



City of Westminster

# Committee Agenda

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

Meeting Date: **Tuesday 19th March, 2024**

Time: **6.30 pm**

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

Members: **Councillors:**  
Nafsika Butler-Thalassis (Chair)  
Patrick Lilley  
Ryan Jude  
Rachael Robathan



**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, Steven Clarke, Committee and Councillor Coordinator.**

**Email: [sclarke1@westminster.gov.uk](mailto:sclarke1@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

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

## **AGENDA**

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

**1. MEMBERSHIP**

To note any changes to the membership.

**2. DECLARATIONS OF INTEREST**

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

**3. MINUTES**

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

**(Pages 5 - 10)**

**4. TREE PRESERVATION ORDER TPO 699 -  
34 MARLBOROUGH PLACE, LONDON, NW8 0PD**

**(Pages 11 - 30)**

**5. TREE PRESERVATION ORDER TPO 700 -  
162 WESTBOURNE GROVE, LONDON, W11 2RW**

**(Pages 31 - 42)**

**6. PLANNING APPLICATIONS**

Applications for decision

#### **Schedule of Applications**

Members of the public are welcome to speak on the specific applications at the virtual planning committee meeting. To register to speak and for guidance please visit:

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

Please note that you must register by 12 Noon on the Friday before the Committee meeting. In the event that you are successful in obtaining a speaking slot at the hybrid meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

All committee meetings open to the public are being broadcast live using Microsoft Teams. To access the recording after the meeting please revisit the Media link. Please note that the link is only available 90 days after the meeting.

- |           |   |                        |
|-----------|---|------------------------|
| <b>1.</b> | <b>13 SALISBURY PLACE, LONDON, W1G 1FJ</b>                      | <b>Pages 45 - 66</b>   |
| <b>2.</b> | <b>11 STRAND, LONDON, WC2N 5HR</b>                              | <b>Pages 67 - 116</b>  |
| <b>3.</b> | <b>WELLINGTON BARRACKS, BIRDCAGE WALK,<br/>LONDON, SW1E 6HQ</b> | <b>Pages 117 - 158</b> |
| <b>4.</b> | <b>42 BOSCOBEL PLACE, LONDON, SW1W 9PE</b>                      | <b>Pages 159 - 182</b> |
| <b>5.</b> | <b>90 BROMPTON ROAD, LONDON, SW3 1ER</b>                        | <b>Pages 183 - 198</b> |

**Stuart Love**  
**Chief Executive**  
**8 March 2024**

## Order of Business

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

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

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



CITY OF WESTMINSTER

MINUTES

## Planning Applications Sub-Committee (3)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (3)** held on **Tuesday 23rd January, 2024**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Nafsika Butler-Thalassis (Chair), Ryan Jude, Patrick Lilley and Jim Glen

**Apologies for Absence:** Councillor Louise Hyams

#### 1 MEMBERSHIP

1.1 That Councillor Jim Glen was substituting for Councillor Louise Hyams.

#### 2 DECLARATIONS OF INTEREST

2. 1 Councillor Nafsika Butler- Thalassis explained that a week before the meeting, all 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 email 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.

2.2 Councillor Patrick Lilley declared an interest in Item 2 that the Application was in his Ward but he had had no previous discussions on the application.

2.3 Councillor Jim Glen declared an interest in Item 3 that he is a trustee of the Westminster Tree Trust.

2.4 Councillor Jim Glen also declared an interest in Item 4 that he is a trustee of the Westminster Almshouses Foundation which is directly opposite the application site but he has had no previous discussions on the application.

### 3 MINUTES

**RESOLVED:** That the minutes of the meeting held on 5<sup>th</sup> December 2023 be signed by the Chair as a correct record of proceedings.

### 4 PLANNING APPLICATIONS

The Sub-Committee heard the applications in the following order: 2, 4, 5, 3.

#### 1 84 NEWMAN STREET, LONDON, W1T 3EU

Withdrawn from the agenda.

#### 2 82-83 MARGARET STREET, LONDON, W1W 8LH

Alterations including opening of laundry building within the central courtyard at ground floor level, excavation to lower sections of the existing lower ground floor accommodation. Erection of an infill extension at lower ground floor level with courtyard above. Erection of a replacement roof to east wing. Erection of dummy mansard to the rear of All Saints House to screen new plant. Alterations to access arrangement. All in connection with the use of part lower ground, part ground and part ground upper floors as 24 units for short to medium stay temporary visitor accommodation (sui generis); use of part lower ground as a gym (Class E); use of part lower ground, part ground and part first floor as an event space (Sui Generis), use of part ground floor as lounge/co-working space (Class E) and provision of plant ancillary to the building at basement level.

Additional representations were received from FitzWest Neighbourhood Forum (17.1.24).

Late representations were received from The Victorian Society (19.1.24) and a proposals summary sheet from the applicant, and the Presenting Officer tabled the following amendments **in bold** to the description of development and recommended conditions:

#### Revised Description of Development for application for planning permission

Alterations including opening of laundry building within the central courtyard at ground floor level, excavation to lower sections of the existing lower ground floor accommodation. Erection of an infill extension at lower ground floor level with courtyard above. Erection of a replacement roof to east wing. Erection of dummy mansard to the rear of All Saints House to screen new plant. Alterations to access arrangement. All in connection with the use of part lower ground, part ground and part ground upper floors as **21** units for short to medium stay temporary visitor accommodation (sui generis); use of part lower ground as a gym (Class E); use of part lower ground, part ground and part first floor as an event space (Sui Generis),

use of part ground floor as lounge/co-working space (Class E) and provision of plant ancillary to the building at basement level.

Revised Planning Condition 29

Except for cooking taking place within the **21** visitor accommodation units, raw or fresh food shall not be cooked on the premises.

Revised Planning Condition 32

No patrons are permitted to take **alcoholic** drinks outside including the external courtyard.

Revised Listed Building Condition 5

Notwithstanding what is shown on the drawings the removal or alteration of doors and ceilings **in any part of the site** is not approved until a detailed explanation, justification and comprehensive door schedule for each door/ceiling location is submitted for approval by the City Council. **You must then carry out the works in accordance with the details approved by the City Council.**

Revised Listed building Condition 6 (5)

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

(5) conservation strategy and restoration/conservation detail for the chapel including method statements and reports **in consultation with the Victorian Society;**

Quinton Clarke, representing Unity, addressed the Sub-Committee in support of the application.

Jonathan Marginson, representing DP9, addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY**

1. That conditional permission be granted subject to a legal agreement to secure the following :
  - a) Arrangement to secure access to the first floor chapel for non-paying, general members of the public for a minimum of 1 day per month for 12 months a year and to include engagement with local community groups .
  - b) Ensure occupants of the short to medium stay visitor accommodation are permitted to stay for a maximum of 90 days.
  - c) The costs of monitoring the agreement
  
- 2 . That if the S106 legal agreement has not been completed within 3 months from the date of the Committee's resolution then:
  - a) The Director of Town Planning & Building Control shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Town Planning & Building Control is authorised to determine and issue such a decision under Delegated Powers; however, if not

b) The Director of Town Planning & Building Control shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Town Planning & Building Control is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. That conditional listed building consent be granted.

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

5. That conditional permission be granted with the changes to conditions as tabled. That an additional informative be added to the draft decision letter in respect of encouraging the applicant to consider the provision of additional short stay cycle parking in the internal courtyard.

### **3 2 MELINA PLACE, LONDON, NW8 9SA**

Alterations to the existing building including side and rear extensions at ground and first floor, rebuilding of rear extension and creation of basement and lightwells and associated works.

#### **RESOLVED UNANIMOUSLY**

That conditional permission be granted.

### **4 17-19 ROCHESTER ROW, SW1P 1JB**

Refurbishment, alteration and extension of the existing Class E building to include erection of a rear infill, replacement of fourth floor and erection of new roof pavilion, provision of external roof terraces, provision of plant equipment, altered façade and other associated external works.

Additional representations were received from V7 (17.1.24).

Late representations were received from Environment Agency (22.1.24) and the Presenting Officer tabled an amendment to condition 25 and additional informative **in bold.**

Amend condition 25 to read:

**Pre Commencement Condition.** You must apply to us for approval of details of a biodiversity management plan in relation to the green roof and terrace



planting. **It must show how you will achieve an 'Urban Greening Factor' of at least 0.3.** You must not start any work until we have approved in writing what you have sent us. You must carry out the measures in the biodiversity management plan according to the approved details before you start to use the building.

Add additional informative to read:

**In relation to condition 25, the details of the green roof and terrace planting, should include drawings showing the extent of the green roof and terrace planting and cross sections showing: the green roof in relation to the supporting roof structures; the drainage layers; and the type and depth of planting substrate. The details should also include species, size or type of proposed plants (e.g: sedum mat, seed mix, planting plugs or plant sizes). The biodiversity management plan should also include maintenance details and calculate the Urban Greening Factor.**

James Hanton-Parr, representing V7, addressed the Sub-Committee in support of the application.

#### **RESOLVED UNANIMOUSLY**

1. That conditional permission be granted, subject to completion of a S106 legal agreement to secure the following obligations:
  - a) Undertaking of all highway works immediately surrounding the site required for the development to occur prior to occupation of the extensions, including the relocation of the existing on-street Electric Vehicle Charing Unit outside the building on Rochester Row and the provision of a minimum of 4 on-street cycle parking stands in the vicinity of the development. All of the above to the Council's specification and at full cost (administrative, legal and physical) of the developer.
  - b) Dedication as highway of the area where the building line is set back from the existing line prior to occupation of the extensions, and subject to a detailed plan of the area and any minor alterations, all as agreed with the Council and at full cost of the developer.
  - c) The costs of monitoring the S106 agreement.
2. That if the S106 legal agreement has not been completed within 3 months from the date of the Committee's resolution then:
  - d) The Director of Town Planning & Building Control shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Town Planning & Building Control is authorised to determine and issue such a decision under Delegated Powers; however, if not
  - e) The Director of Town Planning & Building Control shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have

been secured; if so the Director of Town Planning & Building Control is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. That conditional permission be granted with the changes to conditions and informative as tabled. That condition 11 be amended for the use of the terrace on Saturdays from 11am to 4 p.m.

**5 FLAT 30, CHELSEA GATE APARTMENTS, 93 EBURY BRIDGE ROAD, LONDON, SW1W 8RB**

Erection of a single storey extension on the fifth floor terrace area of the existing duplex residential apartment.

Additional representations were received from the Applicant (18.1.24) and a memo from the Presenting Officer (19.1.24).

Richard Shaw, representing Corstorphine & Wright Architects, addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY**

That conditional permission be granted.

The Meeting ended at 8.37 pm

**CHAIR:** \_\_\_\_\_

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



City of Westminster

Executive Summary  
and Recommendations

**Title of Report:** Tree Preservation Order No. 699 – 34 Marlborough  
Place London NW8 0PD

**Date:** 19 March 2024



## **Summary of this Report**

On 30 October 2023 the City Council made a provisional Tree Preservation Order (TPO) to protect one Bay (labelled T1 on the TPO plan) located at 34 Marlborough Place, London NW8 0PD (the Property). The TPO is provisionally effective for a period of six months from the date it was made (30 October 2023) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 30 April 2024.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Bay from 34 Marlborough Place. The tree is protected by virtue of its location within the St John's Wood Conservation Area. The reasons given for the proposed removal of the tree are that it has out grown the raised brick planter where it is growing.

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

An objection to the TPO was received from the owner of 34 Marlborough Place.

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

## **Recommendations**

The Sub-Committee should decide EITHER

(a) NOT TO CONFIRM Tree Preservation Order No. 699 (2023); OR

(b) TO CONFIRM Tree Preservation Order No. 699 (2023) with or without modification with permanent effect.



City of Westminster

# Committee Report

Item No:

Date:

19 March 2024

Classification:

General Release

Title of Report:

Tree Preservation Order No. 699 (2023) – 34  
Marlborough Place

Report of:

34 Marlborough Place, London NW8 0PD

Wards involved:

Abbey Road

Policy context:

No requirement to have regard to Development Plan policies when confirming a TPO but special attention must be paid to desirability of preserving enhancing the character and appearance of the conservation area

Notwithstanding the above – the following planning policies are of relevance: 32, 34, 39 of the City Plan 2019 - 2040 April 2021

Financial summary:

No financial issues are raised in this report.

Report Author:

Ross Fletcher and Georgia Heudebourck

Contact details

Rfletcher@westminster.gov.uk  
Georgia.heudebourck@rbkc.gov.uk

## **1. Background**

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 699 (2023) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 30<sup>th</sup> October 2023.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they must be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the City Council the power to control any such works or require replacement if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 699 was made following the receipt by the City Council of six weeks’ notice of intention to remove one Bay from the front garden of 34 Marlborough Place (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is a defence to the offence of removing a tree in a conservation area if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the City Council in a position where it must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.
- 1.4 The Bay is located in the front garden of 34 Marlborough Place, adjacent to the boundary of 32 Marlborough Place. The Arboricultural Officer’s report notes that T1 is growing adjacent to a purple plum tree that is situated closer to Marlborough Place but it is a prominent tree, clearly visible from the public footway and carriageway of Marlborough Place. The tree is about 8 metres tall and is twin-stemmed from ground level with a normal canopy for the species. The tree is considered to have a good form.
- 1.5 The tree is a mature specimen and appears to be in good condition.

- 1.6 The tree has been pruned previously, and a crown reduction by about 1.5m to the previous most recent points of reduction would be appropriate and would not detract from the amenity value of the tree.
- 1.7 The initial reason given by the applicant for the proposed removal of the Bay tree was;
- The tree has outgrown the raised brick planter where it is growing.
- 1.8 The applicant has not submitted any evidence to show that the Bay is the cause of the damage and that the raised planter cannot be repaired without the removal of the tree.
- 1.9 The Bay has high amenity value and makes a significant contribution to public amenity.
- 1.10 The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.
- 1.11 Subsequent to making the TPO the City Council received one objection.

## **2 Objection to the Provisional TPO:**

2.1 The City Council's Legal Service received an email and Arboricultural Report dated 13 November 2023 from Tim Moya Associates Consultancy acting on behalf of the Owner of 34 Marlborough Place. The objection to the TPO was on the following grounds:

### **2.2 Visibility**

- Views of the Bay (T1) are effectively limited to a narrow area immediately surrounding the Site (particularly from passing pedestrians rather than vehicles), given that from further distances it is not visible at all. Further, as the Site is located away from a crossroad, views are considered to be limited

only to when passing by the stretch of Marlborough Place between the intersecting roads (of Abbey Road and Loudon Road where there are also views of trees in these streets closer to their respective junctions).

### 2.3 **Size and form of the tree**

- The tree is considered to be a typical mature bay tree. This Report therefore makes no particular objection, on this element.

### 2.4 **Future potential of the tree as an amenity**

- This bay tree is located between a brick retaining wall within the Site and the brick boundary wall that denotes the boundary line that separates the Site from 3 Marlborough Place.
- Both wall elements are understood to be cracking; the retaining wall within the Site is in a particularly poor state of repair (see *Figure 3* within the Arboricultural Report dated 13 November 2023), though the boundary wall is also understood to have some cracks that may be caused in part or in whole by this bay tree (and an adjacent plum tree set further towards *Marlborough Place*).
- It is considered feasible for any cracks to the boundary wall to be dealt with in a manner that facilitates the retention of this bay tree, subject to appropriate engineering designs that ensure that any works to the foundation element are appropriately specified and implemented. However, it is considered that repairing the retaining wall within the Site presents significant challenges in retaining this bay tree.
- Notably, considering that this bay tree is effectively located upon the top side of the retaining wall in a narrow strip of land up to the Site boundary, its retention significantly limits the capacity for the existing wall to be repaired in a manner that arrests any significant future risk of damage if all other variables remain consistent.



- For this reason, this bay tree can be considered to now be inappropriate for its location and its removal is considered to be appropriate, and its retention in the context of repairing the retaining wall is considered to be very challenging; therefore, its capacity to realistically provide future amenity is considered to be very limited, in practical terms.

## 2.5 The rarity cultural or historic value of the tree

- Specifically, the LPA did - in granting consent for the planning permission at *32 Marlborough Place* (as per paragraph 3.1) - approve arboricultural information that referred to this bay tree as a *Category C* specimen in *BS5837:2012* terms; though, it is not clear what criteria were used by the arboricultural consultant. For completeness, a *Category C* tree is defined as a low-quality specimen; depending on the criteria used to determine this.
- This point is considered to be relevant, given that it suggests that the LPA did not view this tree as a particularly notable specimen in arboricultural, landscape, or cultural grounds, when granting consent for this planning application on the 1st of April 2022.
- By this point, the bay tree (i.e., T1) would have been of a similar size to its current form.
- For clarity, it was - according to the details of the planning register - the case that the LPA's arboricultural department had visibility of this information, owing to their consultee response detailed in summary within the associated *Delegated Report*.
- It is however appreciated that the scope of the development at *32 Marlborough Place* may have resulted in this matter regarding the categorisation of the bay tree being overlooked, though this is still considered to be a relevant matter given that the basis for serving the TPO in this instance hinges on its amenity value (including its contribution to the character of the SJWCA).

## 2.6 **The contribution of the tree to, and relationship with the landscape.**

- The primary tree of importance within its grounds is considered to be the mature sycamore tree (see *Figure 4* and *Figure 5 within the report*) that is located immediately adjacent to the northern pedestrian footpath along *Marlborough Place*. This sycamore is one of many mature trees of a similar size located within similar positions to the front of residential sites along *Marlborough Place*; these larger trees effectively form the primary elements of amenity provided by trees - for clarity, this includes along the multiple sections of *Marlborough Place* that are intersected by other roads at roughly regular intervals.
- Other trees and shrubs are considered to be secondary elements that provide a lesser degree of amenity, which includes this bay tree; views of this bay tree are effectively limited to a narrow area immediately surrounding the Site (particularly from passing pedestrians rather than vehicles), given that from further distances it is not visible at all. Further, as the Site is located away from a crossroad, views are considered to be limited only to when passing by the stretch of *Marlborough Place* between the intersecting roads (of *Abbey Road* and *Loudon Road* where there are also views of trees in these streets closer to their respective junctions).

## 2.7 **Contribution to the character and appearance of a Conservation Area**

- On the basis that this bay tree is absent (i.e., removed), it is considered that the general character of the Site - and the public realm within the vicinity of the Site will not change to any particular degree; the visual character of the SJWCA will remain analogous to the current situation. Fundamentally, its loss is considered to be of no particular significance, in amenity terms.

## 3 **Response to Objection**

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 6 February 2024. The Officer considered the objection and stated the following conclusions: -

### 3.2 **Visibility**

- The Government guidance says, "The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public." It makes no mention of any difference in views by pedestrians or vehicles; however, I consider the Bay (T1) to be a prominent tree, clearly visible from both the public foot and carriageways of Marlborough Place, especially when approaching the property from either direction along Marlborough Place. The evergreen nature of T1 means it is even more prominent when the deciduous trees that are directly adjacent are out of leaf for approximately half the year. The tree makes a significant contribution to public amenity.

### 3.3 **Size and form of the tree**

- The Bay (T1) is of a size that it makes a significant contribution to public amenity, its contribution to the character and appearance of the Conservation Area is discussed under the relevant heading, further below.

### 3.4 **Future potential of the tree as an amenity**

- I consider the tree to be a mature specimen which appears to be in good condition. It has a long life-expectancy. Should evidence be submitted to indicate the cause and severity of the cracking in the retaining wall as such that repair is necessary, alongside options for repair or rebuilding, then the Council could consider the evidence and decide whether or not to confirm the TPO on this basis.
- Alternatively, if a future TPO application is made, the Council could consider whether to grant or refuse consent for the removal of the tree on the basis of the submitted evidence. However, in the absence of sufficient supporting

information, it is not considered that the future potential of the tree is compromised to the extent that the TPO should not be confirmed.

### **3.5 The rarity, cultural or historic value of the tree**

- The granting of planning permission under reference 21/03833/FULL did not approve the submitted tree survey and report; the document is listed on the planning permission as 'for information only' furthermore, even if the tree report had been an approved document, the agreement of the Council to the grade assigned to the tree could not be inferred from a planning consent. As such I do not consider that the planning permission has any bearing on the suitability of the Bay (T1) to be included within the TPO.
- Whilst Bay trees are relatively common in Westminster, and this tree is not known to have a specific cultural or historic value, but trees are a key component of the Conservation Area, and so T1 contributes to this general cultural value.

### **3.6 The contribution of the tree to, and relationship with. the landscape.**

- The large mature tree in the front garden is a Lime, not a Sycamore. Whilst the Lime is larger than the Bay (T1) the scale and form of T1 is such that it is in proportion with 34 Marlborough Place. The tree is close to the side boundary wall and is growing in a raised planter, but the lowest branches are clear of the top of the wall, and it is not unusual for mature trees to be growing close to garden boundary walls within the borough of Westminster.
- The tree is about 4m from the front of 34 Marlborough Place, but the relationship between the building and the tree is not uncomfortably close, and the bay could be pruned to limit any perceived encroachment towards the property.
- The presence of larger trees within Marlborough Place does not justify the removal of the Bay (T1). T1 is considered to be of typical size and form for the species, to be suitable in its location and to make a positive contribution to the

local landscape. The removal of T1 would therefore be of detriment to the local landscape.

### 3.7 **Contribution to the character and appearance of a Conservation Area**

- Marlborough Place is characterised by an informal mix of trees in front gardens, of different sizes and species. It is not only the large-species trees which contribute to this character.
- The mixed ages, sizes and species of the tree population on Marlborough Place provide variety and contrast and contribute to the Arcadian character of St Johns Wood. The size of T1 does not detract from its contribution. As such the loss of the Bay (T1) would cause harm to the character and appearance of the Conservation Area.

### 3.8 **Other factors**

- An objection on other factors was not raised, but for completion of all the government criteria I have included my assessment, below.
- Trees contribute generally to mitigation of climate change, by absorbing and storing carbon dioxide. Invertebrates inhabit trees, and these form a potential food source for birds. The trees may also provide cover and shelter and potential roosts for birds. They can assist in mitigating air pollution by filtering harmful airborne pollutants. The mitigation of air pollution is a high priority in Westminster. The Bay (T1) has a general contribution to these factors.

## 4. **Response letter from Tim Moya Associates Consultancy**

4.1 The City Council received a letter dated 3 March 2024. This letter is in response to the City Council's Arboricultural Officer's letter dated 6 February 2024. The letter made the following comments:

### 4.2 **Visibility**

- The bay tree does have public visual amenity; this matter is not contested. It is however, contested that it has *significant* public visual amenity. It is set back from the road, and from all surrounding vantages it is always at least partially obstructed by trees that are set further towards the public realm.
- It is not considered reasonable to conclude that this tree has significant public visual amenity, therefore (nor is it considered reasonable to assert that this is a *prominent* tree – it is not); it is reasonable to conclude that the bay tree has some visual amenity, though that matter is not being contested.
- It is considered that the loss of this bay tree would not be detrimental to the prevailing visual character of the public realm, owing to the presence of other trees in the immediate surrounding vicinity (of which some are larger and some are similarly sized). In determining whether trees ought to be subject to statutory protection, this is a necessary element of consideration else one may find themselves in a position where all trees with public visual amenity are protected.
- There ought to be more nuance to the situation, which focusses on quite how a tree visually contributes to the character of an area. In the case of this bay tree, it does provide some contribution, though it is not prominent nor significant and consequently upholding its statutory protection is considered unreasonable.
- By contrast, if the larger trees set towards the road were removed (comprising species include lime etc.) then this would quite demonstrably undermine the visual character of the local area (as these are large trees with more visual prominence).

#### 4.3 **Future potential of the tree as an amenity**

- It is considered that the position of this bay tree in relation to the surrounding retaining and boundary walls is clearly indicative of an issue that ought to require the removal of the tree, if a practical and pragmatic view of the current

situation (relating to obvious structural damage) were to be undertaken. It is not considered reasonable to infer that all options must be exhausted to demonstrate that the tree cannot be retained, given that it is not considered that this tree has the level of public visual amenity (i.e., not in prominence nor significance) that ought to warrant that level of investigation. The evidence is considered to be sufficiently clear, at this time.

- Fundamentally, this bay tree is considered to be so close to the retaining wall (that holds back the soil it is at least to a significant extent growing in and relying on for stability) that it has both directly contributed to this damage and also directly restricts the capacity to repair it in a practical and pragmatic manner. To aim to underpin or entirely reconstruct this retaining wall with the bay tree remaining in place is considered to carry a very high risk of undermining the bay tree; it also significantly affects the capacity to undertake repair works that would likely require an unreasonable deviation from standard working designs and methodologies.
- It is considered inappropriate for any tree to be located in the location of this bay tree, on the basis that the boundary wall and retaining wall are both present. It is not feasible to remove the boundary wall and it isn't considered reasonable to argue that the retaining wall ought to be removed and not replaced. It is considered reasonable to remove the tree to repair the retaining wall, by comparison – specifically, given that this bay tree is not considered to have the level of public visual amenity that would warrant operating on a different basis.
- If a tree were to replace this bay tree (in the event that its removal was secured by whatever means) then a new tree ought to be planted elsewhere within the frontage of *34 Marlborough Place*, to ensure that the issue discussed here regarding structural damage is unlikely to repeat itself. It has already been expressed by the homeowner during a meeting at the property with representatives of Westminster City Council that new trees would be planted in the frontage to the dwellinghouse, though at the lower garden level

where the future risk of damage to nearby structures from tree root growth is much lower.

#### 4.4 **The rarity, cultural or historic value of the tree**

- It is not considered reasonable to argue that the planning context isn't relevant to the situation, because it was reviewed by *Westminster City Council* and every option was there to query the categorisation of this bay tree. Technical elements of planning permission such as whether any arboricultural report formed part of a formal decision (i.e., with planning conditions) are considered to be superfluous to this observation.
- This matter aside, it is evident that there is no particular merit held by this bay tree in terms of its rarity, etc. It is not considered reasonable to argue that it has a general cultural value solely because it is located within a *Conservation Area*; it is by contrast more reasonable to state that it has general visual amenity benefits (rather than cultural ones), though this matter has already been discussed above in relation to the considered role this bay tree plays in public visual amenity.

#### 4.5 **The contribution of the tree to, and relationship with, the landscape**

- It is considered that the position of this bay tree in relation to the boundary and retaining walls is unacceptably close; there is very little space between the two walls and the tree occupies much of this space. Whether it could be pruned is not considered to be relevant, in terms of the structural damage caused to the retaining wall (that is a matter that has been discussed above).
- With regard to whether the presence of other trees does or does not justify the removal of this bay tree, this is considered to be hugely relevant. Again, the reasons have been discussed above, though fundamentally this bay tree is not considered to be prominent nor significant in terms of its public visual amenity, which is greatly influenced by the presence of larger and similarly sized trees in the immediate surrounding area. If those other trees were all absent then absolutely one could argue that this bay tree has much greater



public visual amenity (and its loss by comparison would be detrimental to the character of the local landscape).

#### 4.6 **Contribution to the character and appearance of a Conservation Area**

- Points regarding the visual amenity benefits of this bay tree has already been made within this letter. It is however considered important to note that whilst an audit of a *Conservation Area* may point to the constituent parts that make up its character, there is still a requirement to reasonably consider nuance in ascertaining whether in the case of trees the loss of (in this case a less prominent) is on balance to all other factors acceptable. This is because one would find themselves in a position where all trees are subject to a *Tree Preservation Order* in the event that they were proposed for removal (regardless of their prominence or significance to public visual amenity).

#### 4.7 **Other factors**

- The loss of this bay tree is not considered to contribute detrimentally to any great extent the general ecology of the jurisdictional area of *Westminster City Council*.

### 5. **Response letter from the City Council's Arboricultural Officer**

5.1 The City Council Arboricultural Officer responded by letter dated 7 March 2024. The letter made the following comments:

#### 5.2 **Visibility**

- In respect to visibility, I maintain my position that the Bay (T1) is a prominent tree, clearly visible from Marlborough Place, and that the tree makes a significant contribution to public amenity.
- Neither the relevant legislation (The Town and Country Planning Act 1990) or current Government guidance (Tree Preservation Orders and trees in conservation areas) refers to a requirement for a nuanced approach, however, the amenity of the tree is an overall consideration of the points

discussed under the relevant headings that make up this letter, which includes the tree's contribution to the landscape and Conservation Area.

- If it is considered expedient in the interests of amenity to make a TPO for other nearby trees, then these trees will also be considered for inclusion within a TPO, based on their individual merits. However, the presence of nearby trees is not considered to reduce the visibility of the bay tree to the extent that it does not merit a TPO.

### **5.3 Size and form of the tree**

- No need for further comment.

### **5.4 Future potential of the tree as an amenity**

- I do not agree that my previous reply inferred that all options must be exhausted. Evidence has not been submitted to show the extent of damage to adjacent walls or that they cannot be repaired without the removal of the tree. In the absence of sufficient supporting information, it is not considered that the future potential of the tree is compromised to the extent that the TPO should not be confirmed. If a future TPO application is made, the Council could consider whether to grant or refuse consent for the removal of the tree on the basis of the submitted evidence.

### **5.5 The rarity, cultural or historic value of the tree**

- My previous points remain, which are in summary, that I do not consider that the categorisation of the tree as a relatively low-grade specimen in a report submitted with planning application 21/03833/FULL has any bearing on the suitability of the Bay (T1) to be included within the TPO, and trees are a key component of the Conservation Area to which T1 contributes to this general cultural value.

### **5.6 The contribution of the tree to, and relationship with, the landscape.**

- My previous points remain, namely that; the presence of larger trees within Marlborough Place does not justify the removal of the Bay (T1), and as above,

the location of the tree in relation to the retaining and boundary walls should not preclude the confirmation of the TPO in the absence of adequate supporting evidence. T1 is considered to be of typical size and form for the species, to be suitable in its location and to make a positive contribution to the local landscape. The removal of T1 would therefore be of detriment to the local landscape.

#### 5.7 **Contribution to the character and appearance of a Conservation Area**

- Contribution to the character and appearance of a Conservation Area is just one element of a tree's characteristics when considering suitability for inclusion within a TPO.
- I maintain the position that the loss of the Bay (T1) would cause harm to the character and appearance of the Conservation Area.

#### 5.8 **Other factors**

- I maintain that the Bay (T1) has a general contribution to the other factors given in my previous reply.

### 6. **Email in support of the TPO:**

6.1 The Council's Legal Service received an email in support of the TPO on the grounds that:

- We definitely object to the felling of this tree. We would want a permanent TPO. Felling the tree would very much reduce the natural greenery and environment of the street, and make that whole side sparse. It would be a real shame to lose yet another large tree to a redevelopment.

## 7. **Conclusion**

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

(a) NOT TO CONFIRM Tree Preservation Order No. 699 (2023); OR

(b) TO CONFIRM Tree Preservation Order No. 699 (2023) with or without modification with permanent effect.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT ROSS FLETCHER, LEGAL SERVICES (Email [Rfletcher@westminster.gov.uk](mailto:Rfletcher@westminster.gov.uk)) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES (Email [gheudebourck@westminster.gov.uk](mailto:gheudebourck@westminster.gov.uk))

## **Local Government (Access to Information) Act 1985**

### **Background Papers**

1. Copy of Provisional TPO 699 (2023)
2. Objection from Tim Moya Associates Consultancy dated 13 November 2023
3. Response letter from the City Council's Arboricultural Officer dated 6 February 2024
4. Further response letter from Tim Moya Associates Consultancy dated 3 March 2024.
5. Further response letter from the City Council's Arboricultural Officer dated 7 March 2024
6. Email in support of the TPO dated 5 March 2024.
7. Report of Council's Arboricultural Officer dated 25 October 2023 recommending making of the Provisional Order

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City of Westminster

## Executive Summary and Recommendations

**Title of Report:** Tree Preservation Order No. 700 – 162 Westbourne Grove London W11 2RW

**Date:** 19 March 2024



## **Summary of this Report**

On 8 November 2023 the City Council made a provisional Tree Preservation Order (TPO) to protect one Silver lime (labelled T1 on the TPO plan) located at 162 Westbourne Grove London W11 2RW (the Property). The TPO is provisionally effective for a period of six months from the date it was made (8 November 2023) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 8 May 2024.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Silver lime from 162 Westbourne Grove. The tree is protected by virtue of its location within the Westbourne Conservation Area. The reasons given for the proposed removal of the tree are that it has outgrown its location.

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

An objection to the TPO was received from the owner of 162 Westbourne Grove.

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

## **Recommendations**

The Sub-Committee should decide EITHER

(a) NOT TO CONFIRM Tree Preservation Order No. 700 (2023); OR

(b) TO CONFIRM Tree Preservation Order No. 700 (2023) with or without modification with permanent effect.





City of Westminster

# Committee Report

Item No:

Date:

19 March 2024

Classification:

General Release

Title of Report:

Tree Preservation Order No. 700 (2023) – 162 Westbourne Grove

Report of:

162 Westbourne Grove, London W11 2RW

Wards involved:

Bayswater

Policy context:

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

Financial summary:

No financial issues are raised in this report.

Report Author:

Ross Fletcher and Georgia Heudebourck

Contact details

Rfletcher@westminster.gov.uk  
Georgia.heudebourck@rbkc.gov.uk

## 1. **Background**

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 700 (2023) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 8 November 2023.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they must be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the City Council the power to control any such works or require replacement if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 700 was made following the receipt by the City Council of six weeks’ notice of intention to remove one Silver lime from the rear garden of 162 Westbourne Grove (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is a defence to the offence of removing a tree in a conservation area if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the City Council in a position where it must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.
- 1.4 The Silver lime is located in the rear garden of 162 Westbourne Grove, adjacent to the boundary with Pentagram Yard. The Arboricultural Officer’s report notes the crown of the tree is clearly visible above 1 to 5 Needham Road, when looking from Needham Road to the east.
- 1.5 The Silver lime (T1) is about 15m tall, it is single-stemmed with a graft point at about 1m above ground level; the lower trunk of the tree leans slightly away from the rear boundary and self-corrects from about 5m to a more vertical stem from above 7m above ground level. The tree is considered to have a good form.

- 1.6 The tree is a mature specimen and appears to be in good condition. It has a long life-expectancy.
- 1.7 The tree has been pruned recently and the tree could be occasionally re-pruned to the same reduction points without detracting from the amenity value of the tree.
- 1.8 The scale and form of the Silver lime (T1) is such that it is in proportion with 162 Westbourne Grove. The tree is close to the boundary wall of what appears to be a studio or garage building within Pentagram Yard, but there is adequate clearance from the tree and the wall, the lowest branches are clear of the top of the wall and building, and it is not unusual for mature trees to be growing close to boundary walls or buildings within Westminster. The Silver lime (T1) can be occasionally re-pruned to limit any perceived encroachment towards the property. The Silver lime (T1) is considered to make a positive contribution to the townscape and to be suitable in its location.
- 1.9 The initial reason given by the applicant for the proposed removal of the Silver lime was;
- The tree has outgrown its location.
- 1.10 The Silver lime (T1) makes a valuable contribution to amenity and to the appearance of the townscape, and makes a positive contribution to the character and appearance of the conservation area.
- 1.11 The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.
- 1.12 Subsequent to making the TPO the City Council received one objection.

## **1 Objection to the Provisional TPO:**

- 2.1 The City Council's Legal Service received an email and letter dated 7 December 2023 from the Owner of the Property. The objection to the TPO

was on the following grounds:

- In November 2022, a slightly smaller tree located in the neighbouring property, 164 Westbourne Grove, fell at around 3 am one morning, during stormy windy weather and caused just over £285,000 worth of damage. Two cars in St Giles house carpark were destroyed and the bordering walls on either side of my property collapsed with the fall.
- The planning permission for the reconstruction of both party walls i.e. St Giles house/162 Westbourne Grove/ 164 Westbourne Grove, took circa 4 months to get the approval from Westminster Planning department and in total a whole year for the project to be completed. All 3 properties' insurance companies were involved. The insurance did not cover the destruction of our garden or the replanting of new trees which were destroyed by the fall. The claim resulted in a material increase in our insurance premia.
- Fortunately the tree fell across the gardens and not onto any of our residential buildings in which case it could have easily caused fatalities and much more extensive damage to our properties-the tree fell at around 3 am when residents would have been in bed and therefore, sitting ducks – since the bedrooms are mainly located at the back in all of the adjacent properties, including the block of flats St Giles House most exposed.
- When the Westminster Arboriculture Officer, Jamie Newman visited the site in October he indicated to me that he did foresee even giving me permission to reduce the height of the tree because this would damage the health of the tree. I am making the presumption that residents' safety should be prioritised over the health of the tree. At the least you should consider allowing me to reduce the size to the extent that the tree no longer poses a threat to the neighbouring buildings if it falls.

### **3 Response to Objection**

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 6 February 2024. The Officer considered the objection and stated the following conclusions: -

- It is unfortunate that the tree that fell caused just over £285,000 worth of damage. Photographs (supplied by a tree surgeon) of the tree that fell showed it was diseased and had extensive basal decay, and my inspection of the remains of the tree stump confirmed this. Whilst it was unfortunate the neighbouring tree fell and caused damage it is my opinion the tree fell in high winds because of the basal decay.
- I consider that whilst the tree is close to the boundary with Pentagram Yard the relationship between the wall of the building within Pentagram Yard and the tree is not uncomfortably close, and the Silver lime (T1) could be periodically re-pruned to address any perceived inconvenience.
- I do not consider the issue of the other tree (that had basal decay) falling and the subsequent issues you say you had with planning permission, project completion and increased insurance premia have a bearing on the removal of the Silver lime (T1) to be included in the Order.
- I also understand that the tree that fell was also within falling distance of properties and you consider that if it fell towards the rear elevation of properties, where people were sleeping, it could have caused greater damage to property or harm to people or fatalities, and you are also concerned that the Silver lime (T1) could also fall and cause damage or fatalities.
- It is common for large mature trees (such as T1) within the Borough of Westminster to be within falling distances of property and people. Trees are living and dynamic structures and as such all trees within the Borough of Westminster carry a risk of failure and there are many large mature trees in

similar locations that are also protected by TPOs. However, it would be a disproportionate response to remove healthy trees because a nearby tree died or fell.

- I hope that it will reassure you that I consider the reason the other tree fell in high winds was because it had extensive basal decay and that when I inspected the Silver lime (T1) in October 2023 there were no obvious signs of decay or disease. I consider the tree to be of good form and in good condition, with a long-life expectancy. It would not be justified to remove T1 because it is within falling distance of property or people, and because another nearby tree fell in high winds.
- In December 2022 Westminster City Council raised no objections (reference 22/07769/TCA) for a crown reduction to T1. At the time of my last visit in October 2023 the tree had been pruned and you asked about further pruning to create a much smaller tree, I advised that further pruning would harm the tree and without sufficient justification would likely be refused consent.
- When trees are pruned this creates wounds which act as entry points for decay. Large wounds can lead to significant decay, which can increase the risk of branch/tree failure and can shorten the trees' lifespans. If the trees are regularly pruned back to the same points, then they can create defensive barriers against the decay. If they are pruned below the same points the barriers to decay are lost. Furthermore, heavier pruning creates more substantial wounds and removes resources the trees use for normal functions, including defence, thereby reducing the overall physiological conditions of the trees and their ability to defend against pathogenic disease and decay.
- I appreciate that the tree is large, but heavy pruning of such a mature specimen would be detrimental to its condition and amenity value, would put the tree at significantly greater risk of infection by disease and decay that

would shorten its lifespan, however periodic re-pruning to the same (recent) reduction points to maintain the size of the tree is likely to be acceptable.

#### **4. Further response from the Owner of the Property**

4.1 The City Council's Legal Service received an email and letter dated 16 February 2024 from the Owner of the Property. The letter was in response to the City Council's Arboricultural Officer letter dated 6 February 2024. The following points were made:

- I understand your assessment regarding the decay of the neighbouring tree and its unfortunate consequences. However, I must emphasize the urgent need for action to prevent similar incidents in the future. While the issues with planning permission and insurance may not directly relate to the TPO, they underscore the importance of prioritizing safety and risk mitigation.
- Your explanation regarding the risk assessment of mature trees within the borough is noted. However, given the potential catastrophic consequences of a tree falling onto residential buildings, I urge you to reconsider the decision. Safety should be paramount, and proactive measures should be taken to mitigate any potential risks.
- Thank you for correcting the typographical error. I acknowledge the importance of maintaining the health and integrity of the tree. However, given the circumstances, I urge you to reconsider the possibility of further pruning or reduction to ensure the safety of residents and properties in the vicinity.
- T1 towers over the wall separating Pentagram yard, the car park of St Giles House and indeed the rear of my property all of which would be crushed were the tree to fall in high winds. Human beings and living and dynamic as well as trees.
- I appreciate the clarification regarding legal liabilities and responsibilities. I will certainly consider having the tree assessed by a qualified arboriculturist as

suggested. My legal notice remains in place, however on the grounds that in the event of another incident, I shall hold Westminster Council responsible, as per the definition of legal notice.

## **5. Response to the Owner of the Property**

5.1 The City Council's Arboricultural Officer responded to the objection by letter dated 27 February 2024. The Officer considered the objection and stated the following conclusions: -

- In basic terms, risk assessment is an assessment of how likely it is that someone could be harmed or that property is damaged and how serious it could be. I agree that if the tree were to fall the potential consequences could be catastrophic (because of the size and location of the tree), but it does not automatically follow that the tree is likely to fall. I note that you will consider having the tree assessed by a qualified arboriculturist, this would be an appropriate proactive measure, I also recommend you ask specifically for a tree related risk assessment.
- The making or confirmation of the TPO does not prevent you from making an application for pruning, if the reason for the works is because of the condition of the tree (e.g. is diseased or you have fears that it might break or fall) the legislation requires that you provide written arboricultural advice or other diagnostic information from an appropriate expert. If the City Council refuses consent, you will have the right to make an appeal to the Planning Inspectorate.
- For clarity my previous reply also provided that the Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out that the Council could be liable for costs arising from a decision to refuse consent to a TPO application (Regulation 24) but the Council cannot be found liable for any claim for compensation for costs arising as a result of the making of the TPO. I shall leave any further legal matters to the City Council's legal department.



6. **Email in support of the TPO:**

6.1 The Council's Legal Service received an email in support of the TPO on the grounds that:

- I hope that it would be preserved for nature and bird life. It is healthy and has a good structural shape.

7. **Conclusion**

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

(a) NOT TO CONFIRM Tree Preservation Order No. 700 (2023); OR

(b) TO CONFIRM Tree Preservation Order No. 700 (2023) with or without modification with permanent effect.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT ROSS FLETCHER, LEGAL SERVICES (Email [Rfletcher@westminster.gov.uk](mailto:Rfletcher@westminster.gov.uk)) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES (Email [gheudebourck@westminster.gov.uk](mailto:gheudebourck@westminster.gov.uk))

## **Local Government (Access to Information) Act 1985**

### **Background Papers**

1. Copy of Provisional TPO 700 (2023)
2. Objection from the Owner of the Property dated 7 December 2023
3. Response letter from the City Council's Arboricultural Officer dated 6 February 2024
4. Further Objection from the Owner of the Property dated 16 February 2024.
5. Response letter from the City Council's Arboricultural Officer dated 27 February 2024
6. Email in support of the TPO
7. Report of Council's Arboricultural Officer dated 3 November 2023 recommending making of the Provisional Order

# Agenda Annex

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 19th March 2024  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 23/08920/FULL  Marylebone	13 Salisbury Place London W1H 1FJ	Use of part of ground and first floors (rear building) as offices, social support facilities for those in need, facilities for volunteers including temporary sleeping accommodation and for associated ancillary activities (Sui Generis).	Central London Samaritans
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
2.	RN(s): <u>Application A:</u> 23/02207/FULL  <u>Application B:</u> 23/02248/TCH  St James's	11 Strand London WC2N 5HR	<u>Application A:</u> Use of upper ground and lower ground floor as a public house with food provision (Sui Generis) and installation of mechanical plant equipment with associated enclosure on a platform within side courtyard and one air conditioning unit at rear lower ground floor level.  <u>Application B:</u> Use of an area of the public highway measuring 1.2m x 11.4m to Charing Cross Station forecourt frontage for the placing of 5 tables, 10 chairs and one planter and two additional planters to undercroft in connection with the ground floor use.	Allvest Company Limited
	<b>Recommendation</b> <u>Application A:</u> Grant conditional permission.  <u>Application B:</u> Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant
3.	RN(s): 23/05458/FULL  St James's	Wellington Barracks Birdcage Walk London SW1E 6HQ	Redevelopment of band practice facilities including demolition of existing rehearsal halls and erection of new extension to provide larger rehearsal halls, including reconfiguration at basement level to provide new band practice, changing and storage facilities for the bands of the Foot Guards.	Defence Infrastructure Organisation
	<b>Recommendation</b> Grant conditional permission.			
Item No	References	Site Address	Proposal	Applicant

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 19th March 2024  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

<b>4.</b>	<b>RN(s):</b> 23/04115/FULL  Knightsbridge & Belgravia	42 Boscobel Place London SW1W 9PE	Excavation of a basement beneath the footprint of the dwelling, alterations to fenestration on front elevation, and raising the rear wall at second-floor level.	Mrs Ingrid Woodhouse
<b>Recommendation</b> Grant conditional permission.				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
<b>5.</b>	<b>RN(s):</b> 23/08032/ADV  Knightsbridge & Belgravia	90 Brompton Road London SW3 1ER	Display of seven internally illuminated window signs at first floor level measuring 74.5 cm x 188.5 cm; one internally illuminated fascia sign at ground floor level measuring 87 cm x 200 cm; and one internally illuminated projecting sign at ground floor level measuring 77.3 cm x 68.3 cm.	KPHD Ltd
<b>Recommendation</b> Grant conditional consent.				

**CONFIRMATION OF TPO – REPORTS FROM THE DIRECTOR OF LAW**  
 (Public Item, but not for inclusion in the Planning Applications part of the agenda)

<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
<b>1.</b>	<b>RN(s):</b> TPO No.699  Abbey Road	34 Marlborough Place London NW8 0PD	To confirm or not confirm Tree Preservation Order No. 699.	N/A
<b>Recommendation</b> N/A				
<b>Item No</b>	<b>References</b>	<b>Site Address</b>	<b>Proposal</b>	<b>Applicant</b>
<b>2.</b>	<b>RN(s):</b> TPO No.700  Bayswater	162 Westbourne Grove London W11 2RW	To confirm or not confirm Tree Preservation Order No. 700.	N/A
<b>Recommendation</b> N/A				

# Agenda Item 1

Item No.

1

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Marylebone	
<b>Subject of Report</b>	13 Salisbury Place, London, W1H 1FJ		
<b>Proposal</b>	Use of part of ground and first floors (rear building) as offices, social support facilities for those in need, facilities for volunteers including temporary sleeping accommodation and for associated ancillary activities (Sui Generis).		
<b>Agent</b>	Treanor Consulting		
<b>On behalf of</b>	Central London Samaritans		
<b>Registered Number</b>	23/08920/FULL	<b>Date amended/ completed</b>	22 December 2023
<b>Date Application Received</b>	22 December 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

The property comprises a two-storey office building located through a passageway under the first floor of 14 Salisbury Place. The application involves the use of this building as offices and support facilities for the Central London Samaritans (CLS) who are currently located at 46 Marshall Street. Internal alterations are proposed to provide sleeping spaces and showers for volunteers requiring rest either before or after a night shift. The core of Samaritans' work is a telephone helpline, operating 24 hours a day, 365 days a year, however, the organisation offers a drop-in service for face-to-face discussion with visitors able to arrive between 09:00-21:00 daily.

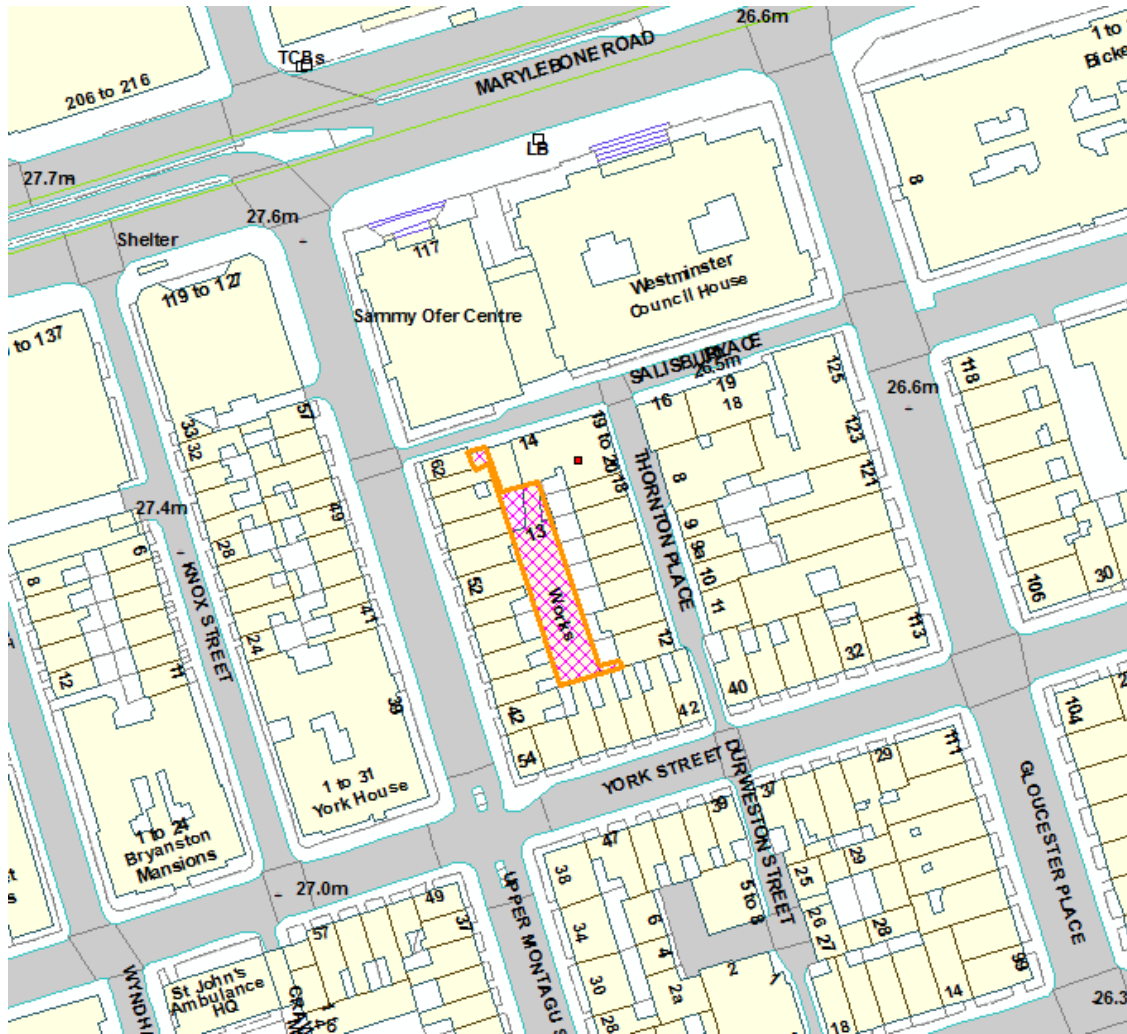
The key considerations in this case are:

- The acceptability of the proposal in land use terms
- The impact on the amenity of neighbouring residential properties.

Strong objections to the proposal have been received on the grounds that the use is inappropriate

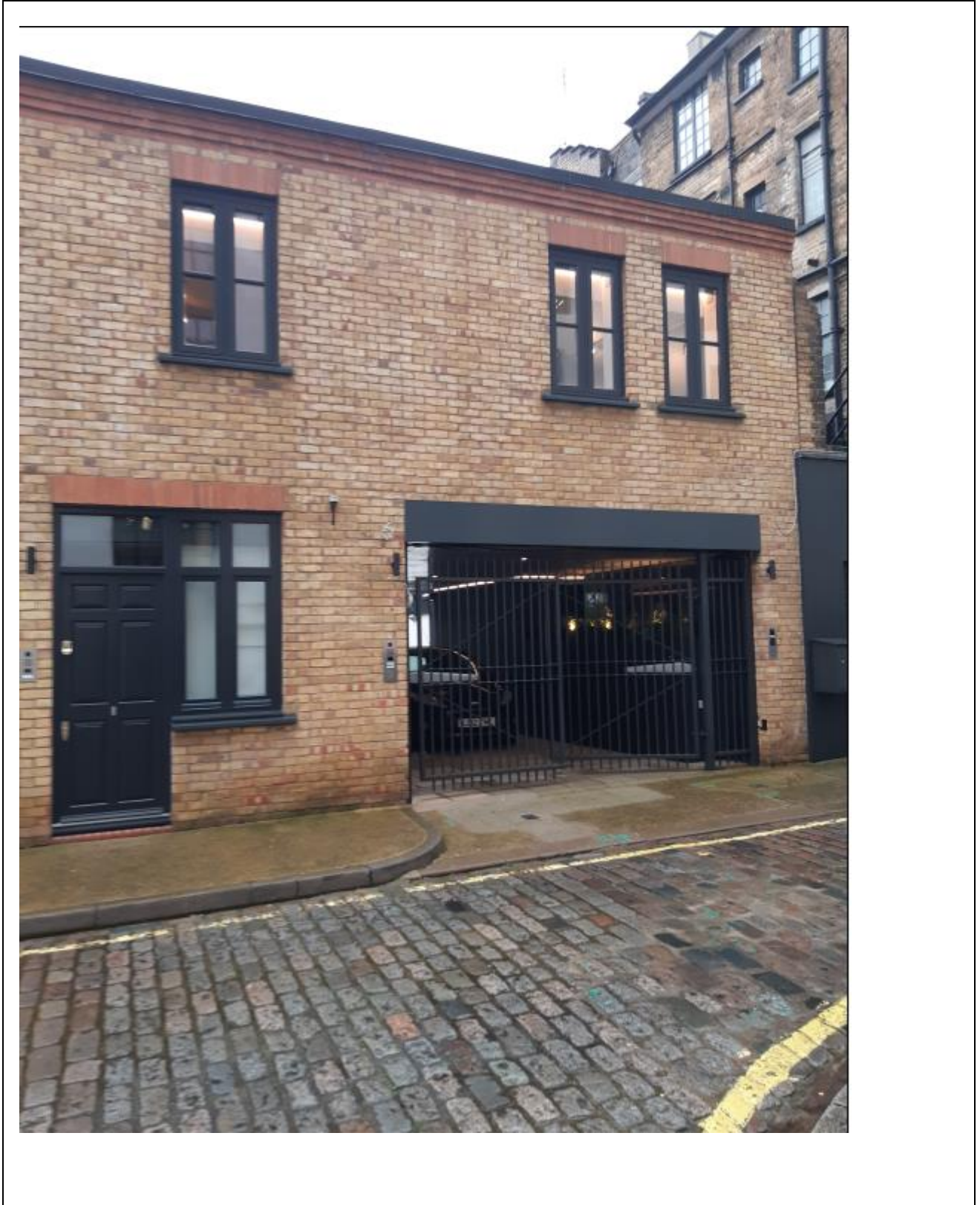
within a residential area and would lead to noise, disruption, increased parking and anti-social behaviour problems. As set out in this report and following the submission of a detailed operational management plan, the proposed development is considered to accord with the relevant policies in the Westminster's City Plan 2019 – 2040 (the City Plan). The application is therefore considered acceptable in land use, amenity and highways terms and is recommended for approval subject to the conditions set out in the draft decision letter.

### 3. LOCATION PLAN

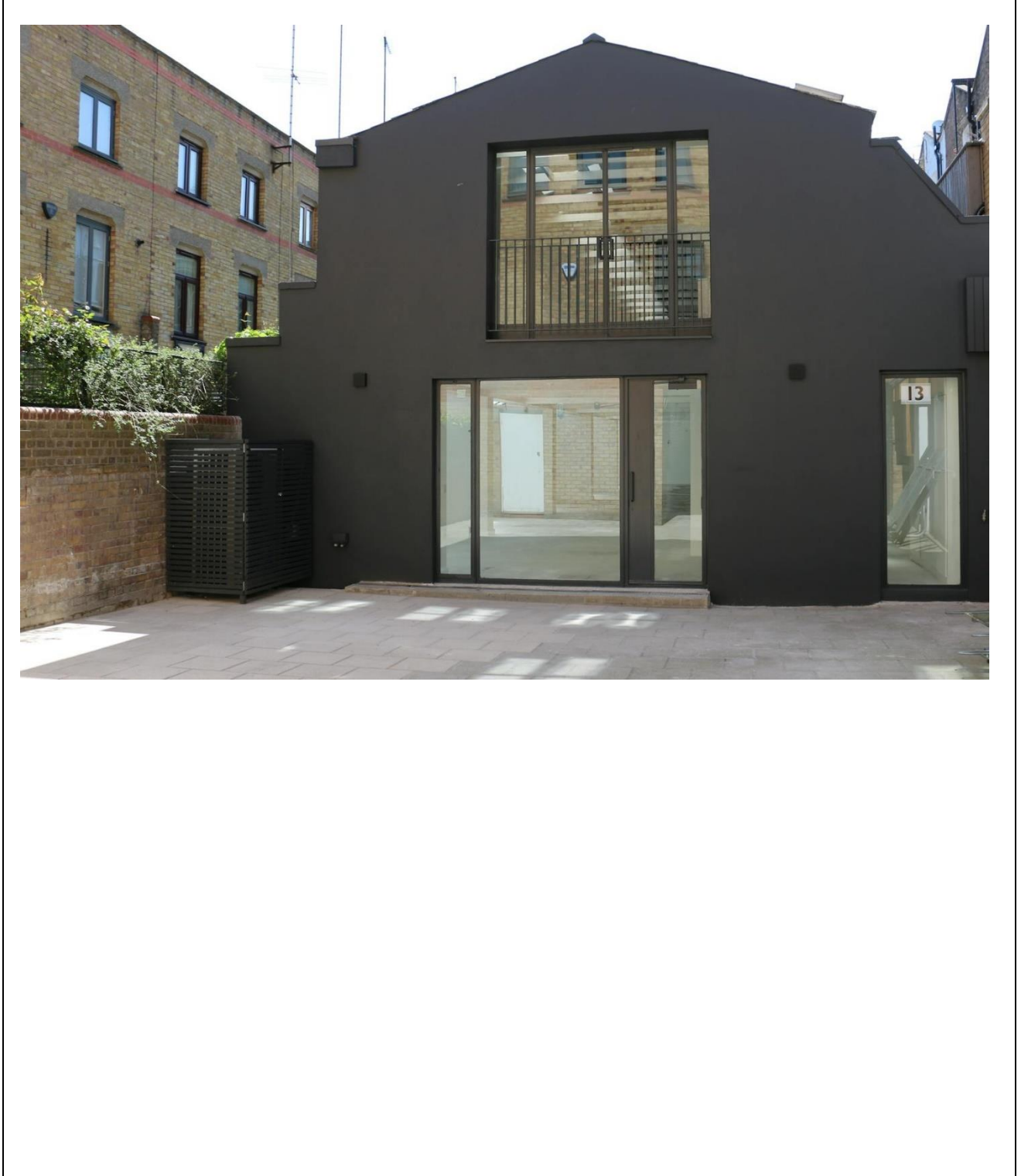


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4. PHOTOGRAPHS







## 5. CONSULTATIONS

### 5.1 Application Consultations

#### WARD COUNCILLORS FOR MARYLEBONE

Strongly support the residents' concerns.

#### METROPOLITAN POLICE

Any response to be reported verbally.

#### MARYLEBONE ASSOCIATION

Believe that the measures within the submitted Operational Management Plan adequately respond to the concerns of residents and support the application provided that the principles of the Management Plan are secured by condition.

Suggest that the building is assessed against Secured by Design principles to make recommendations and address any safety concerns, particularly concerning the lack of natural surveillance around the gated entrance to the courtyard from Salisbury Place.

#### HIGHWAYS PLANNING MANAGER

No objections raised.

#### WASTE PROJECT OFFICER

No objections raised.

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

No. Consulted: 80

Total No. of replies: 39

No. of objections: 34; No. in support: 3 and 2 letters of response neither objecting to or supporting the application

Support on the following grounds:

\* The proposals would enable the Samaritans to retain a base in Westminster to support their crucial work to support people in crisis.

\*The proposed operations are less onerous than if used under its present planning use by an alternative occupier

\*The location is well served from a public transport perspective, safe and secure for vulnerable users.

\*The application is appropriate and the Samaritans have a strong track record at Marshall Street

\* The application is well thought-through, with a range of measures in place to mitigate against any noise or impact on residential amenity

Objections raised on the following grounds:

\*Inappropriate use within a residential area contrary to local plan policies

\*Disturbance and noise given the proposed 24/7 use up to 9pm

\*Increase in anti-social activity

\*Increase in crime and lack of crime prevention statement contrary to Policy 38C and

paragraph 38.9 of the Westminster City Plan and the NPPF

\*Noise from shift workers leaving and arriving early and/or late at night

\*Previous use was very quiet, with no more than about 10 staff keeping 9 to 5 office hours 5 days a week.

\*Loss of privacy from large first floor window

\*Light pollution

\*Increase in traffic

\*Noise from parking

\*Narrow pavements are treacherous for pedestrians

\*Lack of noise-impact assessment contrary to City Plan Policy 33 and London Plan D13 Agent of Change

\*The access onto Thornton Place is only for fire escape

\*Concerns regarding security and access to the rear of properties on Upper Montagu Street via the garage roof on Salisbury Place

\*Query regarding waste storage and the placement of bins on the pavement/street pose a pedestrian /traffic hazard.

\*The use of the building for training sessions and private hire would result in an enormous increase in the current activity and footfall in the area

\*Adverse impact on the conservation area

\*Limited mobile phone coverage will mean that calls will be made in Thornton Place

\*Lack of consultation with residents

\*The contention that the Samaritans want to expand would inevitably lead to more comings and goings by volunteers and extra noise.

PRESS NOTICE/ SITE NOTICE:

Yes

## 5.2 Applicant's Pre-Application Community Engagement

Whilst no pre-application discussions have been carried out by the applicant with neighbours, the applicant contacted the Marylebone Association and ward councillors and invited them to meet. The applicant also hand-delivered letters to all neighbours who had been notified of the application by the Council inviting them to drop-in sessions at 13 Salisbury Place on the following dates:

- 30 January - first drop-in session at 6-8pm.
- 4 February - second drop-in session at 10am-midday

## 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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 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 (December 2023) unless stated otherwise.

## **7. BACKGROUND INFORMATION**

### **7.1 The Application Site**

The property comprises an unlisted two-storey office building located within the Portman Estate Conservation Area and Central Activities Zone (CAZ). The building is accessed through a passageway under the first floor of 14 Salisbury Place but also has a separate garage which faces Salisbury Place. The building has a means of escape onto Thornton Place, which is part of the ownership of 12 Thornton Place.

The site is adjoined by residential properties. To the east are 3-storey town houses along Thornton Place with rear gardens that back on to 13 Salisbury Place. To the west are 4/ 5-storey town houses along Upper Montagu Street. Immediately north of Salisbury Place is the rear of the former Marylebone Town Hall.

### **7.2 Recent Relevant History**

Planning permission granted in December 1984 for the "Use of the Rear Building by Springett Associates as Offices and Light Industrial Premises". The permission was subject to Condition 3 which states that "The Office use hereby permitted shall be carried on only by Springett Associates Limited and in addition to the existing use of the premises for light industrial purposes and the office use hereby permitted shall be discontinued on the date when Springett Associates Limited ceases to occupy the premises."

In May 2001 Springett Associates went into liquidation and different companies subsequently used the offices over many years and in 2022, a Lawful Development Certificate for the use of the existing offices in breach of the planning condition was granted (Ref: 20/03959/CLEUD).

## **8. THE PROPOSAL**

The application involves the use of this building as offices and support facilities for the Central London Samaritans (CLS) who are currently located at 46 Marshall Street.

Internal alterations are proposed to provide sleeping spaces and showers for volunteers requiring rest either before or after a night shift. The core of Samaritans' work is a telephone helpline, operating 24 hours a day, 365 days a year, however, the organisation offers a drop-in service for face-to-face discussion, with visitors able to arrive between 09:00-21:00 daily.

CLS has 6 paid members of staff, 3 in the office full time and 3 working partly in the office/ partly from home. There are approximately 350 volunteers who generally spend 5 hours in the office for 3 out of 4 weeks. Some volunteers are outreach and will rarely visit the branch. The applicant therefore estimates that there would be on average 12-16 staff/volunteers in the building at any one time.

The building will be open for CLS staff during normal office hours (08:00-18:30, Monday–Friday), however the majority of CLS volunteers operate to regular shift hours of 02:30-06:30; 06:30-08:30; 08:30-13:30; 13:30-18:00; 18:00-22:15 and 22:15-02:30 Monday-Sunday. Most volunteers arrive 30 minutes before a shift and leave 30 minutes after a shift has finished. Bedrooms are also available for volunteers who are manning the phones late or early for a few hours' sleep before or after the late and early shifts (10:30pm-2:30am or 2:30am to 6:30am).

CLS also propose to run volunteer / staff training sessions in the property during the day or in the evening (08.00 to 22.30 Monday-Sunday inclusive) and may hire out meeting rooms during office hours Monday-Friday and occasionally at weekends by prior arrangement only (office hours are 08:00-18:30 Monday-Friday).

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

#### **Loss of office use**

Objectors contend that the loss of office space is prevented by policy. Whilst City Plan 13 resists the loss of offices, this is with specific reference to proposals for replacement by residential and hotel use. There is no conflict with policy in relation to the use of the building as a mixed office/community use.

#### **Social & Community Uses**

The NPPF places great emphasis on the importance of promoting “an effective use of land in meeting the need for homes and other uses” and states that in order to provide the social, recreational and cultural facilities and services that communities need, planning decisions should “support the delivery of local strategies to improve health, social and cultural wellbeing for all sections of the community” (paragraph 97).

Policy S1 of the London Plan states that “development proposals which provide high quality social infrastructure will be supported” and that “new facilities should be easily accessible by public transport, cycling and walking and should be encouraged in high streets and town centres”.

City Plan Policy 17 states that “new community infrastructure and facilities will be

supported where there is an identified present or future need” and that “where new facilities are provided they should be designed to accommodate a range of community uses wherever possible. The council will strongly encourage the co-location of facilities and access for appropriate organisations and the local community”. Policy 1 is also relevant and this supports the future growth and intensification of the CAZ in a manner that balances its many competing functions.

Objectors believe that the use is inappropriate within a residential area, however, the building is already in commercial use, and Policy 17 supports new community facilities throughout Westminster. Given the location of the site and the high level of local transport accessibility, it is considered that it is easily accessible to all potential users. In relation to the requirement for a need for the use to be demonstrated, CLS contend that the charity meets an identified, and regrettably growing, need. In 2021 the charity reached out to around 47,000 vulnerable people over the phone, in person and via email and webchat. They also receive over 175 enquiries a month from new people wanting to volunteer and argue that by creating new premises at 13 Salisbury Place they can provide the potential to accommodate more staff as services expand and take-on more volunteers increasing the number of available listeners at any one time both on the phone, by email, webchat and offering support in person.

### **Sleeping Accommodation**

The first floor is to be reconfigured to provide up to six pod-type rooms for overnight accommodation for volunteers who work the late/early morning shifts. This is not a form of permanent residential accommodation to which the Council’s normal policies or standards apply. There is a clause within the OMP that restricts this accommodation to be used only immediately before or after the late and early shifts.

#### **9.2 Environment & Sustainability**

Not relevant to the proposal.

#### **9.3 Biodiversity & Greening**

Not relevant to the proposal.

#### **9.4 Townscape, Design & Heritage Impact**

Whilst concerns have been raised relating to the impact on the conservation area, the proposal includes no external alterations. Hence, the proposed development raises no issues in relation to design or conservation matters.

#### **9.5 Residential Amenity**

##### **Policy Background**

To ensure that any detrimental impacts on existing users of an area are avoided, City Plan Policy 7 requires new development to be neighbourly by protecting, and where appropriate enhancing local environmental quality and protecting and positively responding to local character and the historic environment. In considering development

proposals, the Council will take a balanced approach that considers the specific site location and context as well as the merits of the proposals including the consideration of the wider benefits of a scheme against impacts on the surrounding area.

The Plan recognises that factors such as polluted air, excessive smells, poor waste management, noise and strong vibrations are examples of environmental impacts that have an adverse impact on quality of life and health and well-being. Development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours. It confirms that the Council will place the burden on the applicant to ensure mitigation measures are included to safeguard future local amenity and to ensure that development does not cause existing nearby uses from having to curtail their activities.

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents and development to prevent the adverse effects of noise and vibration with particular attention to minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses; minimising noise from plant machinery and internal activities and minimising noise from servicing and deliveries.

### **Assessment on amenity grounds**

Strong objections to the impact of the use on nearby residents have been received, including those relating to the increased number of visitors compared to the lawful office use, the hours of use proposed and the noise from shift workers leaving and arriving early and/or late at night.

With regard to the proposed use, as set out above, the core of Samaritans' work is a telephone helpline, operating 24 hours a day, 365 days a year. With six office staff and a core group of volunteers, the applicant estimates that there would be on average 12-16 staff/volunteers in the building at any one time. This is substantially less than the former office use of the building (and photographs within the sales brochure indicate that the building has capacity for at least 40 computer terminals together with additional break-out areas and meeting rooms).

However, the volunteer staff work shift hours and could arrive/leave late at night for the 22:15-02:30 and 02:30-06:30 shifts and arrive early in the morning for the 06:30-08:30 shift. Clearly these hours are substantially different to the hours that a 'normal office' would operate, but the proposals include the provision of overnight sleeping accommodation that would enable the volunteers to remain in the premises during these late/early hours. Information submitted with the application indicates that volunteers are likely to stay on the premises and sleep after the 22:15-02:30 shift or arrive early before the 02:30-06:30 shift rather than leave the building.

Occupancy	Hours					
	22:15 – 02:30	02:30 – 06:30	06:30 – 08:30	08:30 – 13:30	13:30 – 18:00	18:00 – 22:15
Volunteer Night Shift 3-4 people	On duty	Sleep	Sleep			
Volunteer Night Shift 2-3 people	Sleep	On duty	Sleep			

In addition, the Samaritans would also provide training sessions for their staff and hire out meeting rooms, but this would ordinarily be during office hours Monday-Friday (08:00-18:30 Monday-Friday) and occasionally at weekends.

The organisation does offer a drop-in service for face-to-face discussion with visitors able to arrive between 09:00-21:00 daily (with the last caller leaving at 22:00 hours at the latest). Further information has been submitted that shows the number of visitors to the current Samaritans premises in Marshall Street over a 6-month period between July and December last year. Arrival of visitors are spread throughout the day between the hours of 09:00 to 21:00 and for the busiest week (week of 10th to 16th December) a maximum of 40 callers attended the premises, equating to 6 visitors per day. Over this 6-month period, on average, some 22 people per week visited the premises, equating to 3 visitors each day. Therefore, with staff and volunteers, this represents a likely maximum of 22 people who would access the site across a typical day. It is not considered that the use is likely to generate such significant activity that it would be harmful to the amenity of neighbouring residents, particularly when compared to the lawful office use.

During the course of the application a fully worked-up OMP for the use has been received which includes the following measures:

- Limiting the use of the courtyard to parking only for disabled volunteers, members of staff or callers.
- Servicing will be carried out during daytime hours.
- No tables and chairs will be placed in the courtyard.
- Prohibiting staff, volunteers and visitors from smoking (or vaping) in the courtyard. Signs will be installed to inform visitors that the courtyard is a no-smoking area.
- Prohibiting staff, volunteers and visitors from making personal mobile calls in the courtyard.
- CLS staff and volunteers will be informed there are residential neighbours and reminded to arrive / leave the property quietly.
- The installation to internal window treatments (e.g. blinds, curtains etc.) to all windows including the first-floor balcony doors, that will be used from dusk.
- Limiting the hire of meeting rooms to office hours, and only occasional use at weekends

Further conditions are recommended to limit the hours of use for visiting members of the public, ensuring compliance with the OMP, requiring the entrance door to remain shut (other than for egress purposes) and restricting the access onto Thornton Place as means of escape only. Subject to these conditions, it is not considered that the use would have a material impact on the amenity of neighbouring occupants, including the effect of any traffic generated.



One of the objectors has requested a number of conditions relating to additional controls, a number of which have been included within the updated OMP (provision of signage, installation of a key-code access for staff, limiting parking to disabled volunteers/visitors only and provision of a contact number for emergency use). Some of the requested conditions, such as employment of facial recognition software, preventing the hire of rooms for non-Samaritan use, limiting the number of bedspaces, would either be difficult to enforce (and thereby unable to be controlled by condition) or fall beyond the remit of this application.

### **Privacy and Light Pollution**

A number of objectors refer to the fact that the existing windows cause light pollution and that overlooking would be worsened from the existing first floor balcony window. One of the objectors also refers to the existing security light.

With the exception of the large windows at the front of the building, the remaining windows are high level or obscure glazed. At present, none of the windows are screened by either blinds or other forms of window treatment and the applicant has confirmed that all the windows, including the large first floor window, will be installed with window treatments that will be operable from dusk. These are intended to prevent any night-time light-spill to the outside, avoiding adverse amenity impacts on nearby residents. The full details of these blinds, and their operation, is controlled by condition.

### **Plant**

It is understood that there will not be any new plant associated with the proposed development and that it can utilize existing plant. One of the objections also refers to noise from existing air-conditioning plant. Planning permission for air-conditioning plant was approved in 1985 (Ref: 85/00461/FULL) subject to a condition requiring the plant "not to be audible above ambient noise levels". This matter has been referred to the Planning Enforcement Team.

## **9.6 Transportation, Accessibility & Servicing**

The application has been reviewed by the Highways Planning Manager who raises no concerns. The site is well served by public transport and no notable change to pedestrian or vehicular movements would result from the proposal given the small level of floorspace involved. The site is also within a Controlled Parking Zone which will mean anyone driving to the site will be regulated by on-street parking controls.

The applicant suggests that 6 cycle parking spaces are proposed, but these do not appear to be indicated on the submitted drawings. This provision is welcomed, and details are secured via condition.

Revised waste storage details have been submitted and the Waste Projects Officer raises no objections.

One of the objectors has requested that additional street signage is provided, and this request has been passed on to the City Council's Street nameplate/Signage team.

## 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 by generating 6 jobs in a currently vacant building. The increase in jobs supported by this site will help to promote opportunities for local employment and will lead to increased spending in existing nearby shops and services and other town centre uses.

## 9.8 Other Considerations

### Crime and security

The National Planning Policy Framework (NPPF) sets out guidance for creating safe and accessible communities and City Plan Policy 38 states all development will place people at the heart of design, including by introducing measures that reduce the opportunity for crime and anti-social behaviour.

Objectors are concerned that the proposed use would both attract anti-social behaviour, increase the requirement for police presence and create problems with security, including access to the rear of properties in Upper Montagu Street and Thornton Place. The Metropolitan Police's Designing Out Crime Officer has reviewed the proposals and verbally raises no objections to the application and members will be advised of any updated comments at the committee meeting. A condition requiring the development to achieve a Secured by Design accreditation is proposed.

### Means of escape

Objectors are concerned that safe means of escape is required for the overnight accommodation and that emergency access needs clarification. However, there is an existing passageway at the rear of the building that runs beneath 12 Thornton Place and exits into the mews. One of the objectors believes that the width of this passage is inadequate in terms of means of escape, however, this is a matter for Building Control. A condition is proposed to ensure that the access onto Thornton Place is for means of escape only.

### Insufficient information and consultation

Objectors are of the view that responses from Transport for London, London Fire Brigade and the Council's Environmental Health and Renewable Energy/Sustainability officer should have been received. However, these are not required for this change of use application.

Objectors believe that the floorplans plans submitted are inadequate to determine the application. Indicative floorplans have been submitted that show the layout of the accommodation including space for meeting rooms, staff office and sleeping accommodation for up to 6 staff and means of escape via Thornton Place. Any physical change to provide, for example, new windows would need planning permission, and this is dealt with by informative.

Concerns have also been raised regarding the lack of a Noise Impact Assessment. The Environmental Supplementary Planning Document sets out that these are only required for noise generating commercial uses including music and entertainment uses (such as restaurants, clubs, pubs) and gyms.

### **Other issues**

One objection has been received on the grounds that planning permission for unrestricted Class E Use at the Samaritans current premises on Marshall Street "because the loss of office accommodation in this location would undermine the provision of an appropriate mix of uses that support the vitality, function and character of the Central Activities Zone and the West End Retail and Leisure Special Policy Area". This decision appears to relate to 36 Marshall Street and not 46 Marshall Street (the Samaritan's current premises).

### **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.

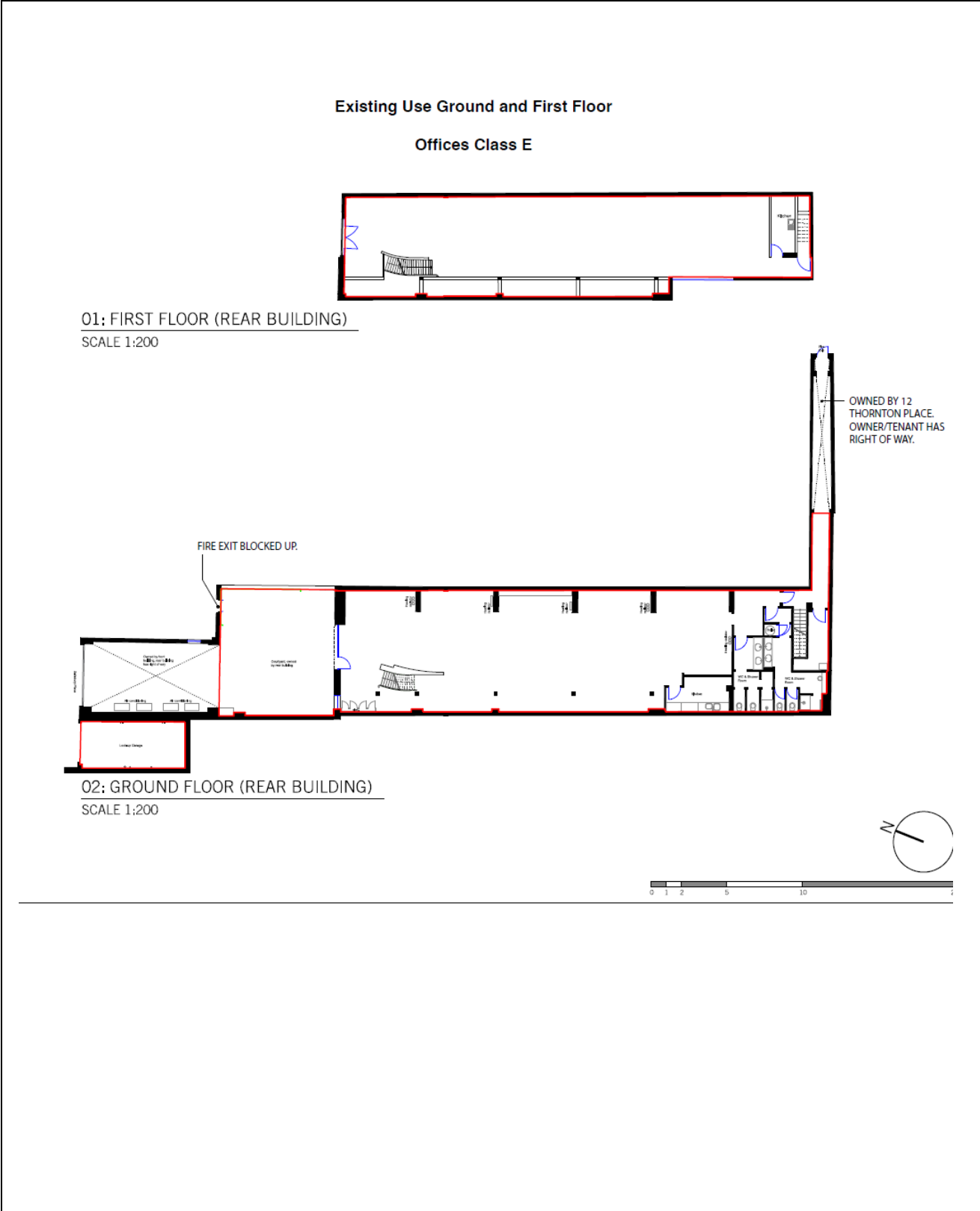
### **10. Conclusion**

Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and London Plan 2021. It is recommended that planning permission is granted, subject the conditions listed at the end of this report, which are necessary to make the development 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: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

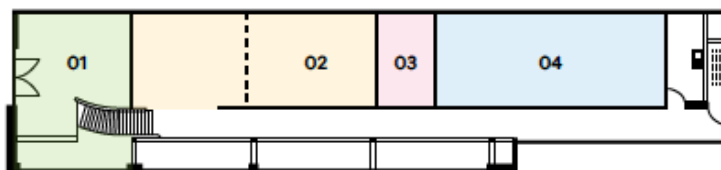
**11. KEY DRAWINGS**



### Indicative floor plans

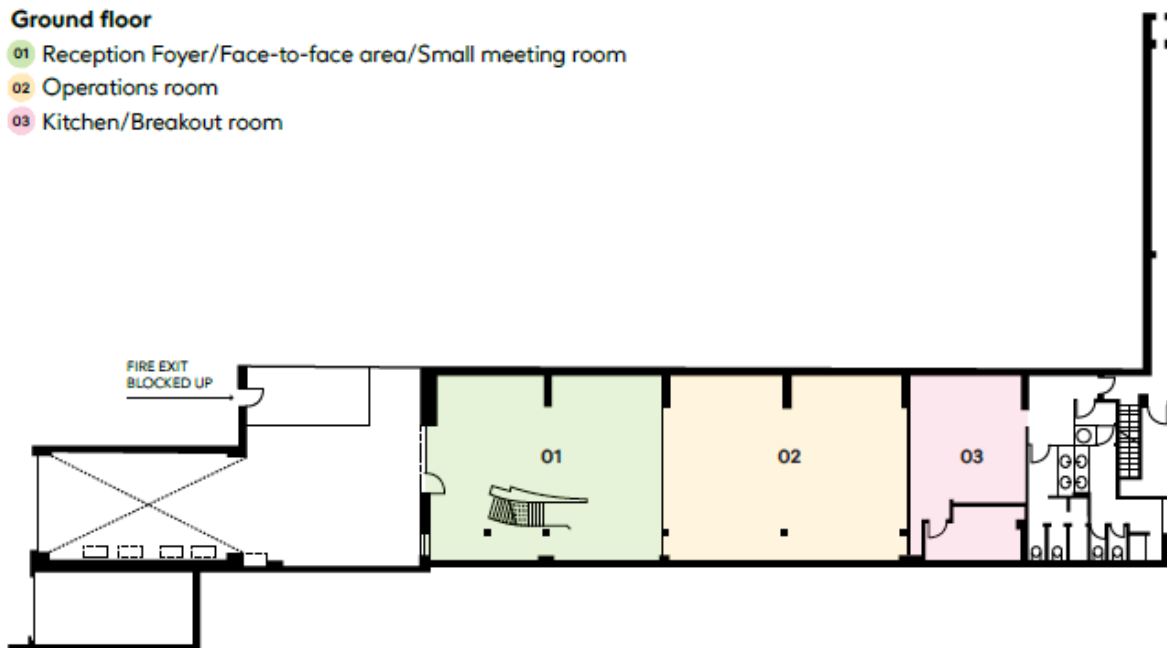
#### First floor

- 01 Staff office
- 02 Meeting rooms (capable of subdivision)
- 03 Faith room
- 04 Up to 6 bedrooms & showers for volunteers



#### Ground floor

- 01 Reception Foyer/Face-to-face area/Small meeting room
- 02 Operations room
- 03 Kitchen/Breakout room



**DRAFT DECISION LETTER**

**Address:** 13 Salisbury Place, London, W1H 1FJ

**Proposal:** Use of part of ground and first floors (rear building) as to offices, social support facilities for those in need, facilities for volunteers including temporary sleeping accommodation and for associated ancillary activities (Sui Generis).

**Reference:** 23/08920/FULL

**Plan Nos:** 194-200; Operational Management Plan dated February 2024; 3860/AS2 Rev PL3

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641  
07866040238

**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 passageway onto Thornton Place must be used for emergency access only.

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)

- 3 You must apply to us for approval of details of window treatments to all windows (so that no interior light is visible outside of the building during the hours of darkness). You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the window treatments prior to occupation and the blinds shall remain closed during the hours of darkness whilst the social support (sui generis use) is in operation.

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)

- 4 You must carry out the measures included in your Operational Management Plan dated February 2024 at all times that the social support (sui generis use) is in use. (C05KA)

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)

- 5 Customers shall not be permitted within the social support (sui generis) premises before 09:00 or after 22:00 each day. (C12AD)

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 You must not leave the entrance doors open other than for entrance/egress purposes.

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 Between the hours of 21:00-08:00 Monday-Friday and 21:00-09:00 Saturday and Sundays, the courtyard shall not be used except for pedestrian or cycle access/egress to/from the building and for the parking of cars by disabled drivers. It shall not be used for any other purpose outside of these hours.

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)

- 8 You must apply to us for approval of details of secure cycle storage social support (sui generis) use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the social support (sui generis use). You must not use the cycle storage for any other purpose. (C22JA)

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 the separate stores for waste and materials for recycling shown on drawing number 3860/AS2 Rev PL3 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 social support (sui generis) use. (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)

- 10 You must provide evidence of Secure by Design Accreditation prior to occupation of the building.

Reason:

To ensure that the development has been built with suitable security measures in place to minimise the risk of crime and anti-social behaviour in accordance with Policies 38 and 43 of the City Plan 2019 - 2040 (April 2021).

**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 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.
- 3 This permission does not allow any work which would change the outside appearance of the



Item No.
<b>1</b>

property. (I18AA)

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

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# Agenda Item 2

Item No.
2

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	11 Strand, London, WC2N 5HR		
<b>Proposal</b>	<p><b>Application 1:</b> 23/02207/FULL Use of upper ground and lower ground floor as a public house with food provision (Sui Generis) and installation of mechanical plant equipment with associated enclosure on a platform within side courtyard and one air conditioning unit at rear lower ground floor level.</p> <p><b>Application 2:</b> 23/02248/TCH Use of an area of the public highway measuring 1.2m x 11.4m to Charing Cross Station forecourt frontage for the placing of 5 tables, 10 chairs and one planter and two additional planters to undercroft in connection with the ground floor use.</p>		
<b>Agent</b>	nineteen47		
<b>On behalf of</b>	Allvest Company Limited		
<b>Registered Number</b>	<b>Application 1:</b> 23/02207/FULL <b>Application 2:</b> 23/02248/TCH	<b>Date amended/ completed</b>	<b>Application 1:</b> 17 May 2023 <b>Application 2:</b> 16 June 2023
<b>Date Application Received</b>	<b>Application 1:</b> 3 April 2023 <b>Application 2:</b> 4 April 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Trafalgar Square		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

<p><b>Application 1:</b> Grant conditional permission.</p> <p><b>Application 2:</b> Grant conditional permission.</p>
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## 2. SUMMARY & KEY CONSIDERATIONS

11 Strand is an eight storey plus basement unlisted building within the Trafalgar Square Conservation Area, Central Activities Zone (CAZ), Strand CAZ Retail Cluster and the West End Retail and Leisure Special Policy Area (WERLSPA). The applications relates to the two existing retail units at upper and lower ground floor level.

Application 1 seeks permission for the use of upper and lower ground floors as a public house with food provision (Sui Generis) and the installation of mechanical plant equipment within a side courtyard and at rear lower ground floor level.

Application 2 seeks permission for the use of one area of the public highway to Charing Cross Station frontage for the placing of tables and chairs in connection with the new ground floor use.

The key considerations in both cases are:

- The acceptability of a public house in this location in land use terms;
- The impact of the use, outdoor seating and proposed equipment on the amenity of neighbouring properties and local environmental quality;
- The impact of the proposed plant on the character and appearance of the building and Trafalgar Square Conservation Area; and
- The impact of the outdoor seating on the highway.

Objections have been received from the Covent Garden Community Association, the Northbank BID Project and local residents primarily on the grounds of harm to residential amenity due to late-night disturbance, increased anti-social behaviour and the over-concentration of drinking establishments.

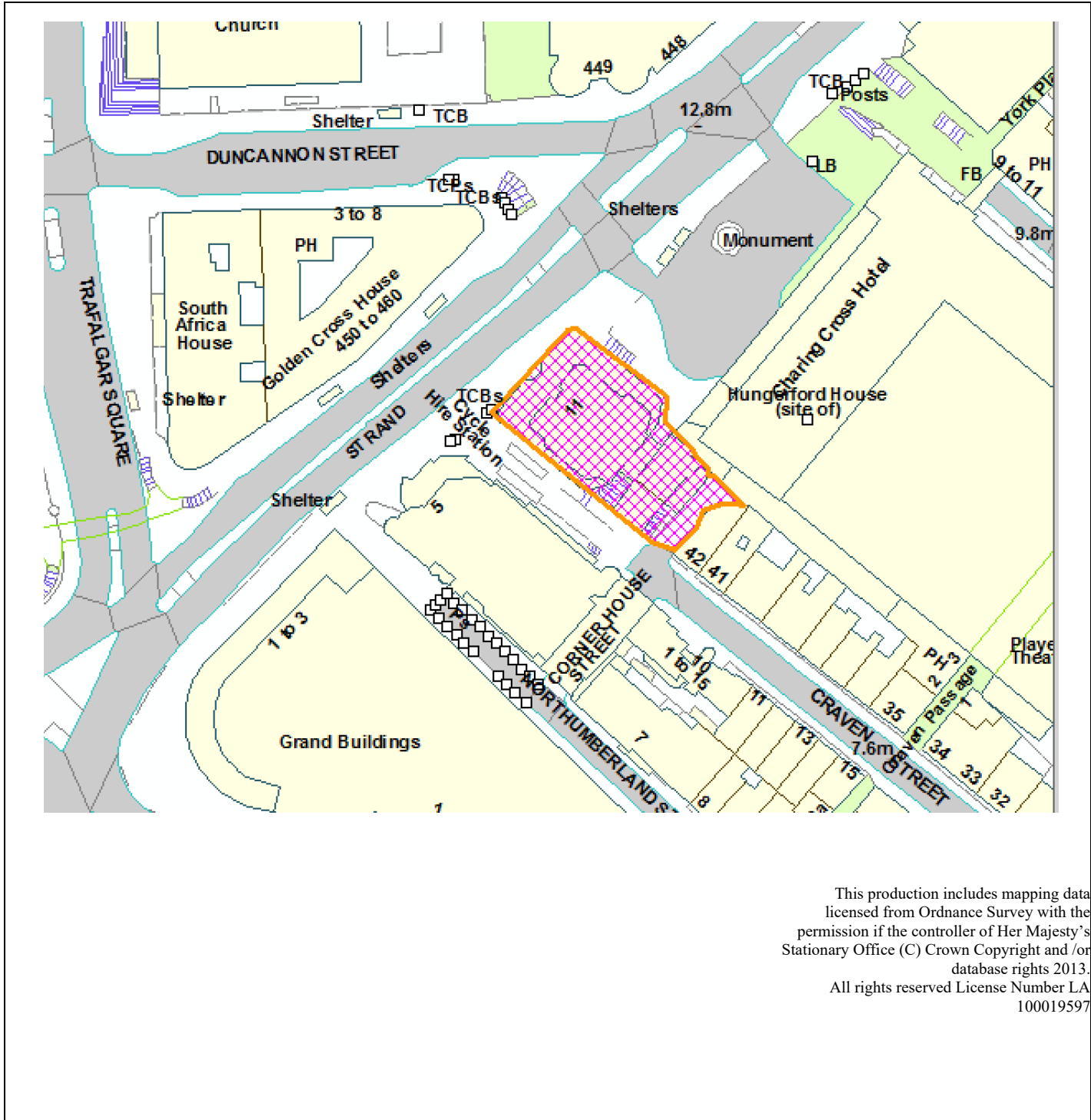
The applications were due to be reported to Committee on 05 December 2023 but were withdrawn from the agenda so officers could consider late representations from residents and the Metropolitan Police.

Amendments have since been made to the proposals to:

- omit tables and chairs from the Craven Street frontage;
- reduce the hours of use of tables and chairs from 2230 to 2200 hours;
- reduce the public house capacity from 340 to 320 covers; and
- revise the Operational Management Plan (OMP) to ensure that the Craven Street entrance will only operate between 0700 and 2200 hours, and also to require door staff from 1800 hours daily.

As set out in this report, and following these recent amendments, the proposed development accords with the relevant policies in the Westminster's City Plan 2019 – 2040 (the City Plan), the London Plan and the guidance set out in the Mayor's Culture and the Night-Time Economy Supplementary Planning Guidance (SPG). The applications are considered acceptable in land use, design, amenity and highway terms, and are recommended for approval subject to the conditions set out in the draft decision letters.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation



**Charing Cross station forecourt frontage**



**Craven Street corner**

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### Application 1: 23/02207/FULL

##### TRANSPORT FOR LONDON (TfL):

Long stay cycle parking is provided which is compliant with London Plan Policy. Short stay cycle parking should be secured on site. The deliveries and servicing strategy is acceptable. During construction the footway and carriageway on the Strand which is part of the Strategic Road Network must be not blocked, temporary obstructions kept to a minimum, all vehicles must only park/stop at permitted locations and in accordance with on-street restrictions and no skips or construction material shall be kept on footway or carriageway.

##### LONDON UNDERGROUND:

No objection, but require details of how the odour and fumes from the the kitchen extraction system can be prevented from entering into Craven Street Vent Shaft.

##### METROPOLITAN POLICE:

Application not supported. The area experiences high levels of crime. There are particular issues with organised gangs targeting pubs and their patrons, problems with robberies in the evening and Westminster has one of the highest reported crimes for violence against women and girls within London. No considerations for security of the premises, staff or patrons in the application. There are three entrances/exits to the venue which make it very permeable. No information how outside seating areas will be managed. The undercroft is a spot for rough sleepers at night, they will use the furniture to sleep on.

After publication of previous committee report:

Objection from the Police and local transport teams as the pub chain wishing to apply would cause wider issues and that area is the main robbery corridor to the west end which cannot be policed now due to resourcing let alone with a pub chain on the side of a major railway station / tube and bus networks.

Report showing the most recent reported offences in and around the proximity of 11 Strand; most of the offences occur during the night-time economy, but there is still a large number of offences during daytime economy as well.

##### COVENT GARDEN COMMUNITY ASSOCIATION:

- The site is unsuitable for a large new public house operating from early in the morning until 1.30 every night.
- The proposed development is a drink-led operation with 361 square metres (3,886 square feet) of customer space over two floors, plus outside customer space. There is a lack of clarity over the number of covers and hours of operation.
- The planning statement does not address the significant residential community in Craven Street, the guests of the Clermont hotel and the future hotel opposite on Craven Street which the proposed development will impact on.
- Noise and anti-social behaviour impact. Craven Street is quiet at night. Loud noise after 10 pm cause "noise peaks" which echo and wake people. Anti-social behaviour



reported by residents. Some customers would inevitably progress down Craven Street adding to the current problems. Period of nuisance will be extended by 3 hours. If outside drinking were allowed after 10pm it would likely cause nuisance. Proposal contrary to Policy 33.

- Deliveries and waste collections for public houses in the West End often cause distress to residents. It will be carried out close to residential flats so the impact must be addressed and hours must be controlled by condition. Glass waste should be disposed in a quiet way on Strand and hours must be controlled by planning conditions.
- Conservation and frontage considerations: objection to the location of the new plant on the East elevation which would harm the Trafalgar Conservation Area and the context of nearby listed buildings.
- Amalgamation of units would harm the character of the conservation area. Proposal fails policy 13 of the City Plan.
- Loss of retail: prime location of shops, if offered in the market at a competitive price the units could be brought back into successful retail. The Local Planning Authority should act where possible to maintain a healthy mix of uses so local residents and workers are well served.
- Rebuttal of applicant's policy justification: No net economic benefit - drink-led operations are costly in terms of clean-up and late-night venues can damage nearby hotel business. Employment opportunities would be similar to less harmful uses and economic cost of disturbed sleep and mental health consequences to be taken into consideration. No social benefit – the proposed development is not a service that the community needs, no consultation carried out, area already well served by drinking establishments. No environmental benefit.

**WESTMINSTER SOCIETY:**

Any response to be reported verbally to Committee by officers.

**NORTHBANK BID PROJECT:**

Lack of pre-application engagement about the proposed change of use. Loss of retail floorspace in this important gateway location. Lack of marketing evidence relating to the vacancy. As footfall continues to increase the provision of a full and varied retail offer is essential. Lack of clarity to the split of floorspace between the restaurant and public house. Over-concentration of late-night activity uses. The proposal can have a disproportionate impact on the "crime and anti-social behaviour hotspots". An additional public house with extended operational hours will undoubtedly cause additional harm and disturbance to the local business and residential community and environmental quality of adjacent streets.

Operational management and effects on the local neighbourhood: little information on the operational management approach and no information on construction logistics and management during fit out. Hours of operation and transfer of external patron noise to be considered carefully in the context of adjacent hotel and residential bedrooms. Craven Street has potential to be a clean air walking route. Associated outdoor seating would add to internal capacity and is considered excessive.

**HIGHWAYS PLANNING TEAM:**

Four cycle parking spaces provided in accordance with policy. Conditions recommended to secure a servicing management plan, waste storage provision and no delivery service.

**WASTE PROJECT OFFICER:**

Following revisions, the details are in line with the Council's waste storage requirements.

**ENVIRONMENTAL HEALTH:**

The main issues are as follows:

- Noise nuisance from internal activity affecting other users within building block – conditions recommended.
- Noise nuisance from internal activity noise breakout affecting users of nearby premises - conditions recommended.
- Noise nuisance from patrons dispersing late at night – not assessed in the acoustic report, measures recommended to minimise impact to be secured by condition.
- Noise nuisance from plant and machinery – no objection subject to recommended conditions.
- Following revisions proposals for preventing odour nuisance from the kitchen operation are considered to be satisfactory. Condition and informative recommended.
- General comments – bar operation will have to comply with the “core” hours under Licensing Policy and informative recommended about sanitary and washing facilities.

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

No. Consulted: 93

Total No. of replies: 18

No. of objections: 18

No. in support: 0

**Land use/Amenity**

- Proposals will not meet community need and will not support the diversification of the West End.
- Area already served by pubs, bars and restaurants. Will lead to reduced diversity by causing additional competition to existing businesses.
- No regeneration or tourist attraction needed.
- Failure to address impacts on residents' amenity.
- Neighbourhood already well served by pub establishments and community currently dealing with considerable disturbances from existing late-night operations.
- Will exacerbate the current issues of noise and disturbance late at night.
- Hotspot/hub of anti-social behaviour, risk of escalation of anti-social behaviour and crimes.
- Entrance on Craven Street is wholly inappropriate as it is a quiet residential street with very little traffic or pedestrian flow.
- Lack of confidence that departing patrons would follow the advice of the venue's staff and not turn into Craven Street which is the most direct route to Embankment Station, the Victoria Embankment and the South Bank and an attraction as public toilet.
- Disruption associated with additional influx of foot traffic and vehicular traffic.
- Proposed opening hours and hours of use of the external area are inappropriate.
- Noise report downplays the severe noise and disruption that another late-night venue would bring to the residential area. Noise assessment does not identify noise impacts associated with external seating areas, noise generated inside and outside the premises, external congregation, waste disposal and deliveries and does not assess

- noise impact on sleep. Real-life application of theoretical findings questioned – particularly due to unpredictability of human behaviour.
- Noise pollution due to installation of mechanical plant equipment within the courtyard and at the rear lower ground floor level.
  - Noise travels very effectively along Craven Street and Hungerford Lane. It is not possible to mitigate impacts with double-glazing because some of the buildings are listed.
  - The extant hotel at 5 Strand is not identified in the planning statement which is very sensitive to noise.
  - Contrary to Licensing policies and the objective of preventing crime and disorder.
  - Small size of kitchen shows that the premises will be primarily a pub/bar.
  - Proposal poses a serious threat to the balance between commercial development and the welfare of local residents. Importance of a balanced and liveable community where the welfare of residents is prioritised.

#### Design

- Heritage impacts of the proposal not properly considered as regards to Craven Street
- External seating/furniture will not be consistent with the streets heritage character.
- Active community of residents brings life to the street heritage value and enhance it.

#### Highways

- Increased vehicular traffic required for servicing
- Likely to result in a significant increase in daily deliveries when compared to the existing retail.
- A Delivery and Servicing Plan should be provided before determination.
- Obstruction and increased congestion on pavement and associated safety concerns.
- Increased broken glass which will risk damaging wheelchair tyres.
- Noise and pollution caused by increased requirement of vehicles servicing the venue in addition to the hotel redevelopment at 5 Strand.
- Will attract all sorts of types of transport including pedi-cabs causing disturbance, traffic and parking congestion in residential area.

#### Other matters

- Proposed external seating and delivery route in Craven Street may undermine and restrict delivery of significant public realm improvements contrary to Policies D8 of the London Plan and 43 of the City Plan.
- Pollution and CO2 associated with increased vehicular traffic.
- No pre-application engagement with local community.

Objection received after the publication of the previous 05 December 2023 committee report:

- Insufficient weight given by officers to questions of criminality, anti-social behaviour and residential amenity in comparison with the purported benefits of the proposal and the aspects that accord to WCC policy. The most salient issues are the impacts of patrons seeking to enter and to leave the venue.
- The size of proposed pub with a capacity of 340 and the characteristics of its clientele not taken into consideration.
- The measure of concentration of licensed premises have been carried out idiosyncratically and cannot be reliable. Provision of lists of licensed venues within

- a six-minute walk of Charing Cross Station.
- Report omits data supplied by the Metropolitan Police and relevant statistics from the Council's Cumulative Impact Assessment dated 2020 which underplays the existing very serious situation at Chargin Cross regarding criminal and anti-social behaviour and impaired residential amenity.
- Failure to comply with NPPF Sections 8 and 12, Council's Policies and Section 17 of the Crime and Disorder Act.
- Committee report flawed for the following reasons: omission of material facts and information in the committee report that minimises negative factors; methodologies and criteria which are not disclosed producing findings and judgements that are not evidenced and cannot be scrutinised; failure to apply common sense critical thinking in assessing applicant's mitigation measures; failure to take into account the specific characteristics of Craven Street housing; and setting of standard of "notable" and "significant" not disclosed.

PRESS NOTICE/ SITE NOTICE:  
Yes

**Application 2: 23/02248/TCH**

TRANSPORT FOR LONDON:

The external seating in the under croft of the building is acceptable against TfL streetscape guidance. TfL requests that the tables and chairs on the western side to 11 Strand are moved away from the Cycle Hire Station to allow for sufficient access behind the cycle hire stands.

LONDON UNDERGROUND:  
No comment.

COVENT GARDEN COMMUNITY ASSOCIATION:

18.07.23 - Objection on the grounds of obstruction in an area of heavy pedestrian flow, site unsuitable for outside vertical drinking, noise disturbance and the hours of operation of outdoor seating. Contrary to planning statement, there are residential units in the vicinity and family hotel bedrooms that will be impacted by the proposal.

21.11.23 - Disappointing that the tables and chairs are retained. Querying if the proposal accords with Westminster's guidance in relation to doorway and the docking station, space between the building and bicycles is used as footway. Lack of engagement.

WESTMINSTER SOCIETY:  
No response to date.

NORTHBANK BID PROJECT:  
Same comments as application 1 (see above).

HIGHWAYS PLANNING:

14.07.23 - Unacceptable as the pedestrian clearway does not satisfy the City Council's 2m minimum requirement for pedestrian movement and it should not pass through the permitted area. It has not been demonstrated that the planters are mobile and no items

from the proposal should be left on the highway overnight. The removal of outer row of tables and chairs is recommended.

24.08.23 – Revised scheme is acceptable subject to recommended conditions.

**WASTE PROJECT OFFICER:**

26.06.23 - Objection as drawings do not show the tables and chairs layout and the 2m allowance gap for street maintenance activities.

30.10.23 – No objection to the revised proposal.

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

No. Consulted: 122

Total No. of replies: 12

No. of objections: 12

No. in support: 0

Objections raised on some or all of the grounds outlined in Application 1. Additional objection reasons on the following grounds:

**Land use/Amenity**

- Will seriously impair Craven Street's residential amenity as a result of noise, disturbance and anti-social behaviour from proposed operational hours, outdoor patrons and dragging of chairs, behaviour of departing patrons via Craven Street and removal of empty bottles and broken glass.
- The venue will be busiest at peak evening and weekend hours, when residents are most likely to be at home and entitled not to have their quiet enjoyment compromised by noise emanating from an outdoor venue.
- Noise studies undertaken by the applicant do not address the impacts on residential amenity of patrons using the proposed outdoor seating.
- Exacerbate anti-social behaviour. Council's Cumulative Impact Assessment (October 2022) demonstrates correlation between licenses premises and crime and anti-social behaviour, both generally and specifically in the vicinity of Charing Cross Station.

**Design**

- Heritage impacts of outdoor seating on Craven Street not considered, and is not consistent with the street's heritage character.
- The supporting statement is misleading in heritage terms, the entire intact terrace of houses on the east side of the street is listed and part of the terrace on the west side, the view east along Craven Street of the uniform terraced properties is identified as an "important local view".

**Highways**

- Use of the undercroft for outdoor seating will lead to severe reduction in the pavement capacity from/to the station leading to unacceptable levels of congestion for pedestrians, worsening levels of overcrowding and increasing the risks of danger to cyclists and pedestrians.
- Degradation of pedestrian environment.
- Patrons standing outside in Craven Street in addition to Santander bikes, street furniture and entrance of the forthcoming hotel would obstruct the pedestrian route.

Other

- Lack of engagement with local community
- Outdoor seating will be conducive to more pick-pocketing and similar crimes and attract beggars, creating a deeply unpleasant experience for visitors and tourists.
- Adverse impacts on local air quality due to increased human activity.
- Increased littering
- Smoking in outdoor areas.

PRESS NOTICE/ SITE NOTICE:

Yes

## **5.2 Applicant's Pre-Application Community Engagement**

The objections received point out that there has been a lack of public engagement from the applicant.

The Early Community Engagement guidance encourages early engagement where a change of use would have a significant impact on residential amenity. It is therefore regrettable that none was undertaken.

## **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 site lies on the south side of the Strand with its eastern elevation fronting Charing Cross Station forecourt, which is set back at ground floor level, to create a pedestrian arcade. The western elevation faces the pedestrianised section of Craven Street and to the rear the building faces Hungerford Lane where access to the sites basement parking is located. The building is not listed and lies within the Trafalgar Square Conservation Area, the Central Activities Zone (CAZ), Strand CAZ Retail Cluster, and the West End Retail and Leisure Special Policy Area (WERLSPA).

The building is in office use (class E) with two separate retail units (Class E) at lower and upper ground floor level which are currently vacant. This application relates to the retail units, the smaller unit faces Strand and Charing Cross station forecourt, with the larger unit over two levels, due the difference in street levels, facing Charing Cross station forecourt, Strand, and Craven Street.

### 7.2 Recent Relevant History

In 1984, planning permission was granted to the use of the 7<sup>th</sup> floor as offices together with the installation of plantroom at roof level (RN: 84/01425/FULL). In 1986 and 1997 planning permissions were granted for the installation of air conditioning units on seventh floor roof and main roof level (RNs: 86/03648/FULL and 96/09669/FULL).

In 1986 and 1995 planning permissions were granted for the installation of new shopfront (RNs: 85/05106/FULL, 86/03648/FULL and 95/03937/FULL)

On 12 August 2005, planning permission was granted for erection of extension within covered walkway linking Charing Cross Station and Craven Street to provide additional floorspace to existing retail unit (Class A1). (RN: 05/04878/FULL).

On 28 October 2008, planning permission was granted for “extension at ground and upper ground floor level to Strand and Craven Street frontages to bring building in line with existing columns to create additional retail (Class A1) and office (Class B1) floorspace.” (RN: 08/06124/FULL).

On 17 March 2010, permission was granted for the extension at ground and upper ground floor level to Strand and Craven Street frontages to bring building in line with exiting columns to create additional retail (Class A1) and office (Class B1) floorspace, installation of louvres to service existing plant and smoke vents and minor alterations to building facade (RN: 10/00437/FULL).

On 3 November 2021, planning permissions were granted for the replacement of existing window openings with louvres to two rear southeast facing elevations to serve mechanical plant and the installation of 14 condenser units at roof level (RNs: 21/05976/FULL and 21/05975/FULL).

On 01 August 2022, permission was refused for “Development comprising infilling at ground floor (undercroft) level to Strand and Charing Cross frontages to create additional retail floorspace (Use Class E(a))” (RN: 21/08610/FULL); on the grounds the development would lead to the loss of an existing footway and would divert the flow of pedestrians elsewhere and this would increase demand on remaining highway space and would not improve the pedestrian environment.

On 25 January 2023, permission was refused for “Infilling at ground floor (undercroft) level to Charing Cross frontage to create additional commercial floorspace Class E” (RN: 22/07207/FULL); on the grounds that development would lead to the loss of an existing footway and would divert the flow of pedestrians elsewhere and this would increase demand on remaining highway space and would not improve the pedestrian environment. An appeal was allowed and permission was granted on 03 October 2023.

**8. THE PROPOSAL**

**Application 1: 23/02207/FULL**

Planning permission is sought to change the use of the two retail units to a public house with food provision (sui generis). The application includes the installation of mechanical plant equipment and enclosure on a platform within the side courtyard to Craven Street and one air conditioning unit at rear lower ground floor level.

The public house will be accessed from two existing sets of doors, one facing Charing Cross station forecourt and the other on Craven Street next to the Strand corner. A further door lower down Craven Street will be for emergency use only. The proposed opening hours have been reduced during the course of the application and it is now proposed to be open between 07:00 until 23:30 Monday to Thursday, 07:00 until 00:00 on Friday and Saturday, and 07:00 until 22:30 Sunday and Bank Holidays with a maximum capacity of 320.

**Application 2: 23/02248/TCH**

Planning permission is sought for the placing of tables, chairs and planters on the public highway. Following negotiations, the outdoor furniture and hours of operation have been reduced to provide 5 tables, 10 chairs and 3 planters under the arcade fronting Charing Cross station forecourt, between the hours of 10:00 to 22:00 each day.

**9. DETAILED CONSIDERATIONS**

**9.1 Land Use**

**Table: Existing and proposed land uses**

Land Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (Class E)	480	0	-480
Public House (Sui Generis)	0	480	+480
Total	480	480	0



### Land Use Policy Overview

The National Planning Policy Framework (NPPF) in paragraph 93 supports positive planning for the provision of community facilities including public houses. The London Plan also recognises the important role that public houses can play in the social fabric of communities, meeting local needs, and supporting the night-time economy in the CAZ (London Plan Policies HC6 and HC7). The Mayor's Culture and the Night-Time Economy Supplementary Planning Guidance is also a material consideration in planning decisions. This promotes the night-time economy, particularly in the CAZ, and states boroughs should support proposals for new public houses, where appropriate.

London Plan Policy SD4 concerns the CAZ and seeks to promote unique international, national and London-wide roles of the CAZ, based on an agglomeration and rich mix of strategic functions and local uses. The policy also states that "the unique concentration and diversity of cultural, arts, entertainment, night-time economy and tourism functions should be promoted and enhanced".

City Plan Policy 1 sets out Westminster's spatial strategy, it seeks to ensure the competing functions of the CAZ are balanced and supports the intensification of the CAZ and the West End to provide growth in leisure. Policy 2 relates to the WERLSPA and seeks improved leisure experiences and a diverse evening and night-time economy.

City Plan Policy 14 concerns town centres, high streets and the CAZ, with their intensification supported in principle for main town centre uses. Part B supports uses that provide active frontages and serve visiting members of the public at ground floor level. Part C.2 states that the WERLSPA will provide a wide mix of commercial uses that support the West End's role as a cultural hub and centre for visitor, evening and night-time economy; and part C.3 states that and within the CAZ Retail Clusters will provide further large format retail and complementary town centres uses to meet the needs of residents, works and visitors. Part H goes on to state that town centre uses will be supported in principle through the CAZ with a commercial or mixed-use character, having regard to the existing mix of land uses. The supporting text (paragraph 14.5, 14.6 and 14.7) acknowledges that, to ensure their long-term sustainability, town centres will need to provide a mix of commercial uses to create an environment which encourages customers to shop, access services, and spend leisure time, whilst also supporting their role as major employment hubs and visitor destinations., "...town centre uses such as pubs and drinking establishments, exhibition spaces, cultural and leisure uses, can all help support the future success of these key clusters of commercial activity..."

City Plan Policy 16 relates to food, drink and entertainment and states proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. It notes that the over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. In relation to public houses specifically, the supporting text notes they can play an important role as social hubs at the heart of communities, add to the diversity of commercial areas, and make a positive contribution towards townscape and local identity.

City Plan Policy 7 states development will be neighbourly, including by protecting neighbouring amenity. The Plan recognises that factors such as polluted air, excessive

smells, poor waste management, noise and strong vibrations are examples of environmental impacts that have an adverse impact on quality of life and health and well-being. Development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours. It confirms that the Council will place the burden on the applicant to ensure mitigation measures are included to safeguard future local amenity and to ensure that development does not cause existing nearby uses from having to curtail their activities.

City Plan Policy 33 requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents and development to prevent the adverse effects of noise and vibration with particular attention to minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses; minimising noise from plant machinery and internal activities and minimising noise from servicing and deliveries.

City Plan Policy 43D relates to proposals for trading from premises extending into the street (including provision of tables and chairs on the highway) and states that they will be supported where they would not: 1. harm local amenity; 2. compromise pedestrian movement or traffic conditions; 3. impede refuse storage and street cleansing arrangements.

**Application 1: 23/02207/FULL**

**Loss of Retail Accommodation**

The Covent Garden Community Association and the Northbank BID object to the loss of the retail use and lack of marketing evidence to justify its loss.

Whilst vacant, the ground floor units are in lawful retail use (class E), last occupied by a clothes retailer and a bakery/ sandwich shop. Under Class E of the use classes order the proposed unit could change to other uses within Class E, including a restaurant, without the need to obtain planning permission. Pubs and drinking establishments (sui generis) fall outside class E but are recognised as complimentary town centre uses. The proposed use as a public House will retain the three existing active street frontages at ground floor level. The principle of losing the retail to another town centre use that serves visiting members of the public therefore accords with the aims of Policy 14 part B.

In addition, the reuse of the units that are currently vacant (the larger unit since 2020) is welcome. There are no policy requirements to request marketing evidence in this instance and the loss of retail is considered acceptable.

**Proposed public house use**

The site is in an area of a predominantly commercial character, typical of the WERLSPA, CAZ and Strand CAZ Retail Cluster. The land use pattern is very mixed with a transport terminal, offices, hotels, retail, cafes, restaurants, public houses and theatres. However, there are also residential houses in close proximity to the site, located further south on Craven Street.

The Covent Garden Community Association, Northbank BID, and local residents raise strong objections to the principle of a public house in this location on the grounds that the proposal would add to the concentration of alcohol-based and late-night premises within

the local area. The objectors contend that the proposed public house would worsen existing issues of anti-social behaviour and result in noise and disturbance to residents late at night. The objectors raise concerns that the noise report submitted in support of application does not assess the impact of noise from patrons either inside and outside the premises, patrons dispersing late at night, noise from waste collection and deliveries, and also fails to take into consideration residents who work from home or have different sleeping patterns.

The principle of losing retail to another use that serves visiting members of the public would accord with the aims of the City Plan, but in this case that is subject to the acceptability of the alternative drinking establishment/ public house use. Drinking establishments can have greater potential to generate noise and disturbance in nearby streets and to adversely affect local amenity. However, there can be considerable variation between the effects of different types of food and drink uses.

The supporting text to Policy 16 does state that “the cumulative impact of multiple food, drink and entertainment uses in a particular area can have a negative impact on the functioning and use of an area and can negatively impact residential amenity. We will therefore prevent the over-concentration of these uses and require proposals to make sure any negative impacts are managed (applying the Agent of Change principle).”

In line with policies set out above, public houses are only supported where they will not harm the amenity of residents and the local environment. Officers carefully considered the impacts of the proposed use and associated outdoor seating on the living conditions of neighbouring residents having particular regard to late-night noise, disturbance and anti-social behaviour as detailed below

### **Cumulative impact**

The cumulative impact of multiple food, drink and entertainment uses in a particular area can have a negative impact on the functioning and use of an area and can negatively impact residential amenity. It is acknowledged that there are a number of licensed establishments in the vicinity of the site, including the following:

- Ship and Shovell PH at 1-3 Craven Passage (licensed opening hours 10:00 to 23:30 Monday to Saturday and 12:00 to 23:00 on Sundays);
- Sherlock Holmes PH at 10-11 Northumberland Street (licensing hours of 08:00 to 23:30 Sunday to Wednesday and 08:00 to 00:30 Thursday to Saturday);
- Heaven nightclub at 10A The Arches (licensed opening hours of 00:00 till 00:00);
- The New Players Theatre restaurant and bar at 15 The Arches (licensed opening hours of 06:30 to 03:00);
- Champagne Charlies wine bar at 17 The Arches (licensed opening hours of 07:30 to 00:30 Monday to Saturday and 12:00 to 23:00 on Sundays);
- Halfway to Haven at 7 Duncannon Street (licensed opening hours of 10:00 to 01:30 Monday to Thursday, 10:00 to 03:30 Friday to Saturday and 10:00 to 23:30 on Sundays);
- All Bar One at 6 Villiers Street (licensed opening hours of 08:00 till 23:30 Monday to Wednesday, 08:00 to 00:00 Thursday to Saturday and 08:00 till 23:00 on Sundays);
- Princess of Wales PH at 27 Villiers Street (licensed opening hours of 07:00 to 00:30);

- Gordon's wine bar at 47 Villiers Street (licensed opening hours of 08:00 to 23:30 Monday to Saturday and 10:00 to 22:30 on Sundays).

A recent objection in response to the previous Committee report queried the limited number of venues identified above and provided a detailed list of other licensed venues within a six-minute walk of Charing Cross station. The venues included in the list above have been selected for their immediate proximity with Craven Street, whereby their patrons and/or servicing vehicles could use Craven Street. It is possible to go further afield and include more licensed venues in the assessment. However, the conclusion would remain the same, given the dispersed nature of these premises, it is not considered that the additional public house would result in an over concentration of drinking establishment uses, and that it would not be compatible with the character and function of the area.

### **Operational Management Plan (OMP)**

Given the proximity of residential properties on Craven Street, officers have requested that the applicant provides a robust OMP, to confirm capacity, to reduce opening hours, limit outdoor seating areas and hours of use, and show how they intend to prevent customers from causing nuisance for people in the area, including people who live in nearby buildings

Following further negotiation and taking into consideration concerns from the Metropolitan Police and local residents:

- the capacity of the public house has been reduced from 340 to 320;
- the hours of tables and chairs has been further reduced from a terminal hour of 22.30 to 22.00;
- the external seating has been omitted from the Craven Street frontage;
- and a revised Operational Management Plan has been provided, which sets out that the Craven Street entrance will not be in use after 22.00 daily;
- and from 18.00 daily, 4 door staff will operate the entrances/ exits to the premises.

The amendments and additional information sought to the scheme show the officers' acknowledgement of the close proximity of the residential properties in Craven Street and their street level relationship.

The proposed public house will be accessed from two existing sets of doors, one facing Charing Cross station forecourt and the other on Craven Street next to the Strand corner. A further door lower down on the Craven Street frontage will only be for emergency use only. Internally, the maximum capacity of the premises would be 320 patrons, but the premises would provide 256 covers (seats). Given seating covers most of the internal area, the applicant considers it is highly unlikely that there would ever be 320 customers on site. The proposed outdoor tables and chairs would provide 10 additional covers.

The opening hours have been reduced (from an originally proposed terminal hour of 01:30) to:

- 07:00 to 23:30 Monday to Thursday, 07:00 to 00:00 Friday and Saturday and 07:00 to 22:30 on Sundays.

The hours of use of the outside tables and chairs have also been reduced to between 10:00 to 22:00 hours daily. The revised opening hours are consistent with the licensing hours of other public houses/ bars in the local area and are considered reasonable in this location.

Upon officers' advice, a revised OMP was submitted in January 2024, which details how the use intends to prevent customers from causing nuisance for people in the area, including people who live in nearby buildings. The measures include:

- The venue will have a maximum capacity of 320 customers, with a minimum of 256 seats maintained at all times.
- No amplified music will be played inside the venue.
- Food will be available to all patrons from any part of the customer area, each day from opening until 30mins prior to its closure.
- There will be two customer entrance/exits, one in the northwest corner onto Craven Street's intersection with Strand and the other in the pedestrian area, fronting onto Charing Cross Station. The northwest corner entrance will only be in use between 07.00 and 22.00 hours.
- Both entrances to be fitted with self-closing doors and internal lobby to minimise noise spillage.
- The entrance located to the southwest corner fronting Craven Street will be used as an emergency exit only.
- No external vertical drinking permitted.
- Designated smoking area near Charing Cross station forecourt entrance. Customers smoking will not be allowed to bring their drinks outside, only people that are seated outside will be allowed drinks.
- Signage to remind customers of the need to respect the neighbouring residents when leaving the premises.
- From 18.00 to the terminal hour daily, 4 door staff will operate the entrances/ exits to the premises and remind customers to respect neighbours and encourage them to leave using the Strand, Charing Cross Station and Villiers Street.
- Procedures in place for the management of external spaces and seating areas;
- Procedures for security and management of poor customer behaviour, dealing with any complaints and a process to liaise with neighbours to manage operational issues including regular meetings; and
- Installation of CCTV cameras.

The proposed public house comprises of 480 sqm. and is not considered an unusually large drinking establishment in this central location. It is considered that subject to compliance with the measures set out in the OMP, the proposal would not adversely impact residential amenity.

**Noise and disturbance from customers**

Objections raise concerns with noise and disturbance associated with the accumulation of customers waiting to get access to the public house, as well and customers entering and leaving the venue, in particular if they were to use Craven Street on their way to and from the nearby Embankment LUL Station and other venues.

Given patrons are free to enter the public house, no vertical drinking is allowed, and Craven Street entrance will not be in use after 2200 hours, it is not considered reasonable to withhold permission on grounds of noise associated with congestion. Concerns are also

raised over congestion between the entrance of a new hotel on 5 Strand and the proposed public house's Craven Street entrance. Given the size of the footway at this location and the difference in nature of the two uses, it is not considered that the proposed use together with the hotel at 5 Strand would result in pedestrian congestion in Craven Street.

It is recognised that customers some customers may use Craven Street when arriving or leaving the premises. However, given the location of the entrances and the management measures proposed (including the closing of the Craven Street entrance after 22.00), it is considered that these measures would encourage most customers to either likely use Strand and Charing Cross Station, where public transport and taxi ranks are located, when arriving or leaving the premises, away from the residential properties further south on Craven Street.

Objections also state that consideration should be given to the nature and scale of the proposed public house, and its potential changes to the profile of drink-consumers in the area in comparison to the existing pubs and bars. Although the premises could cater for larger groups and numbers in comparison to smaller traditional public houses, it is considered that the public house with a 320 maximum capacity would not be unusual in the WERLSPA. The profile of clientele, which cannot be known with any certainty is not a sustainable reason for refusal, assessment is based on the proposed use as a public house as opposed to its prospective operator and customers. The applicant has provided information about the proposed operation and measures to be implemented to mitigate the impact of the proposed public house on nearby residents in line with Agent of Change principle.

**Anti-social behaviour and crime**

Objections from local residents also raise concerns relating to the potential anti-social behaviour of customer associated with the public house, particularly in conjunction with the other nearby licensed premises in the area and the existing levels of anti-social behaviour in the area. It is recognised that anti-social behaviour and crime is an on-going issue in the local area, which can overspill onto Craven Street and adversely affect the residential community. A recent objection, received after publication of the previous committee report, considers that the proximity and nature of the residential houses in Craven Street have not been appropriately taken into consideration. The objections states that the data provided by the Metropolitan Police has been omitted and the report downplays the scale of the problem surrounding Charing Cross. The objection also states that redevelopment at 5 Strand and associated public realm changes would make passive surveillance less of an issue.

The Metropolitan Police object on the grounds that the area experiences high levels of crimes and lack of consideration has been given to security, with multiple entrances into the property. An additional objection from the Metropolitan Police, received after the publication of the previous committee report, offered to supply resource data and statistics as the area is within the main robbery corridor to the west end and they consider the public house would cause wider issues.

Following discussions between officers and the Metropolitan Police, the Met confirmed their objection and provided additional crime figures showing the large number of offences around 11 Strand which occur both during the night-time and daytime.

Since publication of the original report for 05 December committee, the applicant has provided a building security log showing the continuous problems of anti-social behaviour and rough sleeping in particular under the arcade facing Charing Cross station forecourt. The applicant argues that the inactive street-scene encourages anti-social behaviour.

All representations received are provided to the Members prior to Committee, so there is no omission of information during the course of consideration of the application.

An objection refers to a document titled “ Cumulative Impact Assessment” (2020), there is now a more up to date document published in 2023. This document would inform the licensing regime. It is however noted that evidence in the document shows that anti-social behaviour and crime are linked to alcohol-consumption and licensed premises and the West End deals with acute issues. Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations. The council has yet to receive a licensing application in respect of the proposed public house use. Any future operator will need to apply through the licensing process separately which takes into consideration crimes, anti-social behaviour, public disorder and nuisance.

It is recognised that the area around 11 Strand is challenging with regards to vulnerable rough sleepers, anti-social behaviour, and crimes. This is confirmed by the data provided by the Metropolitan Police, and in the objections by local residents, as well as the additional information provided by the applicant.

However, extrapolation of current crime and anti-social figures provided by the Metropolitan Police cannot be used as evidence as confirmed verbally by the Metropolitan Police.

It is recognised that a public house use would be a more intensive and impactful evening/night-time economy use with patrons more likely to stay late in the evening, as opposed to a retail use. However, given the measures proposed, that include only two accesses proposed into the premises, one at the northern end of Craven Street on the Stand corner and the other on the Charing Cross Station frontage. The Craven Street entrance will not be in use after 22.00 hours daily. The doorway closets to Craven Street residential properties would only be for emergency use only. The OMP outlines the measures proposed to mitigate against noise and disturbance, including the use of CCTV and bodycams, door staff after 18.00 hours each day, staff dedicated to the outdoor seating area and procedures to deal with poor customer behaviour. The outdoor furniture will be removed from the highway after 22:00 daily and the outdoor furniture will be of a design to reduce opportunities for theft.

In addition, given the units are currently empty, it is considered that bringing them back into active use will contribute to passive surveillance of the under-croft facing Charing Cross forecourt, where high levels of crimes and anti-social behaviour have been reported as well as the Craven Street frontage

It is recognised that it would not be possible for the public house to control the behaviour of customers once they have left the premises, nevertheless, it is considered that the amended scheme and the measures set out in the OMP are robust and would mitigate the impact of the proposed public house on Craven Street residents.

**Land use conclusion**

In terms of the site’s location, Strand is a major commercial thoroughfare in Westminster with a lively, busy character. It is recognised Craven Street consists of predominately residential properties. The application site at 11 Strand is located to the north of Craven Street, where it fronts Strand and has a side frontage onto the pedestrianised section of Craven Street.

The objections raised by local residents are understood, as public houses can have greater potential to generate noise, disturbance and other nuisance. Nevertheless, the measures in the OMP are considered to be robust. In this case, given the context of the location, the character of the surrounding area and controls available through appropriate conditions relating to capacity, hours of use, restrictions to the doorway entrances/ exits, food provision, audible music, and no vertical drinking outside, it is considered that a public house in this busy mixed-use area could operate in a neighbourly manner, having particular regard to late-night noise, disturbance, crime and anti-social behaviour.

The Council’s Environmental Health team raise no objection to the proposal subject to conditions to control the use and ensure that the applicant adheres to the OMP.

The impacts in terms of noise and odour from plant and the kitchen extract system is discussed in section 9.5 of this report, and the impact of servicing and deliveries are discussed in section 9.6, where it is explained that these elements could be carried out without harm to residential amenity and local environmental quality.

Notwithstanding the objections from neighbours and the Metropolitan Police, the proposed public house, taking into consideration its size (480 sqm.), is considered appropriate in this location within a busy commercial area and near a major train station. In these circumstances, the proposals would accord with the NPPF, the City Plan, the London Plan, and the Mayor’s Culture and the Night-Time Economy SPG, and so is considered acceptable in land use terms.

It is considered that, subject to operational controls, and compliance with the submitted OMP, that the impact upon the character and function of the area will be very similar to a restaurant use and it will not materially affect the amenity of neighbouring residents and local environmental quality.

**Application 2: 23/02248/TCH**

With regards to the proposed external seating, the proposed five tables and ten chairs, are located in the arcade/ under-croft adjacent to Charing Cross station forecourt where there are no residential properties/ on the opposite frontage of Craven Street. Given the limited number of external seats in this location and that the hours of use of the external furniture are to be restricted to 22:00 daily, after which time they will be removed from the highway, it is considered that this will prevent noise being generated at unsociable hours and minimise disruption to nearby residential occupiers.

However, it is recommended that the outdoor seating area is only granted for a temporary period of one year, so that the impact can be reviewed. For the reasons stated above, and



subject to the proposed conditions, it is considered that the proposal is acceptable in land use and amenity terms.

## **9.2 Environment & Sustainability**

### **Sustainability**

City Plan Policies 36 and 38 expect all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change and seek to ensure development responds to the likely risks and consequences of climate change by incorporating principles of sustainable design, including providing flexible spaces, enabling incorporation of future services/ facilities, optimising resource and water efficiency and minimising the need for plant and machinery.

The applicant has provided an Energy and Sustainability Statement to support their application which details the baseline energy requirements for the site and proposes energy efficiency measures with the installation of heat pumps and insulation. These measures accord with the aims of the City Plan.

### **Air quality**

Policy Plan 32 of the 2019-2014 City plan states that the Council is committed to improve the air quality in the City.

The adverse impacts on local air quality due to increased human activity and vehicular traffic and the new air conditioning units were mentioned in the representations. Given the size of the premises, the proposed change of use does not trigger the need to provide an air quality assessment and it is not considered that the proposal will significantly impact the local air quality.

## **9.3 Biodiversity & Greening**

Not relevant in the determination of the application.

## **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.”

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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.

**Detailed Design**

Objections have been received on the grounds that the heritage assessment is misleading and to the heritage impact of the proposal, in particular the external seating/furniture to Craven Street will not be consistent with the streets heritage character.

**Application 1: 23/02207/FULL**

It is proposed to install one air conditioning unit to the rear elevation (adjacent to Hungerford Lane) at lower ground floor level and five air conditioning/ air handling units upon a new plant platform above a disused flight to external steps in a recessed part of the South elevation (running alongside Craven Street) at upper ground floor level.

The proposed single unit to the rear elevation would be wall-mounted under a recess adjoining the basement car park access. Given its secluded location in an area with clear servicing character, it would have a negligible impact on the appearance of the building or character of the conservation area.

More significantly, it is proposed to install a new metal platform sitting above the existing disused recessed flight of external steps, upon which the proposed five air conditioning/ air handling units will be located at upper ground floor level, adjacent to the proposed service access doors at lower ground floor level below. The steps are currently fenced off by a black painted metal railing, which would be retained. The proposed platform support metal work would be visible through these railings, and a louvred screen is proposed to be installed in front of the plant deck at upper ground floor level, which would be set behind and back form the existing railings.

Whilst the platform and associated works will be visible in some glimpsed passing views from the public realm, given their discreet location within a deeply recessed aspect of the building and set behind existing railings it is not considered that this aspect of the proposals would harm the appearance of the building or diminish the character of the Trafalgar Square Conservation Area, however a condition is recommended to secure details of the plant deck and louvred screen to ensure that it is suitably integrated with the host building in terms of its appearance.

In summary, it is considered that there would be no harm caused to the setting of the Listed Buildings nor to the character or appearance of the Conservation Area by the

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proposals, due to the proposed plant's discrete positions in relation to the listed buildings, and due to the removed locations of the proposed main entrance / exits for the proposed new use to the Strand end of the elevation.

**Application 2: 23/02248/TCH**

A recent objection in response to the previous 05 December committee report, states that insufficient information was provided to assess the visual impact of the Craven Street outdoor seating. This element has been omitted from the scheme, with outdoor seating now only proposed on the Charing cross forecourt frontage.

Given the size and temporary nature of the external furniture it is not considered that the proposals would have a harmful impact on the townscape, setting of Listed Buildings, or on the character and appearance of this part of the Conservation Area to merit a refusal on these grounds.

**9.5 Residential Amenity**

The amenity and local environmental impacts associated with the proposed use and outdoor seating, are detailed in Section 9.1 of this report.

**Plant Equipment – noise, vibration, and odours**

In relation to noise from the proposed plant, the application has been considered in the context of Policy 33 of the City Plan 2019-2040. This policy seeks to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

An acoustic report has been submitted in relation to the proposed plant equipment. The Council's Environmental Health officer has confirmed that the proposed plant is likely to comply with the Council's standard noise and vibration conditions and it is therefore considered acceptable.

London Underground have requested a condition demonstrating how the odour and fumes from the kitchen extraction system can be prevented from entering into Craven Street Vent shaft.

The applicant has clarified that there will be no external discharge to the atmosphere of cooking fumes. The use of the existing grilles to the side elevation (Craven Street) and rear elevation is for air exchange within the kitchen area. The applicant has provided details of the kitchen equipment and layout and confirmed that the kitchen will serve foods such as paninis, toasted sandwiches and pre-prepared re-heated foods, with no gas or solid fuel cooking or deep fat frying. On this basis, the Environmental Health officer raises no objection subject to a condition to restrict the type of cooking carried out (no primary cooking).

**9.6 Transportation, Accessibility & Servicing**

**Application 1: 23/02207/FULL**

Covent Garden Community Association and local residents and businesses have raised

objection on the grounds of the impact of servicing and waste collection, increased pedestrian and vehicular traffic and pedestrian obstruction.

The Highways Planning Manager notes that the trip rates associated with the site may increase from that of the current retail use. However, the site is well-served by public transport, and will be easily accessed from the Strand and Charing Cross station, the forecourt of which provides a taxi rank.

The applicant states that the proposed unit will be serviced as existing, via the exiting side entrance off Craven Street and there will be up to 5 deliveries a week. The Highways Planning Manager recommends conditions to secure a Servicing Management Plan and to prevent a food delivery service from being operated from the premises. A condition is also recommended to restrict the hours of servicing, including waste collection to between 08:00 to 20:00 in line with the OMP, to protect the amenity of local residents.

A recent objection in response to the previous 05 December committee report, raises concerns with the prospect for pedicabs arriving at Corner House Street and Craven Street and causing congestion and noise nuisance with loud music. The issues associated with pedicabs are recognised and whilst the Council has no control over their operation, enforcement action is taken when nuisance is caused. Nevertheless, it is not considered that the proposed public house will specifically attract pedicabs.

The waste and recycling storage details have been revised to accord with the Council's waste requirements and will be secured by condition.

Four cycle spaces are proposed at basement level, which accords with Policy T5 of the London Plan and will be secured by condition. TFL have requested the provision of short-stay cycle parking. Whilst the lack of this provision is regrettable, the site is adjacent to a TFL cycle docking station.

**Application 2: 23/02248/TCH**

Strong objections have been received on the grounds of obstruction of the pavement and pedestrian congestion in an area of high pedestrian flow.

In Craven Street, TfL requested that the tables and chairs are moved away from the Cycle Hire Station. The external seating on that frontage has now been omitted from the scheme.

With regards to the Charing Cross station forecourt frontage, originally the scheme included 20 tables, 40 chairs and 4 planters. This proposal was not considered to satisfy the City Council's requirement, leaving only a pedestrian clearway of 1.45m (a minimum of 2m is required) and the available route was passing through the proposed area for outdoor furniture. The application has therefore been revised to reduce the outdoor furniture on that frontage to 5 tables, 10 chairs and 3 planters. This leaves a 3.1m area for pedestrian movement satisfying the City Council's requirements.

The details submitted show that the planters will have wheels and the applicant confirmed that all elements of the outdoor furniture will be removed after 22:00 daily. This will be secured by condition.

## **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 fitout and operational phases, providing opportunities for local employment and spending in the local area.

An objection raises concerns that there is no information or analysis to support these views. However, the creation of employment locally is acknowledged given the units are currently empty.

## **9.8 Other Considerations**

### **5 Strand Redevelopment**

One representation mentions that the proposals for the redevelopment at 5 Strand include public realm works and that the proposed outdoor seating and delivery route along Craven Street may undermine and restrict the delivery of the public realm works.

There is a currently a planning application for the redevelopment of 5 Strand which is being assessed.

It is no longer proposed external seating on the Craven Street frontage. The public realm works, if approved, will need to take into consideration the existing constraints and requirements of neighbouring buildings.

### **Construction**

The Northbank BID Project mentioned the lack of information on construction logistics and management during fit out works. Given the nature of the proposal, a condition limiting the hours for noisy works is recommended and an informative to remind the applicant to get separate consent for any temporary structure on the highway are considered sufficient.

## **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**

Public houses and restaurants can support the social fabric of communities, contribute to the viability of the city, and support the evening/night-time economy. Nevertheless, the local residents' and Metropolitan Police's concerns are understood, as they can also negatively impact residential amenity and local environmental quality if they are of a type and size inappropriate to their location. In this case, the site is within a busy town centre location adjacent to the Strand and Charing Cross Station, and whilst there are residents nearby on Craven Street, it is considered that with the controls proposed, which are recommended to be secured by condition, the proposed public house, and the associated

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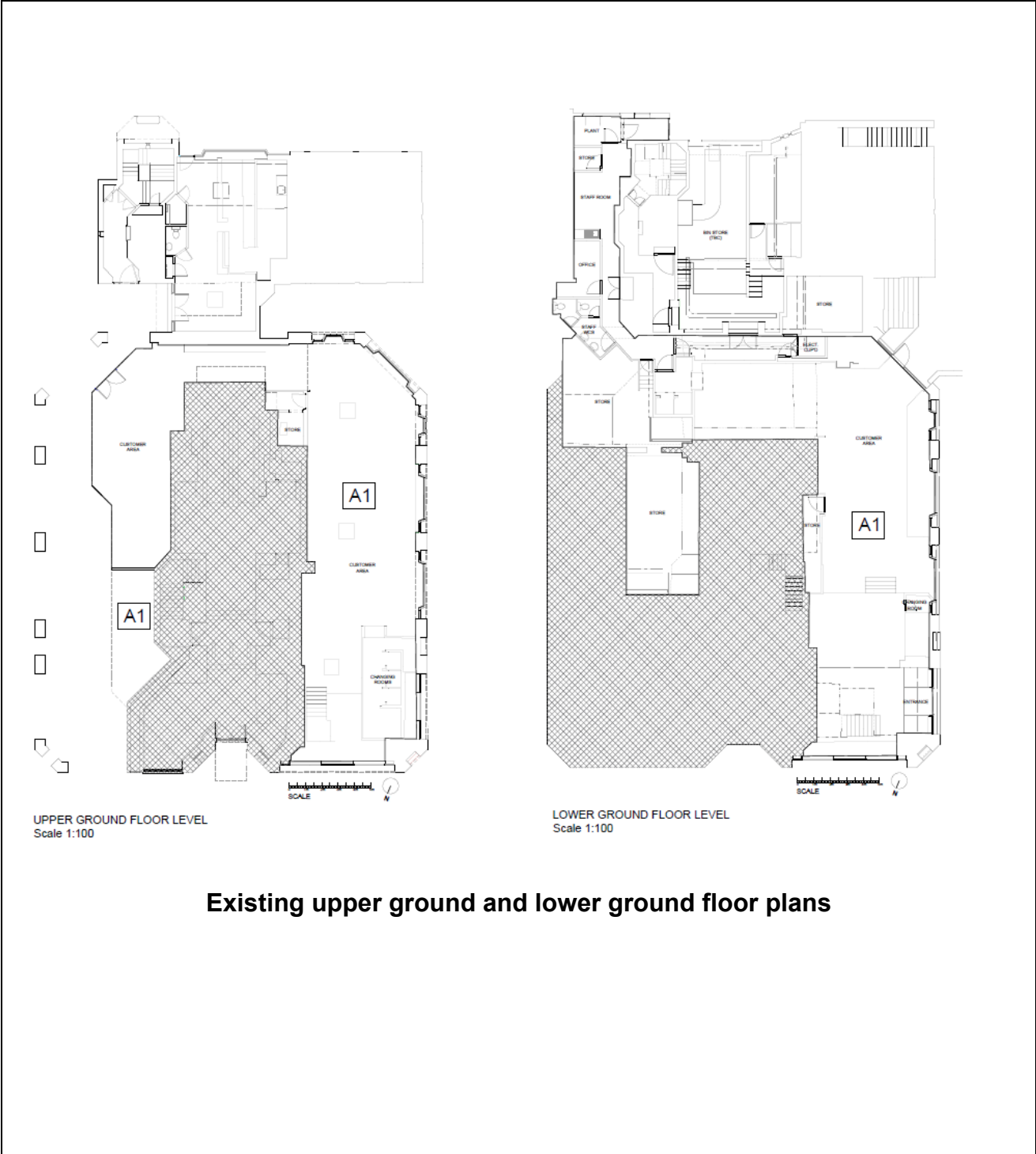
tables and chairs, would not cause harm to residential amenity or local environmental quality.

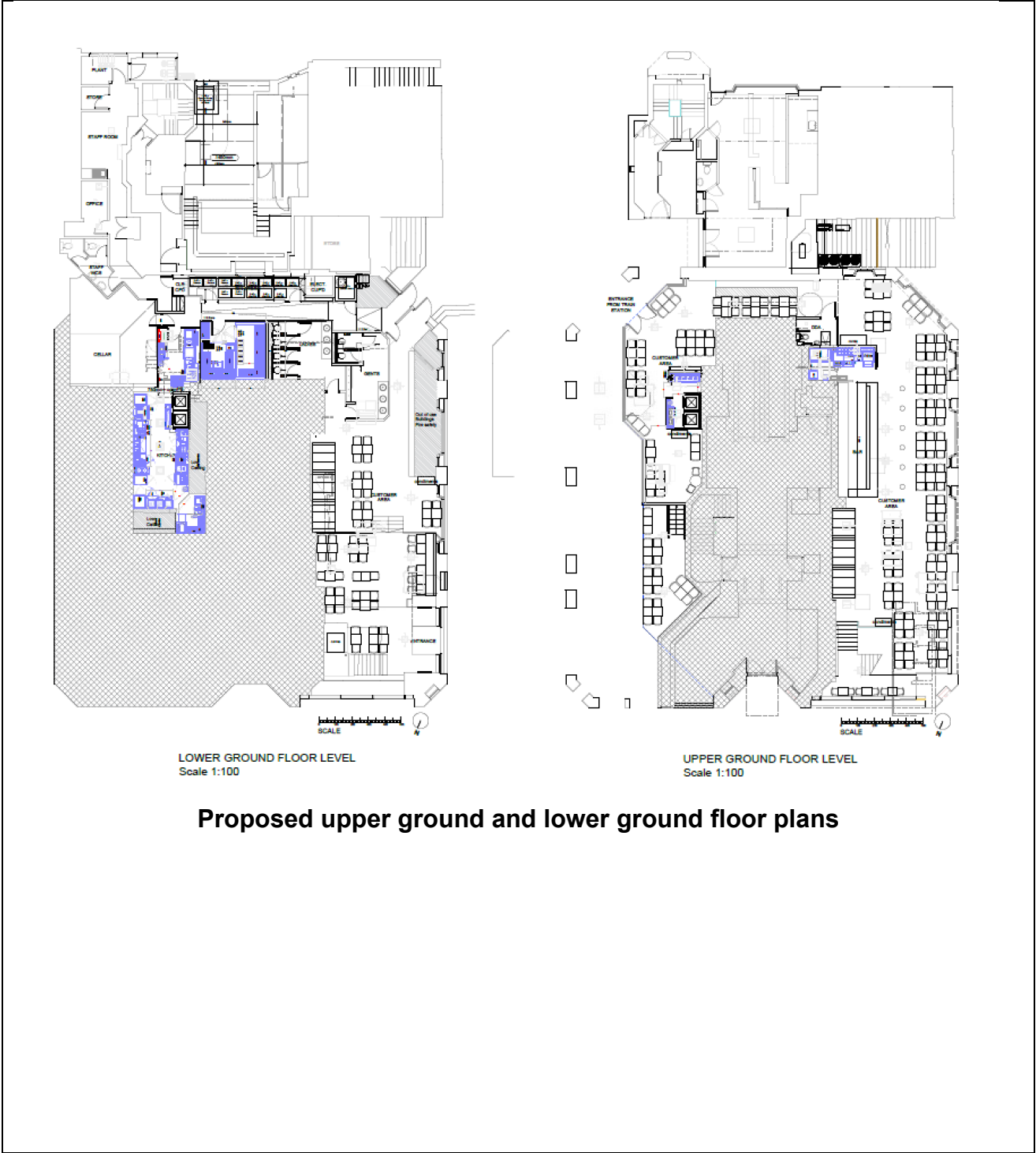
Accordingly, the proposed development would be consistent with the relevant policies in the City Plan 2019-2040, the London Plan 2021, the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

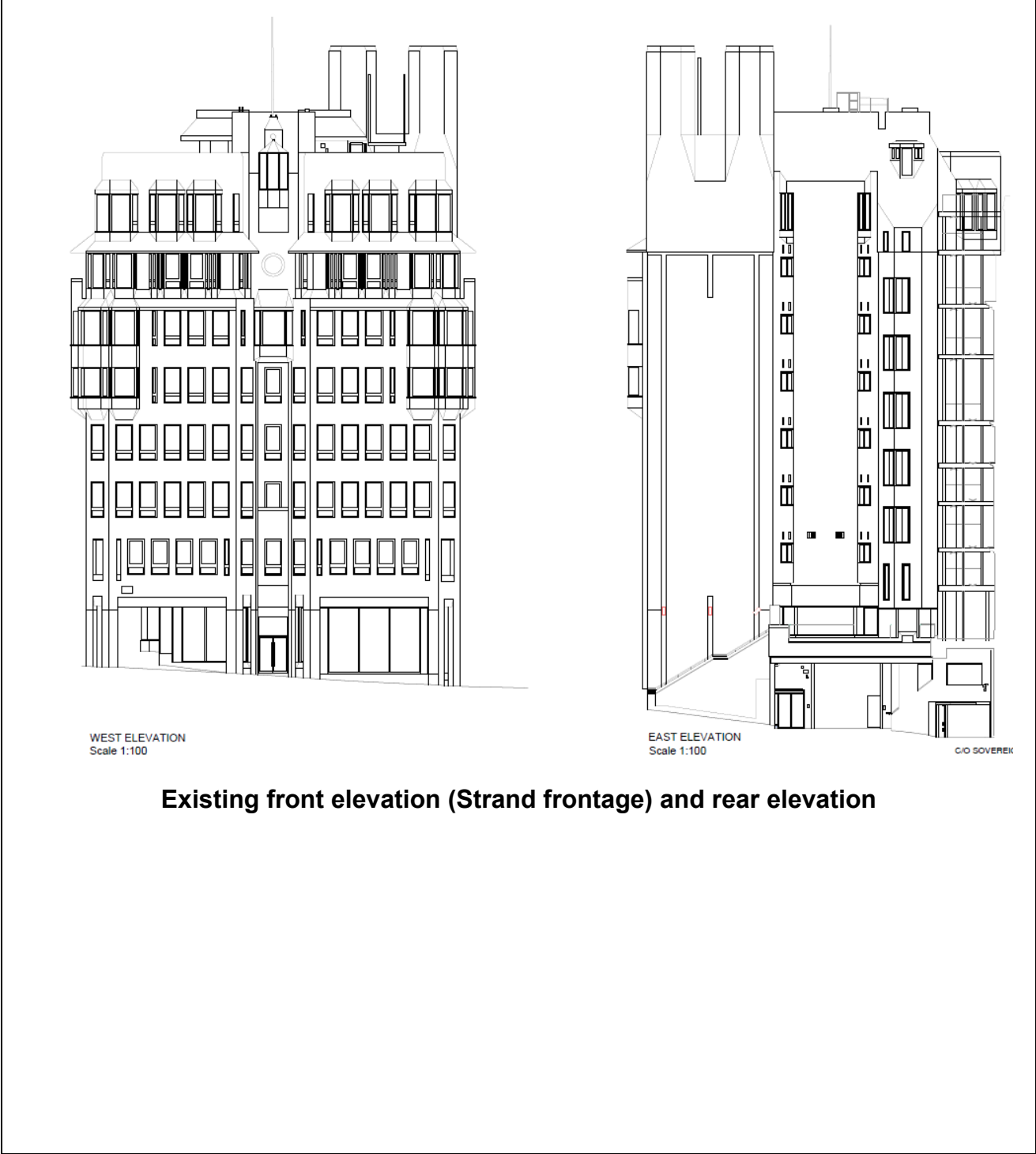
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT [ddorward@westminster.gov.uk](mailto:ddorward@westminster.gov.uk)

11. KEY DRAWINGS

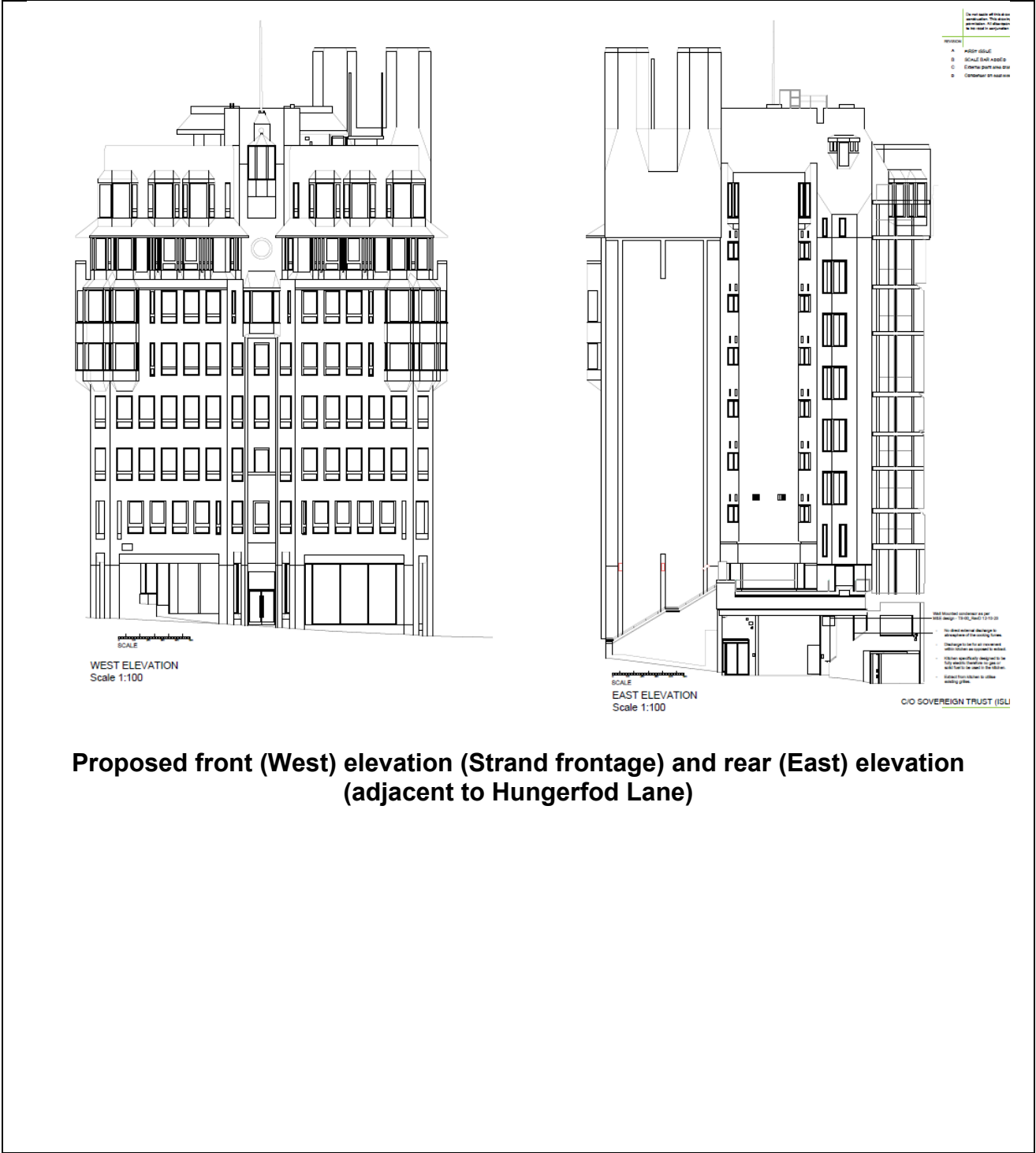




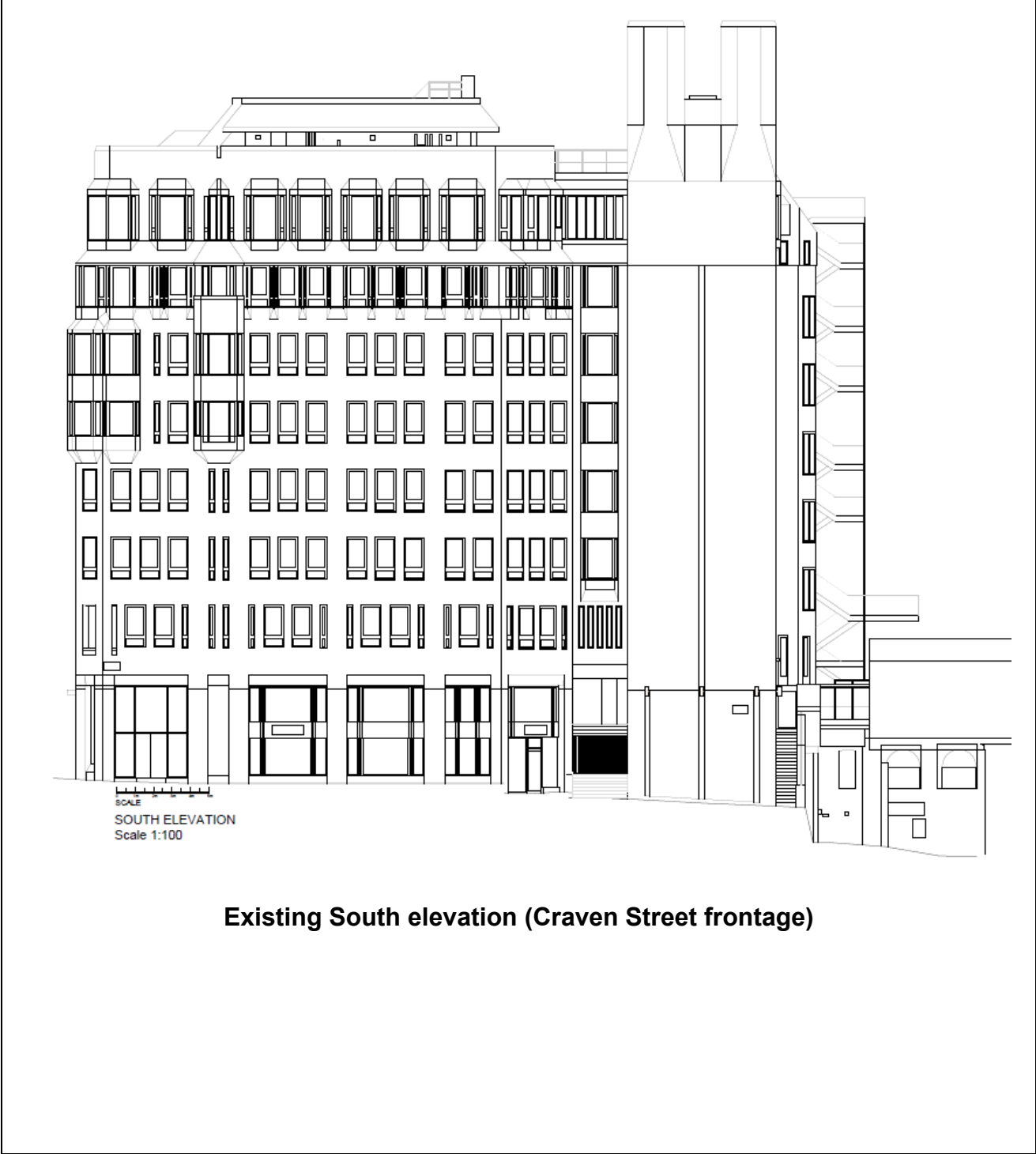




**Existing front elevation (Strand frontage) and rear elevation**

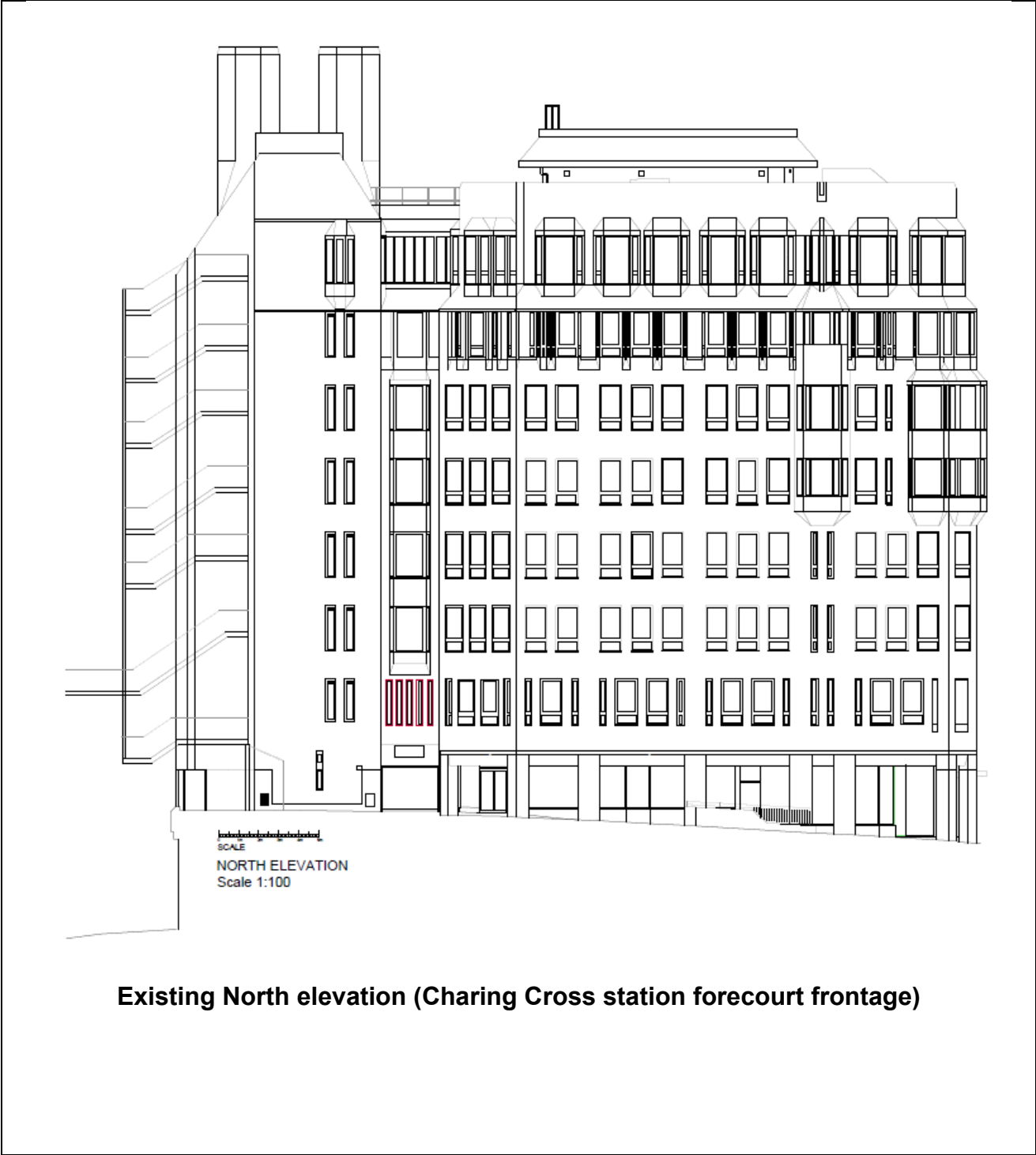


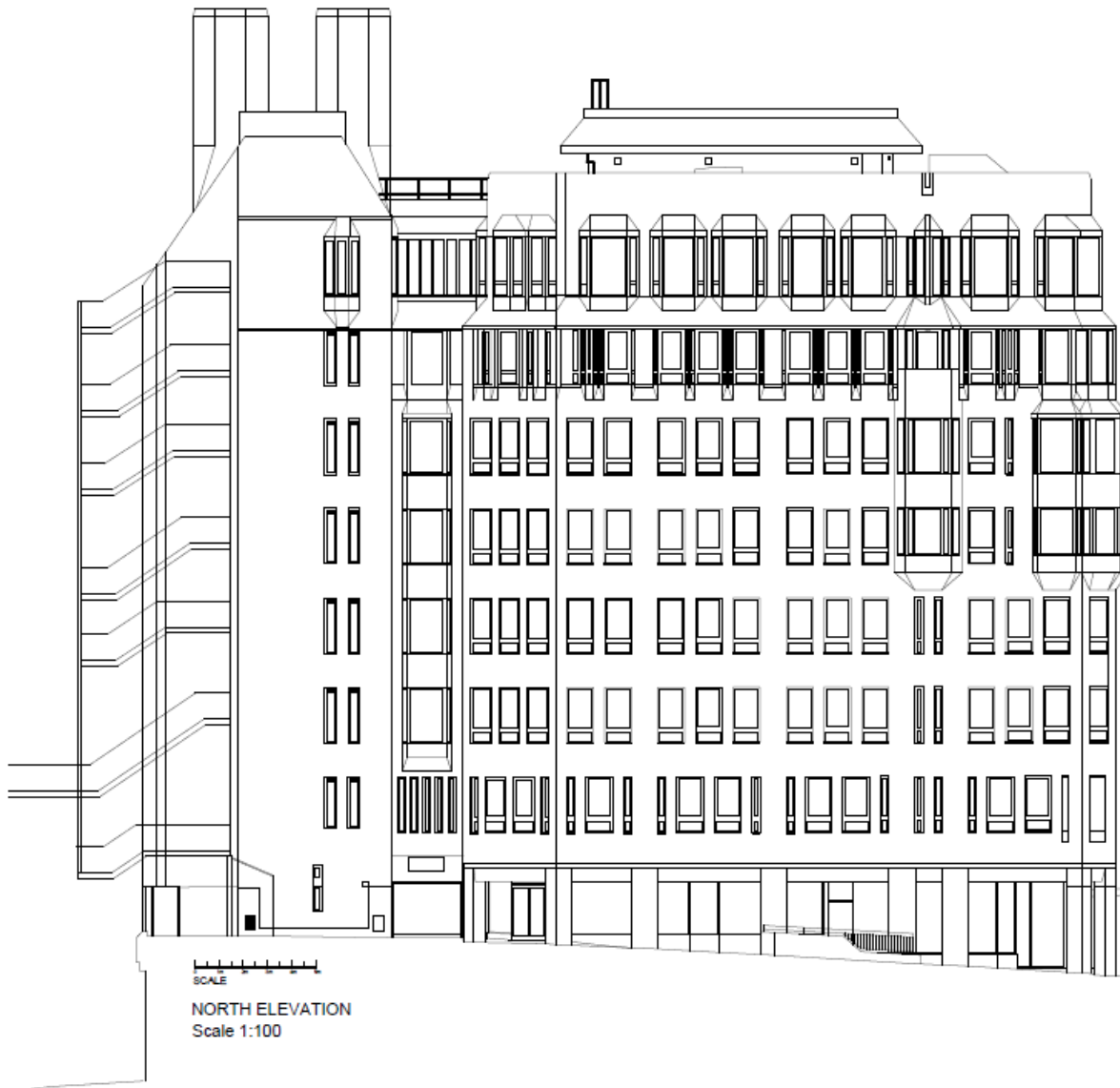
**Proposed front (West) elevation (Strand frontage) and rear (East) elevation (adjacent to Hungerfod Lane)**



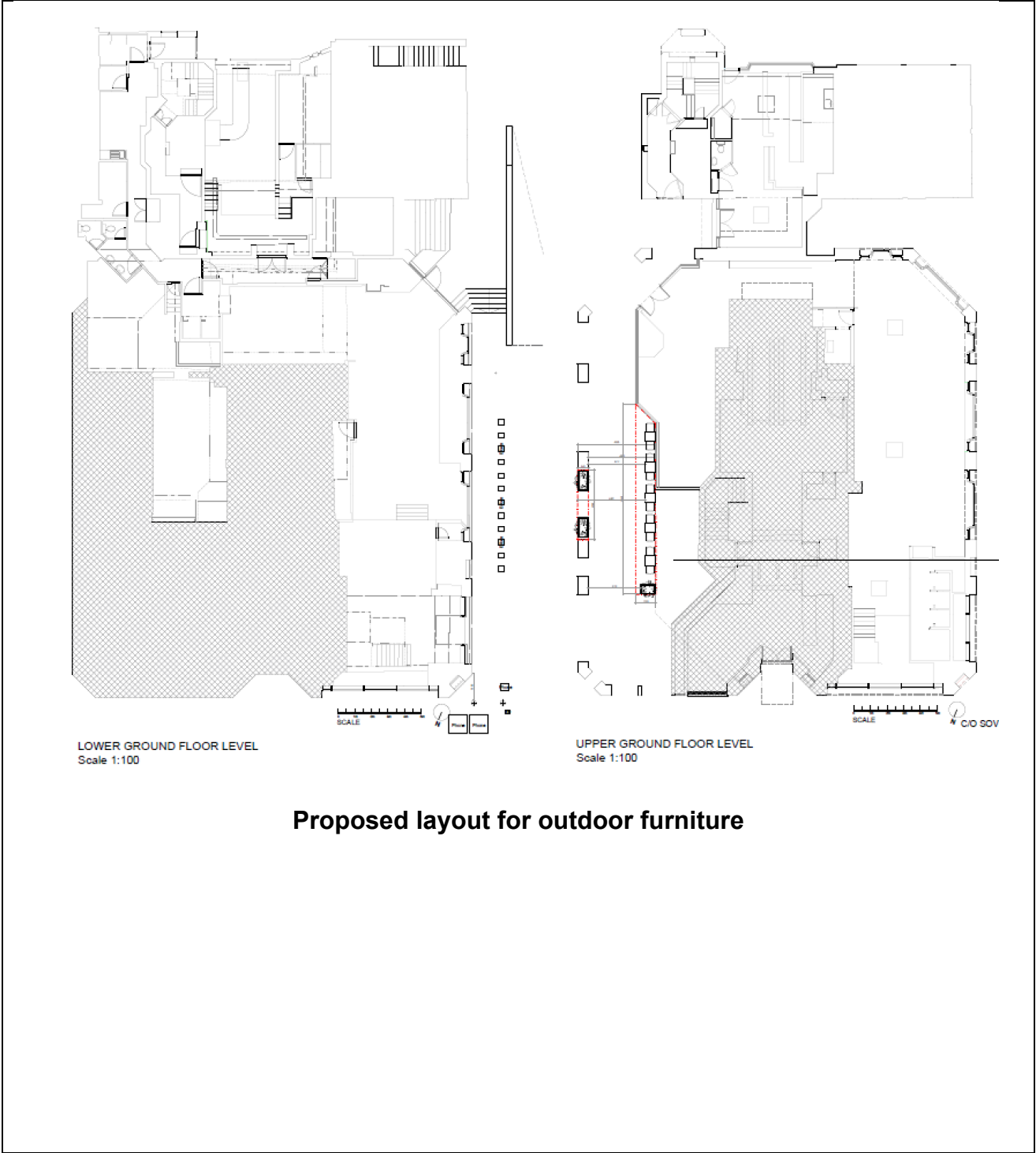


**Proposed South elevation (Craven Street frontage)**





**Proposed North elevation (Charing Cross station forecourt frontage)**



**Proposed layout for outdoor furniture**

**DRAFT DECISION LETTER**

**Address:** 11 Strand, London, WC2N 5HR

**Proposal:** Use of part upper and lower ground floors as a public house with food provision (Sui Generis) and associated external alterations including provision of mechanical plant equipment with associated enclosure on a platform within side courtyard and one air conditioning unit at rear lower ground level.

**Reference:** 23/02207/FULL

**Plan Nos:** Site location plan; AL.01 rev. G; AL.02 rev. B; AL.03/B; AP.01 rev. B; AS01 rev. D; AS02 rev.C; AS093; AS04 rev.D; AS05 rev. C; AV01 rev. D; AV02 rev. C; AV03 rev. E; TS/00 rev.B2; Premises Management Plan dated January 2024; Proposed visual; Planning noise impact assessment ref: RK3564/23126/Rev 1.

For information only:

Planning statement dated March 2023; Energy and sustainability statement dated 12 April 2023.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 07779567368

**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 Trafalgar Square 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 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:  
 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 0.2m/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)

- 6 You must not play live or recorded music within the premises.

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)

- 7 You must not allow more than 320 customers into the property at any one time, and you must maintain 256 covers (seats) for customers at all times the public house is in use.

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)

- 8 Customers shall not be permitted within the Public House premises before 0700 or after 2330 on Monday to Thursday; before 0700 or after 00:00 on Fridays and Saturdays; and

before 07:00 or after 22:30 Sundays and Bank Holidays.

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)

- 9 You must carry out the measures included in your Operational Management Plan dated January 2024 at all times that the Public House is in use.

Reason:

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

- 10 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number AL.03/B 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 sui generis use. (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)

- 11 The public house use allowed by this permission must not begin until you have fitted an internal lobby at the two entrances. The entrance doors and the doors fitted to the internal lobbies shall be self-closing doors and you must not leave these doors open except in an emergency or to carry out maintenance. The lobbies shall be retained in situ for the life of the development.

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). (R13ED)

- 12 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises. The reheating of food, the cooking equipment used and hot food products served shall be limited to ensure:
- No gas or solid fuel cooking
  - No deep fat frying or use of griddle cooking
  - Hot food to be provided only via microwave ovens, combi reheat ovens (with built in carbon filtration), one panini grill, rotary toaster and a chip scuttle.

(Please refer to Informative 5).

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)

- 13 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in 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. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

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)

- 14 (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 sui generis 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 in writing 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 ^IN; 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 in writing 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 written 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. (C47AC)

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)

- 15 The entrance on Craven Street in the southwest corner shall not be used as an exit except in emergencies.

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)

- 16 You must apply to us for approval of detailed drawings at 1:10 and sections at 1:5 (specifying finished appearance) of the of the following parts of the development:

- plant deck (including support legs) and louvred screen.

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

You must then carry out the work according to these details and erect the screen before installation of the plant. The screen must then be maintained in the form shown as long as the plant and deck remains in place.

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

- 17 You must not sell any take-away food or drink on the premises and you must not operate a delivery service, even as an ancillary part of the primary public house/restaurant use.

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)

- 18 You must not allow customers to drink on the pavement outside the premises.

Reason:  
 To protect the environment of people in neighbouring properties as set out in Policies 7,

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16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 19 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)

- 20 All servicing must take place between 0800 and 2000. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

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)

- 21 You must apply to us for approval of a Servicing Management Plan, which must identify the process, internal storage locations, scheduling of deliveries and staffing. You must not occupy the Public House until we have approved what you have sent us. You must then carry out the measures outlined in your servicing management plan for the lifetime of the development, unless a revised strategy is approved in writing by the Local Planning Authority. (Please refer to informative 6).

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)

**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](http://www.westminster.gov.uk/guide-temporary-structures).

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

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

- 3 Conditions 4 and 5 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 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public.  
Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. [www.opsi.gov.uk/SI/si1992/Uksi\\_19923004\\_en\\_1.htm](http://www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm)

The following are available from the British Standards Institute - see [shop.bsigroup.com/](http://shop.bsigroup.com/):

BS 6465-1:2009: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances

BS 6465-3:2009: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)

- 5 The general ventilation within the kitchen must be designed to achieve an upper ambient temperature of not more than 25 centigrade and provide sufficient air changes within the workspace in compliance with Building & Engineering Services Association (BESA) guidance DW172 -2018 or as updated.

If in future deep fat frying and or cooking by griddle is intended then you must first install a fully recirculation scheme based on the standards set out on the Council's website for the prevention of odour nuisance from kitchen ventilation systems at: <https://www.westminster.gov.uk/westminster-environment-guidance-section-b/section-b-odour> or as updated. Any external equipment will require planning permission.

- 6 In order to meet the requirements of condition 21 the Servicing Management Plan (SMP) should

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clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for occupants ( process, internal storage locations, scheduling of deliveries and staffing). A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations.

The idea of the SMP is to ensure that the goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to the other highway users. The SMP should inform the occupant on their requirements to minimise the impact of their servicing on the highway (I.e. set out how the occupant is expected to service the unit). A supplier instructions sheet is a helpful part of the SMP.

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



**DRAFT DECISION LETTER**

**Address:** 11 Strand, London, WC2N 5HR

**Proposal:** Use of an area of the public highway measuring 1.2m x 11.4m to Charing Cross Station forecourt frontage for the placing of 5 tables, 10 chairs and one planter and two additional planters to undercroft in connection with the ground floor use.

**Reference:** 23/02248/TCH

**Plan Nos:** Site location plan; AP.02; AL.01 rev. J.

For information only: AD01; Planning statement dated March 2023.

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 07779567368

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

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

Reason:

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

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing AL.01 rev. J. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 1000 and 2200. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021). (R25BE)

- 4 The tables and chairs must only be used by customers of ground floor unit at 11 Strand. (C25CA)

**Reason:**

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission. (R25DD)

- 5 This use of the pavement may continue until 31 March 2025. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

**Reason:**

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing AL.01 rev.J. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved. (C25EA)

**Reason:**

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)

**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 cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: [www.westminster.gov.uk/tables-and-chairs-licence](http://www.westminster.gov.uk/tables-and-chairs-licence)., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to [streettradinglicensing@westminster.gov.uk](mailto:streettradinglicensing@westminster.gov.uk). If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for

planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 The furniture must be lifted when removed from the public highways and not dragged to avoid noise.

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

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# Agenda Item 3

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Wellington Barracks, Birdcage Walk, London, SW1E 6HQ</b>		
<b>Proposal</b>	Redevelopment of band practice facilities including demolition of existing rehearsal halls and erection of new extension to provide larger rehearsal halls, including reconfiguration at basement level to provide new band practice, changing and storage facilities for the bands of the Foot Guards.		
<b>Agent</b>	Arcadis		
<b>On behalf of</b>	Secretary of State for Defence		
<b>Registered Number</b>	23/05458/FULL	<b>Date amended/ completed</b>	16 August 2023
<b>Date Application Received</b>	7 August 2023		
<b>Historic Building Grade</b>			
<b>Conservation Area</b>	Birdcage Walk		
<b>Neighbourhood Plan</b>	N/A		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY & KEY CONSIDERATIONS

<p>The application site is within the Wellington Barracks, which lies within the Central Activities Zone (CAZ) and Birdcage Walk Conservation Area, and comprises a nineteenth century stucco fronted range (grade II listed) which front the parade ground fronting Birdcage walk, grade I ISTAR listed Guards Chapel and a complex of twentieth century interlocking concrete buildings (1979-85 George, Tew and Dunn Architects) occupying the south of the site.</p> <p>The proposal seeks to redevelop the rehearsal rooms, which are contained within a linear block which lies at the eastern end of the site, within the setting of the grade II and I ISTAR buildings. The</p>
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rehearsal rooms are sandwiched between and 1979-85 accommodation block and the Ministry of Justice, which itself lies outside of the conservation area.

The Army has recognised that parts of its estate are in poor condition and is committed to addressing substandard facilities as a priority. Substandard buildings can impact on the way in which the Army and Defence Infrastructure Organisation, (DIO), undertake certain functions and can have a damaging effect on their reputation.

The band facilities at Wellington Barracks are used by the bands of the Foot Guards (i.e., the Grenadier Guards, the Coldstream Guards, the Scots Guards, the Irish Guards and the Welsh Guards) at Wellington Barracks. However, they do not meet current Health and Safety standards and the applicant states they are under-sized for the types of bands based there.

The redevelopment of the rehearsal halls including demolition of existing rehearsal halls and erection of a new extension to provide larger rehearsal halls, including reconfiguration at basement level to provide new band practice, changing and storage facilities for the bands of the Foot Guards.

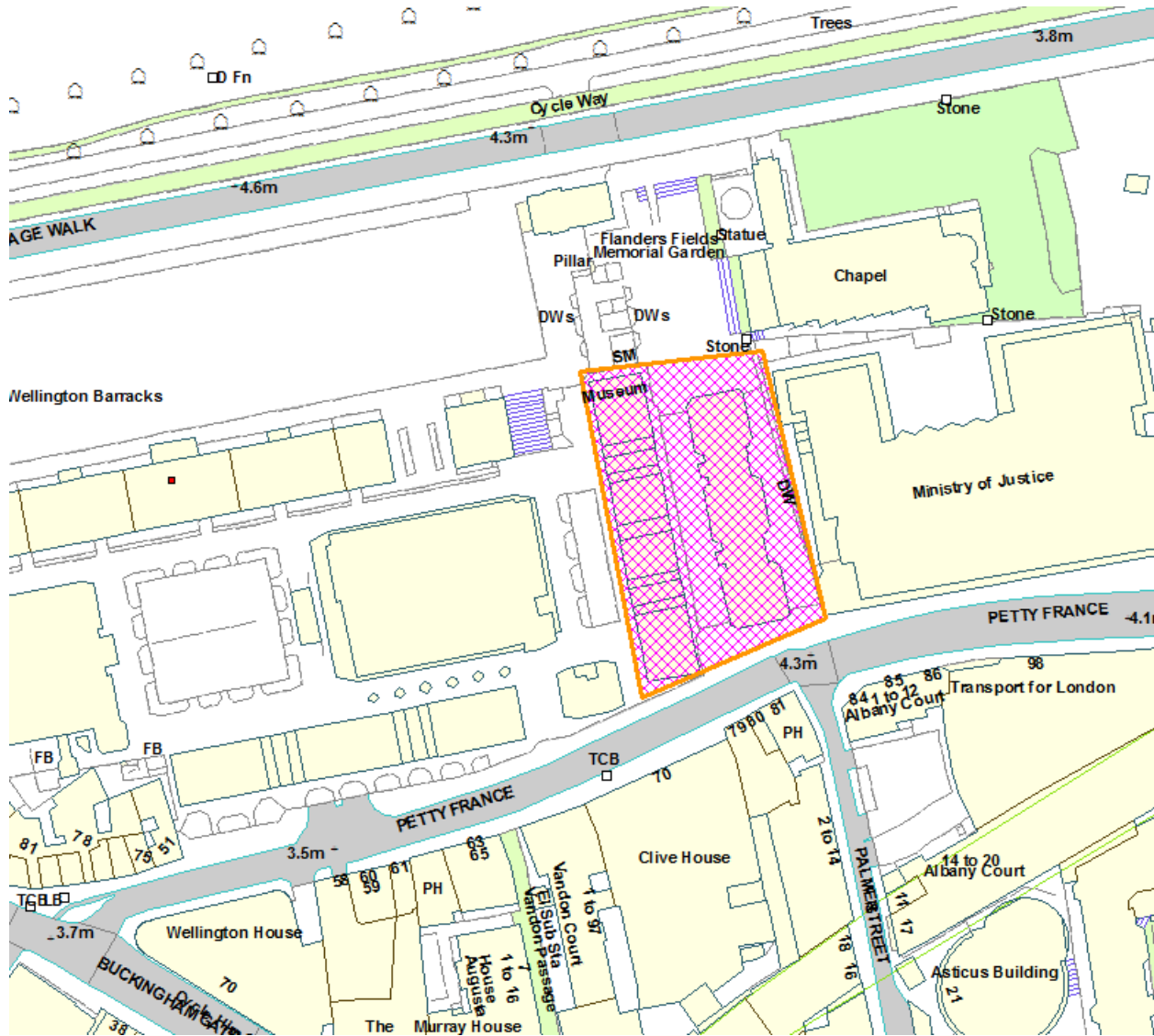
The key considerations in this case are:

- The impact of the proposed works on the appearance of the Barracks, the setting of adjacent grade II and IISTAR buildings and the character and appearance of the Belgravia Conservation Area; and
- The impact on the amenity of neighbouring residential properties.

The Thorney Island Society, object to the design of the new rehearsal hall, and concerns have been raised from a local resident in relation to noise and disturbance, planting, and on-street cycle parking.

The proposals are considered acceptable in heritage, townscape, design, land use, amenity, environmental, basement development and highway terms and the application is recommended for approval subject to the conditions as set out in the draft decision letter.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



**Wellington Barracks Rehearsal Hall, Petty France street frontage**





**Wellington Barracks Rehearsal Hall, North elevation**



**View from within Wellington Barracks towards the Rehearsal Hall, Barracks Accommodation, and adjacent Ministry of Justice**

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### THE THRONEY ISLAND SOCIETY:

Understand the need for this scheme, however, object to its appearance because the new aesthetic will be less sympathetic to its context than the existing building. The vertical gable ends to the southern and northern rehearsal halls seem strident and unnecessary - unless the objective is to enhance the acoustics, in which case why does the central rehearsal room not have a similar shaped roof. Would like to see a pedestrian route open to the public, through the site from Petty France to the Guards Chapel, if security conditions change.

#### HIGHWAYS PLANNING MANAGER:

Undesirable but could be considered acceptable, subject to agreeing a stopping up order in relation to the parts of the building line being brought forward on the Petty France frontage.

#### ENVIRONMENTAL SCIENCES:

No objection, subject to conditions relating to mechanical plant, and hours of use (both plant and rehearsal halls).

#### SUSTAINABILITY OFFICER:

There is some demolition associated with the proposal, and even though the overall embodied carbon is not considered high in comparison to other major schemes, it is recommended that the applicant is mindful of whole life carbon targets through all stages of design and construction. Conditions are recommended in respect of Whole Life Carbon and Circular Economy.

#### ARBORICULTURAL MANAGER:

No objection, subject to conditions relating to tree protection and landscaping.

#### ENVIRONMENT AGENCY:

No objection

#### DESIGNING OUT CRIME OFFICER (MET. POLICE):

No objection, but make recommendations relating to a gate and windows.

#### THAMES WATER:

No objection

#### TFL LONDON UNDERGROUND:

No comment

#### THE WESTMINSTER SOCIETY:

No response to date.

#### THE ROYAL PARKS:

No response to date.

NATURAL ENGLAND:  
No response to date

VICTORIA BID:  
No response to date

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:  
No. Consulted: 370  
No. of replies: 1  
No. of objections: 1

One objection received from a local resident on the following grounds:

- Noise mitigation, residents should be helped to mitigate the impact of noise, possibly with support in installing additional windows facing the site;
- Concerns about benches in the street scape on Petty France;
- Additional planting/ greenery should be provided on the Petty France frontage; and
- The area lacks cycle parking, which should be installed on the Petty France street scene.

PRESS NOTICE/ SITE NOTICE:  
Yes

## **5.2 Applicant's Pre-Application Community Engagement**

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 in accordance with the principles set out in the Early Community Engagement guidance. The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement) are summarised below:

Drawings and photographs of the existing facilities within the application site and drawings of the proposed building, together with a covering letter, were e-mailed to the following stakeholder organisations and specialist bodies on 21 November 2022:

- Royal Parks;
- Historic England;
- Ministry of Justice (C/o Government Property Agency);
- Victoria, Westminster & Whitehall Business Improvement Districts, (BIDs);
- Westminster Society; and
- Residents' Society of Mayfair & St. James

Letters were also e-mailed to the three Ward Councillors for their information, advising them of the proposals for the site and the on-going consultation and of the intention to submit a planning application for the works in late December 2022.

In addition, letters enclosing plans and photographs illustrating the proposals were sent to residential properties along Petty France who might potentially be affected by the proposals. Letters were sent to all occupiers of Vandon Court, Albany Court and the occupiers of the Adam and Eve Public House.

**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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 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 (December 2023) unless stated otherwise.

**7. BACKGROUND INFORMATION**

**7.1 The Application Site**

The application site is within Wellington Barracks, which is located to the south of Birdcage Walk, in central London. Wellington Barracks consists of an irregularly shaped site, between Birdcage Walk and Petty France. Birdcage Walk runs along the northern boundary of the site, with St James’s Park beyond. The northern boundary is formed by cast iron railings, affording views of a large parade ground, located close to the site boundary; the majority of buildings are located within the southern two thirds of the site, which is relatively densely developed. Buildings are located close to the highway boundary along much of the south and southwestern boundaries, their appearance softened by a narrow landscape strip in some areas. To the east, the Barracks adjoins an office building; to the south, Petty France runs along the site boundary, with mixed use development beyond; to the southwest, it abuts Buckingham Gate, with mixed use development beyond.

The application site is located adjacent the eastern boundary of the Barracks site, in an area already utilised for band facilities. The site lies between a 1980's accommodation block and an office building occupied by the Ministry of Justice, immediately adjacent the site boundary. It is occupied by a linear, single storey building containing rehearsal rooms, with a basement; there is a small sunken area between the building and site boundary.

## **7.2 Recent Relevant History**

Various minor applications for repairs and refurbishment works to the exterior, roofs, and windows. None are directly relevant to the rehearsal halls.

## **8. THE PROPOSAL**

The proposed development will provide new band practice, changing and storage facilities for the five bands of the Foot Guards, to replace existing facilities that the applicant states are significantly under-sized and not suited to modern requirements.

The scheme therefore seeks to deliver larger and improved facilities needed for the Guards to be able to undertake practice sessions and also to prepare for ceremonial events. The new facilities will comply with modern Health and Safety requirements.

The works can be described as follows:

- Extension of the existing basement floor plan to the east, to form a larger and reconfigured basement space (Refurbishment works to the existing basement area do not form part of the planning application);
- Demolition of the existing band practice building and its replacement with a new building of similar height but a larger footprint; and incorporating a 'roof deck' element, from the west elevation of the new band practice building, linking it to the accommodation building, to the west.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

City plan policy 1 (Westminster's spatial strategy) seeks to protect and enhance uses of international and/or national importance, and the buildings that accommodate them.

The proposal involves the demolition of the existing rehearsal hall, comprising 553 sqm., and its replacement with a larger rehearsal hall comprising 1190 sqm. At basement level, the existing basement floor plan will be extended eastwards creating an additional 87.5 sqm.

The internal reconfiguration of the basement area would contain four changing spaces to allow for varying gender mixes, improved shower and toilet facilities, general stores (for instrument, travel and general storage), plant spaces and the existing percussion rooms and small practice rooms.

The new upper storey (ground floor) would contain rehearsal halls, ensemble rehearsal rooms, small practice rooms and a crew room.

The proposed enhancement of The Wellington Barracks band practice facilities is considered to accord with City plan policy 1.

## 9.2 Environment & Sustainability

In accordance with Policy 36 of the City Plan and the LPA's Environmental SPD and Policies SI2, SI4 and SI13 of the London Plan the proposal will incorporate measures to minimise its environmental impact whilst at the same time making the buildings resilient to the impacts of climate change.

The application is supported by a package of assessments, which have fed into the Sustainability Appraisal and DREAM V7 assessment, (the Ministry of Defence's own version of BREEAM):

- Adaptation to Climate Change report;
- Net Zero Carbon / Whole Life Carbon Strategy;
- Part L Assessment;
- Sustainability Appraisal;
- Sustainability Strategy;
- Thermal Comfort Assessment.

The Adaptation to Climate Change report identifies the risk to the use of the building arising from Climate Change, appropriate mitigation strategies and design responses. It recommends:

- Reinforcement of the building structure, including roofs and increasing the capacity of guttering and drainage down-pipes;
- Flood resistant materials such as steel skirting boards and solid flooring; damage minimisation through, removable/replaceable doors on fitted cupboards; relocation of electrical plugs and appliances;
- The buildings above ground drainage design should consider the implications of climate change and, how it can accommodate a potential 50% in rainfall increase by the 2080s;
- Installing artificial cooling system in the mechanically ventilated crew room;
- Incorporating external shafting to reduce the cooling requirement in the building by preventing solar access;
- Reducing the glazing area can help maintain thermal comfort by reducing heat gain and loss.

The Net Zero Carbon Strategy identifies general design requirements that will be required of the building envelope and fixed services in order to produce a high-performance building, including parameters such as building form, fabric efficiencies and

Mechanical, Electrical and Plumbing efficiencies. It presents a set of options to minimise the embodied carbon of the project, in which the building's carbon footprint could be reduced to 380 kgCO<sub>2</sub>e/m<sup>2</sup> (excluding sequestration) for upfront embodied carbon and 710 kgCO<sub>2</sub>e/m<sup>2</sup> for whole life carbon (excluding B6-B7), again excluding external works.

The Part L Assessment summarises the results of an assessment to determine the compliance of the building with Part L of the UK Building Regulations. The results of the analysis indicate that the proposed design meets the minimum requirements of the Building Regulations.

The Sustainability Appraisal summarises the targets for each of the Sustainability themes, the current project performance, and the actions to be carried out. has been a fundamental element in setting the direction of travel for the project and targets DREAM 'Excellent' standard for the design.

The Sustainability Strategy presents the Sustainability Strategy set out for the Band Practice Facility at Wellington Barracks, following the RIBA Sustainable Outcomes. It summarises the targets for each of the outcomes, the current project performance, and the actions to be carried out.

The Thermal Comfort Assessment looks at whether the building meets the thermal comfort criteria whilst maximising energy efficiency using passive measures of environmental control, under current and future weather. Both current and future weather thermal modelling results show that, in Summer, all artificially cooled spaces are thermally comfortable; but indoor overheating risk occurs in mechanically ventilated crew room. (The report recommends the installation of an artificial cooling system in the crew room). In Winter, the building design and services strategy deliver thermal comfort levels under the design parameters.

The Sustainability Appraisal and DREAM V7 assessment demonstrate that the proposal is considered to be, at this stage, in broad compliance with the LPA's Environmental SPD, which requires development to meet climate change objectives and achieve a high standard of environmental sustainability.

### **Whole Life-cycle Carbon and Circular Economy**

London Plan Policy SI 2 requires developers to calculate and reduce Whole Life-Cycle Carbon (WLC) emissions. Developments should calculate WLC emissions through a nationally recognised WLC assessment and demonstrate actions taken to reduce life-cycle carbon emissions. The justification for City Plan Policy 38 explains the possibility of sensitively refurbishing or retrofitting buildings should also be considered prior to demolition and proposals for substantial demolition and reconstruction should be justified based on WLC impact. This is also echoed in the Council's Environmental SPD.

London Plan Policy D3 and SI 7 promotes circular economy outcomes and states developments should aim to be net zero-waste and promotes a more circular economy that improves resource efficiency and innovation to keep products and materials at their highest use for as long as possible. City Plan Policy 37 states the council will promote the Circular Economy and contribute to the London Plan targets for recycling and for London's net self-sufficiency by 2026.



The proposals to demolish the building has been reviewed by the council's sustainability officer. In principle the scheme is found to be acceptable, however the applicant has provided little information on the WLC assessment and there are some statements within the application that require further clarification.

The Applicant has stated that the benchmark used for their WLC assessment is BPS-0.1 v6 New Built, which refers to the Building Performance Standard issued by the Ministry of Defence for their buildings, but it is not a benchmark that is aligned with the Paris Agreement.

The Applicant has stated that the assessment they've done resulted in upfront carbon of 441 kgCO<sub>2</sub>e/m<sup>2</sup> and 775 kgCO<sub>2</sub>e/m<sup>2</sup>. This is LETI Band B and RIBA band C, which is aligned with the council's emerging Retrofit First policy requirement and current best practice. It is recommended that the application is conditioned to comply to these benchmarks (subject to planning approval) as they are aligned with current climate targets both in the industry as well as the council's Net Zero commitment and emerging policy.

In summary, the overall embodied carbon is not considered high in comparison to other major schemes, but it is recommended that a pre-commencement condition is attached to ensure that the applicant submits an updated WLC Assessment at various stages post planning to ensure that monitoring and level of ambition is continuously followed through every phase of the development.

A pre-commencement condition is also recommended to ensure that a Circular Economy statement is submitted to and approved by the council based on a pre-demolition audit and construction processes.

### **Flood Risk & Sustainable Drainage**

The site is inside Flood Risk Zone 3, which indicates a risk of tidal flooding from the Thames, although this part of London is protected to a very high standard by the Thames tidal flood defences such that there is up to a 1 in 1000 (0.1%) chance in any year flood event.

In accordance with City Plan Policy 35, the applicant has provided a Flood Risk Assessment and Surface Water Drainage Strategy.

The Environment Agency have assessed the proposal and state they have no objection to the proposed development as they are satisfied with the applicant's assessment, including that the developer has assessed the risk from a breach in the Thames tidal flood defences using the latest modelled tidal breach data and that the proposal has adequate safe means of access and/or egress in the event of flooding.

City Plan Policy 35 also requires new development to incorporate Sustainable Drainage Systems (SuDS) to help alleviate the risk of flooding and reduce water run-off, and the applicant has submitted a SuDS strategy. It sets out that the development that will manage runoff from the site for all surface water flood events and a combination of SuDS features such as green roof planting, tree pits, and filter drains to manage surface water.

### **Land Contamination**

City plan *Policy 33(E) (Local environmental impacts)* and the council's the Council's Environmental SPD require applicants to carry out contaminated land assessments and take appropriate remediation measures for development on or near a site which is potentially contaminated. T

The applicant has carried out a preliminary geo-environmental risk assessment has been undertaken in accordance with current regulatory guidance (Guidance for the Safe Development of Housing on Land Affected by Contamination, R&D Publication (2008) and the Environment Agency Land Contamination Risk Management (2020)) to consider the significance of potential contamination. It found the overall preliminary risk for is considered Moderate to Very Low

A condition is recommended requiring further detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

### **Environment & Sustainability Summary**

Overall, the applicant's submission is considered to demonstrate the development will likely result in an acceptable environmental impact. This is subject to recommended conditions, with regard to an updated WLC Assessment at various stages post planning to ensure that monitoring and level of ambition is continuously followed through every phase of the development; as well as a Circular Economy statement to be approved by the council based on a pre-demolition audit and construction processes.

## **9.3 Biodiversity & Greening**

City Plan Policy 34 states that, wherever possible, developments will 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.

The proposal is supported by landscaping plans and an Arboricultural Impact Assessment (AIA) that details improvements to the landscaping around the site as. The new landscaping would result in the removal of some existing trees, but the Arboricultural Manager has no objection to their removal subject to suitable replacements, secured by condition.

The applicant proposes numerous new green elements within the site, including a new roof garden area with green roof planting at first floor deck level, as well as planting surrounding the building. A condition is recommended to ensure details of the soft and hard landscaping are provided.

## **9.4 Townscape, Design & Heritage Impact**

### **Legislative & Policy Context**

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

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

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

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

Policy 38 Design Principles (A) states that new development will incorporate exemplary standards of high quality, sustainable and inclusive urban design....(B) respond to Westminster’s context by positively contribution to Westminster’s townscape and streetscape.

Policy 39 Westminster’s Heritage: With regards to (K) Conservation Areas, states that development will preserve or enhance the character and appearance of Westminster’s conservation areas. (L) goes on to states that there will be a presumption that unlisted buildings that make a positive contribution to a conservation area will be conserved.

Policy 40 Townscape and Architecture, states that (A) Development will sensitively designed, having regard to the prevailing, scale, heights, character, building lines and plot widths, materials, architectural quality, and degree of uniformity in the surrounding townscape. (B) goes on to state that: Spaces and features that form an important element in Westminster’s local townscapes or contribute to the significance of a heritage asset will be conserved, enhanced and sensitively integrated within new development.

**Townscape and design**

The Barracks site, which lies within the Birdcage Walk Conservation Area, comprises a nineteenth century stucco fronted range (grade II listed) which front the parade ground fronting Birdcage walk, grade IISTAR listed Guards Chapel and a complex of twentieth century interlocking concrete buildings (1979-85 George, Tew and Dunn Architects) occupying the south of the site.

Proposals seek the redevelopment of the rehearsal rooms, which are contained within a linear block which lies at the eastern end of the site, within the setting of the grade II and IISTAR buildings. The rehearsal rooms are sandwiched between and 1979-85 accommodation block and the Ministry of Justice, which itself lies outside of the conservation area.

The rehearsal rooms are contained within three interlinked rendered blocks, with metal glad roofs. The building is identified as an unlisted building of merit within the Birdcage

Walk Conservation Area Audit. The northern end of the block fronts directly onto Petty France, whilst the southern end can be viewed from Birdcage walk, being set back from the parade ground but within the setting of the Guardhouse (II), and Guards Chapel (IISTAR)

The existing building is a linear block with simple unadorned facades and concluded by three metal clad faceted roofs. Glazing is limited to roof level within dormer style elements. Its height and overall scale are modest in the context of neighbouring buildings which allows it to lie unassumingly within the setting of the nearby listed buildings.

Proposals seek the demolition of much of the building above the ground plane, whilst retaining and reutilising the basement. In light of the building being identified as an unlisted building of Merit, its demolition needs to be balanced against the design quality of the proposed replacement building. Its demolition is also judged against the environmental policies within Westminster's City Plan 2019 – 2040 and the City Councils Environmental SPG, which are very much in favour of retrofit and minimising the loss of fabric.

The proposed new building will comprise of three interlinked buildings with pitched bronze clad, lantern style roofs, set above clearstorey glazing. The footprint of the building will be extended westward to provide a direct link at ground floor level with the accommodation block. The height and overall scale of the building remains comparable to the existing buildings, maintaining its subservient relationship with the nearby listed buildings, which is welcome. The three main buildings are intended to be constructed in lime washed brick, incorporating vertical depressions. It is felt that brick would offer a texture and visual richness to the facades, important given a large extent of the exterior will be largely void of fenestration due to its functionality and for security. The two smaller scaled linking buildings are to be clad in bronze, continuing the material palette of the principal blocks.

The loss of the existing building is regrettable; however, the replacement buildings exhibit a high level of design and aesthetic quality and would respect the setting of the nearby listed buildings and enhance the character and appearance of the Birdcage walk conservation area. The proposals are not felt to result in harm to heritage assets and are supported on design and townscape grounds.

## **9.5 Residential Amenity**

City Plan Policies 7 (Managing development for Westminster's people) and 33 (Local environmental impacts) seek to ensure developments are neighbourly and avoid detrimental impacts on neighbours including in terms of loss of light, increased sense of enclosure and loss of privacy. They also seek to protect local environmental quality and ensure residents are not harmed in terms of noise and vibrations.

The music rehearsal rooms are contained within a linear block which lies at the eastern end of the site, sandwiched between the Barracks accommodation block and the Ministry of Justice. The replacement building would increase the height of the existing building by 3m, mostly due to the new roof structure, and has a larger footprint extending eastwards towards the Ministry of Justice. In this location the new building is not

considered to be considerably distant from the nearest residential occupiers on the opposite side of Petty France, and as such will not result in harm in terms of loss of light, increased sense of enclosure, or loss of privacy to neighbours.

### **Noise & Vibration**

#### Mechanical Plant

The proposal includes new plant comprises air handling units (AHUs), extract fans, fan coil units (FCUs) and mechanical ventilation and heat recovery (MVHR) units which are to be located internally and designed to ensure minimal impact on internal noise levels to the new facility. As well as these 3 heat pump units are to be installed in an external plant area.

The acoustic report identifies the nearest noise sensitive receptors to include rooms within the barracks itself and residential receptors at 81 Petty France. In addition, offices to the Ministry of Justice (MoJ) are adjacent to the proposed rehearsal hall.

The acoustic report demonstrates that the proposed plant is likely to comply with the design level criterion for the proposed hours of operation at the residential receptors. Compliance with British Standard 823:2014 should also be achieved at the MoJ offices.

#### Noise break out

In relation to music noise break out, the acoustic report sets a fairly stringent design level for music noise by designing music noise to 10 dB below the lowest background noise level across the octave range. A preliminary assessment of music break-out based on external wall, roof, and glazing sound insulation properties highlighted within this report has identified that compliance is expected against the limits.

Environmental Sciences has reviewed the acoustic details submitted with this application and raise no objection subject to the council's noise conditions, including a condition to control the hours of operation of the rehearsal facility to 0800 to 2000 hours daily. This relates to both the mechanical plant associated with the facility and music played in the building.

## **9.6 Transportation, Accessibility & Servicing**

### **Highway Impact/ Building Line**

The building does not have direct access to the highway. The southern flank abuts the highway (Petty France). There is an access point in the site perimeter to the west of the building, however, this is protected by a line of bollards on the highway, therefore no direct vehicle access is possible.

There are changes proposed to the façade and interaction between the building and Petty France. The drawings (including elevations and cross-sections) for this element are of limited detail.

Policy 25A states "Development must promote sustainable transport by prioritising walking and cycling in the city."

Policy 28A states "Given the increasing demands on existing highway space, the council will resist the loss of highway land, particularly footways."

Policy 43 is aimed at creating an improved public realm and environment for pedestrians and other users of an area, including to minimise obstruction to pedestrian movement.

Westminster Way strives to promote walking through design that aids rather than disadvantage pedestrians. This includes maintaining pedestrian desire lines.

It is accepted the building extension towards Petty France is within the shadow of the adjoining building and will not be a significantly detrimental impact to pedestrian movement.

On balance, in highway terms, the proposed amendment to the building line is considered acceptable in highway terms in this instance. An area that has been open and passable for at least the last 20 years (and presumably since the existing building was erected) is likely to have gained highway status. The applicant has agreed to apply to formally stop up the highway to implement the proposed development prior to any obstruction occurring.

**Servicing and Waste & Recycling Storage/ Cycling & Cycle Storage**

No details of cycle parking or waste storage are provided. It would be usual for a redevelopment of this nature to be encouraged to provide both cycle parking and waste storage to current standards to assist with supporting active travel and meeting waste reduction and recycling targets. However, the specific nature of the site and the use is noted and it is accepted that in this case the wider site contributes to these measures in highway and transport terms.

It is accepted that servicing for the building occurs within the wider site and will not adversely affect the highway.

**9.7 Economy including Employment & Skills**

The nature of the floorspace proposed does not require an employment and skills plan, though the proposal 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**

**Construction impact**

City Plan Policy 33 requires projects which have significant local impacts to mitigate their effects during construction through compliance with the Council's Code of Construction Practice (CoCP).

It is inevitable that the construction will cause noise and disturbance to local residents and businesses. However, it is considered that through appropriate controls and careful management, the impact from construction works can be mitigated. The CoCP has been developed to mitigate against construction and development impacts on large and complex development sites and basement excavation works.

A condition is recommended to ensure that the development complies with the City

Council's Code of Construction Practice (COCP) which requires the developer to provide a Site Environmental Management Plan (SEMP) and funding for the Environmental Inspectorate to monitor the demolition and construction phase of the development. The COCP sets out the minimum standards and procedures for managing and minimising the environmental impacts of construction projects within Westminster and relate to both demolition and construction works.

The key issues to address in the COCP are; liaison with the public; general requirements; SEMPs; construction management plans; employment and skills; traffic and highways; noise and vibration; dust and air quality; waste management; waste pollution and flood control and any other issues.

The Council's standard condition controlling hours of building work is also recommended.

### **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.

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement conditions to secure the following:

- Evidence to demonstrate the development will be bound by the Code of Construction Practice.
- Whole Life-cycle Carbon Assessments.
- Updated Circular Economy Statement.
- Contaminated Land Assessment
- Details of the stopping up of highway on Petty France frontage.
- Tree protection method statement

## **10. Conclusion**

The applicant states that the existing band facilities do not meet current Health and Safety standards and they are under-sized for the types of bands based there. As such this proposal to redevelop the rehearsal hall is necessary to improve this infrastructure.

The proposed enhancement of the Wellington Barracks band practice facilities is considered acceptable in heritage, townscape, design, land use, amenity,

Item No.
<b>3</b>

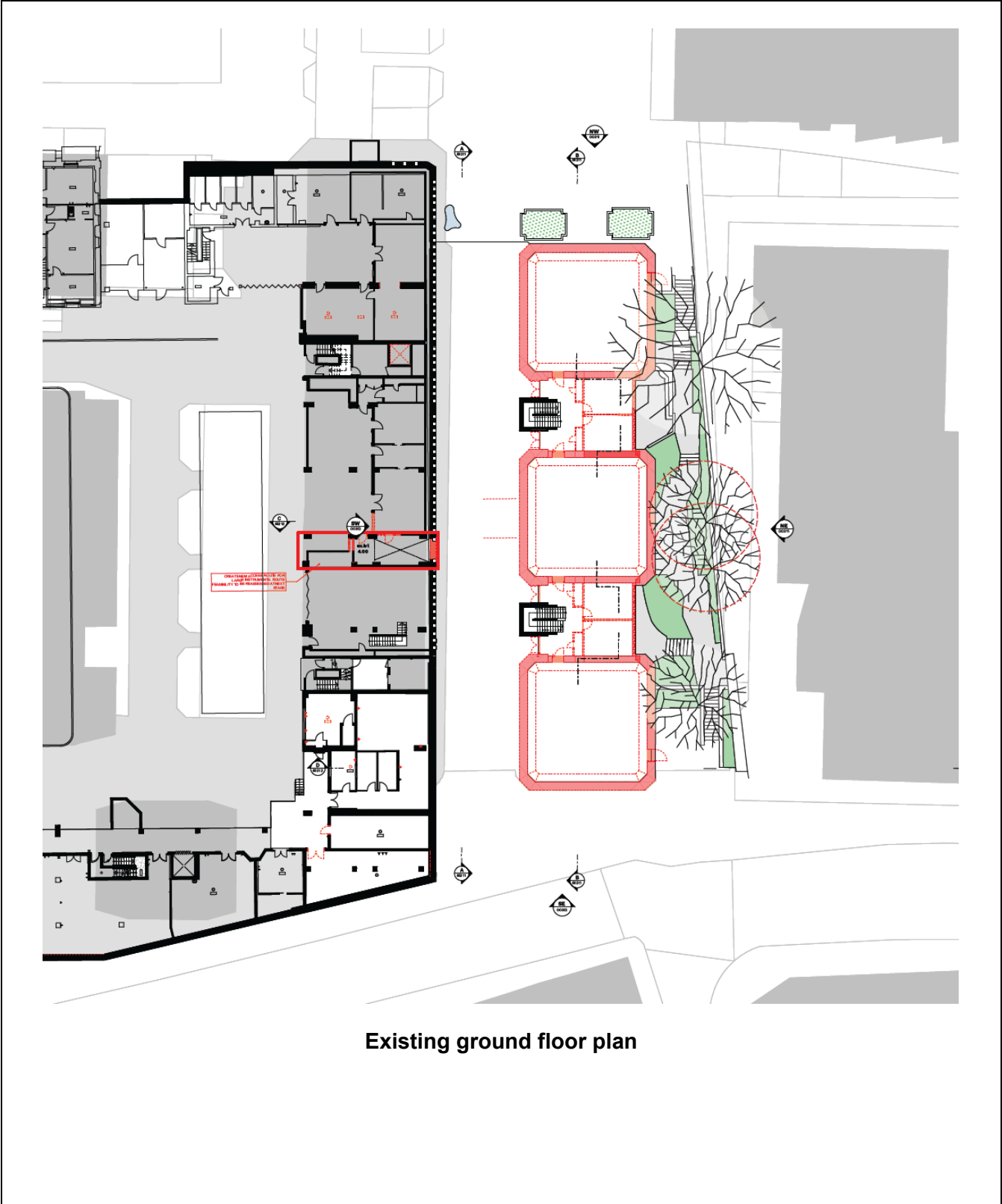
environmental, basement development and highway terms and the application is recommended for approval subject to the conditions as set out in the draft decision letter.

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

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



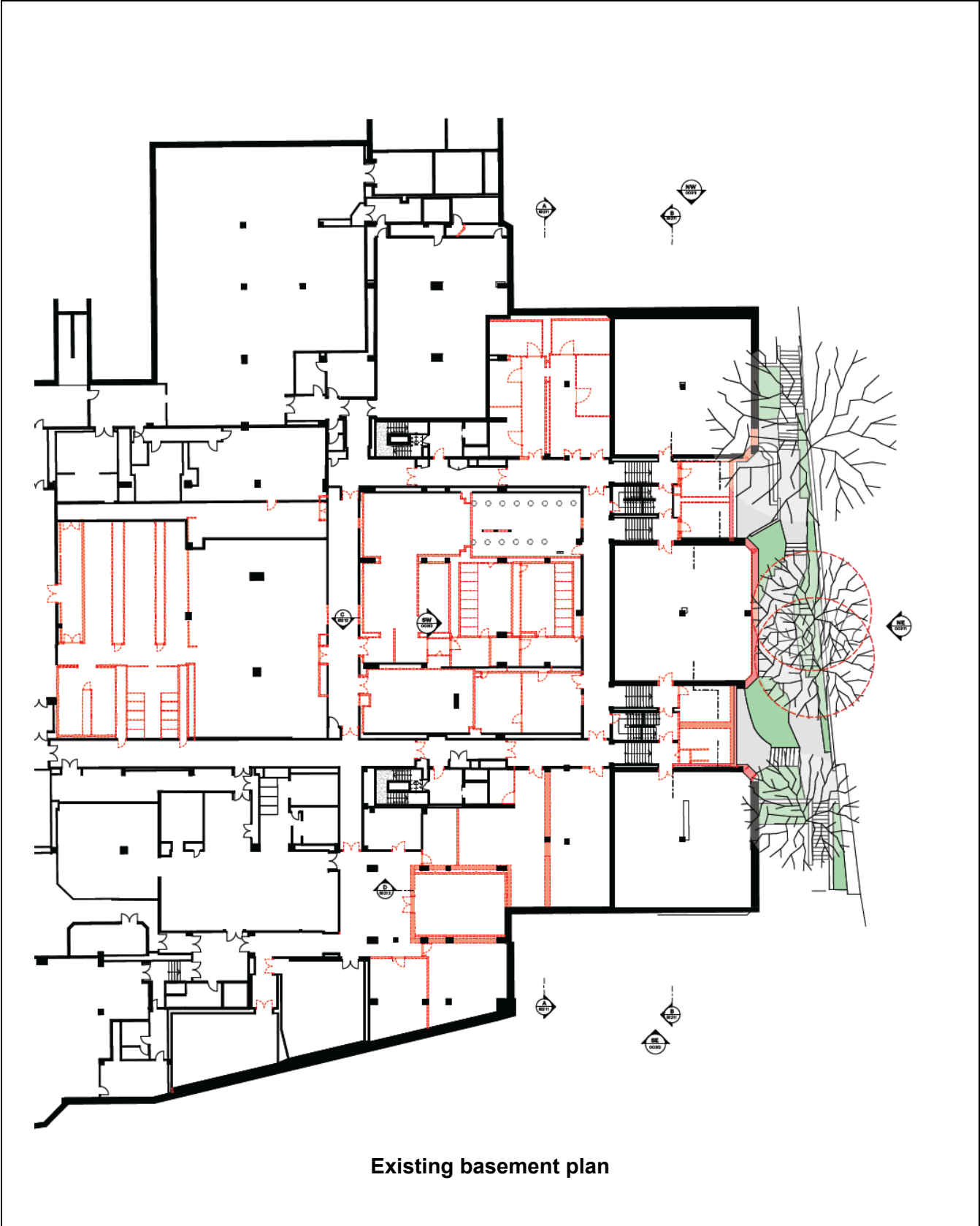
11. KEY DRAWINGS



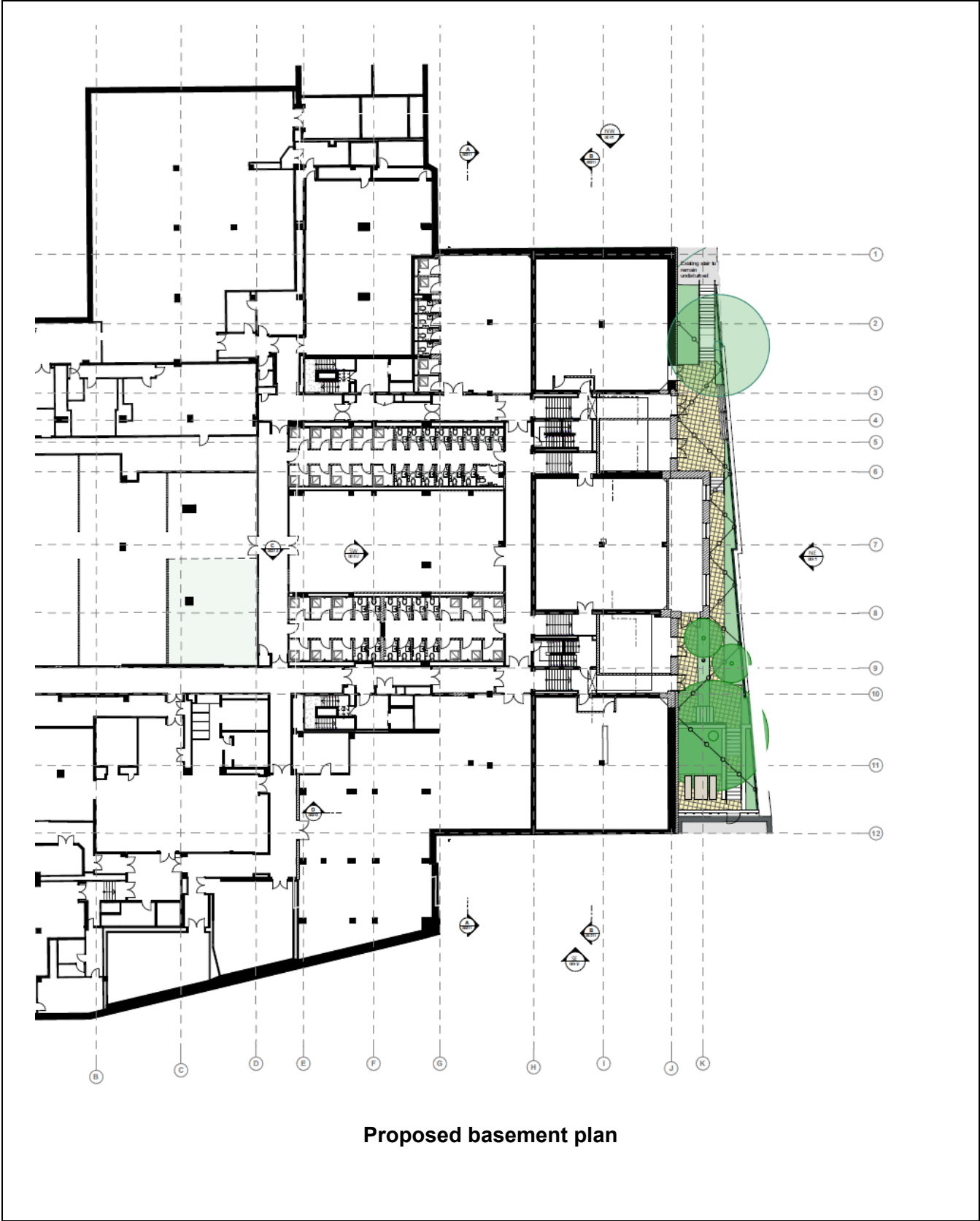
Existing ground floor plan



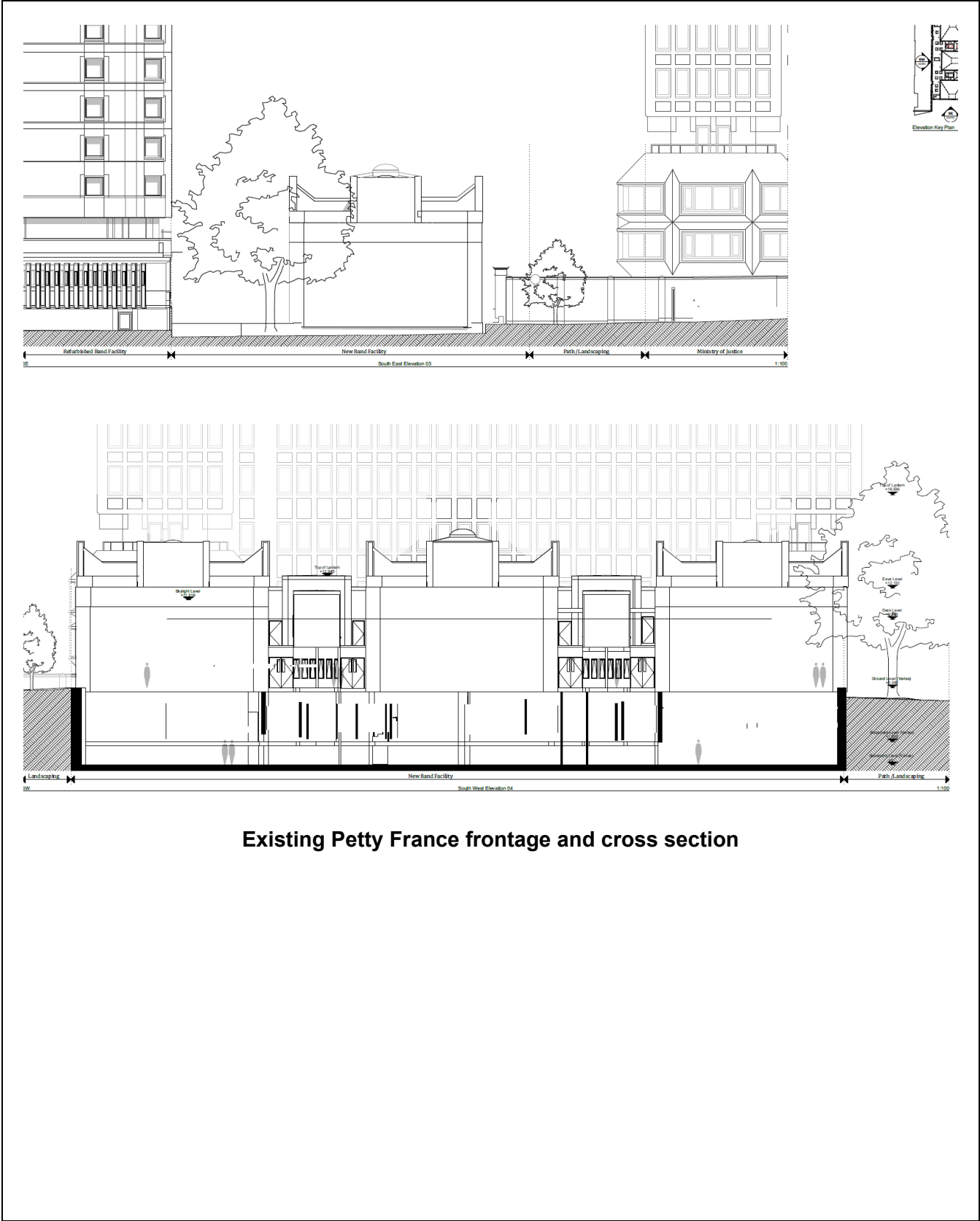
**Proposed ground floor plan**



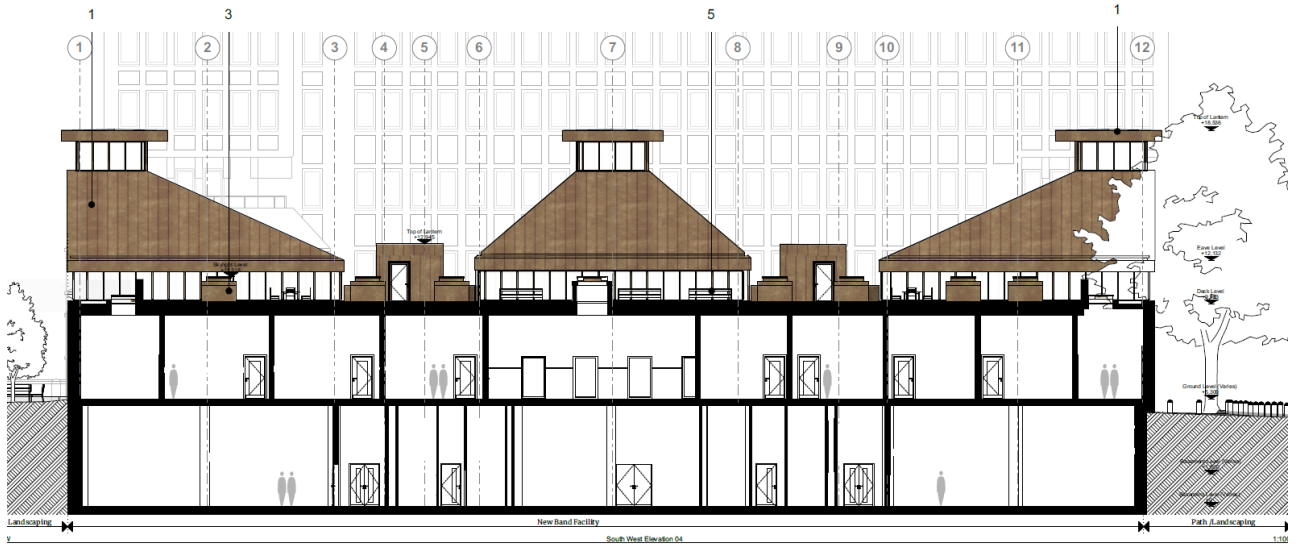
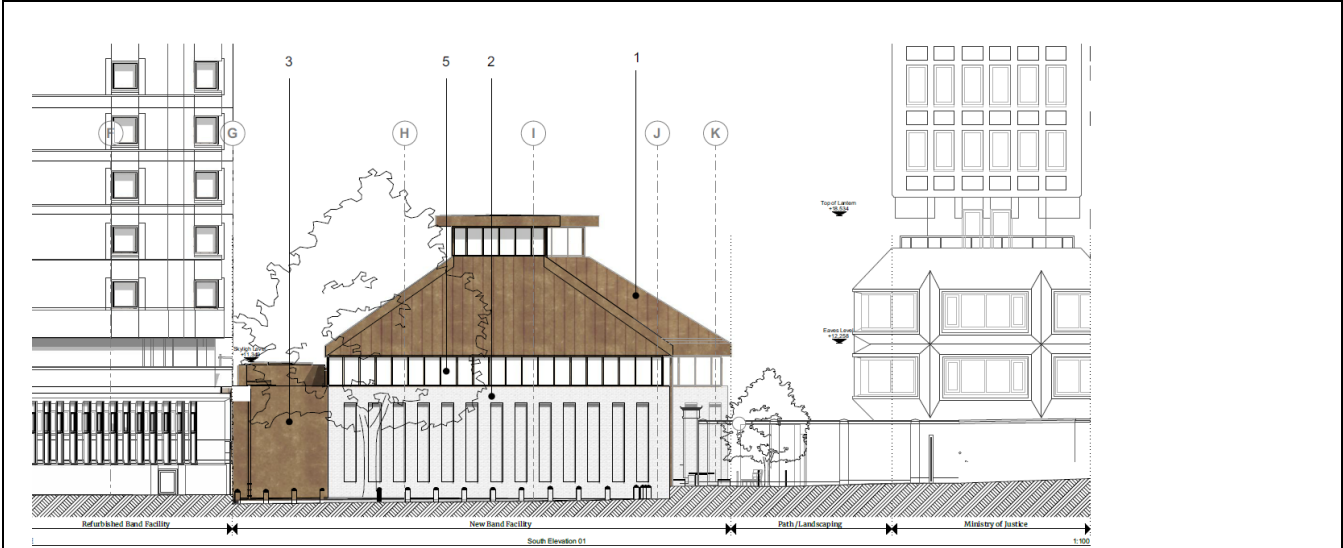
Existing basement plan



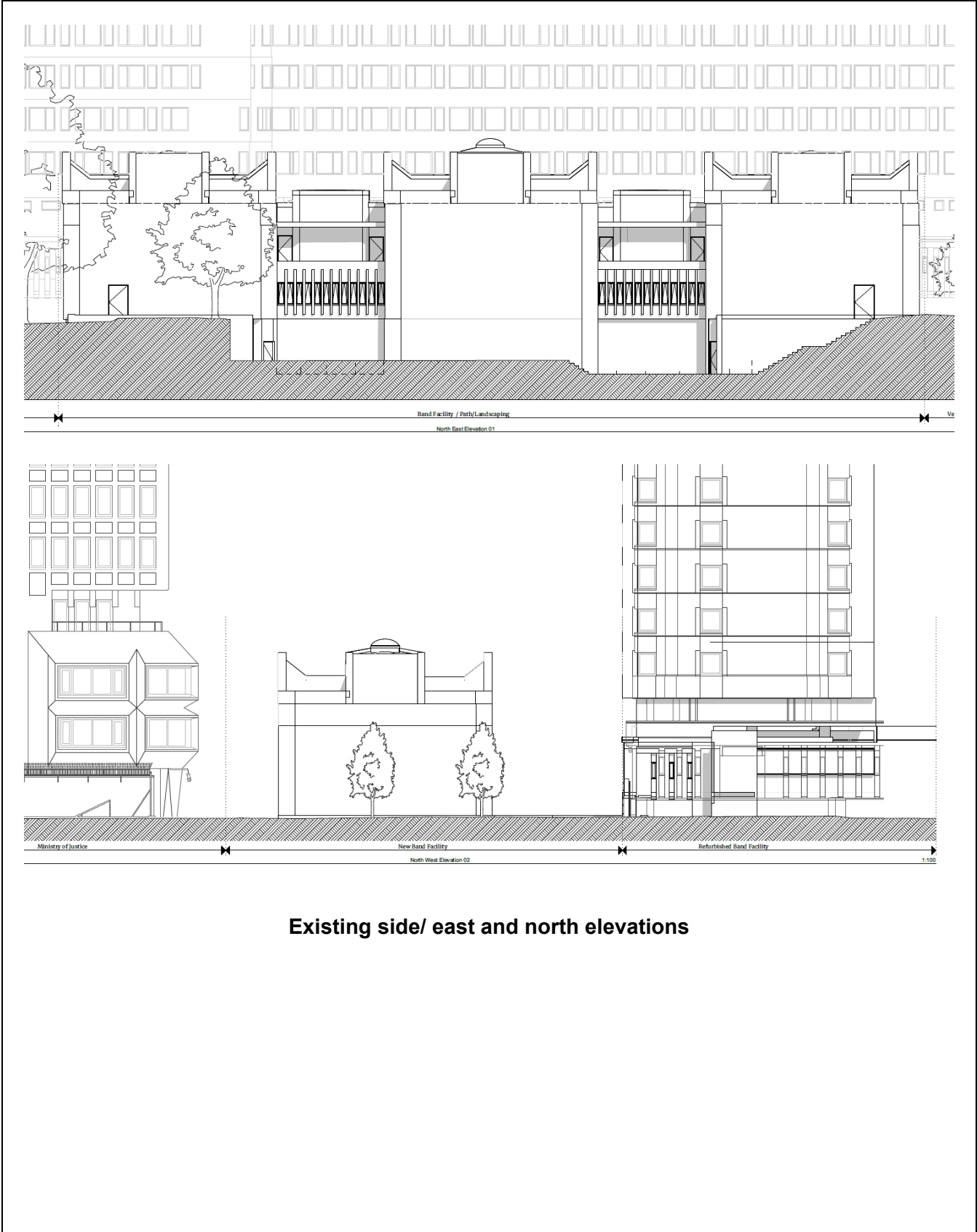
Proposed basement plan



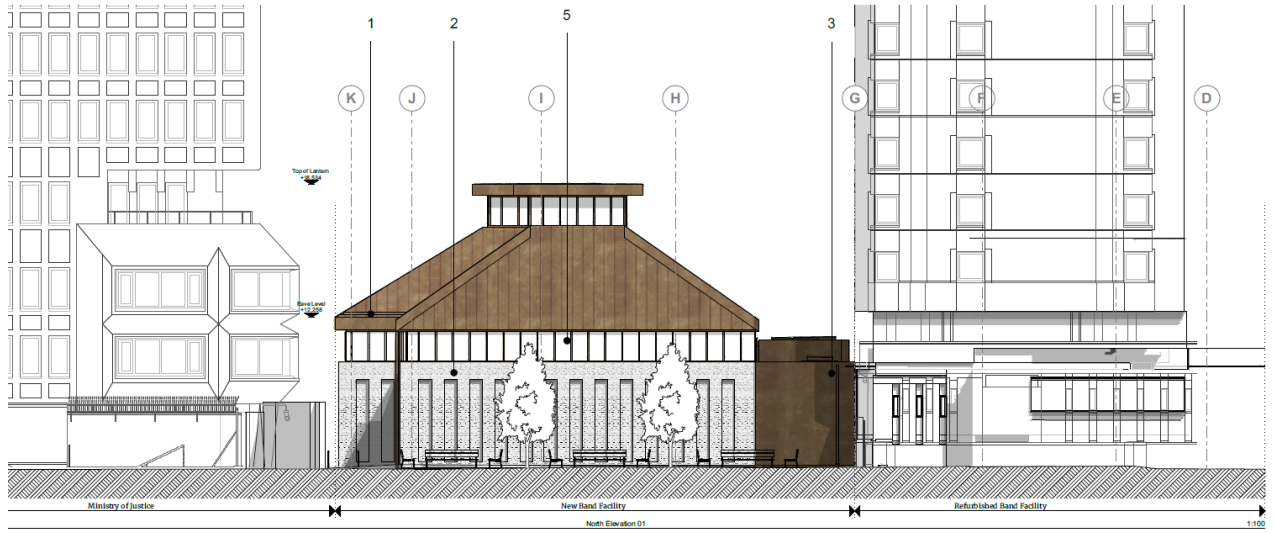
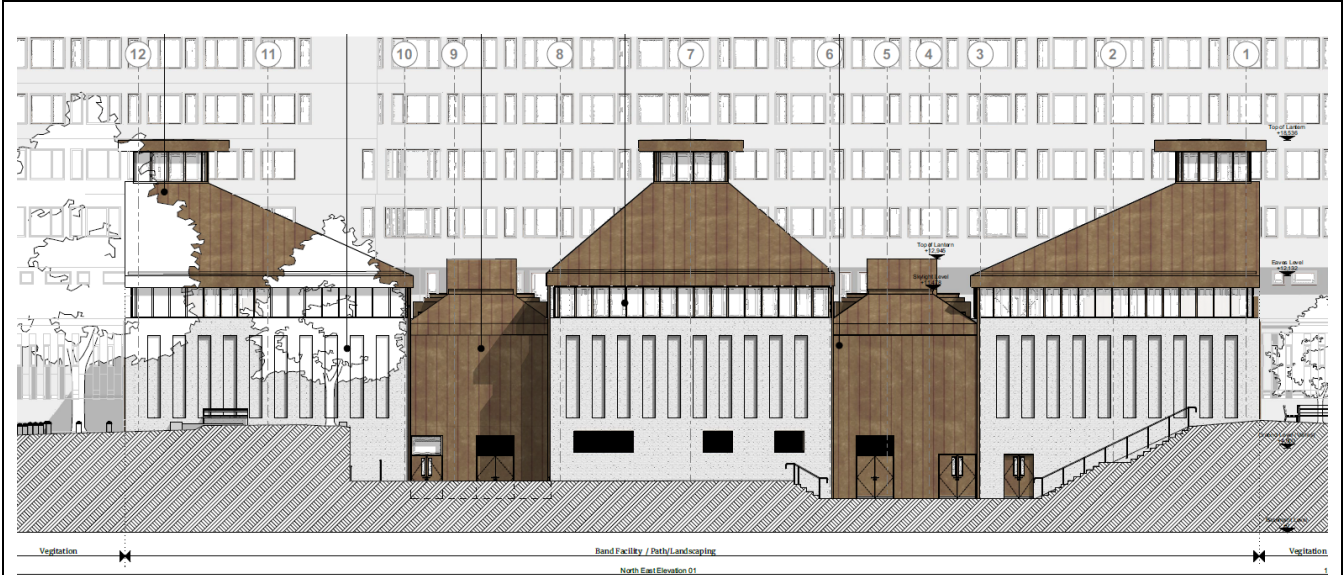
**Existing Petty France frontage and cross section**



**Proposed Petty France frontage and section**

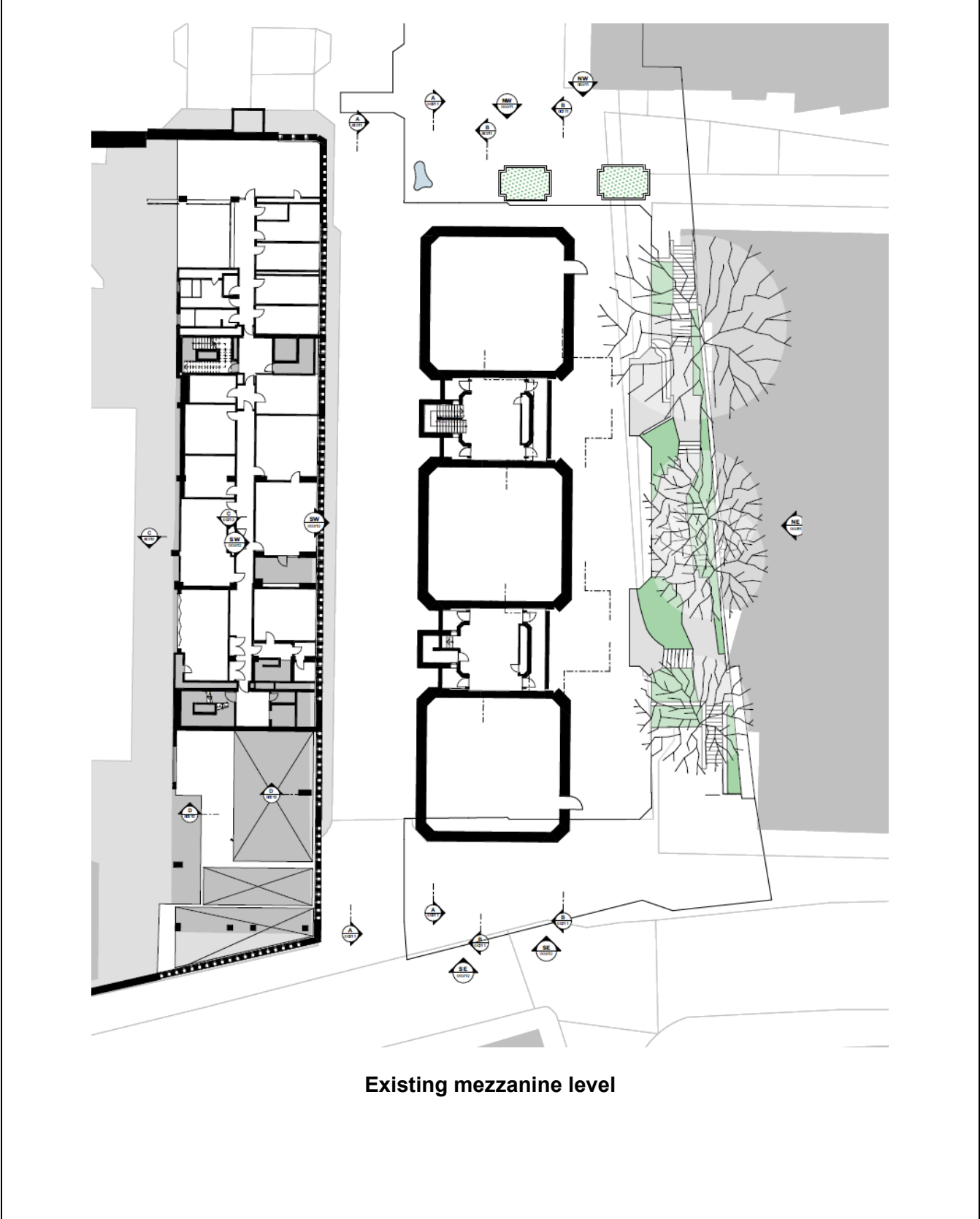


**Existing side/ east and north elevations**

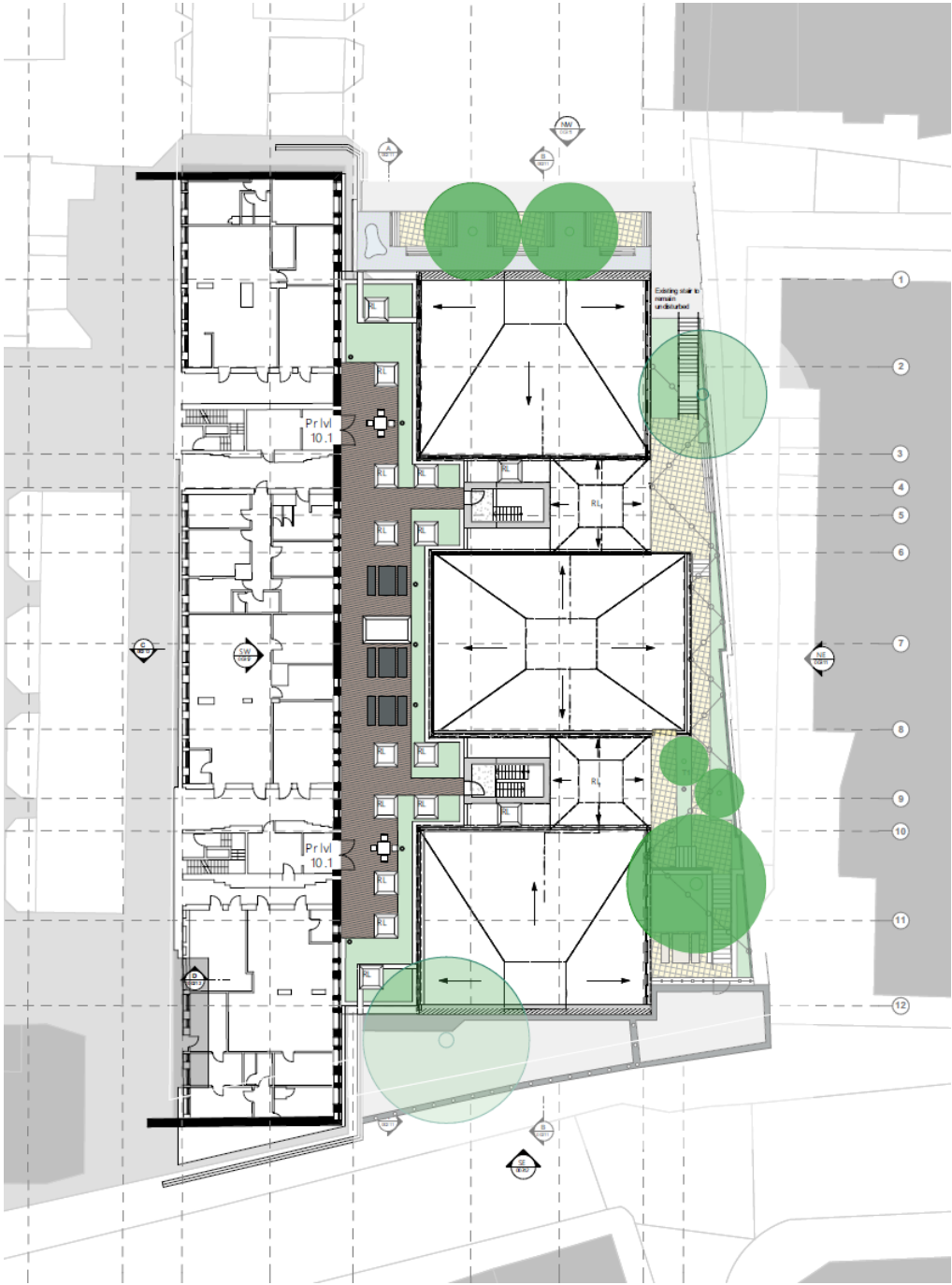


**Proposed side/ east and north elevations**





Existing mezzanine level



**Proposed first (deck) level**



**Visualisations of Petty France frontage and first (deck) level**

**DRAFT DECISION LETTER**

**Address:** Wellington Barracks, Birdcage Walk, London, SW1E 6HQ

**Proposal:** Redevelopment of band practice facilities including demolition of existing rehearsal halls and erection of new extension to provide larger rehearsal halls, including reconfiguration at basement level to provide new band practice, changing and storage facilities for the bands of the Foot Guards.

**Reference:** 23/05458/FULL

**Plan Nos:** Existing: , Z9A8968Y19-HLM-WELL00-ZZ-DR-A-100001 P03;, Z9A8968Y19-HLM-WELL00-ZZ-DR-A-100002 P03;, Z9D2166Y19-HLM-WELL00-F00-DR-A-00101 P02;, Z9D2166Y19-HLM-WELL00-M01-DR-A-00102 P02;, Z9A2905Y21-HLMWELL00WELL011-XX-DRA-100321 P01;, Z9A2905Y21-HLMWELL00WELL011-XX-DRA-100322 P01;, Z9A2905Y21-HLMWELL00WELL011-XX-DRA-100221 P01;, Z9A2905Y21-HLMWELL00WELL011-XX-DRA-100222 P01;, Demolition: , Z9A8968Y19-HLM-WELL00-B01-DR-A-100120 P04;, Z9A8968Y19-HLM-WELL00-F00-DR-A-100121 P04;, Z9A8968Y19-HLM-WELL00-M01-DR-A-100122 P04;, Z9A8968Y19-HLM-WELL00-F01-DR-A-100123 P02;, Proposed:, Z9A8968Y19-HLM-WELL00-ZZ-DR-A-100012 P03;, Z9A8968Y19-HLM-WELL00-B01-DR-A-100100 P10;, Z9A8968Y19-HLM-WELL00-F00-DR-A-100101 P10;, Z9A8968Y19-HLM-WELL00-M01-DR-A-100102 P06;, Z9A8968Y19-HLM-WELL00-F01-DR-A-100103 P08;, Z9A8968Y19-HLM-WELL00-XX-DR-A-100311 P04;, Z9A8968Y19-HLM-WELL00-XX-DR-A-100312 P04;, Z9A8968Y19-HLM-WELL00-XX-DR-A-100211 P04;, Z9A8968Y19-HLM-WELL00-XX-DR-A-100212 P04, Landscaping:, Z9A2905Y21-HLMWELL00WELL011-ZZ-DRA-100031 P01;, Z9A2905Y21-HLMWELL00WELL011-XX-DRA-100231 P01;, Z9A8968Y19-HLM-WELL00-ZZ-DR-L-100021 P10;, Z9A8968Y19-HLM-WELL00-XX-DR-L-100201 P03, Z9A8968Y19-HLM-WELL00-RF1-DR-L-100022 P05, Fire Strategy:, Z9A8968Y19-HLM-WELL00-B01-DR-A-175101 P02;, Z9A8968Y19-HLM-WELL00-F00-DR-A-175102 P02;, Z9A8968Y19-HLM-WELL00-M01-DR-A-175103 P02;, Z9A8968Y19-HLM-WELL00-F01-DR-A-175104 P02.

For Information Only:, Planning Statement; Wellington Barracks Statement of Community Involvement; Design and Access Statement; RIBA Stage 3 Fire Safety Strategy; Flood Risk Assessment; Westminster SUDs Proforma; Arboricultural Report and Arboricultural Impact Assessment Report; Heritage Desk Based Assessment; Phase 1 Geo Environmental Desk Study Report; Phase 1 UXO Detailed Risk Assessment; Transport Statement; Townscape and Visual Impact Assessment; Stage 3 RIBA Sustainability Strategy; Stage 3 Sustainability Appraisal; Climate Resilience and Additional Environmental Assessments; Adaptation to Climate Change DREAM Version 7; Daylight Assessment; Part L Assessment; Thermal Comfort Assessment; Designing for Waste Minimisation; Ecological Appraisal; Bat Survey; Net Zero Strategy; Whole life carbon assessment template; Acoustic Report; and Planting , Schedule.

**Case Officer:** David Dorward

**Direct Tel. No.** 020 7641  
07866038730

### 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 **Pre Commencement Condition.** Prior to the commencement of any:
- (a) demolition, and/or
  - (b) earthworks/piling and/or
  - (c) construction

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

Reason:

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

- 4 **Pre Commencement Condition.** You must not start work on the site until we have approved appropriate arrangements to secure the following:

i) Stopping up of Highway on Petty France frontage.

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

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in Policy 25 of the City Plan 2019 - 2040 (April 2021). (R19AD)

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

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

Reason:

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

- 7 You must apply to us for approval of a sample panel of brickwork including mortar, built on site, which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved the sample panel in writing. You must then carry out the work according to the approved sample.

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

- 8 You must apply to us for approval of details of the glazing, framing including materials (colour). You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these details.

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

- 9 **Pre-Commencement Condition.** You must apply to us for approval of an updated version of the Whole Life Carbon Assessment hereby approved at each of the following stages of development:
- a. Prior to commencement of any work on site including all works of deconstruction and demolition.
  - b. Prior to commencement of any construction works.
  - c. Within 3 months of first occupation of the development.

Where the updated assessment submitted pursuant to (a) or (b) above identifies that changes to the design, procurement or delivery of the approved development will result in an increase in embodied carbon (A1-A5) above 435 kgCO<sub>2</sub>e/m<sup>2</sup> and/or Whole Life Carbon (A1-C4) above 765 kgCO<sub>2</sub>e/m<sup>2</sup>, which are the benchmarks established by your application stage Whole Life Carbon assessment, you must identify measures that will ensure that the additional carbon footprint of the development will be minimised.

You must not commence any work on site and/or construction works (as appropriate pursuant parts (a) and (b) above) until we have approved the updated assessment you have sent us. You must then carry out works, as permitted by the relevant part of the condition, in accordance with the updated version of the Whole Life Carbon assessment that we have approved.

The post construction assessment submitted for our approval pursuant to (c) shall demonstrate how the development has been completed in accordance with the updated benchmarks identified in the updated assessment submitted pursuant to part (b).

Reason:

To ensure the development minimises carbon emissions throughout its whole life cycle in accordance with Policy SI2 in the London Plan 2021, Policy 38 in the City Plan 2019 - 2040 (April 2021), the Environmental Supplementary Planning Document (February 2022) and the guidance set out in the Mayor of London's guidance 'Whole Life-Cycle Carbon Assessments' (March 2022).

- 10 **Pre-Commencement Condition**

(a) Prior to commencement of any works on site including works of deconstruction and demolition full details of the pre-demolition audit in accordance with section 4.6 of the GLA's adopted Circular Economy Statement guidance shall be submitted to us and approved by us in writing. The details shall demonstrate that the development is designed to meet the relevant targets set out in the GLA Circular Economy Statement Guidance. You must not carry out any works of demolition until we have approved what you have sent us. The demolition and other pre-construction works shall then be carried out in accordance with the approved details.

(b) Prior to the commencement of any construction works and following completion of RIBA Stage 4, a detailed Circular Economy Statement including a site waste management plan (or updated version of the approved Circular Economy Statement that reaffirms the approved strategy or demonstrates improvements to it), shall be submitted to us and approved by us in writing. The Circular Economy Statement must be prepared in accordance with the GLA Circular Economy Guidance and demonstrate that the development has been designed to meet the relevant targets set out in the guidance. The end-of-life strategy included in the statement shall include the approach to storing detailed building information relating to the structure and materials of the new building elements (and of the interventions to distinguish the historic from the new fabric). The development shall be carried out in accordance with the details we approve and shall be operated and managed throughout its life cycle in accordance with the approved details.

(c) Submit a post-construction assessment in accordance with GLA's adopted Circular Economy Statement guidance within 3 months of first occupation of the development

Reason:

To ensure the development is resource efficient and maintains products and materials at their highest use for as long as possible in accordance with Policy SI7 in the London Plan 2021, Policy 37 in the City Plan 2019 - 2040 (April 2021), the Environmental Supplementary Planning Document (February 2022) and the guidance set out in the Mayor of London's guidance 'Circular Economy Statements' (March 2022). (R17BA)

- 11 The hours of operation of the rehearsal facility and plant/machinery hereby permitted shall not be operated except between 08.00 hours and 20.00 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the rehearsal facility and 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).

- 12 (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:

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)

- 13 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/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)

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

Reason:

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

- 15 **Pre Commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)

Reason:

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

- 16 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within five years of completing the development (or within any other time limit we agree to in writing).  
If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within five years of planting them, you must replace them with trees of a similar size and species. (C30CC)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Birdcage Walk Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in

Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 17 {b Pre Commencement Condition}. You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed but before it is occupied.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.  
(C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in Policy 33(E) of the City Plan 2019 - 2040 (April 2021). (R18AB)

## Informatives

- 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](http://www.westminster.gov.uk/guide-temporary-structures).

## CONSIDERATE CONSTRUCTORS:

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

## BUILDING REGULATIONS:

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

- 3 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).
- 4 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/planning-building-and-environmental-regulations/building-control](http://www.westminster.gov.uk/planning-building-and-environmental-regulations/building-control).
- 5 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please email Jeff Perkins at [jperkins@westminster.gov.uk](mailto:jperkins@westminster.gov.uk).
- 6 In Condition 9 (Whole Life Carbon Assessment) the reference to deconstruction means works to strip out and remove fabric from the existing building as identified within the 'Designing for Waste Minimisation DREAM Version 7' report dated 21.04.2022 that was submitted with the application.
- 7 In relation to the assessment required pursuant to part (c) of Condition 9, the post-construction tab of the GLA's Whole Life-Cycle Carbon Assessment template should be completed in line

with the GLA's Whole Life-Cycle Carbon Assessment Guidance: LPG document template (green) ([london.gov.uk](https://www.london.gov.uk)). To support the results provided in the template, the following minimum evidence requirements should also be submitted:

- (a) site energy (including fuel) use record,
- (b) contractor confirmation of as-built material quantities and specifications,
- (c) record of material delivery including distance travelled and transportation mode (including materials for temporary works),
- (d) waste transportation record including waste quantity, distance travelled, and transportation mode (including materials for temporary works) broken down into material categories used in the assessment,
- (e) a list of product-specific environmental product declarations for the products that have been installed.

The data collected must demonstrate compliance with the Whole Life Carbon Assessment approved at application stage, as updated pursuant to parts (a) and (b) of the condition, and will provide an evidence base that informs future industrywide benchmarks or performance ratings for building typologies. In addition to submitting this information to the Council pursuant to the requirements of part (c) of the condition, where the original application was referable to the Mayor of London you should also submit the post-construction assessment to the GLA at: [ZeroCarbonPlanning@london.gov.uk](mailto:ZeroCarbonPlanning@london.gov.uk), along with any supporting evidence as per the requirements of the Mayor's guidance. (I17AB)

- 8 The pre-demolition audit and Circular Economy Statement required by Condition must accord with the guidance set out in the London Plan Guidance 'Circular Economy Statements' (2022). The demolition audit should follow best practice and include how the value of existing building elements or materials can be recovered, the amount of demolition waste (cross-reference the Recycling and Waste reporting table - refer to section 4.9 for further details), a schedule of practical and realistic providers who can act as brokers for each of the reclaimed items, and target reuse and reclamation rates. The Circular Economy Statement should include a Pioneering Bill of Materials which includes reused and recycled content by volume and mass. For reused and recycled content calculations should be submitted as accompanying supporting evidence.

It is recommended that in addition to submitting this information to the Council, pursuant to the requirements of part (c) of the condition you should also submit the post-construction assessment to the GLA at: [ZeroCarbonPlanning@london.gov.uk](mailto:ZeroCarbonPlanning@london.gov.uk)

- 9 Signing up for flood warnings:

The Environment Agency advise to phone Floodline on 0345 988 1188 to register for a flood warning or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email, or text message. Anyone can sign up.

Flood warnings can give people valuable time to prepare for flooding - time that allows them to move themselves, their families, and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-for-flooding>., To get help during a flood, visit <https://www.gov.uk/help-during-flood>, For advice on what do after a flood, visit <https://www.gov.uk/after-flood>

- 10 The Met Police, Designing Out Crime Office recommends:
- The external gate leading into the barracks should be a tested and certified to a minimum of LPS1175 BR3; and
  - All external doors and windows beyond the above gate should be tested and certified to a minimum of PAS 24:2022.
- 11 Thames Water Advise:
- As you are redeveloping a site, there may be public sewers crossing or close to your development. If you discover a sewer, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way.
- The applicant is advised to read our guide working near or diverting our pipes.  
<https://www.thameswater.co.uk/developers/larger-scale-developments/planning-your-development/workingnear-our-pipes>
- Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at, the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 12 In respect of condition 16, when you apply to us for approval of details of hard and soft landscaping you must include:
- Details of replacement trees for all removed trees, which should be single stemmed, not multi-stemmed specimens; and
  - Section drawings of any new or replacement hard surfacing within tree RPAs, which should be 'no-dig' and permeable.

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.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Knightsbridge & Belgravia	
<b>Subject of Report</b>	<b>42 Boscobel Place, London, SW1W 9PE</b>		
<b>Proposal</b>	Excavation of a basement beneath the footprint of the dwelling, alterations to fenestration on front elevation, and raising the rear wall at second-floor level.		
<b>Agent</b>	Christopher David Design		
<b>On behalf of</b>	Mrs Ingrid Woodhouse		
<b>Registered Number</b>	23/04115/FULL	<b>Date amended/ completed</b>	19 June 2023
<b>Date Application Received</b>	19 June 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Belgravia		
<b>Neighbourhood Plan</b>	Belgravia		

## 1. RECOMMENDATION

Grant conditional permission.
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## 2. SUMMARY & KEY CONSIDERATIONS

The proposed development is for excavation to provide a new basement floor beneath the footprint of the dwelling house, alterations to the fenestration on front elevation, and raising the rear parapet wall at second-floor level.

The key considerations in this case are:

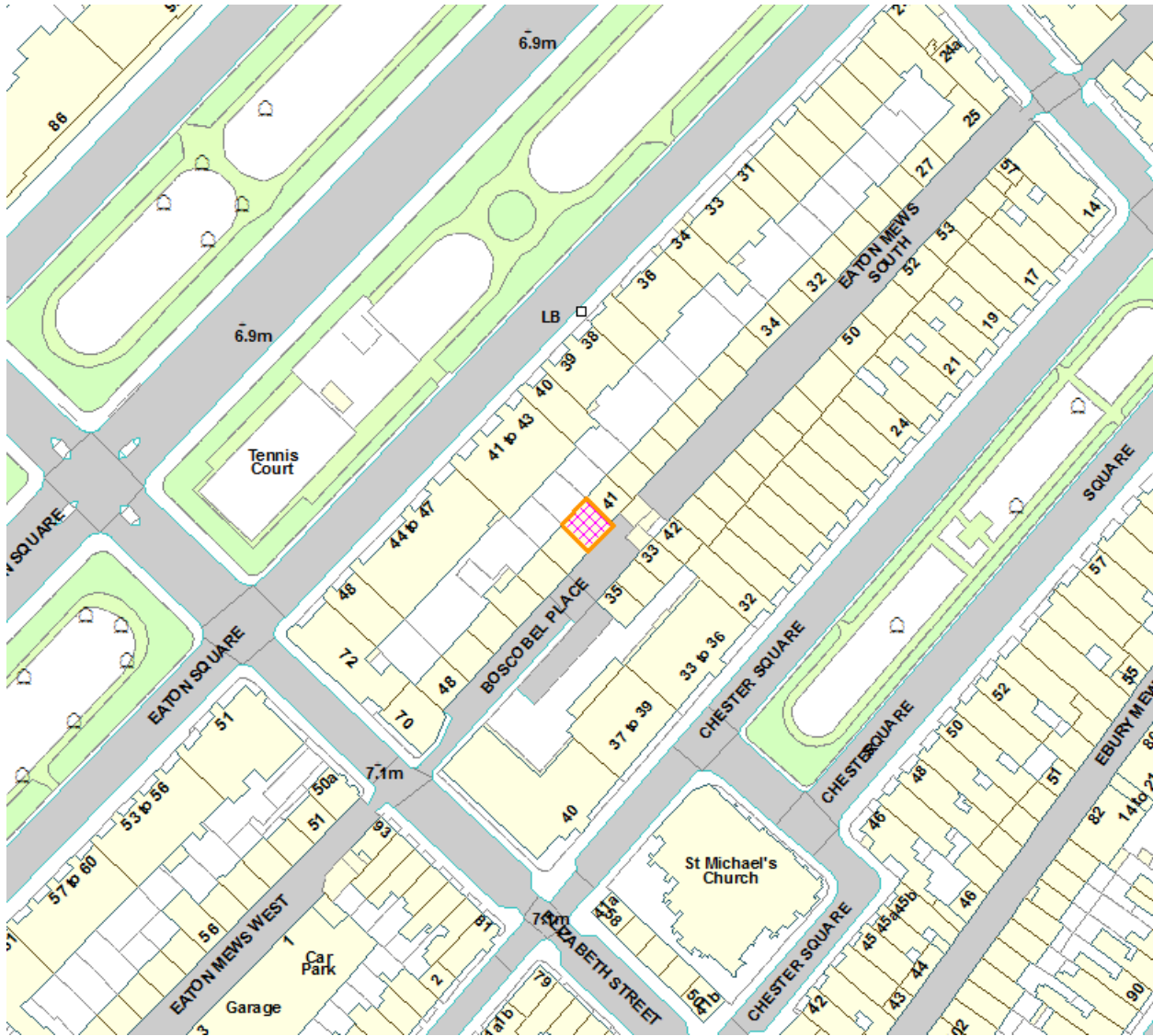
- The impact of the proposed works on the appearance of the building and the character and appearance of the Belgravia Conservation Area; and
- The impact on the amenity of neighbouring residential properties.

Objections have been received from the Belgravia Neighbourhood Forum and local residents which primarily focus on the impact of the basement excavation works.

Whilst the concerns raised are understood, it is considered that sufficient information has been provided and the proposed development would be consistent with the relevant policies set out in Westminster's City Plan 2019-2040 (April 2021). As such, the proposals are considered acceptable in heritage, townscape, design, land use, amenity, environmental, basement development and highway terms and the application is recommended for approval subject to the conditions as set out in the draft decision letter.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



42 Boscobel Place



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### BELGRAVIA NEIGHBOURHOOD FORUM:

Objection on grounds that the excavation of a basement level is inappropriate to a mews and carbon intensive, contrary to the Belgravia Design Code 8 and sustainability policy BEL1.C within the Belgravia Neighbourhood Plan.

#### THE BELGRAVIA SOCIETY:

No response to date.

#### BELGRAVIA RESIDENT'S ASSOCIATION:

No response to date.

#### BUILDING CONTROL:

The Construction Method Statement is considered to be acceptable. An investigation of existing structures and geology has been undertaken and found to be of sufficient detail (Site investigation report for 41 Boscobel and bore holes in the vicinity were consulted). The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been found to be negligible. The basement to be constructed using traditional 300mm thick RC underpinning (L-Shaped pins) which is considered to be appropriate for this site. Basement floor will be a 300mm thick RC slab on subbase. The proposals to safeguard adjacent properties during construction are considered to be acceptable.

#### HIGHWAYS PLANNING MANAGER:

No objection. The proposal does not represent an increase in residential units or reduction of the existing parking arrangements at the application site.

#### HISTORIC ENGLAND (ARCHAEOLOGY):

Recommend no further archaeological assessment or conditions are necessary

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

No. Consulted: 25

No. of replies: 8

No. of objections: 7 (Seven replies from four neighbouring occupiers)

No. in support: 0

No. neither objecting or supporting: 1

Objections on some or all of the following grounds:

- Risk of damage to adjacent properties in terms of subsidence, and damp given the close proximity of a Victorian sewer;
- Risk of damage to the road surface that has been newly refurbished by existing residents and not the applicant as a new owner;
- Noise and disturbance from building works;
- Works would impede access to neighbouring properties, garages, and parking in the mews;

- If approved, only small vans should visit the site/ deliver materials;
- Strict adherence to working hours must be enforced;
- No archaeological assessment of the impact of excavating a basement has been submitted.

One neighbouring occupier who neither objects to or supports the proposals, seeks assurance that there will be minimal disruption to the gardens of 41-43 Eton Square and any damage will be made good.

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, and in particular applicants for basement excavation are encouraged to consult with neighbouring occupiers prior to submitting an application. 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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 47 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **6.2 Neighbourhood Planning**

The Belgravia Neighbourhood Plan includes policies on a range of matters including character, heritage, retail, commercial uses, public realm, sustainability, and the environment.

It has been through independent examination and was supported by local residents in a referendum held on 22 February 2024. As the referendum was successful, in accordance with the Neighbourhood Planning Regulations, the council is now in the process to formally adopting the Belgravia Neighbourhood Plan. The plan will thereafter become part of Westminster's statutory development plan and will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Belgravia Neighbourhood Area. Although not 'technically' part of the development plan as yet, in accordance with national guidance, full weight is given to its policies.

### **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 (December 2023) unless stated otherwise.

## **7. BACKGROUND INFORMATION**

### **7.1 The Application Site**

Boscobel Place is a short mews/ cul-de-sac, which is accessed from Elizabeth Street, and located between Eaton Square and Chester Square.

42 Boscobel Place is a three storey single family dwelling house, and is located towards the end of the mews and backing on to properties in Eaton Square. The site lies within the Belgravia Conservation Area.

### **7.2 Recent Relevant History**

On 16 July 2004, permission was granted for:  
Addition of three balconies and alterations to sash windows to include one set of opening doors at first floor level (RN 04/03315/FULL).

## **8. THE PROPOSAL**

The proposed development is for excavation to provide a new basement floor beneath the footprint of the dwelling house, alterations to the fenestration on front elevation, and raising the rear parapet wall at second-floor level.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

The proposed basement would provide additional living space and storage for an existing single family dwelling house. There are no objections in land use terms, and the

proposal is in compliance with policy 12 of the City Plan 2019-2040, which seeks all new residential extensions to provide a well-designed, energy efficient and high quality living environment.

## 9.2 Environment & Sustainability

Policies 36 and 38 of the City Plan expects all development to reduce on-site energy demand and to incorporate sustainable design measures, which includes minimising the need for plant machinery.

The Belgravia Neighbourhood Forum object on grounds that a basement development is inappropriate to a mew property and is contrary to The Belgravia Neighbourhood Plan, and in particular Belgravia Design Code 8.4 and policy BEL1.C.

Belgravia Design Code 8.4 states “It should be recognised that basements in mews are not historically typical and are generally discouraged”.

Policy BEL1.C encourages design proposals to respond to the principles in the Belgravia Sustainability Charter.

Principles 1 and 2 of the Belgravia Sustainability Charter encourage developers to:

1. do construct buildings and spaces that avoid high energy to run (e.g. basements that require artificial lighting, ventilation etc); and
2. do construct spaces that can easily be naturally ventilated.

The applicant has provided a Sustainable Design Statement as well as clarify the sustainable design measures to be incorporated within the proposal including:

- insulating all walls internally as well as existing floors and roof to improve the overall performance of the building;
- installing the best-performing air source heat pumps (ASHPs);
- installation of solar panels on the roof;
- where possible, the design will retain as much of the existing structures as possible and where new materials are proposed only high-quality and durable materials will be implemented;
- an electric car parking point to be installed inside the garage; and
- all single-pane sash windows to be replaced with double-glazed sash windows (like for like in terms of design).

It is noted that some of the measures set out such as, new ASHPs or solar panels, are not shown on the application drawings but it is the applicant’s intention to submit a separate application.

An informative is added advising that any mechanical plant that may be required to ventilate the basement will require an application for planning permission, which may not be viewed favourably if any mechanical equipment is proposed externally where it may harm the appearance of the building and the character and appearance of this part of the Belgravia Conservation Area.

### Extent and Depth of Basement

City Plan Policy 45, Parts B1 - 5. relate to the extent and depth of basements. This

includes limiting the extent and depth of basement developments so to reduce both the risks associated with basement development and to mitigate any negative environmental and amenity impacts. Basement developments are typically (unless exceptions apply) limited to no more than one storey beneath the lowest original floor level and must not extend more than 50% of the garden land. The proposed basement is located entirely under the footprint of the existing building and is no more than one storey beneath the lowest original floor level.

By limiting the extent and depth of basements this in turn limits the level of construction required, and thus the carbon impact. The proposed basement is modest in size and contained within the footprint of the existing building, thereby limiting the amount of construction required. Whilst single storey basements are carbon intensive relative to other extension types, neither the Belgravia Neighbourhood Plan or the City Plan precludes them, subject to adhering to the relevant policies.

### 9.3 Biodiversity & Greening

The proposal does not offer opportunity for greening given the proposed basement extension is subterranean and located beneath footprint of the existing house.

### 9.4 Townscape, Design & Heritage Impact

#### Legislative & Policy Context

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

Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('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."*

Section 58B of the Town and Country Planning Act 1990 (as amended) requires in relation of certain specified heritage assets that special regard be had to the desirability of preserving or enhancing the asset or its setting. Specified assets include, amongst others, scheduled monuments, gardens or other areas of land included in a register maintained by the Historic Buildings and Monuments Commission for England, and World Heritage Sites.

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 states that features that contribute positively to the significance of the setting of a conservation area will be conserved and opportunities will be taken to enhance conservation area settings, wherever possible.

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 be clearly and convincingly justified and should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, including where appropriate securing the optimum viable use of the heritage asset, 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.

### **External Alterations**

Policies 38, 39 and 40 of the City Plan are of particular relevance when considering the proposed external alterations to the building.

The property is an unlisted mews house in the Belgravia Conservation Area. To the front, the relocation of entrance door and garage door at ground floor level is considered acceptable and proposals include the reinstatement of traditional-style timber carriage doors which is welcomed. The front door surround with engaged columns is considered on balance acceptable and not too jarring to the diminutive character of the mews house, subject to detailed drawings specifying finished appearance. The repositioning and widening of the balconies and French doors at first floor level is again considered acceptable, subject to details.

To the rear, the replacement of the existing tiled sloping elevation storey at second floor level with a sheer storey in line with the adjoining property at No. 41 would effectively square off the rear second floor level and will result in an element of build out on the interface with the adjoining property at No. 43, which retains a chamfered edge. This element is considered acceptable and indeed many other properties in the vicinity display a sheer rear at this level.

### **Basement**

In considering the basement extension in terms of design, Policy 45 Part A.4 of the City Plan is of particular relevance. The policy states basement development should conserve the character and appearance of the existing building and garden setting, ensuring lightwells, plant, vents, skylights and means of escape are sensitively designed and discreetly located.

The provision of a single-storey basement beneath the footprint of the building, is not opposed on design grounds. Given the subterranean nature of the proposed basement extension, this will not be visually apparent externally, and this would not raise any issues in terms of design.

### **Design conclusion**

The proposals are considered to preserve the appearance of the building and the character and appearance of the Belgravia Conservation Area, in accordance with Policies 38, 39, 40 and 45 of the City Plan 2019-2040. 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.

## **9.5 Residential Amenity**

The relevant policies of the City Plan for consideration are policies 7 'Managing developments for Westminster's people' and 33 'Local environmental impacts'.

Given the subterranean nature of the proposed basement with no external manifestations, it will not have any material impact on the amenity of neighbouring residents.

To the rear, it is considered that the works at second floor level, replacing the existing sloped elevation with a sheer storey, will not materially impact upon the amenity of neighbouring properties in terms of loss of light, or increased sense of enclosure.

The proposal is considered to accord with policies 7 and 33 of the City Plan 2019-2040.

## **9.6 Transportation, Accessibility & Servicing**

The house has an existing off-street parking space and garage at ground floor level. The parking space and garage door is to be retained and relocated on the ground floor. The proposal does not raise any highways issues, given that the house already has an existing off-street parking/ garage space.

The new garage door is to be on a sliding system, opening inwards. In the interests of public safety and to avoid blocking the road, a condition is attached requiring that this does not open outwards across the highway

## **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**

### **Basement Development**

Objections from local residents focus mainly on the basement excavation works, and raise concerns with regards to structural implications; flood risk; noise and disturbance caused during construction work, in particular the excavation work, and the associated construction traffic and parking; and the lack of archaeological assessment.

### **Archaeology**

The site lies within a Tier 3 Archaeological Priority Area. Policy 39 of the City Plan requires development which involves excavation in Westminster's Archaeological Priority Areas to demonstrate that they have evaluated the archaeological potential and significance of the site. The application is supported by way of an Archaeological Desk Based Assessment. The Greater London Archaeological Advisory Service (GLAAS) raise no objection and advise that no further assessment or conditions are necessary.

### **Structural stability/ flood risk**

City Plan Policy 45, Part A.1 requires basement development to safeguard structural stability and be designed and constructed to minimise construction impacts to the surrounding area as well as minimise surface water and sewerage flooding risks.

The application is supported by a Structural Methodology Statement prepared by an appropriately qualified structural engineer.

The council's Building Control has reviewed the Structural Methodology Statement and considers that the applicant has demonstrated sufficiently at this stage that the works

can be carried out without structural harm to neighbouring properties and without risk of flooding.

The council wish to make it clear that the applicant's report is not directly being approved, but instead is used to show that there is no impediment foreseeable at this stage that would prevent the creation of a basement in principle. The purpose of the structural methodology report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. Therefore, we are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. As the relevant report has been produced by a professional, they carry a duty of care which should be sufficient to demonstrate that assessment made is accurate.

### **Construction impact**

City Plan Policy 45, Part A.2 requires basement development to be designed and constructed to minimise the impact at construction and occupation stages on the surrounding area.

City Plan Policy 33 requires projects which have significant local impacts to mitigate their effects during construction through compliance with the Council's Code of Construction Practice (CoCP).

It is inevitable that the construction of the proposed development will cause noise and disturbance to local residents and businesses. However, it is considered that through appropriate controls and careful management, the impact from construction works can be mitigated. The CoCP has been developed to mitigate against construction and development impacts on large and complex development sites and basement excavation works.

A condition is recommended to ensure that the development complies with the City Council's Code of Construction Practice (COCP) which requires the developer to provide a Site Environmental Management Plan (SEMP) and funding for the Environmental Inspectorate to monitor the demolition and construction phase of the development. The COCP sets out the minimum standards and procedures for managing and minimising the environmental impacts of construction projects within Westminster and relate to both demolition and construction works.

The key issues to address in the COCP are; liaison with the public; general requirements; SEMPs; construction management plans; employment and skills; traffic and highways; noise and vibration; dust and air quality; waste management; waste pollution and flood control and any other issues.

The Council's standard condition controlling hours of building work is also recommended.

## **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.

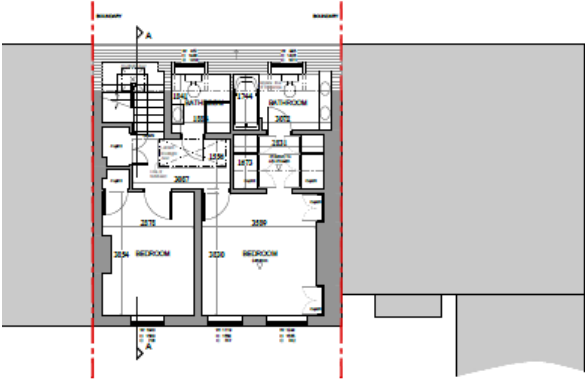
#### **10. Conclusion**

The proposal is considered acceptable in design, land use, amenity, and environmental terms in compliance with the policies set out in the City Plan 2019-2040, and in particular policy 45 relating to basement development.

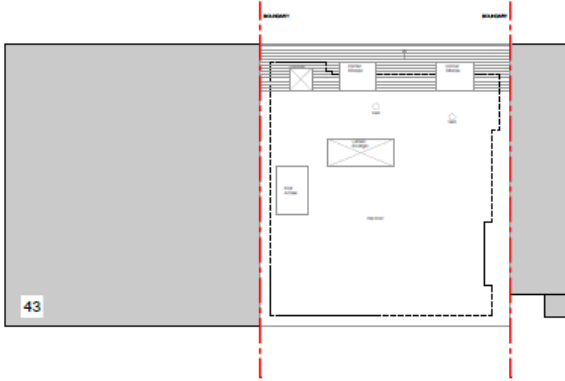
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

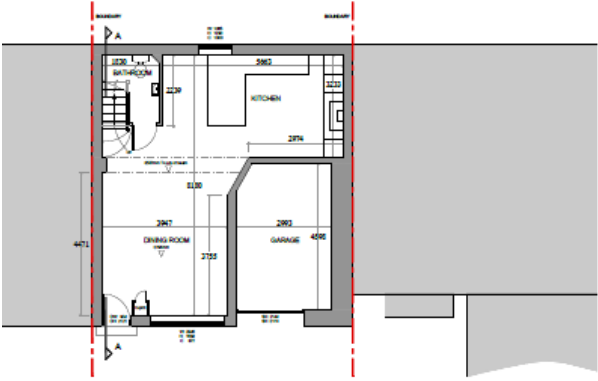
**11. KEY DRAWINGS**



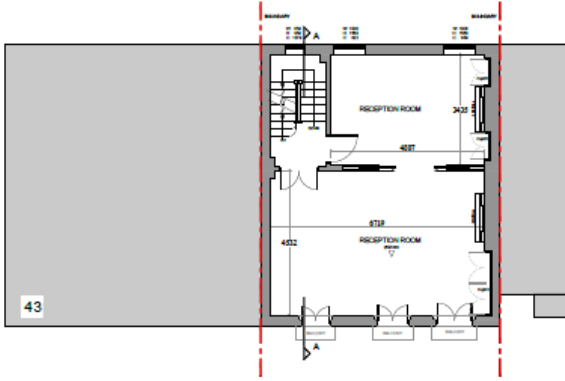
**3** EXISTING SECOND FLOOR PLAN  
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**4** EXISTING ROOF PLAN  
scale: 1:100 @A1

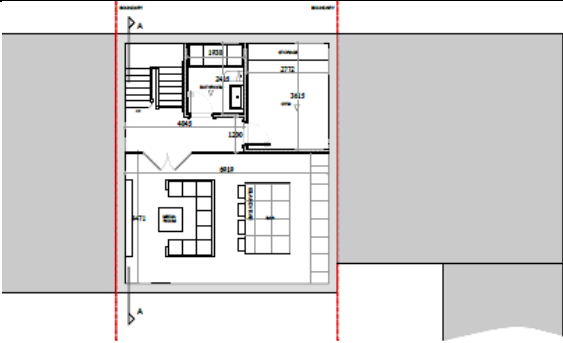


**1** EXISTING GROUND FLOOR PLAN  
scale: 1:100 @A1

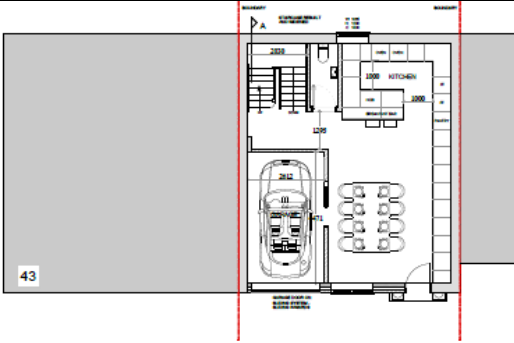


**2** EXISTING FIRST FLOOR PLAN  
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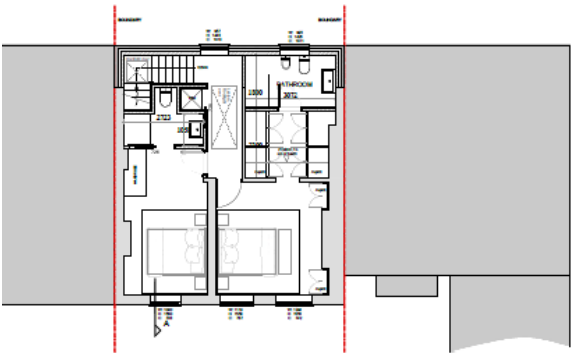
**Existing plans**



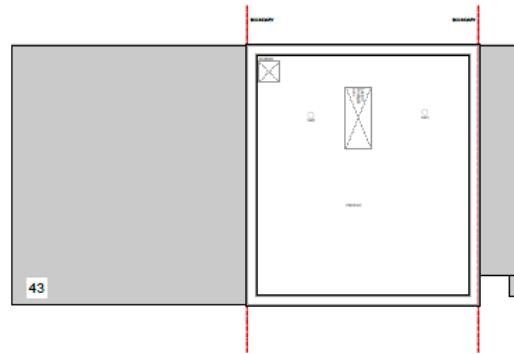
3 PROPOSED BASEMENT FLOOR PLAN  
scale: 1:100 @A1



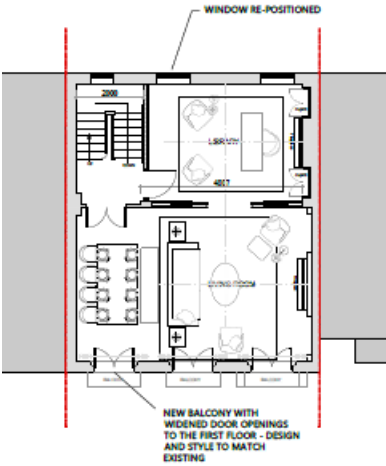
4 PROPOSED GROUND FLOOR PLAN  
scale: 1:100 @A1



6 PROPOSED SECOND FLOOR PLAN  
scale: 1:100 @A1



7 PROPOSED ROOF PLAN  
scale: 1:100 @A1

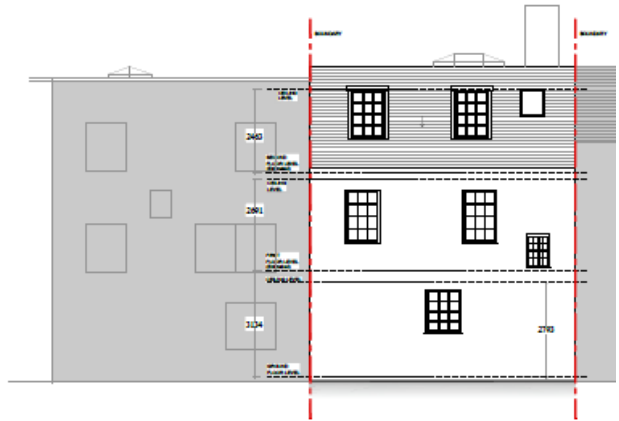


5 PROPOSED FIRST FLOOR PLAN  
scale: 1:100 @A1

**Proposed plans**

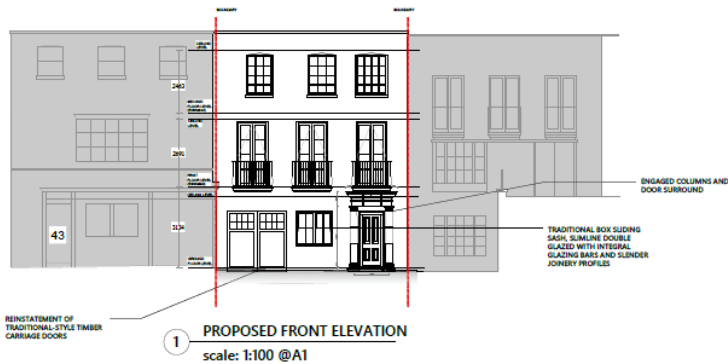


5 EXISTING FRONT ELEVATION  
scale: 1:100 @A1

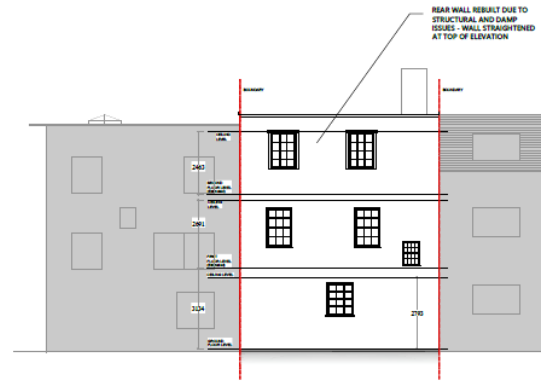


6 EXISTING REAR ELEVATION  
scale: 1:100 @A1

Existing elevations

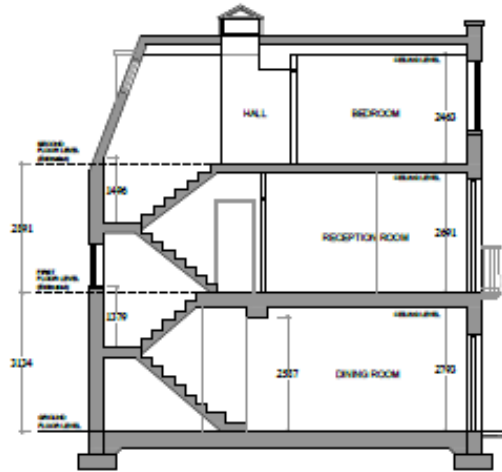


1 PROPOSED FRONT ELEVATION  
scale: 1:100 @A1



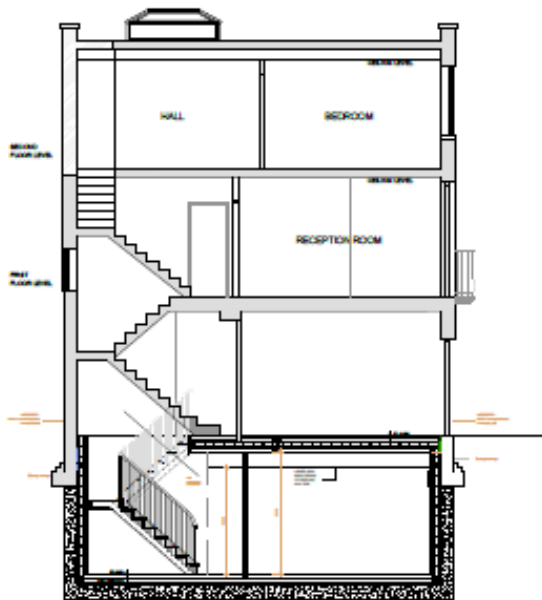
2 PROPOSED REAR ELEVATION  
scale: 1:100 @A1

Proposed elevations



7 SECTION A-A  
scale: 1:100 @A1

Existing section



7 SECTION A-A  
scale: 1:100 @A1

Proposed section



**DRAFT DECISION LETTER**

**Address:** 42 Boscobel Place, London, SW1W 9PE

**Proposal:** Excavation of a basement beneath the footprint of the dwelling, alterations to fenestration on front elevation, and raising the rear wall at second-floor level.

**Reference:** 23/04115/FULL

**Plan Nos:** Location Plan, 492-1002, 492-1003, and 492-2002 Rev A.  
For information purposes only:  
Design and Access Statement by Christopher David Design, Sustainable Design Statement by Christopher David Design; Fire Safety Strategy by Christopher David Design; Construction Management Plan by Urbanissta dated 15/09/2023; Structural Methodology Statement dated by Ingleton Wood dated 04 July 2023; Appendix A checklist from the Code of Construction Practice; and Archaeological Desk-Based Assessment by Border Archaeology dated February 2024.

**Case Officer:** David Dorward

**Direct Tel. No.** 020 7641  
07866038730

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

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

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

Reason:

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Belgravia Conservation Area. This is as set out in 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 at 1:10 and sections at 1:5 (specifying finished appearance) of the of the following parts of the development:

- (i) front entrance door and surround;
- (ii) new windows;
- (iii) French doors and balconies (including railings);
- (iv) new roof lantern and roof light;
- (v) garage door.

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

Reason:

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

- 6** You must hang all doors or gates so that they do not open over or across the road or

pavement.

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).

### 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](http://www.westminster.gov.uk/guide-temporary-structures).

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

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

- 3 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.

- 4 The new and replacement windows and French doors should be slimline double glazed (approx. 14mm build up - 4mm glass/ 6mm gap/ 4mm glass) and with true dividing (integral, not applied) glazing bars, concealed trickle vents and no external weather bars.
- 5 With reference to condition 3 please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

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

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

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

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

- 6 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information, please contact the Considerate Constructors Scheme directly on 0800 783 1423, [sitenquiries@ccscheme.org.uk](mailto:sitenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 7 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.

- 8 Fractures and ruptures can cause burst water mains, low water pressure or sewer flooding. You are advised to consult with Thames Water on the piling methods and foundation design to be employed with this development in order to help minimise the potential risk to their network. Please contact:
- Thames Water Utilities Ltd, Development Planning, Maple Lodge STW, Denham Way, Rickmansworth, Hertfordshire, WD3 9SQ, Tel: 01923 898072, Email: Devcon.Team@thameswater.co.uk
- 9 We recommend you speak to the Head of Building Control about the stability and condition of the walls to be preserved. He may ask you to carry out other works to secure the walls. Please phone 020 7641 6500 or email [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk).
- 10 If mechanical plant is required to ventilate the basement this will require an application for planning permission, which may not be viewed favourably if any mechanical equipment is proposed externally where it may harm the appearance of the building and the character and appearance of this part of the Belgravia Conservation Area.

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

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Item No.
<b>5</b>

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 March 2024	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Knightsbridge & Belgravia	
<b>Subject of Report</b>	<b>90 Brompton Road, London, SW3 1ER</b>		
<b>Proposal</b>	Display of seven internally illuminated window signs at first floor level measuring 74.5 cm x 188.5 cm; one internally illuminated fascia sign at ground floor level measuring 87 cm x 200 cm; and one internally illuminated projecting sign at ground floor level measuring 77.3 cm x 68.3 cm.		
<b>Agent</b>	Camberwell & Metropolitan		
<b>On behalf of</b>	KPHD Ltd		
<b>Registered Number</b>	23/08032/ADV	<b>Date amended/ completed</b>	12 December 2023
<b>Date Application Received</b>	20 November 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		
<b>Neighbourhood Plan</b>	Knightsbridge		

## 1. RECOMMENDATION

Grant conditional advertisement consent.
--

## 2. SUMMARY & KEY CONSIDERATIONS

<p>This application seeks express advertisement consent for a series of internally illuminated signs at the ground floor entrance and in the windows of the first-floor level of 90 Brompton Road. 90 Brompton Road is a part of the wider mixed-use Princes Court on Brompton Road, which is directly opposite the grade II* Harrods in the neighbouring Royal Borough of Kensington and Chelsea. Princes Court is not a listed building, nor is it located in a conservation area.</p> <p>The key considerations in this case are:</p> <ul style="list-style-type: none"> <li>• The impacts of the proposed signs on the amenity of the area; and</li> </ul>
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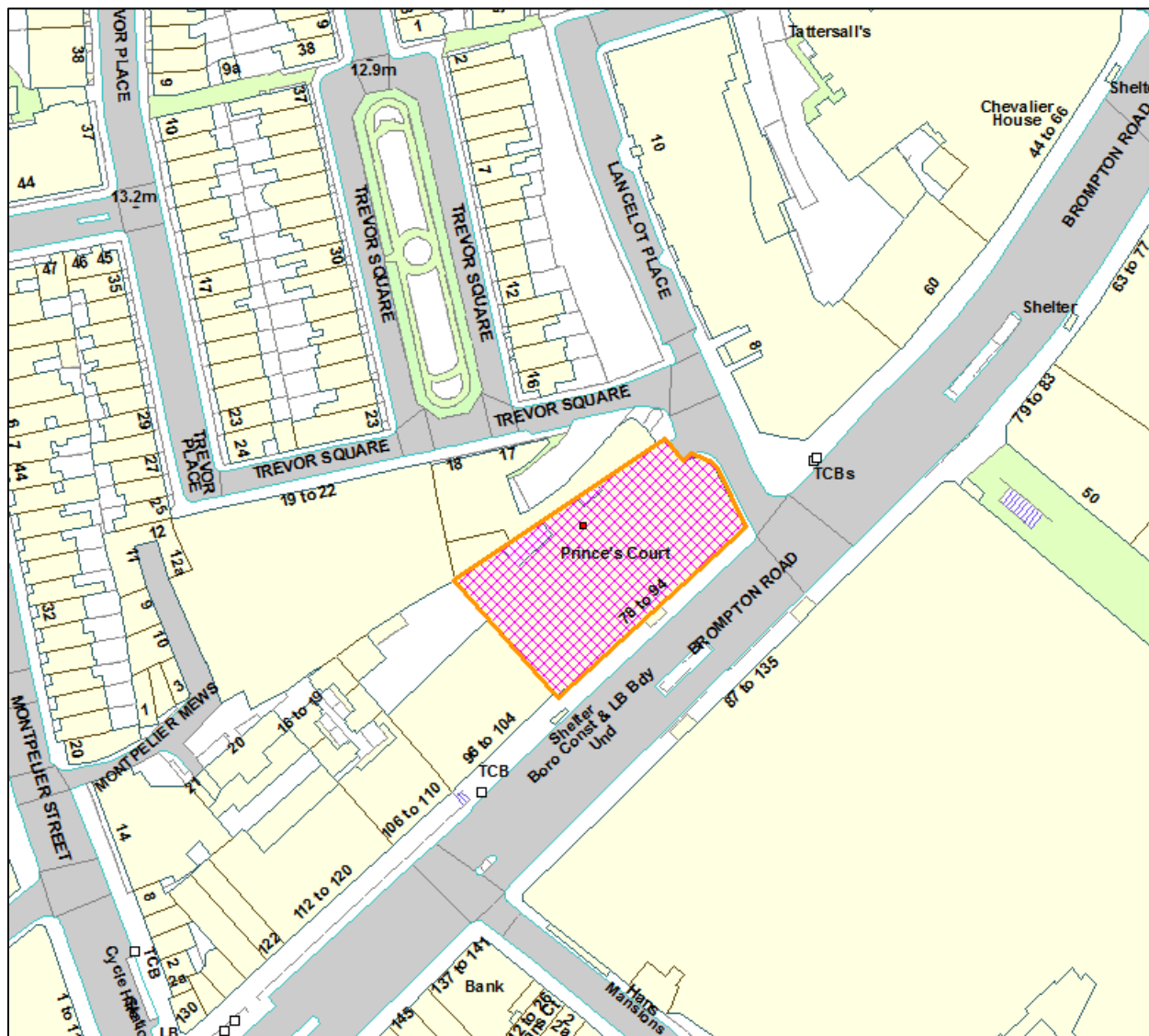
- The impacts of the proposed signs on public safety.

Objections to this application have been received from the Knightsbridge Association and on behalf of nearby residents. The Knightsbridge Neighbourhood Forum has also commented on the proposal.

As set out in this report, subject to conditions to secure public safety, the proposed advertisements are considered to be acceptable in terms of amenity and public safety and to accord with the City Plan 2019-2040 (April 2021) and the Knightsbridge Neighbourhood Plan 2018-2037 (December 2018), so far as they are material.



## 3. LOCATION PLAN



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4. PHOTOGRAPHS



**The application site (Princes Court) as seen from the corner of Hans Crescent and Brompton Road**

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### KNIGHTSBRIDGE ASSOCIATION:

Objection to first floor level illuminated signs. Their excessive number, size and repetitive arrangement, and the illuminated nature of the signs is considered to be detrimental to this overwhelmingly residential block of flats 78-94 Brompton Road, as well as being harmful to the street scene and immediate surrounds / the sites prominent position bordering both onto the WCC Knightsbridge and the RBKC Hans Town Conservation Areas.

#### KNIGHTSBRIDGE NEIGHBOURHOOD FORUM:

Raise concerns on following grounds:

- This is a high profile site opposite the listed Harrods and in the Knightsbridge International Centre. It is important that any advertising is in keeping with the area;
- The likely health impact of bright', blue' and backlit/electronic light for advertising on people's sleep patterns and health and on the character of the area; and
- Piccadilly Circus-type electronic advertising is not consistent with the status of the Knightsbridge International Centre.

Object, unless the following conditions are attached:

1. Require that any advertising must not have a detrimental impact on the amenity or visual appearance of the building and that no signage or promotional features shall be placed on the pavement;
2. Permit only flat or unlit advertising at this site;
3. Premises to take steps to minimise energy use and maximise energy efficiency; and
4. Require a review and further council approval after 12 months and three years of any advertising consent.

#### ROYAL BOROUGH OF KENSINGTON & CHELSEA:

No objection.

#### TRANSPORT FOR LONDON:

No objection, subject to conditions.

#### HIGHWAYS PLANNING MANAGER:

Acceptable, subject to conditions.

#### OTHER REPRESENTATIONS RECEIVED:

1 objection received on behalf of residents of a nearby building. Their grounds of objection are:

- The proposals would have a detrimental impact on public health and the amenity of nearby residents due to the excessive number and illumination of the signage.
- The proposals are largely similar to application RN 22/05720/ADV, which was withdrawn because it was recommended for refusal by officers.
- The proposals have a negative impact on wider visual amenity through the unsympathetic impact on the character of the surrounding area. The proposals clearly represent excessive and illuminated approaches that are not in keeping

with the surrounding character and the existing building and historic advertising/signage approach.

- The obscuring of windows and views through to the units does not provide active frontages which is considered the prevailing character of the area and Brompton Road.

## **5.2 Applicant's Pre-Application Community Engagement**

While pre-application community engagement is always encouraged and advisable, the City Council does not expect any specific community engagement be carried out for proposed advertisements.

## **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) (December 2023) and should be afforded full weight in accordance with paragraph 225 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 Regulation 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended), the City Council, as the local planning authority, shall exercise its powers to control advertisements in the interests of amenity and public safety, taking in to account the provisions of the development plan, so far as they are material, and any other relevant factors.

### **6.2 Neighbourhood Planning**

The Knightsbridge Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment.

It has been through independent examination and was supported by local residents in a referendum held on 18 October 2018. It was adopted on 11 December 2018. It therefore forms part of the development plan for Westminster for development within the Knightsbridge 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 (December 2023) unless stated otherwise.

## 7. BACKGROUND INFORMATION

### 7.1 The Application Site

This application site is the first floor level of Prince's Court and has a ground floor level entrance on to Brompton Road. The site was formerly a shop but now has planning permission authorising its use as an 'interactive museum'.

The site does not form part of a listed building and is not located in a conservation area. However, it is directly opposite Harrods, a grade II\* listed building, located in the neighbouring Royal Borough of Kensington and Chelsea.

### 7.2 Recent Relevant History

23/00935/FULL - Dual/alternative use as either an 'interactive museum' (sui generis) or as commercial, business or service premises (Class E) for a temporary 10 year period.  
Application Permitted 28 November 2023

22/05720/ADV - Display of internally illuminated fascia sign measuring 0.54m x 1.69m, fascia sign measuring 0.54m x 1.69m, fascia sign measuring 0.655m x 1.77m, fascia sign measuring 0.655m x 1.77m, fascia sign measuring 0.545m x 1.815m, fascia sign measuring 0.545m x 1.815m, fascia sign measuring 2.08m x 2m.  
Application Withdrawn 12 October 2022

## 8. THE PROPOSAL

This application seeks express advertisement consent to display: seven internally illuminated window signs at first floor level (six on the front of the building, one on the side), and a fascia sign and a projecting sign (both internally illuminated) above the entrance onto Brompton Road at ground floor level.

In addition to the above, the applicant intends to display six non-illuminated vinyl signs applied inside the glazing of the building at first floor level. These non-illuminated vinyl signs would benefit from deemed consent, pursuant to Regulation 6 and Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended) and so no comment on their acceptability can be made here. They have been removed from the proposal accordingly.

## 9. DETAILED CONSIDERATIONS

### 9.1 Amenity

*Legislative & Policy Context*

Regulation 3 of the Regulations clarifies that amenity, with respect to considering advertisements, includes (but is not limited to) the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

Policy 38 of the City Plan 2019-2040 (April 2021) sets out that development will positively contribute to the townscape and streetscape having regard to the character and appearance of the existing area, adjacent buildings and heritage assets.

Policy 39 of the City Plan sets out that development will ensure heritage assets and their settings are conserved and enhanced in a manner appropriate to their significance.

Policy 43 of the City Plan sets out that signs and advertisements will make a positive contribution to amenity by being sensitively designed in terms of their size, location and degree of illumination, their impact on the building on which they are displayed, local context, street-scene and wider townscape.

Policy KBR2 of the Knightsbridge Neighbourhood Plan 2018-2037 (December 2018) sets out that signage to commercial premises should demonstrate high quality design and retain or enhance the character of the shopping frontage within which they are located. It also says that lighting should seek to highlight the character of the property and enhance the local setting.

Policy KBR8 of the Knightsbridge Neighbourhood Plan sets out that advertisements which require consent should not have a detrimental impact on the amenity of the area.

#### *Amenity Assessment*

The objections to this application focus on the number and illumination of the proposed signs. However, given the large size of the building, and the sizes of, and spacings between the first floor level illuminated signs, the proposed signs are considered to be respectful of the scale and architecture of the building on which they would be displayed.

Most buildings along Brompton Road have commercial uses at first floor level and in this context it is acceptable to have some limited signage above ground floor level to identify the premises, as is proposed here. Illuminated signage and lighting is a key part of the street scene on this shopping street of international importance and the proposed illuminated signs would not detract from this street scene or wider townscape.

While the application site is not listed or located in a conservation area, its side elevation is in the setting of the Knightsbridge Conservation Area and its frontage is in the setting of the grade II\* listed Harrods, and Hans Town Conservation Area in the neighbouring Royal Borough of Kensington & Chelsea. Due to their size and method of illumination it is not considered that the proposed signs would cause any harm to the setting of these heritage assets.

It is therefore assessed that the size, number, location, method of illumination and detailed design of the proposed signs are sympathetic to the host building and in-keeping with the streetscape of Brompton Road. The proposals would, therefore, be acceptable in terms of their impact on the amenity of the area and would accord with Policies 38, 39 and 43 of the City Plan and Policies KBR2 and KBR8 of the

Knightsbridge Neighbourhood Plan.

## 9.2 Public Safety

Regulation 3 of the Regulations clarifies that public safety, with respect to considering advertisements, includes (but is not limited to) the safety of persons using any highway.

Public safety is distinct public health, as raised in some objections to this application and by Policy KBR40 of the Knightsbridge Neighbourhood Plan, in that public health is a broader public policy matter seeking to prevent disease and prolong life in the wider population, whereas as public safety in respect of considering advertisement applications is a more limited consideration of whether the display of an advertisement might directly endanger the public e.g. by being confused with or obscuring a traffic signal or by blocking a footway such that pedestrians would have to step in to the carriageway etc.

Policy 43 of the City Plan sets out that signs and advertisements will make a positive contribution to public safety.

Policies KBR2 and KBR8 of the Knightsbridge Neighbourhood Plan both set out that advertisements should not be placed on the pavement or block pedestrian routes.

The Council's Highways Planning Manager and Transport for London (who are the highway authority for Brompton Road) have assessed the proposal and request conditions limiting the maximum illumination of the signs, that they are not flashing or intermittent, and that the footway and carriage way are not blocked during installation of the signs.

Subject to these conditions, the proposal would be acceptable in terms of public safety and would accord with Policy 43 of the City Plan and Policies KBR2 and KBR8 of the Knightsbridge Neighbourhood Plan.

## 9.3 Other Matters

The council can only use its powers to control advertisements in the interests of amenity and public safety and it should not limit or restrict the subject matter, content or design of what is to be displayed, pursuant to Regulation 3 of the 2007 Regulations.

Other matters, such as energy efficiency - as raised by the Knightsbridge Neighbourhood Forum - do not relate to amenity or public safety and so cannot be taken into consideration when assessing these proposals.

One of the comments on this application objected to the obscuring of the first floor level windows, claiming this fails to provide an active frontage. This cannot be sustained as an objection in respect of this application for advertisement consent because the obscuring of the first floor level windows does not itself constitute an advertisement requiring express advertisement consent and the need for the windows to be at least partly obscured is a necessary result of the authorised use as an 'interactive museum'.

Furthermore, obscured first or mezzanine floor levels are prevalent along Brompton Road, as can be seen at 70 Brompton Road (across Lancelot Place from the application site) or at Harrods (directly opposite from the application site).

The same comment also raised the provisions of Regulation 3(3) of the 2007 Regulations that allows local planning authorities to, if they think fit, disregard any advertisement that is being displayed when taking account of factors relevant to amenity. The above assessment of the proposed advertisements has had regard to this regulation and does not rely on either the advertisements that were previously displayed on the site or any other existing advertisements in the local area when finding the proposed advertisements to be acceptable in terms of their amenity impacts.

The request from the Knightsbridge Neighbourhood Forum for the consent to be reviewed after one and then three years is not considered to be reasonable in this context and this assessment considers the proposals as if they are to be displayed permanently.

The applicant intends to display non-illuminated vinyl signs on the inside of the first floor level windows between the windows hosting the illuminated signs seeking approval under this application. These non-illuminated signs were on the drawings originally submitted by the applicant. These non-illuminated signs benefit from deemed consent pursuant to Regulation 6 and Class 12 of Schedule 3 of the 2007 Regulations, meaning they can be displayed without the City Council's prior consent. For this reason, the applicant has now removed these signs from the proposal seeking consent under this application. Once these signs are being displayed, the City Council could take discontinuance action against these signs if it is considered that it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public, pursuant to Regulation 8 of the 2007 Regulations.

## 10. Conclusion

This report has considered the acceptability of the proposed advertisements in terms of their impacts on amenity and public safety, taking in to account the provisions of the development plan, so far as they are material, and all other relevant factors.

Accordingly, the proposal is considered acceptable and would be consistent with the relevant policies in the City Plan 2019-2040 and the Knightsbridge Neighbourhood Plan 2018-2037. It is recommended that express advertisement consent is granted, subject the conditions listed at the end of this report, which are necessary to make the advertisements acceptable in terms of amenity and public safety.

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

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



11. KEY DRAWINGS



BROMPTON ROAD



BROMPTON ROAD

Proposed Visualisations



BROMPTON ROAD

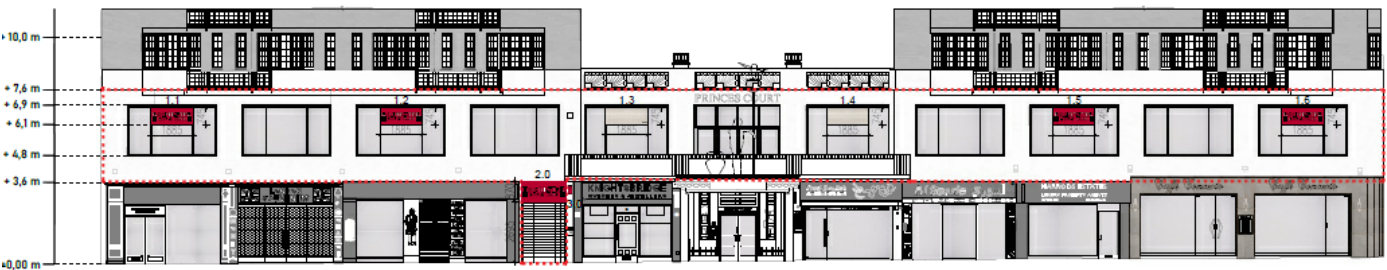


BROMPTON ROAD - LANCELOT PLACE

**Proposed Visualizations**



**Proposed Front (Brompton Road) Elevation**



**Pre-Existing Front (Brompton Road) Elevation**



**Proposed Side (Lancelot Place) Elevation**



**Pre-Existing Side (Lancelot Place) Elevation**

**DRAFT DECISION LETTER**

**Address:** 90 Brompton Road, London, SW3 1ER

**Proposal:** Display of seven internally illuminated window signs at first floor level measuring 74.5 cm x 188.5 cm; one internally illuminated fascia sign at ground floor level measuring 87 cm x 200 cm; and one internally illuminated projecting sign at ground floor level measuring 77.3 cm x 68.3 cm.

**Reference:** 23/08032/ADV

**Plan Nos:** B1 Location Plan; B8 Rev A Proposed Elevations; B9 Rev A Proposed Front Elevation (Left); B10 Rev A Proposed Front Elevation (Right); B11 Rev A Proposed Side Elevation; B12 Rev A Window Signs Details; B13 Rev A Fascia and Projecting Signs Details.

**Case Officer:** Max Leonardo

**Direct Tel. No.** 07817095744

**Recommended Condition(s) and Reason(s)****Standard Conditions:**

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
2. No advertisement shall be sited or displayed so as to-
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

**Additional Conditions:**

1. The illumination of the advertisements must not be intermittent, flashing or any greater than 600 cd/m<sup>2</sup>.

Reason: In the interests of public safety in accordance with Policy 43(G) of the City Plan

2019-2040 (April 2021).

- 2 You must not block the footway or carriageway of A4 Brompton Road when installing or removing the advertisements. You must keep temporary obstructions during installation and removal to a minimum and not:
- (a) encroach on the clear space needed to provide safe passage for pedestrians; or,
  - (b) obstruct the flow of traffic on A4 Brompton Road.

Reason: In the interests of public safety in accordance with Policy 43(G) of the City Plan 2019-2040 (April 2021) and KBR2 and KBR8 of the Knightsbridge Neighbourhood Plan 2018-2037 (December 2018).

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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