

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 27 February 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Hyde Park	
<b>Subject of Report</b>	<b>8 Gloucester Square, London, W2 2TJ</b>		
<b>Proposal</b>	Use of the building as a mixed residential and Embassy use (Sui Generis).		
<b>Agent</b>	Mr Brian Mullin		
<b>On behalf of</b>	See Below		
<b>Registered Number</b>	17/06146/FULL	<b>Date amended/ completed</b>	19 July 2017
<b>Date Application Received</b>	11 July 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Bayswater		

## 1. RECOMMENDATION

Refuse permission – land use and amenity

## 2. SUMMARY

This application relates to an unlisted building, set over lower ground, ground, and three upper levels, located within the Bayswater Conservation Area. The lawful use of the building is as a single family dwelling house (Use Class C3), however has served as the embassy for the Dominican Republic and staff / ambassadorial accommodation since 2016. Permission is now sought for retrospective permission for the retention of the unauthorised (Sui Generis) use.

Councillor Cox has raised concern with respect to parking matters and objections have been received from local residents with concerns in relation to the impact of the use on the highway, amenity and the setting of a precedence for other such uses.

The key issues with this application are:

- \* The acceptability of the change of use in land use terms;
- \* The impact of the change of use on the highway network;
- \* The impact of the change of use on the local environment in amenity and conservation area terms.



4. PHOTOGRAPHS

Front elevation



## 5. CONSULTATIONS

### FOREIGN AND COMMONWEALTH OFFICE

Any response to be reported verbally.

### COUNCILLOR COX

Concern raised with respect to parking matters.

### HYDE PARK ESTATE ASSOCIATION

Raise objection on the following grounds:

- Do not agree with 'move in and apply later' approach of planning.
- Do not agree that the property is used as a residence.
- It is irrelevant how close the property is to a conservation area and other embassies.
- It is unsuitable to have offices overlooking residential accommodation.
- Ambassador is using the private parking space and requests a further space for visitors.
- Note that the unpaid parking fines incurred historically by this embassy over a 10-year period were 1001 with a total value of £117,310, which equates to twice a week.

### DESIGNING OUT CRIME OFFICER:

Any response to be reported verbally.

### CLEANSING

Raise no objection subject to a condition to secure details of waste storage.

### HIGHWAYS PLANNING MANAGER

Raise no objection. Note that any changes to parking arrangements on the highway would require a Traffic Management Order (TMO).

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 33

No. of responses: 4 objections raising some or all of the following objections:

#### Land Use:

- Inappropriate location for an embassy given its residential character.
- Embassy use will intensify, reducing the residential element of the proposal.
- The property is solely being used as an embassy with no one staying at the premises as indicated by the cars: The ambassador's car has a Kensington & Chelsea residence permit and the other staff users car has a Merton residence permit.
- The limited number of visitors as indicated by the excerpts from the November and December 2016 guestbook is disingenuous as this is soon after the embassy moved in, when there were fewer visitors.
- The property is unsuited to embassy use, accessed from a private resident's courtyard and backing onto a road, which could cause issues should another disreputably political embassy moves into the property in the future.
- Could set a precedence for other non-residential uses.

#### Amenity:

- The offices overlook adjacent residents.

#### Highways:

- As the embassy has no parking, staff park cars on neighbours' land. However, if they stopped doing this these parked cars would be forced to use street parking.
- The embassy has a significant number of unpaid parking tickets.
- The ambassador is likely to require parking bays for diplomatic use.
- They should sign a legal agreement so that they cannot submit an application for parking.

#### Other:

- Visitors often do not find the embassy and knock on neighbour's doors.
- Resident's and local groups have not been consulted on the application.
- Incorrect representations within the submitted planning statement, namely:
  - o Floorplans overstate the quantum of residential floorspace;
  - o Incorrect representation of the area in terms of its character and uses;
  - o Parking inaccuracies;
  - o Implies embassy will bring economic benefit, this is disputed;
  - o Proposal does not contribute to the street scene;

#### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

This application relates to an unlisted building located outside of the Central Activities Zone (CAZ) or any Special Policy Areas, but within the Bayswater Conservation Area. The building is set over lower ground, ground, first, second and third floor levels. The property has two frontages, to Gloucester Square a crescent of private parking which is set off Sussex Place.

The lawful use of the building is as a single family dwelling house (Class C3). It is understood that The Embassy of the Dominican Republic moved into the property in October 2016. The building is now in mixed use with habitable accommodation on the lower ground, part first and third floor levels and mixed office / embassy uses on the ground, part first and second floor levels.

### 6.2 Recent Relevant History

A certificate of lawful development certificate was withdrawn in May 2017 for the continued use as a single dwelling house as a residence for a member of the diplomatic mission of the Dominican Republic with ancillary offices in connection with use as the Dominican Embassy. The application was withdrawn following officer advice that the use was not a single family dwelling house (Class C3), but a mixed use.

## 7. THE PROPOSAL

Permission is sought for the retention of the mixed use of the building as an embassy with associated office and residential accommodation for embassy staff and family of the Ambassador. No external alterations are proposed.

	Pre-Existing (sqm)	Proposed (sqm)
Residential (C3)	286.5	0
Embassy / residential (Sui Generis)	0	286.5

The applicant has provided information indicating a low intensity of the embassy use, including visitor logs to indicate that the embassy does not have a high footfall (maximum 2 people per day) and therefore that the proposals do not seek to significantly change the function of the building from its current operation, with a relatively small scale consulate function. It should be noted that the applicant has confirmed that there could also be 6 members of staff per day and an intern currently lives permanently on site (totalling 7).

However, as the application is for the change of use of the building to a mixed use with an embassy, consideration must be had to the use of the building as an embassy and by another occupier, which could have a more intensive use.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

Policy COM 7 of the UDP relates to proposals for Diplomatic and Allied uses and is therefore relevant. Parts 1 & 2 of the policy state that proposals for such uses will only be granted planning permission where:

- 1) The site is located within the Central Activities Zone or Portland Place Special Policy Area
- 2) There is no loss of residential accommodation or no adverse impact on residential amenity.

The policy notes that embassies are an activity particularly associated with certain parts of Westminster, principally Mayfair, Belgravia and Portland Place. It notes that such uses can have negative impacts in terms of highways, security and amenity and that they should be located in the aforementioned areas.

Policy S14 within the City Plan states that 'all residential uses, floorspace and land will be protected.' It notes that in order to achieve Westminster's housing targets it is necessary to protect existing housing and comments on the shortage of family sized homes with gardens in the city.

Within the applicant's statement, one of their key arguments is that they do not consider that a loss of residential accommodation has occurred, as they have moved from a property on Inverness Terrace, which has subsequently returned to a single family dwelling.

However, as this property was also subject to enforcement action due to the unlawful change of use to an embassy by the applicant, this is not considered justification as the embassy operating in that location also resulted in the loss of a single family dwelling house.

The applicant has commented that the variety of uses around the site is mixed in character with residences, commercial and other diplomatic uses. They do however also confirm that the site is in close proximity to a primarily residential area.

While there are some commercial uses in the area, it is considered that the immediate surrounding is residential in character: 1-9 Gloucester Square are a crescent of single family dwellings; to the west there is an apartment building on the other side of Sussex Place; and Gloucester Square to the east is also overwhelmingly residential in character. A change of use would affect the character of the area and dilute the residential nature of the terrace. The adopted policies seek to retain residential and target such uses to more suitable areas, namely the CAZ and Special Policy Areas.

The supporting information provided by the applicant relies heavily on the local and regional policies which seek to promote sustainable development and support residential accommodation. While it is noted that the plans indicate that 57% of the property is currently in use as habitable accommodation, as the application is also for the change of use of the building to an embassy, consideration must be had to the embassy use, and also an embassy by another occupier.

It is considered that the main policies which relate to this application are the aforementioned COM 7 of the UDP and S14 of the City Plan. While it is noted that some habitable accommodation is retained, this is for embassy staff, guests or family of the Ambassador. The proposals will result in the loss of residential floorspace and particularly a single family house. Given the location of the site outside of the CAZ and as the proposals result in the loss of a single family dwelling house, the proposals are considered to be contrary to Policies COM 7 and S14, and the application is therefore unacceptable in land use terms.

Reference is also made to City Plan Policies S20 (offices) and S27 (buildings of international and national importance). Both of these policies direct such development to the CAZ and Opportunity Areas, which this site is not within, and therefore the proposals are also considered to be contrary to these policies.

## **8.2 Townscape and Design**

Policy DES 9 (E) relates to changes of use within conservation areas and seeks to protect and enhance their character. As no external alterations to the building are required in order to facilitate the change of use it is not considered that the proposals would have such a significant negative impact as to justify refusal in this instance.

### 8.3 Residential Amenity

Objections have been received on the grounds that the offices overlook adjacent occupiers and that people looking for the embassy often knock on neighbours' doors. Policy ENV13 of the UDP and S29 of the City Plan state that the Council will seek to enhance and improve the residential environment.

In relation to overlooking, while these comments are noted, it is not considered that refusal on these grounds could be sustained, given that a residence could similarly have occupiers overlooking adjacent properties.

It is noted from the submitted visitor's logs that the embassy generates little in the way of visitors from members of the public, however the staff log indicates that on some days there can be 7 people associated with the embassy on site. However, as the application is for 'an embassy' any embassy could occupy the building. Indeed, should permission be granted it would be difficult to enforce against either the current operator or any future embassy occupier having a more intensive use.

Embassy uses can often generate security concerns, for instance should there be a political incident which affects the host country, the embassy may become the focus of attention, which would then have the knock on impact of affecting the amenity of the adjacent residential occupiers.

It is therefore considered that granting an embassy use could have a negative impact on the area as a result of increased comings and goings and increased general activity in this characteristically residential area. This would have a negative impact on the local environment and would therefore be contrary to Policies ENV13 and S29 and is therefore recommended for refusal on these grounds.

### 8.4 Highways

Councillor Cox has raised concern and objections have been received on the grounds of parking tickets incurred by the embassy and that the embassy use would require additional on street parking.

Parking:

Although it is not indicated on the submitted plans, it is understood that the property comes with the use of one of the private parking spaces located in front of the building. This parking space is used for embassy purposed. As this is a private arrangement it does not affect parking in the highway network and is acceptable. However, the Highways Planning Manager has requested that this space be linked to the residential aspect of the proposal only.

The site is within a Controlled Parking Zone which means anyone else who does drive to the site will be subject to those controls. Residential bays are restricted to permit holders only 24hrs a day 7 days a week, single yellow and all other bays are restricted between 0830 and 1800 which covers the opening hours of the embassy. With the above in mind The Highways Planning Manager notes that the impact of the change of use on parking levels is expected to be minimal. In respect of the parking fines, the applicant has confirmed that any parking fines are paid for.



If it is the applicant's intention to request conversion of bays in the vicinity of the site for diplomatic use this will need to be discussed with the Council's Parking Team. Any proposal will be judged on its own merits and be subject to the Traffic Management Order (TMO) alteration process. It is therefore not considered that refusal on parking grounds could be sustained.

**Pedestrian trip rate:**

The proposal may represent an increase in pedestrian traffic, however given its size and this authority's experience of similar sized uses, it is not considered that there will be an adverse impact on the public highway, especially given the level of public transport availability in the vicinity and the on-street parking restrictions.

**Cycle Parking:**

No specific details of the cycle parking provision are included within the application. There is no specific requirement under the London Plan for this type of use however a minimum of 2 spaces for staff seems appropriate. Cycle parking would encourage sustainable transport use. Should the proposals have been considered acceptable on other terms secure, accessible, weatherproof cycle parking would have been secured by condition.

#### **8.5 Economic Considerations**

Not applicable.

#### **8.6 Access**

No change to existing access arrangements.

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

Should the proposals have been considered acceptable, a condition would have been recommended for the submission of details of waste and recyclable storage.

#### **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.

It is not considered that the proposals would result in the requirement for a Community Infrastructure Payment.

### **8.11 Environmental Impact Assessment**

The development proposals do not trigger the requirement for the submission of an EIA.

### **8.12 Other Issues**

An objection has been raised that the relevant local groups have not been consulted in relation to the application. The local amenity society, neighbours and statutory consultees have been consulted as well as a site notice displayed in the street, and an advert posted in the local press. This is considered to meet the City Council's requirements in relation to consultation.

Concerns in relation to inaccuracies in the drawings and submitted documents has also been raised. While these comments are noted, it is considered that the submitted information is sufficient in order for the council to make a determination on the proposals.

## **9. BACKGROUND PAPERS**

1. Application form
2. Email from Councillor Cox dated 18 August 2017
3. Email from Hyde Park Estate Association, dated 7 August 2017
4. Memorandum from Highways Planning Manager, dated 4 August 2017
5. Memorandum from Cleansing Officer, dated 8 August 2017
6. Letter from occupier of Flat 2, 13-14 Gloucester Square, dated 25 July 2017
7. Letter from occupier of 44 Gloucester Square, dated 25 July 2017
8. Letter from occupier of 4 Gloucester Square, dated 12 August 2017
9. Letter from occupier of 46 Gloucester Square, dated 31 August 2017

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

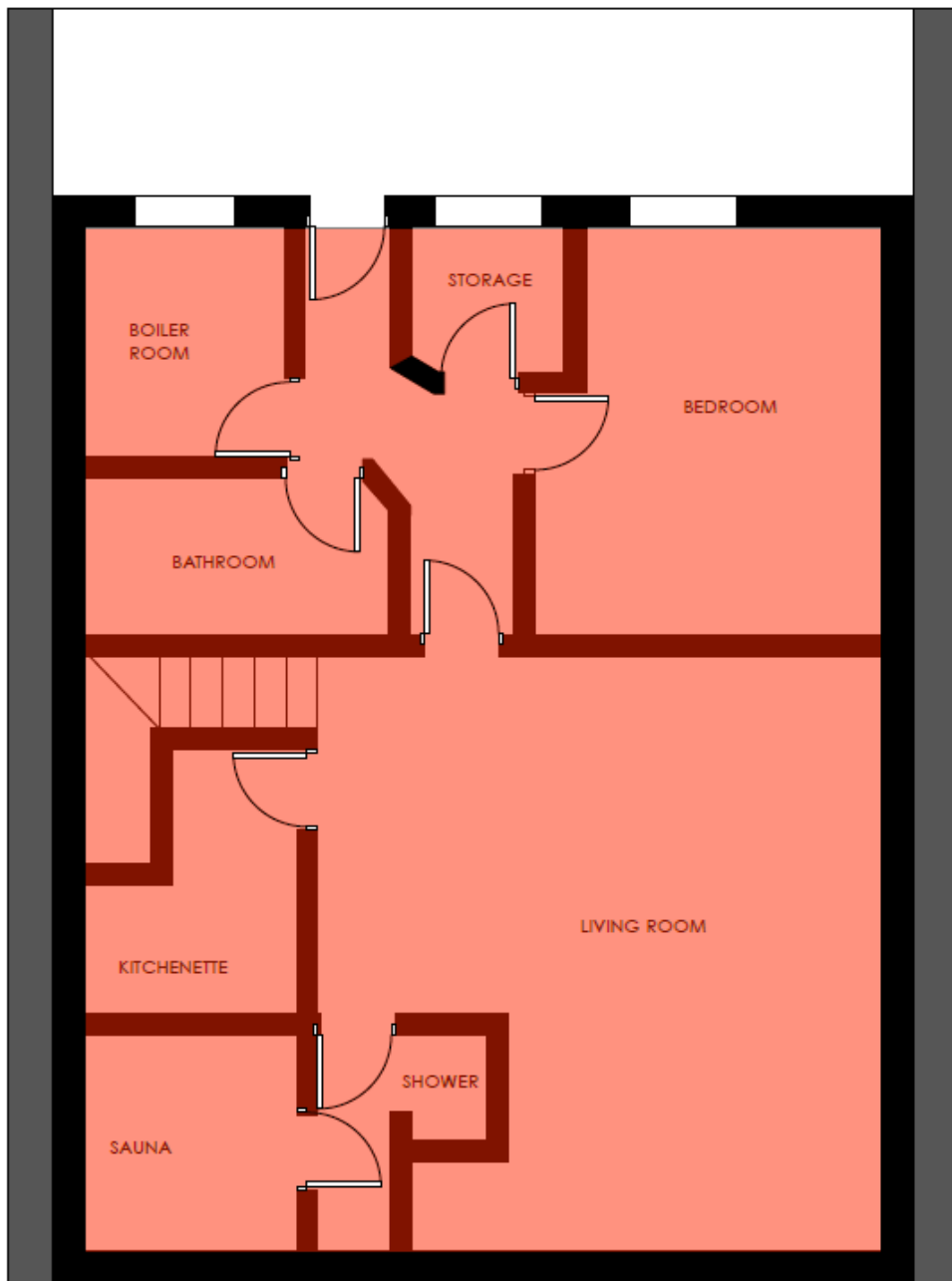
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

### 10. KEY DRAWINGS

Lower Ground Floor

#### KEY

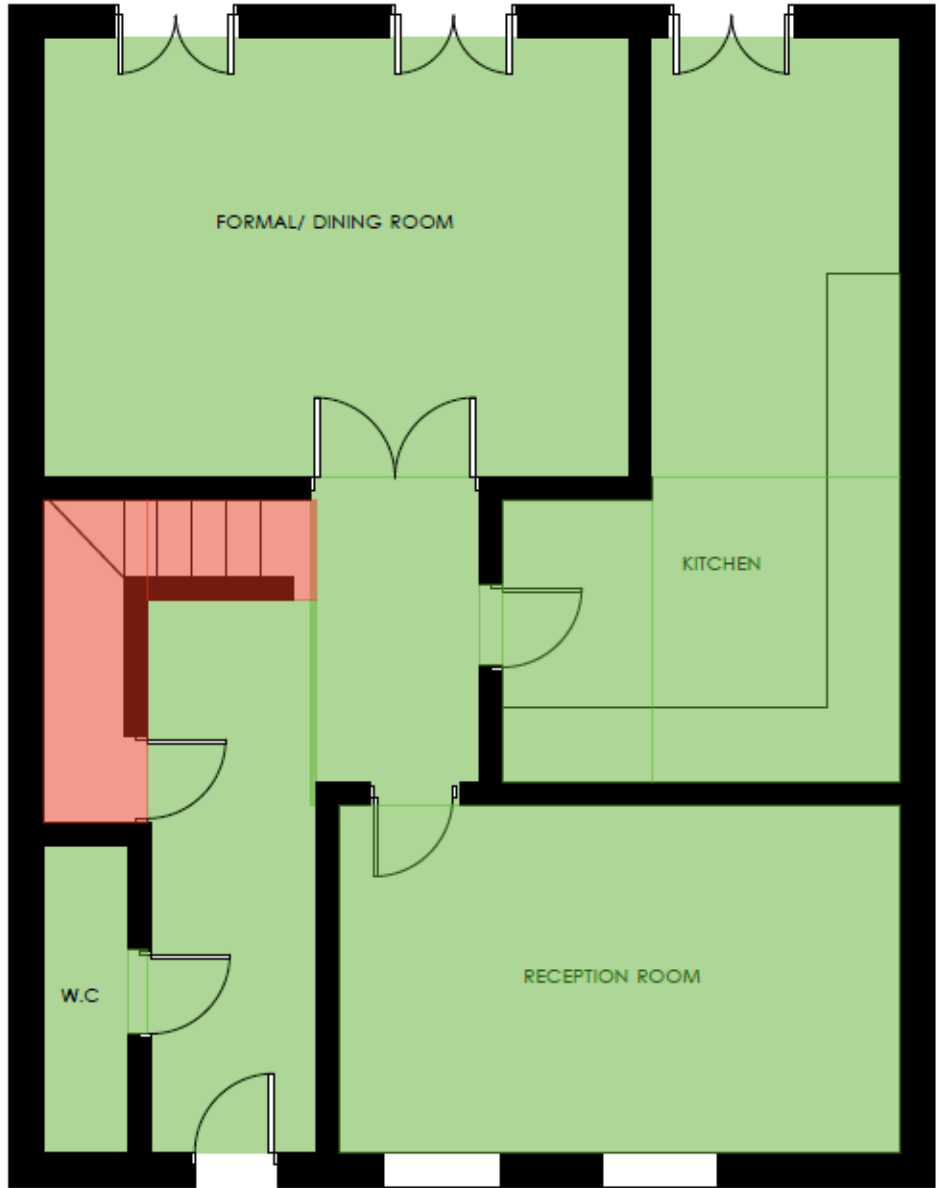
- Residential Use
- Embassy Use
- Mixed Embassy/Residential Use



Ground floor:

**KEY**

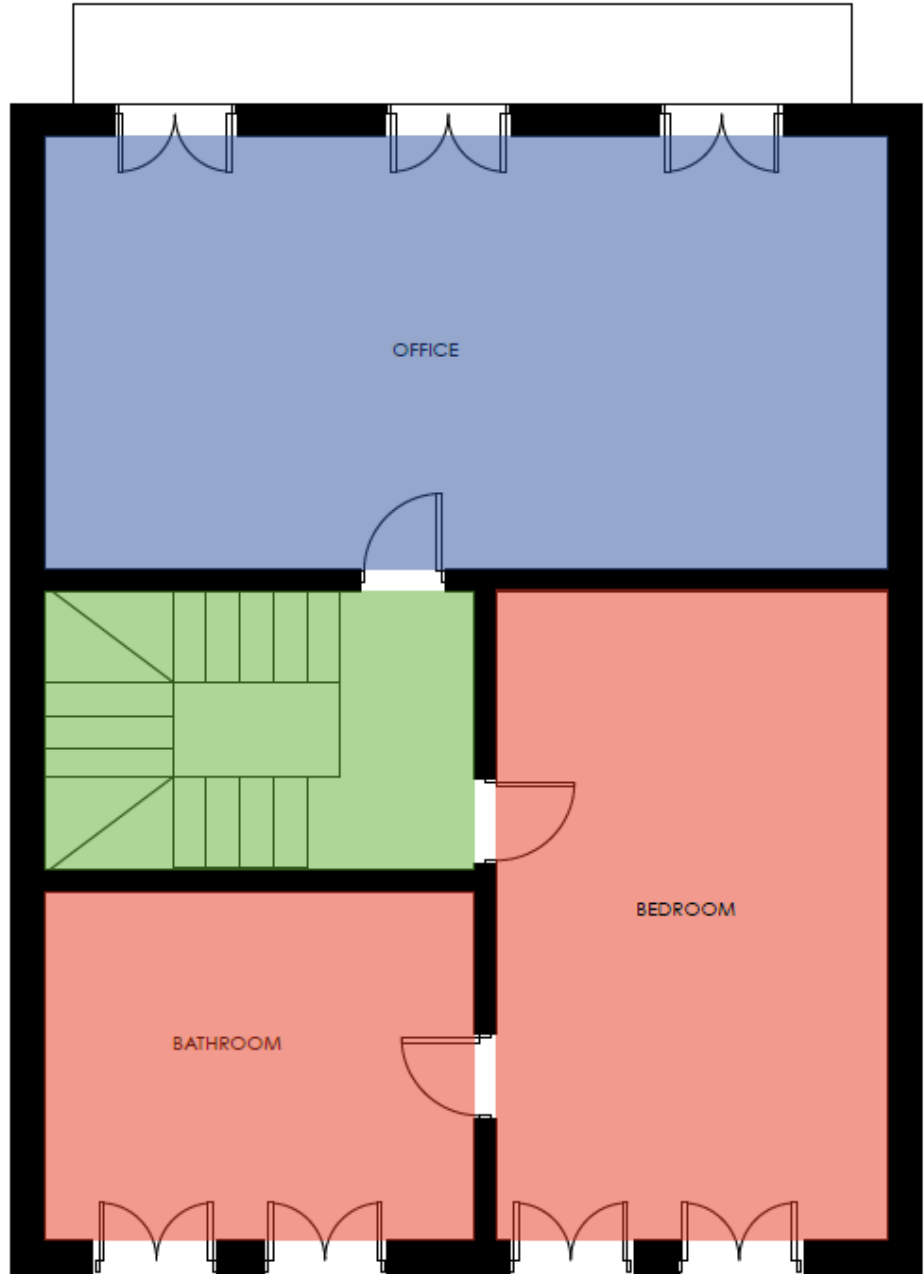
- Residential Use
- Embassy Use
- Mixed Embassy/Residential Use



First Floor:

**KEY**

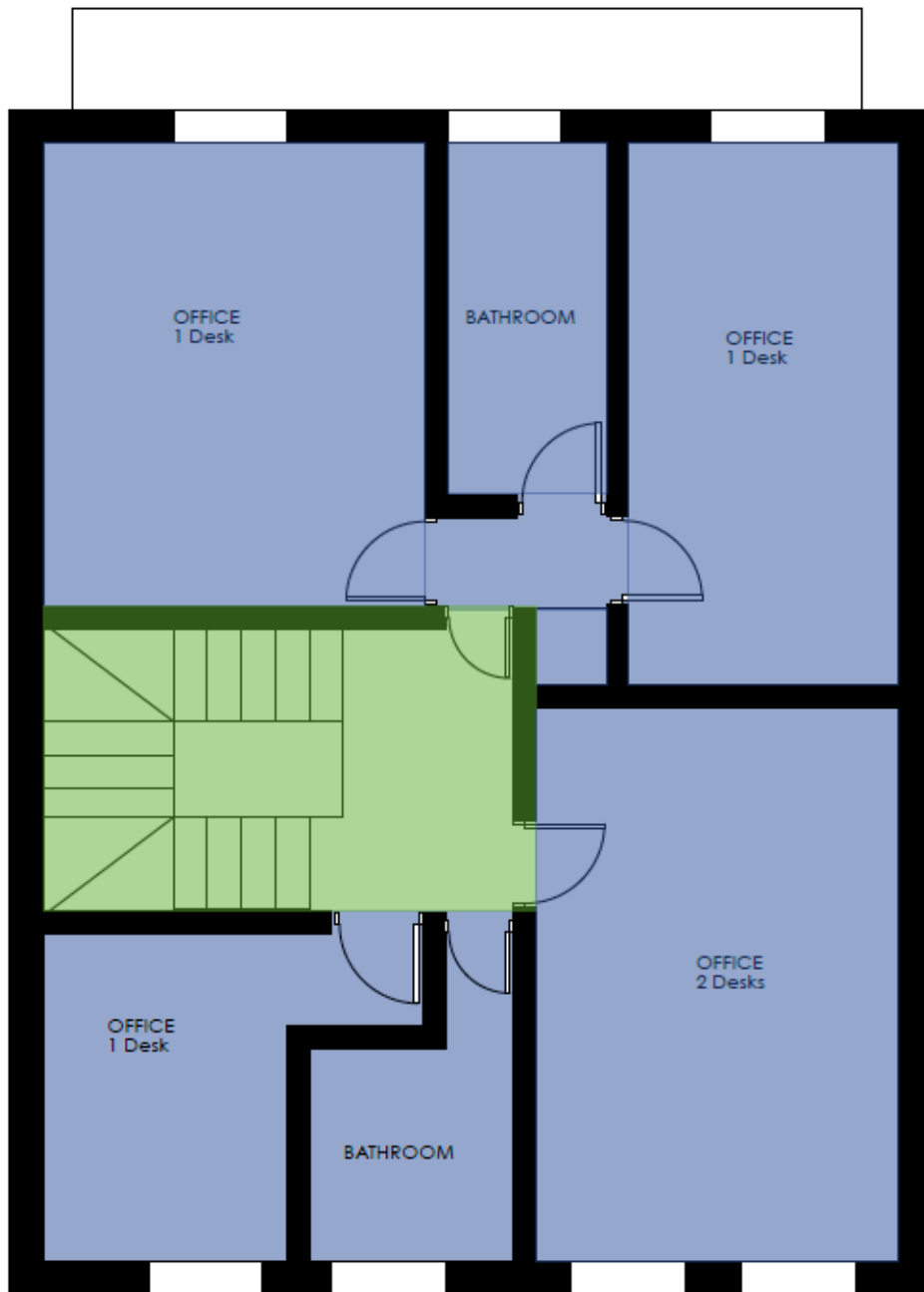
- Residential Use
- Embassy Use
- Mixed Embassy/Residential Use



Second Floor:

KEY

- Residential Use
- Embassy Use
- Mixed Embassy/Residential Use

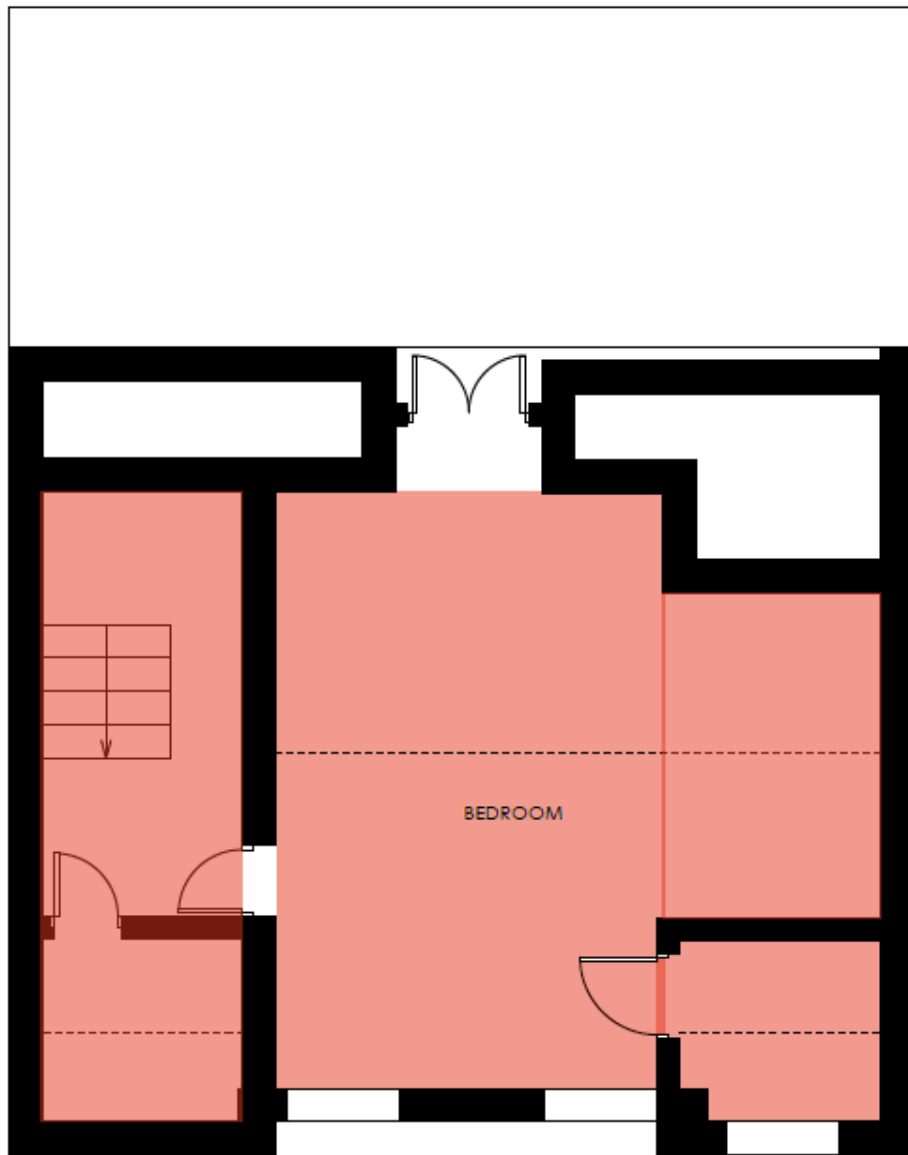


Third Floor:



KEY

- Residential Use
- Embassy Use
- Mixed Embassy/Residential Use



**DRAFT DECISION LETTER**

**Address:** 8 Gloucester Square, London, W2 2TJ,

**Proposal:** Use of the building as a mixed residential and Embassy use (Sui Generis).

**Plan Nos:** 845-1; 845-2; 845-3; 845-4; 845-5; Map of embassies outside of CAZ; Map of walking distance from CAZ & NWEDA; Planning Statement by Marrons Planning; Site location plan; Letters in relation to 139 Inverness Terrace; Visitor attendance log September and August 2017; staff log dated September and August 2017.

**Case Officer:** Rupert Handley

**Direct Tel. No.** 020 7641 2497

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

Reason:

- 1 Due to the loss of a single family dwelling house and the location of the site outside of the Central Activities Zone and a Special Policy Area, the change of use is contrary to Policies COM 7 of the Unitary Development Plan, adopted January 2007 and S14 of Westminster's City Plan, adopted November 2016. We do not consider that the circumstances of your case justify an exception to these policies.

Reason:

- 2 The impact of the proposed embassy use in this part of the City, would unacceptably harm the character and function of the area; the quality of the areas environment and the amenity, including general quality of living, of the residential community in the area. This would not meet S29 of Westminster's City Plan adopted November 2016 and ENV 13 of our Unitary Development Plan adopted in January 2007.

**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.