

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 2 December 2014	<b>Classification</b> For General Release	
<b>Report of</b> Operational Director Development Planning		<b>Wards involved</b> Marylebone High Street	
<b>Subject of Report</b>	<b>18-25 Park Crescent, London, W1B 1AL</b>		
<b>Proposal</b>	DEVELOPMENT SITE AT 16, 18-25 & 26 PARK CRESCENT & 77-81 PORTLAND PLACE: Demolition and redevelopment of 16 - 26 Park Crescent and partial demolition of 77 - 81 Portland Place to provide residential accommodation (Class C3) comprising of two basement levels, lower ground, ground and first to fourth floor levels (71 flats); the development of nine mews properties comprising of lower ground, ground, first and second floors within the rear courtyard of Park Crescent Mews; creation of terraces at rear ground, third and fourth floor levels and car-parking and plant in the basement of the Park Crescent property; use of part ground, lower ground and basement level as a community use (Class D1). Associated landscaping within the rear courtyard area.		
<b>Agent</b>	DP9		
<b>On behalf of</b>	PCW Property Holdings Ltd (Jersey)		
<b>Registered Number</b>	14/03306/FULL 14/03308/LBC	<b>TP / PP No</b>	TP/1147
<b>Date of Application</b>	03.04.2014	<b>Date amended/ completed</b>	15.08.2014
<b>Category of Application</b>	Major		
<b>Historic Building Grade</b>	Grade I and Grade II Listed Buildings		
<b>Conservation Area</b>	Regent's Park		
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone  Outside Central Activities Zone		
<b>Stress Area</b>	Outside Stress Area		
<b>Current Licensing Position</b>	Not Applicable		

## 1. RECOMMENDATION

For Committee's consideration:

1. Does the Committee agree that:

The principle of the redevelopment of the site is acceptable in land use and amenity terms subject to the following:

- i) The provision of partial affordable housing provision on site (approximately 18 units) should be sought in the light of advice from independent valuation consultants appointed by the City Council.
- ii) More information is needed regarding the detailed design (construction) of the proposed rebuilt stuccoed facades to permit their demolition.
- iii) The addition of another storey at roof level is unacceptable in design and heritage asset terms and should be deleted from the scheme.
- iv) Whilst there is a risk to the London Plane tree at the rear of Devonshire Street, sufficient measures have been put in place to reasonably protect it. Should these measures fail, the benefits of the scheme outweigh the limited public views of the tree.
- v) The Prince's Trust use is acceptable and sufficient to offset the loss of the social and community use.

2. Subject to 1. i) to v) above, that further negotiations be carried out with the applicant to seek to resolve outstanding detailed issues relating to the design of the building and the affordable housing offer.



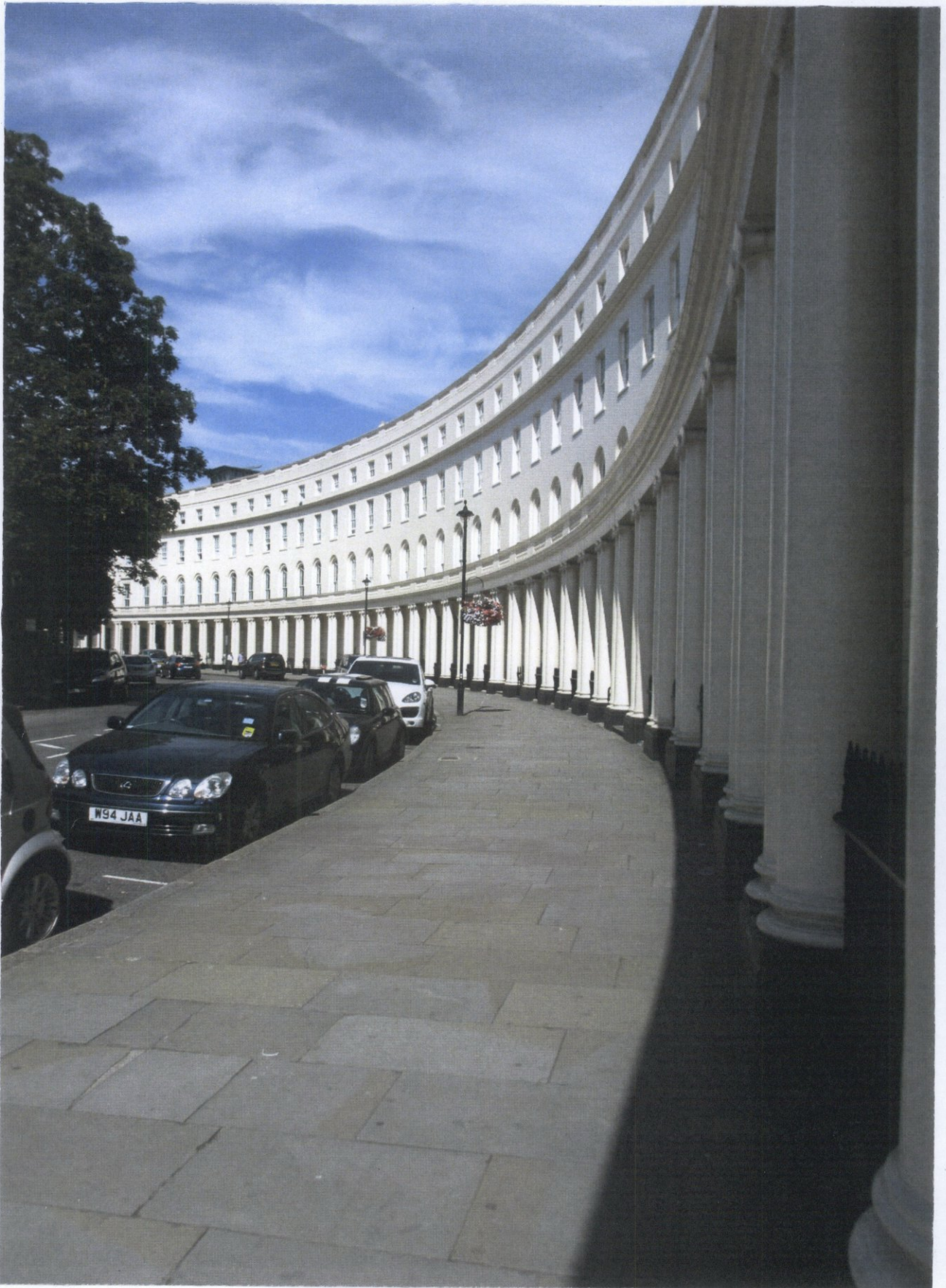
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18-25 PARK CRESCENT, W1

## 2. SUMMARY

The application site comprises Nos. 16-26 Park Crescent, a Grade I listed building which occupies the entire western side of the historical crescent, within the Regent's Park Conservation Area. The site also incorporates the adjoining buildings at 77-81 Portland Place, which are listed Grade II, and the land to the rear fronting Park Crescent Mews West including a row of garages on the southern boundary of the site. The application involves the redevelopment of the site to accommodate 80 new residential units, including a terrace of nine mews houses, off street car parking for 79 cars, inclusion of a community use and landscaping works to the rear.

The key issues for consideration in this case are:

- The acceptability of the proposal in land use terms including the affordable housing offer.
- The demolition of the Grade I listed building.
- The impact of the proposals in highways terms.
- The principle of the loss of the existing community use and its replacement with a new community facility.
- The impact of the proposals on the amenities of neighbouring residents.
- The impact of basement excavation on the London Plane tree at the rear of Devonshire Street.

The principle of a residential-led redevelopment of the site is acceptable in land use and amenity terms and Committee's views are sought on whether the provision of affordable housing on site should be sought, whether there is sufficient information about the detailed design (construction) of the proposed rebuilt stuccoed facades to permit the demolition of this Grade I listed building and whether the proposed addition of another storey at roof level is unacceptable in design and heritage asset terms.

Views are also sought as to whether the Prince's Trust use is acceptable and sufficient to offset the loss of the social and community use and, notwithstanding the objections of the Aboricultural Manager, whether the impact of the basement excavation on the London Plane tree at the rear of Devonshire Street is acceptable.

Subject to these matters, Committee is asked to defer consideration of the application in order to allow for further discussions to resolve the outstanding issues.

## 3. CONSULTATIONS

### GREATER LONDON AUTHORITY

The application fails to comply with the London Plan and the following changes are required to remedy deficiencies: further information on the detail of the retained social infrastructure floorspace and interested parties should be provided; details of the location, form and timing of any off-site affordable housing should be discussed with the GLA as soon as possible; details of children's playspace should be provided; details of the windows and further justification for a new roof level are required; calculations for the reduction in carbon emissions should be recalculated against Part L of the 2013 Building Regulations; confirmation is required in relation to the incorporation of passive elements, the size of CHP units and location of the energy centre; a review of the quantum of car parking on the site should be carried out; a financial contribution towards improving signage in the area is requested and cycle parking, a construction logistics plan, a delivery and servicing plan and car park management plan should all be secured by condition.

### TRANSPORT FOR LONDON

In order for the development to be in general conformity with the London Plan additional information should be provided on car parking; a car parking management plan should be

submitted; blue badge and electric vehicle charging points should be secured through condition; cycle parking for the D1 unit to be provided and a travel plan, construction logistics plan and delivery and servicing plan are secured and contributions towards Legible London and Crossrail are secured by S106.

#### ENGLISH HERITAGE

The opportunity of an exact and scholarly rebuilding of the facade may be seen as an opportunity of enhancing the significance of wider heritage assets in accordance with the National Planning Policy Framework. A bond should be secured to cover the cost of rebuilding the facade to the expected standard.

#### ENGLISH HERITAGE (ARCHAEOLOGY)

No objections subject to conditions

#### LONDON AND MIDDLESEX ARCHAEOLOGICAL SOCIETY

Objects strongly to the demolition of the facade of the Crescent. Believe that any 'scholarly' replica of the facade would not match the other half of the Crescent. Consider that the overall proposals are an overdevelopment of the site. The additional roof storey would be visible in longer views and would not outweigh any benefit of masking the existing 1950's blocks. Consider the design of the rear elevation of the Crescent and the mews are not of a high standard.

#### LONDON UNDERGROUND

No objections raised, subject to conditions.

#### THE MARYLEBONE ASSOCIATION

No objections raised and welcomes an historically accurate representation of the original street facade. Consider that the rear elevation of the Crescent is a little restrained and consider that the mews houses could be of a far superior, sympathetic design.

#### THE MARYLEBONE SOCIETY

Defer to the comments of the Conservation Officer and the Marylebone Association

#### HIGHWAYS PLANNING MANAGER

No objections raised subject to securing the provision of cycle spaces, and a car parking management plan. The applicant should be required to fund the proposed highway works, changes to on-street parking bays and a parking mitigation payment of £1,000.

#### ENVIRONMENTAL HEALTH

No objections.

#### BUILDING CONTROL

Any response to be reported verbally.

#### ARBORICULTURAL MANAGER

Objects to the excavation of basements within such close proximity to the London Plane at the rear of 12 Devonshire Street which is likely to result in an unacceptable degree of root loss. The principle of siting mews houses below the canopy of the London Plane is also unacceptable leading to fears of the tree falling and/or branches breaking and causing damage or injury. The roof strengthening details shown are not sufficient to overcome these fears. The proposals are also likely to result in require pruning of the London Plane but no accurate canopy dimensions have been provided to indicate the extent of tree surgery required.

The proposed landscaping works are disappointing and further details are required to demonstrate that there would be no harm to the Mimosa tree on Park Crescent Mews West.



## CLEANSING MANAGER

No objections.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 429; Total No. of Replies:

## ORIGINAL CONSULTATION

80 letters of objection from residents of 22 Park Crescent stating they have instructed CBRE to review the application on their behalf and 11 letters of objection raising the following concerns:

### Land Use

- Loss of tourist attraction.
- Facilities proposed would not benefit local community.
- Apartments proposed would be high end luxury apartments which would not be affordable and would stand empty if brought by non-UK businesses.
- No on-site affordable housing would be contrary to policy.
- Affordable housing studies should be within the public domain.
- The redevelopment of the existing buildings would be a more sustainable form of development.

### Design

- The demolition of a Grade I facade is unacceptable in principle.
- The additional height and materials would conflict with the eastern side of Park Crescent.
- There is no justification for demolition.
- The existing appearance of the rear of the building and the alleged defects of the building does not justify demolition.
- The 'scholarly' reinstatement of the facade is fatally undermined by the increased height and depth of the proposed building.
- The additional height would be visible from a number of view points.
- Extending the height and an additional roof storey will not enhance the appearance of the building.
- Historically there would only have been single storey houses at the rear of Devonshire Street and there is no evidence to support 2 two storey mews houses.
- It is unclear if the original mews houses were listed and whether there is justification for their reinstatement with a contemporary design.
- Proposed mews houses are four storeys in height and would not be subservient to the surrounding properties or in keeping with the prevailing architecture and design.
- Mews houses detract from the setting of surrounding listed buildings and character of the conservation area.
- 8 mews houses is an over-development and four houses would be more realistic.
- Proposals fail to preserve and enhance heritage assets contrary to S.38(6) of the Planning and Compensation Act which requires proposals to be considered in accordance with the Development Plan.
- The two storey blank wall across the width of Devonshire Mews North would be unsightly, out of character with the area and would impact on loss of views.

### Highways

- Impact on parking.
- Underground basement car parking will increase traffic and pollution.
- 58 Car parking spaces is not consistent with adopted car parking standards.

- Vehicles should only enter and exit via Harley Street and not Park Crescent Mews West and the exit onto Marylebone Road should be sealed for vehicular traffic.

#### Amenity

- Loss of daylight and sunlight.
- Overlooking from proposed mews houses.
- All rear windows from the mews houses should be removed.
- The impact of the mews development and their proposed rear balconies will impact on residential amenity.
- The sunlight/daylight study needs independent assessment.
- Impact from noise from plant, machinery and sub-stations and refuse storage area.

#### Other

- Noise, dust, dirt, drilling, traffic and nuisance during construction.
- Demolition will cause severe impact to residents of 22 Park Crescent
- Danger to residents from construction works.
- Proposal will cause existing residents to become homeless.
- Impact of basement excavation on London Underground.
- Risk that the development will not reach completion.
- Documents submitted are inconsistent, incorrect and unclear.
- The existing gardens should not be altered.
- No public consultation.
- A scheme of this size and complexity would be extremely difficult to manage and build out whilst retaining free and unobstructed flow for residents.
- This is a missed opportunity to bring forward a scheme that includes 22 Park Crescent.
- The leaseholders of 22 Park Crescent are supportive of an integrated scheme that includes 22 and it is not correct that such a scheme requires 90% support of all residents.
- Believe that the current application will put pressure on the residents of 22 Park Crescent to agree unfavourable terms.

#### RE-CONSULTATION FOLLOWING REVISED PLANS

No. Consulted: 429; Total No. of Replies:

Nine letters of objection raising the following (additional) concerns:

#### Land Use

- The proposed D1 space is poor quality, at basement 2 level with no natural light. It is a token gesture and does not provide genuine D1 space.

#### Design

- The proposals do not achieve the first test of Paragraph 133 of the NPPF which requires proposals to achieve substantial public benefit.
- The proposals fail to meet the other tests of the NPPF namely, that the heritage asset is preventing all reasonable uses; that no viable use can be found for it; that grant funding is not available and the loss is outweighed by the benefit of bringing the site back into use.
- The scheme is still an over-development and out of character with the surrounding area.
- The reduction of one floor to the western-most mew house still result in a bland wall at the end of Devonshire Mews West which would be unsightly and cause loss of views.
- Impact on the setting of the adjacent Grade II listed building.
- The design of the mews houses is uniform and unimaginative.
- The closure of Devonshire Mews North could be achieved in a more attractive manner.
- The reconstruction of the crescent falls short of Nash's original design.
- Possible survival of 19th century fabric in 16 Portland Place and 17 Park Crescent.



#### Amenity

- Impact on privacy.
- Overlooking from use of flat roof as an amenity space.
- Windows within the rear wall of mews could inserted at a later date.
- The location of the refuse point adjacent to residential accommodation will harm residential amenity.

#### Highways

- Parking bays will be suspended to provide loading areas for site vehicles.

#### Other

- Proposals will reduce access to 22 Park Crescent West.
- Basement excavation would impact on subsidence.
- Concern that the proposals will harm the long term survival of the plane tree at the rear of 12 Devonshire Street.
- Asbestos removal.
- The Construction Management plan fails to identify noise mitigation measures.
- Inadequate public realm contribution and additional open space should be secured by legal agreement.
- The applicant will make a huge financial gain at the expense of others.

ADVERTISEMENT/SITE NOTICE: Yes.

## 4. BACKGROUND INFORMATION

### 4.1 The Application Sites

The application site comprises Nos. 16-26 Park Crescent, a Grade I listed building which occupies the entire western side of the historical crescent, within the Regent's Park Conservation Area. The site also incorporates the adjoining buildings at 77-81 Portland Place, which are listed Grade II, and the land to the rear fronting Park Crescent Mews West including a row of garages on the southern boundary of the site. The Park Crescent buildings were rebuilt in the early 1960s due to wartime damage.

The building is five stories in height onto the Crescent itself and has lawful use as offices, courts and three residential flats (above 77-81 Portland Place). Whilst access to two residential blocks, known as 22 Park Crescent, is from 18-25 Park Crescent, these blocks are excluded from the application site. There are two vehicular accesses into the site providing access to surface level and basement car parking areas, one from Marylebone Road via Park Crescent Mews West and one from Harley Street.

The site is located outside of the Core Central Activities Zone (CAZ), however, Park Crescent, Portland Place and Marylebone Road are designated named streets within the Marylebone and Fitzrovia area of the CAZ.

The character of this part of Regents Park is a mix of commercial, medical and residential uses, however, the mews streets at the rear, including Park Crescent Mews West and Park Crescent Mews north, are residential in character. There are also a number of other residential properties within the immediate vicinity of the site, including 75 Portland Place directly adjacent to the site.

### 4.2 Relevant History

On 2 July 1959 planning permission was granted for the development of 18-25 Park Crescent of an office building consisting of a basement and four upper floors and two eight storey blocks of flats at the rear.

In 30 July 1962 planning permission was granted for the redevelopment of the remainder of the western quadrant of Park Crescent for the erection of a building for use as institutional offices and car parking at the rear.

On 1 July 1963 planning permission was granted for the redevelopment of 77-79 Portland Place and 11-13 Park Crescent Mews West for the erection of a building of seven storeys comprising lower ground floor, ground, first and mezzanine floor, offices with two flats on the second floor and two maisonettes on the third and fourth floors with ten lock up garages and eight open parking spaces at the rear.

There are also a number of applications and notifications under Circular 18/84 (the former Crown exemption procedures) relating to this site the most relevant of which relate to an application submitted for the use of 26 Park Crescent as a County Court and refurbishment of the building to provide 12 court rooms, plant and metal louvres.

## 5. THE PROPOSAL

The application involves the redevelopment of the site to accommodate 80 new residential units, including a terrace of nine mews houses, off street car parking for 79 cars, inclusion of a community use and landscaping works to the rear. The key features of the proposal include:

- The complete demolition of the existing building on Park Crescent and redevelopment behind the retained facade on Portland Place (on an enlarged footprint).
- The erection of a new six storey (including new roof storey) building onto Park Crescent
- Excavation of two basement levels to provide parking, plant and servicing, swimming pool, gym and media rooms
- The introduction of a contemporary mews terrace to the southern boundary of the site.
- Introduction of new landscaping to the rear of the Park Crescent buildings.
- Provision of 1,762m<sup>2</sup> of community floorspace.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

#### 6.1.1 Residential Use

Policies S14, S15 and S16 relate to residential use. This use is a priority across Westminster, and residential developments are expected to provide an appropriate mix of units in terms of size, type and affordable housing provision to create mixed communities and to meet housing needs. UDP Policies H3, H4, H5 and H8 are also relevant.

Policy H3 of the UDP seeks to maximise the amount of land in housing use, where appropriate, within the CAZ. Policy S8 also relates to Marylebone and Fitzrovia, identifying the Named Streets of Marylebone Road, Portland Place and Park Crescent as areas appropriate for residential development.

The application provides 80 new residential units. UDP Policy H5 requires the provision of a range of unit sizes in new housing schemes, including at least 33% family-sized (i.e. 3+ bedrooms) of which at least 5% should be more than three bedrooms. The proposals would provide 52% family-sized housing to meet the requirements of the policy, of which 21% would have more than three bedrooms, also complying with Policy H5.

## Unit sizes

The units proposed would range in size between 44m<sup>2</sup> and 474m<sup>2</sup> as set out below:

Bedrooms	No. units	Average size (m <sup>2</sup> )
One bedroom	7	66.5
Two bedroom	31	116
Three bedroom	25	185.5
Four bedroom	6	278.5
Five bedroom	11	381.5

London Plan Policy 3.4 states that new developments should optimise housing output and Policy S14 in Westminster's City Plan also seeks to optimise the number of residential units on development sites in order to achieve and exceed Westminster's housing targets. It is noted that there are a range of unit sizes in the proposed development, and whilst the largest penthouse 427m<sup>2</sup>, be extremely large, this is not untypical for luxury penthouse apartments within Westminster and therefore on balance this aspect of the proposal is considered to be acceptable.

Objections have been raised on the grounds that the apartments are likely to stand empty if brought by non-UK businesses, however, the application could not be refused on these grounds. The affordability issues are dealt with below.

## Residential standards

There is considered to be potential for sufficient daylight and sunlight to be received by the proposed residential units.

Policy H8 requires all new housing units to meet Lifetime Homes standards and requires 10% of the units to be designed to be wheelchair accessible or adaptable. The applicant has committed to this standard.

All the housing units would meet the size standards in the London Plan and whilst not all flats would be dual aspect, all of the single aspect flats would be west facing and would therefore receive some sunlight every day but not to the extent that overheating would be a problem.

UDP Policy ENV6 states that the City Council will require residential developments to provide adequate protection from existing background noise and be sound insulated to meet standards for internal noise levels of 35dB daytime and 30dB night time. This is considered to be a 'good' standard of quietness inside a home. Had permission been recommended, a condition would have been included requiring the applicant to submit a noise report to demonstrate that these noise levels are achievable. Subject to this, it is considered that the proposed flats would provide a good standard of residential accommodation.

## Play space and open space

Policy H10 requires housing developments to include an element of amenity space, including the use of balconies and roof terraces on sites within CAZ. Communal garden areas are provided at the rear of the main crescent building and, private roof terraces are provided at lower ground floor levels, third and fourth floor levels and six of the mews houses benefit from small private courtyard gardens.

The application also includes an ancillary swimming pool, sauna/spa, cinema/media room and gym for residents use only at basement level.



Policy SOC 6 requires children's playspace to be provided where 25 or more family sized units are being provided, and one of the two communal courtyard spaces incorporates an area of children's playspace including the provision of play equipment. The Mayor's Supplementary Planning Guidance "Providing for Children and Young Peoples Play and Informal Recreation" March 2008 sets out a formula for calculating requirements for play and open space based on the potential number of children within the development, in this case around 12 children. Whilst some 40m<sup>2</sup> of children's playspace is shown on the submitted drawings, in accordance with the formula, approximately 123m<sup>2</sup> of playspace should be provided (although it is noted that this is an indicator rather than standard).

### **Community Floorspace**

Policy H10 also requires on sites suitable for large housing developments, where appropriate, the provision of a community facility. The policy allows for the payment of a financial contribution in lieu of on-site provision where costed social and community projects are identified. In this case, the applicant contends that the proposed community space (set out in 6.1.3 below) satisfies this requirement. However, in policy terms, this community space is considered to off-set the loss of the existing courts (under Policy S34) and ideally a separate community facility should have been offered to satisfy Policy H10. However, as set out below, it is recognised that the applicant is offering a number of measures to secure the community space and that as additional communal facilities are also proposed for future residents of the development, it is considered that in this instance, the package of community facilities is considered acceptable.

#### **6.1.2 Affordable Housing**

##### **The policy requirement**

Policy S16 relates to affordable housing. It requires that proposals of 10 or more new residential units, or over 1000m<sup>2</sup> of additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The proportion required will be determined by the City Management Plan which is unlikely to be adopted for some time and the draft is not sufficiently advanced to use for development management purposes. In the meantime we have published an Interim Guidance Note, originally for the purposes of the public inquiry into the Core Strategy.

The expectation of the London Plan, the UDP and the City Plan is that affordable housing should be provided on site. Policy S16 states "*Where the Council considers that this is not practical or viable, the affordable housing should be provided off-site in the vicinity. Off site provision beyond the vicinity of the development will only be acceptable where the Council considers that the affordable housing provision is greater and of a higher quality than would be possible on or off site in the vicinity, and where it would not add to an existing localised concentration of social housing...*"

The scheme results in an increase in residential floorspace of 26,382m<sup>2</sup> (GEA). Applying the Interim Guidance, a scheme of this size is expected to provide 25% of its floorspace as affordable housing, which equates to 6,596m<sup>2</sup>. If this were to be met by a financial payment in lieu, this would generate a requirement for £27,524,284.

The applicant has submitted a viability report to support their affordable housing offer, and an objection been made on the grounds that the affordable housing study should in the public domain. However, it is the City Council's practice to keep viability reports confidential on the grounds of commercial sensitivity.

##### **The applicant's proposals**

The applicant initially contented that it would not be economically viable for the proposals to contribute to any affordable housing either on or off-site, or by way of a commuted payment. This position was challenged by the City Council's valuation consultant and in subsequent

discussions with officers the applicant has increased the offer to a payment in lieu of £14,350,000 or the delivery of six of the mews houses as affordable intermediate rent together with a

The City Council has employed GVA as an independent consultant to review the applicant's financial viability case for offering a part on-site solution together with a PIL of £1,500,000. Our consultant has concluded that a policy compliant 25% affordable housing cannot be provided on site, however, the application could viably provide either:

- 11% of the on-site accommodation as affordable housing (ie. the 9 mews houses) or £18.65m.

Clearly the policy presumption is for the affordable housing provision to be made on site and where this is not possible, the affordable housing should be within the vicinity of the site. Objections have also received on the grounds that on-site affordable housing should be provided. The applicant's contend that whilst six mews houses and a commuted payment of £1.5m have been offered, their preferred approach would be to provide a PIL of £14.35m as they believe that at a £2m subsidy per dwelling that the on-site approach would not provide a feasible or effective approach to meeting housing needs in the Borough. GVA believe that the nine mews houses could be redesigned to provide approximately 18 units which would be more appropriate for meeting affordable housing needs and for management by a Registered Provider.

There is still disagreement between the two consultants regarding sales values, construction costs and profit levels and the applicant contends that their offer is the maximum that they can viably support. The applicant also contends that the conversion of the mews terrace to flats would require significant design changes which would break the rhythm of the current arrangement, result in a number of basement flats without amenity space, and only provide small one or two-bed units which would be contrary to policy and would be unlikely to meet Lifetime Homes Standards. They also comment that the flats at £1.3m per unit would not provide value for money and comment that a £14.35 financial contribution could deliver more affordable homes off-site.

Notwithstanding these comments, a re-designed scheme has yet to be drawn up to demonstrate that the applicants concerns that a scheme for flats would not provide acceptable habitable conditions or would compromise the current design of the scheme.

Given the shortfall in affordable housing provision relative to the requirements of Policies H4 and CS16, which has been arrived at having regard to independent viability assessment of the scheme, the Committee's views are sought as to whether the provision of affordable housing on site should be sought (in the form of a revised scheme for the 9 mews houses).

### **6.1.3 Loss of Law Courts and Introduction of Replacement Community Space**

The existing law courts is considered to be a community use and the application therefore needs to be considered under Policy SOC1 of the UDP and S34 of the City Plan which protects existing social and community facilities.

Policy S34 states that all social and community floorspace will be protected except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider. In all such cases the council will need to be satisfied that the overall level of social and community provision is improved and there is no demand for an alternative social and community use for that floorspace. In those cases where the council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential.

The building is now empty and the Courts have relocated to new premises within the Royal Courts of Justice. This relocation is part of the Court's wider strategy to consolidate their existing facilities in fewer, more efficient and better quality premises. Given the courts relocation, it is clear that the proposal meets the first part of Policy S34. However, the existing law courts previously occupied a building of 4,503m<sup>2</sup> and only 1762m<sup>2</sup> of replacement community space is proposed. The proposed community use is therefore significantly smaller than the space it replaces and evidence has not been put forward (such as a robust marketing exercise) to demonstrate that there has been no demand for an alternative social/community use to occupy the entire area previously occupied by the Courts.

The community space proposed is intended to be occupied by the Prince's Trust. One of the arms of The Prince's Trust is Business in the Community who supply education and training programmes linking job opportunities between local communities and businesses. It is understood that the space would be used for mentoring training, networking events, exhibitions and discussion and speaker events. Such a use is supported by Policy S34 which encourages new social and community facilities throughout Westminster.

The applicant proposes the following measures to ensure the delivery of the community space:

- A 15 year lease at a peppercorn rent to the charity;
- Provision of internal shell and core with incoming services to the specification of the Trust;
- Service charge, rates, insurance, utilities, repairs, maintenance, security and tenant's legal costs to completion of lease to be covered by the applicant.

Concerns have been raised on the grounds that the space provided is mainly below level, devoid of natural light and that the offer is a token gesture, does not provide genuine D1 space and would not benefit the local community. However, the Trust has confirmed that the space is suitable to their needs and provides a range of flexible space for the activities they offer. They also comment that the basement space benefits from a high level of natural insulation that would enable them to keep costs down.

Whilst the proposed offer is significantly smaller than the space the courts have previously occupied, the space is of a size and layout which meets the needs of the Prince's Trust and has been offered on terms which are of interest to the charity. Given this, the Committee's views are sought on whether the size of the space is acceptable and sufficient to offset the loss of the social and community use?

## **6.2 Townscape and Design**

Park Crescent was built to the designs of John Nash by Charles Mayor who leased the whole of the proposed site at the top of Portland Place. After some difficulty (a fire, partial collapse, and the bankruptcy of Mayor), the crescent was built by William Richardson, Samuel Baxter and Henry Peto and completed circa 1820 with financial backing by John Farquhar. There is an elevation drawing of part of the proposed crescent in the National Archives, Kew. Its detailed design is not therefore in dispute.

Various piecemeal alterations were made over the following century, including a variety of roof extensions that marred the skyline. A substantial part of Park Crescent West was destroyed in WWII and the problem of what to do with the remainder of the crescent and the other Nash terraces in Regent's Park was considered by a parliamentary committee, chaired by the Rt. Hon. Lord Gorell. Evidence was heard from many experts and interested parties, which resulted in the recommendation of 1947 that "We are unanimously of the opinion that the Nash Terraces are of national interest and importance and that, subject to certain reservations... they should be preserved as far as that is practicable and without strict regard to the economics of 'prudent' estate management... we consider that there is a minimum which must at all costs be restored and preserved, namely... Park Crescent..."



It is evident from planning committee reports and correspondence that it was the "...intention to preserve the existing Nash facades and to restore them where necessary to their original condition." (Fitzroy Robinson letter to the LCC Architect dated 12 February 1959). This intention to restore the crescent acquired the caveat "where possible" (LCC report 14 May 1959), and became "rebuilding in facsimile" by the time of the LCC committee report of 18 September 1961. Nevertheless, a key theme of all the letters and reports is the insistence that "...the importance of Park Crescent lies primarily in the composition as a whole, which given an accurate reconstruction of the façade, is not endangered." (LCC Historic Building Report 18 September 1961).

At the rear of the crescent the height of the flats was a cause of concern and the LCC Architect noted in 1959 that "The wings at the back should be cut down in height as they will be visible above the skyline of the terrace." The slightly piqued response from the architects, Fitzroy Robinson, noted "It will be readily apparent that these pavilions are sufficiently set back from the main facades so as to become disassociated from them... the main residential blocks are at a distance of 76 feet behind the façade, and only become visible from in front at a distance of 370 feet..." The Royal Fine Arts Commission opined that "...the treatment of the gable ends of these blocks might be more closely related to their elevations and that although it would support the suggestion of a pitched roof, it does not consider that the detailed treatment need be in the Regency tradition." (RFAC letter dated 15 June 1959).

The height of the flats was not reduced and the north ends are built in the Regency tradition while Park Crescent West was rebuilt, in phases, in facsimile save for chimney stacks which were omitted and a reduced number of entrance doors. During reconstruction of the crescent an ice-house, pre-dating the crescent, measuring 42 feet deep by 30 feet diameter was discovered and subsequently filled with rubble. The Third Report of the Crown Commissioners (June 1962) noted that "We think the uninterrupted view of the sky through the balustrades, no possible for the first time, is a pleasant improvement, So also is the result of removing many modern excrescences from the roof line."

The stuccoed crescent is grade I listed, the brick-fronted Nos.77-81 Portland Place are Grade II listed, and the site lies within the Regent's Park Conservation Area. Adjoining the site to the south and west is the Harley Street Conservation Area, and there are grade II listed buildings to the west in Harley Street and to the south in Devonshire Street. No.75 Portland Place is Grade II\* listed as are Nos. 92-96 Portland Place. While the list entry for the crescent wrongly states that it was rebuilt behind retained facades, English Heritage has confirmed that the primary interest lies in its architectural design rather than its modern fabric and notes "It is the culmination of one of the most monumental and significant exercises in town planning to take place in early nineteenth century London and remains one of the most important streetscapes in England... and this is clearly recognised by it being listed at Grade I, of outstanding architectural and historic interest and indeed of international importance in the influence of this type of development."

Park Crescent East does contain some original work in the form of party walls in one of which the broken ends of the principal stone staircase were observed during recent refurbishment work. However, none of the original fabric has survived in Park Crescent West and this is confirmed by selective opening-up works. Nevertheless, there is potential for the rubble infill of the ice-house to contain fragments of decorative work. A brief description of what remained internally from the Regency period was produced in 1962 and provides evidence for how the interior should be designed as part of any future redevelopment.

The scheme in its current form envisages total demolition of Park Crescent West, and demolition behind the retained street facades of Nos. 77-81 Portland Place. The redevelopment will include a facsimile of the original facade design. However, the depth from front to back of the crescent will be increased an additional storey is proposed at rear roof level.

Objections have been received to the demolition of the buildings, the increased height of the roof and footprint of the crescent, the design and size (number of storeys) of the mews houses, and adverse comment is made regarding the omission of key drawings from the applicants' historic building report. Objectors at No.22 Park Crescent have engaged the services of a heritage consultant who has found early drawings of the buildings, which fill an important gap in knowledge about the site. This information, combined with the City Council's archive material and historic town planning files, gives a good understanding of the site's history notwithstanding any omissions on the part of the applicant. For the reasons set out below, the substantive objections to the alterations are sustainable. As regards the facade, they could be addressed by provision of detailed drawings, and with reference to the roof by omission of the extension.

The initial proposal to raise the level of the ground floor window sills and to otherwise tinker with the design of the facade has been dropped following provision, by objectors to the scheme, of a copy of the original design drawing. At this stage it is not clear how the crescent facade is to be rebuilt. Currently it has some well fairly well concealed expansion joints and some obtrusive joins between the different phases of the post-war rebuilding. The render is in good condition but has a substantial build-up of paint which could be removed to allow repainting to beneficial effect. There are some weathering details that need attention on the colonnade roof, but otherwise the facade is in good condition. Therefore, any rebuilt facade will need to be of the highest quality and details have been sought to establish how any new facade would be constructed, particularly with reference to expansion joints. Some late information has been provided offering partial reassurance and this is being considered. However, if not dealt with exceptionally carefully these details could mar the facade. Therefore, the committee's agreement is sought to require that this detail is provided in full before a decision on demolition is made.

Considering the outstanding architectural value of the crescent is its design, to add another storey at roof level where one was not intended and to effectively reverse the improvements made in the 1960's reconstruction, is unacceptable in principle. This would harm the appearance of Park Crescent West and the overall symmetry of the crescent as a whole. Objections from the GLA, the London and Middlesex Archaeological Society, and occupiers of No.22, refer to this aspect of the proposal and are sustainable. The roof extension would not meet UDP policies DES 6, DES 9, and DES 10. It would also not meet the aspiration of English Heritage who note that "This represents a perhaps unique opportunity, through a more scholarly design to create more accurately a townscape which will enhance the significance of the Regent's Park Conservation Area." There is no benefit to partly hiding the flats behind the crescent where they project over the roofline by fundamentally changing the outline of the crescent contrary to everything that has happened before. It is not appropriate to alter the roof-height of a Grade I listed building to screen something behind. The committee's agreement is therefore sought that in design and heritage asset terms, a roof extension is unacceptable.

There are also objections to the increased footprint of the crescent which will become deeper from front to back than as originally built or as reconstructed in the 1960's (to the original footprint). The objection is a sustainable one in the context of the overall package of alterations to the crescent including the unacceptable increase of height. This aspect of the proposal also counts against the scheme particularly with reference to the English Heritage remark that "...anything other than a design as close to Nash's original as it is possible to achieve would cause substantial harm... and would be entirely unacceptable." While there may be scope to increase the depth of the crescent to the extent proposed, in conjunction with the increased height the alterations would be too far from the original design to be recommended for approval. Provided that the additional height is omitted from the crescent, the harm resulting from the increased footprint of the crescent would be less than substantial and may be acceptable in the overall context of the development.

The rear facades of the crescent are to be rebuilt in brick and stone to a design more worthy of the site and new mews houses erected on the southern boundary of the site. There are objections to the design of the new rear façade and to the mews houses in terms of their size and design. The existing rear façade of the crescent is of limited architectural ambition and is in poor condition. The concrete-framed stairwell windows are in particularly bad condition. Nevertheless, there is no objection in principle to rebuilding the rear facades to a new design, and the current proposal (except for the additional storey at roof level) is acceptable. The palette of materials is appropriate and the detailed design is an improvement to that which currently exists. The objections to the design of the rear façade are not therefore sustainable.

Regarding the design of the new mews houses, these are in a simple modern design and are on the site of previous mews buildings. The area to the rear of the crescent was originally developed with mews houses of two storeys above street level with some having one or possibly two floors below. Archive drawings seem to show that those immediately behind the crescent may have had two storeys below street level in the mews as a result of the greater storey heights in the main crescent buildings. Nevertheless, the prevailing character of the original mews would have been created by small-scale two-storey buildings, much like those remaining in Park Crescent Mews West.

The proposed mews is a pleasantly modest and well considered design using appropriate facing materials and the objections on the design of the terrace are not supported. The set-back third floor reads as an architecturally subordinate structure that does not result in the buildings appearing too large for their surroundings. The site of the proposed mews houses is currently a neglected area that needs improvement and the mews development is, in principle, acceptable. However, since the application was submitted, evidence for the presence of an icehouse has been obtained. If this feature survives, a drawing from 1961 noted that it was being "filled with debris", then it would be exceptionally rare and the development would have to be revised so that it is retained. The debris is likely to be from the original Nash crescent and will therefore require careful excavation to record any finds of significance. This aspect of the proposal will therefore have to be the subject of further discussion and development in consultation with English Heritage.

## **6.3 Amenity**

### **6.3.1 Daylight and Sunlight**

UDP Policy ENV 13 aims to protect and improve the amenity of the residential environment, which includes ensuring that sunlighting and daylighting levels to existing properties are not unreasonably compromised. In implementing this policy, the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used.

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of light reaching the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse affect would have to be taken into account in any decision making. The BRE guidelines seek mainly to protect daylighting to living rooms, dining rooms and kitchens (where they are sufficiently large to be used as a habitable room), whilst bedrooms are protected to a lesser extent.

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, and has a 4% loss in total annual sunlight hours, 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 – with kitchens and bedrooms less so.



A sunlight and daylight report has been submitted with the planning application which includes an assessment of the development using the appropriate VSC method prescribed in the BRE guidelines, and the proposed development has been designed to comply with these. Residents within 22 Park Crescent raise concerns on the grounds that the report identifies a number of windows that will experience a loss of daylight/sunlight and on the grounds that the report is based on site visits, photographs and local authority records, rather than on a detailed accurate assessment after gaining access into the affected properties. For VSC, the test is reliant on the amount of sky visible from the window face and is not dependent on the relationship of the room layout behind the window. In addition, the Building Research Establishment (BRE) guidelines state that an on-site assessment is only required for analysing Average Daylight Factor (ADF) calculations (which are not being taken into account in the assessment of loss of light). The report, submitted as in this case, by a member of the RICS carries a duty of care which the Council considered sufficient to rely on and it is considered that the evidence submitted is adequate to enable officers to reach a view on the amenity impact.

Whilst occupiers of the adjoining flats within 22 Park Crescent have raised concerns about loss of light, only one habitable window within this block of flats is adversely affected by 20%. This window would experience losses of 31.7% in terms of VSC, however, this is a secondary window to a room that is served by one other window that retains good levels of VSC. It is considered that the room would still receive adequate levels of daylight.

Two north facing kitchen windows within 75 Portland Place would also experience daylight losses of 21.5% and 25.2%, however, this room is also served by a rooflight which retains excellent levels of daylight with values of between 42% and 60% VSC. In these circumstances it is not considered that the room would be so adversely affected by the proposals to justify refusal.

The occupier of 2 Devonshire Mews North has also raised concerns regarding loss of light, however, there would be no material loss of light to windows within this property.

With regard to annual sunlight losses, three windows within one flat at 22 Park Crescent would experience losses of winter sunlight hours varying between 43% and 100%. All these windows would therefore fail BRE guidance. However, these windows would retain very good levels of annual sunlight hours varying between 29% APSH and 46% APSH. One other flat within 98 Portland Place would experience winter sunlight losses of between 50% and 100%. These high percentage changes are due to the very low existing levels of sunlight that these windows currently experience. Both of these windows would only see an actual decrease of available winter sunlight hours of 2% and 1%.

It is considered that within this urban built-up location, the levels of sunlighting retained are acceptable and the impact is not considered sufficient to justify a refusal.

### **6.3.2 Overlooking and Sense of Enclosure**

UDP Policy ENV13 also seeks to safeguard the amenity of existing residential occupiers by not allowing proposals that would result in an unreasonable sense of enclosure or overlooking. The most obvious impact on sense of enclosure would result from the construction of the mews terrace along the southern boundary of the site and from the increased depth, and new roof storey of the rebuilt crescent. However, the new rooftop storey would be both set back from the rear façade of the new building and would be at an oblique angle from any windows within 22 Park Crescent. It is not considered that this element of the application would have an adverse impact on overlooking or on sense of enclosure.

At the rear, the rebuilt crescent would extend beyond its existing footprint, however, it would not project beyond any windows within No. 22 and therefore there would be no material effect on sense of enclosure. Whilst the rear façade of the new building would be closer to existing

windows within No. 22, any overlooking would be from an oblique angle and therefore there would be no significant increase in overlooking of the neighbouring property.

The main impact on sense of enclosure relates to the new mews terrace on the southern boundary of the site. The application initially proposed a terrace of eight townhouses each three storeys in height. During the course of the application this element of the scheme has been amended to a terrace of nine mews houses, and those at the far south west end of the terrace have been reduced to two storeys in height. There is already a high boundary wall along this southern boundary, and whilst the two 2-storey mews houses at the south west end of the terrace would still project above this by approximately 1.8m, it is not considered that this additional bulk would have an adverse impact on sense of enclosure. The occupier of 2 Devonshire Mews North does not consider that these amendments resolve his concern about increased sense of enclosure, however, it is not considered that the application could be refused on this basis. No habitable windows are proposed in the rear elevation of the new mews houses that would be above the height of the existing boundary wall and whilst the occupier of No. 2 considers that all rear windows should be removed, it is not considered that those windows proposed at lower level in the rear elevation would cause any harmful overlooking of surrounding properties. If approval had been recommended, a condition removing permitted development rights would have been included on the decision notice preventing any new rear windows from being inserted within the mews houses.

The occupier of 2 Devonshire Mews North also raised concerns about the use of the flat roofs of the mews at the south west end of the terrace as a roof terrace. The applicant has indicated that the flat roof to these houses would be non-accessible and a green roof and planted pergola are shown on the submitted drawings. If approval had been recommended a condition restricting these roofs from being used as a terrace would have been proposed.

The new mews houses would also be within close proximity to the southern wing of 22 Park Crescent and at its closest point would be approximately some 10m from primary habitable windows. This would be similar to the relationship of the northern wing of 22 Park Crescent to the existing mews houses in Park Crescent Mews West and it is not considered that the mews houses proposed would result in any harmful degree of overlooking to warrant refusal.

### **6.3.3 Plant**

Plant is proposed at basement and lower ground floor level. A noise report has been submitted with the application which has been reviewed by Environmental Health officers and it is considered that any noise from plant would be within the limitations stated in the City Council's standard noise conditions, subject to the submission of a supplementary noise report, and would therefore comply with UDP Policies ENV 6 and ENV 7 and City Plan Policies S28 and S31. The concerns on these grounds cannot therefore be supported.

### **6.3.4 Refuse store**

The proposal includes a waste storage area at basement level 2 underneath the proposed mews houses. Waste would then be brought to ground level twice a week to a temporary storage area at ground floor level in advance of collection. The Cleansing Manager is satisfied with this arrangement. Whilst concerns have been raised regarding the proximity of the temporary storage area to existing residential accommodation, and to noise and disturbance from collection, it is considered that suitable conditions could be put in place to limit the hours of collection to limit the disturbance to surrounding residential occupiers.

## **6.4 Transportation /Parking**

The proposals would provide 79 car parking spaces for the 80 proposed units. This would comply with Policy Trans 23. The London Plan also requires that 20% of the spaces should be capable of charging an electric vehicle, with 20% passive provision, and this requirement is

also met. The parking spaces would be located at basement level, to which access would be from either Harley Street or Park Crescent West via the Marylebone Road. It is not considered that the vehicular traffic generated by the proposed 80 units would be so substantial that it would lead to potential conflict in terms of highway safety, convenience or amenity, and the concerns raised by objectors on this point are not considered to justify refusal. The Highways Planning Manager considers that, in order to ensure that downtime of the automated car parking system is kept to a minimum to avoid residents parking on-street (for example, while the system is under repair), a Car Park Management Plan should be conditioned to cover this issue.

The proposals include cycle parking facilities which would also be provided at basement level. 238 cycle parking spaces are proposed to serve the residential elements of the development and a further 25 to serve the D1 use. This is more than sufficient to satisfy the demands of Policy Trans 10. These spaces would be reserved by condition to ensure compliance with UDP Policy TRANS10.

The proposals also indicate that one parking bay in Park Crescent West is to be moved, so that refuse vehicles can turn in the Mews. Parking bays in the Crescent are also proposed to be moved. The Highways Planning Manager has no objections to the proposed changes to on-street parking, but these will be the subject of a separate Traffic Order Making process under the Road Traffic Regulation Act 1984.

## **6.5 Economic Considerations**

The proposal is in accordance with the UDP and the economic benefits generated are welcomed.

## **6.6 Access**

The building will be fully accessible to people with mobility difficulties.

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

Not applicable.

## **6.8 London Plan**

The London Plan promotes the provision of new housing and requires, in new housing schemes, the maximum reasonable amount of on-site affordable housing. At the same time economic viability should be taken into account and it may be appropriate to accept a financial contribution in lieu of on-site affordable provision.

The proposal to redevelop this site is referable to the Mayor because the floorspace of the building is over 20,000m<sup>2</sup>. The Mayor considers that the application does not comply with the London Plan and raises the following points:

- the level of the affordable housing offer;
- requests further information on the detail of the retained social infrastructure floorspace and interested parties;
- requires details of the windows and further justification for a new roof level;
- details of children's playspace;
- a review of the quantum of car parking on the site should be carried out;
- a financial contribution towards improving signage in the area is requested and cycle parking, a construction logistics plan, a delivery and servicing plan and car park management plan should all be secured by condition;



- calculations for the reduction in carbon emissions should be recalculated against Part L of the 2013 Building Regulations;
- confirmation is required in relation to the incorporation of passive elements, the size of CHP units and location of the energy centre.

The applicant is aware of the comments raised by the Mayor and it is understood that they will be having separate discussions with the Mayor to address these issues. However, at this stage the scheme is considered to comply with relevant policy subject to the Committee's views regarding the level of the affordable housing offer.

## 6.9 Planning Obligations

On 6 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:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development;
3. fairly and reasonably related in scale and kind to the development.

Policy S32 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of development; ensure the development complies with policy requirements within the development plan; and, if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures the overall delivery of appropriate development is not compromised.

The City Council's Planning Obligations Supplementary Planning Guidance (SPG) sets out in detail the scope and nature of obligations to which certain types of development will typically be subject.

In residential schemes, the City Council's Supplementary Planning Guidance on Planning Obligations comes into effect where the total number of units is 50 or more and the applicant has offered to enter into a S106 legal agreement to secure a range of obligations, which will need to cover the following issues:

- The provision of affordable housing units on-site for successive occupants in perpetuity.
- The provision of £200,000 towards public realm improvements in the vicinity of the application site payable on commencement of development.
- A bond to secure the reinstatement of the Park Crescent façade.
- The provision (including full fit-out) and retention of the new community space with ongoing maintenance costs to be paid for by the applicant prior to occupation of the first residential unit.
- The provision and retention of the communal open and play space.
- The provision of an education contribution of £163,056 payable on commencement of development.
- The provision of a financial contribution of £1,000 towards parking surveys to monitor the on-street parking levels in the vicinity of the site payable on commencement of development.
- Compliance with Code of Construction Practice and submission of a CEMP (Construction Environmental Management Plan) with associated monitoring fees to a capped total of £30,000.
- The provision of costs for monitoring of agreement.

Sub-Committee's views are sought on the affordable housing provision, and it is recommended that subject to this, the application be deferred in order to allow the details of the affordable housing offer to be resolved with the Housing Manager. Subject to these matters, the S106 obligations outlined above are considered to meet the tests of the regulations and are considered acceptable for the purposes of the City Council's adopted SPG on Planning Obligations.

## **6.10 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 13 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.

## **6.11 Environmental Assessment including Sustainability and Biodiversity issues**

### **6.11.1 Trees**

Concerns have been raised by neighbours that the proposals will harm the long term survival of the London Plane tree located in the neighbouring garden of 12 Devonshire Street. This concern is shared by the Arboricultural Manager who objects to the excavation of basements within such close proximity to the London Plane on the grounds that this is likely to result in an unacceptable degree of root loss. She also considers that the principle of siting mews houses below the canopy of the London Plane is unacceptable leading to fears of the tree falling and/or branches breaking and causing damage or injury and that the roof strengthening details shown are not sufficient to overcome these fears.

In response to these concerns, the applicant has provided further information including a radar scan of the root system of the tree and has provided information relating to the digging of a recent trial pit. This information is being reviewed by the Arboricultural Manager.

The Arboricultural Manager's concerns are understood, however, the layout and proximity of the mews terrace to the Plane tree is not uncommon in central London and whilst the tree is highly visible from surrounding properties, it does have limited public amenity value. The applicant is also committed to providing regular inspection of the tree to reassure residents that the tree is being managed appropriately and meaning that small dead branches can be dealt with before they fall.

Whilst there is a risk to the London Plane tree at the rear of Devonshire Street, it is considered that sufficient measures have been put in place to reasonably protect it. Should these measures fail, Committee is asked to consider whether the benefits of the scheme outweigh the limited public views of the tree.

Concerns have also been received on the grounds of the impact on the existing gardens to the rear of 22 Park Crescent, however, these lie outside the application site and are not affected by the proposals.

The Arboricultural Manager also considers that further details are required to demonstrate that there would be no harm to the Mimosa tree on Park Crescent Mews West and has also raised concerns relates to the proposed landscaping works which she considers disappointing. Further information has now been submitted in relation to the Mimosa tree and the detailed design of the landscaping at the rear of the crescent could be dealt with by amending condition. In this context, it is considered that subject to further amendment, the scheme is likely to accord with ENV16 in the UDP and is acceptable in arboricultural terms.

### **6.11.2 Sustainability**

Policy 5.4 of the London Plan relates to retrofitting and states that the environmental impact of existing urban areas should be reduced through policies and programmes that bring existing buildings up to the Mayor's standards on sustainable design and construction. These standards are set out in Policy 5.3 of the London Plan and include minimising carbon dioxide emissions, avoiding internal overheating, efficient use of natural resources, minimising pollution and promoting and protecting biodiversity and green infrastructure. Policy 5.2 states that proposals should make the fullest contribution to minimising carbon dioxide emissions and aim for a 40% improvement on the 2010 Building Regulations.

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

Policy S40 of Westminster's City Plan: Strategic Policies requires all major development to maximise on-site renewable energy generation to achieve at least a 20% reduction in carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers it not appropriate or practical due to site specific considerations.

The proposals make a significant carbon reduction towards London Plan Policy 5.2 targets and the Council's S40 target, with the mews houses at the rear of the site making a particularly high contribution and the objection that the proposal is not a sustainable form of development cannot be supported. Although the mews houses are not quite achieving policy compliance at 36% (against a target of 40%), considering the overall setting, and commitment to integration of renewable in a small area of the site serving the crescent apartments, and with savings through a site wide heat network, this is considered acceptable.

Green roofs are proposed at roof level on two of the mews houses and these may be secured by condition.

## **6.12 Other Issues**

### **6.12.1 Basement Excavation**

This issue is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. 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 is being considered by our Building Control officers and subject to this it is not considered that the concerns raised regarding the impact of excavation works on the adjacent building can be supported. 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.

### **6.12.2 Construction Management**

The applicant has confirmed that the sole access to the site by construction vehicles would be from Park Crescent, and all loading/unloading of skips and goods will take place at this point. Should any parking bays need to be suspended, the applicant would need to apply separately for highways approval.

The applicant has also confirmed that the existing access route through the Park Crescent building for residents of 22 Park Crescent will be retained throughout the demolition and

construction process. Prior to demolition activities commencing protective measures will be put in place, including hoardings and a gantry over the pavement on Park Crescent, to protect the existing residents and the public from demolition and construction activities.

Concerns have been raised on the grounds that demolition and construction activity would adversely impact on the residents of 22 Park Crescent, would involve asbestos removal and reduce access to residents at 22. However, it is not possible to refuse planning permission for these reasons, and the City Council's only option in these circumstances is to seek to reduce the impact through mitigation measures prescribed in a Construction Management Plan (CMP) and Site Environmental Management Plan (SEMP). This can, however, only limit disruption and inconvenience and not eliminate it entirely. A Construction Management Plan condition would have been proposed had the application been recommended for approval. In addition, as part of the legal agreement, the applicant has also agreed to an annual contribution of £30,000 towards the Council's Code of Construction Practice and towards monitoring of the CMP. Conditions would also have been recommended restricting hours of construction and a SEMP to cover residents concerns regarding noise mitigation measures.

### **6.12.3 Other Issues**

Objections have also been received on the grounds that the development would cause existing residents to become homeless, however, the proposals exclude the existing residential blocks at 22 Park Crescent, and no residential properties are to be lost as part of this application.

A number of landlord/tenant issues have been raised, including comments that this is a missed opportunity to bring forward an integrated scheme with 22 Park Crescent, but these are not planning matters that can be taken into account in determining the application.

One of the objectors also refers to the fact that the proposals would result in the loss of a tourist attraction, however, whilst it is recognised that the Crescent attracts visitors and tourists, it is not a designated Arts and Cultural use that could be protected under Policy TACE 5.

### **6.13 Conclusion**

Committee's views are sought on whether the principle of a residential-led redevelopment of the site is acceptable in land use and amenity terms. If this is accepted, Committee's views are sought on whether the provision of affordable housing on site should be sought, whether there is insufficient information about the detailed design (construction) of the proposed rebuilt stuccoed façades to permit the demolition of this Grade I listed building and whether the proposed addition of another storey at roof level is unacceptable in design and heritage asset terms.

Views are also sought as to whether the Prince's Trust use is acceptable and sufficient to offset the loss of the social and community use and, notwithstanding the objections of the Aborigicultural Manager, whether the impact of the basement excavation on the London Plane tree at the rear of Devonshire Street is acceptable.

Subject to these matters, Committee is asked to defer consideration of the application in order to allow for further discussions to resolve the outstanding issues.

## **BACKGROUND PAPERS**

1. Application forms and letters from the applicant dated 24 October and 19 November 2014

RESPONSES TO CONSULTATION ON INITIALLY SUBMITTED SCHEME (APRIL 2014)



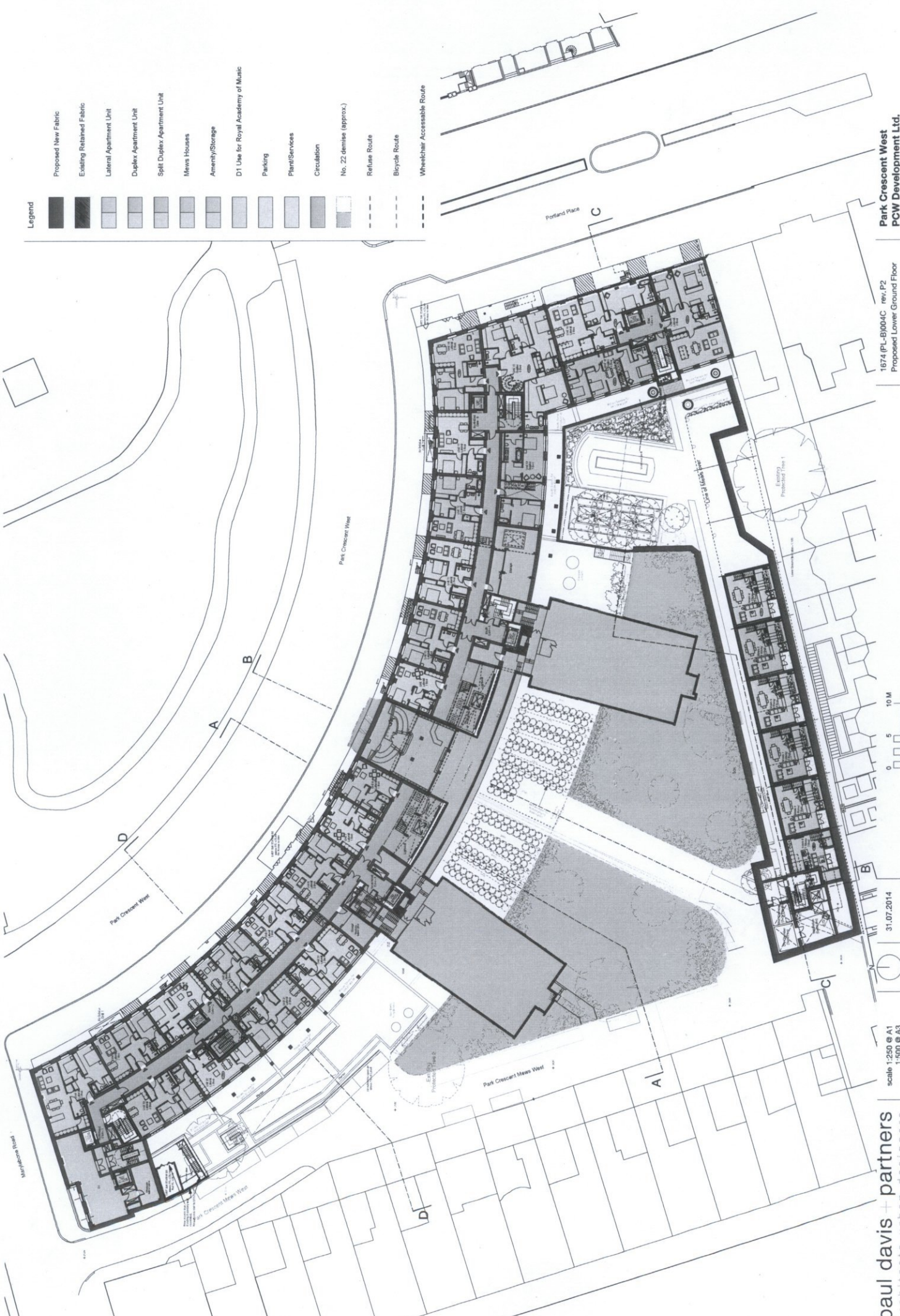
1. Letter from London Underground dated 25 April 2014
2. Letter from St Marylebone Society dated 5 May 2014
3. Letter from English Heritage Archaeology dated 14 May 2014
4. Letter from the Marylebone Association dated 19 May 2014
5. Memo from Cleansing Manager dated 19 May 2014
6. Letter from London and Middlesex Archaeological Society dated 4 June 2014
7. Letter from English Heritage dated 27 August 2014
8. Letter from occupier of 28 Park Crescent Mews West dated 29 April 2014
9. Letter from occupier of Flat 14, 22 Park Crescent dated 29 April 2014
10. Letter on behalf of the occupier of 75 Portland Place dated 1 May 2014
11. Letter from occupier of Flat 18, 22 Park Crescent dated 4 May 2014
12. Letter from occupier of 29 Park Crescent Mews West dated 5 May 2014
13. Letters from occupier of 30 Park Crescent Mews West dated 7 and 8 May 2014
14. Letter from occupier of 2 Devonshire Mews North dated 7 May 2014 and 24 June 2014
15. Letter on behalf of the occupiers of 22 Park Crescent dated 23 May 2014
16. Letter from occupier of Flat 52, 22 Park Crescent dated 3 July 2014
17. Letter on behalf of the Directors of 22 Park Crescent dated 30 July 2014
18. Letters from occupiers of Flats 2,3, 4, 5, 6, 9, 10, 11, 12, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 32, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 56, 57, 58, 59, 62, 63, 66, 67, 69, 70, 71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 91, 92 at 22 Park Crescent dated May 2014

#### RESPONSES TO CONSULTATION ON REVISED SCHEME (SEPTEMBER 2014)

1. Letter from the Greater London Authority dated 22 October 2014
2. Memo from Environmental Health dated 18 November 2014
3. Letter from St Marylebone Association dated 10 September 2014
4. Memo from Highways Planning Manager dated 16 September 2014
5. Letter from Transport for London dated 24 September 2014
6. Letter on behalf of the occupier of 75 Portland Place dated 19 September 2014
7. Letter from occupier of Flat 18, 22 Park Crescent dated 22 September 2014
8. Letter from occupier of 2 Devonshire Mews North dated 29 September 2014
9. Letter from occupier of Flat 45, 22 Park Crescent dated 29 September 2014
10. Letters and enclosures sent on behalf of the occupiers of 22 Park Crescent dated 6 October 2014 and 18 November 2014
11. Letter from Howard de Walden Estate dated 30 September 2014 and 29 October 2014
12. Letter from occupier of Flat 81, 22 Park Crescent dated 18 November 2014.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT STEVE BRANDON ON 020 7641 8541 OR BY E-MAIL – [StevenB@westminster.gov.uk](mailto:StevenB@westminster.gov.uk)

- Legend**
- Proposed New Fabric
  - Existing Retained Fabric
  - Lateral Apartment Unit
  - Duplex Apartment Unit
  - Split Duplex Apartment Unit
  - Mews Houses
  - Amenity/Storage
  - D1 Use for Royal Academy of Music
  - Parking
  - Plant/Services
  - Circulation
  - No. 22 demise (approx.)
  - Refuse Route
  - Bicycle Route
  - Wheelchair Accessible Route



**Park Crescent West**  
PCW Development Ltd.

1674 (PL-B)004C rev. P2  
Proposed Lower Ground Floor

0 5 10 M

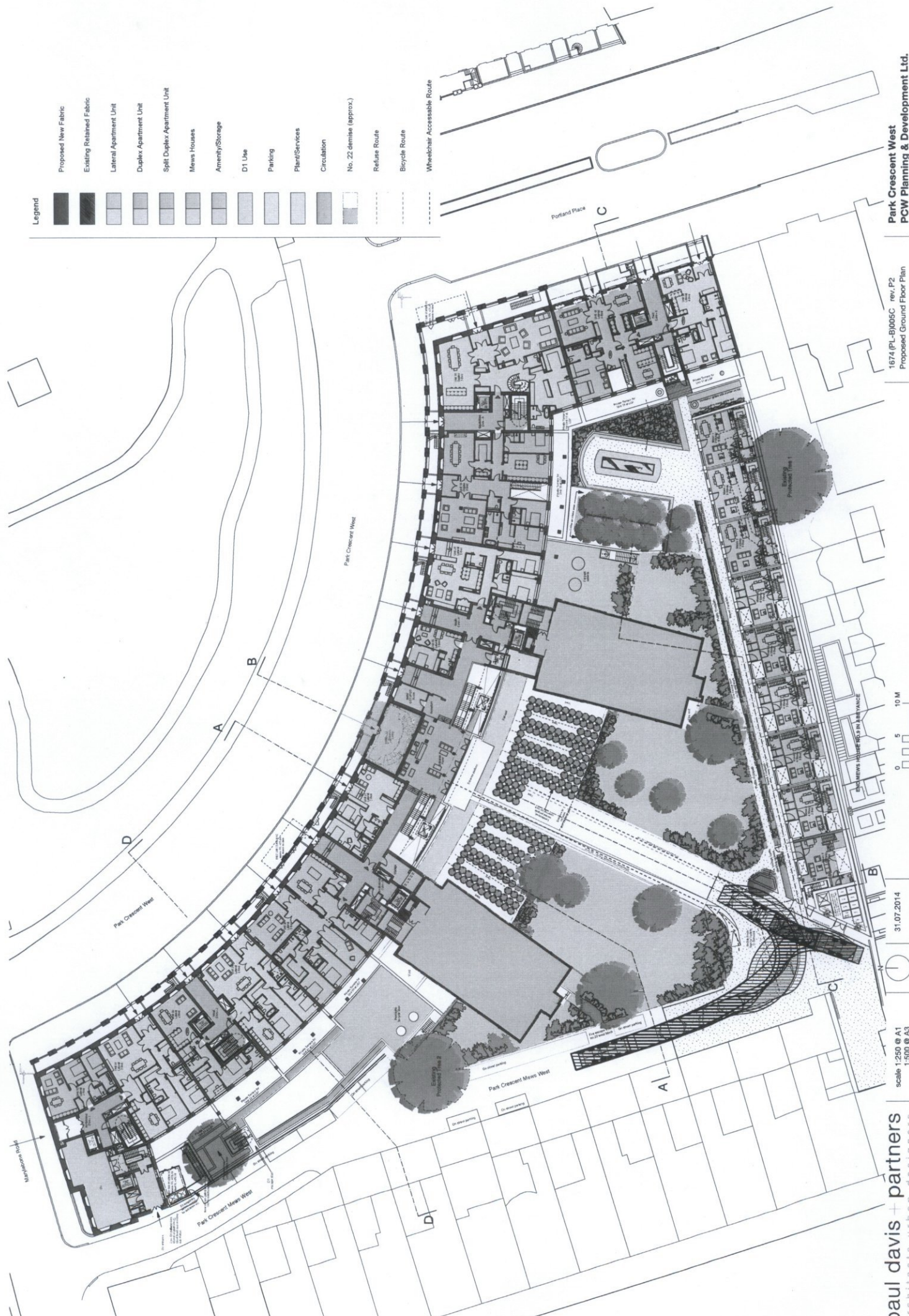
31.07.2014

scale 1:250 @ A1  
1:500 @ A3

**paul davis + partners**  
architects urban designers  
The Old School House, 178 Albany Street, London SW9 0WZ & P, info@pauldavispartners.com  
T: +44(0)20 7720 1178 F: +44(0)20 7720 2071



- Legend**
- Proposed New Fabric
  - Existing Retained Fabric
  - Lateral Apartment Unit
  - Duplex Apartment Unit
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  - Mews Houses
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  - Bicycle Route
  - Wheelchair Accessible Route



**Park Crescent West**  
**PCW Planning & Development Ltd.**

1674 (PL-B)005C rev. P2  
 Proposed Ground Floor Plan

0 5 10 M

31.07.2014

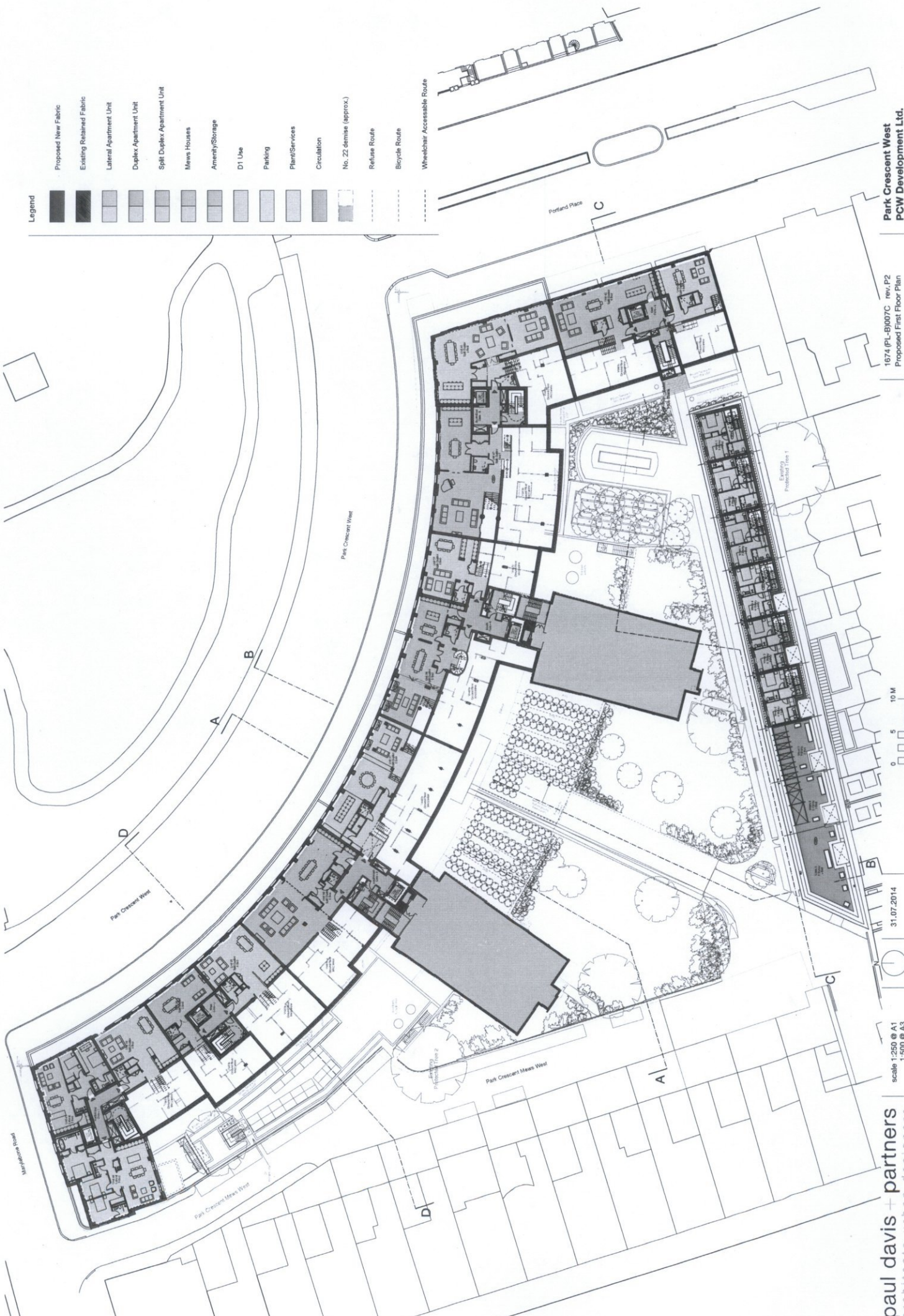
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 1:500 @ A3

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 t: +44(0)20 7726 1116 c: +44(0)20 7261 2011



Legend

- Proposed New Fabric
- Existing Retained Fabric
- Lateral Apartment Unit
- Duplex Apartment Unit
- Split Duplex Apartment Unit
- Mews Houses
- Amenity/Storage
- D1 Use
- Parking
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- Bicycle Route
- Wheelchair Accessible Route



Park Crescent West  
PCW Development Ltd.

1674 (PL-B)007C rev.P2  
Proposed First Floor Plan

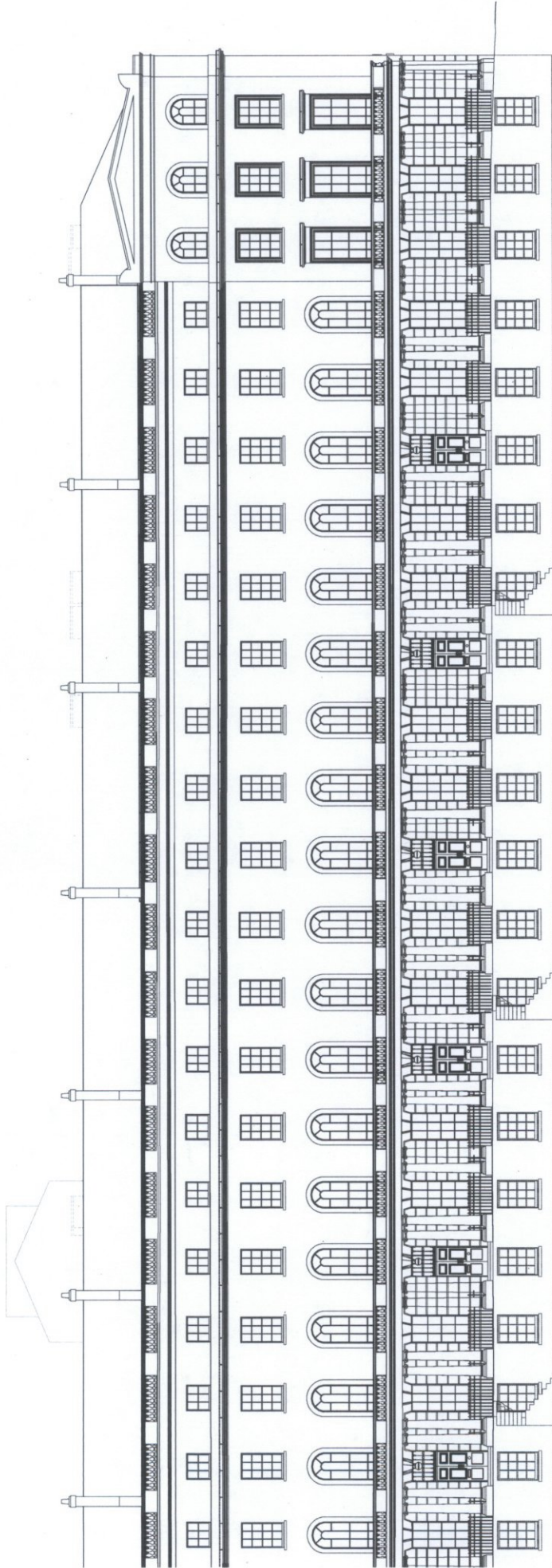
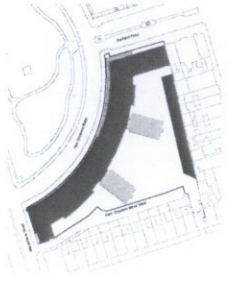
0 5 10 M

31.07.2014

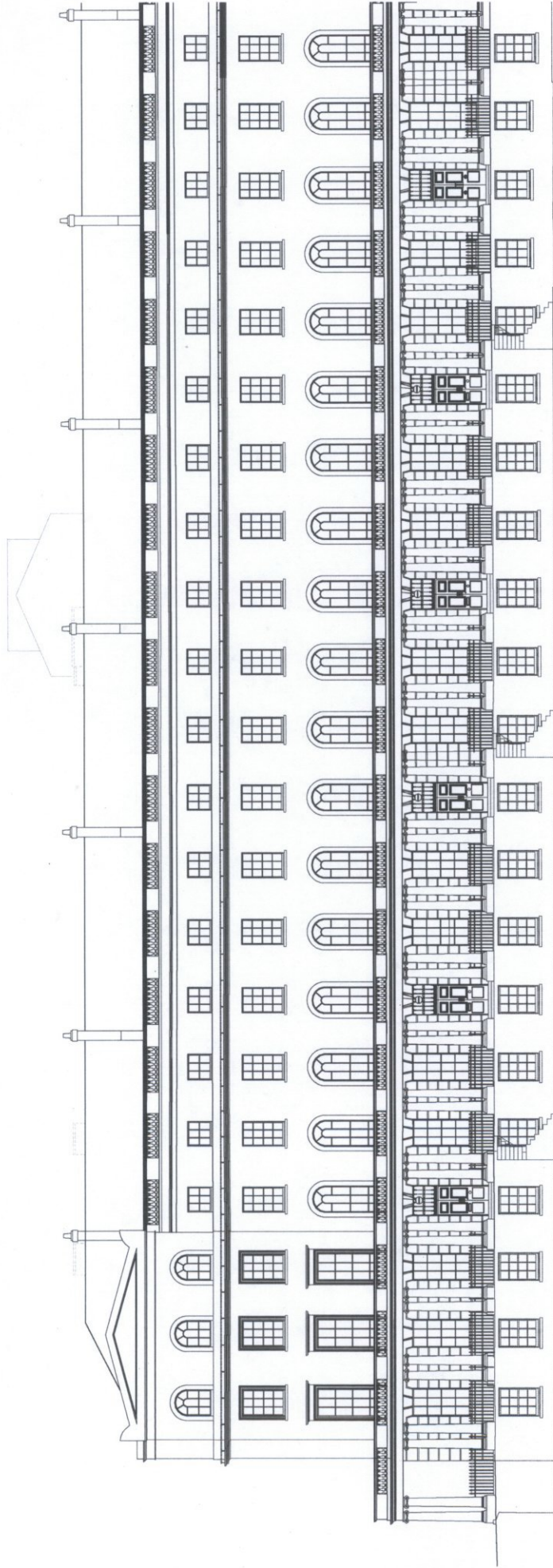
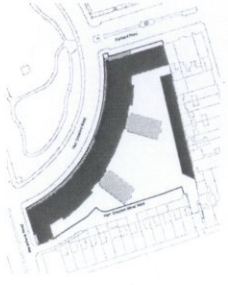
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1:500 @ A3

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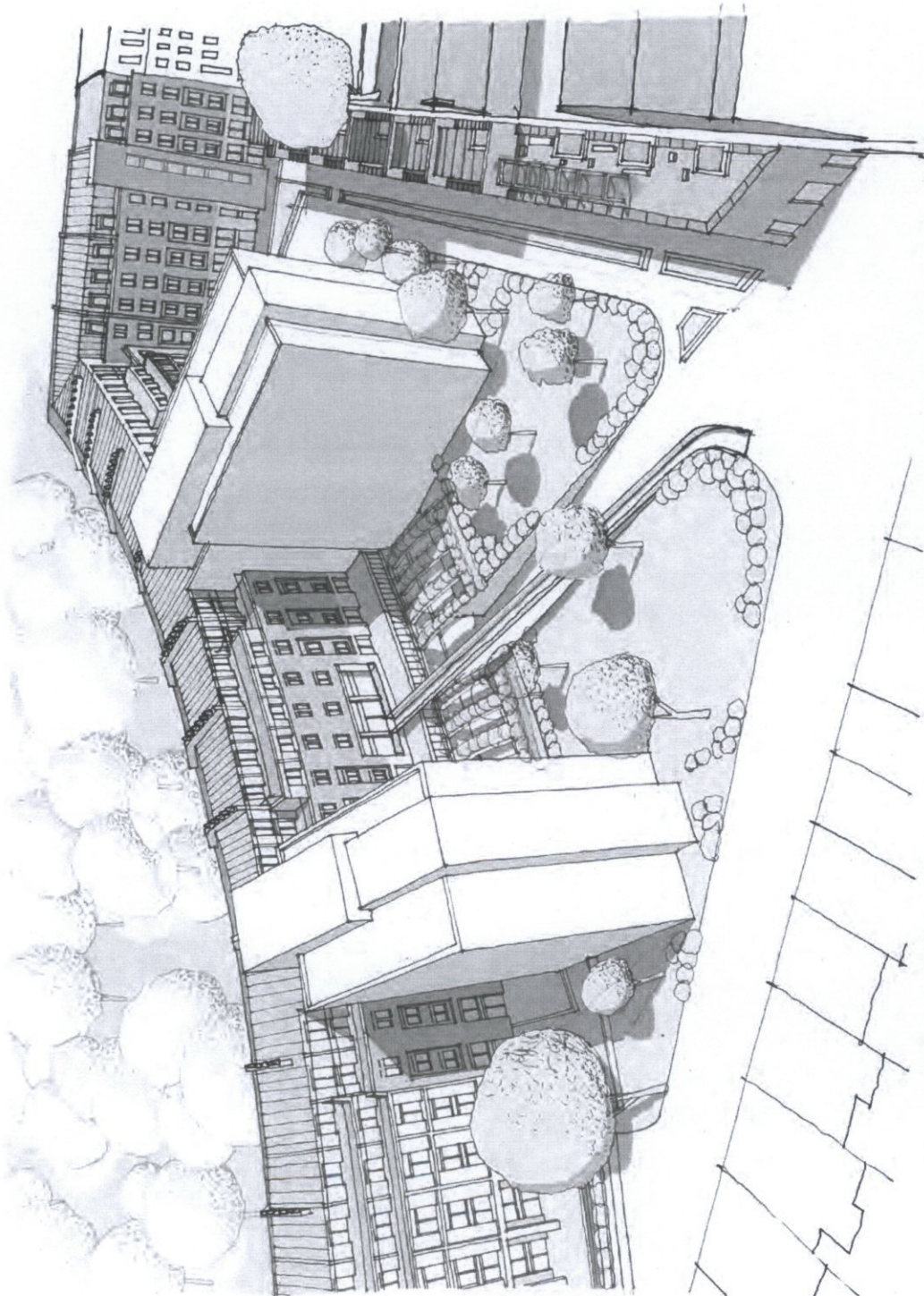






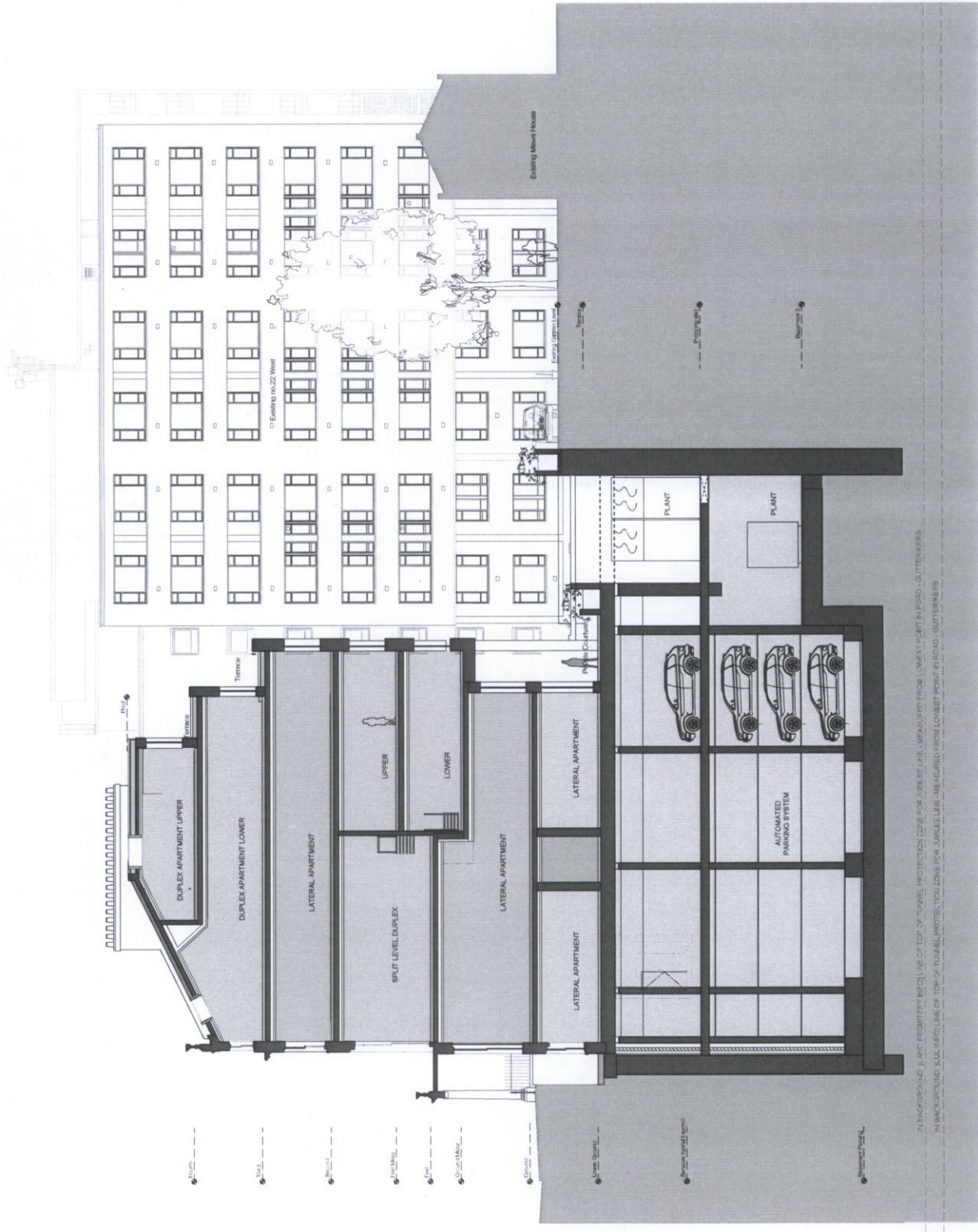
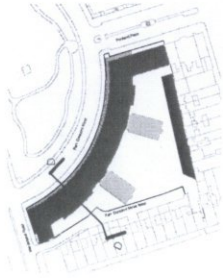


3.7. Rear Elevation

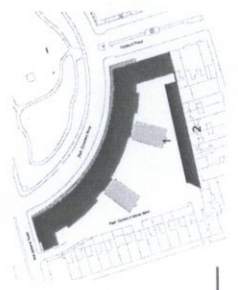


Artist impression of rear elevation and landscape

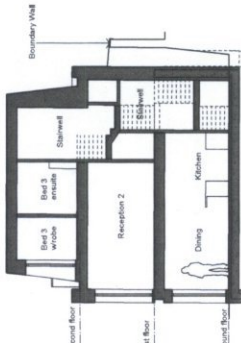




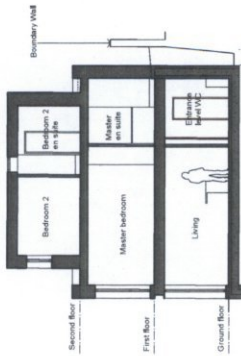
IN BACKGROUND LINE: FOOTPRINT ENVELOPE OF TOP OF TOWER. PROJECTION SIZE FOR SCALE USE. MEASURED FROM LOWEST POINT IN ROAD. OUTLET METERS  
 IN BACKGROUND BULGED LINE: TOP OF TUNNEL PROTECTION ZONE FOR SCALE USE. MEASURED FROM LOWEST POINT IN ROAD. OUTLET METERS



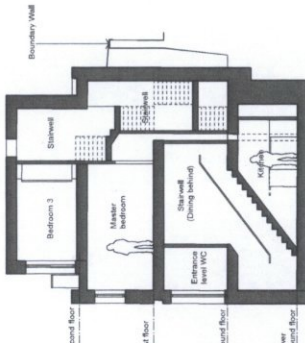
MEWS LAYOUTS TO BE DRAUGHTED IN SECTION



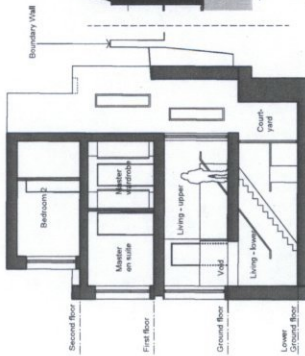
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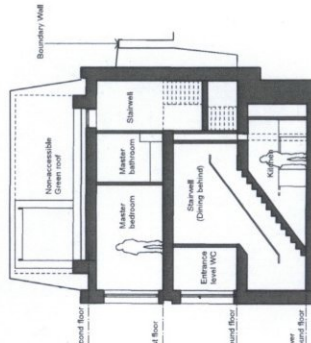
Type 1 - Section B



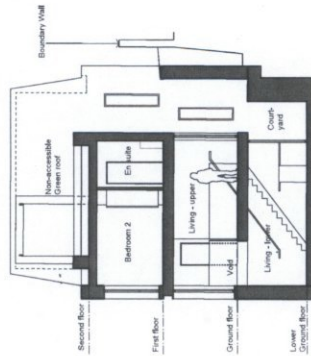
Type 2 - Section A



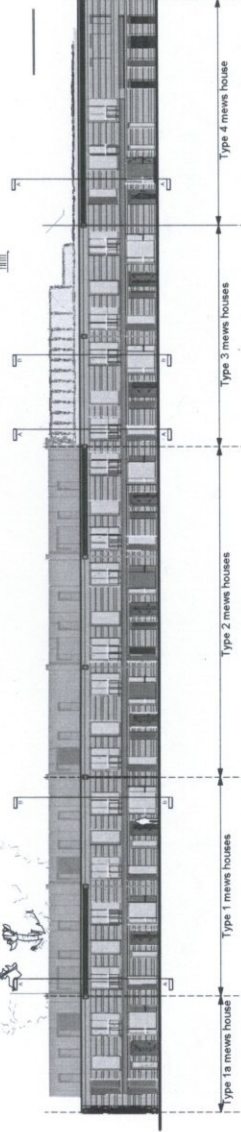
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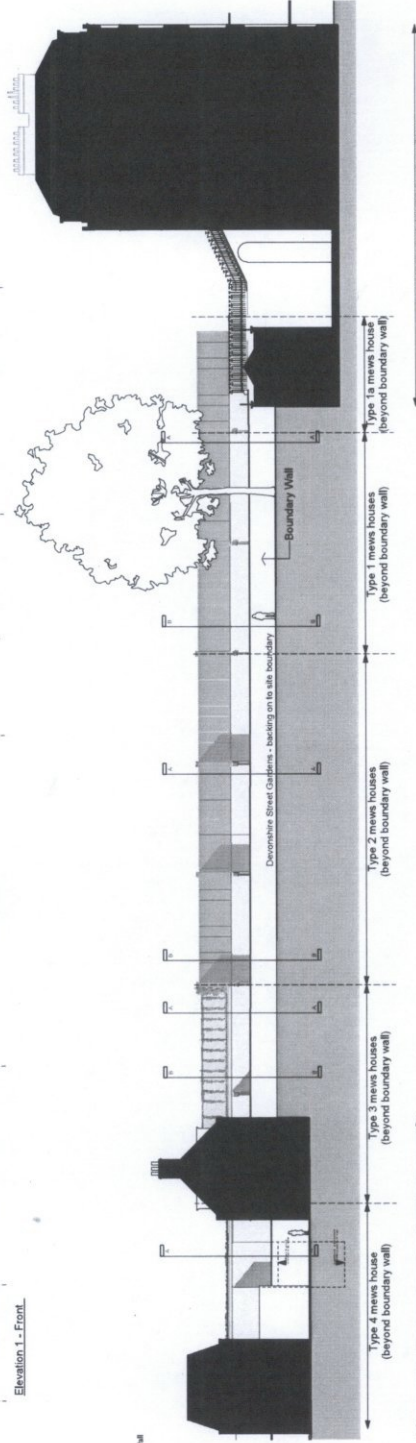
Type 3 - Section A



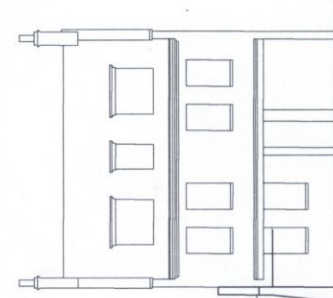
Type 3 - Section B



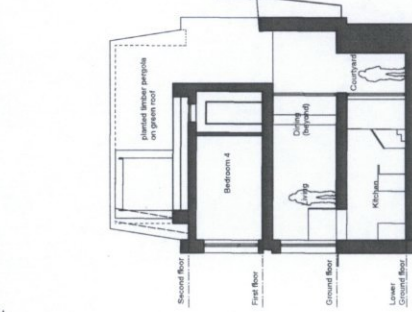
Elevation 1 - Front



Elevation 2 - Rear



Type 4 - Section A



Type 4 - Section A