

# Licence To Alter Commercial Tenant Guide



THE  
PORTMAN  
ESTATE

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# Introduction

The lease of any property will, under normal circumstances, contain covenants regarding alterations to the structure and/or exterior of the premises. The covenants will not be the same in every lease; some may include a strict ban on alterations known as an 'absolute prohibition' whereas others may specify what types of works require consent.

The alterations that you may wish to carry out may require the approval of The Portman Estate (the Estate). In all cases, reference to the lease is essential in the first instance. We would advise you to speak with our commercial asset management team early in the process, as they will be able to highlight whether there would be any additional costs applicable to the works (see page 9, item 'Will there be additional costs').

Approval may be by letter licence but for larger, more complex projects there will be the requirement for the parties to enter into a solicitor's standard Licence to Alter document. Dependent on the lease covenants and the type of work proposed, other associated legal documents might also be required. You will usually be responsible for the payment of the Estate's solicitors' and surveyor's fees in any event.

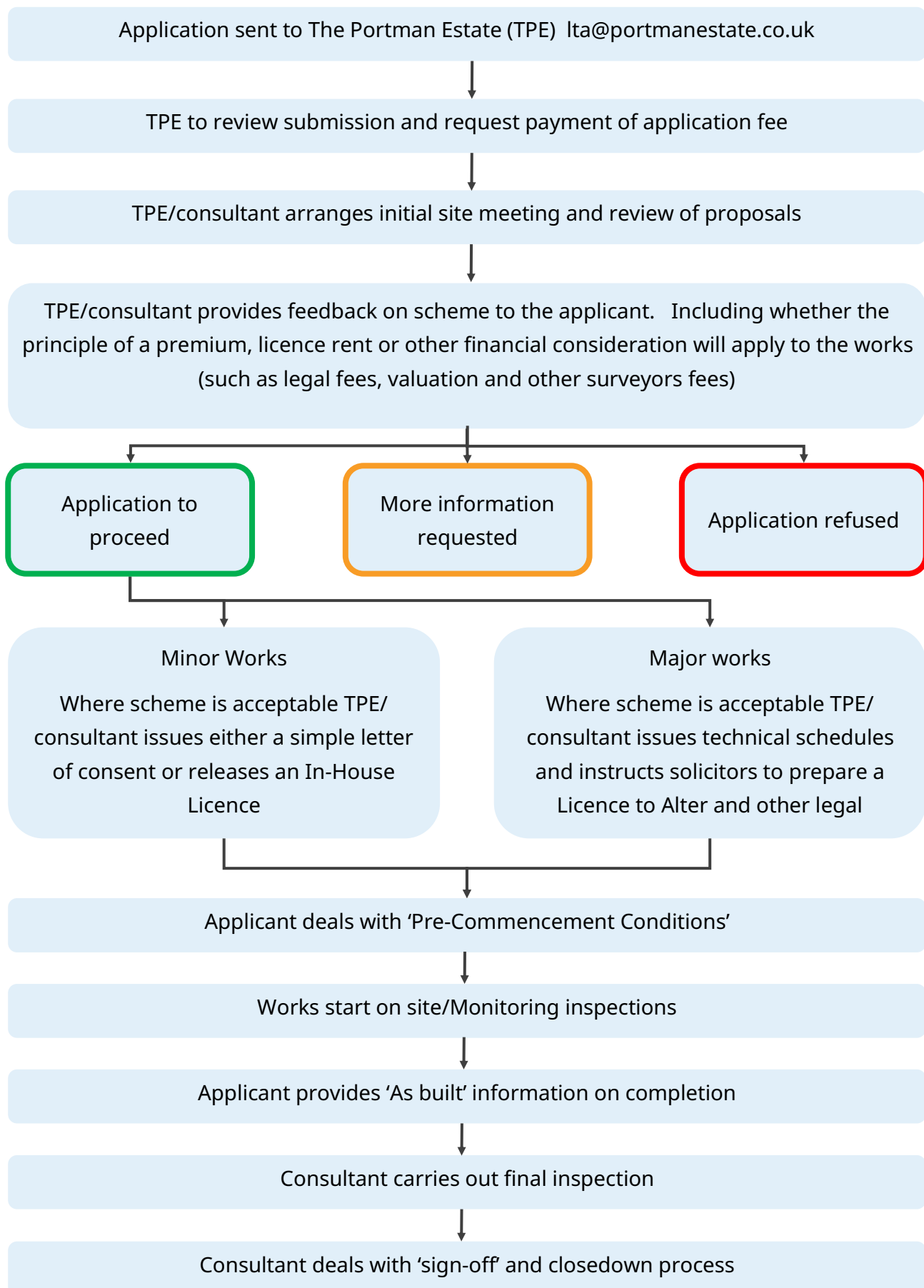
There are a wide range of factors that need to be considered, which may potentially require amendments to the proposed works. We will work with you to identify these early on in the process and will endeavour to put forward alternatives that will be acceptable to the Estate. In some instances, applications will simply be against our normal policy for alterations and therefore the proposals will need to be reconsidered. Details of the common issues that arise are set out within this guide.

The granting of approval by the Estate to any proposed alterations should not be regarded by you as an acknowledgement or representation as to the quality, adequacy or safety of the design or method of construction of the works or materials used and at all times you must rely on the skill and judgment of your own advisers and contractors.

The guide itself does not amount to a consent or an approval and it should not be considered as exhaustive in terms of the conditions that may be imposed upon any application. This document is subject to change without notice and you are advised to check that you are looking at the latest version.

Included is a flowchart that shows the process we will follow when considering an application.

# Licence To Alter Process



# What Requires Consent

Any alterations to the external appearance and or structure of the property are generally prohibited under the terms of the lease. Consideration may, however, (in our absolute discretion) be given to some of the following works:

- Any alterations to the internal layout of the property (e.g. removing and adding partitions)
- Replacement floor coverings
- Installing new or moving existing service media and pipework particularly where this involves drilling through the walls
- External lighting
- CCTV cameras
- Alarms boxes
- Roof coverings
- Railings
- External facing materials
- External stairs and steps
- External service cables and pipework
- External heaters
- Advertising and signage
- Glazing manifestations
- Planting
- Boiler flues
- Extract grilles/ducts
- A/C condenser units
- External doors/window (including glazing)
- Terraces
- External chairs and tables/breeze screens
- Awnings
- Pilasters
- Acoustic treatment



# The Application Process

The procedure for applying to the Estate for approval for tenant alterations is summarised as follows:

## How to apply

A written application, (which can be a letter accompanied by an application form), should be emailed to [lta@portmanestate.co.uk](mailto:lta@portmanestate.co.uk). An invoice will be raised upon receipt of the application form. Please note that the application will not be processed until the application fee has been settled. Please also note that a minimum fee will apply to small projects. We will also reserve the right to levy supplementary fees, for example where a project becomes unusually protracted, complex, or changes significantly.

## What Information is required?

The application form should be accompanied by the following information. It is appreciated that some of the information requested may not be available at the outset. These can be provided at a later date during the application process, however, the level of detail provided should reflect the level of works proposed:

- A completed application form.
- Description of the work proposed (with photographs where applicable).
- PDF Copies of existing and proposed drawings together with sections and elevations (where applicable) to a minimum scale of 1:100. These should include:
  - Drawing numbers.
  - Property address and floor.
  - Drawing title including scale bar.
  - Be annotated in English.
- Drawings and calculations relating to any structural alterations.
- Drawings and calculations relating to any mechanical and electrical alterations.
- Confirmation that planning consent has been applied for or obtained where required. Listed building consent may also be required, in which case we will need confirmation that this has been applied for or obtained.
- Building Regulation consent will typically be required for most works and you will be required to provide copies of the Building Control application which can be sought either via the Westminster City Council District Surveyors Service or an 'approved inspector'. Alternatively, copies of the Building Regulations approval should be provided.
- Cost of works to a builder's finish. (This may be subject to later verification). The term 'builder's finish' means all of the builder's work to reach a stage where a Building Regulations completion certificate can be issued. This excludes decoration, furniture, and soft furnishings etc.

### **What if I am a subtenant?**

Applications from sub tenants must be submitted via the Head Lessee (or written consent must be provided from the Head Lessee stating that The Portman Estate can deal with the sub tenant direct).

### **Who will deal with my application?**

In general, we will appoint a consultant to manage the application. The consultant or sometimes a member of the property management team will carry out an inspection of the proposed works either with you or with your professional adviser(s), in order to give direction on the application process and guidance on what additional information is required to support the application.

At the same time, we/our consultant will be able to give you an indication of any particular requirements we/or they might have in regard to any subsequent approval (e.g. type of finishes and matters relating to fenestration in order to preserve the character of the property).

### **Will my proposals need to be amended?**

It is possible that once the proposals have been considered, some amendments may be required to the scheme. We (via the consultant) will endeavour to provide guidance as to what modifications will be required to be able to consider the application. Please note that there may be instances where we will not be able to accept or approve a scheme.

### **Will additional advice be required?**

Dependent on the nature of the application, the consultant may require further specialist advice to consider the scheme. Where this is the case the consultant will write notifying you (or your agent) of their intention to instruct other specialist consultants.

Your solicitor will be required to provide a written undertaking regarding costs incurred by us in processing the matter. The undertaking should be provided promptly to avoid delays in processing the application. This may include legal, valuation, engineering, monitoring, surveying and any other costs reasonably incurred in order to process the application. In the event that the applicant has not instructed a solicitor then these fees will need to be paid in advance.

### **Will there be additional costs?**

Occasionally and subject to our absolute discretion, where the works involve alterations outside of your demise for example to include air conditioning you may be required to pay a premium and or additional rent. You will generally be advised on this point at the initial site meeting.

If the principle of the works is considered acceptable then only at that stage will premium/rent calculations be considered. The applicant is reminded that the Estate reserves the right to refuse consent in certain circumstances. The Estate's asset managers will calculate the premium unless specialist advice is required (refer to point above 'Will additional advice be required').

### **Will further consent be required?**

It is possible, subject to the leasehold structure within the building that the alterations may involve consent of intermediate landlords before we can consider the application further.

# The Approval Process

## How will the application be approved?

Once our consultant (working in conjunction with us) is satisfied with the proposals, they will determine what form of documentation is required to approve the works. This will be based upon the complexity of the works and any requirements that need to be considered by us. The documentation will adopt one of the following three formats:

- An 'Approval Letter' issued by the consultant on behalf of The Portman Estate.
- An 'Approval Letter' accompanied by an 'In-House Licence' issued by the consultant on behalf of The Portman Estate.
- A formal 'Licence to Alter' issued on behalf of The Portman Estate by our Solicitor.

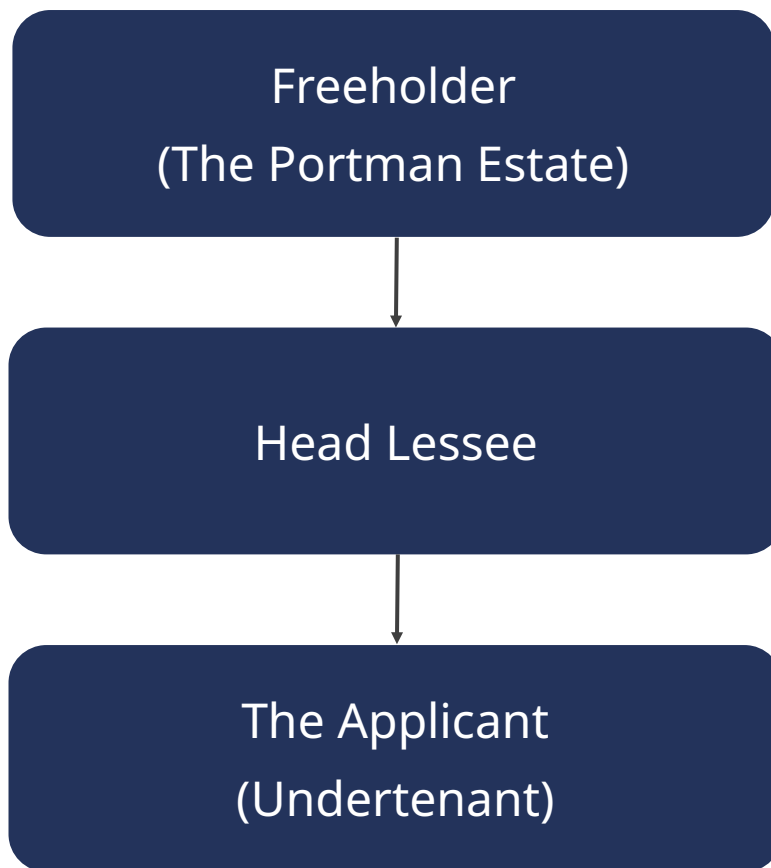
Each of the points above will be accompanied by 'technical schedules' which set out the conditions applicable to the scheme. Furthermore, the drawings which have been agreed will also be appended and will be referred to as the 'approved drawings'.

For both an Approval Letter and an In-House Licence a letter will be issued on behalf of The Portman Estate. These will include either a duplicate copy of the letter or an In-House Licence that will need to be completed and returned. Appended to both documents will be the technical schedules and associated approved drawings.

Where a solicitor's Licence to Alter (or other form of legal document) is required, a letter will be issued to us by our consultant and we will release the accompanying technical schedules via our solicitors. The technical schedules themselves will not constitute consent under the terms of the lease. Consent will only be provided once the licence completes. The schedules aim to set out the relevant technical considerations upon which the licence will be based.

Once all the 'Pre-Commencement Conditions' have been addressed by you or your team to our or our consultant's satisfaction, confirmation will be given that works can progress on site. Whilst the works are on site the applicant will need to ensure that the 'Works Conditions' are complied with.

Where there are numerous interests in a building and there is an intermediate interest ('Head Lessee') in between the applicant and The Portman Estate then the Head Lessee's consent must be obtained. This relationship is shown below.



Relationship between Freeholder and Undertenant

# Conditions of Approval

## Insurances

You will be required to complete an insurance questionnaire and return a copy to us or our consultants. Where there are any changes required to the level of cover required the onus will be on you to pay any additional premiums or put in place any additional measures required by the insurers. In any event, we will insist on the following minimum levels of covering being in place:

**Contractors Public Liability insurance:     £10,000,000**

**Employers Liability insurance:                £10,000,000**

You will be responsible and liable for the works and any damage resulting therefrom.

You will be expected to indemnify The Portman Estate in respect of injury to or loss of life to any person or damage to property real or personal, or in consequence of the execution of the said works and the costs of making any justified claims. You will be required (or cause your contractor) to maintain adequate insurances, against such risks and provide evidence of such insurances upon demand. Whilst The Portman Estate maintains insurance for the building this does not cover you or your contractor undertaking works within the building. You must satisfy yourself that your contractor's Public Liability insurance is adequate taking into consideration their legal liabilities under the building contract, the value and nature of the works being undertaken and the value of surrounding 'third party' properties.

## Commencement of work

Once the Pre-Commencement Conditions contained within the technical schedules have been complied with, and the application (and any supplementary) fee has been paid in full, you will be permitted to commence the works (that require consent under the lease) subject to obtaining the necessary statutory approvals such as planning consent, Building Regulations approval and the like.

## Progressing the works

You will be required to keep us or our consultant informed as to the progress of the works. Any design changes must be assessed and where applicable approved by us and/or the consultant prior to those works being undertaken.

## Inspection of the works

Dependent on the scale and complexity of the works, site visits will be carried out by us or our consultant. A final inspection will always be carried out. Fees attributable to inspections will be determined and confirmed as soon as possible, but no later than when the technical schedules are issued.

## **Supervision of the works**

It should be noted that responsibility for formal supervision of the works/contract lies with you or your project team. We will expect you to appoint suitably qualified persons to design the works and to supervise and administer the building contract. A suitably qualified person is defined as a Chartered Surveyor, or Engineer, Architect or other similar qualified person deemed appropriate by us.

## **Adjoining owners and neighbours**

You will be required to carry out your works having due regard to the interests of your neighbours. To safeguard your interests and those of the adjoining owners/occupiers we will sometimes advise you to record schedules of condition of the adjoining buildings (whether or not the Party Wall etc. Act 1996 applies to the works). You should also consult with your neighbours (where possible) at an early stage.

## **Reinstatement**

You will be required to reinstate the works at the end of the term of the lease. These reinstatement provisions will also apply to nuisance arising from your works or occupation of the premises.

## **Deposit**

Please note for some projects we may impose the requirement for you to pay a deposit to The Portman Estate. This will be reimbursed at the end of project but subject to deductions - for example, to settle additional fees, to deal with claims received or other matters arising as a result of the works.

## **Health and Safety**

You and your professional team must take responsibility for ensuring that both the design and works take into account health and safety. You must ensure compliance with the Construction (Design and Management) Regulations 2015 and other applicable legislation where appropriate.

## **Access to the site**

Access to the building site will not usually be allowed through the common parts and an external scaffold/gantry will typically be required. The location and design of the proposed scaffolding should be carefully considered so as to ensure that the privacy of other occupants within the building as well as those of its neighbours are maintained. Suitable drawings will be required for consideration by us and/or our consultant.

Typically, where it is necessary to erect scaffolding on land owned by Westminster City Council you will be required to obtain their consent and pay costs and/or fees that maybe applicable. Should the scaffold be erected on land owned/managed by The Portman Estate you will be expected to enter in a scaffold licence with us, with additional fees for its preparation being paid by you. Furthermore, a licence rent (in the form of a weekly charge) would be levied by us.

# On Completion Of Works

## Documentation required

Copies of 'as built' drawings must be provided upon completion of the project. Where these are produced in CAD a CD or 'wettransfer' link (or similar) with the drawing files in .dwg (AutoCAD LT 2017) format should also be provided. For minor works, hand drawn well-proportioned sketches may be accepted to keep costs to a minimum.

## Certification required

Copies of building regulations completion certificates, all tests certificates (fire alarm, electrics, lighting, chlorination and pressure testing and the like) should be provided prior to the project being 'signed off' in accordance with the drawings.



# Technical Requirements

## Key Items to be addressed

Below is a brief overview of a number of key items that you will have to address at your own cost as part of the approval:

**Acts, Bye Laws and Regulations** – You will be required to comply with all Acts, Bye Laws, Regulations etc. governing the works, including, but, not limited to, obtaining Planning & Listed Building Consents and the Building regulations approval and the CDM regulations.

**Obtaining licencing** – Consent for the scheme from WCC licensing department.

**Party Walls** – Where works affect party walls you will be required to serve notice pursuant to the terms of the Party Wall etc. Act 1996.

**Asbestos** – You will be required to undertake an asbestos (refurbishment and demolition) survey before works commence in accordance with the Control of Asbestos Regulations and HSE guidance HSG264.

All asbestos removal works must be undertaken by a specialist contractor. On completion of any specialist works you will be required to provide copies of all relevant licences, waste carrier licences, disposal certificates, as well as air clearance reassurance certificates.

**Standards of materials and workmanship** – You will be required to comply with the relevant British Standards Specification or Codes of Practices. Materials are expected to be commensurate with the quality of the building.

**Programme** – You will be required to provide a detailed programme for the works setting out key stages, together with start and completion dates.

**Method statements** – Various method statements may be required detailing how your contractor proposes to safely undertake the works and mitigate the impact on the adjoining occupiers and the general public.

**Fire safety** – You will be required to maintain fire separation, safety and protection of the site and workforce as part of the works. You will be expected to design and implement your works in a way that maintains or serves to improve fire safety for the application block or adjoining buildings/ units.

The subject of fire safety pertaining to clad or other high rise buildings requires careful consideration.

**Energy performance and Sustainability** – You will be required to design the scheme in such a way that would enhance energy performance levels and support sustainability.

**Working hours** – No weekend or bank holiday working is permitted. Working hours on the Estate are between 8.00am-6.00pm. Further noisy working restrictions may also be imposed.

**Forecourts** – Forecourt areas must be maintained and finished with traditional materials. The forecourt is not to be used as an extension of the site.

**Hoardings** – These are generally required around the base of any scaffolding. These are to be painted in gloss paint to match any adjacent masonry, render or Stucco render (generally coloured white or Gardenia) on the building. The hoardings should be maintained for the duration of the works. Hoardings should also be installed to segregate working areas from the general public.

**Scaffolding** – Where scaffolding is required to service the works, you will be required to comply with The Portman Estates 'Scaffold Policy'. You will also be required to prepare a schedule of condition of the external areas where scaffolding is proposed.

A number of key points taken from the policy have been included below:

- i. A banksman must be provided at all times when scaffolding is being erected or struck.
- ii. Warning signs and barriers to segregate the public and work areas are to be provided at all times.
- iii. Security of the site and scaffolding is to be maintained at all times, including the provision of a Panthera scaffold alarm (or equivalent) ensuring full protection to the scaffold. As a minimum, sensors should be positioned on the first lift but additional sensors may be required should neighbouring scaffolds or buildings compromise the upper levels of the scaffolding.
- iv. The scaffolding must be provided with netting or Monarflex sheeting (or similar approved material), which is to be routinely inspected and maintained.
- v. Notices are to be provided to the adjoining owners and businesses affected by the scaffolding, highlighting key dates and measures being put in place by the applicant/contractor to minimise any inconvenience caused.
- vi. You or your contractor will be required to ensure that all TV/telecommunications installations are maintained for the duration of the works.
- vii. All guttering, parapet gutters, hoppers and the like are to be routinely inspected and kept free from obstruction for the duration of the works.
- viii. You should ensure that the neighbours' windows, doors and exit routes are not obstructed.
- ix. Double boarding and sheeting are to be provided over any access routes into or out of the building.
- x. Scaffolding is to be designed to mitigate potential damage to any pavement vaults and loads are not to be imposed upon porticos, balconies or other projecting architectural features.
- xi. Where shop facades need to be covered by scaffolding, ladder beams should be used to minimise the impact of the retail frontage. This will include for the grouping of standards and the provision of a backing board to affix a canvas banner as a temporary retail sign for the duration of the works.
- xii. You or your contractor will be required to make good any damage resulting from the erection or striking of scaffolding, including filling any holes associated with fixings prior to completion.
- xiii. You or your contractor will be required to ensure that the site is cleaned and left clear of any debris arising from the works. All windows/cills etc are to be cleaned as the scaffolding is struck.

**Common parts protection** – Where works are undertaken within common areas you will be required to provide an appropriate level of protection.

**Use of common parts** – The common parts are not to be used to store materials or waste products and must be left free from obstruction at all times. You will also be required to prepare a schedule of condition of the common parts.

**Riser ducts** – These are to be maintained and reinstated (where applicable) at the end of the project. The omission or reduction in the size of a riser will generally not be permitted.

**Electrical & Mechanical Services** – Where alterations to communal installations are proposed these are to be agreed in advance. In certain circumstances, you will be expected to appoint (at your cost) The Portman Estate's term contractor to undertake the works and ensure that any disruption is kept to a minimum.

Please also note:

- i. External plant installations will require careful consideration and their location must be selected to minimise noise and any visual impact on the Estate.
- ii. Boiler flues and other terminals will not be permitted on principal elevations.
- iii. Lifts are not to be used without prior agreement.
- iv. External pipework should generally be formed in cast iron with eared sockets.
- v. Plastic push-fit pipework will not be accepted.
- vi. Wet underfloor heating systems will not be considered favourably.
- vii. Pumped waste installations are generally not accepted.
- viii. Extraction strategy & designs (including proposals for compliance with TR19) will be required. Please note that all ductwork must be designed and installed to meet the requirements of DW172.
- ix. Ventilation and fresh air make-up strategy & designs will be required.
- x. Grease traps and dosing systems will be required for all commercial kitchens.

**Hard floor coverings** – Hard floor coverings will only be accepted where suitable levels of acoustic insulation can be incorporated within the property.

**Toilets and wet areas** – Are to be tanked and provided with leak detection systems.

**Consultation with the adjoining owners/occupants** – May be required where the proposed works or construction methodology will have a direct impact on the use of the adjoining properties or businesses. This may take the form of meetings, presentations or the issue of regular newsletters etc. We will reserve the right to insist on certain methodologies being adopted to mitigate nuisance where it arises and is not dealt with sufficiently by the applicant and/or their team. All necessary actions to address these issues would be at your own cost.

**Shop front strategy** – The Portman Estate's outline strategy for retail frontages must be considered with any proposed alterations to frontages where relevant.

**CCTV cameras** – Will not typically be allowed to be installed on the front façade.

**Other considerations** – Some of the Head Lease buildings might have their own set of regulations for the carrying out of works and these will be in addition to the requirements of the Estate.

# Notes

We (our consultants and legal advisers) will make every endeavour to process the application through to completion promptly and this is normally achieved by working to targeted guidelines which will be confirmed at the initial inspection.



## Supporting Documents

The following documents can be found on [portmanestate.co.uk](https://portmanestate.co.uk):

- Licence to Alter Application Form
- Insurance Questionnaire
- Scaffold Policy

