

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING SUB APPLICATIONS COMMITTEE</b>	<b>Date</b> 23 May 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>67 - 68 Beak Street, London, W1F 9SW</b>		
<b>Proposal</b>	Erection of a balustrade around third floor flat roof to facilitate use as a roof terrace in association with the existing office (Class B1) use.		
<b>Agent</b>	Montagu Evans		
<b>On behalf of</b>	LaSalle Investment Management		
<b>Registered Number</b>	17/02141/FULL	<b>Date amended/ completed</b>	16 March 2017
<b>Date Application Received</b>	9 March 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Refuse permission – loss of residential amenity (noise and overlooking).

## 2. SUMMARY

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.

As set out within Section 6 of this report, retrospective permission was refused on 2 February 2017 for

the erection of a raised deck enclosed by a timber balustrade at third floor flat roof for use as a roof terrace in association with the use of the building as office (Class B1) floorspace. Permission was refused on the ground that the proposed roof terrace would have led to an unacceptable loss of privacy for people living in neighbouring properties and an unacceptable increase in noise for these same residents.

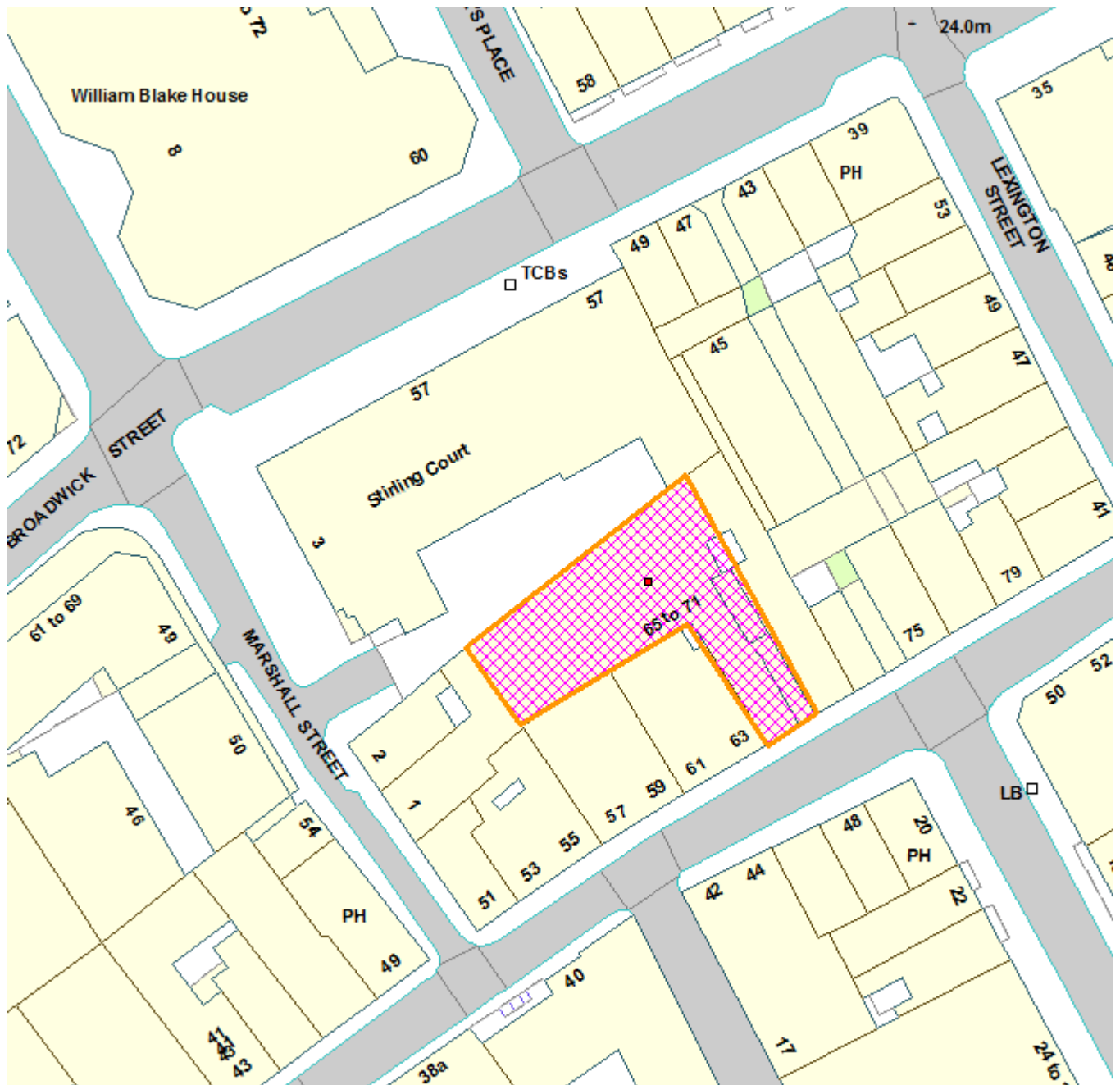
Prior to the unauthorised works, the third floor flat roof was enclosed by a safety rail fitted to the top of the parapet wall and was readily accessible via a staircore. The combined height of the parapet walls and the safety rails, however, was only 1.0m which is not compliant with the Building Regulations. The applicant argues that, not only has this area of flat roof been long used as a roof terrace but that, as it was shown to be retained on the drawings approved by a previous approval, the City Council has granted the use of this flat roof as a terrace. This misses the point. To use this flat roof as a terrace in an ancillary capacity to the office building does not constitute a material change of use of land and therefore whether or not it was shown as a terrace on drawings approved in a previous permission is irrelevant. The pertinent issue is that the lawful means of enclosure to this flat roof is below the 1.1m requirement set out within the Building Regulations to ensure that users of a terrace are protected from falls. As such, the flat roof is likely to have been used informally by the occupants of the office building and not intensively used.

The current application seeks permission to enclose a slightly smaller area of flat roof than the previously refused raised deck with a new timber and metal balustrade to provide the required 1.1m means of enclosure. The proposed development would result in a roof terrace that is compliant with the Building Regulations and this would mean that it is likely to be far more intensively used (for example, for corporate events). It is not considered that the slightly smaller size of the proposed terrace compared to the terrace refused permission on 2 February 2017 adequately addresses the reasons for refusal. The large number of residential properties that closely surround the third floor flat roof means that its more intensive use as a terrace would result in an unacceptable loss of amenity for these residents in terms of overlooking and increased noise. This would not meet City Plan Policies S29 and S32 or UDP Policies ENV 6 and ENV 13.

The applicant has proposed that two conditions be imposed to mitigate the harmful amenity impact of the more intensive use of the flat roof as a terrace. The first is to prevent the use of the terrace except between 09.00 and 19.00 (Monday to Friday). The second is that no music would be permitted to be played on the terrace. The same conditions were offered as part of the previously refused application and are again not considered to make the development acceptable.

For these reasons it is recommended that permission be refused.

### 3. LOCATION PLAN



4. PHOTOGRAPHS

Third floor flat roof of application site as seen from upper floors of properties on Beak Street.



## 5. CONSULTATIONS

SOHO SOCIETY:  
No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 58  
Total No. of replies: 7  
No. of objections: 7  
No. in support: 0

Objecting on the following grounds:

- Overlooking.
- Increased noise and disturbance.
- This revised proposal for a roof terrace does not satisfactorily address the reasons for the refusal of the previous application.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. 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: 14/05685/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.

Permission (Ref: 16/09126/FULL) was refused on 2 February 2017 for the erection of a 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. This was on the ground that the proposed roof terrace would have led to an unacceptable loss of privacy

for people living in neighbouring properties and an unacceptable increase in noise for these same residents, contrary to Policies S29 and S32 of Westminster's City Plan (November 2016) and Policies ENV 6 and ENV 13 of the Unitary Development Plan (January 2007). An appeal against this decision has been lodged and is pending determination.

## **7. BACKGROUND PAPERS**

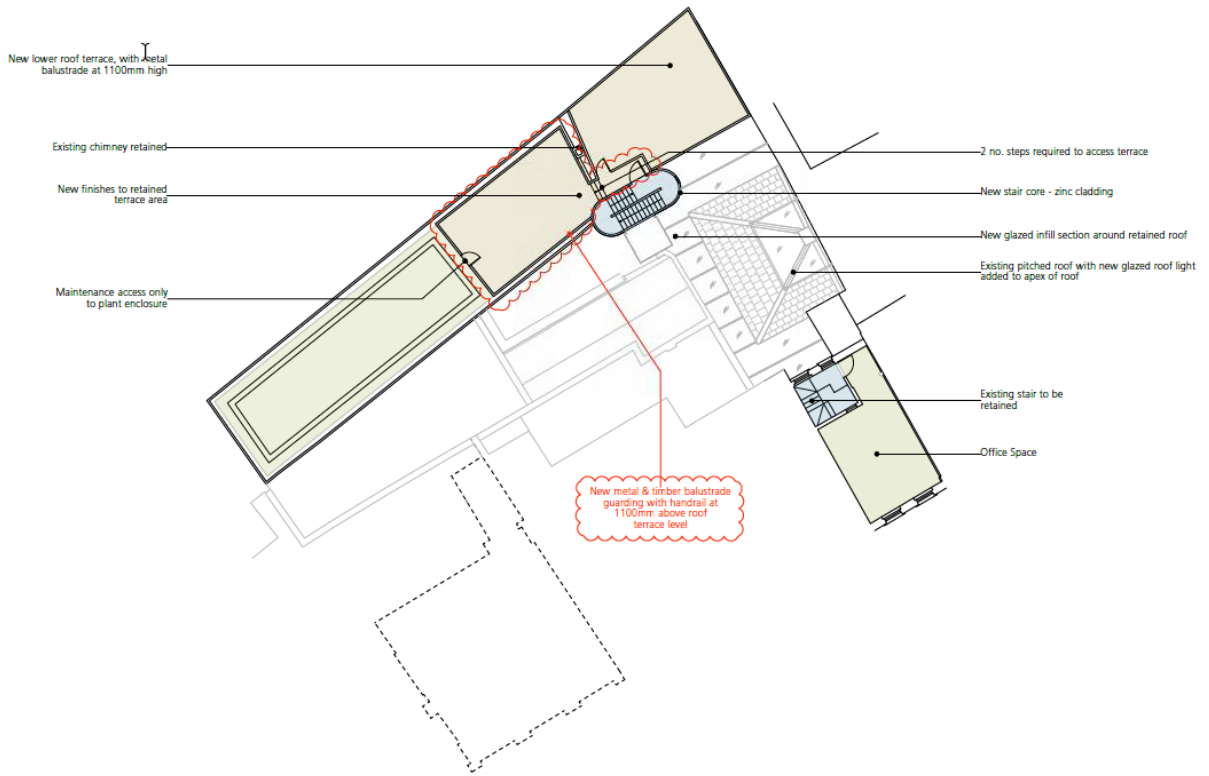
1. Application form
2. Response from Soho Society, dated 6 April 2017
3. Letter from occupier of First Floor Flat, 61-63 Beak Street, dated 11 April 2017
4. Letter from occupier of Marshall Street, London, dated 12 April 2017
5. Letter from occupier of Flat 3, 61-63 Beak Street, London, dated 11 April 2017
6. Letter from occupier of Stirling Court, Marshall Street, dated 12 April 2017
7. Letter from occupier of 65c Beak Street, London, dated 13 April 2017
8. Letter from occupier of Flat 2, 61-63 Beak Street., London, dated 11 April 2017
9. Letter from occupier of Stirling Court, Marshall Street, London, dated 12 May 2017

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

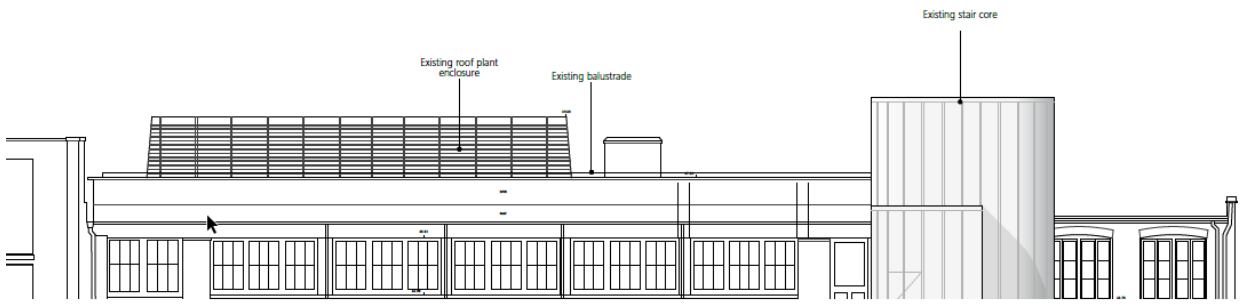
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

### 8. KEY DRAWINGS

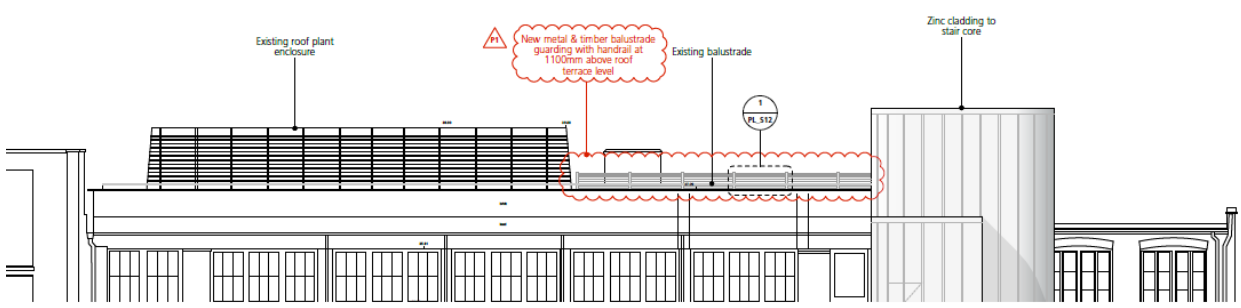
Proposed third floor plan:



Existing and proposed south elevation:



1 Existing Terrace/Plant Elevation - South  
PL\_S11



2 Proposed Terrace/Plant Elevation - South  
PL\_S11





**DRAFT DECISION LETTER**

**Address:** 67 - 68 Beak Street, London, W1F 9SW,

**Proposal:** Erection of a balustrade around third floor flat roof to facilitate use as a roof terrace in association with the existing office (Class B1) use.

**Reference:** 17/02141/FULL

**Plan Nos:** 804\_PL\_3.4 Rev. PL1, 804\_PL\_S10 Rev. PL2, 804\_PL\_S11 Rev. P1 and 804\_PL\_S12 Rev. P1.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

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

Reason:

The proposed roof terrace would lead to an unacceptable loss of privacy for people living in neighbouring properties and an unacceptable increase in noise for these same residents. This would not meet 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.

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.