

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 6 August 2019	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	No's 29- 31, 33, 35, 37- 39, 41 and 43 Oxford Street, and 16, 17-19 Soho Square W1		
Proposal	Part demolition of Nos 29, 31, 33, 37, 39 Oxford Street and demolition 41 and 43 Oxford Street and 17-19 Soho Square and redevelopment of the site, including retention of facades of Nos 29, 31, 33, 37 and 39 Oxford Street, retention of 35 Oxford Street with alterations and alterations to the ground floor level and basement level of No. 16 Soho Square to provide a new building comprising 2 basement levels, ground and 6 upper floor levels plus a plant level and a level for a rooftop pavilion. Use of building for retail (Class A1) at basement level 2, basement level 1, part ground floor level and part first floor level; café (Class A3) at part ground floor level and part rooftop level; flexible office or retail (Class A1 or Class B1) at second floor level; office (Class B1) at part first floor level, and third to sixth floor levels; and associated works including plant, cycle storage and associated facilities at basement level 2 and the provision of a roof garden at roof and plant levels; and other works associated with the development.		
Agent	DP9		
On behalf of	King Sloane Properties Ltd		
Registered Number	19/00514/FULL 19/00519/LBC	Date amended/ completed	14 February 2019
Date Application Received	24 January 2019		
Historic Building Grade	35 Oxford Street Grade 2 listed, Other buildings unlisted		
Conservation Area	Soho		

## 1. RECOMMENDATION

1. Grant conditional permission subject to referral to the Mayor of London and subject to a S106 legal agreement to secure:

- i) The re-provision of two residential units (Class C3) at 98 New Bond Street or in another site in the vicinity of the site to prior to the occupation of any of the office floorspace on site.
  - ii) costs relating to highways works around the site to facilitate the development
  - iii) the applicant pays the City Council's reasonable costs of making and consulting on an Order pursuant to Section 247 of the Town and Country Planning Act (1990) (as amended) to 'stop-up' an area of public highway.
  - vi) A financial contribution towards employment, training and skills of £ 129,802.04 (index linked) payable on commencement of development.
  - iv) An access management plan for the roof garden
  - v) 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 the Committee resolution then:
- a. The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not
  - b. The Director of Planning shall consider whether 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 Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of the highway required to enable the development to take place.
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 site comprises 6 adjacent buildings at the eastern end of Oxford Street, (No's 29-31,33,35,37-39,41 and 43) the ground floor of No 16 Soho Square and No 17-19 Soho Square. Falconberg Mews which separates the rear of these buildings also forms part of the site.

The proposals are the latest in a series of large developments at the eastern end of Oxford Street which have transformed and regenerated the area. The proposal involves the creation of a large

office building which extends across the site including infilling Falconberg Mews. The new building includes retail uses on Oxford Street and a café in Soho Square and at roof level. The 7<sup>th</sup> and 8<sup>th</sup> floor roof areas will be used as a landscaped publicly accessible roof garden.

The facades of the Oxford Street buildings will be partially retained, except for No's 41 and 43 which will be demolished and replaced. No's 16-17 Soho Square will also be completely redeveloped.

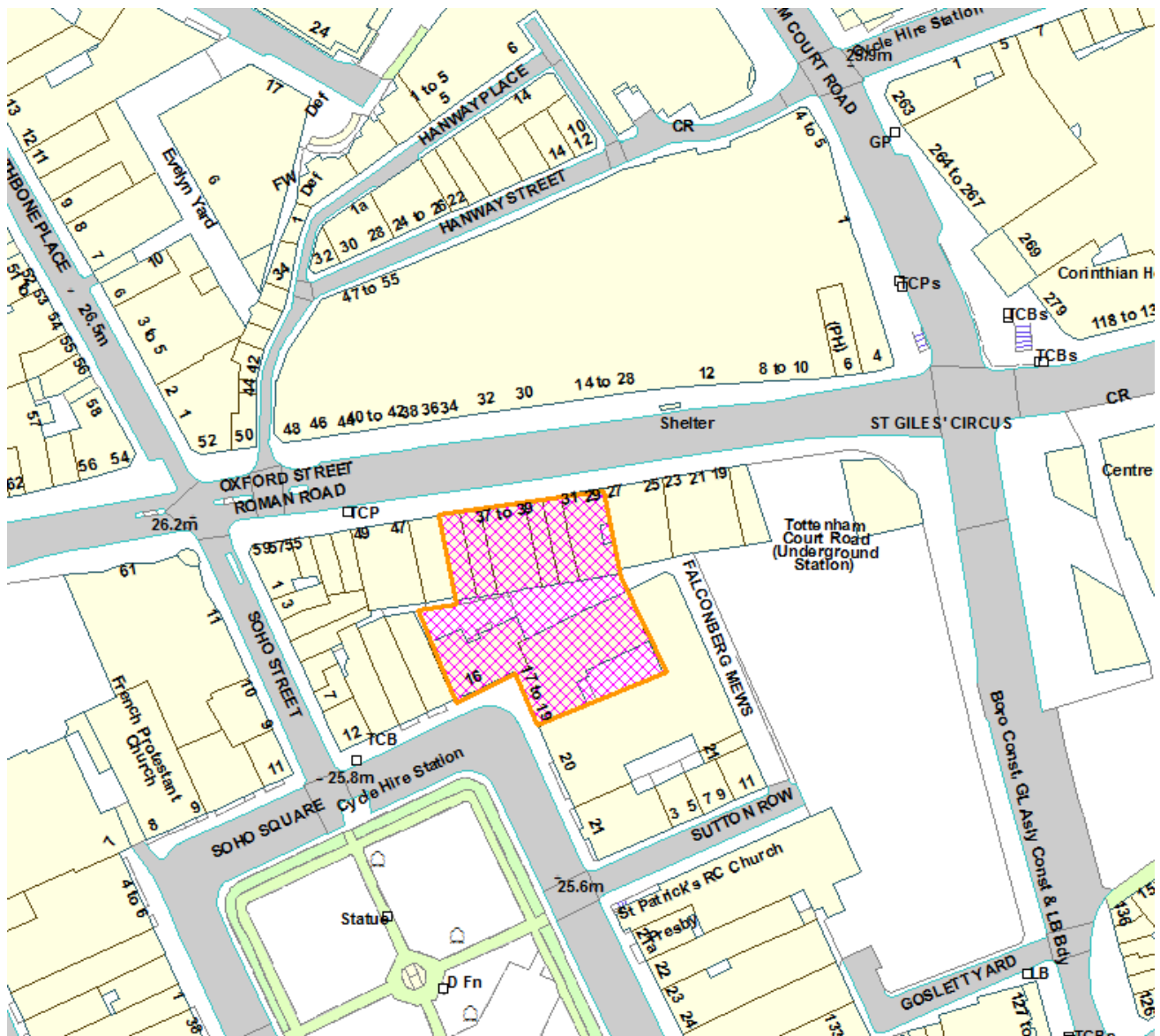
The key issues for consideration are:

- The impact in land use terms;
- The acceptability of the scheme in townscape and design terms
- Whether the provision of a new roof garden adequately compensates for the loss of Falconberg Mews.

The scheme will result in the provision of improved modern flexible office floorspace which adds to the office stock in the West End and Central Activities Zone providing new employment opportunities. The office floorspace along with the provision of modern deeper retail floorspace on Oxford Street is welcomed in land use terms, in accordance with policies in the London Plan, Westminster's Unitary Development Plan (UDP) and Westminster City Plan (City Plan). The provision of a new accessible roof garden is considered to be a public benefit that adequately compensates for the loss of part of Falconberg Mews. The scheme is also considered acceptable in amenity and transportation terms.

Whilst there are design merits to the scheme the proposals do not fully comply with all urban design and conservation policies. It is however considered that the public benefits outweigh the less than substantial harm to the heritage assets. It is therefore recommended that conditional permission and listed building consent be granted subject to a legal agreement as set out in the recommendation.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS







## 5 CONSULTATIONS

### GREATER LONDON AUTHORITY:

Stage 1 response received:

Land Use : The principle of development is supported. The uplift in retail floorspace within the West End International Centre is strongly supported. High-quality office floorspace in this highly-accessible location in the CAZ is supported, as is the provision of a publicly accessible roof terrace. Further information on the re-provision of two existing residential units to 98 New Bond Street should be provided and their relocation secured within the S106 agreement.

Heritage : No harm is caused to the strategic view - protected vista 2B.1 of Westminster World Heritage Site from Parliament Hill as the proposal would not be visible. Overall, the proposal causes less than substantial harm to the Soho Conservation Area and 35 Oxford Street, which is outweighed by the high-quality design of the development, the economic benefits of the improved office space and the publicly accessible roof terrace.

Other issues : Further information is requested on energy, water, urban greening and transport issues.

### HISTORIC ENGLAND:

Objection; the loss of No's 41-43 Oxford Street is unacceptable, the buildings make a positive contribution to the Soho Conservation Area;  
the replacement building appears incongruous in its setting;  
the loss of Falconberg Mews would cause harm to the conservation area;  
the public benefits do not outweigh the less than substantial harm.

### CROSS LONDON RAIL LINKS LTD (1)

No objection subject to conditions

### CROSS LONDON RAIL 2 LINKS LTD

No objection subject to conditions

### SOHO SOCIETY

Welcome and support the overall proposals for the scheme and the provision of a new publicly accessible roof garden; request that the roof garden is managed to ensure reasonable priority for local residents in the vicinity to use it; objection to the loss of 41-43 Oxford Street, -the facades are retained; request that the applicant funds monitoring of a delivery service plan to ensure that this is adhered to once the scheme is operational.

### HIGHWAYS PLANNING MANAGER

No objection, comment that the development will require the stopping up of Falconberg Mews. Any permission should be subject to conditions requiring approval of a Servicing Management Plan and Cycle parking.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 204  
Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6 BACKGROUND INFORMATION

### 6.1 The Application Site

The site is located at the eastern end of Oxford Street and the north eastern corner of Soho Square. It comprises 6 buildings on Oxford Street ( No's 29-31,33,35,37-39,41, and 43) the ground floor of No 16 Soho Square and No 17-19 Soho Square. Falconberg Mews lies in the centre of the site separating the Oxford Street and Soho Square Square buildings.

The site is within the West End Special Policy Retail Area, Oxford Street is designated as being a Primary Shopping Frontage. The site lies within the Core CAZ and is adjacent to the Tottenham Court Road Opportunity Area. The site lies within the Soho Conservation Area.

To the north of the site the Oxford Street buildings are in retail (Class A1) use on the ground and lower ground floors with primarily offices on the upper floors, although there are 2 x residential flats at No 43 Oxford Street. The Oxford Street buildings are late Victorian and early Edwardian Architecture and are considered to make a positive contribution towards Oxford Street. No 35 Oxford Street is a Grade 2 listed building.

To the south the site fronts onto Soho Square and comprises a 1970's building of basement, ground and six upper floors. A café occupies the ground floor with offices (Class B1) above.

Falconberg Mews is a vehicular cul de sac in the centre of the site accessed from the east. It is a service yard but is limited in its function due to a pinch point at the entry. As a result the service yard has become a passive space and has a history of crime and anti- social behaviour.

The surrounding area is commercial in use, with a mixture of retail and office uses and some isolated residential dwellings.

### 6.2 Recent Relevant History

The existing development on Soho Square was granted planning permission in 1972 (ref: 71/35272/FULL). There have been a number of minor applications relating to a number of buildings on the site.



## 7 THE PROPOSAL

The scheme involves partial demolition and retention of facades of No's 29-31, 33, and 37-39 Oxford Street, total demolition of No's 41 and 43 Oxford Street and No's 17-19 Soho Square. No 35 Oxford Street which is grade 2 listed is primarily retained. The replacement new building across the site comprises 2 x basements, ground and six upper floors with a 7th floor plant area, an 8th floor pavilion which allows access onto a public roof garden at 7th and 8th floor levels. 16 Soho Square is to be retained with alterations proposed to the ground floor for new retail.

The proposal seeks to provide retail (Class A1) floorspace at upper basement, ground and first floors facing onto Oxford Street and the ground floor of 16 Soho Square. The 2<sup>nd</sup> floor is to be used flexibly for either retail (Class A1) purposes or as offices (Class B1). The part ground and first floor of the replacement 16-17 Soho Square and the 3<sup>rd</sup> to 6<sup>th</sup> floors of the whole development would be used as offices (Class B1). The lower basement will provide cycle storage, changing facilities, waste storage and plant. The new building will provide large floorplates and builds over and would result in the partial stopping up of Falconberg Mews.

## 8 DETAILED CONSIDERATIONS

The existing and proposed floorspace figures are set out in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (class A1)	2540	4554	+2014
Café (class A3)	0	81	+81
Office (class B1)	4767	5189	+422
Flexible Office / Retail (Class B1/A1)	0	1569	+1569
Residential (class C3)	81	0	-81
TOTAL	7,388	11393	+4005

### 8.1 Land Use

#### Residential

The site is primarily in commercial use. There are however two existing residential units at 2<sup>nd</sup> to 4<sup>th</sup> floor levels at No 43 Oxford Street. This residential comprises a 1 x bedroom flat at 2<sup>nd</sup> floor level and a 2x bedroom maisonette at 3<sup>rd</sup> and 4<sup>th</sup> floor levels. The total residential floorspace is 81 m2.

City Plan Policy S14 seeks to optimise housing delivery. The policy states that residential use is the priority across Westminster except where specifically stated. All residential uses, floorspace and land will be protected.

In recognition of this the applicant advises that residential will be re-provided at 98 New Bond Street ensuring that there is no net loss of residential. The normal practice would be that an application for replacement residential, which forms part of a land use swap would be

considered simultaneously with the scheme proposing a loss of residential. In this case an application for the provision of replacement residential has not been submitted. Whilst this is a departure from the normal procedure the applicant is fully aware of the requirement to provide replacement residential prior to the implementation of this redevelopment scheme. It is recommended that the provision of adequate replacement residential is secured as part of a S106 legal agreement. The agreement will require an appropriate residential development to be approved prior to the implementation of this permission and that the office accommodation is not occupied until the replacement residential has been provided and is ready for occupation.

### Offices

The site lies within the Core CAZ where City Policy S6 identifies as being an appropriate location for a range of commercial and cultural uses.

The proposed development is office led proposal and the provision of significant new office accommodation is one of the applicant's key drivers for the scheme. The office reception/entrance will be at 17-19 Soho Square, the first floor of the replacement building at 17-17 Soho Square will be used as offices along with the 3<sup>rd</sup> to 6<sup>th</sup> floors of the whole development. The 2<sup>nd</sup> floor is to be used flexibly as either offices or retail. The proposed development will provide up to 6,758 m<sup>2</sup> of office (Class B1) floorspace. If the 2<sup>nd</sup> floor is used as offices this would result in an increase in offices of 1991 m<sup>2</sup>.

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

City Plan policy S20 states:

'The council will work to exceed the target of additional B1 office floorspace capacity for at least 58,000 new jobs (774,000 sq. m B1 office floorspace) between 2016/17 and 2036/37, an average of 2,900 new jobs per annum. The provision of increased commercial offices accords with the City Council's strategic objectives and policies. An office led scheme is considered to be appropriate to the site and this part of the West End. The scheme will contribute to the Core CAZ being a competitive business location. The increase in employment and jobs as part of the scheme is in accordance with City Plan and London Plan policies would be a benefit. The improved quality and increase in quantum of office floorspace is supported in land use terms.

The provision of a significant quantum of commercial offices accords with the City Council's strategic objectives and policies. An office led scheme is considered to be appropriate to the site and this part of the West End. The scheme will contribute to the Core CAZ being a competitive business location. The applicant states that the proposed development has the potential to provide 413 full time employees when applying 12m<sup>2</sup> per full time employee as set out in the Employment Densities Guide. This equates to 10% of Westminster's average target of 3,850 employees per annum. The significant increase in employment and jobs as part of the scheme is in accordance with City Plan and London Plan policies and would be a benefit.

In their stage 1 response the GLA advise that the proposed office-led mixed use development would support the strategic functions of the CAZ and other London Plan policies and is supported.

### Mixed Use

Policy S1 is applicable for development within the Core CAZ, the Named Street, and Opportunity Areas, which includes net additional B1 office floorspace. Residential is required where the increase in office floorspace is more than 30 % of the existing building (for all uses). In this case the increase in offices of 422 m2. If the option to use the 2<sup>nd</sup> floor area fronting onto Oxford Street is also taken up as offices the increase would be 1,991 m2. This is an increase of 27% in relation to the existing building. There is therefore no policy requirement to provide residential.

### Retail

City Plan policy S7 seeks to support the West End Special Retail Policy Area through recognising the unique status and offer of the West End through improving retail space and accommodating for appropriate retail growth, including the provision of A1 retail along the Primary Shopping Frontages at least at basement, ground floor and first floor levels.

There is a strong policy basis for improved retail floorspace at basement, ground and first floor levels within the WERSPA. The site is located within the CAZ at the eastern end of Oxford Street, which has been identified as being in need of improvement to follow the rest of Oxford Street to the west.

Retail will be provided at upper basement of the whole site and at ground and first floors facing onto Oxford Street with flexibility to provide retail at second floor level. The development proposes up to 4,554m2 of retail floorspace an increase of 2014 m2. The increase could be 3,583 m2 if the option to use the 2<sup>nd</sup> floor for retail purposes is taken up. The applicants advise that the retail floorspace has the potential to provide up to 300 jobs, based on employment density guidelines.

The existing retail provision on Oxford Street comprises poor quality fragment units, characterised by lower-end retailers typically souvenir shops or similar. The proposed replacement retail floorspace on Oxford Street has increased depth by extending over the current Falconberg Mews, creating a deeper floorplate for larger units, with generous floor to ceiling heights. The new retail has the potential to attract high profile flagship retailers which characterise the western end of Oxford Street. The improved retail floorspace will harness the increased footfall of the future entry and exit to the Elizabeth Line, which is set to drive footfall to an even greater degree than the 500,000 approximate visits to Oxford Street at present.

The retail units on Oxford Street will be complemented with high quality shopfronts, which result in a continuous frontage through the removal of office entrances from Oxford Street. The new shopfronts are proposed in line with the character of the retained buildings. This would result in the provision of double height shopfronts for 29-31 Oxford Street, 33 Oxford Street, 35 Oxford Street, 37-39 Oxford Street, and within the proposed redeveloped buildings at 41-43 Oxford Street.

On Soho Square, it is proposed to provide two smaller retail units, which the applicant advise would be targeted to independent retailers, synonymous with the character of Soho.

The creation of improved and high-quality retail floorspace at the eastern end of Oxford Street is full in compliance with the City Plan and would be a significant benefit of the proposed development. The GLA strongly support the uplift within the West End International Centre.

### Café

The ground floor on Soho Square will include a café unit which forms part of the courtyard and lift access to the roof garden. A small café is also proposed at 8<sup>th</sup> floor roof level within the pavilion structure leading onto the roof garden. The total floorspace is 81 m<sup>2</sup>

City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses including restaurants. The TACE policies are on a sliding scale whereby developments where TACE 8 is applicable would be generally permissible and where TACE 10 (gross floorspace exceeds 500 m<sup>2</sup>) is applicable only in exceptional circumstances.

City Plan policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of type and size of use, scale of activity, relationship to any concentrations of entertainment uses and the cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. The proposal states that new large- scale entertainment uses of over 500 m<sup>2</sup> floorspace will not generally be appropriate within Westminster.

The site lies within the West End Stress Area. A café of 81 m<sup>2</sup> is assessed against UDP policy TACE 8. The provision of a small café would result in the provision of service uses that are not considered out of context for the size of the site. The proposed hours of opening are 8am to 7.30pm daily. No primary cooking is proposed. The number of covers would be limited to 45. It is recommended that the capacity and opening hours are secured by condition. Subject to these conditions this aspect of the development is considered acceptable as the café use would be neither harmful to residential amenity or to the character and function of the area.

### Roof Garden

The scheme includes use of the roof as a publicly accessible roof garden provided over the two roof levels, with access from Soho Square through a dedicated lift core. The proposed roof garden has been designed by landscape architects MRG and comprises planting, along with a food and drinks kiosk. Users of the roof garden will be under no obligation to purchase anything to use the space.

The roof gardens will have a maximum capacity of 200 persons at a time. It is proposed that the hours of use would be restricted to between 10am and 7pm daily. Following the applicants consultation with local groups, including the Soho Society, they advise that the intention is to offer access to local residents as an amenity within Soho, allowing locals to use the space as a retreat. The Soho Society request that the roof garden is managed to ensure reasonable priority to local residents.

The applicant advise that the space will also be accessible to office tenants, and will be offered to local organisations, such as the New West End Company and local schools etc for events on a certain number of days per year. It is intended that access will be controlled through a Membership system which would be free for anyone to join. It is proposed that access details are agreed through an Access Management Plan which will be secured as part of the Section 106 agreement.

All maintenance and running costs will be met by the development. The applicant anticipates that funding will stem from office service charges, café service charges, and private events held on the roof gardens.

The provision of a publicly accessible garden is a public benefit that is compensates for the loss of Public Highway, developing over Falconberg Mews which is currently synonymous with crime and anti- social behaviour.

## 8.2 Townscape and Design

The site

The site lies within the Soho Conservation Area, with frontages on Oxford Street and Soho Square and includes Falconberg Mews which lies between the two. The buildings on Oxford Street form one of the most attractive historic terraces in Oxford Street, and they make a positive contribution to the character and appearance of the Soho Conservation Area. There is a presumption to retain these. No 35 Oxford Street is a grade 2 listed building, the others are unlisted. The building on Soho Square, nos.18-19, is modern and not of particular interest. Falconberg Mews is an historic space, dating back to the 18<sup>th</sup> century, with buildings of some interest on its north side. The south side is modern and not of interest. However, the mews is not attractive in its current state and it is subject to much anti-social behaviour.

The Oxford Street buildings

### **Nos.29-31**

Architect: Stanley Gordon Jeeves, built 1924.

A flat two-bay front in terracotta with giant pilasters and Art Deco detailing.

### **No.33**

Architect: Edward Keynes Purchase, built c.1908.

Narrow fronted building with carved stone detailing and an ornamental Queen Anne gable.

### **No. 35 (Grade 2)**

Architect: Gilbert and Constanduros, built 1909.

A narrow five storey building with an ornamental gable with contrasting bands of peppermint and cream coloured faïence. A good example of Edwardian commercial architecture in Flemish mannerist style.

### **Nos.37-39**

Architect: Delissa Joseph, built 1914.

Richly modelled high quality facade, with giant order ionic columns. Pevsner noted it for its "Selfridge pattern of giant columns, but for only three bays".

### **No.41**

Architect: Frederick E Williams, built 1910.

Another narrow fronted building with a single canted bay of three storeys and large dormer in mansard type roof.

### **No. 43**

This is a probably Georgian house, one of two surviving in the terrace, but it has been much altered over the years. The facades rendered and entablatures added over each window. It is not included as a building of merit in the Soho Conservation Area Audit.

#### The proposals

The current scheme has been subject to extensive negotiations with officers. This proposal involves the creation of a large office building which extends across the whole site, including infilling Falconberg Mews. The facades of the Oxford Street buildings would be retained except for nos. 41 and 43. These would be replaced by a new facade. The new building would extend above the retained facades, but these upper floors are set back to reduce their visual impact from Oxford Street. The new floors are set furthest back behind nos. 33 and 35, where they are approximately 10 metres behind the retained front facades.

#### Demolition - Oxford Street

The unlisted Oxford Street buildings are important because of their facades make such a positive contribution to the conservation area, and the demolition behind retained facades is acceptable in principle. Nos. 33 (unlisted) and 35 (listed grade 2) are similar, single plot width buildings, both with gabled facades. The proposals do not involve full demolition behind their facades, and they are treated in a similar manner, as a pair. The extent of demolition in both buildings has been negotiated so that the party walls are retained, albeit with large openings to the new floor space adjacent. There are few features of interest internally in no. 35 and the proposed demolition and alteration is considered acceptable.

The demolition of nos. 41 and 43 is more contentious and Historic England have objected to their loss. These are arguably the least interesting buildings in the terrace but they do add to the architectural variety and picturesqueness of the group. The applicants argue that with the proposed floor levels of the new building it is not practical to retain these facades. It is not possible to reconcile the proposed higher floor levels with the existing facades. The architects have designed a new modern façade which seeks to relate to the retained facades to the east. The new façade is three bays wide, and five storeys high. Its composition makes reference to the proportions of the facades at nos. 29-31 and 37-39. It is clad in glazed ceramics, with deep chamfered columns forming the bronze coloured window bays.

Historic England and the Soho Society are correct in their support for the retention of these buildings, however, it is considered that their retention would create significant problems for the creation of the new office floor space. The proposed facade is considered to be a high quality modern design which does relate well to its neighbours and, on balance, the harm caused by the loss of the two buildings can be justified in this case.

The mansard roofs at nos. 29-31 and 37-39 would be demolished and the new building rises behind the retained facades. The upper floors are set back to reduce their visual impact from street level. These upper floors are visible in some Oxford Street view points but these are limited in extent. The greatest visibility is from west of Soho Street where the flank (west) wall of the upper parts of the building at nos. 37-39 is visible above the new building at nos. 41-43. However, in the context of the taller building at the east end of the street above the Tottenham Court Road Station, it is considered that this visual impact is acceptable.

New shopfronts are proposed in all the buildings which is beneficial. The existing shopfronts are of poor quality and not worthy of retention.



### Falconberg Mews

Falconberg Mews is an historic public space, which remains public highway. The proposal to demolish the buildings on the north side and build on the mews is highly contentious in urban design and conservation terms. Such proposals are normally considered unacceptable in principle. However, the mews is a very unappealing space at present. Its approach is also relatively unattractive, enclosed on the east side by the rear of the Tottenham Court Road Station. The proposal seeks to overcome the harm caused by the loss of the space by providing new, attractive public space on the roof of the new building. This is a highly unusual proposal which would not normally be considered acceptable. However, there may be a reasonable justification for accepting this proposal, because of the particular nature of this mews.

### Soho Square

The existing post war building at nos. 18-19 would be demolished and replaced by a new building which has been designed to relate sensitively to its context. It is faced in brickwork above a two storey stone base, which aligns with that of no. 20 to the south. The fenestration pattern echoes that of no. 20 and earlier, Georgian, buildings in Soho Square. At roof level is a modern, recessed floor, at the same level as the mansard of no.20.

The upper floors of the new building are visible to a degree from Soho Square (from the western side) but they are seen in the context of existing large buildings, including 20 Soho Square and Centre Point in the background. The impact on the settings of the (lower) listed buildings on the north east side of the Square is not considered to be harmful.

The ground floor frontage includes an office reception, café and an arched entrance to the courtyard. The roof level garden is accessed from a lift at the rear of the courtyard. It is considered that the two storey base is not fully resolved in terms of its architectural relationship to its neighbours and further design refinement should be required by condition if planning permission is to be granted.

The roof level garden is set on two levels with an upper garden for activities and social events, and a more private lower garden which is more densely planted. This could be regarded as a significant public benefit, the first in Soho, which needs to be weighed in the balance of harm and benefits of the scheme as a whole.

### The Protected Vista

The site is on the edge of the GLA's London View Management Framework protected vista from the summit of Parliament Hill to the Palace of Westminster. The viewing corridor cuts across approximately two thirds of the site, leaving around a third to the east outside of the development plane. Only a small part of the proposed roof is above the level of the Development Plane and this incursion into the view is very limited and it is considered that the vista is not harmed.

### Conclusion on design issues

The proposal needs to be considered in the context of the on-going regeneration of the east end of Oxford Street, which is transforming this end of the street and delivering public benefits. Although the proposal is harmful to heritage assets, primarily because of the demolition of the Oxford Street facades and the loss of Falconberg Mews, it is considered that overall there are public benefits to outweigh the harm identified. The proposal is considered to comply with the City Council's urban design and conservation policies, including S25 and S28 of

the City Plan and DES1, DES4, DES9, DES10, DES14, DES15 of the Unitary Development Plan.

### 8.3 Residential Amenity

Policy S29 of the City Plan relates to health, safety and wellbeing, stating that the Council will resist proposals that would result in an unacceptable material loss of amenity. Policy ENV13 of the UDP relates to protecting amenities, daylight and sunlight, and environmental quality. Policy ENV 13 (D) states that the City Council will resist proposals which result in a material loss of daylight/sunlight, particularly to existing dwellings and educational buildings. Policy ENV 13 (E) goes on to state that developments should not result in a significant increase in sense of enclosure, overlooking, or cause unacceptable overshadowing, particularly on gardens, public open space or on adjoining buildings, whether in residential or public use. Policy ENV 6 seeks to protect noise sensitive properties from noise disturbance.

#### Daylight and Sunlight

The City Council generally has regard to the standards for daylight and sunlight as set out in the Building Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight' (as revised 2011). The applicant's consultant, Point Surveyors has carried out the necessary tests using the methodology set out in the BRE guidelines on 15 and 16 Soho Square, 34-38 Oxford Street / 55 Hanway Street and 52 Oxford Street. The assessment considers the impact of the development on the vertical sky component (VSC) and daylight distribution (no sky line) available to windows in these properties. VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this achieves 27% or more, the BRE guidelines state that the window will have the potential to provide good levels of daylight. The BRE guidelines state that reductions of over 20% of existing daylight levels are likely to be noticeable.

In respect of sunlight, the BRE guide suggests that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90 degrees of due south and it receives at least a quarter of annual probable sunlight hours (APSH), including 5% of APSH during the winter months. As with the tests for daylighting, the guidelines recommend that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is less than 0.8 times their former value, either over the whole year or just in winter months, then the occupants of the existing building will notice the loss of sunlight.

The Daylight and Sunlight study shows that there are no breaches to the BRE guidelines at 15 Soho Square, 34-48 Oxford Street / 55 Hanway Street and 52 Oxford Street

With regards to 16 Soho Square the daylight study shows that in total 41 of the 52 windows tested will meet the BRE recommendations. There would be reductions in the VSC levels in excess of the 20% guideline to 11 bedroom windows. The bedrooms would retain an absolute VSC level of at least 15% which is not uncommon for a dense city centre location. No objections have been received in response to consultations and all living room windows tested comfortably meet the BRE guidelines. In addition each of the 14 southerly- orientated habitable rooms tested for sunlight will satisfy the BRE recommendations.

The increase in bulk and mass of the development is therefore considered acceptable in amenity terms and would not adversely and materially harm living conditions for residents.

### Overlooking/ loss of privacy

Landscaping around the perimeter of the 7<sup>th</sup> and 8<sup>th</sup> floor roof gardens will ensure that there is no direct overlooking into any of the surrounding properties. In particular residential flats at No's 15 and 16 Soho Square. The development will not result in any significant overlooking and there would be no loss of privacy. The provision of roof gardens with a maximum capacity of 200 persons could result in an increase in noise levels to the adjacent residential. The landscaping and planting will act as something of a sound barrier, plus the hours of use would be restricted to 10am to 7pm. Subject to conditions that secure full details of the planting/ landscaping and restrict the hours of use it is not considered that noise from the new publicly accessible roof garden would have an adverse impact on neighbouring residents amenity.

## **8.4 Transportation/Parking**

### Car Parking

No car parking is proposed, which is welcome.

### Cycle Parking

The proposed development will provide 118 long stay cycle parking spaces, comprising 108 cycle parking spaces for the office use, 9 cycle parking spaces for the retail use and 1 cycle parking space for the café'. The cycle parking will be located in the basement accessed via a lift at the eastern entrance to the site from Falconberg Mews. The Highways Planning Manager advises that the cycle parking is acceptable, it is recommended that the cycle parking is secured by condition.

### Servicing

UDP policy TRANS 20 require off-street servicing which is not proposed. It is proposed that servicing will take place from on-street, shared between the Soho Square, Oxford Street and Falconberg Mews frontages. Given the difficulties in getting vehicles of any size into and out of the Mews and the issues there would be with creating a servicing bay off Oxford Street or Soho Square, this is an acceptable solution.

The transport statement submitted with the application forecasts that the development would result in some 15 extra servicing vehicles a day than existing. The Highways Planning Manager has confirmed that this is acceptable subject to compliance with a Servicing Management Plan. The SMP will be secured by condition.

### Stopping-Up

The most contentious issue in highways terms is the stopping-up of part of Falconberg Mews, which is public highway. However, while it widens out at the western end, this part of the Mews is extremely difficult for a vehicle of any size to access as there is a narrow right-angled bend to negotiate. Vehicle tracking provided by the applicant illustrates that it is very difficult to access and it seems from observation that vehicles tend to stay out of this part of the Mews and either reverse into or out of the north-south section or make a three (or more) point turn within the north-south section if they can.

The Mews does not serve any practical purpose for vehicular traffic, furthermore all of the buildings fronting this part of the Mews are part of this application site. Stopping-up would also address concerns with regard to anti-social behaviour within the Mews.

There are buildings to the west which have a pedestrian access / fire escape onto the Mews. This is catered for within the scheme by a corridor to the west of the site which would provide for an emergency access onto Soho Square, rather than into the Mews

### **8.5 Economic Considerations**

The Proposed Development would deliver high quality, modern office floorspace within the core CAZ. The provision of new and deeper retail units aligns with the vision for the West End Retail and Leisure Special Policy Area.

The applicant estimates that there are currently 354 employees on the site at present. The proposed development has the potential to provide the opportunity for 623-642 full time employees at the site, depending on the 2<sup>nd</sup> floor being used for office or retail use. This would result in a net increase of 266-285 employees.

The proposed development will therefore provide significant economic benefits.

### **8.6 Access**

London Plan Policy 7.2 and draft London Plan Policy D3 require that all new development achieves the highest standard of accessible and inclusive design. These policies seek to ensure that all new development can be used easily and with dignity by all. Level access is provided across floorplates, linked by lifts to all levels, as well as to the roof terrace. Where changes in level are unavoidable, for example at the floors of the retained listed building, platform lifts and short staircases have been added to provide access. The application meets London Plan Policy 7.2 and draft London Plan D3.

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

#### Noise/plant

Plant is located at 2<sup>nd</sup> basement level and in a dedicated plant enclosure at 7<sup>th</sup> floor roof level. At this stage the exact plant is unknown. As it will all be located in a dedicated acoustic plant enclosure it is likely that the plant is capable of complying with the City Council's noise standards; as set out in Policy ENV6 and ENV7 of the UDP. Appropriate conditions are attached to the draft decision notice, including a condition requiring a post commissioning report to be submitted and approved to demonstrate that the plant will operate at acceptable noise levels.

#### Refuse /Recycling

Policy ENV12 requires the provision of suitable facilities for waste storage and recycling in new developments. A Waste Management Strategy seeks to maximise recycling and sustainability, where practicable. Dedicated refuse storage and recycling storage room is provided in basement level 2. Appropriate conditions to secure the arrangements are attached

#### Sustainability

The London Plan states that developments should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be lean: use less energy
2. Be clean: supply energy efficiently

### 3. Be green: use renewable energy

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

The applicant has submitted an energy statement prepared by Hoare Lee which demonstrates how the proposed development will comply with relevant carbon reduction and planning policy. The development aims incorporate extensive energy efficient measures into the design to reduce energy demand. These are summarised as follows

- Target fabric performance that exceeds the Part L 2013 requirements.
- • Apply high efficiency gas boiler to supply space heating (91% efficiency).
- • Reduce cooling demand through high glazing performance in office and retail areas.
- • Where areas are mechanically ventilated, the units have acting heat recovery (85% efficiency).
- • Hot water for WCs to be provided by electric point of use systems.
- • Hot water for the changing facilities (showers) will be provided by a dedicated gas boiler (91% efficiency)

City Plan Policy S40 considers renewable energy and states that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

A number of technologies have been considered and the following have been applied to the energy strategy for the Proposed Development:

- Space heating and cooling provided by Air Source Heat Pumps (ASHP) for all treated areas to provide a saving of 15% carbon emissions;
- Hot water for changing facilities to be provided by ASHPs; and
- Overall, the targeted improvement over the Part L 2013 baseline is 35.3% which complies with London Plan policies.

It is considered that the Proposed Development achieves a high level of environmental and economic sustainability and carbon reduction and therefore accords with the Development Plan.

#### Employment and skills

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

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

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

The note sets out how contributions will be calculated according to the type of development proposed. In this case, the commercial floorspace (office and retail uses) attracts a contribution of £ 129,802.04

The applicant has agreed to these contributions.

### **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 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation is now being carried out 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**

There is no neighbourhood plan adopted for this area.

### **8.10 London Plan**

The proposal is referable to the GLA as the development exceeds 30m in height and part of the proposed roof is above the development plane within the GLA's London View Management Framework protected vista from the summit of Parliament Hill to the Palace of Westminster.

The GLA's have provided their stage 1 response summarised as follows:

**Principle of development:** The uplift in retail floorspace within the West End International Centre is strongly supported. High-quality office floorspace in this highly-accessible location in the CAZ is supported. A proportion of flexible workspace for SMEs should be secured by condition. Further information on the re-provision of two existing residential units to 98 New Bond Street should be provided and their relocation secured within the S106 agreement.

**Strategic views:** No harm is caused to protected vista 2B.1 of Westminster World Heritage Site from the Parliament Hill as the proposal would not be visible.

**Heritage:** Overall, the proposal causes less than substantial harm to the Soho Conservation Area and 35 Oxford Street, which is outweighed by the high-quality design of the development, the economic benefits of the improved office space and the publicly accessible roof terrace. The setting of the Statue of Charles II and the central timber framed arbour/tool shed are enhanced by the demolition and replacement of 17-19 Soho Square.

**Urban design:** The Council should secure key details of facing materials and detailing by



condition.

**Inclusive design:** The internal layouts and circulation spaces are sufficiently generous and inclusive; the proposed platform lift to provide access to the retained 35 Oxford Street due to floor level changes should be secured by condition.

**Environment:** The Energy Hierarchy has broadly been followed but applicant should consider additional PV. A surface water drainage strategy for the proposed development must be submitted and further information on the reduction in water consumption should be provided. The applicant should provide further green roofs, brown roofs and green walls to enhance the urban greening of the site. The applicant should provide the UGF for the development with the aim of meeting the target of 0.3 for commercial developments as set out in draft London Plan Policy G5.

**Transport:** Further information is required to understand how the development meets Healthy Streets, Vision Zero and cycle parking policy standards. A Pedestrian Comfort Level assessment should also be completed by the developer.

### **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 pre-commencement conditions to secure the following:

- i) The applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development.
- ii) A written scheme of archaeological investigation.
- iii) A desktop study, site investigation, remediation strategy and validation report to assess the risk of contaminated land and how it is treated before development can begin.

The applicant has accepted the conditions.

### **8.12 Planning Obligations**

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of development; ensure the development complies with policy requirements within the development plan; and, if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy

contributions will be sought at a level that ensures the overall delivery of appropriate development is not compromised.

The Council's own Community Infrastructure Levy was introduced on 1 May 2016. The Westminster CIL payable will be approximately £ 902,207.75 along with Mayoral CIL for Crossrail 2 (MCIL 2 introduced in April 2019) of £.1,563,633.06. These figures are provisional and may be subject to any relief or exceptions which may apply in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

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

- i) The re-provision of two residential units (Class C3) at 98 New Bond Street or in another site in the vicinity of the site to prior to the occupation of any of the office floorspace on site.
- ii) costs relating to highways works around the site to facilitate the development
- iii) the applicant pays the City Council's reasonable costs of making and consulting on an Order pursuant to Section 247 of the Town and Country Planning Act (1990) (as amended) to 'stop-up' an area of public highway.
- vi) A financial contribution towards employment, training and skills of £ 129,802.04 (index linked) payable on commencement of development.
- iv) An access management plan for the roof garden
- v) The costs of monitoring the S106 legal agreement.

### **8.13 Environmental Impact Assessment**

It is not considered that the proposal warrants an Environmental Statement (ES) under the EIA Regulations (2011). The applicant has submitted various studies relating to the principal environmental issues raised by the development including noise, archaeology, energy and recycling. The issues raised can reasonably be dealt with by conditions attached to the permission. The principal environmental effects requiring further clarification or work through conditions and mitigation are examined in the relevant sections of this report.

### **8.14 Other Issues**

#### **Archaeology**

The site is within a Tier 2 archaeological priority area. In line with Policy DES11, an archaeological mitigation strategy has been prepared and agreed in principle with officers. The archaeological investigation can be secured by condition.

### Construction impact

City Plan policy S29 requires projects which have significant local impacts to mitigate their effects during construction through compliance with the Code of Construction Practice.

The City Council's Code of Construction Practice and associated Environmental Inspectorate have been developed to mitigate against construction and development impacts on large and complex development sites. The new Code of Construction Practice was adopted in July 2016 and is designed to monitor, control and manage construction impacts on sites throughout Westminster. It applies to all major developments and schemes involving basement excavation. In recognition that there is a range of regulatory measures available to deal with construction impacts, and that planning is the least effective and most cumbersome of these, the Council's approach is for a condition to be imposed requiring the applicant to provide evidence of compliance with the CoCP before starting work. Compliance is monitored by the Environmental Inspectorate.

A condition is also recommended to protect the amenity of the surrounding area by ensuring that core working hours are kept to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturday. The condition states that noisy work must not take place outside these hours except as may be exceptionally agreed by other regulatory regimes such as the police, by the highways authority or by the local authority under the Control of Pollution Act 1974.

### Basement

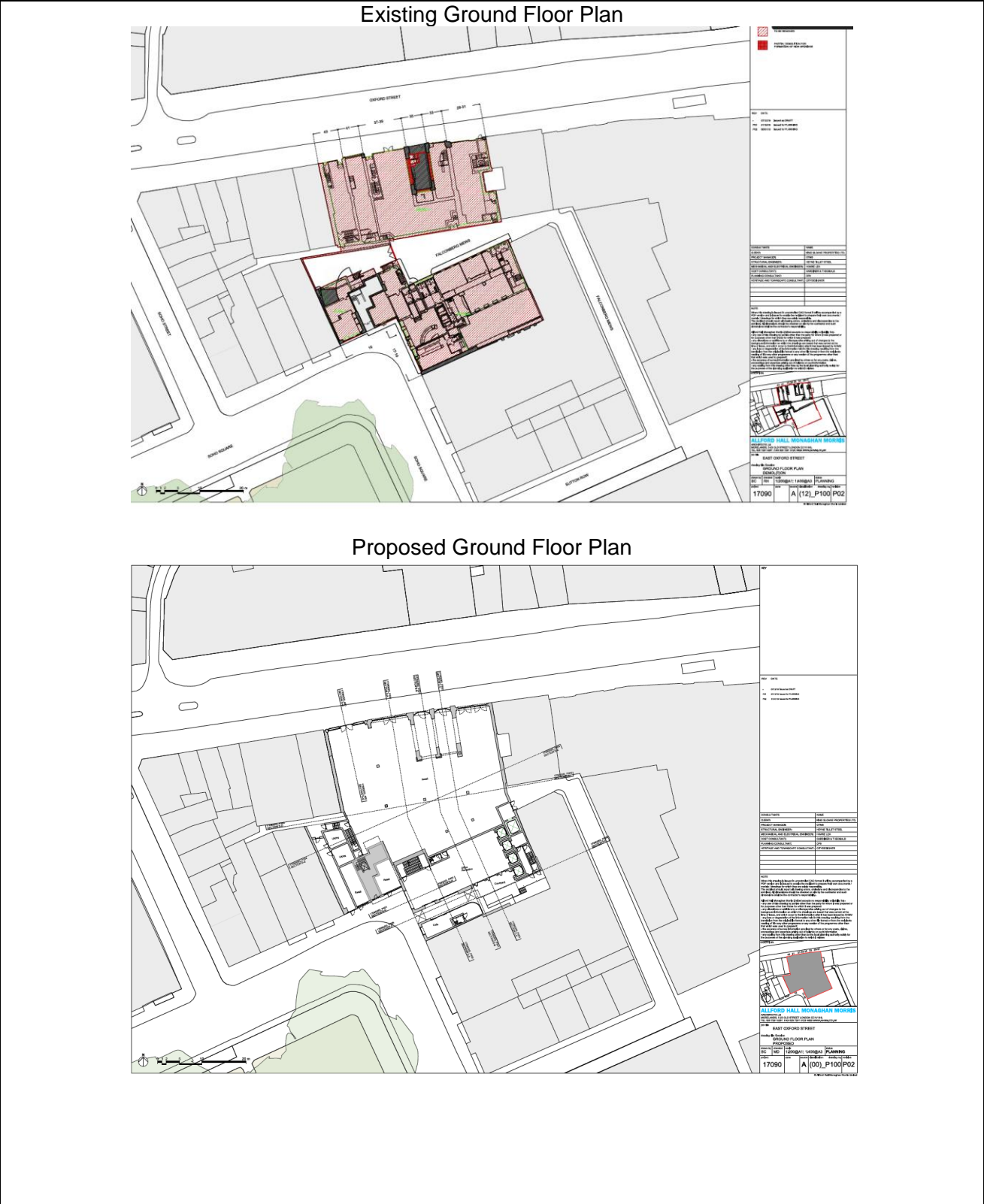
The proposals involve the excavation of a 2<sup>nd</sup> basement. The applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage. The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred.

The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. This report will be attached for information purposes to the decision letter. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

(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: MICHAEL WALTON BY EMAIL AT [mwalton@westminster.gov.uk](mailto:mwalton@westminster.gov.uk)

9 KEY DRAWINGS









VIEW 3: OUTSIDE NO. 26 OXFORD STREET



PROPOSED

VIEW 9: OUTSIDE NO. 8 SOHO SQUARE, LOOKING EAST



PROPOSED