

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 22 August 2023	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	18, 20-24 Broadwick Street And 85 Berwick Street, London, W1F 8JB		
<b>Proposal</b>	Variation of Conditions 8, 22 and 23 of planning permission dated 11th February 2021 (RN: 20/04766/FULL) for Variation of Condition 1 of planning permission dated 20 November 2020 (RN: 19/07554/FULL) for, 'Variation of condition 1 of planning permission dated 20th March 2019 (RN: 18/08538/FULL) "Variation of Condition 1 of planning permission dated 2nd February 2018 (RN 16/09526/FULL) for "Demolition of 20-24 Broadwick Street & 85 Berwick Street and partial demolition of 18 Broadwick Street and redevelopment of the site to provide new buildings comprising three basement levels, ground floor and first to eighth floor levels in connection with the use of the buildings for retail (Class A1) at part basement and ground and a hotel (Class C1) with up to 69 bedrooms, associated bar and restaurant facilities including terraces at sixth and seventh floor levels; installation of plant at basement level and on the rear elevation at first to sixth floor levels. Installation of a partially retractable roof over the bar area at eighth floor level; NAMELY; to extend the hours of use of the seventh floor seated bar and restaurant until 1.30 am on Thursdays, Fridays and Saturdays and to extend the terminal hour for the access and use of the rear seventh floor terrace from 22:00 until 23:00 daily. (Application under Section 73)		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	Broadwick Street Holdings Ltd		
<b>Registered Number</b>	23/00159/FULL	<b>Date amended/ completed</b>	11 January 2023
<b>Date Application Received</b>	11 January 2023		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		
<b>Neighbourhood Plan</b>	Soho Neighbourhood Plan		

## 1. RECOMMENDATION

Grant conditional planning permission subject to a S106 legal agreement to secure:

- i) All highway works immediately surrounding the site required for the development to occur, including changes to on-street restrictions, alterations to the vehicle access and adjoining footway and associated work (legal, administrative and physical).
- ii) Dedication of land as public highway prior to occupation where necessary.
- iii) To adhere to the stipulations of the Operational Management Plan for the lifetime of the development.
- iv) The costs of monitoring the S106 agreement.

## 2. SUMMARY & KEY CONSIDERATIONS

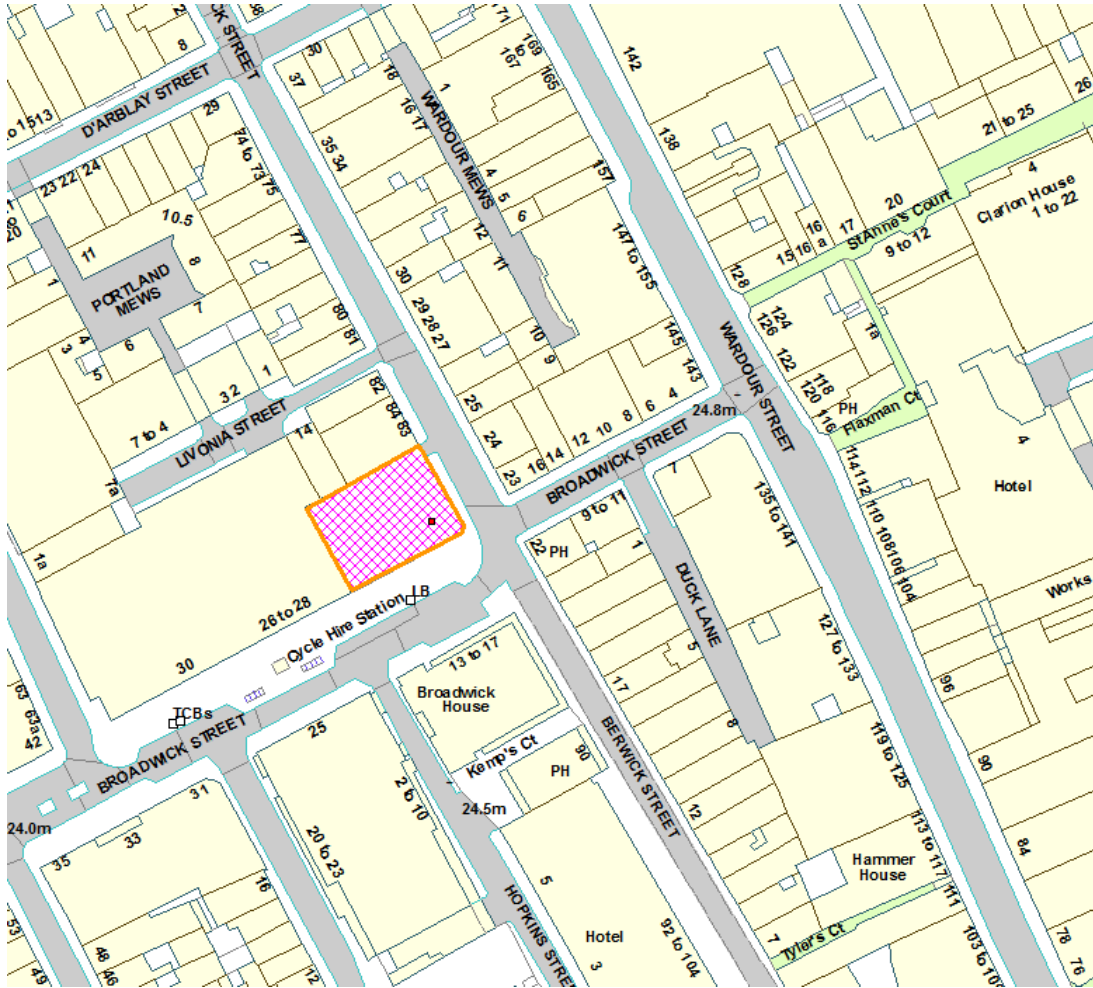
18, 20-24 Broadwick Street And 85 Berwick Street are unlisted buildings in the Soho Conservation Area and West End Retail and Leisure Special Policy Area. The entire premises are currently being redeveloped for use as a hotel and construction is nearing completion. The hotel has a number of restaurant / bar spaces and terraces at various levels.

The 2021 planning permission allowed the use of the rear seventh floor terrace from 07:00 until 22:00 daily, and consent is now sought to extend the terminal hour of that terrace until 23:00. A condition also restricted the hours of the seventh-floor restaurant for customers who are not residents of the hotel, to the following; 07:00 till 00:00 (midnight) Sunday to Thursday, and 07:00 till 00:30 (the following morning) Friday and Saturday. Consent is sought to vary this condition to enable non-hotel residents / guests to remain within the seventh-floor restaurant until 01:30 (the following morning) on Thursdays, Fridays and Saturdays.

The key issue is the impact on residential amenity in terms of potential noise nuisance arising from the extended hours of use of the terrace and for the restaurant space.

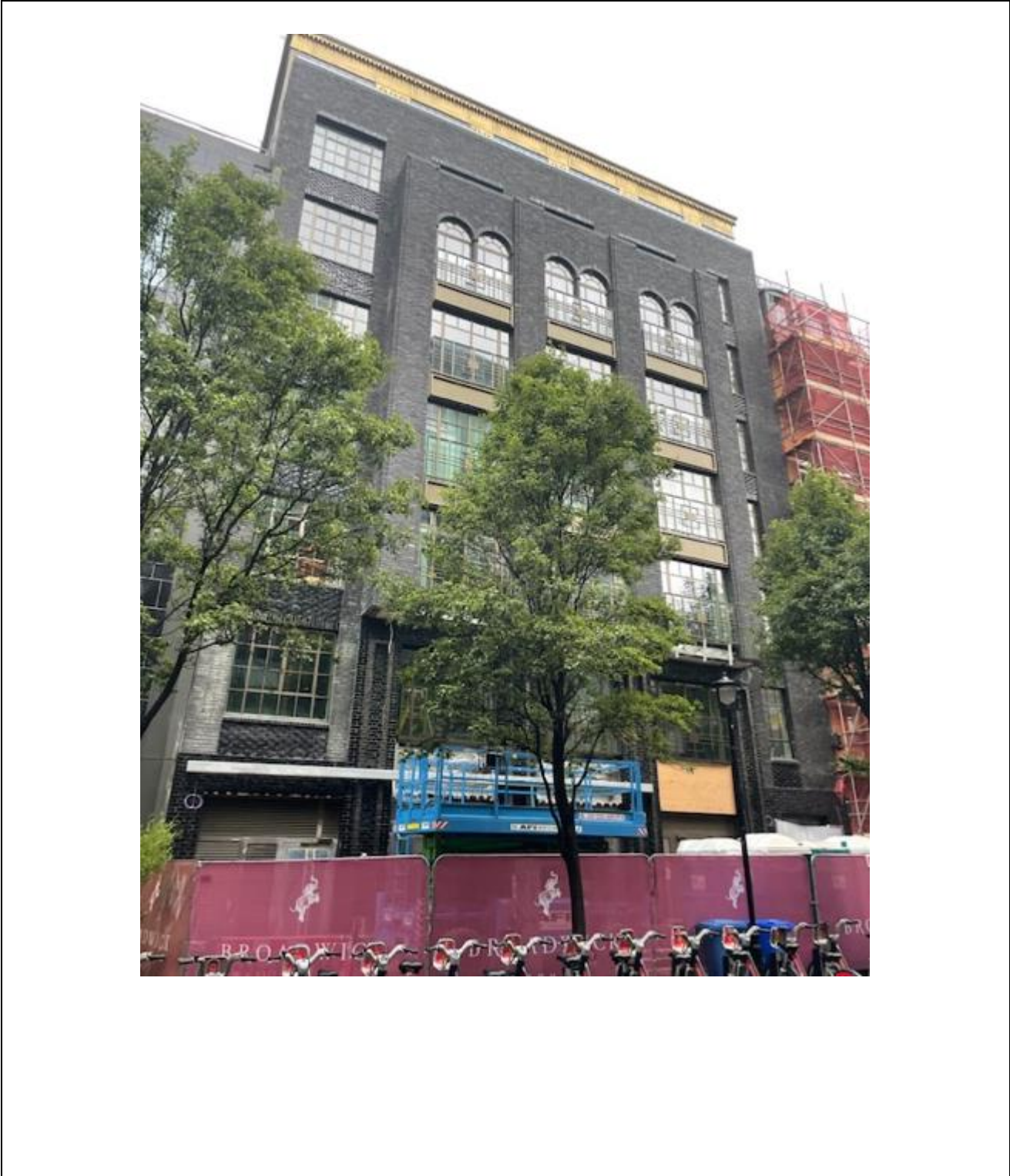
Taking into account the existing and proposed terminal hours of the terrace and restaurant, it is considered the proposal complies with relevant adopted City Plan 2019-2040 policies and the application is therefore recommended for conditional approval.

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



## **5. CONSULTATIONS**

### **5.1 Application Consultations**

#### SOHO SOCIETY

Any response to be reported verbally.

#### ENVIRONMENTAL HEALTH

No objection.

#### SOHO BUSINESS ALLIANCE

Support on the following grounds:

Consider the hotel a benefit to the area with increased employment and the proposal will 'cement Soho's position as a culinary and cultural capital'.

#### ADJOINING OWNERS AND OCCUPIERS

No Consulted: 127

No Replied: 2

Objections on the following grounds:

\*Noise nuisance from dispersing customers later into the evening will impact neighbouring residents.

\*Noise and traffic disruption from vehicles picking up customers.

\*Noise disruption from the use of the external terrace later into the evening.

#### PRESS NOTICE/ SITE NOTICE:

Yes

### **5.2 Applicant's Pre-Application Community Engagement**

The Early Community Engagement Guidance encourages developers 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 advises that recent discussions have taken place with a number of local stakeholders and residents including the objector at 16 Broadwick Street, members of the Soho Society, Soho Business Alliance, other local residents and business owners.

## **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 Soho Neighbourhood Plan includes policies on a range of matters including housing, residential amenity, air quality and climate change, traffic and servicing, green infrastructure, pedestrians and cycling and waste and recycling.

It has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Soho neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

## **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**

The application site comprises 20-24 Broadwick Street and 85 Berwick Street. The site was granted planning permission for redevelopment to a hotel and the building works are nearing completion. The buildings are unlisted and located in the Soho Conservation Area, the Central Activities Zone and the West End Retail and Leisure Special Policy Area. The hotel will have 57 rooms and feature a lobby bar and restaurant over part ground and lower ground and with a seventh floor restaurant with eighth floor dining room.

Residential units are located north of the application site at 14 Livonia Street and 81 Berwick Street, the east of the application site on the upper floors of 16 and 25 Berwick Street and on the upper floors of a block to the south west with frontages to Broadwick Street, Ingestre Place and Hopkins Street.

## **7.2 Recent Relevant History**

20/04766/FULL

Variation of Condition 1 of planning permission dated 20 November 2020 (RN: 19/07554/FULL) for, 'Variation of condition 1 of planning permission dated 20th March

2019 (RN: 18/08538/FULL) "Variation of Condition 1 of planning permission dated 2nd February 2018 (RN 16/09526/FULL) for "Demolition of 20-24 Broadwick Street & 85 Berwick Street and partial demolition of 18 Broadwick Street and redevelopment of the site to provide new buildings comprising three basement levels, ground floor and first to eighth floor levels in connection with the use of the buildings for retail (Class A1) at part basement and ground and a hotel (Class C1) with up to 69 bedrooms, associated bar and restaurant facilities including terraces at sixth and seventh floor levels; installation of plant at basement level and on the rear elevation at first to sixth floor levels. Installation of a partially retractable roof over the bar area at eighth floor level" NAMELY, to allow relocation of ground floor temporary waste holding area, construction of party wall at high levels from brick rather than glass, provision of retractable awnings above the 7th floor terrace; and inclusion of bronze framing of glass balustrades.

Application permitted on the 11 February 2021

21/08143/ADFULL

Details pursuant to condition 24 of planning permission dated 11 February 2021 (RN:20/04766); Namely detailed drawings to show the exact use and layout of the entertainment spaces at lower ground, ground, seventh and eighth floor levels to include any bars areas, seating, kitchens.

Application permitted on the 6<sup>th</sup> December 2021

## 8. THE PROPOSAL

Consent is sought to vary three conditions on the above planning permission being Conditions 8, 22 and condition 23:

Condition 8 requires:

*Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain within the seventh-floor restaurant premises except between the following hours:*

*07:00 till 00:00 (midnight) Sunday to Thursday, and;  
07:00 till 00:30 (the following morning) Friday and Saturday.*

Consent is sought to vary this condition to enable non hotel residents / guests to remain within the seventh-floor restaurant until 01:30 (the following morning) on Thursdays, Fridays and Saturdays.

Condition 23 requires:

*The terrace area hereby approved at seventh floor level associated with the hotel use can only be used between the hours of 07:00 and 22:00. You can not use the terrace area outside of these hours other than in the case of an emergency.*

Consent is sought to vary this condition to allow the use of the rear seventh-floor terrace until 23:00 daily. (The hours of operation of the larger terrace facing Broadwick Street is unaffected by the current proposals.)

Condition 22 of the permission required the following:

*The openable elements at seventh and eighth floor levels including all external windows, rooflights and doors shall be fixed shut between 22:00 and 07:00 every day.*

This would need to be varied to:

*The openable elements at seventh and eighth floor levels including all external windows, rooflights and doors shall be fixed shut between 22:00 and 07:00 every day, with the exception of the door to the rear seventh floor terrace which could be used between the hours of 07:00 and 23:00 daily.*

The application as originally submitted sought to vary Condition 23 to allow the use of the seventh floor smoking terrace until 01:00 daily and to vary Condition 22 to allow the seventh floor access doors to open until this time. The proposal was amended during the course of the application to now seek a terminal hour for the use of the rear terrace until 23:00.

The application as originally submitted also sought to reduce the capacity of the seventh and eighth floor entertainment areas but during the course of the application the applicant removed this request.

This variation of hours relates only to the seventh floor restaurant, the bar at eighth floor and the lobby bar and restaurant at ground and lower ground floor levels are unaffected by the current proposals and Condition 9 requires these areas to close at midnight on Sunday to Thursdays and 00:30 on Fridays and Saturdays.

## **9. DETAILED CONSIDERATIONS**

### **Application Context**

The application is submitted under Section 73 of the Town and Country Planning Act (1990) (as amended) as it seeks to develop land without compliance with the conditions previously attached. Section 73(2) of the Act states:

‘On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application’.

Whilst the consideration of such an application is limited to the conditions that should be imposed, if granted, it will result in a new permission. As such, the City Council cannot ignore the wider consideration of issuing a new permission. The application must be determined in accordance with the development plan (i.e. the London Plan (March 2021)



and the City Plan (April 2021) unless material considerations indicate otherwise. The fall-back position of the original planning permission carries great weight in the decision-making process.

### **9.1 Land Use Overview**

The land use elements of the proposals have already been accepted in the original consent which is being varied. The amenity impacts of the proposed change to the operation of the hours of use are considered in section 9.5 below.

### **9.2 Environment & Sustainability**

The proposed changes to conditions have no environmental or sustainability implications.

### **9.3 Biodiversity & Greening**

The proposed changes to the conditions have no biodiversity or greening implications.

### **9.4 Townscape, Design & Heritage Impact**

The proposed changes to the conditions have no townscape, design or heritage implications.

### **9.5 Residential Amenity**

The City Council has planning policies to protect residential amenity. Policy 7 of the City Plan requires that development is neighbourly by; 'protecting and where appropriate enhancing local environmental quality'. Para 7.4 acknowledges that 'development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours.'

Policy 16 considers food, drink and other entertainment premises and recognises that whilst these uses contribute to London's vibrant entertainment sector, they can also have detrimental impacts upon residential amenity if the operation is not managed properly.

Policy 33 states that; 'development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses'. In assessing the impact of development proposals, the Council will apply the 'Agent of change' principle which places the burden on the applicant to mitigate negative environmental impacts and ensures development does not cause existing nearby uses from having to curtail their activities.

The Soho Neighbourhood Plan includes Policy 12 which requires, 'proposals for new food uses (Class E), public houses, drinking establishments, take-aways and music venues (Sui Generis) uses which require planning permission and are contiguous to residential use must comply with the 'agent of change' principle and demonstrate that they will not have unacceptable amenity impacts (including in relation to noise, vibration and odours).' The justification for the policy states that, 'the plan recognises the demand

for food and beverage and entertainment uses but proposals which are located above below or immediately adjacent to existing residential space can cause particular and localised problems. Proposals in close proximity to residential will need to take particular account of the potential for adverse impacts and ensure that suitable and effective mitigation is in place if they are to be supported. Some examples of potential adverse impacts are structure borne noise, noise from patrons and staff, collections and deliveries at unsocial hours, odours and obstruction of residential entrances and passageways. In bringing forward their proposals applicants must show how such adverse impacts will be avoided and mitigated.'

### **Extended Hours of the terrace**

The proposal would extend the permitted hours of use of a small terrace at rear seventh floor level from the currently permitted 22:00 until 23:00 daily. Policy 7 of the City Plan states that; 'Development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to:

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

The terrace measures 11sqm and would only be able to accommodate a small number of people. The nearest residential properties are located to the north of the terrace at 14 Livonia Street where there is a maisonette at third and fourth floor levels and on the first to third floor levels of 81 Berwick Street. These residential units are at a much lower level than the rear terrace. Objections have been received to the application from two residential occupiers, one to the east on the other side of Broadwick Street and the other on the junction of Broadwick Street and Duck Lane to the east of the site. These two properties are a significant distance from the terrace and much lower floor levels, the built form of the hotel means that there is no direct line of sight to these residents and given this, it is considered that allowing the use of the terrace until 23:00 would not have any adverse impact on residential amenity.

The Operational Management Plan states that an SIA accredited security staff member will manage the seventh-floor terrace daily between 22:00 and 23:00 to ensure noise is minimised and also to ensure patrons do not take drinks out with them in order to minimise their time on the terrace. Given the distance of the terrace from any nearby residential properties, and the operational management measures in place, it is not considered that allowing the rear terrace to operate until 23:00 would be harmful in amenity terms.

### **Seventh floor restaurant hours**

The proposed variation of condition 8 would allow customers who are not residents of the hotel, or their guests to remain on the premises from beyond the current terminal hour of 00:00 (midnight) on Thursdays and 00:30 on Fridays and Saturdays until 01:30 on these days.

The two residential objectors are concerned that allowing non-guests to stay within the seventh floor restaurant later into the evening will mean increased noise and disturbance later into the evening both in relation to patrons leaving the premises and from any vehicles / taxis collecting people, contrary to the agent of change principle.

There are a number of licensed premises in the vicinity with a similar late terminal hour including the following:

- Yauatcha in the building opposite (15 - 17 Broadwick Street) which has licensed opening hours of Monday to Sunday; 08:00 - 01:00.
- Basement Sate - basement club located 29m to the east of the application site (8 Broadwick Street) which has opening hours of; Monday and Sunday 18:00 - 00:00 and Tuesday to Saturday 18:00 until 01:30.
- Violet's - restaurant / bar at 19 Berwick Street located 30m to the south of the application site which has licensed opening hours of; Monday to Saturday 10:00 - 01:00 and Sunday 12:00 - 00:00.
- Planning permission (21/03136/FULL) granted 5<sup>th</sup> January 2023 in relation to 72 Broadwick Street for the 'Flexible alternative use of basement and part ground floor for retail (Class Ea) or restaurant/cafe (Class Eb) purposes or as a live music venue (Sui Generis).' Approved opening hours of the live music venue of 9.00-00:00 (midnight) Monday and Tuesday; 9.00-01:00 the following morning on Wednesday and Thursday; 9.00-02:00 the following morning on Friday and Saturday (and Sundays before Bank Holidays) and 9.00-23:00 on Sundays and Bank Holidays.

Concerns have also been raised on the grounds that noise levels in the immediate vicinity start to become quieter around 00:00 when the last customers of the Blue Posts public house disperse. The objector is concerned that allowing the hotel restaurant to close later will result in noise nuisance later into the evening than currently. They do not agree with the assertions the applicant makes that people leaving the premises can be controlled by hotel staff, that the hotel will manage disturbance as they have guests sleeping within the premises, and that the 'type of guests' means they will be inherently quieter than at other entertainment type uses.

Given the location of the hotel in the centre of Soho and the late opening hour of a number of licensed premises within the immediate vicinity it is not considered the extension of the terminal hour of the seventh floor restaurant by 90 minutes on a Thursday and 60 minutes on a Friday and Saturday would result in a materially adverse impact upon residential amenity in the area. Furthermore, given the location of hotel bedrooms directly below, it will be in the interests of the hotel to ensure that the restaurant, and other entertainment areas, are properly managed.

In addition, the seventh floor restaurant is a relatively small part of the entertainment space within the hotel, measuring some 150sqm. The larger bar at eighth floor level, and the lobby bar and restaurant at ground and lower ground floors will still close in accordance with the approved terminal hours of midnight on Sunday to Thursday and 00:30 on Friday and Saturdays.

The updated Operational Management plan (OMP) sets out how the seventh floor restaurant would operate, namely as a seated restaurant with a total capacity of 175. The Agent of Change principle, referred to by the objector, places the burden on the applicant to mitigate negative environmental impacts, and the OMP also sets out that, in order to ensure a gradual dispersal of people from the entertainment areas, the hotel will employ certain measures; slowly and gradually increasing the light levels; slowly lowering the music levels so patrons naturally become quieter; multiple reminders that the areas are about to close so patrons will gradually be leaving of their own accord. The Operational Management Plan also states that door employees will be in attendance at the main entrance at all times to manage people entering or leaving the building. Anyone seeking a taxi will be aided by the door staff and if no taxi is immediately available customers will wait inside the hotel whilst the door staff call a taxi for them.

The updated OMP also includes a contact number to the duty manager which will be made publicly available. Whilst it is envisaged that people staying at the hotel will ordinarily use public transport anyone wishing to use a taxi will either be guided to a licensed cab or will be asked to wait inside the hotel until one is found.

The comments with regard noise from taxis collecting guests later into the evening is also noted. However, Broadwick Street will have a general level of noise throughout the night and taxis collecting patrons from many of the licensed premises may stop in the vicinity to collect passengers. Also, given the close proximity of public transport including the underground and buses it is considered a large number of people leaving the premises will be walking to public transport interchanges.

The objector also comments that it would have been better had the application been made 12 months after the hotel had opened so that neighbours would have had a chance to understand how the hotel operates. These comments are understood, however, it is not possible to delay considering this application for 12 months as requested by the objector. The objector has also commented on a number of City Plan and Soho Neighbourhood Plan policies but the majority of these are in relation to new entertainment uses and this application is for the extension of hours to an approved restaurant.

For the reasons set out above, it is not considered that the objections to the impact of the additional hour of opening on Friday and Saturdays and 90 minutes on Thursdays can be upheld and so approval is recommended that Condition 8 can be varied.

## **9.6 Transportation, Accessibility & Servicing**

Not relevant

## **9.7 Economy including Employment & Skills**

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development would result in a small contribution to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan

2019-2040 by allowing the use of the terraces for two additional hours into the evening as part of a private members club with an emphasis on business.

The applicant advises that given the 5\* nature of the hotel 200 full time jobs will be created once it opens and should the current application be approved a further eight jobs will be created.

### **9.8 Other Considerations**

All the same conditions are imposed as were included on the previous consent. A number of these had been previously discharged and the February 2021 permission had updated conditions which just required compliance with the approved details. It is noted that a further two conditions which required discharging have now also been discharged. These were conditions 14 and 24 of the permission which required the submission of detailed drawings to show the exact use and layout of the entertainment spaces at lower ground, ground, seventh and eighth floor levels; and a Servicing Management Plan. The wording of these conditions has therefore been updated to require the development to take place in accordance with these approved details. The wording of conditions / reasons has also been amended where necessary to ensure the correct policies are referred to as the Westminster City Plan has been formally adopted in the interim period.

A number of the appendices to an objection include news articles relating to ex-Councillor Davis, a Westminster City Council investigation report on the conduct of ex-Councillor Davis and his register of interests. These documents are not considered relevant to the current application.

### **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**

Given the highways works have not been completed the Highways Planning Manager has confirmed these works again need to be secured via legal agreement as previously.

The draft 'Heads' of agreement are proposed to cover the following issues:

- i) All highway works immediately surrounding the site required for the development to occur, including changes to on-street restrictions, alterations to the vehicle access and adjoining footway and associated work (legal, administrative and physical).
- ii) Dedication of land as public highway prior to occupation where necessary.
- iii) To adhere to the stipulations of the Operational Management Plan for the lifetime of the development.
- iv) The costs of monitoring the S106 agreement.

## **10 Conclusion**

It is considered the extension of the hours of use of the terrace until 23:00 from the consented 22:00 and the extension of hours for the use of the seventh-floor restaurant

premises by non-residents of 90 minutes on Thursday and 60 minutes on Friday and Saturday would be acceptable given the controls in the Operational Management Plan and given that the hotel would operate to similar hours to a number of licensed premises in the vicinity.

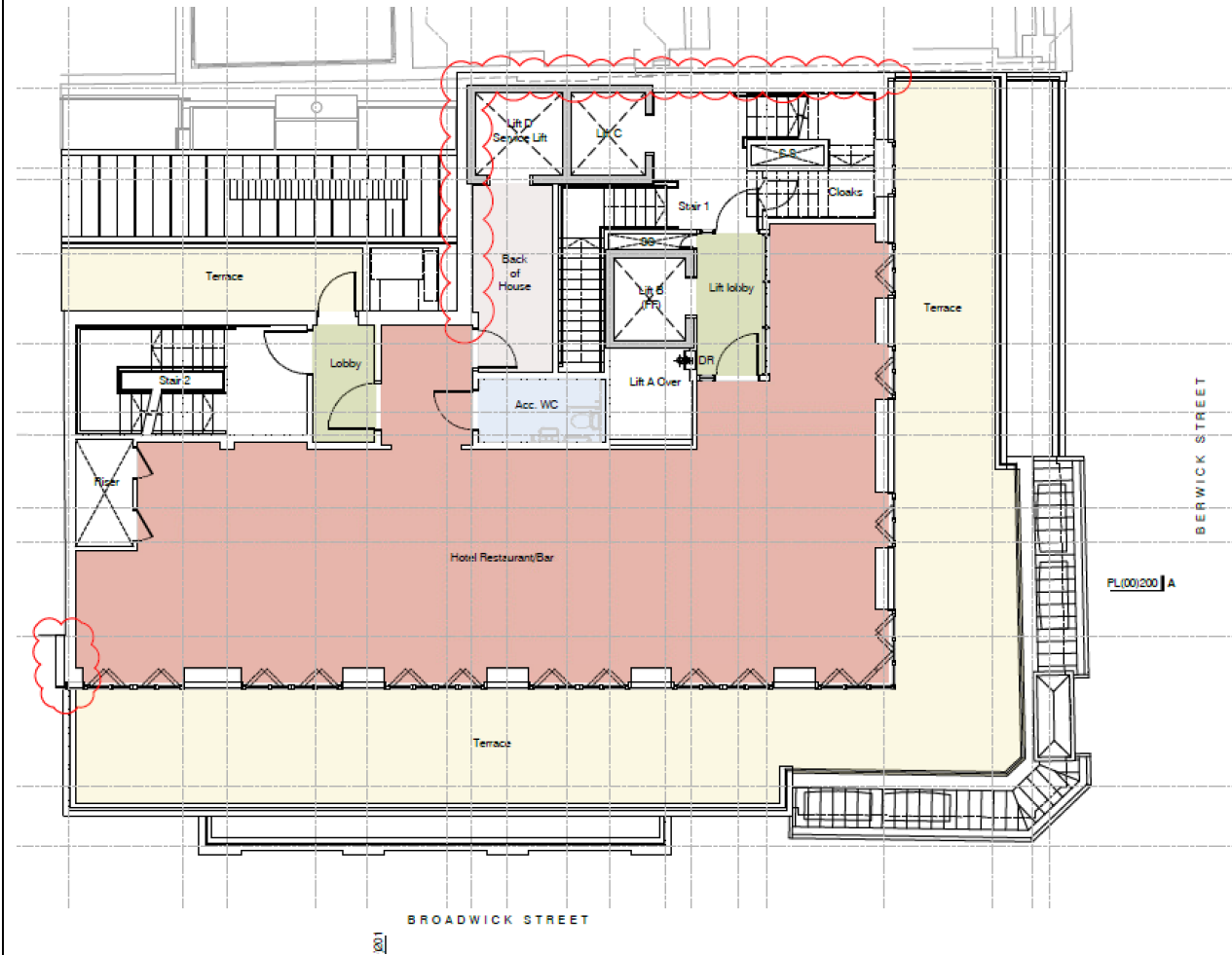
With these measures in place the proposal is considered acceptable, mindful of policies 7,16 and 33 of the City Plan 2019-2040 and the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(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: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)

11 KEY DRAWINGS

Seventh Floor Level:



**DRAFT DECISION LETTER**

- Address:** 18, 20-24 Broadwick Street And 85 Berwick Street, London, W1F 8JB
- Proposal:** Variation of Conditions 8, 22 and 23 of planning permission dated 11th February 2021 (RN: 20/04766/FULL) Variation of Condition 1 of planning permission dated 20 November 2020 (RN: 19/07554/FULL) for, 'Variation of condition 1 of planning permission dated 20th March 2019 (RN: 18/08538/FULL) "Variation of Condition 1 of planning permission dated 2nd February 2018 (RN 16/09526/FULL) for "Demolition of 20-24 Broadwick Street & 85 Berwick Street and partial demolition of 18 Broadwick Street and redevelopment of the site to provide new buildings comprising three basement levels, ground floor and first to eighth floor levels in connection with the use of the buildings for retail (Class A1) at part basement and ground and a hotel (Class C1) with up to 69 bedrooms, associated bar and restaurant facilities including terraces at sixth and seventh floor levels; installation of plant at basement level and on the rear elevation at first to sixth floor levels. Installation of a partially retractable roof over the bar area at eighth floor level from RN:20/04766/FULL. NAMELY; to extend the hours of use of the seventh floor seated bar and restaurant until 1.30 am on Thursdays, Fridays and Saturdays and to extend the terminal hour for the access and use of the rear seventh floor terrace from 22:00 until 23:00 daily. (Application under Section 73)
- Reference:** 23/00159/FULL
- Plan Nos:** 21/08143/ADFULL - PL(00)102 REV B, PL(00)103 REV B, PL(00)110 REV C, PL(00)111 REV F.
- 21/08142/NMA - Covering Letter dated 25 November 2021.
- 21/04006/ADFULL - 20-24 BROADWICK STREET Servicing Management Plan dated June 2021.
- 21/00852/ADFULL - AA[21]001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012; AL[21] 001, 002, 003, 004, 005, 006
- 20/04766/FULL - , PL(00)103 RevC, PL(00)110 RevC, PL(00)111 RevE, PL(00)200 RevH, PL(00)201 RevF, PL(00)300 RevE, PL(00)301 RevG, PL(00)302 RevF, PL(00)303 RevG.
- 19/07554/FULL - , PL(00)100 A, PL(00)101 A, PL(00)102 A, PL(00)103 A, PL(00)104, PL(00)105, PL(00)106, PL(00)107, PL(00)108, PL(00)109 A, PL(00)110 A, PL(00)111 C, PL(00)112 E, PL(00)200 F, PL(00)201 E, PL(00)300 C, PL(00)301 C, PL(00)302 D, PL(00)303 E.
- 18/08538/FULL - , PL110 RevA, PL111 RevA, PL112 RevA, PL113 RevA, PL210, PL300, Structural Methodology Statement Addendum.
- 16/09526/FULL - , Structural Methodology Statement (1512 - 27th September 2016)), Construction Management Plan (September 2016), Hotel Operational Management Plan, Servicing Management Plan (September 2016), Energy Strategy



Report (September 2016), Acoustic Report (16360-R01-B), Transport Statement (September 2016), BREEAM Pre-Assessment (September 2016), Drawings: A-HW-525-03 Rev02, A-HW-505-01 Rev02, A-HW-501-01 Rev02, A-HW-504-01 Rev02, A-HW-500-01 Rev02, A-HW-525-02 Rev02, A-HW-5B1-01 Rev02, A-HW-502-01 Rev02, A-HW-507-01 Rev02, A-HW-506-01 Rev02, A-HW-525-01 Rev02, A-HW-503-01 Rev02, A-HW-525-04 Rev02, A-HW-200-01 Rev06, A-HW-200-02 Rev05, A-HW-250-03 Rev08, A-HW-109-01 Rev09, A-HW-250-01 Rev08, A-HW-250-04 Rev02, A-HW-250-02 Rev07, A-HW-250-03 Rev08, A-HW-1B3-01 Rev11, A-HW-1B2-01 Rev12, A-HW-1B1-01 Rev11, A-HW-101-01 Rev10, A-HW-106-01 Rev10, A-HW-102-01 Rev05, A-HW-103-01 Rev05, A-HW-104-01 Rev10, A-HW-105-01 Rev10, A-HW-107-01 Rev10, A-HW-108-01 Rev11, A-HW-109-01 Rev09, A-HW-100-01 Rev12.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 07866040155

### **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 You must carry out the development in accordance with the samples of the facing materials, details of which were approved by the City Council as Local Planning Authority on 16th October 2020 under reference 20/05066/ADFULL or in accordance with any other details as submitted to and approved by the City Council.

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

- 3 You must carry out the development in accordance with the detailed drawings of the typical façade details which were approved by the City Council as Local Planning Authority on 3<sup>rd</sup> March 2021 under reference 21/00852/ADFULL or in accordance with any other details as submitted to and approved by the City Council.

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 Soho 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 carry out the development in accordance with the details approved by the City Council as Local Planning Authority on 24th May 2018 under reference 18/02922/ADFULL or in accordance with any other details to ensure that demolition on the site will only occur immediately prior to development of the new building as submitted to and approved by the City Council.

Reason:

To maintain the character of the Soho Conservation Area as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021) and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AD)

- 5 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the character of the Soho Conservation Area as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021) and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AD)

- 6 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)

- 7 You must not allow more than 370 customers within the seventh and eighth floor restaurant, bar and terraces areas at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would

not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 8 Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain within the seventh floor restaurant premises except between the following hours:

07:00 till 00:00 (midnight) Sunday to Wednesday, and, 07:00 till 01:30 (the following morning) Thursday, Friday and Saturday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 9 Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain within the entertainment areas at lower ground, ground and eighth floor levels except between the following hours:

08:00 till 00:00 (midnight) Sunday to Thursday, and  
08:00 till 00:30 (the following morning) Friday and Saturday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 10 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)

- 11 You must provide each cycle parking space as approved by the City Council as Local Planning Authority on 16th October 2020 under reference 20/05066/ADFULL or in accordance with any other details as submitted to and approved by the City Council.

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)

- 12 Before occupation of the hotel, you must provide the separate stores for waste and materials for recycling shown on the approved drawings. You must clearly mark them and make them available at all times to everyone using the premises.

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)

- 13 You must apply to us for approval of details of how waste is going to be stored within the retail accommodation 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 what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the premises.

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)

- 14 You must carry out all servicing of the development in accordance with the approved Servicing Management Plan which was approved by the City Council as Local Planning Authority on 15th July 2021 under reference 21/04006/ADFULL or in accordance with any other details as submitted to and approved by the City Council.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 15 The 'Back of House and Temporary Holding Area' marked on drawing PL(00)103 RevA shall be used for holding deliveries and refuse & recycling bins associated with the hotel use and no other purpose.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 16 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 17 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum. , , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:;, (a) A schedule of all plant and equipment that formed part of this application;,, (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;,, (c) Manufacturer specifications of sound emissions in octave or third octave detail;,, (d) The location of most affected noise sensitive receptor location and the most affected window of it;,, (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;,, (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;,, (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;,, (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;,, (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), 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)

- 18 You must carry out the development in accordance with the details approved by the City Council as Local Planning Authority on 23rd June 2020 under reference 20/03548/ADFULL or in accordance with any other details as submitted to and approved by the City Council to ensure that the noise levels from the plant operation accord with the requirements detailed in condition 17 of this consent.

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 Environmental Supplementary Planning Document (February 2022), 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)

- 19 You must carry out the development in accordance with the detailed drawings and biodiversity management plan in relation to the green roof, details of which were approved by the City Council as Local Planning Authority on 16th October 2020 under reference 20/05066/ADFULL or in accordance with any other details as submitted to and approved by the City Council.

Reason:

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

- 20 You must install any required acoustic mitigation measures at the same time as the plant is installed and maintain it in situ for as long as the plant remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

- 21 You must carry out the development in accordance with the details approved by the City Council as Local Planning Authority on 31st May 2019 under reference 19/03745/ADFULL or in accordance with any other details to ensure that the development is bound by the council's Code of Construction Practice as submitted to and approved by the City Council.

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)

- 22 The openable elements at seventh and eighth floor levels including all external windows, rooflights and doors shall be fixed shut between 22:00 and 07:00 every day, with the exception of the door to the rear seventh floor terrace which can be used between the hours of 07:00 and 23:00 daily.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 23 The rear seventh floor terrace area facing north can only be used between the hours of 07:00 and 23:00. The larger terrace area facing Broadwick Street to the south and Berwick Street to the east can only be used between the hours of 07:00 and 22:00. You can not use the terrace areas outside of these hours other than in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 24 You must operate the development in accordance with the details approved by the City Council as Local Planning Authority on 6th December 2021 under reference 21/08143/ADFULL or in accordance with any other details showing the exact use and layout of the entertainment spaces at lower ground, ground, seventh and eighth floor levels to include any bars areas, seating, kitchens etc as submitted to and approved by the City Council.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 25 You must not allow more than 130 customers within the lower ground and ground floor areas of the hotel at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

**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 street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: [www.westminster.gov.uk/street-naming-numbering](http://www.westminster.gov.uk/street-naming-numbering). (I54AB)
- 3 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point. , If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk).
- 4 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).
- 6 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642.
- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 8 Conditions 17 and 18 control noise from the approved machinery. It is very important that you



meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- 9 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](http://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](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil) , Forms can be submitted to [CIL@Westminster.gov.uk](mailto: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.**
- 10 No development should occur between the highway surface and a depth of 900mm. This is to ensure sufficient space remains for utilities and in accordance with TRANS19.
- 11 The applicant will need technical approval for the works to the highway (supporting structure) prior to commencement of development. The applicant should contact Andy Foster ([afoster1@westminster.gov.uk](mailto:afoster1@westminster.gov.uk)) in Westminster Highways Infrastructure and Public Realm to progress the applicant for works to the highway.

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.