

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 December 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Michelle House, 45-46 Berners Street, London, W1T 3NE,		
Proposal	Demolition and replacement of front and rear facades, erection of extensions at fifth, sixth and seventh floor levels with photovoltaic panels above, rear extension from first to new sixth floor level, replacement infill extension at rear basement and ground floor level, infilling of car park access at ground floor level. Installation of plant (including extract duct) with associated screening at seventh floor level. Creation of terraces / balconies at first and fourth to seventh floor levels. Creation of a living green roof at seventh floor level. Triple / alternative use of the basement and ground floor as retail (Class A1) / restaurant (Class A3) / showroom uses (Sui Generis) and use of the first to seventh floor level as office accommodation (Class B1).		
Agent	Rolfe Judd		
On behalf of	Berners-Allsopp Estate		
Registered Number	18/04936/FULL	Date amended/ completed	12 June 2018
Date Application Received	12 June 2018		
Historic Building Grade	Unlisted		
Conservation Area	N/A		

1. RECOMMENDATION

1. Grant conditional permission subject to the completion of a legal agreement to secure the following:
 - a) A contribution to the City Council's Affordable Housing Fund of £719,831 (index linked) payable on commencement of development.
 - b) Undertaking of highways works associated with the removal of the existing vehicle crossover and the re-instatement of a footway on Berners Street.
 - c) Costs of monitoring the S106 agreement.
2. If the S106 legal agreement has not been completed within eight weeks of the date of this resolution then:
 - a) The Director of Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so,

the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

- b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits 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

Michelle House is an unlisted building situated outside of any designated conservation area. The building comprises basement, ground and four upper floors, and with the exception of a car park entrance at part ground floor level, is in use as showrooms and offices throughout.

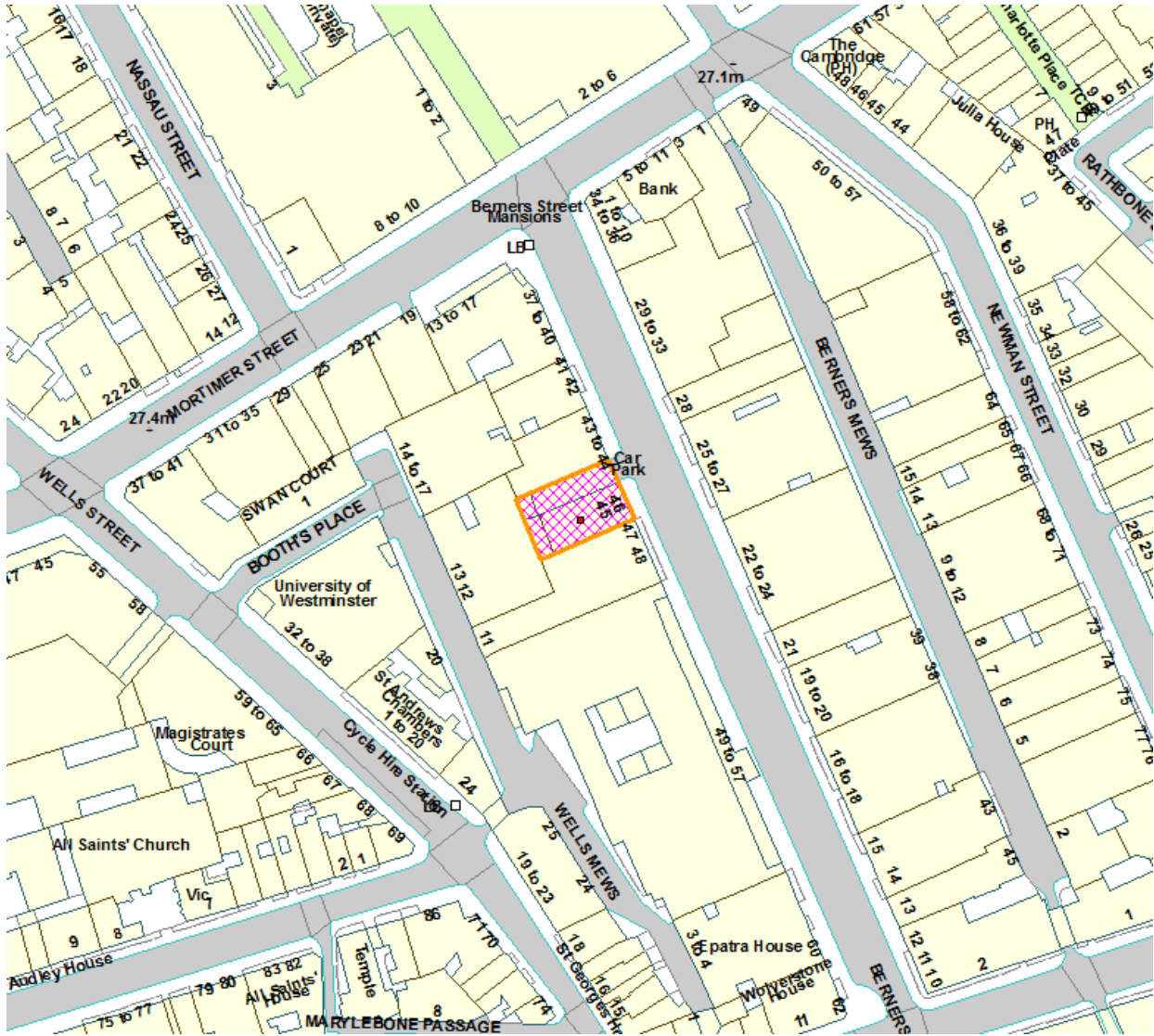
Permission is sought for substantial demolition of the building including replacement facades and rear and roof extensions to provide additional commercial floorspace.

The key issues for consideration are:

- The design, height and bulk of the proposal and the contribution it makes to the local townscape;
- The acceptability of a new restaurant in this location;
- The acceptability of the proposal in amenity terms; and
- The impact of the displaced vehicular traffic on Well Mews.

The proposals are considered acceptable in land use, amenity, highways and design grounds and broadly comply with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front Elevation



Rear Elevation



Wells Mews Car Park Entrance (Outside of site)



Wells Mews



5. CONSULTATIONS

FITROVIA NEIGHBOURHOOD ASSOCIATION

To be reported verbally.

ENVIORNMENTAL HEALTH

No objection.

HIGHWAYS PLANNING

No objection.

WASTE PROJECT OFFICER

No objection.

BUILDING CONTROL

Not necessary to Comment

THAMES WATER

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 181

Total No. of replies: 2 letters of objection on the following grounds:

- Impact on vehicular flows and safety on Wells Mews

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

45 – 46 Berners Street, is an unlisted buildings comprising basement, ground and four upper floors. The site lies within the core Central Activities Zone (CAZ) but outside of any designated conservation area.

The basement and part of the ground floors are in use as a wholesale showroom (sui generis). The ground floor of the site also provides a second means of access to a commercial car park at 12-13 Wells Mews to the rear. The upper floors are being used for office purposes.

The nearest residential properties are located to the north of the application site at Newland House which fronts Mortimer Street but has rear windows looking towards the application site, albeit approximately 36 metres away.

6.2 Recent Relevant History

Planning permission was granted on the 11th August 1951 for the erection of a four storey building with basement for use as offices, showrooms and warehousing.

Conditional permission was granted on 29 July 1952 for the erection of a fourth floor for use as offices and showrooms.

Conditional permission was granted on 15 July 1953 for the use of each floor of the premises as showrooms with ancillary offices.

An application for a Certificate of Lawfulness for the existing use of the first and fourth floors for purposes within Class B1 was issued on 07 March 1995.

A certificate of lawfulness issued on the 23 October 2009 confirmed the public car park at 12-13 Wells Mews with an access at part ground floor of 45-16 Berners street is lawful.

7. THE PROPOSAL

The main aspects of the proposed scheme comprises:

- Demolition and replacement of front and rear façade.
- Erection of extensions at fifth, sixth and seventh floor levels and rear extensions from first to new sixth floor level.
- Infilling of the NCP car park entrance on the ground floor from Berners Street and creation of a new ground floor frontage.
- Erection of replacement infill extension at basement and ground floor level.
- Erection of plant enclosure at seventh floor level and internally routed extract duct terminating above plant enclosure.
- Creation of terraces/balconies at first to seventh floor level.
- Photovoltaic panels are proposed above the seventh floor accommodation.
- Installation of replacement pavement lights.

The basement and ground floors would be used for either retail or restaurant purposes or as wholesale showrooms. Offices would occupy first floor level and above.

The existing and proposed floorspace schedule is as follows:

	Existing GIA (sqm)	Proposed GIA (sqm)	Difference GIA (sqm)
Offices	873	1718	+845
Showroom	449	0	-449
Public Car Park	118	0	-118
Flexible retail / restaurant/ showroom	0	428	+428
Total	1440	2146	+706

8. DETAILED CONSIDERATIONS

8.1 Land Use

Potential Loss of Showroom (Sui Generis)

There is no policy to protect the potential loss of the existing showrooms and the use of the ground and lower ground floors to alternative commercial uses, which also serve visiting members of the public, is therefore acceptable in principle in land use terms.

Loss of Car Parking Entrance (Sui Generis)

Objections have been received from commercial occupiers within Wells Mews due to loss of the car park entrance and the associated impact on traffic flows and on safety and residential amenity as a result of the displacement of vehicles from Berners Street onto Wells Mews.

The car park currently has 96 spaces, all of which would remain. The applicant has provided information which suggests it reaches some 70% of its capacity (68 vehicles) within the morning peak hour of 0800 – 0900 and that most drivers seem to stay the entire day with a similar number of vehicles leaving between 1700 – 1800.

The flows are therefore largely tidal, which will minimise any conflicts that might occur between drivers that are leaving and entering the site, but it is unlikely that it is totally tidal. Whilst both the Berners Street access and Wells Mews access allow vehicles to enter and exit, the Wells Mews access can only accommodate one-way movement at any time due to width constraints.

The supporting documents state that vehicle movements are split within the region of 47 entering and leaving via Berners Street and 21 doing so via the Mews, although this has been disputed by neighbouring objectors.

Based on the applicant's figures, the effects of the closure of the Berners Street entrance will therefore add some 47 vehicles to traffic flows on the Mews in each of the peak hours, i.e. less than one a minute to what is an existing access point.

The lease on the car park access from Berners Street is due to expire in 2020, which will remove access rights. The applicant has also stated that regardless of whether this application is approved or not, the lease will not be renewed and therefore the impact on the access arrangement is inevitable. Whilst the implications of the displaced traffic to Wells Mews is clearly not ideal, given we have little control over it as is, it is not considered the proposal could be refused on these grounds.

Potential Retail Accommodation (Class A1)

Policy SS4 of the Unitary Development Plan (2007) and policies S6 and S21 of the City Plan promote the introduction of new retail floorspace within the CAZ. Therefore, the principle of new retail floorspace is acceptable.

Potential Restaurant Accommodation (Class A3)

City Plan Policy S6 acknowledges that, in principle, entertainment uses are appropriate for the Core Central Activities Zone.

Given the size of the proposed restaurant, UDP policy TACE9 of the UDP applies. This states that permission will only be granted for proposals where the City Council is satisfied that the proposed development has no adverse effect upon residential amenity or local environmental quality as a result of noise; vibration; smells; increased late night activity; increased parking and traffic and no adverse effect on the character or function of the area, including any cumulative adverse impact. City Plan policy S24 requires proposals for new entertainment uses to demonstrate that the use is appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that the use does not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

Given the character of Berners Street, it is not considered that the replacement of the basement and ground floor showroom with a restaurant would have an adverse impact upon the character and function of the area. Although there are other restaurants/cafes in the area, and an extant consent for a basement and ground floor restaurant at 41-44 Berners Street, it is not considered that the introduction of a new restaurant would have an adverse cumulative impact on the character of the area, given the dispersed nature of these premises. It is also considered that the proposed use would, as a result of the infilling of the car park entrance, increase street level interest and positively impact upon the character of the street.

The restaurant proposals are speculative with no end-user identified and therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, conditions could be used to control the opening times and to limit the impact. These conditions would ensure that the restaurant use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (i.e. 15%) and this bar could be used only by diners before and after meals. The hours of opening would be restricted a terminal hour of midnight with breakfast opening at 07.30hrs. The new doors on Berners Street would be required to be self-closing to minimise noise escape and a purpose-built internal kitchen extract terminating at high level would be installed to prevent nuisance from odours.

Given the speculative nature of the proposals, a condition is recommended requiring the submission of a finalised Operational Management Plan (OMP) to be submitted, for the prospective tenant, and approved prior to the commencement of the restaurant use: This would include measures to ameliorate the potential impact of the use including:

- The prevention of customers queuing on the street
- Measures to encourage customers to wait inside the premises until taxis arrive,
- Management of customers who wish to smoke; and
- Methods preventing customers from taking their drinks onto the street.

With the imposition of appropriate operating conditions, it is considered that there will be no material loss of amenity arising from the introduction of a restaurant in this location. The proposed restaurant use is therefore considered acceptable on land use and amenity grounds. The acceptability of the proposals in highways terms is discussed in section 8.4 below.

Increase Office Accommodation (Class B1)

The site is located within the Core Central Activities Zone to where new offices are directed by City Plan Policy S18. Therefore, an increase in office floorspace in this location is acceptable in principle.

City Plan Policy S1 (the Mixed Use policy) is applicable for development within the Core CAZ, when net additional B1 office floorspace is proposed. As the net additional floorspace (for all uses) is less than 50 % of the existing building but more than both 30% of the existing building and more than 400 m², residential floorspace, or an equivalent payment in lieu, is required equivalent to the net additional B1 office floorspace, less 30% of the existing building floorspace.

The existing building is 1,440 m² GIA. The net additional floorspace (of all uses) proposed is 706 m² GIA. The residential required therefore is equivalent to the net additional office (845 m²) floorspace less 30 % of the existing building floorspace (432 m²). Therefore the residential floorspace required to accord with City Plan policy S1 is 413 m² GIA. The policy requires this quantum of residential to be provided in accordance with one or a mix of the following at the applicant's discretion.

- i) on site or in the immediate site vicinity of the site;
- ii) off site, including by mixed use credits on a site in the vicinity of the development site;
- iii) off site, including mixed use credits elsewhere within the Central Activities Zone;
- iv) or an appropriate payment in lieu to the Affordable Housing Fund, which in this case would be £719,831.

In with the above, the applicant wishes to pay a policy compliant payment in lieu to the Affordable Housing Fund.

8.2 Townscape and Design

Michelle House at 45- 46 Berners Street is an unlisted building located outside of a conservation area.

The site is located on the west side of Berners Street just north of a grade II* listed building at the Sanderson Hotel. Permission is sought to demolish the existing facades, retaining the loadbearing concrete frame and floor slabs. The existing building is clad in red bricks to the front and a yellow stock brick to the rear with aluminium windows. The building is likely to date from the latter half of the 20th century and is considered to be of limited design merit, making a neutral contribution to the appearance of the area. The principle of demolishing the existing facades is therefore considered uncontentious in principle.

Three additional storeys are proposed at roof level, the uppermost of which accommodates a plant enclosure with a glazed roof access enclosure and terrace to the rear with a lift overrun projecting above. The additional height proposed will not exceed that of the adjacent building at no. 43-44 which has recently been redeveloped. Following negotiations, the seventh storey plant enclosure has been pitched at the front to soften its appearance in high level views. The sixth storey is set back from the front building line to reduce high level bulk from street level and is aligned with that of the adjacent building at 43- 44 Berners street. The height and massing of the proposed

rebuilt elevations on the front Berners Street elevation therefore relate well to the streetscape and height of buildings in this part of Berners Street, in compliance with DES 6, and are considered acceptable in design terms.

To the rear, full height extensions are proposed. At present, the principal rear building line, aside from the stairwell projection, aligns with the neighbouring building at 47- 48 to the south from first floor level upwards. The proposed rear extensions in the original scheme broke the continuous building line, projecting further rearwards than the new development to the north. Following negotiations, the scheme has been revised with the extensions from fourth floor level upwards pushed back, adjacent with the principal building line of the development to the north. The revised scheme is considered more successful in townscape terms. The area at the rear of this group is not of significant design merit with a large amount of external plant and is limited in visibility. The proposed extensions will not be visible from any public vantage points and will remain subordinate to the principal building. The revised extensions are therefore considered compliant with DES 5 of the UDP and are recommended for approval.

In detailed design terms the new front elevation is to be clad in Portland stone with Basalt stone to the ground floor frontage and zinc cladding to the upper storeys. Paired window openings are proposed within recessed openings and bronze frames. Following negotiations, the scheme has been amended to omit a large projecting cornice detail originally proposed to cap the principal front elevation. It was considered that this detail, which projected frontwards from the building line, would be highly prominent in long views. Subject to the imposition of conditions to secure samples of the proposed materials, the scheme is considered acceptable in detailed design terms. Following negotiation, the materials at the rear have also been amended, omitting an original proposal for a mix of stock brick and glazed brick. The revised proposals show a continuous use of stock brick. This simplified design is considered appropriate in this context.

The application is therefore compliant with DES 1, DES 5 and DES 6 of the UDP and is recommended for approval in design terms.

8.3 Residential Amenity

UDP Policy ENV13 seeks to protect and improve the residential environment and to resist proposals, which would result in a material loss of daylight or sunlight, increased sense of enclosure to adjoining windows or loss of privacy to adjoining occupiers. Similarly, City Plan Policy S29 seeks to safeguard the amenity of surrounding properties.

A daylight and sunlight report has been submitted which assesses the impact of the proposal on neighbouring residents. The nearest residential properties are located on the upper floors of 13-17 Mortimer Street and 34 – 36 Berners Street to the north and east. Both properties are situated too far away from the development site to have the light they currently enjoy reduced by the additional massing being proposed.

Given the distance between the proposal and neighbouring residential properties, it is not considered that the proposal would result in any increased sense of enclosure or overlooking.

8.4 Transportation/Parking

Parking/traffic generation

The site is centrally located and well served by public transport including principal bus routes. Anyone visiting the site by car would be subject to local parking restrictions and the proposal is considered unlikely to have a significant impact on car parking demand and is consistent with UDP policies TRANS21 and TRANS22.

Servicing

The existing building is serviced from Berners Street. While UDP Policy TRANS 20 seeks off-street servicing, there is plenty of single yellow line on Berners Street which has no restriction on loading. Some of this is currently not really available as it crosses the access to the car park, but will become available with the closure of this access. It is therefore considered that servicing can continue to be accommodated on-street. The removal of this access point will require the footway on Berners Street to be reinstated. This will be secure by legal agreement.

Cycle Parking

The office use increases would require 10 cycle parking spaces in order to comply with the London Plan (as amended). The proposal includes the provision of 36 cycle spaces which would include for the long-stay provision plus short-stay spaces for the office accommodation. These spaces would provide for the building as a whole, including the retail floorspace, and is therefore considered acceptable.

Pavement Lights

The replacement pavement lights are acceptable.

8.5 Economic Considerations

Any economic benefits generated as a result of the proposal is welcome.

8.6 Access

The proposal includes step free access throughout.

8.7 Other UDP/Westminster Policy Considerations

Plant

The proposal includes the installation of plant (including extract duct) with associated screening at seventh floor level. The Environmental Health Officer has raised no objection to the proposal and consider that the plant is likely to comply with the City Council's standard conditions relating to noise and vibration. A further condition is recommended requiring the plant screen to be installed prior to the operation of the plant and the duct to be installed prior to occupation of the restaurant use. Subject to these conditions, the proposal would comply with UDP policy ENV7 and S32 of the City Plan.

Refuse /Recycling

The proposal provides a waste storage area at lower ground level to serve both the office and retail/showroom/restaurant element. The Waste Project Officer has raised no objection to proposed refuse and recycling storage arrangements, which would be secured by condition.

Biodiversity

The proposals incorporate a living roof at seventh floor level along the Berners Street frontage Street. This is welcomed and accords with City Plan Policy S38 and ENV17 of the UDP. It is recommended that details of this roof (construction and planting) are secured by condition.

Sustainability

The proposal comprises a refurbishment and extension to the existing building. The proposal includes energy efficiency measures including; improved fabric insulation, improved air tightness; high efficiency fans, high efficiency heat recovery heating and cooling plant, heat recovery on ventilation systems and daylight control of the lighting. This will ensure the development achieves part L 2013 compliance through energy efficiency and green measures. The proposal also includes photovoltaic collectors extending to an area of 24 sqm at roof level which is welcome. It is considered that the maximum sustainability and energy improvements have been achieved.

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) a financial contribution of £719,831 towards the City Council's affordable housing fund (index linked and payable on commencement of development).
- ii) costs relating to highways works associated with the removal of the existing vehicle crossover and the re-instatement of a footway on Berners Street
- iii) Costs of monitoring the S106 agreement

In addition, the estimated Mayoral CIL payment is £35,300 and the Westminster CIL payment is £141,200.

8.11 Environmental Impact Assessment

The proposal is of insufficient scale as to trigger an environmental assessment.

(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.

KEY DRAWINGS

Existing Front Elevation



1	01/01/2024	Issue for planning	JR
2	02/02/2024	Issue for information	JR
3	03/03/2024	Issue for information	JR
4	04/04/2024	Issue for info	JR

Approved by:
 Date of issue: 04/04/2024
 Name of client: 100041
 Name of architect: 100041
 Name of engineer: 100041

PLANNING
 Job Number: 854 Drawing Number: (01)200 Rev: C Date: 13/06/24
 100041

Proposed Front Elevation



Key to Materials

- 1: London stock brick stair enclosure. Powder coated metal parapet capping to match zinc cladding.
- 2: Powder coated louvred plant enclosure, colour to match adjacent zinc cladding.
- 3: Pre-patinated dark grey zinc cladding to roof enclosure.
- 4: Pre-patinated dark grey zinc cladding.
- 5: Slimline framed bronze coloured metal framed windows, operable onto to terrace.
- 6: Painted metal railings.
- 7: Reconstituted stone cornice or string course.
- 8: Reconstituted stone mullion.
- 9: Reconstituted stone cladding.
- 10: Bronze coloured metal framed windows. Reconstituted stone cills, recessed lintel and deep reconstituted stone lined reveals.
- 11: Dark basalt stone cladding to ground floor shop front.
- 12: Bronze coloured metal framed glazed shopfronts.
- 13: Bronze coloured metal framed vertical louvers.
- 14: Bronze coloured metal framed doors to refuse area with vertical fin panel detail.

1	01/01/2024	Issue for planning	JR
2	02/02/2024	Issue for information	JR
3	03/03/2024	Issue for information	JR
4	04/04/2024	Issue for info	JR

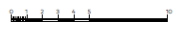
Approved by:
 Date of issue: 04/04/2024
 Name of client: 100041
 Name of architect: 100041
 Name of engineer: 100041

PLANNING
 Job Number: 854 Drawing Number: (01)700 Rev: J Date: 13/06/24
 100041

Existing Rear Elevation



EXISTING REAR ELEVATION WITH DEMOLITIONS
1200943



Author	09.02.2019	Drawn	09.02.2019
Check	09.02.2019	Revised	09.02.2019
Rev	09.02.2019	Revised	09.02.2019
Rev	09.02.2019	Revised	09.02.2019

PLANNING

Application No.	854	(O1)201	B
Planning Name	Rear Elevation As Existing with Demolitions		
Address	45-46 Berners Street London W1		
Client	Berners Glass		
Date	09.02.2019	Drawn By	09/02/19

Proposed Rear Elevation



PROPOSED REAR ELEVATION
1200943



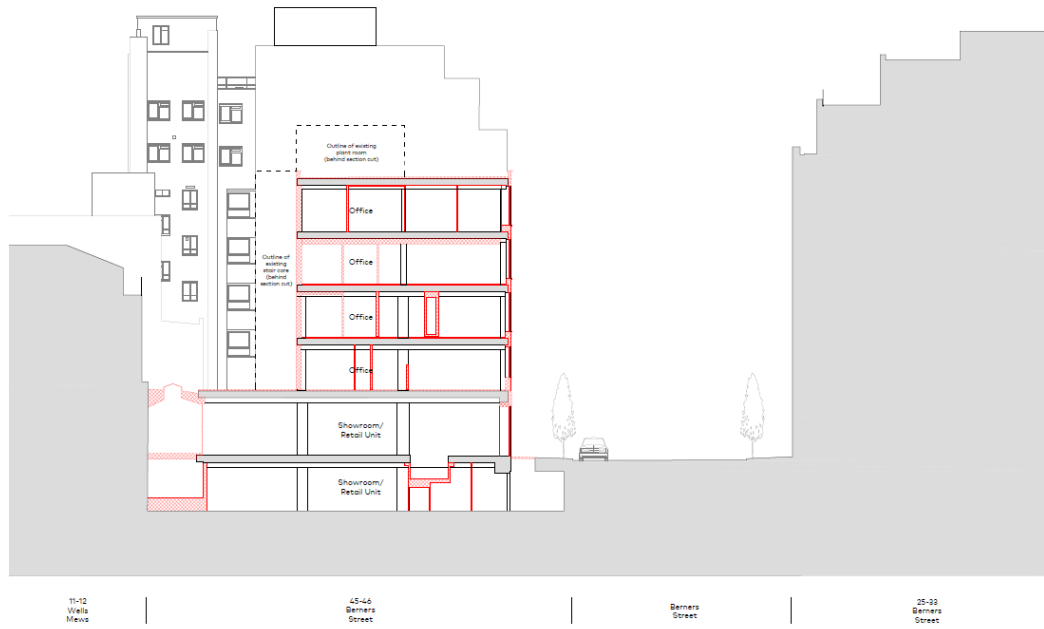
- 1: Photo voltaic panels fixed to roof.
- 2: Pre-patinated zinc cladding panels to wall of roof enclosure.
- 3: Natural timber trellis fixed to wall of roof enclosure.
- 4: Pre-patinated dark grey zinc cladding to Sun Room.
- 5: Bronze coloured full height glass door operable onto terrace.
- 6: Bronze coloured metal framed windows.
- 7: Bronze coloured metal framed French doors.
- 8: Bronze coloured metal framed slot window to stair enclosure.
- 9: Bronze coloured metal louvre spandrel panels above windows.
- 10: London stock brick to rear facade.
- 11: Reconstituted stone copings to all brick parapets and upstands.
- 12: Bronze coloured painted metal railing.
- 13: Bronze coloured painted balcony and rollings.
- 14: Bronze coloured painted Juliet balcor

Author	09.02.2019	Drawn	09.02.2019
Check	09.02.2019	Revised	09.02.2019
Rev	09.02.2019	Revised	09.02.2019
Rev	09.02.2019	Revised	09.02.2019

PLANNING

Application No.	854	(O1)701	G
Planning Name	Rear Elevation As Proposed		
Address	45-46 Berners Street London W1		
Client	Berners Glass		
Date	09.02.2019	Drawn By	09/02/19

Existing Section



Key:
 Existing Retained
 Existing Demolished

81 EXISTING SECTION 1 WITH DEMOLITIONS
1200g43

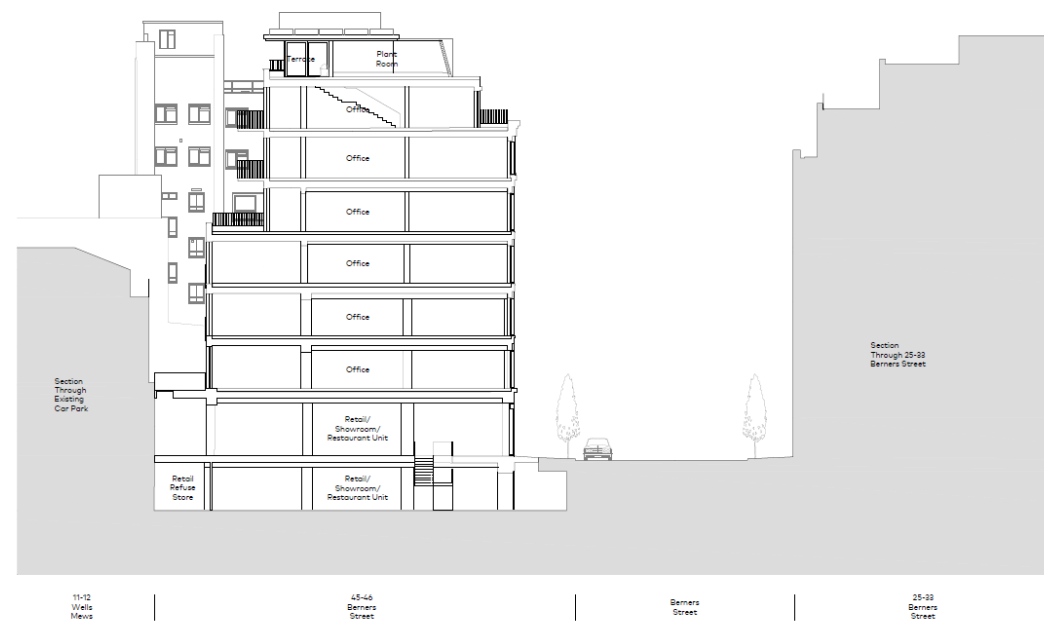


12	12/03/2016	Issue for planning	JK
11	03/03/2016	Issue for planning	JK
10	22/02/2016	Issue for information	JK
9	05/02/2016	Issue for information	JK
8	05/02/2016	Issue for information	JK
7	05/02/2016	Issue for information	JK
6	05/02/2016	Issue for information	JK
5	05/02/2016	Issue for information	JK
4	05/02/2016	Issue for information	JK
3	05/02/2016	Issue for information	JK
2	05/02/2016	Issue for information	JK
1	05/02/2016	Issue for information	JK

PLANNING

Application No.	854	Planning Ref.	(01)300 D	App. No.	1100g41
Section No.	Section 1	Section Title	As Existing with Demolitions	Scale	1:200g43
Project	45-46 Berners Street London W1				

Proposed Section



81 PROPOSED SECTION 1
1200g43

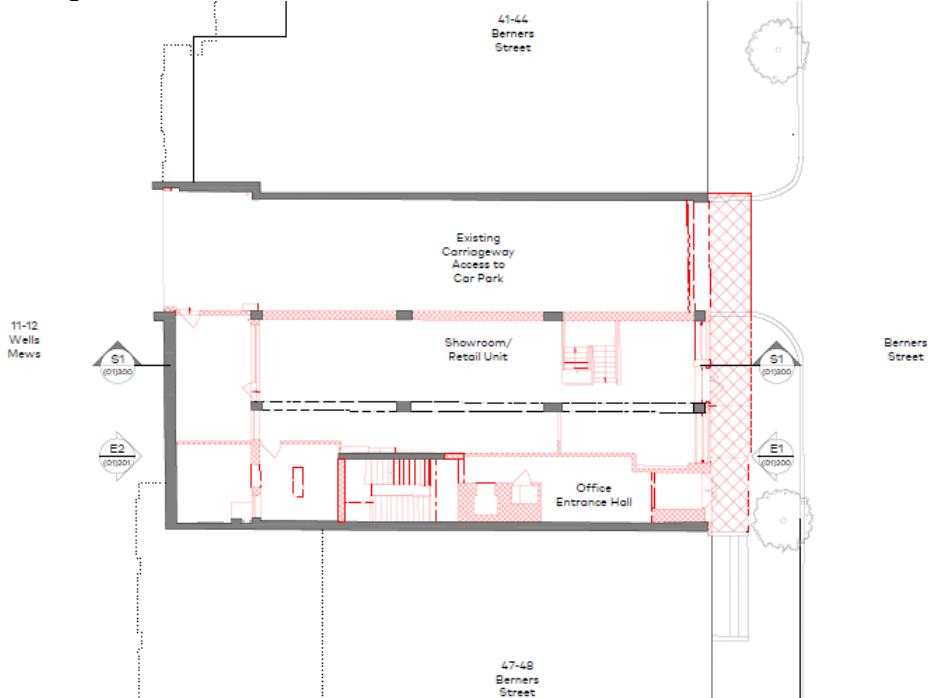


12	12/03/2016	Issue for planning	JK
11	03/03/2016	Issue for planning	JK
10	22/02/2016	Issue for information	JK
9	05/02/2016	Issue for information	JK
8	05/02/2016	Issue for information	JK
7	05/02/2016	Issue for information	JK
6	05/02/2016	Issue for information	JK
5	05/02/2016	Issue for information	JK
4	05/02/2016	Issue for information	JK
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1	05/02/2016	Issue for information	JK

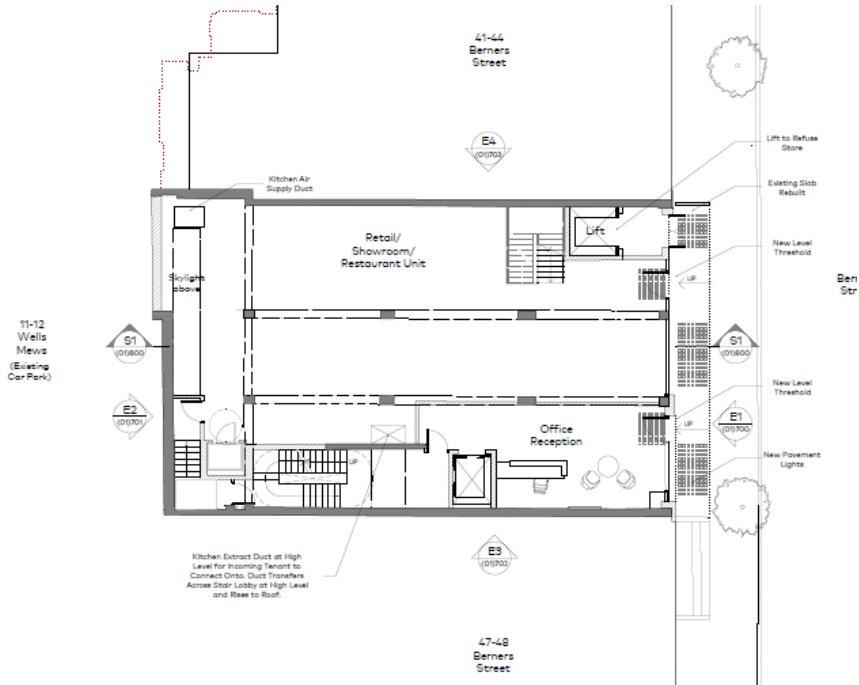
PLANNING

Application No.	854	Planning Ref.	(01)800 H	App. No.	1100g41
Section No.	Section 1	Section Title	As Proposed	Scale	1:200g43
Project	45-46 Berners Street London W1				

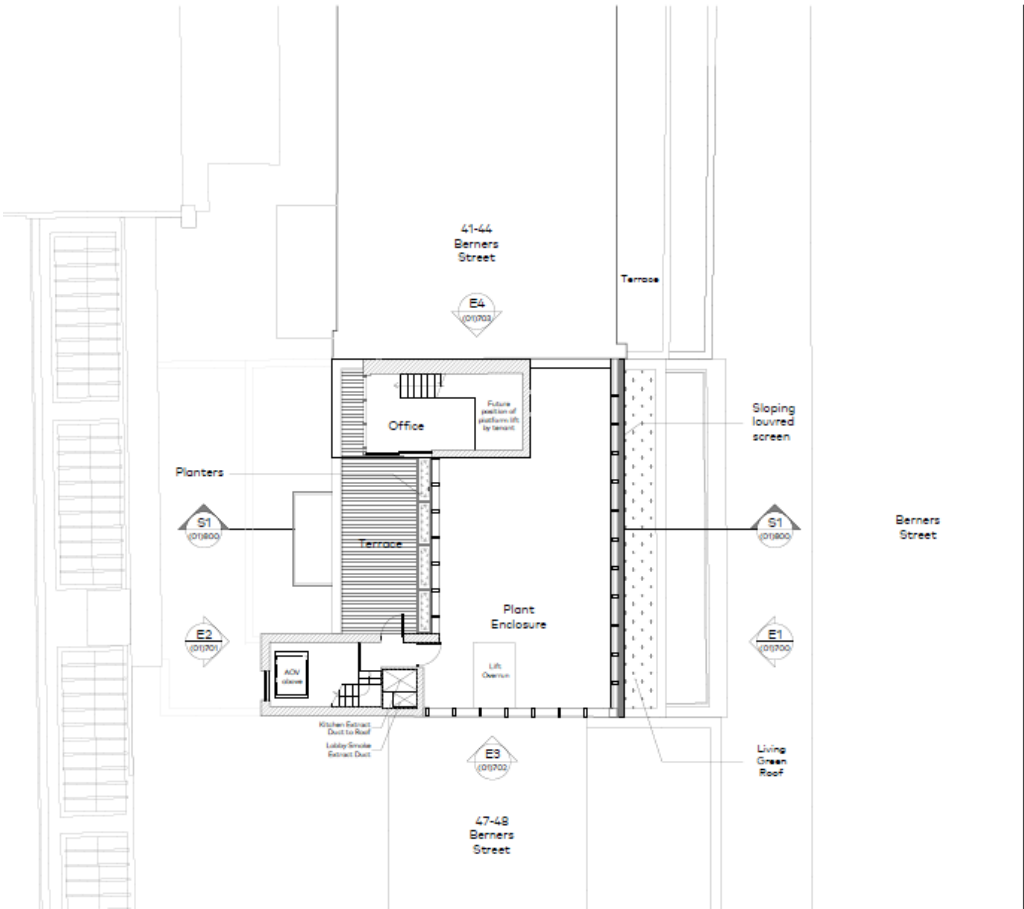
Existing Ground Floor Plan



Proposed Ground Floor Plan



Proposed Seventh Floor Plan



DRAFT DECISION LETTER

Address: Michelle House, 45-46 Berners Street, London, W1T 3NE,

Proposal: Demolition and replacement of front and rear facades, erection of a part two/ part three storey extension fronting onto Berners Street with photovoltaic panels above, rear extension from first to new sixth floor level, replacement infill extension at rear basement and groundfloor level, infilling of car park access at ground floor level. Installation of plant (including extract duct) with associated screening at seventh floor level. Creation of terraces / balconies at first and fourth to seventh floor level. Creation of a living green roof at seventh floor level. Triple / alternative use of the basement and ground floor as retail (Class A1) / restaurant (Class A3) / showroom uses (Sui Generis) and use of the first to seventh floor level as office accommodation (Class B1).

Reference: 18/04936/FULL

Plan Nos: (01)100 F, (01)101 F, (01)102 E, (01)103 E, (01)104 E, (01)105 E, (01)106 E, (01)10E F, (01)200 C, (01)201 B, (01)202 A, (01)300 D.

(01)600 O, (01)601 Q, (01)602 M, (01)603 N, (01)604 N, (01)605 M, (01), (01)606 M, (01)607 M, (01)608 N, (01)609 M, (01) 700 J, (01) 704 D, (01) 703 E, (01)701 G, (01)800 H, (01)702 F, (01)801 E.

Section 5 and 7 of document titled 'Energy statement' by GDM dated 23/05/2018

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 4 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balconies or terraces.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 If you provide the restaurant use, no more than 15% of the floor area of each of the uses shall consist of a bar or bar seating. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours 07.30 to midnight Monday to Saturday and 08.00 - 23.00 on Sundays.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 7 If you provide a restaurant use, you must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, prevent customers queuing on the street, manage customers who wish to smoke and prevent customers from taking their drinks outside. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 8 The restaurant use allowed by this permission must not begin until you have fitted self-closing doors to the Berners Street entrance. You must not leave these doors open except in an emergency or to carry out maintenance work.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 9 The railings hereby approved to the front elevation shall be painted black and maintained that colour.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 10 Prior to occupation you shall submit and have approved in writing by the local planning authority a detailed servicing management strategy for the Class A1 and Class A3 uses, the plan should identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

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)

- 11 You must submit detailed drawings showing the layout of the restaurant use before the restaurant is occupied. The drawings must include, entrances, kitchen, covers, bar areas and access arrangements to the lower ground floor area.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 12 The extract duct hereby approved shall be installed in full prior to the commencement of the restaurant (Class A3) use hereby approved and shall be retained in situ for the life of the development.

Reason:

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

- 13 The retail accommodation hereby approved at basement and ground floor levels shall not be used as a supermarket/ food store unless otherwise agreed in writing by the City Council as local planning authority.

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)

- 14 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 2016 (R22FA)

- 15 You must provide the waste store shown on drawing (01)600 O before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. 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)

- 16 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the living roof to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details prior to occupation of any of the residential units hereby approved and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 17 You must provide the be lean and be green environmental sustainability features (environmentally friendly features) identified in Section 5 and 7 of document titled 'Energy statement' by GDM dated 23 May 2018 before you start to use any part of the new accommodation.

You must not remove any of these features. (C44AA)

Reason:

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

- 19 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. (R48AA)

- 20 (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. (R46AB)

- 21 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the extract duct will comply with the Council's noise criteria as set out in Condition 20 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. 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. (R46AB)

- 22 (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. (R50AB)

- 23 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

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. (R24AC)

- 24 The office plant/machinery hereby permitted shall not be operated except between 0700 hours and 1900 hours daily.

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. (R46CB)

- 25 You must not sell any hot-food take-away on the premises, nor operate a delivery service, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an

application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 3 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team,
Environmental Health Service,
Westminster City Hall,
64 Victoria Street,
London,
SW1E 6QP
Phone: 020 7641 2000.

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 4 You may need separate licensing approval for the premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 5 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.

- 6 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.

Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:

- * Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
- * Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
- * Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
- * Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- * Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 7 You must ensure that the environment within a workplace meets the minimum standard set out in the Workplace (Health, Safety and Welfare) Regulations 1992 with respect to lighting, heating and ventilation. Detailed information about these regulations can be found at www.hse.gov.uk/pubns/indg244.pdf. (I80DB)

- 8 Manual-handling accidents account for 38% of all reported accidents. Careful consideration at the design stage can eliminate or reduce the need for manual handling within buildings, for example the location of delivery areas in relation to store rooms and access to and the position of plant rooms.

There is more guidance on the Health and Safety Executive website at <http://www.hse.gov.uk/msd/index.htm>. (I80EB)

- 9 Conditions 20 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)

- 10 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.
- 11 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: <https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 12 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 13 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 14 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the retail (Class A1) / restaurant (Class A3) / showroom uses (S floor can change between the retail (Class A1) / restaurant (Class A3) / showroom (Sui Generis) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 15 Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality.

- 16 On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development

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.

**BACKGROUND PAPERS - Michelle House, 45-46 Berners Street, London, W1T 3NE,
18/04936/FULL**

1. Application form
2. Response from Environmental Health, dated 16 July and 27 July 2018
3. Response from Project Officer (Waste), dated 30 July 2018
4. Response from Highways Manager 09 October 2018
5. Email from Thames Water dated 21 June 2018
6. Response from building Control, dated 11 October 2018
7. Letters from occupiers of 11 Wells Mews, London, dated 26 and 28 June 2018