

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 19 JULY 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bayswater	
Subject of Report	Grove House, 88 - 94 Westbourne Grove, London, W2 5RT,		
Proposal	To advance the front face of the subject building onto a margin of the adopted highway Westbourne Grove.		
Agent	Brecher of 4th Floor, 64 North Row, London, W1K 7DA		
On behalf of	SRE Properties (Westbourne Grove) Limited c/o Enstar Capital Ltd		
Registered Number of Planning Application	14/10572/FULL	Date amended/ completed	5 July 2016
Date Draft Order issued	12 January 2016		
Historic Building Grade	Unlisted		
Conservation Area	Westbourne		

1. RECOMMENDATION

- 1.1 That the Committee authorises the City Transport Advisor (or other such proper officer of the City Council responsible for highway functions) to notify the Mayor of London of the unwithdrawn objections to the draft Order being made pursuant to section 247 of the Town and Country Planning Act 1990 to authorise the stopping up of a part of the highway adjacent to 88-94 Westbourne Grove in accordance with planning permission granted on 09 September 2015 (RN 14/10572/FULL), and to seek the Mayor of London's decision as to the need for a local inquiry, in the special circumstances of the case.
- 1.2 If the Mayor of London decides that the holding of such an inquiry is unnecessary, that the Committee authorises the City Transport Advisor to make the Order to stop up the part of the highway adjacent to 88-94 Westbourne Grove, with or without modification as the City Transport Advisor sees fit.
- 1.3 If the Mayor of London decides that the holding of such an inquiry is necessary and the matter is referred to the Secretary of State, that the Committee authorises the City Transport Advisor to either make or refuse the Order to stop up the part of the highway adjacent to 88-94 Westbourne Grove, with or without modification as the City Transport Advisor sees fit, taking into account the report of the Planning Inspector (or other such person who held the inquiry on behalf of the Secretary of State) and having first obtained the consent of the Mayor of London to the making of the Order where relevant.

2. SUMMARY

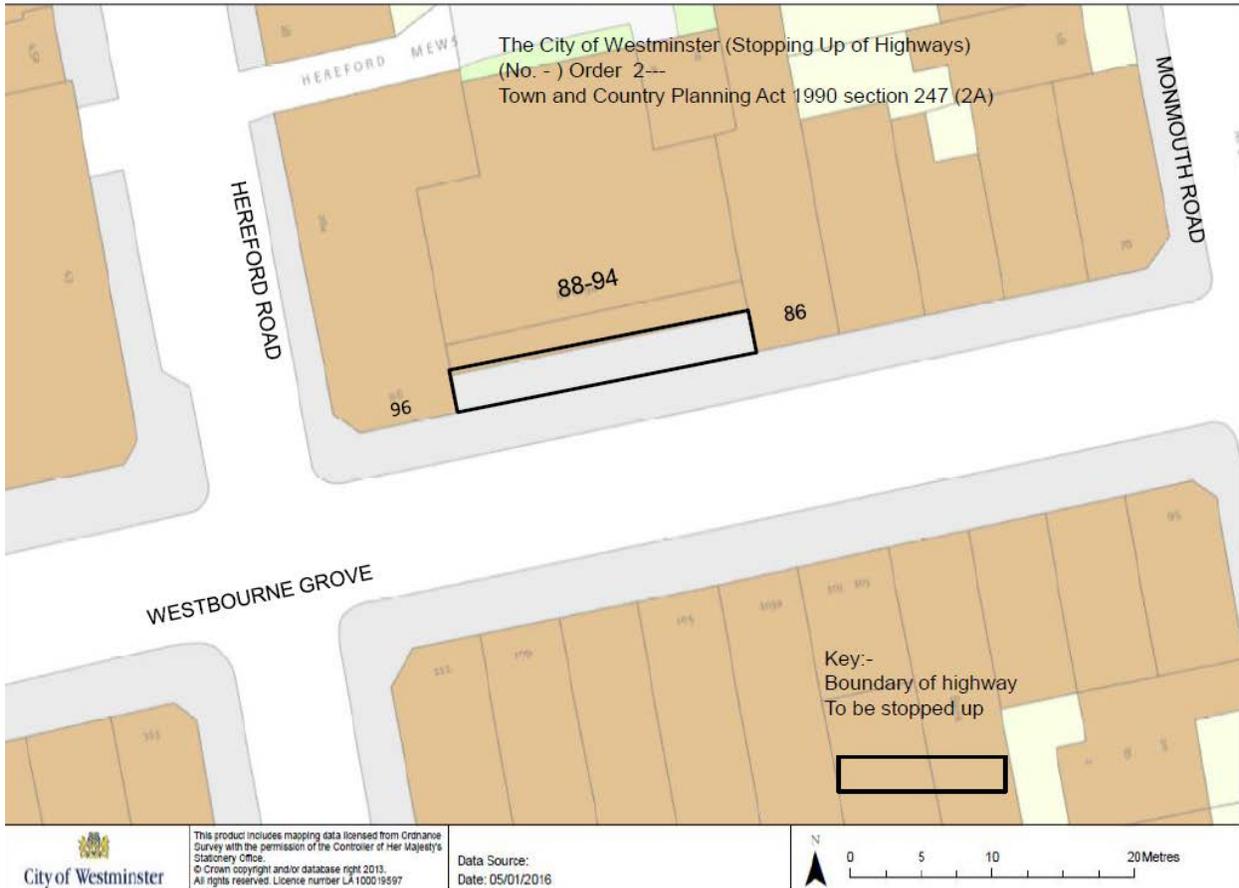
Planning permission was granted in 2015 for the redevelopment of Grove House, 88 – 94 Westbourne Grove, to provide a new seven storey plus basement building for mixed use purposes. The proposed new building is proposed to be brought forward from the existing building line (resulting in the loss of the recessed building line and the space in front of the supermarket) to reinstate the historic building line.

At the time of resolving to grant planning permission, Committee authorised the making of a draft order for the stopping up of the area of highway on Westbourne Grove required to enable the development to take place (resulting from bringing the existing building forward) and to make the order if there were no unresolved objections to the draft order.

In this case a number of objections have been made to the draft order. An objection from Councillor Rajuha (on behalf of three Ward Councillors), the South East Bayswater Residents Association and sixteen local residents. Given the objections raised, the matter is reported back to Committee to consider notwithstanding the objections raised, to authorise the making of an order to stop up part of the highway on Westbourne Grove, to enable the development granted permission in 2015 to be carried out.

3. LOCATION PLAN

DP/HP/JRP/201511021



4. PHOTOGRAPHS



GROVE HOUSE, 88-94 WESTBOURNE GROVE, W2

5. CONSULTATIONS

STATUTORY CONSULTATIONS:

Statutory notices were issued to the telecommunication operators Vodafone, O2, BT Openreach and COLT and to statutory undertakers Thames Water, National Grid and UKPN. Just 3 responses received, 2 no objections from Vodafone and National Grid and 1 apparatus not affected from McNicholas on behalf of TATA and KPN.

COUNCILLOR RAJUHA (on behalf of the three ward Councillors for Bayswater):

Objection, "Our stance against this development and the loss of the forecourt has not diminished. The councillors and the residents have made several arguments against the loss of the forecourt on a number of occasions. These arguments are just as valid now. The forecourt acts as a vital public space. It allows pedestrians to pass each other safely (apart from this forecourt this section of Westbourne Grove is very narrow on both sides of the road). The forecourt gives room for the queues for the ATM (again this is the only ATM for quite a stretch of Westbourne Grove and can get very busy). The forecourt allows space for bikes. Last and not least, the loss of the forecourt will mean the loss of two lovely trees. If the forecourt disappears, all of these amenities will disappear. Again, I must repeat my strong objection to the loss of the forecourt with little or no compensation to local residents."

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

The association supports local residents in their objection to the order being made.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS:

Total No. of replies:16

No. of objections:16

No. in support: 0

16 responses were received, all of which were objections. The objections may be summarised as:

- loss of public space,
- the resultant increase in congestion of the footway along this frontage,
- the relocation of a public telephone kiosk to the opposite side of the road outside Starbucks café,
- the impact on disabled persons, especially wheel-chair users and
- loss of light to adjoining buildings.

ADVERTISEMENT / SITE NOTICE:

Statutory notices were displayed in the street for the passing public pedestrian to read, from 15 January 2015 for 28 days. Statutory notices were published in the Trinity Mirror West London Gazette and in the London Gazette on 15 January 2015.

6. BACKGROUND INFORMATION

- 6.1 At the Planning Applications Committee on 19th May 2015 the committee resolved to grant planning permission, subject to a S106 legal agreement, for the demolition of existing building and erection of new basement plus six storey building to provide 11

residential units (6 x 1 bed, 1 x 2 bed and 4 x 3 bed units) at first to fifth floor and A1 retail use at basement and ground floor levels including the removal of two trees.

- 6.2 The Committee also authorised the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of the area of highway on Westbourne Grove required to enable the development to take place. And, authorised the City Commissioner for Transportation to take all necessary procedural steps in connection with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order.
- 6.3 Planning permission was subsequently granted on 9 September 2015 and the statutory notice of the order was published on 15 January 2016.

7. THE PROPOSAL

- 7.1 The part of the development to which this report relates, is the advancement of the ground floor external wall of the building 88-94 Westbourne Grove, along its Westbourne Grove frontage, to align with the front ground floor external walls of 86-96 Westbourne Grove. That development would stop up an area of 56.3 square metres of highway, extending the proposed building by 2.8 metres onto a 21 metres length of the highway Westbourne Grove. That may only be lawfully carried out with statutory authority. In this instance, in the form of an order pursuant to section 247 of the Town and Country Planning Act 1990 to authorise that stopping up of highway to enable the permitted development to be carried out. Following the grant of planning permission for the redevelopment of Grove House, 88-94 Westbourne Grove, and authorisation to make a draft order to stop up an area of highway along Westbourne Grove, a statutory notice of the order was published on 15 January 2016.
- 7.2 The proposed order, notice of the order and plan referred to by the order are background papers 1, 2 and 3 respectively. Statutory notice of the order was published by displaying street notices and by publication in the local periodical Trinity Mirror Ealing Gazette and in the London Gazette. The notice, order and plan were also available for viewing by anybody on application.
- 7.3 Three public utility undertakers responded to the statutory notice; namely Atkins Global on behalf of Vodafone Telecommunications, National Grid and McNicholas on behalf of TATA and KPN. Their response was either “not affected” or “no objection”.
- 7.4 Councillor Rahuja, the South East Bayswater Residents Association and 16 local residents have also raised objection to the traffic order as set out in detail elsewhere in this report. Given the objections raised to the draft order, the matter is reported back to Committee for further consideration.

8 DETAILED CONSIDERATIONS

- 8.1 The reasons for objection would have been apparent to the Committee in resolving to grant planning permission for the development in 2015 and this stage of the order making process is not the forum for debating the merits of the proposed development. If the order is subsequently sent to a local inquiry, then the Planning Inspectorate guides the inquiry inspector to avoid such an assessment; simply the local planning authority has considered the merits and demerits of the development and has made

its decision. This process is a forum for considering if the order should be made. If the order is not made and the would-be stopping up of highway by the development is not authorised then the planning permission and associated committee resolution would be frustrated and the proposed development could not be implemented in its current form. That is, the part of the permitted development to be erected on the recessed frontage could not take place. There then might follow a completion notice by the Council, which would also be frustrated (and void) given that the development to which it relates has been prevented due to the council's refusal to authorise the stopping up by that part of the development.

- 8.2 In that circumstance a fresh planning application would be required for the complete development; which required the external ground floor wall of the building to remain in situ. The alteration in the development might not just be the ground floor of the proposed building as the extent of the stair well linking all floors with the ground would have to be repositioned.
- 8.3 The resulting footway is to be 2.9 metres wide, the same as presently fronts the buildings 86 and 96 Westbourne Grove, either side of the site of the proposed development.
- 8.4 The points of objection are: loss of street trees, the loss of cycle racks, the loss of footway for ATM users and where visitors to the supermarket and the local street may congregate temporarily to converse with others or simply to relax before continuing with their day's business.
- 8.5 Concern has been raised that the resultant development (stopping up) would make their passage as a wheel-chair user more difficult, in entering and exiting the proposed building and manoeuvring to adjoining lengths of Westbourne Grove.
- 8.6 Those difficulties were apparent to the Committee in resolving to grant permission for the development. The same difficulties would also be experienced along the footway fronting the other premises in Westbourne Grove, as the resultant development would render a footway width equal to the widths fronting the neighbouring buildings in Westbourne Grove, notwithstanding that the rate of flow of pedestrians entering the footway would be greater from a supermarket than from a small shop or restaurant. It is unlikely that the proposed development would attract a noticeably greater patronage. Whatever the rate of flow of ingress and egress to the building, the ability for the footways fronting the buildings either side of the proposed development is a measure and a confirmation that those footways will cope once the proposed development has been completed and the supermarket open for public patronage. In short, the proposed development will not alter the potential of the footways fronting 86 and 96 Westbourne Grove.
- 8.7 If the proposed development creates a difficulty which discriminates against any disabled person then the measure causing that discrimination would contravene the Disability Discrimination Act. In that respect, the resultant footway width is to be the same as fronts 86 and 96 Westbourne Grove, that is 2.9 metres. That is adequate footway width for two wheel-chairs to pass one another; requiring 1.8 metres plus 0.2 metres kerb space.
- 8.8 Additionally, access to the proposed building could not be any different than access to 86 and 96 Westbourne Grove or other retail units and restaurants along that length of Westbourne Grove.

- 8.9 Whilst the recessed frontage might be a convenient and accommodating place where one could, on exiting the supermarket, get their bearings for passage to their next destination, that act can also be carried out in the supermarket and does not rely on the presence of highway.
- 8.10 The recessed frontage does not provide any other access than to 88-94 Westbourne Grove.
- 8.11 Presently, the owners of the part of the walls of 86 and 96 Westbourne Grove adjacent to the recessed frontage may inspect those walls and carry out works to them if they desire. Advancing the wall of 88-94 Westbourne Grove will delete that availability. However, no objection was received by such an owner and those walls would be party walls common to the buildings either side would become the joint responsibility of the owners of adjacent premises. To which, that change if it is one will neither compromise nor otherwise harm the adjacent buildings and their owners.
- 8.12 If the committee resolve that the order be made, the next stage in this process is a notice to the Mayor of London of the unwithdrawn objections and seeking the Mayor's decision as to the need for a local inquiry into the order.
- 8.13 As the unwithdrawn objections are from local residents and neither a local authority nor a public utility undertaker, the notice may propose that in the special circumstances of the objection not coming from a local authority or a public utility undertaker, the notice proposes that pursuant to sub-section 252(5A) a local inquiry is unnecessary. The Mayor might consider a local inquiry is needed if an objection came from a person or body whose property or professional activity is likely to be damaged by the stopping up of highway.
- 8.14 If the order is sent to a local inquiry then the Council shall have to inform the Planning Inspectorate ("PINS") of the Mayor's decision and request that the inspectorate appoints an inquiry inspector to hold the local inquiry.
- 8.15 PINS guide the Inspector to hear the objector and to assess three points, namely: (a) is the order authorising the stopping up of highway necessary for the development to be carried out? (b) is the development permitted for the purposes of the Town and Country Planning Act 1990? and (c) do the socio-economic benefits of the permitted development outweigh the loss to the highway network?
- 8.16 A part of the development would without statutory authority unlawfully stop up a part of the highway, to which the proposed order relates, and so the proposed order is necessary.
- 8.17 The loss to the highway network would be a loss of a width of footway and not any deletion of a length of that network; the stopping up would not prevent access to premises or passage along the network.
- 8.18 The socio-economic benefits of the development are the replacement of office space with 11 residential units, to be contained within the upper floors of the proposed building as well as a means of access at ground floor level. The development of this site will provide 11 residential units to the Council's housing stock and the improvement of a class A1 retail unit in a designated District Shopping Centre In that connection, the greater floor space of the retail unit will enable the unit to expand its activity, which will at least avail a more commodious retail unit and would have the potential to provide better facilities for local people. By that means the permitted

development would provide socio-economic benefits for the district whilst deleting no part of the highway network for passage.

- 8.19 The objections to the order cite the following outcomes that the objectors anticipate might result, namely:
- The likely difficulty the narrowed footway will pose wheel-chair users;
 - Queuing for and using the automatic teller machine, which is presently accessible from the recessed footway.
 - The loss of two trees that beautify the street, add appeal to the neighbourhood and absorb pollution.
 - The belief that the narrowed footway will result in an increase in footway traffic.
 - Any present difficulties and inconveniences caused by delivery of goods to the supermarket would be made worse by narrowing the footway.
 - Loss of light to the south side of the building, 28a Hereford Road.
 - Narrowing the footway will delete the availability of a wide footway, which is commodious for passage in and out the supermarket as well as along the street.
 - The frontage will become narrow and cramped, and could well lead to people being forced off into the main road.
 - The relocation of the phone junction box from the frontage to the footway opposite Starbucks.
 - The existing cycle stand of 2 frames will be removed, thereby deleting that availability to the public.
 - There is a fear that goods trolleys will not be adequately contained within the proposed retail unit and that because the proposed elevator (that is intended to be used as the means to store fresh stock in the basement of the premises) is smaller than at present, delivery times will take longer giving rise to the congestion of trolleys and the difficulties that poses.
- 8.20 The loss of the trees and the relocation the telecommunications junction cabinet are matters that would have been evident to the Committee when that body resolved to permit the development
- 8.21 The potential loss or relocation of the Automatic Teller Machine (ATM) is also an issue that would have been taken into account before the Committee made their resolution.
- 8.22 In terms of the effect on foot and wheel-chair passage along the frontage of the proposed development, there would be a reduction in the footway width from 5.4 metres to 2.9 metres, at its eastern end, and 5.4 metres to 3 metres at its western end. 2.9 metres is an adequate width for two wheel-chairs plus a pedestrian to pass one another. The resultant width would be the same as along other lengths of Westbourne Grove on that block. However, the rate of flow of pedestrians entering or leaving the supermarket is greater than the rate in and out of other premises along that part of Westbourne Grove. Such a state is a merit or demerit and must have been apparent to the Committee when that body resolved to permit the development.
- 8.23 The issue of congregation for conversations or pondering could take place in the supermarket. The advantage for that being shelter from wind and rain. It is not an issue of passage and not a reason to abort the order.
- 8.24 The resultant footway would be less commodious for those desiring to congregate, but not for passage. Presently two cycle racks are set next to the entrance to the

supermarket. Whilst that is a useful facility for two persons at a time, wishing to fasten their cycle to a legitimate bar, the facility obstructs rather than aids passage. The only benefit that would be lost to pedestrians passing that frontage is that they will be less able to anticipate those exiting the supermarket before their passage conflicts. That state is present at every other retail entrance along that block.

- 8.25 Presently wheel-chair users have ample space to manoeuvre in and out of the supermarket and to pass one another and other footway users. The proposed development will create a little difficulty where one presently does not exist. However, it will not create a hazard. That same difficulty exists on the frontages of other shops along that side of Westbourne Grove and again, Committee would have been aware of this issue in considering the original report.

9 BACKGROUND PAPERS

1. The Report to the Planning Applications Committee of 19 May 2015 and associated minutes and subsequent decision letter
2. The proposed statutory order pursuant to section 247 of the Town and Country Planning Act 1990
3. The statutory notice dated 15 January 2016, issued under section 252 of the 1990 Act
4. Response dated 18 January 2016 from Atkins Global on behalf of Vodafone a telecommunications operator
5. Response dated 18 January 2016 from National Grid a gas supplier
6. Response dated 27 January 2016 from McNicholas on behalf of KPN and TATA
7. Email dated 10 February 2016 from Councillor Rahuja on behalf of the three Bayswater Ward councillors
8. Email dated 8 February 2016 from the South East Bayswater Residents Association Including email dated 8 February 2016 from, the co-chair of the Hereford Road Association and the director of the Hereford Mansions Residents' Association
9. Email dated 8 February 2016 from the occupier of 10 Hereford Mansions, Hereford Road
10. Email dated 10 February 2016 from occupier of 55 Hereford Road
11. Email dated 7 February 2016 from occupier of 31 St Petersburg Mews
12. Email dated 10 February 2016 from occupier of Flat 2, 28a Hereford Road
13. Email dated 11 February 2016 from Scaravelli Inspired Yoga
14. Email dated 7 February 2016 from occupiers of 9 Hereford Mews
15. Emails (x2) dated 7 February 2016 from occupiers of Flat 17 Opal apartments, 43 Hereford Road
16. Email dated 11 February 2016 from occupier of 49 Hereford Road
17. Email dated 10 February 2016 from occupier of 3 Hereford Mews
18. Email dated 10 February 2016 from occupier of 1 Chepstow Villas
19. Email dated 7 February 2016 from occupier of 60 Westbourne Park Villas
20. Email dated 12 February 2016 from occupier of 8 Hereford Mews
21. Email dated 9 February 2016 from occupiers of 43 Northumberland Place
22. Emails dated 10 February 2016 from occupier of 28a Hereford Road
23. Email dated 9 February 2016 from local resident - No address given
24. Email dated 10 February 2016 from occupier of Chepstow Road

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

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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT SARAH WHITNALL ON 020 7641 2929 OR BY EMAIL AT swhitnall@westminster.gov.uk

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