

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 26 July 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Marylebone High Street	
Subject of Report	Apartment 7.01, 9 Marylebone Lane, London, W1U 1DB		
Proposal	Installation of a roof terrace level with metal balustrades.		
Agent	DSDHA		
On behalf of	Mr Paul Coehlo		
Registered Number	22/02368/FULL	Date amended/ completed	7 April 2022
Date Application Received	7 April 2022		
Historic Building Grade	Unlisted		
Conservation Area	N/A		
Neighbourhood Plan	None relevant.		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application site is located on the eastern side of Marylebone Lane with frontages on Bourne Mews and Aldburgh Mews, an entirely residential mews to the immediate rear of the site. 9 Marylebone Lane, The Mansion, is a residential building, built pursuant to planning permissions granted in 2014. The application relates to an apartment building at level 7, a 3-bedroom penthouse apartment with a small balcony also at level 7. Permission is sought to install an internal stair to provide access to a roof terrace enclosure to the north-western corner of the building, through a hinge-open roof light. Existing PV panels are to be relocated onto the adjacent sedum roof.

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

The key issues in the determination of this application are:

- The impact of the works on the character and appearance of the building and adjoining Harley Street and Stratford Place Conservation Area;
- The impact of the roof terrace on the amenity of neighbouring properties;

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

4. PHOTOGRAPHS





Views from Aldburgh Mews

5. CONSULTATIONS

5.1 Application Consultations

COUNCILLOR SCARBOROUGH

A roof terrace was never part of the original planning application and will look straight down onto the courtyard and overlook the houses on the west side removing any privacy for all.

MARYLEBONE ASSOCIATION

No response to date

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 40;

Total No. of replies: 7 (from 5 respondents) raising the following objections:

Amenity

- * The proposal would breach Policy 7 (A) of Westminster's City Plan that requires development to be neighbourly, protecting and enhancing amenity such as preventing unacceptable impacts, including sense of enclosure, overshadowing, privacy, outlook and overlooking.
- * Loss of privacy both to the houses in Aldburgh Mews facing the building together with adjacent properties
- * Anyone on the terrace would have a 'Big Brother' view directly into the Mews and actually, directly into residents' homes, including bedrooms.
- * The terrace is an extremely large space that can accommodate significant seating together with a twelve-seater dining table. The potential for noise disturbance is completely unacceptable
- * The Mansion already has an overbearing appearance to Aldburgh Mews and this proposal will only serve to increase that overbearing presence
- * Loss of light
- * The properties in Aldburgh Mews already suffer significant disruption due to the poor existing design of The Mansion and this proposal only serves to increase the disruption to the enjoyment of the Mews by the residents.

Design

- * The proposal involves a further storey. The Mansion building had already reached its maximum height allowance which, in any event, have been limited to 6, not 7 stories
- * The proposal is for a shed-like structure add-on to a building that is already too high for the site, which would be obvious and unsightly
- * Section 3.9 of the proposal provides some 'VU City Views' and seeks to assert that "it is clear that the roof terrace enclosure is not visible from either of these views." Again, this is disingenuous 'spin' for the purpose of the application.
- * The proposals include a tree in a planter and lighting, all of which would draw the eye to this unnecessary afterthought.

Other matters

- * There is absolutely no need for the owner of this penthouse to be given permission for another roof terrace, when he already has one and a balance must be struck between one owner's desire for a second roof terrace at a cost of £2m and the interests of the wider community, residents and neighbourhood.
- * The extension to this building is not 'development' and it is not necessary.
- * Disturbance during construction. Residents are still blighted by scaffolding on the Mansion, having lived with demolition, excavation and construction for the best part of a decade.
- * Residents have been blighted by the development of The Mansion, and continue to be blighted by scaffolding, construction noise outside of lawful working hours, and Clivedale have not fulfilled all of their promises and obligations on the original build, including a promise to 'green-wall' the London Underground vent. There should be no application and certainly no permission until 'The Mansion' has complied with the previous promises they gave and the permission granted.

SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

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

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2 Neighbourhood Planning

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

6.3 National Policy & Guidance

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

7. BACKGROUND INFORMATION

7.1 The Application Site

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

The building lies within close proximity to Aldburgh Mews, a residential mews containing 12 properties.

7.2 Recent Relevant History

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

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

8. THE PROPOSAL

The proposal is for the installation of a 17sqm roof level terrace, accessed via a hinge-open access rooflight. The terrace will be enclosed by part solid and part open metal balustrades and seating and storage is integrated into the design, as is a 2.5sqm planter.

9 existing PV panels are to be relocated onto the adjacent sedum roof.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The application does not raise any land use issues.

9.2 Environment & Sustainability

Sustainable Design

The proposals involve the relocation of nine PV panels which will sit on top of the adjacent existing sedum roof. Detailed design will ensure fixings are appropriate as to not impact the thriving of the roof or its biodiversity.

Light Pollution

The proposed lighting strategy is intended to be subtle and has been designed to be integrated into planters and benches. An informative has been included to remind the applicant to design the lighting so that it does not cause any nuisance for neighbours at night.

9.3 Biodiversity & Greening

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

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 LBCA Act requires that “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Detailed Design

9 Marylebone Lane is an unlisted building completed circa 2019. It stands on the west side of Marylebone Lane between Bourne Mews and Aldburgh Mews. It is not in a conservation area but adjoins the Harley Street Conservation Area to the north, and the Stratford Place Conservation area to the south which also includes the Grade I listed Stratford House.

The application site is at roof level on the north-west corner of the building and seeks permission for alterations to create a roof terrace. The existing roof is subdivided to provide areas for photovoltaic panels and living roofs, along with other mechanical plant associated with the building.

When the building was constructed, in design and heritage asset terms a key feature of it was to ensure it had minimal visual impact in views from Stratford Place towards Stratford House. The previous building on the site had a turret feature that was conspicuous on the skyline and which detracted from the setting of Stratford House. That has been removed as part of the redevelopment and the view along Stratford Place is thereby much improved. (See below).





This is a key point raised by an objector to the current application who notes in the committee report relating to the redevelopment of 9 Marylebone Lane that there was a requirement for a “silhouette that provided a level and symmetrical backdrop to Stratford House.” The objector is of the opinion that the proposal would add an unsightly box to the top of the building, that from any distance would appear as a shed, along with a tree in a planter and lighting all of which would draw the eye to what they believe is an unnecessary afterthought.

The objector also believes that the impact on the north facade would be unacceptable in design and heritage asset terms, further referencing the shed-like structure and its impact on the otherwise sleek roofscape which is visible in street-level views such as from Marylebone Lane.

The applicant has analysed the visual impact of the proposed roof terrace from various points and made use of 3D modelling software. However, the objector challenges the accuracy of the information provided.

In design and heritage assets terms, there is no evidence to support the assertion that the 3D modelling is inaccurate or misleading. The view from Stratford Place would be unaltered by the proposal, and there would only be very slight visibility of the roof terrace enclosure from distant views in Wigmore Street and Marylebone Lane. In these views the enclosure, which is formed principally of metal railings, would not appear incongruous or out of character with the building or its surroundings. While the terrace would be more obvious in views from the upper floors of taller surrounding properties, considering the existing appearance of the photovoltaic panels and other mechanical plant on the roof, the terrace would not appear incongruous or out of character with its immediate surroundings, and its detailed design has been created to ensure that it suits the appearance of the existing building.

The detailed design of the roof terrace is acceptable; it will suit the building and will

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

9.5 Residential Amenity

Development that could result in a change to the amenity of neighbouring residents, such as that of the proposals here, must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing. Policy 33 is also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers.

Objections have been received from the occupants of five properties in Aldburgh Mews on the grounds that the proposed roof terrace would result in loss of privacy, daylight and unacceptable noise disturbance.

Privacy

There are views down to the properties in Aldburgh Mews from the existing balcony at seventh floor, and residents concerns about additional overlooking and loss of privacy are clearly understood. However, the proposed roof terrace is set back approximately 1.5m from the rear facade of 9 Marylebone Lane and would be 5 stories higher than the properties at the rear, and so there would be no line of sight to the windows and balconies in Aldburgh Mews. Section sight-lines have been submitted that demonstrate that, by way of the parapet height and the setback of the roof terrace from the building edge, the sight line is some way above the Aldburgh Mews buildings.

It is not considered that the scheme would result in any loss of privacy to residential windows in neighbouring properties.

Noise

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

Whilst officers accept that additional noise is likely to be created by the use of the existing flat roof as a terrace, it is unlikely that the noise levels associated with this proposal would be so significant as to justify refusal. The terrace is relatively modest in size with the useable area of the terrace (which excludes the access rooflight area) measuring some 4m by 4m. Whilst plans submitted with the application indicate that up to 12 people could be seated on the terrace, it is unlikely that significant numbers of people could be accommodated on the area. Further, there is a similar sized roof terrace at level 7, and there is no evidence of noise nuisance having been reported from this terrace. As such, it is considered that the proposal is unlikely to create noise nuisance which would significantly harm the amenity of the adjoining residential occupiers.

Consequently, it is not considered that the proposals could justifiably be recommended

for refusal on noise grounds.

Daylight & Sunlight and sense of enclosure

The proposals would not result in a material loss of light or increased sense of enclosure to any of the surrounding properties.

9.6 Transportation, Accessibility & Servicing

Not relevant in the determination of this application.

9.7 Economy including Employment & Skills

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

9.8 Other Considerations

Construction impacts

With regards to concerns relating to the construction impact of the development, permission cannot be refused on the basis of construction impact given its temporary nature and ability to control it by condition. A condition is recommended that limits noisy construction to the City Council's standard construction hours and an informative is also recommended to encourage the applicant to join the considerate constructors scheme.

The applicant has also confirmed that all components required for construction, including the scaffolding will arrive in the apartment at level 07 through the service lift. The area of the roof terrace will be 'trimmed' out from the existing roof and scaffolding erected from level 7 within the apartment to a workable level above the roof (as temporary shelter). The delivery of materials/components will be on Marylebone Lane and other than the delivery of the materials/components. The applicant also confirms that they will produce a Construction Environmental Management Plan outlining how the project will avoid, minimise or mitigate effects on the environment and surrounding area. This would be circulated to residents throughout its development to take on board stakeholder concerns.

Fire Safety

In relation to Planning Gateway One, the application involves the development of an existing relevant building. The applicant has provided a Fire Statement, which has been produced by a suitably qualified third party assessor. It details how adequate means of escape is managed and what features and equipment will reduce fire risk/ mitigate fire.

Other issues

Concerns have been raised regarding compliance with original planning conditions,

including the greening of the London Underground vent and the erection of unlawful scaffolding. With regard to the green wall, although this was shown on the approved drawings there was no condition attached to the planning permission requiring that it had to be provided. While the applicant may still be intending to provide the green wall (subject to the agreement of LUL), it is not a requirement of the planning permission.

It is understood that the scaffolding which has been erected is required to undertake defect works. Scaffolding on the pavement does require a temporary structure license and this matter has been passed forward to the Highways licensing team.

Objections have also been received on the grounds that there is no need for this development, however, the application could not be reasonably refused for this reason.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

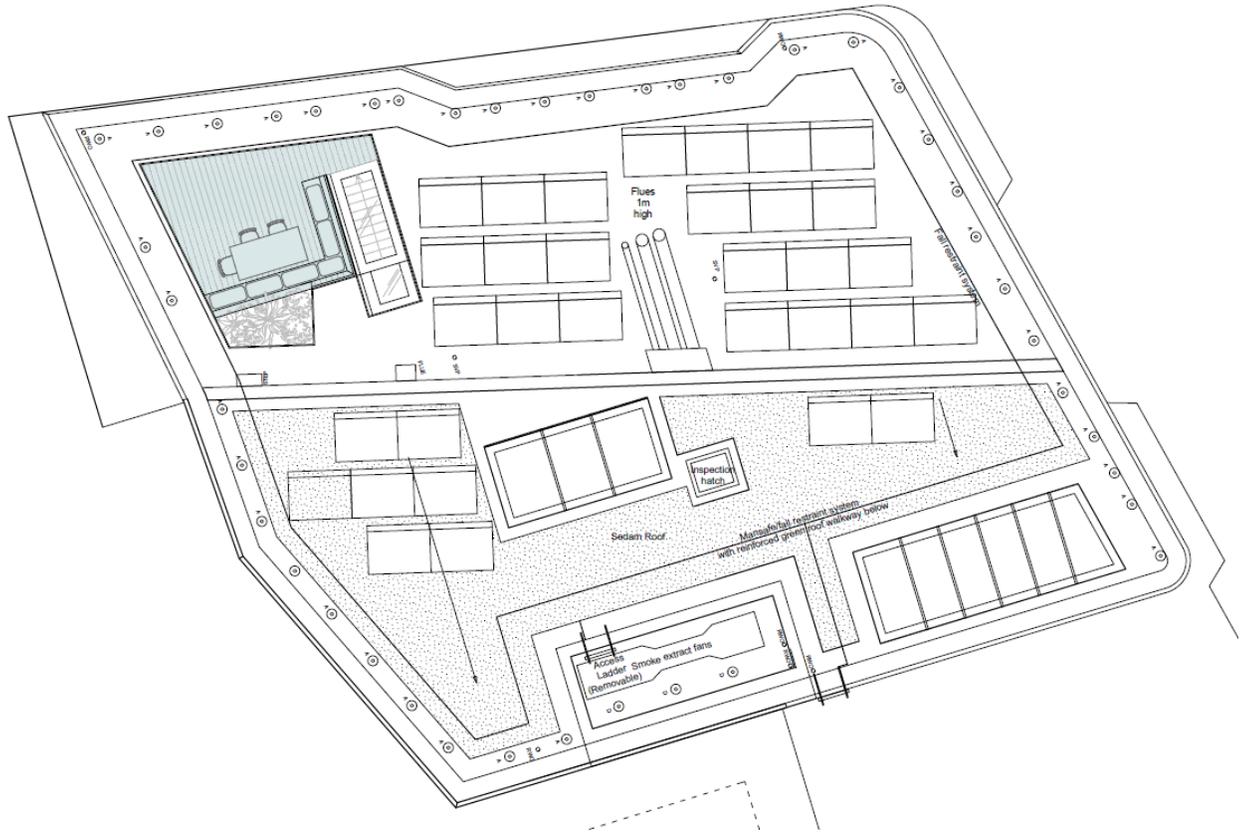
The detailed design of the roof terrace is acceptable in conservation and design terms and the proposals are not considered to harm surrounding residential amenity. As such, the proposal is considered acceptable, mindful of policies 7, 33, 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation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

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

11. KEY DRAWINGS

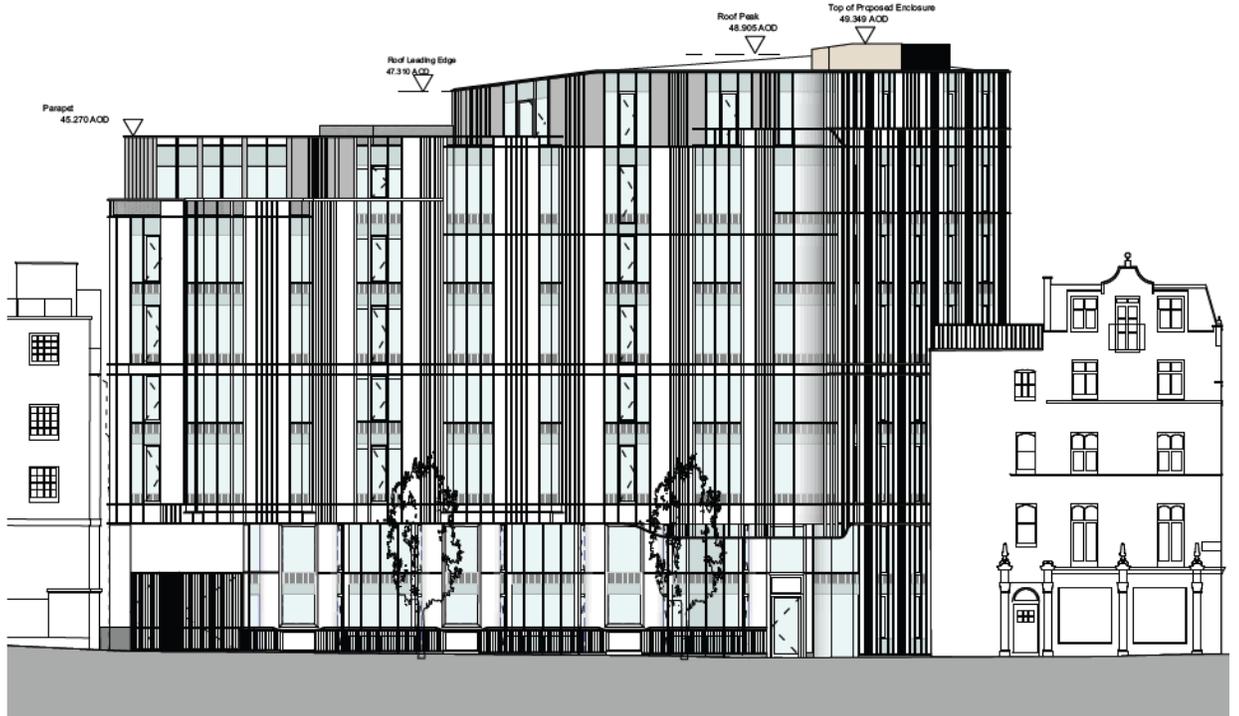
Proposed roof plan



Proposed north elevation



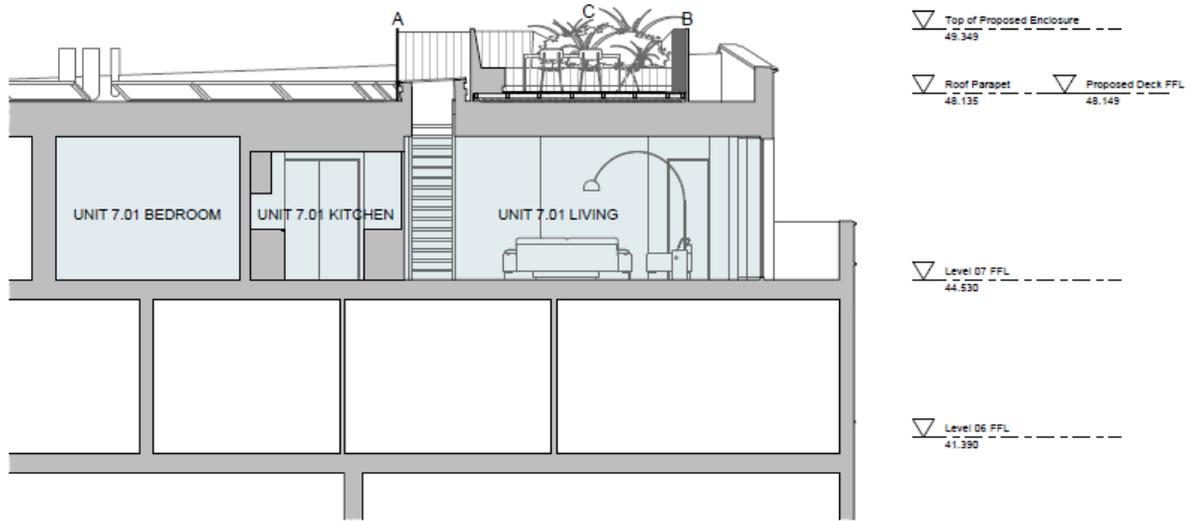
Proposed east elevation



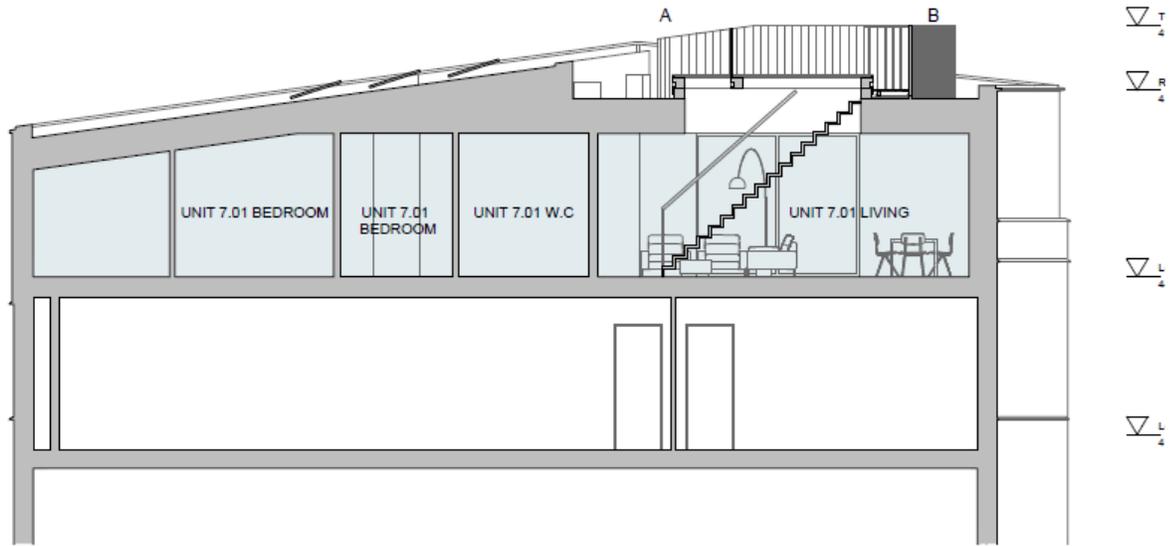
Proposed west elevation



Proposed sections

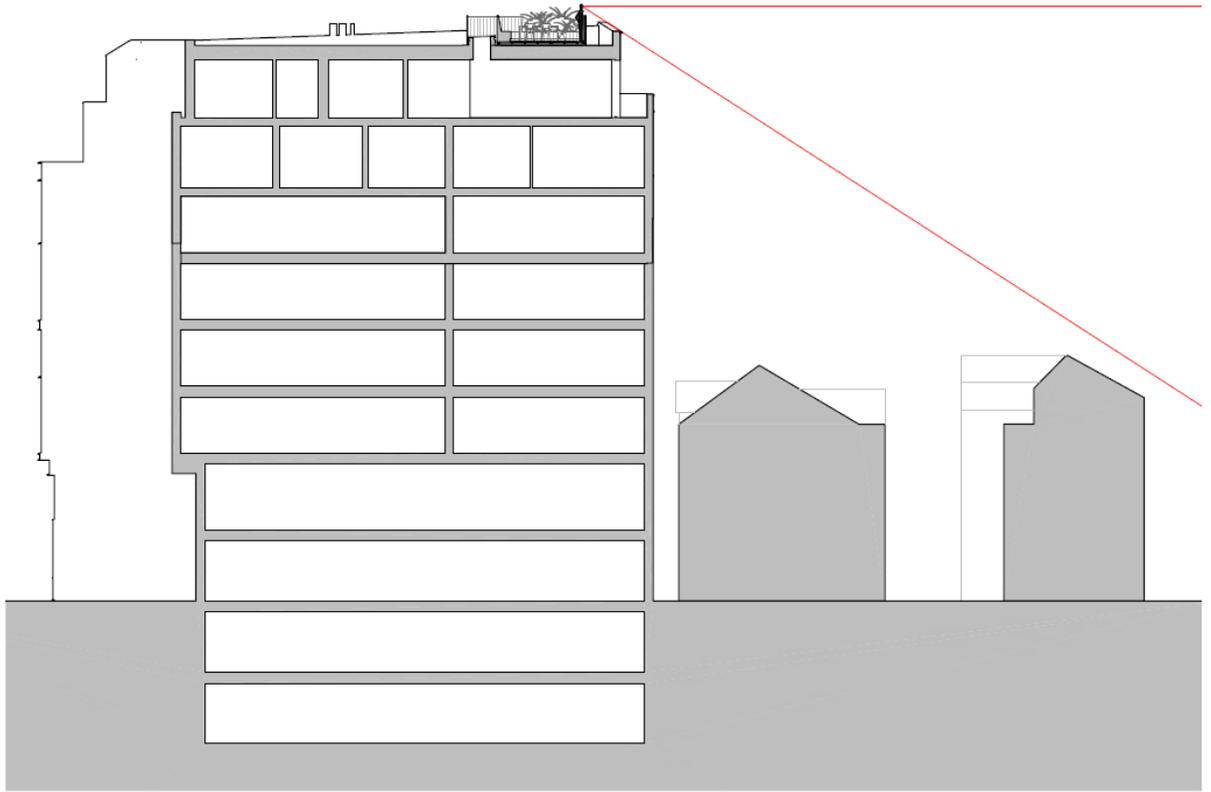


1 Proposed Section A-A
P40.001



2 Proposed Section B-B
P40.002

Section sight lines



DRAFT DECISION LETTER

Address: Apartment 7.01, 9 Marylebone Lane, London, W1U 1DB,
Proposal: Installation of a roof terrace level with metal balustrades.
Reference: 22/02368/FULL
Plan Nos: 337_P20.010, P30.001, P30.002, P30.003, P30.004, P40.000

Case Officer: Jo Palmer

Direct Tel. No. 020 7641
07866040238

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

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

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

Reason:

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

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

conditions to this permission. (C26AA)

Reason:

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

- 4 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

Reason:

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

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

Reason:

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

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.
- 3 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more

information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.