

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 22 March 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Lancaster Gate	
Subject of Report	Hyde Park Towers, 1 Porchester Terrace, London, W2 3TU		
Proposal	Erection of two penthouse roof extensions and railings on the rear parts of the building (Block A and B) to provide two residential units (Class C3) with basement car and bicycle parking; and proposed internal heat pumps with service outlets at roof level [REVISED DESCRIPTION]		
Agent	Montagu Evans		
On behalf of	Tyrecard Limited		
Registered Number	21/00888/FULL	Date amended/ completed	20 August 2021
Date Application Received	15 February 2021		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application site comprises a substantial late 1970s brick-built apartment block of ground plus 3-8 storeys of a stepped or 'ziggurat' form. The building is situated within the Bayswater Conservation Area and fronts onto Bayswater Road and Kensington Gardens, from which it can be clearly seen forming part of the skyline to the north of the park. The neighbouring property at 3 and 5 Porchester Terrace is a grade 2 star listed building.

Permission is sought for the erection of two penthouse roof extensions on the rear part of the building to provide 1x2 bed and 1x3 bed residential units; internal air source heat pumps with service outlets; basement car and cycle parking.

Details of the provision of the air-source heat pumps had not initially been provided, and these were subsequently provided during the course of the application. A full formal re-consultation was carried out as a result of these revisions. Subsequent to this, a further consultation on revised drawings and an addendum to the Daylight and Sunlight Report was also carried out.

The South East Bayswater Residents' Association have objected on grounds of the continued re-

submission for planning permission for this extension, with the prospect of building works at some time in the future which would be disruptive to neighbours; and also on grounds of the affect on property values which are affected by the uncertainty of works which may never happen.

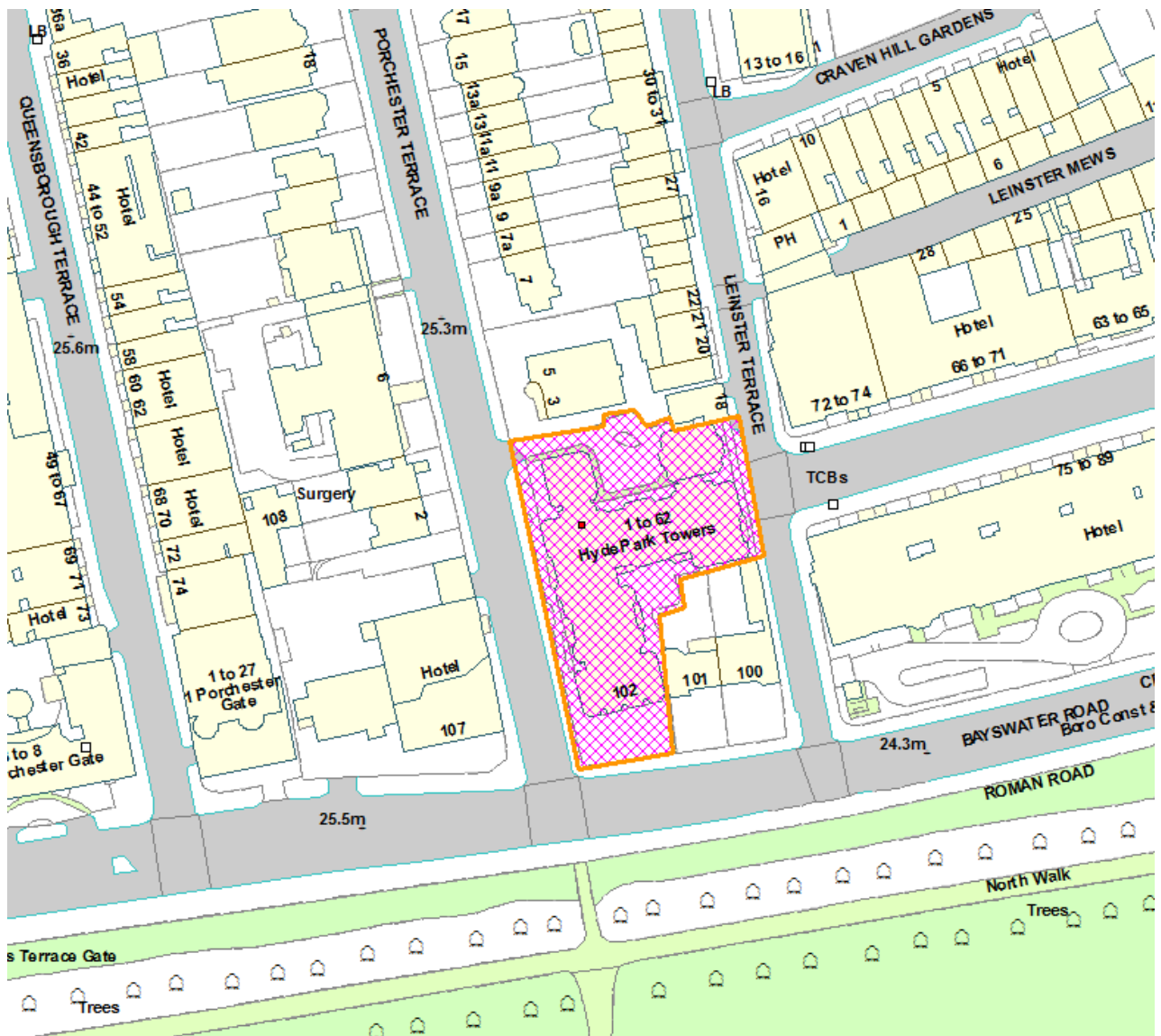
A number of objections have been raised by the occupiers of neighbouring properties on a range of grounds including design, amenity, parking, the impact of construction including structural risk and disruption of services, risk of fire/damage and reduction in security, legal costs, effect on value of property, and existing unresolved issues with the management company.

The key issues in this case are:

- The impact of the proposal on the character and appearance of the Bayswater Conservation Area
- The acceptability of the proposed additional residential units in land use terms
- The impact of the proposal on the amenity of neighbouring residents
- Quality of proposed new residential accommodation for future occupants
- Impact on highways matters, including parking and waste storage

The proposed development is considered to comply with the development plan. 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



North-West Elevation



North Elevation



South-West Elevation

5. CONSULTATIONS

First round of consultation – February 2021

WARD COUNCILLORS (BAYSWATER)

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

We object most strongly to the continued re-application for planning permission for these extensions. Applicants should not be able to keep alive indefinitely the threat of building works at some time in the future to disrupt the neighbours. This also has an effect on property values, which are artificially depressed by the prospect of disruptive work which may never happen. This application should be rejected outright.

HIGHWAYS PLANNING OFFICER

No objection, subject to conditions securing car parking and cycle parking

WASTE PROJECT OFFICER

Details of the waste storage area for the two units are required

BUILDING CONTROL

No objection; full assessment of compliance with Building Control matters, including Fire Strategy will form part of the Building Regulations assessment

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 118

Total No. of replies: 20

No. of objections: 20

No. in support: 0

In summary, the objectors raise the following issues:

AMENITY

- The proposed extensions will negatively impact neighbours' privacy.
- The proposed extensions will block daylight and sunlight.

DESIGN

- The proposed development would harm the character and appearance of the existing building and the Bayswater Conservation Area.

HIGHWAYS

- The proposed flats would result in increased traffic and parking pressure on neighbouring streets.
- Servicing would be a problem because the driveway into the building is rather

narrow

OTHER

- The proposed development has been submitted to the council before and it is being proposed again; it was voted down last time and putting this proposal on the table again is a waste of taxpayers' and the government's resources
- There are existing maintenance problems and the freeholder has always used the lack of funds as an excuse not to repair the building,
- While Flat 62 currently has sole use of the lift to the 7th floor and of the corridor, this area would now be shared.
- The proposed development is not supported by the residents of the building
- The landlord is in breach of their repair and maintenance obligations and residents do not feel confident that they would deal with construction issues that may arise if works went ahead.
- The proposed development may compromise the structure of this building.
- Construction would result in major disruption to services on-site (eg residents will be out without hot water and electricity for long periods during the works, lift use would be restricted due to heavy use during works)
- Risk of Fire/damage & reduction of Security levels (from builders/contractors in and out of the building for potentially over 2 years)
- There will be a loss of privacy and natural light to leaseholders' windows due to the erection of scaffolding across most of the building.
- Noise, disruption and dust levels due to construction works
- Legal costs to leaseholders due to the development
- The proposed development would result in loss of property value for existing flats on-site.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

Second round of consultation – August 2021

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

No response to this consultation

HISTORIC ENGLAND

No comments to make

ENVIRONMENTAL HEALTH OFFICER

No objections on noise or nuisance grounds subject to standard noise and vibration conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 118

Total No. of replies: 3

No. of objections: 3

No. in support: 0

In summary, the objectors raise the following issues:

AMENITY

- Object to noise from air source heat pumps despite use of acoustic enclosure
- Re-iteration of previous objections on grounds of loss of light to property

DESIGN

- Re-iteration of previous objections on grounds of inconsistent with the designation of the Bayswater Conservation Area

OTHER

- Re-iteration of previous concerns regarding construction impacts, existing maintenance issues, motivations of freeholder, loss of property value, security, legal costs for leaseholders and fire safety.

SITE NOTICE:

Yes

Third round of consultation – Expiring 8 March 2022

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 127

Total No. of replies:

No. of objections: 1

No. in support: 0

AMENITY

- Re-iteration of previous objections on grounds of loss of light to property; impact on privacy and restricted views

DESIGN

- Re-iteration of previous objections on grounds of inconsistent with the designation of the Bayswater Conservation Area

OTHER

- Re-iteration of previous concerns regarding construction impacts, existing maintenance issues, motivations of freeholder, loss of property value, security, legal costs for leaseholders and fire safety.

Any further responses to be reported verbally.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises a substantial late 1970s brick-built apartment block of ground plus 3-8 storeys of a stepped or 'ziggurat' form. The building is situated within the Bayswater Conservation Area and fronts onto Bayswater Road and Kensington Gardens, from which it can be clearly seen forming part of the skyline to the north of the park. To the north, the neighbouring building at 3 and 5 Porchester Terrace is a Grade 2 star listed building.

6.2 Recent Relevant History

19/09821/FULL

Erection of an additional floor at ninth floor level to create a penthouse flat (two-bedroom unit).

Application Permitted 11 February 2020

17/10579/FULL

Erection of two penthouse roof extensions and railings on the rear parts of the building (Block A and B) to provide 2 residential units (Class C3) with basement car and bicycle parking.

Application Permitted 28 February 2018

16/10627/FULL

Erection of an additional floor at ninth floor level to create a penthouse flat (two-bedroom unit).

Application Permitted 24 April 2017

15/01276/FULL

Erection of two penthouse roof extensions on the rear parts of the building to provide 1 x 2 bedroom and 1 x 3-bedroom residential units with basement car and bicycle parking.

Application Permitted 16 April 2015

14/01721/FULL

Erection of additional floor at ninth floor level to create a penthouse flat.

Application Permitted 4 June 2014

13/00748/FULL

Extension of time for the commencement of development granted planning permission on 15 April 2010 (extant permission: RN: 09/08150); namely, erection of two penthouse roof extensions on the rear parts of the building to provide 1 x two-bedroom and 1 x

three-bedroom residential units with basement car and bicycle parking.
Application Permitted 18 March 2013

09/08150/FULL

Erection of two penthouse roof extensions on the rear parts of the building to provide 1 x two-bedroom and 1 x three-bedroom residential units with basement car and bicycle parking.

Application Permitted 15 April 2010

7. THE PROPOSAL

The proposal comprises of the erection of two penthouse roof extensions on the rear part of the building to provide 1x2 bed and 1x3 bed residential units with basement car and cycle parking. Green roofs are proposed to the two extensions.

During the course of the application, the proposal has been amended to also include details of the provision of internal air-source heat pumps with service outlets at roof level. The additional details comprised of revised drawings and also an acoustic report for the proposed air-source heat pumps, for which a full-formal re-consultation of these additional details was subsequently carried out. Subsequent to this, as it was noted that the submitted proposed drawings included a ninth-floor roof extension that was the subject of a separate planning permission, but not yet implemented, the applicant has submitted further drawings that omitted any details of this shown to avoid confusion, and also more accurately reflect what is proposed in this current planning application. In response to officer's request, the applicant also submitted an addendum to the Daylight Assessment. A further consultation on these revised and additional documents was subsequently carried out.

The design of the proposed extensions are almost identical to previous permissions, including under application ref:17/10579/FULL. Prior to this, permission was granted in April 2015 under ref: 15/01276/FULL; in 2010 under ref: 09/08150/FULL, with this permission extended in 2013 under reference 13/00748/FULL. The previous permissions, however had not included air source heat pumps, which are included in the current proposal.

The proposed 2-bedroom unit is to have a gross internal area of 85.03sqm, and the 3-bedroom unit is to have a gross internal area of 105.36sqm.

A separate planning permission exists for a ninth-floor extension to create a 2-bedroom flat to the main roof which was granted in February 2020 under reference 19/09821/FULL.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposed residential units are supported in principle by policy 8 of the City Plan. Policy 12 of the City Plan seeks to ensure that all new homes provide high quality

accommodation and stipulates that they should meet or exceed the Nationally Described Space Standards where the units are self-contained. It also states that new-build homes should provide at least 5sqm of private external amenity space, although it is also recognised that this may be impracticable or inappropriate in a densely built environment such as Westminster for some homes within a development.

Policy 10 seeks to ensure that 25% of all new homes across Westminster will be family sized.

The proposed new residential units meet the internal space standards of the Nationally Described Space Standards. As such, the residential accommodation provided would be of an acceptable standard. This is also in accordance with Policies 8 and 12 of the City Plan 2019-2040 (April 2021). The proposal includes the provision of a 3-bedroom unit which is considered to be a family sized unit as set out within Policy 10B.

Part D of Policy 12 states that all new build homes should provide at least 5sqm of private amenity space for each dwelling designed for 1-2 persons or more and, where practicable, a further 1sqm for each additional person the dwelling is designed to accommodate. In this case, it is considered that the provision of private amenity space is not practicable as this would result in privacy issues for neighbouring windows.

Part E of Policy 12 states that where it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement set out in Part D of Policy 12 will be required. In this case, to meet this requirement, a minimum of 7sqm of additional floorspace should be provided for the proposed 2-bedroom unit. The proposed internal floor space for the 2-bedroom flat is to be 85sqm, which exceeds the minimum Nationally Described Space Standards of 70sqm for a 2-bedroom, 4 persons dwelling by 15sqm. Similarly, a minimum of 8sqm of additional floorspace should be provided for the 3-bedroom flat. The proposed internal floor space for the 3-bedroom unit is to be over 105sqm, which exceeds the minimum Nationally Described Space Standards of 86sqm for a 3-bedroom 5 person dwelling by 19sqm, which is more than double 8sqm of private amenity space required for this flat. It is therefore considered that the proposal complies with these parts of Policy 12.

Accordingly, the proposed additional residential units are supported in land use terms

8.2 Townscape and Design

Legislative Requirements and Guidance for Design and Conservation Issues:

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."*

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.

In considering the proposals in design and heritage terms, the relevant City Plan 2019-2040 (April 2021) policies are 38, 39 and 40.

Considerations:

Extensions to this part of the building have been approved on several previous occasions. In 1999 and 2004 extensions incorporating high levels of glazing to their elevations though slightly set back further than the current proposals were approved. In 2010, 2015 and 2018 proposals following the footprint and more visually solid brick faced design approach of the current proposals were approved.

The current proposals are considered acceptable in design and conservation terms. They are set back from the Leinster Terrace and Porchester Terrace street facing elevations, thus responding to and respecting the design approach of the wider building which incorporates set backs to its upper floors. Whilst adding greater height and bulk onto the building, nonetheless Hyde Park Towers is a large and imposing block of flats and within that context two single storey extensions onto the lower height rear wings will not unacceptably compromise the character and appearance of the building or Bayswater Conservation Area. The extensions would not be readily visible from the Royal Parks Conservation Area and would not adversely affect its setting.

The design approach follows that of the previous three approvals and is considered acceptable. The extensions will have brick facing to match the existing building, with a rendered band above in red to match the render band of the existing top floor level of the main body of the building, which following that in the previous approvals is considered to give an appropriate capping to the composition. The windows will have white framing to integrate with the existing building, and their size will sit comfortably with the character of the wings below. As with previous approvals, whilst the windows do not match exactly those below, the existing set back floor levels to the main body of the building similarly do not exactly match the floors below, and overall the extensions will incorporate sufficient harmony of design to integrate appropriately with the building.

It is recognised that the extensions will add height and bulk to the building, and that

when seen from Porchester Terrace that height and bulk would be perceived in the same aspect as the Grade 2 star listed building at nos. 3 and 5 Porchester Terrace. Nos. 3 and 5 Porchester Terrace is a three-storey villa building set in its own grounds, and visually separated from Hyde Park Towers by the open service road from Porchester Terrace. The extensions proposed however would be seen as an integral part of an already large building, and would be perceived in context of the much greater mass of the main body of the building to the south side of these rear wings. It is also recognised that a number of higher buildings are located to the west side of this part of Porchester Terrace which are also within the setting of the listed building. Overall, it is not considered that the works would be harmful to its setting.

The sedum roofs are welcomed in terms of their contribution to biodiversity and the greening of the city, and in line with policies 7 and 34 in the City Plan. They are set behind parapets and will not thus clutter the roofline of these extensions, with the vents to roof level also set well back behind parapets to screen their visual impression.

The louvred screens to the air source heat pumps are set into narrow recesses and will be dark in colour (to be secured by condition) and as such will not compromise the character and appearance of the building or surrounding conservation area.

Conclusion on Design and Conservation Issues

Given the above, the proposals are considered acceptable in design and conservation terms, and in accordance with policies 38, 39 and 40 of the City Plan 2019-2040 (April 2021). The recommendation is considered in line with the statutory duties set out in s. 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8.3 Residential Amenity

Part A of Policy 7 of the City Plan states that development will be neighbourly by protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

8.3.1 Daylight/Sunlight/Sense of Enclosure

Objections have been received on the grounds that the proposed extensions will have an impact on daylight and sunlight received by occupants of flats within Hyde Park Towers that have windows facing the development.

The applicant has undertaken a Daylight, Sunlight and Overshadowing Assessment in support of the current application. The report is based on the BRE publication "Site Layout Planning for Daylight and Sunlight" (2011). The initial report concluded that, overall, the proposed development is not expected to cause any significant negative impact to daylight and sunlight to the surrounding properties and amenity spaces. However, it did not assess the impact of the proposed development on the existing residential windows of Hyde Park Towers itself.

The applicants have subsequently undertaken a Daylight Assessment on affected

windows of Hyde Park Towers, within an Addendum to the main report, submitted in February 2022.

The submitted addendum report provides the results of tests on 100 existing windows from ground to seventh floors of Hyde Park Towers.

In assessing daylight levels, the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide very good levels of daylight. Of the 100 windows identified as eligible for testing (within Hyde Park Towers), 18 were found to have VSC of over 27% and 71 achieved VSC of over 0.8 of its former value, which are in accordance with BRE guidance. However, the remaining 12 windows tested failed to provide a minimum of 0.8 times the former value of VSC.

The following table highlights the values of the 12 windows tested that failed to provide a minimum of 0.8 times their former value of VSC.

Floor	Window ID in report	Existing VSC	Proposed VSC	Compared to former value
1	1.02	3.9	2.4	0.62
1	1.03	3.9	2.4	0.62
1	1.04	6.5	5.1	0.78
1	1.06	4.4	3.2	0.73
3	3.02	6.7	5	0.75
3	3.03	10.2	8.1	0.79
4	4.02	9.1	6.4	0.70
4	4.14	13.3	10	0.75
5	5.06	10.9	7.9	0.72
5	5.12	22.3	15.6	0.70
5	5.14	33.2	14.8	0.45
7	7.01	34.6	24.1	0.70

Of these 12 windows, 9 windows achieved relative VSC of over 0.7 of the former value, which is marginally less than the BRE target of 0.8. However, it should be highlighted that a number of these windows which do not meet the BRE target, are recessed behind balconies, or already affected by the existing massing of the building and therefore have existing low levels of light as the overhanging balconies would be causing shadow anyway.

Two of the remaining windows are located on the first floor and also recessed behind balconies, with very low existing VSC levels of under 4% under the existing condition. In these cases it is considered that there is not a significant reduction to the existing situation to warrant it unacceptable.

The last window affected is located on the fifth floor to the immediate southeast of the north-western roof extension and would directly face the extension. This window would

receive 0.45 times the light it currently receives. However, the room to which this window belongs has other windows with good access to daylight, including a window angled away from the extension immediately adjacent to the affected window which, according to a typical floor plan of flats in the building provided by the applicant, is likely to serve the same room, (which is likely to be a bedroom), as it is an angled continuation of the same window. The Daylight Assessment Addendum highlights that this window received a VSC level that is consistent with windows on the same façade but on lower floors.

The findings of the Daylight Assessment Addendum confirm that there are several windows which fail the tests as set out within BRE guidelines. However, it is noted that this is only a guide with the same tests used for both urban and countryside locations. While the development would affect a number of flats within Hyde Park Tower, on balance, the losses are not considered unacceptable given there are other windows with good access to light and given the urban context of the development site.

The proposed extensions would also have an impact on the existing residents of Hyde Park Towers in terms of sense of enclosure. However, the existing situation comprises of the two existing wings, and the proposal to extend them with one storey each, by virtue of their existing design, would not on balance have an unduly harmful impact on the residents in terms of sense of enclosure, with existing residents already having a similar outlook to that proposed. The proposed extension is set in slightly from the floor below. Given the development has already been deemed acceptable in the past with no significant change in policy test a refusal on this ground would not be sustainable.

In conclusion, it is considered that the proposed development would not result in a material loss of daylight or sunlight, or an increase in a sense of enclosure of neighbouring properties.

8.3.2 Privacy

It is considered that the proposed extensions would not have an adverse impact on neighbouring properties in terms of loss of privacy. The proposed extensions would be set back from the building line below, and any windows facing existing residents would have a mutual impact in terms of overlooking and this would also be similar relationship to that between existing flats. A condition preventing the use of the roof of the extension for sitting out is recommended.

8.3.3 Noise and disturbance

Proposed Air Source Heat Pumps

The application is accompanied by an acoustic assessment for the proposed air source heat pumps. This has been reviewed by the Environmental Health Officer, who is satisfied that they will comply with Westminster's noise criteria and raises no objection, subject to standard noise and vibration conditions, the submission of a post-commissioning noise survey demonstrating compliance with Westminster's noise criteria and the installation of attenuation. A condition is recommended to require the installation of the proposed acoustic enclosure prior to the operation of the air source

heat pumps.

Sound insulation

A condition is recommended requiring adequate sound insulation, to prevent noise nuisance to existing and future occupiers of the building.

Officers are satisfied that the proposal would not materially harm residential amenity of surrounding properties and consider the proposals would be consistent with policies 7, 33 and 38 of the City Plan 2019-2040 (April 2021).

8.4 Transportation/Parking

The application includes a drawing showing the basement car-parking for the building, which indicates the provision of 2 off-street parking spaces; 1 for each proposed unit, within the existing basement car park. During the course of the determination of this application, the City Council's has adopted its new City Plan 2019-2040 on 21 April 2021, which has now replaced the UDP and 2016 City Plan policies. City Plan Policy 27 on parking resists the provision of new car parking. In this case, the spaces indicated in the submitted drawing are within the existing car park for residents of Hyde Park Towers, and no additional car parking is proposed. The applicant has advised that the proposed basement plan is indicative in identifying two spaces that could be leased to future occupants of each of the new residential units; how these are allocated is based on demand for parking by residents. As the proposal does not result in an increase in car parking provision, it is considered that the application is in accordance with Policy 27 of the City Plan.

The application also shows that 5 cycle parking spaces to be provided within the basement. London Plan Policy T5 requires 1.5 spaces per 1-bedroom unit and 2 spaces per 2+ bedroom unit, which should be secure, accessible and weatherproof.

Subject to conditions requiring the provision of cycle parking as shown on the proposed basement plan, the scheme complies with Policy 25 on Walking and cycling and Policy 27 on Parking.

It is noted that objections have been received on highways grounds, namely that the development would result in additional parking pressure. In this case, as discussed above, parking policy 27 resists new car parking provision, and the allocation of existing car parking spaces is a matter between the management company and residents of Hyde Park Towers.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

The proposals would not alter the existing access to the site.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Refuse/Recycling

A condition requiring further details of the waste and recycling storage is recommended as the Waste Project Officer has advised that these will be required. Subject to this condition, the proposed development would provide satisfactory waste and recycling storage.

8.7.2 Greening

Policy 34 on Green infrastructure seeks to enhance the city's green infrastructure. The proposed development includes sedum roofs to both extensions. Subject to a condition requiring these are provided, the proposed development is consistent with Policy 34 of the City Plan and the Environment SPD.

8.7.3 Sustainability and Energy

Policy 36 of the City Plan sets out how the Council will promote zero carbon development, stating that development should reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change. The proposal includes air source heat pumps which are a low carbon source of heat, in accordance with policy 36 of the City Plan and the Environment SPD.

8.8 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.

8.9 Neighbourhood Plans

None relevant to this application.

8.10 London Plan

This application raises no strategic issues.

8.11 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

8.12 Planning Obligations

The development is liable to pay Westminster's and the Mayor's Community Infrastructure Levy (CIL). Based on the applicant's additional floor space figures the estimated CIL payment would be £93,156.01 for Westminster's CIL and £14,150.94 for the Mayor's CIL. (It should be noted though that this amount is provisional and may be subject to relief or exemptions that may apply in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

8.13 Other Issues

Objectors note the succession of unimplemented permissions for this project since 2008 and consider continued applications unreasonable. However, this is not a material planning consideration and refusal of permission on this basis would be unsustainable

8.13.1 Construction impact

The proposal if implemented is likely to result in noise and other associated disturbance due to construction works. This is part of any such development and permission cannot be withheld on this basis. A condition will be attached to limit construction hours. An informative is also recommended advising the applicants that they may join the Considerate Constructors Scheme, as well as an informative providing details of the Council's 24-Hour Noise Team.

8.13.2 Fire safety

A concern has been raised by objections on grounds of risk of fire damage during construction works from the presence of builders/contractors in the building. This is largely a civil matter between the developer and the residents of the building and not a material planning consideration.

Notwithstanding, this application was made before 1 August 2021. Accordingly, it is not required to include a Fire Statement pursuant to the Town and Country Planning (Development Management Procedure and Section 62A Applications)(England)(Amendment) Order 2021.

The Building Control Officer was also consulted on Fire Safety matters and they have advised that a full assessment of compliance with Building Control matters, including a Fire Strategy, will form part of the Building Regulations assessment.

8.13.2 Civil matters

Legal matters between neighbours regarding this development, are civil matters and are not material planning considerations. Security concerns during construction works, are also civil matters. Matters relating to issues with ongoing maintenance between residents, leaseholders and the freeholder of the building are civil matters and are not material planning considerations for this application.

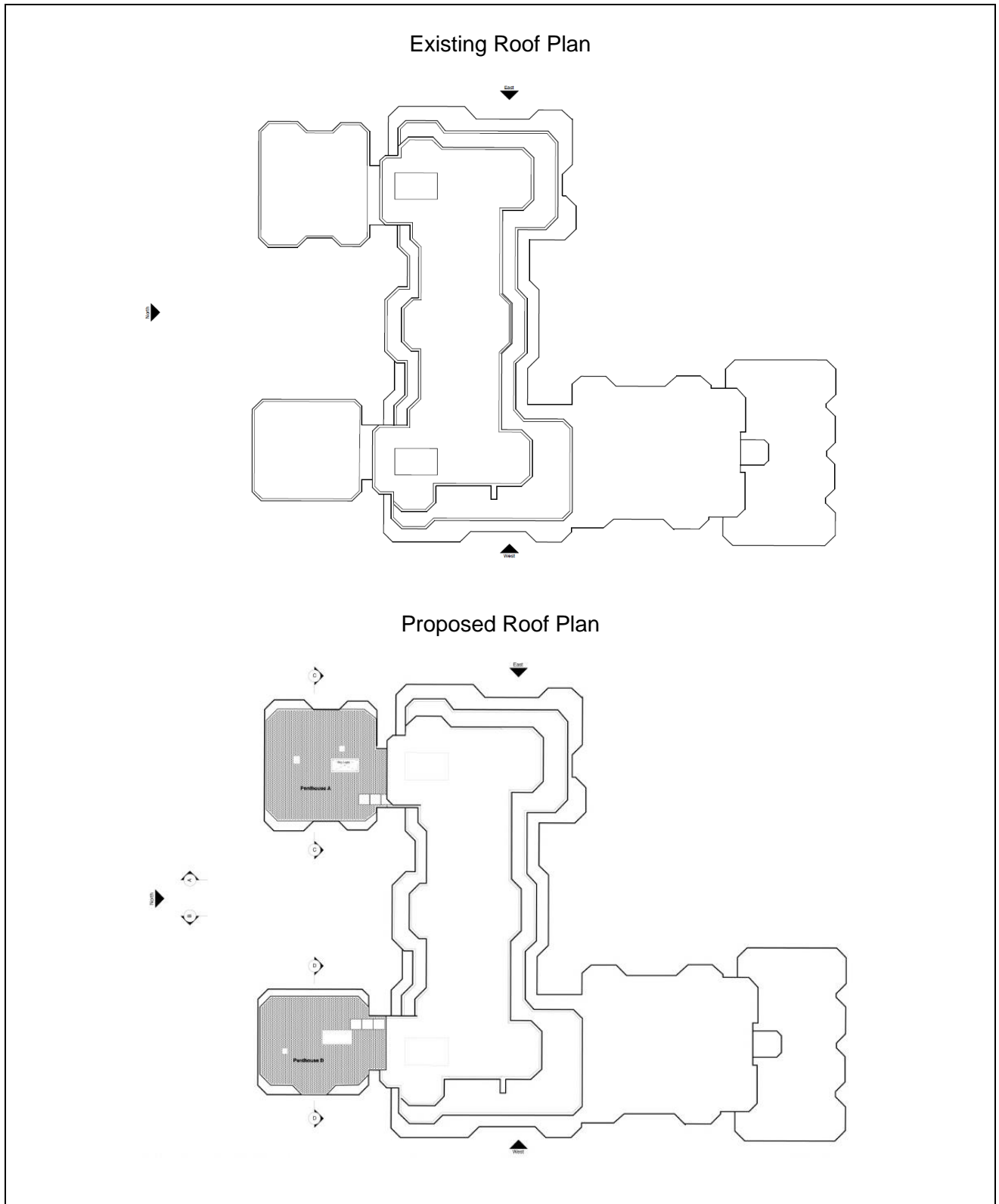
8.13.3 Property Value

The impact of the submission of applications over the years on property value is not a material planning consideration.

(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 northplanningteam@westminster.gov.uk.

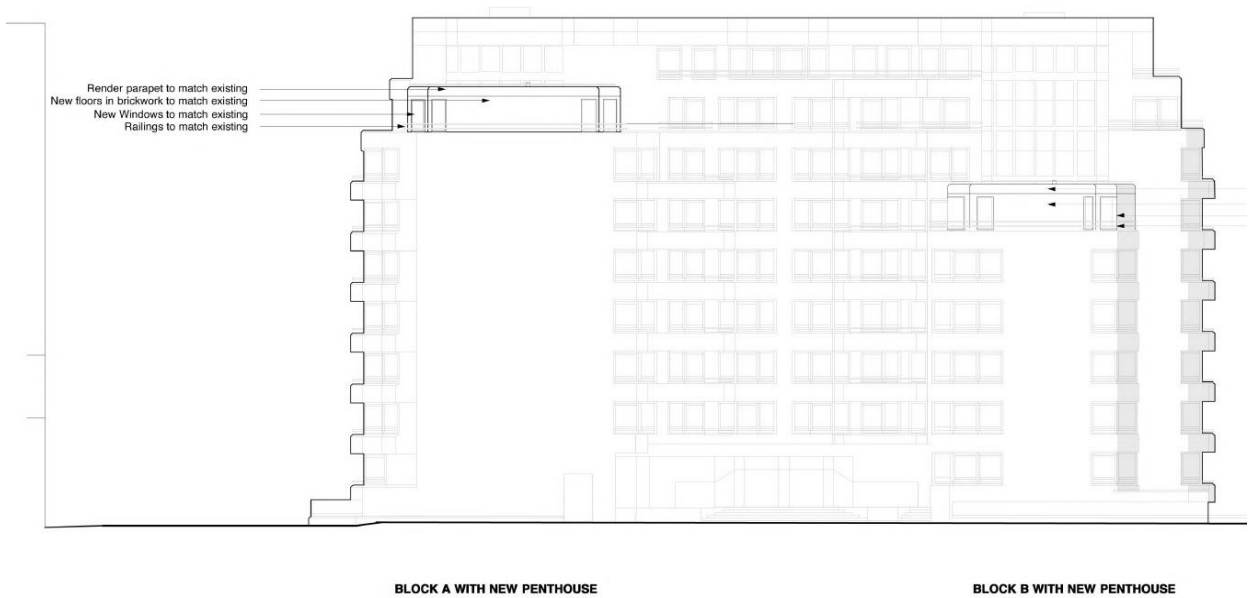
9. KEY DRAWINGS



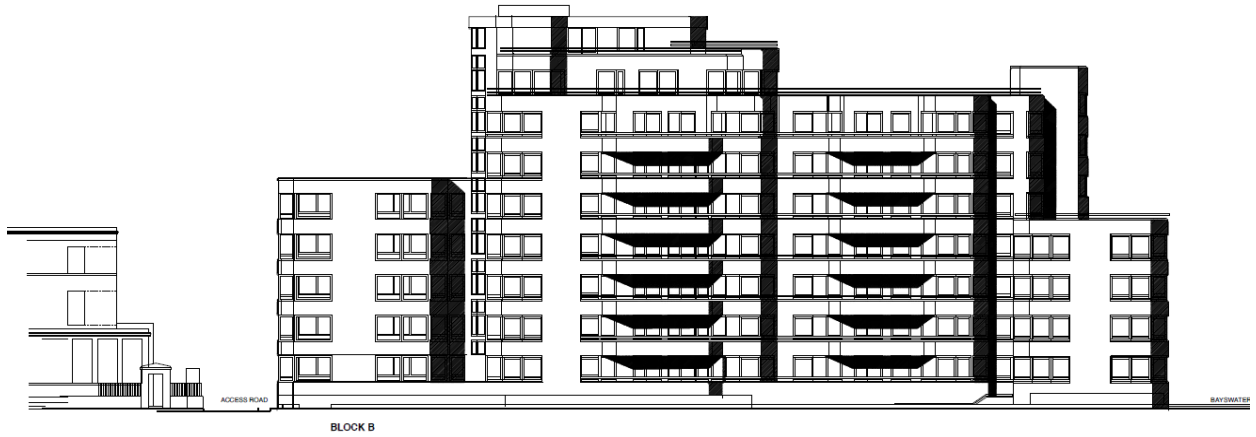
Existing North Elevation



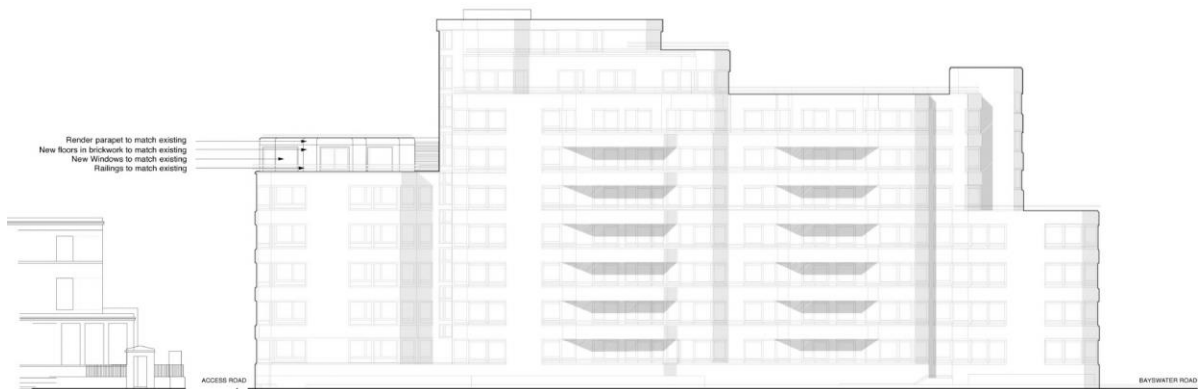
Proposed North Elevation



Existing West Elevation



Proposed West Elevation



Existing East Elevation



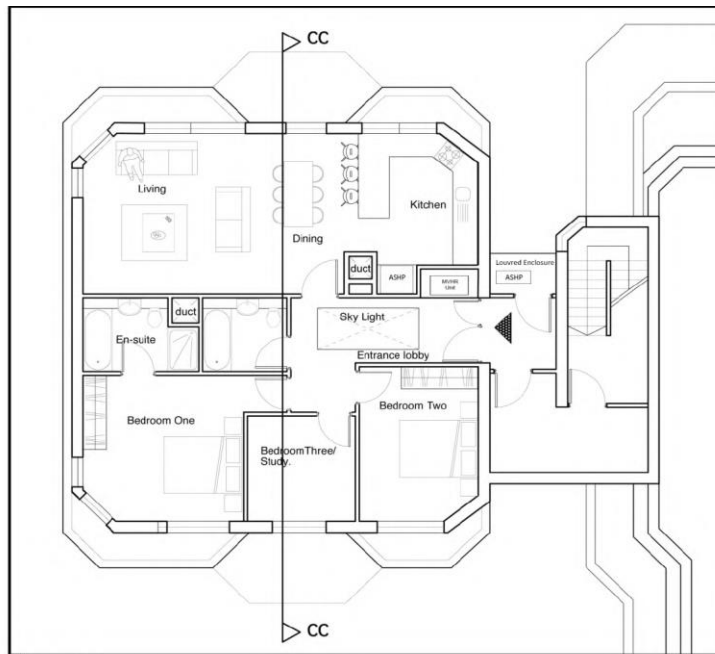
BLOCK A

Proposed East Elevation



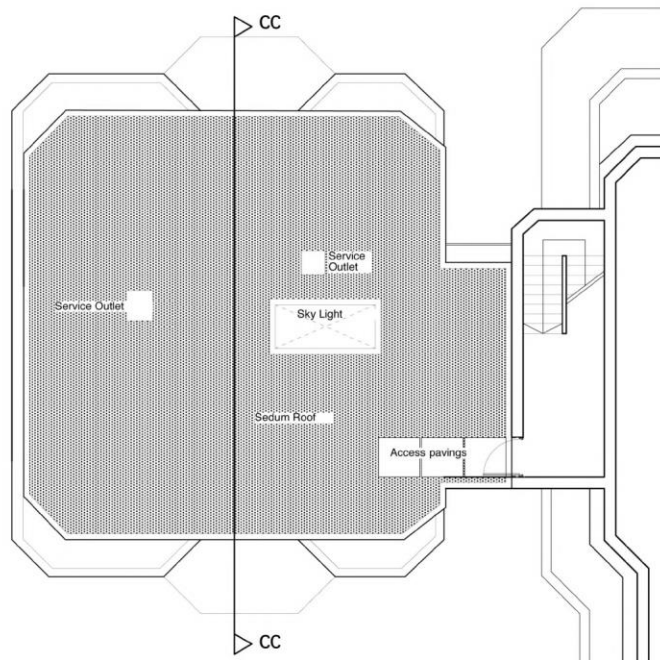
BLOCK A WITH NEW PENTHOUSE

Proposed Floor Plan for Penthouse A

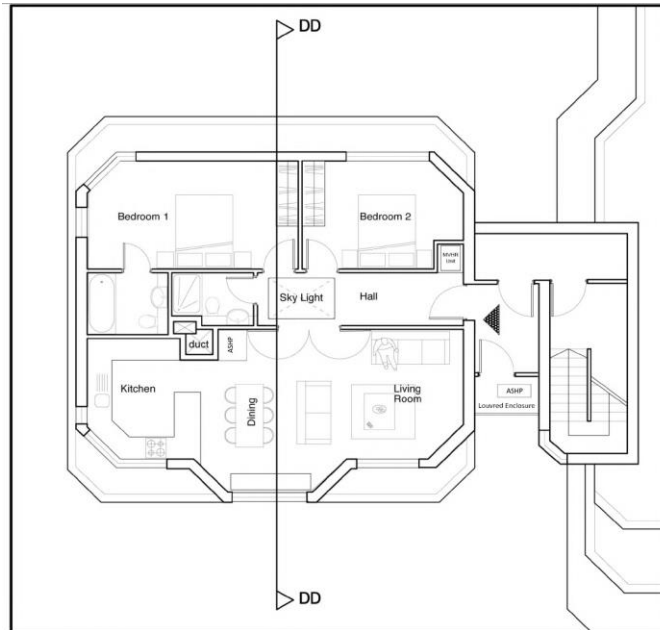


Floor area
105.36 sqm

Proposed Roof Plan for Penthouse A

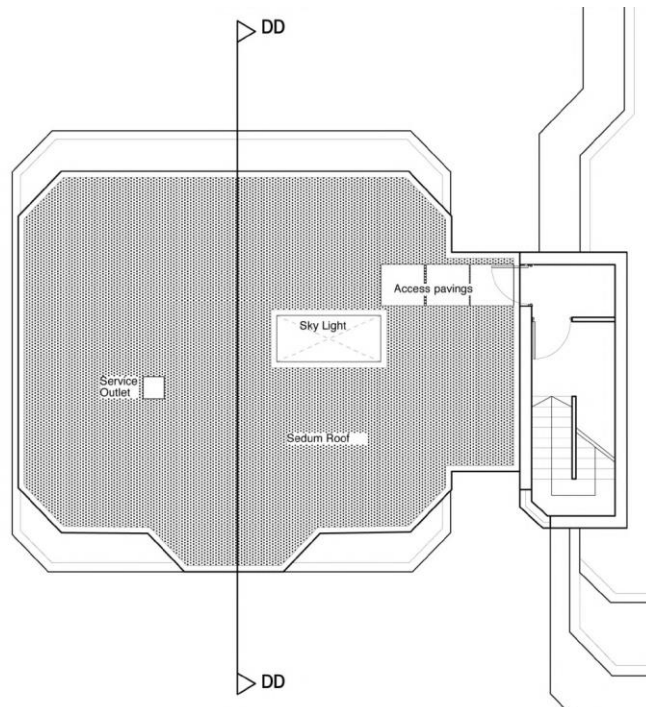


Proposed Floor Plan for Penthouse B



Lower Floor
85.03 sqm

Proposed Roof Plan for Penthouse B



DRAFT DECISION LETTER

Address: Hyde Park Towers, 1 Porchester Terrace, London, W2 3TU

Proposal: Erection of two penthouse roof extensions and railings on the rear parts of the building (Block A and B) to provide two residential units (Class C3) with basement car and bicycle parking; and proposed internal heat pumps with service outlets at roof level [REVISED DESCRIPTION]

Reference: 21/00888/FULL

Plan Nos: Site Location Plan; 118/P/01; 118/PL/007; 118/PL/010.B/Rev D; 118/PL/011.B/Rev C; 118/PL/012.B/Rev C; 118/PL/013.B/Rev C; 118/PL/014.B/Rev C; 118/PL/015.A/Rev B; 118/PL/016.A/Rev B; 118/PL/017.A/Rev B; 118/PL/018.A/Rev B; 118/PL/019.A/Rev B; 118/PL/020.A/Rev B; 118/PL/021.A/Rev B; 118/PL/022.A/Rev B; 118/PL/023.A/Rev B; 118/PL/024.B/Rev B; 118/PL/025.A/Rev A; 118/PL/026. A; 118/PL/027 A; 118/PL/028 A; 118/PL/029 A; 118/PL/030 A; Planning Statement; Daylight, Sunlight & Overshadowing Report by XCO2 dated January 2021; Daylight Assessment Addendum by XCO2 dated 27/01/2022; Energy Statement by XCO2 dated 2021; Sustainability Statement by XCO2 dated January 2021; Environmental Noise Impact Assessment by XCO2 dated June 2021
For Information Only: Design & Access Statement;

Case Officer: Avani Raven

Direct Tel. No. 07866037313

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:
 - between 08.00 and 18.00 Monday to Friday; ,
 - between 08.00 and 13.00 on Saturday; and ,
 - not at all on Sundays, bank holidays and public holidays.

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

- between 08.00 and 18.00 Monday to Friday; and
- 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 Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

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

- 5 The framing to the windows shall be white in colour.

Reason:

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

- 6 The new railings shall be painted or otherwise treated and permanently maintained in a white colour

Reason:

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

- 7 The render band to the top of the extensions shall be painted and permanently maintained in a colour to match the render band to the top of the elevations on the existing 8th floor level of the building

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

- 8 You must install the louvred enclosures shown on the approved drawings before you use the machinery located behind. You must then maintain the enclosures in the form shown for as long as the machinery remains in place. (C13DB)

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

- 9 You must apply to us for approval of a detailed section drawing or manufacturers image of the design for the new louvred enclosures. These must show that the louvres do not allow direct vision through, and confirm that they will be dark grey or black in colour. 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 drawings/images/confirmations. (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 Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 10 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building and would not meet Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26HC)

- 11 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 12 You must provide the following environmental sustainability features before you start to use any part of the development, as set out in your application.

Air source heat pump.

You must not remove any of these features, without the prior written consent of the Local Planning Authority.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 13 The flat roof areas to the two penthouses shall not be used as a roof terraces or for sitting out and can only be accessed in cases of emergency and for maintenance purposes.

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)

- 14 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 15 (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) 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)

- 16 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) 16 of this permission.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), 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.

(R51AC)

- 17 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).

- 18 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 19 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the residential units. (C14ED)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

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.

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 or visit 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

- 3 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: www.westminster.gov.uk/cil, Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, CIL forms are available from the planning on the planning portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil, Forms can be submitted to CIL@Westminster.gov.uk, **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 4 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: environmentalsciences2@westminster.gov.uk) to make sure that you meet all the requirements before you draw up contracts for demolition and building work.

When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior

permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974).

British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

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