



CITY OF WESTMINSTER

# MINUTES

## Planning (Major Applications) Sub-Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning (Major Applications) Sub-Committee** held on **Tuesday 2nd May, 2023**, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Ruth Bush (Chair), Mark Shearer, Robert Rigby, Paul Fisher, Jason Williams and Nafsika Butler-Thalassis

**Also Present:** Councillors Max Sullivan (Item 1), Karen Scarborough (Item 2) and Tim Mitchell (Item 4)

#### 1 MEMBERSHIP

1.1 There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

2.1 Councillor Bush explained that a week before the meeting, all six Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the issue had been ignored. Members would have read about the issue and comments made by correspondents in the papers read prior to the meeting.

2.2 Councillor Bush declared that in respect of Items 1 and 2 she had received briefings on the applications but had not entered into discussions or expressed any views on them with any parties. In respect of Item 4 she had sat on the Sub-Committee which had previously considered the original application on the same site, but she had not entered into discussions with any parties regarding the new application.

- 2.3 Councillor Fisher declared that in respect of Item 3 the site was located within his ward, but he confirmed that he had not entered into any discussions regarding the application with any parties.
- 2.4 Councillor Rigby declared that in respect of Item 2 he had sat on the Sub-Committee which had previously considered the original application on the same site, but he had not entered into any discussions with any parties regarding the new application.
- 2.5 Councillor Shearer declared that in respect of Item 1 he had undertaken a social enterprise with the applicant over five years ago but there had been no subsequent contact and therefore it was not considered a prejudicial interest. In respect of Item 4 the site was located within his ward, but he confirmed that he had not entered into any discussions regarding the application with any parties.

### **3 MINUTES**

#### **3.1 RESOLVED:**

That the minutes of the meetings held on 21 March 2023 and 28 March 2023 be signed by the Chair as a correct record of proceedings.

### **4 PLANNING APPLICATIONS**

- 4.1 The Sub-Committee heard the applications in the following order: 1,2,4 and 3.

#### **1 5 KINGDOM STREET, LONDON**

Use of the existing vacant 'Crossrail box', located below Kingdom Street level, as a delivery, logistics and distribution hub (Class B8). Erection of a single storey pedestrian access structure at ground floor / Kingdom Street level. Installation of facades to largely enclose the box. Other associated alterations.

The draft decision letter had been circulated to the Sub-Committee. Additional representations had also been received from Councillor Max Sullivan (25.04.23), Ramboll (27.04.23), Paddington Residents' Active Concern on Transport (27.04.23), Sheldon Square Residents' Association (21.04.23), Clean Air Bayswater (21.04.23).

Late representations were received from CBRE (02.05.23), the applicant (undated), SEBRA (01.05.23) and Clean Air Bayswater (02.05.23).

The planning officer tabled the following amendments to the recommendation and draft decision notice:

**Amend condition 20 from:**

A minimum of 29 long term cycle parking spaces and 2 short stay spaces shall be implemented prior to first occupation and thereafter maintained for cycle parking for the life of the development. All occupiers must have access to long term secure cycle parking within the development site.

*To:*

You must apply to us for approval of details of 58 long term secure cycle storage spaces for the B8 use and 2 short stay spaces. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the facility. You must not use cycle storage for any other purpose.

**Additional condition – No. 26**

Within 3 months of occupation, you must apply to local planning authority for approval of an employee cycle parking study demonstrating the demand for cycle parking. If additional spaces are required, detail should be provided indicating where they will be provided. These spaces shall be provided within 3 months of approval of these details, and the cycle storage shall be available at all times to everyone using the facility and for no other purpose.

*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)

**Additional condition – No. 27**

You must apply to us for approval of photographs of samples/panels 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 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)

Michael Meadows, representing British Land, addressed the Sub-Committee in support of the application.

Bruce Blair, representing Sheldon Square Residents' Association, addressed the Sub-Committee in objection to the application.

John Zamit, representing John Walton of the Paddington Residents Active Concern on Transport (PRACT), addressed the Sub-Committee in objection to the application.

Councillor Max Sullivan, in his capacity as Deputy Cabinet Member for City Management and Air Quality, addressed the Sub-Committee to raise concerns over the application.

**RESOLVED UNANIMOUSLY:**

- 1) That conditional permission, as amended, be granted subject to:
  - a) Condition 21, Operational Management Plan, being amended to include measures to reduce HGV idling at the site;
  - b) Amend the wording of Condition 20 (the cycle spaces condition) to reflect the amended offer of 58 secure cycle spaces for the B8 use plus the 2 short stay cycle spaces .In addition to the 58 spaces , the applicant within 3 months of occupation will submit for the Council's approval an employee cycle study demonstrating the demand for cycle parking and if additional spaces are required , these must be provided within the B8 use within 3 months of the approval of the employee cycle parking study and the cycle storage be available at all times to everyone using the building .
  - c) An additional informative requesting the applicant to consult with the South East Bayswater Residents' Association (SEBRA), Paddington Residents Active Concern on Transport (PRACT) and the Sheldon Square Residents' Association when drafting the Operational Management Plan;
  - d) An additional informative requesting that HGV vehicles using the site to be euro emissions compliant; and
  - e) Completion of a Section 106 Legal Agreement to secure the following:
    - i. Provision of a financial contribution of £232,554 (index linked) to provide employment, training and skills development for local residents, provided prior to commencement of development;
    - ii. The provision of an Employment and Skills Plan;
    - iii. Highways works necessary to facilitate the proposed development to provide cycle infrastructure improvements to the Harrow Road gyratory, which provides access and egress to the site. The works shall be completed prior to first occupation of the development.
    - iv. Payment of a contribution of £1m towards cycle infrastructure improvements for the development, within the vicinity, prior to commencement of use. In consultation and agreement with the councils Director of City Highways, within 6 months of commencement, the submission of a cycle impact and safety assessment setting out areas where and how the £1m would be

best spent. The assessment will include estimated costs and an implementation strategy. Should any of the works not be implemented within 3 years following commencement, the City Council will refund any unspent monies

- v. Provision of a financial contribution of £189,905 to the Carbon Offset Fund (index linked) payable prior to the commencement of development;
  - vi. Be seen energy monitoring; and
  - vii. The costs of monitoring the S106 legal agreement.
2. That if the S106 legal agreement had not been completed within six weeks of the date of the Sub-Committee's resolution, then:
- a) The Director of Town Planning and Building Control should consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Town Planning was authorised to determine and issue the decision under Delegated Powers; however, if not;
  - b) The Director of Town Planning and Building Control should consider whether the permission should be refused on the grounds that the proposals were unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Shaping and Town Planning was authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## **2 AYBROOK STREET, LONDON**

Use of Aybrook Street, part of Moxon Street and St Vincent Street as a weekly Farmers Market for a temporary period until 14 September 2027.

Additional representations were received from three local residents (undated and 22.04.23) and the Marylebone Forum (undated).

A late representation was received from a local resident (27.04.23).

Mark Handley, representing the London Farmers Market, addressed the Sub-Committee in support of the application.

Nigel Salter, a local resident, addressed the Sub-Committee in objection to the application.

Frank Dejonckheere, a local resident, addressed the Sub-Committee in objection to the application.

Yael Saunders, representing the Marylebone Forum, addressed the Sub-Committee in support of the application.

Councillor Karen Scarborough, in her capacity as Ward Councillor, addressed the Sub-Committee in support of the application.

**RESOLVED (Grant – Councillors Nafsika Butler-Thalassis, Paul Fisher, Robert Rigby and Mark Shearer; Refuse: Councillor Ruth Bush):**

(Councillor Paul Fisher requested that it be minuted that whilst he approved of the application in principle, he dissented to the hours applied for, requesting a later set up time of 9am instead of 8am to mitigate the impact on neighbours in Faraday House.)

That conditional planning permission be granted for a temporary period until 14 September 2027, subject to:

- a) Condition 5 being amended to strengthen the wording regarding clearing waste and the cleaning up spillages associated with the market at the end of each trading day.
- b) An amendment to condition 7 requiring a market manager to be on site every Sunday the market was open.
- c) An amendment to condition 10 to provide clearer wording with regard to the marshalling during the market in respect of vehicles using Aybrook Street to access/egress the car park. The wording to be agreed in consultation with the Chair.

**3 ORWELL HOUSE, 16-18 BERNERS STREET, LONDON, W1T 3LN**

Partial demolition, refurbishment and extension of the existing building comprising removal of the Berners Street facade and stepped rear extensions at third to seventh floor levels; creation of external terraces; removal of existing mews storage unit and infilling to mews building; recladding of facades; installation of new plant equipment; new cycle parking and facilities; and associated works. Use of the building for office use (Class E) (excluding ground floor front) and/or provision of retail (Class E), restaurant (Class E), cafe (Class E) / gallery (Class F1) and/or wine bar / drinking establishment use (Sui Generis) at ground floor, and use of part lower ground (front) as flexible retail (Class E), restaurant (Class E), gallery (Class F1), wine bar / drinking establishment (Sui Generis), medical (Class E), office (Class E) or gymnasium (Class E).

Additional representations were received from Gerald Eve (26.04.23) and Kajima (undated).

The planning officer tabled the following amendments to the resolution and conditions:

#### Revised resolution

- 1) Grant conditional permission subject to a legal agreement to secure the following:
  - a) A financial contribution of £90,481 (**index linked**) towards the Carbon Off-Set Fund (payable prior to commencement of development).

#### Revised Condition 16

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

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

#### Revised Condition 26

- i) In the event that the ground floor and lower ground floor unit(s) shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 are used as restaurant, cafe, and/or as a wine bar / drinking establishment, no customers shall be allowed on the premises other than between 07:00 and 00:00 Mondays to Thursdays, 07.00 and 00:30 Fridays and Saturdays and 09:00 and 22:30 Sunday and bank holidays.
- ii) In the event that the ground floor and lower ground floor unit(s) shown in blue and red on drawings (00)P100 P01 and (00)P099 P02 are used for retail or gallery purposes, no customers shall be allowed on the premises other than between 07:00 to 23:00 daily.
- iii) In the event that the lower ground floor units shown in red on drawings (00)P099 P02 are used for medical purposes, no patients are permitted on the premises before 07:00 or after 22:00 daily.
- iv) In the event that the lower ground floor units shown in red on drawings (00)P099 P02 are used for indoor sports/recreation or fitness purposes, no

customers are permitted on the premises before ~~08:00~~ 07:00 or after 22:00 daily.

John Harcourt, representing Kajima Properties, addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY:**

- 1) That conditional permission, as amended, be granted subject to:
  - i) An additional informative requesting the applicant to explore ways of reducing anti-social behaviour on Berners Mews; and
  - ii) A legal agreement to secure the following:
    - a) A financial contribution of £90,481 (index linked) towards the Carbon Off-Set Fund (payable prior to commencement of development).
    - b) Undertaking of highways works within the vicinity of the site, including the re-instatement of footway in place of redundant vehicle crossover and the replacement of pavement lights and associated works along the Berners Mews frontage. Highway works to be completed prior to the re-occupation of the development (if undertaken by the owner).
    - c) The submission of the 'Be Seen' energy performance indicators for the development (with confirmation to the City Council) in accordance with the Be Seen Guidance via the Mayor of London's Energy Monitoring Portal.
    - d) A financial contribution of £33,020 (index linked) to support the Westminster Employment Service (payable prior to commencement of development).
    - e) The costs of monitoring the agreement.
- 2) That if the S106 legal agreement had not been completed within six weeks of the date of this resolution then:
  - a) The Director of Place Shaping and Planning should consider whether it would be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning was authorised to determine and issue the decision under Delegated Powers; however, if not;
  - b) The Director of Place Shaping and Planning should consider whether the permission should be refused on the grounds that it had not proved possible to complete an agreement within an



appropriate timescale, and that the proposals were unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning was authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

#### **4 DEVELOPMENT SITE AT 1-11 AND 13-15 CARTERET STREET, 40 BROADWAY, LONDON**

Variation of conditions 1 and 25 of planning permission dated 14th July 2022 (RN:22/01513/FULL) which itself varied conditions 1, 2, 40, 41, 43 and 44 of planning permission dated 15th March 2019 (RN:18/01395/FULL) for 'Demolition of existing buildings and redevelopment to provide two office buildings ranging from one to eight storeys (plus basement) with retail unit at part ground and basement level for Class A1 (shop) or Class A3 (restaurant) and other associated works, namely plant screen rearranged and doors to plant screen relocated, introduction of roof terrace at the eighth floor, maintenance path around eighth floor added, roof light added to stair core in lieu of losing glass elevation to north.

Additional representations were received from the applicant (undated) and Historic England (26.04.23).

Noise assessment reports from RBA Acoustics dated 21 November and 9 September 2022 were provided as a late representation.

Barnaby Collins, representing DP9, addressed the Sub-Committee in support of the application.

Graeme Cottam, representing The Queen Anne's Gate Residents Association, addressed the Sub-Committee in objection to the application.

Councillor Tim Mitchell, in his capacity as Ward Councillor, addressed the Sub-Committee in objection to the application.

**RESOLVED (Grant – Councillors Ruth Bush, Nafsika Butler-Thalassis, Paul Fisher, Robert Rigby; Refuse - Councillor Mark Shearer):**

- 1) That conditional permission be granted, subject to:
  - a) Amendments to the conditions to ensure there would be no access to the area behind the planting (except for maintenance access purposes). Gates would need to be installed to ensure office occupiers on the roof were kept away from the edge in order to safeguard the amenities of neighbouring residents and for details of the gates to be submitted for the Council's approval.
  - b) A deed of variation to the original Section 106 legal agreement dated 15 March 2019 to secure the originally secured planning obligations in relation to this new permission.

- 2) If the deed of variation had not been completed within six weeks of the date of this resolution then:
- a) The Director of Town Planning and Building Control should consider whether it would be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning was authorised to determine and issue the decision under Delegated Powers; however, if not;
  - b) The Director of Town Planning and Building Control should consider whether the permission should be refused on the grounds that it had not proved possible to complete an agreement within an appropriate timescale, and that the proposals were unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning was authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

The Meeting ended at 10.59 pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_