

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 25 May 2021	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> Regent's Park	
<b>Subject of Report</b>	<b>42 Winterton House, 4 Maida Vale, London, W9 1SP</b>		
<b>Proposal</b>	Extension of existing roof terraces to top floor flat and associated balustrade and privacy screens.		
<b>Agent</b>	Hoko Design		
<b>On behalf of</b>	c/o Hoko Design		
<b>Registered Number</b>	20/05103/FULL	<b>Date amended/ completed</b>	12 August 2020
<b>Date Application Received</b>	12 August 2020		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	None		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

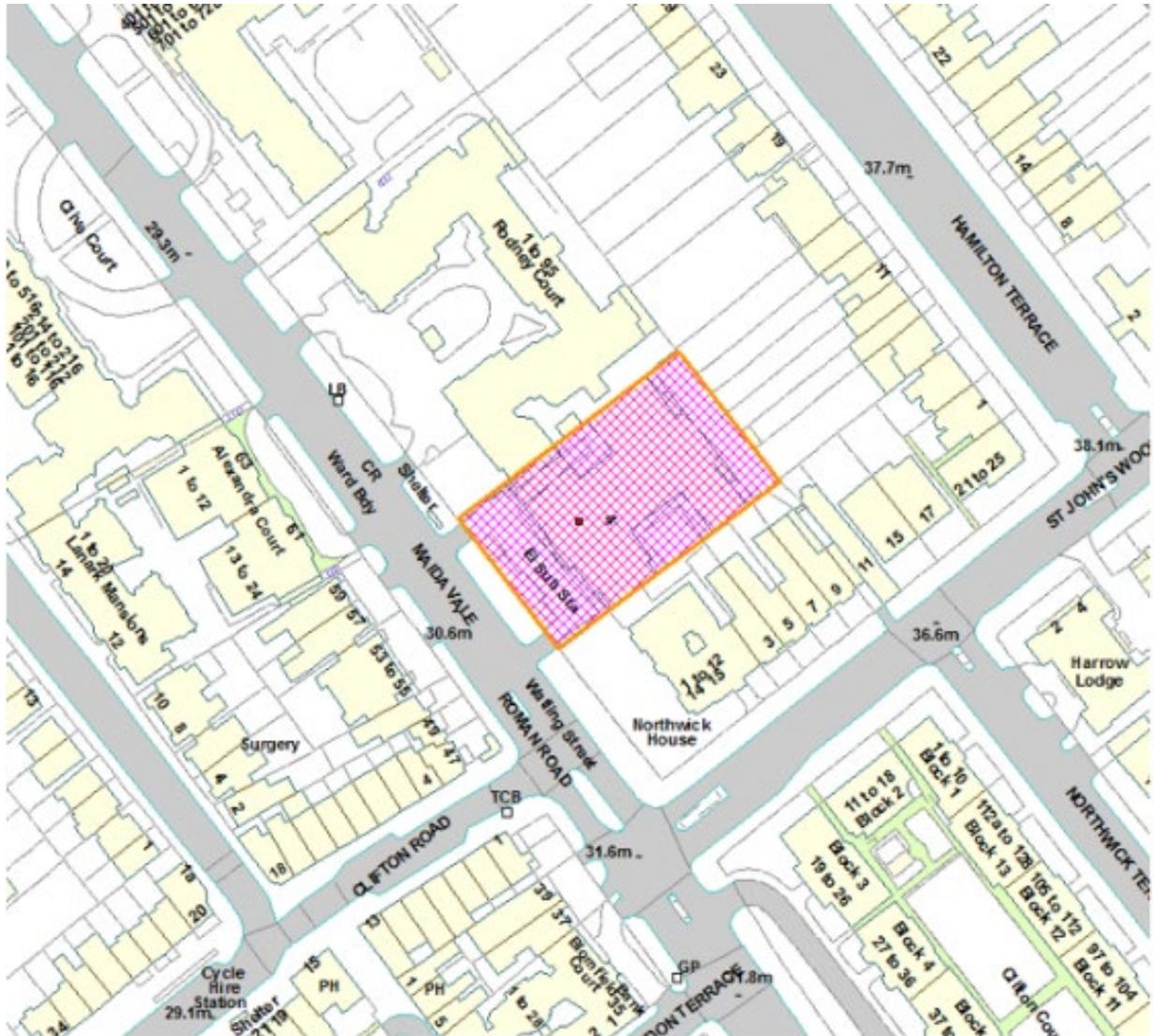
Winterton House, 4 Maida Vale is an eight-storey modern mixed-use building located on the eastern side of Maida Vale. The building contains flats and a medical centre. The application site is unlisted and located outside of a conservation area, although the site abuts the St John's Wood Conservation Area. No. 42 Winterton House is a duplex located at seventh and eighth story level, with an existing roof terrace. The proposal is to extend the size of the existing roof terraces and install an associated balustrade and privacy screens.

The key issues in this case are:

- the impact of the roof terrace on the amenity of the occupiers of the neighbouring residential properties; and
- the impact of the of the roof terrace and balustrade on the character and appearance of this building.

For the reasons as set out in the report, the roof terraces and balustrade are considered to accord with the design and amenity policies in the of the City Plan 2019-2040 (adopted April 2021). The application is therefore recommended for approval, subject to the conditions set out in the draft decision letter appended to this report.

### 3. LOCATION PLAN

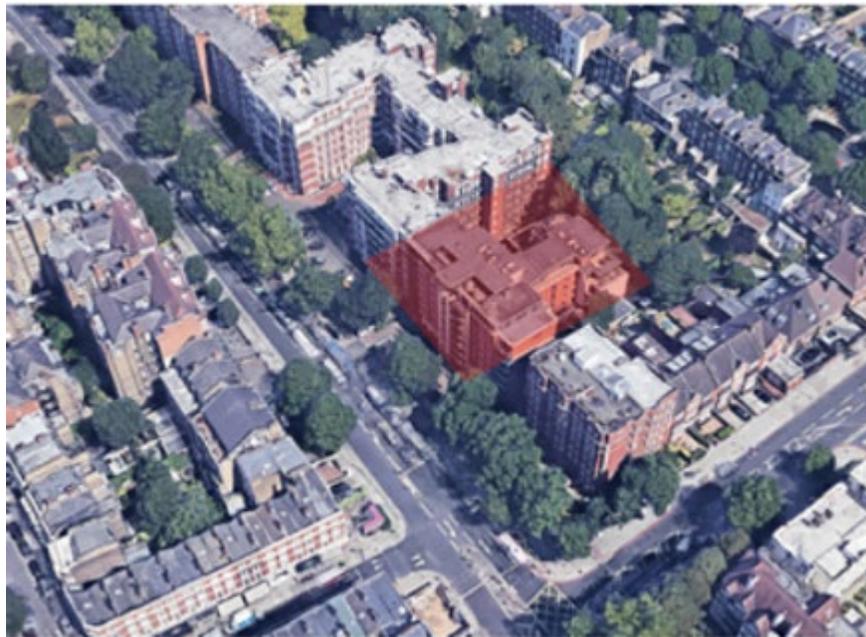


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4. PHOTOGRAPHS



**Front Elevation of No. 42 Winterton House, 4 Maida Vale**



**Aerial View of No. 42 Winterton House, 4 Maida Vale**

## 5. CONSULTATIONS

### 5.1 Consultation on Originally Submitted Scheme (August 2020)

#### ST JOHN'S WOOD SOCIETY:

The proposed roof terrace will create a significant outside entertaining space and so concern is raised about potential noise, privacy and overlooking issues for neighbours. The submitted plans do not provide adequate context and so it is difficult to assess the impact the proposal will have on neighbours. It is queried why frosted glass privacy screens are required. This suggests that the proposals will cause privacy issues neighbours.

#### BUILDING CONTROL:

No objection.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 192

Total No. of replies: 5

No. of objections: 5

No. in support: 0

In summary, the objectors raise the following issues:

- The proposal would cause the occupiers of neighbouring and adjoining properties to suffer a material loss of privacy as a result of overlooking.
- When the existing building was permitted, the use of the roof as a terrace was restricted through a planning condition. To prevent overlooking and a loss of privacy, 1.8 metre high privacy screens should be erected around the proposed terrace.
- The railings to the rear should be obscure glazed to protect the privacy of the occupiers of neighbouring properties.
- The proposal would cause the loss of daylight/sunlight/overshadowing to neighbouring residential properties.
- The design and materials used for the proposal would appear incongruous on the application site.
- The proposal is an over development of the application site that is out of scale with its surroundings. It adds unnecessary density of the current unit.
- The proposed terrace would have an overbearing impact on surrounding properties.
- The proposed terrace would create noise and disturbance for hundreds of surrounding residents.
- The proposal would create odour from people using the terrace for barbeques.

#### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 5.2 Consultation on Amended Scheme (December 2020)

The proposed development was amended to include a 1.8 m high privacy screen on the rear facing elevation of the terrace.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 192

Total No. of replies: 2

No. of objections: 2

No. in support: 0

In summary, the objectors raise the following issues:

- The applicant has neither freehold nor leasehold ownership of the roof to which the proposal relates.
- As the applicant does not own the roof to which the application relates the proposed development would be a trespass and criminal damage against the owner's property.
- There is no reference in the planning application to the communal facilities located on the rooftop area that the applicant seeks to use as a terrace, such as the communal television satellite dishes, waste water/sewage pipe vents, air ventilation intake and high level safety equipment system. The proposal would prevent access to this equipment and structures, as well as the waterproof elements of the roof.
- The roof may not be able to bear the weight of the proposed development, given the proposal to install paving stones.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

Winterton House, 4 Maida Vale is an eight-storey modern mixed-use building located on the eastern side of Maida Vale. The building contains flats and a medical centre. No. 42 Winterton House is a self-contained duplex residential unit located at seventh and eight story level, with an existing roof terrace. The application concerns No. 42 Winterton House and also an area of roof space at eight floor level that has not been allocated to any of the flats in the building.

The application site is unlisted and located outside of a conservation area, although it abuts the St John's Wood Conservation Area.

### 6.2 Recent Relevant History

99/12899/FULL

Proposal: Demolition and redevelopment to provide 57 flats with associated car parking in basement, a ground floor community/health unit (Class D1), and LEB substation and bin store in front forecourt with new landscaping and parking.

Granted permission - 14 October 2002.

03/07534/FULL

Variation of condition 10 of the permission dated 14 October 2002 to allow use of flat roofs as terrace and the erection of 1.1m handrail and 1.8m high privacy screen to flat number 42 (eighth floor).

Granted Permission - 5 February 2004.

## **7. THE PROPOSAL**

Permission is sought to extend the size of the existing roof terrace and to install an associated balustrade.

The proposed balustrade on the front (northwest) elevation and the side (southeast) elevation would have a height of 1.1metres. For the originally submitted proposal the balustrade on the rear (northeast) elevation was 1.1 metres in height, but during the lifetime of the application the height of this balustrade was increased to 1.8 metres.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Townscape and Design**

Chapters 12 and 16 of the NPPF (2019) require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also consider the relative significance of the affected asset and the severity of the harm caused.

The relevant policies are 38, 39 and 40 of the City Plan 2019-2040 (adopted April 2021)

Objectors have expressed concern that the design and materials used for the proposal would appear incongruous on the application site and that the proposal is out of scale with its surroundings

A roof terrace was deemed to be acceptable on the application site at eighth floor level under application RN: 03/07534/FULL. The proposed extended roof terraces are not so large as to visually dominate the building. The proposed balustrade is significantly lower in height than the roof of the existing top floor of the building. The materials and detailed design of the proposed balustrade are similar to that of the existing balustrade on the building so therefore they are appropriate to its character. For these reasons, the proposal is not considered to detract from the architectural composition of this modern building, and it would not appear incongruous within the streetscene.

Winterton House abuts the boundary of the St John's Wood Conservation so therefore it is within its setting. Due the size, height, and position of the proposed terrace and balustrade, the proposal would neither affect nor harm the setting of the St John's Wood Conservation Area.

As such, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan 2019-2040 (adopted April 2021) and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF.

## **8.2 Residential Amenity**

The relevant policies for consideration the proposal are Policies 7, 33 and 38 of the City Plan 2019-2040 (adopted April 2021).

Objections have been received on the grounds that the proposal would cause the occupiers of neighbouring and adjoining properties would suffer a material loss of privacy as result of overlooking from the proposed extended terrace. The proposed balustrade on the rear elevation has a height of 1.8 metres and it is obscure glazed so it would not allow any overlooking looking of the neighbouring properties to the rear of the application site. Details of the obscure glazing shall be secured through condition. The terrace allows overlooking of the properties on the western side of Maida Vale, but only their front elevations would be overlooked, and it would be from a distance of approximately 45 metres. The proposed extended terrace would overlook the existing terrace at Northwick House, but it would be from a distance of approximately 7.5 metres and the overlooking would be mutual. The extended terrace would also overlook the roof of Rodney Court to the north, but there are no windows or terraces on the roof of this property. For these reasons the proposal is not considered to cause the occupiers of neighbouring and adjoining properties to suffer a material loss of privacy.

Objectors have stated that the proposed balustrade would cause the occupiers of neighbouring and adjoining properties to suffer a material loss daylight/sunlight, as well as experiencing overshadowing and an overbearing impact. However, the proposed balustrade is set back from the front, rear and side elevation walls. Its height would therefore not result in a material loss of light for neighbouring properties.

Objectors have expressed concern that proposed terrace would cause the occupiers of neighbouring and adjoining properties to suffer a material loss of amenity as a result of noise and disturbance from people occupying the terrace and odour from people having barbecues on it. While the terrace is larger than the existing terrace, it would still only be used by one household, so the noise and disturbance created by people occupying the terrace would not be materially worse than what is existing. Some occupiers of neighbouring properties would be able to smell the odour from barbecues on the terrace, but the occupiers of the property can already have barbecues in the existing terrace, so the odour caused by the proposal would be no worse than what is existing.

For the reasons, the proposal is considered to be in accordance with the policies stated above.

## **8.3 Transportation/Parking**

Not relevant.

## **8.4 Economic Considerations**

No economic considerations are applicable for a development of this size

#### **8.5 Access**

The proposal makes no changes to the access arrangements of the application site.

#### **8.6 Other UDP/Westminster Policy Considerations**

None.

#### **8.7 Westminster City Plan**

The City Plan 2019 - 2040 was adopted at Full Council on 21 April 2021. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

#### **8.8 London Plan**

This application raises no strategic issues.

#### **8.9 National Policy/Guidance Considerations**

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 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.

No pre-commencement conditions have been recommended.

#### **8.10 Planning Obligations**

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

#### **8.11 Environmental Impact Assessment**

An Environmental Impact Assessment is not required for a proposal of this scale.

#### **8.12 Other Issues**

Land Ownership

Under Article 13 of the Town & Country Planning (Development Management) Procedure Order 2015 the applicant is required to serve notice on everyone who has a freehold interest or a leasehold interest (with at least 7 years left to run) on the land or building to which the application relates. An objection was received stating the applicant has neither freehold nor leasehold ownership of the roof to which the proposal relates. An applicant, however, can apply for planning permission for works to land they do not own, provided that they have served notice on the owners. The applicant's agent was informed of this and so submitted an amended Ownership Certificate B on 10.02.2021 which stated that all the owners had had notice served on them either on 11.08.20 or on 10.02.21. This matter is considered to be resolved.

An objector has said that as the applicant does not own the roof to which the application relates, the proposed development would be a trespass and criminal damage against the owner's property. However, granting planning permission for development does not give the applicant the right to carry out works on someone else's land. If the application is approved, then the applicant would have to seek permission from the owners of the land to carry out the works.

#### Structural Stability of the Roof

An objector has stated that the roof may not be able to bear the weight of the proposed development, given that the proposal involves installing paving stones. However, there is no planning policy requirement to assess impact of this proposal on the structural stability of the roof, so this is not a material consideration.

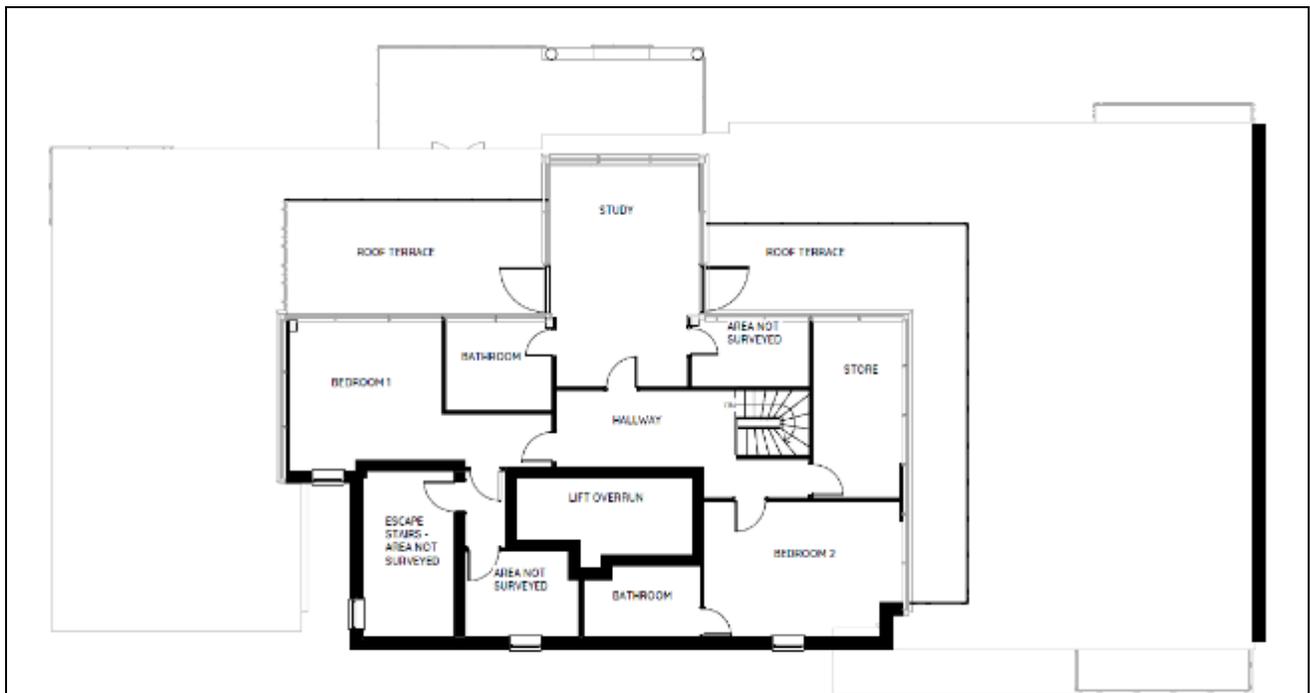
#### Equipment and Structures on the Roof

Objections have been received on the grounds that the proposal could result in the removal of communal facilities located on the rooftop area such as television satellite dishes, wastewater/sewage pipe vents, air ventilation intake and high level safety equipment system. Since receiving this objection, the applicant has submitted amended proposed plans that show a television satellite dish, soil, and vent pipes and also air ventilation intakes all in place on the roof. It is considered that despite the proposed extension of the terrace, all the structures and equipment referred to by the objectors could still be provided on the roof. The waterproof elements of the roof can still be provided. It has not been demonstrated that the proposed roof terrace would prevent access to the roof level safety equipment.

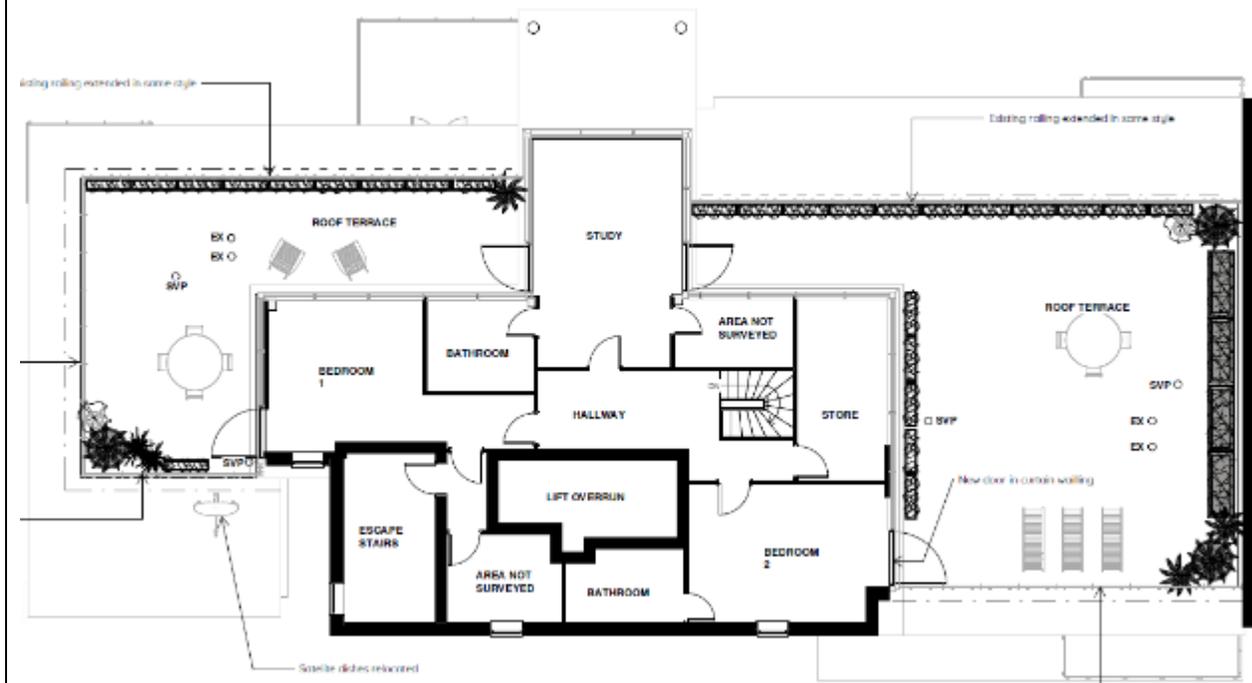
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk)

9. KEY DRAWINGS



Existing Eighth Floor Plan



Proposed Eighth Floor Plan



**Existing Front Elevation**



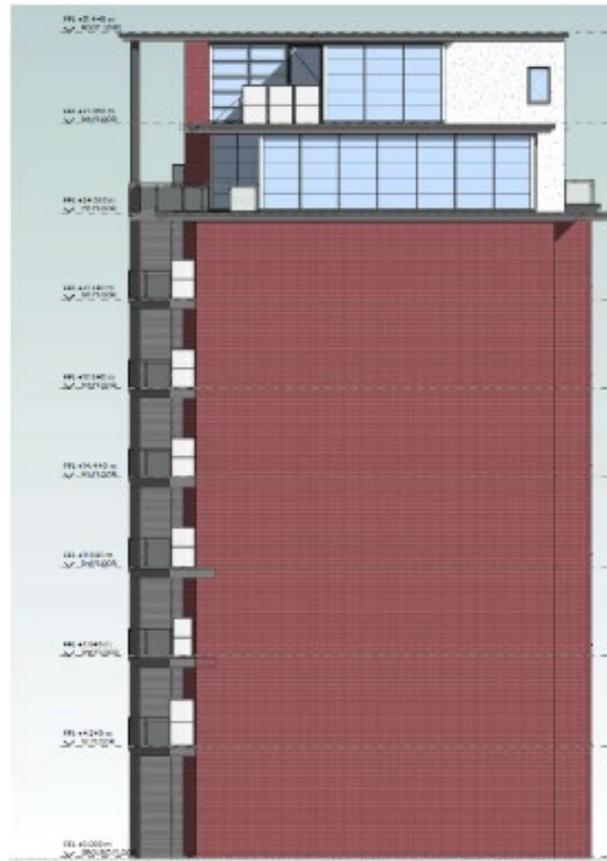
**Proposed Front Elevation**



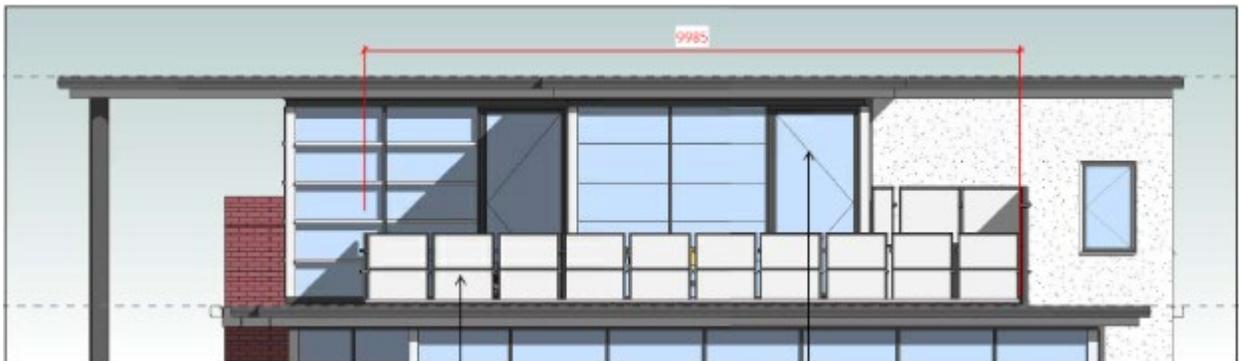
Existing Rear Elevation



Proposed Rear Elevation



Existing Side Elevation



Proposed Side Elevation

**DRAFT DECISION LETTER**

**Address:** 42 Winterton House, 4 Maida Vale, London, W9 1SP

**Proposal:** Extension of existing roof terrace to top floor flat and associated balustrade.

**Reference:** 20/05103/FULL

**Plan Nos:** AL(0)01, AL(01)01, AL(01)02, AL(01)11, AL(01)12, AL(01)10, AL(01)13, AL(01)03, AL(02)01 rev. B, AL(02)02, AL(02)03, AL(02)10 rev. A, AL (02)12 rev. A, AL(02)13 rev. B, Design and Access by HOKO for Apartment 42 Winterton House 4 Maida Vale London W9 1SP

**Case Officer:** William Philps

**Direct Tel. No.** 07866036165

**Recommended Condition(s) and Reason(s)**

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

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

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 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 the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 4 The glass that you put in the balustrades must not be clear glass. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have given our written approval for the sample. You must then install the type of glass we have approved and must not change it without our permission. (C21DB)

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out in Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

**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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 **HIGHWAYS LICENSING:**  
Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at [www.westminster.gov.uk/guide-temporary-structures](http://www.westminster.gov.uk/guide-temporary-structures).

**CONSIDERATE CONSTRUCTORS:**

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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

**BUILDING REGULATIONS:**, You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at [www.westminster.gov.uk/contact-us-building-control](http://www.westminster.gov.uk/contact-us-building-control)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons &

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Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.