

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 23 <sup>rd</sup> August 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bayswater	
Subject of Report	22 Hereford Road, London, W2 4AA.		
Proposal	Amalgamation of two flats in association with the use of the building as a single family dwelling and the installation of cycle and waste stores in front garden.		
Agent	Mr Yosuke Miura		
On behalf of	Mark Wassouf		
Registered Number	22/02281/FULL	Date amended/ completed	12 April 2022
Date Application Received	4 April 2022		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

## 1. RECOMMENDATION

Refuse permission - land use grounds.

## 2. SUMMARY & KEY CONSIDERATIONS

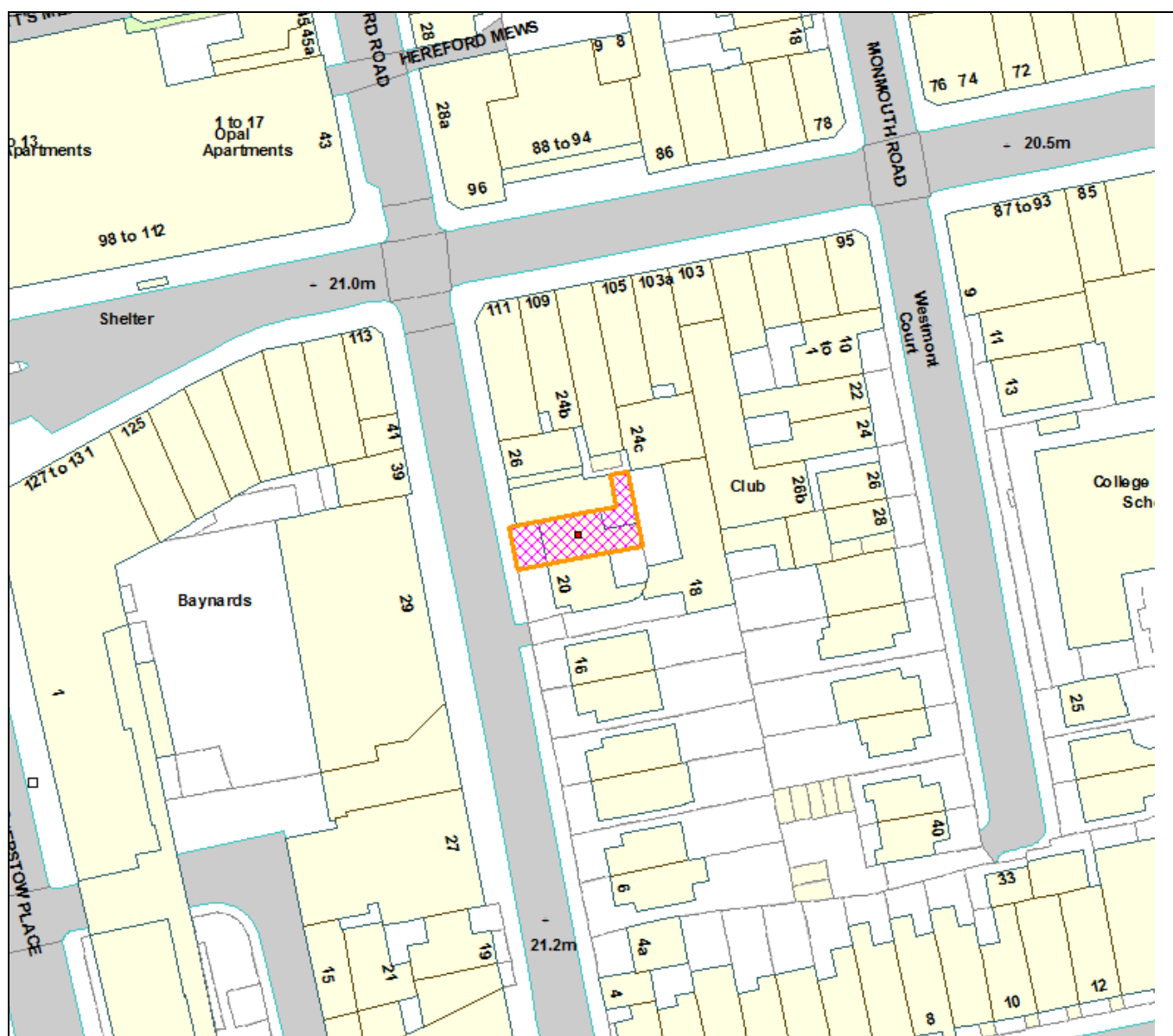
The application proposes to amalgamate of two self-contained maisonettes into one residential unit. The resultant residential unit would be a single-family dwelling house. A cycle and waste store are also proposed in the front garden. The property is unlisted, but is within the Bayswater Conservation Area.

The key considerations in this case are:

- The acceptability of the proposals in land use terms

Comments in support of the application have been received from Councillor Carman and one neighbour. Neither party raised matters which could be regarded as substantial benefits or material considerations to justify a departure from the relevant policies.

The creation of a single-family dwelling with 248sq.m of floor space is contrary to Policy 8 part B upon it exceeding maximum residential floor space (200sqm) and is therefore unacceptable. The proposals are also contrary to Policy 8 part C which states that all residential units are protected except where non-family sized housing is being reconfigured to create family sized housing. While the plans indicate that each of the units has two bedrooms, their size is well in excess of what would be expected for a three bedroom unit within the Technical Housing standards (March 2015). It is therefore considered that the existing units could each be used as three bedroom family sized units. The upper unit in particular is shown as having two living and dining spaces. The proposals are therefore considered to be contrary to policy 8 part B and part C and the application is recommended for refusal.



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#### 4. PHOTOGRAPHS

24 Hereford Road (far left), Application Site (centre) and 20 Hereford Road (right)



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### COUNCILLOR CARMAN

- Request for application to be presented to planning committee
- The owner previously received preliminary approval from the Council that the works were acceptable. The purchase of the lower maisonette was completed in January 2022 to return no. 22 to its original family home.
- The owners were then told the application was recommended for refusal due to slightly exceeding the 200sq.m ruling, which was not in place when they were given preliminary approval.
- The owner has gone to considerable expense and inconvenience. The bank financing was dependent on the house being returned to its original state. The bridging loan is at high interest rate and the family are paying for temporary accommodation having already moved out in preparation.
- I have visited the house and can see it is not a mansion but an ordinary late Victorian family house which underwent a not very good conversion into flats in the 1990s.
- The family have lived here since 2016 and have roots in the area and want to bring up a family here. If permission is refused they would have to sell the property and move away which seems unnecessarily punitive and not what the City Plan ruling intended.

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

The application should be refused to support the retention of two large flats.

#### BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

#### HIGHWAYS PLANNING TEAM – CITY HIGHWAYS

No objections. The car parking, cycle storage and waste storage arrangements are all acceptable.

#### WASTE PROJECT OFFICER

No objection to the waste details submitted.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 12

Total No. of replies: 1

No. of objections: 0

No. of supports: 1

- The lower maisonette at no. 22 has been in a state of dilapidation for many years, attracting vermin causing negative consequences for neighbours.
- The owners' intentions would transform no. 22 into a warm family home which would be fantastic for our road and area.
- The use of no. 22 as a single-family home would support a greater sense of

community through attracting stable and long term residents as supposed to more transient residents if were flats.

PRESS NOTICE

Yes

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

None.

## **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**

22 Hereford Road is an unlisted semi-detached building in the Bayswater Conservation Area. The building is formed of four storeys and is subdivided into two self-contained maisonettes with a flat over lower ground and ground floor levels and the second flat over first and second floors, with additional accommodation and a terrace at third floor level. The application site is outside of the Queensway/ Westbourne Grove Major Shopping Centre as designated by the City Plan 2019 - 2040.

## 7.2 Recent Relevant History

### 97/01613/CLEUD

Certificate of lawfulness for the existing use of the premises as 2 maisonettes, one on 1st and 2nd floors and one on the ground and basement floors.

Certificate Issued 11th March 1997

## 8. THE PROPOSAL

Permission is sought for the amalgamation of the two maisonettes within the building in order to use the building as a single family dwellinghouse as well as the erection of waste and cycle stores in the front garden and lightwell area.

**Table: Existing and proposed land uses.**

Land Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Lower Maisonette	101		
Upper Maisonette	133		
Dwellinghouse		248	14

The increase in GIA between the existing and proposed is due to common or shared circulation space being absorbed into the proposed dwellinghouse and subsequently being in single ownership.

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

#### Policy Background

The City Council seek that no new homes in Westminster will exceed a GIA of 200sq.m as set out in policy 8 part B of the City Plan 2019 – 2040.

The City Council also seeks to protect all existing units, uses and floors spaces except when; the proposed reconfiguration or development of supported or affordable housing would better meet another specific housing need or; non-family sized housing is being reconfigured to create family sized unit as set out in policy 8 part C of the City Plan 2019 - 2040. The City Plan defines a family sized unit as containing 3 or more bedrooms.

Paragraph 8.8 in the supporting text of the policy states - "The high cost of land in Westminster and its limited availability mean that all existing housing uses must be protected. The acute shortage of affordable housing and the continued need to provide for family-sized homes mean that the only exceptions where the loss of residential uses or floorspace may be acceptable is where they are being reconfigured to better meet these needs."

Paragraph 8.9 in the supporting text of the policy states – "To help meet the continued

need for family sized housing in Westminster, we will allow the loss of one existing non-family sized home where this is being reconfigured or merged with another to provide larger units (de-conversion), provided other options to extend the building to create larger units have first been explored. Properties that are de-converted to create family-sized homes should not exceed the 200sqm maximum unless it is demonstrably impracticable to do so.”

### Considerations

The existing maisonette at Lower and Upper Ground Floor levels is shown to contain 2x bedrooms and measures 101sq.m. The existing maisonette at First and Second Floor levels is shown to contain 2x bedrooms and measures 133sq.m. The proposed amalgamation is shown to create a single dwellinghouse that contains 5x bedrooms and measures 248sq.m.

Due to the proposed single family dwellinghouse measuring 248sq.m (or 234sq.m when only considering the amalgamated areas only i.e. not including the existing communal areas) the proposed dwellinghouse that would be created would be regarded as an oversized dwelling. It should be noted that the 200sq.m maximum is 62sq.m above the highest minimum standards set nationally and in the London Plan, and as such the figure of 200sq.m is considered to provide sufficient scope for the creation of a generously sized home that could accommodate a large family, however, as the proposal would exceed this maximum size by almost 25% it is regarded as creating an excessively large dwelling. In respect of this, the proposal would be contrary to policy 8 part B. It would also fail to be in accordance with spirit of policy 1 and policy 8 part A which seek to optimise site densities.

Councillor Carman’s comments on the application stated that the proposed dwelling would only slightly exceed the 200sq.m. Allowing proposals for units in excess of the Policy maximum standard could undermine the policy as well as create a precedent that could be used across the City to allow for the creation of more oversized dwellings which would have negative ramifications for the City’s housing supply.

The proposed amalgamation will result in the net loss of one residential unit on the application site. The Policy states that the loss of one residential unit is only acceptable when two non-family sized units are being amalgamated to create a family sized unit. The applicant states the only alternative way of creating a family sized unit would be to add an extension which would not be possible given the limitations of the application site. Whilst the City Council agree that opportunities for extensions are likely to be limited, it is likely each of the existing units is large and could be adapted to provide 3 bedrooms. Indeed the proposed plans indicate how the lower ground and ground floor plans could be amended for use as a three bedroom unit.

The annotations on the submitted existing drawings indicate that both of the existing maisonettes contain 2x bedrooms each and therefore would result in the creation of family sized units as sought by the policy. However, as mentioned, the City Council consider that the existing maisonettes could be internally reconfigured to provide 3x bedrooms and become family sized units.

The London Plan policy D6 sets out floor space standards and dwelling sizes. It states that the minimum size for 3x bedroom dwelling over two storeys would be 84sq.m. The



smallest maisonette within the application site is 101sq.m and therefore exceeds the minimum floorspace standards for 3x bedroom dwelling over two storeys. In respect of this it is considered that there is evidence to show that it would be possible to be internally reconfigure the existing maisonettes to provide a third bedroom and for them to still provide suitable standard of accommodation. Due to each existing maisonette being capable of be internally reconfigured to become a family sized unit and that these internal works could be lawfully carried out with any formal consent, they would therefore be beyond the City Council's control and as such it is considered necessary that the City Council's ought to give some weight to the matter as 3x bedrooms could become the existing layout at any point in time. If either or both of the existing units were reconfigured to have 3x bedrooms the proposal would then subsequently result in the proposal failing to comply with policy 8 part C due to there both being a net loss of a family sized residential unit.

Given the above, the proposal is regarded as 1) resulting in the net loss of residential units on the application site, 2) resulting in the creation of an oversized dwelling (above 200sq.m) and 3) due to the existing units being capable of being reconfigured to from family sized units there would not be any creation of a family sized unit on the application site. Due to these three identified matters, the proposal is considered contrary to both part B and part C of policy 8.

During the application the Case Officer informally advised that if they wished to enlarge the upper maisonette they could reconfigure the layout of the building so there is a one storey flat a lower ground floor level and a maisonette over the upper three floors, and that this could be done without the need of planning permission as two units would be retained, however this was not desirable due to the benefits of a single family dwelling with access to the rear garden and internal layout benefits. While these matters are noted, they are not considered sufficient justification to allow permission, given such arrangements are common, and the outside amenity space at roof level.

The applicant also stated the proposal is not to merge flats within a block of flats, but instead to reconvert a building originally built as family home back into family home. As discussed above, the property is capable of providing family housing, and the adopted policy seeks to retain units and not promote oversized new dwellings.

The applicant and Councillor Carman have noted that the owners previously received preliminary approval from the Council that the works were acceptable in December 2020, and it was on this basis that the purchase of the lower maisonette was then completed in January 2022. After this advice being provided, the City Council adopted the City Plan 2019-2040 in April 2021. The proposals are no longer considered in accordance with the Policies within the new development plan.

The applicant and the neighbour have both stated the lower maisonette is in a dilapidated condition with dry rot and damp as well as a vermin infestation, with the neighbour adding this also negatively impacts their property. Regrettably matters of upkeep and maintenance or similar are not regarded as material planning considerations and cannot be used to inform the outcome of this planning application. The neighbour also added that their property which adjoins no. 22 is a single family dwelling and the proposal would enhance the area. Whilst implanting the proposed works may result in an improved level of up-keep to the appearance of the building, this cannot be used as

reason to grant the permission or a matter that could be great enough to outweigh the negative impact of the proposed net loss of a residential property. The existing units could also be refurbished.

The applicant has stated that the lower maisonette was previously unoccupied for weeks or months at a time. In addition, it was raised by the neighbour that the proposed use of no. 22 as a single-family home would support a greater sense of community through attracting stable and long term residents as supposed to more transient residents if it were flats. Though the City Council would like to maximise a sense of community, the matter of who owns or resides in a private property and whether the property is lived in by as owner-occupier or with rented to tenants is naturally not within the City Council's control and as such it would not be reasonable to make a decision that gives consideration to the matter.

It is considered that the proposal does not generate any public benefits nor present any other material considerations that are considered significant enough to justify departure from the relevant policies, the application is therefore recommended for refusal on land use ground.

## **9.2 Environment & Sustainability**

The proposal does not raise any environment and sustainability considerations.

## **9.3 Biodiversity & Greening**

The proposal does not raise any biodiversity or greening considerations.

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

Section 72 of the LBCA Act requires that *"In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

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. The relevant local design policies are 38, 39 and 40 of the City Plan 2019 – 2040.

The proposal includes the erection of a bin store adjacent to the front boundary and cycle store in front lightwell. Elevation drawings of these two structures have not been provided as part of this application, as such it not possible to assess their visual impact on the host building and the Bayswater Conservation Area. Had the application been considered acceptable overall a condition would have been included to require further drawings of these structures prior to their implementation in order to ensure that they are fully acceptable in design and heritage terms.

### 9.5 Residential Amenity

The City Council seeks that all development will be neighbourly by protecting and where appropriate enhancing local environmental quality as set out in policy 7 and 33 of the City Plan 2019 – 2040. These policies seek to prevent unacceptable impacts in terms of losses of daylight and sunlight, privacy and increases in sense of enclosure and overshadowing to residential and sensitive uses.

The only structures proposed within this application are the waste and cycle stores which will not result in lost daylight or sunlight nor cause any overshadowing or loss of outlook for neighbours. The proposed change is expected to result in a less intense use of the building by one household. It is subsequently considered the privacy of neighbours will be preserved and that they will not be exposed to any increased levels of noise. The proposal is therefore uncontentious in amenity terms.

### 9.6 Transportation, Accessibility & Servicing

The City Council seek that all development is car free and that at least two bicycle parking spaces are provided for all units with more than one bedroom as set out in policies 25 and 27 of the City Plan 2019 – 2040.

There are not any private car parking spaces associated with the application site. The submitted drawing does not specify how many bicycles could be accommodated in the proposed cycle store however, based upon its size, it is assumed that it could accommodate up to two. Details of this would have been secured by condition. The proposed use the application site as one dwelling rather than two dwellings is likely to result in the building being less intensely used and subsequently less of an impact on the local highway network.

### 9.7 Economy including Employment & Skills

The proposal will not generate any notable economic benefits.

### 9.8 Other Considerations

#### Waste

The City Council seek that development provides facilities for the storage and separating of waste streams to maximise recycling which are safe and convenient as set out in policy 37 of the City Plan 2019 – 2040.

The proposed waste store contains four bins these are 1x 23litre bin for organic waste, 2x 140litre bins for residual recycling and 1x litre for general waste. The Waste Project Officer raised no objection to the application and requested conditions that required the waste store is implemented in accordance with the relevant drawings and is not left on highway. Had the application been considered acceptable overall these conditions would have been included.

### 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 estimated CIL payment is £0 due to no new floorspace.

#### **10. Conclusion**

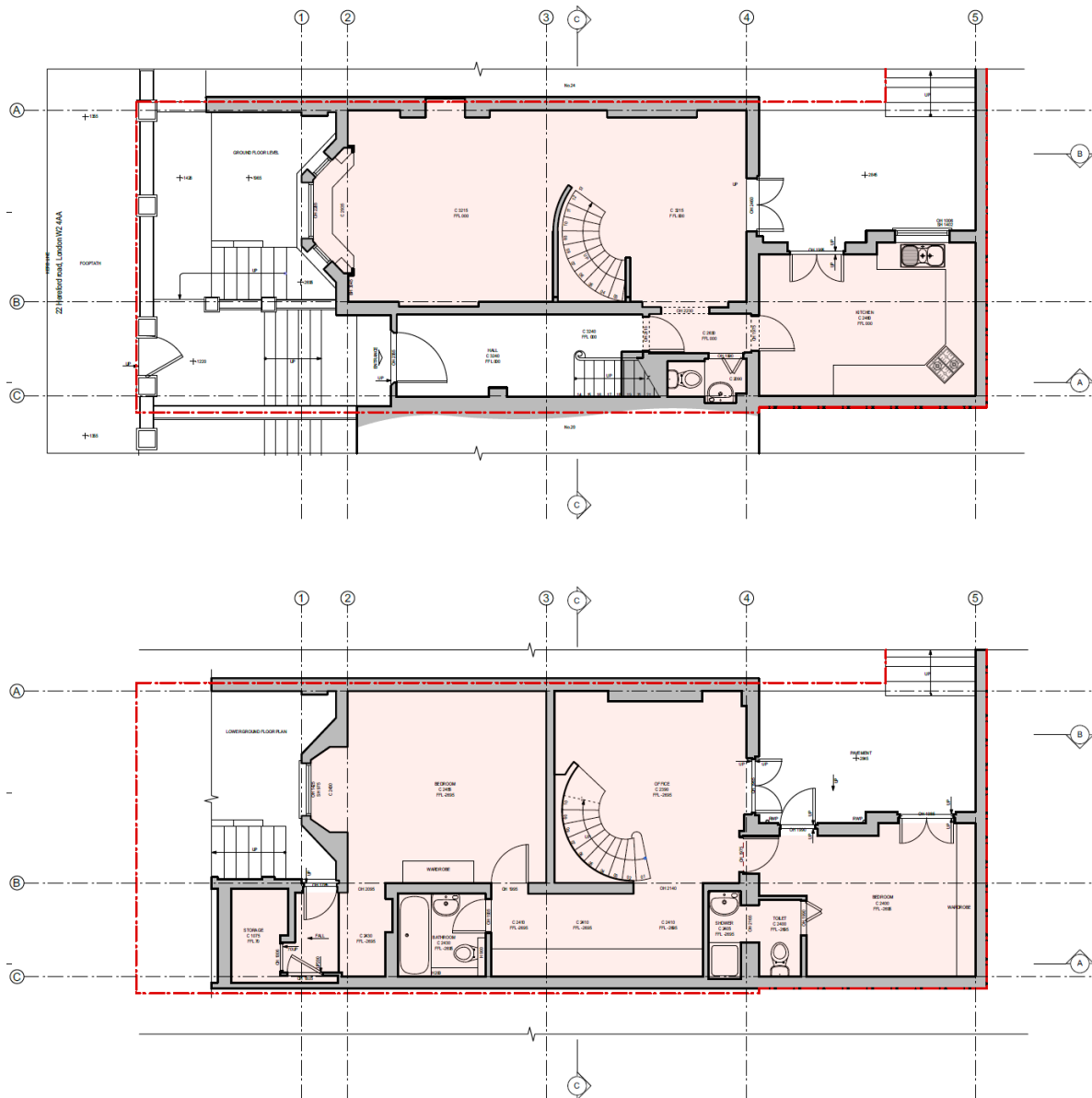
The proposal will result in the net loss of residential units on the application site, result in the creation of an oversized dwelling (above 200sq.m) and due to the existing units being considered to be capable of being reconfigured to form family sized units there would not be any creation of a family sized unit on the application site. The proposal would therefore fail to optimise the application site and reduce the number of residential dwellings within the city. It is considered contrary to policies 8 parts B and C of the City Plan 2019 – 2040 and should therefore be refused. The proposal is not considered to offer any notable benefits nor have any other material considerations arisen during the application, and as such it is considered that the recommendation for refusal should remain.

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

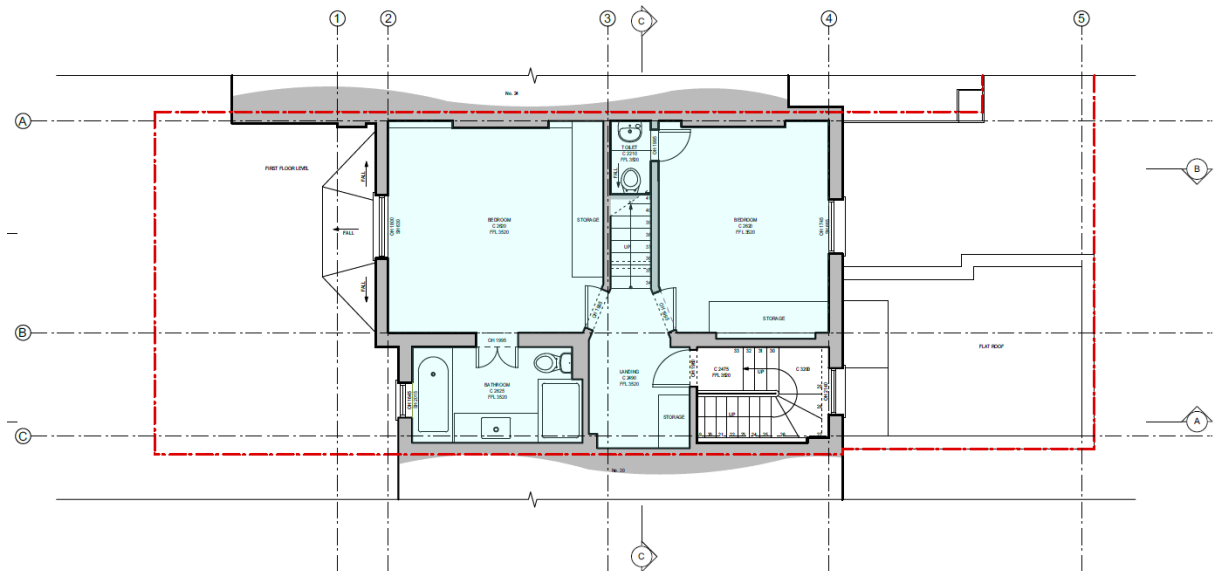
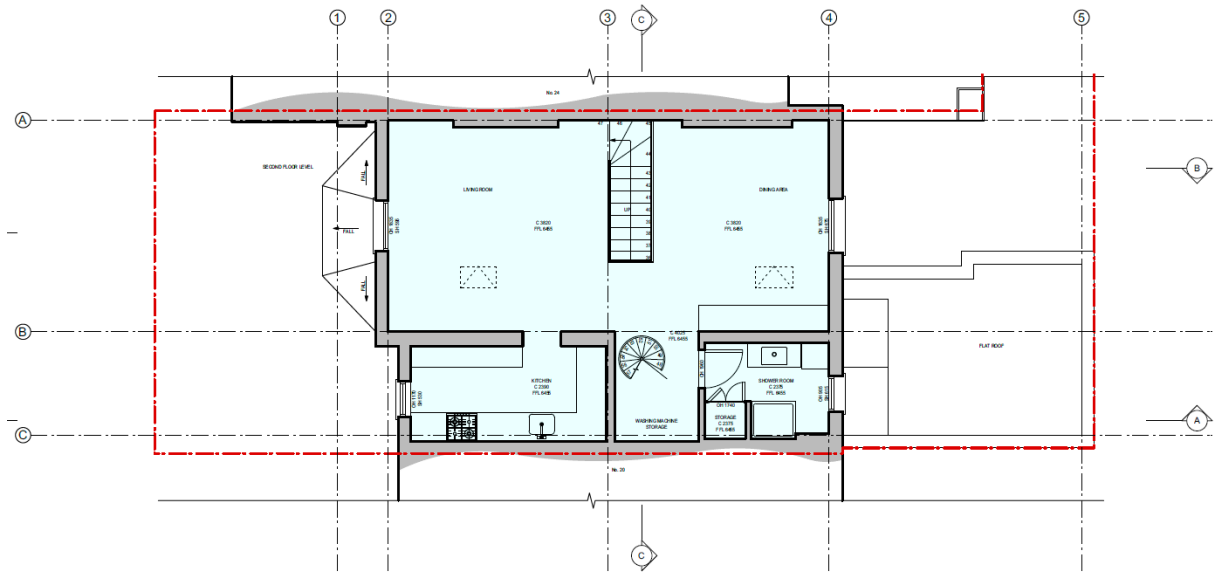
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **RUPERT HANDLEY** BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk).

## 11. KEY DRAWINGS

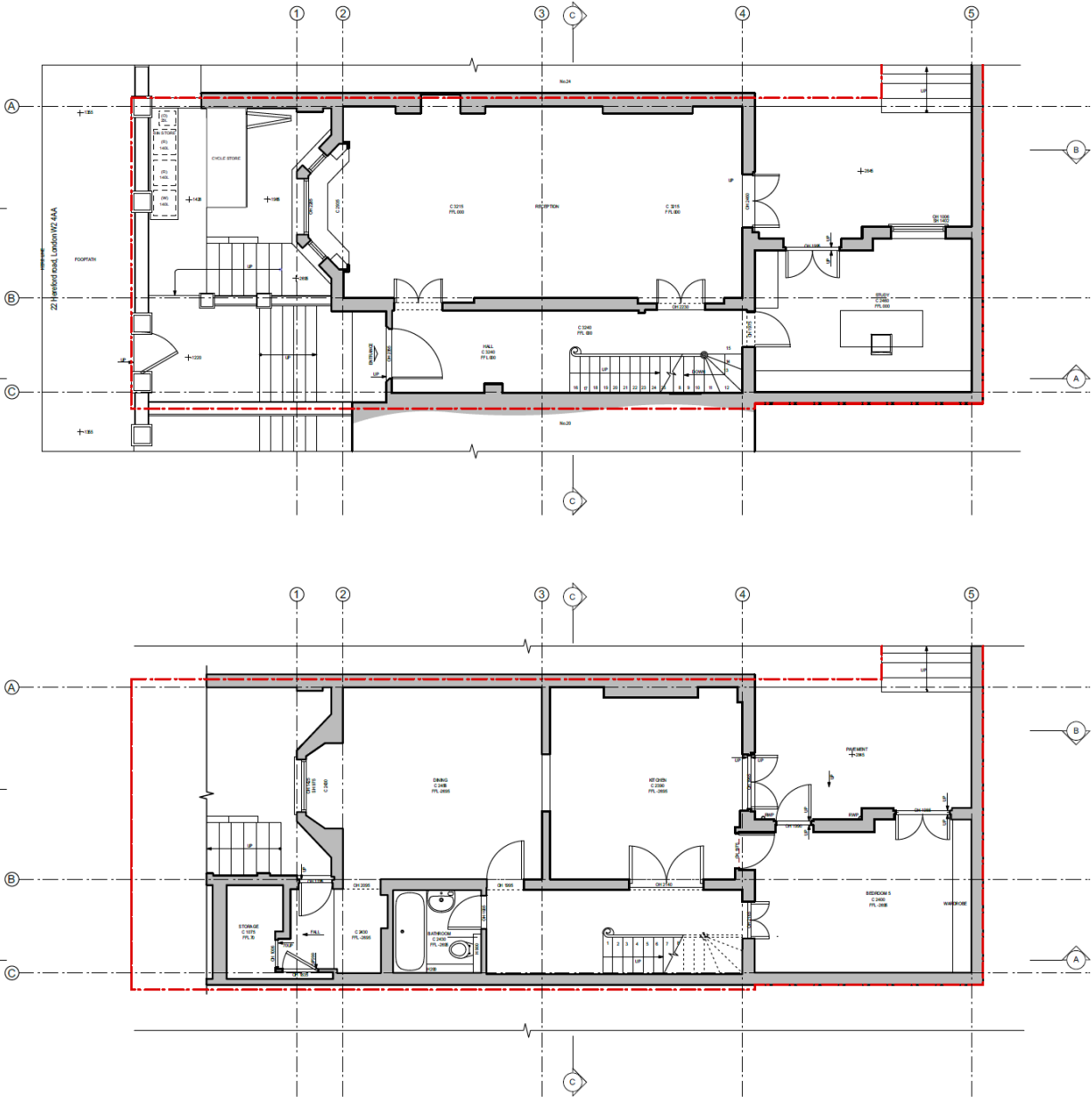
## EXISTING LOWER MASONETTE



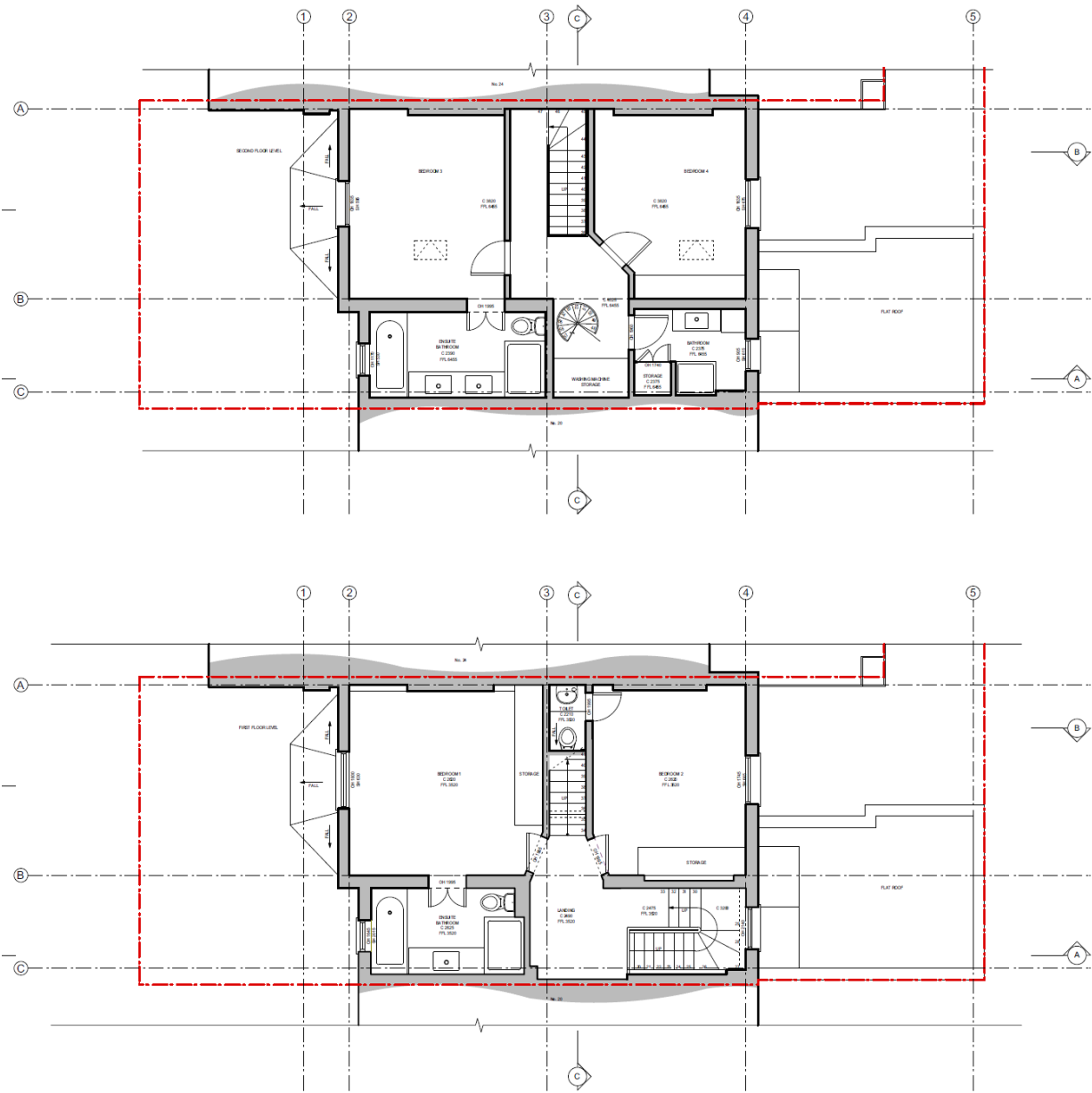
## EXISTING UPPER MASONETTE



PROPOSED DWELLINGHOUSE (LOWER AND UPPER GROUND FLOORS)

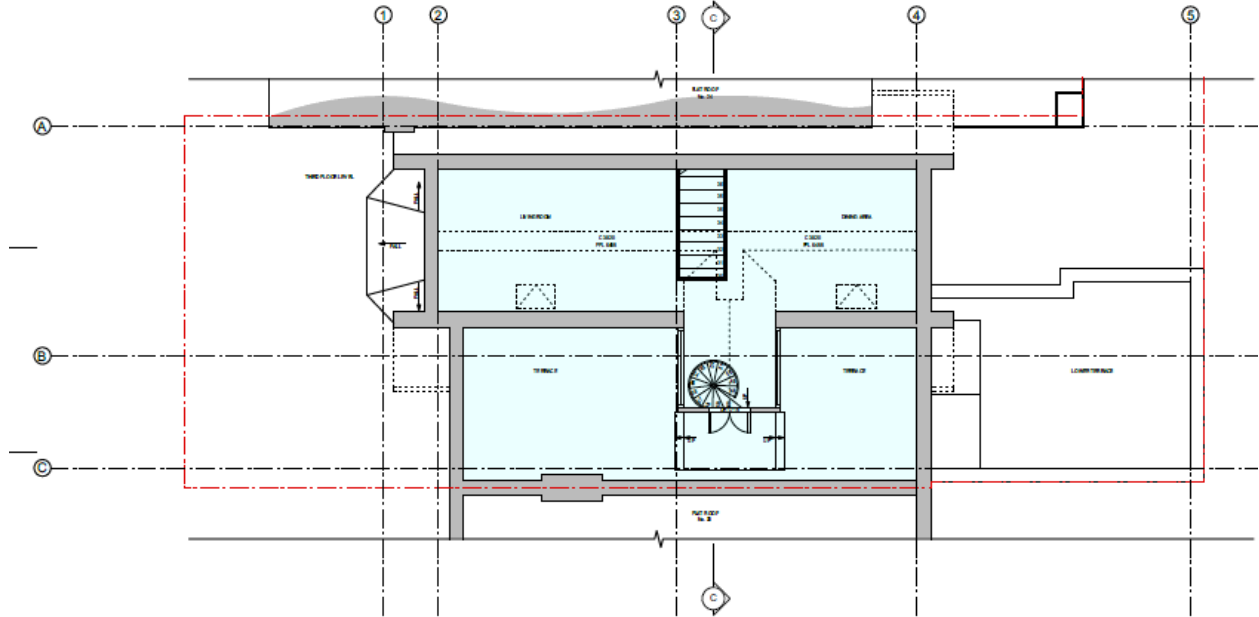


PROPOSED DWELLINGHOUSE (FRIST AND SECOND FLOORS)

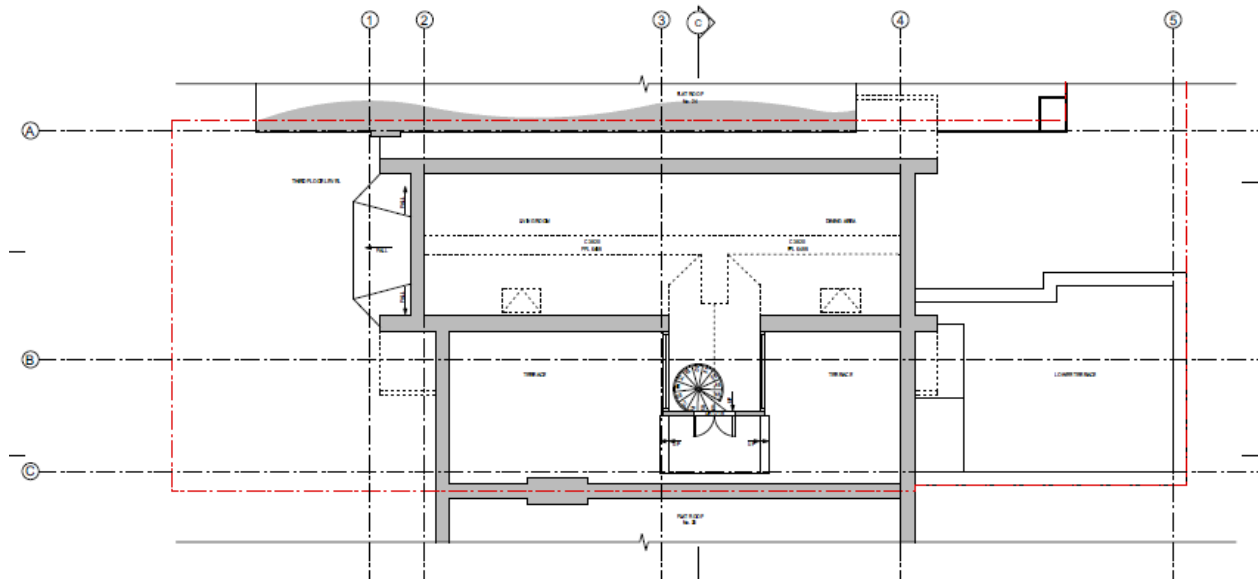




Existing third floor plan



Proposed third floor plan



**DRAFT DECISION LETTER**

**Address:** First Floor And Second Floor Maisonette, 22 Hereford Road, London, W2 4AA,

**Proposal:** Amalgamation of two flats in association with the use of the building as a single family dwelling and the addition of cycle and waste stores.

**Reference:** 22/02281/FULL

**Plan Nos:** PL\_001 P1, PL\_002 P1, PL\_010 P1, PL\_011 P1, PL\_012 P1, PL\_020 P1, PL\_030 P1, PL\_110 P1, PL\_111 P1, PL\_112 P1, PL\_120 P1, PL\_130 P1, Letter dated 28 May 2022 and Design and Access Statement April 2022.

**Case Officer:** Harry Berks

**Direct Tel. No.** 07866037030

**Recommended Reason(s) for refusal**

- 1 The development would lead to a reduction in the number of residential units and fail to optimise the residential use of the site as it includes the provision of a residential unit in excess of 200m<sup>2</sup>, this would fail to meet Policy 8(B) and 8(C) of the City Plan 2019 - 2040 (April 2021). The City Council does not consider that the circumstances of this case justify an departure from policy.

**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 so far as practicable. 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, London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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.