

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING SUB APPLICATIONS COMMITTEE</b>	<b>Date</b> 22 May 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	46 Clarges Street, London, W1J 7ER		
<b>Proposal</b>	Retention of one external air handling unit within the front lightwell. Relocation of six external condensers and the installation of four new external condensers (three at mid roof level and seven at upper roof level) with associated acoustic screening. Retention of internal wall mounted air conditioning units to bedrooms 1, 2, 3, 4 and 5.		
<b>Agent</b>	Bidwells		
<b>On behalf of</b>	Fox Fabs Ltd		
<b>Registered Number</b>	16/07360/FULL 16/07361/LBC	<b>Date amended/ completed</b>	2 August 2016
<b>Date Application Received</b>	2 August 2016		
<b>Historic Building Grade</b>	II		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

1. Grant conditional permission.
2. Grant conditional listed building consent
3. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site is a mid-terrace Grade II listed building located in the Mayfair conservation area and Core Central Activities Zone (Core CAZ). The property is in use as a private members club (sui generis) known as 'The Fox Club' and is a longstanding use. The building provides lounge, restaurant and bar facilities on the ground floor and hotel accommodation on the upper floors (nine bedrooms).

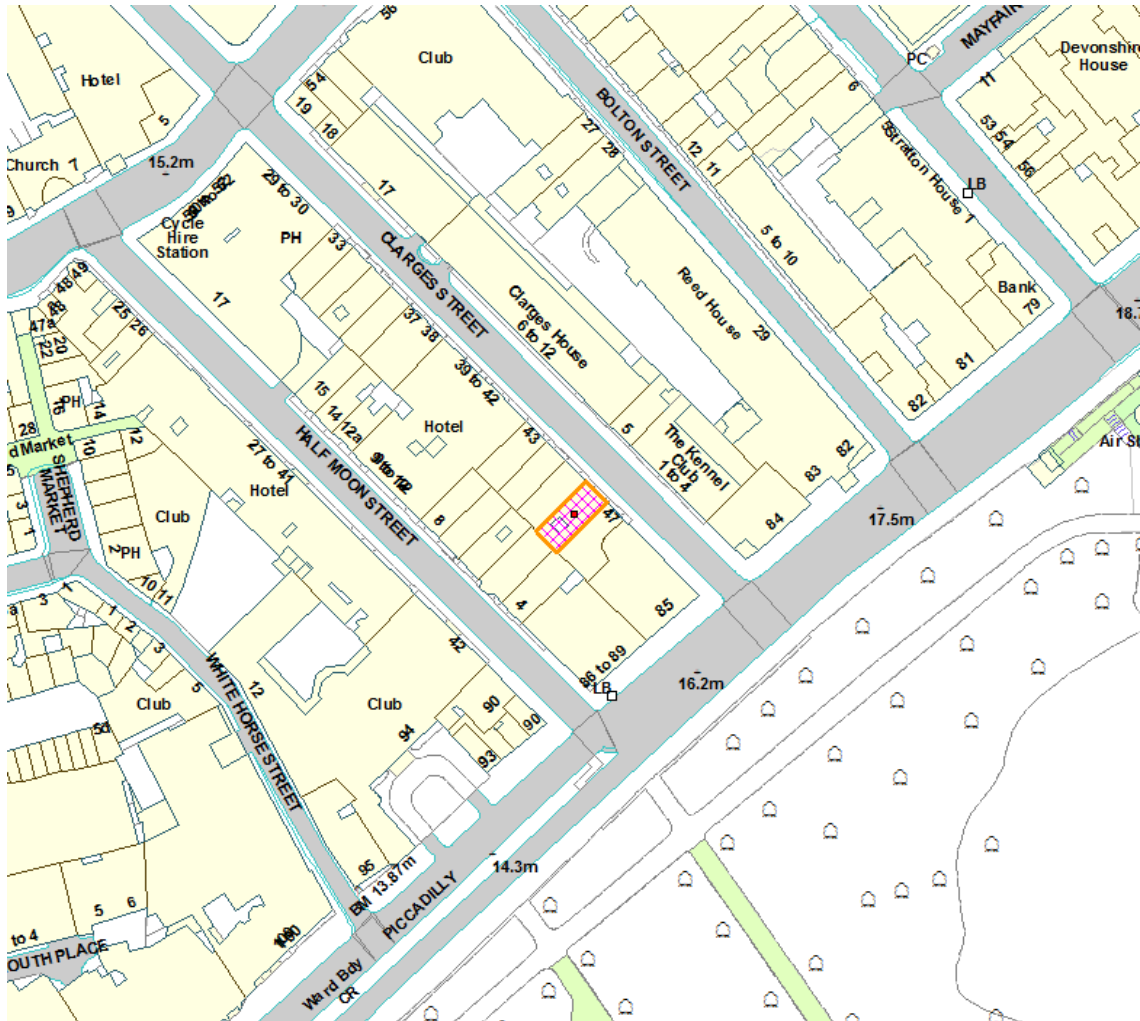
Planning permission and listed building consent are sought for the retention, relocation and installation of external air handling units and associated screening and retention of internal wall mounted air conditioning units to five bedrooms.

The key issues for consideration are:

- The impact of the plant upon the amenity of neighbouring residents.
- The impact of the plant and associated screening upon the character and appearance of the Mayfair Conservation Area and the special interest of the listed building.

The scheme has been revised entirely since submission, and the application is now acceptable in design and amenity terms and is in accordance with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan).

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation of building



## 5. CONSULTATIONS

The first round of consultations took place on 08 August 2016, owing to additional information and revisions to the proposals, consultations subsequently took place on 18 October 2016, 19 December 2016, 06 June 2017 and 24 January 2018.

### **First Consultation dated 8 August 2016**

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No response received.

ENVIRONMENTAL HEALTH

No objection subject to conditions

PRESS ADVERTISEMENT / SITE NOTICE: Yes

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 42

No. in support: 4

No. of objections: Multiple objections have been received directly from, and on behalf of 2 respondents; one being the freeholder of the application property and one local resident.

### Noise

- The property is a hotel. The noise report does not consider that the property itself as a noise sensitive property as defined by UDP Policy ENV6. No consideration has been given to hotel guests.
- Background noise measurements have been taken from an inappropriate location
- Background noise measurements included temporary construction works, which are not representative of normal levels of noise.
- The noise report fails to provide an accurate distance to the nearest 'noise sensitive property' and measured the background noise levels in an inappropriate location and included an unusually large amount of construction activity taking place
- There is a difference in the background noise levels presented in the two acoustic reports
- The units would exceed the noise level criteria; the proposal should only be allowed if there is no increase in noise levels

### Design & Heritage Impacts

- Excessive pipework to the rear elevation
- Twelve air conditioning units would be in a prominent position and would harm private views
- The application does not consider the importance of the listed building, its location within the conservation area and the addition of its blue plaque which is installed on the front of the building for its historical connection
- Previous permissions (1995) allowed the internal units to be concealed. The wall mounted units should be removed in favour of like-for-like replacement internal units.

Other Matters

- Loss of daylight and outlook to a hotel room

**Second Consultation dated 18 October 2016**

RESIDENTS SOCIETY OF MAYFAIR &amp; ST. JAMES'S

Objection – fabric and appearance of the listed building may be compromised, boxes should not be on every floor outside the building

## ENVIRONMENTAL HEALTH

## Objection

- The scheme would not comply with the Council's noise requirements
- Background noise data from 2015 should be used since the 2016 survey increases the LA90 noise level by 3dB(A)

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

The following additional objections were raised:

Noise

- The noise level would exceed the criteria by more than 4dB

Design

- Eleven units would be harmful to the character of the building and area

**Third Consultation dated 19 December 2016.**

RESIDENTS SOCIETY OF MAYFAIR &amp; ST. JAMES'S

No comment

## ENVIRONMENTAL HEALTH

No objection subject to conditions, and acoustic screening

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

The following additional objections were raised:

Noise

- The siting of the screens does not take into account the manufacturer's specification and installation conditions regarding air-flow and would be insufficient.
- Some of the unauthorised units have been allowed to remain in operation during the background noise survey-these units are not exempt as the 'four year rule' does not apply to listed buildings (i.e the units would never become lawful).
- There is external plant identified on the plans as belonging to a neighbouring property No. 65. No 65 is under the ownership and control of the Applicant. This also appears to be unauthorised.

Design & Heritage Impacts

- The four screens are hideous and out of place with their surroundings. They have excessive surface area and there is no colour that could improve their visual impact.
- Lack of dimensions relating to the screen to the additional four units at third floor level- in order to comply with manufacturer's specification the screen would require to be 3.8m x 2.2m x 0.8m.
- Wall mounted units would cause harm to grade II listed building.

### Other Matters

- The term cassettes in air conditioning terms relates to concealed units and is it a misnomer to use this terms to describe the internal wall mounted air conditioning units that are visible.
- No consideration given to health and safety aspects when carrying out maintenance- there is no edge protection to the third floor flat roof and any protection may have a visual impact. WCC may also have a legal responsibility.
- Iverna (the freeholders) have no physical control over the unlawful air conditioning units.

### Fourth Consultation dated 06 June 2017

Following amendments to the proposals which reduced the proposal to a total of 8 air conditioning units. The following comments were received:

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No objection if tidying up roofscape

ENVIRONMENTAL HEALTH

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

The following additional objections were raised:

### Noise

- Noise from the proposed equipment should be lower than the current equipment to prevent noise to the rear bedrooms of two flats at 5 Half Moon Street.
- Anglia noise report doesn't include weekend background noise
- Anglia noise report doesn't account for cease of local construction works
- Anglia noise report includes unauthorised low level plant at 45 Clarges Street
- Noise report does not account for restaurant condenser being larger and louder than other units which would increase noise levels by 3dBA
- Noise report does not account for the semi-reverberant nature of the acoustics screen, which would increase noise levels by 3dBA.
- The 8 units to the third floor roof could not be installed in accordance with manufacturers requirements and will operate inefficiently

### Design & Heritage Impacts

- Location of four units to the third floor level would be more visible than previous proposals
- Increase in surface area of the third floor acoustic screen
- Internal wall mounted units would harm grade II listed building
- Lack of information on external pipework / unit connections through to the interior of the building
- Lack of information on proposed four new surface mounted units to bedrooms
- Increase to internal and external pipework

### Other Matters

- Harm to private views from lead screening at 3<sup>rd</sup> floor level

### Procedural matters

- Existing front and rear elevations show unauthorised air conditioning units
- Unlawful plant at 45 Clarges Street is not shown on revised drawings
- Manufacturers guidance indicates external condensers can be updated whilst retaining existing pipework and units.

### Fifth Consultation dated 24 January 2018.

Following significant revisions to the proposals, which re-located plant to the third floor roof level and under a fire escape at main roof level. The following additional comments were received:

#### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No objection

#### ENVIRONMENTAL HEALTH

No objection to the proposals - the revised acoustic report demonstrates that the proposed plant will comply with the City Council's noise criteria.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

The following additional objections were raised:

### Noise

- Proposal doesn't comply with manufacturers installation requirements

### Design & Heritage Impacts

- Proposed 'split' system requires 11 units, which could be avoided by proposing a VRV system
- Unreasonable amount of pipework will be required by 'split' system
- Screening is unsightly
- Proposed work would harm the historic environment
- Substantial harm cause to the conservation area and the listed building

### Procedural matters

- Plans are misleading as "existing" plant is unauthorised
- Letter from Brecher LLP is inaccurate as no submissions have been made to the freeholder
- Proposed scheme is considered un-deliverable
- No 'Appropriate [planning] applications' were submitted within 28 days of the enforcement notice

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site is 46 Clarges Street, which is a Grade II, listed building located in the Mayfair conservation area. Clarges Street is mixed in character, with a number of commercial and residential uses. It is located within the Core Central Activities Zone.



The property is in use as a private members club (sui generis) known as 'The Fox Club' it is a longstanding use and has been operating since the 1960's. The adjoining building at No. 45 also forms part of The Fox Club following permission granted in 2011; however the works relate solely to No. 46 Clarges Street.

The Fox Club is a private members club and provides lounge, restaurant and bar facilities on the ground floor and overnight accommodation on the upper floors comprising nine bedrooms.

## 6.2 Recent Relevant History

Planning permission and listed building consent has not been granted for the air conditioning units currently in place within the front basement lightwell or to the rear ground and first floor level.

Following the unlawful installation of six air conditioning units in 2014, a complaint was raised with the Council's Planning Enforcement Team. There are two open enforcement cases relating to the installation of the external and internal air conditioning units.

A planning application and listed building consent for the retention of seven external air conditioning units attached to the rear elevation at first floor level was submitted. These applications were withdrawn in August 2015 prior to determination as there was potential for further units to be installed over and above those contained within the applications. In order to avoid piecemeal plant installations, it was considered that a mechanical solution for the whole building should be investigated. The submitted acoustic report did not demonstrate adequate attenuation.

### 45 Clarges Street

A further planning enforcement case investigated an unauthorised air conditioning unit at 45 Clarges Street. The case was closed on 26 June 2017 as the subject air conditioning unit had been removed.

## 7. THE PROPOSAL

There is no planning history relating to the air conditioning units installed to the rear at ground and first floor levels. The application therefore seeks to regularise the breach of planning control along with amendments to the existing arrangement.

Planning permission and listed building consent is sought for the following:

- Retention of 1 air handling unit within the front lightwell;
- Relocation of 3 unauthorised HVAC condensers to third floor roof level; all on steel supports and rubber mounts;
- Installation of 1.5m high lead screening at third floor roof level;
- Relocation of 3 unauthorised condensers to main roof level under an existing fire escape stair;
- Installation of 4 new condenser units at main roof level under an fire escape fire escape stair;
- Installation of 1.5m high lead screening at main roof level; and
- Retention of internal wall mounted air conditioning units to bedrooms 1, 2, 3, 4 and 5

All external pipework will be contained within black plastic rainwater pipes.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

There are no associated land use issues associated with the installation of air handling units in connection with a private members club (sui generis). The use of 46 Clarges Street as a private members club is longstanding.

### **8.2 Townscape and Design**

The existing unauthorised arrangement of air conditioning units at the rear of the listed building is harmful to its special interest. The proposal to relocate these at roof level in a screened enclosure improves the appearance of the rear of the building. Adding additional bulk to the rear of the closet wing is normally considered unacceptable in listed building policy terms because the height of the wing should be subordinate to the main building, and should not rise above the parapet level of the rear facade.

In this particular case, the rear of the terrace of which this building is part is very varied. The building to the south is significantly taller. The proposed plant area would be set adjacent to the higher party wall, away from the north wall of the closet wing, and the visual impact is considered acceptable. The screening is to be clad in lead, which will give it a traditional appearance. The other units fixed higher up on the party wall will also be screened. It is considered that these proposals will not harm the special architectural and historic interest of the listed building or harm the character and appearance of this part of the Mayfair Conservation Area.

The retention of the air conditioning unit in the front area is concealed beneath the stairs to street level and is not considered harmful to the appearance or special interest of the listed building.

The interior of the listed building has been much altered and its special interest is very limited. It is considered that the proposed air conditioning units will not harm the limited special interest of the interior of the building.

It is concluded that this is an acceptable solution to the problem of the unauthorised units and it complies with the City Council's urban design and conservation policies, including DES 6, DES 9 and DES 10.

### **8.3 Residential Amenity**

The proposal would retain an unauthorised unit within the front basement lightwell. This would be located away from neighbouring windows and would not cause harm to residential amenity. With the exception of the unit within the front basement lightwell, the proposed units would all be located / re-located to the rear of the site at third floor roof level, or at main roof level under a fire escape stair.

The closest residential property is 47 Clarges Street, which adjoins to the south of the application site. This property would not have direct views of the proposed air conditioning units and there would be no harm to amenity by way of daylight, sunlight or sense of enclosure.

The rear of the application site backs onto Nos. 4 and 5 Half Moon Street. Council tax and electoral records show that number 4 Half Moon Street contains a flat and a single family dwelling. 5 Half Moon Street is divided into a number of flats.

The air conditioning units at third floor roof level would be approximately 9m from windows in the rear of 4 Half Moon Street. The proposed screening would be marginally closer. The screening would be directly visible in private views from both Nos. 4 and 5 Half Moon Street, although it is considered that the presence of screening would help to preserve private views. Similarly, the proposed screening to the plant at main roof level would also preserve private views. No. 5 Half Moon Street is offset and due south of the application site. As such, it would have limited views of the proposed plant and screening under the fire escape at roof level.

Owing to the location of the proposed plant and screening, there would be no undue sense of enclosure, or loss of daylight or sunlight to any neighbouring properties.

Overall, the size, scale and position of the plant and associated screening is not considered to have an adverse impact upon neighbouring residential windows and the application is acceptable in this regards.

#### **8.4 Transportation/Parking**

The application does not raise any transportation issues.

#### **8.5 Economic Considerations**

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

#### **8.6 Access**

The application does not raise any access issues.

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

##### Plant

The area has been assessed as an area in which existing ambient noise levels exceed WHO Guideline levels.

The nearest noise sensitive property has been identified in the acoustic report as being windows to the rear of 5 Half Moon Street. An objection has been received, which raises concern that as the property is a private members club with overnight rooms, the property itself should be taken as the nearest noise sensitive property. It is not considered that the application site is the nearest noise sensitive property, as the application has been submitted by the applicants who are the sole occupiers of the building and the sole use is as a private members club. It is in their best interests to

ensure that the proposed plant would not cause a noise nuisance for the occupiers of the overnight rooms. The consideration is therefore of the noise generated by the proposed plant, is confined to the impact on the neighbouring properties and not the application property itself.

A revised acoustic report was submitted in January 2018 to take into account the relocated condenser units, the upgraded noise attenuation and the removal of an unauthorised condenser unit at 45 Clarges Street. The latest acoustic report is based on background noise measurements taken in December 2017. It establishes that the measurements taken in December 2017 are consistent with those taken in September 2016 and sets out that the lowest background noise level is 50dB for 24hours. An objector has commented that the acoustic report does not include weekend background noise levels. The Council's Environmental Health Officer (EHO) has confirmed that whilst it is advised that acoustic reports include this data, this is not a specific requirement.

A supporting statement from the design, installation and maintenance engineer clarifies that the background noise levels have been re-tested and differ from those presented in the original report; the sound equipment was positioned closer to the adjoining property, and not able to take into account the sound levels in the centre of the lightwell. The applicant considers the levels presented in the revised acoustic report dated 11 December 2016 by Anglia Consultants to be a fair and accurate reflection of existing background noise levels.

An objector has commented that the acoustic report does not show a drop off in background noise levels at night. The applicant has confirmed that the plant has been switched off for the acoustic surveys, and the EHO has advised that it is possible the background noise results may indicate other plant in the locality which is not connected to the application site.

An objector has raised concern that the proposed restaurant condenser would be louder than other units and has not been included in the calculations. The EHO has confirmed that this condenser has been included in the submitted acoustic report.

An objection also raises concerns that the reverberant nature of the acoustic screen has not been accounted for in the acoustic report. The EHO has confirmed that this is the case. In this particular instance, the acoustic report has used a façade correction of 3 dB in their calculations, which is not specifically required. It is considered that by accounting for the façade correction, the calculations made in the acoustic report have offset the reverberant level and there is no concern with regard to the impact of the reverberant levels on noise.

To comply with the City Council's noise criteria, the plant is required to operate 10dB below the background noise levels with the design level criterion at the nearest noise sensitive receptor being 40dB. The plant is not tonal and is indicated to operate over a 24 hour period.

The nearest noise sensitive windows are 9m away. In order that the design criteria is achieved 1m outside the nearest residential window, the applicant is proposing to install

lead acoustic screens to both the third floor roof level and the main roof level (under the fire escape).

An objector has raised concern that the proposed screening, when installed would inhibit air flow and is contrary to manufactures specification. The applicant states that there are no details in the manufacturer's details relating to 'Precautions for Safety'. They comment further that there are recommendations to avoid obstructions, but the principal reference around the units relates to reserving sufficient space for installation or servicing, not air flow. The EHO have recommended that the onus is on the applicants M&E installer and the Acoustic consultant to provide a scheme which will operate effectively. There is no objection from Environmental Health with this regard.

Environmental Health officers have confirmed that the application, subject to the installation of the acoustic screening outlined in the acoustic report is likely to comply with the City Council's standard noise conditions and have raised no objection to the proposal. Therefore, it is not considered sustainable to refuse the application on these grounds.

#### **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.

The applications are not CIL liable.

#### **8.11 Environmental Impact Assessment**

The scale and type of proposed development does not require full the submission of an Environmental Impact Assessment or provide opportunities for additional sustainability measures.

#### **8.12 Other Issues**

Objections have been received which raise issues relating to the ability to install works that were the subject of previous 1995 consent. However, it appears from the planning history that the application in 1995, which included plant, was withdrawn prior to determination. There was a further consent in August 1995, but this did not include air conditioning. Given that the time limit to implement these consents has expired, these works would require the benefit of planning and listed building consent.

An objector has commented that the proposed 'split' system which requires 11 units is unreasonable, since the number of units could be reduced by adopting a Variable

Refrigerant Volume (VRV) system. The planning application can only be assessed on its merits, and no proposals for a VRV system have been forthcoming. It is not considered sustainable to refuse the application on the grounds that there may be alternative systems which could be installed.

An objector raises concerns that the submitted existing plans show plant machinery, which is unauthorised. Whilst it is noted that the annotations on the drawings could be more concise, officers are aware the plant on site is unauthorised, and the proposals have been assessed on this basis. It is considered inappropriate to present existing plans which do not show plant which is already on site – albeit that it is unauthorised.

An objector raises issues of health and safety. It is the responsibility of the applicants to ensure that they can undertake maintenance safely in accordance with the relevant legislation, it is not within the remit of planning legislation to account for this.

An objector has raised concern that the proposed scheme is un-viable. The viability of the proposals are not a material planning consideration in this instance. Should the works not be carried out, then an enforcement investigation would proceed accordingly.

An objector refers to an alleged unauthorised unit at No. 65 Clarges Street, which has increased background noise levels. The applicant has responded to say that the unit in question is likely to have been installed following planning and listed building consent being permitted for eight units on the roof of the property in 1995. They also state that the applicant first had an interest in the property in 2004; however, they do not now have any interest in the property. The plant serves an office and operates during normal working hours.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Environmental Health, dated 25 October 16, 22 December 2016, 8 June 17, 30 January 18 and 03 May 18.
3. Response from Residents Society of Mayfair and St James's, dated 1 December 2016, 27 June 2017, 04 July 2017 and 15 March 18.
4. Letters from occupier of 2nd Floor Flat, 5 Half Moon Street, dated 28 September 2016, and 28 June 2017
5. Letters from occupier of 9 De Walden Court, 85 New Cavendish Street, dated 10 August 2016, 4 November 2016, 18 January 2017, 13 June 2017, 10 July 2017, 11 July 2017, 13 February 2018, 14 February 2018, and 16 February 2018.
6. Letters from Stephenson Harwood LLP on behalf of the occupier of 9 De Walden Court, 85 New Cavendish Street dated 17 July 2017, 2 August 2017 and 17 November 2017, 10 January 2018, 23 February 2018, 12 March 2018.
7. Letter from The Kennel Club dated 07 February 2018
8. Letter from the occupier of 8 Ryegrass Close, Walderslade, dated 09 February 2018
9. Letter from a Fox Club member dated 01 May 2018
10. Letter from the occupier of Sanson Seal House, Berwick upon Tweed, dated 01 May 2018

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

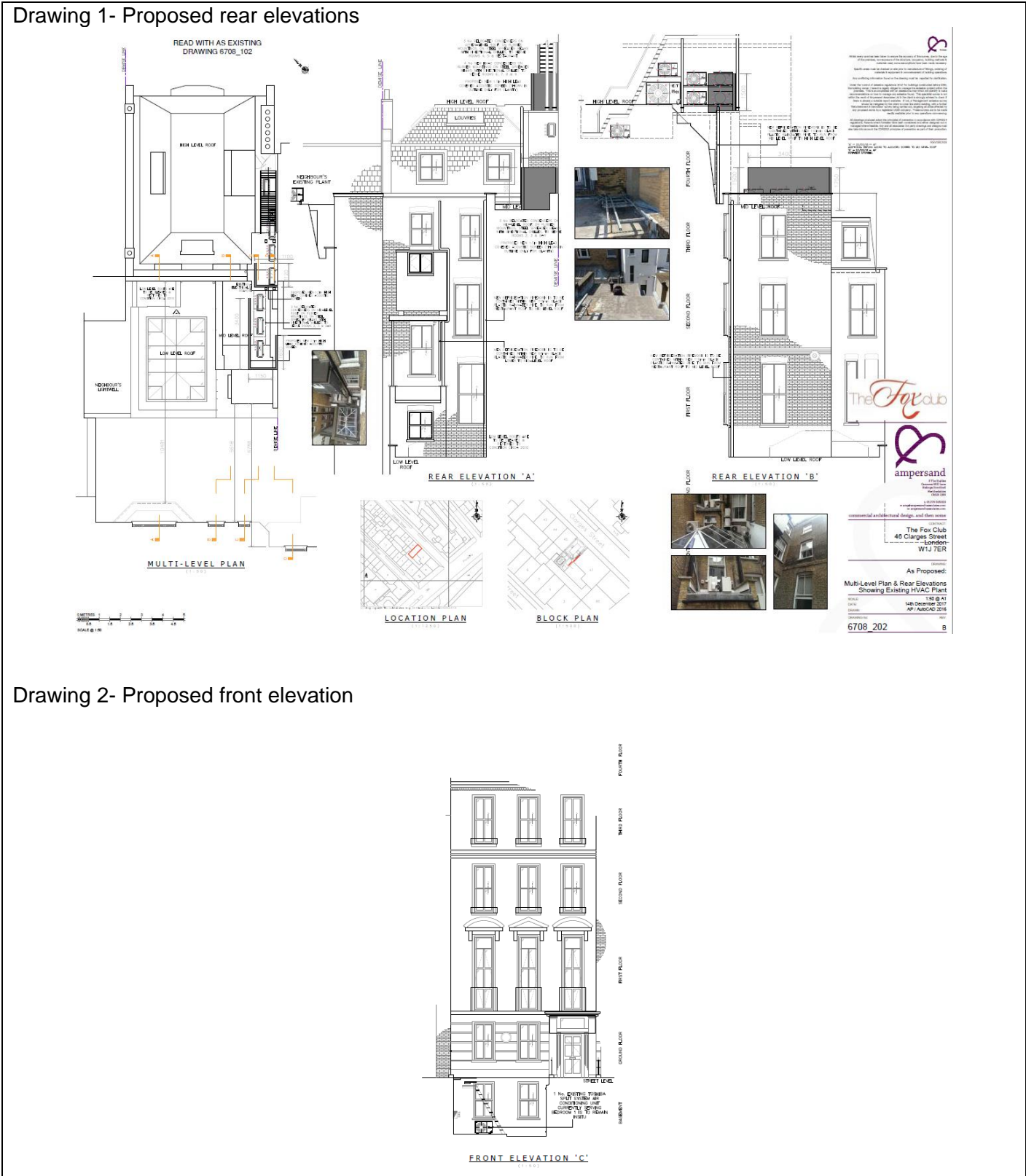
Item No.
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<b>7</b>
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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: HELEN MACKENZIE BY EMAIL AT <a href="mailto:hmackenzie@westminster.gov.uk">hmackenzie@westminster.gov.uk</a>
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10. KEY DRAWINGS

Drawing 1- Proposed rear elevations

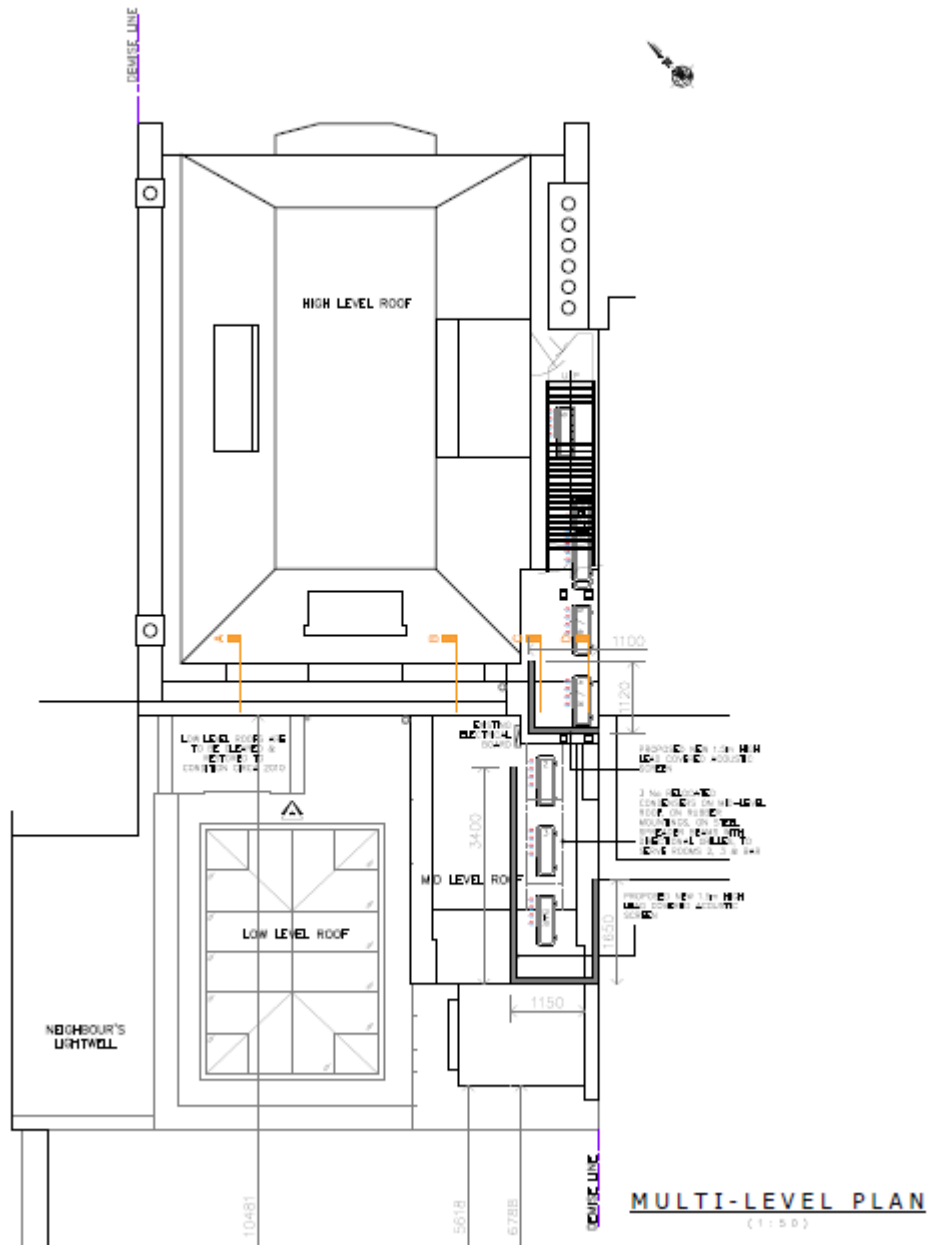


Drawing 2- Proposed front elevation

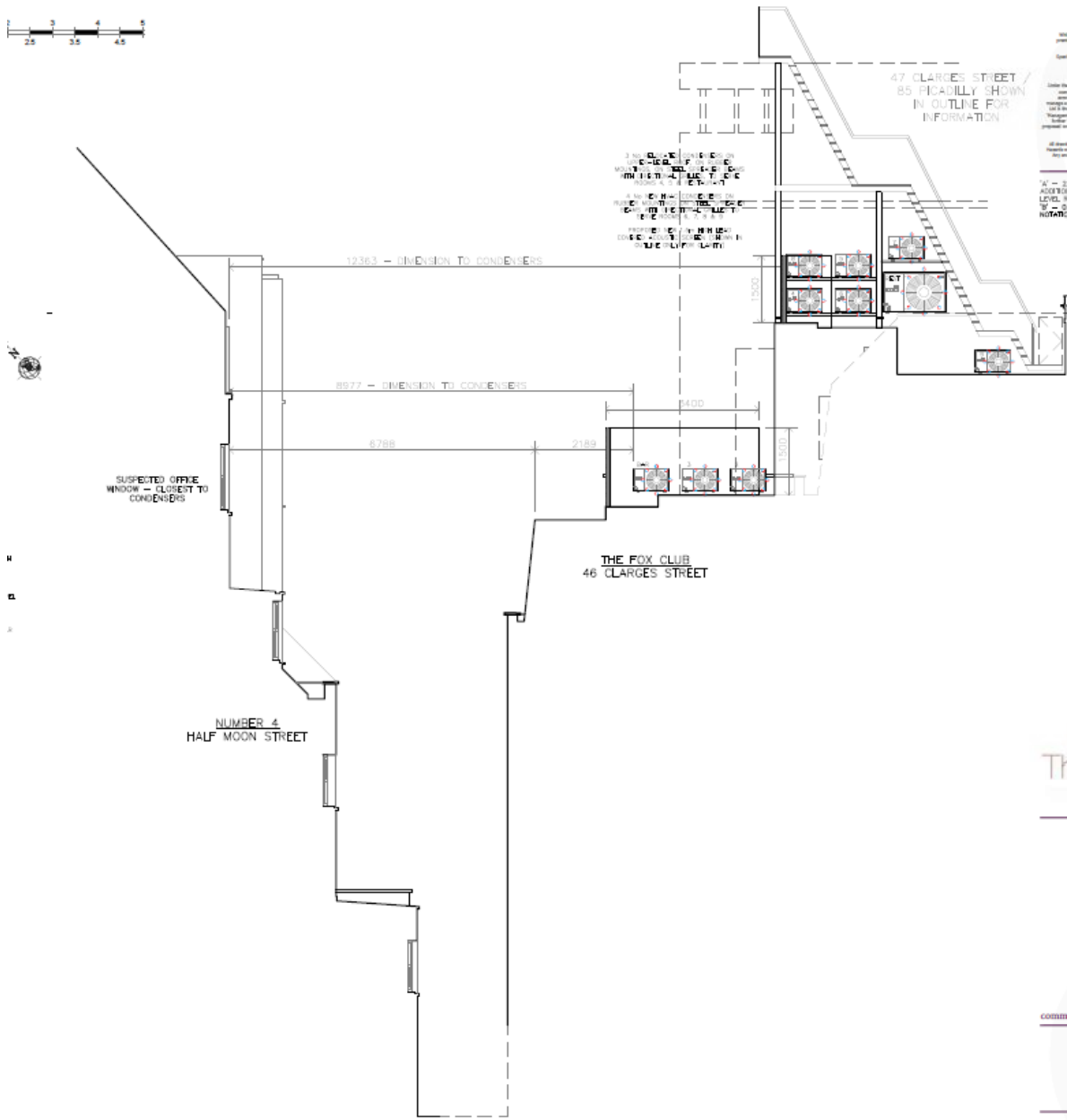
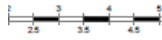




Drawing 3: Proposed Multi level roof plan



# Drawing 4: Proposed Section



Attention has been taken to ensure the accuracy of this survey, and in the event of a dispute, the surveyor's certificate, completed in accordance with the provisions of the Building Act 2004, shall be relied upon.

Each floor level must be checked on site prior to construction of the building. Any building information found on the drawing must be reported for the client.

Under the terms of contract 02/07 for building completed before 2008, the building owner is responsible for ensuring the building is compliant with the provisions of the Building Act 2004. The architect is not liable for any compliance issues that arise after the completion of the building. The architect's liability is limited to the design of the building and the preparation of the building information. The architect is not responsible for any compliance issues that arise after the completion of the building.

All drawings prepared under the provisions of contract 02/07 are the property of the architect and shall remain the property of the architect. The architect is not responsible for any compliance issues that arise after the completion of the building.

14 - 22/02/18 - AP  
 ADDITIONAL RETURN ADDED TO ADJUSTED SCREEN TO ME LEVEL 1000  
 15 - 22/02/18 - AP  
 NOTATION UPDATED

SECTION THROUGH 'D'-'D'  
 (1:1000)

The Fox Club

ampersand  
 8 The Mall  
 Cannon Mews  
 London W1J 7EJ  
 020 7739 5858  
 info@ampersand.com  
 www.ampersand.com

commercial architectural design, and then some

CONTRACT  
 The Fox Club  
 46 Clarges Street  
 London  
 W1J 7EJ

DRAWN  
 As Proposer  
 Section D-I  
 Showing Adjacent Building

**DRAFT DECISION LETTER**

**Address:** 46 Clarges Street, London, W1J 7ER,

**Proposal:** Retention of one external air handling unit within the front lightwell. Relocation of six external condensers and the installation of four new external condensers (three at mid roof level and seven at upper roof level) with associated acoustic screening. Retention of internal wall mounted air conditioning units to bedrooms 1, 2, 3, 4 and 5.

**Reference:** 16/07360/FULL

**Plan Nos:** 6708\_201 Rev A, 6708\_202 Rev B, 6708\_203 Rev B, 6708\_204 Rev B, 6708\_205 Rev B, 6708\_206 Rev B, 6708\_207 Rev B

**Case Officer:** Gemma Bassett

**Direct Tel. No.** 020 7641 2814

**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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

- o between 08.00 and 18.00 Monday to Friday;
- o between 08.00 and 13.00 on Saturday; and
- o not at all on Sundays, bank holidays and public holidays.

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 (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.

- 4 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.

- 5 You must install all the screens as shown on approved drawing 6708\_202 Rev B and 6708\_204 Rev B before you use the machinery. You must then maintain the screens in the form shown for as long as the machinery remains in place.

Reason:

To protect the environment of people in neighbouring properties and to make sure the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair conservation area and to protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9 and DES 10 (A) and paras 10.108 to 10.146, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 6 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES

10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

**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 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.,
  - \* Window cleaning - where possible, install windows that can be cleaned safely from within the building.,
  - \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained, \*
  - \* Lighting - ensure luminaires can be safely accessed for replacement.,
  - \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).,

More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm).

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)
  
- 3 Conditions 3 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
  
- 4 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

Item No.
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<b>7</b>
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**DRAFT DECISION LETTER**

**Address:** 46 Clarges Street, London, W1J 7ER,

**Proposal:** Retention of one external air handling unit within the front lightwell. Relocation of six external condensers and the installation of four new external condensers (three at mid roof level and seven at upper roof level) with associated acoustic screening. Retention of internal wall mounted air conditioning units to bedrooms 1, 2, 3, 4 and 5.

**Reference:** 16/07361/LBC

**Plan Nos:** 6708\_201 Rev A, 6708\_202 Rev B, 6708\_203 Rev B, 6708\_204 Rev B, 6708\_205 Rev B, 6708\_206 Rev B, 6708\_207 Rev B

**Case Officer:** Gemma Bassett

**Direct Tel. No.** 020 7641 2814

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

- 1 The works 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 You must install all the screens as shown on approved drawing 6708\_202 Rev B and 6708\_204 Rev B before you use the machinery. You must then maintain the screens in the form shown for as long as the machinery remains in place.



**Reason:**

To make sure the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair conservation area and to protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9 and DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations. The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest. In reaching this decision the following were of particular relevance: S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.3 and 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.