



City of Westminster

# Committee Agenda

Title: **Planning Applications Sub-Committee (1)**

Meeting Date: **Tuesday 11th July, 2017**

Time: **6.30 pm**

Venue: **Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR**

Members: **Councillors:**

Richard Beddoe (Chairman)  
David Boothroyd  
Susie Burbridge  
Tim Mitchell

**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda**

**Admission to the public gallery is by ticket, issued from the ground floor reception from 6.00pm. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Committee and Governance Officer.**

**Tel: 020 7641 2341; Email: [tfieldsend@westminster.gov.uk](mailto:tfieldsend@westminster.gov.uk)  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

#### **1. MEMBERSHIP**

To note any changes to the membership.

#### **2. DECLARATIONS OF INTEREST**

To receive declarations by members and officers of the existence and nature of any personal or prejudicial interests in matters on this agenda.

#### **3. MINUTES**

To sign the minutes of the last meeting as a correct record of proceedings.

#### **4. TREE PRESERVATION ORDER NO. 634 (2017) - 21 CASTELLAIN ROAD, LONDON, W9 1EY**

(Pages 1 - 36)

#### **5. PLANNING APPLICATIONS**

Applications for decision

##### **Schedule of Applications**

##### **1. DEVELOPMENT SITE AT 14 TO 17, PADDINGTON GREEN, LONDON**

(Pages 43 - 136)

##### **2. 5 STRAND, LONDON, WC2N 5AF**

(Pages 137 - 178)

##### **3. DEVELOPMENT SITE AT LAND BOUNDED BY DRURY LANE, DRYDEN STREET, ARNE STREET AND SHELTON STREET, LONDON**

(Pages 179 - 230)

##### **4. PROPOSED DEVELOPMENT AT 1-4 MARBLE ARCH AND 1 - 1A GREAT CUMBERLAND PLACE, LONDON, W1H 7AL**

(Pages 231 - 262)

##### **5. DEVELOPMENT SITE AT 46 BRYANSTON SQUARE AND 37 BRYANSTON MEWS, WEST BRYANSTON SQUARE, LONDON**

(Pages 263 - 282)

- |           |  |                          |
|-----------|--|--------------------------|
| <b>6.</b> | <b>DEVELOPMENT SITE AT 47 TO 48 BRYANSTON SQUARE AND 39 TO 41 BRYANSTON MEWS WEST BRYANSTON SQUARE, LONDON</b> | <b>(Pages 283 - 312)</b> |
| <b>7.</b> | <b>DEVELOPMENT SITE AT 1 1/2 QUEENS GROVE AND 12-22 FINCHLEY ROAD, LONDON, NW8 6EB</b>                         | <b>(Pages 313 - 350)</b> |
| <b>8.</b> | <b>49 PORCHESTER TERRACE, LONDON, W2 3TS</b>   | <b>(Pages 351 - 362)</b> |

**Charlie Parker  
Chief Executive  
3 July 2017**

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City of Westminster

## Executive Summary and Recommendations

**Title of Report: Tree Preservation Order No. 634  
(2017) 21 Castellain Road, London,  
W9 1EY**

**Date: 11<sup>th</sup> July 2017**

### Summary of this Report

The City Council has made a Tree Preservation Order (TPO) to protect one Sycamore tree (T1) located in the rear garden at 21 Castellain Road, London, W9 1EY. The TPO is provisionally effective for a period of six months from 12<sup>th</sup> January 2017 during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 13<sup>th</sup> July 2017.

The TPO was made because the tree has significant amenity value and makes a valuable contribution to the character and appearance of the conservation area. The City Council, having been made aware of the proposal to remove the bay tree considers it expedient in the interests of the amenity that a TPO is made in order to safeguard its preservation and future management.

Objection to the TPO has been made by Mr Peter Stone of PSP Consultants, Bishops Park House and Mr Luke and Liza Johnson of 23 Randolph Crescent, London, W9 1DP.

The City Council's Arboricultural Officer has responded to the objections.

### Recommendations

The Sub-Committee should decide EITHER

(a) NOT to confirm Tree Preservation Order No. 634 (2017); OR

(b) Confirm Tree Preservation Order No. 634 (2017) with or without modification with permanent effect.



City of Westminster

# Committee Report

Item No:

Date:

11<sup>th</sup> July 2017

Classification:

General Release

Title of Report:

Tree Preservation Order No. 634 (2017)  
21 Castellain Road, London, W9 1EY

Report of:

The Director of Law

Wards involved:

Little Venice

Policy context:

Financial summary:

No financial issues are raised in this report.

Report Author:

Daniel Hollingsworth

Contact details

dhollingsworth@westminster.gov.uk

## **1. Background**

- 1.1 Under current legislation the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 634 (2017), authorised by the Operational Director Development Planning acting under delegated powers on 10<sup>th</sup> January 2017, was served on all the parties whom the Council is statutorily required to notify and took effect on 12<sup>th</sup> January 2017.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they have to be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the Council the power to control any such works or require replacement if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 634 (2017) was made following the receipt by the City Council of six weeks notice of intention to remove the Sycamore Tree (T1) submitted under section 211 of the Town and Country Planning Act 1990 (Trees in Conservation Areas). The tree is situated within the Maida Vale Conservation Area. On receipt of such notice the City Council can either raise no objections to the works or make a Tree Preservation Order.
- 1.4 The reasons given for the proposed removal of the tree were:
  - Inappropriately large tree for the location; under 3m from property; posing a significant subsidence risk.
  - Trunk is almost pressing against the boundary wall and will cause ongoing problems to its structural integrity.
  - The tree is not visible from a public place therefore does not fulfil criteria to be made subject to a TPO.
- 1.5 Subsequent to the making of the TPO the City Council received two objections.

## **2. Objection by Luke and Liza Johnson**

- 2.1 On 7<sup>th</sup> February 2017 the Council's Legal Services section received a letter from Luke and Liza Johnson objecting to the TPO on the grounds that:
  - 2.1.1 The tree offers no amenity to the community and does not form any part of the vistas on which the conservation area was designated.
  - 2.1.2 It is too close to buildings and has caused damage to the buildings' structural foundations, garden walls and neighbouring property.
  - 2.1.3 The tree is 30 m in height and is too large for a garden of 9m<sup>2</sup>.

- 2.1.4 It blocks light and is in an inappropriate position.
- 2.1.5 The species of tree is unsuitable and wrong for the location.
- 2.1.6 The tree harbours pigeons which pose a health risk.
- 2.1.7 Many problems are associated with sycamore trees, including shedding hairs causing respiratory problems, and roots causing damage to sewers and paved areas.

### **3. Response to Objection**

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 6<sup>th</sup> June 2017 stating:

- 3.1.1 It is considered that the tree is of amenity value such that it contributes to a pleasant outlook from nearby properties and it makes a positive contribution to Maida Vale conservation area. The size and species of the tree are not considered to be inappropriate for the location. No evidence has been submitted demonstrating that the tree is causing damage to property
- 3.1.2 The tree is of public amenity value. The tree is about 15 metres in height and is in early maturity. The tree is not visible from public locations but is overlooked by properties and gardens within Castellain Road.
- 3.1.3 The tree has a long life expectancy if it is allowed to remain and has a high future potential as an amenity.
- 3.1.4 The tree is about 3-4 metres from the property, so is in close proximity to the property, but the garden previously supported two large sycamore trees prior to the recent removal of one tree with the Council's agreement. The remaining tree is considered to make a positive contribution to the townscape and to be suitable for its location with cyclical management.
- 3.1.5 Removing the tree would harm the character and appearance of the conservation area.
- 3.1.6 Sycamore trees are a relatively common species but are well suited to the urban environment and contribute to the mitigation of climate change, filters pollutants and provides food and shelter for birds and insects.
- 3.1.7 No evidence has been provided of the damage caused by the tree.
- 3.1.8 Sycamore trees do not have an association with respiratory problems as stated and are often mistaken for London plane trees which shed seed balls and fine hairs.



#### **4. Objection by PSP Consultants**

On 9<sup>th</sup> February 2017 and 9<sup>th</sup> March 2017 the Council's Legal Services section received objection letters from Mr Peter Stone stating:

4.1 The tree is no amenity value. It cannot be seen from public viewpoints. The removal of the tree would not have a significant impact on the local environment.

4.1.2 No consideration is made of a reasonable degree of public benefit accruing from the Order and no attempt has been made to justify the making of the Order.

4.1.3 No assessment of the amenity value of the tree has been provided.

4.1.4 The tree is in poor condition and does not fulfil criteria of being of present or future benefit or intrinsic beauty and has no rarity value.

4.1.5 The tree is unsuitable for its location, being far too large and too close to the property. It has already damaged the boundary wall. It is within 5m of the house and has the potential to cause direct physical damage to the property.

4.1.6 The tree does not contribute to the character and appearance of the conservation area.

4.1.7 Roots from the tree have damaged drains and go under the rear wall of the house.

Costs to the owner have risen as a result of the tree being retained

#### **5. Response to objection**

5.1 The City Council's Arboricultural Officer responded to the objection by letter dated 6<sup>th</sup> June 2017 stating

5.1.1 It is considered that the tree is of amenity value such that it contributes to a pleasant outlook from nearby properties and it makes a positive contribution to Maida Vale conservation area. No evidence has been submitted demonstrating that the tree is causing damage to property

5.1.2 The tree is about 15 metres in height and is in early maturity. The tree is not visible from public locations but is overlooked by properties and gardens within Castellain Road.

5.1.3 The tree has a long life expectancy if it is allowed to remain and has a high future potential as an amenity.

5.1.4 The tree is about 3-4 metres from the property, so is in close proximity to the property, but the garden supported two large sycamore trees prior to the recent removal of one tree with the Council's agreement

- 5.1.5 Removing the tree would harm the character and appearance of the conservation area.
- 5.1.6 Sycamore trees are a relatively common species but are well suited to the urban environment and contribute to the mitigation of climate change, filters pollutants and provides food and shelter for birds and insects.
- 5.1.7 No evidence has been provided of the damage caused by the tree.

## **6. Support for TPO**

- 6.1 On 7<sup>th</sup> February 2017 the City Council received support for TPO 634 from Mr Degnbol-Martinussen
- 6.2 On 9<sup>th</sup> February 2017 the City Council received support for TPO 634 from Mr & Mrs Schneider

## **7. Ward Member Consultation**

- 7.1 Ward member comments were sought in this matter but no responses have been received. Should any comments be received, they will be reported to the Committee at the meeting.

## **8. Conclusion**

- 8.1 In the light of the representations received from the objector it is for the Planning Applications Sub-Committee to decide whether to confirm the TPO, with or without modification, or whether the TPO should not be confirmed.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT DANIEL HOLLINGSWORTH, PLANNING AND PROPERTY SECTION, LEGAL SERVICES ON 020 7641 1822 (FAX 020 7641 2761) (Email [dhollingsworth@westminster.gov.uk](mailto:dhollingsworth@westminster.gov.uk))

**Local Government (Access to Information) Act 1985**

**Appendix 1 - Copy of TPO 634 (2017)**

Background Papers

1. Objection letter from Mr & Ms Johnson dated 6<sup>th</sup> February 2017
2. Response letter from City Councils Arboricultural officer dated 6<sup>th</sup> June 2017
3. Objection letter from PSP Consultants dated 7<sup>th</sup> February 2017
4. Objection letter from PSP Consultants dated 8<sup>th</sup> March 2017
5. Response letter from City Councils Arboricultural officer dated 6<sup>th</sup> June 2017
6. Support letter from Mr Degnbol-Martinussen dated 5<sup>th</sup> February 2017
7. Support letter from Mr & Mrs Schneider dated 8<sup>th</sup> February 2017

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Director of Law (reference DH/30104338)  
Legal Services  
3<sup>rd</sup> Floor Kensington Town Hall  
Hornton Street  
London  
W8 7NX

RECEIVED  
07 FEB 2017  
LEGAL SERVICES

6<sup>th</sup> February 2017

**Ref: City of Westminster Preservation Order 634  
21 Castellain Road, London W9 1EY**

Dear Sir/Madam,

We are writing to make a formal appeal against the Tree Preservation Order in respect of 21 Castellain Road London W9 1EY issued on 12<sup>th</sup> January 2017.

We are aware that you have made the Order because you feel the tree makes a valuable contribution to public amenity, to the outlook from nearby properties and to the character and appearance of the conservation area.

We totally support the idea that some trees are protected. However, in the case of this Sycamore tree which stands over 30 meters high in the rear garden of a tiny back yard overshadowing the neighbours' properties, the single reason you cite is questionable.

The Sycamore tree is simply too large for the 9 meter square garden. It blocks light and is in an inappropriate position. This species of tree is both unsuitable and wrong for its location. Furthermore it is situated far too close to the buildings. Over the years as the tree has grown it has caused damage to the buildings' structural foundations, garden walls and neighbouring property.

It offers no amenity to the community whatsoever. The tree is so tall and constrained within the spot that it resembles a large totem pole/telegraph pole. It cannot be seen from the road and does not form any part of the vistas on which the conservation area was designated.

The enormous size of a sycamore tree makes it impractical for the average home landscape, but they make great shade trees in parks, along stream banks and in other open areas. They were once used as street trees, but they create a lot of litter and the invasive roots damage footpaths.

In addition the tree harbours large populations of pigeons which themselves pose a health risk with commonly Psittacosis, but also Salmonella, Histoplasmosis, Cryptococcosis, Candidiasis and other parasites.

Many problems are associated with sycamore trees. It's fairly messy, shedding a generous supply of leaves, seed balls, twigs and strips of bark. The tiny hairs on the seed balls irritate skin and can cause respiratory distress if inhaled by sensitive people. The hairs shed in spring and can irritate eyes, the respiratory tract and skin. A sycamore's spreading roots often infiltrate water and sewer lines and damage paths and paved areas.

I am strongly in favour of replanting with a tree to ensure continuity of natural visual amenity with a species suitable for the location.

I would be grateful if you could consider my appeal to this TPO and I look forward to hearing from you.

Thank you in advance with your help with this matter,

Yours sincerely

Luke and Liza Johnson



Luke and Liza Johnson

**John Walker**  
**Director of Planning**

Please reply to: Barbara Milne  
Direct Line/Voicemail: 020 7641 2922  
Email: [bmilne@westminster.gov.uk](mailto:bmilne@westminster.gov.uk)

Your Ref:  
My Ref:  
Date: 06 June 2017

Dear Mr and Mrs Johnson

**THE TOWN AND COUNTRY PLANNING ACT 1990**  
**CITY OF WESTMINSTER TREE PRESERVATION ORDER (TPO) 634 (2017)**

**21 CASTELLAIN ROAD LONDON W9 1EY**

Thank you for your letter of 06 February 2017, objecting to the making of a Tree Preservation Order (TPO) for the sycamore tree at the above location. It has been passed to me for response.

**Objection summary**

The letter of objection dated 06 February 2017 sets out that:

- The tree offers no amenity to the community and does not form any part of the vistas on which the conservation area was designated.
- It is too close to buildings and has caused damage to the buildings' structural foundations, garden walls and neighbouring property.
- The tree is 30 m in height and is too large for a garden of 9m<sup>2</sup>.
- It blocks light and is in an inappropriate position.
- The species of tree is unsuitable and wrong for the location.
- The tree harbours pigeons which pose a health risk.
- Many problems are associated with sycamore trees, including shedding hairs causing respiratory problems, and roots causing damage to sewers and paved areas.
- You are in favour of planting a replacement tree of a suitable species for the location.

**Response to objection**

In summary it is considered that the tree is of amenity value such that it contributes to a pleasant outlook from nearby properties and it makes a positive contribution to Maida Vale conservation area. The size and species of the tree are not considered to be inappropriate for the location. No evidence has been submitted demonstrating that the tree is causing damage to property.



Amenity value.

National Planning Practice Guidance sets out the TPOs should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

In my amenity assessment I conclude that the tree is of public amenity value. The assessment is set out in more detail below according to the structure advised in national Planning Practice Guidance.

*Visibility, size and form*

The sycamore tree is about 15m in height, located in the rear garden. It is in early maturity. The tree is not visible from public locations but it is overlooked by a large number of properties and from gardens in Castellain Road.

By virtue of its size and location, the tree makes a useful contribution to the outlook from nearby properties and thereby to visual amenity.

The sycamore tree is of good form. It has a high crown break at about 7m from ground level and a relatively narrow canopy which has been recently pruned in agreement with the City Council.

*Future potential as an amenity*

The tree is in early maturity and is in good condition with no significant visible defects. It has a long life expectancy if it is allowed to remain, and so has a high future potential as an amenity.

*Rarity, cultural or historic value*

Sycamore is a relatively common species in Westminster, and appears well suited to the urban environment. The tree is not known to have a specific cultural or historic value.

*Contribution to, and relationship with, the landscape*

The tree is 3-4 m from the rear elevation of the property, and as such is in close proximity to the house. The garden is of relatively modest proportions. Nevertheless, until last year the garden supported two such large sycamores, and had done so for approximately 30-40 years, so as such it is not considered that the retention of one sycamore, with a considerably reduced canopy, is unreasonable. The tree adds maturity to the townscape and helps to provide some privacy and screening between the properties. Sycamore trees generally respond well to pruning so any perceived conflicts with the nearby properties could be controlled by continued careful crown reduction on a cyclical basis, in common with many such trees in Westminster without compromising the appearance of the tree to a significant degree. The tree is considered to make a positive contribution to the townscape and to be suitable in its location.

*Contribution to the character and appearance of a conservation area*

There is no adopted conservation area audit for Maida Vale, but the conservation area leaflet states:

'The tree lined streets, vistas and major private amenity spaces combine to give the entire area a leafy character and enhance the character of the buildings and the layout of roads'





Whilst the sycamore tree is not visible from the public highway, it does make a positive contribution to the greening of the townscape. Sycamore trees such as this are not unusual in rear gardens in Maida Vale and if trees in rear gardens in the vicinity were to be removed just because they were not visible from the public highway, it would be of detriment to the character and appearance of the conservation area, albeit as seen and experienced from private rather than public locations. It is considered that on balance the loss of the tree would cause harm to the character and appearance of this part of the conservation area.

*Other factors*

Trees contribute generally to mitigation of climate change, by absorbing and storing carbon dioxide. They help to filter harmful airborne pollutants. Various insects inhabit sycamore trees, and these form a potential food source for birds.

The City Council received two representations in support of the TPO, from residents who value the amenity of the tree.

Damage to property

You consider that the tree is too close to buildings and has caused damage to the buildings' structural foundations, garden walls and neighbouring property.

I note that you have not provided any evidence that the tree has caused damage to property.

You have the option to submit a TPO application to remove the tree. If you do so, and provide appropriate evidence in support of the application, the City Council would be in a position to consider the merits of the application balanced with the amenity value of the tree. The evidence required would depend on the type of damage caused. The evidential requirements for an application to remove a TPO-ed tree on the grounds of damage to property, can be found on the Council's website: [www.westminster.gov.uk/trees-and-high-hedges](http://www.westminster.gov.uk/trees-and-high-hedges).

Size, species and location of the tree

As I have already set out above, sycamore trees are relatively common in Westminster, and are often found in rear gardens of a similar size to that at 21 Castellain Road. The size and location of the tree are not considered to be inappropriate.

You state that sycamore trees shed seed balls and fine hairs which can cause respiratory problems, but these issues are associated with London plane trees rather than sycamores, which do not have seed balls or fine hairs. (Plane trees are usually called sycamore in North America, which may be where the confusion has arisen.)

Sycamore trees' roots are not particularly known for causing damage to drains or hard surfaces in comparison to other trees and I would not consider this to be sufficient reason to remove the tree.

Although pigeons can cause problems with droppings beneath roost trees, overall the benefits provided by the tree are considered to outweigh this problem. The mess from droppings can be managed by cleaning. Some residents have reported success with the use of bird scarers such as model owls to discourage pigeons from roosting. Whilst the problem of pigeon droppings is recognised as inconvenient it is not considered to be of such severity as to merit the removal of the tree.



If the content of this letter allows you to withdraw your objection to the TPO please let me know. If I do not hear from you I will assume you would like your objections to remain, in which case the matter will be reported to a Planning Applications Committee, where Councillors will decide whether or not to confirm the Tree Preservation Order. At present the intended date of the Committee is 04 July 2017, although if this is altered I will ask my colleagues in the Legal section to let you know.

Yours sincerely

Barbara Milne

Barbara Milne

Senior Arboricultural Officer

7<sup>th</sup> February 2017

RECEIVED  
09 FEB 2017  
LEGAL SERVICES



The Director of Law (ref DH 30104338)  
Legal Services  
3<sup>rd</sup> Floor Kensington Town Hall  
Hornton Street  
London W8 7NX

**BY SPECIAL DELIVERY**

Dear Sirs

**21 CASTELLAIN ROAD, W9 1EY**

We refer to the attached City of Westminster Tree Preservation order Nr 634

We wish to register a formal objection to this order. There are no grounds whatsoever for such an order to be made. The reasons for this objection are listed below:

The Tree (TP1) has no amenity value at all. It cannot be seen from any public place. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. No such consideration prevails in this case and the LPA has made no attempt to justify the issue of the order

To make an order for a single tree of this type the LPA should consider that there is a benefit - present or future, or alternatively that the tree is worthy of preservation for its intrinsic beauty. This tree is a sycamore in poor condition. It does not fulfil these criteria

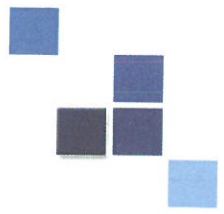
LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way. No such explanation or reasons have been provided and we submit that there are none that can be given.

The LPA should also assess the trees particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value. No such test has been applied in this case.

Cont'd

PSP Consultants  
Bishops Park House  
25-29 Fulham High St.  
London  
SW6 3JH  
T: 0207 751 9670  
F: 0207 736 8040  
E: [psp@pspcl.co.uk](mailto:psp@pspcl.co.uk)  
W: [www.pspcl.co.uk](http://www.pspcl.co.uk)

7<sup>th</sup> February 2017  
The Director of Law (ref DH 30104338)



Page 2

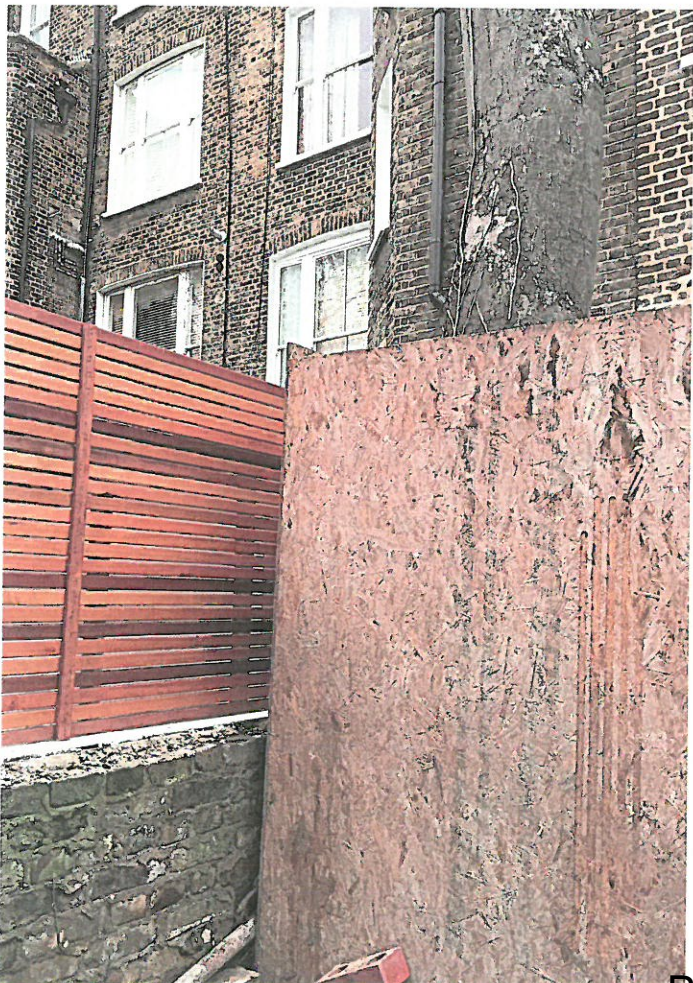
TPOs should be used to protect selected trees if their removal would have a significant impact on the local environment and its enjoyment by the public. The removal of this tree would have no impact at all let alone a significant one

This tree is completely unsuitable for its location (see attached photographs) It is far too large for this small suburban garden and is entirely inappropriate in this context. It is within 5m of the property and has the very real potential to cause direct physical damage. It has in fact already damaged the boundary wall between the two properties, leading to repair work being required.

In summary, there are no grounds for the issue of this TPO other than expediency on the part of the LPA in response to the imminent expiry of an s211 deadline. The tree in question demonstrably does not contribute to the character or appearance of the conservation area – it is in a private rear garden accessible only to the owner and is not visible from any public space.

Yours faithfully

**PETER STONE**



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8<sup>th</sup> March 2017



The Director of Law (ref DH 30104338)  
Legal Services  
3<sup>rd</sup> Floor Kensington Town Hall  
Hornton Street  
London W8 7NX

RECEIVED

09 MAR 2017

LEGAL SERVICES

BY SPECIAL DELIVERY

Dear Sirs

**21 CASTELLAIN ROAD, W9 1EY**

We refer to the City of Westminster Tree Preservation order Nr 634

We made a formal objection to this order on 7<sup>th</sup> February citing numerous grounds for its lack of validity. One of the grounds we noted was:

*It is within 5m of the property and has the very real potential to cause direct physical damage. It has in fact already damaged the boundary wall between the two properties, leading to repair work being required.*

Since then it has become apparent that the roots of this tree are damaging drainage and also run under the rear of the house itself.

We raised this along with the serious financial consequences to the owner with WCC on 3<sup>rd</sup> March as attached. Although the date for formal objections to the provisional TPO has passed we believe the potentially serious consequences of this need to be brought to your attention as well as Barbara Milne

Yours faithfully

A handwritten signature in black ink that reads 'P. Stone'.

**PETER STONE**

PSP Consultants  
Bishops Park House  
25-29 Fulham High St.  
London  
SW6 3JH

T: 0207 751 9670  
F: 0207 736 8040  
E: [psp@pspcl.co.uk](mailto:psp@pspcl.co.uk)  
W: [www.pspcl.co.uk](http://www.pspcl.co.uk)

## Peter Stone

---

**From:** Peter Stone  
**Sent:** 03 March 2017 12:04  
**To:** Milne, Barbara: WCC  
**Subject:** RE: 21 Castellain Road  
**Attachments:** tree 21.02.17.JPG

Barbara

Thanks

The RPZ was in place but this may have arisen because the roots of that sycamore are now damaging the drainage and the contractor believes they are also beginning to damage the house. They extend under the rear wall and the contractor flagged the immediate concern that those roots impact both the house and the drainage – as can be seen in the photo the roots run under the house walls and around the drainage.

The owner is understandably furious about this because we and they also believe the provisional TPO has no validity. Their costs have risen and now they are faced with the prospect of a garden which cannot be completed because of the tree and since it is a rental property their financial viability is seriously impacted. We will be speaking to the owners about taking this matter further with WCC.

Just so you're aware detailed representations and objections were made to the legal officer within the deadline for such objections. Our own objection cited the following grounds

The Tree has no amenity value at all. It cannot be seen from any public place.

LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. No such consideration prevails in this case and the LPA has made no attempt to justify the issue of the order

LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way. No such explanation or reasons have been provided and we submit that there are none that can be given.

The LPA should also assess the trees particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value. No such test has been applied in this case.

TPOs should be used to protect selected trees if their removal would have a significant impact on the local environment and its enjoyment by the public. The removal of this tree would have no impact at all let alone a significant one

This tree is completely unsuitable for its location. It is far too large for this small suburban garden and is entirely inappropriate in this context. It is within 5m of the property and has the very real potential to cause direct physical damage. It has in fact already damaged the boundary wall between the two properties, leading to repair work being required.

In summary, there are no grounds for the issue of this TPO other than expediency on the part of the LPA in response to the imminent expiry of an s211 deadline. The tree in question demonstrably does not contribute to the character or appearance of the conservation area – it is in a private rear garden accessible only to the owner and is not visible from any public space.



I believe similar objections were raised by other objectors. The detailed reasons canvassed in that reply cited damage to the boundary wall and it now is likely that further damage will occur. The immediate neighbour who shares the boundary wall is also very upset at the damage (and ensuing costs) precipitated by this. Our client also wants to explore the financial consequences and liability for this damage.

Regards

**Peter Stone**

T: 0207 751 9670  
DD: 0207 751 9671  
F: 0207 736 8040  
E: [peter.s@pspcl.co.uk](mailto:peter.s@pspcl.co.uk)  
W: [www.pspcl.co.uk](http://www.pspcl.co.uk)

Bishops Park House  
25-29 Fulham High Street  
London SW6 3JH



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---

**From:** Milne, Barbara: WCC [<mailto:bmilne@westminster.gov.uk>]  
**Sent:** 02 March 2017 10:54  
**To:** Peter Stone <[peter.s@pspcl.co.uk](mailto:peter.s@pspcl.co.uk)>  
**Subject:** RE: 21 Castellain Road

Hello Peter

I have received a report of excavation in the root protection area of the sycamore tree. I am concerned that the tree protection approved under reference 16/00755/ADFULL is not in place. Please can you advise as soon as possible that the tree protection is in place as per the approved documents? Plan extract below.



Many thanks

We look forward to hearing further following your internal consultation

Regards

**Peter Stone**

T: 0207 751 9670  
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**RICS**

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**From:** Milne, Barbara: WCC [<mailto:bmilne@westminster.gov.uk>]

**Sent:** 09 January 2017 09:54

**To:** Peter Stone <[peter.s@pspcl.co.uk](mailto:peter.s@pspcl.co.uk)>; Shakirah Akinwale <[Shakirah.A@pspcl.co.uk](mailto:Shakirah.A@pspcl.co.uk)>

**Cc:** Linda Stone <[linda.s@pspcl.co.uk](mailto:linda.s@pspcl.co.uk)>

**Subject:** RE: 21 Castellain Road - Westminster site visit - (16-00755)

Hello Peter

Thank you for the prompt response. I will discuss with senior officers and will make a decision on the section 211 notice shortly.

Kind regards

Barbara

**Barbara Milne**

Senior Arboricultural Officer

Development Planning | Growth, Planning and Housing

Westminster City Council, PO Box 732, Redhill, RH1 9FL

Tel: 020 7641 2922 | [westminster.gov.uk](http://westminster.gov.uk)



ASPIRATION

CHOICE

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---

**From:** Peter Stone [<mailto:peter.s@pspcl.co.uk>]  
**Sent:** 09 January 2017 09:06  
**To:** Milne, Barbara: WCC; Shakirah Akinwale  
**Cc:** Linda Stone  
**Subject:** RE: 21 Castellain Road - Westminster site visit - (16-00755)

Barbara

Many thanks for visiting Castellain road last week

You asked that we confirm the client's views and intentions and we have now done so. They are adamant that they would like the tree replaced with something more suitable.

They have taken advice across various disciplines and the view is that the tree is entirely inappropriate for its small space – as we saw when viewing it from the second floor as well as at ground level. Furthermore the advice they have is that there would be no legitimate grounds for a TPO to be served because the tree has no amenity value - indeed the tree cannot be seen from the street at all. On that basis therefore it is difficult to see how this tree's removal could be deemed to have a negative impact on the local environment and any enjoyment by the public.

On that basis the client is unwilling to withdraw the s211 notice

Regards

**Peter Stone**

T: 0207 751 9670  
DD: 0207 751 9671  
F: 0207 736 8040  
E: [peter.s@pspcl.co.uk](mailto:peter.s@pspcl.co.uk)  
W: [www.pspcl.co.uk](http://www.pspcl.co.uk)

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**From:** Milne, Barbara: WCC [<mailto:bmilne@westminster.gov.uk>]  
**Sent:** 29 December 2016 10:01  
**To:** Shakirah Akinwale <[Shakirah.A@pspcl.co.uk](mailto:Shakirah.A@pspcl.co.uk)>  
**Cc:** Cedric Butler <[Cedric.b@pspcl.co.uk](mailto:Cedric.b@pspcl.co.uk)>; Linda Stone <[linda.s@pspcl.co.uk](mailto:linda.s@pspcl.co.uk)>; Peter Stone <[peter.s@pspcl.co.uk](mailto:peter.s@pspcl.co.uk)>  
**Subject:** RE: 21 Castellain Road - Westminster site visit - (16-00755)

Hello Shakirah

Thank you for your messages.

I will visit on 05 January at about 0915-0930h.

Kind regards

Barbara

**Barbara Milne**

Senior Arboricultural Officer  
Development Planning | Growth, Planning and Housing  
Westminster City Council, PO Box 732, Redhill, RH1 9FL  
Tel: 020 7641 2922 | [westminster.gov.uk](http://westminster.gov.uk)



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---

**From:** Shakirah Akinwale [<mailto:Shakirah.A@pspcl.co.uk>]  
**Sent:** 23 December 2016 11:57  
**To:** Milne, Barbara: WCC  
**Cc:** Cedric Butler; Linda Stone; Peter Stone  
**Subject:** RE: 21 Castellain Road - Westminster site visit - (16-00755)

Hi Barbara,

Further to my last email, we also have availability first thing in the morning on Thursday 5th or Friday 6<sup>th</sup>.

I will call you upon your return.

Thanks again

Kind Regards,  
Shakirah Akinwale

**PSP will be closing for Christmas and New Year at 1pm on 23<sup>rd</sup> December. The office will re-open on Tuesday 3<sup>rd</sup> January. We wish everyone a merry Christmas and very happy and prosperous New Year**

T: 0207 751 9670  
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E: [shakirah.a@pspcl.co.uk](mailto:shakirah.a@pspcl.co.uk)  
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**From:** Shakirah Akinwale  
**Sent:** 23 December 2016 11:47  
**To:** 'bmilne@westminster.gov.uk'

**Cc:** Cedric Butler; Linda Stone; Peter Stone; Liza Johnson ([liza@pickrell.co.uk](mailto:liza@pickrell.co.uk)); Edward Payne ([ed@eptrees.co.uk](mailto:ed@eptrees.co.uk)); [james@cuedevelopments.co.uk](mailto:james@cuedevelopments.co.uk); [scott@cuegroup.co.uk](mailto:scott@cuegroup.co.uk)

**Subject:** 21 Castellain Road - Westminster site visit - (16-00755)

**Importance:** High

Good Morning Barbara,

Hope you are well.

We would like you to attend 21 Castellain Road to inspect the Sycamore tree.

I have left a message on your voicemail and with your colleague Tom – Kindly please confirm the date is suitable upon your return, or please advise an alternative appointment for the mornings of 10<sup>th</sup>, 11<sup>th</sup> Jan.

Ideally we would like to confirm the earliest date that week, but the Thursday and Friday afternoons are also available.

Hope to hear from you soon.

Kind Regards,  
Shakirah Akinwale

**PSP will be closing for Christmas and New Year at 1pm on 23<sup>rd</sup> December. The office will re-open on Tuesday 3<sup>rd</sup> January. We wish everyone a merry Christmas and very happy and prosperous New Year**

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\*\*\*\*\*

Did you know, your two-year-old could qualify for up to 15 hours of free childcare a week? Apply now at [www.westminster.gov.uk/information-childcare](http://www.westminster.gov.uk/information-childcare)

Keep making a Real Change to the lives of rough sleepers in Westminster. Report their location via [www.streetlink.org.uk](http://www.streetlink.org.uk), text REALCHANGE plus the amount you wish to give to 70500, or visit [www.westminster.gov.uk/real-change](http://www.westminster.gov.uk/real-change)

Join the conversation on childhood obesity by completing the Great Weight Debate survey and tell us what can be done to tackle this growing problem <https://www.westminster.gov.uk/great-weight-debate>

\*\*\*\*\*

Westminster City Council switchboard: +44 20 7641 6000.  
[www.westminster.gov.uk](http://www.westminster.gov.uk)



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Mr Peter Stone  
PSP Consultants  
Bishops Park House  
25-29 Fulham High Street  
London  
SW6 3JH

**John Walker**  
**Director of Planning**

Please reply to: Barbara Milne  
Direct Line/Voicemail: 020 7641 2922  
Email: [bmilne@westminster.gov.uk](mailto:bmilne@westminster.gov.uk)

Your Ref:  
My Ref:  
Date: 06 June 2017

Dear Mr Stone

**THE TOWN AND COUNTRY PLANNING ACT 1990  
CITY OF WESTMINSTER TREE PRESERVATION ORDER (TPO) 634 (2017)**

**21 CASTELLAIN ROAD LONDON W9 1EY**

Thank you for your letters of 07 February and 08 March 2017, objecting to the making of a Tree Preservation Order (TPO) for the sycamore tree at the above location. They have been passed to me for response.

**Objection summary**

The letter of objection dated 07 February 2017 sets out:

- The tree is no amenity value. It cannot be seen from public viewpoints. The removal of the tree would not have a significant impact on the local environment.
- No consideration is made of a reasonable degree of public benefit accruing from the Order and no attempt has been made to justify the making of the Order.
- No assessment of the amenity value of the tree has been provided.
- The tree is in poor condition and does not fulfil criteria of being of present or future benefit or intrinsic beauty and has no rarity value.
- The tree is unsuitable for its location, being far too large and too close to the property. It has already damaged the boundary wall. It is within 5m of the house and has the potential to cause direct physical damage to the property.
- The tree does not contribute to the character and appearance of the conservation area.

The letter of objection dated 08 March 2017 sets out that:

- Roots from the tree have damaged drains and go under the rear wall of the house.
- Costs to the owner have risen as a result of the tree being retained.

**Response to objection**

In summary it is considered that the tree is of amenity value such that it contributes to a pleasant outlook from nearby properties and it makes a positive contribution to Maida Vale conservation area. No evidence has been submitted demonstrating that the tree is causing damage to property.



### Amenity value

National Planning Practice Guidance sets out the TPOs should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

In my amenity assessment I conclude that the tree is of public amenity value. The assessment is set out in more detail below according to the structure advised in national Planning Practice Guidance.

#### *Visibility, size and form*

The sycamore tree is about 15m in height, located in the rear garden. It is in early maturity. The tree is not visible from public locations but it is overlooked by a large number of properties and from gardens in Castellain Road.

By virtue of its size and location, the tree makes a useful contribution to the outlook from nearby properties and thereby to visual amenity.

The sycamore tree is of good form. It has a high crown break at about 7m from ground level and a relatively narrow canopy which has been recently pruned in agreement with the City Council.

#### *Future potential as an amenity*

The tree is in early maturity and is in good condition with no significant visible defects. It has a long life expectancy if it is allowed to remain, and so has a high future potential as an amenity.

#### *Rarity, cultural or historic value*

Sycamore is a relatively common species in Westminster, and appears well suited to the urban environment. The tree is not known to have a specific cultural or historic value.

#### *Contribution to, and relationship with, the landscape*

The tree is 3-4 m from the rear elevation of the property, and as such is in close proximity to the house. The garden is of relatively modest proportions. Nevertheless, until last year the garden supported two such large sycamores, and had done so for approximately 30-40 years, so as such it is not considered that the retention of one sycamore, with a considerably reduced canopy, is unreasonable. The tree adds maturity to the townscape and helps to provide some privacy and screening between the properties. Sycamore trees generally respond well to pruning so any perceived conflicts with the nearby properties could be controlled by continued careful crown reduction on a cyclical basis, in common with many such trees in Westminster without compromising the appearance of the tree to a significant degree. The tree is considered to make a positive contribution to the townscape and to be suitable in its location.

#### *Contribution to the character and appearance of a conservation area*

There is no adopted conservation area audit for Maida Vale, but the conservation area leaflet states:

‘The tree lined streets, vistas and major private amenity spaces combine to give the entire area a leafy character and enhance the character of the buildings and the layout of roads’



Whilst the sycamore tree is not visible from the public highway, it does make a positive contribution to the greening of the townscape. Sycamore trees such as this are not unusual in rear gardens in Maida Vale and if trees in rear gardens in the vicinity were to be removed just because they were not visible from the public highway, it would be of detriment to the character and appearance of the conservation area, albeit as seen and experienced from private rather than public locations. It is considered that on balance the loss of the tree would cause harm to the character and appearance of this part of the conservation area.

*Other factors*

Trees contribute generally to mitigation of climate change, by absorbing and storing carbon dioxide. They help to filter harmful airborne pollutants. Various insects inhabit sycamore trees, and these form a potential food source for birds.

The City Council received two representations in support of the TPO from residents who value the amenity of the tree.

Damage to property and costs to the tree owner

You consider that roots from the tree have damaged drains and go under the rear wall of the house, and also that costs to the owner have risen as a result of the tree being retained.

I note that you have not provided any evidence that the tree roots have damaged drains or that they are damaging the property.

As you are aware, you have the option to submit a TPO application to remove the tree. If you do so, and provide the appropriate evidence in support of the application, the City Council would be in a better position to consider the merits of the application balanced with the amenity value of the tree. The evidence required would depend on the type of damage caused. The evidential requirements for an application to remove a TPO-ed tree on the grounds of damage to property, can be found on the Council's website: [www.westminster.gov.uk/trees-and-high-hedges](http://www.westminster.gov.uk/trees-and-high-hedges).

There is no right to compensation for financial loss as a result of a TPO being made. However, The Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 allow that the City Council may be liable to pay compensation for costs incurred as a result of a refusal of consent, or consent with conditions, for tree works.

If the content of this letter allows you to withdraw your objection to the TPO please let me know. If I do not hear from you I will assume you would like your objections to remain, in which case the matter will be reported to a Planning Applications Committee, where Councillors will decide whether or not to confirm the Tree Preservation Order. At present the intended date of the Committee is 04 July 2017, although if this is altered I will ask my colleagues in the Legal section to let you know.

Yours sincerely

Barbara Milne

Barbara Milne  
Senior Arboricultural Officer

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The Director of Law (reference: DH/30104338)  
Legal Services  
3rd Floor Kensington Town Hall  
Hornton Street  
London W8 7NX

February 5, 2017

**RECEIVED**

**07 FEB 2017**

Dear Madam or Sir,

**LEGAL SERVICES**

With regards to The City of Westminster Tree Preservation Order 634 (2017) of the Sycamore tree in the garden of 21 Castellain Road, London W9 1EY I hereby express my strongest wishes that you will decide to give the provisional Tree Preservation Order permanent status.

The tree to the rear of my house really do make a valuable contribution to public amenity and to the outlook from my house and I would be sad to loose it.

Kind regards  
Vibeke Degnbol-Martinussen

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RECEIVED

09 FEB 2017

LEGAL SERVICES

Director of Law (Ref: DH/30104338)  
Legal Services  
3<sup>rd</sup> Floor  
Kensington Town Hall  
Horton Street  
London  
W8 7NX

8<sup>th</sup> February 2017

Dear Mr Shawkat

REF: DH/30104338

Sycamore Tree: 21 Castellain Road . London. W9 1EY

Further to your recent correspondence in regard to the above tree and the preservation order placed upon it I should like to comment.

My husband and I have lived in our property for some thirty years. Our bedrooms and those of our family face on the garden of 21 Castellain Road and we all love and enjoy this magnificent Sycamore tree which has been here much longer than any of us. There are so few trees left in the gardens and this great example of its type provides a much needed and welcome snap-shot of nature, softens and enhances the neighbouring buildings and aesthetically enhances the area.

We have long enjoyed its changes throughout the seasons. Apart from the obvious health benefits that all trees produce, this tree also provides a habitat for small birds, bees, butterflies and squirrels encouraging them to the area and it rewards us, importantly, with much needed privacy from being over looked from the homes behind our house. When in full bloom is truly beautiful and it reduces neighbours light pollution and muffles noise as the wind passes through its leafy bough.

I am sure the new home owners of the development at 21 Castellain Road, (along with their neighbours next door at No. 23 who have put in an extended basement and concrete garden) don't want to deal with the leaf drop and they may well have complained it encourages pigeons – which I can tell you it most definitely does not; pigeons do not nest in this tree. However, should we be lucky enough to get the occasional one cooing together with the restful sound of little birds twittering, the delightful sounds of nature that this tree allows are an enjoyable respite to the back drop of relentless city noise.

We were saddened that the council allowed the owners to remove the other tree in the garden despite our previous objections. PLEASE preserve this tree so that ALL dwellers in this immediate urban environment can look out of their windows and see a small part of nature at its best.

Yours sincerely

Lisa & John Schneider

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# Agenda Annex

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 11th July 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Resolution
1.	<p><b>RN(s) :</b>                      16/11562/FULL                      16/11563/LBC</p> <p>Little Venice</p>	Development Site At 14 To 17 Paddington Green London	Demolition and redevelopment of 14-16 Paddington Green; alteration and partial demolition of 17 Paddington Green; development of land to the east and south of 14-17 Paddington Green (part of site known as 'West End Green') to provide buildings ranging between 4 and 14 upper storeys to provide up to 200 residential units, with associated landscaping, basement car and cycle parking and servicing provision. This application is accompanied by an Environmental Impact Assessment (Linked to application RN: 16/11563/LBC)	
<p><b>Recommendation</b></p> <p>1. Grant conditional permission, subject to referral to the Mayor of London and subject to a deed of variation to the section 106 agreement for application ref: 15/11677/FULL to secure:</p> <ul style="list-style-type: none"> <li>a) 32 affordable units on-site comprising 19 social rented units and 13 intermediate units;</li> <li>b) A carbon offset payment of £233,622.00 (index linked and payable on commencement of development);</li> <li>c) A reduction of £56,339 (index linked) to the £631,000 education contribution, in the event that this development is built;</li> <li>d) Payment of the cost of highway works associated with the development on Newcastle Place, Paddington Green and Church Street;</li> <li>e) Provision of lifetime car club membership (25 years) for each residential unit in the development;</li> <li>f) Provision of on-site parking on an unallocated basis (i.e. not sold or let with a particular flat);</li> <li>g) Developer undertaking to use best endeavours to negotiate a connection and supply agreement with the Church Street District Heating Scheme (CSDHS). In the event that the, CSDHS does not go ahead, installation of CHP plant;</li> <li>h) Offering local employment opportunities during construction; and</li> <li>i) Payment of cost of monitoring the agreement (£10,000).</li> </ul> <p>2. If the S106 legal agreement has not been completed by 22 August 2017 then:</p> <ul style="list-style-type: none"> <li>a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;</li> <li>b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ul> <p>3. Grant conditional listed building consent.</p> <p>4. Agree reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.</p>				
Item No	References	Site Address	Proposal	Resolution
2.	<p><b>RN(s) :</b>                      16/10951/FULL</p>	5 Strand London WC2N 5AF	Demolition of existing building and construction of replacement mixed use building, comprising retail (Class A1), restaurant (Class A3), office (Class B1) and residential (Class C3) floorspace across two basements, lower ground and ground floors and 11 upper floors, and associated alterations.	

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 11th July 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	St James's				
<p><b>Recommendation</b></p> <p>1. Grant conditional permission subject to referral to the Mayor of London and subject to a S106 legal agreement to secure the following:</p> <p>i) A payment of £7,074,945 (index linked) towards the City Council's affordable housing fund, payable upon commencement of development.</p> <p>ii) Carbon offset payment of £97,710 (index linked) to be paid on commencement of development.</p> <p>iii) All highway works immediately surrounding the site required for the development to occur, including changes to footway levels, on-street restrictions, reinstatement of redundant vehicle crossovers and associated work (legal, administrative and physical)</p> <p>iv) Employment and Training Strategy for the construction and operational phase of the development.</p> <p>v) Car club membership for residents (for a minimum of 25 years)</p> <p>vi) car parking spaces in off site location to be made ready prior to first occupation of the development.</p> <p>vii) S106 monitoring costs to be paid on commencement of development.</p> <p>2. If the legal agreement has not been completed within six weeks of the date of the Sub-Committee resolution, then:</p> <p>a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p> <p>3. That Sub-Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up and dedication of parts of the public highway to enable this development to take place.</p> <p>That the Executive Director of City Management &amp; Communities or other appropriate officer be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.</p>					

Item No	References	Site Address	Proposal	Resolution
3.	<p><b>RN(s) :</b> 16/12200/FULL</p> <p>St James's</p>	<p>Development Site At Land Bounded By Drury Lane, Dryden Street, Arne Street And Shelton Street London</p>	<p>Demolition and redevelopment of site, including facade retention of 30-35 Drury Lane, 2 Dryden Street and 4-10 Dryden Street, for mixed use development comprising retail, restaurant and cafe uses at ground and basement level (Classes A1/A3), office floorspace (class B1) at part ground, first to fifth floor level, rooftop plant, basement cycle parking and associated works.</p>	
<p><b>Recommendation</b></p> <p>Do Members consider that the proposed amendments to the scheme are sufficient to overcome their previous concerns in relation to design (scale, bulk and design) and highways (servicing)?</p>				
Item No	References	Site Address	Proposal	Resolution
4.	<p><b>RN(s) :</b> 17/02923/FULL</p>	<p>Proposed Development At 1-4 Marble Arch And</p>	<p>Demolition and redevelopment behind retained façade to provide a building of two basements, ground, part mezzanine and eight upper storeys accommodating retail (Class A1), office (Class</p>	

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 11th July 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Bryanston And Dorset Square	1 - 1A Great Cumberland Place London W1H 7AL	B1) and flexible retail / office (Class A1 / B1) floorspace, alterations to retained facades including replacement shopfronts; provision of plant and associated works.	
<p><b>Recommendation</b></p> <p>1. Grant conditional permission, subject to a S106 legal agreement to secure the following:                  i) a financial contribution of £78,744 (index linked) for the City Council's carbon offset fund;                  ii) a Crossrail payment of £222,070;                  iii) all costs for the relocation of parking bays on Bryanston Street to Great Cumberland Place.</p> <p>3. If the S106 legal agreement has not been completed within six weeks of the date of the Sub-Committee resolution, then:                  a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;                  b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>				
Item No	References	Site Address	Proposal	Resolution
5.	<p><b>RN(s) :</b>                      17/02738/FULL                      17/02739/LBC</p> <p>Bryanston And Dorset Square</p>	<p>Development Site At 46 Bryanston Square And 37 Bryanston Mews West Bryanston Square London</p>	<p>Demolition of 37 Bryanston Mews West behind retained facade, link structure over basement, ground and first floor levels and rear mansard roof at No. 46 Bryanston Square. Erection of replacement mews building behind retained facade, installation of replacement garage doors, erection of replacement mansard roof and erection of extensions at rear of No. 46 Bryanston Square at basement to third floor levels, installation of replacement front first floor windows, and use of extended and altered building as four flats (Class C3).</p>	
<p><b>Recommendation</b></p> <p>1. Grant conditional permission.                  2. Grant conditional listed building consent.                  3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.</p>				
Item No	References	Site Address	Proposal	Resolution
6.	<p><b>RN(s) :</b>                      17/02741/FULL                      17/02742/LBC</p> <p>Bryanston And Dorset Square</p>	<p>Development Site At 47 To 48 Bryanston Square And 39 To 41 Bryanston Mews West Bryanston Square London</p>	<p>Use of 47 Bryanston Square and 39 Bryanston Mews West as school (D1 Use Class) in connection with the existing school at 48 Bryanston Square and 41 Bryanston Mews West. Replacement of front elevation windows at 47 Bryanston Square with glazed timber windows, and associated alterations, including full height extract duct housed within existing chimney and air-conditioning plant at roof level.</p>	

CITY OF WESTMINSTER  
 PLANNING APPLICATIONS SUB COMMITTEE – 11th July 2017  
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	<b>Recommendation</b>			
	<ol style="list-style-type: none"> <li>1. Grant conditional permission.</li> <li>2. Grant conditional listed building consent.</li> <li>3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.</li> </ol>			
Item No	References	Site Address	Proposal	Resolution
7.	RN(s) : 17/00938/FULL  Abbey Road	Development Site At 1 1/2 Queens Grove And 12-22 Finchley Road London NW8 6EB	Variation of Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements from RN 02/06302/FULL. NAMELY, to vary the hours of construction works that can be heard at the boundary of the site to allow works around the railway cutting to take place between 01.00 and 05.00 hours for a non-consecutive period of up to 67 nights during the overall construction programme.	
	<b>Recommendation</b>			
	<ol style="list-style-type: none"> <li>1. Grant conditional permission, subject to completion of a deed of variation to the original legal agreement dated 6 November 2003 to secure the following additional planning obligations:                     <ol style="list-style-type: none"> <li>i. Agreement to fund the provision of secondary glazing to rear windows of neighbouring properties in Pembroke Terrace, Bartonway and Balmoral Court and the front windows of properties in Queens Grove Court and Aspley House, for those flats that request it, so as to reduce noise disturbance during the course of the night time works. The night time works shall not commence until all secondary glazing to the flats where it is requested has been installed.</li> <li>ii. Agreement to fund the provision of temporary air conditioning during the period of the night time works (if any of the night time working occurs between 1 April and 31 September) for those properties in Pembroke Terrace, Bartonway and Balmoral Court with rear facing windows and those properties in Queens Grove Court and Aspley House with front facing windows, where the occupiers of those flats request it. The temporary air conditioning shall be provided within 3 working days of a written request from a neighbouring resident.</li> <li>iii. Cost of monitoring the additional heads of terms (£500).</li> </ol> </li> <li>2. If the deed of variation has not been completed by 25 July 2017 then:                     <ol style="list-style-type: none"> <li>a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;</li> <li>b) The Director of Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</li> </ol> </li> </ol>			
Item No	References	Site Address	Proposal	Resolution
8.	RN(s) : 17/01007/FULL  Lancaster Gate	49 Porchester Terrace London W2 3TS	Use as an Embassy (Sui Generis).	
	<b>Recommendation</b>			

CITY OF WESTMINSTER  
PLANNING APPLICATIONS SUB COMMITTEE – 11th July 2017  
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	Refuse permission - land use and amenity
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# Agenda Item 1

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB-COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Little Venice	
<b>Subject of Report</b>	<b>Development Site At 14 To 17, Paddington Green, London</b>		
<b>Proposal</b>	Demolition and redevelopment of 14-16 Paddington Green; alteration and partial demolition of 17 Paddington Green; development of land to the east and south of 14-17 Paddington Green (part of site known as 'West End Green') to provide buildings ranging between 4 and 14 upper storeys to provide up to 200 residential units, with associated landscaping, basement car and cycle parking and servicing provision. This application is accompanied by an Environmental Impact Assessment (Linked to application RN: 16/11563/LBC)		
<b>Agent</b>	Turley		
<b>On behalf of</b>	Berkeley Homes (Central London) Limited and Luckysix Limited		
<b>Registered Number</b>	16/11562/FULL 16/11563/LBC	<b>Date amended/ completed</b>	23 May 2017
<b>Date Application Received</b>	6 December 2016		
<b>Historic Building Grade</b>	Grade 2 Listed - 17 Paddington Green Only Listed buildings on adjacent sites at the Children's Hospital and St. Mary's Church		
<b>Conservation Area</b>	Paddington Green Conservation Area covers much of site.		

## 1. RECOMMENDATION

<p>1. Subject to referral to the Mayor of London, grant conditional permission, subject to a deed of variation to the section 106 agreement for application ref: 15/11677/FULL to secure:</p> <ul style="list-style-type: none"> <li>a) 32 affordable units on-site comprising 19 social rented units and 13 intermediate units;</li> <li>b) A carbon offset payment of £233,622.00 (index linked and payable on commencement of development). Not payable if connection and supply agreement to Church Street District Heating Scheme (CSDHS) agreed;</li> <li>c) A reduction of £56,339 (index linked) to the £631,000 education contribution secured under application ref: 15/11677/FULL, in the event that this permission is implemented;</li> <li>d) Payment of the cost of highway works associated with the development on Newcastle Place, Paddington Green and Church Street;</li> <li>e) Provision of lifetime car club membership (25 years) for each residential unit in the development;</li> <li>f) Provision of on-site parking on an unallocated basis (i.e. not sold or let with a particular flat);</li> </ul>
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- g) Developer undertaking to use best endeavours to negotiate a connection and supply agreement with the CSDHS. In the event that the, CSDHS does not go ahead, installation of CHP plant;
  - h) Offering local employment opportunities during construction; and
  - i) Payment of cost of monitoring the agreement (£10,000).
2. If the S106 legal agreement has not been completed by 22 August 2017 then:
- a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
  - b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. Grant conditional listed building consent.
4. Agree reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site is located on the east side of Paddington Green, at its intersection with Newcastle Place. Part of the application site overlaps the West End Green/Gate Development Site (“WEG Site”) located to the east. No’s 14-17 Paddington Green do not form part of the consented WEG Site at present and the proposal would be an extension of the development onto these sites.

The application site is located within the Paddington Green Conservation Area, whilst 17 Paddington Green contains a Grade 2 listed building and 14 to 16 Paddington Green are Unlisted Buildings of Merit. The application site is also located within the Paddington and Lilestone Villages Archaeological Priority Area.

The entire site is located within the Central Activities Zone (CAZ) and the North Westminster Economic Development Area (NWEDA). Within NWEDA, the WEG Site is a Strategic Proposals Site. The application site is also located within the area covered by the City Council’s Futures Plan and the Edgware Road Housing Zone.

The applicant seeks planning permission and listed building consent for demolition of 14-16 Paddington Green, partial demolition of 17 Paddington Green and erection of two mansion blocks to accommodate 200 residential units. The proposed development would be an extension of the West End Green/Gate Development (“WEG Development”) and proposes re-orientation and extension of consented blocks G and H onto 14-17 Paddington Green. This would result in a net increase of 140 units when consented units on this part of WEG Site are subtracted. The proposal would include 32 affordable units, comprised of 19 social rented units and 13 intermediate units.

Block G would have a height of 12 to 14 storeys whilst Block H would have a height of ground plus 4 to 7 storeys. No. 17 Paddington Green would be attached to the northern side of Block H.



The key issues include:

- Provision of on-site affordable housing and viability;
- Impact on designated heritage assets, including adjacent listed buildings and the Paddington Green Conservation Area;
- Impact on the amenity of local residents, including from loss of daylight, sunlight and overshadowing; and
- Impact on parking and highways.

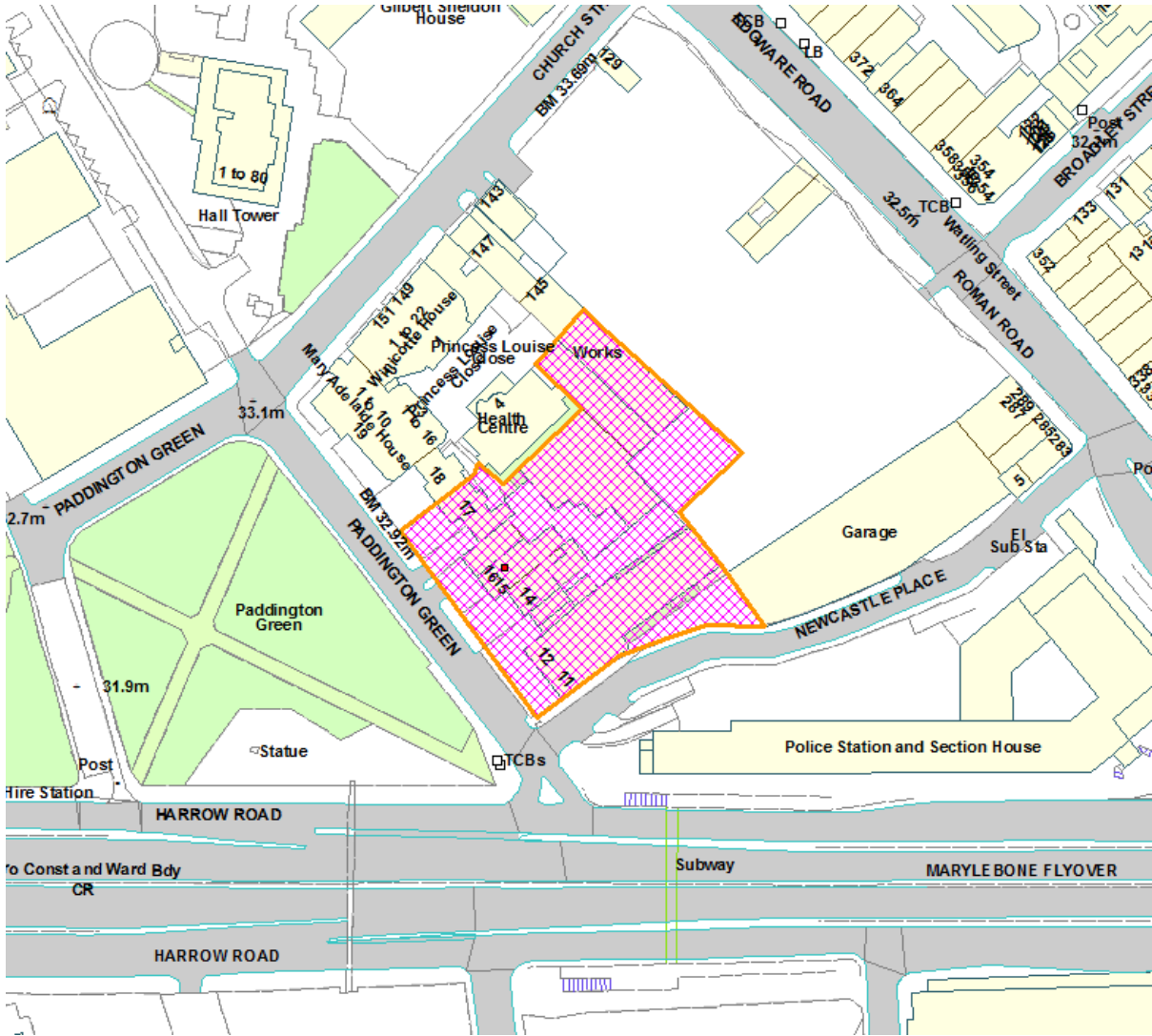
Historic England have objected to the proposed development and consider that it would cause substantial harm to heritage assets. Officers consider that the height and bulk of the proposed buildings would result in less than substantial harm to the setting of and outlook from the Paddington Green Conservation Area and the setting of listed buildings at 18 Paddington Green and the Children's Hospital. Demolition of the Unlisted Buildings of Merit at 14-16 Paddington Green to facilitate this development would also result in less than substantial harm.

However, there are a number of public benefits arising from the development. These include:

- Facilitating development of a long stalled site of strategic importance which is a blight on the setting of neighbouring conservation areas and listed buildings and this major thoroughfare into Central London;
- Provision of a high quality series of buildings and permeable public spaces that would complete this urban block and contribute positively to the Paddington Green Conservation Area;
- Facilitating the Church Street Regeneration and Edgware Road Housing Zone through provision of decant space through the proposed affordable units;
- Provision of a significant level of market housing on-site;
- Provision of affordable housing on-site (the maximum that the applicant can viably provide); and
- Significant public realm improvements around and throughout the site.

Officers consider that the public benefits of the development would outweigh the less than substantial harm to heritage assets identified above. The development would also accord with the development plan in all other respects and it is therefore recommended that planning permission and listed building consent are granted, subject to referral back to the Mayor of London, subject to a legal agreement and subject to the conditions set out in the draft decision letters appended to this report.

### 3. LOCATION PLAN



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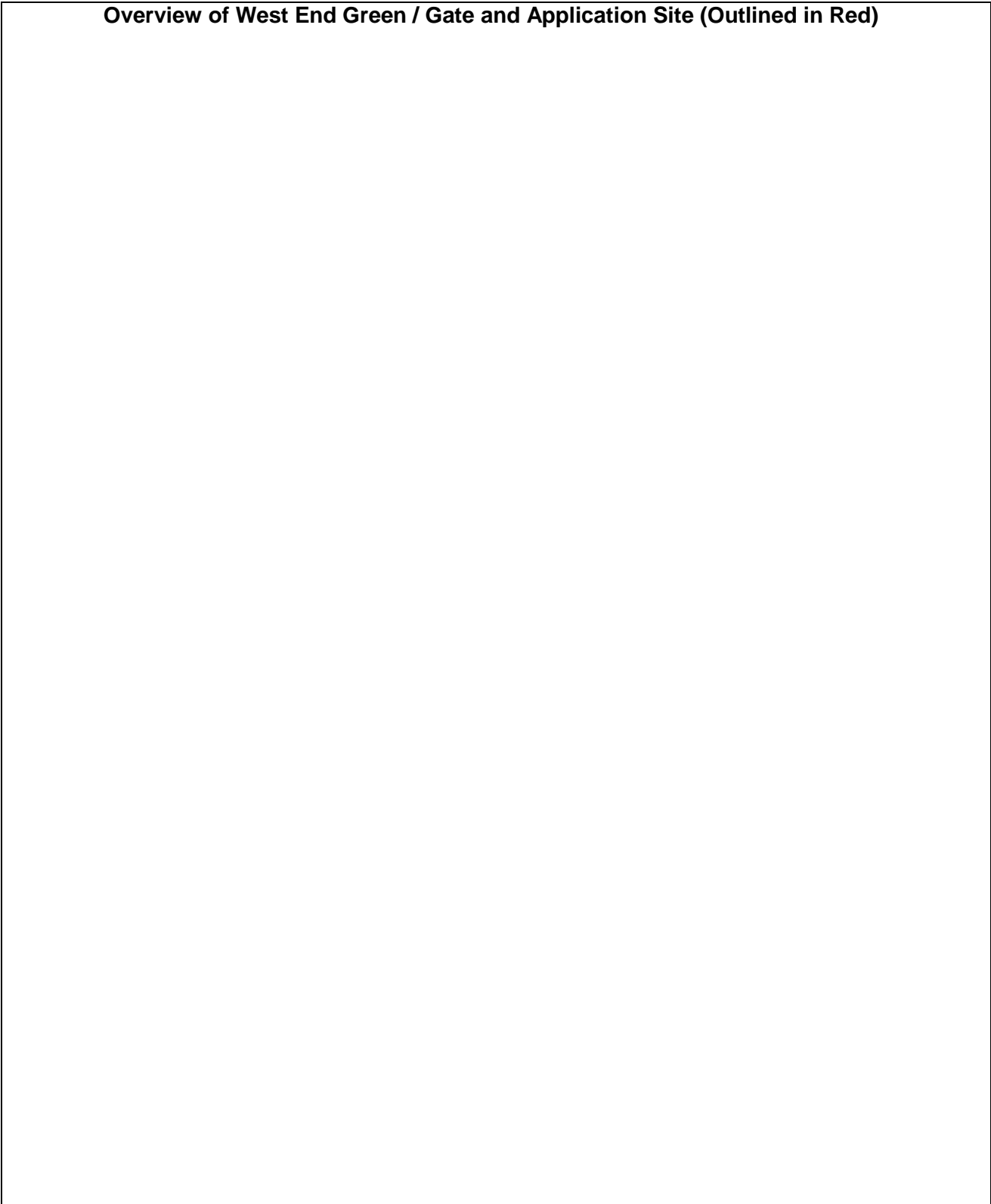
4. PHOTOGRAPHS



Application site as seen from Paddington Green



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**5. CONSULTATIONS**

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**GREATER LONDON AUTHORITY**

The proposed redevelopment and intensification of the site for residential use is supported as the site is within the Edgware Road Housing Zone.

The complete lack of affordable homes is unacceptable and the applicant's viability appraisal will need to be robustly interrogated to ensure that the maximum reasonable amount of affordable housing is secured in accordance with the Mayor's draft Housing and Viability SPG and the London Plan.

The approach to the building height, massing and appearance are supported. There are concerns with residential quality and all units should comply with London Plan space standards. The development proposals will not cause substantial harm to the character or setting of the conservation areas or listed buildings.

Car parking provision is considered to be too high and should be reviewed.

**COUNCILLOR ARZYSMANOW**

Has requested additional funding for GP surgeries in the area resulting from additional demand from occupants of the proposed development and West End Green.

**CHURCH STREET WARD COUNCILLORS**

Any response to be reported verbally.

**SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT**

No response received.

**HISTORIC ENGLAND (LISTED BUILDINGS/CONSERVATION AREAS)**

Object. The application scheme proposes the full demolition of 14-16 Paddington Green and the side wing of 17 Paddington Green, all of which are considered to a positive contribution to the character and appearance of conservation area and to the setting of the listed buildings at 17-18 Paddington Green. As such, the proposals are considered to cause serious harm.

In considering the extent of the harm against any public benefits that may arise from the proposals, they do not consider that the proposals present any heritage benefits that would outweigh the proposed harm.

**HISTORIC ENGLAND (ARCHAEOLOGY)**

This site has potential for Roman, medieval and post-medieval archaeological remains. Condition recommended, requiring further archaeological investigation.

**ENVIRONMENT AGENCY**

Advise that they consider the development low risk.

**LONDON UNDERGROUND LIMITED**

Advise that they have no comment to make.

**NATURAL ENGLAND**

Proposal is unlikely to affect any statutorily protected sites or landscapes. If the proposal site is on or adjacent to a local site, the City Council should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it

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determines the application. Encourage the incorporation of enhanced green infrastructure into this development.

**SPORT ENGLAND**

Any response to be reported verbally.

**THAMES WATER**

Recommend conditions and informatives regarding waste water capacity and piling. Expect surface water attenuation to greenfield run-off rates as a minimum.

**TRANSPORT FOR LONDON**

No objection, provided conditions used on West end Green development are applied to this development.

**LONDON FIRE AND EMERGENCY PLANNING AUTHORITY (LFEP)**

Any response to be reported verbally.

**PADDINGTON BUSINESS IMPROVEMENT DISTRICT**

Any response to be reported verbally.

**PADDINGTON WATERWAYS & MAIDA VALE SOCIETY**

Support the principle of the development. However, they see no reason why the applicant cannot provide 30% affordable housing given the increase in density on-site. The design of the scheme should use language and materials that complement the existing children hospital building, rather than introduce new elements inspired by St Marys Church. Note that the applicant has made this application as a standalone application presumably to avoid CIL liability.

**BAYSWATER RESIDENTS ASSOCIATION**

Advise that this site is outside their area.

**HYDE PARK ESTATE ASSOCIATION**

Any response to be reported verbally.

**NOTTING HILL EAST NEIGHBOURHOOD FORUM**

Object. Unimaginative and pedestrian pursued on the assumption that any height goes if it is near a transport hub. The proposal sits uncomfortably with its neighbours. It does not bring any of the benefits a new building could bring such as underground parking, swimming pools or the imaginative use of the roof space.

**NORTH PADDINGTON SOCIETY**

Object to any major development which seeks to only provide residential accommodation. We believe that for communities to be sustainable and vibrant places there must be a good balance of residential, employment, recreational and as wide a range of services as possible. To replace all amenities with residential accommodation will result in the area becoming somewhere people pass through on their way to other places and will make daily life more difficult for older and more vulnerable residents who will have to look further and further away to access services and support.

**PADDINGTON RESIDENTS' ACTIVE CONCERN ON TRANSPORT (PRACT)**

Any response to be reported verbally.

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#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

#### MARYLEBONE ASSOCIATION

Object. The scale of the development is substantially larger, bulkier and taller than the masterplan scheme that accompanied the West End Green Application.

The development site has increased and the scheme now includes the demolishing of 3 early 19thC buildings facing Paddington Green and a building listed as 'of merit' in the Paddington Green Conservation Area Audit. We feel that the proposed replacement to these buildings is not of sufficiently greater merit as to warrant demolition.

Even though the scheme has grown in scale no affordable housing is provided on the basis of a viability assessment prepared by Gerald Eve. We question the commercial assumptions in this viability assessment and consider that on such a large development on-site affordable housing should be provided – particularly given the number of nearby public services employers – St Mary's hospital, police station, City of Westminster College.

#### ST MARYLEBONE SOCIETY

Recognise the need for additional housing in London but are dismayed by the unsympathetic nature of the proposed replacement buildings to the small scale listed villa. The proposed building is bulky and the historic rhythm and urban grain of the row of frontages is destroyed. Object to the loss of 14-16, which are unlisted buildings of merit.

#### ST JOHN'S WOOD SOCIETY

Any response to be reported verbally.

#### HEAD OF AFFORDABLE & PRIVATE SECTOR HOUSING

The number of affordable homes at 32 is well below the 35% policy requirement for this location – so viability evidence will be required to justify this reduced affordable offer

The sharing of cores between affordable and market is not ideal as it may create problems in securing an affordable housing partner to contract on the affordable units, especially due to less control for the housing association over service charges and management arrangements.

The tenure split between social and intermediate is acceptable as it is broadly reflects current adopted policy.

There are too many one beds proposed for social housing. Nine of the 19 social units are 1beds. Housing's predominant need is for 2bed and 3bed social housing need. The 1bed social units should be flipped across to intermediate housing and the 2bed intermediate units should be flipped to social in order to better address the Council's current demand profile for both social and intermediate housing.

Housing's preference for intermediate housing is that 1beds should be minimum 50 sqm 1bed 2 person units. Four of the 1bed intermediate units are 1b1p units. These smaller 1 beds might be acceptable to housing where they can work for low cost home ownership purposes.

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Whilst the affordable homes proposed here might eventually be relocated to blocks on the West End Green site under a conjoined scheme and which may result in an uplift in the overall number of affordable units when the wider scheme is subjected to a viability review, advises that he can only comment on the basis of the current scheme rather than what may emerge at a later date.

#### HIGHWAYS PLANNING MANAGER

No objection, subject to conditions relating to serving management, car and cycle parking provision.

#### ARBORICULTURAL MANAGER

Cannot support the proposal without further detail. The detail of the proposed communal garden areas is insufficient to demonstrate that the landscapes are sustainable. The tree planting species and density proposed are largely impractical. Surrounding the site with trees on a plan looks good but it is only window dressing and will need a section 106 agreement in most cases as it is outside of the site boundary. This may be covered in part by the agreement for the West Green development. There is clearly an intention for sustainable water use and rainwater harvesting to support sustainable landscape planting but I have no way to judge the adequacy with the information provided. Recommend conditions

#### BUILDING CONTROL OFFICER

Any response to be reported verbally.

#### WASTE PROJECT OFFICER

No objection to the waste storage proposed, subject to a condition requiring its implementation and retention.

#### CHILDREN'S SERVICES

Any response to be reported verbally.

#### CITYWEST HOMES

Any response to be reported verbally.

#### PLANNING POLICY

Any response to be reported verbally.

#### PARKS & GARDENS DEPARTMENT

Advise that they have no concerns with the proposal.

#### SPORT & LEISURE DEPARTMENT

Any response to be reported verbally.

#### ADULT & COMMUNITY SERVICES

Any response to be reported verbally.

#### CHURCH STREET LOCAL AREA RENEWAL PARTNERSHIP

Any response to be reported verbally.

#### NHS CENTRAL LONDON



Query whether s106 or CIL funding from the development can be directed toward the adjacent Paddington Green Health Centre or other GP surgeries in the area.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 5404

Total No. of replies: 19 (10 for planning application; 9 for listed building application)

No. of objections: 7 for planning application; 7 for listed building application

No. in support: 3 for planning application; 2 for listed building application.

In summary, the objectors raise the following issues:

- No's 14-16 Paddington Green are buildings of merit, significant and/or some of the last remaining Georgian buildings in the area. Their demolition is therefore unjustified or opposed;
- More affordable units should be provided;
- There are no public amenities to cope with the additional residential units;
- The proposal will put added pressure on existing services, particularly GP surgery's like the adjacent Paddington Green Health Centre. Planning contribution should be given to the Paddington Green Health Centre to provide more GP capacity;
- Planning obligation should be secured for maintenance work of St Mary's Church;
- Construction traffic and pollution;
- There are already too many luxury flat developments in the area;
- Traffic congestion from the new building;
- The safety of pedestrians and cyclists on Paddington Green and Church Street;
- Pedestrian access through public realm could be greater and more direct;
- A cycle lane should be installed along Edgware Road.
- Too much urbanisation and no breathing room from all this development. Fourteen storey's is too high;
- Proposal will result in loss of daylight, sunlight and privacy;
- Proposal will result in increased noise;
- Proposal will result in a self-storage facility from the site;
- Proposal will result in loss of social and community facility from site; and
- Proposal does not support the Central Activities Zone.

In summary, the supporters raise the following issues:

- The proposal includes many electric vehicle charging bays. The developer should run electric cables to all parking spaces to future proof them;
- The proposal includes many cycle spaces, although provision should be made to allow these to be left open to make it easier to get bikes in and out;
- The proposed development includes multiple lifts, staircases, lightwells, trees and brown roofs;
- Proposed development is in keeping with the surrounding area.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

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### 6.1 The Application Site

The application site is located on the west side of Paddington Green, at its intersection with Newcastle Place.

Part of the application site overlaps the West End Green/Gate Development Site (“WEG Site”), located to the east. The area occupied by consented Blocks G and H on the WEG Site form part of the application site. No’s 14-17 Paddington Green do not form part of the consented WEG Site at present and the proposal would be an extension of the development onto these sites.

Works are underway on the WEG Site to construct the development approved by a series of recent permissions (see 6.2 below). No 14 Paddington Green contains a three storey plus mansard roof level Victorian terrace, currently containing four flats (Use Class C3). No’s 15-16 Paddington Green contain a pair of Victorian terrace buildings attached to a large three storey building to the rear. The ground floor and rear building contain a self-storage unit (Use Class B8). 22 residential units (Use Class C3) are located on the upper floor levels. No 17 contains a Georgian semi-detached building. It is currently vacant, but was last used as offices and treatment rooms associated with a children’s health service (Use Class D1).

The entire site is located within the Paddington Green Conservation Area. No. 17 Paddington Green contains a Grade 2 listed building whilst 14 to 16 Paddington Green are Unlisted Buildings of Merit. The application site is also located within the Paddington and Limestone Villages Archaeological Priority Area.

The entire site is located within the Central Activities Zone (CAZ) and the North Westminster Economic Development Area (NWEDA). Within NWEDA, the WEG Site is a Strategic Proposals Site as its development would contribute significantly to the City Council’s strategic housing targets.

The Paddington Opportunity Area (POA) is located to the south of the application site, on the southern side of the Westway. Several heritage assets are also located in the area surrounding the site. The Grade 2 listed Paddington Green Children’s Hospital is located on the corner of Church Street and Paddington Green; 18 Paddington Green is Grade 2 listed; and the St Mary’s Church to the west is Grade 2 star listed. Several other listed items are also located in or around Paddington Green, including a pair of K6 telephone kiosks and the Statue of Mrs Siddons.

The application site is also located within the area covered by the City Council’s Futures Plan. The Futures Plan covers the next 15 to 20 years and aims to improve existing homes and build new homes; provide new and better parks and children’s play areas; improve shops, jobs and business opportunities; and to ensure that all those who live and work in the Church Street and Paddington Green area have access to good quality schools, healthcare and other services. In particular, the Futures Plan aims to deliver 776 new homes, including the replacement of 306 existing Council homes.

The application site is also located within the Edgware Road Housing Zone. Designated as such by the Mayor of London, the Mayor and the City Council will be working together to invest more than £150 million in the area to increase the number of new homes by over 1,113 within the next decade.

The surrounding townscape is varied. The only buildings directly abutting the site are on Church Street and Paddington Green. The Paddington Green buildings are the oldest in the vicinity, dating back to Georgian times, whilst those on Church Street are Victorian. The buildings on Paddington Green contain residential flats. The buildings on Church Street contain flats and a health centre.

Paddington Green to the west consists of mature and established trees, St Mary's Church and the former burial ground. Architecturally, the most significant building is St Mary's Church which forms the main focal point of the conservation area. The recently completed City of Westminster College building is also located on the northern side of the green. Residential mansion blocks dating to the late 19th and early 20th centuries are located beyond the green and St Mary's Church.

Council housing, including Gilbert Sheldon House, and the 21 storey plus Hall and Braithwaite Towers, are located to the north of the application site. This housing dates from the 1960's and 1970's.

Three to four storey late Victorian and Edwardian buildings with some modern infill is located to the east of the site along Edgware Road. These buildings typically contain retail or other Class A uses at basement and ground floor levels with residential flats above. Council housing and the Church Street market are located beyond this to the east.

The four to 16 storey Paddington Green Police Station is located to the south of the application site, across Newcastle Place. Paddington basin and the POA are located beyond the police station and the Westway. Many buildings within the POA exceed 20 storeys and include the consented but not completed 42 storey tower at 1 Merchant Square in height.

## **6.2 Recent Relevant History**

### **6.2.1 WEG Site**

#### 03/03463/FULL

Redevelopment to provide buildings of between five and seven and 22 storeys including a retail supermarket, two retail shops, 307 residential units of which 107 are affordable, 156 holiday let units and associated car parking and landscaping. (Option A).

Application permitted by the Secretary of State (SOS) in October 2005. A High Court decision initially quashed the SOS's approval, although a Court of Appeal decision reinstated this approval in 2007.

#### 03/03465/FULL

Redevelopment to provide buildings of between six and 26 storeys including a retail supermarket, two retail shops, 326 residential units (116 are affordable), 156 holiday let units and associated car parking and landscaping. (Option B)

Application refused by the SOS in October 2005.

15/11677/FULL

Redevelopment to provide buildings of between ground + 6 and ground + 29 storeys including commercial space (Class A1, A2, A3, A4 and B1), up to 652 residential units (including 126 affordable housing units), landscaping and associated car and cycle parking. This application is accompanied by an Environmental Impact Assessment (EIA).

Application Permitted 28 April 2016

16/06543/APAD

Notification of proposed demolition of 283 Edgware Road (prior approval under Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)).

Application Permitted 5 August 2016

16/08442/NMA

Amendments to planning permission dated 28 April 2016 (RN: 15/11677) for redevelopment to provide buildings of between ground + 6 and ground + 29 storeys including commercial space (Class A1, A2, A3, A4, and B1), up to 652 residential units (including 126 affordable housing units), landscaping and associated car and cycle parking. Namely, internal alterations to all floors of Blocks and C. Amendments proposed to the unit mix on floors 1-10 of Block A at ground floor of Block C and all floors of Blocks G and H. Amendment to include an additional bay of private residential balconies on floors 1-10 of the south facing elevation of Block A. Reduction in the footprint of Block C.

Application Permitted 4 October 2016

16/09486/ADV

Display of internally illuminated decorative hoarding around the site including the display of an internally illuminated digital LED advertisement unit on the Edgware Road elevation and decorative advertising mesh over work cabin within site.

Application Permitted 8 November 2017

16/07226/FULL

Variation of Condition 1 of the planning permission granted 28 April 2016 (ref: 15/11677/FULL) for a redevelopment to provide buildings of between ground + 6 and ground + 29 storeys including commercial space (Class A1, A2, A3, A4 and B1), up to 652 residential units (including 126 affordable housing units), landscaping and associated car and cycle parking. NAMELY, incorporation of 283 Edgware Road into site, extension of Block B to provide 20 additional residential units (672 in total), with associated swap in housing tenure with Blocks E and F, associated amendments to permitted public realm and landscaping strategy.

Application Permitted 27 January 2017

17/02701/NMA

Amendments to planning permission dated 27 January 2017 (RN: 16/07226) for: Variation of Condition 1 of the planning permission granted 28 April 2016 (ref: 15/11677/FULL) for a redevelopment to provide buildings of between ground + 6 and ground + 29 storeys including commercial space (Class A1, A2, A3, A4 and B1), up to 652 residential units (including 126 affordable housing units), landscaping and associated car and cycle parking, namely incorporation of 283 Edgware Road into site, extension of Block B to provide 20 additional residential units (672 in total), with associated swap in housing tenure with Blocks E and F, associated amendments to permitted public realm and landscaping strategy. NAMELY optimization of consented internal residential layouts to all floors of Block B and to vary the wording of planning conditions 49 and 34.

Application Permitted 24 April 2017

16/12162/FULL

Variation of Condition 1 of the planning permission granted 27 January 2017 (ref: 16/07226/FULL) for a redevelopment to provide buildings of between ground + 6 and ground + 29 storeys including commercial space (Class A1, A2, A3, A4 and B1), up to 672 residential units (including 130 affordable housing units), landscaping and associated car and cycle parking. NAMELY, amendment to the façade of Block A, and ground floor arrangement of Block A including residential drop off and ancillary residential uses, with associated amendment to landscaping plan.

Application Permitted 24 May 2017

**6.2.2 15-16 Paddington Green**

03/08083/FULL

Alterations and the erection of two extra floors at roof level in connection with the conversion of the existing warehouse building into 17 self-contained residential units (including two affordable housing units) with 18 off street car parking spaces and basement swimming pool.

Application Permitted 9 March 2004

**6.2.3 17 Paddington Green**

14/12015/FULL and 14/12016/LBC

Use as 5 residential units (4x1 bedroom flats and 1x3 bedroom maisonette), erection of single storey roof extension to existing side addition, excavation of floor level to part of existing basement floor, replacement of existing front boundary and associated external alterations and landscaping to front and rear. Internal alterations to all floor levels.

Application Permitted 4 September 2015

**6.2.4 Application Site**

16/10034/EIASCO

Request for EIA scoping opinion for an extension to the West End Green development pursuant to Regulation 13 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended).

Opinion Issued 18 November 2016

**7. THE PROPOSAL**

The applicant seeks planning permission and listed building consent for demolition of 14-16 Paddington Green, partial demolition of 17 Paddington Green and erection of two mansion blocks to accommodate 200 residential units. The proposed development would be an extension of the West End Green/Gate Development (“WEG Development”) and proposes re-orientation and extension of consented blocks G and H onto 14-17 Paddington Green. When the 60 residential units in consented blocks G and H are subtracted, the proposed development results in a net increase of 140 residential units.

The basement parking levels beneath the consented WEG Development would also be extended under 14-16 Paddington Green. They would contain parking for an additional 60 cars and an additional 196 cycle spaces. The basement levels would also contain services for the development, including refuse/recycling storage and plant rooms.

Blocks G and H would be separated by a courtyard. Pedestrian access to Paddington Green would be via an archway created through the side wing of 17 Paddington Green. Pedestrian access to the wider WEG Site would be via a gap between blocks G and H, at the south east corner of the courtyard.

Blocks G and H would be constructed from red pre-cast concrete panels as the primary facing material with bronze coloured metalwork balconies and other features throughout. Block G would have lightwells on the Paddington Green frontage. Brown roofs would cover much of both blocks roofs.

Block G would have a height of ground plus 12 to 14 storey’s or a maximum height of approximately 55 metres (89.48 m AOD). It would contain 121 private sale flats.

Block H would have a height of ground plus 4 to 7 storey’s or a maximum height of approximately 32 metres (65.62 m AOD). It would contain 75 private sale flats and 32 affordable units. Of these, 17 would be social rent units and 15 would be intermediate units. No. 17 Paddington Green would be attached to the northern side of block H and would contain a further four private sale flats.

The composition of the development is summarised below:

**Floor Areas**

EXISTING	AREA ( M <sup>2</sup> GIA)
Residential Units (Use Class C3)	1752

Self-Storage (Use Class B8)	1281
Healthcare Facility (Use Class D1)	386
<b>TOTAL</b>	<b>3419</b>
<b>PROPOSED</b>	<b>AREA ( M<sup>2</sup> GIA)</b>
Residential Units (Use Class C3)	19,982
<b>TOTAL</b>	<b>19,982</b>

### Proposed Housing Mix – Application Site

PROPOSED					
TENURE	NUMBER OF BEDROOMS				TOTAL
	STUDIO	ONE	TWO	THREE	
Private Sale	16	58	73	21	<b>168</b>
Intermediate	4	11	0	0	<b>15</b>
Social Rent	0	3	14	0	<b>17</b>
<b>TOTAL UNITS</b>	<b>20</b>	<b>72</b>	<b>87</b>	<b>21</b>	<b>200</b>
<b>TOTAL (%)</b>	<b>10</b>	<b>36</b>	<b>43.5</b>	<b>10.5</b>	

### Proposed Housing Mix – Application Site + WEG Site

PROPOSED							
TENURE	NUMBER OF BEDROOMS						TOTAL
	STUDIO	ONE	TWO	THREE	FOUR	SIX	
Private Sale	50	220	274	95	<b>9</b>	<b>2</b>	<b>650</b>
Intermediate	4	27	33	0	0	0	<b>64</b>
Social Rent	0	19	33	31	15	0	<b>98</b>
<b>TOTAL UNITS</b>	<b>54</b>	<b>266</b>	<b>340</b>	<b>126</b>	<b>24</b>	<b>2</b>	<b>812</b>
<b>TOTAL (%)</b>	<b>6.6</b>	<b>32.7</b>	<b>41.9</b>	<b>15.6</b>	<b>2.9</b>	<b>0.3</b>	

### Amendments to the proposed development.

The applicant initially offered no affordable housing contribution and submitted a viability appraisal to justify this. This appraisal was reviewed on behalf of the City Council by GVA. GVA found that the proposed development could remain viable whilst also providing 32 affordable units. Accordingly, the applicant amended the proposal to provide these 32 units within Block H. The mix of these units are set out above.

### Referral to the Mayor of London

Pursuant to the Town and Country Planning (Mayor of London) Order 2008 (as amended) (“the Order”) this application is referable to the Mayor of London as it is a development comprising more than 150 flats and is a development that includes buildings exceeding 30 metres in height, outside the City of London. Accordingly, this application must be referred back to the Mayor of London, following the committee’s resolution, for a final decision.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **8.1.1 Loss of Existing Uses**

##### Social and Community Floorspace

Policy 3.16 of The London Plan (adopted March 2016) (“the London Plan”) specifies, amongst other things, that “proposals which would result in a loss of social infrastructure in areas of defined need for that type of social infrastructure without realistic proposals for re-provision should be resisted. The suitability of redundant social infrastructure premises for other forms of social infrastructure for which there is a defined need in the locality should be assessed before alternative developments are considered”.

Policy S34 of Westminster’s City Plan (adopted November 2016) (“the City Plan”) specifies, amongst other things, that “social and community floorspace will be protected, except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider. In all such cases the council will need to be satisfied that the overall level of social and community provision is improved and there is no demand for an alternative social and community use for that floorspace”.

Policy SOC1 of the Unitary Development Plan (adopted January 2007) (“the UDP”) specifies, amongst other things, that proposals for the redevelopment of community facilities will be required to include adequate replacement or alternative community facilities.

The proposal would result in the loss of the social and community floorspace at 17 Paddington Green. This floorspace is currently disused but was last used by the NHS as part of its Child and Adolescent Mental Health Service (CAMH). An objection has been received to the loss of this social and community floorspace.

As set out above, permission was granted in 2015 (see ref: 14/12015/FULL) for conversion of this facility to flats. At the time that this permission was considered, the applicant demonstrated that this floorspace is surplus to the NHS’s requirements and that its loss was justified pursuant to the NHS’s site rationalisation strategy. A contribution of £96,240 was also secured to improve social and community provision in the area. This was subsequently paid to the City Council in October 2015. Accordingly, the policy tests set out above were met and the loss of this floorspace was supported.

The 2015 permission remains extant and the policy context with respect to the loss of social and community facility remains unchanged since that time. For the avoidance of doubt, whilst the London Plan and City Plan have been updated since that permission was



granted, the wording and tests set out in policies 3.16 and S34 remain unchanged from earlier iterations. Accordingly, the rationale for permitting the loss of this floorspace is equally valid now and the loss of this floorspace would remain consistent with policies 3.16 of the London Plan, policy S34 of the City Plan and policy SOC 1 of the UDP.

#### Self-Storage Facility

An objection has been received to loss of the self-storage facility on-site. The objector notes that The London Industrial Land Supply and Economy (2015) study produced for the GLA found that Westminster has one of the lowest supplies of warehousing, self-storage and open-storage floorspace/land in London.

Storage uses are not protected by the development plan. The fact that Westminster may have low levels of storage floorspace does not mean that there is a demand for it within Westminster that would necessitate its protection. Accordingly, no objection is raised to the loss of this self-storage facility.

#### Residential

Whilst the proposed development would result in the loss of 22 residential units, it would result in a net increase of 178 units on what is existing on-site, 140 more than the consented WEG development on this part of the site. Accordingly, the loss of these units would be consistent with policy S34 of the City Plan and policy H3 of the UDP.

### **8.1.2 Residential Use**

Policies H3 of the UDP and S14 of the City Plan seek to encourage the provision of more residential floorspace including the creation of new residential units and encourage changes of use from non-residential uses to residential use. Policy S8 of the City Plan also states that this part of Edgware Road is an appropriate location for residential uses. As a Strategic Proposals Site located within the Edgware Road Housing Zone, the provision of new residential units on this site is also a priority. The additional affordable units would also provide decant space for the estate renewal programme stated within policy S12. Accordingly, the provision of residential flats on this site is supported in principle.

Other relevant residential use considerations are set out below.

#### Density

Like the WEG development, the proposed development would exceed the density range set out in policy 3.4 of the London Plan (i.e. 215-405 u/ha or 650-1100 hr/ha). The proposed development would have a density of 1429 u/ha on the application site, whilst the density across the WEG site and application site would be 660 u/ha.

However, policy 3.4 of the London Plan and policy H11 note that density is a useful starting point for protecting local character and is not definitive. Policy 3.4 of the London Plan acknowledges that other factors are relevant to optimising potential, including local context, design and transport capacity, as well as social infrastructure. Policy H11 also notes that development densities that exceed the limits contained therein will be expected to meet complementary policies on townscape and design; residential amenity; provision

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of off-street parking; mix of housing units; affordable housing; garden space; and the desirability of maintaining any special feature of the urban fabric of the area. These matters are considered further later in this report.

### Affordable Housing

Policy 3.12 of the London Plan states that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes, having regards to several factors, including the need to encourage rather than restrain residential development and the specific circumstances of individual sites. The latter includes development viability.

The proposal would result in new residential floorspace exceeding 1,000 square metres of Gross Internal Area (GIA). As such, policy S16 of the City Plan expects a proportion of the floorspace to be provided as affordable housing.

Based on the total residential floorspace of approximately 13,278 square metres GIA and the City Council's Interim Guidance Note on Affordable Housing (November 2013) ("the Interim Note"), there is a requirement for 4647 square metres (i.e. 35%) of affordable floorspace to be provided.

Policy S16 requires this affordable floorspace to be provided on-site. Only where the Council considers that this is not practical or viable, affordable housing should be provided off-site in the vicinity. Off-site provision beyond the vicinity will only be acceptable where the Council considers that the affordable housing being offered is greater and of a higher quality than would be possible on or off-site. A financial contribution in lieu will only be acceptable where the above options are not possible

In this instance, the applicant proposes 32 affordable units within Block H, with a total floor area of approximately 1928 square metres or approximately 15% of the residential floorspace proposed. When considered with the wider WEG development, the proposal would result in 162 affordable units, with a total floor area of approximately 15,713 square metres or approximately 18% of the residential floorspace proposed. The applicant has provided a viability appraisal by Gerald Eve that indicates that this is the maximum possible contribution that the scheme can afford to make without becoming unviable. This viability appraisal has been reviewed on behalf of the City Council by GVA who concur with its findings.

However, the affordable units would share lift cores with the private sale units and both GVA and Gerald Eve conclude that this will reduce the sales values of the latter flats. This reduces the profitability of the development and in turn its ability to deliver additional affordable housing. It is understood that the applicant intends moving these affordable units into a dedicated affordable block on the WEG site at a later date. Should this occur the discount arising from the shared cores falls away and the development would be able to provide a greater affordable housing contribution. Accordingly, GVA recommended that the viability be reviewed when the applicant inevitably applies to move these units. Subject to viability review of this future application, the 32 unit contribution proposed is the maximum reasonable contribution that the applicant can make under this application.

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It is proposed that 19 of the affordable units would be provided as social rented units and 13 would be provided as intermediate housing. This tenure split would be consistent with the City Council's preferred 60:40 social rent/intermediate tenure split.

As set out above, the Head of Affordable and Private Sector Housing has raised concerns with the use of shared lift cores between the open market and affordable housing and the size of the affordable units. With regards to the shared lift cores, eight affordable units at lower ground floor and the western end of Block H would be accessed via a core shared with private sale units above. The remaining 24 affordable units would be accessed via a dedicated lift core at the eastern end of Block H that shares a lobby with the private sale units. Shared cores make it difficult to secure affordable housing partners due to less control over service charges and management arrangements. Discussions to address this concern are ongoing and any update will be reported verbally to the Committee.

With regards to the size of the affordable units, and since the Head of Affordable and Private Sector Housing's initial comments, the applicant has swapped the 1bed social units to intermediate housing and the 2bed intermediate units to social units. The Head of Affordable and Private Sector Housing has since confirmed that this is acceptable.

Should the affordable housing offer be found acceptable a deed of variation to the original legal agreement for the WEG development is recommended to secure the additional units proposed.

### Residential Mix

Policy H5 of the UDP requires 'one third' of the units to be family sized units (i.e. with 3 bedrooms or more), as specified in policy H5 of the UDP.

In this instance, 10.5% of the proposed units would be family sized. When considered with the wider WEG site, approximately 19% of the units would be family sized. However, and as noted in paragraph 3.74 of the supporting text to this policy, this requirement will be applied with some flexibility. For example, a lower level of family sized accommodation may be appropriate in very busy, noisy environments. The application site is located in just such an environment, being located on Edgware Road and close to the Westway. Accordingly, this shortfall would be consistent with policy H5 of the UDP in this instance.

### Standard of Residential Accommodation

Of the 200 flats proposed, 189 or 95% would meet the size requirements within the Government's Nationally Prescribed Space Standard (March 2015) ("the Space Standard"). The 11 units that do not meet the Space Standards are one bedroom flats located within Block H. The shortfalls proposed are marginal and do not exceed two square metres. These shortfalls are not likely to be noticeable to occupants of the flats and an objection to the proposal on this basis could not be sustained.

The majority of the units are also dual aspect and most blocks do not have more than eight units per lift core, as required by the Mayor's Housing SPG (adopted 2016) ("the Housing SPG"). All the units would also be Lifetime Homes compliant and 10% of the units would be wheelchair accessible or easily adaptable, consistent with policy H8 of the UDP.

Most of the proposed flats would have private outdoor amenity space, in the form of balconies and terraces, in accordance with policy H10 of the UDP and standards 26 and 27 of the Housing SPG. These balconies and terraces are also designed so as not to result in unacceptable noise and overlooking of neighbouring properties and flats within the development and are therefore acceptable. In addition to this, all residents would have access to the communal garden areas located within the site. The terraces for the ground floor flats within Block G would adjoin each other and may give rise to privacy concerns between flats. A condition is therefore recommended to ensure that adequate screening between these terraces is installed.

The flats within 17 Paddington Green would not have terraces or balconies. However, and given the listed nature of this building, it is not considered appropriate to require them in this instance. Furthermore, the development would be consistent with the supporting text to policy H10 of the UDP which envisages balconies and terraces for only one quarter of all units within a development within the CAZ. Accordingly, the proposal would provide an appropriate level of outdoor amenity space for future residents

The supporting text to policy ENV 13 of the UDP specifies that the recommended standards for daylight and sunlight contained within the BRE's 'Site Layout Planning for Daylight and Sunlight' (Second Edition) (published 2011) ("the BRE Guide") should be applied when considering the standard of accommodation. The BRE Guide notes that daylight levels within new rooms can be checked using the Average Daylight Factor (ADF). The BRE guide provides minimum values of ADF of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms (Para. 2.1.8). However, the BRE stress that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances since natural lighting is only one of many factors in site layout design. For example, in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

The applicant has submitted a Daylight and Sunlight Report by Point Surveyors (November 2016) ("the Internal Light Study") to demonstrate light levels within the proposed flats in comparison to the BRE Guide. The results of the ADF assessments show that 74% of the proposed habitable rooms on the application site and on the wider WEG site will have daylight levels that accord with BRE Guidelines. Overall the results are considered to show a good level of compliance for an urban area. Light levels to flats with low ADF figures are largely constrained by the balconies proposed which shade rooms or push the windows to be assessed further into the proposed blocks. However, and as acknowledged by the BRE guide, these balconies provide a pleasant amenity in themselves. Accordingly, their removal would harm the living conditions of future occupiers whilst also compromising the proposed design. Furthermore, the ADF levels proposed are generally consistent with comparable development in the area and are to be expected for development within central London. Accordingly, and given the flexibility permitted by the BRE Guide, the light levels to the proposed units are acceptable.

Conditions are recommended to ensure that noise levels within flats are acceptable. Subject to the recommended conditions, the proposal would be consistent with policy S32 of the City Plan and policies ENV 6 and ENV 7 of the UDP.

### 8.1.3 Mix of Uses.

Policy DES3 (B) of the UDP requires that developments featuring high buildings provide, amongst other things, a favourable mix of land use which facilitates shorter journeys to work.

The proposed development is entirely residential. However, it would form part of the wider WEG development which includes retail, restaurant and office floorspace. It is also located close to shops within the Church Street/Edgware Road District Shopping Centre and offices within Paddington Basin. Accordingly, the proposal is located in such a way that opportunities for residents to minimise their commute to work exist. Notwithstanding this, the application site is located within Zone 1 and has the highest possible PTAL rating of 6b. Residents within the development would therefore be located within central London where employment uses are prevalent and where short journeys to work are possible. Accordingly, the mix of uses are considered appropriate in this location.

#### **8.1.4 Social and Community Facilities**

Objectors are concerned with the impact of the proposed development on community facilities, including schools and GP surgeries within the area. A representation has also been received requesting funding for maintenance of St Mary's Church.

Policy S34 of the City Plan encourages new social and community facilities, particularly on large scale development sites.

Policies SOC 3 and SOC 6 of the UDP encourage the provision of new education and children's play facilities.

Policy H10 of the UDP specifies that, on sites suitable for large housing developments (i.e. 50+ units) the City Council will require the provision of a community facility as part of the development, where appropriate. The supporting text to this policy specifies that in some cases, a contribution proportionate to the size of the development, rather than provision, may be an acceptable alternative and will be appropriate where:

- a) it funds the upgrade of existing facilities; and
- b) where there are a number of developments in an area and each contributes to a share of the cost of community facilities.

Community facilities are not provided on-site as part of the development. However, the proposed development would be subject to Westminster's recently adopted Community Infrastructure Levy (CIL). If permission is granted, the development would generate a significant CIL payment of £6,103,180.56, subject to any relief or exemptions available. At least, £915,477.08 of this CIL payment must be spent within the local area and can be spent on infrastructure items, including educational, health, social, community, sports and leisure facilities within the vicinity of the application site. Pro-rata, this CIL payment greatly exceeds the total social and community contribution per unit deemed appropriate for the WEG development and satisfies the requirements of policy S34 of the City Plan and policies SOC 3, SOC 6 and H10 of the UDP.

A financial contribution of £631,000 has been secured under the permissions for the WEG Development for additional school places at King Solomon Academy and Paddington Green Primary School. The impact of the additional units on school capacity proposed

under this application would be mitigated by the CIL payment noted above. However, sixty of the units approved under the permissions for the WEG Development would not be built if permission were granted for the proposed development. Should permission be granted, it is recommended that a Deed of Variation to the section 106 agreement for application ref: 15/11677/FULL is entered into to allow for reimbursement of part of this education contribution insofar as it relates to these 60 units, should the proposed development be built. This would equate to approximately £56,339.

With regards to children's play space, the garden and terrace areas proposed are capable of accommodating much of the demand from this development. A condition is recommended to secure details of this play space on-site.

Subject to a deed of variation to the s106 agreement for application ref: 15/11677/FULL, the proposed development would meet policy 3.6 of the London Plan, policy S34 of the City Plan and policies SOC 3, SOC 6 and H10 of the UDP.

## **8.2 Conservation, Townscape and Design**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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."

Section 72 of the same Act indicates that "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

In terms of the NPPF the key considerations are addressed in Chapter 12 with paragraphs 133 and 134 specifically addressing the issue of harm to designated heritage assets. Where a proposed development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or inter alia, the harm or loss is outweighed by the benefit of bringing the site back into use. Where a development would 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.

Policies S25 and S28 of the City Plan recognise the importance of Westminster's historic townscape and the need to conserve it, and require exemplary standards of sustainable and inclusive urban design and architecture.

Policy DES1 of the UDP sets out principles of urban design and conservation to ensure the highest quality in the form and quality of new developments in order to preserve or enhance the townscape of Westminster.

Policy DES 9 of the UDP aims to preserve or enhance the character or appearance of conservation areas and their settings and indicates that development proposals involving the demolition of unlisted buildings may be permitted where the existing building(s) makes either a negative or insignificant contribution to the character or appearance of the area,

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and/or if the proposed development will result in an enhancement of the conservation area's overall character or appearance.

Policy DES 10 of the UDP seeks to ensure that planning permission is not granted for proposals which have an adverse impact on the setting of listed buildings.

London Plan and the City Council's policies on tall or high buildings and their design impact are also particularly relevant in this instance. Policy 7.7 of the London Plan contains several criteria that tall buildings should be considered against, including limiting their location to the CAZ or areas that have good public transport accessibility; requiring high standards of design; incorporation of ground floor activity so they have a positive relationship with surrounding streets and making a significant contribution to local regeneration. Policy S3 of the City Plan specifies that one site has been identified within the POA for a single landmark, high quality building. That site is located approximately 100 metres to the south of the application site. In other locations within the POA, high buildings could not be accommodated without detriment to the surrounding townscape. Policy S26 of the City Plan also specifies that strategic and local views will be protected from inappropriate, intrusive or insensitive development.

Policy DES3 of the UDP resists high buildings where they would intrude upon strategic views; where they would adversely impact heritage assets and their settings or local views; and where they would be incongruous in relation to prevailing character. In exceptional circumstances, where they are permitted, high buildings shall be of high quality design; shall enhance the long distance skyline of Central London; shall be within the capacity or future capacity of transport infrastructure and shall provide a favourable mix of land use. High buildings shall also contribute to regeneration within the locality they are to be located and should define points of significant urban activity and accord with the scale and character of the urban grain, street frontage lengths, existing open space, planting and other topographical features. They should also enhance accessibility and public realm.

The City Council also undertook consultation on informal booklet 15 setting out possible revisions to Heritage, Views and Tall Buildings policy between January and March 2015. Having regard to the tests within paragraph 216 of the NPPF, the policy proposals within that document are at such an early stage as to have no weight.

The City Council has also just concluded a consultation on growth and tall buildings across the City. However this took the form of a questionnaire and is not a policy consultation. As such, it does not have any weight in decision making. The City Council are considering responses to the consultation ahead of developing a draft policy to be taken forward in City Plan revisions in the near future.

Historic England have also produced guidance in relation to tall buildings (Tall Buildings: Historic England Advice Note 4 (2015)). This does not form part of the development plan. This advice note advocates a plan led approach to planning for tall buildings and Historic England note in their objection that the City Council have done this with policy S3 of the City Plan. The advice note also reiterates the importance of the statutory and policy considerations noted above as they relate to tall buildings and heritage assets.

### **8.2.1 Public Realm and Urban Design**

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While the scheme involves the creation of a series of individual buildings, it is also important to assess the quality of the development as a whole in terms of its urban design. In these terms, the urban design is considered the arrangement and form of buildings and how this helps shape the open space, the permeability and the legibility of pedestrian and vehicular routes, with consideration also for the hard and soft landscaping proposed. The particular issues related to the specific heights and massing of the buildings, and their detailed design, are considered elsewhere in this report.

This urban block is a notably large one by the standards of the surrounding area. The development granted under application ref: 15/11677/FULL and subsequent amendments incorporates a large green landscaped garden square set in behind the Edgware Road frontage and represents a significant opening up of the site in urban design terms. This current application submission proposes to enlarge that approved landscaped garden by cranking back the line of the mansion blocks flanking its south-western corner, which will provide a more visually open and generously proportioned space appreciated both from persons moving through the space and as an outlook from the surrounding flats. The GLA advise that they are supportive of this amendment to the previously approved site layout.

In addition, a further new landscaped urban square is also proposed to be set in behind the Paddington Green frontage and accessed directly from both Paddington Green and from the shared space area to the west side of the approved 30 storey tower. Though it is anticipated to be controlled for residents access, it will provide a greater degree of permeability through a currently closed off section of the site, adding to the sequence of public and semi-private spaces through the site. It will also create an attractive green space visible both from the public realm and the surrounding flats.

The buildings proposed will give a clear definition to the streets and public spaces and, although the uses are principally residential and often set back behind front garden areas or lightwells, still allow for a regular series of windows giving some active frontage to street level which would help secure an enhancement and passive surveillance of the public realm.

It is of particular note that the existing site is a large, and largely vacant, site through which no public access is possible except for along a poor quality Newcastle Place frontage to its southern edge and also the Paddington Green frontage to its west side. Although it contains two buildings of some interest, it also has an empty plot to its southern end and some significant shortcomings in the quality of its frontage. Considered separately from the WEG Development, the proposal would still represent a well formed and coherent development with defined frontages onto Newcastle Place and Paddington Green and with the central courtyard as its focus. To ensure this, it is recommended that full details of hard and soft landscaping and public art are secured by conditions.

In this urban location, the current appearance of the site and the large hole in the townscape that it represents is considered a significant and long standing blight on the area. In this context, the principle of a permeable and attractively landscaped development of the site is strongly welcomed in urban design terms. The proposed arrangement of buildings and resulting public realm formed by these buildings are supported and are considered to accord with Policy S28, S35 and S41 of the City Plan and policies DES1, DES 3 and ENV15 of the UDP.



### 8.2.2 Impact of Demolition Works

As part of this development, two unlisted buildings to the Paddington Green frontage (14 and 15-16 Paddington Green) are to be fully demolished. The lower scale buildings behind the Paddington Green frontage are also to be demolished and the side wing to the Grade 2 listed at 17 Paddington Green is to be rebuilt with other internal works to that building. These buildings are all included within the Paddington Green Conservation Area. Historic England (HE) consider that the works for the demolition of 14-16 Paddington Green and the demolition of the side wing of 17 Paddington Green would result in 'serious harm', and the St Marylebone Society also object to the loss of nos. 14-16 Paddington Green. The GLA advise that in their opinion the loss of no. 14 will not be a substantive loss to the conservation area, though the loss of no. 15-16 would be regrettable and would impact on the conservation area. HE also express no objection to the loss of the industrial buildings behind the Paddington Green frontage, a view officer's share in light of their limited architectural quality.

No. 17 Paddington Green is one half of a pair of Grade 2 listed buildings (comprising nos. 17-18) which were originally constructed around C.1800 as two separate dwelling houses. They were originally designed as a paired composition, faced in yellow stock brick, and which comprised a main central bay to each building, with a subsidiary bay recessed back from the main front elevation and which contained the entrance to the building. Though this general arrangement still remains in modified form on site, at no. 17 Paddington Green the side wing has been evidently been at least significantly altered at some point in the past and possibly fully rebuilt, likely in the 20<sup>th</sup> century, and it now also incorporates an unattractive ramp structure to its front forecourt. Though noting the concerns of HE to the rebuilding of this wing, officers have no concerns about the replacement of this fabric, with the consideration of the raising in height of the side wing considered further below.

Nos. 14 and 15-16 Paddington Green represent two properties from a later 19<sup>th</sup> century date of construction than no. 17 Paddington Green. Both are proposed to be demolished to facilitate the wider redevelopment proposed in this application. These properties are both listed in the Paddington Green Conservation Area Audit as Unlisted Buildings of Merit. The Audit states with regards to the Unlisted Buildings of Merit in the conservation area that "by definition these properties are of particular value to the character and appearance of the conservation area and their demolition or unsympathetic alteration will be resisted."

No. 14 is a four storey terraced property comprising three sheer floors of brickwork and a mansard above. There is no evidence apparent to make fully clear its original appearance. However, it evidently has been altered in the past and now incorporates a ground floor level of squat appearance with two small sash windows and recessed entrance with modern lintels above. The first floor front elevation contains two sash windows with a strongly banded second floor level which appears quite inappropriately prominent and top heavy for this small scale building. Third floor level comprises a relatively modern mansard structure. The building is set back approximately 11 metres from the footway and, whilst it could be anticipated to have originally had some form of landscaped front garden, its frontage is now of poor townscape quality and comprises hard landscaping which is fully open to the street. The rear is not unattractive, though is of utilitarian appearance and marred by prominent external pipes. The side elevation has particularly unattractive structural supports in place rising from the adjoining site.

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No. 15-16 comprises ground to third floor levels in sheer form. It incorporates a render framed principally commercial frontage to ground floor level. Although it incorporates classical detailing, it nonetheless is of relatively crude appearance. The upper floors retain a good sense of their original character, with classically inspired window surrounds, sash windows and slender stucco banding defining each floor level and a cornice above. Its frontage again is hard landscaped, fully open to the street and is of particularly poor townscape quality. The building incorporates a large full height rear extension of uncertain date though of uncluttered form.

As set out above, the front forecourts of 14-16 Paddington Green are of poor townscape quality and in themselves mar the frontage to Paddington Green and the conservation area generally. With regards to no. 14, it is noted that it has brick faced elevations incorporating sash windows and other detailing which allows it to sit comfortably in the context of 19<sup>th</sup> century buildings to the eastern side of Paddington Green, and that as representing a part of the 19<sup>th</sup> century phase of development of the area it has some architectural and historic value. Nonetheless, it is not considered a notably attractive building, and it incorporates awkward proportioning, a poor quality ground floor level and unattractive structural supports to the side elevation. Though an unlisted building of merit, from a detailed on-site assessment officers consider that there are some shortcomings in its design quality. With regards to 15-16, and aside from its ground floor commercial frontage it is recognised that it is an attractive building that makes a positive contribution to the character and appearance of the Paddington Green Conservation Area, notwithstanding shortcomings in its frontage and ground floor.

HE state that the proposals should be assessed according to current government conservation policy which states that the demolition of buildings that make a positive contribution to the significance of a conservation area is harmful to the historic environment and needs to be justified under paragraph 133 or 134 of the NPPF. It is clear that the loss of 15-16 Paddington Green would harm the character and appearance of the Paddington Green Conservation Area. To a lesser extent the loss of 14 Paddington Green would also harm the character and appearance of the conservation area. A full consideration of the replacement of these buildings needs to be taken into account with the scheme as a whole and officers consider that the loss of 14-16 Paddington Green would represent harm to the Paddington Green Conservation Area, but that given the shortcomings of some aspects of their appearance as set out above, that harm would be less than substantial. In light of this, paragraph 134 of the NPPF is relevant, and outlines that this harm should be weighed against the public benefits of the proposals.

During the course of the application process, the applicants have amended the proposals for the internal works to no. 17 Paddington Green, and the largely intact original layout to the upper floors is to be largely retained largely. The exception to this is to lower ground floor level. However, this floor level has been significantly altered in the past and the subdivision proposed in this context is not considered unacceptable as part of the wider scheme.

### **8.2.3 Impact of Development on Views from Surrounding Area**

It is also important to consider the impact of the height, bulk and massing of the buildings, including on the setting of conservation areas and listed buildings, in light of the statutory and NPPF tests set out above. In terms of relevant policy, policy DES 3 (2) of the UDP states that high buildings will not be permitted where the development would have an adverse impact upon the character and appearance of designated conservation areas, and defines a high building as being that which is significantly higher than its surroundings. Policies DES 9 (F) of the UDP is also of relevance in stressing the importance of respecting the setting of conservation areas.

It is clear that the development would be readily visible from the Paddington Green Conservation Area, from this part of Edgware Road, and from streets between, and would also be visible in some views from a wider surrounding area. To help illustrate the visual impact that the buildings would have, the applicants have produced a number of Accurate Visual Representations (AVR's) of the scheme from a series of viewpoints and other visuals.

The Paddington Green Conservation Area is the one most directly affected by these development proposals, and much of the application site is included within the Paddington Green Conservation Area. The conservation area incorporates Paddington Green itself including the Grade 2\* listed St Mary's Church and the surrounding churchyard; Paddington Green and St Mary's Gardens; and principally comprises the buildings flanking and leading off these spaces and also buildings on and surrounding St Mary's Terrace and St Mary's Mansions. The area was first laid out in the late 18<sup>th</sup> and early 19<sup>th</sup> century, and from that period St Mary's Church and nos. 17-18 Paddington Green remain, with a number of other buildings including the Children's Hospital building to the east side of Paddington Green, 14-16 Paddington Green and the terraced properties to Church Street being of late 19<sup>th</sup> century or early 20<sup>th</sup> century date. Paddington Green is listed within the London Squares Preservation Act of 1931, though not the Churchyard or St Mary's Gardens. Much of its character derives from the extensive tree planting to the green spaces, and the attractive quality of a number of the individual buildings. It is recognised that policy DES 3 (A) (2) of the UDP states that high buildings will not be permitted where the development would have an adverse impact upon the character and appearance of designated conservation areas, listed buildings or London Squares, albeit it is also recognised that the policy allows for a consideration of situations where high buildings may be exceptionally permitted.

It is recognised that the existing setting and character of the conservation area is compromised in a number of important respects, including by the creation of the Westway to the south side of the conservation area, the loss of many of the original buildings which lined these public spaces with replacement in several cases by prominent 20<sup>th</sup> century buildings, and the much more disjointed townscape now in place rather than the more continuous enclosure of the public spaces by buildings originally conceived.

Also of note is the outlook from the conservation area. Tall buildings are already present in views out from the conservation area, including Hall Tower and Braithwaite tower north of Church Street, with Kennet House visible in longer views east on Church Street. The existing tower to the Paddington Police Station site is also clearly visible from Paddington Green. None of these towers are considered of good architectural quality. The development of Paddington Basin, including approved proposals for a 42 storey tower at 1 Merchant Square, is also to the south side of the Westway in relatively close proximity to the conservation area. Of direct relevance is the WEG Development, which includes both

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a 30 storey tower and an 18 storey building and a generally dense, high development. Notwithstanding this, though the coherence of the original conservation area in its early 19<sup>th</sup> century form has been weakened, the application proposals nonetheless represent a large development in close proximity to a remaining historic segment incorporating listed buildings.

View 21 shows the impression of the proposed tower from the west side of Paddington Green. The view presented is taken in summer time when the trees are in leaf and in this particular view from the west side of the Green the development would be set behind the heavy screen of trees and below the tree line. The trees to Paddington Green appear principally deciduous, and thus the submitted winter time visual from the west side of Paddington Green shows that the visual impact of the development proposed would be highly significant, with the buildings seen rising quite dramatically in the immediate backdrop of the buildings to the east side of Paddington Green. Consideration of these views and the other visuals submitted from a position on the east side of Paddington Green, make clear the large bulk and visual prominence of the buildings proposed. Officers consider that the impression of the proposed buildings could only appear intrusive in these views and visually 'crowd' the frontage buildings to Paddington Green with an adverse impact on their existing impression as smaller scale buildings set around an attractive and historic green. It is also noted that these proposed backdrop buildings have a deeper footprint than those included in the WEG Development and that part of this backdrop will sit closer to the Paddington Green frontage than was previously approved. The additional depth of building is a retrograde step. However, the long frontage of the approved Paddington Green backdrop building is now visually broken up by the step in footprint and angled form proposed for the building to the south-west side of the main central landscaped garden square, which would assist in mitigating the impression of this long frontage.

This section of the Paddington Green Conservation Area was originally designed to be a small scale garden square with church grounds beyond and lined by relatively small scale domestic buildings. Considered in this context, officers consider that harm is caused to the character, appearance and setting of the conservation area from the 15 and 12 storey buildings proposed. The harm is considered significant given the sheer scale of the new backdrop buildings and their impact on the visual impression in views from Paddington Green. However, it is also recognised that the Paddington Green area has changed significantly since its original development and now incorporates a number of tall buildings and other developments, including the Westway, in its context, and in the context of an area much altered since its original development in the late 18<sup>th</sup>/early 19<sup>th</sup> century. As such, though harm is considered to be caused to the conservation area by the 15 and 12 storey buildings, the harm is considered less than substantial harm.

The 12 and 15 storey buildings will also be visible over the roofline of the unlisted buildings of merit at 149-151 Church Street. However and although the new buildings may be relatively prominent over their roofline, these buildings are considered in a context with Hall Tower in close proximity behind, and with the prominent City of Westminster College building also forming a key visual feature in the setting and Kennet House also visible to the east. It is also of relevance that the WEG Development also includes an 18 storey tower to this Church Street frontage. Overall, it is not considered that harm is caused to the setting of these particular buildings from the development proposed.

The eight storey building proposed will also appear a substantial structure. However its impression from the east side of Paddington Green will be largely screened by the bulk of the proposed frontage buildings to Paddington Green. From the west side it will be seen in context with the larger 15 and 12 storey buildings, with the 30 storey tower of the WEG Development located directly behind. It is also slightly set away from the main Paddington Green frontage.

Overall, and mindful of the statutory, NPPF and policy tests set out above, officers consider that the 15 and the 12 storey buildings would harm the setting of the Paddington Green Conservation Area. In addition, this would add cumulatively to the harm from the previously approved WEG buildings. This harm would be less than substantial.

Considerations arising from the height and massing of the buildings fronting Paddington Green are considered in more detail in the report below.

#### **8.2.4 Impact of Development on Setting of Listed Buildings**

Policy DES 3 (2) of the UDP states that high buildings will not be permitted where the development would have an adverse impact upon listed buildings and their settings, with policy DES 10 also reflecting the importance of protecting the setting of listed buildings. There are several listed buildings in close proximity to this development site, with the ones most closely affected being within Paddington Green.

##### *No's 17-18 Paddington Green and Children's Hospital building – Paddington Green*

Nos. 17-18 Paddington Green are a pair of Grade 2 listed buildings originally constructed around C.1800 as separate dwelling houses and which are Grade 2 listed, and are formed by main wings faced in yellow stock brickwork and covering lower ground, ground and three upper floors, with subsidiary flanking wings also in brickwork.

The Children's Hospital building to the junction with Church Street is Grade 2 listed, and is a red brick building with red terracotta dressings. The main body of this building covers ground and three upper floors, with an additional floor and a flamboyant gabled roofline to the corner wing. The list description refers to it being mainly listed for a series of internally located tile pictures.

However, the issues are closely related to those set out above related to the impact on the Paddington Green Conservation Area, and officers consider that the new buildings proposed would give rise to less than substantial harm to the setting of these buildings.

It is recognised that the previous allowed and commenced 2005 appeal scheme allowed for a 22 storey tower to Newcastle Place in proximity to these buildings amongst other buildings allowed. The WEG Development also allows for a 30 storey tower and an 18 storey block (to Newcastle Place and Church Street respectively) and also allowed for a 6 storey block in relatively close proximity behind the Paddington Green frontage. Those approved tower buildings were set slightly offset from the Paddington Green frontage, and the 18 storey building although also highly prominent in views from Paddington Green formed part of the street frontage to Church Street rather than being set centrally behind the Paddington Green frontage in views directly from the green. In addition, and although a building was approved in relatively close proximity behind the Paddington Green frontage, it was seen to rise only two floors above the frontage from the west side of

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Paddington Green in the AVR accompanying that application, and visually less so from street level to the east side. The buildings now proposed are seen directly in the backdrop of the frontage to Paddington Green as a continuous screen of a very high and bulky development in close proximity to the listed Paddington Green buildings and they would add cumulatively to the previously approved WEG buildings.

The buildings to the east side of Paddington Green are relatively small scale properties, and their scale sits comfortably in context with the remainder of the run of traditional buildings to the east side of Paddington Green. Though it is recognised that the currently largely vacant site is a notably unattractive feature of the area, one consequence of this is that by virtue of the lack of buildings to the site there are currently no structures to create bulk in the backdrop of views from Paddington Green. Though the list description of the Children's Hospital building refers to tiling as a principal reason for listing, it nonetheless has an elaborate and attractive roofline. Nos. 17-18 Paddington Green have a characteristic 19<sup>th</sup> century classically inspired approach of elevations rising to a parapet with a low pitched roof structure behind intended to stay visually hidden by the parapet. The buildings proposed, especially the 15 storey and the 12 storey buildings will be visually dominant in the backdrop of these buildings. Though noting the previous buildings including a tower previously approved, officers consider that the development proposed could only be considered a retrograde step in terms of their setting. The change from the existing almost cleared site is a dramatic one, though clearly less so in comparison with the previously approved schemes. The significant disjunction in scale between these low scale traditional properties and the new development is particularly marked.

In setting out the above considerations, it is recognised that the existing site is harmful to the character of the area by virtue of being a large void of derelict appearance in what should be a developed section of townscape. In itself, this is harmful to the character and appearance of the area. Though harmful in its own right, the cleared site does allow these relatively small scale buildings to be appreciated without very large scale development behind which more closely resembles their original setting. As such, given the scale and proximity of the 15 and 12 storey buildings to the listed buildings it is considered that harm is caused to the setting of the listed buildings on the east side of Paddington Green from the works proposed. Mindful though of the context of the site as set out above, with consideration for the previous approvals for works to the WEG site, the impact is considered to constitute less than substantial harm to the setting of these listed buildings. As with the considerations elsewhere in the report, the other buildings proposed are not considered to harm the setting of these, or other, listed buildings.

#### St Mary's Church – Paddington Green

Approximately 130m to the west of the site is St Mary's Church on Paddington Green, a Grade 2\* listed church building dating from 1788-91 which was originally designed by John Plawwith, though with later C19 alterations and a 1972 restoration by Raymond Erith. The building is built to a Greek cross plan giving it an essentially square building form and it is faced in yellow-brown bricks with ashlar dressings, and with a slate roof and prominent cupola above. Though in winter time particularly there may be an appreciation of taller elements in some views this would form part of the wider urban backdrop and would not impair an understanding of the building's architectural or historic interest.

Officers consider that though the surrounding area was originally designed with relatively low scale domestic buildings, those traditional buildings remaining are not clearly apparent when standing at the Church building, and that the principal experience of the setting of the Church now is of its significantly treed surrounding churchyard and adjacent Paddington Green and St Mary's Gardens. Though some sense of a low scale urban setting still remains, from the perspective of the Church, set within a heavily treed context, this is not readily perceptible, and not to the extent that the Westway forms a prominent element of the surrounding character of the Church building. In the 2005 decision notice on the two previous appeal schemes, the Inspector noted that in his opinion the trees within the Green obscure the detail of the buildings beyond, until one gets closer to the eastern edge of the Green.

Overall and given the heavily treed church grounds and the significant change to the context of the church and the skyline in the clearer views south from the Church, the impact of the proposals to the application site would not adversely affect its setting.

#### Other Listed Buildings to Paddington Green and Surrounding Area

In addition to the above buildings, there are also a number of listed monuments and telephone kiosks within Paddington Green. Though the buildings proposed would be visible from these structures, it is considered that there is no intrinsic link between these listed monuments and structures and a particular setting. The family monuments are most appropriately seen within the treed Church grounds, although the wider setting of those monuments and the other listed structures in themselves is considered to make little contribution to the significance of these listed buildings and their setting would not be harmed by the development proposed.

Given its height, the 15 storey building may be visible in the wider setting of several other listed buildings in the wider surrounding area. These could include views west on Bell Street from the Grade 2\* Christ Church building on Cosway Street and views from the Grade 2\* listed North Westminster Community School by Broadley Street. No views studies have been undertaken from these buildings and it appears unlikely that the development would be visible, especially were the WEG Development to progress. However, even were the building visible in such views, it is anticipated that only the very upper section would be and it would not be anticipated to be harmful to the setting of those buildings. The higher elements of the scheme could be visible above the building line in Ashmill Street which contains several listed buildings to its eastern end, however the buildings are seen in context with a quite modern townscape to the street with relatively high buildings directly across the street, and a modest addition to the skyline would not unduly affect their setting. It is noted that the approved 30 storey tower at the WEG Development and the approved tower at 1 Merchant Square would be readily visible in this skyline. As such, it is not considered that the development proposed would harm the setting of these listed buildings.

### **8.2.5 Impact of Development on Setting of Adjacent Conservation Areas and Other Views**

#### Maida Vale Conservation Area

From Maida Vale a number of views are included in the application submission which face towards the site at 14-17 Paddington Green. View 8 is from Westbourne Terrace Road Bridge. Both summer time and winter time views are presented in this submission from

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this viewpoint. The buildings are not shown as visible in this view in summer time due to the heavy tree cover and would thus not harm the view. In winter time the very upper element of what appears to be the 15 storey building would be visible though would only be seen through a thick screen of tree branches and would not notably rise above the intervening buildings. View 9 is from Blomfield Road and has also been presented in both summer time and winter time views. In summer time the heavy tree cover would obscure any impression of the buildings. In winter time, whilst the very upper element of the 15 storey building would be visible again, this view would be through a thick screen of tree branches and would not notably rise above the intervening buildings. It is recognised that there could potentially also be glimpsed views of the 15 and potentially the 12 storey buildings between trees and buildings in viewpoints along Blomfield Road, although any such views would not be anticipated to be focussed with the buildings on clear axis of the view. View 11 shows the view south on Lanark Road and the buildings proposed would also not be visible from this view. Overall, the development proposed would not give rise to harm to the character, appearance and setting of this conservation area.

#### Lisson Grove Conservation Area

View 17 is from Bell Street and is considered in more depth below with regards to the impact on the setting of Christ Church on Cosway Street. The buildings would not be visible in this view.

View 18 is along Ashmill Street from the junction with Lisson Grove and is also considered in more depth below with regards to the impact on the setting of the listed buildings on the south side of this street. The view shown is from a position from which the buildings would not be visible by virtue of being screened by the canopy of a street tree. However, the view presented also suggests that the buildings would be visible on the skyline above a building within the Lisson Grove Conservation Area from a view further into Ashmill Street beyond the tree. The buildings would be likely to represent a relatively notable intervention into the skyline in Ashmill Street views. However, they would be seen largely above the 20<sup>th</sup> century buildings which principally line this section of Ashmill Street and would not be especially prominent in such views. The buildings are not anticipated to appear unduly obtrusive in the context.

Overall, the development proposed would not give rise to harm to the character, appearance and setting of this conservation area.

#### Bayswater Conservation Area

Views from the Bayswater Conservation Area are restricted principally to those viewpoints where the alignment of streets and foreground buildings and trees allow views on axis with the site and two potential viewpoints are offered, namely View 5 from the junction of Sussex Gardens and Sale Place and View 7 from the junction of Gloucester Terrace and Cleveland Street. Each shows that the building would be hidden by foreground developments and tree cover. Overall, the development proposed would not give rise to harm to the character, appearance and setting of this conservation area.

#### St Johns Wood Conservation Area

View 12 is taken from the St John's Wood Conservation Area, on Maida Vale just south of the junction with St John's Wood Road. Both summer time and winter time views have



been submitted, and the buildings proposed would be almost fully obscured by buildings and tree cover, and any glimpsed views would be seen in context with the much more prominent Parsons House tower in the closer foreground. At the very south edge of the conservation area on Maida Vale the buildings may again be just visible in views, although any views of them would be seen in context with Parsons House which will appear more imposing given its greater proximity to the viewpoint, and the approved tower at West End Green would also be highly prominent in the view if and when constructed. Overall, the development proposed would not give rise to harm to the character, appearance and setting of this conservation area.

#### Portman Estate Conservation Area

View 2 is from the junction with Old Marylebone Road which is located just outside the Portman Estate Conservation Area, and in this view the large bulk of Burne House and also street trees would screen any views of the development. Overall, the development proposed would not give rise to harm to the character, appearance and setting of this conservation area.

#### Dorset Square Conservation Area

No views are provided from the Dorset Square Conservation Area but view 17 shows the development from a location on Bell Street which is close to the line of view from the south side of Dorset Square. On the basis of the evidence provided by this view, it is not anticipated that the development would be visible from this conservation area.

#### Other Conservation Areas

Though noting that the Fisherton Street Estate Conservation Area and Molyneux Street Conservation Area are within this part of Westminster, it is not anticipated that the development would be visible from these areas.

#### Views from the Royal Parks

Policy DES 3 (A) (2) (b) of the UDP state that high buildings will not be permitted where the development would have an adverse impact upon the views obtained from the Royal Parks. Views 25 and 26 from Hyde Park, and views 28 and 29 from Regent's Park all show the buildings below tree and/or building lines. From the evidence presented therefore it is anticipated that the buildings proposed would not be visible from these Royal Parks.

They may potentially be visible from Primrose Hill, a Grade 2 historic park and garden of special historic interest, and it is of note that the London View Management Framework (LVMF) illustrates a panorama of central London from this viewpoint containing two protected vistas to the Palace of Westminster and to St Paul's Cathedral. However, the buildings would be seen within a dense area incorporating a number of higher buildings in the surroundings, are well off axis from the views to the Palace and to St Pauls, and it is not considered that the development would harm the view from this park or the panorama.

#### Views from Edgware Road

Several views have also been provided showing the visual impact of the tower from both north and south on Edgware Road. View 3 is taken from the junction of Edgware Road and Chapel Street to the south of the Marylebone Road and in this view the buildings would not be visible. Views 15 and 16 are taken from north of the application site on Edgware Road. Both these views show the buildings proposed set in a context of other high buildings in the surrounding townscape of Parsons House, Hall and Braithwaite Towers and the London Hilton Metropole, and also set in the context of the WEG site. Set within this context, the buildings proposed would not have a further adverse impact on the character of the townscape as appreciated from Edgware Road.

Considered separately from the WEG Development, it is recognised that the buildings would represent a large and prominent addition to the townscape, although one set well back from the Edgware Road frontage and which would still be considered in context with the surrounding higher buildings. The impression of a higher built form set well back from the street frontage is a feature of the townscape of this part of Edgware Road north of Harrow Road where three such towers are located. The WEG Development when built would screen much, though not all, of the views of this development from Edgware Road.

As such, it is not considered that the works would be harmful to the townscape character of Edgware Road.

#### Summary of Impact on Conservation Areas and Listed Buildings

For the reasons set out above, the loss of nos. 14-16 Paddington Green is considered to cause less than substantial harm to the Paddington Green Conservation Area. In addition, the 15 and 12 storey buildings proposed are also considered to represent a high and prominent intrusion into the skyline in views east out of the conservation area, overshadowing the buildings to the east side of Paddington Green. As such, they cause less than substantial harm to the Paddington Green Conservation Area and the setting of the three listed buildings to the east side of Paddington Green.

#### **8.2.6 Design Quality of New Buildings**

Aside from the issues set out above, the scheme must be considered in terms of its design quality and appropriateness of massing in its own right, and considered in context with the approved WEG Development and wider surrounding area.

Considered in their own terms, the new buildings proposed are considered of good design quality. The design of the buildings is principally arranged with a grid of window openings, with the elevations incorporating vertical piers between windows and horizontal string courses to floor levels. To the 15, 12 and 8 storey blocks, the vertical piers get progressively thinner as the building gets taller by the changing angles/depth of the chamfered reveals, giving a sense of a composition with an appropriate greater visual 'weight' to the lower floors and becoming progressively 'lighter' as it rises up to the higher levels. This adds a layer of interest to these undeniably large and imposing buildings, helping mitigate from an impression of them as a continuous rank of matching windows. To the two smaller blocks which front onto Paddington Green the windows maintain a more regular arrangement where the outer frame and angle of chamfer does not change above the ground floor base, giving a more unified arrangement to these elevations. The windows are notably inset from the main elevations of the building giving a good sense of visual depth and modelling to the buildings. Notwithstanding the relatively large scale of

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window openings proposed, the overall impression from the visuals submitted is that the buildings are characterised by having a good degree of visual solidity. The balconies are inset from the main elevations giving further depth to the compositions. The balconies incorporate attractive railings which are strongly influenced by a set of decorative railings found within St Mary's Church to Paddington Green.

The elevations are proposed to be faced in pre-cast concrete panels intended to adopt a terracotta colour. Mindful of the conservation area location and the use of terracotta to the Childrens Hospital building, the use of terracotta for cladding the new buildings would be preferred. However, the applicants advise that pressed terracotta dressings are not economically viable and not technically robust for a new build construction of the scale proposed although it is recognised that there is no evidence presented in favour of this statement. Terracotta would be a more preferable material for cladding and would be anticipated to offer a greater richness of depth and colour to the cladding materials. Nonetheless and given the striking modern styling of the building and that it forms part of a wider large scale redevelopment rather than a single infill building, this approach of modern pre-cast concrete as a facing material is considered acceptable in principle in this case, subject to appropriate detailing and choice of material.

This pre-cast cladding is intended to add a further layer of interest and detail to the compositions. Pre-cast concrete was recently approved for use to the 30 storey tower as an amendment to the WEG Development. The main elevation to ground floor, and the chamfers to the windows openings on each floor level, are to incorporate a heavily textured pre-cast concrete cladding incorporating a decorative element which the applicants advise has been inspired by the tiled flooring within an area of St Mary's Church. The precast concrete is formed in a mould which allows for the creation of intricate detailing such as is proposed for ground floor level and the window chamfers. In itself, the use of a decorative, textured cladding to these areas would add an appropriately stronger visual impression to the ground floor base to the composition and would add visual interest to the elevations generally without breaking the clarity of the main framework of the elevation within which the windows sit.

Though final samples will be secured and agreed through the recommended conditions, the applicants have submitted samples for consideration and information at this stage. These include a sample of plain and a sample of the textured pre-cast panels, as well as a sample of a white pre-cast concrete to be used to define string courses to several floor levels and the bronze coloured aluminium to be used for metalwork and timber for doors and balcony floors. Officers have concerns with regards to the qualities of the particular pre-cast panels which have been submitted, which appear quite pale in colour, and lack both a depth of colour and surface texture to give them interest in the relatively large panels sizes proposed. They would not provide an appropriate finish, and should more closely follow the colour of the Childrens Hospital building. Notwithstanding the above, agreement on an appropriate sample can be secured via the recommended conditions.

It is recognised that several buildings incorporate relatively prominent plant rooms to roof level. None of the buildings on the Paddington Green frontage have such additions although these structures may be apparent from the west side of Paddington Green where they would be seen through the tree cover, and from the upper floors of the buildings approved on the WEG Development. The submitted drawings are not clear with regards to any requirement for maintenance support/cleaning structures to roof level and conditions are recommended to secure details of these.

The detailing of these buildings are considered an improvement on both the implemented scheme approved on appeal in 2005, which had a relatively stark visual appearance with notably large scale window openings. They are also considered an improvement on the buildings approved under the WEG Development which, although it incorporated well-mannered brick clad elevations, do not incorporate the richness of detail now included under the proposed development. The composition is considered well resolved and the buildings are considered of sound architectural quality in their own right.

The buildings must also be considered in context with the WEG Development and its Squire and Partners designed buildings. As set out above, the intention is for the pre-cast concrete cladding to have a colour similar to terracotta. As such, in terms of its general impression of a series of buildings in a principally red colour, tonally they would harmonise appropriately with the red brick clad mansion block buildings approved to the WEG site. The metalwork proposed to be used for balcony railings and window framing is proposed in the same bronze coloured finish of the buildings to the WEG site, again providing a visual link with those previously approved buildings. In addition, the elevations will also use strong horizontal courses between floor levels picking up on the use of horizontal white banding to key locations on the elevations of the WEG approved mansion blocks. Overall, and also mindful of the careful way that the development adapts and extends the masterplan approved to the WEG site, the development proposed is considered to successfully integrate with the WEG Development.

In so far as they relate to the WEG Development, the height and bulk of the buildings proposed are considered appropriate, and they are considered to propose a relatively cohesive townscape across these contiguous sites.

The consideration of the implications of the 15, 12 and 8 storey blocks on Paddington Green are detailed above. These blocks also extend directly to the eastern side of Paddington Green, partly on the site of nos. 14-16 Paddington Green which are to be demolished, also as set out above. Alterations are also proposed to no. 17 Paddington Green.

Immediately adjacent to 17 Paddington Green Block H rises to five stories high. On the corner of Paddington Green and Newcastle Place, it rises to six stories. Though representing substantial new buildings in this conservation area context, their height is considered acceptable. The six storey building to its Paddington Green frontage is approximately one floor lower than the building in this corner location approved under the WEG Development. This reduction in scale helps transition down from the much higher blocks behind to the lower scale Paddington Green frontage. This reduction is welcome in townscape terms. The five storey building proposed is approximately a storey lower than the highest elements of the Children's Hospital building to the corner of Church Street and as such, although rising a full floor higher than the adjoining listed buildings at nos. 17-18 Paddington Green, it nonetheless is considered to integrate acceptably into this townscape context.

In terms of building lines, the new six storey building to the corner of Paddington Green and Newcastle Place sets back a matching degree from Paddington Green as in the scheme approved in April 2016, and sets back considerably further than the building to this corner in the earlier allowed appeal. The five storey building steps back further from the frontage to soften the transition to the listed buildings at nos. 17-18 Paddington Green,

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allowing front gardens to be reinstated to Paddington Green, as would have originally been found. Though recognising that it still remains approximately three metres forward of the building line to 17-18 Paddington Green, this compares to the approximately 5.4m which the building line of the Children's Hospital building projects forward of 17-18. When considered in this context the positioning of the buildings are considered acceptable.

Some aspects of the detailing of the buildings assist in integrating them into their townscape context. The white horizontal string courses used to define certain floor levels picks up on the white string courses above ground and second floor levels to 17-18 Paddington Green and to the slender white balcony structures which are a prominent feature of the Paddington Green elevation of that building. The use of the decorative textured panels will help pick up on the prominent and attractive use of decorative terracotta detailing to the Children's Hospital building. Though it is recognised that the scale of the windows openings are larger than those existing to 17 Paddington Green, they are of similar scale to the balcony windows found on the Paddington Green elevation of the WEG Development. The scheme is also associated with a restoration of a landscaped setting to the front forecourt of these buildings, which is considered a significant improvement upon the existing hard landscaped and particularly unattractive frontages to these buildings.

The use of materials is discussed further above. The visual montages submitted reflect a desire for the building to be tonally similar to the Children's Hospital building although the samples submitted of the pre-cast cladding materials are considered disappointing and notably lighter in colour than the Children's Hospital building. Officers consider that further work is required to demonstrate appropriate cladding samples which give a deeper and more subtle terracotta colour which more closely reflects the Children's Hospital building, and these will be secured by condition.

In terms of the works to 17 Paddington Green, the most significant works are associated with the rebuilding of the wing to its south side. As set out above, the fabric of the existing wing is not considered of particular importance, and the considerations relate to the townscape merits of the works. Though it is recognised that UDP policy DES 5 generally expects extensions to stop a floor below roof level, in the particular circumstances of this case the additional height proposed is considered acceptable. The side wing to no. 18 rises to just short of the full height of the main central bay, and the proposal to create a new wing of similar height to no. 17 will provide a balanced composition across these two buildings as was originally intended. The increase in height would also help soften the transition in scale up to the new 5 storey building proposed immediately to the south. The width of this bay is also to be reduced closer to that found at no. 18, again strengthening the originally intended harmony between these two buildings. The bay will be designed to integrate with the character of the main building.

It is recognised that the GLA consider that the development would contribute to reinstating the street form and edge to Paddington Green, whilst HE advise that in their view the proposed new buildings appear oversized and visually dominant. With particular emphasis on the development proposed to the Paddington Green frontage, officers consider that it remains the case that less than substantial harm is caused to the Paddington Green Conservation Area through the demolition of two unlisted buildings of merit. However, the harm is mitigated to an extent by the design quality of the new buildings and by the improvements to the forecourt setting. For the reasons set out

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above, the new buildings to the frontage are not considered oversized, and thus the concerns of HE are not considered sustainable.

**8.2.7 Design and Conservation Summary**

For the reasons set out above, the height and visual prominence of the 15 and 12 storey buildings proposed are considered to cause less than substantial harm to the setting and outlook from the Paddington Green Conservation Area, and less than substantial harm to the setting of the listed buildings to the east side of Paddington Green. In addition, the loss of two unlisted buildings of merit within the conservation area would also give rise to less than substantial harm. Whilst recognising this harm, consideration needs to be given to the public benefits of the scheme.

Notwithstanding the importance given in policy DES 3 (C) of the UDP to the respect which needs to be given to the setting of conservation areas and listed buildings (in addition to the similar comments in policies DES 9 and DES 10), it is recognised that it goes on to state that high buildings which are considered to be exceptionally permitted under the policy shall contribute to the regeneration of the locality, shall define points of significant urban activity, shall accord with the scale and character of urban green and street frontage length, should enhance area accessibility and pedestrian movement, with provision of open space and active frontages at street level, and should secure an enhancement of the local public realm. Considered against these criteria the scheme would represent a considerable improvement upon the existing large, largely vacant and blighted site by providing a high quality series of buildings and permeable public spaces, which would go some way to mitigating, though not fully overcoming, the harm caused.

With regards to nos. 14-16 Paddington Green, whilst officers consider that the loss of these two unlisted buildings of merit within a conservation area is not justified in its own right, it is recognised that the scheme also represents a notable improvement to the frontage in other ways, such as the replacement of the existing poor quality forecourt areas with attractively landscaped frontages, and the infill of the existing open and unattractive section of townscape to the southern end of this frontage, as well as consideration of the architectural quality of the replacement buildings, which overall are considered to mitigate, though not fully overcome the harm caused.

The benefits of the scheme in design and conservation terms are recognised, and do help to mitigate the harm caused. However, officers consider that they are insufficient in themselves to overcome the less than substantial harm caused and mindful of the statutory, policy and guidance tests set out above.

**8.2.8 Archaeology Considerations**

The site lies within the Paddington and Lilestone Villages Archaeological Priority Area. An archaeological report has been submitted to accompany the application, which has been reviewed by Historic England. They raise no in-principle concerns but recommend that the archaeological interest should be conserved by attaching a condition as suggested by them, and advise that the scope of the mitigation should be discussed and agreed with this office prior to any development within the site.

**8.2.9 Public Benefits**

Whilst the harm identified above is noted, the proposed development also includes a number of public benefits in addition to the townscape benefits identified above. These public benefits include the following:

Edgware Road Housing Zone and The Futures Plan

As noted above, the application site is located within the Edgware Road Housing Zone (“ERHS”), within NWEDA and within the area covered by The Futures Plan. The ERHS envisages the addition of 1700 new homes within the housing zone, including an additional 691 affordable homes. The Futures Plan proposes the replacement of 306 Council owned homes. Policy S12 of the City Plan also encourages, amongst other things, redevelopment of some housing estates and the provision of more intermediate and market housing within NWEDA.

Whilst the proposed development and the consented WEG Development intrinsically makes a significant contribution to these policy priorities through the addition of 812 new homes, the affordable units provide decant space for existing tenants within the Church Street regeneration area. As demonstrated above, this is the maximum possible contribution the applicant can make without harming the viability of this development.

This decant space enables the regeneration envisaged by the EHRS and The Futures Plan to commence and take place at a quicker rate than initially envisaged. Without the affordable units, decant space would only exist once an earlier phase had been completed and even then, would not provide the net increase in units needed to allow full decant to take place, slowing progress. This decant space would also exist within the area covered by The Futures Plan, thereby minimising disruption to existing tenants.

Accordingly, the proposed development would make a significant contribution to the number of units proposed under the EHRS and Futures Plan, but would also enable the latter to take place. In doing so, the proposed development would make a substantial contribution to the Church Street, Paddington Green and Lisson Grove renewal programme beyond just the number of residential units proposed. This regeneration would bring about substantial benefit to the wider locality and is a benefit that did not exist at the time the extant permission and dismissed appeal were considered.

Contribution to Housing Targets

The supporting text to policy S16 of the City Plan notes that there is an acute shortage of, and that it is difficult to develop, affordable housing within Westminster. Furthermore, the City Council cannot meet its affordable housing need of 5,600 additional affordable homes per annum. At present, an identified supply of only 1564 units has been identified within the City Council’s five year supply.

The 32 affordable units proposed in conjunction with the 130 affordable units already approved on the WEG Site proposed would provide approximately 10% of this identified supply of affordable units. This is the maximum viable contribution this development can make. Accordingly, the provision of these units on-site, particularly within the Church Street regeneration area is a substantial public benefit of this development.

The WEG development in conjunction with the proposed development would also be the largest single housing development within Westminster and is of strategic importance. The

812 units approved and proposed would provide approximately 76 % of the City Council's annual London Plan housing target (i.e. 1068 units) on one site. This target is also a minimum that is intended to be exceeded to close the gap between London's identified housing need and supply (see para. 1.1.5 of the Housing SPG). The deficit between this identified need and supply has been a contributor to housing unaffordability, not just in Westminster but throughout London.

The application site is also centrally located and has the highest possible PTAL rating of 6b. The importance of residential accommodation within the CAZ is highlighted in paragraph 2.56 of the supporting text to policy 2.12 of the London Plan, which notes that "availability of a range of homes in the CAZ helps support its strategic function, as well as allowing for sustainable lifestyles and reducing need to travel". Furthermore, the proposed development does not conflict with policy S1 of the City Plan which is intended to strike a balance between providing residential accommodation and employment uses within the CAZ. Accordingly, the proposed development makes a particularly significant contribution to housing delivery in Westminster and does so in a particularly sustainable location.

### Other Benefits

The proposed development would also result in the following public benefits:

- Creation of a mixed and balanced community through the proposed residential mix;
- A significant CIL payment and its contribution to social and community facilities that would exceed the impact of the development;
- Job creation and training opportunities for local residents during construction;
- Significant public realm improvements around and throughout the site;
- Provision of private and public open space;
- Significant greening and tree planting;
- Provision of public art;
- Provision of play space;
- Highways improvements;
- Promotion and provision of sustainable transport;
- Provision of significant CIL contributions.

Overall, the significant public benefits of the development, as set out above, would outweigh the less than substantial harm to the setting of and outlook from the Paddington Green Conservation Area; the setting of the listed buildings at 18 Paddington Green and the Children's Hospital; and the loss of two unlisted buildings of merit and consequent harm to the Paddington Green Conservation Area. Accordingly, an objection to the development on this basis could not be sustained.

## **8.3 Residential Amenity**

Objections have been received in relation to potential loss of light, sense of enclosure and privacy.

### **8.3.1 Loss of Light**

Policy ENV13 of the UDP seeks to protect existing premises, particularly residential from a loss of daylight and sunlight as a result of new development. Permission would not normally be granted where developments result in a material loss of daylight or sunlight.



Policy DES 3 (c) (4) of the UDP also specifies, amongst other things, that high buildings should minimise the effects of overshadowing, especially within predominantly residential areas.

Regard is to be had to the BRE Guide as noted above. The BRE stress that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances since natural lighting is only one of many factors in site layout design. For example, in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

The applicant has submitted a Daylight and Sunlight Report by Point 2 Surveyors (“the Light Study”) as part of the Environmental Statement that accompanies the application to demonstrate compliance with the BRE Guide. The Light Study considers the properties below:

- Paddington Police Station Section House;
- Mary Adelaide House;
- Winicotte House;
- 1-80 Hall Tower;
- 1- 32 Gilbert Sheldon House;
- 390-394 Edgware Road;
- 354-386 Edgware Road;
- 330-352 Edgware Road; and
- 314-328 Edgware Road.

Residential properties beyond these are considered too distant from the subject property to result in potentially unacceptable light loss.

### Daylight

In assessing daylight levels, the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. The BRE guide also recommends consideration of the distribution of light within rooms served by these windows. Known as the No Sky Line (NSL) method, this is a measurement of the area of working plane within these rooms that will receive direct daylight from those that cannot. With both methods, the BRE guide specifies that reductions of more than 20% are noticeable.

The use of the affected rooms has a major bearing on the weight accorded to the effect on residents’ amenity as a result of material losses of daylight. For example, loss of light to living rooms, dining rooms, bedrooms, studies and large kitchens (if they include dining space and are more than 12.6 square metres) are of more concern than loss of light to non-habitable rooms such as stairwells, bathrooms, small kitchens and hallways.

In terms of loss of daylight, the BRE guidelines advise that diffuse daylighting to an existing building may be adversely affected if the vertical sky component (VSC) measured from the centre of the window is less than 27% and less than 0.8 times its former value (i.e. a loss of 20% or more).

The Light Studies conclusions on daylight are summarised in the table below:

**Daylight Losses – Consented WEG Development v Proposed Development**

SITE	No. of Windows With VSC Losses Exceeding 20%	VSC Losses (%)	VSC Difference to WEG Development	No. of Rooms with NSL Losses Exceeding 20%	NSL Losses (%)	NSL Difference to WEG Development
Paddington Police Station Section House	0 out of 55	NA	No Change	0 out of 44	NA	No Change
Mary Adelaide House	51 out of 60	26 - 66	17 more windows affected; Magnitude of VSC loss increases from 21-25%	21 out of 42	21 - 48	11 more rooms affected; Magnitude of NSL loss increases from 22 – 43%
Winicote House	86 out of 95	22 - 96	55 more windows affected. Magnitude of VSC loss increases from 21-62%	28 out of 56	20 - 100	2 more rooms affected; Magnitude of NSL loss increases from 21 - 43%
1 -80 Hall Tower	54 out of 320	20 - 100	6 less windows affected; Magnitude of loss increases from 21 – 65%	0 out of 160	NA	7 less rooms affected.
1- 32 Gilbert Sheldon House	34 out of 72	21 - 35	4 more windows affected; Magnitude of loss unchanged.	0 out of 48	NA	No change.
390-394 Edgware Road	0 out of 20	NA	No change	0 out of 20	NA	No change.
354-386 Edgware Road	72 out of 119	20 - 29	1 less window affected.	29 out of 50	21 - 58	1 more room affected. No change to

			Magnitude of loss unchanged.			magnitude.
330-352 Edgware Road	19 out of 48	24 - 32	9 more windows affected; Magnitude of loss increases from 21-23%	19 out of 31	24 - 61	3 more rooms affected. Magnitude of NSL loss increases from 22 – 48%
314-328 Edgware Road	0 out of 41	NA	5 less windows affected.	0 out of 29	NA	No change
<b>TOTAL</b>	<b>316 out of 830 (38%)</b>		<b>51 more windows affected.</b>	<b>97 out of 480 (20%)</b>		<b>5 more rooms affected.</b>

Overall, the proposal would increase daylight losses to surrounding properties in comparison to the consented WEG development. The worst affected properties would be Mary Adelaide and Winicote Houses, where a further 28% and 58% of windows respectively would see VSC losses exceeding BRE Guidelines. Whilst these losses are regrettable, they affect a comparatively small number of properties relative to a development of this scale.

As noted above, the BRE guidelines are intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London location, expectations of natural light levels cannot be as great as development in rural and suburban locations and to which the BRE guide also applies. Many sites throughout the CAZ have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation and are desirable places to live. In this context, this level of daylight loss does not outweigh the substantial public benefits of the development, particularly given its strategic importance to housing delivery, to warrant refusal of this application.

### Sunlight

The BRE guidelines state that rooms will appear reasonably sunlit provided that it receives 25% of annual probable sunlight hours, including at least 5% of annual winter sunlight hours. A room will be adversely affected if the resulting sunlight level is less than the recommended standards and reduced by more than 20% of its former values and if it has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

### Sunlight Loss - Consented WEG Development v Proposed Development

SITE	No. of Eligible Windows With Sunlight Loss Exceeding BRE Guidelines	Change from Consented WEG Development
Paddington Police Station Section House	0 out of 22	No change
Mary Adelaide House	1 out of 6	One more window affected
Winicote House	11 out of 83	Four more windows affected
1 -80 Hall Tower	28 out of 320	No change
1- 32 Gilbert Sheldon House	6 out of 68	One more window affected
390-394 Edgware Road	0 out of 20	No change
354-386 Edgware Road	41 out of 96	No change
330-352 Edgware Road	17 out of 45	Seven more windows affected
314-328 Edgware Road	0 out of 41	No change
<b>TOTAL</b>	<b>77 out of 701 (11%)</b>	<b>13 more windows affected</b>

The sunlight loss proposed would be relatively modest for a Central London site such as this with only 11% having losses exceeding BRE Guidance. When considered against the public benefits of this development and the strategic importance of this site for housing delivery, this level of sunlight loss would not warrant refusal of this application.

### 8.3.2 Sense of Enclosure

The additional bulk and height of Blocks G and H would be largely screened from residential properties to the north and east by consented blocks B, C, D and E-F. These blocks are in turn separated from residential properties by the widths of Church Street (approximately 11 m) and Edgware Road (approximately 22 to 30 m). Additional separation distance is also provided by the large open spaces to the south of Gilbert Sheldon House and Hall Tower. The south eastern wing of Gilbert Sheldon House also does not have any windows that are orientated towards the proposed development and would have only oblique views of it. As such, the proposed development would not result in significant sense of enclosure for the occupants of sites to the north and east of the application site and wider WEG site.

The additional height and bulk of Block G would be screened from the section house at Paddington Green Police Station by consented Block A. Block H is located approximately 200 m to the west of the section house at Paddington Green Police Station. It is also located so that it does not directly face the northern or western elevations of the section house at Paddington Green Police Station, allowing only oblique views of it from that property. As such, the proposed development would not result in significant sense of enclosure for the occupants of sites to the north and east of the application site and wider WEG site.

With regards to the impact of the proposal on those sites located on the same block as the application site (i.e. 18 Paddington Green, Mary Adelaide House and Winicotte House), a combination of separation distance, screening and design ensures that sense of enclosure is not increased significantly. The GP surgery in Princess Louise Close would partially screen the bulk of Block G from 18 Paddington Green whilst also creating a separation distance of at least 25 m. Similarly, these same buildings would partially screen Block H from Winicotte House whilst also providing a separation distance of at least 20 m. The flats within 18 Paddington Green would also have oblique views of Block H whilst Winicotte House would have only oblique views of Block G. As Paddington Green is located to the west of the block that the application site sits within, the proposals would not result in sense of enclosure for properties further to the west.

Given the above and the site's urban context, the proposal would not result in a significant sense of enclosure for the occupants of residential properties surrounding the site. Accordingly, the proposal would be consistent with policy ENV13 of the UDP and policy S29 of the City Plan.

### **8.3.3 Privacy**

As noted above, the proposed development is separated from surrounding properties by the widths of Church Street, Edgware Road and the WEG Site. It is also separated from surrounding properties and partially screened by the GP surgery in Princess Louise Close. As also noted above, the layout of surrounding sites, such as Gilbert Sheldon House, Hall Tower and the section house at Paddington Green Police Station, provide further separation distance or prevent elevations directly facing and therefore overlooking one another. These separation distances and screening provide adequate mitigation for potential overlooking for most surrounding residential properties.

It is noted that windows and balconies would be located on the western corner of Block G, approximately 20 m from windows on the rear of Winicotte House. This separation distance should be sufficient to prevent significant levels of overlooking.

Given the above, the proposed development would not result in significant overlooking of neighbouring properties and would be consistent with policy ENV13 of the UDP and policy S29 of the City Plan.

### **8.3.4 Noise**

It is proposed to install building services plant on the roof of the development. Plant and a substation are also located at several positions throughout the development. Conditions are recommended to ensure that noise from these sources does not cause harm to residents surrounding the site. Subject to these conditions, the proposal would be consistent with policies ENV6 and ENV7 of the UDP and policy S32 of the City Plan.

## **8.4 Transportation/Parking**

### **8.4.1 Trip Generation.**

Objections have been raised to additional traffic from the proposed development and its impact on the surrounding road network.

TFL and the Highway Planning Manager have reviewed trip generation from the proposed development. They conclude that trip generation from the proposed development would not result in an unacceptable impact on the transport network.

#### 8.4.2 Car Parking

Objections have been raised to impact of the proposed development on on-street parking within the area.

Vehicle access into the site would be from the consented WEG Site access on Church Street, with all parking accommodated within the basement. For the additional 140 residential units proposed under this application, an additional 60 car parking spaces would be provided, at a ratio of 0.43 spaces per unit. This is a slight increase from the WEG development, which has a ratio of 0.41 car parking spaces per unit. TFL consider this ratio excessive but have not formally objected on this basis. It should also be noted that the parking standards appended to policy 6.13 of the London Plan require up to one space per residential unit and, in areas with good public transport accessibility, such as the application site, development should aim for significantly less than 1 space per unit. The proposed parking ratio of 0.41 spaces is clearly significantly below this.

As noted by the Highways Planning Manager, the 2011 census showed that 46% of households had access to a car. Accordingly, providing parking for approximately 41% of residents is likely to give rise to an on-site parking shortfall resulting in some residents having to park on-street. Policy TRANS23 of the UDP details an 80% on-street car park occupancy threshold above which the provision of additional vehicles to the on-street parking environment will result in an unacceptable level of deficiency. Policy TRANS23 includes all legal parking spaces.

During the daytime period within the area, the legal on-street spaces for permit holders are Residents' Bays and Shared Use Bays. The evidence of the Council's most recent daytime parking survey in 2011 (Buchanan's) indicates that the parking occupancy of Residents' Bays and Shared Use Bays within a 250 metre radius of the development site is 90.1% (consisting of 155 Residents and 47 Shared Use Bays, 141 and 41 of which were occupied respectively). Overnight the pressure on Residents' and Shared Use Bays increases still further, to 92.1%, although residents can also park free of charge on metered parking bays or single yellow lines in the area.

The introduction of increased levels of residential in this area without adequate off-street parking or on-street parking restraint is likely to increase these stress levels. Ideally, a higher ratio of car parking spaces to dwellings should be provided. However, the applicant has offered to provide the parking on an unallocated basis and to provide lifetime car club membership for the occupants of all flats. Should permission be granted, it is recommended that this is secured via a deed of variation to the section 106 agreement for application ref: 15/11677/FULL. A condition is also recommended to ensure that parking is provided prior to occupation of each phase of the development.

The use of allocated parking as a way to fund additional affordable housing provision has recently been mooted. In this instance, the Highways Planning Manager considers it appropriate to maintain unallocated parking on the application site and WEG Site. If allocated parking were allowed on these sites some 466 units would not have access to any parking. Given car ownership rates in this ward (i.e. 46%) this could potentially result

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in demand for an additional 214 on-street parking spaces around the site. Furthermore, a requirement for allocated parking on the application site would conflict with the unallocated parking arrangement permitted on the WEG Site and would be very difficult to enforce. Accordingly, it is not considered appropriate to require allocated parking in this particular instance.

TFL sought clarification on the number of disabled spaces proposed. A total of 81 disabled parking spaces are required across the proposed development and WEG site. The applicant proposes providing 41 in the first instance, with the potential for additional provision dependent upon demand. The applicant has submitted a satisfactory drawing indicating how the additional 41 units can be accommodated.

Electric Vehicle Charging Point provision is also proposed in accordance with Policy 6.13 of the London Plan.

Given the above, the proposed parking arrangements are considered consistent with the development plan.

#### **8.4.3 Cycle Parking**

The proposal would result in 1390 cycle parking spaces across the application site and WEG Site. This meets the requirements of policy 6.9 of the London Plan. To ensure that these cycle spaces are secure, a condition is recommended that requires the provision of measures such as card access and CCTV to manage access to cycle parking areas.

#### **8.4.4 Servicing**

Like the consented WEG Development, all servicing would take place on-site, within the basement levels proposed and this is welcomed by TFL and the Highways Planning Manager.

A condition is also recommended to secure a detailed Delivery and Servicing Plan (DSP) to ensure that servicing is appropriately managed on-site. Subject to the recommended condition, the proposed development would be consistent with policy 6.14 of the London Plan, policy S42 of the City Plan and policy TRANS 20 of the UDP.

#### **8.4.5 Waste Provision**

The Waste Project Officer has reviewed the proposal and advises that he has no objection to the waste storage arrangements proposed. A condition is recommended to ensure that this waste provision is provided. Subject to this condition, the proposed development would accord with policy ENV 12 of the UDP.

#### **8.4.6 Impact on Public Transport Infrastructure**

London Underground and TFL have raised no objection to the impact of the proposal on public transport infrastructure. The proposed development would be consistent with policies 6.7 and 6.9 of the London Plan.

### **8.5 Economic Considerations**

The proposed development would enable existing residents of affordable housing within the Church Street and Paddington Green area to be decanted. This would enable the regeneration envisaged under the Futures Plan and Edgware Road Housing Zone to commence, leading to long term regeneration of the area and associated economic benefits.

In the short term, construction of the proposal and regeneration within the Church Street and Paddington Green area will also create job opportunities within the construction industry.

**8.6 Access**

The proposed residential units would all benefit from level access from the street. Lifts cores to all levels are also provided. Ten percent of the proposed units are wheelchair user adaptable, as per part M4 (3) (2) b of the building regulations. Approximately 90% of the proposed units also meet part M4 (2) of the building regulations. Sufficient disabled parking has been provided, as set out above. Overall the scheme is considered to comply with policy DES1 of the UDP and policy S28 in the City Plan in terms of accessibility.

**8.7 Other UDP/Westminster Policy Considerations**

**8.7.1 Overshadowing**

In addition to sunlight loss to residential properties noted above, the applicant has provided an overshadowing assessment that considers the impact of the additional height and bulk to Block G and H on the following areas:

- Public amenity space at Paddington Green; and
- Private amenity space on the roof of the City of Westminster College and to the front of 1-80 Hall Tower and Gilbert Sheldon House.

The overshadowing assessment has been carried out in accordance with BRE guidance on hours in sun and transient overshadowing. The BRE Guide specifies that a space will be adequately sunlit throughout the year if at least half of its area received at least two hours of sunlight on 21 March. If, as a result of new development, an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.

The overshadowing assessment indicates that Paddington Green, Westminster College and the front of 1-80 Hall Tower and Gilbert Sheldon House would receive adequate sunlight. Accordingly, the proposal is consistent with policy 7.7 of the London Plan and policy DES 3 (c) (4) of the UDP insofar as it relates to overshadowing.

**8.7.2 Solar Glare**

The applicant has undertaken a computer modelled analysis of solar glare to determine what impact the proposed development may have on solar glare in comparison to the consented WEG development. The following positions have been assessed:

- Edgware Road/Church Street Intersection;



- Edgware Road/Broadley Street Intersection;
- Edgware Road/Penfold Place Intersection;
- Edgware Road/Bell Street Intersection;
- Edgware Road Northbound Lane;
- A40/Harrow Road Eastbound; and
- A40 Westbound.

The assessment concludes that very isolated occurrences of solar glare may occur throughout the year when travelling northward on Edgware Road and travelling east and westward on the A40. These occurrences would last no more than 4 minutes at a time. Given the short duration and dispersed nature of the glare observed, an objection to the development on this basis would not be sustainable. Waterman's have also raised no concerns with respect to the Solar Glare assessment that forms part of the Environmental Statement.

Given the above, the proposal is consistent with policy 7.7 of the London Plan and policy DES 3 (c) (4) of the UDP insofar as it relates to solar glare.

### **8.7.3 Wind Turbulence**

The additional height and bulk of Blocks G and H may increase wind turbulence around the site in comparison to the consented WEG development.

The applicant has undertaken a wind tunnel assessment of the proposed development and its surrounds to model anticipated wind conditions in and around the application site. The Lawson Comfort Criteria (LCC) has been used as a benchmark against which to determine the acceptability of wind conditions for a range of expected pedestrian activities in and around the site. The LCC defines six categories of pedestrian activity and defines thresholds where wind speed (measured on the Beaufort Scale) occurs for a frequency that would be unsuitable for the intended activity. It ranges from 'sitting', where wind speed does not exceed Beaufort Scale 3 (defined as a gentle breeze capable of making leaves and twigs move or extend a flag) for more than 1% of the time to 'roads and car parks' where wind speed does not exceed Beaufort Scale 5 (defined as a fresh breeze capable of making small trees in leaf sway) for more than 6% of the time. Where wind speeds exceeding Beaufort Scale 6 (defined as a strong breeze capable of causing large tree branches to move or telephone wires to whistle) occur for more than one hour per year are predicted, these are recorded separately.

Outside the application site, the wind tunnel assessment concludes that, whilst some positions around the site would become marginally windier, others would become calmer compared to the consented WEG Development. However, all positions would remain suitable for their intended use (i.e. standing or sitting). Accordingly the proposal would not result in unacceptable wind conditions around the site.

Within the application site, the wind tunnel assessment notes that several positions within the internal amenity and circulation areas at ground floor level are likely to experience wind gusts unsuitable for sitting and where standing conditions have been modelled. However, the ES notes that this can be mitigated by appropriate landscaping and a condition is recommended to secure this. Subject to this condition, the proposal would not result in unacceptable wind turbulence within the site.

Given the above, the proposal is consistent with policy 7.7 of the London Plan and policy DES 3 (c) (4) of the UDP insofar as it relates to wind turbulence.

#### **8.7.4 Telecommunications**

A Telecommunications Assessment forms part of the Environmental Statement that accompanied the application. The Telecommunications Assessment concludes that the proposed development would have no greater impact on telecommunications networks than the consented WEG Development. Under the permission for the consented WEG development, a condition was recommended to secure monitoring of the network and appropriate mitigation measures where needed. It is recommended that this condition is imposed on this permission. Subject to the recommended conditions, the proposed development is consistent with policy 7.7 of the London Plan and policy DES 3 (c) (4) of the UDP insofar as it relates to telecommunications.

#### **8.7.5 Trees and Biodiversity**

The proposed development has been reviewed by the Arboricultural Manager. The proposed development would require removal of a young American Sweetgum tree and shrub planting in the garden of 17 Paddington Green. This tree could be replaced in new landscaping. There are no other existing trees within the site but there could be an indirect impact on the trees within Paddington Green Open and the London Plane on the corner of Newcastle Place and Edgware Road. A condition is recommended to secure details of tree protection.

The application site is located within an area of wildlife deficiency as identified in policy S38 of the City Plan. The existing site has very limited habitat and therefore its redevelopment will have a negligible impact on local ecology. The proposed landscaping to the communal amenity areas, green roofs and public realm areas offer the opportunity to provide biodiversity enhancement although the Arboricultural Manager notes that little detail has been provided at this stage. A condition is therefore recommended to secure hard and soft landscaping details. Subject to these conditions, the proposed development would be consistent with policy ENV 16 of the UDP and policy S38 of the City Plan.

#### **8.7.6 Sustainability**

Policy 5.2 of the London Plan refers to minimising carbon dioxide emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be Lean-Use less energy.
2. Be Clean-Supply energy efficiently.
3. Be Green-Use renewable energy.

Policy 5.2 also states that where specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to secure delivery of carbon dioxide savings elsewhere.

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture.

Policy S39 of the City Plan states that major development should be designed to link to and extend existing heat and energy networks in the vicinity, except where the City Council considers that it is not practical or viable to do so.

Policy S40 requires all major development to maximise on-site renewable energy generation to achieve at least a 20% reduction in carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considered it not appropriate or practical due to site-specific considerations.

### Sustainable Construction

The residential components of the development have been designed to meet Code for Sustainable Homes Level 4. This is supported although the City Council can no longer impose conditions requiring this due to changes introduced by central government.

### CO2 Emissions

The proposed development would achieve a 40% reduction in CO2 emissions compared to 2013 Building Regulations, in accordance with policy 5.2 of the London Plan. However domestic buildings are now required to be zero carbon. Accordingly, the remaining regulated carbon dioxide emissions, equivalent to 130 tonnes of carbon dioxide per annum, would need to be mitigated through a carbon offset payment of £233,622.00. It is recommended that this is secured via a legal agreement.

### Heating and Cooling Plant

Like the consented WEG development, the proposal would include a site wide heat and cooling network for the development. The applicant proposes a standalone on-site solution with the ability to connect to the Church Street District Heating Scheme (CSDHS) once constructed. It is recommended that this is secured via a legal agreement that requires either;

- a) A connection and supply agreement with the CSDHS owner (using all reasonable endeavours); or
- b) If a) cannot be achieved, implementation of an agreed fall-back position.

The heating system described in the submitted Energy and Sustainability scheme is acceptable as a fall-back system and details of it and its long term operation and maintenance can be secured by condition.

Subject to the deed of variation and recommended conditions, the proposed development would be consistent with policy 5.2 of the London Plan and policies S28, S39 and S40 of the City Plan.

## **8.7.7 Air Quality**

The ES notes that emissions from the proposed developments traffic and energy centre would result in a moderate adverse effect on air quality for future residents and at two points on Church Street, particularly from NO<sub>2</sub> emissions. The ES recommends provision of mechanical air filtration for units on the facades affected and implementation of a Travel Plan to encourage sustainable travel. Conditions are recommended to secure this.

Subject to these conditions, the proposal would accord with policy S31 of the City Plan and policy ENV5 of the UDP.

### **8.7.8 Sustainable Urban Drainage Systems (SUDS)**

Policy 5.13 of the London Plan specifies that development should utilise Sustainable Urban Drainage Systems (SUDS) unless there are practical reasons for not doing so, should aim to achieve greenfield run-off rates, and ensure that surface water run-off is managed as close as possible to its source.

The proposed development would include brown roofs and a significant area of soft landscaping within the communal amenity areas. Whilst this would not achieve greenfield run-off rates, it would provide significant attenuation at source for run-off from the proposed development. The Lead Local Flood Authority has also been consulted and any comments received will be reported verbally. Accordingly, the drainage system proposed is considered acceptable.

### **8.7.9 Contamination**

The site has a number of historic uses at the site, such as garages, motor works, printing works and varnish and colour works. Ground investigations revealed contaminants including lead, hydrocarbons, coal, tar, mineral oil deposits and asbestos. These have the potential to cause significant harm to future residents if not adequately mitigated. To ensure that this does occur, a condition is recommended requiring preparation of an adequate mitigation strategy. Subject to this condition, the proposed development would be consistent with policy ENV 8 of the UDP.

### **8.8 London Plan**

The application is referable to the Mayor as it contains more than 150 flats and is a development over 30 metres in height. The Mayor has advised in his 'Stage 1' response (see background papers) that as initially submitted (i.e. prior to amendments referred to elsewhere in this report), the application does not comply with the London Plan. The applicant has been requested to reconsider the areas of concern to the Mayor and the amendments made in response are set out in the relevant sections of this report.

If Committee resolve to grant permission, this application needs to be reported back to the Mayor, and the Mayor has 14 days to direct approval or refusal.

### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF and NPPG unless stated otherwise.

### **8.10 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations 2010 (as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council introduced its own Community Infrastructure Levy (CIL) on 1 May 2016. As set out above, the development would be liable for a CIL payment of £6,103,180.56, subject to any relief or exemptions available. This payment would provide substantial mitigation for the impact of the development on local infrastructure, including social infrastructure such as GP surgeries and schools. Because of this, it is not necessary to secure planning obligations for such items of infrastructure via a section 106 agreement.

The proposed development would slot into the WEG site, overlapping the area where earlier iterations of Blocks G and H have been approved. Application ref: 15/11677/FULL and subsequent amendments are accompanied by a section 106 agreement which applies to the WEG Site only. As a result, it will be necessary to ensure that, in the event that this permission is implemented, the section 106 agreement for application ref: 15/11677/FULL is varied and applied appropriately. A Deed of Variation to the section 106 agreement for application ref: 15/11677/FULL is therefore required. For reasons outlined elsewhere in this report, the Deed of Variation will also need to secure the following:

- a) 32 affordable units on-site comprising 19 social rented units and 13 intermediate units;
- b) A carbon offset payment of £233,622.00 (index linked and payable on commencement of development). Not payable if connection and supply agreement to Church Street District Heating Scheme (CSDHS) agreed;
- c) A reduction of £56,339 (index linked) to the £631,000 education contribution secured under application ref: 15/11677/FULL, in the event that this permission is implemented;
- d) Payment of the cost of highway works associated with the development on Newcastle Place, Paddington Green and Church Street;

- e) Provision of lifetime car club membership (25 years) for each residential unit in the development;
- f) Provision of on-site parking on an unallocated basis (i.e. not sold or let with a particular flat);
- g) Developer undertaking to use best endeavours to negotiate a connection and supply agreement with the CSDHS. In the event that the, CSDHS does not go ahead, installation of CHP plant;
- h) Offering local employment opportunities during construction; and
- i) Payment of cost of monitoring the agreement (£10,000).

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations 2010 (as amended).

### 8.11 Environmental Impact Assessment

The proposed development is EIA development for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) ("the EIA Regulations").

The City Council issued a scoping opinion (see ref: 16/10034/EIASCO) and the applicant has submitted an ES that contains consideration of the environmental effects noted in that scoping opinion. The ES has been reviewed on behalf of the City Council by Waterman Infrastructure and Environment Limited ("Waterman's") who advise that no further information is required pursuant to regulation 22 of the EIA Regulations.

In putting forward this recommendation, officers have taken into account the ES. Officers are satisfied that the environmental information as a whole meets the requirements of the EIA Regulations and that sufficient information has been provided to enable assessment of the environmental impact of the application.

The purpose of the EIA is to predict how environmental conditions may change as a result of the proposed development and to specify any investigative measures. The ES has considered the potential direct, indirect and cumulative impact of the proposal and these are identified as: Adverse (negative); Neutral (neither beneficial nor positive); or Beneficial (positive).

Where adverse or beneficial effects have been identified, these are classified as:

- Negligible – imperceptible effect;
- Minor – slight, very short or highly localised effect;
- Moderate – noticeable effect (by extent duration or magnitude), which is considered a significant change; or
- Major - considerable effect (by extent, duration or magnitude) of more than local scale that may be in breach of recognised acceptability, legislation, policy or standards.

The environmental issues considered within the ES have been covered fully in the Land Use; Conservation, Townscape and Design; Transportation/Parking; Residential Amenity; Air Quality; Wind Turbulence; and Telecommunications sections.

The cumulative effects of the proposed development and the consented WEG development are summarised as follows:

- Displacement of existing residential occupants which would have a Minor Adverse effect at a neighbourhood level;
- Changes in pedestrian severance from Negligible to a Minor Adverse at Church Street and Negligible at all other links;
- Increased noise from demolition and construction traffic which would change from No Effect to Negligible;
- Increased road traffic noise which would change from Church Street Minor Adverse and all other links no to negligible effect to Church Street Moderate Adverse and all other links no to Negligible effect;
- Changes to daylight and sunlight as 14, 15, 16 and 17 Paddington Green have now been removed as the demolition of 14 – 16 Paddington Green and the alteration and refurbishment of 17 Paddington Green form part of the development;
- Changes to sunlight at Mary Adelaide House which would change from Negligible to Negligible to Major Adverse;
- Change to daylight and sunlight at 1-80 Hall Tower which would change from Daylight: Major Beneficial to Major Adverse to Negligible to Major Adverse, and for Sunlight from: Major Beneficial to Major Adverse to Negligible to Major Adverse;
- Change to daylight at Gilbert Sheldon House which would change from Major Beneficial to Minor Adverse to Negligible Beneficial to Moderate Adverse;
- Change to daylight at 394-390 Edgware Road which would change from Negligible to Negligible to Minor Adverse;
- Daylight and sunlight at 352-330 Edgware Road where effects would change from Sunlight: Negligible to Major Adverse to Negligible to Moderate Adverse and Daylight: Negligible to Moderate Adverse to Negligible to Major Adverse and Sunlight: Moderate Beneficial to Major Adverse to Negligible to Moderate Adverse;
- Daylight at 328-314 Edgware Road where effects would change from Negligible to Minor Beneficial to Negligible;
- Overshadowing of public and private amenity space in Amended Proposed Development which would change form Negligible to Major Adverse;
- Windier than desired conditions at terrace/balcony level amenity areas (summer season) which would change from Minor Adverse to Negligible to Negligible;
- Changes to Built Heritage: Townscape character of Paddington Green Conservation Area and townscape setting of Children’s Hospital, Nos. 17 and 18 Paddington Green, Church of St. Mary which would change from Moderate Adverse effect and temporary (Significant but temporary effect) to Moderate-Major significance in respect of Nos. 17-18 Paddington Green and Paddington Green Conservation Area; and Moderate significance in respect of Church of St Mary, Adverse effect and temporary (Significant but temporary effect);
- A Moderate to Major Beneficial effect (Significant effect) on views across Paddington Green; and
- Significant adverse heritage effects on the Paddington Green Conservation Area and the setting of the listed buildings of the former Paddington Children’s’ Hospital and 18 Paddington Green.

Conditions and planning obligations to mitigate the environmental effects identified have been recommended throughout this report.

## 8.12 Other Issues

### 8.12.1 Basement

The basement levels must be considered against policy CM28.1 of the City Plan. The application site does not contain garden land whilst the proposed basement would include adequate soil depth under the courtyard area and does not require a margin of undeveloped land given the extent of built development on-site at present. The development does include two basement levels. However, this is a large and highly accessible development site which would also construction to occur without harm to neighbouring uses or amenity. Construction of the basement itself would not harm heritage assets. Accordingly, the exceptional circumstance set out in Part C (3) of the policy is met and the double storey basement proposed is considered acceptable in this instance.

### 8.12.2 Construction Impact

Objections have been received from neighbouring properties regarding the impact of construction, including noise and traffic.

It is a long standing principle that planning permission cannot be refused due to the impact of construction. This is due to its temporary nature and the ability to control it by condition and legal agreement. Accordingly, conditions are recommended that limit the hours of construction and require adherence to the City Council's Code of Construction Practice.

## 9 CONCLUSION

The height and bulk of the proposed buildings would result in less than substantial harm to the setting of and outlook from the Paddington Green Conservation Area and the setting of listed buildings at 18 Paddington Green and the Children's Hospital. Demolition of the Unlisted Buildings of Merit at 14-16 Paddington Green to facilitate this development would also result in less than substantial harm.

However, there are a number of public benefits arising from the development. These include:

- Facilitating development of a long stalled site of strategic importance which is a blight on the setting of neighbouring conservation areas and listed buildings and this major thoroughfare into Central London;
- Provision of a high quality series of buildings and permeable public spaces that would complete this urban block and contribute positively to the Paddington Green Conservation Area;
- Facilitating the Church Street Regeneration and Edgware Road Housing Zone through provision of decant space through the proposed affordable units;
- Provision of a significant level of market housing on-site;
- Provision of affordable housing on-site (the maximum that the applicant can viably provide); and
- Significant public realm improvements around and throughout the site.

Officers consider that the public benefits of the development would outweigh the less than substantial harm to heritage assets identified above. The development would also accord with the development plan in all other respects and it is therefore recommended that



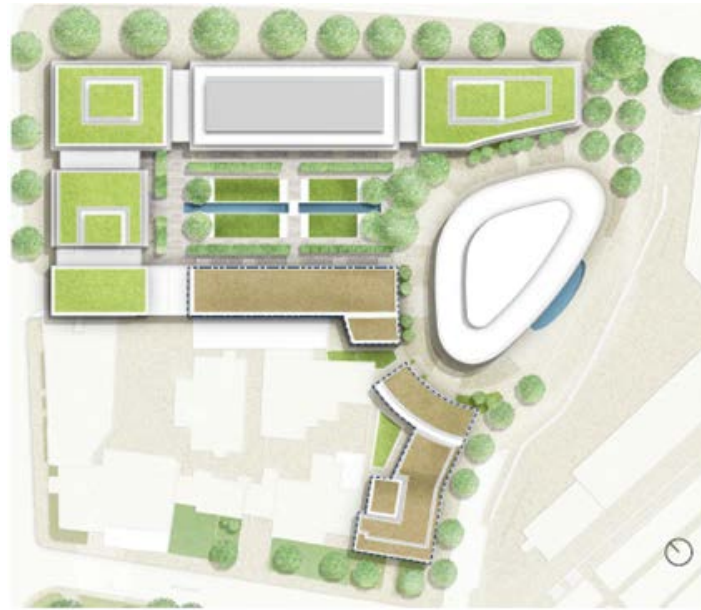
planning permission and listed building consent are granted, subject to referral back to the Mayor of London, subject to a legal agreement and subject to the conditions set out in the draft decision letters appended to this report.

## 10 BACKGROUND PAPERS

1. Application form
2. Response from Greater London Authority, dated 6 March 2017
3. Emails from Councillor Arzymanow, dated 19 April 2016 to 27 March 2017
4. Responses from Historic England, dated 8 February 2017 and 8 February 2017
5. Response from Historic England (Archaeology), dated 26 January 2017
6. Response from London Underground, dated 17 January 2017
7. Response from the Environment Agency, dated January 2017
8. Responses from Transport for London, dated 18 January 2017 and 3 February 2017
9. Response from Thames Water, dated 30 January 2017
10. Response from Natural England, dated 17 January 2017
11. Response from Highways Planning Manager, dated 7 April 2017
12. Responses from Head of Affordable and Private Sector Housing, dated 1 and 28 June 2017
13. Response from Energy Officer, dated 3 April 2017
14. Response from Arboricultural Manager, dated 13 February 2017
15. Response from Parks & Gardens Department, dated 6 February 2017
16. Response from Waste Project Officer, dated 16 January 2017
17. Response from Paddington Waterways and Maida Vale Society, dated 17 February 2017
18. Response from North Paddington Society, dated 3 February 2017
19. Response from The Marylebone Association, dated 30 January 2017
20. Response from The St Marylebone Society, dated 15 January 2017
21. Response from Notting Hill East Neighbourhood Forum, dated 24 January 2017
22. Letter from occupier of 44 Manor Way, Ruislip, dated 30 December 2016
23. Letter from occupier of 83 Fernhead Road, London, dated 30 December 2016
24. Letter from occupier of Flat 3, 3 St Mary's Terrace, dated 12 January 2017
25. Letter from occupier of Flat 12, Lampard House, 8 Maida Avenue, dated 12 January 2017
26. Letter from occupier of 48 Lambourne House, 100 Broadley Street, dated 17 January 2017
27. Letter from occupier of 3 Hogan Mews, dated 20 January 2017
28. Letters from occupier of 99 St Marys Mansions, St Marys Terrace, dated 26 January 2017 and 12 February 2017
29. Letter from occupier of Paddington Green Health Centre, 4 Princess Louise Close, dated 26 January 2017
30. Letter from occupier of Flat 37, 5 Harbet Road, dated 6 February 2017
31. Letter from occupier of Flat 28, St Marys Mansions, St Marys Terrace, dated 15 February 2017
32. Letter from occupier of Flat 2, 73-75 Bell Street, dated 19 February 2017
33. Letter from occupier of Athene Place , 66 Shoe Lane, dated 23 May 2017

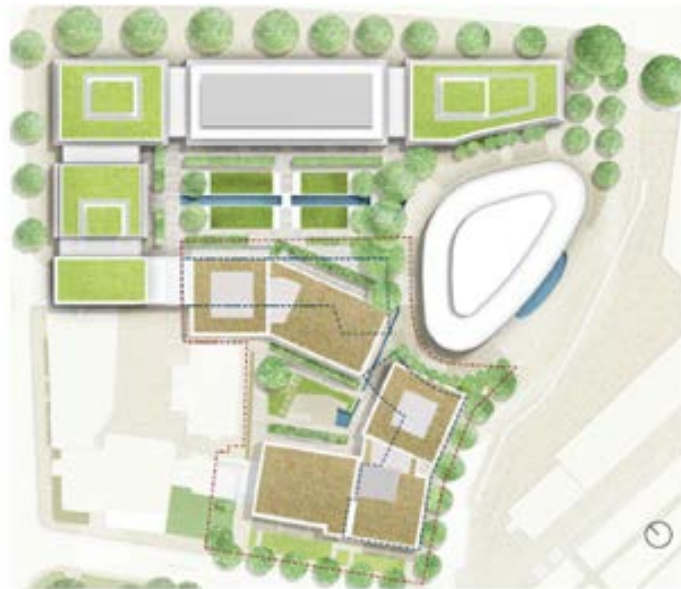
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT [nbarrett@westminster.gov.uk](mailto:nbarrett@westminster.gov.uk).

10 KEY DRAWINGS



Consented West End Green Masterplan

----- Consented Blocks G & H to be replaced by 14.17  
Paddington Green proposed design



Proposed Masterplan showing 14.17 Paddington Green Scheme

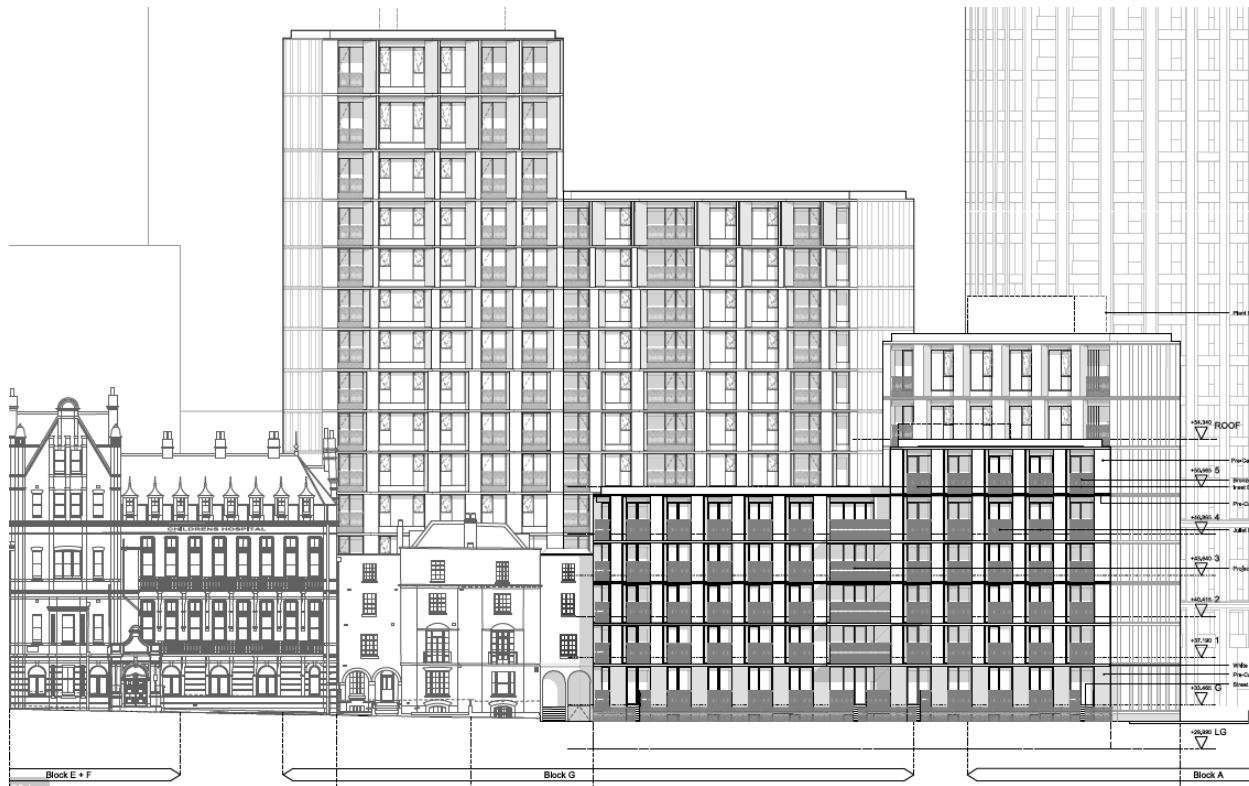
----- Consented Blocks G & H replaced by 14.17 Paddington  
Green proposed design  
----- 14.17 Paddington Green Site Boundary

Site Plan Showing Consented WEG Development (top) and Proposal's Relationship to WEG Development (bottom)

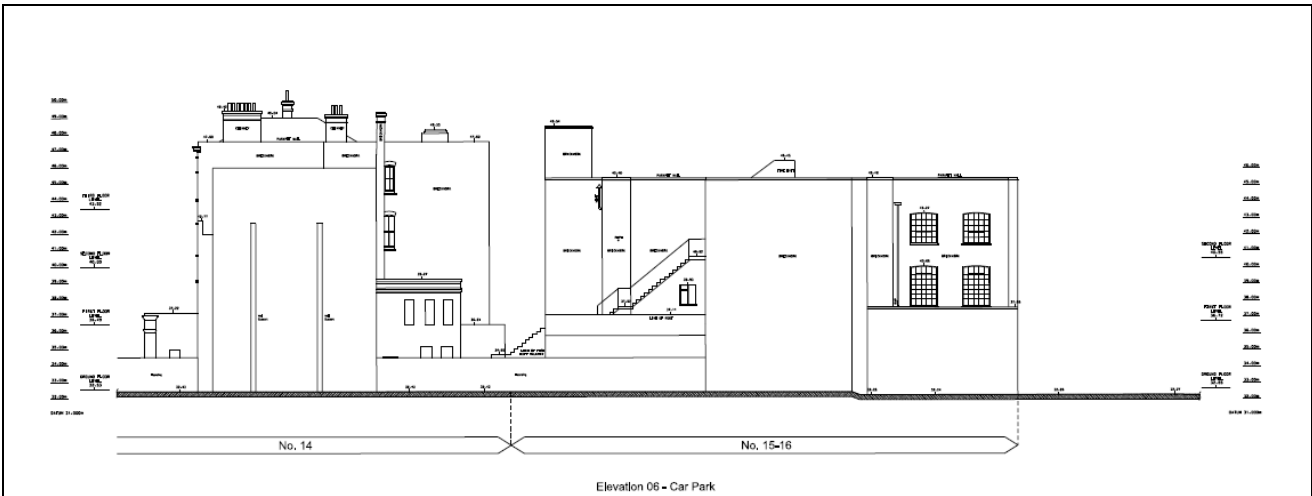


Elevation 01 - Paddington Green

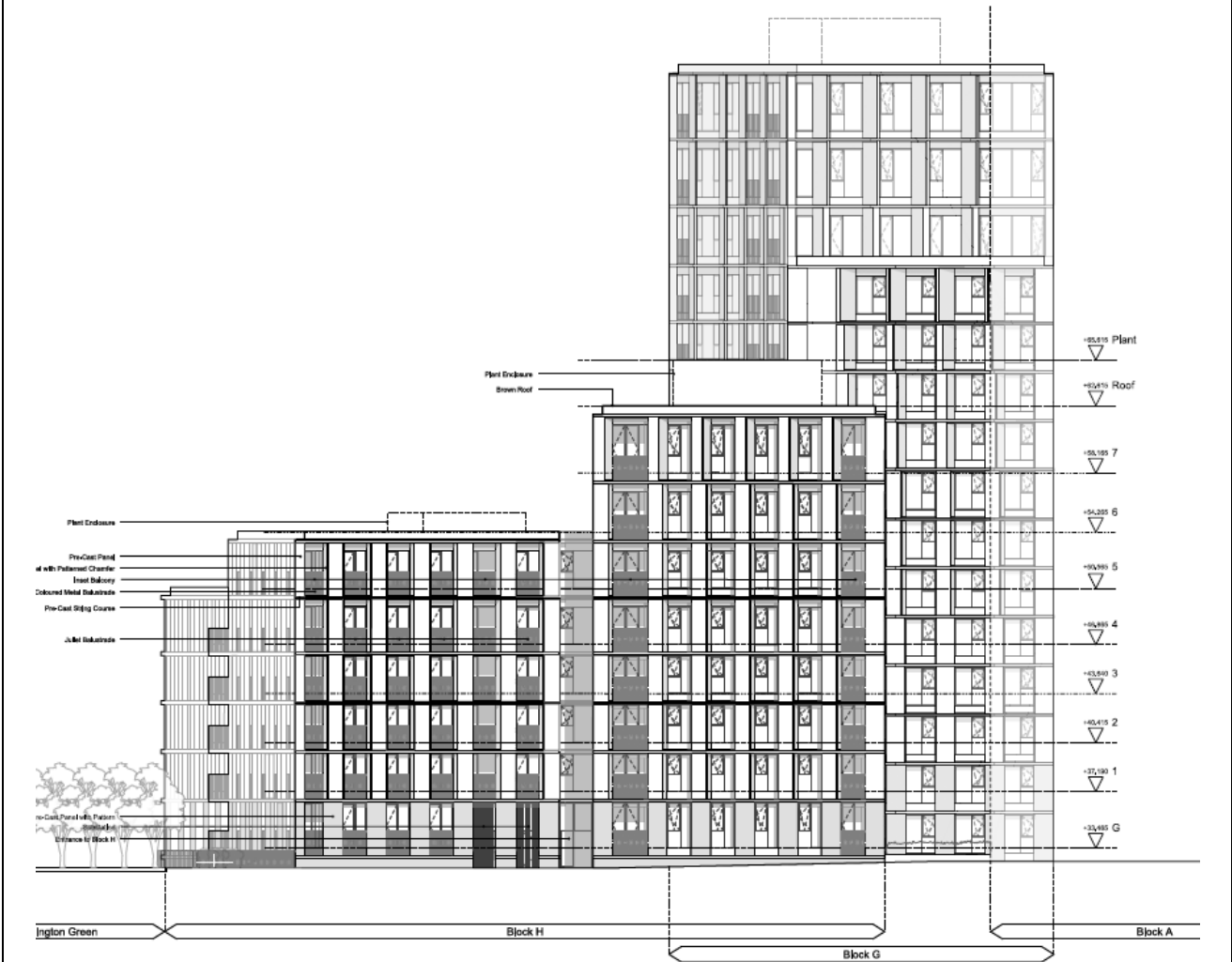
### Existing Paddington Green (West) Elevation



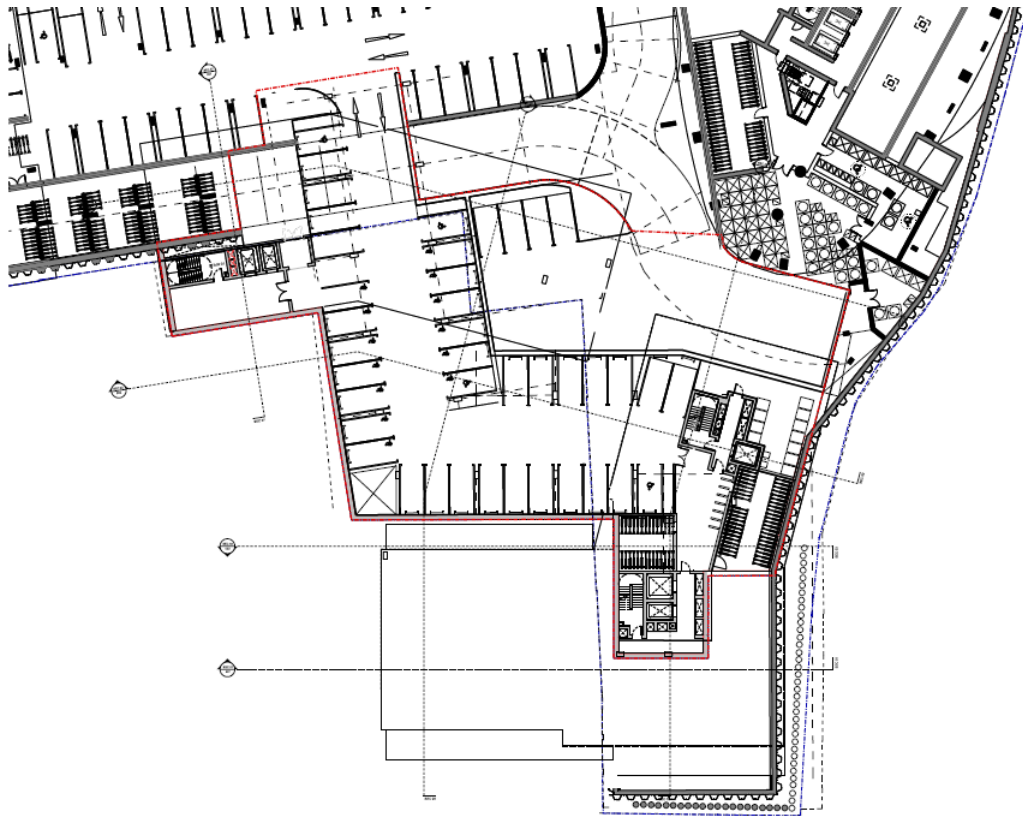
### Proposed Paddington Green (West) Elevation



### Existing Newcastle Place (South) Elevation



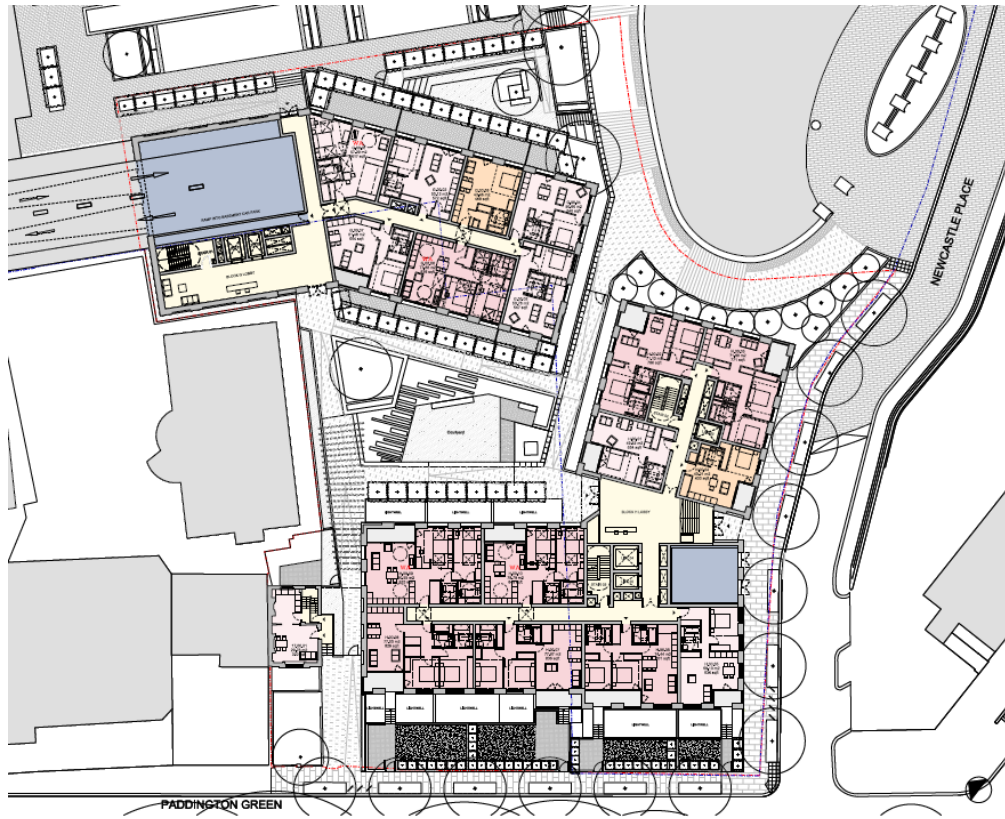
### Proposed Newcastle Place (South) Elevation



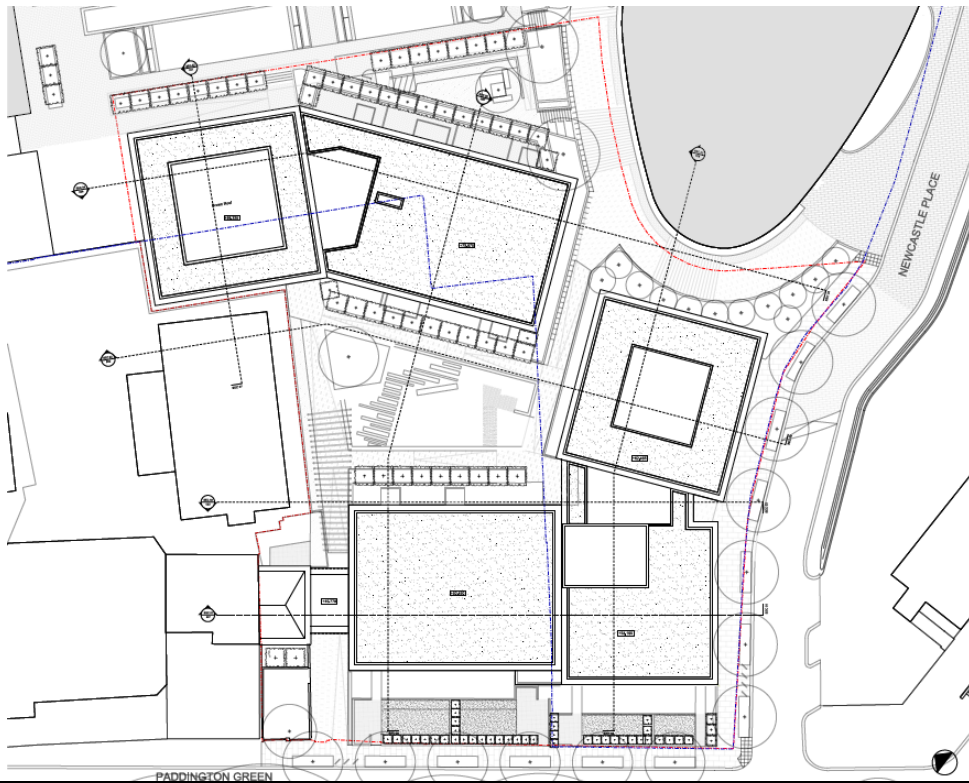
**Proposed Basement Parking Level**



**Proposed Lower Ground Floor Level**



**Proposed Ground Floor Plan**



**Proposed Roof Plan**



**Image of Proposed Development from Paddington Green / Church Street Intersection**



**Image of Proposed Courtyard (r/o 17 Paddington Green to right)**

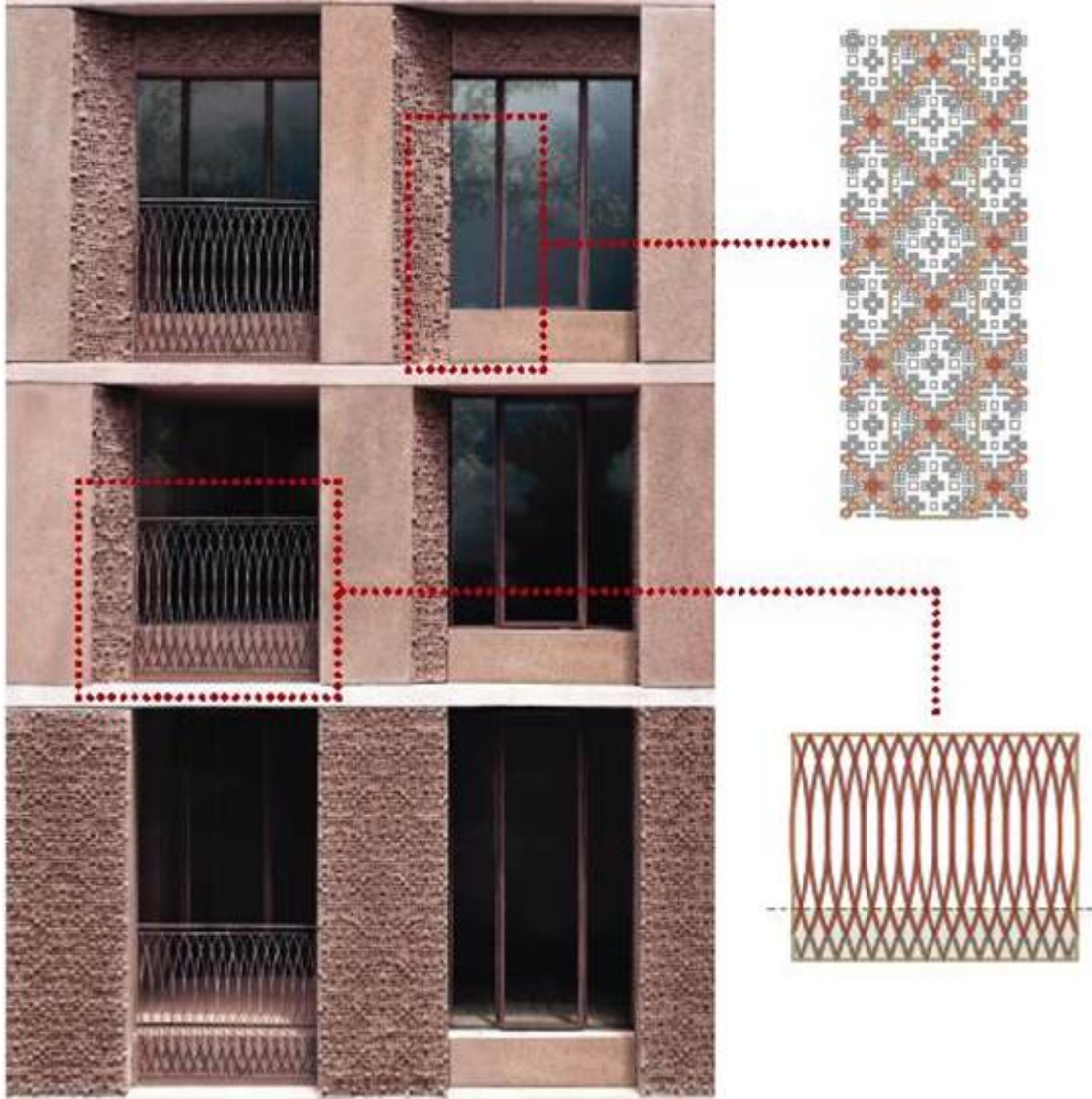


**Image of Proposed Development from Paddington Green**





Image of Proposed Development Looking Across Paddington Green



Bay Detail to New Blocks

**DRAFT DECISION LETTER**

**Address:** Development Site At 14 To 17, Paddington Green, London, ,

**Proposal:** Demolition and redevelopment of 14-16 Paddington Green; alteration and partial demolition of 17 Paddington Green; development of land to the east and south of 14-17 Paddington Green (part of site known as 'West End Green') to provide buildings ranging between 4 and 14 upper storeys to provide up to 200 residential units, with associated landscaping, basement car and cycle parking and servicing provision. This application is accompanied by an Environmental Impact Assessment.

**Reference:** 16/11562/FULL

**Plan Nos:** Drawing no's. 13503-A-L-2-P00-000, 13503-A-L-1-P00-001 Rev B, 13503-A-L00-P00-002 Rev B, 13503-A-L01-P00-003 Rev B, 13503-A-L02-P00-004 Rev B, 13503-A-L03-P00-005 Rev B, 13503-A-L04-P00-006 Rev A, 13503-A-L05-P00-007 Rev A, 13503-A-L06-P00-008 Rev A, 13503-A-L07-P00-009 Rev A, 13503-A-L08-P00-010 Rev A, 13503-A-L09-P00-011 Rev A, 13503-A-L10-P00-012 Rev A, 13503-A-L11-P00-013 Rev A, 13503-A-L12-P00-014 Rev A, 13503-A-L13-P00-015 Rev A, 13503-A-L14-P00-016 Rev A, 13503-A-L15-P00-017 Rev A, 13503-A-L15-P00-018 Rev B, 13503-A-L15-P00-019 Rev B, 13503-A-L15-P00-020 Rev B, 13503-A-L15-P00-021 Rev B, 13503-A-L15-P00-022 Rev B, 13503-A-L15-P00-023 Rev A, 13503-A-L-1-P01-101, 13503-A-L00-P01-102, 13503-A-L01-P01-103, 13503-A-L02-P01-104, 13503-A-L03-P01-105, 13503-A-L04-P01-106, 13503-A-LXX-P01-107, 13503-A-LXX-P01-108, 13503-A-LXX-P01-109, 13503-A-L-1-P02-201, 13503-A-L00-P02-202, 13503-A-L01-P02-203, 13503-A-L02-P02-204, 13503-A-L03-P02-205, 13503-A-L04-P02-206, 13503-A-LXX-P02-207, 13503-A-LXX-P02-208, 13503-A-LXX-P02-209, 13503-A-LXX-P03-301, 13503-A-LXX-P03-302, 13503-A-LXX-P03-303, 13503-A-LXX-P03-304, 13503-A-LXX-P03-305, 13503-A-LXX-P03-306, 13503-A-LXX-P04-401, 13503-A-LXX-P04-402, 13503-A-LXX-P04-403, 13503-A-LXX-P04-404, 13503-A-LXX-P04-405, 13503-A-LXX-P05-501, 13503-A-LXX-P05-502, 13503-A-LXX-P05-503, 13503-A-LXX-P05-504, 13503-A-LXX-P05-505, 13503-A-LXX-P05-506, 13503-A-LXX-P05-507; Environment Statement Volumes 1, 2, 3, 4A and 4B by Ramboll Environ (December 2016); Design and Access Statement by Piercy and Company (December 2016); Design and Access Statement Addendum by Piercy and Company (May 2017); Planning Statement by Turley (December 2016); Energy and Sustainability Statement by Buro Happauld Engineering (Rev 2 – 20 December 2016); Email from Laurence Brooker of Turley Containing Revised Affordable Housing Offer (10.29 am 28 June 2017); Document titled "Westminster City Council Presentation – response to Comments" by Piercy and Company (30 June 2017).

**Case Officer:** Nathan Barrett **Direct Tel. No.** 020 7641 5943

**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

Item No.
1

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 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:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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)

- 3 You must not carry out demolition work to nos. 14-16 Paddington Green, or to the side wing of no. 17 Paddington Green unless it is part of the complete development of the new buildings on the site of nos. 14-16 Paddington Green or the development of the replacement side wing of no. 17 Paddington Green (respectively). You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 **Pre-Commencement Condition:** You must apply to the City Council (in consultation with Transport for London) for approval of a Construction Logistics Plan, which identifies efficiency and sustainability measures to be carried out while the development is being built. You must not carry out the development until the plan has been approved. You must then carry out the development in accordance with the approved plan.

Reason:

To ensure that the construction logistics for the development minimise nuisance and disturbance in the interests of the amenities of neighbouring occupiers and of the area generally, and to avoid hazard and obstruction to the public highway. This is as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 5 **Pre Commencement Condition.** No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason:

The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

- 6 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 A scheme for the installation and use of window washing and other external maintenance equipment shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such equipment, including details of any edge protection or roof safety measures to main roof levels. The approved scheme shall be implemented and maintained and the equipment shall thereafter be kept in its stored positions other than at those times when it is in use for the intended purpose.

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 You must apply to us for approval of plans, elevations, sections and manufacturers specifications (as appropriate) to show all new plant screens. This shall include confirmation on their height, position to roof level, and the colour and finish of the screens. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings and specifications. (C26DB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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- 9 You must put up the plant screens shown on the approved drawings and as shown in the drawings as secured by condition 8 to main roof level of each of the relevant buildings before you use the machinery within. You must then maintain them in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 10 You must not paint any elements of the outside walls of the building without our permission, unless specified as painted on the submitted drawings. This is despite the fact that this work would normally be 'permitted development' under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order that may replace it).

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 11 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balconies or flat roof terraces shown to the approved drawings. (C26OA)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 12 You must provide a roof plan of the site showing the locations of all green and brown roofs, and you must then provide these bio-diversity features before you start to use any part of the development beneath each green or brown roof to be provided

Once installed, you must not remove any of these features.

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 13 You must apply to us for approval of detailed elevation drawings showing the design of all new external metalwork (including both railings to balconies, and also external stairs and other metalwork to ground floor level to the Paddington Green frontage). You must not start any work

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on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 14 You must apply to us for approval of an elevation and a section drawing showing the new front boundary walls to the Paddington Green frontage (to include confirmation of materials and finish). You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings, and these boundary walls must be installed prior to the occupation of the new buildings fronting onto Paddington Green. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 15 You must apply to us for approval of an elevation showing brick arches incorporated to the window openings to both front and rear elevations of the new side wing to no. 17 Paddington Green. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 16 The windows to the new side wing to no. 17 Paddington Green shall be formed in glazing and white painted timber framing, and shall be designed as single glazed windows operating in a vertically sliding manner only

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 17 The roof to the new side wing to no. 17 Paddington Green shall be faced in lead to pitched roofs and flat roof

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 18 You must apply to us for approval of a scheme of public art as described in the Design and Access Statement. You must not start work on the public art until we have approved what you have sent us. Unless we agree an alternative date by which the public art is to be provided, you must carry out each part of the scheme of public art that we approve according to the approved details within six months of occupation of the most immediately adjacent building as part of the development. You must then maintain the approved public art and keep it on this site. You must not move or remove it.

Reason:

To secure the offer of public art and to make sure that the appearance of the building is suitable. This is as set out in DES 7 (A) of our Unitary Development Plan that we adopted in January 2007. (R26GC)

- 19 You must apply to us for approval of elevation and section drawings (with these drawings annotated to show material finishes) showing the front, rear and internal elevations of the new pedestrian link route through no. 17 Paddington Green at ground floor level. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 20 The facing brickwork to the new side wing to no. 17 Paddington Green must match the existing original brickwork adjacent to the main elevations of no. 17 Paddington Green in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 21 You must apply to us for approval of the following elevation drawings:-

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- South elevation to the 15 storey block
- North elevation to the 15 storey block
- South-west elevation to the 12 storey block
- North-east elevation to the 8 storey block
- North elevation to the 5 storey block
- West elevation to the 5 and 6 storey blocks to their Paddington Green frontage

These elevation drawings must be annotated to show proposed use of materials. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 22 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 23 You must apply to us for approval of detailed section drawings showing the relationship between the pre-cast panels to the outer elevation with the pre-cast panels to the chamfers, and the pre-cast panels to the outer elevation with the pre-cast panels to be used as cill courses. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 24 You must apply to us for approval of full size benchmark mock ups of the following sections of the façades:
- Pre-cast panel (plain), and
  - Pre-cast panel (textured)



The mock ups should demonstrate finished construction appearance/detailing, and should be constructed on site and retained on site as benchmarks to be replicated on the new building. You must not start any work on the relevant part of the development until we have approved the mock ups. You must then carry out the work according to the approved mock ups.

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 25 You must apply to us for approval of elevation drawings annotated to show the locations of the string courses in white pre-cast concrete. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 26 You must apply to us for approval of detailed plan/section/elevation drawings/manufacturers specifications (as appropriate) of the following parts of the development:-

- a) External doors and windows (including reveal depth and detail and including substation doors);
- b) Balcony details, including external reveals inside balcony areas and undersides to balconies (both annotated to show finished materials), balustrades and method of drainage;
- c) Fencing/railings or other means of enclosure surrounding buildings (and including any means of enclosure to both east and west sides of central courtyard area);
- d) Typical bay elevations showing structural and cladding joints and detailing (to include details of each elevation to each building);
- e) Details of ventilation and other services termination at façade or roof;
- f) Details of any centralised satellite dish and TV system(s) to serve the development;
- g) External integral lighting to buildings and courtyard.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings/details.

Reason:

To make sure that the appearance of the buildings are suitable and that they contribute to the character and appearance of the area and this part of the Paddington Green Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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- 27 No development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:
- a) The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and
  - b) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 28 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1 and 2 before any demolition or excavation work starts, and for phase 3 when the development has been completed.

Phase 1: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 2: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 3: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

- 29 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. The landscaping strategy shall include measures to mitigate window turbulence from the faces of the buildings hereby approved. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within one year of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within five

years of planting them, you must replace them with trees of a similar size and species.  
(C30CB)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30AC)

- 30 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
  - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
  - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
  - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
  - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
  - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
  - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
  - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
  - (i) The proposed maximum noise level to be emitted by the plant and equipment.

## Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

31 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the residential use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the residential use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

## Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is

protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 32 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 33 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB LAmax is not to be exceeded more than 15 times per night from sources other than emergency sirens.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 34 The residential properties must not be occupied until a statement from a suitably qualified engineer to confirm that the Electro Magnetic frequency (EMF) levels associated with the substations are in accordance with current legal requirements and/or appropriate guidance.

Reason:

To ensure that the substations do not harm the health of future residents.

- 35 A scheme of mechanical ventilation incorporating appropriate air quality filtration should be provided to the residential properties. Details of the scheme must be submitted to and approved in writing by the local planning authority prior to the occupation of the residential units. The mechanical ventilation shall be installed and maintained in accordance with the approved scheme.

Reason:

To safeguard the living conditions of the occupiers of the residential units as set out in S31 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 5 of our Unitary Development Plan that we adopted January 2007.

- 36 Before occupation of the residential units, you must apply to us for approval of a Travel Plan. The Travel Plan must include details of:

(a) Targets and actions set out in the Travel Plan to reduce car journeys to the site;

(d) Details of how the Travel Plan will be regularly monitored and amended, if necessary, if targets identified in the Travel Plan are not being met over a period of 5 years from the date the buildings are occupied.

At the end of the first and third years of the life of the Travel Plan, you must apply to us for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

Reason:

To safeguard the living conditions of the occupiers of the residential units as set out in S31 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 5 of our Unitary Development Plan that we adopted January 2007.

- 37 The development hereby approved shall not be occupied until a Delivery and Servicing Plan (DSP) has been submitted to and approved in writing by the City Council, in consultation with Transport for London. You must then carry out the development in accordance with the approved details.

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: Strategic Policies adopted November 2013 and TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 38 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. Car parking for each residential block shall be provided before that block is occupied.

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 39 You must apply to us for approval of the following parts of the development:

- the location of 12 Electric Vehicle Charging Points within the basement parking level.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings.

Reason:

To encourage sustainable transport, in accordance with policy 6.13 of The London Plan (March 2016).

- 40 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose. Cycle parking for each residential block shall be provided before that block is occupied.

Reason:

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To provide cycle parking spaces for people using the development, as set out in policy 6.9 of The London Plan (March 2016).

- 41 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

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)

- 42 You must provide a headroom of at least 4.5 (clear unobstructed height above the floor surface level) across the full width of the entrance to the service bay, and throughout the service bay itself. (C23EA)

Reason:

To make sure that the service bay will be available for all types of vehicles for which it has been designed, 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. (R23BB)

- 43 The disabled parking spaces marked on the approved drawings shall be for the use of Blue Badge holders only (or any other scheme that may supersede it).

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 44 You must apply to us for approval of measures (such as, but not limited to, CCTV and card access) to provide secure cycle parking within the basement levels. You must not use this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation.

Reason:

To ensure that the cycle parking spaces are secure, as set out in policy 6.9 of The London Plan (March 2016).

- 45 Before first operation of the energy centre, details of its long term operation and maintenance shall be submitted to and approved in writing by the local planning authority. The energy centre shall be operated and maintained in accordance with the approved details thereafter.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

- 46 You must apply to us for approval of details of children's playspace / equipment to be provided

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as part of the development. You must not start work on this part of the development until we have approved what you send us. You must then carry out the development in accordance with the details we approve.

Reason:

To ensure that the development provides play and information recreation space for children in accordance with Policy SOC6 in the Unitary Development Plan we adopted in January 2007 and policy 3.6 of the London Plan (March 2016).

- 47 You must apply to us for approval of detailed drawings indicating the location, number and type of bird and bat boxes to be incorporated within the development. You must then install these boxes on the development in accordance with the details we approved. The boxes shall be installed prior to the occupation of the residential part of the development.

Reason:

To reduce the effect the development has on the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007.

- 48 The three bedroom residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

Reason:

To protect family accommodation as set out in S15 of Westminster's City Plan (November 2016) and H 5 of our Unitary Development Plan that we adopted in January 2007. (R07DC)

- 49 **Pre-commencement Condition.** Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application

Reason:

To protect the environment of neighbouring occupiers. This is as set out in CM28.1, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 50 **Pre-commencement Condition.** You must apply to us for approval of a method statement explaining the measures you will take to protect the trees around the site that may be affected by demolition and construction. You must not start any demolition, site clearance or building work and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is



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as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 51 **Pre-commencement Condition.** Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with Thames Water. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason:

To ensure that sufficient wastewater infrastructure exists for the development, in accordance with policy 5.14 of the London Plan (March 2016).

**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 With regards to condition 7 and with reference to roof level maintenance, you are strongly advised to propose a fall-arrest system or other form of low profile installations allowing for fall protection avoiding any large fixed projecting structures or upstands to main roof level on all the buildings. You are also strongly advised to ensure that the proposals for window cleaning equipment and other similar equipment does not project above the height of the parapets surrounding roof level.
- 3 You are advised that condition 21 seeks the South elevation to the 15 storey block, the South-west elevation to the 12 storey block and the North-east elevation to the 8 storey block for full clarity as these elevations were not shown in full to the drawings submitted with the application. It seeks a North elevation to the 5 storey block as it is not considered that the design is fully appropriate to this north elevation where it is seen in context with the immediately adjacent listed building.
- 4 You are advised that should you apply to move the affordable units hereby approved onto the West End Green / Gate Development site and into a dedicated affordable block, the City Council's viability consultant advises that this will yield an additional affordable housing contribution. A full viability appraisal will be required as part of the application to move these units that demonstrates the uplift in affordable contribution to the City Council.
- 5 In regard to the CLP, TfL wishes to ensure that construction vehicles are fitted with cycle specific safety equipment, including side-bars, blind spot mirrors and detection equipment to reduce the risk of collisions on the capital's roads. TfL requests that these requirements be secured in the s106 agreement. TfL would also encourage more effective steps to discourage the use of on site parking provision, and greater incentives towards the use of sustainable travel by construction workers, than that suggested within the draft CMP.

- 6 With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921.

A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [www.riskmanagement@thameswater.co.uk](mailto:www.riskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality).

- 7 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 8 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

\* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

\* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with

any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non-compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.

- 9 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.

Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:

- \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;

- \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;

- \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;

- \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;

- \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 10 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

- \* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

- \* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 11 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following.

\* Window cleaning - where possible, install windows that can be cleaned safely from within the building.

\* Internal atria - design these spaces so that glazing can be safely cleaned and maintained.

\* Lighting - ensure luminaires can be safely accessed for replacement.

\* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm).

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

- 12 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

- 13 Our Environmental Health officers advise that, although it is not possible to be certain from your submitted plans, the scheme may not provide sufficient natural light into and a reasonable view from the main habitable rooms. You are recommended to refer to the Housing Health and Safety Rating System - Housing Act 2004 guidance to obtain full details about the requirement for natural lighting and reasonable view. The dwelling may therefore be considered for action under the Housing Act 2004 by our Residential Environmental Health team. In those circumstances, that team would have the power to require works to improve natural light and the view to the affected rooms (which may require planning permission) or alternatively, where this is not practicable, to prohibit the use of those rooms. For further advice, please contact:

Residential Environmental Health Team  
4th Floor East, Westminster City Hall  
64 Victoria Street  
London SW1E 6QP  
Website [www.westminster.gov.uk](http://www.westminster.gov.uk)  
Email [res@westminster.gov.uk](mailto:res@westminster.gov.uk)  
Tel : 020 7641 3003 Fax : 020 7641 8504

- 14 The design and structure of the development shall be of such a standard that the dwelling is free from the 29 hazards listed under the Housing Health Safety Rating System (HHSRS). However, any works that affect the external appearance may require a further planning permission. For more information concerning the requirements of HHSRS contact:

Residential Environmental Health Team  
4th Floor East, Westminster City Hall

64 Victoria Street  
London SW1E 6QP  
www.westminster.gov.uk  
Email: res@westminster.gov.uk  
Tel: 020 7641 3003 Fax: 020 7641 8504.

- 15 As this development involves demolishing the buildings on the site, we recommend that you survey the buildings thoroughly before demolition begins, to see if asbestos materials or other contaminated materials are present - for example, hydrocarbon tanks associated with heating systems. If you find any unexpected contamination while developing the site, you must contact:

Contaminated Land Officer  
Environmental Health Consultation Team  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

Phone: 020 7641 3153

- 16 Approval for this residential use has been given on the basis of sound insulation and ventilation mitigation measures being incorporated into the development to prevent ingress of external noise. Occupiers are therefore advised, that once the premises are occupied, any request under the Licensing Act 2003, Environmental Protection Act 1990, Control of Pollution Act 1974 or planning legislation for local authority officers to make an assessment for noise nuisance arising from external sources is likely to be undertaken only if the noise and ventilation mitigation measures installed are in operation. E.g. windows kept closed.
- 17 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste.
- 18 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).
- 19 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements.
- 20 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642.

- 21 The term 'clearly mark' in condition means marked by a permanent wall notice or floor markings, or both.
- 22 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.  
If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.  
**You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**
- 23 In supplying the detail required for conditions 12 and 29 you should include an environmental sustainable system of irrigating the planting in the gardens, roofs, planters and any green walls. For more advice on this, please see the Mayor of London's supplementary planning guidance: Sustainable Design and Construction, April 2014. It will need to consider rainwater harvesting and storage or grey water filtration and storage to minimise the use of potable mains water for irrigation. However, if any features materially (significantly) affect the appearance of the outside of the buildings, this is likely to need planning permission.
- 24 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- a) 32 affordable units on-site comprising 19 social rented units and 13 intermediate units;
  - b) A carbon offset payment of £233,622.00 (index linked and payable on commencement of development);
  - c) A reduction of £56,339 (index linked) to the £631,000 education contribution, in the event that this development is built;
  - d) Payment of the cost of highway works associated with the development on Newcastle Place, Paddington Green and Church Street;
  - e) Provision of lifetime car club membership (25 years) for each residential unit in the development;
  - f) Provision of on-site parking on an unallocated basis (i.e. not sold or let with a particular flat);
  - g) Developer undertaking to use best endeavours to negotiate a connection and supply agreement with the Church Street District Heating Scheme (CSDHS). In the event that the, CSDHS does not go ahead, installation of CHP plant;
  - h) Offering local employment opportunities during construction; and
  - i) Payment of cost of monitoring the agreement (£10,000).

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**DRAFT DECISION LETTER**

- Address:** Development Site At 14 To 17, Paddington Green, London, ,
- Proposal:** Demolition and redevelopment of 14-16 Paddington Green; alteration and partial demolition of 17 Paddington Green; development of land to the east and south of 14-17 Paddington Green (part of site known as 'West End Green') to provide buildings ranging between 4 and 14 upper storeys to provide up to 200 residential units, with associated landscaping, basement car and cycle parking and servicing provision. This application is accompanied by an Environmental Impact Assessment.
- Reference:** 16/11563/LBC
- Plan Nos:** Drawing no's. 13503-A-L-2-P00-000, 13503-A-L-1-P00-001 Rev B, 13503-A-L00-P00-002 Rev B, 13503-A-L01-P00-003 Rev B, 13503-A-L02-P00-004 Rev B, 13503-A-L03-P00-005 Rev B, 13503-A-L04-P00-006 Rev A, 13503-A-L05-P00-007 Rev A, 13503-A-L06-P00-008 Rev A, 13503-A-L07-P00-009 Rev A, 13503-A-L08-P00-010 Rev A, 13503-A-L09-P00-011 Rev A, 13503-A-L10-P00-012 Rev A, 13503-A-L11-P00-013 Rev A, 13503-A-L12-P00-014 Rev A, 13503-A-L13-P00-015 Rev A, 13503-A-L14-P00-016 Rev A, 13503-A-L15-P00-017 Rev A, 13503-A-L15-P00-018 Rev B, 13503-A-L15-P00-019 Rev B, 13503-A-L15-P00-020 Rev B, 13503-A-L15-P00-021 Rev B, 13503-A-L15-P00-022 Rev B, 13503-A-L15-P00-023 Rev A, 13503-A-L-1-P01-101, 13503-A-L00-P01-102, 13503-A-L01-P01-103, 13503-A-L02-P01-104, 13503-A-L03-P01-105, 13503-A-L04-P01-106, 13503-A-LXX-P01-107, 13503-A-LXX-P01-108, 13503-A-LXX-P01-109, 13503-A-L-1-P02-201, 13503-A-L00-P02-202, 13503-A-L01-P02-203, 13503-A-L02-P02-204, 13503-A-L03-P02-205, 13503-A-L04-P02-206, 13503-A-LXX-P02-207, 13503-A-LXX-P02-208, 13503-A-LXX-P02-209, 13503-A-LXX-P03-301, 13503-A-LXX-P03-302, 13503-A-LXX-P03-303, 13503-A-LXX-P03-304, 13503-A-LXX-P03-305, 13503-A-LXX-P03-306, 13503-A-LXX-P04-401, 13503-A-LXX-P04-402, 13503-A-LXX-P04-403, 13503-A-LXX-P04-404, 13503-A-LXX-P04-405, 13503-A-LXX-P05-501, 13503-A-LXX-P05-502, 13503-A-LXX-P05-503, 13503-A-LXX-P05-504, 13503-A-LXX-P05-505, 13503-A-LXX-P05-506, 13503-A-LXX-P05-507; Environment Statement Volumes 1, 2, 3, 4A and 4B by Ramboll Environ (December 2016); Design and Access Statement by Piercy and Company (December 2016); Design and Access Statement Addendum by Piercy and Company (May 2017); Planning Statement by Turley (December 2016); Energy and Sustainability Statement by Buro Happauld Engineering (Rev 2 – 20 December 2016); Email from Laurence Brooker of Turley Containing Revised Affordable Housing Offer (10.29 am 28 June 2017); Document titled "Westminster City Council Presentation – response to Comments" by Piercy and Company (30 June 2017).

**Case Officer:** Nathan Barrett

**Direct Tel. No.** 020 7641 5943

**Recommended Condition(s) and Reason(s)**



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- 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 3 You must not carry out demolition work to no. 15-16 Paddington Green, or to the side wing of no. 17 Paddington Green unless it is part of the complete development of the new buildings on the site of no. 15-16 Paddington Green or the development of the replacement side wing of no. 17 Paddington Green (respectively). You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 4 You must not paint any elements of the outside walls of the building without our permission, unless specified as painted on the submitted drawings. This is despite the fact that this work would normally be 'permitted development' under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order that may replace it).

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 5 You must apply to us for approval of an elevation showing brick arches incorporated to the head of the window openings to both front and rear elevations of the new side wing to no. 17 Paddington Green. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

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Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 6 You must apply to us for approval of detailed elevation drawings showing the design of all new external metalwork (including both railings to balconies, and also external stairs and other metalwork to ground floor level to the Paddington Green frontage). You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 7 The windows to the new side wing to no. 17 Paddington Green shall be formed in glazing and white painted timber framing, and shall be designed as single glazed windows operating in a vertically sliding manner only

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 8 You must apply to us for approval of plan, elevation and section drawings showing the new front boundary walls to the Paddington Green frontage of no. 17 or any amendments to the existing frontage (to include confirmation of materials and finish). You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings prior to the occupation of the building. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 9 You must apply to us for approval of the following elevation drawing:-

- North elevation to the five storey block

This elevation drawing must be annotated to show proposed use of materials. You must not

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start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to the drawing. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 10 The roof to the new side wing to no. 17 Paddington Green shall be faced in lead to pitched roofs and flat roof.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 11 You must apply to us for approval of elevation and section drawings (with these drawings annotated to show material finishes) showing the front, rear and internal elevations of the new pedestrian link route through no. 17 Paddington Green at ground floor level. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 12 The facing brickwork to the new side wing to no. 17 Paddington Green must match the existing original brickwork adjacent to the main elevations of no. 17 Paddington Green in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 13 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary

Item No.
1

Development Plan that we adopted in January 2007, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building.

In reaching this decision the following were of particular relevance:  
S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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2

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>5 Strand, London, WC2N 5AF,</b>		
<b>Proposal</b>	Demolition of existing building and construction of replacement mixed use building, comprising retail (Class A1), restaurant (Class A3), office (Class B1) and residential (Class C3) floorspace across two basements, lower ground and ground floors and 11 upper floors and associated alterations.		
<b>Agent</b>	Gerald Eve		
<b>On behalf of</b>	BNP Paribas Securities Trust Company (Jersey) Limited & BNP Paribas Securities Services Trust Company Limited as Trustees of the BlackRock UK Property Fund.		
<b>Registered Number</b>	16/10951/FULL	<b>Date amended/ completed</b>	23 November 2016
<b>Date Application Received</b>	16 November 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Trafalgar Square		

## 1. RECOMMENDATION

<p>1. Grant conditional permission subject to referral to the Mayor of London and subject to a S106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>i) A payment of £7,074,945 (index linked) towards the City Council's affordable housing fund, payable upon commencement of development.</li> <li>ii) Carbon offset payment of £97,710 (index linked) to be paid on commencement of development.</li> <li>iii) All highway works immediately surrounding the site required for the development to occur, including changes to footway levels, on-street restrictions, reinstatement of redundant vehicle crossovers and associated work (legal, administrative and physical)</li> <li>iv) Employment and Training Strategy for the construction and operational phase of the development.</li> <li>v) Car club membership for residents (for a minimum of 25 years)</li> <li>vi) Car parking spaces in an off site location to be provided prior to first occupation of the residential flats, and maintained for the life of the development.</li> </ul>
--

vii) S106 monitoring costs to be paid on commencement of development.

2. If the legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not

b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. That Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up and dedication of parts of the public highway to enable this development to take place.

That the Executive Director of City Management & Communities or other appropriate officer be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.

## 2. SUMMARY

The proposals seek the redevelopment of this site to provide a building comprising retail, offices and 26 residential units over basement, ground and 11 upper floors.

The main issues raised by the application are as follows:

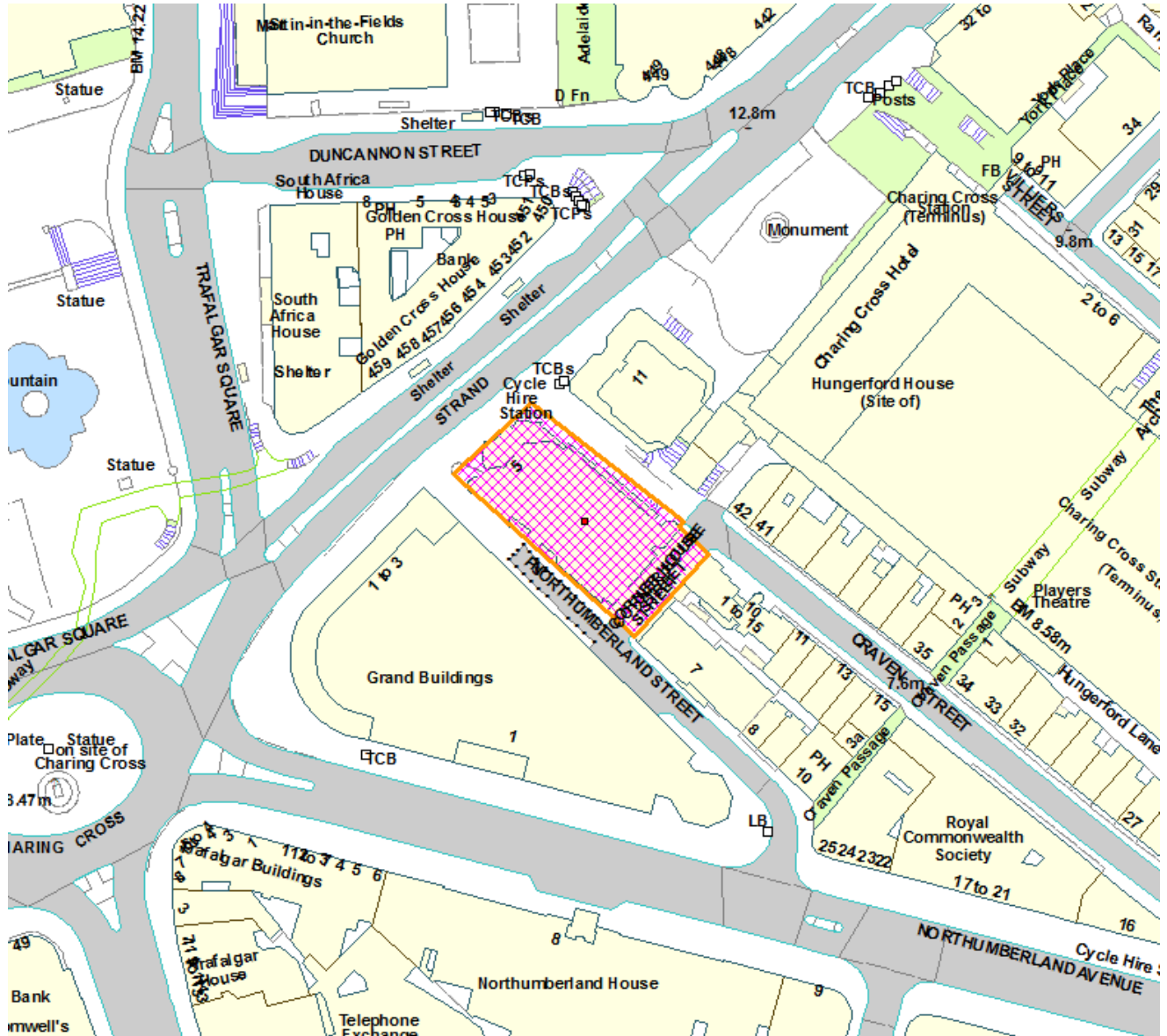
- The principle of demolition within the Strand Conservation Area and the design of the replacement building.
- The mix of land uses.
- The amount of off-street residential parking proposed.

Objections have been received from some residents with properties to the rear of the site, largely on amenity grounds. Whilst residents' concerns are understood, it is not considered the application could reasonably be refused on enclosure, privacy or daylight grounds.

The application is generally acceptable in land use terms subject to securing a policy compliant payment in lieu of providing affordable housing on site.

The level of off-street residential parking is not supported by the Highways Planning Manager, however on balance, the approach proposed is considered acceptable given the other benefits of the scheme.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Strand elevation





**View from Craven Street towards Strand**

## 5. CONSULTATIONS

### HISTORIC ENGLAND

Authorisation to determine in line with national and local guidance.

### GREATER LONDON AUTHORITY

No objection in terms of the principle of development, urban design, or climate change. However, the £1.04m contribution to the City Council's affordable housing fund falls significantly short of both the Mayor's draft SPG threshold and City Council policy. In transport terms, the proposals are generally acceptable, but request reconsideration of the provision of off site parking, improved cycle facilities and S106 contributions totalling £110,000 to extend an existing cycle hire docking station and upgrade bus stops.

### TRANSPORT FOR LONDON

- The applicant proposes to suspend half the existing cycle docking station at Craven Street during construction. TfL must be compensated for this, to be secured via S106.
- Request the Craven Street docking station is expanded by at least 50% - the developer should contribute £80,000 to fund this.
- The cycle parking does not meet London Plan standards.
- The 5 off site car parking spaces for the commercial occupiers of the development should be removed as this compromises the car free nature of the scheme.
- The 3 bus shelters immediately adjacent to the site require upgrading and the developer should contribute £30,000 to fund this.
- A travel plan and delivery and servicing plan must be secured.
- The development is liable for Mayoral CIL.

### LONDON UNDERGROUND LTD

No objection subject to conditions.

### HISTORIC ENGLAND (ARCHAEOLOGY)

No objection subject to a condition securing an archaeological investigation.

### METROPOLITAN POLICE

Concerned that many aspects of the proposal do not appear to take 'Secured by Design' into consideration. Request a pre-commencement condition to require details of the measures to be incorporated into the development demonstrating how the principles and practices of the 'Secured by Design' scheme have been included.

### WESTMINSTER SOCIETY

No objection.

### NORTHBANK BUSINESS IMPROVEMENT DISTRICT

Any response to be reported verbally.

### THAMES WATER UTILITIES LTD.

No objection in terms of water infrastructure capacity, sewerage infrastructure or surface water drainage. Request condition regarding a piling method statement and associated informatives.

## NETWORK RAIL

Any response to be reported verbally.

## HIGHWAYS PLANNING MANAGER

- The amount and location of cycle storage is acceptable.
- The servicing is not consistent with the requirements of adopted policy, but given the existing situation on site, no objection is raised.
- A servicing management plan is required, particularly to address refuse storage and collection as highlighted by the cleansing officer.
- The proposed public realm works are aspirational and outside the application site – they are not agreed at this stage and will require formal approval should they go ahead.
- The building clearance over Corner House Street highway to the rear of the site is insufficient at the southern end.
- The development will put undue pressure on on-street residential parking in the area. The applicant's offer of providing 5 spaces in a nearby car park is insufficient and recommend that 9 spaces should be provided.

## CLEANSING

The applicant still needs to label the refuse stores correctly and consider providing a cardboard baler to reduce the number of bins required (and consequently reduce the time of refuse vehicles waiting on the highway).

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 344

Total No. of replies: 3

No. of objections: 2

No. in support: 0

Objections on the following grounds:

### **Design**

- The building is brash and does little to enhance the surroundings. Designed to maximise its value to investors.
- The building will have a detrimental impact upon views from Trafalgar Square.
- The arches and canopies attracting rough sleepers are still present in this design – it will not fix the problem.
- The design is a backwards step in the visual appeal of the area.
- The detailing to the front and flank elevations is an improvement to the area, however, the rear is not appropriate and does nothing for the surrounding conservation area.

### **Highways**

No car parking on site will increase pressure on surrounding on-street parking.

### **Amenity**

Overlooking – the windows and balconies/terraces to the rear will directly overlook existing residential properties.

The additional height blocks views and increases the sense of overlooking. Unclear how the increased height will impact upon existing residents.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The site comprises the nine storey building at 5 Strand, bounded by Strand, Corner House Street, Craven Street and Northumberland Street. The building was constructed in the early 1980s. It contains a retail unit (currently occupied by Boots) at ground and lower ground floor with offices occupying the upper floors. The ground floor to the Strand frontage is recessed providing a covered walkway, with the overhanging upper floors supported by columns at street level. The building adjoins two other properties to the rear – 10 Craven Street (a residential block) and 7 Northumberland Street (offices).

The site is located in the Trafalgar Square Conservation Area and occupies a prominent position on the Strand, with significant views of the existing building from the Strand and Trafalgar Square. The existing building on the site is considered to be an undistinguished design with a poor ground floor/public realm interface which is not helped by the level change from Strand down to Craven Street. The retail and office entrances are to the Strand elevation, with both side elevations fairly 'blank' facades. Servicing takes place from the rear, where there is a small servicing area accessed from Corner House Street.

The site is within the Core Central Activities Zone.

### **6.2 Recent Relevant History**

The building was constructed pursuant to a planning permission granted in 1980. It included the residential building at 10 Craven Street as well as the application site at 5 Strand.

There is no planning history of any significance since the original permission.

## **7. THE PROPOSAL**

The proposal involves the demolition and redevelopment of the building at 5 Strand. The proposed building is designed by Adjaye Associates, and will comprise two basement levels and a lower ground floor, ground and 11 upper floors. At street level, there are two retail units (one shop use within Class A1 and the other either shop or restaurant use within Class A1 or Class A3) with offices (B1) at first to sixth floors. At seventh to eleventh floors, there are 26 residential flats with terraces to the rear. Servicing is undertaken from the rear, a small off-street bay is provided off Corner House Street. Cycle parking, refuse storage and plant are located at basement levels. No car parking is proposed on site, although the applicant has offered to secure car parking spaces within a local commercial car park.

The proposed building has a setback on the Strand elevation to allow for a wide pavement to accommodate the high footfall in this part of Strand between Charing Cross and Trafalgar Square. The existing columns are removed, and the building cantilevers over the pavement.

The drawings show public realm works to the east and west of the site, outside the site boundary.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

A summary of the existing and proposed floorspace by use is provided below:

Use	Existing	Proposed	Change
<b>Retail (A1)</b>	1337	253	-1084
<b>Retail or Restaurant (A3)</b>	0	296	+296
<b>Office (B1)</b>	8378	8506	+128
<b>Residential (C3)</b>	0	5587	+5587
<b>Total</b>	<b>9715</b>	<b>14642</b>	<b>+4927</b>

#### Offices

The provision of additional office accommodation within the Core CAZ is supported by Policy S20 of Westminster's City Plan and by London Plan Policy 4.2.

The proposed offices are located at first to sixth floors, accessed from the entrance on Northumberland Street. The floorplates at this level are large and well suited to office occupiers. Given the quantum of office floorspace is maintained, and slightly increased, the proposals are compliant with land use policies to protect and enhance office floorspace and job provision within Westminster.

#### Retail

Policy S6 identifies the Core CAZ as an appropriate location for a range of commercial and cultural uses. Policy S21 states that new retail floorspace will be directed to the designated Shopping Centres. In terms of the UDP, saved Policies SS4 and SS5 are relevant. SS4 requires developments within CAZ to include 'shop type premises' at street level, and should provide the same amount of retail floorspace as was there before. SS5 relates primarily to protecting Class A1 retail within the CAZ, and restricting the introduction of non-A1 uses at street level, basement and first floors.

The proposals include a Class A1 retail unit at ground floor, accessed from Strand. The unit to the rear ground floor area is intended to be either Class A1 retail or Class A3 restaurant use.

The proposed building retains a proportion of retail use at ground floor, but the unit is smaller than the existing retail area. There is potentially a loss of up to 1084 square metres of retail floorpace, although 619 sqm of this is actually located at lower ground and basement levels and is not used as sales floorspace.

Whilst the policies listed above do not generally support the loss of retail floorspace, it should be noted that the key aims of these policies include protecting the retail character and function of localities, as well as enhancing retail space. Notwithstanding the overall loss of retail floorspace, there are benefits to the proposed configuration including the increased retail frontage to Strand and the activation of the other frontages to a greater degree than at present. The retail character of this part of Strand is maintained and enhanced and the application is acceptable in this respect.

#### **Restaurant use**

Policy S24 sets out the Council's strategic planning policy in relation to new entertainment uses. New uses must be appropriate in terms of the type and size of use, scale of activity and relationship to any existing concentrations of entertainment uses. They should not negatively impact amenity, health and safety, the character and function of the area or local environmental quality. UDP Policies TACE 8, 9 and 10 provide detailed guidance according to their location and size.

The proposed restaurant is to the rear ground floor area, accessed from Craven Street. It comprises 296 square metres. TACE 8 is applicable, which states that applications for restaurants of this size will generally be acceptable subject to the City Council being satisfied that there would be no adverse impact on noise, vibration, smells, increased late night activity, parking or traffic and the character or function of the area.

The proposed restaurant area is modest and is considered to be in keeping with the character of this area.

In environmental terms the plans provide for appropriate full height extraction to serve the restaurants, routing out through the main roof of the new building. There is no reason to presume that, with suitable management procedures in place, the new uses would result in littering or pollution of the public realm. Subject to appropriate conditions controlling the hours of use and plant, this use is acceptable. The applicants have not specified the operating hours, but it is considered appropriate to restrict the hours to between 0700 to midnight Monday to Saturday, and 0800 to 2300 on Sundays/Bank Holidays.

### Residential use

A total of 26 flats are proposed, with the following mix of sizes:

Number of bedrooms	Number of flats	Percentage of total
1	6	23
2	7	27
3	10	38
4	3	12
	26	100

In land use policy terms, the principle of the replacement residential accommodation is acceptable and supported by policy S15. Policy H5 requires that an appropriate mix of units is achieved in all developments, stating that the Council will normally require 33% of units to be 'family sized'. The proposals are for 50% of the units to be of 3 bedrooms or more. The overall mix as shown in the table above is acceptable. In terms of individual flat sizes, they are in compliance with the national space standards, with areas ranging from 55 - 82 square metres for a 1 bed; 87 – 129 square metres for a 2 bed; 127-178 for 3 bed flats and 314-347 for the 4 bed penthouses.

In terms of layout, 11 of the flats are single aspect, and of these, two are north facing. Whilst a single aspect flat is not an ideal layout, the windows are large and there is potential for them to receive appropriate levels of daylight. There is a very open outlook to the north facing flats. The deep floorplate of the building would make it difficult to achieve small, dual aspect units.

The flats are designed to meet lifetime homes space standards, with 10% being wheelchair accessible, in line with the aspirations of UDP policy H8.

Given their location on a busy road with potential noise sources from traffic and the railway station, the flats are mechanically ventilated, although windows will be openable. The mechanical ventilation heat recovery units are ducted to outside (rooftop) for the supply of fresh air which is then filtered. Environmental Health officers require further information regarding the mechanical ventilation heat recovery units and ventilation. It is considered this aspect can be effectively dealt with by condition as set out in the draft decision letter.

### Provision of affordable housing

There is a policy expectation across all material plans and guidance that the affordable housing should be provided on site. In their Stage 1 response, the GLA appear satisfied that this provision should be as a commuted sum, dependent on the viability case made by the applicants.

The expectation of the London Plan, the UDP and the City Plan is that affordable housing should be provided on site. S16 states:

*“Proposals for housing developments of either 10 or more additional units or over 1000sqm additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing.*

*The affordable housing will be provided on site. Where the Council considers that this is not practical or viable, the affordable housing should be provided off site in the vicinity. Off*

*site provision beyond the vicinity will only be acceptable where the Council considers that the affordable housing provision is greater and of a higher quality than would be possible on or off site in the vicinity.....”*

The current scheme results in an increase in residential floorspace of **5587 sqm**. On the basis of the Council’s Interim Guidance Note on Affordable Housing April 2011, this generates a requirement for **1396.75 sqm** on site affordable housing.

Where it is neither practical nor viable to provide affordable housing on-site and the applicant is unable to provide off site affordable housing (either in the vicinity or beyond the vicinity), a financial contribution towards the City Council’s Affordable Housing Fund may be accepted as an alternative. The payment generated by the current scheme is **£7,074,945** (based on the **1396.75 sqm** shortfall in affordable housing provision). The payment would be expected to be paid in full on commencement of development and to be index linked from the date of the planning permission.

The applicants have put forward a case stating that it is not viable to provide affordable housing on site. A full viability assessment has been carried out on behalf of the applicant by DS2. The City Council has appointed independent consultants Lambert Smith Hampton (LSH) to review this assessment. LSH conclude that the proposed scheme is capable of supporting a full payment in lieu as outlined in the paragraph above, which has now been agreed by the applicant. It is accepted that in this case, the lack of on-site affordable housing is acceptable given it is mitigated by the full payment in lieu towards affordable housing elsewhere in the City.

## **8.2 Townscape and Design**

The building is unlisted and sits within the Trafalgar Square Conservation Area. The Conservation Area Audit identifies the building as making a neutral contribution to the character and appearance of the conservation area. It is located in a prominent position within the conservation area on the edge of Trafalgar Square and Strand, one of the major processional routes in the city. The building was constructed in 1983. It is a generally undistinguished design with a strongly modelled form and a rather unfortunate ground floor interface with the public realm, which has led to significant problems of rough sleeping and anti-social behaviour. However, due to its size, modelled form and high quality stone facing, it sits comfortably within its conservation area context and justifies its “neutral” attribution in the audit. There is no in-principle objection to its demolition subject to a satisfactory replacement being approved.

The site is located next to the refurbished Grand Buildings which forms an important landmark and presence on Trafalgar Square. To the north-east is another late C20 building of undistinguished design and Charing Cross Station beyond. To the rear the ground slopes away sharply to the river. Craven Street has a number of smaller scale buildings, many of them listed and dating from the C18. This pattern of large buildings to the Strand and smaller scale development in the streets between it and the river is typical of this part of the City.

### ***Building height, mass and impact on townscape views***

The existing building is ground + 8 storeys with additional plant on the roof to the Strand frontage, but then steps down to the equivalent of ground plus 4 storeys to the boundary with Northumberland Street and Craven Street (allowing for the slope across the site). The



proposed building is higher, ground + 11 floors (including plant) across the entire site. The height of building onto Strand is slightly higher (approx 2 storeys) than the existing, though the top two floors and the plant room all step back from the façade line below. The increase in bulk and mass to the rear part of the building is considerable, in the order of 5-6 storeys as the new building maintains a consistent height across the site and does not step down like the existing.

While this increases the physical mass of the building considerably, it is the impact on views and the surrounding townscape that needs to be assessed in terms of the building's visual impact on its surroundings. The applicant has provided a comprehensive view analysis to help understand the visual impact of the new building on its surroundings.

The only London View Management Framework (LVMF) viewpoint affected is from Jubilee Gardens on the South Bank (View 01). From here, the new building would be partially visible as a minor infill to the sky between Whitehall Court and Charing Cross Station. However, there is no significant impact on the skyline or general view. It is clear that the building would also be visible from other places on the South Bank, but it is considered that it would have negligible impact.

There is also some minor impact on the view from the south-west corner of Horse Guards Parade. The very top of the building is just visible over the top of buildings in the far north-east corner. The impact is negligible and is only visible from this part of the Parade Ground. The identified Metropolitan View from the Parade Ground is unaffected. There is no impact on views from the Mall. There is, however, some impact on views from Trafalgar Square. View 04 from Cockspur Street shows a higher building but one not out of scale with its neighbours and largely screened by Grand Buildings in the foreground. There is a more significant impact from the north side of the square where the current building is seen between the grade II\* listed South Africa House and Grand Buildings (Views 05A and 05B). The new building has a greater visual presence due to its increased height. It now appears higher than South Africa House and can be seen above the roofline of the grade II\* listed building. While there is greater visibility of the building, its impact on the view is minor and it is only visible from this quite restricted viewpoint. From the great majority of Trafalgar Square the building will not be visible at all. It is considered that this is a minor negative impact on a small part of Trafalgar Square.

There is minor impact on a view from Charing Cross Road where the building becomes visible over the top of part of St Martins in the Fields (View 06D). However, other buildings already encroach on the skyline from this viewpoint, it is a fleeting glimpse as there are no views from further along Charing Cross Road and in summer it will be largely mitigated by tree foliage. The impact is considered negligible.

Views from Strand (Views 10 and 11) show a building slightly higher than existing but one that does not appear dominating or out of scale with its surroundings. Views 08 and 09 show the impact on Craven Street and Northumberland Street. Craven Street is an important street within Westminster with some of the most complete terraces of early C18 houses in the city. The increase in bulk and height from this view is considerable and the building does have a more dominating effect on this low scale, historic townscape. However, the juxtaposition of large buildings along Strand and smaller scale development in the streets running down towards the river is a characteristic of this part of the conservation area and this proposal does nothing to disrupt this pattern of development. It

is considered that the impact on this view is negative but of a low level of harm. There is a similar increase in scale on Northumberland Street but the scale of adjoining development in this street is higher than in Craven Street and the quality of the townscape significantly lower. It is considered that the impact on this view is negligible.

In summary, the impact on established views is generally minor in nature and causes little or no harm. The most significant impact is on views from Craven Street and, even this, is considered to be a modest degree of harm.

### ***Building Design and Architecture***

The existing building on site has an irregular footprint to the public realm with many recesses and a large arcaded area, as well as considerable lengths of blank frontage at ground floor level. The interface with the public realm is poor and has resulted in a degree of anti-social activity that has become a significant problem. The new building footprint fills the site, dispenses with the arcade and has more active frontage with an enlarged retail frontage, new entrances for the residential and commercial cores and a retail/A3 use to the rear part of the site. The building line to Strand moves forward to align with the adjacent Grand Buildings and, while this increases visibility of the building, it also helps to integrate the building into the existing street scene in a more satisfactory way than the existing building.

The building's architecture makes use of the arch form as a strong unifying device throughout the building. The ground floor of the building uses a large scaled arch to create a strong base and provide large areas of retail glazed frontage. A strong fascia or cornice then separates the base from the main part of the building. The next six floors of commercial use have a different scale of arch, while the next two floors (in residential use) have a smaller sized arch. The top two floors are set back and use an inverted arch in the same proportion as the residential floors below. This systematic use of arches as a unifying device to the architectural form provides a very distinct and powerful visual aesthetic for the building. This could be over-powering if it were not for further design details that provide another layer of detailing and interest to the facades.

On the Strand frontage, a series of columns define each bay and these change scale and shift as the arches change at higher level. These provide an extra level of depth and layering to this important and prominent frontage and will cause a subtle play of light and shadow upon the façade behind. Decorative balustrades will span between the columns and provide a further level of detailing. The stone surround to the arched openings above ground floor level is also modelled so that there is a subtle "wave" to the building façade.

On the side elevations, the columns are dispensed with and the modulation to the façade becomes more apparent without the shielding columns. The office floors (1<sup>st</sup> to 6<sup>th</sup>) have decorative panels to the windows to provide an element of screening to the office interior, while the upper residential floors retain the decorative balustrades from the Strand frontage.

The rear of the building is handled in an entirely different manner so as to protect privacy of residents in Craven Street and to reflect the boundary edge condition of this part of the site. The first six floors occupied by offices are blind and have a series of stone panels of different depths set within a frame of stone cornices and columns. While a blank elevation, the different depth and design details will provide interest and shadowing across the

façade. Above the office levels, the residential units have glazed facades in the same proportion as the stone “frame” below, though the arch motif is now dispensed with and a more convention orthogonal pattern adopted.

The choice of materials will be subject to a further approval of details but the applicant indicate the use of high quality stone as a facing material with a subtle differentiation of colour and texture between the base, the mid part the building and the darker roof storeys. It is also proposed to use different stone for the columns and cornice bands to the facing material. This varying use of different stones will need to be subtle to avoid too strident an aesthetic.

In summary, it is considered that the proposal provides a more dynamic and better designed building with larger and higher quality office, retail and residential accommodation than the current building on the site. In addition, there are clear benefits to the way the new building addresses the public realm, which is a significant failure of the existing building. The proposed building causes little harm to its surrounding townscape and neighbouring buildings, with the sole exception of the impact on the historic townscape in Craven Street. However, this impact is considered to be of a low order and the public benefits of the scheme are considered to outweigh any harm that may be caused.

### **8.3 Residential Amenity**

Policy S29 of the City Plan relates to health, safety and wellbeing, stating that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use. Policy ENV 6 seeks to protect noise sensitive properties from noise disturbance.

#### *Daylight/Sunlight*

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) ‘Site Layout Planning for Daylight and Sunlight’ (as revised 2011). The applicant’s consultant, Gordon Ingram Associates, has carried out the necessary tests using the methodology set out in the BRE guidelines on residential properties surrounding the site on Craven Street and Northumberland Avenue. The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution available to windows in these properties. VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE guidelines state that the window will have the potential to provide good levels of daylight. The BRE guidelines state that reductions of over 20% of existing daylight levels are likely to be noticeable.

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90% of due south and it

receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidelines recommend that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight; if the overall annual loss is greater than 4% of APSH, the room may appear colder and less cheerful and pleasant.

The properties tested for daylight and sunlight levels comprise:

- 22-25 Northumberland Avenue
- 18 Northumberland Avenue
- 38 Craven Street
- 39 Craven Street
- 10 Craven Street (Flats 1-15)

There is no material impact on either daylight or sunlight to the properties tested as a result of the proposed development.

#### *Sense of Enclosure*

The proposed building is between 1 to 1.5 storeys higher than the plant room (highest point) on the existing building. The existing building steps down quite significantly between the roof and 5<sup>th</sup> floors towards Craven Street. The proposed building has significantly more bulk to the rear and does not step down in quite the same manner as the existing building, rising sheer to 6<sup>th</sup> floor, then with more marginal terrace setbacks up to roof level. Several residents with windows facing the site are concerned over this increase in bulk and its effect on the sense of enclosure and views from their properties.

Whilst the views from the south towards the rear of the building will change significantly, it is not considered that a material sense of enclosure would result given the distance of the application site from the residential units with a direct view. Views from the rear of properties at 10 Craven Street are very oblique, and whilst there will be a change, it is not considered so significant as to justify refusal of the scheme.

#### *Privacy*

Objections have been received from the occupiers of residential units at 22-25 Northumberland Avenue on the grounds of potential overlooking to their living rooms and bedrooms from windows and balconies on the rear elevation of the application site.

The proposed building rises sheer to 6<sup>th</sup> floor and there are no windows in this elevation. At seventh floor and above, there are windows and roof terraces serving the residential flats. Whilst these terraces will be clearly visible from the objectors' properties, they are set at least 50m away. Given the urban context of the area and distance between the existing residential windows and proposed terraces, it is not considered that permission could reasonably be withheld on this ground.

## 8.4 Transportation/Parking

### *Car Parking*

UDP policies TRANS 22 and TRANS 23 set out the City Council's standards for car parking across different land uses.

No car parking is proposed on site for either commercial or residential uses.

Whilst the Highways Planning Manager raises no objection to the commercial uses having no parking; he does not consider that this is appropriate for the residential element given that the City Council's most recent on-street occupancy surveys show that the streets surrounding the site are at saturation point for legal on-street spaces both overnight and during the day. Policy TRANS23 expects that where appropriate and practical, off street parking is provided on the basis of a maximum provision of one space per unit of 1-2 bedrooms, and a maximum of two spaces for dwellings with three or more bedrooms. The aggregate provision should not exceed more than 1.5 spaces per 3+ bedroom dwelling. Applying these standards to the development would generate a requirement for a maximum of 32 spaces.

TRANS 23 does allow for alternative provision where it is accepted no car parking can be provided on site. The applicant has offered the following measures to mitigate the impact:

- In terms of providing long term off-street parking in the vicinity, the applicant is offering the provision of five spaces within the Trafalgar Square Q Car Park. These spaces would be provided for the use of residents within the development.
- The applicant has offered to provide car club membership for a period of 25 years to residents within the development (at no cost to residents).

The Highways Planning Manager does not consider this offer to be sufficient mitigation to address the potential increased pressure on on-street car parking spaces as a consequence of the proposed development. He suggests that based on car ownership figures for this ward, the residential units would be expected to generate 9 vehicles. The applicant considers that the provision of 5 off-street spaces is sufficient given the highly accessible location and the relatively low levels of car ownership in the locality. On balance, in this very accessible location and with the provision of car club membership, it is considered that the provision of 5 spaces is appropriate. They will need to be secured through legal agreement requiring the spaces to be provided prior to first occupation of the residential units and retained for the life of the development.

### *Cycle Storage*

Residential cycle storage comprises space for 46 bicycles, in line with the UDP and London Plan policy requirement.

Cycle storage for the commercial uses is shown as being sufficient for 80 bicycles, and is in line with UDP policy requirements, although the Mayor has requested additional commercial cycle storage (171 spaces). Given the storage proposed is in line with Westminster's adopted policy, then no further changes are considered necessary.

### *Servicing and deliveries*

Policy S42 deals with servicing, seeking to ensure that developments are managed in a way that minimises adverse impacts on the highway. TRANS20 requires convenient and safe access to premises for servicing, and generally requires that servicing is undertaken off street. The existing building has a small servicing area accessed from Craven House Street and there is a general purpose loading bay on Strand in front of the application site.

The proposed servicing provides a loading bay in a similar location to existing, accessed from Corner House Street. It is intended to serve the office and residential uses, although the height restriction in the design limits the vehicle size to transit type vans. The retail units are intended to be serviced from the loading bay on Strand, which the applicants state is current practice. Refuse will continue to be collected from Corner House Street.

*Proposed changes to the highway/footway layout and new public realm*

Some drawings/visuals submitted with the application show a reconfigured area of public realm to the north end of Craven Street where it meets Strand. The area contains the Mayor's cycle hire scheme docking stations, along with steps to accommodate the level change between Strand and Craven Street. Whilst there would be benefit in tidying up the appearance of this area, it is outside the application site and a detailed scheme would need to be agreed with the City Council. The applicants have offered to contribute £710,000 towards works to the public realm in this location. There is no policy mechanism that requires any public realm improvements on a scheme such as this, therefore it is not recommended that this offer is secured by the legal agreement.

*Building line and changes to the footway*

The existing building line will change slightly all around the site, most notably on Strand, where the existing bulky street level planter will be removed. The removal of the planter effectively means there is more space available to pedestrians. The area will need to be dedicated as public highway, along with some areas of stopping up. The Highways Planning Manager is content with the areas to be dedicated/stopped up.

To the rear of the site, the new building 'bridges' over Corner House Street, as it does at the moment. The Highways Planning Manager has objected to the proposed design as the sweep of the arch to the south-eastern side of the bridge does not show sufficient clearance over the highway. He requires that there is at least 5.3m clearance over the carriageway and over any footway within 1m of the kerb line (this is the minimum requirement to issue an oversailing licence to enable the building to be constructed over the highway). It is recommended an amending condition is added to this effect.

## **8.5 Economic Considerations**

The economic benefits generated by the provision of modern office and retail accommodation are welcomed.

In terms of employment and local procurement opportunities, Policies 3A.26 and 3B.11 of the London Plan and City Plan Policy S29 encourage the provision of employment opportunities through new development. It is considered appropriate that the applicant agrees to sign up to the local procurement code which requires developers to allow local companies access to some of the tender opportunities generated by a development where there are suitable contenders locally.

## 8.6 Access

The development would be fully accessible to those with disabilities, with level access to all buildings proposed as part of the scheme in accordance with Policies TRANS27 and DES1 in the adopted UDP.

## 8.7 Other UDP/Westminster Policy Considerations

### *Noise/plant*

Environmental Health officers are satisfied that the plant is capable of complying with the City Council's noise standards; residential units must also be constructed to achieve the relevant internal noise standards as set out in Policy ENV6 and ENV7 of the UDP. Appropriate conditions are attached to the draft decision notice.

### *Refuse /Recycling*

Policy ENV12 requires the provision of suitable facilities for waste storage and recycling in new developments. Refuse storage is provided at basement level.

### *Sustainability*

Policy 5.2 of the London Plan refers to Minimising Carbon Dioxide Emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be lean: use less energy
2. Be clean: supply energy efficiently
3. Be green: use renewable energy

City Plan Policy S40 considers renewable energy and states that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

The applicant has submitted an energy strategy setting out the measures incorporated into the proposed development in the context of sustainable design principles.

In terms of addressing the GLA's 'energy hierarchy', the applicant commits to maximising the energy performance through the use of efficient plant, lighting and ventilation equipment as well as passive design measures in the building's structure. There is an on-site gas fired combined heat and power plant for space heating and hot water. In terms of the use of renewable technologies, the applicant considers the most viable of these to be the use of photovoltaic panels at roof level. The photovoltaics will comprise an 88 square metre array to the main roof.

The overall carbon reduction over the 2013 building regulations baseline is predicted to be 19.6%. Even with the CHP and renewable technologies, the development fails to achieve the target set out in the London Plan. Policy 5.2 of the London Plan states:

*"The carbon dioxide reduction targets should be met on-site. Where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may*

*be provided off-site or through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere”.*

It is therefore appropriate in this case to secure a carbon-offset contribution which the City Council’s energy officer has advised should be £97,710 based on the London Plan rate of £60 per tonne of CO2.

The development is targeting BREEAM ‘excellent’ for the non-residential parts of the building.

## **8.8 London Plan**

The application is referable to the Mayor of London under the provisions of the Town and Country Planning (Mayor of London) Order 2008. The proposal raises strategic issues in terms of its design, land use, transport and energy.

The Mayor does not raise any issues in terms of the design or energy aspects of the development. He does, however, consider that the initial offer of £1.04m contribution to the City Council’s affordable housing fund falls significantly short of both the Mayor’s draft SPG threshold and City Council policy.

In transport terms, the Mayor considers the proposals acceptable, but requests reconsideration of the provision of off-site parking, improved cycle facilities and S106 contributions totalling £110,000 to extend an existing cycle hire docking station and upgrade bus stops.

## **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **8.10 Planning Obligations**

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of development; ensure the development complies with policy requirements within the development plan; and, if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community



Infrastructure Levy contributions will be sought at a level that ensures the overall delivery of appropriate development is not compromised.

From 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under Section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The Council's own Community Infrastructure Levy was introduced on 1 May 2016. The Westminster CIL payable will be approximately £1.493m, along with Mayoral CIL of £274,622. These figures are provisional and may be subject to any relief or exceptions which may apply in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

In addition, for reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- i) A payment of £7,074,945 (index linked) towards the City Council's affordable housing fund, payable upon commencement of development.
- ii) Carbon offset payment of £97,710 (index linked) to be paid on commencement of development.
- iii) All highway works immediately surrounding the site required for the development to occur, including changes to footway levels, on-street restrictions, reinstatement of redundant vehicle crossovers and associated work (legal, administrative and physical)
- iv) Employment and Training Strategy for the construction and operational phase of the development.
- v) Car club membership for residents (for a minimum of 25 years)
- vi) Car parking spaces in off site location to be provided prior to first occupation of the residential flats and maintained for the life of the development.
- vii) Monitoring costs.

Officers consider that these 'Heads' satisfactorily address City Council policies and the CIL Regulations subject to detailed resolution of the relevant trigger dates.

### **8.11 Environmental Impact Assessment**

It is not considered that the proposal warrants an Environmental Statement (ES) under the EIA Regulations (2011). The applicant has submitted various studies relating to the principal environmental issues raised by the development including noise, archaeology, ecology, construction impact, employment, drainage, energy and recycling. The issues raised can reasonably be dealt with by conditions attached to the permission. The principal environmental effects requiring further clarification or work through conditions and mitigation are examined in the relevant sections of this report.

### **8.12 Other Issues**

#### **Archaeology**

The site is within the Lundenwic and Thorney Island area of archaeological interest. In line with Policy DES11, an archaeological mitigation strategy has been prepared and agreed in principle with officers and Historic England. The archaeological investigation can be secured by condition.

#### **Basement**

The proposals involve the excavation of a deeper basement than currently exists, to be set over three floors below ground (currently there are 2). The applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage. The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred.

The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. This report will be attached for information purposes to the decision letter. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

Given the proximity of the proposed basement to London Underground tunnels and associated infrastructure, London Underground Ltd have requested the addition of conditions requiring details of foundations/underground structures and associated

vibration and ground movement. The details will need to be agreed by LU prior to the commencement of development.

### **Construction impact**

A condition is recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

The City Council's Code of Construction Practice and associated Environmental Inspectorate have been developed to mitigate against construction and development impacts on large and complex development sites. The new Code of Construction Practice was adopted in July 2016 and the applicant is required to sign up to it. Compliance is monitored by the Environmental Inspectorate. A condition is recommended requiring the applicant to provide evidence of compliance with the CoCP before starting work.

### **Crime and security**

The Metropolitan Police note that there are several aspects of the scheme which do not appear to adopt the principles of 'secured by design'. They recommend a pre-commencement condition is attached, requiring a detailed submission of security measures throughout the scheme and how these achieve the 'secured by design' standard.

## **8.13 Conclusions**

As set out above, whilst there has been some harm identified to the historic streetscape on Craven Street, the proposal is considered to provide a more dynamic and better designed building than currently exists on site. The new building relates much better to the surrounding public realm and is considered to provide a greater level of animation to the Strand and return elevations. The application is acceptable in the context of the NPPF, London Plan and Westminster City Plan, subject to the recommended mitigation secured by legal agreement and draft conditions attached to this report.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Thames Water Utilities Ltd, dated 30 November 2016
3. Response from Westminster Society, dated 1 December 2016
4. Letter from occupier of 34 Craven Street, London, dated 2 December 2016
5. Letter from occupier of Flat 4, 22 Northumberland Avenue, dated 3 December 2016
6. Letter from occupier of Flat 5, 22 Northumberland Avenue, dated 5 December 2016
7. Letter from Historic England dated 6 December 2016.
8. Response from London Underground Ltd dated 7 December 2016.
9. Letter from Historic England (archaeology) dated 12 December 2016.
10. Response from Transport For London, dated 16 December 2016
11. Letter from the Metropolitan Police dated 10 February 2017.
12. Letter from the Greater London Authority dated 20 February 2017.
13. Memorandum from Environmental Sciences dated 22 December 2016 and 2 March 2017.

14. Memorandum from the Highways Planning Manager dated 13 March 2017.
15. E-mail from Cleansing dated 14 March 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: LOUISE FRANCIS BY EMAIL AT [mmason@westminster.gov.uk](mailto:mmason@westminster.gov.uk)

**10. KEY DRAWINGS**



**Existing view from Strand**



**Visual of proposed building seen from Strand.**

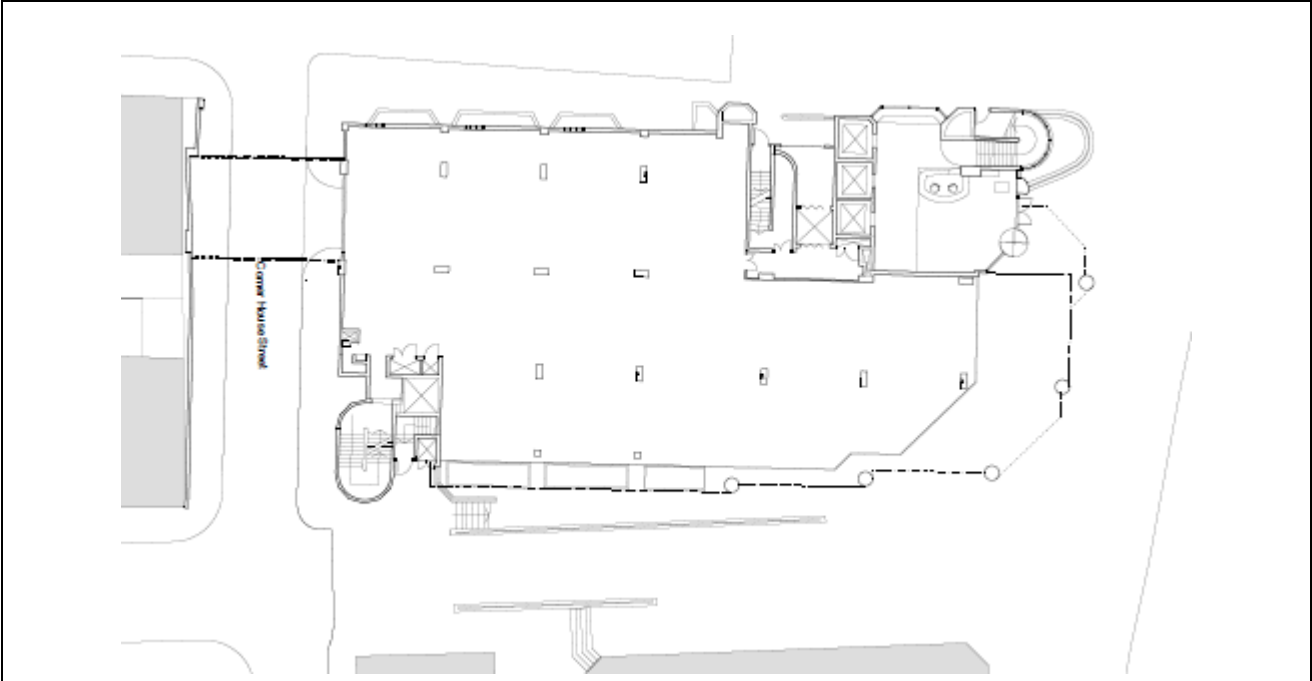


view from corner of Trafalgar Square (Existing above; proposed below)

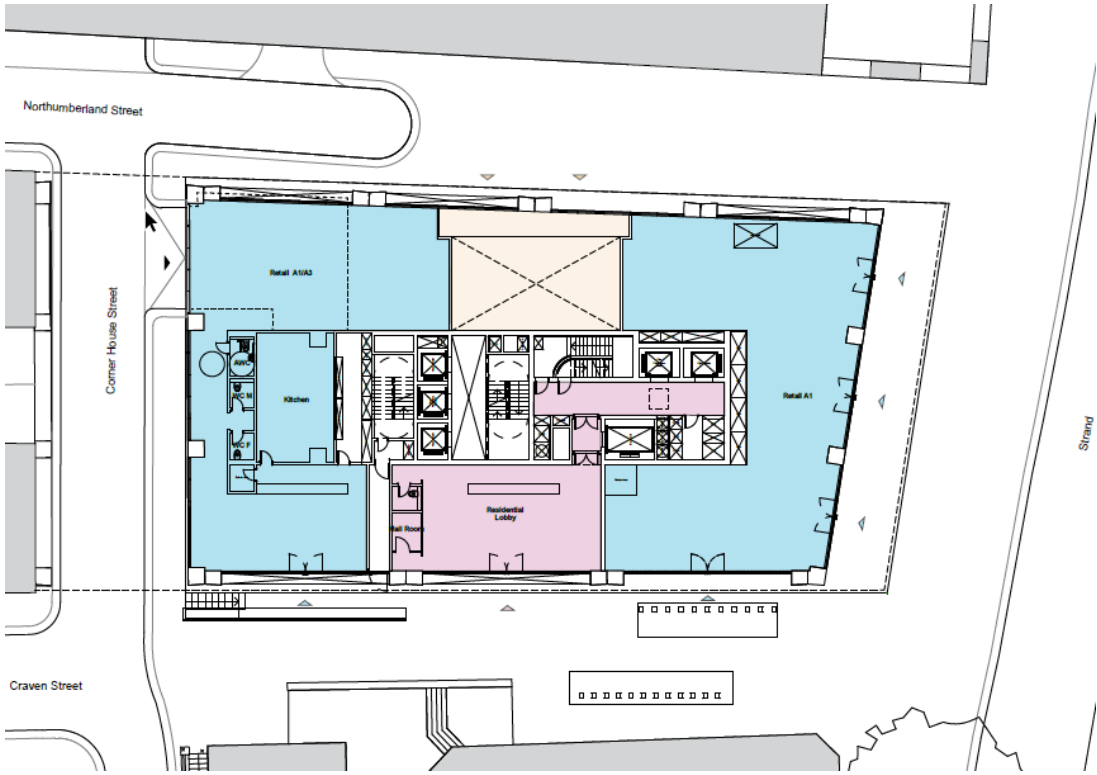




**Existing and proposed views from Craven Street**

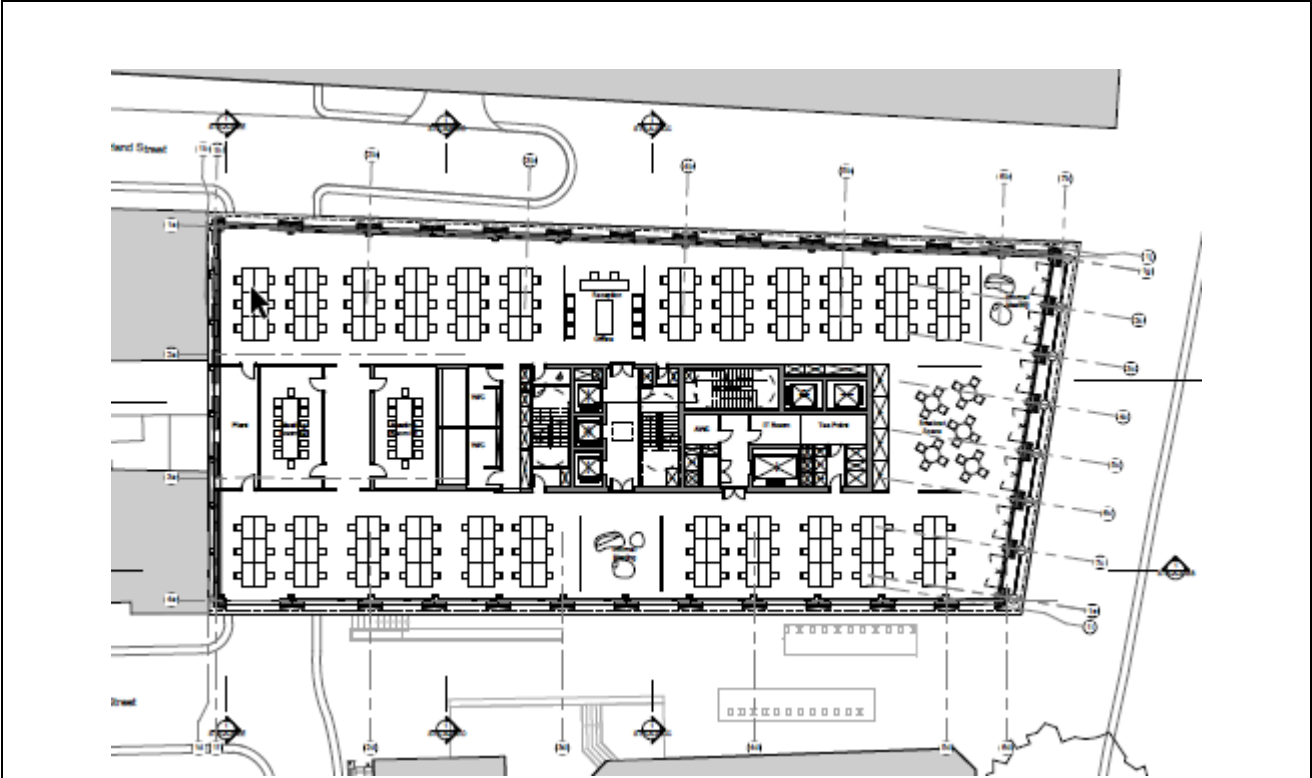


**Ground floor as existing**

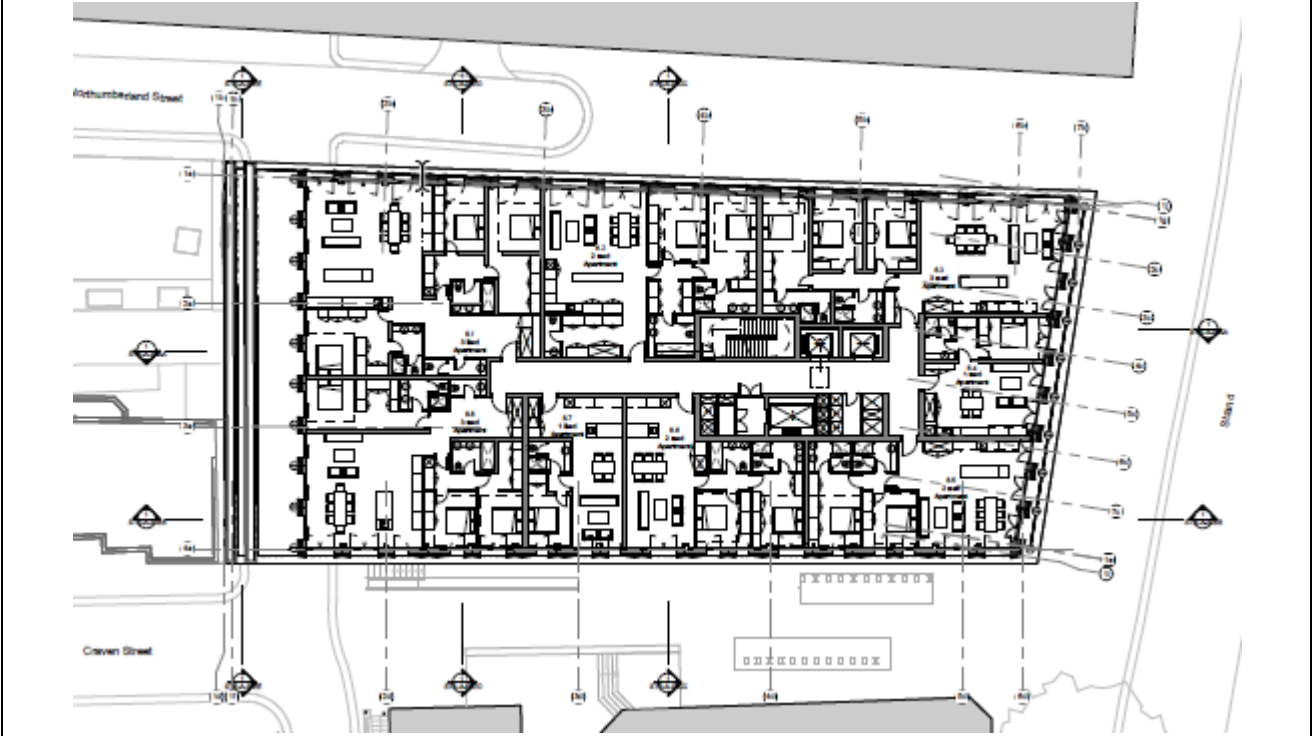


**Ground floor as proposed.**





Typical office floor (first floor shown here)



Typical residential floor (eighth floor shown)



**Section through from Strand to Corner House Street; existing building profile shown dotted.**

**DRAFT DECISION LETTER**

- Address:** 5 Strand, London, WC2N 5AF,
- Proposal:** Demolition of existing building and construction of replacement mixed use building, comprising retail (Class A1), restaurant (Class A3), office (Class B1) and residential (Class C3) floorspace across two basements, lower ground and ground floors and 11 upper floors, and associated alterations.
- Reference:** 16/10951/FULL
- Plan Nos:** STR-A-XP-GF; STR-A-XP-01 to 08 inclusive; STR-A-XP-RF; STR-A-XP-LGF; STR-A-XP-B1; STR-A-XEL-N; STR-A-XEL-W; STR-A-XEL-E; STR-A-DSP-01; STR-A-DP-GR; STR-A-DP-01 to 09 inclusive; STR-A-DP-LGF; STR-A-DP-B1; STR-A-DEL-N; STR-A-DEL-W; STR-A-DEL-E; STR-A-P-LP; STR-A-P-GF rev P-A; STR-A-P-01 to 11 inclusive; STR-A-P-RF; STR-A-FP-LGF-01; STR-A-FP-LGF-02 rev P-A; STR-A-FP-B1 rev P-A; STR-A-FP-UB rev P-A; STR-A-S-AA; STR-A-S-BB; STR-A-S-CC; STR-A-S-DD; STR-A-S-EE; STR-A-E-N; STR-A-E-W; STR-A-E-E; STR-A-E-S; STR-A-SKT-01; STR-A-SKT-02; STR-A-SKT-03; STR-A-SCH-00; STR-A-SCH-01; STR-A-SCH-02; STR-A-SCH-03; STR-A-SCH-04; STR-A-SCH-05; Design and Access Statement (Adjaye Associates November 2016); Townscape, Heritage and Visual Assessment (Tavernor Hayes Davidson, November 2016); Planning Statement (Gerald Eve, November 2016); Transport Assessment (Iceni, November 2016 and additional note dated March 2017); Daylight and Sunlight Assessment (gia, November 2016); Sustainability Statement, CIBSE overheating analysis and Energy Statement (all by Hurley Palmer Flatt, November 2016); Air Quality Assessment (Hurley Palmer Flatt, February 2017); Ambient Noise Survey (Applied Acoustic Design November 2016); Acoustic Report (Applied Acoustic Design, 18 January 2017); Structural Methodology Statement (mnp, November 2016 - for information only); Statement of Community Involvement (four communications, November 2016); outline construction management plan - for information only (Campbell Reith November 2016); Archaeological report (MoLA November 2016).

**Case Officer:** Louise Francis

**Direct Tel. No.** 020 7641 2488

**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 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: , o between 08.00 and 18.00 Monday to Friday; , o between 08.00 and 13.00 on Saturday; and , o not at all on Sundays, bank holidays and public holidays. , , You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and , o 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)

- 3 No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the City Council as local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason:

As required by Thames Water. The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

- 4 The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which: , (i) provide details on all structures, (ii) accommodate the location of the existing London Underground structures and tunnels, (iii) accommodate ground movement arising from the construction thereof, (iv) mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels., , The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

As required by London Underground, and to ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2016 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012

- 5 No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. , , If heritage assets of archaeological interest are identified

by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include: , A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works, B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of the resulting material.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 6 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: , (a) A schedule of all plant and equipment that formed part of this application; , (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment; , (c) Manufacturer specifications of sound emissions in octave or third octave detail; , (d) The location of most affected noise sensitive receptor location and the most affected window of it; , (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; , (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; , (g) The lowest existing L A90, 15 mins measurement recorded under (f) above; , (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; , (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for

a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 7 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 8 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 9 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises., (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power., (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 10 **Pre Commencement Condition.**

You must not start any demolition work on site until we have approved either: (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or, (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building., You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Trafalgar Square Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 11 Pre Commencement Condition, Prior to the commencement of development, details of the measures to be incorporated into the development demonstrating how the principles of 'secured by design' are included shall be submitted to and approved by the City Council in consultation with the Metropolitan Police.

Reason:

In line with the requirements of S28 and S29 of Westminster's City Plan, November 2016 and as required by the Metropolitan Police.

- 12 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 13 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 6 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 14 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 8 and 12 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 15 A scheme of mechanical ventilation shall be provided to the residential properties. Details of the ventilation system must be submitted to and approved by us prior to the occupation of the residential units. The approved scheme shall be installed and maintained as approved for the life of the development. The mechanical ventilation system installed shall ensure the internal noise levels of the residential units do not exceed the noise levels outlined in conditions 8 and 12.

**Reason:**

To safeguard the amenity of the future occupiers of the properties, provide an appropriate living environment and ensure appropriate air quality in accordance with the aims of policies S29, S31 and S32 of the Westminster City Plan, November 2016.

- 16 You must apply to us for details for approval of details for a ventilation strategy for the residential properties to mitigate against overheating. The ventilation scheme installed, with windows closed, to prevent overheating must show compliance to at least the Overheating Standard of CIBSE Guide A (2006), specifically;, , For living rooms, less than 1% of occupied hours are over an operative temperature of 28 degrees celcius;, , For bedrooms, less than 1% of occupied hours are over 26 degrees celcius;, , You must not start work on this part of this development until we have approved what you have sent us and you must carry out the work in accordance with the approved details, to be retained for the life of the development.

**Reason:**

To safeguard the amenity of the future occupiers of the properties, provide an appropriate living environment and ensure appropriate air quality in accordance with the aims of policies S29, S31 and S32 of the Westminster City Plan, November 2016.

- 17 No vibration shall be transmitted from the railway lines so as to cause a vibration dose value of greater than 0.4m/s(1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential property.

**Reason:**

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 18 The design and structure of the development shall be of such a standard that it will protect residents within it from ground borne noise from the railway lines so that they are not exposed to levels indoors (in residential units) of more than 35 dB LASmax within habitable rooms during day and night.



## Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 19 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

## 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.

- 20 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number STR-A-FP-LGF-02/revP-A and STR-A-FP-UB rev P-A. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

## Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 21 You must apply to us for approval of a detailed servicing management plan. The plan shall identify process, storage locations, scheduling of deliveries and staffing. You must not occupy any part of the buildings until we have approved what you have sent us. The servicing management plan shall be maintained for the life of the development unless a revised strategy is agreed in writing by us.

## 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)

- 22 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

## Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 23 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application., , photovoltaic panels, , You must not remove any of these features. (C44AA)

**Reason:**

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 24 The new building must achieve a BREEAM rating of at least 'excellent' (or any such national measure of sustainability for commercial buildings that replaces that scheme of the same standard). Within 1 year of the completion of the commercial units, you must submit to us for our approval a copy of a Building Research Establishment (or equivalent independent assessment) issued Final Post Construction Stage Assessment and Certification, confirming that an 'excellent' rating has been achieved.

**Reason:**

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44BC)

- 25 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) the retail accommodation hereby approved shall not be used for food retail purposes (i.e. a supermarket).

**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)

- 26 You must use the parking, access, loading, unloading and manoeuvring areas shown on the approved plans only for those purposes. (C23AA)

**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)

- 27 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Trafalgar Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to

10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 28 You must apply to us for approval of detailed drawings of the following parts of the development: i) windows at a scale of 1:10, ii) external doors at a scale of 1:20, iii) shopfronts at a scale of 1:50, iv) external railings and balustrades at a scale of 1:20, , You must not start work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these details.,

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Trafalgar Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 29 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Trafalgar Square Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 30 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:, , A revised design for the oversailing to Craven House Street to ensure a minimum clearance of 5.3m over the carriageway and footway within 1 metre of the kerb., , You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 31 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

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)

### 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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
  - i) A payment of £7,074,945 (index linked) towards the City Council's affordable housing fund, payable upon commencement of development.
  - ii) Carbon offset payment of £97,710 (index linked) to be paid on commencement of development.
  - iii) All highway works immediately surrounding the site required for the development to occur, including changes to footway levels, on-street restrictions, reinstatement of redundant vehicle crossovers and associated work (legal, administrative and physical)
  - iv) Employment and Training Strategy for the construction and operational phase of the development.
  - v) Car club membership for residents (for a minimum of 25 years)
  - vi) Car parking spaces in an off site location to be provided prior to first occupation of the residential flats, and maintained for the life of the development.
  - vii) S106 monitoring costs to be paid on commencement of development.
- 3 You are advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.
- 4 A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwriskmanagement@thameswater.co.uk](mailto:wwriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality)."

- 5 Archaeological written schemes of investigation will need to be prepared and implemented by a suitably qualified, professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition (condition 5) is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 6 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil), , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>, , Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk), , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**
- 7 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)
- 8 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 9 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work., , Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974., , 24 Hour Noise Team, Environmental Health Service, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP, , Phone: 020 7641

2000, , Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 10 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 11 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 12 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.
- 13 Conditions control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 14 With reference to condition 31 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.
- 15 In relation to Condition 30, the minimum clearance heights must be adhered to enable a highways licence to be issued - any lesser clearances would not enable an oversailing licence to be issued.

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.

# Agenda Item 3

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Development Site At Land Bounded By Drury Lane, Dryden Street, Arne Street And, Shelton Street, London, ,</b>		
<b>Proposal</b>	Demolition and redevelopment of site, including facade retention of 30-35 Drury Lane, 2 Dryden Street and 4-10 Dryden Street, for mixed use development comprising retail, restaurant and cafe uses at ground and basement level (Classes A1/A3), office floorspace (class B1) at part ground, first to fifth floor level, rooftop plant, basement cycle parking and associated works.		
<b>Agent</b>	Mr James McAllister-Jones		
<b>On behalf of</b>	Helical Bar (Drury Lane) Limited		
<b>Registered Number</b>	16/12200/FULL	<b>Date amended/ completed</b>	22 December 2016
<b>Date Application Received</b>	22 December 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Covent Garden		

## 1. RECOMMENDATION

Do Members consider that the proposed amendments to the scheme are sufficient to overcome their previous concerns in relation to design (scale, bulk and design) and highways (servicing)?

## 2. SUMMARY

The application was reported to the Planning Applications Committee on 25 April 2017 where the presenting officer informed the Committee that the applicant had submitted an amended scheme that offered to reduce the bulk of the development and provide an off-street servicing bay. Members resolved to defer the decision, to enable full public consultation on the amended scheme.

The amendments made to the scheme can be summarised as follows:

- Reduction in the overall height of the building by 1.25m.
- Pulling back of the top floor extension on the corner of Drury lane and Shelton Street frontages by 800mm.
- Increase in the green roof provision by a further 250sqm.
- The ground floor unit on Dryden Street changed from retail (Class A1/A3) to office (Class B1); and;
- The provision of an off-street servicing bay at ground floor level.

Historic England, The Victorian Society, Covent Garden Area Trust, Covent Garden Community Association and Seven Dials Trust (verbally) maintain their objections to the scheme.

### **Design and Conservation**

The changes submitted to the original proposal are not considered to make a meaningful difference to the overall harm which the development would cause to the local townscape, and in particular to the character and appearance of the Covent Garden Conservation Area, and the setting of the Seven Dials Conservation Area (within the London Borough of Camden).

Whilst the reduction in height and the setting back of the top storey theoretically reduces the size of the building, those floors remain evident and very present in views as identified in the previous report. The same architectural awkwardness and excessive singular scale and bulk of the 'ziggurat'-like roof over an otherwise regular fine-grain street façade would be visible from street level, and also from high levels when viewing the roofscape of Covent Garden.

### **Highways**

An off-street servicing area has been provided at ground floor level accessed from Arne Street. The applicant has submitted a Servicing Management Plan in support of their application and the Council's Highways Planning Manager is satisfied that the off-street servicing area/loading bay is sufficient for the proposed development, consistent with policy S42 of the City Plan and TRANS20 of the UDP. Were the application to be considered favourably, a condition would be recommended preventing the retail use from being used as a supermarket to ensure that the servicing provision is adequate.

### **Land use**

There are currently no Council policies which protect small/medium scale office uses, however, in response to the concerns raised about the loss of medium scale office floorspace which is characteristic of the Covent Garden area, the applicant has amended the application to include a self-contained office unit (Class B1) of 320sqm at ground floor level on the corner of Dryden Street and Arne Street, where retail/restaurant use was previously proposed. The applicant has also shown that the office floorplates are capable of being divided into smaller spaces of between 300-500sqm suitable for small/medium size businesses.

### **Amenity**

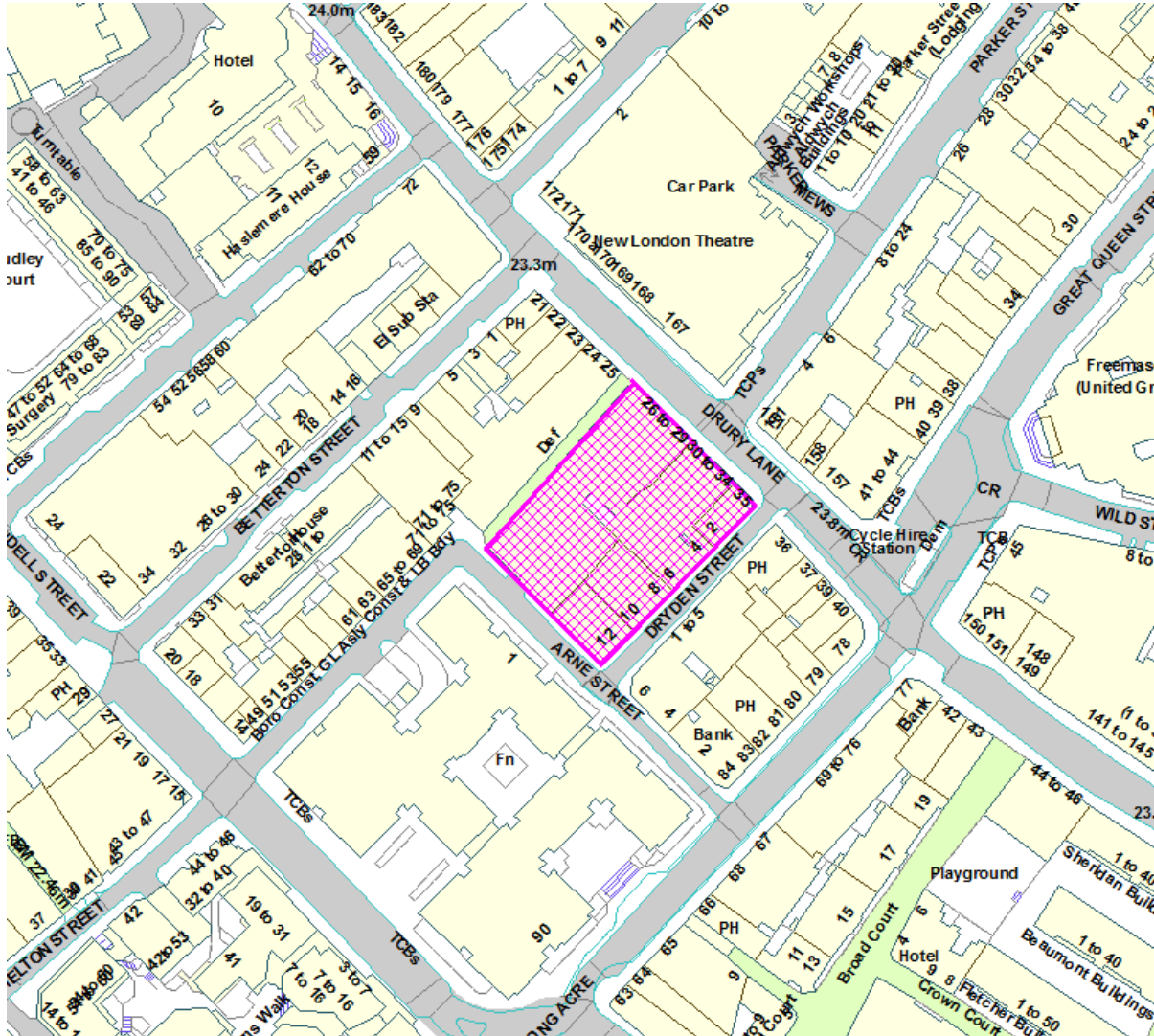
The reduced height of the proposed building has resulted in a minor improvement to the daylight and sunlight levels to the surrounding residential and commercial units. The proposal is considered acceptable in amenity terms as set out in the previous committee report (attached).

The proposal would provide high quality office accommodation and new retail frontage, however, other policy objectives are challenged. The proposed building would significantly alter the



contribution which this city block makes to the character of the area, the Covent Garden Conservation Area, and to the setting of Seven Dials. The application is therefore reported back to members to decide whether the public benefits of the revised scheme would adequately mitigate or compensate for the design and conservation issues outlined above.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



26-29 Drury Lane (above) & 2-12 Dryden Street (below)





26-29 Drury Lane (above) & 12 Dryden Street (below)



## 5. CONSULTATIONS

### AMENDED SCHEME

#### HISTORIC ENGLAND

Previous concerns raised in relation to the proposed scale and massing of the additional storeys remain. The amended proposals still include two-tiered attic storeys. Whilst changes have been made to accommodate a minor stepping back and lowering of these storeys, the impact is qualitatively very similar and still imparts a top-heavy ziggurat-like appearance. The harm to the special character and appearance of the conservation area remains a concern. In line with paragraph 132 of the NPPF, the Council will need to weigh up any harm identified with the wider public benefits of the proposals.

#### COVENT GARDEN AREA TRUST, COVENT GARDEN COMMUNITY ASSOCIATION AND SEVEN DIALS TRUST

Verbally confirmed that their objections to the original scheme remain. Any further response to be reported verbally.

#### THE VICTORIAN SOCIETY

The alterations to the scheme are comparatively minor and fail to address the serious concerns laid out in their original objection. Implementation of the proposals, in particular the total loss of 26-29 Drury Lane and the excessive roof extensions, would cause serious and unjustified harm to the character, appearance and setting of the Covent Garden Conservation Area and should be refused.

#### HIGHWAYS PLANNING MANAGER

The provision of an off-street servicing area maintains the highway environment for pedestrians and other highway users, similar to the existing building. The revised scheme is consistent with policy S42 of the City Plan and TRANS20 of the UDP and is considered acceptable subject to conditions.

#### CLEANSING

No objection.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 139

Total No. of replies: 3

Three letters of objection have been received maintaining their original objections to the scheme on land use, design and amenity grounds.

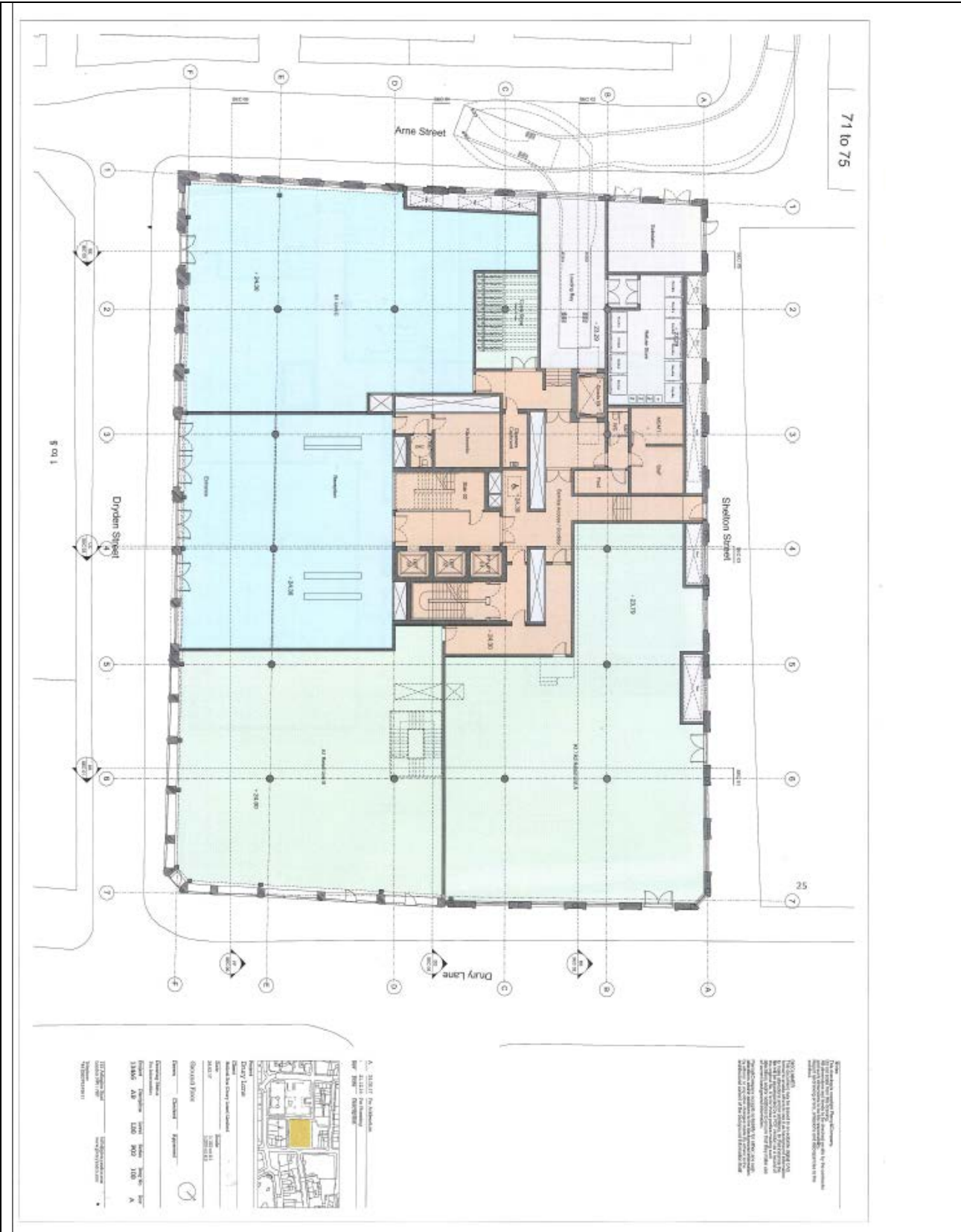
## 6. BACKGROUND PAPERS

1. Application form
2. Response from Covent Garden Area Trust, Covent Garden Community Association, and Seven Dials Trust dated 15 February 2017
3. Response from Historic England dated 25 January 2017 and 23 June 2017.
4. Response from Historic England (Archaeology) dated 8 February 2017
5. Letter from Victorian Society dated 16 March 2017 and 9 June 2017.
6. Memorandum from Highways Planning Manager dated 11 April 2017 and 23 June 2017.
7. Memorandum from Cleansing dated 24 January 2017, 20 March 2017 and 14 June 2017.
8. Memorandum from Environmental Health dated 7 April 2017.
9. Memorandum from Arboricultural Officer dated 3 March 2017.
10. E-mail from Crime Prevention Design Advisor dated 7 February 2017.
11. Letter from occupier of 3 Dryden Street, Covent Garden, dated 7 February 2017
12. Letter from occupier of 26/28 Neal Street, Covent Garden, dated 9 February 2017 and 12 June 2017.
13. Letter from occupier of 41 Floral street, Covent Garden, dated 20 March 2017
14. Letter from occupier of Flat 3, 80 Long Acre, dated 5 February 2017 and 8 June 2017.
15. Letter from occupier of Pemberton Griffin Munroe Ltd, on behalf of 5 Betterton Street, dated 15 June 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: **MATTHEW MASON** BY EMAIL AT **MMASON@WESTMINSTER.GOV.UK**.

**KEY DRAWINGS**



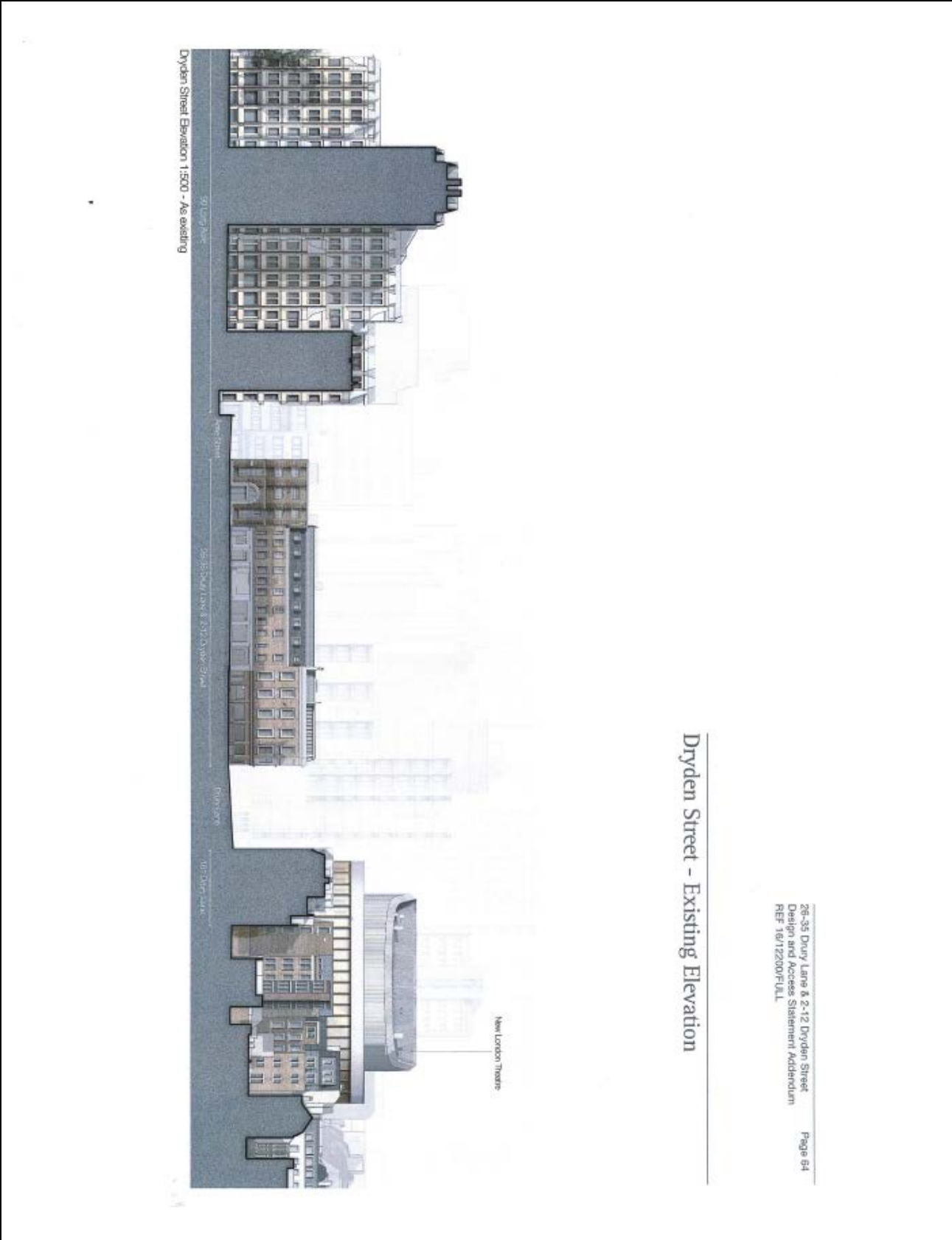
### Drury Lane - Existing Elevation





### Drury Lane - Proposed Elevation





### Dryden Street - Proposed Elevation





### Arne Street - Proposed Elevation



### Shelton Street - Existing Elevation



### Shelton Street - Proposed Elevation

26-35 Drury Lane & 2-12 Dryden Street  
 Design and Access Statement Addendum  
 REF: 16/12/20/01/FULL Page 69



**DRAFT DECISION LETTER**

**Address:** Development Site At Land Bounded By Drury Lane, Dryden Street, Arne Street And, Shelton Street, London, ,

**Proposal:** Demolition and redevelopment of site, including facade retention of 30-35 Drury Lane, 2 Dryden Street and 4-10 Dryden Street, for mixed use development comprising retail, restaurant and cafe uses at ground and basement level (Classes A1/A3), office floorspace (class B1) at first to fifth floor level, rooftop plant, basement cycle parking and associated works.

**Reference:** 16/12200/FULL

**Plan Nos:** 13465-AR-L00-P00-010; 13465-AR-L00-P00-020; 13465-AR-L-1-P00-099; 13465-AR-L00-P00-100; 13465-AR-L01-P00-101; 13465-AR-L02-P00-102; 13465-AR-L03-P00-103; 13465-AR-L04-P00-104; 13465-AR-L05-P00-105; 13465-AR-LXX-P00-120; 13465-AR-LXX-P00-121; 13465-AR-LXX-P00-122; 13465-AR-LXX-P00-123; 13465-AR-L-1-P01-099; 13465-AR-L00-P01-100; 13465-AR-L01-P01-101; 13465-AR-L02-P01-102; 13465-AR-L03-P01-103; 13465-AR-L04-P01-104; 13465-AR-L05-P01-105; 13465-AR-LXX-P01-120/A; 13465-AR-LXX-P01-121/A; 13465-AR-LXX-P01-122/A; 13465-AR-LXX-P01-123/A; 13465-AR-S-01-130; 13465-AR-S-02-131; 13465-AR-S-03-132; 13465-AR-S-04-133; 13465-AR-L-1-P02-099/A; 13465-AR-L00-P02-100/A; 13465-AR-L01-P02-101/A; 13465-AR-L02-P02-102/A; 13465-AR-L03-P02-103/A; 13465-AR-L04-P02-104/A; 13465-AR-L05-P02-105/A; 13465-AR-L06-P02-106/A; 13465-AR-LXX-P02-120; 13465-AR-LXX-P02-121; 13465-AR-LXX-P02-122; 13465-AR-LXX-P02-123; 13465-AR-L07-P02-130/A; 13465-AR-L07-P02-131/A; 13465-AR-L07-P02-132/A; 13465-AR-L07-P02-133/A; 13465-AR-L07-P02-134/A and 13465-AR-L07-P02-135/A; Documents for information only: Design and Access Statement dated 21.12.16 and Addendum dated May 2017; Planning Statement dated February 2017; Built Heritage Statement dated December 2016 and addendum dated May 2017; Air Quality Assessment dated February 2017; Preliminary Ecological Appraisal dated December 2016; Historic Environment Desk Based Assessment dated February 2017; Daylight, Sunlight and Overshadowing Study dated December 2016 and May 2017; Noise Impact Assessment dated 15 December 2016; Transport Assessment dated 14 February 2017 and Addendum dated 19 May 2017; Preliminary Environmental Risk Assessment dated December 2016; Energy and Sustainability Assessment dated December 2016; Ventilation and Extraction Statement dated December 2016; Office Marketing Report dated 21 December 2016; Construction Management Plan dated December 2016; Structural Methodology Statement dated December 2016 and Addendum dated May 2017; and BREEAM 2014 New Construction: Landuse and Ecology Assessment dated May 2017.

**Case Officer:** Julia Asghar

**Direct Tel. No.** 020 7641 2518

**Recommended Condition(s) and Reason(s)**





CITY OF WESTMINSTER

# MINUTES

## Planning Applications Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Committee (1)** held on **Tuesday 25th April, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Richard Beddoe (Chairman), Susie Burbridge, Tim Mitchell and Ruth Bush

#### 1 MEMBERSHIP

1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

- 2.1 Councillor Richard Beddoe explained that a week before the meeting, all four Members of the Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and e-mails containing objections or giving support. Members of the Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.
- 2.2 Councillor Tim Mitchell declared that in his capacity as a Councillor for St James's Ward, and as Cabinet Member for Finance, Property & Corporate Services responsible for the City Council's property portfolio, he regularly met with members of the property industry and their representatives to discuss schemes across the Council and particularly in his Ward.
- 2.3 Councillor Mitchell then made the following further declarations as they related to the specific applications on the agenda:

Item 1: That the application was in his Ward; and that he had received representations from the applicants and objectors. He had also sat on the Committee that had considered a previous application.

Item 3: That he had sat on the Committee that had considered a previous application.

Item 4: That the application was in his Ward; and that as he was Cabinet Member for Finance, Property & Corporate Services, he would withdraw from the meeting during consideration of this item and take no part in the discussion or decision.

Item 6: That the application was in his Ward; and that he had received representations from the objectors.

2.4 Councillor Susie Burbridge declared that any Members of the Majority Party and Minority Party who had or would make representations on the applications on the agenda were her friends. She also declared that she was the Deputy Cabinet Member for Housing.

2.6 Councillor Burbridge then made the following declarations as they related to the specific applications on the agenda:

Item 2: The application was in her Ward.

Item 3: That she had sat on the Committee that had considered the application previously.

### 3 MINUTES

#### 3.1 RESOLVED:

That the minutes of the meeting held on 4 April 2017 be signed by the Chairman as a correct record of proceedings.

## 4 PLANNING APPLICATIONS

### 1 DEVELOPMENT SITE AT LAND BOUNDED BY DRURY LANE, DRYDEN STREET, ARNE STREET AND SHELTON STREET, LONDON

Demolition and redevelopment of site, including facade retention of 30-35 Drury Lane, 2 Dryden Street and 4-10 Dryden Street, for mixed use development comprising retail, restaurant and cafe uses at ground and basement level (Classes A1/A3), office floorspace (class B1) at first to fifth floor level, rooftop plant, basement cycle parking and associated works

Late representations were received from Pemberton Griffin Munroe Ltd (25.04.17), and Helical Bar PLC (25.04.17).

The presenting officer informed the Committee that the applicant had submitted an amended scheme that offered to reduce the bulk of the development.

**RESOLVED:** That consideration be deferred, to enable full public consultation on the amended scheme.

### 2 18 ST PETERSBURGH PLACE, LONDON, W2 4LB

Demolition of existing mews building at 32 St Petersburg Mews and construction of new mews building with link extension to 18 St Petersburg Place. Excavation of basement beneath 18 St Petersburg Place and part of

# Agenda Item 1

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 25 April 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>Development Site At Land Bounded By Drury Lane, Dryden Street, Arne Street And, Shelton Street, London, WC2</b>		
<b>Proposal</b>	Demolition and redevelopment of site, including facade retention of 30-35 Drury Lane, 2 Dryden Street and 4-10 Dryden Street, for mixed use development comprising retail, restaurant and cafe uses at ground and basement level (Classes A1/A3), office (class B1) at first to fifth floor level, rooftop plant, basement cycle parking and associated works.		
<b>Agent</b>	Mr James McAllister-Jones		
<b>On behalf of</b>	Helical Bar (Drury Lane) Limited		
<b>Registered Number</b>	16/12200/FULL	<b>Date amended/ completed</b>	22 December 2016
<b>Date Application Received</b>	22 December 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No's. 30-35 Drury Lane and 2-10 Dryden Street - Covent Garden Conservation Area No's. 26-29 Drury Lane outside conservation area.		

## 1. RECOMMENDATION

Refuse permission – design (scale, bulk and massing) and highways (lack of off-street servicing).

## 2. SUMMARY

The application relates to a complete city block bounded by Drury Lane, Dryden Street, Arne Street and Shelton Street (a pedestrian alleyway), located on the border with the London Borough of Camden. Permission is sought for the redevelopment of the site behind the retained facades of 30-35 Drury Lane and 2-10 Dryden Street, for office use (class B1) with flexible retail, restaurant and cafe uses at ground floor level.

The key issues for consideration are:

- The impact of the proposals on the character and appearance of the buildings and the conservation area.
- The landuse implications of the proposal;
- The impact of the proposals on the amenity of surrounding residents; and
- The impact of the proposal on the surrounding highway network.

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The proposal would provide high quality office accommodation and new retail frontage , however, other policy objectives are challenged. The proposed building would significantly alter the contribution which this city block makes to the character of the area, the Covent Garden Conservation Area, and to the setting of Seven Dials. The public benefits of the scheme would not adequately mitigate or compensate for the more significant issues of scale, bulk and massing of the proposed building.

No replacement off-street servicing is provided which would have an adverse impact on the surrounding highway network and the safety of pedestrians. Accordingly it is recommended that the application be refused on design and highway grounds.

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## 5. CONSULTATIONS

### HISTORIC ENGLAND

Previous concerns raised in relation to the residential scheme with regards to the proposed scale and massing of the additional storeys remain.

A key change with the latest proposals is the alteration of the floor plates and massing of the development in association with the change to office use. The additional height and massing proposed causes concern due to the visual impact in wider townscape views. The proposal will have a top heavy appearance detracting from the proportions and hierarchy of the street frontages. This additional bulk and dominance would conflict with the traditional scale and grain currently characterising the site. These proposals would result in some harm being caused to the special character and appearance of the conservation area. In line with paragraph 132 of the NPPF, the Council will need to weigh up any harm identified with the wider public benefits of the proposals.

### HISTORIC ENGLAND (ARCHAEOLOGY)

No objection subject to conditions.

### LONDON BOROUGH OF CAMDEN

Any response to be reported verbally.

### COVENT GARDEN AREA TRUST, COVENT GARDEN COMMUNITY ASSOCIATION AND SEVEN DIALS TRUST

This is the second time the three organisations have jointly objected to planning proposals for this site. Welcome the continued use of the site as office (B1) and the subsequent retention of employment uses, however, the height and bulk of the scheme has increased, which further compounds the impact of the proposed development on the character and setting of the conservation area. The consented scheme should not be seen as a precedent.

The current proposals for extensive demolition behind "retained facades" achieve only a minimal increase in square footage. A conservation-based scheme with additional mansard storeys could achieve equal or greater square footage and thus comply with the growth agenda set in the NPPF and accommodate small- and medium-sized businesses, typical of Covent Garden. Covent Garden is a successful example of economic regeneration through active conservation of the built environment precisely because developments such as the one proposed in this application have not been permitted.

In accordance with the NPPF the Council must weigh the harm to the conservation area against any wider public benefits that would result from the scheme. The applicant has not identified any public benefits and the character and appearance of the area must prevail.

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The proposals are highly unsympathetic to the character, including architectural design, scale and materials, of the area and fail to improve or maintain (enhance or preserve) the conservation area.

The modern design and materials of 26-29 Drury Lane clashes with the surrounding buildings and the proposed additional storey makes the building stand out. The proposed Shelton Street frontage with louvre panels at ground level creates a fortress feel and does not result in a connection with the streetscape.

Whilst the applicant proposes retaining elements of the historic façades of the remaining buildings, they will be substantially altered and dwarfed by additional storeys that undermine the traditional proportions and historic elevations that typify this part of the conservation area. The additions above the "retained façades" are not in keeping with the character and appearance of the streetscape and fail to relate to the scale, height, detailing and materials of the existing buildings. The excessive scale and design would seriously harm the particular architectural and historic interest and significance of the surviving, original street-elevations, their contribution to the character, appearance and significance of the Covent Garden Conservation Area itself.

The proposed additional floors at 30-35 Drury Lane-2 Dryden Street are more in keeping with the existing façades, however, will result in a building with much more bulk and is not discreet, or a subservient addition to the original building. Additional storeys at 4-10 Dryden Street add substantial height and bulk to the existing and consented schemes.

The height massing and bulk remain incongruent with the character and heritage of the setting, and looks alien to its surroundings.

Such a large mixed use development will have significant servicing and delivery needs. Servicing the development will result in an even greater impact on local narrow streets, particularly Arne, Shelton and Dryden streets.

THE VICTORIAN SOCIETY

Raise an objection. The proposal would cause serious harm to the character and appearance of the Covent Garden Conservation Area and the setting of neighbouring conservation areas. 30-35 Drury Lane, 4-10 and 12 Dryden St and 26-29 Drury Lane, with its four-bay return along Shelton Street, all possess character and make a positive contribution to the area's architectural richness. The total demolition of 26-29 Drury Lane would harm the setting of the various conservation areas and should at least have its façade retained as part of any redevelopment.

Object to the excessive roof extensions, which would so starkly and harmfully betray the block, transforming it into a single superblock. The 'new' block would be entirely and damagingly at odds with the prevailing character of the area. The roof extensions would be visually prominent and would contrast unhappily with the typology of the street frontages and domestic scale and character of the Conservation Area. The proposed scheme pays insufficient regard to the significance of the buildings and the special interest of the Conservation Area. Contrary to sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the NPPF.

ENVIRONMENT AGENCY

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Any response to be reported verbally.

#### CRIME PREVENTION DESIGN ADVISOR

No objection.

#### BUILDING CONTROL

Any response to be reported verbally.

#### ENVIRONMENTAL HEALTH

Clarification required as to whether a combined heat and power plant will be installed. The air quality assessment concludes the development proposals are air quality neutral.

The Council's standard noise conditions are recommended to control noise from plant. Two commercial kitchen areas are proposed with dedicated riser route for the kitchen extract system up to roof level. Details should be secured by condition.

The development is a level 1 development under the Code of Construction Practice (COCP) and the appropriate condition should be applied. The submitted construction management plan does not provide sufficient information to fulfil the requirements of a Site Environmental Management Plan. Therefore a revised document will be required. A condition requiring contaminated land remediation is also recommended.

#### HIGHWAYS PLANNING MANAGER

No car parking is proposed which is consistent with UDP policies TRANS21 and TRANS22. Cycling provision is acceptable.

No off street servicing is provided and the existing off street servicing bay is removed, contrary to adopted policy. Inadequate information to demonstrate that on street servicing is capable of occurring without significant impact on other highway users. Reliance on the extant permission at 90 Long Acre (with off street servicing) being implemented to free up on-street space on Arne Street to cope with servicing.

#### CLEANSING

A waste store at ground floor level is large enough to accommodate the waste expected from the development. The proposed redevelopment should be redesigned to accommodate off-street servicing or the waste store relocated so that waste can be loaded directly from the waste store onto the waiting refuse vehicle in order to reduce the amount of time it will be obstructing the public highway.

#### ARBORICULTURAL MANAGER

There are no trees affected or proposed to be planted as part of the application.

A green roof is proposed at fifth floor level which includes troughs around the parapet and a sedum style roof covering. There is insufficient soil on the structure for more biodiverse roof landscaping like a brown roof or a roof meadow. The green roof substrate and structure is inadequate to provide the biodiversity and environmental benefits in terms of species and rainwater attenuation suggested. The absence of sustainable irrigation sources is contrary to Council policy which encourages the

provision of green infrastructure and biodiversity. More substantial, biodiverse and sustainable roof planting could be achieved.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 133

Total No. of replies: 4

No. of objections: 3

No. in support: 1

One letter of support has been received from a resident in Floral Street on the grounds that the development will enhance Covent Garden for residents and workers.

Objections have been received from 2 residents and the Donmar Warehouse Theatre on the following grounds:

##### Design

- Deplore the unnecessary destruction of fine Victorian buildings which are in keeping with those nearby. The demolition of so much character is unjustified.
- Making the assumption that retaining facades makes wholesale demolition of the rest of any historic building justifiable is wrong and not supported by any Conservation and planning policy.
- The buildings are all full of character, inside and out, and were built for light industrial and retail purposes and are of particular townscape value.
- The proposal is to drop a bulky contemporary "City" office building into a Conservation Area in the middle of Covent Garden. The new building pays scant homage to its surroundings except for retaining building facades in Dryden Street and Drury Lane.
- The height of the proposed new facade is too great for the size of the streets.
- The proposed building is of an excessive scale, too high and bulky for the surrounding townscape and will dominate the immediate area.
- Excavating 2.2 metres below the existing basement level is excessive and cannot be justified.

##### Landuse

- There is nothing wrong with the existing collection of buildings, almost all of the space is currently occupied offering character Victorian space or loft style warehouse accommodation typical throughout Covent Garden. A fabulous working environment that has generous floor to ceiling heights, robust cast iron columns, exposed brickwork, traditional timber floors and excellent natural light.
- It is likely that the small retailers currently present which serve the local community (e.g. the newsagents) will be priced out.
- Covent Garden does not need any more restaurants and cafes, the servicing of which causes noise, traffic problems and pollution.
- Dryden Street is very narrow and a flexible retail, restaurant or café unit is likely to shatter the peace of the street from the use and servicing. Long occupational hours of use seem more appropriate for the Drury Lane frontages.
- The introduction of large retail, restaurants and café premises into Dryden Street and Arne Street is inappropriate for a quiet peaceful backwater.



- One of the Donmar's most critical operations within Dryden is the rehearsal studio, designed specifically to prevent standard street noise from entering. It is important for studios to be protected from excessive noise and vibration.

#### Amenity

- The daylight, sunlight and overshadowing study confirms a large number of rooms in the Donmar Warehouse will be affected by the development beyond BRE guidance.

#### Highways

- Traffic and congestion from servicing vehicles.
- Proposed A3 uses will bring servicing traffic into narrow back streets.

#### Other

- Noise and disturbance during construction. Construction traffic should be banned from entering the site from Arne Street or Dryden Street.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application relates to a complete city block bounded by Drury Lane to the east, Dryden Street to the south, Arne Street to the west and Shelton Street to the north (a pedestrian alleyway connecting Drury Lane to Arne Street). It is located on the border with the London Borough of Camden which runs along the middle of Shelton Street and Drury Lane.

Only the southern part of the site is located within the Covent Garden Conservation Area (No's. 30-35 Drury Lane and the Dryden Street properties). Nos. 26-29 Drury Lane are not within the conservation area boundary. The Seven Dials Conservation Area, in the London Borough of Camden, wraps around the north and east of the site. The site lies within the Core Central Activities Zone, West End Special Retail Policy Area; and the West End Stress Area.

The site comprises three existing buildings which are in a mix of office and retail uses:

#### **30-35 Drury Lane and 2-6 Dryden Street**

Constructed in the mid- nineteenth century, the buildings comprise four retail units (class A1) at ground floor level along Drury Lane (561sqm GIA), with offices (class B1) on the upper floors accessed from Dryden Street (1,842 sqm GIA).

#### **26-29 Drury Lane**

Built in 1915, following extensive bomb damage in World War II the building was subject to substantial repair and extensions. The building is currently in office use (class B1) occupied by King's College (4,690 sqm GIA) providing back of house administration functions. It is understood that the facilities provided are to be relocated to the Kings College, Aldwych campus.

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**4-10 & 12 Dryden Street**

A mid nineteenth century building substantially altered externally and internally, used for light industrial and then office use. The building is currently occupied by a mix of multi-let employment spaces (1,901 sqm GIA).

An existing servicing entrance is located on Arne Street.

**6.2 Recent Relevant History**

There was a resolution to grant planning permission at Committee in April 2016 for the demolition and redevelopment of the site in buildings ranging from 5 to 7 storeys (plus roof top plant enclosures), including facade retention of 30-35 Drury Lane, 2 Dryden Street, 4-10 Dryden Street and 12 Dryden Street, to provide retail and restaurant/cafe uses at ground and basement level (Class A1/A3), 68 residential units (Class C3), cycle parking, basement car park and associated landscaping works.

This application is subject to a S.106 agreement which has not been signed to date and the planning permission has not therefore been issued.

**7. THE PROPOSAL**

Planning permission is sought for the demolition and redevelopment of the site, including the facade retention of 30-35 Drury Lane and 2-12 Dryden Street, to provide a building of basement, ground and five upper floors with a rooftop plant enclosure.

Flexible retail, restaurant and cafe uses (Class A1/A3) are proposed at part basement and ground floor level with retail frontage to all street elevations, and office use (class B1) at first to fifth floor level. The main office entrance is located mid-way along Dryden Street.

The existing basement level is proposed to be deepened by approximately 2.2 metres to enable the provision of plant rooms and basement cycle parking, shower/changing room and locker facilities.

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

The buildings are currently occupied and in office use (class B1) with retail at ground floor level. The existing, consented and proposed land uses can be summarised as follows:

Use	Existing (Sqm GIA)	Consented (Sqm GIA)	Proposed (Sqm GIA)
Office	8,162	0	9,515 (+1,353)

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Retail/restaurant (class A1/A3)	833 (retail/A1 only)	1,770	1492 (+659)
Residential	0	9,413	0
Total	8,995	11,183	11,007 (+2,012)

(Applicant's calculations)

**Office use**

The site is located in the Core Central Activities Zone (CAZ). Policy S1 of Westminster's City Plan adopted November 2016 relates to mixed uses in the CAZ and encourages development which promotes Westminster's World City functions, manages its heritage and environment and supports it's living, working and visiting populations. The policy goes onto state that developments in the core CAZ where the net additional floorspace (of all uses) is less than 30% of the existing building floorspace, no residential floorspace will be required.

Policy S20 relates to offices and states that the Council will seek to exceed its target for additional B1 office floorspace capacity. This policy has introduced a new office protection approach and seeks to restrict the loss of office space to housing within the CAZ.

The proposal will result in an increase in office floorspace of approximately 1,353sqm. The provision of additional office floorspace is considered acceptable in landuse terms and it will not trigger the requirement for new residential floorspace.

Concern has been raised that the proposal will result in the loss of medium scale office floorspace which is characteristic of the kind of businesses in Covent Garden and a similar uplift in office floorspace (which the applicant confirms is 7.2%) could be achieved through extension and refurbishment of the existing buildings. There are currently no council policies which protect small/medium scale office uses and a refusal on these grounds could not therefore be sustained.

It should be noted that the applicant has made a late informal offer in response to the comments raised by CGAT, CGCA and SDT about the loss of 'Covent Garden style office space', whereby they would use the proposed ground floor retail unit on the corner of Arne Street and Dryden Street to provide a self-contained B1 unit of 320sqm; and that the upper floors be marketed in units of around 500sqm in order to attract small/medium office occupiers. No details or plans have been submitted to indicate how this could be achieved within the office layouts proposed, or how it could be secured. This would not overcome other fundamental objections to the scheme (see section 8.2 below), and on the basis that no formal submission of this nature has been received or consulted on, it is not considered further in this report.

**Retail/Restaurant uses**

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There are four existing retail units (class A1) along the Drury Lane frontage. The proposed development includes the provision of three retail units (1492sqm), one unit behind the retained façade at the corner of Drury Lane and Dryden Street over ground and basement level (776 sq. m GIA), with two further units proposed to have flexible retail/restaurant/café (class A1/A3) use, one on the corner of Dryden Street and Arne (320 sq. m GIA) and the other on the corner of Drury Lane and Shelton Street (396 sq. m GIA).

The site falls within the West End Special Retail Policy Area. Policy S7 of Westminster's City Plan (November 2016) relates to the West End Special Retail Policy Area and seeks to prioritise improved retail space; appropriate retail growth; improved pedestrian environment; development of oasis areas of rest, including seating areas and A3 café and restaurant uses where appropriate; and improved linkages to and from surrounding retail areas and visitor attractions.

Policy S6 of the City Plan and SS4 of the UDP encourage new retail floorspace in the CAZ. Policy SS4 states that development schemes in areas that would benefit from more shops or services must include an appropriate number of shop type premises at street level. Policy SS5 of the UDP relates to non-A1 town centre uses at basement, ground and first floor level within the CAZ and states that they will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality.

Policy TACE 9 of the UDP relates to restaurant/café uses within the CAZ and West End Stress Area with a gross floorspace of between 150m2 and 500m2 respectively. This policy aims to ensure that restaurant and bar uses have no adverse effect upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity or increased parking and traffic; and no adverse effect on the character and function of the area.

The use of 1492sqm as retail is in accordance with policy S6 and S7 of the City Plan and SS4 of the UDP. The retail frontage on the site is proposed to be increased from 66m to 128m with active street frontage/shopfronts introduced to all street elevations. The increase in retail floorspace (659sqm) and frontage will enhance the character and vitality of the area.

Objections have been received on the grounds that the small retailers currently present will be lost. It is regrettable that the applicant has not made provision for the units to be divided into smaller units should the need arise, however, it is not considered that the application could be refused on this basis.

The proposed flexible retail units (retail, restaurant or café use) are below 500 sqm and therefore the scale of the units are considered appropriate for restaurant/café use. The applicant has made provision for a full height kitchen extract duct from the flexible retail units up to the roof of the building.

Objections have been received to the introduction of a restaurant use on the corner of Dryden Street and Arne Street on the grounds of noise disturbance to the Donmar Theatre and nearby residential accommodation. The 2016 residential scheme contained a flexible retail/restaurant unit in the same location as that proposed and it is

not considered that the application could be reasonably be refused on this basis. Were the application to have been considered acceptable in other respects, conditions would have been recommended to limit the hours of opening of any A3 uses to between 08.00 and midnight; to secure a management plan for the restaurant uses to protect the amenity of surrounding residents; and to control internal noise to prevent noise outbreak from the units.

## 8.2 Townscape and Design

### The Site / Assessment of Significance

The southern half of the site is within the Covent Garden Conservation Area, whilst the northern half of the site is outside of it. The Seven Dials Conservation Area in the London Borough of Camden adjoins the city boundary on the northern / eastern boundaries of the site.

None of the buildings on the site are listed, nor are they considered to be of a listable degree of architectural or historic significance. All of those within the conservation area make a positive contribution to it and are therefore, despite the absence of a Conservation Area Audit, considered to be 'unlisted buildings of merit'. Behind their facades they are significantly altered and of no real merit. The buildings outside of the conservation area are considered to have some, but quite limited architectural merit, and a very small degree of historic significance. They are not considered to be worthy of inclusion within the Conservation Area.

Opposite the site, to the south across Dryden Street is a Grade II listed building, nos. 36 to 40 Drury Lane (formerly The Marlborough Public House). The site falls within its townscape setting in terms of the building's primary significance as a London public house surrounded by development of a similar scale and type.

The site currently consists of four buildings or groups of buildings, all of which are attached in a continuous block with two shared lightwells and no private or public amenity spaces.

- **26-29 Drury Lane.** Architecturally two buildings dating from 1915 but now conjoined internally as one. The property fronts onto Drury Lane and a short stretch of Shelton Street, but with a more utilitarian 20<sup>th</sup> century warehouse character forming the larger part onto Shelton Street and Arne Street. Originally warehouses and showrooms for seed merchants, now offices used by Kings College. Outside of the conservation area, and with a low level of individual architectural and historic significance. Proposed for complete demolition and redevelopment.
- **30-35 Drury Lane and 2 Dryden Street.** Fronting Drury Lane and Dryden Street, these are the main public face of the application site, are within the conservation area (CA) and date from the 1890s. Originally showrooms, warehousing and offices, and now offices. Of a medium but not special level of individual architectural or historic significance, and

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makes a positive contribution to the CA. Proposed for demolition and redevelopment behind retained and extended facades.

- **4-10 Dryden Street.** Fronting Dryden Street, these former houses / shops also of the 1890s, are now offices and are within the conservation area. Of a medium but not special level of individual architectural or historic significance, and makes a positive contribution to the CA. Proposed for demolition and redevelopment behind retained and extended facades.
- **12 Dryden Street.** Fronting Dryden Street and forming its corner with Arne Street. A former chapel dating from 1841, converted to a warehouse in the late 19<sup>th</sup> century, now offices and within the conservation area. Of a medium but not special level of individual architectural or historic significance, and makes a positive contribution to the CA. Proposed for demolition and redevelopment behind retained and extended facades.

#### **Legislation, policy and guidance**

When determining applications affecting the setting of a listed building, or for development within a conservation area, the decision-maker is required by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard / attention to the desirability of preserving the setting of the listed building, and of preserving or enhancing the character and appearance of the conservation area.

Sections 7 and 12 of the NPPF require that great weight be placed on design quality and on the preservation of designated heritage assets. Paragraph 133 makes it clear that 'substantial harm' must only be approved in exceptional circumstances in return for substantial public benefits and subject to various tests. Paragraph 134 meanwhile requires a similar but proportionate assessment of 'less than substantial harm' against public benefits; 'less than substantial' should not be confused with 'acceptable' harm.

Together the above statutory and national policy basis equates to a strong presumption against harm, which may only be permitted if the harm caused would be significantly and demonstrably outweighed by public benefits which could only be achieved through allowing that harm.

Locally, UDP Policies DES 1 (urban design / conservation principles), DES 4 (infill development), DES 5 (alterations and extensions), DES 6 (roof alterations / extensions), DES 9 (conservation areas) and DES 10 (listed buildings) apply to the consideration of the application proposals, whilst S26 and S28 of the City Plan provide the strategic basis for the application. Relevant London Plan (2016) Policies include 7.4 (Local Character), 7.6 (Architecture), 7.7 (Location and design of tall and large buildings), and 7.8 (Heritage assets and archaeology).

No Conservation Area Audit has been carried out for Covent Garden. Relevant local guidance exists within the council's 'Design Matters in Westminster' Supplementary

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Planning Guidance (SPG) (2001), and 'Development and Demolition in Conservation Areas' SPG (1996).

The Covent Garden Area Trust has published their own 'Environmental Study' which is given material weight by the council in determining relevant applications. The current version is mostly related to public realm measures and is generally focused upon the core piazza and surrounding streets. It does not give guidance of any real relevance to this scheme. Similarly the Seven Dials Trust has published and is currently reviewing their own 'Renaissance Study' although the current version does not include the assessment of buildings within the City of Westminster's area. Whilst the merits of this document are noted, it is not a statutory planning document and has not been adopted by either the City Council or the London Borough of Camden, and should be given no weight with regards to this current scheme.

**The 2016 Residential Proposal**

As stated in section 6.2 above, in April 2016, the Council resolved to grant planning permission for the redevelopment of the site for a mixed residential and retail scheme. The current scheme's design is an evolution of that scheme's design, by the same architects and developer. The main design changes can be summarized as follows:

<b>Design element</b>	<b>2016 residential-led scheme</b>	<b>Current office-led scheme</b>	<b>Effect of change</b>
<b>Overall site plan</b>	Three separate cores, set around central open courtyard	Single central core, infilled block.	Merges five separate roof-forms into one large roofscape
<b>Roof form</b>	Varies according to each of 5 'building designs'. Maximum height: Tallest section contained to north-eastern corner of site only.	Maximum height: More unified range of roof heights, spread over two-thirds of site. Tallest section spans whole site.	Notably greater high level bulk and unified built form above retained and new facades. Visible from Drury Lane and Parker Street. Also visible across wide area from high level private views of Covent Garden roofscape.
<b>Storey heights</b>	Lower floor-to-ceiling heights; seven storeys overall.	Taller floor-to-ceiling heights, maximum six storeys	Subtle changes to building proportions and vertical rhythm.
<b>Floorplates</b>	Multiply divided	Large open plan from first floor upwards	Some visibility externally through windows of large singular internal spaces.
<b>Permeability</b>	Gated entrance to central courtyard onto Dryden Street	Glazed entrance to triple-height office reception onto Dryden	Removes locally characteristic view of central courtyard.

Design element	2016 residential-led scheme	Current office-led scheme	Effect of change
		Street	Displays evidence at street level of single office entity behind retained facades.
<b>Retained facades</b>	All within CA retained and extended upwards.	All within CA retained, and extended upwards.	Very minor increases in heights.
<b>Shopfronts</b>	Design improvements to shopfronts of 30-35 Drury Lane retained facades required by amending condition	Design improvements to shopfronts not included.	Limits regeneration benefits of scheme. If minded to approve, amending condition required again.

**The Proposal**

Nos. 26-29 Drury Lane (outside of the conservation area) would be demolished completely, and replaced with two new buildings.

The new building forming the corner of Drury Lane and Shelton Street, an adaptation of the previous 2016 proposal, would be a bold modern design faced with a black artificial stone cladding moulded to mimic the folds of theatre curtains up to 3rd floor level (above ground). Above this, two further storeys would be contained within tiered mansard roofs, with a further set-back plant storey terminating the building. This is an increase of one storey plus plant storey when compared with the 2016 residential scheme.

The new building towards the rear, forming the corner of Arne Street and Shelton Street, would rise to six storeys (23.5m high from pavement) and would be built of a dark brown brick arranged in vertical piers, with inset warehouse style windows. It would have a modern design, reminiscent of Covent Garden warehouses. The design of this block has been adapted from the 2016 scheme with fewer but taller storeys, so producing an equal overall height. Its elevation facing Arne Street has also been broadened, to omit the spandrel linking section which formerly separated it from 12 Dryden Street. This has caused some loss of vertical proportionality, which degrades the success of the design.

Nos. 30 to 35 Drury Lane and 2 Dryden Street would be extended upwards with a new attic storey, similar to that which exists historically to the adjacent listed building to the south of the site, with a new mansard storey above. Above this would extend the site-wide upper mansard and set-back plant storey. This is an increase of one storey plus plant over the residential scheme. The attic storey would be generally consistent with the architectural character of the existing elevation, being built of brick with stone details. The new lower mansard would have a generally traditional character, and would include dormers behind a parapet. The upper mansard would be taller, and



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contiguous with that extending over the rest of the site. No other alterations are proposed to this façade.

Nos. 4 to 10 Dryden Street would be extended upwards with a new traditionally designed mansard behind the existing parapet, concealing a high level roofline. Above this, set behind the mansard, would be two additional set back sheer storeys above which would be the site-wide upper mansard and plant storeys. This is a change from the residential scheme, which included a central courtyard where the upper sheer storeys would now sit, which benefited the scheme by separating this frontage from the taller parts of the site.

No. 12 Dryden Street, the former chapel / warehouse, would be extended upwards in brick by two-storeys, sheer apart from a set-back on both the Dryden Street and Arne Street elevations at the upper level. The lower of the two new storeys would build upon the architecture of the retained façade below, whilst the upper most storey would be a modern design built of reconstituted stone piers dividing narrow windows. On top of that again, as with other elevations, would be a plant storey, set slightly back from the roof edge.

**Heritage impacts and design merit overall**

Objections have been received regarding the loss of the existing buildings, including from the local amenity groups who consider that they are of good architectural and historic merit, including internally. Historic England has raised concerns, however, considers the principle of demolition and redevelopment behind retained facades to be acceptable.

The buildings which are proposed for demolition are all outside of the conservation area and their exclusion from it is considered to remain reasonable. They are not harmful to the character of the area but they only have a low level of individual architectural or historical merit which has been diminished by modern alterations and substantial post-war rebuilds. It must also be noted that demolition outside of a conservation area does not in itself require planning permission. For these reasons the extent of complete demolition proposed is considered to be acceptable in principle, subject to the comparative architectural merits and townscape impacts of their proposed replacements.

The buildings proposed for redevelopment behind their retained facades make a positive contribution to the conservation area, but they are not of a listable quality. What limited internal features which might remain are quite dispersed amongst extensive modern interventions, meaning that there is no cohesive internal architectural character of sufficient significance to be described as 'special', and therefore would not satisfy the very stringent modern criteria for listing. It should also be noted that, being unlisted, internal alterations cannot be controlled through the planning process. Whilst the loss of these rearward parts of the buildings is regrettable, it is considered to be acceptable in principle subject to how the retained facades are treated.

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The proposal to retain long lengths of façade on three sides of the block aids the success of the façade retention by ensuring that all lower public facades within the conservation area would remain historic, rather than exposing modern flanks or rear elevations to public view. The upward extension of retained facades is always contentious, but can be successful on some occasions. This was considered acceptable with the residential scheme.

The received objections also make reference to the proposed new designs, both of the new facades outside of the conservation area, and the alterations / extensions proposed for the retained facades. Historic England has not objected on this basis, other than insofar as it applies to scale, bulk and massing (see below).

The architectural design of the new and altered facades has degraded since the residential scheme as a result of its adaptation to office uses.

Both of the completely new buildings, to the north of the site, have lost some of the elegance of the previous scheme, with poorly defined transitions between apparent facades, and a loss of proportionately or varied storey heights; this is reflective of the proposed singular internal use as one office block. The level of detailing remains apparently good, with high quality brickwork, artificial stone walling and details, and metal windows and roofing.

The proposed extension of the retained facades is generally acceptable, adapting the character of those elevations in an acceptably similar way to the residential scheme. The loss of the open archway from Dryden Street is regrettable however, and the appearance through windows of a large reception characteristic of a large scale office block, and the bulkheads of the new office floors behind the apparently modest scale of Dryden Street would be incongruous and would betray the efforts to conceal what would lie behind the retained façade.

Whilst, in strictly external terms, up to roof parapet level the designs remain acceptable they are not of exceptional quality and certainly do not match up to the elegance of last year's residential scheme.

The principal area of change to the design of the buildings is however in the significant increase in scale, bulk and massing at high level. The loss of the central courtyard has caused the tallest parts of the development, previously contained to the north-east corner, to spread across most of the site, spanning the differing façade treatments below. This betrays the previously commendable efforts to define five separate building groups, displaying above them one singular office roofscape significantly out of character with the fine-grain of Covent Garden, both in terms of elevations and roofscape. The unified storey heights also contribute towards this evidence of internal singularity.

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From various street level viewpoints the high level bulk would be visible, appearing as a discordant office block 'ziggurat' roofline over the traditional frontages below. From the north on Drury Lane the scale would be particularly significant, as too would it be from Parker Street. From the south, the additional upper mansard level would poke above the lower mansard.

It is also important and well established that private views should be considered as a part of an area's character. In this respect, the scheme would be visible from surrounding and longer distance properties, affecting the appreciation of the area's character for those residents. Replacing a fine-grained existing roofscape would be a large and bulky office block roof, apparently alien to the otherwise well set out elevations below. Whilst these views would include the also large forms of 90 Long Acre or the New London Theatre, those are evidently anomalous to the otherwise tight-knit roofscape of Covent Garden. It is an area characterised by small units, both residential and commercial, providing good evidence of the area's historic origins as a central urban area of industrial and commercial activity. It has weathered the introduction of modern office uses well, merging these well into the existing building stock, or into the prevailing fine grained pattern of development.

No harm would be caused to the setting of the adjacent listed building of 36-40 Drury Lane, because the contribution which setting makes to its significance would not be altered as a result of the new development. It would remain a central city context, and the scale, bulk and proportions of the proposals would not detract from the prominence of the listed building in views in which it makes a significant contribution.

**Design, Townscape and Heritage conclusion**

The received objections have been considered and given weight, both with regards to the loss of the existing buildings (both entirely outside of the CA and behind retained facades within the CA) and with regards to the proposed new designs.

It is considered that the harm caused by the current proposals, whilst not 'substantial' would nevertheless be significant and permanent. They would significantly alter the contribution which this city block makes to the character of Covent Garden, and to the setting of Seven Dials.

The design benefits of the scheme would not adequately mitigate or compensate for the more significant issues of scale, bulk and massing discussed above.

Having regard to Paragraph 134 of the NPPF, and the statutory requirement to pay special regard to the character and appearance of the conservation area, the benefits which the scheme would introduce (see below), would need to be significant, and well demonstrated in order to allow the council to approve the scheme.

**Consideration of public benefits/Conclusion**

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The key planning benefits put forward by the applicant arising as a result of the proposed development can be summarised as follows:

- The existing office floorspace is tired and inefficient, with uneven floor levels and multiple cores and access points to different offices. The proposal will replace the existing office and retail floorspace with new modern office floorspace with coherent layouts and regular retail units.
- 9,615 sq. m of modern office floorspace in the Covent Garden area, which will contribute towards meeting Westminster's economic targets, bringing new occupiers to the area and providing a home for those looking to expand/upgrade.
- Modern, highly specified office space makes higher occupational densities possible which can lead to lower costs per desk (even if the rent per sq ft is higher).
- The proposed office floorplates provide flexibility to provide space for a variety of office occupiers, with the ability to sub-divide floors to accommodate smaller companies, or larger to encourage expanding businesses to stay within the Covent Garden area.
- Retention of historic facades which contribute to the Conservation area,
- High-quality design which will enhance the setting and appearance of the conservation areas.
- Significant improvements to the ground floor of the site, including increased legibility, new retail frontages and improved pedestrian experiences at street level.
- Energy efficiency measures to minimise carbon emissions and target BREEAM 'excellent' rating.

The buildings are fully occupied and it cannot therefore be argued that the development is required to bring the buildings into use. The 2016 residential scheme established what the council considered to be the maximum scale, bulk and massing permissible for the site. Whilst the proposals will result in a number of public benefits, most notably an increase in office and retail floorspace in accordance with policies S1, S20, and S7 of the City Plan, it is not considered to outweigh the significant and permanent harm caused to the conservation area. The scale, bulk and massing of the proposed building would significantly alter the contribution which this city block makes to the character of Covent Garden, and to the setting of Seven Dials (as discussed in detail above). Accordingly it is recommended that the application be refused on design grounds.

**8.3 Residential Amenity**

Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use.

**Sunlight and Daylight**

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The existing buildings have differing heights between four and five storeys, with some rooftop structures. The proposed buildings will substantially increase the height, mass and bulk across the site. The surrounding streets are narrow with Drury Lane approximately 12m wide, Dryden Street approximately 6m-7m wide, Arne Street approximately 7.5- 8.5m wide, and Shelton Street (passage) approximately 2.2m-3.2m wide.

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2011). The applicant's consultants Delva Patman Redler have carried out the necessary tests using the methodology set out in the BRE guidelines. Daylight and sunlight tests have been carried out on the nearest, most affected residential properties in 158-159 Drury Lane, 36 Drury Lane, 23 Drury Lane, 22 Drury Lane, 1-5 Dryden Street, Betterton House 17-29 Betterton Street (which has external walkways to the entrances to the flats on the rear elevation – overlooking the application site), 1, 3 and 5 Betterton Street. The report also assesses the impact on the consented redevelopment scheme at 90 Long Acre.

The recommendation in the BRE guide is that a window may be affected if the vertical sky component (VSC) measured at the centre of the window is less than 27% with reductions of over 20% of existing daylight (VSC) levels likely to be noticeable. Of the 68 rooms tested, the daylight report shows that 25 rooms within 36 Drury Lane, 1-5 Dryden Street; Betterton House, 3 and 5 Betterton Street will experience some transgressions outside the BRE guidelines. These windows serve living rooms, kitchens and bedrooms and will experience losses of between 24.39% and 52%. The biggest losses are to bedroom windows which are not main habitable rooms and it is not considered that a refusal on the grounds of loss of daylight to these rooms could be sustained. The results of the VSC assessment for each main habitable room (living rooms and kitchens) are shown in the table below (excluding Betterton House, which is considered separately).

Property	Existing VSC	Proposed VSC	% loss VSC
<b>36 Drury Lane</b>			
<b>Third floor living room</b>	33.56	24.45	28.86% (average)
Window 1	33.86	23.51	
Window 2			

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<b>1-5 Dryden Street</b>			
<b>Third floor kitchen</b>			
Window 1	33.31	21.24	36.48% (average)
Window 2	33.28	21.14	
window 3	33.27	21.05	
<b>Third floor living room – contains 8 windows, two unaffected</b>			
	33.23	20.95	28.26% (average)
	33.19	20.84	
	33.16	20.72	
	33.11	20.59	
	33.05	20.46	
	33.01	20.32	
<b>Third floor living room 6 windows, 2 unaffected</b>			
	31.93	18.25	28.72% (average)
	31.26	17.53	
	28.92	13.70	
	22.20	17.55	
<b>3 Betterton Street</b>			
First floor Kitchen	18.20	12.10	33.50%
Second floor Kitchen	21.31	14.50	31.96%
Third floor Kitchen	25.35	18.67	26.35%

As can be seen from the table, the proposal will result in a material worsening of daylight standards to these properties. Whilst these daylight losses are regrettable, the retained VSC levels are not uncommon in a close urban environment and it is not considered that a refusal on the grounds of loss of daylight to these properties could be sustained. It is worth noting that the residential scheme on this site considered by Committee in 2016 resulted in similar impacts on daylight.

Betterton House is a residential block to the north west of the site comprising ground and four upper floors, the upper two floors of which rise above the height of the buildings fronting Shelton Street. The front doors to these flats are on the rear elevation of the building facing south-east with walkways/balconies that overhang each floor. Existing VSC levels to the third and fourth floor windows are already low (ranging from 0.38 to 12.55) and the low starting point significantly exacerbates the percentage losses (with remaining VSC levels between 0.10 and 9.58). The BRE guidelines acknowledge that existing windows with balconies above them typically receive less daylight, and that even a modest obstruction opposite may result in a large relative impact on the VSC. The guidance recommends an additional calculation of the VSC without the balcony in place. The applicant has therefore carried out a further test which shows that without balconies in place VSC levels would be fully compliant with the BRE targets. On this basis, it is not considered that the proposal will result in a significant worsening of daylight standards to Betterton House.

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The applicant has also assessed the impact of the development on the consented development at 90 Long Acre which includes 119 flats. The proposal will result in a loss of daylight to 16 living rooms at first to fifth floor levels in excess of BRE guidelines. The biggest impacts will be to windows serving balconies set back behind the building line, however, the majority of these rooms ( at second floor level and above) are served by a further window to the building frontage which will retain VSC levels between 10.91 and 26.21 which are considered acceptable levels in an urban location. Four flats (two at first, one at second and one at third floor level) have living rooms served by one window and will experience losses up to 60% with retained VSC levels of between 3.78 and 9.76. These levels fall at the extreme of what can reasonably be considered acceptable even for a Central London location. However, on the basis that there is no guarantee that this development will be implemented and the 2016 residential scheme for the site (granted subject to completion of a s.106 agreement) allowed a building of a similar height and bulk to the Arne Street frontage, it is not considered that a refusal on the loss of daylight to 90 Long Acre could be sustained.

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90% of due south and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidance recommends that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight; if the overall annual loss is greater than 4% of APSH, the room may appear colder and less cheerful and pleasant.

Of the properties assessed (53 rooms in total) eight rooms, all within Betterton House, will experience a loss of sunlight in excess of BRE guidelines. The assessment has also been carried out with the removal of the exiting walkways to these properties, which shows that the proposals would comply with the BRE guidelines. On this basis, it is not considered that the application could reasonably be refused on the grounds of loss of sunlight to these properties.

**Sense of Enclosure**

The additional bulk of this scheme when compared to the 2016 residential scheme is most significant to the south west side of the site. The additional 5<sup>th</sup> floor, whilst set back from Drury Lane will be particularly apparent in views from residential properties on Dryden Street and those facing Shelton Passage (i.e. Betterton House) as well as the flats contained in the permitted scheme at 90 Long Acre. Whilst there will be some additional 'enclosure' as a result of the bulk at fifth floor level, given the established pattern of development in this area with narrow, relatively enclosed streets, it is not considered that the proposals would result in a degree of enclosure to existing residential windows sufficient to justify refusing the application on amenity grounds.

**Privacy**

The building line will remain as existing, albeit with increases in height. The upper floors are in office use and it is not considered that the proposal will result in any significant overlooking/loss of privacy to surrounding buildings. Accordingly the proposal is considered acceptable in amenity terms.

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#### **8.4 Transportation/Parking**

The applicant has submitted a Transport Assessment in support of their application.

No car parking is proposed which is consistent with UDP policies TRANS21 and TRANS22.

The London Plan Policy would require 104 cycle parking spaces for the office use and 6 spaces for the retail uses. 120 cycle parking spaces are proposed for the office use and 46 spaces for the retail uses. The cycling provision and ancillary facilities including showers and lockers are welcomed.

S42 and TRANS20 require adequate off-street servicing provision. The existing site has an off-street servicing area, accessed from Arne Street. The proposal removes this and provides no off-street servicing area, with all servicing proposed on-street. No holding areas have been provided at ground level for servicing activity including storage for deliveries or bin holding areas. Whilst a waste store has been provided, it is not directly accessible from the street and would not therefore enable waste to be loaded directly onto the waiting refuse vehicle, thus increasing the time it will be obstructing the public highway.

There would appear to be no physical constraint to re-providing on-site servicing, given the level of proposed demolition. Providing off-street servicing would improve the highway environment for pedestrians and other highway users. Given the proposed demolition of the majority of the site and surrounding highway layout, the lack of off-street servicing provision for the proposed development will have a significantly detrimental impact on highway users and is contrary to S41, S42 of the City plan and TRANS3 and TRANS20 of the UDP.

#### **8.5 Access**

Level access is proposed into each of the uses at ground floor level with lift access to basement level and the upper floors. Lift lobbies, corridors and thresholds will comply with the Disability Discrimination Act.

#### **8.6 Other UDP/Westminster Policy Considerations**

##### **Plant**

Plant is proposed at basement level and within a plant enclosure at main roof level. Were permission to have been considered favourably, conditions would have been recommended to secure full details of plant and a supplementary acoustic report when plant has been selected, location and hours finalised, and the attenuation measures available to confirm compliance with the Council's standard noise condition.

##### **Refuse /Recycling**



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A central waste store is proposed at ground floor level with separate waste and recycling storage which is large enough to accommodate the waste expected from the development. (See section 8.4 above in relation to refuse collection).

**Trees/Biodiversity**

There are no existing trees on or surrounding the site and no trees are proposed to be planted.

A landscaping element is proposed where the building steps back at fifth floor level above the Chapel building (12 Dryden Street). The proposed landscaping follows the line of the building and comprises low level trough planters set behind the perimeter parapet wall and a sedum style roof covering of approximately 140 sqm. The applicant states that the planters will contain a native mix of plants to benefit a range of wildlife species. Two bird boxes are also proposed.

The Arboricultural Manager has raised concern that there is insufficient soil on the structure for more biodiverse roof landscaping like a brown roof or a roof meadow and remains unconvinced that the proposed landscaping would support a good wildlife mix. The green roof will also have limited capacity to attenuate storm water and the planters would need to be irrigated. No details of rainwater storage or landscaping irrigation measures have been provided. Had the application been considered acceptable in other respects further details would have been sought in respect of landscaping and landscape maintenance.

**Sustainability**

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable design and inclusive design and architecture. Policy S39 states that major development should be designed to link to and extend existing heat and energy networks in the vicinity, except where the City Council considers that it is not practical or viable to do so. Policy S40 considers renewable energy and states that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

The applicant has submitted an Energy and Sustainability Statement in support of their application. It is proposed to deliver a 35% improvement in carbon emissions based on the current Building Regulations (2013). It achieves this through passive design features, energy efficient technology and renewable energy in the form of air source heat pumps and photovoltaic panels (3.9%). The development has also been designed to enable future connection to a district heating network should the opportunity arise.

There appears to be space available on the roof to install more photovoltaics and had the scheme been considered acceptable, a condition would have been recommended to secure a revised roof design to maximise the installed capacity of photovoltaics.

The applicant has carried out a BREEAM New Construction (2014) Pre-assessment with a target rating of 'Excellent'. Were permission to have been granted this could have been secured by condition.

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**8.7 London Plan**

This application raises no strategic issues.

**8.8 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

**8.9 Planning Obligations**

Had the application been considered acceptable in other respects a section 106 legal agreement would have been sought to secure highway works.

The estimated CIL payment is: £473,277.31 (£136,444.84 Mayoral CIL and £336,832.47 Westminster City Council CIL).

**8.10 Environmental Impact Assessment**

Prior to the submission of the previous planning application for the residential scheme a request for an Environmental Impact Assessment (EIA) Screening Opinion regarding the proposed development was submitted pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2011 (as Amended 2015). The Council determined that the proposed scheme was not a development falling within Schedule 1 or 2 of the EIA Regulations and an EIA would not be required to be submitted to accompany the planning application. As the current proposals reflect the same principles as the residential scheme, this scheme would not require an EIA to accompany it.

Environmental/sustainability issues have been covered in sections 8.7 above.

**8.11 Other Issues**

**Construction impact**

Had the application been considered acceptable in other respects a condition would have been recommended to ensure that the development complies with the City Council's Code of Construction Practice (COCP) which will require the developer to provide a Site Environmental Management Plan (SEMP) and funding for the Environmental Inspectorate to monitor the demolition and construction phase of the development. The COCP sets out the minimum standards and procedures for managing and minimising the environmental impacts of construction projects within Westminster and relate to both demolition and construction works.

The key issues to address in the COCP are; liaison with the public; general requirements; SEMPs; construction management plans; employment and skills; traffic

and highways; noise and vibration; dust and air quality; waste management; waste pollution and flood control and any other issues.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Covent Garden Area Trust, dated 15 February 2017
3. Response from Covent Garden Community Association, dated 15 February 2017
4. Response from Historic England dated 25 January 2017
5. Response from Historic England (Archaeology) dated 8 February 2017
6. Letter from Victorian Society dated 16 March 2017
7. Memorandum from Highways Planning Manager dated 11 April 2017.
8. Memorandum from Cleansing dated 24 January 2017 and 20 March 2017.
9. Memorandum from Environmental Health dated 7 April 2017.
10. Memorandum from Arboricultural Officer dated 3 March 2017.
11. E-mail from Crime Prevention Design Advisor dated 7 February 2017.
12. Letter from occupier of 3 Dryden Street, Covent Garden, dated 7 February 2017
13. Letter from occupier of 26/28 Neal Street, Covent Garden, dated 9 February 2017
14. Letter from occupier of 41 Floral street, Covent Garden, dated 20 March 2017
15. Letter from occupier of Flat 3, 80 Long Acre, dated 5 February 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 LOUISE FRANCIS BY EMAIL AT [lfrancis@westminster.gov.uk](mailto:lfrancis@westminster.gov.uk).









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**DRAFT DECISION LETTER**

**Address:** Development Site At Land Bounded By Drury Lane, Dryden Street, Arne Street And, Shelton Street, London, ,

**Proposal:** Demolition and redevelopment of site, including facade retention of 30-35 Drury Lane, 2 Dryden Street and 4-10 Dryden Street, for mixed use development comprising retail, restaurant and cafe uses at ground and basement level (Classes A1/A3), office floorspace at first to fifth floor (Class B1) level, rooftop plant, basement cycle parking and associated works.

**Reference:** 16/12200/FULL

**Plan Nos:** 13465-AR-L00-P00-010; 13465-AR-L00-P00-020; 13465-AR-L-1-P00-099; 13465-AR-L00-P00-100; 13465-AR-L01-P00-101; 13465-AR-L02-P00-102; 13465-AR-L03-P00-103; 13465-AR-L04-P00-104; 13465-AR-L05-P00-105; 13465-AR-LXX-P00-120; 13465-AR-LXX-P00-121; 13465-AR-LXX-P00-122; 13465-AR-LXX-P00-123; 13465-AR-L-1-P01-099; 13465-AR-L00-P01-100; 13465-AR-L01-P01-101; 13465-AR-L02-P01-102; 13465-AR-L03-P01-103; 13465-AR-L04-P01-104; 13465-AR-L05-P01-105; 13465-AR-LXX-P01-120; 13465-AR-LXX-P01-121; 13465-AR-LXX-P01-122; 13465-AR-LXX-P01-123; 13465-AR-S-01-130; 13465-AR-S-02-131; 13465-AR-S-03-132; 13465-AR-S-04-133; 13465-AR-L-1-P02-099; 13465-AR-L00-P02-100; 13465-AR-L01-P02-101; 13465-AR-L02-P02-102; 13465-AR-L03-P02-103; 13465-AR-L04-P02-104; 13465-AR-L05-P02-105; 13465-AR-L06-P02-106; 13465-AR-LXX-P02-120; 13465-AR-LXX-P02-121; 13465-AR-LXX-P02-122; 13465-AR-LXX-P02-123; 13465-AR-L07-P02-130; 13465-AR-L07-P02-131; 13465-AR-L07-P02-132; 13465-AR-L07-P02-133; 13465-AR-L07-P02-134 and 13465-AR-L07-P02-135. Documents for information only: Design and Access Statement dated 21.12.16; Planning Statement dated February 2017; Built Heritage Statement dated December 2016; Air Quality Assessment dated February 2017; Preliminary Ecological Appraisal dated December 2016; Historic Environment Desk Based Assessment dated February 2017; Daylight, Sunlight and Overshadowing Study dated December 2016; Noise Impact Assessment dated 15 December 2016; Transport Assessment dated 14 February 2017; Preliminary Environmental Risk Assessment dated December 2016; Energy and Sustainability Assessment dated December 2016; Ventilation and Extraction Statement dated December 2016; Office Marketing Report dated 21 December 2016; Construction Management Plan dated December 2016; and Structural Methodology Statement dated December 2016.

**Case Officer:** Julia Asghar **Direct Tel. No.** 020 7641 2518

**Recommended Condition(s) and Reason(s)**

- Reason:**
- 1 Because of its scale, bulk and massing, the proposed redevelopment behind and above the retained and new facades would harm the appearance of these buildings and fail to maintain or improve (preserve or



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enhance) the character and appearance of the Covent Garden Conservation Area. For the same reasons it would also fail to maintain or improve (preserve or enhance) the setting of the neighbouring Seven Dials Conservation Area (London Borough of Camden). This would not meet S25 and S28 of Westminster's City Plan (November 2016) and Policies DES 1, DES 4, and DES 9 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. The public benefits which the proposals would secure would not significantly or demonstrably outweigh the harm which it would cause and therefore the proposals would also be contrary to Paragraph 134 of the National Planning Policy Framework. (X16AD)

Reason:

- 2 The proposal involves the loss of an existing off-street servicing area and provides no replacement off-street servicing provision. In this location, the stopping of service vehicles on the highway is likely to have an adverse impact on traffic flows and cause an unacceptable obstruction on the surrounding highway network to the prejudice of the safety and free flow of others including pedestrians. This would not meet S41 and S42 of Westminster's City Plan (November 2016) and TRANS 3 and TRANS20 of our Unitary Development Plan that we adopted in January 2007.

#### 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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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.

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# Agenda Item 4

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB - COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>1 - 1A Great Cumberland Place and 1- 4 Marble Arch, London, W1H 7AL</b>		
<b>Proposal</b>	Demolition and redevelopment behind retained façade to provide a building of two basements, ground, part mezzanine and eight upper storeys accommodating retail (Class A1), office (Class B1) and flexible retail / office (Class A1 / B1) floorspace, alterations to retained facades including replacement shopfronts; provision of plant and associated works.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	The Portman Estate Nominees (One) Limited And The Portman Estate Nominees (Two) Limited		
<b>Registered Number</b>	17/02923/FULL	<b>Date amended/ completed</b>	31 March 2017
<b>Date Application Received</b>	31 March 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

1. Grant conditional, subject to a S106 legal agreement to secure the following:

- i) a financial contribution of £78,744 (index linked) for the City Council's carbon offset fund, to be paid on commencement of development;
- ii) a Crossrail payment of approximately £222,070 (adjusted to account for the Mayoral CIL);
- iii) a requirement to investigate the relocation of some of the parking bays on the south side of Bryanston Street to Great Cumberland Place, subject to securing a Traffic Management Order, and all associated costs.

3. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if

so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

The existing building occupies a prominent position on the corner of Great Cumberland Place and Marble Arch. Designed to mirror the Cumberland Hotel opposite, it is mainly occupied as offices with some retail, restaurant and financial services uses on the ground floor. Immediately to the west, the new Marble Arch Place development is currently under construction.

The offices are outdated and permission is sought to redevelop the building by creating new accommodation behind retained facades. This includes infilling existing lightwells and extending at roof level.

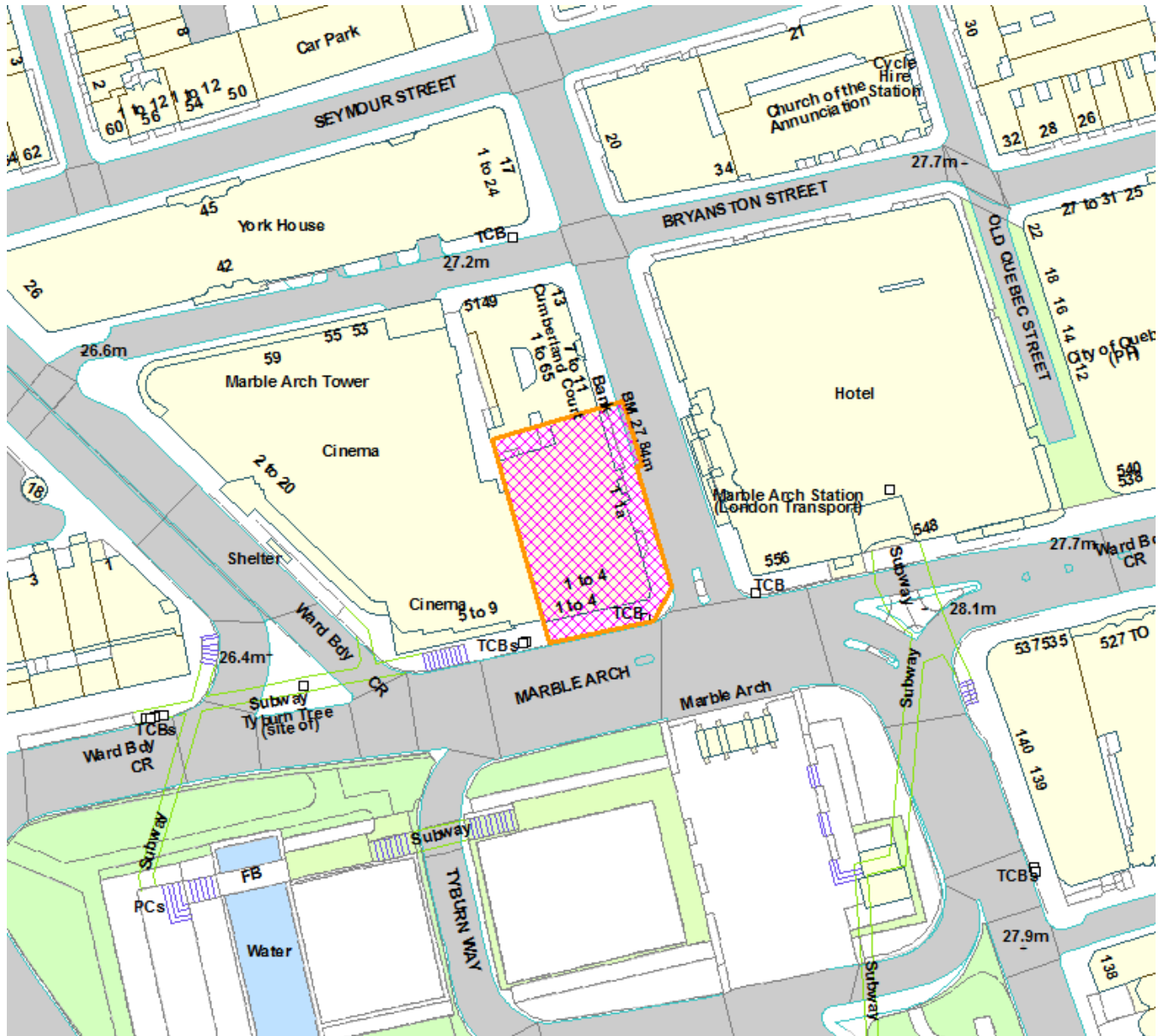
The scheme includes a significant increase in the amount of retail floorspace, which is welcome in this location, within the West End Special Retail Policy Area. There is also an increase in the amount of office floorspace but this is below the trigger that would require the provision of residential accommodation.

The scheme is acceptable in design and transportation/servicing terms.

The main issue is the impact on the adjoining residential Cumberland Court (though there have been no objections from residents in this building).

For the reasons set out in the main report, the proposals are considered to be acceptable and in compliance with relevant Council policies with regard to land use, design, amenity and highways matters.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### HISTORIC ENGLAND (ARCHAEOLOGY)

Advise that there may be some archaeological remains and request that a condition is attached to the draft planning decision.

### MARYLEBONE ASSOCIATION

No objection

### THE ROYAL PARKS

Any response to be reported verbally

### ENERGY STRATEGY OFFICER

No objection in principle; confirms that a carbon offset payment of £78,744 will be required.

### HIGHWAYS PLANNING

Queries about the proposed servicing from Bryanston Street and reduction in depth between pavement and enlarged basement. No objection subject to these matters being addressed by legal agreement and /or condition.

### PROJECTS OFFICER, CLEANSING

No objection to the proposed storage arrangements for waste and recyclable materials, subject to conditions.

### ENVIRONMENTAL SERVICES

No objection to the application on environmental noise or nuisance grounds, subject to conditions.

### DESIGNING OUT CRIME

Objection: has discussed the proposals with the scheme's architects but due to limited detail about the security measures cannot accept this as an adequate security design.

### LONDON UNDERGROUND LIMITED

Confirm that the applicant has had discussions with London Underground engineers. No comment to make except that the applicant should continue to work with their engineers.

### BUILDING CONTROL

Proposed works are in close proximity to underground tunnels and sewers and appropriate approvals should be obtained from the relevant statutory authorities. As the new structure provides support to the highway an informative is required to remind the applicant to obtain Technical Approval from the highways engineers before beginning excavation. No objections raised to the proposed basement works.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 154; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

1 Great Cumberland Place, which includes 1-4 Marble Arch, has frontages on both streets and comprises basement, ground and seven upper floors. Originally built in the 1920s, it has been subject to various alterations since this time. The property is not listed but there are several buildings in the immediate vicinity, including Marble Arch itself (Grade I). The site is within the: Core Central Activities Zone; West End Special Retail Policy Area (though not on the Oxford Street Primary Shopping Frontage); Edgware Road Stress Area; The Portman Estate Conservation Area; and the recently designated Watling Street Archaeological Priority Area. The site is located within Flood Zone 1 but is not in a surface water flood risk hotspot.

At ground floor, level the existing building contains two Class A1 retail units (Thomas Cook and Marble Arch Food & News), a Class A2 unit in financial and professional use (The Money Shop) and a (Class A3) restaurant unit (McDonalds). The upper floors are occupied as Class B1 offices.

The site is well placed for access to public transport, being located less than 50m west of Marble Arch Underground Station. Oxford Street, while Park Lane and Edgware Road provide a number of bus routes very close to the site. The site has a Public Transport Accessibility Level of 6b.

The surrounding area is characterised by a mix of uses with retail uses dominating the ground floors along Oxford Street and Edgware Road. Office uses can be found on the upper floors of buildings, with residential uses present on the upper floors of the buildings to the north of Oxford Street. The extensive open space of Hyde Park is found to the south west of the site.

### **6.2 Recent Relevant History**

The site has been subject to a number of applications, over the years, but these are mainly for new shopfronts, plant and telecommunications equipment.

## **7. THE PROPOSAL**

Planning permission is sought for the redevelopment of the existing building behind the retained façades fronting Great Cumberland Place and Marble Arch, to deliver a greater quantity and quality of retail and office floorspace. The proposal includes associated alterations to the building facades, including new shopfronts for the retail units (which will now extend to first floor level), with a roof extension and the installation of new plant. The changes in floorspace are summarised in the table below.



Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
B1 Offices	6,404	8,350	+1,946 (+30.4%)
A1 Retail	620	2,018	+1,398 (+225.5%)
A2 Professional Services	122	0	-122
A3 Food & drink	834	0	-834
Flexible A1 retail/B1 office space	-	325	+325
<b>TOTAL</b>	<b>7,980</b>	<b>10,693</b>	<b>2,713 (33.9%)</b>

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Increase in office floorspace

The site is located within the Core Central Activities Zone and, under the terms of policy S1 and S20 of the City Plan, an increase in office floorspace is acceptable in principle. The applicants advise that the existing accommodation is outdated and that the provision of modern floorspace that will help contribute to the area's economic function, which is welcomed.

Policy S1 also states that "where the net additional B1 office floorspace is less than 30% of the existing building floorspace (of all uses), no residential floorspace will be required". As the proposed office increase is 24.4% of the total floorspace, the scheme does not trigger a residential requirement. (When the 325 sqm flexible B1/A1 floorspace is included, the total B1 increase still be below the 30% threshold, at 28.5%.)

#### Increase in retail floorspace

Although the site is just beyond the western end of the Primary Shopping Frontage, it is within the West End Special Retail Policy Area. Policy S7 of the City Plan encourages improved retail space and retail growth throughout this area and policy S6 also encourages retail floorspace throughout the Core CAZ. The significant increase in retail floorspace is therefore welcomed. The applicants have advised that their objective is to proposals is to facilitate the occupation of the larger retail units by a high quality retailer, and this will strengthen the retail presence at this end of Oxford Street.

The increase in retail floorspace does not trigger a requirement for residential floorspace.

The applicant wishes to provide a small flexible retail 'café' unit at ground floor level that could be occupied either as an independent unit, under Class A1, or in association with the Class B1 office use adjoining it. Accordingly, flexible use of this area is sought, to allow for a range of appropriate uses and minimise any risk of the space being unlet. It would only occupy a short stretch of the Great Cumberland Place frontage and, given the

significant increase in retail floorspace within the development, this is considered to be acceptable. Flexible retail/office use is also sought for part of the first floor.

## **8.2 Townscape and Design**

The building is a good early twentieth century classical commercial building. It is the western half of a pair of buildings flanking Great Cumberland Place. It is unlisted but makes a positive contribution to the Portman Estate Conservation Area and to the setting of the grade 1 listed Marble Arch to the south. It is visible in long views from Hyde Park.

The proposal to redevelop behind retained facades is acceptable in principle in conservation area terms. The main design issues relate to alterations to the facades and extensions at roof level.

The installation of well-designed modern shopfronts at ground floor level is welcomed. The replacement of the existing fenestration at first floor level is considered to cause some harm to the architectural integrity of the building, but this is outweighed by the overall benefits of improving the ground floor level frontage.

At roof level there is an additional storey, which appears on the west side of the building in views from the south and west. This extension would be recessed and designed to harmonise with the existing building and is therefore relatively unobtrusive. The proposed plant room above this is set back over 15 metres from the south (Marble Arch) facade, and so its visual impact is limited. The completion of the Marble Arch Place/Tower scheme to the west will make these extensions even less apparent in many views. The replacement of the mansard roof on the eastern facade, with a vertical extension in the style of the existing building, is considered acceptable.

It is concluded that this is a high quality scheme which will contribute positively to the character and appearance of the Portman Estate Conservation Area. Notwithstanding some reservations about the replacement of the existing fenestration at first floor level, the scheme as a whole complies with the City Council's urban design and conservation policies, including strategic policies S25 and S28, and Unitary Development Plan policies including DES 1, DES 5, DES 9 and DES 10.

## **8.3 Residential Amenity**

Policy S29 of the City Plan relates to health, safety and wellbeing and states that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP aims to safeguard residents' amenities, and states that the City Council will resist proposals which result in a material loss of daylight/sunlight, increase in the sense of enclosure to windows or loss of privacy or cause unacceptable overshadowing to neighbouring buildings or open spaces.

### **Sunlight and Daylight**

The application is supported by a daylight and sunlight report based on the guidance published by the Building Research Establishment (BRE). The nearest residential accommodation is in the building immediately to the north, Cumberland Court. The applicants have also tested the effect on the approved residential accommodation in the tower which is part of the development site immediately to the west (Marble Arch Tower).

Opposite the site, on the east side of Great Cumberland Place, is the Cumberland Hotel, which is not considered to be a light sensitive property.

There have been no objections from residents in Cumberland Court. This has a small lightwell facing the north side of the application site. Plans provided by the applicant show that this lightwell contains windows serving kitchens, bathrooms and bedrooms. There is also a fire escape that occupies much of the lightwell, thereby reducing the amount of daylight reaching the windows behind and below it. The applicant advises that regarding the layouts of the Cumberland Court flats, although the lease plans referred to above show them to be bedroom units, there is evidence from estate agents plans that some may have been converted to two bedroom units by changing the kitchen adjacent to the boundary with the application site to a bedroom, and moving the kitchen to create a dual aspect open plan living kitchen dining area. As the applicant does not know where these conversions have taken place, the daylight analysis for the Cumberland Court flats has been done on the basis of the layouts on the lease plans. The windows that directly face the application site appear to serve a communal staircase.

### Daylight

Under the BRE guidelines the amount of daylight received to a property may be assessed by the Vertical Sky Component which is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the window will have the potential to provide good levels of daylight. The guidelines also suggest that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change.

A second commonly used measure is the daylight distribution test. This plots the 'no sky line' - points on a working plane (in residential accommodation this is the horizontal 0.85m high) in a room which can and cannot see the sky. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

The BRE guidelines do advise that they should be applied sensibly and flexibly.

### Daylight assessment – Cumberland Court

Because the Marble Arch Place ("MAP") site has been cleared, the applicants have tested the potential effect of the proposed development on the adjacent existing building at Cumberland Court in a 'future baseline' scenario, assuming that the MAP scheme is already built-out. (The applicant has also tested the situation before the demolition of the Odeon buildings, but this is no longer considered to be relevant as the Marble Arch Place scheme is under construction.)

Cumberland Court is the residential apartment block located immediately to the north of the site. It comprises residential accommodation on all floors and contains windows within a light well immediately adjacent to the site. It is important to note that not only are the windows relevant for assessment located in close proximity to the site boundary within a light well, they are behind a fire escape stair that serves the building. This context limits

existing light levels, especially for the windows at lower levels, which makes them particularly sensitive to increases in arising from the proposed development.

In the 'future baseline' scenario (i.e. assuming the adjacent MAP proposed scheme is built in the existing and proposed conditions), the VSC results show that the majority (64%) of the lightwell windows tested will satisfy the BRE guidelines,. The remaining windows and rooms will not satisfy the VSC test, retaining less than 0.8 times their former value. However, these windows are already compromised by their position within the lightwell and VSC values are very low, with the majority of windows receiving values of 1%, or less. This means that even small losses in VSC in absolute terms manifest as disproportionately large percentage reductions beyond the recommendations of the BRE guideline. In reality, the changes would be so small as to not be noticeable to the occupants.

Where baseline VSC values are higher (at approximately 9% to windows to the two rooms on the north side of the lightwell at eighth floor level and between approximately 16% to 25% to the rooms at ninth floor level) retained values would be between 0.65 to 0.75 times their former values. Although this is below the BRE target of 0.8, these windows are very sensitive to change given their location close the boundary with the application site and the effect of the fire escape within the Cumberland Court lightwell.

The position with regard to daylight distribution results is similar. The very low existing baseline VSC values confirm that very little sky is visible from the majority of rooms in the lightwell and because the daylight distribution contour defines the points beyond which it is possible to see no sky at all, even the loss of a very small area of the sky visibility over the Site will cause the daylight distribution contour to move. However, in reality there unlikely to be any discernible difference in the overall daylit appearance of the room.

Half (50%) of the rooms served by the lightwell windows will meet the suggested targets for daylight distribution. The two eighth floor rooms on the north side of the lightwell would retain 0.66 and 0.71 times their baseline daylit areas respectively. At ninth floor level, all four rooms tested would meet the daylight distribution targets in the BRE guide.

From the layouts shown on the lease plans for the Cumberland Court flats, it appears that the affected windows serve kitchens (or they may be bedrooms if flats have been converted and the layout changed). It is unclear from the lease plans whether the rooms tested to the north of the bathrooms contain habitable space, but they lead off the common parts, so will contain circulation areas. The same is true if the area has been converted to provide a dual aspect open plan living kitchen dining area. In either case, the circulation areas would be on the north side of the area tested, which is the area where daylight distribution losses would occur (as conformed by the contour plans). The principal living rooms are understood to face east and west and thus will be unaffected by the development.

#### Daylight assessment – Marble Arch Place

The applicants have also considered the potential effect of the proposed development on the light levels within the adjacent MAP scheme, which is based on the planning approval for the demolition of the existing building and erection of two new buildings of mixed use: 'Building 1' is eight-storeys (plus roof plant) and fronts Marble Arch, while 'Building 2' is

eight storeys with a tower element extending up to nineteen storeys (plus roof plant) and fronts Edgware Road. There is proposed residential accommodation within Building 2 from second floor upwards and therefore, the applicants have tested a sample of rooms, with windows facing the site, to assess the potential effect on the light levels received. The applicants have assessed the impact using the Average Daylight Factor based on the ADF methodology used for new development because the property has not been built. The BRE guide acknowledges that the ADF methodology can be appropriate in these circumstances. (ADF is the measure of overall amount of daylight in a space, with recommended minimum values of 2% ADF for kitchens, 1.5% for living rooms and 1% for bedrooms). Although this measurement is not normally used by Council officers when assessing the daylight impact of a development, it is considered to be a valid approach in this case.

The assessment is based on a sample of 21 rooms within the second, third and fourth floor levels – the three lowest residential floors - where light levels will be lower. The applicant has tested the retained daylight and sunlight values both in relation to the existing buildings on the application site and the proposed development. The applicants have used the ADF reflectance values based on a pale internal décor.

The ADF results reveal that all of the sample rooms tested satisfy the BRE guidelines when assessed in relation to the existing building at 1 Great Cumberland Place. When assessed in relation to the proposed development, the analysis show that all of the rooms will satisfy the suggested ADF targets with very minor differences between the “as existing” and “as proposed” situations, with a maximum reduction of 7%. The impact on light levels will therefore be negligible.

#### Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. If the level of sunlight received is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, then the loss would be noticeable. Only those windows facing within 90 degrees of due south require testing.

#### Sunlight assessment – Cumberland Court

In accordance with the BRE guide, only windows which face within 90° of due south have been tested. The sunlight analysis reveals that 14 of the 18 (78%) of rooms tested will satisfy the BRE guidelines i.e. either they retain at least 0.80 times their former values or the loss of sunlight over the whole year is no greater than 4% APSH.

The rooms that do not are the two rooms each at eighth and ninth floor level on the east side of the light well. The windows serving these rooms face close to due west so can only receive sun for half the day in any event and their proximity to the site makes them sensitive to changes in massing. All but the ninth floor kitchen would lose access to winter sun. Retained total sunlight figures for these four rooms would range from 1% to 23%.

It is inevitable, with any meaningful development of the site, that rooms within this light well will be affected as their windows, which face close to due west, are heavily dependent on sunlight over the Site. Furthermore, many of these rooms are kitchens or potentially bedrooms, which the BRE guidelines states are both less important than living rooms in terms of sunlight availability. With this in mind, the impact on these few rooms is considered acceptable.

#### Sunlight assessment – Marble Arch Place

APSH results confirm the rooms tested would not meet the BRE targets of 25% total APSH with 5% available during the winter months with the existing building on the site. In the main, winter sun figures are low but total APSH figures range from 3% to 32%. With the introduction of the proposed development there will be some reductions in APSH figures (maximum 1% for winter sun and 5% total APSH). If one were to use the same criteria in the BRE guide for APSH to established neighbours to compare the two sets of results, 18 of the 21 rooms tested would meet the BRE recommendations. Of the three rooms that would not, two are bedrooms (which the BRE guide describes as “less important” than living rooms). The large north living room which will retain 20% total APSH compared to the BRE target of 25%. The proposed development makes little or no difference to the Winter APSH values to these three rooms which are low in the baseline, but their total APSH values in the proposed conditions are good for an urban location so the effect of the proposed development is considered acceptable.

#### Sense of Enclosure and Privacy

Part (F) of Policy ENV13 seeks to resist developments that would result in an unacceptable degree of overlooking or increased sense of enclosure. The development will enclose the small lightwell at the southern edge of Cumberland Court but this is already enclosed , largely by its own fire escape. The most affected windows appear to serve a communal staircase, though there are kitchen, bedroom and bathroom windows at right angles to the development. The sense of enclose is not considered to be so great to justify a refusal.

The new building does step back opposite the lightwell to Cumberland Court at sixth, seventh and eighth floor levels and two small terraces are shown at sixth and seventh floor levels. Although largely enclosed, given the proximity of the terraces to windows in the lightwell that serve bedrooms in Cumberland Court, it is considered to be appropriate to restrict the hours that these terraces may be used. A condition therefore restricts their use to between the hours of 08.00 and 21.00 hours Mondays to Saturdays and not at all at any other time. They can however be used at any time to escape in an emergency.

### 8.4 Transportation/Parking and Servicing

#### Servicing

Policy S42 of the City Plan encourages servicing to be undertaken off-street. Where the council considers that this is not possible, servicing should be undertaken in a way that minimises the adverse effects on other highway and public realm users, and other residential or commercial activity. In this case there is no opportunity to provide an

off-street service bay and the existing situation will need to be retained, namely servicing from the street.

Given the large reduction in A3 use it is considered that the overall level of servicing associated with the building is unlikely to increase. A servicing management plan is sought by condition.

However, whereas servicing currently takes place from Great Cumberland Place the applicant now proposes to undertake all servicing from on-street in Bryanston Street via the new vehicular lane' that forms part of the new MAP development. This lane would replace an existing alleyway that stretches from Bryanston Street to the rear of the block. This lane will cater for all the servicing, residents' parking and cycle parking associated with the MAP development, as well as all the servicing associated with this development. The Highways Planning Manager is concerned that there may be some conflict between vehicles using the new access and staff helping to make deliveries to the development, but considers that the lane is wide enough and the traffic flows will be low enough, and that these activities should be able to co-exist.

However, the Highways Planning Manager has commented that there is only limited space on Bryanston Street for vehicles to stop to serve both of these developments. Ideally, it would help if some of the existing pay-by-phone bays from the south side of Bryanston Street (where it is proposed to service this development from) were relocated to the west side of Great Cumberland Place (where there is currently an on-street service area). Great Cumberland Place is wide enough to accommodate these parking bays given these are currently used for the servicing of this property.

It is therefore proposed that the legal agreement requires that the applicant to investigate this option, paying for all associated costs with applying for a traffic order and the physical works associated with moving the parking bays from Bryanston Street to Great Cumberland Place and their associated replacement with single or double yellow lines.

The proposed changes to on-street restrictions will be subject to the formal Traffic Management Order process. This is a separate legal process, involving consultation, under the Roads Traffic Regulation Act 1984. It is worth noting that the final decision on on-street parking is for the Council as Traffic Authority. As it a separate legal process, their outcome cannot be guaranteed and all representations as part of that process will need to be carefully considered. This is emphasised by the separate statutory process under the Road Traffic Regulation Act 1984. The commencement of the use could not occur until all the Traffic Orders had been confirmed.

In the event that the parking bays cannot be moved to enlarge the servicing area on Bryanston Street, the current proposals are, on balance, considered to be acceptable.

#### Basement under the Highway

Some of the existing basement vaults extend beneath the pavements on Great Cumberland Place and Marble Arch and the proposals show these being enlarged. The Highways Planning Manager is concerned that the proposal would reduce the distance between the top of the basement and the surface of the footways to less than the 900mm required by UDP policy TRANS 19. This would not leave enough room for the foundations

for any street furniture that the Highway Authorities may need to place in those areas, nor leave enough space for potential utilities' services. It is proposed to address this issue by an amending condition that requires the submission of revised drawings which secure at least 900m between the surface of the highway and the top of the basement.

#### Cycle parking

The Highways Planning Manager welcomes the provision of 110 cycle parking spaces for staff but would like to see further details of how these cycles are going to fit in the space provided. A condition requires the submission of a detailed drawing showing the layout of the cycle storage. Twelve additional spaces are proposed for visitors: although it is not ideal that these are provided at basement level 2, and would preferably be at a more accessible ground floor location, this is however considered to be acceptable.

#### Refuse /Recycling

The new development provides sufficient space for storage of refuse and recycling, which will be secured by condition.

### **8.5 Economic Considerations**

The general economic benefits arising from the replacement of outdated office accommodation with new accommodation, and the significant improvement in retail floorspace at this end of Oxford Street, are welcomed.

### **8.6 Access**

The proposal will be more accessible than the existing building, with level access to all main entrances. Internally, all changes in level are negotiable by either lift or ramp, in addition to steps.

### **8.7 Other UDP/Westminster Policy Considerations**

#### Plant

The NPPF contains guidance on noise management in planning decisions. Paragraph 123 states that decisions should aim to avoid noise giving rise to significant impacts on quality of life as a result of development, and mitigate noise impacts. This paragraph contains recognition that development will 'often create some noise'. Policy 7.15 of the London Plan, 'Reducing Noise and Enhancing Soundscapes' aims to support the Mayor's Ambient Noise Strategy. The reduction of noise resulting from developments, and screening of them from major noise sources, is sought under this policy. The reduction of noise pollution is covered in Westminster's City Plan: Strategic Policies by Policy S 32. Improvements to the borough's sound environment will be secured, as will the minimisation and containment of noise and vibration in new developments. Developments should provide an acceptable noise and vibration climate for occupants. UDP Policy ENV 6 describes policy to address noise pollution issues. Design features and operational measures which minimise and contain noise from developments are required. Residential developments should be appropriately protected from background noise.



A noise survey report is provided as part of the application package, which identifies surveyed background noise levels and identifies the maximum plant noise emission limits for the proposed rooftop plant, in accordance with Westminster City Council's standards, so as to prevent any adverse noise from the plant adversely affecting the amenity of residents in the vicinity of the site. The proposals have been assessed by the Council's Environmental Health officer who has no objections to the proposals, subject to standard conditions.

#### Energy, Sustainability and Biodiversity

Sustainability and Energy Statements have been submitted to accompany the planning application. These assess the proposals' compliance with policies and principles for sustainable development and energy efficiency. Policies 5.1 to 5.9 of the London Plan focus on how to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. Developments are required to make the fullest contribution to tackling climate change by minimising carbon dioxide emissions (be lean), adopting sustainable design and construction measures and prioritising decentralised energy (be clean), including renewables (be green). London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments and requires a 35% reduction of CO<sub>2</sub> emissions over the baseline emissions to be achieved by the development.

The energy strategy that has been developed incorporates energy demand reduction measures and low carbon technologies which resulted in 18.1% reduction of CO<sub>2</sub> emissions over Building Regulations 2013.

Policy 5.7: Renewable Energy of the London Plan requires all major development consider on-site renewable energy generation, within the framework of the Energy Hierarchy. Policy S40 of the City Plan encourages the maximum use of renewable energy generation to achieve at least a 20% reduction of carbon dioxide emissions and where feasible towards zero carbon emissions except where it is not appropriate due to the local historic environment, air quality and/or site constraints.

The feasibility study for the development concluded that photovoltaics are viable for the development with 59m<sup>2</sup> of the roof to be utilised for photovoltaic panels: this will result in a 3.1% reduction of CO<sub>2</sub> emissions over Building Regulations 2013 baseline.

London Plan Policy 5.6 Decentralised Energy in Development Proposals requires investigation to connect to existing district heating networks. If this is not feasible, then on site combined heat and power facilities (CHP) with export of excess heat should be considered or, finally, CHP design for future connection should be implemented. Policy S39 of the City Plan also seeks to encourage decentralised energy and ensure that major developments make provision for site wide decentralised energy generation and where possible connectivity. However, the applicant advises that the potential of connecting the development to existing district heating networks was found to be limited. Provisions should be made for connection to future networks, and this can be secured by condition. On-site CHP is not viable for the Development, due to the low domestic hot water load.

London Plan Policy 5.9: Overheating and Cooling requires major development proposals to reduce potential overheating and reliance on air conditioning systems, implementing

the Cooling Hierarchy. The proposed energy strategy has followed the cooling hierarchy and resulted in 38.73% reduction of the cooling demand, in comparison to the notional building.

On the basis that the retail element of the proposals is to be provided as 'shell-only' and is therefore excluded from assessment, the proposals will secure an overall 18.1% reduction in CO2 emissions compared to the Building Regulations 2013 baseline. Overall the office accommodation has been designed to achieve a BREEAM 2014 'Excellent' rating as detailed in the submitted BREEAM Pre-Assessment Report.

Because the scheme does not meet the full policy requirement for the reduction in CO2, the applicant is offering to offset this shortfall with a financial contribution towards the Council's carbon offset fund. This financial contribution amounts to £78,744 and would be secured as part of the legal agreement.

The proposals also include provision of a new green roof, which will promote biodiversity, in accordance with Policy 7.19 of the London Plan, Policy S38 of the City Plan: Strategic Policies and policies ENV4 and ENV17 of the UDP.

## **8.8 London Plan**

This application raises no strategic issues and is not referable to the Mayor of London.

## **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **8.10 Planning Obligations**

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations

relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- i) a financial contribution of £78,744 (index linked) for the City Council's carbon offset fund, to be paid on commencement of development;
- ii) a Crossrail payment of approximately £222,070 (adjusted to account for the Mayoral CIL);
- iii) a requirement to investigate the relocation of some of the parking bays on the south side of Bryanston Street to Great Cumberland Place, subject to securing a Traffic Management Order, and all associated costs.

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

The proposed development is also liable for a Mayoral CiL payment, and Westminster CIL payments – the applicant estimates (prior to indexation) that the Mayoral CIL will be £135,650 and the Westminster CIL £542,600.

## **8.11 Other Issues**

### **Basement**

With regard to basement policies, the Council adopted the basement revision in July 2016 and incorporated it within the City Plan document. Policy CM28.1 states that all applications for basement development will need to demonstrate that they have taken into account the site-specific ground conditions, drainage and water environment in the area of the development. The City Council also adopted a Supplementary Planning Document (SPD) in October 2014 which sets out guidance for applicants intending to carry out basement works. Building Control have been consulted and have no comments to make on the basement works (other than to refer to the close proximity to underground tunnels and sewers).

In line with policy CM28.1 of the City Plan, a Structural Survey and Basement Impact Assessment (BIA) is submitted as part of the application. The document demonstrates that the site-specific ground conditions, drainage and water environment and impact on surrounding structures has been taken into account. In line with part (A) of Policy CM28.1:

- I. The BIA demonstrates that the proposed basement design has taken into account the site-specific ground conditions, drainage and water environments in the area of the development;
- II. The applications are accompanied by a detailed Structural Methodology Statement and BIA, and a Townscape, Heritage and Visual Assessment, assessing the impact on heritage assets within and surrounding the site;
- III. The application is accompanied by a completed and signed proforma Appendix A in relation to the Code of Construction Practice;
- IV. The BIA demonstrates how the structural stability of nearby buildings and other infrastructure would be safeguarded in relation to the development of the new basement level;
- V. The Flood Risk Assessment demonstrates how the proposal would not increase or otherwise exacerbate flood risk on the Site or beyond; and
- VI. The Structural Statement and BIA demonstrates how the basements would be designed and constructed so as to minimise the impact at construction and occupation stages.

The applicant is in discussion with London Underground, with regard to the proximity of the Central Line underground tunnel. London Underground have confirmed that they have no comment to make on the application, except that the applicant should continue to work with their engineers.

### **Flood Risk**

The NPPF aims to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. Under policies S30 of the Westminster's City Plan: Strategic Policies and ENV2 of the UDP, the City Council requires that all development proposals should take flood risk into account. New development should reduce the risk of flooding.

The site is located within Flood Zone 1 (and not in a surface water flood risk hotspot), and is therefore defined as being at low risk of flooding. The proposed uses are defined as 'less vulnerable' uses, and are therefore considered to be suitable within flood zone 1. The proposed development therefore passes the Sequential Test.

The proposed development would incorporate a green roof, which would reduce peak surface water runoff, as well as an attenuation tank which would reduce the peak discharge rate to a 'greenfield' run-off rate of 5 litres per second. The Flood Risk Assessment submitted with this application concludes that the proposal will not increase flood risk elsewhere. The proposal is therefore considered to accord with planning policy in relation to flood risk.

### **Construction impact**

The proposals constitute a level 2 type development and the applicant will sign up to the Council's Code of Construction Practice, to be secured by condition. An Appendix A checklist has been submitted as part of the application submission.

### **Archaeology**

The site is within the recently designated Watling Street Archaeological Priority Area (APA), which is effectively Edgware Road. English Heritage Archaeology has been consulted and a response is awaited. However, as a safeguarding measure, in view of the additional basement excavation, it is considered appropriate to attach the relevant archaeological condition on the draft planning decision.

### **Crime and security**

There has been an objection from the Designing Out Crime Officer: this is on the grounds that the proposal has little information about what security measures are proposed. The applicant's architects have met with the Crime Prevention Design Officer and have confirmed it is their intention to continue liaising with him, as part of the continuing design of the proposal. On this basis, the objection is not considered to be sustainable.

## **9. BACKGROUND PAPERS**

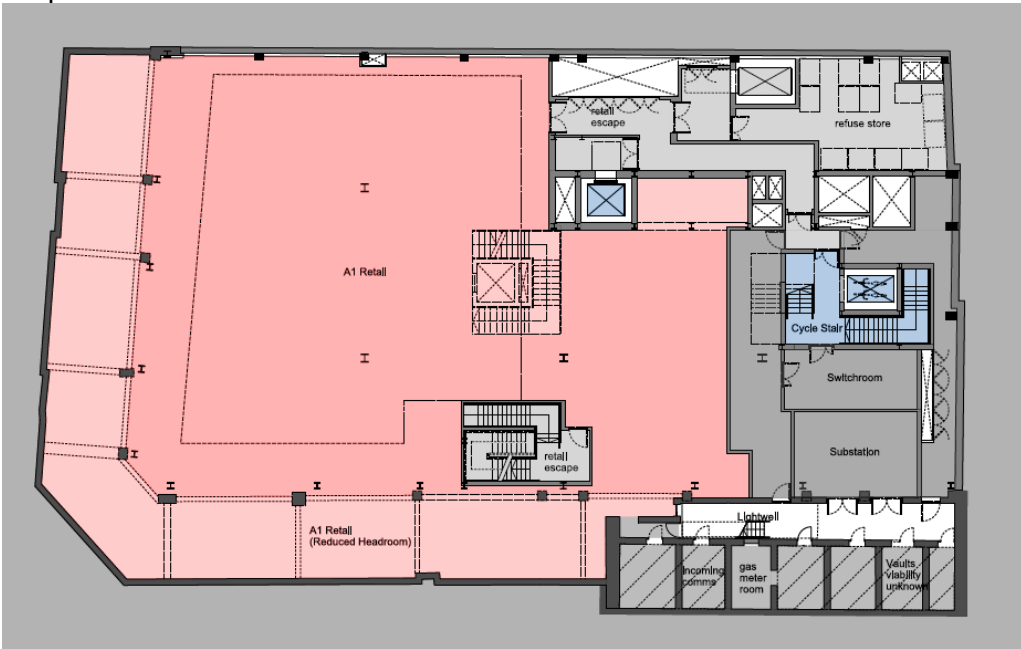
1. Application form
2. Response from Marylebone Association, dated 6 May 2017
3. Response from Environmental Services Team, dated 26 April 2017
4. Response from Designing Out Crime, dated 11 April 2017
5. Response from London Underground Limited, dated 9 May 2017
6. Response from Building Control - Development Planning, dated 21 April 2017
7. Memorandum from the Highways Planning Manager dated 27 June 2017
8. Memorandum from the Projects Officer [Cleansing] dated 25 April 2017
9. Memorandum from the Energy Strategy Officer dated 26 June 2017
10. Letter from Historic England (Archaeology) dated 30 June 2017

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

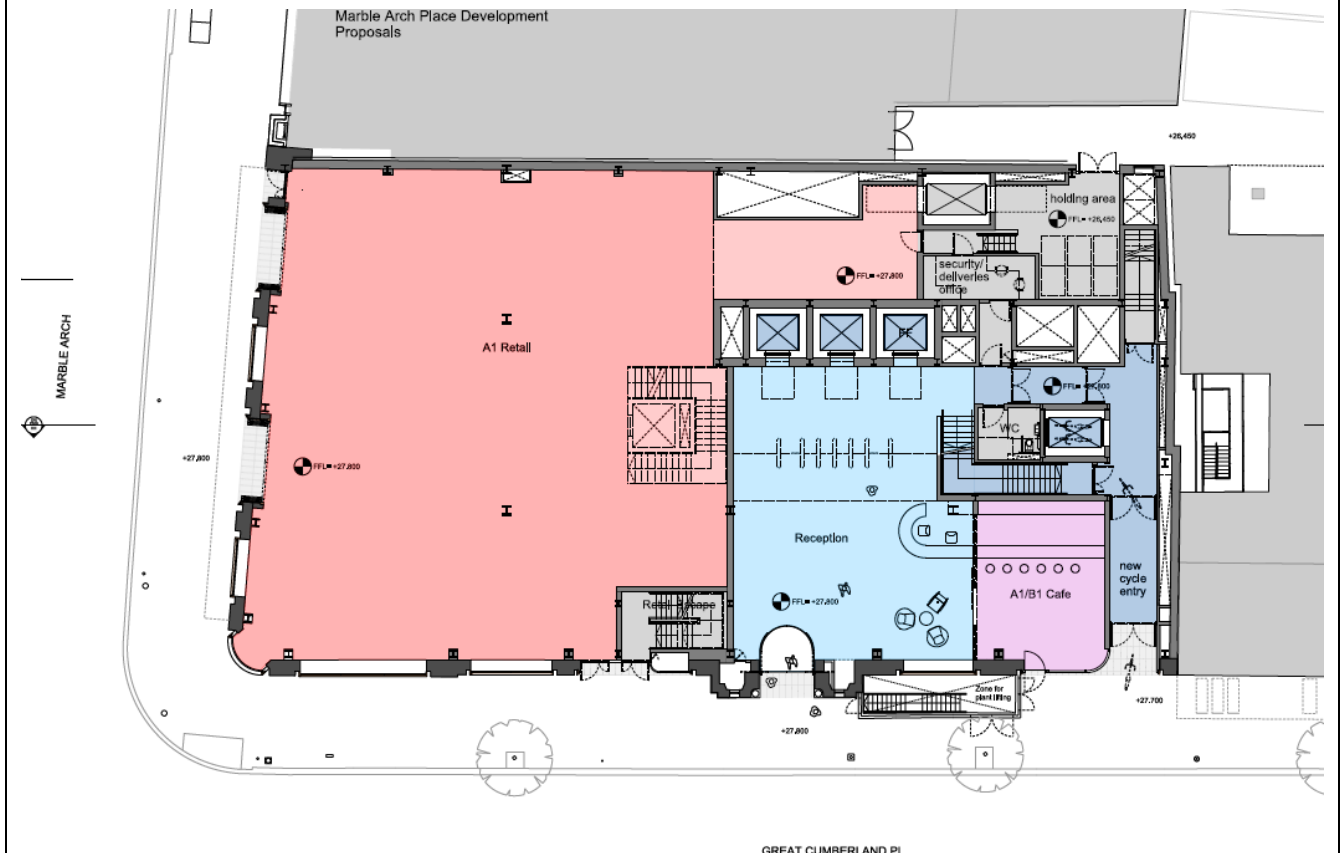
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT [sspurrier@westminster.gov.uk](mailto:sspurrier@westminster.gov.uk)

10. KEY DRAWINGS

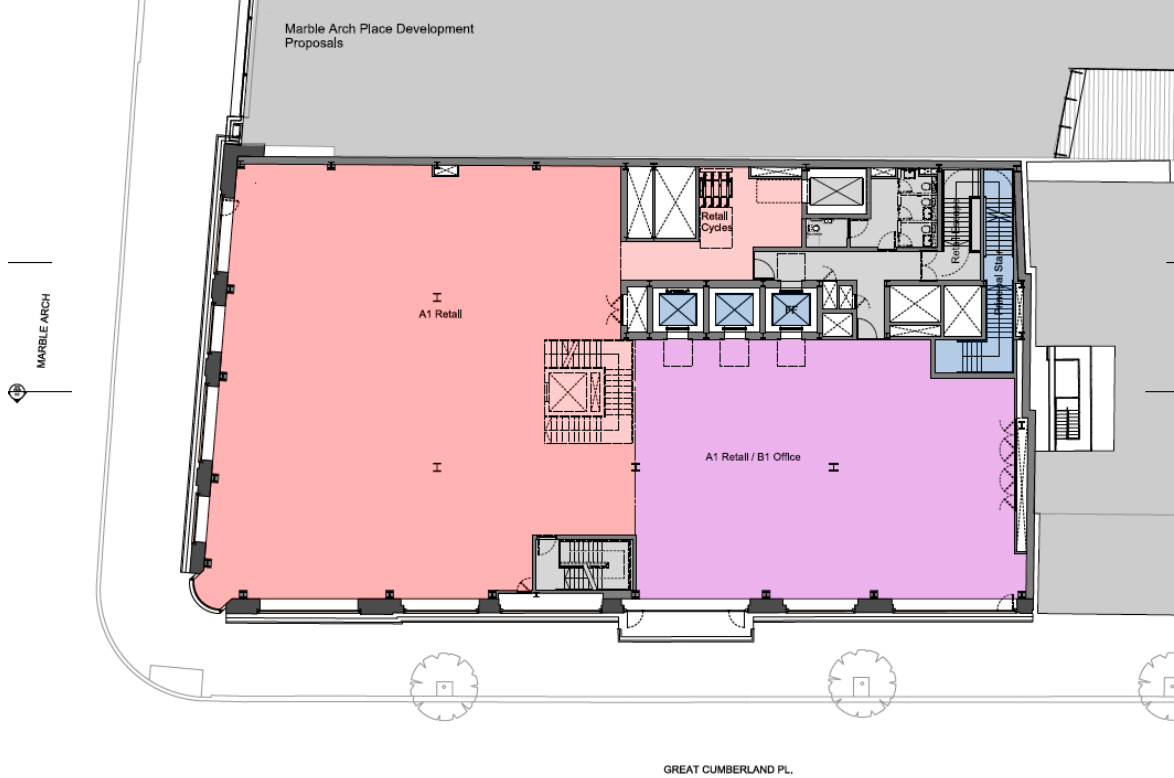
Proposed basement level 1



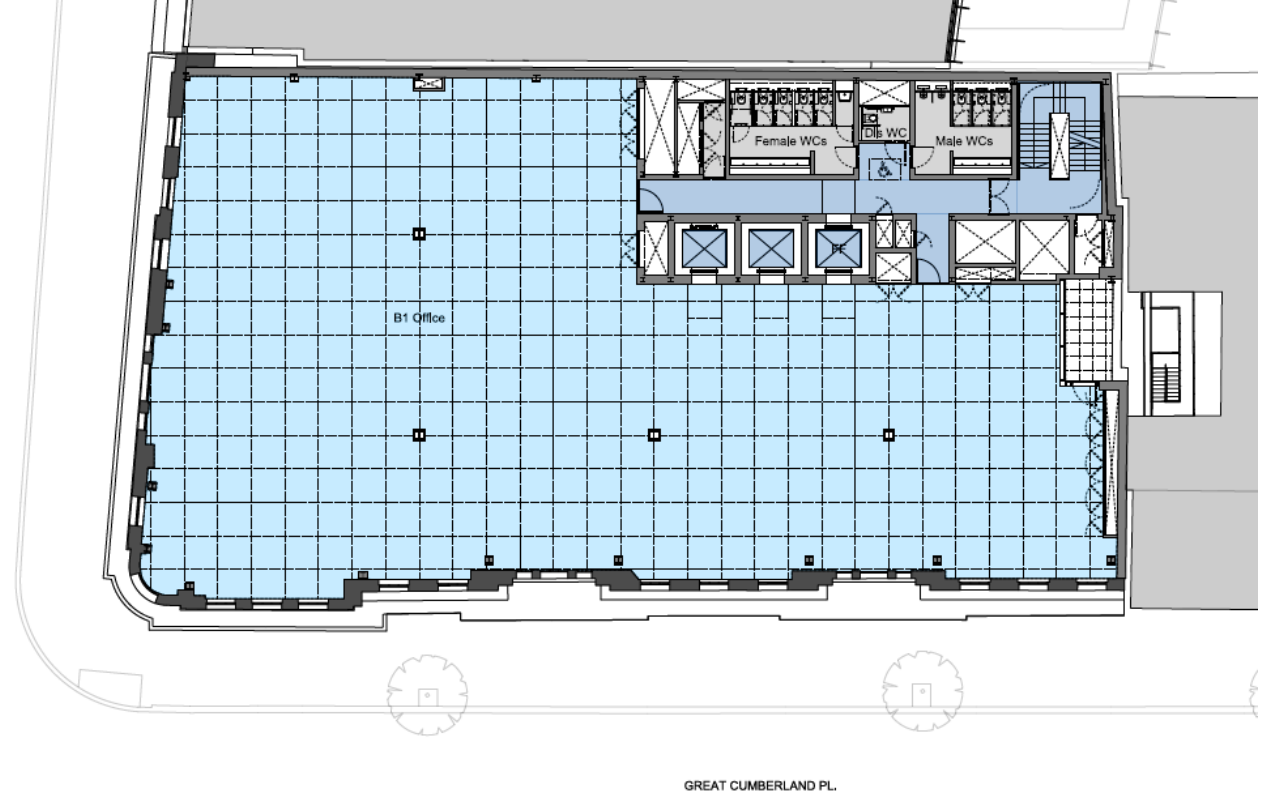
Proposed ground floor



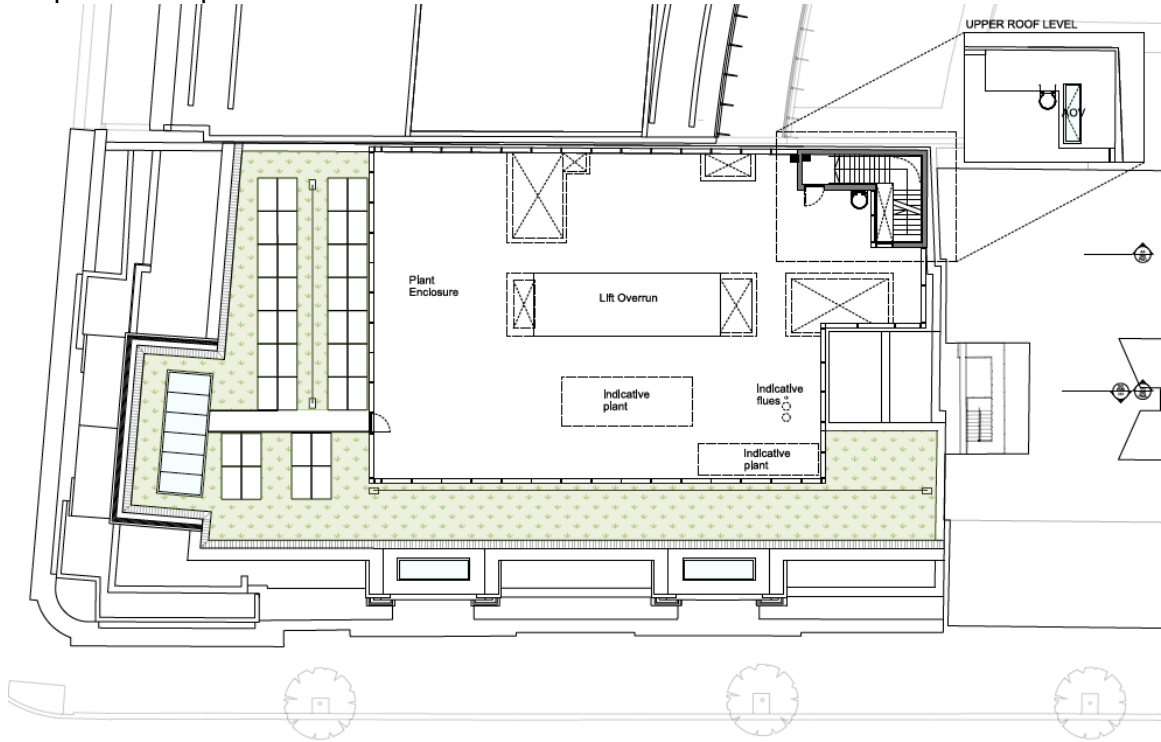
Proposed first floor



Typical upper floor (sixth floor)

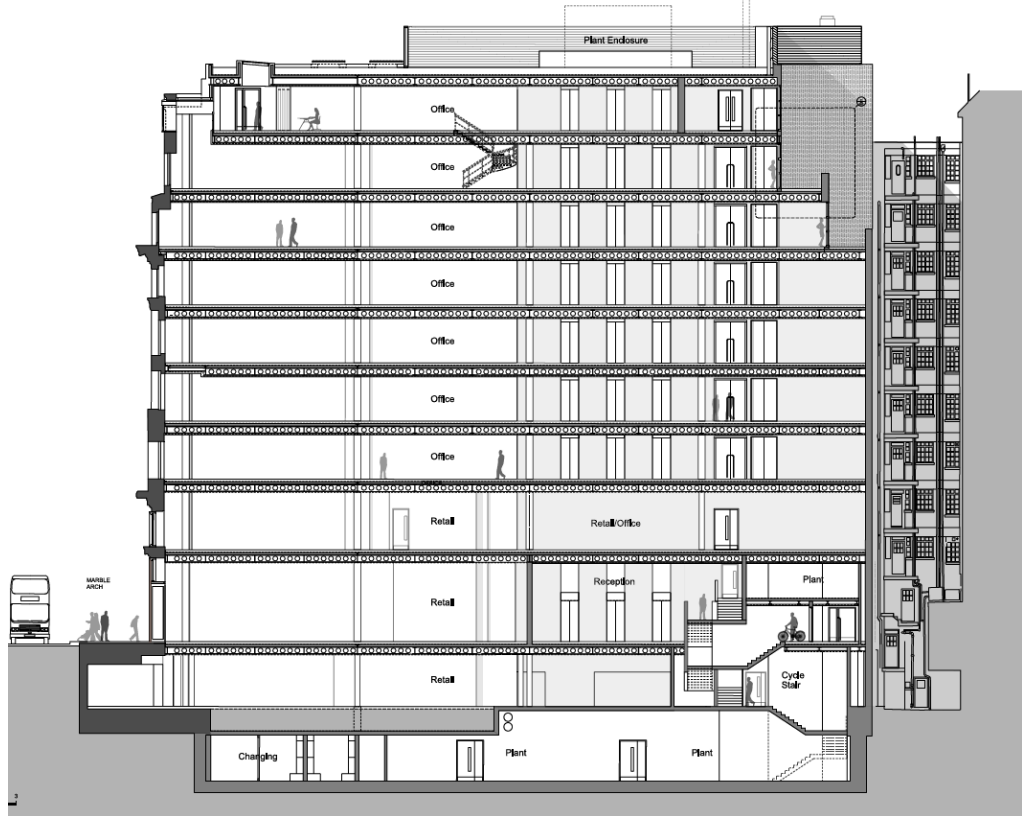


Proposed roof plan



GREAT CUMBERLAND PL.

Proposed section





Existing Great Cumberland Place elevation



Proposed Great Cumberland Place elevation



Existing Marble Arch elevation



Proposed Marble Arch elevation



**DRAFT DECISION LETTER**

- Address:** Proposed Development At 1-4 Marble Arch And, 1 - 1A Great Cumberland Place, London, W1H 7AL,
- Proposal:** Demolition and redevelopment behind retained façade to provide a building of two basements, ground plus part mezzanine and eight upper storeys accommodating retail (Class A1), office (Class B1) and flexible retail / office (Class A1 / B1) floorspace, alterations to retained facades including replacement shopfronts; provision of plant and associated works.
- Reference:** 17/02923/FULL
- Plan Nos:** 13014\_(00)\_P001 Rev P01 (Existing Site Plan); 13014\_(00)\_P091 Rev P02, 13014\_(00)\_P098 Rev P02, 13014\_(00)\_P099 Rev P02, 13014\_(00)\_P100 Rev P02, 13014\_(00)\_P100M Rev P02, 13014\_(00)\_P101 Rev P02, 13014\_(00)\_P102 Rev P02, 13014\_(00)\_P103 Rev P02, 13014\_(00)\_P104 Rev P02, 13014\_(00)\_P105 Rev P02, 13014\_(00)\_P106 Rev P02, 13014\_(00)\_P107 Rev P02, 13014\_(00)\_P108 Rev P02, 13014\_(00)\_P109 Rev P02, 13014\_(00)\_P201 Rev P02, 13014\_(00)\_P202 Rev P02, 13014\_(00)\_P203 Rev P02, 13014\_(00)\_P204 Rev P02, 13014\_(00)\_P206 Rev P02, 13014\_(00)\_P220 Rev P01, 13014\_(00)\_P221 Rev P01, 13014\_(00)\_P222 Rev P01, 13014\_(00)\_P223 Rev P01, 13014\_(00)\_P224 Rev P01, 13014\_(00)\_P225 Rev P01, 13014\_(00)\_P226 Rev P01, 13014\_(00)\_P227 Rev P01, 13014\_(00)\_P301 Rev P03, 13014\_(00)\_P302 Rev P02, 13014\_(00)\_P303 Rev P02, 13014\_(00)\_P304 Rev P03, 13014\_(00)\_P305 Rev P03, 13014\_(00)\_P306 Rev P03; Design and Access Statement dated March 2017.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 020 7641 2547

**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 apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 3 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 4 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the character of the Portman Estate Conservation Area as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 5 You must apply to us for approval of detailed drawings of the following parts of the development - 1. Alterations to facades at ground floor and first floor;, 2. Roof storeys and plant areas., , You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 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: ,
- o between 08.00 and 18.00 Monday to Friday; ,
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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.

- 7 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

## 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.

- 8 You must provide the waste store shown on drawing A (00)\_P099 Rev 02 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the office and retail accommodation. You must store waste inside the property and only put it outside just before it is going to be collected. No waste should be left or stored on the public highway. You must not use the waste store for any other purpose. (C14DC)

## Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007.

- 9 Waste and recycling materials generated from the development must be managed in accordance with the 'Proposed waste and recycling strategy' contained in the Transport Assessment, Appendix B (section 5), dated March 2017.

## Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007.

- 10 The roof terraces at sixth and seventh floor levels that face the lightwell of Cumberland Court shall only be used between the hours of 08.00 and 21.00 hours Mondays to Saturdays and not at all at any other time. They can however be used at any time to escape in an emergency.

## Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 11 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:, (a) A schedule of all plant and equipment that formed part of this application;, (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;:, (c) Manufacturer specifications of sound emissions in octave or third octave detail;:, (d) The location of most affected noise sensitive receptor

location and the most affected window of it; (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (g) The lowest existing LA90, 15 mins measurement recorded under (f) above; (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition; (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 12 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 13 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 11 of this permission. You must not commence any of the uses hereby approved until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 14 You must not cook raw or fresh food for the A1/B1 'cafe' at ground floor level.

Reason:

We do not have enough information to decide whether it would be possible to provide extractor equipment that would deal properly with cooking smells and look suitable. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05DC)

- 15 You must apply to us for approval of details of a security scheme for the new development, including evidence that you have discussed the proposals with the Designing Out Crime Officer. You must not commence the retail or office use until we have approved what you have sent us. You must then carry out the work according to the approved details before anyone moves into the building.

Reason:

To reduce the chances of crime without harming the appearance of the building or the character of the Portman Estate Conservation Area as set out in S29 of Westminster's City Plan (November 2016) and DES

1 (B) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 16 You must provide the access for people with disabilities as shown on the approved drawing(s) and as outlined in the Design and Access Statement dated March 2017 before you use the building. (C20AB)

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 17 You must provide the environmental sustainability features (environmentally friendly features) outlined in the Sustainability and Energy Statements dated March 2017 and as set out in your application, including the solar photovoltaic panels at roof level, before you start to use any part of the development. You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 18 Provision shall be made within the new development for future connectivity to district heating networks.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 19 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roof to include construction method, layout, species and maintenance regime., You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (November 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 20 No demolition or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing, in consultation with Historic England (Archaeology). For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

a). the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed work, and,

b). the programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007.

- 21 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan

(November 2016) and TRANS 2 and TRANS 3 of our UDP that we adopted in January 2007.

- 22 Prior to commencement of any of the uses within the development, you must submit an updated servicing management plan for the Council's approval. You must not commence any of the uses until we have approved what you have sent us. The servicing of the building must then be carried out in accordance with the approved servicing management plan.

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)

- 23 You must apply to us for approval of a detailed layout of the cycle storage areas, demonstrating that they will provide storage space for 110 (longer term) and 12 (shorter term) bicycles. You must not commence either the retail or office uses until we have approved what you have sent us and the cycle storage has been provided in line with the approved details. You must not use the cycle storage for any other purpose.

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)

- 24 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in any statutory instrument revoking or re-enacting that order) the Class A1 retail accommodation hereby approved at basement, ground and first floor levels shall not be used for food supermarket or similar purposes.

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)

### **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 This permission is based on the drawings and reports submitted by you including the structural methodology report. For the avoidance of doubt this report has not been assessed by the City Council and as a consequence we do not endorse or approve it in anyway and have included it for information purposes only. Its effect is to demonstrate that a member of the appropriate institution applying due diligence has confirmed that the works proposed are feasible without risk to neighbouring properties or the building itself. The construction itself will be subject to the building regulations and the construction methodology chosen will need to satisfy these regulations in all respects.
- 3 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
  - i) a financial contribution of £78,744 (index linked) for the City Council's carbon offset fund, to be paid on commencement of development;
  - ii) a Crossrail payment of approximately £222,070 (adjusted to account for the Mayoral CIL);
  - iii) a requirement



to investigate the relocation of some of the parking bays on the south side of Bryanston Street to Great Cumberland Place, subject to securing a Traffic Management Order, and all associated costs.

- 4 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil), , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**, , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>, , Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk), , **Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**
- 5 With regard to condition 20, the written scheme of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. It is envisaged that the archaeological fieldwork would comprise:
- a) **Geotechnical Monitoring** - Archaeological monitoring of geotechnical pits and boreholes can provide a cost effective means of establishing the potential for archaeological remains to survive on previously developed land or where deep deposits are anticipated. It is usually used as part of a desk-based assessment or field evaluation.
- Any geotechnical investigations should be archaeologically monitored as a first stage of assessing the potential survival on the site. Following this an appropriate mitigation strategy will be formed. This may comprise of further evaluation and/or -
- b) **a watching brief**, involves the proactive engagement with the development groundworks to permit investigation and recording of features of archaeological interest which are revealed. A suitable working method with contingency arrangements for significant discoveries will need to be agreed. The outcome will be a report and archive.
- Depending on the results of the geotechnical investigation, a watching brief may be required on removal of the existing basement slab to map and record any archaeological remains which are present. Provision should be made for additional detailed excavation and recording as appropriate, with advice from GLAAS as advisers to the LPA. A site specific sampling strategy will be required as an addendum to the Watching Brief WSI.
- 6 You are advised to ensure that discussions should continue with the engineers at London Underground, with regard to ensuring that the works at basement level take account of any London Underground structures.
- 7 As the new development provides support to the highway, you are reminded of the need to obtain a Technical Approval from the Council's highways engineers before beginning excavation.

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.

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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>Development Site At 46 Bryanston Square And 37 Bryanston Mews West, London</b>		
<b>Proposal</b>	Demolition of 37 Bryanston Mews West behind retained facade, link structure over basement, ground and first floor levels and rear mansard roof at No. 46 Bryanston Square. Erection of replacement mews building behind retained facade, installation of replacement garage doors, erection of replacement mansard roof and erection of extensions at rear of No. 46 Bryanston Square at basement to third floor levels, installation of replacement front first floor windows, and use of extended and altered building as four flats (Class C3). .		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	The Portman Estate		
<b>Registered Number</b>	17/02738/FULL 17/02739/LBC	<b>Date amended/ completed</b>	27 April 2017
<b>Date Application Received</b>	28 March 2017		
<b>Historic Building Grade</b>			
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

- |   |
|---|
| <ol style="list-style-type: none"> <li>1. Grant conditional planning permission.</li> <li>2. Grant conditional listed building consent.</li> <li>3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.</li> </ol> |
|---|

## 2. SUMMARY

<p>46 Bryanston Square is a vacant Grade II listed townhouse, on basement, ground and four upper floors, linked to a mews property, 37 Bryanston Mews West, to the rear. At present, No. 46 Bryanston Square is linked internally through eight openings with No. 47 Bryanston Square and, historically, has been used as a hostel for Malaysian students. This application seeks permission and listed building consent for the demolition of the mews building behind its retained façade, the link structures between the main townhouse and the mews building, and for the demolition of the rear roof of 46 Bryanston Square. The demolished structures are to be rebuilt with structures of a similar massing in connection with the use of the building as four flats.</p>
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Historically both 46 and 47 Bryanston Square, and the rear mews properties, were occupied by the Malaysian Students Department for the UK and Eire (MASDUKE) who relocated to Queensborough Terrace in Bayswater in 2002. City Plan Policy S15 protects existing hostels and adopted UDP policy H6 states that planning permission will only be granted for the change of use of hostels to housing, provided that the existing hostel is surplus to the requirements of the existing operator and that there is no demand from another organisation for a hostel in this location. In this case, the former hostel accommodation is now surplus to the requirements of the previous operator. A residential permission was granted in 2008, and as part of a previous application, submitted in 2007, a full marketing exercise was undertaken which demonstrated that there was no other interest in the property from alternative hostel providers. The residential permission granted in 2008 has now been implemented, and a residential use is therefore considered acceptable again in land use terms.

It is proposed to convert and reconfigure the premises to 4 residential units comprising 2 x 3-bedroom units and 2 x 2-bedroom units. Three of these units will be within the townhouse at No. 46 and a fourth unit will be within the mews at the rear. It is considered that the proposals provide a good standard of residential accommodation as all the flats would comply with the Mayor's minimum size standards, each would be dual aspect and with the exception of the first/second floor flat, each unit would have access to a terrace area. With half of the units being family sized, the proposals would also comply with the Council's policies relating to mix of units.

With the addition of a lift and the replacement of the link structure, the proposals do involve a minor increase in bulk and massing at the rear, however, this is some distance from the closest residential properties at 45 Bryanston Square and 35 Bryanston Mews West, and it is not considered that the proposals would result in any material loss of daylight and sunlight to adjoining residential occupiers.

One car parking space for the mews property is retained and the Highways Planning Manager raises no objections to the proposals subject to the requirement for car club membership.

In historic building terms, the proposed alterations include substantial demolition of the mews house, demolition of the two-storey rear extension and the rear hipped roof. to the main house, and the removal of modern internal partitions. Whilst most of the fabric affected is not original, much of it represents later phases of the building's development which contribute to its special interest. Its loss therefore causes harm to the special interest of the building. However, there are heritage benefits to the scheme such as restoration of internal decorative features and separation of the building from No. 47.

Externally, the most substantial changes to the building will be at the rear where the existing closet wing, with post-war metal-framed windows, is to be altered to accommodate a lift along with a secondary staircase and a small roof terrace. The replacement extension at ground and first floor levels will cover half the width of the building, in order to facilitate internal access internally, and the basement will be reopened to form a small lightwell. Removal of the, inappropriate, metal-framed windows is a benefit but the increased size of the extension is detrimental to the building's appearance and historic plan-form. Consequently, the overall impact of the alteration is neutral in heritage asset terms.

The form and fabric of the mews has been much altered but the street façade is attractive and makes a positive contribution to the surrounding conservation area. Therefore, noting the appropriate quality of the rebuilt parts of the mews and the retention of its historic roof form (but not fabric) the overall impact on the special interest of the building is neutral. A verbal comment, made by a neighbour, that

the mews should be entirely demolished and its façade rebuilt to match others in the street is not considered to be an acceptable alternative, because the loss of historic fabric would be unjustified and would harm the special interest of the building to such an extent that the special interest of the mews house would be entirely lost.

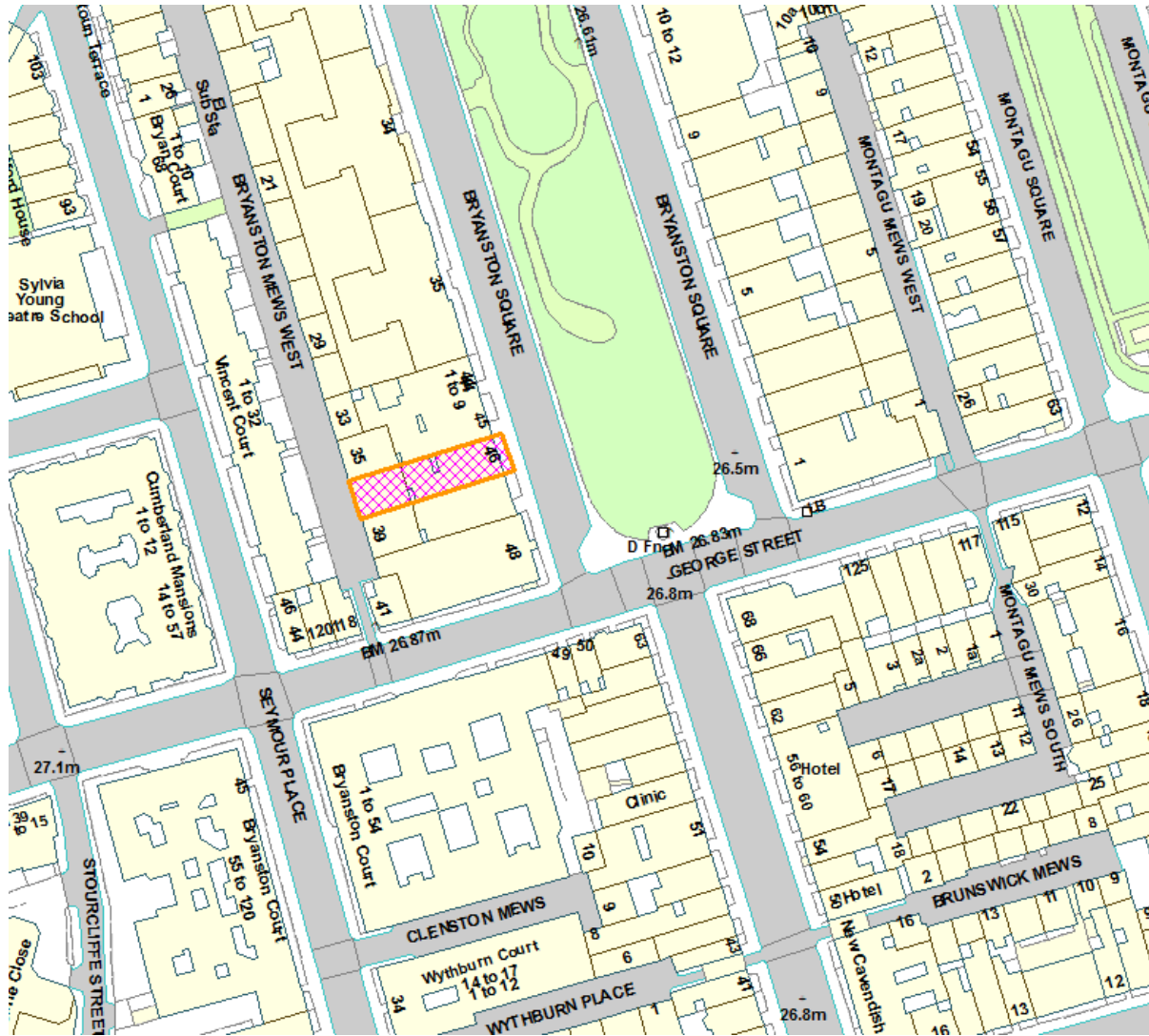
At main roof level the rear, hipped, slope is to be reconstructed and enlarged to accommodate access to a small terrace on top of the lift shaft and solar panels in the central valley. The size and detailed design of the dormers and French doors (to the terrace) are acceptable and the solar panels are hidden from view by the roof slopes. These alterations are acceptable in design terms as are the proposed design for windows on the lower floors on the rear of the building.

The façade to Bryanston Square is mostly unchanged except at first floor level where the French doors are to be replaced with timber sashes, which is acceptable.

Internally, missing chimneypieces are to be reinstated along with restoration of features such as cornices and columns in the reopened archway between the front and rear rooms at ground floor level. This is welcome in heritage asset terms subject to the approval of details and modification of the proposed columns which should match the ionic architectural order of the existing pilasters.

The historic plan-form of the building will remain legible and the overall impact of the internal changes is neutral in heritage asset terms and approval is recommended.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

HISTORIC ENGLAND  
Authorisation received.

MARYLEBONE ASSOCIATION  
Any comments to be reported verbally.

HIGHWAYS PLANNING MANAGER  
No objections raised subject to the requirement for car club membership.

CLEANSING  
No objections raised

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 66; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 Recent Relevant History

Applications for a Certificate of Existing Lawful Use for the office use of the basement, ground, 1st, 2nd, 3rd and 4th floors of 46-47 Bryanston Square, in association with the use of 44 – 45 Bryanston Square was withdrawn in July 2003 and subsequently refused in October 2004 (due to insufficient information submitted to evidence the existing use).

20 April 2007 - Permission refused for change of use from hostel to four single family dwellings including associated car parking (four spaces). [Site at 46 & 47 Bryanston Square, 37 & 39 Bryanston Mews West]

29 March 2007 - Listed building consent granted for internal alterations to the public areas, back of house, changing areas and kitchen.

8 February 2008 - Permission granted for the residential use of 46-47 Bryanston Square and 37-39 Bryanston Mews West (comprising 4 residential units including 2 townhouses and 2 flats in the Mews buildings)

14 April 2011 - Certificate of Lawfulness for Proposed Use or Development (ref: 11/01839/CLOPUD) was secured to confirm that the works to create those 4 residential units had been lawfully implemented.

## 7. BACKGROUND PAPERS

1. Application form
2. Letter from Historic England dated 30 May 2017

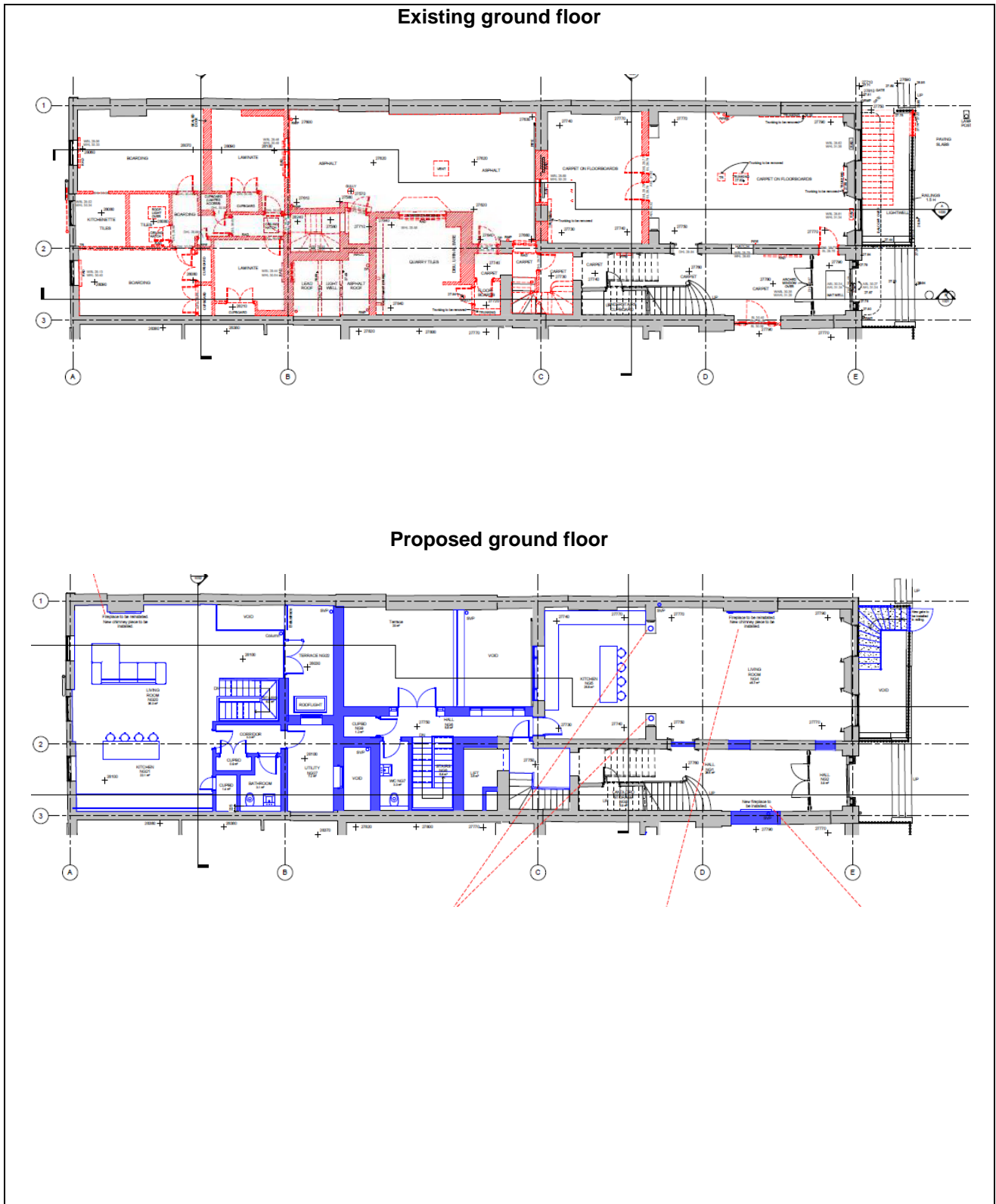


3. Memorandum from Highways Planning Manager dated 20 June 2017
4. Memorandum from Cleansing dated 19 May 2017

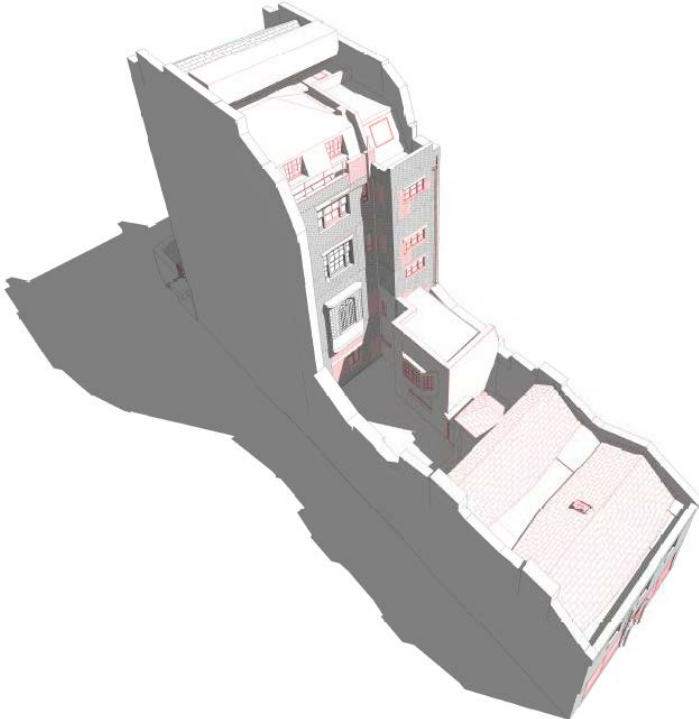
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT [sspurrier@westminster.gov.uk](mailto:sspurrier@westminster.gov.uk)

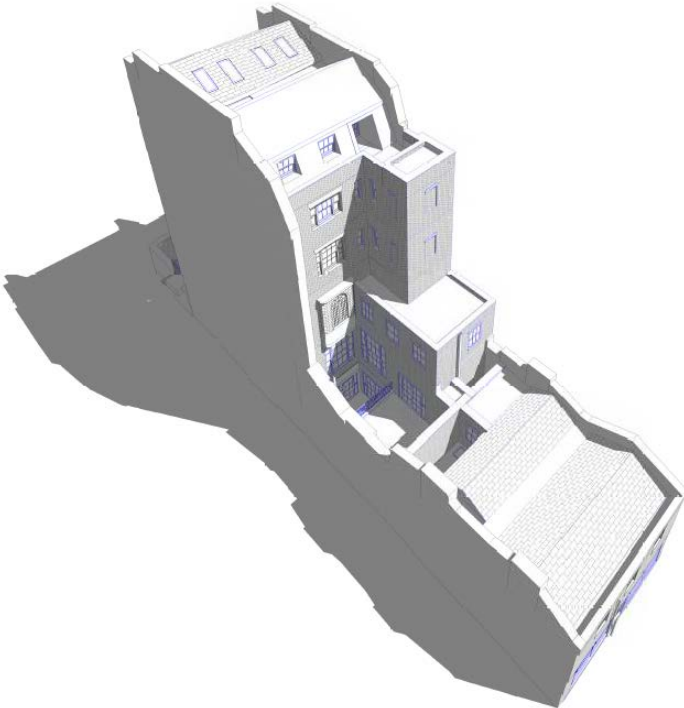
**8. KEY DRAWINGS**



**Existing rear**



**Proposed rear**



**DRAFT DECISION LETTER**

- Address:** Development Site At 46 Bryanston Square And 37 Bryanston Mews West, Bryanston Square, London, ,
- Proposal:** Demolition of 37 Bryanston Mews West behind retained facade, link structure over basement, ground and first floor levels and rear mansard roof at No. 46 Bryanston Square. Erection of replacement mews building behind retained facade, installation of replacement garage doors, erection of replacement mansard roof and erection of extensions at rear of No. 46 Bryanston Square at basement to third floor levels, installation of replacement front first floor windows, and use of extended and altered building as four flats (Class C3). (Linked to 17/02739/LBC).
- Reference:** 17/02738/FULL
- Plan Nos:** FM-XX-B1-DR-A-1000 Rev A, 00-DR-A-1001 Rev A, 01-DR-A-1002 Rev A, 02-DR-A-1003 Rev A, 03-DR-A-1004 Rev A, 04-DR-A-1005 Rev A, 05-DR-A-1006 Rev A, DR-A-1020 Rev A, DR-A-1021 Rev A, DR-A-1022 Rev A, DR-A-1023 Rev A, DR-A-1040 Rev A, DR-A-1041 Rev A;
- FM-XX-B1-DR-A-1010 Rev A, 00-DR-A-1011 Rev A, 01-DR-A-1012 Rev A, 02-DR-A-1013 Rev A, 03-DR-A-1014 Rev A, 04-DR-A-1015 Rev A, 05-DR-A-1016 Rev A, DR-A-1030 Rev A, DR-A-1031 Rev A, DR-A-1032 Rev A, DR-A-1033 Rev A, DR-A-1050, DR-A-1051 Rev A

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**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 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:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 You must apply to us for approval of detailed drawings of the following parts of the development - new windows.

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these approved details. (C26DB)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 7 All new windows and glazed external doors must be single-glazed.

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 8 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number FM-XX- B1-DR- A- 1010 Rev A. You must clearly mark them and make them available at all times to everyone using the building. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 9 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 10 You must not use the roof of the first floor extension at the rear of 46 Bryanston Square for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 11 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application:

- photovoltaics

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 12 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 13 No residential unit forming part of the development shall be occupied until a car club scheme containing the following provisions has been submitted to and approved in writing by the local planning authority and thereafter the scheme shall be carried out in accordance with those details. Such a scheme shall contain the following:

a) Confirmation of approval of the particular car club which is to be a Carplus accredited club;

b) Confirmation that on first occupation of each of the residential units forming part of the development and thereafter from first occupation a new resident shall be notified in writing of:

1. the existence of the car club
2. explaining that each residential unit is entitled to join the car club without being liable for payment of the membership fee;
3. details of how to become a member of the car club; and
4. in the event that a resident indicates that they wish to become a car club member then this shall be arranged on behalf of that resident [for a continuous period of [25] years]

b) Confirmation that the car club membership shall be fully transferable from outgoing residents to incoming residents.

- c) Confirmation that the applicant will provide on written request by the Council evidence of the car club membership for each residential unit within the development.
- d) Confirmation that any advert or marketing in relation to the sale of any of the residential units at the development shall include reference to the provision of the car club membership and details of how to become a member of the car club.
- e) Confirmation that marketing materials for the development publicise annually will include details of the availability of car club membership and provide details of how to join the car club.
- (f) Confirmation that the applicant will provide on reasonable written request by the City Council evidence of the provision of marketing.

Reason:

To mitigate the demand for on street car parking in accordance with CS41 of our Core Strategy that we adopted in January 2011 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 14 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

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.

- 15 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the special architectural or historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29BC)

- 16 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design,



structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

**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 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)
- 3 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 5 The term 'clearly mark' in condition 7 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 6 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an Assumption of Liability Form immediately. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant.

You must also notify the Council before commencing development using a Commencement Form

CIL forms are available from the planning on the planning portal:  
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

{Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.

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.

**DRAFT DECISION LETTER**

**Address:** Development Site At 46 Bryanston Square And 37 Bryanston Mews West, London, ,

**Proposal:** Demolition of 37 Bryanston Mews West behind retained facade, link structure over basement, ground and first floor levels and rear mansard roof at 48 Bryanston Square. Erection of replacement mews building behind retained facade, installation of replacement garage doors, erection of replacement mansard roof and erection of extensions at rear of No. 46 Bryanston Square at basement to third floor levels, installation of replacement front first floor windows and internal alterations. Linked to 17/02738/FULL

**Reference:** 17/02739/LBC

**Plan Nos:** FM-XX-B1-DR-A-1000 Rev A, 00-DR-A-1001 Rev A, 01-DR-A-1002 Rev A, 02-DR-A-1003 Rev A, 03-DR-A-1004 Rev A, 04-DR-A-1005 Rev A, 05-DR-A-1006 Rev A, DR-A-1020 Rev A, DR-A-1021 Rev A, DR-A-1022 Rev A, DR-A-1023 Rev A, DR-A-1040 Rev A, DR-A-1041 Rev A;

FM-XX-B1-DR-A-1010 Rev A, 00-DR-A-1011 Rev A, 01-DR-A-1012 Rev A, 02-DR-A-1013 Rev A, 03-DR-A-1014 Rev A, 04-DR-A- 1015 Rev A, 05-DR-A-1016 Rev A, DR-A-1030 Rev A, DR-A-1031 Rev A, DR-A-1032 Rev A, DR-A-1033 Rev A, DR-A-1050, DR-A-1051 Rev A

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation

Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 The facing brickwork must match the existing original work in terms of colour, texture, face bond and pointing. This applies unless differences are shown on the approved drawings. (C27CA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January

2007. (R27AC)

- 7 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the special architectural or historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29BC)

- 8 You must apply to us for approval of detailed drawings of all new:

- (1) windows,
- (2) doors,
- (3) skirtings and architrave,
- (4) cornices.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 9 All new windows and glazed external doors must be single-glazed.

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 10 Contrary to what is shown on the drawings, you must apply to us for approval of detailed drawings of all new chimneypieces including photographs where you propose to install chimneypieces from storage. You must not start work on this part of the development until we have approved what you have sent us, and you must then install the chimneypieces in accordance with the details we have approved.

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 11 Contrary to what is shown on the drawings, you must apply to us for approval of detailed drawings to show the new columns in the opening between the front and rear rooms at ground floor level to be of the Ionic Order to match the existing pilasters. You must not start work on this part of the development until we have approved what you have sent us, and you must then install the columns in accordance with the details we have approved.

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building., , In reaching this decision the following were of particular relevance:, S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.

# Agenda Item 6

Item No.

6

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>Development Site At 47 To 48 Bryanston Square And 39 To 41 Bryanston Mews West, London</b>		
<b>Proposal</b>	Use of 47 Bryanston Square and 39 Bryanston Mews West as school (D1 Use Class) in connection with the existing school at 48 Bryanston Square and 41 Bryanston Mews West. Replacement of windows on front elevation at 47 Bryanston Square with glazed timber windows, and associated alterations, including full height extract duct housed within existing chimney and air-conditioning plant at roof level.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	AlphaPlus Group		
<b>Registered Number</b>	17/02741/FULL 17/02742/LBC	<b>Date amended/ completed</b>	27 April 2017
<b>Date Application Received</b>	28 March 2017		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

1. Grant conditional planning permission.
2. Grant conditional listed building consent.
3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application relates to a Grade II listed vacant building within the Portman Estate Conservation Area. Planning permission is sought to change the use of the building to a school, which would be used in connection with the existing Wetherby Preparatory school at 48 Bryanston Square. The expansion proposes to increase pupils at the school by 120, with eight additional classrooms and associated staff administration, welfare and toilet facilities.

The key issues for consideration are:

- \* the loss of residential/hostel floorspace
- \* the impact of the proposed use on the surrounding road network; and

\* the impact on the amenity of nearby residents.

In land use terms, the building has lawful use for hostel purposes and potential residential use. Both uses are protected by policy, however, these losses have to be assessed in the light of the Council's adopted planning policies and the Government's advice in the National Planning Policy Framework (NPPF) both of which support educational use. It is considered that there are special circumstances in this case to allow the loss of the residential/hostel floorspace to educational use.

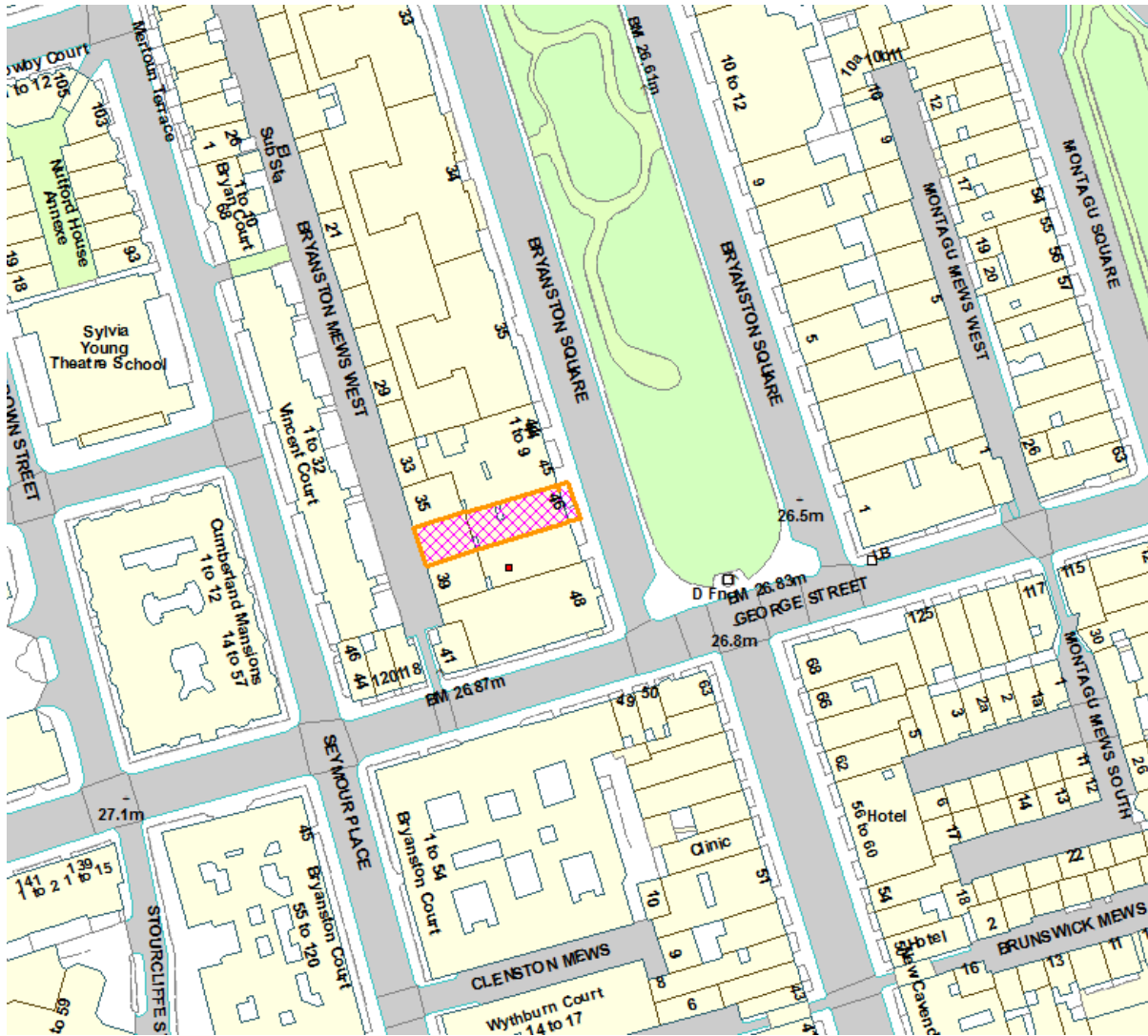
It is proposed that pupils would use the existing main entrance to the building on George Street, a relatively busy street, and it is not considered that this would result in a harmful impact to residential amenity in this location. Whilst it is accepted that the proposed use is likely to result in greater traffic movements than the former residential uses, the submitted Transport Statement show that the number of pupils arriving by car has dropped consistently in recent years and it is considered that subject to the submission and compliance with a revised School Travel Plan the extended school is unlikely to result in an adverse impact on the surrounding road network.

The proposed alterations will have a limited and acceptable impact on the buildings special interest and will ensure the outward appearance of the buildings is suitable and that the character and appearance of the surrounding conservation area is maintained along with the special interest of the buildings.

The proposal is recommended for approval.



### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### HISTORIC ENGLAND

Do not wish to be notified.

### MARYLEBONE ASSOCIATION

No objection raised in principle to the proposed works or use but emphasise the need for the Travel Plan to be exemplary, to be followed diligently and reviewed regularly to avoid impacting on other local residents. Strongly support the use of electric vehicles (coaches) for the collection and transportation of children.

### HIGHWAYS PLANNING

No objections raised subject to the submission of, and compliance with a School Travel Plan.

### ENVIRONMENTAL HEALTH

No objections raised.

### CLEANSING

No objections raised.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 291; Total No. of replies: 101

98 letters of support and 3 letters of objection on the following grounds:

#### Land Use

- \* loss of residential floorspace contrary to City Plan S14
- \* school activities are regularly taken off site with the use of double decker buses, the expansion of the school will require additional buses failing to deliver sustainable development contrary to NPPF guidance
- \* this is not a state school that caters for the local area, but a private school that admits pupils (boys only) from beyond the immediate catchment and therefore does not provide for any education shortfall that may exist locally

#### Amenity

- \*increased noise from additional pupils, intensified school activities, contrary to NPPF principles of securing a good standard of amenity and City Plan S29

#### Highways

- \* the use of double decker buses, that sit for long periods at the end of the Square, causes inconvenience, pollution and highway safety issues
- \*existing problems with cars and mini buses collecting/dropping off students would be exacerbated

#### Other Issues

- \* the application is invalid as the form fails to provide anticipated numbers of employees, or hours of opening

\* if consent is granted suitable conditions should be imposed to control opening hours, a travel plan, control of construction management including hours of work, deliveries, management of contractor parking, control of dust and dirt and the restriction of external lighting and adverts.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

47 Bryanston Square is a vacant 5-storey plus basement Grade II listed townhouse with a mews property, No. 39 Bryanston Mews West, adjoined to the rear. At present, No. 47 Bryanston Square is linked internally through eight openings with No. 46 Bryanston Square and historically has been used as a hostel for Malaysian students.

The properties are located within the Portman Estate Conservation Area. The site is located in a predominantly residential environment with most of the properties in Bryanston Square and Bryanston Mews West in residential use.

### **6.2 Recent Relevant History**

Applications for a Certificate of Existing Lawful Use for the office use of the basement, ground, 1st, 2nd, 3rd and 4th floors of 46-47 Bryanston Square, in association with the use of 44 – 45 Bryanston Square was withdrawn in July 2003 and subsequently refused in October 2004 (due to insufficient information submitted to evidence the existing use).

20 April 2007 - Permission refused for change of use from hostel to four single family dwellings including associated car parking (four spaces). [Site at 46 & 47 Bryanston Square, 37 & 39 Bryanston Mews West]

29 March 2007 - Listed building consent granted for internal alterations to the public areas, back of house, changing areas and kitchen.

8 February 2008 - Permission granted for the residential use of 46-47 Bryanston Square and 37-39 Bryanston Mews West (comprising 4 residential units including 2 townhouses and 2 flats in the Mews buildings)

14 April 2011 - Certificate of Lawfulness for Proposed Use or Development (ref: 11/01839/CLOPUD) was issued to confirm that the works to create those 4 residential units had been lawfully implemented.

#### **48 Bryanston Square and 41 Bryanston Mews West**

12 November 2008 - Permission granted for a change of use to school.

## **7. THE PROPOSAL**

Planning permission is sought for the change of use of the existing building at 47 Bryanston Square and 39 Bryanston Mews West to a school (Class D1), as an extension

of the existing Wetherby School at 48 Bryanston Square. The school moved to its current location in 2009 and operates as an independent school for boys aged 7 to 13 (School years 4 to 8). The School currently has capacity for a maximum of 325 pupils and employs circa 60 staff including teachers, part-time workers, catering, visiting and grounds staff.

The applicant argues that the school has now reached full capacity and has a need for additional accommodation to enable it to expand. The expansion proposes to increase pupils at the school by 120 and staff by 6 (over a 6 year period, gradually expanding by an extra form of 20 pupils a year). Eight additional classrooms are proposed at 47 Bryanston Square together with associated staff administration, welfare and toilet facilities. The expansion into the neighbouring building will also allow a reconfiguration of the existing premises at 48 Bryanston Square and link the buildings at two levels (at basement and third floor).

A full height extract duct is also proposed running internally through the building and exiting at high level through an existing chimney. Air-conditioning plant is also proposed at main roof level. At basement level, the existing external stores will be converted to bicycle and scooter storage and new stairs will be installed within the mews building as a secondary means of escape from the ground floor.

At present No. 47 is linked to No. 46 through lateral openings at all floors. These existing openings through the party wall will be infilled to restore these floors to their original forms.

Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Residential/hostel	983	0	-983
D1 school	0	983	+983

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

Historically both 46 and 47 Bryanston Square, and the mews properties at the rear, were occupied as a hostel by the Malaysian Students Department for the UK and Eire (MASDUKE). In 2002, the hostel operator relocated to Queensborough Terrace in Bayswater, a residential permission was granted and works to implement that residential permission have commenced. However, as the works undertaken are minor and not sufficient to effect a change of use, the proposals need to be assessed in terms of both the loss of the former hostel use, and the extant residential use.

#### 8.1.1 Loss of existing uses

Policy S14 of the City Plan seeks to optimise housing delivery in the borough. It states that proposals that would result in the reduction in the number of residential units will not be acceptable, except where:

- the Council considers that reconfiguration or redevelopment of affordable housing would better meet affordable housing need;
- a converted house is being returned to a family-sized dwelling or dwellings;

- two flats are being joined to create a family-sized dwelling.

In addition to the Council's own policies, London Plan Policy 3.4 requires development proposals to optimise housing output for different types of locations within density ranges, taking into account local context and character, the design principles within the Plan and transport capacity. The policy states that development proposals which compromise this policy should be resisted. Policy 3.3 of the London Plan requires the City Council to seek to achieve and exceed a minimum annual delivery of 770 additional dwellings.

In 2008 planning permission was granted for the residential use of 46-47 Bryanston Square and 37-39 Bryanston Mews West (4 units in total). The current proposal would involve the loss of a 3-bedroom flat within the mews and an 8-bedroom townhouse contrary to Policy S14. However, whilst the 2008 permission has now been implemented, the development is far from completion, and the building being in need of significant repair, is clearly not ready for occupation for residential use. Therefore, whilst the proposal would result in a reduction of some 983 sqm (GIA) residential floorspace relative to the implemented permission, in practice, it would not actually result in the loss of any existing housing stock.

In terms of the former hostel use, City Plan Policy S15 protects existing hostels and adopted UDP policy H6 states that planning permission will only be granted for the change of use of hostels to housing, provided that the existing hostel is surplus to the requirements of the existing operator and that there is no demand from another organisation for a hostel in this location. In this case, the former hostel accommodation is now surplus to the requirements of the previous operator as it has been relocated, and as part of the 2007 planning application, a full marketing exercise was undertaken which demonstrated that there was no other interest in the property. Whilst the application is contrary to Policy H6 as it fails to provide housing accommodation, Government advice in the National Planning Policy Framework places great importance on supporting school uses to ensure that there is a sufficient supply and choice of school places available and it advises Local Planning Authorities to take a proactive, positive and collaborative approach to meeting this requirement. The provision of educational facilities is also welcomed under UDP Policies SOC1 and SOC3 and City Plan Policy S34 which states that new facilities will be encouraged throughout Westminster. Policy SOC 1 also seeks to protect existing social and community facilities and requires new community facilities to:

1. Be located as near as possible to the residential areas they serve;
2. Not harm the amenity of the surrounding area, including the effect of any traffic generated by the proposal and
3. be safe and easy to reach on foot, cycle and by public transport.

With regard to part (1) of this policy, the applicant argues that the extended school will continue to cater for the local community and the local catchment area. The applicant has provided data relating to existing pupils and submits that over one third of current pupils live within Westminster (with the Westminster catchment increasing by 9% over a 7-8 year period since the school opened). Approximately 18% of existing school pupils live within a 2km distance and 8% within 5km. The school also prioritise students who can walk to school. Whilst an objection has been received on the grounds that the proposals would not cater for the local community, it is considered that it would be

difficult to sustain a refusal on the grounds that the proposals fail to comply with part (1) of SOC 1.

With regard to parts (2) and (3) of the policy, objections have been received on highway and amenity grounds and consideration of these issues is discussed in detail later in this report.

## **8.2 Townscape and Design**

No. 47 Bryanston Square with its integral mews at No. 39 Bryanston Mews West is a grade II listed building in the Portman Estate Conservation Area dating from circa 1811. There have been later alterations and extensions to the building not all of which are positive in terms of their contribution to the building's special interest, and it is currently linked via openings in its northern party wall to No. 46. Both buildings have been vacant for several years and are in poor condition.

The proposed educational use is fairly benign in terms of its impact on the building's special interest except for the necessary floor strengthening. However, it should be possible to achieve this upgrade without harm to the building's special interest.

Internally, the building has been aggressively modernised in the past and whilst there may be features of interest concealed behind modern false-work, there are few visible decorative details of interest other than the staircase and some joinery items. However, at basement level there are stone shelves and the overall plan-form of the building is still clearly legible.

The proposed alterations will have a limited and acceptable impact on the buildings special interest. Separation of No. 46 and No. 47 by closing the party wall breaches is a benefit as is the replacement of the windows with appropriately sub-divided designs. At first floor level it is indicated that the front windows are to be replaced to match the French doors at No. 46, but at No. 46 those doors are to be replaced with sash windows. Nevertheless, both alternatives are acceptable and will ensure the outward appearance of the buildings is suitable and that the character and appearance of the surrounding conservation area is maintained along with the special interest of the buildings.

## **8.3 Residential Amenity**

The application site lies within a predominantly residential area with most of the properties in Bryanston Square and Bryanston Mews West in residential use, and subsequently the proposals need to be considered in terms of their potential impact on the amenity of the surrounding area. Letters of objection have been received on the grounds of increased noise and disturbance and the impact on residential amenity.

The proposal involves the increase of an additional 120 pupils, increasing the number of students by approximately one third. Whilst it is accepted that the proposed increase is likely to result in greater traffic and pedestrian movements than the previous hostel use or the approved residential use, any increase in disturbance would essentially occur at the start and finish of the school day, when pupils are arriving and departing. The main entrance of the school is retained onto George Street and, whilst there are residential occupiers immediately opposite the site in Bryanston Court, this area is highly trafficked

and it is not considered that this level of increased activity would harm the amenity of adjoining residents in this location to a degree that would justify withholding planning permission. There are also no outside play areas which are commonly the source of most noise from schools.

However, it is accepted that if the proposal were to rely on the access at the rear of the building in Bryanston Mews West, this would result in a substantial increase in traffic and other activity within a quiet mews location. The entrance on George Street is proposed as the main entrance, and it would be possible to restrict by planning condition the use of the rear access onto Bryanston Mews West for deliveries and for disabled access only.

Objectors are also concerned that the expansion of the school will result in intensified school activities and the need for additional buses resulting in disturbance to residential amenity. The applicant has confirmed that currently the school uses two coaches, each with a seating capacity for 80, each with 20 unused seats. With the proposed increase of an extra 120 pupils, each year group will increase by 20 pupils and therefore this will bring the current coaches up to capacity but would not result in the need for any additional coaches.

A school dining room is proposed within the basement of the mews building. This part of the building shares a party wall with 37 Bryanston Mews West and therefore there is potential for noise transfer from noise from children in the dining hall during lunch time. The nearest existing residential windows to the proposed dining hall are those within Vincent Court on the opposite side of Bryanston Mews West and the proposed flats within the adjoining building at 46 Bryanston Square and 37 Bryanston Mews West. The application is supported by an acoustic report that assesses the potential noise break-out from the proposed dining hall. However, the report sets out that, provided windows within the dining hall are kept shut, that noise outbreak through the existing structure is likely to be negligible. Environmental Health Officers agree with this view. The draft decision notice includes the Council's standard condition that restricts noise from internal activity to be 10dB below the minimum external background levels.

### **8.3.1 Plant**

The proposals involve the relocation of the existing kitchen to the rear of 47 Bryanston Square which would be served by a full height extract duct running through a rear chimney stack and terminating at roof level. Environmental Health officers are satisfied that the proposals would not result in any adverse odours or amenity impact on adjoining residential occupiers.

Air conditioning units are also proposed at roof level and an acoustic report has been submitted to assess the potential noise and vibration impacts of the proposed plant. Background noise levels have been provided to demonstrate that noise from the duct and associated equipment will be compliant with the City Council requirements and this has been considered acceptable by Environmental Health. Conditions are proposed in relation to the noise and vibration levels from the plant.

The application is therefore considered to comply with Policies S29, S32, ENV13, ENV6 and ENV7.



#### 8.4 Transportation/Parking

The applicant has submitted a Transport Assessment (TA) reaffirming that the site is highly accessible by sustainable modes of transport with a number of nearby bus stops and the nearest underground station at Marble Arch (400m to the south). The TA sets out that as no car parking facilities are provided at the School that parents are requested not to drop their children off or pick them up from any of the streets in the immediate vicinity e.g. Bryanston Mews West, George Street or Bryanston Square. A significant number of pupils (50%) currently travel to School on the privately operated school mini-bus service, which collects pupils from pick-up points close to their homes and delivers them to the School.

All sports activities take place away from the premises. PE and swimming lessons are held at the nearby Seymour Leisure Centre, to which the boys are escorted on foot. Other sporting activities take place at Wetherby's Sports Ground (located at The Park Club in Acton) or at other destinations such as Lord's Cricket Ground and Hyde Park. For games and sports activities at Wetherby Sports Ground, the boys are collected by coach. Games take place in the morning and afternoon, Monday to Thursday, and only in the afternoon on Fridays. Typically, circa 120 pupils travel to games between 9am-11:30am and then a further 120 pupils travel between 1:30pm-4pm. Two 80-seater double decker buses are currently used to transport all children simultaneously and both buses can be accommodated on the single yellow lines on the northern kerb line of George Street, at the bottom of Bryanston Square.

The TA has been reviewed by the Highways Planning Manager who remains concerned that a private school for pupils of a young age will generate more traffic than the existing uses. However, it is recognised that the measures that the school have taken to date do keep traffic levels down to a minimum to ensure there is as little disruption as possible. Surveys show that the number of pupils arriving by car has dropped consistently in recent years. It is also noted that the minibus service seems to work well.

Nevertheless, the Highways Planning Manager comments that in the School's 2016 survey, 28 pupils car-shared and another 36 came by car, resulting in 50 cars in total daily (14 + 36). Therefore, if a 325 pupil school attracts 50 cars, a 450 pupil school has the potential to approximately attract 70 cars. Whilst this is significant in a relatively small area, only one complaint to the planning enforcement team has been received since the school opened in 2009. Given that the additional 20 cars would, because of breakfast and after school clubs, be spread over staggered arrival times, the Highways Planning Manager is of the opinion that the expansion of the school is, despite the objections received, unlikely to cause a disruption in highway terms.

It is recognised that the school has worked hard to minimise any traffic problems, by staggering start and finish times, and persuading parents to use other transport modes, or at least not to drop off and pick up pupils right outside the school. The Highways Planning Manager therefore raises no objection to the expansion of the school provided the measures currently adopted by the school are retained, through the submission of a revised School Travel Plan. This would be secured by condition.

**Cycle Storage**

The existing school has 10 bicycle racks with space for up to 25 bicycles in the cycle store to the rear of the property and in the basement. There are also shower, lockers and changing facilities. With the proposed extension of the school into No. 47 Bryanston Square, it is proposed to provide an additional 17 cycle parking spaces, in line with London Plan standards.

**Servicing**

Servicing would continue to be undertaken at the rear of the site on Bryanston Mews West. At present the school receives a maximum of 5 deliveries a week, with these generally occurring once a day over the course of a school week. These deliveries are primarily food for school lunches. Currently supplies are delivered to the school via the goods lift from Bryanston Mews West and it is proposed to continue this method of servicing. Refuse is collected once a day also from Bryanston Mews West. No change to the existing servicing/refuse regime is expected.

**8.5 Economic Considerations**

The economic benefits of the application are welcomed.

**8.6 Access**

The existing school has level access at the rear of the building via Bryanston Mews West. A call point is provided at the bottom of the entrance steps to the existing school and this can be used by disabled visitors to call for assistance. An existing accessible lift within No. 48 provides internal access and complies with Part M of the Building Regulations. Portable ramps are also kept in the school to provide access via stepped-entrances where required.

**8.7 Other UDP/Westminster Policy Considerations****Refuse /Recycling**

Dedicated waste storage areas are proposed at basement level which provides adequate facilities for waste and recycling facilities for the enlarged school. These facilities will be secured through condition.

**Sustainability**

The application is supported by an Energy and Sustainability Statement which demonstrates that features can be incorporated into the building design to include new high-efficiency condensing boilers, efficient mechanical ventilation, high efficiency cooling and lighting, the addition of energy metering to building services, water conservation measures to minimise consumption and the installation of a new energy efficient passenger lift. In total the development can achieve a 14% reduction in CO2 emissions. As the proposals seek to alter a Grade II listed building, the opportunities for savings are limited and in this respect the savings made are considered reasonable.

**8.8 London Plan**

Policy 3.18 provides specific guidance on educational facilities in the capital. It states the 'Mayor will support provision of childcare, primary and secondary schools, and further

and higher education facilities adequate to meet the demands of a growing and changing population and to enable greater educational choice, including in parts of London with poor educational performance”.

Part C states “Development proposals which enhance education and skills provision will be supported, including new build, expansion of existing, or change of use to educational purposes”. Part D states that “proposals for new schools should be given positive consideration and should only be refused where there are demonstrable negative local impacts which substantially outweigh the desirability of establishing a new school and which cannot be addressed through the appropriate use of planning conditions or obligations”.

### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application.

There is no CIL levy on an educational (D1 use).

### **8.11 Environmental Impact Assessment**

The application is not a sufficient scale to require an Environmental Impact Assessment.

### **8.12 Other Issues**

#### **Construction impact**

The proposal is not a major development and the application does not involve the construction of an additional basement. It is therefore a Level 3 scheme for the purposes of the Code of Construction Practice. The application is supported by a construction management strategy which an objector considers should be secured by condition. However given the new arrangements concerning the Code of Construction Practice, the impacts of the construction will be a matter for the Environmental Inspectorate and it is not considered appropriate to impose a condition.

#### **Other issues**

One of the objectors argues that as the number of students, hours etc are not fully set out on the application form that the application must be treated as invalid. However, details of student numbers, staff and hours of operation are fully set out in the submission.

## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Historic England (Listed Builds/Con Areas), dated 15 May 2017
3. Response from Marylebone Association dated 28 June 2017

4. Memorandum from Highways Planning Manager dated 20 June 2017
5. Memorandum from Cleansing dated 27 June 2017
6. Memorandum from Environmental Health dated 29 June 2017
7. Letter from occupier of 5 Bryanston Square London dated 18 May 2017
8. Letter from occupier of Flat 19 34 Bryanston Square London dated 23 May 2017
9. Letter from occupier of 17 Connaught Square, London, dated 8 June 2017
10. Letter from occupier of 8 Southwick Place, London, dated 9 June 2017
11. Letter from occupier of 23 Montagu Square, London, dated 10 June 2017
12. Letter from occupier of Ground Floor Flat, 69 Cadogan Square, dated 12 June 2017
13. Letter from occupier of Flat E 42 Elm Park Gardens, 42, dated 7 June 2017
14. Letter from occupier of 28 Kelso Place, London, dated 7 June 2017
15. Letter from occupier of 5 Queen Anne's Gate, London, dated 7 June 2017
16. Letter from occupier of 9 Archery Close, London, dated 7 June 2017
17. Letter from occupier of 52 Montagu Mansions, London, dated 7 June 2017
18. Letter from occupier of 36 Thames Point, Imperial Wharf, dated 8 June 2017
19. Letter from occupier of 3 Gledhow Gardens, London, dated 12 June 2017
20. Letter from occupier of 14 Montagu Square, Flat 1, dated 16 June 2017
21. Letter from occupier of 134 Oakwood Court, London, dated 16 June 2017
22. Letter from occupier of 2 Wyndham Place, London, dated 7 June 2017
23. Letter from occupier of 1 Albert Court, Kensington Gore, dated 7 June 2017
24. Letter from occupier of 133 Leighton gardens, London, dated 7 June 2017
25. Letter from occupier of 42 Sterndale Road, London, dated 7 June 2017
26. Letter from occupier of 6 Russell Road, London, dated 7 June 2017
27. Letter from occupier of 3 Aubrey road, London, dated 8 June 2017
28. Letter from occupier of 29 campden hill square, London, dated 8 June 2017
29. Letter from occupier of 41 Ferncroft Avenue, London, dated 7 June 2017
30. Letter from occupier of 3 Gledhow gardens, London, dated 13 June 2017
31. Letter from occupier of 7 Chelsea Embankment, London, dated 9 June 2017
32. Letter from occupier of 56A Chepstow Villas, London, dated 11 June 2017
33. Letter from occupier of New Lodge, Hyde Park, dated 7 June 2017
34. Letter from occupier of 31 Thornhill Square, Islington, dated 7 June 2017
35. Letter from occupier of 110 Chatsworth road, London, dated 7 June 2017
36. Letter from occupier of 39 Albion St, London, dated 7 June 2017
37. Letter from occupier of 56 Chepstow Villas, London, dated 7 June 2017
38. Letter from occupier of 2 Harewood row, London, dated 8 June 2017
39. Letter from occupier of 56 Bovingdon Road, London, dated 9 June 2017
40. Letter from occupier of 7 Abbotsbury Close, London, dated 9 June 2017
41. Letter from occupier of 50 Bryanston Court, George Street, dated 8 June 2017
42. Letter from occupier of 38 Sumatra Road, West Hampstead, dated 7 June 2017
43. Letter from occupier of 60 Hereford Road, Greater London, dated 7 June 2017
44. Letter from occupier of 69 Eaton terrace, London, dated 8 June 2017
45. Letter from occupier of 2 Curzon Square, Flat 4, dated 11 June 2017
46. Letter from occupier of 5 Earl's Court Gardens, London, dated 10 June 2017
47. Letter from occupier of 25A Bryanston Square, London, dated 8 June 2017
48. Letter from occupier of 2A Montagu Mews South, London, dated 13 June 2017
49. Letter from occupier of Flat 2B, 35 Cadogan Gardens, dated 7 June 2017
50. Letter from occupier of 88 Bryanston Court, George Street, dated 7 June 2017
51. Letter from occupier of 188 Blythe Road, London, dated 7 June 2017
52. Letter from occupier of Flat 14 prince Edward mansion, Moscow Road, dated 7 June 2017

53. Letter from occupier of The Knightsbridge Apartments 7,21, 199 Knightsbridge, dated 7 June 2017
54. Letter from occupier of 8 College Road, Ealing, dated 7 June 2017
55. Letter from occupier of Flat D, 13 Montagu Place, dated 7 June 2017
56. Letter from occupier of 43 Campden Hill Square, London, dated 7 June 2017
57. Letter from occupier of 29 Rusholme Road, London, dated 9 June 2017
58. Letter from occupier of 23 Montagu Square, London, dated 9 June 2017
59. Letter from occupier of 13 Chepstow Villas, London, dated 7 June 2017
60. Letter from occupier of 80 Portland Road, London, dated 7 June 2017
61. Letter from occupier of 14 Eccleston sq, London, dated 7 June 2017
62. Letter from occupier of 1 Hyde Park Crescent, London, dated 7 June 2017
63. Letter from occupier of 3 Teignmouth Road, London, dated 8 June 2017
64. Letter from occupier of 55 Earls Court Road, London, dated 11 June 2017
65. Letter from occupier of 14a/b Egerton Gardens, London, dated 12 June 2017
66. Letter from Thompson Planning Limited, on behalf of Flat 7 Bryanston Square, dated 31 May 2017
67. Letter from occupier of 41 Cavalry square, London, dated 7 June 2017
68. Letter from occupier of 37 Oppidans Road, London, dated 7 June 2017
69. Letter from occupier of 18a Montagu St, London, dated 7 June 2017
70. Letter from occupier of 8 College Road, Ealing, dated 7 June 2017
71. Letter from occupier of 17 Connaught Square, London, dated 7 June 2017
72. Letter from occupier of 33 Bryanston Square, London, dated 7 June 2017
73. Letter from occupier of 33 Bryanston Square, London, dated 7 June 2017
74. Letter from occupier of 6 Harley Street, London, dated 7 June 2017
75. Letter from occupier of 29 Knox Street, Marylebone, dated 8 June 2017
76. Letter from occupier of 30 Thornhill square, London, dated 12 June 2017
77. Letter from occupier of Flat 1, 114 Gloucester Road, London, dated 12 June 2017
78. Letter from occupier of 182 Holland Road, London, dated 12 June 2017
79. Letter from occupier of 24 Eaton Place, London, dated 13 June 2017
80. Letter from occupier of 62 Tavistock Road, London, dated 12 June 2017
81. Letter from occupier of Flat 1 15 Montagu Square, London, dated 16 June 2017
82. Letter from occupier of 39 Radipole Road, Fulham, dated 7 June 2017
83. Letter from occupier of Ambika House, 9a Portland Place, dated 7 June 2017
84. Letter from occupier of 47 Roland Gardens, London, dated 7 June 2017
85. Letter from occupier of 2 Harewood Row, Marylebone, dated 7 June 2017
86. Letter from occupier of 2 Cavendish Square, London, dated 7 June 2017
87. Letter from occupier of 2 Pembridge Place, London, dated 7 June 2017
88. Letter from occupier of 84 Bryanston court, George street, dated 10 June 2017
89. Letter from occupier of 94 Belsize Road, London, dated 8 June 2017
90. Letter from occupier of 105 Oxford Gardens, London, dated 14 June 2017
91. Letter from occupier of 7 Redcliffe Road, London, dated 12 June 2017
92. Letter from occupier of Flat 2, 6 Bryanston Square, Flat 2, 6 Bryanston Square, dated 7 June 2017
93. Letter from occupier of 82 Holland Park, London, dated 7 June 2017
94. Letter from occupier of 16 Abbotsbury Close, London, dated 9 June 2017
95. Letter from occupier of 25 Wrentham Avenue, London, dated 7 June 2017
96. Letter from occupier of 37 Oppidans Road, London, dated 7 June 2017
97. Letter from occupier of 3 Lichfield road, Richmond, dated 7 June 2017
98. Letter from occupier of 30 Thornhill Square, London, dated 16 June 2017
99. Letter from occupier of 33 Lillieshall Road, London, dated 8 June 2017

- 100.Letter from occupier of 2 Earls Terrace, London, dated 7 June 2017
- 101.Letter from occupier of Flat 4, 56 Lancaster Gate, dated 8 June 2017
- 102.Letter from occupier of 242 Lauderdale Mansions, Lauderdale Road, dated 7 June 2017
- 103.Letter from occupier of 6 Alma Square, London, dated 7 June 2017
- 104.Letter from occupier of 13 Lexham Gardens, London, dated 7 June 2017
- 105.Letter from occupier of 88 Cromwell Avenue, London, dated 7 June 2017
- 106.Letter from occupier of 25 Peel Street London, dated 25 June 2017
- 107.Letter from occupier of 25 Peel Street London, dated 27 June 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: SARA SPURRIER BY EMAIL AT [sspurrier@westminster.gov.uk](mailto:sspurrier@westminster.gov.uk)

10. KEY DRAWINGS









Proposed Front Elevation



Proposed Rear Elevation

**DRAFT DECISION LETTER**

- Address:** Development Site At 47 To 48 Bryanston Square And 39 To 41 Bryanston Mews West, London
- Proposal:** Use of 47 Bryanston Square and 39 Bryanston Mews West as school (D1 Use Class) in connection with the existing school at 48 Bryanston Square and 41 Bryanston Mews West. Replacement of windows on front elevation at 47 Bryanston Square with glazed timber windows, and associated alterations, including full height extract duct housed within existing chimney and air-conditioning plant at roof level.
- Reference:** 17/02741/FULL
- Plan Nos:** PL101E, 102E, 103D, 104C, 105D, 106C, 107A; PL201E,202F, 203F, 04E, 205F, 206E, 207B, 208A; Window replacement specifications dated 26.04.17 - Version 1.1

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**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 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:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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)

- 3 You must use the property only as a school in connection with the school use at No. 48 Bryanston Square. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet SOC1 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 4 You must not allow children or parents on the premises, outside the following times: between 08.00 and 17.00 on Monday to Friday and not at all on Saturdays, Sundays or Bank Holiday, with the exception of:

1. Four times a year beyond 17:00 on Monday to Friday and four times a year on a Saturday between 08:00 and 13:00

At the start of each academic year, you must provide a schedule of dates identifying the four Saturday mornings and the four week-days beyond 17:00 when the school intends to open.

Reason:

To protect the environment of neighbouring residents. This is as set out in STRA 16, STRA 17 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AB)

- 5 The number of pupils attending the school hereby permitted shall not exceed 450 at any one time.

Reason:

To protect the environment of people in neighbouring properties as set out in STRA 13, STRA 16, STRA 17, ENV 6, ENV 7 and SOC1 of our Unitary Development Plan that we adopted in January 2007. (R12AB)

- 6 You may use the rear door shown on drawing PL201 Rev E only for disabled access, servicing and deliveries and/or in occasions of an emergency. It shall not be used as the main access or egress by students or staff of the school.

Reason:

To protect the environment of people in neighbouring properties as set out in STRA 13, STRA 16, STRA 17, ENV 6, ENV 7 and SOC1 of our Unitary Development Plan that we adopted in January 2007. (R12AB)

- 7 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of

any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in STRA 17 of our UDP, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 8 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 19:00 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in STRA 17, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 9 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 10 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or

will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the school use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the school use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in nearby noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in STRA 17 of the UDP, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 11 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide suitable storage for bicycles as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 12 You must provide the waste store shown on drawing PL201 Rev E before you commence the use as a school. You must clearly mark it and make it available at all times to everyone using the school. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

**Reason:**

To protect the environment and provide suitable storage for waste as set out in STRA 35 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BC)

- 13 Before you begin to use the new school buildings, you must apply to us for approval of a Travel Plan. The Travel Plan must include details of:
- (a) A comprehensive survey of all users of the school;
  - (b) Details of local resident involvement in the adoption and implementation of the Travel Plan;
  - (c) Targets set in the Plan to reduce car journeys to the school;
  - (d) Details of how the Travel Plan will be regularly monitored and amended, if necessary, if targets identified in the Plan are not being met over a period of 5 years from the date the new school buildings are occupied.

At the end of the first and third years of the life of the Travel Plan, you must apply to us for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

**Reason:**

In the interests of public safety, to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2, TRANS 3 and TRANS 15 of our Unitary Development Plan that we adopted in January 2007. (R45AB)

- 14 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 15 You must apply to us for approval of detailed drawings of the following parts of the development - new windows.  
You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these approved details. (C26DB)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 16 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 17 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 18 You must keep all external doors and windows to the dining room shown on drawing PL201 Rev E closed at all times when the dining room is in use.

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

**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 Conditions 7, 8 & 9 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service

Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 4 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 5 To comply with Condition 7 you are advised that classrooms and the dining room should not be used for music teaching/rehearsals and particularly any that use amplified instruments.

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.



**DRAFT DECISION LETTER**

- Address:** Development Site At 47 To 48 Bryanston Square And 39 To 41 Bryanston Mews West, London
- Proposal:** Use of 47 Bryanston Square and 39 Bryanston Mews West as school (D1 Use Class), in connection with the existing school at 48 Bryanston Square and 41 Bryanston Mews West. Replacement of windows on front elevation at 47 Bryanston Square with glazed timber windows, and associated alterations, including full height extract duct housed within existing chimney and air-conditioning plant at roof level. Linked to 17/02741/FULL
- Reference:** 17/02742/LBC
- Plan Nos:** PL101E, 102E, 103D, 104C, 105D, 106C, 107A; PL201E,202F, 203F, 04E, 205F, 206E, 207B, 208A; Window replacement specifications dated 26.04.17 - Version 1.1
- Case Officer:** Jo Palmer **Direct Tel. No.** 020 7641 2723

**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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)
- Reason:  
To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)
- 3 You must apply to us for approval of detailed drawings of the following parts of the development:
- (1) windows,
  - (2) doors,
  - (3) skirtings and architraves,
  - (4) cornices.
  - (5) detailed drawings of all floor strengthening works,

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these approved details. (C26DB)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 6 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 7 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 8 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

**Reason:**

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

**Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building., , In reaching this decision the following were of particular relevance:, S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.

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# Agenda Item 7

Item No.
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<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB-COMMITTEE</b>	<b>Date</b> 11 July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>Development Site At 1 1/2 Queens Grove And, 12-22 Finchley Road, London, NW8 6EB</b>		
<b>Proposal</b>	Variation of Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements from RN 02/06302/FULL. NAMELY, to vary the hours of construction works that can be heard at the boundary of the site to allow works around the railway cutting to take place between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme.		
<b>Agent</b>	Gerald Eve LLP		
<b>On behalf of</b>	12-22 Finchley Road Developments Ltd		
<b>Registered Number</b>	17/00938/FULL	<b>Date amended/ completed</b>	6 February 2017
<b>Date Application Received</b>	6 February 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

1. Grant conditional permission, subject to completion of a deed of variation to the original legal agreement dated 6 November 2003 to secure the following additional planning obligations:
  - i. Agreement to fund and install secondary glazing to rear windows of neighbouring properties in Pembroke Terrace, Bartonway and Balmoral Court and the front windows of properties in Queens Grove Court and Aspley House, for those flats that request it, so as to reduce noise disturbance during the course of the night time works. The night time works shall not commence until all secondary glazing to the flats where it is requested has been installed.
  - ii. Agreement to fund the provision of temporary air conditioning during the period of the night time works (if any of the night time working occurs between 1 April and 31 September) for those properties in Pembroke Terrace, Bartonway and Balmoral Court with rear facing windows and those properties in Queens Grove Court and Aspley House with front facing windows, where the occupiers of those flats request it. The temporary air conditioning shall be provided within 3 working days of a written request from a neighbouring resident.

- iii. Cost of monitoring the additional heads of terms (£500).
2. If the deed of variation has not been completed by 25 July 2017 then:
- a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
  - b) The Director of Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2. SUMMARY

The application site is located on the north east side of Finchley Road at the corner with Queens Grove. Residential blocks neighbour the site to the north east and south east (Pembroke Terrace, Bartonway and Balmoral Court). Queens Grove Court is located on the opposite side of Queens Grove to the north of the site and Aspley House is located on the opposite side of Finchley Road to the west of the site. The site does not contain any listed buildings and is not in a conservation area, but is visible in views from within the neighbouring St. John's Wood Conservation Area, which is adjacent to the site to the east and west.

Planning permission for the redevelopment of this site by demolition of the existing buildings and erection of a residential building of 6-8 storeys comprising 66 apartments, including 17 affordable units and provision of 64 parking spaces in two basement levels was granted on 6 November 2003 (RN: 02/06302/FULL). This permission was implemented prior to expiry in November 2008 and this was confirmed by the Certificate of Lawfulness issued on 22 January 2014 (RN: 13/09910/CLOPUD). The 2003 permission therefore remains extant and can continue to be implemented at any time.

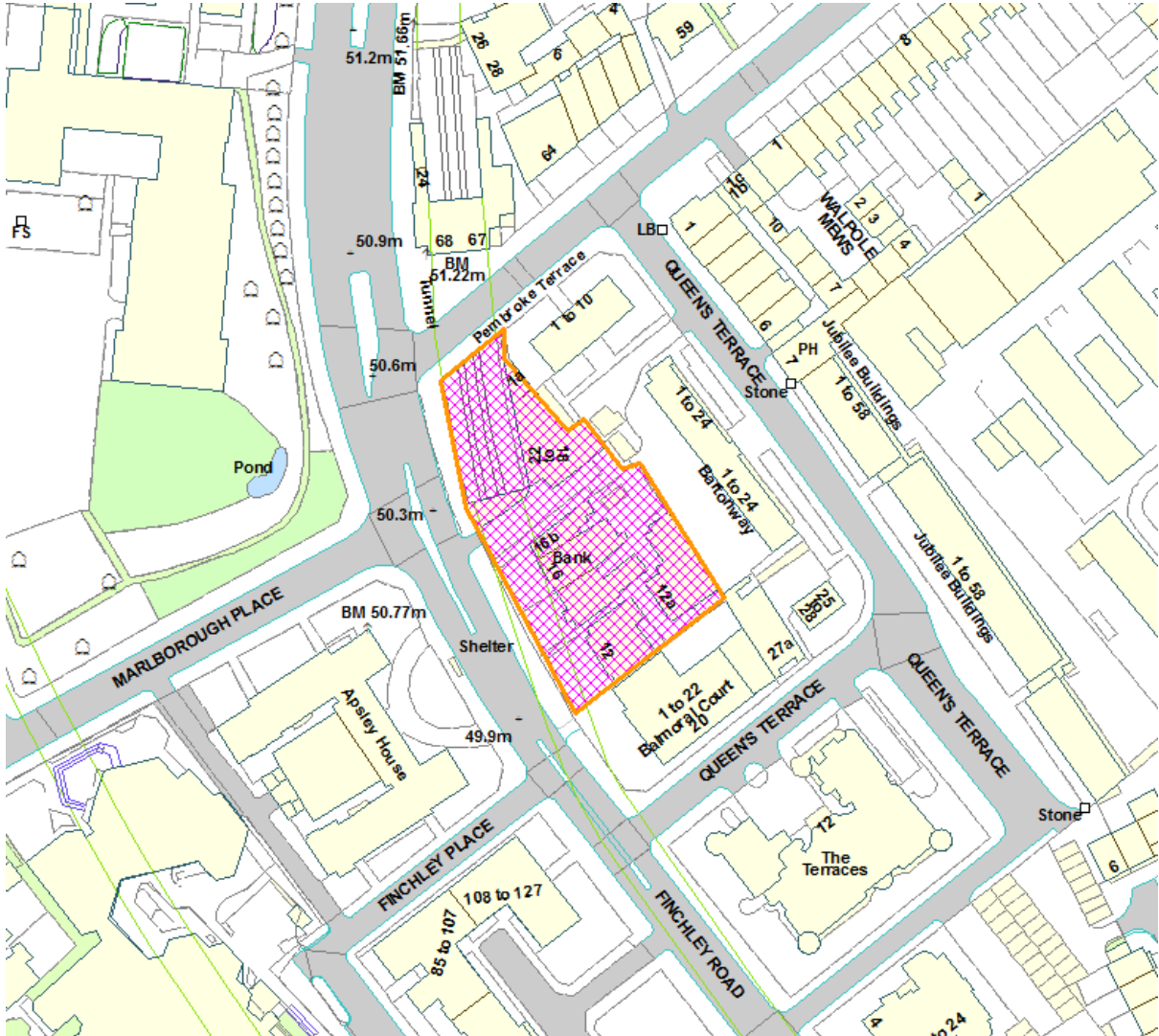
The current application seek permission to vary Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL); namely to amend the hours during which construction works that can be heard at the boundary of the site can take place. In this case the proposed development includes the enclosure of the existing shallow Metropolitan Line cutting that crosses the north western corner of the site. Works to form the enclosure over the cutting can only take place outside the operational hours of the railway. The application therefore seeks to vary Condition 2 to allow night time working between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme. The applicant has been asked to confirm a maximum number of nights that the night working will need to take place (i.e. the 67 days forecast, plus a contingency). Their response will be reported verbally.

Since the original approval of the development in November 2003 there have been material changes to the policy context with the publication of the National Planning Policy Framework (NPPF) in 2012, the adoption of the Unitary Development Plan in January 2007 (the UDP), Westminster's City Plan in November 2016 (the City Plan) and the latest version of the London Plan in March 2016. Despite this change in policy context, for the detailed reasons set out later in this report, which includes significant weight being attributed to the fact that the 2003 permission remains extant, and as the completed

development would deliver significant public benefits (in the form of provision of market housing, delivery of a significant quantum of on-site affordable housing and environmental improvements from enclosing the underground cutting), it is considered that the development remains acceptable in land use, design, amenity, transportation and environment terms. Furthermore, the current S73 application seeks only to vary the hours of construction works to facilitate the continued implementation of the previously approved and extant development and does not seek to vary the form or content of the development itself.

Turning to the amendments to the November 2003 permission that are expressly sought by the current application; namely the amendments to the hours of construction, these are considered to be acceptable on balance given the exceptional circumstances of this case, subject to the recommended conditions and planning obligations that are required to mitigate the impact of night time construction works on the amenity of neighbouring residents. The recommended conditions include a new condition to ensure compliance with Code of Construction Practice adopted in July 2016. A Deed of Variation to the original 2003 S106 agreement is recommended to secure secondary glazing and air conditioning for those closest neighbouring occupiers who wish to receive these additional mitigation measures during the period of night working. Subject to the mitigation measures to be secured by condition and legal agreement, the variation of Condition 2 would accord with Policies TRANS2, TRANS3 and ENV6 in the Unitary Development Plan adopted in January 2007 (the UDP) and Policies S29, S32, S41 and CM28.1 in the City Plan adopted in November 2016 (the City Plan).

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



View of the site looking north along Finchley Road (top) and view of site from the junction of Finchley Road and Queen's Grove (bottom).



VIEW ONE



View of railway cutting (top) and aerial view of site looking south (bottom left) and aerial view of site looking north (bottom right).

## 5. CONSULTATIONS

### WARD COUNCILLORS (ABBNEY ROAD)

Any response to be reported verbally.

### ST. JOHN'S WOOD SOCIETY

No objection to the proposed working hours overnight on the condition that there are adequate measures in place for noise control and a contact telephone number for residents who may be disturbed. Request that the local community and the Society are consulted on a traffic management scheme before any work commences.

### ENVIRONMENTAL HEALTH

No objection. Applicant has undertaken to accord with the Code of Construction Practice (CoCP) adopted in 2016 (can be secured by condition). Compliance with the CoCP means the applicant will have to submit a Site Environmental Management Plan and also submit a Section 61 application under the Control of Pollution Act 1974. This will ensure the methodology for all works is agreed, including the proposed night time works. CoCP compliance will ensure real time noise and vibration monitoring along with a requirement to demonstrate that Best Practical Means are employed during construction.

Noted that secondary glazing and air conditioning (during warmer months) are to be offered to residents that are materially impacted by construction noise from night-time works. Note also that original permission does not include any conditions with regard to potential impacts of noise and/or vibration from the train line on residents in the new development and recommend that an informative is added to provide guidance to the applicant on this issue.

### HIGHWAYS PLANNING MANAGER

No comments from a highways perspective. Note that principle issues are amenity related.

### LONDON UNDERGROUND LIMITED

Confirm that the applicant is in communication with London Underground engineers regarding the development. Therefore have no comment to make on the application, but advise that the applicant should continue to work with London Underground engineers.

### TRANSPORT FOR LONDON

No objection. Note that Finchley Road is part of the Transport for London Road Network (TLRN) and proposal should not affect its performance and safety. Note that London Underground do not object, but comment that the developer should continue to work with London Underground engineers. TfL Property add that the raft over the cutting must be built outside of operational hours of the Metropolitan line. Note the benefits of delivering the approved scheme in terms of housing delivery and state that they understand that the construction techniques and methodology proposed have been designed to minimise disturbance to local residents.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 370.

Total No. of replies: 1.

No. of objections: 1.

No. in support: 0.

Objection raised on the following grounds:

#### Construction Impact

- Anti-social hours of works will cause noise and disturbance at night with further noise and disturbance from St. John's Wood Barracks site during the day.
- Serious risk to neighbouring residents in terms of dust, fumes and sleepless nights.

#### Other Issues

- Loss of daylight and sunlight as a result of the previously approved development.
- Development will block view from properties to the rear of the site.
- Development is for the benefit of the developer.
- Question affordability of affordable housing units.

#### PRESS ADVERTISEMENT/ SITE NOTICE

Yes.

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located on the north east side of Finchley Road at the corner with Queens Grove. Residential blocks neighbour the site to the north east and south east (Pembroke Terrace, Bartonway and Balmoral Court). Queens Grove Court is located on the opposite side of Queens Grove to the north of the site and Aspley House is located on the opposite side of Finchley Road to the west of the site.

The site does not contain any listed buildings and is not in a conservation area, but is visible in views from within the neighbouring St. John's Wood Conservation Area, which is adjacent to the site to the east and west.

Planning permission for the redevelopment of this site by demolition of the existing buildings and erection of a residential building of 6-8 storeys comprising 66 apartments, including 17 affordable units and provision of 64 parking spaces in two basement levels was granted on 6 November 2003 (RN: 02/06302/FULL). This permission was implemented prior to expiry in November 2008 and this was confirmed by the Certificate of Lawfulness issued on 22 January 2014 (RN: 13/09910/CLOPUD). The 2003 permission therefore remains extant and can continue to be implemented at any time. See section 6.2 of the report for the full planning history.

### 6.2 Recent Relevant History

#### 02/06302/FULL

Planning permission was granted for demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements  
Granted - 2 November 2003

#### 06/07473/ADFULL

Details of hard and soft landscaping scheme pursuant to Condition 10 of planning permission dated 02 November 2003 (RN: 02/06302).

Granted - 10 October 2006

07/03915/ADFULL

Samples of facing materials and details of typical elevations, boundary treatment, replacement of terracotta rain screen with cast masonry on east elevation and privacy screens pursuant to Conditions 6, 12, 13, 14 and 15 of planning permission dated 6 November 2003 (RN: 02/06302).

Granted - 13 August 2007

07/07332/ADFULL

Details of tree protection measures pursuant to Condition 11 of planning permission dated 6 November 2003 (RN: 02/06302)

Granted - 12 October 2007

13/09910/CLOPUD

Certificate of Lawful Proposed Use or Development was issued confirming that the planning permission dated 6 November 2003 (RN: 02/06302/FULL) for demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements was implemented by the carrying out of material operations and that the continued development of the site in accordance with the planning permission at any time is lawful

Granted - 22 January 2014

## 7. THE PROPOSAL

The current application seek permission to vary Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for redevelopment of the site to provide a new building between 6-8 storeys containing 66 apartments, including 17 affordable units and provision of 64 parking spaces within a double basement. The variation to Condition that is sought is namely to amend the hours during which construction works that can be heard at the boundary of the site can take place. In this case the proposed development includes the enclosure of the existing shallow Metropolitan Line cutting that crosses the north western corner of the site. Works to form the enclosure/ raft over the cutting and adjacent tunnel can only take place outside the operational hours of the railway. The application therefore seeks to vary Condition 2 to allow night time working between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme. The applicant has been asked to confirm a maximum number of nights that the night working will need to take place (i.e. the 67 days forecast, plus a contingency).

The applicant has worked with London Underground to seek to address their requirements for construction works to be carried out during Engineering Hours (between 01.00 and 05.00 hours) and have also engaged Ramboll to provide a noise assessment that seeks to identify how noise from the night-time working can be minimised so as to limit the impact on the amenity of neighbouring residents (see this document in full in the Background Papers).

By reviewing and rationalising the construction programme, the applicant has been able to limit the number of nights during which construction work is required to 67, although it is noted that this is an estimate and is not a definitive maximum number. A total of 399 days of construction will be required to complete the raft/ enclose the existing railway cutting.

The night- time construction working would be spread throughout the build programme and would not be carried out in a single block (see Table 5 and Figure 6 of the Ramboll noise assessment in the Background Papers). No more than 10 nights of working will be carried out over any 15 day period, so as to provide neighbouring occupiers with respite from the construction works.

The applicant's Noise Assessment by Ramboll recommends that mitigation measures are put in place during night-time working. These include the following measures:

- Fixed plant to be located away from noise receptors and surrounded by noise barriers.
- Site hoarding constructed to a significant height with all gaps closed to provide a 5-10dB acoustic screen.
- Temporary sound barriers placed around hand held equipment (to provide 10dB attenuation).
- Works to be undertaken in a specially constructed sound shield comprising an 'A' frame structure delivering an approximate 16dB noise attenuation.
- Community liaison to provide advanced warning of forthcoming works.
- Only modern, quiet and well maintained plant to be used by contractors on site (expected to meet 'Noise Emission in the Environment by Equipment for Use Outdoors Regulations 2001' implementing the EU Directives 2001/14/EC).
- Equipment to be shut down when not in use.
- Engine compartments closed when in use.
- Semi-static equipment sited as far as practicable from occupied buildings and screened.
- Mains electricity to be used where possible rather than on-site generators.
- All site personnel to be briefed on noise reduction measures to be adhered to.
- Minimise vehicle movements at night.
- Regular noise monitoring and monitoring of integrity of noise attenuation measures.
- Robust complaints procedure with complaints to be responded to in 24 hours.
- Provision of noise hotline direct to the site controller for local residents if they feel noise levels are excessive. Site controller to have power to stop any or all works which complaint is investigated.
- Site operatives to meet off site and to be transported to the site in minibuses and held within waiting rooms on the site prior to the night-time working hours to avoid noise disturbance to neighbours prior to the 01.00 hours start of works.
- Vehicle movements at night to be minimised (estimated to be 3-4 per night of working) with plant, machinery and materials deliveries to be undertaken during normal construction hours.

In addition to these site wide measures, the applicant proposes a number of further measures to further mitigate the impact of night-time working:

1. The provision of a four storey acoustic screen adjacent to the side elevation of the closest noise receptor, Pembroke House (see Figure 15 of the Ramboll noise assessment in the background papers).
2. Provision of an undertaking to provide secondary glazing and temporary air conditioning (in summer months when windows cannot be opened without additional noise disturbance being caused) to the nearest noise sensitive properties.
3. Use of self-compacting concrete for some of the construction works (phases W6 and E5 in Ramboll noise assessment in the background papers) to avoid need for compacting.
4. Undertaking to seek to carry out as much of the night-time working in the winter when neighbouring occupiers are less reliant on opening windows for ventilation.
5. The applicant has agreed to the imposition of an additional condition requiring compliance with the Code of Construction Practice adopted in July 2016.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

In land use terms the extant previously approved scheme delivers an increase from 1,268m<sup>2</sup> to 9,973m<sup>2</sup> of residential floorspace (an increase from 9 units to 66 units) on the site. The use of this site to provide a solely residential scheme remains acceptable and would accord with Policies S13 and S14 in the City Plan. The loss of existing commercial uses from this site is not objectionable and there are no policies in the UDP or City Plan that resist their removal.

The residential units proposed would not be excessive in size relative to the prevailing unit size within this part of the City and would optimise the use of the site to provide new residential accommodation within the City. The individual units would all exceed the minimum unit size standards set out in the Government's National Technical Standards (2015) and Policy 3.5 of the London Plan (March 2016).

In terms of the mix of units proposed, which comprises 12x1 bed units (18%), 27x2 bed units (41%), 19x3 bed units (29%) and 8x4 bed units (12%), this is compliant with the mix of units sought by Policy H5 in the UDP and Policy S15 in the City Plan.

The density of the development 690 hr/ha would fall within the acceptable density range in the London Plan (March 2016) for an urban location such as this, which is between 200-700 hr/ha.

In terms of affordable housing the scheme delivers 30% (17 units) of the 57 new units proposed on the site (there are currently 9 existing residential units on the site) as on-site affordable housing units. The Interim Guidance Note on Affordable Housing Policy (2013) identifies that for a development of this size (i.e. delivering more than 6,000m<sup>2</sup> of new residential floorspace) in this location outside Core CAZ, the Paddington Opportunity Area and named streets in Marylebone and Fitzrovia, other than land having a low existing use value, should provide 35% of new residential accommodation as affordable housing. Therefore in this regard the development falls short of full compliance with currently

adopted policy. Nevertheless, the provision of 30% of the new residential units on site as affordable housing still represents the delivery of a significant quantum of actual affordable units. Furthermore, given that the previously approved development has been implemented and therefore remains extant, it is considered that the provision of 30% of the residential units as affordable housing remains acceptable.

The affordability of the affordable housing units within the development is secured by the S106 agreement accompanying the 2003 permission, which requires the transfer 15 of the 17 affordable units to a Registered Provider prior to the occupation of the market housing units. The recommended deed of variation to this agreement would ensure the continued delivery of the affordable housing units in relation to the S73 permission.

## **8.2 Townscape and Design**

The physical context of the application site has not significantly changed since 2003, with the most appreciable changes being to the school sites (George Elliot, Beachcroft and Quintin Kynaston schools) to the north west of the site on the opposite side of Finchley Road. However, these are separated from the application site by Finchley Road and the redevelopment of these school sites has not altered the site context such that a different design approach to the redevelopment of the site is required.

The proposed development would continue to comprise a contextual response to the site context with the development greatest in height at the corner of Finchley Road and Queen's Grove to mark this prominent corner. The prevailing height and massing of the development is otherwise consistent with Balmoral Court to the south east. This design approach to the massing of the development, as well as the detailed design proposed, remains acceptable in design terms. The development would not have an adverse impact on the setting of the neighbouring St. John's Wood Conservation Area. Accordingly it would accord with Policies DES1, DES4 and DES9 in the UDP and S25 and S28 in the City Plan.

## **8.3 Residential Amenity**

### **8.3.1 Proposed Development – Impact of Completed Development**

In amenity terms the impact of the development on neighbouring residential occupiers, when completed, would be identical to the extant scheme previously approved in November 2003 as no amendments are proposed to the height, bulk and mass of the development. The impact of the completed development is considered in the following paragraphs.

In terms of neighbours in Bartonway, whilst the scheme would have an impact in terms of the levels of light and outlook, the development would comply with the Building Research Establishment (BRE) Guidelines (2011) and therefore, as per the extant scheme, there would not be any sustainable objection on grounds of loss of light or increased sense of enclosure to neighbouring properties in these residential blocks

The northern part of the development would adjoin the five-storey building at 1-10 Pembroke Terrace, which is occupied as flats. These properties are three bedroom flats with their third bedroom windows contained in the west facing flank wall which looks



towards the eight-storey part of the proposed development. As per the extant scheme, these windows would suffer a material loss of light and increased sense of enclosure but are already compromised to a considerable degree at ground, first and second floor by No.1a Queens Grove. Given that these windows are to the third bedroom, it is considered that they should be afforded less protection than living rooms and kitchens. On each level, the flats facing south east at the rear of Pembroke Terrace have another bedroom at ninety degrees to the boundary with the development site. There would be a material loss of light to these windows nearest to the site boundary, but their outlook would not be significantly enclosed. The main impact will be a loss of afternoon sunlight to the nearest south facing bedroom windows of flats on the second, third and fourth floors, although it is considered that the degree of impact would not be sufficient to warrant refusal.

To the south of the site, Balmoral Court has windows to habitable rooms adjacent to the six-storey element of the development which projects between 0.4m and 1.6m beyond the rear building line of Balmoral Court at this point. Although there may be a slight increased sense of enclosure to these nearest affected windows in Balmoral Court, it is considered that this would not be so severe as to warrant a refusal. Balmoral Court has north facing windows that face the six storey element, but as they are 16.8 metres away from the proposed development, it is considered that there would not be a degree of harm sufficient to justify a refusal on grounds of loss of daylight or increased sense of enclosure.

Given the scale of the development, only some of the ground floor properties will have access to a private garden, with the majority of flats having access to a terrace. There will be a material increase in overlooking from these terraces to the east and the properties in Bartonway may be affected by this. However, the degree of separation between the terraces and Bartonway is between 19 and 20 metres at its narrowest point and with appropriate screening secured by condition, it is considered that there would not be sufficient grounds to resist this proposal on grounds of overlooking.

As per the previously approved scheme, a condition is recommended to ensure that the car lift and associated plant is capable of operating within specific criteria for new plant in order to safeguard the amenities of adjoining residential properties as well as the occupiers of the new dwellings within the site.

For the reasons set out above, the development is considered to continue to be policy compliant in amenity terms and would accord with Policies ENV6, ENV7 and ENV13 in the UDP and S29 and S32 in the City Plan.

### **8.3.2 Construction Impact**

The key consideration in terms of the variation proposed to Condition 2 is the impact on the amenity of neighbouring residents during the course of the proposed night-time construction works between 01.00 and 05.00 hours Monday to Friday.

To construct the raft over the cutting/ enclose the underground cutting it is projected that a total of 399 days of construction work will be required. Of these it is estimated that 67 of these days will also involve night-time working. The applicant's Noise Assessment, prepared by Ramboll, sets out the degree of noise impact the night-time construction works would have by assessing the noise impact using the methodology set out in BS 5228: Part 1: 2009.

The applicant has assessed the potential noise levels caused by night-time working as an average over the four hours of proposed night-time working (LAeq,T) and as a maximum noise level (LAm<sub>ax</sub>), which could occur at any time during the night-time working hours, but may occur only once on a given night or not at all on some nights.

In terms of average noise levels over night-time working hours, the applicant's assessment identifies that the adjusted level of significance (set by the British Standard) would only be breached at one receptor, Pembroke Terrace, and would be breached on 17 nights out of the total 67 nights of night-working. It should be noted though that whilst the noise levels as an average over four hours would be below the level of adjusted significance for other for properties in other neighbouring buildings and for Pembroke Terrace on 50 of the 67 nights, this does not mean that construction works would not be audible. Rather the level of adjusted significance indicates, where it is breached, that the level of noise disturbance would be significant and would be likely to be readily appreciable to occupiers of properties in the affected buildings. The applicant notes that the breach of the adjusted significance criteria at Pembroke Terrace would be limited to be limited to 2dB above the level of adjusted significance.

In terms of maximum noise levels, the night-time construction works would exceed the highest measured maximum noise level from existing sources at Bartonway, Queens Grove Court and Pembroke Terrace. At Queens Grove Court the existing highest maximum noise level would be breached by 2dB on 18 of the 67 nights of night-time working. At Bartonway the maximum noise level from night-time construction works would be 5dB higher than existing maximum noise levels (from traffic noise) for 57 of the 67 nights. At Pembroke Terrace the highest maximum noise levels would exceed the existing highest maximum noise level between 01.00 and 05.00 by approximately 16dB. The applicant notes that the maximum noise level would exceed the existing maximum train noise level by only 6dB; although trains on the Metropolitan Line currently cease running by approximately 01.00 hours.

It is clear from this noise impact data, which includes predicted noise attenuation from standard construction noise attenuation screening, that night-time working will have a material impact on neighbouring residents during the proposed night-time construction period, particularly those in Pembroke Terrace. However, it is evident from the submitted documents that the applicant has achieved significant efficiencies in the construction programme though working with its own project managers and London Underground and that this means the night-time working proposed (approximately 67 nights) is the shortest period possible to enable delivery of the development. The applicant has been asked to confirm a maximum number of nights that the night working will need to take place (i.e. the 67 days forecast, plus a contingency) and their response will be reported verbally

Coupled with this, the applicant proposes a wide range of measures to ensure that the impact on neighbouring residents from night-time working is minimised as far as can reasonably be achieved (see Section 7 of this report). These measures include a number of site specific proposals, which go beyond best practice construction methods, which are set out below:

- the provision of a four storey 'non-standard' acoustic screen to the south west of Pembroke Terrace (note that the noise reduction achieved by this screen is not

included in the applicant's construction noise impact calculations and this would therefore deliver additional noise attenuation);

- the provision of secondary glazing to windows of flats facing the application site in Pembroke Terrace, Queens Grove Court, Bartonway, Balmoral Court and Aspley House (note the applicant's construction noise impact calculations assume that secondary glazing has not been installed and this would therefore deliver additional noise attenuation) and;
- the provision of temporary air conditioning during summer months (1 April to 31 September) to flats in Pembroke Terrace, Queens Grove Court, Bartonway, Balmoral Court and Aspley House, which have windows facing the application site.

It is recommended that these measures are secured by condition and, in the case of the secondary glazing and air conditioning, via a deed of variation to the S106 agreement dated 6 November 2003. In addition to these measures, by breaking down of the night-time working into shorter periods (i.e. so the 67 days do not run on consecutive weekday nights), it is considered that the applicant has gone as far as reasonably practicable to minimise the disruptive impact of night-time working. It is therefore recommended that Condition 2 is varied to require the night-time working to be limited to between 01.00 and 05.00 and to require the night-time working to be carried out in accordance with the mitigation measures set out in the Ramboll Noise Assessment.

In addition, the applicant has undertaken to comply with the requirements of the CoCP adopted in July 2016, which they are not obliged to comply with under the conditions and S106 agreement attached to the original 2003 permission. Given the 2003 permission has been lawfully implemented and can continued to be carried out at any time, full compliance with the recently adopted basement development policy (CM28.1 in the City Plan), in terms of the design and extent of the basement, cannot reasonably be required as part of the current application (see also Section 8.7 of this report). However, the applicant's undertaking to comply with the CoCP in respect of this major development, which includes a double basement, is welcome and it is recommended that compliance with the CoCP is secured by condition.

Compliance with the CoCP will allow the City Council to have significantly greater control over the construction impact of the development, both during the proposed night-time working hours and during standard daytime working hours than would otherwise be the case. Compliance with the CoCP will require the applicant to agree a Site Environmental Management Plan (SEMP) with the Environmental Inspectorate, as well as ensuring compliance with S61 of the Control of Pollution Act 1974. This approach, which is supported by Environmental Health, would ensure that the developer agrees a detailed methodology for all works (a more detailed methodology than submitted in support of this application), especially in respect of the proposed night-time works. The methodology in the SEMP would include real time noise and vibration monitoring along with demonstrating that a 'Best Practical Means' approach is employed. The CoCP will also ensure that this monitoring by the Environmental Inspectorate throughout the construction period is carried out at the applicant's expense.

In light of the material impact on amenity that the construction works will have in terms of night-time noise from construction, the applicant has drawn attention to the wider public benefits of the scheme; most significantly the provision of a significant quantum of new

residential accommodation, including the provision of 17 on-site affordable housing units and, by enclosing the existing open Metropolitan line cutting, the delivery of long term improvements in the local noise environment by eliminating existing noise from this source. The applicant also notes that London Underground are likely to extend the 'night tube' to the Metropolitan Line over the next 5-10 years and this would therefore increase the night-time amenity benefit of enclosing the existing open cutting.

Environmental Health have suggested informatives to draw the applicant's attention to the need to ensure the design of the structure of the building is sufficient to prevent vibration borne noise disturbance to future occupiers of the development and the occupiers of neighbouring buildings. These informatives are included on the draft decision letter appended to this report.

Having regard to the long term public benefit of delivery of the previous approved scheme, as well as the construction noise mitigation measures proposed, it is considered that on balance the variation of the hours of construction works are acceptable in amenity terms given the exceptional site specific circumstances of that have arisen in this case. As such subject to the recommended mitigation measures, which are to be secured by condition and by legal agreement, the proposal accords in amenity terms with Policy ENV6 in the Unitary Development Plan adopted in January 2007 (the UDP) and Policies S29, S32 and CM28.1 in the City Plan adopted in November 2016 (the City Plan).

#### **8.4 Transportation/ Parking**

##### **8.4.1 Proposed Development – Parking, Access and Servicing**

The provision of vehicular basement access from Queens Grove remains acceptable and the removal of the existing access points from Finchley Road (part of the TfL strategic road network) is welcomed. The provision of 64 parking spaces for 66 residential units is acceptable and is in accordance with TRANS23 in the UDP.

Whilst the number of cycle parking spaces (66 spaces within the basement) falls below the current London Plan standards, this is not considered to be ground on which permission could reasonably be withheld given there is an extant scheme for the same development with the same quantum of cycle parking.

Overall, the proposed development is considered to remain acceptable in the transportation terms and would accord with the aims of the relevant policies in the UDP, City Plan and London Plan, with the exception of the shortfall in cycle parking spaces identified above.

##### **8.4.2 Construction Impact on Transport Infrastructure**

Policy 6.3(A) of the London Plan (March 2016) requires that '*Development should not adversely affect safety on the transport network*'. In this case the safety of the transport network (in this case the Metropolitan Line) would be adversely affected if works to raft over/ enclose the existing open cutting were not carried out overnight during Engineering Hours when the railway line is not in operation. This is therefore a significant material consideration when considering the reasonableness of the applicant's request to carry out

limited construction works adjacent to and over the cutting overnight between 01.00 and 05.00 hours.

In terms of the construction site at ground level, the proposed construction site would not encroach on Finchley Road (A41) or any other surrounding streets and would utilise an existing crossover at No.12 Finchley Road to form a site entrance. Accordingly, subject to the construction vehicle movements being agreed pursuant to requirements of the Code of Construction Practice (CoCP), the construction works would not cause an obstruction to the Transport for London Road Network (TLRN) or any other local road.

When agreeing construction vehicle/ lorry routes pursuant to the CoCP the applicant will be required to demonstrate that the vehicle movements generated by the construction works on this site would not have a significant adverse cumulative impact on the amenity of neighbouring residents or the local highway network when considered in conjunction with construction vehicle/ lorry movements generated by neighbouring sites. In this case the applicant will need to demonstrate that lorry movements would be coordinated with those generated by the redevelopment of the nearby St. John's Wood Barracks site, should the redevelopment of that site overlap with construction works on the applications site.

The construction phase of the development is therefore not objectionable in transportation terms and would accord with Policies TRANS2 and TRANS3 in the UDP, Policy S41 in the City Plan and Policy 6.3 in the London Plan (March 2016).

## **8.5 Economic Considerations**

The economic benefits of the development are welcomed.

## **8.6 Access**

No alterations to the previously approved scheme are proposed in terms of access. The scheme includes the provision of step free access to all of the residential units, with basement vehicular access provided via car lifts accessed from the Queen's Grove frontage of the site.

## **8.7 Other UDP/Westminster Policy Considerations**

In terms of compliance with the basement development policy (CM28.1), which was initially adopted in July 2016 and now forms part of the City Plan adopted in November 2016, officers are content that the scheme has been developed by appropriately qualified structural engineers at Ramboll and that their structural design for the redevelopment of the site has been developed in conjunction with engineers from London Underground given the proximity to the London Underground tunnels running along the western edge of the site. The site is within an area of low flood risk and is not within a Surface Water Flood Risk Hotspot. The site is not within an area of archaeological priority. The applicant has agreed to comply with the Code of Construction Practice. For these reasons the development is considered to have addressed the aims of part (A) of the policy.

In terms of Parts (B) and (C) of the basement policy, the scheme would not be fully compliant owing to the design of the development prior to the adoption of the policy.

However, in respect of part (B) the scheme would provide soil depth over the basement (but not the extent required by CM28.1), it would not result in the loss of any trees of townscape, ecological or amenity value and would not harm the character and appearance of the conservation area or the setting of nearby listed buildings.

Part (C) seeks to limit the extent of basements below development sites. In this case the basement would be located below the whole of the site that is not taken up by the London Underground tunnel. Given the constraint this places on the remaining space available for a basement below the site to accommodate parking and other building services, the extent of excavation proposed and the provision of a double basement on what is a highly accessible site is considered to be acceptable despite the normal policy presumptions.

Part (D) applies to basement development under the highway and is not relevant in this case as the basement is wholly contained on the application site.

In summary, whilst it is acknowledged that the basement proposed would not be fully compliant with the recently adopted basement development policy, principally given its extent and the depth of soil depth to be provided over it in garden areas, given the unusual constraints on this site and as the previously approved scheme remains extant and can continue to be implemented at any time, it is not considered that permission could reasonably be withheld on grounds relating to the relative compliance of the scheme with Policy CM28.1 in the City Plan.

## **8.8 London Plan**

The application does not raise any strategic issues. Where London Plan (March 2016) policies are relevant, these are referenced in the relevant sections of this report.

## **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **8.10 Planning Obligations**

The planning permission dated 6 November 2003 was granted subject to a S106 agreement to secure the provision of 17 on-site affordable housing units, with 14 car parking spaces for use by the affordable housing units. A deed of variation is proposed to ensure the continued provision of this planning obligation, which is required to address the requirements of Policy H4 in the UDP and Policy S16 in the City Plan.

Additional planning obligations are to be secured in connection with the current S73 application in order to mitigate the amenity impact of night time construction works. The additional planning obligations to be secured are set out in Sections 1 and 8.7.1 of this report.

## **8.11 Environmental Impact Assessment**

The proposed development is not of a scale that necessitates the submission of an Environmental Impact Assessment.

Since the approval of the extant permission policies within the City Plan and London Plan that seek to improve the sustainability of new development, particularly in terms of energy performance and CO2 emissions. Whilst the development would not be compliant with currently adopted City Plan and London Plan policies in these regards, the development would be required to meet the standards set out in current Building Regulations. Given this and as the approved scheme remains extant, it is not considered that the current S73 application, which seeks to amend the hours of construction works and does not seek to vary the previously approved development itself, should be withheld on this ground.

As per the extant scheme, details of landscaping and tree protection measures are to be secured by condition.

### **8.12 Other Issues**

It is of note that the application has only attracted objection from one neighbouring resident in response to public consultation with 370 neighbouring residents during the course of the current planning application (this includes consultation letters to all residential buildings adjoining or adjacent to the application site).

The applicants have submitted a Statement of Community Involvement with the application and this identifies that the applicants have undertaken significant pre-application consultation with local stakeholders and neighbouring residents in order that they understand the need for night time working and the mitigation measures that the applicants intent to offer. The pre-application consultation exercise included meetings with Councillors, the St. John's Wood Society, City West Homes (who manage neighbouring residential blocks to the rear of the site, a letter drop to 208 local residents and businesses and a public consultation exhibition held on two days in December 2016. The applicants SCI concludes that there was general understanding among residents and stakeholders that night time working is required in this case to allow works to the London Underground cutting.

## **9. BACKGROUND PAPERS**

1. Application form.
2. Email from St. John's Wood Society dated 10 April 2017.
3. Response from Environmental Health dated 28 March 2017.
4. Email from London Underground dated 3 April 2017.
5. Emails from Transport for London dated 5 April 2017 and 12 April 2017.
6. Memo from the Highways Planning Manager dated 9 May 2017.
7. Letter from occupier of 13 Bartonway, 27-32 Queens Terrace dated 29 March 2017.
8. Copy of Ramboll Night-time Construction Noise Assessment dated 2 February 2017.
9. Copy of planning permission decision letter dated 6 November 2003.

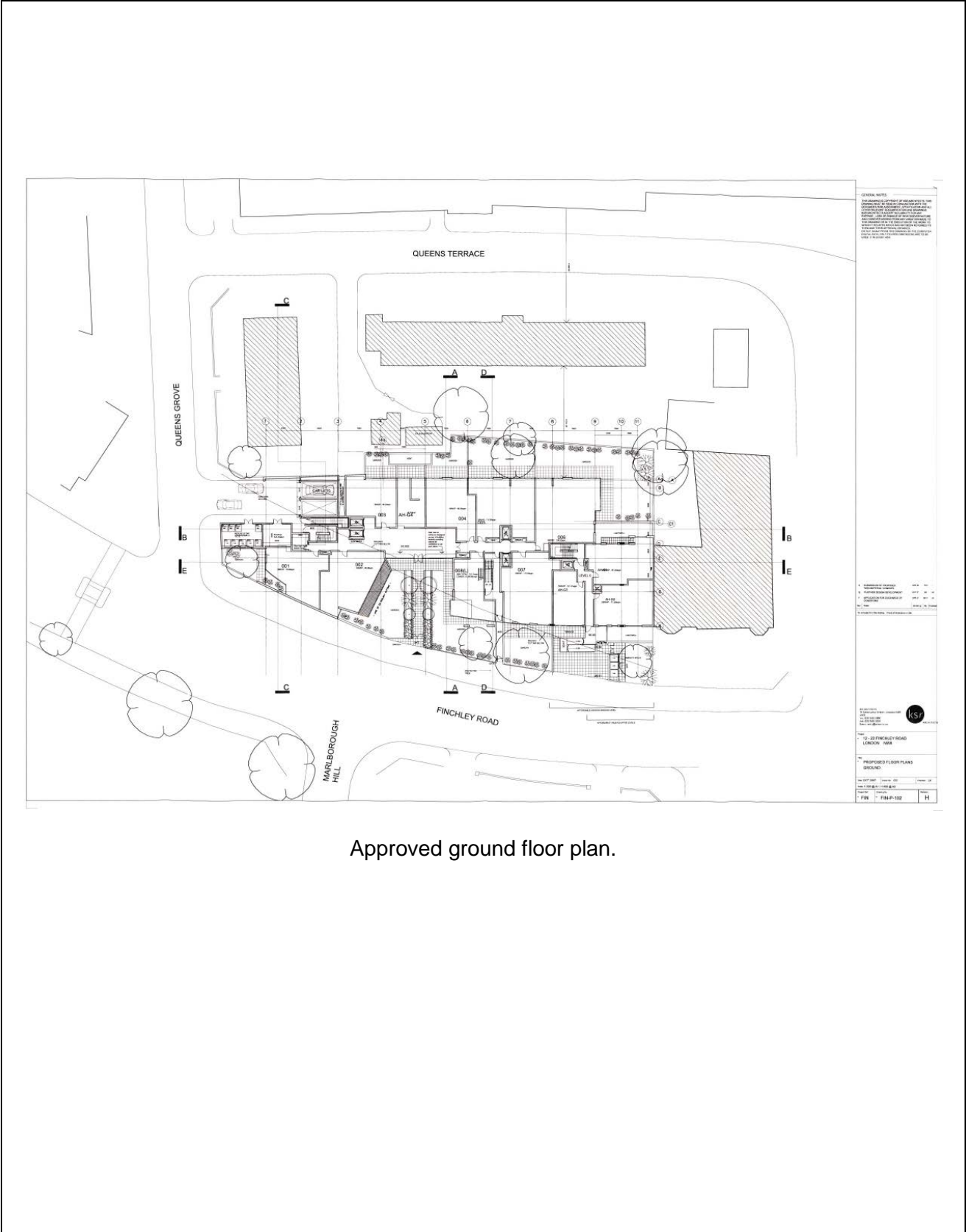
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

Item No.
<b>7</b>

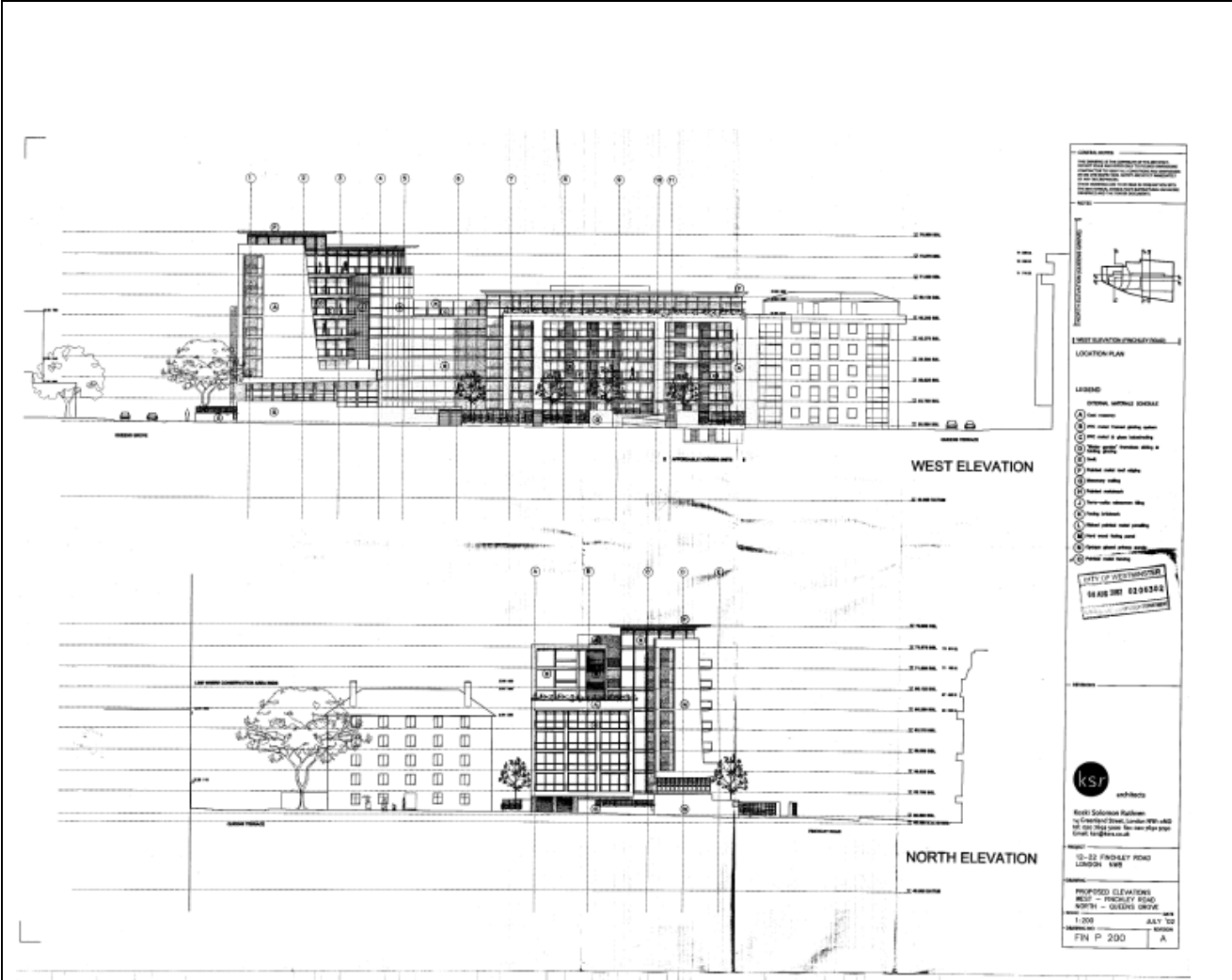
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).



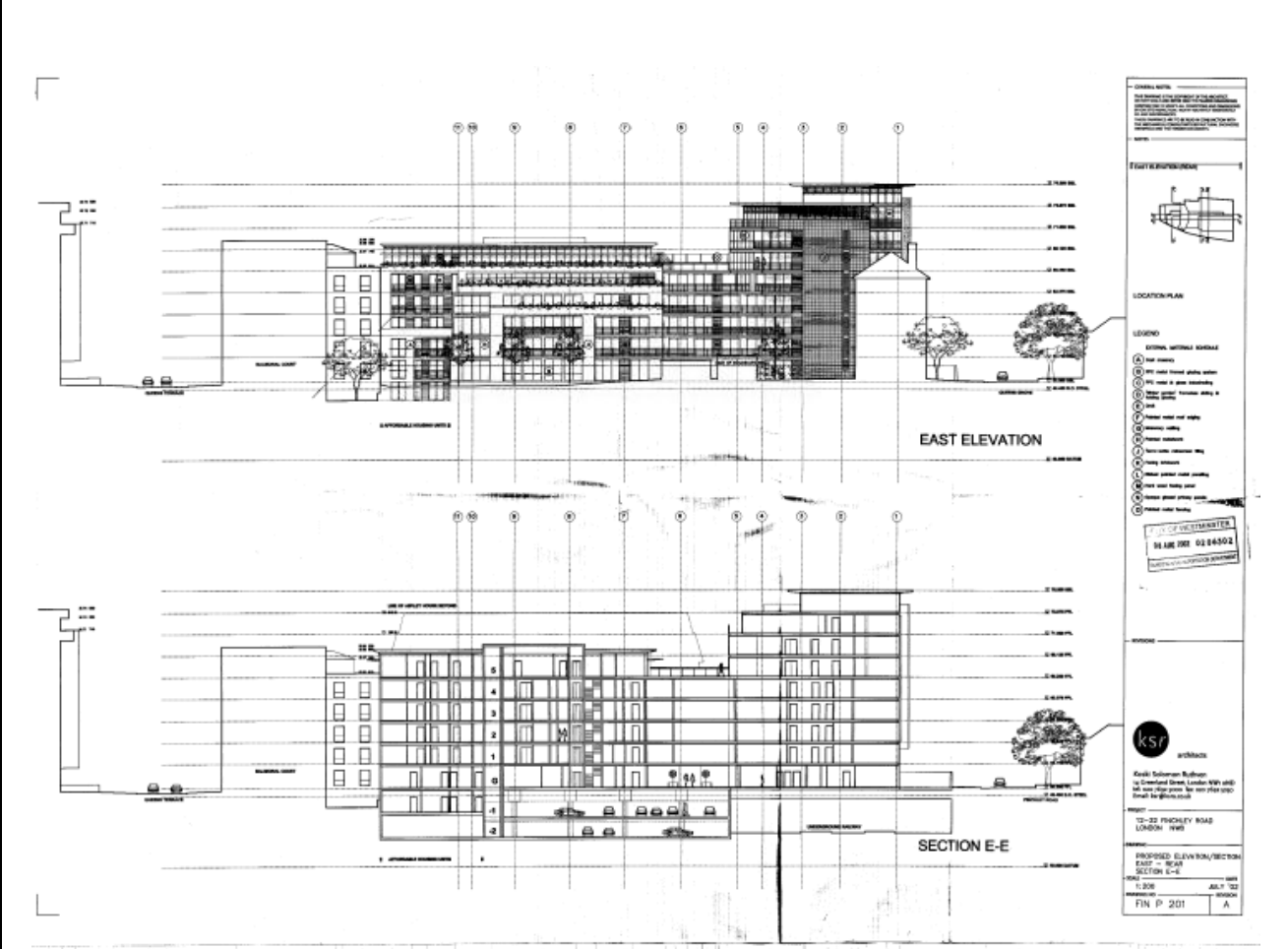




Approved ground floor plan.



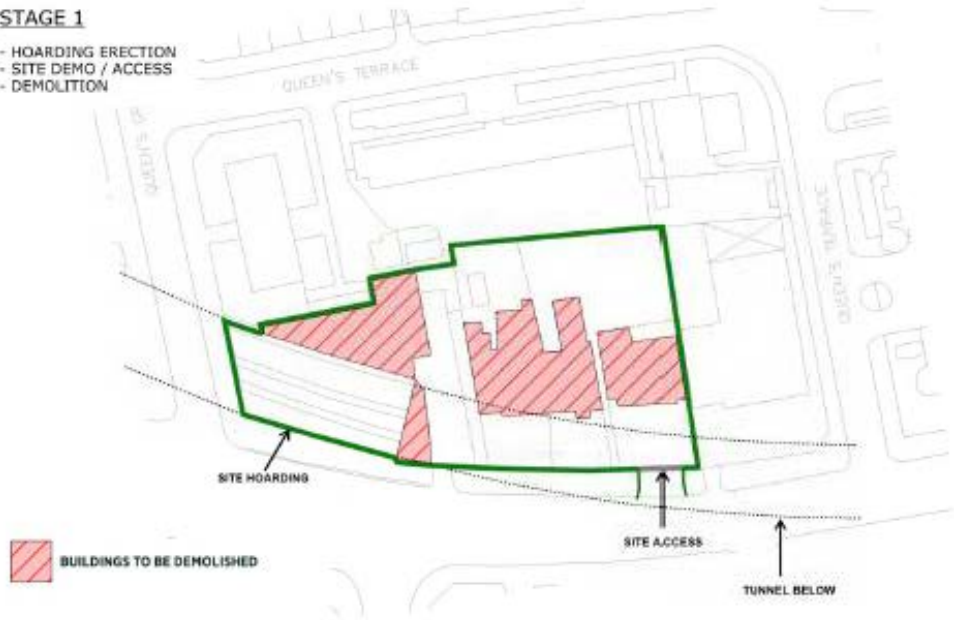
Approved Finchley Road (top) and Queen's Grove (bottom) elevations.



Approved rear elevation (top) and north/ south section through site (bottom).

**STAGE 1**

- HOARDING ERECTION
- SITE DEMO / ACCESS
- DEMOLITION

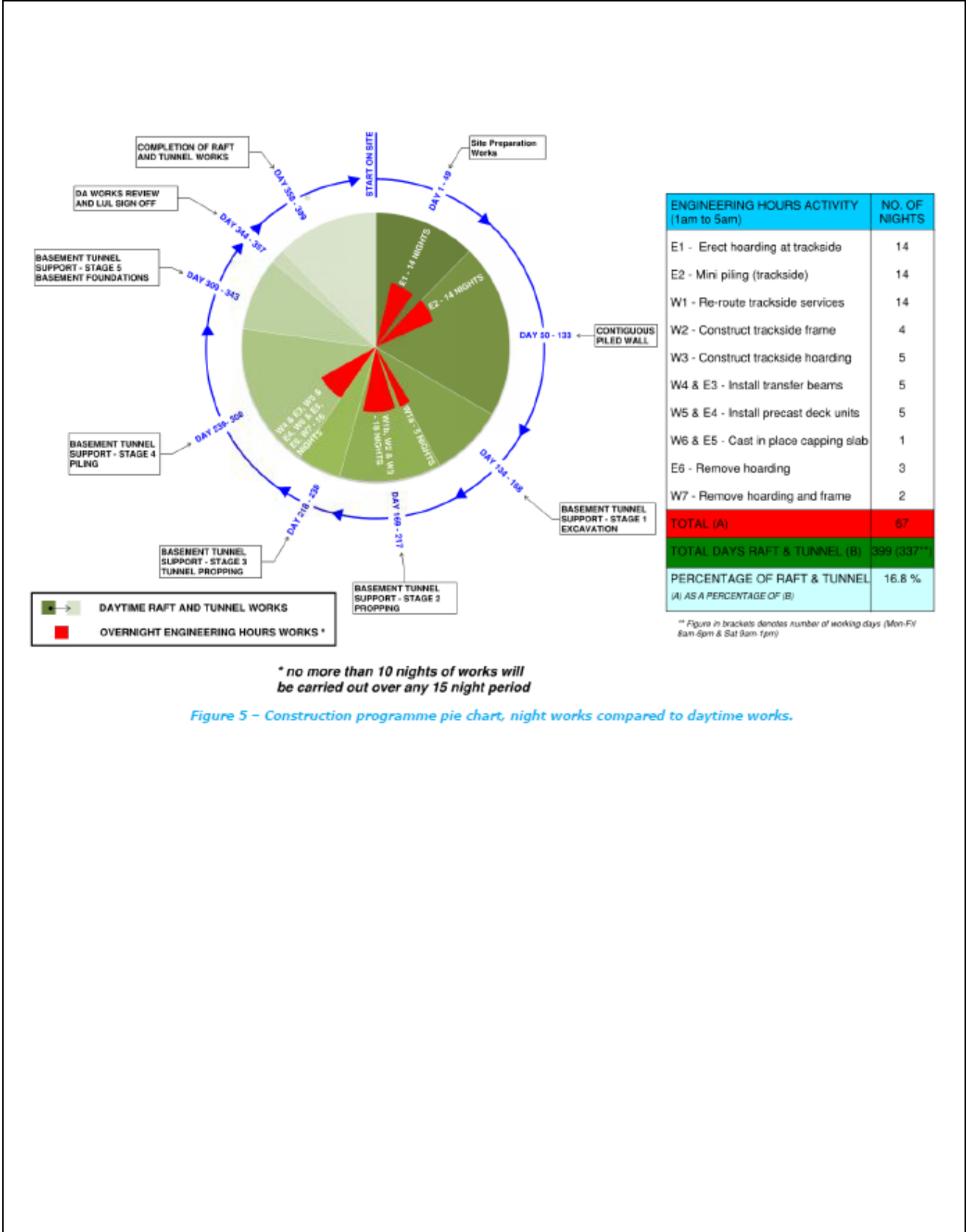


**STAGE 2**

- INSTALLATION OF PILED WALL
- TEMPORARY PROPPING OF TUNNEL WALL
- EXCAVATION
- BASEMENT CONSTRUCTION



*Figure 3 - Demolition and Construction Sequence Stages 1 & 2*



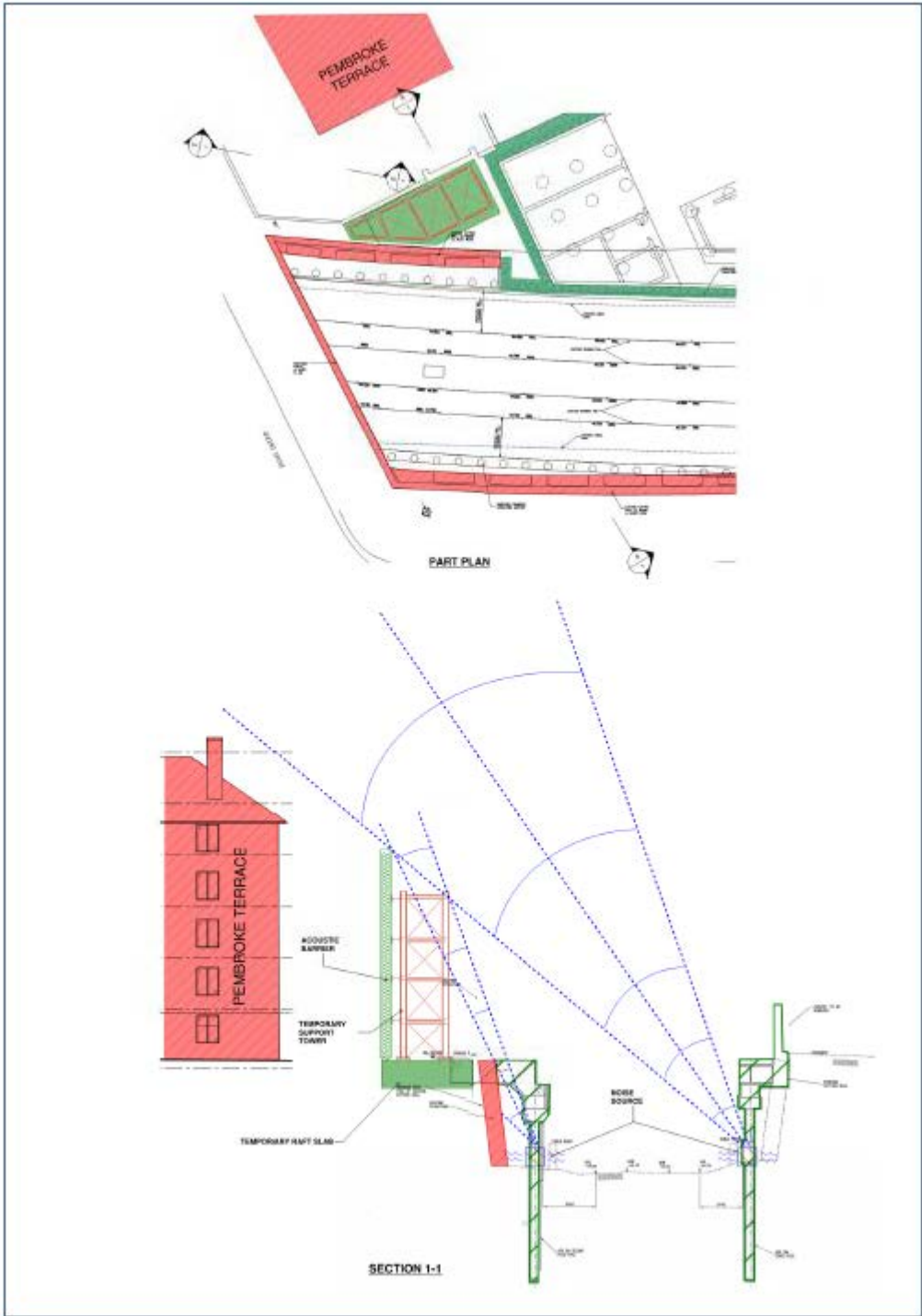


Figure 15 – Temporary Acoustic Screen to Pembroke Terrace

Current Baseline with train events

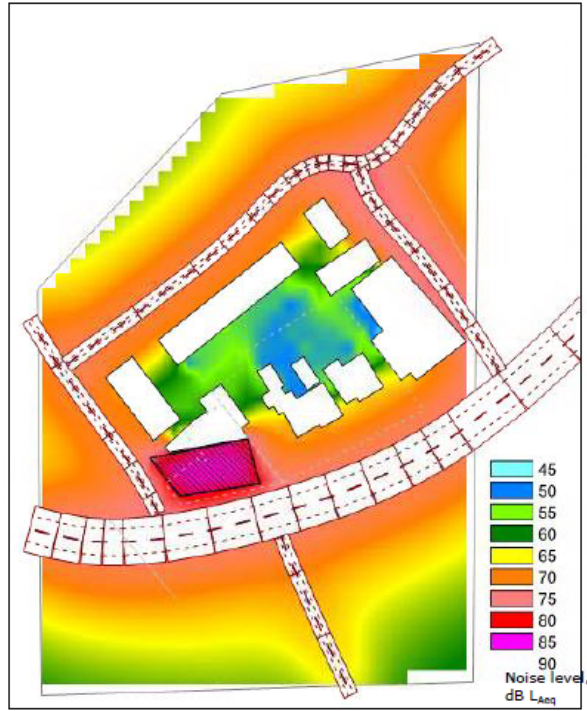


Figure 19 - Noise model, current baseline with train passby.

Proposed completed development



Figure 23 - Proposed development in place.



**DRAFT DECISION LETTER**

**Address:** Development Site At 1 1/2 Queens Grove And, 12-22 Finchley Road, London, NW8 6EB

**Proposal:** Variation of Condition 2 of planning permission dated 2 November 2003 (RN: 02/06302/FULL) for the demolition of existing buildings and erection of residential building of 6-8 storeys comprising 66 apartments including 17 affordable units and provision of 64 parking spaces in two basements from RN 02/06302/FULL. NAMELY, to vary the hours of construction works that can be heard at the boundary of the site to allow works around the railway cutting to take place between 01.00 and 05.00 hours for a non-consecutive period of approximately 67 nights during the overall construction programme.

**Reference:** 17/00938/FULL

**Plan Nos:** **DRAWINGS ORIGINALLY APPROVED UNDER RN: 02/06302/FULL:** FIN-P-1001A, 002A, 003A, 100A, 102B, 103A, 104A, 105A, 106A, 200A, 201A, 300A, 301A. , , **AS AMENDED/ SUPPLEMENTED BY DRAWINGS AND DOCUMENTS HEREBY APPROVED:** Night-time Construction Noise Assessment by Ramboll dated 3 February 2017, Statement of Community Involvement dated January 2017 and letter from Gerald Eve dated 6 February 2017.

**Case Officer:** Oliver Gibson

**Direct Tel. No.** 020 7641 2680

**Recommended Condition(s) and Reason(s)**

- 1 You must not use the premises as: , (a) temporary sleeping accommodation as defined in Section 25 of the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015; or, , (b) holiday accommodation under either a tenancy agreement or any other form of accommodation contract. (C08AA)

**Reason:**

To make sure the property provides permanent domestic accommodation as set out in Policy H 2 of the Unitary Development Plan we adopted in January 2007. (R08AA)

- 2 (A) 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 (except where night working is permitted by part (B));
- \* between 08.00 and 13.00 on Saturday; and,
- \* not at all on Sundays, bank holidays and public holidays.

(B) Building work that endanger the safe operation of the London Underground railway line around the open cutting or alongside the tunnel, that must take place during the Engineering Hours, may occur between 01.00 and 05.00 Monday to Friday, and may only be undertaken following the implementation of the relevant mitigation measures, as set out in the Ramboll Night Time Noise Assessment dated 3 February

2017, to ensure the noise levels experienced during the Engineering Hours construction period do not exceed the levels as set out in the same report. If alternative mitigation measures are proposed these shall be submitted in writing to us in the form of a Construction Design and Noise Mitigation Assessment and you must not implement the alternative mitigation measures until we approve what you send us.

(C) Any other works must not take place outside the hours set out in (A) and (B) unless we have agreed that there are very special circumstances (for example to meet police traffic restrictions, in an emergency or in the interests of public safety).

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)

- 3 You must provide the waste store shown on drawing FIN P102B before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is to be collected. (C14DA),

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 4 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency. (C21AA)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 5 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 6 You must apply to us for approval of samples of the facing materials you will use, including glazing, before you begin any work, unless you carry out the development in accordance with the facing materials that were previously approved on 13 August 2007 (RN: 07/03915/ADFULL). You must then carry out the work according to the details we previously approved or the details we approve pursuant to this condition

subsequent to the date of this permission. (C26BA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in DES 5 or DES 6 or both, of our Unitary Development Plan, DES 5 or DES 6 or both, of our Replacement Unitary Development Plan (Second Deposit version), and DES 5 or DES 6 or both, of our Pre-Inquiry Unitary Development Plan. (R26AA)

- 7 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 8 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 9 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 10 Unless you apply to us and we approve an alternative hard and soft landscaping scheme, you must carry out the hard and soft landscaping in accordance with the details we approved on 10 October 2006 (RN: 06/07473/ADFULL). You must then carry out the landscaping and planting within one planting season of completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within one year of planting them, you must replace them with trees of a similar size and species. (C30CA)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is

as set out in S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30BC)

- 11 Unless you apply to us and we approve alternative tree protection measures, you protect the trees to remain on site as shown on drawing FIN P102B in accordance with the tree protection measures we previously approved on 12 October 2007 (RN: 07/07332/ADFULL). You must implement the approved tree protection measures before any work begins and you must protect the trees throughout all building work, including demolition and site clearance, by using fences or other suitable enclosures. No building activities must take place within the enclosures. (C31AA)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 12 Unless you carry out the development in accordance with the typical elevations of the development we approved on 13 August 2007 (RN: 07/03915/ADFULL) you must apply to us for approval of detailed drawings of typical elevations of the development at a scale of 1:50 prior to any work on these parts of the development. You must then carry out the work according to the approved detailed drawings

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 13 Unless you carry out the development in accordance with the details of boundary treatments including gates and doors that we approved on 13 August 2007 (RN: 07/03915/ADFULL), you must apply to us for approval of detail drawings of boundary treatments including gates and doors at a scale of 1:50 prior to any work being carried out on these parts of the development. You must then carry out the work according to the approved detailed drawings. (C26DA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 14 Unless you carry out the development in accordance with the amended east elevation approved on 13 August 2007 (RN: 07/03915/ADFULL), you must apply to us for approval of alternative detailed drawings showing the terracotta rainscreen shown on the east elevation on drawing FIN P201A replaced by cast masonry to match the remaining elevations. If you apply to us for approval of alternative detailed drawings, you must apply to us and we must approve the alternative detailed drawings prior to any works commencing on site above ground floor slab level. You must then complete this part of the development in accordance with the amended east elevation that we approve.

## Reason:

In order to ensure a satisfactory development that will not result in any loss of privacy or damage to the environment of neighbouring residential properties. This is in accordance with H10 and ENV13 of the Unitary Development Plan that we adopted in January 2007 and S29 of Westminster's City Plan that we adopted in November 2017.

- 15 Unless you carry out the development in accordance with the details of screening to and between balconies we approved on 13 August 2007 (RN: 07/03915/ADFULL), you must apply to us for approval of alternative detailed drawings showing screening to and between balconies prior to any work being carried out on these parts of the development. You must then carry out the work according to the approved drawings. (C26DA)

## Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in H 10, SC 13, and SC 19 of our Unitary Development Plan, ENV 6 and ENV 12 of our Replacement Unitary Development Plan (Second Deposit version) and ENV 6a and ENV 12 of our Pre-Inquiry Unitary Development Plan. (R21BA),

- 16 (a) Unless and until the 'maximum noise level' and 'measurement location' are fixed under (b), the plant/machinery hereby permitted shall be operated so as to ensure that any noise generated does not exceed the external background noise level (without the plant/machinery hereby permitted operating) at any time outside any residential property (to be referred to as the 'receptor location/s').
- (b) If the 'maximum noise level' and 'measurement location' have been fixed under this condition, the plant hereby permitted shall be operated so as to ensure that any noise generated does not exceed the 'maximum noise level' when measured at the 'measurement location'.

For the purposes of fixing the 'maximum noise level' and the 'measurement location' details of the following noise scheme shall be submitted to and approved in writing by the City Council, namely a scheme including:

- i. A suitable location accessible to the applicant and City Council, close to the plant/machinery hereby permitted, for measuring noise emitted by it (to be referred to as the 'measurement location'); and
- ii. Results of monitoring at the 'measurement location' and 'receptor location/s' when external background noise levels are at their quietest. The results of the monitoring shall determine the highest noise level (to be referred to as the 'maximum noise level') emitted by the plant/machinery hereby permitted when measured at the 'measurement location' which does not exceed the external background noise level at any time (without the plant/machinery hereby permitted operating) at the 'receptor location/s'. The results shall be provided as the maximum sound levels over a 5-minute period expressed as L<sub>max</sub> LA<sub>eq</sub> and un-weighted octave band frequency spectra. (C39A)

## Reason:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 17 The development hereby permitted shall be fully implemented in accordance with the approved drawings and shall maintain a minimum distance of 19.6 metres between the new building line to the eastern boundary and the rear building line of 1-24 Bartonway, Queens Terrace, when scaled from the ground floor plan numbered FIN P102 B.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 18 The development hereby approved shall be fully implemented in accordance with the approved plans, including the threshold levels shown on the scaled elevations and sections on approved drawings numbered FIN P300 A, FIN P200A, FIN P201A, FINP 301A.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 19 Prior to further work in addition to those identified in RN: 13/09910/CLOPUD being carried out on site, including any demolition or construction works, the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

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)

- 20 You must erect the Temporary Acoustic Screen shown on page 24 of the Night-time Construction Noise Assessment dated 3 February 2017 prior to any demolition or construction works being carried out at night between the hours of 01.00 and 05.00 Monday to Friday. Following its initial erection on site, the Temporary Acoustic Screen shall be retained for the duration of all of the night-time working.

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)

**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 The development shall be of such a standard that internal structural borne noise levels above 35 dB LASmax (day and night) from the Metropolitan Line shall be avoided where practicable. In this context a desirable design shall be 35 dB LASmax and below. A noise level up to 40 dB LASmax is acceptable in this development given the location and land use, but the applicant must demonstrate appropriate steps have been taken to ensure the desirable standard is met until all possible mitigation has been employed and no further reduction is possible. If the design and mitigation of any residential dwellings cannot meet the minimum standard of 40 dB LASmax from underground train noise then such dwellings would be unsuitable for the intended residential use.
- 3 No vibration from the Underground Trains shall be transmitted to adjoining dwellings through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour nighttime, as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.
- 4 With reference to condition 19 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.
- 5 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 7 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)
- 8 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)
- 9 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 10 Under the Greater London Council (General Powers) Act 1973, as amended by the Deregulation Act 2015, you need planning permission to use residential premises as 'temporary sleeping accommodation' (i.e. where the accommodation is occupied by the same person or persons for less than 90 consecutive nights) unless the following two conditions are met:
1. The number of nights in any single calendar year in which the property is used to provide 'temporary sleeping accommodation' does not exceed 90 [ninety].
  2. The person who provides the sleeping accommodation pays council tax in respect of the premises under Part 1 of the Local Government Finance Act 1992 (where more than one person provides the sleeping accommodation, at least one of those persons must pay council tax in respect of the premises).
- This applies to both new and existing residential accommodation. Please see our website for more information: <https://www.westminster.gov.uk/short-term-letting-0>.
- Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year).
- 11 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work., , Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address



for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team,  
Environmental Health Service,  
Westminster City Hall,  
64 Victoria Street,  
London,  
SW1E 6QP  
Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 12 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 13 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 14 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

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.

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# Agenda Item 8

Item No.

8

CITY OF WESTMINSTER			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 <sup>th</sup> July 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Lancaster Gate	
<b>Subject of Report</b>	<b>49 Porchester Terrace, London, W2 3TS</b>		
<b>Proposal</b>	Use as an Embassy (Sui Generis).		
<b>Agent</b>	Mr Alan Green		
<b>On behalf of</b>	Mr Christopher Scott		
<b>Registered Number</b>	17/01007/FULL	<b>Date amended/ completed</b>	8 February 2017
<b>Date Application Received</b>	8 February 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Bayswater		

## 1. RECOMMENDATION

Refuse permission – land use and amenity.

## 2. SUMMARY

This application relates to an unlisted four storey building located within the Bayswater Conservation Area. The lawful use of the building is as a single family dwelling house (Use Class C3), however has served as the Lao's ambassadors' residence with some ancillary embassy functions since 2014. Permission is now sought for the change of use of the building to an Embassy for Lao People's Democratic Republic (Sui Generis).

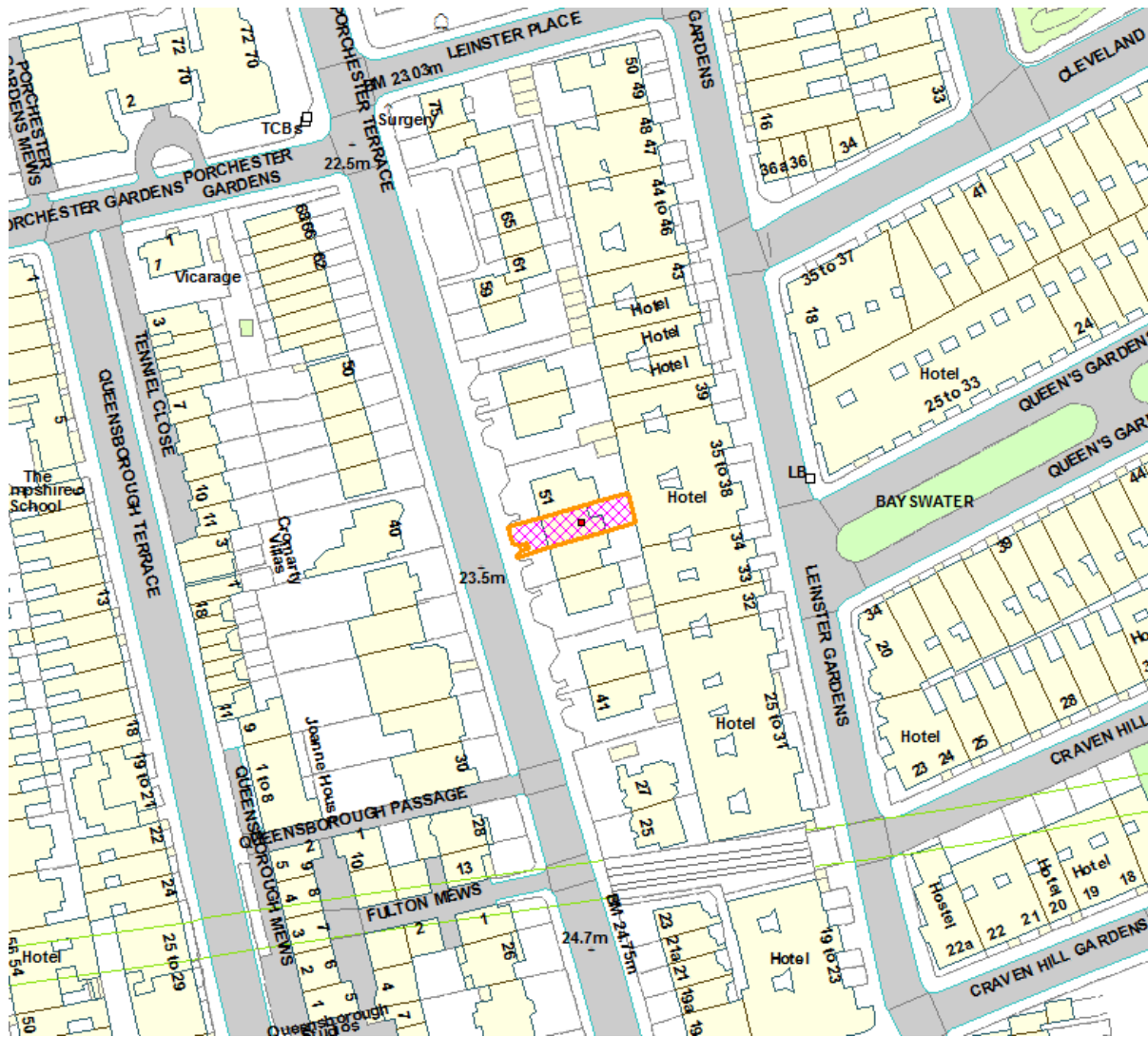
Objections have been received from local residents with concerns in relation to the impact of the use on the highway, amenity and the setting of a precedence for other such uses.

The key issues with this application are:

- \* The acceptability of the change of use in land use terms;
- \* The impact of the change of use on the highway network;
- \* The impact of the change of use on the local environment in amenity and conservation area terms.

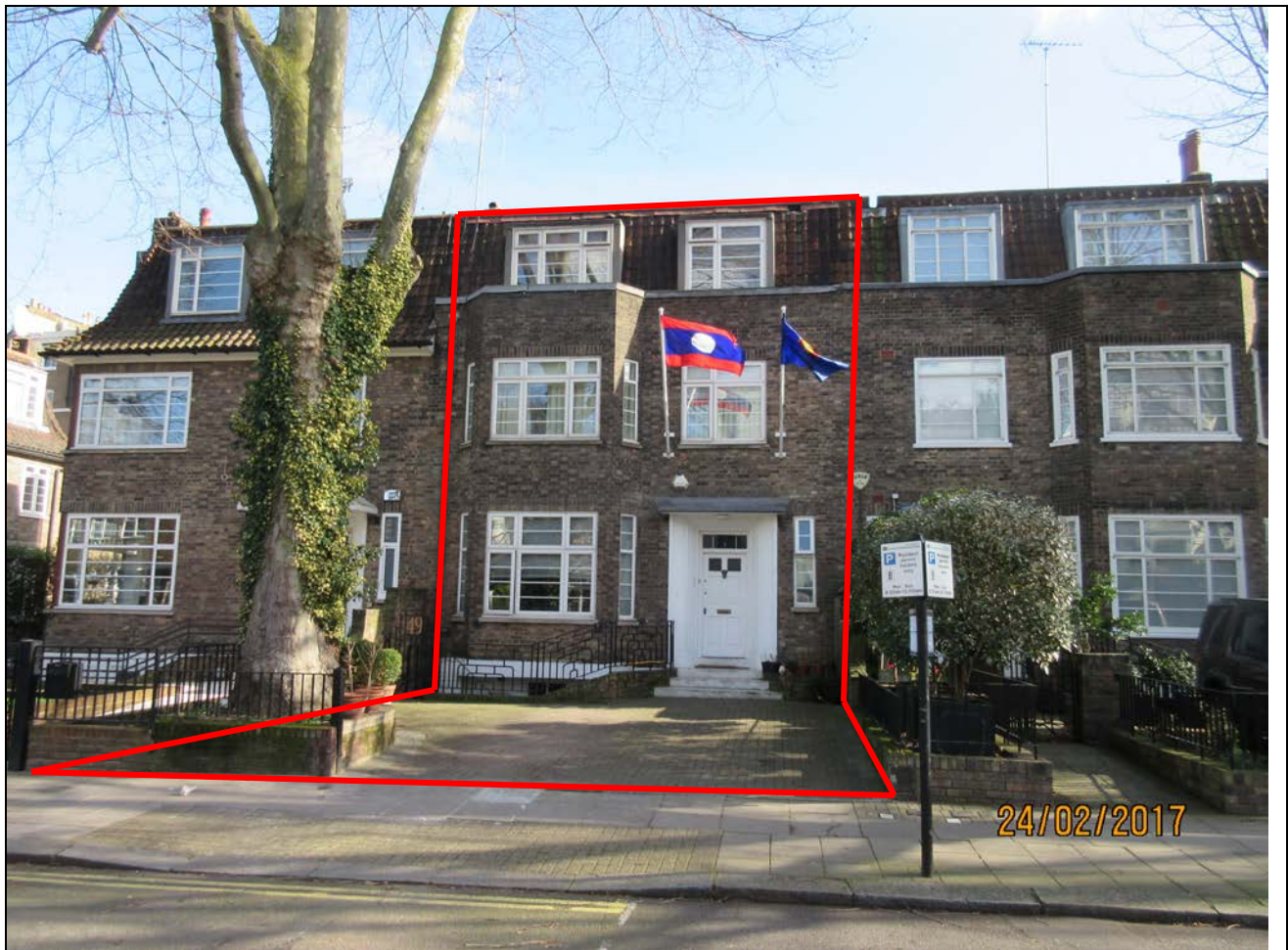
The proposals are considered to be contrary with the Council's policies in relation to land use and amenity as set out in Westminster's City Plan and the Unitary Development Plan (UDP) and the application is accordingly recommended for refusal.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation

## 5. CONSULTATIONS

### FOREIGN AND COMMONWEALTH OFFICE

Any response to be reported verbally.

### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

### DESIGNING OUT CRIME OFFICER

Raises no objection.

### HIGHWAYS PLANNING

Raises no objection

### CLEANSING

No objection subject to condition for the submission of details of waste and recyclable materials.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 34

Total No. of replies: 16 letters of objection (2 from one residence) raising some or all of the following points:

#### Land Use:

- Negative impact on residential character of the street which should be protected.
- Precedent set for other properties to become embassies.

#### Highways:

- Increased traffic.
- Increased parking pressure.

#### Amenity:

- Loss of privacy due to increased activity on the street.
- Noise disturbance from visitors and increased general internal activity.

#### Other:

- Increased littering.
- Should permission be granted, embassy could be sold to other embassy which would cause more disturbance.
- Any future extension to the embassy would likely have negative impacts.
- Lack of consultation with neighbours.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

**6. BACKGROUND INFORMATION**

**6.1 The Application Site**

This application relates to an unlisted building located outside of the Central Activities Zone (CAZ) or any Special Policy Areas, but within the Bayswater Conservation Area. The building is set over lower ground, ground, first and second floor levels and has two existing off street parking spaces to the front of the property. The lawful use of the building is as a single family dwelling house. Records indicate that the Ambassador of Lao People’s Democratic Republic has resided at the premises since 2014, with some ancillary embassy functions, however this has been on the proviso that the main function of the building remains as a residential property.

**6.2 Recent Relevant History**

No recent history.

**7. THE PROPOSAL**

Permission is sought for the change of use of the property from a single family dwelling (Class C3) to an embassy (Sui Generis).

	Existing GIA (sqm)	Proposed GIA (sqm)
House (Class C3)	230	0
Embassy (Sui Generis)	0	230

The application notes that the proposals do not seek to significantly change the function of the building from its current operation, with a relatively small scale consulate function dealing with approximately 40 visa applications a month. However, as the application is for the change of use of the building to an embassy, consideration must be had to the use of the whole building as an embassy and by another occupier.

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

Policy COM 7 of the UDP relates to proposals for Diplomatic and Allied uses and is therefore relevant. Parts 1 & 2 of the policy state that proposals for such uses will only be granted planning permission where:

- 1) The site is located within the Central Activities Zone or Portland Place Special Policy Area
- 2) There is no loss of residential accommodation or no adverse impact on residential amenity.

The policy notes that embassies are an activity particularly associated with certain parts of Westminster, principally Mayfair, Belgravia and Portland Place.

It notes that such uses can have negative impacts in terms of highways, security and amenity and that they should be located in the aforementioned areas.

Policy S14 within the City Plan states that 'all residential uses, floorspace and land will be protected.' It notes that in order to achieve Westminster's housing targets it is necessary to protect existing housing and comments on the shortage of family sized homes with gardens in the city.

There are a few other commercial uses along the street, however the main character is that of a residential street, with both single family dwellings and flats. A change of use would further dilute the residential nature of the terrace. The adopted policies seek to retain residential and target such uses to more suitable areas, namely the CAZ and Special Policy Areas.

Given the location of the site outside of the CAZ and as the proposals result in the loss of a residential dwelling, the proposals are considered to be contrary to Policies COM 7 and S14, and the application is therefore recommended for refusal.

## **8.2 Townscape and Design**

Policy DES 9 (E) relates to changes of use within conservation areas and seeks to protect and enhance their character. As no external alterations to the building are required in order to facilitate the change of use it is not considered that the proposals would have such a significant negative impact as to justify refusal in this instance.

## **8.3 Residential Amenity**

Objections have been received on the grounds that the proposed use will result in increased comings and goings which would result in increased overlooking to adjacent occupiers. Policy ENV13 of the UDP and S29 of the City Plan state that the Council will seek to enhance and improve the residential environment.

It is noted that residents would appear to be generally happy with the functionality of the building as it operates currently, however this is currently only an ancillary function to the main use of the building as a residential property. The applicant notes that the functionality of the building would not significantly change should permission be granted, however as the application is for 'an embassy' any embassy could occupy the building. Indeed should permission be granted the occupier could apply to extend the building and intensify the use.

It is considered that granting an embassy use could have a negative impact on the area as a result of increased comings and goings and increased general activity in this characteristically residential area. This would have a negative impact on the local environment and would therefore be contrary to Policies ENV13 or S29 and is therefore recommended for refusal on these grounds.

## **8.4 Transportation/Parking**

Objections have been received from the majority of residents on the grounds of increased traffic and negative impact of the proposed use on street parking. The



Highways Planning Manager has been consulted on the application who notes that embassies can generate a higher level of activity compared to a residential property as people arrive and depart on business. However given the existing parking spaces and the location of the site within close proximity to public transport, the proposed change of use is not expected to have a significantly detrimental impact to the operation of the adjacent highway and therefore no objection is raised.

He also notes that the site is within a Control Parking Zone therefore anyone who does drive to the site will be subject to those controls.

Should the application have been considered acceptable, a condition would have been recommended for the submission of details of cycle parking to be provided.

### **8.5 Economic Considerations**

Any economic benefits resultant of the development proposals are welcomed.

### **8.6 Access**

No change to existing access arrangements.

### **8.7 Other UDP/Westminster Policy Considerations**

Should the proposals have been considered acceptable, a condition would have been recommended for the submission of details of waste and recyclable storage.

### **8.8 London Plan**

This application raises no strategic issues.

### **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application.

It is not considered that the proposals would result in the requirement for a Community Infrastructure Payment.

### **8.11 Environmental Impact Assessment**

The development proposals do not trigger the requirement for the submission of an EIA.

### **8.12 Other Issues**

Concerns in relation to lack of consultation have been received. Additional neighbour consultations were undertaken during the course of the application. This was in addition

to the site notice in the street and an advertisement placed in a local newspaper. As such, it is considered that the council has met its statutory requirements in relation to advertisement of this application.

### **Crime and security**

No objection has been raised by the Designing Out Crime Officer in relation to the proposed change of use, which is considered acceptable in these terms.

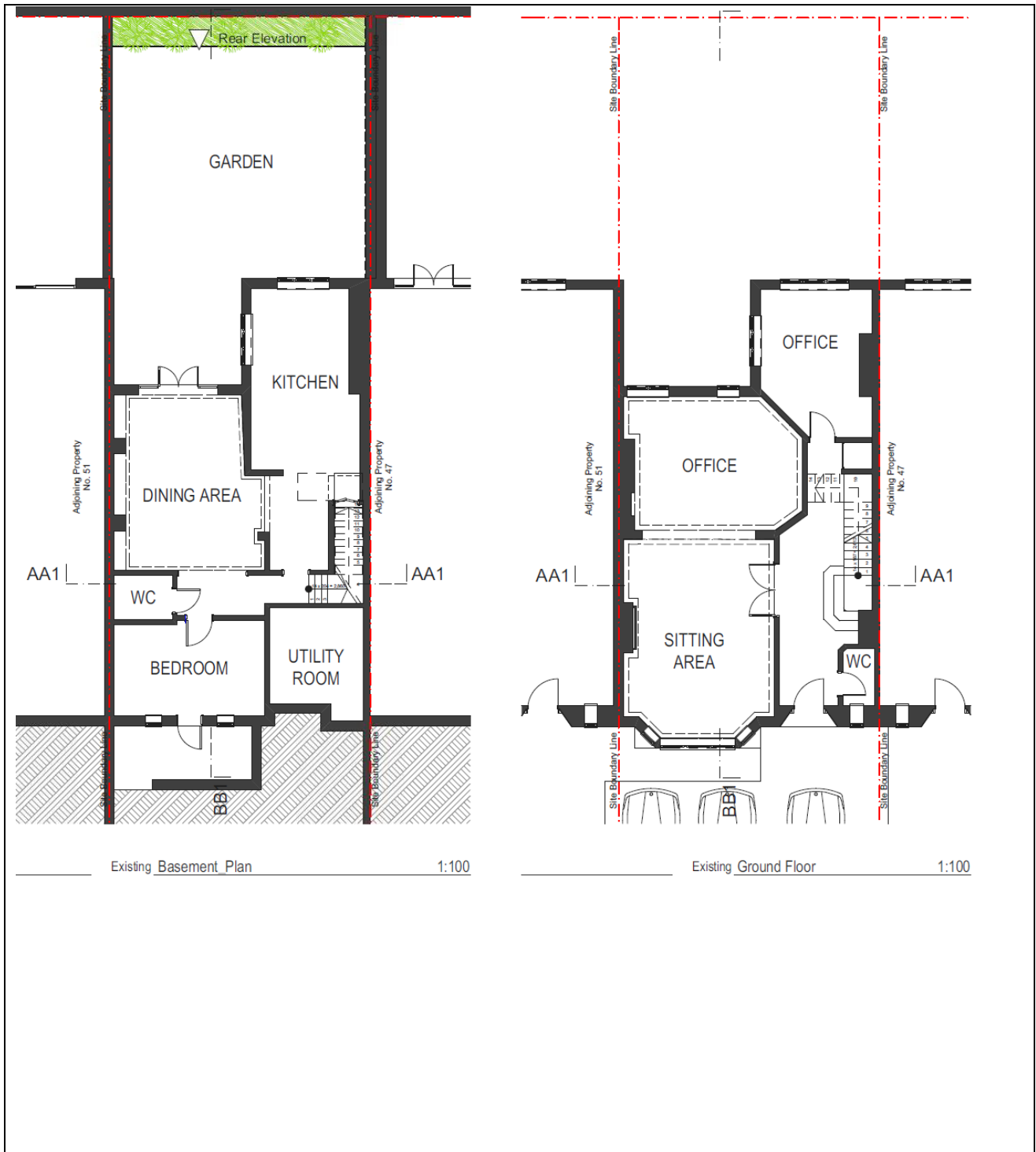
## **9. BACKGROUND PAPERS**

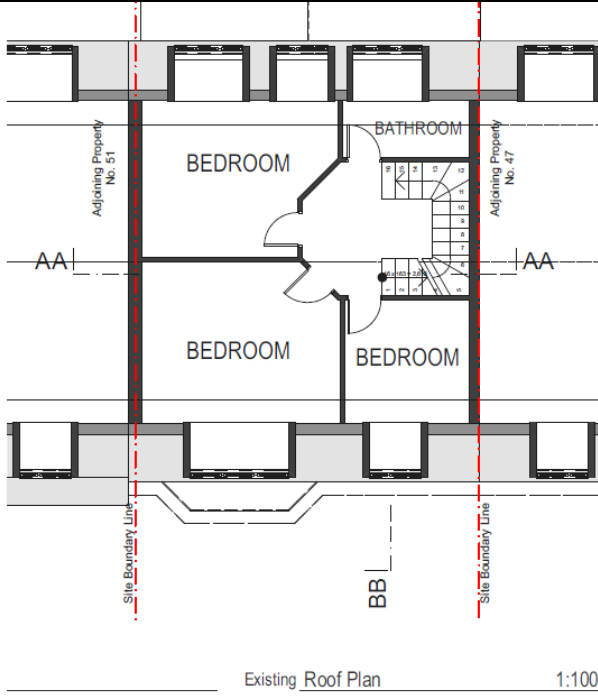
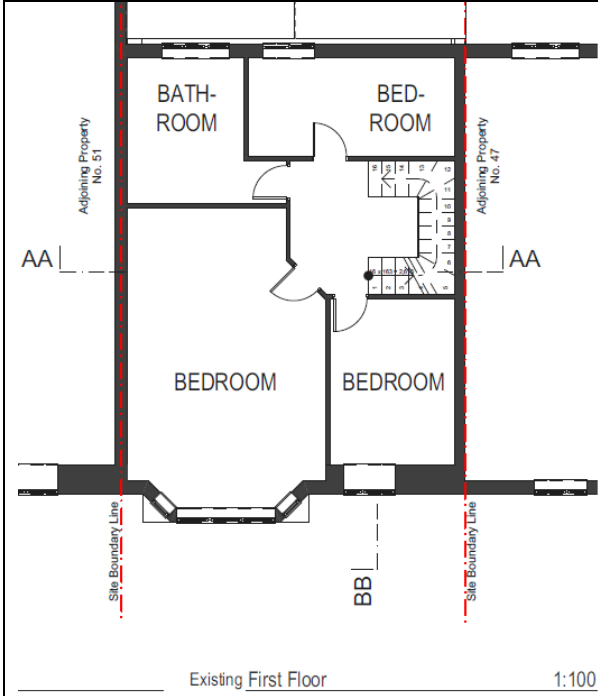
1. Application form
2. Email from Designing Out Crime Officer dated 22.02.2017
3. Memo from Highways Planning Manager dated 24.02.2017
4. Memo from Cleansing Manager dated 15.02.2017
5. Letter from occupier of 36 Porchester Terrace, London, dated 3 March 2017
6. Letter from occupier of 23 Porchester Terrace, London, dated 3 March 2017
7. Letter from occupier of 51 Porchester Terrace, London, dated 6 March 2017
8. Letter from occupier of 63, Porchester Terrace, London, dated 7 March 2017
9. Letter from occupier of 45, Porchester Terrace, London, dated 7 March 2017
10. Letter from occupier of 43, Porchester Terrace, London, dated 7 March 2017
11. Two letters from occupiers of 55 Porchester Terrace, London, dated 7 March 2017
12. Letter from occupier of 20 Porchester Terrace, London, dated 8 March 2017
13. Letter from occupier of 32 Porchester Terrace, London, dated 8 March 2017
14. Letter from occupier of 47 Porchester Terrace, London, dated 8 March 2017
15. Letter from occupier of 50 Porchester Terrace, London, dated 9 March 2017
16. Letter from occupier of 14 Porchester Terrace, London, dated 9 March 2017
17. Letter from occupier of 75 Porchester Terrace, London, dated 9 March 2017
18. Letter from occupier of 19A Porchester Terrace, London, dated 9 March 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: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).

10. KEY DRAWINGS





**DRAFT DECISION LETTER**

**Address:** 49 Porchester Terrace, London, W2 3TS

**Proposal:** Use from Residential to primary use as an Embassy, Use Class Sui Generis.

**Reference:** 17/01007/FULL

**Plan Nos:** Location plan; Design and Access Statement – January 2017; 02; 03; 04; 07; 08; 09.

**Case Officer:** Rupert Handley **Direct Tel. No.** 020 7641 2497

**Recommended Condition(s) and Reason(s)**

- 1 Due to the loss of a single family dwelling house and the location of the site outside of the Central Activities Zone and a Special Policy Area, the proposed change of use is contrary to Policies COM 7 of the Unitary Development Plan, adopted January 2007 and S14 of Westminster's City Plan, adopted November 2016. We do not consider that the circumstances of your case justify an exception to these policies.
- 2 The change of use would lead to an unacceptable impact on the environment of people in neighbouring properties. This would not meet S29 of Westminster's City Plan adopted November 2016 and ENV 13 of our Unitary Development Plan adopted in January 2007.

**Informatives:**

- 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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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