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| <b>CITY OF WESTMINSTER</b>                                      |   |  |             |
| <b>PLANNING APPLICATIONS SUB COMMITTEE</b>                      | <b>Date</b><br>7 January 2020   | <b>Classification</b><br>For General Release |             |
| <b>Report of</b><br>Director of Place Shaping and Town Planning |   | <b>Ward(s) involved</b><br>Hyde Park         |             |
| <b>Subject of Report</b>  | <b>5 Kingdom Street, London, W2</b>   |  |             |
| <b>Proposal</b>   | Erection of a mixed-use development comprising ground floor (at Kingdom Street level), plus 18 storeys to provide offices (B1a) plus ancillary plant and amenity areas. Three floors below Kingdom Street delivered in phases to provide a flexible mix of business B1(A), retail (A1), leisure, community and cultural uses (D1) within the former 'Crossrail box'. New outdoor terraces adjacent to railway at basement level; creation of a new pedestrian and cycle link between Harrow Road and Kingdom Street including internal and external garden and landscaping; and associated works.<br><br>The application is accompanied by an Environmental Impact Assessment (EIA development) |  |             |
| <b>Agent</b>  | Laura Elias   |  |             |
| <b>On behalf of</b>   | C/o Agent   |  |             |
| <b>Registered Number</b>  | 19/03673/FULL   | <b>Date amended/ completed</b>               | 14 May 2019 |
| <b>Date Application Received</b>                                | 14 May 2019   |  |             |
| <b>Historic Building Grade</b>                                  | Unlisted  |  |             |
| <b>Conservation Area</b>  | No  |  |             |

## 1. RECOMMENDATION

Subject to referral to the Mayor of London, resolve to refuse permission on design, townscape and heritage asset grounds.

## 2. SUMMARY

The application site is within the Paddington Central campus at the western end of Kingdom Street. The existing site is occupied by temporary buildings for the meanwhile use of Pergola and these sit upon the 'Crossrail Box', which is a large volume of covered space located beneath the site and extending beyond the footprint of the application site at Kingdom Street level. This space was built as part of the outline permission but was safeguarded for use by Crossrail, however, its use by Crossrail

is no longer required and it reverts back to the landowners upon completion of the Crossrail works at Paddington. This large volume of space forms part of the current application.

There are no listed buildings or heritage assets on the site, which lies outside a conservation area and is located within the Paddington Opportunity Area, The Central Activities Zone (CAZ) and North Westminster Economic Development Area (NWEDA).

The Paddington Central campus is an area of modern redevelopment, which occupies the site of the former Great Western Railway Goods Depot. The campus is surrounded by substantial elements of transport infrastructure: with the railway lines into and out of Paddington Station on its south side; the Paddington Branch of the Grand Junction Canal on its east side; the elevated A40 (Westway) to the north; and Westbourne Bridge on the west.

Permission has been granted for the redevelopment of the site to provide a 13 storey office building (94.12m A.O.D.). This permission has been implemented (but not built) and is therefore a material consideration in the determination of this application. This scheme has an outstanding planning obligation of £813,400 towards Westminster's Social and Community Fund Account Fund, as required by the original outline permission for Paddington Central. As this payment is index linked, this payment has been calculated by the applicant to currently stand at a figure of £1,340,000. Should the proposed development set out below be permitted and implement, this requirement would fall away.

The proposed development includes the following principal elements:

- A landmark building comprising ground (Kingdom Street) plus 18 storeys of office accommodation plus a further double-height (2 storey) top which includes plant room and external office amenity space. The overall height of the building would be 119.22m A.O.D., which would be 85.75m above Kingdom Street;
- Beneath this new building and extending under Kingdom Street, the triple height Box space would form part of the development. Beneath the building this space would be largely given over to plant and back-of-house uses, however, the vast majority of the Box space including part beneath the building would form part of a new and accessible amenity area. The Box is intended to accommodate a range of functions including leisure, cultural, flexible work and study spaces which will be accessible to the local community and provide amenity for the general public, local residents and office workers;
- Associated with the Box and a key component of the development will be the creation of a public route through the base of the building to open up a connection from Kingdom Street westward. Because of differing levels, Kingdom Street is effectively one storey higher than the Harrow Road level to the west of the site, thus the new route enters the base of the building at Kingdom Street level then descends in a fully accessible way into a double-height internal space, from where there is access to a public internal garden space; also access to the amenities within the Box; and a through route to the west, linking to the Harrow Road;
- Associated external landscape enhancement at the western end of Kingdom Street, forming 'Kingdom Square'; the western link between the building and the Harrow Road; and the 'Box Yard' which is the space between the newly enclosed Box and the railways lines.

Objects to the development have been raised with particularly strong concerns raised by Ward Councillors, local amenity societies and local residents. A full list of objections is summarised in section 5 of this report.

The key issues in the case are:

- The acceptability of the proposed tower in design, townscape and heritage terms and whether the package of public benefits outweighs the harm caused by the proposed building;
- The impact on the amenity of neighbouring residents;
- The acceptability of the proposals in land use terms;
- The provision of affordable housing.
- The highways implications of the scheme;

Due to its height, mass and prominent location, the development will have a significant impact. The proposed building is unlike almost all buildings within the opportunity area, particularly given its location at the western end where the site meets with much lower townscape. It is therefore considered that the development will result in less than substantial harm to surrounding heritage assets, many of which are designated heritage assets.

In order to offset this harm a range of benefits have been offered by the applicant, which can be secured as a result of the proposed development proposals. These are summarised as follows:

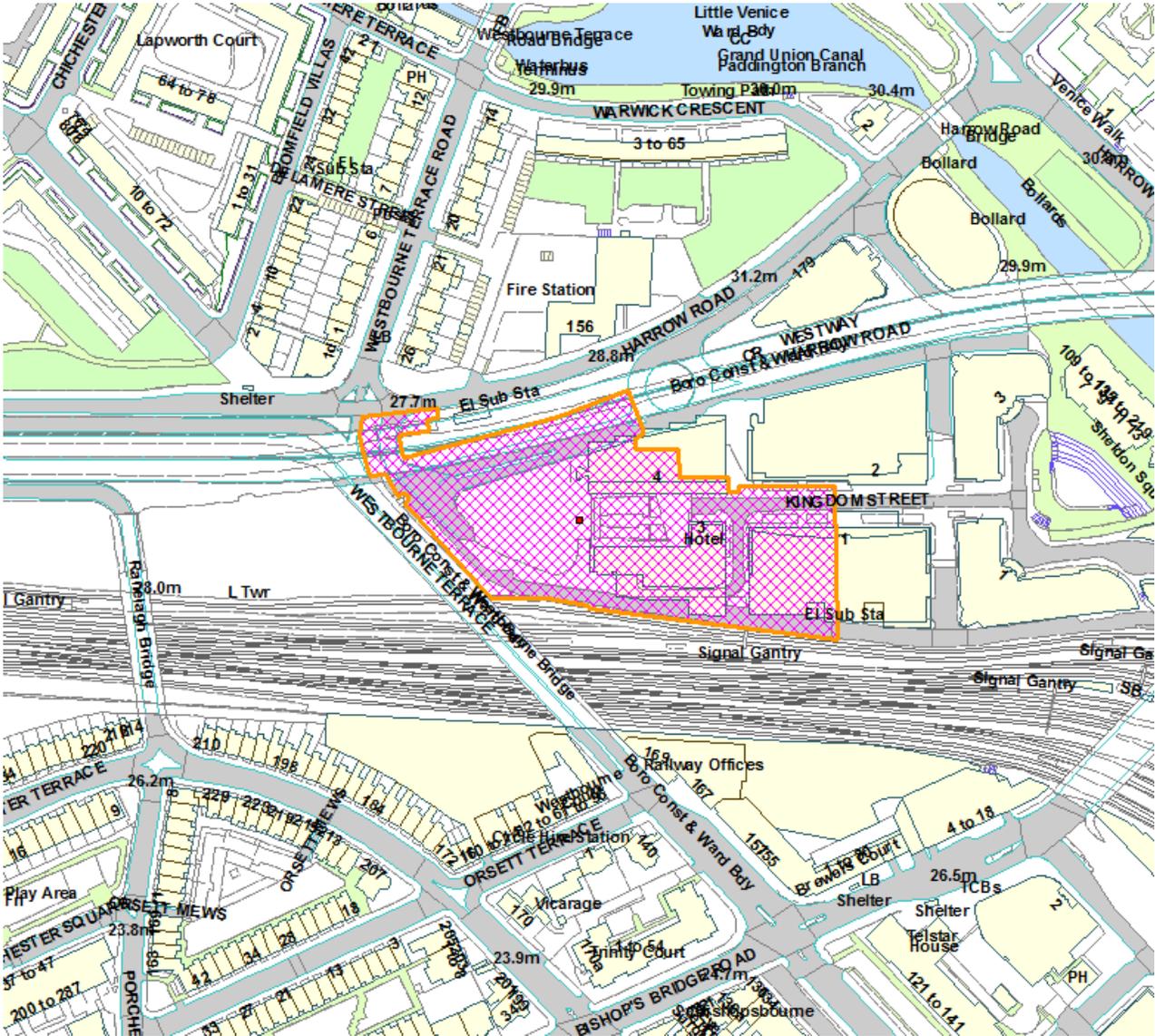
- Provision of pedestrian and cycle link between Harrow Road and Kingdom Street with associated new privately managed 'public' spaces under the main building.
- 150sqm community and education space, open to local community groups to book for free.
- 1,400sqm of affordable workspace for the lifetime of the building, rented at no more than 50% of average market rents.
- £50,000 small business fund for local start-ups.
- Community access to the 250 Auditorium, comprising of 4 sessions per month (each session comprising either a morning, afternoon or evening).
- £20,000 towards a study of the physical condition of the Westbourne Bridge and the ways it can be enhanced.
- £930,000 towards the highways improvements at the junction with the Harrow Road and Westbourne Bridge.
- £2,087,819.79 towards Westminster's Employment and Skills Fund.
- £4,500 towards legible London signage.
- £1,000,000 towards Public Art on site.
- £1,750,696 payment in lieu towards the councils affordable housing fund.
- CIL payments of £11,491,757.93 to Westminster and £11,625,427 to the Mayor of London.

None of the above benefits would be provided should the implemented scheme be constructed. However, it is not considered these benefits outweigh the less than substantial harm caused by the development and the application is therefore considered unacceptable.

Insufficient information has also been provided in relation to the impact of the development on the properties on Westbourne Terrace Road and Warwick Crescent, as no information has been provided in relation to the cumulative impact of the proposed development and the application, which has been resolved to grant, subject to grant a legal agreement at Blomfield Mews.

The proposals are therefore contrary to policies in Westminster City Plan (City Plan) and the Unitary Development Plan (UDP) and therefore the application is recommended for refusal. Should members agree to refuse permission, this application will need to be referred back to the Mayor of London for his concurrence that permission should be refused in accordance with the Committee's resolution.

**3. LOCATION PLAN**



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4. PHOTOGRAPHS



Aerial photograph from Apple Maps



View of the site from Harrow Road with 4 Kingdom Street to left and Westbourne Bridge on the right.



View of the Crossrail box towards Westbourne Bridge

## 5. CONSULTATIONS

### CONSULTATION RESPONSES:

COUNCILLOR COX (on behalf of Hyde Park Ward members):

As ward councillors object as follows:

- Increase from consented scheme from 13 to 19 storeys raises concerns about the height, bulk, design, conservation area and amenity.
- Proposed cycle and pedestrian route has benefits, but it will not make a significant impact on barriers to CAZ employment for residents in Harrow Road area, as these are likely to relate to skills and qualifications rather than transport access.
- Community benefits are limited and not likely to outweigh the harm caused from increased bulk.
- The building will appear tall, rising above the tree line in the otherwise broadly unspoilt view from the Serpentine Bridge.
- It will be dominant at close quarters, being around twice the height of adjacent Novotel.
- Note concerns from Cllr Caplan and consider a more modest increase beyond consented would bring much of the economic benefit without inflicting the harms on heritage assets to the same degree.
- Proposed scheme does not conform with emerging City Plan.

COUNCILLOR CAPLAN (on behalf of Little Venice Ward members):

- The development is too high, bulky and with the wrong colouring. As such, while not in the Little Venice Ward, it will have a significant negative impact on adjacent conservation area and listed buildings which sit within the historic landscape.
- The views from Blomfield Road, the Browning Pool and Warrington Crescent are very start and would be very damaging.
- The colour and design of the building will be dominant on the skyline and will therefore not blend into the environment, but will be overpowering and completely inappropriate in its setting.
- As Historic England state, the development will 'impact on setting of listed buildings and conservation areas over a broad area'. They also state that the existing consent is damaging but this is not justification to accept a few extra storeys. Any new consent 'should not extend harm' which this application would do.
- The proposals does not conform with the emerging City Plan, but also fails the current City Plan as it fails the test because of harm it will cause to views from adjoining areas such as Little Venice.
- As a neighbouring ward, do not benefit from community benefits, but suffer the damage to area from the building.
- While the ambition of the applicant is applauded, the proposals are not acceptable and should be rejected.

COUNCILLOR CARMAN (Bayswater Ward):

Raise an objection. While the facilities suggested for the "box" are appreciated, 18 storeys is too high. The blocky design is also unattractive. The project as planned would dominate the skyline, especially affecting the views at Little Venice. The developers should reduce the height and reconsider the design.

COUNCILLOR BURBRIDGE (Lancaster Gate Ward):

Supports the objections of SEBRA (see below). Notes that while the site is outside of her ward, it will have an adverse effect on the conservation area. In relation to community benefits, especially local gyms, should be more details of free uses available and better publicised to local residents.

#### ROYAL BOROUGH OF KENSINGTON AND CHELSEA:

Any response to be reported verbally.

#### LONDON FIRE BRIGADE:

Request for hard copy drawings to be submitted (subsequently provided by the applicant). No further response received.

#### GREATER LONDON AUTHORITY:

No objection but comment as follows:

- Support proposed uses given location within Paddington Opportunity Area and the Central Activities Zone (CAZ).
- Welcome financial contribution towards affordable housing and provision of affordable workspace and should be secured by S106 legal agreement.
- Public realm and pedestrian permeability is welcomed.
- Consider the harm to surrounding heritage assets to be less than substantial and outweighed by public benefits. However details of materials must be secured by condition.
- Contribution towards an extension to a docking station should be secured.
- Transport details should be secured by conditions.
- Further information required in regard to energy and sustainable drainage.

#### TRANSPORT FOR LONDON:

- Welcome new access route under the building.
- The Paddington Central car parking management plan should be expanded to cover the site.
- No concerns in relation to trip rate, however note that figures for likely cyclist arriving at the site should be increased.
- Additional way-finding signage should be secured.
- Comments provided in relation to walking and cycling infrastructure. Note that the main issue identified from ATZ assessment is to provide better access from Harrow Road and therefore requests a financial contribution to secure this.
- Disappointed that limited improvements to deliver Mayors' Vision Zero Commitment.
- Long term cycle parking needs to be increased from 670 to 744 for B1 use. Details of cycle parking should be secured by condition.
- Recommended that the Orsett Terrace cycle docking station is extended and funding secured.
- A delivery and Servicing Plan should be secured by condition.
- A Construction Logistics Plan should be secured by condition.
- A detailed Travel Plan should be secured by S106 legal agreement.
- Note that a vehicle access point should be maintained which connects the Crossrail Royal Oak Portal.

#### LONDON UNDERGROUND:

No objection, request a condition for details of design and method statements of foundations, basement and ground floor structures.

#### CROSSRAIL:

Any response to be reported verbally.

**NATIONAL GRID:**

Any response to be reported verbally.

**ROYAL PARKS:**

Any response to be reported verbally.

**HISTORIC ENGLAND:**

Raise objection and recommend reduction in height to mitigate the harmful impact to the significance of a range of designated heritage assets:

- Within 500m of the site there are 40+ separate entries on the Heritage List for England (including three Grade I and two Grade II\* listed buildings), six conservation areas and the Grade II listed Westbourne Bridge. Given the height it will be visible for some distance beyond this, including areas of high significance such as Hyde Park and Kensington Gardens and conservation areas.
- Views show the introduction of a very different built form than is found in the presiding streetscape, resulting in a harmful clash of character and appearance of the proposed building as overbearing or distracting from the historic townscape.
- The buildings relationship with Kensington Gardens and Hyde Park, cause the most notable impacts, both of which are Grade I registered parks and gardens of the highest significance.
- Views from the grade II listed Serpentine Bridge show many Grade II listed buildings gathered at the treeline. Given layers of exceptionally significant landscape history in this view it should be treated as sensitive to change. None of the tall buildings which are existing or granted preserve or enhance, or better reveal the significance of the heritage assets which make up the focus of this view. It would not be beneficial to extend that harm any further.
- Views from Kensington Gardens are also noted to be a harmful departure from the presiding character of the view.

Impact: While possible to avoid physical impacts to heritage assets the schemes wide zone of visibility will bring about a number of impacts on the setting of listed buildings and conservations areas.

Legislation and Policy: Guidance provided. Note that where harm to significance is likely, it must be clearly and convincingly justified and outweighed by the delivery of public benefits.

**HISTORIC ENGLAND ARCHAEOLOGY:**

Any response to be reported verbally.

**THAMES WATER:**

Comments provided in relation to Waste and Water.

**PADDINGTON WATERWAYS & MAIDA VALE SOCIETY:**

Raise an objection on the following grounds:

- Note the basement areas of the extant consent has been released by Crossrail as it is no longer required by them and the opportunity that this present British Land. Whilst this provides the opportunity to improve connectivity and provide a community space it does not, justify the substantial increase in height, bulk and mass of the proposed upper floors.
- The extant scheme is not universally appreciated and whilst in context with the remainder of Kingdom Street and providing a landmark building when viewed from the Westway would

have caused significant harm to the conservation area. The new building is substantially larger not only in height with the additional floors but also due to the omission of the screen to the facade and replacing it with a solid elevational treatment. The result is an overbearing blot on the already unhappy landscape that is Kingdom Street when viewed from the conservation area.

- The proposed increase to the height, bulk and mass will cause further substantial harm not only to our conservation area but also neighbouring areas as well. There should be no increase in the height, bulk or mass of the extant scheme.
- Request for neighbours' views to be taken into consideration

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION (SEBRA):

##### Excessive height and bulk:

- Height. The proposed twenty storeys of the building above rail level exceed by far the height of the rest of Paddington Central, and will stick out like a sore thumb. It is far above the height of the earlier consented scheme.
- Bulk. The proposed building invites comparison, in size, with the Sellar development adjacent to Paddington Station (31 London Street). Yet it is at the fringes of the Opportunity Area and will stand out far more; further, the Sellar scheme could claim justification on grounds of very necessary (indeed vital), and long demanded, community benefit, in the form of improvements to public transport, which is not the case with this scheme.

##### Adverse impact on Conservation Areas:

- The building will be very visible from the adjacent conservation areas to the North, West and South, and will detract from their setting.

##### Design:

- Do not like either the design or the proposed colour of the building, which gives the impression of seeking to make the building as conspicuous as possible.
- Think it should be as inconspicuous as possible, should it go ahead either in its present form or in a modified form.

##### No real assurance of community benefit:

- There is no sign of demand for the proposed facilities in the basement area, particularly if operated on a purely commercial basis, as is apparently proposed, with only occasional free use. There is a distinct risk that they would be little used.
- It might be otherwise if the land in the basement area were on offer rent-free to, say, a community trust charged with developing sports facilities for young people (eg boxing and volleyball), and the other facilities that are proposed, on a not-for-profit basis, coupled with the offer of a capital sum to cover the cost of building these facilities. (It appears that these costs are now proposed to be borne directly by the developer as part of the development, but that rent would be charged later to the operators.)

##### Mix of land use:

- No objection, subject to the remarks above on community benefit.

#### BAYSWATER RESIDENTS ASSOCIATION:

- The plan for this building, at 18 storey, is too high. The proposed building is much higher than the other buildings in Paddington Central. From the west elevation, the structure rises from the pedestrian level almost 2 times the height of all the other properties. At present the others are, except the Novotel, 10 storey high. The Novotel is about 13 floors. However

the hotel room floors look much shorter than the floors in existing surrounding office buildings, so that the hotel height is similar to its neighbours. Thus the existing buildings form a cohesive consistent appearance.

- In addition the breadth of the proposed building is larger than the other buildings, but do not object to this. However the entire bulk would be dominating the entire Paddington Central site. Due to height considerations the proposed structure is opposed.
- The height of any development in this cluster of new buildings should be limited to those of its neighbours. One of the urban features that have made the built environment relatively pleasant in London and European cities in prior centuries has been the uniform height in neighbourhoods. Even with buildings that are seen as mediocre with time, the blending in due to same height is less jarring than widely varying building sizes.
- There are limited issues with residential neighbours. On the south there are railway tracks. On the west there is the bridge and more tracks. The residential areas on the north are across the Westway, however closer consideration should be given to how a looming structure of the proposed height would affect the residents of Westbourne Greene.

**NORTH PADDINGTON SOCIETY:**

Any response to be reported verbally.

**WESTBOURNE NEIGHBOURHOOD FORUM:**

Any response to be reported verbally.

**HYDE PARK ESTATE RESIDENTS ASSOCIATION:**

Any response to be reported verbally.

**FRIENDS OF HYDE PARK & KENSINGTON GARDENS:**

Any response to be reported verbally.

**LONDON HISTORIC PARKS AND GARDENS:**

Any response to be reported verbally.

**CRIME PREVENTION OFFICER:**

Any response to be reported verbally.

**PADDINGTON BID:**

Any response to be reported verbally.

**CANAL & RIVERS TRUST:**

Comment that they were not required to be consulted.

**INLAND WATERWAYS ASSOCIATION:**

Any response to be reported verbally.

**BUILDING CONTROL:**

Any response to be reported verbally.

**WESTMINSTER ECONOMY TEAM:**

Note that a financial contribution of £2,076,314.23 is required.

**ENVIRONMENTAL HEALTH:**

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- Originally raised objection as further information required in relation to noise. Following the receipt of additional information, no objection on noise grounds subject to conditions.
- Request a condition for no music to be played on terraces.
- Request for a detailed air quality assessment

**HIGHWAYS PLANNING MANAGER:**

- Off street servicing is acceptable.
- Cycle parking proposed is acceptable and in accordance with London Plan Policies.
- Request for a cycle docking station to be provided on site as Orsett Terrace highly unlikely able to be extended.
- Public realm improvements are welcomed.
- Due to wide range of options within the box, further information is requested in relation to trip generation to determine the impact on public transport and highway networks.

**WASTE PROJECTS OFFICER:**

The submitted waste management strategy is not inline with Westminster guidelines, amendments are recommended.

**ARBORICULTURAL OFFICER:**

As internal atrium is promoted as public benefit, details of planting should be provided. More information required in relation to soil depth and plants should be increased in size.

**GREEN PROGRAMME MANAGER:**

Any response to be reported verbally.

**SPECIAL EVENTS:**

Any response to be reported verbally.

**SPORTS AND LEISURE:**

Advice provided to applicant verbally in relation to potential uses for Crossrail Box.

**ADJOINING OWNERS / OCCUPIERS:**

No consulted: 3525

No responses: 61 raising objections on the following grounds:

**Design:**

- The building is too tall and should not be taller than adjacent.
- The building will be overpowering to the skyline.
- The building will have an unacceptable impact on local (particularly Little Venice) and wider area.
- The proposed colours are unacceptable.
- Building should be in keeping with adjacent buildings.
- Would prefer less 'amenities' in the box and a smaller building.
- 'Wonky' windows will age very quickly.
- Proposals would be supported if it was lower.
- The tall building is contrary to policy.

**Land Use:**

- The hotel approved at the other end of Paddington Central would be better placed here in terms of amenity, highways and land use.

- No requirement for another gym as there are six others within a one mile radius.
- Community benefits do not outweigh harm.
- Query the need for more offices in Paddington.
- Query what the 'cultural uses' are.
- Query who will be responsible for the 'community' space.
- Community benefits questioned, particularly if basement facilities are operated on commercial basis. Risk they would be little used. If free or not-for-profit and capital costs covered, might be otherwise.

#### Amenity:

- Pergola Paddington has demonstrated antisocial behaviour of people coming and going.
- Loss of light and overshadowing and should be assessed by a light report.
- The building will reflect sound from the Westway and underneath it.
- Negative impact from increased number of people leaving work and anti-social behaviour.
- Increased light pollution.

#### Highways:

- People rarely use existing link to the Harrow Road.
- Links to Royal Oak should be more formal path or tunnel which is well lit and attractive to use.
- Request for taxis and coaches to have a formal route through the site so they can exit at Harrow Road.
- Increased stress on the Highway and Public Transport Network.

#### Other:

- Too many documents online to easily understand the development proposals.
- The proposed 14 properties on Blomfield Mews would be negatively impacted by development.
- A post Brexit feasibility study should be undertaken to see if floorspace is required.
- British Land did not consult with Westbourne Terrace Residents as stated.
- Would like the site to retain the Pergola venue going forward.
- Concerns in relation to air quality and the report submitted being inadequate.
- Complaints that have not been consulted.

#### 2 Representations in support raising the following comments:

- Welcome the new through route at the base of the building.
- Applaud British Land to construct an iconic building

#### PRESS ADVERTISEMENT / MULTIPLE SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The site is located within Paddington Central, a mixed commercial and residential development, which is outside of a conservation area, but is located within the Central Activities Zone (CAZ), North Westminster Economic Development Area (NWEDA) and the Paddington Opportunity Area. The site comprises three levels: ground level ('track level'), with

Harrow Road level above and Kingdom Street level yet further above. The extent of the red line boundary varies between the three levels.

The surface at track level within the main body of the site is hard standing. A series of columns are present, supporting a podium structure above. This area beneath the podium has been utilised, primarily for storage, in the Crossrail construction process and is referred to as the 'Crossrail Box'. The Crossrail Box extends eastwards under the existing 4 Kingdom Street, Hotel Novotel London Paddington (3 Kingdom Street) and 1 Kingdom Street buildings above, is approximately 8m tall and currently has an open south aspect over the railway. The red line boundary therefore also extends under these buildings at this level (as roughly shown in the first photograph above).

Paddington Central is a predominantly commercial estate comprising offices and a hotel, with a retail presence at street level. The exception to this are 11 and 21 Sheldon Square at the eastern end of the campus and adjacent to the canal, which are two residential blocks again with retail activity at ground level. All of the buildings on the site are no more than twenty years old and their design and layout derived from a masterplan devised in the late 1990s and an outline planning permission granted in 2000. The campus has been built out in phases with the buildings surrounding Sheldon Square forming the first phase; and then the buildings along Kingdom Street (2, 3 & 4 Kingdom Street and Novotel) following as a second phase. The site at the western end of Kingdom Street, which would be where no.5 Kingdom Street would stand, has yet to be fully developed. A reserved matters application (09/08353/RESMAT), relating to the outline permission of 2000, was granted in January 2010 and this approved the detailed design and external appearance of 4 and 5 Kingdom Street. With further approved amendments, no.4 has been completed while the building approved in January 2010 for the site of no.5 has not, but can be in perpetuity as the permission has been implemented.

In terms of building height, the buildings which have been built are of a broadly consistent height, in the order of 42-45m above the height of the canal towpath. The architecture of the first phase includes relatively plain and unrelieved floor to ceiling high-iron glazing for the office blocks; while the residential blocks also feature large areas of glazing, albeit a greater degree of relief and refinement is provided by stone cladding, recessed balconies and set-backs to the higher levels. Overall this first phase has a somewhat monotone and sombre appearance, largely caused by the architecture and choice of materials. The second phase of buildings, along Kingdom Street, has introduced buildings of greater architectural interest and quality.

In terms of designated heritage assets there are a large number of listed buildings and conservation areas which are located in the surrounding area. These include the Bayswater Conservation Area, whose irregular boundary follows the southern edge of the railway lines for the most part and the area extends for some distance to the south; the Maida Vale Conservation Area lies on the north side of the A40 (Westway) and extend northwards. Conservation areas at a slightly greater distance away include the Hallfield Estate Conservation Area, the Queensway Conservation Area and the Westbourne Conservation Area, which lie to the south and west of the application site; the Paddington Green Conservation Area (to the east); and further to the south lies the Royal Parks Conservation Area which includes both Hyde Park and Kensington Gardens. In terms of higher grade listed buildings, the grade I Paddington Station lies to the south east; the grade I listed St Mary Magdalene Church is to the north-west; the grade II\* listed St Mary's Church is to the east; and the grade II\* former British Rail Maintenance Depot Blocks also lies to the east on the north side of the Westway. Within the conservation areas there are also a large number of listed

buildings, for the most these are grade II listed and in the case of Bayswater, Maida Vale and Westbourne are predominantly nineteenth century residential buildings (either terraces or villas). The grade II listed terraced houses in Westbourne Terrace Road are the closest of this nineteenth century housing, located approximately 80m to the north, on the opposite side of the Westway. The closest listed building to the site is the grade II Westbourne Bridge, which is a road bridge over the railway lines which dates from 1909 and is immediately to the west of the application site.

## 6.2 Recent Relevant History

No objections were raised on 9 January 2019 to an EIA scoping opinion under Regulation 15(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for 5 Kingdom Street, Paddington Central for a development comprising the erection of a building of ground (Kingdom Street level), mezzanine, 19 upper storeys and a roof terrace/double height plant space, with three levels below Kingdom Street for mixed use A1, A2, A3, A4, B1, D1 and D2. At levels B2 and B3, the development footprint extends eastwards under the 4 Kingdom Street, 3 Kingdom Street and 1 Kingdom Street buildings. (Ref 18/10187/EIASCO). This scoping opinion was undertaken with agreement from external consultants Waterman, who have also assessed the EIA submitted with this application.

### Previous history at 4 & 5 Kingdom Street:

Outline planning permission dated 23rd May 2000 (Ref 97/06935/OUT) granted the redevelopment of the old Paddington Goods yard for what is now know as Paddington Central:

*'Redevelopment to provide a mix of uses; namely offices, 210 residential units, local shopping and studio/ light industrial units in buildings between 7 and 13 storeys in height. Creation of new access off Bishops Bridge Road and new egress ramp, provision of basement car parking and ancillary office accommodation. New footpaths and pedestrian links including a new footbridge across the canal'*

The outline consent sets out parameters for the total quantum of office floorspace which can be provided across the Paddington Central redevelopment. Pertinent to this application, permission was subsequently granted 12 January 2010 under application referenced 09/08353/RESMAT for the development of the last two masterplan plots at No's 4&5 Kingdom Street:

*'Reserved matters approval in relation to the last two buildings at 4 and 5 Kingdom Street pursuant to Condition A.1(a),(b),(c) in part relating to the layout, siting means of vehicular and pedestrian access, parking, detailed design and external appearance and the surface treatment of any part of the site not covered by buildings or formally landscaped areas and Condition M.1 (disabled access) attached the outline planning permission dated 23 May 2000 (as amended by 09/08354/FULL), for one 13 storey office building plus plant room and one 10 storey office building plus plant room.'*

This application has been implemented through the construction and completion of the approved building at No 4 Kingdom Street (as confirmed through certificate of lawful development application referenced 11/12117/CLEUD). There is therefore an extant consent for the development of a 13 storey office building at No 5 Kingdom Street in perpetuity. This is a genuine fall-back position and therefore an important material consideration for any development proposals at this site. This permission included 25,528sqm of office floorspace.

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Current use of the site – 'Paddington Pergola':

Permission was granted on 7 March 2017 (Ref 16/12331/FULL) for a temporary two-year period for the use of the development site at 5 Kingdom Street as a meantime use as 'Pergola', a pop up bar and restaurant space. The development is set over two levels, with a bar adjacent to the entrance on Kingdom Street (podium level) and a number of food kiosks, bar and seating area under a covered roof at lower level (podium -1). A walkway has also been implemented along the northern side of the site, which provides booth seating and a pedestrian link from Kingdom Street to the Harrow Road. This approval included conditions to limit the opening hours (11pm), capacity (800 people) and an operational management plan.

Permission has subsequently been granted to allow for this use to remain for a further temporary period, most recently on 29 October 2019 (Ref 19/07081/FULL), to allow the temporary use to remain until the 23 December 2020.

## **7. THE PROPOSAL**

The proposed new building will occupy a prominent site at the western end of both Kingdom Street, but also the western extremity of the Opportunity Area. In terms of height and bulk, it will rise 85.75m (21 storeys) above Kingdom Street reaching a height of 119.22 A.O.D. Above ground floor level, the building has an irregular 6-sided plan form, creating a multi-faceted free-standing tall building. At its widest dimension the building is in excess of 70m wide.

The above ground building is almost entirely for office use, with the main entrance and lobby space at mezzanine level. From Level 1-17 the layout provides large floorplate flexible office accommodation with a large central core, which reduces in extent to the upper floors. At level 18 in addition to plant room, there is an internal office amenity space and external terrace, with the latter providing access to an upper external terrace at level 19. The façade will feature a series of full-height opening windows which would allow office tenants the ability to create winter-garden spaces; and the floor slabs would feature soft spots to enable interconnectivity between floors if required.

The lower levels of the building (mezzanine level and below) occupy a wider footprint and create a very dynamic space, which in addition to creating a public route through the base of the building, introduces a range of flexible functions and facilities, which create a new place of amenity and destination.

The mezzanine level, accessible via escalators and lifts from Kingdom Street, in addition to being the main point of entry to the office floors above, provides a new office entrance concourse, which in part shares the volume of the lower floors and gives access to a low-level terrace to the west (the roof of a 2-storey western pavilion) and an office or retail space to the east, within a 2-storey eastern pavilion.

The upper ground floor (Kingdom Street level) contains a floor of office accommodation within the base of the building which is intended as flexible workspace, but the majority of this floor level provides public accessibility through the building and connecting to the lower levels, including the Box. The lower floor of the eastern pavilion can be accessed directly from Kingdom Street and is intended to provide a retail function.

The lower ground floor (Harrow Road level) contains some back-of-house facilities (eg. cycle parking), but the greater part of this level forms the link through the building and a new public place, which includes retail spaces and an internal garden space, which is stepped and links through to the main volume space of the Box (upper Box level & lower Box level).

The Box space is a very substantial volume beneath the new building and Kingdom Street. At present it has a height of over 8m and a footprint of almost 5,000 sqm. The southern side of the Box has an open aspect that faces onto the railway tracks. The proposal fully encloses this space and assimilates it with the new building and the public realm. The proposal in part subdivides the volume into two floor levels, although retains several large voids to allow the space to feel predominantly double-height. It can be accessed via the stepped public garden and also by lifts from Kingdom Street and will feature a 250-seat auditorium and a variety of flexible and alternative uses, which have not been set with the application. The uses include, office, retail, conference, cinema, gym, Market Hall (restaurant and bar) and education and community room.

The elements referred to as eastern and western pavilions are essentially extrusions of the main buildings floorplate which are located between lower ground floor level and mezzanine level. They complement the entry points to and through the building and are treated in an architecturally distinct way from the main building.

As indicated the main building will be a large and tall free-standing structure visible in the round and as such has no front, back or sides. The plan form creates a building which is multi-faceted and each facet varies in width but by curving the facet junctions the effect is one of a continuous and cohesive façade. A concept of dynamism, reflective of the site context and the ground floor activities, is taken into the architecture and form of the building, with the façade composition sequentially offset floor-by-floor creating a twisting visual effect. The use of contrasting materials and colour to reveals and soffits accentuates and gives direction to this twisting appearance. A further dimension to this concept of dynamism is the transition from a more transparent façade with larger areas of glazing, set within a deeper but lighter veil at the base of the building, moving towards a more solid façade with denser veil at the top with a shallower reveal depth. The modular façade elements will differ from floor to floor but maintain a consistent detail and materiality. In terms of materials, in addition to the glazing, the outer 'veil' will be faced in extruded terracotta panels, which are proposed to have a warm earthy colour tone, these will feature a white coloured aluminium cladding to the soffit and the angled reveal. A contrasting darker (grey) aluminium back cladding will frame the glazing.

Definition to the base and top of the building is also provided in the architecture and choice of materials. At the top of the building, the main façade design is extruded to enclose the plant rooms and rooftop terraces but is expressed as a double-height module to create a terminating crown. Meanwhile at the base of the building in addition to the pavilion buildings which have their own distinct form and appearance and aid distinguishing the entry and exit points through the building; the lower two levels of the building, notably the south-facing façade to the Box is clad in a dark greyish blue engineering brick, complementing its more industrial trackside context. Large double-height glazed apertures are set within the brick frame and provide large areas of natural lighting to flood into the Box space. The facades which enclose the lower levels including the pavilions, the public garden and through route are predominantly glazed to create an open and light environment to these spaces.

The development will also feature new external landscape areas, all of which will be publicly accessible (to lower levels) and will include a refreshed western end to Kingdom Street which will now have a greater sense of a courtyard space and will feature hard and soft landscaping, including 3 large lightwells which will throw further natural light down into the Box. The 'west link' will aim to animate and significantly enhance the character and appearance of the space to the west of the new building, which will form the western extension of the public route through the site. Part of this area will be beneath the Westway and the proposals include new hard and soft landscaping, as well as public art and wayfinding lighting. Finally, the 'Box Yard' will be an external spill-out space between the enclosed Box and the railway lines and will optimise the amenity value of the Box and complement the activities within. This space would still serve as a vehicle circulation and servicing route around the base of the building and so would be a predominantly hard-landscaped area, but with the qualities of a shared space.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

Policy S3 within the City Plan relates to the Paddington Opportunity Area, which this site is located within. It welcomes the 'provision of a range and mix of uses across the Opportunity Area including'... 'other uses to support the economic and social regeneration of the area, including retail, social and community facilities, entertainment and arts/cultural uses. Where appropriate, other town centre uses should provide active frontages at ground floor level.'

Policy S12 of the City Plan states that development should contribute to increasing economic activity within the area, or provide local services or improving the quality and tenure mix of housing.

Policy S18 relates to Commercial Development within Westminster which states that it will be encouraged and directed to areas such as the Paddington Opportunity Area in order to help meet its target additional floorspace and jobs.

City Plan Policy S29 for inclusive local economy and employment seeks to ensure that development provides employment, training and skills development for local residents.

As the proposals will result in a range and mix of uses the proposals in general terms are considered to meet the above referenced policies. The proposed uses are examined further below. Table sets out the proposed fixed and flexible floorspace figures at the different levels across the development site.

**Table 1: Land Use Figures (GIA sqm)**

| Use                       | Location   | Proposed |
|---------------------------|--|----------|
| Office (B1(a))            | Lower Ground Floor Level, Ground Floor Level, mezzanine & Level 1-18 | 47,694   |
| Flexible Retail (A1 & A3) | Ground floor   | 318      |

|  |  |   |
|--|--|---|
| Flexible retail/office uses (A1, A3, B1(a))  | Lower Ground Floor Level, Ground Floor Level & mezzanine | 575   |
| Internal public garden including ancillary café/bar (sui generis)  | Upper Box and Lower Ground floor level                   | 1,506   |
| Flexible commercial/leisure/cultural uses:<br>- Restaurant (A3);<br>- Market hall (sui generis)<br>- Office (B1(a));<br>- Research and development (B1(b));<br>- Conference / exhibition space (D1);<br>- Cinema (D2); and<br>- Gym / sports (D2). | Lower and Upper Box Levels                               | 7,866<br>The maximum proportion of the total floorspace that could be provided by each use is as follows:<br>- Restaurant (A3) / Market hall (sui generis): combined, will make up no more than 50% of total area (3,933);<br>- Office (B1(a)) / R&D (B1(b)): combined will make up no more than 50% of total area (3,933);<br>- Conference / exhibition space (D1): will make up no more than 50% of total area (3,933);<br>- Cinema (D2): will make up no more than 25% of total area (1,966.5);<br>- Gym / sports (D2): will make up no more than 25% of total area (1,966.5). |
| Auditorium (sui generis)   | Lower and Upper Box Levels                               | 730   |
| Education and Community Space (D1)   | Lower and Upper Box Levels                               | 150   |
| Mix use ancillary / back of house space  | Lower and Upper Box Levels                               | 5,580   |
| <b>Total</b>   |  | <b>64,419</b>   |

### 8.1.1 Office accommodation

Policy S20 directs new office and other B1 floorspace to Westminster's Opportunity Areas, such as Paddington. It also states that where appropriate, a range of business floorspace including workshops and studios will be requested.

The proposals include the provision of 47,694sqm of fixed office accommodation on the upper floors of the building. On the lower levels the amount of floorspace is not fixed, with a multitude of uses proposed, however a maximum of 4508sqm (made up of 3933sqm within the box and 575sqm at lower levels of the main building) is proposed.

Within the box, 50% of the total area could be used as B1a (Office) or B1b (research and development) floorspace. 1,500sqm of flexible workspace is proposed, based on British Lands flexible office platform 'storey', which is likely to be located on the lower levels.

The development equates to an uplift of 26,674sqm above what has been approved by the extant consent (25,528sqm). Given the location of the site within the Paddington Opportunity Area and the North Westminster Economic Development Area, the office accommodation (B1(a) and B1(b)) is considered acceptable and is supported by policies S1, S3, S12, S18, S20 of our City Plan, the London Plan and the economic objectives of the NPPF.

### **8.1.2 Affordable Workspace:**

While Westminster does not currently have any adopted policies which require the provision of affordable workspace, emerging policy 14 of the City Plan 2019-2040 shows the Council's direction in supporting developments which provide such floorspace stating that "Proposals involving the provision of affordable workspace will generally be supported throughout the commercial areas of the city."

Through the course of this application, British Land have worked with Westminster's Economy Team to start to define what could be included within the S106 agreement. This includes mechanisms such as ensuring that the workspace is fitted out to a suitable level, provided to the end user at 50% the market rate, provided in perpetuity, subject to rent reviews, and subject to a plan/strategy which could be updated to optimise the affordable workspace in the future.

The proposed 1,400sqm of affordable workspace is welcomed and supported by Westminster's Economy Team and would be secured via a S106 legal agreement.

### **8.1.3 Affordable Housing**

Policy S1 (Mixed Use in the Central Activities Zone) of the City Plan requires development within Core CAZ, the Named Streets, and Opportunity Areas, which includes net additional B1 office floorspace to provide residential floorspace or an equivalent payment in lieu will be provided, equivalent to the net additional B1 floorspace less 30% of the existing building floorspace. The residential floorspace will be provided in accordance with the below cascade:

- I. The residential floorspace will be provided on-site or in the immediate vicinity of the site.
- II. The residential floorspace will be provided off-site, including by mixed use credits (Policy CM47.2), on a site in the vicinity of the development site, or in the case of Victoria and Paddington Opportunity Areas, within that Opportunity Area.
- III. The residential floorspace will be provided off-site, including by mixed use credits (Policy CM47.2) elsewhere within the CAZ. This part of the cascade does not apply to Victoria and Paddington Opportunity Areas. The housing provided must be of a higher quality than would be possible under i. or ii. above.
- IV. Payment of an appropriate payment in lieu to the Affordable Housing Fund equivalent to the net additional B1 office floorspace less 30% of the existing building floorspace.

No affordable housing is proposed on site or in the vicinity. A policy compliant quantum of residential floorspace would be 7,658sqm (30% of the uplift in office floorspace) of which 1,915sqm should be affordable (25%).

The applicant does not consider the proposed site to be suitable for housing given its location bounded by the Westway and the railway lines. Their acoustic consultant notes that given the loud location, extremely high performance noise mitigation measures would be required, over and above the highest acoustic performance of the proposed commercial facades, which

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would not meet Westminster's standard internal noise requirements for residential use. They also note that the provision of affordable housing on site would reduce the efficiency of the building.

They have further commented that there are no opportunities to provide residential floorspace off site within Paddington Central which is owned by the applicant, British Land, with the estate currently 99% occupied. Leases structures mean that redevelopment/ changes of use would not be feasible. Outside of the applicants ownership, CBRE have undertaken a site search to identify potential opportunities for residential development within the vicinity of the site. While the search identified sites, these were not considered practical.

The proposed development would trigger the requirement of £33,142,923.10 towards the affordable housing fund.

The application has been accompanied by a viability report prepared by DS2. Having undertaken the cascade above they do not consider that the proposals are viable to provide affordable housing on-site, in the vicinity or a payment in lieu. While DS2 do not consider that any payment is viable, British Land originally offered an ex-gratia payment of £1million towards the affordable housing fund, which could be secured by S106 legal agreement.

The Council has had the applicant viability reports independently assessed by Lambert Smith Hampton (LSH), who have confirmed that they do not consider that affordable housing could be provided on site. The view is shared by officers, given the location. British Land have also confirmed that they have no suitable buildings to provide affordable housing within the vicinity. The last step of the cascade is for the provision of a payment in lieu to the council's affordable housing fund.

There has been disagreement between the consultants in terms of what a viable payment towards the councils affordable housing fund, largely due to information regarding the consented scheme, the Crossrail Box and construction costs. Further information has subsequently been provided. LSH consider that a payment of £1,750,696 would be viable, which has been accepted by the applicant.

#### **8.1.4 Retail (A1, A3, A4 and Sui Generis)**

Paddington Central has been changing in terms of its character over the recent years, from that of how the complex was originally conceived. The number of restaurants and cafes at the ground floor level has been increasing following the granting of several planning consents across the estate. This has been as a result of feedback provided to British Land in relation to what occupiers of the largely commercial estate would like to see improved, namely the provision of additional food and beverage retailers. The most recent have been at the adjacent buildings, 2 and 4 Kingdom Street, whereby the ground floors have been split so to form cafes and restaurants in place of the previous office floorspace. This has had a welcome effect to Kingdom Street, providing some additional vitality and activity at ground floor level. Given the relatively closed nature of the development, these units largely just serve the existing occupiers of the estate.

The mix of uses within The Box and lower levels has not been set as part of this application. The applicant has however put forward maximum floorspace figures for the proposed uses as indicated within Table 1. One of the proposed uses is a 'Market Hall' mixed retail, restaurant and bar 'Sui Generis' use. This is proposed to provide a food market, similar to the existing

meantime Pergola use on the site, which provides bars and food kiosks, with communal dining space, however at a larger scale.

The proposals could include the provision of restaurant (A3) and market hall (sui generis) floorspace of up to 3,958 sqm within the Box. In addition, these proposals entail the potential provision of retail (A1) or restaurant (A3) floorspace at lower ground, ground and mezzanine levels, comprising a minimum of 318sqm (at ground level) and maximum of 893sqm (across all those levels). Furthermore, a small café/bar (effectively a mixed A3/A4 use), that will form part of the public garden, is also included. This would therefore equate to a maximum of 4851sqm of restaurant and Sui Generis floorspace.

The London Plan CAZ SPG sets out that large scale retail development (greater than 2,500sqm) should generally be focused on the International centres, London Plan CAZ Frontages and other locations as defined in the local plan. While the site is with the CAZ, it is not within one of the areas where retail growth is directed.

The NPPF sets out in paragraph 89 that *“When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:*

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).”*

UDP Policy SS11 (Superstores, Supermarkets and other major retail developments) states that “planning permission for major retail developments will be granted within: an established shopping area in the CAZ, a District Centre, a larger Local Centre, or in or adjoining main rail termini, if the proposal would not cause harm to the vitality and viability of shopping areas or centres in the catchment area of the development”. The policy application states that in cases of large A3 developments, policy TACE 10 will take precedence. As The Box is not proposed for A1 retail, its use will be considered below.

Policy S21 of the City Plan states that new retail floorspace will be directed to the designated Shopping Centres.

The proposals put forward a minimum of 318sqm of A1 floorspace and maximum of 893sqm, which could be spread over the lower levels of the main building. No dedicated A1 floorspace is proposed within The Box. From the floorplans submitted with the application, the A1 floorspace is likely to be coffee and sandwich type shops to serve the office workers within the development rather than more traditional shops such as convenience stores.

The applicant has submitted a Town Centre Impact Assessment, which looks at Investment and the impact on town centre vitality and viability in accordance with the NPPF. In relation to part (a) (see above), the report confirms that given the proposed type of development which is largely food and beverage based, with the large food market proposal, will have no impact on planned investment of nearby town centres. Further to part (b) the report noted that the following centres are within 15 minute walk:

- Queensway/Westbourne Grove – Major Town Centre
- Praed Street – District Town Centre
- Church Street/Edgware Road – District Town Centre
- Craven Terrace – Local Centre
- Leinster Terrace – Local Centre
- Porchester Road – Local Centre
- Clifton Road – Local Centre

The main conclusions of the report are that the local centres are in good health and unlikely to be vulnerable to trade diversion from their existing restaurants. They conclude that the proposed development would not cause undue harm on these centres due to the nature of the proposals, which would likely either serve office occupiers within the Paddington Campus or draw people from further afield as a point of destination (for the uses within The Box) rather than taking trade from existing adjacent shopping centres. It also notes that the development, through opening the route to the Harrow road, may improve turnover at adjacent businesses, such as along the canal.

As previously noted, permission has been granted for a number of other ground floor uses along Kingdom Street, to help meet the demand for commercial occupiers within the estate. The proposals maximum A1 floorspace is considered to be comparable and reasonable to help ensure that the ground floors of the development are activated. Given what is likely to be provided, namely food and beverage shops, it is not considered that they would cause undue harm to the adjacent local centres. In relation to the large amount of floorspace within the box, it is also agreed that this is unlikely to have a demonstrable impact on the vitality of local shopping centres, this is due to the nature of the proposal being a 'destination' use rather than an operator which would impact on more standard convenience style occupiers on the Highstreet and given the it 'Sui Generis' use, rather than a standard retail or shopping centre style offer. This has in part been demonstrated by the Pergola meantime use on the site, whereby people are most likely to either come from further afield or from within Paddington Central to use the facility. In terms of the impacts on the shopping centres within the vicinity, the proposed 'retail' uses are therefore considered acceptable. The impact of the uses on the environmental quality of the area are discussed below.

#### **8.1.5 Retail A3/A4/Sui Generis**

The proposals have the potential to provide 4851sqm of restaurant and Sui Generis 'Market Hall' floorspace across the development, however the main area proposed is within The Box, with a potential maximum 3,933sqm for the 'Market Hall.

Any new entertainment uses over 500sqm must be assessed against Policy TACE 10 which states that such uses are only permissible in 'exceptional circumstances'. Policy S24 within Westminster's City Plan is also relevant and states that new large scale, late night entertainment uses of over 500m<sup>2</sup> will not generally be appropriate within Westminster. The UDP includes a schedule of what exceptional circumstances may constitute:

- a) a general reduction in adverse effects on residential amenity and local environmental quality when compared with the existing activity on the site;
- b) the retention of a use which has a long-standing association with the area, or makes a major contribution to its character or function;
- c) the retention of a valued Central London activity which is of national or

- international importance;
- d) proposals which are shown to be necessary to improve health and safety standards, or access for disabled people;
  - e) the provision of restaurants and cafés on the second floor and above in Oxford Street, Regent Street and Piccadilly;
  - f) in the Paddington and the North West Westminster Special Policy Area, the achievement of regeneration benefits.

Part (f) is relevant given the location of the site within the Paddington Opportunity Area. The question is therefore do the proposals achieve 'regeneration benefits'? While the redevelopment of the site at No. 5 is not considered to be regeneration in itself, given that it forms part of the original masterplan for Paddington Central and has an extant consent, the use of the Crossrail box is a windfall considerable opportunity, allowing for large scale and interesting uses to be explored. The site both benefits and is restricted by its land locked location between the rail and road infrastructure, which means that its direct impacts are limited. It is therefore considered that the use of the box does provide some 'regeneration' benefits in accordance with part (f). The developments main impacts are in relation to its operation and management, which Policy TACE 10 seeks to protect.

It must be also be noted that Policy TACE 10 was adopted prior to the publication of the National Planning Policy Framework (NPPF). Although the policy still holds weight as a saved policy, the NPPF has impacted on the assessment of larger entertainment uses because it is no longer sufficient for the City Council to argue that a use would not satisfy any of the policy criteria.

Permission was refused on 10 July 2012 for an extension to a new restaurant at 34 Grosvenor Square as it was contrary to Policies TACE 10 and the then draft Policy CS23 of the Core Strategy (now adopted policy S24 of the City Plan). The decision was appealed (Ref APP/A/12/2183693). The Inspector determined to grant permission as it was not considered that the proposed use would result in material harm to the living conditions of adjacent occupiers. He concluded that the absence of proven harm qualified as an exceptional circumstance.

It is also important to note that a meantime use has been in place on the site since 2017, Paddington Pergola. This is a mixed use restaurant and bar offering of around 1500sqm across two levels. While smaller than the proposed Market Hall, it is similar in terms of its operation with a range of small kiosks where you order food around communal central seating area. The permission for this use included conditions to secure an Operational Management Plan. This has been updated when the temporary permission has been renewed. This has proven successful, to allow for alterations to be made where issues have arisen, such as revising the taxi arrangements, opening times and management of people coming and going to the site. The applications generated little objection from residents, however concerns were raised by some residents within Sheldon Square as a result of disturbance from people coming and going to the site from Paddington.

Such decisions are material considerations and the Council must therefore identify the specific harm that would be caused if it were to refuse an application and explain why it would be contrary to sustainable development objectives, namely economic, environmental and social terms.

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In economic terms the proposed use would generate a considerable quantum of new jobs which would be welcomed.

In environmental terms the building will have ventilation ducting venting at roof level (discussed below). Dedicated servicing and waste facilities are provided (discussed in Section 8.4) and there is no reason to presume that, with suitable management procedures in place, the new use would result in littering or pollution of the public realm.

It is accepted that there would be a degree of impact on the social realm. A3 / A4 and Sui Generis uses are likely to result in some increased vehicle movements from deliveries in the morning and increased pedestrian movements in the evening. Unless the additional movements would result in 'significant adverse impacts on health and quality of life' as set out in paragraph 123 of the NPPF, it is not considered that the proposed uses would result in significant social harm that would be contrary to the overarching principle of the NPPF to promote sustainable development.

The site is set away from residential occupiers, however residential properties are affected from people coming and going to the site, particularly as the proposals include the creation of a new link to the Harrow Road to the West. This is likely to generate additional traffic to Royal Oak station, to the west.

One objection has been received from a resident within Sheldon Square, the residential blocks at the eastern end of Paddington Central. They raise issues with the existing meantime Pergola use, including anti-social behaviour and disruption from taxis. The proposals will vary from the existing meantime use in that it will better open the Harrow Road access to the site, meaning that patrols can use both Royal Oak and Paddington public transport options, which will help disperse patrons. In addition, a dedicated taxi rank is proposed within the development itself which can be accessed directly from within The Box. This would have the welcome effect of removing people passing the two residential blocks and using taxis at the Bishops Bridge Road end of the site.

The proposals could however result in large amounts of people leaving the site at the end of the day, with the Market Hall having a maximum capacity of 1,979 people and would therefore require careful management. An Operational Management Plan has been submitted with the application, however as the occupiers and mix of uses is not currently set, this is only a draft document. It does however note that there is existing management, Security and CCTV and that the proposals could be controlled in terms of noise, taxis and servicing from the proposed dedicated off-street areas within the development site.

With the Pergola application, a condition was attached which required the submission of a review of the Operation Management Plan following a season (the winter season) of being open. This has the benefit of allowing the Plan to be updated to reflect issues which had arisen as a result of the development.

#### **8.1.6 D1 (conference centre) and D2 Uses (gym and cinema)**

Saved UDP Policy PSPA 4 relates to new conference facilities within the Paddington Special Policy Area. It states that such uses will only be acceptable if they do not prejudice other preferred uses as set out within deleted policy PSPA2 (which has since been superseded by City Plan Policy S3). Policy S3 relates to the Paddington Opportunity Area and seeks to promote the provision of homes and jobs. Given that the development includes a mix of uses,

it is considered that the provision of conference centre which occupies part (maximum of 50%) of the space is acceptable, particularly given that there are few such spaces within Westminster, which could provide such floorspace.

Concerns have been received in relation to the proposed gym use, who note that there are several other gyms within the vicinity. While these comments are noted, the provision of a gym within part of the box is considered acceptable. Similarly, the provision of a cinema, would also help to bring a new use to this part of Westminster, which would be in accordance with policies for the CAZ and opportunity area. Alike with the Market Hall, suitable conditions would be required in relation to the management of these uses including capacities, open hours and how people coming and going would be suitably managed.

### **8.1.7 Auditorium (Sui Generis)**

It is proposed to provide a 250 seat auditorium, with a floorspace of 750sqm within the box. As part of the benefits package for this development it would also be secured that this facility was available for free community use for 4 sessions per month, with each session comprising of either a morning, afternoon or evening slot.

The provision of an auditorium in this location is welcomed. It will help to provide a new flexible event space to this part of the city. Located to the northern side of the floorplate is suitable given that this part of the development is likely to be dark, and such a use does not require the benefit of natural light. The space can be flexible in terms of its operation, used by companies for presentations, for plays by either private companies or the community (through application) or by local groups in need of a large space. The operation and management of this space would need to be secured by condition and through S106, to ensure that the 4 sessions were provided and how these would be promoted to the community to ensure that it was used.

Alike with the other uses, an Operational Management Plan would be required to demonstrate how this use would be managed to limit its impact on the local environment, particularly given that such a use, would likely result in a single output of people, when an event finished.

### **8.1.8 Social and Community facilities**

Given the location, scale and nature of the proposed development, new social and community facilities are encouraged under policies SOC1, SOC2 and SOC8 of our UDP and S34 of our City Plan to support the economic and social regeneration of the area. 150sqm of community and education space, which would be open to local community groups to book for free are provided. The applicant notes that such a space would be able to accommodate around 50 people, for community meetings. While compared to the scale of the development as a whole, this is a small amount of floorspace, this space is welcomed, and it is understood would be managed by existing staff within the development at Paddington Central. This facility would be secured through S106 legal agreement.

### **8.1.9 Land use conclusion:**

This site is unique and does not satisfactorily sit within the standard policy context. It provides a unique opportunity with the Crossrail Box, for providing a range of uses as well as a large quantum of office floorspace. Policy S3 explicitly states that it seeks to provide a range and mix of uses across the Opportunity Area. A challenge with this application is that the uses within the Crossrail Box have not been set, however it is considered that conditions could be applied for further information to be provided in relation to what uses are proposed within these areas once this has been market tested in accordance with the proposed flexible uses.

The acceptability of many of the uses within the Crossrail box is reliant on the submission of an Operation Management Plan, which suitably confirms how people arriving, departing and within the site will be managed to mitigate issues such as noise and anti-social behaviour. This will be particularly important for uses which will result in large volumes of people leaving or leaving at one time, such as the Market Hall, conference or cinema. Alike with the Pergola application, such details could be secured so that they can be updated after a period of time to ensure that any issues are picked up and addresses.

Given the particular circumstances of this case and the opportunities to provide a range of uses within the box, it is considered that the negative impact as a result of people coming and going can be suitable mitigated by condition.

## **8.2 Townscape and Design**

### **8.2.1 Legislation and Policy**

The relevant legislation, policy and guidance which applies to a proposal of this nature is extensive and a detailed description has been provided within the applicant's Planning Statement and Environmental Statement (notably the Townscape, Heritage & Visual Impact Assessment), but it is considered worthwhile to re-state some of the key legislative requirements; and some of the key policies and guidance, which relate to design, townscape impacts and heritage protection:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 indicates that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

In terms of the NPPF the key considerations are addressed in Chapters 12 and 16 with paragraphs 193-202 specifically addressing the consideration of potential impacts on the historic environment.

Policy S3 of our current City Plan relates to the Paddington Opportunity Area and paragraph 3.14 of this policy states:

"Evidence indicates that there is very limited potential for the location of tall buildings within the Opportunity Area. The Opportunity Area has scope for the development of medium height large floorplate buildings in keeping with the larger buildings in the surrounding townscape. Permission has been granted for one significantly higher tall building of exceptional quality on Harrow Road between North Wharf Road and Harbet Road to act as a landmark for the Opportunity Area."

(ii – The High Building Study 2000)

The Reasoned Justification to the policy states:

"The redevelopment of sites in the Paddington Opportunity Area has established a general height and scale for new buildings reflecting that of the higher buildings in the surrounding area. The location identified for the tall building set out in the policy allows for the creation of a landmark building but without harm to the character of the surrounding townscape."

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This policy also seeks to provide: a range of office floor space; other uses to support the economic and social regeneration of the area; public transport and interchange improvements; public realm improvements; and new public open space.

City Plan Policy S18 states that new commercial uses must be appropriate in terms of scale.

Policies S11, S25, S26, S28 and S37 of our adopted City Plan are strategic policies which recognise the importance of Westminster's historic townscape (including Royal Parks and Blue Ribbon Network) and the need to conserve it, protecting strategic, metropolitan and local views and requiring exemplary standards of sustainable and inclusive urban design and architecture.

Policy DES1 of our UDP sets out principles of urban design and conservation to ensure the highest quality in the form and quality of new developments in order to preserve or enhance the townscape of Westminster.

DES 3 of the UDP relates to High Buildings and seeks to protect and enhance Westminster's townscape, historic character and skyline.

DES 4 of the UDP sets out criteria to ensure the highest quality of new development in order to preserve or enhance Westminster's townscape. The policy sets out considerations whereby new infill developments must have due regard to the prevailing character and quality of the surrounding townscape, particularly in conservation areas and conforms to or reflects urban design characteristics such as building lines, storey heights, massing, roof profiles and silhouettes of adjoining buildings, distinctive forms or architectural detailing prevalent in the local area, existence of set piece or significant building groups.

Policy DES 7 of the UDP seeks to ensure the highest standards of design in all townscape details, including encouraging the provision of public artwork for suitable schemes of redevelopment.

Policy DES 9 of the UDP aims to preserve or enhance the character or appearance of conservation areas and their settings.

Policy DES 10 of the UDP seeks to ensure that planning permission is not granted for proposals which have an adverse impact on the setting of listed buildings.

Policy DES 12 of our UDP seeks to protect the integrity and appearance of Parks, Gardens and Squares. This includes protecting existing views out from parks.

Policy DES 13 of our UDP seeks to enhance and improve access to, and the amenity of, the Grand Union and Regent's Canals.

Finally, policy DES 15 seeks to protect Metropolitan and Local Views, and indicates that permission will not be granted for developments which would have an adverse impact upon important views of listed buildings, landmark buildings, important groups of buildings, monuments and statues, parks, squares and gardens, the Grand Union and Regent's Canal and the River Thames.

## **8.2.2 Impact of the Development on Townscape and Heritage Assets**

The proposed height, bulk and design of the new building will mean that it will be a significant intervention into the townscape, which will be appreciable both in the immediate vicinity and from further afield. In many cases it will be visible from within conservation areas and within the context of listed buildings. A 'Townscape, Heritage and Visual Impact Assessment' has been undertaken as part of the application, which has considered the visual impact of the building from 38 verified views (rendered or wireline) and a further 15 modelled views, including kinetic sequences from the Round Pond and from the Serpentine Bridge.

An important consideration is that there is a consented and implementable scheme for the application site, which is essentially a fall-back position and the views assessment has also demonstrated the visual impact of the consented building with a series of wireline verified views.

A further consideration is that the site lies within the Paddington Opportunity Area and in the vicinity of other development sites, many of which have permission for relatively large and tall buildings and in some cases these approved buildings are currently under construction. These consented schemes are also included in the views assessment and are included on page 27 of the applicant's Design and Access Statement.

In the context of the Paddington Opportunity Area and the consented schemes referred to above, the current proposal would in terms of its height be at the upper end of the large floorplate medium height buildings, however, its location at the extreme western end of the opportunity area, allied to its height and bulk bring about specific townscape impacts.

In terms of the wider townscape, the height and bulk of the proposed new building will mean that it will be visible from a wide range of vantage points including from within nearby conservation areas and will be visible in the setting of a large number of listed buildings. In terms of Strategic Views the new building would be visible at the extreme right of the London Panorama from Primrose Hill (LVMF View 4A.2), well away from the focus of the view towards the Palace of Westminster and in summer time is obscured by trees. In winter it will not markedly change the skyline and does not have an adverse impact on this strategic view.

In terms of the impact upon the Royal Parks, an assessment has been made of views from within Hyde Park, Kensington Gardens and Regent's Park, which are all grade I parks on Historic England's Register of Parks and Gardens and are also conservation areas. The views assessed indicate that from Regent's Park the development will not project above the tree-line or where it does it will not be to a greater extent than existing and consented buildings in the same view. However, from both Hyde Park and Kensington Gardens the impact of the proposal is greater. One of the more sensitive views which is affected by the new building will be from the Serpentine Bridge (Views 5, 5.1 and 5.2), where it will rise above the tree line and prominently terminate the view across the Long Water. Objections to the scheme have included reference to the impact on this view and Historic England have made specific reference to it in their response. Their comments include the following:

"The Grade II listed Serpentine Bridge, constructed 1825-8 by George Rennie, stands at the point where the Serpentine (originally formed 1731) joins the Long Water (created from earlier bodies of water in 1727). Views 5, 2.1 [sic] and 5.2 are taken from the bridge looking north towards the Italian Garden (1860, Grade II) at the termination of the Long Water. Many of the existing buildings gathered around the treeline at the edge of the park are Grade II listed.

Given the layers of exceptionally significant landscape history found in this view it should be treated as sensitive to change.

There are existing tall buildings in this view, and consented schemes if completed will add to the changing skyline. None of the existing tall buildings serve to preserve, enhance, or better reveal the significance of the heritage assets which make up the focus of the view. In our assessment these existing and consented impacts cause some harm to the setting of Kensington Gardens and it would not be beneficial to extend that harm any further.”

Historic England conclude by identifying an impact of less than substantial harm and encouraging a reduction in height so that it is closer in height to the earlier consented scheme. The view from the Serpentine Bridge, particularly in summer, when the trees are all in leaf, provides an exceptional example of the grand scale landscape gardening that was particularly fashionable in the eighteenth century and was created by perhaps the foremost garden designer of his age – Charles Bridgeman. While the view is by no means unadulterated by modern development and it would be wrong to regard the view as a surviving bucolic illusion, nevertheless for the most part the later and taller buildings that are visible, tend to be within the tree line or off to the side of the view. What makes the impact on the view of the current development particularly significant is that the building is positioned almost directly on axis with the alignment of the Long Water, thus very much introducing a prominent terminating point, which harmful erodes the surviving aesthetic landscape concept. The consented scheme can also be seen in this view, but as a lower building it sits at approximately the tree top height rather than projecting prominently above it. Thus the impact of the development from this viewpoint is harmful (less than substantial harm in the context of the NPPF), and given the very high heritage significance of the park, this harmful impact is significant.

The other important view from Kensington Gardens to note is from near the Round Pond (especially View 4). As with the view from the Serpentine Bridge, the new development will be seen above the tree line in this view, albeit not to the same extent or as prominently, nevertheless it neither preserves or enhances the view and the setting and as such results in harm, again at the level of less than substantial. The consented scheme would sit below the tree line and in summer would probably not be visible at all in this view.

Kensington Gardens and Hyde Park jointly form the Royal Parks Conservation Area and in addition to the views from here and Regent’s Park, views from within five other conservation areas have also been assessed, namely Bayswater, Maida Vale, Paddington Green and Westbourne. The fifth conservation area is the Pembridge Conservation Area which is in the Royal Borough of Kensington & Chelsea. Of these the impact from the Paddington Green Conservation Area (View A13) is negligible because the density of trees provides a considerable screen, but even in winter the townscape relationship between the conservation area and the Paddington Opportunity Area is already one where large scale buildings feature in the backdrop to the conservation area in views looking south and west and in this context the proposed new building would complement this townscape juxtaposition.

It is from viewpoints within the Bayswater Conservation Area, the Maida Vale Conservation Area and the Westbourne Conservation Area where the new building will most prominently appear. Views 11-31, A8, A10, A11 and A12 are all from within these conservation areas and while they vary in terms of the level of impact, for the most part they demonstrate that the new building will appear as a large and tall element of very contemporary design in the background of the lower-scale, predominantly nineteenth century residential townscape. In some

instances, the impact is negligible eg. Views 15, 22 and 23 where the building is either largely hidden from view due to road alignments, foreground buildings and trees, or is largely appreciated within the contemporary context of Paddington Central. However, in other views it has a significant impact on the view and on the setting of the conservation area. Examples of the latter circumstance include View 14 which is taken from Warrington Crescent, within the Maida Vale Conservation Area, and shows the listed stucco nineteenth century buildings lining the street and the view is terminated by the spire of St Saviour's Church, which although a twentieth century building, nevertheless provides an attractive focal point to this view and the spire is undoubtedly a local landmark. The proposed new building would rise very prominently and directly behind the spire, compromising its skyline silhouette but also introducing a strikingly discordant townscape element in contrast with the conservation area. It is the case that the larger modern buildings of the opportunity area have a visual relationship with the Maida Vale Conservation Area and already affect its setting from certain vantage points and that the consented building for this site would also be visible in this view, however, the scale of the current proposal harmfully asserts itself within a view such as this and has a greater and more harmful impact on the setting of the conservation area than the existing Paddington Central buildings and the consented building for the site. The harm to the setting of these conservation areas is in the category of less than substantial, but the harm is nevertheless significant and is widespread.

In respect to the Pembridge Conservation Area, the site is at some considerable distance (between 1.2 – 1.5km) and because of the pattern of streets, the new building will not be seen from many vantage points, although where the street pattern aligns there are some long distance views where the new building will appear. Because of the distance and the presence of street trees, the impact on these views will be relatively minor.

Within the conservation areas referred to and in the vicinity of the site there are also a large number of listed buildings. The majority of these are residential buildings of nineteenth century date, either in the form of terraces or villas and are grade II listed. There are other listed buildings of a non-residential character and notable amongst these, in terms of proximity to the application site, are the grade I listed Paddington Station and grade I listed Church of St Mary Magdalene; the grade II\* listed former British Rail Maintenance Depot Blocks and II\* listed St Mary's Church; and the grade II listed Westbourne Bridge.

The proposal is not considered to have a harmful impact upon the setting of the nearby grade I listed buildings; and in the case of the grade II\* listed buildings, while there is a visual inter-relationship, the larger scale, modern buildings of the Paddington Opportunity Area already forms part of the setting to these buildings, and as such the new building would not significantly alter the existing townscape relationship (eg. View 21).

With respect to the listed terraces and villas, the impact of the new development is much the same as that to the setting of the Maida Vale and Bayswater Conservation Areas. Where the alignment of streets or proximity of buildings allows a view of the proposed new building in the backdrop of these listed buildings such as in Views 14 or 24, it will introduce a strikingly discordant townscape element, primarily by virtue of its height and bulk, in contrast with the domestic scale and Victorian townscape character of these listed terraces. That said, the setting of some of these listed buildings is already affected by the buildings of the Opportunity Area and would be affected by the consented scheme. A good example of this is View 24 where the grade II listed terraced houses of Westbourne Terrace Road form the foreground and the modern buildings of the Opportunity Area and the consented scheme rise behind the

terrace in this view. Indeed, the post-war Westway at the southern end of this terrace further emphasises that the setting to these buildings has been dramatically altered with modern development of differing scale and design now forming part of its setting. However, these elements are not regarded as having a positive impact on the setting and the proposed new building does not maintain the anachronistic and incongruous relationship but exacerbates it. Thus, the impact on the setting of some of these grade II listed buildings is harmful and in the category of less than substantial.

The closest listed building to the proposed development is the grade II listed 1909 Westbourne Bridge, which lies immediately to the west of the site and carries Westbourne Terrace over the railway tracks. Views 30 & 31 demonstrate the impact of the proposed development on the setting of this bridge and while the juxtaposition is dramatic the impact is not considered to be harmful. The bridge is already surrounded by buildings of differing ages, scale and appearance and thus the setting makes a very minimal contribution to its significance. Indeed, by improving accessibility and permeability at this western end of the application site, the proposal offers the potential for an appreciation of the bridge to be enhanced.

Another heritage receptor of note is the canal network including Little Venice and the Paddington Branch of the Grand Junction Canal and the new development will be seen in canalside vantage points such as Views 17, 19, 20, 21 & 22. For the most part the impact of larger scale buildings on the canal is not considered to be harmful given the prevailing townscape character of the canalside at this point, namely an area of recent regeneration in the form of Paddington Basin and Paddington Central, where a number of large scale modern buildings have been built, or for which permission has been granted. The challenging aspect of the current proposal is the proposed height and bulk of the proposed new building and its location at the western end of the opportunity area. View 20 is a good example of this where the new building will be seen forming the backdrop to the western side of Little Venice. While the larger and modern buildings of Paddington Central already form part of this setting and the consented scheme for the application site will also have an impact on this view, it is the strident scale and bulk of the new building, which causes harm. Rather than the new building complementing the relationship between the canal basin and the opportunity area buildings, it introduces a dramatic and harmful change in scale, at a point where the lower scale townscape to the west and north of the opportunity area lies immediately adjacent.

Within the context of the Paddington Opportunity Area and specifically the Paddington Central campus, the proposed building would clearly represent a departure from the prevailing heights and have a singular character and appearance, both in terms of its height, but also its architecture. The original masterplan for the campus, as evidenced by the consented scheme, always envisaged that the end building to the estate, then terminating Kingdom Street, would be taller than the other Kingdom Street buildings and in effect take the form of a western bookend to the estate and to the opportunity area. However, the combined height, bulk and architecture of the proposed building is introducing a new building of considerable landmark status and one which is difficult to reconcile with Policy S3. While there are buildings of comparable height, and taller, within the opportunity area, none combine this with the floorplate size proposed and most are more closely clustered toward the centre of the area.

Thus, the proposed new building will have an impact upon the wider townscape and upon the setting of heritage assets (including designated heritage assets) and from numerous vantage points this impact is harmful. While the character and scale of the opportunity area and of the consented scheme already have an impact on the townscape, this is not always a beneficial

impact and in the case of the proposed scheme, by virtue of its height and bulk and also because it is at the western extremity of the opportunity area, rather than more centrally where it would appear as a cluster amongst other large and tall buildings, it introduces a very assertive and discordant new townscape element. The level of harm caused is 'less than substantial', using the terminology of the NPPF, however, this should not be regarded as an insignificant level of harm, also it is an impact that occurs on multiple occasions.

### 8.2.3 Other Design Considerations

With respect to the layout and uses at the base of the building, a significant feature of the design and one which is entirely absent from the consented scheme is the creation of a through route to the west and large areas of publicly accessible amenity space and facilities. The creation of a route through the base of the building, transforms the 2000 outline permission and 2010 reserved matters scheme, changing Kingdom Street from being a cul-de-sac, terminating at 5 Kingdom Street, to instead being part of a road network which extends westward and significantly improves townscape permeability. The applicant's submission suggests that the development would enable almost a doubling in size of the extent of area within 5 minutes walking distance of Paddington Central, with most of this expanded area located to the north and west. This enhanced permeability includes enabling Royal Oak Station to be a more realistic option for those commuting to and from Paddington Central.

The generous scale and quality of publicly accessible amenity space within the base of the building is also a very positive aspect of the scheme and makes a significant contribution to place shaping. Also, the potential uses within the 'Crossrail box' offer the opportunity to significantly enhance the amenity value of the site and to provide a new cultural destination.

In terms of the proposed architecture, this has been a subject of many of the letters of objection, with concerns expressed about the assertive design and the colour tones of the proposed materials. The applicants indicate in their Design and Access Statement that the new building "will create a dynamic and memorable building of 'landmark' quality." In its dynamic and vibrant appearance it will reflect the activities and through route which are key components of the scheme. Again quoting from the Design and Access Statement "the proposed scheme will provide an emphatic conclusion to the Paddington Central campus opening up to the neighbourhoods of North Westminster. Conceived to be viewed from all directions, the building will act as a marker to signify the new destination and promote the improved connectivity of the area...". In many respects it could be argued that the design of the new building has met the project brief, the defined base/podium which extends to a wider footprint is successful and reflects the differing uses to the development. In terms of the detailed design of the main building, elements such as the multi-faceted plan; dynamic treatment to the facades; and the tonal variation created by the terracotta and the contrasting reveal, are all features which deliver in terms of creating a building with a landmark quality. So too the introduction of a warm coloured terracotta, as a point of difference from the cold blue/grey of much of Paddington Central has merit. It is evident that considerable attention has been paid to the building's architecture and unquestionably a dynamic and landmark quality has been the result.

However, the ambitions of the design and the landmark qualities that are the result, are not reconciled with the wider townscape impacts and therein lies the fundamental design concern with the proposal. The building is very large, both in terms of height and bulk, it has also been designed to be eye-catching and distinct and the result, not surprisingly, is the introduction of a very assertive and discordant new building, visible from long distances, sharply contrasting

with surrounding townscape and affecting the setting of numerous designated heritage assets. The architecture, were it associated with a building of more comfortable height and scale, would probably be seen in a different light, but its assertiveness allied to the scale, is unsuccessful.

#### 8.2.4 Design Conclusions

In summary, the proposal is a very challenging one in design terms in that the scheme seeks to introduce a very large floor plate building and combine this with a height considerably greater than the consented scheme. This combination is unlike almost all buildings within the opportunity area and has the added distinction of being at the westernmost extremity of the opportunity area and is thus at the immediate interface with much lower scale townscape beyond the opportunity area boundary. It is considered that the scale of the building will result in less than substantial harm to surrounding heritage assets, many of which are designated heritage assets, namely:

- Less than substantial harm to the setting of the Royal Parks Conservation Area;
- Less than substantial harm to the setting of the Bayswater Conservation Area;
- Less than substantial harm to the setting of the Maida Vale Conservation Area;
- Less than substantial harm to the setting of the Westbourne Conservation Area;
- Less than substantial harm to the setting of the grade I registered parks of Kensington Gardens & Hyde Park;
- Less than substantial harm to the setting of the Little Venice canal intersection;
- Less than substantial harm to the setting of several grade II listed buildings, including: 9-31 Porchester Square; 14-20 Westbourne Terrace Road; 21-26 Westbourne Terrace Road; villas and terraces in Blomfield Road facing Little Venice (34-44 Blomfield Road); villas on south-west side of Warwick Avenue (nos.7-31); and the terraces on either side of the southern end of Warrington Crescent (nos.1-49 and 4-36).

Unquestionably the scheme delivers public benefits and makes a significant contribution to place shaping, but the harmful impact on the wider townscape is significant. It is not evident that many of the public benefits of the scheme could not be delivered with a building of lesser visual impact and at present is it not accepted that the public benefits outweigh the harm caused to a large number of designated assets.

#### 8.3 Residential Amenity

Policy ENV 13 of the UDP and S29 of the City Plan seek to protect the amenity of neighbouring occupiers. Policies ENV5 (Air pollution), ENV6 (Noise pollution), ENV7 (Noise from plant), ENV10 (light pollution) are also relevant. Policy DES 3 (c) (4) of the UDP also specifies, amongst other things, that high buildings should minimise the effects of overshadowing, especially within predominantly residential areas.

Paragraph 9.229 in the UDP sets out how the City Council will assess the impact of development on daylight and sunlight levels received by surrounding light sensitive uses and confirms that the impact of development should be assessed using the Building Research Establishment's (BRE) Guidelines 'Site layout planning for daylight and sunlight', the most recent version of which was published in 2011.

Given that the site is currently clear, except for the single storey structures associated with the meantime use, the implemented, but not constructed, 13 storey building is a material

consideration in relation to the impact of the proposed building and uses on adjacent occupiers. Firstly the impact in terms of daylight, sunlight and overshadowing will be examined, followed by the impact in terms of sense of enclosure and privacy. The impact of the uses on the local environment has been discussed within the land use section of this report.

**8.3.1 Daylight**

**Vertical Sky Component:**

For daylight matters, VSC is the most commonly used method for calculating daylight levels. It is a measure of the amount of light reaching the outside face of a window. This method does not rely on internal calculations, which means that it is not necessary to gain access to affected properties. If the VSC is 27% or more, the Building Research Establishment (BRE) advises that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The BRE stresses that the numerical values are not intended to be prescriptive in every case and should be interpreted flexibly depending on the circumstances. This is because expectations may be different in rural or suburban situations compared to a more densely developed urban context. The guidance acknowledges that although these values should be aimed for, it may be appropriate in some locations such as in urban areas to use more realistic values. For instance, it is widely accepted that a VSC of around 15% in an urban context is not uncommon and is considered to provide an acceptable level of light.

The applicant has submitted a daylight, sunlight and overshadowing report by GIA. Three VSC results have been provided: Firstly the baseline results are the existing levels without the development in place; secondly the implemented 2010 scheme has been provided, as permission would not be required to build out this scheme and is therefore a material consideration (it should also be noted that the consented scheme has been re-assessed against current baseline conditions which the report notes have changed given the passage of time and will therefore vary from the results as reported at the time of the application in 2010); and lastly the proposed scheme has been tested.

Table 2: Shows the baseline situation for the tested adjacent residential windows. The number of windows which have failed the BRE test are shown in brackets.

|          | <b>VSC<br/>812 total</b>           | <b>NSL<br/>662 total;</b>          | <b>Sunlight<br/>280 total</b>   |
|----------|------------------------------------|------------------------------------|---------------------------------|
| baseline | 322 pass<br>490 fail<br>(40% pass) | 460 pass<br>202 fail<br>(69% pass) | 192 pass<br>88 fail<br>69% pass |

Of the 43 properties considered as sensitive receptors, a total of 812 windows serving 660 rooms were assessed for daylight and 280 rooms were assessed for sunlight. The results indicate that 167 windows will experience a VSC loss of above 20%. The affected properties are located on Gloucester Terrace, Orsett Terrace, Warwick Crescent, Blomfield Villas, Westbourne Court and Westbourne Terrace, Brewers Court (on Bishop’s Bridge Road) and Westbourne Terrace Road. Each of these will be looked at in turn.

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Table 3: Gloucester Terrace (worst affected in bold)

| Address    | Window           | VSC (existing) | VSC (proposed) | VSC (% loss proposed) | VSC (consented) | VSC (% loss consented) |
|------------|------------------|----------------|----------------|-----------------------|-----------------|------------------------|
| 172        | W1 ground        | 13.9           | 10.5           | 24.5                  | 11.9            | 14.4                   |
|            | W1 first         | 15.1           | 11.7           | 22.5                  | 13.1            | 13.2                   |
|            | W1 second        | 16.9           | 13.4           | 20.7                  | 14.9            | 11.8                   |
|            | W2 second        | 15.7           | 12.1           | 22.9                  | 13.6            | 13.4                   |
| <b>182</b> | <b>W1 ground</b> | <b>15.5</b>    | <b>11.4</b>    | <b>26.5</b>           | <b>13</b>       | <b>16.1</b>            |
|            | W1 first         | 25.5           | 20.3           | 20.4                  | 22.5            | 11.8                   |
| 184        | W1 ground        | 24.3           | 19.4           | 20.2                  | 21.5            | 11.5                   |
| 186        | W1 ground        | 22             | 16.9           | 23.2                  | 19              | 13.6                   |
| 188        | W1 ground        | 21.9           | 16.8           | 23.3                  | 19.1            | 12.8                   |
| 190        | W1 ground        | 21.6           | 16.5           | 23.6                  | 18.8            | 13.0                   |
|            | W2 first         | 21.9           | 16.6           | 24.2                  | 19              | 13.2                   |
| 192        | W1 ground        | 23.7           | 18.7           | 21.1                  | 21              | 11.4                   |
|            | W2 first         | 22.1           | 17.1           | 22.6                  | 19.4            | 12.2                   |
| 194        | W1 ground        | 22.6           | 17.9           | 20.8                  | 20.2            | 10.6                   |
|            | W2 first         | 23.7           | 18.9           | 20.3                  | 21.2            | 10.5                   |

Gloucester Terrace is located to the south west of the site on the other side of the railway and Westbourne Bridge. To the rear of the terrace (172-194) there is an existing low level garage structure which is likely to be the reason why the low level windows have lower levels of light than the windows on the upper floors, which will have a relatively open aspect over the roof of garage towards the Westbourne Bridge and the development site behind. The properties have been subdivided into flats.

The highest losses are at No 182, which records indicate is in use as one bed flats. The ground floor would appear to be a kitchen and the first floor a kitchen dinner. While the loss to the ground floor is high from 15.5 down to 11.4, this flat has its main living space to the front. The first floor flat retains good levels of light in excess of 20%.

The results indicate that the percentage additional loss when compared to the consented scheme is considerable, almost twice that of previously in some instances. However, when looking at the VSC figures, the additional impact is relatively small. For instance, for No 194, where the percentage loss does rise by 10 from a VSC of 10.5-10.6% loss to 20.3-20.7% loss, the actual additional VSC lost is only an additional 2.3 that of approved and the retained levels of light are still good in excess of 15%.

Table 4: Orsett Terrace (worst affected in bold)

| Address | Window    | VSC (existing) | VSC (proposed) | VSC (% loss proposed) | VSC (consented) | VSC (% loss consented) |
|---------|-----------|----------------|----------------|-----------------------|-----------------|------------------------|
| 8       | W1 LG     | 13.8           | 10.7           | 22.5                  | 12.1            | 12.3                   |
|         | W2 LG     | 6              | 4.4            | 26.7                  | 5.1             | 15.0                   |
|         | W1 ground | 18             | 13.2           | 26.7                  | 14.9            | 17.2                   |
|         | W2 ground | 7.7            | 5.3            | 31.2                  | 6.1             | 20.8                   |

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|-------|------------------|------------|------------|-------------|------------|-------------|
|       | W1 first         | 18.6       | 13.7       | 25.9        | 15.5       | 16.7        |
|       | W2 first         | 8.9        | 6.4        | 28.1        | 7.3        | 18.0        |
|       | W1 second        | 19.4       | 14.5       | 25.3        | 16.4       | 15.5        |
|       | W2 second        | 10.9       | 8.5        | 22          | 9.3        | 14.7        |
|       | W1 third         | 21.6       | 16.8       | 22.2        | 18.7       | 13.4        |
| 10-14 | <b>W2 ground</b> | <b>6.2</b> | <b>3.7</b> | <b>40.3</b> | <b>4.6</b> | <b>25.8</b> |
|       | W2 first         | 6.7        | 4.1        | 38.8        | 5          | 25.4        |
|       | W2 second        | 7.5        | 4.9        | 34.7        | 5.8        | 22.7        |
|       | W2 third         | 10.7       | 8.2        | 23.4        | 9.2        | 14.0        |

Orsett Terrace is located to the south of the site on the other side of Westbourne Bridge. The terrace has a similar outlook to Gloucester Terrace however they have a north western aspect. The properties noted above are similarly split into flats with records indicating that permission was granted in 1985 to provide 82 self-contained flats at 1-16 Orsett Terrace and 172 Gloucester Terrace.

Given the location of these properties directly to the south of the application site, an impact on these windows would be expected. While the losses are considerable in some instances, these windows have existing low levels of light, therefore any reduction will result in high percentage losses. Generally, the losses are comparable to those of the consented scheme. It is also worth noting that these properties are approximately 85m from the site and will maintain an open aspect out over the railway towards the Westbourne Bridge and the Westway.

Table 5: Warwick Crescent (worst affected in bold)

| Address | Window           | VSC (existing) | VSC (proposed) | VSC (% loss proposed) | VSC (consented) | VSC (% loss consented) |
|---------|------------------|----------------|----------------|-----------------------|-----------------|------------------------|
| 3-65    | W2 ground        | 8.7            | 6.5            | 25.3                  | 7.8             | 10.3                   |
|         | W6 ground        | 10.5           | 8.2            | 21.9                  | 9.5             | 9.5                    |
|         | W7 ground        | 9.8            | 7.3            | 25.5                  | 8.8             | 10.2                   |
|         | W11 ground       | 7.3            | 5.2            | 28.8                  | 6.4             | 12.3                   |
|         | W1 first         | 10.7           | 7.7            | 28                    | 9.3             | 13.1                   |
|         | W4 first         | 10.7           | 8.2            | 23.4                  | 9.7             | 9.3                    |
|         | W7 first         | 10.8           | 8.3            | 23.1                  | 9.9             | 8.3                    |
|         | W2 second        | 6.8            | 4.5            | 33.8                  | 5.6             | 17.6                   |
|         | W4 second        | 6.6            | 4.4            | 33.3                  | 5.6             | 15.2                   |
|         | <b>W6 second</b> | <b>6.4</b>     | <b>4.2</b>     | <b>34.4</b>           | <b>5.4</b>      | <b>15.6</b>            |
|         | W1 third         | 12.6           | 9.6            | 23.8                  | 11.2            | 11.1                   |
|         | W4 third         | 12.3           | 9.6            | 22                    | 11.2            | 8.9                    |
|         | W9 third         | 12.3           | 9.6            | 22                    | 11.2            | 8.9                    |

3-65 Warwick Crescent is a five storey block of flats located to the north of the Westway and separated from the site by the Paddington Fire Station siting around 130m north of the development.

The results again show that the flats have existing low levels of light, and therefore any additional losses will result in a high percentage change. It should also be noted that the windows are located below balconies, which is why the existing levels of light are low.

Table 6: Brewers Court (worst affected in bold)

| Address | Window          | VSC (existing) | VSC (proposed) | VSC (% loss proposed) | VSC (consented) | VSC (% loss consented) |
|---------|-----------------|----------------|----------------|-----------------------|-----------------|------------------------|
| 1-80    | W1 first        | 1.2            | 0.4            | 66.7                  | 0.4             | 66.7                   |
|         | W4 first        | 1.7            | 0.5            | 70.6                  | 0.7             | 58.8                   |
|         | W5 first        | 3.3            | 1.8            | 45.5                  | 2.3             | 30.3                   |
|         | W6 first        | 0.8            | 0.1            | 87.5                  | 0               | 100.0                  |
|         | W7 first        | 0.8            | 0.1            | 87.5                  | 0               | 100.0                  |
|         | <b>W8 first</b> | <b>0.6</b>     | <b>0</b>       | <b>100</b>            | <b>0</b>        | <b>100.0</b>           |
|         | W9 first        | 3.2            | 1.9            | 40.6                  | 2.5             | 21.9                   |
|         | W10 first       | 3.1            | 1.9            | 38.7                  | 2.5             | 19.4                   |
|         | W11 first       | 4.9            | 3.8            | 22.4                  | 4.3             | 12.2                   |
|         | W12 first       | 4.9            | 3.8            | 22.4                  | 4.3             | 12.2                   |
|         | W13 first       | 0.5            | 0.1            | 80                    | 0               | 100.0                  |
|         | W14 first       | 0.5            | 0.1            | 80                    | 0.1             | 80.0                   |
|         | W16 first       | 2.8            | 2              | 28.6                  | 2.5             | 10.7                   |
|         | W17 first       | 2.7            | 2              | 25.9                  | 2.5             | 7.4                    |
|         | W1 second       | 1.4            | 0.6            | 57.1                  | 0.6             | 57.1                   |
|         | W4 second       | 1.9            | 0.7            | 63.2                  | 1               | 47.4                   |
|         | W5 second       | 4              | 2.5            | 37.5                  | 3               | 25.0                   |
|         | W6 second       | 0.9            | 0.1            | 88.9                  | 0               | 100.0                  |
|         | W7 second       | 0.8            | 0.1            | 87.5                  | 0               | 100.0                  |
|         | W8 second       | 5.9            | 4.5            | 23.7                  | 5.1             | 13.6                   |
|         | W9 second       | 5.9            | 4.5            | 23.7                  | 5.1             | 13.6                   |
|         | W10 second      | 3.9            | 2.6            | 33.3                  | 3.1             | 20.5                   |
|         | W11 second      | 3.9            | 2.6            | 33.3                  | 3.2             | 17.9                   |
|         | W12 second      | 5.7            | 4.5            | 21.1                  | 5.1             | 10.5                   |
|         | W13 second      | 5.7            | 4.5            | 21.1                  | 5.1             | 10.5                   |
|         | W14 second      | 0.6            | 0.1            | 83.3                  | 0.1             | 83.3                   |
|         | W15 second      | 0.5            | 0.1            | 80                    | 0.1             | 80.0                   |
|         | W16 second      | 5.5            | 4.5            | 18.2                  | 5.1             | 7.3                    |
|         | W18 second      | 3.5            | 2.6            | 25.7                  | 3.2             | 8.6                    |
|         | W19 second      | 3.4            | 2.6            | 23.5                  | 3.2             | 5.9                    |
|         | W1 third        | 1.8            | 0.8            | 55.6                  | 0.9             | 50.0                   |
|         | W4 third        | 2.2            | 1              | 54.5                  | 1.3             | 40.9                   |
|         | W5 third        | 4.7            | 3.2            | 31.9                  | 3.7             | 21.3                   |
|         | W6 third        | 6.7            | 5.2            | 22.4                  | 5.7             | 14.9                   |
|         | W7 third        | 6.7            | 5.2            | 22.4                  | 5.8             | 13.4                   |
|         | W8 third        | 1              | 0.1            | 90                    | 0.1             | 90.0                   |

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|  |            |     |     |      |     |       |
|--|------------|-----|-----|------|-----|-------|
|  | W9 third   | 1   | 0.1 | 90   | 0.1 | 90.0  |
|  | W10 third  | 6.7 | 5.3 | 20.9 | 5.8 | 13.4  |
|  | W11 third  | 6.7 | 5.3 | 20.9 | 5.9 | 11.9  |
|  | W12 third  | 4.7 | 3.3 | 29.8 | 3.9 | 17.0  |
|  | W13 third  | 4.6 | 3.3 | 28.3 | 3.9 | 15.2  |
|  | W14 third  | 0.7 | 0.2 | 71.4 | 0.1 | 85.7  |
|  | W15 third  | 0.7 | 0.2 | 71.4 | 0.2 | 71.4  |
|  | W16 third  | 0.4 | 0.1 | 75   | 0   | 100.0 |
|  | W17 third  | 4.3 | 3.3 | 23.3 | 3.9 | 9.3   |
|  | W18 third  | 4.3 | 3.3 | 23.3 | 3.9 | 9.3   |
|  | W21 third  | 0.4 | 0.2 | 50   | 0.2 | 50.0  |
|  | W22 third  | 0.3 | 0.2 | 33.3 | 0.2 | 33.3  |
|  | W4 fourth  | 2.5 | 1.3 | 48   | 1.6 | 36.0  |
|  | W5 fourth  | 5.4 | 3.9 | 27.8 | 4.4 | 18.5  |
|  | W6 fourth  | 7.5 | 6   | 20   | 6.5 | 13.3  |
|  | W7 fourth  | 7.5 | 6   | 20   | 6.5 | 13.3  |
|  | W8 fourth  | 1.4 | 0.4 | 71.4 | 0.5 | 64.3  |
|  | W9 fourth  | 1.3 | 0.4 | 69.2 | 0.5 | 61.5  |
|  | W10 fourth | 5.5 | 4.1 | 25.5 | 4.7 | 14.5  |
|  | W11 fourth | 5.5 | 4.1 | 25.5 | 4.7 | 14.5  |
|  | W14 fourth | 1.1 | 0.5 | 54.5 | 0.5 | 54.5  |
|  | W15 fourth | 1.1 | 0.5 | 54.5 | 0.5 | 54.5  |
|  | W18 fourth | 5.3 | 4.2 | 20.8 | 4.7 | 11.3  |
|  | W19 fourth | 5.2 | 4.1 | 21.2 | 4.7 | 9.6   |
|  | W22 fourth | 0.8 | 0.5 | 37.5 | 0.5 | 37.5  |
|  | W23 fourth | 0.7 | 0.4 | 42.9 | 0.5 | 28.6  |
|  | W4 fifth   | 6   | 4.5 | 25   | 5.1 | 15.0  |

Brewers Court is a Council owned block of flats located to the south east of the site on the other side of the railway lines. Approximately half are still owned by the council and half have been sold. Records indicate that the block is largely made up of 1 bedroom units, however does also have 8 x 2 bed units and 8 x 3 bed units. Again, there is an existing garage structure located immediately to the rear of the site adjacent to the railway lines.

The levels of light indicated above are very low as existing, with some rooms with a VSC of under 1. It is also noted that one window will result in a 100% reduction, however it is also apparently that more windows have 100% of their VSC removed as a result of the consented scheme. It is unclear why the smaller approved building has a worse impact, which could be due to a different shape, regardless, it is also apparent that the very high VSC losses are due to the existing windows having very low levels of existing light, which means that the change is likely to be unnoticeable.

Table 7: Blomfield Villas (worst affected in bold)

|          |
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| Item No. |
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| <b>Address</b>     | <b>Window</b>          | <b>VSC (existing)</b> | <b>VSC (proposed)</b> | <b>VSC (% loss proposed)</b> | <b>VSC (consented)</b> | <b>VSC (% loss consented)</b> |
|--------------------|------------------------|-----------------------|-----------------------|------------------------------|------------------------|-------------------------------|
| 2 Blomfield Villas | <b>W1 lower ground</b> | <b>8.1</b>            | <b>5.6</b>            | <b>30.9</b>                  | <b>7.1</b>             | <b>12.3</b>                   |
|                    | W1 ground              | 13.3                  | 9.2                   | 30.8                         | 10.8                   | 18.8                          |
|                    | W1 first               | 15.1                  | 10.8                  | 28.5                         | 12.5                   | 17.2                          |
|                    | W1 second              | 17.9                  | 13.5                  | 24.6                         | 15.2                   | 15.1                          |

The report indicates that the only affected property within Blomfield Villas is Africa House (No 2), comprising of flats. The property is located to the north west of the site on the other side of the Westway at the junction of Blomfield Villas and the Harrow Road.

Given the relatively open aspect from the rear of Blomfield Villas to the development site, it is not surprising to see the fairly substantial additional percentage losses of light. The existing levels of light are what you would expect to see in an urban environment of around 15. The proposed development will reduce these levels by almost a third, however the losses are not dissimilar to those already approved. The affected windows identified above are all glazed doors which lead out onto a balcony. The balconies will result in the windows receiving less light due to their set back location.

Table 8: 1-96 Westbourne Court and 140 Westbourne Terrace (worst affected in bold)

| <b>Address</b> | <b>Window</b> | <b>VSC (existing)</b> | <b>VSC (proposed)</b> | <b>VSC (% loss proposed)</b> | <b>VSC (consented)</b> | <b>VSC (% loss consented)</b> |
|----------------|---------------|-----------------------|-----------------------|------------------------------|------------------------|-------------------------------|
| 1-96 WC        | W2 ground     | 25.6                  | 19.8                  | 22.7                         | 21.7                   | 15.2                          |
|                | W3 ground     | 28.1                  | 21.4                  | 23.8                         | 23.4                   | 16.7                          |
|                | W1 first      | 28.1                  | 21.6                  | 23.1                         | 23.7                   | 15.7                          |
|                | W2 first      | 31.2                  | 23.7                  | 24                           | 25.8                   | 17.3                          |
|                | W3 first      | 32                    | 23.9                  | 25.3                         | 26.1                   | 18.4                          |
|                | W1 second     | 31.9                  | 23.8                  | 25.4                         | 25.8                   | 19.1                          |
|                | W2 second     | 32.9                  | 24.9                  | 25.5                         | 26.7                   | 18.8                          |
|                | W3 second     | 33.2                  | 24.5                  | 26.2                         | 26.8                   | 19.3                          |
|                | W4 second     | 33.4                  | 24.6                  | 26.3                         | 26.9                   | 19.5                          |
|                | W1 third      | 32.5                  | 24.4                  | 24.9                         | 26.6                   | 18.2                          |
|                | W2 third      | 33.5                  | 25                    | 25.4                         | 27.4                   | 18.2                          |
|                | W3 third      | 33.7                  | 25.1                  | 25.5                         | 27.5                   | 18.4                          |
|                | W4 third      | 33.9                  | 25.1                  | 26                           | 27.6                   | 18.6                          |
|                | W1 fourth     | 33                    | 25                    | 24.2                         | 27.2                   | 17.6                          |
|                | W2 fourth     | 33.9                  | 25.6                  | 24.5                         | 28                     | 17.4                          |
|                | W3 fourth     | 34.2                  | 25.6                  | 25.1                         | 28.1                   | 17.8                          |
|                | W4 fourth     | 34.4                  | 25.6                  | 25.6                         | 28.2                   | 18.0                          |
|                | W1 fifth      | 33.5                  | 25.5                  | 23.9                         | 27.9                   | 16.7                          |
|                | W2 fifth      | 34.2                  | 26                    | 24                           | 28.5                   | 16.7                          |
|                | W3 fifth      | 34.4                  | 25.9                  | 24.7                         | 28.6                   | 16.9                          |
|                | W4 fifth      | 34.7                  | 26                    | 25.1                         | 28.7                   | 17.3                          |

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|        |                   |             |             |             |             |             |
|--------|-------------------|-------------|-------------|-------------|-------------|-------------|
|        | W1 sixth          | 33.7        | 25.8        | 23.4        | 28.3        | 16.0        |
|        | W2 sixth          | 33.8        | 25.6        | 24.3        | 28.3        | 16.3        |
|        | W3 sixth          | 34          | 25.6        | 24.7        | 28.4        | 16.5        |
|        | W4 sixth          | 34.3        | 25.7        | 25.1        | 28.5        | 16.9        |
|        | W1 seventh        | 27.1        | 19.4        | 28.4        | 22.1        | 18.5        |
|        | W2 seventh        | 25.7        | 17.7        | 31.1        | 20.5        | 20.2        |
|        | W3 seventh        | 26.1        | 17.9        | 31.4        | 20.8        | 20.3        |
|        | <b>W4 seventh</b> | <b>26.6</b> | <b>18.2</b> | <b>31.6</b> | <b>21.2</b> | <b>20.3</b> |
| 140 WT | W3 LG             | 14.6        | 11.5        | 21.2        | 12.7        | 13.0        |
|        | W3 ground         | 11.6        | 8.2         | 29.3        | 9.4         | 19.0        |

Westbourne Court and 140 Westbourne Terrace are residential buildings located on the north and south side of the junction of Orsett Terrace and Westbourne Terrace, on the southern side of Westbourne Bridge, directly to the south of the development site.

In relation to Westbourne Court, while the loss of light to these windows are in excess of 20%, the majority will retain high levels of light for an urban location, in excess of 20. The worst affected windows are at seventh floor level, with percentage VSC losses in excess of 30%, however these windows retain relatively good levels of light at around 18 and are comparable to the levels of light with the consented scheme. The losses to 140 Westbourne Terrace are comparable to that allowed by the consented scheme and the building appears to have been vacant for some time.

Table 9: Westbourne Terrace Road (worst affected in bold)

| Address | Window     | VSC (existing) | VSC (proposed) | VSC (% loss proposed) | VSC (consented) | VSC (% loss consented) |
|---------|------------|----------------|----------------|-----------------------|-----------------|------------------------|
| 1A      | W2 ground  | 25.1           | 19.2           | 23.5                  | 21.2            | 15.5                   |
|         | W3 ground  | 17.4           | 11.7           | 32.8                  | 13.5            | 22.4                   |
|         | W6 ground  | 8.2            | 5.6            | 31.7                  | 5.7             | 30.5                   |
|         | W7 ground  | 12.5           | 9              | 28                    | 10              | 20.0                   |
|         | W2 first   | 26.5           | 20.4           | 23                    | 22.5            | 15.1                   |
|         | W4 first   | 18.2           | 12.3           | 32.4                  | 14.2            | 22.0                   |
|         | W2 second  | 28.1           | 21.7           | 22.8                  | 23.9            | 14.9                   |
|         | W4 second  | 18.9           | 13             | 31.2                  | 14.9            | 21.2                   |
|         | W2 third   | 29.1           | 22.7           | 22                    | 25              | 14.1                   |
|         | W4 third   | 19.5           | 13.8           | 29.2                  | 15.7            | 19.5                   |
| 1       | W1 LG      | 19.8           | 15.5           | 21.7                  | 17              | 14.1                   |
|         | W1 ground  | 9.5            | 7.2            | 24.2                  | 7.2             | 24.2                   |
|         | W3 ground  | 30.6           | 24.3           | 20.6                  | 26.4            | 13.7                   |
|         | W1 first   | 27.9           | 22.2           | 20.4                  | 24.1            | 13.6                   |
|         | W1 second  | 25.1           | 19.4           | 22.7                  | 21.5            | 14.3                   |
| 2       | W1 ground  | 30             | 24             | 20                    | 26              | 13.3                   |
| 24      | W11 ground | 16.9           | 11.8           | 30.2                  | 12.9            | 23.7                   |
|         | W12 ground | 3              | 2.1            | 30                    | 2.4             | 20.0                   |

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|    |                  |             |             |             |             |             |
|----|------------------|-------------|-------------|-------------|-------------|-------------|
|    | W1 first         | 15.6        | 10.8        | 30.8        | 11.4        | 26.9        |
|    | W1 second        | 17.2        | 12          | 30.2        | 13          | 24.4        |
|    | W1 third         | 22.9        | 16.8        | 26.6        | 18.3        | 20.1        |
| 25 | W2 ground        | 22.8        | 17.9        | 21.5        | 19.1        | 16.2        |
|    | W1 first         | 30.9        | 24.3        | 21.4        | 25.8        | 16.5        |
|    | W1 second        | 32.6        | 25.3        | 24.4        | 27          | 17.2        |
|    | W1 third         | 33.7        | 26.2        | 22.3        | 28.1        | 16.6        |
| 26 | W4 ground        | 20.8        | 16.6        | 20.2        | 17.7        | 14.9        |
|    | W1 first         | 17.1        | 9.8         | 42.7        | 11.5        | 32.7        |
|    | W4 first         | 30.6        | 23.6        | 22.9        | 25.1        | 18.0        |
|    | <b>W1 second</b> | <b>18.9</b> | <b>10.7</b> | <b>43.4</b> | <b>12.6</b> | <b>33.3</b> |
|    | W4 second        | 32.5        | 24.7        | 24          | 26.4        | 18.8        |
|    | W1 third         | 25          | 16.4        | 34.4        | 18.5        | 26.0        |
|    | W4 third         | 33.7        | 25.6        | 24          | 27.5        | 18.4        |

Westbourne Terrace Road has the nearest residential properties to the site, located just to the north of the Westway and the Harrow Road. The rear elevation of No's 24, 25 and 26 (located on the eastern side of the road) and the street facing side of No's 1, 1A and 2 (located on the western side of the road) look in a south eastern direction and will have sideways views of the site, which is to the south/south east. The garden level is set a storey below the level of the Harrow Road (described as ground level here). The properties are split into flats, set over lower ground, ground and three upper levels, with the third level comprising of accommodation within a mansard roof.

The most affected property is No 26, which is the southernmost property within the terrace. Records indicate that the most affected window (W4) at ground floor level serves a kitchen, however this is located within a conservatory. At first and second floor levels, W1, would appear to be circulation space for the flats and W1 at third floor level appears to be a kitchen. The worst affected habitable room is therefore likely to be the ground floor kitchen. The living room at third floor level meets the BRE guidelines in terms of VSC.

At No 25 the ground floor window (W2) is very small and serves a bathroom (which has another window), a bedroom at first floor level, unknown at second floor level and a dual aspect living kitchen at third floor level. All of these rooms will retain a VSC in excess of 15% and are only marginally worse affected when compared to the consented scheme.

No 24 also sees large percentage losses, all around 30%. Window 11 serves a WC, Window 12 has existing very low levels of light as it is set within a conservatory and serves a kitchen, W1 at first and second floor levels appear to be non habitable circulation spaces and at third floor level it serves a kitchen. The third floor window is therefore considered to be the worst affected as it serves a kitchen, however this flat has windows to both the front and rear of the property and the kitchen is not likely to be the main habitable room.

Window W1 at lower ground and first floor levels to 1 Westbourne Terrace Road are both kitchens. The use of the remaining rooms at 1 and 2 Westbourne Terrace Road is not known. However, it is likely that the flats within the properties are dual aspect alike the ones on the other side of the road. 1A Westbourne Terrace Road, has a rounded frontage and also sees

losses of around 30%. Many of the windows will retain VSC levels of in excess of 15% and the losses are very similar to those already permitted under the implemented scheme.

### No Sky Line (NSL):

The NSL method measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky. BRE guidance states that if the no-sky line is reduced by 20% this will be noticeable to its occupants. Accurate assessment of the NSL method is dependent upon knowing the actual room layouts or a reasonable understanding of the likely layouts. The applicant's daylight assessment has had regard to the layouts of the buildings, and provided a result where possible.

Table 10: NSL results (over 20% reduction)

| Address                    | Window          | existing | proposed | % loss proposed | consented |
|----------------------------|-----------------|----------|----------|-----------------|-----------|
| 140 Westbourne Terrace     | W3 lower ground | 45.2     | 28.1     | 37.9            | 38.3      |
| 8 Orsett Terrace           | W2 lower ground | 29.2     | 19.4     | 33.7            | 25        |
|                            | W2 ground       | 32.9     | 24.5     | 25.7            | 30.3      |
|                            | W2 first        | 34.1     | 24.6     | 27.8            | 29.8      |
| 10-14 Orsett Terrace       | W2 ground       | 36.5     | 28.6     | 21.8            | 34        |
|                            | W2 first        | 34.6     | 27.7     | 23.7            | 32.4      |
|                            | W2 second       | 39.5     | 31.5     | 20.2            | 37.2      |
| 1-80 Brewers Court         | W1 first        | 42.2     | 33.2     | 21.2            | 36.8      |
| 1-96 Westbourne Court      | W2 ground       | 93.8     | 60.1     | 35.9            | 64.1      |
|                            | W3 ground       | 92.7     | 68.2     | 26.4            | 71.9      |
|                            | W1 first        | 94.1     | 72.5     | 22.9            | 78.4      |
|                            | W2 first        | 95       | 63.2     | 33.4            | 67.2      |
|                            | W3 first        | 94       | 73.2     | 21.9            | 77.4      |
|                            | W2 second       | 96.1     | 76.3     | 20.6            | 85.8      |
|                            | W3 second       | 95.7     | 65.9     | 31.2            | 70        |
|                            | W3 third        | 96.8     | 68.6     | 29.1            | 73.1      |
|                            | W3 fourth       | 97.9     | 71.9     | 26.6            | 76.4      |
|                            | W3 fifth        | 97.7     | 75.3     | 23.7            | 80.1      |
|                            | W3 sixth        | 98.7     | 76       | 23.1            | 81        |
|                            | W3 seventh      | 98.7     | 75.1     | 23.9            | 79.8      |
| 1A Westbourne Terrace Road | W3 ground       | 87.4     | 65.4     | 25.2            | 70.9      |
|                            | W4 first        | 88.3     | 66.8     | 24.3            | 72.6      |
|                            | W4 second       | 89.1     | 67.7     | 24              | 73.8      |
|                            | W4 third        | 89       | 67.2     | 24.5            | 74.1      |
| 24 Westbourne Terrace Road | W12 ground      | 56.2     | 38.7     | 31.1            | 34.9      |

Of the windows which failed in terms of VSC, the above 25 windows also failed in terms of NSL with greater than 20% reductions. The remaining VSC windows summarised in the

sections above maintained a NSL levels which did not receive a reduction in of in excess of 20% their former value.

It is clear from the above results that the most affected property is 1-96 Westbourne Court, due to its location directly facing the development site on the other side of the Westbourne Bridge.

### 8.3.2 Sunlight

The applicant has provided a sunlight assessment, which measures the impact of overshadowing to all windows which face the application site within 90 degrees of due south. The BRE guidance advises that a room will appear reasonably sunlit if it received at least a quarter (25%) of annual probable sunlight hours including at least 5% of annual probable sunlight hours during the winter. A room will be adversely affected if the resulting sunlight level is less than the recommended standards and reduced by more than 20% of its former values and if it has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

Table 11: Material losses of Sunlight to neighbouring windows (APSH)

| Window                            | Existing |        | Consented |        | Proposed |        | % loss |        |
|-----------------------------------|----------|--------|-----------|--------|----------|--------|--------|--------|
|                                   | Annual   | Winter | Annual    | Winter | Annual   | Winter | Annual | Winter |
| <b>3-65 Warwick Crescent</b>      |          |        |           |        |          |        |        |        |
| W2 Ground                         | 17       | 16     | 16        | 15     | 13       | 12     | 23.5   | 25     |
| W3 ground                         | 32       | 11     | 32        | 11     | 31       | 10     | 3.1    | 9.1    |
| W7 ground                         | 18       | 18     | 16        | 16     | 13       | 13     | 27.8   | 27.8   |
| W11 ground                        | 12       | 12     | 11        | 11     | 9        | 9      | 25     | 25     |
| W1 first                          | 15       | 13     | 14        | 12     | 11       | 9      | 26.7   | 30.8   |
| W4 first                          | 18       | 17     | 16        | 15     | 13       | 12     | 27.8   | 29.4   |
| W2 second                         | 9        | 9      | 8         | 8      | 5        | 5      | 44.4   | 44.4   |
| W4 second                         | 7        | 7      | 5         | 5      | 5        | 5      | 28.6   | 28.6   |
| W6 second                         | 7        | 7      | 6         | 6      | 5        | 5      | 28.6   | 28.6   |
| W1 third                          | 19       | 8      | 18        | 15     | 14       | 11     | 26.3   | 31.3   |
| W4 third                          | 20       | 19     | 19        | 18     | 15       | 14     | 25     | 26.3   |
| <b>2 Blomfield Villas</b>         |          |        |           |        |          |        |        |        |
| W1 LG                             | 9        | 0      | 7         | 0      | 3        | 0      | 66.7   | 0      |
| W1 ground                         | 13       | 2      | 10        | 0      | 5        | 0      | 61.5   | 100    |
| W1 first                          | 20       | 6      | 17        | 4      | 12       | 4      | 40     | 33.3   |
| W1 second                         | 24       | 7      | 22        | 5      | 15       | 4      | 37.5   | 42.9   |
| W1 third                          | 36       | 7      | 33        | 5      | 28       | 4      | 22.2   | 42.9   |
| <b>4 Blomfield Villas</b>         |          |        |           |        |          |        |        |        |
| W1 first                          | 30       | 5      | 28        | 3      | 25       | 3      | 16.7   | 40     |
| <b>1A Westbourne Terrace Road</b> |          |        |           |        |          |        |        |        |
| W2 ground                         | 52       | 14     | 46        | 12     | 39       | 11     | 25     | 21.4   |
| W3 ground                         | 23       | 3      | 17        | 0      | 11       | 0      | 52.2   | 100    |
| W4 ground                         | 51       | 17     | 45        | 14     | 38       | 14     | 25.5   | 17.6   |
| W5 ground                         | 51       | 17     | 45        | 14     | 39       | 14     | 23.5   | 17.6   |
| W6 ground                         | 10       | 1      | 7         | 0      | 8        | 0      | 20     | 100    |

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|-----------------------------------|----|----|----|----|----|----|------|------|
| W7 ground                         | 16 | 1  | 13 | 0  | 11 | 0  | 31.3 | 100  |
| W1 first                          | 75 | 27 | 69 | 24 | 61 | 24 | 18.7 | 11.1 |
| W2 first                          | 56 | 17 | 49 | 14 | 43 | 14 | 23.2 | 17.6 |
| W4 first                          | 25 | 3  | 19 | 0  | 14 | 0  | 44   | 100  |
| W5 first                          | 52 | 17 | 46 | 14 | 39 | 14 | 25   | 17.6 |
| W6 first                          | 53 | 17 | 47 | 14 | 41 | 14 | 22.6 | 17.6 |
| W2 second                         | 58 | 18 | 51 | 14 | 44 | 14 | 24.1 | 22.2 |
| W4 second                         | 28 | 4  | 23 | 0  | 16 | 0  | 42.9 | 100  |
| W2 third                          | 58 | 18 | 53 | 15 | 44 | 14 | 24.1 | 22.2 |
| W4 third                          | 27 | 3  | 21 | 0  | 17 | 0  | 37   | 100  |
| <b>1 Westbourne Terrace Road</b>  |    |    |    |    |    |    |      |      |
| w1 LG                             | 30 | 2  | 26 | 0  | 21 | 0  | 30   | 100  |
| w4 LG                             | 34 | 8  | 33 | 8  | 27 | 7  | 20.6 | 12.5 |
| w5 ground                         | 48 | 15 | 43 | 12 | 38 | 11 | 20.8 | 26.7 |
| <b>2 Westbourne Terrace Road</b>  |    |    |    |    |    |    |      |      |
| W1 LG                             | 33 | 8  | 31 | 7  | 26 | 7  | 21.2 | 12.5 |
| w2 LG                             | 31 | 8  | 30 | 7  | 24 | 6  | 22.6 | 25   |
| w1 ground                         | 54 | 17 | 49 | 14 | 43 | 12 | 20.4 | 29.4 |
| w2 ground                         | 54 | 17 | 50 | 14 | 43 | 12 | 20.4 | 29.4 |
| w3 ground                         | 49 | 15 | 45 | 12 | 37 | 9  | 24.5 | 40   |
| w2 first                          | 34 | 6  | 31 | 3  | 25 | 0  | 26.5 | 100  |
| <b>3 Westbourne Terrace Road</b>  |    |    |    |    |    |    |      |      |
| w1 second                         | 45 | 12 | 41 | 8  | 36 | 6  | 20   | 50   |
| <b>4 Westbourne Terrace Road</b>  |    |    |    |    |    |    |      |      |
| w2 first                          | 35 | 7  | 32 | 4  | 28 | 2  | 20   | 71.4 |
| <b>22 Westbourne Terrace Road</b> |    |    |    |    |    |    |      |      |
| w2 ground                         | 36 | 5  | 30 | 0  | 27 | 0  | 25   | 100  |
| w1 first                          | 30 | 5  | 26 | 1  | 24 | 1  | 20   | 80   |
| w2 third                          | 48 | 13 | 42 | 7  | 36 | 4  | 25   | 69.2 |
| <b>23 Westbourne Terrace Road</b> |    |    |    |    |    |    |      |      |
| w1 ground                         | 48 | 11 | 40 | 4  | 37 | 4  | 22.9 | 63.6 |
| w2 ground                         | 52 | 14 | 43 | 6  | 39 | 5  | 25   | 64.3 |
| w3 ground                         | 49 | 12 | 40 | 4  | 36 | 3  | 26.5 | 75   |
| w1 first                          | 53 | 14 | 44 | 6  | 40 | 5  | 24.5 | 64.3 |
| w1 second                         | 54 | 14 | 47 | 7  | 41 | 5  | 24.1 | 64.3 |
| w1 third                          | 55 | 15 | 48 | 8  | 43 | 6  | 21.8 | 60   |
| <b>24 Westbourne Terrace Road</b> |    |    |    |    |    |    |      |      |
| w1 ground                         | 38 | 2  | 34 | 0  | 30 | 0  | 21.1 | 100  |
| w2 ground                         | 46 | 8  | 39 | 3  | 34 | 2  | 26.1 | 75   |
| w9 ground                         | 51 | 14 | 39 | 5  | 36 | 5  | 29.4 | 64.3 |
| w11 ground                        | 42 | 13 | 32 | 5  | 27 | 4  | 35.7 | 69.2 |

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|-----------------------------------|----|----|----|----|----|---|------|------|
| w12 ground                        | 8  | 5  | 6  | 3  | 5  | 3 | 37.5 | 40   |
| w1 first                          | 31 | 6  | 23 | 0  | 21 | 1 | 32.3 | 83.3 |
| w4 first                          | 53 | 15 | 43 | 7  | 39 | 6 | 26.4 | 60   |
| w1 second                         | 37 | 7  | 29 | 1  | 28 | 2 | 24.3 | 71.4 |
| w34 second                        | 54 | 15 | 45 | 8  | 40 | 6 | 25.9 | 60   |
| w1 third                          | 49 | 14 | 39 | 8  | 35 | 5 | 28.6 | 64.3 |
| w4 third                          | 55 | 16 | 46 | 9  | 41 | 7 | 25.5 | 56.3 |
| <b>25 Westbourne Terrace Road</b> |    |    |    |    |    |   |      |      |
| w1 ground                         | 27 | 1  | 23 | 0  | 18 | 0 | 33.3 | 100  |
| w2 ground                         | 45 | 12 | 34 | 6  | 27 | 4 | 40   | 66.7 |
| w3 ground                         | 35 | 6  | 26 | 1  | 23 | 0 | 34.3 | 100  |
| w4 ground                         | 28 | 5  | 20 | 1  | 16 | 0 | 42.9 | 100  |
| w1 first                          | 53 | 16 | 41 | 9  | 33 | 6 | 37.7 | 62.5 |
| w1 second                         | 55 | 16 | 45 | 9  | 36 | 6 | 34.5 | 62.5 |
| w1 third                          | 56 | 17 | 45 | 9  | 37 | 7 | 33.9 | 58.8 |
| <b>26 Westbourne Terrace Road</b> |    |    |    |    |    |   |      |      |
| w1 ground                         | 13 | 0  | 10 | 0  | 8  | 0 | 38.5 | 0    |
| w2 ground                         | 27 | 0  | 23 | 0  | 18 | 0 | 33.3 | 0    |
| W3 ground                         | 27 | 1  | 22 | 1  | 18 | 1 | 33.3 | 0    |
| w4 ground                         | 36 | 6  | 26 | 3  | 21 | 3 | 41.7 | 50   |
| w1 first                          | 44 | 15 | 31 | 9  | 24 | 8 | 45.5 | 46.7 |
| w4 first                          | 54 | 17 | 41 | 10 | 32 | 7 | 40.7 | 58.8 |
| w1 second                         | 48 | 17 | 34 | 10 | 27 | 9 | 43.8 | 47.1 |
| w4 second                         | 55 | 17 | 43 | 10 | 33 | 7 | 40   | 58.8 |
| w1 third                          | 51 | 17 | 39 | 10 | 30 | 9 | 41.2 | 47.1 |
| w4 third                          | 56 | 17 | 46 | 10 | 36 | 7 | 35.7 | 58.8 |

The above table indicates that there will be some considerable losses of sunlight to windows located to the north of the site. This would be expected given that currently there is currently no bulk on the site. The implemented scheme is therefore an important consideration as this demonstrates the impact of placing a building on the site.

It is clear from the table above that there will be additional losses as a result of the development, with the biggest impact being on those properties on Westbourne Terrace Road, given that they are in the closest proximity. In some instances, the % losses will be in excess of 40% at 25 and 26 Westbourne Terrace Road, given that they have rear windows which look out over their rear gardens and the Harrow Road towards the site. The use of the majority of these rooms has been discussed within the daylight section of the report. While windows will see additional losses of sunlight, it is considered that the impact will not be so significantly worse when compared to the implemented scheme as to justify a reason for refusal.

### 8.3.3 Overshadowing

It is suggested in the BRE Guidelines that for an area to appear adequately sunlit throughout the year, at least half (50%) of any assessment area should see direct sunlight for at least two

hours on the 21st March. If, as a result of new development, an existing assessment area will not meet BRE Guidelines and the area which can receive two hours of direct sunlight on 21st March is reduced to less than 0.8 times its former area, then the loss of sunlight is likely to be noticeable.

The submitted overshadowing report indicates that the main impact will be to residents of Westbourne Terrace Road. The table below shows that the worst affected will be No's 22 and 23 which are located at the northern end of this section of the terrace, who will see a considerable reduction in the area of garden experiencing 2 hours of sunlight on the 21 March. The report also notes that in the summer months No 22 will receive in excess of 4 hours of direct sunlight, when the garden is more likely to be in use.

Table 12: Area seeing 2+ hours of direct sunlight on 21 March

| Address                  | Existing | Consented | Proposed |
|--------------------------|----------|-----------|----------|
| 26 Westbourne Terrace Rd | 2.2      | 2.2       | 1.9      |
| 25 Westbourne Terrace Rd | 65.6     | 44.2      | 41.9     |
| 24 Westbourne Terrace Rd | 50.2     | 34.7      | 24.1     |
| 23 Westbourne Terrace Rd | 56.8     | 45        | 16.8     |
| 22 Westbourne Terrace Rd | 47.5     | 45.3      | 4.2      |

Transient overshadowing has also been provided, however there is no criteria for this set out with the BRE guidance and is therefore a subjective judgement. The paths show that on the 21 June the proposed development will only impact the direct sunlight on the southern most of the terrace, No 26 Westbourne Terrace Road, during the middle of the day (between 11am and 1pm), with little to no impact on No's 25-22, which are located further north. The report also concludes that there would be negligible impact on the following additional private gardens: Bourne Terrace, Lapworth Court, Blomfield Villas; Blomfield Mews; 26 Westbourne Terrace Road (results above); Delamere Street; and Delamere Terrace.

The overshadowing results also show the impact on adjacent open spaces, namely, Westbourne Green, Little Venice Canal and the amenity areas to the rear of Warwick Crescent. The report states that these areas are will have a negligible impact, which given their separation, and the comparable impact of the implemented scheme is accepted.

### 8.3.4 Daylight, Sunlight and Overshadowing Conclusions

It is clear that there are a significant number of windows which would be noticeably and negatively affected in terms of loss of both daylight and sunlight, which would normally fail to accord with Policy S28 in the City Plan and ENV 13 within the UDP. These losses must then be considered in relation to the particular nature of this site which is currently vacant and therefore any building would have an impact. The consented/implemented 13 storey building is therefore an important material consideration.

As noted above, the BRE guidelines are intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London location, expectations of natural light levels cannot be as great as development in rural and suburban locations. Many sites throughout central London have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation.

The site is within the Paddington Opportunity Area, and forms part of the masterplan for Paddington Central. The tables and discussions above note that the proposed development will have an additional impact in terms of both daylight and sunlight, however it is not considered that these will be so significant as to justify a reason for refusal in this instance.

### **8.3.5 Blomfield Villas Development:**

Since the submission of the application, the Planning (Major) Applications Sub-Committee on 24 September 2019 resolved to grant planning permission, subject to a S106 legal agreement, for the redevelopment of the garages in Blomfield Mews to the rear of properties in Westbourne Terrace Road. The redevelopment of Blomfield Mews comprises a predominantly three storey development providing a mix of residential flats and houses (reference 19/00026/COFUL). As part of the consideration of that scheme additional information was submitted to demonstrate the cumulative impact of the development with the implemented 13 storey scheme for 5 Kingdom Street. The Sub-Committee resolved that the cumulative impact of the implemented 13 storey building at 5 Kingdom Street and the Blomfield Mews development schemes was within acceptable tolerances in terms of daylight and sunlight loss.

Whilst the application is accompanied by a Daylight and Sunlight report assessing the impact of the proposed development in isolation, the report fails to provide evidence of the cumulative impact of the larger 18 storey (+2 plant levels) development now proposed in combination with the scheme for redevelopment of Blomfield Mews, which the Sub-Committee has now resolved to approve and is therefore a material consideration. In the absence of this evidence, insufficient information has been submitted to demonstrate that the cumulative daylight and sunlight losses caused to neighbouring properties, particularly those in Westbourne Terrace Road and Warwick Crescent, would be within acceptable tolerances that are consistent with the guidance in the BRE Guidelines (2011) and the requirements of Policies ENV13 in the UDP and S29 in the City Plan.

### **8.3.6 Sense of Enclosure**

The proposed building will have an impact in terms of sense of enclosure, due to its size and width. However, it is located some distance from adjacent occupiers, either separated by the Westway and the Harrow Road to the north or the railway line to the south. Due to its bulk it will certainly be noticeable however, it is not considered that it will have such an impact as to justify a reason for refusal on these terms, given its separation and location within the wider Paddington Central development, which has its existing own presence, as it is larger than the general surroundings.

### **8.3.7 Privacy and noise**

The proposals include the provision of terraces at roof level and a terrace at mezzanine level adjacent to the Westway. The terrace at roof level is surrounded by the same elevational treatment as the main tower, which will provide protection and enclose the terraces to limit sound dissipation. The Environmental Sciences Officer has requested conditions to limit the hours of use of the proposed terraces as no noise assessment has been submitted to demonstrate that they will not have an impact on noise sensitive receptors. Given that the terraces are surrounded on all sides by the external envelope of the building and their location adjacent to the Westway and the railway, it is not considered that such conditions would be necessary.

While the proposed building is larger than others within the Paddington Central Development, given the distance away from other occupiers it is not considered that the roof terrace will result in a loss of privacy to adjacent residents. The lower terrace is also protected by a full height screen and is also not considered to have a negative impact given its location adjacent to the Westway.

It is similarly not considered that the windows within the development will result in any significant concern in these terms, again given the separation and given other windows within the adjacent offices and hotel, which have a similar relationship.

## **8.4 Transportation/Parking**

### **8.4.1 Servicing**

S41 and TRANS20 requires new developments to be provide for on-site servicing. Paddington Central has its own servicing roads off the public highway. The internal changes to the existing servicing roads are considered acceptable and in accordance with policy.

### **8.4.2 Car Parking**

The site is within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls. The impact of the change of use on parking levels will be minimal and consistent with STRA25, TRANS21 and TRANS22. Two disabled parking bays are provided, which is considered acceptable.

### **8.4.3 Cycle Parking**

Long term staff cycle parking must be secure, accessible and weather proof. Long stay cycle parking for developments must be met within the development site itself. Long stay cycle parking will support sustainable travel options by staff.

The draft London Plan Policy T5 requires 1 space per 75m<sup>2</sup> of B1 office, 1 space per 175m<sup>2</sup> of A class retail and 1 space per 8 staff for D class uses. All uses have a minimum of 2 spaces required.

The applicant has provided detailed cycle parking calculations within Appendix D of the Transport Statement. These are based on figures which differ slightly from those within the Planning Statement. The minimum level of cycle parking required is varied, reflecting the multiple uses being applied for, particularly within the box area. It is noted the applicant has calculated based on the most onerous provision.

318m<sup>2</sup> of A class retail space would require 2 cycle parking spaces. 56185m<sup>2</sup> of B1 office space would require 750 cycle parking spaces. Additional spaces, approximately 4 would be required to support the D class uses. 700 spaces are provided, discounted through a 10% provision for folding bicycles (however the applicant has agreed a 5% provision with TfL).

On balance, the quantum and quality of long term cycle parking within the development is considered consistent with London Plan Policy T5, however given the flexible nature of the proposed uses, a condition would be recommended for the provision of detail of cycle parking, so that this could be further clarified (such as the folding bike provision) and agreed at a later date, once the mix of uses has become clearer.

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TfL (and the GLA) has requested that the Orsett Terrace cycle docking station is extended. Council officers do not consider this to be feasible due to site constraints. The public realm should include the provision of space for a Mayor's Cycle Hire Docking Station. Given the quantum of the proposed development, new demand is expected to increase and an additional cycle hire facility and standard cycle parking within the subject site would both increase the attractiveness of the scheme to users and increase the sustainable transport opportunities associated with the development. The specific location and detail to be resolved as part of the detailed design of the public realm and would be secured by legal agreement.

The provision of cycle support facilities is welcomed. The addition of short stay cycle parking within the public realm is also welcomed and would be secured by condition.

#### **8.4.4 Public Realm**

In Highways terms, the proposed public realm is broadly welcomed and will create a high quality pedestrian environment. The improvements to the through link for both pedestrians and cyclists are consistent with S41 and TRANS3. A Walkway Agreement would need to be secured to ensure public access is retained and managed for the benefit of all, including retained clear through routes and appropriate locations for tables and chairs.

The applicant has provided proposals for the highway surrounding the development. These are effectively highway works and need to be subject to a post planning detail highway design process. While third party funded public realm improvements are welcomed, they must accommodate all highway users and not a single development proposal. All elements within the Highway will be subject to detailed highways design and will be required to meet the principals of the Westminster Way SPD.

While both the detail of the design of the highway space between and around the development are provided within the submission documents, as they have not been through the formal highway checking procedures, any grant of planning permission should not be considered approval of these aspects.

It is noted the proposed highway works will improve pedestrian and cycle links from the development site to the north, across Harrow Road. Given the increase in pedestrian and cycle activity associated with the proposed development, these improvements support the increased activity associated with the development.

#### **8.4.5 Travel Plan**

Given the sites location, level of car parking, level of cycle parking and associated facilities and proposed use, a formal travel plan is not considered a requirement for the subject site, however the GLA/TfL have requested that one is secured through the S106.

#### **8.4.6 Trip Generation**

It is accepted that the majority of trips associated with the site (excluding servicing activity) will be via public transport or other sustainable modes (eg walking, cycling). Subject to the comments below, trip generation modelling indicates that the proposed development will not have a significantly detrimental impact on the safety or operation of the highway network.

Of concern are the flexible uses areas and large numbers of people leaving the site at the end of a function or event. The total capacity of the non-B1 office element is high, particularly the Market Hall (max 2,000 people) and/or event space (max 792 people). If all these people left

the site within a short space of time, it would likely result in some localised congestion of both public transport and highway networks. This may be particularly problematic with evening or late night departures. It is however also noted that as a result of the improvement to open up the Harrow Road as an entry point to Paddington Central, people would be able to better disperse, namely to public transport at Royal Oak, Warwick Avenue, Harrow Road, and to Paddington (via both the Westbourne Bridge and through Paddington Central).

Given the highway environment of Harrow Road and Westbourne Terrace increased private vehicle/taxi/private hire activity in this location would be inappropriate (by individuals or operators). It is suggested an Operation Management Plan is secured for the flexible use space to include handling and directing of guests arriving and departing guest from these uses.

## 8.5 Economic Considerations

The proposals trigger the requirement of a payment equating to £2,087,819.79 towards Westminster's Employment and Skills Fund. The economy team have stated that this fund helps to provide the following and is welcomed:

*"The contribution will be used to support the Westminster Employment Service. In summary the Service helps residents access a wide range of career development opportunities in a range of employment sectors connected to a development and its end uses. Our core service offer is to offer individual 1-2-1 employment coaching for residents across the City. Residents can self-refer and we take referrals from other agencies. The contribution also supports a team within the Service which helps developers to deliver their agreed targets through sharing vacancies, screening suitable residents for roles and advising on the implementation of Employment and Skills Plans.*

*The Service is delivered in the neighbourhoods surrounding the proposed development through our Coaching Team's presence in Children's Centres, community centre and the regeneration bases in Church Street and Harrow Road. We regularly promote the service and opportunities arising from development and the end uses through job fairs, outreach at schools and through our partnerships with Colleges and local charities.*

*We envisage that the Employment and Skills Plan will be developed with British Land, the Westminster Employment Service, our Regeneration leads and with input from local charities. The focus will be to maximise outcomes for residents in the areas surrounding a development and our team would welcome the opportunity with existing British Land initiatives and ideas for connecting occupiers into their communities during the occupation stages and ongoing."*

## 8.6 Access

Paddington Central is currently only accessed from the eastern side of the site on foot from Bishops Bridge Road or from adjacent to the canal. There is access from the western end of the site, but this is utilitarian and not a welcoming environment.

Kingdom Street runs down the centre of the development with vehicle access limited by barriers located at either end of Paddington Central. The complex is serviced by roads located beneath Kingdom Street level, and which allow for the buildings to be serviced off the highway and from dedicated servicing areas located on private land.

Westminster Place Shaping Team have identified the junction with Harrow Road and Westbourne Bridge as a node which requires improvement.

The proposals seek to dramatically change the access to Paddington Central, by providing a new access route under the proposed building and providing a new publicly accessible garden under the main building. This is in the form of a new hard and soft landscaped pedestrian and cycle route. This alteration will make considerable urban design benefits, opening up Paddington Central, which currently turns its back on the wider area. The consented scheme further emphasising this by 'book ending' Kingdom Street, closing off the site. This is considerable to be a welcome and beneficial part of this scheme when compared to what has been permitted, improving permeability and pedestrian access.

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

### **8.7.1 Plant Equipment**

It is proposed to install building services plant on the roof of the development. Plant equipment is also located at several positions throughout the development including within the basement decks. Conditions would have been recommended to ensure that noise from these sources does not cause harm to residents surrounding the site. Subject to these conditions, the proposal would be consistent with policies ENV6 and ENV7 of the UDP and policy S32 of the City Plan.

The proposals include the potential for a large amount of restaurant floorspace, which would need to be adequately ventilated. This should be at main roof level. Should the proposals have been considered acceptable, a condition would have been recommended for the submission of full details of how uses which include primary cooking would ventilate, to ensure that they did not cause nuisance.

### **8.7.2 Noise from Proposed Uses**

Had this scheme been considered acceptable, in line with comments from the Environmental Sciences Officer, conditions would have been recommended to ensure that the building structure was sufficient to protect occupiers of the various uses from noise and vibration transfer from both within the building and from outside.

### **8.7.3 Contaminated Land**

The Environmental Sciences Officer has request a condition in relation to contaminated land, given that the site was previously used as a goods yard. As some groundworks are likely, such a condition is considered reasonable.

### **8.7.4 Refuse /Recycling**

An objection has been received from the Waste Project Officer in relation to waste. Given the scale of the development proposals, and as the site benefits from dedicated service roads, it is considered that the additional information could have been secured by planning condition.

### **8.7.5 Biodiversity**

The proposals include the provision of new landscaping and planting both internally and externally. This is welcomed, however the Arboricultural Officer has requested further details in relation to the proposed soil depth and plants (including size) to be provided. This is to ensure that there is sufficient substrate to support planting of a suitable size. Should the proposals

have been considered acceptable, then this information would have been secured by condition.

### 8.7.6 Sustainability

Policy 5.2 of the London Plan refers to minimising carbon dioxide emissions and states that development proposals 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.

Policy 5.2 also states that where specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to secure delivery of carbon dioxide savings elsewhere.

Draft London Plan Policy SI2 (Minimising carbon dioxide emissions) also states major development proposals should include a detailed energy statement to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy. The GLA has commented that it is regrettable that this has not been met on this application. As noted by the applicant, it is however noted that paragraph 9.2.4 of the Draft London Plan states, this target will be extended to include major non-residential developments on final publication of this Plan. As the Plan has not yet reached final publication, it is not considered that this is a policy requirement.

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture.

Policy S39 of the City Plan states that major development should be designed to link to and extend existing heat and energy networks in the vicinity, except where the City Council considers that it is not practical or viable to do so.

Policy S40 requires all major development to maximise on-site renewable energy generation to achieve at least a 20% reduction in carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considered it not appropriate or practical due to site-specific considerations.

The application is accompanied by an Energy Strategy by Ramboll, which demonstrates how the energy consumption and associated CO<sub>2</sub> emissions of the proposed development will be reduced. Following consultation, the GLA has provided detailed feedback in relation to the development proposals and its sustainability and Sustainable Urban Drainage (SUDS) credentials. The GLA requested further clarifications and information namely in relation to the following:

- SUDS;
- Cooling and overheating;
- District Heating;
- Heat pumps;
- On site renewable energies.

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Further information was provided to the GLA, with the only remaining item outstanding being that the council confirms that there are no existing or proposed district heating networks within the vicinity of the site. There are no existing heat networks within the vicinity, with the only proposed network being located on Church Street as part of the councils long term regeneration proposals for the area, which is set some distance from the development site. The applicant has confirmed that they can provide that the heating strategy is compatible with a district heating network should it become available. This is considered acceptable and would be secured by condition.

## **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

## **8.9 Neighbourhood Plans**

The site is not located within an area of Westminster which has a Neighbourhood Plan.

## **8.10 London Plan**

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

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

## **8.11 National Policy/Guidance Considerations**

The City Plan 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. Given the application is being recommended for refusal, there is no requirement to seek the applicant's agreement.

## 8.12 Planning Obligations

The application includes the following draft heads of terms:

- £1,750,696 payment in lieu towards the Affordable Housing Fund (subject to early and late stage reviews in accordance with GLA guidelines)
- £2,087,819.79 towards Westminster's Employment and Skills Fund.
- £1,000,000 towards Public Art on site.
- £930,000 towards the highways improvements at the junction with the Harrow Road and Westbourne Bridge.
- 150sqm community and education space, open to local community groups to book for free. This would be subject to further detail in relation to the specification and a strategy to set out the following:
  - o the hours it will be open;
  - o the target users for the facility;
  - o how the facility will be promoted to target users;
  - o how the facility will be managed and booked;
  - o the role of the Community Manager for the facility whose duties will include liaising with and reporting to the Council on the use of the facility.
- 1,400sqm of affordable workspace for the lifetime of the building, rented at no more than 50% of average market rents. This would be subject to the submission of a strategy/plan to set out the following:
  - o the exact location, specification and fit-out of the affordable workspace, including flexible workspaces and any sub-division into smaller business units;
  - o how the affordable workspace will be operated and managed;
  - o lease terms (including flexible and short-term tenancies) to encourage occupation by local start-ups and SMEs;
  - o eligibility and marketing of the space to local small businesses; and
  - o business support to help Westminster start-ups and SMEs grow and access the space, including a £50,000 'Small Business Fund' (in total) provided by British Land. The criteria for making grants from the fund to local start-ups will be agreed with Westminster's economic development team.
- £50,000 small business fund for local start-ups.
- Community access to the 250 Auditorium, comprising of 4 sessions per month (each session comprising either a morning, afternoon or evening).
- £20,000 towards a study of the physical condition of the Westbourne Bridge and the ways it can be enhanced.
- A Walkway Agreement to ensure public access is retained for the new route under the building and managed for the benefit of all, including retained clear through routes and appropriate locations for tables and chairs.
- The provision of a cycle hire docking station on the development site.
- Employment and training strategy for the construction phase and the operational phase of the development;
- S106 monitoring costs.

The Greater London Authority and Transport for London would also require the following to be secured:

- £4,500 towards legible London signage.
- Provision, monitoring and review of a Travel Plan.

The development is liable to pay the Mayoral and Westminster CIL. The estimated CIL payments would be around £11,491,757.93 to Westminster and £11,625,427 to the Mayor of London.

### 8.13 Environmental Impact Assessment

Under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (hereafter the 'EIA Regulations'), some developments always require an EIA to be prepared (known as Schedule 1 Developments) whilst some developments may or may not be subject to the EIA Regulations dependent on the scale and the likelihood for significant environmental effects to arise as a result of the development. The Development is considered to fall under Schedule 2, category 10b of the EIA Regulations as it exceeds the 1 hectare threshold for non-dwelling house developments. As such, the Applicant (British Land) submitted an Environmental Statement (ES) alongside the detailed planning application for the Development, dated April 2019.

The topics to be included within the ES were confirmed as part of the scoping application referenced 18/10187/EIA\SCO, where it was agreed the following topics would be addressed:

- Socio-economics;
- Daylight, Sunlight, Overshadowing & Solar Glare;
- Wind Microclimate.
- Townscape, Built Heritage & Visual Amenity;

The submitted Environmental Statement has been critically reviewed and assessed by external consultants Waterman on behalf of the City Council. Following an initial assessment, clarifications were sought in relation to the topics, which were subsequently provided by the applicant. Their assessment has considered whether the document is sound and in compliance with the EIA Regulations, EC Directives and UK case law, as well as assessing the findings of the document and any mitigation measures proposed.

Waterman has confirmed that the ES is regulatory compliant and provides a satisfactory review of the impacts of the proposal. They do not identify any significant adverse environmental impacts as a result of the proposed development.

Notwithstanding the above conclusions a summary of key microclimatic issues is set out below. It should be noted that these findings are in relation to the criteria for assessing EIA's, and officers have undertaken a separate assessment within the body of this report in relation to the planning weight and degrees of harm attributed to the impacts which are also discussed here.

#### 8.13.1 Socio-economics

The objectives of the chapter are to present the results of the assessment of potential impacts and likely effects related to:

- Construction employment
- Operational employment; and
- Crime.

The proposed development aims to deliver a scheme that appropriately responds to the immediate local site area context and local authority needs. To this end the proposed

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development includes a number of significant construction and operational phase employment and training opportunities.

The neighbourhood level crime rate is comparatively higher than the surrounding areas. The Westbourne, Little Venice, Church Street, Bayswater and Knightsbridge & Belgravia Wards reported crime levels between March 2018 to February 2019 are all between 55% to 70% less than Hyde Park Ward. The proposed development aims to discourage crime and fear of crime by implementing appropriate lighting, CCTV, 24/7 site security and the internal public spaces will be closed from late evening to early morning to reduce anti-social behaviour.

**Construction Employment:**

In relation to the construction phase it will generate 382 gross direct construction jobs which, when taking into account leakage, displacement and induced/indirect jobs, would be equivalent to 60 net construction jobs which would specifically benefit WCC residents over the 48-month construction duration, which in the context of the size and mobility of the construction workforce would have a temporary Moderate Beneficial residual effect.

**Operational Employment:**

The Operational Phase effects of the development would deliver a range of commercial spaces, all of which would create employment. Based on standard employment densities, this space would create approximately 3,431 – 4,914 gross direct operational jobs which, when taking into account leakage, displacement and induced/indirect jobs, would be equivalent to 566 – 811 net operational jobs that would specifically benefit WCC residents. In the context of the local economy, this would have a Major Beneficial residual effect.

**Crime:**

In relation to Crime the development would deliver a safe and secure development implementing appropriate secured by design principles. In regard to reductions of crime and fear of crime, this is considered to result in a permanent Moderate Beneficial residual effect

**Other:**

The scheme would also deliver contributions towards affordable housing and social and community infrastructure to result in a permanent Moderate Beneficial residual effect.

**Conclusion:**

Following the provision of further clarification, Waterman agree with the above findings.

**8.13.2 Daylight, Sunlight and Overshadowing**

The impacts of the development have been discussed in detail in section 8.3 of this report, however they have also been considered by Waterman as part of the EIA process.

The applicant has undertaken Assessments to establish the likely significant effects of the proposed development upon the amount of daylight, sunlight, overshadowing and solar glare received by properties, amenity areas and road and rail receptors neighbouring the site both during construction and once complete. It has also considered the implemented scheme vs the proposed development.

The report notes that during construction the impact would vary dependant on the phase of construction, gradually increasing to a maximum equal to the completed development.

Regarding daylight it notes that once complete, it is likely that there will be 16 instances where neighbouring properties would experience a minor adverse effect and 3 instances where properties would experience moderate adverse effects. The remaining 24 properties considered would see a negligible effect.

In relation to sunlight, there would be 2 instances where neighbouring properties would have a minor adverse effect, 5 properties which would have a moderate effect and 23 properties which would have a negligible effect.

For overshadowing, one property would have a minor adverse effect, 3 instances of major adverse effects and 11 where the impact would be negligible.

Finally in relation to Solar glare, 8 locations where a minor adverse impact would be expected, and one moderate instance of an adverse effect. (see section 8.14.1 of this report)

When compared to the implemented scheme the proposed development results in very minor additional daylight and sunlight effects that are unlikely to be noticeable to occupants for the majority of receptors assessed. For overshadowing, three private gardens would receive additional noticeable effects in comparison to the 2010 Implemented Scheme. All other assessed areas would not experience a material change in comparison to the 2010 Implemented Scheme.

Following the submission of clarifications regarding overshadowing and massing, Waterman concludes that overall, the assessment results demonstrate some adverse daylight and sunlight effects, however they are comparable to the 2010 scheme and are not considered material. The assigned daylight, sunlight, overshadowing and solar glare significance effects are considered appropriate.

### **8.13.3 Wind Microclimate**

Windiness affecting pedestrians has been assessed quantitatively using the Lawson LDDC requirements in conjunction with wind tunnel testing which describe acceptability of wind conditions for particular activities in terms of 'comfort' and 'distress' (or safety). The studies presented consider windiness for the existing site scenario, (i.e. the baseline), and for the proposed development with and without future surrounding forthcoming schemes in the local area (namely the approved, but not implemented hotel development at the eastern end of Paddington Central).

Wind conditions for the baseline scenario, which included the existing permanent buildings with existing landscaping elements, meet the desired targets for intended pedestrian use with exception of some areas immediately off-site. These included the main entrance to 4 Kingdom Street and the eastern entrance to 3 Kingdom Street (both facing Kingdom Square) where the local conditions are in exceedance of the acceptable comfort limits for entrance use ('Standing'). On Kingdom Street, the safety limit for general public access is also marginally exceeded at one location.

In the presence of the proposed development, wind conditions within the offsite existing Kingdom Street area remain similar to existing, with some marginal increases to windiness at the entrances to 4 Kingdom Street and within the undercroft on the south side of 3 Kingdom Street, where the general public access distress criterion is exceeded. This location is intended as part of the cycling route through the development. Mitigation measures in the form

of planting in pots are recommended at the middle and east entrance to 4 Kingdom Street and at the main entrance to 3 Kingdom Street. A louvered wall is proposed along the south undercroft of 3 Kingdom Street. With these mitigations the local windiness would be acceptable for intended use according to the Lawson criteria and improved from existing. These mitigation measures could be secured by condition.

Waterman has requested a number of points to be clarified within their response. On the whole they agree with the findings and clarifications provided. One point is raised with regard to the entrance doors to the new public route, which are proposed to “be held open for as long as environmental conditions allow”. Waterman query if conditions would be suitable to ensure that the main doors are held open or if further assessment is required. Officers consider that while the retention of the doors being open would be beneficial, to allow for the space to be more welcoming to members of the public, should conditions arise that require these doors to close, this would not be so negative as to jeopardise the application and could be suitably controlled by condition to ensure that the doors remained open for the majority of the time.

#### **8.13.4 Townscape, Built Heritage & Visual Amenity**

The report notes in relation to baseline conditions the following: “The Townscape Character Areas identified range from high to low sensitivity. There are two that are judged to have high sensitivity on account of a higher concentration of heritage assets and a small scale and domestic character of development: Maida Vale and Paddington Green.”

“The susceptibility of a Conservation Area or Listed Building to change may be influenced by its particular character or heritage significance and/or by the character of its setting. Nonetheless the sensitivity of all Conservation Areas and Listed Buildings is judged to be high overall because of the high value attached to the designated status.”

“The sensitivity of the views from the identified Viewing Places range from high to low sensitivity. Viewing Places with high sensitivity include designated views (Primrose Hill), views from Registered Parks (Regent’s Park, Hyde Park and Kensington Gardens) and views from areas with a highly coherent historic streetscape, which generally include conservation areas (Notting Hill, Maida Vale, Little Venice, South Kensington). Whilst Viewing Places ‘Westway’ and ‘Rail lines and bridges’ include views close to the Grade I Listed Paddington Station and Grade II Listed Westbourne Bridge, it is considered that the design character and particular heritage significance of these industrial structures is such that they are less sensitive to change in their settings than the listed 19th century terraces nearby, and they are already dominated by a highly modern and urban context.”

The report then assessed the impact of the development in terms of demolition and construction effects (which would vary over the length of the construction phase), and the operational effects in terms of views, townscape character and heritage.

In terms of views, the significance of the effects range from negligible to major. It also notes that the building would be prominent in local views, but part of the urban, large scale backdrop.

In terms of the effect on the townscape, and in relation to the criteria set out within the ES, the impact is found to range from negligible to small.

On heritage assets the report notes the impact would only affect setting with no impact on historic fabric. The impact on conservation areas ranges from negligible to medium. The impact on the setting of listed buildings, particularly those close to the site.

The report concludes as follows: “It is recognised that, due to its local landmark qualities, the scale of the proposed building would appear in contrast to the small scale of some listed buildings it would be seen in relation to, and that the top of the proposed development would be visible from conservation areas and registered parks in the wider area. For the reasons explained above, no harm to heritage significance has been found in this assessment. However, if any harm was found, it would be considered ‘less than substantial’, in the terms of the NPPF, due the indirect nature of the impacts and a number of factors already expressed: the high quality and appropriate character of the design and materials, its appearance within an established urban skyline, its situation within a part of the townscape characterised by modern, large scale development, and by its preservation of all the key views, aspects of setting and fabric which contribute to the heritage significance of the heritage assets considered in the assessment.

If ‘less than substantial’ harm to heritage significance was found, it would be fully outweighed by the substantial public benefits provided by the proposed development, including a new pedestrian route through the site which will substantially improve connections through the townscape west of the application site, a substantial amount of new public space in the lower levels of the building, including new landscaped gardens from which there would be views of the Grade II Listed Westbourne Bridge, and other public benefits not directly associated with heritage and townscape which are set out in the Planning Statement.”

Waterman raise a number of points in relation to the assessment, which have been provided and accepted. It must however be noted that the level of harm is also considered elsewhere within this report, as officers do not agree with the conclusions within the ES.

## 8.14 Other Issues

### 8.14.1 Solar Glare

Given this site is bounded by the Westway and the Harrow Road to the north, the railway tracks to the south and the Westbourne Bridge to the west, any new building has to demonstrate that they will not result in unacceptable levels of solar glare to either passing motorists or train drivers.

The applicant has undertaken a full solar glare assessment as part of the Environmental Statement. The assessment has been undertaken from signalised railways, road junctions and pedestrian crossings nearby which are considered sensitive in terms of solar glare. It is likely that there would be eight locations where a Minor Adverse effect would be expected for vehicle and train drivers and one instance where a moderate adverse effect has been identified (to drivers on the Westway). The report notes that “*solar reflection may be visible on the façade of the Development from 12° of a driver’s line of sight. The reflections closest to the driver’s line of sight would occur between 16:00 to 18:00 GMT from mid-January to mid-May and Mid-July to Mid-November. Although the solar reflections from this viewpoint W1 occur from 12° of a driver’s line of sight at times, the facade is largely broken up by solid elements which would break up any potential reflections and reduce each instance of reflective glare. In addition, the vast majority of solar reflections would occur above the driver’s visor cut off line and therefore*

*if any instances of solar glare occur, the driver can deploy their visor which would help mitigate any potential glare.”*

The officers report for the implemented scheme, noted similar impacts and concluded that given the façade is broken up and as no objection has been received from the Highways Manager or Transport for London on highways safety grounds the proposals were acceptable in these terms, this opinion is maintained for the currently proposed scheme and design.

#### **8.14.2 Construction impact**

The Environmental Sciences Officer has commented that this development will be required to sign up to the requirements of the WCC COCP and therefore a Site Environmental Management Plan (SEMP) will be required prior to the commencement of works at the site and this document will detail the required mitigation measures. The noise assessment does not include an assessment of construction noise, however this will be picked up during the review of the SEMP and the developer will also be required to submit a Section 61 application which will control noise from the construction works.

The applicant has confirmed that they would sign up to the Council's Code of Construction Practice, which would be secured by condition.

#### **8.14.3 Air Quality**

During the course of the application, further information has been provided to meet the requirements of the Environmental Sciences Officer. While now generally accepted, a condition is recommended to ensure that no school or creche occupies the building as such uses would not be appropriate for this site, which is considered reasonable.

#### **8.14.4 Crime and security**

A condition is recommended in relation to the submission of an Operational Management Plan for each of the proposed uses, once the final layout and details have been decided. This will include details of how they will be managed, capacity and opening hours. No response has been raised in relation to the development from the Metropolitan Police. Subject to the aforementioned condition, the proposals are considered acceptable.

#### **8.14.5 Television interference**

Given the height of the proposed building a Television Interference Desk Based Report has been undertaken by Pager Power to assess any potential impact on TV signals. This recommends that any reported television interference should be investigated by means of a post-construction reception measurement, which could be secured by condition. If a significant impact is identified, mitigation can be implemented.

#### **8.14.6 Development phased implementation**

The applicant has requested some flexibility in relation to the delivery of the Crossrail Box as the easternmost part of the box may not be available for development at the same time as the rest of the site because:

- 1) Crossrail has a right to occupy part of the Box until the railway is open and the construction and opening of the line is taking longer than planned and is now expected to stretch into 2021; and
- 2) British Land is partnering with CC Land, the owner of the part of the Box beneath 1 Kingdom

Street, to deliver this element of the scheme – principles have been agreed and both parties are committed to delivery, however given there are regularly delays with legal agreements there is a chance that the provision of this part of the box to British Land may be delayed.

Should permission be granted a condition could be secured to ensure that the development is delivered in its entirety and to ensure that the elements put forward as public benefits are provided.

### 8.15 Summary and Conclusion

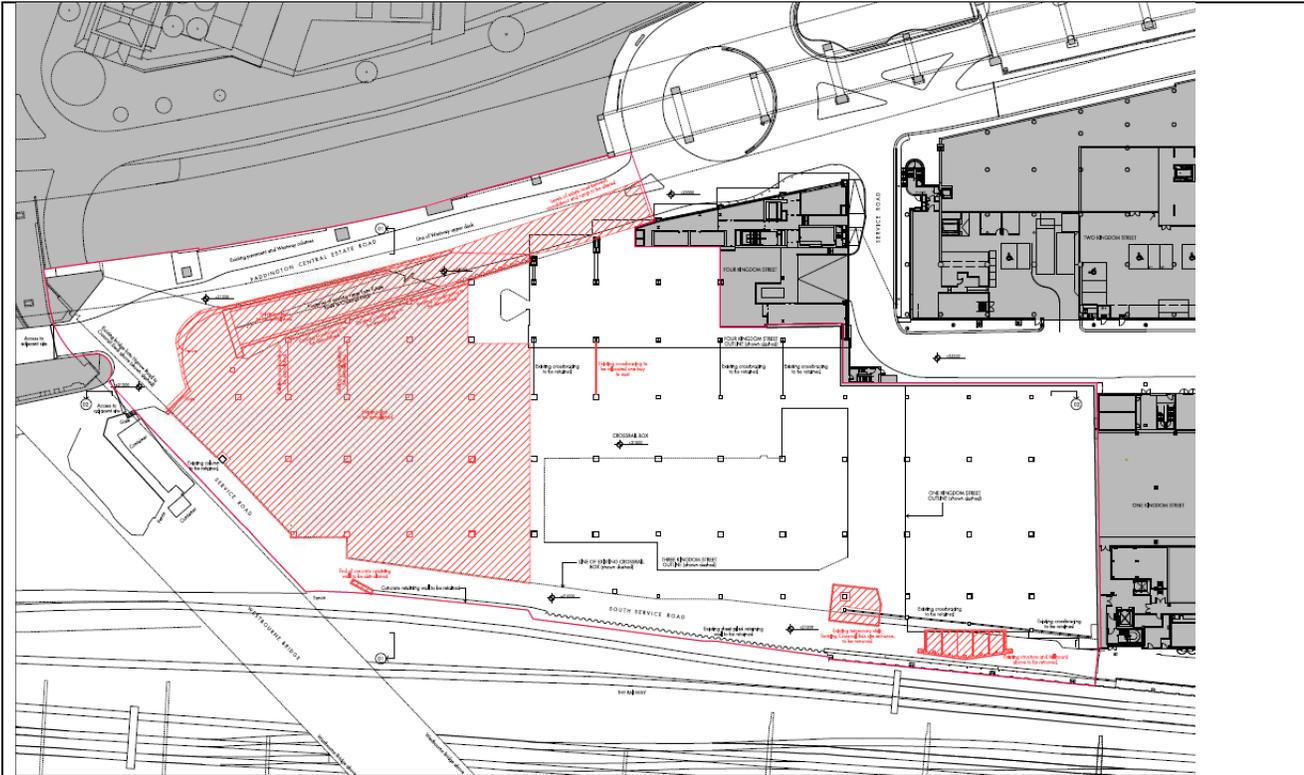
The application is recommended for refusal on two grounds, firstly because of its height mass, location and design, the proposed 18 storey tower (plus plant room levels) would harm the character and appearance of this part of the City and result in less than substantial Harm to a range of designated heritage assets. The proposed public benefits are not considered to outweigh this harm.

Secondly it is considered that insufficient information has been submitted to demonstrate that the proposed building, by reason of its height and mass would not result in a cumulative material loss of light to the detriment of the amenities of the occupiers of the properties on Westbourne Terrace Road and Warwick Crescent following the Councils resolution to grant planning permission for the development on Blomfield Mews (RN: 19/00026/COFUL).

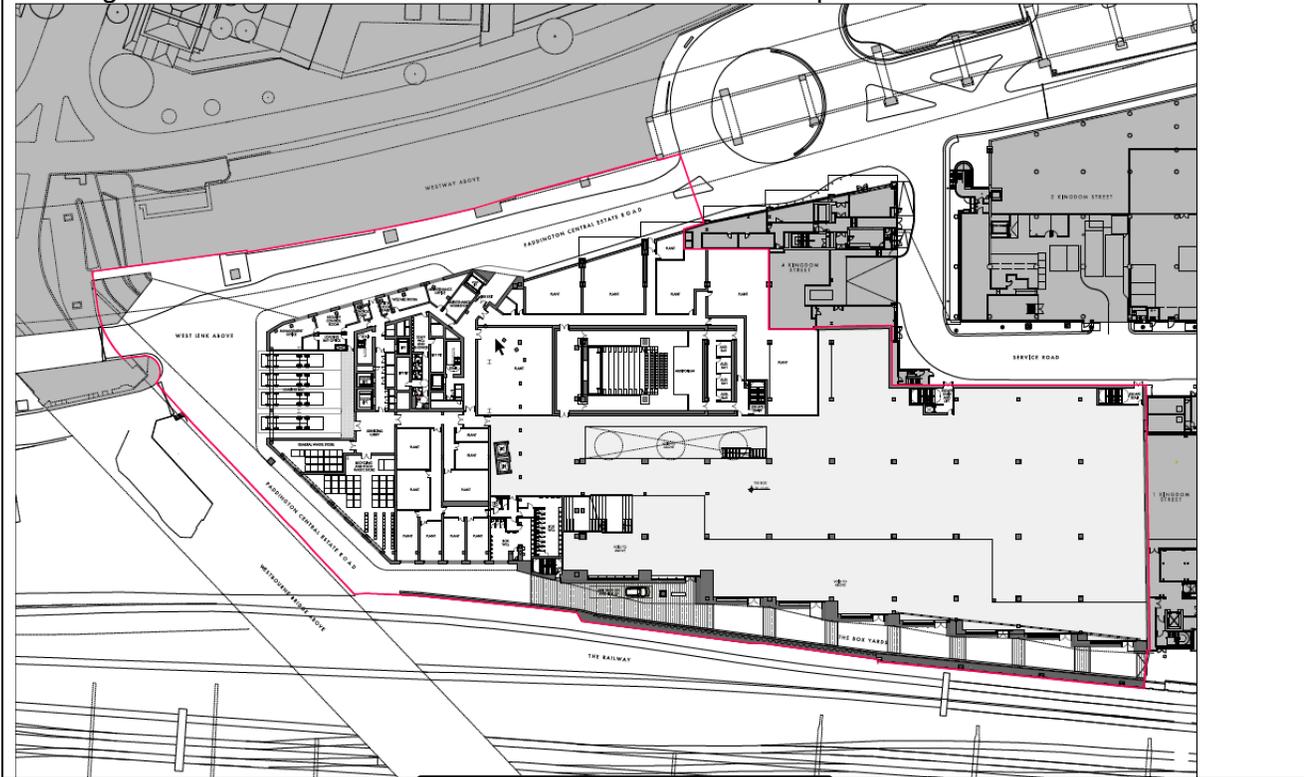
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT [rhandley@westminster.gov.uk](mailto:rhandley@westminster.gov.uk).

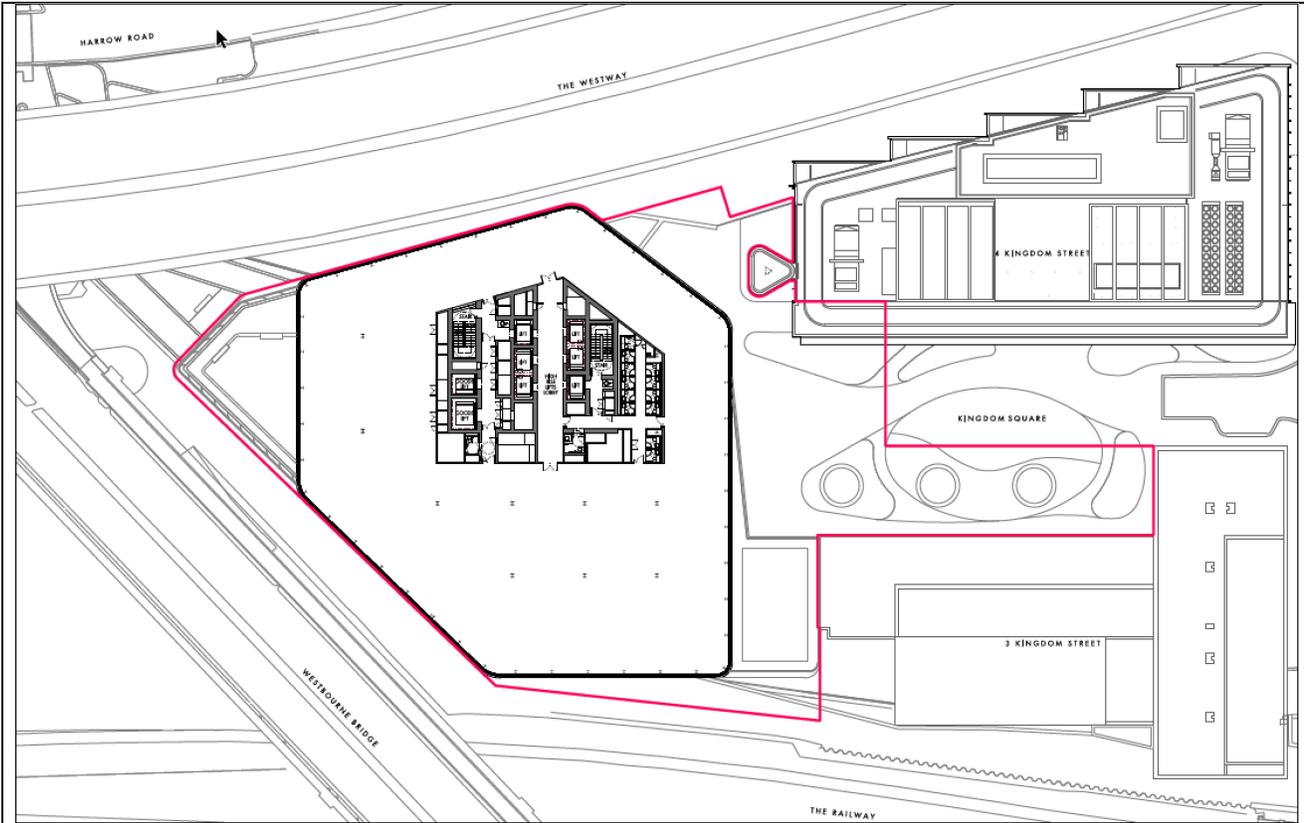
9. KEY DRAWINGS



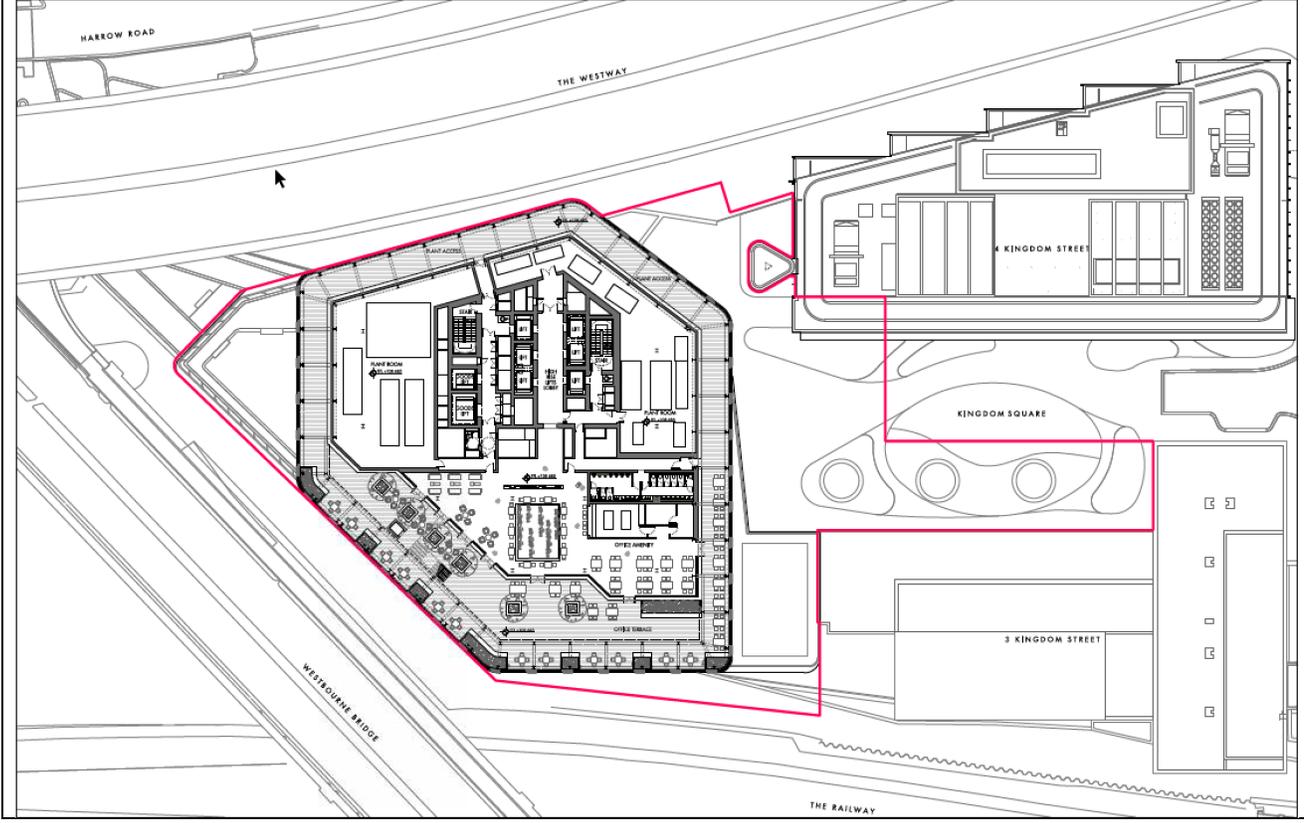
Existing service road level with demolition hatched above. Proposed below

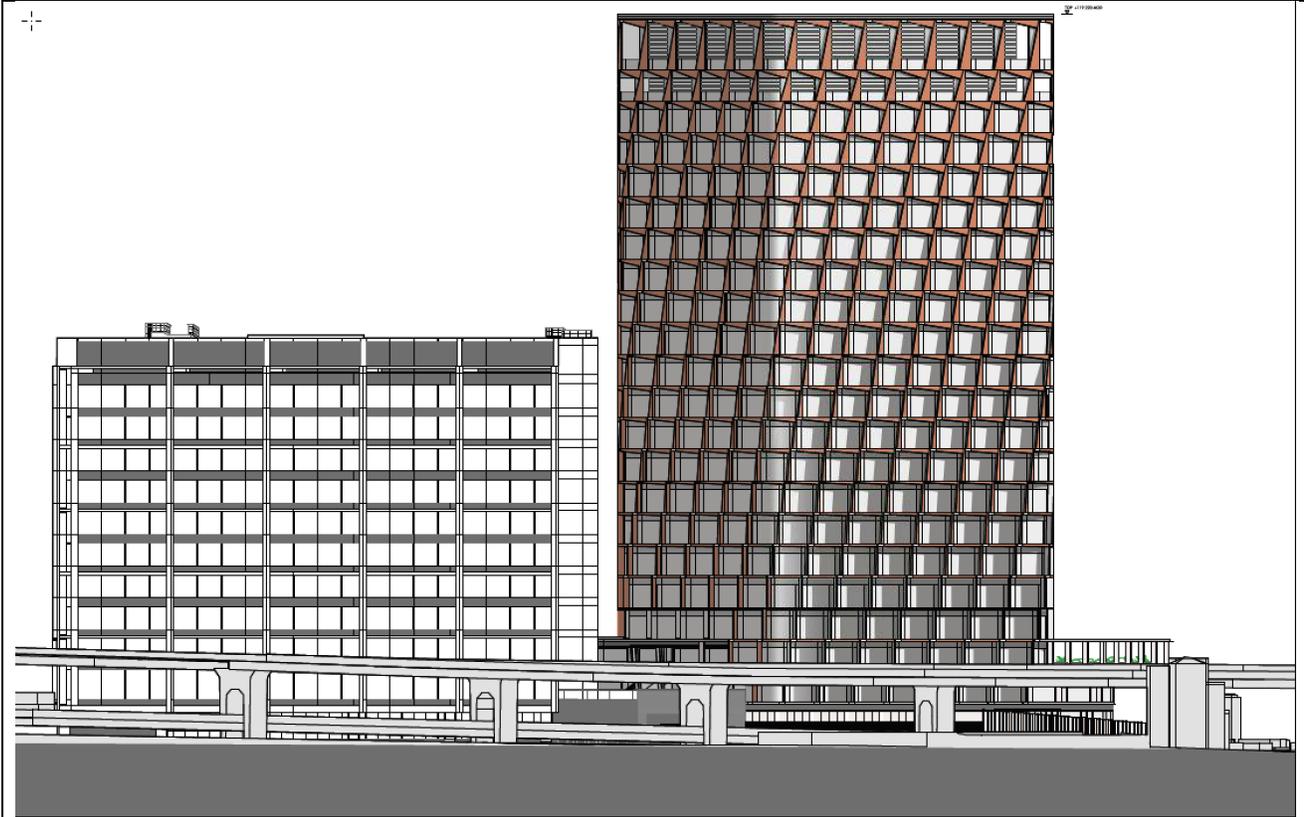




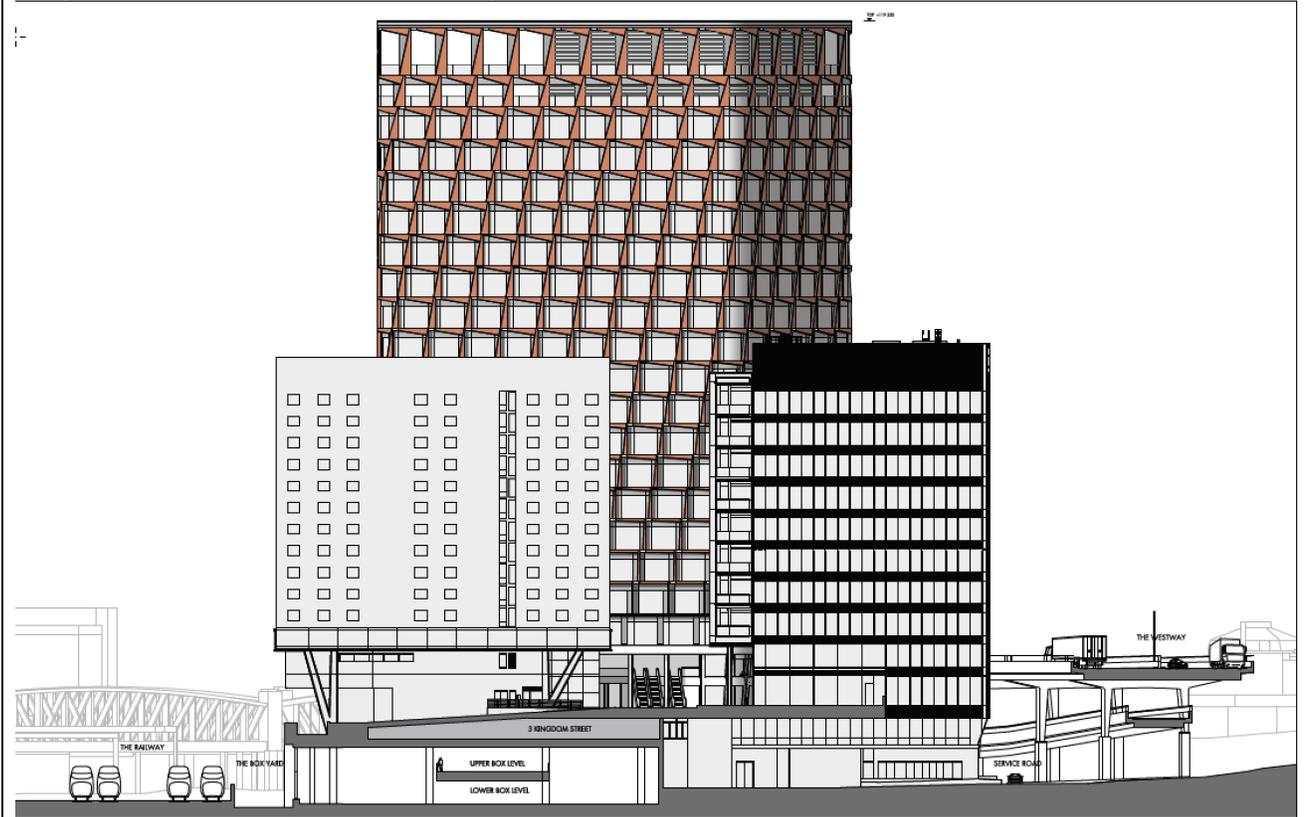


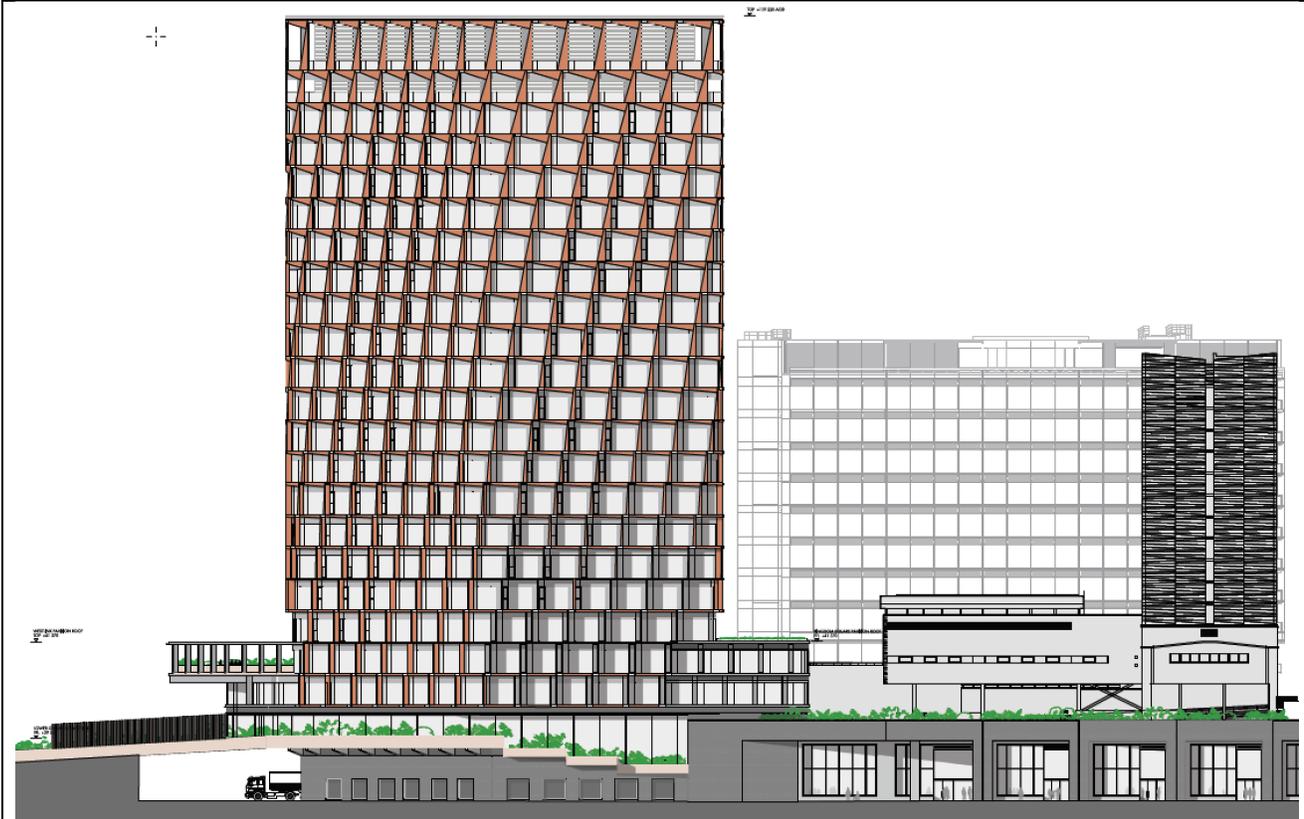
Typical upper office floor plan layout above. Lower roof level with office amenity below



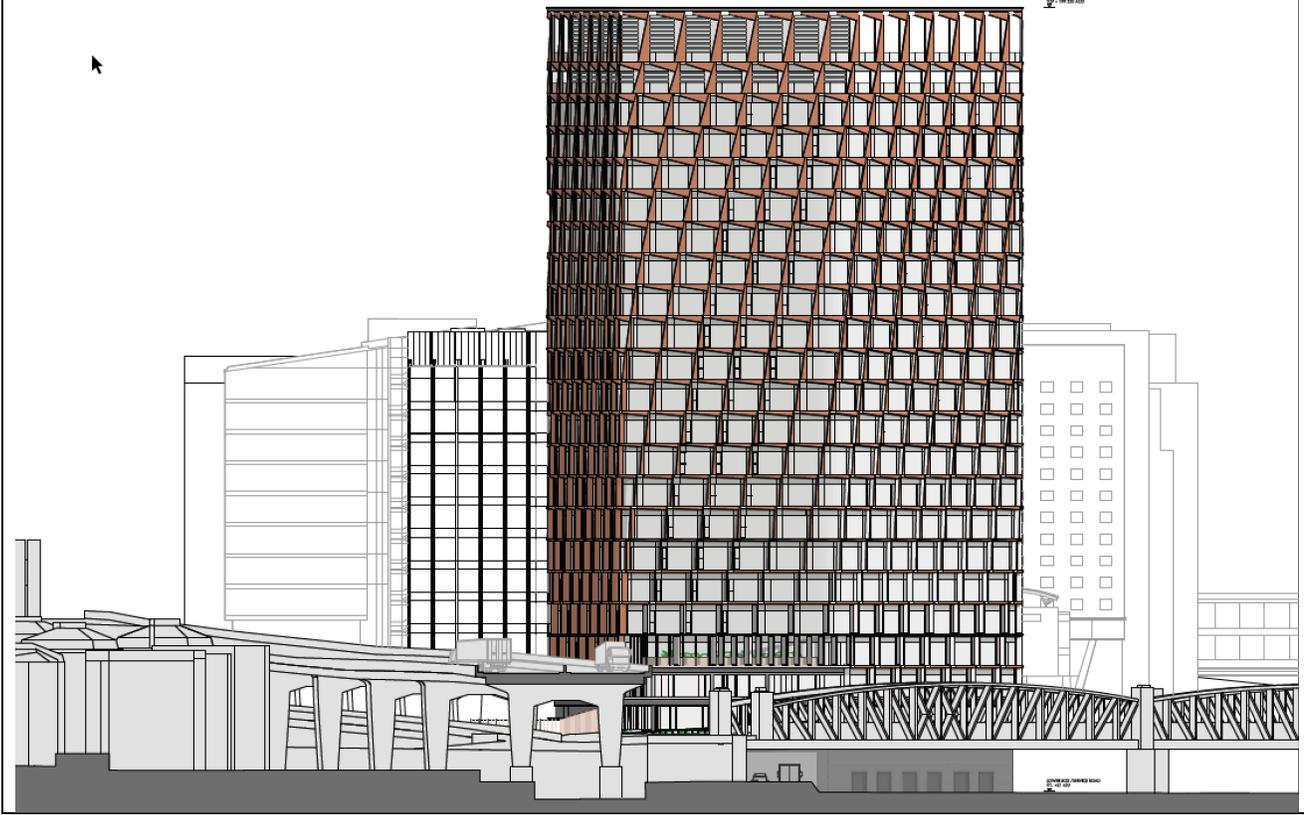


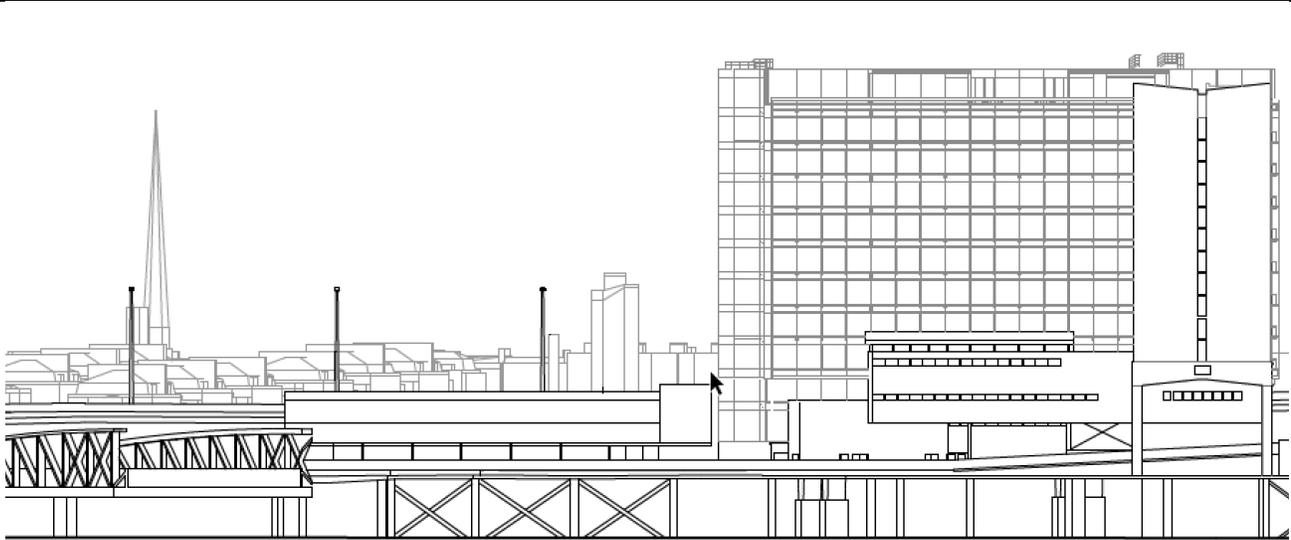
Proposed north elevation above. Proposed east elevation below





Proposed south elevation above. Proposed west elevation below

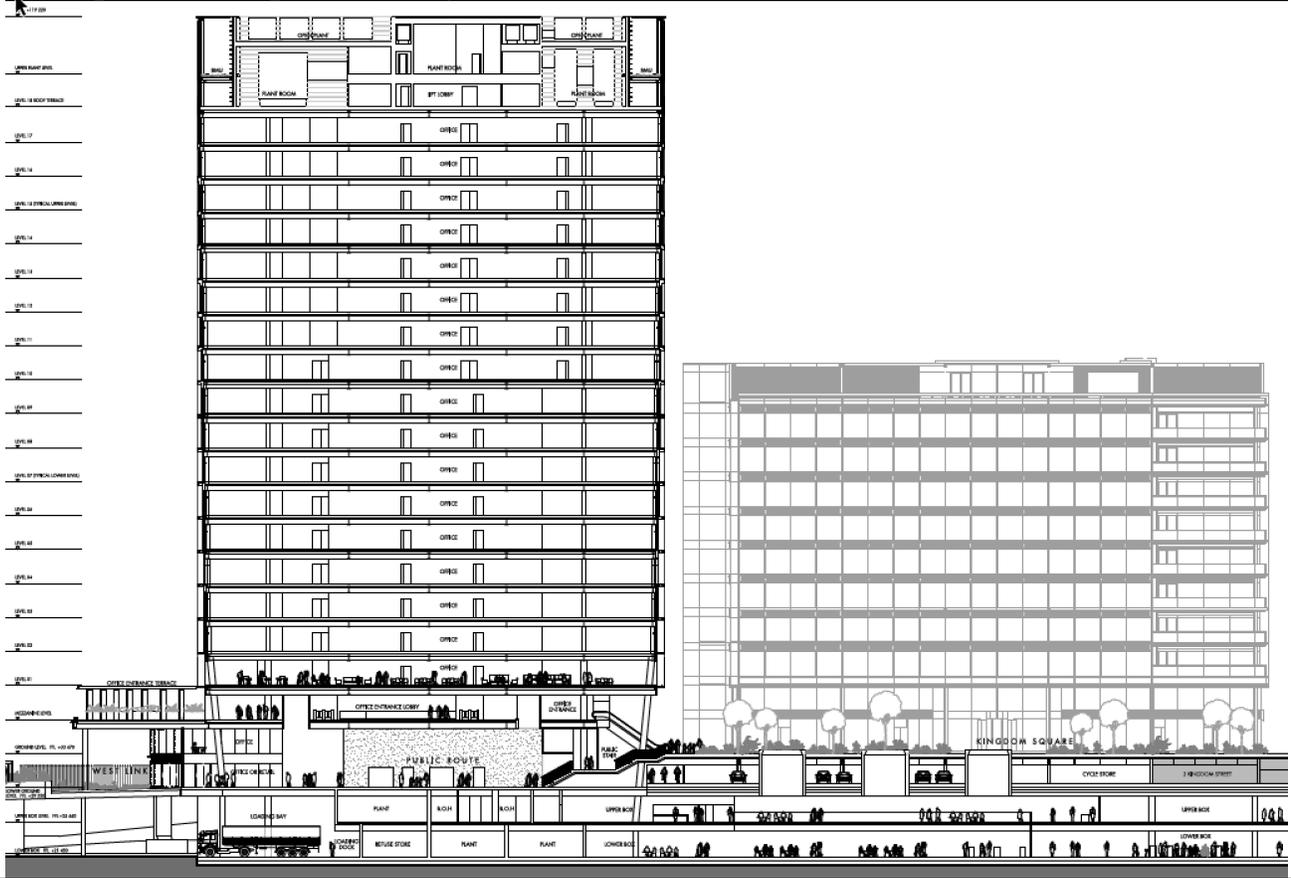




Westbourne Bridge

Three Kingdom Street

Existing north looking section. Proposed section below.



Proposed model



**DRAFT DECISION LETTER**

**Address:** 5 Kingdom Street, London.

**Proposal:** Erection of a mixed-use development comprising ground floor (at Kingdom Street level), plus 18 storeys to provide offices (B1a) plus ancillary plant and amenity areas. Three floors below Kingdom Street to provide a phased flexible mix of business B1(A), retail (A1), leisure, community and cultural uses (D1) within the former 'Crossrail box'. New outdoor terraces adjacent to railway at basement level; creation of a new pedestrian and cycle link between Harrow Road and Kingdom Street including internal and external garden and landscaping; and associated works.

**Reference:** 19/03673/FULL

**Plan Nos:** 606\_07\_001 Rev P1; 606\_07\_002 Rev P1; 606\_07\_003 Rev P1; 606\_07\_004 Rev P1; 606\_07\_010 Rev P1; 606\_07\_011 Rev P1; 606\_07\_012 Rev P1; 606\_07\_013 Rev P1; 606\_07\_100 Rev P1; 606\_07\_101 Rev P1; 606\_07\_102 Rev P1; 606\_07\_103 Rev P1; 606\_07\_104 Rev P1; 606\_07\_105 Rev P1; 606\_07\_111 Rev P1; 606\_07\_119 Rev P1; 606\_07\_122 Rev P1; 606\_07\_123 Rev P1; 606\_07\_124 Rev P1; 606\_07\_200 Rev P1; 606\_07\_201 Rev P1; 606\_07\_202 Rev P1; 606\_07\_203 Rev P1; 606\_07\_204 Rev P1; 606\_07\_205 Rev P1; 606\_07\_206 Rev P1; 606\_07\_207 Rev P1; 606\_07\_208 Rev P1; 606\_07\_209 Rev P1; 606\_07\_210 Rev P1; 606\_07\_211 Rev P1; 606\_07\_212 Rev P1; 606\_07\_213 Rev P1; 606\_07\_214 Rev P1; 606\_07\_215 Rev P1; 606\_07\_216 Rev P1; 606\_07\_300 Rev P1; 606\_07\_301 Rev P1; 606\_07\_302 Rev P1; 606\_07\_400 Rev P1; 606\_07\_401 Rev P1; 606\_07\_402 Rev P1; 606\_07\_403 Rev P1; 606\_07\_404 Rev P1; 606\_07\_405 Rev P1; 606\_07\_406 Rev P1; 606\_07\_407 Rev P1; 606\_07\_408 Rev P1.

For information only:

Design and Access Statement by Allies and Morrison dated April 2019; Covering Letter by CBRE dated 3 May 2019; Planning Statement by CBRE dated April 2019; CIL form by CBRE dated 3 May 2019; Energy Assessment by Ramboll dated April 2019; Operational Management Framework by CBRE dated April 2019; Sustainability Statement by TFT dated 25 April 2019; Office Market Assessment by CBRE dated April 2019; Residential Site Search Assessment by CBRE dated 15 April 2019; Statement of Community Involvement by Kanda dated April 2019; Maximising the Positive Impacts of Development by British Land dated April 2019; Financial Viability Assessment by DS2 LLP dated May 2019; Television Interference Desk Based Report by Pager Power dated April 2019.

Environmental Impact Assessment by CBRE dated April 2019 including: Environmental Statement Vol I and II by CBRE dated April 2019; Townscape, Heritage & Visual Impact Assessment by Miller Hare Limited dated April 2019; EIA Scoping Report by CBRE dated April 2019; Scoping Opinion and Subsequent Correspondence by CBRE dated April 2019; Historic Environment (Archaeological) Assessment by MOLA dated April 2019; Phase 1 Environmental Assessment - Ground Conditions and Contamination by CBRE dated April 2019; Transport Assessment by Sweco dated 24 April 2019; Travel Plan by Sweco dated 24 April

2019; Delivery, Servicing and Waste Management Plan by Sweco dated 24 April 2019; Flood Risk Assessment (inc drainage) by Ramboll dated 18 April 2019; Westminster SUDS proforma by Ramboll dated 18 April 2019; Ecological Impact Assessment by Lloyd Bore Ltd dated 24 April 2019; Air Quality Assessment by Ramboll dated 18 April 2019; Noise and Vibration Impact Assessment by Scotch Partners LLP dated 8 April 2019; Outline Construction Environmental Management Plan by CBRE dated April 2019; Socio-Economics - Significance Thresholds by CBRE dated April 2019; Socio-Economics - Baseline Data by CBRE dated April 2019; Daylight, Sunlight Assessment by GIA dated 17 April 2019.

**Case Officer:** Rupert Handley

**Direct Tel. No.** 020 7641 2497

### **Recommended Condition(s) and Reason(s)**

Reason:

- 1 Because of its height, mass, location and design the proposed 18 storey tower (plus plant rooms) would harm the character and appearance of this part of the City and result in less than substantial harm to a range of designated heritage assets including harm to the setting of numerous grade II listed Victorian terraces and villas (notably 9-31 Porchester Square; 14-20 Westbourne Terrace Road; 21-26 Westbourne Terrace Road; villas and terraces in Blomfield Road facing Little Venice (34-44 Blomfield Road); villas on south-west side of Warwick Avenue (nos.7-31); and the terraces on either side of the southern end of Warrington Crescent (nos.1-49 and 4-36); harm to the setting of the grade I registered parks of Kensington Gardens and Hyde Park; harm to the setting of the Royal Parks Conservation Area, the Bayswater Conservation Area, the Maida Vale Conservation Area, the Westbourne Conservation Area; and harm to the setting of the Little Venice canal intersection. The proposed public benefits are not considered to outweigh this harm. The development would therefore not meet S11, S18, S25, S26, S28 and S37 of Westminster's City Plan (November 2016) and DES1, DES3, DES4, DES9, DES10, DES12, DES13 and DES 15 of our Unitary Development Plan that we adopted in January 2007.

Reason:

- 2 Insufficient information has been submitted to demonstrate that the proposed building, by reason of its height and mass would not result in a cumulative material loss of light to the detriment of the amenities of the occupiers of the properties on Westbourne Terrace Road and Warwick Crescent following the Council's resolution to grant planning permission for the development on Blomfield Mews (RN: 19/00026/COFUL). The proposal is therefore contrary to policy S 29 of Westminster's City Plan (November 2016) and Policy EN V13 of the Unitary Development Plan adopted in January 2007.

### **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 so far as practicable. 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. However, we have been

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unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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.