

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>SUB</b>	<b>Date</b> 7 February 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>	85 Great Titchfield Street, London, W1W 6RJ		
<b>Proposal</b>	Installation of four air conditioning units within screened enclosures at rear first floor level.		
<b>Agent</b>	First plan		
<b>On behalf of</b>	Mr John Suett		
<b>Registered Number</b>	22/07417/FULL	<b>Date amended/ completed</b>	2 November 2022
<b>Date Application Received</b>	2 November 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		
<b>Neighbourhood Plan</b>	Fitzrovia Neighbourhood Plan		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

Four air conditioning units serving 1<sup>st</sup> floor offices were installed on a rear 1<sup>st</sup> floor flat roof in September 2022. Permission is sought to retain this plant and install acoustic screened enclosures around each of the units.

The key issue for consideration are:

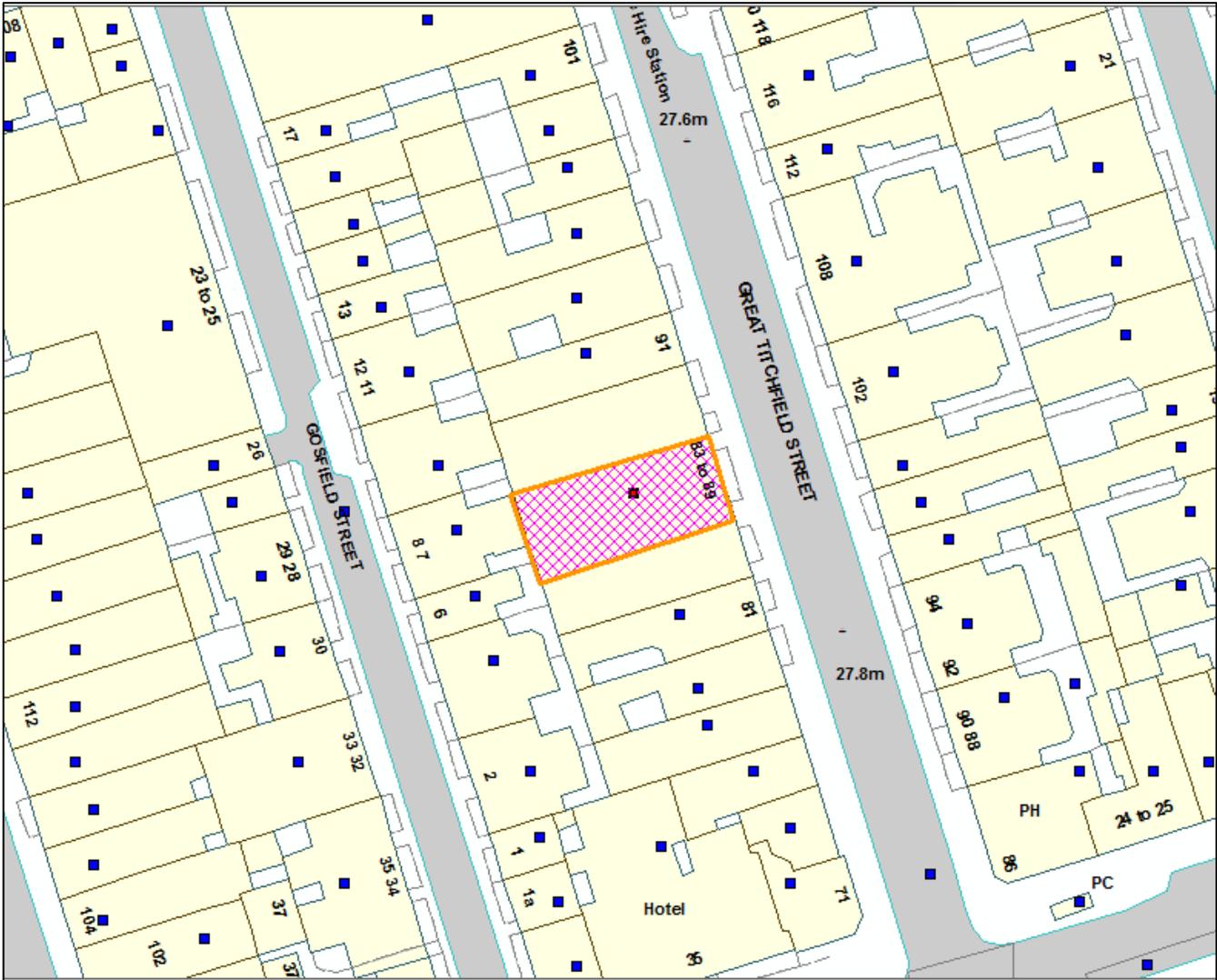
- the impact on residential amenity,
- the impact on the appearance of the building.

For reasons set out in the main body of the report, it is considered that subject to appropriate conditions the operation of the units would not result in noise nuisance and are acceptable in amenity terms. The flat roof area cannot be seen from any street level views. Given its concealed location the units and enclosures are also considered to be acceptable in design terms. Accordingly, the application is recommended for approval.

Item No.
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3. LOCATION PLAN



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4. PHOTOGRAPHS

Aerial view showing rear windows of residential properties facing the flat roof of the site -



Photograph showing proximity of residential rear windows and plant equipment –



Residential accommodation

AC Units

Photograph showing the location of the four AC Units, without proposed acoustic enclosures -



## 5. CONSULTATIONS

### 5.1 Application Consultations

FITZROVIA NEIGHBOURHOOD ASSOCIATION

No comment

FITZROVIA WEST NEIGHBOURHOOD FORUM

No comment

ENVIRONMENTAL SCIENCES (Plant and Equipment)

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 80

Total No. of replies: 8

No. of objections: 8

No. in support: 0

8 Objections received on some or all of the following grounds:

Amenity

- Noise nuisance, particularly a night, exacerbated by enclosed nature of rear area

Design

- The AC units and acoustic enclosures would be visually intrusive

PRESS NOTICE/ SITE NOTICE:

Yes

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

None undertaken.

## 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 Fitzrovia West Neighbourhood Plan includes policies on a range of matters including promotion of regeneration, provision of housing, entertainment uses, community facilities, provision of small business units, provision of active frontages, open spaces, environmental performance, and servicing.

The plan 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 Fitzrovia West 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**

85 Great Titchfield Street is an attractive late-Victorian red brick building located on the western side of the street. The building comprises basement ground and four upper floors fronting onto Great Titchfield Street. At the rear there is a two- storey structure which backs onto the rear of buildings fronting onto Gosfield Street.

The premises is a mixed- use building with shop units on the basement and ground floors and residential flats on the upper floors. The rear two- storey building at the rear is in office use.

The property is unlisted, located within the East Marylebone Conservation Area, the Central Activities Zone and the West End Retail and Leisure Special Policy Area.

### **7.2 Recent Relevant History**

None directly relevant.

## **8. THE PROPOSAL**

Permission is sought for the retention of four air conditioning units attached to the 1<sup>st</sup> floor east facing wall of the rear office building. The units were installed in September last year. Permission is now sought to retain these units and add individual screened enclosures.

It is proposed that the equipment is operational between the hours of 08.00 and 20.00 daily.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

Not applicable

### **9.2 Environment & Sustainability**

Given the relatively minor scale of the proposed plant equipment, the proposal does not raise any significant energy/sustainability issues.

### **9.3 Biodiversity & Greening**

Not applicable

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

#### **Legislative and Policy Overview**

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

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.

City Plan Policy 38 states new development will incorporate exemplary standards of high quality, sustainable and inclusive urban design and respond to Westminster's context by positively contribution to Westminster's townscape and streetscape.

#### Assessment

Objections have been received on the grounds that the plant detracts from the appearance of the building. City Plan policy 40 (Townscape and Architecture) states that alterations and extensions will respect the character of the existing and adjoining buildings, avoid adverse visual and amenity impacts.

The two storey building sits between the main building fronting onto Great Titchfield Street and buildings fronting onto Gosfield Street. This structure is not visible from any street level views. The provision of air conditioning units housed in enclosures are relatively minor alterations in design terms. Given the concealed location it is considered that the works would not be harmful to the appearance of the building or the character and appearance of the East Marylebone Conservation Area.

## 9.5 Residential Amenity

### Noise, Vibration from Equipment

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

Policy 33 (Local Environmental Impacts) of City Plan 2019-2040 seeks to protect the local environment from adverse impacts from developments such as from pollution, noise and vibration, odour, land contamination and construction impacts.

The area is mixed use in character including a significant number of residential flats in proximity. The upper floors of the application premises and Langham House No 7-8 Gosfield Street directly to the rear are both in residential use.

Objections have been received from the occupants of flats in both these buildings on the grounds that the equipment will result in noise nuisance. Specific reference is made to noise nuisance at night particularly in the summer months when residents have windows open. Objections refer to the acoustic report failing to indicate the level noise that would be generated by the plant equipment.

Environmental Health Officers have assessed the acoustic report submitted in support of the application and confirm that they have no objections to the application. The site is in an area which existing ambient noise levels are below WHO Guideline Levels. As such plant is required to operate at least 5 dB below the lowest LA90 level at the nearest noise sensitive receptor.

The acoustic report refers to a noise survey which measured the lowest background noise level of 33 dB LA90 (15 min). Hence, the proposed plant is required to produce a maximum sound pressure level of 28 dB LPA (at the nearest noise sensitive receptor).

It is predicted that if housed within acoustic screening that with all four units operating simultaneously, the proposed mechanical plant is likely to produce a combined maximum sound pressure level of 27 dB LPA over a 24- hour period at the adjacent residential receptors. On this basis the plant installation should comply with the design level and satisfy the City Council's noise Policy 33 and would therefore not likely cause significant noise disturbance to neighbouring properties.

Although the data indicates that operation of the units overnight would not result in any noise nuisance the applicant advises that the plant would only be operated between 0800 and 2000. A condition is recommended restricting the hours of operation to these hours. A condition is also recommended which requires the acoustic screens to be installed prior to the units being operated. On this basis the application is considered to be acceptable in amenity terms.

**9.6 Transportation, Accessibility & Servicing**

Not relevant in the determination of the application

**9.7 Economy including Employment & Skills**

Not relevant in the determination of the application

**9.8 Other Considerations**

None.

**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 proposed AC Units with acoustic enclosures are considered acceptable in terms of their impact on residential amenity and the character of the conservation area. Subject to conditions, the proposal is considered to be compliant with the policies within the adopted development plan.

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

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

**11. KEY DRAWINGS**

Existing elevation –



Existing Elevation  
Scale 1:50

Proposed elevation -

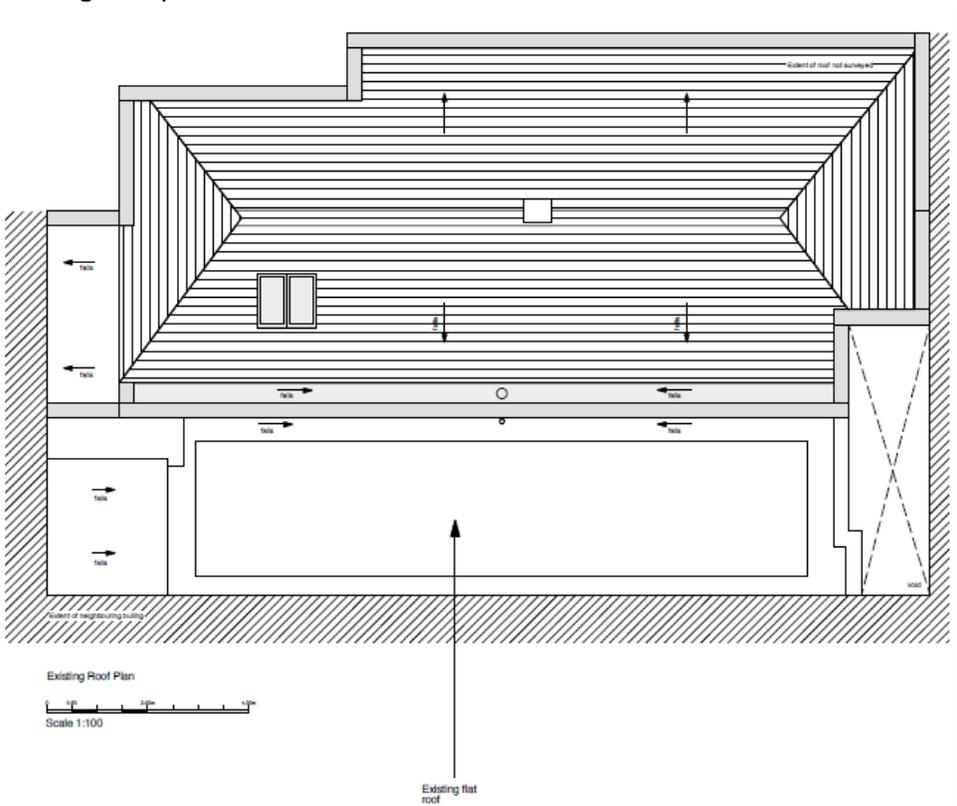


Proposed Elevation  
Scale 1:50

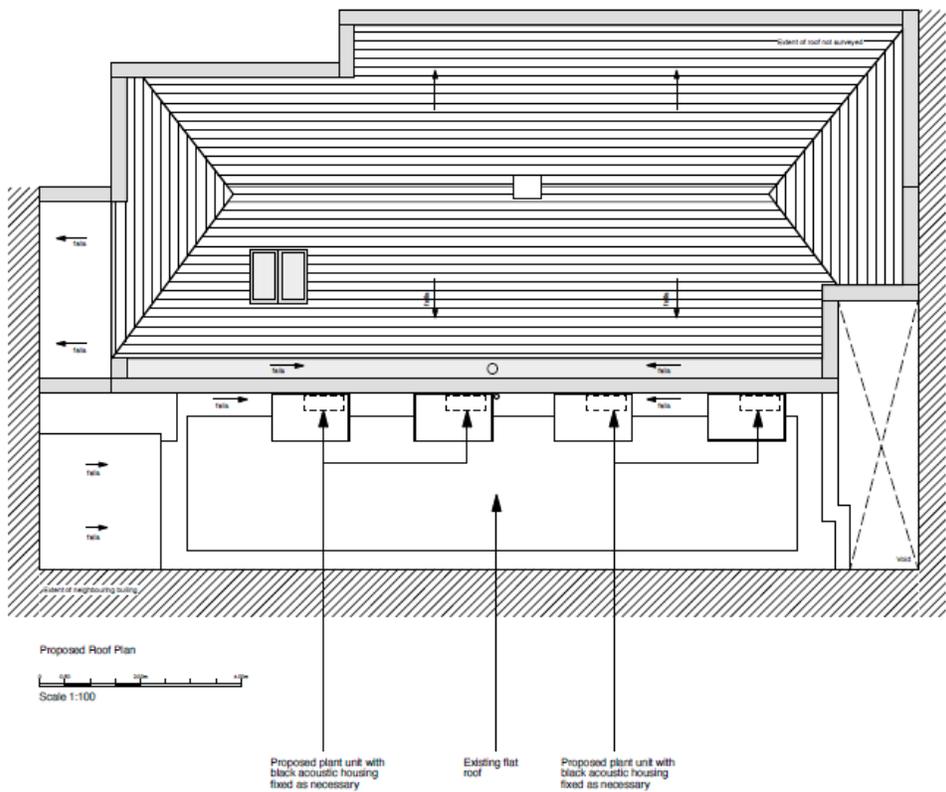
Proposed plant unit with  
black acoustic housing  
fixed as necessary

Proposed plant unit with  
black acoustic housing  
fixed as necessary

Existing roof plan –



Proposed roof plan –



**DRAFT DECISION LETTER**

**Address:** Ground Floor, 85 Great Titchfield Street, London, W1W 6RJ

**Proposal:** Installation of four air conditioning units located at rear first floor flat roof including associated acoustic mitigation.

**Reference:** 22/07417/FULL

**Plan Nos:** GT.113 ; GT.112

**Case Officer:** Tristan Goldsmid

**Direct Tel. No.** 020 7641

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

- 4 (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 5 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 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.
- (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 minutes) 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. (C46BC)

Reason:

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 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. (R46BC)

- 5 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)

- 6 You must install the acoustic attenuation measures shown on the approved drawings before you use the machinery. You must then maintain the attenuation measures in the form shown for as long as the machinery remains in place. (C13DB)

Reason:

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

- 7 The plant/machinery hereby permitted shall not be operated except between 08.00 hours and 20.00 hours daily. (C46CA)

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

**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 Conditions 4, 5 and 6 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)
- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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.