

RECORD OF OFFICER EXECUTIVE DECISION

State if decision exempt from publication

Certain information may be exempt from publication if it falls under Schedule 12A of the Local Government Act 1972. However, these exemptions only apply so long as, in the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing it.

Date of Decision:	20/12/2023
Name of Decision Maker and job title:	Pedro Wrobel, Executive Director of Innovation & Change
Status of the decision (e.g. by Executive Director in consultation with Portfolio Holder under the Constitution)	Executive Director Innovation & Change in consultation with the Cabinet Member for Planning & Economic Development under the Constitution
Specific Delegation from Executive (Leader, Cabinet or Cabinet Member) / Committee	Paragraph 26.10.4 of the council's scheme of delegation delegates authority to the Executive Director of Innovation and Change to deal with all matters under the Localism Act (2011)
Other Consultees involved. (i.e. Director of Law & Finance)	Executive Director of Regeneration, Economy & Planning, Director of Town Planning & Building Control, Senior Solicitor Highways Planning and Licensing, Senior Public Health Strategist
Material considered as part of the decision making process. Include how best value achieved and equality objectives met (as appropriate)	<p>The Localism Act 2011 introduced a Community Right to Bid scheme which allows councils to designate properties as 'assets of community value'. The process allows valid nominators to identify and nominate assets within their locality that they believe to be of intrinsic value to the community and the social wellbeing of their locality, to request that they are provided with sufficient notice and opportunity to bid to purchase the asset should it be proposed for sale.</p> <p>Nominations are tested against two main criteria:</p>

	<p>1) it a valid nomination from a valid nominator¹; and 2) the building or land has a non-ancillary use, either currently or in the recent past, which makes a significant contribution to local life and/or furthers the social wellbeing or social interests of the local community, and it is realistic to think that there can continue to be non-ancillary use of the building or land which make a significant contribution to local life and/or will the social interests or social wellbeing of the local community².</p> <p>The freehold owners of the property, Hines UK, and the leaseholder, Tesco Stores Ltd, were notified of the application on 2 November 2023.</p>
Decision taken:	To designate the Supermarket, Ground Floor, 2-4 Dean Street, London, W1D 3RF as an asset of community value and include it in the List of Assets of Community Value.
Reasons for the Decision	<p>It is a valid community nomination</p> <p>To be valid, a nomination can to be made by a “voluntary or community body”, as defined in Regulation 5 of the 2012 Regulations. The Society has made nomination as “a charity” (Regulation 5(1)(c)). The Charity Commission for England and Wales Register of Charities confirms that the Society is a registered charity (Registration no, 1146589).</p> <p>To make a valid nomination the Society have a local connection. This is defined in Regulation 4(a), which states that a body will have a local connection with land in a local authority’s area if the body’s activities are wholly or partly concerned with the local authority’s area. The Society’s charitable objectives relate solely to Soho, which falls wholly within the Council’s area, so the local connection test is satisfied. The Property lies within the Society’s “area of benefit”, as set out in its governing document. Additionally, the Charity Commission confirms that the Society operates within the City of Westminster.</p>

¹ Nominations must be submitted by one of four types of valid nominators: 1) a community council; 2) a neighbourhood forum; 3) a charity or community interest company; and 4) an unincorporated body (where it can provide names and addresses of 21 members on the electoral roll in Westminster or a neighbouring borough). All nominators must operate within or have interests within Westminster.

² Social interests are defined in the Act and include cultural, recreational and sporting interests. Wellbeing is not defined in the Act or Regulations, but is generally regarded and supported in case law to be the things that people value in their life and that contributes to their happiness, health and safety.

The use as a food supermarket selling a broad range of fresh food and basic products at competitive prices makes a significant contribution to local life and furthers the social wellbeing of the local community

Policy 14 in the council's City Plan states that Major, District and Local Centres will provide a mix of commercial and community uses to meet residents' day to day shopping needs, provide local employment opportunities, and support opportunities for community interaction.

There is a demonstrable need for access to a broad range of fresh food at competitive prices to meet the Soho community's diverse needs:

- 30% of soho residents live in social housing, and there are 25 families living Soho who have been identified via the low income family tracker are particularly vulnerable in the cost of living crisis.
- Soho is in the 30-40% most deprived neighbourhoods in the country according to the Index of Multiple Deprivation
- The Priority Places for Food Index³ developed by the Economic Social and Research Council, identifies neighbourhoods that are most vulnerable to increases in the cost of living and which have a lack of accessibility to cheap, healthy, and sustainable sources of food. The index ranks Soho in the first decile (highest priority) for social-demographic barriers to food, and is in the second decile for food support for families.

There is a growing body of evidence that suggests supermarkets can make significant contributions to local life and/or further social wellbeing with research by the University of Cambridge⁴ finding that supermarkets are a lynchpin for local communities.

As a large food retailer open long hours the use also contributes to local life by providing a source of good quality entry level local jobs.

As the largest supermarket in Soho, it is making a significant contribution to local life by meeting these needs of the local

³ [Priority Places \(priority-places-explorer.azurewebsites.net\)](https://priority-places-explorer.azurewebsites.net)

⁴ [supermarkets and community wellbeing framework 261022.pdf \(cam.ac.uk\)](#)

	community by providing affordable access to a broader range of fresh food, centrally located for the residential population of Soho.
Risk Analysis	<p>The property owner has the right to request a review, which is undertaken within the council by an officer of necessary seniority who was not involved in the initial decision. The outcome of a review can be further challenged at a Tier 1 Tribunal. The nominator and third parties do not have a right to request a review or to appeal. If a property is listed and subsequently de-listed following a review.</p> <p>The owner can seek compensation from the council for any loss or expenses they may have incurred at the time when the land/property was listed, which they would not have incurred had the land not been listed Section 14(2) ACV (England) Regulations 2012.</p> <p>If a land or building is successfully included in the list of ACVs, it will remain listed for five years unless a listing review leads to the de-listing of an asset prior to the end of that term.</p> <p>ACV designation refers to the property (i.e. the land and/or building nominated), and not to any particular use. In the case of the Tesco nomination, the nominated land is described as the current supermarket at the ground floor, 2-4 Dean Street.</p>
Details of alternative options considered and rejected:	<p>It is not a valid community nomination.</p> <p>The use as a supermarket does not make a significant contribution to local life.</p>
Conflicts of interest declared by any Executive Member/ other Member or officer consulted by the decision maker which relates to the decision:	None
Dispensations Granted: (If any)	N/A

I certify that this is a true record of the executive decision in relation to the designation of the Supermarket, Ground Floor, 2-4 Dean Street, London, W1D 3RF as an asset of community value and include it in the List of Assets of Community Value.

Signed by the Decision Maker

Dated **20 December 2023**

Name **Pedro Wrobel**

Job Title **Executive Director of Innovation & Change**