

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 July 2021	Classification For General Release	
Report of Director of Planning		Ward(s) involved Vincent Square	
Subject of Report	77 and 79 Ashley Gardens, Thirleby Road, SW1		
Proposal	<u>Application 1:</u> Installation of an air condensing unit within an attenuation enclosure on the main flat roof of the building for 77 Ashley Gardens <u>Application 2:</u> Installation of an air condensing unit within an attenuation enclosure on the main flat roof of the building for 79 Ashley Gardens		
Agent	Ms Tracey Rust		
On behalf of	Mr Yaser Bin Mahfouz and Mr Sheikh Abdelelah Bin Mahfouz		
Registered Numbers	21/02057/FULL and 21/02058/FULL	Date amended/ completed	30 March 2021
Date Application Received	30 March 2021		
Historic Building Grade	Unlisted		
Conservation Area	Westminster Cathedral		

1. RECOMMENDATION

<p>1. Grant conditional permission for applications 1 and 2 subject to the submission of a signed S106 unilateral undertaking to secure the following:</p> <p>a) That planning permissions granted on appeal under RNs: 18/01433/FULL and 18/01434/FULL shall not be implemented in the event of the current permissions being granted and subsequently carried out.</p> <p>2. If the signed unilateral undertaking has not been provided within six weeks of the date of the Committee resolution, then:</p> <p>a) The Director of Place Shaping and Town Planning shall consider whether the permissions can be issued with additional conditions to ensure that the extant permissions 18/01433/FULL and 18/01434/FULL shall not be implemented. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine</p>

and issue such a decision under Delegated Powers; however, if not

- b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that a signed unilateral undertaking has not been provided within the appropriate timescale and or that appropriate conditions cannot be attached as stated under (a) to ensure that the extant permissions 18/01433/FULL and 18/01434/FULL shall not be implemented if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

1. SUMMARY

The application site comprises Nos. 71 to 83 Ashley Gardens which is an unlisted mansion block on Thirleby Road. The site is located within the Westminster Cathedral Conservation Area and identified as an unlisted building of merit within the conservation area audit.

Planning permission is sought for the installation of two air conditioning units on the northern section of the main roof. The units are to be housed within an acoustic enclosure. The proposal also includes associated service runs adjacent to existing pipework. The condenser units would serve flat nos. 77 and 79 Ashley Gardens.

At roof level there are three roof terraces which provide amenity space for nos. 83A, 83B and 83C. The mansion block has two deep central internal lightwells to provide light and ventilation to rooms that face onto the lightwell.

The key issues in this case are:

- *The impact of the roof modifications/acoustic enclosure on the character and appearance of the Westminster Cathedral Conservation Area; and
- * The impact of the air conditioning units on the amenity of neighbouring residents by reason of noise and vibration.

Permission was granted at appeal in January 2021 for the installation of air condenser unit within an acoustic enclosure on the central section of the roof within a roof pocket of the enclosed communal stairwell each for flat 77 and flat 79 Ashley Gardens. The permissions granted at appeal are extant, however it is understood that there is a dispute with leaseholders within the building which prevents the permissions from being implemented. In light of this the current applications propose two condenser units in a different location on the roof of the building.

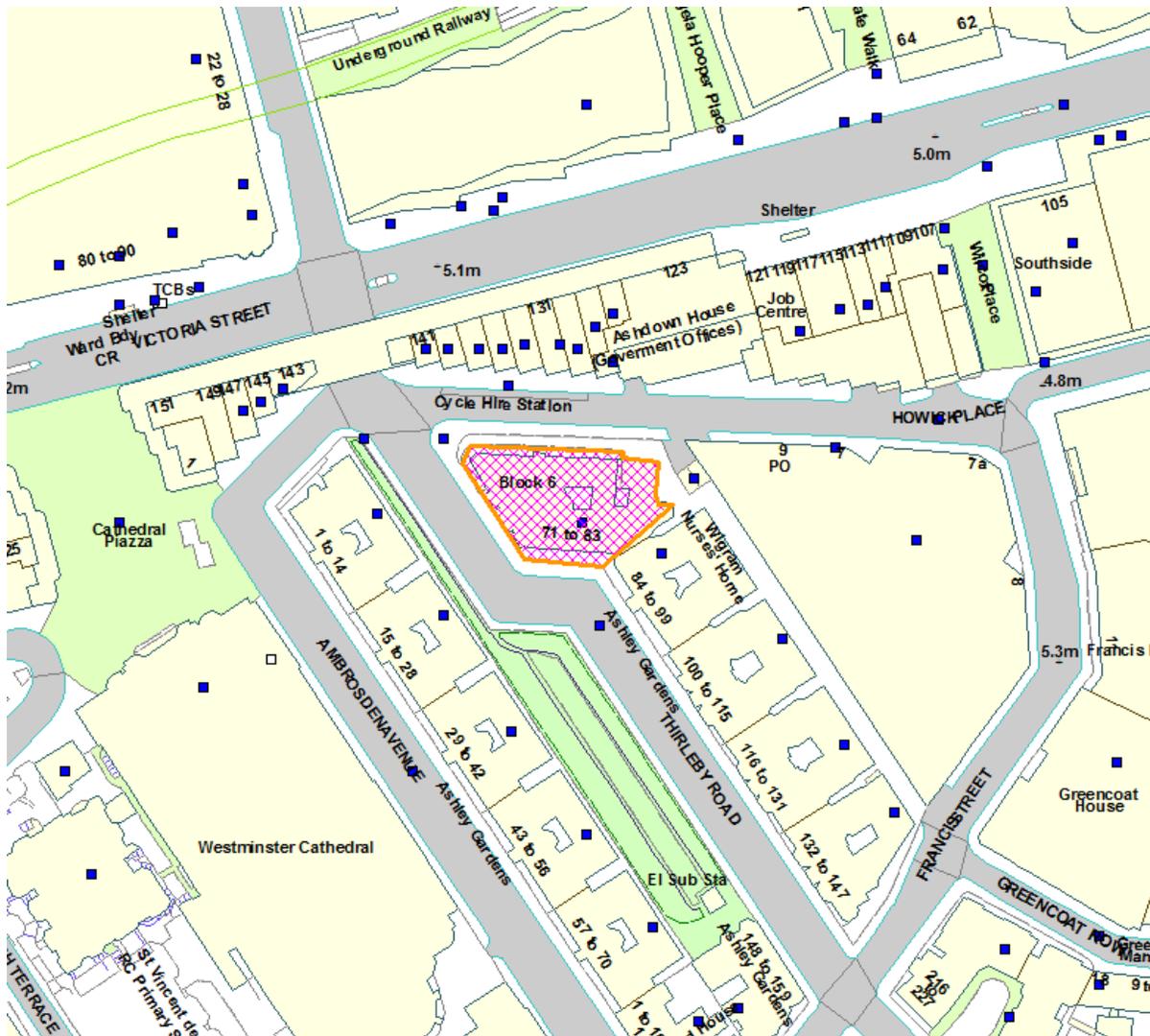
Objections to the air conditioning units have been received from residents within Nos. 71 to 83 Ashley Gardens, residents associations and ward councillors. They are primarily concerned about the impact of noise and vibration from the condenser units. Environmental Health raise no objections to the applications on environmental noise or nuisance grounds subject to conditions including our standard noise conditions and a post-commissioning test which Environmental Health will attend in order to assess the noise level within the nearest residential property. The objections received also raise other objections to the proposal including the impact on the Westminster Conservation Area and the impact of noise from the air conditioning units on roof terraces. These objections from neighbouring residents do not justify a refusal of planning permission for the reasons set out in the main report. The proposal is therefore considered to comply with the Council's policies set out in our

Item No.

2

adopted City Plan 2019-2040 and the applications are recommended for approval.
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2. LOCATION PLAN

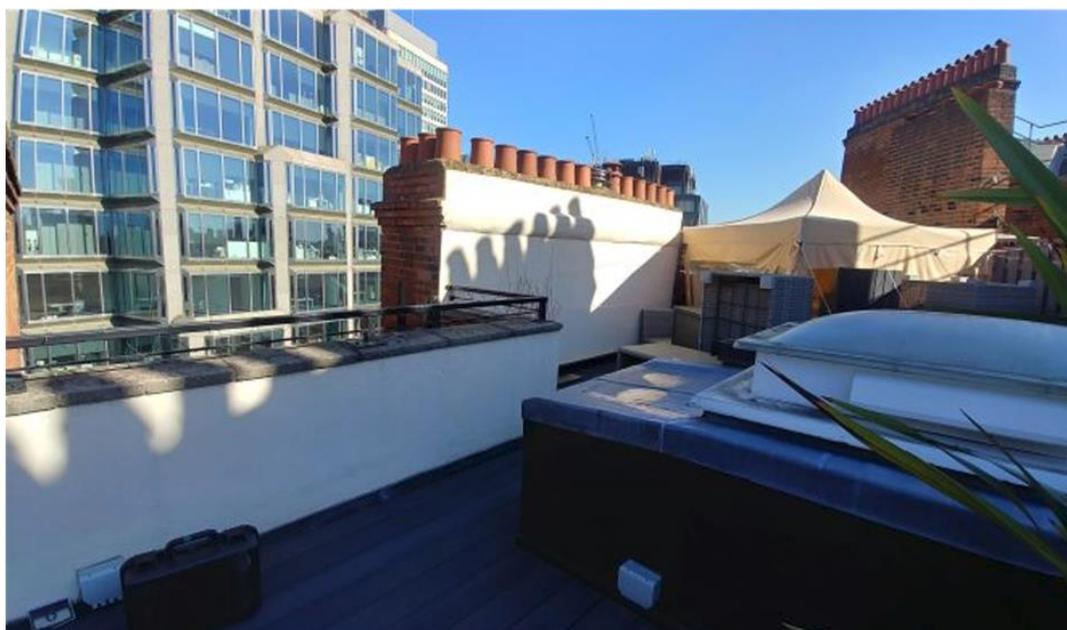


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3. PHOTOGRAPHS



Aerial view of 71 to 83 Ashley Gardens showing roof. The location of proposed plant indicated with a cross



Proposed location of plant is in front of chimney stack

4. CONSULTATIONS

ENVIRONMENTAL HEALTH:

No objection on environmental noise or nuisance grounds subject to conditions.

WESTMINSTER SOCIETY:

Any response to be reported verbally by officers.

COUNCILLOR SHORT

COUNCILLOR CHALKLEY

COUNCILLOR HARVEY

Object to the proposed air condenser units and the applications should be reported to committee for a decision.

THE CATHEDRAL AREA RESIDENTS GROUP (CARG)

CARG objected to the previous applications for air conditioning units for these properties on the grounds that the plant would be incompatible with the Victorian and early Edwardian residential buildings. This scheme would result in a proliferation of this type of equipment and would harm the heritage environment. Furthermore, the impacts of both air conditioning units should be considered together as they will operate in tandem. The noise survey is pre-covid and new readings are required for these proposals. The new position of the units is likely to result in disturbance to neighbours in particular during warm nights when windows are open. The planning permission to install gardens on the roof of block 6 had a condition imposed so that no building should be erected and the current applications would contravene that condition.

MORPETH MANSIONS RESIDENTS ASSOCIATION

Air-conditioning units are entirely out of place, unnecessary, noisy anti-social and environmentally unacceptable on the traditional Cathedral Area Victorian and Edwardian mansion blocks. The construction of these traditional mansion blocks is such as to offer proper fresh air ventilation, cool interiors, and shaded parts to enable the buildings to remain perfectly temperate during British summers. The air condensing units would be used on warmer nights and would impact on open habitable room windows and would interrupt the quiet nature of the residential area.

VICTORIA NEIGHBOURHOOD FORUM:

Any response to be reported verbally by officers.

ADJOINING OWNERS/OCCUPIERS

No. consulted (on both applications): 20

No. Responses: 7 (from three addresses).

The letters of objection for both applications can be summarised as follows:

Amenity:

- The noise and vibration would detrimentally impact the top floor flat and the bedroom windows of Nos. 83b and 82A Ashely Gardens;
- Disturbance and harm to the rooftop gardens;

- The proposal would result in noise disturbance to other bedrooms at 6th floor level in Block 6;
- Wigram House is now occupied and several bedrooms on the top floor would be directly impacted by the noise from the condensing units;
- The condensing units would cause disturbance during hot evenings in the summer to roof gardens and open windows;
- The applications are un-neighbourly;

Design:

- Not in keeping with the Victorian block and would detract from the Westminster Cathedral Conservation Area;

Other:

- The acoustic report has been commissioned pre-covid and uses measured levels taken mid-week from two years ago and does not take account of the lower post-covid ambient noise levels; Neighbours should be given time to commission a further noise survey;

PRESS ADVERTISEMENT / SITE NOTICE: Yes

5. BACKGROUND INFORMATION

The Application Site

The application site comprises Nos. 71 to 83 Ashley Gardens which is an unlisted mansion block on Thirleby Road. The site is located within the Westminster Cathedral Conservation Area and is identified as an unlisted building of merit within the Conservation Area Audit. Thirleby Road is residential in character.

Nos. 71 to 83 Ashley Gardens has a flat roof and there is access onto the roof via an internal communal stairwell and an external staircase enclosure at roof level. The entrances to flats 83A, 83B and 83C Ashley Gardens are located adjacent to this communal stairwell. At roof level there are three roof terraces which provide amenity space for nos. 83A, 83B and 83C. The mansion block has two internal lightwells to provide light and ventilation to rooms that face onto the lightwells.

Recent Relevant History

Permission was refused on 29 January 2019 for installation of air conditioning units located on the central section of the roof within a roof pocket of the enclosed communal at 77 and 79 Ashley Gardens (RNs 18/01433/FULL and 18/01434/FULL) on the following grounds:

The proposed air condenser units by virtue of their location and given their close proximity to adjoining residential flats and together with the cumulative impact with both proposed plant to serve Flat 77 and 79 Ashley Gardens, the proposals would cause harm to the amenities of neighbouring residential occupiers as a result of increased noise and vibration.

The proposal is considered an un-neighbourly form of development and would not meet policies S29 and S32 of Westminster's City Plan (adopted November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 as well as paragraphs 170 and 180 of the NPPF.

The Council's decisions were subsequently appealed by the applicants and were allowed by the Planning Inspector on 21 January 2020. These permissions are extant, however, it is understood that there is a dispute with leaseholders within the building which prevents the permissions from being implemented. In light of this the current applications propose two condenser units in a different location on the roof of the building.

As part of the appeal proposal the appellant submitted a signed Unilateral Undertaking, the effect of which is to ensure that only one of the air conditioning plant schemes can be brought forward. (given that permission had been granted for air conditioning plant in June 2017 – see below). The Inspector took the view that the Unilateral Undertaking is necessary to avoid potential harm to the living conditions of residents which could arise from both schemes and accords with the tests set out in paragraph 56 of the NPPF.

Permission granted on 27 June 2017 for installation of air conditioning units at roof level with associated acoustic housing, including re-routing of existing services and installation of cabling al permission at 77 and 79 Ashley Gardens (RNs 17/03314/FULL and 17/03306/FULL). These permissions have now lapsed.

Permission granted 1 November 2011 for construction of an extension (to house a toilet) and installation of glass balustrade and timber screens at roof level all in connection with the use of part of the existing flat roof as a terrace for use by flats 83a, 83b and 83c. This permission was varied on 11 November 2013 to include the installation of planters to the roof of the building in lieu of glass balustrades. The permission has been implemented. (RNs 13/07725/FULL and 11/05106/FULL)

6. THE PROPOSAL

Permission is sought for the installation of two air condenser units located on the north section of the main roof of Nos. 71 to 83 Ashley Gardens with associated service runs adjacent to the existing pipework. Two separate applications have been submitted each for a single condenser unit. Application 1 is made on behalf of flat 77 Ashley Gardens (third floor) whereas Application 2 is made on behalf of flat 79 Ashely Gardens (fourth floor). The two flats are located two floors below the proposed location of the air condenser units.

The proposed two air condenser units would sit adjacent to each other within the same attenuation enclosure which the applicant advises has been specifically designed to meet the standards of Fujitsu (the plant manufacturer). The enclosure is sited towards the north section of the main roof of the building adjacent to a chimney stack and lightwell 2. The attenuation enclosure would sit lower than the height of the stack. There is an existing water tank and roof light to No. 83C (which serves a bathroom) which are sited close to the proposed air condenser units. Both applications also include

associated service runs and pipework which would be grouped together with the existing pipework and then connected to the flats two floors below.

7. DETAILED CONSIDERATIONS

8.1 Land Use

The proposal would not change the use of the dwellings and therefore there are no land use implications arising from the proposal.

8.2 Townscape and Design

Section 72 Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF 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 take into account the relative significance of the affected asset and the severity of the harm caused.

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021) require that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

No 71-83 Ashley Gardens differs from other mansion blocks on Thirleby Road as it comprises seven stories with a flat roof. The surrounding mansion blocks are eight storeys in height with steeply pitched roofs. The roofline of the application site is characterised by tall chimney stacks, which are visible from street level. A lift motor room and railings for the means of escape are located centrally at roof level and the lift motor room is visible from the upper storeys of adjacent buildings. Any roof level development would need to be assessed in relation to its impact on the Westminster Cathedral Conservation Area and the application site.

A single enclosure containing two air condenser units is proposed between / adjacent to an existing enclosure and the chimney stack on the northern section of the roof. Given the height and siting of the proposed acoustic enclosure, it is not considered that the proposal would be overtly visible to detract from the character of the conservation area or harm long views from surrounding properties.

Whilst objections have been raised by residents of Ashley Gardens and amenity groups to the proposed plant being incompatible to the Victorian and early Edwardian building, it is considered by reason of the size, siting, height and modest scale of the proposed

enclosure, that it would not cause visual harm to the building. There are already roof terraces, other enclosures/extensions on the roof of Ashley Gardens and, as such, the proposed enclosure would not be considered visually obtrusive. Furthermore, the Planning Inspector allowed an appeal for air condenser units within the lightwell, albeit in a different location to that currently proposed, and he did not raise concerns to the principle of the plant or the enclosure and nor did he consider that it would harm the historic nature of the building within the conservation area. It should also be noted that there were also unimplemented planning permissions for the installation of air conditioning units at roof level with associated acoustic housing set behind a chimney on the southern side which were extant at the time the appeal permissions were granted but have since lapsed.

In light of the above, the proposed rooftop plant enclosure is not considered to harm the appearance of this building or the visual amenity of the conservation area and is considered acceptable in design and conservation area terms. Therefore the proposal would be in compliance with Chapter 12 of the NPPF and policies 39-41 of the Westminster City Plan 2019 - 2040 (April 2021) as well as the supplementary planning documents 'Roofs: A Guide to Alterations and Extensions' and the 'Westminster Cathedral Conservation Area Audit'. A condition is recommended requiring detail drawings of the associated service routes with the condenser units in context and to ensure that the plant enclosure is in keeping with the chimney stack, a condition is also proposed to secure the finishing to match.

8.3 Residential Amenity (Noise and Vibration)

Impact on noise sensitive properties

The key issue with these applications is the impact of the air condenser units on noise sensitive properties in terms of noise and vibration.

Policy 33 (C) of the City Plan 2019-2040 advises development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to:

1. minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses;
2. minimising noise from plant machinery and internal activities;
3. minimising noise from servicing and deliveries; and
4. protecting the relative tranquillity in and around open spaces.

The application is accompanied by a Plant Noise Assessment report dated 29 March 2021 prepared by Sustainable Acoustics. This report states that a noise survey of current ambient and background noise levels was undertaken between 26 February 2021 and 1 March 2021. The report identifies the nearest noise sensitive properties to be the flat below (No. 83C) on the top floor of Ashley Gardens, the windows in the side of Wigram House and the properties on the opposite side of Thirleby Road. The roof terrace area for flat 83C and the roof terrace opposite for flat 83B have also been considered in the assessment.

The noise survey indicates that the applicant property is in an area where existing ambient noise levels are either below or exceed WHO Guideline Levels. The design noise criteria for the mechanical plant should therefore be 5dB and 10dB below the representative lowest background noise level dependent on the location of the nearest noise sensitive residential windows. To achieve the design criteria at 1m outside the nearest noise sensitive window, the plant noise assessment report proposes a number of mitigation measures including placing the air condenser units inside an acoustic enclosure lined with a sound absorptive material with acoustic seals on the enclosure access door. Furthermore, it is proposed to mount the two condenser units on anti-vibration mounts with a high vibration isolation efficiency to mitigate the potential risk of structure-borne noise.

Environmental Health conclude that based on the calculations using the heating mode, the installation of the specified mitigation measures and predicted noise levels, the proposed plant installation should comply with Policy 33(C) of the City Plan 2019-2040. Environmental Health therefore have no objections to these applications on environmental noise or nuisance grounds subject to conditions. The following noise conditions are therefore attached to the draft decision notice: the council's standard noise conditions, the plant shall only operate in low noise mode between 23:00 hours – 07:00 hours, a post-commissioning report to be secured and that the attenuation enclosure is installed to the manufacturer's specification. Environmental Health have advised that they will attend the post-commissioning test and assess the noise levels within the nearest noise sensitive properties. It is considered that with these conditions in place there will be no adverse impact in noise terms to nearest noise sensitive properties including to windows to flat 83C, which are below roof level within the light-well, to windows within Wigram House and to the rooflight to 83C which it is understood serves a bathroom.

Concerns have been raised about the timing of the noise survey carried out to support the Noise Assessment Report. An objector considers that the acoustic report has been commissioned pre-covid and uses measured levels taken mid-week from two years ago and does not take account of the lower post-covid ambient noise levels. The noise survey was undertaken between 26th February and 1st March 2021 which was during the national lockdown restrictions as such it would be expected that ambient noise levels would be lower than under typical conditions. The applicant's Noise Assessment Report considers that assessing the proposal against the recorded background noise levels will provide a robust worst-case as it is unlikely that lower background noise levels would have occurred during the lockdown period. Environmental Health has not raised any concerns in this regard and on this basis the timing of the noise survey is considered acceptable.

It is noted that objector's have made a request to commission their own noise survey. Given that Environmental Health consider the applicant's noise survey to be acceptable the commissioning of a further noise survey by objectors to the scheme is not considered necessary to allow the determination of this application.

Impact on roof terraces

The roof of Ashley Gardens provides amenity space for Nos. 83a, 83b and 83c. Objections have been received from the users of these terraces who are concern

ed about the noise impact from the proposed plant on the terraces. The council does not have a specific policy that seeks to protect private amenity areas from noise intrusion, however, Policy 33 of the City Plan 2019-2040 seeks to minimise noise impacts and prevent noise intrusion to residential developments and sensitive uses.

The applicant's Noise assessment Report demonstrates that the noise produced by the proposed unit would be below the background noise levels even in close proximity to the Unit (the nearest roof terrace boundary is approximately 4m from the proposed enclosure). Officers are satisfied that a proper assessment has been made with regard to the impact from the plant noise on the roof terraces and that the proposed development would not cause noise disturbance to the users of the roof terrace gardens.

8.4 Transportation/Parking

There are transportation issues raised.

8.5 Economic Considerations

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

8.6 Access

There is no change proposed to the existing access under these applications.

8.7 Other UDP/Westminster Policy Considerations

The proposed enclosure would have no impact on any neighbouring residential property in terms of daylight, sunlight or impact on outlook.

8.8 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.

8.9 Neighbourhood Plans

There are no neighbourhood plans for this area which carry weight in the consideration of these applications.

8.10 London Plan

This applications raise no strategic issues.

8.11 National Policy/Guidance Considerations

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

8.12 Planning Obligations

Planning obligations are not relevant in the determination of these applications.

8.13 Other Issues

Unilateral Undertaking

The permissions granted at appeal in January 2021 remain extant and capable of implementation. The appellant has submitted a draft unilateral undertaking, the effect of which is to ensure that only one of the air conditioning plant schemes can be brought forward. The unilateral undertaking is necessary to avoid potential harm to the living conditions of residents which could arise from both schemes and accords with the tests set out in paragraph 56 of the NPPF. It is anticipated that the unilateral undertaking will be signed prior to the committee meeting.

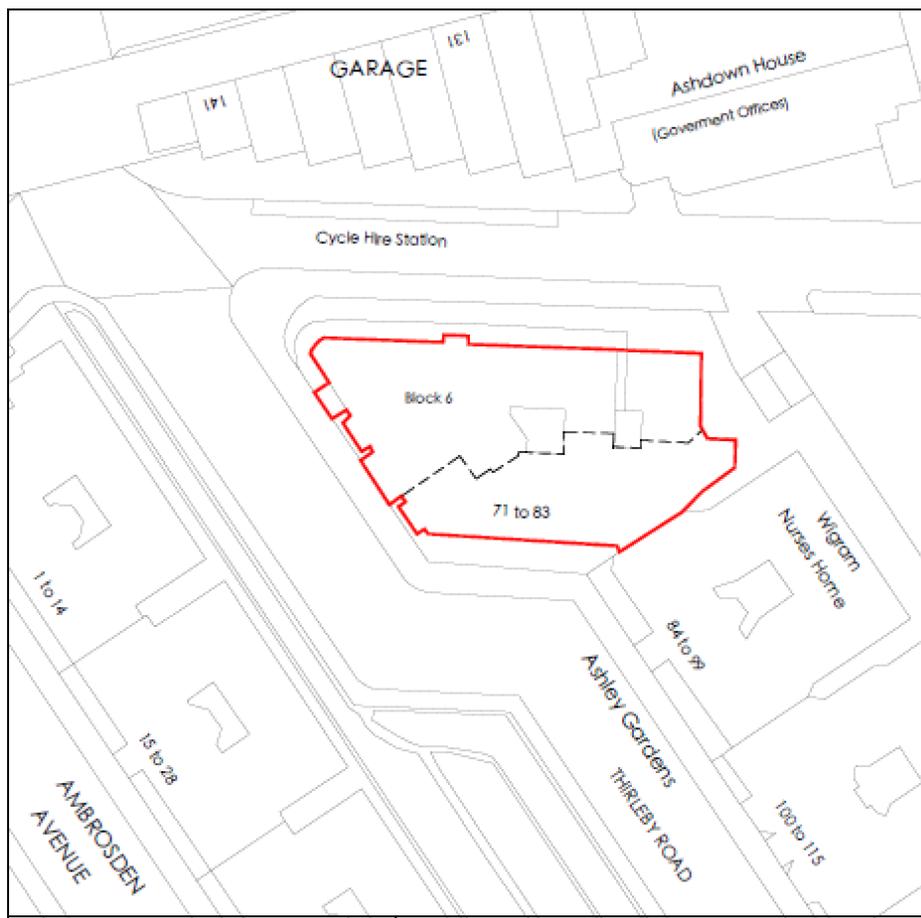
Other

CARG raise the issue that condition 5 of the planning permission to install roof gardens on the roof of block 6 of Ashley Garden prohibited further structures on the roof to be installed unless they were indicated on the approved drawings. This is a standalone planning application that is considered on its own merits. Officers have taken a view that the proposed development is acceptable in terms of conservation and design for the reasons set out in section 8.2 of this report.

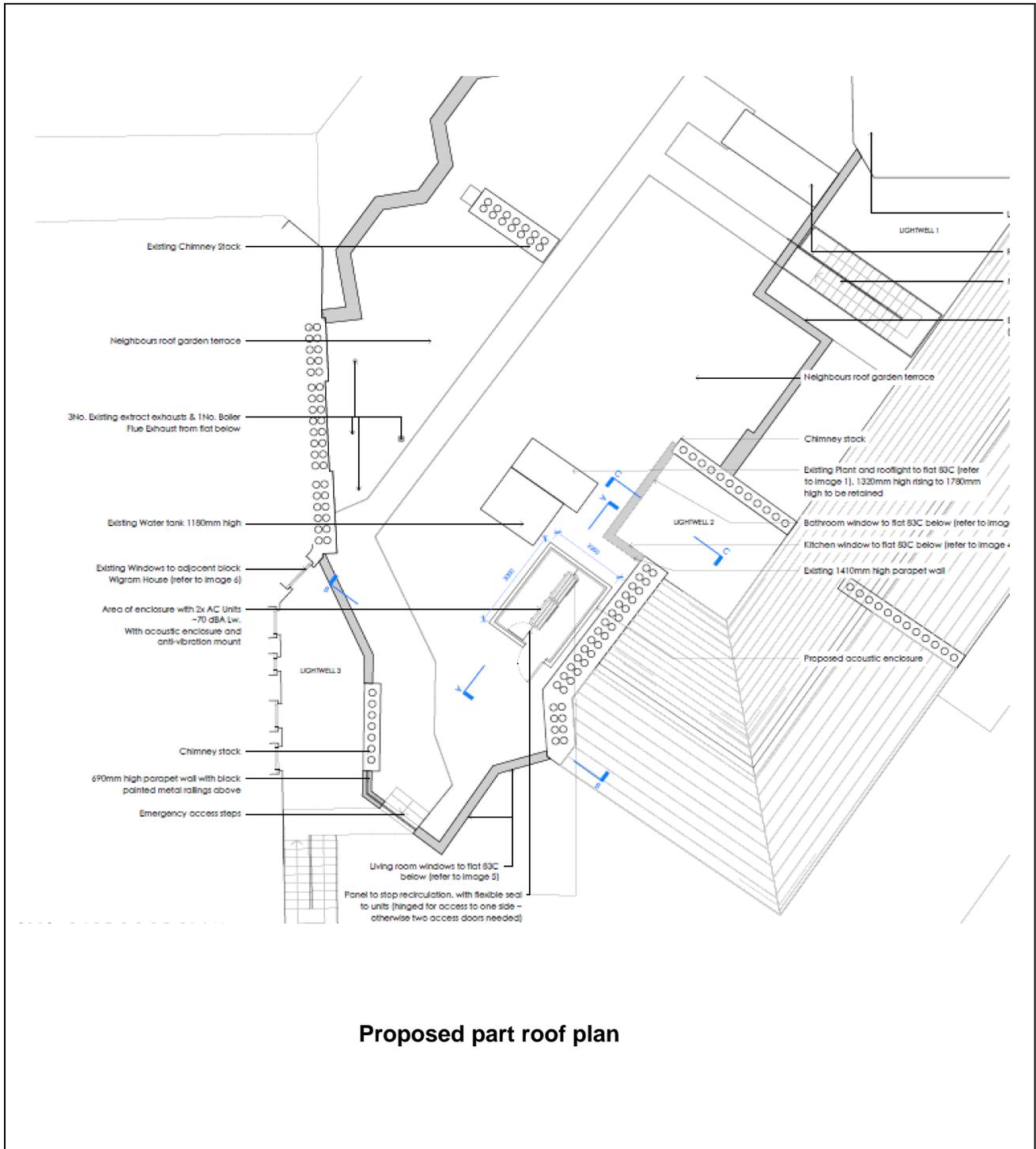
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT mmason@westminster.gov.uk

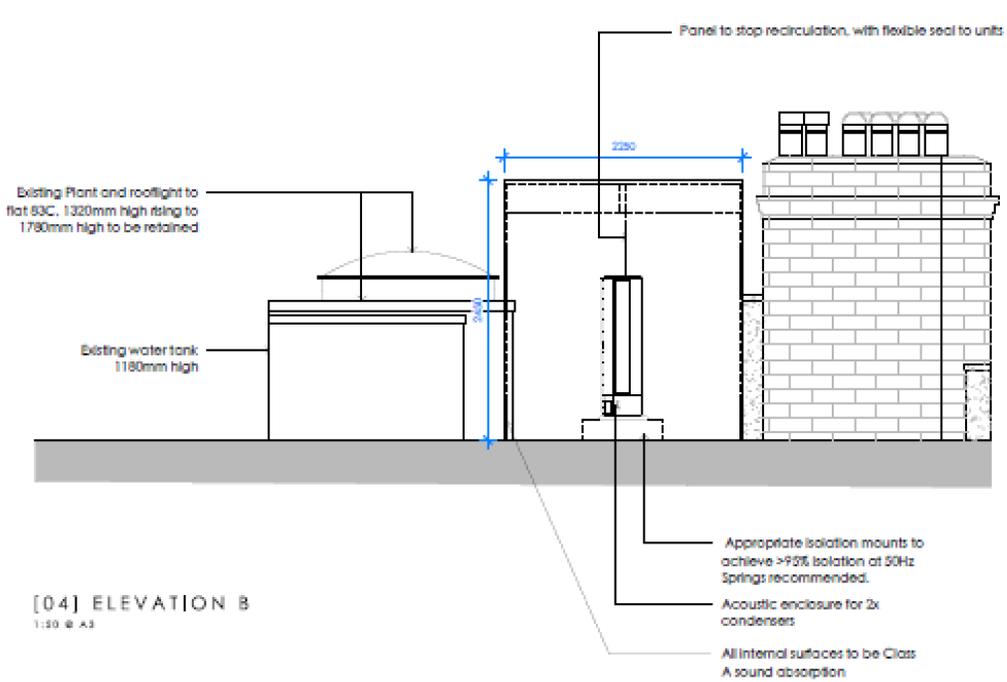
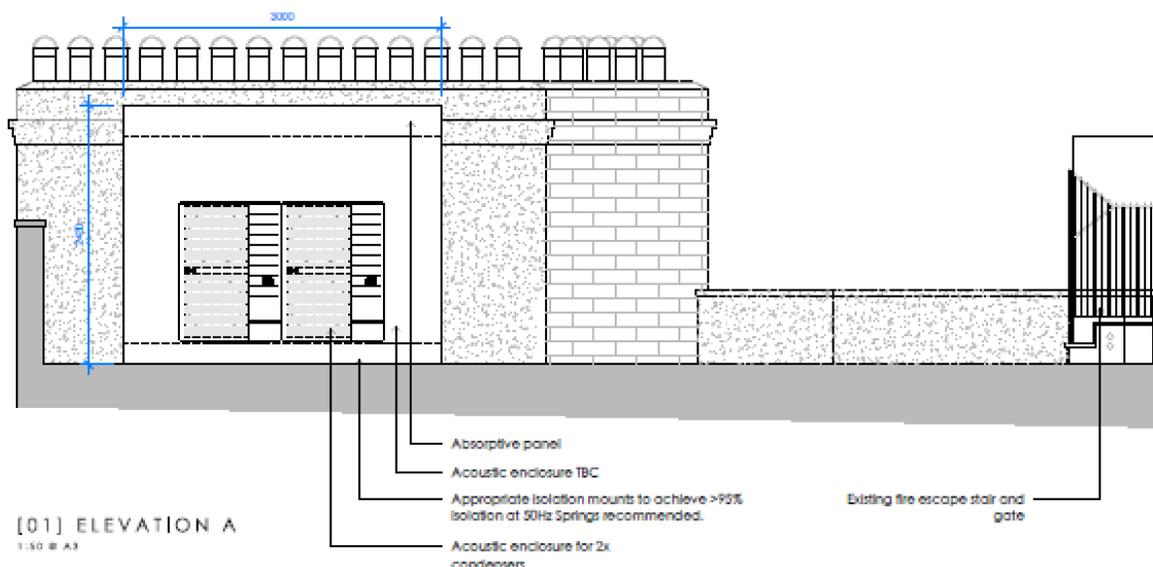
9 KEY DRAWINGS



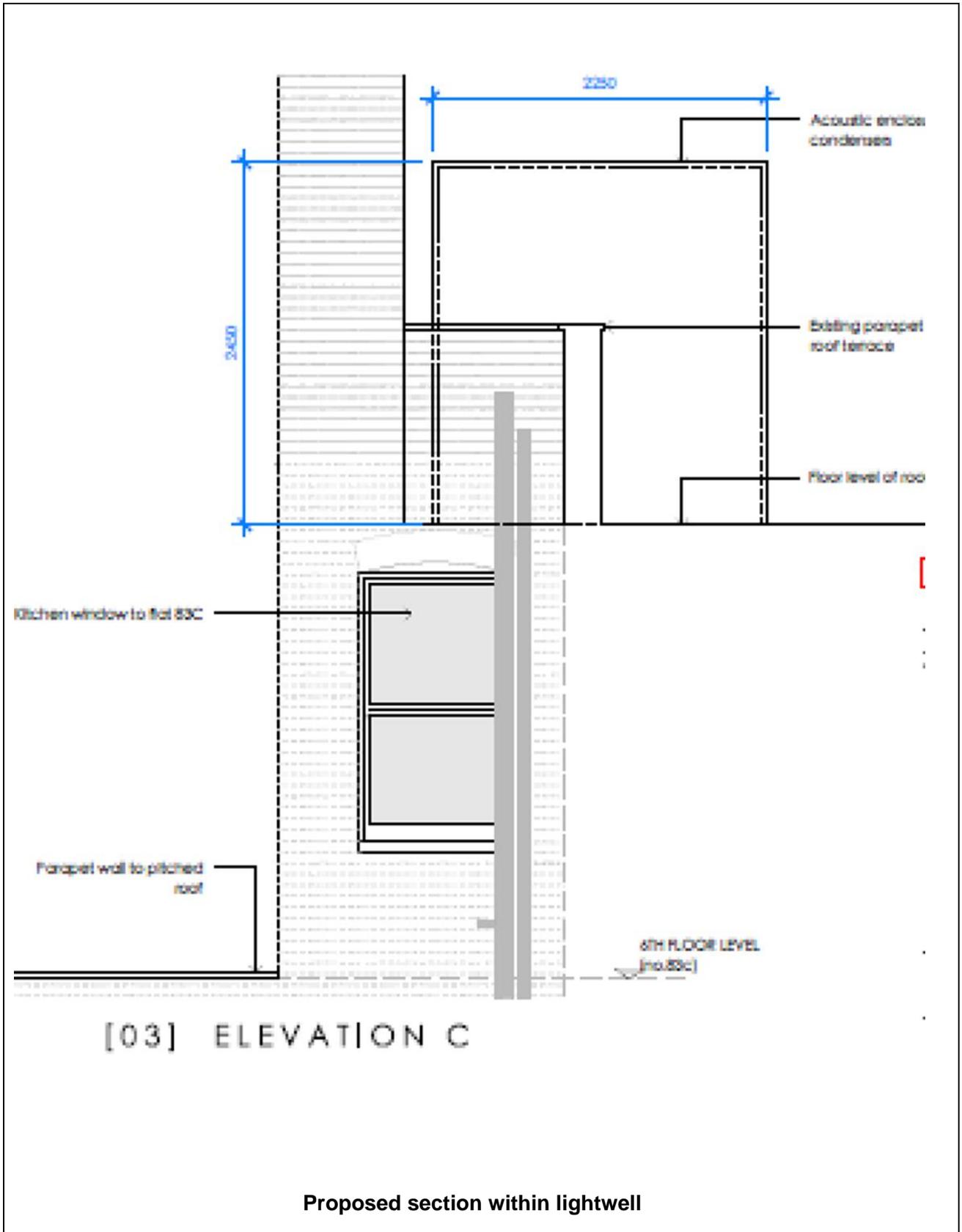
Proposed Block Plan



Proposed part roof plan



Proposed south and east elevations



DRAFT DECISION LETTER

Address: 79 Ashley Gardens, Thirleby Road, London, SW1P 1HG

Proposal: Installation of an air condensing unit within a bespoke attenuation enclosure on the main roof of the building.

Reference: 21/02058/FULL

Plan Nos: Location Plan, 850 rev: P, 125 rev: P and Acoustic report by Sustainable Acoustics dated 29/03/21

Design and Access Statement submitted for information only

Case Officer: Nosheen Javed

Direct Tel. No. 07866037836

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).

- 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 Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 The plant enclosure shall be finished to match the painted render of the chimney stack or in a slate grey colour and shall be maintained in that colour thereafter.

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 Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 You must apply to us for approval of detailed drawings showing the following alteration to the scheme – revised plans and elevations/sections at 1:20 or 1:10 showing the routes for any external pipework associated with the condenser unit/s in context of its surroundings. You must not start on these parts of the work until we have approved in writing what you have sent us. You must then carry out the work according to the approved drawings. (C26UC)

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 Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 6 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB).

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R48AB)

- 7 (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 in writing 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 in writing 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 written 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 LA90, 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. (C46AC).

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 8 The plant hereby permitted shall only be operated in low noise mode between **23:00 hours – 07:00 hours**

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note

(November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 9 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) of this permission.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels.

- 10 You must install the bespoke acoustic enclosure, as specified in the Acoustic Report prepared by Sustainable Acoustics dated 29 March 2021, prior to the operation of the condenser unit hereby approved. The acoustic enclosure accommodating the condenser unit must remain in place for as long as the condenser unit remain operational.

Reason:

To protect the appearance of the Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the

equipment by the City Council if and when complaints are received.

- 3 Conditions 6, 7, 8 and 9 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 4 The applicant shall liaise with the Council's Environmental Health team regarding the date and time of the post-commissioning test to allow officer's to attend and assess the noise within the nearest noise sensitive premises during the post-commissioning test.

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.

DRAFT DECISION LETTER

Address: 77 Ashley Gardens, Thirleby Road, London, SW1P 1HG

Proposal: Installation of an air condensing unit within a bespoke attenuation enclosure on the main roof of the building.

Reference: 21/02057/FULL

Plan Nos: Location Plan, 850 rev: P, 125 rev: P and Acoustic report by Sustainable Acoustics dated 29/03/21

Design and Access Statement submitted for information only

Case Officer: Nosheen Javed

Direct Tel. No. 07866037836

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).

- 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 Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 You must apply to us for approval of detailed drawings at 1:50 or 1:20 of the following parts of the development - proposed works in the lightwell. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 You must apply to us for approval of detailed drawings showing the following alteration to the scheme – revised plans and elevations/sections at 1:20 or 1:10 showing the routes for any external pipework associated with the condenser unit/s in context of its surroundings. You must not start on these parts of the work until we have approved in writing what you have sent us. You must then carry out the work according to the approved drawings. (C26UC)

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 Westminster Cathedral Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 6 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB).

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R48AB)

- 7 (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 in writing 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 in writing 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 written 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 LA90, 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. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 8 The plant hereby permitted shall only be operated in low noise mode between **23:00 hours – 07:00 hours**

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies

7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 9 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) of this permission.

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