



CITY OF WESTMINSTER

MINUTES

Planning (Major Applications) Sub-Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning (Major Applications) Sub-Committee** held on **Tuesday 8th October, 2019**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Gotz Mohindra (Chairman), David Boothroyd, Geoff Barraclough, Murad Gassanly, Jim Glen and Elizabeth Hitchcock.

Also Present: Councillors Margot Bright, Susie Burbridge and Andrew Smith (for item 1 only).

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Gotz Mohindra explained that a week before the meeting, all six Members of the Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and e-mails containing objections or giving support. Members of the Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.

2.2 Councillor Mohindra also declared that in respect of item 2, he had attended a pre-application meeting with Council officers for a similar scheme.

2.3 Councillor David Boothroyd declared that he is Head of Research and Psephology for Thorncliffe, whose clients are companies applying for planning permission from various local authorities. No current schemes are in Westminster; if there were I would be precluded from working on them under the company's code of conduct. Some Thorncliffe clients have also engaged planning consultants who are separately representing the applicants at the

meeting, these being: Turley on item 1, 2, 4, 5, 7 and JLL on item 2. However, Councillor Boothroyd stated that he did not deal directly with clients or other members of project teams, and planning consultants are not themselves clients.

- 2.4 Councillor Boothroyd then made the following declarations as they related to the agenda:

Item 1: That he was a friend of Councillor Maggie Carman who had made a representation and that he had sat on a Committee that had considered a previous application for this site.

Item 2: That the applicants were part of the Freshwater Group and other companies in the Group were also lessors of home in Paddington, and managing agents of the block.

- 2.5 Councillor Murad Gassanly declared that in respect of item 1, he was a friend of Councillor Andrew Smith, however he had not discussed the application with him.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 24 September 2019 be signed by the Chairman as a correct record of proceedings.

4 PLANNING APPLICATIONS

1 WHITELEYS CENTRE QUEENSWAY LONDON W2 4YH

Variation of Condition 1 of planning permission dated 19 November 2018 (RN: 18/04595/FULL), which itself varied Conditions 1, 15 and 16 and removal of Condition 49 of planning permission dated 1 November 2017 (RN: 16/12203/FULL), which varied Condition 1 and removed Condition 10 of planning permission dated 27 April 2016 (RN: 15/10072/FULL) for: Demolition of and redevelopment of building behind retained and refurbished facades to Queensway and Porchester Gardens facades to provide a mixed use development comprising three basement levels, ground floor and up to 10 upper floor levels, containing 103 to 129 residential units (Class C3), retail floorspace (Class A1 and A3) facing Queensway and arranged around a new retail arcade below re-provided central atrium and central retail courtyard, public car park, hotel (Class C1), cinema (Class D2) gym (Class D2), crèche (Class D1), with associated landscaping and public realm improvements, provision of 103 basement residential parking spaces, cycle parking and associated basement level plant and servicing provision. NAMELY, variation of Condition 1 to increase number of residential units from 129 to 153 units, including 14 affordable units; amendment to townhouses along Redan Place; amendment of residential unit mix; reduction in basement excavation depth with associated amendment to car and cycle parking and basement level plant, relocation of servicing bay to ground level and removal of public car park; revisions to hotel, cinema and gym floorspace, including increase in hotel room numbers to 111 and relocation of swimming pool to

hotel; removal of crèche use; and replacement of windows to parts of the historic façade with double glazed windows.

Additional representations were received from the Head of Affordable Housing and Strategy (03.10.2019) and Whiteleys (October 2019).

Late representations were received from Councillor Emily Payne (07.10.2019) and Councillor Maggie Carman (07.10.2019).

The presenting officer tabled the following amendments to the recommendations, conditions and the report:

Minor Amendment to Recommendation and Officers Report

1. Page 10-11 - AMEND the recommendation and obligations as follows:

1. “Subject to referral to the Mayor of London, grant conditional planning permission, subject to the completion of a deed of variation to the Section 106 agreement dated 1 November 2017 to secure the **following** ~~originally agreed~~ planning obligations, as set out below:
 - i. Provision of 14 intermediate affordable units on-site and provision for Early and/or Late Stage Review mechanisms ~~in accordance with~~ **required by the Mayors Affordable Housing and Viability SPG**;
 - ii. Costs of all the highway works associated with the development including the Stopping Up Order and the dedication of land;
 - iii. A financial contribution of ~~£400,000~~ **122,481.00** (index linked) towards improvements to play space in the vicinity of the development;
 - iv. Comply with the Construction Code of Practice, to provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £40,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers;
 - v. Provision of the cinema, ready for ~~occupation~~ **hand over to the operator**, prior to occupation of the retail use;
 - vi. Provision of the gym, **ready for hand over to the operator**, prior to occupation of the residential accommodation and the submission of a management plan **(including pricing), within six months of the occupier signing the lease**;
 - vii. Provision of measures to support employment, training and skills programmes;
 - viii. Management of the shopping centre, including controls over the distribution of the Class A1 (70% of floorspace) and Class A3 (30% of floorspace) and to control further changes of use within the centre;
 - ix. Management strategy for the hotel use, including servicing and guest drop off arrangements;
 - x. Provision of lifetime (25 year) car club membership for each residential flat; and
 - xi. Provision of S106 agreement monitoring costs.

2. If the legal agreement and deed of variation to secure the planning obligations has not been completed by ~~4 June~~ **19 November** 2019 then:
 - a) The Director of Place Shaping and Town Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
 - b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Making and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers
3. **Subject to receipt of Historic England's authorisation**, grant conditional listed building consent;
4. Agree the reasons for granting conditional listed building consent as set out in Informative 1 of the draft decision letter;
5. Authorise the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up and dedication of parts of the public highway to enable this development to take place; and
6. Authorise the Director of Place Shaping and Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed. The applicant will be required to cover all costs of the Council in progressing the stopping up order”.

REASON FOR AMENDMENTS:

With regards to 1, the obligations are not the same as those originally agreed and the wording has been amended to reflect this.

With regards to i, and as work has commenced on-site, discussions are ongoing between officers and the GLA on the need for an Early Stage Review mechanism. Accordingly, this amendment provides flexibility to omit the Early Stage Review if it is agreed with the GLA that the development will be substantially implemented within two years. In any event, the development would still be subject to a Late Stage Review.

The play space contribution (iii) has been increased on a pro-rata basis to reflect the uplift in residential units proposed.

The operators of the gym and cinema have yet to be found and it is therefore unclear how they would need to be fitted out. The amended wording for v and vi addresses this.

At point 2, the date for securing the legal agreement is incorrect and has been amended accordingly.

At point 3, Historic England have indicated their support for the proposed works, although the City Council has yet to receive their formal authorisation to issue the Listed Building Consent. The amendment accommodates this.

2. Page 77 – DELETE photo and INSERT the photo as circulated to the Sub-Committee.

REASON FOR AMENDMENT:

The photo originally published showed a version of the windows with bulky secondary glazing installed. This is not what the applicant proposes or that is recommended for approval.

2. Page 83 – DELETE condition 6 and INSERT the following amended condition 6:

“6. You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must carry out the development in complete accordance with the Desktop Study (Phase 1), Building Investigation (Phase 2(a)), Remediation Strategy (Phase 2(b)), Land investigation (Phase 3(a)) and Remediation strategy (Phase 3(b)) approved under application RN: 18/09452/ADFULL and 19/03480/ADFULL unless otherwise agreed in writing with the City Council as local planning authority.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phase 4 when the development has been completed.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.

REASON:

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

REASON FOR AMENDMENT:

The Land Investigation and Remediation Strategy required by Phases 3(a) and 3(b) have recently been approved by the City Council under application RN 19/03480/ADFULL. There is therefore no need to seek approval of these reports.

3. Pages 95 and 11– INSERT the following condition 51 on the draft decision notice for planning permission and as condition 11 on the draft listed building consent.

“51/11 You must apply to us for approval of details of the extent and location of fully refurbished historic windows incorporating original copper-light glass to be installed within the retained Porchester Gardens façade. You must not install any windows to the historic facades until we have approved these details. You must then carry out the work according to the approved details.

REASON:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Queensway Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007”.

REASON FOR AMENDMENT:

Historic England have requested that one bay be comprised entirely of original copper lights to show the original appearance of these windows.

Minor Amendment to Officers Report

3. Page 47 – The CIL figure at the bottom of this page is incorrect. The correct figure is:

-WCC CIL = £4.99 million.
-Mayor CIL= £3.82 million

With regard to the WCC CIL, the applicant has already paid the City Council £1.48 million. The remaining £3.51 million would be payable were these applications approved.

REASONFOR AMENDMENT:

The figure was omitted from the published report.

- 2 Page 47 - Further to section 8.12 of the officers' report, the City Council issued a screening opinion on 4 October 2019 confirming that an EIA was not required.

Laurence Brooker addressed the Sub-Committee in support of the application.

Patrick Campbell addressed the Sub-Committee in support of the application.

William Kennedy addressed the Sub-Committee on behalf of Queensway Residents' Association in objection to the application.

John Zamit addressed the Sub-Committee addressed the Sub-Committee on behalf of the South East Bayswater Residents' Association in objection to the application.

Councillor Margot Bright addressed the Sub-Committee in her capacity as a Ward Councillor in support of the application and to highlight issues raised by residents.

Councillor Andrew Smith addressed the Sub-Committee in his capacity as a Ward Councillor in objecting to the application and to highlight issues raised by residents.

RESOLVED (Councillors Gotz Mohindra, David Boothroyd, Murad Gassanly, Jim Glen and Elizabeth Hitchcock for, Councillor Geoff Barraclough against):

1. That subject to referral to the Mayor of London, conditional planning permission be granted, subject to amendments to condition 6, an additional condition 51 to the planning permission and an additional condition 11 to the listed building consent as set out above, an additional condition to secure the provision of a crèche offered by the applicant, and to the completion of a deed of variation to the Section 106 agreement dated 1 November 2017 to secure following planning obligations, as set out below:
 - i. Provision of 14 intermediate affordable units on-site and provision for Early and/or Late Stage Review mechanisms required by the Mayors Affordable Housing and Viability Supplementary Planning Guidance;
 - ii. Costs of all the highway works associated with the development including the Stopping Up Order and the dedication of land;
 - iii. A financial contribution of £122,481.00 (index linked) towards improvements to play space in the vicinity of the development;
 - iv. Comply with the Construction Code of Practice, to provide a Site Environmental Management Plan prior to commencement of development and provide a financial contribution of £40,000 per annum during demolition and construction to fund the Environmental Inspectorate and monitoring by Environmental Sciences officers;
 - v. Provision of the cinema, ready for hand over to the operator, prior to occupation of the retail use;
 - vi. Provision of the gym, ready for the hand over to the operator, prior to occupation of the residential accommodation and the submission of a management plan (including pricing), within six months of the occupier signing the lease;
 - vii. Provision of measures to support employment, training and skills programmes;
 - viii. Management of the shopping centre, including controls over the distribution of the Class A1 (70% of floorspace) and Class A3 (30% of floorspace) and to control further changes of use within the centre;

- ix. Management strategy for the hotel use, including servicing and guest drop off arrangements;
 - x. Provision of lifetime (25 year) car club membership or each residential flat; and xi. Provision of S106 agreement monitoring costs.
2. That if the legal agreement and deed of variation to secure the planning obligations has not been completed by 19 November 2019, then:
 - a) The Director of Place Shaping and Town Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;
 - b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Place Making and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
 3. That subject to the receipt of Historic England's authorisation, conditional listed building consent be granted.
 4. That the reasons for granting conditional listed building consent, as set out in Informative 1 of the draft decision letter, be agreed.
 5. That the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up and dedication of parts of the public highway to enable this development to take place be authorised; and
 6. That the Director of Place Shaping and Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed and that the applicant be required to cover all costs of the Council in progressing the stopping up order.

2 DEVELOPMENT SITE AT 127-143 OXFORD STREET, 53-55 BERWICK STREET AND 199-205 WARDOUR STREET LONDON

Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade), 199 Wardour Street (behind retained front and rear façades) and 55 Berwick Street. Excavation to provide new Basement 02 level. Redevelopment of site to provide ancillary plant and facilities at Basement 02 and part Basement 01 level; nightclub (sui generis) at part Basement 01 and 02 with ground floor entrance at No. 55 Berwick Street; retail (Class A1) floorspace at part Basement 01, part ground and

part first floor levels; office (Class B1) at part ground, part first and second to sixth floor levels, and roof top plant.

An additional representation was received from Jones Lang LaSalle Ltd (02.10.2019).

A late representation was received from Thames Water (08.10.2019).

The presenting officer tabled the following amendments to conditions 10 and 22:

Condition 10

~~Pre Commencement Condition.~~

~~Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its written approval of such an application.~~

Pre Commencement Condition.

Prior to the commencement of any:

- (a) Demolition, and/or
- (b) Earthworks/piling and/or
- (c) Construction

On site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement.

[No change to reason for condition]

Condition 22

You must provide the following sustainability features as shown on the approved drawings before occupation of any part of the development:

- Rainfall attenuation tank (with a capacity of at least 70 cubic metres).
- Photovoltaic panels comprising at least ~~114 m²~~ **104 m²** of net active area of roof and façade mounted PV panels.
- Glazing with g-value of not exceeding 0.34 throughout.
- Allowance for connections to any future heat network in the vicinity of the site.

- The 'living' green roofs on the non-terrace roof space, as shown on the approved drawings.

You must not remove any of these features.

[No change to reason for condition]

Blythe Dunk addressed the Sub-Committee in support of the application.

RESOLVED (Councillors Gotz Mohindra, Geoff Barraclough, Murad Gassanly, Jim Glen and Elizabeth Hitchcock for, Councillor David Boothroyd against):

1. That conditional permission be granted, subject amendments to conditions 10 and 22 as set out above and to a legal agreement to secure the following:
 - a) A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.
 - b) A Carbon Offset Contribution of £70,000 (index linked), payable prior to commencement of development.
 - c) Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street), wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
 - d) A contribution of £89,000 (index linked) to support the Westminster Employment Service (payable prior to the commencement of development).
 - e) The re-provision of a nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
 - f) The costs of monitoring the Section 106 legal agreement.
2. That if the Section 106 legal agreement has not been completed within six weeks of the date of this resolution then:
 - a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

- b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That the making of a draft order pursuant to s247 or s248 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway be authorised.
4. That the Director of Place Shaping and Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order and that the applicant be required to cover all costs of the Council in progressing the stopping up order.
5. That conditional listed building consent be granted.
6. That the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter, be agreed.

The Meeting ended at 8.21 pm.

CHAIRMAN: _____

DATE _____