

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 21 May 2019	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Executive Director Growth Planning and Housing		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>Basement And Ground Floor, 42 Marylebone High Street, London, W1U 5HD</b>		
<b>Proposal</b>	Installation of 4 condensing units at rear lower ground floor level in shared service yard (Retrospective application).		
<b>Agent</b>	Bidwells LLP		
<b>On behalf of</b>	Getti Ltd		
<b>Registered Number</b>	18/08647/FULL	<b>Date amended/ completed</b>	10 October 2018
<b>Date Application Received</b>	10 October 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Harley Street		

## 1. RECOMMENDATION

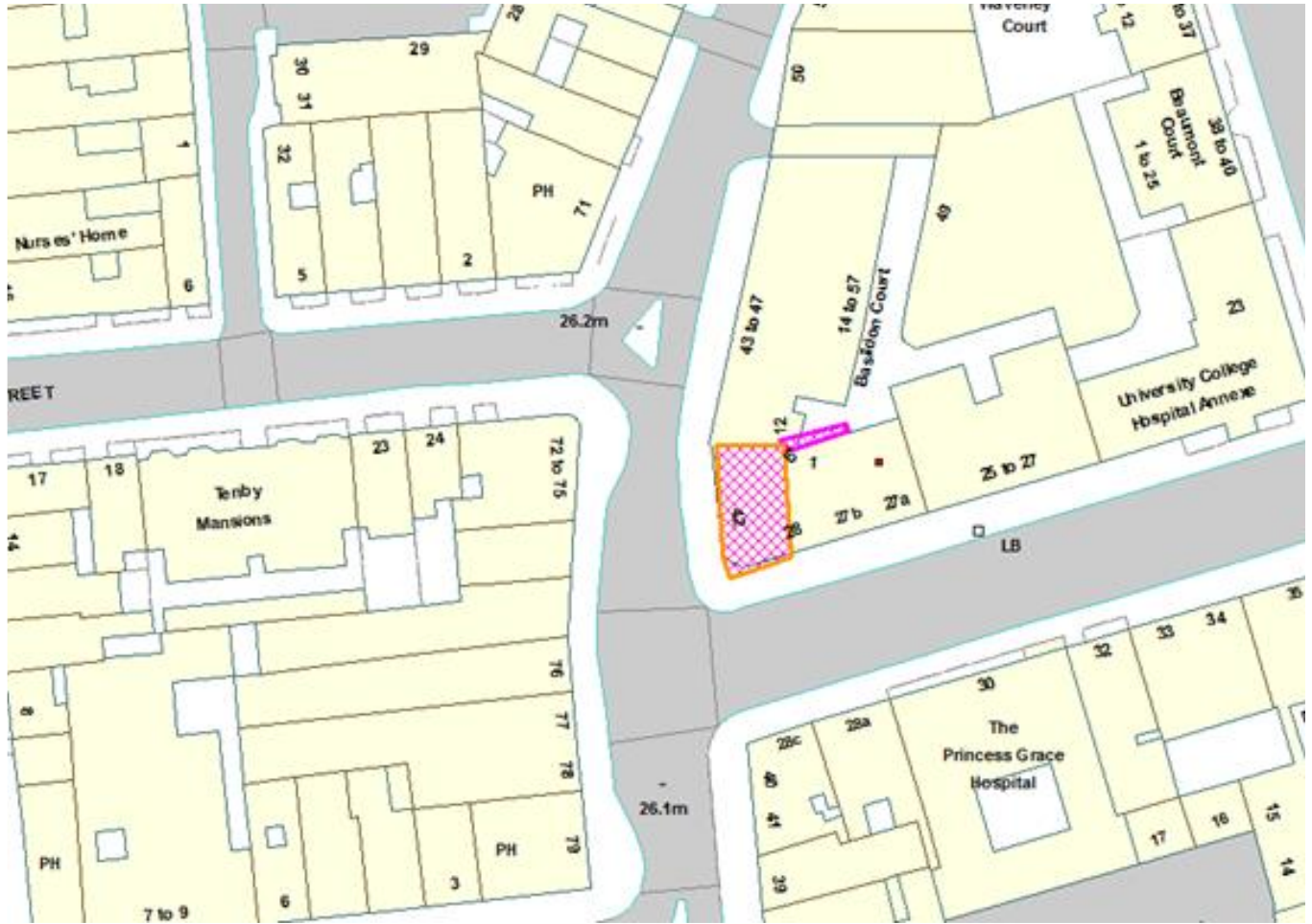
Grant conditional permission

## 2. SUMMARY

The application was reported to Planning Applications Committee on 19 March 2019. Consideration of the application was deferred to enable a cold room condenser, which had been installed without permission (but which had been deleted from the application as its operation did not comply with Council noise standards) to be removed and to permit the retained plant to be reassessed. A site inspection on 29 April 2019 has confirmed that the cold room condenser has been completely removed. An acoustic report has been submitted, which solely assesses the operation of the four air conditioning units. This report has been considered by the Council's Environmental Health Officer who has raised no objection to the proposals subject to standard conditions relating to noise and vibrations and restrictions on the hours of use (07.00 to 23.00 hours).

The application is re-represented to Committee for further consideration.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Cold room condenser – photograph taken 6 December 2018



Cold room condenser removed – photograph taken 29 April 2019

## 5. CONSULTATIONS

No additional consultations

### REPRESENTATIONS RECEIVED

ADDITIONAL REPRESENTATIONS RECEIVED FOLLOWING PUBLICATION OF PREVIOUS COMMITTEE REPORT AND PRESENTED TO COMMITTEE On 19 MARCH 2019

2 additional neighbour objections received (same objector)

- Plant is not switched off at 23.00 hours, continued noise disturbance
- Cold room condenser still in operation on evening of 18 March 2019

(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: RUPERT HANDLEY BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk)

6. KEY DRAWINGS

The key drawings include:

- PART REAR ELEVATION # 1**: A detailed architectural elevation of the rear facade of the building, showing window patterns and structural details.
- PART REAR ELEVATION # 2**: A second architectural elevation of the rear facade, showing a different section of the building with a prominent vertical element.
- PART REAR PLAN**: A floor plan of the rear section of the building, highlighting the layout of rooms and structural walls.
- LEGEND**: A key defining symbols used in the drawings:
  - Architectural wall
  - Structural wall
  - Window to be replaced
  - Window to be removed
  - Window to be added
  - Window to be altered
  - Window to be replaced with a different material
  - Window to be replaced with a different size
  - Window to be replaced with a different shape
  - Window to be replaced with a different color
  - Window to be replaced with a different type
  - Window to be replaced with a different material and color
  - Window to be replaced with a different material and shape
  - Window to be replaced with a different material and size
  - Window to be replaced with a different material and type
  - Window to be replaced with a different material and color and shape
  - Window to be replaced with a different material and color and size
  - Window to be replaced with a different material and color and type
  - Window to be replaced with a different material and color and shape and size
  - Window to be replaced with a different material and color and shape and type
  - Window to be replaced with a different material and color and shape and size and type
- LOCATION PLAN**: A site plan showing the building's location within its immediate neighborhood.
- BLOCK PLAN**: A larger-scale site plan showing the building's location within the surrounding city block.

On the right side of the drawing area, there is a logo for **ampersand** and a title block containing the following information:

**ampersand**  
 ARCHITECTS  
 42 Marylebone High Street  
 London W1U 2ND  
 PROPOSED  
 Plan & Elevations  
 1:100 & 1:500  
 7722/02

**DRAFT DECISION LETTER**

**Address:** Basement And Ground Floor, 42 Marylebone High Street, London, W1U 5HD

**Proposal:** Installation of 4 x condensing units at rear lower ground floor level in shared service yard. (RETROSPECTIVE APPLICATION).

**Plan Nos:** 7722/02 REV A

**Case Officer:** Shaun Retzback **Direct Tel. No.** 020 7641 6027

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.  
  
Reason:  
For the avoidance of doubt and in the interests of proper planning.
- 2 (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)

- 3 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)

- 4 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 23:00 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)

**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, neighbourhood plan (where relevant), 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 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](http://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.
  
- 3 Conditions 2, 3 and 4 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
  
- 4 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.