

Date: 14/08/2018  
PINS Refs: APP/X5210/W/18/3198243  
Our Ref(s): 2017/6922/P  
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Stephen Wallis  
The Planning Inspectorate  
Room 3N  
Temple Quay House  
2 The Square  
Bristol,  
BS1 6PN

Dear Mr Wallis,

**Appeal site: Cyclone House, 27-29 Whitfield Street, London, W1T 2AE**  
**Appeal by: 27-29 Whitfield Property Limited**

**Proposal:** Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level.

I refer to the above appeal against the Council's non-determination of the above application. The Council has resolved that had the Council had the power to determine the application, planning permission would have been granted subject to conditions and a S106 Legal Agreement. The Council's case is set out in the Officer's report attached at appendix A. The report details the application site and surroundings, the site history, and an assessment of the proposal. Suggested conditions and planning obligations are attached at appendix B. The Council is approaching the appellants with a draft s106 and will update PINs at the final comments stage.

## **1. Status of policies and guidance**

- 1.1. In assessing the abovementioned application, the London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 1.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 03/07/2017. The relevant policies in the Local Plan and supporting guidance documents are set out in the report. The Camden Planning Guidance documents referred to in the officer's report have been subject to public consultation and were approved by the Council in 2018, 2015 and 2011.
- 1.3. With reference to the National Planning Policy Framework 2018, policies and guidance contained within Camden's Local Plan are considered to be in accordance with the NPPF and should be given full weight in the decision of this appeal.
- 1.4. If any further clarification of the appeal submission is required please do not hesitate to contact Laura Hazelton on the above direct dial number or email address.

Yours sincerely,

**Laura Hazelton**  
**Senior Planning Officer**  
**Regeneration and Planning**  
**Supporting Communities**

## **APPENDIX A**

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### **Officer's Report**

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<b>Delegated Report (Members Briefing)</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>09/02/2018</b>
		N/A / attached		<b>Consultation Expiry Date:</b>	<b>01/02/2018</b>
<b>Officer</b>			<b>Application Number(s)</b>		
Laura Hazelton			2017/6922/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
Cyclone House 27 - 29 Whitfield Street London W1T 2SE			Please refer to decision notice		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level.					
<b>Recommendation(s):</b>		<b>Grant conditional planning permission subject to a Section 106 Agreement</b>			
<b>Application Type:</b>		<b>Full Planning Permission</b>			

<b>Conditions or Reasons for Refusal:</b>	<b>Refer to Draft Decision Notice</b>				
<b>Informatives:</b>					
<b>Consultations</b>					
<b>Adjoining Occupiers:</b>		No. of responses	<b>19</b>	No. of objections	<b>19</b>
		No. Electronic	<b>00</b>		
<b>Summary of consultation responses:</b>	<p>A site notice was displayed from the 29<sup>th</sup> December 2017 until the 19<sup>th</sup> January 2018. A press advert was placed on 28<sup>th</sup> December 2017 in the Camden New Journal.</p> <p>Following confusion from local residents regarding the site notice (given that it is the re-submission of previous scheme (ref: 2016/6495/P) and that a second application for a revised scheme (ref: 2017/6080/P) was advertised at a similar time), a new site notice was displayed from the 10<sup>th</sup> January 2018 until the 31<sup>st</sup> January 2018 and a press advert was placed on 11<sup>th</sup> January with a revised description highlighting that this was a new application.</p> <p>In addition, an email was sent by the planning officer on 22<sup>nd</sup> December 2017 to all interested parties that had commented on previous application ref: 2016/6495/P to inform them that a new application had been submitted that was identical to the previously submitted application (please refer to Background section 2 below for more details).</p> <p>19 letters of objection were received on the following grounds:</p> <p>Impact to the setting of the adjacent listed building, 1 Colville Place.</p> <ul style="list-style-type: none"> <li>• The setting of the listed building would be compromised by the two storey roof extension. The height and bulk would harm and overwhelm the listed building.</li> <li>• No.1 is an ‘immaculately detailed, minimal house, a rare example of a modernist infill scheme of sophistication and careful taste’. These qualities would be seriously compromised by the development.</li> <li>• The proposal to increase the size of the ground floor windows to Colville Place would damage the setting of the listed house.</li> <li>• The Council hasn’t previously correctly assessed the impact on the setting of the listed building.</li> <li>• The proposals do not offer any public benefits which would justify the harm caused to the listed building.</li> </ul> <p><i>Officer response: See section 5 (Conservation and Design)</i></p> <p>Design</p> <ul style="list-style-type: none"> <li>• The building is on a prominent site. The application lacks any common sense or design which will enhance and preserve the site.</li> <li>• The roof extension will be an eyesore. It lacks good design and would not contribute positively to the character of the area.</li> <li>• The design doesn’t relate to neighbouring buildings.</li> <li>• The current building is of no architectural importance in itself but does conform with the height and scale of others in Colville Place. The proposed additional floor and plant room will destroy this relationship.</li> <li>• The large ground floor windows do not relate to the surrounding buildings.</li> </ul>				

*Officer response: See section 5 (Conservation and Design)*

#### Impact on character of the conservation area

- The extra storeys will ruin the character of the area and the development will overwhelm it.
- Contrary to Camden's policies which state that development of poor design that fails to take the opportunities available to improve the character of the area should be refused.
- Unacceptable visual impact to the area.
- Key views will be compromised – from the terrace at 1 Colville Place, the outlook from the park, and the long views from Whitfield Street looking north.
- The increased size of the window openings detrimentally changes the balance between solid to void, damaging the scale and special character of this part of the conservation area.
- The roof extension would destroy the relatively even skyline of Colville Place.

*Officer response: See section 5 (Conservation and Design)*

#### Amenity

- Excess noise and disturbance by the proposed space on the top floor.
- Detrimental impact on residential amenities including visual impact.
- Loss of privacy and overlooking.
- Overshadowing/loss of light.
- Overlooking of 1 Colville Place terrace.
- Users of the roof terrace will be able to overlook the whole of Colville Place.
- The third floor roof would be used as a terrace.
- The rooftop terrace would be used at all hours and cause disturbance.
- The use of the terrace would be harmful due to the way noise reverberates between the backs of Colville Place and Goodge Street.

*Officer response: See section 9 (Residential Amenity)*

#### Other issues

- Impact on ecosystem.
- Human Rights Act – a person has the right to peaceful enjoyment of their home and possessions.
- Disability access should be provided for A1/D1 uses.
- The creation of an art gallery is not a public benefit.
- The D&A shows the ground floor windows as being openable onto Colville Place – unacceptable impact on neighbouring gallery.
- The ground floor could end up being used as an office or retail which would be noisy and make no.1 unusable.

*Officer response:*

- *The proposed development would not harm have a harmful impact on the local ecosystem. The installation of green roofs would improve biodiversity at the site which currently does not any greenery. Conditions would secure details of the green roofs to be approved to ensure they would be sustainable and viable.*

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|--|--|
|  | <ul style="list-style-type: none"><li>• <i>The proposed development is not considered to cause harm to neighbouring amenity in terms of outlook, daylight, privacy or noise impacts. Please refer to section 9 for full assessment.</i></li><li>• <i>As the proposals involve works to an existing building and would not worsen the existing access arrangements, they are considered acceptable in this instance.</i></li><li>• <i>The introduction of a gallery space in this location would be in keeping with the local character and is considered acceptable.</i></li><li>• <i>The proposed ground floor plan which would be secured by condition as an approved drawing if permission is granted does not show openable windows.</i></li><li>• <i>The applicant has confirmed the proposed use would be as an art gallery, the same use as the ground floor of no.1 and is therefore not considered to impact the use of no.1.</i></li></ul> |
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**CAAC/Local groups  
comments:**

Objections were received from the following groups:

20<sup>th</sup> Century Society

- Harm to the setting of the adjacent listed building, 1 Colville Place. The increase in height would result in the building having an overly dominant presence in relation to the listed building when experienced both from the terrace of Colville Place, from long street views and from the square.

Bloomsbury Residents Action Group (BRAG)

- Harm to the setting of the adjacent listed building.
- Impact on the wider conservation area.
- There is no public benefit that will outweigh the negative impact on the nearby public open space (Crabtree Gardens), the adjacent listed building (1 Colville Place), the Bloomsbury Conservation Area and local residential amenity (overlooking, light spillage & potential noise pollution).

Fitzrovia Neighbourhood Association

- The proposals would have a negative impact on the listed building, conservation area, public open space and residential amenity.
- The height and bulk of the roof extension will cause serious harm to the setting of the listed building. This impact is not outweighed by any public benefit proposed by the development.
- The existing building is modest and typical of a number of buildings erected after bomb damage.
- Use of roof space as amenity space would cause noise disturbance and loss of privacy.

Friends of Fitzrovia Parks

- The qualities of this important public open space are threatened by the proposed additional floors whose overbearing bulk would seriously damage the feeling of openness and outlook from the Park. It would also be damaging to the views of the listed building at 1 Colville Place.
- The proposed large windows to the ground floor would be damaging to the Park.

Bloomsbury Conservation Area Advisory Committee (BCAAC)

- The bulk of the two proposed extensions is detrimental to the setting of the adjacent listed building. The 3<sup>rd</sup> floor extension would result in overlooking and light spillage to the listed building. The roof terrace would be used by commercial tenants and could be the site of large gatherings which would result in noise disturbance to this predominantly residential area.

Jolanta and Max Neufield Charitable Trust

- The proposed roof extensions would cause substantial harm to the setting of the listed house, the wider amenity of the area, including views from Crabtree Fields because of their height, bulk and relationship at third floor.

Charlotte Street Association

- Setting of the listed building
  - The bulk of the roof extensions is detrimental to the setting of the listed building.
  - The proposed elevation 2 drawing gives the wrong impression and colour of 1 Colville Place, and distance of Goodge Street to the rear.
  - Question the viability of scheme without the need for an extension.
- 4<sup>th</sup> floor terrace
  - A considerable number of people could use this space (approx. up to 20 to 30 people). The noise will travel to nearby residential houses



and flats.

- With the proposed mix of uses, noise could continue into the evenings, weekends and bank holidays.
- Overlooking of 3<sup>rd</sup> floor terrace at 1 Colville Place.
- Proposed roofs at 1<sup>st</sup> floor, 2<sup>nd</sup> floor and 3<sup>rd</sup> floor must only be accessed for maintenance.
- Colville Place Elevation
  - Ground floor windows – the clutter from the office use would be seen from the street and Crabtree Fields will lose its sense of privacy and intimacy.
  - Regrettable that the existing recessed lined will not be re-instated which gives a subtle and intimate scale to the facades.

Cllr Rishi Madlani

- Supports the comments from the Charlotte Street Association

## Site Description

The site consists of a 3 storey plus basement building dating from the mid-20th century. It was constructed following bomb damage at some point between 1958 and 1968. The building is typical of the period with a modest façade of brickwork with render panels and strips of metal framed windows. It was most recently used as a courier hub and taxi control office (Sui-Generis Use). The application site covers an area of approximately 0.0133 hectares (133sqm) on the corner of Whitfield Street and Colville Place.

The site is located within the Charlotte Street Conservation Area, but is not identified as making a positive contribution to its character and appearance in the Conservation Area Appraisal and Management Plan (2008). Immediately to the west of the site at 1 Colville Place is a Grade II listed house by Max and Jolanta Neufeld dating from 1964.

The surrounding area is characterised by a mix of uses including more commercial uses towards Goodge Street and residential use along Colville Place. 1 Colville Place and the majority of the adjacent terrace are a similar scale and height of 3 storeys with a setback 4th floor. Buildings along Whitfield Street are more variable, with the majority over 4 storeys in height.

Directly to the south of the site is the designated public open space of Crabtree Fields. The site is located within the designated Central London Area, falling within the London view management corridor from Parliament Hill oak tree to the Palace of Westminster. It is also located within the Fitzrovia Area action plan.

The site has a Public Transport Accessibility Level (PTAL) rating of 6b (excellent). The site is located close to Goodge Street and Tottenham Court Road London Underground stations, and bus routes 10, 24, 134, 390, 73, 29 and 14 on Goodge Street.

## Relevant History

### The site

**2017/6080/P** - Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, infill of light-well at basement level, removal of rendered panels and application of limewash to existing brickwork. Agreed by Planning Committee to grant permission subject to S106 Agreement on 07/06/2018. Final decision notice issued 27/06/2018.

**2016/6495/P** - Change of use of basement, ground and first floor to flexible uses (Class use A1/ B1/ D1), second floor to B1 office, and new single-storey roof extension to create additional B1 office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level.

Granted subject to a S106 Legal Agreement on 04/08/2017 following a recommendation of approval at Planning Committee on 06/07/2017. The decision was subject to a judicial review on the basis that the Council had failed to assess the heritage impact of the proposal. The Council agreed to submit to papers and the decision was formally quashed on 04/04/2018. The current application is for the same development as this scheme.

**2013/8158/P** - Change of use of basement, ground and 1st floors to office (Class B1) use and 2nd floor to Class C3 residential use, single storey roof extension to create two self-contained residential units at 2nd and 3rd floor levels, facade alterations, infill of lightwell at basement level, installation of roof plant enclosure and other associated works. Withdrawn April 2016.

**2012/4136/P** - Planning permission was granted on 22/10/2012 for the change of use from a courier hub and

taxi control office (sui generis) to offices (Class B1a).

**2003/3178/P** - Planning permission was granted on 1/3/2004 for the retention of radio mast on existing Class B1 (Office) building.

**8400185** - Established Use Certificate issued in respect of the use of the second floor as offices on 03/04/1984.

## **Relevant policies**

### **National Planning Policy Framework 2018**

#### **NPPG**

#### **The London Plan 2016**

#### **Mayor's Supplementary Planning Guidance**

#### **Camden Local Plan 2017**

G1 Delivery and location of growth  
C3 Cultural and leisure facilities  
E1 Promoting a successful and inclusive Camden economy  
E2 Employment premises and sites  
A1 Managing the impact of development  
A4 Noise and vibration  
D1 Design  
D2 Heritage  
CC1 Climate change mitigation  
CC2 Adapting to climate change  
TC1 Quantity and location of retail development  
T1 Prioritising walking, cycling and public transport  
T2 Car-free development and limiting the availability of parking  
T4 Promoting the sustainable movement of goods and materials

#### **Supplementary Planning Policies**

##### Camden Planning Guidance

CPG 1 Design (2015, updated March 2018)  
CPG 6 Amenity (2011, updated March 2018)  
CPG 7 Transport (2011)  
CPG 8 Planning obligations (2015, updated March 2018)  
CPG Employment sites and business premises (2018)  
CPG Town Centres (2018)

Charlotte Street Conservation Area Appraisal and Management Plan (2008)

Fitzrovia Area Action Plan (March 2014)

### 1.0 Planning Appeal

- 1.1 The Local Planning Authority (LPA) has a specific time in which to determine a planning application (8 weeks for minor applications such as this). If no decision has been made within this time period (except where the applicant and authority have agreed a longer period in writing), the applicant can appeal to the Planning Inspectorate on the ground of non-determination, thereby removing the decision from the LPA.
- 1.2 In this instance, the applicant has appealed to the Planning Inspectorate on the grounds of non-determination. Therefore, the Council is required to provide the Planning Inspectorate with an indication as to what its decision would have been had an appeal not been lodged against non-determination. Accordingly this is expressed in the recommendation as set out in the report.

### 2.0 Proposal

- 2.1 The proposal is for the change of use of the basement, ground and 1st floors to a mix of office, non-residential institution, and retail use (classes B1/D1/A1) and the change of use of the 2nd floor to office use. The application also includes the erection of a single storey roof extension to create a new 3rd floor level for office use, façade alterations, the infill of the existing lightwell at basement level, installation of a replacement rooftop plant enclosure, roof terrace above the new 3rd floor extension, and other associated works.
- 2.2 The proposed roof extension would be set back from the Colville Place elevation to sit in line with the upper storey of no.1 Colville Place. The extension would be constructed of reclaimed London Stock brickwork and finished in light grey render with aluminium windows to match the floors below.
- 2.3 The existing site comprises 324.5sqm (GIA), previously in use as a courier hub and taxi control office, but now vacant. Permission was previously approved for the change to office space (B1a use), but this scheme has not been implemented. The proposed scheme comprises 383sqm in total (GIA), including 112sqm (GIA) of office space, and 271sqm (GIA) of flexible commercial space (B1/D1/A1). The total uplift in floorspace would be 58.5sqm (GIA).
- 2.4 The proposed development would be car-free, and as such, no on-site car parking would be provided. Cycle parking for 5 bicycles is provided at basement level.
- 2.5 Refuse and recycling facilities would be provided on each floor for each user, with collection via the standard on-street service.
- 2.6 The proposal includes alterations to the existing east and south facades. The existing brickwork would be retained, but the render would be replaced. New double glazed windows with anodised aluminium frames would be installed whilst lowering the cill level. At ground floor, they would be dropped to 20cm above ground floor level, and at 1st and 2nd floor level, the cills would be dropped slightly by 22cm.
- 2.7 The proposals are the same as those previously considered acceptable at planning committee under reference 2016/6495/P.

### 3.0 Background

- 3.1 The proposals are the same as a scheme previously considered at planning committee in July 2017 following referral from member's briefing (ref: 2016/6495/P). Following a recommendation of approval, conditional planning permission was granted subject to S106 Legal Agreement on 04/08/2017. Subsequently, the Council's decision was challenged by Judicial Review for the following reasons:

- The officer applied the wrong legal test as required by the NPPF in respect of the balancing test (harm v. public benefit), excluding relevant paragraph 132 of the NPPF which makes clear how the balancing exercise should be applied.
- The officer references paragraph 134 of the NPPF and interprets this as requiring a simple balancing exercise between the 'modest' harm to the heritage asset and the 'element of public benefit' of the development in bringing the site back into use.
- It was claimed that the Council did not understand the considerable weight which must be applied to the conservation part of the balance.
- The officer's report did not refer to section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3.2 Following legal advice, the Council agreed to consent to judgement and the decision was quashed. Whilst waiting for the court papers quashing the decision to be released, the applicant submitted two further planning applications for consideration. The current application (ref: 2017/6922/P) is for the exact same proposals as application ref: 2016/6495/P. The second application (ref: 2017/6080/P) was for similar development but incorporates various design amendments including the removal of the existing render, the use of a mineral paint wash to the building and changes to the design of the roof extension, and has since been approved subject to S106 agreement and the decision notice issued, following consideration at planning committee on 7 July 2018.

3.3 The court papers were issued on 04/04/2018 and later uploaded onto the Council's website on 18/05/2018. Likewise, the previous decision was 'reversed', and application ref: 2016/6495/P re-opened on the same date. Therefore, there are two current undetermined applications for the same development (the current application and the previous application ref: 2016/6495/P). The Council has contacted the applicant to determine if they wish to withdraw application ref: 2016/6495/P, but no answer has been received.

3.4 The committee report, committee minutes and High Court letter quashing the Council's decision on application 2016/6495/P are attached as APPENDIX 1 to this report.

#### **4.0 Assessment**

4.1 The principal considerations material to the determination of this application are the following:

- Land use
- Conservation and Design
- Impact on neighbouring amenity
- Transport
- Refuse and recycling
- Planning obligations
- CIL
- Conclusion
- Recommendations

#### **5.0 Land Use**

##### Loss of sui generis – courier hub/taxi control office

5.1 Planning permission for the existing use as a courier hub and taxi-control office was granted retrospectively via appeal in September 2007 (ref. APP/X5210/C/06/2031472), following the unauthorised conversion of the site from office (B1a) use.

5.2 Planning permission was later granted in October 2012 (ref: 2012/4136/P) for the change of use back to

offices (B1a use). The proposal sought to reinstate the previous use of the property, as the use as both a courier hub and taxi control office was no longer considered viable and there was significant demand for offices within this part of the Borough.

5.3 As part of application 2016/6495/P officers did not object to loss of the sui generis use, specifically the use as a courier hub/taxi control office, which was afforded no policy protection. The policy position remains the same since the adoption of the new Camden Local Plan in 2017, and the Council would not seek to protect the existing use of the site. The loss of existing sui generis floor space is therefore considered acceptable in principle.

#### Proposed flexible retail / non-residential institution / office use

5.4 As discussed above, the site was originally in use as offices prior to the unlawful conversion to sui generis use. Planning permission was previously granted (though now expired) to return the premises to business use (B1a). The current application would reintroduce 112.1sqm of office floor space to the site at 2nd and 3rd floor level.

5.5 Policy E2 (employment sites and premises) states that the Council will encourage the provision of employment premises and sites in the borough. The Council will protect premises or sites that are suitable for continued business use, in particular premises for small businesses, businesses and services that provide employment for Camden residents and those that support the functioning of the Central Activities Zone (CAZ) or the local economy.

5.6 Given the site's original use and its location within the busy commercial area of Whitfield Street in the Central London Area, the re-introduction of office use is considered appropriate in this location. The re-introduction of office floorspace suitable for smaller enterprises would also comply with Principle 4 of the Fitzrovia Area Action Plan (FAAP) which seeks to protect existing business premises for small and medium enterprises (SMEs) and to ensure that new business development is designed flexibly to allow parts of the property to be occupied by SMEs.

5.7 The proposal would also introduce 271.1sqm of flexible business (B1), retail (A1), and non-residential institution (D1) uses to the site at basement, ground and first floor level. The end-user has not yet been confirmed, but the applicant has stated that the likely uses would be an art gallery (D1 use), multiple or single tenant office occupier (B1a) and a non-food retail operator (A1 use).

5.8 Although not located within a designated retail frontage, these uses would not be out of character in this area. The site is close to Tottenham Court Road which is identified in policy TC1 (Quantity and location of retail development) as a retail growth area, and Goadge Street which is identified in the Fitzrovia Area Action Plan as providing food and drink uses and specialist and independent shops. Furthermore, the site is located within the Fitzrovia specialist shopping area, where the Council seeks to retain existing retail units and maintain the overall stock of retail premises due to their contribution to the character of the area.

5.9 Adjoining the site at no. 1 Colville Place there is a small art gallery (A1/ D1 use) and many other galleries are present on nearby Charlotte Street. The introduction of a gallery space in this location would be in keeping with the local character and is considered acceptable.

#### Land use conclusion

5.10 Overall, the mix of uses on this site is considered appropriate and would not be out of character in this location. The existing courier hub/taxi control office is not afforded any specific policy protection, and its replacement with a mix of high quality office space, retail, and gallery uses would contribute to the character and vibrancy of the area in accordance with policies E2 and TC1 of the Local Plan and policy F1 of the Fitzrovia Area Action Plan.

## **6.0 Conservation and Design**

## Statutory Framework and Implications

- 6.1 Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) are relevant.
- 6.2 Section 66(1) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority 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.
- 6.3 Section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.
- 6.4 The effect of these sections of the Listed Buildings Act is that there is a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption. The NPPF provides guidance on the weight that should be accorded to harm to heritage assets and in what circumstances such harm might be justified (section 16). This section of the report assesses the harm to heritage assets from the proposal. The balance of the harm and the benefits from the proposed scheme are discussed in the conclusion.

## Policy review

- 6.5 NPPF section 16 paragraphs 184 to 202, NPPG section 18a, London Plan policies 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8, Camden Local Plan policies D1 and D2 and CPG1 (Design) are relevant with regards to conservation and design.

## Designations

- 6.6 The application site is located within the Charlotte Street Conservation Area, where it is described as making neither a positive nor a negative contribution to the character and appearance of the area (Charlotte Street Conservation Area Appraisal and Management Plan).
- 6.7 The site itself is not listed, but it adjoins the Grade II listed building 1 Colville Place, constructed in the 1960s. The adjoining 19th century terrace properties nos. 3 – 9 are described as making a positive contribution to the conservation area, whilst nos. 11 – 13 Colville Place, towards the western end are Grade II listed.
- 6.8 Crabtree Fields to the south of the site is a Locally Listed area of open space, laid out in 1985 by the GLC replacing a former car park on an empty bomb-site.
- 6.9 Adjoining neighbour 1 Colville Place is an interesting example of a post-war infill of a vacant bomb-damaged site. Designed in a minimalist modernist style typical of the 1960s by Max Neufeld for his own occupation, it is finished in brown brick with concrete beams to the front and rear. The building is 3 storeys in height with a setback 4th floor, which respects the adjoining terrace of residential buildings along Colville Place. The building was listed grade II in April 2000 as an “immaculately detailed, minimal house, a rare example of a modernist infill scheme of sophistication and careful taste” (Historic England Listing).

## Assessment of effect on setting of 1 Colville Place and the character of the Charlotte Street Conservation Area

- 6.10 The main considerations are the impact of the proposals on the setting of the adjacent Listed Building 1

Colville Place, and on the character and appearance of the wider Charlotte Street Conservation Area.

6.11 The proposals involve the following external alterations which could impact the special character of the designated heritage assets:

- The erection of a single storey roof extension to create additional office accommodation, with plant enclosure and roof terrace above;
- The replacement of the main entrance and the addition of a new secondary front entrance (both with canopies) to the ground floor level;
- Alterations to the existing building, including the cleaning of the existing brickwork, new windows, and new render; and
- The infill of the existing lightwell and installation of glazed pavement lights above.

#### The site and its setting

6.12 The Charlotte Street Conservation Area appraisal and management strategy (2008) describes the character of the quieter commercial streets, which includes Whitfield Street, as having:

“a strong sense of enclosure deriving from the relatively narrow street width, continuous frontages of generally four or five storeys in height and a largely consistent, strong parapet line. A variety of materials – red brick, yellow brick and render – is evident on all of the streets.”

6.13 The building is prominent in views northwards up Whitfield Street, when viewed from Crabtree Fields. Although it is built to a slightly larger scale and has its main frontage onto Whitfield Street, it also reads as part of the terrace of 3 storey houses on Colville Place to the west.

6.14 Crabtree Fields to the south of the site provides a greater sense of openness than elsewhere on Whitfield Street, allowing wider views of the north side of Colville Place than would normally be expected in such an urban location. However, the established mature trees within the park obscure a considerable amount of the view of the roof tops.

#### Impact on Character and appearance of conservation area

##### Roof extension and plant enclosure

6.15 The proposed roof extension would follow the building line of the floor below, but would be set back from the Colville Place elevation by 3.3m to sit in line with the stepped back 3<sup>rd</sup> floor of 1 Colville Place. The parapet fronting Colville Place would be raised slightly by 375mm. This pattern of 3 storeys with a setback upper storey is consistent with the smaller scaled residential properties on Colville Place, and given the oblique views that are available down this narrow street, the additional height and bulk would not be readily perceptible.

6.16 The setback of the upper storey, its scale and proportions would prevent the building appearing too dominant in views from Crabtree Fields and from the south along Whitfield Street; however, it is worth noting that mature trees would also provide a filtering of these views during the summer months. The main elevation of the building faces the busier and wider Whitfield Street with the secondary elevation facing the Colville Place alley. As such, the additional storey would be read predominantly in the context of the larger buildings surrounding it to the north and east along Whitfield Street.

6.17 The 4 storey façade to Whitfield Street relates well to the taller 5 storey property to the north and sits comfortably within the context of the larger scaled buildings on Whitfield Street, many of which project to 6 storeys, as well as according with the traditional context of 4 storey 18th and 19th century townhouses on Goodge Street. The additional height and its positioning on the northern side of the roof would help ensure it would not be out of character with the local pattern of development in this position.



6.18 The roof extension would be a modest extension of the existing building matching in materials and design. It would be constructed of reclaimed London Stock brickwork and finished in light grey render with simple aluminium windows to match the floors below. Details of all new facing materials would be secured by condition to enable officers to inspect the proposed materials on site prior to commencement of development. A recessed concrete shadow gap between the existing 2<sup>nd</sup> floor and proposed 3<sup>rd</sup> floor would help to introduce an element of separation between the existing building and new extension and retain a sense of the existing parapet line.

6.19 A small stair enclosure and zinc-clad plant room are also proposed above the roof extension. The plant room is larger than the existing (measuring approximately 10sqm and 2m tall as opposed to 6sqm and 1.7m tall); however, this is not likely to be prominent in longer views from Crabtree Fields, especially in the summer months due to the dense tree cover. There may be glimpses of the plant room moving northwards up Whitfield Street from the opposite pavement but any views would be seen in the context of the larger bulk of the adjacent building to the north at 19 Goodge Street.

6.20 Although the Council generally prefers plant to be located internally within the building's envelope; the applicant has already been asked to explore whether it would be possible to locate the plant (heat pump condensers) within the basement as part of the previous application (reference 2016/6495/P). As discussed in the previous case officer's report for this application:

*'The applicants M&E consultants have reviewed the proposals and consider the plant has to be fixed externally. Heat pump condensers absorb or reject energy to the air and must be located externally to the building and in a location where surrounding air flow is not impeded. When operating the condenser when in cooling mode rejects heat to the surrounding external air and similarly when in heating mode absorbs energy from the surrounding air. Effectively this means that when in cooling mode the surrounding air is heated when passing across the fins of the condenser and unless there is free air movement the localised air will over heat and the unit will trip. Similarly when in heating mode the condenser will chill the surrounding air and thus if good free air movement is not ensured the surrounding air will become too cold and the unit will trip. On this basis it is essential that the external condensers are located on the roof of the building to ensure free air movement across the coils. The proposed system is recognised as being highly energy efficient. Given the need for modern and efficient mechanical and electrical systems for the workplace combined with the minimal degree of visibility from the public realm it is not considered that this aspect of the proposals could be justifiably resisted.'*

6.21 Given the fact that there is no other outside space available within the application site, the location of the plant externally at rooftop level is considered acceptable in this instance.

#### Facade treatment

6.22 In order to harmonise and modernise the appearance the building, it is proposed to apply a new light grey render colour to the existing rendered areas (and new roof extension), and clean and retain the existing brickwork. As mentioned above, details of the new materials would be secured by condition.

#### Window alterations

6.23 Alterations to the building's fenestration are proposed as part of the modernising of its appearance. On the east elevation the size and proportion of the openings will generally be retained, although made slightly larger (45mm wider and 236mm taller), with new fenestration added. The proposed windows on the south elevation are more vertically proportioned and sit comfortably with the traditional scale and alignment of the fenestration along Colville Place. A sense of diminishing fenestration has been included which also reflects the adjacent 19th century properties. Although there is a lower proportion of solid to void on the proposed south elevation than the existing arrangement this is consistent with the appearance of traditional 18th and 19<sup>th</sup> century terraced houses. All new windows are proposed to be double glazed and

aluminium framed which would complement the brickwork and render.

- 6.24 Windows at the rear are proposed to be retained at their existing locations. The glazing will remain clear in the upper parts (as existing) and will be obscure glazed and fixed shut in the lower (new) parts. A green roof is proposed to the rear 1st floor flat roof and the existing 'dome' rooflight replaced with a new flat rooflight. These works are minor and would have limited impact on the character of the building due to their location to the rear of the building surrounded on all sides by neighbouring buildings.
- 6.25 To the Whitfield Street elevation, the proposals include the lowering of one window opening to provide a second entrance into the gallery space. The existing entrance steps would be re-built to the same dimensions and would provide access to the office space on the floors above. Both entrances would feature a simple glazed canopy above. The new entrance door would be the same width, design and materials as the ground floor windows and would not harm the character of the building.

### Lightwell

- 6.26 The application includes a proposal to cover over the basement lightwell on the front elevation facing Whitfield Street. Although the Charlotte Street Conservation Area Statement indicates that the infilling of basement lightwells will be resisted where this forms part of the character of the area, this advice is more applicable to the traditional 18th and 19th century buildings which characterise the area. In this case, the simple and relatively discreet flush glazing is in keeping with the contemporary aesthetic of the proposed building, would replace the existing unattractive plastic roof within the lightwell, and is therefore not considered to harm the appearance of the building or the wider area.
- 6.27 As noted above, the existing building is not highlighted as having special value or making a positive contribution to the character of the conservation area. A number of buildings along Colville Place are either listed or make a positive contribution to the area; however, the nearby buildings on Whitfield Street and Goodge Street are not afforded any special value in terms of their contribution to the conservation area.
- 6.28 On balance, the proposed development is considered to improve the appearance of the host building, would not harm the significance of the Charlotte Street Conservation Area, it would preserve and enhance its character and appearance, in accordance with Policies D1 and D2 of the Camden Local Plan and the Fitzrovia Area Action Plan.

### Impact on setting of Grade II Listed 1 Colville Place

- 6.29 The National Planning Policy Framework (NPPF) 2018 states that 'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment in to account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal' (paragraph 190).
- 6.30 It emphasises that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be placed on the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.' (Paragraph 193). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Paragraph 194).
- 6.31 Paragraph 196 goes on to say that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 6.32 In this instance, although the application site is not listed, it adjoins a Grade II Listed building and

therefore the impact of the development on the setting of the heritage asset must be assessed. The setting of heritage assets is defined in the appendix to the NPPF as ‘the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.’

- 6.33 English Heritage’s Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment offers a comprehensive approach to analysing significance by identifying four broad types of heritage value that an asset might hold – historical, aesthetic, communal and evidential value.
- 6.34 The Historic England listing states that the asset was included ‘as an immaculately detailed, minimal house, a rare example of a modernist infill scheme of sophistication and careful taste’. The special interest of the listed building is in being a modernist infill town house in a busy, built-up urban environment on the original plot width.
- 6.35 As set out in Paragraph 193 of the NPPF and highlighted above, when considering the impact of a proposals on the significance of a heritage asset, great weight should be placed on the asset’s conservation. It goes on to describe that ‘the more important the asset, the greater the weight should be’. 1 Colville Place is Grade II listed, which Historic England describe as being of ‘special interest’. For reference, Grade I buildings are described as being of exceptional interest, and Grade II\* as being of more than special interest.
- 6.36 It is noted that an application was previously submitted to Historic England by a third party to have 1 Colville Place’s listing upgraded from Grade II to Grade II\*. Historic England have advised the Council that they are not taking it forward for a revised assessment and that whilst a possible amendment may be made to the description of the current listing in terms of the details of the list description (such as fixtures and furnishings) this would not involve a revised grading at this stage.
- 6.37 The main visual impact of the development on the setting of the listed building would be from the bulk of the proposed roof extension when viewed from the roof terrace of no.1. The very slight harm to the setting of the listed building would be limited to views northwards and backwards, rather than the principal view from this terrace which is southwards over Crabtree Fields. Therefore, it is considered that any harm caused to the setting of the listed building would be less than substantial. As set out in paragraph 196 of the NPPF, ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal’.
- 6.38 Officers consider the improvements to the external appearance of the building, and the impact this has on the building’s relationship with neighbouring buildings on Whitfield Street, the local streetscene and the appearance of this part of the Charlotte Street Conservation Area to be of significant public benefit.
- 6.39 The proposed roof extension would significantly improve the visual relationship between the application building and 19 Goodge Street immediately to the north. The neighbouring building rises abruptly above No. 27-29 Whitfield Street in a sheer wall faced in low quality Fletton brick. This is obtrusive and detracts from the visual amenity of the conservation area, the skyline and long views northward. The proposed roof extension mediates much better in terms of design, massing and scale between No. 27-29 and its neighbour and improves the articulation between them.
- 6.40 At present, the raised ground floor windows result in an uninviting, dead frontage. The proposals would provide a better relationship to both Whitfield Street and Colville Place, more animation and the creation of an active frontage onto the street. To the south elevation, the proposed ground floor windows would be enlarged to be more in keeping with the proportions of no.1 and the rest of the terrace.
- 6.41 The proposed improvements to the façade of the building, including the cleaning of the brickwork and new render is considered to enhance the character and appearance of the building and its contribution to

the conservation area.

### Conclusion on harm versus public benefit

- 6.42 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers to give considerable importance and weight to the desirability of preserving the setting of all listed buildings. Likewise, Section 72 of the same act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.
- 6.43 As discussed above, the proposed works are considered to improve the building's appearance and its contribution to the conservation area. They would enhance the character and appearance of the building and this part of the Charlotte Street Conservation Area.
- 6.44 The proposals would have no impact on the immediate setting of the Grade II listed buildings to the western end of Colville Place, nos. 11/11A-13 or 14-16 and would cause no harm to their setting.
- 6.45 The proposals would result in very minor harm to the setting of the listed building 1 Colville Place. This would be by reason of the increased massing to the application site. This harm would be very slight and would be predominantly perceived by occupiers of the front roof terrace of the building. It is likely to only marginally limit their enjoyment and appreciation of the listed building, and would not harm their residential amenity. The public benefits arising from the scheme on the other hand, would be more widely experienced in enhancing the public realm.
- 6.46 The Council has considered alternative options for mitigating this slight harm while still securing the public benefits proposed. The applicant has been asked to explore options to reduce the footprint of the proposed roof extension and rooftop plant room as part of this application but has shown unwillingness to do so. However, they have reduced the envelope of the extensions through the revisions made to the proposals previously (as part of application reference 2016/6495/P). It is recognised that there must exist a reasonable incentive to make it worthwhile for any developer to proceed with the scheme as a whole and thus deliver the benefits outlined, and on balance, these benefits are considered to outweigh the slight harm that has been identified.
- 6.47 Officers consider that the very slight harm identified to the setting of 1 Colville Place is partially mitigated by the proposed facade treatment and the proposals are considered an improvement on the existing building.
- 6.48 It is therefore considered that due to the small scale and limited perception of the harm caused to the listed building balanced with the public benefit to the building's wider setting and conservation area that the harm would be outweighed by the public benefit and is therefore acceptable.

## **7.0 Residential Amenity**

7.1 Policies A1, A4 and CPG6 (Amenity) are relevant with regards to the impact on the amenity of residential properties in the area. Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and that development protects the quality of life of occupiers and neighbours. The relevant considerations on the impact on the amenity of the occupiers of neighbouring properties are as follows:

- Daylight and sunlight
- Outlook
- Noise and disturbance
- Privacy / Overlooking

7.2 Any impact from construction works is dealt with in the transport section.

## Daylight and sunlight

7.3 In order to assess the potential impact of the proposed extensions on the levels of natural light enjoyed by neighbouring occupiers, a Daylight and Sunlight Report has been submitted, produced by Right of Light Consulting chartered surveyors. The report has tested the impact of the development on the daylight to neighbouring windows (using the vertical sky component test); the sunlight availability to neighbouring windows (by assessing the annual probable sunlight hours); and potential overshadowing to gardens and open spaces.

7.4 The following properties were analysed to determine the impact of the proposal:

- 16 to 24 Whitfield Street
- 26 to 28 Whitfield Street
- 1 and 2 Colville Place
- 15 to 17 Goodge Street
- 19 - 23 Goodge Street

7.5 The assessment has been conducted in accordance with the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice'. When assessing daylight to windows, the guide advises that daylight calculations should be undertaken to all rooms where daylight is required, including living rooms, kitchens and bedrooms. The BRE guide states that windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed.

7.6 The Vertical Sky Component (VSC) test was used, which is one test to measure daylight levels and calculate the percentage of the sky visible from the centre of a window. A window looking into an empty field will achieve a maximum value of 40%. BRE guidelines suggest that 27% VSC is a good level of daylight. If a window does not achieve 27% VSC as a result of the development, then it is assessed whether the reduction in value would be greater than 20% of the existing VSC – which is when the reduction in light would become noticeable to occupants. However, officers consider that VSCs lower than 27% are normal for urban areas, with 20% still considered acceptable.

7.7 The annual probable sunlight hours (APSH) were assessed for each affected neighbouring window to determine the impact on sunlight levels. The BRE sunlight tests should be applied to all main living rooms which have a window facing within 90 degrees of due south. The guide states that kitchens and bathrooms are less important, although care should be taken not to block too much sunlight. Sunlight availability may be adversely affected if the centre of the window:

- receives less than 25% of APSH, or less than 5% of APSH between 21 September and 21 March, and
- receives less than 0.8 times its former sunlight hours during either period, and
- has a reduction in sunlight received over the whole year greater than 4% of APSH.

7.8 When assessing impacts on outside space, the BRE guide recommends that at least 50% of the area of outside amenity space should receive at least 2 hours of sunlight on 21 March.

7.9 The overall results of the daylight/sunlight analysis are as follows:

VSC – of the 117 windows tested, 99.1% (116) met BRE guidance levels.

APSH – with regard to sunlight levels all windows pass both the total annual sunlight hours test and the winter sunlight hours test.

The one window which did not meet the BRE test for VSC was identified as window 108 at 19 Goodge

Street.

7.10 19 Goodge Street has a retail unit at ground floor and residential use on the upper floors, with window 108 serving a habitable room. At present, this window has a VSC of 25.9% which would be reduced to 18.0% (0.69 times its former value). This window would therefore not meet the BRE target of 0.8, or a 20% VSC which is recognised as acceptable in urban locations.

7.11 However, daylight to window 108 is already affected by two existing closet wings. The BRE guide recognises that where a window has an overhang or projecting wings on one or both sides of it, a larger relative reduction in VSC may be unavoidable, as the building itself contributes to its poor daylighting. Officers acknowledge that the proposed development is within a dense urban environment, within Zone 1 of Central London, and the design and nature of the existing buildings is such that there are pre-existing shortfalls in daylighting. Given the existing site constraints, and the fact that it would just be one window that was impacted which would otherwise still receive good sunlight, the loss of daylight is not considered so harmful to neighbouring amenity as to warrant refusal of the application on this ground.

### Outlook

7.12 The proposed development (namely, the new 3rd floor extension and 4th floor plant enclosure, would predominantly affect views from the 3rd floor terrace at 1 Colville Place, and views out of the rear windows of 19 to 23 Goodge Street. The roof extension would be visible from the roof terrace at 1 Colville Place when looking up and back, northwards. The principle views out of the third floor windows and from the roof terrace looking south over Crabtree Fields would be unaffected. Although the roof extension would be visible from this terrace, the fact that it can be seen is not considered to equate to harm being caused to the residents of this property by loss of outlook.

7.13 The rear-facing windows of 19 and 21 Goodge Street already overlook the rooftop watertank which measures 2.3m x 2.8m and 1.7m tall, and sits adjacent to the rear elevation of 19 Goodge Street. Although the proposed roof extension and plant enclosure would be approximately 3.25m higher than the existing water tank in this location, they are designed so as to angle away from the neighbouring rear windows to limit the impact on both daylight and outlook. Given the existing dense urban environment and the existing outlook onto the rear elevations of Colville Place properties, the proposals are not considered to cause significant harm to the outlook from these properties.

7.14 To a lesser extent, properties on the upper floors of 26 to 28 Whitfield Street would have their outlook impacted by the proposed extensions which would sit directly opposite on the other side of Whitfield Street. However, with a distance of just over 12m between the two buildings, and the fact that the proposed development would still sit below the neighbouring building 19 Goodge Street, the outlook from these west-facing windows is not considered to be harmed as a result of the development.

### Noise and disturbance (plant equipment)

7.15 The proposals include the installation of an open-topped rooftop plant enclosure at 4th floor level. It would measure 2.7m x 3.8m and 2m high, sitting 2.4m away from the rear elevation of 19 Goodge Street at the closest point, and 0.45m from the party wall with 1 Colville Place.

7.16 A Noise and Vibration assessment and Noise Compliance Report have been prepared by KP Acoustics Ltd. The noise compliance report presents the results of an environmental survey undertaken in order to measure prevailing background noise over a 30 hour period. Measurements were taken from 2 positions – one on the north east edge at roof level overlooking Whitfield Street (position 1) and one at the south west edge next to the boundary with 1 Colville Place (position 2). At the time of the survey, the background noise climate was dominated by road traffic noise from Goodge Street. The average noise levels were found to be 44dba during the daytime (07:00 – 23:00) and 40dba during the night time (23:00 – 07:00).

7.17 In order to comply with Camden's noise standards, the proposed plant would need to be 10dba below

the background noise levels; i.e. 34dba during the daytime and 30dba during the night time.

7.18 The proposed rooftop plant room would house 1 external duct mounted twin fan, and 4 x air conditioning units. The closest noise sensitive receptor was identified as a residential window to the rear of 1 Colville Place located at a distance of 2m away. The proposals also include the installation of 2 MVHR (Mechanical ventilation with heat recovery) units at ground floor and basement level, with an intake and extract located at first floor level to the rear of the flat roof. The closest noise sensitive window to the MVHR intake would be to the rear of 2 Colville Place, and the closest window to the MVHR exhaust would be to the rear of 21 Goodge Place.

7.19 The report demonstrates that the noise level at the nearest noise sensitive windows would be 30dba for the rooftop plant room and MVHR intake, and 26dba for the MVHR exhaust. Although these satisfy the noise criteria, in order to render all noise emissions of the rooftop plant enclosure to within the criterion and to address neighbour concerns, the report recommends the installation of a high specification acoustic enclosure and an inline silencer directly before and after the intake and extract of the mounted fans, as well as an inline silencer to the MVHR intake and extract.

7.20 The Council's Environmental Health Officer has confirmed an appropriate environmental noise and vibration survey has been undertaken, which demonstrates that the noise emissions from the proposed rooftop plant enclosure would meet the criterion of the London Borough of Camden, provided that the noise control measures shown within the acoustic assessment are adopted. The officer has no objections to development subject to the following standards which would be secured by condition if planning permission is granted:

- The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.
- Prior to use, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.
- The noise level in rooms at the development hereby approved shall meet the noise standards specified in BS8233:2014 for internal rooms and external amenity areas.

### Overlooking

7.21 To the rear, the flat roofs at 1st and 2nd floor level would be for maintenance purposes only and would not be used by occupants of the building for amenity purposes. If planning permission is granted, a condition would be imposed to secure this. This is the same arrangement as existing, the only alteration being the replacement of the existing domed skylight with a new flat rooflight, which would not introduce any new overlooking issues. The existing rear windows at 1st and 2nd would be replaced with narrower, taller windows. These are not considered to result in increased opportunities for overlooking, as the lower section would be obscure glazed and fixed shut, as secured by condition.

7.22 The 3rd floor flat roof would be a green roof and not a roof terrace for use by the building's occupants. Two windows with Juliet balconies would face onto this roof which are set away from the boundary with 1 Colville Place. The Juliet balconies are considered adequate to prevent people from accessing this roof; nevertheless a condition would state that this roof must be accessed for maintenance purposes only. The arrangement is not considered to result in harmful overlooking of the 3rd floor terrace at 1 Colville Place.

7.23 The development would introduce a new rooftop amenity area at 4th floor level for the occupants of the building. Railings would be set back from the southern boundary (facing Colville Place) by 900mm, and from the Whitfield Street elevation by 600mm in order to reduce its visibility and potential overlooking of the terrace at 1 Colville Place. Views into the habitable rooms would not be possible due to the terrace being set back behind the south facing windows of no.1. The terrace would be fairly small in size,

measuring approximately 20sqm, which would also prevent large numbers of people from occupying the space. On balance, amenity impacts resulting from the use of the terrace are considered acceptable and would not be harmful to the amenities of nearby residents.

7.24 The new 3rd floor extension would feature south and east facing windows looking towards Colville Place and Whitfield Street. As these are in the same location as the windows serving the floors below, they are not considered to materially increase the opportunity for overlooking of nearby residential properties. As mentioned above, the south-facing windows would be set away from the boundary with no.1 and are not considered to result in harmful overlooking of the terrace area.

### Conclusion

7.25 Although there would be some impact to neighbouring amenity in terms of outlook and daylight to one window, overall, the proposals are considered to maintain an acceptable level of privacy, sunlight, and outlook for neighbouring occupants in accordance with Policies A1 and A4 of the Camden Local Plan and CPG6 (Amenity).

## **8.0 Transport**

### Cycle and car-parking

8.1 No off-street car parking is currently provided and none is proposed. In order to prevent the future occupants from obtaining on-street parking permits from the Council, the development would be subject to a car free agreement, secured by a Section 106 Agreement.

8.2 The Council expects cycle parking at new developments to be provided in accordance with the standards set out in the London Plan. With a flexible use it is difficult to suggest which standard should be used for calculating the cycle parking requirement. However, for the purposes of this assessment a B1 use has been assumed. For B1 office uses, the standards require the provision of a total of 5 spaces. It is proposed that these spaces are located in a cycle store at lower ground floor level. While this is not encouraged by the council, due to the space restrictions at the site, it is considered acceptable in this instance

### Managing the impacts of construction on the surrounding highway network

8.3 Policies A1 and T4 state that Construction Management Plans should be secured to demonstrate how a development will minimise impacts from the movement of goods and materials during the construction process. The policies also relate to how development is connected to the highway network. For some developments, this may require control over how the development is implemented (including demolition and construction) through a Construction Management Plan (CMP).

8.4 Construction traffic flows to and from the site are likely to be fairly low; however, due to the amount of construction and refurbishment works required and the sensitive nature of the local streets, a CMP must be secured. The Council's primary concern is public safety but we also need to ensure that construction traffic does not create (or add to existing) traffic congestion in the local area. The proposal is also likely to lead to a variety of amenity issues for local people (e.g. noise, vibration, air quality, temporary loss of parking, etc.). The Council needs to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area. A CMP would therefore be secured as a Section 106 planning obligation if planning permission is granted.

8.5 In order to minimise traffic congestion and road safety issues during development works, construction vehicle movements are acceptable between 9.30am to 4.30pm on weekdays and between 8.00am and 1.00pm on Saturdays. However, specific details would need to be agreed with Camden during development of the CMP. The CMP would need to be approved by Camden prior to works commencing on site. The Council also expects the development to be registered with the Considerate Constructors' Scheme.



8.6 The Council has a CMP pro-forma which must be used once a Principal Contractor has been appointed. The CMP, in the form of the pro-forma, would need to be approved by the Council prior to any works commencing on site. A CMP Implementation Support Contribution of £3,136 would also be secured as a Section 106 planning obligation if planning permission is granted.

#### Highway and Public Realm Improvements directly adjacent to the site

8.7 Paragraph 6.11 of the Camden Local Plan states that the Council will repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links, road and footway surfaces at the developer's expense. The footway and carriageway directly adjacent to the site could be damaged as a direct result of the proposed works. The Council would therefore seek to secure a financial contribution for highway works as a section 106 planning obligation if planning permission is granted. A Highways estimate of £12,772.48 was provided for the previous application 2016/6495/P, which remains the same for this application.

#### Conclusion

8.8 The proposed scheme would be in accordance with the Council's policies A1, T1, T2 and T4 and is considered acceptable in terms of transport implications subject to the following conditions and S106 planning obligations being secured:

- Condition to secure details of cycle storage area for 5 cycles as indicated within the lower ground floor to be submitted to and approved by the local planning authority prior to commencement of use.
- Car free development.
- Construction Management Plan (CMP).
- Financial contribution for highway works directly adjacent to the site of £12,772.48.
- CMP Implementation Support Contribution of £3,136.

#### **9.0 Refuse and Recycling**

9.1 Camden Local Plan policy CC5 (Waste) and Camden Planning Guidance 1 (Design) are relevant with regards to waste and recycling storage and seek to ensure that appropriate storage for waste and recyclables is provided in all developments.

9.2 Recycling and general waste storage will be provided on each floor. The applicant has liaised with the Council's Street Services team and will register the business and other uses as required for waste collection, once necessary.

#### **10.0 CIL**

##### Mayor of London's Crossrail CIL

10.1 The proposal would not be liable for the Mayoral Community Infrastructure Levy (CIL) as the proposed development would not result in an increase of more than 100sqm floorspace.

##### Camden CIL

10.2 The proposal would not be liable for the Camden Community Infrastructure Levy (CIL) as the proposed development would not result in an increase of more than 100sqm floorspace.

#### **11.0 Conclusion**

11.1 The proposed refurbishment, extension and alterations to the application building are considered

acceptable. In line with the requirements of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the NPPF, the Council has assessed the impact of the proposals on the setting of the neighbouring listed building 1 Colville Place and has given considerable importance and weight to the conservation of this designated heritage asset. It has been identified that the proposals would result in very slight harm to the setting of this listed building, which would be predominantly read by occupants of the roof terrace of this listed building. Nevertheless, this very slight harm still amounts to less than substantial harm for the purposes of the NPPF and must be afforded considerable importance and weight in the planning balance, in accordance with the law. However, the proposed improvements to the scheme including the fenestration treatment, activation of the ground floor and improved relationship with 19 Goodge Street are considered to enhance the appearance of the building and this part of the conservation area, and constitute a significant public benefit. These benefits would outweigh the less than substantial harm identified.

11.2 The proposed mix of uses at this location are considered suitable and would comply with the Local Plan policies E1, E2 and TC1.

11.3 The proposed development, subject to the conditions listed in section 18 below would not unduly harm the amenity of neighbouring occupants in terms of daylight, outlook or privacy.

11.4 On balance, the proposals are considered acceptable and planning permission is recommended subject to conditions and S106 Legal Agreement.

### **11.0 Recommendations**

11.1 Minded decision had the Council been empowered to determine the application in the absence of an appeal of non-determination: Grant conditional permission subject to Section 106 Legal Agreement covering the following Heads of Terms:-

- Car free development
- Construction Management Plan (CMP)
- Financial contribution for highway works directly adjacent to the site of £12,772.48
- CMP Implementation Support Contribution of £3,136.

## APPENDIX B

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### Suggested conditions

1	<p>The development hereby permitted must be begun not later than the end of three years from the date of this permission.</p> <p>Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).</p>
2	<p>All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.</p> <p>Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.</p>
3	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Existing drawings: 51517-P-01 rev D, 51517-P-10 rev C, 51517-P-11 rev C, 51517-P-12 rev C, 51517-P-13 rev C, 51517-P-14 rev E, 51517-P-30 rev D, 51517-P-31 rev C, 51517-P-50 rev D, 51517-P-51 rev F.</p> <p>Proposed drawings: 51517-P-20 rev D, 51517-P-21 rev C, 51517-P-22 rev E, 51517-P-23 rev H, 51517-P-24 rev I, 51517-P-25 rev L, 51517-P-26 rev I, 51517-P-30 rev D, 51517-P-31 rev C, 51517-P-40 rev G, 51517-P-41 rev I, 51517-P-50 rev D, 51517-P-51 rev F, 51517-P-60 rev K, 51517-P-61 rev L.</p> <p>Documents: Heritage and Townscape Report prepared by Philip Davies Ltd dated October 2017, Design and Access Statement dated 15th December 2017, Planning statement dated November 2016, cover letter dated 15th December 2017, Noise and Vibration Assessment ref: 14907.NVA.01 Rev.A dated 22nd November 2016, Planning Compliance Report ref: 14907.PCR.01.Rev B dated 10th March 2017, Daylight and Sunlight Study dated 28th October 2016.</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>

4	<p>Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:</p> <p>a) Manufacturer's specification details and a sample panel (of no less than 1m x 1m) of the proposed new and replacement facing materials demonstrating the proposed composition, colour, texture and finish of render.</p> <p>b) Details including sections at 1:10 of all windows (including jambs, head and cill), external doors, balustrades, railings, canopy and lightwell glazing.</p> <p>The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.</p> <p>Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.</p>
5	<p>The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA (15dB if tonal components are present) as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.</p> <p>Reason: To ensure that the amenity of occupiers of the surrounding premises is not adversely affected by noise from mechanical installations/equipment, in accordance with Policy A4 of the Camden Local Plan 2017.</p>
6	<p>Prior to use, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.</p> <p>Reason: To ensure that the amenity of occupiers of the surrounding premises is not adversely affected by noise from mechanical installations/equipment, in accordance with Policy A4 of the Camden Local Plan 2017.</p>
7	<p>The noise level in rooms at the development hereby approved shall meet the noise standards specified in BS8233:2014 for internal rooms and external amenity areas.</p> <p>Reason: To ensure that the amenity of occupiers of the surrounding premises is not adversely affected by noise, in accordance with Policy A4 of the Camden Local Plan 2017.</p>

8	<p>No music or amplified sound shall be played on the premises (including roof terrace) at any time.</p> <p>Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1 and A1 of the London Borough of Camden Local Plan 2017.</p>
9	<p>Full details in respect of the green roof in the area indicated on the approved roof plans (rear 1st floor and front 3rd floor) shall be submitted to and approved by the local planning authority before the relevant part of the development commences. Details of the green roof provided shall include: species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, as well as details of the maintenance programme for green roof. The building shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.</p> <p>Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies A1, A3, CC2, CC3 and D1 of the London Borough of Camden Local Plan 2017.</p>
10	<p>The use of the 4th (top) floor roof terrace hereby permitted shall be restricted to the following times: 8am-6pm Monday - Fridays. The terrace shall not be used on Saturdays, Sundays and bank holidays.</p> <p>Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1 and D1 of the London Borough of Camden Local Plan 2017.</p>
11	<p>The use of the rear 1st and 2nd floor roofs and the front 3rd floor roof area shall not be used other than for maintenance and emergency, and shall be maintained and retained as such.</p> <p>Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies G1 and A1 of the London Borough of Camden Local Plan 2017.</p>

12	<p>Notwithstanding what is shown on Drawing 51517-P-61 Rev L hereby approved, the lower part of the 4x windows facing the rear of Colville Place and rear of Goodge Street shall be obscurely glazed, permanently fixed shut and non-openable in perpetuity to a height of 1.1 metres from internal finished floor level.</p> <p>Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies G1 and A1 of the London Borough of Camden Local Plan 2017.</p>
13	<p>Notwithstanding the provisions of Class D1 of the Schedule of the Town and Country Planning (Use Classes) Order, 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the premises shall not be used as an educational institution or place of worship.</p> <p>Reason: To ensure that the future occupation of the building does not adversely affect the adjoining premises/immediate area by reason of noise in accordance with policies G1, A1 and A4 of the London Borough of Camden Local Plan 2015.</p>
14	<p>Notwithstanding what is shown on Drawing 51517-P-61 Rev L hereby approved, the railings to the 2x sets of French doors facing Colville Place, at 3rd floor level shall be installed to a height of 1.1 metres from internal finished floor level and retained and maintained as such in perpetuity.</p> <p>Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies G1 and A1 of the London Borough of Camden Local Plan 2017.</p>
15	<p>The 2 x ground floor windows facing Colville Place shall be permanently fixed shut.</p> <p>Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.</p>
16	<p>Before the development commences, details of secure and covered cycle storage area for 5 cycles as indicated within the lower ground floor shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.</p> <p>Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.</p>

**Suggested planning obligations. These are justified in the text below.**

1	Car-free development
2	Construction Management Plan (CMP)
3	CMP Implementation Support Contribution of £3,136.
4	Financial contribution for highway works directly adjacent to the site of £12,772.48

Car-free Development

Policy T2 requires all developments in the borough to be car-free. This means no car parking spaces should be provided within the site (other than essential spaces) and that occupiers are not issued with on-street parking permits. The Council requires this obligation to facilitate sustainability and to help promote alternative, more sustainable methods of transport. The appeal site falls within a Controlled Parking Zone (CA-E) and has a PTAL of 6b. Therefore, the development should be secured as car-free through via a covenant under s.16 of the Greater London Council (General Powers) Act 1974 and other local authority powers if the appeal were allowed.

A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car-Free”. The Council’s control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council’s control is derived from Traffic Management Orders (“TMO”), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a “Car-Free” legal obligation. The TMO sets out that it is the Council’s policy not to give parking permits to people who live in premises designated as “Car-Free”, and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car-Free”.

Use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

### Construction Management Plan

Local Plan policy A1 states that Construction Management Plans (CMPs) should be secured to demonstrate how developments would minimise impacts from the movement of goods and materials during the construction process (including any demolition works). The appeal proposal would involve significant works due to the refurbishment and extension of the building. A CMP would be required in order to address the issues around how the construction work would be carried out and how this work would be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations for pedestrians and other road users. The failure to secure a CMP by S106 would give rise to conflicts with other road users and be detrimental to the amenities of the area generally.

The CMP for the appeal proposal, if allowed by the Inspector, would require significant input from officers. This would relate to the development and assessment of the CMP as well as ongoing monitoring and enforcement of the CMP during construction. A CMP Implementation Support Contribution would need to be secured via a S106 planning obligation. A fee of £3,136 is required for small developments (under 2000sqm), as set out in the Council's [Advice Note](#) on CMP implementation support contributions.

A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users or be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.

Under the Planning Act conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and/or highway safety on the nearby roads hence, using a condition to secure the type of off-site requirements usually included in a CMP would



in this case be unenforceable.

Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off- site requirements, particularly public highway (which is not land within the developers' control). As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism.

### Highways contribution

The Local Plan states that works affecting Highways are expected to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development. The Council will undertake highway works connected to a development proposal at the developer's expense in accordance with paragraph 6.11 of the Local Plan. A contribution of £12,772.48 would be required to provide 56sqm of York Stone paving and 18m of new kerbs. A plan showing the area to be repaved is provided at Appendix C.

The Council maintains that a payment for highways work should be secured through a Section 106 legal agreement, which would also combine as an agreement under Section 278 of the Highways Act 1980. CPG8 – Planning Obligations states that public highways works on Borough Roads are to be undertaken through a Section 106 or 278 obligation. The guidance also states that the Council will secure payment for required works by preparing an estimate (including fees) for the scheme that the developer will be required to pay before commencing development (paragraph 5.14). The most effective way of both securing sufficient payment and ensuring the works are carried out to the Council's procedures and standards is for a financial contribution to be paid by the developer on commencement of the development and secured by an obligation under Section 106 legal agreement. It is not possible to secure a financial contribution for highway works by condition as it relates to land outside the application site and is not under the control of the applicant.

## **APPENDIX C**

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**Plan showing area of pavement to be re-paved**

