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|---|--|---------------------------------------|----------------|
| CITY OF WESTMINSTER                                 |  |                                       |                |
| PLANNING APPLICATIONS SUB COMMITTEE                 | Date<br>22 January 2019  | Classification<br>For General Release |                |
| Report of<br>Director of Place Shaping and Planning |  | Ward(s) involved<br>West End          |                |
| Subject of Report                                   | Development Site At 127-143 Oxford Street, 53-55 Berwick Street and 201-205 Wardour Street, London   |                                       |                |
| Proposal  | Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade) and 55 Berwick Street. Excavation to provide new Basement 02 and Basement 03 levels. Redevelopment of site to provide ancillary plant and facilities at Basement 03 and part Basement 02 level; nightclub (sui generis) at part Basement 02 and part Basement 01 level (with ground floor entrance at No. 55 Berwick Street); retail (Class A1) floorspace at part Basement 01, part ground and part first floor levels; and office (Class B1) at part ground, part first and second to sixth floor levels, and roof top plant. |                                       |                |
| Agent   | JLL  |                                       |                |
| On behalf of  | Daejan Investments Limited   |                                       |                |
| Registered Number                                   | 18/00175/FULL and 18/00176/LBC   | Date amended/ completed               | 9 January 2018 |
| Date Application Received                           | 9 January 2018   |                                       |                |
| Historic Building Grade                             | Grade II -133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street).   |                                       |                |
| Conservation Area                                   | Soho (except 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street).  |                                       |                |

## 1. RECOMMENDATION

1. Grant conditional permission subject to a legal agreement to secure the following:
  - a) A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.
  - b) A Carbon Offset Contribution of £80,000 (index linked), payable prior to commencement of development.
  - c) A Crossrail payment of £516,309 (index linked) payable within 60 days of commencement of development (minus any relevant Mayoral Community Infrastructure Levy paid).
  - d) Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street), wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
  - e) An employment and training strategy.

- f) The re-provision of a nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
  - g) The costs of monitoring the S106 legal agreement.
2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:
- a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
  - b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an 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 Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That Committee authorises the making of a draft order pursuant to s247 or s248 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway. That the Director of Place Shaping and Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.
4. Grant conditional listed building consent
5. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

## 2. SUMMARY

The application site comprises a group of buildings within the Core Central Activities Zone (Core CAZ) bound by Oxford Street, Wardour Street and Berwick Street. With the exception of 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street, the site is located within the Soho Conservation Area. Ilford House (133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street)) is Grade II listed. The site is in use as retail units over basement and ground floor levels fronting onto Oxford Street, a language school and offices on the upper floors, three nightclubs at rear ground and Basement 01 floor levels and a restaurant at 55 Berwick Street.

The application proposes the demolition in their entirety of 205 Wardour Street / 127 Oxford Street, 129 - 131 Oxford Street, 55 Berwick Street and 137 Oxford Street. 139-143 Oxford Street (Berwick House) is proposed to be demolished behind a retained façade that will then be raised up by 1.25m in order for the floorplates to align with the rest of the development. Substantial demolition is proposed to Ilford House, although parts of the interior and its three facades are proposed to be retained.

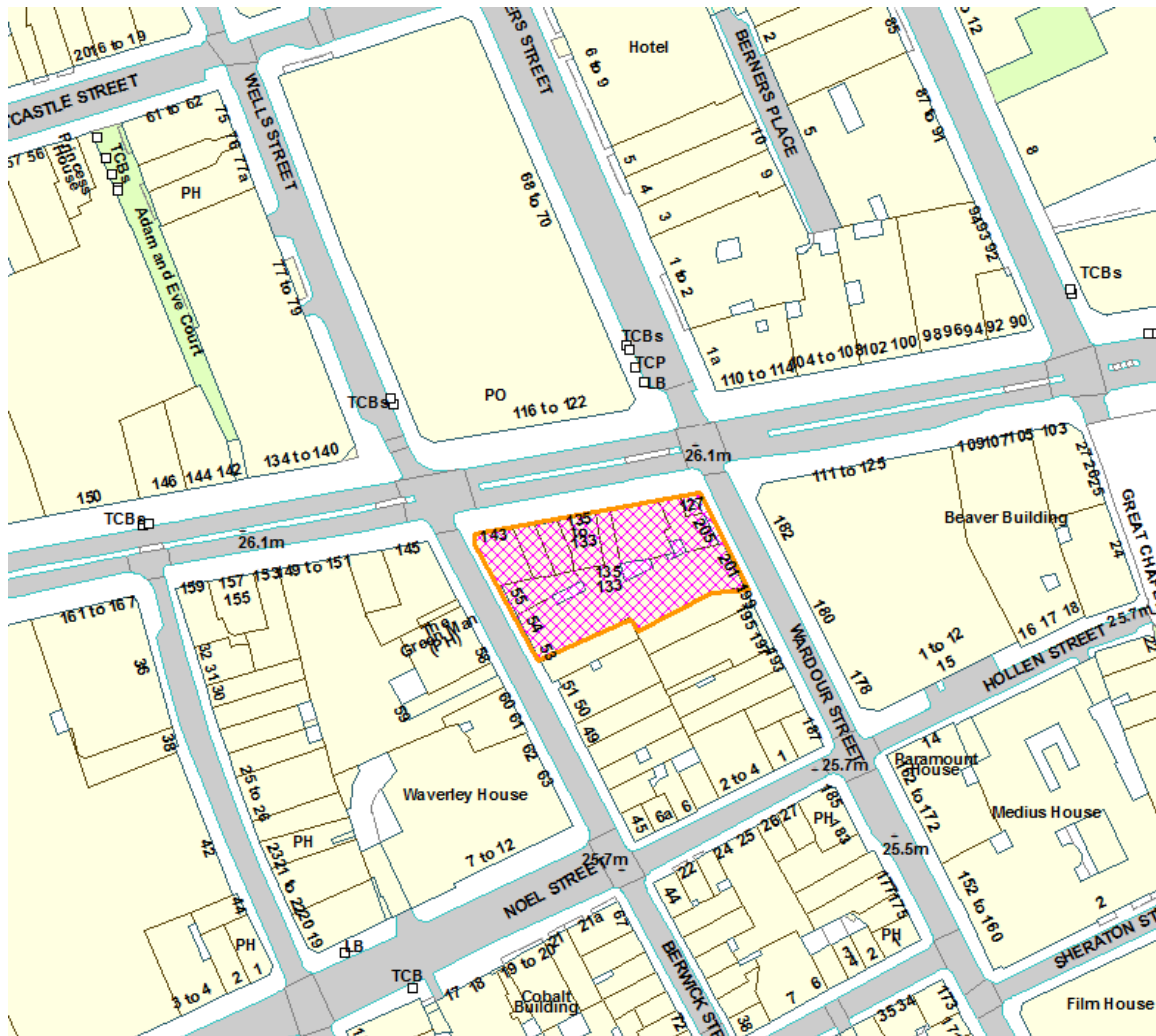
Excavation is proposed to add a Basement 03 and an expanded Basement 02. The site is proposed to be redeveloped through the erection of a part six / part seven storey building behind the retained / altered facades for use as a nightclub over Basement 01 and Basement 02 levels (accessed from Berwick Street), retail units fronting onto Oxford Street over Basement 01, ground and first floor levels, and offices over second to sixth floor levels (accessed from a lobby / reception of Oxford Street).

The key issues for consideration are:

- Whether the loss of 577.3 sq.m of evening / night-time economy floorspace is acceptable in this instance given the competing demands of providing additional retail floorspace on Oxford Street.
- Whether: (i) The demolition of 137 Oxford Street and 55 Berwick Street; (ii) The height and bulk of the eastern building on Oxford Street, particularly in terms of its relationship with the listed building; and (iii) The substantial demolition of the interior of the listed building, causes less than substantial heritage harm and this harm is outweighed by the public benefits derived from the additional retail floorspace (+1,226.9 sq.m GIA) on Oxford Street and the additional office floorspace (+2,899.2 sq.m GIA) within the Core CAZ that will unlock the potential of this site to contribute towards the continued regeneration of the east end of Oxford Street.

The proposal is considered acceptable in land use, amenity and transportation terms, complying with the policies set out in the London Plan, Unitary Development Plan (UDP) and the Westminster City Plan (City Plan) in these respects. Whilst the proposals do not fully comply with all the urban design and conservation policies, most notably DES 9, with respect to the Soho Conservation Area, and DES 10 with respect to the listed building, it is considered that there is clear and convincing justification for the harm to designated heritage assets and that the public benefits deriving from the proposed development outweigh this less than substantial heritage harm. For these reasons it is recommended that conditional planning permission and listed building consent be granted subject to a legal agreement securing the items listed within Section 8.12 of this report. It is further recommended that the Committee authorises the making of a draft order for the 'stopping up' of parts of the public highway required to enable the development to take place.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Site as seen from the junction of Oxford Street and Wells Street:



## 5. CONSULTATIONS

### 5.1 Consultation on submitted scheme

#### SOHO SOCIETY:

- No response.

#### ENVIRONMENTAL SCIENCES:

- No objection to the proposed plant subject to a condition securing the submission of a supplementary acoustic report for the City Council's approval once the plant has been specified and the hours of operation confirmed.
- No objection from an air quality perspective.

#### WASTE PROJECT OFFICER:

- Objection – further details required.

#### BUILDING CONTROL:

- Any response to be reported verbally.

#### THAMES WATER UTILITIES LTD:

- No objection.

#### HISTORIC ENGLAND:

- The proposal will cause serious, albeit less than substantial, harm to the significance of Ilford House (Grade II listed) due to the widespread loss of original fabric and individual elements of interest. In accordance with Para. 134 of the NPPF (now Para. 196 of the July 2018 version of the NPPF), this harm should be weighed against the public benefits of the proposal.
- Authorisation provided for the City Council to determine the application for listed building consent as it sees fit.

#### HISTORIC ENGLAND (ARCHAEOLOGY):

- No objection subject to the imposition of conditions securing: (i) A two-stage process of archaeological investigation; and (ii) A written scheme of historic building investigation.

#### ANCIENT MONUMENTS SOCIETY:

- Any response to be reported verbally.

#### COUNCIL FOR BRITISH ARCHAEOLOGY:

- Any response to be reported verbally.

#### THE GEORGIAN GROUP:

- Any response to be reported verbally.

#### SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS:

- Any response to be reported verbally.

#### TWENTIETH CENTURY SOCIETY:

- Any response to be reported verbally.

#### THE VICTORIAN SOCIETY:

- Objection on the following grounds:
  - o The extent of demolition proposed to Ilford House would harm the significance of this listed building and the form, scale and massing of the new building would harm the setting of this listed building and the character and appearance of the Soho Conservation Area.

- The loss of two unlisted buildings of merit (i.e. 137 Oxford Street and 55 Berwick Street) is unjustified and would erode the historic streetscape in this part of the Soho Conservation Area.
- The roofscape of Berwick House will be lost amid the heavily rectilinear form of the new building behind, harming the character and appearance of the Soho Conservation Area.
- The proposed new buildings represent poor quality architecture, overwhelming rather than complementing the existing scale, massing, form and architectural distinctiveness of the existing historic buildings of merit. The proposed new building has no regard to the existing historic plot divisions, eroding the historic environment of the Soho Conservation Area.
- Clear and convincing justification has not been provided for the harm to the significance of Ilford House and the Soho Conservation Area.
- Whilst the regeneration of Oxford Street is accepted to be a public benefit, this should not be at the expense of the historic environment.

#### LONDON UNDERGROUND LIMITED:

- No objection subject to a condition securing the submission for the City Council's approval of a detailed design and method statement to protect existing London Underground infrastructure.

#### METROPOLITAN POLICE:

- Any response to be reported verbally.

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

No. Consulted: 321

Total No. of replies: 2

No. of objections: 1

No. in support: 1

One objection from a local business on disruption during the course of construction grounds.

One letter of support from the New West End Company on the ground that the current buildings at this site do not fulfil their potential in terms of retail and office accommodation and the proposed development will contribute to the ongoing regeneration of the east end of Oxford Street and create new jobs.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

### 5.2 Re-consultation following amendments to scheme

#### SOHO SOCIETY:

- Whilst the basic principle of the proposed development are accepted, concerns are raised in respect to:
  - Disruption during the course of construction.
  - The development scheme displays no leadership or innovation.
  - It is regrettable that the ability to join a district heating scheme at a later date has been rejected.
  - It is unfortunate that no opportunity has been taken to increase biodiversity at roof level or to improve the public realm in the vicinity of the site.
  - The retention of the nightclub at Basement 02 is welcomed but it is requested that this is open no later than 03.00.

#### ENVIRONMENTAL SCIENCES:

- No objections subject to conditions.

**HIGHWAYS PLANNING:**

- Objects to loss of chamfered corner at the junction of Oxford Street / Wardour Street.

**WASTE PROJECT OFFICER:**

- Accepts that the applicant has addressed almost all of the issues previously raised. There are, however, still issues in respect to the retail waste store in terms of its accessibility and no waste store is proposed for the night club use.

**BUILDING CONTROL:**

- Any response to be reported verbally.

**THAMES WATER UTILITIES LTD:**

- No objection.

**HISTORIC ENGLAND:**

- Authorisation provided for the City Council to determine the application for listed building consent as it sees fit.

**HISTORIC ENGLAND (ARCHAEOLOGY):**

- No objection subject to the imposition of conditions securing: (i) A two-stage process of archaeological investigation; and (ii) A written scheme of historic building investigation.

**ANCIENT MONUMENTS SOCIETY:**

- Any response to be reported verbally.

**COUNCIL FOR BRITISH ARCHAEOLOGY:**

- Any response to be reported verbally.

**THE GEORGIAN GROUP:**

- Any response to be reported verbally.

**SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS:**

- Any response to be reported verbally.

**TWENTIETH CENTURY SOCIETY:**

- Any response to be reported verbally.

**THE VICTORIAN SOCIETY:**

- Any response to be reported verbally.

**LONDON UNDERGROUND LIMITED:**

- No objection.

**METROPOLITAN POLICE:**

- Any response to be reported verbally.

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

No. Consulted: 321

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes



## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is bound by Oxford Street to the north, Wardour Street to the east and Berwick Street to the west. The site is located within the Core CAZ, the Soho Stress Area and the West End Special Retail Policy Area. Beneath the site is the London Underground Central line. The Oxford Street frontage forms part of the Primary Frontage of the West End International Shopping Centre.

With the exception of 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street, the site is located within the Soho Conservation Area. 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) is known as 'Ilford House' and is a Grade II listed building (added to the listed in 2009). 55 Berwick Street, 137 Oxford Street and 139-143 Oxford Street ('Berwick House') are all identified as contributing to the character and appearance of the Soho Conservation Area. The site is located within a Tier 2 Archaeological Priority Area (The Great Estates Archaeological Priority Area). The site is not located within a strategic viewing corridor.

To the north of the site is the East Marylebone Conservation Area. Immediately to the south of the application site is the Grade II listed 52 Berwick Street. To the west of the site are 57 Berwick Street and 58 Berwick Street, both Grade II listed.

A small Basement 02 is located within the centre of the site and is used for plant. A number of retail (Class A1) units fronting onto Oxford Street are located over Basement 01 and ground floor levels. Three nightclubs (*Sui Generis*) operate from Basement 01 and ground floor levels. Two are accessed from Wardour Street and one is accessed from Berwick Street. Ilford House has recently been converted into office (Class B1) floorspace, pursuant to planning permission gated 9 November 2016 (see Section 6.2 of this report for more detail). Berwick House is in use as a language school (Class D1). The upper floors of 205 Wardour Street and 127 – 131 Oxford Street are in office use. Finally, 55 Berwick Street is in use as a restaurant (Class A3) over basement, ground and first floor levels, with ancillary landlord's maisonette over second and third floor levels.

Records indicate that the nearest residential properties are located at:

- 52 Berwick Street - 2 x flats on the upper floors.
- 57 Berwick Street - an ancillary landlord's flat at second floor level above the Green Man public house.
- 58 Berwick Street – a maisonette over first to third floor levels.
- 50 Berwick Street - 4 x flats on the upper floors.
- 49 Berwick Street - 4 x flats on the upper floors.
- 195-195 Wardour Street - 4 x flats on the upper floors.
- 191 Wardour Street – 1 x flat at first floor level.

### 6.2 Recent Relevant History

#### *Berwick House*

16/05656/FULL - Dual/alternative use of part ground and first to fourth floors for office (Class B1) and / or educational (Class D1) purposes. Permitted – 09.11.16

#### *Ilford House*

16/05658/FULL - Dual/alternative use of part ground and first to fourth floors for office (Class B1) and / or educational (Class D1) purposes. Permitted – 09.11.16.

## 7. THE PROPOSAL

Planning permission and listed building consent are sought to excavate a new Basement 03 level and excavate to enlarge the existing Basement 02 level. 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street, 137 Oxford Street and 55 Berwick Street are all proposed to be demolished in their entirety. The stone façade of Berwick House is proposed to be retained in situ, albeit raised in height by 1.25m in order for the floorplans to align with the remainder of the development. The roof and corner turret of Berwick House are proposed to be demolished and reinstated following the erection of the new building behind the retained stone façade. The three facades of Ilford House are proposed to be retained, as are some staircases and the majority of the rear wings of the building at basement to third floor levels. At fourth floor and above, with the exception of the three facades, Ilford House is proposed to be demolished.

The site is proposed to be redeveloped behind the retained facades of Berwick House and Ilford House (as well as some retained internal elements of Ilford House) to provide a replacement development over Basement 03, Basement 02, Basement 01, ground and part five / part six upper floors with roof plant above.

Basement 03 is proposed to be used for shared building functions, whilst around half of Basement 02 is proposed to be used as a cycle centre and as a refuse store for the office floorspace within the proposal. A replacement nightclub is proposed over part Basement 02 and part Basement 01, with a small ground floor entrance on Berwick Street. Retail floorspace fronting onto Oxford Street is proposed across the majority of Basement 01, ground and first floor levels. The entirety of second to sixth floors are proposed to be used as offices accessed from a reception / lobby on Wardour Street. Terraces for use in association with the office accommodation are proposed at fourth, fifth and sixth floor levels.

A summary of the land use implications of the proposed development is set out below:

|                   | Offices  | Retail   | Nightclub | Restaurant | Language school | Total  |
|-------------------|--|----------|-----------|------------|-----------------|--|
| As existing (GIA) | 2,746.8  | 1,615.8  | 1,118.4   | 302.2      | 562.4           | 6,345.6                                      |
| As proposed (GIA) | 5,646.0  | 2,842.7  | 843.3     | 0          | 0               | 9,332  |
|                   | +2,899.2<br>(i.e. +45.7% of existing floorspace) | +1,226.9 | -275.1    | -302.2     | -562.4          | +2,986.4<br>(i.e. +47% of existing building) |

Table 1: Existing and proposed floorspace by use (shared space is attributed to each use proportionately).

The proposed replacement building is proposed to extend the existing building line on Wardour Street by between 1.0m and 1.1m. Whilst within the applicant's ownership, this land has been enjoyed by the public as a right of way without interruption for at least the last 20 years and is therefore deemed to be dedicated as highway.

The application has been amended since its submission in the following ways:

- The extent of the site has been corrected. This affects basement vaults on Wardour Street, Oxford Street and Berwick Street.
- The demolition drawings have been corrected to show no works to the pavement vaults.
- Additional excavation is now proposed to form new Basement 03 level for use as ancillary building functions and additional excavation is proposed at Basement 02 level.

- A nightclub (sui generis) at Basement 01 and Basement 02 level (accessed from new entrance at No. 55 Berwick Street) has been included within the proposal.
- A number of alterations to the building form, detailed design and materials have been made (and amended Daylight / Sunlight Report submitted to reflect the altered massing).

As set out above, a full round of consultation was undertaken following these amendments.

## 8. DETAILED CONSIDERATIONS

The application is required to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the London Plan (adopted March 2016), Westminster's City Plan (adopted November 2016) and the remaining 'saved' and not superseded policies within the City of Westminster UDP (adopted January 2007).

As set out in more detailed in Section 8.8 of this report, the City Council is currently working on a complete review of its City Plan, with informal consultation on the first draft having taken place between 12 November 2018 and 21 December 2018. Given the very early stage of the consultation process the policies of the emerging draft City Plan are given little to no weight at the present time.

A draft new London Plan was published by the Mayor for consultation between 1 December 2017 and 2 March 2018. On 13 August 2018 the Mayor published the Draft New London Plan showing Minor Suggested Changes. These suggested changes have been prepared following a review of consultation responses, and consist of clarifications, corrections and factual updates to the draft Plan that will help inform the Examination in Public that opened on 15 January 2019. The emerging new London Plan is a material consideration in the determination of this application. The weight attributed to this document is a matter for the decision maker. The closer the document is to adoption, the greater the weight that should be given to it.

The revised National Planning Policy Framework (NPPF) was published in July 2018. The NPPF is also a material consideration in the determination of this application.

### 8.1 Land Use

#### 8.1.1 Loss of Language School

As set out within Section 6.2 of this report, permission was granted by the City Council on 9 November 2016 for the conversion of the language schools within Berwick House and Ilford House to office accommodation.

The language school within Ilford House has vacated and the building is now in office use. There is still, however, a language school within Berwick House. Whilst the loss of this social and community facility is contrary to City Plan Policy S34 and UDP Policy SOC 1, the City Council determined in its assessment of these application that these language schools offered very little social benefit to the community and are essentially a commercial enterprises. This, combined with the benefits of the increased office accommodation that would have been provided in this part of the Core CAZ, meant that the City Council considered that a departure from the usual policy requirement to protect such floorspace was justifiable.

In light of the lack of material change in policy since November 2016 and that there is an extant permission to convert Berwick House to offices, there is no objection to the loss of this language school in this instance.

### 8.1.2 Additional Retail Floorspace

The proposed increase in retail floorspace of 1,226.9 sq.m (GIA) and provision of retail floorspace on Oxford Street over the majority of Basement 01, ground and first floor levels is welcome, enhancing the unique status of the West End West End Special Retail Policy Area and enhancing the character and function of the West End International Shopping Centre, in accordance with City Plan Policies S6, S7 and S21 and UDP Policy SS3. This provision of high-quality, flexible retail floorspace in this location is a public benefit of the proposal.

### 8.1.3 Additional office floorspace

Given the site's location within the Core CAZ, the increase of 2,899 (GIA) of additional office floorspace is welcome, as set out within City Plan Policies S6, S18 and S20. The provision of modern, high quality and flexible office space is welcome and will contribute towards meeting the job and office floorspace targets set out within City Plan Policy S20. This is also a public benefit of the proposal.

### 8.1.4 Mixed use in the CAZ

There is a requirement under City Plan Policy S1(3)(B) to provide 995.52 sq.m (GIA) of residential floorspace on-site, off-site, by mixed use credit or as a payment in lieu of residential floorspace. It is at the applicant's discretion which of these options is pursued. The applicant has indicated that a policy-compliant payment towards the City Council's Affordable Housing Fund of £1,735,000 will be made. This will be secured by legal agreement.

### 8.1.5 Evening and Night Time Economy / Cultural Uses

The applicant originally proposed the loss of the 302 sq.m restaurant (Class A3) at 55 Berwick Street and the three nightclubs within Ilford House (totalling 1,118 sq.m). Officers resisted the loss of this cultural and entertainment offer within the CAZ and within a strategic cluster of night time activity of international importance on the basis that City Plan Policy S22 protects all arts and cultural uses and London Plan Policy 4.6 outlines how boroughs should, '*... support the continued success of London's diverse range of arts, cultural, professional sporting and entertainment enterprises and the cultural, social and economic benefits that they offer to its residents, workers and visitors*'. In addition, Policy HC6(B)(6) of the draft London Plan states that in planning decisions, boroughs should, '*... protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues*'.

As such, the proposal was amended to include the provision of a new nightclub over part Basement 02 and part Basement 01 and accessed from a ground floor lobby on Berwick Street. The total floorspace of this new nightclub is 843 sq.m (GIA). This is 275 sq.m smaller than existing. In addition, the proposal would see the loss of the 302 sq.m (GIA) restaurant at 55 Berwick Street. There is therefore a total loss of evening and night time entertainment / cultural floorspace of 577 sq.m (GIA). However, the provision of a meaningful replacement nightclub is considered to strike the right balance between the competing policies relating to protecting the night time economy and cultural offer that this provides and the strong planning policies supporting retail growth on Oxford Street. On this basis, it is considered that the loss of evening and night time entertainment / cultural floorspace is acceptable in this instance.

The fact that no additional entertainment floorspace is proposed means that the scheme is compliant with City Plan Policy S24 and exceptional circumstances exist to provide a new night club in respect to UDP Policy TACE 10. This is notwithstanding the site's location within the West End Stress Area. This is subject to provisions in the legal agreement securing the completion of the nightclub to shell and core, ready for tenant fit out, prior to the occupation of

any of the office floorspace on site. This is in order to ensure the delivery of the new night club.

There are no planning hours restrictions on the operation of the existing nightclub, with the premises licence allowing the night club to operate between 10.00 and 06.00 (Monday to Saturday) and between 10.00 and 00.30 (Sunday). The applicant has stated that it wishes to retain the ability to operate the nightclub until 03.00 (Monday to Saturday). Given the lack of planning control over the existing night club and the site's central location, it is recommended that hours of operation are conditioned to between 10.00 and 03.00 (the following morning) (Monday to Saturday) and to between 10.00 and 00.30 (the following morning) (Sunday). Conditions will also be imposed ensuring that the structure of the building prevents noise outbreak to neighbouring residential properties.

## **8.2 Townscape, Design and Heritage**

### **8.2.1 Legal and Policy Background**

In considering the applications the City Council has a statutory duty to:

- a) Have special regard to the desirability of preserving Ilford House or its setting or any features of special architectural or historic interest which it possesses (Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- b) Pay special attention to the desirability of preserving or enhancing the character or appearance of the Soho Conservation Area (Section 72 of the above Act).

Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (NPPF Para. 184). The importance of protecting the significance of heritage assets is emphasised in NPPF Para. 193 that requires the City Council to given great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm to, or loss of, significance of a designated heritage asset (i.e. Ilford House and the Soho Conservation Area) should require clear and convincing justification (NPPF Para. 194). 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 (NPPF Para. 196).

### **8.2.2 Assessment of Design Quality and Heritage Impact**

The site includes a number of buildings, of varying degrees of significance in urban design and conservation terms. The site lies within the Soho Conservation Area, except for the two buildings at the junction of Oxford Street and Wardour Street.

- Ilford (or Pembroke) House, 133-135 Oxford Street, 201 Wardour Street and 53-54 Berwick Street. This is a grade 2 listed building in the Soho Conservation Area. The proposal involves substantial demolition of the interior and this is a contentious proposal for a listed building and could only be acceptable if the scheme delivers public benefits to outweigh the harm and the harm is necessary to deliver those benefits.
- Berwick House, 139-143 Oxford Street, on the corner of Berwick Street, is an unlisted building of merit which makes a positive contribution to the conservation area. It is to be rebuilt in a modified (raised) form, using the original facade materials.
- 137 Oxford Street and 55 Berwick Street are also in the Soho Conservation Area but have been altered and it is considered that they make lesser contributions to the conservation area compared to Berwick House. The presumption to retain these is less, and the proposed replacement facades could be considered acceptable if the overall public benefits outweigh the harm caused by their demolition.

- 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street at the east end of the street block are outside the Soho Conservation Area. Their demolition and redevelopment is uncontentious in principle.

a. Partial demolition of Ilford House

The building was listed in 2009 at grade 2. The reasons for its listing are:

- the cast stone-clad building has three eclectic Baroque-style elevations, that to Oxford Street in particular, with strong compositional qualities and good detailing not diminished by the modern shop front at ground floor;
- the design is by a notable architectural practice and is largely unaltered externally;
- surviving internal features.

The notable features of the interior include:

- a barrel vaulted entrance hall with plasterwork ceiling
- a main staircase with marble clad walls (green marble with inlaid panels in cream) and a brass handrail. A lift shaft has been inserted into the stairwell of the main staircase and the survival of metal balusters is more fragmentary at its lower levels.
- a secondary stone stair which serves the Berwick Street entrance which rises through the full height of the building, and survives unaltered with its decorative iron balustrade and moulded timber handrail.
- the second, third and fourth floors have a standard plan, the original arrangement, whereby many small rooms are accessed from an arched corridor running along the top of the T shape of the building (south side of the building).
- a number of original door-cases with floral carved detailing in the entablatures, and original doors with lugged panels survive.
- a third stair, possibly a fire escape, in the form of a wrought iron spiral staircase with barley sugar balusters and decorative treads.

The proposal involves partial demolition of the listed building, retaining its three street facades but with a very significant amount of demolition behind. At ground floor level the structure on Wardour Street and Berwick Street would be retained but the structure behind Oxford Street would be demolished, including the entrance and staircase.

A similar amount of demolition is proposed at first floor and second floors; the structure of the southern part of the building would be mostly retained, but the Oxford Street parts would be demolished. More demolition is proposed on the upper floors. The southern facade would be largely retained at ground to third floor levels.

b. The new building behind the retained listed facades

The scheme would create open plan spaces, which extend across the whole site, behind the various retained (and replacement) facades. The existing lightwells would be infilled and the T-shaped plan form would be lost.

Some of the original internal features would be retained in situ or reused in a new location. The entrance lobby at ground floor level, with its vaulted ceiling, adjacent to Oxford Street, and the main staircase from ground floor to first floor would be demolished but rebuilt further into the plan of the building. The upper parts of the main stair would be demolished. The ceiling at first floor level on the Oxford Street frontage, the secondary stair on Berwick Street and the corridor and rooms in the south west corner at second floor level, would also be retained. Some original doors would be retained and reused. This is a relatively modest degree of retention and reuse and full details of these aspects should be reserved for approval by condition if listed building consent is to be granted.

This is a contentious proposal for a listed building and causes harm (less than substantial) to its special architectural and historic interest. This could only be acceptable if the scheme

delivers public benefits to outweigh the harm, in accordance with the NPPF and the City Council's urban design and conservation policies.

c. Height and bulk of the new building behind the retained facades

These proposals have been the subject of lengthy pre-application negotiations. The original proposals were some three storeys higher than the current proposals and would have caused serious harm to the listed building and the setting of the Soho Conservation Area. The revised proposal seeks to reduce the harm to the heritage assets. The bulk of the new building is still visible in views along Oxford Street and also, but less so, along Berwick and Wardour Streets. It is considered that the revised massing still causes some harm to designated heritage assets in the form of harming the setting of Ilford House and harming the appearance of the Soho Conservation Area. Again, this harm needs to be weighed against the public benefits.

d. The new facades

129 and 131 Oxford Street

The largest single element of new building is at the east end of the site. Here the new building is seven storeys high, with a two storey base, and the top two floors set progressively back to reduce their visual impact on the setting of the listed facade. The base is clad in a light grey granite, with a stainless steel panel at first floor level. The upper floors are clad in limestone (type unspecified), with black framed windows with dark metal balustrades at their base. The top two floors have arched openings, clad in zinc. The roof top plant room is also clad in zinc.

137 Oxford Street and 55 Berwick Street

The existing facades would not align with the proposed floor levels and so their retention in the context of this scheme would not be feasible. They are to be replaced by new facades clad in limestone and grey granite, with bronze metalwork. These are considered to be high quality facades and, whilst the loss of the existing facades is harmful to the conservation area, these are considered to be acceptable replacements in the context of the varied architectural character of this part of Oxford Street, and its emerging character following redevelopment / regeneration of other sites at the eastern end of the street.

143 Oxford Street

The existing facade is to be retained and raised (jacked) up in situ, or possibly rebuilt using the existing facade materials, again raised slightly above its current level, so that there is greater height in the retail units, to match those to the east.

Jacking up the existing facade in situ, which has been carried out on another Oxford Street site recently, is considered preferable. However, it may be more difficult to jack up a retained façade that turns a corner. If planning permission is to be granted then the applicant is prepared to accept a condition for jacking up the façade, but may apply for a variation to the permission if they consider it more practical for a reconstruction. The alternative option of dismantling and reconstruction could also be acceptable if the jacking option proved too complex. Such a scheme was implemented by the Crown Estate at 210 Piccadilly.

The new upper floors behind the retained listed building facades on Berwick Street and Wardour Street are to be clad in metal, with projecting metal fins. These are set back to reduce their visual impact and are considered acceptable.

### *Consultees responses on urban design and conservation issues*

#### **a. Victorian Society**

The Victorian Society have objected strongly to the proposals. They object to the demolition and alterations to Ilford (Pembroke) House as a result of the proposed façade retention and as a consequence of the form, scale and massing of new building at roof level, and the demolition of 137 Oxford Street and 55 Berwick Street. They also object to the ‘poor quality of proposed new architecture, which overwhelms rather than complements the existing scale, massing, form and architectural distinctiveness of the existing historic buildings of merit’.

They consider that the combined losses of a substantial amount of Ilford House and the full or partial loss of individual buildings of merit will be ‘compounded by the construction behind retained façades and across the whole site area of a single pan-block structure. This huge structure pays absolutely no regard to the existing historic plot divisions, and, fundamentally, marks a subtle yet substantial erosion of the historic built environment that is so crucial in defining the special character and appearance of the Soho Conservation Area’.

They do not consider that the harm is outweighed by public benefits. They recognise that the regeneration of Oxford Street is a priority for the Council and can therefore be viewed as a public benefit, but their view is that this public benefit ‘should not be secured at the expense of the historic environment, which itself is identified explicitly within the Planning Practice Guidance as offering considerable public benefits’.

#### **b. Historic England**

Historic England share the concerns of the Victorian Society. They object to the extent of demolition of the interior of Ilford House, which is a relatively rare survivor of early 20<sup>th</sup> century speculative office development by the notable architects Simpson and Ayrton. The proposals would result in the loss of original historic plan form and fabric and therefore cause serious harm to the special architectural and historic interest of the listed building. They also object to the loss of 137 Oxford Street which they consider will cause serious harm to the character and appearance of this part of the Soho Conservation Area.

Despite these strong objections they consider the harm to be less than substantial and have authorised the City Council to determine the listed building consent application as it thinks fit.

#### ***Conclusions***

As set out above, there are a number of elements of the proposal that are harmful to the character and appearance of the Soho Conservation Area and the special interest of Ilford House. In terms of the NPPF, it is considered that the harm is less than substantial. It is considered that some of the harm is mitigated by aspects of the proposals, including the retention and reuse of internal features and the quality of the design of the new elements, including the replacement facades. The proposals can only be considered acceptable if the harm is outweighed by public benefits.

### **8.2.3 Assessment of Public Benefits against Heritage Harm**

As set out within Section 8.2.2 of this report, the proposal is considered to cause less than substantial harm to the significance of Ilford House and to its setting. Furthermore, the proposal is considered to cause less than substantial harm to the character and appearance of the Soho Conservation Area.

Para. 196 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the ‘public benefits’ of the proposal, including optimising its optimum viable use. ‘Public benefits’ could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed



development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

When undertaking this weighing exercise, the Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 8.2.1 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

In this instance, the public benefits are considered to derive from: (i) The replacement of the poor quality retailing on site with a greater quantum (+1,226.9 sq.m GIA) of high quality and flexible retail floorspace over basement, ground and first floor levels; and (ii) The replacement of the fragmented and poor quality office accommodation on site with a greater quantum (+2,899.2 sq.m GIA) of high quality and flexible office floorspace.

The improved retail offer on site will enhance the unique status of the West End West End Special Retail Policy Area and enhance the character and function of the West End International Shopping Centre. The contribution that this will provide to the continued regeneration of the east end of Oxford Street is a significant public benefit. The improved office floorspace in this part of the Core CAZ will contribute to meeting the target set out within City Plan Policy S20 for an additional 774,000 sq.m of office floorspace between 2016/17 and 2036/37 (providing capacity for at least 58,000 new jobs). The applicant estimates that the new office floorspace will create approximately 431 jobs. Again, this is a public benefit.

An alternative scheme which is more conservation-based would cause less harm to heritage assets and could be more acceptable, but it would not produce the same amount of commercial floorspace. A balance has to be struck between creating more, modern floorspace and the conservation of the heritage assets. The nature of this site is that the T-shape of Ilford House creates two lightwells in the centre of the site. Without the proposed significant demolition of Ilford House, the large retail and office floorplates proposed would not be possible and the result would be a significant reduction in the public benefits that the scheme delivers. It is considered that an appropriate balance has been struck between the statutory duties within Section 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the desirability of unlocking the development potential of the site that will enable the proposal to generate the public benefits that are considered to outweigh the less than substantial harm to Ilford House, its setting and to the character and appearance of the Soho Conservation Area. It is accordingly considered that there is clear and convincing justification for the harm to designated heritage assets.

For these reasons, it is considered that the scheme complies with the requirements of the NPPF and elements of the City Council's urban design and conservation policies, including strategic policies S25 and S28, and Unitary Development Plan policies including DES 1, DES 4, DES 6, DES 9 and DES 10. Whilst the proposals do not fully comply with all the urban design and conservation policies, most notably DES 9, with respect to the Soho Conservation Area, and DES 10 with respect to the listed building, it is considered that they do comply with the City Council's development plan policies when taken as a whole.

### 8.3 Residential Amenity

The City Council places high priority on protecting residential amenity, with UDP Policy ENV 13 stating that the City Council will normally resist proposals which result in a material loss of daylight or sunlight to neighbouring properties. Similarly, City Plan Policy S29 seeks to ensure that development proposals safeguard the amenities of neighbouring residents in terms of privacy, outlook and noise. Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, '*Site layout planning for daylight and*

*sunlight: a guide to good practice* (the BRE Guide). The second edition of this guidance was published in September 2011.

### 8.3.1 Daylight and Sunlight

The applicant has submitted a Daylight and Sunlight Report that assesses the impact on the proposed development on the amount of daylight and sunlight received by neighbouring residential windows.

No objections from the occupants of these properties has been made to the application and therefore it has not been possible to visit the affected rooms in order to assess their use or layout. This is with the exception of the ancillary second floor landlord's flat above the Green Man Public House at 57 Berwick Street. Whilst the occupier of this flat has not objection, access was possible.

#### *Daylight*

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

Where the layout of affected room is known, the daylight distribution test can plot the 'no sky line' (NSL) which is a point on a working plane in a room between where the sky can and cannot be seen. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

The layout of the residential properties is not known and therefore, for the purposes of the daylight distribution test, reasonable assumptions have been used.

#### *Sunlight*

With regard to sunlighting, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

#### *Assessment*

In sunlight terms, the development proposal does not result in any material losses.

In daylight terms, the development proposal is expected to result in:

- 57 Berwick Street - Between 21.35% and 22.74% losses in VSC to windows serving two bedrooms and one kitchen (not dining) of a second floor landlord's flat above the Green Man Public House at 57 Berwick Street
- 195-197 Wardour Street – Between 43.15% and 42.10% losses in VSC to two windows facing back to the site.

- 193 Wardour Street – A 33.95% loss in VSC to one window.
- 191 Wardour Street – Between 24.07% and 26.21% losses in VSC to three windows within the rear extension at first floor level.

These losses in daylight are considered to be acceptable for the following reasons:

- 57 Berwick Street – The expected losses are only just above the 20% threshold beyond which they will be noticeable. Furthermore, the rooms affected are bedrooms and a non-dining kitchen which are not afforded as much protection as living rooms and dining rooms and the retained VSC levels (all above 15%) are considered to still retain good levels of daylight for this central location.
- 195-197 Wardour Street – The windows that are expected to see material losses in daylight face towards the development site and are likely to serve the same room as larger windows that are not materially unaffected and retain very good daylight levels. As such, the overall quality of the daylight enjoyed by the occupants of these dwellings will remain of a good quality.
- 193 Wardour Street – The window is expected to see a material loss in daylight face towards the development site and is likely to serve the same room as larger windows that are not materially unaffected and retain good daylight levels. As such, the overall quality of the daylight enjoyed by this room will remain of a good quality.
- 191 Wardour Street – The expected losses are only just above the 20% threshold above which they will be noticeable and therefore are considered to be acceptable in this central location.

### **8.3.2 Sense of Enclosure and Privacy**

The relationship between the proposed development and the affected residential means that there is not considered to be any material loss of privacy or material increase in the sense of enclosure.

## **8.4 Transportation/Parking**

### **8.4.1 Cycle Parking**

The scheme makes provision for storage for 116 cycles, as well as showers, lockers and a drying room at Basement 02 level. A separate retail cycle storage area is proposed at Basement 01 level, whilst the office storage area is at Basement 02 level. Separate access from Berwick Street is proposed for cyclists, with access via a suitably sized lift.

### **8.4.2 Servicing**

City Plan Policy S42 requires servicing and delivery needs to be fully met within each development site, unless the council considers that this is not possible. In this instance, off-street servicing is not considered to be possible with on-street servicing being retained. The largest regular service vehicle expected to be associated with the proposed development in this location is the refuse collection.

Given the use and size of the floor area increase of the proposed uses it is not considered that there would be a significant uplift in the servicing associated with the site. Adherence to the submitted Service Management Plan (SMP) which achieves rationalisation of servicing and the provision of a goods lift with associated storage area means that the impact upon the local highway network is acceptable.

### **8.4.3 Extension to Building Line**

The proposal includes extending the building line by between 1.0m and 1.1m on Wardour Street. Without mitigation, the loss of these areas of highway would adversely affect safe and direct pedestrian movement at a location of high footfall especially given the proximity of the signal controlled pedestrian crossing.

The applicant has designed a scheme that alters the highways arrangement at the crossroad of Oxford Street, Wardour Street and Berners Street. This involves widening the pavement on the west side of Wardour Street, 'wayleaving' an existing street light onto the proposed building and shifting the carriageway to the east. The result is the loss of a c.11.3m section of double yellow line where servicing is permitted between midnight and 08.30 and the slight loss (between 0.4m and 0.7m) of pavement on the east side of the junction. In order for the development to proceed, a narrow section of public highway measuring between 1.0m and 1.1m would need 'stopping up'.

Despite the loss of this section of public highway, the reconfiguration of this junction and the wayleaving of the street lamp would result in an improved pedestrian environment through a wider pavement on the west side of Wardour Street. The Highways Planning Manager has no objection on this basis subject to the detailed design of the highways works being agreed with the City Council, the necessary alterations to the traffic orders both being confirmed prior to the commencement of development and the applicant securing the completion of these works (all to be secured by legal agreement). The loading / unloading area that would be lost has been surveyed and found to be little used.

Whilst the Highways Planning Manager would prefer to see the chamfered corner at the junction of Wardour Street and Oxford Street retained, on balance, the improvements to the junction of the crossroad of Oxford Street, Wardour Street and Berners Street are considered to outweigh this slightly less convenient pedestrian route around the replacement building.

### **8.4.4 Impact on Subterranean Transport Infrastructure**

London Underground raises no objection to the proposed basement excavation in terms of its impact on the integrity of the Central Line beneath Oxford Street, subject to a condition securing the submission of detailed design and method statements for the City Council's approval prior to the commencement of the demolition of the existing building.

## **8.5 Economic Considerations**

The proposed increase in office and retail floorspace are welcome through supporting economic growth in this part of the Core CAZ and the West End Special Retail Policy Area.

## **8.6 Access**

All entrances will provide level access and there will be lift access throughout the proposed replacement building.

## **8.7 Other UDP/Westminster Policy Considerations**

### **8.7.1 Noise**

Subject to the imposition of suitable conditions securing the submission of a supplementary acoustic report once the plant has been selected, Environmental Health has no objection from an environmental nuisance perspective agreeing that the plant is capable of complying with the relevant criterion within UDP Policy ENV 7.

### 8.7.2 Refuse / Recycling

In accordance with the advice from the City Council's Projects Officer (Waste), the retail and office waste stores will each comprise the following provision:

- 3 x 1,110L bins for recycling;
- 2 x 1,100L bins for waste;
- one cardboard baler; and
- one compactor.

Office refuse will be stored at Basement 02 level while retail refuse will be stored at Basement 01 level with a service corridor providing access to all retail units. A lift is provided for the building management team to transfer the bins from the basements to the ground floor prior to collection. The collection of bins will occur via the proposed servicing access on Berwick Street.

In order to reduce the time spent on site by refuse collectors, the waste bins will be prepositioned within the holding area at ground floor level ready for collection. The building manager will liaise with the local authority or the private waste operator to confirm the time period within which refuse and recycling collection would take place. It is currently proposed that the retail and office refuse will be collected together to minimise highway impacts.

A separate refuse store will be created within the proposed floor area of the night-time use by the eventual occupier. The refuse store will be appropriately sized to accommodate the waste and recycling requirements of the night-time use. Further details are proposed to be secured by condition.

The applicant has responded to the concerns of the City Council's Projects Officer (Waste) and the waste storage and waste collection arrangement now proposed are acceptable.

### 8.7.3 Biodiversity and Flooding

The site is not located within a flood risk zone. Some of the flat roofs are proposed to be used for terraces in association with the proposed office accommodation and for plant. The remainder will be living roofs to mitigate surface water run-off and maximise the biodiversity potential of the site, in accordance with City Plan Policy S38 and UDP Policies ENV 4 and ENV 17.

In order to ensure that the flat roofs do not result in flooding and associated pollution, the application has included a 70 cubic metre storm water attenuation tank at basement level in order to meet the storage requirement when considering a 1 in 100-year rainfall event plus a climate change factor of 20%. Thames Water raises no objection to the proposed development. It is therefore concluded that the proposal is in accordance with City Plan Policy S30 through reducing the risk of flooding.

### 8.7.4 Sustainability

The proposal includes 26 sq.m of roof mounted solar panels and 76 sq.m of façade mounted solar panels on the southern elevation.

The energy strategy now results in site wide carbon savings of 24.0% compared to a 2013 Building Regulations Compliant scheme which is considered to be the maximum achievable. This falls short of the 35% reduction in carbon dioxide emissions against Part L 2013 required by London Plan Policy 5.2. There is therefore a shortfall of 28.0 tonnes to be off-set. Based on the updated carbon off-set price of £95 per tonne, the required contribution to off-site carbon

savings is £80,000 for the notional 30-year life of the development. This contribution is recommended to be secured by legal agreement.

It is understood that there are no district wide heat network in the vicinity of the site and none are planned. The development will be future-proofed to enable future connection to any district heating scheme.

#### **8.7.5 Basement Excavation**

There is no objection to the proposed excavation of a new sub-basement, with the applicant demonstrating that site-specific ground conditions, drainage and water environment in the area of the development have been taken into account; that the structural stability of adjacent buildings will be safeguarded; and that the sub-basement basement will not increase flood risk on the site or beyond. The proposal is therefore compliant with City Plan Policy CM28.1.

#### **8.7.6 Other**

The site is within the city-wide Air Quality Management Area with declared exceedances for short and long term Nitrogen Dioxide NO<sub>2</sub> objectives. Short term objectives would be exceeded at the building façade and potentially also at height. Natural ventilation is not recommended and the applicant proposes mechanical ventilation with the air intake at roof level to ensure that air quality for users of the building is as clean as possible. Compliance with the City Council's Code of Construction Practice (see Section 8.12 below) will ensure that the impact of the construction phase on air quality is minimised.

The applicant has provided a statement confirming that the development is air quality neutral for building and transport emissions (GLA benchmarking assessment methodology). This is acceptable.

There is no objection from Historic England (Archaeology) to the proposal excavation subject to the imposition of a condition securing a two-stage process of archaeological evaluation and, if necessary, investigation and recording.

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and closed on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

### **8.9 Neighbourhood Plans**

The Soho Neighbourhood Area was designated by the City Council on 17th May 2013 and the site will be within the plan area for the forthcoming Soho Plan. The draft plan is still in development and therefore can be afforded little to no weight at the present time.

### **8.10 London Plan**

This application raises no strategic issues. The maximum height of the proposed building is 29.4m and therefore the proposal is below the 30.0m threshold for referral to the Mayor of London.

### 8.11 National Policy/Guidance Considerations

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

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

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure:

- Detailed drawings showing how the parts of the building which are to be kept during building work will be supported and protected.
- Arrangements to secure the completion of the development as a single operation.
- The applicant's adherence to the City Council's Code of Construction Practice.
- A written scheme of investigation for a programme of archaeological work.
- Detailed design and method statements for demolition, all of the foundations, basement and ground floor structures in order to ensure the protection of subterranean transport infrastructure.
- An independent review of the environmental sustainability features.
- Updated Energy Calculations to show compliance with the carbon saving envisaged.

The applicant's response will be verbally reported to Committee.

### 8.12 Planning Obligations

The draft 'Heads' of agreement are proposed to cover the following issues:

- a) A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.
- b) A Carbon Offset Contribution of £80,000 (index linked), payable prior to commencement of development.
- c) A Crossrail payment of £516,309 (index linked) payable within 60 days of commencement of development (minus any relevant Mayoral Community Infrastructure Levy paid).
- d) Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street), wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
- e) An employment and training strategy.
- f) The re-provision of the nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
- g) The costs of monitoring the S106 legal agreement.

The estimated CIL payments are:

- Westminster CIL - £597,280
- Mayor CIL - £149,320

### **8.13 Environmental Impact Assessment**

The scheme is of insufficient size and impact to require assessment under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015.

### **8.14 Other Issues**

None.

(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: MARK HOLLINGTON BY EMAIL AT [mhollington2@westminster.gov.uk](mailto:mhollington2@westminster.gov.uk)

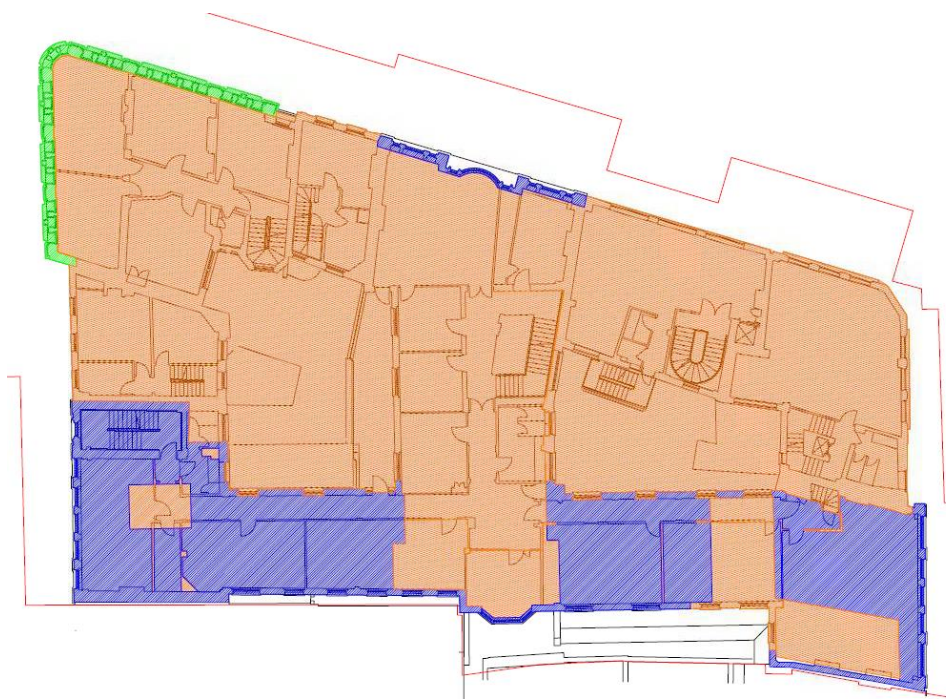


## 9. KEY DRAWINGS

Demolition ground floor plan:



Demolition first floor plan:





Demolition second floorplan:



Demolition third floorplan:





Demolition fourth floorplan:



Demolition north (Oxford Street) elevation:

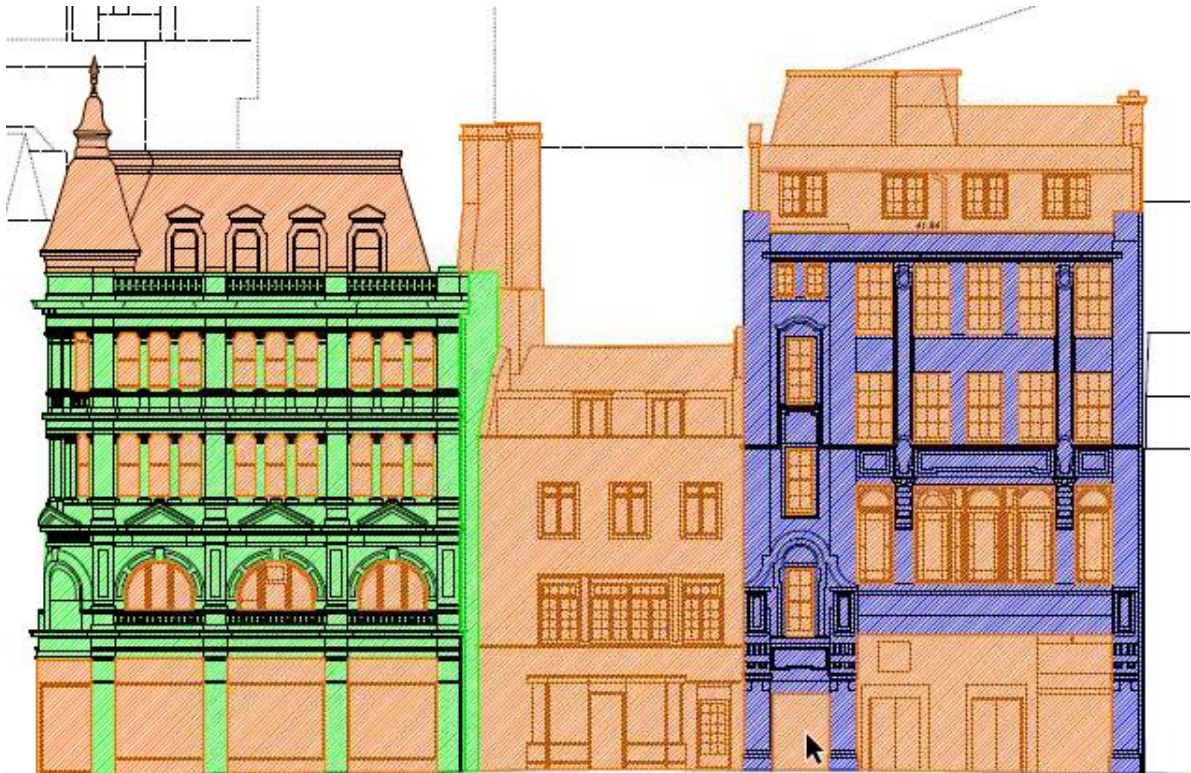




Demolition south (rear) elevation:



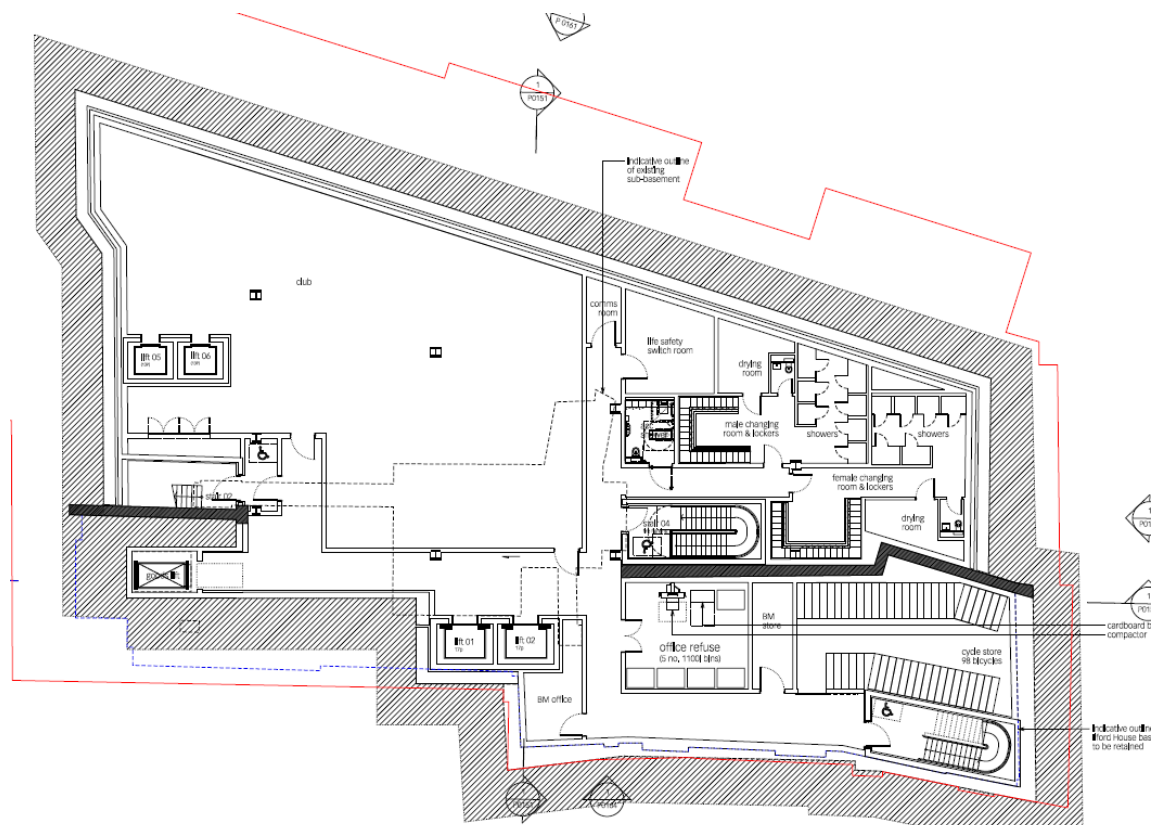
Demolition west (Berwick Street) elevation:



Demolition east (Wardour Street) elevation:



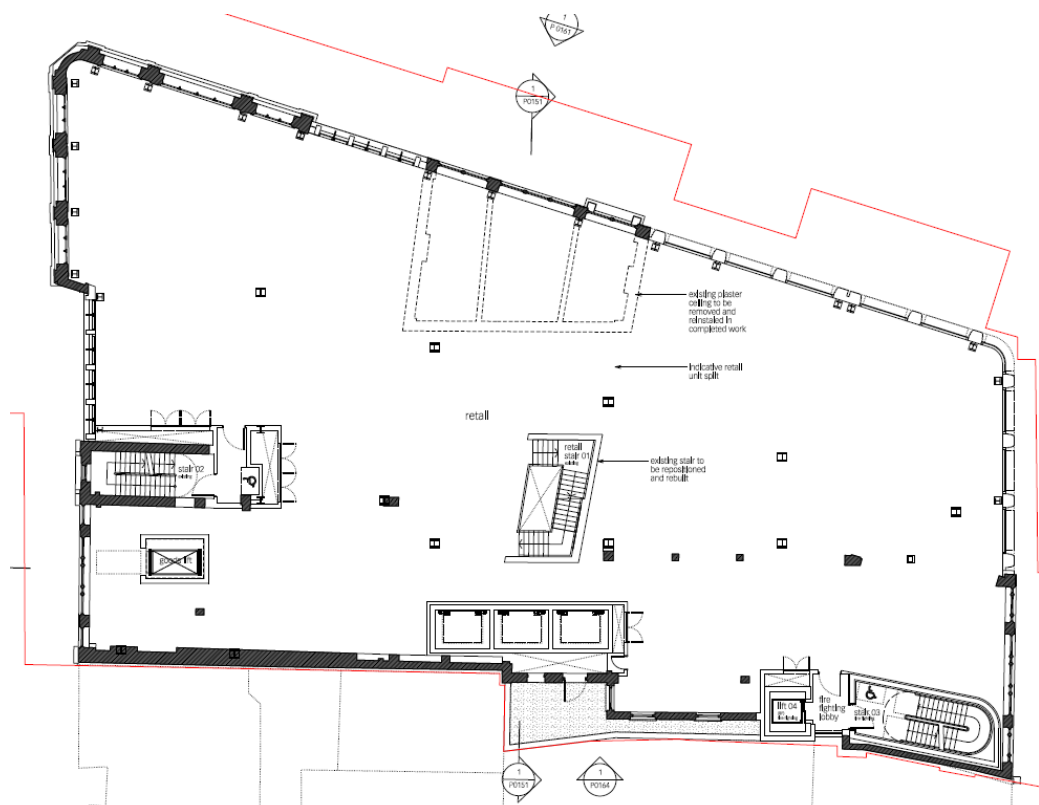
Proposed Basement 02 floorplan:



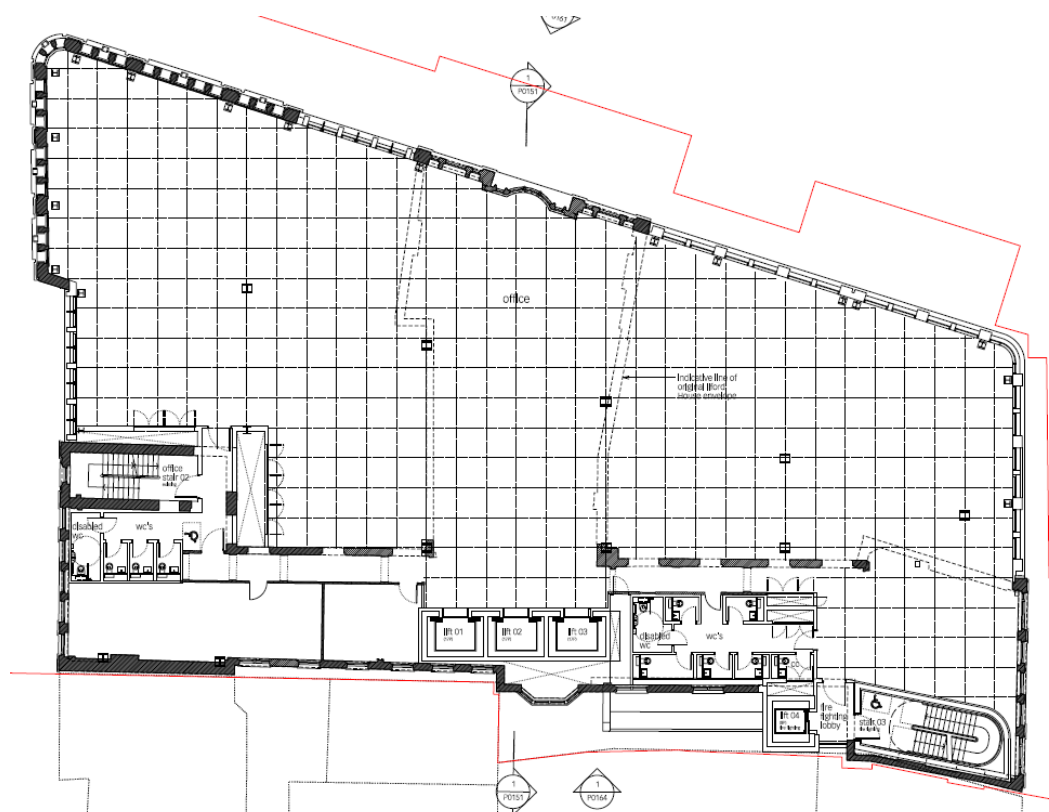


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Proposed first floorplan:



Proposed second floorplan:



Proposed south (Oxford Street) elevation:

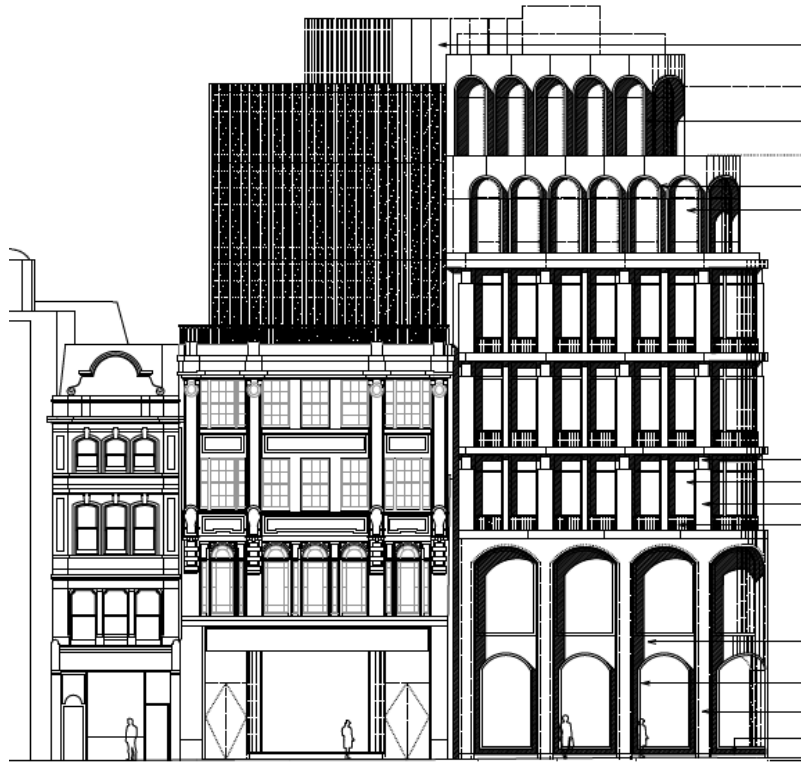


Proposed south (rear) elevation:





Proposed west (Wardour Street) elevation:



Proposed east (Berwick Street) elevation:



Existing Oxford Street (junction with Wells Street) view:



Proposed Oxford Street (junction with Wells Street) view:



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**DRAFT DECISION LETTER**

**Address:** Development Site At 127-143 Oxford Street, 53-55 Berwick Street And 201-205, Wardour Street, London,

**Proposal:** Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade) and 55 Berwick Street. Excavation to provide new Basement 02 and Basement 03 levels. Redevelopment of site to provide ancillary plant and facilities at Basement 03 and part Basement 02 level; nightclub (sui generis) at part Basement 02 and part Basement 01 level (with ground floor entrance at No. 55 Berwick Street); retail (Class A1) floorspace at part Basement 01, part ground and part first floor levels; and office (Class B1) at part ground, part first and second to sixth floor levels, and roof top plant. (Linked application - 18/00176/LBC)

**Plan Nos:** Demolition drawings:

D0101 Rev. A, D0102 Rev. A, D0103 Rev. A, D0104 Rev. A, D0105 Rev. A, D0106 Rev. A, D0107 Rev. B, D0108 Rev. A, D0109 Rev. A, D0110 Rev. A, D0161 Rev. A, D0162 Rev. A, D0151 Rev. A, D1053 Rev. A, D0163 and D0164.

Proposed drawings:

P0101 Rev. C, P0102 Rev. C, P0103 Rev. B, P0104 Rev. A, P0105 Rev. A, P0106 Rev. A, P0107 Rev. A, P0108 Rev. A, P0109 Rev. A, P0110 Rev. A, P0111, P0151 Rev. C, P0153 Rev. A, P0161 Rev. A, P0162 Rev. B, P0163 Rev. A, P0164 Rev. A, P9001 Rev. B, P9002 Rev. B, P9003 Rev. B, P9004 Rev. B, P9005 Rev. B and P9006 Rev. B.

Approved documents:

Delivery and Servicing Plan dated 3 January 2019.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

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

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

Reason:

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

- 2 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

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

Typical details of all new facades at all levels.

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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 You must apply to us for approval of a comprehensive method statement and drawings of the following parts of the development.

Proposals for jacking up and modifying the retained street facades of 134 Oxford Street.

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 documents. (C26DB)

Reason:

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

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

Reason:

To maintain the character and appearance of the Soho Conservation Area and the special architectural and historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 (B) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29CC)

- 7 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings

showing how you will support and protect the parts of the building which are to be kept during building work. You must not start work until we have approved what you have sent us. You must then carry out the work according to these drawings. (C28AB)

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

- 8 **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 character and appearance of the Soho Conservation Area and the special architectural and historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 (B) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29CC)

- 9 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

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

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

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

Reason:

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

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

written approval of such an application (C11CC)

Reason:

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

# 11 **Pre Commencement Condition.**

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved in writing what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, and to the Greater London Sites and Monuments Record, Greater London Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.

(c) You must not use any part of the new building until we have confirmed in writing that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

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

# 12 **Pre Commencement Condition.**

The development hereby permitted shall not be commenced until detailed design and method statements for each stage of the development (in consultation with London Underground) for demolition, all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures;
- accommodate the location of the existing London Underground structures and tunnels;
- accommodate ground movement arising from the construction thereof; 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 Policy 6.2 of the London Plan (2016), Policy T3 of the draft London Plan (December 2017) and Land for Industry and Transport SPG (September 2012).

- 13 You must provide each cycle parking space, the changing / shower rooms, lockers and the drying room shown on the approved drawings prior to occupation of any part of the building. Thereafter these areas must be retained and the space used for no other purpose. All occupiers of the building shall have access to the cycle parking spaces, the changing / shower rooms, lockers and the drying room shown on the approved drawings.

Reason:

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

- 14 You must hang all doors or gates so that they do not open over or across the road or pavement. This is with the exception of the sub-station on Berwick Street. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 15 You must provide the waste store shown on drawing P0101 Rev. C and P0102 Rev. C before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the retail and office floorspace. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

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

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

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your



submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AB)

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

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 18 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) 16 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. (R51AB)

- 19 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15

mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AB)

- 20 The design and structure of the development shall be of such a standard that it will not result in the transfer of ground borne noise from underground railway lines through the building structure and fabric of this development to adjoining residential properties so that they are exposed to levels indoors of more than 35 dB LASmax within habitable rooms during day and night.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 21 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

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

- 22 You must provide the following sustainability features as shown on the approved before occupation of any part of the development:

- Rainfall attenuation tank (with a capacity of at least 70 cubic metres).
- Photovoltaic panels comprising at least 26 m2 of net active area of roof mounted PV panels and 76 m2 of net active area of façade mounted PV panels.
- Glazing with g-value of not exceeding 0.34 throughout.
- Allowance for connections to any future heat network in the vicinity of the site.
- The 'living' green roofs on the non-terrace roof space, as shown on the approved drawings.

You must not remove any of these features.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 23 You must adhere to the approved Delivery and Servicing Plan dated 3 January 2019 for the life of the development.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 25 Maximum noise levels generated by the proposed new development in terms of LAFmax shall not exceed the NR 15 curve inside the existing neighbouring premises. This includes noise from all sources (including amplified music from the nightclub and activities in the retail unit).

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development. (R49BA)

26 **Pre Commencement Condition.**

- a. You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM), you must provide a Design Stage Interim BREEAM rating and certificate of assessment this review must showing that the development is expected to you have achieved an 'excellent' rating under BREEAM UK New Construction 2014. 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 "Excellent" rating under BREEAM UK New Construction 2014. This report shall be submitted to us within 6 months of the occupation of any part of the building. If you use another method, you must achieve an equally high standard.

Reason:

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44BC)

27 **Pre Commencement Condition.**

Updated Energy Calculations (and relevant design drawings) shall be provided prior to the commencement of development to demonstrate that the development will achieve at least a 24.0% reduction in regulated carbon dioxide emissions beyond Part L the 2013 Building Regulations. You must provide all the environmental sustainability features referred to in the review before you start to use any part of the building. You must then not remove any of these features.

Reason:

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

- 28 The retail floorspace (Class A1) hereby approved shall not be used as food retailing.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 29 You must apply to us for approval of details of how waste and recycling is going to be stored on the site for the nightclub hereby approved. You must not occupy the nightclub (sui generis) use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling store in line with the approved details prior to occupation, and clearly mark it and make it available at all times to everyone using the nightclub (sui generis). You must not use the waste and recycling store for any other purpose. (C14GA)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 30 Customers shall not be permitted within the nightclub premises:

- Before 10.00 or after 03.00 (the following morning) on Monday to Saturdays; or
- Before 10.00 or after 00.300 (the following morning) on Sunday or Bank Holidays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: <https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 3 The term 'clearly mark' in condition 15 and 29 means marked by a permanent wall notice or floor markings, or both. (I88AA)

- 4 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 5 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

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

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

Phone: 020 7641 2000

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

- 6 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 7 As this development involves demolishing the buildings on the site, we recommend that you survey the buildings thoroughly before demolition begins, to see if asbestos materials or other contaminated materials are present - for example, hydrocarbon tanks associated with heating systems. If you find any unexpected contamination while developing the site, you must contact:

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

Phone: 020 7641 3153  
(I73CA)

- 8 Conditions 16 and 18 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)
- 9 With reference to condition 10 please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). These documents must be sent to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk).

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

You are urged to give this your early attention

- 10 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- a) A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.
  - b) A Carbon Offset Contribution of £80,000 (index linked), payable prior to commencement of development.
  - c) A Crossrail payment of £516,309 (index linked) payable within 60 days of commencement of development (minus any relevant Mayoral Community Infrastructure Levy paid).
  - d) Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street), wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
  - e) An employment and training strategy.
  - f) The re-provision of a nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
  - g) The costs of monitoring the S106 legal agreement.
- 11 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that

has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:

*<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>*

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

**DRAFT DECISION LETTER**

**Address:** Development Site At 127-143 Oxford Street, 53-55 Berwick Street And 201-205, Wardour Street, London,

**Proposal:** Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade) and 55 Berwick Street. Excavation of new sub-basement and redevelopment to provide ancillary plant and floorspace at subbasement level, retail (Use Class A1) at basement, part ground and part first floor levels, office (Use Class B1) at part ground, part first and second to sixth floor levels, and roof top plant. (Linked application - 18/00175/FULL)

**Plan Nos:** Demolition drawings:

D0101 Rev. A, D0102 Rev. A, D0103 Rev. A, D0104 Rev. A, D0105 Rev. A, D0106 Rev. A, D0107 Rev. B, D0108 Rev. A, D0109 Rev. A, D0110 Rev. A, D0161 Rev. A, D0162 Rev. A, D0151 Rev. A, D1053 Rev. A, D0163 and D0164.

Proposed drawings:

P0101 Rev. C, P0102 Rev. C, P0103 Rev. B, P0104 Rev. A, P0105 Rev. A, P0106 Rev. A, P0107 Rev. A, P0108 Rev. A, P0109 Rev. A, P0110 Rev. A, P0111, P0151 Rev. C, P0153 Rev. A, P0161 Rev. A, P0162 Rev. B, P0163 Rev. A, P0164 Rev. A, P9001 Rev. B, P9002 Rev. B, P9003 Rev. B, P9004 Rev. B, P9005 Rev. B and P9006 Rev. B.

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

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

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

Reason:

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

- 2 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

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

Typical details of all new facades of extensions to the listed building.



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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 You must apply to us for approval of a comprehensive method statement and drawings of the following parts of the development.

Proposals for jacking up and modifying the retained street facades of 134 Oxford Street.

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 documents. (C26DB)

Reason:

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

- 6 You must apply to us for approval of a comprehensive method statement and drawings of the following parts of the development.

Proposals for the reuse of existing internal features, including the main staircase.

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 documents. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 7 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings showing how you will support and protect the parts of the building which are to be kept during building work. You must not start work until we have approved what you have sent us. You must then carry out the work according to these drawings. (C28AB)

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

- 8 **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 special architectural or historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29BC)

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

Reason:

To maintain the special architectural or historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29BC)

- 10 No demolition of Ilford House (133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) shall take place until a written scheme of historic building investigation (WSI) has been submitted to and approved by the local planning authority in writing. For buildings that are included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

A. The programme and methodology of historic building investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason:

Built heritage assets on this site will be affected by the development. The planning authority wishes to secure building recording in line with NPPF, and publication of results, in accordance with Section 12 of the NPPF.

**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 July 2018, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that whilst the proposed works would cause some harm the special architectural and historic interest of this listed building, that the scheme will deliver public benefits which outweigh the harm to heritage assets. The heritage harm is necessary to unlock the sufficiently important benefits of creating significant amounts of new retail and office floorspace .

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph HB1-3 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

**2 For the purposes of Condition 10, the written scheme of investigation will need to be prepared and implemented by a suitably professionally accredited heritage practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London.**

| Item No. |
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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.