



City of Westminster

Committee Agenda

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

Meeting Date: **Tuesday 10th May, 2022**

Time: **6.30 pm**

Venue: **Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London,**

Members: **Councillors: TBC**



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

Committee members will attend the meeting in person at Westminster City Hall. The Committee will be a hybrid Meeting and will be live broadcast via Microsoft Teams. Admission to the public gallery is by a pass, issued from the ground floor reception from 6.00pm.

If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.

If you require any further information, please contact the Committee Officer, Georgina Wills, Committee and Governance Officer. Tel: 07870 548348; email: gwills@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 Head of Committee and Governance Services in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. ELECTION OF CHAIR

To elect a Chair of the Temporary Planning Sub-Committee.

2. DECLARATIONS OF INTEREST

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

3. PLANNING APPLICATIONS

Applications for Decision

Schedule of Applications

Members of the public are welcome to speak on the specific applications at the virtual planning committee meeting.

To register to speak and for guidance please visit:

<https://www.westminster.gov.uk/planning-committee>

Please note that you must register by 12 Noon on the Friday before the Committee meeting

In the event that you are successful in obtaining a speaking slot at the hybrid meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

<https://www.westminster.gov.uk/stream-council-meetings>

To access the recording after the meeting please revisit the Media link

Schedule of Applications

- | | | |
|-----------|--|-----------------------------|
| 4. | GROSVENOR SQUARE GARDENS GROSVENOR SQUARE
LONDON W1K 6LD | (Pages 7 - 74) |
| 5. | WEST ONE SHOPPING CENTRE 381 OXFORD STREET
LONDON W1C 2JS | (Pages 75 -
130) |

**Stuart Love
Chief Executive
29 April 2022**

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Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 10th May 2022
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	<p>RN(s): <u>Application 1</u> 21/08289/FULL</p> <p><u>Application 2</u> 21/08290/LBC</p> <p>West End</p>	<p>Grosvenor Square Gardens Grosvenor Square London W1K 6LD</p>	<p><u>Application 1</u> Alterations to Grosvenor Square Gardens, including redesign of the gardens, comprising of hard and soft landscaping improvements, works to trees (including tree removal and new planting), with new and realigned paths, paving and rills, new perimeter railings, new western entrance, new lighting and planting, the introduction of a shaded garden and wetlands, installation of plinths for the display of sculptures/artworks, informal play areas, the construction of buildings (gardeners hut, public WCs and educational building with catering facilities (sui generis)), external gardeners store, photovoltaic panels, structures, and associated works.</p> <p><u>Application 2</u> Works to Franklin Delano Roosevelt Memorial (FDR): three openings to North walls to allow for levelled access and addition of a disabled access ramp to the statue plinth, removal of stone paved path and low-level forecourt and replacement with raised stone-edged path and associated works.</p>	<p>Grosvenor Investments Ltd</p>
<p>Recommendation</p> <p><u>Application 1</u></p> <p>1. Subject to referral to the Secretary of State for Levelling Up, Housing and Communities concerning the removal of the commemorative gates at the south entrance, grant conditional permission.</p> <p><u>Application 2</u></p> <p>1. Grant conditional listed building consent. 2. Agree the reason for granting listed building consent as set out in Informative 1 of the draft decision letter.</p>				
Item No	References	Site Address	Proposal	Applicant
2.	<p>RN(s): 21/06879/FULL</p> <p>West End</p>	<p>West One Shopping Centre 381 Oxford Street London W1C 2JS</p>	<p>Part demolition and alterations to existing building comprising demolition of second to fifth floor level, part demolition of ground and first floor at south eastern corner, removal of existing facades at ground and first floor level, erection of new second to seventh floors with setback eighth floor plant level to provide office (Class E) accommodation, new and replacement façades, installation of entrance canopies along Oxford Street and Davies Street, provision of terraces at third, fifth, sixth and seventh floor levels including greening, installation of plant and enclosure at second floor level, provision of cycle parking spaces and facilities and associated works.</p>	<p>WOSC 1 Nominee Limited And WOSC 2 Nominee</p>

CITY OF WESTMINSTER
PLANNING APPLICATIONS SUB COMMITTEE – 10th May 2022
SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Recommendation

1. Grant conditional permission subject to a legal agreement to secure the following:

- a) A financial contribution of £162,450 (index linked) towards the City Council's Carbon Off Set fund (payable prior to the commencement of the development);
- b) Provision of and adherence with an Employment and Skills Plan for the construction and operational phases of the development;
- c) Monitoring and reporting on the actual operational energy performance of the building, including as-built and in-use stage data;
- d) A financial contribution of £137,094 (index linked) towards initiatives that provide local employment, training opportunities and skills development and supporting the Westminster Employment Service (payable prior to the commencement of the development);
- e) A financial contribution of £35,000 (index linked) to provide an extension to a nearby Cycle Hire docking station;
- f) All highway works immediately surrounding the site required for the development to occur prior to occupation of the development, including reinstatement of redundant crossovers in Weighhouse Street. All of the above to the Council's specification, at full cost (administrative, legal and physical) of the developer;
- g) Costs of the stopping-up process; and
- h) The costs of monitoring the S106 agreement.

2. If the legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

- a) The Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not
- b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. Authorise the making of a draft Order pursuant to Section 247 of The Town and Country Planning Act (1990) (as amended) for the stopping up of parts of the public highway to enable this development to take place.

4. Authorise the Director of City Highways, Executive Director of City Management and Communities, or other such proper officer of the Council responsible for highway functions, 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.

Agenda Item 4

Item No.

1

CITY OF WESTMINSTER			
PLANNING (MAJOR APPLICATIONS) SUB-COMMITTEE	Date 10 May 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Grosvenor Square Gardens, Grosvenor Square, London, W1K 6LD		
Proposal	<p>1. Alterations to Grosvenor Square Gardens, including redesign of the gardens, comprising of hard and soft landscaping improvements, works to trees (including tree removal and new planting), with new and realigned paths, paving and rills, new perimeter railings, new western entrance, new lighting and planting, the introduction of a shaded garden and wetlands, installation of plinths for the display of sculptures/artworks, informal play areas, the construction of buildings (gardeners hut, public WCs and educational building with catering facilities (sui generis)), external gardeners store, photo voltaic panels, structures, and associated works.</p> <p>2. Works to Franklin Delano Roosevelt Memorial (FDR): three openings to north walls to allow for levelled access and addition of a disabled access ramp to the statue plinth, removal of stone paved path and low level forecourt and replacement with raised stone-edged path and associated works.</p>		
Agent	Gerald Eve LLP		
On behalf of	Grosvenor Investments Ltd		
Registered Number	1. 21/08289/FULL and 2. 21/08290/LBC	Date amended/ completed	4 December 2021
Date Application Received	4 December 2021	25 April 2022	
Historic Building Grade	Grade II - the Roosevelt Memorial and the Eagle Squadron Memorial		
Conservation Area	Mayfair		

1. RECOMMENDATION

Application 1:

1. Subject to referral to the Secretary of State for Levelling Up, Housing and Communities concerning the removal of the commemorative gates at the south entrance, grant conditional permission.

Application 2:

2. Grant conditional listed building consent.

3. Agree the reason for granting listed building consent as set out in Informative 1 of the draft decision letter.

2. SUMMARY

Grosvenor Square is the largest of the garden squares (1.79 ha) in Mayfair and provides a well-used and important recreational resource for the local community and visitors to the area. Following a long period of extensive public consultation, proposals have been submitted for a radical makeover of the gardens. These focus on the creation of two new garden areas within the square: the 'open oval garden' comprising a central oval-shaped lawn framed by a new footpath with integrated rill backed by a low, illuminated seating wall; and the surrounding 'shaded garden' with an arrangement of illuminated curving footpaths and paved 'social ovals'. The gardens would be enclosed with a new hedge inside new perimeter railings and entrance gates. The square's late 19th century external 'lozenge' planform would remain unchanged, as would the locations of all existing entrances, with a new entrance created on the west side, aligned with the former US Embassy (currently being redeveloped into a hotel).

There are a number of new structures proposed, including two new buildings on the south side of the garden and two canopied rainwater collection structures on the western side. New ponds with fountains are adjacent to the retained 9/11 Memorial Garden at the eastern edge of the gardens. There are also four designated areas for the future display of public art, and the introduction of a lighting and CCTV system.

All of the square's memorials would remain, except for the removal of the Diplomatic Gates (commemorating the signing of the Treaty of Paris) on the south side of the gardens, and their replacement with new hinged gates that match the proposed new boundary railing enclosing the square. The existing gates are modern, comprising a simple heritage-style design that does not specifically convey any association with the signing of the Treaty of Paris and their removal is considered to be acceptable, but this does require referral to the Secretary of State. The associated memorial plaque and inscribed paving stones commemorating the event would be lifted, repaired and re-laid in a similar position within the threshold of the widened southern entrance.

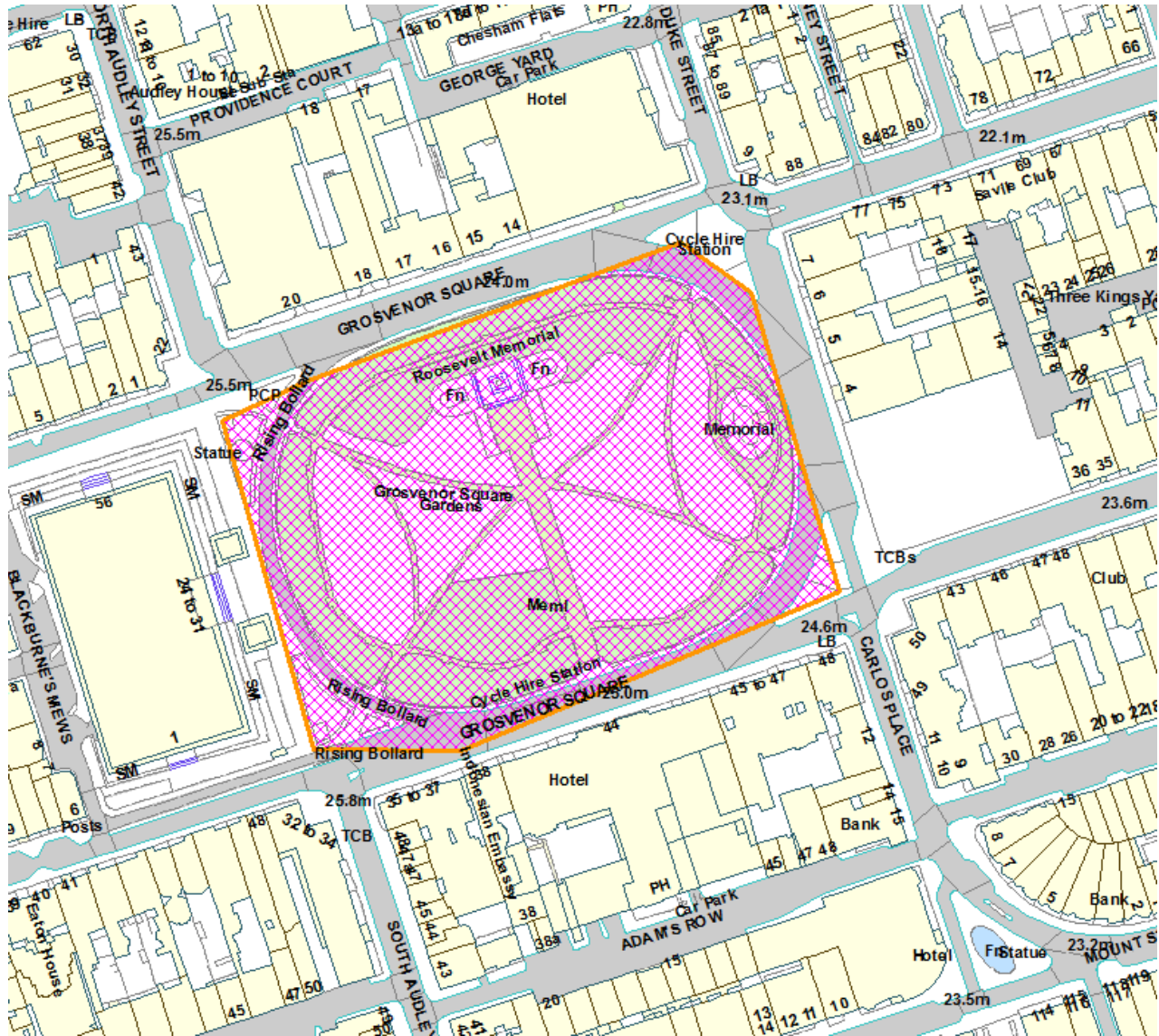
The proposals include retention and restoration of the Roosevelt statue's paved platform and associated fountains, with minor modifications to allow level access up to the statue and fountains, better integrating it into the new path network and improving accessibility. The statue's associated north south stone-paved axial path would be removed but stone edging would be laid across the proposed central oval lawn to denote its width and alignment, as a more subtle linkage with the Eagle Squadron Memorial to the south. The proposed development offers a package of public benefits, including some heritage benefits.

The key issues are considered to be:

- The radical redesign from a memorial-based garden to a modern contemporary urban;
- The harm to the significance of the registered park and garden and the Roosevelt Memorial;
- Aspects of the design including the perimeter railings and the replacement north-south axis;
- The potential harm to trees from construction works, and the removal of a tree of heaven;
- The introduction of the buildings, including a commercial activity;
- Implications for crime and security.

The proposals have given rise to a number of objections, including the London Gardens Trust and the Designing Out Crime Office; there are also a large number of representations in support of the alteration. Overall the scheme is considered to be acceptable, subject to a number of conditions, including a lot more detail that should address the crime and security concerns in particular.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Looking north-east



Looking south-east



The south entrance and Diplomatic Gates



The Roosevelt Memorial



The north-south axial path (looking north)



5. CONSULTATIONS

HISTORIC ENGLAND

- Comments on the significance of Grosvenor Square as an influential early garden square and for its post-war memorial landscape;
- Have engaged in extensive pre-application discussions with the applicant and welcomes the work of the applicant to understand and recognise the significance of the registered landscape;
- Supports many aspects of the proposals to invest in its improvements and has no objection to the listed building application for works to the Roosevelt Memorial;
- However, believe that the proposed development would cause harm to the significance of the registered park and garden and the setting of the grade II listed Roosevelt Memorial due to the loss of hard landscape features that unite the overall composition of the post-war design and change in character from memorial landscape to contemporary urban garden square;
- Historic England assesses this harm as being in the lower half of the range of less than substantial harm, though still contrary to the intent of the NPPF's policies for the conservation of the significance of designated heritage assets;
- Also consider that the removal of the undesignated Diplomatic Gates would contribute to this harm but note that the associated plaque and stone inscriptions bearing the memorial text commemorating the signing of the Treaty of Paris would be retained within the threshold of the square's southern entrance;
- Advise that the Council, as decision maker, needs to be convinced that this harm is justified and outweighed by the public benefits, including heritage-related benefits, it would deliver in accordance with the NPPF.

HISTORIC ENGLAND (ARCHAEOLOGY)

- Comment that in archaeological terms Grosvenor Square is an interesting and unusual subject as an example of an urban garden – no London square has yet seen substantive archaeological research so this is a rare opportunity;
- Disagree with the applicant's archaeological assessment that any archaeological remains would be of low significance given the poor understanding of what survives below ground of the pre-20th century gardens;
- Consider that there may be significant survival of the square's previous 18th and 19th century phases that would contribute to the significance of the registered park;
- Recommend a two-stage archaeological condition to secure acceptable safeguards, that includes public engagement.

LONDON GARDENS TRUST

- Objection - Appreciate that the square is looking somewhat tired but regret the loss of the axial focus toward the Roosevelt Memorial and the setting of the group memorials and surrounding buildings and that the setting of the square will be harmed by the proposals
- Although they support some of the new planting strategy, water capture measures and some seating in principle, believe that the present design requires amending to avoid such an extensive loss of grassed open, usable space and have concerns over the extent of paving and planting at the expense of lawn.
- Therefore object to the application for the following reasons:

1. The disproportionate increase in hard landscape at expense of lawn.
2. Concerned about the loss of the north-south axis which forms part of the memorial landscape - consider that the proposed raised paving 'tram-lines' are too minimal and will be lost unless future maintenance is guaranteed.
3. The use of bunds and berms [the replacement axial route and stone enclosure] is innovative, but they are so small that they will be lost within the cluttered circulation and numerous little kidney-shaped 'patios'.
4. The loss of the calm, elegant setting for such important commemorative statues and garden areas

TWENTIETH CENTURY SOCIETY

- Confirm the proposals have been resented to them a number of times at pre-application stage and comment on the importance of the gardens and the memorial landscape;
- Comment that developments around the square, especially the relocation of the American Embassy, have eroded the architectural representation of the special relationship between the UK and the USA but that the loss of the symbolism that this landscape incorporates would have damaged further this unique link;
- Of particular importance are the sightlines created by the statutory in the gardens and the clear linkages between these works will be diluted due to the softening of the planting and reduction in the starkness of the spaces.
- However, consider that much has been done as the proposals developed to ensure that the sightlines are retained and the inter-relationships can still be read and understood through alternative forms of expression;
- Acknowledge a small amount damage to the significance of the surrounds to the Roosevelt Memorial to allow level access but do not consider this to cause an unacceptable level of harm to the listed fabric.
- Have no comments to make on other elements of the scheme and do not wish to lodge any objections to the proposals but trust that renewal of the gardens will lead to a greater appreciation of the significant listed elements and the overall importance of the historic memorial landscape.

THE GEORGIAN GROUP

Have no objection to the scheme.

VICTORIAN SOCIETY

Any response to be reported verbally.

COUNCIL FOR BRITISH ARCHAEOLOGY

Any response to be reported verbally.

SOCIETY FOR PROTECTION OF ANCIENT BUILDINGS

Any response to be reported verbally.

ANCIENT MONUMENTS SOCIETY

Any response to be reported verbally

NATURAL ENGLAND

Have no comments to make on the application.

MAYFAIR NEIGHBOURHOOD FORUM

- Consider that the gardens are in need of regeneration and commend the applicant for bringing forward these proposals and for the intensive and comprehensive public consultation;
- Welcomes and supports the application but believe that the scheme could be substantially improved:
 1. Incorporating the space and road around the gardens to increase the amount of green space
 2. Whilst applauding the applicant for seeking to increase inclusivity for the multiple uses and users within the square, it is a lot to ask for a comparatively small space and it is important to ensure that long term maintenance is secured;
 3. Question why the gardens should still be dominated by both the height and setting of the Roosevelt statue and the opportunity should be taken to consider whether retaining such a large area of impermeable paving and “unexciting” water features is of greater public benefit than green space;
 4. Consider that the diagonal paths are used by many people who walk through the garden rather than walk to it to enjoy it – whilst the proposal seek to restrict the obvious desire lines across the central area, a bigger disincentive would be to move the entrances away from the corners and would urge the council to encourage the applicants to consider this approach as a possible mitigation strategy.

RESIDENTS’ SOCIETY OF MAYFAIR AND ST JAMES’S

Confirm they have been consulted and involved in every stage of the redesign, which has the support of the majority of the Mayfair residential community, and welcome the significant investment that has been committed by the applicant to this valuable public space.

MAYFAIR AND ST JAMES’S ASSOCIATION

Welcome these proposals to enhance and revitalise this historic square and the positive contribution this will make to the local environment, and recognise the benefit of an extensive and inclusive public consultation conducted by the applicant.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally

DESIGNING OUT CRIME OFFICER

Raises objections – has a number of concerns about how the provision and design of the planting, Social Ovals, Waterfall Canopies, amount of seating and play spaces could give rise to increased crime and anti-social behaviour.

HEART OF LONDON ALLIANCE

Any response to be reported verbally

ARBORICULTURAL OFFICER

Raises objections to the loss of a tree of heaven and the location of the proposed buildings, on the basis of likely harm of the health and longevity of the two trees which

they are very close to, and has a number of concerns about detailed aspects of the proposals.

HIGHWAYS PLANNING MANAGER

Generally supportive; comment that the realignment of the vehicular access on the south side of the gardens is likely to require amendments to the existing vehicular crossover and request that all highway works surrounding the site required for the development to occur prior to the occupation of the development should be secured by legal agreement.

PROJECTS OFFICER (WASTE)

Objection – further details required of the waste storage.

ENVIRONMENTAL SCIENCES

No objection subject to standard conditions controlling noise levels of the plant [extract ventilation for the kitchen in one of the new small buildings and ground source heat pump]

PLACE SHAPING/OXFORD STREET DISTRICT

- Welcome the scheme in accommodating cultural and leisure activities in the area as well as enhancing the biodiversity of the area;
- Welcome the new buildings, providing amenity and facilitating events and the management of activities, and consider that their visual impact is minimised;
- Comment that many of the sustainability features will require constant and intensive management;
- Refer to concerns about safety and security, and the possibility of anti-social behaviour and crime, especially around the meandering paths and ‘social ovals’, but note that the applicant has sought to address these by maintaining clear sightlines and visual links and the use of lighting and CCTV but that passive security and surveillance could have been achieved more easily with a simpler concept design;
- Generally welcome the proposals for level access and well-defined gateways to the square but comment that the loss of the recessed spaces at the existing entrances is detrimental to the visitor experience in orientating themselves;
- Question whether formalising the perimeter with new railings is necessary – even though railings are a common Georgian treatment for security and formality, they denote the strong demarcation of private realm and suggest that a new close-knitted, biodiverse hedge would suffice;
- Note that the existing diagonal crossings, used by pedestrians simply to cross the square are late 20th century additions and give the impression this is a transition space, whilst the applicant wants to create a garden for rest and contemplation – consider the pedestrian journey is tightly programmed, so that it reduces free roaming and that the gentle mound of the central oval discourages movement across the lawn and that people will trample the flower beds to take the shortest paths and suggest that the scheme could have benefitted from simpler more subtle path delineation and allowance for greater freedom of movement and choice.

PARKS, OPEN SPACES AND CEMETRIES

Support the proposals.

THE PILGRIMS SOCIETY

Confirm that the applicant has consulted with the Society and support the proposals.

THE AMERICAN EMBASSY

Support the proposals.

NEW WEST END COMPANY

Support the proposals

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 312;

Total No. of replies: 39

No. of objections: 5;

No. in support: 33 (and one neutral comment);

The majority of the individual consultation responses are in support of the proposals, in terms of enhancing the facilities being provided as well improving the planting, etc, with some qualifications about the small size of the central oval compared with the size of the 'shaded garden', safety and security and the need for a café.

Five letters of objection on some or all of the following grounds:

Use:

- The square is mostly fine as it is/the design will reduce the quiet enjoyment, turning the square into a messy attraction and depriving the residents of their local green spot and the city of an elegant usable space;
- the introduction of new features could definitely be considered but not a complete redesign;
- Urbanisation of this 'woodland' experience is unnecessary – the extra paths and 'socialising' areas make for an urbanised feel to the gardens;
- the current space has great flexibility - functions and people can move around and find a suitable space. In the new design, this flexibility will be hugely reduced and clashes will inevitably happen/ it will be a much less functional space, overcrowded and unpleasant/everything will happen in the centre;
- there is abundance of space, and it should be kept like that/the amount of usable space will be vastly reduced/ people's access to green space for various activities and relaxation has been sacrificed to over-provision of biodiverse planting and 'zones', and all the hard and porous surface paths;
- what space is left in the central area is not shaded, it will be overcrowded and unpleasant / the proposed design increases dramatically the chances of negative interactions of children, dogs, adults, art installations etc;
- The structural design is inappropriate given climate change/ the central area will be scorching in summer and grass will dry out;
- "It is ageist" – the reduced area of lawn, with almost no shade at all, makes it unsuitable for many people who cannot sit or be active in the full heat, such as older people/young children;
- A dogs-only area is needed for health and safety reasons/repeated requests for a pet free green area where children can play/the square is highly polluted by dogs peeing and very many pet owners or their care takers don't clean up after their dogs.
- if there is money to invest in it, it could be used for small improvements/more controls, e.g. looking into creating areas for dogs to run, having a warden to stop skateboarders, people bringing in their own stereos, personal trainers using it with

their clients etc/ targeted interventions would be more meaningful, and would keep intact the quality of the space -

Design:

- there is no need for such an over-designed space that ultimately does not serve its purpose at all;
- the proposal has nothing to do with the area nor its surroundings and it is rather inadequate for such a prominent site - it's a very "trendy" design that may appeal to some today, but is already outdated and will look old by the time it is built/it's not elegant, classy, provocative or revolutionary;
- the proposed buildings are ugly and out of context with the park and the entire area.
- The proposed styles and materials will be totally out of place and will contribute to the erosion of local heritage - any new constructions (including benches, buildings, railings, gateways, pathways and lighting) should be in-keeping with the era of the original construction and the existing buildings in the area.

Crime and security:

The area with thick vegetation and curvy footpaths is perfect for hiding and for shady business/there should be no areas where plants, shrubs and understorey create secluded seating areas, as these can provide cover for unwanted activities and behaviours that put others at risk.

Other:

The maintenance costs will increase considerably to keep the proposed vegetation up to standards, and control cleanliness etc;

Disruption from more building works [referring to other recent developments in the area];

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

In addition to the Council's consultation, the application was preceded by extensive consultation undertaken by the applicant with residents and local interest groups in the Mayfair area since 2020, with a series of exhibitions, workshops, meetings, etc. This has included the New West End Company, Westminster Society, The Mayfair Residents' Group, the Residents' Society of Mayfair and St James, the Grosvenor Mayfair Residents Association, Ward Councillors, the Mayfair Neighbourhood Forum, the Department for Digital, Culture, Media & Sport, 9/11 families, Westminster Youth Council, Mayfair Youth Forum, Mayfair & St James' Society, businesses and landowners through a series of ongoing public consultations. In addition, the proposals have been subject to detailed pre-application consultation meetings with Council officers, Historic England, The Twentieth Century Society, The Georgian Group and the London Gardens Trust.

The applicant advises that at the final consultation in July 2021, 88% of people were supportive of the detailed designs. 71% felt that the latest designs reflected the Community Priorities people had told Grosvenor were most important (23% gave 'no view'). Of the 6% of people who said they did not like the detailed designs, (6% said they had 'no view') the primary concerns were related to the ongoing management of the square – i.e. safety, security and anti-social behaviour - as opposed to specific elements of design. The design team have held meetings and coordinated with the security

consultants MFD-TT and the Met Police Counter Terrorism Advisor CTSA, and will continue to do so in the next stage of design as well as the assigned project Designing Out Crime Officer (but see section 8.5 below).

Although largely carried out prior to the publication of the Council's 'Early Community Engagement' procedure, the applicant's consultation programme is considered to be in full compliance with that process.

6. BACKGROUND INFORMATION

6.1 The Application Site

Grosvenor Square is the largest of the garden squares (1.79 ha) in Mayfair and provides a well-used and important recreational resource for the local community and visitors to the area. It lies in the Central Activities Zone, the Mayfair Conservation Area and the Great Estates Archaeological Priority Area. The gardens are listed grade II in the Register of Parks and Gardens of Special Historic Interest. They contain two Grade II listed monuments - the Roosevelt Memorial and the Eagle Squadron Memorial, as well as the non-listed 9/11 Memorial. Apart from these monuments, the site contains no built structures and is laid out to lawns and planting, with a number of mature trees. Originally laid out in the 1720s, the gardens have changed significantly over time, particularly during the twentieth century.

There are five pedestrian access points into the gardens, one at each corner and one at the mid-point on the south side. The site is surrounded by roads on all sides, with a traffic island at each corner on the east side. At the west side, the former US Embassy is undergoing redevelopment into a hotel. All deliveries, servicing and refuse collection currently take place off street, from the southern entrance.

The square is owned and managed by the applicant under a management agreement from the Department for Digital, Culture, Media & Sport (DCMS): whilst Grosvenor is the owner of the freehold, DCMS is responsible for management and maintenance of the Site under Section 1 of the Roosevelt Memorial Act of Parliament 1946, although such management was contracted back to Grosvenor in 2018.

6.2 Recent Relevant History

There have been a number of permissions for the site, relating to the display of temporary public artwork / sculptures, works to trees and advertisement consent for the display of banners affixed to hedges to all five entrances to Grosvenor Square for a temporary period. Permission for the erection of the September 11th memorial garden, comprising pavilion, pergola, railings and planting to eastern boundary of the gardens was granted in October 2002.

In September 2017 permission was granted for the removal and safe temporary storage of the President Eisenhower and President Reagan statues and associated plaques and structures, Berlin Wall memorial, police call box, American Embassy Perimeter scheme completion plaque, 6 trees and associated Tree Trust plaque for future reinstatement, removal of 1 deceased tree and demolition of existing raised planters and associated works – this was in connection with the redevelopment of the former US Embassy

building.

There is another current application for the use of four spaces within the gardens for the display of sculptures or public art for temporary periods between April 1st 2021 - March 31st 2026.

7. THE PROPOSAL

As part of the applicant's long term vision for its London estate, it believes that there is a significant opportunity to redesign and optimise the potential of the gardens to a world-class green civic space. This comprises an extensive new landscaping scheme that will provide a high-quality green oasis within the heart of Mayfair, in an accessible location, for the benefit of residents, workers and visitors. The proposals aim to enhance biodiversity and will offer new opportunities for education and learning. The applications are accompanied by a thorough set of supporting documents.

The proposed development has a number of separate elements which combine to create a transformed new landscape within the site, incorporating a range of new amenities and facilities. The key features of the applications can be summarised as follows:

- i) Replacement of the post-war boundary enclosure, which is composed of holly hedge and a chain link fence, with more diverse boundary planting and metal railings;
- ii) The formation of a new pedestrian access point into the site at the west end (and the retention of all existing access points), with new landscaping around the entrance gates;
- iii) The retention of 46 existing trees and the provision of 46 new trees – the applicant argues that it will be necessary to remove a small number of 'lower value' trees in order to create a viable succession plan and allow for maximum biodiversity on site;
- iv) The creation of a densely planted outer ring within the site, referred to as 'the Shaded Garden', comprising trees and extensive sustainable and species-rich planting;
- v) The removal of all existing paths and creation of a network of new paths within the Shaded Garden allowing visitors to wander within the new landscape;
- vi) Within the Shaded Garden there are a range of smaller oval shaped areas, referred to as 'social ovals', which will provide spaces for rest and recreation. Some will include structural furniture (tables, chairs and benches), while others may include informal play features;
- vii) An oval-shaped path lined with benches will form the inner edge of the Shaded Garden. This will be shaped around a gently mounded central area of lawn, the 'Open Oval Garden';
- viii) Removal of the stone-paved north-south axis route between the Roosevelt Memorial and the Eagle Squadron Memorial and its replacement with two lines of stone edging (400mm wide) set within the lawn as a reminder of the former north-south axis;
- ix) The erection of two timber buildings (Building 1: Gardeners' office, store and WC;

and Building 2: Educational facility and kiosk) within the Shaded Garden on the south side of the site, made of natural materials with timber walls, woven timber slats, and living green roofs;

x) The creation of four plinth locations in the site for the future installation of artworks;

xi) The installation of a variety of water collecting features in the form of an oval shaped rill, a wetland area west of the 9/11 Memorial, and two waterfall canopies on the west side of the site;

xii) Realignment of the boundary at the entrance on the south side of the gardens, including the removal of the pavement inset and the Diplomatic Gates, to provide enhanced access to the site, but the associated plaque and stone inscriptions bearing the memorial text commemorating the signing of the Treaty of Paris would be repaired and reinstated within the threshold of the square's southern entrance;

xiii) The provision of new lighting throughout the site comprising lighting columns of various heights, low level path lights and plant lighting and lighting integrated into benches and other structures, including spot lighting for the Memorials. This will provide lighting during the hours of dusk and darkness when the Site is open, extending the hours of use and providing enhanced security. 43 lighting columns are proposed in total, comprised of 8 x 12m lighting columns, 17 x 9m lighting columns, and 18 x 5m lighting columns;

xiv) The creation of a minimum of 127 sqm of new informal play space, fitted with a range of naturalistic play features;

xv) The creation of an external, fenced gardener's compound next to the gardener's office building, which will provide a location for storage of garden waste. It will also be the location for 6 photo voltaic panels and employee cycle parking (2 spaces);

xvi) In terms of the works for which listed building consent is sought, this includes repairs to the Roosevelt Memorial where this is necessary;

- the creation of three openings to the North walls of the Memorial to allow for levelled access;
- the addition of a disabled access ramp to the statue plinth;
- the removal of the stone paved path and low level forecourt in front of the Memorial and its replacement with a raised stone-edged path;
- up-lighting of the memorial with light fittings concealed in the ground.

As the proposal includes the removal of the commemorative gates at the south entrance, which constitutes a memorial, this requires permission under The Town and Country Planning (Demolition – Description of Buildings) Direction 2021 and the application has to be referred to the Secretary of State for Levelling Up, Housing and Communities under the terms of The Town and Country Planning (Consultation) (England) Direction 2021.

The initial proposals for the gardens, at pre-application stage, included more extensive interventions than the current planning application scheme. This included bringing the “four corners” of highway land that adjoin the main entrances to the gardens into the

scheme and re-landscaping these areas to provide additional green space. There were also ambitious ideas for an underground “hidden water garden” and a wider range of additional structures being introduced to the gardens. Although many aspects of the scheme were supported, and have been incorporated into the current proposals, the degree of change caused by the hidden water garden in particular, and its impact on the historic memorial landscape, was of concern to both Council officers and Historic England. Therefore, the project brief was adjusted to remove this aspect and more focus was placed on enhancing the setting of the garden’s heritage assets and the memorial landscape.

The comments from the Mayfair Neighbourhood Forum about incorporating the space and road around the gardens to increase the amount of green space are noted. Whilst the draft proposals for the four corners were supported in principle in planning terms, that would have involved complicated highways issues and, as such, were not taken forward. It is not considered that conversion of the road around the square into additional green space, as suggested by the Forum, could be done without major disruption and cost to the local highway network.

8. DETAILED CONSIDERATIONS

8.1 Land Use/General Principles

Policies

London Plan Policy G4 (Open Space) sets out that development proposals should not result in the loss of protected open space, and where possible create areas of publicly accessible open space, particularly in areas of deficiency. City Plan policy 34. Green Infrastructure states that

A. The council will protect and enhance the city’s green infrastructure to maximise its environmental, social and economic value.

CITY GREENING

B. Developments will, wherever possible, contribute to the greening of Westminster by incorporating trees, green walls, green roofs, rain gardens and other green features and spaces into the design of the scheme.

OPEN SPACE

C. All open spaces and their quality, heritage and ecological value, tranquillity and amenity will be protected.

D. Major developments will be required to provide new or improved public open space and space for children’s active play, particularly in areas of open space or play space deficiency.

E. Development affecting the Royal Parks should enhance their quality and range of uses.

The supporting text at paragraph 34.5 states that development on open space must be essential and clearly ancillary to maintaining or enhancing the values of the open space.

City Plan Policy 43 on Public Realm, Part C, Commerce in the Public Realm, explains that additional kiosks or other structures for the display and sale of goods outside of a market will be resisted. Part E and F of the Policy considers public art, statues and monuments whereby, it is encouraged to provide high quality public art as an integral part of the design of new major developments, particularly around gateway locations and where they benefit legibility. New statues, monuments or memorials in the public realm will be directed outside of the Monument Saturation Zone.

City Plan Policy 15 on the Visitor Economy states at Part I that safe, secure and publicly accessible toilets will be required in proposals that generate a large amount of visitors.

In the Mayfair Neighbourhood Plan (MNP), Policy MGS1 (Mayfair's Green Spaces) Grosvenor Square is referred to as a public green space. In such spaces, Local Community Use is encouraged and will in principle be promoted by the Forum (MGS1.2). It goes on to state that, "*Proposals which enhance Mayfair's public green spaces as places of recreation for all users throughout the year, by the improvement of landscaping and public realm, will be supported*" (MGS1.3). It goes on to state that, "*enhancements to the public realm around Mayfair's green spaces, where those enhancements result in improved accessibility and usability of the green spaces, will be supported*". Developments are to, where relevant, demonstrate how the proposed enhancements contribute to a coherent strategy to improve accessibility to the green space in question (MGS1.4).

MNP Policy MGS2 (Events in Green Spaces) sets out that proposals for events in Mayfair's green spaces, will only be permitted if the events:

(a) demonstrate in advance and ensure that:

"(i) there is no significant adverse impact on local amenity in terms of noise, pollution, visual amenity, parking, and accessibility to the green space,

(ii) the buildings or structures to accommodate the events adopt high quality design (including considering visual amenity) that can be expected for such temporary structures,

(iii) the cumulative total of days during which more than 40% of the green space in question is inaccessible to the public due to the construction, occupancy, and then dismantling of the structures in question, are both kept to the shortest length of time reasonably necessary, and also do not exceed 40 days in any calendar year.

(b) Remediate the green spaces as part of the dismantling of the structures, so that all damage to any aspect of the green space is repaired as soon as reasonably practicable, and the green space is otherwise in the condition pertaining immediately prior to the event taking place or enhanced."

The NPPF (paragraph 193) requires that for a registered garden, applications for planning permission are considered in light of the designation, and 'great weight' should be given to the conservation of designated heritage assets. In order to be granted permission, a development proposal affecting a registered park or garden would need to accord with legislation which protects the historic environment as well as national and local planning policies.

General Principle of the Proposals

The principle of upgrading the gardens to provide an enhanced open space which will deliver substantial increases in amenity and recreational value for visitors and the local community is considered to be in compliance with the above policies. The proposals will preserve the open nature and the environmental and heritage aspects of the gardens. The significant increase in the amount of planting in the 'Shaded Garden' will help improve air quality, using an air quality positive approach, and address issues related to climate change and the urban heat island effect. The proposals therefore meet the distinct needs of the relevant policies.

Whilst there have been objections to the proposed changes to the layout, and that it should be left as it is (see section 5 above), it is considered that the proposals achieve an acceptable balance between the competing needs and aspirations for how the gardens are used. It is an important open space and there is potentially a greater demand for how it could be used than has materialised before now with its current layout. However, the proposals are considered to be an acceptable alternative and has generated a considerable amount of support compared with a small number of objections and is considered to be acceptable in principle. Other matters such as crime and security are discussed below.

The gardens are used for a variety of events through the year in accordance with an Events Licence held by the applicant, who is not proposing to increase events above the existing usage levels.

It is proposed that the gardens normal opening hours would be from 07.00 hours to 22.00 hours. Whilst there is no planning restriction on the opening hours at the moment, given the proposed intensification of the use, it is considered appropriate to have a condition on the current permission to protect the amenity of residents living in the vicinity. The proposed hours are considered acceptable; it is noted that the applicant wishes to have a later time for when there are private functions in the new building (discussed below) which requires egress from the gardens up until 23.00 hours; this would be through the access gates at the south side of the gardens.

There have been several objections to the proposal, in terms of the changing nature of the gardens, especially through the creation of a separate, smaller lawn in the middle with a more heavily planted area around it. It is acknowledged that the proposal is a radical redesign, but this is considered to be a legitimate approach that allows greater flexibility, not less, for how the space is used. For example, there is currently no dedicated play area and one will be provided. There will be a reduction in the amount of lawn (from an existing 14,374 sqm of total green space to 4,030 sqm for the central oval lawn and 8,310 sqm for the Shaded Garden, with an increase in hard paving from 3,133 sqm to 5,115 sqm) but this is considered to be offset by the greater visual and functional variety in the proposed design, and a number of other benefits, such as increased biodiversity from the significant amount of new planting. These objections are therefore not considered to be sustainable.

With regard to the layout of the paths, it is noted that the Mayfair Neighbourhood Forum and the Oxford Street District/Place Shaping team both comment on how the of the existing diagonal crossings being used by pedestrians simply to cross the square, the

former suggesting that the entrances to the gardens are moved away from the corners to discourage pedestrians just walking through from one corner to the other, the latter considering that the proposed pedestrian journey is too tightly programmed, and that people will trample the flower beds to take the shortest paths and suggest that the scheme could have benefitted from simpler more subtle path delineation and allowance for greater freedom of movement and choice.

Policy 25 (Walking and cycling) of the City Plan states that

WALKING

B. Development must:

- 1. Prioritise and improve the pedestrian environment and contribute towards achieving a first-class public realm particularly in areas of kerbside stress, including the provision of facilities for pedestrians to rest and relax (including seating) and high-quality and safe road environments and crossings, where needed.*
- 2. Contribute towards improved legibility and wayfinding including signage to key infrastructure, transport nodes, green spaces and canal towpaths (such as through TfL's Legible London).*
- 3. Be permeable, easy and safe to walk through, enhance existing routes which are adequately lit, creates step-free legible access and entrance points whilst providing direct links to other pedestrian movement corridors and desire lines.*

It is considered that there might be a marginal disadvantage to pedestrians' directness of movement by removing the cross paths from the centre of the gardens, if their sole purpose is to use the gardens as a short-cut. However, it is perhaps part of the changing nature/use of the gardens, as intended by this application, that would encourage pedestrians to have a more enjoyable and relaxed passage through the gardens without unduly delaying their progress and this is not considered to be a sustainable ground for objecting. Relocating the entrances is likely to have greater implications for the local highway network as different pedestrian desire lines are likely to require crossing points to be amended. If there is trampling over planted areas, this would be a matter to be dealt with as part of the maintenance of the gardens.

New Buildings

The applicant has argued that structures on the site are essential to the day-to-day operation and upkeep of the gardens, but they also wish to provide an opportunity for the provision of education about the gardens, horticulture, ecology and environmental management, as well as provide a facility for visitors from the catering kiosk.

Building 1 (49 sqm GIA) will house the gardener's office and store as well as public WCs - male and female WCs will be provided, along with an accessible WC (which will include a baby changing area). The WCs will be maintained and cleaned through the day as part of the applicant's management of the site. There is a shortage of public WCs in the wider Mayfair area and the provision of additional public toilets is welcomed and in accordance with policy 15. (Visitor Economy) of the City Plan and MR4 of the Mayfair Neighbourhood Plan (albeit the latter is aimed at their provision within new large scale retail developments).

Building 2 is the larger of the buildings (96 sqm GIA) and will provide an education centre and a catering kiosk. Grosvenor has been in discussion with a number of education providers regarding the operation of this facility. It is envisaged that it will be operated by an educational charity and provide resources and learning opportunities relating to horticulture, ecology and the environment, as well as history related to the site. It is anticipated that there will be regular school and community group visits.

The applicant believes that it is important that this facility can provide catering for its visitors and staff. Therefore, a catering kiosk is also proposed which will include primary cooking equipment. This will serve both the education centre and visiting members of the public who would be able to purchase hot and cold refreshments through a serving hatch. There would not be any internal or external seating for the public in association with the kiosk and as such it would not operate as a café. It is intended that it would be run as a social enterprise (not for profit) and would help support the business model of the education provider and support the maintenance of the wider amenities and facilities in the gardens. The education centre would also be used for private hire for events when not in use for educational purposes and this would be another important aspect of the business model for the education provider.

The kiosk roof will include a flue for the kitchen ventilation/extraction but this will be largely hidden from view by the roof top planting. Environmental Sciences have confirmed that the proposed plant for the kitchen extract is acceptable, subject to the standard condition controlling noise levels.

The two buildings are positioned within the Shaded Garden. The applicant believes that the location of the buildings is in the optimum location relating to site access for maintenance vehicles and loading / drop off of items and will avoid waste and deliveries interfering with the operation of the garden. They are located adjacent to the southern gate and in view of much of the site, thereby contributing to the site's safety and security through passive surveillance. The buildings will have disability compliant level access.

The design of the buildings (discussed in more detail below) aims to give the impression of 'belonging' in a garden through the use of natural materials and simplistic forms. The mounded roofs add an additional habitat and the use of soft curves and textured surfaces help the buildings to blend within the Shaded Garden.

8.2 Townscape and Design

The Existing Site and its Heritage Significance

Grosvenor Square Gardens is registered grade II on the Register of Parks and Gardens and is located within the Mayfair Conservation Area. Within the gardens are two listed structures: the President Roosevelt Statue and the Eagle Squadron Memorial which are both grade II. In the immediate vicinity of the gardens there are a number of other listed buildings, including the former US Embassy occupying all of the west side of the square (grade II); 22-23 Grosvenor Square at the north-west corner of the square (grade II); 9 Grosvenor Square at the north-east corner (grade II); 4 Grosvenor Square in the centre of the east side of the square (grade II); 38 Grosvenor Square on the south side (grade II*); and a police call box on the north-west side of the square (grade II). There are

further listed buildings lining the streets which adjoin the square namely Upper Brook Street, Brook Street, Grosvenor Street and Upper Grosvenor Street.

In addition to these designated heritage assets there are also non-designated heritage assets to note - the 9/11 memorial within the square on its eastern side, the Treaty of Paris inscription and Diplomatic Gates at the southern entrance to the gardens, and the Ronald Reagan and General Eisenhower memorials on the west side of the square (currently in storage). There is also a memorial to the D-Day landings outside 22 Grosvenor Square. The other unlisted buildings, mainly inter-war or post-war buildings of the twentieth century, which face onto the square are also all considered to make a positive contribution to the setting of the square and the conservation area and to be regarded as undesignated heritage assets.

Grosvenor Square is the largest square in Mayfair and formed part of the original phase of development of Mayfair when it was laid out in 1725 as part of the Grosvenor Estate. In this early phase the gardens were an ancillary amenity to the large private houses which faced onto the square. The gardens were enclosed by railings in an oval shape with access restricted to keyholder residents and were arranged as a series of geometric paths dividing flowerbeds around a central equestrian statue of King George I. This original layout was designed by John Alston and described as a 'neatly ordered geometric garden contrived for strolling'.

Throughout the eighteenth and nineteenth centuries the central gardens to Grosvenor Square remained private but were altered several times. In the late 1720s elm hedging was extensively planted and certainly for much of the eighteenth century the landscaping was restricted in height to enable views across the square. In the 1770s residents demanded a more substantial enclosure to provide privacy, and the original landscaping was replaced by another centralised but simpler scheme of shrubs divided by paths; in the 19th century, the oval shape of the square was enlarged to take in some of the road space to the north and south, a pavilion was built, and at some time between 1844 and 1854 the central statue was removed. Also, many of the London plane trees in the gardens were added in the 19th century. In the twentieth century, during the Second World War, the square, like many open spaces in London, was put to practical use, including as a location for barrage balloons and a large temporary building; at this time its railings were removed. 20 Grosvenor Square was the US military headquarters in Europe during the war, and the square was colloquially known as Eisenhower Platz. The American connections had begun in 1785 when the ambassador John Adams took a house on the north side.

The square was altered substantially in character and appearance after the war. In 1947, it was opened to the public, and a statue (Grade II listed) of the wartime US American President Franklin D Roosevelt by British sculptor William Dick Reid was placed at its north end, to commemorate and cement the US-Anglo relationship that had been vital in winning the Second World War, and in cognisance of Grosvenor Square as the centre of US-British political and military connections. As part of this scheme, the landscaping was replaced by a new arrangement of large water basins flanking the statue, stone-paved formal paths set between areas of lawn and with perimeter trees and an enclosing holly hedge. The landscaping design for the gardens was undertaken by Bertram Gallannaugh. In subsequent decades, the square became the locus of more memorials to American events and persons, including memorials to the Treaty of Paris of 1783, the

attacks of 9/11, to Ronald Reagan and Dwight D Eisenhower. The west side of the square was redeveloped in 1957-60 with a new embassy building for the USA to designs by Eero Saarinen (Grade II listed), giving additional emphasis to the US connections in Grosvenor Square. In 1986 a memorial for the Eagle Squadrons (Grade II listed), voluntary US pilot fighters serving as part of the RAF in WWII, to designs by Dame Elizabeth Frink, was set on axis to the FDR sculpture.

Grosvenor Square Gardens was originally included as one of the London squares protected by the London Squares Preservation Act of 1931 which stipulated that the included squares could only be used for the purpose of an ornamental pleasure ground or ground for play and rest or recreation and that no buildings or structures should be erected in the squares except such as may be necessary or convenient for the use and maintenance of the square. In addition to this legislation the gardens were also subject to the Grosvenor Square Act of 1835 which gave 'exclusive rights to use and enjoy the square' to the 'occupiers of houses on the premises encompassing and abutting the square'. However, once Grosvenor Square had become the favoured location for a memorial statue to President Roosevelt, these two acts were superseded by the Roosevelt Memorial Act of 1946 which allowed for the erection of the statue, the laying out of the square as a garden and its opening for the use and enjoyment of the public in perpetuity.

Thus, Grosvenor Square has high heritage significance with elements which contribute to evidential value, historical value, aesthetic value and communal value. As Historic England note in their consultation response its significance derives not only from its origins as an influential early garden square but also as a post-war memorial landscape, with the latter being the principal layout and dominant character.

The gardens contribute positively to the setting of surrounding buildings (including the listed buildings) and likewise the surrounding buildings contribute to the setting of the registered park, notably the former embassy (currently being redeveloped behind retained facades into a hotel), but also the memorials and buildings connected to Anglo-American relationships.

Legislation and Policy (Heritage & Design)

The relevant legislation, policy and guidance which applies to a proposal of this nature is extensive and a detailed description has been provided within the applicant's submission, but it is considered worthwhile to re-state some of the key legislative requirements; and some of the key policies and guidance:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that "In considering whether to grant listed building consent for any works the local planning authority or 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 66 of the P(LBCA) Act 1990 indicates 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 Act states that: “...with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area...”
- In terms of the National Planning Policy Framework (NPPF, 2021) the key sections are Chapter 12 (Achieving well-designed places) and Chapter 16 (Conserving and enhancing the historic environment). In the latter chapter paragraph 199 makes clear:
 - “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance.”
- Paragraph 200 states:
 - “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification....”
- Paragraph 202 states:
 - “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”
- Finally, paragraph 203 states:
 - “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

Within the City Plan 2019-2040 there are a number of relevant policies and some of the key design/heritage ones are:

- Policy 34 which seeks to protect and enhance Westminster’s green infrastructure.
- Policy 38 which sets out design principles, requiring exemplary standards of high quality, sustainable and inclusive urban design and architecture.
- Policy 39 relates to Westminster’s heritage and how it will be valued and that development should optimise the positive role of the historic environment.
- Policy 40 relates to townscape and architecture, requiring development to be

sensitively designed having regard to the surrounding townscape.

- Policy 43 relates to the delivery of high quality public realm.

The Mayfair Neighbourhood Plan is another key policy document to take into account and policies MGS1, MD1, MD2 and MD3 are of particular relevance.

The Proposals

In making these proposals the applicant seeks to increase the amenity value, biodiversity and sustainability of Grosvenor Square Gardens. The proposal is a combination of hard and soft landscaping changes as well as the introduction of new buildings and structures within the gardens. The main alterations are listed in section 7 above.

The current character of the gardens has been strongly influenced by the connections and associations with the United States of America and as a place of memorial. As such it has a rather quiet and contemplative quality to it, which is underpinned by the simple and restrained design. The current proposals will result in a change in character, with a greater emphasis on activation of the gardens, brought about by the changes to the landscaping, by the new buildings and structures, and the uses they will encourage and facilitate, all of which will create a space of greater social interaction and in part a return to its original function as a pleasure ground. In doing so the design seeks to deliver a landscape which is more sustainable and which promotes greater biodiversity.

It is likely that the most prominent visual change to the appearance of the gardens will be the formation of the large central oval lawn, which with its perimeter stone path, rill and seating will introduce a strong new centrepiece to the gardens. The oval form takes its inspiration from the oval boundary of the gardens as originally laid out in the eighteenth century.

The other prominent visual change will be the introduction of new buildings and structures within the gardens, where at present, other than the memorials, there are no other structures. The two new buildings will be sited within the more heavily planted shaded garden zone and will be on the south side, close to the Eagle Squadron memorial and the southern entrance and positioned either side of the entrance path. The building on the east will be the larger of the two and provide an educational space, an ancillary kiosk and some storage; the smaller building to the west of the path will contain a gardener's office, store and public WC. There will also be a fenced area to the west of the gardener's building for additional external storage and to house some PV panels, waste and an air-source heat pump. Both buildings will be of a similar design: single storey, with timber cladding to the external walls and a mounded planted roof which overhangs the walls. The roof to the larger education building will also feature a rooflight and a kitchen extract flue.

In addition to these two new buildings, the other prominent structures will be two 'waterfall canopies' which are positioned to the west of the central oval and positioned either side of a new path leading to the new western entrance gates. The widest dimension of the canopy is approximately 10.5m and they are approximately 4.5m high. They effectively act as funnels to catch rainwater and then channel it via a waterfall into

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a basin, which in turn drains into a rainwater storage tank. Beneath each canopy and facing towards the waterfall and basin is an oval bench. The water within the storage tank can be recirculated to maintain the waterfall feature when it is not raining. The underside of the canopy will be clad in a timber weave. Each structure will be supported by four lighting columns. In addition to having the practical function of providing some shelter, the canopies are intended as a 'sensory educator' communicating the importance of water and the climate emergency.

Several other water-related features are incorporated into the design, albeit of less visual prominence than the canopy structures. These include swales, soakaways, the oval rill, ponds and marsh areas by the 9/11 memorial and the refurbished ponds and fountains of the FDR memorial. All are designed to address sustainable drainage and take opportunities to re-use rainwater; while in some cases also promoting biodiversity.

The boundary to the gardens will see the replacement of the existing holly hedge, within which is a chain link fence with a metal railing and new planting inside the railing. The new boundary will retain all of the existing entrances (at the corners and on the south side) although will widen the entry on the south side and will also introduce a new entry gate in the centre of the west side. The design of the new railing seeks to introduce a contemporary version of a traditional railing comprising laser cut, painted steel vertical bars, incorporating a single twist to strengthen the railing. These will be set within a pre-cast concrete base and will feature a finial detail which is roughly disc shaped but will differ from one bar to the next. Officers had sought a traditional design for the railings, along the lines of the traditional railing design to many other historic squares in Westminster, however the applicants have resisted this option, citing the contemporary and twentieth century design of many of the existing features of the gardens and of the other new features that form part of the current proposals e.g. lighting. They also argue that the proposed design has a lower embodied carbon than a traditional design.

The gate on the south side is the 1984 Diplomatic Gates which form part of the memorial to the Treaty of Paris. The gates themselves are plain and are to be replaced, whereas the memorial inscription to the stone floor will be lifted, repaired and re-instated. There is no objection to this.

The two listed memorials and the 9/11 memorial will be lit by discreet spotlights and the applicants have indicated their willingness to consider how the lighting effect can enhance the memorial qualities of the gardens and the inter-relationship between the memorials. There is more extensive lighting introduced throughout the gardens.

Some minor alterations are also proposed to the FDR memorial. These include three new openings in the stone plinth on its north side, which will facilitate step-free access to the statue and the ponds and enable the memorial and its inscriptions to be far more accessible. In addition to these alterations the memorial will undergo restoration work.

A number of smaller features will also form part of the proposals, including play items, benches, interpretation boards, bins, tree plaques. There will also be four locations which will be designed to enable the display of public art – there is a 4m x 4m zone within each quadrant of the gardens which will be designed to be capable of supporting public art installations – although at this stage no strategy for display or specific installations is proposed. A conditions requires details to be submitted.

Impact upon the gardens and heritage assets

The cumulative impact of the proposals will be to significantly alter the character and appearance of the gardens. The changes will erode the contemplative, memorial landscape and introduce features which are likely to make the gardens a more social space, with greater level of interaction and animation. The new buildings will incorporate uses that will support a more diverse and extended engagement with the space; and the design will introduce many sustainable and biodiverse qualities.

In terms of the overall impact, while there will be a change in character, the design would certainly accord with the requirements of Roosevelt Memorial Act, notably to be a space for the use and enjoyment of the public.

The introduction of the two new buildings and the two water canopy structures would introduce more built form into an open space, currently largely devoid of buildings. Nevertheless, by virtue of their design and location they do integrate successfully into the garden landscape and do not compete harmfully with the listed memorials. Policy 34 of the City Plan seeks to protect green infrastructure and also seeks to maximise its environmental, social and economic value, and while the new buildings and design will occupy open space, the intended design and use does seek to take opportunities to enhance the environmental and social value of the space, and as such the proposals are considered to accord with this policy. Objections to the introduction of these buildings and their design are therefore not considered to be sustainable.

Policy 39(G) seeks to safeguard the special historic interest, integrity, character, appearance and setting of registered parks and gardens. As a registered garden there would be an element of less than substantial harm because some of the 1948 landscape scheme would be removed and its memorial character eroded, most notably through the removal of the north-south paved path, but also through the removal of the Diplomatic Gates, and by the greater level of activation that the design introduces. This level of harm is also identified to the setting of the listed FDR memorial and the Eagle Squadron memorial, as a result of the removal of the stone paved north-south axis, which was a key component of Gallannaugh's design and which linked the two memorials when the Eagle Squadron memorial was sited at the southern end of the axis in the 1980s.

The loss of the north-south paved axis and the erosion of the commemorative and more tranquil character that currently exists are concerns expressed by some within the consultation responses, notably from Historic England and the London Gardens Trust. Historic England assess the level of harm to designated heritage assets to be in the "lower half of the range of less than substantial harm". Thus, in resulting in a level of harm to designated heritage assets there are aspects of the proposals which do not fully accord with policy 39 which seeks to avoid harm to Westminster's heritage, however, the same policy also seeks to promote "public enjoyment of, access to and awareness of the city's heritage" and there are certainly many elements of the scheme which deliver on this part of the policy.

The contemporary design of the perimeter railings is an aspect of the design which at officer level is felt to be a less than ideal design solution. The opportunity to reinstate a traditional railing design would have been a heritage and public benefit and the introduction of traditional features such as larger standard rails providing a rhythm to the

enclosure would probably have been more effective than the design proposed. That said, there is currently no railing around the gardens and the introduction of one, albeit in a contemporary design, could not be regarded as harmful, particularly as the proposed design is not overtly modern or eye-catching. Whilst there has been an objection on the grounds that the proposed styles and materials of the benches, buildings, railings, gateways, pathways and lighting will be out of place and will contribute to the erosion of local heritage, for the reasons stated above and given the overall acceptability of the proposals, this objection is not considered to be sustainable.

It is noted that Place Shaping/The Oxford Street District team has questioned whether formalising the perimeter with new railings is necessary – even though railings are a common Georgian treatment for security and formality, they denote the strong demarcation of private realm and suggest that a new close-knitted, biodiverse hedge would suffice. This view is not accepted, as the re-introduction of the railings (whatever their design) is considered to be an important heritage benefit.

As the gardens are a key component of the Mayfair Conservation Area, the erosion of the post-war commemorative character to the gardens and the consequent harm identified would also extend to the conservation area but again at a low level of less than substantial harm. In terms of other undesignated heritage assets, the loss of the Diplomatic Gates as a component of the commemoration of the signing of the Treaty of Paris would also result in some harm to the commemorative quality of the gardens, albeit of a low level as the gates are of a standard design, with no intrinsic qualities within the design that relates to the commemoration. Nonetheless, as a component of a memorial, should the recommendation be accepted this will require referral of the application to the Secretary of State.

The impact on the setting of listed buildings in the vicinity of the gardens will not be adversely affected by the proposals. While in some cases the historical connections between the surrounding buildings and the gardens is a strong and positive one, such as the presence of the former US embassy building and the memorial landscape – because the key features of significance to both the gardens and the buildings remain and have a spatial and visual connection, it is for this reason that no harm to setting is identified. It should also be noted that the actual embassy (who have been consulted and have no objection to the proposals) has relocated to Vauxhall and their former building is being redeveloped as a hotel.

Heritage, Design and Townscape Conclusions

Grosvenor Square Gardens has continually evolved and changed since it was originally laid out in the 1720s. While for much of its history it was a private garden, its character was quite significantly changed when it became a public space associated with the commemorative landscape that was introduced in the 1940s. It was added to the Register of Parks and Gardens in 1987 and the reasons for its designation cite both its early history but also its post-war landscaping. The current proposals can be viewed as a further phase in the gardens evolution in part reverting the gardens to more of a social space, albeit one now accessible to the public.

The change in layout and the new buildings, structures and planting mean the proposals do change the character of the space, improving its sustainability qualities and its

biodiversity qualities, while making it a more active space. The new design and facilities also provide users with differing ways of engaging with the space and improving facilities for maintenance. At the same time the proposals seek to respect the post-war commemorative landscape and the designated heritage assets closely associated with that landscape, i.e. the registered garden and the two listed memorials. For the most part the proposals have broadly managed to achieve the balance of changing the gardens while respecting its heritage significance. However, as Historic England and the London Gardens Trust identify there is some loss of significance to the commemorative qualities of the garden, but at the same time opportunities have been taken to restore the FDR memorial and make it more accessible; and to emphasise the importance of the memorials in different ways: such as introducing a lighting scheme; and also in the paving stone alignments which acknowledge the Gallannaugh design and preserve a landscaped link between the two listed memorials.

The level of harm to the registered park and the setting of the listed memorials is considered to be less than substantial and at the lower end of that spectrum. As is set out in the NPPF at paragraph 202, where a development will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.

As Historic England note in their consultation response the proposal does result in some heritage benefits, which can be regarded as public benefits, namely the strengthening of the lost Georgian design and character of the gardens; and the repairs and improved access to the Roosevelt memorial.

Other public benefits would include enhanced facilities for the public which would enable them to enjoy the gardens, including an accessible WC, a kiosk, the education centre and the on-site maintenance facilities. The lighting, CCTV and signage would also provide a safer and more engaging and useable space – again a public benefit. Finally, the enhanced biodiversity/sustainability performance of the gardens are again public benefits. These other non-heritage benefits will be elaborated upon elsewhere in this report but are referenced here to aid an appraisal of the impact on heritage significance.

The public benefits of this scheme are considered to be significant and to be capable of outweighing the harm identified. Taking the City Plan as a whole and accepting that strict adherence to every policy will not always be possible, it is considered that in design terms the proposals have successfully sort to address policies 34, 38, 39, 40, and 43 of the City Plan.

The Mayfair Neighbourhood Forum has questioned why the gardens should still be dominated by both the height and setting of the Roosevelt statue and that the opportunity should be taken to consider whether retaining such a large area of impermeable paving and “unexciting” water features is of greater public benefit than green space. The Roosevelt Memorial is considered to be an important historic feature, as set out above, and its retention is justified on these grounds.

8.3 Trees, Planting and Landscaping

Proposed tree removal

All of the trees on and adjacent to the site are protected by virtue of being within the Mayfair Conservation Area. The Design and Access Statement says that of the 68 trees on the site, 46 are proposed to be retained. The tree report says the proposals will require the removal of 22 category C trees including 8 pleached lime trees. Trees are categorised according to 'British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations', with A being the highest category, followed by B, C and U (unsuitable for retention). The referenced trees proposed for removal are:

- 502 tree of heaven
- 514 apple
- 515 apple
- 520 tree of heaven
- 521 tree of heaven
- 538 cherry
- 543 holly
- 547 walnut
- 548 walnut
- 549 small oriental plane
- 559 cherry
- 560 cherry
- 561 cherry
- 562 cherry
- 563, 564, 565, 566, 567, 568, 569, 570 pleached lime trees

Of the trees proposed to be removed in the above list, the loss of the walnuts is regrettable, in particular tree 548, to which the Head of Arboricultural Services attributes a B category.

With regard to the tree of heaven 502, the applicant considers that its removal will be beneficial for the gardens as it will make space for planting two replacement trees and allow additional light into the ground layer below. The submitted tree report further considers that trees of heaven are relatively short lived, and have poor resistance to decay, and considers it unlikely that the tree will be able to be retained for more than 20 years.

The Head of Arboricultural Services considers the tree of heaven T502 to be a good specimen to which she would also attribute a B category. It has a reasonable form and canopy structure, and is a significant landscape feature in this part of the garden. In her view it has a safe life expectancy of 20 years or more. Whilst she agrees trees of heaven have a reputation of poor resistance to decay, she do not think that this is sufficient reason to categorise the tree as a C category tree. She considers it should be retained in the proposed development, and raises objections to its removal as part of the current planning application.

The applicant is adamant that the tree should be removed and whilst sympathetic to the

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Head of Arboricultural Services' objection, it is considered that the objection in this instance is outweighed by the benefits of the scheme as a whole.

The removal of the remaining trees in the list above is considered to be acceptable, subject to the provision of adequate replacement tree planting.

Proposed tree transplanting

Of the three memorial trees in Grosvenor Square Gardens (T512 London plane, T523 tulip tree and T544 tulip tree), two are proposed to be transplanted - 523 tulip tree and 544 tulip tree. Moving memorial trees is a sensitive issue. As the Head of Arboricultural Services suggested at pre-application stage, the applicant has made efforts to contact the relatives of those connected with the trees. The tree report (6.32) states that the mother of the individual for whom T523 was planted has expressed agreement to transplanting, but relatives of the individual for whom T544 was planted cannot be reached. It is regrettable that contact has not been able to be established regarding T544.

The Head of Arboricultural Services commented at pre-application stage that the trees have been growing in the garden for an assumed 10-15 years, so there would be a considerable risk of the trees failing following transplanting, particularly as it is not intended to prepare the trees for transplanting in accordance with the recommendations in 'British Standard 8545: 2014 (Trees: from nursery to independence in the landscape Recommendations)'.

The applicant has now clarified that tree 523 has been in situ since 2015 and T544 since 2013, i.e., 7 and 9 years respectively. Whilst the risk of moving these trees is less than it would be had they been established for longer, there remains a risk that these trees will fail if moved. Whilst new trees could be sourced and planted if the existing trees died as a result of transplanting, the symbolism of the act of commemoration would be undermined. The Head of Arboricultural Services raises concerns about the likelihood of success of transplanting, but subject to conditions to control the method of transplanting she does not consider that this would be sufficient reason for refusal of the planning application.

Proposed tree surgery

The tree report says crown lifting of trees is proposed to provide a general clearance above ground level of 5m. Lifting the crowns of all trees to 5m from ground level is intended for construction access and to allow light to proposed new planting, with the exception of trees 511, 512, 522, 527, 537 as these five trees are identified as unsuitable for this type of tree surgery.

The Head of Arboricultural Services commented at pre-application stage that if the majority of trees are lifted to 5m above ground level, the applicant should reconsider the approach to future management of the trees to allow lower branches to redevelop, at least in some instances, in order to create a less regimented and more informal appearance to the trees as befits the picturesque garden setting. The applicant has advised that this is understood and supported, and can be incorporated into the management plan of the Square.

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The applicant acknowledges that further detail will be required relating to the specific works to each individual tree, and a planning condition is proposed for this.

Proposed soft landscaping

The creation of a shaded garden is welcomed in principle, as is the intention to increase the diversity of planting by introducing tree and shrub species and ground level planting. 46 new trees are proposed, the majority of which are small growing ornamental species.

The proposed meandering path complements and reinforces the intended informal nature of the shaded garden area, but the number of 'social ovals' creates an over-elaborate and fussy appearance and the Head of Arboricultural Services questions the necessity of such a large number of these ovals. She also raises concerns over the appearance and number of proposed 'mounds', of varying size and up to 800mm height, which would add to the cluttered appearance. She considers that it would be preferable to see a simpler design and to reduce the number of these features. Also, whilst she understands that these ovals are intended to provide a sense of privacy and enclosure to users of the garden, this enclosure would clearly need to be balanced with ensuring the ovals are not used for anti-social purposes – this is a concern raised by the Designing Out Crime Officer, discussed below.

The applicant has not submitted full landscaping details for approval but an indicative planting and horticultural strategy has been provided. The Head of Arboricultural Services does not raise objections to the proposed planting in principle, but careful consideration will need to be given to number, spacing and placement of new trees to allow them to develop to their full potential. In addition, of the proposed 46 new trees, 21 are cherries (*Prunus*) and 13 are dogwoods (*Cornus*), which equates to 74% of all of the proposed trees. It would seem appropriate to explore a greater variety of trees, in order to maximise diversity of species. There are a number of species which could be selected, which would perform a similar landscape function to some of the proposed trees. A condition requiring the submission of a planting scheme is proposed.

Proposed hedge removal

The existing holly hedge around the perimeter of the Square is an attractive feature of the garden. It is a strong visual boundary element and creates privacy and a sense of enclosure for garden users. The removal of the hedge would be regrettable on this basis. After some discussion about whether parts of the existing hedge could be retained, the applicant does not consider this to be feasible. The intention is to provide a new hedge with a greater species mix and therefore greater potential benefit to biodiversity. Increasing biodiversity is a policy aim of the City Plan but biodiversity is not solely a function of numbers of species. Species abundance is also important, and holly hedges are not believed to be particularly common in Westminster. Whilst increasing the number of species in the garden is very welcome, the Head of Arboricultural Services is not convinced that this necessitates the removal of the holly hedge and suggests that the applicant reconsiders this aspect of the proposal, with a view to retaining the existing hedge in whole or in part. This matter can be further discussed as part of the submission of details at a later date.

Root protection areas (RPAs) and terminology

The tree report identifies the RPAs of the trees. There is some disagreement between the Head of Arboricultural Services and the applicant concerning the extent of the RPA and their relationship with the surrounding carriageways. There is a condition protecting the tree roots prior to any excavation works and informatives give further advice on this matter are included in the draft decision.

Impacts on retained trees

There are various aspects of the specific proposals which must be considered in terms of their potential impacts on the trees.

i. Proposed landscape level changes

Levels are proposed to be increased throughout the garden to a 'consolidated' depth of 150mm, by adding a 50mm layer of washed sand topped with organic rich topsoil. It is not stated if consolidation is intended to be a natural process, but it is assumed that the initial build up will be in excess of 150mm. The actual build up at construction stage is not stated. The Design and Access Statement says that the proposed depth of the new mulch layer will be optimised during detailed design stages to ensure the best outcome for both the new plants, and the existing trees on site. This statement introduces uncertainty into the actual depths proposed.

Plans show a layout and section of the increased levels, including provision to reduce the depth of the washed sand/ topsoil close to the trunks of existing trees. Adding an organic layer to improve soil conditions for trees or for moisture retention is not contentious, but the proposed 150mm depth build up (as consolidated) over the entirety of the proposed shaded garden seems excessive, and is likely to be damaging to retained trees. Most landscape specifications for mulching are between 50-75mm. The use of a mulch layer below existing trees as practiced at Kew Gardens and elsewhere is well known, but it is believed that the mulch is not applied to 150mm depth, or over.

The submitted documents set out that the increase in the garden level is intended to establish planting and benefit trees. The applicant has advised that it is not proposed to increase levels in order to facilitate the construction of hard landscaping, but it is believed that an increase in levels is proposed, (whether primarily or secondarily), in order to limit excavation below existing ground levels, which would be required for foundations for paths, benches and lighting columns, utilities, and indeed most of the infrastructure which is proposed.

Even with the raised soil levels in the garden, as indicated in parts of the submission, there would be a drop from path level to garden level of about 88 mm. The applicant has advised that the creation of 'floating' pathways was a design intent, but there are concerns that such a drop would be appear rather awkward, and would create a trip hazard.

The Head of Arboricultural Services therefore raises concerns over the proposed landscape level increase, and remains of the view that the applicant should consider a reduction in the proposed depth of build-up, and revise the approach to level changes to

remove the 150mm (plus) level increase over all of the proposed shaded garden. A condition is proposed requiring the submission of details of the profile and specification of any proposed build up in levels.

ii. Proposed paths and social ovals

The meandering path around the perimeter of the park and the social ovals are intended to be permeable and constructed above ground level to minimise damage to existing trees. Stone paths are proposed elsewhere in the garden. Where the surfaces are in the RPAs of trees, screw piles are intended to support the paths/ ovals. The Head of Arboricultural Services does raise concerns about the drop from path/ oval level to garden level at (i) above. Supporting the proposed hard surfacing with screw piles is likely to result in root severance, and also gives rise to concern. A condition requires that details of path construction are reserved, with an informative added regarding screw piling.

iii. New entrance points

Excavation is proposed to achieve level thresholds with the existing pavement at the six access points to the Square. Five stone paths at pedestrian entrance points require excavation of up to 176mm in the RPAs areas of trees, with additional excavation for screw piles supporting a metal grid below the stone surfacing. One wide stone path for vehicular access requires excavation of 186mm in the RPA areas of trees, with additional excavation for screw piles supporting a metal grid below the stone surfacing.

Whilst it may be possible to excavate to up to 186mm depth without harm to tree roots, the Head of Arboricultural Services raises concerns about this and the proposal to support the proposed hard surfacing with screw piles, which is likely to result in root severance. Of particular concern is the impact on the London plane T529 adjacent to the southern vehicular access, where a large proportion of the RPA of the tree is intended to be piled. A condition requires the submission of further details.

iv. Central mound

A central mound is proposed to a maximum height of 1200mm in the centre of the oval. The build-up has the potential to impact on some of the London plane tree. The tree report says maximum increased in soil levels in the RPAs of these trees will be 300mm. A French drain is suggested to alleviate flooding which, as indicated, would result in excavation in the RPA of trees 522 and 540, and at the perimeter of the RPAs of 519 and 542. The Head of Arboricultural Services raises concern about the potential impact of the mound and drainage arrangements on the trees, and suggests that levels changes are removed or restricted in the RPAs of the trees to limit the likelihood of damage. A condition is imposed requiring details of the level changes and the composition of any proposed build up.

v. Buildings beneath trees

Two buildings are proposed beneath two London on piled foundations. The tree report says it is intended to use micropiles, to support the buildings. The piles as indicated have a diameter of 115-165mm: 22 piles shows in the RPA of one tree and 33 piles in

the RPA of the other tree. Additional piling is proposed in the RPAs of these trees for paths and ovals.

Although the piles are proposed to be small diameter, it appears almost inevitable that the piling to such an extent in such close proximity to the trees would result in severance of significant roots. The tree report says that a ground penetrating radar (GPR) survey found the majority of roots in the top 1m of the soil piles could be located to avoid roots. However, the GPR survey did not attempt to find roots below 1m depth, so whether roots deeper within the soil profile would be severed as a result of the proposed piling is unknown, and there is a high risk of damage to roots in the upper 1m profile of the soil too. In addition, it would be very difficult to avoid compaction in the RPAs of the trees whilst undertaking piling operations. The buildings are within 1m of the trees, with the roof of the building adjacent to T528 almost touching the trunk of the tree. The section drawings also indicates a step up to the finished floor level would be required to accommodate the raised floor levels of the buildings.

The Head of Arboricultural Services raises objections to buildings in these locations, on the basis of likely harm of the health and longevity of the trees. The applicant has been asked to reconsider the location of the proposed buildings, and whilst there has been a minimal change to one building, no further changes are proposed. Again, whilst sympathetic to the concerns of the Head of Arboricultural Services, it is considered that the proposed conditions should provide adequate safeguards.

vi. Railings

Excavation for a concrete ground beam and screw piled foundations of about 80mm diameter (plus additional diameter for the 'thread' of the screw pile) would be required to support the proposed railings, with piles at 1m staggered centres. The Head of Arboricultural Services suggested at pre-application stage that it would be prudent to investigate whether the existing foundation for the plinth that surrounds the garden is of sufficient depth to support the proposed new railings, which if it is adequate would negate the need for piles, but this appears not to have been done. Whilst there are concerns about the impact of the excavation for the foundations of the railings on the retained trees, details of the foundations are reserved by condition.

vii. Benches

The Design and Access Statement shows excavation for screw piles for the benches surrounding the central oval, with additional excavation for heave protection. Excavation to support benches in the proposed social ovals and at arrival points would also be required. There are concerns about the impact of the excavation for the foundations of the benches on the retained trees but details of the foundations are reserved by condition.

viii. Lighting

44 lighting columns of 5-12 m in height are proposed. Four screw piles of 90mm diameter plus the diameter of 'threads' of the piles are proposed to support each light column; numerous path lights and spot lights are proposed, and the submission indicates excavation for trenches for the power supplies throughout the garden. The

Design and Access Statement indicates excavation to 300mm below existing ground level to connect the power supply to the lighting columns.

A considerable number of the proposed lighting columns are proposed in the RPAs of trees and whilst noting the intended flexibility in pile locations, and the precautions outlined in the Design and Access Statement, the Head of Arboricultural Services believes that there is likely to be conflict between lighting columns and tree roots and tree canopies in some locations and raises concerns about this and the extent of excavation likely to be required for power supplies. It is recommended that the details of excavation required for power supplies and other utilities are reserved by condition.

ix. Mounds and swales

Indicative sections show mounds are proposed to be up to 800mm in height and swales to 450mm in depth. The swales are intended to form temporary pools following heavy rainfall and to drain into soakaways, the size and design of which are not set out. Whilst the submission indicates that these features are intended to be outside RPAs, this is not wholly the case, which gives rise to concern about potential impact on trees. In addition, there are concerns that the level changes for mounds and swales are likely to create a rather cluttered appearance to the garden. The Head of Arboricultural Services considers that a reduction in the number of mounds and more limited changes in levels would be more appropriate, but the details are reserved by condition.

x. Rain funnels/ waterfall canopies

The proposed rain funnels/ waterfall canopies are proposed in the RPAs of two trees (refs. 540 and 545). In the case of tree 545 the funnel is located directly below the tree canopy. Excavation would be required for the four supports for each funnel, with pipework to the underground storage tank, lighting, light ducting, a pumping station and benches. The Head of Arboricultural Services raises concerns because it seems inappropriate to locate a rain funnel underneath the canopy of a tree. She also raises concerns about the extent of excavation likely to be required and concomitant root damage and harm to the trees, and suggests that the location of these rain funnels is reconsidered.

Their location has been revised to some extent to set them back and away from the central oval lawn so they are less prominent in design terms. The concerns of the Head of Arboricultural Services are noted but it is considered that conditions requiring the submission of more details should adequately address those concerns.

xi. Other water features/ below ground water infrastructure

Excavation is proposed in the RPA of a number of retained trees for screw pile supports for the proposed rill, and for water pipes. There are concerns about the excavation likely to be required and the potential impact on the trees, but details of the excavation required are reserved by condition.

xii. Other utilities

In addition to excavation for power and water, excavation is likely to be required for a

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telecommunications/ data connection to the proposed gardeners building, and there is a concern that this has the potential to impact on the adjacent tree. Again, details of the excavation required are reserved by condition.

Demolition and construction arrangements, sequencing and arboricultural method statement

The proposed demolition and construction arrangements are provisional and in draft form, and are based on the closure of the entire square for the duration of the works. The draft proposal is for vehicular construction access from north and south access points and for works to take place over 22 months. Although in draft form and possibly subject to change, the Head of Arboricultural Services considers that there does appear to be an obvious potential conflict with trees with regard to the proposed northern construction access, and, potentially at the southern access too with regard to the tree canopies. Further detail will be required in accordance with the recommendations in the British Standard 5837: 2012.

The tree report says a future arboricultural method statement will detail the tree protection measures and methods of work to be adopted, which will apply to all works within the tree protection zone. Given all of the concerns outlined above, and in the absence of a conclusive construction management plan, the Head of Arboricultural Services does raise concerns about the impact on trees as a result of demolition and construction arrangements. However, it is recommended that there is an arboricultural method statement that includes site specific tree protection details, rather than the standard and generic text which is frequently encountered, and the demolition and construction arrangements and sequencing are aligned with the arboricultural method statement.

Green roofs

Green roofs are proposed on the buildings, both of which are directly below tree canopies and which gives rise to some concern about establishment and maintenance of the green roof with regard to shading from the trees, lack of natural watering due to rainfall interception by tree canopies, and leaf fall onto the roofs. It also raises concerns about future requests for inappropriate tree surgery in order to alleviate the constraints the trees pose on green roof establishment and maintenance.

A 400 mm build-up of substrate was proposed in pre-application discussions, but the Design and Access Statement now indicates an 80mm minimum build up. The applicant has advised the roofs will meet the GRO Code 2021 and will have a minimum substrate depth of 80 mm (deeper in most places). The Design and Access Statement says the roof will be a semi intensive green roof, but with regard to depth of substrate, the City Council's Environment SPD says these are typically 100mm to 200mm substrate depth – there is thus an issue regarding the depth of substrate are wholly satisfied.

With regard to green roof details required, the SPD says:

'Details of the design and construction and a management plan will be required for green roof developments at full application stage. These should include details of the depth and specification of the substrate, the number, size, species and density of the

proposed planting, and details of maintenance regime (frequency of operations, timing of operations and who is responsible), and irrigation. The irrigation provided should be sustainable (i.e., not mains water) and the roof should provide the maximum biodiversity benefits within the site constraints. It should also be demonstrated that structural requirements to accommodate a green roof site have been considered. The structure needs to be able to accommodate the additional loading required for the depth of substrate. Other constraints will also be considered at pre-application and application stage, such as height, orientation, exposure and safety.'

These details have not been satisfied and accordingly the specification and management of the green roofs are reserved by condition.

8.4 Transportation/Servicing and Waste

The site is exceptionally well served by public transport and it has a Public Transport Accessibility Level (PTAL) rating of 6B (the highest rating available). There is no cycle parking within the gardens but within Grosvenor Square there are two Santander cycle hire docking stations providing 41 docking spaces. They are located close to the existing north east and southern entrances to the site. General use cycle parking is provided at a number of locations around the Square providing 67 spaces. The proposal includes changes to the existing vehicle access on the southern boundary. The new pedestrian gates do not raise any highway or transport concerns. The replacement railings follow the existing railing line and do not extend onto highway.

Cycle Parking

Long stay cycle parking will support active travel options by staff. Long term cycle parking must be secure, accessible and weather proof. Long stay cycle parking for developments must be met within the development site itself. The London Plan Policy TS requires 1 space per 175m² of retail/restaurant use (most comparable use) - minimum 2 spaces. 145m² of the proposed structures/uses would generate a requirement of 2 spaces. 2 long term spaces are provided. This provision is welcomed and will support sustainable travel to the site for staff.

Existing on-street cycle parking is to support the surrounding area and new development is expected to meet current minimum standards to support the growth of cycling as a sustainable mode of transport. No additional short stay cycle parking spaces are proposed to support the proposed permanent uses or temporary event uses. The applicant indicates that this is because cycling is not allowed within the gardens. However, if additional short stay cycle parking were located near the entrances, visitors could access additional short stay cycle parking within the gardens. Given the interventions proposed, the Highways Planning Manager is disappointed with this approach as part of the increased use of the gardens but does not raise objection.

Car Parking

No car parking is provided for the proposed use within the development site. The site is within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls. The impact of the change of use on parking levels will be

minimal and consistent with Policy 27.

Trip Generation

The applicant has submitted a Transport Statement providing information on the level of operation of the proposed development. It is accepted that the majority of trips associated with the site (excluding servicing activity) will be via public transport or other sustainable modes (e.g. walking, cycling). On balance, while the proposed uses will result in higher levels of activity at different times, the activity of guests arriving and departing the site will not result in significant detrimental highway safety or operation. Given the site's location, proposed use and scale of development, a formal travel plan is not considered necessary.

Servicing and Vehicle Access

Policy 29 requires off-street servicing and freight consolidation. Deliveries, goods left and waste collection on the highway create an obstruction to pedestrians and have an adverse impact on the improvements to the public realm. Delivery vehicles stopping on the highway can also result in localised congestion to other motorists. Off-street servicing is provided. The applicant has supported the application with an Operational Management Plan. This is welcomed and is secured by condition. Given the temporary nature of events within the gardens, both existing and proposed, there will be both day to day servicing needs (e.g. for the cafe, gardens maintenance) plus servicing vehicles to support the temporary events. The vehicle access arrangements are similar to the existing situation. It is noted that vehicle access will be managed with a banksman. The increase in servicing vehicle activity does not raise a highways or transport concern.

The existing southern vehicle access is altered, including the gate line being brought forward to be in line within the existing main railing alignment and widened. This also involves integration of the large inset in front of the entrance into the gardens. Although this area is not public highway, it would have the potential effect on some people with disabilities, because it would take away the ability to dodge around the level change where the footway crossover exists, albeit that this level change is quite minor. It is accepted that none of the footway around the gardens is very wide but the presence of a sign post and electric feeder pillar for the adjacent Santander cycle hire docking station mean that the proposals would reduce the pavement to 880mm at this point, which is less than the width of some wheelchairs or a double buggy.

It is therefore considered that the small drop in the kerb should be made flat, which would at least allow a single wheelchair to be able to negotiate this footway but would mean that vehicles that wish to enter the gardens would have to bump up the kerb. From the submitted drawings and vehicle tracking, it does not appear that the alterations to this vehicle access point will have any significant impact on the existing on-street Cycle Hire Docking Station or on-street parking bays. However, details of the design will need to be secured. Whilst the Highways Planning Manager has requested that this should be done with a legal agreement as the alterations may include the relocation of existing street furniture items (e.g. feeder pillars, signage etc), all to the Council's specification, and at full cost to the developer, a condition is considered to be acceptable.

Waste

An external storage compound is proposed for external garden / green waste which will be located adjacent to the gardener’s office and will be screened by a wicker fence. External waste bins for the catering kiosk, educational facility and gardener’s office will be provided to the east of the southern entrance to the gardens (south west of the educational facility and kiosk building). Waste will be transferred here on a regular basis prior to removal from the site. Given the garden’s sensitive heritage and landscape context, an appropriate off-street servicing strategy for the new buildings has been developed that will satisfactorily accommodate the anticipated low frequency of vehicle-based delivery and servicing activity. All vehicles will enter and exit the site through the southern entrance.

However, the Projects Officer (Waste) has raised an objection on the grounds that there are no details about the waste storage provision (no designation for food waste, general waste and recycling is shown, nor capacity of the storage bins). This matter can be dealt with by condition.

8.5 Crime and Security

The National Planning Policy Framework (NPPF), Section 8 (Promoting healthy and safe communities) states

Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas;

Section 12 (Achieving well-designed places) states

Planning policies and decisions should ensure that developments:

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Relevant policies in the Westminster City Plan 2019-2040 are as follows:

38. C (People-Centred Design) –

All development will place people at the heart of design, creating inclusive and accessible spaces and places, introducing measures that reduce the opportunity for crime and anti-social behaviour, promoting health, well-being and active lifestyles through design and ensuring a good standard of amenity for new and existing occupiers.

43 . B (An Inclusive and Accessible Public Realm) –

The public realm will be safe, attractive and accessible to all. Development should contribute to improving connectivity, legibility and permeability of the public realm and the network of public spaces in the city through...

5. creating clear sight lines, improve lighting and following the principles of designing out crime;

44. (Security Measures in the Public Realm) –

A. Development will provide an integrated approach to the security of the site including buildings and any associated public or private spaces.

B. Development and or public realm improvement proposals will be required to incorporate appropriate counter terrorism measures advised by the Metropolitan Police and / or the council. Where appropriate, the retrofitting of existing buildings and spaces may be required.

C. All security measures will be designed and implemented to take account of the functionality of the area and the needs of its users, and will be sensitively designed to respect the surrounding context and public realm.

The Designing Out Crime Officer, who has met with the applicant on site, has raised objections to the proposal on the grounds that it will increase the level of crime in the area and lead to an unsafe space for users. Other consultees have also raised concerns on this matter. The Designing Out Crime Officer advises that there has been a steady rise in crime within the ward of Mayfair and St James over the past 12 months, with theft, anti-social behaviour and violence and sexual offences all prominent issues, and that these must be taken into account when considering the proposed design. She also highlights the difference in crime levels between Grosvenor Square Gardens and Berkeley Square. At present, crime rates within the boundaries of Grosvenor Square Gardens are comparatively low. Berkeley Square suffers from a high level of anti-social behaviour and street drinking. It is also known as a gathering place for criminal gangs, who typically use the square to congregate during the day, sleep in the square overnight and carryout unsociable activities. One of the design features which contributes to this issue is the number of benches within the park.

The Designing Out Crime Officer has met and discussed the proposed plans with the local policing team and believes that the proposed design will allow for an increase in crime in the gardens. Grosvenor Square Gardens currently benefits from a good level of natural surveillance from the street as well as from within, giving users a sense of personal safety and security. She considers that the proposed plans will greatly reduce the level of natural surveillance throughout, creating unsafe spaces which will leave users vulnerable to personal attack and robbery. For example, the secluded Social Ovals are likely to create attractive areas for street drinkers, rough sleepers and criminal gangs to smoke drugs undetected. This will increase the crime levels within the gardens

and create an unsafe space for users, who will undoubtedly have an increased fear of crime and lack of personal safety, especially for girls and women.

Particular concerns raised by the Designing Out Crime Officer are as follows:

Social Ovals: These areas are far too enclosed and shaded by the foliage. The park should be open and visually permeable from all angles. The proposed change in ground level will also contribute to the concealment of these areas.

Waterfall Canopies: There is potential for the canopies to provide shelter for rough sleepers. The design of such instalments must not provide this opportunity.

Central Oval Benches: The sheer amount of benches proposed will encourage long stay visitors. In a setting like this we want to create a setting for resting as opposed to persons settling for prolonged periods of time.

Play Spaces: Children's play spaces must have exceptional natural surveillance and not be concealed within dense foliage.

Following their meeting, the applicant has sought to address the concerns of the Designing Out Crime Officer. The applicant states that safety and security in the gardens is taken extremely seriously, with their local property management team taking an active role in ensuring the Gardens are maintained to a high standard and monitored carefully to discourage any antisocial behaviour. A security patrol also monitors the site at night and can attend the Gardens if anything adverse is reported.

In response to the particular concerns raised about elements of the proposal, the applicant has responded in detail to these concerns (see Gerald Eve letter dated 25 April 2022 in the Background Papers), summarised as follows:

Social Ovals and Visual Surveillance

- It is intended that there will be visual permeability through the site, including to all of the social ovals both from within the gardens and from outside on the perimeter pavement. This will be achieved by appropriate planting design and active and daily management of the gardens. At this stage, the planting shown is indicative only and the detailed planting strategy will be developed during the next phase of design and approved by the Council via a condition.
- It is proposed that planting levels across the site, and particularly surrounding the outer ovals, is kept at a low level and at a low density, with the design being one of a loose, permeable and transparent concept. It is considered that the low-level planting will not create a barrier to exit or a feeling of seclusion for users of the social ovals and they will function as permeable and visible areas. The general ground layer of planting throughout the outer ovals proposes a variety of woody plant that comprise an open form without dense foliage to ground level, to be placed away from paths to avoid any visual barrier in this regard.
- The outer ovals will also have good visibility from outside the gardens due to the new railings and new perimeter hedging that will replace the existing dense

hedge which currently restricts sightlines into the gardens. These changes will improve sight lines into the gardens. The existing hedge planting around the gardens is dense and quite tall (1600mm in height), which limits visual surveillance from the adjacent perimeter pavement, could provide an opportunity to conceal weapons. The proposed replacement of this hedge with new railings (1150mm in height atop a 50mm plinth structure) and a less dense and lower-level hedge planting, will maintain a defensible boundary, while improving site lines in to and out of the gardens. The opening up of the arrival spaces, where there will be less dense hedge planting, will provide improved views into the gardens compared to the existing position.

- The applicant will have a robust Landscape Management Plan which will ensure the design intent for the landscaping is maintained, thereby preventing any overgrowth that could risk lessening visual permeability throughout the lifetime of the proposals. This will be carried out and continually managed by the applicant's on-site landscape team. [This is secured by condition.]
- The proposed lighting strategy includes low level lighting throughout the gardens including along the pathways and in the social ovals. During garden opening hours (7am to 10pm) this will come on during hours of low light and darkness. The lighting strategy can be a key consideration to deterring anti-social behaviour and criminal activity. The applicant will ensure that the detailed design (which is subject to a condition) responds to this requirement and further consultation with the Metropolitan Police is encouraged.

Waterfall Canopies

The applicant advises that it is not at this stage held to a particular design for the waterfall canopies as it is expected to evolve and be developed as part of further detailed design work. As such, it will look to liaise and work with the Metropolitan Police to develop a design which mitigates their concerns of the Metropolitan Police. (The detailed design of the canopies is conditioned.)

Central Oval Benches

In response to the concern that the proposed benches will encourage long stay visitors, the applicant comments that the intention is not to create a transitional space, but rather one that encourages users to stop and rest for a while and to enjoy the gardens. However, the detailed design of the seating will ensure that it is not suitable for long-term sleeping, and the detailed design is conditioned and can be subject to further consultation with the Metropolitan Police.

In addition, the proposed Operational Management Plan will deter rough sleeping: the gardens will be closed and locked at night from 10pm and there will be a security sweep of the site before the gates are locked and any visitors will be asked to leave. The use of lighting will also help to deter anti-social behaviour, along with night motion sensor cameras linked to an external security service which will detect any unauthorised activity, followed up with a security patrol to the site.

Play Space

The applicant agrees with the Designing Out Crime Officer that the children's play spaces must have exceptional natural surveillance and not be concealed within dense foliage. The location of the 'play zone' in the southwest corner of site has been selected as it receives good amounts of daylight whilst being sheltered by the higher tree canopies above. Located in proximity to the outer pathway and other social ovals, it is intended that the space will have good levels of natural surveillance, with particular attention to maintaining low level planting around the play zones. The same approach will be taken to other informal play features in other parts of the gardens. The detailed planting design, including that around the play areas, and the details of the play areas themselves and the play equipment, are all conditioned.

Building Overhangs

At the site visit between the Designing Out Crime Officer and the applicant, it was apparently indicated that any overhang created on the proposed buildings would represent an opportunity to attract rough sleepers. The overhang depth of the 2 buildings is between 2.6m and 3.8m. To address this concern, the applicant proposes to commit to exploring a design for shutters which will be used each evening before the site is locked to remove any opportunity for long stay visitors. However, this matter has not been discussed with officers and no details have been provided. It is considered to represent a potentially significant design alteration, not only from the shutters themselves (which it is acknowledged would only be down at night-time) but the housing for the shutters. This matter needs separate consideration and if necessary an amending application might be required.

The applicant argues that the existing management plan in place at Grosvenor Square Gardens has been very successful to date, as indicated by the low level of incidents being reported. It is proposed to continue such management and to maintain an appropriate level of staffing and on-site surveillance by both the on-site landscape management team and permanent staff. The proposals introduce a permanent CCTV system, with appropriate signage informing the public that CCTV is in operation within the gardens (currently there is none unless there is an event under the applicant's events licence in which case temporary CCTV is brought into the Gardens). These measures will deter anti-social behaviour and rough sleepers.

Officers acknowledge and understand the concerns raised by the Designing Out Crime Officer and other objectors about the crime and security issues raised by the proposals, and it is noted that there are relevant planning policies covering these matters. Although some of these concerns have been raised at a late stage in the application process, it is considered that they can be dealt with by condition. This is considered to address these objections and the applicant is encouraged to fulfil their commitment to continue liaising with the Metropolitan Police.

8.6 Economic Considerations

Any general economic benefits arising from the proposals would be welcomed.

8.7 Access

There is level access throughout the development, including the new toilets, which is welcomed.

It is noted that Place Shaping/The Oxford Street District team have commented that whilst they generally welcome the proposals for level access and well-defined gateways to the square, they consider that the loss of the recessed spaces at the existing entrances is detrimental to the visitor experience in orientating themselves. However, the proposals generally open up the entrances and have spaces immediately within the gates, so the impact on the visitor experience is considered to be marginal or even slightly improved.

8.8 Other UDP/Westminster Policy Considerations

Air Quality

Policy SI 1 (Improving air quality) of the London Plan, City Plan Policy 32 (Air quality) and Mayfair Neighbourhood Plan Policy MES1 (Air Quality) deal with commitments to improving air quality. An Air Quality and Odour Assessment has been submitted in support of the applications. Results of the Air Quality Neutral Assessment have indicated that building and transport emissions associated with the proposed development can be considered neutral and no further mitigation measures or additional abatement will be required and thus comply with the above policies.

Lighting and CCTV

The gardens are currently unlit at night. Another new feature within the gardens will be the addition of lighting. A variety of lighting measures are introduced including 44 new lighting columns, as well as path lighting and low-level spotlights, associated with the memorials. There will be a hierarchy of lighting columns, with the largest at 12m tall located as pairs to the four corner entrances, which are intended both to light the entry points but also because of their height to act as legible gateway points into the gardens. The columns will have a contemporary appearance with directional spotlights and some of these will also feature integrated smart technologies such as WIFI, CCTV and data collectors. The columns will be predominantly positioned within the shaded garden areas although there will be some 5m tall columns to the edge of the oval perimeter path. The lighting columns are proposed to be dove grey in colour.

The proposed lighting strategy looks to optimise a natural habitat and minimise adverse impacts of artificial lighting at night. It is proposed to light the square with minimal use of up-lighting, as this is a technique of lighting considered to be detrimental to the habitat of animals, and will seek to create healthy natural habitats and welcoming public space, which will be achieved through, for example, reducing glare and eliminating obtrusive light; prioritising considerations for nesting birds; subtle lighting to showcase the green infrastructure; utilising the latest technologies and control systems to create programmed scenes that provide appropriate levels of light for active hours and for darkness; and use of light sparingly at night, with warmer colour temperatures which supports bats (foraging and nesting). The proposed lighting will therefore look to minimise the impact of glare and light spill on local amenity / residential amenity and on biodiversity, in accordance with City Plan Policy 33.

The provision of lighting and the CCTV is welcome, subject to a condition requiring details of the fittings, the hours that the lighting will be on and how the lighting and CCTV is to be managed. This also has implication for crime and security, considered below.

Sustainability

London Plan policies (particularly SI 2, Minimising greenhouse gas emissions), the Council's City Plan 2019-2040 (in particular Policy 36, Energy) and Mayfair Neighbourhood Plan Policy MES4 (Carbon) all encourage sustainability and renewable energy to help reduce levels of carbon. As part of the submission there is a comprehensive Sustainability and Energy Statement which seeks to demonstrate that these proposal incorporate exemplar levels of sustainable design.

In terms of operational energy and carbon, the limited scale of the buildings that are proposed mean they are not subject to set performance requirements beyond building regulations. However, to demonstrate best practice approach, the GLA's energy hierarchy has been applied to the building to limit their associated operational carbon emissions, in accordance with the above policies. Mayfair Neighbourhood Plan Policy MES3 (Materials) is also applicable, in seeking to reduce and reuse demolition waste as a construction material where possible and adopt sustainable and responsible sourcing approaches.

Given the competing demands for the gardens and their principle role as open space, there is limited scope for renewable energy features in this scheme. However, the proposal does include air source heat pumps and VRF heat pumps. In addition to this, it is proposed to install six ground-mounted photovoltaic modules in the gardener's external store area. The PVs will supply electricity to the pumping systems for the variety of water features on site such as the waterfall canopies and rills.

Given the emphasis on planting, it is noted that the site will sequest carbon as the trees and plants mature. This will look to improve soil health and act as a natural carbon sink. Pumping associated with the Site's water management strategy falls outside of the Building Regulations. However, the design proposals have looked to limit the amount of active pumping requirement and utilise gravity-based solutions as much as possible. When active pumping is required the energy required will be offset by the energy generated on site by the solar photovoltaic panels.

Policy SI 5 of the London Plan seeks to minimise the use of water and conserve water resources. Policy 38 of the City Plan requires that development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design. The proposals include a number of water features: in terms of climate resilience, water conservation and sustainable design, the following measures are proposed as part of the application in accordance with the above policies:

- The soft landscaping and planting strategy will be diverse to provide resilience against the future effects of climate change;
- The new design will increase the number of vegetation layers to create a more complex ecological system. More complex ecosystems support greater biodiversity and are more resilience to stresses and disturbances caused by extreme weather events;

- The proposals will include the following in order to improve the management of surface water: directing rainwater and surface water into the soil and soakaway via swales; creating a number of water features for interest, summer cooling and habitat; and collecting rainwater falling within the site and storing the rainwater (within an underground rainwater harvesting tank) for top-up of water features and for occasional irrigation. The estimated rainwater harvesting tank size of 358 cubic metres has been determined by estimating the demand;
- The proposals will provide a combination of planting, green roofs, soil improvement, swales, stone underdrains and rainwater harvesting which will have the capacity to cope with future climate change and to endure rainstorm events. The site is capable of holding the surface water onsite and subsequently allowing it to infiltrate into soakaways without causing any surface water problems on the site or neighbouring roads/ properties.

In terms of water efficiency as per the London Plan Policy SI 5 on Water Infrastructure, the proposals will achieve at least the BREEAM 'Excellent' Standard for the WAT 01 water category or equivalent. Water meters will be specified on the main supply and sub-metering in line with the BREEAM requirements.

In accordance with Policy SI 7 of the London Plan, the principles of circular economy are being adopted for the site. This has been built around three principles:

- Conserve resources, increase efficiency and source sustainably
- Design to eliminate waste
- Manage waste sustainably and at the highest value

The Sustainability and Energy Statement explains that material use will be reduced or optimised through design, specification and construction techniques. Targets will be set and monitored throughout the construction process. In terms of waste, during the construction phase, a large amount of waste material will be generated through construction, demolition and land clearing procedures. Prior to commencement on site a Resource Management Plan (RMP) that complies with the requirements of current legislation and BREEAM will be prepared. This will include procedures and targets. The Proposed Development's target is to achieve more than 95% of construction waste be diverted away from landfill.

In terms of operational waste, procedures will be put in place to handle the separation, collection, and storage of common recyclable materials such as paper, glass, plastics, organic waste and metal. The main aim will be to recycle as much waste as possible, which will be achieved by making sure that waste recycling facilities are strategically placed in convenient locations and accessible to all users. Dedicated storage space for recyclable materials are proposed.

Biodiversity

Prior to the submission of the application the applicant commissioned The Ecology Consultancy in June 2020 to carry out a Preliminary Ecological Appraisal (PEA), comprising a Phase 1 habitat survey, protected species assessment and ecological evaluation of land at the site. This was followed by a further bat survey and a breeding bird survey in spring and summer 2021.

Matters relating to avoiding and minimise impacts on biodiversity and to provide net gains in biodiversity when making planning decisions are set out in paragraphs 174 and 180 of the NPPF; London Plan policies G1 (Green Infrastructure) G5 (Urban Greening) and G6 (Biodiversity and access to nature); Westminster's City Plan policies 33 (Local Environmental Impacts), 34 (Green Infrastructure) and the Environmental SPD Adopted 2022; and policies MGS1 (Mayfair's Green Spaces) and MGI (Green Infrastructure)

The main findings of the PEA were as follows:

- Bats - Due to the high ambient level of light pollution and surrounding disturbance, the site had negligible potential to support roosting bats.
- Breeding birds - The shrubs, trees and hedges in the site had high potential to support common and declining species of breeding birds.
- Terrestrial Invertebrates - The site contains a limited variety of habitats that are likely to support a range of invertebrate species.

To enhance the importance of the site for biodiversity, and in line with national, regional and local plan policies, the PEA recommended the incorporation of: new ponds and water features; wildflower grassland to support a higher diversity of invertebrates, which in turn supports other wildlife including bats, birds, reptiles and amphibians; prairie style planting which is an informal planting style, rich in pollen for insects, and uses bold blocks of plants and colours, and allows grasses and flowers to self-seed and colonise; native, species-rich hedgerows; climbing plants in the form of a "green wall"; and the provision of bird, bat and insect nesting opportunities.

The proposals will thus introduce a variety of landscape features and habitats to the site, including:

- A shaded garden will be planted beneath the shade of the tree canopies, creating a woodland park;
- Habitats for invertebrates will be provided in the form of two large standing dead wood features, as well as dead wood piles at multiple locations throughout the shaded garden;
- Rain gardens will be provided throughout the shaded garden creating habitat variety and associated biodiversity and holding/infiltration capacity for rainfall;
- 150 m² of wetland marsh area with aquatic planting is proposed for the site, using native wetland species.
- A gently rising mound is proposed to form an oval clearing in the centre of the site, which will be planted with a diverse flowering lawn using species of benefit to wildlife. This lawn will contain 12 native species of flowering plants of short grasslands combined with native fine leaved grasses. This will increase biodiversity, pollinator provision and provide seasonal variety;
- Flowering trees and flowering dogwoods are to be planted throughout the Site, which will provide a nectar resource for invertebrates and winter berries for birds;
- 46 new small and medium sized trees will be planted, diversifying the canopy and providing a greater variety of habitat;
- The single species, non-fruiting, holly hedgerow is to be replaced with a diverse mixed species hedge using 9 native broadleaf species, providing structural habitat, fruiting and flowering. Further boundary planting is proposed along the inside of the

hedge to provide an 'interior edge ecotone'.

In terms of functional ecosystems, the proposals will deliver multifunctional green infrastructure, increasing ecological resilience and delivering improved ecosystem services such as sequestration, cooling, flood resilience, pollution alleviation and wellbeing. The applicant's community objectives include strengthening people's affinity with nature, providing engagement and learning opportunities and bringing wildlife into the community. All this is welcomed.

The variety of proposed landscape features and habitats will contribute to the greening of the site and Westminster, and it is considered that the proposal is in full accordance with the relevant policies listed above. There have been objections that the structural design is inappropriate given climate change and that the central area will be scorching in summer and grass will dry out: to some extent this claim could equally apply to the current layout, albeit much of the grassed areas are shaded by trees. The above indicates that the proposals incorporate a number of new sustainable and biodiverse elements which seeks to address climate change and provide a more robust design that meets a variety of situations. Accordingly these objections are not considered to be sustainable.

Archaeology

An Archaeological desk-based assessment has been submitted in support of the application. Archaeological matters are set out in Paragraph 194 of the NPPF, London Plan Policy HC1 (Heritage Conservation and Growth) Part D and City Plan Policy 39 (Westminster's heritage).

Historic England (Archaeology) consider this to be potentially an important site for garden history and a rare opportunity for an archaeological investigation. They have no objection to the proposals but have requested a pre-commencement condition that requires the submission of a written scheme of investigation and a programme of public participation. The applicant has agreed to this.

Noise

Apart from any equipment required for the management of the water features, the proposal also includes mechanical plant as part of the kitchen extract system in the educational building. This has been assessed by Environmental Sciences, who have no objection subject to the standard condition controlling noise levels.

Flood Risk

The site lies in Flood Zone 1 which confirms that it is at low risk of flooding from rivers and the sea. There is no history of flooding within Grosvenor Square Gardens, although surface water flooding does occur in the street at the north-east corner of Grosvenor Square following heavy downpours. As the site is in the Flood Zone 1, all development is appropriate and therefore the sequential and exception tests are not required.

It is noted that the overall surface water flows into the existing Thames Water sewers will remain as in the existing situation. As there is no increase in surface water discharge to the public sewers, there is no increase in flood risk from the site to other properties. The applicant submitted a pre-planning enquiry to Thames Water Utilities for foul and potable water. Thames Water have confirmed that there is sufficient capacity within the existing

Thames Water Network.

The sustainable drainage approach considers flooding (water quantity), water quality (pollution in runoff), biodiversity and amenity. The intention is to deal with rainfall where it falls and keep it on site through interception (by trees and other vegetation), infiltration (into the ground) and subsequent evaporation or evapotranspiration. Water will not be discharged deliberately off-site or into sewers.

Amongst the sustainable water features incorporated into the scheme, the new central stone oval path will be used to harvest rainwater, which can be stored for re-use in irrigation or to supply water features. The stone path will include a dished channel or rill, that will collect rainwater from the path (and in some locations adjacent paths). Water will run along the northern and southern sections of the rill towards the east of the site where it will drain into an underground tank. Before entering the underground tank, water will pass through a trash screen and filter. The tank will be formed from structural storm crates, with a waterproof wrapping to preventing losses to ground. An overflow will run to a soakaway. Water in the tank will be used to feed the rill, fountains, ponds, and rainwater baskets and irrigation taps.

8.9 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.10 Neighbourhood Plans

The Mayfair Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

8.11 London Plan

This application raises no strategic issues and is not referable to the Mayor of London.

8.12 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2021 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 works to the trees and the archaeological requirements. The applicant has agreed to the imposition of these conditions.

8.13 Planning Obligations

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

8.14 Environmental Impact Assessment

This is not required for this application.

8.15 Other Issues

Construction impact

There have been objections about the noise and disturbance caused during the proposed works. This is not a sustainable objection that justifies refusal of the applications but the Council's standard restriction on when noisy works can take place has been added to the draft decision letter to protect residents' amenity.

Although the proposed works are spatially extensive, it is not considered that they are subject to the Council's Code of Construction Practice (CoCP) which applies to all basement and major development sites, as this is technically not a 'major' development. The application is accompanied by a draft Construction Management Plan (CMP), which the applicant advises has been developed to ensure the works are carried out in accordance with City of Westminster Code of Construction Practice (CoCP) July 2016 and the CoCP 2021 that was at the time under consultation and subsequently adopted in February 2022. The draft CMP sets out details of the works required to carry out the enabling and construction activities involved, outlining their anticipated timescales and identifying the environmental impact of the works and, where practicable, proposals for how these are to be mitigated. The principles set out will be developed by the appointed Contractor for ongoing review and approval by the relevant authorities within WCC and other key development stakeholders. It is therefore considered to be appropriate for a condition requiring a final version to be submitted before any demolition works begin.

Other legal considerations

As noted above, the site is subject to the Roosevelt Memorial Act 1946 which regulates its use. In this regard, the applicant advises that it has sought legal advice following the recent judgement in the High Court in London Parks and Historic Gardens Trust v. Minister of State for Housing and Westminster City Council [2022] EWHC 829 (Admin) dated 8 April 2022 (the Holocaust Memorial case).

The normal position in planning law is that the ability to meet the terms of other (non-planning) legislation is not material to a planning decision – the planning legislation sets out the process to decide the planning acceptability of a proposal; other legislation sets out the process to decide the acceptability of other aspects under that legislation and is not therefore a material consideration in the planning process. However, in the Holocaust Memorial case, it was found that the London County Council (Improvements) Act 1900, which regulated the use of the Victoria Gardens, was a material consideration in the planning application for the Holocaust Memorial. The reasoning was firstly that the proposals for the Holocaust Memorial were (or were likely to be) inconsistent with the 1900 Act because the Memorial would significantly affect the use as a public garden. Secondly, early delivery was a key part of the planning balance given the strong public interest in delivering the Memorial during the lifetime of some holocaust survivors. Consequently in that case, the impediment of the 1900 Act was a necessary material consideration which was not taken into account and which may have altered the decision when considering the issue of alternative sites. This was a very fact specific and unusual decision.

The applicant advises that its legal advice confirms that none of the reasoning or facts in the Holocaust Memorial judgement applies to this application. Officers agree with this assessment and do not therefore consider that the 1946 Act is a material consideration. Furthermore, the legal opinion advises that even if the 1946 Act was a material consideration (which is not accepted) then the scheme for Grosvenor Square Gardens would not infringe the requirements of the Act, unlike the position in the Holocaust Memorial case.

Management Considerations

There have been objections that the maintenance costs will increase considerably to keep the proposed vegetation up to standards, and control cleanliness etc. The applicant has committed to ensure that the gardens will be fully managed and this is part of the operational management that has been conditioned. There are also objections about mess being left by dogs, and that there should be pet free areas. The applicant has sought to address this by stating that there will be a monitoring regime and cleaning strategy to deal with this issue, but that there is also an expectation that dog owners will behave responsibly in clearing up after their dogs. With regard to the objection that there should be pet-free areas, the applicant does not agree that this is necessary. It would also need additional fencing etc that would only introduce additional clutter.

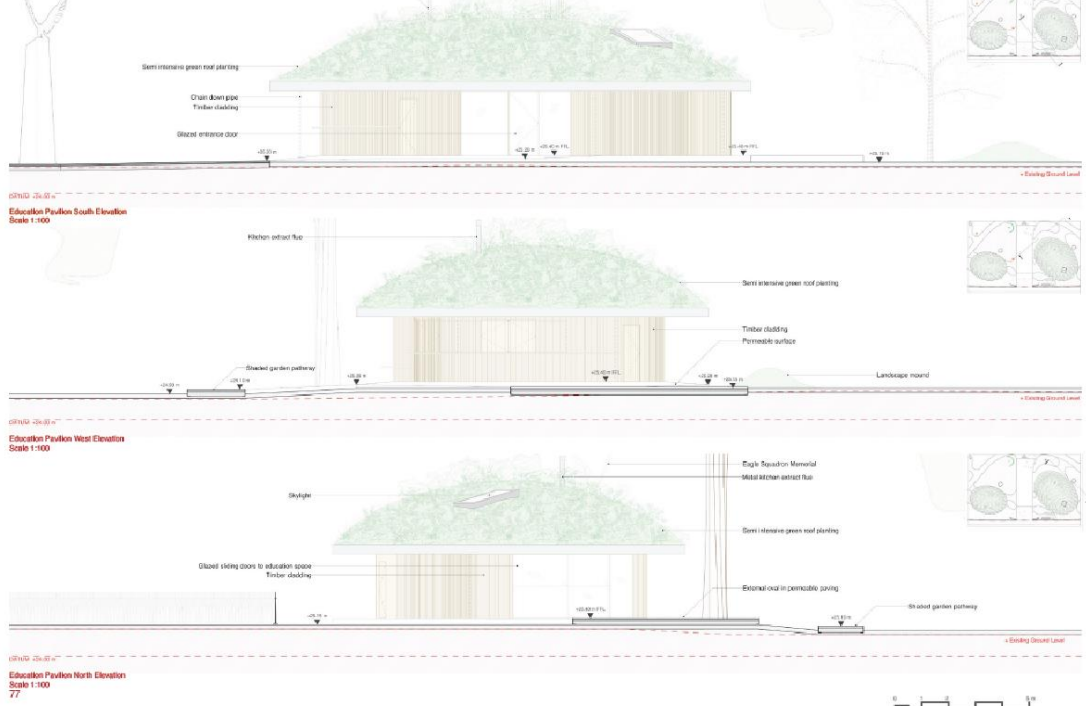
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

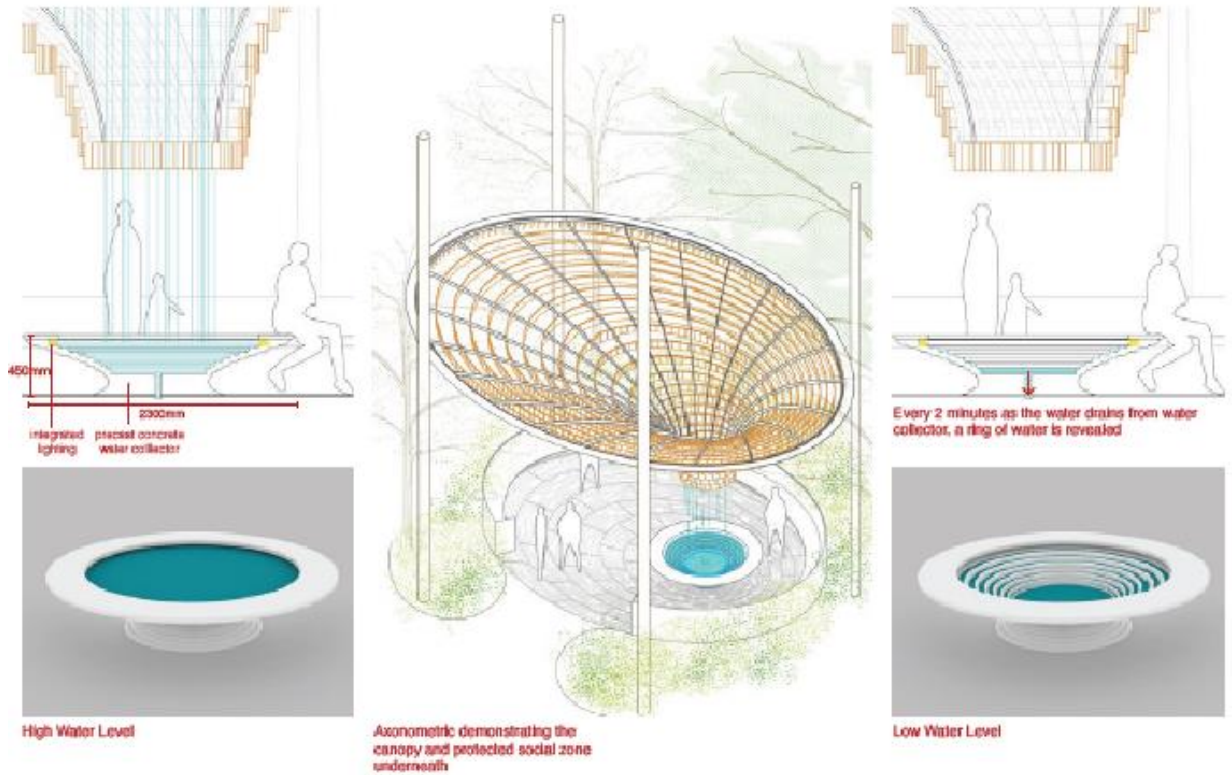
The new buildings

13.4 Buildings & Structures

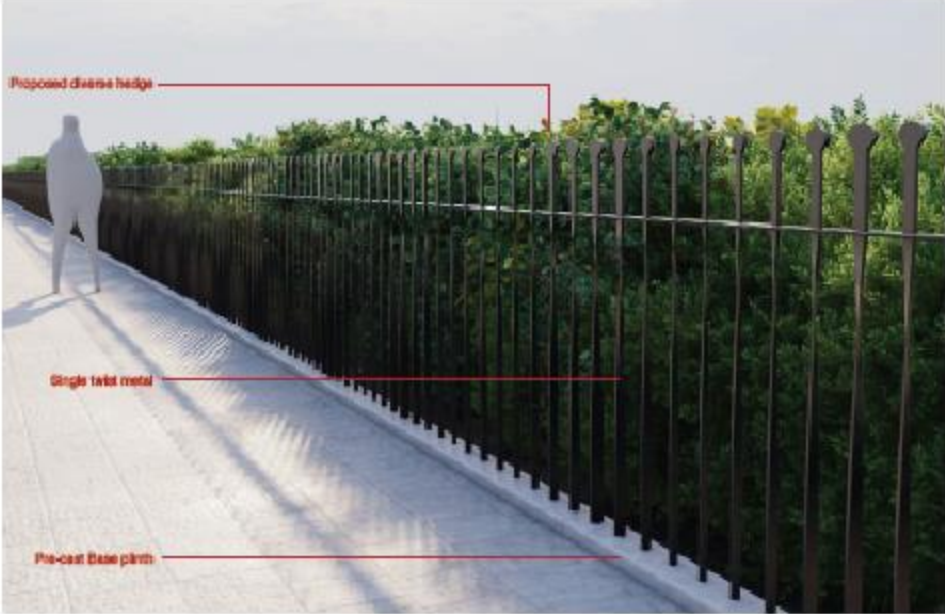
Elevations



The waterfall canopies/baskets



Visualisation of the proposed railings and hedge



Aerial view of proposed layout (model)



Item No.
1

DRAFT DECISION LETTER

Address: Grosvenor Square Gardens, Grosvenor Square, London, W1K 6LD

Proposal: Alterations to Grosvenor Square Gardens, including redesign of the gardens, comprising of hard and soft landscaping improvements, works to trees (including tree removal and new planting), with new and realigned paths, paving and rills, new perimeter railings, new western entrance, new lighting and planting, the introduction of a shaded garden and wetlands, installation of plinths for the display of sculptures/artworks, informal play areas, the construction of buildings (gardeners hut, public WCs and educational building with catering facilities (sui generis)), external gardeners store, photo voltaic panels, structures, and associated works.

Reference: 21/08289/FULL

Plan Nos: TO BE ADDED

Case Officer: Paul Quayle **Direct Tel. No.** 020 7641 07866039895

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.You must carry out piling, excavation and demolition work only:
 - o between 08.00 and 18.00 Monday to Friday; and
 - o not at all on Saturdays, Sundays, bank holidays and public holidays.Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 Visitors shall be permitted to use the gardens only between the opening hours of 07.00 to 22.00 hours, but access may be allowed to the educational building up until 23.00 hours when there is a private function.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 4 You must carry out the measures included in your 'Operational Management Plan for Education Building' dated April 2022.

Reason:

To make sure that the use of the education building will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 5 You must carry out the measures included in your 'Grosvenor Square Gardens Draft Operational Management Plan' dated April 2022 at all times.

Reason:

To make sure that the use of the gardens will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 6 You must apply to us for approval of details/detailed drawings of the following parts of the hard landscaping scheme in the development including:

- i) pathway materials;
- ii) the enclosures to the areas for plant, bicycle storage, garden waste, etc adjacent to buildings 1 and 2 and protective guarding to the Gardener's Pavilion;
- iii) benches and seating structures around the central oval;
- iv) structural furniture within the social ovals;
- v) the rills;
- vi) interpretation boards and signage;
- vii) drinking fountain;
- viii) public art reinforced zones;
- ix) planters, public waste bins and all other fixed furniture not otherwise specified by other conditions of this permission;
- x) the reinstated memorial plaque and inscribed paving stones associated with the Diplomatic Gates.

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 gardens is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 7 You must apply to us for approval of details of the following parts of the development -
- i) Surfaces of the play areas;
 - ii) Play equipment. 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 detail. (C26DB)

Reason:
 To make sure that the appearance of these parts of the gardens is suitable and that they contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 8 You must apply to us for approval of detailed drawings of the following parts of the development - the doors, windows, rooflights, flues for the two new buildings. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings.

Reason:
 To make sure that the appearance of the new buildings is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 9 You must apply to us for approval details of all the public art which is to be displayed at the designated public art reinforced zones before it is installed. No public art is to be displayed at any other location within the gardens (unless it receives separate planning permission) and the details must show that it is wholly within the designated zone. The details must include scaled drawings of the art itself, any supporting structure, materials to be used, how it will be maintained (specifically how graffiti will be removed) and duration of installation, including details of when the art is to be displayed (including dates of installation and removal). You must not install any public art until we have approved in writing what you have sent us. You must maintain the approved public art in accordance with the approved details.

Reason:
 To make sure the art that is provided for the public is suitable in appearance for the character and appearance of the gardens and for this part of the Mayfair Conservation Area. This is as set out Policy 43(E) of the City Plan 2019 - 2040 (April 2021). (R37AC)

- 10 **Pre Commencement Condition.**, No development shall take place until a stage 1 archaeological written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation, the nomination of a competent person(s) or organisation to undertake the agreed works and provision for public engagement.

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If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no development shall take place other than in accordance with the agreed stage 2 WSI, which shall include:

- A) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
- B) Details of mitigation measures to preserve significant archaeological discoveries in-situ and/or display or interpret them on-site.
- C) An appropriate programme of public engagement with the archaeological investigation.
- D) The programme for post-investigation assessment and subsequent analysis, publication, and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason:

To protect the archaeological heritage of the City of Westminster as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021). (R32BD)

- 11 You must apply to us for approval of details of the recycling strategy for materials that are demolished on the site within 12 months of commencing demolition works. You must then carry out the work according to the approved details.

Reason:

To make sure that the development provides the environmental sustainability and recycling measure as discussed with Council officers and as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 12 You must apply to us for approval of details of all the materials you will use, including a sample of the perimeter railings and its finish, and the materials of the new buildings, and drawings 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.

Reason:

To make sure that the appearance of the works is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 13 You must apply to us for approval of details of how the oval lawn is to be managed and maintained to ensure that the paving within the lawn that links the Roosevelt Memorial with the Eagle Squadron Memorial will be clearly discernible. You must not start any work on the Roosevelt Memorial until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

Reason:

To protect the special architectural or historic interest of the memorials and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 14 You must apply to us for approval of details of how you intend to light the Roosevelt Memorial and the Eagle Squadron Memorial. You must not start any work on the Roosevelt Memorial until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

Reason:

To ensure that there is a co-ordinated programme for lighting these memorials that protects their special architectural or historic interest. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 15 You must apply to us for approval of a final version of the Construction Management Plan (CMP). You must not start any demolition works until we have approved in writing what you have sent us. You must then carry out the measures included in the approved CMP.

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 16 You must apply to us for approval of details of the following parts of the development - all highways works immediately surrounding the site required for the development, including modifications/alterations to the existing vehicle crossovers on the southern side of Grosvenor Square Gardens, which may include the relocation of existing street furniture items (eg feeder pillars, signage etc). 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 details.

Reason:

In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)

- 17 You must apply to us for approval of detailed drawings of the design of all external lighting fixtures, columns, etc to Grosvenor Square Gardens, including the location of pathway lighting and other light fixtures, and the design and location of all CCTV equipment, including details of how these will be operated and managed, hours that the differing types of lighting will operate, etc. 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 details. (C26DB)

Reason:

To reduce the chances of crime without harming the appearance of the building or the character of the Mayfair Conservation Area as set out in Policies 38, 43 and 44 of the City Plan 2019-2040 (April 2021). (R16BD)

- 18 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application - the photovoltaic panels and air-source heat pump. You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 19 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes:
- i) the number, size, species and position of trees and shrubs;
 - ii) the number, size and location of mounds, swales and soakaways;
 - iii) a Landscape Management Plan.

You must not commence any new planting until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within 12 months of completing the development (or within any other time limit we agree to in writing). , , If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within 12 months of planting them, you must replace them with trees of the same size and species, (or alternative sizes and species which we agree to in writing).

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Mayfair Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 20 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs on the buildings to include construction method, layout, species and maintenance regime., , You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 21 **Pre Commencement Condition.** You must apply to us for our approval of details the ways in which you make changes to the soil depth, composition and drainage in the

garden. The details must include a specification of any amelioration proposed for the existing soil, and the proposed new soil depths, specification and profiles, including drainage elements and other components. You must not start any work until we have approved what you have sent to us. You must then carry out the work according to the approved details.

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Mayfair Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 22 You must carry out trial excavations to investigate tree root presence for any excavation you intend to carry out in the root protection areas of trees, including excavation for foundations and utilities. If the trial excavations reveal the presence of roots of 25mm or more in diameter, or clumps of smaller diameter roots you must retain and protect these roots, and you must revise the proposed foundation location and/ or design to allow for the retention and growth of the roots. You must not start any excavation of foundations until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021).

- 23 You must apply to us for approval of the design, depth, size, and location and means of installation of foundations for the structures and surfacing for paths and hard surfaces, benches, lighting columns, buildings, rill, railings, and rain funnels. You must not start any demolition, site clearance or building work for these items, and you must not take any equipment, machinery or materials for these items onto the site, until we have approved what you have sent us. You must then carry out the work according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021).

- 24 **Pre Commencement Condition.** You must apply to us for our approval of the positions and method to be used to dig trenches, pipelines or ducts for services or drains. You must not start any work until we have approved what you have sent to us. The work must be carried out according to the approved details.

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)

- 25 **Pre Commencement Condition.** You must apply to us for approval of a method

statement and tree protection plan explaining the measures you will take to protect the trees on the site and adjacent to it. You must ensure that the details you submit to satisfy the tree protection conditions are site specific and are prepared in conjunction with construction management proposals, as adequate protection of trees on/ adjacent to the site will rely heavily on an appropriate means of construction. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details.

Reason:
 To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021).

- 26 **Pre Commencement Condition.** You must apply to us for our approval of details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include:
 - o identification of individual responsibilities and key personnel.,
 - o induction and personnel awareness of arboricultural matters.,
 - o supervision schedule, indicating frequency and methods of site visiting and record keeping,
 - o procedures for dealing with variations and incidents.

You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then adhere to the approved supervision schedule. You must produce written site supervision reports after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included You must send copies of each written site supervision record to us within five days of the site visit.

Reason:
 To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021).

- 27 You must apply to us in writing for permission if you want to remove any trees which you have shown that you were going to keep on the drawings hereby approved. If any trees which you have shown that you were going to keep die or become seriously damaged or diseased within five years of you completing the development, you must replace them. You must plant the replacement trees in the same place or in any other place we agree to in writing. You must apply to us for our approval of the size and species of the replacement trees, and you must plant the replacement trees within 12 months of removing the original tree or trees. You must also replace any replacement tree which dies, is removed or becomes seriously damaged or diseased within five

years of the date we give our approval for the replacement trees, in the next planting season with another of the same size and species as the one that was originally planted, (or alternative sizes and species which we agree to in writing).

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Mayfair Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 28 You must apply to us for approval of a detailed specification of the means of lifting, moving, storing, maintaining and transplanting the two memorial tulip trees (T523 and T544). If the trees die within five years of the date they were replanted, they must be replaced, in accordance with details agreed at the time with the City Council.

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Mayfair Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 29 Notwithstanding the tree surgery proposed in your tree report dated December 2021 (Appendix C revised 07 March 2022), you must apply to us for approval of a detailed specification of tree surgery and the reasons for the proposed works. You must not start work on the trees until we have approved what you have sent us. You must then carry out the tree surgery according to the approved specification.

Reason:

To protect trees and the character and appearance of the site as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31CD)

- 30 You must apply to us for approval of updated details of how waste is to be stored on site and how materials for recycling will be stored separately. This must include separate waste provision for food waste, general waste and recyclable materials, including the total number of bins, labelled accordingly and with their capacities. You must not occupy the new buildings until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the new buildings. (C14ED)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021).

- 31 With regard to any kitchen extract plant in the education building and the air-source heat pump: (1) Where noise emitted from the proposed plant and machinery will not

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

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing 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 written 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 and where available in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 32 The plant/machinery hereby permitted for the kitchen extract in the education building shall not be operated except between 07.00 hours and 23.00 hours daily. (C46CA)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 33 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

Reason:

To provide cycle parking spaces for staff working in the gardens in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 34 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 Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 35 All servicing must occur from within the off-street servicing area and carried out in accordance with the Transport, Servicing and Waste Strategy dated December 2021.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as

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offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 With regard to condition 10, written schemes of investigation will need to be prepared and implemented by a suitably professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. A specialist in the archaeology of historic gardens should be part of the project team. This condition is exempt from deemed discharge under Schedule 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 3 With regard to condition 16, the alterations to the highway must be to the Council's specification, at full cost (administrative, legal, and physical) to the developer, and in accordance with any separate approvals required by the City Council as the highways authority. .
- 4 This site is in a conservation area. By law you must write and tell us if you want to cut, move or trim any of the trees there. You can apply online at the following link: www.westminster.gov.uk/trees-and-high-hedges. You may want to discuss this first with our Tree Officers by emailing privatelyownedtrees@westminster.gov.uk.
- 5 For the avoidance of doubt, the illustration of the root protection areas (RPAs) of the trees as shown on the submitted plans and documents is not agreed by the City Council. The advice in the British Standard BS5837: 2012 sets out that 'Modifications to the shape of the RPA should reflect a soundly based arboricultural assessment of likely root distribution', (4.6.2). In this case a more justifiable assessment of root distribution would be to add the areas of the parts of the circular RPAs currently shown to be within the carriageways symmetrically around the remaining part of each circular RPA within the garden, to occupy the required area as defined by the initial calculation of the RPA.
- 6 Your proposals include changes in levels in levels in the root protection areas of trees, for foundations and utility trenches and in order to increase the garden levels. You should limit the changes in levels in order to minimise the risks to the retained trees.
- 7 You should use terminology relating to trees and tree protection as set out within British Standard 5837:2012, for example 'construction exclusion zone', rather than 'tree protection zone'.
- 8 You are strongly advised to continue discussions with the Designing Out Crime Officer and to ensure that where further details of the scheme are requested in the above conditions, that these take account of all potential crime and security considerations.

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DRAFT DECISION LETTER

Address: Grosvenor Square Gardens, Grosvenor Square, London, W1K 6LD

Proposal: Works to Franklin Delano Roosevelt Memorial (FDR): three openings to North walls to allow for levelled access and addition of a disabled access ramp to the statue plinth, removal of stone paved path and low level forecourt and replacement with raised stone-edged path and associated works.

Reference: 21/08290/LBC

Plan Nos: TO BE ADDED

Case Officer: Paul Quayle **Direct Tel. No.** 020 7641 07866039895

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:

To protect the special architectural or historic interest of this listed memorial. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 All new work to the listed memorials must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To protect the special architectural or historic interest of the listed memorials and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

- 3 You must apply to us for approval of details of how you intend to light the Roosevelt Memorial and the Eagle Squadron Memorial. You must not start any work on the Roosevelt Memorial until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

Reason:

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To ensure that there is a co-ordinated programme for lighting these memorials that protects their special architectural or historic interest. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 4 You must apply to us for approval of detailed drawings of the following parts of the development - all stonework alterations to the Roosevelt Memorial. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings.

Reason:

To protect the special architectural or historic interest of the listed memorial and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF.

In reaching this decision the following were of particular relevance:, Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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

Agenda Item 5

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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 10 May 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	West One Shopping Centre, 381 Oxford Street, London, W1C 2JS		
Proposal	Part demolition and alterations to existing building comprising demolition of second to fifth floor level, part demolition of ground and first floor at south eastern corner, removal of existing facades at ground and first floor level, erection of new second to seventh floors with setback eighth floor plant level to provide office (Class E) accommodation, new and replacement façades, installation of entrance canopies along Oxford Street and Davies Street, provision of terraces at third, fifth, sixth and seventh floor levels including greening, installation of plant and enclosure at second floor level, provision of cycle parking spaces and facilities and associated works.		
Agent	Gerald Eve		
On behalf of	WOSC 1 Nominee Limited And WOSC 2 Nominee		
Registered Number	21/06879/FULL	Date amended/ completed	6 October 2021
Date Application Received	6 October 2021		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

<p>1. Grant conditional permission subject to a legal agreement to secure the following:</p> <p>a) A financial contribution of £162,450 (index linked) towards the City Council's Carbon Off Set fund (payable prior to the commencement of the development);</p> <p>b) Provision of and adherence with an Employment and Skills Plan for the construction and operational phases of the development;</p> <p>c) Monitoring and reporting on the actual operational energy performance of the building, including as-built and in-use stage data;</p> <p>d) A financial contribution of £137,094 (index linked) towards initiatives that provide local employment, training opportunities and skills development and supporting the Westminster Employment Service (payable prior to the commencement of the development);</p> <p>e) A financial contribution of £35,000 (index linked) to provide an extension to a nearby Cycle Hire docking station;</p> <p>f) All highway works immediately surrounding the site required for the development to occur prior to</p>
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occupation of the development, including reinstatement of redundant crossovers in Weighhouse Street. All of the above to the Council's specification, at full cost (administrative, legal and physical) of the developer;

- g) Costs of the stopping-up process; and
- h) The costs of monitoring the S106 agreement.

2. If the legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

a) The Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not

b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. Authorise the making of a draft Order pursuant to Section 247 of The Town and Country Planning Act (1990) (as amended) for the stopping up of parts of the public highway to enable this development to take place.

4. Authorise the Director of City Highways, Executive Director of City Management and Communities, or other such proper officer of the Council responsible for highway functions, 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.

2. SUMMARY

The site lies on the south side of Oxford Street at its junction with Davies Street. It also returns off Davies Street with a south-facing façade onto Weighhouse Street. The site sits above the Bond Street Underground Station. The existing building was built in the 1970's and incorporates access to the Bond Street Underground at basement level, retail floorspace at basement, ground and first floor level, and office floorspace at ground, and second to fifth floor level.

The application involves the demolition of the second floor to fifth floor of the existing building together with the removal and replacement of the ground floor and first floor façades. Above the retained basement, ground and first floors, six new floors of office accommodation are proposed, together with a plant room at eighth floor, additional plant at rear second floor level, and the provision of outdoor terraces and greening.

The proposals have received objections from local residents on a number of grounds as summarised in section 5 of this report.

The key issues in this case are:

- * The land use implications
- * Townscape and design considerations, including the impact of the new replacement building on the

streetscape and character and appearance of the area.

* The impact of the scheme on the amenity of neighbouring occupiers

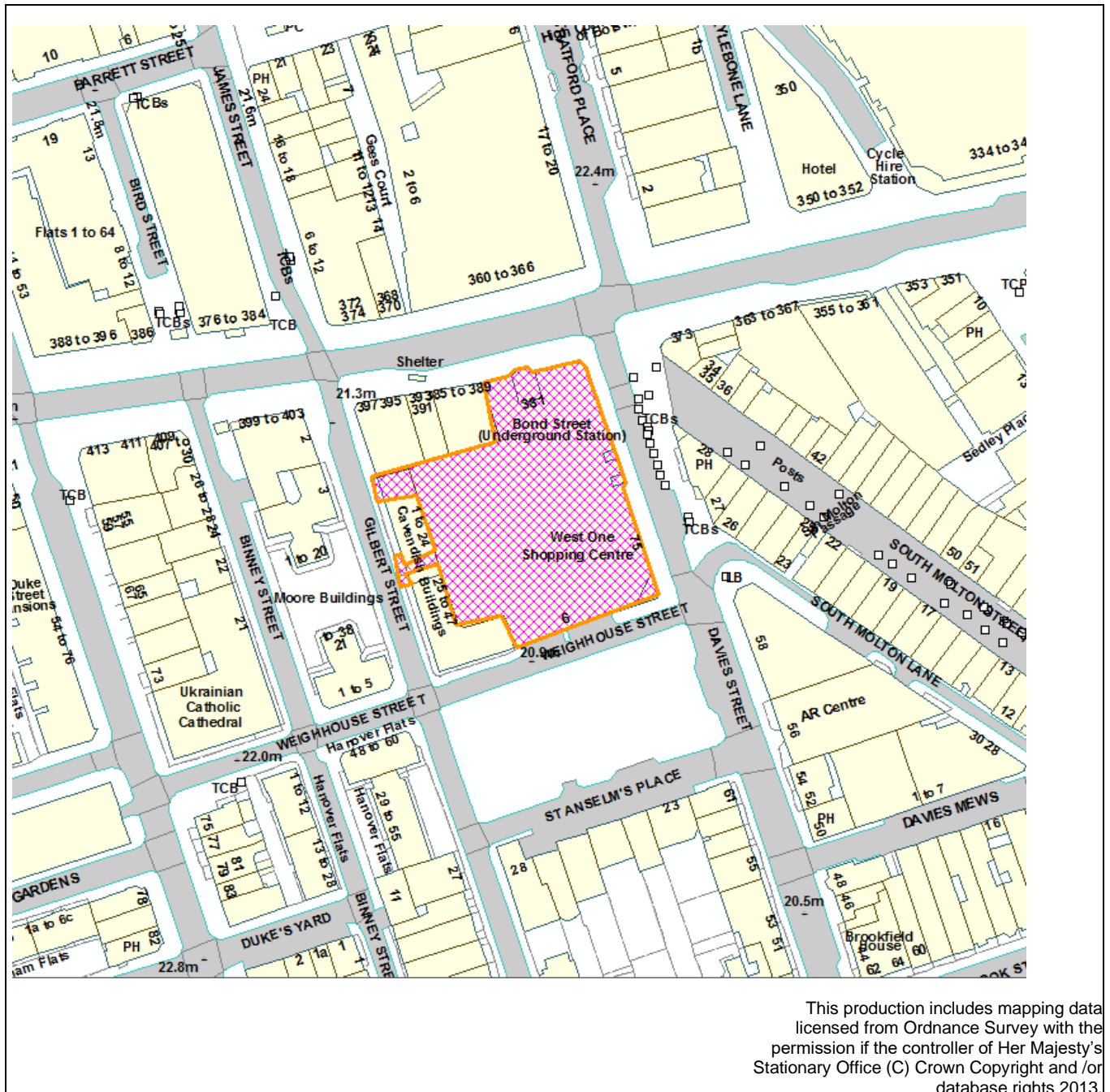
* Highway issues particularly servicing and deliveries

The proposals retain the majority of the existing retail floorspace at basement, ground and first floor and the uplift of additional office accommodation is welcomed in accordance with City Plan policies. Whilst the additional bulk proposed will result in reductions in daylight to neighbouring properties, significant improvements to the outlook of these flats are proposed by way of an immersive greening strategy which will help to mitigate the losses in daylight.

The architecture of the replacement building represents a significant enhancement over the current building in terms of materials, articulation and detailing. The scale and particularly the height of the building does challenge the prevailing height of the area, but for the most part not in a harmful way. However, the proposal will introduce a replacement building which provides more and better quality office floorspace and will perform to a much higher standard in terms of energy performance. On the basis that the public benefits of the scheme outweigh this harm then it is considered that the proposal is acceptable in terms of townscape, design and heritage impact.

For the reasons set out in the report, the application is considered acceptable in land use, amenity, highways, design and conservation terms and, subject to conditions, comply with the City Council's policies as set out in the City Plan 2019-2040 (April 2021).

3. LOCATION PLAN



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4. PHOTOGRAPHS



Oxford Street/Davies Street junction



Davies Street



Weighouse Street

5. CONSULTATIONS

GREATER LONDON AUTHORITY

Supports the proposal in principle, but raises concerns in relation to the height, façade expression and the relationship with the adjoining buildings. Requires further clarity/details before the application can be considered to be compliant with the London Plan, including details relating to the loss of retail floorspace, a fire safety statement and further information relating to circular economy, whole lifecycle carbon, green infrastructure, energy and details on contributions, impacts on TfL infrastructure, travel planning and construction.

TRANSPORT FOR LONDON

The development meets London Plan policies with regard to car parking, trip generation, delivery and servicing. Further information should be provided with regard to short stay cycle parking in line with London Plan Policy T5, a full Active Travel Zone Assessment should be submitted in line with London Plan Policy T2 and a Travel Plan should be submitted in line with London Plan Policy T4.

Conditions relating to a Code of Construction Practice (agreed in advance with London Underground Infrastructure Protection team) and a Delivery and Servicing Plan (including a commitment to using cycle couriers when viable) should be secured.

HISTORIC ENGLAND (LISTED BUILDS/CON AREAS)

Do not wish to offer any comments.

HISTORIC ENGLAND (ARCHAEOLOGY)

Conclude that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

LONDON UNDERGROUND LIMITED

No objections subject to condition.

CROSS LONDON RAIL LINKS LTD (1)

No objections subject to conditions.

CROSS LONDON RAIL 2 LINKS LTD

The application lies outside the Crossrail 2 Safeguarding Direction, and subsequently have no comments to make.

THAMES WATER UTILITIES LTD

No objections raised.

MAYFAIR RESIDENTS GROUP

No response to date.

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

No response to date.

HIGHWAYS PLANNING MANAGER

No objections raised.

ENVIRONMENTAL SCIENCES

No objections raised.

BUILDING CONTROL

Any response to be reported verbally.

WASTE PROJECT OFFICER

No objections raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 391;

Total No. of replies: 4

No. of objections: 4; No. in support: 2

Two letters of support and four letters of objections (including one holding letter of objection and two letters on behalf of Cavendish Buildings Limited) raising the following concerns:

Design:

* Proposed development appears to be out of the local character in terms of its height, scale, mass, and overall design

* The application proposes an increase of the total height of the building by adding three additional storeys exceeding the height of the vast majority of buildings in the area.

* The proposed design appears very similar to examples of constructivist architecture, which is far from the local character mainly formed by more traditional buildings of the Georgian and Victorian eras. It is at best neutral in design terms, and clearly fails to take the opportunity to improve upon the existing poor quality façade

* The redevelopment is contrary to the planning policies of the NPPF (2021), London Plan (2021) and the City Plan 2019-2040 (2021) in terms of its height, scale, design, and correspondence to the local character.

Amenity:

* Existing flats facing the existing shopping centre already receive a reduced amount of light due to the proximity of the two buildings. The proposed application will, in adding three more storeys, make an existing unacceptable position substantially worse.

* The daylight report was carried out without obtaining access to the residential units of Cavendish Buildings. Therefore, any assessment's results related to the impact of the proposed development on the residential dwellings in Cavendish Buildings are based on assumptions.

* 50% of habitable windows facing the proposed development will experience the loss of more than 20% of their existing value of the Vertical Sky Component (VSC). About 3% of the habitable windows will experience a loss of VSC of more than 40%.

* In terms of the No-Sky Line (NSL), more than 40% of "assessed" rooms will experience a reduction above 20% of their former value, with about 17% of the rooms experiencing a proportional reduction above 40% of the former value of NSL.

* Overlooking and loss of privacy from terraces

- * Noise and vibrations caused both during the development stage and as a result of future operation
- * Noise assessment is generic, based on predicted noise levels, and does not provide specifications of plant selection, airsource heat pumps or ventilation units
- * The proposed new outdoor amenity spaces will increase noise levels and should have been addressed in detail in the Noise Assessment Report
- * Increased light pollution.

Other:

- * The planned alterations will cause damage to Cavendish Flats
- * Ten years of noise and dirt pollution, rats, mice and machinery and transport disturbances.
- * There has been no assessment of the increase in noise levels from the demolition and further reconstruction process
- * The Environment Act 2021 requires each new development to deliver a minimum of 10% biodiversity net gain to improve environmental sustainability.
- * The submitted Structural Survey and Structural Methodology Statement appear to provide general assessment and conclusions and therefore the safety and stability of the proposed development is a serious concern.
- * There is no assessment against the change of the air flows and wind characteristics and there has been no assessment whether the proposed development meets the structural design standards outlined in EN 1991 – Eurocode 1: Actions on structures (2005).

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

Responses to second round of consultation to revised scheme

ADJOINING OWNERS/OCCUPIERS

No. Consulted: 3;
Total No. of replies: 1

One letter of objection received raising the following concerns:

- * the amendments fail to address issues raised by objectors;
- * that the reduction of the eighth floor massing does not provide any improvement for adjoining residents
- * any changes to sunlight/daylight are moot and unsustainable
- * grounds for refusal (design, scale, mass, sunlight/daylight, overlooking and loss of privacy, noise, vibrations, health impact, structural features and biodiversity) are not considered and addressed by the applicant in the amended scheme

6. BACKGROUND INFORMATION

6.1 The Application Site

The site is located on the southern side of Oxford Street above the Bond Street underground station. Davies Street runs along the eastern boundary and Weighhouse Street lies to the south of the site. To the west are the Cavendish Buildings, a residential

mansion block comprising 47 flats.

The primary entrance to Bond Street Station and West One Shopping Centre is accessed from Oxford Street, with a secondary entrance along Davies Street. A third entrance is accessed from Gilbert Street through the Cavendish Buildings. The main entrance to the office building is accessed from Davies Street. An existing loading bay is located to the rear of the site and is accessed from Weighhouse Street.

Oxford Street is an international shopping destination and is dominated by retail uses at ground floor level and a mix of uses on the upper floors. To the south and east of the Site lies the shopping areas comprising New and Old Bond Streets, Savile Row and associated shopping streets. Along with Regent Street and Bond Street, Oxford Street forms part the West End International Shopping Centre. The site is also located within the West End Special Retail Policy Area. The site is not within a stress area.

The Site is not located within a Conservation Area, but the Mayfair Conservation Area abuts the Site to the east, south and west. The Stratford Place Conservation Area is located to the north of the Site.

6.2 Recent Relevant History

In September 1977 planning permission (ref: A/TP/12958) was granted for the development of the current over-station building: "Erection of a new shopping centre with public concourses, offices, and the modernisation of the building, and floors of Cavendish Buildings".

In October 2011 planning permission (ref:) was granted for the "use of circulation space at ground floor level as restaurant/hot food takeaway (sui generis) in connection with the existing restaurant/hot food takeaway."

In April 2017 planning permission was granted for minor external alterations including the "replacement of the shopping centre doors fronting Oxford Street, Davies Street and Gilbert Street."

In May 2017, planning permission was granted (ref: 17/01831/FULL) for "facade alterations to the Davies Street elevation, formation of a Class A1 retail unit and the installation of a new shop front providing access at street level and associated works."

7. THE PROPOSAL

The application involves the demolition of the second floor to fifth floor of the existing building together with the removal and replacement of the ground floor and first floor façades. Above the retained basement, ground and first floors, six new floors of office accommodation are proposed, together with a plant room at eighth floor, additional plant at rear second floor level, and the provision of outdoor terraces and greening.

At the rear, onto Weighhouse Street, the existing off-street loading bay is to be reconfigured and the existing office entrance on the corner of Weighhouse Street and Davies Street is to be extended and reconfigured. A dedicated cycle entrance is also proposed onto Davies Street providing access to new cycle, shower and locker facilities

at second floor level.

The proposals would retain all 19 retail/food units at basement, ground and first floor levels, which could remain open and operational during any construction period. Access to the London Underground is to remain open and functional.

During the course of the application the development proposals have been amended, namely, to reduce the massing of the 8th floor plant room and to include a chamfered corner on the Weighhouse Street wing adjoining with the Cavendish Buildings. Amendments are also proposed to the design of the Weighhouse Street elevation to add a sense of symmetry around the loading bays, and to the colour of the proposed cladding material which is now a terracotta colour rather than the original teal colour.

Existing and proposed floorspace figures are set out in the table below:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Office	5,768	10,314	+4,546
Retail (including restaurant/hot food takeaway)	5,915	5,601	-314
LUL/retail circulation space	1,304	1,302	-2
Total	12,987	17,217	+4,230

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Increase in Office Floorspace

The site is located within the Central Activities Zone (CAZ) as designated by the City Plan 2019-2040 and in Central Mayfair as designated in the Mayfair Neighbourhood Plan. The scheme provides 4,546 sq.m. of additional office floorspace. This is in full compliance with London Plan Policies SD4, SD5 and E1, City Plan Policies 1(B)(1), 2(A) and 13(A) and Policies MC1 and MSG2(e) of the Mayfair Neighbourhood Plan.

The proposed office floorspace could potentially be subdivided to provide a proportion of flexible workspace suitable for small and medium sized enterprises either by floor or within each floor, in line with London Plan Policy E2.

The GLA have requested the provision of affordable workspace in the redevelopment proposals on the basis that Policy E3 of the London Plan states that “consideration should be given to the need for affordable workspace in areas where cost pressures could lead to the loss of affordable or low-cost workspace for micro, small and medium-sized enterprises such as in the CAZ.” The applicant argues that the existing employment floorspace is not considered to be affordable workspace currently and that the proposals seek to deliver additional employment floorspace in a prime commercial location within the Oxford Street District which is a key location for growth in office employment in the Borough. The applicant submits that the City Plan is targeting 445,000 sqm (GIA) of additional office floorspace and at least 63,000 new jobs in the

Borough across the Plan period and that the proposals will deliver 21% of the equivalent annual required target, or 1% of the Plan period total. The applicant therefore contends that the scheme will deliver floorspace of an identified need in this location and that it is not possible to accommodate affordable workspace without jeopardising the wider deliverability of the scheme and thereby the social, economic and environmental public benefits associated with the proposals.

There is no equivalent policy requirement that triggers the delivery of affordable workspace within the City Plan, and the provision of affordable workspace within the London Plan seeks only 'the consideration' of the provision of affordable workspace. Given this, it is not considered that the provision of such accommodation could reasonably be secured here.

8.1.2 Commercial Class E uses on upper floors

Changes to the Uses Classes Order which came into effect in September 2020 combined a number of town centre uses into a single use class, Class E Commercial Business Service. It is clear that regard should be had to the objective in introducing Use Class E which is to provide additional flexibility in terms of allowing changes of use within a range of uses without the need to seek an express grant of planning permission.

The documentation submitted with the application relates to use of the upper 2nd to 7th floors for office purposes and therefore the City Council's assessment of the application against relevant City Plan 2019-2040 policies, relates to the building's use in office floorspace rather than other permitted uses within Class E. Whilst other Class E uses (medical, retail, restaurant, indoor sport) may be acceptable on parts of the upper floors of the building, activity in particular vehicular activity associated with, for example, a large creche may not be an appropriate on part of the site. Operational details for any medical or creche use including servicing requirements have not been provided. In the absence of this information it is recommended that the upper floors are restricted to office use only in the first instance. It is therefore recommended that permission is subject to a condition which restricts the commercial floorspace on the upper floors to office use only and no other purpose within Class E of the Use Classes Order in order to ensure that the scheme complies with policies within the City Plan 2019-2040.

8.1.3 Retail Uses

The site lies within the West End International Centre and the West End Retail and Leisure Special Policy Area and the Central Activities Zone. Oxford Street is a global retail destination.

London Plan policy E9 states that a successful, competitive and diverse retail sector which promotes sustainable access to goods and services for all Londoners should be supported in line with the wider objectives of the Plan, particularly for town centres.

City Plan policy 14 is applicable. The policy supports the intensification of the CAZ to provide additional floorspace for main town centre uses in principle, subject to impact on townscape and heritage. The general aim being to enhance and diversify high streets as places to shop, work and spend leisure time.

Paragraph 14.15 of the Westminster City Plan refers to the Oxford Street Place Strategy and Delivery Plan (2019). This seeks to support economic growth and considers opportunities for diversification of land use and supports the evolution of retail to create an environment where retail and complementary and ancillary uses can thrive.

Part B of the policy states that 'Uses that provide active frontages and serve visiting members of the public will be required at the ground floor throughout the town centre hierarchy'.

Part C, 1. of Policy 14 sets out an overarching vision for the International Centres of the West End and Knightsbridge. It envisages that they will 'provide a focal point for large formal comparison retail, supported by complementary town centre uses that increase customer dwell time and new office floorspace'.

Paragraphs 14.12 and 14.13 of the City Plan deals with International Centres (including the West End International Shopping Centre). It states that due to the role of the international Centres retail provision should be predominantly for comparison shopping and maintain a strong retail core at ground floor level and immediately above. It goes on to state that complementary town centre uses that enhance customer experience and increase dwell time are also supported alongside new and improved office floorspace on upper floors to support wider job growth and support customer spend.

The proposals seek to retain the existing retail (Class E) and the restaurant/hot food takeaway use (sui generis). However, there will be a small loss of some 314 sqm at ground floor onto Davies Street. The GLA argue that the reduction in retail floorspace would be contrary to the requirement to bring forward comparison goods retail capacity in London's international town centres in London Plan Policy E9(C). The loss, which would help to create an enlarged office entrance onto Davies Street, would also be contrary to City Plan policy 14 which requires active frontages at ground floor level within the town centre hierarchy. Whilst this loss is contrary to retail policies, the losses primarily entail back-of-house areas and do not affect the primary shopping frontage. All 19 retail tenancies would be retained and it is intended that the units, and access to the London Underground, would remain open throughout any construction period of the development. In these circumstances the minor loss of existing retail floorspace is considered acceptable subject to a condition that would prevent the use of these floors for other purposes. This will ensure that the basement, ground and first floor units within the development, which is integral to the International Centre, remain in retail use. The retention of retail provision would add to the vitality and vibrancy along this important stretch of Oxford Street providing animation and enhancing the important active street frontage of Oxford Street.

8.1.4 Restaurant Use

City Plan Policy 16 relates to food drink and entertainment uses. The policy requires food and drink and entertainment uses to be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre.

There is an existing restaurant/hot food takeaway (sui generis use) at part basement and

ground floor levels, which is currently occupied by McDonalds and is to be retained. This is an existing lawful use and there is no objection to its retention in land use terms. A condition has been included to require suitable means of ventilation during redevelopment.

8.2 Townscape and Design

The site lies on the south side of Oxford Street at its junction with Davies Street. It also returns off Davies Street with a south-facing façade onto Weighhouse Street. The site sits above the Bond Street Underground Station. The present unlisted building on the site dates from the 1970s and its construction formed part of the works to rebuild the Underground station and construct the first phase of the Jubilee Line.

The site occupies a small area of land which lies outside a conservation area – the boundary of the Mayfair Conservation Area seemingly drawn to exclude the West One building and the street block immediately to the south – which is the site of the new Bond Street Elizabeth Line Station. The Mayfair Conservation Area is a large area and includes most of the land on the south side of Oxford Street, with Park Lane forming its western boundary; Piccadilly its southern boundary and irregular eastern boundary abutting the Regent Street Conservation Area.

Directly opposite the application site, on the north side of Oxford Street, is the Stratford Place Conservation Area; and then slightly further away and to the east of the site is the Harley Street Conservation Area, which again is on the north side of Oxford Street.

In addition to these nearby conservation areas there are also several listed buildings in the immediate vicinity and these include:

- 360-366 and 368-370 Oxford Street – grade II listed building lying directly opposite the application site;
- 2-7, 8-10, 12-13, 16 & 20 Stratford Place are all grade II listed buildings and Stratford House at the northern end of Stratford Place is a grade I listed building;
- The Ukrainian Catholic Cathedral on the corner of Weighhouse Street and Duke Street is a grade II* listed building;
- In the immediate vicinity of the Ukrainian Cathedral are also several other listed buildings including 55-73 Duke Street, 21 & 22 Binney Street, 75-83 Duke Street and the sub-station site in Brown Hart Gardens – all of which are grade II listed.

Further afield there are many other listed buildings and the applicant's Townscape Heritage and Visual Impact Assessment (THVIA) has identified 50 listed buildings within a 150m radius of the site.

Immediately adjacent to the site and notably included within the Mayfair Conservation Area are a number of unlisted buildings, which contribute positively to the townscape and could be regarded as undesignated heritage assets. These include 385-397 Oxford Street immediately to the west – a brick and stone building of the late nineteenth century; 369-373 Oxford Street on the opposite side of Davies Street – again late-nineteenth century, brick and stone with corner turret; and finally, Cavendish Buildings which face onto Gilbert Street and enclose the rear of the application site and through which is

contained an entry point into the station and shopping centre. This also dates from the late nineteenth century and is a handsome and symmetrical red brick block of flats.

The existing building on the site contains within its basement levels the Bond Street Underground Station and at basement, ground and first floors is the West One shopping centre. Entry into the retail units is predominantly from within the building and thus the retail does not have a particularly active presence onto the perimeter streets – albeit there are retail entrances direct from the street on the Oxford Street side. There are three entry/exit points into the shopping centre and station: the main one being on Oxford Street and secondary access points onto Davies Street and Gilbert Street to the west.

The upper floors of the building are arranged in a U-shaped plan and provide office accommodation between second and fifth floor. The entry into the offices is at the corner of Davies Street and Weighhouse Street; and the base of the building as it faces onto Weighhouse Street contains a loading bay for the retail and offices; as well as entry points for London Underground and to a sub-station.

The external appearance of the building is sub-divided into two distinct architectural elements. The façade onto Oxford Street and the northern part of Davies Street (effectively representing the main part of the building where the shopping centre is located) comprises a silvery-grey metal cladding, with a regular rhythm of curved bay windows to the upper part, with a double-height retail shopfront to the corner. There is a corner metal-clad turret feature, which is distinguished at higher level by the fifth floor being a standing-seam metal curved roof to either side before transitioning to a sheer storey. The remainder of the building to the southern part of Davies Street and onto Weighhouse Street is a red brick clad façade, with small regularly spaced windows and a top floor that in parts is again expressed as a standing seam metal roof.

The rear of the upper U-shaped arrangement of floors are again predominantly faced in red brick with a metal standing seam roof storey. These upper floors enclose a relatively utilitarian series of flat roofs which top the shopping centre and station below.

The existing building makes a very limited contribution to the surrounding townscape and is not considered to be a building which contributes to the setting of neighbouring designated heritage assets. Bradley & Pevsner (The Buildings of England, London 6: Westminster) describe it as “One of the few wholly new shopping centres or malls built in the West End since the Second World War...Anodized aluminium elevations with taut shallow bays set close, let down by weak roof-line, where some bays finish as gables and others stop short. Brick behind, in deference to the *genius loci*. Shopping atrium inside, cramped and charmless...” While the building in terms of its height and massing broadly complements its Oxford Street neighbours in particular, and its rhythm of bays and corner turret clearly seek to reflect a vertical rhythm and rooftop playfulness found in immediately adjacent Oxford Street buildings, it is certainly the external metal cladding which strikes a particularly discordant note.

Key Legislative and Policy Considerations

The relevant legislation, policy and guidance which applies to a proposal of this nature is extensive and a detailed description has been provided within the applicant's submission, but it is considered worthwhile to re-state some of the key legislative requirements; and some of the key policies and guidance:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 indicates 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."

In terms of the National Planning Policy Framework (NPPF, 2021) the key sections are Chapter 12 (Achieving well-designed places) and Chapter 16 (Conserving and enhancing the historic environment). In the latter chapter paragraph 200 makes clear:

"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...."

Paragraph 202 states:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

Finally, paragraph 203 states:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

Within the City Plan 2019-2040 there are a number of relevant policies and some of the key design/heritage ones are:

Policy 38 which sets out design principles, requiring exemplary standards of high quality, sustainable and inclusive urban design and architecture.

Policy 39 relates to Westminster's heritage and how it will be valued and that development should optimise the positive role of the historic environment.

Policy 40 relates to townscape and architecture, requiring development to be sensitively designed having regard to the surrounding townscape.

The Proposals

The proposal seeks to retain elements of the existing building but to undertake demolition of all the structure above first floor level and to remove external cladding to the retained base of the building, then to found the new steel superstructure on the existing base and replace the upper floors and extend in height. With re-cladding to the base of the building the effect will be to introduce a new building onto this prominent corner site.

The replacement building will comprise ground plus seven upper storeys, surmounted by a large plant enclosure. The upper floors will broadly replicate the u-shaped plan of the existing building, albeit having a slightly wider footprint, with the rear moving further westward.

The existing building rises to approximately 24m above ground, albeit the corner turret and plant room are approximately a further 3.5m higher. The new building reaches a height of approximately 25m above ground to the top of the fifth floor, there are then two further floors stepped back taking the height to 32m above ground; and then the plant room adds a further 4m, taking the overall height to approximately 36m above ground level and thus considerably higher than the existing building.

The proposed new building will be one of the taller buildings in this part of Oxford Street and objections to the proposals have been received to this increased height. The applicants point to the immediately adjacent and recently approved over-station development at 65 Davies Street as being broadly comparable in height, albeit slightly lower because of the slope of the land; and it is the case that there are comparably tall buildings elsewhere along Oxford Street.

Objections to the detailed design of the replacement building have been received, which objectors believe is out of character with surrounding buildings. The architectural expression of the building defines a double-height base, predominantly associated with the retained West One shopping centre and entry into the underground station, while the main body of the building is a richly articulated series of bays with profiled terracotta spandrel panels, providing a balanced façade perched above the more slender base. Floors 2-4 are expressed as single bays, while floors 5 & 6 are a double-width bay. The top storey (7th floor) and the plant enclosure express the top of the building and have been designed to complement the base and middle sections of the building, but clad in an off-white pre-cast terrazzo, to provide distinction, with the design of the plant room integrated into the overall design.

The choice of colour for the terracotta cladding to the main facades has been the subject of continued discussion with the applicants. As initially submitted the proposal was to be a teal (blue/green) colour and presented an argument based on colour theory for why the choice of colour would complement the colour of façade materials to neighbouring buildings and in key townscape views. The applicant also sought to make the point that a differentiating colour might provide a point of distinction within the townscape which would be appropriate in wayfinding terms as the building sits above a transport interchange. Officers were unconvinced by the choice of teal, despite there being some examples of more strident colouring to facades of some buildings in Mayfair. As Pevsner

observed when describing the existing building and in particular the southern part, it is faced in brick “in deference to the *genius loci*”, and this observation is well illustrated in View 14 of the applicants Townscape Heritage and Visual Impact Assessment (THVIA) where the existing building is viewed from the west and in the foreground, within the Mayfair Conservation Area, are a range of buildings, some listed, including the grade II* Ukrainian Cathedral and the overwhelming facing material is a red brick. The applicants have responded to officer concern about the colour and have amended the colour of the terracotta and now propose an orange-brown glazed terracotta, which will certainly complement the earthy tones of many of the surrounding buildings.

The double-height base to the building will feature a grey-coloured profiled terrazzo framing with large double-height shopfront glazing facing onto Oxford Street and part of Davies Street. The windows will have a ‘vitrine-like’ detail will bronze coloured metal surrounds. The main station entrances on Oxford Street and Davies Street will remain in their current positions, but framed in the new terrazzo cladding and featuring illuminated canopies to aid wayfinding. Towards the southern end of the Davies Street façade and returning onto Weighhouse Street, the double-height expression is given greater framing subdivision, thus reducing the scale of the openings at street level. The office entrance will be at the southern end of the Davies Street façade and will also feature a projecting canopy. The base of the building as it faces Weighhouse Street is where the main areas of services enter the building and as such it is principally composed of access points for loading, refuse collection and access to sub-station. Having these more utilitarian functions does reduce the active nature of the base at this point, but the office lobby glazing does return onto the façade and the openings are screened by metal filigree gates and will feature architectural lighting to enliven the façade at this point.

The 4m tall plant enclosure at the top of the building has been another element of discussion between officers and the applicant, with the aim from an officer perspective of ideally re-positioning it to the rear or at least reducing its size. To address concerns about the plant, particularly as perceived in townscape view 15 the enclosure has been pulled back at its southern end, no longer enclosing a roof access structure. The plant enclosure is formed in the same profiled terrazzo as the 7th floor, thus is of a high-quality finish and its panels will feature fluted metal panels or fins to produce an enclosure which has been design to fully integrate into the overall architectural composition.

The rear façade of the building, facing towards the rear of the Cavendish Buildings, will be a simplified version of the street-facing facades, with 3.6m centred vertical metal-clad framing elements containing windows and metal profiled spandrels. The metal cladding will match the colouring of the terracotta found on the street-facing facades and will again feature the bronze-coloured slimline steel window frames found elsewhere. The U-shaped plan of the rear will enclose a terrace for the offices at 3rd floor level and to the west of this and sited above the shopping centre will be a large plant enclosure, which has been designed to accommodate a planted covering to much of its exterior. The roof to the setback seventh floor will feature a green roof to promote biodiversity; and around the perimeter of the 7th floor will be a landscaped terrace.

Townscape/Heritage Impacts

Given the limited townscape contribution the current building makes, its replacement certainly offers the opportunity for enhancement in townscape terms. The proposed replacement is two floors taller plus it features the prominent 4m tall plant enclosure, making it approximately 9m taller than the highest parts of the existing building. This is a significant height increase and will mean that the replacement building is distinctly taller than its Oxford Street neighbours and as such will impose itself upon the immediate townscape by virtue of its height. It will, however, be of comparable height to 65 Davies Street lying immediately to the south. In townscape views from the south, such as views 2, 3 and 4 in the THVIA, 65 Davies Street will be in front of the application site and thus the impact of the latter will be modest and not harmful, merging with the scale of 65 Davies Street. In oblique views east and west along Oxford Street (views 9, 12 and 18), the set-back of the upper floors and the lighter cladding of the 7th floor and plant enclosure, assist in softening the height impact, such that the change in scale to the townscape is not considered to be disruptive. At closer quarters the scale of the building and its double height base does somewhat diminish and overpower the townscape contribution of the neighbouring and opposing Oxford Street buildings. In longer views and in views from the west (views 5, 6, 7, 14, 15 and 17) the building is either seen at a distance or interposed by other buildings and thus often it is only the upper storeys that are visible. For the most part the additional height while giving the building townscape prominence does not do so to a harmful degree.

In terms of the impact upon heritage assets, the greatest impact is upon the Mayfair Conservation Area and some of the listed buildings within it. The buildings on the south side of Oxford Street which lie immediately to east and west of the application site are within the conservation area and as indicated they are regarded as heritage assets and they are certainly dominated by the scale of the proposed building, albeit it is to be noted that the current building does not complement the setting of these conservation area buildings either and thus while the scale of the new building may at close quarters be uncomfortable, this is offset to some degree by the enhanced quality of the architecture. In views from the west within the conservation area the impact of the proposal is greater. The prominent plant room will become a somewhat discordant feature above the roofscape of the conservation area in views from Brown Hart Gardens (view 14) and in view 15 parts of the plant room and 7th floor of the new building will harmfully disrupt the silhouette of the roof of the grade II* Ukrainian Cathedral – albeit as the viewer moves closer to the cathedral (view 13) this impact lessens. The impact on the long view from the west along Green Street (view 17) does mean that the upper parts of the new building will disrupt the skyline silhouette of the grade I St Mark's Church, North Audley Street, however, the distance between viewer and listed building and from listed building to the application site is considered to be far enough as to not adversely impact upon the setting of the listed building or to be particularly discordant to the conservation area as a whole. Thus, the development is considered to result in some harm to the setting of the Mayfair Conservation Area and to some of the buildings in it, notably the flanking Oxford Street buildings (369-373 and 385-397 Oxford Street); the buildings in the foreground of view 14 and to the setting of the grade II* listed Ukrainian Cathedral. In all instances the level of harm is considered to be at the low end of less than substantial.

In terms of other listed buildings and conservation areas the impact upon their setting and significance is not considered to be harmful. While the new building will be opposite 360-366 and 368-370 Oxford Street and the Stratford Place Conservation Area, the character of these designated heritage assets is that they have a degree of townscape independence such that their setting does not make a strong contribution to their significance, with townscape of differing styles and scales in the vicinity.

In policy terms policy 2 promotes growth within the West End Retail and Leisure Special Policy Area (WERLSPA), including at A.2 the “sensitive refurbishment and extension, or replacement of existing buildings” and in the supporting text to this policy at paragraph 2.8 it is stated that “the built form of Oxford Street offers scope for increased height to deliver a range of commercial floorspace that complements the retail offer and provides modern workspace – reinforcing its role as a key commercial centre.” Policy 13 also supports the principle of development which will support economic growth within the WERLSPA. Of course, these policies must be read alongside those which seeks to protect the high quality townscape of Westminster and the protection of heritage assets.

The proposal in this case will introduce a replacement building which provides more and better quality office floorspace and will perform to a much higher standard in terms of energy performance. The architecture of the replacement building represents a significant enhancement over the current building in terms of materials, articulation and detailing. The scale and particularly the height of the building does challenge the prevailing height of the area, but for the most part not in a harmful way. Alongside 65 Davies Street, the application site will sit over the Bond Street transport interchange and in terms of city legibility this offers further townscape justification for the increased height on this site. The height and scale of the building does erode the setting of some heritage assets but as identified this is to a low level of harm. On the basis that the public benefits of the scheme outweigh this harm then it is considered that the proposal is acceptable in terms of townscape, design and heritage impact.

8.3 Residential Amenity

Policy 7 of the City Plan relates to managing development for Westminster’s people. It states that development will be neighbourly by protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

8.3.1 Sunlight and Daylight

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2011), whilst recognising that these Guidelines should be applied flexibly.

The recommendation in the BRE guide is that a window may be affected if the vertical sky component (VSC) measured at the centre of the window is less than 27% with a reduction of over 20% of existing daylight (VSC) levels likely to be noticeable. In conjunction with the VSC test, the BRE guidelines also recommends that the daylight distribution is assessed using the No Sky Line (NSL) test, where internal arrangements

are known. If the NSL moves so that the area of the existing room which receives direct skylight is reduced by over 20%, this is likely to be noticeable.

The BRE Guidelines explain that the advice given is not mandatory, that the numerical guidelines should be interpreted flexibly, for example in an historic city centre, or in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable. In special circumstances the Planning Authority may wish to use different target values. Inner city development is one of the examples where a different approach might be justified. This approach is encouraged by the London Plan's Housing SPG which states that 'guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets.' It goes on to state that 'the degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London.'

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90% of due south and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of PSH during the winter months. As with the tests for daylighting, the guidance recommends that any reduction below this level should be kept to a minimum.

The applicant's consultant, Point 2 Surveyors, has carried out the necessary tests using the methodology set out in the BRE guidelines. Daylight and sunlight tests have been carried out on the nearest, most affected residential properties at 24, 26, 28 and 37 South Molton Street, 58 Davies Street, Cavendish Buildings and Gilbert Court (395 Oxford Street). An updated report has also been received following the revisions made to the roof level plant room and the chamfered wing to the Weighhouse Street elevation. This has only resulted in small technical improvements in VSC.

The sunlight and daylight report shows that windows within 24, 26 and 37 South Molton Street and 58 Davies Street will comply with BRE guidelines for daylight and sunlight.

Residential windows within 28 South Molton Street, Gilbert Court and Cavendish Buildings will experience losses in daylight to living/kitchen/dining rooms and bedrooms beyond BRE guidelines and are considered in turn below. Bedrooms are not considered to be main habitable rooms and are therefore considered to be less important.

28 South Molton Street

This building is located on the opposite side of Davies Street at its junction with South Molton Street. One flat is located on the fifth floor of the building. One bedroom window would see a loss of 32% in VSC, but this room is served by another window that is unaffected by the proposals that would retain a VSC value of 33%. Another bedroom would experience a loss of 36% but would retain a VSC value of 15.76%. In addition, a large open plan living/kitchen/diner area which is served by eight windows would see losses of VSC of between 26%-35% to four of its windows, but the four windows unaffected retain between 28% and 31% in VSC values.

In terms of NSL, one bedroom will breach BRE guidelines but the main bedroom and

main living room will experience little or no change in NSL.

The main living room and both bedrooms have windows facing within 90 degrees of due south and have been tested for sunlight. One bedroom will experience a reduction of APSH beyond BRE guidelines of 53% however it will retain absolute APSH levels of 14%.

Overall, it is considered that the impact on daylight and sunlight levels to this property as a result of the proposed development will be within acceptable tolerances.

Gilbert Court, 395 Oxford Street

This building is located on the south side of Oxford Street at its junction with Gilbert Street. It is in commercial use on the lower floors of the building, but from second floor level and above it has residential use as 11 flats.

Two second floor windows will experience very borderline proportional VSC reductions of 22% and 23% and a bedroom and small kitchen on each of the second and third floors will also experience NSL reductions of between 21% and 33%. However, these are relatively minor derogations, and all living rooms will experience no change in NSL.

In relation to sunlight, a total of 6 rooms within the property have a window orientated within 90 degrees due south. All of which will experience fully BRE compliant alterations in APSH.

Overall, it is considered that the impact on daylight levels to this property as a result of the proposed development will be within acceptable tolerances.

Cavendish Flats

This building lies to the immediate west of the application site and contains residential accommodation throughout. The residential units are located over six floors from lower ground floor level to fourth floor. At lower ground and ground floor, the flats are dual aspect with kitchen and bathroom accommodation facing the application site, and main living and bedroom accommodation facing either Gilbert Street or Weighhouse Street. At first floor level and above, some of the flats do have kitchen and bedroom accommodation facing the site, and four of the flats (marked in bold text below) are also single aspect flats with windows serving kitchen, living and bedroom accommodation facing over the application site.

The results of the VSC assessment for the main living/kitchen/dining room windows (the main habitable rooms) that are most adversely affected by the development are shown in the table below:

* **Bold text denotes flats with a single aspect facing over the application site**

			Daylight (VSC)			Daylight distribution (NSL)			
	Room usage	Window Ref.	Existing VSC	Proposed VSC	Change	Room area (sqm)	Existing NSL	Proposed NSL	Change
Lower	Kitchen	W2/289	0.25	0.19	24%	98.5	2.5	2.2	12%

ground		W3/289	0.26	0.23	12%				
		W4/289	0.48	0.48	0				
1st floor Flat 1	Kitchen	W7/291	1.32	0.22	83%	77.5	39	27	-30%
Flat 2	Kitchen	W10/291	13.52	9.95	-26%	65.3	54.7	41.3	-25%
		W11/291	14.28	10.47	-27%				
	Living	W12/291	11.65	8.26	-29%	103.5	92.5	62	-33%
		W13/291	15.96	11.75	-27%				
		W14/291	17.91	14.20	-21%				
	Bed	W15/291	17.31	12.82	-26%	101.6	66.7	39.6	-41%
Flat 3	Bed	W16/291	18.12	13.45	-26%	126.9	96.1	58.3	-39%
		W17/291	18.44	13.54	-27%				
	Bed	W18/291	18.59	13.54	-27%	112.2	83	43.9	-47%
Flat 4	Kitchen/ diner	W21/291	17.37	12.78	-27%	98.8	75.1	40.5	-46%
Flat 5	Kitchen	W22/291	15.54	12.03	-23%	63.2	52	38.1	-27%
		W23/291	14.76	11.79	-20%				
2 nd floor Flat 1	Kitchen	W7/292	1.66	0.42	-75%	82.1	42.8	32.7	-24%
Flat 2	Kitchen	W10/292	16.83	12.02	-29%	65.3	59.9	46.8	-22%
		W11/292	17.72	12.62	-29%				
	Living	W12/292	15.39	10.83	-30%	103.5	102.9	71.5	-31%
		W13/292	20.00	13.97	-30%				
		W14/292	21.64	16.16	-26%				
	Bed	W15/292	21.55	15.03	-30%	101.6	85.8	46.7	-46%
Flat 3	Bed	W16/292	22.24	15.55	-30%	126.9	120	67.6	-44%
		W17/292	22.34	15.65	-30%				
	Bed	W18/292	22.43	15.77	-30%	112.2	99	53.1	-46%
Flat 4	Kitchen/ diner	W21/292	20.39	14.86	-27%	98.8	92.6	47	-49%
Flat 5	Kitchen	W22/292	18.87	14.05	-26%	63.2	54.1	43.9	-19%
		W23/292	18.37	13.78	-25%				
3 rd floor Flat 1	Kitchen	W7/293	1.99	0.83	-59%	74.1	44.9	43.7	2.9%
Flat 2	Kitchen	W10/293	21.05	15.06	-29%	65.3	64.1	54.3	-15%
		W11/293	21.85	15.62	-29%				
	Living	W12/293	20.13	14.48	-28%	103.5	102.9	81.3	-21%
		W13/293	23.76	16.70	-30%				
		W14/293	24.50	18.41	-25%				
	Bed	W15/293	24.96	17.62	-30%	101.6	97.5	55.2	-43%
Flat 3	Bed	W16/293	25.52	18.11	-29%	127.5	125.2	77.2	-38%
		W17/293	25.57	18.20	-29%				
	Bed	W18/293	25.52	18.30	-28%	113.4	108.2	62.9	-41%
Flat 4	Kitchen/ diner	W21/293	23.20	17.34	-25%	98.8	96.1	54.1	44%
Flat 5	Kitchen	W22/293	21.54	16.46	-24%	62.5	58.4	50.3	14%
		W23/293	21.00	16.16	-23%				
4 th floor Flat 1	Kitchen	W7/294	3.38	1.33	-62%	74.1	45.2	45.1	0%

Flat 2	Kitchen	W10/294	26.60	19.13	-28%	65.3	64.9	63.3	-3%
		W11/294	27.00	19.36	-29%				
	Living	W12/294	25.58	18.65	-27%	103.5	102.9	91.5	-11%
		W13/294	27.86	19.75	-29%				
		W14/294	27.77	21.13	-24%				
	Bed	W15/294	28.59	20.54	-28%	101.6	99.4	64.9	-35%
Flat 3	Bed	W16/294	28.87	20.90	-28%	127.5	125.1	89.8	-28%
		W17/294	28.85	20.98	-28%				
	Bed	W18/294	28.69	21.07	-27%	113.4	109.8	75	-32%
Flat 4	Kitchen/ diner	W21/294	26.28	20.21	-23%	101.1	96.3	59.9	-38%
Flat 5	Kitchen	W22/294	24.50	19.34	-21%	63.8	59.2	55.3	-6.6%
		W23/294	23.94	19.03	-20%				

Strong objections to losses of daylight have been received from the consultants acting on behalf of Cavendish Buildings. They have also employed a sunlight/daylight consultant who has reviewed the submitted reports and argue that the daylight report was carried out without obtaining access to the residential units of Cavendish Buildings and that the assessment is therefore based on assumptions. The applicant however has confirmed that Point 2 their analysis is accurate as it is based upon a series of building plans that were received from the landlord (Grosvenor).

The lower floors, and the Flat 1 kitchens on each floor (W7/291, W7/292, W7/293 and W7/294) already receive low daylight levels and thus even a small reduction has a large percentage loss in VSC.

With regard to Flats 3 (on each floor) the losses are to bedroom accommodation and the main habitable living rooms face over Gilbert Street and are unaffected by the proposals. VSC losses however are above 20% for each of these flats, and some of the flats have significant NSL losses (39% and 47% at first floor, 44% and 46% at second floor and 38% and 41% at third floor). These losses would be noticeable to the occupants of these flats. The windows affected serve bedroom accommodation which the BRE guidelines state as being less important in relation to daylighting distribution than main living rooms and on this basis, it is not considered that refusal on loss of daylight could be justified to these flats.

The losses to the single aspect flats (Flat 2 on each floor) and the kitchen/diner accommodation to Flats 4 would be more significant. It is clear that these flats would experience daylight losses of more than the 20% recommended in the BRE guidelines, and objectors are concerned about the losses involved and the fact that the affected rooms will appear poorly lit. Losses to the first and second floors would be particularly noticeable, particularly to the first floor single aspect flat where some windows would have retained VSC values in single figures. The third and fourth floors, although experiencing losses of more than 20%, would see retained VSC values within the mid-teens.

The proposals do however involve a significant change in the outlook for these residential flats. The outlook presently is towards a utilitarian louvred plant area which is to be transformed by an immersive greening strategy achieved through a combination of raised planters, green roof and an innovative terraced trough system which will screen

adjacent ventilation and plant. This is to be secured by condition to ensure that the greened rear that is promised to improve outlook, is delivered. It is considered that the improvements secured would help to mitigate the losses in daylight.

With regard to sunlight, none of the rooms within Cavendish Buildings have a main window orientated within 90 degrees due south, and therefore do not need to be considered.

8.3.2 Sense of Enclosure

Policy 7 aims to prevent unacceptable impacts in terms of sense of enclosure. The existing flank west facing wall, which faces the rear windows within Cavendish Buildings, is already some 7m taller than these flats. The application involves an upward extension to this part of the site, rising an additional 10m, however, the new seventh floor is set back some 8m from the site boundary, and the additional bulk and massing closest to Cavendish Buildings, at fifth and sixth floors, rises an additional 6.7m above the existing flank wall. Following negotiation, the bulk and massing of this part of the proposal has also been amended by chamfering the corner to this flank wall. Whilst there would be some loss of outlook to the flats closest to this flank wall, given that the rear flank wall is some 12m from these rear windows, it is not considered that the proposal would result in such an adverse increased sense of enclosure to these windows to warrant refusal.

The additional floors, and plant room, on the Davies Street frontage are some 35m from Cavendish Buildings, and whilst there is some increase in height to the central courtyard plant room, these elements of the proposal are not considered to result in any adverse increased sense of enclosure.

8.3.3 Privacy and Noise

Terraces are proposed at third, fifth, sixth and seventh floor levels. The terraces facing Davies Street at sixth and seventh floors are relatively narrow in depth and given that these are a street-widths apart from the flats in South Molton Street, it is not considered that the terraces here would cause any undue additional loss of privacy or noise.

Objections to the rear terraces at third, fifth and seventh floor levels have been received on the grounds of overlooking, loss of privacy and to the fact that these spaces will increase noise levels and should have been addressed in detail in a noise assessment report. The terrace at fifth floor would only afford a very oblique view towards the flats within Cavendish Buildings, however, there would be some overlooking from the terraces at third and seventh floors. The terrace at seventh floor level will also be at a higher elevation than the surrounding buildings and any overlooking would be mitigated by the planting and visual screening shown in the applicant's submission which would be secured by condition.

With regard to noise levels, there is no formal requirement for the submission of acoustic reports for office roof terraces, and in this case the terrace at seventh floor is relatively limited in size measuring approximately 7.5m by 10m. The presence of the lift overrun at this level further limits the size of the terrace. The terrace at third floor is slightly larger in size, but the majority of the terrace is set back behind the central planted courtyard area. Whilst officers accept that additional noise is likely to be created by the use of these

areas as terraces, it is unlikely that the noise levels associated with this proposal would be so significant as to justify refusal. Subject to a condition to limit the hours that the terraces may be used, and to secure planting and screening to terrace boundaries, it is not considered that their use would materially reduce residential amenity.

The proposals do introduce a number of new windows within the flank wall of the building and these are directly opposite the flats within Cavendish Buildings. However, the majority of these windows serve stair and lift core accommodation, and the applicant has agreed to a condition to introduce obscure glazing to these windows which will help to reduce the perception of overlooking to the occupants opposite the site. This is secured by condition.

8.4 Transportation/Parking

8.4.1 Car Parking

In respect of car parking provision, London plan policy T6 states that car-free development should be the starting point for all development proposals in places that are well connected by public transport. The site is car free and therefore would accord with London Plan policy T6.

8.4.2 Servicing and Deliveries

City Plan Policy 29 states that the council will strongly support the provision of consolidated facilities for servicing and deliveries in new development in accordance with London Plan policy. Servicing, collection, and delivery needs should be fully met within a development site and that the provision for servicing, collection, and deliveries within developments should be located behind new or converted buildings, or below street level, and appropriate in size, type and anticipated frequency of arrival of vehicles.

There is an existing loading bay on Weighhouse Street which contains a number of vehicle bays, however, the applicant indicates that some have not been used for prolonged periods of time. The applicant maintains the revised layout will be able to accommodate all the servicing of the site for both the office and retail. This relies on a servicing through a full 24-hour period, 7 days a week, as is the current situation. The information submitted indicates that servicing activity primarily occurs between 0430 until 2200.

The applicant has indicated that they could not accept any restriction on servicing hours. As part of wider public realm improvements (including Oxford Street) and anticipated increased pedestrian volumes in the immediate vicinity due to the new Crossrail/Elizabeth Line Station opposite the Council had explored limiting vehicle access to Weighhouse Street to between 0500 and midday. However, this was not progressed, in part due to not being able to reach agreement with WestOne/British Land over vehicle access for servicing vehicles. The applicant's position is that the proposed changes to the loading bay as part of this application do not reduce the need for 24 hour access.

The depth of the bay would mean longer vehicles (eg over 10 metres long) would extend over the footway, as is the case now. The changes to the loading bay do not improve

this situation. There are also limitations in the use of the bay, should a longer vehicle be present.

While a Servicing Management Plan has been provided, it does not respond to the revised layout. The document is technical in nature and contains many overarching principles on how servicing will be managed and repeats large amounts of information found in the Transport Statement. It is not considered to be a practical document for ongoing day to day use. The submitted SMP lacks detail on how any of these commitments will be delivered or the processes that will be followed to ensure servicing associated with the permitted use has no significant impact on other highway users.

Subject to the approval of an appropriate SMP the servicing arrangements are considered acceptable for the Class E uses detailed in this application. As discussed in section 8.1 of this report the Highways Planning Manager has raised concerns that use of the whole building as unrestricted Class E, could result in additional servicing requirements that could have an adverse impact on the highway, and therefore this is controlled by condition.

8.4.3 Cycle parking

There is currently no cycle parking associated with the building and 151 cycle parking spaces are proposed in total for the office use. This is made up of 139 long stay spaces and an additional 12 short stay spaces in full compliance with the requirements of the London Plan. This provision for the full floorspace for the office element is welcomed and considered a benefit of the proposed scheme and is supportive of active travel and with City for All and Climate Emergency Action Plan objectives.

The spaces are to be provided at second floor level along with changing rooms (showers/ lockers) and drying rooms. Access to the second-floor cycle parking stores will be via a new dedicated cycle access provided on Davies Street.

No cycle parking (for staff use) is proposed for the retail floorspace. Whilst this is disappointing, it is accepted that there are no spaces currently, and no change is proposed to the number/size of the existing retail units which are to remain open and functioning during the construction period. It would therefore be difficult to argue that there is policy requirement for cycle spaces for these units. The transport statement submitted discusses short stay cycle provision and highlights that, as with the existing building, there is very limited suitable space available off the public highway to provide short stay cycle parking, and there is also very limited space available on street adjacent to the site to provide short stay cycle parking without interfering with public realm or footway widths, especially given the intensity of use on Oxford Street.

8.4.4 Cycle Hire

The Mayor of London has requested a financial contribution of £35,000 to be used to fund additional cycle hire docking capacity for cycle hire improvements in the site's vicinity. In the absence of any cycle parking provision for the retail floorspace this could be a solution to mitigate the site-specific impacts of the development and promote cycling options for site users in line with London Plan Policy T4.C. This is recommended to be secured by legal agreement.

8.4.5 Waste & Recycling Storage

Waste stored on the public highway awaiting collection creates an obstruction to pedestrians and other highway users contrary to City Plan 2040 Policy 25. It would also have an adverse impact on the public realm. Off-street storage is provided at rear ground floor level and is secured by condition.

8.5 Economic Considerations

The NPPF notes that "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local businesses needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future".

The applicant notes the benefits include the following:

- Exemplary new architecture and townscape improvements;
- New and improved ground floor retail frontages, which will help to revitalise and transform Oxford Street into a global shopping destination of the future, in line with the vision set out in the Oxford Street District Framework;
- The creation of new Bond Street Underground entrances, which would provide an inviting entrance and complement the new pedestrian entrance for the Elizabeth Line at 65 Davies Street;
- An inherently sustainable design solution which would retain over 60% of the existing building and would have regard to embodied energy considerations;
- Much improved energy and sustainability credentials when compared to the existing building;
- Additional high-quality office space in the Oxford Street District, helping to contribute to the economic recovery of both Oxford Street, the West End and London post Covid 19;
- 1,025 jobs direct on site once the proposed development is completed, as well as indirect employment in the construction and supply chain;
- The provision of new amenity space in the form of terraces for office occupiers to enhance health and wellbeing;
- Introduction of urban greening to improve the biodiversity of the area; and
- 151 new cycle parking spaces and associated facilities and lockers.

8.6 Access

The building has been designed to comply with the Building Regulations Part M providing step-free access to all parts of the office areas of the building, including balconies and terraces. The route to the new cycle store is step-free via wide corridors and wheelchair-accessible sanitary facilities are also provided.

As the existing retail units are to be retained, access to these units and the entrances to the underground and will remain largely unchanged.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Plant

An acoustic assessment has been submitted with the application which has been amended during the course of the application to address concerns raised regarding the proposed plant specification and location of equipment. Environmental Health raise no objections in principle and consider that, subject to conditions, it is unlikely that plant associated with this development will result in noise/disturbance or vibration to nearby residents. The majority of the plant will be located at second and third floor levels, and within a rooftop enclosure.

8.7.2 Biodiversity

Policy G5 of the Publication London Plan states that Major development proposals should contribute to the greening of London by including urban greening as a fundamental element of site and building design, and by incorporating measures such as high quality landscaping (including trees), green roofs, green walls and nature-based sustainable drainage.

The scheme seeks to maximise all available surfaces in the form of green roofs, roof gardens, suspended troughs and climbers to vertical faces. Overall, the applicant advises that 1,103sqm of green roofs/walls are proposed. The applicant has undertaken an Urban Greening Factor (UGF) assessment of the proposed scheme, which shows that the scheme would achieve a score of 0.3. This meets the target set out in Policy G5.

Policy G6 of the London Plan also requires development to aim to secure net biodiversity gain and Policy 34 of the City Plan states that developments should achieve biodiversity net gain, wherever feasible and appropriate. Objectors have commented that the proposal fails to comply with the 10% biodiversity net gain requirement set out in the Environment Bill. However, mandatory biodiversity net gain as set out in the Environment Act applies in England only by amending the Town & Country Planning Act (TCPA) and is likely to become law in 2023. Nevertheless, the applicant has undertaken a Biodiversity Impact Assessment which confirms that the proposals will result in a net gain of 0.44 biodiversity units associated with area-based habitats compared with pre-development value. This is equivalent to a total net increase of 7958.09% in ecological value. The proposals therefore exceed the mandated minimum 10% uplift required by the Environment Act 2021.

8.7.3 Sustainability

Carbon Reduction

London Plan Policy SI 2 requires major development to be net zero-carbon, with a minimum requirement of on-site reduction in regulated emissions (i.e. those associated with heating, cooling, ventilation, hot-water and lighting) of at least 35 per cent beyond Building Regulations 2013 for major development. Residential development should achieve 10 per cent, and non-residential development should achieve 15 per cent through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either:

- 1) through a cash in lieu contribution to the borough's carbon offset fund, or
- 2) off-site provided that an alternative proposal is identified and delivery is certain.

City Plan Policy 36(B) requires major development to be zero carbon. City Plan Policy 36(C) adds, 'Where it is clearly demonstrated that it is not financially or technically viable to achieve zero-carbon on-site, any shortfall in carbon reduction targets should be addressed via off-site measures or through the provision of a carbon offset payment secured by legal agreement'.

Policy MES4 of the Mayfair Neighbourhood Plan requires all new non-domestic development to be zero carbon.

The applicant's energy strategy states that at the 'Be Green' stage, the proposed development is set to achieve a circa 43% carbon emission reduction with the use of on-site renewable technologies when compared against the Part L baseline set out within the current Building Regulations. This meets and exceeds the figure set out within the London Plan. Within the 'Be Lean' part of the energy hierarchy the GLA guidance requires a 15% improvement on non-domestic developments, which the development falls short of, achieving only 9% in regulated CO2 emissions when compared against the 2013 Building Regulations. In response to the GLA Stage 1 comments on the Be Lean elements of the development, the applicant has explored whether the minimum 15% improvement against the 2013 Building Regulations could be achieved but argues that with the retention of the lower floors significant design interventions would be required to achieve the full 15% improvement on Part L. However, through other on-site carbon reduction systems being used, a 43% carbon emission reduction is achieved.

Further details have also been submitted to the Mayor in response to his Stage 1 comments. It is anticipated that the details submitted are likely to satisfy the concerns raised at Stage 1.

An appraisal of the opportunity to integrate renewable energy technologies has also been undertaken and Air Source Heat Pumps in conjunction with photovoltaic (PV) panels are proposed and provision for 80 m2 of PV panel area has been made. Currently there are no District Energy Networks (DEN) within appropriate proximity to the proposed development; however, plant space is provided within the scheme to allow for the future connection to a district network should one become available. A condition is recommended to secure this.

The following energy efficient measures are proposed:

- the façade of the building has been designed to maximise the passive solar gains and daylight whilst minimising overheating risk.
- An efficient building form factor that reduces thermal losses.
- A highly insulated building fabric maximising air tightness that minimises thermal losses and reduces heat demands.
- The installation of high-performance glazing to minimise heat loss whilst maximising natural light.
- Low energy LED lighting with adequate controls specified throughout; and
- Mechanical ventilation with heat recovery for all spaces to provide ample fresh air with minimal heat loss / energy use

To address the regulated emissions shortfall to meet the net-zero carbon standard a carbon offset payment is required. This has been calculated at £ 162,450 and would be secured through the S106 legal agreement.

The Be Seen guidance in the London Plan highlights the requirement for reporting on actual energy performance and this will be secured also by legal agreement.

BREEAM Standards

City Plan Policy 38(E) requires non-domestic developments of 500 sq.m or above to achieve at least BREEAM 'Excellent' or equivalent standard and residential conversions and extensions of 500 sq m (GIA) of residential floorspace or above, or five or more dwellings will aim to achieve "Excellent" in BREEAM domestic refurbishment or equivalent standard.

The Sustainability Strategy confirms that the proposals are currently targeting a score of 78.09% which is equivalent to a BREEAM 'Excellent' rating. This represents an 8% increase above the minimum required score to reach an 'Excellent' rating, in accordance with City Plan Policy 36.

Whole Life Carbon Assessment

London Plan Policy SI 2(F) requires, 'Development proposals referable to the Mayor should calculate whole lifecycle carbon emissions through a nationally recognised Whole Life-Cycle Carbon (WLC) Assessment and demonstrate actions taken to reduce life-cycle carbon emissions'.

The applicant has carried out a whole life-cycle carbon assessment in accordance with this policy. The Assessment has also been presented in excel format using the GLA WLC assessment template, as requested by the GLA in their Stage 1 response. The document assesses the total operational carbon emissions, embodied carbon emissions, and any future potential carbon emissions 'benefits', post end-of-life, including benefits from reuse and recycling of building structure and materials. This has been submitted to the GLA and an update on this position with regard to London Plan policy SI 2 will be reported verbally at the Committee meeting.

The starting point set out in the Mayor's planning guidance on Whole Life-Cycle Carbon Assessments is that retaining existing built structures for reuse and retrofit, in part or as a whole, should be prioritised before considering substantial demolition, as this is typically the lowest-carbon option. This is reiterated in our Environmental SPD which states that "where all or part of the existing building can be retained and demolition can be avoided, this will help conserve resources, reduce embodied carbon, minimise waste and avoid dust and emissions from demolition."

It is acknowledged that given that the lower parts of the building are operated by London underground as an operational underground station, that this provides unique challenges for a complete refurbishment scheme. The applicant also states that the existing building is poor quality and outdated with poor floor to ceiling heights and lack of natural ventilation and therefore it has not been feasible to retain and refurbish the existing structure. Nevertheless, the applicants design approach centres around retaining large parts (61%) of the existing building, including all of the existing substructure and about

half of the existing superstructure. This in itself represents significant reductions in embodied carbon.

The applicant also argues that the new lighter weight structure allows the redevelopment to adopt the most sustainable servicing strategy, using natural ventilation. The additional height (allowed by the new structure) facilitates air flow from one side of the floor plate to the other. The new materials proposed have also specifically been selected for the low embodied carbon. The use of terracotta, Portland stone and brick façade options were all reviewed, but a terracotta façade system was determined to include the lowest embodied carbon and was thereby selected.

The applicant advises that for carbon used to practical completion, the carbon used to complete the proposed development (487 kilograms of carbon per sqm) would be both lower than the GLA's WLC benchmark of 950 kilograms of carbon per sqm and the aspirational benchmark of 600 kilograms of carbon per sqm. In terms of carbon used within the operational lifespan of the new buildings (60 years), the applicant at this stage predicts a carbon usage of 480 kilograms of carbon per sqm. Whilst this does not meet the GLA's WLC benchmark (450 kilograms of carbon per sqm), the applicant advises that further reductions are to be expected within the detailed design stage when the material specifications are developed further.

A condition has been imposed for the submission of a post-construction assessment to report on the development's actual WLC emissions.

Circular Economy

Policies SI7 of the London Plan and 37 of the City Plan seek to reduce waste and support the circular economy. The statement demonstrates how the application will promote the circular economy outcomes and describes how resource conservation, waste reduction, increase in material re-use/ recycling and reduction of waste going to landfill will be achieved. The GLA have requested additional information and request that a post completion report should be conditioned which will measure actual performance against targets set out in the Circular Economy statement.

8.7.4 Air Quality

The site lies within the GLA Air Quality Focus Area. City Plan Policy 32 outlines that the council is committed to improving air quality in the city and expects developments to reduce exposure to poor air quality and maximise opportunities to improve it locally without detriment of air quality in other areas.

Paragraph 32.1 of the reasoned justification advises that air quality is among the top environmental concerns for Westminster residents and improving it is a particular priority for the council. As such, the whole of the city has been declared an Air Quality Management Area (AQMA).

An Air Quality Assessment has been submitted which assesses both construction and operational impacts of the proposed development. The assessment concludes that the overall effect during the construction phase will not be significant. Furthermore, as the proposed development will not generate any significant additional road traffic or include any new combustion plant the proposed development will have no significant effect on

local air quality when in operation. Overall, the proposals meet the requirement to be air quality neutral.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

The Mayfair Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

8.10 London Plan

This application has been referred to the Mayor for London which means that once Westminster City Council has resolved to determine the application, that decision must be referred to the Mayor for his decision as to whether to direct approval, take it over for his own determination or allow the Council to determine the application itself.

The Mayor has confirmed in his stage 1 letter that the application is generally acceptable in strategic planning terms, but there are elements than require addressing in order to ensure full compliance with the London Plan. A summary of the Mayor's (GLA) comments are set out in section 5 of this report.

8.11 National Policy/Guidance Considerations

The City Plan 2019 – 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 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 pre-commencement conditions to secure a construction contract to ensure that demolition only occurs immediately prior to redevelopment, to secure design and method statements to accommodate London Underground structures, and 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. The applicant has agreed to the imposition of these conditions.

8.12 Planning Obligations

Regulation 122(2) of the CIL Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

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

All of the draft 'heads' of agreement set out in detail within Recommendations 1 (a) to (h) meet these tests.

The estimated CIL payment is:

Mayoral CIL: £780,200

Westminster CIL: £1,036,428

Total CIL: £1,816,628

8.13 Environmental Impact Assessment

Sustainability and environmental issues have been covered in section 8.7.3 above.

8.14 Other Issues

Construction impact

Concerns have been raised on the grounds of noise and disruption during construction and the subsequent increase in noise levels from the demolition and construction, to which no assessment relating to any increase in noise levels has been made. A condition is proposed which requires the applicant to sign up to the Council's 'Code of Construction Practice' (COCP) to ensure that the demolition and 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 development. As part of this process, Environmental Health Officers will liaise with both the applicant and neighbouring occupiers during the construction and demolition 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 demolition 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 City Plan policy 33.

Structural matters

Objections raised on behalf of the residents of Cavendish Buildings relate to the safety and structure of the proposed building. A Structural Statement has been prepared by Arup which sets out the proposed structural arrangements and key surveys considered as part of the proposed development. 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 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 development has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

We are not approving the structural 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.

It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control

London Underground as a statutory consultee have written to confirm that they do not object to the works and have suggested conditions requiring a method statement and load calculations ahead of any works commencing.

Fire Safety

The applicant has submitted a fire strategy prepared by a suitably qualified third-party assessor in line with London Plan Policy D12 and as requested by the Mayor in his Stage 1 report. This strategy identifies means of warning and escape for all building users, features to reduce risks to life, and access and facilities for fire personnel. This strategy also outlines safe and dignified emergency evacuation for people who require level access from the buildings in line with London Plan Policy D5.

Microclimate

Concerns have been raised on the grounds that the application fails to make any assessment against the change of the air flows and wind characteristics. Whilst Policy 41 does require applications to mitigate negative impacts on the microclimate, this

relates only to tall buildings which are defined as “buildings of twice the prevailing context height or higher or those which will result in a significant change to the skyline.”

Light pollution

Objections have been received on the grounds that the external lighting strategy will create an unacceptable level of light pollution and have a detrimental impact on the neighbouring residents' quality of life, health, and wellbeing. The applicant confirms that the proposed lighting strategy is intended to be subtle and has been designed to be integrated into planters and benches to provide an attractive outlook for residents. An informative has been included to remind the applicant to design the lighting so that it does not cause any nuisance for neighbours at night.

(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 jpalm@westminster.gov.uk

Existing Davies Street



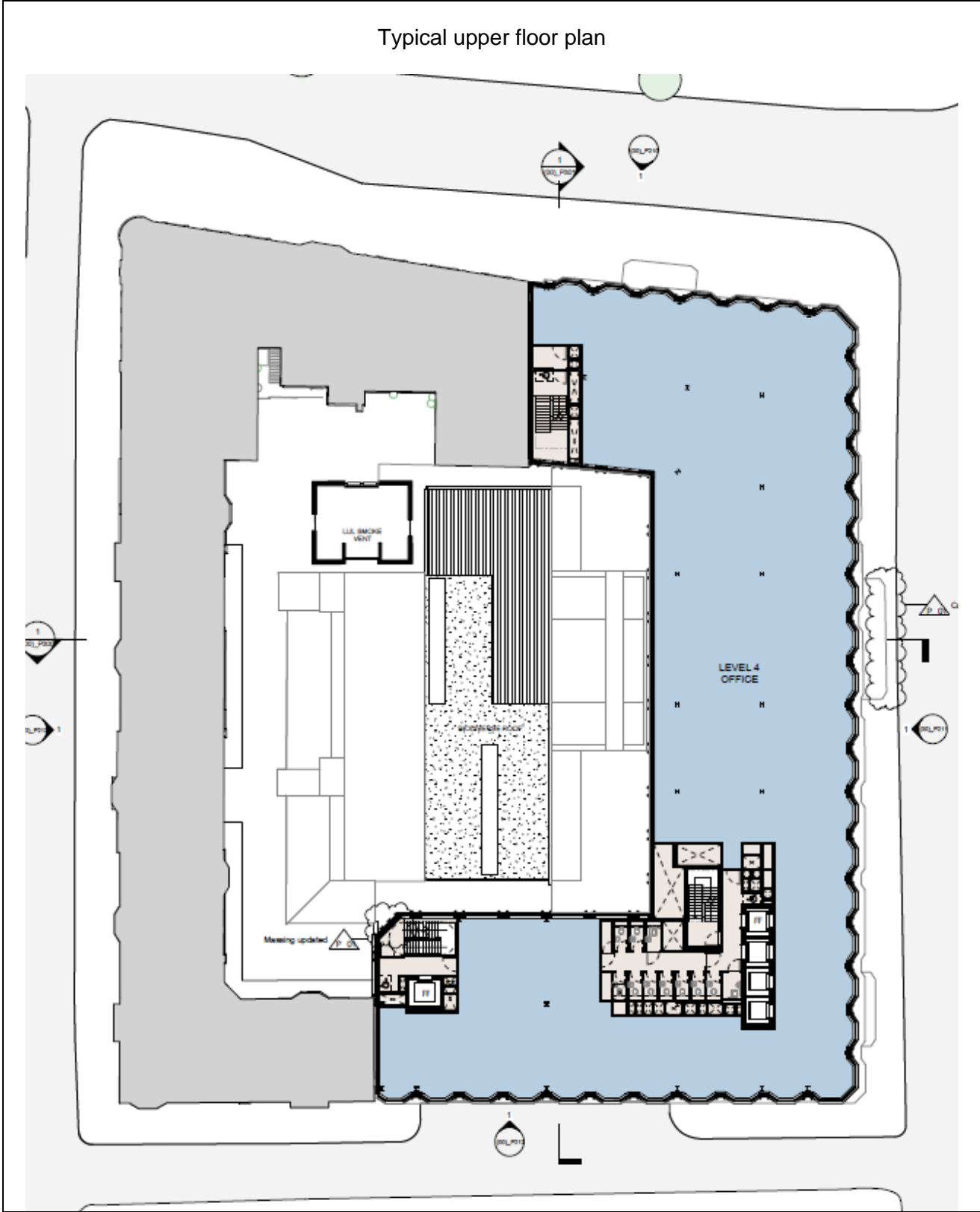
Proposed Davies Street



Proposed ground floor



Typical upper floor plan



DRAFT DECISION LETTER

- Address:** West One Shopping Centre, 381 Oxford Street, London, W1C 2JS
- Proposal:** Part demolition and alterations to existing building comprising demolition of second to fifth floor level, part demolition of ground and first floor at south eastern corner, removal of existing façades at ground and first floor level, erection of new second to seventh floors with setback eighth floor plant level to provide office (Class E) accommodation, new and replacement façades, installation of entrance canopies along Oxford Street and Davies Street, provision of terraces at third, fifth, sixth and seventh floor levels including greening, installation of plant and enclosure at second floor level, provision of cycle parking spaces and facilities and associated works.
- Reference:** 21/06879/FULL
- Plan Nos:** 16162_(00)_P099 P00, 16162_(00)_P100 P01, 16162_(00)_P101 P01, 16162_(00)_P102 P01, 16162_(00)_P103 P01, 16162_(00)_P104 P01, 16162_(00)_P105 P01, 16162_(00)_P106 P01, 16162_(00)_P107 P01, 16162_(00)_P108 P01, 16162_(00)_P109 P01, 16162_(00)_P210 P01, 16162_(00)_P211 P01, 16162_(00)_P212 P01, 16162_(00)_P213 P01, 16162_(00)_P300 P01, 16162_(00)_P301 P01, 16162_(00)_P059 Rev P00, 16162_(00)_P060 Rev P01; Acoustic Report REVISION 06 dated 04 FEBRUARY 2022; Structural Survey / Structural Methodology Statement ref: W1-ARP-REP-STR-001 dated 29 September 2021 (FOR INFORMATION ONLY); 16162_(12)_P099 P00, 16162_(12)_P100 P00, 16162_(12)_P101 P00, 16162_(12)_P102 P00, 16162_(12)_P103 P00, 16162_(12)_P104 P00, 16162_(12)_P105 P00, 16162_(12)_P106 P00, 16162_(12)_P210 P00, 16162_(12)_P211 P00, 16162_(12)_P212 P00, 16162_(12)_P213 P00, 16162_(12)_P300 P00, 16162_(12)_P301 P00
- Case Officer:** Jo Palmer **Direct Tel. No.** 020 7641 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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;

- o between 08.00 and 13.00 on Saturday; and
- o not at all on Sundays, bank holidays and public holidays.

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

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

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 neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

4 You must apply to us for approval of details 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 the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 5 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing 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 written approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
 - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
 - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
 - (i) The proposed maximum noise level to be emitted by the plant and equipment.
- (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 6 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 7 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 23919901-STR-HGN-100-DR-D-20102 prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the building. (C14FC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 8 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 9 All servicing must occur from within the off-street servicing area, including refuse collection. All areas for servicing, holding areas and access corridors, must be retained for this purpose for the life of the development and used for no other purpose that prevents off-street servicing from occurring. Within the off-street loading bay and access, a minimum vertical clearance of 4.5 metres shall be retained at all points (not to be reduced with plant, lighting, signage, fire fighting items etc)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 10 Prior to any works to alter the loading bay, an updated Servicing Management Plan is required to be approved followed/maintained for life of development, unless revised strategy is approved (in writing) by the Local Planning Authority. The plan must identify process, freight consolidation, internal storage locations, scheduling of deliveries and staffing as well as a clear process for transporting of goods between sites. All servicing must occur from within the off-street servicing area, including refuse collection. The SMP must thereafter be maintained and followed by the occupants 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 Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 11 Prior to any works to alter the loading bay, details of a rapid (minimum 50kW) electric vehicle charging point within the loading bay for freight vehicles shall be submitted and approved in writing by the Local Planning Authority. It must be demonstrated that the charging point is suitable for LGV delivery vehicle use.

Reason:

To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44BD)

- 12 No waste should be left or stored on the public highway.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 13 Any structure over the highway must maintain 2.6 metres vertical clearance from the footway surface at all times and not extend closer than 1 metre to the kerb edge; when within 1 metre of the kerb edge and over carriageway, 5.3 metres vertical clearance must be maintained by any structure. This includes building overhangs, public art, flags, signage, awnings and canopies.

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 14 The development shall target a BREEAM rating of 'Outstanding' for the Office floorspace or any such national measure of sustainability that, replaces that scheme of the same standard. A post construction certificate confirming this standard under BREEAM has been achieved must be issued by the Building Research Establishment, and submitted for approval to the Local Planning Authority within 6 months of completion of the development on site.

Reason:

To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44BD)

- 15 You must apply to us for approval of detailed drawings to show where plant space has been provided to allow for the future connection to a district heating network. You must not use any part of the basement until we have approved what you have sent us. Thereafter you must carry out the development in accordance with the details approved.

Reason:

To ensure that the development is designed to allow for the cost-effective connection to a future heat network a later date. This is as set out in SI 3 of the London Plan (2021).

- 16 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved in writing either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission, or
(b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AD)

Reason:

To maintain the setting of the Mayfair and Stratford Place Conservation Areas.

- 17 You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)

Reason:

To maintain the setting of the Mayfair and Stratford Place Conservation Areas.

- 18 No construction shall take place within 5m of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, must be submitted to and approved in writing, by the local planning authority in consultation with Thames Water. Any construction must be undertaken in accordance with the terms of the approved information. Unrestricted access must be available at all times for the maintenance and repair of the asset during and after the construction works.

Reason:

The proposed works will be in close proximity to underground strategic water main, utility infrastructure. The works has the potential to impact on local underground water utility infrastructure.

- 19 The development hereby permitted shall not be commenced until detailed design, method statements and load calculations (in consultation with London Underground), have been submitted to and approved in writing by the local planning authority which:

* provide detailed design and RAMS - These will have to be submitted during the life cycle of the construction programme and no work to commence without written approval from TfL Infrastructure Protection Engineer

* accommodate the location of the existing London Underground structures and tunnels - any temporary or permanent change to the loading must be demonstrated to be acceptable to London Underground incorporating any required mitigation measures.

* and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan policy T3 and 'Land for Industry

and Transport' Supplementary Planning Guidance 2012

- 20 No piling shall take place until piling method statements (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 both subsurface sewerage and 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 sewerage and water utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility and underground water utility infrastructure.,

- 21 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green walls and green roofs to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To protect and increase the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43CC)

- 22 You must apply to us for approval of detailed drawings in relation to the courtyard planted ventilation and plant area to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan. (C43GA)

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R30AD)

- 23 You must not use the terraces except between the hours of 09.00 and 21.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays. You

must not play any amplified music on the terraces which is audible from the boundary of the site.

Outside of these hours you can only use the terraces to escape in an emergency.,

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 24 The glass that you put in the 4th, 5th and 6th floors in the flank wall west elevation elevation of the building must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have given our written approval for the sample. You must then install the type of glass we have approved and must not change it without our permission. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 25 You must apply to us for approval of detailed drawings (at scale 1:50) showing the following alteration to the scheme:

1. Details of boundary treatment for the third floor roof terrace areas showing the areas for sitting out.

You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawing. Thereafter the remaining part of the flat roof outside of the terrace boundary shall be used for emergency access and maintenance purposes only.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 26 You must apply to us for details of the proposed boundary treatment to the seventh floor roof terrace.

You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings and the boundary treatment shall be installed in full prior to the use of the terraces and thereafter retained.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 27 Prior to the occupation of the development the post-construction tab of the GLA's Whole Life-Cycle Carbon Assessment template should be completed in line with the GLA's Whole Life-Cycle Carbon Assessment Guidance.

The post-construction assessment should be submitted to the GLA at: ZeroCarbonPlanning@london.gov.uk, along with any supporting evidence as per the guidance.

Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation of the development.

Reason:

In the interests of sustainable development and to maximise on-site carbon dioxide savings in accordance with Policy 38 of the City Plan 2019 - 2040 (April 2021).

- 28 The areas at ground and basement floor level shown hatched and marked 'Class E Retail' on drawing numbers 16162 (00)_P059 Rev P00 and 16162 (00)_P060 Rev P01 and the areas at first floor marked as 'Existing retail unit' on drawing number 16162 (00)_P101 Rev P01 shall only be used for retail Class E (a) and shall be used for no other purposes including for other uses within Class E of the Use Classes Order (as amended September 2020)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 14 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 29 You must only use the part ground and second to seventh floors for office use. You must not use it for any other purpose, including any uses within Class E of the Town and Country Planning Use Classes Order 1987 as amended September 2020 or any equivalent class in any order that may replace it.

Reason:

To ensure that the development is carried out in accordance with the use sought and assessed and to ensure that the parts of the building are not used for other uses within Class E that may have different or unacceptable waste storage, servicing, amenity or transportation requirements and / or impacts, contrary to Policies S24, S29, S31, S32, S41 and S42 of Westminster's City Plan (November 2016) and ENV 5, ENV 6, ENV 12, ENV 13 and TACE 8 or TACE 9 or TACE 10 of our Unitary Development Plan that we adopted in January 2007.

- 30 You must apply to us for approval of details of the ventilation system to get rid of cooking smells for the retained hot food take-away use shown on drawing numbers 16162 (00)_P059 Rev P00 and 16162 (00)_P060 Rev P01. You must not carry out any demolition works until we have approved what you have sent us and you have carried out the work according to the approved details.

Following completion of the development, you must install the high level extract duct shown in your ventilation and extraction statement dated 01 October 2021

Reason:

To ensure that cooking odours are adequately dispersed, in accordance with Policy 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 31 You must apply to us for approval of sample panels of the cladding proposed for:
- i) The terrazzo to the base (ground and first floor);
 - ii) The street-facing terracotta (second to sixth floor);
 - iii) The terrazzo used for the seventh floor and plant enclosure,

which show the colour, texture, bond and face-jointing details. You must not start work on this part of the development until we have approved the sample panels in writing. You must then carry out the work according to the approved samples.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26CE)

- 32 You must apply to us for approval of full details of the following parts of the development:
- i) Typical external door and windows;
 - ii) External shopfronts;
 - iii) Metal railings;
 - iv) Doors/Screens facing onto Weighhouse Street;
 - v) External canopies;
 - vi) External lighting.

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the

character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26CE)

- 33 You must apply to us for approval of details of the following parts of the development - a signage and shopfront display strategy for the Oxford Street and Davies Street facing facades. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved details.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26CE)

- 34 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application

Air Source Heat Pumps and photovoltaic panels (PV),

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 35 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) 5 of this permission. You must not start work on this part of the development until we have approved in writing what you have sent us. (C51AB)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AC)

- 36 The emergency plant and generators hereby approved shall only be used for the purpose of public safety and life critical systems and shall not be used for backup equipment for

commercial uses such as Short Term Operating Reserve (STOR). The emergency plant and generators shall be operated at all times in accordance with the following criteria:

(1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the LA90, 15 mins over the testing period) 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 in an emergency situation.

(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. (C50AC)

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 37 Prior to the occupation of the office accommodation, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement shall be submitted to the GLA at: CircularEconomyLPG@london.gov.uk, along with any supporting evidence as per the GLA's Circular Economy Statement Guidance. The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation.

Reason:

In the interests of sustainable waste management and in order to maximise the re-use of materials.

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given

every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to . (I55AA)
- 3 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: environmentalsciences2@westminster.gov.uk) to make sure that you meet all the requirements before you draw up contracts for demolition and building work. , , When a contractor is appointed they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974)., , British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work., , An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.
- 4 With reference to condition 3 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 Inspectorate (cocp@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 Inspectorate team must be paid on submission of the details relating to the relevant phase., , Appendix A must be signed and countersigned by the Environmental

Inspectorate prior to the submission of the approval of details of the above condition.

- 5 Conditions 5 _ 6 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)

- 6 Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're, considering working above or near our pipes or other structures.<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Workingnear-or-diverting-our-pipes>. , , Should you require further information please contact Thames Water. Email: developer.services@thameswater.co.uk Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB, , If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at thameswater.co.uk/buildingwater., , Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

- 7 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.

- 8 The proposed windows in the flank wall west elevation are located immediately adjacent to the boundary of the site and rely on the adjoining site for daylight, sunlight, outlook and natural ventilation. These windows would prejudice the potential for reasonable development on the adjoining site and for this reason daylight, sunlight, outlook and natural ventilation to them will not be protected if development proposals for the adjoining site comes forward in the future.

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.