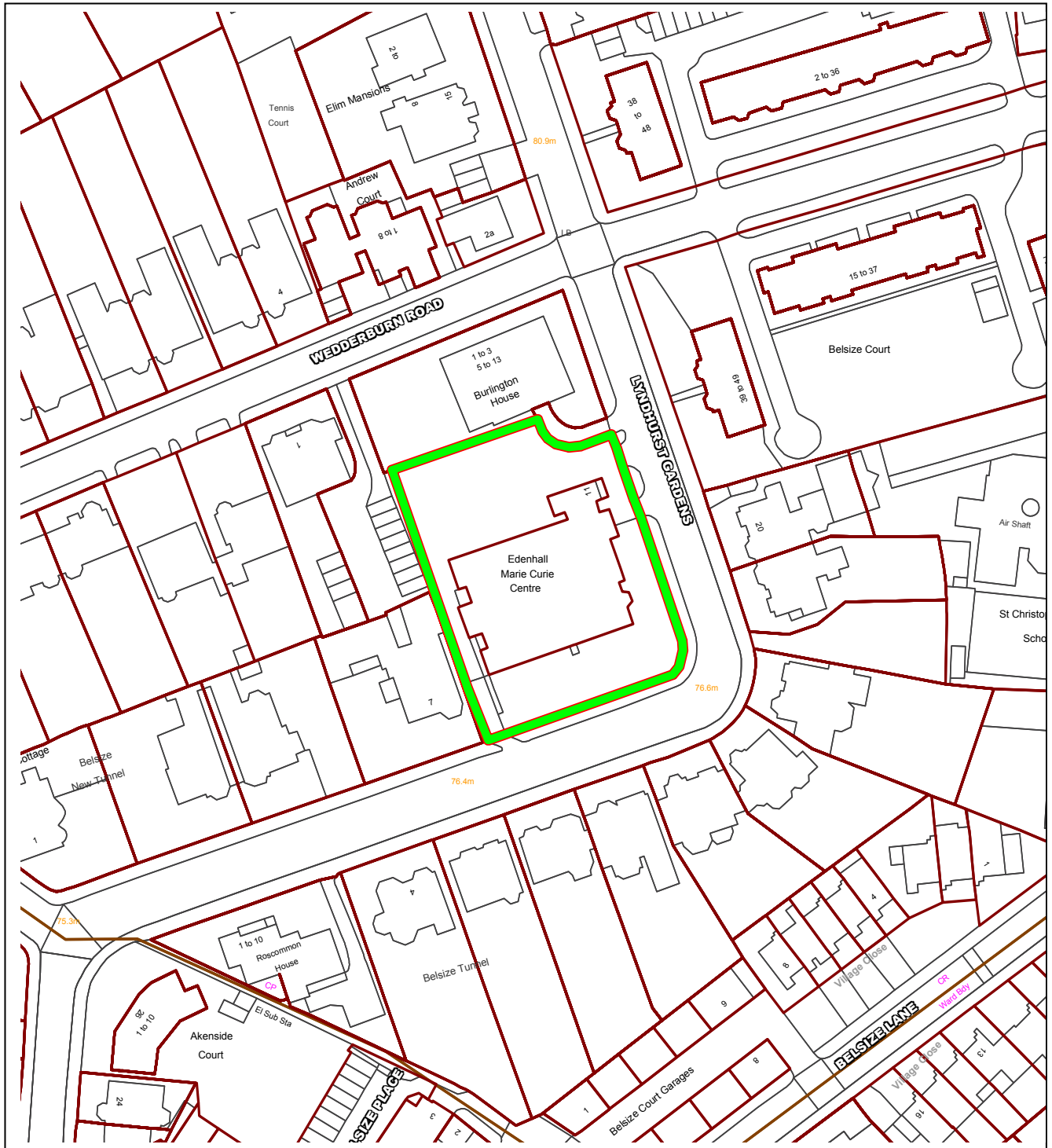


Edenhall, 11 Lyndhurst Gardens – 2019/1285/P



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Photo 1 – Front of property



Photo 2 – North elevation (facing Burlington Court)



Photo 3 – View from roof on South elevation (facing 16 Lyndhurst Gardens)



Photo 4 – View from street facing South elevation (from 16 Lyndhurst Gardens)



Delegated Report		Analysis sheet		Expiry Date:	30/07/2019
(Members' Briefing)		N/A		Consultation Expiry Date:	07/07/2019
Officer			Application Number(s)		
Tony Young			2019/1285/P		
Application Address			Drawing Numbers		
Edenhall 11 Lyndhurst Gardens London NW3 5NS			Refer to draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Installation of 4 air conditioning condenser units and associated acoustic screen at roof level on the southern side of the roof.					
Recommendation(s):		Grant conditional planning permission			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	0	No. of responses	03	No. of objections	03
			No. Electronic	03	No. of supports	00
	Press notice published from 13/06/2019 to 07/07/2019 Site notice displayed from 12/06/2019 to 06/07/2019					
Summary of consultation responses:	<p>A resident within Lyndhurst Gardens objected to the proposals summarised as follows:</p> <p>1. <i>No expert opinions have been providing justifying why the environmental and biodiversity (self) assessment is so positive/unproblematic.</i></p> <p>Directors of the Management Company at Burlington House and some of its' residents submitted an independent noise assessment in support of their objections to the proposal summarised as follows:</p> <p>2. <i>The installation of external air conditioning units on a building located in a highly residential area will restrict the quiet enjoyment of residents occupying their respective flats and the garden amenities through increased noise levels. The acoustic assessment relies on use in 'low noise' mode during night time hours, but not clear how this would operate so that 'high noise' mode could be prevented and what implications this has for day time use;</i></p> <p>3. <i>The acoustic report refers to 'standard cooling' mode and 'low noise' modes, but is unclear concerning noise levels during 'heating mode' which might exceed Local Authority criteria;</i></p> <p>4. <i>The assumed screening levels are theoretical and particularly high. It may not be possible for screening to achieve adequate noise reduction and a full enclosure may be more suitable to reduce noise emissions;</i></p> <p>5. <i>Air quality concerns from discharge of power plants may make a small contribution to pollutants in the atmosphere impacting on human health through dust emission and warmer air affecting local residents.</i></p> <p>Twenty Lyndhurst Gardens Freehold Ltd objected to the proposal on behalf of its residents summarised as follows:</p> <p>6. <i>The proposed installation would create noise pollution and environmental hazard that would negatively impact on the neighbourhood and on the quality of life of people living in the vicinity of 11 Lyndhurst Gardens.</i></p> <p><u>Officer response to above:</u></p>					

	<p>1, 5 & 6. The proposal is not considered to be contrary to Camden's policies with regard to biodiversity, air quality or environment impact (see section 6 below);</p> <p>2, 3 & 4. An Environmental Health Noise Officer is satisfied with the submitted noise assessment and has confirmed that the predicted noise levels would comply with Council noise requirements. Additional conditions will be added to any approval to ensure that this is the case such that neighbouring residential amenity is safeguarded (see section 5 below).</p>
Fitzjohns/Netherhall Conservation Area Advisory Committee:	<i>No response</i>

Site Description

The application site is a large 4-storey detached building dating from 1977 located on the north-west side of Lyndhurst Gardens, close to the junction with Wedderburn Road. The building is currently occupied and used as the Marie Curie Hospice.

The application site sits within Fitzjohns/Netherhall Conservation Area and the building is not listed, nor identified as making a positive or negative contribution within the Fitzjohns/Netherhall Conservation Area appraisal and management strategy (adopted February 2001).

Relevant History

2007/3015/P – Installation of an external condenser unit at roof level of nursing home (Class C2). Granted planning permission dated 02/10/2007

PW9902192 - Installation of cooler unit on east elevation at ground floor. Granted planning permission dated 22/04/1999

PW9702749R1 - Additions and alterations to the building including four new windows at first and second floor levels (east elevation) and new entrance lobby, new sunshade/trellis to third floor balconies (south elevation), alterations at roof level to plant and replacement of existing cast glass with obscured/translucent glazing on first and second floor levels (west elevation). Granted planning permission dated 08/01/1998

EN19/0410 - Crane installed and works commencing to install air conditioning units on roof. Planning application subsequently received prior to installation works seeking planning permission (2019/1285/P). Enforcement case currently open and under investigation.

Relevant policies

National Planning Policy Framework 2019

The London Plan March 2016

Camden Local Plan 2017

A1 - Managing the impact of development
A3 - Biodiversity
A4 - Noise and vibration
CC1 - Climate change mitigation

CC2 - Adapting to climate change
CC4 - Air quality
D1 - Design
D2 - Heritage

Camden Planning Guidance

CPG Design (March 2019) - chapters 2 (Design excellence), 3 (Heritage) and 9 (Building services equipment)

CPG Amenity (March 2018) - chapters 2 (Overlooking, privacy and outlook) and 6 (Noise and vibration)

CPG Air Quality (March 2019) – chapter 3 (Assessing air quality impacts)

CPG Biodiversity (March 2018) – chapter 1 (Introduction) and 2 (When does this guidance apply)

Fitzjohns/Netherhall Conservation Area appraisal and management strategy (adopted February 2001)

Assessment

1. Proposal

1.1 This application seeks to install 4 air conditioning condenser units and associated acoustic screening at roof level on the southern side of the roof next to an existing single storey plant room and other equipment.

2. Amendments / further information

2.1 The original proposals involved the siting of the condenser units on the northern side of the roof in an area currently free of any plant and machinery. Following Council advice, the proposals and drawings were amended to site the proposed units on the opposite side of the roof in close proximity to all other existing plant and machinery.

3. Assessment

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

- a) the design and impact of the proposal on the character and appearance of the host building within the setting of nearby listed buildings, the Fitzjohns/Netherhall Conservation Area, and the wider locality;
- b) the impact of the proposal on neighbouring amenity; and
- c) the impact of the proposal in terms of biodiversity, air quality and environment impact.

4. Design and appearance

4.1 Local Plan Policy D1 (Design) establishes that careful consideration of the characteristics of a site, features of local distinctiveness and the wider context is needed in order to achieve high quality development in Camden which integrates into its surroundings. It advises that *“Good design takes account of its surroundings and preserves what is distinctive and valued about the local area”* and expects all development to specifically consider:

- character, setting, context and the form and scale of neighbouring buildings;
- the prevailing pattern, density and scale of surrounding development;
- the impact on existing rhythms, symmetries and uniformities in the townscape;
- the suitability of the proposed design to its intended use;

- its contribution to public realm and its impact on views and vistas; and
- the wider historic environment and buildings, spaces and features of local historic value.

4.2 Local Plan Policy D2 (Heritage) also states that the Council will only permit development within conservation areas that preserves and enhances the character and appearance of the area. The Fitzjohns/Netherhall Conservation Area Statement (adopted February 2001) supports this when stating that it's designation as a conservation area, *"provides the basis for policies designed to preserve or enhance the special interest of such an area."*

4.3 More specifically, Camden Planning Guidance (Design) in Chapter 9 (Building services equipment) recognises that design considerations within the setting of any listed buildings and conservation areas should include the visual impact of building services equipment on the host building within this context.

4.4 The condenser units measure approximately 1.34m high by 1.05m wide by 0.33m deep. They would be floor mounted and screened from view behind existing ductwork and a proposed 2.2m high, U-shaped acoustic screen, approximately 6m in length and set back from the edge of the roof by approximately 5m.

4.5 Due to the relatively small size of the proposed equipment and the significantly large set-back distance from the external elevations of the building, the proposed condenser units and screening at this height above 4 storeys would not appear unduly prominent in the context of the host building, the setting of any nearby Grade II listed buildings (nos. 4-16 (even) Lyndhurst Gardens) and wider conservation area. The proposal would not be visible from the street and private views at a distance would be limited. The proposed equipment is also considered to be sited in the most suitable location given that existing equipment and plant room also occupy this area of roof space, and as such, the proposed equipment would not appear noticeably different.

4.6 Overall therefore, in design terms, the proposals are not considered to be harmful to either the settings of any nearby listed buildings, and would preserve the character and appearance of the Fitzjohns/Netherhall Conservation in accordance with Council policies and guidance, and would be acceptable.

4.7 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Fitzjohns/Netherhall Conservation Area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

5. Amenity

5.1 Local Plan Policy A1 (Managing the impact of development) seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and by only granting permission to development that would not harm the amenity of communities, occupiers and neighbouring residents. This is supported by Camden Planning Guidance (Amenity) that requires the potential impact on the amenity of neighbouring properties to be fully considered and seeks for developments to be *"designed to protect the privacy of both new and existing dwellings to a reasonable degree."*

5.2 Policy A4 (Noise and vibration) also seeks to ensure that the amenities of residents and neighbouring occupiers are not unduly affected by noise and vibration and states that the Council will only grant permission for plant or machinery if it can be operated without causing harm to amenity and if it does not exceed Camden noise thresholds.

5.3 The application is accompanied by a Noise Impact Assessment from Apex Acoustics (ref. 7577.1 rev A) dated 31/05/2019 and associated documents which demonstrate that the

proposals would comply with Camden's noise standards. The Council's Environmental Health team have reviewed the information and raise no objection to the development proposals.

5.4 A number of objections were received by local residents (see 'Consultations' section above) which included concerns about possible high noise levels, settings or modes for the condensers, and the suitability of the acoustic screening. In addition, and in support of these concerns, the Directors of the Management Company at Burlington House and some of its' residents submitted an independent noise assessment.

5.5 In response, the agent (PMP plc) submitted a letter from Apex Acoustics (ref. 7577.2A) dated 18/07/2019 that reaffirmed the assumptions made in the noise impact assessment such that local authority requirements and guidelines would be met in accordance with British Standards. In addition, a letter from the agent (ref. 5244G) dated 17/07/2019 confirmed the following:

- a. the proposed condenser units are for cooling only, and as such, will be locked out of 'heating mode'. The 'low noise mode' will be activated at night, controlled automatically via a time clock installed within the system, and which will not be able to be overridden manually by site operatives. It is very unlikely that units will run at night given they are for cooling only and certainly not all 4 units will run together at any one time;
- b. the applicant is undertaking a scheme of replacement / modernisation to existing plant, thus improving the overall carbon footprint of the building. In line with this, some existing air conditioning plant will be removed from site, so improving the efficiency of the building;
- c. Apex Acoustics note that the objector's report offers no explanation nor statistical analysis to support their measurement of background noise levels, and as such, does not accord with British Standards, BS:4142;
- d. the proposed condenser units will be 11dB below the nearest background noise and will be acoustically screened; and
- e. the manufacturer's specification (ref. PUMY-P200YKM2) provides supporting information on air pollutants.

5.6 Having reviewed all additional information and responses in context with the proposals, the Council's Environmental Health team raised no objection to the development proposals. However, in recognition of the concerns raised by local residents, they advised that a number of safeguarding conditions should be attached to any approval. These would include a condition requiring a post-installation assessment to be carried out and submitted to the Council for approval, so as to ensure that the equipment achieves compliance with Camden's noise criteria.

5.7 Additional compliance conditions with regard to noise levels and anti-vibration measures would also be attached to any permission, so as to safeguard the amenities of the surrounding premises and the area generally, such that neighbouring occupiers would not be significantly harmed by the proposals. These conditions are in addition to measures already included in the proposals to fix the equipment in 'cooling mode' only and operate automatically at 'low noise mode' during the night via a time clock.

5.8 There are no amenity concerns as a result of these proposals in terms of loss of privacy, light or any increased sense of enclosure to neighbouring properties given the height of the building, size and dimensions of the proposed equipment, the set-back position of the equipment in an area already used in a similar way for the normal functioning of the hospice, and the distance (approximately 25m) between the proposed site and the nearest residential property on Lyndhurst Gardens.

5.9 Overall, the proposals are therefore considered unlikely to result in undue harm to the living conditions and general amenity of neighbouring occupants and accord with policies A1 and A4,

and with Camden Planning Guidance, and are acceptable.

6. Other matters

- 6.1 Local residents also raised a number of other concerns with regard to biodiversity, air quality and environment impacts which are addressed below:

Biodiversity

- 6.2 Policy A3 (Biodiversity) seeks to protect designated sites of nature conservation and biodiversity, including habitats, species, trees and vegetation of significant amenity, historic, cultural or ecological value. The application site is not located within one of these recognised areas, nor are the proposals likely to affect any significant local garden space or trees by virtue of their minor nature, and as such, they are considered unlikely to have an adverse effect on local biodiversity within the area.

Air quality

- 6.3 Policy CC4 (Air quality) seeks to ensure that the impact of development on air quality is mitigated where development is likely to expose residents to high levels of air pollution exposure or poor air quality in the borough, and requires Air Quality Assessments (AQAs) to be provided under these circumstances. Based on the criteria required by Policy CC4, an AQA isn't required to be submitted for the current application being considered here given the minor nature of the proposals.

Environmental impact

- 6.4 Policy CC2 (Adapting to climate change) states that development should adopt appropriate climate change adaptation measures to reduce the impact of urban overheating, including application of the cooling hierarchy. As the proposals do not involve development of 5 or more residential units or 500 sqm of additional floorspace, the requirement to submit a Sustainability Statement or incorporate sustainability measures as a condition of planning permission in the same way as new developments doesn't apply to the application under consideration here.
- 6.5 The sub-text to Policy CC2 notes that, for all new developments, active cooling (air-conditioning) will only be permitted where it is demonstrated that there is a clear need for it after all of the preferred measures are incorporated in line with the cooling hierarchy. In this case, the proposal relates to an existing building, rather than new development, and the proposal is replacing older units with more modern, more efficient units. As such, the Council is satisfied that the use of active cooling is justified in this case.
- 6.6 Overall, while noting the concerns raised by local residents with regard to biodiversity, air quality and environmental matters in relation to the proposals, the Council also recognises that the installation of condenser units of this kind are minor in nature and unlikely to have an undue or adverse impact. In this regard, the Council also notes that the applicant is replacing older units with more modern condensers likely to be more efficient, they will operate at 'cooling mode' only, and will automatically adjust the operation of the units to 'low noise mode' at night. These are all measures that are considered to further moderate the impact of the proposals in biodiversity, air quality and environmental terms
- 6.7 As such, the proposal is not considered to be contrary to Camden's policies with regard to biodiversity, air quality or environment impact, and is acceptable in planning terms.

7. Recommendation

7.1 The proposed development is therefore considered to be acceptable in terms of its design and impact within the settings of any nearby listed buildings and would preserve the character and appearance of the Fitzjohns/Netherhall Conservation Area. There is no significant adverse impact on the residential amenity of neighbouring occupiers and the development is also deemed consistent with the objectives, guidance and policies identified above.

7.2 It is therefore recommended that planning permission be granted.

DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 2nd September 2019, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.

Application ref: 2019/1285/P
Contact: Tony Young
Tel: 020 7974 2687
Date: 28 August 2019

Development Management
Regeneration and Planning
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DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:

Edenhall

11 Lyndhurst Gardens

London

NW3 5NS

DECISION

Proposal: Installation of 4 air conditioning condenser units and associated acoustic screen at roof level on the southern side of the roof.

Drawing Nos: 5254G/01, (1133A-M-AC-)001 rev P2, 002 rev P1; Plant noise impact assessment from Apex Acoustics (ref. 7577.1 rev A) dated 31/05/2019; Noise curve data (PUMY-P200-YKM2); Manufacturer's specification from Mitsubishi Electric (Y Series Mini VRF - Twin Fan; Letter from PMP PLC (ref. 5244G) dated 17/07/2019; Letter from Apex Acoustics (ref. 7577.2A) dated 18/07/2019.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 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.

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.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: 5254G/01, (1133A-M-AC-)001 rev P2, 002 rev P1; Plant noise impact assessment from Apex Acoustics (ref. 7577.1 rev A) dated 31/05/2019; Noise curve data (PUMY-P200-YKM2); Manufacturer's specification from Mitsubishi Electric (Y Series Mini VRF - Twin Fan; Letter from PMP PLC (ref. 5244G) dated 17/07/2019; Letter from Apex Acoustics (ref. 7577.2A) dated 18/07/2019.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 Prior to use of the development, all details shall be implemented as shown on the approved drawings and information, and as set out in the accompanying noise assessment (Noise Impact Assessment from Apex Acoustics (ref. 7577.1 rev A) dated 31/05/2019), including any additional steps identified to mitigate noise, and shall thereafter be permanently retained. The measures shall ensure that the cumulative sound level from the proposed external building services and fixed plant shall be 10dB below (15dB if tonal) the typical background sound level as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating at maximum capacity.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 5 A post-installation noise assessment shall be carried out to confirm compliance with the noise criteria and to identify any necessary additional steps to mitigate noise. Details of the assessment and any mitigation measures shall be submitted to the Council and approved in writing, and all approved details shall be implemented prior to further use of the installation and thereafter be permanently retained.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 6 Prior to use, all approved machinery, plant or equipment and ducting at the development shall be mounted as necessary with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced, and thereafter be permanently maintained and retained as such.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning