

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 17 January 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>57 Broadwick Street, London, W1F 9QS,</b>		
<b>Proposal</b>	Variation of Conditions 1, 16, 21 and 22 of planning permission dated 29 April 2016 (RN: 15/07957/FULL) alterations and extensions to the existing building including erection of single storey extension at roof level to enlarge fourth floor level and extensions at ground, first, second and third floor levels on north (Broadwick Street), south and west (Marshall Street) elevations to provide ancillary car / cycle parking, ancillary plant and retail (Class A1) at basement level; part retail (Class A1), part dual / alternative retail (Class A1) and / or cafe / restaurant (Class A3), part office entrance (Class B1) and part residential entrance (Class C3) at ground floor level; dual / alternative office (Class B1) and / or retail (Class A1) use at first floor level and installation of plant at rear first floor level; office (Class B1) with rear terraces at second and third floor level; part office (Class B1) with front terraces and two flats (Class C3) with terraces at fourth floor level and installation of kitchen extract plant to fourth floor roof. (Land use swap with Shaftesbury Mansions, 52 Shaftesbury Avenue); namely to vary the approved plans of waste and recycling/cycle parking and residential parking and relocation of the approved electricity substation from basement level to ground floor level.		
<b>Agent</b>	Rolfe Judd Planning Ltd		
<b>On behalf of</b>	Shaftesbury Carnaby Ltd		
<b>Registered Number</b>	16/08557/FULL	<b>Date amended/ completed</b>	6 September 2016
<b>Date Application Received</b>	6 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

1. Grant conditional planning permission, subject to a deed of variation to the original S106 dated 29 April 2016 to ensure that all the previous planning benefits are secured.
2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:
  - a) The Director of Planning shall consider whether it would be possible and appropriate to issue the

permission with additional conditions attached to secure the benefit listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;

(b) The Director of Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefit which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

The site is an unlisted building located in the Soho Conservation Area and the Core Central Activities Area at the junction of Broadwick Street and Marshall Street. The building comprises basement, ground and first to third floors (podium) with a tower element on part of the building. The tower is in use as residential flats and does not form part of the proposals. Planning permission was granted in April 2016 for the alterations and extensions of the podium element, to provide new office, residential, retail and restaurant uses, reconfiguration of the parking and servicing arrangements and the installation of plant.

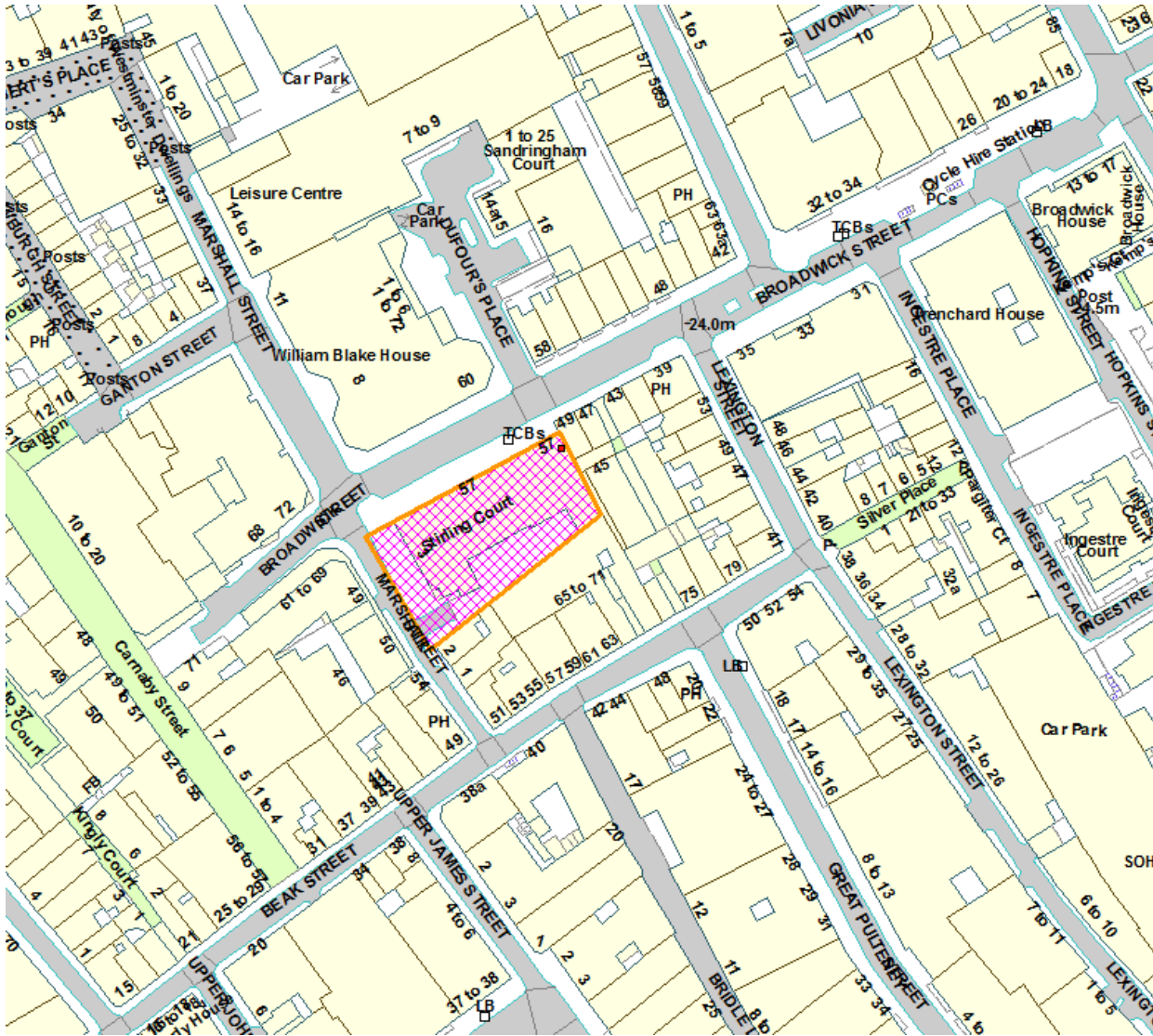
Since consent was granted, UK Power Network has confirmed that the approved position for their electricity substation is not suitable and the electricity substation needs to be relocated to the ground floor. Permission is sought for the variation to a number of conditions that were attached to the April 2016 consent, to allow for the changes required to the approved refuse arrangements, the car parking layout and cycle store.

The key issue for consideration is:

- The amenity and highways implications of the relocated waste / recycling store and the electricity substation.

The reconfiguration of part of the basement layout and the relocation of the waste store, electricity sub-station and cycle parking are acceptable in highways and amenity terms subject to appropriate conditions. The application is therefore recommended for approval being in compliance with the relevant policies of Westminster's City Plan (City Plan) and the Unitary Development Plan (UDP).

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Photo taken December 2016

## 5. CONSULTATIONS

### SOHO SOCIETY

Notes the objections from the residential occupiers and requests permission is only granted if the residents are in agreement with the proposed works.

### HIGHWAYS PLANNING

No objection subject to conditions.

### CLEANSING

Objection – further details required on the residential and restaurant waste.

### BUILDING CONTROL

Any response to be reported verbally.

### ENVIRONMENTAL HEALTH

Any response to be reported verbally.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 163

No. of objections: 13

Objections on the following grounds:

#### Highways:

- Obstruction and inconvenience to residents accessing the basement car park from waste movements / servicing.
- Safety implications for pedestrian movement conflicting with movements of waste.
- Loss of residential car parking spaces in the basement.

#### Amenity:

- Noise disruption to residents from the waste movements and collection vehicles.
- Impact of the previously approved fourth floor extension on privacy and daylight / sunlight.
- Impact of the previously approved plant on noise levels in the vicinity.
- Noise implications from the electricity sub-station.

#### Other:

- Fire hazard from the waste store.
- Communication and lease issues between the freeholder/management company and residential occupiers.
- Additional changes to the original planning permission – namely not implementing the basement retail use.
- Discrepancies between the covering letter and the Waste Management Plan.
- Security implications of commercial occupiers having access to the basement.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

57 Broadwick Street is an unlisted building located within the Soho Conservation Area, the property comprises a podium and tower element and is located on the corner of Broadwick Street and Marshall Street. Planning permission was granted on the 29 April 2016 for the alterations and extensions to the podium section of the building. Consent was also granted for the change of use of part of the basement, ground and first floor office accommodation to provide new retail and restaurant units and the creation of two new residential units at fourth floor level. This planning permission is currently being implemented with construction works progressing on-site.

### 6.2 Recent Relevant History

A planning application was withdrawn on the 6 September 2016 for the 'variation of condition 1 of planning permission dated 26 January 2016 (RN15/07957); namely, to amend the basement layout.'

The application proposed a reduction in the number of residential car parking spaces in the basement which was considered unacceptable in highways terms and following these concerns being expressed to the applicant they withdrew the application before determination.

Planning permission was granted on the 29 April 2016 for alterations and extensions to the existing building including erection of single storey extension at roof level to enlarge fourth floor level and extensions at ground, first, second and third floor levels on north (Broadwick Street), south and west (Marshall Street) elevations to provide ancillary car / cycle parking, ancillary plant and retail (Class A1) at basement level; part retail (Class A1), part dual / alternative retail (Class A1) and / or cafe / restaurant (Class A3), part office entrance (Class B1) and part residential entrance (Class C3) at ground floor level; dual / alternative office (Class B1) and / or retail (Class A1) use at first floor level and installation of plant at rear first floor level; office (Class B1) with rear terraces at second and third floor level; part office (Class B1) with front terraces and two flats (Class C3) with terraces at fourth floor level and installation of kitchen extract plant to fourth floor roof. This application was subject to a S106 agreement to secure the following:

- a) the residential use at 52 Shaftesbury Avenue to be provided prior to the occupation of the office/retail/restaurant accommodation on site;
- b) works to the highway including the removal of street trees, phone box and other street furniture items prior to the commencement of development;
- c) replacement of street trees in the vicinity of the site;
- d) relevant costs for the stopping up of parts of Marshall Street and Broadwick Street; and
- e) costs of monitoring the S106 agreement.

A number of applications have been approved in relation to the discharge of conditions on the above planning permission including samples of facing materials and a Construction Management Plan.

Planning permission was refused on the 17<sup>th</sup> May 1984 for the use of part of the basement car park (approximately 25 car parking spaces) by residents of the area. An appeal against an enforcement notice was dismissed on the 6<sup>th</sup> February 1985.

## **7. THE PROPOSAL**

Planning permission is sought for changes to the approved basement and ground floor layout. This is due to the requirements of the UK Power Network who have stated that the approved electricity substation must be at ground floor level rather than the approved position within the basement. The substation is therefore proposed to be relocated to the area where the office/retail refuse store was approved. The office/retail refuse store will now be positioned at basement level.

Some of the existing residents in the tower element of the building have leases for car parking spaces within the basement of the property. In the previous consent all fourteen residential car parking spaces in the basement were retained for residential use with one additional parking space for use in association with the approved residential accommodation. The applicant has stated that due to on-going discussions with some leaseholders it has not been possible to obtain the necessary consent to amend the basement parking layout to accord with the planning permission, therefore consent is sought to amend the layout of the basement with regard the location of the cycle parking, retail provision and access points.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The proposal does not result in any changes relating to the land use of the approved development.

The applicant has stated that due to the on-going discussions with leaseholders in relation to the proposals at basement level, they are not proposing to immediately implement the retail accommodation at part basement level. An objection has been received that this therefore constitutes a new scheme and should be considered as a new application. However, it is possible for the applicant to not implement that part of the approval at the current time, no external alterations are required and it would just mean that section of the basement remaining as parking which was the previous layout. It would also have no implications in terms of the City Council policy requirements as the approved scheme involved a large uplift in the floorspace serving visiting members of the public being retail and restaurant accommodation and this would still be the case even if the change of use of part of the basement was not implemented. The application cannot be reasonably refused on these grounds and the submitted drawings still clearly show the change of use of the part basement to retail and this is still the applicant's intention if they can get the agreement of relevant leaseholders.

### **8.2 Townscape and Design**

The alterations to the layout of the basement and ground floor will not be visible from public or private views and will have no implications on design grounds.

### 8.3 Residential Amenity

Objections have been received from surrounding neighbouring residents to the potential noise nuisance caused by the relocated electricity substation. The nearest residential windows are located within 1 Marshall Street. It is acknowledged that the electricity substation may have the potential to generate noise and cause disturbance. However, the substation is proposed to be located within a brick clad enclosure, within an area which is semi-enclosed due to the approved extensions to the rear of the building. Acoustic louvres are proposed to allow for ventilation and it is considered that the substation will be capable of complying with the City Council's standard noise conditions.

An informative is proposed to remind the applicant of the requirement to comply with this condition and that the requirements of the condition will also apply to the operation of the relocated substation. The objections on noise and disturbance grounds are noted, however due to its location in a semi-open space and within an enclosure, it is not considered that permission could be reasonably withheld on these grounds.

Objections have also been received from residents in relation to potential noise nuisance both from the movement of recycling / waste from the basement of the property for collection and the waste collection vehicles themselves. It is not considered the movement of waste from the basement to the ground floor would result in noise levels which would affect residential amenity with the nearest residential windows being at fifth floor level in the building. Also it is not considered that the proposal will result in any additional vehicle movements above that which has previously been approved. The objections on these grounds are not therefore considered sustainable.

An objection has been received relating to the single storey extension to the podium block at fourth floor level and the loss of daylight and sunlight and the impact of noise from plant. These elements of the scheme have already been assessed and approved and are not relevant to this application.

### 8.4 Transportation/Parking

#### Car Parking

Permission is sought for the reconfiguration of part of the basement including some residential parking spaces. As previously mentioned, the existing residents within the tower have a leasehold interest in some of the parking spaces. An agreement has not been reached between the freeholder and the leaseholders and some parking spaces are to be retained in their current (existing) form.

The April 2016 consent requires the provision of 15 car parking spaces in the basement (14 for existing residential occupiers who have a lease which includes a parking space) and one additional car parking space associated with the new residential accommodation. A condition was attached to the permission requiring that all the car parking shown on the drawings had to be provided and to be only allowed to be used in association with the residential flats. The applicant is still bound by the requirements of this condition.



Objections have been received to the application from residential occupiers concerned that there will be a possible reduction in the residential parking provision. This is not the case, 15 car parking spaces are still shown on the proposed drawings and this is consistent with the original approval.

### **Cycle Parking**

As a result of the changes to the layout at basement level, the location of the cycle parking has altered. The number of cycle parking spaces remains the same as approved and this is considered acceptable.

### **Waste / Recycling Movements**

The office/retail refuse store is proposed to be relocated to basement level. The waste will be taken to the ground floor loading bay area every day to be collected by the refuse trucks.

The proposed relocation of the office/retail waste and recycling store to the basement may result in some minor inconvenience to residents moving their cars when waste is being taken from the basement to ground floor for collection however, this is unlikely to prove a regular occurrence due to the small number of car parking spaces in the basement and the short timeframe required to move the waste to ground floor. Also any waste movements could be temporarily halted if a car needed to access / exit the car park. Objections have been received from residential occupiers on these grounds. The Highways Planning Manager has reviewed all the submitted information and considers the proposal acceptable in highways terms and it is considered that the proposal represents an improvement on the previous situation. As part of the original consent, a condition was attached requiring the submission of detailed servicing management strategies for both the retail and restaurant units to ensure servicing does not detrimentally impact upon residential amenity in the vicinity. The objections on these grounds are not considered to be sustainable to justify a reason for refusal.

An objection has been received commenting that the applicant's covering letter states that waste collection vehicles will come into the rear servicing yard, and the Waste Management Plan insinuates that waste will be taken to Marshall Street for collection. As stated in the covering letter there is no access possible south along Marshall Street to Beak Street for a waste collection vehicle so all waste collection vehicles will need to access the rear servicing yard from Marshall Street, to collect waste, this is the same as the existing situation, which is considered acceptable.

### **8.5 Economic Considerations**

Any economic benefits generated by the scheme are welcomed.

### **8.6 Access**

The application does not result in any changes to the previously approved access arrangements.

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

## **Refuse /Recycling**

The Cleansing Manager has confirmed that the proposed waste and recycling store in the basement for the office and retail accommodation is satisfactory. However, the Cleansing Manager has objected to the scheme stating that further details are required of the restaurant and residential waste stores. The approved restaurant waste store is located at rear ground floor level, although not annotated as such; this waste store is controlled by conditions. Similarly, a condition was attached to the original consent relating to the residential waste. As there are no alterations to these elements of the approved scheme the objection is not justified.

An objector has commented on the potential for the relocated waste store at basement level to present a fire hazard. The store will be constructed in accordance with Building Regulations and it is not considered the waste store at basement level represents any more of a fire risk than the waste store in its previous location at ground floor level. The objection on these grounds is not therefore considered sustainable.

## **Procedural Considerations**

In granting a variation of condition application to an extant consent the same conditions must be applied to the new decision. Some conditions of the April 2016 consent have already been discharged in relation to the submission of a Construction Management Plan and samples of facing materials and bricks. These conditions have been amended to ensure compliance with the previously approved details. A condition is also proposed to ensure the permission is implemented within three years of the original planning permission.

### **8.8 London Plan**

This application raises no strategic issues.

### **8.9 National Policy/Guidance Considerations**

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

### **8.10 Planning Obligations**

A deed of variation to the original S106 is required to ensure that all previously secured heads of terms are adhered to for this new consent.

S73 applications, where there is no increase in floorspace, do not trigger a CIL payment.

### **8.11 Environmental Impact Assessment**

An Environmental Impact Assessment is not required for this application.

### **8.12 Other Issues**

## **Crime and Security**

An objection has been received on the grounds that allowing people working in the retail and office accommodation access to the basement presents a security risk for residents accessing their cars. This situation is similar to the existing situation where there was commercial car parking alongside resident car parking and the objection is not justified.

A number of objectors have mentioned the on-going relationship between the freeholder, management company and individual residents and the level of communication to the residents in relation to the redevelopment proposals. These issues are not planning matters and the City Council has carried out all its statutory duties in relation to the advertising of the relevant applications. Whilst there may be an unfortunate break-down in the relationship between various interested parties this has no implication for the determination of the planning application.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from the Cleansing Manager dated 23 September 2016
3. Response from Soho Society, dated 10 October 2016
4. Response from the Highways Planning Manager dated 4 November 2016
5. Letter from occupier of Flat 2, 61-63 Beak Street, dated 26 November 2016
6. Letters from occupier of Flat 3 and 4 Stirling Court, Marshall Street, dated 26 September 2016, 27 October 2016 and 8 November 2016
7. Letter from occupier of 5.2 Stirling Court, London, dated 28 October 2016
8. Letter from occupier of Stirling Court, London, dated 21 October 2016
9. Letter from occupier of Warhill, Bereligh (owner of two flats in Stirling Court), dated 1 October 2016
10. Letter from occupier of 6.5 Stirling Court, 3 Marshall Street, dated 26 September 2016
11. Letter from occupier of 61-63 Beak Street, London, dated 9 October 2016
12. Letter from occupier of Flat 10, Stirling Court, 57 Broadwick Street, dated 28 October 2016
13. Letters from occupier of Flat 3, 61-63 Beak Street, London, dated 26 November 2016 and 26 November 2016
14. Letter from occupier of Stirling Court, Marshall Street, dated 8 November 2016

(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: HELEN MACKENZIE BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk)

10. KEY DRAWINGS

Previously approved basement plan:



New proposed basement plan:



Previously approved ground floor plan:



New proposed ground floor plan:



**DRAFT DECISION LETTER**

**Address:** 57 Broadwick Street, London, W1F 9QS,

**Proposal:** Variation of Conditions 1, 16, 21 and 22 of planning permission dated 29 April 2016 (RN: 15/07957/FULL) alterations and extensions to the existing building including erection of single storey extension at roof level to enlarge fourth floor level and extensions at ground, first, second and third floor levels on north (Broadwick Street), south and west (Marshall Street) elevations to provide ancillary car / cycle parking, ancillary plant and retail (Class A1) at basement level; part retail (Class A1), part dual / alternative retail (Class A1) and / or cafe / restaurant (Class A3), part office entrance (Class B1) and part residential entrance (Class C3) at ground floor level; dual / alternative office (Class B1) and / or retail (Class A1) use at first floor level and installation of plant at rear first floor level; office (Class B1) with rear terraces at second and third floor level; part office (Class B1) with front terraces and two flats (Class C3) with terraces at fourth floor level and installation of kitchen extract plant to fourth floor roof. (Land use swap with Shaftesbury Mansions, 52 Shaftesbury Avenue); namely to vary the approved plans of waste and recycling/cycle parking and residential parking.

**Reference:** 16/08557/FULL

**Plan Nos:** Construction Management Plan (Revision 2) dated 26th May 2016, Acoustic Report dated 23rd April 2015, Acoustic Report dated 18th November 2015, Acoustic Report dated 6th January 2016, Transport Statement Rev2 dated 25 June 2015, Odour Report (J0029/1/F1) dated 24 April 2015, Drawings: 10324.40, T(SK)017 RevA, T(SK)016 RevA, T1(20)P00 RevT2, T1(20)P-1 RevT1, T1(20)P01 RevT4, T1(20)P02 RevT1, T1(20)P03 RevT1, T1(20)P04 RevT1, T(SK)056 RevA, T(SK)055 RevA, T(SK)054 RevA, T1(20)E01 RevT1, T1(20)E02 RevT1, T1(20)E03 RevT1, T1(20)E04 RevT1, T1(20)E05 RevT1, T1(20)E06 RevT1, T1(20)S01 RevT1, T1(20)S02 RevT2, T1(21) D01 RevT1, T1(21)D02 RevT1, T1(21)D03 RevT1, T1(21)D04 RevT1, Linear Bricks, supplier: EH Smith, manufacturer: San Marco (Italy), ref: MAAX M.106, size:490Lx40Hx115D; Blue Glazed Brick, supplier: EH Smith, manufacturer: San Marco (Italy), ref: Custom blue glaze; Light grey mortar colour, TSK062, Sample of White glazed linear brick: EH Smith Architectural Clay Products, manufacturer, ref: 151203 B Mortar Ref - CPI X14, size: 490Lx40Hx115D, and sample of Metal/Cladding and Windows sample in dark grey (anodized look): Alucobond, manufacturer, Insulated render / Knauf Conni 1.0 - White; Metal Cladding Colour Light Grey: Alucobond 103; Double Glazed Unit: Pilkington Suncool 60/31; Silver Grey linear brickwork (EH Smith Architectural Clay Products, Mortar Ref - Stebah Hellgrau size:215Lx65Hx100).

**Case Officer:** Matthew Giles

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

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved



subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

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

2 You must carry out any building work which can be heard at the boundary of the site only:

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

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3
- (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
  - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
  - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
  - (d) The location of most affected noise sensitive receptor location and the most affected window of it;

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

## Reason:

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

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

## Reason:

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

- 5 You must install the acoustic attenuation as detailed in the submitted acoustic information at the same time as the plant is installed. This must be maintained in this form for as long as the plant remains in situ.

## Reason:

To protect the environment of people in neighbouring properties, as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13BC)

- 6 As detailed within the submitted acoustic information, all first floor plant / machinery hereby permitted (except the three units serving the restaurant) shall not be operated except between 07:00 hours and 23:00 hours daily.

## Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external



background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 7 You must apply to us for approval of detailed drawings and manufacturers specification of the following parts of the development - restaurant ducting terminus. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details.

Reason:

To protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007.

(R13CC)

- 8 The restaurant extract duct shown on the approved drawings (with further details approved under Condition 7 of this permission) shall be fully installed before the restaurant use commences and thereafter maintained for as long as the premises are used as a Class A3 restaurant.

Reason:

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

- 9 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the proposed plant at fifth floor level will comply with the Council's noise criteria as set out in Condition 3 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

To protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

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

Reason:

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

- 11 The design and structure of the development 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.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order 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.

- 12 You must not sell any hot-food take-away or drink within either approved restaurant premises (Class A3), nor operate a delivery service, even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted restaurant uses (Class A3) because it would not meet Policy TACE9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case.

- 13 The bar areas and bar seating in each of the restaurants, must not take up more than 15% of the floor area of the individual restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE9 of our Unitary Development Plan that we adopted in January 2007.

- 14 You must not play live or recorded music within either of the restaurant premises that will be audible externally or in the adjacent properties.

Reason:

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

- 15 You must not allow more than 150 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 16 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on the approved drawings. You must clearly mark them and make them available at all times to everyone using the property.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of

Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 17 Prior to the occupation of the restaurant / retail units, you shall submit and have approved in writing by the local planning authority detailed servicing management strategies for the individual retail / restaurant accommodation to include an assessment of delivery noise combined with mechanical services, servicing hours, noise from doors and gates and activity noise from trolleys and/or human voices. All servicing shall be undertaken in accordance with the approved strategies unless otherwise agreed in writing by the local planning authority.

Reason:

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

- 18 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours:

07:30 to 00:30 Mondays to Saturdays; and  
07:30 to 00:00 (midnight) Sundays and Bank Holidays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 19 You must apply to us for approval of detailed drawings showing the following alterations to the scheme:

The shopfronts on Broadwick Street to the restaurant and office accommodation must not be recessed. They must be flush with the front façade.

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

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

- 20 You must apply to us for approval of an odour management plan setting out the specifications of the odour abatement system and the maintenance strategy of the kitchen extract system.

The agreed odour abatement system and maintenance strategy shall remain in place for as long as the restaurant remains in use. You must not start any work on these parts of the

development until we have approved what you have sent us.

You must then carry out the work according to these approved details.

Reason:

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

- 21 You must provide each cycle parking space shown on the approved drawings prior to occupation (this includes all cycle parking spaces in the basement of the property). Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 22 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of the building.

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007.  
(R22BB)

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

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 24 The Class A1 retail use hereby approved shall only be used for non-food retailing.

Reason:

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

- 25 The terrace areas hereby approved associated with the office accommodation can only be used between the hours of 08:30 and 20:30 Monday to Friday. You can not use the terrace areas outside of these hours other than in the case of an emergency.

Reason:

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

- 26 The Class A3 use allowed by this permission must not begin until you have fitted self-closing doors at the Broadwick Street entrance. You must not leave these doors open except in an emergency or to carry out maintenance. (C13MA)

Reason:

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

- 27 You must provide the following bio-diversity features before you start to use any part of the development, as set out in your application:

green roof areas / wildflower planting areas

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

Reason:

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

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

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

Reason:

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

- 29 Access is only to be provided to the identified 'green roof -restricted access' areas for maintenance purposes. These roof areas are not to be used for any other purpose unless in the case of an emergency.

Reason:

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

- 30 You must construct the development in accordance with the facing materials and samples approved by the City Council as Local Planning Authority on the 1st June 2016, 17th August 2016 and 10th November 2016 under references 16/04607/ADFULL,

16/07763/ADFULL and 16/09701/ADFULL or in accordance with any other relevant details submitted to and approved by the City Council.

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

- 31 You must apply to us for approval of sound insulation measures to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 10 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

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

- 32 You must carry out the demolition and construction works in accordance with the details approved by the City Council as Local Planning Authority on 26th July 2016 under reference 16/05268/ADFULL or in accordance with any other details submitted to and approved by the City Council.

Reason:

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

- 33 This permission must be commenced no later than 29.04.2019

Reason:

As required by s91 of the Town and Country Planning Act 1990 as amended by s51 of the Planning and Compulsory Purchase Act 2004.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered

favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 3 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990.
- 4 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards.

Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)

- 5 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 6 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 phone 020 7641 2642. 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). (I09AC)

- 7 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply.

The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk).

If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk)

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will

provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 8 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 9 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 10 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.
- \* Window cleaning - where possible, install windows that can be cleaned safely from within the building.
  - \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained.
  - \* Lighting - ensure luminaires can be safely accessed for replacement.
  - \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm).

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

- 11 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 12 Please read the following.
- \* British Standard BS: 5837 (2005) and later revisions - Recommendations for trees in relation to construction
  - \* National Joint Utilities Group guide NJUG 10 - Guidelines for the planning, installation and maintenance of utility services in proximity to trees (1995)
  - \* Arboricultural Practice Note APN 1 - Driveways close to trees (1996), and the products available to provide hard surfaces close to trees. (I92AA)
- 13 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)



Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an Assumption of Liability Form immediately. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a Commencement Form  
CIL forms are available from the planning on the planning portal:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

- 14 The odour management plan is likely to require the submission of manufacturer's specification and detailed plans of the following details:
- Grease filters;
  - Carbon filters with a residence time of at least 0.4 seconds;
  - Electrostatic precipitator;
  - UV light/Ozone;
  - All filters to have life monitoring package with safety cut-off features to stop the kitchen extract system from functioning should any of the installed odour abatement measures fail;
  - An updated odour report and risk assessment including the details of all neighbouring receptors and;
  - Any such features as recommended by the updated odour report section on 'Mitigation' (currently section 5)
  - Details of an automatic cut-off if the odour mitigation system fails.
- The maintenance strategy is likely to require the submission of the details:
- Details of cleaning and maintenance measures required for each component of the system;
  - Details of the minimum frequency at which the cleaning and maintenance measures shall be undertaken and;
  - Examples of schedules and checklists to demonstrate that the cleaning and maintenance has been undertaken.
- 15 You are advised that the noise from the operation of the relocated electricity substation is controlled via the requirements of Condition 3 of this permission. Any noise output in excess of the requirements of this condition will be the subject of appropriate enforcement action.

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.