

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Marylebone	
Subject of Report	Fitzhardinge House, Portman Square, London, W1H 6LH		
Proposal	Erection of a single storey roof extension to provide three new residential units (Class C3); extension at rear seventh floor level.		
Agent	Turley		
On behalf of	Nehoc		
Registered Number	21/08177/FULL	Date amended/ completed	9 December 2021
Date Application Received	30 November 2021		
Historic Building Grade	Unlisted		
Conservation Area	Portman Estate		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application proposes the erection of a single storey roof extension to Fitzhardinge House, an unlisted building located within the Portman Estate Conservation Area. The roof extension will accommodate three flats.

The key considerations in this case are:

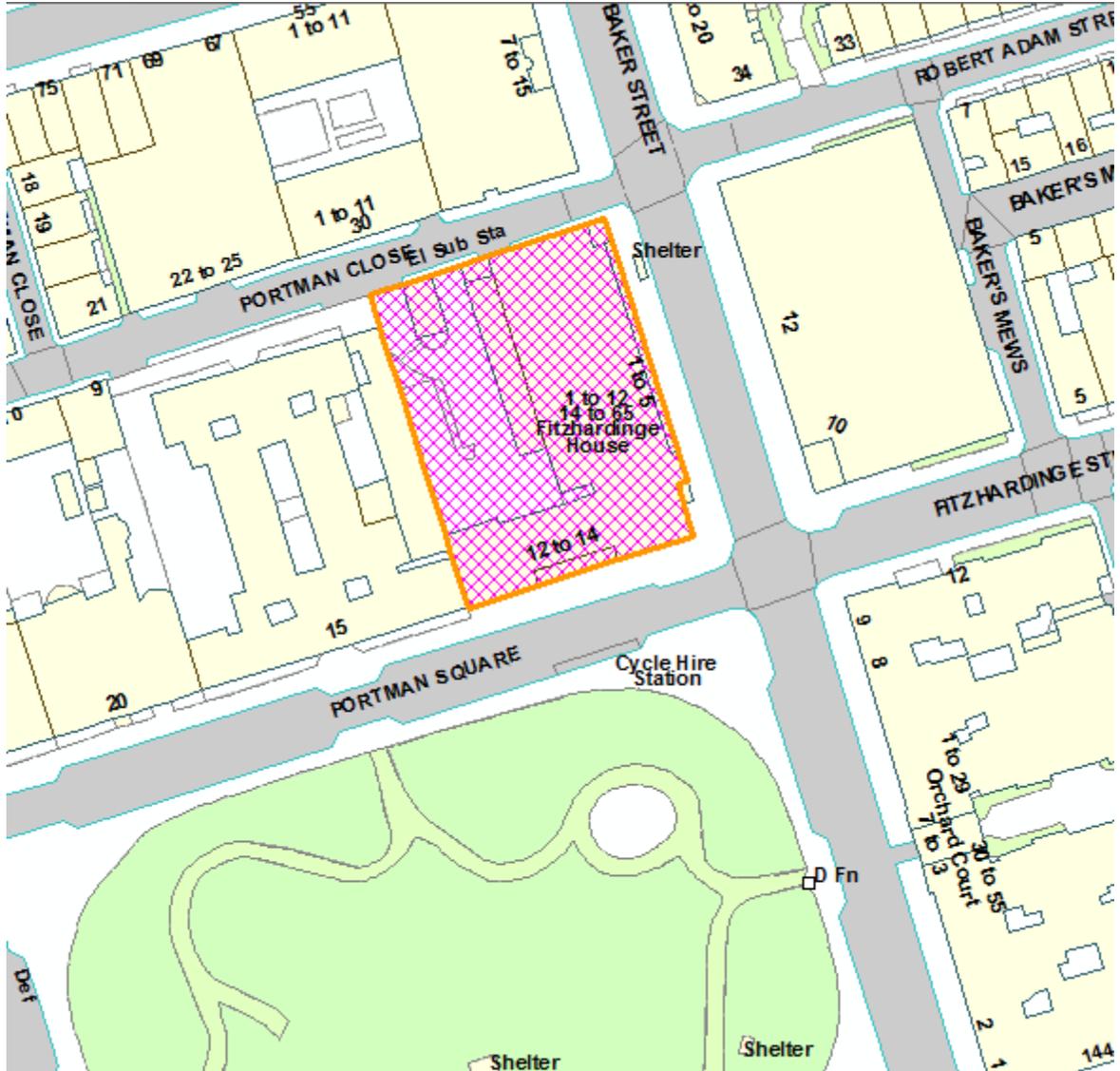
- Whether the proposal has optimised the development potential of this site.
- The impact of the proposed extension on the character and appearance of the Portman Estate Conservation Area.
- The impact on the amenity of neighbouring residential properties.

Item No.

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It is concluded that the proposed extension will preserve the character and appearance of the Portman Estate Conservation, not harm the amenity of neighbouring residents, and will optimise the development potential of the site. For these reasons, it is recommended that conditional permission be granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

Initial notification period (December 2021)

MARYLEBONE ASSOCIATION:

Objection on the following grounds:

- The proposed roof extension would be widely seen, is of poor design quality and would have a detrimental impact upon the host building, the setting of the adjacent listed building [the adjacent building is not listed] and the Portman Estate Conservation Area.
- Any roof extension should be visually recessive from the front elevation and the proposal is not.
- The architectural language of the railings, material and brise Soleil are all inappropriate and represent an unsympathetic addition to the existing building, which already has a 'top' defined by the existing brise Soleil.

WASTE PROJECT OFFICER:

Objection to the proposed waste storage requirements which are not in line with the City Council's guidance.

HIGHWAYS PLANNING TEAM:

No objection subject to the imposition of a condition securing the provision of storage for three bicycles.

HEALTH AND SAFETY EXECUTIVE:

Following further information being provided by the applicant, no objection raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 384

Total No. of replies: 7

No. of objections: 5

No. in support: 0

Objecting on the following grounds:

Design and Conservation

- A roof extension in this location is contrary to the guidance within the Portman Estate Conservation Area Audit SPG.
- The proposed roof extension would be harmful to the character and appearance of the Portman Estate Conservation Area due to being visible in long public views.
- The proposed increase in height of Fitzhardinge House will harm the roofline of the group of buildings on the north side of Portman Square by altering its symmetry, harming the setting of the listed buildings at Nos. 19, 20 and 21 Portman Square (located on the opposite side of this northern quarter of Portman Square).
- The proposed patterned design of the new balustrade at new eighth floor level is

- neither sympathetic nor subordinate to the host building.
- The requirement to incorporate a sprinkler tank room will result in additional bulk which would be harmful to the character and appearance of the Portman Estate Conservation Area.

Amenity

- Objection to the blocking up of skylights to Flats 63 and 64 in terms of loss of daylight, sunlight and ventilation.
- Loss of privacy.
- Increased sense of enclosure.
- Loss of daylight.
- Noise and disturbance from the terraces serving the proposed new flats.
- Noise transfer from the proposed new flats and existing flats within the building.
- Increase wind turbulence as a result of 'boxing in' around the retained lantern light serving Flat 64.
- Query about whether relocating the 'control box' that currently allows the lantern light above Flat 64 to the side is possible and therefore whether it will be possible for this lantern light to retract as much as is shown on the drawings.
- Lack of clarity in terms of whether the replaced skylights (albeit an additional storey higher as a result of passing through a void in the proposed new eighth floor roof extension) will remain openable.

Other:

- Loss of advantage of being the existing penthouse flats.
- Damage to existing flats.
- Inaccuracies between the submitted drawings.
- Disruption during the course of construction.
- Failure of the applicant to notify the owners of other flats within the building by e-mail, using letters instead.
- Lack of proper pre-application engagement with residents within the building or within neighbouring buildings.
- Reducing the roof space available for the lantern light above Flat 64 will result in it not being able to retract fully, therefore making the maintenance of the entire rim to this void impossible.
- The relocation of the existing condensing units serving other flats within the building further from the flats that they serve will require extended service pipes, reducing their effectiveness.
- The proposed 'green roofs' will encourage pigeons and seagulls, which are already a nuisance.
- The relocation of the hot and cold-water storage tanks will have a detrimental impact upon water pressure and any pumped alternative would be more unreliable and costly to run and maintain.
- Impact on television reception.
- Impact upon communal amenities within the building.
- Building over the soil pipes that serve the building would make obtaining access to deal with blockages and for maintenance either impossible or more costly.
- Structural concerns arising from the additional loads created by the proposed roof extension.

Re-consultation following submission of corrected drawings and corrected daylight / sunlight reports (October 2022)

MARYLEBONE ASSOCIATION:

- Despite the updated and corrected information submitted, original concerns about the design quality of the application remain.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 384

Total No. of replies: 1

No. of objections: 1

No. in support: 0

One objecting to the proposal on the following grounds:

- Noise during the course of construction.
- Increase sense of enclosure.
- Overlooking.
- Loss of views and associated detrimental impact on value of property.
- Negative impact on Portman Square.

5.2 Applicant's Pre-Application Community Engagement

The application was submitted in November 2021. This pre-dates the adoption of the Early Community Engagement in Westminster guidance (February 2022). The applicant has not submitted a Statement of Community Involvement setting out what, if any, pre-application engagement was undertaken with residents of the building or residents of neighbouring buildings.

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

The application site comprises an unlisted building known as Fitzhardinge House located at the corner of Portman Square and Baker Street. The site is located within the Central Activities Zone and within the Portman Estate Conservation Area. The site is not within a protected vista. Portman Square itself is a Grade II listed registered park and garden. The site is not located within an Air Quality Focus Area.

The nearest listed buildings are Nos. 19, 20 and 21 Portman Square which are located on the opposite side of this northern quarter of Portman Square. No 19 is Grade II listed, whilst Nos. 20 and 21 Portman Square are Grade I listed. Given the reasonable distance between the application site and these Grade I listed buildings, the scale of the extension proposed and the presence of the taller No. 15 Portman Square between the application site and these Grade I listed buildings, it is not considered that the development proposal would affect the setting of these buildings. As such, Historic England was not required to be notified of the application.

The building is occupied by flats from second floors and above. The second to sixth floors are occupied by single aspect flats accessed via a central corridor, whilst the existing top floor (i.e. the seventh floor) is occupied by four larger flats. The two flats within the northern wing of the seventh floor (i.e. Flats 64 and 65) are single aspect due to the requirement for a corridor to run along the rear to provide access to these flats and a means of escape via the northern stairwell. Flat 62 is located at the corner of Baker Street and Portman Square and therefore is dual aspect. There is no need for the access corridor to run the entire length of the western wing and therefore Flat 63 is also partly dual aspect.

In addition to smaller rooflights serving all four seventh floor flats and items of plant, both Flats 64 and 65 have large retractable rooflights that cover what were entirely open courtyards. A review of the planning history file for this site reveals that, following outline permission being granted for the redevelopment of the site to form Fitzhardinge House on 14 November 1962, detailed drawings were submitted on 7 July 1964, with the accompanying covering letter from the architects to the City Council stating:

'The penthouse flats on the Baker Street frontage have each been provided with an open courtyard in order that privacy may be maintained and in order that sunlight should be admitted to the living rooms for a greater period of time than would otherwise have been the case'.

A letter dated 15 May 1990 to the City Council with accompanying plans contained within the historic file reveal that, at some point between the building being completed and that date, the existing large rooflights covering these two courtyards had been installed.

The agent has confirmed in writing that that the leasehold interested of Flat 65 is owned by the applicant. The leasehold interest of the remaining three flats on the seventh floor are understood to be separately owned.

7.2 Recent Relevant History

17/11282/FULL

Erection of single storey roof extension to provide two new residential units (Class C3). Refused on 25 November 2020 on the following grounds:

1. The number of residential units on site has not been optimised, contrary to Policy S14 of Westminster's City Plan (adopted November 2016). Furthermore, the size of both proposed residential units exceed the 200 sq.m (GIA) maximum limit set out within Policy 8 of the draft City Plan (Regulation 19 Publication Draft). There are not considered to be any reasons why a greater number of good quality residential units could not have been provided.
2. Because of their size, height, location and detailed design the windows within the proposed roof extension would harm the appearance of this building and fail to maintain or improve (preserve or enhance) the character and appearance of the Portman Estate Conservation Area. This would not meet S25 and S28 of Westminster's City Plan (November 2016) and DES 6, DES 9, DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.
3. The proposed roof extension would have resulted in a material loss of sunlight to the courtyard of Flat 64, harming the amenity of the occupants of this flat. This is contrary to Policy S29 of the Westminster City Plan (adopted November 2016) and Policy ENV 13 of the Unitary Development Plan (adopted January 2007).
4. The submitted Daylight and Sunlight Report (Ref: 10740 and dated 7 October 2016) contains no existing and proposed figures showing the impact of the proposed development on daylight received by neighbouring residential windows (i.e. Vertical Sky Component). As such, the City Council has been unable to undertake a proper assessment of the impact of the proposed development upon the amenity of neighbouring residents in satisfy Policy S29 of the Westminster City Plan (adopted November 2016) and Policy ENV 13 of the Unitary Development Plan (adopted January 2007).

8. THE PROPOSAL

The application proposes the erection of a single storey roof extension to Fitzhardinge House to create a new eighth floor to be used as three flats. Flat A (218 sq.m GIA) is proposed to cover the majority of the northern wing of the building. Flat B (133 sq.m GIA) and Flat C (126 sq.m GIA) are proposed to occupy the corner and western part of the building, respectively. Also proposed is the widening of the existing corridor within the western wing of the building at seventh floor level by extending the building line to the line of the rear façade for the remainder of the building.

Each flat would have access to a terrace on the Portman Square or Baker Street frontages. The roof would not be accessible as amenity space and would comprise partly a living roof and partly to accommodate photovoltaic panels. The existing plant is also proposed to be re-provided.

The current application differs from that refused on 25 November 2020 in the following ways:

- Three rather than two residential units are now proposed.
- The proposed roof extension is set further back from the retractable lantern light serving Flat 64 and the access corridor serving the proposed Flat A is now located to the east of this lantern light rather than immediately to the west, as originally proposed.
- Smaller and less dominant windows opening are now proposed than better align with the fenestration pattern of the existing seventh floor.
- A decorative metal balustrade is proposed to enclose the roof terraces on the southern and eastern frontages rather than the glass balustrade originally proposed.
- Light coloured render is proposed to face the roof extension so that it matches the existing seventh floor and a brise soleil is proposed on the Baker Street and Portman Square frontage in order to reduce overheating.
- Photovoltaic panels are now proposed roof the roof of the western wing of the proposed roof extension.

In response to an objection from the Health and Safety Executive (HSE) from a fire safety perspective, the applicant revised the scheme in the following ways:

- A further flight of stairs has been added to the northern stairwell in order to link to the new eighth floor level and aid escape during a fire.
- A sprinkler tank room has been included in the proposal in what was previously proposed as an undesignated plant area within the northernmost part of the proposed new eighth floor extension.
- The layout of Unit A was amended to shorten the internal corridor and to allow access to the new fire escape in the northern stairwell.

The application was subsequently amended in the following ways:

- Amended existing and proposed 7th floor plans and proposed roof plan were submitted showing the correct layout of Flat 63 and the correct location of the smaller of the two rooflights serving the kitchen of Flat 64.
- An updated Daylight and Sunlight Report was submitted that: (i) Assesses the impact of the current development proposal rather than that refused by the City Council on 25 November 2020 (Ref: 17/11282/FULL); and (ii) Assesses the development proposal against the known layout of the affected flats within No. 15 Portman Square.
- An updated Daylight Impacts Assessment Report was submitted that: (i) Assesses the impact of the current development proposal rather than that refused by the City Council on 25 November 2020 (Ref: 17/11282/FULL); (ii) Shows the correct layout of Flat 63, the correct number and location of rooflights serving Flat 64, and excludes from its analysis the two rooflights within Flat 63 that are boarded over; and (iii) Uses one of the updated methodologies for assessing daylight levels within the existing

flats at seventh floor level as set out within the third edition of 'Site layout planning for daylight and sunlight: a guide to good practice' published in June 2022.

As set out within Section 5.1 of this report, the Marylebone Association and the owners / occupiers of neighbouring properties were notified of these amendments.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The provision of three additional, good quality dual aspect flats is welcome and will contribute to the housing target set out within City Plan Policy 8(A).

There are three access cores within the building, two of which contain lifts to the ground floor lobby (i.e. the western core and the central core). The northern core contains no lift and is for fire escape only. Whilst Unit A is slightly above the 200 sq.m GIA limit set out within City Plan 8(B), given that access to this flat has to be from the central core, it is accepted that it would not be possible to provide two flats in this wing of the building and for these flats to both be dual aspect. As such, there are particular restrictions that make delivering a greater number of additional residential units undesirable. It is therefore concluded that the site's potential has been optimised and a departure from City Plan Policy 8(B) is justified in this instance.

The proposal does not generate a requirement for affordable housing provision under City Plan Policy 9(B).

All of the proposed flats will be family sized, exceeding the 25% requirement within City Plan Policy 10(B).

9.2 Environment & Sustainability

The glazing ratio has been optimised to maximise access to natural daylight throughout the building while controlling excessive solar gains. High performance glazing will be installed, incorporating low emissivity coatings to limit overheating without compromising light transmittance.

Full length brise soleil is provided over the eastern and southern elevations to provide shading and mitigate summertime overheating.

All of the proposed flats are dual aspect, allowing cross-ventilation so that the units can be passively cooled.

A 190 sq.m extensive living roof is proposed that will reduce overheating during summer, provide insulation during winter and add to biodiversity.

42 x photovoltaic panels are proposed at a 30-degree angle and facing south. It is expected that the peak power of this system will be 13.5kW.

9.3 Townscape, Design & Heritage Impact

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.”*

Section 72 of the same 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.

Bulk, Height, Scale, Impact on Heritage Assets & Detailed Design

Fitzhardinge House is identified with the Portman Estate Conservation Area Audit as being a building where a roof extension is unlikely to be acceptable. Despite this identification, the principle of a roof extension on this modern building is considered to be acceptable in design and conservation terms given that surrounding buildings are taller.

The proposed solid-to-void ratio, size and arrangement of windows within the proposed roof extension reflect the existing seventh floor of the host building. Setting the proposed new eighth floor extension back means that it would not dominate the host building. The proposed materials (render) will match that used on the existing seventh floor and the panels on the lower parts of the building. This is considered to be acceptable. The decorative balustrade is considered to be an attractive feature.

For these reasons, the proposal is considered to preserve the character and appearance of the Portman Estate Conservation Area and not harm the setting of the listed buildings on the north-western corner of Portman Square.

Fire Safety

Following revisions to the scheme, the Health and Safety Executive raise no objection to the proposed development and the development is therefore acceptable from a fire safety perspective.

9.4 Residential Amenity

Daylight & Sunlight

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 (i.e. has a VSC below 27%) 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.

With regard to sunlighting, 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.

In terms of gardens and open space, the BRE Guidelines recommends that, for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21 March is less than 0.80 times its former value, then the loss of sunlight is likely to be noticeable.

Impact upon neighbouring properties outside of the application site.

The applicant has submitted an assessment of the impacts upon the daylight / sunlight received by neighbouring properties as a result of the proposed roof extension. The initially submitted assessment use assumed layouts for the flats within No. 15 Portman Square, located immediately to the west of the application site, in its assessment of the impact upon the daylight distribution within these flats.

A representation written on behalf of the owner of this building and on behalf of the 115 leaseholders residing within this building objected to the application on, amongst other grounds, that this assessment did not reflect the actual layout of the flats. The layout of No. 15 Portman Square was provided to the applicant and the daylight distribution assessment re-run.

The assessment finds that the proposed development will result in no material losses in daylight, sunlight or material changes to the distribution of this daylight to any neighbouring properties. As such, the amenity of the occupants of neighbouring properties will not be harmed by the proposed development in this respect.

Impact upon neighbouring properties within the application site.

As set out above, there are a number of rooflights that provide daylight, sunlight and ventilation to the four existing flats at seventh floor level. These rooflights are particularly important to the occupants of Flats 64 and 65 as these flats are large yet single aspect. The result is that, were it not for these rooflights, light penetration to the rear of the units would be poor. In addition, in the summer months, these flats currently benefit from natural ventilation from these rooflights in a way that does not disrupt the occupants' sleep from traffic noise through having to open up windows on the Baker Street frontage. Strong objections have been received from the occupants of Flat 64. The applicant is the leasehold owner of Flat 65.

In order to mitigate the impact upon the amenity of the occupants within Flat 64, the application proposes to build around rather than over the large retractable rooflight, two rooflights serving the kitchen and a rooflight serving a bathroom to Flat 64.

One of the two rooflights serving an ensuite bathroom within Flat 64 is proposed to be lost. The remaining rooflight and the rooflight to a bedroom are proposed to be retained, albeit through voids in the proposed new eighth floor. These rooflight will therefore be re-provided but will be a floor higher than existing.

In respect to Flat 63, the large rooflight above one of the bedrooms will be lost as result of the proposed roof extension, as will a rooflight within the kitchen, a rooflight within the living room, a rooflight within another bedroom and rooflights within two of the bathrooms. Sun pipes are proposed to be re-provided in respect to one of the bedrooms and to the kitchen.

Flat 62 only contains one rooflight above a bathroom. This is proposed to be lost as a result of the proposed extension.

The large rooflight to Flat 65 is proposed to be re-provided, albeit through a void in the proposed eighth floor so that it is one floor above its current location. The rooflight within one of the bedrooms and two bathrooms would be lost, albeit sun pipes are proposed to be provided within the bedroom and one of the bathrooms.

In order to assess the impact of these proposed changes, the applicant has commissioned a report assessing the existing and proposed daylight within each of the rooms using the Illuminance Method set out within the BRE Guide (2022). This assessment does not take into account the contribution of sun pipes and therefore represent a worst-case scenario.

Minimum illuminance recommendations for daylight provision within UK dwellings as follows:

- Bedrooms: 100 lux
- Living rooms: 150 lux
- Kitchens: 200 lux

The above recommendations are based upon the median illuminances that should be

achieved over at least 50% of the assessment grid for at least 50% of the daylight hours over the course of the calendar year.

The proposed additional floor does not affect the access to daylight of the existing windows and the alterations in daylight levels are only due to changes or removal of skylights.

Such a methodology for assessing the impact of development proposals on daylight received by neighbouring properties is not the usual methodology recommended by the BRE Guide (2022). Its application is limited to assessing whether new residential units meet the minimum daylight values set out within the guidance. However, in this instance, such an approach is accepted, albeit with caveats. This is because: (i) The room layouts, glazing specifications of the existing rooflights, and reflectivity of the interior finishes are known (i.e. the measure is accurate); and (ii) Such an approach is helpful in assessing how much light within particular rooms arrives through rooflights that are going to be lost or will reduce as a result of them being altered.

What is not accepted is that the daylight levels in each room can be reduced to the minimum values for new build residential units before the impact is material. This is because this is not the approach taken with VSC where, once the value is below a threshold, it is the relative loss that determines whether or not the loss of daylight would be noticeable to the occupants of the property.

The approach taken in the assessment of this application is one that assesses the percentage loss in daylight, the eventual resulting daylight value, the use of the room affected and the proportion of the flat that is affected.

The impact on each flat is assessed in turn below.

Flat 62:

No habitable rooms will be affected and therefore the impact upon the quality of daylight within this flat will not be affected by the proposed development. As such, there is no objection to the proposal in terms of the impact upon the amenity of the occupiers of this flat from a daylight perspective.

Flat 63:

Analysis reveals that the removal of the rooflights from two of the bedrooms and from the rear of the living rooms will not reduce the light levels below the minimum illuminance recommendations for daylight provision. 98.7% of Bedroom 2 will retain at least 100 lux (compared to 100% as existing) and all of Bedroom 3 will retain at least 100 lux. In terms of the main living room, 86.0% will retain at least 150 lux, compared to 100% as existing. All of the retained values are well in excess of the minimum 50% of the room area. This is because all three of these rooms benefit from an open aspect to the south that will continue to allow them to be well lit even without the rooflights in situ.

The loss of the rooflight serving the kitchen will result in the complete loss of daylight to this room. At present, no area within this room receives the recommended 200 lux, although 52.5% receives at least 100 lux. This kitchen, however, is small and is

therefore not also used as a dining room. It is not unusual for such small kitchens to not receive any daylight. In addition, this room will be provided with a sun pipe which, as explained above, is not taken into account within the assessments will still allow the receipt of natural light, especially on sunny days. For these reasons, it is not considered that the loss of this skylight will materially harm the amenity of the occupants of this flat that is generally very well-lit due to its location at seventh floor level with an open aspect looking south over Portman Square

Flat 64:

The impact of the proposed new eighth floor extension to the levels of light received to the kitchen through the two retained rooflight that serve this room is modest and acceptable, with the whole room still retaining at least the recommended 200 lux.

The same is true of the living room, where the area that will receives at least 150 lux will reduce slightly from 100% to 99.4%. This is well in excess of the minimum 50% of the room area.

The impact of relocating the rooflight to the master bedroom so that it is a storey higher is also minimal, with the area that receives at least 100 lux reduced from 100% to 88.4%. This bedroom benefits from a window on the Baker Street frontage.

For these reasons, it is concluded that the impact upon the daylight levels within this flat will be very modest and will not harm the amenity of its occupants.

Flat 65:

The impact upon the light level within the living rooms will be modest. However, this rooflight will no longer be capable of retracting.

The development would also result in a significant loss of light to the rear bedroom as a result of the loss of its rooflight. Although a sun pipe will be provided, its only other source of light will be borrowed lighted from a window into the fire escape corridor.

As set out above, however, this flat is owned by the applicant and therefore any loss of amenity for the occupants of this flats are considered to be acceptable as the applicant is willing to suffer them to benefit from the value generated the development proposal.

Impact upon neighbouring amenity space

An assessment has been undertaken of the impact of the proposed roof extension on the amount of sunlight enjoyed by the neighbouring amenity space at No. 15 Portman Square (immediately to the west of the application site). The assessment finds that 71.6% of this terrace will received more than two hours of direct sunlight on 21 March. The applicant's assessment finds that there will be no loss of this area. Therefore, the quality of this amenity space will not be degraded as a result of the proposed roof extension.

The former courtyard to Flat 64 acts as an outdoor amenity space for its occupants when the weather allows the rooflight to be retracted. It is clear that this unusual feature

contributes significantly to the amenity of the occupants of this flat, allowing trees and climbers to grow in this space and for the occupants to enjoy sunlight. The ground floor of this courtyard is clearly much more enclosed than the amenity space at No. 15 Portman Square, with 22.7% of the area receiving at least two hours of direct sunlight on 21 March. Through setting the proposed eighth floor extension back from this rooflight to the south and by relocating the access corridor from immediately to the west to further away to the east, the revised proposed is expected to reduce this area to 21.7%. This represents a 4.5% reduction, well below the 20% reduction recommended in the BRE Guide (2022). The quality of this amenity space will therefore not be materially affected by the proposed development.

Sense of Enclosure

The reasonable distance between the proposed roof extension and the flats within the rear east-facing wing of No. 15 Portman Square means that this single store roof extension will not result in a material increase in the sense of enclosure by the occupants of these flats.

Privacy

A 1.7m tall privacy screen will ensure that there is no overlooking from the proposed new roof terrace to the neighbouring amenity space at No. 15 Portman Square (immediately to the west of the application site).

Ventilation

Through relocating the motor to the side of the retractable lantern light serving Flat 64, it will still be possible to fully retract it even with the new corridor providing access to Unit A. This lantern light will therefore still be able to ventilate this flat. Conditions are recommended to be imposed requiring: (i) This relocated motor to be installed prior to occupation of the new dwellings; and (ii) The two re-provided skylights above the bathroom and bedroom of Flat 64 to be remotely openable by the occupants of Flat 64.

A number of rooflights to other bathrooms within existing seventh floor flats are either proposed to be removed or replaced with sun pipes. The applicant has confirmed that replacement air extract arrangements will be installed to ensure that these bathrooms are still ventilated. Details are recommended to be secured by condition.

9.5 Transportation, Accessibility & Servicing

Subject to the imposition of a condition securing cycle parking provision for the occupants of the proposed flats at ground floor level, there is no objection to the proposal from a transportation perspective.

All of the units will be accessible by lift.

Each new flat will have waste and recycling separation storage within their kitchen. General refuse is brought down to the ground floor rear parking area by residents in bags. It is then placed in wheeled bins located in the car parking area by the management company cleaners and removed twice weekly by the City Council. Mixed

recyclables are bought down in a similar way, placed in 'blue bags' provided by the City Council, placed in separate wheeled bins in the same area and collected on a weekly basis.

9.6 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.

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

9.7 Other Considerations

None.

9.8 Environmental Impact Assessment

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

9.9 Planning Obligations & Pre-Commencement Conditions

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

The estimated CIL payment is: £312,818.

10. Conclusion

For the reasons set out above, the proposed roof extension is acceptable in design and conservation terms, optimises the development potential of the site and will not harm the amenity of neighbouring residents

As such, the proposal is considered acceptable, 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 and proposed view from Portman Square (east side):



PHOTO 1 - EXISTING



PHOTO 1 - PROPOSED

Existing and proposed view from Fitzhardinge Street, looking west:



PHOTO 2 - EXISTING



PHOTO 2 - PROPOSED

Existing and proposed view from Baker Street, looking south:

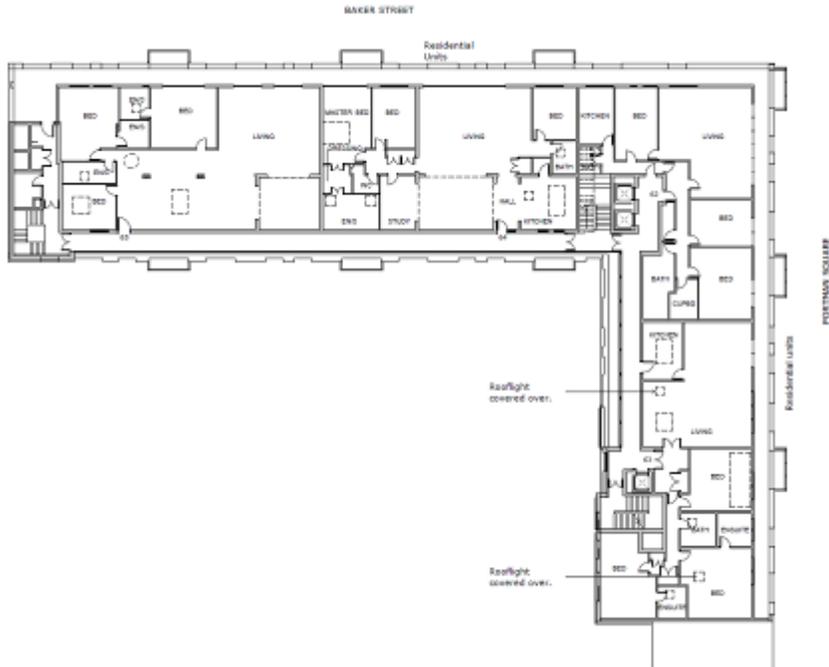


PHOTO 3 - EXISTING

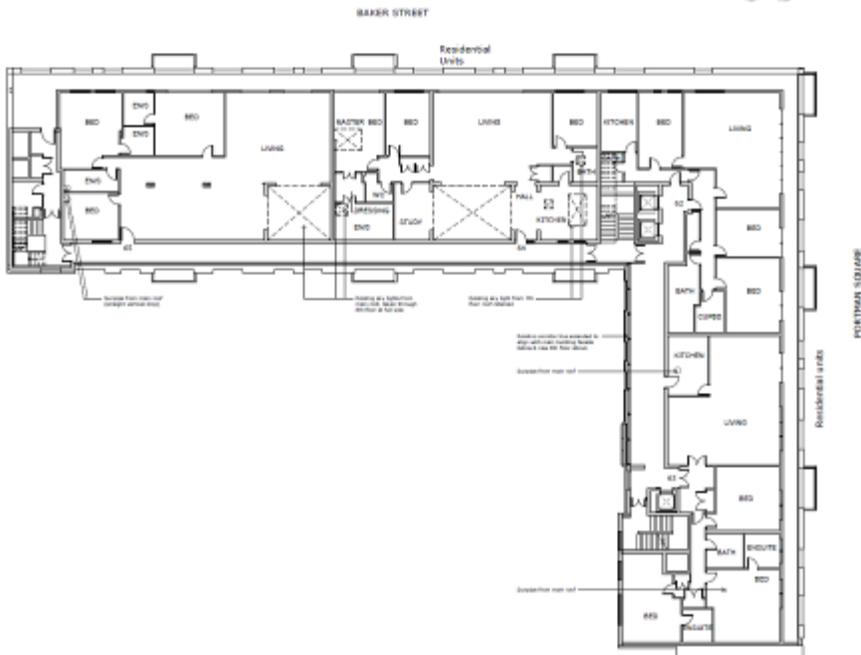


PHOTO 3 - PROPOSED

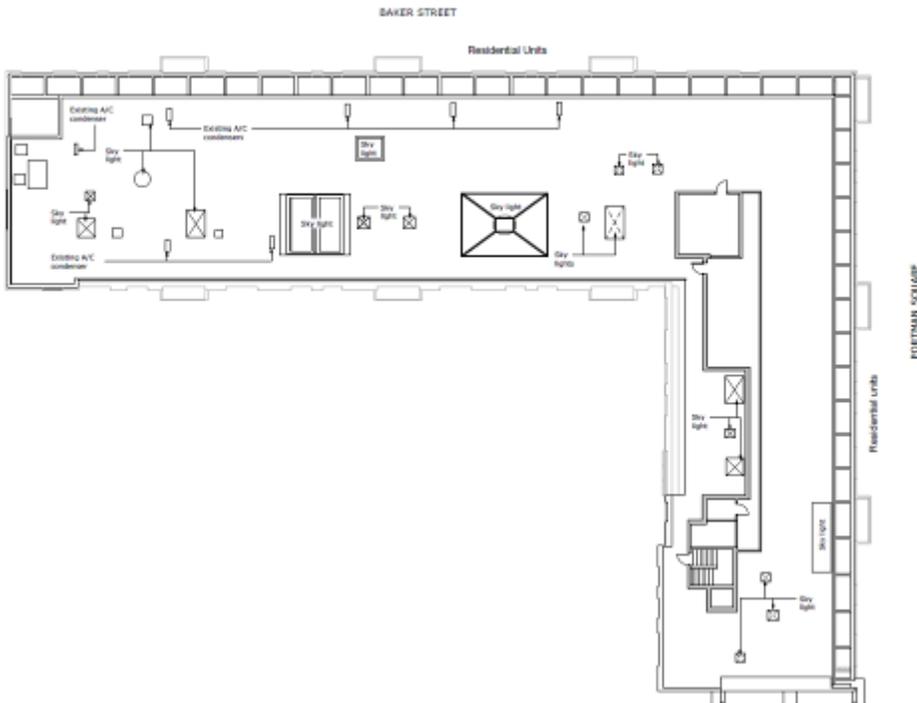
Existing seventh floor:



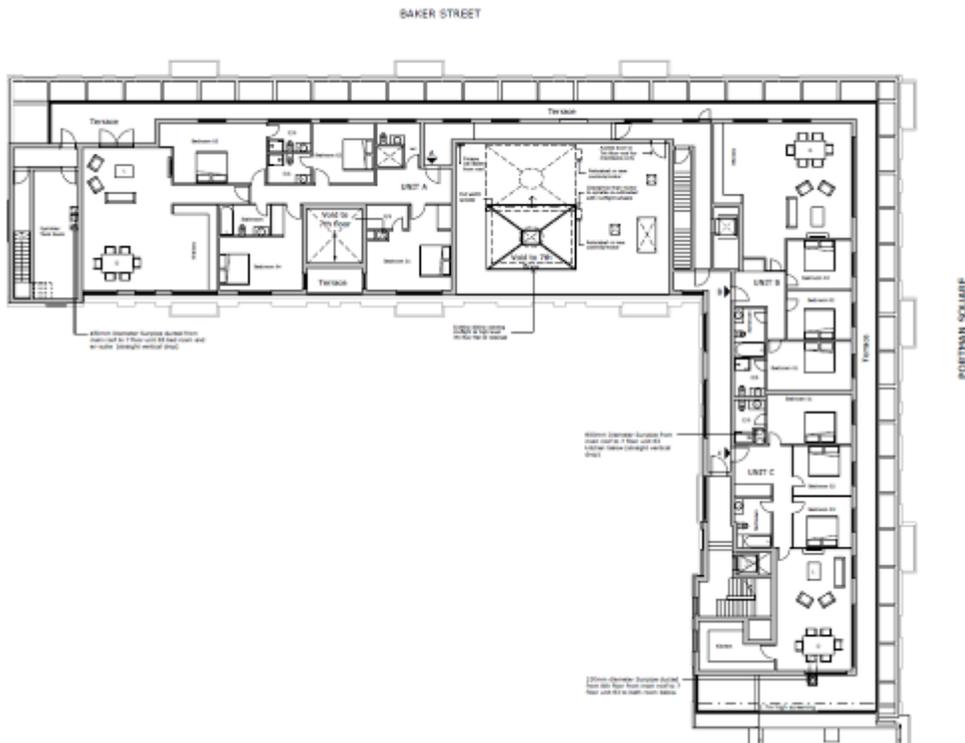
Proposed seventh floor:



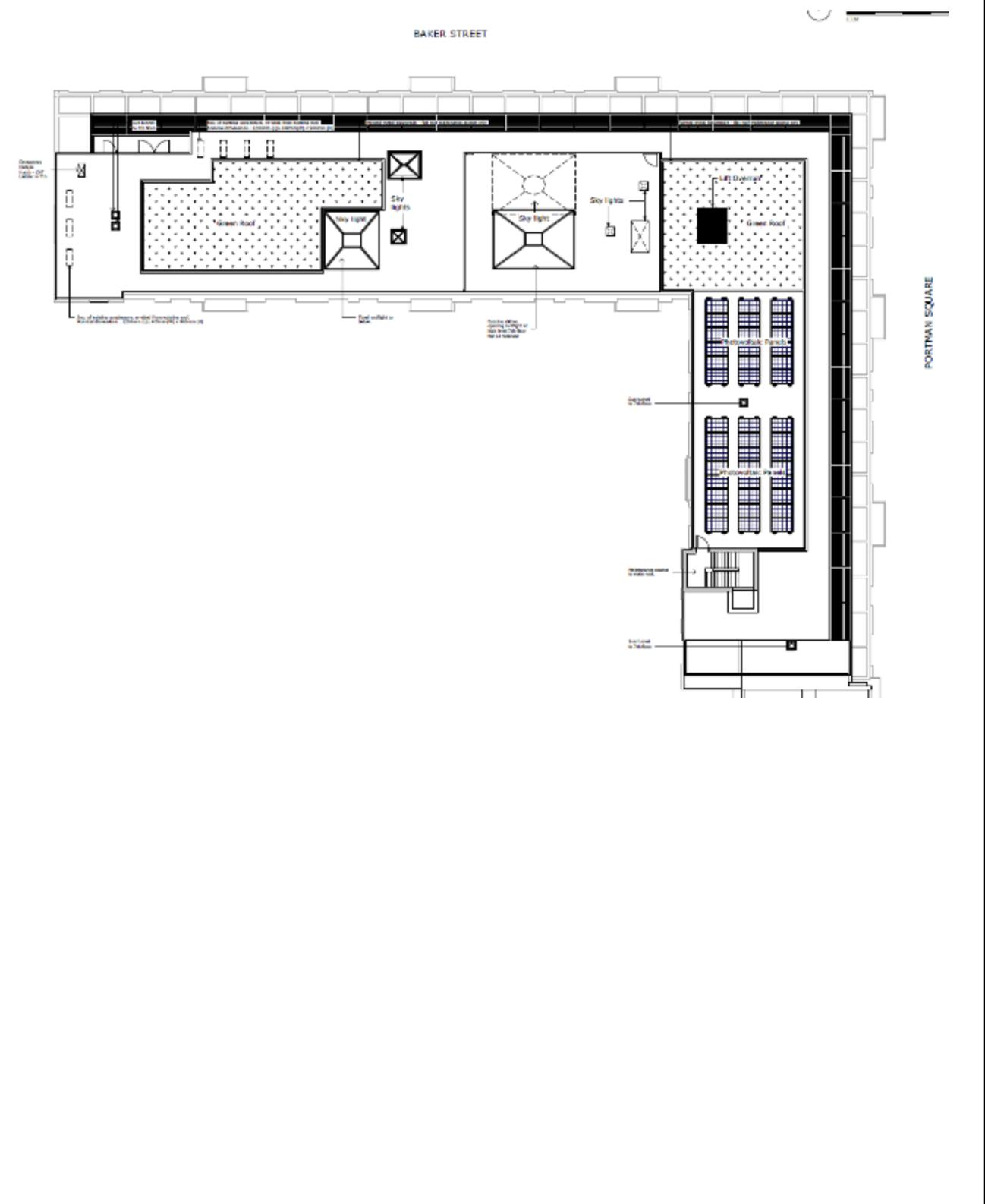
Existing roof plan:



Proposed eighth floor:



Proposed roof plan:



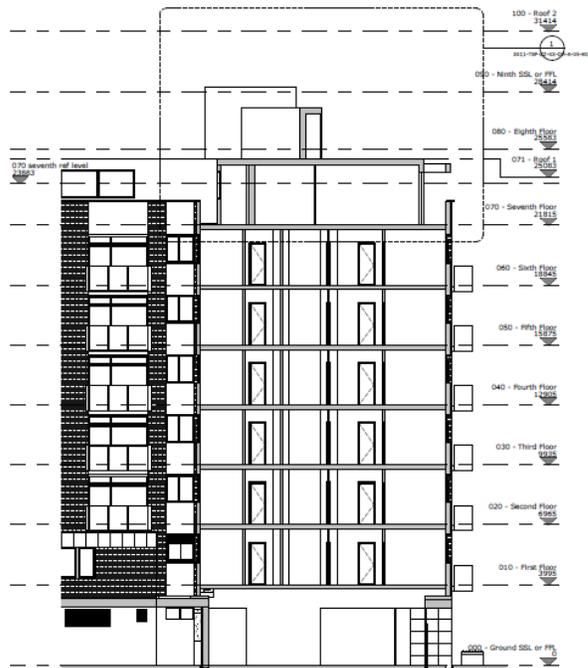
Existing east elevation:



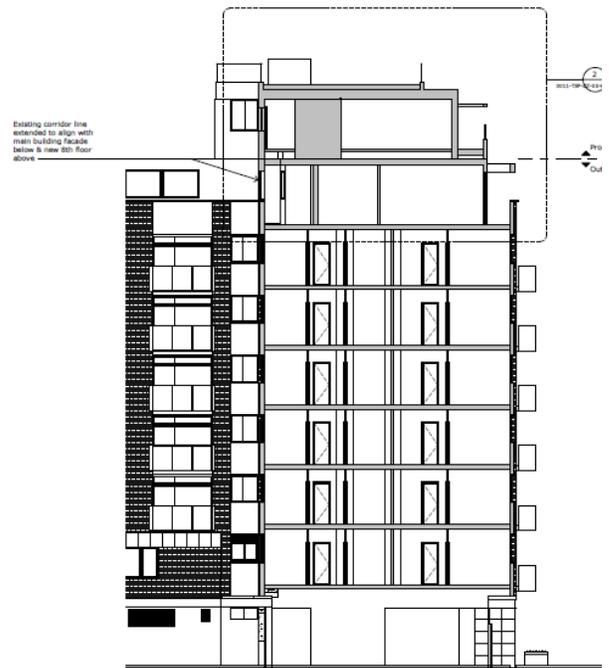
Proposed east elevation:



Existing and proposed section:



EXISTING Section A-A
1 : 100



PROPOSED Section A-A
1 : 100

Axiometric:



DRAFT DECISION LETTER

Address: Fitzhardinge House, Portman Square, London, W1H 6LH

Proposal: Erection of a single storey roof extension to provide three new residential units (Class C3); extension at rear seventh floor level.

Plan Nos: 3011-TSP-ZZ-07-DR-A-05-071 Rev. I, 3011-TSP-ZZ-08-DR-A-05-081 Rev. O, 3011-TSP-ZZ-09-DR-A-05-091 Rev. K, 3011-TSP-ZZ-XX-DR-A-05-702 Rev. G, 3011-TSP-ZZ-XX-DR-A-05-703 Rev. G, 3011-TSP-ZZ-XX-DR-A-05-704 Rev. E, 3011-TSP-ZZ-XX-DR-A-05-705 Rev. D, 3011-TSP-ZZ-XX-DR-A-05-801 Rev. B and 3011-TSP-ZZ-XX-DR-A-05-802 Rev. C.

Case Officer: Mark Hollington

Direct Tel. No. 07866040156

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.

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

- 4 You must 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 this part of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 You must apply to us for approval of detailed drawings of the following parts of the development:

- (i) All new windows and doors.
- (ii) The new eighth floor balustrade.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved detailed drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26FE)

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

- 7 You must apply to us for approval of details of secure cycle storage for the occupants of the three flats hereby approved. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the three flats. You must not use the cycle storage for any other purpose. (C22HA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 8 You must apply to us for approval of drawings and manufacturer's specification of the following parts of the development:
- (i) The sun pipes shown on the submitted drawings.
 - (ii) How the existing bathrooms at seventh floor levels that will have a rooflight removed and not re-provided will be mechanically ventilated.
 - (ii) How the rooflights to the master bedroom and associated en-suite of Flat 64 will be controlled by the occupants of this flat.
 - (iv) How the motor controlling the retractable rooflight serving Flat 64 will be relocated to the side of the rooflight and the rooflight remain able to slide back and forth controlled by the occupants of Flat 64.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved drawings and manufacturer's specification in full prior to the occupation of any of the flats hereby approved. These features, along with the voids shown on the approved eighth floor plan, shall be retained for the life of the development.

Reason:

To protect the quality of the residential accommodation at seventh floor level, as set out Policy 12 of the City Plan 2019 - 2040 (April 2021).

- 9 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49AB)

- 10 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs at roof level to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

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

- 11 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application.

- The roof top photovoltaics

You must not remove any of these features. (C44AA)

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 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: www.westminster.gov.uk/cil

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form** **immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:
www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

Forms can be submitted to CIL@Westminster.gov.uk

Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

- 3 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
 2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).

This applies to both new and existing residential accommodation. Please see our website for more information: www.westminster.gov.uk/planning-building-and-environmental-regulations/planning-enforcement/short-term-lets.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).

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.