

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 30 July 2019	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bryanston And Dorset Square	
Subject of Report	1 Dorset Close, London, NW1 5AN,		
Proposal	External alterations including replacement of windows, installation of rooflights, maintenance balustrade and installation of ventilation extract ducting at roof level.		
Agent	DP9 Limited		
On behalf of	Lodha Developers Dorset Close Limited		
Registered Number	19/03307/FULL	Date amended/ completed	2 May 2019
Date Application Received	30 April 2019		
Historic Building Grade	Unlisted		
Conservation Area	Dorset Square		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application property is a three storey building located on the northern side of Dorset Close. The property is not listed but is located within the Dorset Close Conservation Area. The property contained offices with three flats above until quite recently. It is currently undergoing conversion to 12 affordable flats, pursuant to prior approval application RN: 16/10996/P3JPA.

The applicant seeks retrospective permission for several external alterations to this building, including replacement of windows, installation of rooflights, maintenance balustrade and installation of a smoke louvre, an automatic opening vent and rooflights at main roof level.

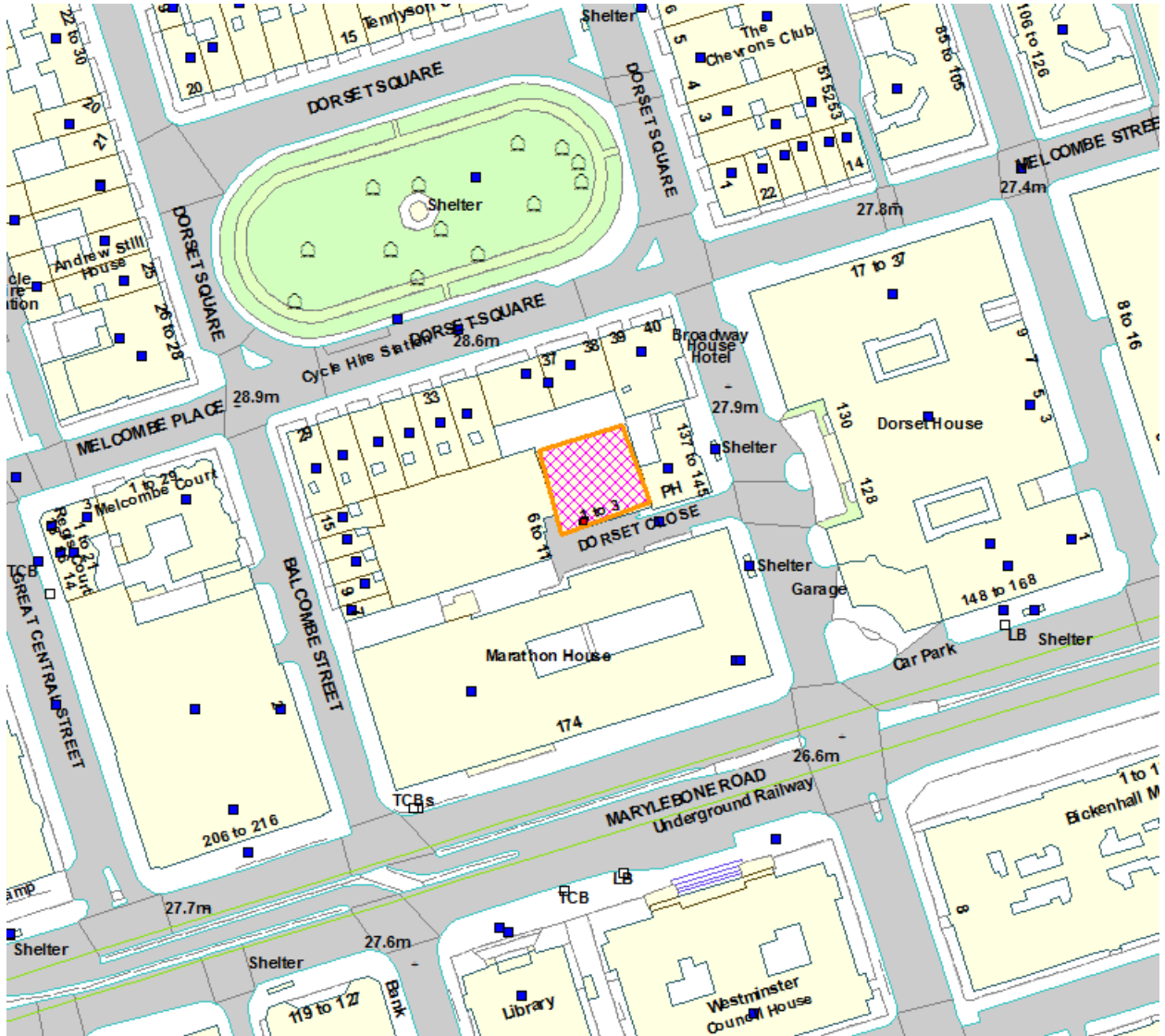
The key considerations are:

- Impact on the character and appearance of the Dorset Square Conservation Area and nearby listed buildings; and
- Impact on the amenity of nearby residents.

Objections to this application have been received, particularly to potential overlooking and noise from the windows.

Subject to the recommended conditions, the alterations preserve the character and appearance of the Dorset Square Conservation Area and nearby Grade 2 listed buildings. Whilst the amenity concerns of residents are understood, the alterations do not give rise to a loss of amenity of such magnitude that permission could sustainably be refused. Accordingly, the proposed development has been recommended for conditional approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front of Application Site

5. CONSULTATIONS

WARD COUNCILLORS FOR BRYANSTON AND DORSET SQUARE

Any response to be reported verbally.

ENVIRONMENTAL HEALTH OFFICER

No objection, subject to conditions.

THE ST MARYLEBONE SOCIETY

They regret that this is a retrospective application. The owners and residents at the rear feel that they have not been properly consulted by the developer and that the development does not respect their ownership rights and amenity.

Although they do not object to change of use from commercial to residential 'in principle', this site was approved without sufficient consideration or detail. Request that the City Council check and ensure that safeguards are included in any decision to protect the amenity of surrounding residential properties.

Concerned that residents were not consulted on the prior approval change of use application RN: 16/10996/P3JPA.

As a residential use, the activity period is different to an office use. It therefore results in potential negative impacts to privacy and noise nuisance that are materially different to an office use.

Are the areas of glazing clear or opaque?

Light pollution might also be an issue in such close distances. The application building's rear wall is on the boundary/party ownership line and as such the windows face directly into the garden courtyard and windows of the property to the rear. It is not clear from the drawings or D&A statement if the original rear elevation had opening windows.

If the windows are fully opening, residents could exit via these windows into the neighbouring site. If this were a possibility it would present a security problem as well as a privacy issue.

If the rear facade has opening windows this will bring potential noise nuisance across the rear courtyard and directly into neighbouring properties. If the windows are fixed shut and air conditioning is proposed for ventilation this will also bring potential noise nuisance.

An earlier application for the site recognised the above boundary and proximity issues and set the building back from the rear site boundary (see RN: 15/06509/FULL).

A Party Wall agreement would help resolve existing residents' concerns.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 27

Total No. of replies: 5

No. of objections: 3
No. in support: 2

In summary, the objectors raise the following issues:

- The change of use from office to residential appears to have been done without consideration of the impact on neighbouring properties.
- The application is retrospective;
- Some of what has been built protrudes over the boundary with neighbouring properties.
- The development overlooks neighbouring properties.
- Air-conditioning would cause noise nuisance to residents.
- A previous application (RN: 15/06509/FULL) shows the rear elevation with a two storey solid wall on the boundary which mitigates the issue of overlooking and security issues.
- No consideration has been given to access required to the rear elevation of the application site.
- Views from neighbouring properties have been severely affected by the installation of satellite dishes, elevated roof lights, flues at roof level and on the boundary wall, ventilation extracts and a maintenance balustrade.
- The windows located on the boundary prejudice redevelopment on neighbouring properties.

In summary, the supporters raise the following issues:

- The proposed changes are minor and improve the look of the building and character of the area.
- A noisy plant unit has been removed from the roof, which improves enjoyment of an outside space.
- The developer has been pro-active with engaging with us and keeping us informed.
- A Registered Provider is unable to take control of these affordable units until the current application is approved.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application property is a three storey building located on the northern side of Dorset Close. The property is not listed but is located within the Dorset Close Conservation Area. The property contained offices with three flats above until quite recently. It is currently undergoing conversion to 12 affordable flats, pursuant to prior approval application RN: 16/10996/P3JPA.

The proposal lies outside the Central Activities Zone.

6.2 Recent Relevant History

Application Site

16/10996/P3JPA

Use of existing office (Class B1(a)) to residential (Class C3) use to provide 9 residential dwellings. Application for prior approval under Part 3 Schedule 2 Class O of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Approved – 9 January 2017

15/06509/FULL

Conversion of the existing office use (Class B1) at lower, ground and first floor level and erection of a single storey roof extension to create 12 residential units (Class C3); Works to the appearance of the building, car parking, cycle parking and associated works.

Application Withdrawn – 10 May 2018

1-3 Grosvenor Square

The 12 units under construction on-site are an off-site affordable housing contribution for the following development at 1-3 Grosvenor Square.

15/07800/FULL

Demolition and redevelopment to provide three basement levels, lower ground, ground and first to seventh floor levels to provide between 43-48 residential units (Class C3) with associated ancillary leisure facilities, car parking, cycle parking, mechanical plant and associated works within the basement levels. Creation of terraces and balconies at various levels and installation of photovoltaic panels and plant with associated screening at main roof level. Use of part of the lower ground and ground floor levels as a restaurant unit fronting Grosvenor Street (Class A3).

Approved – 16 March 2016

7. THE PROPOSAL

The applicant seeks retrospective permission for the following alterations to the building on-site:

- Replacement of all windows on the front and rear elevations. The replacement windows include a horizontal glazing bar to prevent falls from the new flats.
- Addition of new zinc metal panelling to dormers and bay windows;
- New slate to mansard roof and replacement of areas of felt roofing on rear elevation with slate;
- Replacement of the front door, garage door and door to the cycle/refuse facilities on the front elevation;
- Installation of flues to front and rear elevations;
- Fall protection railing on first floor roof replaced;
- Redundant plant has been removed from the first floor roof.
- Installation of two satellite dishes, a smoke louvre, an automatic opening vent and rooflights at main roof level.

No change to the land use is proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Several objectors raise concerns with the conversion of this building from offices to residential. However, this application is for the external alterations noted above and does not propose a change of use of the building. The conversion of this building into residential has already been approved under application RN:16/10996/P3JPA and can take place regardless of the external alterations that are the subject of this application.

8.2 Townscape and Design

The existing building is recognised in the Dorset Square Conservation Area Audit as making a neutral contribution to the conservation area. It therefore contributes little to the significance of the conservation area.

The alterations have largely replaced pre-existing fabric with matching materials or materials of a similar appearance to those they have replaced. The design of the replacement items also matches the features they replaced. The new window frames are constructed of brown aluminium that matches the pre-existing windows. The slate cladding for the mansard replaced a similar type of slate cladding on the pre-existing roof. The zinc cladding to the dormer and bay windows are also of a similar appearance to the zinc cladding they replaced. The new doors have a design almost identical to those they replaced. The fall protection railing on the rear elevation also replaces a pre-existing railing and is discreetly located in any event. Overall, these alterations preserve the character and appearance of this building.

The plant removed from the first floor rear elevation has removed an item of clutter from this elevation and is an enhancement to this building.

The new satellite dishes and vents are located centrally on the main roof. Although they are higher than the vents they replaced, they do not harm the character and appearance of this building by virtue of their central location.

The flues are modestly sized and discreetly located and are uncontroversial in townscape and design terms.

Overall, the alterations preserve the character and appearance of this building and the Dorset Square Conservation Area. The alterations are also considered sufficiently removed from nearby listed buildings, including the Grade 2 listed terrace at 29-40 Dorset Square, so as not to harm their setting. The alterations are consistent with policies S25 and S28 of the City Plan and policies DES 1, DES 5, DES 6, DES 9 and DES 10 of the UDP.

8.3 Residential Amenity

As noted above, objectors are primarily concerned the replacement windows will result in overlooking of properties to the rear and additional noise for the occupants of those properties.

The windows have replaced pre-existing windows of an almost identical size and location. This building also benefits from permission to convert from office to residential and this can take place irrespective of whether these windows are replaced. Accordingly, the replacement windows have not increased potential overlooking of properties to the rear. Whilst objectors concerns are understood, refusal of permission on this basis would not be sustainable. Given the pre-existing situation and extant permission to convert to residential, it would also be unreasonable to impose conditions requiring that these window are obscure glazed.

The applicant has confirmed that the windows do not open outward, over the boundary with 37-38 Dorset Square. The windows are also not fully openable and are located no closer than 8 metres from the rear of 37-38 Dorset Square. Given this and that they serve residential flats, it is not anticipated that they would give rise to significant levels of noise for the occupants of 37-38 Dorset Square. To ensure that these windows are not fully openable, a condition is recommended that requires the fitting of restrictors to these windows.

Air-conditioning for the flats has not been installed and the applicant does not propose installing any new plant for these flats. The Environmental Health Officer has also reviewed the proposal and has no objection on noise grounds, subject to conditions limiting potential noise from the automatic opening vent and smoke louvre.

The satellite dishes, smoke louvre and automatic opening vent are located centrally on the main roof, have a small overall height and profile relative to this building and are located approximately 15 metres from the nearest residential properties in 37-38 Dorset Square. Accordingly, they have not resulted in material losses of light or sense of enclosure for the occupants of nearby residential properties. The other alterations have not increased the size of this building and therefore have had no impact in terms of loss of light and sense of enclosure.

Overall and subject to the recommended conditions, the alterations are consistent with policy S29 of the City Plan and policies ENV 6, ENV 7 and ENV 13 of the UDP.

8.4 Economic Considerations

No economic considerations are applicable for a development of this size.

8.5 Other UDP/Westminster Policy Considerations

None

8.6 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, the draft plan has been revised and formal consultation is now being carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.7 London Plan

This application raises no strategic issues.

8.8 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.9 Planning Obligations

Planning obligations are not relevant in the determination of this application.

8.10 Environmental Impact Assessment

This development does not trigger a requirement for an EIA.

8.11 Other Issues

The issues raised in representations have largely been addressed above. The following is also noted.

Several objectors note that no windows were proposed on the ground and first floor rear elevations facing 37-38 Dorset Square under application RN: 15/06509/FULL. However, that application was withdrawn by the applicant and never approved. As noted above, the applicant has exercised their permitted development right to convert this building from offices to residential. Under the prior approval process for that permitted development right, the City Council is unable to control amenity impacts such as overlooking. As the applicant has been through that process, it would be unreasonable of the City Council to now seek to require that these windows are obstructed.

Several objectors are also concerned that the windows on the boundary with 37-38 Dorset Square would prejudice future development of that site. However, these windows are considered unneighbourly and would be an unreasonable constraint on development of that site. Accordingly, the City Council would not protect these windows and they would not prejudice development on 37-38 Dorset Square. An informative is recommended to remind the applicant of this.

The St Marylebone Society consider that several neighbouring properties were not notified of the prior approval application that allowed this building to be converted into flats. However, the City Council's records indicate that this application was notified in accordance with the relevant regulations.

Several objectors note that no consideration has been given to maintenance access to the windows at ground and first floor level facing 37-38 Dorset Square. They also note that no party wall agreement has been reached with the applicant. Both of these issues are civil matters and not material planning considerations.

Several objectors are also concerned that the windows at ground floor facing 37-38 Dorset Square will pose a security risk to those properties. A condition that prevents these windows from opening fully is recommended to prevent this.

(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: NATHAN BARRETT BY EMAIL AT nbarrett@westminster.gov.uk

9. KEY DRAWINGS



Pre-existing Front Elevation



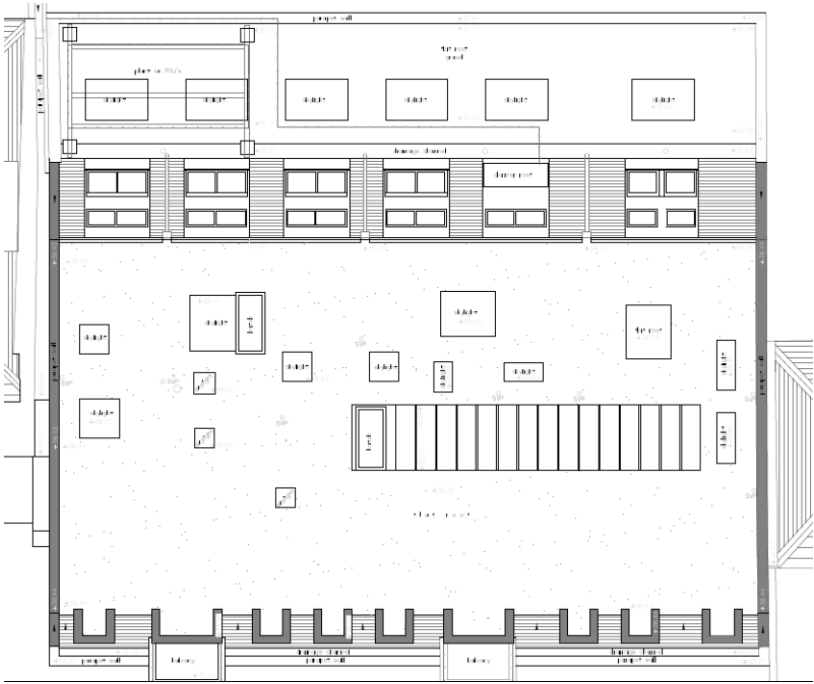
Existing Front Elevation



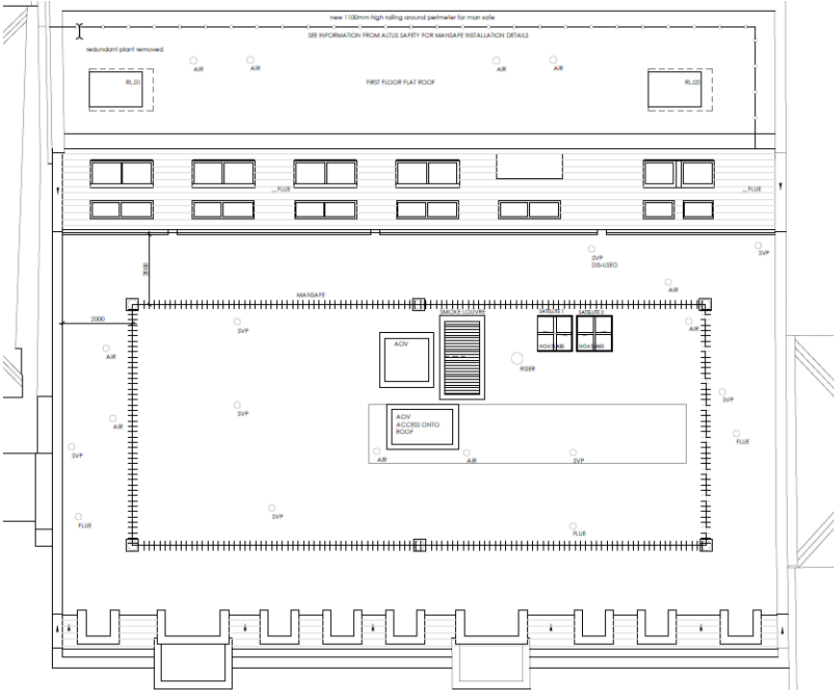
Pre-existing Rear Elevation



Existing Rear Elevation



Pre-existing Roof Plan



Existing Roof Plan

DRAFT DECISION LETTER

Address: 1 Dorset Close, London, NW1 5AN,

Proposal: External alterations including replacement of windows, installation of rooflights, maintenance balustrade and installation of ventilation extract ducting at roof level.

Reference: 19/03307/FULL

Plan Nos: Drawing numbers 502/D/001, 502/GA/104, 502/GA/114 Rev A, 502/D/200, 502/D/210, 502/D/211 Rev A, 502/S/300 Rev A, 502/S/301 Rev A, 502/S/310 Rev B, 502/S/311 Rev C, 504/D/400, Rev C, 502/D/401, Altus Safety – Altus Rail Data Sheet, Design and Access Statement by Gravity Design Associates (dated April 2019), Em-Vent Smoke Vent Brochure by Whitesales Rooflights (dated July 2014); Smoke Vent & Air Supply Mechanical Louvre Brochure by Whitesales Rooflights (dated July 2014)

Case Officer: Nathan Barrett

Direct Tel. No. 020 7641 5943

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AB)

- 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 Within three months of the date of this permission, you must apply to us for approval of drawings showing the fitting of restrictors to the rear windows at ground and first floor level. The restrictors must be designed to prevent the windows from opening fully and to prevent occupants from exiting the building via the windows. You must then install the approved window restrictors within one month of their being approved and retain them thereafter.

Reason:

To protect neighbouring residents from noise and disturbance and to reduce crime as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

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 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.

3 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.

* Window cleaning - where possible, install windows that can be cleaned safely from within the building.

* Internal atria - design these spaces so that glazing can be safely cleaned and maintained.

* Lighting - ensure luminaires can be safely accessed for replacement.

* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at www.hse.gov.uk/falls/index.htm.

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

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.