



CITY OF WESTMINSTER

MINUTES

## Planning (Major Applications) Sub-Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning (Major Applications) Sub-Committee** held on **Tuesday 23rd April, 2019**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Gotz Mohindra (Chairman), David Boothroyd, Ruth Bush, Murad Gassanly, Jim Glen and Elizabeth Hitchcock

#### 1 MEMBERSHIP

- 1.1 There were no changes to the membership.
- 1.2 Councillor Mohindra advised that the Planning (Major Application) Sub-Committee Membership had been reduced from seven councillors to six and informed that Councillor Peter Freeman was no longer a member of the Sub-Committee. Councillor Mohindra thanked Councillor Freeman for his work during his membership on the Sub-Committee and advised that Councillor Freeman had moved to the Planning Application Sub-Committee (1).
- 1.3 Councillor Mohindra advised that Councillor Ruth Bush membership on the Planning (Major Application) Sub-Committee was to cease and thanked Councillor Bush for her contribution to the meetings. Councillor Bush was also congratulated on her nomination and wished well for her new role in the next Municipal Year.

#### 2 DECLARATIONS OF INTEREST

- 2.1 Councillor Mohindra Gotz explained that a week before the meeting, all six Members of the Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.
- 2.2 Councillor Mohindra declared that he was the Chair of the Planning (Major Applications) Sub-Committee and declared in respect of Item 1 had meet with the Applicant on 21 October 2018 and in respect of Item 3 had met with the Applicant on 20 November 2018 in his capacity as Chair. These meetings are both listed in the Reports.

- 2.3 Councillor Jim Glen declared that he was a Trustee of the Westminster Tree Trust.
- 2.4 Councillor David Boothroyd declared that he was Head of Research and Psephology for Thorncliffe, whose clients were companies applying for planning permission from various local authorities. No current schemes are in Westminster; if there were he would be precluded from working on them under the company's code of conduct. With regards to item 1, he declared that some Thorncliffe clients had engaged with DP9 as planning consultants and with Gerald Eve on items 2, 4 and 5, and with Lichfields on item 3. and they were also representing the applicants at the Planning (Major Applications) Sub-Committee. However, he does not deal directly with clients or other members of project teams, and planning consultants are not themselves clients.
- 2.5 Councillor Boothroyd declared that in respect of Item 1, he had sat on a Planning Applications Sub-Committee in May 2011 which had granted a previous permission for the site.
- 2.6 Councillor Ruth Bush declared that in respect of Item 1, she had previously sat on a Planning Applications Sub-Committee which considered and approved aspects of the development site complex which included Building 1. Councillor Bush also attended an onsite presentation on Building 1.
- 2.7 Councillor Bush declared that in respect of Item 1 and 4, she was a Trustee of the Westminster Tree Trust.

### **3 MINUTES**

- 3.1 That the minutes of the meeting held on 5 March 2019 be signed by the Chairman as a correct record of proceedings.

### **4 PLANNING APPLICATIONS**

#### **1 DEVELOPMENT SITE - LAND AT HARBET ROAD, LONDON W2 1JU**

Redevelopment comprising the erection of a 42 storey building (Building 1) and a 21 storey building (Building 6) above three basement levels. Use of buildings as 426 residential units (Class C3) (including 67 affordable housing units in Building 6), retail floorspace (Classes A1/ A2/ A3/ A4/ A5) and retail/leisure floorspace (Classes A1/ A2/ A3/ A4/ A5/ D2); provision of car parking, cycle parking, ancillary space, plant, servicing, highway works, hard and soft landscaping and other associated development.

Additional representations were received from DP9 Ltd (18.04.19) and Thames Water (11.04.19)

A late representation was received from Merchant Square Residential (Buildings A&F) Limited (Undated)

The Presenting Officer tabled the following amendments to the Recommendations and Conditions in the draft decision letter

#### Item 1, Land At Harbet Road, W2 (Merchant Square)

#### **Amended Recommendation**

Further to the additional representation made by DP9 on behalf of the applicant, the following amendments have been made to the draft recommendation (additional text in red and underlined and deleted text struck through):

1. Grant conditional permission, subject to:

- a) the completion of a S106 legal agreement and a deed of variation to the Overarching Agreement dated 4 August 2011 (as previously varied on 27 March 2012) on to secure the following planning obligations:

**New Buildings 1 and 6 S106 Agreement**

- i. Notice of commencement of development.
- ii. Provision of on-site affordable housing to the quantum, mix, tenure and affordability set out in Section 8.1 with early and late stage review mechanisms in accordance with the Mayor's 'Affordable Housing and Viability' SPG (prior to occupation of more than 50% of the market residential units in Building 6 and prior to occupation of more than 111 units in Building 1).
- iii. Provision and management of CCTV.
- iv. Provision and adherence with an advertisement and shopfront strategy for retail uses and 'sky bar'.
- v. Provision of public realm areas prior to occupation.
- vi. Provision of maintenance, use of and access to the on-site public realm.
- vii. Provision of cycle parking within shared basement.
- viii. Provision of lifetime (25 year) car club membership for all market and affordable units.
- ix. Provision of land for installation of Mayor's Cycle Hire docking station.
- x. Provision and periodic review of a workplace and residential travel plans.
- xi. Provision and maintenance of public access to the Sky Bar in Building 1.
- xii. Financial contribution of £522,749 (index linked) to the Carbon Off-set Fund (payable on commencement).  
~~Provision of lifetime car club membership for each affordable housing unit within the development.~~
- xiii. Provision of skills and employment opportunities for local residents including a financial contribution of £238,644 to the Westminster Employment Service and provision of an Employment and Skills Plan.
- xiv. Costs of monitoring the agreement (£500 per head of term).

**Deed of Variation to Overarching Agreement**

- i. Highway works to the public highway to the perimeter of the site to improve footways and carriageways including temporary road finishes repairing and resurfacing works.
- ii. Improvement works to Harbet Road (these were delivered prior to occupation of Building 3).
- iii. A financial contribution of £360,000 (index linked from August 2011 to the date of determination of the current application) towards Harrow Road subway works (prior to occupation of the earlier of Building 1 or Building 2).
- iv. Provision of Kayak Store and bridge across the canal basin (these have been delivered in conjunction with Building 3).
- v. Provision of towpath works (these have been delivered in conjunction with Building 3).  
~~Building 3 Affordable Housing Underprovision Sum (£2.59m index linked) (payable where more than 80 market units are provided in Building 3 without provision of the affordable housing in Building 6 and returnable to the developer where the affordable housing units in Building 6 are completed within 6 years of the date of the payment of the sum).~~

- vi. Off-site provision of a waterways facilities building incorporating the listed canopy.
  - vii. Delivery of public realm areas in accordance with landscape masterplan prior to occupation.
  - viii. Provision of, and connection to, the Energy Centre within 3 Merchant Square and provision of updated specification CHP equipment (relative the previously approved schemes).
  - ix. Provision and management of on-site car club spaces.
  - x. Provision and management of on-site residential car parking provision within shared basement.
  - xi. Provision of electric car charging facilities.
  - xii. Provision and adherence with a servicing management strategy.
  - xiii. Provision of a green waste composting scheme.
  - xiv. Completion of vehicle access ramp below Building 2 before first occupation of Buildings 1, 2 or 6.
  - xv. Mitigation measures for television signal interference.
  - xvi. Compliance with the Code of Construction Practice (amended to Buildings 2 and 3 only).
  - xvii. Compliance with the Local Procurement Code (amended to Buildings 2 and 3 only.
- b) the concurrence of the Mayor of London.
2. If the legal agreement and deed of variation to secure the planning obligations has not been completed by 1 August 2019 then:
- a) The Executive Director Growth, Planning and Housing shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
  - b) The Executive Director Growth, Planning and Housing shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Making and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That Sub-Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway in North Wharf Road to enable this development (Building 6) to take place.
4. That the Director Place Shaping and Town Planning 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.

### **Additional Development Phasing Condition**

To phase the delivery of the development an additional condition is recommended as set out below. The development would be split into three phases with the basement as Phase 1, Building 1 as Phase 2 and Building 6 as Phase 3.

#### Additional Condition

*The Development hereby approved shall be carried out in Phases in accordance with the approved Phasing Plan (ref. M\_A\_PL\_050), unless an alternative Phasing Plan is submitted to and approved in writing by the Local Planning Authority pursuant to this condition.*

### **Amended CIL Liability**

In light of the adoption of the new Mayoral CIL ('MCIL 2') the revised CIL liability of the development is estimated to be £26.5m for Westminster's CIL and £4.8m for the Mayoral CIL (note this is prior to any relief that may be applied for).

### **Revised Cycle Parking Condition**

It is recommended that the condition is amended to secure the cycle parking proposed, which accords with the adopted London Plan:

#### Revised Condition 16

*You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.*

#### Amended Reason 16

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

### **Amended Mechanical Ventilation Conditions**

Following the additional representation from DP9 the following amended condition and additional conditions are recommended.

#### Amended Condition 22

*Prior occupation of Buildings 1 and 6 you must apply to us for approval of a Mechanical Ventilation and Overheating Strategy to ensure future users are not exposed to predicted concentrations of NOx/ NO2 above the Air Quality Strategy Objective and to demonstrate that the flats within the development will not be subject to overheating that breaches the CIBSE criteria. The Mechanical Ventilation and Overheating Strategy shall provide details of the residential units that will include NOx/ NO2 filtration and a maintenance strategy for the filtration system where such a system is required. You must then carry out the development in accordance with the Mechanical Ventilation and Overheating Strategy that we approve and you must install any mitigation measures that may be required prior to occupation of the buildings.*

#### Additional Condition

*Prior to occupation of Buildings 1 and 6 you must apply to us for approval of a supplementary air quality assessment which details the impacts of emissions of the final energy plant to be installed in Building 3. The air quality assessment should use a detailed dispersion model to quantify predicted concentrations at each floor height in Buildings 1 and 6. Where significant impacts from the energy plant within Building 3 Energy Centre are identified, details of mitigation measures must be submitted. You must then carry out the development in accordance with the supplementary air quality assessment and mitigation measures we approve and you must install any mitigation measures that may be required prior to occupation of the buildings.*

### **Amended Photovoltaic Panels Condition**

The condition has been amended to ensure the provision of the PV panels indicated in the originally submitted Energy Statement as provision of additional panels is unlikely to be feasible.

### Amended Condition 35

*You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:*

*- Revision of the roof plan for Building 6 to show the photovoltaic panels indicated in Appendix H of the Energy Strategy dated June 2018.*

*You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings and install the photovoltaic panels prior to occupation of the flats in Building 6. Thereafter the photovoltaic panels must be retained on the building.*

### **Revised Thames Water Conditions**

Following the additional representation from Thames Water withdrawing their earlier objections to the impact of the development on the foul water sewerage network Condition 30 in the draft decision letter is to be deleted.

Conditions 31, 32 and 33 on the draft decision letter remain relevant and have not been deleted.

### **Duplicate Contaminated Land Condition**

Condition 38 is a duplicate of Condition 29 and is therefore to be deleted from the draft decision letter.

Andrew Scrivener addressed the Sub-Committee in support of the Application.

Kay Buxton addressed the Sub-Committee in support of the Application.

### **RESOLVED UNANIMOUSLY:**

1. That conditional permission and recommendations, as amended, be granted subject to:

a) the completion of a S106 legal agreement and a deed of variation to the Overarching Agreement dated 4 August 2011 (as previously varied on 27 March 2012) on to secure the following planning obligations:

#### **New Buildings 1 and 6 S106 Agreement**

- i Notice of commencement of development.
- ii Provision of on-site affordable housing to the quantum, mix, tenure and affordability set out in Section 8.1 with early and late stage review mechanisms in accordance with the Mayor's 'Affordable Housing and Viability' SPG (prior to occupation of more than 50% of the market residential units in Building 6 and prior to occupation of more than 111 units in Building 1).
- iii Provision and management of CCTV.
- iv Provision and adherence with an advertisement and shopfront strategy for retail uses and 'sky bar'.
- v Provision of public realm areas prior to occupation.
- vi Provision of maintenance, use of and access to the on-site public realm.
- vii Provision of cycle parking within shared basement.
- viii Provision of lifetime car club membership for all market and affordable units
- ix Provision of land for installation of Mayor's Cycle Hire docking station.
- x Provision and periodic review of a workplace and residential travel plans.
- xi Provision and maintenance of public access to the Sky Bar in Building 1.

- xii Financial contribution of £522,749 (index linked) to the Carbon Off-set Fund (payable on commencement).
- xiii Provision of skills and employment opportunities for local residents including a financial contribution of £238,644 to Westminster Employment Service and provision of an Employment and Skills Plan.
- xiv Costs of monitoring the agreement (£500 per head of term).

#### **Deed of Variation to Overarching Agreement**

- i. Highway works to the public highway to the perimeter of the site to improve footways and carriageways including temporary road finishes repairing and resurfacing works.
- ii. Improvement works to Harbet Road (these were delivered prior to occupation of Building 3).
- iii. A financial contribution of £360,000 (index linked from August 2011 to the date of determination of the current application) towards Harrow Road subway works (prior to occupation of the earlier of Building 1 or Building 2).
- iv. Provision of Kayak Store and bridge across the canal basin (these have been delivered in conjunction with Building 3).
- v. Provision of towpath works (these have been delivered in conjunction with Building 3).
- vi. Off site provision of a waterways facilities incorporating the listed canopy
- vii. Delivery of public realm areas in accordance with landscape masterplan prior to occupation.
- viii. Connection of development to Energy Centre within 3 Merchant Square and provision of an updated specification CHP equipment (relative approved scheme).
- ix. and management of on-site car club spaces.
- x. Provision and management of on-site residential car parking provision within shared basement.
- xi. Provision of electric car charging facilities.
- xii. Provision and adherence with a servicing management strategy.
- xiii. Provision of a green waste composting scheme.
- xiv. Completion of vehicle access ramp below Building 2 before first occupation of Buildings 1, 2 or 6.
- xv. Mitigation measures for television signal interference.
- xvi. Compliance with the Code of Construction Practice (amended to Buildings 2 and 3 only).
- xvii. Compliance with the Local Procurement Code in respect of Buildings 2 and 3 only.

b) the concurrence of the Mayor of London.

2. If the legal agreement and deed of variation to secure the planning obligations has not been completed by 1 August 2019 then:

a) The Executive Director Growth, Planning and Housing shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Executive Director Growth, Planning and Housing is authorised to determine and issue such a decision under Delegated Powers; however, if not;

b) The Executive Director Growth, Planning and Housing shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Executive Director Growth, Planning and Housing is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

3. That Sub-Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway in North Wharf Road to enable this development (Building 6) to take place.

4. That the Director Place Shaping and Town Planning be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.

## **2 15-20 MANCHESTER SQUARE, LONDON, W1U 3PW**

Demolition and replacement of existing fourth floor, demolition of existing plant room, and erection of single storey roof extension at fifth floor and rear extension at second to fifth floor levels in connection with existing office (Class B1) use, provision of new main office entrance, flexible use of part ground and basement floor for either retail or office use (Class A1/B1), creation of roof terrace at fifth floor level, provision of cycle parking spaces and facilities, roof plant and associated external alterations, including replacement windows.

An additional representation was received from Gerald Eve (17.04.19)

The Presenting Officer tabled the following amendments to Condition 6 and Condition 17.

### Item 2 15 – 20 Manchester Square, London, W1U 3PU

#### Condition 6

You must apply to us for details of the following parts of the development:

Public art (to replace that which was part of the original development).

You must not start any work on this part of the development until we have approved what you have sent us. **You must not occupy either the fourth or fifth floors until the public art has been installed in accordance with these details. The public art shall be retained in situ unless agreed in writing by the Local Planning Authority.**

#### Condition 17

You must not use the west facing fifth floor flat roof of the building (facing Bakers Mews), **or the rear first and second floor flat roofs**, for sitting out or for any other purpose. You can however use **these roofs for maintenance purposes** or to escape in an emergency.

Michael Squire addressed the Sub-Committee in support of the Application.

### **RESOLVED UNANIMOUSLY:**

That conditional permission, as amended, be granted.

## **3 NATIONAL PORTRAIT GALLERY, 2 ST MARTIN'S PLACE, LONDON, WC2H 0HE**

External and internal alterations and extensions to the National Portrait Gallery; including the creation of a new entrance to the north façade and associated works to the public realm involving repositioning of the Henry Irving Statue; erection of a bridge over northern lightwell, an extension within lightwell, and an extension to a lift shaft; alterations to eastern entrance, to gate and railings, to northern lightwell, to service yard, to rooftop plant and structures, to Duveen wing façade following the removal of the Orange Street ramp and other associated alterations, including extensive internal alterations on all floors.



Additional representations were received from the Metropolitan Police Service (10.04.19) and Transport for London (15.04.19)

A late representation was received from Councillor Louise Hyams (19.04.19) on behalf of the three St James's Ward Councillors in support of the application.

Dr Nicholas Cullinan addressed the Sub-Committee in support of the Application.

**RESOLVED UNANIMOUSLY:**

1. That conditional permission be granted subject to an additional Condition regarding the detailing of the hard landscaping to the existing Orange Street to address the concerns of the Designing Out Crime Officer and that a further Grampian condition be included to secure the following benefit:
  - a) arrangements to facilitate and fund the public realm works.
2. That conditional listed building consent be granted.
3. To agree reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision notices.
4. To agree that minor changes are required to the wording of several the draft conditions on the planning permission and listed building and content for officers to make these changes to be agreed under delegated powers.

**4 41 ABBEY ROAD, LONDON, NW8 0AA**

Demolition behind retained central bay facade and redevelopment to provide a new building comprising basement, lower ground, raised ground and three upper floors to provide an elderly care facility (Use Class C2) communal and welfare/medical areas, cycle storage, landscaping and tree works and associated works.

Additional representations were received from the Director of Place Shaping and Town Planning (17.04.19) recommending an addition Condition 32 to secure a financial contribution towards tree planting in the vicinity of the application site and addition informative No 20, Gerald Eve (11.04.19) & (09.04.19) and Chelsea Court Place, (17.04.19),

Late representations were received from a resident (18.04.19) and the Director of Place Shaping and Town Planning (23.04.19).

The Presenting Officer tabled the following additional Informative(s)

Item. 4 Abbey Road, London, NW8 0AA

To reiterate the strong protection afforded bat species and the requirement to obtain a license from Natural England for works that may affect them, as per condition 26, the following informative is recommended:

Informative

22. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a

bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, Annex IV of the Habitats Directive 1992 and the Countryside and Rights of Way Act 2000.

James Cook addressed the Sub-Committee in support of the Application.

#### **RESOLVED UNANIMOUSLY:**

That conditional permission be granted subject to an additional Grampian Condition No 32 to secure tree planting in the vicinity/ St John's Wood Area.

#### **5 ARMY RESERVE CENTRE, 52 - 56 DAVIES STREET, LONDON, W1K 5HR**

Use of part basement, ground, first, part second and part third floors of 56 Davies Street as event space (sui generis) for a temporary period of 36 months.

Additional representations were received from a resident (Unknow), Crossrail (12.04.19) and Geraldeve (15.04.19),

The Planning Officer tabled the following amendments to Condition 5 and an additional Condition.

#### Item 5. Army Reserve Centre, 52-56 Davies Street, W1

Amendments:

#### **Condition 5**

~~No loading or unloading shall take place and Staff customers shall not be permitted within the premises before 07.00 or after 00.00 (Sunday to Wednesday)~~ **Monday to Friday**, or before ~~07.00~~ **10.00** or after ~~01.00 (the following morning) (Thursday to Saturday)~~ **00.00 (Saturday and Sunday)**.

**No loading or unloading shall be take place other than between 08.00 and 23.00 (Monday to Friday) or between 10.00 and 23.00 (Saturday and Sunday).**

[No change to reason for condition]

#### **Additional Condition 12**

Attendees of events shall only be permitted within the premises between the following hours:

- 18.45 – 23.30 (Tuesday to Saturday)
- 18.15 – 23.00 (Sunday).

: 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 5 of our Unitary Development Plan that we adopted in January 2007.

Thomasin Renshaw addressed the Sub-Committee in support of the Application.

#### **RESOLVED UNAMIOUSLY:**

1. That conditional permission, as amended, be granted for a temporary period of 36 months.

2. That the amended Condition 5 as tabled at committee be changed in respect of Sunday servicing hours be altered to the hours between 10.00hrs -22.00hrs.

The Meeting ended at 9.21 pm

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