

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 8 August 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bryanston And Dorset Square	
Subject of Report	Marathon House, 200 Marylebone Road, London, NW1 5PW,		
Proposal	Erection of a sheer rooftop extension on existing tower to provide an additional residential unit, incorporating terraces and a plant room above.		
Agent	Montagu Evans		
On behalf of	Proxima GR properties Ltd.		
Registered Number	17/01608/FULL	Date amended/ completed	11 April 2017
Date Application Received	22 February 2017		
Historic Building Grade	Unlisted		
Conservation Area	Dorset Square		

1. RECOMMENDATION

Refuse permission – design harm to heritage assets and failure to optimise the number of residential units on site.

2. SUMMARY

The application site is located within the Dorset Square Conservation Area. It contains Marathon House, which comprises of a three level podium around a central courtyard with a 12 level tower above, at its western end. This building contains 107 residential units.

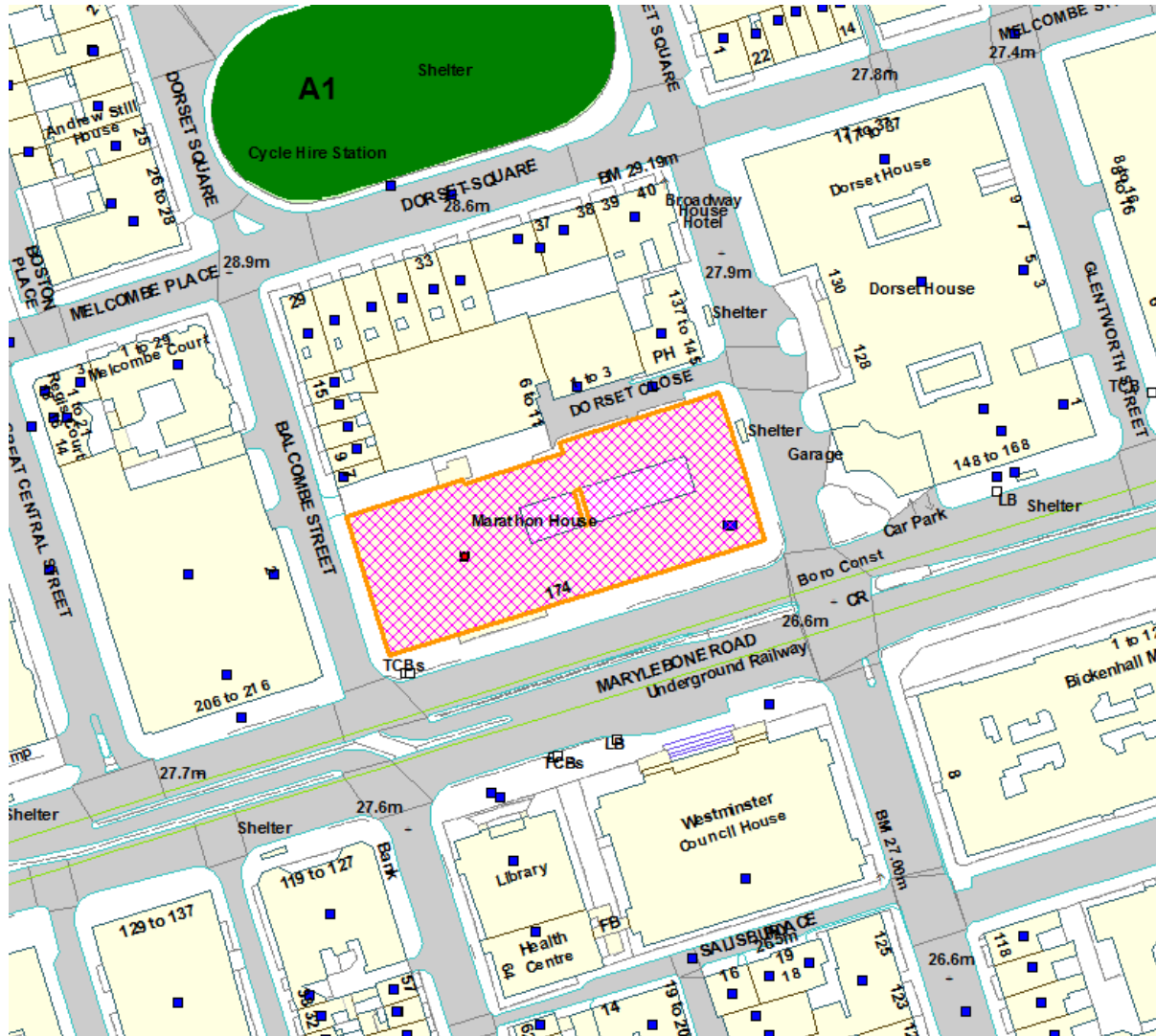
The applicant proposes erection of a sheer rooftop extension on the existing tower to provide an additional residential unit. Alterations to the existing plant arrangements are also proposed.

The key considerations are:

- Impact on the character and appearance of the subject building and designated heritage assets;
- Impact on the amenity of local residents, including from loss of daylight, sunlight and overshadowing; and
- Impact on parking and highways.

Officers consider the rooftop extension harmful to the character and appearance of the Dorset Square Conservation Area; the setting of the Grade I listed Church of St Mary on Wyndham Place and the setting of nos. 29-40 Dorset Square. The proposed extension would also fail to preserve or enhance the setting of the neighbouring Portman Estate and Regent's Park Conservation Areas. Accordingly, the application is recommended for refusal.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Marathon House as seen from south west corner of Upper Montague Street and Marylebone Road



Marathon House as seen from south west corner of Baker Street and Marylebone Road intersection.

5. CONSULTATIONS

COUNCILLOR JULIE ALEXANDER

Object to proposal. Marathon House is a unique heritage building which we have a duty to preserve, especially while it is well-maintained and much-sought-after as a special place to live.

The building's systems are not amenable to any additional construction. Any extra flats built at Marathon House would raise pressure on the availability of Residents' parking spaces in the area.

Residents in Dorset House and Regis Court have objected to any increase in the massing, height and bulk of Marathon House in their immediate vicinity, on the basis that they will lose light from the south and west, and their view of the open skyline that they currently enjoy from their balconies will be curtailed. They also object to the implied increase in delivery-traffic in this already congested area.

The proposed new flats would materially darken not only the leasehold-flats within the building, but would similarly affect buildings in the near vicinity.

The proposals can only be brought forward by gross infringement on the private property rights and Rights of Light of those who own flats in the building on long leases – thereby setting aside their right to the 'quiet enjoyment of private property' enacted in European Human Rights legislation. If Planning Permission were given for these new flats, the current residents would be dispossessed for the duration of the works, possibly for years.

The proposals involve adaptations to access and egress routes that would complicate emergency evacuation, and so breach Health and Safety building regulations.

The proposals would place extra strain on community services, including parking and deliveries.

This building is part of the Dorset Square Conservation Area. Any new development of Marathon House would breach the Council's commitment to its own Conservation rules.

GREATER LONDON AUTHORITY

No response received. *Note: this development is not GLA referable as the proposed extension does not exceed 15 m in height above the existing building.*

HIGHWAYS PLANNING MANAGER

Object. No parking is provided for the proposed flats.

WASTE PROJECT OFFICER

No waste storage is shown for the proposed flat. Recommend condition to address this.

ENVIRONMENTAL HEALTH OFFICER

No objection, subject to conditions safeguarding potential residents from air pollution.

DESIGNING OUT CRIME

Any response to be reported verbally.

MARYLEBONE ASSOCIATION

Any response to be reported verbally.

THE ST MARYLEBONE SOCIETY

Object. Understand that these proposals are being made by the freeholder against the wishes of the leaseholders, who were not notified about the applications when they were submitted. Applications may be an attempt to influence the valuation.

Existing drawings for the top few floors of the building appear to be missing. No dimensions have been provided either. They do not consider that the increase in height required for an extra floor plus open roof space above with servicing would be as little as suggested.

There would be practical problems carrying out the work. The existing flats are unliveable without the rooftop cooling plant. As the cooling units are on the roof, they would be affected by building at this level. Similarly the lifts must remain operational.

No off-street parking is provided. Potential residents of the flat would therefore place additional demands on already oversubscribed on-street parking in the area. Also, the proposed flat is large and might easily be divided into two or three units in future, thus increasing the parking requirement.

The Council has always considered the current height to be the limit for this building, which is already the tallest building along this stretch of Marylebone; although it is supposed to be no higher than the Council House spire opposite, its bulk gives it a dominating presence. The roof should be considered as the 'fifth elevation' and no additional external plant should be permitted on top of any higher roof, but enclosed within the building envelope. Accordingly, they strongly object to any increase in the height of this building.

The building is an interesting modernist structure which was carefully composed and has already been compromised by changes made when it was converted to residential use in the 1990s. It is already the tallest structure on this section of the Marylebone Road, and any increase in height for this building makes it more likely that further increases in height for other buildings (such as 119 Marylebone Road) will be sought by developers in the near future.

Marathon House is within the Dorset Square Conservation Area and directly adjacent to the much smaller scale Georgian buildings which constitute most of this area. Many of the (larger) buildings on Marylebone Road occupy an entire city block each. Most of these are roughly the same height and bulk, and give the street a certain rhythm. Conservation Areas both north and south lap up against these blocks, and some of the more interesting ones are included. But the contrast of scale with the Georgian buildings, which are the main constituents of these CAs, is already very marked, and they do not want to see this difference in scale increase.

Marathon House can already be seen from Regents Park, and although it is an

interesting modern building, the intrusion is unwelcome in the historic context of Nash's pastoral vision and the overall Grade I design of park and terraces. This will be worsened if the tower extensions are allowed.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 3404

Total No. of replies: 94

No. of objections: 94

No. in support: 0

In summary, the objectors raise the following issues:

- Increasing the height and/or bulk of Marathon House would harm the character and appearance of the area generally;
- Increasing the height and/or bulk of Marathon House would harm heritage assets, including the Dorset Square Conservation Area, the setting of the Old Town Hall across Marylebone Road and/or views from Regents Park;
- Increasing the height and/or bulk of Marathon House would harm the character and appearance of the building itself which is an iconic building;
- Marathon House is an important early example of the slab and podium configuration/post-war building construction. It would be hugely deleterious to architectural culture in this country for Marathon House to be altered beyond recognition;
- The City Council has resisted earlier height extension plans;
- The Dorset Square Conservation Area Audit explicitly identifies Marathon House as a building where a roof extension is unlikely to be acceptable;
- The proposal would increase density above the original planning permission for conversion of this building;
- The proposed flat and associated servicing would increase traffic congestion and on-street parking demand;
- Increasing the height and bulk of Marathon House would reduce daylight and sunlight to neighbouring properties;
- Increasing the height and bulk of Marathon House would obstruct views for neighbouring properties;
- The new flat proposed would have outlook over nearby properties, resulting in harm to their privacy;
- Constructing the development would harm the health of residents within the building;
- Constructing the development would compromise the safety of residents within the building;
- Constructing the development would result in further traffic and/or parking congestion in the area;
- The proposal would disrupt the heating/cooling system and/or lifts for this building during construction;
- This area is already heavily polluted and the additional flat will exacerbate the situation;
- Permitting this application may set a precedent for future alterations to other important buildings in the area;
- This application has been submitted by the freeholder without consulting leaseholders;

- The proposal would result in loss of rent and/or property value for the owners of the existing flats; and
- The applicant has not completed the ownership certificate for this application correctly.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located on the north side of Marylebone Road. It occupies the block of land between Balcombe Street and Gloucester Place. It contains a building, known as Marathon House, comprising of a three level podium around a central courtyard with a 12 level tower above, at its western end. This building contains 107 residential units.

The application site is located within the Dorset Square Conservation Area. Marathon House is not listed but is an unlisted Building of Merit.

6.2 Recent Relevant History

96/06764/FULL

Change of use from offices to residential, creating approximately 100 units. Internal and external alterations.

Granted – 20 December 1996

17/01607/FULL

Erection of an extension to the podium level to provide four additional residential units, including terraces. Associated facade alterations.

Under consideration – Also on this committee agenda

17/01609/FULL

Erection of a setback rooftop extension on existing tower to provide an additional residential unit, incorporating terraces. Plant enclosure

Under consideration – Also on this committee agenda

7. THE PROPOSAL

Permission is sought for a single storey rooftop extension to the tower. The proposed extension would be a sheer elevation, with its facades flush with the faces of the tower. The extension would contain a single four bedroom flat with a floor area of 532 sqm GIA.

The existing communal plant enclosure will be relocated from the centre of the roof to the north of the new flat. The existing lift in the tower will be replaced and extended up by a further floor to serve the apartment. A new flight of stairs would also be constructed to the new flat.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Policies H3 of the Unitary Development Plan (adopted 2007) (“the UDP”) and S14 of Westminster’s City Plan (adopted 2016) (“the City Plan”) seek to encourage the provision of more residential floorspace including the creation of new residential units. The policy also states that the number of residential units on development sites will be optimised.

Whilst the provision of an additional flat is supported in principle, the proposed flat (and amenity space) would greatly exceed the minimum floorspace requirements of policy 3.5 of the London Plan (March 2016), the Nationally Described Space Standard (March 2015) and the Mayor of London’s Housing Supplementary Guidance (March 2016) and it is therefore not considered that the number of residential units on this site has been optimised.

The flat would be quadruple aspect ensuring satisfactory natural lighting levels. However, officers consider that this aspect, the floor area within the proposed extension could easily be divided into multiple units, which would also meet the Nationally Described Space Standards.

It is therefore recommended that the application is refused on the basis that the proposals are contrary to S14 of the City Plan.

8.2 Townscape and Design

Objections have been received to the harmful impact of the proposed extension on Marathon House itself, the Dorset Square Conservation Area and other conservation areas. Objections have also been received to the harmful impact of the proposed extension on other heritage assets, including the Grade II listed Old Marylebone Town Hall opposite and the setting of Regent’s Park, a Grade I Park and Garden of Special Historic Interest.

The building is understood to have originally been built for the Wakefield Castrol Group in the later 1950’s, with Casson and Conder as the original architects of the preliminary design, who then handed over the supervision of the project to Gollins, Melvin Ward and Partners. The overall effect created was a dramatic one in the Marylebone Road streetscape, and the building was the first significant curtain walled office tower on podium in Britain and is therefore an important building project in the context of 20th century architecture in Britain. The building is not listed, however it is located within the Dorset Square Conservation Area, and is noted in the City Council’s Dorset Square Conservation Area Audit as an unlisted building of merit. The building has been re-clad since its original construction following its conversion from offices to residential use pursuant to the 1996 permission noted above.

Marathon House is already considerably higher than the prevailing surrounding townscape context, and is visible in long views from both east and west on Marylebone Road, from Dorset Square to the north, from Regent’s Park and from other vantage points in the surrounding area. The building at present has a very prominent visual impact seen in context with the surrounding townscape. The addition of a further floor

level to roof level would put the building further out of scale and would harm the building and the setting of surrounding conservation areas and listed buildings.

In terms of the impact of the works on the setting of surrounding conservation areas or listed buildings, it is important to consider the National Planning Policy Framework (NPPF) and the statutory duties upon Local Planning Authorities. Section 132 of the NPPF makes clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and should include a consideration of development within its setting. It makes clear that the more important the asset, the greater the weight should be, and that any harm should require clear and convincing justification. Section 134 is also relevant in this respect which makes clear that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. These sections of the NPPF need to also be considered in light of the statutory duties in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act of 1990 which set out that the local planning authority shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and also that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area (a conservation area). Considerable importance and weight must be given to these duties.

Policy DES 3 of the UDP makes clear that high buildings should not have an adverse impact on views from conservation areas, London Squares or Royal Parks, or be incongruous with respect to the prevailing character of the area. DES 9 of the UDP states that development will not be permitted which, although not wholly or partly located within a designated conservation area, might have a visibly adverse effect upon the area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area. Policy DES 10 of the UDP states that permission will not be granted where it would adversely affect: a) the immediate or wider setting of a listed building, or b) recognised and recorded views of a listed building or a group of listed buildings, or c) the spatial integrity or historic unity of the curtilage of a listed building. Policy DES 12 states that permission will only be granted for proposals adjacent to parks, public and private squares which: 1) safeguard their appearance, wider setting and ecological value 2) preserve their historic integrity 3) protect views into and out of these spaces will not project above existing tree or building lines. Other relevant City Council policies are DES 1 and DES 6 of the UDP and, S25, S26 and S28 of the City Plan.

The top approximately three floors of the building are already visible above rooflines/tree lines in views from Regent's Park to the north-east, with the views apparent from locations on the east side of the boating lake/water. These views include being visible over the roofline of the buildings to Park Road from locations near Clarence Bridge and also over the roofline of the London Business School building (Sussex Place) from locations further to the south. Regents Park is a conservation area, a Royal Park and the park is also listed at Grade I on Historic England's Register of Parks and Gardens of Special Historic Interest. In the context of Westminster's townscape it is of particular importance as a large parkland area of considerable historic and aesthetic merit. Relatively few prominent buildings are visible over the treeline/rooflines of buildings

lining the park, and much of the original outlook remains. The impression of this strikingly modern building rising up prominently into views out from the park already has a harmful impact upon the setting of/outlook from the park. The addition of a further floor level to a building already inappropriately prominently breaking above the treeline and building line could only further harm the setting of this especially important public park by creating an even more intrusive and incongruous feature on the skyline in views out from the park, contrary to the policies quoted above.

The Sussex Place building is Grade I listed, and the buildings to the west side of Park Road in proximity to the park are Grade II listed. Whilst visible over their rooflines the impact of the additional floor is not considered to adversely affect their setting. The Park Road buildings are faced in relatively muted stock brickwork and at some distance and in the view they do not stand out as distinct buildings but as smaller scale structures with larger properties behind in the backdrop of this particular view. As such, the tower is seen as part of a larger agglomeration of buildings rather than as one structure above a distinct intact and unbroken skyline, and as such does not harm their setting. With regard to Sussex Place, much of its impression from positions where the tower is also visible is screened by intervening trees and whilst elements of its roofline are visible from the park with the tower above, these appear relatively small and difficult to appreciate as the large unified architectural composition that the building represents in clearer views. As such, the additional floor to the tower is not considered to adversely affect its setting.

However, to the south-west of Marathon House is the Church of St Mary on Wyndham Place. This building was listed at Grade I in 1954 and is in Greek revival style, with a main body of the church building, with a curved portico and the tower rising prominently above. The main body of the building has a flat and uncluttered roofline, emphasising the strong visual importance of the portico and tower. The symmetry of this visual impression, with an uncluttered skyline with only tower and portico seen to rise above the main building, is a fundamental part of the architectural character of the building. The building is listed as a landmark in the Portman Estate Conservation Area Audit, with the Audit also reflecting the important local views north towards the church, which lies as the visual focus at the end of the important formal vista through Bryanston Square, and along Great Cumberland Place to Marble Arch in the south. The skyline of the building is clear of background structures at present in views from the south on Crawford Street (albeit from further to the south on Wyndham Place buildings are visible on its skyline), aside from the very top of Marathon House which is currently only just visible above the right hand side of the main body of the Church building from the very back edge of the pavement to Crawford Street to the south.

The proposed extension would be readily visible above the main body of the church building from street level in Crawford Street and likely also from a section of Wyndham Place. This would break the very strong clarity of architectural form which the current roof profile of the church building has, introducing a prominent feature above the roofline of the main body of the building and thus cluttering its currently strong and uncluttered roofline which is intended to only have the portico and tower breaking above the main body. This would have a harmful affect upon the setting of this particularly important building and on the setting/outlook from the Portman Estate Conservation Area within which the church building is a landmark feature at the formal end of its most prominent

architectural axis. As such, the additional floor to the tower is considered to adversely affect their setting.

Marathon House is located within the Dorset Square Conservation Area. The tower element is already prominent from the central focus to the conservation area, Dorset Square, and is visible from the square over the roofline of the Grade II listed 19th century terraced properties which line the south side of the square (nos. 29-40). Dorset Square is included within the London Squares Preservation Act 1931. It is recognised that the tower is already prominent in views from the square above this roofline, and the visual impression it gives both in terms of the character and outlook from the square and in terms of the setting of the buildings on the south side of the square is already harmful. Notwithstanding that, the addition of a further floor level would further accentuate the harm, giving rise to a more prominent and intrusive feature looming over the square and these listed buildings, with this visual impact accentuated by the striking modernist form of the building. Dorset Square was originally constructed as a high quality garden square ringed by buildings of a uniformly four storey height. The impression of the intactness of this architectural set piece is harmed by large buildings visible above the skyline of the square of which Marathon House is the only prominent example, and the additional height represented by the new floor level will further harm the square and the setting of the buildings on its south side.

Other views which are apparent from the evidence presented in the application are not considered to have the same impact as the concerns set out above and are not considered as reasons for refusal. This includes the impact on the townscape of Marylebone Road, where the numerous modern buildings, relative disjunction in scale between buildings, street trees and character as a significant traffic artery mitigate against appreciating the additional height as a reason for refusal in terms of the impact on townscape.

The clarity of the original architectural form of this building is still readily apparent, notwithstanding its recladding. The building is an important 20th century building which drew direct and significant influence from Lever House, a seminal International Style skyscraper built in New York several years earlier, and from the U.N. Secretariat Building in New York also from earlier in the 1950's. As set out above, Marathon House is one of the first significant curtain walled office tower on podium structures in Britain.

This proposal would involve a more unified cladding of the new extension to be more like the cladding of the top floor level when the building was originally constructed. However this is not considered to outweigh the concerns set out above. The additional height, rising seamlessly with the building below, would break with the existing original form of this important 20th century building, which is considered a concern in itself. It is noted that the applicants state that they consider that the building 'has a rather worn and weathered façade which does little to enhance the external aesthetic of the building' and then go on to state that the proposed extensions rhythm, proportions, materials and colours 'will match those of the host building', which does not reflect a strong view from the applicants themselves that the works would enhance the building. Finding an exact match for the existing cladding materials would be likely to prove difficult, giving rise to a concern about the new floor level and the amendments to the cladding of the floor below not fully matching the rest of the building, as reflected in some of the objection letters

received. However, and given the potential to secure samples of matching cladding materials by condition, this is not considered as a reason for refusal in itself.

A section of the north-west corner which would be readily visible from the north, including on Dorset Square is designed as an open courtyard area which is faced in glazing to match the remainder of the glazing to this floor level and with this courtyard open to the sky. Whilst the remainder of the views are into the new accommodation with a solid roof (as with the remainder of the building), the impression of this section of the tower being clearly visible in the angled views up to this area as open to the sky above would break the uniformity of design approach to each floor level as is clearly originally intended and would harm the appearance of the building.

A spiral staircase and glazed enclosure would also be installed to roof level, to a design suggested to follow the original feature previously removed from the building. However, and given that these are shown to remain below the parapet, and as such would not appear visible from any location other than the application flat itself, it is not considered that this gives much weight to a consideration in favour of the application. The relocation of services and suggestion of handrails to roof level are also all shown at or below parapet level and are not a concern in themselves. Whilst no existing section is shown, the structures are not shown as rising above the parapet, and given that none are shown to the elevations they are taken not to project above the parapets of the building.

Although less than substantial harm would arise in this case as set out above, considerable importance and weight must still be attached to it. This is necessary in order to reflect the statutory duty of paying special consideration to the desirability of preserving or enhancing the character or appearance of Conservation Areas, as well as that in relation to preserving the setting of Listed Buildings.

There are limited public benefits from the development. The proposal would create a flat in a location with good access to public transport. However, the contribution to housing supply from a solitary new flat would be miniscule in the context of the City Council's annual housing target of 1068 residential units. The applicant also suggests that stonework and cladding on the existing building are proposed to be cleaned albeit without further details of the nature of this works. However, the building does not appear especially marred by dirt and such cleaning could be assumed to form part of the routine maintenance of this building in any event. The other points set out in favour of the scheme by the applicants are noted but not considered to offer substantive benefits in this case. Overall, the public benefits arising from the proposed development are modest and would not outweigh the less than substantial harm identified above.

Given the above, the proposed development is not supported by primary legislation or the NPPF and would be contrary to policies DES 1, DES 3, DES 6, DES 9, DES 10 and DES 12 of the UDP and policies S25, S26 and S28 of the City Plan.

8.3 Residential Amenity

Objections have been received to potential loss of light, privacy and sense of enclosure arising from the proposed extension. The relevant policies are policy S29 of the City Plan and policy ENV 13 of the UDP.

With regards to loss of light, the applicant has not provided an assessment of light loss in accordance with BRE guidance. Notwithstanding this, the proposal would increase the height of Marathon House by approximately two metres. In comparison to its approximately 49 metre height (above street level), this is a relatively modest increase that is unlikely to result in significant light loss. Similarly, this relatively modest increase in height would not result in a significant increase in sense of enclosure.

The proposed extension would also have a similar degree of outlook to the flats on the floors below whilst the proposed terrace would be located a significant distance from residential units below. Accordingly, the proposed development would not result in significant loss of privacy.

A new plant room is proposed above the proposed extension. Given the potential for plant to be sited at level 13, in principle any plant is likely to be considered acceptable in noise terms and not result in harm to neighbouring properties in terms of noise. Had the application been considered acceptable, the City Council standard noise conditions would have been attached.

Given the above, the proposed development would be consistent with policy S29 of the City Plan and policy ENV 13 of the UDP.

8.4 Transportation/Parking

Objectors consider that the proposal will increase on-street parking demand and traffic congestion. The Highways Planning manager has also objected to the absence of on-site parking for the proposed flat. Policy TRANS23 of the UDP requires provision of up to two parking spaces for the proposed flat.

Policy TRANS23 of the UDP details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. The Council's most recent on-street parking surveys indicate that parking demand within the vicinity already exceed 80% both day and night. On this basis, the Highways Planning Manager has objected.

However, paragraph 32 of the NPPF states that 'Development should only be refused on transport grounds where the residual cumulative impacts of development are severe'. The NPPF recognises that different policies and measures will be required in different communities noting that the availability of public transport and local car ownership levels have to be accounted for.

In the context of the requirements of the NPPF, the impact on on-street parking demand does not provide sustainable grounds for refusing this application. The shortfall in on street parking provision is acknowledged, but it also has to be considered that the site is in an area with a high Public Transport Accessibility Level and is located in close proximity to Baker Street and Marylebone Stations.

With regards to servicing, one additional flat would not generate a significant servicing requirement. Notwithstanding this, it would also be serviced in the same manner as the

107 other flats within Marathon House. Accordingly, an objection to the development on this basis would not be a sustainable reason for refusing the application.

Were the development otherwise acceptable, a condition would be imposed requiring further details of refuse and recycling arrangements for the proposed flat.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

The proposed flat would be accessible by lift and have level access throughout.

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

Planning obligations are not relevant in the determination of this application.

Subject to any relief or exemptions available to the applicant, the estimated CIL payment would be £222,222.88

8.11 Environmental Impact Assessment

This development is not large enough to require an Environmental Impact Assessment.

8.12 Other Issues

As set out above, the proposed development has received a significant level of objection. Most of the issues raised have been addressed above. The following is also noted.

Density

The proposed development would result in a density of approximately 291 pr/ha. This is consistent with the density range for a Central site like this, as per policy 3.4 of the

London Plan (March 2016). Accordingly, an objection to the development on this basis would not be sustainable.

Construction Impact

It is established case law that planning permission cannot be refused due to the impact of construction. This is because its impact is short term, can be mitigated through planning condition and is otherwise subject to environmental health and health and safety legislation. Were the development acceptable, a condition controlling the hours of construction would be recommended. Any further conditions would be beyond the remit of planning control. Notwithstanding this, the leaseholders are also able to influence on-site construction arrangements through their lease arrangements. Accordingly, an objection to the development on this basis would not be sustainable.

Pollution

The application site is located within an Air Quality Management Area due to air pollution from traffic on Marylebone Road. The Environmental Health Officer has recommended conditions requiring the implementation of air quality mitigation measures, including the provision of mechanical air ventilation and filtration for the proposed flat. Were the development otherwise acceptable, a condition would be recommended requiring the provision of these air quality mitigation measures. Subject to this condition, the proposal would be acceptable in terms of air quality.

Precedent

Several objectors note that granting permission would set a precedent for further height increases on this building and on neighbouring or nearby buildings. However, each application must be considered on its merits, having regard to the specific development proposed, the specific application site and the development plan at the time the application is considered. Accordingly, granting permission for this development would not necessarily mean that a similar application elsewhere would be approved.

Consent of Leaseholders and Ownership Certificates

At planning application stage, the applicant is only required to serve notice on the owners of an applicaiotn site and/or leaseholders. The applicant is not required to obtain their permission before making the application.

The applicant had initially made this application without serving notice on all leaseholders. This was brought to the applicant's attention and notice was served correctly on 10 April 2017. Accordingly, this application is valid from that date.

Loss of Property Value

Loss of property value is not a material planning consideration.

Human Rights

An objector considers the proposal contrary to the leaseholders rights under Articles 1 (Protection of Property) and 8 (Right to respect for private and family life) of the European Convention on Human Rights. However, the courts have found that the impact of a development must be particularly severe to justify an objection to a planning application on human rights grounds and the objectors rights must also be balanced with the applicants rights under Articles 1 and 8. In this instance, the impact of the development is not considered sufficiently severe and an objection on this basis would not be sustainable.

9. BACKGROUND PAPERS

1. Application form
2. Response from Cllr Julia Alexander, dated 28 May 2017
3. Response from Highways Planning Manager, dated 30 March 2017
4. Response from Waste Project Officer, dated 28 March 2017
5. Response from Environmental Health Officer, dated 23 May 2017
6. Response from The St Marylebone Society, dated 19 April 2017
7. Letter from occupier of flat 181 Dorset House, Gloucester Place, dated 4 May 2017
8. Letter from occupier of 84 Marathon House, Marylebone road, dated 5 April 2017
9. Letter from occupier of Flat 104, Marathon House, dated 12 April 2017
10. Letter from occupier of Flat 47, Dorset House, Gloucester Place, dated 6 May 2017
11. Letter from occupier of Flat 90 Marathon House, 200 Marylebone Road, dated 19 April 2017
12. Letter from occupier of Flat 59 Marathon House, 200 Marylebone Road, dated 2 May 2017
13. Letter from occupier of 19 Albert's Court, 2 Palgrave Gardens, dated 18 April 2017
14. Letter from occupier of 39 Elizabeth Court, Palgrave Gardens, dated 18 April 2017
15. Letter from occupier of 61 Marathon House, 200 Marylebone Road, dated 3 April 2017
16. Letter from occupier of Flat 74 , Marathon House, dated 31 March 2017
17. Letter from occupier of Flat 33, Marathon House, 200 Marylebone Road, dated 11 June 2017
18. Letter from occupier of Flat 101 Marathon House, 200 Marylebone Road , dated 24 April 2017
19. Letter from occupier of Flat 85 Marathon House, 200 Marylebone Road, dated 24 April 2017
20. Letter from occupier of Flat 96, Marathon House, 200 Marylebone Road, dated 24 April 2017
21. Letter from occupier of 140 London Wall, London EC2Y 5DN, dated 24 April 2017
22. Letter from occupier of 53 Marathon House, 200 Marylebone Road, dated 5 April 2017
23. Letter from occupier of Flat 82 Marathon House, 200 Marylebone Road, dated 7 April 2017
24. Letter from occupier of Flat 104 Marathon House, 200 Marylebone Road, dated 7 April 2017
25. Letter from occupier of 20 Dorset Square, London, dated 12 April 2017
26. Letter from occupier of Flat 69, Marathon House, dated 5 April 2017
27. Letter from occupier of 12 Thornton Place, London, dated 28 May 2017
28. Letter from occupier of 12 Thornton Place, London, dated 28 May 2017
29. Letter from occupier of Flat 1, Marathon House, dated 10 April 2017
30. Letter from occupier of Flat 80, Marathon House, dated 10 April 2017
31. Letter from occupier of Flat 12, Marathon House, dated 12 April 2017

32. Letter from occupier of Flat 95, Marathon House, dated 7 April 2017
33. Letter from occupier of Flat 57 Marathon House , 200 Marylebone Road, dated 19 April 2017
34. Letter from occupier of Flat 65, Marathon House, dated 19 April 2017
35. Letter from occupier of Flat 8, 33 Dorset Square, dated 29 March 2017
36. Letter from occupier of Flat 60, Marathon House, dated 1 June 2017
37. Letter from occupier of Regis Court Management Limited, 2 Hills Road, dated 20 April 2017
38. Letter from occupier of Flat 89, Marathon House, dated 5 April 2017
39. Letter from occupier of Flat 89, Dorset House, dated 8 April 2017
40. Letter from occupier of Flat 96, Marathon House, 200 Marylebone Road, dated 26 April 2017
41. Letter from occupier of Flat 86, Marathon House, 200 Marylebone Road, dated 12 April 2017
42. Letter from occupier of Flat 54 Marathon House, 200 Marylebone Road, dated 4 April 2017
43. Letter from occupier of Flat 72 Marathon House, 200 Marylebone Road, dated 19 April 2017
44. Letter from occupier of Flat 108 , Marathon House , dated 31 March 2017
45. Letter from occupier of Flat 107 Marathon House, 200 Marylebone Road, dated 19 April 2017
46. Letter from occupier of Flat 27 Marathon House, 200 Marylebone Road, dated 19 April 2017
47. Letter from occupier of Flat 20 Marathon House, 200 Marylebone Road, dated 19 April 2017
48. Letter from occupier of 51 Marathon House, 200 Marylebone Road, dated 7 April 2017
49. Letter from occupier of Flat 21, Marathon House, 200 Marylebone Road, dated 12 May 2017
50. Letter from occupier of Dorset Square, London, dated 27 March 2017
51. Letter from occupier of Flat 11, Marathon House, 200 Marylebone Road, dated 8 June 2017
52. Letter from occupier of Flat 28 Marathon House, 200 Marylebone Road, dated 26 April 2017
53. Letter from occupier of 101 Marathon House, NW1 5PW, dated 12 April 2017
54. Letter from occupier of Flat 45, Marathon House, 200 Marylebone Road, dated 12 June 2017
55. Letter from occupier of Flat 44, Marathon House, 200 Marylebone Road, dated 7 June 2017
56. Letter from occupier of Flat 67 Marathon House, 200 Marylebone Road, dated 19 April 2017
57. Letter from occupier of Flat 17, 200 Marylebone Road, dated 12 June 2017
58. Letter from occupier of Flat 35 Marathon House, 200 Marylebone Road, dated 12 April 2017
59. Letter from occupier of Flat 28 , Marathon House, dated 28 April 2017
60. Letter from occupier of Flat 54 Marathon House, 200 Marylebone Road , dated 4 April 2017
61. Letter from occupier of Flat 14, Marathon House, 200 Marylebone Road, dated 14 May 2017
62. Letter from occupier of Flat 62, Marathon House, 200 Marylebone Road, dated 13 June 2017

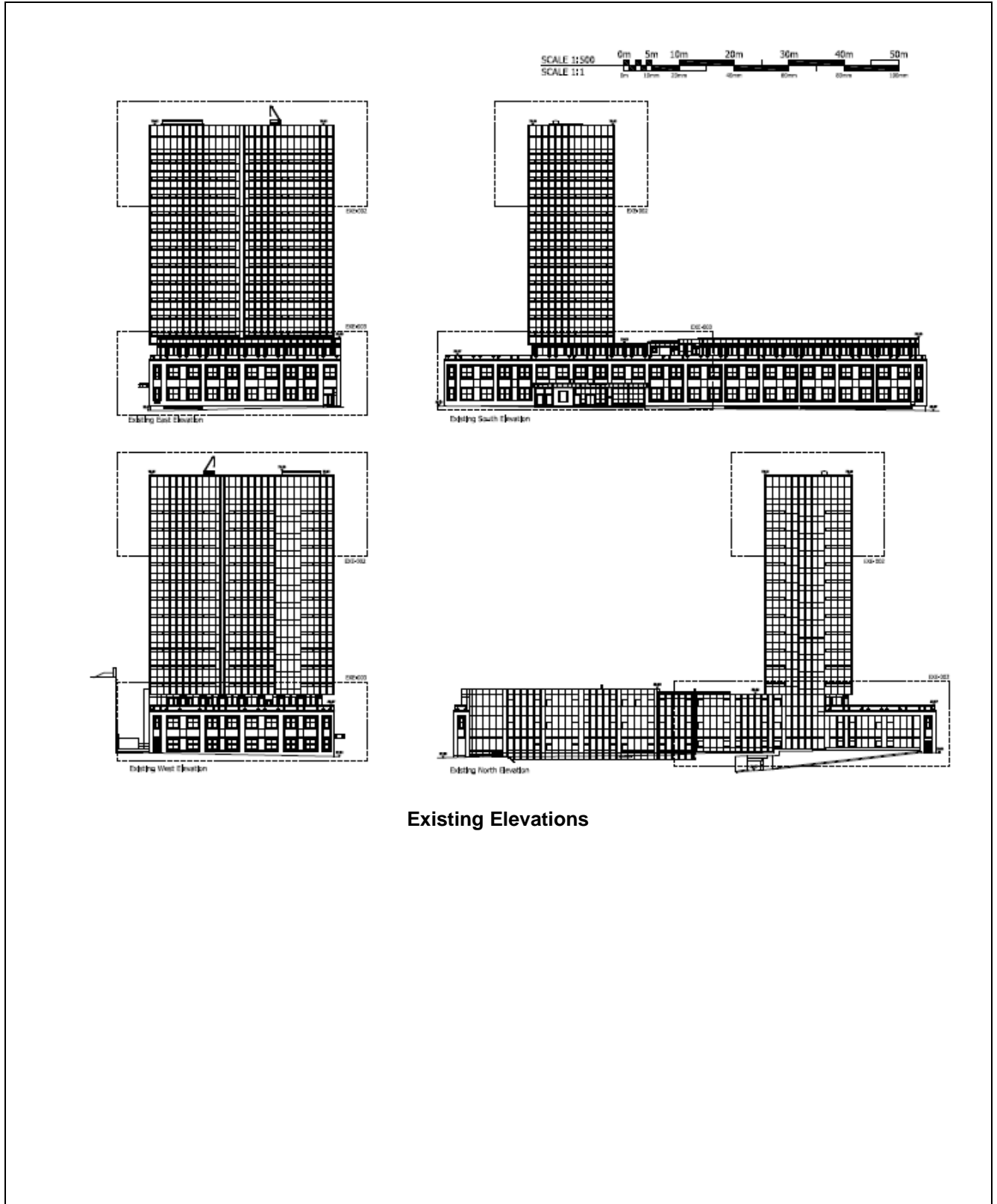
63. Letter from occupier of Flat 51, Marathon House, dated 15 June 2017
64. Letter from occupier of Flat 51, Marathon House, dated 15 June 2017
65. Letter from occupier of 20 Marathon House, 200 Marylebone Road, dated 17 April 2017
66. Letter from occupier of top flat, 34 Dorset Square, Dorset Square, dated 4 April 2017
67. Letter from occupier of 14 Regent's Wharf, All Saints Street, dated 28 April 2017
68. Letter from occupier of Flat 3, Imperial Court, 36 Shepherds Hill, dated 18 May 2017
69. Letter from occupier of Flat 87 Marathon House, 200 Marylebone Road, dated 5 June 2017
70. Letter from occupier of Flat 75 Marathon House, 200 Marylebone Road, dated 7 April 2017
71. Letter from occupier of Flat 5, 35/36 Dorset Square, dated 8 April 2017
72. Letter from occupier of 77 Marathon House, NW1 5PW, dated 11 April 2017
73. Letter from occupier of 98 Elizabeth Court , 1 Palgrave Gardens , dated 21 April 2017
74. Letter from occupier of Flat 55 Marathon House, 200 Marylebone Road, dated 12 April 2017
75. Letter from occupier of Apartment 7, 33 Dorset Square, dated 4 April 2017
76. Letter from occupier of 88 Marathon House, 200 Marylebone Road, dated 5 April 2017
77. Letter from occupier of Flat 23 Marathon House, 200 Marylebone Road, dated 5 April 2017
78. Letter from occupier of 50 Marathon House, 200 Marylebone Road, dated 6 April 2017
79. Letter from occupier of Flat 93, Marathon House, dated 6 April 2017
80. Letter from occupier of Flat 22, Marathon House, dated 6 April 2017
81. Letter from occupier of Flat 25 Marathon House, 200 Marylebone Road, dated 8 April 2017
82. Letter from occupier of 102, Marathon House, dated 16 May 2017
83. Letter from occupier of Flat 99, Marathon House , dated 16 May 2017
84. Letter from occupier of Flat 85 , Marathon House, dated 30 May 2017
85. Letter from occupier of Flat 48, Marathon House, 200 Marylebone Road, , dated 4 April 2017
86. Letter from occupier of Roselind Wilson Design, 9 Lonsdale Road, dated 17 May 2017
87. Letter from occupier of Flat 5, Marathon House, 200 Marylebone Road, dated 1 June 2017
88. Letter from occupier of Eileys Cottage, Lower Carden, dated 15 May 2017
89. Letter from occupier of Flat 84 Marathon House, 200 Marylebone Road, dated 7 April 2017
90. Letter from occupier of Flat 16, Marathon House, 200 Marylebone Road, dated 29 May 2017
91. Letter from occupier of 236 Olney Road, London, dated 12 May 2017
92. Letter from occupier of 99 & 102 MARATHON HOUSE, NW1 5PL, dated 11 April 2017
93. Letter from occupier of Flat 85 Marathon House, 200 Marylebone Road, dated 24 April 2017
94. Letter from occupier of 50 La Colomberie, St. Helier, dated 18 April 2017
95. Letter from occupier of Flat 34 Marathon House, 200 Marylebone Road, dated 18 April 2017
96. Letter from occupier of Flat 78 Marathon House, 200 Marylebone Road, dated 18 April 2017
97. Letter from occupier of 19 Marathon House, 200 Marylebone Road London- NW15PW, London, dated 12 April 2017
98. Letter from occupier of 83 Marathon House, 200 Marylebone Road, dated 30 March 2017

99. Letter from occupier of Flat 73, Marathon House, 200 Marylebone Road, dated 31 May 2017
100. Letter from occupier of Flat 40 Marathon House, 200 Marylebone Road, dated 8 April 2017
101. Letter from occupier of Flat 92, Marathon House, 200 Marylebone Road, dated 28 June 2017

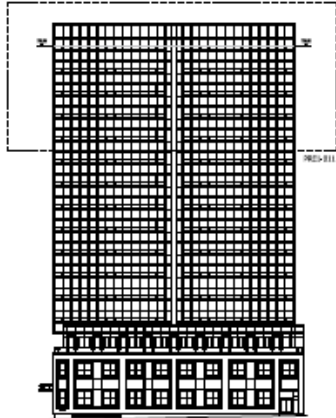
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk.

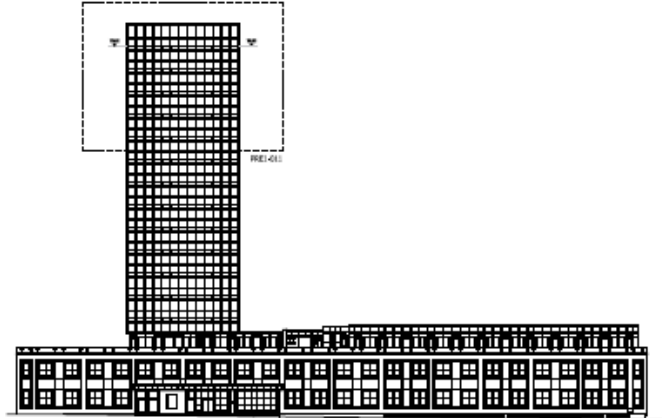
10. KEY DRAWINGS



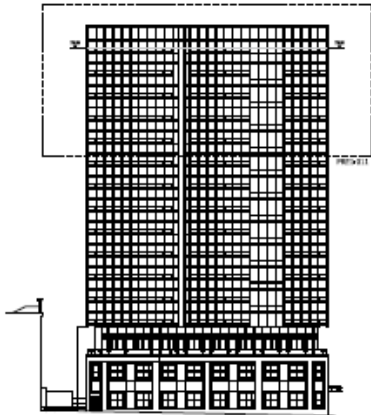
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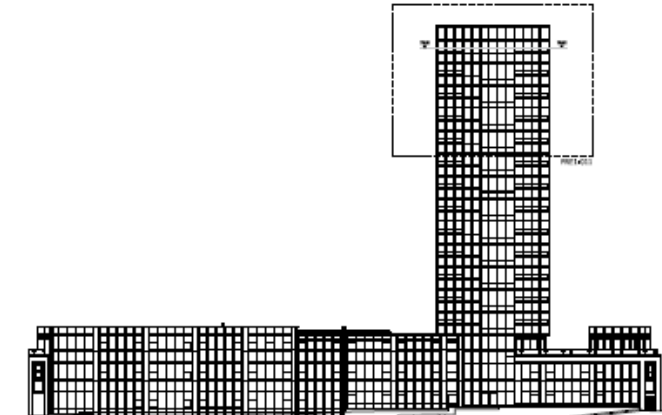
Proposed East Elevation



Proposed South Elevation

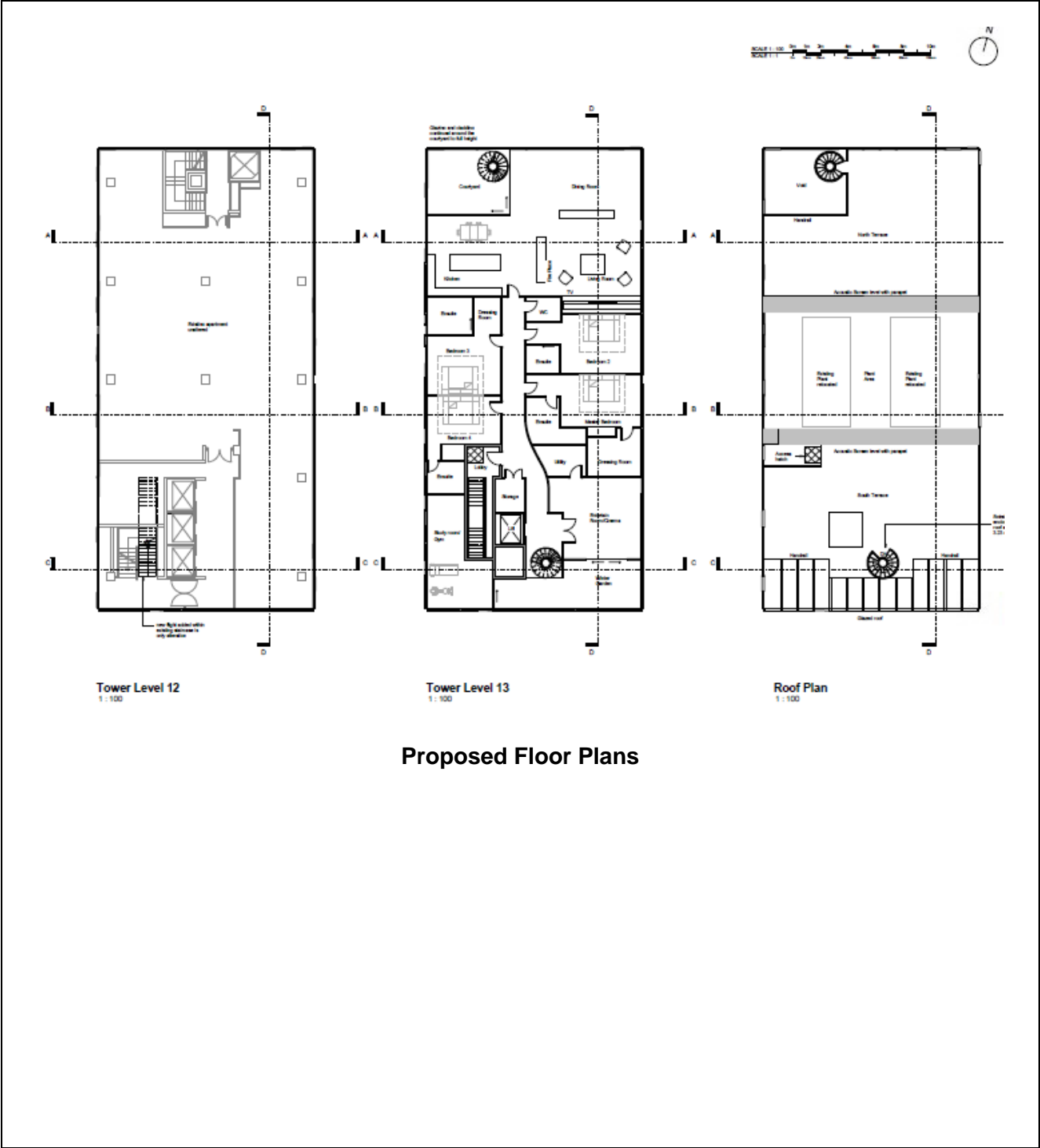


Proposed West Elevation



Proposed North Elevation

Proposed Elevations



DRAFT DECISION LETTER

Address: Marathon House, 200 Marylebone Road, London, NW1 5PW

Proposal: Erection of a sheer rooftop extension on existing tower to provide an additional residential unit, incorporating terraces. Plant enclosure

Plan Nos: Site location plan; Drawing no's E12-026/EXE-001, E12-026/EXE-002, E12-026/PRE1-001 Rev A, E12-026/PRE1-011 Rev A, E12-026/PRP1-001 Rev B, E12-026/PRS-001 Rev A

Case Officer: Nathan Barrett

Direct Tel. No. 020 7641 5943

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

Reason:

- 1 Because of its size, design and location, the extension would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the Dorset Square Conservation Area, would harm the setting of the Grade 1 listed Church of St Mary on Wyndham Place and the setting of nos. 29-40 Dorset Square, and would fail to maintain or improve (preserve or enhance) the setting of the neighbouring Portman Estate Conservation Area and Regent's Park Conservation Area. This would not meet S25, S26 and S28 of Westminster's City Plan (November 2016) and DES 3, DES 6, DES 9, DES 10, DES 12 and DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (X16AD)

Reason:

- 2 The proposed flat is excessive in size and fails to optimise the number of residential units on site, contrary to policy S14 of the City Plan that we adopted in November 2016.

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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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.