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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 10 July 2018 | Classification For General Release | |
| Report of Director of Planning | | Ward(s) involved West End | |
| Subject of Report | 75 - 77 Brook Street, Mayfair, London, W1K 4AD, | | |
| Proposal | Demolition and redevelopment to provide a new building comprising sub-basement, lower ground, ground and part six / part seven upper storeys with roof terrace at part seventh floor, flexible / alternative office (Class B1) / retail (Class A1) on ground and lower ground floors, office (Class B1) on upper floors, installation of plant at seventh floor level, and associated works. Internal works at ground floor to link with part of No.73 Brook Street. (Linked with 1 Green Street) | | |
| Agent | DP9 Ltd | | |
| On behalf of | Sentia Limited | | |
| Registered Number | 18/01277/FULL | Date amended/ completed | 14 February 2018 |
| Date Application Received | 14 February 2018 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Mayfair | | |

1. RECOMMENDATION

1. Grant conditional permission subject to the completion of a S106 agreement to secure:

- a) The completion of the residential at 1 Green Street as approved on 9 April 2018 (RN: 17/01298/FULL) (prior to occupation of the office accommodation at this site);
- b) The completion of the office accommodation (within 6 months of the occupation of the residential at 1 Green Street);
- c) Carbon off-set payment to the value of £14,400 towards the Council's carbon offset fund (index linked and payable on commencement of development);
- d) Compliance with the Code of Construction Practice;
- e) The costs of monitoring the S106 legal agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:

- a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefit listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;

(b) The Director of Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefit which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

75 Brook Street comprises of basement, ground and two upper floors. This building is wholly in office use. 77 Brook Street has a basement, ground and three upper floors and is primarily in office use, although there is a residential flat at third floor level.

Planning permission was granted at the site in 2017 for demolition and redevelopment to provide an office (Class B1). The existing residential flat was to be relocated as part of a land use swap with 1 Green Street.

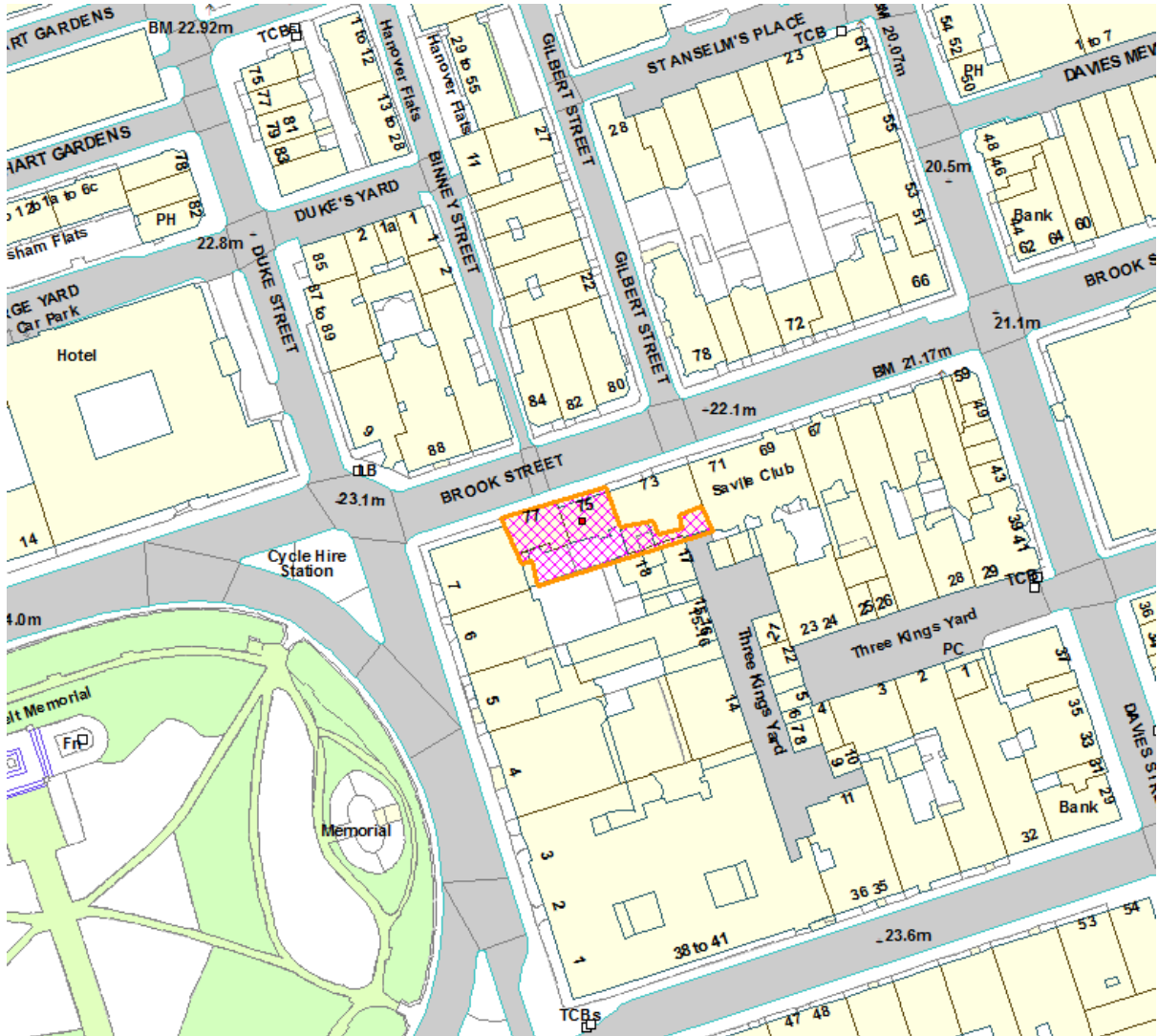
Planning permission is sought to allow the demolition and redevelopment of the site to provide a new building comprising of sub-basement, lower ground, ground and part six / part seven upper storeys with roof terrace at part seventh floor. A flexible / alternative office (Class B1) / retail (Class A1) is proposed at ground and lower ground floors, with office (Class B1) on the upper floors. Associated mechanical plant is also proposed on the seventh floor within an acoustic enclosure. The proposal will also create a ground floor link with the adjoining building at 73 Brook Street.

The key issues for consideration are:

- The land-use implications including the loss of residential;
- The impact of the demolition of the building on the Mayfair Conservation Area;
- The impact on neighbouring residential amenity.

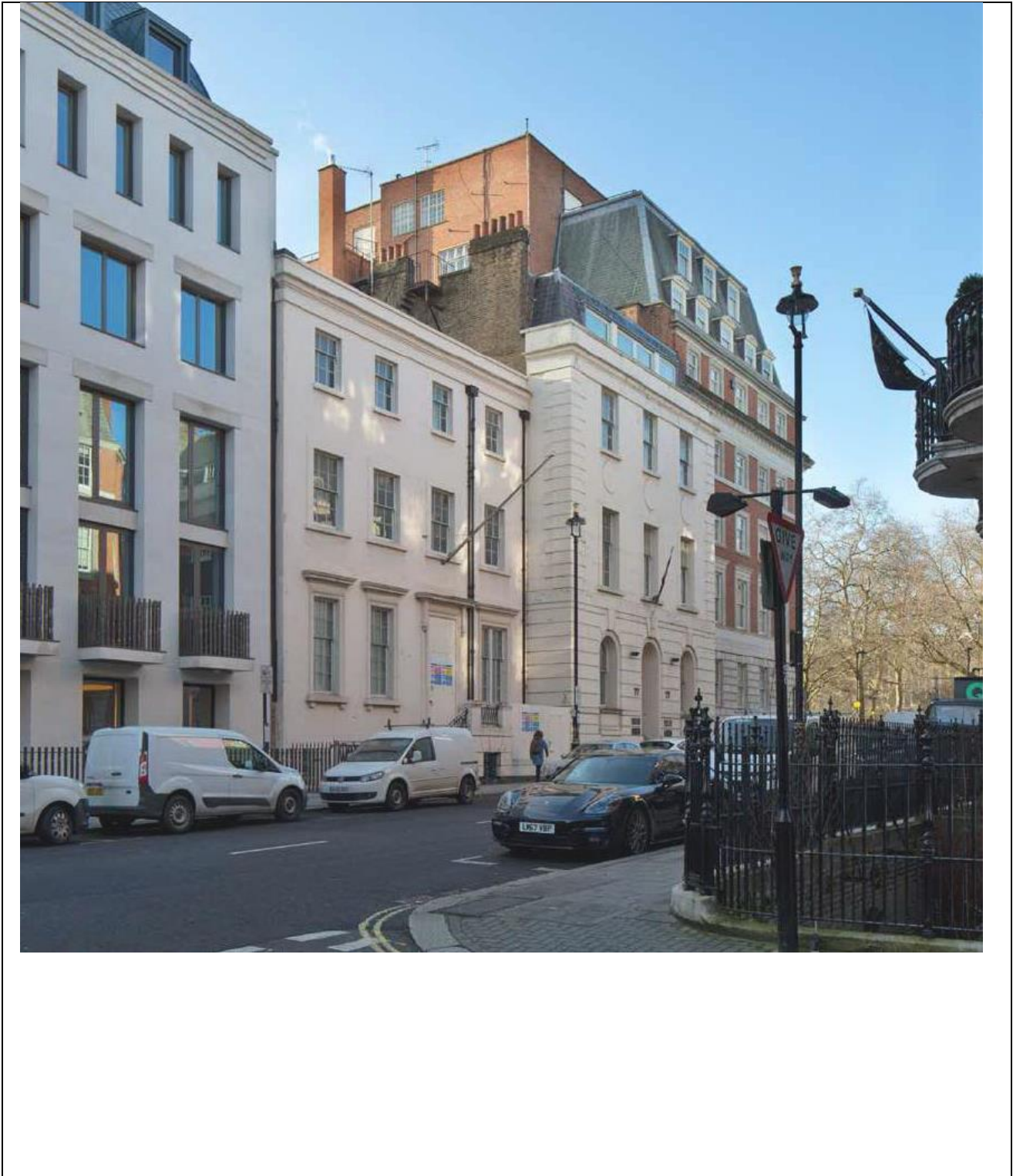
The scheme is considered acceptable in land use terms as the residential floorspace lost on this site is to be re-provided at 1 Green Street. This will be secured by legal agreement. It is not considered that the proposed use would negatively impact on residential amenity. While the proposals are not in accordance with all of the Council's design policies and are considered to cause harm to the Mayfair Conservation Area, this harm is less than substantial and is on balance outweighed by the public benefits of the proposals. The scheme is therefore recommended for approval, subject to legal agreement, and overall complies 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



5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally

HIGHWAYS PLANNING

No objection subject to conditions

CLEANSING

No objection subject to conditions

ENVIRONMENTAL HEALTH

No objection subject to conditions

BUILDING CONTROL

No objection

LONDON UNDERGROUND LIMITED

No comment

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 78

Total No. of replies: 0

THAMES WATER

No objection following submission of further information

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

75 and 77 Brook Street are two buildings located within the Mayfair Conservation Area and the Core Central Activities Zone (CAZ).

They both date from 1925-6. 75 Brook Street comprises of basement, ground and two upper floors. This building is wholly in office use. 77 Brook Street has a basement, ground and three upper floors and is primarily in office use, although there is a residential flat at third floor level.

6.2 Recent Relevant History

There are a number of relevant planning permissions both at this site, and the linked site at 1 Green Street, and properties immediately adjoining the site, as set out below.

The Application Site

Planning permission was granted at the site on 25 January 2017 (RN: 16/04188/FULL) for demolition and redevelopment to provide an office (Class B1) building comprising of

basement, ground and five upper storeys. External terraces at rear ground, fourth and roof levels and installation of plant at roof level. This permission formed part of a land use swap with 1 Green Street, the history of which is set out below.

The applicant has advised during the determination of this application that they have since commenced demolition work on site on the 25 April 2018 to implement the above permission (and have retrospectively applied to discharge the pre-commencement condition which requires compliance with the Council's code of construction practice).

1 Green Street

Planning permission and listed building consent (RN: 15/07795/FULL and 17/01299/LBC) were granted on 25 January 2017 for the use of the first to fourth floors for residential use providing four self-contained residential units (2 x 1 bed and 2 x 2 bed units) and other internal and external alterations.

This application formed part of a land use swap with 75-77 Brook Street (noted above) with a legal agreement ensuring that the scheme, as a whole, would secure the provision of both the office and residential uses to ensure that there is no net loss of either use.

A slightly amended scheme was granted more recently at the site (RN: 17/01298/FULL and 17/01299/LBC) were granted on 26 May 2017. These later permissions were tied into the previous S106 agreement by a deed of variation. Grosvenor Estate are responsible for implementing the permission on this site. The applicant has confirmed that works are currently under way to implement the permission.

73 Brook Street

Planning permission was granted on 07 October 2014 (RN:14/01806/FULL) for the demolition of existing building and erection of a new building comprising basement, ground and first to sixth floor levels. This building was permitted to be used as B1 office accommodation. The permission also allowed for the creation of a rear garage space to be accessed from Three Kings Yard, installation of plant at basement, sixth and main roof levels, solar panels at main roof level and installation of balconies at first floor level to the front of the property.

This permission has subsequently been implemented and is now occupied in accordance with the permission.

Three Kings Yard

Planning permission was granted on 20 June 2016 (RN: 17/02520/FULL) at 17a, 17B And 18 Three Kings Yard (to the rear of the application site) for the demolition of the existing building and redevelopment to provide a five storey building (consisting of lower ground, ground and first to fourth floor levels) with 10 residential units. This application also has balconies/terraces on the rear elevation. This permission has not yet been implemented.

The existing building at this site is four stories and in residential use as a number of individual residential properties.

7. THE PROPOSAL

Planning permission is sought to allow the demolition and redevelopment of the site. The new building will comprise of sub-basement, lower ground, ground and part six / part seven upper storeys with roof terrace at part seventh floor.

A flexible / alternative office (Class B1) / retail (Class A1) is proposed at ground and lower ground floors, with office (Class B1) on the upper floors. Mechanical plant is proposed to be installed on the seventh floor flat roof at seventh floor level within an acoustic enclosure, and associated works.

The proposal also includes internal works at ground floor to link the new building with the adjacent building at 73 Brook Street.

The key differences between this proposal and the approved scheme at the site are that the building is larger in footprint, height and bulk with an additional floor at sub basement floors. This proposal also introduces an alternative retail (Class A1) use of the ground and lower ground floors.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The existing and proposed land uses and floorspace figures for the proposal are set out in the table below.

| Use | Existing GIA (sqm) | Proposed GIA (sqm) | +/- |
|--|--------------------|--------------------|-------|
| Office (Class B1) | 933 | 1878 | +945 |
| Flexible Office(B1) / Retail(Class A1) | 0 | 432 | +432 |
| Residential (Class C3) | 85 | 0 | -85 |
| Total | 1018 | 2310 | +1292 |

Existing and proposed floorspace figures for 75-77 Brook Street

As the proposal will be linked to the previous permission for the land use swap at 1 Green Street, it is necessary to consider the floorspace provisions on both sites as a composite package.

The existing and proposed areas for the consented schemes at 1 Green Street are set out in the table below.

| Use | Existing GIA (sqm) | Proposed GIA (sqm) | +/- |
|------------------------|--------------------|--------------------|------|
| Office (Class B1) | 501 | 0 | -501 |
| Residential (Class C3) | 0 | 563 | +563 |
| Retail (Class A1) | 310 | 258 | -52 |
| Total | 811 | 821 | +10 |

Consented existing and proposed floorspace figures at 1 Green Street

The overall comparative floorspace figures for the proposed development at the site and the consented scheme at 1 Green Street are set out in the table below.

| Use | Existing GIA (sqm) | Proposed GIA (sqm) | +/- |
|--|--------------------|--------------------|-------|
| Office (Class B1) | 1434 | 1878 | +444 |
| Flexible Office (B1) / Retail (Class A1) | 0 | 432 | +432 |
| Residential (Class C3) | 85 | 563 | +478 |
| Retail (Class A1) | 310 | 258 | -52 |
| Total | 1829 | 3131 | +1302 |

Overall comparative floorspace figures for the proposed development at the site and the consented scheme at 1 Green Street

Land Use Swap

As a standalone scheme, the proposal would result in the loss of a residential flat, contrary to Policy S14. However, City Plan policy CM47.1 allows the swapping of uses between sites and for land use packages in order to maximise the potential of individual sites within the commercial areas of Westminster's Central Activities Zone. A land use swap will be appropriate provided that the sites are in the vicinity of each other; the mixed use character of the immediate area is secured; there is no net loss of floorspace across the site taken as a whole; the uses are appropriate and there is no loss of amenity, any residential accommodation is of a higher quality and the applications are submitted at the same time and all elements are completed within a time frame agreed by the Council.

The principle of this land use swap between both sites has already been accepted as established by the January 2017 planning permission. It is considered that the land use option is still acceptable in this regard and accords with Policy CM47.1 of the City Plan. A legal agreement will ensure that there is no net loss of either office or residential uses.

Increase in Office Floorspace

Policy S20 of the City Plan identifies the need for significant additional office floorspace (Class B1) within Westminster to retain and enhance Westminster's strategic role in London's office sector and support London's global competitiveness.

The Core CAZ is identified as a suitable location for office floorspace in Policies S6 and S20 of the City Plan as offices contribute to the unique and varied mixed use character of the Core CAZ which will ensure the continued vitality, attraction and continued economic success of Central London. The provision of additional office floorspace in this location is therefore acceptable in principle.

Across both site the proposal would result in the potential uplift of 876sqm GIA of office floorspace (Class B1). This is a larger increase compared to the extant scheme which provided a net increase of 177sqm in office floorspace. This is acceptable in principle given the sites location within the Core CAZ and is in accordance with Policy S20 of the City Plan.

Mixed Use Policy

City Plan Policy S1 sets out the circumstances in which development proposals which include an increase in Class B1 office floorspace trigger a requirement to provide new residential accommodation.

Part C of the Policy states that where the net additional floorspace of all uses is more than 50% of the existing building floorspace and more than 400sqm, residential floorspace or an equivalent payment in lieu will be provided, equivalent to the new additional B1 office floorspace less 30% of the existing building floorspace. This provision must be provided in accordance with the cascade set out in the policy.

The proposed net additional floorspace of all uses across both sites is 1302sqm, which is a 71% increase of the existing building floorspace (1829sqm). This requires the provision of 327sqm of residential floorspace, provided in accordance with the policy cascade. This requirement of floorspace is provided for and exceeded by the amount of residential floorspace being provided at 1 Green Street (478 sqm). The provision of the residential floorspace in this location is considered acceptable and in accordance with the policy cascade which requires the residential floorspace to be provided on-site or in the immediate vicinity.

Affordable Housing

The increase in residential floorspace does not trigger the need to provide any affordable housing provision under Policy S16 of the City Plan.

Flexible A1 Retail Use

The lower ground floor and part of the ground floor are proposed to be used for either retail or office use. This area measures 432sqm. Policy S6 of the Westminster City Plan identifies the Core CAZ as an appropriate location for retail (Class A1) uses and encourages the provision of more retail throughout the area. City Plan Policy S21 looks to direct new retail floorspace to the designated shopping centres. The use of the ground and lower ground floors as retail (Class A1) is considered acceptable in principle given the sites location in the Core CAZ.

The Highways Planning Manager has advised that due to the size of the space, should the space be used for food retail, it would be likely to have a detrimental impact on the local road network due to delivery requirement for such uses. Accordingly, a condition is imposed prohibiting food retail should the area be used as A1. Subject to the above condition, the possible new retail use is acceptable.

8.2 Townscape and Design

The existing buildings are twentieth century in origin but in a neo-Georgian / Regency style. They make a positive contribution to the character and appearance of the Mayfair Conservation Area. Demolition is only acceptable if the proposed replacement buildings preserve or enhance the character and appearance of the conservation area.

Brook Street dates from the 1720's. Many of the original Georgian houses survive. On the south side there is the grade 2 starred listed Savile Club (no. 69-71) and two grade 2 listed buildings at nos. 65 and 67. These have stuccoed facades. On the north side of the street are a number of grade 2 and 2 starred listed buildings. These have brick facades. This is a highly sensitive historic street and the design of any new building needs to respond positively to the character of the street and surrounding conservation area.

In January 2017 the City Council granted planning permission for the demolition and replacement of these buildings. This permission has been implemented as demolition has commenced. The permission is for a new building designed on neo-Georgian principles, with brick facades and a mansard type roof. It is seven storeys high, including the basement and roof storeys. This design approach was considered appropriate as it would relate to the Georgian character of Brook Street and this part of the Mayfair Conservation Area.

The current proposals differ significantly from the planning permission scheme. The proposed buildings are taller and a different design approach has been taken.

Plan Form

The existing buildings are set forward of the historic building line in Brook Street. As in the planning permission scheme, the proposed building is set back on the historic building line, with new areas between the building and the pavement. This is beneficial to the street and the Mayfair Conservation Area.

Height and Bulk

The current scheme seeks to create a significantly greater amount of accommodation than the extant scheme. The building has been designed to appear as two buildings; the eastern part is nine storeys and the western part is ten storeys, including lower ground and sub-basement floors. The height increases towards the taller building on Grosvenor Square. The height of the eastern part of the development matches the height of the new adjoining building, no. 73 Brook Street, which is designed by the same architects.

Set back from the facade at the eastern end of the site, adjacent to no. 73 is a large boxy plant room. It relates poorly, in terms of its height, bulk and its design, to the roof at the front of the building. Although this is not readily visible in views from street level, it will be visible from the upper floors of adjacent buildings.

It is considered that it would be more appropriate to carry the height and bulk of the front of the eastern part across the whole site, so that there is a greater contrast between the Brook Street buildings and the larger scale Grosvenor Square buildings. This was achieved in the planning permission scheme. However, the applicant argues that greater height and bulk at the western end to create an incremental stepping down west to east is justified.

Design and Materials

The design approach adopted is very different from the Neo-Georgian of the planning permission scheme. The facades are more contemporary, and the front facade is clad in Portland stone, similar to no. 73. The two facades proposed and the existing building

to the east would create a run of three stone facades, of similar designs, but with a degree of variety in the detailing. They would all have the first and second floor windows combined to form one tall, vertically proportioned element, with a spandrel panel between the two levels. The top floors of the facades would feature narrow, vertically proportioned windows

The floor levels of the new building and no. 73 would line up. This would enable the buildings to be combined to create one large building if this was desirable commercially. Whilst this is not unacceptable in principle, it does mean that the ground floor of the western most part is set partly below street level. This is an unusual arrangement, especially in Brook Street where the ground floors are at or above street level.

The proposed materials are natural Portland Stone for the front facade, with the additional use of glazed terracotta to frame the metal windows. Hamhill stone is also proposed for the top floor of the eastern facade. The rear facade is clad in brickwork. The proposed roof storeys are steeply pitched, with curved tops, and are clad in metal shingles, with narrow dormer windows. This is a deliberately modern design approach, making reference to the new building at no. 73.

Design Conclusion

The current proposals are not as deferential to the existing historic character of Brook Street as the planning permission scheme, in terms of the proposed height and bulk and the facade design. They are related to the new building at no. 73, rather than the Georgian character of much of the street. However, in the context of no. 73, the design approach could be considered acceptable.

The aim to create more floorspace on the site compared to the planning permission scheme results in some urban design and conservation compromises. The height and bulk, including the proposed plant room, are considered harmful to the character and appearance of this part of the Mayfair Conservation Area. This harm is 'less than substantial'. However, in assessing these proposals that harm has to be weighed in the balance, as required by the NPPF. If there are public benefits to outweigh the harm to heritage assets (the Mayfair Conservation Area) then planning permission should be granted.

Overall Harm and Benefits

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention needs to be paid to the desirability of preserving or enhancing the character or appearance of the Mayfair Conservation Area.

The public benefits of the scheme are considered to be the significant contribution towards the office floorspace target in the CAZ, as set out in Policy S20 of the City Plan, and the creation of more jobs and employment floorspace. The proposals need to be considered in the context of the benefits it provides against the harm to the heritage asset. The scheme will deliver public benefits which outweigh the less than substantial harm to the heritage asset (the conservation area). As such, while the proposal may not be considered to fully comply with all the urban design and conservation policies, it is considered to comply with the City Council's development policies when taken as a whole.

8.3 Residential Amenity

Council records indicate that the closest residential properties are at 5 and 6-7 Grosvenor Square, immediately adjoining the building to the west. Other nearby residential properties includes 17B and 18 Three Kings Yard abutting the site to the south east.

Sunlight and Daylight

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used.

Under the BRE guidelines the amount of daylight received to a property may be assessed by the Vertical Sky Component 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. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change.

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. If the level of sunlight received is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, then the loss would be noticeable. Only those windows facing within 90 degrees of due south require testing.

A daylight and sunlight report has been submitted as part of the application which assesses the impact of the development on Nos.5 and 6-7 Grosvenor Square and both the existing and consented buildings at 17-18 Three Kings Yard.

The report demonstrates that all windows assessed at No.5 Grosvenor Square are fully compliant with BRE daylight and sunlight requirements. The largest loss in VSC is 6.62%, well below the threshold above which losses in daylight are considered to be noticeable is 20% VSC. There is no effect on APSH at this property

In relation to the flats at No. 6-7 Grosvenor Square, none of these windows experienced any material losses of daylight in the extant scheme. When compared to that scheme, only two windows would now experience losses of more than the 20% threshold (23.96% and 20.63% respectively). One window serves a bedroom and the other window adversely affected is served by another window in the same room that is not affected. However, when compared to the baseline figures, 14 windows are shown to breach BRE guidance with VSC losses of between 21.94% and 37.32%. However, the retained values in these rooms are still considered to be acceptable considering the location of the properties in this dense urban area. (6 of these windows would still retain values of between 15.79 and 24.03). There are no losses in APSH at this property.

The existing building at No.17-18 Three Kings Yard experience a number of losses in VSC which breach BRE guidance, ranging mostly between 20.1% - 38.9% but with one

as high as 82.5%. With regards to this high loss in VSC and some of the other losses, it is recognised that these windows have a particularly low baseline levels of VSC (the window with the largest loss currently only experiences 1.43 VSC). As a result, any change in massing to the application site would create a disproportionately high percentage change with only small absolute changes. Additionally, the window with the largest loss is located below a balcony. Given the relatively small absolute changes which the proposal would have on VSC levels for these properties, the relatively minor losses in VSC are not considered to materially worsen the living conditions of the existing accommodation. The report demonstrates that there are not likely to be any losses in APSH at the existing property.

The assessment of the consented scheme at No.17-18 Three Kings Yard shows that, as with the existing property, a number of windows will experience losses in VSC in excess of the BRE guidance (ranging from 26.2% - 42.32%) however, as before, these windows have low baseline levels of VSC and would experience small absolute reductions. The report shows that there will not be any losses in APSH at the proposed property.

Sense of Enclosure

The proposed new building will have a larger footprint. The majority of this increased footprint is created by increasing the depth of the building at the rear, adjacent to the side elevation of No. 18 Three Kings Yard. The development will create a large, full height (rising to sixth floor) blank flank elevation against the boundary wall No. 18 Three Kings Yard. The existing buildings are set back from the boundary wall by some distance at ground, first and second floors. The previously consented scheme at this site was also set back from the boundary wall at the rear at ground to third floors (albeit not to the same extent as the existing building), and then stepped back at fourth and fifth floors.

Policy ENV13 of the UDP states that the City Council will seek to ensure new developments do not result in a 'significant increase in the sense of enclosure'. It is acknowledged that the occupants of No. 18 may feel more 'closed in' than at present. However, the rear windows in 18 Three Kings Yard do not directly face the application site and it is therefore not considered that the resulting relationship between the site and the adjoining residential building would result in an unacceptable degree of enclosure to reasonably withhold planning permission.

Furthermore, should the approved scheme at Nos. 17a, 17B And 18 Three Kings Yard be implemented, the new building here will occupy a larger footprint than the existing building with a rear closet wing adjoining the current application site with windows and balconies largely facing south west, away from the application site. If this scheme is implemented it is considered that there would be a subsequent reduction in any increased sense of enclosure to these properties in Three Kings Yard.

Privacy

The proposal includes a large flank wall facing the Three Kings Yard properties at the rear. This wall is blank and would therefore not result in any overlooking or loss of privacy to the residential properties at the rear.

Windows are proposed which are set back from the rear but these have been located at a distance from the neighbouring residential properties, with privacy fins incorporated, such that oblique views from the site are minimised.

The proposed terrace at seventh floor is set back behind the building line as it is atop a mansard structure. It only provides views across Brook Street towards Nos. 80, 82 and 84, which all appear to be in office use. It is therefore not considered that there will be any loss of privacy to surrounding properties as a result of the terrace.

8.4 Transportation/Parking

The Highways Planning Manager has advised that, given the high level of public transport accessibility to the site, the proposed development is unlikely to result in any significant increase in demand for on-site parking in the vicinity. The proposed cycle storage provision is considered acceptable and in line with the requirements of the London Plan. The cycle storage will be provided as shared facilities between No. 73 Brook Street (retaining the existing approved amount of storage) and will be accessed via the rear of No.73, as is currently, through Three Kings Yard. The provision of this will be secured by condition.

The Highways Planning Manager has raised concern regarding the lack of details regarding servicing of the site. The site is located within a Controlled Parking Zone, which means that loading and unloading is allowed to occur. It is requested that in order to minimise the impact of servicing on the public highway, a servicing management plan is recommended to be secured via condition.

8.5 Economic Considerations

The economic benefits of a more intensive use of the site as a result of the increase in both retail and office floorspace are welcomed.

8.6 Access

Level access is to be provided and in the event that the lower floors are used for retail purposes level access will be provided through the existing entrance at 73 Brook Street.

8.7 Other UDP/Westminster Policy Considerations

Noise

The proposed development includes a roof terrace at seventh floor fronting onto Brook Street. This is largely shielded from the properties at No. 6-7 Grosvenor Square by the form of the seventh floor office accommodation. The properties at Three Kings Yard are somewhat shielded from the terrace by the proposed plant enclosure. Due to concerns regarding potential late night noise from use of the terrace, it is considered necessary to restrict the hours which the terrace can be used (between 08:00-21:00 Monday Friday only) by condition.

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.

Mechanical plant will be located at the flat roof at seventh floor level within a plant enclosure and in part of the sub-basement. Calculations indicate that with the specified noise attenuation measures and distance attenuation the plants will be compliant with the City Council's noise criteria. The operational hours of the plant will be restricted to those recommended by Environmental Health (07:00-23:00 Monday – Friday) and assessed in the acoustic report by condition. The installation of the plant enclosure will also be secured by condition.

Environmental Health note that the specific plant for the proposal has not yet been chosen so have requested a supplementary acoustic report be submitted once the choice is made.

Refuse /Recycling

The applicant has provided details of waste and recycling storage at basement level which are considered acceptable and will be secured by condition. The Cleansing Officer has requested that the applicant provide a temporary storage area for waste at ground floor level however the extant scheme site did not require such a facility. It is considered that a condition ensuring that no waste is left on the highway unless immediately prior to collection would be sufficient to overcome these concerns.

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

The draft 'Heads' of agreement are proposed to cover the following issues:

- i) The completion of the residential at 1 Green Street as approved on 9 April 2018 (RN: 17/01298/FULL);
- ii) The completion of the office accommodation (within 6 months of the occupation of the remainder of the residential at 1 Green Street);
- iii) Carbon off-setting to the value of £14,400;
- iv) Compliance with the Code of Construction Practice;
- v) The costs of monitoring the legal agreement.

Officers consider that these 'heads' satisfactorily address the City Council policies, the Supplementary Planning Guidance and the CIL Regulations.

The estimated CIL payment is :

- Mayoral CIL: £87,647.53
- Westminster CIL: £216,369.74
- Total: £304,017.27

8.11 Environmental Impact Assessment

Policy 5.2 of the London Place refers to minimising carbon dioxide emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be Lean-Use less energy,
2. Be Clean-Supply energy efficiently,
3. Be Green-Use renewable energy.

Policy 5.2 E of the London Place states that where specific targets cannot be fully achieved on site, any shortfall may be provided off-site or through a cash in lieu contribution to secure delivery of carbon dioxide savings elsewhere.

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture.

Policy S39 of the City Plan states that major development should be designed to link and extend existing heat and energy networks in the vicinity, except where the City Council considers that it is not practical or viable to do so.

The applicant has submitted an Energy and Sustainability Strategy. Measures to provide a resource-efficient building on the site include the provisions of suitable glazing ratio to balance heat losses and gains, various fabric insulations, use of passive design and high efficiency mechanical ventilation and heat recovery. The developer has provided information relating to the efficiencies with the structure of the new building.

The development is anticipated to secure 14% CO₂ savings which is below the 35% target set by the London Plan. (The previously approved scheme at this site secured 16.4% CO₂ savings) However, the applicant has agreed to make a policy compliant contribution of £14,400 towards the Council's carbon offset fund to make up the shortfall in carbon reduction. The fund is used to enhance the energy efficiency or installing renewable energy infrastructure on public or community buildings. This will be secured by S106 agreement.

8.12 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 sites throughout Westminster. It applies to all major developments from September 2016.

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.

Furthermore, City Plan Policy S29 states that: *“The development of major infrastructure projects and where appropriate, other projects with significant local impacts will need to mitigate, avoid or remedy environmental and local impacts, both in construction and operation, and this will be achieved through compliance with the relevant parts of the Council’s Code of Construction Practice.”*

The proposal is included within the Code by virtue of it being a major application. Compliance with the Code will be secured by condition. As works have commenced on site for the previous permission, compliance with the Code will be secured through the legal agreement instead of by the standard condition.

Basement

The proposal includes the creation of a basement level. The proposed basement development is compliant with the City Plan policy on basement development (Policy CM28.1). As the proposed basement will be entirely contained within the footprint of the building, it is not considered the policy requirements regarding landscaping, loss of trees etc. are applicable in this instance.

Building Control have assessed the proposed basement, the accompanying structural method statement, the method of construction, underpinning and safeguarding of the neighbouring sites and confirmed that these are acceptable. They have confirmed that an investigation of existing structures and geology has been undertaken and found to be of sufficient detail. The existence of groundwater, including underground rivers, has been researched and the likelihood of local flooding or adverse effects on the water table has been found to be negligible. The Building Control Officer has confirmed that the means of escape from the basement is also acceptable.

Thames Water

Thames Water have submitted comments in relation to the proposed works. The initially raised objection to the lack of information regarding the waste water infrastructure needs of this application and requested a drainage strategy be secured by condition. However, following the submission of additional information from the applicant, they are now satisfied with this aspect. No objection was raised to the water infrastructure capacity

(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: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

9. KEY DRAWINGS

Existing/Demolition Front Elevation



Existing North Elevation

Proposed Front Elevation



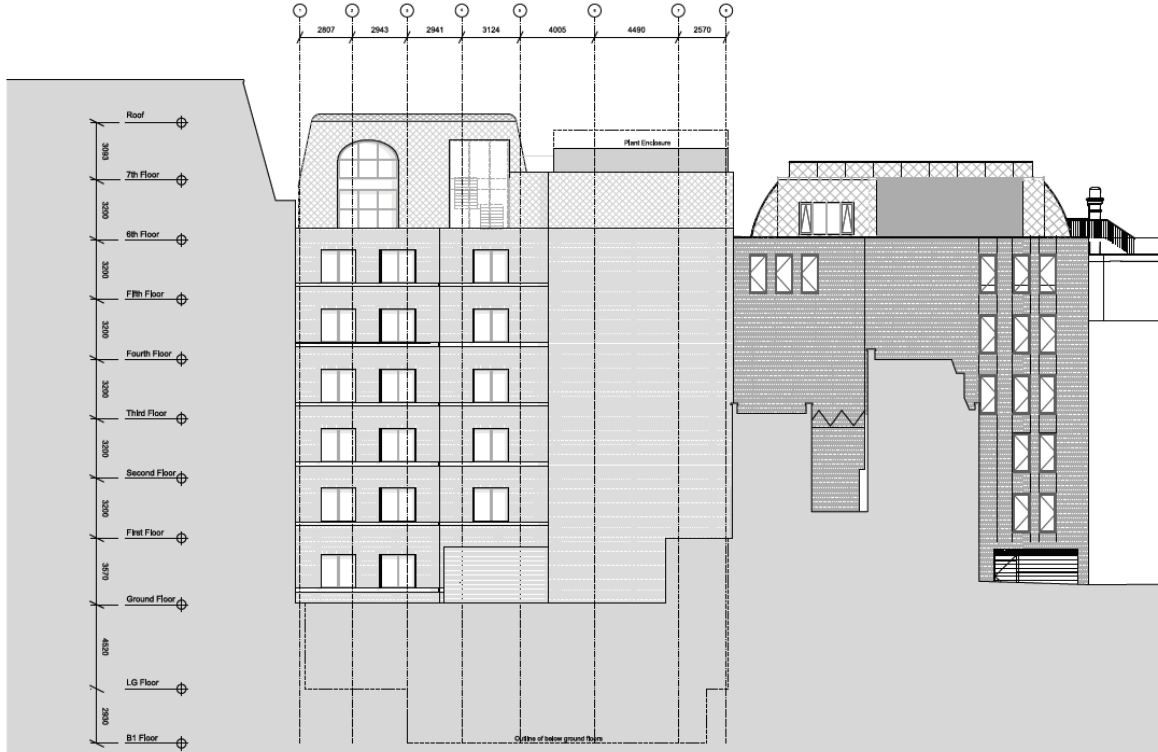
Proposed Brook Street Elevation

Existing/Demolition Rear Elevation



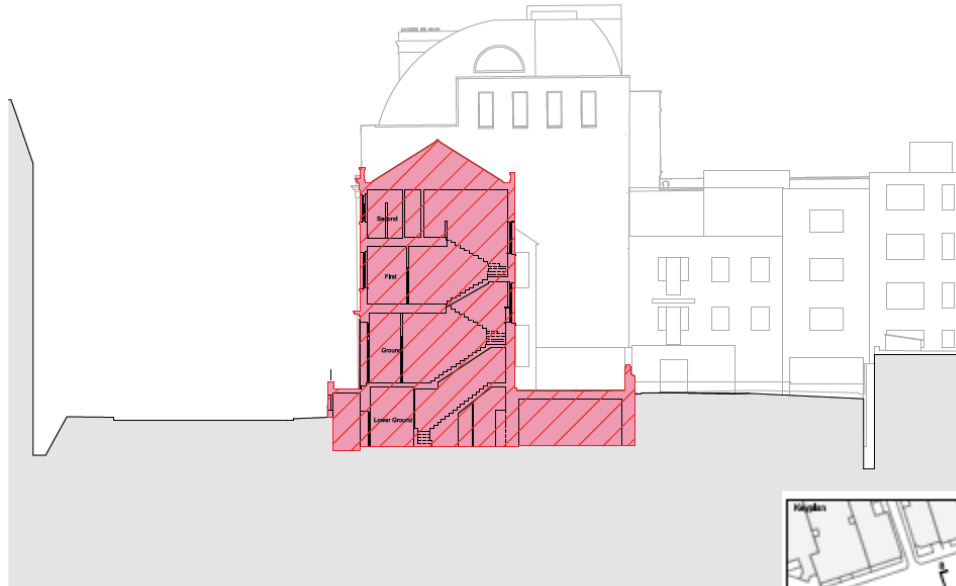
Existing South Elevation

Proposed Rear Elevation



Proposed South Elevation

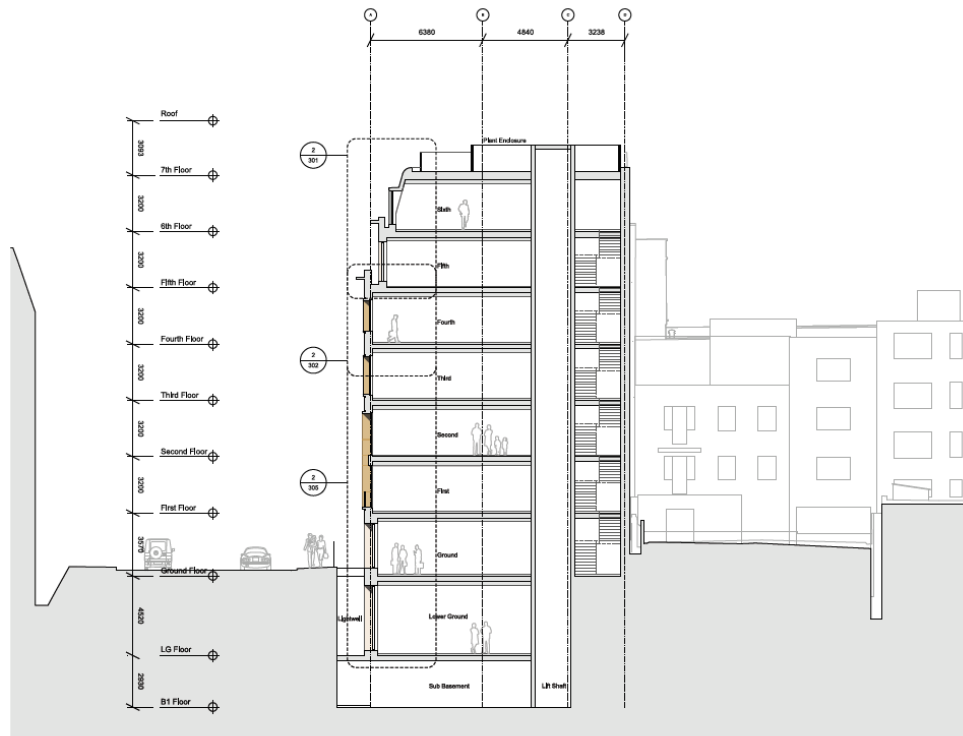
Existing/Demolition Section B-B



Existing Section B-B

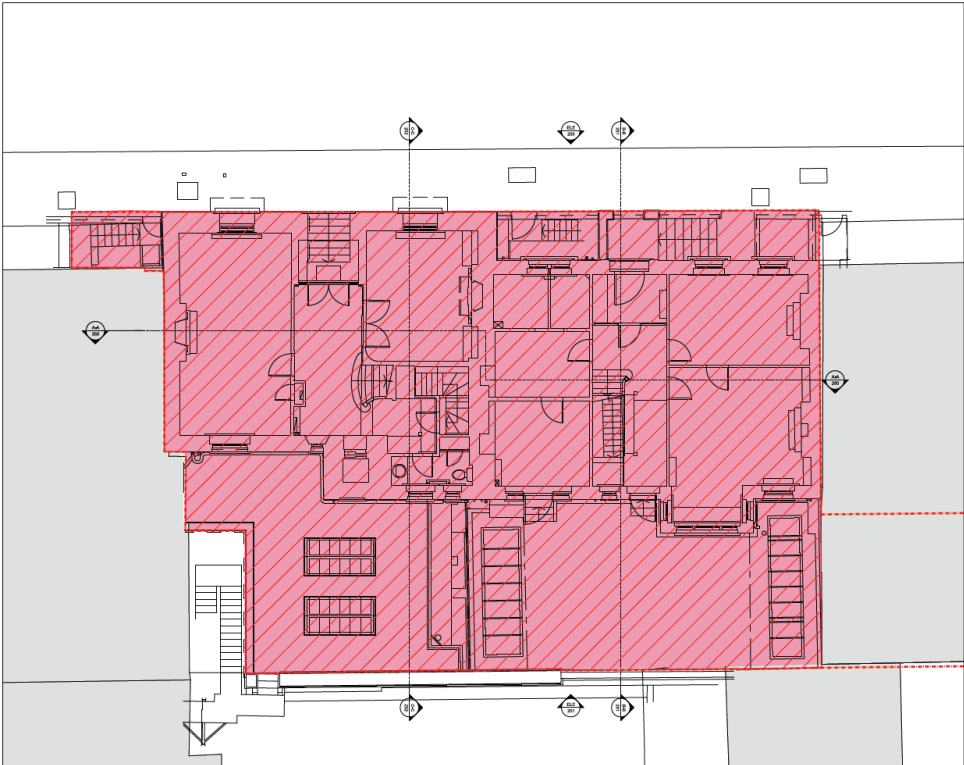


Proposed Section B-B

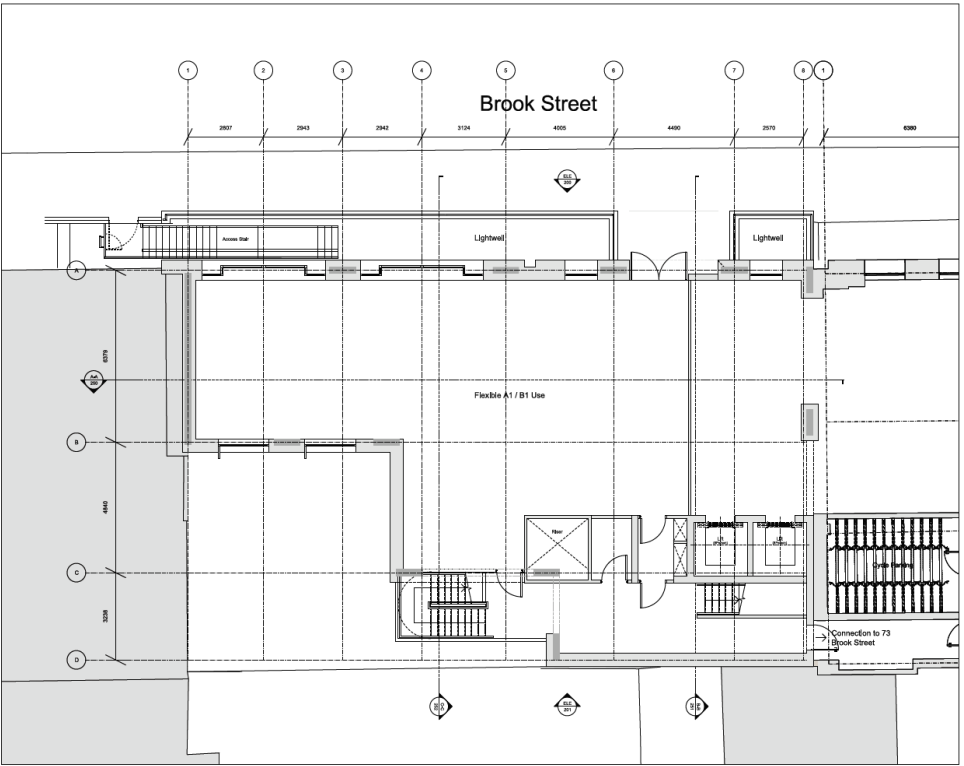


Proposed Section B-B

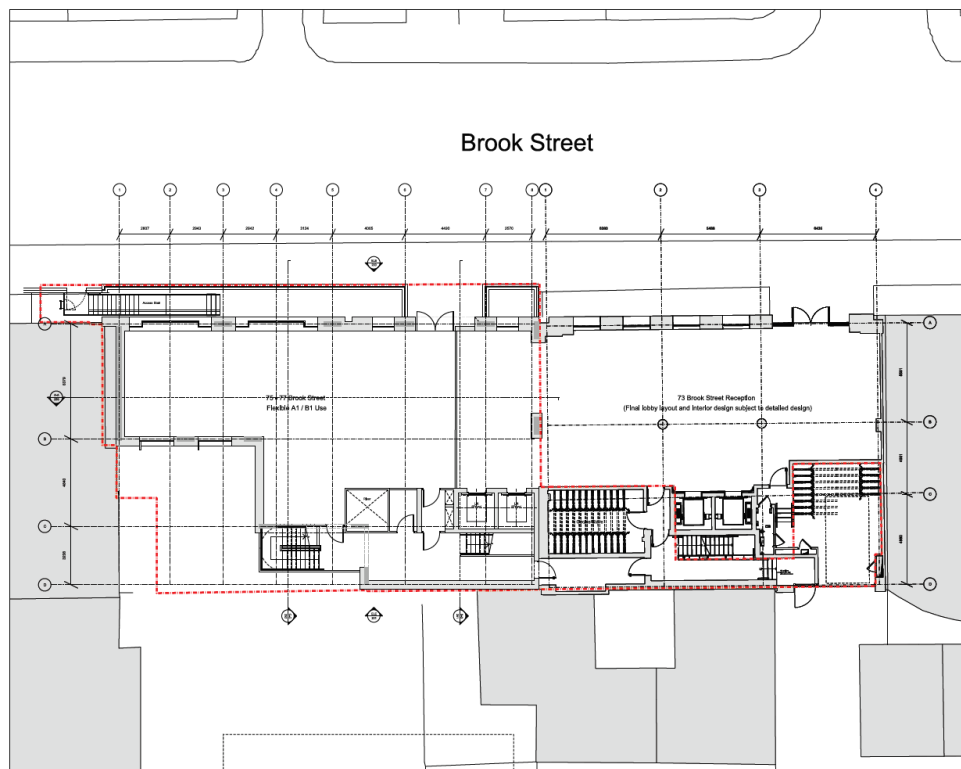
Existing/Demolition Ground Floor



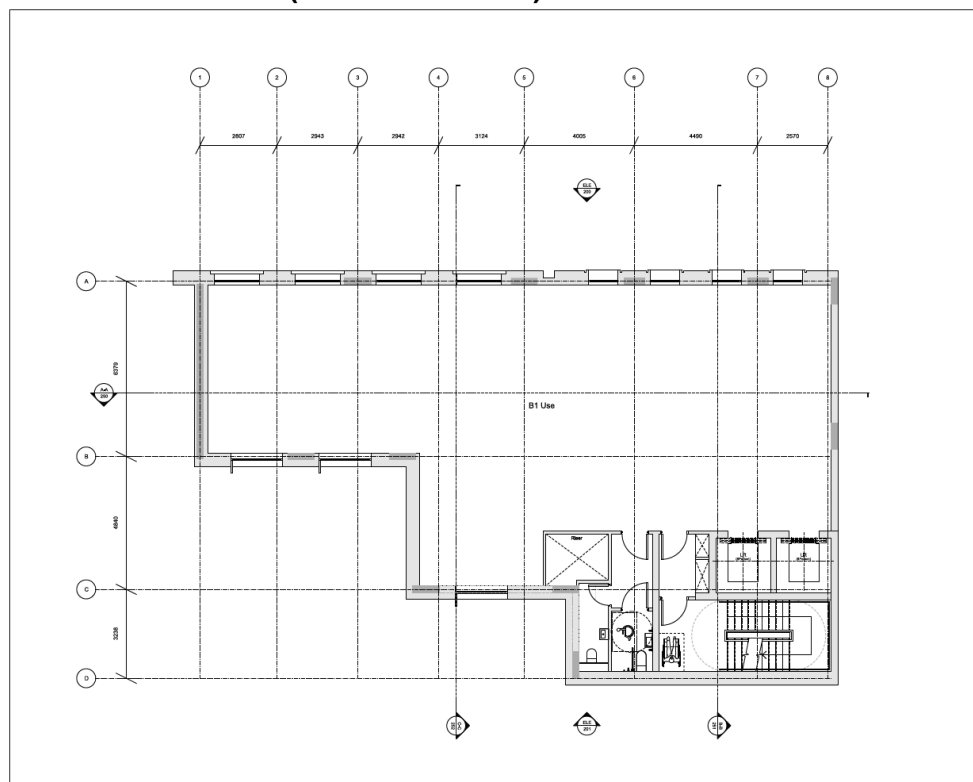
Proposed Ground Floor



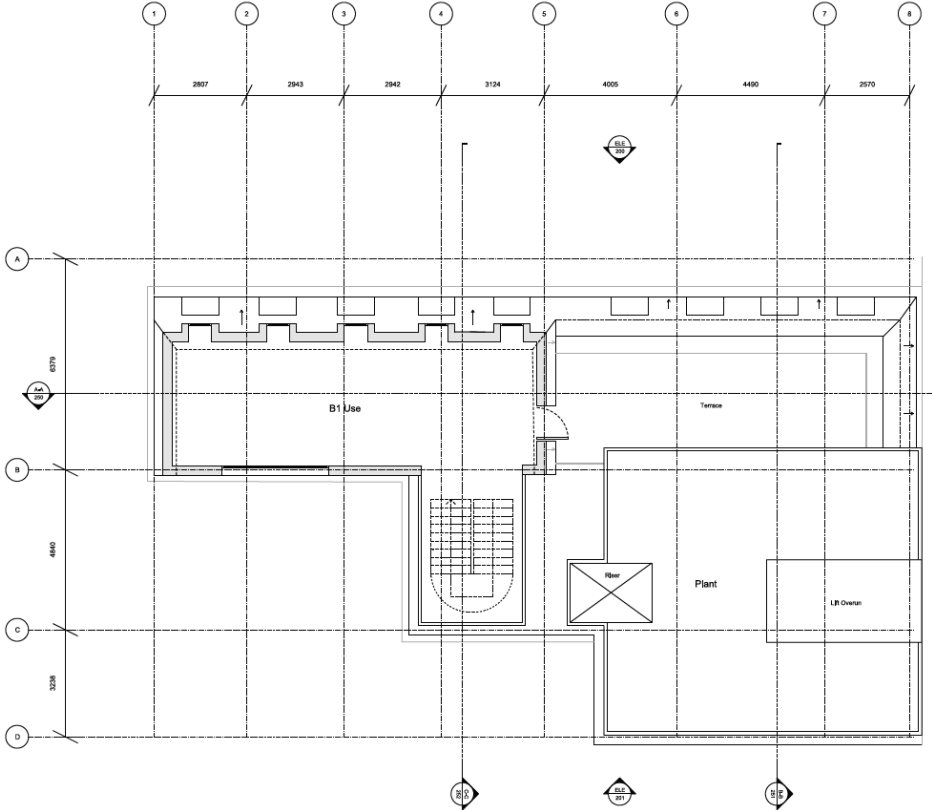
Proposed Ground Floor Plan Including No.73 Brook Street



Proposed Indicative Floor Plan (3rd and 4th Floors)



Proposed 7th Floor



DRAFT DECISION LETTER

Address: 75 - 77 Brook Street, Mayfair, London, W1K 4AD

Proposal: Demolition and redevelopment to provide a new building comprising sub-basement, lower ground, ground and part six / part seven upper storeys with roof terrace at part seventh floor, flexible / alternative office (Class B1) / retail (Class A1) / retail art gallery (Class A1) on ground and lower ground floors, office (Class B1) on upper floors, installation of plant at seventh floor level, and associated works. Internal works at ground floor to link with part of No.73 Brook Street. (Linked with 1 Green Street RN: 17/01298/FULL)

Plan Nos: Demolition Drawings:
1487-A-PLN-099-EX ; 1487-A-PLN-100-EX ; 1487-A-PLN-101-EX ; 1487-A-PLN-102-EX ; 1487-A-PLN-103-EX ; 1487-A-PLN-104-EX ; 1487-A-PLN-105-EX ; 1487-A-ELE-200-EX ; 1487-A-ELE-201-EX ; 1487-A-ELE-202-EX ; 1487-A-SEC-250-EX ; 1487-A-SEC-251-EX ; 1487-A-SEC-252-EX

Proposed Drawings:
1487-A-PLN-098 Rev. B ; 1487-A-PLN-099 ; 1487-A-PLN-100 ; 1487-A-PLN-101 ; 1487-A-PLN-103 ; 1487-A-PLN-105 ; 1487-A-PLN-106 ; 1487-A-PLN-107 ; 1487-A-PLN-108 ; 1487-A-PLN-110 ; 1487-A-ELE-200 ; 1487-A-ELE-201 ; 1487-A-ELE-202 ; 1487-A-SEC-250 Rev. A ; 1487-A-SEC-251 ; 1487-A-SEC-252 ; 1487-A-DET-301 ; 1487-A-DET-302 ; 1487-A-DET-303 ; 1487-A-DET-304 ; 1487-A-DET-305 ; 1487-A-DET-306 ; 1487-A-DET-307 ; 1487-A-DET-308 ; 1487-A-DET-501 ; 1487-A-DET-502 ; 1487-A-DET-503 ; 1487-A-DET-504 ; 1487-A-DET-505

Case Officer: Adam Jones

Direct Tel. No. 020 7641 1446

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

- 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 You must apply to us for approval of a sample panel of stonework and 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 Mayfair 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, 1:5) of the following parts of the development -

1. Typical front and rear facade details at all levels
2. Roof storey

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 Mayfair 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 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 6 The Brook Street facades shall be clad in natural Portland stone.

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 Mayfair 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)

- 7 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) the retail (Class A1) accommodation hereby approved shall not be used as a food retail supermarket unless otherwise agreed in writing by the City Council as local planning authority

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 8 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 Mayfair 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)

- 9 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 Mayfair 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)

- 10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 11 You must not occupy the building allowed by this permission until a Service Management Plan has been submitted to and approved by the City Council. You must not commence the B1 or the A1 use until we have approved what you have sent us. You must then carry out the measures included in the servicing management plan at all times that the B1 (office) and A1 (retail) is in use.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 12 (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.

- 13 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.

- 14 The plant/machinery hereby permitted shall not be operated except between 07:00-23:00 Monday - Friday.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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.

- 15 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect the environment of people in neighbouring properties, as set out in 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. (R13BC)

- 16 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 12 and 13 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.

- 17 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 18 You must provide the waste store shown on drawing 1487-A-PLN-098 Rev. B before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the property. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

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)

- 19 The terrace hereby permitted shall not be used between 21:00 and 08:00 Monday to Fridays and at no time on Saturdays and Sundays except in an emergency.

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)

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 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.
- 3 With regards to Condition 11, the Servicing Management Plan (SMP) should outline how servicing will occur on a day to day basis for the application site, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations.

The SMP should also identify storage locations, staffing arrangements, scheduling of deliveries, and likely delivery vehicle size. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction or a danger to highway users.
- 4 Conditions 12, 13, 14, 15 and 17 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)
- 6 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.

- 7 The term 'clearly mark' in condition 18 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 8 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 9 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to the provision of residential floorspace at Site 2, the provision of £14,400 towards carbon off-setting and the costs of monitoring the legal agreement .
- 12 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:
- * Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/risk/index.htm.

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.