

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 14 September 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	13 - 15 Rathbone Street, London, W1T 1NB		
Proposal	Erection of rear second floor extension to existing office building, amendments to existing rear terrace and creation of new terrace space at third floor level on top of new extension, erection of new roof terrace space with associated balustrade and access at main roof level.		
Agent	Quod		
On behalf of	Fabrix Capital		
Registered Number	21/00847/FULL	Date amended/ completed	12 February 2021
Date Application Received	12 February 2021		
Historic Building Grade	Unlisted		
Conservation Area	Charlotte Street, West		

1. RECOMMENDATION

Grant conditional planning permission.

2. SUMMARY

The building is in use as offices (Class E) throughout and comprises of basement, ground and four upper floors. Permission is sought for a rear 2nd floor extension and the provision of a 3rd floor terrace and works associated with the provision of a terrace at main roof level.

The key issues for consideration are:

- The impact of the proposed extension and terraces on neighbouring residential amenity; and
- The impact of the proposals on the special character of the Charlotte Street, West Conservation Area.

Following the inclusion of a privacy screen to the proposed 3rd floor terrace and subject to conditions limiting the use of the terraces it is considered that use of the terraces would not result in a loss of amenity. The proposed alterations to the building will not harm the character or appearance of the Charlotte Street, West Conservation Area. It is therefore recommended that permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

No response to date – any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 69

Total No. of replies: 22

No. of objections: 14

No. in support: 8

Fourteen objections have been received raising some or all of the following concerns:

- Noise impact from terraces,
- Loss of privacy,
- Loss of daylight and sunlight,
- Noise impact during construction,
- Noise from rooftop plant changes,
- Concern conditions to address noise issues are not enforceable,
- Security risk from new terrace adjacent to an existing terrace, and
- Loss in value to property.

Eight supportive comments have been received from local businesses and workers raising some of all of the following points:

- Support use of rooftops which are otherwise neglected,
- Encourage more amenity space,
- Encourage amenity space for offices (particularly in post-COVID world),
- Encourage greening of buildings in this way,
- Disagreement with noise concerns raised by local residents, and
- Proposals will encourage workers back to the office/city.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located on the west side of Rathbone Street, just to the north of the intersection with Percy Street and Charlotte Street. The site backs onto Newman Passage. The site is within the Charlotte Street West Conservation Area, the Central Activities Zone (CAZ) and the West End Retail and Leisure Special Policy Area (WERLSPA). The building comprises of basement, ground and four upper floors, the top floor is a mansard roof. The property is used as office floorspace (Class E) throughout.

6.2 Recent Relevant History

Planning permission was granted on 13 February 2001 (RN: 00/08468/FULL) for:

“External alterations to rear and front elevations, increase in height of existing lift motor room, installation of new plant at roof level and removal of existing air conditioning units at ground, first, second and roof levels.”

Planning permission was granted on 15 September 1986 (RN: 86/01943/FULL) for: “Creation of additional mansard to be used as offices”

Planning permission was granted on 22 June 1984 (RN: 84/00621/FULL) for: “Change of use of basement & ground floors nos 13-15 from showroom to office use. Use of no.17 for studio & light industry”.

7. THE PROPOSAL

Planning permission is sought to allow the erection of a rear second floor extension to existing the office building. The proposed extension will extend across half the width of the building. The extension will infill half of an existing terrace. The proposal seeks to use the roof of the extension as a 3rd floor terrace. A new terrace with associated balustrade and access is also proposed at the main roof level, on top of the existing mansard roof. The creation of the roof terrace involves a slight change to a plant enclosure.

The floorspace figures for the proposal are set out in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office (Class E)	856	874	+18
Total	856	874	+18

8. DETAILED CONSIDERATIONS

8.1 Land Use

Office Use (Class E)

The proposals will result in a very modest increase in office floorspace (Class E) of 18 m² (GIA). The additional office floorspace accords with the policy aim of supporting economic growth within the CAZ and West End and Retail and Leisure Special Policy Area as set out in City Plan policies 1 B (Westminster’s spatial strategy), 2 (Spatial Development Priorities: West End Retail and Leisure Special Policy Area and Tottenham Court Road Opportunity Area) and 13 (Supporting economic growth)

The application is acceptable in land use terms.

8.2 Townscape and Design

Legislative background

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant listed building consent for any works the local*

planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 66 of the same Act requires that “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 72 of the same Act 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.*”

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39 of the Westminster City Plan 2019-2040 (April 2021) requires development to conserve features that contribute positively to the settings of conservation areas and take opportunities taken to enhance their settings, wherever possible.

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.

The City Plan 2019 - 2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. 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. 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.

Design Assessment

Roof alterations

13-15 Rathbone Street is an unlisted building in the Charlotte Street West Conservation Area to which it makes a positive contribution. It stands on the west side of the street and has a façade of red brick with stone details, and a slated mansard roof which was constructed in the late 1980s. The neighboring property to the north is of similar scale and that to the south is a small, domestic-scale building with timber sash windows and a yellow stock brick façade.

The nearest listed buildings are in Charlotte Street (11-13) and Newman Street (27, 28, and 29), and the site is partly within two protected vistas. The Rathbone Street frontage of the building is in protected vista 2B.1 (Parliament Hill oak tree to Palace of Westminster), and the Newman Passage side of the building is within the protected vista 2A.2 (Parliament Hill summit to the Palace of Westminster). However, in neither view does the proposal breach the threshold plane.

The site is visible in views along Rathbone Street and there are longer views from the western end of Percy Street in the Borough of Camden. Nevertheless, the proposals in their current form have no impact on the setting of any listed buildings and do not affect the protected vistas.

The conservation area audit notes that, *“The majority of buildings in the area have traditional mansard roofs and many along Newman Street have basements. Buildings are predominantly of brick, adding a richness and coherence to the area”*. Paragraph 3.16 recognises the importance of roof profiles to the character and appearance of the conservation area, and that, *“The majority of buildings have existing mansards or distinctive roof profiles which are designed to be seen against the sky and therefore roof extensions would be inappropriate”*.

The original building had a flat roof to which the existing mansard roof is a later addition. Nevertheless, it is in proportion to the facades below and has appropriate, simple, dormer windows, and the roof is hipped on the southern side to avoid dominating the adjoining building. However, the building is still conspicuously taller than most in the street. Therefore, any alterations at roof level that would increase its height would be visually intrusive and unsightly when seen from street level in the vicinity and in longer public and private views from ground or upper levels.

Following extensive pre-application discussions, proposal for an additional storey of accommodation on the roof have been omitted and a roof terrace is now proposed.

The main roof terrace area is to be set behind a short upstand to the mansard roof guarded with glass balustrades. The use of glass balustrades is atypical and not in keeping with the historic character and appearance of the building or surrounding conservation area. However, black painted metal railings would be appropriate. It is recommended that this is dealt with by an amending condition.

The access enclosure is a sliding box-rooflight over a new staircase. It is no higher than the perimeter safety balustrade and therefore is acceptable in design and heritage asset terms. All furniture on the terrace is kept at or below the 1.1m high perimeter balustrade.

Some roof planters are proposed, and a letter of support comments this will add greenery to the building. It is recognized that the planters are small and would result in only minor improvement to the biodiversity of the area, however given that a significant part of the roof accommodates existing plant it is recognized that there is not the opportunity to provide extensive greening.

Rear Extension

The proposed extension facing Newman Passage, is simply designed and detailed, it is subordinate to the main building, and fits in well with the character of the street. Therefore, it is acceptable in design and heritage asset terms. Since submission, the application has been amended to address amenity objections to provide a timber acoustic screen on the boundary of the proposed 3rd floor terrace, the screen is acceptable in design and heritage asset terms.

Subject to the provision of railings at roof level rather than a glass balustrade as set out above, the alterations to the building are considered acceptable in design terms and maintain the character and appearance of the surrounding conservation area. This accords with City Plan 2019-2040 policies 34, 38, 39, and 40.

8.2 Residential Amenity

There are a significant number of residential properties in the vicinity of the site including both the adjacent buildings No's 11 and 17 Rathbone Street and the second and third floors of 6-8 Rathbone Street opposite. At the rear No 23 Newman Street is a residential building that backs onto Newman Passage.

City Plan 2019-2040 Policy 7 (Managing Development for Westminster's People) seeks to ensure proposals are neighbourly by protecting and enhancing amenity, preventing unacceptable impacts such as in terms of loss of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking as well as protecting local environmental quality.

Policy 22 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

Daylight and Sunlight and Sense of enclosure

An objection has been received from the occupant of an office building on Newman Street which facing onto Newman Passage to a loss of light. The proposed 2nd floor extension is a small addition to the rear of the building that will project a depth of 3.2m, which will align part of the 2nd with the building line of the lower floors below. Office accommodation is not given the same degree of protection as residential properties in terms of light levels. Notwithstanding this however the application proposes a modest increase in bulk and mass that would have no material impact on daylight, sunlight or increased sense of enclosure to any of the surrounding properties.

The main issue for consideration is the impact of the provision of a rear 3rd floor terrace and roof terrace in terms of overlooking and privacy and potential noise nuisance. 17 Rathbone Street is an adjacent residential building containing 11 flats. Objections have been received from the occupants 17 Rathbone Street (ref section 5 consultation of this report) that the provision of new terraces would result in a significant and material loss of amenity due to both overlooking and noise nuisance.

Privacy

With regards to overlooking the proposed roof terrace would not afford any direct views

into any of the surrounding buildings. The existing rear 2nd floor terrace which will partially infilled by the extension with a new terrace created at 3rd floor level. Dividing the rear terrace onto part 2nd and part 3rd floor levels will have no meaningful change with regards to overlooking. The one exception being that the new 3rd terrace could afford views into an adjacent 3rd floor flat at 17 Rathbone Street. To ensure that there would be no overlooking into this property the application has been revised since the original submission to include a 1.9m high privacy screen. It is recommended that this is secured by condition. Subject to this it is considered that use of both the new 3rd floor rear and roof terraces would not result in overlooking.

Noise

Strong objections have been received that the provision of additional outdoor terraced areas will result in noise nuisance harmful to the living conditions of residents. The objections refer to noise complaints having been made to the City Council with regards to loud music and unneighbourly behaviour from the application premises dating from June 2019 through to 2020. The objections refer to visits from the Police to establish the source of noise complaints. Objections are now made on the grounds that potential noise nuisance will be significantly exacerbated through the provision of additional outdoor terraces.

The City Council records indicate that there have been noise complaints. Given the history of noise complaints the basis behind the objections is understood. The position is however one in which the existing 2nd floor terrace is lawful with no planning conditions governing how this can be used, including the hours of use. This application offers the opportunity to impose conditions on how the amended 2nd floor and new 3rd and roof level terraces are used. Subject to the imposition of appropriate conditions it is considered given the circumstances, permission could not reasonably be withheld on due to noise nuisance.

A condition is recommended which will limit the hours of use of the terraces to between 07:00 to 21:00 hours daily. Conditions are also recommended that the terraces are only used by the occupiers of office accommodation and preventing the playing of live or amplified music on any of the terraces. Concerns are raised by residents that the conditions are not enforceable. The imposition of conditions of the nature is a common practice and enforcement proceedings would be able to be undertaken if the conditions are not adhered to.

8.3 Transportation/Parking

Not applicable.

8.4 Economic Considerations

Any economic benefits generated by the proposal are welcomed.

8.5 Access

Access arrangements to the site are unchanged by these proposals.

8.6 Other UDP/Westminster Policy Considerations

Mechanical Plant and Equipment

The application involves the removal of redundant pipework and repositioning of an acoustic screen to accommodate the roof terrace. An objection has been received that the changes would add to noise nuisance. The proposal does not involve the addition of any new plant, the objection is not therefore considered to be sustainable.

8.7 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. 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 Neighbourhood Plans

Not applicable.

8.9 London Plan

This application raises no strategic issues.

8.10 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.

No pre-commencement conditions are proposed.

8.11 Planning Obligations

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

8.12 Environmental Impact Assessment

Environmental Impact issues have been covered above.

8.13 Other Issues

Construction Impact

Objectors have been made that construction impacts will result in nuisance. Permission could not reasonably be withheld for this reason. The normal condition controlling the hours of noisy building works is recommended.

Security

An objection has been raised that the proposed 3rd floor terrace located immediately adjacent to a neighbouring residential terrace raises a security risk to the residential flats adjacent. The amended scheme includes a 1.9m screen on the boundary between the respective terraces. It is considered that the proposal will not have any significant impact on security.

Other Objections

An objector has raised stated that the proposals would lead to a possible loss in value of their property. This is not a planning issue, the application cannot be refused for this reason.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

9. KEY DRAWINGS

Existing Front Façade



Proposed Front Facade



Existing Rear Façade



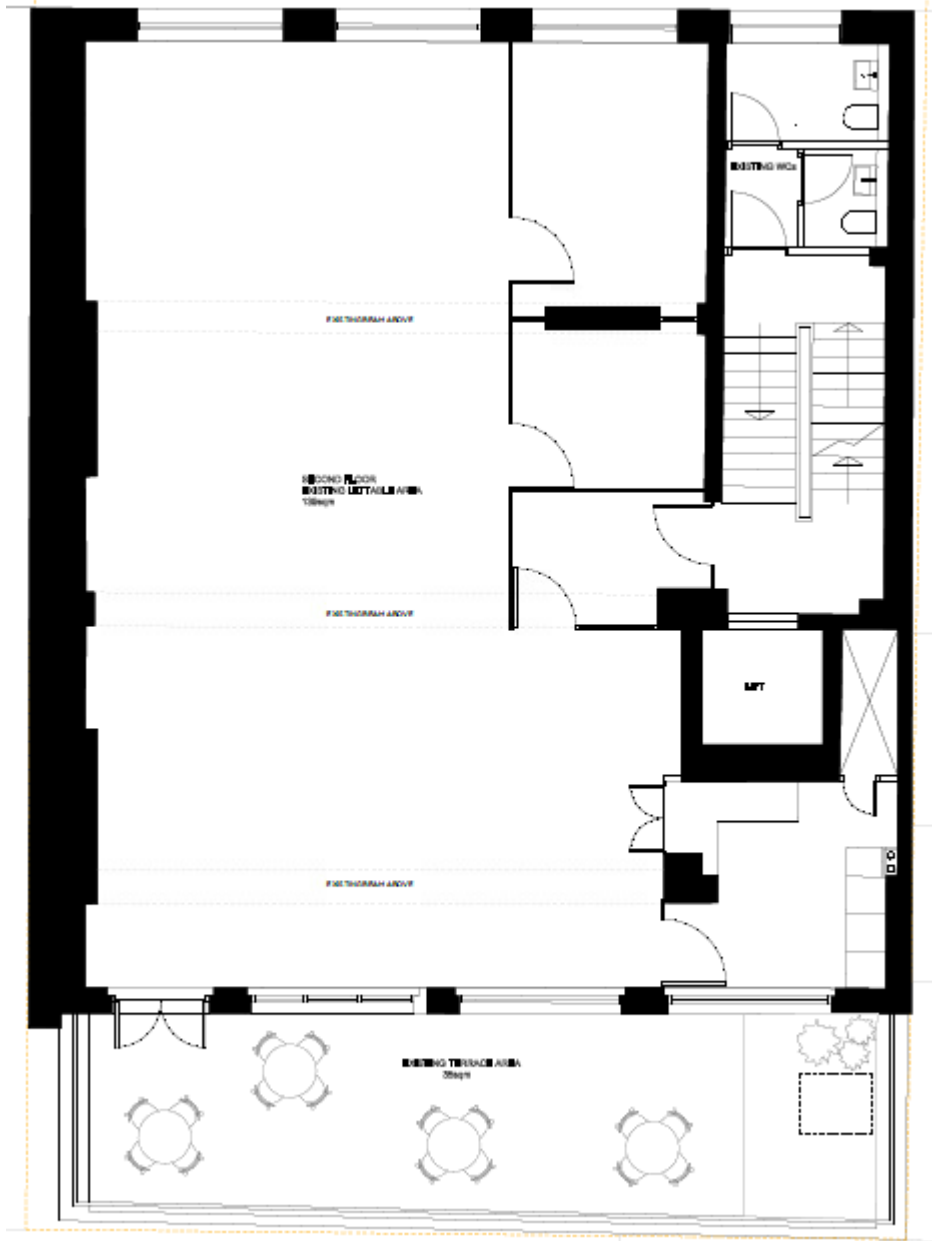
Proposed Rear Façade

Proposed timber acoustic barrier
Divide between 15 and 17 Rathbone street
At 3rd floor proposed terrace

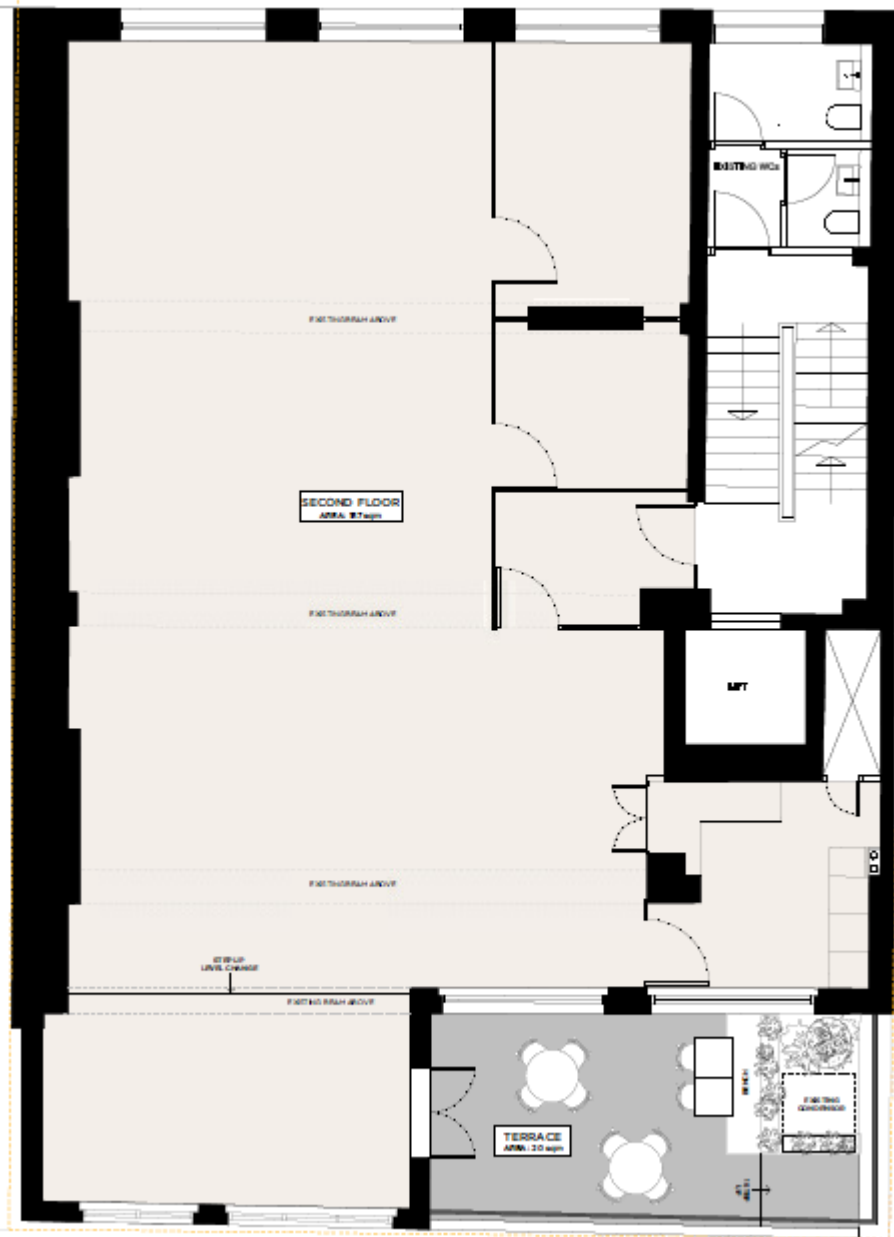
1.90m



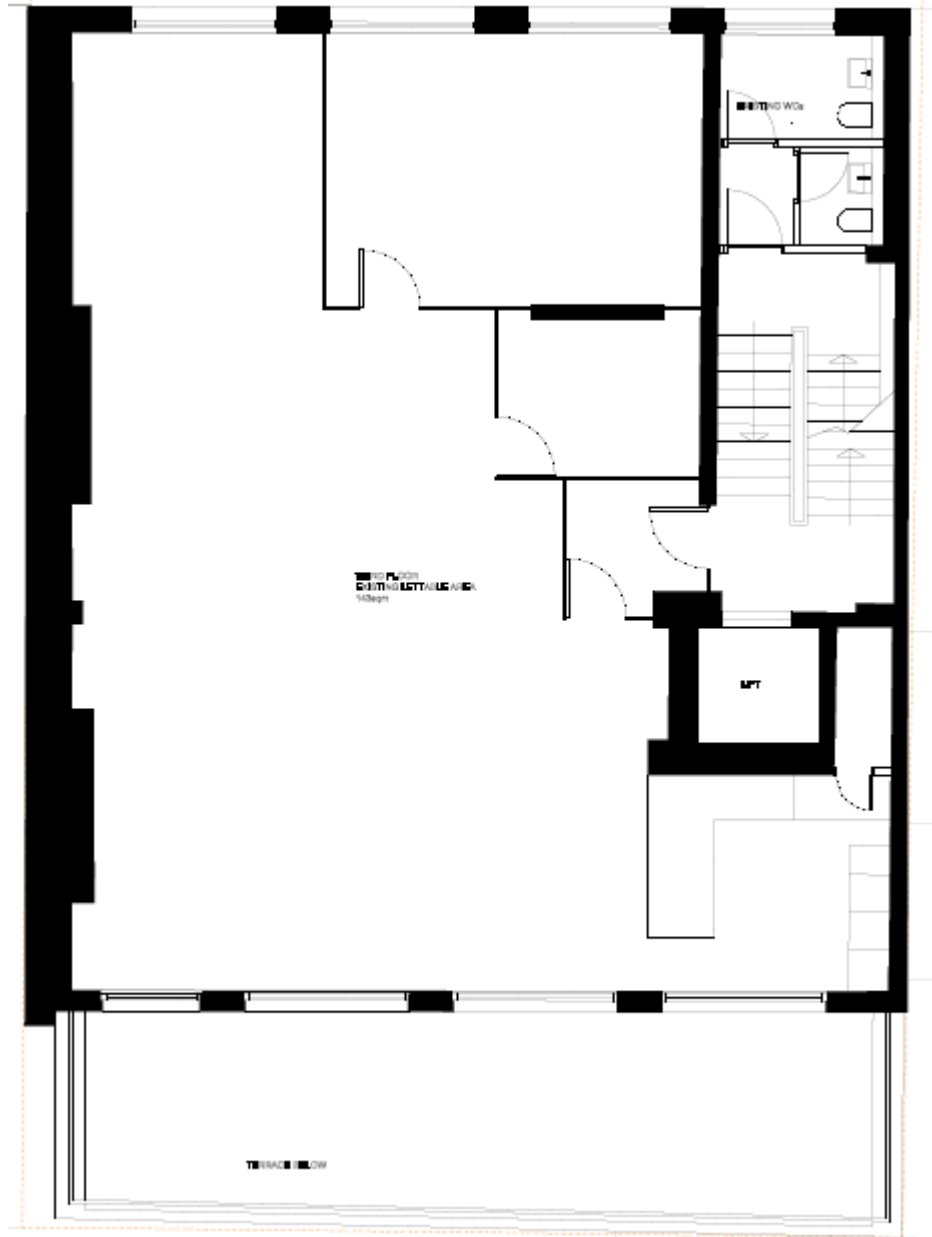
Existing Second Floor Plan



Proposed Second Floor Plan



Existing Third Floor Plan

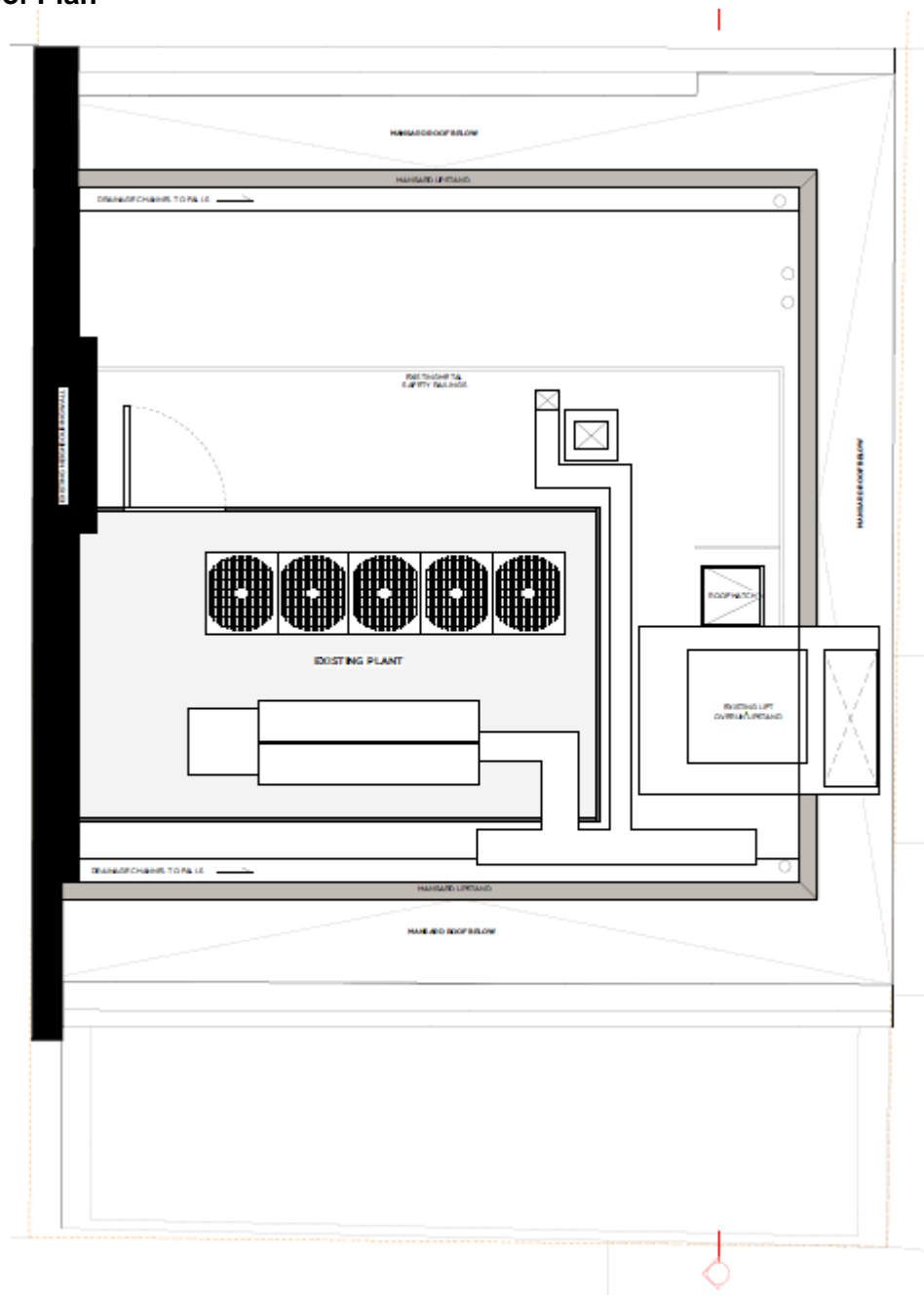


Proposed Third Floor Plan

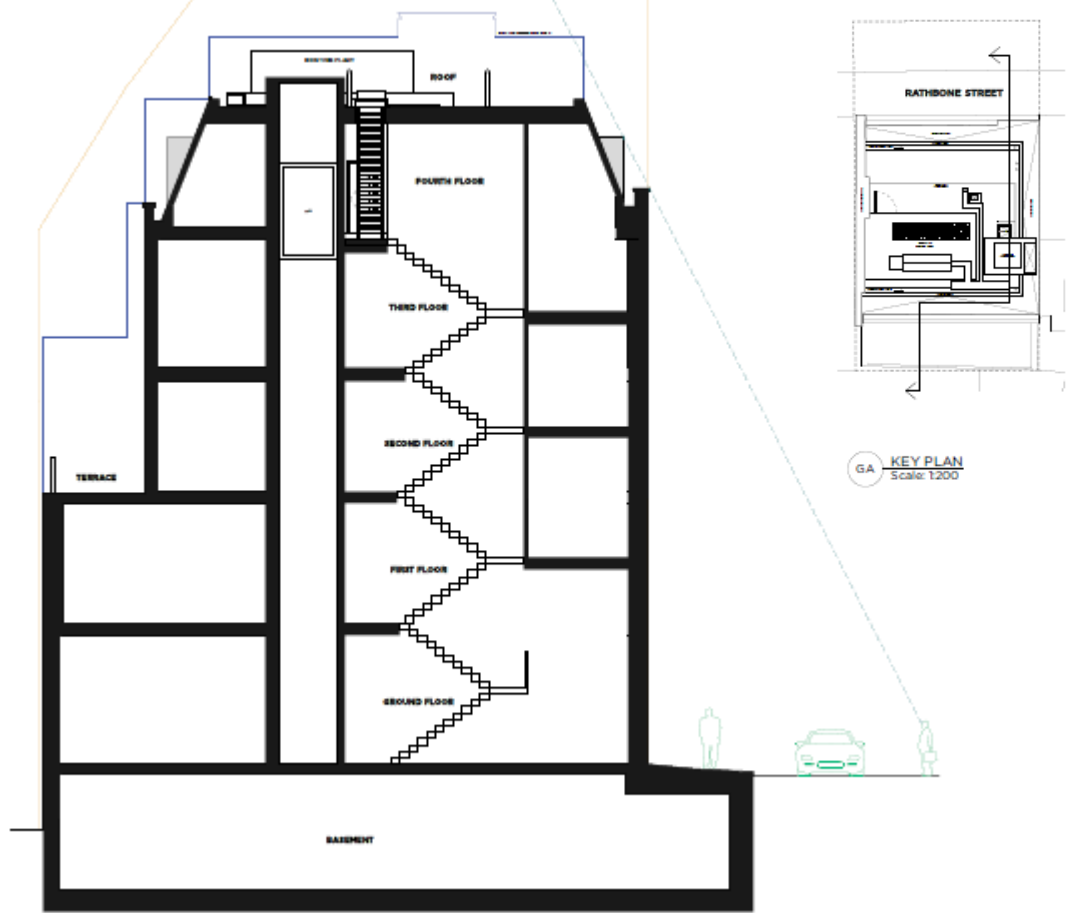


Proposed timber acoustic barrier
Divide between 15 and 17 Rathbone street
At 3rd floor proposed terrace

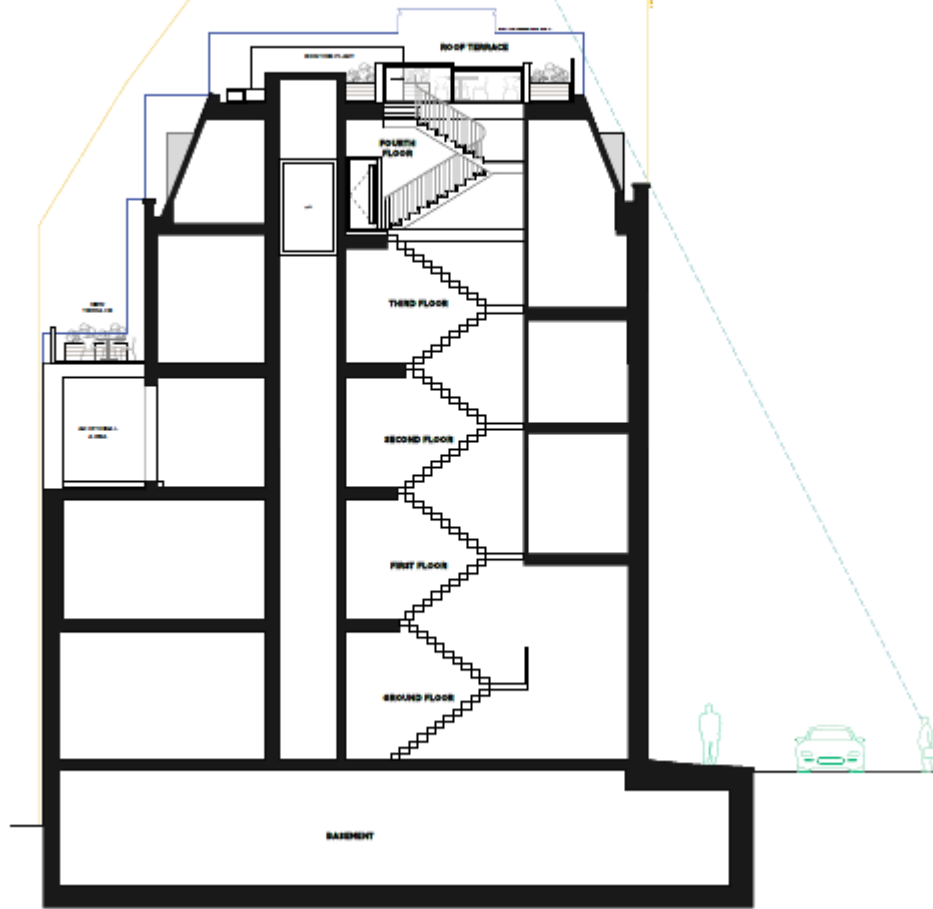
Existing Roof Plan



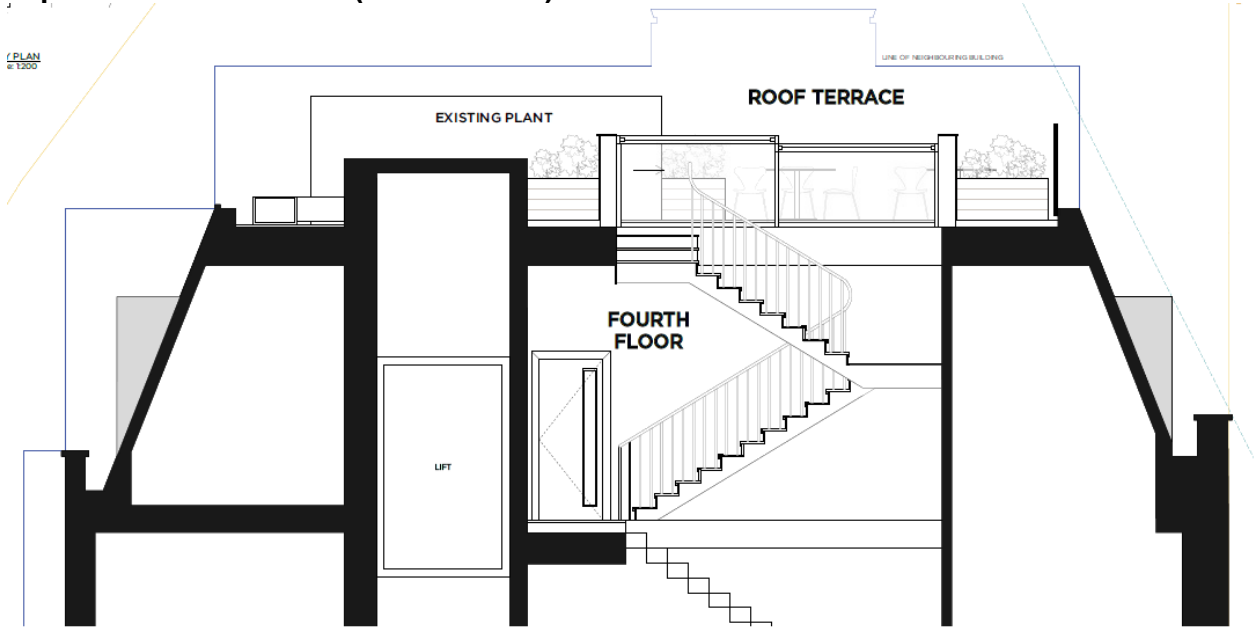
Existing Section



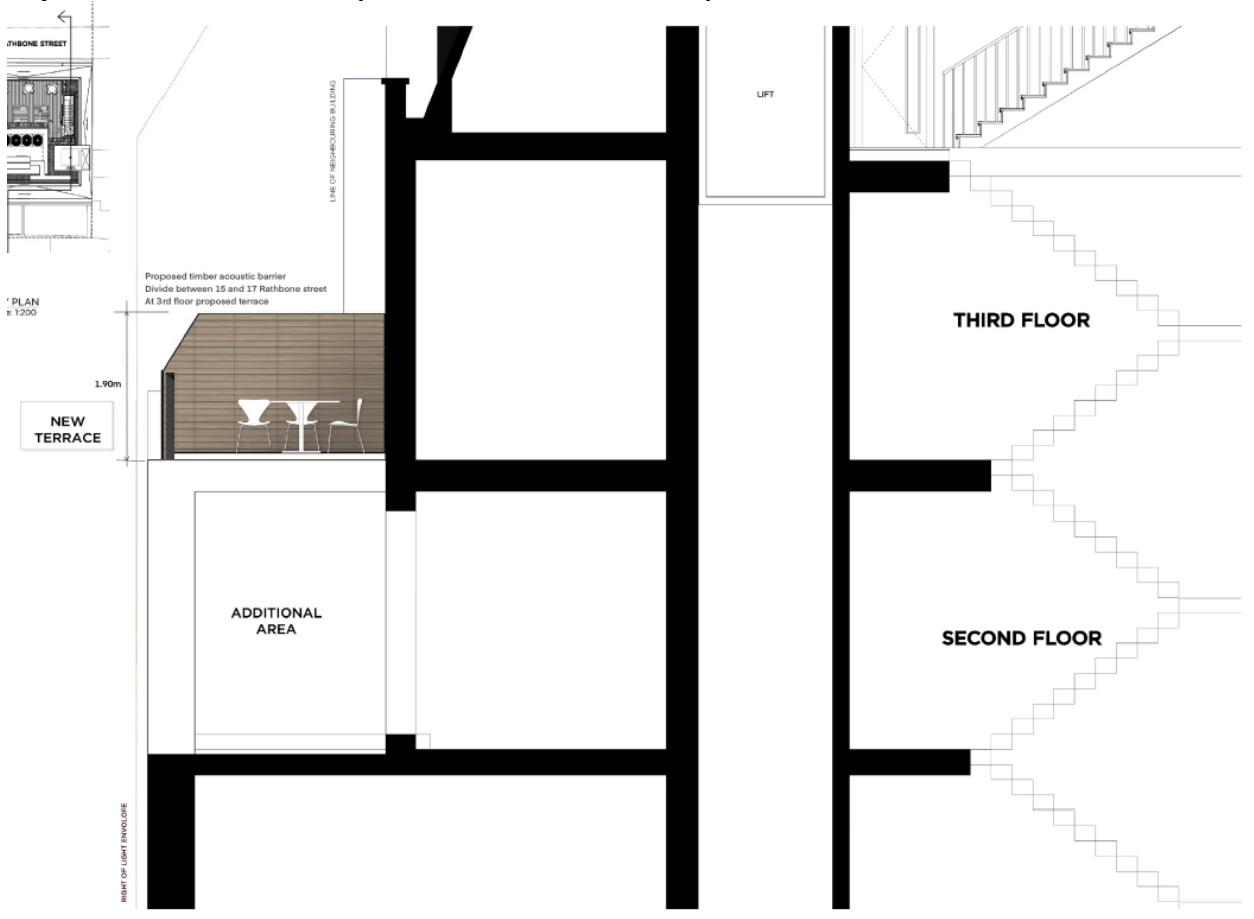
Proposed Section



Proposed Section Details (Roof Terrace)



Proposed Section Details (Rear Third Floor Terrace)



DRAFT DECISION LETTER

Address: 13 - 15 Rathbone Street, London, W1T 1NB

Proposal: Erection of rear second floor extension to existing office building, amendments to existing rear terrace and creation of new terrace space at third floor level on top of new extension, erection of new roof terrace space with associated balustrade and access at main roof level.

Reference: 21/00847/FULL

Plan Nos: EL101 Rev. A ; EL102 Rev. B ; GA102 Rev. A ; GA103 Rev B ; GA104 Rev. A ; GA105 Rev. A ; SE101 Rev. A ; SE102 Rev. A ; SE103 Rev. B

Case Officer: Adam Jones **Direct Tel. No.** 020 7641
07779431391

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 this part of the Charlotte Street, West 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 not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Charlotte Street, West 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(s) to the scheme 1) Omission of glass balustrades to the roof terrace in favour of painted-metal railings. You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings.

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

- 6 You must install the privacy screen at rear third floor rear terrace shown on the approved drawings before you use the new third floor rear terrace. You must then maintain the privacy screen in the form shown for the life of the permission unless otherwise approved in writing by the Local Planning Authority.

Reason:

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

- 7 The rear second floor, rear third floor and roof top terraces shown on the approved drawings shall only be used by the occupiers of the office accommodation within the building and only between 07:00 - 21:00 daily.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 8 You must not play live or amplified music on the rear second floor, rear third floor and roof top terraces shown on the approved drawings at any time.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out

in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

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.

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.