings and goings and those linked to other premises that operate into the night near to residential premises such as those above the appeal premises.

Therefore, to pinpoint the potential effect of noise from persons entering or leaving a single premises with later opening hours would be difficult, especially as the public can use the nearby footways anyway....there is no substantive evidence to suggest that complaints have been made in connection with other late opening commercial premises in the area” ...and that ...reasonable endeavours have been made to predict the potential effect”, and that the submitted acoustic report for that application demonstrated “...that the extended hours would have no material additional adverse effect.... ”

The Inspector also considered that an OMP was an appropriate approach to help manage impacts outside the site (despite recognising it being limited to the application site) and applied a condition securing the document and stipulating that it included measures to ensure customers leaving the premises will not cause nuisance for people in the area, including people who live in nearby buildings.

8. THE PROPOSAL

An application has been made to vary conditions 12 and 13 of the planning permission dated 19th June 2018 (RN:17/07518/FULL), which allowed *“Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser.”*

Condition 12 currently reads:

“Customers shall not be permitted within the restaurant (Class A3) premises before 11:00 or after 23:00 each day.”

The proposed variation to condition 12 would extend the permitted opening hours of the restaurant use by an hour each day, from the permitted 23:00, to 00:00 (midnight).

Condition 13 currently reads:

“You must apply to us for approval of detailed drawings of the following parts of the development

*1 - an entrance lobby with self-closing doors for the approved restaurant (Class A3);
2 - the proposed suspended ceiling at first floor level.*

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. The entrance lobby and suspended ceiling must be installed prior to the commencement of the approved restaurant (Class A3) use. They must be maintained in the approved form for the life of the development.

You must not use the approved entrance lobby for any activities associated with the restaurant use, you must not put tables and chairs in it.”

The proposed variation to condition 13 would remove the requirement for an internal entrance lobby (part 1 of the condition) but retain the requirement for the suspended ceiling (part 2).

The details for both parts of the originally worded condition were discharged on 08 June 2022 (RN: 20/03167/ADFULL). The applicant has confirmed that the details of the ceiling would remain as approved under this approval of details application should the change to the condition be approved.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The land use elements of the proposals have already been accepted in the original consent which is being varied. The amenity impacts of the proposed change to the operation of the hours of use are considered in section 9.5 below.

9.2 Environment & Sustainability

The proposed changes to conditions have no environmental or sustainability implications.

9.3 Biodiversity & Greening

The proposed changes to the conditions have no biodiversity or greening implications.

9.4 Townscape, Design & Heritage Impact

The proposed changes to the conditions have no townscape, design or heritage implications.

9.5 Residential Amenity

The upper floors of the application site are in residential use and form part of Berkeley House, 15 Hay Hill, which contains 44 flats. Berkeley House occupies the entirety of the length of Hay Hill on the southern side. On the northern side of the street, it is understood there is only a single large flat on the upper ground floor of 4 Hay Hill, which is opposite the application site. The other uses on that side of the street are all commercial. There is some residential accommodation in the wider area, including 17 and 18 Berkeley Street and 33 Dover Street.

Impact of Extended Opening Hours

The proposed variation of Condition 12 will allow an additional hour of operation, to midnight, for the approved restaurant for each day.

The applicant has drawn officers' attention to other restaurant premises in the nearby area, such as:

- 4-6 Berkeley Square which operates until 02:00 Monday to Saturdays and 01:00 on Sundays,
- 12 Curzon Street which operates until 01:30 Monday to Thursday, 02:30 on Friday and Saturday and 22:30 on Sundays,
- 10 Berkeley Square which operates until 01:00 Monday to Saturday and 24:00 on Sundays and

- 20 Berkeley Street, which is allowed to open from 07:00 to 00:30 hours Monday to Saturday and 08:00 to 23:00 on Sundays and Bank Holidays (as set out above).

The applicant argues that these examples show the Council's past acceptance of extended hours of opening hours that have been granted planning permission within this location.

They also identify a number of other operators of late night uses within the surrounding and nearby area, including various night clubs (Luxx London at 15 Berkeley Street which operates until 02:00 (RN: 04/10115/FULL), Mahiki at 1 Dover Street, Annabel's at 46 Berkeley Square which is licensed until 04:00 hours (RN: 16/07773/FULL), Be At One (a cocktail bar) at 59 Berkeley Square (open until 03.00 hours Monday to Saturday and until midnight on Sundays) and other restaurants in the vicinity (Sexy Fish, Nobu, Novikov) which they say have permitted trading hours which extend beyond those for the application site, the closest of which, Sexy Fish at 4 Berkeley Square, was granted planning permission for the opening hours of 07:00 to 02:00 on Mondays to Saturdays and 08:00 to 01:00 on Sundays and Bank Holidays (RN: 18/09255/FULL).

Objections have been received against this aspect of this from residents and the RSMSJ on the basis that the later opening of the restaurant would have a negative impact on the residential amenity of the area and cause late night disturbance.

The objectors note that the application building is predominantly residential and is located in the Mayfair Special Consideration Zone (SCZ) (a licensing designation area), and that the proposed hours will extend beyond licensing core hours. Objectors consider that the hours currently granted are in keeping with the proposed use, are viable and should not be extended. They also consider that the precedents provided by the applicant from the surrounding area should be discounted as they date from prior to the creation of the Mayfair SCZ. The objectors also state that as the site is located within The Westminster Cumulative Impact Assessment 2020, it has to demonstrated negative impacts on the licensing objectives and that any impact will not be cumulative in character.

While the objections which refer to the Mayfair SCZ, licensing core hours, and The Westminster Cumulative Impact Assessment are all noted, these refer to documents, policies or approaches which relate exclusively to Licensing decisions. Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations. While the November 2016 City Plan had a specific policy relating to stress areas and the previously saved UDP policies referenced core hours, these topics are not covered in the current Westminster City Plan 2019-2040.

In addition to this, it is of importance to note that in their original consultation memorandum, the Environmental Sciences Officer stated that there was a separate License application (RN: 22/06003/LIPN) currently under review in respect of this site and that Environmental Sciences would be seeking suitable operating conditions to ensure that concerns about possible public nuisance are addressed. This license application has since been issued on 25 August 2022 with opening hours matching the current planning permission (that is 11:00 - 23:00). If planning permission is granted, a

variation to the Premises Licence will be required.

The overall concern of objectors relating to the impact that the later hours of operation would have on residential amenity and the amenity and character of the area are recognised, however, considering that the increase in operational time is only by one hour, it is not considered that this would have a materially different impact to the already permitted closing time in the context of other establishments in the area. The permission also still has a range of other conditions to limit the impact of the restaurant on residents within the building (such as the suspended ceiling) and also on the amenity of the area, including limiting the capacity, restricting the size of any bar area in the unit, ensuring the dining is only by waiter service and prohibiting the operation of a delivery service.

An Operational Management Plan (OMP) has also recently been approved (RN: 22/06072/ADFULL) for the use which was secured by a condition on the original permission. The document (included in the background papers) sets out various measures that will be implemented to assist in managing customers, particularly later into the evening in order to prevent any disturbance or detrimental impact to nearby neighbours, as well as detailing measures that will be in place to prevent any disturbance when customers are arriving at or leaving from the restaurant. It should be noted that the OMP was submitted and approved while this current application was under consideration and it therefore reflects both operating possibilities (either closing at the already permitted 23:00 or the applied for 00:00).

Additionally, the Inspectors Decision on the appeal discussed above at 20 Berkeley Street, is of material consideration in the determination of this application.

For the reasons set out above, it is not considered that the objections to the impact of the additional hour of opening each day can be upheld and so approval is recommended that Condition 12 can be varied.

Impact of Removing Internal Entrance Lobby

The proposed change to Condition 13 would remove the requirement for an entrance lobby with self-closing doors. The applicant sets out that they consider it no longer necessary in acoustic or operational terms and that its removal will simply allow patrons to walk directly into the restaurant without the risk of customers congregating outside or temporarily waiting in the lobby area. Objections have been received against the removal of the requirement of the entrance lobby on the grounds that such a feature is vital to prevent the break-out of noise, provides an area for people to wait inside instead of on street, and is a common feature, that is insisted upon by the Council, in new restaurant developments.

In support of the proposed change to the condition, the applicants have provided an acoustic report in order to demonstrate that removing the acoustic lobby will not result in any additional noise or nuisance generated from the premises. This acoustic report has been assessed by Environmental Sciences who have confirmed that given the premises will operate as a restaurant rather than an entertainment venue and the fact that a suspended ceiling has been provided (and that this arrangement has been tested and reported to be within required levels in the above flats within the submitted acoustic report) they agree with the conclusion of the report. They note that the report provides

results showing that operational noise transmission from the proposed restaurant to outside the closest noise-sensitive windows comply with the already set criteria (which are secured in Condition 7 of the permission which sets limits on noise emitted from the internal activity). Based on this, the report considers that an additional entrance lobby with self-closing doors as required by Condition 13 is unnecessary in acoustic terms.

Objectors consider that the lobby area would provide an area for customers to queue whilst waiting for a taxi, or to greet or say farewell to each other. They are concerned that without a lobby, these activities would take place on the street and result in disturbance. While these concerns are noted, the lobby that has been approved (shown in the relevant drawings at the end of this report) is not large enough to provide a waiting area as described by objectors. It is only large enough to accommodate doors opening and people passing through. It would therefore not be reasonable to require the provision of the approved lobby on the grounds raised by the objectors as it would not address the issues raised.

On this basis, it is not considered that the requirement for an entrance lobby could be maintained in this instance, despite the concerns raised by objectors. The applicant has clearly demonstrated that the existing structure is sufficient to prevent any impact on amenity. However, so as to minimise noise break out when the entrance door is in use, an additional condition is proposed that would require the main entrance door to be self-closing and to not be propped open. The applicant has agreed to this condition.

Subject to the new condition, it is considered acceptable to remove the requirement for the entrance lobby from Condition 13. Given that the details of the acoustic ceiling also secured in Condition 13 have already been discharged, the condition shall be re-worded so as to ensure that the approved ceiling details are installed and retained.

9.6 Transportation, Accessibility & Servicing

Highway Impact

The Highways Planning Manager has assessed the application and raised no objection to the proposed changes, subject to ensuring no doors open outwards over the highway. Condition 15 of the existing permission already secures this requirement.

An objection has been received on the grounds that the proposed changes would result in an increase in traffic to the site resulting in road congestion. While there may be a small additional amount of time that trips to the site may be made as a result of the additional hour of opening that has been applied for, it is not considered that this would be materially different to the anticipate traffic from the already permitted use at the site. This aspect of the objections therefore cannot be upheld.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the fit out phase through the generation of increased opportunities for local employment, procurement and spending.

The West End has been particularly hard hit by the pandemic and there is a need for

businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by providing an already permitted use to operate slightly longer and, hopefully, allowing a vacant unit to become occupied. The occupation of the unit will also provide employment opportunities, leading to increased spending in existing nearby shops and services and other town centre uses.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

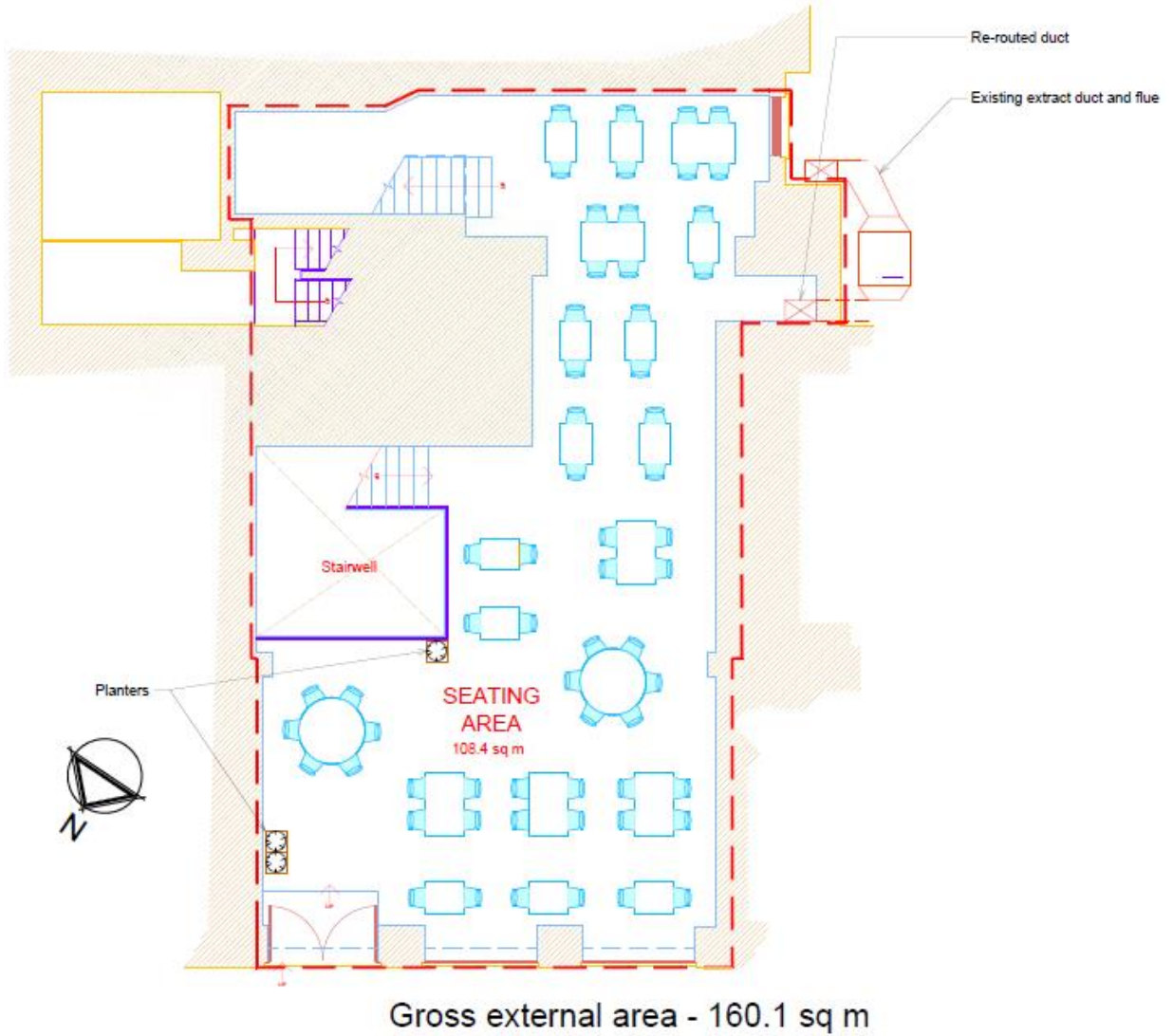
The proposed variations of Conditions 12 and 13 are considered acceptable.

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

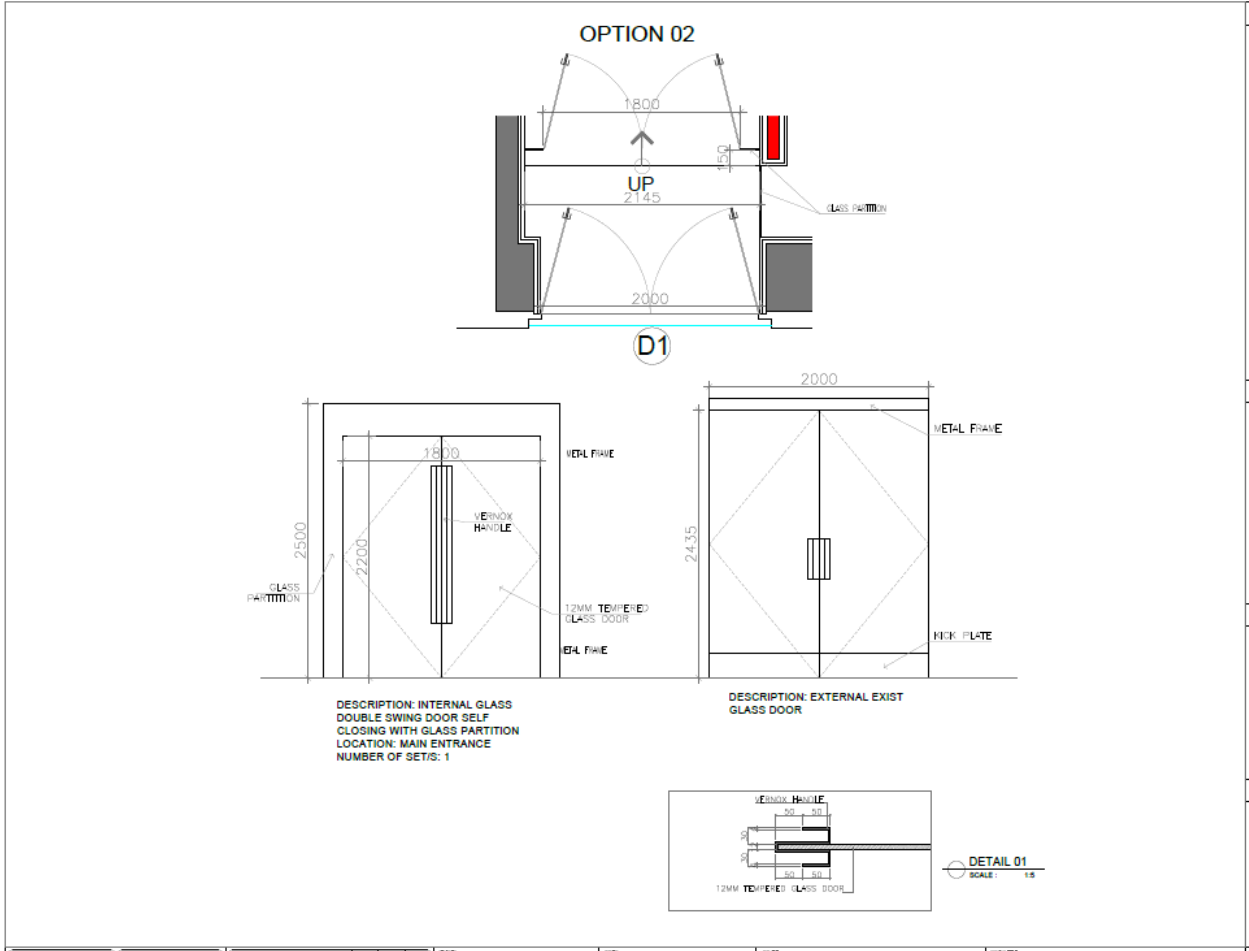
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

11. KEY DRAWINGS

As Approved Ground Floor Plan



Detailed drawings of the entrance lobby with self-closing doors approved pursuant to Condition 13 of planning permission dated 19th June 2018 (RN:17/07518), which were approved on 08 June 2020 (RN: 20/03167/ADFULL)



DRAFT DECISION LETTER

Address: 16 - 17 Hay Hill, London, W1J 8NY,

Proposal: Variation of condition 12 and 13 of planning permission dated 19th June 2018 (RN:17/07518/FULL) for the Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser. Namely, to amend and extend the permitted opening hours of the restaurant use (from 23:00 to 00:00 (midnight) each day), as well as remove the requirement for an entrance lobby.

Reference: 22/04451/FULL

Plan Nos: Application Form

Approved under application 17/07518/FULL:
BP350-07C ; BP350-08C ; BP350-09C

Case Officer: Adam Jones

Direct Tel. No. 020 7641
07779431391

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

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

Reason:

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

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

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental

Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

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

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 6 The plant/machinery hereby permitted shall not be operated except between 09:00 hours and 00:00 (midnight) hours daily. (C46CA)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 7 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant (Class A3) use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.
- (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant (Class A3) use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise

level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

- (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
 - (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
 - (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R47AC)

- 8 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. You must not provide a delivery service from the A1/B1 'cafe', including no deliveries by any independent delivery operators.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 9 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 10 You must not allow more than 148 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not

meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 11 You must only use the property as a sit-down restaurant with waiter service.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 12 Customers shall not be permitted within the restaurant (Class A3) premises before 11:00 or after 00:00 (midnight) each day. (C12AD)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 13 You must install the suspended ceiling at first floor in accordance with details approved on 08 June 2020 (RN: 20/03167/ADFULL) and retain the suspended ceiling in this approved form for the life of the permission.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 14 You must provide the stores for waste and materials for recycling according to the details approved on 05 October 2022 (RN: 22/06072/ADFULL). You must clearly mark the stores and make them available at all times to everyone using the restaurant.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 16 You must operate the restaurant use allowed by this permission in accordance with the Operational Management Plan document approved on 05 October 2022 (RN: 22/06072/ADFULL). You must then carry out the measures included in the servicing management plan at all times that the restaurant is in use

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not

meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 18 You must connect any internal extract system to the existing full height extract duct to get rid of cooking smells. You must not begin the restaurant (Class A3) use allowed by this permission until you have done so. The use of this duct must be maintained for the life of the permission unless new full height extract equipment is approved by the City Council.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 19 The entrance door at ground floor must be self-closing, and must not be propped open at any time, unless required for emergency access/exit.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

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

- 3 Conditions 4, 5 and 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- 4 The service management plan operational management plan required by condition 16 should identify the hours of servicing, delivery process, storage locations, scheduling of deliveries and staffing arrangements; as well detailing how delivery vehicle size will be managed. It should clearly outline how servicing will occur on a day to day basis to avoid obstruction of residential garages and the public highway.

- 5 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.

- 6 The term 'clearly mark' in condition 14 means marked by a permanent wall notice or floor markings, or both. (I88AA)

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 4

Item No.
4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	24 - 26 Maddox Street, London, W1S 1PN		
Proposal	Variation of Condition 13 of planning permission dated 20 April 2021 (RN: 21/00946/FULL) for, 'Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays' NAMELY, to allow the terrace areas at fourth and fifth floor levels to be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays on a permanent basis. (Application under Section 73 of the Act).		
Agent	Monmouth Planning		
On behalf of	Allbright Group Limited		
Registered Number	22/03962/FULL	Date amended/ completed	16 June 2022
Date Application Received	16 June 2022		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		
Neighbourhood Plan	Mayfair Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

24-26 Maddox Street is an unlisted building in the Mayfair Conservation Area and West End Retail and Leisure Special Policy Area. The entire premises are currently occupied by Allbright, who
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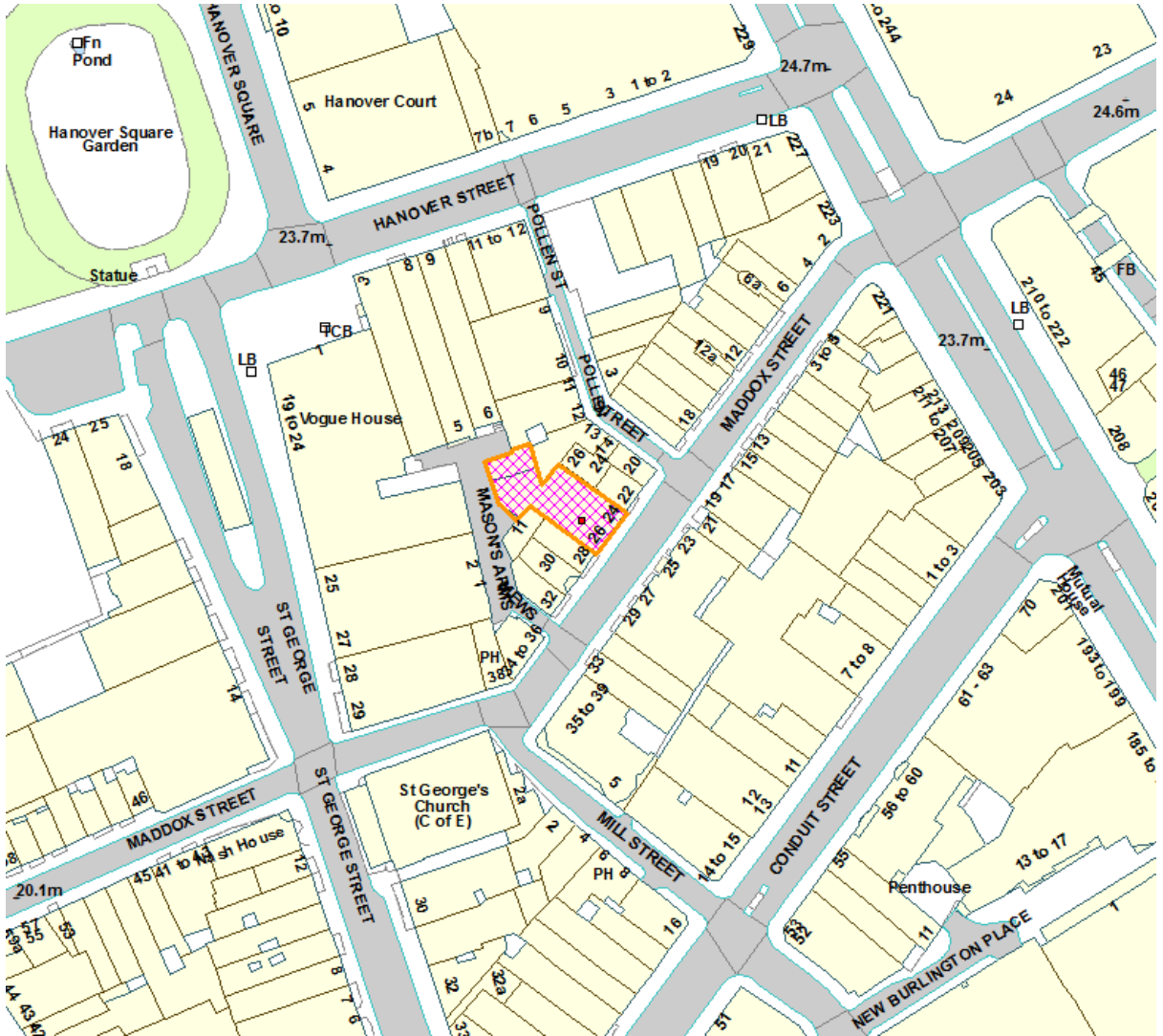
operate two sites in London providing members-only premises with a focus on women and business. The site itself provides a mixture of office space, fitness studio, three spa rooms, a hairdressers, restaurant and bar areas. There are two terrace areas used in association with the members club at fourth and fifth floor levels.

Planning permission was granted on the 20th April 2021 to allow the fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays for a temporary period of one year from the date of consent. In part this was in response to the covid pandemic and the applicant's desire to make more use of their outside space. After the expiry of one year the terraces could again only be used between the hours of 09:00 and 20:00. Permission is now sought to vary the wording of the varied condition 13 to allow the terraces to be permanently used until 22:00 on Monday to Saturday and Bank Holidays.

The key issue is the impact on residential amenity in terms of potential noise nuisance arising from use of the terraces.

An objection has been received from a neighbouring resident on the grounds of noise disturbance in relation to the use of the terraces impacting residential amenity. Taking into account the existing and proposed terminal hour of the use of the terraces it is considered the proposal complies with relevant adopted City Plan 2019-2040 policies and the application is therefore recommended for conditional approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Aerial Photograph showing the terraces and the objectors windows –



View of the fourth floor terrace –



5. CONSULTATIONS

5.1 Application Consultations

MAYFAIR RESIDENTS GROUP

No response.

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

No response.

ENVIRONMENTAL HEALTH

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 22

Total No. of replies: 1

No. of objections: 1

No. in support: 0

Objection on the following grounds -

Increased noise nuisance later into the evening.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The Early Community Engagement Guidance encourages developers carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. The agent has confirmed there has been no discussion between the applicant and neighbours in relation to the current application.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

This application is located within the Mayfair Conservation Area, the Central Activities Zone and the West End Retail and Leisure Special Policy Area. The application building is used in its entirety as a private members club with a focus on women in business. There are two terraces to the rear of the building at fourth and fifth floor levels.

7.2 Recent Relevant History

20/04986/FULL

Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels.

Application Permitted 20 October 2020

Condition 13 of this consent required the following:

The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 20.00 and cannot be used outside these hours other than in the case of an emergency.

21/00946/FULL

Variation of condition 13 of planning permission dated 20 October 2020 (RN:

20/04986/FULL) for the: Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels. NAMELY, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays.

Application Permitted 20 April 2021

The varied condition 13 was worded as follows:

The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays and cannot be used outside these hours other than in the case of an emergency. The use of these terraces until that time can continue for one year from the date of this planning permission. After the expiry of the temporary year of extended time the terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 20.00 daily.

8. THE PROPOSAL

Permission is sought to vary Condition 13 (the wording of which is directly above). Consent is sought to vary this condition to allow the use of the terraces permanently for the extended time period of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays.

The proposed wording of Condition 13 is as follows:

The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays and cannot be used outside these hours other than in the case of an emergency.

9. DETAILED CONSIDERATIONS

9.1 Residential Amenity

The justification provided by the applicant in support of their 2021 application to vary the wording to allow for use of the terraces later into the evening was to allow the business to use the outside area during Covid restrictions. Given the restrictions on business operations at the time and the encouragement to maximise the use of outside and well ventilated spaces, the proposal was considered acceptable for the temporary period of one year, after which period the hours of use of the terraces had to revert back to those originally approved.

Condition 13 was originally worded so it only allowed use of the terraces until 20:00 due to the proximity of the fourth floor terrace to residential flats within 11-12 Pollen Street. The windows of flats at 11-12 Pollen Street are approximately 4m from the rear of the fourth floor terrace (although the objector believes that his windows are closer).

The City Council has planning policies to protect residential amenity. Policy 7 of the City

Plan requires that development is neighbourly by; 'protecting and where appropriate enhancing local environmental quality'. Para 7.4 acknowledges that 'development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours.'

Policy 16 considers food, drink and other entertainment premises and recognises that whilst these uses contribute to London's vibrant entertainment sector, they can also have detrimental impacts upon residential amenity if the operation is not managed properly.

Policy 33 states that; 'development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses'.

Policy MSG1 of the Mayfair Neighbourhood Plan states that; '*Growth is encouraged within Mayfair which shall for the purpose of this policy be construed (where appropriate) as including increased density, intensity of use, efficient use of existing floorspace, amount of mixed use floorspace, numbers of units (where subdivision is appropriate), and activity (by providing restaurants, cafés, galleries, shops, and other uses which animate the streetscene for the public).*' In relation to the protection of residential amenity the relevant policy is MRU1 which requires that; '*Proposals for new commercial or entertainment uses in Mayfair must demonstrate how they protect the amenity of nearby residential units and create no material additional adverse effects (after mitigation) such as noise and rubbish between 11pm and 7am.*' The policy acknowledges that the proximity of mixed uses in Mayfair can lead to conflict between late night uses and residential occupiers who may be impacted by noise levels. Para 4.25 of the document acknowledges that; '*The two must coexist. It is "all about balance". The Forum firmly believes that, with care, the two can flourish side by side.*'

The Operational Management Plan (OMP) states with regard the use of the terraces:

'Doors leading to the terrace areas are to be closed at all times and will not be permitted to be propped open. Terrace doors will be locked at 10pm daily. Guests will be reminded by staff to move inside 30, 15 and 5 minutes before 10pm and all members are required to move inside so that the area can be quickly cleaned and shut for the evening.'

With regard any members at the club causing a disturbance the OMP states:

'In the event that a member behaves in a way contrary to AllBright's standards both within the building and within the terrace areas staff will ask them to be quiet and respectful of the neighbours. If they fail to comply the first warning, they will be politely asked to leave the premises immediately. A discipline record will be retained by the owners for those members and their guests who fail to comply with Allbright's standards of behaviour and members who contravene these requirements will be banned from visiting the premises.'

The applicant has also confirmed that local residents will be provided with a 24 hour phone number for the premises they can call should any issues arise, any issues will be recorded in a log book and investigated with action taken to investigate and follow up with the complainant. It has been confirmed management will investigate any recorded

incidents, taking appropriate action to address issues and complainants informed of any outcomes and given a chance to respond.

An acoustic report has been submitted with the application. This includes a background noise assessment from the rear of the site which the report states demonstrates '*the ambient noise climate to the rear of the site does not significantly reduce from 18:00 until after midnight.*' The report therefore concludes that; '*there is the potential for noise disturbance from the use of the terraces, however, we demonstrate below that any potential impacts in the extended hours are no greater than those up to the currently permitted hours.*' It is therefore acknowledged that there could be noise nuisance from the extended use of the terrace but given the constant background noise levels, this would be no worse than use of the terrace until 20.00 hours. The key issue is whether 22.00 hours is reasonable in this central location within the West End.

There is also a restriction that the applicant must not install any speakers or play any music externally on the fourth or fifth floor rear terraces.

An objection has been received to the application from the occupier of a residential flat within 11-12 Pollen Street concerned about increased noise levels impacting on their residential amenity later into the evening. Environmental Health have reviewed the application (and submitted acoustic report) and raised no objection. Whilst the terminal hour of use of the terraces was previously negotiated to be 20:00, a premises license (20/04642/LIPDPS) has been granted that allows the use of the terraces until 22:00. It is considered 22:00 is the latest that the use of these terraces could be allowed until and still be acceptable in that their use would not cause a noise nuisance to neighbouring occupiers at anti-social hours. An informative is also included to remind the applicant that all activity on the terrace will need to stop after the terminal hour including staff tidying up and furniture being moved. Whilst the objector's comments are noted it is considered the use of the terraces until 22:00 is reasonable in a central London location with the stipulations detailed in the OMP and that the application could not be reasonably refused on these grounds.

Transportation, Accessibility & Servicing

Not relevant.

9.2 Economy including Employment & Skills

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development would result in a small contribution to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by allowing the use of the terraces for two additional hours into the evening as part of a private members club with an emphasis on business.

9.3 Other Considerations

It is noted that condition 3 of the previous planning permission has been subsequently discharged (related to a Servicing Management Plan for the premises). Condition 3 has therefore been updated to require the use operate in accordance with this approved

document unless otherwise agreed in writing.

9.4 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.5 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

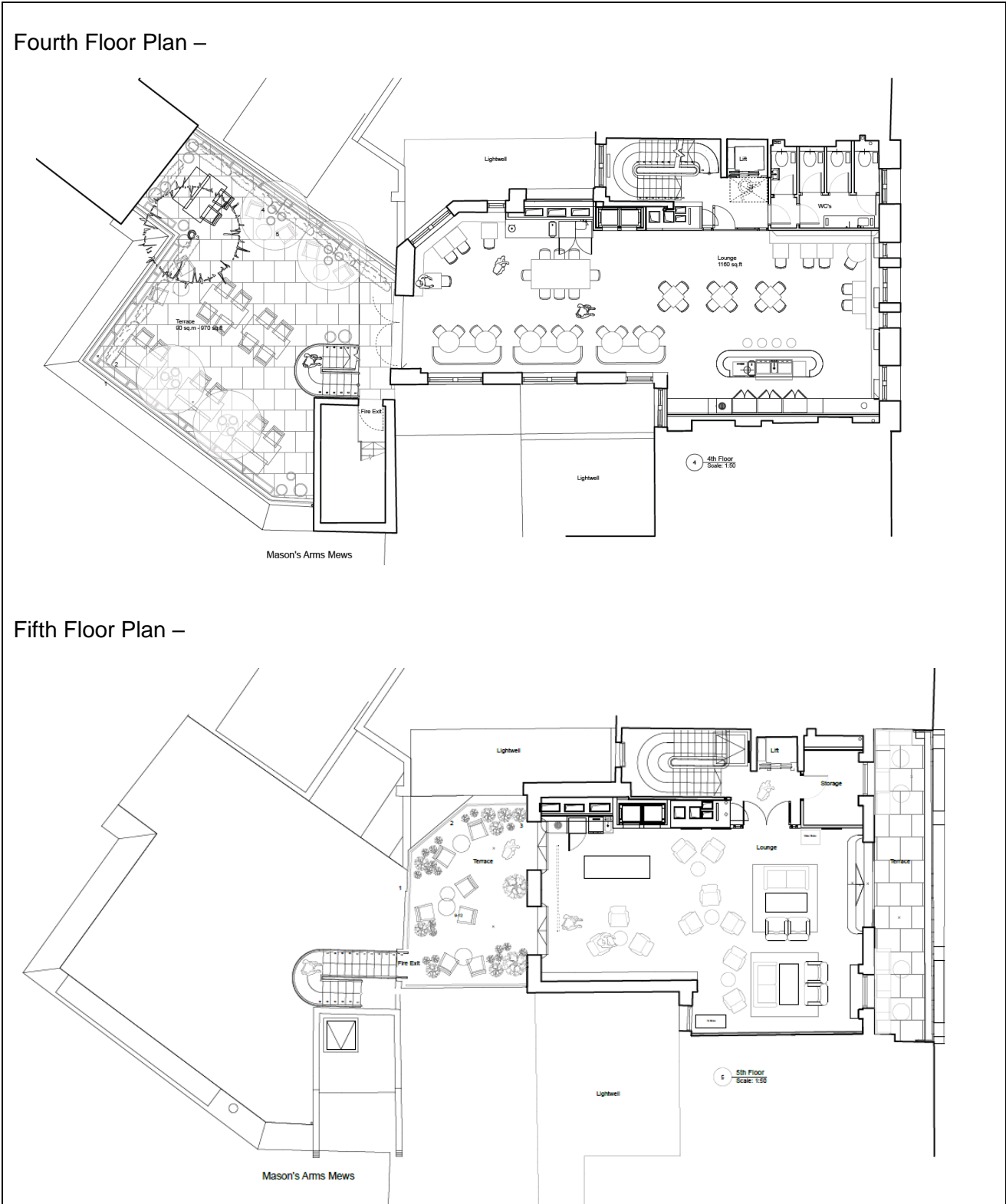
It is considered the extension of the hours of use of the terraces until 22:00 from the consented 20:00 would be acceptable given the controls in the Operational Management Plan and that the terrace has to be entirely vacated by 22:00. 22:00 is considered the latest the terrace could be used until and not result in noise nuisance to neighbouring residents at anti-social hours. The concerns of the neighbouring resident have been noted and the applicant reminded of the need to ensure that the use of the terraces does not result in a noise nuisance. Additional safeguarding stipulations have been included in the OMP including a 24 phone number provided to residents, any complaints logged and investigated and the complainants informed of any outcome.

The proposal is considered acceptable, mindful of policies 7,16 and 33 of the City Plan 2019-2040 and the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(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: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

11. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 24 - 26 Maddox Street, London, W1S 1PN

Proposal: Variation of Condition 13 of planning permission dated 20 April 2021 (RN: 21/00946/FULL) for, 'Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays' NAMELY, to allow the terrace areas at fourth and fifth floor levels to be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays on a permanent basis. (Application under Section 73 of the Act).

Reference: 22/03962/FULL

Plan Nos: 21/00946/FULL - Operational Management Statement dated October 2020 Rev01.

20/04986/FULL - Drawings: A101 RevA1, A102 RevA2, A110 RevA1, A120 RevA1, A130 RevA1, A140 RevA1, A150 RevA1, A160 RevA1, A172 RevA1, A210 RevA1, A220 RevA1, Operational Management Statement dated October 2020, Noise Assessment - 20/0145/R1.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641
07866040155

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number A-101/ A1 prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the premises. (C14FC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021).

(R14CD)

- 3 The private members club use hereby approved must be operated in accordance with the Servicing Management Plan we approved on the 20th August 2021 under reference 21/03156/ADFULL unless otherwise agreed in writing with the City Council as Local Planning Authority.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 4 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

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

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

- 6 You must not open the private members' club use to customers, and you must not allow customers on the premises, outside the hours: 08:00 - 00:00 Monday to Saturdays; 09:00 - 23:00 Sunday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 7 The private members club use hereby approved must be operated in accordance with the stipulations of the Operational Management Strategy (Allbright Maddox - October 2020 Rev1).

Reason:

To ensure the use does not cause a nuisance to neighbouring occupiers in accordance

with Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 8 You must not allow more than 500 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 9 You must retain the high level extract duct at the property as approved on the 19th February 2019 (18/09015/FULL).

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 10 You must not install any speakers or play any music externally on the fourth or fifth floor rear terraces.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 11 You must install self-closing doors onto the terrace areas. You must not leave these doors open except in an emergency or to carry out maintenance.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 12 The planting around the approved terraces must be maintained at a minimum height of 1.6m in perpetuity in the locations identified on the approved plans.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 13 The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays and cannot be used outside these hours other than in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 14 You may not have any planters, heaters, or furniture on the terraces other than those shown on the drawings, and contrary to what is shown on the drawings you may not have any parasols or any other similar shading devices on either of the roof terraces.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in 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 You are advised that to accord with the requirements of Condition 13 all activities on the terrace need to have ceased by 22:00 on Monday to Saturdays and by 20:00 on Sundays and Bank Holidays, this includes all staff having vacated the terraces and all relevant furniture having been taken inside the property.

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 5

Item No.

5

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Little Venice	
Subject of Report	26D Randolph Crescent, London, W9 1DR		
Proposal	Erection of two storey side extension at lower ground and upper ground floors, additional rear window, use of garage as internal floor space, replacement of garage doors with sash windows and brick panels and associated alterations.		
Agent	Mr. Carl Falck		
On behalf of	Mr. Carl Falck		
Registered Number	21/06815/FULL	Date amended/ completed	5 October 2021
Date Application Received	5 October 2021		
Historic Building Grade	Unlisted		
Conservation Area	Maida Vale		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application site is a maisonette flat set over lower and upper ground floors in an unlisted end of terrace building in the Maida Vale Conservation Area. The application site is to the rear of the Grade II listed terrace.

It is proposed to erect a two storey side extension. It is also proposed to change the garage doors facing onto the street into sash windows in association with the use of the garage as additional habitable space for the flat.

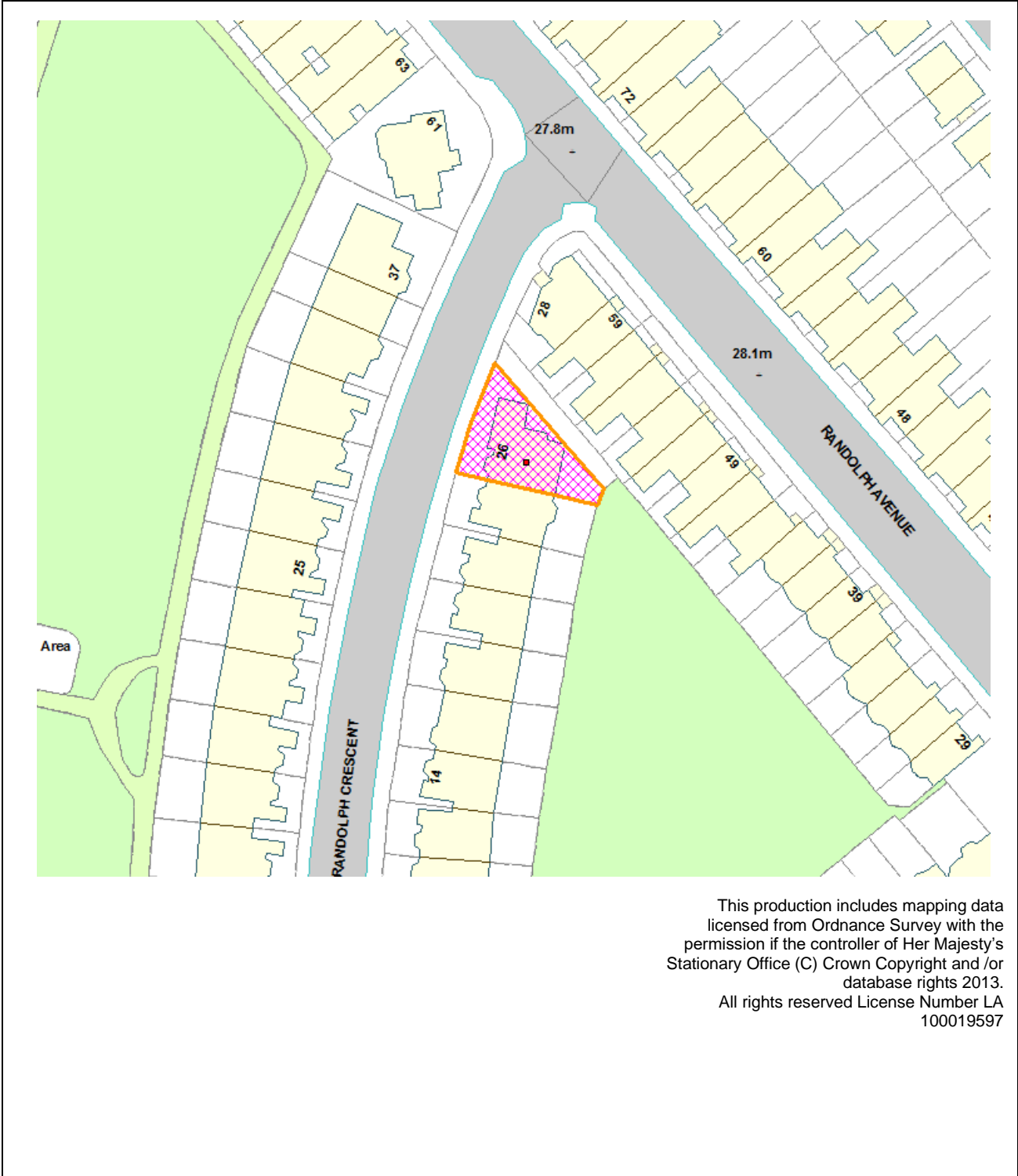
The key considerations in this case are:

- The impact of the proposed extension on the character and appearance of the host building, the Maida Vale Conservation Area and the setting of the adjacent Grade II listed buildings on Randolph Avenue and the end of terrace, grade II listed property on Randolph Crescent.
- The impact of the proposed extension on neighbour's access to daylight and sunlight as well as their outlook and privacy.

During the course of the application the scale of the extension at upper ground floor level has been reduced in the interest of trying to overcome objections from neighbours and members of the public, who raised concerns including design and amenity matters.

The revised extension is considered to be discreetly located and of a scale that limits its impact on the appearance of the host building, the adjacent listed terrace, the conservation area and amenity of neighbours. As such the application is considered to be acceptable and in accordance with Westminster's City Plan, and is therefore recommended for approval, subject to the conditions as set out on the draft decision letter.

3. LOCATION PLAN



4. PHOTOGRAPHS

Rear Elevations to Randolph Avenue (left). Front/side elevation of 26 Randolph Crescent (right) as viewed from Randolph Crescent



Side elevation of 26 Randolph Crescent as viewed from passageway



Side elevation of 26 Randolph Crescent and location of proposed extension as viewed from passageway



Rear of 26 Randolph Crescent (left) and rear of 55, 57 and 59 Randolph Avenue (right) as viewed from Triangle Garden



5. CONSULTATIONS

5.1 Application Consultations

FIRST CONSULTATION – STARTED 21ST SEPTEMBER AND EXPIRED 29TH OCTOBER 2021

PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Objection – whilst we do not object to the extension and removal of the metal garage doors we consider the increase in height of the parapet wall will be harmful of the host building and wider conservation area. Please take neighbours' views into consideration.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. of neighbours consulted: 69

No. of objections: 20

No. of supports: 5

No. of neutrals: 0

The objections are summarised as follows:

Design –

- The extension will impact the character of the host building
- The extension will impact the character and integrity of the Triangle Garden
- The extension's detailed design will not be in keeping with the building
- The removal of garage doors would cause a loss of character to Randolph Crescent

Amenity –

- The extension will reduce daylight and sunlight for nos. 53 – 59 Randolph Avenue
- The extension will reduce the outlook for nos. 53 – 59 Randolph Avenue
- The extension will reduce daylight to the passageway
- The garage's parapet will reduce daylight for no. 57 Randolph Avenue
- The roof terrace on the garage will create noise / cause disturbance to 53 – 59 Randolph Avenue

Highways –

- The current driveway is not suitable for modern cars

Other –

- The construction work will create a security risk if the Triangle Garden gate is left open
- The construction work will create noise in location which already suffers from echoes

The supporting comments are summarised as follows:

Design –

- The front windows will enhance the building
- The extension will be in keeping with the area

Other –

- The extension's location utilises and small piece of inaccessible and scruffy land

The supporting comments are summarised as follows:

Design –

- The front windows will enhance the building
- The extension will be in keeping with the area

Other –

- The extension's location utilises and small piece of inaccessible and scruffy land

SECOND CONSULTATION –

“Amendments include: reduction in height of the proposed side/ rear extension, omission of proposed parapet at first floor level, addition of green roof over existing and proposed extensions, amendments to the design of the proposed windows on the front and rear elevations at upper ground floor level. A Heritage, Design and Planning Statement Addendum has also been provided.”

STARTED 24TH NOVEMBER AND EXPIRED 15TH DECEMBER 2021

PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

No response received.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. of neighbours consulted: 69

No. of objections: 29

No. of supports: 6

No. of neutrals: 1

The objections are summarised as follows:

Design –

- The building and surroundings are all well preserved and not suitable for extensions
- The extension will impact the character of the host building
- The extension will impact the adjacent Grade II listed buildings
- The extension will set a precedent for more extension in the future
- The spaces between buildings should be preserved due to the conservation area location
- The extension will truncate an existing window
- The front window's detailed design are out of keeping

Amenity –

- The extension will reduce daylight and sunlight for nos. 53 – 59 Randolph Avenue
- The extension will reduce the outlook for nos. 53 – 59 Randolph Avenue
- The extension will reduce daylight to the passageway
- The extension will enclose the passageway making it oppressive and tunnel-like
- The right to light drawing is inaccurate

Highways –

- The driveway is understood to be rented out to other residents

Other –

- The construction work will create a security risk if the Triangle Garden gate is left open
- The construction work will create noise causing disturbance to neighbours
- The construction work will cause safety issues for Triangle Garden users

The supporting comments are summarised as follows:

Design –

- The extension would have little or no impact on the area
- The extension will replace patchy brickwork

Highways –

- The garage has been unused for a long time

Other –

- There is no conflict of interest with the Triangle Management as the applicant recused themselves from all discussions.

The supporting comments are summarised as follows:

Design –

- The extension would have little or no impact on the area
- The extension will replace patchy brickwork

Highways –

- The garage has been unused for a long time

Other –

- There is no conflict of interest with the Triangle Management as the applicant recused themselves from all discussions.

THIRD CONSULTATION –

“The scale of the extension at Upper Ground Floor level has now been reduced and there has also been minor revisions to the detailed design of the extension. In addition, the applicant has supplied Daylight and Sunlight Assessment, however this relates to a previous proposal of larger scale and as such it is now to be used for information only.”

STARTED 15TH SEPTEMBER AND EXPIRED 6TH OCTOBER 2022

PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

No response received.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. of neighbours consulted: 69

No. of objections: 25

No. of supports: 11

No. of neutrals: 0

The objections are summarised as follows:

Design –

- The extension will impact the character of the host building
- The extension will impact the entrance to the Triangle Gardens
- The extension will impact the immediately surroundings and listed building
- The extension will set a precedent for more extensions in the future
- The spaces between in-between buildings must be protected in conservation areas
- The extension's revised design does not overcome previous objections
- The extension will truncate an existing window
- The windows to the front are out of character with the area

Amenity –

- The extension will reduce light to the passageway to the Triangle Garden
- The extension will reduce light to neighbours at nos. 55 – 59 Randolph Avenue
- The extension will reduce outlook for neighbours
- The extension will enclose the passageway making it feel claustrophobic
- The use of rooms in neighbouring flats may change in the future and therefore require more protection in the Daylight and Sunlight Assessment
- A roof terrace would create noise and loss of privacy for neighbours
- A roof terrace would set a precedent for further in the future and a loss of tranquillity

Other –

- The construction work will create noise causing disturbance to neighbours
- The planning application is not in accordance with Triangle Amenity Companies' Rentcharge Deed
- The applicant is a part of the Garden Committee which is a conflict of interest
- The extension appears to involve subdividing the flat renting out the lower ground floor

The supporting comments are summarised as follows:

Design -

- The extension utilises dead space
- The extension would be in keeping with the character of the building
- The front windows will be more in keeping than the existing garage

The supporting comments are summarised as follows:

Design -

- The extension utilises dead space
- The extension would be in keeping with the character of the building
- The front windows will be more in keeping than the existing garage

SITE / PRESS NOTICES

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was carried out with regards to this proposal.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

26D Randolph Crescent ('the application site' or 'the site') is a maisonette flat over lower and upper ground floors in an unlisted end-of-terrace building formed of four storeys plus a lower ground floor. The building dates from the late 19th century and is located within the Maida Vale Conservation Area. Immediately adjacent to the eastern (side) boundary of the application site is a gated passageway that provides one of two access points to the private Triangle Garden to the rear of the application site. To the other side of this passageway is the Grade II listed no. 28 Randolph Crescent and the Grade II listed terrace of nos. 45 to 59 Randolph Avenue (odd only).

7.2 Recent Relevant History

21/06259/CLEUD

Use of upper ground/ground floor level garages as habitable accommodation.
Application Permitted 17 November 2021

There is not any planning enforcement history associated with the building.

8. THE PROPOSAL

Permission is sought for:

- The erection of part one storey and part two storey side extension
- Installation of a window on the rear elevation at lower ground floor level
- Use of garage as internal habitable floor space
- Removal of both garage doors and blocking over with brick and sash windows

During this application the scale and detailed design of the proposed extension has been amended. Neighbours have been consulted on three occasions in response to the various amendments to the extension.

In response to the first consultation a total of 20 objections were received neighbours and members of the public. The objections mainly raised concern over the design and visual impact of the extension and its daylight and sunlight impacts. There were also supporting comments.

Revisions were then made to the originally submitted drawings. A re-consultation was carried out on the revised drawings and a total 29 objections were received from neighbours and members of the public. As before, the objections mainly raised concern over the design and visual impact of the extension and its daylight and sunlight impacts of the extension. There was also a neutral comment and supporting comments.

The proposed drawings were then revised for a second time and a further re-consultation was carried out on the newly revised drawings. 25 objections were received from neighbours and members of the public. The objections again mainly raised concern over the design and visual impact of the extension and its daylight and sunlight impacts of the extension. There were also supporting comments.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The creation of extensions to enlarge existing dwellings to provide additional habitable floorspace is supported by policy 8 of the City Plan 2019 – 2040.

The revised lower ground floor of the proposed extension would provide approximately 9sq.m of additional floor space. The extension at upper ground floor level would provide an additional 4.1sq.m. The external space that the extension is proposed to occupy was observed during the Officer's visit to be of little practical or functional use given its shape and location. The extension would provide additional habitable floor space the application and is considered acceptable in land use terms.

An objection from member of the public stated that the extension appears to involve the subdivision of the flat to enable the renting out of the lower ground floor. The City Council has not seen any evidence of this and is therefore unable to take any action on the matter. If neighbours or members of the public find that the lower ground floor is being occupied as self contained unit the matter should be reported to the City Council's Planning Enforcement Team for further investigation.

9.2 Environment & Sustainability

The City Council seek all developments follow the principles of the Mayor of London's energy hierarchy and that sustainable design including greening is incorporated into all development as set out in policies 36 and 38 of the City Plan. In addition, it is also sought that all development is safe from the risk of flooding and that Sustainable Urban Drainage is provided to improve on the existing risks as set out in policy 35 of the City Plan.

Sustainable Design

The submitted Planning Statement confirms the use of reclaimed materials and the reuse of materials on site and that the bathroom will be fitted with water efficient devices and sanitaryware. The proposed extension and the associated internal alterations are considered to create a layout that is sufficiently flexible and would be functional to other potential occupiers of the building in the future without the need of any further works. The design of the structure will prevent any risks of overheating and the need for any plant equipment to provide additional cooling or ventilation.

Flood Risk & Sustainable Drainage

The submitted Planning Statement confirms that the finished floor level of the extension will be at least 300mm above the level of the external courtyard as required by the City Council's flood risk guidelines for development in surface water hotspots. The statement also confirms that a water butt will be installed and the courtyard will be repaved in a permeable and open jointed material to reduce the amount of surface water run-off and this is to be secured by condition.

Environment & Sustainability Summary

The proposed design of the extension is considered to meet the relevant policy requirements and represent an improvement in on the existing scenario. The removal of the garage doors and their replacement does not raise any sustainability considerations. The application is subsequently regarded as being acceptable in environment and sustainability terms.

9.3 Biodiversity & Greening

The flat roof on the lower ground floor extension and the flat roof of the extension at upper ground floor are proposed to be covered by green roofs. Given the scope of the application the provision of green roofs in this location is considered acceptable as the only form of additional greening. A condition is recommended that requires that the green roof is implemented and maintained.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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

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

Section 72 of the LBCA 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.”* This is supported by policy 39 of the City Plan 2019 – 2040 which seeks that development in conservation areas preserves or enhances the conservation 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.

Policy 38 of the City Plan 2019 – 2040 seeks that development incorporates exemplary standards of high quality, sustainable design and architecture that responds to Westminster’s locally distinctive neighbourhoods and townscape. Policy 40 seeks that development is sensitively designed by having regard to prevailing scale, heights, character, building lines, plot widths, materials and that alterations and extensions respect the character of the existing and adjoining buildings, avoiding adverse visual amenity impacts, not obscuring important features or disrupting uniformity patterns or rhythms.

With regard to the setting of listed buildings, the City Council aims to have special regard to the desirability of preserving their setting as set out in Section 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Policy 39 of the City Plan 2019 – 2040 requires development to optimise the historic environment by ensuring the setting of heritage assets are conserved and enhanced in a way appropriate to their significance.

Bulk, Height & Scale

Objections received from members of the public objected to the principle of the extension due to, and for reasons including, the character and appearance and architectural merit of the host building and terrace, its location within a conservation area and the proximity of nearby listed buildings. It should be noted that there is not any policy basis at either local, regional or national level which can be used to declare that extensions to unlisted buildings are unacceptable in principle as a whole irrespective of their context. As with any planning application, the City Council has a duty to, and must consider, any and all proposals on its own merits. Similarly, objections from members of the public stating that the proposed extension may set a precedent is also not considered to be sufficient reason to refuse permission, for the previously stated reason that the City Council must consider all planning applications on their own merits.

It was observed during the Officer’s visit that the host terrace of nos. 2 to 26 Randolph Crescent (evens only) and the adjacent Grade II listed terrace of nos. 29 to 59 Randolph Road are largely well preserved and maintain much of their original form and character. However, this matter alone cannot be used as reason and does not mean all proposed

extensions and alterations are unacceptable in principle. As set out in the above stated policies, the design and visual impact of extensions must be considered against policies 38, 39 and 40 of the City Plan.

It is proposed that the extension is to be erected in an area to the side of the host building at lower and upper ground floors. The space the extension is to be erected in at lower ground floor level is a courtyard-like area that it is not interconnect with the main garden to the rear of the application site. The courtyard is irregularly shaped and considered to be of little functional use given its shape, size and low down position which results in it being heavily overlooked by nos. 53 – 59 Randolph Road (evens only). The space is considered to contribute little to the character and appearance of the host building and the conservation area due to its irregularity, not forming part of any wider rhythm in the terrace of nos. 2 to 26 Randolph Crescent and not being a typical feature of the Maida Vale Conservation Area.

The floor area of the space that will be lost measures approximately 11sq.m. Accordingly in the context of the host building, the extension is considered to be of a small scale. By virtue of the proposed extension abutting two existing walls which are both taller than the proposed extension, and it being located at low level to the side of the building it is considered to be discreetly located. Its scale and its set down location to the side of the building, would not interfere with any part of the host building which are integral to its character and appearance, such as its front and rear elevations. The proposed extension does not project beyond the existing furthest point of the side of the building and finishes approximately 4.2m short of the line of the rear elevation, as well as not rising above the height of the two existing walls it will abut and is therefore discreetly located and will have limited visual impact on the appearance of the host building and the townscape of the conservation area.

It was confirmed during the Officer's visit that the extension will not be visible in any public views from Randolph Crescent or from any other nearby streets and public vantage points. It was also observed that the extension will not be visible from the gardens themselves, due to being tucked to the side of the host building and approximately 4.2m behind the line of its main rear elevation, as previously stated.

The extension will only be visible from the passageway when users leave Triangle Garden and also in private views from the nos. 53 – 59 Randolph Road (evens only). In both of these sets of views, the extension's form will be appreciable, however due to its position where it abuts the four storey side elevation of the building and the two storey garage wing, and it not projecting beyond the lines of these elements, it is considered that the extension will not generate any harmful views of the host building or the conservation area for either residents or members of the public. The use of bricks to match existing will enable the extension to further appear as a discreet feature and cohesive part of the host building.

As the extension is located to other side of the passageway to the grade II listed terrace of nos. 29 to 59 Randolph Road and it abuts the host building on two of its four sides, the views where the extension and nos. 29 to 59 Randolph Road will be visible in the same context will only be in long distance views of users of the Triangle Gardens when they are exiting the Triangle Garden only. In these views, the extension's overall design including its use of bricks to match existing and low height preventing it being seen

against the sky will enable it to have little or no impact on the setting of the Grade II terrace of nos. 29 to 59 Randolph Road. In respect of these matters, the scale and location of the extension is not considered to result in any harm to the character and appearance of the host building, the character and appearance of the conservation area or the setting of the adjacent listed buildings.

Detailed Design

The extension will be detailed to match the host building, with a stucco moulding string course between the lower and upper ground floors. The use of this detailing will further enable the extension to visually form a cohesive part of the host building, and it not disrupt its character and appearance. This traditional use of materials and detailing will ensure that the extension sits comfortably in this conservation area location and continues to preserve the setting of the adjacent listed buildings. It was raised in an objection that the extension at upper ground floor level will truncate a window on the side elevation of the building. In response to this matter and to further reduce the scale and bulk of the extension at the upper ground floor level, the extension at this level was lowered so as not to interfere with the window.

In total two windows are proposed to the side / rear of the building. One window is to be installed in the existing rearward facing elevation of part of side of the host building. Through this part of the building being away from the main rear elevation at lower ground floor level it will appear as minor and discreet alteration to the building. The detailed design of the window is considered to be sufficiently traditional and in keeping with the building to preserve its character and appearance.

The other proposed window is to be located adjacent to this window and be situated in the rearward facing elevation of the extension. This window is similarly considered acceptable. The window frames are shown to be timber framed and sash opening and therefore matching with the windows elsewhere in the host building and consistent with most windows found in the Maida Vale Conservation Area and adjacent listed buildings.

To the front of the building it is proposed that the two existing garage doors are to be removed and replace with brickwork containing two windows. Objections were received from members of the public which stated that the garage doors should be retained as they contribute to the character of the building and conservation area, however, letter of support were also received which stated that the proposed removal of the garage doors would enhance the appearance of the building.

Due to garages such as these not being a typical feature on either Randolph Crescent or Randolph Road, and also not being a typical feature of the Maida Vale Conservation Area, it is considered difficult to justify their retention given that proposed alternative of a brick elevation will be in keeping with the building and conservation area. The proposed areas of brick work are to be set behind the existing brick piers to the garage and therefore offer some acknowledgement to the existing form and also provide a level of detailing that is consistent with the period of the host building.

Some objections were received that stated that the two windows that are to be installed in this elevation are not in keeping with the main parts of the building. It is acknowledged that the proposed windows differ from the windows found elsewhere in the main front

elevation, however, it should be noted that as the existing garage wing is a non-typical ancillary addition to the host building as opposed to being an integral part of the main building, there is considered to be less of a need to ensure that every detailing matches exactly. If the proposed windows were to match exactly, it is likely that this would aggrandise the garage wing in a way which may alter its original character and therefore result in a greater impact on the appearance of the host building. The window frames are timber framed and sash opening and therefore considered acceptable.

Summary

In summary of the above, the application is considered acceptable in design terms and in terms of its impacts on the host building, Maida Vale Conservation Area and the setting of the Grade II listed terrace of nos. 29 to 59 Randolph Road.

9.5 Residential Amenity

The City Council seeks that all development will be neighbourly by protecting and where appropriate enhancing local environmental quality as set out in policy 7, 33 and 38C of the City Plan 2019 – 2040. These policies seek to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing to residential and sensitive uses.

Daylight & Sunlight

A significant number of the submitted objections from members of the public and neighbours have raised concern over the extension reducing the amount of daylight and sunlight that would be received by nos. 53 – 59 Randolph Avenue, as well losses of daylight and sunlight for the passageway.

The revised extension at lower ground floor level measures approximately 3.4m in height and 4.8m in length. It is to rise approximately 1.3m above the top of the existing boundary wall and have a rearward facing elevation that is approximately 1.3m wide. The extension at upper ground floor level will measure approximately 1.3m in width (its projection away from the side elevation), 4.2m in length and 3.2m above the roof of the lower ground floor level extension. Due to the extension's modest scale and very modest width at upper ground floor level, as well as its position abutting two existing taller walls of the side elevation of 26 Randolph Crescent and the rear of the garage wing, it is considered unlikely to generate any notable losses of daylight or sunlight for the nearest neighbouring property of no. 57 which is approximately 5.5m away at its closest point.

Nevertheless, and given the number of objections that have been submitted from members of the public and neighbours which raise concerns over losses of daylight and sunlight as well as an objection which questioned the originally submitted right to light drawing, the applicant agreed to provide a Daylight and Sunlight Assessment. The assessment that has been provided assesses an earlier revision of the proposed extension, however, it is considered that the assessment can still be used for information purposes as the now proposed and revised extension is of a lower height and reduced width at upper ground floor level.

The Daylight and Sunlight Assessment has assessed the impact of the extension on

nos. 55, 57 and 59 Randolph Avenue (lower and upper ground floors only). It is not considered necessary to assess the impacts on any first floor windows given that the top of the proposed extension does not rise this high. It is also not considered necessary to assess any impacts on no. 53 Randolph Avenue due to it being approximately 14m away from the extension at its closest point.

The assessment finds that all the assessed windows meet the BRE Guidelines for the amount of daylight and sunlight that they should receive. There are therefore considered to be no reasonable grounds to refuse permission on grounds of losses of daylight or sunlight.

One objection was from a neighbour challenged the fundamental principles of the Daylight and Sunlight Assessment, through implying that it should be discounted due to the occupants of the assessed flats being able to alter their internal layouts and uses of the rooms. Whilst it is true that the occupants of the flats could indeed do this, the losses of daylight and sunlight were identified as being so minor that any such changes would be considered highly unlikely to result in any material changes. In any case, the format of the Daylight and Sunlight Assessment provided is consistent with national standards, and there seems to be no justifiable reason to depart from these requirements in this instance.

During the Officer's visit it was observed that the passageway connecting Randolph Crescent and the Triangle Garden which runs adjacent to the eastern side of 26 Randolph Crescent, is a place in which people will walk through. It is not a place where anybody would be likely to dwell, nor does it form any integral part of the Triangle Gardens themselves. Whilst it is noted that the passageway is well maintained and has been made pleasant with large planters, and that it is the main access point to the Triangle Gardens, the passageway is not considered to warrant any great degree of protection in terms of light due to it being a highly functional place and only being a place that people would walk through very briefly as they either enter or exit the Triangle Garden. Regardless, only a very short section of the walkway would be affected.

An objection was received in the first round of consultation which raised concern over the addition of a parapet to the garage roof and that this would reduce daylight for flats at Randolph Avenue. This additional proposed parapet to the garage roof has been omitted from the proposal and the form of the garage roof is to be maintained as existing, therefore overcoming this objection.

Sense of Enclosure

Objections were received from neighbours and members of the public raising concern over a loss of outlook and increased sense of enclosure for nos. 53 – 59 Randolph Avenue. The area of land directly opposite the extension on the other side of the passageway is the rear garden of no. 57 Randolph Avenue. The garden to no. 57 is dominated by a large coniferous tree which is approximately three storeys tall, as such the extension will be unlikely to cause any loss out outlook from this garden.

The occupiers of the lower and upper ground floor maisonette at no. 57 and the occupiers of first and second floor maisonette at no. 57 have supplied the City Council with photographs of their would-be view towards the extension. The photographs show

that the bay window in the rearward facing elevation of the closest wing at no. 57 at lower ground floor level will have an oblique view of the extension, with the extension occupying approximately only one third of the view towards the right hand side when facing forward out of this bay window. It is therefore considered that the extension will result in some increase in the sense of enclosure on this room. However, the window already has a view of the side elevation of no. 26 Randolph Crescent, and it is not considered the impact will be significant.

The room on the upper ground floor within no. 57 will also have a partial and oblique view of the extension. The photographs show that this window is positioned entirely above the larger lower ground floor extension as such this part of the extension will not cause any sense of enclosure or loss of outlook. The smaller extension at upper ground floor level will be visible, however, as before, this will only bring the side elevation of no. 26 Randolph Crescent approximately 1.3m closer at its closest point and given the extension's recent revisions it will also not alter the view of the sky from this room. As such, the increase in the enclosure on this room at upper ground floor level will be so minor and at oblique angle and subsequently not result in any harm to the user of this room.

The upper ground floor window at no. 59 Randolph Road and the upper ground floor window at no. 53 Randolph Road, may have very partial views of the extension, however it is considered that they will not be any increase in enclosure on this window given the highly oblique angle and the greater separation distance between the two points. In respect of these matters, it is not considered reasonable to uphold the objections which raise concern over a sense of enclosure and loss of outlook as reason to refuse permission.

Other objections raised concern over the extension enclosing the passageway. It is also considered not reasonable to uphold these objections as grounds for refusal as the passageway is highly utilitarian place, where people do not dwell, and therefore not resulting in any amenity impacts for members of the public.

Privacy & Overlooking

The window in the proposed rearward facing elevation of the extension and the other proposed window in an existing part of the host building will both be located at lower ground floor level, and only be likely to have a view within the garden of the application site given the height of the boundary wall. No. 51 Randolph Road may be visible above the boundary wall, however, this is approximately 13m away and therefore would not cause a loss of privacy to any occupiers within this building. The windows that are proposed to replace the garage doors will face onto the street and therefore not cause any loss of privacy for the other properties on the north west side of Randolph Crescent.

A number of objections referred to a loss privacy and the creation of noise disturbance from the use of the garage roof as a roof terrace. Permission has never been sought for a roof terrace. If the applicant wishes to use the roof the garage as a terrace, or the roof of any of extensions which are sought permission for, then they must make a separate planning application for this, as the current application does would not allow the roof of the garage roof as a terrace. A condition is recommended to ensure the roofs of the extension are not used for sitting out. If members of the public find that the garage roof is

being used as a roof terrace, then the matter should be reported to the City Council's planning enforcement team for investigation.

9.6 Transportation, Accessibility & Servicing

The car parking standards in policy T6 of the London Plan apply to all development, this means all development within Westminster should be car free as set out in policy 27 of the City Plan 2019 – 2040. The policy also states the proposal for redevelopment of existing car parking uses to alternatives uses will be supported.

The proposed conversion of the garage to habitable internal accommodation has already been approved under application 21/06259/CLEUD dated 17 November 2021. In any case, the proposed conversion of the garage is consistent with the outlined policies, the matter is therefore uncontentious and as such the use of the garage as habitable internal accommodation is fully acceptable.

Whilst the objection which stated that the driveway is not suitable for modern cars as they can overhang into the footway is noted, it is not considered reasonable that the applicant removes their off-street parking for this reason. Another objection stated that the driveway is rented out to other residents. Whether the driveway is or is not rented to other residents is not a planning consideration and therefore not a reason to refuse this application.

9.7 Economy including Employment & Skills

Any economic benefits resultant from the development proposals are welcomed.

9.8 Other Considerations

Objections have been received from neighbours and members of the public raising concern over construction matters including; noise which would cause disturbance to neighbours and that the area already suffers from echoes, construction work and safety issues for Triangle Garden users as well as security issues if construction activity results in the gate being left open. Regrettably it should be made clear that construction matters and construction impacts are not regarded as material planning considerations, and therefore cannot constitute justifiable reasons to refuse planning permission. In interest of protecting neighbours from noise disturbance, a condition will be recommended that controls the hours in which construction work can take place. An informative is also recommended suggesting that the applicant enters into the considerate constructors scheme.

Other objections stated that the planning application is not in accordance with Triangle Amenity Companies' Rentcharge Deed and that the applicant is a part of the Garden Committee which is a conflict of interest. Such matters are private and therefore could not influence the outcome this planning application.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

There is no estimated CIL payment due to the additional floorspace being less than 100sq.m. There are not any further planning obligations relevant in the determination of this application.

10. Conclusion

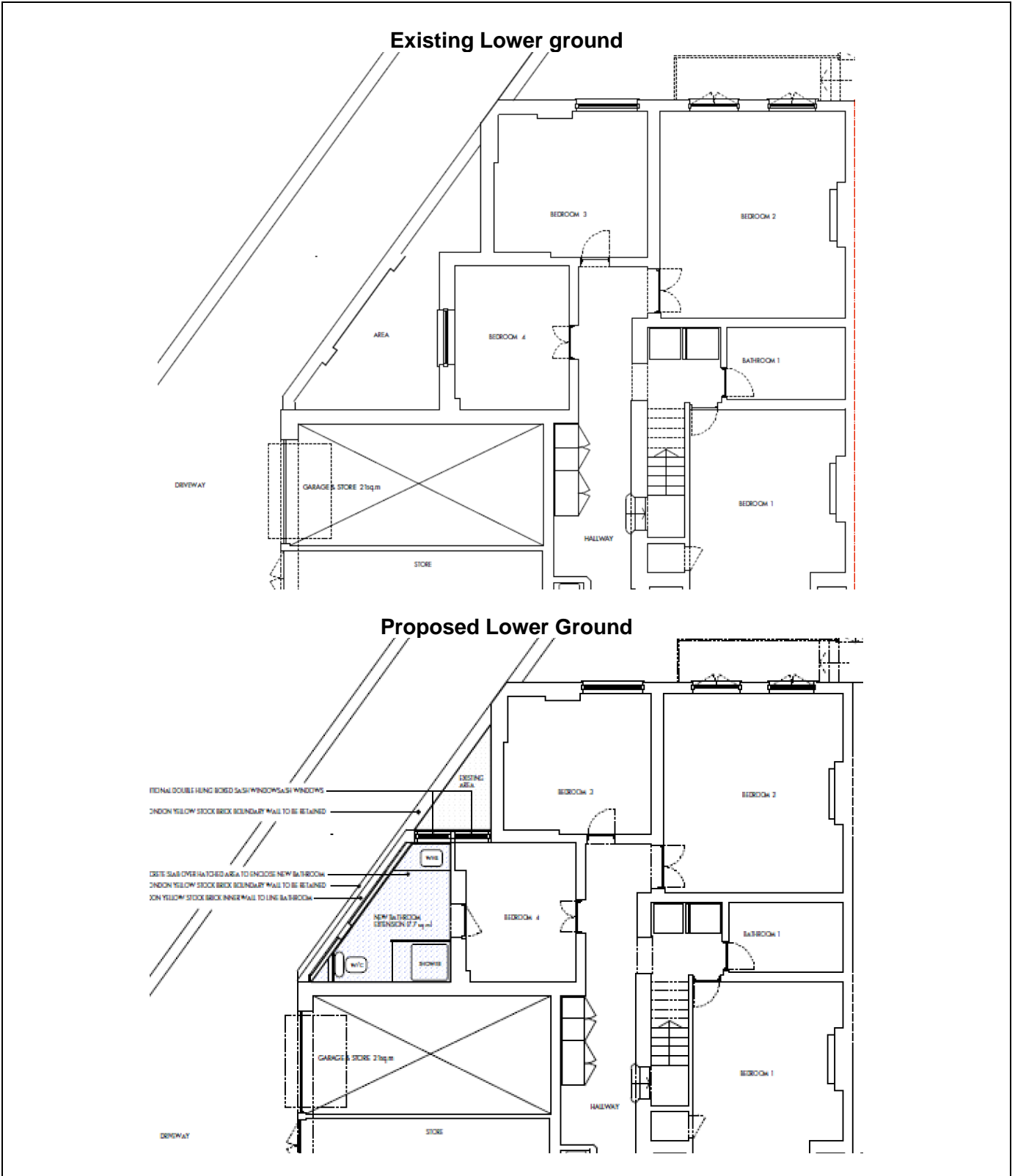
It has been considered that the revised and now submitted proposal is in full accordance with all the relevant policies and produces a private benefit to the applicant. Further to this, all of the objections that have been received from members of the public have been refused are considered to not raise sufficient grounds for refusing planning permission in this instance.

As such, the proposal is considered acceptable, mindful of policies 7, 8, 27, 33, 35, 36, 38, 39, 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.”

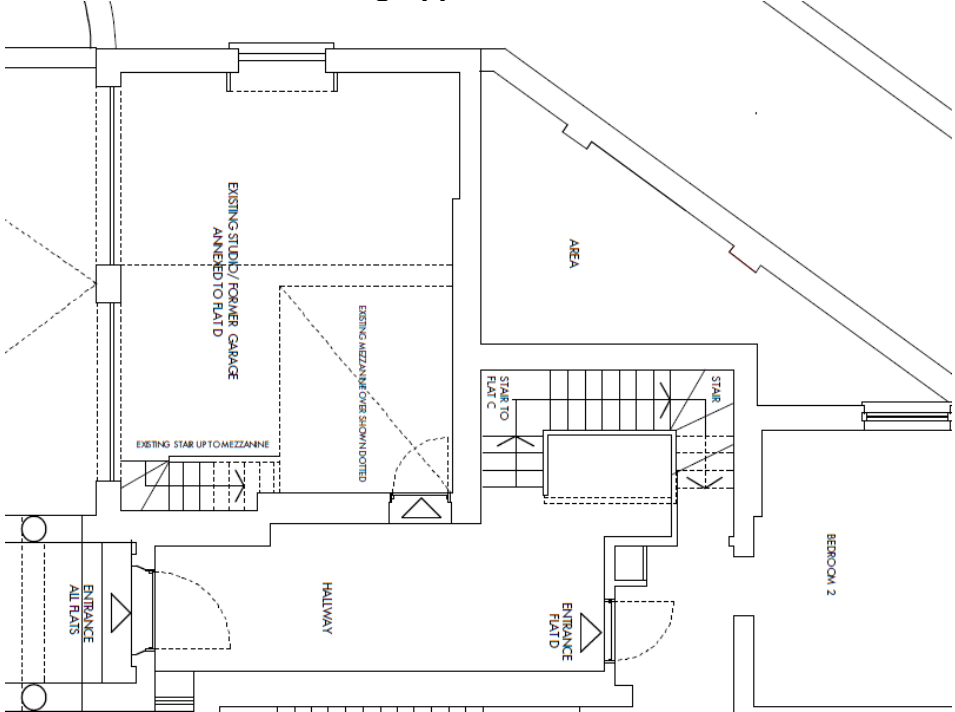
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council’s website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT RHANDLEY@WESTMINSTER.GOV.UK

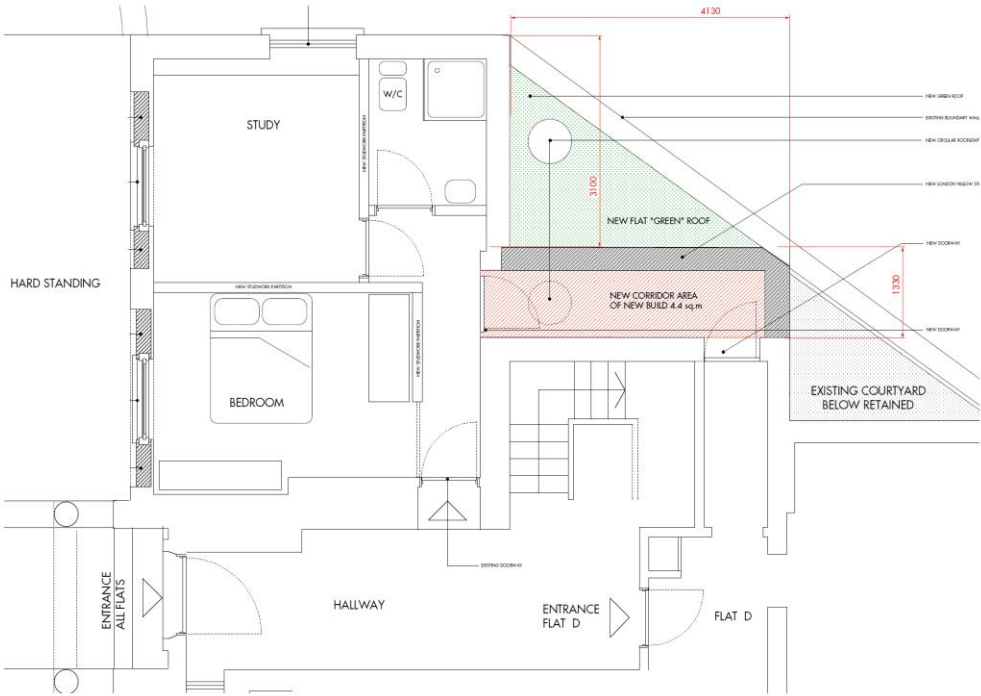
11. KEY DRAWINGS



Existing Upper Ground Floor



Proposed Upper Ground Floor



Existing Rear Elevation



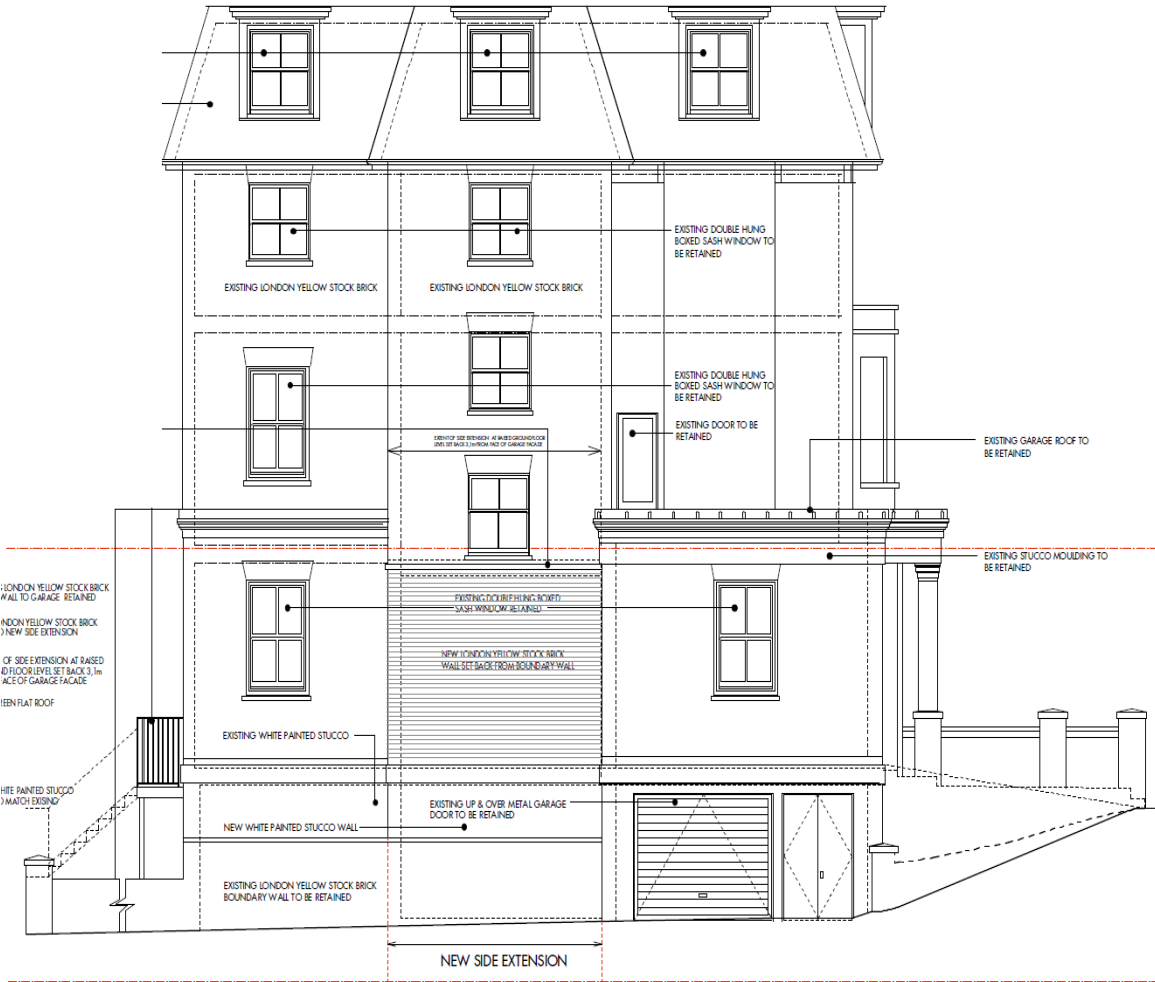
Proposed Rear Elevation



Existing Side Elevation



Proposed Side Elevation



DRAFT DECISION LETTER

- Address:** 26D Randolph Crescent, London, W9 1DR
- Proposal:** Erection of two storey rear/side extension at lower ground and upper ground floors, use of garage as internal floor space, replacement of garage doors with sash windows and brick panels and associated alterations.
- Reference:** 21/06815/FULL
- Plan Nos:** 618/05 A, 618/02 A, 618/21 B, 618/06 C, 618/23 C, 618/07 B, 618/24 C, 618/08 C, 618/11 H, 618/22 E, 618/14 E, 618/26 B, 618/25 H, 618/20 A; and Revised Heritage Statement dated 20th October 2022.
- Used for information – Daylight and Sunlight Assessment

Case Officer: Harry Berks

Direct Tel. No. 020 7641
07866037030

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

- between 08.00 and 18.00 Monday to Friday; and
- 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 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Maida Vale Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 6 You must provide us with details for our approval of:
- Green roof on the side extension(s)
 - Water butt
 - Permeable paving

You must then maintain and retain these following biodiversity and flooding measures before you start to use any part of the development, as set out in your application. You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features and reduces surface water runoff included in your application as set out in Policies 35, 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

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

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

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Agenda Item 6

Item No.

6

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Westbourne	
Subject of Report	Basement Flat, 28 Aldridge Road Villas, London, W11 1BW		
Proposal	Erection of single storey extension at rear lower ground floor level.		
Agent	Alexander Hobbs		
On behalf of	James Senior		
Registered Number	22/05799/FULL	Date amended/ completed	18 November 2022
Date Application Received	25 August 2022		
Historic Building Grade	Unlisted		
Conservation Area	Aldridge Road Villas and Leamington Road Villas		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application proposes the erection of a single storey extension to the rear at lower ground floor level, of this 4 storey residential building, which is subdivided into flats. The extension measures the full width of the rear of the building and projects 3m. The height of the extension is 3.1m above ground floor level. The extension is to be designed to match the materials on the host property. The application drawings have been revised since the original submission to show that the extension is built within the application site and does not include the demolition of the party wall with No, 32 Aldridge Road Villas.

Proposals for a larger single storey extension were refused on design and lack of information grounds (Impact on trees and flood risk) in August 2022, the current application seeks to address the reasons for refusal.

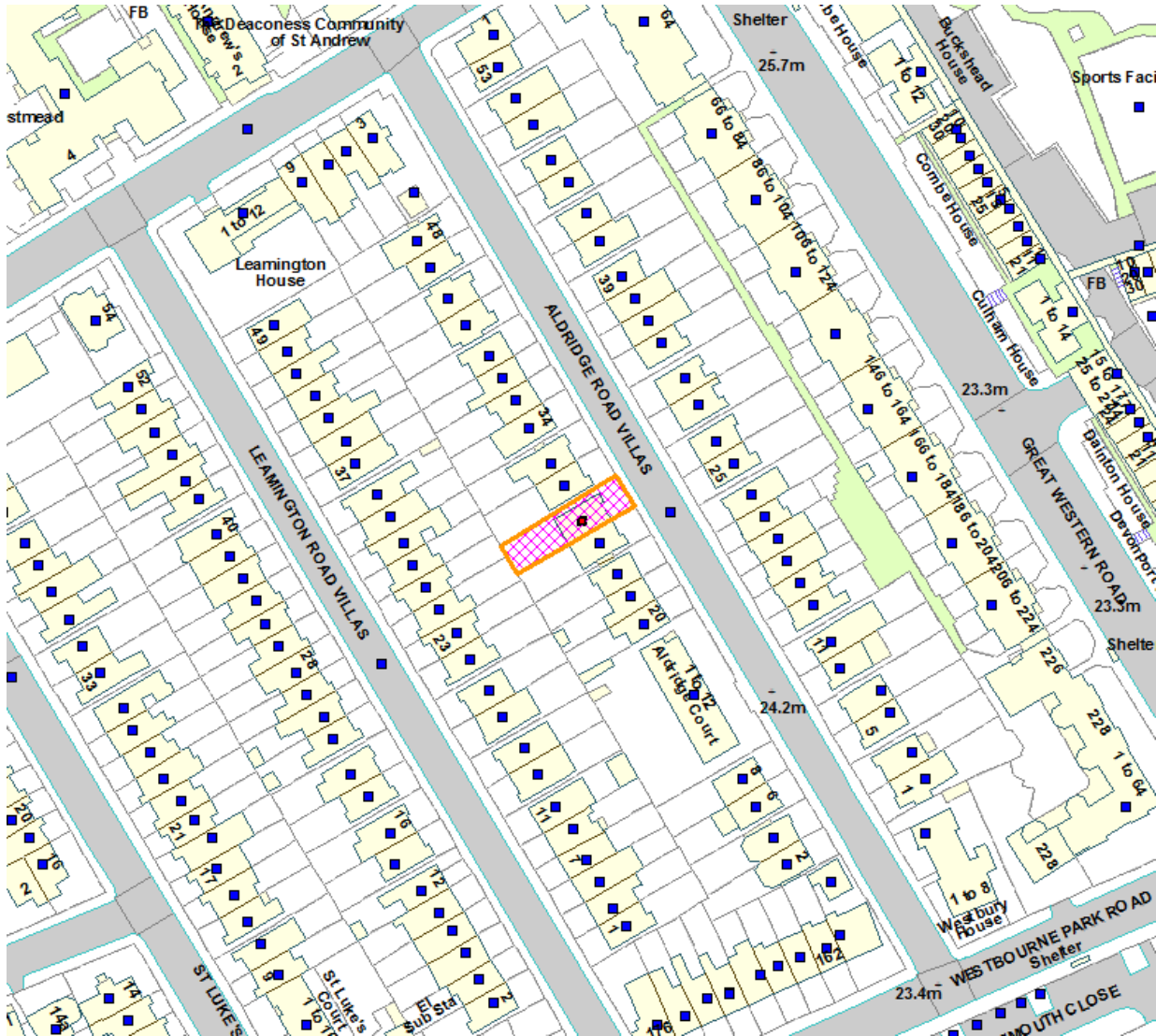
The key considerations in this case are:

- The acceptability of the proposed extension in design terms.
- The impact of the proposed extension on the character and appearance of the Aldridge Road Villas & Leamington Road Villas Conservation.
- The impact on the amenity of neighbouring residential properties.
- The acceptability of the proposals upon trees within the application site and neighbouring properties.

Objections have been received on the grounds of design, amenity, impact to trees, flood risk, and noise and disruption during the course of works.

The proposals are considered acceptable for the reasons as set out within this report, complying with City Council development plan policies and subject to conditions as set out in the draft decision notice.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Photo of rear elevation (taken from applicant's submission)



Photo of rear elevation (showing rear shed structure removed)



Photo of rear elevation (from neighbour, showing lower ground floor works dated 2 Nov 2022)



5. CONSULTATIONS

5.1 Application Consultations

WESTBOURNE NEIGHBOURHOOD ASSOCIATION:

No response received.

ARBORICULTURAL OFFICER:

Further to revisions, no objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 18

Total No. of replies: 5

No. of objections: 5

No. in support: 0

Five objections have been received on some or all of the following grounds:

Design:

- The extension appears higher than neighbouring extensions.
- Details of dimensions and materials are not given and this should be provided, given the sites location in a conservation area.
- Should permission be granted, no side extension should be granted to maintain the view of the properties from the conservation area.

Amenity:

- The extension will result in more noise to other gardens.
- A 3m extension would reduce privacy to properties to the rear.
- Loss of privacy to neighbouring properties, if using the flat roof.

Trees/ Greening:

- The extension will reduce the garden area substantially.
- A trench was dug, and the workmen didn't know that they were looking for tree roots.

Other:

- The flood risk assessment is only desk based and not detailed enough.
- The proposals should not include the demolition of the party wall as there is a pond within No.26 with fish that cannot be moved.
- The rear boundary wall (with Leamington Road Villas) is about to collapse and should be repaired.
- Security implications from access of proposed flat roof to neighbouring property.
- It is unclear as to the purpose of the concurrent application 22/06073/CLEUD.
- Works to the rear have begun.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. No community engagement was carried out with regards to this proposal, however, the applicant did engage with officers through the earlier application.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site is part of a four-storey, semi-detached, villa situated at the mid-section of a combination of semi-detached villas and terraces. The building is vacant and was last used as 4 flats, 1 per floor. The building is being converted to 2 flats, as approved under application 22/02378/FULL. The building is constructed of brick and faced in stucco with a hipped slate roof. It is located within the Aldridge Road Villas & Leamington Road Villas Conservation Area and is identified as an unlisted building of merit. The site also lies within the Westbourne Grove Surface Water Flood Risk Hotspot.

As a point to note, and as raised by an objector, works to the rear at lower ground floor level have been started by the applicant, in anticipation of the granting of permission for the extension. The applicant has been formally advised by Enforcement Officers that

works have not been granted permission and that works should be stopped until a formal decision on the application has been made.

7.2 Recent Relevant History

22/02378/FULL

Amalgamation of 4 x 1 bed flats to 1 x 3 bed and 1 x 4 bed flats, replacement of windows and installation of rooflights.

Approved 20 June 2022

22/02585/FULL

Erection of single storey extension to side and rear at lower ground floor level.

Refused 15 August 2022

22/04071/FULL

Full width extension at lower ground floor and new rear elevation closet wing extensions at upper ground, first, second floors.

Refused 15 August 2022

22/04144/FULL

Formation of roof terrace within existing roof profile to rear and installation of associated glazed doors, railing and roof lights.

Refused 25 August 2022

22/06073/CLEUD

Confirmation that the shed/storage building has been in situ for a period of 4 or more years.

Refused 7 November 2022

8. THE PROPOSAL

The extension proposed is single storey rear extension, at lower ground floor level. The extension measures the full width of the rear of the building at 6m and projects 3m from the rear elevation of the building. The height of the extension is 3.1m above ground floor level and measures 0.9m above the wall with No. 26. The extension is to be constructed in brick to match the existing building with new doors constructed in timber and painted white to match the existing.

The application drawings have been revised since the original submission to show that the extension is built within the application site and does not include the demolition of the party wall with No, 32 Aldridge Road Villas, a point queried by an objector.

9. DETAILED CONSIDERATIONS

9.1 Land Use

This application is for an extension to the lower ground flat only. The principle of an extension to the lower ground floor flat is acceptable and supported by Policy 8 of the

City Plan. The current flat measures 75m² and the proposals will increase the floorspace of the flat by a further 23m².

9.2 Environment & Sustainability

9.2.1 Sustainable Design & Energy Performance

The proposals are providing high quality additional residential floorspace to the existing property. The extension will have good insulation and the windows will have sound thermal energy performance. The proposals are therefore considered to comply with Policy 36 (Energy Performance) and 38D (Design Principles) of the City Plan and the guidance as set out in the 'Energy' and 'Retrofitting and Sustainable Design' sections of the ESPD.

9.2.2 Whole life carbon

The proposed scheme is a minor development and therefore a Whole Life Carbon Assessment is not required.

9.2.3 Circular Economy

Whilst Policy 37C states that developers are required to demonstrate the recycling, re-use and responsible disposal of construction, demolition and excavation waste, the scheme is not major application, therefore the applicant is not obliged to comply with the Circular Economy policies.

9.2.4 Flood Risk & Sustainable Drainage

The site lies within the Westbourne Grove surface water hotspot. An objection has been received on the grounds that the flood risk assessment is desk based only and no details such as a drainage strategy has been submitted. Further comment has been made on the terminology used throughout the report.

A desk based assessment is sufficient for this type of development. The report confirms that there is a negligible risk of ground water flooding and this is supported by the Environment Agency's data also. The extension, built over an already hard paved area, and incorporating a green roof which will aid with reducing water run off is considered acceptable. No drainage details have been provided as it assumed that given the size of the extension, existing drainage can be utilised.

A landscaping scheme for the remainder of the rear garden is to be secured by condition and this will seek to ensure that soil levels, species and types of planting will aid in sustainable drainage.

9.2.5 Light Pollution

The proposed rooflights to the rear extension and the basement are modestly sized and are not considered likely to result in any significant increase in light pollution.

9.2.6 Land Contamination

The site has been in residential use for some time and there is not considered to be any significant risk of land contamination.

9.2.7 Environment & Sustainability Summary

For a development of this size and nature it is considered that the proposal meets the City Council's environmental and sustainability policies.

9.3 Biodiversity & Greening

Policy 34B of the City Plan requires that "developments will, wherever possible, contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme.

A green roof has been proposed above the ground floor rear extension and it is recommended that the details of this are secured by condition to ensure that it provides good biodiversity properties and is suitably maintained and retained.

There are trees within the application site and adjacent properties. Following significant discussions, the Council's arboricultural officer has no objections to the proposed extension in arboricultural terms. Conditions are recommended securing a landscaping plan and tree protection measures.

9.4 Townscape, Design & Heritage Impact

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

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

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

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

Objections have been received on grounds that the extension is too large and unacceptable in this conservation area and occupies too much of the garden. Comment is also made that whilst officer's have earlier advised that an extension at 3m in depth is more appropriate, this is still considered too large. One comment states that the

extensions in the terrace measure no more than 2.5m-3m in height and the proposal are more than that. Two comments note that no dimensions are given and materials are not known.

In response to the lack of dimensions and material information, the drawings are to scale and therefore can be measured and details of the materials are stated in the application form.

The proposals have been submitted to overcome an earlier refusal of June 2022 where the extension was a side and rear extension, measuring the full width of the site (rear of building and side passageway) at 7.1m. The extension projected approximately 4.4m from the rear elevation of the building, but with the side passageway element this measured 9.4m in depth, on the boundary with No. 30. As part of this application, advice was given to the applicant in the reason for refusal that an extension measuring 3m in depth would likely be considered more favourably.

Given the pair of villas have not been altered previously, this modest extension, measuring the full width of the rear elevation of the building only, up to the boundary wall with No. 32 Aldridge Road Villas (and not the full width of the building and passageway as previously refused) would be respectful of the character of the buildings and respect the uniformity of the pair of villas. There are a variety of examples within the terrace of similar developments and therefore a single storey extension could not be resisted.

At 3m in depth and 3.1m in height the extension is considered to be appropriate to the host property and not considered to result in an overly dominant extension. An external height of 3.1m is proposed to ensure that internally there is sufficient head height of approximately 2.7m. The garden is large and the extension is not considered to occupy an excessive amount of garden floorspace. As a point to note, the garden area adjacent the rear elevation of the building is hard landscaped so the proposals do not result in the loss of 'green' space. A green roof is proposed to the extension and is welcomed.

The detailed design of the rear of the extension is acceptable being of brickwork to match the existing and with white painted timber doors to match the existing windows. The fenestration pattern of the doors is acceptable at this lower ground floor level. A condition securing these materials is recommended.

The proposals are considered to preserve and enhance the character and appearance of the Aldridge Road Villas & Leamington Road Villas Conservation Area and are considered to result in less than substantial harm to this unlisted building of merit. This would meet Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers.

Objections have been received on the grounds that the extension would result in loss of amenity to neighbouring properties. At lower ground floor level of No. 26, it is believed that this is a single flat and it is likely that the two rear windows are from the kitchen/ living area and maybe a bedroom (if replicating the application sites) leading onto their garden. At lower ground floor of No.30, the flat contains a bedroom with a set of doors closet to the application site and a living area with a set of doors, closet to the boundary with No. 32.

At 3m in depth and 0.9m above the boundary wall with No. 26, set almost 1m away from the lower ground floor windows, the proposed extension is not considered to result in any significant loss of daylight/ sunlight or sense of enclosure. The extension is set even further away from the lower ground floor windows of No. 30, given the semi-detached nature of these properties and the relationship in amenity terms is also considered acceptable.

In terms of loss of privacy to adjacent properties and to those within Leamington Road Villas to the rear of the site, whilst the extension projects into the garden, there is significant tree coverage between these properties and the proposed rear elevation comprises two doors which is the same arrangement as the existing and it is not considered that this relationship would afford any detrimental views over what already exists.

An extension leading out directly onto the garden raises no noise concerns, noting that the existing arrangement allows for access from the lower ground floor flat directly onto the garden.

One objection has been received on the grounds of loss of privacy from the use of the roof of the extension. The roof of the extension is not proposed to be used as a terrace, and would only be accessible from windows at upper ground floor level and would comprise roof lights and a green roof. A condition to prohibit its use as a terrace is however recommended.

The proposals are considered acceptable in amenity terms.

9.6 Transportation, Accessibility & Servicing

The proposed extension raised no highways concerns.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

9.8 Other Considerations

9.8.1 Security Implications

One objector has commented that a flat roof may bring about security implications to

their adjacent property.

Single storey flat roof extensions are commonplace in Westminster and whilst the concerns from the neighbour about security are understood, they are not grounds for refusal.

9.8.2 Noise and Disruption During Course of Works

An application cannot be refused on the grounds of noise and disruption during the course of works. The Council's standard hours of working condition is recommended which are Monday to Friday 8am-6pm and Saturdays 8am-1pm. An informative is also recommended advising the applicant to sign up to the Considerate Constructors scheme.

9.8.3 Party Wall Matters

Objectors have raised concern about the demolition of part of one or the boundary walls to the rear (as part of the construction process) and the impact this would have on an adjacent pond. They also state that there is a need for repairs to another part of the rear boundary wall (with Leamington Road Villas).

As originally submitted it appeared that the boundary wall with No. 32 Aldridge Road Villas was to be demolished and the side of the proposed extension would become the party wall. This was an error and the drawings have been amended to show the extension built solely within the application site.

Repairing of the boundary wall with Leamington Road Villas, to the rear is a party wall matters and are not material planning considerations.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

The proposal is considered acceptable in design terms, mindful of policies 38, 39 and 40 of the Westminster City Plan 2019-2040 (April 2021), with limited impact to the character and appearance of the building and no significant harm to the character and appearance of the St Johns Wood Conservation Area. The proposal would also be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Whilst recognising the concerns raised by the objectors, the proposal is considered acceptable in design, conservation, sustainability and amenity terms.

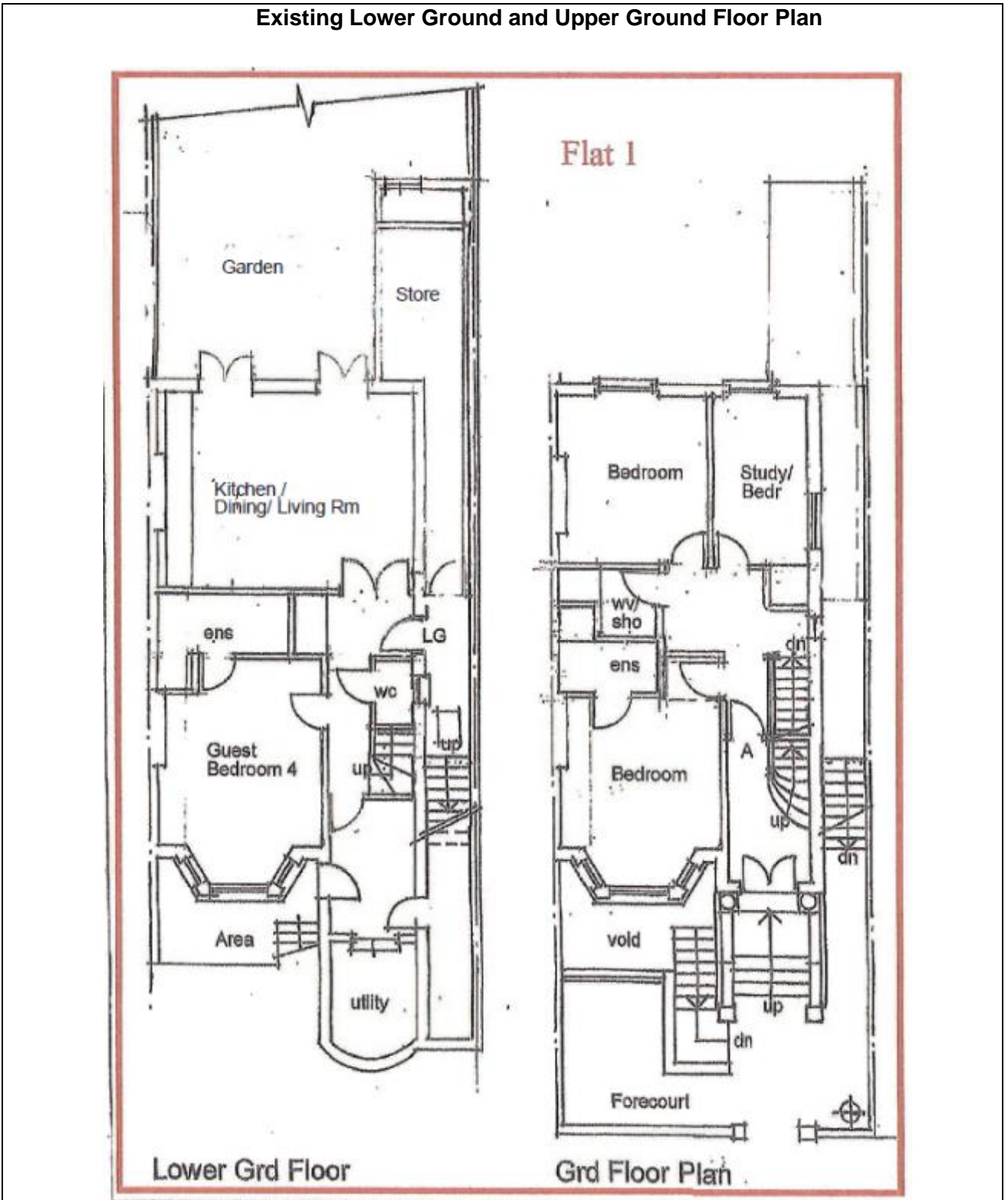
Item No.
6

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

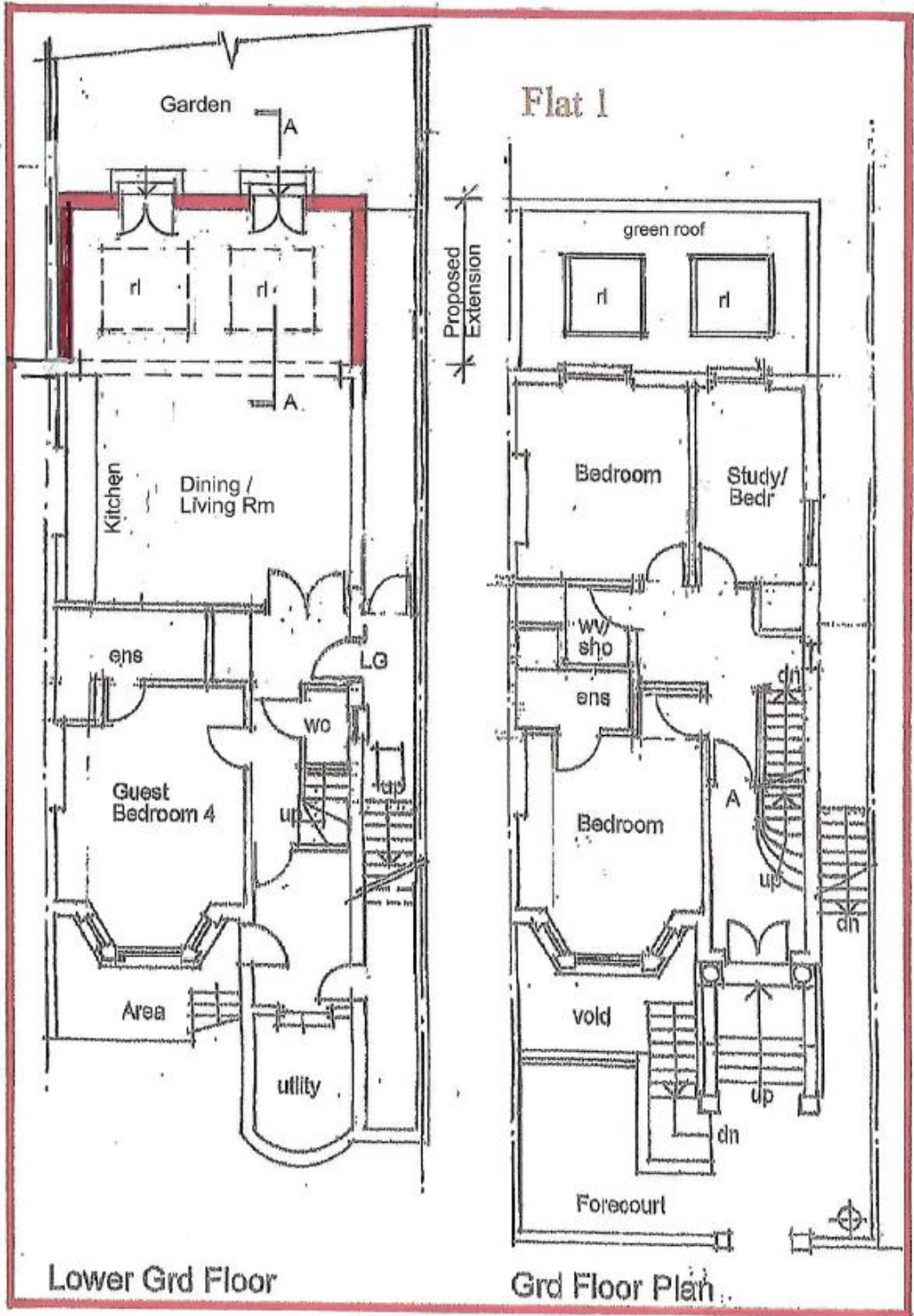
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk
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11. KEY DRAWINGS

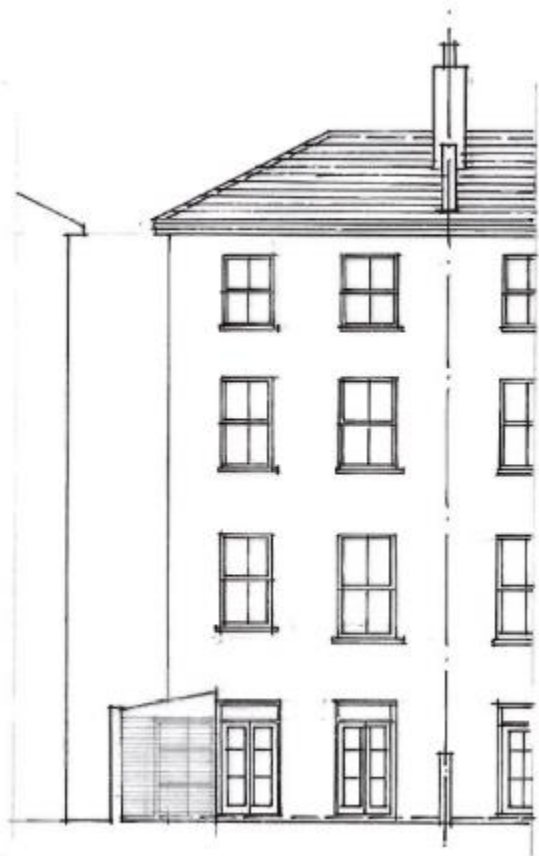
Existing Lower Ground and Upper Ground Floor Plan



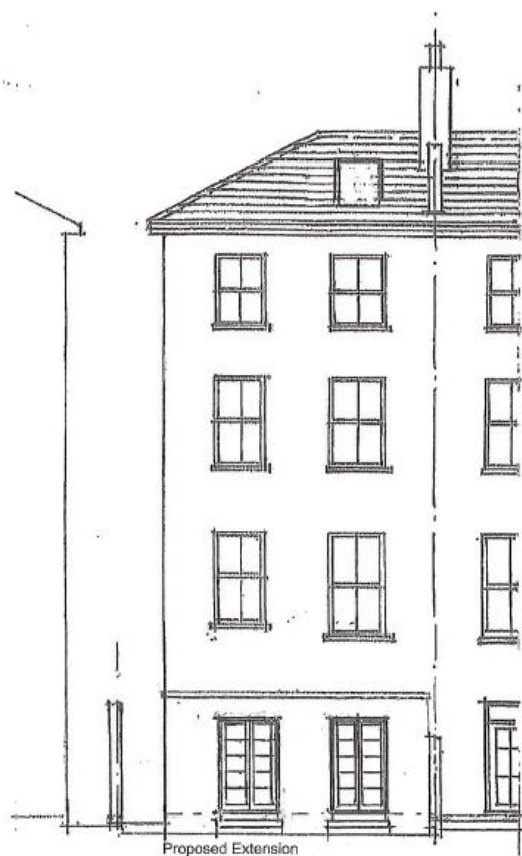
Proposed Lower Ground and Upper Ground Floor Plan



Existing and Proposed Rear Elevation



Rear Elevation as Existing



Proposed Extension
Brickwork to match existing
Traditional timber french doors
Rear Elevation
As Proposed.

DRAFT DECISION LETTER

Address: Basement Flat, 28 Aldridge Road Villas, London, W11 1BW

Proposal: Erection of single storey extension at lower ground floor level.

Reference: 22/05799/FULL

Plan Nos: Unnumbered Site Location Plan; 22/52/03; 22/52/04; 22/52/05; 22/52/06 A (18 Nov 22); 22/52/07 A (18 Nov 22) Planning, Heritage, Design and Access Statement; Sustainable Design Statement; Photos; Flood Risk Assessment date 17 August 2022; Tree Protection Plan Rev C; Arboricultural Method Statement dated 20 October 2022.

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641
07866036948

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

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

Reason:

To protect the environment of 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 Aldridge Road Villas & Leamington Road Villas Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 The doors to the rear extension shall be constructed in timber and painted white to match the existing windows and be retained in that condition thereafter.

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

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

- 6 You must apply to us for approval of detailed drawings of a landscaping scheme which includes the surfacing of any part of the site not covered by buildings. 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 according to these approved drawings within 1 year of occupying the development (or within any other time limit we agree to in writing). (C30AC)

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)

- 7 You must protect the trees according to the details, proposals and recommendations set out in the Arboricultural Method Statement by Arbtech Ltd. dated 20th October 2022. You must undertake the special methods of working and arboricultural supervision

according to these details. If you need to revise any of these tree protection provisions, you must apply to us for our approval of the revised details, and you must not carry out work the relevant part of the development until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To protect the trees and the character and appearance of this part of the Aldridge Road Villas & Leamington Road Villas Conservation Area. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R31DD)

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

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

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 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

- 4 In relation to the green roof condition, you should review the guidance provided by the Greater London Authority on their website prior to finalising the structural design of the development, as additional strengthening is likely to be required to support this feature: www.london.gov.uk/what-we-do/environment/parks-green-spaces-and-biodiversity/urban-greening.

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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