

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 15 May 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	21 Great Windmill Street, London, W1D 7LB		
Proposal	Demolition of existing building and redevelopment of the site to provide a new building comprising of restaurant use (Class A3) over basement to first floors and a 3-bedroom residential flat (Class C3) at second to fourth floors and installation of photo-voltaic panels on a flat roof area at rear third floor roof level.		
Agent	DP9 Ltd		
On behalf of	Raymond Estates		
Registered Number	17/01658/FULL	Date amended/ completed	2 March 2017
Date Application Received	23 February 2017		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

21 Great Windmill Street is an unlisted building located within the Soho Conservation Area, the Core Central Activities Zone (Core CAZ) and the West End Stress Area. The building comprises of basement, ground and first to third floor levels and is currently used entirely as restaurant accommodation (Class A3).

Planning permission is sought for the demolition of the entire building and redevelopment to provide a replacement building over basement to fourth floor level. The basement, ground and first floor levels would be utilised as a replacement restaurant (Class A3) with the second to fourth floors being used as a new residential flat (Class C3). Photovoltaic panels are proposed to be installed on a flat roof area at rear third floor level.

The key issues are:

- The impact of the construction works on the amenity of nearby sensitive occupiers with regard noise, vibration and dust.

- The design of the replacement building and the impact on the character and appearance of the Soho Conservation Area.

Subject to appropriate conditions it is considered that the proposed redevelopment would be acceptable in terms of the impact upon the amenity of sensitive occupiers in the vicinity and would not harm the character and function of this part of the Core CAZ. Furthermore, the replacement building would preserve the character and appearance of the Soho Conservation Area. The proposal is therefore acceptable in amenity, land use, transport, and design terms and the application is recommended for conditional approval, complying with the relevant Unitary Development Plan (UDP) and City Plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation of building:



5. CONSULTATIONS

HISTORIC ENGLAND

Do not consider it necessary to be notified of the proposal.

SOHO SOCIETY

Do not object to the application provided officers are satisfied that the building is beyond salvageable condition. A 'noisy work schedule' should be agreed with neighbours including the 'Soho Radio' audio studio before works commence.

BUILDING CONTROL

No objection.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

HIGHWAYS PLANNING MANAGER

No objection subject to conditions.

CLEANSING

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 17;

Total No. of replies: 3

No. of "objections"/neutral comments: 2; No. in support: 1

Two letters received not objecting to the principle of redevelopment but expressing concern about disruption from noise, vibration and dust during the construction process affecting neighbouring sensitive uses.

One letter in support on the grounds that extensive modernisation of the building is required.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

21 Great Windmill Street is an unlisted building located within the Soho Conservation Area, the Core Central Activities Zone (CAZ) and the West End Stress Area. The existing building comprises basement, ground and three upper floors with the entire property having lawful use as a restaurant (Class A3). The basement provides a kitchen area, with the ground, first and second floors providing main restaurant and bar areas and the third floor providing ancillary office and storage areas.

6.2 Recent Relevant History

None relevant

7. THE PROPOSAL

Planning permission is sought for the complete demolition of the existing building and redevelopment of the site to provide a new enlarged building comprising basement, ground and first to fourth floor levels. The basement to first floors will be replacement restaurant use (Class A3), with a new 3-bedroom residential unit proposed at second to fourth floors (with its own access at ground floor level).

A new high level extract duct to serve the restaurant use will be routed internally through the building to terminate at main roof level within a brick chimney. It is also proposed to install photo-voltaic panels on the flat roof at third floor level at the rear of the new building.

Table 1. Existing and proposed uses within the building

Use	Existing GIA (m ²)	Proposed GIA (m ²)	+/-
Restaurant (Class A3)	210	141	-69
Residential (Class C3)	0	89	+89
TOTAL	210	230	+20

The table below details the proposed arrangements of the potential restaurant use:

	Restaurant use at basement to first floor levels
Floor space (m2)	141m ²
No of covers	80
Hours of Operation	10:00 till 00:30 Monday to Saturday and 12:00 till 00:00 on Sundays and Bank Holidays.
Ventilation arrangements	New kitchen extract to be routed internally and terminating at main roof level.
Refuse Storage arrangements	Relevant conditions proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Retention of Restaurant Use (Class A3)

Policy S24 of Westminster's City Plan applies to all entertainment uses and states that new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area.

As the site is located within the West End Stress Area and the restaurant floorspace is below 500sqm Policy TACE 9 of the Unitary Development Plan is also applicable.

TACE 9 states that permission will only be granted for proposals where the City Council is satisfied that the proposed development has:

1. no adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of:
 - a) noise
 - b) vibration
 - c) smells
 - d) increased late night activity, or
 - e) increased parking and traffic; and
2. no adverse effect on the character or function of its area.

The site has long-standing use as a restaurant and is not subject to any planning restrictions. Deliveries and servicing for the proposed restaurant will take place from Great Windmill Street, in the same manner as the existing restaurant. The re-provision of the existing restaurant will generate a similar level of deliveries (albeit the proposed restaurant is slightly smaller) and the proposal is therefore unlikely to result in any detrimental impact upon highways movements compared with the existing situation.

A new high level extract duct associated with the restaurant use would be routed internally through the property terminating in a brickwork chimney at main roof level. Environmental Health have confirmed that this will provide acceptable odour dispersal and a condition is imposed to ensure the duct is provided and retained in situ.

The replacement restaurant premises would have 80 covers and opening hours of 10:00 till 00:30 Monday to Saturday and 12:00 till 00:00 on Sundays and Bank Holidays. These are the same opening hours as the license for the existing restaurant allows. Paragraph 8.88 of the UDP states; *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. The immediate vicinity is not considered a 'predominantly residential area', though there is some residential accommodation on some of the upper floors. Being so close to Shaftesbury Avenue and Brewer Street, it is likely there is a high footfall of pedestrians in this area late into the evening.

The nearest licensed premises include:

- The existing restaurant premises within the building with licensed opening hours of 10:00 – 00:30 Monday to Saturday and 12:00 to 00:00 on Sundays;
- 'Be at One' (bar) at 20 Great Windmill Street with licensed opening hours of 10:00 to 23:30 Monday to Thursday; 10:00 to 00:00 Friday and Saturday and 10:00 to 22:30 on Sundays;
- 'Andina Restaurant' at 31 Great Windmill Street with licensed opening hours of 10:00 to 00:30 Monday to Saturday and 12:00 to 00:00 on Sundays;

- 'The Lyric' public house, with licensed hours of 10:00 to 23:30 Monday to Thursday; 10:00 to 00:00 Friday and Saturday and 10:00 to 22:30 on Sundays;

The proposed opening hours are therefore considered acceptable and it is not considered the proposal would result in any worsening of late night noise within the area (especially as the entertainment floor space is reduced).

An acoustic assessment has been provided by the applicant with regard to noise transference through the building structure from the proposed restaurant use at first floor level to the second floor level of the residential unit. It also considers the internal transmission of noise from the bar use at ground floor level in 20 Great Windmill Street. The assessment presents a range of options which would ensure the noise levels in the residential unit would be compliant with the relevant criteria, including possible specifications of the ceilings / floors and the installation of the independent linings. The document has also assessed the noise impact of the internal restaurant duct and shown that noise from the duct operation will be compliant with the City Council criteria.

The Environmental Health Officer has reviewed all the submitted information and has determined that, with the identified acoustic mitigation measures installed, the proposal will be compliant with the relevant adopted policies. Conditions are proposed requiring the submission of an additional acoustic report to confirm the final design specification of the acoustic mitigation features, as the current report sets out a number of options which could be installed, without selecting the final design.

With the detailed relevant safeguarding conditions and the modest opening hours of the replacement entertainment use, it is considered that the proposal would not have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality. The principle of the proposed entertainment premises is therefore in accordance with UDP Policy TACE9 and City Plan Policy S24.

The proposal will result in the loss of 69m² of restaurant accommodation. Paragraph 7.52 states that the 'loss of A1, A2, A3, or sui generis uses to uses which do not serve visiting members of the public, such as B1 office will not normally be permitted at ground floor or basement levels.' Within the redeveloped building, restaurant use is provided at basement, ground and first floor level so the loss of restaurant floorspace from the upper floor accords with the policy requirements for this location.

Introduction of Residential Use (Class C3)

A residential unit is proposed over the second to fourth floor levels of the redeveloped building. The 3-bedroom unit would measure 89m², which meets the minimum space standards as set out within the GLA Housing Standards (March 2015) for a 3 bedroom/4 person dwelling over 3 storeys. Residential floorspace is considered an appropriate use in the Core CAZ and the unit is dual aspect and will provide an appropriate standard of accommodation. The small uplift in residential floor space does not necessitate the provision of affordable housing as detailed in Policy S16 of the City Plan.

The low expected levels of daylight and sunlight to bedrooms 1 and 3 would mean that these rooms could not be used as main living areas but considering the appropriate levels

of daylight and sunlight to the remainder of the property as a whole, the Environmental Health Officer considers the proposal acceptable.

Internal noise transmission through the building structure from the entertainment use on the lower floors to the proposed residential use has been discussed in the section above and is deemed acceptable subject to the imposition of the relevant conditions.

8.1 Townscape and Design

The existing building is a mid-18th century Georgian property, with a later shopfront at ground floor level. It is not listed but it is an unlisted building of merit (as identified in the conservation area audit) that makes a positive contribution to the character and appearance of the Soho Conservation Area.

The proposal is for total demolition and rebuilding, with an extra storey. The Soho Society does not object to the application provided that officers are satisfied that the building is “beyond salvageable condition”. Officers have advised that retaining the existing historic front facade would be desirable, as it is the facade which makes the positive contribution to the conservation area. (The interior of the building appears to contain very little of historic interest). However, the applicants have put forward reasons why rebuilding is proposed, including the fact that the facade brickwork is in poor condition, with clear evidence of cracking and bulging, and it would require substantial repair works to secure its long term future. The rear of the building is not of such interest as it has been much altered.

The proposal seeks to rebuild the front facade in facsimile, with the addition of a traditional timber shopfront. The design of the new facade is based closely on the original. Whilst noting the comment from the Soho Society, on balance, subject to conditions controlling its construction and appearance, it is considered that rebuilding is justified and acceptable, given the poor condition of the existing facade. The replacement façade will preserve the character and appearance of the conservation area. Furthermore, the opportunity to provide a traditional shopfront is a public benefit and that will improve the appearance of the building, the street and the conservation area.

It is also proposed to add a double pitched mansard roof extension, to replace the existing single storey mansard, which is not an important part of the building. The proposed roof is of traditional design at the front but is vertical at the rear (to allow for the provision of additional residential floorspace within a small floor plate). This is not normally acceptable in design terms, but there is no consistency at the rear of the terrace, and the proposed sheer extension is not considered to harm the character of the terrace or this part of the conservation area.

It is concluded that overall the proposal is acceptable on balance in design terms: provided that the front façade is carefully rebuilt using appropriate materials and details, it will preserve the character and appearance of the Soho Conservation Area. Conditions are recommended to secure this. In terms of the National Planning Policy Framework (NPPF) tests, the scheme as a whole, including the facsimile replacement of the front façade and improved shopfront, outweigh the less than substantial harm caused by demolition. The proposal complies with the City Council's urban design and conservation

policies, including strategic policies S25 and S28, and Unitary Development Plan policies including DES 1, DES 4, and DES 9.

8.2 Residential Amenity

Sunlight and Daylight

A daylight and sunlight assessment has been submitted with the application which assesses the impact of the development with regard to BRE guidelines for daylight and sunlight to new and existing developments. The submitted report considers the impact of the proposal on nearby sensitive properties including residential properties within 22 Great Windmill Street located north of the application site, and 20 Great Windmill Street/16 Archer Street located to the south; the upper floors of 33 Great Windmill Street opposite (guest bedrooms as part of Ham Yard Hotel) and Soho Primary school (23 Great Windmill Street). No objections have been received from surrounding residential occupiers.

Daylight

Under the BRE guidelines the amount of daylight received to a property may be assessed by the Vertical Sky Component (VSC), which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. For buildings that neighbour a new development, the guidance suggests that daylight may be adversely affected by the development if its windows achieve a VSC below 27% and have their levels reduced to less than 0.8 times their former value.

The submitted report concludes that there would be some losses of daylight levels to neighbouring properties at 22 Great Windmill Street, Soho Primary School and 16 Archer Street which exceed the BRE Guidelines. The upper floors of 22 Great Windmill Street are supposed to be completely in residential use, though there is a complicated history and it is unclear how many units there should be – permission was granted in 2012 for conversion of four substandard residential units into a 3-bedroom maisonette. A representation on behalf of this property refers to a community radio station and sound recording studio operating from the basement, ground, first and part second floors. (The ground floor should be in retail use.). Notwithstanding this, the report indicates that a bedroom window will experience a reduction in VSC from 9.3 to 6, a loss of 35.5% of its former value. However, as existing light levels are low, even a small loss will appear disproportionately high in percentage terms. It would also appear that this room is dual aspect and served by another window to the front of the building, so the impact of the proposal on the level of daylight in the room would be reduced and the bedroom would continue to receive adequate daylight. (The Planning Enforcement Team has been notified of a probable breach of the lawful uses of No. 22.)

At 16 Archer Street, losses of daylight in excess of the guidance would be experienced at one window: there is a reduction in VSC from 10.4 to 4.8, a total loss of 53.8%. This is a bedroom window at second floor level, part of a 3-bedroom maisonette with the third floor. The existing low levels of daylight can be attributed to it directly facing the south eastern wall of the application property and is partly obscured. Whilst the reduction in percentage terms is high, the levels are low in real terms and being a bedroom, the

impact of the proposal is not considered to be significant as to warrant refusal of the application.

One window serving a stairwell in Soho Primary School experiences losses in excess of the BRE Guidance (43%) but the BRE Guidance states; 'windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed'. The impact on the hotel bedrooms opposite in the upper part of 33 Great Windmill Street is negligible.

Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH, where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that any reduction in sunlight below this level should be kept to a minimum. If the level of sunlight received is below 25% (and 5% in winter), the loss is greater than 20% either over the whole year or just during winter months and the loss over the whole year exceeds 4%, then the loss would be noticeable.

In respect to sunlight, only those windows facing within 90 degrees of due south require testing. The windows located within Soho Primary School (23 Great Windmill Street) were therefore tested. The report demonstrates that the development would satisfy the BRE guidelines in respect to sunlight to this neighbouring property. Whilst there are losses, the windows tested receive more than 25% annual sunlight hours and more than 5% during winter months.

Sense of Enclosure

Whilst the proposed new building will be of a greater bulk than that existing, it is not considered that given the relationship with neighbouring properties that there would be any adverse increased sense of enclosure.

Privacy

The windows in the existing building will be replicated in the replacement building. Additional windows will be provided in the rear elevation in the new fourth floor and rooflights in the roof, but given distances to neighbouring buildings, would not result in any worsening in overlooking. The proposal includes small areas of flat roof at rear second and rear third floor levels. The plans indicate that access to these areas will be for maintenance only and a condition will be imposed to restrict the use of these areas in order to prevent overlooking and an increase in noise to the detriment of neighbouring properties and uses.

8.3 Transportation/Parking

Servicing

As the overall restaurant floorspace is reduced in the proposal, the servicing of the site is not expected to increase nor is the number of trips generated by the premises. The servicing is expected to continue in the same manner as currently exists and would take

place on –street via Great Windmill Street. The Highways Planning Manager has confirmed this is acceptable.

Car Parking

UDP Policy TRANS 23 requires sufficient off-street parking to be provided in new residential schemes to ensure that parking pressure in surrounding streets is not increased beyond identified 'stress levels'. 2011 census figures indicate 29% of households in the West End ward have one or more cars. 'Stress levels' are considered to have occurred where the occupancy of on-street legal parking bays exceeds 80%. Within a 200m radius of the site, parking occupancy during the day is 72%; night-time parking occupancy increases to 86%. Overnight residents can park on single yellow lines which further reduces the parking stress level to 67%.

No off-street car parking is provided and there is no prospect of car parking being provided. The proposal involves the addition of one residential unit and given the existing Council's data and car ownership levels, any additional on-street car parking generated by the proposal can be absorbed into the surrounding street network. The proposal is therefore consistent with TRANS 23.

Cycle Parking

The London Plan (2016) requires 2 cycle parking spaces for a dwelling containing 2 or more bedrooms. The plans do not indicate provision for cycle storage for the residential flat. It is noted that there is little communal area at ground floor level within the residential entrance; given that the residential flat is located at second floor level, with no internal lift, it is not considered practical to require cycle parking spaces in this case.

There is no existing cycle parking for the restaurant use and the proposals do not provide any facility in the proposed scheme. The restaurant floorspace is below 175m², where the provision of cycle parking spaces would normally be required. Therefore, it is not considered to be a requirement to provide any cycle parking spaces for the restaurant use.

8.4 Economic Considerations

Any economic benefits for the re-development of the building for A3 and C3 uses will be welcome.

8.5 Access

Access to the property will be from Great Windmill Street; two separate entrances will be provided, one for the restaurant and a separate residential access. Level access is provided to the restaurant, and a platform lift will be provided internally between the ground and basement floors to meet DDA requirements. There is a step into the residential entrance, but the new residential unit at second floor and above can only be accessed by the staircase anyway.

8.6 Other UDP/Westminster Policy Considerations

Plant

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

Louvres are proposed on the rear second floor flat roof area to provide cooling and air intake and extraction for the restaurant. Existing noise levels have been measured for this area and maximum noise levels at the nearest noise sensitive windows calculated. The final specification of the plant has not been decided and therefore a condition is attached requiring the submission of a supplementary acoustic report to demonstrate compliance with the stipulated criteria.

Refuse /Recycling

A condition is proposed, as requested by the Cleansing Manager, requiring details of the waste and recycling storage facilities to be submitted, agreed and implemented prior to the occupation of either of the uses within the building.

Sustainability/Energy

The application is accompanied by an Energy Report. This details that the replacement building will undertake a fabric first approach in order to reduce the energy consumption of the building. The energy reduction and efficiency measures proposed in the replacement building complies with the London Plan policy 5.2 and S28 and S40 of the City Plan.

Photovoltaic Panels are proposed to be installed on a flat roof area at rear third floor level which is considered a sustainability benefit of the scheme. A condition is proposed to ensure these are provided and retained in situ.

8.7 London Plan

This application raises no strategic issues.

8.8 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.

8.9 Planning Obligations

Planning obligations are not relevant in the determination of this application. The estimated CIL payment is £1,403.59 for the Mayoral CIL and £6,407.83 for the Westminster CIL, resulting in a total requirement of £7,811.42.

8.10 Environmental Impact Assessment

An environmental impact assessment is not applicable for a development of this size.

8.11 Other Issues

Construction Impact

The Code of Construction Practice was published in July 2016 and is designed to monitor, control and manage construction impacts on construction sites throughout Westminster. The publication of the Code represents a fundamental shift in the way the City Council deals with the construction impacts of developments. Before September 2016, developments of this scale used legal agreements to fund the Environmental Inspectorate (EI) and required Site Environmental Management Plans to be submitted to and approved by the City Council.

In recognition that there is a range of regulatory measures available to deal with construction impacts and that planning is the least effective and most cumbersome of these, the new approach is for a condition to be imposed requiring the applicant to provide evidence that any implementation of the scheme (by the applicant or any other party) will be bound by the Code. The applicant provided evidence that they will sign up to the Code of Construction Practice and a condition is imposed to ensure that this is the case.

Comments were received to the proposal from a representative of the occupiers of 22 Great Windmill Street being a sound recording studio and radio station [albeit probably unauthorised], as well as Nimax Theatres who operate the Lyric Theatre on Shaftesbury Avenue but with frontages to Great Windmill Street and Archer Street (to the south of the application site). Both letters were concerned about noise, disruption and dust from the proposed demolition and redevelopment affecting their businesses.

Taking into account the proximity of these noise sensitive occupiers the Environmental Health Officer considers the development would be a Level 2 project under the Code of Construction Practice. Therefore, the development requires both a site environmental management plan and a Section 61 (Control of Pollution Act 1974) approval. The Section 61 includes liaison with sensitive receptors to protect them from excessive noise, vibration and dust during the construction process. These issues are considered through the Code of Construction Practice and monitored by the Environmental Inspectorate to ensure compliance and that disruption during construction is minimised. The application could not be reasonably refused on these grounds.

The standard condition is proposed to restrict the hours of noisy construction work to ensure that noisy building works do not take place at the most sensitive times for nearby residential occupiers.

Structural Issues

A Structural Method Statement has been provided which demonstrates the redevelopment works result in no harm to neighbouring properties. The report has been assessed by Building Control who consider it acceptable. Whilst this satisfies the policy for the purposes of determining this planning application, detailed matters of engineering techniques, and whether these secure the structural integrity of the development and neighbouring buildings during the course of construction, are controlled through other statutory codes and regulations. To go further would be to act beyond the bounds of

planning control. Accordingly, should permission be granted, the structural statement will not be approved, nor will conditions be imposed requiring the works to be carried out in accordance with it.

Basement

There is an existing basement at the property and the proposal is for the floor of the rear section of the basement to be lowered by 200mm (approximately) to create a level floor slab. The proposals do not involve the excavation of any new floor level and it is not considered this minimal lowering of just a small part of the basement floor level needs to be assessed against Policy 28.1 of the City Plan.

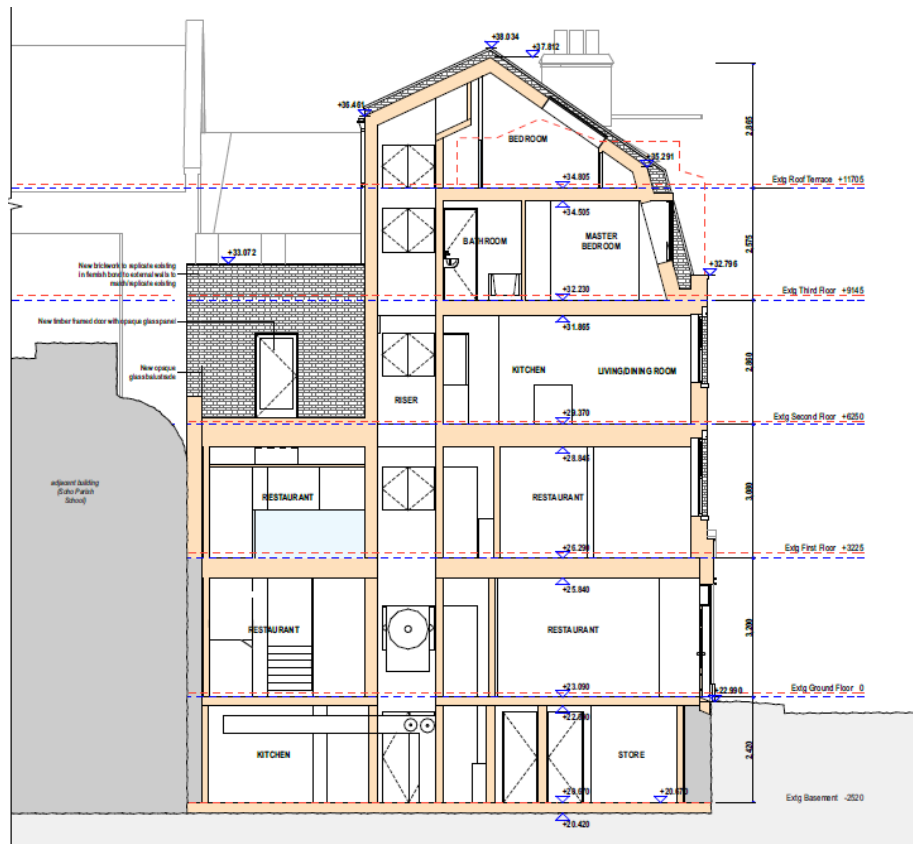
9. BACKGROUND PAPERS

1. Application form
2. Response from Historic England (Listed Builds/Con Areas), dated 14 March 2017
3. Response from Highways Planning, dated 23 March 2017
4. Response from the Soho Society, London, dated 6 April 2017
5. Response from Building Control dated 8 January 2018
6. Response from Environmental Health dated 21 February 2018
7. Response from the Cleansing Manager dated 19 March 2018
8. Letter from occupier of Nimax Theatres Limited, 11 Maiden Lane, dated 20 March 2017
9. Letter on behalf of the occupier of 22 Great Windmill Street, London dated 22 March 2017
10. Letter from occupier of 21 Great Windmill Street dated 14 May 2017

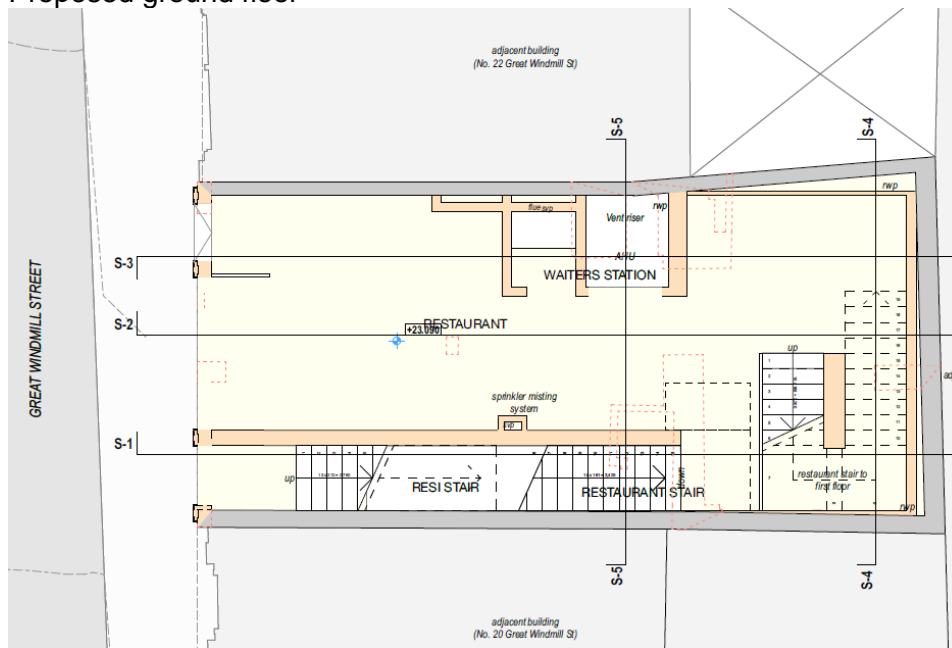
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

Proposed Section:



Proposed ground floor



DRAFT DECISION LETTER

Address: 21 Great Windmill Street, London, W1D 7LB

Proposal: Demolition of existing building and redevelopment of the site to provide a new building comprising of restaurant use (Class A3) over basement to first floor and a 3 bedroom residential flat (Class C3) at second to fourth floor and installation of photo-voltaic panels on a flat roof area at rear third floor roof level.

Reference: 17/01658/FULL

Plan Nos: 'Noise Transfer from Commercial Uses', Acoustic Report dated 21st November 2017, 'Structural Statement and Construction Method Statement 1091', Drawings: 443RE (3) 112_C, 443RE (3) 113_C, 443RE (3) 114_C, 443RE(3) 115 Rev C, 443RE (3) 211_C, 443RE (3) 121, 443RE (3) 122, 443RE (3) 123, 443RE (3) 124, 443RE (3) 221, 443RE (3) 222, 443RE (3) 223, 443RE (3) 224.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

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 Soho 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)

- 3 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

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 Soho 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 You must apply to us for approval of detailed drawings (scales 1:20 and 1:5, and 1:1 where appropriate) of the following parts of the development:
1. Shopfront;
 2. Windows;
 3. Dormers;
 4. Brickwork – arches.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. (C26DB)

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 Soho 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)

- 5 The new brickwork shall match the existing original brickwork as closely as possible, including its colour, texture, face bond and weathered appearance. Flush pointing shall be used.

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 Soho 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)

- 6 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either:
- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or,
 - (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Soho Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 7 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the character of the Soho Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 8 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: between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 on Saturday; and, not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and, 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)

- 9 You must install the high level duct as shown on the approved drawings before you can operate the restaurant hereby approved. The duct must thereafter be maintained in situ for as long as the restaurant remains in place.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 10 You must not allow more than 80 customers into the restaurant premises at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 11 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours: 10:00 until 00:30 hours Monday to Saturday and 12:00 until 00:00 hours (midnight) on Sundays and Bank Holidays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 12 If you provide a bar and bar seating within the restaurant premises, it must not take up more than 15% of the floor area of the restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan (November 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

- 13 You must not play live or recorded music within the restaurant premises that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 14 You must not sell any hot-food take-away nor operate a delivery service from the approved restaurant, even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 15 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

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)

- 16 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 17 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 18 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 16 and 17 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, 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.

- 19 (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 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., (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 15 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 L A90, 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:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, 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.

- 20 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 19 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, 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.

- 21 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.

- 22 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application. Photovoltaic panels at rear third floor level. You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 23 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately within both the restaurant and the residential uses. You must not start work on the relevant parts of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the property. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 24 You must not use the rear flat roof areas at second or third floor levels for sitting out or for any other purpose. You can however use the flat roof areas to escape in an emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 25 No additional mechanical plant shall be installed behind the supply louvre on the rear elevation at second/third floor level.

Reason:

We do not have enough information to decide whether it would be possible to provide additional mechanical equipment without causing noise nuisance to the occupiers of adjoining properties. This is as set out in S24, S29 and 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.

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.
- 2 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 3 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met: , 1. The number of nights in any single calendar year in which the property is used to provide

'temporary sleeping accommodation' does not exceed 90 [ninety]. 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises)., This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>. Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

- 4 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk. If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk. It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 5 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 6 With reference to condition 15 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). These documents must be sent to environmentalsciences2@westminster.gov.uk. Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition. You are urged to give this your early attention
- 7 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 8 The design and structure of the development shall be of such a standard that the dwelling is free from the 29 hazards listed under the Housing Health Safety Rating System (HHSRS). However, any works that affect the external appearance may require a further planning permission. For more information concerning the requirements of HHSRS contact: , Residential Environmental Health Team, 4th Floor East, Westminster City Hall, 64 Victoria Street, London SW1E 6QP, www.westminster.gov.uk, Email: res@westminster.gov.uk, Tel: 020 7641 3003 Fax: 020 7641 8504.

- 9 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public., Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992.
www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm. The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>., , BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances , BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 10 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , www.westminster.gov.uk/cil , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form** , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to CIL@Westminster.gov.uk , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**
- 11 The Council considers that the amount of daylight into and the view that is likely from the windows serving bedrooms 1 and 3 would not be enough for the use of these rooms as main living areas. (You are recommended to refer to the Housing Health and Safety Rating System - Housing Act 2004 guidance to obtain full details about the requirement for natural lighting and reasonable view.) The proposals have been accepted because the flat as a whole has enough main rooms with adequate daylight and reasonable views, and on the basis that the flat will be used as a single self-contained unit by one household. If any occupier in the future was to consider using the flat in a different way - for example, with those rooms referred to above (as having limited daylight and views) being used as living rooms or as living/bedrooms e.g. for staff accommodation, the flat is likely to be considered for action under the Housing Act 2004 by our Residential Environmental Health team; in those circumstances, that team would have the power to require works to improve daylight to the affected rooms or alternatively, where this is not practicable, to prohibit their use.

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.