

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 1 November 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Marylebone High Street	
Subject of Report	Apartment 7.01, 9 Marylebone Lane, London, W1U 1DB		
Proposal	Creation of terrace at main roof level with metal and timber balustrades, roof access hatch and planter and relocation of nine PV panels and satellite to adjoining green roof.		
Agent	DSDHA		
On behalf of	Mr Paul Coehlo		
Registered Number	22/02368/FULL	Date amended/ completed	7 April 2022
Date Application Received	7 April 2022		
Historic Building Grade	Unlisted		
Conservation Area	N/A		
Neighbourhood Plan	None relevant.		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application relates to a seventh-floor penthouse flat within a residential development, known as 'The Mansion', built pursuant to a 2014 planning permission. The flat benefits from a small balcony. The building is located on the western side of Marylebone Lane with frontages on Bourne Mews and Aldburgh Mews, which is an entirely residential mews to the immediate rear of the site. Permission is sought to create a terrace on the main roof, accessed via a new internal stair and a hinged rooflight. This would require existing photovoltaic panels to be relocated to the adjacent sedum roof.

Objections have been received from neighbouring properties on the grounds of design, impact on amenity and impact during the course of construction.

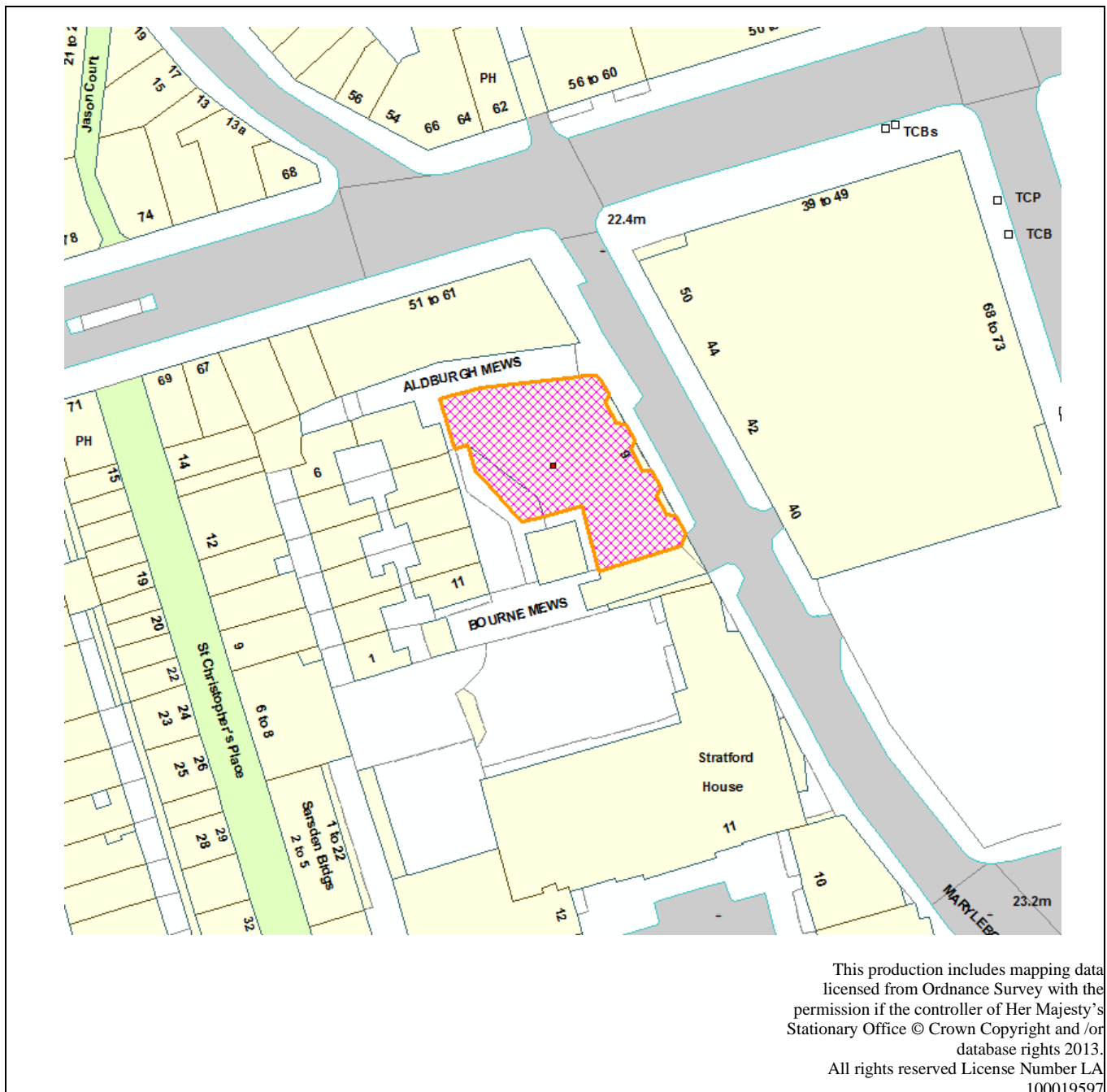
The key issues in the determination of this application are:

- The impact of the works on the character and appearance of the building and on views from the adjoining Harley Street and Stratford Place Conservation Area;

- The impact of the roof terrace on the amenity of neighbouring properties;

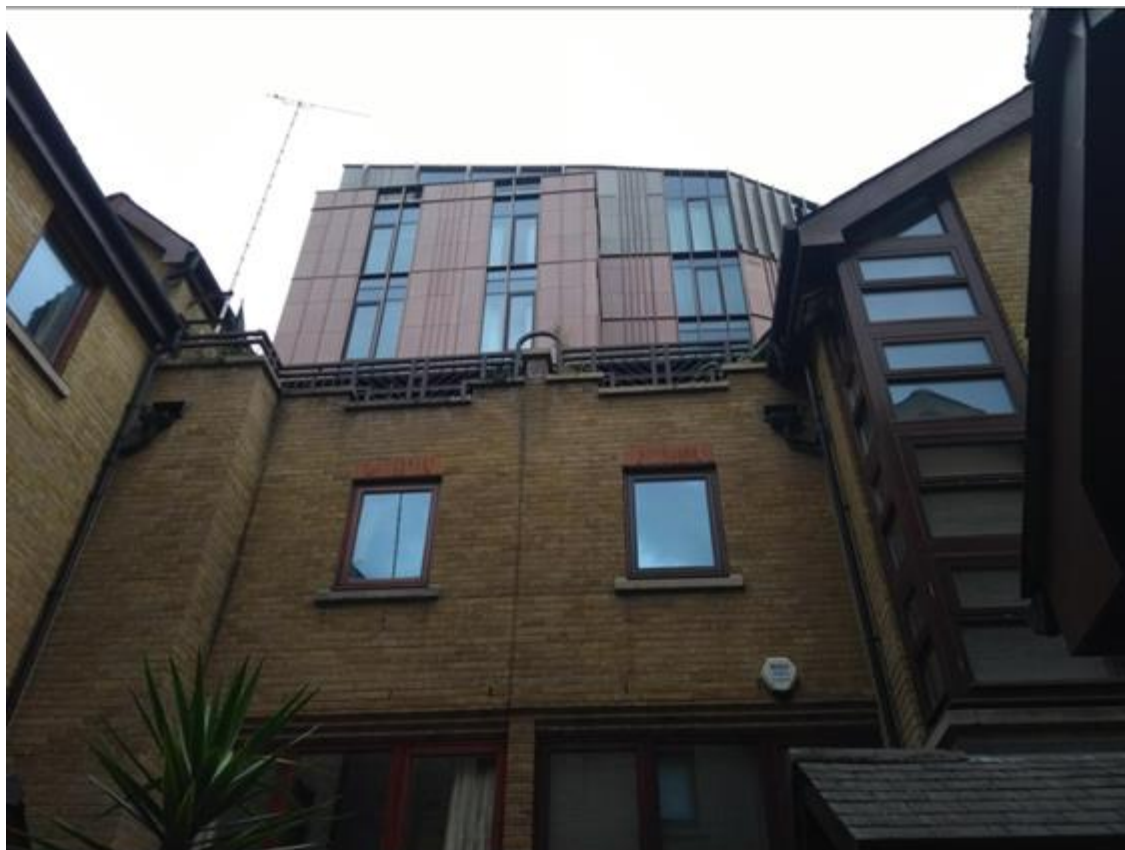
For the reasons set out in the report, the proposals are considered in accordance with City Council policies as set out in the City Plan 2019-2040 with respect to land use, design amenity and is recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS





Views from Aldburgh Mews

5. CONSULTATIONS

5.1 Application Consultations

COUNCILLOR SCARBOROUGH

A roof terrace was never proposed in the original planning application and will look straight down onto the courtyard and overlook the houses to the west, resulting in a loss of privacy.

MARYLEBONE ASSOCIATION

No response to date

HEALTH AND SAFETY EXECUTIVE

Raise no comments with regard to the revised fire statement.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 40: Total No. of replies: 7 (from 5 residents, the freehold owner of 1-11 Aldburgh Mews and the Property Manager for Aldburgh Mews and 51-61 Wigmore Street) raising the following objections:

Amenity

- * Proposal is contrary to City Plan policies requiring development to be neighbourly and to protect, and enhance where appropriate, the amenity of neighbouring properties from an unacceptable increase in a sense of enclosure, losses of light and privacy and overshadowing.
- * The terrace would allow views directly into the Aldburgh Mews and into residents' homes, including bedrooms.
- * The terrace is large and can accommodate significant seating with a consequent unacceptable impact on noise and disturbance.
- * Loss of light
- * 'The Mansion' already has an overbearing appearance to Aldburgh Mews which will be increased as a result of the proposal.
- * The properties in Aldburgh Mews already suffer significant loss of amenity due to the poor existing design of 'The Mansion' which would be further exacerbated.

Design

- * The proposal involves a further storey in the form of a shed-like structure on a building, which has already reached its maximum height, and should have been limited to 6 floors.
- * The works would be obvious and unsightly
- * Query accuracy of submitted views.
- * The proposals include a tree in a planter and lighting, all of which would draw the eye.

Other matters

- * Permission should not be granted for a roof terrace when the flat already has a balcony. Balance must be struck between applicant's wishes and the interests of the wider community, residents and neighbourhood.

- * The creation of an additional terrace is unnecessary.
- * Disturbance during construction; residents are still blighted by scaffolding on the building, and have lived with demolition, excavation and construction outside of permitted working hours, for the best part of a decade.
- * Developer has not fulfilled all of their promises and obligations relating to the original development, including a 'green-wall' to the London Underground vent. There should be no application or permission until 'The Mansion' has been completed in accordance with promises made/the approved scheme.

SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The Early Community Engagement Guidance encourages householders carrying out development to engage with those living adjacent or very close to the site at an early stage, prior to the submission of a formal application. The applicant advised that , through the Management Company (Clivedale London), all residents of 'The Mansion' and neighbours at Aldburgh Mews have been consulted in a, personally addressed, letter with a design report explaining the proposal. It is understood that objections were raised regarding the impact of construction works, loss of view and loss of daylight/sunlight in response to this consultation.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

9 Marylebone Lane is a residential building, on three basement levels, lower ground, ground and seven upper floors built pursuant to a 2014 planning permission and completed circa 2019. It stands on the west side of Marylebone Lane between Bourne Mews and Aldburgh Mews. It is not in a conservation area but adjoins the Harley Street Conservation Area, to the north, and the Stratford Place Conservation area, to the south, which also includes the Grade I listed Stratford House.

The building is in close proximity to Aldburgh Mews, a residential mews containing 12 properties. Immediately to the north of Aldburgh Mews lies 51-61 Wgmore Street which is in commercial use on the ground floor with flats on the four upper floors.

7.2 Recent Relevant History

Permission was granted on 10 April 2014 for the demolition of the existing building and redevelopment to provide a building on three basements, lower ground, ground and seven upper floor levels for use as 21 residential units, with terraces at sixth and seventh floors, together with landscaping of the existing access road, and landscaped communal amenity space. Ancillary leisure facilities, car and cycle parking, mechanical plant and associated works are at lower basement levels.

Whilst the development is now complete, the site has been subject to a number of complaints to the Planning Enforcement Team. All issues have now been resolved.

8. THE PROPOSAL

Permission is sought for the creation of a 17sqm terrace on the main roof of the building, accessed via a hinged openable rooflight. The terrace will be enclosed by part solid,/part open balustrades. Seating and storage is integrated into the design, as is a 2.5sqm planter.

Nine existing photovoltaic panels are to be relocated onto the adjacent sedum roof.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The application does not raise any land use issues but it is noted that City Plan and London Plan policies encourage the provision of external amenity space within new residential development schemes.

9.2 Environment & Sustainability

Sustainable Design

The proposals involve the relocation of nine PV panels which will sit on top of the

adjacent sedum roof. The detailed design will ensure the fixings of the PV panels are appropriate and that the panels are angled so as not to compromise the health of this planted roof.

9.3 Biodiversity & Greening

City Plan Policy 34 states that, wherever possible, developments will contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme. In order to increase the biodiversity of the roof, the terrace will be planted to attract wildlife. A sustainable planting mix will incorporate species that have been carefully selected to suit the micro-climate and to attract wildlife.

Although an objection has been received on the grounds that the planting proposal will also draw the eye, the greening proposals comply with City Plan policy.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

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

Section 66 of the Listed Buildings and Conservation Areas 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.”

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires 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.

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.

Detailed Design

The development proposals are limited to roof level, on the north-west corner of the building. The existing roof is subdivided to provide areas for photovoltaic panels, living roofs and mechanical plant associated with the building.

A key feature of the original development, in design and heritage asset terms, was to ensure that it would have minimal visual impact in views from Stratford Place towards

Stratford House. The previous building on the site had a turret feature that was conspicuous on the skyline, and which detracted from the setting of Grade I listed Stratford House. The view along Stratford Place was much improved by the new development. (See below).



An objector to the current application notes that the committee report relating to the original development refers to the requirement for a “silhouette that provided a level and symmetrical backdrop to Stratford House.” The objector considers that the current

proposal would add an unsightly box to the top of the building that, from any distance would appear as a shed, along with a tree in a planter and lighting, all of which would draw the eye. The objector also considers that there would be an unacceptable impact on the north facade in design and heritage asset terms, further referencing the roof level alterations and their impact on the otherwise sleek roofscape which is visible in street-level views such as from Marylebone Lane.

The application includes an analysis of the visual impact of the proposed roof terrace from various points, making use of 3D modelling software. The objector challenges the accuracy of the information provided but there is no evidence to support the assertion that the 3D modelling is inaccurate or misleading. The view from Stratford Place would be unaltered by the proposal, and there would only be very slight views of the roof terrace enclosure from distant views in Wigmore Street and Marylebone Lane. In these views the roof enclosure, which is formed principally of metal railings, would not appear incongruous or out of character with the building or its surroundings. While the terrace would be more obvious in views from the upper floors of taller surrounding properties, considering the existing appearance of the photovoltaic panels and other mechanical plant on the roof, the terrace would not appear incongruous or out of character with its immediate surroundings, and it has been designed to ensure that it suits the appearance of the existing building.

The detailed design of the roof terrace is acceptable; it will suit the building and will maintain the setting of the nearby conservation areas and listed buildings. This accords with city plan policies 38, 39 and 40. Nevertheless, in design and heritage asset terms it is essential that the terrace is not cluttered with paraphernalia that would detract from its surroundings, and this may be dealt with by condition.

9.5 Residential Amenity

Policy 7 of the City Plan requires development to be 'neighbourly' and to protect, and where appropriate enhance, amenity by preventing unacceptable impacts in terms of losses of daylight and sunlight, overshadowing, increased sense of enclosure or loss of privacy. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers. Including as a result of light spill and noise impact on residential development.

Objections have been received from the occupants of four properties in Aldburgh Mews , the freehold owner of 1-11 Aldburgh Mews (also one of the residents) and the Property Manager for Aldburgh Mews and 51-61 Wigmore Street, on the grounds that the proposed roof terrace would result in loss of privacy and daylight, unacceptable noise disturbance and an increased sense of enclosure to neighbouring residential buildings and Aldburgh Mews, contrary to City Plan policies.

Privacy

There are views down to the properties in Aldburgh Mews from the existing balcony at seventh floor,. Residents' concerns about additional overlooking and loss of privacy are clearly understood however, the proposed roof terrace is set back approximately 1.5m from the roof edge and would be 5 storeys above the height of properties to the rear. Section sight-lines have been submitted that demonstrate that, due to the building

parapet height and the degree of setting back from the building edge, that sight-lines from the terrace would be some way above the Aldburgh Mews buildings. Consequently, the terrace design would not provide any line of sight to the windows and balconies in Aldburgh Mews.

It is not considered that the scheme would result in any loss of privacy to residential windows in other neighbouring properties given the relationship of those buildings to the proposed terrace.

Noise

Neighbouring occupiers have raised a number of objections on noise grounds and state that noise currently cascades down from the application building, particularly when there are window cleaners, or when people in 'The Mansion' open windows and play music.

Whilst officers accept that some additional noise is likely to be created by the use of the existing flat roof as a terrace, it is unlikely that the noise levels associated with this use would be so significant as to justify a refusal of the application. The terrace, which would be used in association with a single apartment, is relatively modest in size with the useable area of the terrace (which excludes the access rooflight area) measuring approximately 4m by 4m. Whilst submitted drawings indicate that up to 12 people could be seated on the terrace, it is unlikely that significant numbers of people could be accommodated on the area. Furthermore, there is already a similarly-sized roof terrace at level 7, and there is no evidence of any reports of noise disturbance relating to the use of this space. In these circumstances, it is considered that the proposed use of this domestic terrace is unlikely to result in any material noise disturbance noise nuisance which would harm the amenity of the adjoining residential occupiers and the proposals could not justifiably be recommended for refusal on noise grounds.

Daylight & Sunlight and sense of enclosure

Given the location of the proposed roof level alterations and relationship with neighbouring buildings, it is not considered that there would be a material loss of light or increased sense of enclosure to any neighbouring windows or to Aldburgh Mews, and objections received on these grounds could not be supported.

Light Pollution

The proposed lighting strategy is intended to be subtle and at low level, being integrated into planters and benches, and would facilitate the use of the terrace. An objection has been received on the basis that this lighting would 'draw the eye'. However, an informative is recommended to remind the applicant that the lighting should be designed so that it does not cause any nuisance to neighbours/glare. It is not considered that this subtle lighting scheme would be unduly obtrusive in views of the building.

9.6 Transportation, Accessibility & Servicing

Not relevant in the determination of this application.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

9.8 Other Considerations

Construction impacts

Objectors have expressed concern about the impact of the proposed works during the course of construction. Given the scale and nature of the proposed works, permission could not reasonably be refused on these grounds. A condition is recommended that limits noisy construction to the City Council's standard working hours and an informative is also recommended to encourage the applicant to join the considerate constructors scheme.

The applicant confirms that all materials required for construction of the terrace, including the scaffolding, will be transported to the applicant's property via the service lift. The terrace area will be 'trimmed' out from the existing roof and scaffolding erected to a workable level above the roof (as temporary shelter). The delivery of materials/components from Marylebone Lane. The applicant has also confirmed that they will produce a Construction Environmental Management Plan outlining how the project will avoid, minimise or mitigate effects on the environment and surrounding area. This would be circulated to residents to address stakeholder concerns.

Fire Safety

The application involves the development of an existing relevant building under the provisions of Planning Gateway One, which deals with the issue of fire safety in buildings over a certain height which contain residential dwellings, The applicant's initial Fire Statement was not considered sufficient for the Health and Safety Executive to review this application. A further fire statement has been produced, by a suitably qualified third party assessor. It details how means of escape would be managed and what features and equipment will reduce fire risk/ mitigate fire. This updated report has been assessed by the HSE who make no comments with regard to the proposal.

Other issues

Concerns have been raised regarding compliance with original planning conditions, including the greening of the London Underground vent and the erection of unlawful scaffolding. Although the green wall was shown on the approved drawings there was no condition attached to the planning permission requiring it to be provided. While the applicant may still be intending to provide the green wall (subject to the agreement of LUL), it is not a requirement of the planning permission.

It is understood that the scaffolding which has been erected is required to remedy building defects. Scaffolding on the pavement does require a temporary licence and this

matter has been referred to the Highways Licensing team.

Objections have also been received on the grounds that there is no need for this development, however, the application could not be reasonably refused for this reason and must be assessed upon its planning merits in relation to development plan policies.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

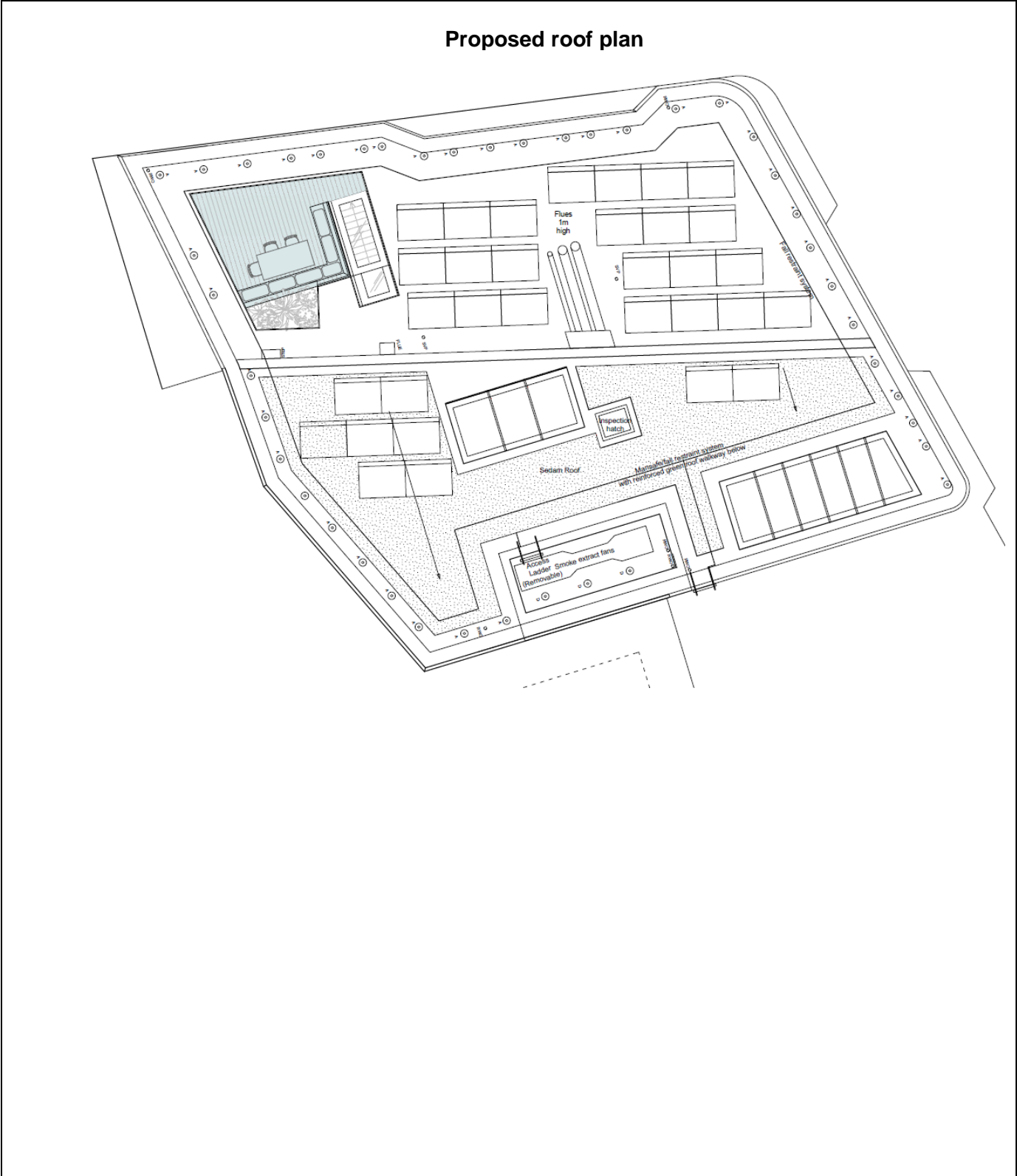
10. Conclusion

The proposal is acceptable in conservation and design terms and the proposals are not considered to harm surrounding residential amenity. As such, the proposal is considered acceptable, mindful of policies 7, 33, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(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: SARA SPURRIER BY EMAIL AT SSPURRIER@WESTMINSTER.GOV.UK

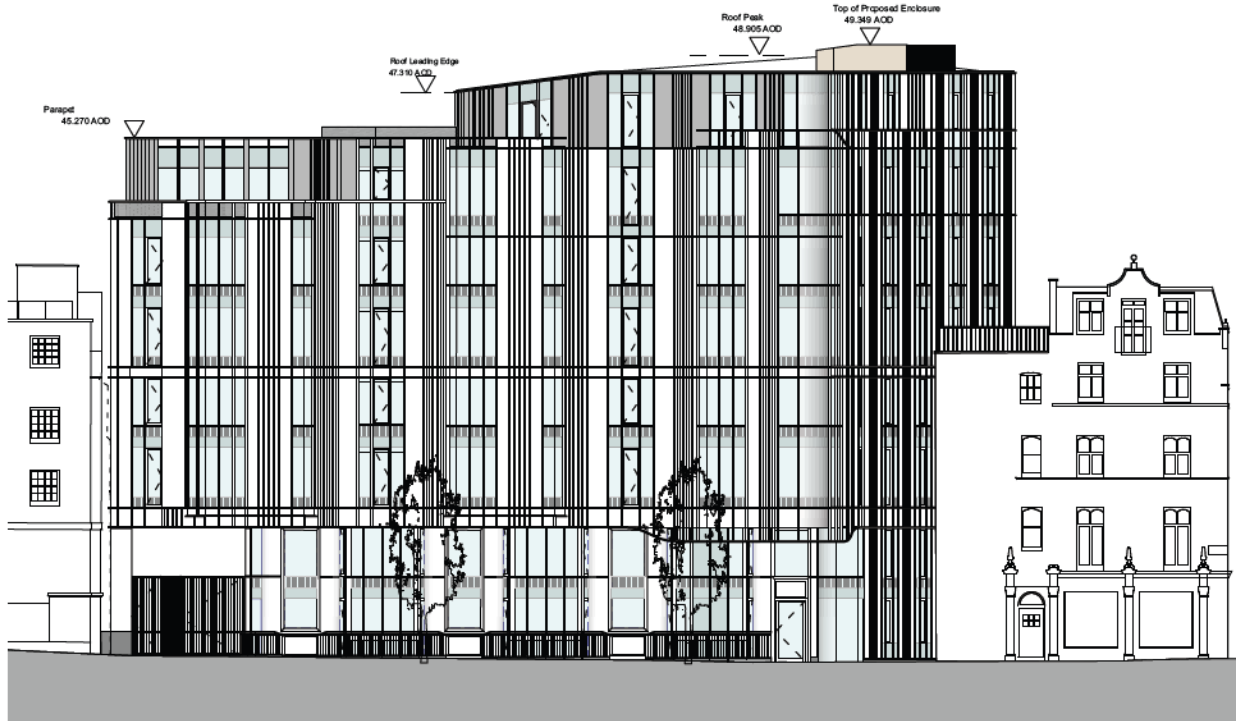
11. KEY DRAWINGS



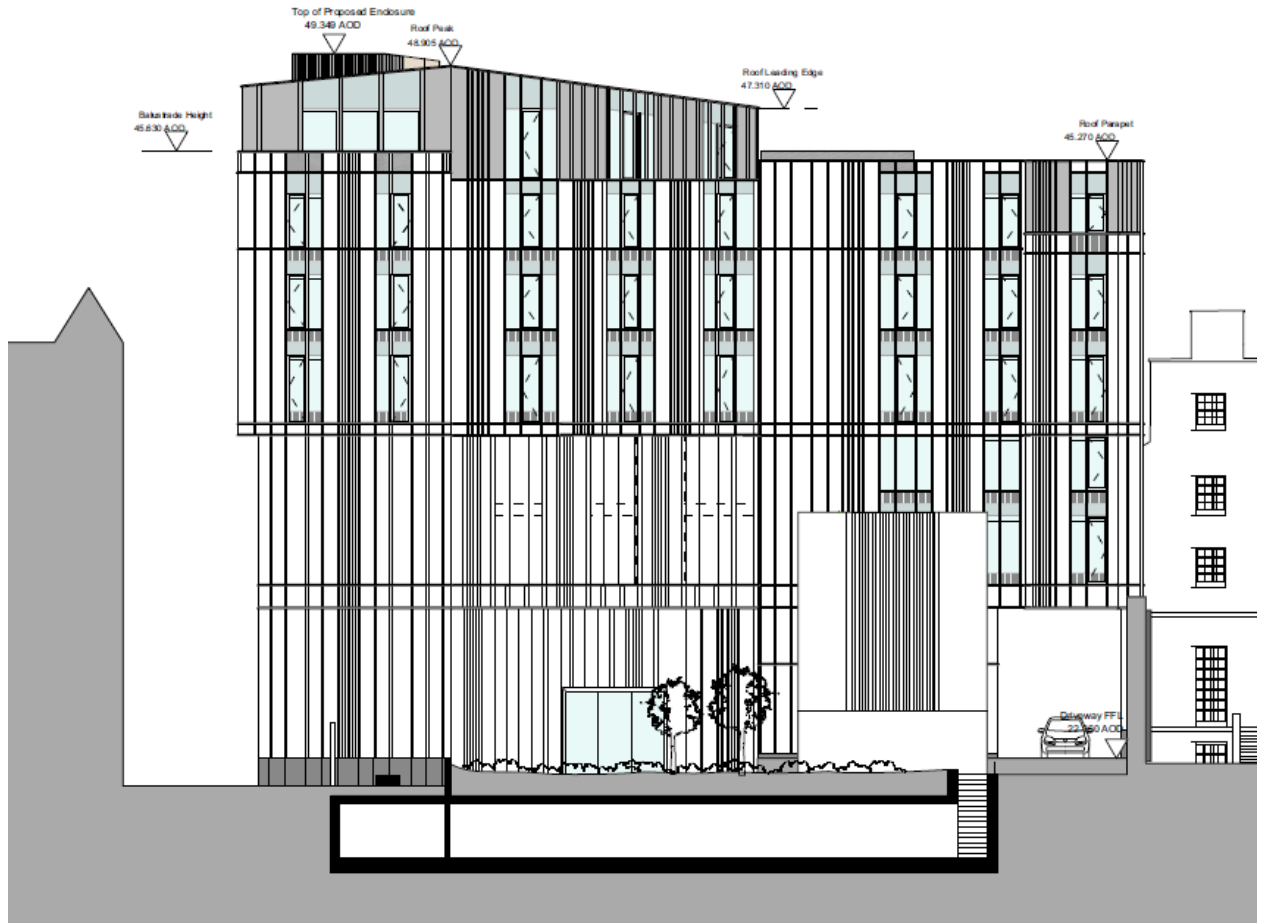
Proposed north elevation



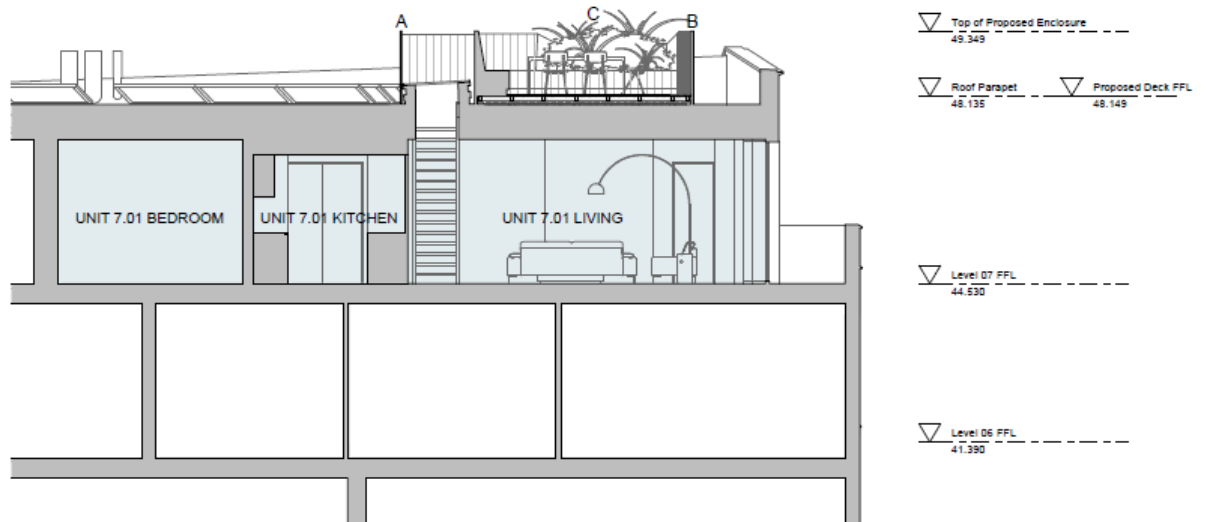
Proposed east elevation



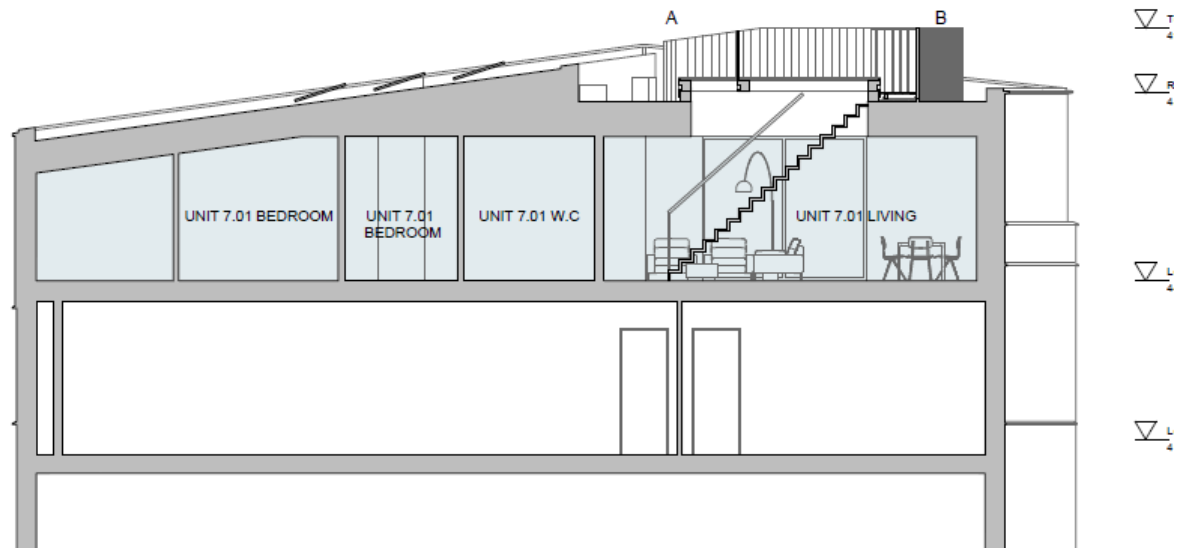
Proposed west elevation



Proposed sections

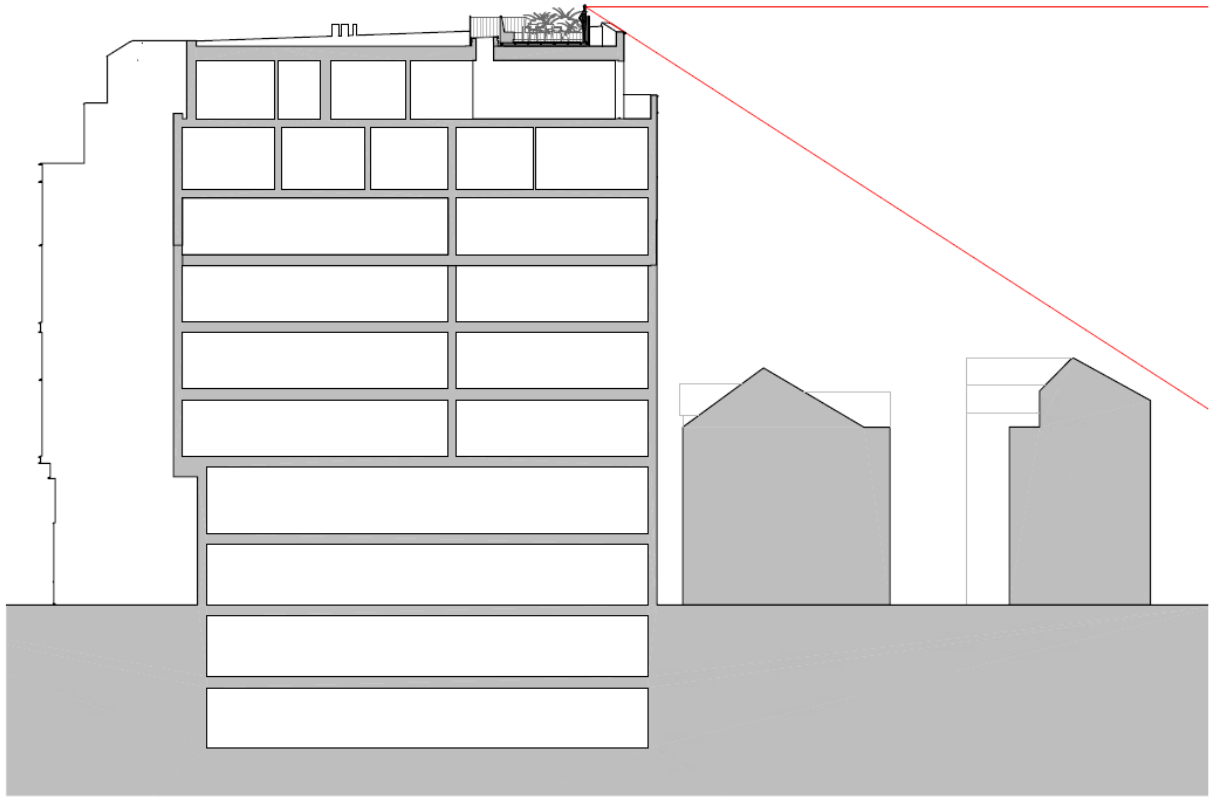


1 Proposed Section A-A
P40.001



2 Proposed Section B-B
P40.002

Section sight lines



DRAFT DECISION LETTER

Address: Apartment 7.01, 9 Marylebone Lane, London, W1U 1DB,

Proposal: Creation of terrace at main roof level with metal and timber balustrades, roof access hatch and planter and relocation of nine PV panels and satellite to adjoining green roof.

Reference: 22/02368/FULL

Plan Nos: 337_P20.010, P30.001, P30.002, P30.003, P30.004, P40.000

Case Officer: Jo Palmer

Direct Tel. No. 07866 040238

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

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

Reason:

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

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

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

- 5 You must not use the roof terrace until the PV panels have been relocated to the position shown on drawing 337_P20.010

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)

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 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.
- 3 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.

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.