

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 9 May 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Abbey Road	
Subject of Report	96 Clifton Hill, London, NW8 0JT		
Proposal	Extension of ventilation flue on the rear elevation.		
Agent	Mr Ben Kelly		
On behalf of	Mr Ben Robson		
Registered Number	17/01462/FULL	Date amended/ completed	21 February 2017
Date Application Received	21 February 2017		
Historic Building Grade	Unlisted		
Conservation Area	St John's Wood		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site is a detached three storey building with basement, which is currently vacant and undergoing building works. Its lawful use is as a public house and is a designated Asset of Community Value (ACV). Although the property is not listed it is an unlisted building of merit and is located within the St Johns Wood Conservation Area. Planning permission is sought for the installation of an extension to an existing rear flue to provide ventilation to a new pub kitchen at basement level.

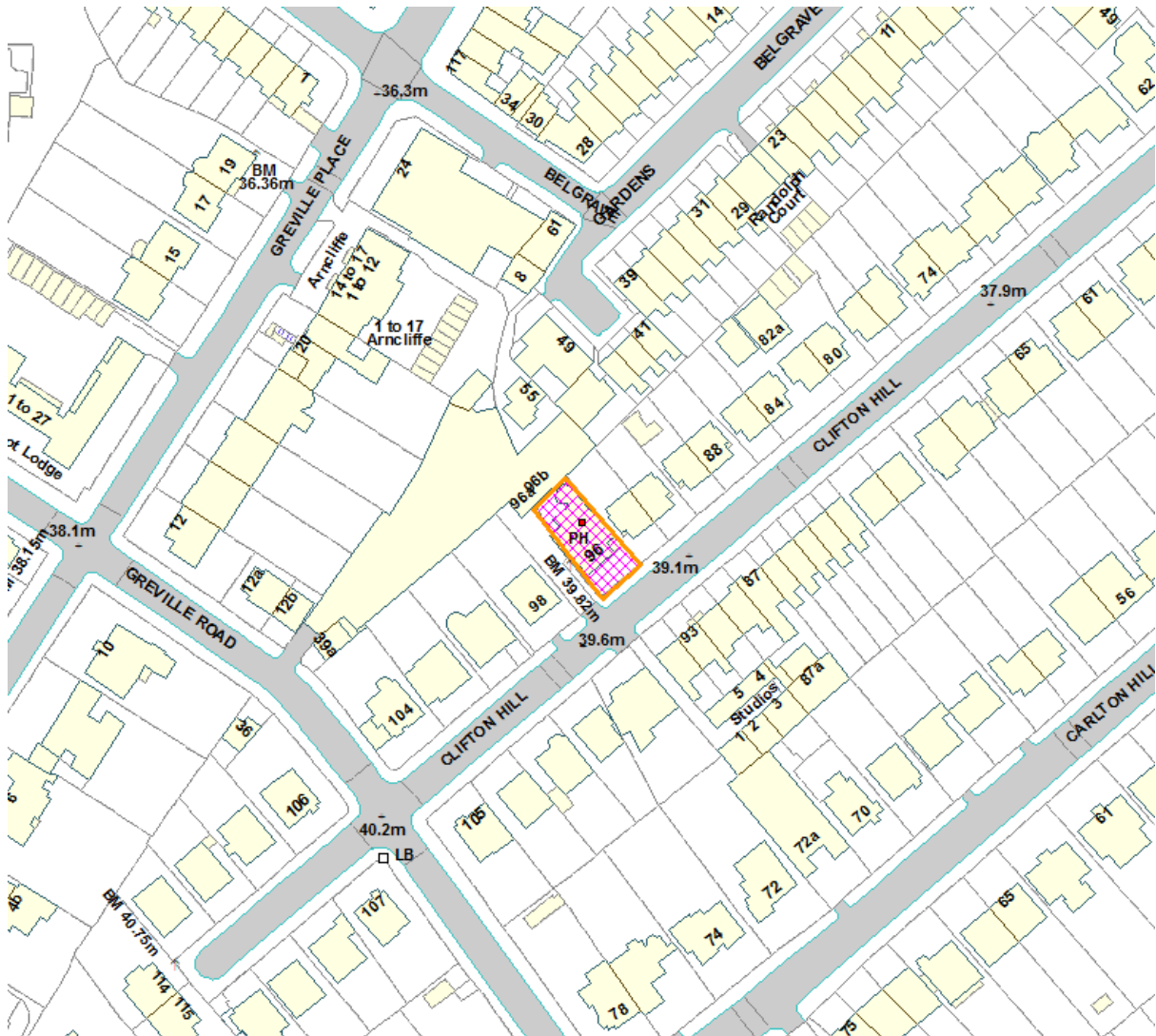
Significant objection has been raised by surrounding residents who raise concerns in relation to the information submitted with the application, and the likely negative impact of the proposed works on the quiet enjoyment and character of the area.

The key issues are:

- The impact of the proposals on the amenity of surrounding residents.
- The impact of the works on the building and surrounding conservation area.

Subject to conditions, the proposals are considered to comply with the Council's policies in relation to design and amenity as set out in Westminster's City Plan and the Unitary Development Plan (UDP) and the application is accordingly recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation



Rear elevation (showing existing flue)



5. CONSULTATIONS

ST JOHNS WOOD SOCIETY:

Support the re-opening of the public house. Request that the case officer balances the needs of the community against any reasonable objections from the immediate neighbours.

ENVIRONMENTAL HEALTH:

Raise no objection subject to conditions in relation to mitigation measures and to ensure that the equipment meets Westminster's standard Noise and Vibration requirements.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8

Total No. of replies: 23 objections (from 16 households) raising some or all of the following points:

Amenity:

- Incorrect and misleading information within submitted noise report, which could result in noise disturbance from new equipment.
- Lack of information regarding proposed equipment.
- Note that maximum noise should not exceed 10db below the minimum external background noise level, or 5db below minimum external background noise level only where it can be shown that noise emitted from the equipment will not contain tones or be intermittent sufficient to attract attention. It is considered that the equipment does contain tones and therefore the more stringent reduction should be enforced.
- Comment that the property at first floor level should have been tested.
- Contrary to Westminster Policies.
- Fumes will affect adjacent occupiers.

Other:

- Sections of the application form not completed.
- Note that works previously applied for have not been included within this application. Concerns that they will be undertaken without permission.
- Concern and confusion over the St Johns Wood Society comments.
- Concerns about access for emergency vehicles.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is a detached building comprising of basement, ground and two upper levels situated on the north side of Clifton Hill last in use as a public house. Although the property is not listed it is designated as an unlisted building of merit which positively contributes to the St Johns Wood Conservation Area. The building was designated as a ACV on 11 February 2015. To the rear of the building is an existing kitchen ventilation flue, which exits the building at first floor level and extends up to the roof.

6.2 Recent Relevant History

16/11299/FULL - Alterations including: The installation of condenser units and fan at rear ground floor level; extension to existing flue on the rear elevation; installation of light fitting to side entrance; alterations to the boundary walls of the front patio garden to change access points.

Application Withdrawn 23 January 2017

16/03034/FULL - Alterations including erection of side portico extension with the installation of an associated access ramp, increasing the width of wall and column to front boundary, and extension of ventilation duct to rear elevation.

Application Withdrawn 2 August 2016

16/09197/FULL - Change of use of first and second floor existing ancillary residential accommodation associated with The Clifton Public House, to 2x2bedroom residential dwellings (Use Class C3) and associated alterations to front garden to accommodate bike and bin store and installation of skylight to roof.

Application currently being considered

14/12717/FULL - Use as a single family dwelling and internal and external alterations including lowering of existing basement, demolition of the rear conservatory and toilet block, formation of rear amenity space with glass balustrade and steps, provision of car parking space to front garden with associated alterations to boundary walls and paving.

Application Refused 18 August 2015

08/09330/FULL - Replacement of existing kitchen extract and ductwork to rear elevation.

Application Permitted 22 July 2009

05/03555/FULL - Installation of new entrance door and side screen to front facade.

Application Permitted 11 July 2005

02/02664/FULL - Replacement of paving to front beer garden and installation of extract fans to rear windows.

Application Permitted 24 June 2002

02/00127/FULL - Installation of a rear fire escape staircase.

Application Permitted 21 March 2002

7. THE PROPOSAL

Planning permission is sought for the installation of an extension to the existing rear flue to run down to ground floor level, where it will enter the building and run internally down to basement level where it will provide mechanical ventilation for a new pub kitchen.

8. DETAILED CONSIDERATIONS

8.1 Land Use

No change to existing use as a public house.

8.2 Townscape and Design

The significance of the application site as an unlisted building of merit located within the St John's Wood Conservation Area derives from its appearance, form, scale and long established use as a public house. It is the buildings use which has determined its scale and form and therefore it could be argued the current form of the building, particularly the core fronting the highway, remains as originally intended and therefore the building can be considered as a completed composition. Furthermore the scale and form of the building and its contrast to the residential buildings in the street, is considered to contribute to the character and appearance of the area.

On the rear elevation it is proposed to extend the existing high level ducting down to the top of the ground floor level. Given the existence of high level ducting, an extension lower down on the building is not considered to be so harmful as to detract from the character and appearance of the building and the wider conservation area. A condition is recommended that it is painted black to match the existing. Subject to this condition the proposals are considered to be acceptable in design and conservation terms and would preserve the character and appearance of the St Johns Wood Conservation Area.

The proposal would be consistent with policies S25 and S28 of the City Plan and policies DES1, DES5 and DES9 of the UDP.

8.3 Residential Amenity

Considerable objection has been received in relation to this application and the potential impact of the proposed new equipment on the amenity of adjacent occupiers. Concerns have also been raised in relation to the acoustic report submitted by the applicants.

The application is supported by a plant noise assessment report by RBA Acoustics dated 15 February 2017 and supplementary data requested by the Environmental Health Officer (EHO) received by email on 3 April 2017. The report refers to a noise survey which established a lowest background noise level of 36 dB $L_{A90 (15 \text{ min})}$ and also mentions a survey carried out previously by Clement Acoustics which also measured a lowest level of 36 dB $L_{A90 (15 \text{ min})}$. Following representations from a number of residents in Clifton Hill the background noise level has been revised downwards. The residents employed KP Acoustics to carry out a noise survey and measured a lowest background noise level of 33 dB $L_{A90 (5 \text{ min})}$. The EHO has commented that the 5 minute interval used by KP Acoustics doesn't conform to the 15 minute interval as per Westminster planning policy and that a 5 minute interval level has a tendency to be a lower measurement than the 15 minute level. Despite this, the applicant has agreed to adopt the lowest 24 hour background noise level of 33 dB $L_{A90 (5 \text{ min})}$ to set the design level. As the ambient noise levels are below WHO guidelines the plant is required to operate at least 5 dB below the lowest background noise level. Hence the design level criterion is 28 dB L_{Aeq} at the nearest noise sensitive receptor.

As noted by the objectors, if the proposed plant exhibits a tonal element then an additional 5 dB reduction should be applied to the design level. The octave frequency band data supplied by the manufacturer (Flakt Woods) in table 7751/T3 of RBA's report shows that the kitchen extract fan is very unlikely to produce any tonality. The EHO has noted that typically modern items of mechanical plant do not exhibit a tonal element and therefore this additional 5dB reduction is not required.

The applicants report notes that the nearest noise sensitive receptors are located above the pub in 96 Clifton Hill itself, which were last used as ancillary staff accommodation. The upper window is one metre away from the kitchen extract outlet and a lower window is one metre from the proposed duct. Objections have been received in relation to the location of the nearest noise sensitive window actually being at first floor level. However, planning permission has not been granted for the use of the first floor as self-contained residential accommodation (which is subject to a separate application). The EHO is happy with the assessment undertaken, which will ensure that any future occupants of the upper floors has been considered.

The EHO has no objections to the proposal subject to standard City Council noise conditions and a condition to ensure that the mitigation measures as outlined within the report are provided and that the hours of operation are limited to between the hours of 07:00 to 23:30. Subject to these conditions, the proposal would be consistent with policies S29 and S32 of the City Plan and policies ENV6, ENV7 and ENV 13 of the UDP and refusal of permission on this ground could not be sustained.

8.4 Transportation/Parking

Not applicable as no change to existing arrangements.

8.5 Economic Considerations

Any economic benefits of the scheme are welcomed. No economic considerations are applicable for a development of this size.

8.6 Access

Concerns have been raised by a neighbour in relation to access for emergency vehicles. As the application is solely for new ventilation equipment and as no change is proposed to existing access arrangements, such considerations are not relevant to this application.

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

It is not considered this application would trigger the requirement for a CIL payment.

8.11 Environmental Impact Assessment (EIA)

This application is of insufficient scale to require the submission of an EIA.

8.12 Other Issues

Objections have been received on the grounds of missing information from the application form, namely section 22 which relates to 'Industrial or Commercial Processes and Machinery'. The applicant has subsequently provided an updated page of the application form with this information completed. It is not considered that the failure to complete this section of the application form has negatively affected the consideration of the application.

Comments have also been received that works which were included in a previously withdrawn application, namely external alterations to the side and front of the pub, have not been included in this application. This application is assessed on its merits for the works which have been applied for. Should any works be undertaken without prior permission, they will be subject to any necessary enforcement action.

9. BACKGROUND PAPERS

1. Application form
2. Letter from the St Johns Wood Society dated 23 March 2017
3. Memorandum from Environmental Health dated 25 April 2017
4. Noise Impact Assessment by KP Acoustics dated 6 October 2016.
5. Letters from occupiers of 3 Clifton Hill Studio, dated 8, 9 & 10 March 2017
6. Letter from occupier of 82 Clifton Hill, dated 9 March 2017
7. Letters from occupier of 94 Clifton Hill, dated 9 & 24 March 2017
8. Letter from occupier of 90C Clifton Hill, dated 9 March 2017
9. Two letters from occupiers of 80 Clifton Hill, London NW8, dated 9 & 18 March 2017
10. Letters from occupier of 71A Clifton Hill, dated 9 March 2017
11. Letter from occupier of 92 Clifton Hill, London NW8 0JT, dated 10 March 2017
12. Letter from occupier of 89 Clifton Hill, dated 10 March 2017
13. Three letters from occupiers of 97 Clifton Hill, dated 13 March 2017
14. Letter from occupier of 100 Clifton Hill, dated 14 March 2017
15. Two letters from occupier of 98 Clifton Hill, dated 16 March 2017
16. Two letters from occupiers of 93 Clifton Hill, dated 16 March 2017
17. Letter from occupier of 87 Clifton Hill, dated 16 March 2017
18. Letter from occupier of 2 Clifton Hill Studios, 95A Clifton Hill, dated 19 March 2017
19. Letter from occupier of 78 Clifton Hill, received 23 March 2017
20. Online representation from occupier of 98c Clifton Hill, dated 16 March 2017

Item No.

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(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: NATHAN BARRETT BY EMAIL AT nbarrett@westminster.gov.uk
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10. KEY DRAWINGS

Existing rear elevation



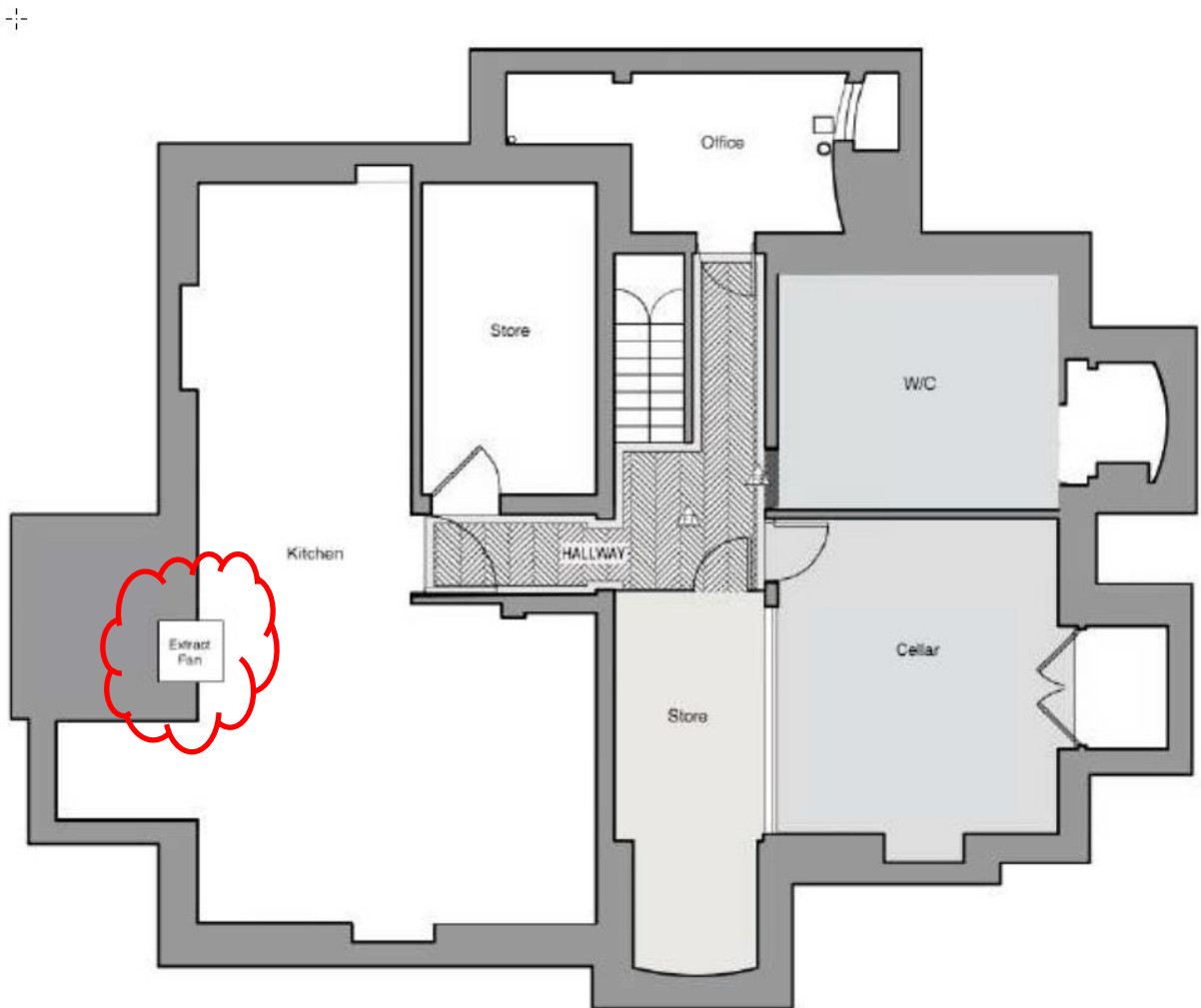
NORTH-WEST ELEVATION
2 (07.05-4.02.3)

Proposed rear elevation



NORTH-WEST ELEVATION
2 (07.05-A.O.B.)

Proposed basement plan (new extract equipment bubbled below)



DRAFT DECISION LETTER

Address: 96 Clifton Hill, London, NW8 0JT,

Proposal: Extension of ventilation flue on the rear elevation.

Plan Nos: Plant Noise Assessment Revision 1 by RBA Acoustics; Letter dated 20 February from Renew Planning; 148.50.500; 148.00.202; 148.10.201; 145.00.203; 145.10.203; 148.00.101 F; 148.10.101 F.

Case Officer: Rupert Handley **Direct Tel. No.** 020 7641 2497

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

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

Reason:

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

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

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

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

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

Reason:

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

- 4 (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 5 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 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.
- (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 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.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), 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.

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

Reason:

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.

- 6 The plant/machinery hereby permitted 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 The plant equipment must not operate until the mitigation measures specified in Part 5.6 of the Plant Noise Assessment Revision 1 by RBA Acoustics have been installed and shall be retained for as long as the equipment remains in use.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A) (2) of our Unitary Development Plan that we adopted in January 2007 (UDP), 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.

- 8 The new flue shall be painted black and maintained that colour.

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 St Johns Wood 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)

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.