

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 24 January 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	67 - 69 Beak Street, London, W1F 9SW		
Proposal	Erection of raised deck enclosed by timber balustrade to third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.		
Agent	Montagu Evans		
On behalf of	LaSalle Investment Management		
Registered Number	16/09126/FULL	Date amended/ completed	18 October 2016
Date Application Received	22 September 2016		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

1. Grant conditional permission.

2. SUMMARY

The application site comprises an unlisted building located within the Soho Conservation Area and in use as an office (Class B1). Retrospective permission is sought for the erection of raised deck enclosed by timber balustrade to the third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.

The key issue in this case is:

* Whether the proposed roof terrace will result in a material loss of amenity for neighbouring residents in terms of noise and overlooking.

The reasonable distance between the proposed terrace and the adjoining residential properties means that the privacy of the occupants will not be materially harmed. Subject to a condition preventing access to the roof terrace except between 09.00 and 19.00 (Monday to Fridays) (except bank holidays) and preventing music being played on the terrace at any time, it is considered that the amenity of adjoining residents will not be materially degraded as a result of noise from the proposed terrace. The proposed is therefore in accordance with City Plan Policies S29 and S32, as well as UDP Policy ENV 6 and ENV 13.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

CLLR DIMOLDENBERG:

Supports the objections of neighbouring residents.

SOHO SOCIETY:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72

Total No. of replies: 7

No. of objections: 7

No. in support: 0

Amenity:

- Noise and overlooking from proposed terrace will harm residential amenity.
- Request that, if granted, the hours of use are limited to between 09.00 and 19.00 (Monday to Friday).

Other:

- Similar applications for roof terraces have been refused in the past on this site for legitimate reasons.
- The application is entirely retrospective and therefore the works have been undertaken without following due process.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises a four storey terraced property fronting Beak Street, a three storey warehouse building located between the terrace of properties on the north side of Beak Street and Stirling Court to the north, and a two storey hipped roof building linking these two buildings.

None of the buildings are listed but the site is located within the Soho Conservation Area. The site is located within the Core CAZ. The entirety of the site is in use as an office (Class B1).

Stirling Court is located immediately to the north of the application site. This building is in residential use from fifth to tenth (top) floors. Permission was granted on 29 April 2016 for, *inter alia*, the use of part of the fourth floors as two flats. This permission is currently being implemented. The remainder of the fourth floor is in use as offices and a caretaker's flat. The lower floors are in commercial use.

Immediately to the south are a number of residential flats on the upper floors of properties facing Beak Street.

6.2 Recent Relevant History

Permission (Ref: 09/00899/FULL) was refused on 6 April 2009 for the creation of a roof terrace on the existing first floor flat roof on overlooking, noise and disturbance, and design and conservation grounds.

Permission (Ref: 14/03919/FULL) was granted on 3 March 2015 for the retention of eight air conditioning units at main roof (third) floor level and alterations to reduce the size of the existing enclosure.

Permission (Ref: 14/05685/FULL) was granted on 2 June 2015 for the erection of an infill extension over ground to third floor levels to house a new lift shaft and stairwell, installation of glazed roof over existing courtyard, erection of railings around eastern third floor flat roof to facilitate use as terrace and demolition of stair housing at third floor level, all to extend and alter office building (Class B1). The terrace on the eastern third floor flat roof has not been implemented, but could be in the future. The hours of use of this terrace is controlled by condition to between 09.00 and 19.00 (Monday to Fridays).

Applications (Refs: 16/02629/FULL and 16/07596/FULL) to make 'minor material amendments' to the above approved development were approved on 12 July 2016 and 2 November 2016, respectively:

- To entirely remove the existing yard building and replace with a new building of the same scale and material;
- Addition of an access door and steps from proposed staircase to first floor flat roof (conditioned for maintenance access only).
- To increase the height of the approved staircore by approximately 1.0m.

7. THE PROPOSAL

The application seeks retrospective permission to erect a raised timber deck above the existing third floor flat roof and to enclose this deck with metal posts linked by timber slats to a height of 1.1m to create a roof terrace to be used in association with the use of the host building as an office (Class B1). Access to the roof terrace is from the rear of the new staircore (approved in June 2015) and a short section of decking on the lower section of roof.

The applicant has agreed to restricting access to the proposed roof terrace except between 09.00 and 19.00 (Monday to Friday) (except Bank Holiday).

8. DETAILED CONSIDERATIONS

8.1 Land Use

As the proposed terrace is completely open, the proposal does not result in an increase in gross office floorspace. In any event, the site's location within the Core CAZ means that increases in office floorspace are acceptable in principle (City Plan Policies S6 and S20).

8.2 Townscape and Design

The proposed works are not publically visible and are to a relatively low building in the centre of this street block. This, combined with the use of high quality materials, means that the proposed alterations are acceptable in design terms and will preserve the character and appearance of the Soho Conservation Area, in accordance with City Plan Policies S25 and S28 and UDP Policies DES 1 and DES 6.

8.3 Residential Amenity

Until recently, the third floor flat roof was enclosed by a safety rail fitted to the top of the parapet wall and was readily accessible via a staircore. This ready access and the presence of planters, tables and chairs clearly indicates that this flat roof had long been used as an informal terrace for occupants of the building.

However, the combined height of the parapet walls and the safety rails was only 1.0m. This is below the 1.1m requirement set out within the Building Regulations to ensure that users of a terrace are protected from falls. The proposed terrace is also slightly larger (2.8m longer) as a result of the reduction in the size of the adjacent plant enclosure and is between 0.3 and 0.4m taller than the existing flat roof.

The proposed development would result in a roof terrace that is compliant with the Building Regulations. This would mean that it is likely to be more intensively used. This more intensive use, combined with its larger size and taller deck, is central to the assessment of whether it would result in a material loss of amenity for the residents that surround the site.

Four objections on noise and overlooking grounds have been received from residents living within Stirling Court (located immediately to the north of the application site) and in residential use from fifth to tenth (top) floors. Objections have also been received from three residents living within the upper floors of properties on Beak Street to the south.

Whilst there will be some overlooking from the proposed terrace to these residential properties, the reasonable distance between the proposed terrace and the affected residents and, in the case of the properties in Stirling Court, the oblique angle means that any overlooking is not considered to be sufficiently intrusive to result in a material loss of amenity. The two proposed new flats at fourth floor level within Stirling Court will be unaffected as neither of them have windows with a direct line of sight to the proposed terrace.

Whilst there will be some noise generated by occupants of the terrace, the applicant has agreed to the imposition of a condition restricting access to between 09.00 and 19.00 (Monday to Friday). This condition will ensure that the occupation of the terrace will not conflict with times when residents rightly expect a lower level of activity. During the day, the level of activity is unlikely to cause unacceptable amenity impacts subject to the imposition of a condition preventing music being played on the terrace at any time.

Finally, some objectors point out that a terrace has been refused on this site previously. This is correct, with permission being refused in 2009 for the creation of a roof terrace at first floor level. This proposed terrace was much closer to neighbouring residents and

would have allowed close and direct overlooking into a flat on the upper floors of a Beak Street building. The proposed terrace is not in the same location as that previously refused terrace and has very different impact. The two terraces are therefore not comparable.

8.4 Transportation/Parking

The proposal raises no transportation impacts.

8.5 Economic Considerations

The proposal raises no material economic impacts.

8.6 Access

The proposed roof terrace will not be wheelchair accessible due to the lift not reaching this level and due to a step between the terrace and the staircore. Whilst this is regrettable, it is a product of the height of the staircore and is therefore not easily remedied.

8.7 Other UDP/Westminster Policy Considerations

None.

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

The proposed development does not give rise to any planning obligations.

8.11 Environmental Impact Assessment

The proposed development is of insufficient scale to require the submission of an Environmental Statement.

8.12 Other Issues

An objection has been received on the ground that the application is entirely retrospective and therefore the works have been undertaken without following due process. Whilst this is true, this does not represent grounds for refusing permission. The City Council is required to determine prospective and retrospective application in the same way (i.e. in accordance with the policies within the development plan unless material considerations indicate otherwise).

9. BACKGROUND PAPERS

1. Application form
2. E-mail from Cllr Dimoldenberg dated 17 November 2016
3. Response from Soho Society, dated 8 November 2016
4. Letter from occupier of 61-63 Beak Street, Flat 1, dated 16 November 2016
5. Letter from occupier of Stirling Court, 3 Marshall Street, dated 24 November 2016
6. Letter from occupier of 5.2 Stirling Court, London, dated 16 November 2016
7. Letter from occupier of 65c Beak Street, London, dated 17 November 2016
8. Letter from occupier of 5.2 Stirling Court, 3 Marshall Street, dated 16 November 2016
9. Letter from occupier of Flat 3, 61-63 Beak Street, London, dated 16 November 2016
10. Letter from occupier of Stirling Court, Marshall Street, dated 24 November 2016

Selected relevant drawings

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

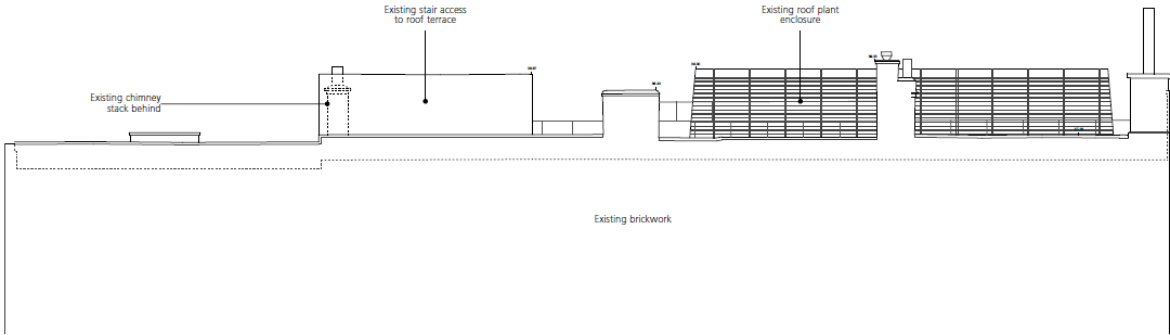
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT MHOLLINGTON2@WESTMINSTER.GOV.UK

10. KEY DRAWINGS

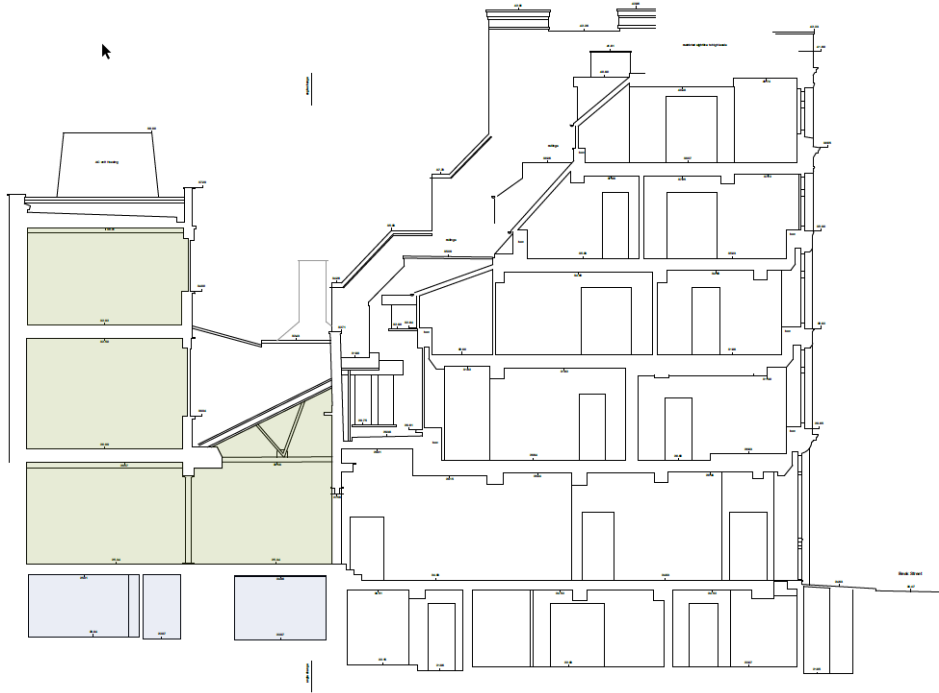
Existing south elevation:



Existing north elevation:

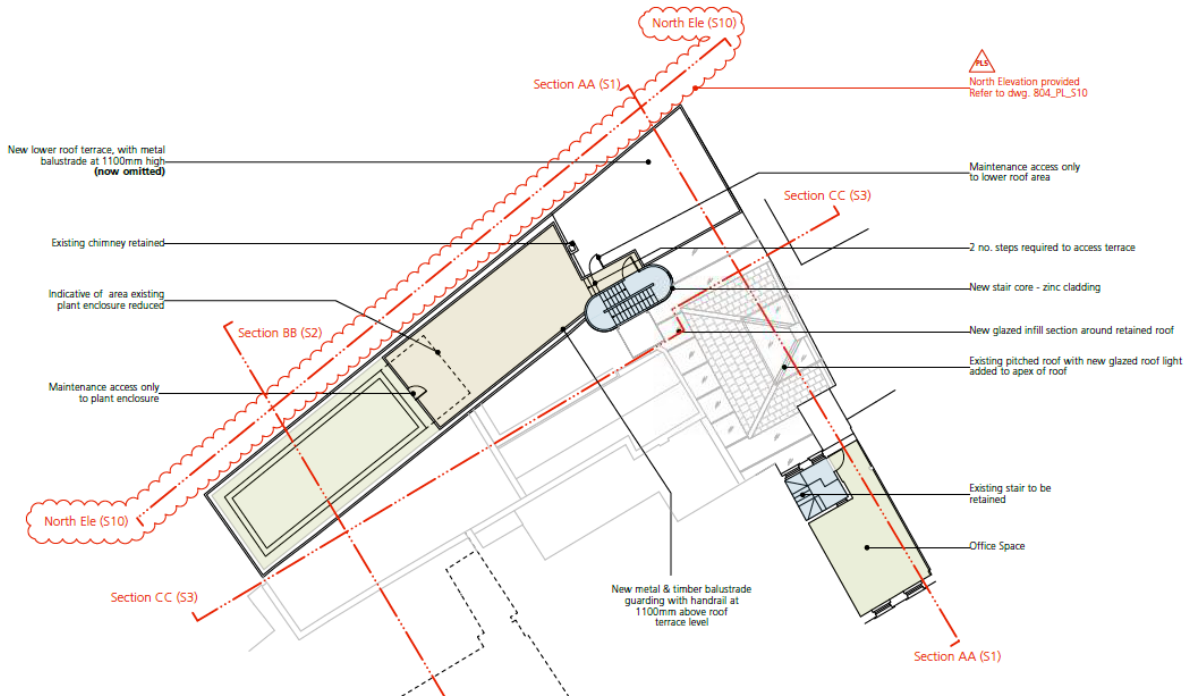


Existing Section B-B:

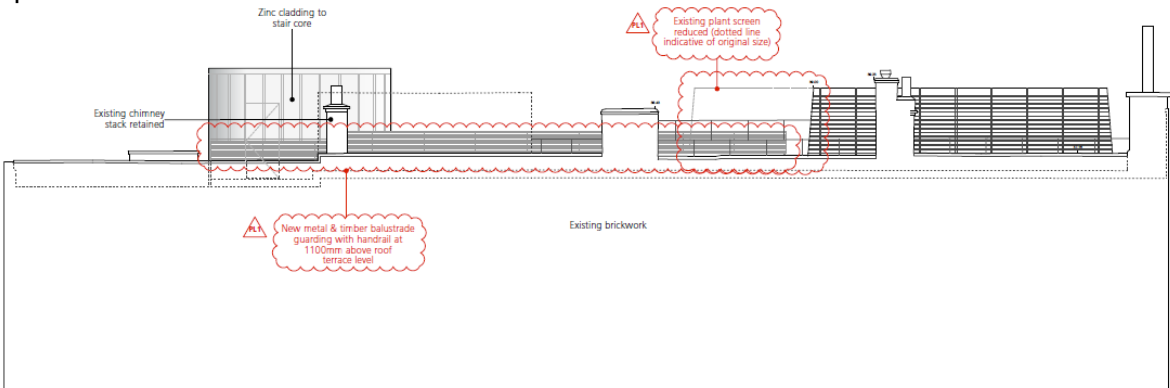


1 Existing Section BB
R, EX, S2

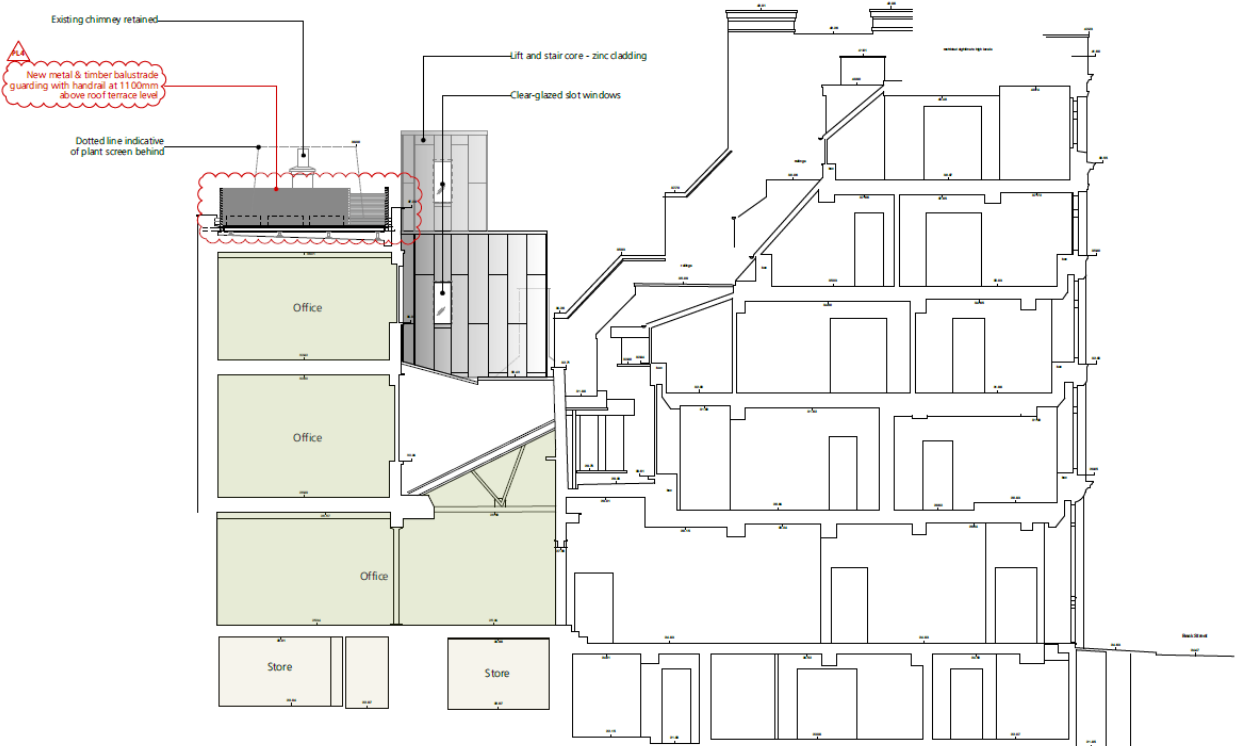
Proposed third floor plan:



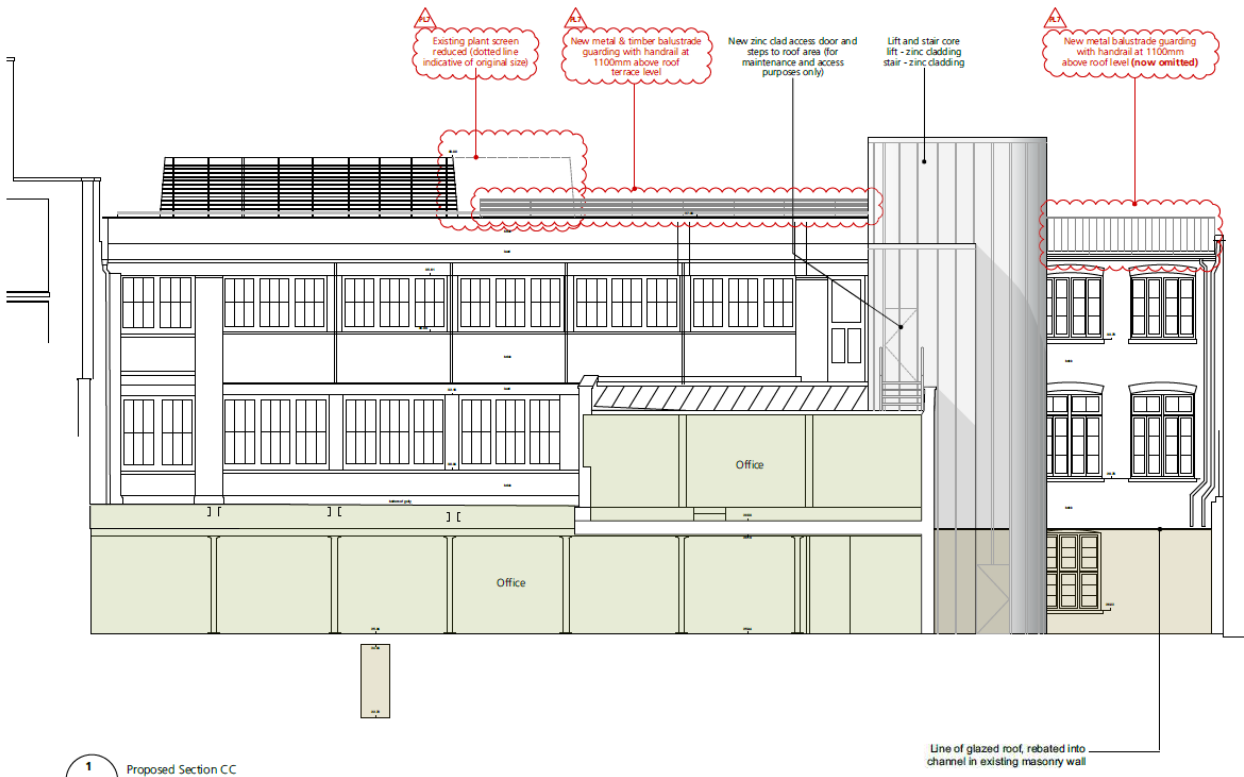
Proposed north elevation:



Proposed Section B-B



Proposed south elevation:



1
PL_S3

Proposed Section CC

DRAFT DECISION LETTER

Address: 67 - 69 Beak Street, London, W1F 9SW,

Proposal: Erection of raised deck enclosed by timber balustrade to third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace.

Reference: 16/09126/FULL

Plan Nos: 804_PL_3.1 Rev. PL5, 804_PL_S10 Rev. PL1, 804_PL_S1 Rev. PL7, 804_PL_S2 Rev. PL4 and 804_PL_S3 Rev. PL7.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

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 roof terrace hereby approved shall not be used for any purpose (other than to escape during an emergency) except between 09.00 and 19.00 (Monday to Friday) (with the exception of Bank Holidays).

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 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

3. No music shall be played on the roof terrace hereby approved at any time.

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 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National

Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

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