

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 02 May 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	Orwell House, 16-18 Berners Street, London, W1T 3LN		
Proposal	Partial demolition, refurbishment and extension of the existing building comprising removal of the Berners Street facade and stepped rear extensions at third to seventh floor levels; creation of external terraces; removal of existing mews storage unit and infilling to mews building; recladding of facades; installation of new plant equipment; new cycle parking and facilities; and associated works. Use of the building for office use (Class E) (excluding ground floor front) and/or provision of retail (Class E), restaurant (Class E), cafe (Class E) / gallery (Class F1) and/or wine bar / drinking establishment use (Sui Generis) at ground floor, and use of part lower ground (front) as flexible retail (Class E), restaurant (Class E), gallery (Class F1), wine bar / drinking establishment (Sui Generis), medical (Class E), office (Class E) or gymnasium (Class E).		
Agent	Gerald Eve LLP		
On behalf of	Berners Street Trustee I Limited and Berners Street Trustee II Limited as Trustees of Berners Street Unit Trust		
Registered Number	22/08354/FULL	Date amended/ completed	9 December 2022
Date Application Received	9 December 2022		
Historic Building Grade	Unlisted		
Conservation Area	N/A		
Neighbourhood Plan	Fitzrovia West Neighbourhood Plan		

1. RECOMMENDATION

1. Grant conditional permission subject to a legal agreement to secure the following:
 - a) A financial contribution of £90,481 towards the Carbon Off-Set Fund (payable prior to commencement of development).
 - b) Undertaking of highways works within the vicinity of the site, including the re-instatement of footway in place of redundant vehicle crossover and the replacement of pavement lights and associated works along the Berners Mews frontage. Highway works to be completed prior to the re-occupation of the development (if undertaken by the owner).

- c) The submission of the 'Be Seen' energy performance indicators for the development (with confirmation to the City Council) in accordance with the Be Seen Guidance via the Mayor of London's Energy Monitoring Portal.
- d) A financial contribution of £33,020 to support the Westminster Employment Service (payable prior to commencement of development).
- e) The costs of monitoring the agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:

- a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
- b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY & KEY CONSIDERATIONS

Orwell House is an unlisted building situated outside of any designated conservation area. The building comprises lower ground, ground and six upper floors (with access hatch above). With the exception of the storage facility (Class B8) at rear ground floor which has direct access from Berners Mews, the site is in use as a retail gallery and offices (both Class E).

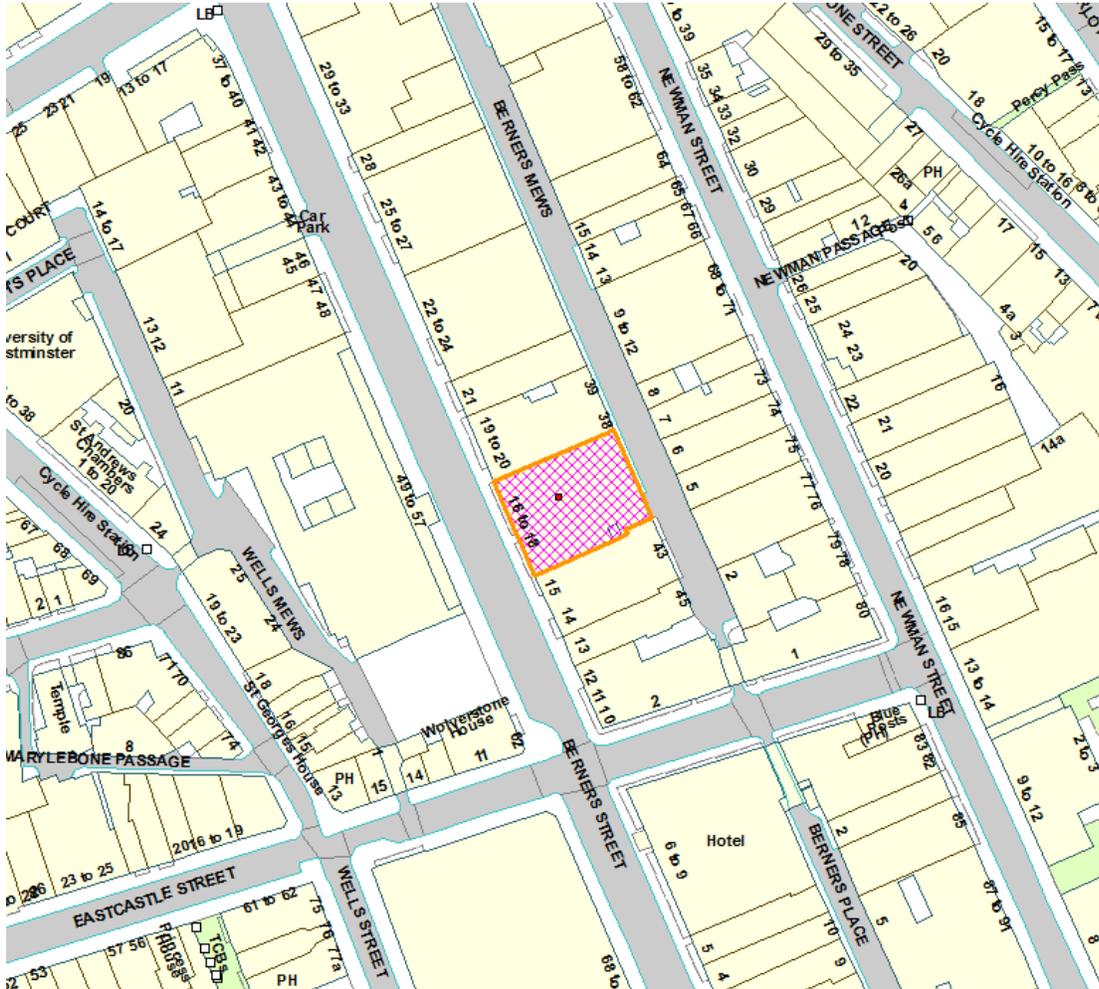
Permission is sought for partial demolition of the building including replacement facades and rear and roof extensions to provide additional commercial floorspace.

The key issues for consideration are:

- The acceptability of the wide variety of uses sought at lower ground and ground floor level in this location;
- The acceptability of the energy performance of the proposed altered and extended building.
- The design, height, bulk and materiality of the proposal and the contribution it makes to the local townscape;
- The acceptability of the proposal in amenity terms; and
- The acceptability of the transport implications of the proposal, particularly the lack of off-street servicing.

For the reasons set out in the main report, it is considered that the proposal is acceptable in land use, design, sustainability, highways and amenity terms. As such, the application is 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

Berners Street frontage



Berners Mews Frontage



5. CONSULTATIONS

5.1 Application Consultations

FITROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

FITROVIA WEST NEIGHBOURHOOD FORUM

Welcome the treatment of the mews frontage, provision for cycle storage and achievement of BREEAM excellent are to be commended; however, object for the following reasons:

Design

- In danger of being over-developed.
- Two upper floors should be reduced or setback to be out of sight from the street.
- A double height ground floor would assist in emphasising the retail or showroom use and create an active frontage.
- Use of red stone and the detailing of the floors and windows is rather over-elaborate and heavy.

Sustainable Design

- A refurbishment option would be preferred.

Land Use

- A number of small media and design businesses would be lost.
- Current gallery would be displaced.
- The ground and lower ground floor units should be limited to retail, art gallery and/or showrooms. Sports facilities or a gym might be located at lower ground floor level. Sui generis uses such as a wine bar or similar should be excluded.

METROPOLITAN POLICE SERVICE

- Berners Mews is not suitable for any main or secondary entrance/exit route for any development along Berners Street.
- The flexible uses at ground and lower ground floor level each come with their own security needs. A 'secured by design' condition should be recommended which will enable further consultation once clarification of the use of the building is determined.

HISTORIC ENGLAND

Do not wish to comment.

ENVIRONMENTAL HEALTH

No objection.

HIGHWAYS PLANNING

Objection on the following basis:

- It has not been demonstrated that the proposed changes to the site would not have an adverse impact on the servicing of the site or that servicing on-site could not be possible.
- Shortfall in cycle parking is disappointing.
- Limited information provided with regards to flexible lower ground and ground floor uses.

WASTE PROJECTS OFFICER

No objection.

BUILDING CONTROL

Not necessary to comment given lack of basement excavation.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 293

Total No. of replies: 0

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application in accordance with the principles set out in the Early Community Engagement guidance. The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement) are summarised below:

- The Applicant hosted an in-person exhibition at the application site on 18 October 2022 between 16:00 and 19:00.
- To provide greater flexibility and increased levels of engagement, a dedicated consultation website (<https://orwellhouseconsultation.co.uk/>) was launched, which offered further information on the proposals and included an online public consultation that was open between 07 October 2022 and 22 October 2022, enabling stakeholders and local residents the opportunity to provide feedback. It is understood that the consultation website was visited 97 times by 75 unique visitors during the consultation period and following the in-person exhibition.
- A flyer was distributed to addresses on 06 October 2022. It was designed to offer an introduction to the proposals, introduce the consultation website, advertise the public consultation, and provide contact details; through which interested stakeholders and the local community could send any further questions or comments that they may have in relation to the proposals.
- Briefings were given to former West End ward councillors Tim Barnes and Jonathan Glanz on 13 April 2022, the Fitzrovia West Neighbourhood Forum on 27 June 2022 and 26 September 2022, and the leaseholder of the neighbouring building at 19-20 Berners Street on 01 July 2022 and 27 September 2022
- The statement states that the following additional briefing were offered to a number of additional local stakeholders including:

- The Sanderson Hotel on the 16 May 2022
- The owner of 14 Berners Street on 16 May 2022
- The owner of 8 Berners Mews on 16 May 2022
- West End ward councillors Patrick Lilley, Jess Toale and Paul Fisher on 10 and 27 October 2022

It is understood that stakeholders were broadly supportive of the proposals, recognising that the current site is in need of investment and welcoming the sustainability credentials and proposed design; however, some concerns/comments were made as summarised below:

Theme	Feedback	Applicants Response
Future occupiers	Some consultees were concerned that the proposals would lead to a loss of small to medium business occupiers who depend on low rents in a central location.	The Applicant has confirmed that the floors will be flexible and capable of sub-division in order to attract a mix of future occupiers.
Height and massing	Some consultees were interested to know more about the proposed height and massing.	<p>The Applicant is keen to ensure the building sits sensitively within the local context and respects the scale and materials of existing buildings in the area.</p> <p>The Applicant has sought to ensure this by stepping back the terraces and ensuring that the proposed façade establishes a shoulder height that is in line with the existing building and aligns with the shoulder height of the neighbouring buildings to the north. As a result, the additional scale will only be visible in oblique views.</p> <p>Additionally, the ground and seven upper storey building would be commensurate in height with the building to the north of the site on Berners Street.</p>
Design	Some consultees were keen to ensure the design fits within the local context.	<p>The Applicant has closely studied the local area and is keen to ensure that the proposed design is appropriate for the local context.</p> <p>The proposed design is in line with the masonry-led buildings that can be seen on Berners Street and also introduces a ground floor-only base</p>

		that relates more comfortably to the prevailing street scene. Significant changes have been made to the design of the Berners Street frontage to respond to comments made by stakeholders.
Sustainability	Consultees were interested to know more about the sustainability credentials of the proposed development.	The Applicant is keen to ensure that the proposed development is sustainable throughout. Therefore, all aspects of the development will be underpinned by a sustainable approach which includes retaining as much of the existing structural frame and façade on Berners Mews as possible, introducing urban greening, end-of-trip facilities to promote sustainable travel, and aspiring to make sustainable material choices including the use of reclaimed steel for the additions.

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 the Fitzrovia West Neighbourhood Plan (adopted 8 October 2021) (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 site lies within the Fitzrovia West Neighbourhood Area. 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

Orwell House is an unlisted building comprising lower ground (including section of double height space), ground and six upper floors. The site originally comprised two separate buildings (Nos. 16 and 17-18 Berners Street). However, various works have been carried out at the site including the amalgamation of the frontages and to link the buildings internally. With the exception of the storage facility (Class B8) at rear ground floor which has direct access from Berners Mews, the site is in Class E use as a retail gallery at part ground and mezzanine level, and offices throughout the rest of the building.

The site lies within the Central Activities Zone (CAZ), West End Retail and Leisure Special Policy Area (WERLSPA); Great Estates Area of Special Archaeological Priority and partly within Protected Vista 2A.2 (Parliament Hill to the Palace of Westminster). The application site is not within any designated conservation area.

The prevailing character of the surrounding area is commercial in nature with a diverse range of retail, entertainment and hotel uses; however, there are some residential units in the vicinity, including at 6 Berners Mews & 74 Newman Street and 8 Berners Mews (located on to the east of the application site), 21 Berners Street (to the north) and 12-13 Berners Street and 1-2 Berners Mews & 78-79 Newman Street (to the south/ south east of the site).

7.2 Recent Relevant History

None relevant.

8. THE PROPOSAL

The main aspect of the proposed scheme comprises:

- Demolition and replacement of the front and rear façades (with the exception of the ground to second floor rear façade to 17-18 Berners Street)

- Demolition of the existing central core and southern third of the building (i.e. No. 16 Berners Street) to increase the efficiency of the floorplates and to omit the level difference between different parts of the site.
- Demolition of existing access hatch and plant enclosure at seventh floor level and erection of a replacement and enlarged seventh floor and erection of extensions at rear third to sixth floor level.
- Erection of plant enclosure and access hatch above the new seventh floor accommodation, including an internally routed extract duct discharging above the plant enclosure.
- Installation of new plant, cycle parking and associated facilities at lower ground floor level.
- Creation of courtyards at lower ground and ground floor level.
- Creation of terraces within the front light well at lower ground floor level, within the northern lightwell at first floor level, to the rear at second to seventh floor level and at sixth and seventh floor level facing Berners Street (all, with the exception of the second floor terrace, include greening).
- Areas of green roof are proposed at eighth floor level and to the roof of the eighth floor access hatch.
- Photovoltaic panels are proposed above the plant enclosure.

With regards to the uses proposed, flexibility is sought to use the front lower ground and all of the ground floor for either retail, restaurant, café, (all Class E), gallery (Class F1) and/or wine bar / drinking establishment use (Sui Generis). A further degree of flexibility is sought at rear ground floor level to also allow the use of this part of the development as office accommodation (Class E). The greatest flexibility is sought in respect to the front lower ground floor levels where, in addition to all of the above uses, permission is sought to use this part of the development as a gym or medical facility (both Class E).

The existing and proposed floorspace schedule is as follows:

	Existing GIA (sqm)	Proposed GIA (sqm)	Difference GIA (sqm)
Office	3,392	4,124 to 4,672	+732 to 1,280
Gallery	299	0 to 701	-299 to +701
Storage unit accessed from Berners Mews	37	0	-37
Retail, restaurant, café and/or wine bar / drinking establishment use	0	0 to 701	0 to +701
Gym and / or medical facility	0	0 to 300	0 to +300
Total	3,728	4,825	+1,097

9. DETAILED CONSIDERATIONS

9.1 Land Use

Policy Context

The balance of competing interests within the CAZ is underlined by City Plan Policy 1(A)(4) that states that Westminster will continue to grow, thrive and inspire at the heart of London as a World City by, 'Balancing the competing functions of the Central Activities Zone (CAZ) as a retail and leisure destination, visitor attraction, global office centre, and home to residential neighbourhoods'.

As the site is located within the WERLSPA, City Plan Policy 2 is also applicable. This states, 'The intensification of the (WERLSPA) over the Plan period will deliver the following priorities:

- A. Significant jobs growth through a range commercial-led development including retail, leisure, offices and hotel use..."
- B. An improved retail and leisure experience that responds to innovation and change in the sector, including the transformation of the Oxford Street District.
- C. A diverse evening and night-time economy and enhanced cultural offer...'

City Plan Policy 14 supports the intensification of the CAZ to provide additional floorspace for main town centre uses in principle, subject to any impact on townscape and heritage. The general aim is to enhance and diversify high streets as places to shop, work and spend leisure time. The supporting text to City Plan Policy 14 highlights the objective of growth and diversification. It recognises that there may be a contraction of traditional retail and that to ensure the long-term sustainability it is important that centres can adapt to changing consumer demands and behaviours, and the challenges posed by online retail. The City Plan also envisages, alongside retail growth, a balanced mix of complementary leisure, entertainment, food and drink and cultural and employment offer to help the West End grow, not only as a global shopping destination, but also as an enhanced leisure and employment destination.

City Plan Policy 15 (B) states, 'Proposals for new arts and cultural uses will be supported in: 1. Strategic Cultural Areas when they complement the existing cultural offer; and 2. the town centre hierarchy; and 3. commercial areas of the CAZ'.

City Plan Policy 16(A) states, 'Proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre'.

City Plan Policy 17(A) states, 'New community infrastructure and facilities will be supported where there is an identified present or future need... New facilities will be of a nature and scale to meet identified need and be sufficiently flexible to meet the

requirements of providers as they may change over time'. Supporting text in paragraph 17.1 and 17.2 states that such facilities can be either publicly or privately owned and/or operated and that they are integral to supporting people's everyday lives, being used by residents, workers and visitors, and are a vital resource to support successful places and communities.

Policy B1 of the Fitzrovia West Neighbourhood Plan states, 'Applications for redevelopment of existing buildings which include small business units designed for SMEs, start-ups or organisations occupying low-cost units will be supported where the redevelopment involves provision of an equivalent or increased number of such units. Applications for development of buildings for commercial use in excess of 2,500 sqm. gross floor area shall include where possible a range of unit sizes and types suitable for small, start-up and independent businesses'.

Policy B2 of the Fitzrovia West Neighbourhood Plan states that 'retail, commercial, business, hospitality and other service uses are included in Use Class E. Applications involving uses falling into Use Classes E, F1 and F2 will be supported where they meet the following criteria:

- Provide attractive and vibrant street frontages and window displays particularly at street level;
- Maintain and enhance a high standard of design reflecting local character and location particularly in relation to heritage assets, such as shop fronts;
- Facilitate the movement of pedestrians by conforming with all City Council guidance and regulations on design, lighting, advertising and tables and chairs on pavements'

PR3 (1) states that 'the provision of new tourism and entertainment uses.....will be supported so long as there is no loss of residential floorspace or adverse effects on local amenity. They should be located in the West End Retail and Leisure Special Policy Area (WERLSPA)', where the application site is located. PR3 (2) states that the provision of cultural activities, such as art galleries and related uses will be supported so long as there is no loss of residential uses. These uses are particularly encouraged to locate in the WERLSPA' PR3 (3) states that planning applications for tourism and entertainment uses including all aspects of the night-time economy should fully respect the amenity of residents and other users in terms of noise, additional traffic generation, servicing arrangements and timing and the location of flues, air extracts and heating/cooling provision'.

Policy PR4 of the Fitzrovia West Neighbourhood Plan states development proposals for new community, health and sports facilities with access arrangements to meet the needs of all user groups and sections of the population will be supported.

Assessment

There are currently no policies which resist the loss of storage uses to other appropriate town centre uses in this area. Similarly, there is no policy which restricts the loss of the existing retail gallery in this location subject to the replacement uses at ground floor provides an active frontage that serves visiting members of the public.

All the proposed uses are considered to be in general compliance with the above policies in principle, but they must be subject to certain considerations, such as traffic

generation and preservation of local amenity. However, a key factor for this site, is uses that provide active frontages and serve visiting members of the public will be required at the ground floor throughout the town centre hierarchy. The current retail gallery use at ground floor totals approximately 160 sqm GIA but does not provide an active frontage, with no artwork being displayed within the shopfront. In order to improve the vibrancy of the street and ensure there is no 'dead frontage', the application proposes to use the front part of the ground floor as either retail, restaurant, café, gallery and/or wine bar / drinking establishment use. This comprises around two-thirds of the frontage and, in terms of floorspace, is broadly equivalent in area to the existing gallery use at ground floor level. Given the physical interventions on-site, it is considered that there would be a considerable improvement to the site's engagement with the street.

The proposed additional office floorspace is also acceptable given the site's location within the CAZ. The office reception does not dominate the Berners Street frontage, taking up around one-third of this frontage. Offices are not considered to have any adverse amenity or traffic implications subject to conditions as discussed in sections 9.5 and 9.6 below.

It is not considered that the introduction of a retail use (including a gallery for the retail sale of goods) would adversely affect the character of the area. However, it is recommended that a condition is imposed to limit the hours of use to between 07:00 to 23:00 to safeguard resident's amenity and the environmental quality of the area. Additionally, it is considered appropriate to prevent the use of the unit for food retail (supermarket purposes) given the impact of servicing for such uses upon the operation of the public highway. A further condition is recommended to be imposed preventing any music being played which is audible within neighbouring properties.

Medical/health and indoor sport/recreation/fitness uses are considered to constitute a community facility. No information has been provided demonstrating present or future need, but in this location the likely provision of such uses by the private sector would be in response to perceived demand and would not be objectionable.

Whilst indoor sport/recreation/fitness is considered acceptable in principle, the operation of any such facility needs careful consideration. Given the location of the site and the high level of local transport accessibility, it is considered that it is easily accessible to all potential users. A condition is recommended requiring the submission and approval of an Operational Management Plan (OMP) for the fitness facility including details of measures to prevent gym patrons entering/exiting the premises from causing nuisance for people in the area. Further conditions are recommended to limit the hours of gym operation from 07:00 to 22:00 daily, ensuring music is not perceptible within neighbouring properties and ensuring that all windows are closed after 21:00 daily. Subject to these conditions, it is not considered that a fitness facility at lower ground floor level would have a material impact on the amenity of neighbouring occupants, including the effect of any traffic generated.

Medical/health uses can generate significant amount of traffic. While it is likely that the majority of patients will use public transport, some may not be permitted or feel able to use it depending on available treatments. As such, a condition is recommended restricting medical treatments which require emergency vehicles arriving and departing from the site. A further condition has been imposed requiring the submission of an OMP

which includes details of staff and patient numbers, arrival and departure processes, length of patient stay. The medical use would be required to operate in accordance with the approved OMP. Additionally, a condition has been recommended to restrict the use to between 07:00 to 22:00 daily. With these conditions and noting the maximum size of the facility (300 sqm GIA), it is not considered that local amenity or the local highway network would be unduly impacted by the potential medical facility.

The application site's location within the CAZ, WERLSPA and within the West Fitzrovia Neighbourhood Plan areas to the north of Oxford Street and to the south of Mortimer Street means that there is a generally policy presumption that any of the potential entertainment uses proposed (restaurant, wine bar, or public house) are generally appropriate. As detailed above, the area is predominantly commercial in character with very little residential in close proximity to the site. There are a number of entertainment uses in vicinity of the site; however, given the dispersed nature of these neighbouring uses, it is not considered that there would be an overconcentration of entertainment uses in the area. The entertainment uses in the vicinity are as follows:

- Sanderson London Hotel (50 Berners Street)
- Flesh and Buns (32 Berners Street)
- Plenty (35 Berners Street)
- Greyhound Café (37 Berners Street)

As stated above, the site is in a busy commercial area and there is therefore less potential that the use would have a detrimental impact on the living conditions of neighbouring residents nor upon local environmental quality. Conditions are, however, recommended to be imposed which seek to ensure that the uses operate in a well-managed way without any detriment to the locality. These conditions included the following:

- The submission of Operational Management Plan including details of the management of external spaces;
- Ensuring no music is played within the premises which is audible beyond the boundary of the site;
- Ensuring access to the lower ground and ground floor courtyard spaces is restricted after 21:00 daily;
- Ensuring windows to the lower ground and ground floor units serving visiting members of the public are closed from 21:00 daily;
- Ensuring no patrons take drinks outside;
- Restricting the hours of operation from 07:00 – 00:00 Mondays to Thursdays, 07:00 – 00:30 Fridays and Saturdays and 09:00 – 22:30 Sunday and bank holidays.
- Limiting the maximum combined capacity of entertainment floorspace to 350 customers at any one time;
- Requiring detailed drawings showing the layout of the entertainment premises, including entrances, kitchen, covers and bar areas.
- Requiring the installation of the proposed extract duct prior to any primary cooking being carried out.

Subject to these conditions, the introduction of an entertainment use(s) on-site is

considered to be acceptable as it would be neither harmful to residential amenities or the prevailing character and function of the area.

Given the site's location, it is considered that the potential introduction of an art gallery for the display of works of art would contribute positively to the function and vitality of this part of the CAZ and WERLSPA; however, in the event that the exhibitions or events are held, it is considered necessary to impose the same operational conditions cited for the entertainment uses above.

The Fitzrovia West Neighbourhood Forum raised concern that the proposal would result in the loss of small to medium business. Whilst this may be true, it is considered that the proposal will provide flexible and adaptable floorplates that are capable of sub-division in order to ensure that it is attractive to a range of occupiers.

The Fitzrovia West Neighbourhood Forum have also requested that the flexible uses at ground and lower ground floor level should be limited to retail, art gallery and/or showrooms only with further flexibility to include a sports facility or a gym at lower ground floor level. As set out above, all of the proposed uses are acceptable in policy terms and in the absence of any harm, it would be unreasonable to insist upon this distribution of uses.

9.2 Environment & Sustainability

Sustainable Design

City Plan Policy 38(E) (Design Principles) states, "Applicants will demonstrate how sustainable design principles and measures have been incorporated into designs, utilising environmental performance standards as follows:

1. Non-domestic developments of 500 sq m of floorspace (GIA) or above will achieve at least BREEAM "Excellent" or equivalent standard.
2. Residential conversions and extensions of 500 sq m (GIA) of residential floorspace or above, or five or more dwellings will aim to achieve "Excellent" in BREEAM domestic refurbishment or equivalent standard".

The supporting text states, "As new developments are large consumers of resources and materials, the possibility of sensitively refurbishing or retrofitting buildings should also be considered prior to demolition and proposals for substantial demolition and reconstruction should be fully justified on the basis of whole-life carbon impact, resource and energy use, when compared to the existing building. All development should ensure the reduction, reuse or recycling of resources and materials, including water and waste and minimise energy use and emissions that contribute to climate change" (Para. 38.11).

Westminster's Environmental SPD (February 2022) guidance on the meaning of 'sustainable design principles' referenced in City Plan Policy 38(D) (Design Principles) is found within the 'Retrofitting and Sustainable Design' chapter of this SPD. This chapter states:

- "Refurbishment and retrofit projects provide an important opportunity to improve the energy and water efficiency of existing buildings and reduce emissions, which is key to achieving net zero carbon by 2040 and addressing water stress in the capital" (p. 104).
- "The upgrade and reuse of existing buildings is a sustainable approach and can

help by avoiding the higher carbon footprint associated with constructing new buildings” (p. 104).

Page 87 also states, “Where all or part of the existing building can be retained and demolition can be avoided, this will help conserve resources, reduce embodied carbon, minimise waste and avoid dust and emissions from demolition. However, this needs to be carefully balanced against other sustainability objectives, the need to deliver new housing and economic growth, meaning demolition will still be appropriate in some circumstances. When balancing the merits and impacts of retention or demolition of the existing building, the council will consider environmental, economic and social sustainability issues in the round with reference to other City Plan policies”.

Policy PR1(5)(III) of the Fitzrovia West Neighbourhood Plan (October 2021) states, “The demolition and replacement of a building will only be supported where the sustainable refurbishment and reuse of the building to be demolished has been fully considered”. PR1 (5)(v) states ‘All non-residential development of 500 sqm. of floorspace or above should achieve BREEAM ‘excellent’ or equivalent standard. All residential developments of 500 sqm. or above should achieve ‘excellent’ in BREEAM domestic refurbishment;’

The Fitzrovia West Neighbourhood Forum objects to the principle of a re-development in this case. The proposed development, however, is not for full demolition and redevelopment. Where feasible, the existing structure (including floors and columns) are proposed to be retained. The existing central core and southern third of the building, all existing services and majority of the facades within the development are proposed be demolished. The Council’s Sustainability Officer has reviewed the proposal and is satisfied that the level of demolition is justified. As such, it is not considered that the Fitzrovia West Neighbourhood Forum’s views can be supported in this case.

In order to understand the whole life carbon implications of the proposal, a study involving the optioneering of a number of design solutions was undertaken to explore different façade systems was carried out. Based on this study, a stone option has been chosen for the front façade and unitised aluminium for the rear and upper floor facades. Elsewhere, the proposed scheme incorporates several low carbon material specifications which allow for future adopting/reuse/circular economy strategy:

- Façade: Post-tension stone façade & using off-cuts in the interiors
- MEP: Water based Air Source Heat pump solution as supposed to a refrigerant based approach,
- Finishes: Low embodied carbon raised access floors & reused raised access floors

With respect to the existing materials on-site, a pre-demolition audit has been undertaken to assess the potential for reusing and recycling components and materials from the existing buildings. The applicant has stated that a minimum of 95% of waste will be diverted from landfill. A condition has been imposed securing this. The following materials are being re-used:

- Existing raised access floors are to be reused within the proposed scheme.
- A proportion of existing brickwork to be reused for the Mews in-fill building.
- All timber (6% of total waste generated) in the existing building to be used on-site

- and/ or off-site.
- Front façade brick for reuse off-site.
- Fixed furniture and equipment left behind by the existing tenants will be offered to organisations who enable reuse to recover prior to the commencement of soft strip-out.

A BREEAM Assessment has been conducted and the development is targeting BREEAM 'Outstanding' which exceeds the policy requirement.

In light of the above, it is considered that the applicant has demonstrated how sustainable and circular design principles and measures have been incorporated into designs to minimise the environmental implications of the proposal as far as reasonably practicable.

Energy Performance

Policy 36 of the City Plan requires that all development to reduce on-site energy demand and maximise the use of low carbon energy sources and for major development to be net zero carbon, following the London Plans' energy hierarchy (Lean, Clean, Green, Offset) with a minimum 35% beyond Part L 2013 to be provided on site. An Energy Statement has been submitted in support of the proposal.

With regards to 'Be Lean' (energy demand reduction), the high-performance building fabric, airtightness and thermal bridging is specified to reduce heat loss. Central and local mechanical ventilation with heat recovery (MVHR) units are proposed, in addition to high efficiency lighting and demand led presence control. At ground and lower ground floor levels, the proposed shell and core space has been modelled with minimum efficiency standards and because opening windows for natural ventilation is not feasible for all expected external conditions or proposed uses, mechanical ventilation with heat recovery (MVHR) is proposed for fresh air whilst minimising heat loss.

In respect of 'Be Clean' (building heating), there are no existing or proposed district heat networks in close proximity to the proposed development. As a standalone building of limited footprint there is limited scope to provide a site-wide heat network.

In terms of 'Be Green' (renewable generation), a range of renewable energy systems were explored including Solar Water Heating, Wind Power, Photovoltaics and ASHP Heating. ASHP and PVs (totalling 44sqm) were considered the only viable option and form part of the proposal.

Overall, the proposed development does not achieve a 35% improvement over the Building Regulations Part L 2021 Target Emission Rate (TER). However, following the replacement of a baseline based on the Part L 2013 with a baseline based on Part L 2021, this is now extremely difficult to achieve for commercial developments. This general difficulty is recognised by the GLA. In total, a 3% carbon reduction is achieved through energy efficiency measures ('Be Lean') and a further 3% due to the incorporation of savings from renewables through the inclusion of air source heat pumps and the PVs. The proposal results in a total cumulative on-site saving of 6% beyond part L 2021 as illustrated in the table below.

Table: Regulated carbon dioxide savings from each stage of the energy hierarchy.

	Regulated Carbon Dioxide Savings	
	Tonnes CO ₂ per Annum	%
Be Lean: Savings from energy demand reduction	1.1	3%
Be Clean: Savings from heat network	0.0	0%
Be Green: Savings from renewable energy	1.0	3%
Cumulative on-site savings	2.1	6%
Carbon shortfall	31.7	-
	Tonnes CO ₂	
Cumulative savings for offset payment	952	
Cash-in-lieu contribution	£90,481	

The Council's Sustainability Officer has reviewed the proposal and considers that carbon reduction measures on-site have been maximised given:

- The building is constrained by the existing footprint and massing and retained structure/floor to ceiling heights which limits daylight penetration to the proposed accommodation.
- As a result of climate change and recent summer temperatures within London, it is not considered practical that a building of this scale could function with summer temperature without some form of mechanical cooling.
- Viable options for renewable energy have been incorporated but it is not considered that there is any further potential for any additional provision given the competing nature for roof space such as ventilation for plant, greening and amenity space.

In accordance with City Plan Policy 36 (C) and based on the London Plan's carbon off-set price of £95 per tonne, the required total contribution to off-set carbon is £90,481 over a 30-year period. This would be met through such a contribution to the Westminster City Council's Emissions Fund, secured by legal agreement.

Air Quality

Policy 32 requires major developments to be at least Air Quality Neutral. The Air Quality assessment submitted with the application considers the impact of potential dust generation during the construction period, the suitability of the site for the proposed uses and the potential impact of traffic and energy-related emissions associated with the proposed development once operational. Environmental Health are satisfied that the Air Quality assessment has demonstrated that the proposed development is air quality neutral in terms of its on-going operational impact.

Flood Risk & Sustainable Drainage

City Plan Policy 35 and London Plan Policy S113 requires that developments utilise sustainable urban drainage systems (SUDS) unless there are practical reasons for not doing so. Developments should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed in line with the drainage hierarchy.

Flooding & Surface Water Run-off

The existing site is located within Flood Zone 1 and is considered to be a low risk of flooding from fluvial and tidal sources.

The development site area is less than 1 hectare in plan area, however, it is in an area where manmade infrastructure has been identified as a critical risk of failure, resulting in run-off causing localised flooding.

In order to reduce surface water run-off, the proposal incorporates an attenuation tank within the proposed lower ground floor, green roofs and planted areas. These measures have sufficient capacity to attenuate water in all storm events up to and including a 1 in 100 year event plus a 40% climate change allowance. To protect against sewer surcharge, the water will be pumped from the attenuation tank at a rate of 1l/s. Whilst surface water attenuation on-site does not meet green field target rates, given the proposal represents an 96.53% improvement over the existing situation and the sustainability of the scheme as a whole, it is considered acceptable in this instance.

Water Consumption

The development is targeting a maximum mains water consumption of 22.8 litres/person/day through a fittings-based approach, this is a 40% reduction over baseline of 38 litres/person/day.

Wastewater

The sustainability strategy submitted in support of the application includes a letter from Thames Water based on an earlier iteration of the proposed development. The iteration was comparable in scale to the current proposal. In that letter, Thames water confirmed that there would be sufficient sewerage capacity in the adjacent foul water sewer network to serve a development of this scale.

9.3 Biodiversity & Greening

City Plan Policy 34 states, 'Developments will, wherever possible, 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'. The proposal seeks to provide planted courtyards/terraces at lower ground, ground, first, and third to seventh floor level and green roofs at eight floor level and to the roof of the eight floor access hatch. The biodiversity benefits of the proposal are welcome and are recommended to be secured by condition.

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 Planning (Listed Buildings and Conservation Areas) Act 1990 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 the effect on the setting of a conservation area, City Plan Policy 39 requires development to ensure heritage assets (which includes conservation areas) and their settings are conserved and enhanced, in a manner appropriate to their significance. 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.

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.

Assessment

16-18 Berners Street is an unlisted building and it is not in a conservation area. It stands on the east side of the street and has a secondary frontage to the rear in Berners Mews.

The site is in the Great Estates Area of Special Archaeological Priority, partly within Protected Vista 2A.2 (Parliament Hill to the Palace of Westminster), near to both the East Marylebone and the Charlotte Street West conservation areas, and opposite the Grade II-Star listed Sanderson Hotel. The recently adopted Fitzrovia West Neighbourhood Plan also identifies the neighbouring building 19-20 Berners Street as an unlisted building of merit, in addition to those identified by the council in its conservation area audits covering the surrounding area.

The existing building is faced with London stock brick and has metal-framed windows to the Berners Street frontage. The façade is in two parts divided roughly 1/3 to 2/3 with the largest part having a poor quality, rendered, frontage at ground to first floor levels. Some visual interest is provided by the rainwater pipes and their hoppers which feature the letter 'H' (representing Hope's, the former occupiers of the site and manufacturers of metal-framed windows). The rear of the building, in Berners Mews is also in two distinct parts and the larger part is attractively, but simply, detailed and contributes positively to the street. The building was constructed in two distinct phases in the 1930s and 1950s and this reflected in the design of its facades.

In terms of its massing, the existing building is uncoordinated and at its greatest at the front (Berners Street) and centre of the site, with a substantially lower portion to Berners Mews. The bulk in the centre of the site is not reflected in neighbouring properties, although the bulk of nearby development increases at No.22 and reaches its maximum at No. 30 which was recently redeveloped.

The northern section of Berners Street, and the part which is not in a conservation area, is mostly an eclectic mix of mid-twentieth to early twenty-first century buildings with a muted palette of materials characterised by facades with more-or less overtly expressed architectural frames. The Sanderson Hotel (Grade II-Star) is noted for its curtain-walled exterior with aluminium mullions set between solid, brick-faced ends, with some Portland stone and glazed faience. Other buildings nearby in the street are similar, less

accomplished, examples of the type. However, as noted, the building at 19-20 Berners Street, makes a positive contribution to the street and surrounding area. The wider area is more typically characterised by buildings of red brick with stone details, and these can be found at the ends of the northern part of the street at the East Castle Street junction in the East Marylebone Conservation Area, and at the Mortimer Street junction in the Charlotte Street West Conservation Area.

The Fitzrovia West Neighbourhood Forum objects to the application for various reasons. While noting that there are aspects of the scheme to be commended and that the existing buildings are of limited architectural merit they, "...are typical of Fitzrovia in the use of London stock brick..." and "quirky". In their place, on Berners Street, the replacement façade is considered to be "...rather over-elaborate and heavy..." and the choice of red stone is felt to be without justification.

The design approach to the proposed Berners Street façade may be contrasted with that taken at No.46 where the brickwork was retained and recoloured with new windows and an enhanced ground floor frontage. Nevertheless, in design and heritage asset terms, while the use of a red-coloured facing material would make 16-18 stand out from its immediate surroundings, it would still be in character with the many red-brick facades found elsewhere nearby. There was previously a rather good Neo-Georgian building No. 25-27 which imparted a degree of richness to the street, No. 41-43 was also a brick and Portland stone Neo-Georgian building, and 34-44 was red brick. However, all that has been swept away and the new façade of 16-18 will help to reinstate some of the street's lost colour and visual interest.

The new façade utilises similar underlying design principles to those of its near neighbours, which means it is a fitting addition to its immediate surroundings. The parapet line is much the same as that of neighbouring buildings, and the tiered upper floors are set-back in a similar manner to those of No.30. Although, as the Fitzrovia West Neighbourhood Forum points out, the scheme is "...in danger of being over-development" due to the additional height and bulk, and it "...will result in another large, rather anonymous commercial office building...", this part of Berners Street is characterised by anonymous-looking commercial buildings which do not reflect the historic local character of development the area. Therefore, refusal of permission would not be justified in terms of design quality or character, and the red stone facing will provide some welcome visual interest.

The alterations to the rear façade in Berners Mews are uncontroversial and acceptable in design and heritage asset terms, and there are no excavation works proposed in the basement so there is no impact in archaeological terms.

The level of the development plane in Protected Vista 2A.2 where it crosses the site is 65.415m AOD, and the maximum height of the building is 58.350m AOD (to the top of the smoke vent enclosure). Therefore, the building will be below the development plane and have no adverse impact on the view.

Having regard to the above, it is not considered that the proposal will be harmful to the setting of the Grade II* Sanderson Hotel and therefore, the recommendation to approve permission is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9.5 Residential Amenity

Policy 7 of the City Plan 2019-2040 seeks to protect and, where appropriate, enhance amenity by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

Policy S33 of the City Plan 2019 – 2040 states, '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'.

Policy PR1 (5) (VIII) states, 'Applications should aim to limit to a minimum the loss of daylight and sunlight to adjoining occupants, increases in ambient noise levels or other adverse environmental impacts'.

Daylight and Sunlight

The applicant has submitted a Daylight and Sunlight Report that assesses the impact on the proposed development on the amount of daylight and sunlight received by the following properties:

- York House, 12 Berners Street
- 13 Berners Street
- 21 Berners Street
- 1-2 Berners Mews & 78-79 Newman Street
- 74 Newman Street
- 8 Berners Mews
- Sanderson Hotel.

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

Where the layout of affected room is known, the daylight distribution test can plot the 'no sky line' (NSL) which is a point on a working plane in a room between where the sky can and cannot be seen. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

The layout of the residential properties is not known and therefore, for the purposes of the daylight distribution test, reasonable assumptions have been used.

With regard to sunlight, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the

recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

There are no breaches of the guidance in terms of daylight or sunlight as a result of the proposal. As a result, the development will not have a material impact upon neighbouring properties in this regard.

Sense of Enclosure, Privacy and Noise

Given that the new building is set back on the western and eastern boundaries it is considered that the bulk and mass of the building would not result in a material increased sense of enclosure to any neighbouring properties.

No residential properties would be visible from the courtyard's spaces at lower ground, ground, first and on the upper levels facing Berners Street.

The proposal does include a series of terraces to the rear from third to seventh floor level. The closest residential property visible from the proposed rear terraces is located at 8 Berners Mews. This property is located on the opposite side of Berners Mews directly across from the building to the north of the application site. The northern section of the terrace to the rear third floor has the closest relationship to windows to No. 8 Berners Mews. At its closest, this terrace is approximately 10m away from to closest street facing residential window. Given the relationship and distance between the proposed terraces and neighbouring residential properties and the presence of windows at all levels on the existing Mews frontage within the existing office building, it is not considered that there will be a material increase in overlooking.

Due to the potential of the terraces being used for gatherings, it is considered necessary to impose a condition to control the hours of use of these spaces to between 08:00 and 22:00 and ensuring no music is played externally at any time. With these restrictions it is not considered that neighbouring residents would be unduly impacted by the proposed terraces.

Plant

Subject to the imposition of suitable conditions, Environmental Health has no objection from an environmental nuisance perspective, agreeing that the plant is capable of complying with the relevant criterion within Policy 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

9.6 Transportation, Accessibility & Servicing

Trip Generation

Due to the proposed increased in floorspace and the proposed uses on site, it is inevitable that the proposal will generate a significant number of additional trips. It is anticipated that the majority of these trips will be made by sustainable modes. In order to alleviate the potential of significant localised peaks or localised congestion and associated impacts on the character of the area, the submission of OMPs are recommended to be secured by condition prior to use of the ground and/ or lower ground floor for restaurant, public house, indoor sport/recreation/fitness, medical purposes. Further conditions have also been imposed to limit the permissible uses to those

described in the description of development as other Class E or Class F uses, given the limited information that has been provided, as other uses may have a different or unacceptable impact on the local highway/pedestrian network.

Servicing

City Plan Policy 29 requires the 'servicing, collection and delivery needs of a development to be fully met. Policy 29 does also make an allowance for development where it is not possible to fully meet these needs within the site itself and states (part D) that in this situation the needs 'must be met in such a way that minimises adverse effects on other highway and public realm users, and other residential or commercial activity'.

The ability of the development to provide onsite servicing provision has been discussed in detail; however off street servicing has not been included and the Highways Planning Manager has objected to the proposal on this basis. The applicant has sought to justify the lack of off-street servicing on the following grounds:

- The proposals are for a significant refurbishment of an existing building. The inherited structure does come with its constraints.
- The floor level of the existing building is 600mm above road level. This would need to be demolished and new structure formed to provide level access from the mews.
- Dropping the ground floor slab and creating a new thermal line for the loading bay would reduce height in basement, creating a significant amount of unoccupiable space at basement level.
- Even with the lowered floor slab, the height would be restricted to 2.65m meaning only circa 2.5m high vans could enter the loading bay. These are typically 4.6t vehicles at a maximum of 5.5m long e.g. a Citroen Relay 35 or Nissan Interstar F33.
- To allow vehicles to enter the site, internal columns will need to be demolished, requiring new transfer beams and potentially slab above.
- The existing storage bay has been explored for on-site servicing. This space does provide level access onto Berners Mews and would require less demolition, however, spatially does not have the capacity to accommodate both loading bay and bin store.
- The retained mews facade will need partial demolition, removing glazed frontage, and reducing natural surveillance, security and safety for the building as well as the mews generally. A new loading bay frontage will require large shutters which is visually not as welcoming as the existing facade. If these shutters are not used correctly, they could provide an opportunity for unauthorised access.
- Internal access from the loading bay would require lobbying. This will need to be smoke vented manually, resulting in additional extract and louvring to the retained mews facade.
- The restriction on vehicle size would mean a number of vehicles would still need to serviced on-street which would be difficult to manage and to enforce. It would not be possible to service the site using only 4.6t vans, therefore making off-street servicing unviable.
- If the development was to be serviced by a 7.5t vehicle. It would result in a storey and a half loading bay. This will require further structural and facade demolition

and make the area directly above the bay unoccupiable, in addition to the basement.

There is currently a storage unit with vehicular access from Berners Mews to the rear of the site. This area is 600mm lower than the remainder of the ground floor. Whilst there is a basement/lower ground floor beneath the remainder of the site, there is no existing or proposed accommodation underneath this part of the site. The first floor slab in this section of the site is being demolished and the replacement first floor slab will be approximately 600mm higher to ensure internal level access with the remainder of the first floor accommodation. Whilst vehicular access to this part of the site is restricted to 2.5m currently, as a result of the increase height of the first floor slab, it is considered that vehicles up to 3m in height could easily be accommodated. Whilst it is acknowledged that waste collection vehicles could not be accommodated, if an off-street loading bay were provided, the majority of other delivery vehicles could be accommodated on-site. The provision of the off street servicing in this location would require the proposed waste store to be relocated which would reduce the amount of lettable area at ground floor and would require alterations to the facade, however, this is no different to any other development site.

The applicant has estimated that the proposal would increase the number of servicing trips of 1 to 3 vehicles per day depending on how the lower floors are being used. The applicant considers that the provision of a waste store (waste is currently stored on the Mews), the provision of ground floor goods holding area and a commitment to provide a detailed servicing management plan (SMP) prior to occupation of the development would off-set any negative implication associated with the increase of off street servicing vehicles.

Whilst it is considered that the lack of off-street servicing provision is contrary to policy, with conditions/legal agreement securing the provision of the proposed waste storage, the goods holding area, an SMP and the reinstatement of a section footway along Berners Mews (see highway works below), it is not considered that lack of off street servicing would adversely impact people utilising the highway and public realm when considering the proposal as a whole and therefore a refusal on this basis is not considered justifiable.

Car Parking

Policy 27 supports development without car parking provision. The impact of the increase floorspace and proposed uses on parking levels will be minimal.

Cycle Parking

The London Plan Policy T5 requires would require 65 long stay cycle parking spaces, assuming that the proposal maximises the permissible office use onsite. The uplift in floorspace generates a minimum requirement of 11 cycle parking spaces. The proposal provides 51 cycle parking spaces and a further 14 folding bike lockers. Whilst this is better than the existing situation, it is disappointing that 65 regular spaces could not be provided. No additional provision within the scheme is provided for short stay cycle parking. However, given the scheme is not a complete redevelopment scheme it is accepted that short stay parking cannot reasonably be provided.

Pavement Lights/Highway Works

The proposal involves the replacement of pavement lights to the rear of the site. Given the extent is not increasing, no objection is raised.

As referred to above, there is an existing vehicle crossover which will be redundant if this proposal is built out. In order to improve the pedestrian environment and offset some of the negative aspects of the proposal including an increased level of on-street servicing, it is considered necessary to require the applicant to reinstate a footway in this location. This will be secured by legal agreement.

Waste

The applicant has indicated waste storage in accordance with the Council's waste storage requirement which is welcome.

9.7 Economy including Employment & Skills

Policy 18 requires that major developments contribute to improved employment prospects for local residents. Additionally, for a scheme of this size, a financial contribution towards employment, education and skills is also required.

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.

The applicant has indicated that the proposed development has the ability to accommodate up to 507 employees which is an increase of 404 based on the number of people currently employed on-site. During construction it is estimated that there would be between 30-60 people to be onsite at any given time. This does not account for desk-based roles which support the site, such as project managers, administration and management roles nor jobs created through the supply chain associated with construction materials.

Based on the total net uplift floorspace, this scheme needs to provide a financial contribution of £33,020 in line with Westminster's Inclusive Local Economy Policy (November 2021) and City Plan Policy 18(D). This financial contribution will be secured by legal agreement.

9.8 Other Considerations**Construction impact**

A condition is proposed which requires the applicant to sign up to the Council's 'Code of Construction Practice' (COCP) to ensure that the construction process is carefully managed, minimising disruption to neighbours and the highway and reducing the effects of noise, dust, traffic movements etc. resulting from the construction. As part of this process, Environmental Health Officers will liaise with both the applicant and neighbouring occupiers during the construction process to ensure that neighbours' concerns are addressed. Regular site visits will be undertaken to monitor construction operations and ensure compliance. A further condition is recommended to control the hours of building works. Subject to these conditions, it is considered that the potential

effects of the construction process will be ameliorated as far as possible.

Secure by Design

The Metropolitan Police Service has stated that Berners Mews is not suitable for any main or secondary entrance/exit route for any development along Berners Street due to the lack of passive surveillance along the mews and crime rates. A condition is recommended ensuring access and egress to and from the premises via the Berners Mews is limited to cyclists and back of house staff (other than in an emergency).

The Metropolitan Police Service has also stated that the flexible uses at ground and lower ground floor level each come with their own security needs and consider that applicant should carry out the development with secure by design principles in mind, once clarification of the use of the lower levels of the building have been determined. A Secured By Design condition has been recommended.

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

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

- A financial contribution of £90,481 towards the Carbon Off-Set Fund (payable prior to commencement of development).
- Undertaking of highways works within the vicinity of the site include the re-instatement of footway in place of redundant vehicle crossover and the replacement of pavement lights and associated works along the Berners Mews frontage. Highway works to be completed prior to the re-occupation of the development (if undertaken by the owner).
- The submission of the 'Be Seen' energy performance indicators for the development (with confirmation to the City Council) in accordance with the Be Seen Guidance via the Mayor of London's Energy Monitoring Portal
- A financial contribution of £33,020 to support the Westminster Employment Service (payable prior to commencement of development).
- The costs of monitoring the agreement.

Regulation 122(2) of the CIL Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

All of the draft 'heads' of agreement set out above meet these tests.

The estimated CIL payment is:

Mayoral CIL: £87,760
Westminster CIL: £219,400

Total CIL: £307,160

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the

- Code of construction practice
- BREEAM rating and certificate of assessment

The applicant has agreed to the imposition of these conditions.

10. Conclusion

Whilst recognising the concerns raised by the Fitzrovia West Neighbourhood Forum, the proposal is considered acceptable in land use, design, conservation, sustainability, highways and amenity terms. The proposed extensions are considered to protect the character and appearance of the area and setting of nearby heritage assets.

As such, the proposal is considered acceptable, mindful of policies 1, 7, 14, 15, 16, 17, 18, 24, 25, 27, 29, 32, 33, 34, 35, 36, 37, 38, 34, 36, 38, 39, 40 and 43 of the City Plan 2019-2040 and policies B1, B2, PR1, PR3 and PR4 of the Fitzrovia West Neighbourhood Plan 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: MARK HOLLINGTON BY EMAIL AT MHOLLINGTON2@WESTMINSTER.GOV.UK.

11. KEY DRAWINGS











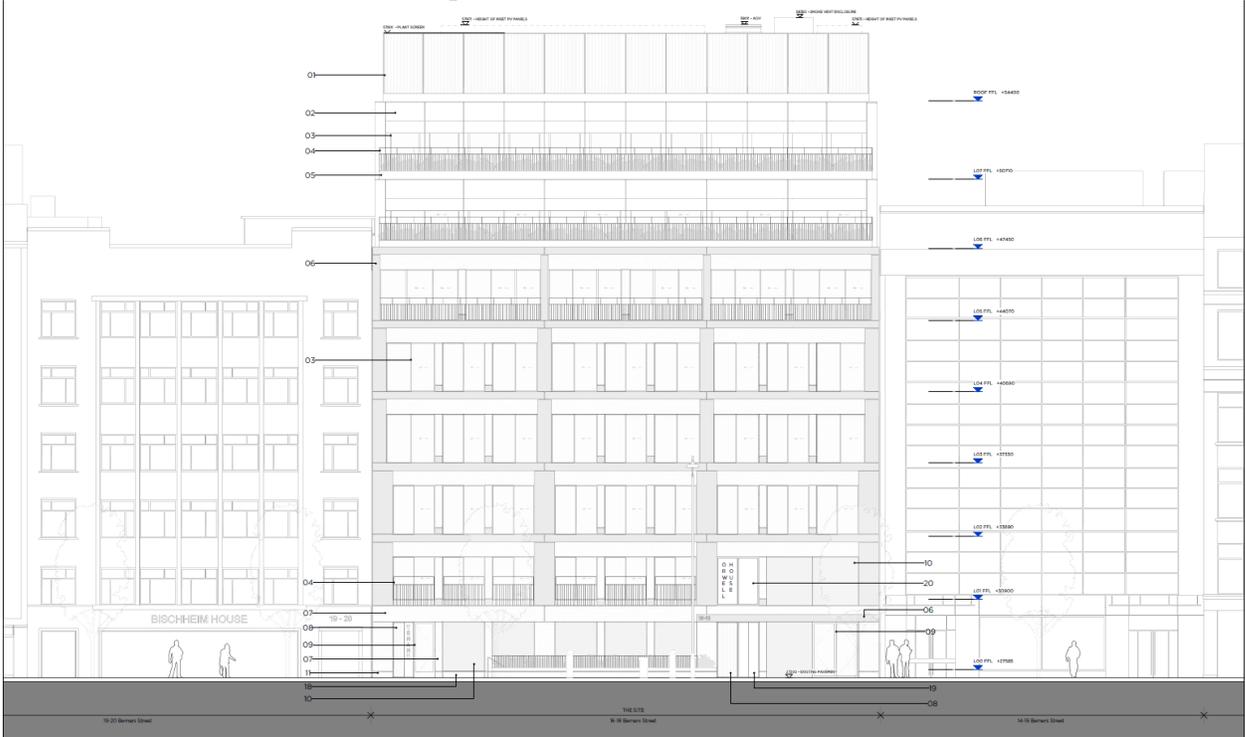




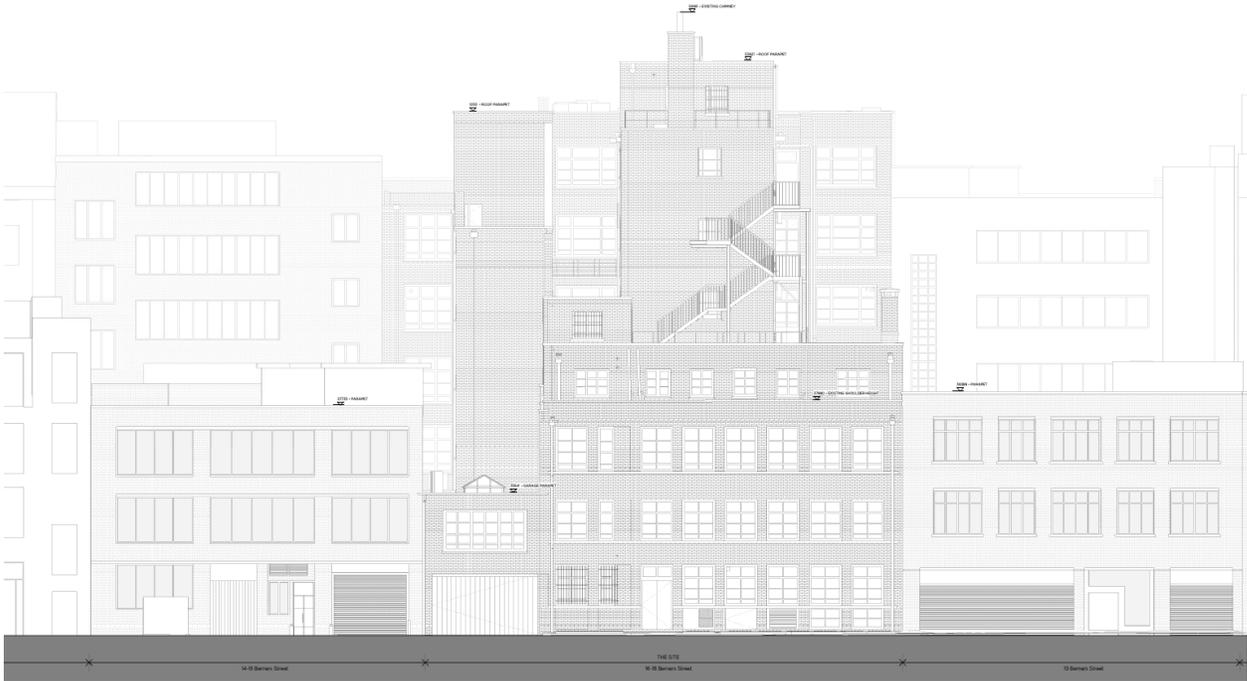
Existing Berners Street Elevation



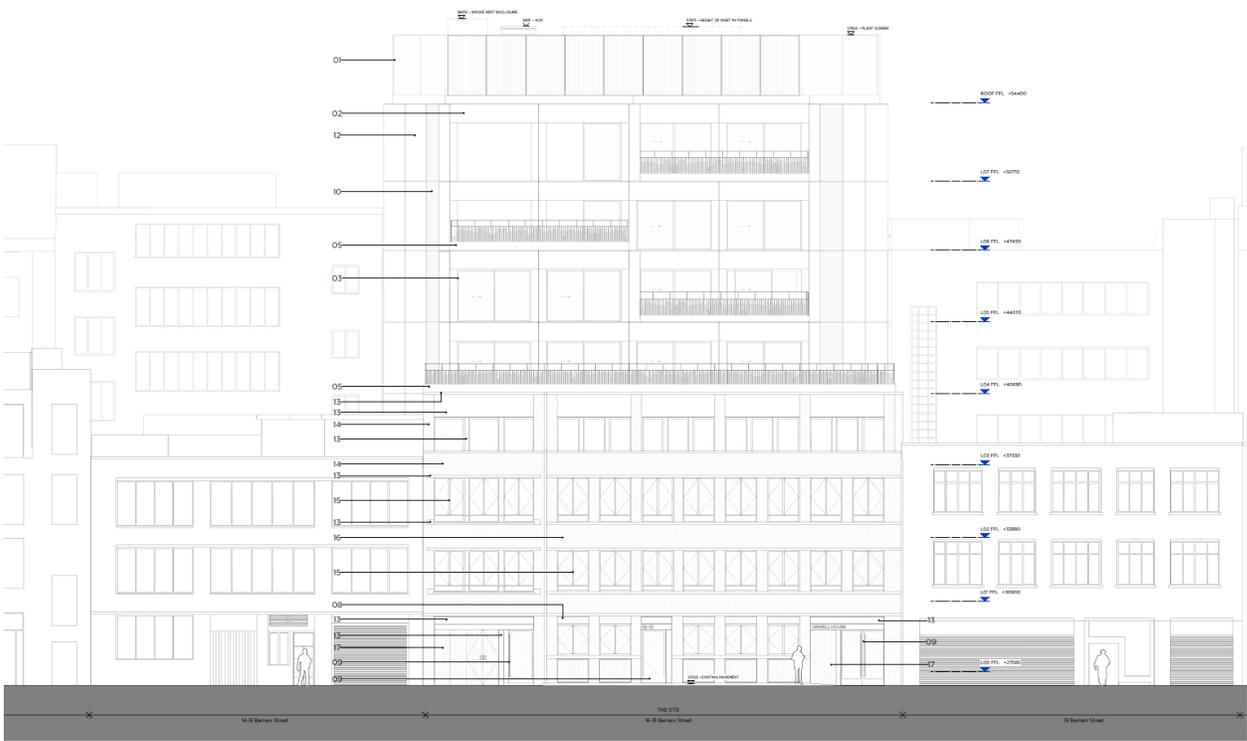
Proposed Berners Street Elevation



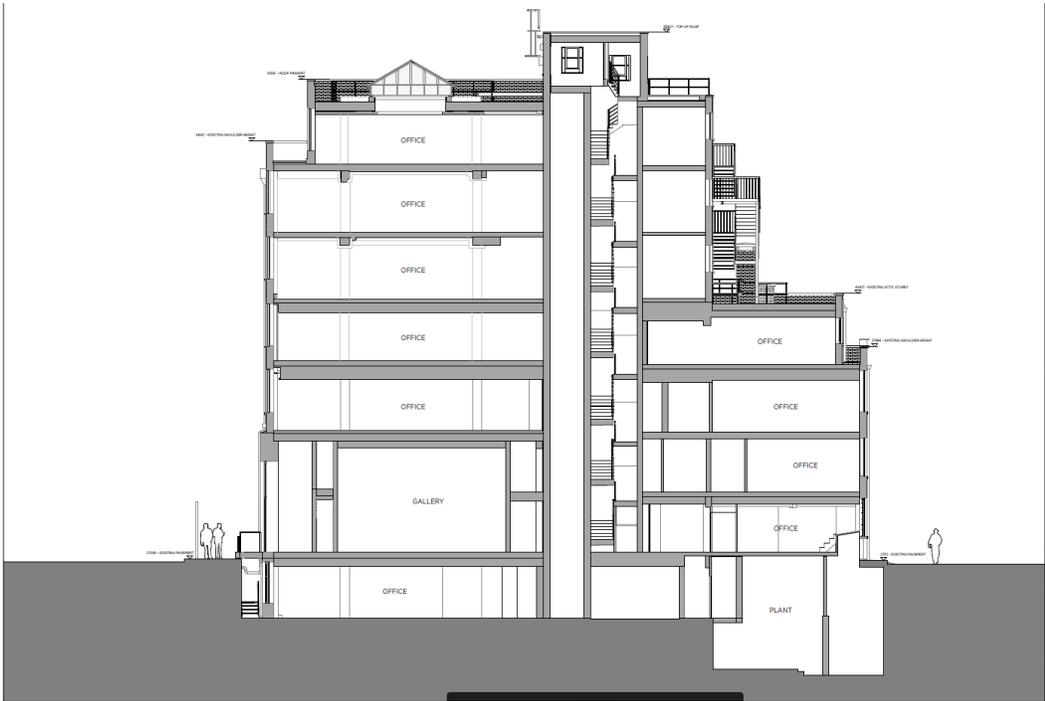
Existing Berners Mews Elevation



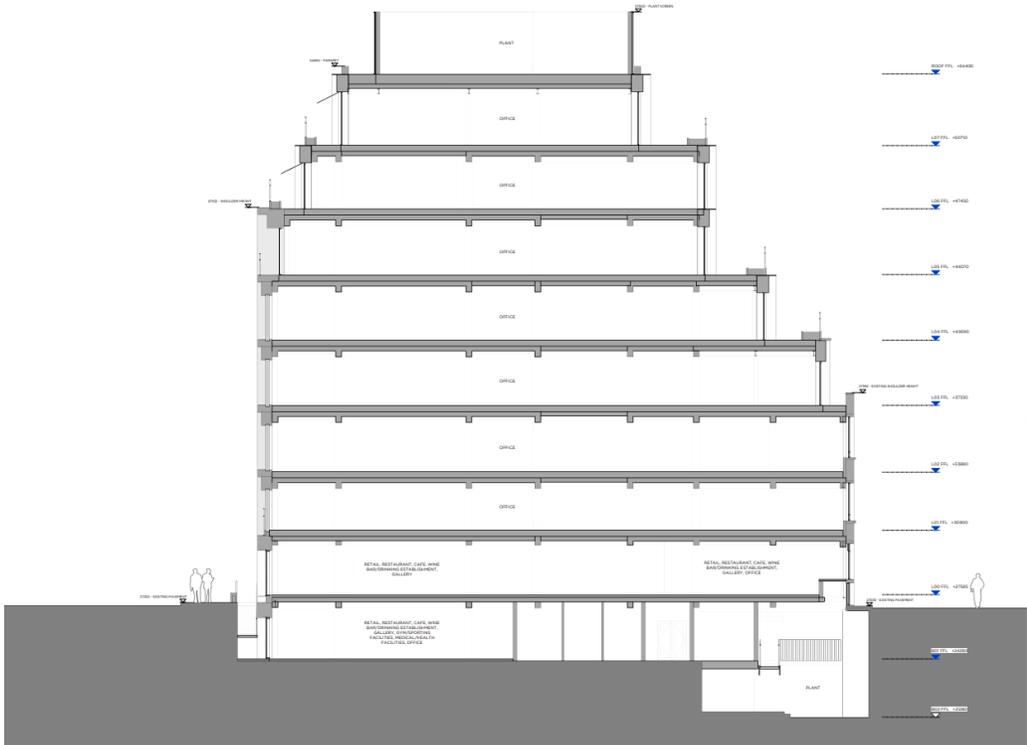
Proposed Berners Mews Elevation



Existing section



Proposed Section



DRAFT DECISION LETTER

Address: Orwell House, 16-18 Berners Street, London, W1T 3LN

Proposal: Partial demolition, refurbishment and extension of the existing building comprising removal of the Berners Street facade and stepped rear extensions at third to seventh floor levels; creation of external terraces; removal of existing mews storage unit and infilling to mews building; recladding of facades; installation of new plant equipment; new cycle parking and facilities; and associated works. Use of the building for office use (Class E) (excluding ground floor front) and/or provision of retail (Class E), restaurant (Class E), cafe (Class E) / gallery (Class F1) and/or wine bar / drinking establishment use (Sui Generis) at ground floor, and use of part lower ground (front) as flexible retail (Class E), restaurant (Class E), gallery (Class F1), wine bar / drinking establishment (Sui Generis), medical (Class E), office (Class E) or gymnasium (Class E).

Plan Nos: (00)P205 P00, (00)P063 P00, (00)P066 P00, (00)P067 P00, (00)P305 P00, (00)P062 P00, (00)P068 P00, (00)P060 P00, (00)P064 P00, (00)P061 P00, (00)P065 P00, (00)P206 P00, (00)P059 P00, (00) P210 P00, (00)P310 P01, (00) P311 P01, (00) P312 P00, (00) P313 P00, (00) P314 P00, (00) P315 P00, (00) P210 P00, P211 P00, (00) P099 P02, (00) P100 P01, (00) P101 P00, (00) P102 P00, (00) P103 P00, (00) P104 P00, (00) P105 P00, (00) P106 P00, (00) P107 P00, (00) P108 P00, (00) P109 P01, OWHO-MXF-ZZ-B2-DR-M-10100 P02.

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 Pre Commencement Condition.

Prior to the commencement of any:

- (a) demolition, and/or
- (b) earthworks/piling and/or
- (c) construction

on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

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)

- 4 You must provide each cycle parking space and associated facilities for cyclists shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces and associated facilities for cyclist must be retained and the space used for no other purpose. (C22IA)

Reason:

To provide cycle parking spaces and associated cycling facilities for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22GA).

- 5 You must hang all doors or gates so that they do not open over or across the road or pavement unless in the event of an emergency and for means of escape. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 6 You must submit a Servicing Management Plan for the City Council's approval prior to the occupation of the building hereby approved. The plan should identify process, internal storage

locations, scheduling of deliveries and staffing. The approved Servicing Management Plan shall be adhered to thereafter unless an alternative Servicing Management Plan is 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)

- 7 You must use the goods holdings area shown on the approved plans only for loading and unloading purposes only. (C23AA)

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)

- 8 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 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

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)

- 9 (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 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 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 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 L A90, 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.

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)

- 10 The emergency plant and generators hereby approved shall only be used for the purpose of public safety and life critical systems and shall not be used for backup equipment for commercial uses such as Short Term Operating Reserve (STOR). The emergency plant and generators shall be operated at all times in accordance with the following criteria:
- (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the LA90, 15 mins over the testing period) by more than 10 dB one metre outside any premises.
 - (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required in an emergency situation.
 - (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays. (C50AC)

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 11 i) The terraces hereby approved from first to seventh floor level shall only be used between 0800 and 2200 hours Monday to Friday only.
- ii) The lower ground and ground floor courtyards shall only be used between 0800 and 2100 hours daily.

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)

- 12 You must not play live or recorded music on terraces/courtyards hereby approved.

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)

- 13 You must provide the following sustainability features as shown on the approved drawings before occupation of any part of the development:

- Green roof/planters
- Water attenuation tank
- Photovoltaic panels.
- Air source heat pump system.
- Allowance for connections to any future heat network in the vicinity of the site.

You must not remove any of these features.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 34, 35, 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 14 You must apply to us for approval of details of a biodiversity management plan in relation to green roofs and planters hereby approved. You must not start any work on this element until we have approved in writing what you have sent us. You must carry out the measures in the biodiversity management plan according to the approved details before you start to use the building.

Reason:

To reduce the effect the development has on the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021).

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

Reason:

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)

- 16 a) You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM), you must provide a Design Stage Interim BREEAM rating and certificate of assessment showing that the development is expected to achieve an 'outstanding' rating under BREEAM UK New Construction 2018. If you use another method, you must achieve an equally high standard.

b) You must apply to us for approval of details of a post construction stage report which demonstrates that the development meets an "outstanding" rating under BREEAM UK New Construction 2018. This report shall be submitted to us within 6 months of the occupation of any part of the building. If you use another method, you must achieve an equally high standard.

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)

- 17 The development hereby approved shall be constructed to achieve or exceed the BREEAM 'Excellent' standard for the 'Wat 01' water category or equivalent.

Reason:

To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021).

- 18 You must put up the acoustic enclosures shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect the environment of people in neighbouring properties and to make sure the appearance of the development is suitable and contributes to the character and appearance of the area. This is in line with Policies 7, 33, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R13CD)

- 19 Prior to any primary cooking taking place on site, you must install the extract duct hereby permitted and then retain at all times that primary cooking is taking place

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). (R14AD)

- 20 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on the approved drawings prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the building. (C14FC)

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)

- 21 i) The ground floor accommodation coloured in blue as shown on drawing (00)P100 P01 must be used as non-food retail, restaurant, cafe, gallery (either of the sale and or display of art) and/or wine bar / drinking establishment use and for no other use, including any within Class E and Class F of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020) (or any equivalent class in any order that may replace it.
- ii) The ground floor accommodation coloured in red as shown on drawing (00)P100 P01 must be used as offices, non-food retail, restaurant, cafe, gallery (either of the sale and or display of art) and/or wine bar / drinking establishment use and for no other use, including any within Class E and Class F of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020) (or any equivalent class in any order that may replace it.
- iii) The lower ground floor accommodation coloured in red as shown on drawing (00)P099 P02 must be used as medical, indoor sports/recreation/fitness, office, non-food retail, restaurant, cafe, gallery (either of the sale and/or display of art) and/or wine bar / drinking establishment use and for no other use, including any within Class E and Class F of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020) (or any equivalent class in any order that may replace it.
- iv) With the exception of the areas referred to in parts i, ii, and iii above and the areas coloured in dark grey and green on drawings (00)P100 P01 and (00)P099 P02, the building must be used for office purposes only including any within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020) (or any equivalent class in any order that may replace it.
- v) Notwithstanding the provision within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020) or any equivalent class in any order that may replace it, the terraces/courtyards at first to seventh floor level hereby approved must be used by office occupants only.

Reason:

To ensure that the development is carried out in accordance with the use sought and assessed,

to ensure that the parts of the building are not used for other uses within Class E that may have different or unacceptable waste storage, servicing, amenity or transportation requirements and / or impacts in accordance with Policies 16, 17, 18, 24, 25, 26, 28, 29, 32, 33, 34 and 37 of the City Plan 2019 - 2040 (April 2021).

- 22 In the event that the ground floor and lower ground floor units shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 are used as medical (lower ground floor only), indoor sports/recreation/fitness (lower ground floor only), gallery which holds exhibitions or events, cafe, and/or as wine bar / drinking establishment, you must apply to us for approval of an Operational Management Plan prior to occupation including details of the management of external spaces. The Operational Management Plan must thereafter be maintained and followed by the occupants of the unit(s) for the life of the development.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 23 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the ground and lower ground floor unit(s) 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the ground and lower ground floor unit(s) 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, 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 including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity. (C47AC)

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)

- 24 Windows to the ground floor and lower ground floor units shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 should be closed between the hours of 2100 and 0800 the following morning.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 25 No patrons are permitted to take drinks outside of the buildings.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 26 i) In the event that the ground floor and lower ground floor unit(s) shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 are uses as restaurant, cafe, and/or as a wine bar / drinking establishment, no customers shall be allowed on the premises other than between 07:00 and 00:00 Mondays to Thursdays, 07.00 and 00:30 Fridays and Saturdays and 09:00 and 22:30 Sunday and bank holidays.

ii) In the event that the ground floor and lower ground floor unit(s) shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 are uses for retail or gallery purposes, no customers shall be allowed on the premises other than between 07:00 to 23:00 daily.

iii) In the event that the lower ground floor units shown in red on drawings (00)P099 P02 is used for medical purposes, no patients are permitted on the premises before 07:00 or after 22:00 daily.

iii) In the event that the lower ground floor units shown in red on drawings (00)P099 P02 is used for indoor sports/recreation or fitness purposes, no customers are permitted on the premises before 08:00 or after 22:00 daily.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 27 In the event that the ground floor and lower ground floor units shown in blue and red on

drawings (00)P100 P01 and (00)P099 P02 are used in part or in full as a restaurant, cafe, wine bar and or drinking establishment, the total combined capacity must not exceed 350 customers at any one time.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 28 You must not provide a food delivery service from the premises, including no deliveries by any third party independent delivery operator.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 29 Access and egress to and from the building via the Berners Mews entrance shall be limited to cyclists and back of house staff only. All building users can however use the Berners Mews access to escape in an emergency.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 30 Prior to occupation of the building, you must apply to us for approval of details of measures demonstrating that the development achieves Secured by Design accreditation. You must then carry out the approved measures prior to occupation and retain them for the lifetime of the development.

Reason:

To reduce the chances of crime without harming the appearance of the building as set out in Policy 38 of the City Plan 2019-2040 (April 2021). (R16AD)

- 31 Prior to the commencement of the demolition of the facades or floor structures, you must apply to us for approval of a 'demolition waste statement' demonstrating that a minimum of 95% of demolition waste will be diverted from landfill. You must not commence works to demolish the facades or floor structures or carry out construction work associated with the superstructure until we have approved in writing what you have sent us. You must then reuse, recycle or recover demolition waste in accordance with the approved 'demolition waste statement'.

Reason:

To make sure that the waste from the construction will be diverted from landfill. This is as set out in the London Plan Policy SI7.

- 32 In the event that the lower ground floor accommodation coloured in red as shown on drawing

(00)P099 P02 is used for medical purposes, no medical treatments which require emergency vehicles arriving and departing from the site are permitted.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 33 In the event that the ground floor and lower ground floor units shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 are used in part or in full as a restaurant, cafe, wine bar and or drinking establishment, you must submit detailed drawings showing the layout of the premises prior to occupation. The drawings must include, entrances and lobby, kitchen (if relevant), covers, bar areas and access arrangements. You must then occupy the ground floor and lower ground floor restaurant, cafe, wine bar and or drinking establishment in accordance with the approved layout unless an alternative layout is submitted to and approved by the Council.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 34 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)

- 35 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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)

- 36 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on any of the terraces.

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)

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 You are encouraged to service the building utilising electric vehicles.
- 3 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the flexible lower ground and ground floor units can change between the Class E and Class F uses we have approved have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further
- 4 With reference to condition 3 please refer to the Council's Code of Construction Practice at (www.westminster.gov.uk/code-construction-practice). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Inspectorate (cocp@westminster.gov.uk) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition). The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and

submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Inspectorate team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by the Environmental Inspectorate prior to the submission of the approval of details of the above condition.

- 5 With regards to condition 22 the content of an OMP that we would expect will vary depending on the type of use.

An OMP for a medical use should include details of staff and patient numbers, arrival and departure processes, hours of operation, length of stay.

An OMP for an indoor fitness/sports /recreation use should show how you will ameliorate any potential nuisance for people in the area.

An OMP for a restaurant, wine bar, public house or a gallery which holds events/exhibits should show how you will prevent customers who are leaving the building from causing nuisance for people in the area, prevent customers queuing on the street, manage customers who wish to smoke and prevent customers from taking their drinks outside.

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.