

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 21 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Harley Street Underground Car Park, Queen Anne Mews, London, W1G 9HF		
Proposal	Removal of Condition 10 of planning permission dated 30 May 2017 (RN: 16/10759) for, 'Use of part of the public car park (part third basement level) as a self- storage facility (Class B8)'; to make the permission permanent rather than temporary for one year.		
Agent	Telford Planning Associates		
On behalf of	W1 Self Storage Ltd		
Registered Number	17/08870/FULL	Date amended/ completed	
Date Application Received	05 October 2017		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

Sub Committee's views sought

1. Do Sub-Committee consider that in the light of additional representations submitted on behalf of the applicants and the particular circumstances of this case, the temporary permission for one year is unreasonable / unnecessary and Condition 10 can be removed?
2. Subject to agreement on point 1, grant conditional permission.

2. SUMMARY

Planning permission was originally granted on a permanent basis in August 2009 for the use of the whole of basement level - 3 to provide 369 lettable self-service storage units. This permission, however, was never implemented. In October 2013 permission was granted for the use of part of basement level -3 as a self-storage facility. This use has commenced and has permanent consent. Permission was subsequently granted on 30 May 2017 for the remainder of level -3 of the basement car park to be used as a self-storage facility (Class B8) to provide an overall facility with a total of 249 units. This is 120 units fewer than the 2009 consent.

This application seeks to remove condition 10 of the 2017 consent, which states:

'The use allowed by this permission can continue for one year from the date that the self-storage use commences. After that the part of the building we have approved for self-storage use must return to its previous use.

You must notify us, with a minimum period of notice of seven days, when the premises are due to open, so that the commencement of the one year permission can be recorded'.

The stated reason is:

'So that we can assess the operation of the use and the effectiveness of the Operating and Management Statement in mitigating the impact of the use upon the amenity of local residents'.

The applicant has appealed against the imposition of condition 10. The appeal has been accepted by the Planning Inspectorate and is underway. The applicant highlights that, should the appeal succeed, then the inspector would not necessarily include all of the other conditions which were attached to the 2017 committee decision.

The key issues in this case are:

- Whether condition 10 meets the six tests for a condition as set out in the National Planning Policy Framework (NPPF, 2012)
- Whether condition 10 is reasonable / necessary to protect the amenity of neighbouring residents.

The applicant puts forward the case that condition 10 fails four of the six tests for conditions (i.e. 1. Not Necessary, 2. Not enforceable, 3. Not precise, 4. Not reasonable in all other respects).

1. Necessary

The Applicant contends that condition 10 is not necessary because of the other conditions that have been imposed on the decision notice to safeguard the amenities of nearby residents.

In addition to condition 10, four other conditions have been imposed in order to protect neighbouring residential amenity:

- Condition 2 limits the opening hours (08.00 – 20.00 daily).
- Condition 5 limits the maximum number of storage units to 249.
- Condition 6 limits the delivery and collection of all goods to within level -3 of the car parking (and not outside the car park) and between 08.00 – 20.00 daily.
- Condition 8 requires the facility to operate in accordance with the OMS.

In principle, condition 10 could be necessary to preserve neighbours' amenity. However, cumulatively conditions 2, 5, 6, and 8 are considered to be adequate in preserving neighbours' amenity even if condition 10 was to be removed. Condition 10 is therefore not considered to be necessary to make the development acceptable.

If the application to remove condition 10 was refused, the Planning Inspector has the right to vary or remove any or all of these conditions. However, this is considered unlikely given the appellant's grounds of appeal that condition 10 is unnecessary as the other conditions adequately protect local amenity.

2. Enforceable

The applicant puts forward the case that condition 10 is unenforceable since it would not be possible for the City Council to distinguish between the impacts on amenity caused by the existing facility, and any impacts which may arise from the extended storage facility. This point is not accepted. Condition 10 could be enforced if the approved self-storage facility were to operate for more than one year from commencement, or the Council received no notification of commencement. Any breach of condition 10 would be very simple to detect and, if detected, enforcement action could be taken.

3. Precise

The applicant puts forward the case that condition 10 is not precise since it is not clear whether the entirety of level -3 must revert to its previous use following the one year temporary period or the entirety of level -3.

It is considered that the condition is precise since it sets out a timeframe for the permitted use to operate, the trigger point of the timeframe being commencement of use, and a timeframe for notification of commencement of use in order to clarify Council records. It clearly states that the condition applies only to the "use allowed by this permission" and so the second sentence of the condition should not be read in isolation. Further to this, the consent and its conditions apply only to the land shown bounded in red on the location plan. The existing self-storage facility is shown bounded in blue and is not bound by these conditions.

4. Reasonable in all other respects

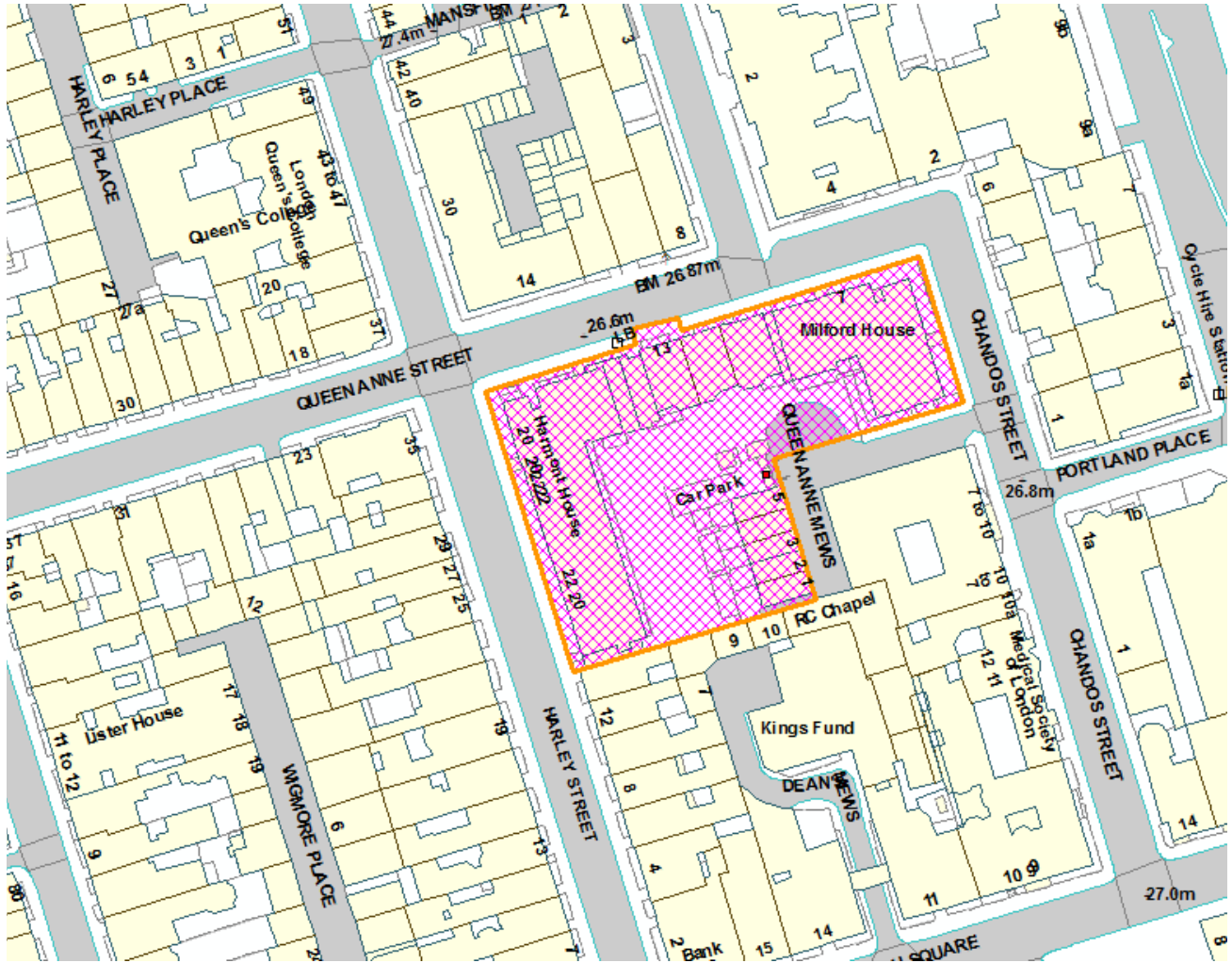
The applicant contends that condition 10 is not reasonable since it would impact on the deliverability of the development by placing unjustifiable and disproportionate financial burdens on the applicant, contrary to the Government's Planning Practice Guidance.

The applicant claims the development would have set-up costs in excess of £500,000 although no evidence of this has been submitted, nor is there any financial assessment made which gives consideration to projected profits from the operation of the development. Crucial also is the fact that if the applicant is correct in its contention that the implementation of the permission will not have an unacceptable adverse effect on the amenity of the location, then it need not be worried that the authorised use would not be extended indefinitely upon receipt of an application to delete condition 10 after the one year 'trial period'.

For these reasons, it is not considered the case that the condition is unreasonable has not been fully demonstrated. There is a risk, however, if the applicant were to demonstrate at appeal that condition 10 does place an unjustifiable and disproportionate financial burden on an applicant such that the operator is not financially able to risk the set-up costs and therefore complete the one year 'trial period', that the Planning Inspectorate may find that condition 10 unreasonably impacts on the deliverability of a development.

In light of the above, Committee are asked to consider whether, in light of additional representations submitted on behalf of the applicant and the particular circumstances of this case, the temporary permission for one year is unreasonable / unnecessary. If Committee consider that condition 10 is unreasonable / unnecessary then permission would be granted subject to all of the conditions originally imposed save for condition 10 which would be omitted.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

MARYLEBONE ASSOCIATION: Any response to be reported verbally

HIGHWAYS PLANNING MANAGER: Any response to be reported verbally

CLEANSING: Any response to be reported verbally

ADJOINING OWNERS / OCCUPIERS

No. of consultees: 168 (Objections: 0; Representations: 0; Supporting: 0).

SITE & PRESS NOTICE

Yes.

6. BACKGROUND INFORMATION

6.1 Recent Relevant History

6 August 2009: Permission granted for use of whole of basement level 3 to provide 369 lettable self-service storage units (Class B8). This scheme resulted in the loss of 132 car parking spaces. Not implemented.

9 December 2010: Permission granted for retention of a roller shutter across the entrance/exit (to close the car park when required for maintenance purposes or in an emergency). The hours of use of the roller shutter were restricted by condition.

24 November 2014: Permission granted to remove the operating hours restriction on the use of the roller shutter.

29 October 2013 Permission granted for the use of part third basement level as a self-storage facility, providing 127 self-storage units, with an administrative office at first basement level (13/07597/FULL). This scheme resulted in the loss of 47 car parking spaces. Implemented. (The approved operating hours are between 08.00 and 20.00).

12 April 2017: Details of waste and recycling, CCTV and security lighting and an Operating and Management Statement pursuant to condition 5, 6, and 9 of planning permission dated 29 October 2013 (RN: 13/07597/FULL). Granted and implemented

7. BACKGROUND PAPERS

1. Application form
2. Decision letter dated 30 May 2017 (Ref: 16/10759/FULL).
3. Planning Statement dated 5 July 2017.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

Item No.

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8. KEY DRAWINGS



DRAWING 6
PROPOSED CCTV and LIGHTING

DRAFT DECISION LETTER

- Address:** Harley Street Underground Car Park, Queen Anne Mews, London, W1G 9HF,
- Proposal:** Removal of Condition 10 of planning permission dated 30 May 2017 (RN: 16/10759) for Use of part of the public car park (part third basement level) as a self- storage facility (Class B8).
- Reference:** 16/10759/FULL
- Plan Nos:** Drawing 001 - Plan of Level -1, Drawing 03 - Plan of office, Drawing 6 - Proposed CCTV and Lighting, Drawing 7 - Proposed storage units, LP 3RD Harley Street Car Park, 2209/L/01 - Location Plan, Operating and Management Statement by W1 Self Storage received 1/3/17

Case Officer: Gemma Bassett

Direct Tel. No. 020 7641 2814

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must not open the self-storage premises to customers, and you must not allow customers on the premises, outside the following times: 08.00 - 20.00.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 3 The area outlined in red on approved Drawing Number 7- Proposed Storage Units shall only be used for self-storage units. You must not use it for any other purpose, including within Class B8 of the Town and Country Planning (Use Classes) Order (1987) (as amended) (or any equivalent class in any order that may replace it).

Reason:

We cannot grant planning permission for unrestricted use within Class B8 because it would not meet COM 11 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 4 You must provide each car parking space shown on approved Drawing Number 7 - Proposed Storage Units prior to the use hereby approved, and each car parking space shall only be used for the parking of vehicles of customers visiting the premises for the purpose of using the self-storage units. The car parking spaces indicated on the submitted plans should be dedicated for use by the self-storage facility implemented and maintained for the lifetime of the development

Reason:

To provide parking spaces for people using the development as set out in STRA 25 and TRANS 25 of our Unitary Development Plan that we adopted in January 2007. (R22AB)

- 5 The use hereby permitted shall not result in more than 122 additional individual self storage units within level -3 of the car park, and the total number of individual self storage units at level -3 shall not exceed 249.

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 6 With the exception of the collection of refuse, the delivery and collection of all goods shall take place within level -3 of the car park and not outside the car park. No delivery or collection of goods shall take place outside of the opening hours: 08.00 - 20.00

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 7 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

*between 08.00 and 18.00 Monday to Friday;

*between 08.00 and 13.00 on Saturday;

*and not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 8 The Operating and Management Statement by W1 Self Storage received 1/3/17 shall be implemented and maintained for the lifetime of the development

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 9 You must apply to us for approval of details of secure staff cycle storage for the self-storage facility. You must then provide the cycle storage in line with the approved details prior to the commencement of the use hereby approved. You must not use the cycle storage for any other purpose

Reason

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 3 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway

works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.