

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 20 September 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>2-8 Trebeck Street, 2-5 Hertford Street, 35 Shepherd Market And, 20 Shepherd Street, London, W1J 7JQ</b>		
<b>Proposal</b>	Variation to the terms of the Section 106 Agreement in connection with the planning permission of 3 March 2016 (Ref: 14/12430/FULL and as subsequently varied): Namely to require 8 residential units comprising 917 m2 to be provided at 217-222 Harrow Road by October 2024, or continue to make payments towards the City Council's affordable housing fund in accordance with the completed legal agreement.		
<b>Agent</b>	Daniel Rinsler		
<b>On behalf of</b>	Mr Daniel Rinsler		
<b>Registered Number</b>	20/03698/MOD106	<b>Date amended/ completed</b>	23 August 2022
<b>Date Application Received</b>	12 June 2020		
<b>Historic Building Grade</b>	Grade 2		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair		

## 1. RECOMMENDATION

Agree to complete a deed of variation to the original legal agreement dated 3 March 2016 to secure the following varied planning obligations:

- i. The provision of 8 residential units comprising 917m2 at 217-222 Harrow Road by October 2024;
- ii) In the event that (i) is not delivered, to require the applicant to continue to make annual payments to the Affordable Housing Fund commencing in November 2024.

## 2. SUMMARY & KEY CONSIDERATIONS

This application seeks to vary the terms of a Section 106 legal agreement dated 3 March 2016, which required residential be provided to offset a loss of residential at 5 Hertford Street. The site is a private members club which with the exception of a single residential flat at 3<sup>rd</sup> floor level at 20 Shepherd Street occupies a full street block bounded by Shepherd Market, Trebeck Street, Shepherd Street and Hertford Street. The club use commenced at part of the site in July 2012.

### Background

On 3 March 2016 permission was granted for an extension of the private members club into residential floorspace at part 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors within the street block involving the loss of 9 residential units totalling 917 m<sup>2</sup>. At the time that this application was made the applicant identified three separate sites in Mayfair where replacement residential could potentially be provided. The completed legal agreement required the appropriate residential (917 m<sup>2</sup>) to be provided at either the sites identified or an alternative appropriate site within 3 years of the 1<sup>st</sup> occupation of the extended club. A penalty clause in the legal agreement required annual payments to be made to the City Council's affordable housing fund if the offsite residential was not provided by the trigger date. The extended club use commenced in June 2016. Replacement residential was not found and a 1<sup>st</sup> payment of £383,000 was made on 25 June 2019.

Initially this application sought a three year extension of time to make the outstanding annual housing payments, due to the club's closure during the pandemic lockdowns.

### Application

In the intervening period alternative off site residential has now been identified at 217-222 Harrow Road. This scheme includes 94 new homes, a new homeless centre, 11 move on homes let at London Affordable Rents, and between 8 and 11 additional affordable homes let at London Living Rents or Discounted Market Rents (ref Item 1 on this Committee agenda).

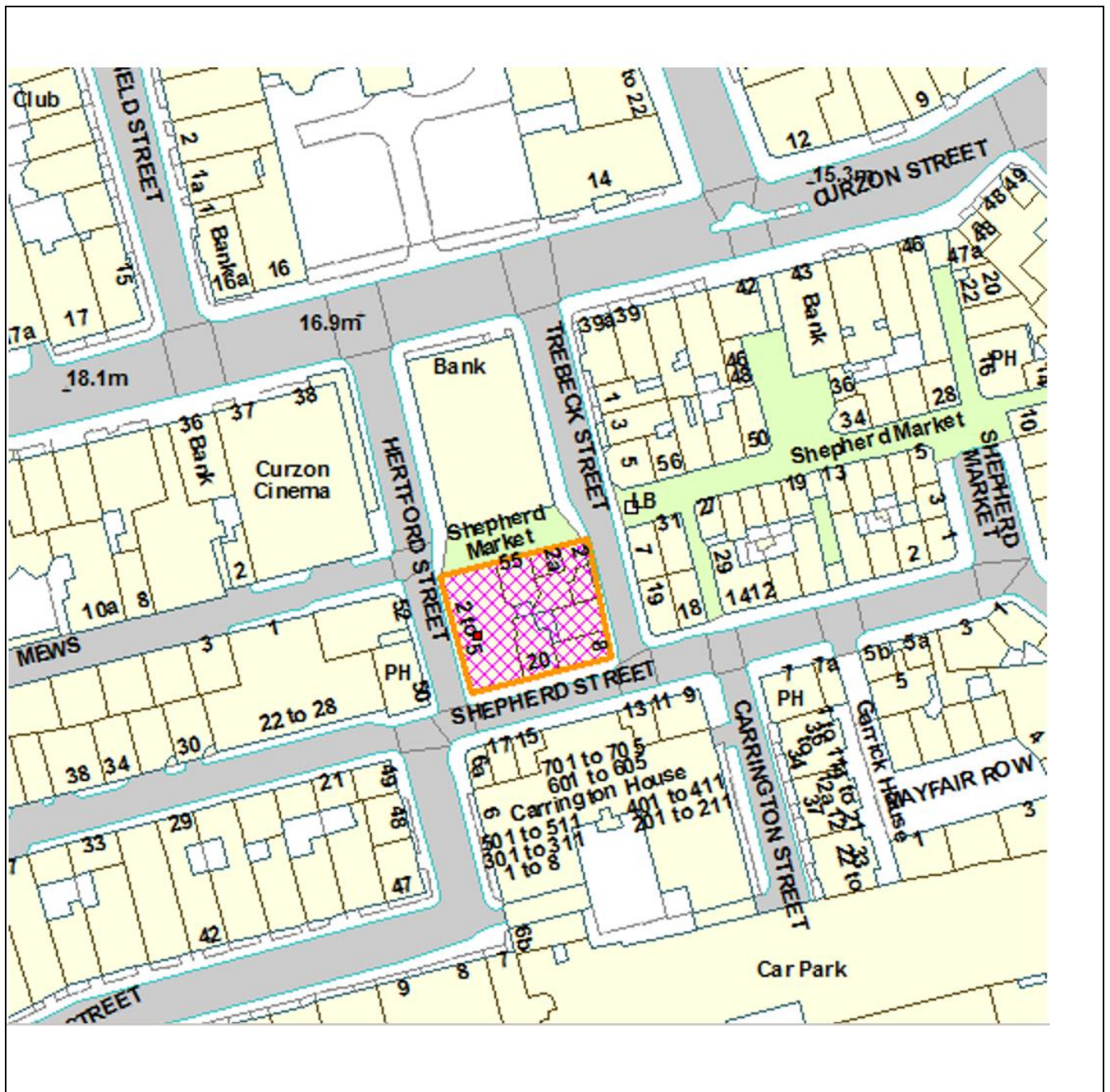
5 Hertford Street will make a financial contribution of £2.1m towards the scheme at 217-222 Harrow Road bridging a funding gap to enable the delivery of this scheme.

A deed of variation to terms of the legal agreement is now proposed in which 8 residential units comprising 917 m<sup>2</sup> at 217-222 Harrow Road would offsite the loss of residential at 5 Hertford Street. It is anticipated that subject to obtaining planning permission the scheme at 217-222 Harrow Road would be delivered by October 2024. This application seeks to vary the terms of the legal agreement at 5 Hertford Street to require the replacement residential to be provided by October 2024. If this cannot be achieved the penalty clause requiring annual payments to the City Council's affordable housing fund would again come into force.

Consideration

Housing delivery across the City remains a key strategic objective. Current housing policy protects residential units and floorspace across the City. The funding from 5 Hertford Street will enable the delivery of the residential scheme at 217-222 Harrow Road. The City Council's Head of Affordable Housing and Partnerships supports the proposal, to re- provide residential at 217-222 Harrow Road. The obligation at 5 Hertford Street will be discharged once 8 homes and 917 m2 have been provided offsite at Harrow Road.

3. LOCATION PLAN



4. PHOTOGRAPHS







## 5. CONSULTATIONS

### 5.1 Application Consultations

Head of Affordable Housing and Partnerships:

Housing is supportive of the proposal. The funding contribution of £2.1m made by the scheme at 5 Hertford Road towards the new development of 217 Harrow Road will achieve:

- The provision of 8 homes to be provided off site at 217 Harrow Road in lieu of replacement floorspace required under the terms of the original planning consent for 5 Hertford Street;
- The provision of a £2.1m funding gap towards the delivery of a mixed use new residential scheme at 217 Harrow Road that includes 94 new homes, a new homeless centre, 1 move on homes let at London Affordable Rents, and between 8 and 11 additional affordable homes let at London Living Rents or Discounted Market Rents.

## 6. BACKGROUND INFORMATION

### 6.1 Recent Relevant History

On 3 March 2016 permission was granted for the following development : Use of part first floors, second and third floors as a private members club use in connection with the existing private members club (sui generis). Alterations to the fenestration of the property to include the introduction of new window openings; creation of new plant areas at second and third floor levels; alterations to the roof form and installation of an awning over the terrace at third floor level. Internal alterations at all floor levels (RN 14/12430/FULL)

The permission was subject to a S106 legal agreement that required:

- 9 residential units totalling 917 m<sup>2</sup> in floorspace to be provided at an appropriate off- site location within 3 years of the first occupation of the extended club;
- Should replacement offsite residential not be provided by the trigger date annual financial payments of £383,000 per annum (index lined) are payable to the City Council's affordable housing fund (maximum payable £3,447,000).

YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT [mwalton@westminster.gov.uk](mailto:mwalton@westminster.gov.uk)



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