



City of Westminster

Committee Agenda

Title: **Planning Applications Sub-Committee (2)**

Meeting Date: **Tuesday 28th April, 2020**

Time: **6.30 pm**

Venue: **Please note that this will be a virtual meeting.**

Members: **Councillors:**

James Spencer (Chairman)
Matt Noble
Louise Hyams
Richard Elcho

Following government advice to the public, to avoid all but essential travel and to practice social distancing, the Council is temporarily suspending public speaking at Planning Committee Meetings during the coronavirus pandemic.

This will be a virtual meeting and members of the public and press are welcome to follow the meeting and listen to discussion to Part 1 of the Agenda.

This meeting will be live streamed and recorded. To access the recording after the meeting please revisit the link. Participation through written representations is welcomed.

If you require any further information, please contact the Committee Officer, Georgina Wills: Committee and Governance Officer.

**Tel: 07870 548 348; Email: gwillis@westminster.gov.uk
Corporate Website: 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 Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To appoint a Deputy Chairman for the Meeting.

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 pecuniary interests or any other significant interest in matters on this agenda.

3. MINUTES

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

4. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

**1. UNDERGROUND CAR PARK CAVENDISH SQUARE
LONDON W1G 0PG**

(Pages 13 - 62)

2. 1 CHILTERN STREET LONDON W1U 7PA

(Pages 63 - 78)

3. 58 - 60 LUPUS STREET LONDON SW1V 3EE

(Pages 79 - 96)

4. 58 - 60 LUPUS STREET LONDON SW1V 3EE

**(Pages 97 -
110)**

**Stuart Love
Chief Executive
17th April 2020**

Order of Business

At Planning Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

Order of Business
i) Planning Officer presentation of the case
ii) Member discussions (including questions to officers for clarification)
iii) Member vote

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.

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CITY OF WESTMINSTER

MINUTES

Planning Applications Sub-Committee (2)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (2)** held on **Tuesday 3rd March, 2020**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors James Spencer (Chairman), Louise Hyams, Matt Noble and Robert Rigby.

Also Present: Councillor Jonathan Glanz (Item 3) addressed the Sub-Committee in his capacity as Ward Councillor in support of the three applications for that item.

1 MEMBERSHIP

- 1.1 Councillor James Spencer was elected as Chairman for the meeting. Councillor Robert Rigby substituted for Councillor Richard Elcho.

2 DECLARATIONS OF INTEREST

- 2.1 The Chairman explained that a week before the meeting, all six Members of the Sub-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 emails containing objections or giving support. Members of the Sub-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 Sub-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 Robert Rigby declared that, in respect of Planning Application Item 3 (1-8 Bateman's Buildings), he had sat on the original committee in April 2019 when a Sub-Committee gave permission for this building to be converted. Councillor Rigby also declared that he had had minimal contact with the Corbin & King Group in the past but only with regards to their restaurant in the Regent's Park Ward.

- 2.3 Councillor Louise Hyams declared that, in respect of Planning Application Item 3 (1-8 Bateman's Buildings), she had sat on the original committee in April 2019 when a Sub-Committee gave permission for this building to be converted. Councillor Hyams also declared that she had had contact with the Corbin & King Group in the past but only with regards to restaurants in the St James's Ward.
- 2.4 Councillor James Spencer declared that, in respect of Planning Application Item 3 (1-8 Bateman's Buildings), he had sat on the original committee in April 2019 when a Sub-Committee gave permission for this building to be converted.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 4th February 2020 be signed by the Chairman as a correct record of the proceedings.

4 PLANNING APPLICATIONS

1 4 TO 10 BREWER STREET, 7 TO 12 WALKER'S COURT AND 27 PETER STREET LONDON W1F 0SD

Use of part basement and third floor as additional theatre use (sui generis), use of part ground floor as retail both on the western side of Walkers Court, use of part ground and basement mezzanine level on the eastern side of Walker's Court as nightclub use and associated external alterations including relocation of nightclub entrance from Walker's Court to Brewer Street.

Late representations were received from Councillor Jonathan Glanz in his capacity as Ward Councillor in support of the application (28.02.2020) and Mr Philip Thompson (Director, Soho Estates; Applicant) in support of the application (27.02.2020).

The Presenting Officer referred to representations by Councillor Glanz, noting that local objection, including from an amenity society, The Soho Society, related to the entrance location from Walker's Court to Brewer Street.

The Sub-Committee discussed the application, public safety implications which could be ameliorated by pavement widening and noted that, since the nightclub had opened in the 1950s, the entrance had historically been located on Brewer Street. The Sub-Committee further noted that the Operational Management Statement for the nightclub, Madame Jojo's, was robust and welcomed improvements to the area. In granting the application, the Sub-Committee considered that the change of use was acceptable.

RESOLVED UNANIMOUSLY-

That conditional permission be granted.

2 VINCENT COURT SEYMOUR PLACE LONDON W1H 2ND

Erection of single storey roof extension to Vincent Court at third floor level to provide eight (8) self-contained units (Class C3) together with the erection of two lift enclosures to the front elevation, refurbishment of the main entrances, replacement windows, roof terraces, balconies to the rear elevation, bike storage, bin storage and other associated works.

The Presenting Officer provided the Sub-Committee with a revision to the Pre-Commencement Condition so that the extension would be built in totality. The Presenting Officer advised that the Pre-Commencement Condition would be revised to read as follows:

“Condition 15, part (b)

You must not start work on the site until we have approved in writing appropriate arrangements to secure the following:

- A means to ensure that the development is completed in its entirety within an agreed timeframe.

You must only carry out the development in accordance with the approved arrangements.”

Mr Matthew Flett and Mr Suneel Jhanghani addressed the Sub-Committee in support of the application.

Mr John Green addressed the Sub-Committee in objection to the application.

The Design Officer addressed the Sub-Committee, noting that the colour of the roof extension was standard for that part of Westminster and that the lift design feature neither detracted from nor enhanced the appearance of the building.

The Sub-Committee discussed the application, noting the bio-diversity improvement of the proposed green roof, the improved windows and the additional housing units which would result from the roof extension. The Sub-Committee considered that, subject to the tabled changes to Condition 15, the application constituted an improvement and approved the application.

RESOLVED UNANIMOUSLY-

That conditional permission be granted, with revisions to Condition 15.

3 1-8 BATEMAN'S BUILDINGS LONDON W1D 3EN

Application 1

Installation of a fixed glass canopy measuring 40.35m x 2.68m.

Application 2

Display of an internally illuminated projecting sign measuring 4.8m x 0.6m, entrance sign measuring 2.5m x 0.5m, two perimeter illuminated signs displayed on the canopy ends, and 11 fixed fabric awnings above the first-floor windows.

Application 3

Installation of an area of raised terrace decking on public highway in Bateman's Buildings measuring 2.55m x 40.0m and use for the placing of 28 tables and 68 chairs, four waiter stations, nine wall mounted heaters, 23 terrace barriers and three terrace screens in connection with the restaurant use at 1-8 Bateman's Buildings.

Late representations were received from Councillor Tim Barnes in his capacity as Ward Councillor in support of the applications (02.03.2020) and Mr Jeremy King (Corbin and King Restaurant Group Ltd) in support of the applications (27.02.2020).

The Presenting Officer referred to representations by Councillor Barnes, noting his support for the applications but also noting the concerns of Councillor Barnes regarding the proposed decking. The Presenting Officer outlined the three elements to the applications, namely the canopy, the signage and the decking.

Mr Jeremy King addressed the Sub-Committee in support of the applications.

Councillor Jonathan Glanz addressed the Sub-Committee in his capacity as Ward Councillor in support of the applications.

The Sub-Committee discussed the applications, considering the building itself, current use of the thoroughfare, anti-social behaviour issues and weighing policy considerations, including planning policy and the night-time economy. In reversing the Officers' recommendations, the Sub-Committee considered that the proposals would alleviate anti-social behaviour and would not cause harm to the visual amenity of the area nor result in unacceptable highway impacts and obstruction. The Sub-Committee further considered the proposals constituted exceptional circumstances and would not set precedents for countering council policy. The Sub-Committee accordingly granted conditional approval.

RESOLVED (For Councillors Hyams, Rigby and Spencer. Against: Councillor Noble) -

Application 1

That permission be granted and conditions agreed under delegated powers.

Application 2

That permission be granted and conditions agreed conditions agreed under delegated powers.

Application 3

That permission be granted and conditions agreed under delegated powers.

The Meeting ended at 20:00.

CHAIRMAN: _____

DATE _____

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Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 28th April 2020
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 19/08460/FULL West End	Underground Car Park Cavendish Square London W1G 0PG	Demolition and erection of above ground structures in conjunction with the use of an underground car park (Sui Generis) as a flexible mixed use commercial development comprising uses within the following use classes A1-A5, B1,B2, B8, C1, C2, D1, and D2 along with the excavation of a 4th basement level, new entrances and associated landscaping and highways works to provide up to 25,953 sqm (GIA) of floorspace.	Reef Cavendish Limited
<p>Recommendation</p> <p>1 Subject to the views of the Mayor of London, grant conditional permission subject to the completion of a legal agreement to secure the following:</p> <ul style="list-style-type: none"> i) A financial contribution towards the City Council's Affordable Housing Fund (index linked) to be agreed dependent upon the total office floorspace in the development payable prior to occupation of in excess of 4180 m2 of the building as offices (Class B1) ii) A financial contribution towards employment, training and skills amount to be agreed dependent upon the final approved land use mix (index linked) payable on commencement of development. iii) Undertaking of highways works in the vicinity of the site, including - Highway works to be agreed prior to commencement of development and highway works to be completed prior to occupation of any of the building. iv) Costs of monitoring the S106 agreement. <p>2) If the S106 legal agreement has not been completed within eight weeks of the date of this resolution, then:</p> <ul style="list-style-type: none"> a. The Director of Place Shaping and Town Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning is authorised to determine and issue the decision under Delegated Powers; however, if not; b. The Director of Place Shaping and Town Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers. <p>3) That Committee authorises the making of a draft order pursuant to s247 or s248 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway. That the Director of Place Shaping and Town Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions, 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	Applicant
2.	RN(s): 20/00219/TCH Marylebone High Street	1 Chiltern Street London W1U 7PA	Use of the public highway measuring 14m x 2.5m for the placing of 10 tables and 20 chairs	Chiltern Street Hotel Limited
<p>Recommendation</p> <p>Grant conditional permission for a temporary period of 1 year.</p>				
Item No	References	Site Address	Proposal	Applicant
3.	RN(s): Application 1: 19/07962/FULL Application 2: 19/07963/ADV Warwick	58 - 60 Lupus Street London SW1V 3EE	Application 1: Installation of replacement shopfront in association with the amalgamation of two existing retail units (Class A1). Application 2: Display of 2 externally illuminated fascia signs measuring 4.74m x 0.60m and 4.73m x 0.60m.	Mr Jose Cruz
<p>Recommendation</p>				

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 28th April 2020
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

	1. Grant conditional permission. 2. Grant conditional advertisement consent.			
Item No	References	Site Address	Proposal	Applicant
4.	RN(s): 19/08973/TCH Warwick	58 - 60 Lupus Street London SW1V 3EE	Use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit.	Mr Jose Cruz
Recommendation Grant conditional permission for a temporary period of 1 year.				

Agenda Item 1

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 April 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Underground Car Park, Cavendish Square, London, W1		
Proposal	Demolition and erection of above ground structures in conjunction with the use of an underground car park (Sui Generis) as a flexible mixed use commercial development comprising uses within the following use classes A1-A5, B1,B2, B8, C1, C2, D1, and D2 along with the excavation of a 4 th basement level, new entrances and associated landscaping and highways works to provide up to 25,953 sqm (GIA) of floorspace.		
Agent	DP9		
On behalf of	Reef Cavendish Ltd		
Registered Number	19/08460/FULL	Date amended/ completed	31 October 2019
Date Application Received	31 October 2019		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

1	Subject to the views of the Mayor of London, grant conditional permission subject to the completion of a legal agreement to secure the following: <ul style="list-style-type: none"> i) A financial contribution towards the City Council's Affordable Housing Fund (index linked) to be agreed dependent upon the total office floorspace implemented in excess of 4807m², payable prior to occupation of this office floorspace. ii) A financial contribution towards employment, training and skills amount to be agreed dependent upon the final approved land use mix (index linked) payable on commencement of development. iii) Undertaking of highways works and environmental improvements in the vicinity of the site, to be agreed prior to commencement of development and highway works to be completed prior to occupation of any of the building. iv) Costs of monitoring the S106 agreement.
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- 2) If the S106 legal agreement has not been completed within eight weeks of the date of this resolution, then:
- a. The Director of Place Shaping and Town Planning shall consider whether it will be possible or 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 Place Shaping and Town Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of 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) That Committee authorises the making of a draft order pursuant to s247 or s248 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway. That the Director of Place Shaping and Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions, 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

Permission is sought to convert an existing 3 level public underground car park of 432 spaces, located beneath Cavendish Square Gardens, to a range of flexible, alternative commercial uses including healthcare, office, retail, entertainment and leisure. The scheme involves extending the 3rd basement and creation of a new 4th basement level, increasing the floorspace from 16,024m² (GIA) to a total development of 25,953 m² (GIA).

Above ground the existing car park structures (namely the vehicular entrance and exit ramps, exit stairs and plant enclosures) will be removed. The main access to the development will be via a new stepped entrance, flanked by glazed lanterns at the southern end of the square, with two new entrance pavilions at the north east and north western sides of the square. A service pavilion is proposed on the east side. The scheme includes alterations to the highway and environmental improvements.

The key issues for consideration are:

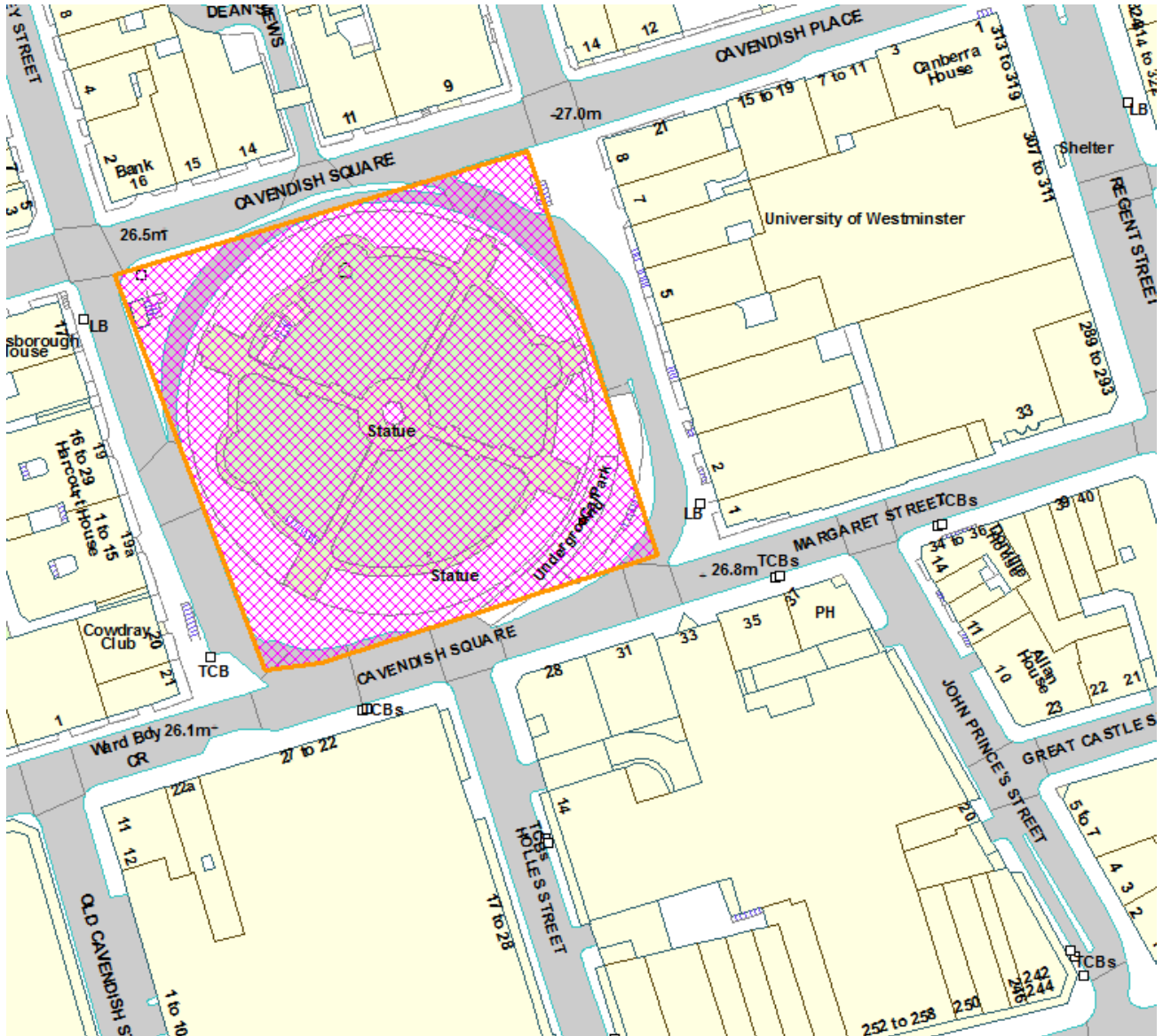
- The land use implications of the loss of car park,
- the acceptability of the broad range of replacement commercial uses,

- the impact in urban design and conservation terms. In particular, the impact on the setting of adjacent listed buildings and on the Harley Street Conservation Area, and
- the impact on the character and use of the square as public open space.

The existing car park is under used and its loss is considered acceptable, as the demand for car parking can be successfully accommodated elsewhere in the vicinity. The uses proposed are all considered to be in principle appropriate for this site in the heart of the West End within the Core Central Activities Zone. However, as the application is speculative the acceptability of the quantum of the various uses will be dependent upon their respective operational details. It is therefore recommended that operational management statements (OMS) for each proposed use are secured by conditions prior to any occupation of the development.

The addition of new above ground structures is controversial in urban design and conservation terms, but any harm caused is outweighed by the benefits of removing the existing structures and in creating a new use for the car park. As the majority of the works are below ground, the use of the square at surface level as public open space would be largely unaffected, and would actually be enhanced by improved accessibility. The works to the public realm would improve the pedestrian environment, and these works, alongside landscaping improvements, are welcomed. For these reasons it is recommended that conditional planning permission be granted subject to the views of the Mayor of London and subject to a legal agreement securing the items listed within Section 8.10 of this report.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's

4. PHOTOGRAPHS

ENTRY & EXIT RAMPS TO S-E OF SQUARE WITH RAISED PARAPET WALL AND ASSOCIATED HIGH LEVEL ENTRANCE SIGNAGE & STAIR



3M HIGH PLANT ENCLOSURE & STAIR- NORTH-EAST CORNER



EXIT STAIR - NORTH WEST CORNER



PUBLIC LIFT TO CAR PARK BELOW WITHIN GARDENS & ASSOCIATED CONTROLLED GATED ENCLOSURE & STAIR



5. CONSULTATIONS

GREATER LONDON AUTHORITY:

Principle of the development: The redevelopment to provide flexible multi-use commercial floorspace within the CAZ is strongly supported in strategic planning terms. The appropriateness of a residential use (Class C2: Residential Institutions) is queried.

Environment: The strategies for energy, flood risk, SUDs and water efficiency are generally supported in line with London Plan. The method for future proofing this plus opportunities for PVs and air source heat pumps is required.

Transport: Request that further work is carried out on the transport assessment and trip generation. Justification should be provided for the non- provision of blue badge parking and that cycle parking accords with London Plan standards. Options for the provision of transport infrastructure improvements at Oxford Circus underground station should be discussed further and transport- related plans secured through planning condition.

HISTORIC ENGLAND (LISTED BUILDS/CON AREAS)

No further Archaeological work is required.

THE GARDENS TRUST

Any response to be reported verbally

MARYLEBONE ASSOCIATION

Any response to be reported verbally

LONDON HISTORIC PARKS AND GARDENS

Any response to be reported verbally

METROPOLITAN POLICE: DESIGNING OUT CRIME

Any response to be reported verbally

ENVIRONMENTAL SCIENCES

Objection, due to the very wide nature of the use classes requested in the application description and the lack of specific information provided, it is not possible to reasonably assess this application for environmental health impacts such as noise and air quality.

Some of the information required could be provided by way of pre commencement conditions, this could lead to difficulty in approving details at a later stage if some of the elements are not technically feasible.

HIGHWAYS PLANNING TEAM

Loss of the car park is acceptable,
Servicing would need to be controlled through an SMP
Traffic levels should reduce

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Cycle parking should meet London Plan standards.

WASTE PROJECT OFFICER

Both the proposed waste strategy and relocation of an existing recycling centre are not detailed enough and permission should be refused.

ARBORICULTURAL OFFICER

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 255

Total No. of replies: 3

No. of objections: 1

1 objection received on the following grounds;

The development should include a cycle hub for a significant number of cycle parking spaces. Cycle parking within the Oxford Street area is underprovided.

The development doesn't appear to comply with draft London Plan cycle parking standards.

1 Neutral comment

Supportive of the principle of redevelopment of the car park but request that appropriate conditions must be in place to ensure no harm to the Grade 2 listed buildings around the square. Due to the applicant seeking flexibility for the quantum of each use conditions should be imposed to require, delivery waste and MEP strategies to be re-appraised and reconsulted on and approved when the final amount for each use is known.

No. in support: 1

Letter of support from New West End Company (NVEC), Commenting that the proposals would transform Cavendish Square. The replacement of the under- utilised car park with high quality income generating uses is welcomed. The plans will improve access to the square and the associated environmental improvements are welcomed.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Cavendish Square is largely public open space comprising gardens and trees with walkways through, which lies one block north of Oxford Street and one block to the west of Regent Street within the heart of the West End. The Square links into Henrietta Place

and Margaret Street to the south west and south east, and Wigmore Street and Cavendish Place to the north west and north east. Oxford Circus Underground Station is situated approximately 200 metres to the south east of the site.

Beneath the gardens is a 3 level underground car park, accommodating 432 car parking spaces with car wash and toilet facilities totalling 17,443 m². The subterranean car park, which was constructed in 1969, is open on a 24 hour basis. Above ground it comprises ramp enclosures and stair accesses mostly constructed in dark brown brick. The entrance and exit ramps are located in the south west corner.

The site lies within Marylebone, within the Harley Street Conservation Area and the Core Central Activities Zone. Regent Street Conservation Area lies adjacent to the Harley Street Conservation Area to the east. Cavendish Square is surrounded by several Grade 2 and 2 * listed buildings. A grade 2 listed Statue of Lord George Bentinck is located at the southern end of the square.

The surrounding area is mainly commercial although Hardcourt House No 19a Cavendish Square is a building of 25 flats situated on the western side of the Square.

6.2 Recent Relevant History

There is very limited planning history.

On 18 February 2014 permission was granted for the following development ‘Erection of lift and enclosure in south-west corner of Cavendish Square Gardens to provide access to underground car park and associated alterations to boundary wall and gates to gardens. Installation of railings and stone plinth to north-west and south-west stairwells to car park’. 13/10592/FULL

7. THE PROPOSAL

Permission is sought for demolition of structures above ground that are associated with the underground car park and replacement with entrances in connection with the change of use of the car park (Sui Generis) to provide a flexible mixed- use commercial development comprising the following use classes:

Retail (Classes A1-A5); Offices (Class B1);General Industrial (Class B2);Storage and Distribution (Class B8);Hotel (Class C1); Class C2:Residential institutions (which is wide-ranging incorporating residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres; D1: Non-residential institutions (which is also wide-ranging, comprising clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law courts, non-residential education and training centres; and D2 Assembly and leisure -cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area

for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

The scheme seeks to excavate to extend level 3 inwards towards the centre of the site beneath the gardens and to provide a 4th basement level underneath the footprint of the extended level 3. The extensions will provide approximately an additional 10,000 m² of floorspace, with a total floorspace of 25,593 m² (GIA).

The above ground square will undergo significant landscaping. The proposed development provides three principle entrances to the site. The main entrance is a stepped entrance located on the southern boundary flanked by 22 glazed lanterns with two further pavilion entrances to the north east and north west of the square. In addition to this the current step free lift access within the park is retained.

The development will be car free with 153 cycle parking spaces proposed. A goods lift is located on the eastern side of the Square, served by an off-carriage delivery and servicing facility. A second servicing access is also proposed in the north west corner of the square with the provision of a layby to allow for drop off and pick up. The proposal includes the relocation of an existing refuse recycling centre from the south east corner of the square to the north eastern and north western sides.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of existing Car park

The development would lead to the loss of 434 public off-street car parking spaces. UDP Policy does not protect commercial public car parks provided that it can be demonstrated that it would have no adverse impact on surrounding streets. TRANS 25 (C) states:-

The City Council will usually permit the loss of public off-street parking. In determining whether or not to permit such a loss, the City Council shall consider the following factors:

- the need to reduce traffic levels and encourage more sustainable modes of transport
- 2. the average and peak usage of the car park
- 3. the availability of alternative, nearby public car parks
- 4. the impact on local on-street parking facilities
- 5. the impact on traffic and local residential amenity
- 6. any other factors considered relevant.

A Transport Statement has been submitted in support of the application which demonstrates that whilst the car park provides 434 parking spaces, currently the maximum occupancy at any one time is 197 vehicles. This is sharp decline from 2017, when the maximum occupancy peak was 281 vehicles, which reflects the London-wide policy for discouraging journeys by car. There are currently 104 annual or monthly

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permits on issue at the car park, but the Highways Planning Manager raises no objection to the loss of the car park as the permit-holders could be accommodated at other under-utilised local public car parks within 1km of Cavendish Square, all of which have the capacity.

Proposed Uses

The site lies within the Core CAZ where City Policy S6 identifies as being an appropriate location for a range of commercial and cultural uses. The applicant advises that active discussions are on-going with various potential commercial occupants, but tenants cannot be secured in advance of obtaining planning permission. They advise that the primary occupant is likely to be in the medical/ healthcare sector but anticipate that the likelihood is that the development would also in part be occupied for retail (Class A uses) including within the food and drink sector, leisure and offices (Class B1), subject to obtaining the necessary consents.

It is common for planning applications to be speculative. However, this application is somewhat unusual as the quantum of the respective uses sought has not been firmly established and ultimately will be dependent upon continuing negotiations. With respect to the overall principle of the proposals, the GLA advise in their stage 1 response that ‘redevelopment of the underground car park to provide flexible multi-use commercial floorspace within the CAZ is strongly supported in strategic planning terms’.

With the exception of General Industrial (Class B2) and most of the uses that are classified as Residential Institutions (Class C2), the broad range of commercial uses are all considered appropriate for the site. The acceptability of the quantum of all of these uses is however dependent upon the respective operational details of individual end occupiers as and when they are confirmed. The application is therefore in some respects akin to an outline planning permission which establishes the principle of the development. It is therefore recommended that a condition is imposed which requires full operational details to be submitted and approved prior to the development being occupied by any of the proposed uses. This will determine both the exact location and quantum of the respective uses. Thereafter all the uses would need to operate in accordance with the approved Operational Management Statements (OMS). The policy analysis for each of the classes sought is set out in the following paragraphs.

Offices (Class B1)

Commercial developments are directed to the Core CAZ, Paddington, Victoria and Tottenham Court Road Opportunity Areas, Named Streets and the North Westminster Economic Development Area. New office floorspace is encouraged within the Core CAZ to enhance Westminster’s strategic role in London’s office sector, and support London’s global competitiveness.

City Plan policy S20 states:
‘The council will work to exceed the target of additional B1 office floorspace capacity for at least 58,000 new jobs (774,000 sq. m B1 office floorspace) between 2016/17 and 2036/37, an average of 2,900 new jobs per annum. The provision of increased

commercial offices accords with the City Council's strategic objectives and policies. An office scheme is considered to be appropriate to the site and this part of the West End. The scheme will contribute to the Core CAZ being a competitive business location. The increase in employment and jobs as part of the scheme is in accordance with City Plan and London Plan policies would be a benefit. The provision of office floorspace is supported in land use terms.

Mixed Use

Policy S1 is applicable for developments within the Core CAZ, the Named Streets, and Opportunity Areas, which includes net additional B1 office floorspace. Residential is required where the increase in office floorspace is more than 30 % of the existing building (for all uses).

The existing building comprises 16,024 m² (GIA), the scheme will provide an additional 9,929 m² (GIA) increasing the total floorspace to 25,953 m² (GIA). This is a 61% increase in floorspace. If the scheme is occupied primarily as offices it could trigger a requirement to provide residential under the Council's mixed use land use policies (either on site, off site or a payment in lieu at the applicants discretion). The provision of over 4807m² (30% of the existing building) would require the provision of residential or a payment towards the City Council's affordable housing fund. As a subterranean site, it is considered unsuitable for the provision of residential, and it is therefore recommended that the legal agreement includes provision for a policy compliant financial contribution towards affordable housing, should the office provision exceed 4807m² and trigger the Council's adopted mixed- use policy.

General Industrial (Class B2)

This class includes use for industrial process other than one falling within Class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste). Environmental Sciences have objected to this use forming part of the application as insufficient information is available to be able any meaningful assessment of the impact of the use. A condition is therefore recommended which would prevent any part of the development being used for General Industrial (Class B2) purposes.

Storage and Distribution (Class B8)

Whilst use of the development for storage and distribution purposes would potentially result in the creation of fewer jobs than other uses proposed, use of part of the site for this purpose would be acceptable. Final consideration of the quantum of floorspace that could acceptably be used as a storage facility would largely be dependent upon servicing considerations and the impact upon the highway network.

Retail (Class A1)

The site is within the Core CAZ outside the West End Special Policy Area (WERSPA). As already set out above City Plan policy S6 states the Core CAZ is an appropriate location for a range of commercial uses. The policy also states that retail floorspace will be encouraged throughout the area with 'large scale' retail directed to the West End

International Shopping Centre's primary shopping frontages'. Major (large scale retail developments are defined as comprising over 10,000 m2 (GEA).

City Plan policy S7 seeks to support the West End Special Retail Policy Area through recognising the unique status and offer of the West End through improving retail space and accommodating for appropriate retail growth. As such permission will only be granted where the proposal would not be detrimental to the character and function of the area of the vitality and viability of a shopping frontage or locality.

City Plan Policy S21 states that new retail floorspace will be directed to the designated shopping centres. The reasoned justification states that 'larger retail developments should be directed towards the larger shopping centres that have the capacity to support them. Westminster's primary frontages of the International Shopping Centres are especially suitable for large scale retail growth. These larger developments may also be appropriate within, inter alia, the Core CAZ.

The International centre is at the highest level in the hierarchy, and is the preferred location for retail development which increases consumer choice and an enhanced offer. However, adopted policy allows for the provision of large retail within the Core CAZ provided that there will be no adverse impact on the character and function and vitality and viability of the West End Retail Policy Area.

A Retail Impact Assessment (RIA) has been submitted in support of the application. This states that the starting point for the assessment is the identified need for significant additional A1 in Westminster and the intention that this should be focussed towards the International Centre, in the extended WERLSPA (in the draft City Plan), and in locations throughout the CAZ.

The applicant's RIA sets out a need is for between 229,944-322,286 m2 m net additional floorspace. Given the current primary frontages, already comprise primarily A1 retail floorspace, the opportunity to accommodate such a substantial requirement within existing primary frontages is very limited. To put this in context, even assuming up to 10,000 m2 GIA of the proposed development comprised A1 floorspace, this would equate to only circa 3-4 % of the identified need.

The total floorspace of the West End is estimated by the GLA at over 1.5m2. As such, the proposed development would constitute a negligible increase, in the context of the policy objective to focus new development in this location. The forecast turnover of the development would amount to 0.005% of the 10 billion of the International Centre (Oxford Street/ Regent Street/ Bond Street). The impact on the International Centre would be negligible.

The retail element of the proposed development accord with national and strategic policies for town centre uses, and with Westminster's current and emerging policies. The site which is located one block to the north Oxford Street and west of Regent Street

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is in effect already part of the International centre, and will function as such when the development is completed.

Professional and Financial Services (Class A2)

This uses class includes financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies. It doesn't include betting offices or pay day loan shops. Such uses are acknowledged as 'town centre uses' which are appropriate for this site within the Core CAZ. Like the other uses sought the amount Class A2 floorspace deemed to acceptable in the development will be dependent upon consideration of any OMS submitted.

Restaurants (Class A3)

City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses including restaurants. The TACE policies are on a sliding scale whereby developments where TACE 8 is applicable would be generally permissible and where TACE 10 (gross floorspace exceeds 500 m2) is applicable only in exceptional circumstances. City Plan policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of type and size of use, scale of activity, relationship to any concentrations of entertainment uses and the cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. The proposal states that new large- scale entertainment uses of over 500 m2 floorspace will not generally be appropriate within Westminster.

The policies aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of various parts of the City while acknowledging that they provide important services in the City and contribute to its role as an entertainment centre of national and international importance.

The applicant advises there will be a central kitchen extract system provided which will utilize the existing builders work car park subterranean extract ducts. The Garden Pavilion in the NW of the gardens will be the location of the primary kitchen extract shaft terminating at a height of 4.0m above pavement level, 200mm below roof level, so as not to be visible from ground level. A secondary extract is proposed within a vertical shaft within the Eastern Entrance Pavilion terminating at a height of 5.3m above pavement level, 200mm below roof level, so as not to be visible from street level. Environmental Services advise that the locations of the proposed duct termination points below roof level suggest they will not comply with the City Council guidance on the location of extraction systems and therefore this proposal is unacceptable and should be revised.

There is no scope to provide alternative ductwork within the development proposed. Any cooking would need to be dealt with via a recirculation system where cooking fumes will not be discharged externally. This will place significant restrictions on the

degree and type of cooking permissible. All equipment within the premises is required to operate by electricity only and not by gas or solid fuels. It is recommended that the details are secured by conditions.

The provision of a restaurant or restaurants within the development would result in the provision of a service use which is considered acceptable in principle. It is likely that hours of opening would be restricted to normal core hours for licensed premises with evening opening rather than night time use. Any OMS would need to be significantly robust to ensure that any restaurants are properly run to safeguarding amenity and minimise their environmental impact, and ensuring that they are appropriate for their context.

Drinking Establishments (Class A4)

The same policies are applicable to assessing drinking establishments (public houses, wine bars and other drinking establishments) as set out above for restaurants (Class A3). It is however recognised that drinking establishments in which alcohol is the main offer can have a much greater impact on residential amenity than restaurants. This is therefore likely to be reflected in the amount of floorspace that is ultimately permitted to be used for Class A4 purposes. The broad principle of the use is however considered to be appropriate for the site.

Hot food takeaway (Class A5)

Hot food takeaways by their nature, can result in increased disturbance as a result of motor vehicles, mopeds and motorbikes taking deliveries of food to customers. Takeaways can cause additional litter, traffic and parking problems and can generate late-night pedestrian and vehicle activity. Prior to granting approval for an OMS which permits part of the development being used as a hot food takeaway the onus will be on the applicant to successfully demonstrate the benefits that the local community will gain from the provision of a hot food takeaway.

Conclusion on Class A3-A5 uses

The type of entertainment use, its size and customer capacity, its proposed location, and its opening hours are the major factors in determining the extent of adverse effect a proposed entertainment use can have on residential amenity, other commercial uses, local environmental quality and the established character and function of areas. To ensure that the Class A3-A5 uses will not have an adverse impact on the environment it is considered reasonable to limit these uses to not more than 10% of the total development. A condition is recommended that the Class A3-A5 floorspace does not exceed 2600 m². It will also be a requirement that all OMS's for the respective uses set out operational controls to ensure that the uses are acceptable and would not have adverse environmental impacts.

Hotels, boarding and guest houses (where no significant element of care is provided)
Class C1

London Plan Policy 4.5 notes that the Mayor will support London's visitor economy and stimulate its growth, taking into account the needs of business as well as leisure visitors

and seeking to improve the range and quality of provision. The policy also goes on to note that the Mayor will seek to achieve 40,000 net additional hotel bedrooms by 2036.

City Plan Policy S23 states that new hotels will be directed to the Core CAZ (and other named areas). Hotels should also be directed to those streets which do not have a predominantly residential character. Subject to the operational details new hotel floorspace could be seen as a benefit welcomed in land use terms in accordance with London Plan and City Plan policy S23 and UDP Policy TACE 1 and 2.

Residential Institutions – (Residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing home Class C2)

The GLA have in their stage 1 consultation response have queried the appropriateness of including Class C2 uses within the scheme. Environmental Services have also objected to this aspect of the application advising that there is insufficient information to be able to properly assess these uses from a noise or air quality perspective and other factors such as adequate lighting and ventilation. The applicant states that it is not the intention to use the development as any form of residential accommodation but have requested the option to use the building for medical purposes with overnight stays. Use for hospital purposes is considered acceptable, but not other uses that fall within Class C2 as these are types of permanent residential accommodation. It is therefore recommended that a condition prevents use of the building for purposes within Class C2, with the notable exception of use as a hospital.

(Non-residential Institutions) Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court.

(Class D1)

The applicant advise that the primary use is likely to be medical and health facilities. Cavendish Square lies outside be immediately adjacent to the Harley Street Special Policy Area (SPA). Within the Harley Street SPA policies aim to support and enhance its role as an international centre of medical excellence, and new medical facilities will be encouraged. The provision of medical consulting rooms and diagnostic facilities on site would complement the character of the SPA. A significant quantum of medical and health facilities within the development would be appropriate for the site, given the character of the surrounding area.

Other uses falling within the Class D1 may also be acceptable, but as is the case with many of the other uses proposed the operational details will determine their acceptability.

Assembly and leisure Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used Class D2).

Some of the uses listed above would not be appropriate to the site due to the sites configuration and its constraints. The uses are however all commercial uses appropriate

to the core CAZ. As has been set out with the other uses sought the key determining factor with regards to their acceptability are the operational details. As already stated this will be secured by condition.

Land Use Conclusion

It is unusual for an application to be made for such a broad range of uses. Whilst the subterranean development is not considered to be an appropriate site for residential and residential institutions (except hospital use) and general industrial (Class B2), the other uses may be appropriate. Conversion and extension of the existing underused car park for a flexible range of commercial uses accords with the City Council's strategic aim to accommodate sustainable growth and change that will contribute to Westminster's role as the heart of a pre-eminent world class city, building on its internationally renowned business, retail, cultural, tourism and entertainment functions within the Central Activities Zone.

8.2 Townscape and Design

Cavendish Square was laid out as a garden by Charles Bridgeman in 1717 as an early part of the Cavendish-Harley Estate. It lies within the Harley Street Conservation Area and makes an important contribution to its significance, character and appearance. It is enclosed by listed buildings on all sides except the south, which is defined by the John Lewis department store to the west (a good modern building but unlisted) and the tall, undistinguished 1960's redevelopment known as 33 Cavendish Square. This building is harmful to the setting of the Square, the adjacent listed buildings and the Harley Street Conservation Area.

Cavendish Square is a sensitive historic environment of high significance. On the east side of Cavendish Square are four grade 2 listed buildings and one grade 2 star. On the north side are two grade 2 star listed buildings and two grade 2 listed buildings. On the west side are three grade 2 and one grade 2 star listed buildings. The gardens are not included on the Historic England register of historic parks and gardens but they are included in the list of squares and gardens protected by the London Squares Preservation Act 1931.

The primary negative feature of the Square is the underground car park which was created in 1970, along with new walls and railings erected around the garden. The access ramps to the car park were created on the east side of the Square. There are other structures associated with the car park, most notably in the north west corner of the Square. These have all had a harmful impact on the townscape quality and integrity of the Square, the character and appearance of the conservation area and the settings of the adjacent listed buildings.

Legislation and policy

The key legislative requirements in respect to designated heritage assets are as follows:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 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 requires 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.”*

Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. The NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

The proposals

The proposals for above ground development include:

1. Main entrance in southern part, flanked by two sloping glass roof lights, outside the gardens.
2. Entrance pavilions – one each on the northwest and north east area, outside the gardens
3. Service access pavilion in the south east corner
4. New pavilion within the gardens
5. New railings around the perimeter of the garden
6. New paving around the outside of the gardens
7. Pavement lights around the gardens, with seating and low level vent shafts
8. Pavement lights (frosted) on the path within the gardens

The most controversial elements of the scheme in urban design and conservation terms are the above ground structures. It is very unusual for there to be structures within an historic square in the West End. However, Cavendish Square is an atypical square as it has a car park beneath the gardens and associated structures above ground. The impact of the proposed structures should be considered in the context of the existing, harmful, structures.

The main entrance to the development will be from the south. Here a large entrance eight metres wide is created on axis with Holles Street. It is flanked by two glazed enclosures which light the floors beneath, and also signal the entrance. These are 1.5 metres high adjacent to the entrance and then slope upwards to east and west, to a total height of 2.5 metres. The submitted images suggest that they are frameless glass

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structures but they may not be quite as transparent in reality and the visual impact shown may not be achievable. The detailed design of these structures would need to be reserved by condition if planning permission is to be granted.

The glazed enclosures have narrow planted strips and a water feature and fountains around them. The steps which lead down to the development will be closed off at night with glazed gates and roller shutters below ground level. These proposals have a significant visual impact on the Square and the setting of the gardens, especially when viewed from the south. They have a lesser impact on the sitings of the listed buildings which lie to the east and west.

In the north west and north east corners of the Square there will be pavilions providing access below ground level. In the north west corner the pavilion will replace existing, unsightly structures associated with the car park. In the north east corner there are no such existing structures. The proposed pavilions have fully glazed sides, oval in plan, and house a lift and staircase to the lower levels. They are 4.75 metres high, to the top of the canopy. The total height is 5.3 metres.

The proposed pavilions will have a harmful impact on the settings of listed buildings on the north, west and east sides of the square, and on the setting of the gardens. However, the one proposed in the north west corner is considered an improvement on the existing structures, and less harmful to the heritage assets.

Also on the east side of the square will be a service bay, within a three metres high enclosure. This is designed with green walls, metal entrance gates and a glazed wall on the south side enclosing the access to the underground bike store. It too will have a harmful impact on the settings of the listed buildings, especially those on the east side of the square. Its impact needs to be compared to that of the existing structures in the south east side of the square.

The area around the perimeter of the garden will be transformed, with new railings, pavement lights, seating and vent shafts. These works are considered generally acceptable in principle. However, it is considered that the new railings around the gardens should be based on historic designs, rather than modern ones, in order to enhance the appearance of the gardens and relate architecturally to the historic, mainly Georgian, buildings which enclose the square. This would be a planning benefit which would outweigh some of the harm identified. If planning permission is granted then a condition requiring a revised railing design is recommended.

Within the gardens it is proposed to retain the existing glazed lift shaft in the south west corner and the existing structure towards the northern end of the garden. There are also a large number of frosted glass panels in the paths, to light the floors below. The extent of these lights is considered excessive and a condition requiring their reduction is recommended.

Signs

There is clearly a need to advertise the presence of this large commercial building but this has to be balanced against the need to protect the historic environment. The current proposals are to have signs at the southern entrance, in the concrete panel above the entrance , and in the new pavilions. As proposed this is discreet and acceptable. However, it is considered that any future proposals for more extensive advertising are unlikely to be considered acceptable because of their potential impact on heritage assets.

Harm and benefits

The proposals have the major benefit of bringing a new use to the underground car park. There are also negative impacts on the historic character of the Square through the introduction of above ground structures. However, these have to be seen in the context of the harm caused by the existing above ground structures, especially those on the north west and south east corners.

It is considered that overall the proposals are an improvement on the existing structures and that if there is harm to the heritage assets then that harm is outweighed by the public benefit of bringing new life to the Square and the car park, and also the introduction of traditional railings around the gardens. Overall the proposal is considered acceptable in terms of its impact on the designated heritage asset(s).

It is considered to comply with the City Council's urban design and conservation policies including S25 and S28 of the City Plan and policies DES1, DES5, DES7, DES9, DES 10, DES12 of the Unitary Development Plan. It is also compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8.3 Residential Amenity (Sunlight and Daylight, Sense of Enclosure, Privacy)

The proposed above ground structures would have no material impact on residential amenity.

8.4 Transportation/Parking

Loss of the car park

The loss of the existing car park is discussed in section 6.1 (Land use) of this report and as already stated is considered acceptable in principle.

Servicing

The creation of a large mixed-use development at this location will require significantly more servicing than the car park. The development will be serviced from ground level via 2 x on street loading bays on the south eastern side of the square and a single loading bay at the north western side. A goods lift will be located on the south eastern side. The applicants Transport Statement (TS) indicates that 80 % of deliveries will

occur to the east of Cavendish Square with the remaining 20% to the west. Vehicles will be able to access and egress the laybys in a forward gear.

City Plan policy S42 and UDP Policy Trans 20 require that servicing should be off-street except where it is accepted that this is not feasible. The Highways Planning Manager recognises that the constraints of the site preclude off street servicing. The goods lift structure will not have the necessary headroom and providing the servicing loading bays off street would eat into the gardens.

The potential servicing requirements within the applicants TS are based on an assumption that the occupancy is 25 % medical wellness (Class D2), 25% food and beverage (Class A3/A4), 20% non- food retail (Class A1), 20% office (Class B1) and 10% ancillary space.

The TS calculates that there would be some 111 servicing vehicles per day, with an average dwell time of just under 15 minutes which equates to approximately 9 and ½ hours. The Highways Planning Manager advises that the proposed 3 servicing bays could satisfactorily accommodate the proposed development. These comments are however based on the estimated occupancy split referred to above. Uses which are more intensive in servicing terms could result in a greater requirement. The Highways Planning Manager advises that a Servicing Management Plan should be approved to ensure that not too many vehicles arrive together and do not therefore have to queue around the Square. It is recommended that this is secured by condition should permission be granted.

Cycle Parking

The applicant states that cycle parking is intended to be provided for both long-stay and short stay in line with draft London Plan standards. On the basis of the anticipated quantum of uses this would be 153 long stay spaces and 84 short stay spaces. The actual number of cycle parking spaces required would however change according to the split of land uses. It is recommended that details of cycle parking is secured by condition. The cycle parking provided should meet draft London Plan standards.

An objection has been made on the basis that the development does not include a cycle parking hub to serve Oxford Street and the wider area. The objection is made on the basis that if cycling is to be actively promoted as a sustainable mode of travel there needs to be adequate safe and secure cycle parking within the West End, which is currently lacking. Whist the basis for the objection is understood, provided that the cycle parking provision within the development accords with the required standards permission could not reasonably be withheld for this reason.

8.5 Economic Considerations

The economic benefits derived from the provision of a significant amount of commercial floorspace within the Central Activities Zone, are welcomed. This accords with the strategic aim to provide sustainable economic growth.

8.6 Access

Pedestrian Traffic

Policy S41 of the City Plan deals with pedestrian movement and sustainable transport and the need to prioritise pedestrian movement.

The proposed development offers both stepped and stepped free access as part of the development. Pedestrian access is located to the south, north east and north west of the square along with the retention of the passenger lift currently within the square to the south west.

The car park only generates pedestrian traffic in the form of drivers going to and from the car park. A mixed- use development as proposed is likely to generate significantly more pedestrian movements. It is therefore likely that there will be many more pedestrian trips to and from Oxford Street, which will need to cross Margaret Street / Henrietta Place to access the development.

The TS identifies a need for a new pedestrian crossing at the main southern entrance to the development and changes signal timings. The Highways Planning Manager advises that this will be needed to ameliorate the additional pedestrian activity. These works will require approval under the Highways Act and will be secured as part of the S106 legal agreement.

8.7 Other UDP/Westminster Policy Considerations

Noise/plant

UDP policy ENV6 Noise Pollution and ENV7 Controlling Noise from Plant Machinery and Internal Activity seek to ensure that development proposals do not have an adverse impact on the noise environment, including any noise generated from plant, machinery and internal activity. City Plan Policy S32: Noise, states that the Council will work to reduce noise pollution by ensuring development provides an acceptable noise and vibration level for occupants.

As part of the application an Environmental noise and vibration survey report has been submitted. This report by Sandy Brown established the lowest background noise levels of 45 db(La90) for a 24 hour period, which exceeds WHO Guidelines. The design noise level criteria to comply with policy will be 10 dB below the background noise reading. The nearest residential property is at Harcourt House and there are noise sensitive clinics located at Harley Street.

The specific ductwork and plant is unknown at this stage of the development process, although the applicant states that air source heat pumps will be installed. Environmental Services advise that as the detailed information regarding plant is not available a supplementary acoustic report with acoustic specifications for the plant/ducting and details of noise/vibration attenuation measures should be submitted. It is recommended that this is secured by condition.

Environmental Sciences also recommend conditions regarding internal activity noise in addition to hours of use. They advise that steps should also be taken to ensure there is adequate separation of more noise intensive uses from more noise sensitive uses (such as medical centres).

No assessment of construction and demolition noise/vibration has been made and this should therefore be provided within the SEMP, which will be required in compliance with the Code of Construction Practice.

Refuse /Recycling

UDP Policy ENV12 requires the provision of suitable facilities for waste storage and recycling in new developments.

A waste management strategy has been submitted which assumes the following 70% of storage will be allocated to recycling, space will be allocated for 2 days refuse storage but collection will be daily, all clinical waste will be separate from non-clinical waste, a full waste operative will be employed to ensure proper segregation of different waste streams. All bins and a compactor will be located within bays within the development. At collection bins will be transferred via a goods lift in the eastern side of the development

The Waste Project Officer has objected to the scheme because the final split of the uses is unknown and refuse storage requirements are unknown. There is however sufficient space within the development to ensure that bin capacities comply with standards. It is considered that permission could not reasonably be withheld for this reason. It is recommended that the waste management strategy is secured by condition and approved prior to the development being occupied.

The Square currently accommodates nearly 20 Eurobins providing a public micro recycling centre, street sweepers containers, and park refuse containers. The recycling centre and the street containers will be relocated to the north western side adjacent to the vehicular bay the park refuse containers will be relocated to the eastern side delivery bay. An objection has been received from the freeholder and occupier of 18 Cavendish Square that the relocation will bring the refuse centre closer to Listed Buildings and residential at Harcourt House on the western side of the Square. It is requested that this aspect of the scheme is revised. Whilst It is acknowledged that the refuse centre is a negative feature of the Square, it is functional. Its relocation as proposed is not considered to be a significant change.

Air Quality

An air quality assessment has been submitted in support of the application. Emerging London Plan Policy SI1 requires development proposals to be at least air quality neutral and use design solutions to prevent or minimise increased exposure to existing air

pollution.

Operational Phase

As the proposal includes the removal of a car park, the report states this is expected to be beneficial to local air quality. The report states the new uses are expected to lead to a decrease in the overall annual average daily traffic but lead to an increase in daily traffic flows by 230 vehicles along Cavendish Place. Environmental Services advise that this is above the screening threshold and therefore a detailed assessment is required.

The impact on future users of the development takes into account emissions from the local road network and this predicts that the relevant objectives will be met. The assessment concludes that no mitigation is recommended as the development will not generate any exceedance's of air quality objectives in the area.

Environmental Sciences advise that the assessment does not account for emissions which may arise from the development itself such as from the proposed Class B2 use. As the detail of the specific uses is not known the assessment cannot be precise. It is recommended that an updated air quality assessment is provided prior to the commencement of the uses within the development and that this assessment should be based upon more accurate available information based upon specific detail of the proposed uses.

Construction Phase

The applicant has agreed to pay for the re-siting of the air quality monitoring station on Cavendish Square and this is welcomed, so as to ensure that the data collection at this site remains suitable for its intended purpose and that it is not adversely affected by the demolition and construction phases of this project. This equipment should be re sited prior to the commencement of any works. The development will be required to submit a site environmental management plan (SEMP) as part of their compliance with the Code of Construction Practice and mitigation measures will be agreed as part of this.

Sustainability

The London Plan states that developments should minimise carbon dioxide emissions and 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

London Plan Policy 5.1 and 5.2 expects an overall reduction in carbon dioxide emissions by 60% by 2025, and it is expected that under guidance from the GLA, London boroughs will take measures to meet this target. Policy 5.2 requires development to follow an energy hierarchy and seek to reduce carbon dioxide emissions, with a current target for non-domestic Development to minimise emissions by 35% against Part L of the Building Regulations 2013.

The applicant has submitted an energy statement by this states that the building will be a high performance building which is predicted to achieve a 52% carbon dioxide emissions against Part L2A.

The development is targeting a BREEAM rating of excellent and will use best endeavours to achieve 'outstanding depending on the final end user mix. Some of the key features which will be incorporated are: Reuse of car park footprint and existing retained walls, grey water harvesting reused in the gardens; water from AHU reused for vegetation irrigation; Air Source Heat pumps provide low carbon heating and cooling.

The proposed development is considered to provide a sustainable and energy efficient building in accordance with the Development Plan.

Trees within the Square garden

Although extensive works are proposed to the gardens perimeter, the lawns, trees, benches and sculpture within the space will be unaltered. The inward extension of the existing 3rd basement level is over 8m below the gardens, below the tree roots and soil beds necessary to retain the gardens above. No change is proposed to the landscaping within the gardens. A condition is recommended to ensure that all trees are adequately protected during construction and the landscaping is maintained to its present position post construction.

Lighting

A perimeter of circular pavement lights set in concrete will run around the outer perimeter of the gardens. There will be lighting from the interiors of the new glazed lanterns. The lux levels around the square will be important. It is recommended that a lighting strategy is secured by condition to prevent light pollution and ensure the optimum illuminance levels.

Biodiversity

The scheme includes re landscaping and soft planting around the perimeter of the gardens in conjunction with new 2m high railings and gates. This will extend the gardens incorporating soft planting and fountains around the perimeter of the new glazed lanterns to the south. The increased areas of planting will increase biodiversity of plant species and encourage animal species within the gardens. This is welcomed.

Archaeology

An archaeological desk top has been carried out to clarify the archaeological potential of the site and assess the level of impact of the development may have on any archaeology present. The assessment concludes the site does not contain any designated heritage assets of archaeological interest. The majority of the site has been the subject to significant disturbance through the construction of the below ground car park in the 1970's. It is considered that excavations associated with the proposed development will be either too deep to impact on any potential archaeological deposits or will be in areas disturbed by previous development.

Flood risk management sustainable drainage and water efficiency.

Policy S30 of Westminster City Plan states that 'All development proposals should take flood risk into account and new development should reduce the risk of flooding. London Plan Policy 5.13 and the draft London Plan Policy S113 requires that developments to utilise sustainable urban drainage systems (SUDS) unless there are practical reasons for not doing so and should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed in line with the drainage hierarchy.

The site is in Flood Zone 1 and greater than 1 hectare in area. A flood risk assessment has been submitted as required by the NPPF. The FRA considers the risk of flooding from a range of sources and the residual flood risk to the site is generally low. A sustainable urban drainage strategy has been submitted which concludes that the development meets the requirements of all relevant policy.

Employment and skills

The City Council published an interim guidance note in May 2019 on the interpretation of policy S19. Policy S19 contains scope for financial contributions collected through Section 106 agreements to be used to secure the aims of the policy. Financial contributions will be used to support the Westminster Employment Service by:

- Helping residents access a wide range of opportunities in a range of employment sectors. For example, retail, hospitality, facilities management connecting to the end use of a development.

- Supports developers to deliver their agreed targets through a service with a proven track record. In the past 2 years the Westminster Employment Service has delivered over 1500 jobs for Westminster residents.

- The note sets out how contributions will be calculated according to the type of development proposed. The applicant has agreed to make contributions in accordance with the guidance note. The level of contribution will be dependent upon the final land use mix and will be secured as part of the S106 agreement.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

There is no adopted neighbourhood plan for Marylebone Area

8.10 London Plan

The application is referable to the Mayor of London under Category 1B(b) of the Mayor of London Order 2008 as the development comprises the erection of a building in Central London with a total floorspace of more than 20,000 m².

The GLA Stage 1 response is summarised in section 5 (consultation) of this report. The development is broadly acceptable in strategic planning terms, on balance it does not fully comply with the London Plan. The application will be referred back to the Mayor once the Council has resolved to determine the application.

Oxford Circus Station

In their stage 1 response the GLA comment that 'the development site is located approximately 200 metres from Oxford Circus LU station. TfL's forecasts predict continued growth in demand at Oxford Circus station, which will require increased regular station control interventions. Also, Oxford Circus does not have step-free access (SFA) from street level to platforms or ticket hall, only step-free interchange between certain lines. As such, TfL has been looking at high level options for solutions for the station in the short, medium and long term. In the long term an additional station entrance is likely to be required to cater for demand and increased SFA on the tube network is a key priority in the Mayor's Transport Strategy.

The major redevelopment of this basement site presents a rare opportunity to facilitate these key improvements at Oxford Circus station via provision of the civil infrastructure for a new station box and tunnel through to the existing station. This site offers a clear route through to existing platforms. Space constraints and land acquisition costs in Central London mean that major station improvements are difficult and expensive to deliver outside third party opportunities such as this. Therefore, options for provision of this important transport infrastructure improvement through this development should be explored by the applicant in line with London Plan – intend to publish version Policies T1, T3 and T9, and MTS Policy 14 and Proposal 55'.

The Highways Planning Manager comments that any relief on the pressure on the existing Oxford Circus Station entrances would be welcomed.

In response the applicant advise that they have reviewed the development proposals in the context of TfL's interest in safeguarding a potential future entrance/exit to the underground associated with Oxford Circus.

They advise that the TA indicates that the impact of the proposed development on the network is negligible. They argue that it is not considered that any substantial form of mitigation is necessary to make the proposal acceptable in planning terms and that the development will contribute the proportional amount of funding towards infrastructure

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through the associated Mayoral CIL contribution in accordance with policies T1 and T9.

8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the

- City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development.
- A Design Stage Interim BREEAM rating certificate of assessment
- Updated Energy Calculations
- A Biodiversity Management Plan in relation to the landscaping at the perimeter of the gardens.
- Contaminated land site investigations and remediation strategy

The applicant has agreed to the imposition of these conditions.

8.12 Planning Obligations

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.

The Council's own Community Infrastructure Levy was introduced on 1 May 2016. The Westminster CIL payable will be confirmed as part of Committee presentation.

In addition, for reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- A financial contribution towards the City Council's Affordable Housing Fund (index linked) if the total office floorspace exceeds 4807 m² of offices (Class B1)
- A financial contribution towards employment, training and skills payable on commencement of development.
- Highways works and environmental improvements in the area including part of the Oxford Street District Proposals.
- Costs of monitoring the S106 agreement.

8.13 Environmental Impact Assessment

The application is of insufficient scale to require an Environmental Impact Assessment.

8.14 Other Issues

Oxford Street District Proposals

The Council's Oxford Street District (OSD) place strategy and delivery plan has identified 94 projects across 85 different streets in 9 zones including major improvements at Oxford Circus, Marble Arch and Cavendish Square.

The scheme has been designed so that it can be implemented in the current context maintaining the current highway arrangement but with kerb realignments which are possible due to the closure of the car park and its feeder ramps. An additional pedestrian crossing is proposed at the south side of the square to provide better access to and through the space.

The proposed design can also be delivered concurrently with the OSD proposals for Cavendish Square. The OSD proposals will result in additional footway, less north south traffic and the opportunity to an enhanced pedestrian prioritised space. The OSD will result in additional crossings on Wigmore Street in the north east and north west corners of the site. Given the scale of the development and its impact on pedestrian movements it is considered appropriate that the development contributes to these proposals. This will be secured as part of the highways works under the S106 agreement.

Basement

The application involves the excavation of existing basement level 3 further under the gardens and a new basement level 4 beneath the footprint of the enlarged basement level 3. City Plan Policy CM28.1 is applicable. As required by this policy, the applicant has provided a structural method statement setting out the construction methodology. 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.

The City Council is 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.

Construction impact

A condition is recommended which requires the applicant to sign up to the Council's 'Code of Construction Practice' (COCP) to ensure that the basement construction process is carefully managed, minimising disruption to neighbours and the highway and reducing the effects of noise, dust, traffic movements etc. resulting from the construction. As part of this process, Environmental Health Officers will liaise with both the applicant and neighbouring occupiers during the construction process to ensure that neighbours' concerns are addressed. Regular site visits will be undertaken to monitor construction operations and ensure compliance. A further condition is recommended to control the hours of excavation and building works. Subject to these conditions, it is considered that the potential effects of the construction process will be ameliorated as far as possible and complies with policy CM28.1 of the City Plan.

Crime and security

The applicant refers to their discussions that they have had with the Metropolitan Police who have advised the following;

Gardens

Securing the gardens overnight is positive in preventing anti-social use and risk to vulnerable users. The 2m railings needs to be supported by corresponding pedestrian gates which can be locked. A defensive planting strip adjacent to the boundary railing is strategically important to thwart trespassers. The railing and corresponding gates need to be designed to deter climbing. The landscaping plan for the park being planting and furniture needs careful consideration to promote use whilst deterring Anti-social behaviour which is currently an issue.

Entrance Pavilions

Any access control strategy needs to be reviewed alongside the proposed fire exit strategy to ascertain if what is being proposed is suitable.

South Entrance

Query how the shutters in front of doors alongside a rising glazed balustrade at the top of the steps which will be operational out of hours will work for tenants that require 24/7 access for their respective customers e.g. hotel customers. The applicant advise that it is anticipated that 24/7 access will only be via the NE or NW pavilions and the existing lift (currently 24/7) within the gardens. The south entrance can therefore be closed at times to be agreed within an OMP without preventing secure access to the development

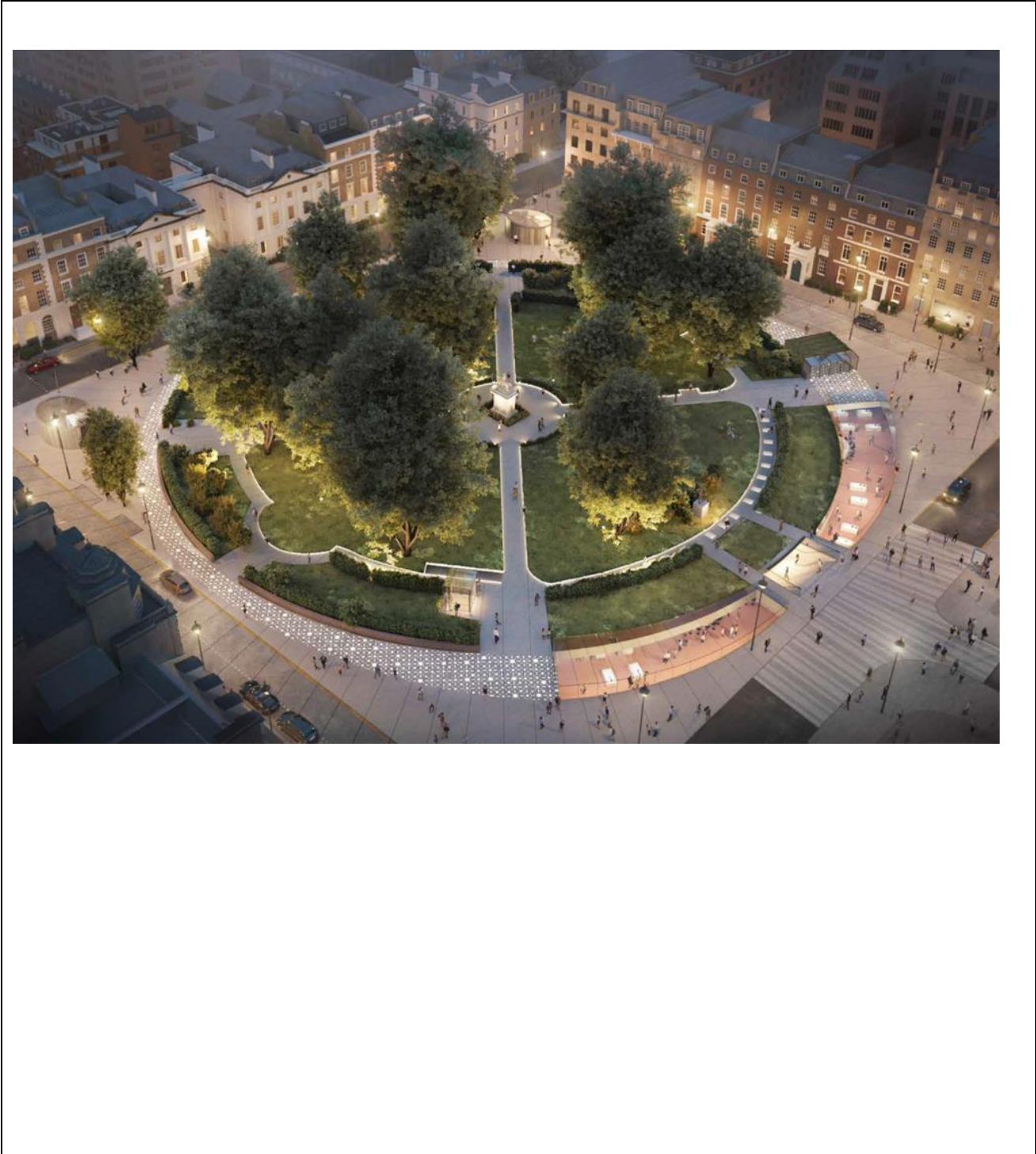
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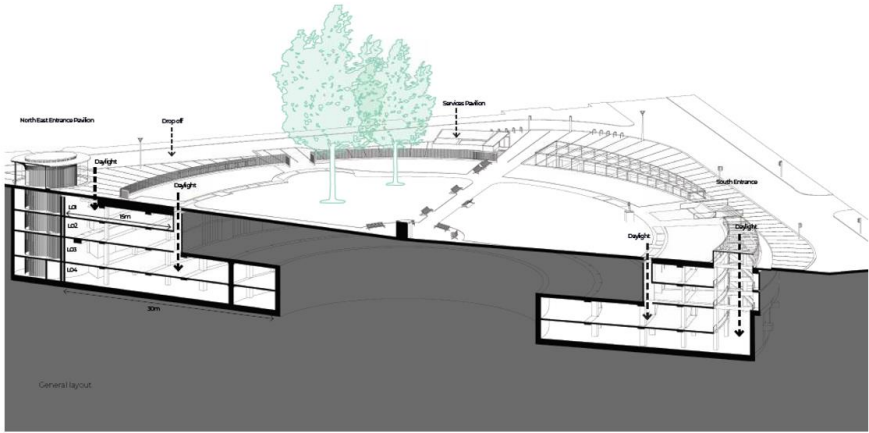
It is recommended that the security issues are dealt with through the imposition of a secure by design condition to be approved in conjunction with advise from the Metropolitan Police.

(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: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

9 KEY DRAWINGS







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DRAFT DECISION LETTER

Address: **Underground Car Park, Cavendish Square, London, W1G 0PG**

Proposal: Demolition and erection of above ground structures in conjunction with the use of an underground car park (Sui Generis) as a flexible mixed use commercial development comprising uses within the following use classes A1-A5, B1,B2, B8, C1, C2, D1, and D2 along with the excavation of a 4th basement level, new entrances and associated landscaping and highways works to provide up to 25,953 sqm (GIA) of floorspace.

Plan Nos: 2010 rev B, 2011rev B, 2012 rev B, 2013 rev B, 2014 rev B, 2020 rev A, 010 OSD rev A, 2100 rev A, 2101 rev A, 2102 rev A, 2103 rev A, 2200 rev A, 201 rev A, 2300 rev A, 2301 rev A, 2310 rev B, 2311 rev B, 2320 rev B, 2321 rev B, 2330 rev A, 2331 rev A, 2340 rev A.

Case Officer: Mike Walton

Direct Tel. No. 07866039922

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 residents and the area generally as set out in S29 of

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Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

3 Pre Commencement Condition. Prior to the commencement of any:

- (a) Demolition, and/or
- (b) Earthworks/piling and/or
- (c) Construction

On site you must apply to us for our written approval of evidence to demonstrate 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 the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 4** You must apply to us for approval of details of secure cycle storage for the building ensuring that the facility is in line with the London Cycle Design Standards. You must not start any work on 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 any occupation of the building. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces (including ready access) and associated facilities for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 and Policy T5 (Table 10.2) of the draft London Plan (2019).

- 5** 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)

- 6** You must provide the following sustainability features as shown on the approved drawings and as set out within the approved Sustainability and energy statement

before occupation of any part of the development:

- Air source heat pump system.

You must not remove any of these features.

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)

- 7 You must submit a Delivery Servicing Plan for our approval. No parts of the building shall be occupied until we have approved what you have sent us. You must adhere to the approved Delivery Servicing Plan for the life of the development.

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)

- 8 **Pre Commencement Condition.**

- a) You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM), you must provide a Design Stage Interim BREEAM rating and certificate of assessment showing that the development is expected to achieve an 'excellent' rating in respect to the office element of the development and a 'very good' rating in respect to the retail element of the development under BREEAM UK New Construction 2018. If you use another method, you must achieve an equally high standard.

- b) You must apply to us for approval of details of a post construction stage report which demonstrates that the office part of the development meets an "Excellent" rating and the retail meets a "Very Good" rating" under BREEAM UK New Construction 2018. This report shall be submitted to us within 6 months of the occupation of any part of the building. If you use another method, you must achieve an equally high standard.

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)

- 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. (R48AA)

- 10 (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. (R50AB)

- 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 exceed a value of 5 dB below the minimum external background noise between the hours of 0700 and 2300 and shall not exceed a value of 10 dB below the minimum external background noise between the hours of 2300 and 0700, 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 exceed a value of 10 dB below the minimum external background noise between the hours of 0700 and 2300 and shall not exceed a value of 15 dB below the minimum external background noise between the hours of 2300 and 0700, 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. (R46AB)

- 12 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(s) 11 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. (R51AB)

- 13 **Pre Commencement Condition.** You must apply to us for approval of details of a biodiversity management plan in relation to landscaping at the perimeter of the gardens. You must not start any work until we have approved in writing what you have sent us. You must carry out the measures in the biodiversity management plan according to the approved details before you start to use the building. (C43CA)

Reason:

To reduce the effect the development has on 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. (R43AB)

- 14 **Pre Commencement Condition.**

Updated Energy Calculations (and relevant design drawings) shall be provided prior to the commencement of development to demonstrate that the development will achieve at least a reduction in regulated carbon dioxide emissions beyond Part L the 2013 Building Regulations. You must provide all the environmental sustainability features referred to in the review before you start to use any part of the building. You must then not remove any of these features.

Reason:

To make sure that the development affects the environment as little as possible and minimises carbon dioxide emissions, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016) and Policy 5.2 of the London Plan (2016).

- 15 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 water 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 water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure.

- 16 You use the premises for any purpose within Class B2 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:

To prevent a use that would be unacceptable because of the character and function of this part of the Harley Street Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan

that we adopted in January 2007. (R05FC)

- 17 The combined total floorspace within the development falling within use classes A3, A4 and A5 Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) shall not exceed 2600m².

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Harley Street Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 18 All cooking and reheating equipment must be operated by electricity only with no equipment utilising combustible fuels (e.g gas, coal, wood etc).

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 19 The re-circulation system hereby approved must have no external discharge.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 20 Before the re-circulation system brought into operation you are required to submit a supplementary report for our approval. You must thereafter maintain the recirculation plant and equipment as approved. The supplementary report must include:

- (a) A schedule of all plant and equipment installed in association with the re-circulation system.
- (b) Details of monitoring devices interlocked with the electric cooking equipment, such that cooking is only enabled when all parts of the system are operating.
- (c) In the working environment the breakout noise not exceeding 55 dB (A) in the kitchen
- (d) Details of the whole ventilation scheme in the kitchen that maintains an ambient temperature of not more than 25 centigrade whilst cookline equipment is operating
- (e) Details of service / filter replacement and maintenance arrangements.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 21 You must only use the premises or part of the premises as a hospital, you must not use it for any other purposes within Class C2 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). (C05BB)

Reason:

We cannot grant planning permission for unrestricted use within Class C2 because it would not meet ENV13 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 22 You must apply to us for approval of the internal layout and floorspace of each of the uses hereby approved including an Operational Management Statement detailing how each use will operate, including the hours of opening. You must not use any part of the building until we have approved what you have sent us. You must then carry out the measures included in the Operational Management Statement at all times that the building is occupied. (C05JB)

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Harley Street Conservation Area. This is in line with S25 of Westminster's City Plan (November 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007

- 23 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 work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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 Harley Street 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)

- 24 You must apply to us for approval of detailed drawings (Scales 1:20 and 1:5) of the following parts of the development:

1. Southern entrance including glazed structures and security measures
2. Pavilions in north west and north east corners of the square
3. Service access structure on east side
4. Pavilion at northern end of the garden

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 Harley Street 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 detailed drawings showing the following alteration(s) to the scheme:

1. Traditional railings and plinth around the gardens, based on historic precedent
2. Reduction in the number and size of glazed panels in the paths within the gardens

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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street 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 Detailed measures to design out crime shall be submitted to the City Council and approved in conjunction with the Metropolitan Police Designing Out Crime Officers prior to occupation of the development. The measures approved shall thereafter be retained for the lifetime of the development.

Reason:

To reduce crime in accordance with policy S29 of Westminster's City Plan (November 2016).

- 27 **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 Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our written approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed

but before it is occupied.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.
(C18AA)

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)

- 28 You must apply to us for approval of detailed drawings of a landscaping scheme which includes the surfacing of any part of the site not covered by buildings. 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 according to these approved drawings within 6 months of completing the development (or within any other time limit we agree to in writing). (C30AB)

Reason:
To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Harley Street Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in S25, S28 and S38 of Westminster's City Plan (November 2016) and ENV 16, ENV 17, DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R30CD)

- 29 You must apply to us for approval of a lighting strategy. All lighting must thereafter be installed and retained in accordance with the approved strategy

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 Harley Street 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)

Informative(s):

Item No.
1

- 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, neighbourhood plan (where relevant), 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 may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

- 3 You must register your food business with the Council, please use the following link: www.westminster.gov.uk/registration-food-business. Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at ehconsultationteam@westminster.gov.uk for advice on meeting our standards on ventilation and other equipment. Under environmental health legislation we may ask you to carry out other work if your business causes noise, smells or other types of nuisance.

- 4 Please contact Environmental Sciences by email to environmentalsciences2@westminster.gov.uk if you have any queries about your obligations under the Control of Pollution Act 1974 or the Environmental Protection Act 1990.

- 5 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.

- 6 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 email AskHighways@westminster.gov.uk. 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).

- 7 You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

- 8 The Economy Team at Westminster City Council provide support and guidance to developers and contractors in the creation and delivery of employment & skills plans. The Team will provide guidance on local priorities, drafting of employment & skills plans and implementation of activities to deliver commitments. For further information please contact Soyful Alom, Economy Job Broker (salom@westminster.gov.uk)

- 9 We recommend you speak to the Head of Building Control about the stability and condition of the walls to be preserved. He may ask you to carry out other works to secure the walls. Please phone 020 7641 6500 or email districtsurveyors@westminster.gov.uk.

- 10 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 and to apply online please visit www.westminster.gov.uk/suspensions-dispensations-and-skips.

- 11 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you (www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide (www.cae.org.uk). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk.

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 12 Please make sure that the lighting is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance.

- 13 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 or visit www.ccscheme.org.uk.

- 14 With reference to condition please refer to the Council's Code of Construction Practice at (www.westminster.gov.uk/code-construction-practice). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work.

Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Sciences team (environmentalsciences2@westminster.gov.uk) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition. The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition.

You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement.

Where you change your plans after we have discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Sciences team must be paid on submission of the details relating to the relevant phase.

Appendix A must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

- 15 Conditions 9-11 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)
- 16 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. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: www.westminster.gov.uk/street-naming-numbering (I54AB)

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Agenda Item 2

Item No.

2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 April 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Marylebone High Street	
Subject of Report	1 Chiltern Street, London, W1U 7PA		
Proposal	Use of the public highway measuring 14m x 2.5m for the placing of 10 tables and 20 chairs		
Agent	WSP Indigo		
On behalf of	Chiltern Street Hotel Limited		
Registered Number	20/00219/TCH	Date amended/ completed	27 February 2020
Date Application Received	14 January 2020		
Historic Building Grade	Grade II		
Conservation Area	Portman Estate		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

Planning permission is sought for the use of an area of footpath for 10 tables and 20 chairs for use in connection with the existing hotel. The key issues in this case are:

- the impact of the proposals on residential amenity; and
- the impact of the proposals on pedestrian movement.

A large number of objections from neighbouring residents in the Chiltern Street area have been received on the grounds that the hotel is a poor neighbour generating noise and disturbance to residents, and that the proposal will exacerbate these issues and result in an increase in traffic causing highway obstruction and parking issues. The scheme has been revised to address some of these concerns by reducing the number of tables and chairs, reducing the terminal hour to 20:00 and through the provision of an operational management plan that sets out the management of the tables and chairs. Despite these revisions, the amenity society and residents maintain strong objections on the grounds that outside pavement seating will result in significant further disturbance to local residents.

Subject to conditions, the scheme is considered acceptable on highways and amenity grounds. However, it is recommended that permission is granted for a temporary period of one year to enable the situation to be monitored.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

HIGHWAYS PLANNING MANAGER

Recommends refusal on the grounds that the density of the layout fails to comply with either the Westminster Way or the Highways Planning Guide and would result in overspill and potential obstruction of the public highway.

PROJECT OFFICER (WASTE)

Objects on the grounds that the tables and chairs are too dense and likely to overspill onto the highway.

Re-consultation following submission of revised plans

MARYLEBONE ASSOCIATION

Objects on the grounds that the site is outside the Core CAZ and therefore residents are entitled to a reasonable expectation that their amenity should be preserved. Permission has previously been refused for pavement seating on the basis of the large outside space already available within the courtyard. Applications submitted in 2014 were withdrawn after indications of substantial opposition. In the present application, it appears that the letters of support come nearly entirely from people not affected by the Firehouse's activities.

Recognise that there has been a meaningful engagement exercise with residents and others over the course of this application and there now has been a substantial reduction in the amount of seating requested and a more modest reduction in the hours applied for over the January application which may lessen the intensity of the potential nuisance, but maintain an objection that outside pavement seating will result in significant further disturbance to local residents.

HIGHWAYS PLANNING MANAGER

No objections raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 50; Total No. of replies: 216

No. of objections: 88;

No. in support: 128

Amenity

*Increase in noise levels

*The hotel is a poor neighbour, constantly breaching planning conditions and generating noise and disturbance to residents. The proposals will exacerbate noise problems

*Staff currently do little to prevent anti-social behaviour and are unsuccessful in ensuring the guests currently leave quietly

*Paparazzi nuisance will be worsened by streetside tables

*Proposal will result in more cars, visitors, congestion and noise

*The Firehouse was sold to local residents as a 26 room boutique hotel, with the restaurant function ancillary to its use as a hotel and there is no justification for additional outdoor seating as the hotel already has a courtyard area for outdoor dining

*The precedents that the Firehouse refer to are on much busier roads with no

neighbours living opposite/adjacent

- *Neighbours regularly have to call the Firehouse to complain about noise after 1am
- *Residents can already hear conversations that take place at street level
- *Proposed hours are too long and should be restricted to 09:00 to 21:00
- *Increase in pollution
- *Increased noise will result in sleep deprivation

Design

- *Increase in street clutter and harm to the character and appearance of the Conservation Area
- *Adverse impact on the listed facade

Highways

- *The proposals will restrict pedestrian movement
- *Traffic safety
- *The aim of the original public realm improvement scheme was to 'to improve pedestrian movements, rationalise loading requirements and to enable space for cycle parking.'

Other Issues

- *The land is not owned by the hotel
- *Creation of litter
- *Proposals will devalue property values
- *Letters of support are from people who do not live locally
- *Proposals will increase crime and theft
- *External heaters are environmentally damaging

Re-consultation following submission of revised plans

No. consulted 75: Total No. of replies: 8

No. of objections:4;

No. in support: 4

Amenity

- *No justification for any tables and chairs
- *Proposals would generate extra customers, noise and disturbance
- *Amendments do not overcome previous objections raised
- *Traffic noise

Other Issues

- *Intention that the area for tables and chairs would be used as a Shisha café
- *Pollution
- *Proposals do not bring any benefit to the local community
- *There should be no encroachment onto the public highway
- *The applicant is likely to fit in more people and/or larger tables than show on the submitted drawings

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

Chiltern Firehouse, a Grade II listed hotel, is located on the west side of Chiltern Street near the corner of Blandford Street within the Portman Estate Conservation Area.

Planning permission was originally granted for the use of the former fire station as an hotel in April 2009.

The operation of the hotel is subject to a number of conditions including a requirement to close the restaurant doors and windows on Chiltern Street between 20:00 and 08:00 and limiting the al fresco dining area within the courtyard between the hours of 09:00 and 21:00.

6.2 Recent Relevant History

Planning permission granted 30 April 2009 for the use of the fire station as a 33 bedroom hotel (Class C1). Construction of new five storey building in yard, glazed rear roof light and single storey rear extension at ground floor level and part, two and three storey rear extensions at first floor level and above and new part basement excavation. Associated internal and external works.

Planning permission granted 19 August 2011 for the use of the fire station as a 26 bed hotel (Class C1). Demolition of part of the existing building at the rear, including demolition of enclosures in the ground floor and basement courtyards and demolition of the steel practice tower. Erection of a part three and five-storey wing to main building. Excavation of courtyard to create basement level accommodation, including plant room. Rear extensions to main building. External and internal alterations.

An application for the use of the public highway for the placing of nine tables, twenty eight chairs and nine planters and a freestanding waiter station in an area measuring 14.0m x 2.7m, between the hours of 08:00 and 23:00, in connection with the existing Hotel was withdrawn on 4 July 2014

An application for the use of the public highway for the placing of seven tables and fourteen chairs, seven umbrellas and nine planters in an area measuring 17.7m x 1.89m to the area of pavement opposite the application premises, between the hours of 08:00 and 23:00 in connection with the existing hotel was also withdrawn on 4 July 2014.

7. THE PROPOSAL

The application relates to the placing of 10 tables and 20 chairs on the public highway immediately outside the hotel between the hours of 09:00 and 20:00.

This application is supported by an operational management plan which sets out the operational policies and procedures for this area of tables and chairs.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The use of the highway for tables and chairs in connection with eating and drinking establishments is considered under Policy TACE 11 of the UDP and Policy S41 of the City Plan. Policy TACE 11 recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. Therefore, despite objections raised that the pavement should not be used for outdoor eating, these policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity and environmental quality occurs. These issues are set out in further detail below.

The policy also sets out that tables and chairs should not unacceptably intensify an existing use. Allowing tables and chairs to be placed in front of the hotel would clearly enable the applicant to have a greater number of restaurant customers and this is therefore a relevant consideration in this application. However, the restaurant has a maximum capacity of 250 and so the addition of 20 chairs would not result in an intensification of this premises.

8.2 Townscape and Design

The application initially proposed 20 tables, 40 chairs and 9 freestanding heaters. This amount of street furniture would have introduced significant clutter to the setting of the listed building. The application has subsequently been amended to remove all the freestanding heaters, and with the reduced number of tables and chairs now proposed, the concerns initially received on the grounds of adverse clutter, are considered to be overcome, and the proposal is consequently considered acceptable in design and heritage terms.

8.3 Residential Amenity

Policies S29 and S32 of the City Plan and ENV 6 and TACE 11 of the UDP seek to protect the amenities of the occupiers of neighbouring properties.

S29 of the City Plan states that "The Council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment". S32 states that "The Council will work to reduce noise pollution and its impacts and protect Noise Sensitive Receptors from noise by requiring development to minimise and contain noise and vibration."

ENV 6 of the UDP states that "The City Council will not permit development that will cause noise disturbance in tranquil areas". TACE 11 of the UDP states that planning permission will only be granted for tables and chairs where they do not cause nuisance to residents. Paragraph 8.110 states inter alia that the "City Council will not normally permit tables and chairs outside premises that have upper floors in residential use." It also goes on to say "that 'tables and chairs will not normally be permitted outside premises beyond 11pm, even if the premises are licensed to operate beyond this time."

Strong objections have been received from neighbouring residents, and the Marylebone Association, primarily on the grounds the proposal would harm residential amenity in terms of noise disturbance. Objectors refer to the fact that the existing hotel generates noise which is audible within neighbouring residential premises, that the hotel is an unreliable neighbour creating noise late at night, that the hotel already has an outdoor seating area and that the creation of an additional outdoor seating area, even with the reduced number of tables and chairs now proposed, will exacerbate the noise and disturbance along the street adversely impacting on residential amenity.

The presence of tables and chairs directly beneath residential premises can cause problems in terms of noise nuisance and late-night disturbance, and it is acknowledged that the proposed tables and chairs will result in an increase in noise and activity. In this instance, the nearest residential properties are the residential flats adjacent to the application site (flats 1-15 (odd) Wendover Court) and those also directly opposite.

The applicant originally applied to place 20 tables and 40 chairs on the public highway from 08:00 to 23:00. The application has now been amended to reduce the number of tables and chairs (to 10 tables and 20 chairs) and to reduce the hours of operation to 09:00 and 20:00. These hours are similar to the hours allowed for tables and chairs in nearby premises including:

- Monocle Cafe (on the opposite side of Chiltern Street) has a restriction that the two tables and five stools can only be used between 07:00 and 20:00;
- AOK Kitchen (on Dorset Street) has a restriction that the 18-seat terrace can only be used between 08.00 am and 21.00;
- Il Baretto on Blandford Street is subject to a condition requiring the 16 chairs to be used only between 11:00 and 21:00;
- the Larrik pub (on the corner of Crawford Place and Crawford Street) has a restriction that the 12 benches to only be used between 11.00 and 21.00; and
- Aubaine restaurant on Moxon Street is subject to a condition requiring the 10 chairs only to be used between 08:00 and 21:00.

Restricting the hours of operation to 20:00 will also help prevent noise being generated at unsociable hours (which is the source of a number of the complaints raised) and minimise disruption and to neighbouring residential occupiers. These hours are also similar to the existing area of outdoor seating within the courtyard area. Objectors refer to the fact that additional seating on the pavement is unnecessary given that the Firehouse already operates with this area of outdoor seating. However, it would not be possible to refuse permission solely on this basis. It is however recommended that a temporary one-year permission be granted so that the situation can be reviewed.

The applicant has updated their submitted management requiring the following measures to be undertaken:

- All tables and chairs will be removed at 20:00 each night
- The external seating area will have a trained member of the management team overseeing the section from 09:00 until 20:00
- The SIA door team, in addition to our bellmen, will ensure that guests leave the external seating area quietly and disperse promptly to avoid impact on surrounding local residents

- No regulated entertainment will take place within the external seating area at any time
- Staff are trained to be mindful of all antisocial behaviour on the street, including all instances unrelated to the Chiltern Firehouse, and to prevent all and any disturbance where possible

Should the application be permitted the applicant will be required to adhere to it. This would ensure the effective management of the area and for the hotel to comply with its provisions, thereby reducing noise disturbance from patrons.

For the reasons stated above, and subject to the proposed conditions, officers consider the proposal is in accordance with policies S29 and S32 of the City Plan and ENV 6 and TACE 11 of the UDP.

8.4 Transportation/Parking

As a result of recent public realm improvements, the footway adjacent to the hotel has been widened. The cabinet member report refers to the aim of the footway widening scheme to 'improve pedestrian movements, rationalise loading requirements and to enable space for cycle parking'. The Council's public realm strategy "The Westminster Way" states that 'where footways and pedestrian areas have been given more room for people, there is a presumption against allowing new obstructions that take the footway back to or near to its former width'.

In this case, the area where the tables and chairs are to be located, prior to the public realms works undertaken, formed the vehicular entrance to the former fire station, and therefore there would be no net loss of former footway as a result of the proposals.

Objectors have referred to the fact that the area is heavily congested and heavily parked and that the pavement is sometimes use for vehicle parking in association with the hotel. Objections have also been received on the grounds that the proposals would generate additional vehicular traffic to an area which already is already subject to heavy traffic flows. However, it is not considered that the provision of external seating for a maximum of 20 customers is likely to result in a significant increase in traffic generation which would affect the safe operation of the highway network.

Policies TRANS 3 and TACE 11 of the UDP, Policy S41 of the City Plan and The Westminster Way relate to tables chairs and other objects placed on the footway.

In the revised form, with reduced table and chair numbers, the Highway Planning Manager raises no objection to the proposal. The pavement width in this location is approximately 6.85m wide from the building frontage to the kerb edge. The area proposed for placing tables and chairs is 2.7m wide, leaving a pavement width of 4.15m as a pedestrian clearway, with a central 2m clearway. The proposal meets the recommended minimum width (2 metre) of pavement for safe pedestrian access as set out in the Council's supplementary planning document 'Westminster Way'. The area for tables and chairs also sits between the "shadow" of existing railings which already alters pedestrian's desire lines and therefore the addition of tables and chairs in this location is unlikely to further reduce pedestrian movement.

The revised proposal shows a central gap of 1.2m between the tables and chairs which

satisfies the Highways Planning Guide which recommends a 0.9m gap for service and access to tables and chairs. The applicant has also provided a drawing which shows that the tables and chairs will be stored in the hotel overnight.

An objection has also been raised on the grounds that if the application is approved, the Firehouse is likely are likely to use the area of pavement to fit in more people and/or larger tables than show on the submitted drawings. A condition is proposed requiring the location of the tables and chairs to that shown on the submitted drawing.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

Access to the hotel will remain as permitted.

8.7 Other UDP/Westminster Policy Considerations

None.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

Not applicable to this site.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application.

8.13 Environmental Impact Assessment

Not applicable.

8.14 Other Issues

Concerns have been expressed that the proposal will result in additional litter, pollution and increase the opportunity for crime. A condition requiring the tables and chairs to be maintained in a clean and tidy condition at all times has been added to mitigate this impact. With regard to concerns relating to pollution, smoking is not within the control of planning as the area proposed for seating is public highway meaning that anyone can legitimately currently smoke outside the premises. It is recognised however that the presence of tables and chairs increases the chances that someone might smoke in this location whilst having a meal. The best way to control the smoking nuisance is through the management of the tables and chairs and the revised Management Plan document makes it clear that smoking will be directed to designated seats. This would be a matter of management of the premises and licensing. With regard to the issue of increased opportunities for crime, it is also considered that the Management Plan sets effectively how the tables and chairs should be managed. However, it does not include the provision of hooks under the tables to allow customers to safely store bags. An informative is recommended to require these to be provided.

Objections have also been raised relating to the potential use of the seating area for shisha. However, shisha smoking would fall outside the lawful hotel use and would require planning permission.

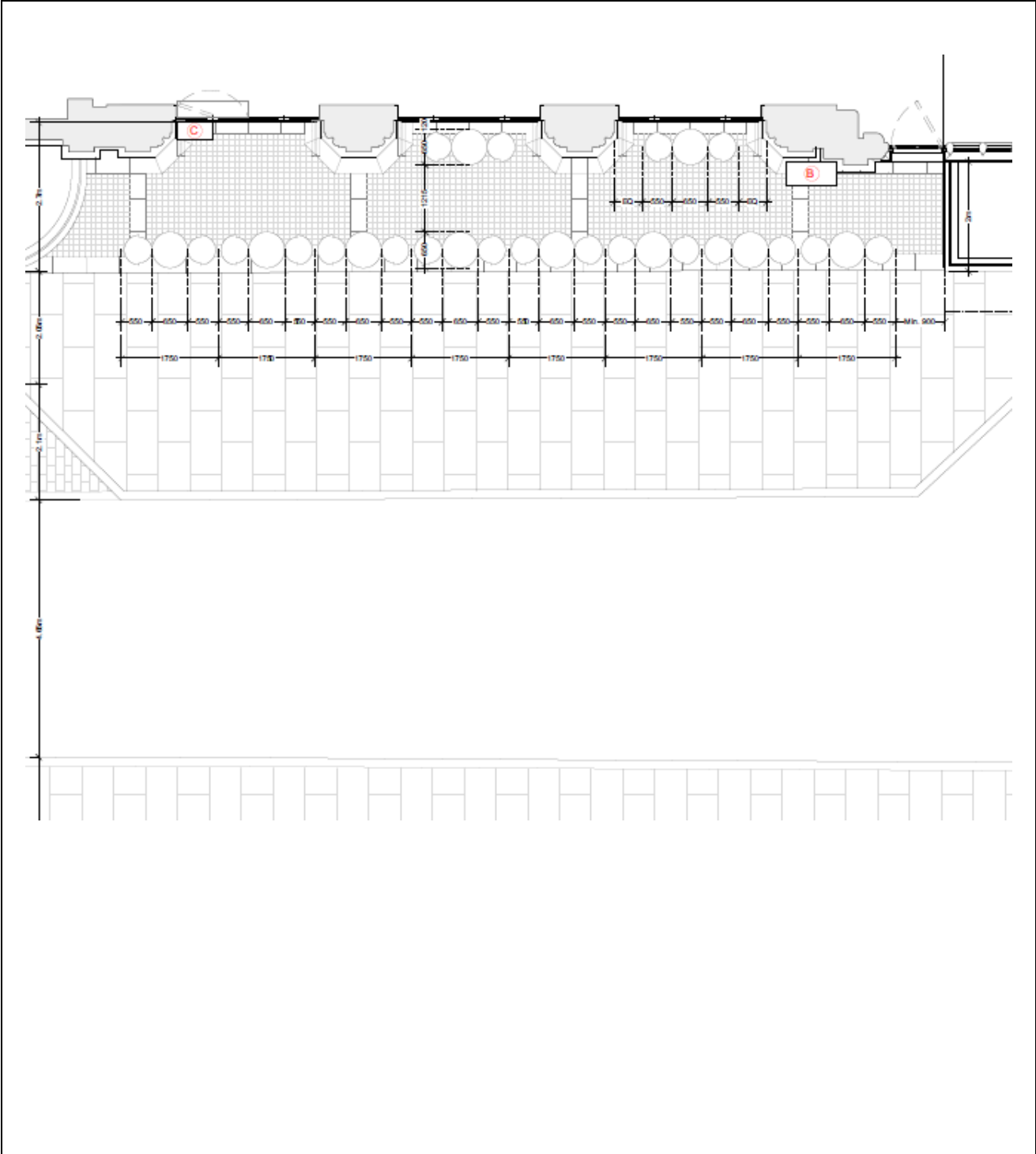
A number of concerns have been made on the basis that the letters of support come nearly entirely from people not affected by the Firehouse's activities. Whilst it is recognised that a number of letters of support are not from immediate or local residents, legislation requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise, and not simply because many people support the application.

Concerns raised regarding late night disturbance, breaches of the OMP and use of the main entrance gates onto Chiltern Street after 11.30 (and 10.30 on Sundays), have been passed to the Noise Team and the Planning Enforcement team for further investigation.

(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: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

9. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 1 Chiltern Street, London, W1U 7PA

Proposal: Use of the public highway measuring 14m x 2.5m for the placing of 10 tables and 20 chairs

Reference: 20/00219/TCH

Plan Nos: AHA/CFH/GA/102 Rev J

Case Officer: Jo Palmer

Direct Tel. No. 07866040238

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing AHA/CFH/GA/102 Rev J. (C25AA)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 09:00 and 20:00 (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by customers of 1 Chiltern Street. (C25CA)

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 TACE 11 of our Unitary Development Plan

that we adopted in January 2007. (R25AC)

- 5 This use of the pavement may continue until 30 April 2021. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing AHA/CFH/GA/102 Rev J. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 7 The tables and chairs hereby approved must only be operated in accordance with the measures included in your Operational Strategy received on 2 March 2020.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 11 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

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, neighbourhood plan (where relevant), 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 cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: www.westminster.gov.uk/tables-and-chairs-licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to streettradinglicensing@westminster.gov.uk. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 You are advised to provide hooks under the tables to allow secure storage of customer belongings.

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 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 April 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Warwick	
Subject of Report	58 - 60 Lupus Street, London, SW1V 3EE,		
Proposal	<u>Application 1:</u> Installation of replacement shopfront in association with the amalgamation of two existing retail units (Class A1). <u>Application 2:</u> Display of two externally illuminated fascia signs measuring 4.74m x 0.60m and 4.73m x 0.60m.		
Agent	Truekiffin & Co		
On behalf of	Mr Jose Cruz		
Registered Number	<u>Application 1:</u> 19/07962/FULL <u>Application 2:</u> 19/07963/ADV	Date amended/ completed	21 November 2019
Date Application Received	14 October 2019		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

<u>Application 1:</u> Grant conditional planning permission <u>Application 2:</u> Grant conditional advertisement consent
--

2. SUMMARY

The site consists of two Class A1 retail units at 58–60 Lupus Street over ground and basement levels which are part of an unlisted building of merit located within the Pimlico Conservation Area, Pimlico Central Activities Zone and Lupus Street Local Centre.

Application 1 is for the installation of replacement shopfront in association with the amalgamation of two existing retail units (Class A1) for use as a delicatessen.

Application 2 seeks advertisement consent for the display of two externally illuminated fascia signs.

An application for external tables and chairs for this shop unit is considered as Item 4 on this agenda.

There is an open enforcement investigation into works at the property that are alleged to have taken place without planning permission.

The key issues for consideration are:

*The impact on the appearance of the building and upon the character and appearance of the Pimlico Conservation Area.

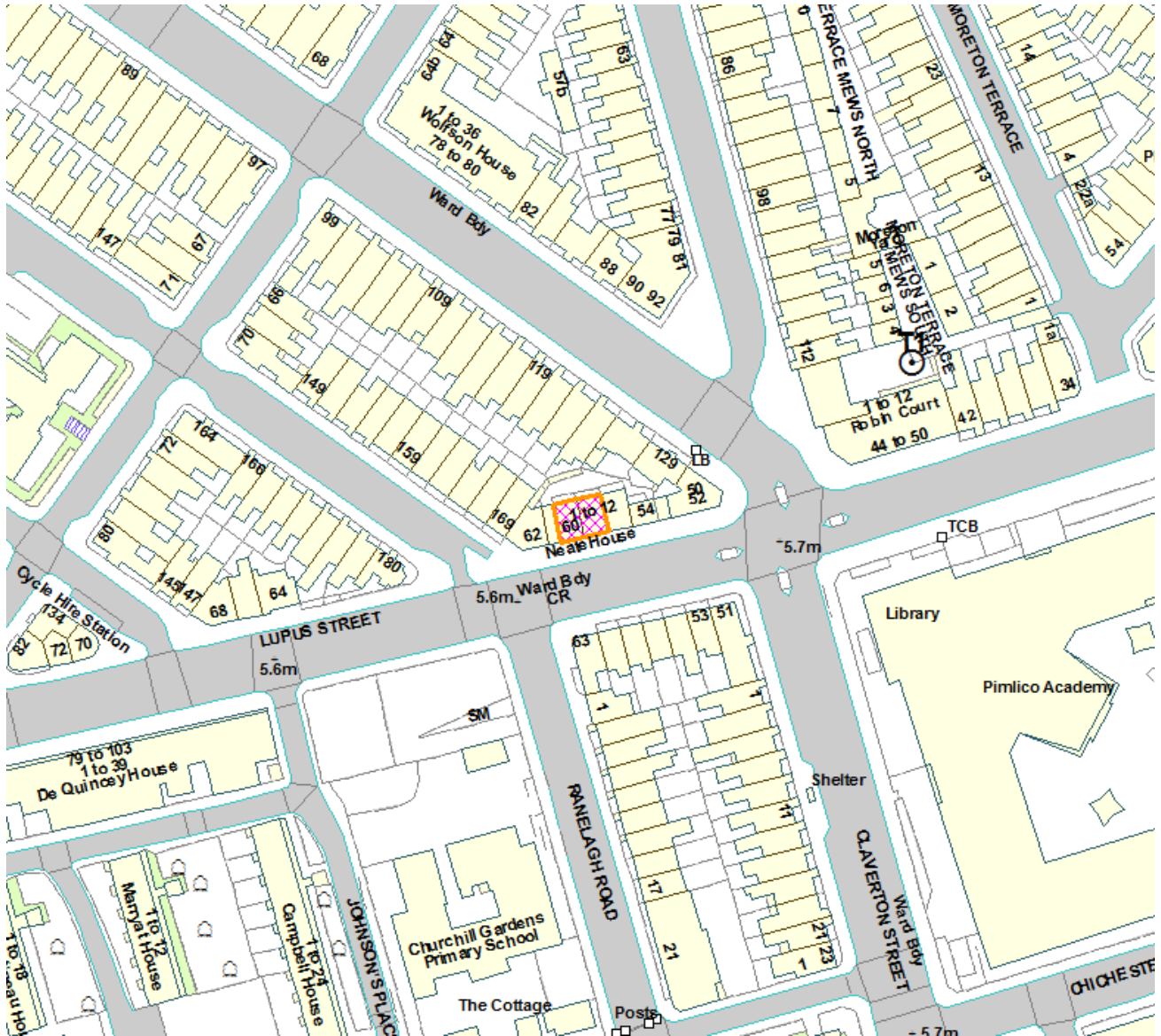
*The impact of the proposed advertisement on amenity and highway safety.

Both applications have been assessed against the relevant policies as set out in the Unitary Development Plan (January 2007) and Westminster's City Plan (November 2016).

Application 1 is considered to be acceptable in terms of design and conservation.

Application 2 is considered to be acceptable in terms of amenity and highway safety is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



58-60 Lupus Street (Front Elevation)

5. CONSULTATIONS

Application 1:

PROJECT OFFICER (WASTE)

The drawings submitted are not in line with the council recycling and waste storage requirements. The applicant will need to submit a revised drawing confirming the bin capacity for waste and recycling. It is recommended that this is secured by condition.

HIGHWAYS PLANNING MANAGER

No objections but recommend a condition to restrict a delivery service.

CLLR JACQUI WILKINSON

Supports application. Calls and e-mails have been received from local residents supporting the application. The applicant has operated his previous premises in a proper manner and has been willing to work with the planning department on improvements. The objections to the application are as much reactions to previous planning applications for this parade of businesses (e.g. Papa Johns Pizza and Café Borek) as they are to the current situation. Given the present tough economic climate for business and the "High Street", it is felt that we should do all that we can to support well-run local businesses. This view is shared by MP Cllr Nickie Aiken.

PIMLICO FREDA

Objection. The proposed wooden frames/installation of tiles to the bottom of the shop front and colour of the render, would disrupt the uniformity of the shop fronts and be detrimental to the appearance of the unlisted building of merit and Pimlico Conservation Area. Proposed awnings are unsuitable. Although there is no mention within the planning proposal of deliveries (Deliveroo/Uber/Van etc), the applicants offer a delivery service via their website. If permission is granted, a condition/informative should be imposed to prevent deliveries as this would be detrimental to residential amenity. This location is not suitable for an "on premises" alcohol licence. No objection to the amalgamation of two "A1" use retail units

No. Consulted: 16

Total No. of replies: 7

No. of objections: 6

No. in support: 1

PRESS ADVERTISEMENT / SITE NOTICE:

YES

6 letters of objection were received on the following grounds:

Land Use

-No detail is given as to the number of tables within the unit, no A3 use should be permitted.

-No hours of operation are provided.

Design

-Installation of new shopfront and canopies would destroy the character of the residential

block and conservation area.

-There is a lack of information about the proposed materials on the drawings.

Other

- Concern that the work has started without permission
- No Design and Access Statement has been provided, so the application lacks detail.
- Clarification should be provided about whether a delivery service will operate.
- The basement storage area is very large and no indication is given about the future use of this area.
- There is no provision for the storage and collection of waste and no information is provided about the disposal of sewage.
- The applicant has not served notice to all to all those with a leasehold interest in the building of more than 7 years.
- The outdoor seating area will block the highway, cause noise nuisance and smoke nuisance to residents.
- The illuminated signage will cause light pollution.
- Concern raised about noise levels during the construction phase

1 letter of support to the proposed delicatessen.

RECONSULTATION DATED 18 FEBRUARY 2020

The drawings were amended to remove the awnings and provide a metal shopfront in white.

No. Consulted: 16

Total No. of replies: 5

No. of objections: 4

No. in support: 1

Land Use

- Concern that the character of the unit will be similar to A3 use
- The hours of opening on applicant's website are different from those proposed and are considered to be too long

Other

- Externally lit signage and outside seating are unsuitable for this mainly residential area.
- Design and Access Statement has still not been provided.
- Clarification needed about whether a delivery service will be offered
- No information provided about waste management

1 letter of support was received on the following grounds:

Land Use

-The proposed delicatessen would be a great benefit to the area.

Application 2:

PIMLICO FREDA

29/12/2019

Objection. None of the other shops in the parade have external lighting and the

introduction of lighting will cause a nuisance to the residential units immediately above the shop.ion. The plain fronted fascia above the proposed double A1 shop unit is acceptable. The timber frame, external lighting and canopies are all unacceptable in design terms and also harmful to residential amenity. No consultation notices have been circulated for this development.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted:0

Total No. of replies: 6

Objections were received on some or all of the following grounds:

Amenity:

- Illuminated signage would create light pollution for residents
- Hours of illumination are not specified

Design:

- Illuminated signage would be out of keeping with the other shops in the parade, which do not feature this type of signage.
- Canopies would be out of keeping with the surrounding area.

Other:

- Work has already commenced on site without the benefit of consent/permission and residents were not consulted by the applicant.

RECONSULTATION DATED 18 FEBRUARY 2020

The drawings were amended, including further details about the method of illumination.

No. Consulted:7

Total No. of replies: 7 objections

- The updated drawings do not address the concerns of residents and objections are maintained on the same grounds.

PRESS ADVERTISEMENT / SITE NOTICE:

No

6. BACKGROUND INFORMATION

6.1 The Application Site

The site consists of two existing Class A1 retail units at 58–60 Lupus Street over ground and basement levels which form part of an unlisted building of merit located within the Pimlico Conservation Area, Pimlico Central Activities Zone (CAZ) and Lupus Street Local Centre. The units were last occupied by “Carpet Express” and the upper floors of the building are used as residential flats (Neate House).

6.2 Recent Relevant History

60 Lupus Street:

In June 2009, permission was refused for use of lower ground and ground floor unit as a hot food take away (Class A5) and installation of rear flue from ground to roof level. The application was refused on the grounds that it would lead to the loss of a retail unit in the local centre, would have an unacceptable impact on the amenities of nearby residents and the proposed flue would harm the appearance of the building and Pimlico Conservation Area.

7. THE PROPOSAL

Application 1 seeks permission for the installation of a metal replacement shopfront painted white. The works are associated with the amalgamation of the two existing Class A1 retail units for use as a delicatessen.

Application 2 seeks advertisement consent for the display of two externally illuminated fascia signs measuring 4.74m x 0.60m and 4.73m x 0.60m.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The application proposes to use the two existing Class A1 units as a single unit for continued A1 shop purposes. This will involve internal works to amalgamate the shop units. These works do not require permission from the local planning authority.

An Operational Statement has been submitted for information purposes. This document states that the business will be a delicatessen and grocery store offering Portuguese products such as cooked meats, cheese, salads and general grocery items including wine and confectionery. Hot coffee and toasted sandwiches will also be sold. A large storage area will be provided at basement level. There will be no indoor seating, however outdoor tables and chairs are proposed under a separate application considered as Item 4 on this agenda. No table service will be provided. The applicant estimates that that 10% of goods sold will be consumed on site.

The letters of representation received are supportive of the proposed delicatessen use. Although concerns have been raised by some residents that the unit could have restaurant (Class A3) characteristics, based on the information provided by the applicant the proposed use would appear to fall within Class A1. Permission is therefore not required for the continued use of the shop premises for Class A1 purposes.

The applicant states that the hours of operation will be 09:00 – 18:00 hours daily. Although some residents are concerned about potentially longer opening hours, given the A1 shop use proposed and that there will be no change of use, it would not be considered reasonable or necessary to restrict the hours of operation by condition.

An informative is recommended, reminding the applicant that any other activities taking place in the class A1 (shops and retail outlets) premises, such as small amounts of

takeaway sales or small seating areas, must be so minor that they do not alter the main use as a retail unit. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from Class A1 to a mix of uses) will have taken place, which may need a new planning permission.

8.2 Townscape and Design

As originally submitted the application proposed a traditional timber shopfront with patterned tiling more akin to what might be expected to be found on a Victorian building, making it wholly unsuitable for the more modern style of this attractive interwar property. The City Council's shopfront guidance is clear in that the appearance of shopfronts must respect the host building and that house branding styles must be adapted to fit the premises and surrounding area. The revised shopfront is to be white painted metal with white tiles to the fascia band. The originally proposed awnings, stall riser and patterned tiling has been designed out and a plain tripartite glazing arrangement more closely matching the other shopfronts in the building introduced.

The associated advertisement application seeks consent for externally illuminated lettering to the newly installed white tiled fascia panel. Objectors have raised concern that illuminated signage would be out of keeping with the other shops in the parade, which do not feature this type of signage. The external illumination is provided by slim downward facing LED light bars. Although the other facias on Neate House do not appear to be illuminated, external illumination is generally considered the most appropriate way to illuminate signage in conservation areas and the proposed replacement fascia signage with downward facing external lighting bars is not considered to be an unsuitable addition to the host building.

Overall the replacement shopfront and externally illuminated sign are considered acceptable in design (amenity) and heritage terms and will preserve the character and appearance of the Pimlico Conservation Area.

8.3 Residential Amenity

Residents who live above the proposed shop use have raised concerns that the externally illuminated signage will create light spillage which will be disturbing. These concerns are understood, however, the proposed signage would be illuminated by trough lighting, pointing down onto the signs, away from nearby residential windows. This is a common method of shop fascia illumination throughout the City. Accordingly, it is considered that the proposed signage would comply with policy S29 as it will not have an unacceptable impact on residential amenity.

8.4 Transportation/Parking

The Highways Planning Manager has recommended a condition to ensure that the unit does not operate a delivery service. However, given that no change of use is proposed, it would not be reasonable to attach such a condition.

Because of their size, position and method of illumination the proposed fascia signs are considered to be acceptable in terms of highways safety.

8.5 Economic Considerations

The existing premises are vacant. The proposal will bring the shop units back into economic use.

8.6 Access

Level access will be provided from Lupus Street.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

A condition is recommended to secure revised drawings confirming the bin capacity for waste and recycling.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

Not relevant.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application.

This development does not generate a Mayor CIL or WCC CIL payment.

8.13 Environmental Impact Assessment

The application is not of a sufficient scale to require an Environmental Impact Assessment.

8.14 Other Issues

Construction impact

Concern has been raised about noise levels during construction and that work has already commenced on site. Following complaints from residents, the Council has commenced an enforcement investigation into the construction works at the property (RN:19/72127/M).

It is a requirement of the Town and Country Planning Act 1990 (as amended) and the NPPF that applications are determined in accordance with the development plan. Noise and disturbance during construction is an unwelcome consequence of allowing new development. In a densely developed urban environment, it must be accepted that such disturbance will inevitably occur as a result of building works.

The City Council cannot refuse permission to develop on the grounds that building work will be noisy and disruptive. As a local planning authority, we will impose a restriction on the working hours through condition and encourage contractors to be a member of the Considerate Constructors Scheme by way of an informative. A condition has been added restricting any building work which can be heard at the boundary of the site to between 08.00 and 18.00 Monday to Friday, between 08.00 and 13.00 on Saturday and not at all on Sundays, bank holidays and public holidays. Piling, excavation and demolition work is restricted to between 08:00 and 18:00 Monday to Friday and will not be carried out on Saturdays, Sundays, bank holidays and public holidays.

Notice of Application and Notification of Advertisement Consent

Objectors have raised concern that the applicant has not served notice to all those with a leasehold interest in the building of more than 7 years. However, the applicant has certified that they have given the requisite notice to all owners (those with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land building to which the application relates.

Objectors have also raised concern that no consultation notices were circulated for the application for advertisement consent. However, neighbour consultation is not required for this type of application.

(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

9. KEY DRAWINGS

Existing Drawings

The drawings show a three-story brick building with two ground-floor units. The front elevation shows two units, each with a double door and large windows. The second and third floors have multiple windows. Section A-A shows a vertical cross-section of the building, including the roof, floors, and foundation, with a 'PAVEMENT' label at the base. The ground floor plan shows the layout of the two units, with a dashed line 'A-A' indicating the location of the section. Red dashed lines and circles mark the boundaries and corners of the building.

FRONT ELEVATION
EXISTING

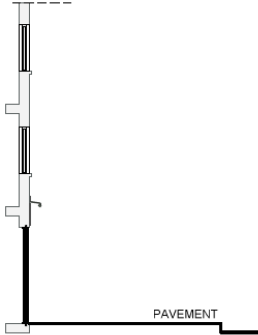
SECTION A- A
EXISTING

GROUND FLOOR PLAN
EXISTING

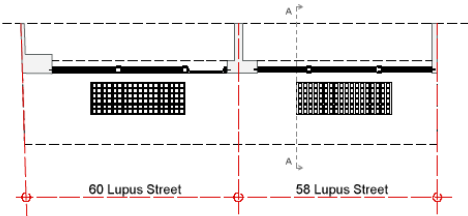
Proposed Drawings



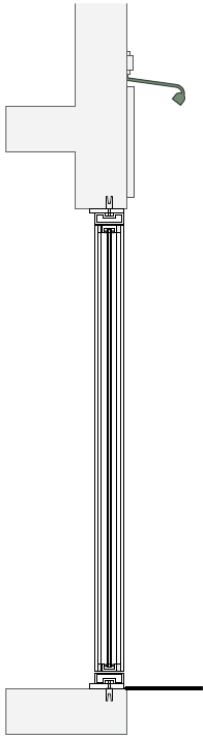
FRONT ELEVATION PROPOSED



SECTION A-A PROPOSED



GROUND FLOOR PLAN PROPOSED



SECTION A-A PROPOSED 1:20

DRAFT DECISION LETTER

Address: 58 - 60 Lupus Street, London, SW1V 3EE,
Proposal: Installation of replacement shopfront in association with the amalgamation of two existing retail units (Class A1).
Reference: 19/07962/FULL
Plan Nos: P'S'01 Rev. A; S'01 Rev. A; P'x'01 Rev. A; P'01 Rev. A; E'01 Rev. A.
For Information: Operational Statement dated 28 November 2019

Case Officer: Ian Corrie **Direct Tel. No.** 020 7641
07866038370

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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

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- 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Pimlico 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 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)

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, neighbourhood plan (where relevant), 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 HIGHWAYS LICENSING:, 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 visit our website at www.westminster.gov.uk/guide-temporary-structures.

CONSIDERATE CONSTRUCTORS:, 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 or visit www.ccscheme.org.uk.

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BUILDING REGULATIONS: You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

- 3 You must make sure that any other activities taking place in the class A1 (shops and retail outlets) premises, such as small amounts of takeaway sales or small seating areas, are so minor that they do not alter the main use as a retail unit. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A1 to a mix of uses) will have taken place, which will need a new planning permission.

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DRAFT DECISION LETTER

Address: 58 - 60 Lupus Street, London, SW1V 3EE,

Proposal: Display of 2 externally illuminated fascia signs measuring 4.74m x 0.60m and 4.73m x 0.60m.

Reference: 19/07963/ADV

Plan Nos: P'S'01 Rev. A; P'x'01 Rev. A; P'01 Rev.A.

Case Officer: Ian Corrie

Direct Tel. No. 020 7641
07866038370

Recommended Condition(s) and Reason(s)

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Agenda Item 4

Item No.
4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 April 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Warwick	
Subject of Report	58 - 60 Lupus Street, London, SW1V 3EE,		
Proposal	Use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit.		
Agent	Truekiffin & Co		
On behalf of	Mr Jose Cruz		
Registered Number	19/08973/TCH	Date amended/ completed	25 November 2019
Date Application Received	19 November 2019		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

Grant conditional permission for a temporary year.
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2. SUMMARY

<p>The site consists of two A1 retail units at 58 – 60 Lupus Street over ground and basement levels, which are unlisted and located within the Pimlico Conservation Area, Pimlico Central Activities Zone (CAZ) and Lupus Street Local Centre.</p> <p>Permission is sought for use of an area of the public highway measuring 11.2m x 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit. This has been reduced from five tables and fifteen chairs, as originally submitted. The hours sought are between 09:00 hours and 18:00 hours daily.</p> <p>The applicant has also submitted applications for shopfront alterations and new signage which are considered under Item 3.</p> <p>Letters of objection have been received to the proposal from neighbouring residents some of whom live above the application property. They are concerned that the proposed tables and chairs would give the shop unit the characteristics of a restaurant (Class A3) and result in “A3 creep”. The area for tables and chairs will form part of a larger A1 retail unit which measures 195 sqm. The applicant’s Operational Statement for the unit states that there will be no table service provided and no internal tables and chairs are shown on the drawings. It is considered that the amount of external tables and</p>
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chairs proposed would be ancillary to the lawful A1 use of the unit.

Unitary Development Plan Policy TRANS 3 seeks to improve conditions for pedestrians and make walking a safer, quicker, more direct and more attractive form of travel. In 2011 the City Council adopted Westminster Way within this document is the Westminster Code which seeks to achieve the minimisation of street furniture and the obstruction it may cause and should be used in the selection, design and placement of street furniture within the public realm. It states that items of furniture such as tables and chairs on the pavement area should provide a minimum 2m clearance from the demised area from the furniture to the kerb edge and between any other obstructions on the footway.

The area of pavement proposed for tables and chairs is approx. 4.9m, from the building frontage to the kerb edge. The area proposed for tables and chairs is 1.9m from the building frontage, leaving a clearway of approx. 3m. There is a street tree in front of 60 Lupus Street which creates a pinch point, however the clearway is considered to be acceptable.

The Highways Planning Manager and Projects Officer (waste) both objected to the original proposal for five tables and fifteen chairs (within the same area of public highway), as the proposal did not provide a sufficient buffer area for service/access and any overspill could narrow the clearway causing obstruction to pedestrians and street cleansing.

It is considered that the revised proposals provide a sufficient buffer and a condition is recommended to ensure that the tables, chairs and barriers will only be positioned in accordance with the approved drawings. The applicant has provided a drawing which shows that the tables, chairs and barriers will be stored in the shop unit overnight. This is welcomed and will reduce the impact of the proposals on pedestrian obstruction. Objectors state that the barriers could be urinated on by dogs and storing them within the unit would not be hygienic, however this is not a material planning consideration. It would not be in the applicants interest to permit littering in and around the demised area, any reports of littering would be dealt with by Westminster's City Inspectors.

Objectors also state that the installation of outdoor seating below residential windows will provide unacceptable noise, smoke, overlooking and outdoor pollution in a residential area.

Policies S29 of the City Plan and ENV13 of the UDP seek to protect the amenity of existing residents from the effects of new development.

The application site is located within the Lupus Street Local Shopping Centre on a main road with high levels of pedestrian and vehicular activity. Noise is likely to arise from customers using tables and chairs plus staff setting up and clearing away the tables/chairs/barriers daily. However, given the number of tables and chairs proposed and the proposed hours of operation, it is considered that the proposals would not lead to unacceptable noise and disturbance to residents. With regards to smoking, this is not something that is within the control of planning. A condition is recommended to ensure that the tables, chairs and barriers are only placed on the highway during the hours permitted.

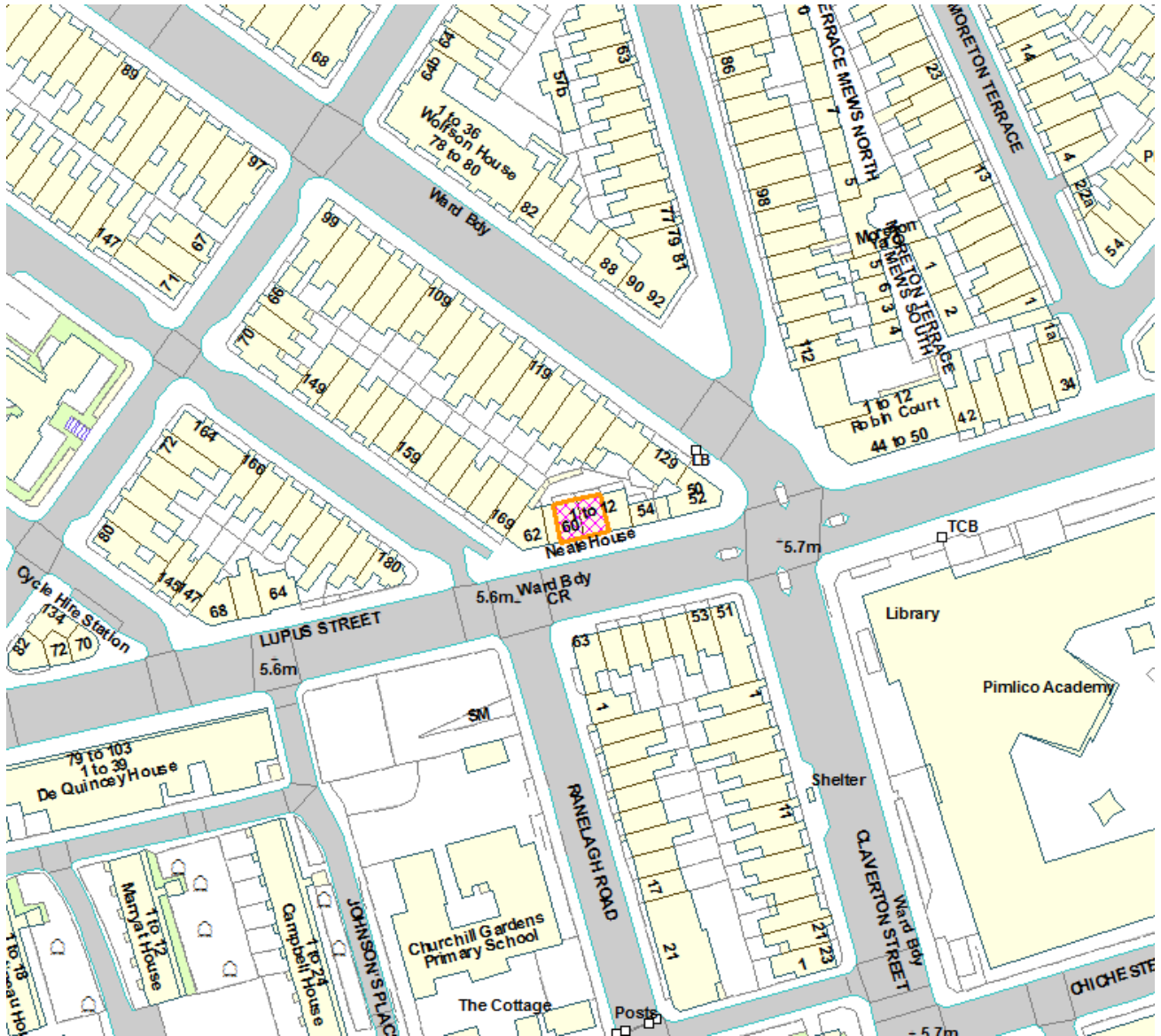
The area for tables and chairs would be approximately 19.7m from the residential properties which directly face the application site on the opposite side of Lupus Street. Given this distance, it is not considered that there would be an unacceptable degree of overlooking.

Objectors also state that the proposals would detract from the uniformity of building and surrounding conservation area. Originally planters were proposed, but fabric barriers are considered a more suitable approach. Subject to these being brought inside with the tables and chairs when the

premises closes each evening, the proposal is not considered to have a sufficiently injurious impact on the appearance of the host building or detrimental impact on the appreciation of this part of the Pimlico Conservation Area to merit a refusal of planning permission on these grounds.

As set out above the proposed tables and chairs are considered to comply with the relevant policies. It is recommended that permission is only granted on a temporary basis of one year so that the impact of the tables and chairs on residents and compliance with the recommended conditions can be monitored.

3. LOCATION PLAN



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4. PHOTOGRAPHS



58-60 Lupus Street (Front Elevation)

5. CONSULTATIONS

CLLR JACQUI WILKINSON

Supports application. Calls and e-mails have been received from local residents supporting the application. The applicant has operated his previous premises in a proper manner and has been willing to work with the planning department on improvements. The objections to the application are as much reactions to previous planning applications for this parade of businesses (e.g. Papa John's Pizza and Café Borek) as they are to the current situation. Given the present tough economic climate for business and the "High Street", it is felt that we should do all that we can to support well-run local businesses. This view is shared by MP Cllr Nickie Aiken.

PIMLICO FREDA

29/12/2019

Objection. This is essentially an A3 use outside an authorised A1 shop. It is noted that within the applicant's current shop on Warwick Way, there is a sign advertising that the new premises will have "big seating outdoor space" and "Internal seating area". Tables and chairs outside on the highway are detrimental to residential amenity due to noise, nuisance and privacy. The tables, chairs and planters will detract and conflict with the appearance and setting of the building. It is unlikely that the planters will be kept inside overnight.

03/01/2020

A full detailed objection has been submitted to WCC via e-mail and post however it has yet to appear on the website. Objection on the grounds of harm to residential amenity, design, health and safety and use of public land outside retail A1 shop. A new convenience shop is welcomed but without pavement seating, lighting and canopies.

PROJECTS OFFICER (WASTE)

No objection to revised scheme.

HIGHWAYS PLANNING MANAGER

No objection to the revised drawing and layout. Standard conditions recommended.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 40

Total No. of replies: 10

No. of objections: 9

No. in support: 1

9 letters of objection have been received on the following grounds:

Land Use

-Lupus Street is a residential area, so the proposed tables and chairs would not be appropriate.

-The proposed tables and chairs would give the unit the characteristics of an A3 unit and result in "A3 creep".

Amenity

- The proposals will cause nuisance to the residents above from smoking and the noise of people talking. This would particularly be a problem in the summer when residents will have their windows open, evenings and the weekend.
- If allowed the proposed tables and chairs might expand beyond the numbers proposed.
- Not clear what the proposed hours are and whether they would extend into the evening.
- The residential occupiers opposite the application site will lose privacy as patrons will be able to look into their living space on the ground floor.
- The dragging of metal chairs onto the highway each morning, will cause noise disturbance to residents.
- The proposals could result in crumbs and cigarette butts littering the pavement.

Design

- The introduction of the tables and chairs would detract from the uniformity of the building and surrounding conservation area.
- The proposed planters are intrusive.
- The mosaic tabletops are out of keeping with the area.

Highways

- The proposals would compromise pedestrian access to the pathway.

Other

- The proposed planters will encourage dog urination which has health implications, if they are stored inside the unit at night.
- The mosaic tabletops would be unhygienic
- The illuminated signage would cause nuisance to residents.
- Residents were not consulted prior to building work taking place.

1 letter of support was received on the following grounds:

Land Use

- The business will be a benefit to the surrounding area. The tables and chairs will help it be successful in this location and stay as an occupier.
- The proposals will increase footfall and vibrancy on Lupus Street.

Highways

- The tables and chairs would have little or no impact upon pedestrians as it is an extremely wide pavement in this location.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

NEIGHBOURS RE-NOTIFIED ON 18 FEBRUARY 2020

Drawings amended to reduce the number of tables and chairs proposed (from 5 tables and 15 chairs to 4 tables and 8 chairs) and replacing the proposed planters with fabric barriers.

No. Consulted: 52

Total No. of replies: 8

No. of objections: 7

No. in support: 1

8 letters of objection have been received on the following grounds:

Land Use

- The proposals will give the unit an A3 character as the applicant wants to operate as an A3 café as they do in other branches.
- The area is residential on nature and the proposals would be out of keeping.

Amenity

- The installation of outdoor seating below residents main windows will provide unacceptable noise, smoke and outdoor pollution. There are a number of retired residents in the surrounding flats who will be impacted both during the day and at weekends.
- The proposed hours of operation (09:00 – 18:00) do not correlate with those of the applicant's website (08:00 – 19:00 Mon to Sat and 09:00 – 14:00 on Sun) and are considered to be too long

Highways

- The proposals would cause pedestrian obstruction

Design

- The proposals would be unsightly.

Other

- The demountable fabric barriers will encourage dog urination which has health implications, if they are stored inside the unit at night.

1 letter of support was received on the following grounds:

Land Use

- The business will be beneficial for the area and attract footfall.

5.1 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

5.2 London Plan

This application raises no strategic issues.

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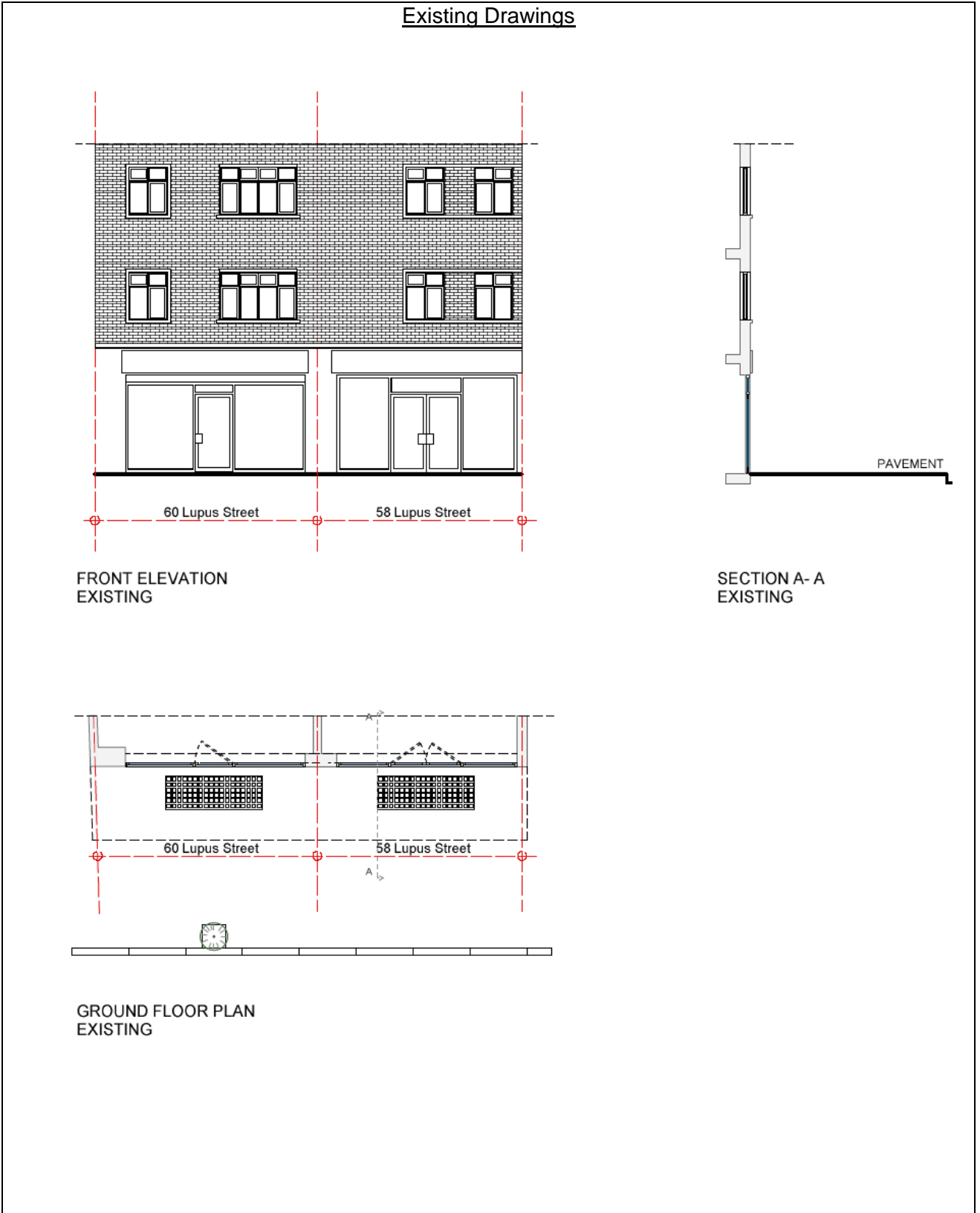
5.3 National Policy/Guidance Considerations

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.

(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

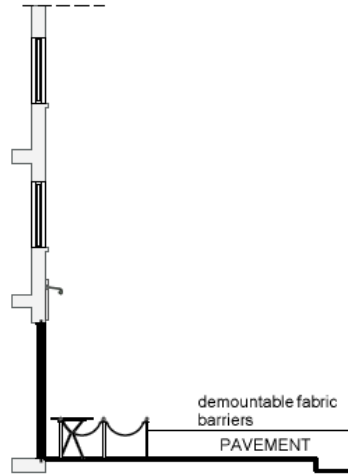
6. KEY DRAWINGS



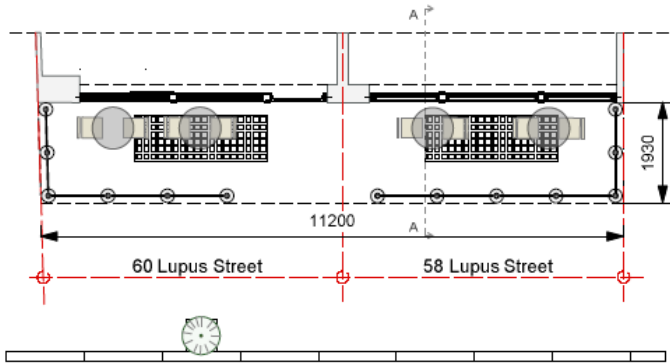
Proposed Drawings



FRONT ELEVATION
PROPOSED



SECTION A- A
PROPOSED



GROUND FLOOR PLAN
PROPOSED

DRAFT DECISION LETTER

Address: 58 - 60 Lupus Street, London, SW1V 3EE,

Proposal: Use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit (Description Amended)

Reference: 19/08973/TCH

Plan Nos: P'S'01 Rev. A; P'01 Rev. A.; P'03 Rev. A; Tables and Chairs Specification

Case Officer: Ian Corrie **Direct Tel. No.** 020 7641
07866038370

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing P'01 Rev. A. (C25AA)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 09:00 and 18:00. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by customers of the A1 retail unit at 58 - 60 Lupus Street. (C25CA)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 5 This use of the pavement may continue until 28 April 2021. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing P'01 Rev. A. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in th

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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, neighbourhood plan (where relevant), 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 cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: www.westminster.gov.uk/tables-and-chairs-licence. , If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to streettradinglicensing@westminster.gov.uk. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter. , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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.