

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 14 August 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	47 - 49 Rupert Street, London, W1D 7PJ,		
Proposal	Demolition of existing roof structures (excluding chimneys), erection of new mansard roof and associated works in connection the use of the 5th and new 6th floors as 1 x studio; 3 x 1 bed and 1 x 2 bed residential units (providing one additional unit) (Class C3). (Retrospective application) (Site includes 51-53 Rupert Street)		
Agent	The Heritage Practice		
On behalf of	Mr Scott Levy		
Registered Number	17/10714/FULL	Date amended/ completed	10 January 2018
Date Application Received	1 December 2017		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application relates to the upper floors of a building comprising flats and ground floor shops, on the west side of Rupert Street. The original top (fifth) floor comprised four studio flats. Permission was granted in 2016 for roof alterations which enabled a bedroom mezzanine to be constructed in each flat, improving the overall standard of living accommodation. Works have not be undertaken in accordance with the approved drawings. A full mansard roof has been erected at sixth floor level and the accommodation has been reconfigured to provide one studio flat, 3 x 1 bed and 1 x 2 bed units, including an additional flat (1 bed) spanning the new sixth floor at 49/51 Rupert Street. An external fire escape gantry has been erected at rear sixth floor level, which links the two main stair cores. This application seeks retrospective permission for the works undertaken and the creation of the additional flat, with modifications including the partial removal of the rear gantry and a railing to the front parapet.

The key issues in this case are:

- The impact of the development upon the amenities of neighbouring occupiers

- The impact of the works upon the appearance of the building and upon the character and appearance of this part of the Soho Conservation Area.

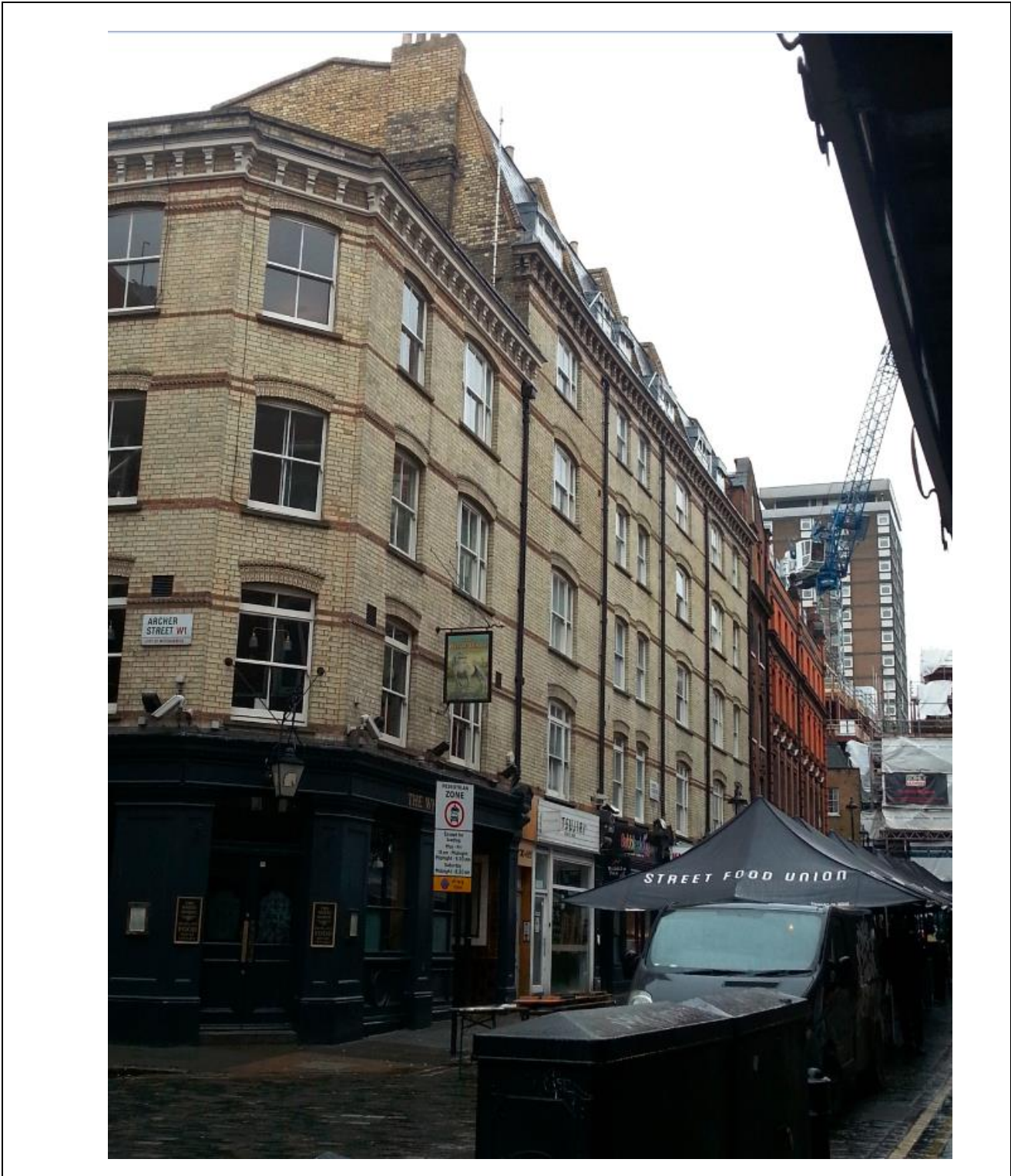
The scheme, subject to the proposed modifications, which would be secured by condition, is considered acceptable in land use, amenity and townscape terms and the application is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

MARK FIELD MP

Accepts that each application must be considered on its merits but believes that refusal of permission would punish flat purchasers and existing residents.

SOHO SOCIETY

Any response to be reported verbally

ENVIRONMENTAL HEALTH

No objection

CLEANSING

Details of refuse storage facilities required.

HIGHWAYS

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 116

Total No. of replies: 25

No. of objections: 2

No. in support: 21

Objections and other comments

Amenity:

- Overlooking to neighbouring properties and communal garden to the rear
- Nuisance from use of fire escape as a balcony
- Unsociable behaviour associated with short-term letting
- Loss of light to adjoining gardens
- Increased sense of enclosure to adjoining gardens

Design:

- Unacceptable height and bulk, roof above height of neighbouring building
- Loss of view of St Anne's Church tower

Land Use:

- Accommodation used as holiday lets which makes no contribution to the housing stock and erodes the sense of community.

Other:

- No neighbour notification prior/consultation in relation to the approved scheme or prior to the works being undertaken

Support

Land use:

- Four of the flats are either owner occupied or let on assured shorthold tenancies
- Concern at the unauthorised work but welcome provision of new living accommodation which contributes to the sense of community in Soho
- Provides improved accommodation compared with approved scheme
- Larger units and an additional flat add to the borough's housing stock; scheme provides a two bed flat, which are in short supply
- Government is likely to revise the National Planning Policy Framework (NPPF) to support the principle of upwards extension to increase available housing

Design:

- The roof extension is sympathetic to the host building and accords with adopted design policies
- The extension is subject to limited views and is in keeping with the character of the surrounding conservation area and its variety of roof forms including many double and triple-height mansards.
- The extension "as built" is not significantly different from the approved scheme
- Limited views of rear gantry, many gantries/balconies on neighbouring buildings including on lower floors of application site
- Westminster City Council guidance on roof extensions has not been updated to reflect the NPPF
- The NPPF states that a Council should not seek to impose architectural styles or particular tastes through the planning process
- Scheme unlikely to impact on view of St Anne's Church given limited height increase

Amenity:

- Development does not adversely affect amenity of neighbouring occupiers in terms of overlooking or loss of light
- Other neighbouring properties have balconies/terraces which overlook the rear space

Fire safety:

- Welcome improvements to fire safety in the building
- Rear escape gantry permits secondary escape for everyone from 4th floor level upwards, and is an improvement compared with the approved scheme.

Impact of additional building works:

- Requirement to demolish structures, and the associated scaffolding, would disturb existing residents and force existing tenants to relocate, would disturb neighbouring residents and businesses, result in a loss of revenue to ground floor shops and would effect only a minor change.
- Unacceptable noise disturbance from additional building works would be untenable

Other:

- Refusal of permission and a requirement to revert to the approved scheme, would be detrimental to the interests of existing owners who purchased the flats in good faith, including from the reduction in property values

- Pursuing enforcement action would be costly and not in the interests of Council tax payers

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is an unlisted building located on the west side of Rupert Street, to the north of Shaftesbury Avenue, between its junctions with Archer Street and Brewer Street. The site, which comprises commercial units on the lower floors and flats above. Is located within the Soho conservation area and the Core Central Activities Zone.

The building backs onto a small communal garden area (Archer Street Gardens). The nearest residential properties are to the south west of the site (9 Archer Street), to the north at 55 Rupert Street, and on the upper floors of 50 and 52 Rupert Street, opposite the site. Other residential properties also overlook the rear of the site, including St James's Residences in Brewer Street.

There is an existing, historic, fire escape stair running down the rear elevation.

6.2 Recent Relevant History

26 January 2015: Permission granted for the demolition of the existing roof structure and erection of mansard roof extension and raised flank wall to provide additional accommodation to four existing fifth floor flats at 47 - 53 Rupert Street. (14/11694/FULL).

Original building

The original building terminated in a flat roof, set behind a secondary roofslope to the front. Two staircase enclosures provided access to the roof via the stair cores at 49 and 53 Rupert Street. The rear parapet rose 1m above the flat roof level with a 0.8m high railing above. Two, 2m high, storage sheds were set inside this rear parapet and railing. It is now apparent that these sheds housed water tanks. The original fifth floor accommodation comprised 2 x studio flats (25 and 26 sqm) at nos. 49 and 53 Rupert Street and 2 x 1 bed flats (35 and 36 sqm) at nos. 47 and 51.

Approved development

Although described as a mansard roof extension, this description of development on the 2015 decision notice does not accurately reflect the nature of the works approved. The application drawings show a continuation of the secondary pitch to the front roof slope to provide the bulk of new accommodation towards the centre of the roof. The height of the rear parapet was to be increased by approximately 200mm and no new windows or doors were shown at the rear. The approved extension sat below the height of the party wall upstand with 55 Rupert Street.

The bedroom accommodation was to be relocated from the fifth floor studios to a new mezzanine level within the extended roofspace. The scheme increased the size of the

four original flats to provide 4 no. (1B/2P) units measuring 44, 45, 53 and 54 sqm (GIA) with living/kitchen and bathroom accommodation on the lower level.

The plans show an internal escape corridor running to the rear of the mezzanine floor to 49 and 51 Rupert Street. This provides a reciprocal means of escape between the mezzanine level of 49 and 53 Rupert Street, providing a reciprocal means of escape linking to the common staircases in both of these buildings.

It was considered that this modest increase in height and bulk would not adversely affect the amenities of neighbouring occupiers. Although two of the extended units did not meet the minimum floorspace standard for a 2 person unit (50 sqm GIA) within the London Plan (2016), the proposals represented a significant improvement in the standard of accommodation offered and was therefore considered acceptable. Additionally, the slight increase in the height of the southern flank wall was not considered to result in any harm to the townscape. The alterations to the roof were considered to have very little visual impact from street level and to improve the general appearance of the roofscape.

7. THE PROPOSAL

Works have been undertaken on site which do not accord with the approved plans and the existing roof extension is not lawful. The current application seeks planning permission to regularise the position.

Permission is sought for the retention of the mansard roof extension to provide a new sixth floor. Compared with the approved scheme there is an increase in height of the front roofslope by approximately 1.3m and an increase in the overall ridge height by 0.82m. The brick parapet and sloping roof to the rear has been replaced by a mansard roof, resulting in an overall increase in height (1.0m) and bulk compared with the approved scheme. The rear roof, which is clad in artificial slates, incorporates new windows/rooflights. Doors at the rear of nos. 47 and 51 lead out onto a cantilevered escape gantry which provides secondary access to both of the two main stair cores from the sixth floor accommodation. To the rear of 53 Rupert Street, this gantry is enlarged to house a storage shed containing two water tanks. The applicant has advised that these water tanks were relocated from the original roof and are required to serve the whole building.

The four original studio flats have been reconfigured/extended to provide

- a 2B/4P duplex apartment on the fifth/new sixth floors of no. 47 (61 sqm)
- a studio flat on the fifth floor of no 49 (27 sqm)
- a1B/2P flat on the fifth floor of no. 51 (36 sqm)
- a 1B/2P duplex apartment on the fifth/new sixth floors of no. 53 (50 sqm).

The scheme also provides an additional 1B/2P flat spanning the new sixth floor of nos. 49 and 51 Rupert Street (50 sqm).

A new/replacement railing has been installed along the front parapet. This railing does not comply with the requirements of the Building Regulations and the submitted drawings confirm that it is to be removed.

More recently, the applicant offered to explore the potential for removing the rear gantry, subject to the advice of the Fire Authority. The application has since been amended to remove the greater part of the rear gantry, other than where it accommodates the water tank shed, and to remove the gantry access door at the rear of 47 Rupert Street. The removal of this gantry, would necessitate some internal re-planning, for means of escape purposes. The plans have therefore been revised to show a new internal corridor within the additional sixth floor flat at 49/51, with no reduction in overall unit size. Letters from the applicant's Approved Building Inspector and the London Fire Brigade, confirm that this proposed arrangement would provide a satisfactory means of escape.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The scheme provides 132 sqm (GIA) of new residential floorspace. The increase in floorspace and the creation of an additional dwelling is considered acceptable in principle in land use terms and accords with policies UDP policy H3 and City Plan policy S14.

Supporters of the scheme have welcomed the improvement in the size/quality of the accommodation and the creation of an additional flat. Some have referred to the fact that the scheme results in the creation of two, 2 bed flats, which the City Plan recognises as being in short supply. However, it is noted that the development includes only one 2 bed unit, which is an extension of an original unit rather than the additional unit.

Compared with the original accommodation on the site (studio flats of 25, 26, 35 and 36 sqm), the extended and reconfigured flats are of greater or equal size. The additional dwelling meets the minimum floorspace requirement in the London Plan and is considered acceptable in terms of the standard of accommodation provided.

Objectors have expressed concern that the accommodation is used for short term letting rather than as permanent residential accommodation, eroding the development's contribution to the sense of local community. It is noted that the owners of one of these fifth floor flats, although supportive of the application, has also expressed concern about short-term letting. However, another flat owner has advised that Flat 5, 47 Rupert Street and Flat 8, 53 Rupert Street are let on Assured Shorthold Tenancies and that the two other fifth floor flats are owner occupied.

Permanent residential accommodation can be let on a short-term basis for up to 90 nights in any one calendar year without the need for planning permission. There is an on-going enforcement investigation into the use of the additional sixth floor flat at 49/51 Rupert Street and also in relation to other flats within the building in respect to exceeding this 90 night limit. It is likely that the additional flat (for which planning permission is now sought) has not been sold or let on a more permanent basis. However, permission is sought for the use of this flat (Class C3) as permanent residential accommodation. Any future unauthorised use of either the original units or the additional flat as temporary sleeping accommodation would be subject to further enforcement investigations. As such, objections to potential short term letting of the flats cannot justifiably form the basis of a recommendation for refusal.

For the reasons set out above, the scheme is considered acceptable in land use terms.

8.2 Townscape and Design

One objection has been received on the ground that the proposed roof extension is of inappropriate height and bulk and rises above the height of neighbouring buildings.

The approved roof extension was in general accordance with the City Council's longstanding design policies and supplementary planning guidance regarding mansard roof extensions, incorporating a single storey steep pitch and then a shallow secondary pitch above. The effect of this approach is to reduce the bulk of the roof, and its visual impact from street level, and was a traditional design in keeping with most mansard roofs in the Soho Conservation Area.

The built roof is much more bulky, and takes the form of a two storey steeply pitched mansard, but with windows in the lower half of the roof only. There are examples of two storey mansards in Soho but they are relatively uncommon and are not normally approved, because they usually harm the appearance and proportions of a building, resulting in a 'roof heavy' development, and because they are not typical of the conservation area. In the current case the bulk of the roof is visible from street level, especially from Winnett Street to the east. It is also visible in more oblique views along Rupert Street, but its visual impact is much less in these views.

At the rear, the addition of an external gantry, which is visible from adjacent buildings, harms the appearance of the building and its contribution to the conservation area. Although there are examples of such fire escapes in Soho, they are usually historic. The City Council has normally resisted granting planning permission for new external means of escape in recent years, as there is usually a means of internal planning which renders them unnecessary. The application has recently been revised to remove the greater part of this rear gantry and to provide an internal escape corridor. This amendment is welcome in townscape terms.

While the front roof slope is finished in natural slate, the rear roof has been clad in poor quality artificial 'slates' even though the approved scheme required the development to be undertaken using matching materials. The applicant has not included the replacement of this rear roof covering with natural slate in this application. However, given that this roof is at high level and at the rear, it is not considered that the use of artificial slate is harmful to the character and appearance of the Soho Conservation Area in this instance.

A new/replacement railing has been erected on the front parapet. This is an inappropriate addition to the façade. The railing would appear to serve no purpose, as there is no safe access route behind the parapet. The application drawings have been updated to show that this railing will be removed. The removal of this railings is proposed to be secured by condition.

In conclusion, it is considered that, although the roof is not fully in accordance with the City Council's policies and guidance on the design of roof extensions, the revised scheme is acceptable, on balance, in urban design and conservation terms. The

applicant has confirmed that remedial works including the removal of the rear gantry and the associated internal re-planning, the removal of the front parapet railing and the internal re-planning will be undertaken within eight months of the date of any permission and a condition is recommended to require all of the proposed modifications to be completed by 14 April 2019.

8.3 Residential Amenity

UDP policy ENV 13 states that the City Council will normally resist proposals which result in a material loss of daylight/sunlight to existing dwellings and will refuse permission where the resulting level is unacceptable. In addition, developments should not result in a significant increase in the sense of enclosure, or overlooking, and should not cause unacceptable overshadowing, particularly on gardens or on adjoining buildings. Policy S29 also states that permission will be refused for developments that would result in a material loss of residential amenity.

8.3.1 Daylight/Sunlight

The application is supported by a daylight/sunlight reports which assesses the impact on neighbouring properties, including flats at 9 Archer Street and windows on the upper floor of the neighbouring public house at 45 Rupert Street, and flats on the upper floors of 55 Rupert Street and opposite the site on the upper floors of 50 and 52 Rupert Street. The report also assess the impact on the Geilgud Theatre (opposite).

Objections have been received from an neighbouring resident on the grounds that the increased building height has slightly reduced the amount of light received to the communal garden at the rear of Archer Street Chambers and St James's Residences, which has affected some planting in the garden.

i Daylight

Under BRE guidelines, if the Vertical Sky Component (VSC), which is the amount skylight available at the centre of a window, is greater than 27%, enough light should still be reaching the window. Where, as a result of the development, this figure is below 27% and less than 0.8 (or 20%) of its former value, the reduction in light to that room will be noticeable. Where rooms are served by more than one window of the same size, any loss of light to these individual windows can be considered as an average.

The use of the affected rooms has a major bearing on the weight afforded to the effect on residents. Consequently, living rooms, dining rooms, studies and large kitchens (if they include dining space) are afforded more protection than non-habitable rooms such as stairwells, bathrooms, small kitchens and hallways. Additionally, principal living rooms are afforded more protection than bedrooms. The BRE guidance is clear that the advice given is not mandatory and that in some cases e.g. in historic city centres, " a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings". It also states that an assessment of relative impact figures should be treated cautiously as, where an existing value is low, a small reduction in real terms can appear as a large relative impact when, in practice, the loss would be barely perceptible.

The daylight analysis shows that all but one of the windows tested complies with BRE guidance. Where there are losses, the majority are between 1 and 6%, with maximum losses of up to 9% in the case of a few windows. All windows would continue to receive good levels of natural light. The only exception is one window to a high level conservatory to the adjoining property at 55 Rupert Street, which would see a reduction in VSC of 29%. All other conservatory windows would be unaffected and therefore the impact upon this conservatory is acceptable.

The BRE guide states that where room layouts are known, the impact on the daylighting distribution can be found by plotting the 'no sky line' (NSL) in each of the main rooms. The no sky line is a line which separates areas of the working plane that do and do not have a direct view of the sky. Daylight may be adversely affected if, after the development, the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value. The accompanying daylight distribution analysis shows that any reductions in NSL would be limited to 4% and that the aforementioned conservatory would be unaffected.

ii Sunlight

BRE guidelines state that access to sunlight should be checked for all neighbouring main living (habitable) rooms which have a window facing within 90 degrees of due south. Windows which face 90 degrees of due north do not need to be tested as they have no expectation of sunlight. The BRE guidance acknowledges that kitchens and bedrooms are of less importance, but states that in the case of these rooms care should be taken 'not to block too much sun'.

If the tested window receives more than one quarter of annual probable sunlight hours, including at least 5% of annual probable winter sun (during the winter months between 21 September and 21 March), then the room should still receive enough sunlight. Any reduction in sunlight below this level should be kept to a minimum. If available sunlight hours are both less than the amount given, less than 0.8 (20%) of their former value (either over the whole year or just during the winter months) and greater than 4% over the whole year, then the loss of sunlight will be noticeable.

Where there are any reductions in the levels of annual sunlight received to neighbouring residential properties these would be well below the 20% threshold, and all windows would continue to receive good sunlight levels, many far exceeding sunlight targets. Reductions in winter sunlight are limited. Most windows would continue to see winter sunlight level far exceeding 5% and all windows would achieve the minimum target.

The neighbouring communal garden is located to the west of the application site. The BRE guide recommends that at least 50% of the area of each amenity space listed above should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sunlight on 21 March is less than 0.8 times its former value, then the loss of light is likely to be noticeable. The submitted report confirms that the development would not create any new areas which receive less than two hours of sunlight on 21 March and the proposed development satisfies the relevant BRE test.

In these circumstances, it is not considered that the development would have a material impact upon levels of daylight and sunlight received to neighbouring properties and amenity spaces and objections relating to the impact on the amenity of the communal garden cannot be supported.

8.3.2 Sense of enclosure

An objection has been received on the grounds that the increase in building height has resulted in an increased sense of enclosure to the open space at the rear of the site. However, given that the original building rose six floors above the rear garden levels, with a brick parapet/railing to the rear and 2m storage sheds on the roof, rising above parapet height, it is not considered that the erection of the mansard roof, and the increase in rear height and bulk compared with the approved scheme, would materially affected the enjoyment of the rear garden area.

Similarly, given the relationship of the proposed extension to neighbouring properties, it is not considered that the increase in roof level height and bulk would have a material impact on the sense of enclosure from neighbouring windows.

8.3.3 Overlooking/noise disturbance/nuisance

Objections have been received on the grounds that the proposal results in a loss of privacy to flats in St James' Residences, Brewer Street and Archer Street Chambers and to the communal garden at the rear of the Archer Street property, which is used by resident families. Objectors report that the rear fire escape gantry has been used as a balcony resulting in overlooking, general noise, late-night disturbance and littering, including dropping cigarette ends/beer bottles into the garden below. The owner of one of the fifth floor flats has also referred to "unsociable behaviour" from some of the building occupants.

Given their relationship with neighbouring properties, it is not considered that the new sixth floor rear windows would afford direct views into neighbouring properties or would result in any material increase in the degree of overlooking into neighbouring garden area, given that there are windows on the lower floors of the application building which currently overlook these spaces.

A condition could have been imposed to prevent the use of the rear gantry other than in the case of emergency. However, given that the gantry is now to be removed, which would address the objections received, such a condition is unnecessary.

8.3.4 Loss of views

An objection has been received from the occupier of a flat in St James's Residences, Brewer Street on the grounds that the construction of the additional floor results in the loss of views of the Church Tower and clock to St Anne's Church, Wardour Street. Whilst any loss of private views is regrettable, this is not a material planning consideration and permission could not justifiably be withheld on these grounds.

In view of the above, and subject to appropriate conditions, it is not considered that the modified proposal would adversely affect the amenities of neighbouring occupiers and would therefore comply with policies ENV 13 and S29.

8.4 Transportation/Parking

The proposal results in the provision of one additional residential unit on the site. UDP policy details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. Policy TRANS23 includes all legal parking spaces. During the daytime period within the area, the legal on-street spaces for permit holders are Residents' Bays and Shared Use Bays. The evidence of the Council's most recent daytime parking survey in 2015 indicates that the parking occupancy of Residents' Bays and Shared Use Bays within a 200 metre radius of the development site is 73.4% (consisting of 64 Residents' Bays, 47 of which were occupied).

The introduction of increased levels of residential in this area without off-street parking or on-street parking restraint is likely to increase the stress levels.

Overnight the pressure on Residents' and Shared Use Bays increases still further, to 84.3%, although residents can also park free of charge on metered parking bays or single yellow line in the area. When these spaces are included, the pressure drops to 65.2%. Consequently, it is considered that any additional demand arising from the creation of one more flat on the site could be accommodated on-street.

No cycle parking provision is provided in association with the new flat. The London Plan requires developments to provide 1 space to be provided for use in association with a 1 bed or studio flat. While the Highways Planning Manager considers that this could be secured by condition, there is no obvious space within the building where cycle storage could be located and no lift in which a bicycle could easily be transported to the fifth floor. In these circumstances, it is not considered that cycle storage could reasonably be required.

8.5 Economic Considerations

Any economic benefits associated with the creation of an additional dwelling are welcomed. It is recognised that the refusal of planning permission could have significant adverse economic implications for the developer and also for those who have purchased and/or occupy the flats. However, the impact on property values is not a material planning consideration and could not justify a decision to recommend approval for a scheme which might otherwise be considered unacceptable.

8.6 Access/means of escape

The accommodation is accessed via the existing communal stairs at 49 and 53 Rupert Street and these access arrangements are unaffected by the proposals.

Letters of support were submitted in relation to the current proposals "as built" on the grounds that the inclusion of the rear gantry would provide welcome improvements to fire

safety on the building, creating a secondary escape which would serve flats at fourth floor and above and that this was an improvement compared with the approved scheme.

The applicant recently offered to explore the possibility of removing the rear escape gantry, subject to the approval of the Fire Authority. The applicant has since revised the scheme to include its partial removal, retaining the section at the northern end which houses the water tanks. The removal of the gantry necessitates the creation of an internal corrido within the sixth floor flat at no. 49/51. Letters have been supplied from the London Fire Brigade and the applicant's Approved Building Inspector, which conform that the revised proposals provide a satisfactory means of escape.

The Approved Building Inspector and the London Fire Brigade have confirmed that the revised arrangements would provide an acceptable means of escape.

8.7 Other UDP/Westminster Policy Considerations

Refuse/recycling

The Cleansing Officer has requested a plan showing details of refuse and recycling storage for the proposed flats. This is recommended to be secured by condition.

8.8 London Plan

This application does not raise any 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.

Supporters of the proposal considered that the original application should be approved on the basis that it was in accordance with the NPPF and would also comply with the proposed revisions to the NPPF, including the intention to support the upwards extensions of buildings in dense urban environments.

The revised NPPF was published on 24 June 2018. Section 11 'making effective use of land' states, at paragraph 118, that 'Planning policies and decision should:

(e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers'.

8.10 Planning Obligations

The development does not trigger any planning obligations

The estimated CIL payment is £62,736 (made up of £9,530 of Mayoral CIL and £62,737 Westminster CIL).

8.11 Environmental Impact Assessment

Environmental Impact issues are covered elsewhere in this report.

8.12 Other Issues

Impact of additional building works

The owner/occupier of one of the existing fifth floor flats is supportive of the (original) application on the basis that any additional noise from significant construction would be untenable. Other owners/supporters of the application consider that if permission was refused and/or additional (remedial) works required, the impact on the quality of the residential accommodation, the disruption to existing residents and neighbouring residents and business occupiers would be significant but would result in only a limited change to the appearance of the building.

The occupier of a ground floor shop on the site originally objected to the application on the basis that they wished to avoid any further obstruction of the entrance to, or reduced visibility of, their ground floor shop which relies on passing trade. They have subsequently written in support of the application on the same grounds. The application has now been revised to include the removal of the gantry and other remedial works, which is likely to require scaffolding. However, the impact of building works/scaffolding could not justifiably form the basis of a recommendation for refusal of the scheme.

Impact on property values

An owner of one of the exiting flats has expressed concern that a refusal of planning permission and a requirement to revert to the approved scheme, with a consequent reduction in the size of the units, would have a significant impact on the values of properties, which were purchased in good faith. Although officers are sympathetic to the owners' predicament, the impact of the development on property values, although generally a concern raised in relation to the impact on neighbouring buildings, is not a material planning consideration which can be taken into account in considering planning proposals.

Neighbour notification

Objections have been received on the grounds that local residents did not receive notification of the planning proposals prior to the works being undertaken in 2015 and that the development 'as built' was carried out without permission.

Records show that the original application was subject to neighbour consultation and was advertised in accordance with the Council's usual procedures.

Although it is regrettable that the works, for which permission is now sought, were undertaken without permission, permission cannot reasonably be withheld on these grounds.

Enforcement proceedings

One resident has expressed concern at the period of time which has elapsed since a complaint was made to the Council regarding unauthorised works. It is the Council's normal procedure to permit developers to apply for retrospective planning permission so that the acceptability of the development can be assessed against the policies within the development plan.

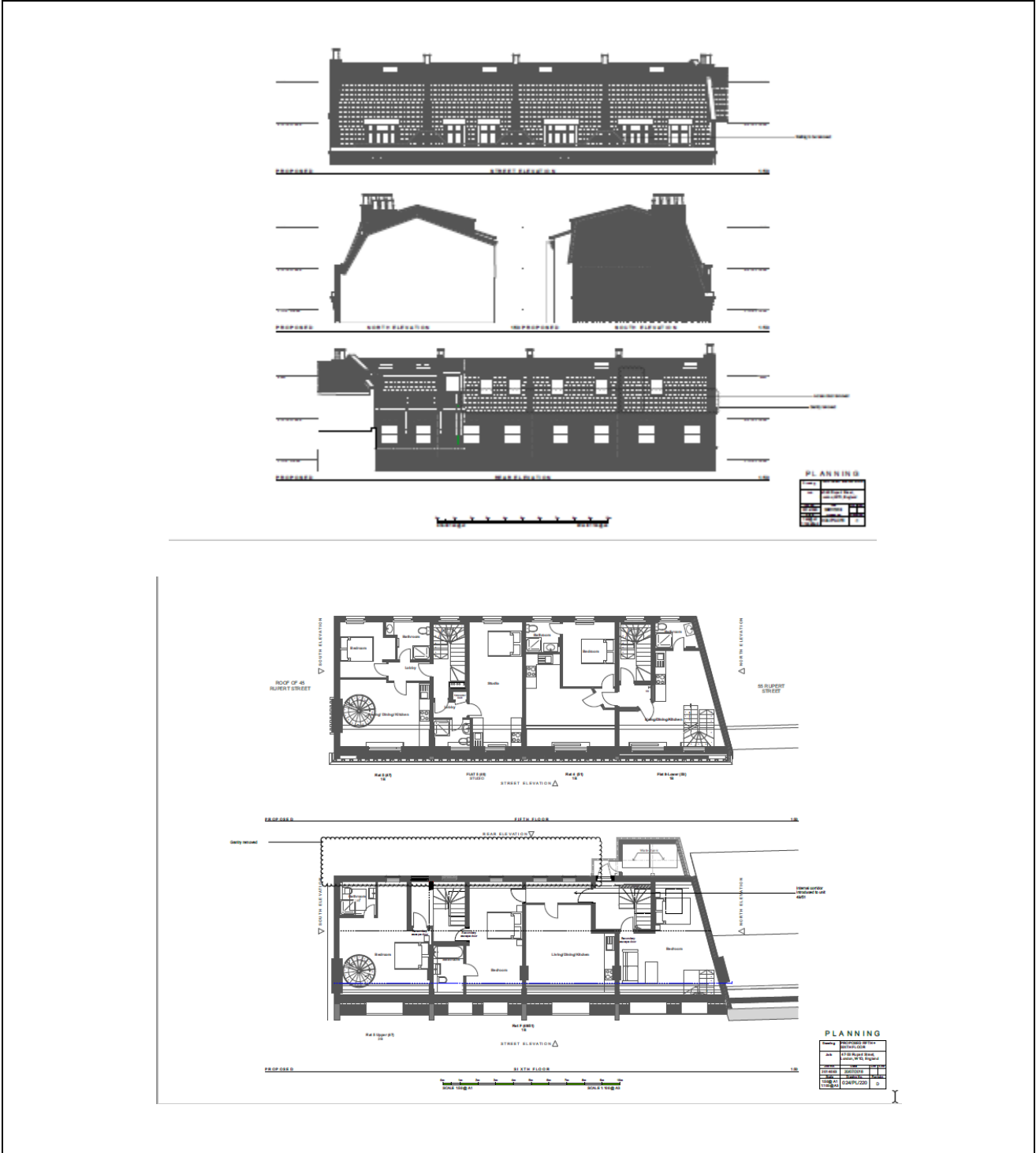
Impact on flat owners/occupiers

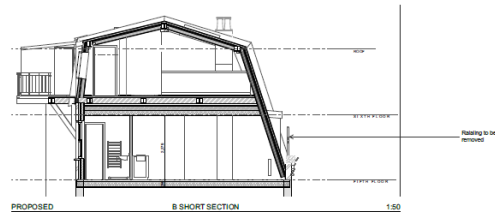
Several comments have been received in support of the application, from both the flat purchasers and from third parties on the grounds that the refusal of planning permission would have a significant adverse impact, both financial and emotional, upon the flat owners/occupiers, who purchased the flats "in good faith" and/or their tenants. Whilst the potential impacts of a refusal of permission are acknowledged, this is not a reason to grant permission for a scheme which might otherwise be considered unacceptable.

(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: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk.

9 KEY DRAWINGS





PLANNING

Drawn	AS BUILT SECTION
Job	A153 Regent Street London, W1G 0EJ, England
Client	Q&P
Project No.	20070210
Rev.	0002
1/10/01 A1	02A/PL/021 C

DRAFT DECISION LETTER

Address: 47 - 49 Rupert Street, London, W1D 7PJ,

Proposal: Demolition of existing roof structures (excluding chimneys), erection of new mansard roof and associated works in connection the use of the 5th and new 6th floors as 1 x studio; 3 x 1 bed and 1 x 2 bed residential units (providing one additional unit).(Retrospective application)(site includes 47-53 Rupert Street)

Reference: 17/10714/FULL

Plan Nos: 2014/063- 024/PL/220D, 221C, 321C, 251C, 321C

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

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 You must apply to us for approval of details of how waste and recycling is going to be stored on the site in respect to the new sixth floor flat at 49/51 Rupert Street. The use of this new sixth floor flat at 49/51 Rupert Street shall cease on 14 February 2019 unless we have approved what you have sent us and you have provided the waste and recycling store in line with the approved details, clearly marked it and make it available at all times to everyone using the new sixth floor flat at 49/51 Rupert Street. You must not use the waste and recycling store for any other purpose. (C14GA)

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)

- 4 By 14 April 2019 the following works must be completed in full:
- i) Total removal of the railing to the front fifth floor parapet as shown on drawing 024/PL/251C hereby approved;
 - ii) Partial removal of the rear gantry at sixth floor level, removal of gantry access door at the rear of 47 Rupert Street and making good of the roof, all as shown on drawings 024/PL/220D and 251C hereby approved; and
 - iii) Creation of an internal corridor to the rear of the new sixth floor flat at 49/51 Rupert Street, as shown on drawing 024/PL/220D hereby approved.

Reason:

In accordance with the submitted application, to make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area and to ensure to secure a safe environment for occupants of the development. This is as set out in S25, S28 and S29 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.

- 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:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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), Westminster's City Plan: Strategic Policies Consolidated Draft Version

incorporating Basement Revision, Mixed Use Revision, Regulation 19 and Main Modifications dated June 2016, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 3 You must get planning permission for any tanks, equipment, lift motor rooms, railings or other additions to the property. (I21AA)
- 4 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 5 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 6 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
 1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

- 7 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.

- 8 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.

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.