

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 2 July 2019	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Marylebone High Street	
Subject of Report	45-57 Marylebone Lane, London, W1U 2NT		
Proposal	Redevelopment of 45-57 Marylebone Lane and 20-27 Thayer Street behind a retained Marylebone Lane facade, to provide a new building for retail use (Class A1) at part basement and ground floor levels, nursery use (Class D1) at part basement, ground and first floor levels and office use (Class B1) at part basement, part ground and from first to fourth floor level with a roof top plant enclosure to 20-27 Thayer Street and a green roof throughout. Creation of terraces from second to fourth floor level with the central courtyard [Site includes 20-27 Thayer Street Street].		
Agent	Howard de Walden Management Ltd		
On behalf of	Howard de Walden Estate Ltd		
Registered Number	18/10276/FULL	Date amended/ completed	4 December 2018
Date Application Received	4 December 2018		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

45-57 Marylebone Lane and 20-27 Thayer Street are two unlisted buildings located within the Harley Street Conservation Area and the Core Central Activities Area (CAZ). The buildings comprise of lower ground, ground and three upper floors.

Permission is sought for the demolition of 45-57 Marylebone Lane and 20-27 Thayer Street with retained ground to second floor facade on the Marylebone Lane frontage and erection of replacement five storey plus basement building to provide retail, nursery and office accommodation, with associated plant and terraces.

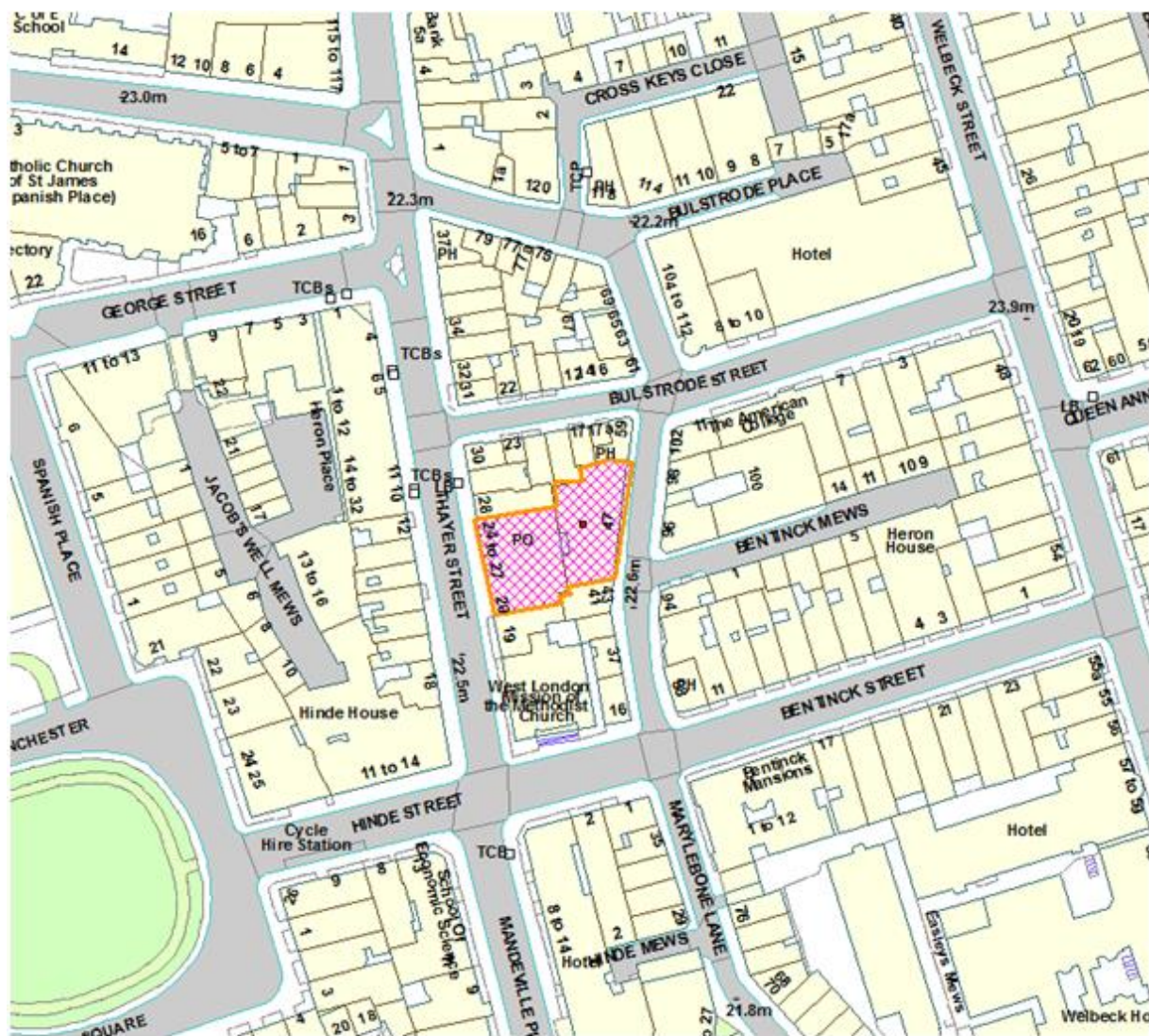
The key issues for consideration are:

- The acceptability of the proposal in design/townscape terms and its impact on the character and appearance of the Harley Street Conservation Area and the setting of neighbouring listed

- buildings; and
- The acceptability of the proposal in amenity terms.

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. The application is therefore recommended for conditional approval.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013.
All rights reserved License Number LA 100019597

4. PHOTOGRAPHS

Context



Thayer Street Frontage



Marylebone Lane Street Frontage



Backland Area



5. CONSULTATIONS

MARYLEBONE ASSOCIATION

Any response to be reported verbally.

HISTORIC ENGLAND

Do not wish to comment.

BUILDING CONTROL

No objection.

THAMES WATER

No objection subject to condition

ENVIRONMENTAL HEALTH

No objection

HIGHWAYS

No objection (following revisions)

PROJECT MANAGER (WASTE)

No objection (following revisions)

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 85

Total No. of replies: 5

No. of objections: four objections on the following grounds:

- Loss of daylight and sunlight/ accuracy of assessment
- Proximity and sense of enclosure
- Over-development/massing and design
- Setting of neighbouring listed buildings
- Impact on urban grain
- Noise (plant and terraces)/ accuracy of acoustic report
- Construction Impact

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

45-57 Marylebone Lane and 20-27 Thayer Street are two unlisted buildings which are not currently linked internally.

47-57 Marylebone Lane is shown as an unlisted building of merit comprising of basement, ground and three upper floors. The basement and ground floors are partly in office (Class B1) and partly in use as a nursery (Class D1), whereas the upper floors are office use (Class B1) throughout.

20-27 Thayer Street is an unlisted utilitarian building which is noted as a building making a neutral contribution comprising basement, ground, and three upper floors. The basement and ground floor are in retail use (Class A1) and the upper floors are in office use (Class B1).

The site lies within the Core CAZ and the Harley Street Conservation Area.

The immediate area is predominantly commercial in nature at street level, however, the upper floors of all adjoining buildings are in residential use (19 and 28-30 Thayer Street 17-23 Bulstrode Street and 37 to 43 Marylebone Lane).

6.2 Recent Relevant History

47-57 Marylebone Lane

Planning permission granted 02 March 1984 (RN: 83/04119) for use of part of the ground floor and part of the basement as Class D1 educational use.

Planning permission granted 23 February 1994 (RN: 93/08055) for alterations to the ground floor window to provide new office entrance.

Planning permission granted 16 March 2010 (RN: 10/00444) for dual/alternative use of basement and ground floor (Class B1) or nursery school (Class D1) in connection with the existing educational facility at 57 Marylebone Lane (Class D1).

Planning permission granted 25 January 2013 (RN: 12/12180) for installation of six air conditioning units at roof level.

20-27 Thayer Street

Planning permission was refused on 10 August 1989 (RN: 89/00370) for demolition of 24-30 Thayer Street and 23 Bulstrode Street and redevelopment to create a four storey building for mixed office, retail and residential use.

Planning permission was granted 28 October 1993 (RN: 93/03912) for third floor roof terrace with balustrading.

Planning permission was refused 13 January 1994 (RN: 93/04303) for tank housing and air conditioning units on upper roof (above third floor level).

Planning permission was granted 16 November 1993 (RN: 93/05966) for window boxes to front elevation.

Planning permission was granted 12 August 1996 (RN: 96/05725) for rear conservatory to part enclosed roof terrace at first floor level.

Planning permission was granted 13 May 1997 (RN: 97/02716) for rear extension at first floor level to form link corridor at 1st floor of 47-57 Marylebone Lane.

Planning permission was granted 22 January 2009 (RN: RN: 08/08588) for use of the first to third floors to provide six residential units (two 2-bed, two 1-bed, and two 3-bed units), extensions at rear first floor, second and third floor levels. External alterations to the windows on the front and rear elevations and creation of a green roof.

7. THE PROPOSAL

The proposed scheme involves the demolition behind retained façade of 47-57 Marylebone Lane and the total demolition and re-build of 20-27 Thayer Street for the creation of a single mixed retail (Class A1), educational (Class D1) and office (Class B1) Class A1) building.

Similar to the existing situation, the basement and ground floors are proposed to be partly in office (Class B1), partly in retail (Class A1) and party in use as a nursery (Class D1), whereas the upper floors are office use (Class B1) throughout. The existing and proposed floorspace schedule is as follows:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (Class A1)	726	736	+10
Office (Class B1)	1,714	2,067	+353
Nursery (Class D1)	326	327	+1
Communal Area (Refuse/Shower/cycle storage covered plant etc)	0	299	+299
Total	2,766	3,429	+663

The proposed nursery will be located to the north of the site along the Marylebone Lane frontage. Both the retail and office accommodation will be accessible from Marylebone Lane and Thayer Street. In addition to this, the ground floor plan shows the main office entrance located on Thayer Street with a secondary access point to Marylebone Lane, offering access from both ends of the building.

The basement will accommodate cycle storage for 24 bicycles, shower/changing facilities and a new electric substation.

A refuse holding area which is accessible from Thayer Street is proposed to be located behind the lifts for both the office and retail units.

A stair, two lifts and toilet accommodation are proposed to be centrally located between the two 'wings' of office accommodation at each level from the first to the fourth floor.

In the central courtyard area, the proposed accommodation is tiered away from the rear of Bulstrode Street buildings. There are planted terraces proposed at second, third and fourth floor level; however, the proposed terraces at second floor level would be an

ornate terrace only which will not be accessible to the office occupants (excluding maintenance).

A plant enclosure is proposed at fourth floor level to the roof of the accommodation along the Thayer Street frontage which is accessible from the link accommodation.

The proposal also includes create a living green roof to both the accommodation fronting onto Thayer Street and Marylebone Lane.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Increase in office floorspace

The site is located within the Core CAZ to where new office development is directed by City Plan Policies S18 and S20. Therefore, an increase in office floorspace in this location is acceptable in principle.

City Plan Policy S1 applies to office development within the Core CAZ, where net additional B1 office floorspace is proposed and requires the provision of new residential floorspace in specified circumstances. However, as the net additional floorspace (for all uses) is less than 30% of the existing building floorspace, there is no policy requirement to provide residential floorspace in this case.

New retail floorspace (Class A1)

The scheme includes a small increase of retail floorspace (10 sqm GIA) within the Core CAZ. Policy SS4 of the Unitary Development Plan (2007) and policies S6 and S21 of the City Plan promote the introduction of new retail floorspace in this location therefore the proposed modest increase is welcome.

Nursery (Class D1)

The proposal includes the re-provision of a nursery, albeit 1 sqm GIA larger which is welcome. Policies SOC 1 of the UDP and S34 of City Plan encourage the provision of community facilities in appropriate locations throughout Westminster, provided they are accessible to the residential areas they serve, will not harm the amenity of the surrounding area, including the effect of any traffic generated. Such uses must be safe and easy to reach on foot, by cycle and by public transport. Given the minimal increase in floorspace, it is considered that any impacts would be negligible.

8.2 Townscape and Design

The Harley Street Conservation Area Audit, which was adopted by the City Council in 2008, identifies 20- 27 Thayer Street as a building which makes a neutral contribution to the character and appearance of the conservation area. 47- 57 Marylebone Lane is identified as an unlisted building of merit, which makes a positive contribution to the character and appearance of the conservation area. 20- 27 Thayer Street is located immediately adjacent to two grade II listed buildings at the Methodist Church and the Church House at 19 Thayer Street. Grade II listed buildings are also located nearby at nos. 19 and 21 Bulstrode Street, the rear of which back on to the proposal site to the

north. Both buildings within the proposal site are identified in the conservation area audit as sites where a roof extension would not normally be considered acceptable.

The principle of demolishing the existing building at 20- 27 Thayer Street, which makes a neutral contribution to the character and appearance of the conservation area, is considered acceptable in principle providing the replacement frontage is of high quality design which relates sensitively to the adjacent listed building and the wider conservation area.

The composition of the proposed design divides the façade vertically into four bays with fenestration openings of a broadly traditional hierarchy, which is considered appropriate in this context. Following negotiations, the height of the parapet on the principal facade has been lowered in order to relate to the height of the balustrade of 19 Thayer Street to the south, reducing the impact of the new building in local views and improving the relationship between the proposed development and the adjacent listed building. The building steps upwards in height behind this parapet to accommodate the proposed 2.6m internal floor to ceiling height.

The proposed fourth floor plant enclosure is set back from the front of the building and will have very limited visibility in local views from street level. The imposition of a condition requiring the plant enclosure to be pitched on all sides is recommended. This is in order to ensure it relates more sensitively to the surrounding roofscape.

The proposed material palette of the Thayer Street frontage consists of a yellow brick with a textured stone base framing the shopfronts at ground floor level and reconstituted stone window reveals, which is considered appropriate. However, the proposed aluminium windows throughout the proposal site are considered to be of insufficient quality and contrary to DES 5 which resists fenestration of this type. The imposition of an amending condition requiring an alternative window type is therefore recommended.

Permission is sought to demolish the Marylebone Lane building behind a retained façade, which is considered acceptable in principle. The existing building consists of three storeys above a ground floor, including a mansard roof storey. Permission is sought to demolish the existing roof storey and to replace it with two new roof storeys, the design of which have been subject to extensive negotiations. The final design shows the addition of a gabled third floor sheer storey with an additional pitched roof storey above at fourth floor level. Unlike the Thayer Street frontage, the Marylebone Lane roofline is more eclectic and diverse with greater variation in building height. The proposal to extend the existing façade upwards with a gabled extension, to replace the existing mansard, is therefore considered appropriate in the context of this roofscape and compliant with DES 6. In long views submitted by the applicant, the proposed gabled frontage relates successfully to the context of Marylebone Lane and reduces the visual impact of the additional fourth storey bulk on street level views. The placement of the third storey windows have been negotiated in order to relate to the composition of the existing building below.

The existing shopfronts are of poor quality and their replacement is supported in design terms. The imposition of an amending condition is recommended in order to secure a better-quality design for the shopfronts on this frontage, which should be of a traditional

timber framed design with panelled stallrisers. The higher quality shopfronts secured through this amending condition would be a design benefit of the scheme.

At the rear of the site, permission is sought for large full height extensions to link the two buildings. Objections have been received to linking the two buildings on the grounds that the height and bulk of the infill is out of scale with the Bulstrode Street listed buildings and the urban grain of the conservation area. The massing of the proposed infill extensions will diminish the legibility of the two separate buildings fronting on to Thayer Street and Marylebone Lane, which is undesirable in design terms and would in many cases be resisted. Full height links between sites is not characteristic of the conservation area.

However, in this instance, it is considered that the design merit of this area between the two sites is limited and that the loss of the two visually distinct sites would not be harmful in heritage asset terms. Following negotiations, an additional plant enclosure located above the proposed extensions at fifth floor level has been omitted from the scheme, reducing the overall bulk of the proposed rear extensions with only a lift overrun and service riser remaining in this position. The design of the south flank wall has also been amended to include recesses within the blank elevation originally proposed, which improves the appearance of this flank wall from high level private views. The Thayer Street building currently shares a consistent rear building line with the neighbouring buildings including the adjacent listed building at 19 Thayer Street. The proposed infill extension has been set in from the south from first floor level upwards in order to respect this historic building line. The proposed extensions are also stepped back from the listed buildings fronting on to Bulstrode Street. The proposed green roofs and planting on the ornamental terraces facing north, which are to be secured through condition, will serve to soften the appearance of the proposed development from these high level views from the listed buildings on Bulstrode Street.

Overall, therefore, the proposed extensions are considered acceptable in design terms and will not cause harm to the setting of the neighbouring listed buildings nor the character and appearance of the conservation area. The design objections cannot therefore be supported in this instance.

Subject to the amending conditions set out above, the proposed development is considered compliant with DES 1, DES 4, DES 5, DES 6 and DES 9 of the UDP and will preserve (or enhance) the character and appearance of this part of the Harley Street Conservation Area and the setting of nearby listed buildings in compliance with DES 10 of the UDP. The application is therefore 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.

Objections have been received from and on behalf of both residential and commercial owners/occupants residing in No. 17, 19 and 21 Bulstrode Street on the grounds that the proposal will result in a loss of light to these properties/gardens, reduced outlook and

that the use of the terraces will result in overlooking and noise. Each of these grounds have been discussed in turn below. Access has only been granted to three of the objectors' properties (19 Bulstrode Street, basement and ground floor of 21 Bulstrode Street and fourth floor of 21 Bulstrode Street).

Sunlight and Daylight

The application is supported by a daylight and sunlight report which assesses the impact of the development on the following properties which contain habitable residential accommodation:

- 19 Bulstrode Street
- 21 Bulstrode Street
- 23 Bulstrode Street
- Heron Place, Thayer Street
- 13-14 Thayer Street
- 16 Thayer Street
- 17 Thayer Street
- 28 Thayer Street
- 29 Thayer Street
- 16 Hinde Street
- 37 Marylebone Lane
- 39 Marylebone Lane
- 41-43 Marylebone Lane
- 94 Marylebone Lane

An objection to loss of daylight and sunlight has been received from the occupant of number 17 Bulstrode Street due to potential loss of daylight and sunlight to their property. The only windows looking onto the proposal serve a stairwell. As a stairwell is not considered a habitable room, no daylight or sunlight assessment is required.

An objector questioned the accuracy of the assessment which they did not believe took into account the parapet to the terraces nor vegetation. The light assessment has been updated during the course of the application due to the modifications of the scheme. The assessment is based on the architectural drawings listed in the approved document therefore there is no reason to doubt its accuracy.

Daylight

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to be noticeable, and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms. The BRE guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. Where a significant proportion of the working plane (which can receive direct skylight) lies beyond the NSL, the distribution of daylight within the room will seem poor and supplementary electric lighting will be required. The British Standard suggests that a significant area would be more than 20%. However, it is acknowledged that if an existing building contains single aspect rooms, which are particularly deep, then a greater movement of the NSL line may be unavoidable. In all cases, testing need only be undertaken in the case of habitable rooms and, if the area of the working plane is reduced by more than 20%, this will be noticeable to the occupants, with more of the room appearing to be poorly lit. Again, habitable room should be assessed, although bedrooms are accepted to be of less importance.

With the exception of windows serving habitable rooms within 19 and 21 Bulstrode Street, 28 Thayer Street, 39 and 41-43 Marylebone Lane and 16 Hinde Street predicted reduction in daylight do not exceed the 20% threshold and therefore the occupants of these properties will not notice any reduction in daylight.

The Greater London Authority's representation hearing report D&P/3067/03 – Appendix 1 dated 18 November 2013 states that it should be noted that the 27% VSC target value is derived from a low density suburban housing model. The independent daylight and sunlight review states that in an inner-city urban environment, VSC values in excess of 20% should be considered as reasonably good, and that VSC in the mid-teens should be acceptable. However, where the VSC value falls below 10% (so as to be in single figures), the availability of direct light from the sky will be poor.

With respect to the reduction factor, it should also be noted that whilst BRE guidelines state that a 20% reduction is the threshold for a materially noticeable change, the above GLA independent daylight and sunlight review sets out that given the underdeveloped nature of the site relative to its context, this percentage reduction should be increased to 30%, with an upper threshold of 40%.

19 Bulstrode Street

This building is in use as a single family dwelling and is situated to the north of the application site. The table below details the losses to the VSC in excess of the BRE guidance:

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	4 rd	bedroom	35.91 %	24.06 %	11.85 %	0.67	92%	81%	9%	0.88

W1 at fourth floor level serves a study which is currently being used as a nursery within a fourth floor flat and retains a VSC of 24.06% in the proposed scenario. Given the central London location of the site, it is considered the retained VSC is adequate. The NSL assessment shows that this room would experience reductions of 12% which is within the acceptable limits within the BRE guidance.

21 Bulstrode Street

21 Bulstrode Street is in use as residential flats and is located to the north of the application site. The affected windows are on the rear elevation of the property, with five windows predicted to experience losses in excess of the BRE Guidance as detailed in the table below:

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	Ground Floor	Dining room	9.75%	6.77%	2.98%	0.70	65%	30%	35%	0.47
W1	1 st floor	Unknown	21.03 %	12.42 %	8.61%	0.59	77%	41%	36%	0.54%

W3	1 st floor	Kitchen	15.95 %	8.64%	7.31%	0.54	87%	81%	7%	0.93
W1	2 nd Floor	Unknown	26.36 %	17.23 %	9.13%	0.65	79%	36%	43%	0.46
W1	3 rd Floor	Unknown	31.33 %	22.41 %	8.92%	0.72	91%	53%	42%	0.58

W1 at ground floor level serves a dining room. This room experience a 30% loss of VSC. However, the actual loss is 2.98% but the proportional reduction is high because existing VSC levels are so low. The NSL assessment shows that this rooms would experience reductions of 53%. During a visit to the impacted room, it is evident that this room is also illuminated from windows serving the living room to the front of the property and the kitchen to the rear. As such, it is not considered that the internal light levels would be so adversely impacted to warrant a refusal.

W1 at first floor level experience an actual VSC loss of 8.61 and 46% NSL reduction to the room its serves. As the occupant of this flat did not comment on this application, therefore the case officer was unable to gain access. Although the room which W1 serves is unknown it is assumed, based on photos found online, that the principle habitable accommodation to this flat is located to the front of the property. As such, it is likely that this window serves either a bathroom or a bedroom. Whilst this loss is unfortunate, given this building is in a built-up central London location, it is considered the retained VSC is adequate for a bathroom which is not considered a habitable room and a bedroom which the BRE guidance states to have less importance than the main living rooms when assessing impacts to daylight to existing buildings.

W3 at first floor level is one of three windows serving a single kitchen. The VSC of this window reduces by 7.31% to 8.64%. Whilst this is a considerable loss to a single window, this also benefits from another two windows/skylights which experience daylight reduction in line with the BRE guidance, one of which would have a proposed VSC of 36.08% which is considered very high for its central London location. This is evident in the NSL assessment which shows that 81% of this rooms would remain lit.

W1 at both second and third floor level serve two unknown rooms and experience 35% and 28% VSC loss and NSL reductions of 54% and 42% respectively. Given that the retained VSC for these windows would be 17.23 and 22.41% respectively, which is considered relatively high for this location, it is not considered that that these losses would justify a refusal.

28 Thayer Street

This building comprises a dry cleaner at basement and ground floor levels with residential flats on the upper floors and is situated to the north of the application site. The table below details the losses to the VSC in excess of the BRE guidance:

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	1 st	Bedroom	14.11 %	7.43%	6.68%	0.53	18%	10%	8%	0.56
W1	2 nd	Kitchen	25.73	17.59	8.14%	0.68	96%	96%	0	1

			%	%						
W2	2 nd	Kitchen	20.19 %	14.08 %	6.11%	0.70	96%	96%	0	1
W3	2 nd	Kitchen	11.03 %	5.06%	5.99%	0.46	96%	96%	0	1
W1	3 rd	Bedroom	32.51 %	24.80 %	7.71%	0.78	83%	46%	37%	0.55

W1 at first floor level experiences loss of 47% VSC and would retain a 7.43 VSC. The NSL would also reduce by 54%. Whilst the loss to a bedroom in a recent extension is unfortunate it is not considered to warrant the same level of protection as essential residential rooms, such as living rooms. Given the central London location of the site, it is considered the retained VSC is adequate for a room of this size.

Whilst the daylight assessment indicates that windows W1 (window), W2 (glazed door) and W3 (fanlight) at second floor level do not comply with the BRE guidance, given that they serve a galley kitchen totalling 8.7 sqm and the retained VSC for the window and door are relatively high, the impact is acceptable. Furthermore, the NSL assessment demonstrates that there is no predicted loss to the lit area to the kitchen.

W1 at third floor which serves a bedroom would experience a 22% VSC loss, however, the VSC (25.21%) is considered relatively high. This also benefits from another window which experience daylight reduction in line with the BRE guidance, which would have a proposed VSC of 24.80%. The NLS assessment indicates that 82% of the room will remain lit. Given the number of windows and the retained VSC levels, it is not considered there would be a noticeable change due to the proposal.

29 Thayer Street

This building comprises a shop at basement and ground floor levels with residential flats on the upper floors and is situated to the north of the application site. The table below details the losses to the VSC in excess of the BRE guidance.

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	2 rd floor	Kitchen	18.12 %	13.49 %	4.63%	0.74	18%	10%		0.56
W1	3 rd	Bedroom	27.66	22.79	4.87%	0.82	83%	46%	37%	0.55

Whilst the daylight assessment indicates that the W1 at second floor level does not comply with the BRE guidance, given that they serve a galley kitchen totalling 8.7 sqm which is not considered to be a habitable room and the retained VSC, the impact is acceptable. Furthermore, the NSL assessment shows demonstrates that there is no reduction to the lit area.

The NSL assessment show that there would be 44% and 45% reductions to the lit area within bedrooms at first and third floor levels. The first bedroom is currently poorly lit with 18% of the room experiencing light but the proportional reductions are high because

existing NSL levels are so low. The third floor bedroom retains a lit area of 46% which is considered acceptable in this central London context.

39 Marylebone Lane

This building comprises a restaurant at basement and ground floor levels with residential flats on the upper floors and is situated to the south of the application site. The table below details the losses to the VSC in excess of the BRE guidance:

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	1 st floor	Unknown	11.79 %	8.32%	3.47%	0.71	57%	50%	7%	0.87
W2	1 st floor	Unknown	10.51 %	7.60%	2.99%	0.72	57%	50%	7%	0.87
W3	1 st floor	Unknown	9.72%	7.42%	2.3%	0.76	64%	64%	0	1.0
W1	2 nd Floor	Unknown	17.53 %	13.44 %	3.99%	0.77	72%	61%	11%	0.84

The rooms served by windows W1, W2 and W3 at first floor and W1 at second floor are unknown. Whilst the degree of reduction to all windows is greater than 20%, the maximum actual reductions to these windows is only 3.99%. In such circumstances, even imperceptible absolute changes in VSC result in a technical failure when expressed as a percentage. The NSL assessment shows that the maximum these rooms would experience reductions of 13% of lit area which is within the acceptable limits within the BRE guidance.

As such, it is not considered that the proposal would be materially harmful.

41-43 Marylebone Lane

This building comprises a retail unit at basement and ground floor levels with residential flats on the upper floors and is situated to the south of the application site. The table below details the losses to the VSC in excess of the BRE guidance:

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	1 st floor	Kitchen	17.68 %	9.38%	8.3%	0.53	97%	93%	4%	0.96
W1	2 nd floor	Kitchen	25.98 %	14.28 %	11.7%	0.55	98%	96%	2%	0.98
W3	3 rd floor	Kitchen	33.11 %	20.47 %	12.64 %	0.62	99%	98%	1%	0.99

Whilst the daylight assessment indicates that W1 at first floor level, W1 at second floor level and W3 at third floor level do not comply with the BRE guidance, given that they serve galley kitchens which BRE guidance do not consider to be habitable rooms and the retained VSC, the impact is acceptable in this instance. Furthermore, the NSL

assessment shows that maximum NSL reductions to these room would be 4% which is considered negligible.

16 Hinde Street

This building comprises a shop at basement and ground floor levels with residential flats on the upper floors and is situated to the south of the application site

Ref	Floor	Use	Vertical Sky Component				No Sky Line			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	3rd	Unknown	14.99 %	13.14 %	1.85%	0.88	96%	57%	39%	0.78

A third floor window to an unknown residential room would experience a 22% NSL reduction which is marginally above the acceptable limits.; however, as the 75% of the room would remain lit, it is not considered that the application could be refused due to the proposed impacts.

Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, or there is more than a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

19 Bulstrode Street

19 Bulstrode Street has two windows which experience sunlight losses in excess of the BRE Guidance, as detailed in the table below:

Ref.	Location	Use	Sunlight to Windows							
			Total Sunlight Hours				Winter Sunlight Hours			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	Upper ground	Snug/ games room	36	20	16	0.64	4	0	4	0
W2	Upper ground	Snug/ games room	33	21	12	0.64	3	0	4	0

W1 and W2 serves a snug/games room at upper ground floor level. Both the impact on total annual sunlight hours and the loss of all of the winter sunlight hours as a result of the proposal are in breach of the BRE guidance. Given the very high levels of APSH for this built-up central London location that will be retained after the proposed development, this room will still receive very good levels of sunlight.

21 Bulstrode Street

21 Bulstrode Street has a number of windows which experience sunlight losses in excess of the BRE Guidance, as detailed in the table below:

Ref.	Location	Use	Sunlight to Windows							
			Total Sunlight Hours				Winter Sunlight Hours			
			Before	After	Loss	Ratio	Before	After	Loss	Ratio
W1	Ground	Dining	18	12	6	0.67	4	0	4	0
W1	1 st floor	Unknown	41	21	20	0.51	10	0	10	0
W3	1 st floor	Kitchen	38	20	18	0.53	6	0	6	0
W4	1 st floor	Kitchen	47	24	23	0.51	12	0	12	0
W1	2 nd floor	Unknown	61	35	26	0.57	16	4	8	0.25

W1 which serves a dining room at ground floor level would experience losses of 6% APSH which include all the winter sunlight hours (4%). Given that the room would retain 12% APSH it is considered acceptable in this context.

Two out of three windows serving a kitchen at first floor level would experience material losses of sunlight in excess of the BRE Guidance. Whilst the losses to these windows are unfortunate, given that this kitchen is served by an additional window which experience sunlight reduction in line with the BRE guidance and the relatively high APSH retained to both windows, it is considered that the impact of the proposed development would therefore not be materially harmful in this respect.

W1 at second floor level retains APSH of 35%, however, the winter sunlight hours reduces to 4%, which is 1% below the BRE guidance. Given the very high levels of APSH that will be retained after the proposed development, this room will still receive very good levels of sunlight.

Overshadowing

Objections have been received due to the potential of overshadowing to the rear terrace to the basement and ground floor flat. Given the stepped approach in the courtyard, it is not considered that the impact of the proposal to the terrace is so harmful to warrant a refusal.

Sense of Enclosure

The proposal has been modified to remove the plant enclosure above the link building within the central courtyard and the height of the whole development has been marginally reduced to better align with the parapets of neighbour properties. Given the amendments together with the tiered nature of it proposed building in the central courtyard area and the inset of the link building above first floor level to the south of the application, it is not considered the proposal will materially increase the sense of enclosure felt within neighbouring residential properties. As such, the objections received due to loss of outlook to the Bulstrode Street properties is not sustainable.

Privacy

There is already a certain degree of mutual overlooking between the flats in Bulstrode Street and the application site due to the presence of existing terraces at first, second and third floor level Nos. 20-27 Thayer Street due to the existing terraces at first, second and third floor levels.

During the course of the application, the terrace proposed at second floor level was changed to an ornate terrace where future building occupants will not be able to access with the exception of maintenance personal and in case of an emergency. A condition has been attached to ensure this is the case.

This proposal does however, includes terraces accessed from the link building at third and fourth floor level. Given the set back from properties to the north, it is considered that the proposal will reduce the potential of overlooking based on the existing situation.

There is a flat roof to the south of the central link building at first floor level where access is provided to a substation and waste store vent. A condition is recommended to restrict access for maintenance purposes or in an emergency.

Windows serving the office accommodation have been minimised on the northern portion of the site to minimise potential overlooking.

The proposal introduces new windows to the Marylebone Lane and Thayer Street frontages. However, given the existing situation, and the relationship with neighbouring sites, it is not considered that the proposals would result in any material increase in the potential for overlooking to adjoining properties which could justify a recommendation for refusal.

Given the above, it is not considered that the objections on the grounds of reduced privacy can be sustained.

Noise

Cumulatively, the proposed terraces at third floor and fourth floor are significantly smaller than the existing terraces. Therefore, it is unlikely that these terraces will be more intensively used. To reduce any potential noise implication due to their inclusion in the proposal, the applicant has agreed to the imposition of a condition to limit the hours of use from 08:00 to 19:00 daily.

Given the cumulative sizes of the existing terrace, their unrestricted nature in terms of hours of use and their proximity to the Bulstrode properties, it is considered that the proposal is likely to be a betterment based on the existing situation therefore it is considered unreasonable to withhold permission based on noise nuisance from the proposed terraces.

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.

The application site is conveniently located with a vast range of public transport modes in the immediate vicinity. The proposal also includes cycle parking and showers and changing facilities to encourage those wishing to walk or cycle to the application site.

Servicing

The existing buildings are serviced from both Marylebone Lane and Thayer street. While UDP Policy TRANS 20 seeks off-street servicing, there is no opportunity to provide this within the development. The site is serviced from single yellow line in the vicinity and there are no restrictions on loading. It is considered that any increased servicing demands resulting from the development could be accommodated on street without detriment to the operation of the highway.

Cycle Parking

The application site currently has no cycle parking. The proposal includes cycle storage for 32 cycles together with changing facilities and showers. This is welcomed, and cycle parking would be secured by condition.

Doors

The proposal includes several sets of doors which open outwards over the public highway. This is unacceptable and contrary to Section 153 of the Highways Act, in addition to Council policies TRANS3 and S41. An amending condition has been recommended to ensure that all doors do not open over the public highway.

8.5 Economic Considerations

Any economic benefits generated by the proposed increase in office floorspace within the Core CAZ are welcome.

8.6 Access

The revolving door to the main office entrance on Upper John Street will be replaced by power assisted double doors. The new office accommodation would be accessed via an extended lift.

The flexible retail, gym and office unit would have separate access from Upper John Street.

The basement would be accessible from a secondary entrance on Upper John Street, either via the lobby or the service bay gates, which lead to a secondary stair core down to the basement where cyclists will also enter.

The proposal includes step free access throughout.

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

The proposal includes the installation of plant with associated screening at to the roof of the Thayer Street building.

Objections have been received on the due to the potential noise nuisance due to the inclusion of mechanical plant and the measurement point used when undertaking the survey to establish the existing background noise.

The application is supported by an acoustic report which has been reviewed by the Council's Environmental Health Officer. They consider that their records appear to agree with what has been taken as the most sensitive receiver and confirmed that that position 2 would be the most relevant design criteria to bases the acoustic assessment.

Environmental Health considers that the plant is likely to comply with the City Council's standard conditions. However, as all of the plant has not yet been selected a further condition is recommended requiring the submission of supplementary acoustic report with specifications for the plant and details of noise/vibration attenuation measures. A condition is also recommended requiring the plant screen to be installed prior to the operation of the plant. 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/nursery element. The Waste Project Officer has raised no objection to proposed refuse and recycling storage arrangements, which would be secured by condition.

Contaminated Land

A structural engineering report was submitted to support the application. Within section 3.7 it states: 'Due to the site location and current/previous usage, it is assumed that no significant contamination is present on site; assuming that print works (light industrial) resulted in no significant contamination). During the full site investigation, measures will be taken to confirm this.' On the basis, a condition is recommended requiring a detailed site investigation to find out if the building or land are contaminated with dangerous material, a remediation strategy and details of the action taken during the development process and action required in the future, if appropriate.

Biodiversity

The proposal incorporates a green roof to the portions of the building facing both Thayer Street and Marylebone Lane at main roof level and planters within the tiered terraces. This is welcomed and accords with City Plan Policy S38 and ENV17 of the UDP. It is recommended that details of green roof (construction and planting) and the strategy for the maintenance of the planters are secured by condition.

Sustainability

The applicants have submitted a detailed Sustainability and Energy Strategy in support of the proposals.

Policies 5.1 to 5.9 of the London Plan focus on measures to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments, including this scheme, which equates to a 35% reduction in carbon dioxide emissions for non-domestic buildings when compared with part L of the Building Regulations (2013). Policy 5.6 of the London Plan requires development proposals to evaluate the feasibility of Combined Heat and Power (CHP) systems.

In order to reduce carbon omissions, the scheme incorporates various measures including the use of thermally efficient building fabric, insulated pipework and ductwork

(and air sealed ductwork), energy efficient water, heating, cooling, lighting and ventilation (with heat recovery systems). Through the implementation of these measures, it is estimated that the development would achieve a 11.64% reduction in site-wide regulated CO2 emissions beyond the requirements of the Building Regulations Part L (2013) 'baseline'.

The applicants acknowledge that the overall shortfall in CO2 savings is below the London Plan Policy target but consider that this level of savings represents the maximum that can be achieved given that the building façade would be, partly, retained. As the roof would house plant for the development and a living/green roof which is required for water attenuation, it is not considered that further measures e.g. the installation of photovoltaic panels could be accommodated. In these circumstances, a shortfall in the level of CO2 savings can be offset through a financial contribution to the Council's carbon offset fund. This would be secured by condition. It is estimated that the required contribution would be £39,978.

Subject to conditions to secure the sustainability measures proposed and a carbon offset payment, this aspect of the scheme is considered acceptable.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, any representations received are being considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.9 Neighbourhood Plans

The Knightsbridge Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 18 October 2018, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Knightsbridge Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

The submission version of the Mayfair Neighbourhood Plan has been submitted by Mayfair Neighbourhood Forum to the council for consultation and an independent examiner is due to be appointed shortly.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to:

- City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development (Condition 14); and
- Details of land contaminants/remedial strategy and future action (Condition 15)
- Arrangements to address the shortfall in carbon dioxide reductions (Condition 16)

The applicant has agreed to the imposition of the condition.

8.12 Planning Obligations

The Mayoral CIL and Westminster CIL required as a result of this proposal is £122,655 and £132,600 respectively.

8.13 Environmental Impact Assessment

The proposal is of insufficient scale to require an environmental assessment.

8.14 Other Issues

Construction impact

Objections have also been made due to the potential amenity impact of the proposal during the construction phase. A condition has been recommended requiring the applicant to sign up to the Council's 'Code of Construction Practice' (COCP) to ensure that the construction process is carefully managed, minimising disruption to neighbours and the highway and reducing the effects of noise, dust, traffic movements etc. resulting from the construction. This will be secured by condition. As part of this process, Environmental Health Officers will liaise with both the applicant and neighbouring occupants during the construction process to ensure that residents' concerns are addressed. Regular site visits will be undertaken to monitor construction operations and ensure compliance. A further condition is recommended to control the hours of building works. Subject to these conditions, it is considered that the potential effects of the construction process will be ameliorated as far as possible.

(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: MIKE WALTON BY EMAIL AT MWALTON@WESTMINSTER.GOV.UK

9. KEY DRAWINGS

Existing Marylebone Lane Elevation



A - Marylebone Lane Elevation
1:100 at A1

Proposed Marylebone Lane Elevation



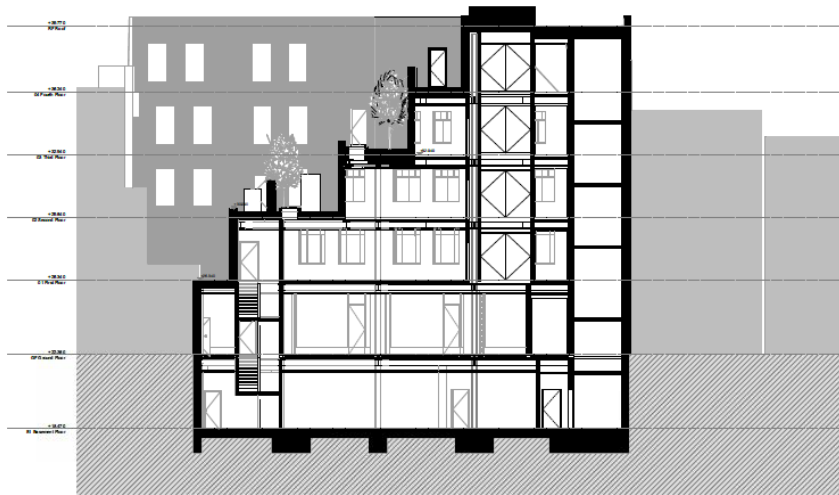
Existing Thayer Street Elevation

B - Thayer Street Elevation
1:100 at A2

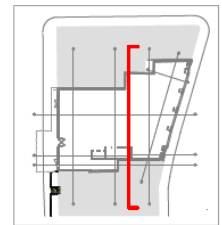
Proposed Thayer Street Elevation



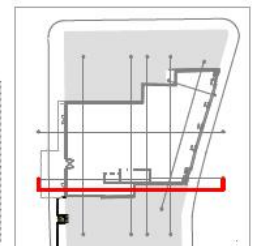
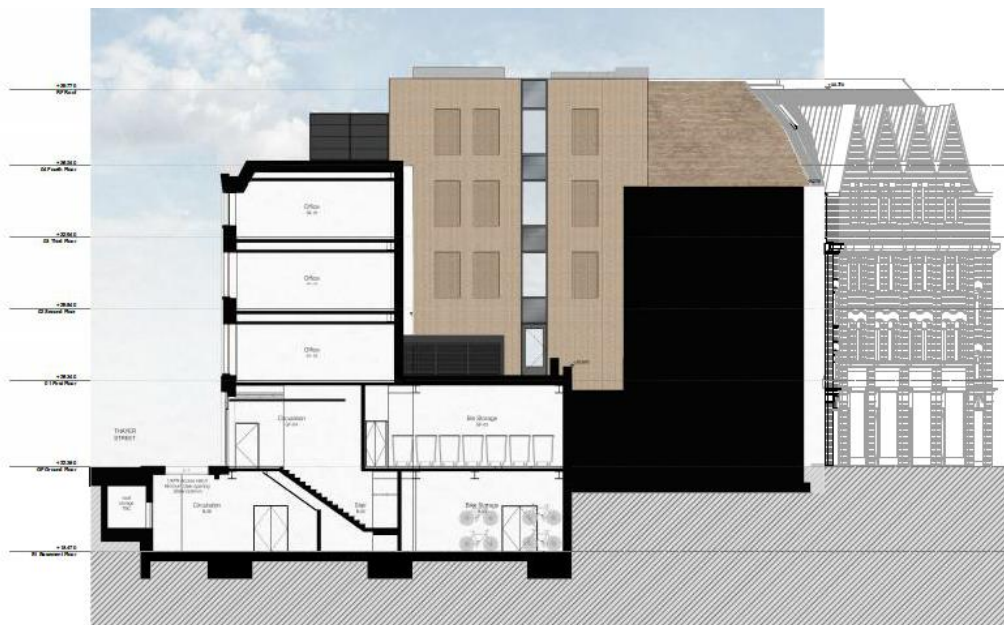
Proposed Section (north-south)



Section F
1:100 scale



Proposed Southern Section



Existing Ground Floor Plan



Proposed Ground Floor Plan



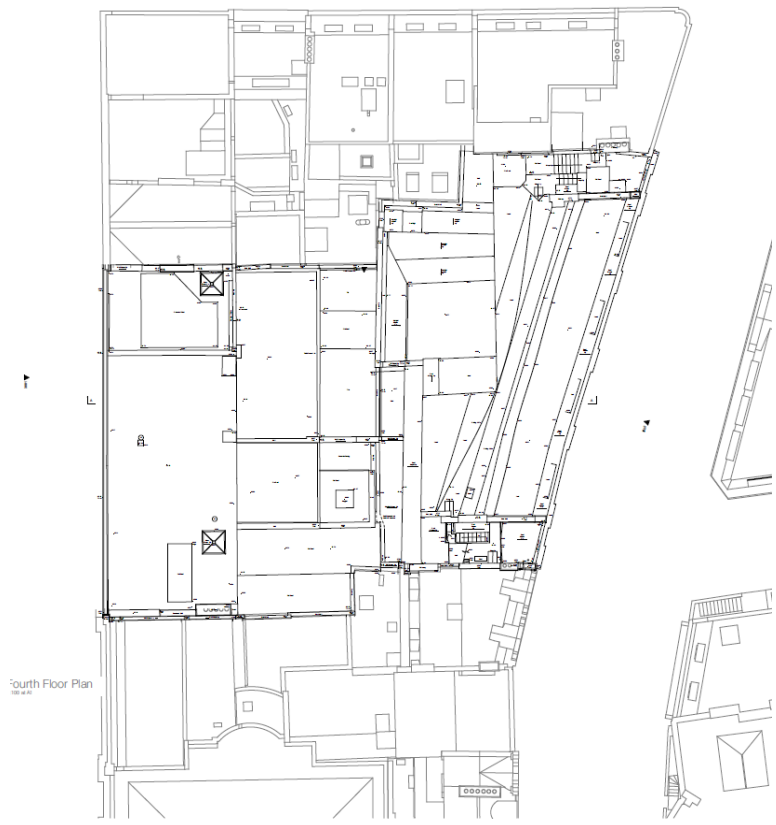
Existing Second Floor Plan



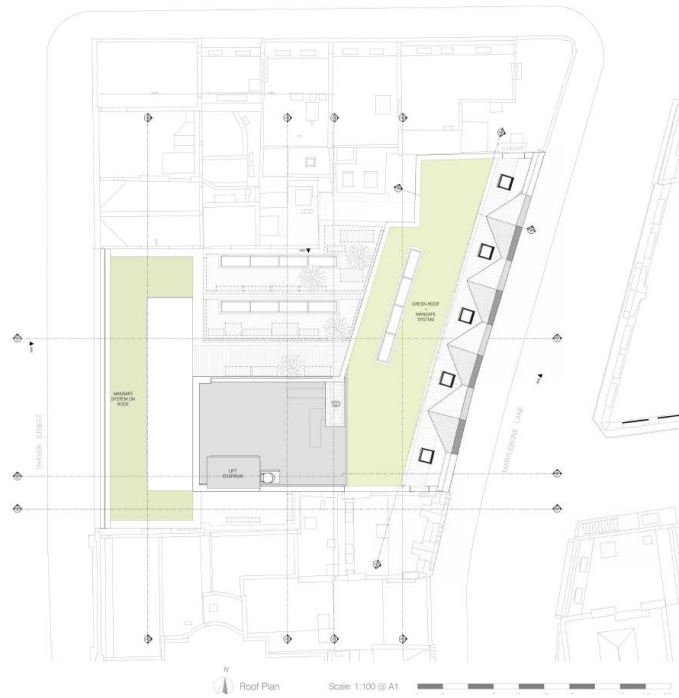
Proposed Second Floor Plan



Existing Roof Plan



Proposed Roof Plan



DRAFT DECISION LETTER

Address: 45-57 Marylebone Lane, London, W1U 2NT

Proposal: Redevelopment of 45-57 Marylebone Lane and 20-27 Thayer Street behind a retained Marylebone Lane facade, to provide a new building for retail use (Class A1) at of part basement and ground floor levels, nursery use (Class D1) at of part basement, ground and first floor levels and office use (Class B1) at part basement, ground and from first to fourth floor level with a roof top plant enclosure to 20-27 Thayer Street and a green roof throughout. Creation of terraces from second to fourth floor level with the central courtyard (Site includes 20-27 Thayer Street Street).

Plan Nos: CA 00 01 DR A 6320 REV P01, CA 00 B DR A 6320 REV P01, CA 00 GF DR A 6320 REV P01, CA 00 02 DR A 6320 REV P01, CA 00 03 DR A 6320 REV P01, CA 00 RF DR A 6320 REV P01, CA 00 B DR A 6321 REV P02.

CA 00 B DR A 2001 REV P08, CA 00 GF DR A 2001 REV P08, CA 00 01 DR A 2001 REV P06, CA 00 01 DR A 2001 REV P06, CA 00 03 DR A 2001 REV P06, CA 00 04 DR A 2001 REV P06, CA 00 RF DR A 2001 REV P06

CA 00 ZZ DR A 3050 REV P01, CA 00 ZZ DR A 3051 REV P01, CA 00 ZZ DR A 3056 REV P02, CA 00 ZZ DR A 4001 REV P06, CA 00 ZZ DR A 4001 REV P06, CA 00 ZZ DR A 4002 REV P07, CA 00 ZZ DR A 4003 REV P08, CA 00 ZZ DR A 4004 REV P07, CA 00 ZZ DR A 4005 REV P06, CA 00 ZZ DR A 4006 REV P06, CA 00 ZZ DR A 4007 REV P07.

MARBN-CA-00-XX-DR-A-9001 Waste Management Plan P01

Section 6.1 - 6.7 of document titled 'Energy Statement' by Me Engineers dated December 2018

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and

- o not at all on Sundays, bank holidays and public holidays.

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

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

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

Reason:

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

Reason:

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

- 4 You must 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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

1. Plant enclosure on roof of Thayer Street building to be pitched on all sides.
2. Revised window design on Thayer Street and Marylebone Lane frontages, omitting proposed aluminium units.
3. Revised shopfront design on Marylebone Lane frontage to show timber framed shopfronts with panelled stallrisers and retention of existing decorative cornice at fascia level.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

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 Harley Street 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)

- 6 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 this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 You must apply to us for approval of detailed drawings of the following parts of the development:

1. New windows and doors (1:5 and 1:20)
2. Roof level plant enclosure to Thayer Street frontage (1:20)
3. New shopfronts (1:20)
4. Rooflights (1:5 and 1:20)

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street 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)

- 8 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the character of the Harley Street Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 9 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved in writing either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission, or
- (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AD)

Reason:

To maintain the character of the Harley Street Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 10 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street 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)

- 11 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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 Harley Street 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)

- 12 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

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 Harley Street 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)

- 13 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the terraces (both accessible and inaccessible terraces). (C26NA)

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 Harley Street 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)

- 14 Prior to the commencement of any:

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

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)

- 15 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1, 2 and 3 before any demolition or excavation work

starts, and for phase 4 when the development has been completed but before it is occupied.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.
(C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

- 16 **Pre Commencement Condition** You must not commence development until we have approved appropriate arrangements to secure the following:

- Arrangements to address the shortfall in carbon dioxide reductions

You must only carry out the development according to the approved arrangements.

Reason:

To make sure that the development provides the planning benefits that have been agreed, as set out in London Plan Policy 5.2

- 17 You must use the D1 floorspace as a nursery only. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it). (C05AB)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet SOC 1 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 18 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in any statutory instrument revoking or re-enacting that order) the retail accommodation hereby approved shall not be used for food supermarket purposes

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TRANS 20 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 19 The ornamental terrace at second floor level along the boundary of the Bulstrode Street properties and the flat roof at first floor level providing access to the substation and waste store vent to the south of the site must not be used for sitting out or for any other purpose. You can however use these areas for maintenance purposes and to escape in an emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 20 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof and terrace planters to include construction method, layout, species and maintenance regime. You must then install the green roof and terrace planters in accordance with these approved details and maintain them in situ for the life of the development.

Reason:

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.

- 21 You must provide the be lean and be green environmental sustainability features (environmentally friendly features) identified in Section 6.1 - 6.7 of document titled 'Energy Statement' by Me Engineers dated December 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)

- 22 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)

- 23 The terraces should not be in use between the hours of 19:00 - 08:00 except in the case of an emergency or to access for maintenance.

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)

- 24 You must put up the plant screen submitted and approved under Condition 5(1) of this permission before you use the machinery hereby approved. You must then maintain it in the approved form shown for as long as the machinery remains in place.

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)

- 25 (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)

- 26 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 25 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)

- 27 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)

- 28 You must provide the waste store shown on drawing 2001 Rev P08 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)

- 29 You must not occupy the floorspace hereby approved until you provide evidence that either (i) or (ii) below has taken place and the City Council has provided written confirmation.

(i) all combined water network upgrades required to accommodate the additional flows from the development have been completed; or

(ii) a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason:

The development may lead to sewage flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents.

- 30 Notwithstanding the detail shown on the approved drawings, you must hang all doors 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)

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 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)

- 3 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM's). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACM's, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/asbestos/regulations.htm (I80AB)

- 4 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

- 5 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)
- 6 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)
- 7 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.
- 8 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)
- 9 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.
- 10 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.
- 11 Under condition 16 we are likely to accept a legal agreement under section 106 of the Town and County Planning Act to secure a payment of £39,978.towards the Council's Carbon Off-set Fund. Once the wording of the agreement has been finalised with our Legal and Administrative Services, you should write to us for approval of this way forward under this planning condition.
- 12 Conditions 25 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)

Item No.
3

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.