

CITY OF WESTMINSTER			
PLANNING (MAJOR APPLICATIONS) SUB-COMMITTEE	Date 29 October 2019	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	318 Oxford Street, London, W1C 1HF		
Proposal	Use of part basement, part ground, part first, part second, part third, fourth, fifth, sixth and part seventh floors as office use (Class B1) (including waste storage and cycle parking at ground and basement floors levels). Use of part ground and part basement as gymnasium (Class D2). Use of part ground and part seventh floor as restaurant (Class A3). Alterations at roof level including new louvred screen to plant and increase in height to the lift overrun.		
Agent	Montagu Evans LLP		
On behalf of	Publica Properties Limited		
Registered Number	18/10897/FULL	Date amended/ completed	27 December 2018
Date Application Received	27 December 2018		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

1. Grant conditional permission subject to a legal agreement to secure the following:
 - a) Undertaking of highways works to Chapel Place and associated alterations to traffic orders. Highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development. Highways works to be completed prior to occupation of either the gymnasium (Class D2) or restaurant (Class A3) floorspace.
 - b) The costs of monitoring the S106 legal agreement.
2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:
 - a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
 - b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

The application site comprises an unlisted purpose-built department store located on the West End International Shopping Frontage and the Core Central Activities Zone (Core CAZ). The site is located within the Harley Street Conservation Area and outside a stress area.

The building is currently occupied by a department store (House of Fraser) and is wholly in use as a shop (Class A1). The basement to fifth floors are publicly accessible, whilst the sixth and seventh floors are in use as ancillary staff space and offices.

Permission is sought to convert part of the basement into a gymnasium (Class D2) accessed via a small lobby on Chapel Place. The rear third, fourth, fifth, sixth and rear seventh floors are proposed to be used as offices (Class B1) accessed via a part double-height entrance lobby at rear ground floor on Henrietta Place. The front seventh floor is proposed to be converted to a restaurant (Class A3) accessed via a small lobby on Chapel Place. Finally, a plant screen and an extension to a lift overrun are proposed at roof level.

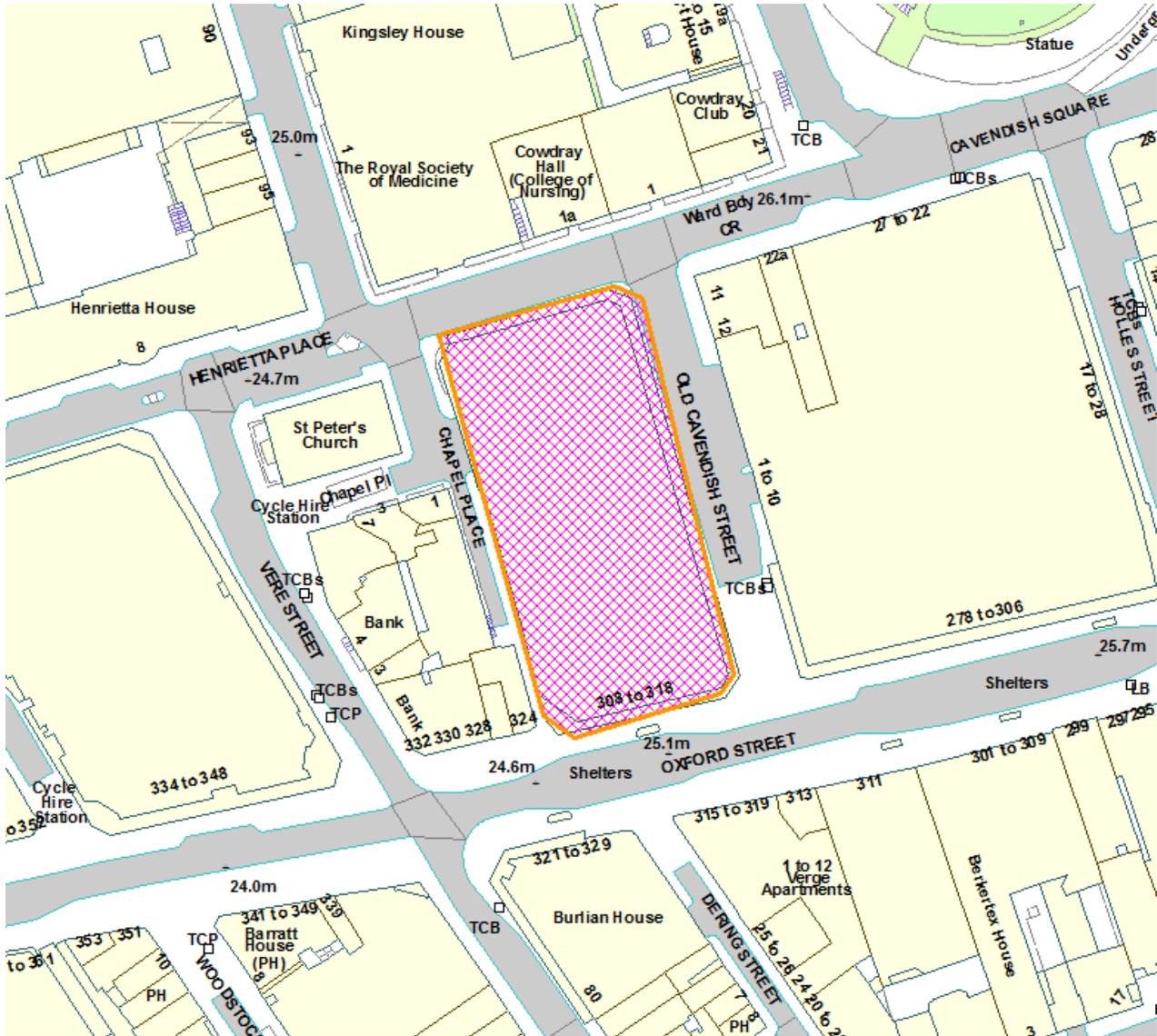
The key issues for consideration are:

- Whether departing from the policy protection for retail floorspace within City Plan Policy S21 is justified and whether the most exceptional circumstances exist in this instance to overcome the policy protection for retail floorspace at basement, ground and first floor levels within UDP Policy SS3.
- Whether the alterations at roof level will preserve and enhance the character and appearance of the Harley Street Conservation Area.
- Whether exceptional circumstances exist to justify the large proposed restaurant (Class A3), contrary to the usual presumption with City Plan Policy S24 and UDP Policy TACE 10 that such uses are inappropriate.

For the reasons set out in this report, despite the building (or any part of the building) not being long-term vacant, the most exceptional circumstances exist to justify the loss of retail floorspace in this instance. Furthermore, despite the large size of the proposed restaurant, the lack of any demonstrable harm and the site's highly commercial location, means that exceptional circumstances exist to permit this large-scale entertainment use. Finally, the proposed external alterations will enhance the character and appearance of the Harley Street Conservation Area.

For these reasons, it is recommended that conditional planning permission be granted subject to the completion of a legal agreement securing highways works and public realm improvement works to Chapel Place.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation from Oxford Street:



5. CONSULTATIONS

Consultation on submitted application

MARYLEBONE ASSOCIATION:

- No response.

HIGHWAYS PLANNING:

- Requests that additional cycle parking is included within the proposal to ensure compliance with the minimum standards set out within the London Plan (2016).

WASTE PROJECT OFFICER:

- No objection.

ENVIRONMENTAL SCIENCES:

- No response.

NEW WEST END COMPANY:

- No response.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 48

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Consultation on amended application (21 May 2019).

MARYLEBONE ASSOCIATION:

- Any response to be reported verbally.

HIGHWAYS PLANNING:

- Any response to be reported verbally.

WASTE PROJECT OFFICER:

- Any response to be reported verbally.

ENVIRONMENTAL SCIENCES:

- No in-principle objection but notes that there are no details regarding extract ventilation or plant in association with the proposed new restaurant.

NEW WEST END COMPANY:

- Supports proposal on the ground that it: (i) Supports the principle of diversifying the building's use; (ii) There is no longer demand for the quantum of retail floorspace within this building; and (iii) The creation of offices will attract more people into the area and create a sustainable financial model to maintain and repair the building.

METROPOLITAN POLICE:

- Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 48
Total No. of replies: 0
No. of objections: 0
No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site comprises an unlisted building of merit located within the Core CAZ and the Harley Street Conservation Area. The Church of St. Peter's (Grade I listed) is located to the west of the site (although the development proposal is not considered to affect its setting). The building occupies a street block bound by Oxford Street, Old Cavendish Street, Henrietta Place and Chapel Place.

Along with Regent Street and Bond Street, Oxford Street forms part the West End International Shopping Centre. The site is also located within the West End Special Retail Policy Area. The site is not within a stress area.

Records indicate that there are very few residential units in the vicinity of the site; the nearest being a fourth floor of 1 Vere Street.

The building is arranged over basement, ground and seven upper floors and comprises a purpose-built department store (Class A1) completed in 1937 and originally occupied by DH Evans. It is currently occupied by House of Fraser. The building features a loading bay accessed from Chapel Place

The building is faced in Portland stone with Moderne features. Without planning permission, a mesh has been erected around the upper floors of the building. It is understood that this is to prevent any masonry falling from the building causing a danger to passing pedestrians. It is understood that, due to insufficient maintenance, water has penetrated the façade causing corrosion of the steel frame buried within the facades. This in turn is resulting in damage to the masonry encasing the steel members. Given that this breach of planning control took place within the last four years, it has been reported to the Planning Enforcement Team for action.

The unit is currently fully occupied by House of Fraser department store, with retailing taking place over basement, ground and first to fifth floors. The sixth and seventh floors are currently used as ancillary office and staff space. House of Fraser forms one of three departments stores in this part of Oxford Street, being flanked by John Lewis and Debenhams.

6.2 Recent Relevant History

None.

7. THE PROPOSAL

Permission is sought to use part of the basement as a gymnasium (Class D2) accessed from a ground floor entrance on Chapel Place. The rear half of the third floor, the entirety of the fourth to sixth floors, and the rear half of the seventh floor are proposed to be used as offices (Class B1) accessed by a partly double-height ground floor office entrance on Henrietta Place. Ancillary cycle parking for use in association with this office floorspace is proposed at basement level. Showering and changing facilities are proposed to be shared with the proposed gymnasium. The front half of the seventh floor (including terraces fronting onto Oxford Street and Old Cavendish Street) is proposed to be used as a restaurant (Class A3) accessed via a ground floor entrance lobby on Chapel Place. The sub-basement level will continue to be used as communal plant.

A new louvred plant screen is proposed at roof level to enclose existing roof-top plant, as is an extension to the existing lift overrun.

A summary of the land use implications of the proposed development is set out below:

	Existing GIA (sqm)	Proposed GIA (sqm) ¹	+/-
Shops (Class A1)	31,507 (17,945 tradable)	15,855 (11,186 tradable (minimum))	-15,652 (-6,759 tradable)
Office (Class B1)	0	13,546	+13,546
Gymnasium (Class D2)	0	984	+984
Restaurant (Class A3)	0	1,121	+1,121
Total	31,507	31,507	0

Table 1: Existing and proposed floorspace by use (shared space is attributed to each use proportionately).

The application has been amended during the course of its consideration in the following ways:

- The gymnasium (Class D2) at basement level was added to the proposal.
- The originally proposed dual / alternative Shop (Class A1) / Assembly and Leisure (Class D2) unit at the corner of Henrietta Place and Old Cavendish Place at ground, first and second floor levels was omitted from the proposal.
- Shop (Class A1) floorspace was retained at rear ground floor level on Henrietta Place. This was achieved through the reduction in the size of the proposed new office entrance.

¹ Shared floorspace attributed proportionately to the proposed uses.

- Shop (Class A1) floorspace was retained at front third floor level.
- The restaurant (Class A3) at front seventh floor level was added to the proposal.

As a result of these amendments, a full round of re-consultation was undertaken.

8. DETAILED CONSIDERATIONS

The application is required to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the London Plan (adopted March 2016), Westminster's City Plan (adopted November 2016) and the remaining 'saved' and not superseded policies within the City of Westminster UDP (adopted January 2007).

Given that the draft City Plan remains at a pre-submission it generally attracts very limited weight at this present time.

The Examination in Public for the draft new London Plan finished on 22 May 2019, with the Mayor publishing a consolidated suggested changes version of the plan on 15 July 2019. The Panel's report has not yet been received. It is currently expected that the new London Plan will be adopted in February / March 2020. The emerging new London Plan is a material consideration in the determination of this application. The weight attributed to this document is a matter for the decision maker. The closer the document is to adoption, the greater the weight that should be given to it.

The revised National Planning Policy Framework (NPPF) was published in February 2019. The NPPF is also a material consideration in the determination of this application.

8.1 Land Use and Amenity

8.1.1 Loss of retail floorspace

The international shopping centres are London's globally renowned retail destinations with a wide range of high-order comparison and specialist shopping with excellent levels of public transport accessibility. For these reasons, the West End International Shopping Centre (of which Oxford Street forms part) sits at the top of the retail hierarchy.

London Plan Policy 2.15(C) states that development proposals in town centres should (*inter alia*): (i) Sustain and enhance the vitality and viability of the centre; (ii) Accommodate economic and/or housing growth through intensification and selective expansion in appropriate locations; (iii) Support and enhance the competitiveness, quality and diversity of town centre retail, leisure, employment, arts and cultural, other consumer services and public services.

London Plan Policy 4.8 requires the City Council to, '*...support a successful, competitive and diverse retail sector which promotes sustainable access to the goods and services that Londoners need and the broader objectives of the spatial structure of this Plan, especially town centres*'. Further support for retail floorspace is provided within London Plan Policy 2.10(A)(f) that requires the City Council to, '*...support and improve the retail offer of CAZ for residents, workers and visitors, especially Knightsbridge and the West End as global shopping destinations*'.

Policy SD4 (The Central Activities Zone) of the draft new London Plan states, *The vitality, viability, adaptation and diversification of the international shopping and leisure destinations of the West End (including Oxford Street, Regent Street, Bond Street and the wider West End Retail and Leisure Special Policy Area) and Knightsbridge together with other CAZ retail clusters including locally-oriented retail and related uses should be supported*'.

City Plan Policy S7 requires the maintenance and enhancement of the unique status and offer of the West End Special Retail Policy Area. City Plan Policy S21 provides blanket protection of existing A1 retail floorspace throughout the City except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let.

UDP Policy SS3 sets out more specific policy for the site. It protects A1 retail floorspace at basement, ground and first floor levels. Only in the most exceptional circumstances does the policy allow a departure from this in-principle objection. At third-floor level and above, the policy states that change of use from A1 use will be acceptable.

The lack of protection of A1 floorspace at third-floor level and above with UDP Policy SS3, however, must be read in conjunction with City Plan Policy S21. City Plan Policy S21 replaced UDP Policy SS1 and introduced blanket protection for all retail floorspace unless it is demonstrably 'long-term vacant'. Under Section 38(5) of the Planning and Compulsory Purchase Act 2004, if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. Given City Plan Policy S21 is the most recent policy, unless it is demonstrated that any retail floorspace on site is long-term vacant, there is still a policy objection to the proposed loss of any retail floorspace on site. This applies even at third, fourth, fifth, sixth and seventh floor levels, despite this not being in conflict with UDP Policy SS3.

In light of the entire building still being in retail use (i.e. not vacant, let alone 'long-term vacant'), the loss of 15,652 sq.m of retail floorspace (49.7% of existing) is contrary to City Plan Policy S21. Furthermore, the most exceptional circumstances are required to justify a departure from the strong policy protection within UDP Policy SS3(A) in respect to the loss of retail floorspace at basement, ground and first floor levels.

Only if it were demonstrated that the loss of retail floorspace would not harm the unique status and offer of the West End Special Retail Policy Area, that the vitality and viability of the West End International Centre would be sustained and that it would continue its role as a successful, competitive and diverse retail destination, would the development proposal be in accordance with City Plan Policy S7 and London Plan Policies 2.10, 2.15 and 4.8.

Whilst the loss of 15,652 sq.m GIA of retail floorspace is contrary to City Plan Policy S21, it is considered that there are exceptional circumstances to depart from this policy. Furthermore, the most exceptional circumstances are considered to exist to depart from the presumption against the loss of retail floorspace at basement, ground and first floor levels within UDP Policy SS3. These most exceptional circumstances are as follows:

- A substantial retail offer (15,855 sq.m GIA) would be retained on site, including the majority of the basement, the majority of the ground (including on the key Oxford Street and Old Cavendish Street frontages), almost the entirety of the first, the entirety of the second and around half of the third floors.
- The applicant has agreed to retain at least 11,186 sq.m of retail floorspace that will be accessible to visiting members of the public. This is the equivalent of the remaining retail floorspace at basement, ground, first and the majority of the second floors. This is recommended to be secured by condition.
- The precarious situation of the current occupier of the unit which, it is understood, resulted in its long-lease being surrendered on 20 August 2018. A short-term licence is currently in place. The result is that there is a real possibility that the unit may become vacant in the short to medium term.
- The need for the owner of the building to have a stable business model to facilitate investment in the building.
- The benefits of diversifying the building's offer through the inclusion of town centre uses in the form of a basement gymnasium and seventh floor restaurant which may attract more customers to the International Shopping Centre through a greater part of the day and may result in linked shopping trips.
- The economic benefit of an additional 13,546 sq.m of office floorspace within the Core CAZ.

For these reasons, it is considered that the building will still contribute significantly to the International Shopping Centre as a retail destination, maintaining its vitality and viability and role as a successful, competitive and diverse retail destination. Furthermore, it is not considered that the unique status and offer of the West End Special Retail Policy Area would be harmed. For these reasons, the proposal is considered not to be in conflict with City Plan Policy S7 or London Plan Policies 2.10, 2.15 and 4.8.

8.1.2 Proposed office floorspace

The provision of an additional 13,546 sq.m (GIA) of office floorspace within the Core CAZ is welcome, contributing to the office floorspace and job targets within City Plan Policies S18 and S20.

Despite the large increase in office floorspace proposed, as no increase in floorspace is proposed, the development is not mixed-use liable (i.e. there is no requirement to provide any residential accommodation or make a contribution towards the City Council's Affordable Housing Fund).

8.1.3 Proposed gymnasium floorspace

There is no objection to the provision of a gymnasium within the Core CAZ as this would provide a welcome social and community use in a suitable location, in accordance with City Plan Policies S6 and S34. Given the nature of the use, the site's central location in a highly commercial part of the West End and the few residential properties in close vicinity, it is not considered necessary to impose an hours of operation condition.

8.1.4 Proposed restaurant

The large size of the proposed new seventh floor restaurant (1,121 sq.m GIA) and its operating hours (between 07.00 and 01.00 daily), means that there is a general presumption against this element of the proposal, within Policy S24 stating that new large-scale late-night entertainment uses of over 500 sq.m are generally inappropriate and UDP Policy TACE 10 stating that exceptional circumstances are required to justify entertainment uses of over 500 sq.m.

The location of the restaurant in a highly commercial location in the heart of the West End and outside of a stress area, its excellent public transport connections, the very few residential properties in the vicinity of the site and the lack of objections to the proposal, all combine to mean that such a use would not have an adverse effect on the character and function of the area, harm residential amenity or degrade local environmental quality. This lack of harm is considered to represent exceptional circumstances to depart from the general presumptions within City Plan Policy S24 and UDP Policy TACE 11 against this scale of entertainment use.

Conditions are recommended to be imposed preventing any ancillary hot-food takeaway food or drink, limiting the ancillary bar area to 15% of the floorspace of the unit and requiring customers to have left the premises by 01.00 daily.

8.2 Townscape and Design

Externally, the proposals will see the addition of a louvred screen to surround the existing plant. The extended lift over run will sit below the height of the screen and existing plant.

The proposed alterations will be unappreciable from street level and will enhance high level views of the building, in accordance with saved UDP Policies DES 1, DES 5, DES 6 and DES 9 and City Plan Policies S25 and S28. For these reasons, the external alterations are considered acceptable in design and heritage terms subject to a condition that the plant screen be finished and maintained in a grey colour.

8.3 Transportation/Parking

Off-street servicing within the Chapel Place servicing bay for the office (Class B1), restaurant (Class A3) and gymnasium (Class D2) is secured by condition.

The quantum of on-site cycle parking is policy-compliant and is recommended to be secured by condition. Office workers and members of the gymnasium will share shower facilities which is considered to represent a sensible use of space.

8.4 Economic Considerations

The economic benefits associated with the proposed office, restaurant and gymnasium floorspace are welcome.

8.5 Access

Level access is provided throughout.

8.6 Other UDP/Westminster Policy Considerations

Plant and Noise

No details of the kitchen extract required to operate the seventh-floor restaurant have been provided as part of this application. However, given the height of the building, any roof level extract is likely to be acceptable from odour dispersal and heritage perspectives. Furthermore, the considerable distance to any noise sensitive receptors means that it likely to be technically possible to adhere to the relevant noise criterion within UDP Policy ENV 7.

For these reasons it is considered that, in this instance, these details can be secured by condition.

Refuse /Recycling

A shared refuse / recyclable material store is proposed at ground floor level adjacent to the loading area onto Chapel Place. This includes a rotary compactor and cardboard baler. A communal lift provides access from all floors to this shared refuse / recyclable material store. Subject to a condition requiring this shared refuse / recyclable material store to be provided prior to occupation of the office (Class B1), gymnasium (Class D2) or restaurant (Class A3) floorspace, this provision is acceptable.

8.7 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Following informal consultation in 2018, the draft plan has been revised and formal consultation was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between 19 June 2019 and 31 July 2019. Following this consultation period, the City Council is now reviewing the comments received before submitting the City Plan for examination. 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.

8.8 Neighbourhood Plans

The site is within an area where the Marylebone Forum is the designated neighbourhood planning forum. The neighbourhood plan is currently on hold pending the adoption of the replacement City Plan. Given its very early stage in development, it can therefore be afforded no weight at the present time.

8.9 London Plan

This application raises no strategic issues and is not referable to the Mayor of London.

8.10 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.

No pre-commencement conditions are recommended to be imposed.

8.11 Planning Obligations

The draft 'Heads' of agreement are proposed to cover the following issues:

- (a) Undertaking of highway works and public realm improvements to Chapel Place and associated alterations to traffic orders. Highway works and public realm improvements to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development. Highway works and public realm improvements to be completed prior to occupation of either the gymnasium (Class D2) or restaurant (Class A3) floorspace.
- (b) The costs of monitoring the S106 legal agreement.

Given the proposed new entrances proposed to the new gymnasium and restaurant are from Chapel Street which currently represents a poor-quality environment, the highways and public realm improvements to Chapel Place are:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

As such, the planning obligation accords with the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations (21010) (as amended).

As no increase in floorspace is proposed, the development does not generate a CIL payment.

8.12 Environmental Impact Assessment

The scheme is of insufficient size and impact to require assessment under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015.

8.13 Other Issues

None.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

Item No.

1

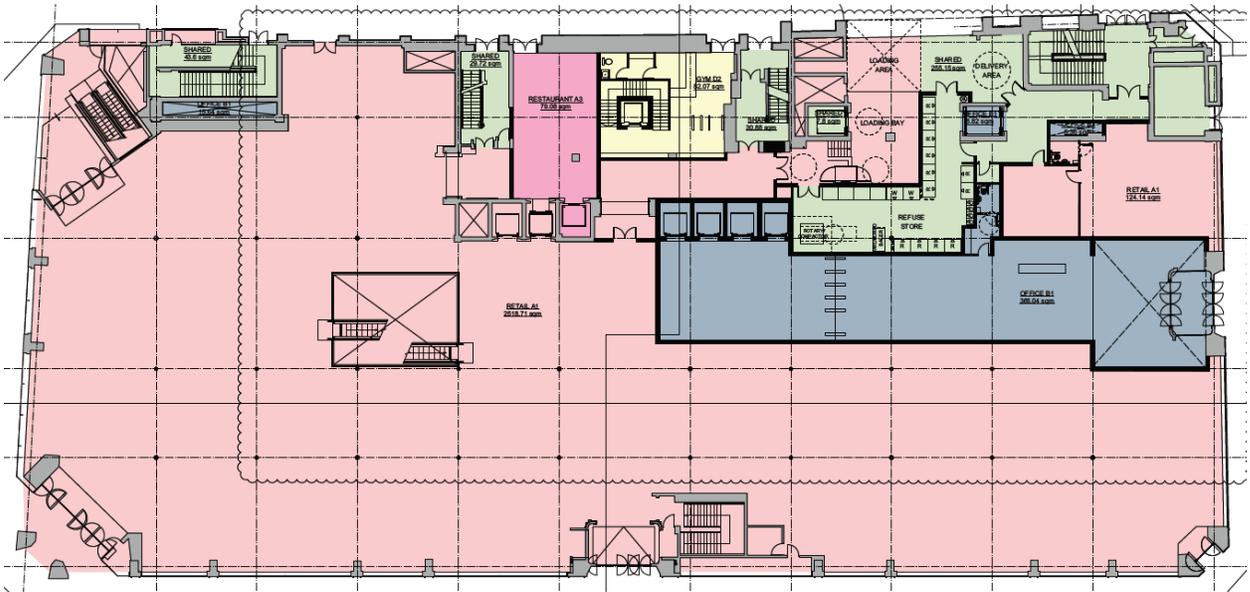
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

9. KEY DRAWINGS

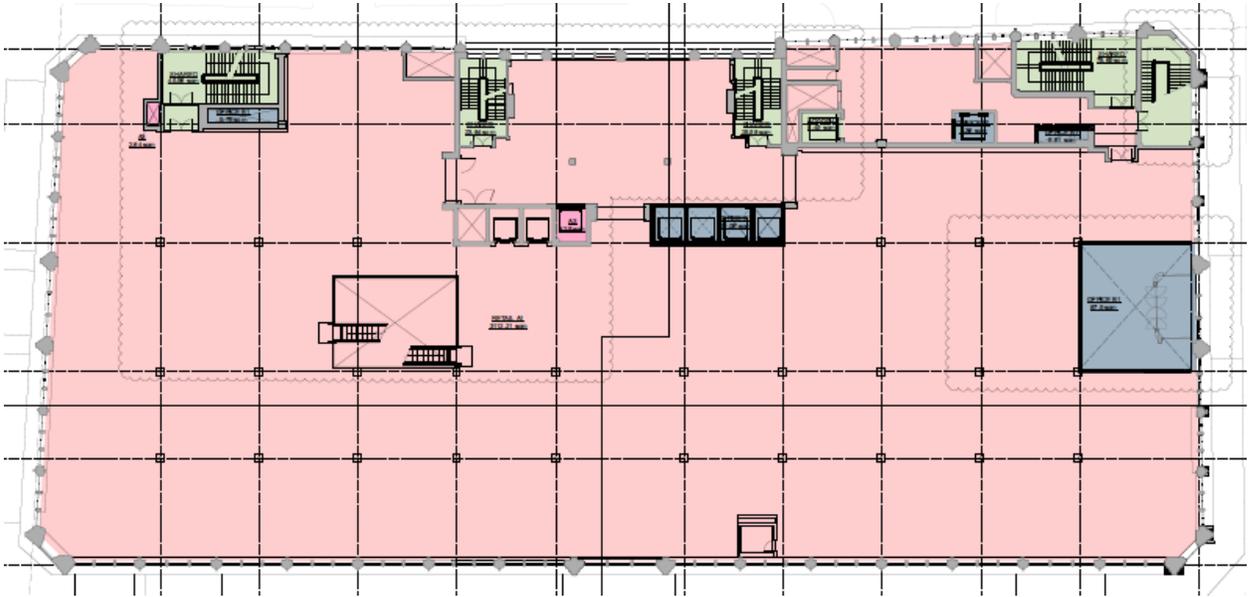
Proposed basement floorplan:



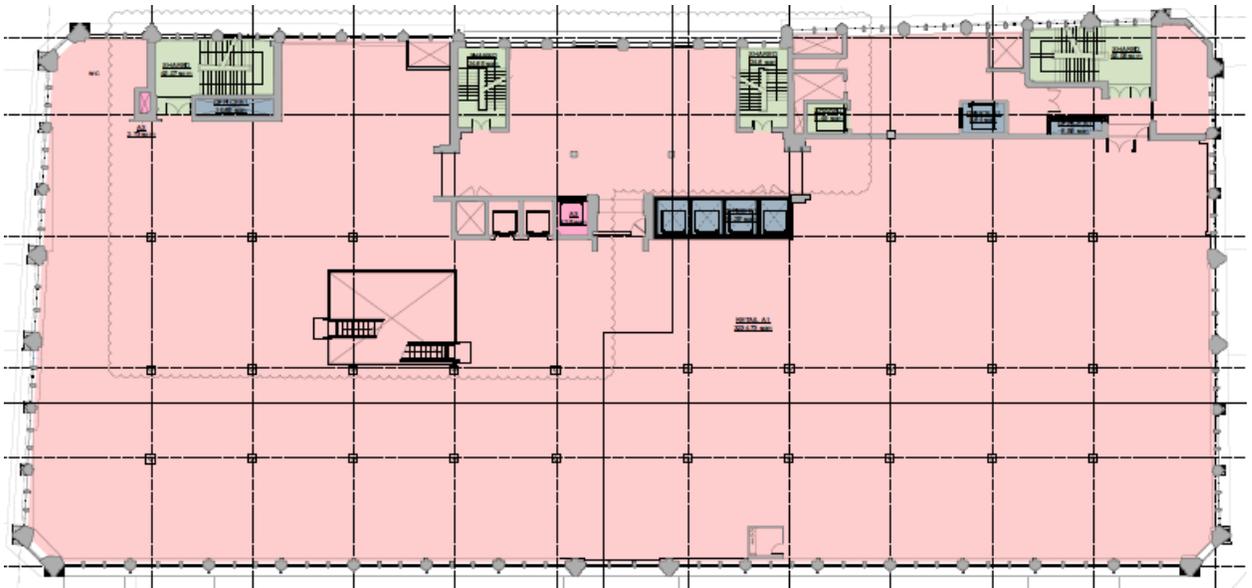
Proposed ground floorplan:



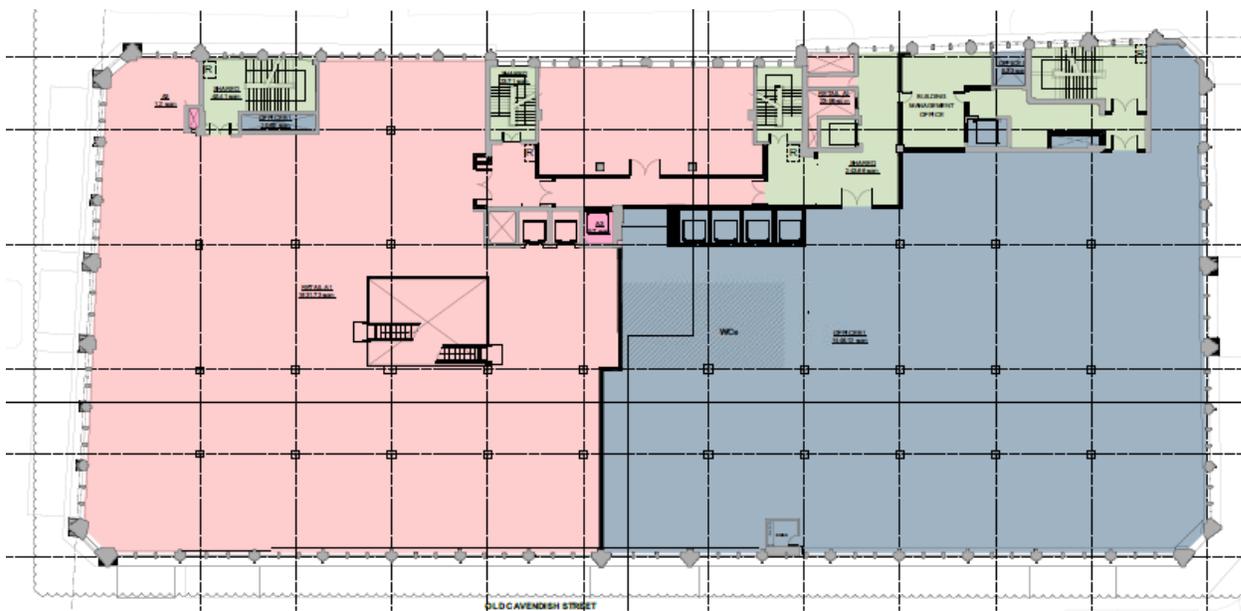
Proposed first floorplan:



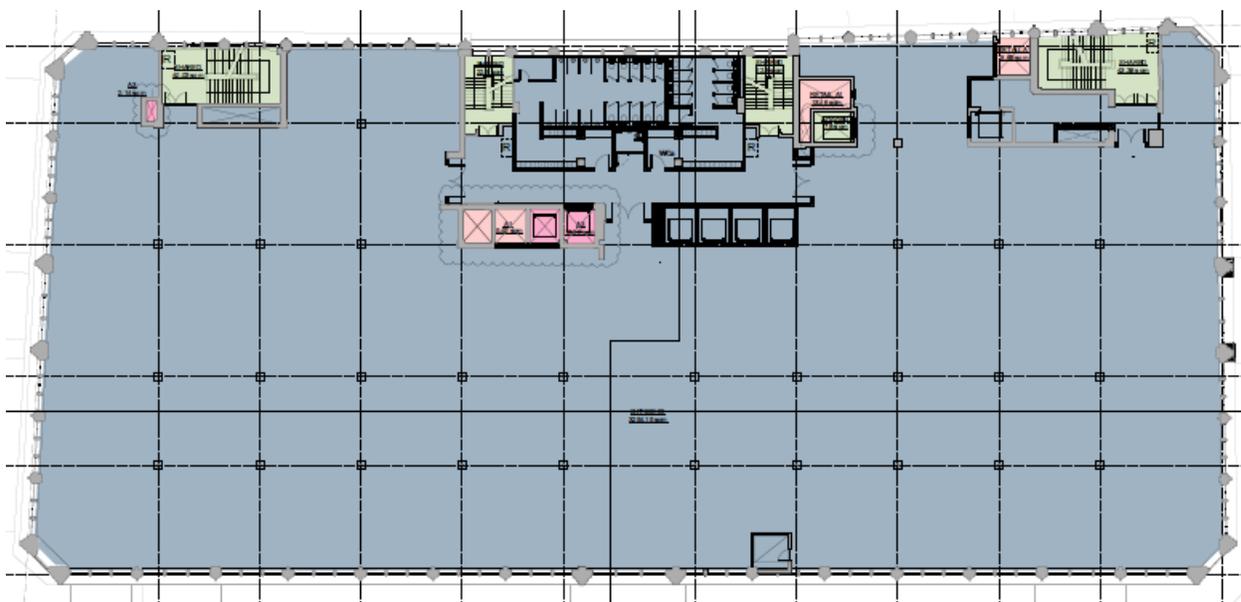
Proposed second floorplan:



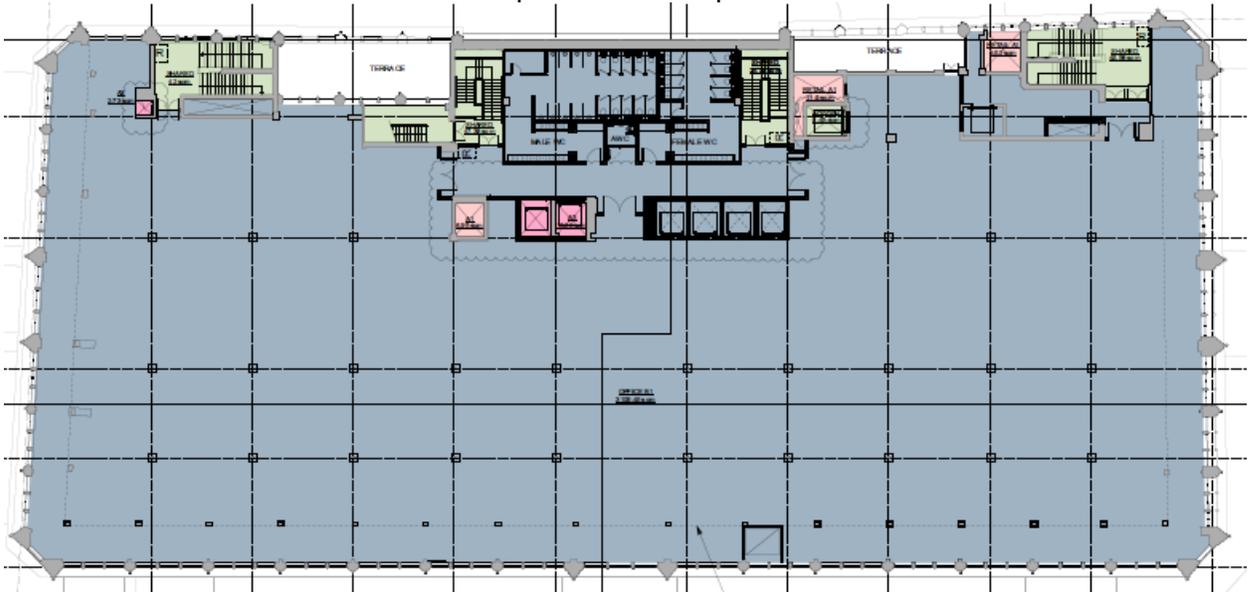
Proposed third floorplan:



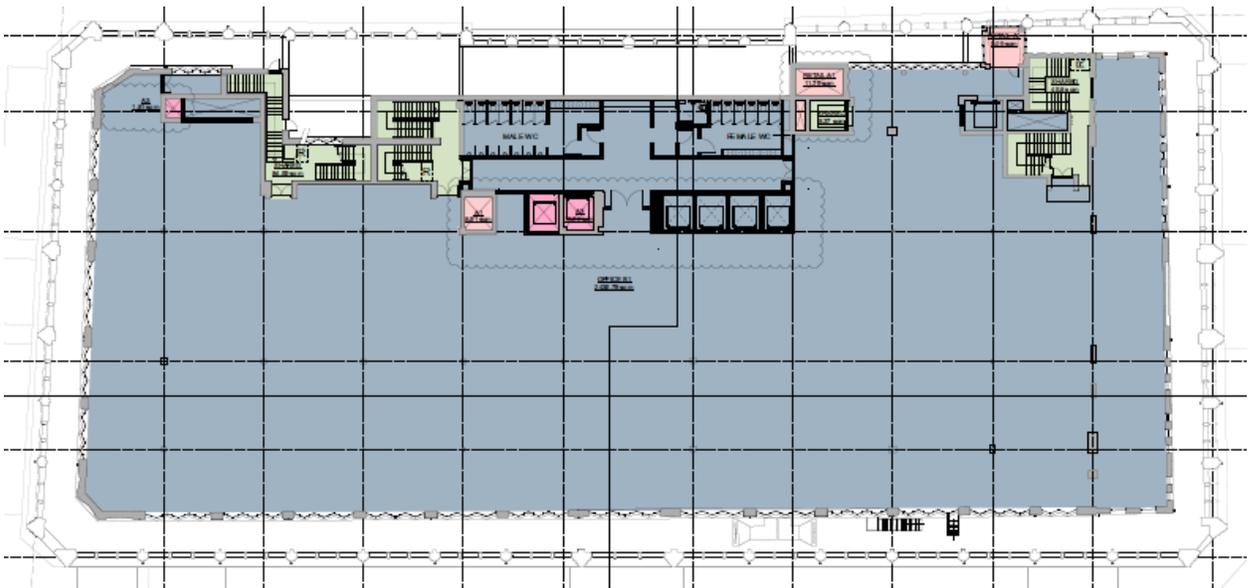
Proposed fourth floorplan:



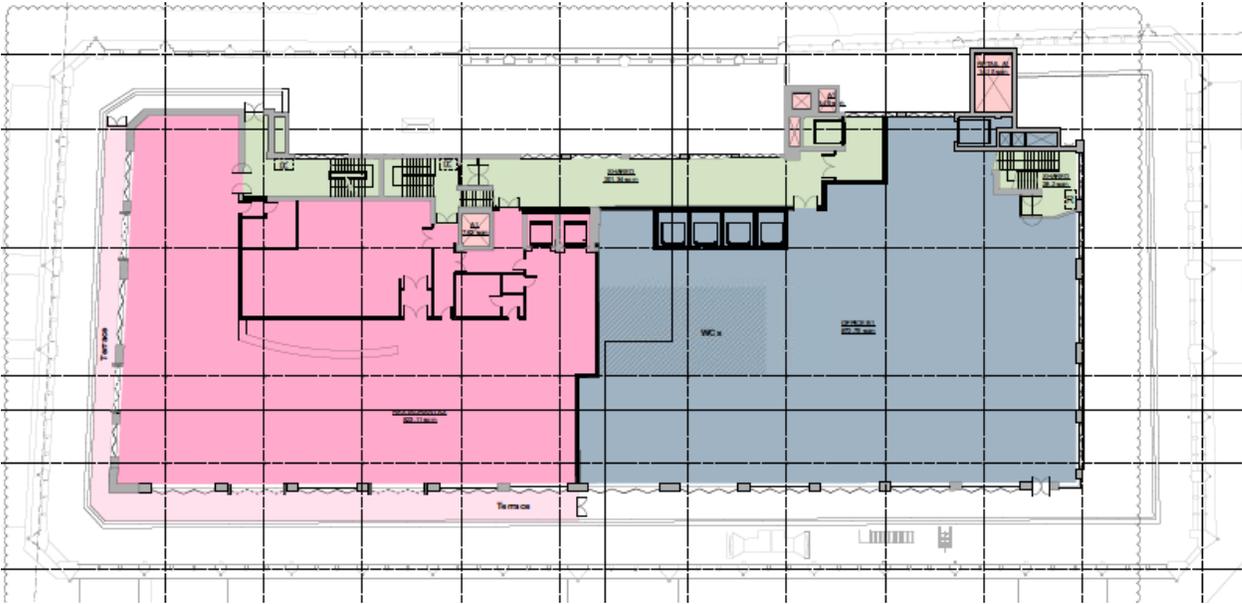
Proposed fifth floorplan:



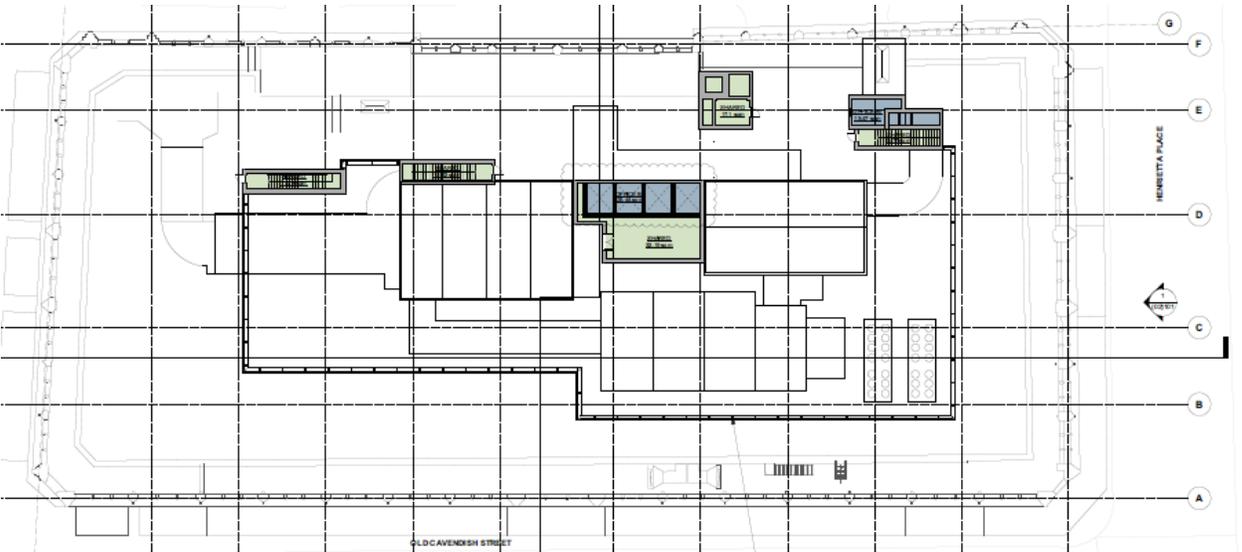
Proposed sixth floorplan:



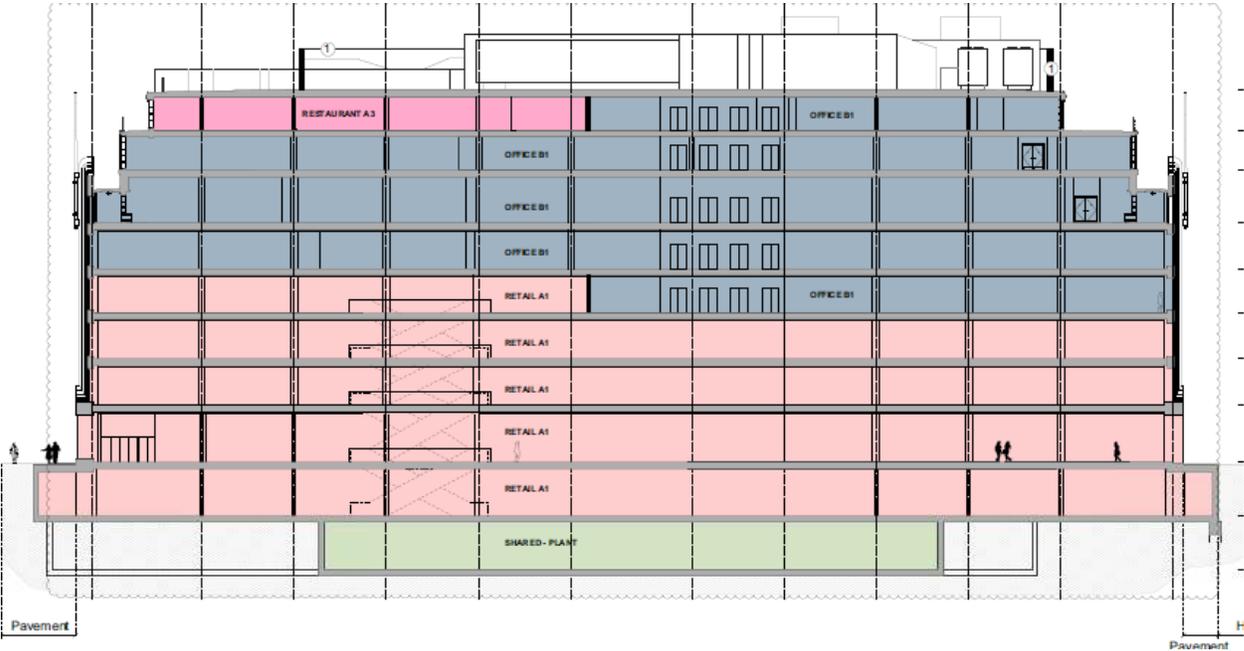
Proposed seventh floorplan:



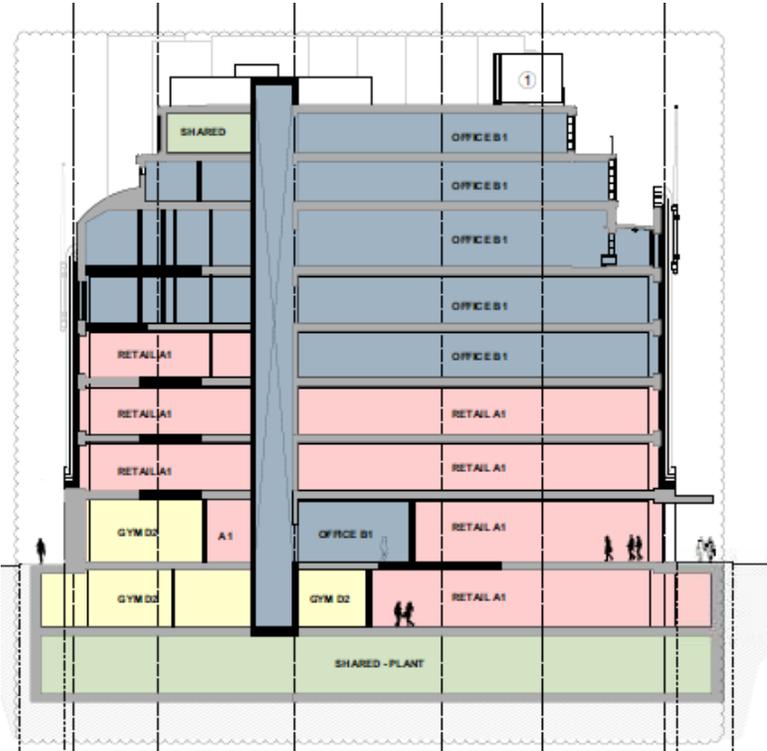
Proposed roof plan:



Proposed Long-Section



Proposed Short-Section



DRAFT DECISION LETTER

Address: 318 Oxford Street, London, W1C 1HF,

Proposal: Use of part basement, part ground, part first, part second and third, fourth fifth sixth and part seventh floors as office use (Class B1) (including waste storage and cycle parking at ground and basement floors levels). Use of part ground and part basement as gymnasium (Class D2). Use of part ground and part seventh floor as restaurant (Class A3). Alterations at roof level including new louvred screen to plant and increase in height to the lift overrun.

Plan Nos: (02)011 Rev. P2, (02)010 Rev. P2, (02)000 Rev. P3, (02)001 Rev. P3, (02)002 Rev. P3, (02)003 Rev. P3, (02)005 Rev. P2, (02)006 Rev. P2, (02)007 Rev. P2, (02)008 Rev. P2, (02)100 Rev. P2, (02)101 Rev. P2, (02)102 Rev. P2, (02)103 Rev. P2, (02)201 Rev. P3 and (02)203 Rev. P3.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

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 provide each of the 116 cycle parking spaces shown on the approved drawings prior to occupation of the office (Class B1) floorspace hereby approved. Thereafter the cycle spaces must be retained and the space used for no other purpose.

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)

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

Reason:

In the interests of public safety 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. (R24BC)

- 6 You must provide the separate stores for waste and materials for recycling shown on drawing number (02)000 Rev. P3 prior to occupation of any part of the office (Class B1), gymnasium (Class D2) or restaurant (Class A3) uses hereby approved. You must clearly mark the stores for waste and materials for recycling, make them available at all times to everyone using the office (Class B1), gymnasium (Class D2) and restaurant (Class A3) uses. You must not use the waste and recycling store for any other purpose. (C14GA)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 7 No goods, including fuel, in association with the restaurant (Class A3), office (Class B1) or gymnasium (Class D2) uses hereby approved delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in

neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 8 Prior to occupation of the restaurant (Class A3) hereby approved, you must apply to us for approval of details of the ventilation system to get rid of fumes, including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14BB)

Reason:

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

- 9 (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)

- 10 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)

- 11 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the extract arrangement for the restaurant (Class A3) hereby approved will comply with the Council's noise criteria as set out in Condition(s) 9 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. (R51AB)

- 12 The plant screen hereby approved shall be finished and maintained in a grey colour.

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

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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 A minimum of 11,186 sq.m (GIA) of retail (Class A1) floorspace shall be accessible to visiting members of the public.

Reason:

To minimise the loss of tradable retail floorspace, to maintain the vitality and viability of the West End International Shopping Centre and to maintain the unique status and offer of the West End Special Retail Policy Area, in accordance with London Plan (2016) Policies 2.15 and 4.8, Policies S7 and S21 of the Westminster City Plan (2016) and Policy SS3 of our Unitary Development Plan that we adopted in January 2007.

- 14 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (November 2016) and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 15 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (November 2016) and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 16 Customers shall not be permitted within the restaurant (Class A3) premises before 07.00 or after 01.00 each day. (C12AD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
 - (a) Undertaking of highway works and public realm improvements to Chapel Place and associated alterations to traffic orders. Highway works and public realm improvements to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development. Highway works and public realm improvements to be completed prior to occupation of either the gymnasium (Class D2) or restaurant (Class A3) floorspace.
 - (b) The costs of monitoring the S106 legal agreement.

- 3 The mesh that surrounds the upper floors of the building does not have planning permission and we may take legal action to remove it. (I27AA)

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.