

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 March 2016	Classification For General Release	
Addendum Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Audley Square Garage, 5 Audley Square , London, W1K 1DS,		
Proposal	Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.		
Agent	DP9		
On behalf of	Caudwell Properties (109) Limited		
Registered Number	15/02197/FULL	Date amended/ completed	24 March 2015
Date Application Received	10 March 2015		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

1. Grant conditional permission, subject to a S106 legal agreement to secure the following:

a) i, The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23 Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

b) Highways works associated with the development;

c) Communal on-site parking spaces to be unallocated;

d) Public art provision

e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;

f) Costs of the stopping up order and the Dedication Agreement; and

g) The costs of monitoring the S106 agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

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

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

3. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of that area of highway required to enable the development to take place.

4. That the City Commissioner for Transportation be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order.

2. SUMMARY

The planning application was reported to the Planning Applications Committee on 8th December 2015, (see minutes and report attached) which resolved to grant planning permission for the above scheme subject to a s106 Agreement which has yet to be signed. Following the resolution to grant permission, the City Council has received correspondence from the new owners of a neighbouring property at 39 Hill Street, raising concerns regarding potential losses of daylight/sunlight to that property as a result of the proposed development. No representations to the planning application had been received from the former owner of the building or from any occupiers of the building.

However, on 4 December 2015, just prior to the committee meeting the Council received a letter from Rights of Light Consultants Anstey Horne on behalf of the new owners of 39 Hill Street, Residential Land, requesting that the impacts upon light to 39 Hill Street are fully considered as part of the planning application process. This letter did not specify that it should be considered as an objection to the planning application, but stated that "there are several long leasehold interests and long term residents in the building and there may be further long leasehold interests in the future, so my clients' concern relates to both current and future occupants". The claim that there may be some long term residents in the 39 Hill Street is at odds with the committee report which stated that 39 Hill Street would be the "*most significantly affected property, which has many windows overlooking the site. However, this property, which is 39 Hill Street (the Berkeley Plaza) is not in permanent residential use and comprises serviced apartments for short term letting. It is therefore not considered that the same weight should be attached to protecting natural levels to the windows of this property as would be the case for permanent residential use.*"

Anstey Horne's letter was circulated to the Members of the Planning Committee, and was therefore taken into account in the determination of the application but the committee decided that planning permission should be granted

Subsequent to the committee's decision further representations have been received from Residential Land and their agents complaining that the matter was inadequately discussed in the committee report, suggesting that members had insufficient information before them on which to base a decision, and denying that the building was used for short-term letting. In addition objection letters were received from five occupiers of the building. Notwithstanding Residential Land's claim, it is still not clear what the lawful use of the building definitely is given the lack of documentary evidence. It remains the case that in its previous ownership the building was, either wholly or in part, known as the Berkeley Plaza and flats within it were available for renting for short periods of time for holiday lets or by business visitors. The websites advertising this service can still be viewed via the internet. The current owner disputes this and considers that even if such a use did occur at any time, this would not have been the lawful use. In circumstances such as this it can often be time-consuming and difficult to establish the true lawful situation, and therefore in this case it is considered by officers to report the matter back to committee in more detail assuming the 'worst case scenario' - namely what the impact on neighbouring natural lighting levels would be assuming 39 Hill Street to be wholly in permanent residential use. Following the recently received objections officers have had the opportunity to visit the building where they were shown three of the 65 units.

The units facing the application site are single aspect and would be most affected by the proposed development. The committee report did not set out in detail the losses of daylight and sunlight to these affected windows, but the tables below do. There would be losses of daylight (VSC) ranging from 2% to 43% and losses to winter and annual sunlight levels ranging from 8-45%. The table also includes the losses from the 2013 planning permission granted at the application site which is a material consideration and shows that in many instances the reductions in sunlight and daylight to 39 Hill Street in the current application would not be as great as in the 2013 scheme.

The table below shows some of the windows that would lose over 20% VSC.

Level	Window Ref	Use	Existing	Consented	Proposed	Actual loss	Existing to proposed % change
First	W5/101	Bathroom	15.57	10.97	11.92	3.65	23.44%
First	W6/101	Bedroom	16.91	11.24	12.00	4.91	29.04%
First	W10/101	Kitchen	20.69	11.46	12.22	8.47	40.94%
Second	W7/102	Bedroom	20.93	12.92	13.79	7.14	34.11%
Second	W9/102	Kitchen	22.64	12.99	13.87	8.77	38.74%
Second	W16/102	L/K/D	27.85	17.75	18.49	9.36	33.61%
Third	W7/103	Bedroom	23.16	14.75	15.69	7.47	32.25%
Third	W10/103	Bedroom	27.54	15.46	16.39	11.15	40.49%
Third	W13/103	Living room	29.22	17.14	18.01	11.21	38.36%
Third	W15/103	Kitchen	29.90	18.79	19.85	10.05	33.61%
Fourth	W6/104	Kitchen	22.47	16.60	17.84	4.63	20.61%
Fourth	W11/104	Living room	28.27	17.10	18.01	10.26	36.29%
Fourth	W14/104	Bedroom	31.14	19.24	20.20	10.94	35.13%
Fifth	W7/105	Living room	26.65	19.47	20.55	6.10	22.89%
Fifth	W10/105	Kitchen	29.60	19.42	20.33	9.27	31.32%
Fifth	W15/105	Bedroom	32.94	21.56	22.49	10.45	31.72%
Sixth	W10/106	Kitchen	32.16	22.42	23.10	9.06	28.17%
Sixth	W12/106	Bedroom	33.66	22.86	23.51	10.15	30.15%
Sixth	W16/106	Living room	35.13	25.84	26.76	8.37	23.83%
Seventh	W9/107	Bedroom	33.69	25.74	26.12	7.57	22.47%
Seventh	W13/107	Bedroom	35.42	25.94	26.20	9.22	26.03%
Seventh	W17/107	Living room	26.35	28.47	28.99	7.36	20.25%
Eighth	W10/108	Living room	34.02	27.20	26.92	7.10	20.87%

Where there are reductions in VSC greater than 20%, it is considered that occupants may notice the change in daylighting levels. However, in the context of an inner London location such reductions are not excessive and the remaining lighting levels would be reasonable.

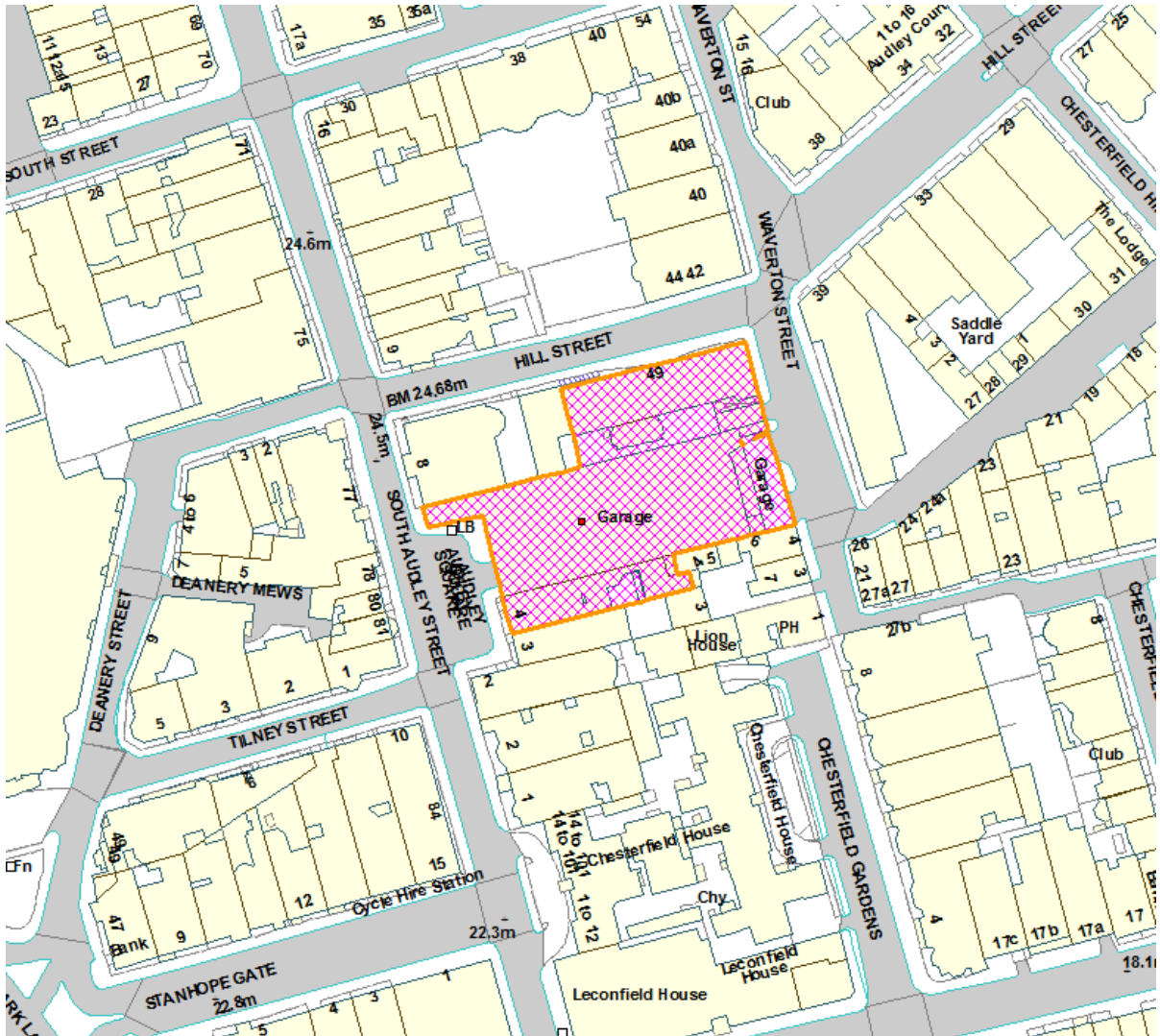
The table below shows some of the windows that would lose over 20% annual and winter sunlight.

Level	Window Ref	Room use	Existing winter	Proposed winter	% loss	Existing annual	Proposed annual	% loss
First	W6/101	Bedroom	12	8	33.3%	30	20	33.3%
First	W9/101	Kitchen	12	8	33.3%	35	21	40%
First	W14/101	Kitchen	13	10	23.1%	44	25	43.2%
Second	W2/102	Kitchen	9	7	22.2%	28	25	10.7%
Second	W9/102	Kitchen	14	9	35.7%	38	23	39.5%
Second	W15/102	L/K/D	11	11	0%	45	32	28.9%
Third	W4/103	Living room	13	8	38.5%	32	24	25%
Third	W12/103	Kitchen	17	13	23.5%	49	32	34.7%
Third	W15/103	Kitchen	15	14	6.7%	50	35	30%
Fourth	W2/104	Kitchen	10	7	30%	37	32	13.5%
Fourth	W6/104	Kitchen	15	10	33.3%	37	27	27%
Fourth	W10/104	Kitchen	18	13	27.8%	44	30	31.8%
Fifth	W1/105	Kitchen	12	7	41.7%	44	38	13.6%
Fifth	W6/105	Kitchen	15	11	26.7%	40	31	22.5%
Fifth	W11/105	Kitchen	18	13	27.8%	47	33	29.8%
Sixth	W7/106	Living room	18	12	33.3%	49	36	26.5%
Sixth	W10/106	Kitchen	20	13	35%	51	35	31.4%
Sixth	W15/106	Kitchen	19	17	10.5%	55	17	21.8%
Seventh	W7/107	Kitchen	17	13	23.5%	52	42	19.2%
Seventh	W9/107	Bedroom	18	13	27.8%	51	38	25.5%
Seventh	W16/107	Kitchen	20	18	10%	55	43	21.8%
Eighth	W10/108	Living room	16	10	37.5%	47	37	21.3%
Eighth	W18/108	Kitchen	17	15	11.8%	49	41	16.3%

In terms of sunlight, all the windows facing the application currently receive good levels of sunlight (over 5% annual probable sunlight hours in the winter months and 25% annual probable sunlight hours). This is largely due to the existing low level buildings connected with the garage site. There would be losses to annual sunlight over 20% - ranging from 8% to 45%. Eleven windows at first floor level, seven windows at second, and five at third floor level would see a reduction to below 25% annual probable sunlight. The remaining windows at second and third floor level and then all at fourth floor level and above would retain over 25% annual probable sunlight. There would be similar proportional losses to winter sun, but all the windows at first floor level and above would retain 5% or more winter sun. Therefore in some instances the loss of sunlight may be noticeable by the occupants.

However, these sunlighting levels are not unacceptable in a dense urban environment such as central London and in this case the impact of the development on the neighbouring property would not be so severe that withholding planning permission would be justified.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Site from Audley Square

Looking north on Waverton Street.



5. CONSULTATIONS

ADDITIONAL AND LATE REPRESENTATIONS RECEIVED AFTER THE PREVIOUS REPORT WAS WRITTEN (AND REPORTED VERBALLY AT PLANNING APPLICATIONS COMMITTEE ON 8 DECEMBER 2015)

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

Seven letters of objection on the following grounds:

- Material change in the amount of daylight and sunlight available to the residential units at 39 Hill Street
- 39 Hill Street is a permanent residential block
- Proposals will have an impact on property values.

6. BACKGROUND PAPERS

1. Application form
2. Planning Applications Committee Report and minutes dated 8 December 2015
3. Letter from Anstey Horne on behalf of the owners of 39 Hill Street, dated 4 December 2015
4. Letter from occupier of 39 Hill Street, dated 19 February 2016
5. Letter from occupier of Flat 31, 39 Hill Street, dated 18 February 2016
6. Letter from occupier of Flat 61, 39 Hill Street, dated 22 February 2016
7. Letter from occupier of Flat 3, 39 Hill Street, dated 22 February 2016
8. Letter from occupier of Flat 28, 39 Hill Street, dated 22 February 2016
9. Letters and other information from Montagu Evans on behalf of the owners of 39 Hill Street, dated 22 February 2016

(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 HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk

Item No.

10

DRAFT DECISION LETTER

Address: Audley Square Garage, 5 Audley Square , London, W1K 1DS,

Proposal: Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.

Reference: 15/02197/FULL

Plan Nos: PL806, PL807, PL808, PL809, PL810, PL811, PL812, PL813, PL814, PL815, PL816, PL817, PL840, PL841, PL842, PL843, PL844, PL845, PL846, PL847, PL870, PL871, PL872, PL873, PL106A, PL107, PL108, PL109, PL110A, PL111, PL112, PL113, PL114, PL115, PL116, PL117, PL118, PL140, PL141, PL142, PL143, PL144, PL145, PL146, PL147, PL170, PL171, PL172, PL173, SK192

PL104B, PL105B (these two drawings have been updated due to the committee resolution to ensure that all the car parking was to be unallocated)

Structural Methodology Statement dated March 2015 (INFORMATION ONLY),
Energy Statement dated March 2015, Construction Management Plan dated March 2015

Case Officer: Helen MacKenzie

Direct Tel. No. 020 7641 2921

Recommended Condition(s) and Reason(s):

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

Reason:

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

- 2 You must apply to us for approval of detailed drawings of the following parts of the development -
 1. Typical facade details at all levels, including roof;
 2. Public art on Audley Square and Waverton Street,
 You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we

adopted in January 2007. (R26BE)

- 3 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved either: , ,
(a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or,
(b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building., , You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

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

Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

- 7 The street facades shall be clad in natural Portland stone.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 8 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:, (a) A schedule of all plant and equipment that formed part of this application;, (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;, (c) Manufacturer specifications of sound emissions in octave or third octave detail;, (d) The location of most affected noise sensitive receptor location and the most affected window of it;, (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;, (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;, (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;, (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;, (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive

ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 9 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 10 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises., (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power., (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 11 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 8 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 12 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation

must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster., , You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed., , Phase 1: Desktop study - full site history and environmental information from the public records., , Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property., , Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution., , Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate., (C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

- 13 You must apply to us for approval of a detailed scheme to prevent overheating within the residential units (based on a whole house ventilation scheme with the windows closed). You must not occupy the residential flats until we have approved what you have sent us. You must then carry out the work according to the approved details. (C26BC)

Reason:

To prevent overheating as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013

- 14 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 9 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

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

- 15 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling. You must clearly mark them and make them available at all times to everyone using the residential units. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

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

Reason:

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 17 You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)

Reason:

To provide parking spaces for people living in the residential part of the development as set out in STRA 25 and TRANS 23 of our Unitary Development Plan that we adopted in January 2007. (R22BB)

- 18 You must apply to us for approval of details of the following parts of the development: , , - detailed sections of the proposed basements and the relationship with the highway., , You must not start work until we have approved what you have sent us., , You must then carry out the work according to these details. (C26CB)

Reason:

To ensure compliance with Policy TRANS19 of the Unitary Development Plan that we adopted in January 2007.

- 19 Any structure over the footway (highway) must maintain 2.6 metres vertical clearance and not extend closer than 1 metre to the kerb edge.

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 20 All car parking spaces shall be provided and maintained in working order with active Electric Vehicle Charging Points

Reason:

To promote sustainable forms of transport.

- 21 You must apply to us for approval of details of the ventilation system to get rid of vehicle exhaust emissions from the basement car park. You must not occupy the residential part of the development until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 22 The family sized (3+ bedrooms) residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms.

Reason:

To make sure that the development is completed and used as agreed, and to make sure that it meets H5 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

- 23 The ancillary facilities shown on plan number PL107 (gym, business centre, pool/Jacuzzi, cinema screening room) must only be used in connection with the residential units hereby approved.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 9 of our Unitary Development Plan that we adopted in January 2007.

- 24 You must adhere to the Construction Management Plan dated March 2015 by EC Harris LLP at all times during demolition and redevelopment.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 25 You must put a copy of this planning permission and all its conditions at street level outside the building for as long as the work continues on site., , You must highlight on the copy of the planning permission any condition that restricts the hours of building work. (C21KA)

Reason:

To make sure people in neighbouring properties are fully aware of the conditions and to protect their rights and safety. (R21GA)

- 26 You must provide the environmental sustainability features (environmentally friendly features) as set out in the Energy Statement before you start to use any part of the development., , You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013. (R44AC)

- 27 All vehicles must enter and exit the site in forward gear.

Reason:

In the interests of public safety and to ensure that the decorations are not hit by high vehicles as set out in TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 28 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk. , , If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk , , It is your responsibility

under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- 6 Prior to the commencement of development excluding demolition, the highway will need to be stopped up under s247 of Planning Act. If works commence prior to the finalisation of the stopping up process, an obstruction of the highway is still occurring. The applicant must contact the Council by writing to Jeff Perkins to progress the stopping up order.
- 7 You are advised that you will need technical approval for the works to the highway (supporting structure) prior to commencement of development excluding demolition. You should contact Andy Foster (0207 641 2541) in Engineering & Transportation Projects to progress the applicant for works to the highway.
- 8 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to: , - Provision of a new street sweeping depot and affordable housing units at 21-23 Farm Street, - Highways works associated with the development; , - Communal on-site parking spaces to be unallocated; , - Public art provision, - Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers; and, - Secure the costs of the stopping up order and the Dedication Agreement, - The costs of monitoring the S106 agreement

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.

Item No.

10

Item No.

1 AUDLEY SQUARE GARAGE, 5 AUDLEY SQUARE, W1K 1DS

Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.

A draft decision letter was submitted as an additional representation.

A late representation was received from Anstey Horne (04.12.15).

The Presenting Officer referred at the meeting to the revised recommendation to include:

'1. Grant conditional permission, subject to a S106 legal agreement to secure the following:

a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing;

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23 Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

b) Highways works associated with the development;

c) Communal on-site parking spaces to be unallocated;

d) Public art provision;

e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;

f) Costs of the stopping up order and the Dedication Agreement; and

g) The costs of monitoring the S106 agreement.'

RESOLVED:

1. That conditional permission be granted subject to a S106 legal agreement to secure the following:

a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street-sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing;

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street-sweeping depot at 21-23

Farm Street together with a contribution of £9.4M towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

- b) Highways works associated with the development;
 - c) All on-site parking spaces to be unallocated;
 - d) Public art provision;
 - e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;
 - f) Costs of the stopping up order and the Dedication Agreement; and
 - g) The costs of monitoring the S106 agreement.
2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:
- a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
 - b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of that area of highway required to enable the development to take place.
4. That the City Transport Advisor be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order.

Item No.
1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 8 December 2015	Classification For General Release	
Report of Director of Planning		Wards involved West End	
Subject of Report	Audley Square Garage, 5 Audley Square, London, W1K 1DS		
Proposal	Demolition of existing buildings (with the exception of 4 Red Lion Yard which is to be retained with external alterations) and the erection of new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 30 residential units with swimming pool and gymnasium, creation of roof terraces, car parking and cycle parking; vehicular access from Waverton Street; hard and soft landscaping; and plant at roof level.		
Agent	DP9		
On behalf of	Caudwell Properties (109) Limited		
Registered Number	15/02197/FULL	TP / PP No	TP/1717/10960
Date of Application	09.03.2015	Date amended/ completed	24.03.2015
Category of Application	Major		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

1. Grant conditional permission, subject to a S106 legal agreement to secure the following:

a) i. The implementation of a planning permission, should it be granted, for the redevelopment of the City Council's street sweeping depot at 21-23 Farm Street for mixed use purposes comprising a new depot and affordable housing;

or ii, if planning permission is not granted for i. above, the refurbishment/rebuilding of the Council's street sweeping depot at 21-23 Farm Street together with a contribution of £9.4m towards the City Council's affordable housing fund (index linked and payable upon commencement of development);

- b) Highways works associated with the development;
- c) Communal on-site parking spaces to be unallocated;
- d) Public art provision;
- e) Provision of £30,000 per annum (index linked) towards monitoring the construction project by the City Council's Environmental Inspectorate and Environmental Health officers;
- f) The costs of monitoring the S106 agreement.

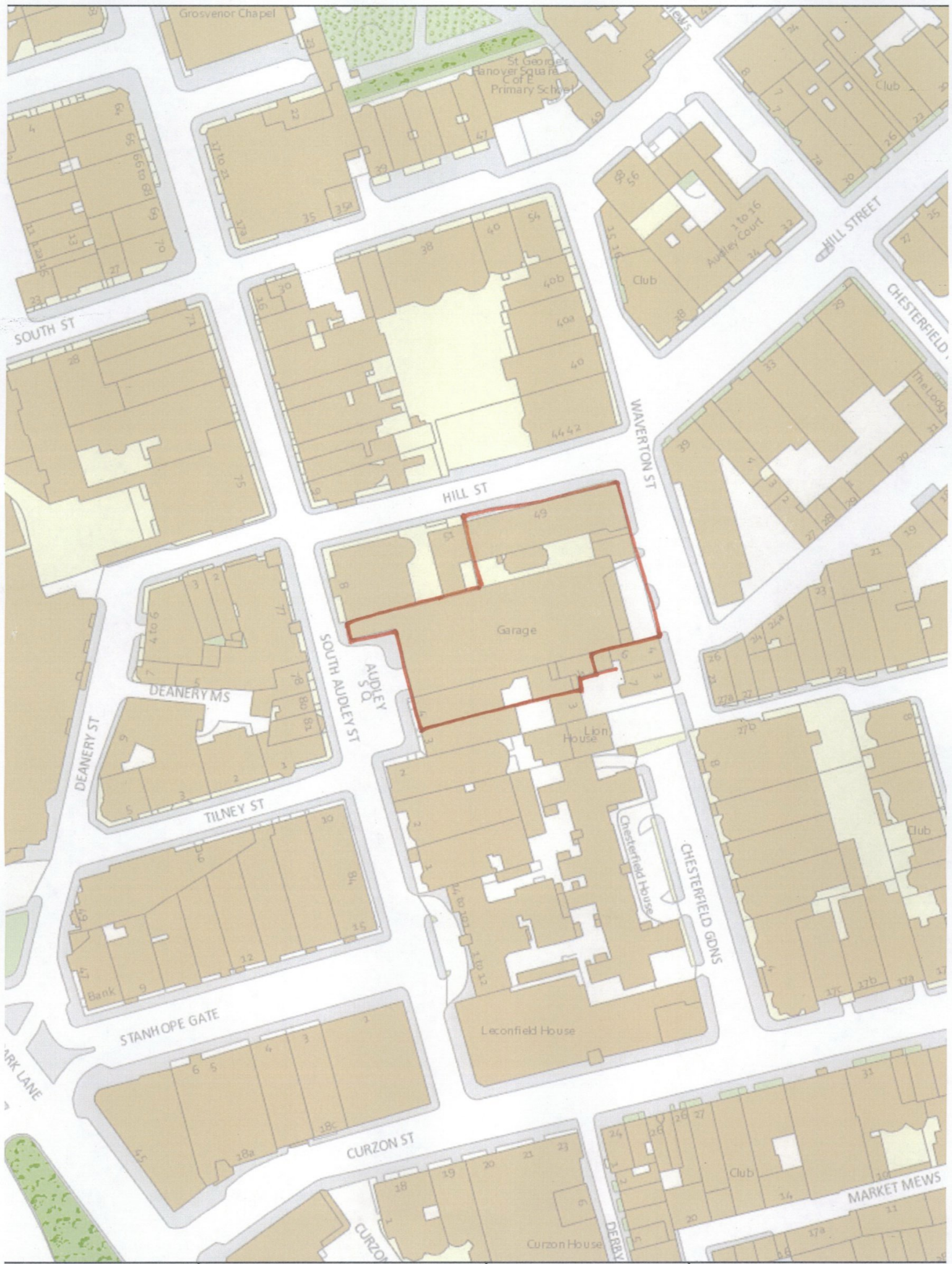
2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

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

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

3. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of that area of highway required to enable the development to take place.

4. That the City Transport Advisor be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order

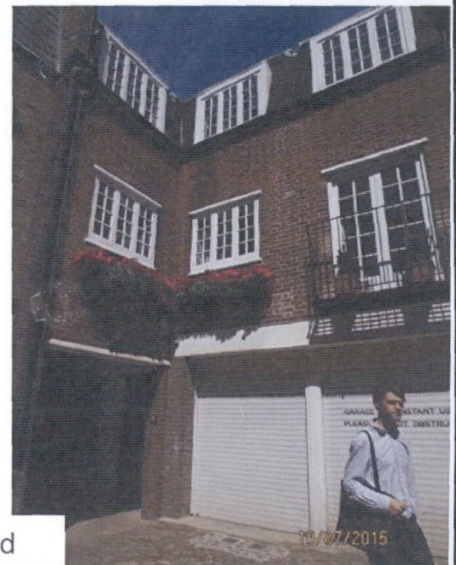




Audley Square
and 4 Audley
Square



The Ascott, 49 Hill
Street



4 Red Lion Yard

AUDLEY SQUARE GARAGE, 5 AUDLEY SQUARE, W1

2. SUMMARY

The application site comprises a collection of five different buildings - a multi-storey public car park (formerly publicly-owned) fronting South Audley Street, vacant fuel-filling station for licensed black cabs facing Waverton Street, an eight storey short-term let apartment block (The Ascott) on the corner of Waverton Street and Hill Street, a six storey residential building (No.4 Audley Square) and, attached to the rear of this, a mews house.

There is an extant planning permission, which expires on 16 January 2016, for the redevelopment of a slightly smaller site (i.e. not including 4 Audley Square or 4 Red Lion Yard) for 24 residential units and a new Council street sweeping depot which would be relocated from its existing site in Farm Street to allow that site to be redeveloped for 14 residential units. No on-site affordable housing was proposed as part of that scheme but a financial contribution of £6.128m towards the affordable housing fund was secured. This permission was renewed in January 2013 with the affordable housing contribution increased to £8.128m. This permission has not been implemented, and the current application is for an alternative scheme on a larger site now including 4 Audley Square and 4 Red Lion Yard. The key differences are that the design is now neo-Classical rather than modern and the street sweeping depot is not included.

In the current scheme a different strategy for the depot is proposed, in which the Farm Street depot site is redeveloped at the developer's cost for mixed use purposes including a new depot and affordable housing, all of which would be retained in the Council's ownership. The planning application for the redevelopment of the Farm Street depot has been submitted but the public consultation period is still ongoing so it cannot be considered as a part of a land use swap package at present. The extant permission for the car park et al site expires on 16 January 2016, and since this permission has already been extended once it cannot be so again. Therefore the current application for the car park has to be determined in advance of Farm Street, but if the committee is minded to grant planning permission for the car park it can be connected to a future planning permission at Farm Street should such permission be granted.

The scheme provides no affordable housing, but the current planning application at Farm Street proposes a mixed use redevelopment of the Council's land comprising a new Council depot and 14 affordable housing units which, once built by the developer, would be given back to the Council. The Council's viability consultant considers that if this is provided in lieu of the affordable housing requirement at the car park site it would be the maximum achievable within the constraints of financial viability. However, there can be no certainty that the redevelopment of Farm Street would occur in the form currently proposed, as the planning application has yet to proceed through the requisite statutory process. A fall-back alternative position is therefore proposed, which is that should the complete redevelopment of the Farm Street depot for mixed use purposes not occur, the applicant must still upgrade the existing depot to a suitable modern standard and pay a commuted sum towards the affordable housing fund. In these circumstances the Council's viability consultant considers that the maximum contribution of towards the affordable housing fund would be £9.4m.

The key issues for consideration are:

- The quality of the design of the proposed new building and the impact it would have on visual amenity, taking into particular account the loss of the existing building at 4 Audley Square;
- The impact on surrounding residential amenity;
- The strategy for delivering the affordable housing requirement, linked to the redevelopment of the existing Council depot site at 21-23 Farm Street for a mixed use scheme comprising new depot and residential;

- Parking and servicing arrangements;
- Public realm improvements on the existing highway including the provision of public art.

It is considered that the benefits of the scheme would outweigh any disadvantages and the proposals are recommended for approval.

3. CONSULTATIONS

GREATER LONDON AUTHORITY

Provide the following comments:

- the principle of a residential development meets the strategic objectives for the CAZ and is supported
- 4 Audley Square makes a positive contribution to the character and appearance of the conservation area and to the setting of the adjacent listed buildings and its demolition will result of a designated heritage asset
- demolition of 49 Hill Street is regrettable
- design approach is supported in principle, but details are required relating to the window reveals, ridge lines and projecting bays

HISTORIC ENGLAND

Concern over the loss of 4 Audley Square, it is a good conservation area building, entirely characteristic of Mayfair and its loss is regrettable. Concern also raised with regards to the height of the proposed development, it will make it very visible in long views within the conservation area and it fundamentally alters the scale of Audley Square

RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S

Objection - The proposed development is inappropriate, the plans show a gracious design but there is no contemporary presence.

ENVIRONMENTAL HEALTH

No objection on noise and contaminated land.

Code of Construction Practice is required and should be included in the S106

HIGHWAYS PLANNING MANAGER

No objection, but raise the following concerns:

- no off-street servicing is proposed and this is unacceptable
- proposed changes to include public realm will need separate Highways Authority approval

ARBORICULTURAL MANAGER

No objection to the loss of one Chanticleer Pear tree from Waverton Street.

GO GREEN

The application is fully compliant with Policy 5.2 of the London Plan and results in 35% carbon reduction. The scheme aims to meet level 4 for Code for Sustainable Home and this is welcomed.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 1138; Total No. of Replies: 24

No. of objections: 21; No. in support: 3

Objections raising the following:

Amenity

- * Loss of sunlight and daylight to windows and terraces
- * Loss of privacy

- * Noise from plant
- * Vibrations from plant

Design

- * Overdevelopment of the site
- * Height/bulk/scale and mass of the scheme
- * Scheme will change the streetscape
- * The scheme should be lowered by two floors

Highways/Parking

- * Loss of off-street parking
- * Does not solve parking issues around Mayfair
- * Removes street and off street car parking
- * The scheme will attract chauffeur driven cars which block the highway
- * The provision for service vehicles is too little and they will block the roads
- * The amount of parking provided is unnecessary in this location

Other

- * Delivery of the scheme will be very complex
- * Increase in noise, dirt, dust, noise and congestion will impact on the area
- * Concern over the depth of excavation
- * Disruption during building works

4. BACKGROUND INFORMATION

4.1 The Application Site

The application site has four street frontages and comprises five different buildings. Two of these are conjoined back-to-back buildings which face South Audley Street and Waverton Street respectively and were formerly Council-owned, comprising a public car park (Audley Square car park) and a smaller fuel-filling station (now vacant) which is three storeys with a forecourt to Waverton Street. The filling station was mainly used by licensed black cabs rather than by passing traffic.

The third building forms the corner of Waverton Street and Hill Street. This is known as The Ascott and comprises accommodation forming lawful short term let apartments over eight storeys.

The fourth building, No.4 Audley Square, faces onto South Audley Street immediately to the south of the car park site and comprises six residential units over six storeys. To the rear of this building there is a separate mews house, the fifth building on the site, which faces into Red Lion Yard and is known as No.4 Red Lion Yard.

Both the car park and filling station are within modern, undistinguished buildings. The existing car park is L-shaped with the recessed part set back from South Audley Street to form Audley Square which is, in reality, little more than a tarmacked entrance to the car park. The Ascott is a much more attractive earlier neo-Georgian building. No. 4 Audley Square is recognised as being a good conservation area building, whilst the mews building is modern with historic characteristics.

The surrounding area is mixed in character and use. To the immediate south of the application site there are permanent residential properties in both South Audley Street and Waverton Street, including several mews dwellings in Red Lion Yard, some of which immediately abut

the site. To the north of the car park is a Grade II listed building at 8 South Audley Street, which is in cultural use as The Nehru Centre, and there are some residential rooms on its upper floors. To the rear of The Nehru Centre at 51 Hill Street there are four residential units with rear windows overlooking the rear of the car park. The buildings on the opposite side of South Audley Street are in both residential and commercial use.

Opposite the site in Waverton Street is the flank of the nine storey Berkeley Plaza apartment hotel; whilst to the south east there are residential properties in Hay's Mews and Charles Street which face the site obliquely, and also The Greenhouse restaurant.

Directly opposite The Ascott in Hill Street there is a large residential property forming the corner of Waverton Street and Hill Street.

4.2 Relevant History

South Audley Street/Waverton Street buildings

Planning permission was granted in May 2004 for the redevelopment of the car park and fuel filling station for a new, smaller car park, apartment hotel and a Council street sweeping depot. This proposal was the Council's own development and was intended to achieve three purposes. Firstly it was to bring back into more effective use an under-used car park and redundant filling station; secondly it would provide a purpose-built modern Council cleansing depot to replace a dated depot located at 21-23 Farm Street; and thirdly it would enable the Farm Street depot to be redeveloped for housing.

There was a concurrent application, granted at the same time, for the redevelopment of 21-23 Farm Street for 14 residential units.

Neither of these planning permissions has been implemented.

49 Hill Street

A Certificate of Lawfulness was granted in September 1993 for the existing use of the premises as serviced accommodation.

Planning permission was granted in September 2004 for the conversion to provide four additional serviced apartments at ground and basement levels.

South Audley Street/Waverton Street buildings and 49 Hill Street

Planning permission was granted in February 2010 for the demolition of the existing buildings and their replacement with a new building of eight/nine storeys (plus lower ground floor and four basement levels) to provide 24 residential units with swimming pool and gymnasium and a Council street sweeping depot. This permission was subject to a payment to an affordable housing contribution of £6.128m.

This permission was renewed in January 2013 with the affordable housing contribution increased to £8.128m. This permission has not been implemented, but is still extant.

5. THE PROPOSAL

The current application site is larger than in the 2010 and 2013 permissions by the addition of 4 Audley Square and 4 Red Lion Yard. The proposals involve the demolition of all the buildings on the site with the exception of 4 Red Lion Yard and the erection of a new single

building with frontages to South Audley Street, Waverton Street and Hill Street. The new building would rise to eight-storeys above ground level on the South Audley Street frontage

and nine storeys above ground level on the Waverton Street, Hill Street and Red Lion Yard frontages. In addition, there would be a lower ground floor level with five basement levels below that. Due to the height differences between South Audley Street and Waverton Street, the ground floor level of the building on South Audley Street equates to the first floor level of the building in Waverton Street.

The proposed building will be used for residential purposes throughout, comprising 29 residential units with basement parking. Some of the units would have private garage spaces, with the remainder of the parking in a communal area. In total there would be 18 allocated car parking spaces and 23 unallocated (totalling 41 spaces). Some of the larger units would have access to swimming pools, wine cellars and gyms.

The proposal includes an internal courtyard providing a communal garden for the residents. The new residential units would range in size from 59m² to 1375m² providing a mix of 5x1-bed, 4x3-bed, 9x4-bed, 2x5-bed, 7x6-bed, 1x7-bed and 1x8-bed units, plus the retention of the 2-bed mews house at 4 Red Lion Yard.

Unlike the previous proposals the current application does not include the relocation of the Council's street sweeping depot from its current site at 21-23 Farm Street which is now proposed to remain at that site but modernised or redeveloped to include a new depot.

The other main differences between the consented and proposed include:

- The enlarged site and the deletion of the depot proposals allows an increase in the number of residential units from 24 to 29;
- The detailed design of the proposed building is neo-classical rather than overtly modern;
- The building includes a large courtyard on the boundary with Red Lion Yard instead of being built closer to that boundary with no external amenity space.

6. DETAILED CONSIDERATIONS

6.1 Land Use

The Unitary Development Plan (UDP) identifies the car park/fuel station elements of the application site as an 'Opportunity Site' for redevelopment, where the preferred uses would be residential, retail, office and creative industries. In the previously approved schemes the introduction of the street sweeping depot was to provide the opportunity to enable the Farm Street depot site to be redeveloped for housing, and planning permission was granted for this which has since lapsed.

The current proposals for the redevelopment of the car park/fuel station for residential purposes as part of a larger scheme would be in accordance with the UDP designation, residential being one of the identified 'preferred uses'.

Loss of car parking

As the preferred uses do not include replacement public car parking, there is no requirement to provide it but the application still needs to be assessed under UDP Policy TRANS25 which states that the City Council will normally permit the loss of public off-street parking, dependent on its level of use, availability of other nearby public car parks and the impact on local on-street parking facilities. The loss of the car park has previously been accepted, but as those permissions have not been implemented it is necessary to assess the loss of the public car park again.

Objections have been received from commercial and residential occupiers to the loss of the car parking, and the stress this will lead to on-street parking in the area

The car park accommodates 293 spaces, but even at peak usage (which is (14.00hrs on a Saturday) only 217 spaces are occupied, which equates to a maximum occupancy level of 74%. However, 88 of the occupied spaces are allocated to long term vehicle storage rather than daily car parking, and if this function of the car park is discounted, the maximum occupancy reduces to 129 spaces or 44%. It is stressed that this is the maximum occupancy level and for most of the time the car park is much less used than this.

Turning to available capacity in other public car parks nearby, the applicant's submitted survey shows that there are 1905 spaces in public car parks within easy walking distance of the site, which are on average only 64% utilised. There is therefore available capacity nearby.

With regard to on-street parking, kerbside parking in the streets around the site is not fully occupied, with daytime meter bay availability being 90% in the most recent parking survey of 2011, translated as nine spaces available within 200m of the site. Daytime residents' car parking occupancy in this locality was found to be 19% in the parking survey (38 available spaces).

The amount of both off-street and kerbside capacity in the vicinity of the application site therefore confirms that the proposed loss of Audley Square car park would not lead to a detrimental impact on parking or traffic around the site and the proposals therefore comply with UDP Policy TRANS25.

Loss of fuel filling station

The loss of the fuel-filling station on Waverton Street has previously been accepted. UDP Policy TRANS17 identifies certain fuel-filling stations that the City Council will seek to protect, and this list does not include the facility at Waverton Street. It has in any event been vacant for several years with no detrimental impact and there is another filling station a short distance away in Park Lane, which is a road with more passing traffic located in a less residential location, and this is protected under Policy TRANS17. The loss of the filling station therefore raises no policy objections under TRANS17.

Loss of temporary sleeping accommodation

49 Hill Street (The Ascott) comprises temporary sleeping accommodation. UDP Policy TACE3 encourages, wherever possible, the return of temporary sleeping accommodation to permanent housing, and therefore the proposals to redevelop The Ascott for permanent housing is acceptable in this instance.

Street Sweeping Depot

UDP Policy H10 requires the provision of a community facility, where appropriate, in large housing developments. In previous planning permissions for this site the implementation of this policy was coupled with UDP Policy ENV11 which seeks opportunities for new depots in major redevelopment schemes and protects existing depot sites, including that at 21-23 Farm Street. The existing depot facility at Farm Street is dated and in need of modernisation, and therefore the strategy in the previous permissions was to replace the depot at Farm Street with a new, modern facility at Audley Square which would, in turn, enable the Farm Street depot to be sold and redeveloped for housing purposes.

In the current scheme a different strategy for the depot is proposed, in which the Farm Street depot site is redeveloped at the developer's cost for mixed use purposes including a new depot and affordable housing, all of which would be retained in the Council's ownership. The planning application for the redevelopment of the Farm Street depot has been submitted but the public consultation period is still ongoing so it cannot be considered as a part of a land use swap package at present. The extant permission for the car park et al site expires on 16 January 2016, and since this permission has already been extended once it cannot be so

again. Therefore the current application for the car park has to be determined in advance of Farm Street, but if the committee is minded to grant planning permission for the car park it can be connected to a future planning permission at Farm Street should such permission be granted.

Residential

City Plan Policy S14 aims to protect all residential land. The existing two bedroom unit at 4 Red Lion Yard is retained in the proposals and is included in the proposed mix of units as shown in the table below. The existing residential units at 4 Audley Square would be subsumed within the new residential accommodation provided in the redeveloped part of the site.

The proposed residential mix would be: 5x1 bed units (16.6%), 4x3 bed units (13.3%), 9x4 bed units (30%), 2x5 bed units (6.6%), 7x6 bed units (23.3%), 1x7 bed unit (3.3%) and 1x8 bed unit (3.3%), and therefore 80% of the provided units would be family-sized accommodation, in compliance with UDP Policy H5.

Three small units are proposed, comprising studio units. One of these units would be located over sub-basement and lower ground floor level. Two north-facing windows would serve this unit at lower ground floor level, and these are below the level of the lightwell railings. Whilst this is not ideal, the two other studio flats would be located at first floor level facing Waverton Street, and therefore the overall quality of the smaller units would be acceptable.

City Plan Policy S14 states that the number of residential units on site should be optimised. The scheme provides 29 residential units with a range of unit sizes from 59m² to 1375m² (total floorspace 27,511m²) with the five smallest units being 59m², 62m², 72m², 73m² and 76m². The unit sizes then jump to 299m², so there are no mid-range sized units.

The consented scheme included 24 residential units over 14,498m² (this floorspace discounts the area of the proposed depot), but included no one bedroom units and two very large units of 10 and 11 bedrooms. (See unit schedule below)

PROPOSED SCHEME					CONSENTED SCHEME				
Unit	Above Ground GIA	Below Ground GIA	Total GIA	Bed Nos.	Unit	Above Ground GIA	Below Ground GIA	Total GIA	Bed Nos.
	m2	m2	m2			m2	m2	m2	
Townhouse 1	506	823	1329	6	Unit 7A	916	0	916	
Townhouse 2	582	793	1375	6	Unit 6A	1,562	0	1562	
Townhouse 3	281	713	1074	6	Unit 5A	1,756	0	1756	
Townhouse 4	262	634	896	5	Unit A4	526	0	526	
Townhouse 5	402	525	927	4	Unit A3	526	0	526	
Penthouse 1	965	407	1372	6	Unit A2	526	0	526	
Penthouse 2	903	398	1301	8	Unit A1	523	0	523	
Penthouse 3	766	426	1192	7	Unit B4	550	0	550	
E. Penthouse 1	607	407	1014	5	Unit B3	550	0	550	
E. Penthouse 2	395	370	765	4	Unit B2	550	0	550	
Unit A4	587	0	587	6	Unit B1	543	0	543	
Unit A3	634	0	634	6	Unit B0	317	0	371	
Unit A2	640	0	640	6	Unit C4	714	0	714	
Unit B4	500	0	500	4	Unit C3	358	0	358	
Unit B3	515	0	515	4	Unit C2	358	0	358	

Unit B2	526	0	526	4	Unit C1	358	0	358	
Unit B1	528	0	528	4	Unit C0	305	0	305	
Unit C4	285	97	382	3	Unit D3	343	0	343	
Unit C3	299	0	299	3	Unit D2	343	0	343	
Unit C2	303	0	303	3	Unit D1	332	0	332	
Unit D4	381	111	492	4	Duplex 01	448	226	674	
Unit D3	402	118	520	4	Duplex 02	0	565	565	
Unit D2	404	0	404	4	Duplex 03	0	728	728	
Unit D1	389	0	389	3	Duplex 04	418	157	575	
Unit E1	73	0	73	1					
Unit F1	72	0	72	1					
Studio 01	0	76	76	1					
Studio 02	62	0	62	1					
Studio 03	59	0	59	1					

The applicant states that there is less residential floorspace *above* ground floor level (12,337m²) than in the extant scheme (12,822m²) and therefore substantially more of the current development is non-habitable residential floorspace, which is accepted. In consequence, although it is case that the current scheme does not optimise residential accommodation at the site, it better optimises residential accommodation in comparison to the extant scheme and is therefore acceptable.

Affordable housing

The 27,511m² additional residential floorspace achieved in the proposals requires the provision of 25% on-site affordable housing, amounting to 6877m², under UDP Policy H4 and City Plan Policy S16. Where it is acknowledged as being impractical or inappropriate to provide affordable housing either on or off-site (on land nearby), the City Council may consider a financial contribution to the City Council's affordable housing fund in accordance with the adopted formula. For the amount of increased floorspace in this scheme, a policy compliant contribution would be £43,788,000.

The City Council's has appointed an independent viability expert to assess the proposals and advise on the matter. The Council's consultant agrees that the provision of on-site affordable housing would severely undermine the economic viability of the proposals and that more could be achieved by off-site provision. This follows the principle of providing no on-site affordable housing established in the previous scheme.

It is the applicant's intention to provide affordable housing in a mixed use redevelopment scheme for the existing Farm Street depot, for which a planning application has been submitted. This application would, if granted, provide 14 affordable housing units, together with a new depot. The applicant has already paid the City Council £33m for the right to develop Farm Street, to which would be added the cost of building the scheme should planning permission be granted. Furthermore, the completed development would then be handed to the Council and therefore retained in public ownership. The Council's viability consultant considers this to be the optimum solution and recommends it to the Council. In this option the residential units at Audley Square could not be occupied until the affordable housing units at Farm Street are ready for occupation.

However, there can be no certainty that the redevelopment of Farm Street would occur in the form currently proposed, as the planning application has yet to proceed through the requisite statutory process. There therefore needs to be a fall-back position, and this is that should the wholesale redevelopment of the Farm Street depot for mixed use purposes not take place, the applicant must still upgrade the existing depot to a suitable modern standard and pay a commuted sum towards the affordable housing fund. In these circumstances the Council's viability consultant considers that the provision of a new depot and a maximum contribution of £9.4m towards the affordable housing fund could be achieved within the constraints of economic viability.

It is therefore recommended to members that permission is granted subject to a legal agreement requiring that the development is linked to the planning permission for the redevelopment of the Farm Street depot for mixed depot/affordable housing purposes, but that if planning permission for that scheme is not permitted the development is linked to a scheme for the modernisation of the existing Farm Street depot together with a commuted affordable housing payment of £9.4m.

6.2 Townscape and Design

Context

The site lies within the Mayfair Conservation Area and there are several listed buildings adjacent, most notably 8 South Audley Street, and 2 and 3 Audley Square, all listed Grade II.

Demolition

The proposals involve the demolition of the car park and conjoined filling station, the unlisted building at 4 Audley Square and 49 Hill Street (The Ascott).

- The car park/filling station buildings are negative features of the conservation area and demolition is uncontentious.
- No. 4 Audley Square is a mid 19th century house, with a 19th century stone facade. It has been altered internally, although does retain its Georgian stair, and is not considered listable. However, it is considered to make a positive contribution to the character and appearance of the Mayfair Conservation Area, in terms of its architectural quality and historic interest, and there is a presumption to retain it.
- No. 49 Hill Street is a post war neo-Georgian block of limited architectural interest. It is considered to make a neutral contribution to the conservation area and its demolition may be acceptable if the proposed replacement makes an equal or greater contribution to the conservation area.

In considering these proposals the City Council has a duty to take into account the Planning (Listed Buildings and Conservation Areas) Act 1990 and have special regard to the preservation of the settings of listed buildings and the preservation and enhancement of the Mayfair Conservation Area.

Layout

The proposed development would occupy a larger site than that of the extant scheme, which did not include 4 Audley Square. On each of the three street frontages the proposed building would follow the historic building lines, albeit with some set backs (see below), which is consistent with UDP Policies DES 1 and DES 4.

Height and bulk

When considering the previous scheme in 2008, the committee report stated that those proposals represented the maximum that would be acceptable on the site. The current proposed building would be higher and more bulky than the extant scheme.

The extant scheme

The floor to floor height of the approved scheme was 3.250m. It featured a facade to Audley Square of five storeys, which related closely to the adjacent buildings and was entirely appropriate in terms of its height and bulk. The two roof storeys above the Audley Square facade were set back sufficiently so as to be almost invisible from street level.

The remainder of the building was similar to the height of the existing Ascott building, and comparable to the building on the east side of Waverton Street, the rear wing of 39 Hill Street. The top floor was set back to reduce its visibility from street level, but it was more visible in the longer views, from the eastern end of Hill Street and the south end of Chesterfield Gardens. This was all considered acceptable.

The current scheme

The floor to floor height of the current varies from 3.550m to 3.765m, but the majority of floors are 3.550m. This means that the scale of the proposed building is greater than that of the approved scheme, even if the number of floors is broadly the same. The total height of the building is 55.8m AOD, compared to 51.6m AOD of the approved scheme. That is an increase in height of approximately four metres, or the equivalent of at least one storey. However, much of this increase is in the form of a shallow pitched roof and so its visual impact from street level is limited.

The proposed massing is considered contentious in Audley Square where it is significantly greater than the approved scheme and greater than the adjacent buildings. The relationship with the scale of the adjacent listed buildings is of particular concern. The facade to Audley Square has a parapet line at about 20 metres above street level. This compares with the parapet of the listed buildings on South Audley Street, at 17 metres and at 3 Audley Square (to the south) at just over 13 metres. The impact on No. 3 is exacerbated because the new building features an additional floor above the parapet level, capped by a large pediment, which takes it to nearly 26 metres above street level; that is almost twice the height of the facade at No.3.

This juxtaposition is considered insensitive to the setting of the listed buildings, No.3 in particular. It would cause harm to their settings and to the character and appearance of this part of South Audley Street and the Mayfair Conservation Area.

On Hill Street and Waverton Street the building has a parapet level at sixth floor level, about 22 metres above street level. The three storeys above this are then set back. The parapet level is slightly lower than that of the building immediately to the east, No. 39 Hill Street, but the floors above that parapet mean that the proposed building is almost 10 metres higher than No.39.

This is approximately four metres higher than the approved scheme. However, the top two metres are in the form of a pitched roof, which reduces its visual impact from street level. Even so, setting the roof aside, the proposed building is two metres higher than the approved scheme. This creates an uncomfortable relationship with surrounding buildings.

Design

The approved scheme was a high quality modern design by Foster Associates. The current scheme is a neo-Classical design by Robert A M Stern Architects. It too is of high quality. The neo-Classical approach is appropriate to the Mayfair Conservation Area and no objection is raised to this in principle.

The proposed building is faced in ashlar stonework with recessed multi-pane timber windows. There are small projecting balconies, with metal balustrades, and recessed loggia. The

façade is enriched with Classical elements such as a rusticated base, pilasters, string courses, cornices, keystones. The application refers to the use of limestone cladding but does not specify the nature of this. It is considered that it should be clad in natural Portland stone, as this is the limestone which characterises the Mayfair Conservation Area and the West End in general.

Whilst the modern architectural approach of the approved scheme might be argued to be less appropriate for the Mayfair Conservation Area than the neo-Classical approach adopted here, the approved buildings did relate closely to the historic domestic scale of Audley Square. They respected the existing height, scale and historic Georgian plot width rhythm of the Square, and introduced a degree of architectural variety through the use of stone and glazed brickwork. In comparison to this relatively low key approach, the current proposal is over-scaled and dominating.

The amalgamation of No.4 Audley Square into the site and its total demolition and replacement by the large scale building is harmful to the conservation area and the setting of the listed No.3 Audley Square. (This amounts to less than substantial harm in terms of the NPPF tests). The demolition of this high quality 19th century façade results in a loss of townscape grain and architectural variety in Audley Square. Therefore, in line with the NPPF test, the harm caused to heritage assets has to be weighed against public benefits. It is concluded that the benefits of a high quality new building and the provision of surrounding public realm improvements (which are not part of the extant scheme) are sufficient to outweigh that harm.

Objections have been received with respect to the proposed demolition of No. 4 and the height and design of the new building. Both the GLA and Historic England consider that No. 4 is an important conservation area building which should be retained. Historic England objects to the proposed height of the development and its impact on the scale of Audley Square.

The GLA are not convinced that the benefits of the development outweigh the harm caused by demolition. They suggest that further design development is required to reduce the massing to avoid harming the setting of adjacent listed buildings and the Mayfair Conservation Area.

The Resident's Society of Mayfair and St James's object to the proposed Classical design approach and consider that a more modern design would be better.

Conclusion

It is considered that the proposal is a high quality Classical design but it fails to respond well to its location within the Mayfair Conservation Area and the adjacent listed buildings. It would cause significant, but less than substantial, harm to these heritage assets. A more acceptable form of development as suggested by the GLA, which did not harm heritage assets, could be achieved by retaining the front façade of 4 Audley Square and reducing the massing in Audley Square, to relate more sensitively to the adjacent listed buildings. Nonetheless, a decision has to be made on the application as currently proposed and it would not be unreasonable to take the view that on balance the public benefits of the scheme are sufficient to outweigh the less than substantial harm.

6.3 Amenity

Daylight and Sunlight Overview

Policy S29 of the City Plan aims to improve the residential environment of Westminster whilst UDP Policy ENV13 aims to protect and improve residential amenity, including sunlighting and daylighting to existing properties. In implementing Policy ENV13 the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used and it is a

requirement of the City Council that most major planning applications are accompanied by a sunlight and daylight report using accepted BRE methodology. For daylighting matters, the most commonly used BRE method for calculating values is the 'vertical sky component' (VSC) method which measures the amount of light reaching the outside face of a window. This method is most widely used as it does not need to rely on internal calculations, which means that it is not necessary to gain access to all affected properties to assess, and compare, potential light loss across all properties. However, it is still important to know what an affected room is used for, since the BRE guidelines principally seek to protect living rooms, dining rooms, kitchens and, to a lesser extent, bedrooms. Under this method, if an affected window is already not well lit (considered to be below a nominal value of 27%) and the daylight received at the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable. The numerical values used in this assessment are not intended to be prescriptive in every case and are to be interpreted flexibly depending on the given circumstances.

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited, and would be reduced by more than 20% as a result of a development, the window is likely to be adversely affected. Only windows facing within 90 degrees of due south of the proposed development need to be tested, and living rooms and conservatories are considered to be the most important rooms to be protected in terms of sunlighting – with kitchens and bedrooms less so.

A daylight and sunlight report has been submitted with the planning application which includes an assessment of the development under the BRE guidelines, and this is analysed below. The extant scheme included losses to daylight and sunlight. The current scheme would also result in losses to neighbouring daylight and sunlight, sometimes worse when compared to the extant scheme, but also sometimes better.

Daylight

There are several properties surrounding the application site which are in residential use and which would be affected by the proposed development due to the loss of daylighting. The closest are the those immediately abutting the application site at 8 South Audley Street (which is mainly in non-residential cultural use as the Nehru centre but within some upper floors there are residential rooms associated with the centre), 51 Hill Street (a rear annex to the Nehru Centre which is in use as four residential flats), 3 and 4 Waverton Street, 5 Red Lion Yard and 4 South Audley Street (which is sub-divided into four flats). There are also residential properties directly opposite the application site to the north in Hill Street (No. 44) and the east at 77, 79/80 and 81 South Audley Street. Some properties that would be affected, though not directly opposite the application site are to be found at Hay's Mews/Charles Street to the south east of the application site. Other than these, the most significantly affected property would be the building directly facing the proposed development on Waverton Street to the east, which has many windows overlooking the site. However, this property, which is 39 Hill Street (the Berkeley Plaza) is not in permanent residential use and comprises serviced apartments for short term letting. It is therefore not considered that the same weight should be attached to protecting natural levels to the windows of this property as would be the case for permanent residential use.

The previously approved scheme is a material consideration in the determination of the new scheme, and as the 2013 permission is extant it could still be implemented. The height and bulk of the current scheme is similar to the extant scheme, though marginally higher. There would be less of an impact on the properties in Red Lion Yard in comparison to the extant scheme as the current proposal includes an open courtyard on the boundary with Red Lion Yard meaning that the main bulk would be further from this shared boundary.

Objections on the grounds of loss of light have been received from 51 Hill Street, 4 Waverton Street, 27 Charles Street and Chesterfield House.

51 Hill Street was built in 2010 within the rear yard of the Nehru Centre at No.8 South Audley Street, and the buildings are close to each other with just 7m between them. It contains four flats, each of which has windows in four elevations and are therefore well lit for a central urban location despite their proximity to the existing car park, the Ascott building and the Nehru Centre itself. The most important habitable rooms in these flats face Hill Street, the windows to which would mostly be unaffected by the proposed development. The bedroom windows would be closer to the proposed development and would be affected more.

An objection has been received from the occupier of a maisonette on the fourth and fifth floors of 51 Hill Street concerning loss of light. There are severe losses of VSC to one of the three bedrooms in this flat, which would lose light to each of its three windows by between 7%-99%. Whilst this is a substantial loss to this one room, the remainder of the windows to this flat would be affected minimally and therefore the overall impact would be limited to the extent that it would be difficult to withhold planning permission for this reason.

By building 51 Hill Street in such close proximity to itself, the Nehru Centre has reduced the light it receives to its rear-facing windows. Although the proposed car park redevelopment would add to this impact, the Nehru Centre is primarily a cultural centre and not residential (although there are some ancillary residential rooms) and it is therefore considered that this impact would be acceptable. The Nehru Centre has made no representations on the proposals.

3 and 4 Waverton Street

The flank of 4 Waverton Street abuts the application site, but has no windows directly facing it and there would be no loss of daylight to any windows in excess of the BRE guidelines. An objection has been received from this property on the grounds that the proposal would affect two rooflights, one serving a hallway and the other serving a bathroom. The BRE guidelines concern the protection of habitable rooms which these rooms are not.

3 Waverton Street, on the other side of No.4 from the application site, would be more affected since it has a rear extension with a window directly facing the application site which would lose 61% VSC (it would be 59% in the extant scheme). However, this is a secondary window to a room which is mainly lit by another window little affected as it does not directly face the application site and therefore any reduction would be within the BRE guidelines.

Red Lion Yard

The most affected dwelling in Red Lion Yard would be No.5 which has a window directly facing the application site close to the boundary, which would lose 54% VSC (compared to 66% in the consented scheme) but as this is a bathroom window it would not breach BRE advice.

1 Red Lion Yard, a former public house has recently been redeveloped and now is a large single family dwelling.

44 Hill Street

44 Hill Street is located to the north of the application site, on the opposite side of the road with several windows facing the proposed development, though none of these would lose VSC by more than 20%. The property further along Hill Street, on the corner with south Audley Street, has no principal windows on this frontage and would not be significantly affected.

Charles Street/Hay's Mews

Objections have been received from some of the residential occupiers in Charles Street/Hay's Mews on the grounds of loss of light. Charles Street backs onto, and rises above, Hay's Mews to the south west of the application site, and has rear windows looking over the mews properties. However, neither the front elevation of Hay's Mews nor the rear elevation of Charles Street, which are north-facing, look directly at the application site. Some of these properties, in particular nos.24 and 25 Hay's Mews/Nos.26 and 27 Charles Street, look north onto the existing tall flank wall of the existing Berkeley Plaza building which rises to nine storeys above ground level and has a significant impact on the daylight received by these properties. Although the proposed development would reduce the VSC levels by more than 20% for some of the lower floor windows of these properties (up to 25% in the case of 25 Hay's Mews/27 Charles Street and 31% for 24 Hay's Mews/26 Charles Street) the loss of actual VSC would be quite low (3-4%) and it would therefore not be justified to refuse permission on this basis.

Chesterfield House

Chesterfield House lies to the south of the application site beyond Red Lion Yard, and objections have been received from some residents on the grounds of loss of light. The closest part of this residential block is a stairwell enclosure which projects forward of the main flank of the building which is set further back. The main flank contains a number of windows, mainly to bedrooms and bathrooms, which would be affected by the proposed development. There would be VSC losses greater than 20% to windows at basement to third floor level of Chesterfield House, ranging from 20-27%. Whilst significant, it is considered that these reductions would be so harmful that withholding planning permission would be justified.

Sunlight

With regard to sunlight, very few surrounding properties need to be analysed under BRE criteria as most do not face the application site within 90 degrees of due south. Of those that do need to be assessed, No.44 Hill Street is the most obviously affected as it faces due south towards the application site, but, notwithstanding this, none of its windows would lose more than 20% of existing sunlighting levels.

Technically, the rear windows to 3 Waverton Street need to be assessed since they face slightly south-west but since they do not directly face the application site the impact on sunlighting levels to these windows is negligible.

No other, neighbouring residential windows are required to be tested, including these in the rear elevation of 27 Charles Street. The windows concerned face north and currently receive virtually no sunlight. As the proposed development would be to the north-west of these windows it would cause very little overshadowing and the impact on the sunlighting of this property would be minimal.

Overlooking and sense of enclosure

UDP Policy ENV13 aims to ensure that new developments do not unacceptably increase overlooking of neighbouring residential properties or sense of enclosure due to overbearing proximity.

The proposed development would extend in front of the side elevation of 51 Hill Street which contains windows. It would result in an increased sense of enclosure for these windows, but not materially more so than in the extant scheme. The proposed facing elevation would have no windows, so there would be no loss of privacy.

Objections have been received from the occupiers of No.27 Charles Street regarding loss of privacy, but any view of this property would be oblique and from across a street, and it is considered that no significant overlooking would arise.

6.4 Transportation/Parking

Parking

41 car parking spaces are proposed throughout the basement levels, 18 of which would be allocated to 10 residential units and the remainder (21 spaces) for the remaining 19 residential units would be unallocated. The existing garage space for 4 Red Lion Yard would be retained for that dwelling.

Provided that no residential unit is allocated more than two spaces, the proposed car parking provision and allocation is consistent with UDP Policy TRANS23.

The GLA has objected to the scheme, stating the level of car parking amounts to over-provision of car parking spaces but as the provision does not exceed the City Council's maximum parking standards, the application could not be refused on these grounds.

The applicant has confirmed that at least 20% of the car parking spaces will have access to electric charging points, in compliance with the London Plan.

95 cycle parking spaces are proposed within the basement areas. The Further Amendments to the London Plan (FALP) requires 55 spaces. The proposals are therefore consistent with FALP.

Car park access

Access to the car park is proposed to be from Waverton Street. A forecourt would be provided to create an off-street drop-off crescent with gated entrance and exit. The basement car park would be accessed via two car lifts leading from the drop-off crescent. No details have been submitted relating to the car lift cycle times and therefore it is unclear how long it would take for the lift to be returned to street level and be available for the next vehicle to use. However, as there will be low trip rates associated with this development and the queuing for the car lift would be off-street, the proposed car lift method is considered acceptable.

Servicing – including waste collection

City Plan Policy S24 and UDP Policy TRANS20 require off-street servicing in new developments, and in this case the Waverton Street drop-off crescent would be available for servicing, except by large vehicles. It is accepted that there is sufficient capacity within the drop-off for these vehicles to be accommodated without blocking the entrance to the car lifts.

The drop-off area would not be able to accommodate refuse vehicles or any larger service vehicles and therefore this would need to be done from the highway and it is likely to result in short term localised congestion to both traffic and pedestrians, but as this would be infrequent and for very short duration it would not justify the refusal of planning permission.

Objections have been received to the lack of off-street servicing and that the scheme will not improve traffic congestion in this part of Mayfair. However, this will clearly not be the case when judged, as it must be, against the lawful use of the site as a public car park and filling station which together generated a substantial amount of traffic on both South Audley Street and Waverton Street. Traffic generation would therefore be greatly reduced by the proposed residential development. Furthermore, the filling station was used exclusively by black cab vehicles which would often be parked on both sides of the road on Waverton Street, using the road as an informal rest area for drivers' on meal and drink breaks and between fares. This resulted in a significant congestion problem in the street with access and manoeuvring difficult for other road users, and it also lead to noise and disturbance from continuous idling engines and conversations between drivers close to homes in Hay's Mews, Red Lion Yard and Waverton Street itself. The removal of these problems is considered to be a substantial benefit.

Development under the Highway

The proposal includes extending the basement levels beneath Audley Square (towards South Audley Street) and Hill Street. UDP Policy TRANS19 aims to protect the highway in such circumstances by ensuring that there remains a minimum vertical depth below the footway or carriageway of about 900mm and the extent of the new or extended basement area does not encroach more than about 1.8m under any part of the adjacent highway. The applicant has indicated that the basement structure will ensure a minimum coverage of 900mm and a condition is recommended to ensure that this is achieved.

Public realm

It is the applicant's intention to carry out public realm improvements on both Audley Square and Waverton Street. These works would be on the highway and would therefore be subject to the approval of the City Council as Local Highways Authority, which has yet to be given. The public realm proposals would require the relocation of all parking from the development site frontages. The area created on Audley Square is intended to create a proper public square consistent with its name to replace the current forecourt and parking. Part of this area would continue to provide vehicular access to the front of the building and part would accommodate public art which at present is proposed to be a sculpture of adult and child figures in period dress by the artist Phillip Jackson.

Whilst the creation of a public square would certainly be a visual and amenity improvement, the proposals would lead to the loss of on-street car and motorcycle parking facilities, which is contentious and highly likely to lead to objections when the draft Traffic Management Orders are publicised and Stopping Up Order procedures invoked. It is also dependent on finding suitable other locations for the car and motorcycle parking. However, planning permission, if granted, is not dependent on these public realm works and if for highway reasons the public realm scheme cannot be achieved the development can still be implemented regardless.

6.5 Economic Considerations

The regenerative benefits of bringing back into beneficial use the vacant and under-used parts of the site are welcomed.

6.6 Other UDP/Westminster Policy Considerations

Basement excavation

Objections have been received to the impact of the proposed basement excavation on neighbouring properties.

This impact of basement excavation is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. Residents are concerned that the excavation of new basements is a risky construction process with potential harm to adjoining buildings and occupiers. Many also cite potential effects on the water table and the potential increase in the risk of flooding.

Studies have been undertaken which advise that subterranean development in a dense urban environment, especially basements built under existing vulnerable structures is a challenging engineering endeavour and that in particular it carries a potential risk of damage to both the existing and neighbouring structures and infrastructure if the subterranean development is ill-planned, poorly constructed and does not properly consider geology and hydrology.

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development

from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures.

To address this, the applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

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

The City Management Plan will include policies specifically dealing with basement and other subterranean extensions. This is at an early stage of development and will not carry any weight as a material consideration in determining planning applications until it has progressed significantly along the route to final adoption.

Construction

A number of objections have been received relating to the impact of the construction on noise, dust, health and safety and construction traffic causing congestion etc. Planning permission cannot be reasonably refused on these grounds. However, a construction management plan (CMP) has been submitted, but this does not fully address all the requirements for CMP's as set out in Appendix 2 of the adopted Basement SPD. A condition is recommended to ensure that a full CMP is submitted before works start on site.

The applicant has offered to fund the Council's environmental Inspectorate and Environmental Sciences Team to monitor compliance with a Site Environmental Management Plan. This

contribution will be secured under a S106 legal agreement given the close proximity of the site to adjoining residential properties.

Hours of building and excavation works can also be controlled by condition. Through the use of these measures it is considered that objectors concerns about the impact of the construction process are fully addressed.

6.7 London Plan

The application is referable to the Mayor of London and a Stage 1 response has been received which is generally supportive of the scheme, but with a major concern over the proposal to demolish No.4 Audley Square as previously discussed in this report. The only other substantial objection relates to the level of car parking, again covered previously in this report. The question of affordable housing is also raised in the Stage 1 report as neither the City Council's viability assessment nor the now proposed solution to provide affordable housing units nearby on the Farm Street site was available at the time that the Stage 1 report was issued. It is anticipated that this new information will satisfy the Mayor on affordable housing provision.

6.8 National Policy/Guidance considerations

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13th November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

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

6.9 Planning Obligations

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

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

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

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in 2015. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure a combination of some the following:

- Off-street affordable housing provision at 21-23 Farm Street
- A new or modernised Council depot at 21-23 Farm Street
- A contribution towards the Council's affordable housing fund
- Public realm improvements on Audley Square and Waverton Street
- Public art provision
- A contribution towards the monitoring the construction project

It is considered that the matters listed above would meet relevant policy criteria in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

The proposed development is also liable for a Mayoral CiL payment.

6.10 Environmental Assessment including Sustainability and Biodiversity Issues

The proposal is fully compliant with London Plan policy 5.2 and results in a 35% carbon reduction over Building Regulations. The scheme also aims to meet 'level 4' for Code for Sustainable Homes; this is acceptable and will be secured by condition.

With regards to renewable energy, ground source heat pumps are proposed and they will provide space heating and comfort cooling to the flats as well as hot water to the swimming pool. The applicants have also confirmed that they are willing to install photovoltaics at roof level and these will be secured by condition.

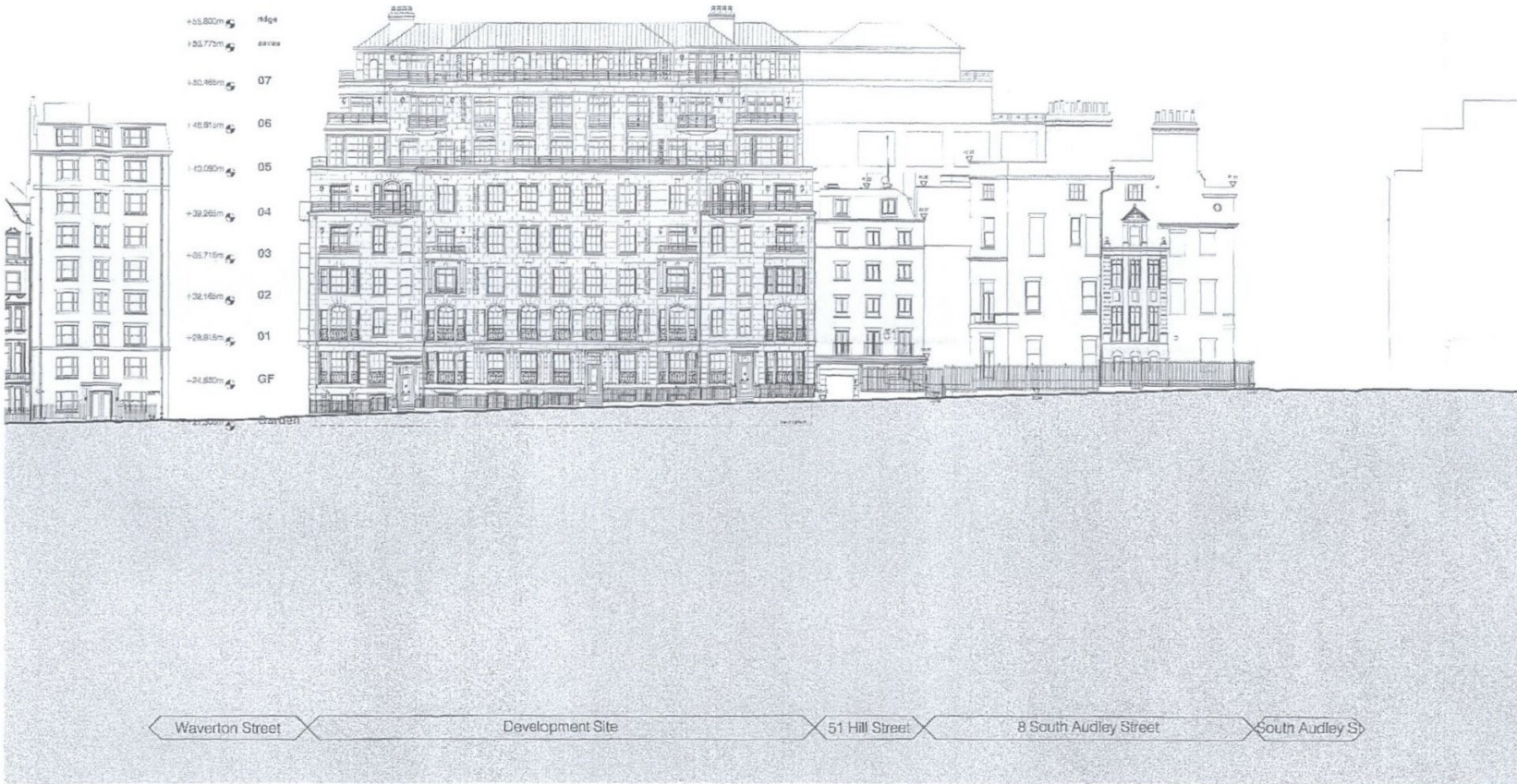
6.13 Conclusion

It is considered that the benefits of the scheme would outweigh any disadvantages and the proposals are recommended for approval.

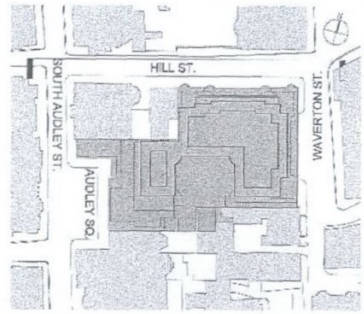
BACKGROUND PAPERS

1. Application form
2. Letter from GLA dated 1 May 2015
3. Letter from Historic England dated 16 April 2015
4. Response from Residents' Society of Mayfair and St James's dated 30 March 2015
5. Response from Highways Planning Manager dated 22 September 2015
6. Responses from Environmental Health dated 27 April and 26 May 2015
7. Response from Go Green Team dated 26 March 2015
8. Response from the Arboricultural Manager dated 1 May 2015
9. Letter from occupier of 30 Chesterfield House, South Audley Street dated 15 April 2015
10. Letter from occupier of 20 Chesterfield House, South Audley Street dated 18 April 2015
11. Letter from occupier of 27 Charles Street, London dated 19 April 2015
12. Letter from occupier of 27 Charles Street, London dated 19 April 2015
13. Letter from occupier of 4 Waverton Street, London W1J 5QN dated 20 April 2015
14. Letter from occupier of The Garden House, 8, Hay's Mews dated 14 April 2015
15. Letter from occupier of 3 Deanery Street, London W1K 1AX dated 16 April 2015
16. Letter from occupier of 50 Broadway, London SW1H 0BL dated 21 April 2015
17. Letter from occupier of 22 Charles Street and 22 Hay's Mews, London dated 22 April 2015
18. Letter from occupier of 9 Hill Street dated 4 April 2015
19. Letter from occupier of Bircham Dyson Bell LLP, 50 Broadway London dated 16 April 2015
20. Letter from occupier of Flat 4, 51, Hill Street dated 10 April 2015
21. Letter from occupier of 27 Charles Street, London dated 19 April 2015
22. Letter from occupier of Flat 10 Chesterfield House, South Audley Street dated 17 April 2015
23. Letter from occupier of Chesterfield House Management Ltd, South Audley Street dated 15 April 2015
24. Letter from occupier of 26 Charles Street, Berkeley Square dated 20 April 2015
25. Letter from occupier of 3 Audley Square, Mayfair dated 7 May 2015
26. Letter from occupier of 27 Chesterfield House, South Audley Street dated 30 April 2015
27. Letter from occupier of 6 Hay's Mews, London W1J 5PU dated 11 May 2015
28. Letter from occupier of Flat A, 25 Charles Street dated 29 April 2015
29. Letter from occupier of Flat 10, 17 Grosvenor Square dated 26 May 2015
30. Letter from occupier of 001 Hood House, Dolphin Square dated 18 May 2015
31. Letter from occupier of Wanborough House, Stratton Road dated 1 November 2015
32. Letter from occupier of Flat D, 25 Charles Street dated 24 November 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT MIKE WALTON ON 020 7641 2521 OR BY E-MAIL – mwalton@westminster.gov.uk



- PROPOSED MATERIAL KEY**
- External envelope: stone
 - Windows: painted timber frames - colour: white
 - Street level railings to light wells: painted steel - colour: black
 - Lightwell and terrace floor finish: stone paving
 - Balustrades: bronze with glass screen behind
 - Rainwater goods: powder coated aluminium - colour: dark grey
 - Pitched roof: standing seam lead with copper ridge capping
 - Flat roof: lead or paving (at upper roof level where maintenance access is required)
 - Roof eaves / gutters: lead
 - Chimneys: stone with clay chimney pots



PLANNING ISSUE: 13.02.15

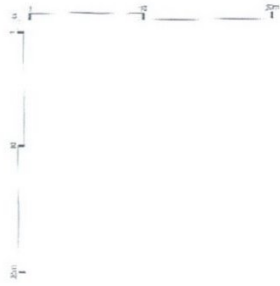
12043
 Audley Square House
 Proposed elevation: Hill Street
 1:200 @ A1

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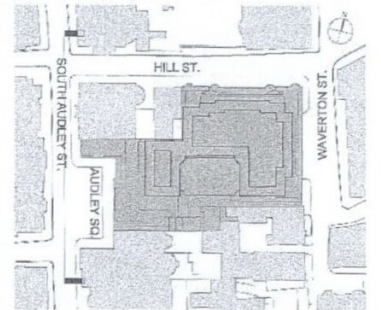


+55.800m ridge
 +53.775m street
 +50.460m 07
 +40.810m 06
 +19.000m 05
 +06.260m 04
 +03.710m 03
 +02.160m 02
 +01.610m 01
 +04.000m GF

9 S. Audley St | Hill Street | 8 South Audley Street | Development Site | 3 Audley Sq | 2 Audley Sq

PROPOSED MATERIAL KEY

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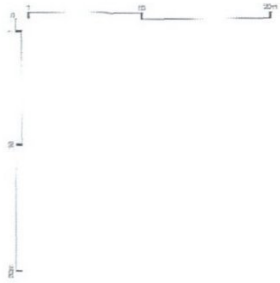
PLANNING ISSUE: 13.02.15

PL170 Audley Square House
 Proposed elevation: South Audley Street
 1:200 @ A1

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Chesterfield House

Red Lion

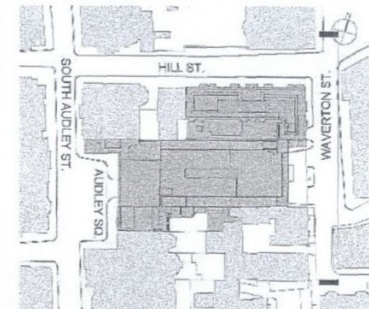
FLY No. 3 W. St No. 4 W. St

Development Site

Hill Street

42 - 44 Hill Street

- PROPOSED MATERIAL KEY
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 - Street level railings to flightwells: painted steel - colour: black
 - Upliftwell and terrace floor finish: stone paving
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PLANNING ISSUE: 13.02.15

DATE: 13/02/15

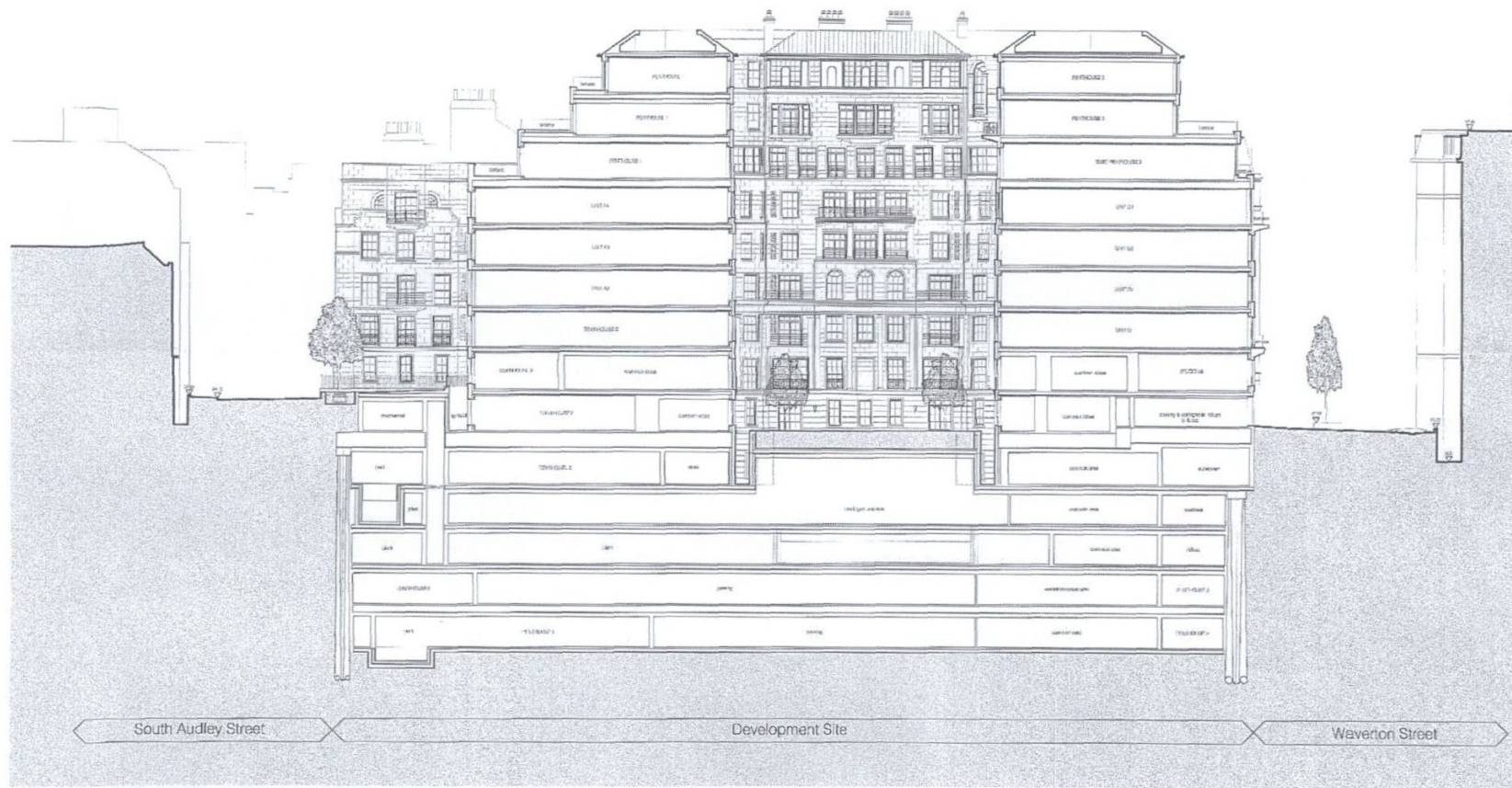
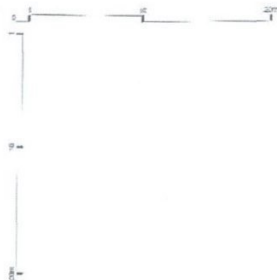
12043
PL172 Audley Square Houses
 Proposed elevation: Waverton Street
 1:200 @ A1

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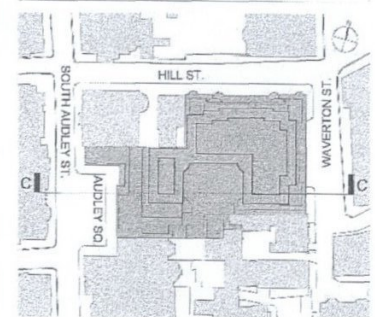
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m+m



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PLANNING ISSUE: 13.02.15

12043
PL142 Audley Square House
 Proposed section CC
 1:200 @ A1

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